

ANCESTRAL DOMAIN : CONCEPTS AND APPLICATIONS

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Introduction

Up until now, the rights of indigenous people or cultural communities have remained largely in the domain of preserving a quaint cultural heritage, something that the mainstream, i.e. Christian and westernized culture, has graciously accorded recognition to. But, as competitors for socio-political and economic rights, the Philippine indigenous cultures have yet to extricate themselves from the status of a marginalized minority in order to be counted among the rest of the society whose rights are guaranteed and protected by existing Philippine laws. In this paper, the right of the ancestral domain is treated as a focal point at which all other rights of indigenous peoples find convergence and context. **The recognition and legislation of this most ancient human right translate to recognition and acknowledgement of the right to life and, more importantly, of the right to the means to sustain life.**

The term "indigenous peoples and cultures" refers to the pre-colonial inhabitants of the Philippines and their descendants whose cultures have survived acculturation, remaining more or less intact despite unceasing and prolonged contact with westernized Filipino culture and Christianization over the last 400 years. On the island of Luzon, they are the inhabitants of the Cordilleras, a prominent chain of mountains that bisect the

island into an east-west division. At the turn of the century, this whole region was known as Mountain Province.

On the smaller island of Luzon and in the Visayas there live various types of Pygmy peoples known as Agta, Aeta or Negritos who are considered as the oldest aboriginal race in the Philippines. In Mindanao and Sulu, the indigenous populations are the Islamized Maranaos, Tausug, Maguindanao, Sangil, etc. and the animist highlanders of Davao, Cotabato, Agusan, Misamis and Bukidnon Provinces. Although intermarriages among the different indigenous groups and, to a lesser degree, with Visayan, Ilocano, and other Christian groups have been observed over the last four centuries, each group has been able to preserve a distinct cultural identity, mainly through the preservation of its native language. Thus, they are commonly referred to as ethnolinguistic groups or cultural communities, to distinguish them from the mainstream Christianized and westernized Filipino cultures.

The Indigenous Peoples of the Cordilleras

Filipinos born on the Gran Cordillera Central were popularly and collectively known as "Igorots" (Scott 1977:2). There were, however, six main ethnolinguistic groups: the Isneg, Kalinga, Bontoc, Ifugao, Kankanay, and Ibaloy. The Spaniards made use of the native word *tingues* or *tinguianes*, meaning high or elevated as in a mountain, and indiscriminately applied this word to all peoples who dwelt in the mountainous regions of Luzon, particularly the Cordilleras, synonymously with the word "Igorrotes" from where the popular term Igorot, came. This was done to distinguish them from the lowland-dwelling and Christianized Filipinos who were called "Indios", as the rest of the colonized peoples and nations of the vast Spanish

colonial empire, *España en Ultramar*, were known. It was also during this time that the word "tribe", *tribus independientes*, was appropriately applied to these groups who paid no taxes to the Spanish King, did not attend masses or wore trousers, etc. Although in 1839 the *Comandancias Politico-Militares* were organized for the Cordillera region, very little was known of its success or failure, since the whole Spanish colonial government in the Philippines came to an end in 1898 (Ibid:2-4).

From the start, Spaniards were drawn to the famed gold in the Cordilleras, although their efforts to exploit and control the gold trade were on the whole, unsuccessful. The succeeding American colonization period might have done better work in this regard. American prospectors staked mining claims all over the Benguet area. The imposition of new land laws—including mining—finally ended the Ibaloy monopoly on the gold trade (Brett 1989:9). Moreover, Ibaloy lost their lands through sale, non-registration, expropriation, and donations as in the case of Mateo Cariño's donation of an extensive area, beginning with the present site of Burnham Park up to the Baguio City Hall. However, Cariño a native Ibaloy, won a landmark decision from the US Supreme Court over the expropriation of his pasture lands—totalling 174 hectares—by the American government. The US Supreme Court's decision to recognize Cariño's ownership of these lands was based on the now famous legal doctrine that, "land which has been occupied since time immemorial is presumed never to have been public" (Ibid.). Eventually, all mining activities in Bontoc and Kalinga were ordered to cease by American administrators because of the intensive opposition of the natives who considered the area as their heritage and patrimony.

The Aetas

Of the few true Negrito groups still surviving in the country today, the Aetas of Zambales or Pinatubo Aytas (Shimizu 1989: 6-19) are an example of an indigenous ethnic group that has persisted despite centuries of being a marginalized population. Unlike the Ifugaos, the Kalingas or Bontocs of the Cordilleras who became cultural minorities as a consequence of colonization- the Aetas from the very beginning of Spanish colonial history were already a cultural and racial minority. The rest of their kind, such as the Palawan Aetas, the Dumagats of Quezon, and the Bataks of Palawan Islands may already be on the verge of extinction. The same may be said of the Mamanua of Mindanao who have intermarried with other indigenous groups such as the Manobo to the extent that many Mamanua are no longer recognizable as Negritos.

On the other hand, the Aetas of Zambales or Pinatubo Aytas, although no longer speaking their original language, have managed to preserve the rest of their culture as evidenced by 20th century ethnographic documentation by modern scholars. It seems that of all the Negrito groups presently surviving in the Philippines, the Pinatubo Aytas have evinced a high degree of resilience, as reflected in marked increases in their present population.

The collective experience of the Aetas may not be very different from other non-Christian Filipinos. Their relationships with neighboring lowlanders, such as the Kapampangans and Sambals, were characteristically blighted by landgrabbing and other forms of despoliation. In the eighteenth and nineteenth centuries the Kapampangan drove them away from their settlements and planted these with rice and sugarcane. The

Sambals were wont to kidnap Aetas for slavery. On their part, the Aetas made economic forays to the lowlands for cattle and other food. This state of affairs persisted well into the American regime and even into the present times (Larkin in Shimizu 1989:12).

The Indigenous Peoples of Mindanao and Sulu

Most of the indigenous peoples of Mindanao, who lived in the vast interiors of the second biggest island in the Philippines, were not known to the Spaniards until the nineteenth century. The Spaniards were more acquainted with the Muslim groups who lived in the Sulu Archipelago and western part of Mindanao. In many parts of the island their mode of occupation and settlement more or less followed a certain distinct pattern. They were mostly coastal and riverine dwellers who controlled strategic points of trade such as the mouths of rivers or the various bays along the indented coastline of Mindanao. The forests and mountainous interiors, on the other hand, were home to several animist groups, beginning with the Manobos, who might have been the largest cultural group in Mindanao at this time. It was this group which appeared everywhere in the Spanish historical accounts. There were Manobos in all four directions of the compass, in contrast to other groups which appeared to be localized in certain areas, such as the Bagobo of Davao, the Tiruray of Northern Cotabato, the B'laan of Sarangani Bay, etc.

The *modus vivendi* obtaining in the nineteenth century among these different indigenous groups could be best described as an economic one; the animist peoples were mostly swidden farmers who cultivated rice as their main crop. In excess of subsistence needs, rice and forest products were traded with the

Muslims for articles such as iron, beads, and other ornamental products. The Muslims appeared to play a middlemen's role in this seagoing export trade; forest products from Mindanao were traded with goods from other islands, such as the Malay Archipelago, and particularly, Singapore.

The preponderance of the Spanish terms *infieles* (pagans) and *asesinos* (assassins) in Mindanao accounts betrayed, in many ways, the failure of the missionaries' efforts to Christianize and "reduce", i.e. subjugate the natives of Mindanao and Sulu. This is a historical fact, which to many native groups, particularly the Muslim Tausug, Maguindanao, Maranao, etc., is a source of "national" pride. Today, it is most unfortunate that this same source of pride among those who were not effectively colonized and Christianized is, at the same time, the source of their cultural alienation from the present mainstream culture of Christianized and Westernized Filipinos. Even more unfortunate is the fact that the history of the Philippine indigenous cultural communities has been one of despoliation, first by the foreign colonizers and now, by some of their own countrymen.

A Brief Historical Background of the Ancestral Lands Question

In a review of legal and juridical precedents of land tenure cases involving indigenous cultural communities, authors Angeles and Gloria arrived at some portentous findings: legal decisions affecting the tenurial rights of indigenous cultural communities appeared to diminish rather than enhance these rights. "It would seem that the present legal system operates to divest the indigenous peoples of such titles through laws and doctrines which are either manifestly inadequate or are in utter

disregard of such rights" (Angeles and Gloria 1993:4). The landmark decision on the Cariño case in 1909 was persistently attenuated by succeeding laws, beginning with the Public Land Act of 1936, which limited applications for land titles to "alienable or disposable lands of the public domain".

In 1964, this right was extended to lands of the public domain, suitable to agriculture, whether disposable or not, for as long as such lands have been in "open", continuous, exclusive and notorious occupation" by members of the national cultural communities, i.e. indigenous communities, under a *bona fide* claim of ownership for at least thirty years. Then, in 1974, the Ancestral Lands Decree, which defined ancestral lands for the first time, was promulgated by the then President Ferdinand Marcos:

..... [Ancestral lands are] lands of the public domain that have been in open, continuous, exclusive and notorious occupation and possession by a national cultural community by themselves or through their ancestors, under a bonafide claim of acquisition of ownership according to their customs and traditions for a period of at least thirty (30) years before the date of approval of this decree. (Ibid:14)

This decree covered all appropriated agricultural lands of the public domain occupied and cultivated by indigenous Filipinos. The following year, the Revised Forestry Code of the Philippines declared that lands with slopes of 18% or more were not to be classified as alienable or disposable and *even those which had earlier been classified as such were to be reverted to forest lands*. By this law, almost all indigenous communities being the predominant occupants of uplands, were legally prevented from claiming ownership of the lands they had occupy and cultivated since the time of their ancestors.

Thus, the vagaries of the concept of aboriginal title are such that, presently, no legal pronouncement recognizes it. "... the presumption [is] that lands occupied and cultivated by the tribal Filipinos by themselves or through their ancestors, where no certificate of title has been issued... form part of the public domain and are converted into private lands only upon the award by the government with such lands to them."(Ibid:21)

A definition of ancestral lands that embodies the concept of aboriginal title, has been pending in the Philippine Congress since 1988 in two versions: Senate Bill Nos. 152(1988) and 909 (1989) and House Bill No. 33881 (1990). The Senate Bill recognizes the "historic rights of indigenous communities and the principle of communal ownership of land. House Bill No. 33881, on the other hand, would recognize tenurial rights as already existing, regardless of whether the lands in question were alienable or disposable."

More recently, the implementing guidelines for the identification, delineation, and recognition of Ancestral Domain claims were provided for by Department Administration Order No.2 (DAO No.2) of the Department of Environment and Natural Resources. The Administrative Order reaffirmed the definition of Ancestral Lands and Ancestral Domain contained in House Bill No. 33881. Moreover, the composition of Ancestral Domain has been extended to residences, farms, and burial grounds irrespective of their present classification and utilization. As of this writing, however, this Administrative Order has not been applied to any indigenous cultural community.

Land As Property and Wealth

The concept of real property in regard to land has no counterpart in the indigenous categories. This is not to say that land, and the "ownership" of it, holds no significance to the indigenous peoples who directly and exclusively derive their subsistence from the land. Not a few native myths and legends trace the origins of the world and mankind to the soil. The creation myths of the T'boli of South Cotabato and the Tagakaulo of Davao del Sur, among others, tell of how the world was created from bits of soil that clung to a bird's claws. Mankind itself could only be sustained after the world was moulded from bits of the mythical soil.

The primacy of land ownership as an index of wealth or property has been sufficiently established in agricultural societies such as the Philippines. Among the indigenous communities, however, land is not regarded as a material possession that could make one rich. On the other hand, the number of horses, wives, and the number of relatives and other people one could afford to feed at any given time are signs of wealth. As for land, there was more than enough of it for everybody, at least in the past, and if one did not like one's neighbors, one simply moved out to look for another *kaingin* where one could enjoy his home and his work in tranquility. Few desired to become rich; the acquisition of material possessions, such as horses or number of wives, was not the aspiration of the ordinary individual. Indeed, even a bountiful harvest was not really desirable, since it would only attract hordes of relatives and friends to one's table.

In order to appreciate the indigenous concept of land meaningfully, it is necessary to contextualize it in the ecological

relationship that exists between the people and their land. Within the ecological purview, the people owe their existence to the land, much as the land is nurtured by the people. This bondedness between land and people is explicit in the culture, which in more ways than one truly represents the aggregate of adaptations that the people have made to the land and the rest of the physical environment. The land bears the unmistakable imprints, (e.g. *kaingin* farms, gravesites, houses, etc.) of those who live off its various resources.

Territorial boundaries are difficult to delineate because these are frequently crossed by intercommunal marriages and the attitude of openness in regard to living space. Swidden practises are sustained by field rotations which require families and households to constantly move around in search of new swidden plots. This openness, rather than exclusiveness, of settlements complements the sparseness of upland populations. On the other hand, the extensive requirements of land use is a stark contrast to the limited notion of possessory rights, especially in regard to land. Yet, the geographic distribution of native settlements, as described in historical documents of more than a hundred years ago, corresponds with amazing accuracy to present day accounts. Necessarily, this implies a more or less stable geographic occupation, by each ethnolinguistic group, of its turf.

The notion of exclusiveness of turf or territory is applied only on certain occasions, such as during a wake in the community. The norms of silence and proper decorum are strictly observed during funerals and burials. The exclusion of strangers and other outsiders, who are ignorant of the local norms in respect of the dead, is necessary to prevent the violation of these norms. For the same reason, gravesites are tabooed places

and among the same people great effort is exerted in making gravesites secret and their locations hidden from public knowledge.

Among the Ata of Kapalong, Davao Province, a previously agreed upon schedule for radiotaping songs and dances in the community had to be cancelled because someone had died, and the local datu or chieftain, who was supposed to lead the other native performers, refused to proceed for fear of offending his own people.

The Dulangan Manobo of Sultan Kudarat Province practice secondary burial. The primary burial of their dead is made in the same house where the living relatives also stay. The tree coffin, sealed with almaciga resin and ashes from the family hearth, allows no tell-tale bad odors to escape and the coffin itself may look like a piece of furniture to outsiders. After a good harvest, which may be two or three years after the primary burial, the coffin is removed from the house, to be transferred to its secondary, and final, resting place in the forest. The exact place of burial is known only to a few relatives and friends who helped carry the coffin.

The true value of the land is usufruct. The land must be worked to make it yield the fruits of the earth. In this way, the fruits of one's labor on the land become the true model of the concept of personal and real properties. Clothes, weapons, personal ornaments, especially those fashioned and crafted by one's own hand through the use of one's skills, are regarded as personal properties. Those which are highly valued by their owners are buried with them at death and may not be transferred to someone else.

It is apparent that wealth brings with it the responsibility, e.g. the obligation to feed visitors who flock to the *datu's* table during festivals. A model for a rich man is the *datu*, the local chieftain, who has several horses, wives/children and can afford to provide not only for his big family but also for a number of warriors, who are attached to his household. As an institution, however, the *datu* is significant, not so much as the repository of wealth and power, as one who is known for his wisdom in settling disputes and resolving conflicts. Hence, another kind of wealth is prestige, which derives from the attributes of the *datu's* personality. As for land, it is not a commodity that may be possessed with a legal title to be sold, traded, or preserved under anyone's rights in perpetuity.

Law and Order

Transgressions of customary law are settled by the payment of fines - to avert bloodshed. Violence, as in many pre-modern societies, is the inevitable outcome of heinous behaviour and other social aberrations, such as murder or homicide. Retaliation and vengeance for such crimes are exacted through vendetta or private wars, which can easily involve a great number of people from other communities, since the desire to avenge oneself is inflicted indiscriminately, costing the lives of many innocent people. This is the notorious *pangayao*, a customary form of warfare, still practised by many native groups in Mindanao.

In the town of Lebak, in Sultan Kudarat, a Dulangan Manobo boy was accidentally killed by a *bayatik*, a local trap for wildboars. The boy's family was so aggrieved by his death that two male relatives were designated to "avenge" it. These two killed a young B'laan boy whom they chanced upon along the trail. He was alone on his way home from school.

Immediately, the B'laan boy's relatives made ready to retaliate. But for the timely intervention of the school authorities and local police, who rounded up the Dulangan Manobo killers, together with their relatives who attempted to stand off the authorities in a cave in the forests, the incident would have easily escalated into a full blown *pangayao*.

Sometimes, a violent crime such as murder would be punished only by banishment. In 1992, among the same people, a jealous man killed his wife, who was a relative of the *datu*. The cause of the husband's jealousy was well-known to the community - a man already known for past indiscretions and an inability to keep his affairs secret. The police arrested the husband for the murder, but the community's rage at the man who was the cause of it all was implacable. This man, knowing his precarious situation in the community, vanished after the incident and his act, according to the people, was just the right thing to do. It was equivalent to voluntary banishment - he may never return to the same community whose dignity he had sullied. The *datu* confiscated his crops, house, and animals.

Resource Utilization

Indigenous communities derive their livelihood directly from the land, forest, mountains, and streams found in the environment. The physical environment is likened to an indigenous "supermarket" where many, if not all, of their needs are satisfied. The main difference is that one does not have to pay for the commodities that one secures from this indigenous supermarket. One simply helps oneself to the trees for construction and fuel needs, the fruits and wild animals for food, and the secret herbs for medicine and rituals.

Swidden farmers are partly food collectors and gatherers

who regard the environment as a communal resource. Occasionally, they would "gather food" from other people's farms, if these happen to live in the same vicinity, and deny that they were stealing, for the forest is for everybody. The bigger problem is resource utilization where the uplands and forest have ceased to be communally owned because portions of them have been leased by big industrial companies, or worse, titled and owned by migrant and non-indigenous farmers. Until now, the influx of migrant farmers to the Mindanao uplands continues to displace hundreds of families of indigenous peoples and to drive them to much higher slopes, where they are accused of being the immediate cause of soil erosion because of their farming methods, forest denudation, due to the unauthorized cutting of trees or illegal logging, and other environmental offenses.

Ironically, the indigenous concepts and methods of resource utilization preclude the dangers of abuse and depredation of nature. Unlike commercial users, indigenous communities take only what they need. They only clear what they can cultivate in the forest; plant and hunt only what they can consume, etc. Until now, their wants and needs seldom exceed subsistence requirements for themselves and their families. The field rotation methods employed in *kaingin* or swidden farming are extensive rather than intensive cultivation, thus allowing the land and the soil to lie fallow and regenerate. The native upland farmers say that, in the past, fields were planted only once. Today they say that if the same piece of land were planted more than twice in succession, it would be offended and would not allow the plants to grow. A further deterrent to the abuse or overuse of nature's resources is inherent in their belief system, which is polytheistic and animistic. Plants and animals, rocks, caves, rivers, and streams, etc. are each believed to have an owner or a resident spirit which acts as its

guardian and protector. To appropriate or use any of these resources, one must first ask the permission of the spirit-guardian and, in some cases, perform the necessary ritual.

The Individual and Society

The "community-ness" of swidden farmers is not easily apprehended. As a correlate of the extensive method of agriculture, swidden dwellings are rarely found in compact settlements. Habitations are widely dispersed along mountain slopes or hilltops, each household preferring to live as far away from its neighbor as wisely possible. However, it is not as if they have little wish for human company. A generation or two ago, no native of the Mindanao highlands would go without his/her personal adornments of beads and bangles. A ubiquitous ornament was the tiny, brass belts, armlets, and anklets so that the tiniest movement of the body produced the tinkling of numerous bells. It would be impossible to hide one's presence in the forest because of these bells but, as a matter of fact, as a native woman said, the tinkling of the bells was meant to announce the presence of another human being and an invitation to make a new acquaintance.

Despite sporadic contacts with one another, each indigenous cultural group is held together by a common language, an evidence of active communication among members of the same group and across different ethnolinguistic groups, since one can be understood in another indigenous community which has a different language. Besides language, the little that is left of the socioeconomic, religious, and aesthetic institutions hold the native communities together. Myths and legends have variants everywhere, while characteristics of the material culture are exhibited in various forms by different communities. This

is true of weaving, dresses and ornaments, musical instruments, tools and weapons, etc.

A problem that arises from a highly stable culture is ethnocentrism. Small cultural groups are often prone to this. The native perspective is frequently shackled to its own perception of reality and may regard the larger society and the state as not only extraneous but irrelevant to this reality. Rarely do indigenous communities regard themselves as part of the nation-state, with rights as well as corresponding obligations.

The most salient political institution is the datu, who is a local functionary and, at best, an informal leader. The datu wields no real political power in the western sense, but as an arbitrator, his job is to settle disputes through the use of good counsel and wise directions. When peaceful counselling fails, the datu usually takes recourse in the exercise of the power to punish violently. He bids his warrior - followers to kill and eliminate recalcitrant elements.

The ordinary individual in the community takes care of his/her own problems on a personal level, seldom bringing any of them to the datu. This is because the customs governing social interaction usually are enough to prevent conflict. For instance, the mode of settlement pattern which favors scattered as against compact settlements fortuitously reduces interpersonal contact between and among households thereby minimizing potential conflicts at their source. In the relative isolation of dwellings and households, individual problems are those that revolve around prosaic activities in the family *kaingin* and for most of these the agency of the various spirits and gods in the indigenous belief system is sufficient to deal with a wide range of problems.

It would seem that, in this case, the ordinary individual in an indigenous community has little need of the society or the

state and conversely, the larger society and state must be hard put to find a measure of pertinence for the indigenous communities, except that they exist. But for the fact that they co-exist in the same geographic, social, and historical context, these two entities - the indigenous communities and the nation-state-would probably be better off without each other.

Stewardship vs. Ownership: The Application of Ancestral Domain

The implementation of Ancestral Domain has been the responsibility of the Department of Environment and Natural Resources (DENR), the government agency which exercises jurisdiction over the management and disposition of lands of the public domain. This department is also the implementing agency for Republic Act No. 7586, which provides for the due recognition of Ancestral Domain and other customary rights of indigenous peoples under the program, National Integrated Protected Areas System (NIPAS). Under the DENR's National Forestry Program and, in particular, of the Integrated Social Forestry Program (ISFP), the interpretation and application of Ancestral Domain has been one of the stewardship and not ownership. The ISFP allows members of indigenous communities and the communities themselves to apply for a certificate of stewardship of forest land for a period of 25 years, renewable for another 25 years.

At best, the ISFP provides indigenous communities a maximum tenure of fifty years for purposes of farming and agriculture in the uplands. However, unlike ownership, stewardship is conceivably limited by the objectives of the Program which are the development of the uplands and

maintaining ecological balance. Although the improvement of socio-economic conditions and alleviation of poverty of peoples who derive their livelihood from forest lands are also cited as part of the Program concerns, clearly, the more paramount interest is the rehabilitation of the upland watersheds through reforestation, among other means.

The idea of stewardship, rather than ownership, must have been derived from the very same economic and cultural characteristics of the indigenous communities who do not regard land as property and do not consider the ownership of it as wealth. However, apart from the fact that stewardship is a circumvention of the concept of Ancestral Domain, the application of stewardship is fraught with numerous impositions that serve to attenuate even the indigenous concept of usufruct.

The size of stewardship areas is limited to five hectares for individuals and families, whereas the indigenous land use and the requirements of field rotation for extensive cultivation in *kaingin* practices would easily cover a couple of square kilometers or 200 hectares for any two generations of indigenous communities. The best evidence for this is the geographic spread of indigenous communities which has remained virtually unchanged over the last one hundred years.

The ISFP is open to "Individuals, families, or forest communities/associations *including indigenous cultural communities...*" (**The ISFP: A primer**, 1982: 12 underscoring supplied). The inclusion of indigenous communities is somewhat an afterthought and clearly indicates that the Program was not designed for the special case of the indigenous groups. It is a recognition of the presence of farmers, other than the indigenous cultivators in the Philippine uplands. Wittingly or

unwittingly, the Program is an inducement for more migrant settlers to populate the ancestral lands of the indigenous peoples.

In fact, the thrust of the whole National Forestry Program (DENR, 1991) is the economic development of forest plantations and agro-forestry estates by upland communities, government (GOs), and non-government organization (NGOs), and other entrepreneurs. The development and well-being of human communities who live in the uplands are expected to automatically follow the economic growth that will result from large-scale commercial activities in the heretofore unproductive and denuded uplands.

In this enterprise, man appears as a secondary, if not incidental, factor in the main goal, which is redressing the ecological imbalance between "man vs. nature". That man is seen as an antagonist of nature is a further indication of an underlying orientation of man as nature's adversary. Certainly, the indigenous perception of nature is quite contrary to this.

The 50- year limitation on stewardship might have been based on a prognosis that in two generations the indigenous cultural communities would have been completely acculturated and transformed into Westernized and Christianized communities, living sedentarily in compact upland hamlets, using intensive rather than extensive farming methods, and planting trees instead of rice as their main crop. A hindsight of more than 100 years however, tells us that such a prognosis is far-fetched. It would take more carefully designed methods of intervention other than community organization and transfer technology, to induce and catalyze the acculturation process.

On the other hand, ownership of land under Ancestral Domain would be a recognition not only of the indigenous

right to lands that they have been tilling "since time immemorial" but also of the right to sustain a culture different from the rest of the nation. Entitlement, in the aboriginal sense, would enable the indigenous communities not only to assert their right on the land but to manage forest and other natural resources in their respective domains. Even if the exercise of this right were to be interpreted in a limited sense, i.e. the DENR reserves the right to regulate the cutting of forest timber, it would nevertheless serve as an ample protection of the interest of the indigenous communities from the encroachments of outsiders.

The most critical problem facing the indigenous communities at present is land despoliation, which opens the door to the other deprivations currently suffered by them. Without lands, they are forced to seek subsistence from dubious sources, such as mendicancy, or through some illegal means like cattle rustling and illegal logging. In the 1980s, a number of indigenous communities were driven to throw in their lot with the Communist New People's Army. In South Cotabato, the B'laan, who have leased their land to DOLE Philippines for as low as \$135 a year per hectare, are encouraged to plant their crops along the margins of pineapple plots. Landless B'laan and other indigenous communities, who have been forced to leave the uplands, are the most destitute. They have been clustered in makeshift lowland dwellings and earn a living as hired laborers in Christian - owned farms for a wage of \$1.50 a day. To all appearances, these indigenous groups are a captive labor force for other Filipinos.

Conclusion

The concept of Ancestral Domain has long been fettered with westernized and legalist notions of land ownership, a state of affairs that places the indigenous communities at a severe disadvantage. The requirements of procedure and compliance have been made from assumptions that native peoples think and behave appropriately whenever mandated by lawful authority. These assumptions fail to consider the point that the indigenous peoples perceive law and authority from an altogether different standpoint.

Thus, while the indigenous valuation of land is usufruct, to say that stewardship, rather than ownership, is the equivalent of the concept is treading on precarious grounds. Indigenous communities regard the continuous utilization of the land as an aboriginal right. It is the right that the *diwata* or spirits have given to them and their ancestors at the beginning of time for as long as the use of land is necessary to sustain their existence on this earth. It is a birthright that no legal title can proscribe or diminish. This right is inextricably intertwined with the *kaingin* or swidden economy and, ultimately, the whole of the indigenous culture. Without land, their cultures cannot be sustained. Without a cultural equipment, indigenous communities cannot long survive in their struggle for existence.