

THE AYANGAN OF HALIAP, IFUGAO: LAND TENURE AND FOREST MANAGEMENT

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Introduction

The integration and incorporation of a small scale society in developing countries into larger regional, national and international economic and political systems have been the focus of studies in various academic disciplines. This paper attempts to answer the questions: (1) How does the integration of a peripheral community into the larger political and economic system transform the customary tenurial arrangements of the community? and (2) What is the impact of the changes in time, with regard resource utilization in general and to forest conservation in particular? Specifically, this paper tries to show:

- a. the nature of the indigenous agroforestry system of Ifugao;
- b. the external factors affecting the Ifugao indigenous agroforestry system; and
- c. how the people have responded to these external factors.

This paper is based on two assumptions: first, that indigenous forest resource utilization is closely linked to customary land and tree tenure; and second, that the Ayangan are in transition, i.e. they are increasingly participating in the lowland market economy, driven by political incorporation in to the dominant nationstate.¹

A case study approach was employed in the research. Barangay Haliap, in the municipality of Kiangan, Ifugao, Northern Philippines, was chosen as the study area.

¹See Violeta Lopez-Gonzaga, *Peasants in the Hills*, (Quezon City: U.P. Press, 1983).

The Ayangan of Haliap

The research site for this study was a barangay called Haliap in the municipality of Kiangan, Province of Ifugao in Northern Philippines. Ifugao is one of the provinces that constitute the Cordillera Administrative Region (CAR), one of the autonomous regions in the country. Barangay Haliap is one of seven contiguous barangays (Haliap, Hucab, Panubtuban, Bolog, Pula, Cawayan, Camandag) along the southeastern portion of the municipality inhabited predominantly by the Ayangan ethnic group in the province.

The people of Barangay Haliap trace their origin to a place called Adyang located within the present municipality of Mayaoyao. It is a major settlement of the Ayangan group who later spread along the stretch of forested area in the southeastern part of Kiangan. In the '60s, migration to nearby provinces started. Today Ayangan settlements can be found in the municipalities of Kiangan, Lamut, Lagawe, Banaue and Mayaoyao, all in Ifugao and in the provinces of Quirino, Isabela, Benguet, and Nueva Vizcaya. The ancestors of the people in Haliap were hunters, farmers (terrace builders and swiddeners), and rattan basket weavers. These subsistence practices have persisted ever since and are reflected in the resulting landscape these settlers have carved from the virgin forests they once found in the course of migration from Mayaoyao.

Today, the landscape of the barangay has five components based on land use and existing vegetation. These are the forests (*ala/pinusio*), the swidden areas (*inuma-an/habal*), the settlement/homegardens (*fubloy/ketaw-ngilig-chola*), the terraced pondfields (*payoh*), and the very steep, rocky grassland areas (*kongo*). The people subsist on the first four components, while the last one is considered wasteland.

The Ifugao subsistence production system has been governed by an established integral pattern of mixed farming that included management of private forests, swidden cultivation, pondfield cultivation of rice, the multiple intercropping of many secondary domesticates, and the raising of livestock. In Haliap, while rice is the staple food of the people, raising other food and cash-source

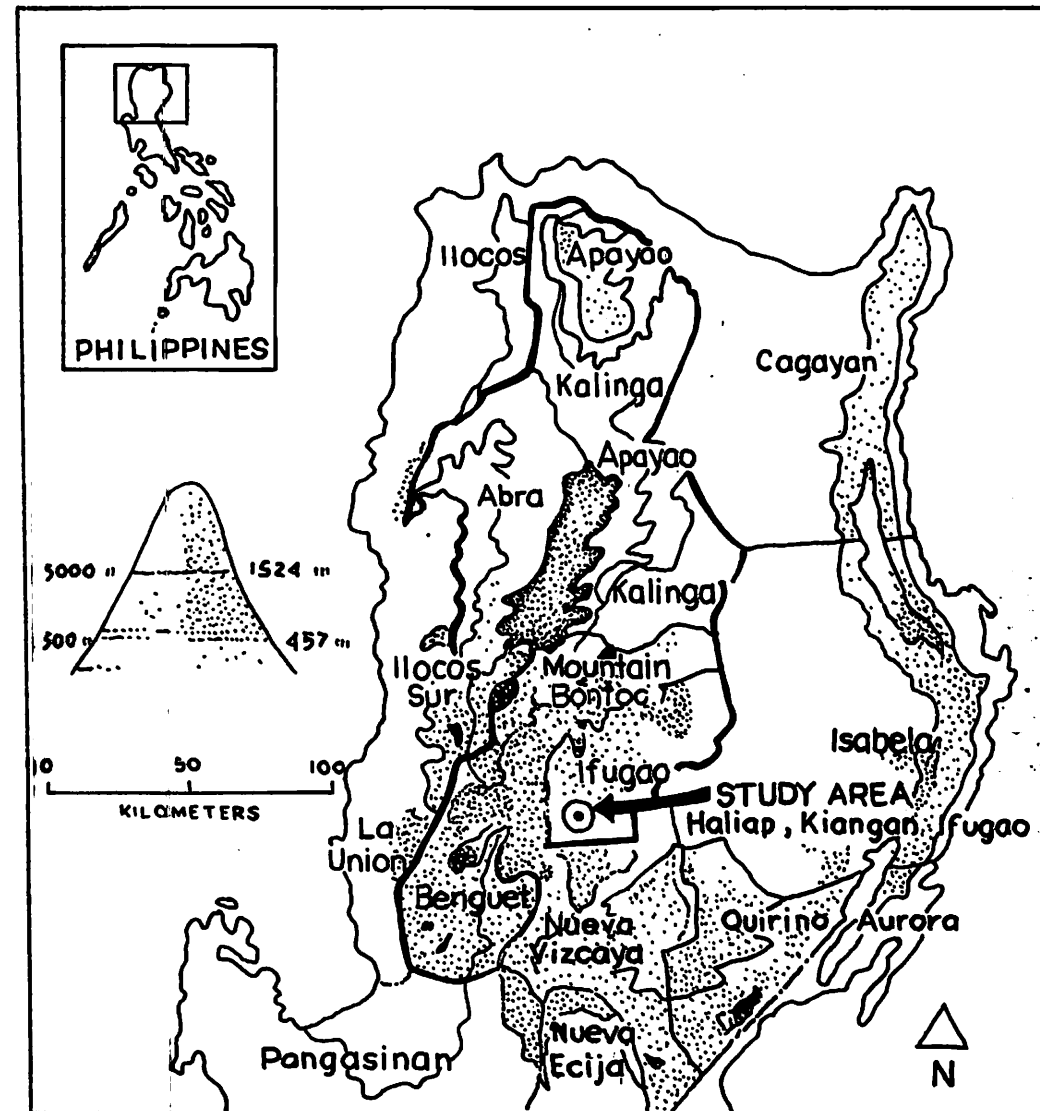


Figure I. Location Map of the Study Within the Cordillera Administrative Region (C.A.R.)
(Source: Modified from Lewis, 1989 : 391)

crops (e.g., coffee) is an indispensable agricultural activity. Most households use swidden produce to supplement their diet and as insurance against pondfield damage. Also, families wish to expand, improve, and maximize the use of their woodlot.

The early settlers of Haliap converted forest lands into swidden and then converted them back to *payoh* in places where there was a sufficient supply of water, or developed them to *muyong/nakopihan*. In the case of the conversion of *payoh* to bean gardening the conversion was dictated by both economic (i.e., high market price) and biophysical (i.e., drying of pondfields) factors.

Customary Tenurial Arrangements and Forest Management Practices

Under Ifugao customary laws, there are three types of lands within the home district namely, the open-access village lands, communal or kinship lands, and individually-owned lands. Open access lands refer to forest lands which become the property of whoever converts them into family-owned forest lands and/or rice fields. These lands are open to all district inhabitants within the same drainage system.² Actual possession and tilling of the soil provides the natural right to claim the land. The introduction of such permanent improvements to open access lands as the construction of ricefields makes the claim to land permanent. In the case of swidden, the tiller has only transient ownership unless permanent investments are made. The abandonment of swidden lands will revert the land back to open access land except the trees and perennial crops.

Kinship lands refer to family-owned forests lands, rice fields, and homegardens. Although only one person is the recognized owner of such property, the owner's blood relatives have some permanent rights to that property.³ The present holders enjoy

² Harold Conklin, *Ethnographic Atlas in Ifugao*, (New Haven and London: Yale University Press, 1980).

³ F. Lambrecht, "History of the Catholic Mission Among the Ifugao", *St. Louis University Research Journal*, (1982).

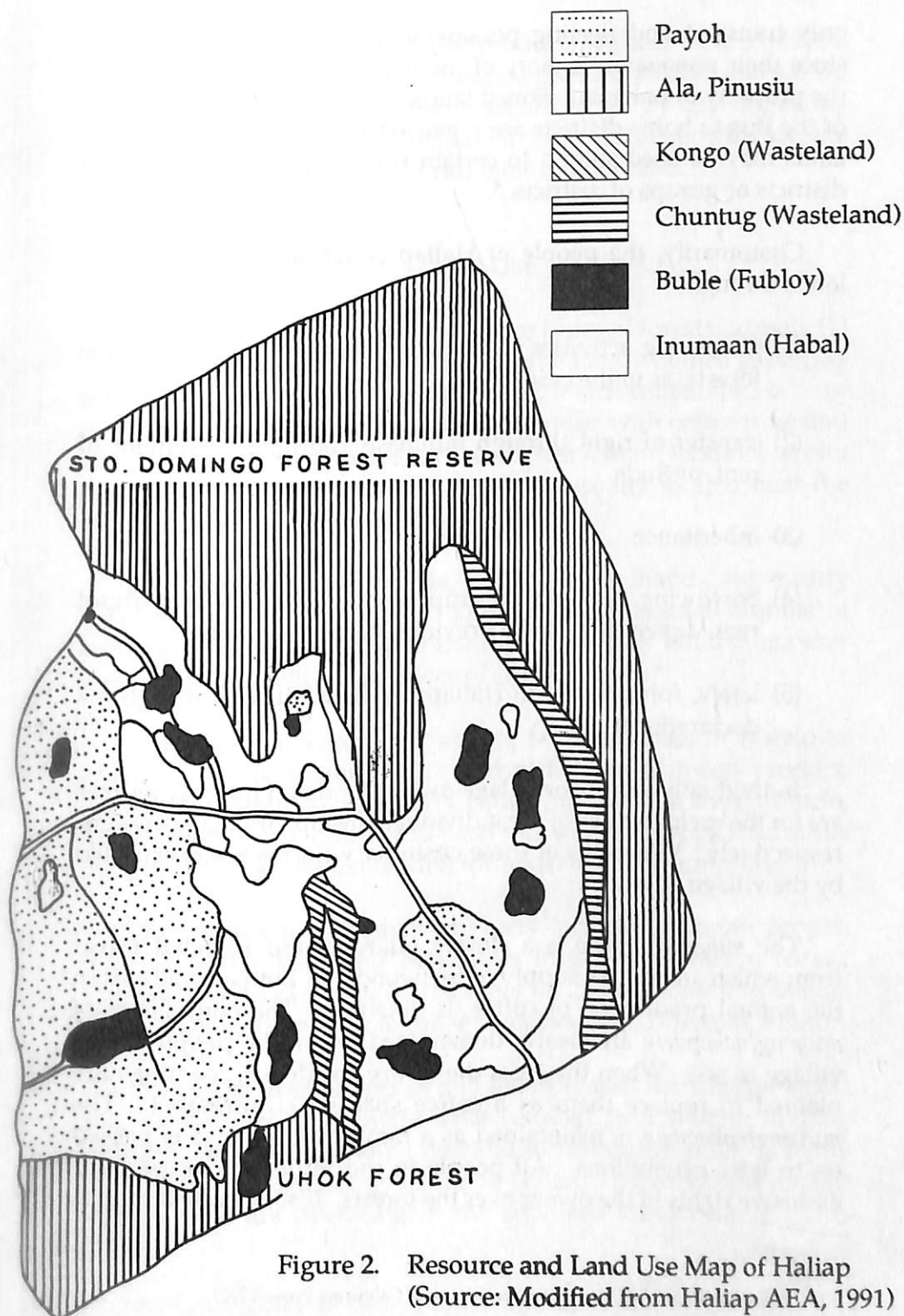


Figure 2. Resource and Land Use Map of Haliap (Source: Modified from Haliap AEA, 1991)

only transient and fleeting possession or occupation (usufruct), since their possession is more of the nature of a trust rather than the property of one man. Forest lands which lie along the borders of the Ifugao home districts are regarded as neutral territory. The lands may be used subject to certain rules agreed upon between districts or groups of districts.⁴

Customarily, the people of Haliap could access and acquire lands through:

- (1) pioneering activities like clearing areas in the open access forests, as in the case of early settlers
- (2) transfer of right through purchase, mortgage, payment of rent, or finds
- (3) inheritance
- (4) borrowing the land for crop production, with or without rent, depending on the previous state of the land
- (5) lately, forest lands in Haliap can be acquired through tax declarations

Individually, family or village-owned land and forest resources are for the exclusive use of the individual kinship, or village owners, respectively. Violations of these customary norms are sanctioned by the village.

The *muyong/pinusio* is a closely guarded and recycled forest from which an endless supply of fuelwood and lumber, aside from the annual production of coffee, is obtained. The boundaries of *muyong/nakopihan* are clearly demarcated for all the people in the village to see. When the trees die or are cut down, seedlings are planted to replace them as a coffee shading requirement. The *muyong/nakopihan* is maintained as a family project and is passed on to later generations. All people in the settlement respect the exclusive rights of the owner over the forests. If somebody attempts

⁴R. Barton, *Ifugao Law*, (Berkeley: University of California Press, 1922).

to cut down trees or gather forest products without the permission of the owner, then he/she has violated the local custom and would be sanctioned by the community accordingly. By custom, actual occupation and the introduction of improvements provide the natural right and claim of the residents to their land.

Forest Use

The residents of Haliap exploit two types of forests, namely (1) the open access public forest, and (2) the family-owned protected forests. The open-access public forests, which constitute 5.6 % of the total land area of Haliap, are not planted with coffee trees and have less agricultural potential due to their distant location, terrain and rocky conditions. These forests are usually located near the village/barangay boundaries.

The family-owned forests, on the other hand, are mostly *nakopihan* (coffee plantations). There had been a small number of coffee plantation in Haliap at the turn of century but this number increased in the 60s when prices of coffee soared.⁵

A survey was conducted among 64 households in Haliap to obtain a profile on the source and utilization of forest product. Among the forestbased products, coffee, lumber, fruit trees (pomelo, mango, citrus, et.), lituco, and betel nut were the crops sold in the market. The rest were intended for household consumption.

The market for Haliap's products includes Kiangnan proper, Banguinge, Lagawe, and Banaue in Ifugao and Solano, Nueva Vizcaya. Wood carvings, on the other hand, are brought to Manila and sometimes exported to other countries (e.g., USA and Japan).

The slump in coffee prices and the increased demand for wood and lumber products in the area resulted in a shift to logging activities. With the growing demand for lumber at present, many have begun to exploit the forests of Haliap. Among these are the loggers who are operating in the southern Kiangnan area. One

⁵Provincial Planning and Report; (Ifugao: PDO, 1990).

logging area is located in the northern part of Baguinge which serves as the logging grounds of the people from Baguinge, Poblacion Kiangon, Banaue and lately, some residents of Haliap. The other is a triangular area, with Panubtuban as its peak, and expanding downward to the border barangays in the south. There are two routes for the felled logs: (1) via the Haliap river traversing the forest area to Lamut; and (2) through the Camandag and Cauayan clusters where logs pass directly over the boundary into Nueva Vizcaya.

The Statutory Laws and the Incorporation Process

Ifugao came under the Spanish colonial administrative government when the southern region of the province (Kiangon and its vicinity) was incorporated with the Isinai territory in northern Nueva Vizcaya to form a politicomilitary unit under the politico military province of Nueva Vizcaya through the Royal Decree of April 10, 1841. During their brief stay, from 1841 to 1900, the Spaniards were able to organize the pueblo (town) headed by an *alcalde municipal* and the barangay (barrio), headed by the *cabeza de barangay*, in some strategic areas like Kiangon and Mayaoyao.

Before the incorporation, the basic traditional organizing mechanism of the people was kinship, usually occupying a certain agricultural district or settlement.⁶ According to Dumia, no political system existed among the Ifugaos during the past centuries.⁷ Ethnologically, they may be said to constitute a tribe, but politically they do not. No man is recognized as chieftain, nor is there a tribal district or village council. In each district or settlement, the most important person is the go-between or the middleman. Important transactions of any sort between persons of different families, like buying and selling properties, marriage proposals,

⁶J. Prill - Brett, "Landholding and Indigenous Corporate Groups Among The Bontocs of Mountain Province, Philippines", Unpublished Ph.D. dissertation, U.P. Diliman, Quezon City, 1987.

⁷M. Dumia, *The Ifugao World*, (Quezon City: New Day Publishers, 1979).

and collecting debts, are facilitated with the interventions of the go-between. The customs governing human relations, especially with respect to resources, are respected by everyone and reinforced by the whole community through the interventions of the go-between. Violators of the norms are subjected to community sanctions, and disputes among the settlers used to be settled through *chau-u*, *bultong*, and dart throwing.

By virtue of its being incorporated into the Philippine government, laws and policies promulgated by the state, governing the manner by and the extent to which resources are used and utilized, are *de facto* operative in the region. Likewise, the manner and the process by which the rights and responsibilities of the citizens of the state are protected and reinforced are in place. In short, the legal and bureaucratic ramifications of social relations of the Philippine state are in place and *de facto* operative in the Cordillera region, at least from the point of view of the government. In the wider Philippine context, by virtue of conquest, all lands were assumed to be owned by the Spanish King, regardless of whether the land was already previously occupied or not (Regalian Doctrine). Although there were royal decrees recognizing the "native rights" over their land and properties, the Spanish colonial government continued not to recognize in one way or another these rights. The Spanish political influence however, at the turn of century, was limited only to the laying of the bureaucratic foundations of the colonial civil government (i.e., organization of *pueblos*).

After the Spanish colonial era, the Americans, the next colonizer by virtue of the Treaty of Paris in 1898, strengthened and expanded the colonial civil bureaucratic structures in Ifugao as more settlements were organized and established. At the national level, the colonial American government upheld the Spanish laws on land and resources through the Philippine Bill in 1902. The American colonial government also required the acquisition of Torrens Titles for all land properties as proof of land ownership (Land Registration Act of 1902). All lands which were unregistered under the Spanish colonial government, and without a Torrens Title, were declared as public lands, under the ownership and administration of the state (Public Land Act of 1905). Thirteen years later, a free patent system was instituted (Public Land Act of

1918). This law required the people to apply for land titles, and exempted the metal and mineral deposits which remained government property.

Casas et. al and Lynch have reviewed the laws and policies of land use and tenure in the Philippines since the Spanish regime and classified these laws and policies into the following:⁸

1. Laws and policies that define the bases of the state's claim on land and resources;
2. State's recognition of the native rights and other rights, benefits, or restrictions provided to them through the law;
3. Operative mechanism delineating lands owned by the State and those owned by the communities and mechanisms that define operation providing those rights or neglecting those rights by the people; and
4. General laws and decrees that have general bearing on indigenous land uses and ownership.

They also identified the sets of laws and policies that characterize the shift of orientation with regard to handling the upland communities and the creation of the institutional framework that attempts to integrate State claims to the land and the claim of the tribal Filipinos to their land. These are the land use intensification and tenure policies coupled with technological upgrading and upland resource management practices. Tenurial policy of the government includes the Integrated Social Forestry (ISF).

Tensions between the statutory and the customary laws are expected. The customary and statutory laws operate under contradictory, if not opposing, principles and theories. They are driven apart by an entirely different historical origin and economic basis.⁹ The following section attempts to illustrate this case.

⁸F. Casas et. al, "Land Tenure Study of Benguet and Mt. Province", Cordillera Studies Center, UP Baguio, 1987.

⁹Ponciano Bennagen, "Swidden Cultivation in Asia, the Philippine Case", *Swidden Cultivation in Asia*, (Bangkok: UNESCO, 1983).

The Interface of Statutory and Customary Laws: The Case of Haliap, Kiangan, Ifugao

The interface of the statutory and customary laws is manifested through the interactions of the different users of forests in the barangay as shown in this case study.

There are five different users of Haliap forests, namely:

- (a) The State (Republic of the Philippines)
- (b) Haliap residents who primarily rely on Haliap's key resources for subsistence
- (c) Former Haliap residents who no longer rely on Haliap's key resources for subsistence
- (d) Non-Haliap residents who were able to tax declare some forest lands in Haliap
- (e) Other outsiders and speculators who are involved in logging

The State's claim to the forest areas in Haliap is based on legal laws and policies which have been discussed in the earlier section. By customary arrangements, labor inputs in the form of improvements to the land provide ownership rights to these resources. Non-Haliap residents on the other hand, got access to Haliap's forests through tax-declarations. Loggers have no formal basis of their claim to the village forest resources.

There seem to be two tenurial arrangements governing the utilization of forest resources in the village: the customary and the statutory arrangements. Their syncretic existence can be gleaned from the results of the survey on tenurial claim, official documents, and the different cases cited regarding settlement of resource conflicts in the village.

Survey Findings

The survey showed that out of 64 respondents, 46 claimed that tax-declaration was their basis for ownership of the resources. The 1984 revised copy of "Tax Declaration of Property of Barangay Haliap" attests to these results.

The residents of Haliap are actually operating in two systems, depending on the given circumstances. In cases that involve residents of Haliap, the customs are used to settle the dispute. Parties who come from the village are thus more likely to observe the village custom. Furthermore, the customary institutional leadership (elders) have the clout to enforce the village custom.

The interactions of the residents of Haliap with non-Haliap residents, on the other hand, follow an interesting pattern. In the case of the former Haliap residents, who now reside somewhere else and who usually are educated and have access to the State process and systems, conflicting claims are settled first at the village level. However, if the non-Haliap residents are not satisfied with the results, they usually seek the State's ways and mechanisms to settle the dispute.

Securing tax-declaration papers has become a necessity for the local residents in protecting their rights. The past experience of the village has taught them to secure tax declarations as a means of protecting their rights. In the '60s, when the village forest was declared as a forest reserve by the government, the people were barred from exploiting their communal or family-owned forests. When Paredes (former governor of Ifugao) got the concession rights over the village forests, the people were also barred from utilizing their forest resources.

The settlement of conflicting claims over the resources among the residents and non-Haliap residents is within the statutory framework rather than the customary. There is a forum provided for the settlement and the use of any of the existing mechanisms depends on the nature of the claimants and the circumstances around them.

In the case of the speculators/loggers, there is no institutional mechanism that provide ways of settling the dispute. The loggers do not respect the *de facto* ownership of the people established by virtue of planting coffee and possessing tax declaration papers. Helpless in the face of intrusion of the loggers into their forest, the villagers, through the barangay council, passed a resolution in 1987 seeking the help of the government particularly the Department of Environment and Natural Resources (DENR) through the CENRO at Lamut, Ifugao to stop the logging operations in the area. Unfortunately until now, the government has not facilitated the stopping of the logging activities of the outsiders nor facilitated the strengthening of the claim of the people over their resources. There was, however, a moratorium of outsiders' logging activities for one year when the NPA intervened as the request of the elders and the barangay council.

Conclusions and Recommendations

The people's and the community's response to the tension indicates the evolution of tenurial arrangements that define and legitimize access to property rights over forest resources in Barangay Haliap. The type of resource conflicts and the socio-demographic profile of the disputants determine what mix of tenurial arrangements are used in settling the disputes. In resource conflicts cases that involve people who actually reside in the area and who largely depend on other forms of village social arrangements, the customary norms and procedure are employed. The community, through the barangay council and the elders, exercises its authority over the involved parties in the observance of the customary laws.

When the resource conflict, however, involves parties who are not bound to observe the customary laws of the village (and in some ways the barangay council and elders can not impose the observance of the laws), the people from Haliap resort to the tenurial arrangement prescribed by the State as in the case of the uplands where pseudo titles and the tax declarations are accepted as basis of ownership over the resources. This is the major factor for the Haliap resident's application for tax declarations. Those who fail to register their land lose their claim when others, who

are not residents of the community, register these pieces of land as their own and enforce their claim through the bureaucratic and legal system in so far as settlement of resource conflicts is concerned. Among locals though, tax declarations are not necessary because they know who among themselves are the real owners of the property.

The relation of the village social organization, represented by the barangay council and the elders, vis-a-vis the bigger system of the state, as far as legitimizing and reinforcing the claim and access rights of the villagers over their property are concerned, has been shown in the case study. The capacity of the village social organization to enforce the customary property rights of the villagers over their resources is vitiated when one of the parties involved in the resource conflict has the means to resort to the state system when the result at the village level is not favorable to them. This dynamic lessens the integrity and autonomy of the village political organization and the customary laws of the people in general. The state continues to act as the mediating agent between the local community of Haliap and the outsiders. This recognition of the state by the community as the legitimizing institution was made manifest when the whole barangay sought the help of the government through the office of the mayor and CENRO at Lamut, Ifugao to stop the logging operations of the outsiders in their forests.

The different bases of claim and the manner and mechanisms by which these claims are enforced have brought about the interplay of different customary and statutory tenurial arrangements. In the case of the people of Haliap, they adopt a more pragmatic way of relating to different users of their forests. The majority of the residents resort to the accepted legal process by adopting tax declarations when dealing with users not socio-culturally and economically bound to observe the customary arrangements of the community. The residents shift between two different tenurial arrangements, depending on the nature of the case and the disputants. In this way, institutions are still operative in so far as resource utilization is concerned.

In dealing, however, with the loggers who come from outside the locality, the problem stems from two things: (1) the

community's inability legally, politically, and militarily to enforce their customary rights over their forest resources; and (2) the villagers' dilemma regarding tenure vis-a-vis the legal system. The tenure of the people is not legitimate as far as the state is concerned although tax declaration papers may serve as an indicator of property ownership.

The failure of the government (at least at the local level) to intervene and to stop the intrusion of the loggers, and the inability of the local people to enforce their prior rights over their forest have made the management of *muyong/nakopihan* ineffective. The people who establish *muyong/nakopihan* at the boundaries, which renders them difficult to guard and protect, have been lately cooperating with the loggers by allowing them to log out trees within their *muyong* for some share of lumber. Others have turned loggers themselves. This may be seen as an alternative by some *muyong/nakopihan* owners, considering that logger-thieves are occasionally present in the area.

If the community of users in Haliap is unable to work through existing arrangements to respond to changes, this will result in destructive competition among conflicting users as one tries to maximize his/her use over the resources. This will result in resource depletion. In the light of these, this study proposes the strengthening of the property rights claim of the local people over their resources through the Ancestral Domain Act which provides an overall framework for the utilization of resources of indigenous people. The laying down of acceptable, workable foundations that define the rights and responsibilities of the state and the people regarding the utilization of resources is a political, economic, and historical necessity. Both at the local and national levels, forest laws and policies should be enforced. As far as the communities are concerned, it is suggested that there will be an introduction of the Philippine nation-state bureaucracy through paralegal training. This would hopefully cushion the furtherance of the negative impacts of the interface of the statutory and customary laws regarding tenure.