

TENURE AND COMMUNITY RESOURCE MANAGEMENT: CASE STUDIES FROM NORTHERN MINDANAW

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Keywords

Agusan del Sur province; Ancestral Domains; Bukidnon; Bukidnon province; Certificate of Ancestral Domain Claim (CADC); Community Based Resource Management; Department of Environment and Natural Resources (DENR); Higa-onon; Land Tenure; Manobo; Misamis Oriental province; National Integrated Protected Areas System (NIPAS); Philippines; Resource Tenure; Tala-andig.

Acronyms Used

ADMP	Ancestral Domain Management Plan
BZ	Buffer Zone
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CBFM	Community Based Forestry Management
CBFMA	Community Based Forestry Management Agreement
CENRO	Community Environment and Natural Resources Office
CoE	Council of Elders
CRMF	Community Resource Management Framework
DENR	Department of Environment and Natural Resources
GM	Geographic Rediscovery of Endangered Environment and Nature in Mindanao or Green Mindanao
ICRAF	International Centre for Research in Agroforestry
IP	Indigenous Peoples
IPRA	Indigenous Peoples Rights Act (Rep. Act no. 8371, 1997)
KIN	Kitanglad Integrated NGOs
MKRNP	Mt. Kitanglad Range Nature Park
NCIP	National Commission for Indigenous Peoples
NIPAS	National Integrated Protected Areas System (Rep. Act no. 7586, 1992)
PA	Protected Area
PAF	Poverty Alleviation Fund
PAMB	Protected Area Management Board
PSTFAD	Provincial Special Task Force on Ancestral Domains
SILDAP	Silingang Dapit sa Sidlakang Mindanaw

INTRODUCTION

Government land and resource policies and programs have over the years shown increasing receptiveness to community-oriented programs and projects. Beginning with the Integrated Social Forestry Program,¹ the DENR in particular pioneered ancestral lands and domains delineation,² and in 1995 even went on to declare that community based forestry management will be the national strategy for forest resource management.³ 1997 saw the promulgation of Rep. Act no. 8371 or the Indigenous Peoples Rights Act (IPRA), which allowed IP communities to apply for titles over their ancestral lands and domains. Although the constitutionality of the IPRA was challenged before the Supreme Court, the latter's decision to uphold the statute's validity⁴ echoed this openness to community-oriented policies, laws and programs.

Through all these however little attention has actually been paid first to the notion of "community" deployed in government laws and regulations; secondly, to actual indigenous land and resource tenure practices; and lastly to the resulting dynamics between the state's notions of "community" and indigenous tenure and those of the IP communities themselves.

When ICRAF supported a research project that would assess the impact of the ancestral domains delineation procedures under DENR Admin. Order no. 2 (1993) on community resource management, a critical interest in such unproblematized issues, often obscured by unexamined assumptions, was integrated into the research project. In this way we hope to derive lessons for advocacy, policy and development planning.

Project Concept

This paper is a revised and updated version of the report of a research project conducted in 2001 that assessed the relationship between the Philippine government's ancestral land and domains delineation program on one hand, and community resource management on the other. Specifically, it assesses how useful the CADC instruments issued under the program have been in improving IP communities' management of their local lands and resources.

Due to operational constraints, it was not possible to compare community resource management before and after particular communities were issued a CADC. Instead, the study looked at how well the CADC enhances or builds on actual community resource management practices or institutions, or introduces useful innovations.

This focus on actual tenure practices has the methodological benefit of grounding analysis in sociological reality, and avoiding reliance on assumptions regarding indigenous resource practices. This clarifies just how a CADC complements or conflicts with indigenous praxis, and whether any innovations it introduces has a positive impact.

For this purpose, five IP communities in northern Mindanaw were identified as study sites for the project. Focusing on a geographic region ensured that these

¹ LOI nos. 1260 (1982) and 1474 (1985), and MNR Admin. Order no. 48 (1982).

² DENR Special Order no. 31 (1990). See also DENR Special Order no. 31 (1990), and DENR Admin. Order no. 2 (1993).

³ Exec. Order no. 263 (1995). See also DENR Admin. Order no. 29 (1996), the Executive Order's implementing regulations.

⁴ *Isagani Cruz and Cesar Europa v. Secretary of Environment and Natural Resources, Secretary of Budget and Management and Chairman and Commissioners of the National Commission on Indigenous Peoples*, G.R. no. 135385, dated 6 December 2000.

communities belong to more-or-less comparable ecological settings, historical experiences and cultural backgrounds.

For various reasons however, only three of the five identified communities were actually studied. These are the Manobo community of sitio Manguicao, Brgy. Lydia, La Paz, Agusan del Sur province; the Higa-onon community of Brgy. Minalwang, Claveria, Misamis Oriental province; and the Bukidnon/Tala-andig⁵ community of sitio Lantud, Brgy. Sagarán, Talakag, Bukidnon province.

Each of these communities applied for a CADC, but only Minalwang received one. Manguicao and Lantud did not receive CADCs, but they operated on the assumption that they would be issued one, at least for a time.

We shall first review the regulations on ancestral lands and domains delineation, to give us a better sense of its substantive content.

Ancestral Domains Delineation

In 1993, the DENR issued Administrative Order No. 2 (1993), as a result of internal and external initiatives and pressure (Leonen 2000: 80), and as a response to the larger, continuing political movement for recognition of IP rights.

This administrative order provided a procedure for documenting IPs' ancestral lands and domains claims, evidenced by a certificate affirming the applicant's claims. More importantly, it vested the holders of these certificates with some control over their lands and resources.

DENR Admin. Order no. 2 has some serious defects (Gatmaytan 1996: 26). First, it merely certified that a community *claims* a given area as its ancestral land or domain; it does not certify its ownership of the area. The regulations thus refused to address the fundamental issue of ownership of ancestral territories.

Second, even when an applicant receives a CADC, it may not adversely affect concessions, licenses, leases, patents, permits or other rights which commercial companies had previously secured over the area claimed.⁶ In other words, the community must respect the rights of the companies usurping their land or resources. This is a serious problem in areas like Agusan del Sur, where ancestral territories have been carved up among logging and tree-plantation companies (cf. Gatmaytan 1995).

Third, the entire process bureaucratizes the notion of ancestral lands and domains (see Gatmaytan 1999); it is an enclosure of the cultural frontier. Whereas the definition of ancestral rights had hitherto been controlled by the various IPs' particular histories, cultural ideas and praxis, now it is defined by administrative standards set by the state (following Foucault 1980: 131).

Thus even as the state appears to be extending legal rights to IP communities, it also reinforces its own political and administrative power. This is done by the state's institutionalization of its role in determining who has what rights to which lands and resources;⁷ its commodification of ancestral lands and resources by prescribing a

⁵ For purposes of this paper, the Higa-onon, Bukidnon and Tala-andig will be treated as very closely related groups whose differences reflect political autonomy and localized variations rather than substantive cultural or ethno-linguistic differences (cf. Cole 1956: 5).

⁶ Art. 4, sec. 2 of DENR Admin. Order no. 2 (1993).

⁷ The government can then use its power to form alliances with local leaders willing to collaborate with its state-building programs and policies (following Breuilly 1993: 158). This also provides the state a means to gather information on local resources, communities and their leaders, and thereby control them (Giddens 1985: 117).

standard set of rights and obligations for ancestral land and domain claimants under a legal order it governs and enforces (Merry 1992: 364; see also Nagengast 1994); and homogenizing and simplifying the land and resource rights of all IP communities, irrespective of their historical and cultural context.⁸

While it does not recognize IP rights of ownership, DENR Administrative Order no. 2 (1993) remains innovative in terms of the rights it extended to them over lands and resources. Despite its historical significance, and the great interest it generated among IP communities and organizations as well as NGOs, no full study has yet been made of the policy, cultural and political impact of ancestral domains delineation, although I have elsewhere noted problems in its implementation in Agusan del Sur province (Gatmaytan 1996: 27-28).⁹ This paper thus helps redress this deficiency.

The study is also important in the light of recent legal developments. The newly vindicated IPRA provides a procedure for titling IP's ancestral lands and domains, evidenced respectively by the CALT and CADT; a substantive improvement over the delineation regulations' CALCs and CADCs. At the same time, the IPRA reiterates the regulations' provisions on land and resource tenure. Assessing the latter's impact may be useful in identifying lessons that may guide the ongoing implementation of the IPRA.

State Perspective on Land and Resource Tenure

The state's notion of indigenous tenure as reflected in DENR Admin. Order no. 2 (1993) makes a distinction between "ancestral lands" and "ancestral domains". "Ancestral lands" refer literally to parcels of land, owned by individuals, families or clans.¹⁰ "Ancestral domains" refer to the land *and* the resources therein.¹¹ An "ancestral domain" is owned by a "community", which controls the resources there, even though the lands may be divided among members as their respective "ancestral lands".

True to this hierarchy of property, "ancestral lands" may be located within or without an "ancestral domain";¹² and more importantly, a holder of "ancestral lands" has rather fewer rights than a holder of "ancestral domains".¹³

An individual, family or clan can apply only for a CALC; i.e., for the land but not the resources therein. A "community" however can apply for a CADC, and thus gain legally recognized control not only of the land, but of the local resources as well.

Not surprisingly, many people applied for CADCs, such that by 6 June 1998, a total of 181 CADCs had been issued by DENR, covering a total of 2,546,035 has. (DENR 1998). When the DENR suspended implementation of the delineation

⁸ The homogenization of space facilitates the state's control of land and resources, as it is easier to manage standardized 'ancestral domains' subject to uniform rules than a mosaic of complex, dynamic and internally-differentiated tenure systems (following Alonso 1994: 382).

⁹ Unless strictly monitored, ancestral domains delineation could become a mechanism for land grabbing by individuals with connections in the DENR, commercial firms or with government or military officials. In Agusan del Sur province, where *a community* can generally claim at most about 3,500 has. as its territory, six *individuals* have secured CADCs over 6,310, 51,000, 14,225, 74,827, 7,478 and 6,095 has., respectively (DENR 1998). One can only wonder how many communities' territories were legally appropriated by these six CADCs, or if they are even aware of the fact and its consequences for them.

¹⁰ Art. 1, sec. 3 (c) of DENR Admin. Order no. 2 (1993).

¹¹ Art. 1, sec. 3 (b).

¹² Art. 5, secs. 1 and 2.

¹³ Compare Art. 7, secs. 1 and 2, which list the rights of CADC and CALC holders, respectively.

regulations because of the promulgation of the IPRA, there were hundreds of pending CADC and CALC applications.

This distinction between land and resources was carried over into the IPRA. The law even went further by declaring that “ancestral domains are the ... private but community property” of an IP group.¹⁴ Thus individuals, families or clans could claim only “ancestral lands”, while a “community” could claim lands and resources as its “ancestral domains”. Instead of CALCs and CADCs however, the IPRA provides for the issuance of documents of title called CALTs and CADTs.¹⁵

And again, the awardees of a CADT enjoyed much greater rights than holders of CALTs, making the former more attractive as a tenure option for communities.¹⁶

This legal distinction between lands and resources influenced community decisions to apply for a CADC rather than a CALC, with the risk however of creating a context where local tenure practices may clash with legal notions and expectations regarding indigenous tenure. This will be discussed further in the findings of this study.

CASE STUDIES

CASE STUDY 1: MANGUICAO

Profile

Manguicao is a *sitio* of Brgy. Lydia, La Paz, Agusan del Sur; one of the many IP communities along the Adgawan river, a tributary of the Agusan. Manguicao’s territory covers 1,358 has. of classified timber lands, which cover 122,634.13 has. of the municipality’s total land area of 155,617.4 has. (Municipality of La Paz 1995: 2, 13).

Most of the area is covered by secondary growths, resulting from swidden farming and from having been extensively logged over from the 1960s until the early 1990s. However, a few sections still retain old-growth stands. Farm-clearings tend to concentrate along the banks of the Adgawan and its many tributary creeks in the area, but they can also be found among the hills further away from the river.

The census conducted in 1993 in Manguicao for its CADC application found a population of 313. The latest available municipal profile of La Paz does not present population figures for its various *sitios*, but only for barangays. As of 1995, Brgy. Lydia was listed as having a rather unusually low population of 610, with a population density of slightly less than 1 person per ha. (Municipality of La Paz 1995: Table nos. 1, 2). When I conducted research in Manguicao in 1998, there were 223 individuals in the community. This reflects not so much the problems of the various enumeration techniques, but the fact that the local populations are highly mobile, moving from community to community for various reasons.

Ethno-linguistic affiliation based on mother tongue shows that 64.45 % of the population of La Paz is Manobo, with Cebuano-Visayans coming in second at a distant 23.48 % (NSO 1997: 73). The entry of migrants is linked to the operation of logging companies in the 1970s (Municipality of La Paz 1995: 4). Manguicao is almost wholly Manobo. Only three men are from other ethnic groups, all of whom are married to Manobo women; their children are considered as Manobo.

¹⁴ Sec. 5, IPRA. See also sec. 55 thereof, which introduces the legal presumption that ancestral domains are “communally held”.

¹⁵ See secs. 52 and 53.

¹⁶ Compare secs. 7 and 8.

While the profile makes no mention of the indigenous religion (1995: 4)—it simply lists the Catholic Church, 13 other Christian sects and Islam, all without statistics—Manguicao is locally reputed to be a center of indigenous religiosity.¹⁷ Here, indigenous beliefs are not an esoteric field known only to elders, or something to parade on important dates or occasions. Here, omens and dreams are taken seriously, ritual precautions no longer practiced elsewhere are taken, the actuations of spirits are taken as a valid explanation of events, and all households take their ritual obligations or *tulumanon* seriously.

The Agusan Manobo are traditionally swidden farmers, and in Manguicao, farming remains an important activity. Principal crops are dry or upland rice, corn and sweet potatoes and cassava.¹⁸ They do not however rely on farming exclusively, nor is it even the principal economic activity.

From around the 1960s up until the early 1990s, working as cutters, haulers and security guards of the various logging contractors or companies in the Adgawan area was the principal source of cash. Beginning in the mid- to late-1970s, harvesting rattan (*Calamus sp.*) became increasingly important, just as local stocks of the valuable *lawaan* trees (*Shorea Negrensis*) began to decline by the 1980s. Today, small-scale logging continues, though on a vastly reduced scale. Rattan cutting is now a more important source of cash for the residents.

Other sources of income are farm- and other labor outside the community, and cash earned by residents who are salaried workers. Planting falcatta and other tree plantation species for future harvesting and sale began in the 1990s and seems to be spreading, but local stocks have not yet reached harvestable size.

Hunting and trapping are declining with the surrounding forest cover, but is still practiced sporadically by a group of 10 or so men using a variety of techniques. To note, not all men practiced catching game animals, even when the area was still heavily forested, and hunting and trapping were very important activities. Fishing in Manguicao has declined even more, especially when compared with data from Garvan's account (cf. 1929: 81).

Land and Resource Tenure

Land tenure in Manguicao is individualized. The absence of any mechanism for land allocation that transcends the various households; the currency of such land transactions as gifting, borrowing, inheritance and sale of lands; the fact that residents of Manguicao own lands within other communities' territories; their own oral history, taken in relation to their social structure; their mapping of the various landholdings in Manguicao; and the way the people themselves discourse on tenure rights all indicate that land is owned by individuals rather than by any corporate group acting as such.

¹⁷ A letter written by the Jesuit missionary Urios describes how the Manobos of the Adgawan river were steadfast in their indigenous beliefs (Urios 1891). In Comota, downriver from Manguicao, I overheard one old Manobo joking to another that it is impossible to buy chicken in Manguicao, as all their chickens are *ipo* or *sinugbahan*; i.e., consecrated for ritual sacrifice.

¹⁸ While rice and rice-farming is highly valued, harvests rarely last a few months. *Kamote* or sweet potatoes are actually the most important crop, in the sense that it is what sustains the local population for most of the year. Corn used to be a very minor crop, until a few families managed to get a plow and draft animals; marketing this crop began only in 1998.

They do not have a specific term for a landholding, but the notion of *ugalingon* or property clearly includes land. In the same way, there is no particular term for a landowner, though the word *tagtu-un* or owner may be applied in relation to land.

The principal basis for landownership is bilateral inheritance from pioneering ancestors. Inheritance follows two patterns (cf. Manuel 1973). In the first, the land/s is/are passed on as an undivided whole to the heirs as a group, though with one heir—usually but not always the eldest son—designated as an “administrator” who oversees the welfare of all other heirs. The siblings and their families all have equal access to the land. In this strict sense, the land may be viewed as communally owned by a set of heirs, taken as a group. However, the administrator is usually referred to as the owner of the land, as he has the ultimate right to decide on the disposition of the land. If he wishes, the administrator may subdivide the land among the heirs, or give part of it away to someone.

In the second, currently more widespread rule, the landowner subdivides the land among his/her successors sometime during her/his lifetime. The division of land is done more or less equally among all male or female heirs, though some leeway in this regard is given to the landowner. The landowner’s decision in this regard¹⁹ is carefully observed; violations are punished by mysterious illnesses.²⁰ Once divided, each heir is considered the owner of that portion of the land given him/her.

Until the immediate post-war period, the first system seems to have been the norm. Thereafter, and with growing awareness of conflicts caused by land-hungry settlers and disputes among heirs, inheritance practices are shifting to the second mode. Only one family in Manguicao still practices the first form, and they are set to subdivide the land in October 2002. As of 1998, all of the other landholders had already subdivided their lands among their heirs, in anticipation of their eventual demise, and in fulfillment of expectations that they ensure the welfare of their descendants.

An interesting practice in Manguicao was how married men claimed their wives’ inherited lands as their own. One man explained that as the husband of his father-in-law’s daughter, the man in effect becomes a son of the father-in-law, and thus ‘inherits’ the land alongside his wife. This—my research indicates that similar cases of husbands appropriating their wives’ lands existed by the 1920s or 1930s—is being contested by the women, though in an uncoordinated manner.

As owners of land, individuals may gift, sell, exchange or lend²¹ land to others, including people from outside the community. In time, they can transmit the land to their own heirs. It is thus possible to own lands in other communities’ territories. A number of men have two to four large land holdings, a much larger group have smaller lots, while others have none at all. Most of the latter however are children or sons- or daughters-in-law of the larger land owners, and are thus assured of tenure security in the future.

¹⁹ *Panugon-tugon* or *panagumbilin*.

²⁰ *U-tuk*.

²¹ In Manguicao, lending and borrowing land—called *pagpamae-id* or *pagbuyus*—is highly institutionalized, allowing landless households access to land for farming. In such cases, the crops belong to the borrower, but the land remains the property of the lender. No lease or share in the harvest, or other form of actual or symbolic land rent is expected from the borrower. The borrower however may not plant trees, considered a sign of ownership, and may not him/herself lend or otherwise dispose of the land s/he borrowed. Neither may borrowed lands be transmitted by inheritance to the borrower’s heirs. To note, there are many cases of landowners borrowing land for cultivation from other landowners.

Individuals or households may cultivate any of their various landholdings, or borrow other's land for farming. As landholdings may be quite far from each other, families may move away for the agricultural season, hence the population fluctuations we have noted.

Traditional group or community regulation of local resource use is somewhere between nil and negligible. Rather, the landowner is considered *ipso facto* the owner of any and all natural resources within her/his landholding/s, such that they control allocation and use of such resources. Though described as community leaders, *datus* cannot control the landowners' decisions regarding land and resources, outside of their own lands. In other words, political or legal leadership does not translate directly to ownership or control of lands or resources.

"In the beginning," said one *datu*, "there were no trees" ("Sa una, wa'y kahoy"); i.e., at first, trees were not seen—almost literally—as valuable resources. Trees were very plentiful then, and the Manobo had no particular economic interest in them; logging even facilitated the swidden farming their culture honored. Trees were thus considered nobody's property, open to appropriation by anyone. When loggers began working in Manguicao, they met absolutely no resistance. *Datus*, *baylans* and elders welcomed them; local people would freely inform them of the location of good *lawa-an* stands; and logging rituals were developed.²² Gradually, the Manobo began to undertake the various phases of logging work themselves.

Only after a number of years did the idea of *owning* trees develop, a notion adopted from communities in the Umayam and upper Maasam river areas that had developed the "time" system. Under this system, a logger pays the indigenous landholder for access for a specified period of time to the trees in his/her *ugalingon*. The industrial tree plantations that succeeded the logging operators and companies in the area still practice the "time" system today.

Ownership of land was thus extended by the Manobo to include the resources therein when the economic value of the latter was discovered. Where trees were once open-access goods, now they are the property of the landowner where they are found.

This is also the pattern for rattan. Like trees, they were originally open-access goods open to appropriation by anyone, anytime. In fact, it was once *pamalihi* or taboo to cut rattan for sale. When rattan became economically important however they 'became' the property—again—of the landowners. Today, rattan cutters and contractors must first seek the owner's permission and negotiate an access fee with her/him before they operate in the latter's *ugalingon*, a system analogous to the 'time' system.

Game animals, fish and other aquatic resources on the other hand are open-access goods. They may be appropriated by anyone, even non-Manobos. The men of Manguicao thus used to do their best hunting outside of their community's territory. Conversely, hunters, trappers or fishers from other communities can work these vocations within Manguicao's bounds. Indeed, they could only watch as a group of logging employees once used dynamite in fishing just upriver from Manguicao.

Other resources such as *bayoy* or pandanus leaves for weaving mats and baskets, wild fruit and edibles, bamboo, building materials and firewood, medicinals, wood for ritual furniture and betel-chew ingredients are described as *ma-intuk* or small, with the implication that they are of little value. These form a large category of open-access resources that may be taken by anyone, including non-community members,

²² One elderly *datu* and *baylan* who was active in logging bragged that the reason he suffered no accidents during his many years at this dangerous trade was that he carefully complied with the local logging rituals, which developed from tree-felling rituals for agriculture.

provided the appropriation is for domestic use or consumption. Commercial exploitation of these resources by non-landowners may cause adverse reactions.²³

Exploring the CADC Procedure

Though the Manobos of the Adgawan river area did not resist the entry of logging operations, they did the industrial tree plantations. This was because, as a very old *datu* told me, logging companies only took the trees in Manobo lands, while tree plantations not only took the trees when they cleared the forest, but the land as well when they planted plantation species (cf. Gatmaytan 1995). One Manobo community put up such stiff resistance during the 1980s that the company issued its security guards a shoot-on-sight order against all Manobos, reducing them to farming at night, by lamplight.

This and other incidents of conflict inspired vigilance in the Manobo of Manguicao. From the late 1980s onward, they sought some form of security against the possible encroachment of tree plantations. When they heard of the ancestral domain delineation program through SILDAP, their *datu*s and elders sought its assistance applying for a CADC. With the NGO's help, they set up a local organization called MAHANONG or "peace", whose membership consisted of most residents of Manguicao. The application was finally filed in 1995.

In 1998, the DENR offered the community livelihood funds through the Poverty Alleviation Fund (PAF). Within the community, there was some debate about the funds. A few argued that the individual landowners ought to be allowed to decide what was best for their respective landholdings and families. Others said that the PAF was offered for community-wide projects, so that the response should also be done on the basis of a community-wide agreement.

MAHANONG finally answered that any projects established through the PAF funds should be within the context of ancestral domain rights, and that if the DENR truly wanted to help, it would first expedite processing of their pending CADC application. After a period of negotiation—and some rather underhanded maneuvering by the CENRO—the talks broke down, and nothing more was heard of the PAF.

The community's application took a long time to be processed. When implementation of Administrative Order no. 2 was suspended in 1998 in the wake of the promulgation of the IPRA, their application was awaiting review at the DENR main office in Quezon City. Even then it was noticed that the surrounding tree-plantation operations became much less aggressive and more careful about possible transgressions on local landowners' claims when they found out about the pending CADC application.²⁴

The long delay, along with the downscaling of tree plantation activities in the area gave rise to apathy within Manguicao. They are still wary about any possible expansion by the tree plantations, but they no longer see the CADC application as a solution to the insecurity of their tenure vis-à-vis the tree plantations, and by extension, the state.

Even as the CADC application was pending approval, MAHANONG tried to introduce changes in the management of local resources. The organization prohibited fishing using chemicals or explosives and encouraged people to concentrate on farming.

²³ In 2000, landowners in the Comota area—downriver from Manguicao—threatened to ban firewood gathering in their lands when they learned that enterprising boys from Talacogon sold the firewood they collected in the local market without negotiating the owners' share in the profit.

²⁴ In 2001, the Royal Match, Inc. began negotiations with individual landowners over their respective rights to the land and the trees to be planted. This was a radical departure from the aggression previously exhibited by logging and tree-plantation firms in the past.

Most importantly, it tried to regulate logging and rattan cutting beginning in 1996. The rule was that neither activity would be allowed within the community's bounds unless all members first vote at the start of each year to allow it;²⁵ permission from the concerned landowner is secured; and access fees are paid to both the *tagtu-un* and the organization. These regulations discouraged outsiders from taking further interest in local landowners' rattan stands.

On the other hand, a number of local residents—including at least one landholder—violated the regulations and no action was taken against them. When criticized, he responded that he was not a member of MAHANONG and so was not bound by its regulations. He also said, "Why are they angry (at me); the land is mine anyway"; in effect asserting that as landowner he had by indigenous tenure rules, full power over his lands and resources.

The *El Nino* and *La Nina* phenomena, coming in 1998 and 1999, forced the organization to lift its restrictions so community members could earn cash to offset losses from ruined crops. People then got so used to rattan-cutting and small-scale logging again that MAHANONG could no longer re-impose its restrictions after these crises. Reduction of the local forest cover is apparent in the area.

In August of the past year, MAHANONG helped form a coalition of Manobo community organizations called KATIBOAN, to build a united front against tree plantations, and address other local issues. Two months later, they and other representatives from KATIBOAN joined a region-wide coalition of IP organizations called Kahugpongan sa mga Lumadnong Organisasyon sa Amihanang Mindanaw (KASALO-Amihanang Mindanaw), again to strengthen their efforts to protect shared interests (cf. SILDAP 2000).

This represents a growing, broader political perspective than the traditional village-centered outlook of most IPs. One female leader stressed how they cannot afford not to assist other communities anymore, saying "If people down-river lose their lands, they would come here (looking for land)". A *datu* said, "It would be difficult if we alone act, we would be like an island" surrounded by company tree plantations.

Issues in Resource Management

Manguicao shows us that indigenous tenure systems may be individual, rather than communal in character.²⁶ That local tenure is largely individualized—as is the case today—does not mean however that access to land is restricted to landowners. The way landownership is practiced in Manguicao and neighboring communities allows landless farmers to cultivate lands for their needs, without need to pay land rents. Individual tenure moreover is compatible with the continued observance of traditional practices and values, or with a strong sense of community.

²⁵ The organization's members voted in 1997, when implementation of the rule began, and in 1998 to ban logging and rattan-cutting during those years.

²⁶ I stress that while the current tenure system in Manguicao does have similarities to state or civil law notions of private ownership, they have striking differences as well. For example, the Manobo practice of landownership is less exclusionary, allowing the landless to cultivate private lands; it includes not just the land itself, but the commercially valuable resources like timber or rattan (conversely it does not include open-access resources); it is ultimately derived from descent rather than titling; and it developed independent of the western notion of the state, so taxation and registration are not relevant aspects of land ownership.

Moreover, we are warned not to conflate local or indigenous political or legal authority with control of allocation and use of resources. A community may be led or governed by a *datu*, but this does not necessarily mean that the *datu* also controls local resources. In Manguicao, individual landowners control access to resources. That there is a sense of community shared by local residents “does not imply that this is the relevant level at which resource allocation or management takes place” (Van Den Top and Persoon 2000: 172).

Manguicao also shows how local tenure systems change. Where timber or rattan were once open-access goods, they became the property of the landowners. This change meant an elaboration of indigenous notions of ownership, which had until then focused only on land for farming purposes. It is possible that other local resources—like wild *duryan* (*Durio zibethinus*) and *lanzones* (*Lansium domesticum*)—will also shift from open-access to individually owned resources as their commercial value becomes accessible in the future.

The development of local tenure in Manguicao also cautions against using a strict indigenous vs. state law or culture vs. capitalist-intrusion dichotomy. The development of indigenous tenure systems—though quite distinct from civil law notions of property and property rights—and by extension, indigenous culture, is linked to the intrusion of capitalism in the form of the timber and rattan trade. At another level, the application for a CADC may be seen as collaboration with the government’s agenda of homogenizing and clarifying rights to space within its political frontier, or alternatively as an act of resistance against the feared expansion of government-granted tree-plantation concessions. Such nuances confound simplistic dichotomies.

We cannot say of course if a CADC enables Manguicao to better manage its resources, since they do not have one, and have lost interest in securing any. However, that MAHANONG was able to take initiatives in community-wide resource management even while its CADC application was still pending is suggestive; the community did not need a CADC in order to introduce sustainable management practices.

The fact that MAHANONG’s efforts at introducing community-level resource management ultimately failed is instructive as well. In part, it underlines a lack of cohesion within the organization. In this case, the organizational form was introduced by SILDAP hence unsupported by strong social expectations of compliance. The cooperation and commitment of community residents thus dissolved during the *El Nino* and *La Nina* years. In trying to cope with the crisis, landowners and their ‘clans’ maximized use of their timber and rattan stands, with the result that forest cover in Manguicao was visibly diminished. At present, what resource management there is has shifted back from MAHANONG to the various individual land/resource holders, whose sensitivity to ecological issues naturally vary.

The fact that no actions were taken against violations of MAHANONG’s regulations also reflects organizational weakness. Evidently, it is difficult for a new organizational structure like MAHANONG to impose sanctions on land or resource use decisions traditionally controlled by autonomous landowners.

In terms of resource management therefore, Manguicao’s problem is *not* legal security of tenure but organization. As pointed out, the companies in the area have grown wary of trespassing on Manobo landowners’ rights; and while land disputes continue, the *datu* and *manigaon* (elders respected for their knowledge or skill) can still cope with any such problems. A firmer basis for unified action, clearer integration of local land and resource tenure concepts and practices, a greater commitment to community-level resource management, and acceptance of the necessity for internal discipline may have to be developed within MAHANONG.

Coordination with other communities at higher levels of organization, such as KATIBO-AN and KASALO-Amihanang Mindanaw can be useful in asserting common interests. This reflects an awareness that cooperation at higher levels of management may be necessary to cope with local issues or problems.

CASE STUDY 2: MINALWANG

Profile

Barangay Minalwang of the Municipality of Claveria, Misamis Oriental may be seen as a cluster of six autonomous Higa-onon *sitios* or communities; Minalwang proper, Impadiding, Lakbangan, Kalahaan, Mandalawat and Malunsagay. Together, these communities cover a total of 28,465 has. of classified timber land (Mun. of Claveria 2000a: 14-15); nearly one-sixth of the municipality's land area (GM 1997: 2).

Claveria itself holds much of the remaining forests of the province (Mun. of Claveria 2000a: 1), and these are concentrated mostly in Minalwang, where a "large portion" of the area "is still covered by old-growth forests" (GM 1997: 3). Much of the terrain ranges from rolling hills to steep slopes, with a few level areas adjacent to rivers or creeks. Farms, fallows and secondary growths cover areas adjacent to the six community sites; more remote areas are still forested.

The barangay has a total population of 3,518, divided into 649 households. It has the second lowest population density in the municipality, which itself has the lowest such statistic among the municipalities of Misamis Oriental (Mun. of Claveria 2000a: 15-16, data cited is from 1998). While 79 % of the residents in the municipality are Cebuano (Mun. of Claveria 2000b: 47)—indicated by mother tongue—Minalwang is described as 74 % Higa-onon (GM 1997: 10).²⁷

In 1995, about 93 % of the municipal population were Roman Catholics (Mun. of Claveria 2000b: 48). Catholicism and other Christian sects have made inroads into Minalwang—there is a Catholic chapel at Minalwang proper—and while indigenous rituals continue to be practiced,²⁸ many community members and observers have expressed concern over whether traditional beliefs and values are being transmitted to the next generation.

The Higa-onon of Minalwang are traditionally swidden-farmers. Today, agricultural systems and technology are mixed, with different households using irrigated paddies, swiddens and tree farms. Traditional crops like corn, rice and root crops are mostly for consumption. Coffee and falcatta (*Albizia falcataria*) used to be important cash crops, but cultivation has declined considerably since the political tensions of the early 1980s. Fruit trees and vegetables, in addition to minor forest products,²⁹ form an important source of income for residents. Farm labor and small enterprises are another source of cash.

Beginning around the 1970s, local people were able to work as cutters or security guards for the two companies that acquired concessions over the area, Anakan

²⁷ Non-Higa-onon are referred to as "dumagat"; i.e., "from the sea", alluding to their migrant origin from beyond Mindanao.

²⁸ One informant stated that rituals have been developed for logging, falcatta-harvesting and commercial rattan cutting.

²⁹ These include *inak-ak* (wooden shingles), *giyong*, *tikog*, *almaciga* (*Agathis philippinensis*), *abaca* (*Musa textilis*) and *baliw*.

Logging Co. (ALCO) and Nasipit Logging Co. (NALCO). Logging operations have been suspended since 1991, when a moratorium on logging in the province was declared. Much of the tree cutting seems to have been done in *sitios* Impadiding and Kalahaan (GM 1997: 20), though some sources named still other *sitios*. The limited environmental impact of these logging operations, compared with so many other areas, is probably due to the fact that the two companies were more interested in areas beyond Minalwang; i.e., they wanted to log further areas, but had to pass through Minalwang to get there. No commercial logging of either large- or small-scale is conducted today in the Minalwang area.

Rattan has been an important source of cash for Minalwang since the 1970s. Before then, rattan had been largely for domestic use. Elders recounted that in gathering rattan then, they would not cut the stem completely but only cut a strip away from the woody stem to allow it to live on. This practice survives only in the memories of the elders. By the mid-1990s, up to 90 % of the adult male population was engaged in rattan cutting (GM 1997: 20), conducted on an industrial scale and intensity. During the 1980s and the early 1990s, as many as thirty contractors and five rattan permit-holders were operating in the area (GM 1997: 30). As of December 2000, there were still two rattan-cutting permit holders with concessions overlapping portions of Minalwang's territory.

Land and Resource Tenure

The local tenure system is centered on the *ga-op*. While some sources describe it as communal in character, vested in a clan or lineage (cf. GM 1997: 16), almost all informants discoursed on it as if it were *individual*. That is to say, discussions of rights and access to the *ga-op* were centered on individuals. In no case was a family or lineage, or *sitio* or community named as the owner of a *ga-op*. Indeed, the very existence of inheritance rules strongly suggests that the land is not communally, but individually held (following Yengoyan 1971).

Ga-op is landed property, with two alternative bases. The first is inheritance, traced back across the generations to a pioneering ancestor who first cleared the area for farming.³⁰ As is the case among the Manobo of Agusan del Sur (Gatmaytan 1999), being the first to clear a forest area for cultivation entitles the pioneer to claim the area and the surrounding land as his property. Today, informants can still name the clans with pioneering ancestors, and thus have land-holdings in Minalwang.

The second basis is "delegation".³¹ There seem to be times when a *ga-op* holder would allocate lands among people—why and whether the recipients were kin or not is unclear—who thereby become for all practical purposes, the owner of the "delegated" land. However, the assignee cannot dispose of the land except through inheritance to his/her direct descendants.

There seems to be no effective difference between land-holdings that are inherited or delegated; both have equal standing.

Inheritance rules are bilateral and in the direct line, allowing both male and female children to inherit portions of both parents' *ga-op*. A number of informants asserted that all people in Minalwang had lands of their own, and that they each generally owned at least two, one from the father's, and another from the mother's side.

³⁰ As tree felling for pioneering agricultural work is a male gender-role, these ancestors are uniformly male.

³¹ My informants used the term "*gi-delegahan*".

Generally, children inherit equally, although the landowner has ultimate authority in apportioning the land among his/her children. There is strong emphasis on the descendants' obligation to comply with their ascendant's will; which included in a number of instances prohibitions against selling land. One *datu* stated that even siblings couldn't sell the lands they inherited to each other.

At present, all the lands in the barangay have been claimed as *ga-op*. Land-holdings range from about half a hectare to ten has., with the average at around 5 has. (data is from MIHITRICO 1997), though I suspect these estimates are very conservative. In theory, a person may have any number of holdings, depending mainly on how industrious her/his ancestors were in opening clearings, and perhaps on the generosity of her/his in-laws. Sometimes an individual's different *ga-op* are located at some distance from each other. Natural features such as rivers or ridges are used as boundaries between neighboring holdings.

It is thus possible to picture the area of each *sitio* to be actually subdivided into a patchwork of *ga-op* claims. Each individual or household opens its farms within his/her various *ga-op*. Where a *ga-op* is quite large, farm lots may only occupy a small part of the entire lot. Traditional group regulation of land use appears limited; individuals appear to have much leeway in terms of managing their respective holdings.

Land ownership is expressly linked to resources found there; i.e., the owner of the land is the owner of resources therein. This is the basis for claims of ownership over rattan stands. One who wants to cut rattan must thus seek permission from, and negotiate access-fees with, the person who owns the land where the rattan is located. Even at the peak of rattan cutting, when rattan was highly commodified, cutters and contractors—who usually were locals—routinely sought the landholders' permission. This practice is still extant.

Commercially valuable trees theoretically fall under the same rules, although there appeared to be very little logging in Minalwang. This is fortunate given that the communities were unable to bar the entry of NALCO and ALCO. When elders agreed among themselves to lead an anti-logging barricade, these companies cited their government-issued concession-papers. Moreover, the loggers used as their negotiators the relatives of the elders who led the barricades. In the end, the Higa-onon gave way to the company, and many local residents ended up working for the two companies.

Still, the people of Minalwang won significant concessions from the loggers. They had the company build a school house in Impadiding, were allowed to use logging trucks for hauling rattan,³² none of the valued *almaciga* trees were cut, and tree-cutting was limited to that necessary for the construction of the road to those areas beyond Minalwang where the companies wanted to conduct their principal operations.

In contrast to the rattan-operators, logging operators did not pay *ga-op* owners for access to timber on the latter's lands.³³ Perhaps this is because the people of Minalwang could not fully assert themselves against the logging companies owned by powerful, outside-based capitalists, whereas they could more effectively deal with rattan contractors and cutters, who in almost all cases were locals, relatives or Higa-onon.

Hunting is generally done only within one's *ga-op*; hunting or trapping in other's lands requires the owner's permission.³⁴ One Impadiding elder declared his *ga-op*

³² The loggers did not object to the rattan-cutting operations of the local people.

³³ This differs from the experience of the Manobo and Banwaon of Agusan del Sur.

³⁴ This is particularly true if the trapper uses *la-is* or *balatik*; a trap that when triggered releases a spear and could thus cause serious injury or even death to the unwary.

absolutely off limits to hunters or trappers to help preserve game stocks. He was unsuccessful however, as the animals naturally roamed beyond the bounds of his wildlife sanctuary and were caught on others' lands.

Fishing was formerly an open-access resource, but there seems to be a shift towards *ga-op* holders having more control of access to waters in their areas. This is perhaps a reaction to negative experiences with people—locals included—who used chemicals to kill fish or freshwater shrimps in fishing in the 1980s and early 1990s.

Other, minor resources are treated as open-access, which may be used or taken by anyone.

Seeking Legal Protection

The Higa-onon of Minalwang know that they used to occupy the lands which now comprise coastal Gingo-og City. Perhaps this, as well as their helplessness in the face of the logging firms, impressed on them the need for legal protection of their land rights.

Their first experience in dealing with government over tenure was in 1991. Local leaders wanted to develop an area in Impadiding suitable for irrigation and wet-rice cultivation. They applied for assistance from the National Irrigation Authority (NIA), which signaled its willingness to help if some legal documentation over the land could be secured. On consultation with the DENR, it was decided that they apply for an Integrated Social Forestry Program project. After organizing the Higa-onon Farmers Association and securing a waiver from ALCO, 57 community members were granted individual Social Forestry contracts over an aggregate area of 60.2 sq. has. Interestingly, the land allocations of the 57 individuals were made by the elders; i.e., the *ga-op* owners.

After 1993, the elders and leaders of Minalwang encountered individuals who were involved with CADC applications under DENR Administrative Order no. 2 (1993). These included Datu Migketay of the Mt. Kitanglad Range National Park, who was then planning the unified ancestral domain claim for that area; the paramount *datu* of Mintapud, a neighboring community, who had filed a CADC application; and Butch Dagondon of GM. Encouraged by these contacts, they conducted initial discussions with the DENR.

The DENR was then promoting the CBFM program rather than the CADC. When the younger leaders read the implementing regulations for the latter, they were impressed enough to argue for applying for a CADC, rather than a CBFMA. The DENR expressed no objections, and work on the application began. The original plan called for the application to cover only *sitio* Impadiding and its approximately 12,000 has. of land. On hearing of the plan, leaders and residents of the five other communities of the barangay persuaded Impadiding's leaders to broaden the scope of the application. For purposes of the application, the local people established the Minalwang Higa-onon Tribal Council, Inc. (MIHITRICO).

With assistance from GM, the application was filed with the PSTFAD of Misamis Oriental. The application met with two serious problems. First was opposition from the Mayor of Claveria, who had to be persuaded by the elders that the grant of a CADC would not deprive the municipality of political jurisdiction over the area. The second was a boundary-conflict with Brgy. Eureka, which claimed a portion of the area covered by the application. This conflict was resolved through arbitration by elders and local government officials.

In 1997, MIHITRICO was awarded R-10-CADC-114, covering 20,500 has. They rushed to comply with the legal requirement of submitting an ADMP. They did this by

asking each of the six *sitios* to come up with a list of projects for its respective members, which were then compiled and repackaged under a single framework. They were thus surprised to learn that the ADMP—which many informants described as a “rush job”—reportedly won recognition from the UNDP as a “model ADMP” in 1999.

After securing a CADC, *ga-op* owners grew more passive, particularly in ADMP implementation; they had their legal shell to protect their interests, after all. Supervision and administrative work shifted to barangay and younger MIHITRICO officials, many of whom commented on the elders’ passivity.

The ADMP is remarkable for its deceptively brief form; there are essentially only ten provisions.³⁵ Behind these ten concise provisions however is the entire body of Higa-onon traditional law, the *Bungkatol ha Bulawan nang Katas ha Lana* (see MIHITRICO 1997). Thus par. no. 1 seems to simply enjoin us to “(o)bserve good values or rules”, but reading this in conjunction with *Bungkatol ha Bulawan* brings to bear the entire complex of knowledges, values, beliefs, traditions and practices known and practiced by the Higa-onon of this area.

Of interest here is par. no. 4, which states that “(e)ach group of *lumad* is responsible for guarding their own land”. I interpret this to mean that the six *sitios* are each responsible for their respective territories, and that each *ga-op* holder’s rights to their lands/resources are affirmed. This reflects the traditional autonomy of each of the six *sitios* and the *ga-op* owners. In the same way, the process of allowing each *sitio* to plan for itself in the formulation of the ADMP also reflects a respect for traditional community autonomy. This mutual respect among the six *sitios* underscores how MIHITRICO rests on express negotiations and agreements between community leaders.

Implementation of the ADMP was made the task of *sitio*-level tribal councils led by *sitio-datus*. Within each *sitio*, land utilization, care for timber and rattan stocks, access to local resources and agricultural development are at least partly in the hands of the *ga-op* owners. This forms a clear link between local tenure practices centered on the autonomous *ga-op* owners, and implementation of the ADMP at the inter-*sitio* level.

The ADMP is also notable for how carefully the Higa-onon matched existing governmental structures—the elective Barangay Captain and Councilors, who are usually assigned the task of overseeing the welfare of particular *sitios*—by setting up an elective ‘Supreme Datu’, *sitio*-councils and *-datus* (see GM 1997: 14). All but one of MIHITRICO’s officers are also barangay officials.

A few months after receiving their CADC, the people of Minalwang were surprised to learn that funds for livelihood projects were available to them through the government’s PAF, administered by the DENR. The PAF was originally intended as a response to the *El Nino* phenomenon, and targeted CADC-holders, among others. MIHITRICO is using P 1.4 million in livelihood funds from the PAF to finance the implementation of its ADMP. Many informants said that if this fund had not come along, they would not know how to secure capitalization for local projects.

As of December 2000, almost all informants expressed general satisfaction with the CADC, which had made access to livelihood funds possible. Agriculture is being

³⁵ These are: (1) (Observe) good values or rules; (2) The sale of land is prohibited; (3) Newcomers with interest in land, such as *dumagat*, may not enter the area; (4) Each group of *lumad* is responsible for guarding their own land; (5) Companies interested in logging or mining may not be allowed to return or enter; (6) Do not keep transferring residence; (7) Clearing or cutting young rattan growths is prohibited; (8) Do not poison waters; (9) Birds must be cared for; and (10) Punish violators (the original provisions are in Cebuano; translations are mine).

improved and cottage industries established as alternatives to relying on the extraction of forest products.

Logging is marginal, and rattan cutting is regulated by MIHITRICO. In particular, the two remaining rattan-cutting permit-holders' rights would be respected provided they respect tribal and DENR regulations. At the expiration of these permits, MIHITRICO will apply for the rattan-cutting permit over their areas. In any case, securing permission from, and payment to, the *ga-op* owner *and* to MIHITRICO must be done. Moreover, rattan seedlings are not to be damaged, and cutting is prohibited in designated sacred sites. Various sources noted violations of the rattan-cutting regulations, but barangay officials are actively prosecuting or penalizing violators.

At present, there are discussions of coordinating the implementation of the ADMP with that of neighboring Higa-onon communities, particularly Mintapud, whose ADMP is said to be similar in many respects to Minalwang's.

Issues in Resource Management

Butch Dagondon speaks of the "pragmatic" attitude of the people of Minalwang; when they saw the practical benefits of securing a social forestry contract or a CADC, they applied for it. There was no concern over legal fine points such as the contradiction between the usufructuary Social Forestry project and the proprietary CADC application.

Having a CADC means that state laws and regulations will govern Minalwang's relations with the state and other outsiders. Behind that legal shell however—within the area of the CADC—indigenous cultural ideas continue to be practiced. Per the ADMP, each community retains its traditional autonomy; and implementation of the ADMP itself depends on the various *ga-op* owners, who are in a position to protect their interests. In this way, the *ga-op* system and its central role in determining access and use of land and resources is respected. Thus in relation to each other, the people of Minalwang are governed by the ADMP's ten commandments, into which their indigenous *Bungkatol ha Bulawan nang Katas ha Lana* have been cunningly inscribed.

What we have here is a politically astute community with the confidence and capability to exploit what the state itself offers, while at the same time maintaining its valued practices behind the legal shield of the CADC.

Minalwang's actions are strongly characterized by the element of agreement. The elders agreed to barricade the logging road; they agreed on the allocation of lands among the social forestry beneficiaries; they agreed to expand the CADC application beyond Impadiding; and they agreed on the provisions of their ADMP, with its safeguards for indigenous laws, autonomy and tenure. I think this grows out of the fact that each *ga-op* owner enjoys a large degree of autonomy in terms of land and resource use. There being no indigenous political institution that transcends families, clans or *sitios*,³⁶ the only way to achieve unity of action was to negotiate explicit agreements among the elders or *ga-op* owners.

This underscores the beauty and fragility of their achievement. If a *ga-op* owner or elder refused to cooperate, only moral suasion can be employed to persuade her/him

³⁶ While the various *sitio-datus* would seem to transcend families or clans, their role is not programmatic in the sense that they do not actively set agendas, legislate or administer the communities. They are active only when there is need for them; e.g., conflict-resolution or representation of the community to outsiders. Until then, they farm and cut rattan like any one else.

to rethink his/her position. Fortunately, they were all interested in protecting their respective, culturally defined holdings and their heirs' inheritance rights using the CADC, within a moral and social economy that demanded compliance with agreements.

A potential problem may arise if the younger barangay and MIHITRICO officials do not internalize the moral economy on which the CADC project is based. Indeed, transmission of traditional cultural values and practices was a perceived problem area on the part of the elders, as well as staff members of GM. As of 2000, the younger leaders have run MIHITRICO on the basis of local government and DENR regulations rather than indigenous values.

More particularly, there may be a future tension between MIHITRICO—which the state regards as the owner of local resources—and individual elders or *ga-op* owners, who by the terms of the *Bungkatol ha Bulawan* consider themselves the owners of their lands and the resources therein. This will become increasingly evident as the various actors test the relationships created by the CADC framework. Can MIHITRICO punish, for example, a man for cutting rattan when he has the permission of the *ga-op* owner, but not of the organization? Conversely, can MIHITRICO allow operators to cut rattan despite a *ga-op* holder's opposition? Can it impose regulatory measures on *ga-op* owners? In short, what are the respective rights and powers of the *ga-op* holders vis-à-vis MIHITRICO? Informants respond to such (for now) hypothetical questions with confident assurances of the roles of individual landholders and a supervisory, monitoring MIHITRICO. How this framework copes with actual conflicts have yet to be seen, however.

An interesting development in terms of resource management is the growing perception of the need to coordinate efforts at higher scales or levels. The experience of the Impadiding elder who set up a game refuge illustrates this point. There is a realization that tenure boundaries—whether at the *ga-op*-, *sitio*- or CADC-level—may not necessarily be the best spatial framework for resource management. There was thus talk of coordinating environmental management work with neighboring communities like Mintapud.

Finally, does possession of a CADC further enable the Higa-onon of Minalwang to better manage their land and resources? The answer in this particular case is “yes”, in the specific sense that the CADC *is* being used to assert indigenous tenure systems, and by extension, community control of land and resources.

Whether or not these indigenous tenure systems are ecologically astute practices is another matter altogether. Once we disengage the issue of ownership and control of resources from an assumption that all IP communities are ecologically sensitive, we see that possession of tenure instruments do not in themselves guarantee sustainable management of local resources. The land may belong to an indigenous group or individual, but this does not necessarily mean that their lands and resources will be managed with ecological sensitivity.

In this light, I think it is the level of organizing work that is important in ensuring sustainable management, rather than tenure programs or instruments *per se*. In Minalwang's case, a large part of the communities' success is their ability to work together on the basis of their agreements, which underscores the importance of organized action particularly at the level of the *ga-op* holders and *sitios*.

Fortunately, and thanks no doubt to the activism of GM, the people of Minalwang are conscious of the need to integrate environmental perspectives and practices into land and resource management. Their ten-point ADMP clearly reflects a strong environmentalist ethic. Whether this ethic and the practices they engender are

indigenous or not does not really matter; certainly it is not problematic for the people of Minalwang.

CASE STUDY 3: LANTUD AND THE MKRNP

Profile

When Cole conducted his ethnographic survey of the IP of Bukidnon in 1910, he chose as one of his study sites the “pagan village” of Dagondalahon (1956: 16). Dagondalahon is, according to local sources, one of the oldest Bukidnon or Higa-onon communities in the Talakag area. It is the mother barangay of Barangays Cosina and Sagaran. Lantud is a *sitio* of Barangay Sagaran.

Much of the Municipality of Talakag—of which Sagaran, Dagondalahon and Cosina are part—is public land; only 35,659 out of the municipality’s 83,370 has. of land are certified as alienable and disposable (Municipality of Talakag, undated: 39)³⁷. *Sitio* Lantud is located within a classified national park area, one of four categories of public lands. It is entirely within the western end of the buffer zone (BZ) of the 40,176 sq. ha. Mt. Kitanglad Range Nature Park (MKRNP), about an hour’s walk from the park’s protected area (PA).

Lantud is in rolling hills covered with brush and grass, and small, scattered farms and tree stands. As one approaches the PA however the slope grows steeper, and the forest cover gradually improves. Parts of the PA adjacent to Lantud are in such a condition that the local population of wild pigs has increased to a point where they pose a hazard to crops and livelihood projects. The wild animals’ depredations have forced many local people to move their residence further from the PA.

The municipal profile of Talakag states that Sagaran has a population of 954 in 201 households, a territory of 4,100 has., and a resulting population density of 0.23 (Municipality of Talakag, undated: 2, 4, 29). Local estimates of Lantud’s population were 50 families in 1990, down to not more than 20 families in 2000. No data is available on the size of *sitio* Lantud’s political territory.

In Talakag, 54.50 % of the population is Bukidnon, on the basis of mother tongue, with Cebuanos coming in a distant second. Sources from both Dagondalahon and Sagaran say that the local population is “solid” Bukidnon or Higa-onon, with a few cases of intermarriage by migrant males. Still, the presence of migrant settlers is visible in lower Talakag, where many of them have purchased lands, and where a Barangay New Visayas has been established.

Lantud *appears* to have adopted many aspects of lowland-migrant culture, but my experience warns against making such an appraisal on the basis of only one visit. At present, thanksgiving and harvest rituals are still held, even for non-traditional or adopted crops such as coffee and falcatta.

Still, we should note the intensity with which American colonial officials conducted programs to assimilate the local IPs into the cultural mainstream in Bukidnon (Edgerton 1982: 370), in relation to the relative accessibility of Sagaran. One issue opened up by my inquiries is the environmental impact of clashes between communist insurgents and government troops during the first half of the 1980s. The loss of all six of

³⁷ The profile itself was under revision at the time I conducted my research; it bears no date, but cites data from 1995 to 1998.

the locally known native rice varieties is traced back to the disruptions and hardships caused by the fighting.

Corn, rice and root crops are the community's traditional agricultural products. These products are generally for household consumption only. Cultivation of coffee, falcatta, abaca and fruits and vegetables are among the local sources of income. Coffee cultivation was well established by the early 1960s, while a local community leader introduced falcatta planting in 1974.

When "Oloy" Roa and one or two other big-time loggers conducted their operations in Talakag from around 1963 to 1987—they even penetrated parts of what are now the PA of the MKRNP—a number of local people were able to find employment as laborers or security guards. Large-scale or commercial logging died out by the late 1980s, leaving much of Lantud very badly deforested.

Commercial rattan cutting began around 1975. Today it is occasionally practiced by an estimated one-third of Sagaran's residents as a way to generate cash, particularly during the lean months of May and June. It is now restricted to the BZ area, though it probably extended to within the PA in the past.

Hunting and trapping began declining as economic activities in the 1970s; this despite the large local population of wild pigs in the nearby PA. Apparently the local people have no means of killing the animals, even in defense of their farms. They do not have access to firearms, and the wild pigs seem to have learned to avoid the *lit-ag* or foot-snares set by the residents. Fishing has similarly declined in importance.

Land and Resource Tenure

Sagaran's land tenure system is similar to Minalwang's, though considerably scaled down in size and scope. Informants from this area do not however use the term *ga-op*. I noted that in this area land-holdings are sometimes referred to as *angkon-angkon*.

Individuals or households own land.³⁸ These landholdings are usually inherited from parents or ancestors, who were first to clear and occupy the area. Inheritance is again bilateral, from both parents, and restricted to direct descendants. The landholder has full control of the land, including the right to sell, give or otherwise dispose of the land or portions of it. At present, residents may have any number of lots of varying sizes, depending on the number of lots s/he inherited or otherwise acquired. The landowner and/or her/his household members may cultivate any of their own lots each year, although the trend is towards increasingly sedentary farming.

One informant, for example, is recognized locally as the owner of five different lots in Sagaran—a number of them quite a distance from each other—which together amount to an estimated eight sq. has. He plans to subdivide the five lots among all six of his children in the future. Most of these lots he inherited from his own father,³⁹ with at least one other coming from his father-in-law.

³⁸ A *ba-e* or female community leader from another community who listened in on one of my discussions with people from Lantud said that since her childhood, she had never known of lands which were communally or group-owned. The communal projects existing in her home-area were donated by individual landowners for community use.

³⁹ This informant's father had more than 60 has. of land, which he subdivided among his six children sometime in the 1970s. Interestingly, the informant said that his father's lands would amount to an estimated 100 has. if he included the lots now within the PA.

This ‘appropriation’ of his wife’s prospective inheritance from her father was justified by the informant by saying his wife would not have been able to make productive use of her inherited land anyway if not for his felling the trees there in preparation for farming.⁴⁰ This reiterates the importance of the principle of first use—or more precisely, first clearing—in local constructions of land rights and tenure. Perhaps more importantly, it shows how women’s right to inherit land does not in itself guarantee their control of the land (following Agarwal 1994; and Risseuw 1988). This dimension of gender in relation to local tenure systems deserves further study.

An exception to the generally individualized nature of local land tenure appears to be the *panagana* or community wood lot. This is a parcel of forested land from which members of the *sitio* or community may take wood and other resources for such domestic uses as house building and firewood. The *panagana* is generally described as communal, but it was not clear whether this refers to *ownership* of the land, or the communal *use* of someone’s private land. Again, further inquiry into this matter is indicated.

None of the residents of Lantud have documents of title. A number of them held real estate tax declarations, though the municipality unilaterally canceled many of these in the 1970s. In any case, local residents are familiar with the respective landholdings of their neighbors.

No actual conflict between the community and logging operators were recounted.⁴¹ Asked why, informants said that the loggers used their government-issued concession-grants to assert their interest over any local objections, echoing the experience of Minalwang. This is apparently sufficient to diffuse any sense of trespass or violation on the part of the Bukidnon, assuming there was any such resistance in the first place.

It is interesting that Roa and at least one other logger were known for seeking out local *baylan* or shamans, whom they would ask to conduct rituals to ensure smooth logging operations. This attitude on the part of loggers has also been reported during the logging boom in parts of the Agusan and Surigao provinces. In any case, the Talakag *baylans* cooperated, and were sometimes given cash or other gifts in gratitude. Apparently, the rituals were effective, as Roa in particular was able to haul off trees so large only one to three logs could fit on the logging trucks’ large loading beds.

Ownership of land *today* has been extended to the trees located there. Those who would cut down trees must seek the landowner’s permission first, particularly if the tree is to be sold commercially rather than used for local needs. Still, small-scale logging seems to be very limited in Sagarán, outside of the falcatta trees that residents themselves plant, and despite the relative proximity of the forested PA.

Rattan cutting is practiced in the area, “*para tanan maka-bugas*”; i.e., “so everyone can have (or buy) rice”. This may be done anywhere (“*bisag asa p’wede*”). My impression is that this form of resource utilization is relatively unregulated—even in the past—the idea being to maximize the families’ options for earning cash. Today, it is mostly restricted to the BZ.

Hunting and trapping was largely unregulated, particularly in the past, suggesting that game animals were considered open-access resources. It could be conducted anywhere in the area, and there were few effective restraints on it. The only exception

⁴⁰ “*Akò man, kay di’ man siya makapamutol ug kahoy*”, i.e., “It’s mine, since she can’t fell trees”.

⁴¹ Lao’s (1996, 1995) historical surveys of Bukidnon province make no mention of any cases of actual conflict between IP communities and logging companies in the post-war period.

was the use of *la-is*, which may cause serious injury or death if triggered by the unwary. This required the permission of the landowner where these traps would be set, as well as due notice to all community members. At present, the limited hunting or trapping still practiced is restricted to the BZ area, though in the past game was captured within the PA area.⁴²

Like game animals, fish and other aquatic resources seem to have been considered open-access resources. This partly explains how, during the 1960s and 1970s, there were cases of outsiders fishing in Sagarán using industrial poisons. Local stocks of fish and freshwater shrimps have yet to recover, thus helping to marginalize fishing as an economic activity.

Other local resources, referred to as “*gagmay*” or small, are free (“*libre*”) or open-access resources.

Interestingly, the existence of the MKRNP has limited community access to land and resources in the PA. Thus although Datu X and members of another local family have hereditary lands within the PA, they only maintain its existing cultigens, and have no plans of developing their respective holdings. Asked whether he still considered himself the owner of the lot in the PA, Datu X said that lands there are “*dili p’wede hilabtan*” (may not be interfered with), indicating his belief that his rights are limited by the PA. It is unclear how the approval of a CADC application over the MKRNP will affect his views.

This is symptomatic of the confusion that the MKRNP has sown among the affected IP communities. Legally, the existence of the park does not, and should not negate the antecedent rights of the IPs to land and local resources, even if these are located within the PA.⁴³

The MKRNP

The MKRNP was set up on the basis of Rep. Act no. 7586 (1992), also known as the NIPAS.⁴⁴ Ten NIPAS sites with high biodiversity were selected in the Philippines by the World Bank and developed through the Conservation of Priority Protected Areas Project or CPPAP. This project required cooperation between the funding institution, the DENR, local government officials, the various affected communities, and a “host-NGO” that mediated between these different actors. Among CPPAP’s objectives is providing security of tenure for the affected IP communities.

The MKRNP was one of these ten priority sites. It covers a total of 40,176 has., spread over contiguous parts of 28 barangays belonging to Malaybalay City and the municipalities of Baungon, Manolo Fortich, Impasugong, Lantapan, Libona, Sumilao and Talakag, all of Bukidnon province. This area coincides with much of the remaining ancestral territories of many IP communities in the province.

KIN, the host NGO in the MKRNP, is a consortium of NGOs, with offices in Malaybalay City in Bukidnon. It organized the Council of Elders (CoE) composed of ten IP leaders selected by KIN and the PAMB from different areas within the MKRNP to help it in the implementation of the NIPAS within the park area, particularly as it affected local

⁴² Datu X has a claim to a parcel of land within the PA based in part on the practice of his grand-uncle on his mother’s side, who used to set up a *tala-ok* near Baglindab falls. This was a small farm-area planted to sweet potatoes and other crops that was then fenced, but with one or more entrances rigged with deadfalls (*pigis*) to pin down wild pigs trying to get to the crops.

⁴³ Sec. 13, NIPAS. See also sec. 10 of DENR Admin. Order no. 25 (1992).

⁴⁴ Pres. Proclamation no. 677 (1990). See also Pres. Proclamation no. 896 (1996).

IP communities. The IP communities within the MKRNP have not been organized into a federation or similar association.

In accordance with the NIPAS, the park area is governed by a PAMB, on which the various levels of the DENR and of affected local government units, NGOs and IP communities were represented. At present, the large MKRNP PAMB is composed of 58 people, 8 of whom are IP representatives (World Bank 1998: 132).

The zoning of the park area consists of a core PA where resource-utilization is either restricted or prohibited, surrounded by a belt-like BZ. Almost all of the affected IP communities are in the BZ,⁴⁵ although they certainly used land and resources in the PA before the latter was established. Only one community is actually located within the PA. Beyond the BZ are areas said to be “released” or alienable and disposable lands.

After consultations with up to 200 *datus* and other leaders within the park area, the CoE filed in May 1995 a CADC application in behalf of all IP communities in the MKRNP area. The application covered 4,500 has., completely overlapping the MKRNP. As I understand the plan, the entire area would be covered by a single CADC/CADT, but implementation will be conducted by *datus*, leaders or organizations on a per territory or *sitio*/community basis. The CoE will oversee the entire area, to ensure compliance with the reconciled ADMP and protected area management plan.

Instead of acting on the application, the PSTFAD charged with implementation of DENR’s ancestral domain delineation in Bukidnon referred the application to the PAMB. There, almost all the mayors of the affected municipalities rejected the idea of a unified claim, and argued instead for separate CADC applications on a by-municipality basis (cf. Dagondon et al. 1997). The CoE—assisted by Datu Migketay of Songco, Lantapan, then on KIN’s staff—objected, saying that the unified ancestral domain claim is properly premised on culturally defined notions of territory, which antedated the existence of municipal boundaries.

In 1996, the mayors conducted their own consultations on the question of CADC applications, with the alleged result that participants favored CADC applications on a per-municipality basis. The CoE contested the validity of this consultation, and efforts were made to appeal for support from other sectors, including the World Bank, and on the promulgation of the IPRA, the NCIP.

Despite its avowed commitment to tenure security through the CPPAP however, the World Bank failed to act on the issue. The NCIP for its part was hobbled by severe budget constraints, bureaucratic squabbling at the capital (LRC-KSK 2000: 4-5), and later by the legal challenges against the IPRA. When the constitutionality of the IPRA was questioned before the Supreme Court in 1998, the mayors opposed to the unified claim or application happily cited this as an additional argument. Deeply frustrated, Datu Migketay resigned from KIN in late 2000.

The result was that the application for a unified claim was left unresolved. Given that this is the last year of CPPAP implementation, I can only conclude it has failed in its declared objective of “tenurial security improvement” for IPs within the MKRNP.

In the wake of the shelving of the unified ancestral domain application, some communities or clans within the MKRNP area have filed a number of separate, smaller CADC/CADT claims. This includes the application of the people of neighboring Brgy. Dagondalahon, who filed a CADC application for the barangay’s territory. In the

⁴⁵ There are 2,512 individuals within the BZ, distributed among 451 households. 60.1 % of these people identified themselves as Tala-andig, 23.5 % as Higa-onon, and 7.7 % as Bukidnon. Less than 9 % of the residents are migrant settlers (Mordeno, Canoy and Magbanua 2000: 5-6).

Talakag area alone, there are now five separate pending CADC/CADT applications, not counting the unified claim filed by the CoE.⁴⁶

Unlike the people of Dagondalohon, Datu X and the people of Lantud or Sagaran did not file a CADC/CADT application for their own territory. This may be due as much to technical and logistical difficulties, as to Datu X's involvement with the unified claim at the CoE level. It is as if all local efforts in asserting IP rights to ancestral territories in Lantud were entrusted to the blocked unified claim application.

The tension over the configuration of ancestral domains in the MKRNP area—whether it should properly be a unified area or divided along municipal or other lines—has caused some tension between the CoE and the PAMB/DENR. Discussing the current situation, one KIN organizer directly contra-posed the NIPAS with the IPRA, DENR with the NCIP, the PA with ancestral domains, and the PAMB with CoE.

There are other indications of this tension. After the zoning of the park area by the PAMB and the DENR, the CoE began planning the “cultural zoning” of the same area. Related to this was a program for establishing “cultural monuments”—concrete versions of the traditional wooden or bamboo altars—as an equivalent to the concrete monuments of the BZ and PA boundaries of the PAMB. The CoE has also been pushing for Cultural Impact Assessment, to parallel the implementation of environmental impact assessment within the park area.⁴⁷ Finally, the CoE is currently developing a culture-based management plan for the entire ancestral territory, as contra-distinguished from the PAMB's PA management plan.

All of this underscores the question of how the Mt. Kitanglad area is to be managed: Is it an ancestral domain area with high ecological value or a nature park where IP communities are found? Either way, a mechanism must be found to reconcile the need for protecting biodiversity and recognizing IP tenure rights.

These developments occurred at the top management level of the MKRNP. In Lantud, the inaction over the tenure issue has given the MKRNP an uncontested legal presence and claim over the various affected IP communities' areas. Without an alternative framework, people are made conscious that the area is legally a government conservation area, rather than their ancestral territory. This may partly explain Datu X's apparent helplessness about his land claim within the PA, and the instances where people of Lantud have limited their own access to resources they traditionally utilized, such as rattan and game. This, despite the fact that community use of forest resources is clearly a “customary right or interest” recognized and protected by the applicable laws and regulations.⁴⁸

Many leaders and CoE members cited the advantages of the unified claim, and some even argued against individual, clan or community-based CADC applications similar to Minalwang's within the park area. They cited the cost and technical difficulties of preparing the supporting evidence on an individual or community-basis. More substantively, a number pointed out that ancestral “domain” should be understood as referring to the entirety of the IP's territory, and not the parcels of hereditary landholdings of the various communities, clans or individuals, which are only “ancestral lands”.

⁴⁶ According to Regional NCIP records, Region 10 has 72 pending CADC/CADT applications, the largest number nation-wide on a regional basis. Although no statistics were given, many of these applications were reported as covering areas at least partially overlapping the MKRNP.

⁴⁷ Sec. 12, NIPAS.

⁴⁸ See sec. 13 of the NIPAS, and secs. 44 and 49, in relation to sec. 70 of DENR Admin. Order no. 25 (1992), the implementing rules and regulations of the NIPAS.

Parenthetically, following the logic of the unified claim, Datu X would have different ‘ancestral lands’ within the unified “ancestral domain”, including one lot in the PA. This means however that control of resources other than land would legally belong *not* to Datu X, as prescribed by actual tenure practice—i.e., the owner of the land is owner of local resources therein—but to either the CoE or an as yet unspecified group of concerned IP communities or leaders. This underscores the largely unappreciated, problematic nature of what for me is an artificial legal distinction between ancestral lands and domains.

The existence of the five other clan- or community-based CADC applications in the Talakag area—the regional NCIP office asserts that there are many other such separate, autonomous claims within the MKRNP area—suggests that the groups or individuals who filed these applications have notions of ancestral domains that differ from that advocated by members of the CoE. These applicants seem to have no problem viewing their particular landholdings or community/*sitio* territories as their ancestral domains. These actions question the comprehensiveness of the CoE’s consultations, the agreements achieved during those consultations, and even the CoE’s right to represent all IP communities in the park area.

Still, the achievements and initiatives of the CoE are remarkable, given the constraints under which it operates. Particularly admirable are their organization of the Kitanglad Guard Volunteers (KGV)⁴⁹, who monitor assigned sectors for violations of forestry and indigenous regulations, and their advocacy of a cultural impact assessment system within the park area. Both these initiatives have potential for improving resource management. In 2001, the CoE was concentrating on refining what amounts to an ADMP for the entire MKRNP, to underscore IP capability for resource management and thereby support the unified CADC/CADT application.

The CBFM Program

While the PSTFAD improperly refused to act on the application for a unified CADC for the Mt. Kitanglad area, the DENR was promoting its CBFM program. Basically, this program gave applicants a total of 50 years’ tenure over portions of public forestlands, as well as access to loans for livelihood projects considered compatible with the DENR’s resource management policies. The program quickly became another point of contention between the CoE and the DENR.

Almost all IP informants I interviewed considered the CBFM appropriate only for tenured migrants in the park area, particularly because it does not address the issue of ownership of ancestral territories. For IP communities, ancestral domains recognition through a unified CADC or CADT was considered the proper tenure instrument, noting that the CADT in particular served as legal evidence of IP ownership of their territories. This is well in keeping with their demand for recognition of their rights to traditional lands and resources, which were understood to be unrestricted to a 50-year or any other term. Members of the CoE asserted that IP communities or organizations should not be issued CBFMAs, or if they are, only after prior state recognition of IP ownership of ancestral domains through a CADC/CADT.

However, a number of IP communities or organizations in the park area were attracted by the CBFM program and entered into CBFMAs. Most informants in the CoE

⁴⁹ Most notably, the KGV detained a National Museum team for collecting botanical samples in the park area without permission from IP communities.

said communities were drawn to the CBFM program mainly by the prospect of securing funds for livelihood projects. One community in the Municipality of Lantapan thus petitioned for a CBFM project, but tried to keep it secret from Datu Makapukaw, who is widely known to be active in CoE discussions and park-wide issues. The *datu* found out about it, and successfully had the application suspended.

When criticized by the CoE, DENR officials and personnel stated in their defense that they were merely following the instructions of their superiors, who had made the issuance of CBFMAs a key result area in terms of implementation. Local government officials were said to be generally supportive of the CBFM program, probably because it is less threatening than the unified CADC claim.

In the Talakag area, two IP groups applied for and secured CBFMAs. These were the Sagaran Farmers Association, Inc. (SAFA) and the Dagondalahon Lumad Tree Producers Association, Inc. (DALTREPA).

SAFA has a project for tree-planting over 200 has. of land in Brgy. Sagaran, including portions of *sitio* Lantud, issued in 1997. The 200 has.—which overlapped the landholdings of various individuals—were divided into 20 contiguous blocks of 10 has. each, and planted over the years 1997 and 1998 to plantation tree-species using labor from outside the area. The trees were then “turned over” to the landowners, who maintained the trees planted on their respective lands. At the agreed cutting time, the profits from the sale of the felled trees would be divided among the land/tree owners (10%), SAFA (30%) and the government (60%), in repayment for the project loan.

Fortunately for SAFA, all landholders whose lands overlapped the 200 ha. project area agreed after two consultation meetings to participate in the project.

DALTREPA also holds a tree-planting project, issued in February of 1998 and covering 2,215 has. of land in neighboring Dagondalahon (cf. DALTREPA 1999). The area was subdivided into 25 blocks, and planted to plantation tree species to be harvested at the rate of two to five trees per ha. per block per year. CENRO officials described DALTREPA’s project implementation as successful. It should be noted that the project area is part of a larger 4,886.92 ha. CADC application filed by the people of Dagondalahon in 1994, and still pending approval.⁵⁰

Datu X says that ancestral domains delineation clashes (“*nagkumbate*”) with the CBFM program. He favors the CADC/CADT over the CBFM for IP communities because it recognizes their tenure rights, although he concedes that if a community has no other choice it should consider securing a CBFMA. He criticizes the tree-planting project of DALTREPA, which he says did not go through proper consultations with the local residents and with the CoE; was controlled by non-residents and thus could not be called “community-based”; trespassed outside its project area in Dagondalahon into portions of *sitio* Lantud in Brgy. Sagaran;⁵¹ and planted its trees in what he described as a haphazard manner.

Interestingly, Datu X is a member of the CoE *and* an official of SAFA, a CBFM holder. He thus embodies the differences and contradictions in management and development discourse at the CoE and at the local level, and between the CADC/CADT and the CBFM programs. Even while he says he prefers the CADC/CADT for IPs on a policy level, he is drawn at the local level to the needed livelihood opportunities provided by the CBFM’s funding. Perhaps he relies on the unified claim to protect his *angkon-*

⁵⁰ This CADC application covers lands in both the PA and BZ of MKRNP.

⁵¹ While DALTREPA allegedly intruded into *sitio* Lantud of Brgy. Sagaran, its project area does not overlap that of SAFA.

angkon, while remaining very conscious of the need to address economic needs, hence his involvement in the CBFM program.

When I asked Datu X if his link with SAFA contradicts his position on the unified CADC/CADT, he answered “no”. He explained that SAFA’s project area is too small to make any difference, and that the only way to really discover how good the CBFM program really is was to actually participate in it.

Given this context, his strongest comments against the CBFM program actually center on the long delays in the release of project funds, which have set back SAFA’s project implementation, rather than its view of IP tenure rights. For him, the delays cast doubt on the government’s sincerity in implementing livelihood programs, particularly as SAFA had complied with the program requirements for environmental protection.

His criticism of DALTREPA thus stems not from its being a holder of a CBFMA, but in its manner of implementing its project. He said DALTREPA’s operations intruded into *sitio* Lantud—his “area of jurisdiction” as a *datu*—and planted trees therein. DALTREPA’s trees were planted in lots owned by three elderly men⁵² who allowed DALTREPA to plant trees on their holdings. Datu X confessed to feeling betrayed by this ‘defection’ of the three elderly Lantud landowners, though he conceded that as owners, the land was theirs to use as they willed.

When I interviewed an officer of DALTREPA, he said the organization was operating on the traditional notion of Dagondalahon’s territory, which is only proper as the project area was derived from a CADC application. DALTREPA was thus using a notion of Dagondalahon’s territory that antedated and overlapped the inter-Barangay boundary with Sagarán relied on by Datu X, resulting in its alleged “intrusion” into *sitio* Lantud, Brgy. Sagarán.

Also, the apparent haphazard way of planting trees noted by Datu X—a stand of trees here, another there, instead of the clear block system used by SAFA—was the result of attempts by DALTREPA to accommodate the will of the different land owners.⁵³ Some land holders wanted only certain trees to be planted only in certain parts of their holdings, hence the seemingly unsystematic pattern of tree-planting. The haphazard planting criticized by Datu X thus actually reflects DALTREPA’s respect for landowners’ rights.

The officer finally claimed that all of DALTREPA’s officials were *datu*s, and that it was thus community-based.

Issues in Resource Management

The situation in the MKRNP area is very complex. The area is the ancestral territory of a number of autonomous IP communities; forms part of seven municipalities and a city; and is a declared NIPAS-site governed by a PAMB. The IP communities or their organizations here are not federated, reflecting traditional political and tenure autonomy. On the other hand, a CoE claims to represent them all, and as such has advocated a single, unified claim for all communities within the MKRNP area. The mayors oppose this, wanting instead separate CADC/CADT claims based on municipal

⁵² Of these three men, one is Datu X’s own father-in-law, who resides in Lantud. The other two men live outside Lantud, but are locally acknowledged to have lands there.

⁵³ The DALTREPA officer’s narrative was peppered with such terms as “kasabutan” (contract or agreement) and “magkasinabtanay” (mutual understanding), underscoring the consensual basis of local tenure arrangements in relation to the CBFM project.

boundaries. At the same time, a number of communities have filed independent CADC/CADT applications based on even smaller individual-, family- or community/*sitio*-boundaries. Within the park area, the DENR is promoting the CBFM program, to which many communities have responded positively. The CoE however considers it inappropriate for IP communities.

In Lantud, there are locally recognized individual *angkon-angkon*. All attempts at gaining recognition of these landholdings by the state were entrusted to the CoE's unified CADC claim. Datu X, a member of the CoE, cannot see his way to filing a separate CADC application for Lantud. At the same time, he is actively involved in the management of SAFA, which is involved in the CBFM program severely criticized by the CoE. In contrast, people in neighboring Dagondalahon have filed a community-based CADC/CADT application, and are also running DALTREPA, a CBFM project.

It is clear that all actors, including the CoE and IP communities are aware of the need to manage lands and resources within the park area sustainably. Thus, despite its challenges to the idea that their ancestral territories have been subsumed under the MKRNP instead of the other way around, the CoE has undertaken initiatives that are fully compatible with the ecological agenda of the state.

What *is* contentious is the framework under which area management is to be undertaken. For the state, the area should be managed as a national park within which IP communities happen to be located; for the CoE, it is an ancestral territory the management of which will consider the ecological agenda. The *objectives* of protected area management and IP control of resources are not necessarily exclusive of each other (cf. Cairns 1995), indeed they may both be achieved under either framework. But it is precisely the political, and highly politicized, choice of the *primary governing framework* that is problematic. While the IP, as represented by the CoE, are asserting ownership of ancestral territory, the state, as represented by the DENR and local government units, is asserting political and administrative jurisdiction. To note, there is no legal mechanism for a co-dominion of environmental laws and those affirming IP rights. Our legal system and history compels us to construct a hierarchy as between these two sets of laws and regulations; and it is at this level the standoff occurs.

This tension could have been addressed at the level of the PAMB, on which the IP are represented. Unfortunately, the CoE can generate at its very best only about 16 votes within the 58-person PAMB. Thus, while the PAMBs set up under the NIPAS may be seen from one perspective as a marvel of stakeholder representation, it may also be seen from another as a mechanism that ensures IP representation without effective participation in decision-making. The very mechanisms of 'democratic representation' marginalize the voices of the IP, who are a small minority within the PAMB.

By so privileging state and local government officials' presence within the PAMB, it necessarily privileged their politics as well. Hence the bureaucratized administration of the PAMB, its conservative respect for municipal boundaries and personality-politics, and its deep suspicion of leaders (such as Datu Migketay and the CoE) and management systems (such as culture-based territories and management) that are not clearly prescribed by law.

On the other hand, it should be noted that the CoE's leadership and representation of the affected IP communities has no legal basis, at least within the framework of the NIPAS. It cannot justify its leadership as a result of the federation of concerned IP leaders, communities or organizations. Hence its leadership may be disputed by the PAMB or DENR, especially since an MKRNP-wide, inter-community organization is *not* an indigenous political structure or institution. However, as KIN's Easter Canoy correctly points out, the IPRA does provide a basis for arguing for better

representation at the upper levels of park management or administration. On the other hand, that five CADC applications in one part of the Talakag area alone were filed by various groups or clans independently of the unified claim advocated by the CoE in effect contests the latter's leadership.

The issues of management framework and IP leadership/representation highlight the relatively large scale of management involved in the MKRNP. At certain points, the differences in the development and management discourse at the park-level area and at the community-level are quite marked.

At the level of the CoE, it assumes the right to represent the IP communities in the MKRNP, the NIPAS-CADC tension is paramount, and the DENR's promotion of the CBFM program is merely symptomatic of a more fundamental failure by the DENR to recognize the primacy of ancestral territory rights.

At the local community level, however, the CoE is an abstraction in relation to day-to-day tenure practice. DALTREPA, for example, operates independently from it. More importantly perhaps the existence of the five separate CADC applications indicates a substantive difference in the way the notion of ancestral domains is understood at the level of the CoE and of the various IP communities, clans or individuals. Unlike the members of the CoE, these groups do not have a problem about applying for individual-, clan- or community-based CADC/CADTs.

Again at the local community level, the CoE's concern over the NIPAS-CADC tension also remains an abstraction for the local communities, which are more concerned with securing their livelihood needs. While people do have a sense of the legal and tenure consequences of the NIPAS and the CADC applications, their import is overshadowed by the local need for economic assistance. Here, the struggle for survival is paramount, such that even Datu X—a member of the CoE—became involved in the same CBFM program criticized by the CoE.

The way the CBFM program is realized at the local level, as in the experience of SAFA and DALTREPA, is also instructive. Members of the CoE see the CBFMA as an inappropriate tenure instrument for IPs, and a derogation of the unified claim to ancestral domains. Rather than necessarily eroding local notions of tenure however, the way DALTREPA and SAFA implemented their projects highlighted the continued relevance of, and respect for local notions of tenure.⁵⁴ For them, a CBFM and a CADC are not necessarily mutually contradictory. DALTREPA's CBFM project is in fact within a larger, antecedent CADC application-area, the validity of which has not been contested by anyone, including the local CENRO.

In SAFA's case, the problem of reconciling the quadrangular blocks of a plantation project with pre-existing indigenous land claims by individuals or clans was resolved by negotiation and agreement. All the affected landowners agreed that those parts of their land overlapping the project area would be governed by the project's regulations, in consideration of a share of the future proceeds. This is quite a feat in negotiation for Datu X and the other leaders of Lantud.

In DALTREPA's case, the affected landowners seem less amenable to having sections of their lands converted to plantation-blocks. Their solution to the problem was

⁵⁴ Interestingly, the CBFM project of Aposkahoy—another Higa-onon community—exerts similar efforts to respect local *ga-op* holdings; its Community Resource Management Framework makes explicit note of the need to coordinate implementation in consultation with the local *ga-op* owners (see PAGLAUM 1998).

to plant only where the landowners allowed it, leading to the haphazard planting patterns criticized by Datu X.

Attempting to see if a CADC application enables Lantud to better manage its resources is speculative, as no CADC had been issued. However, I think it is important to note that despite the absence of any CADC, the CoE and the people of Lantud have taken useful and important initiatives in improving lands and resource management. Indeed, it is possible that various incidents cited by KIN as illustrative of IP capacity for sustainable management most probably developed outside the framework of government tenure programs.

I believe that efforts to assert IP capability for sustainable resource management—as can be seen from KIN's publications—is a response to a specific context where territorial claims overlap a national park, as a way of convincing the state and its functionaries that recognizing IP ownership will not adversely affect the environment. The IP no doubt have either the actual or potential capacity to manage their territories sustainably. This capacity however is not a legal requirement for an award of a CADC/CADT; to do otherwise is to impose a requirement without legal basis, and which discriminates against IP communities or applicants.

Does the CBFM program enable the communities to better manage their lands and resources? I think it enables the *state* to better manage communities within classified forestlands, by giving it a claim to the communities' labor and limiting their resource-use options through CBFMAs. The program thus gives communities a carefully delimited degree of control over an area they can utilize only as specified by their CBFMAs; i.e., it limits more than it enables.

I believe IP communities would gain comparatively more and better control of their territories through a CADC/CADT, rather than the CBFM program. I tend to agree with the CoE's assessment that the CBFM program is inappropriate for IPs; it short-changes them in terms of the rights or entitlements they should by rights enjoy.

At the same time, we cannot ignore the CBFM's attraction for IP communities; i.e., livelihood support, in terms of loans or projects. But this in itself is not incompatible with ancestral domains ownership. Livelihood assistance can be made part of the implementation of the IPRA. Alternatively, IP communities could be allowed to enter CBFMAs, but within a larger framework of ancestral domains recognition by the state.

Even then, the readiness of IP communities to practice sustainable management practices, as clearly shown in the various initiatives undertaken by the CoE, illustrates the potential contribution of IPs to resource management. Continuing the process of recognizing IP rights can tap this potential, and allows them to deploy sustainable management practices they already have or could yet learn.

RESEARCH FINDINGS

Individual Land Ownership

In all three communities, it was evident that landownership is individual rather than communal; or if it is not clearly so, the trend is towards increasing individualization.⁵⁵

⁵⁵ I define "common property" or "communal ownership" as *res communis*; i.e., "shared" or "group property". Common properties are the private property of kin or other social groups (Bromley and Cernea 1989:15), operating as a *group*; though management may be delegated to a smaller group or an individual. This is distinguished from "individual ownership", where

In Manguicao for example specific individuals are socially recognized as the owners—locally referred to as “*mga sektoral*”, “*tag-iyá sa sektor*” or simply “*tag-iyá*”—of particular parcels or blocks of land. In fact, the well-institutionalized local practice of lending and borrowing land for seasonal cropping presumes a tenurial context of landownership. Landownership is mainly based on inheritance. Under either the old or new mode of inheritance, the land ends up owned and controlled by individual owners. Aside from inheritance, individuals may also acquire land through donation or gifting by a landowner, and by purchase.

In Minalwang’s case, specific individuals—usually conflated with “*mga tigulang*” or the elders—are recognized as the owners of particular *ga-op* or landholdings. The mechanics of ownership are similar to that of Manguicao in its primary reliance on inheritance. It differs mainly in the addition of “delegation” (a form of donation?) of land as another mode of acquiring landownership, and in a general prohibition of land sales.⁵⁶

In all three communities, I encountered terms and phrases that indicate individual ownership. These include unambiguous references to “my”, “your” and “his/her” lands; the owner or “*tag-iyá*”; as well as entire discourses on landownership and micro-histories of transmissions of land from one (generally male) individual to another. Lastly, I also heard many explicit declarations that land is individually, not communally, owned.

This means that landowners have considerable power in discussions over land use. In the CBFM projects of SAFA and DALTREPA, tree-planting was affected by the attitudes of the individual landowners. In SAFA’s case, all landowners agreed to cooperate, so block-by-block planting was possible; in DALTREPA’s, some landowners allowed only certain trees to be planted only in certain areas, producing an irregular pattern of tree-planting. In Manguicao, some individuals argued that access to the PAF should be left to the individual landowners rather than to MAHANONG.

The sociological fact or reality of individual vis-à-vis community or communal ownership of land should not be surprising, as there is considerable evidence thereof in the literature. Sahlins (1968:32) notes that land rights in swidden societies are exclusive, set at family, hamlet, lineage, or community level, or several of these simultaneously, although rarely at a higher level.

In Indonesia, the majority of swidden-based groups allow individuals or households who clear land to claim ownership of it; only in a few groups do lands ‘revert’ to the community once beneficial use of it ceases (Dove 1988a: 14). Thus, Li’s work on the Lauje (1996); Freeman (1992) and Jessup and Peluso (1986) on the Iban; and Dove on the Kantu’ (1988b), all discuss swidden-based groups where land is held by individuals or households, rather than by a village or community as a group.

Here in the Philippines, Gibson (1986:38) compared the literature on five Philippine swidden groups—the Gaddang, Buid, Hanunuo, Subanen, and the Tiruray—and found that while the Buid, Hanunuo, and Subanen allow only usufructuary tenure, where rights to land end with the harvest of the season’s crops, the Gaddang and Tiruray allow some rights to swidden areas even after harvest.

Similarly, Jocano’s review of the local literature on IP groups found that Manobo land ownership is “not clearly defined”; while among the Higa-onon-Bukidnon, land is communal property, though individual rights to access, cultivation and harvest are recognized (1998: 135, 154). In Maceda’s survey of “landed property concepts” among

ownership is vested in specific individuals; though in practice, competent members of the household, family or kin-group may actually share management or control.

⁵⁶ See rule no. 2 of MIHITRICO’s 10-point ADMP.

local IP groups, “upland shifting cultivators” like the Higa-onon and Manobo of northern Mindanaw were said to allow individuals or families to control landownership (1974: 9).

To note, the existence of individual landownership does not necessarily preclude communal access to land and other resources. Thus in Manguicao, individual landownership does not bar the landless community members, among others, from securing access to land, which can be borrowed free of any form of actual or even symbolic land rent. In Lantud and Manguicao, “*gagmay*” or small resources—i.e., open access resources—may be appropriated even from the lands of others.⁵⁷

A question that may come up at this point is whether individual vis-à-vis communal landownership is an indigenous notion or practice, or whether it was adopted as a result of interaction with migrant settlers, the state and its laws, or other external agents.

This question is as interesting as it is irrelevant. For one thing, one may rightly question whether any indigenous group ever was insulated from foreign or external influences (following Wolf 1982). For another, Paredes correctly warns that there is little to be gained in trying to discriminate between what researchers consider “authentic” or “inauthentic” in indigenous cultures; what our own cultural biases determine to be “inauthentic” may actually be genuine, or vice-versa (2000: 88). For all practical intents and purposes, we simply have to accept the reality of individual landownership, and work and plan on that basis.⁵⁸

Having said that, I believe that the widespread and largely unexamined assumption that indigenous tenure is generally communal in character blinded many of us to the fact that land tenure among some IP groups or communities is in fact individual. This assumption is evident in the discourse on IP rights (for example, TRICOM 1998; Royandoyan and Atillo 2000; Gaspar 2000), as well as the anthropological literature itself. Thus in Gloria’s attempt at an ethnography of the Bagobo, she parrots Fay-Cooper Cole’s statement that their tenure is communal in character (Gloria 1987: 46), even as her own empirical data indicated that landownership was based on pioneering clearings by individuals (Gloria 1987: 117).

This shows how the unquestioned assumption of communal tenure—here operating in tandem with a mindless reverence for our “ethnographic ancestors”⁵⁹—mars ethnographic description, and the policy and planning based on such descriptions.

The tenacity of the assumption of communal landownership can be seen even among recent scholars like Sajor, who set themselves the task of challenging such assumptions (cf. Resurreccion and Sajor 1998), but make generalizing statements to the effect that indigenous tenure rules “are rather often simple”, sweepingly characterized by

⁵⁷ “Open-access” resources are *res nullius*; i.e., “no one’s property.” These are resources owned or claimed by no individual or group, and are thus open for use or appropriation by anyone and everyone (see Bromley and Cernea 1989). Almost always, there is no system for regulating or otherwise managing such resources.

⁵⁸ I think that, at least in certain groups or communities, land tenure did not shift from communal to individual, but was never communal at all.

⁵⁹ The notion is borrowed from Larcom (1983). While it is true that many of the first ethnographers of local IP groups worked at a time when communities were comparatively less entangled with the state and global capitalism, this in itself does not guarantee the reliability of their descriptions, interpretations or assertions. Garvan, who is generally regarded as having written the classic description of the Agusan Manobo, had a primitivist agenda that may well have distorted his representations of their local cultures and practices (see Gatmaytan 2001: note no. 38).

“rights of first occupants, *common property*, individual-use rights” (Sajor 2000: 67, emphasis supplied).

Landownership is Linked to Resource Ownership

In all three communities, ownership of land includes ownership of the resources located therein. In a sense, the local definition of “land” includes everything found there.

Hence in Minalwang, one who wishes to cut the rattan located in a *ga-op* holder’s land must first secure the latter’s permission. Some informants said that one may not hunt or trap in another’s *ga-op* unless prior permission is first secured.

In Manguicao, one may freely hunt or trap in another’s land, as game animals are considered open access resources. This maximizes the chances of catching animals, as the hunters or trappers are unhampered by any need to secure permission; and as the meat will be divided among the households in the community, it also maximizes everyone’s access to the prized meat. Otherwise, Manguicao’s rules on resource tenure parallel—and even elaborate upon—those of Minalwang. One who wishes to cut timber or rattan for cash must first secure permission from the landowner in whose holding such resources are found, and pay a negotiated access fee. In the same way, resources that are normally considered open-access may acquire the character of private property when sold for cash. This is the case with *duryan*, although its status has not definitively been determined, and in a more recent incident, firewood.

Similarly, the owners of lands in Lantud are generally considered the owners of the trees found there, although there is not much logging going on.

In contrast to landownership, resource ownership seems to be linked to local attempts to exploit the economic opportunities offered by the intrusion of capitalism in the form of logging and rattan cutting into indigenous territories. My sense is that these groups expanded the basic concept of individual landownership so as to include the economically valuable timber and rattan species therein. It is interesting that instead of allocating these emergent forms of private property to the “community” or other corporate group, they were simply linked to the existing landholdings. To me, this reflects the degree to which individual landownership is institutionalized in these communities, as well as their general unfamiliarity with any form of group or corporate ownership or management.

This indigenous conflation of land and resource ownership conflicts with the construction of indigenous tenure presented by DENR Admin. Order no. 2 (1993), and the IPRA. As already pointed out, these government issuances imagine indigenous tenure as distinguishing between individual- or family-owned parcels of land, and “community”-owned resources like minerals, timber and rattan, among others. An individual or family can have rights only to lands, evidenced by CALCs or CALTs; natural resources within those lands belonged to the “community”,⁶⁰ whose rights were evidenced in turn by a CADC or CADT.

Instead, the study communities do not make a distinction between lands and resources.⁶¹ For them, who owns the lands owns the resources therein; in legal terms,

⁶⁰ Clearly, the state did not problematize its notion of “community”, resulting in its misapprehension of indigenous tenure (following Fortmann and Bruce 1988).

⁶¹ I think it is instructive how many people—both indigenous and otherwise—find it illogical to be considered the owner of the land but not of the resources therein. Legally however this is so: A landowner, even though s/he has a document of title to affirm her/his ownership, does not own the natural resources found there. S/he actually owns only the surface of the land; minerals

they have no “ancestral lands” only “ancestral domains”, owned and controlled *not* by a “community”, but by the individuals who inherited, received or bought the land in the area. This shows the utter artificiality of the legal distinction between lands and resources. It would be more culturally appropriate in these cases if DENR Admin. Order no. 2 (1993) and the IPRA allowed individuals, families or clans to claim ancestral *domains*, to allow them to maintain their rights to lands *and* resources under indigenous tenure rules.

As it is, the disparity between the communities’ practice of land and resource ownership and state’s imagined notions of indigenous tenure creates the possibility of conflict or tension between individuals who own/manage lands/resources on one hand, and a community/organization presented only to secure legal protection of resource rights, but which the law considers the rightful or appropriate resource owner/manager. Hence in Manguicao, a landowner defied MAHANONG’s regulations on timber and rattan cutting. When criticized for violating its rules, he said he was not a member of the organization, and that according to indigenous tenure rules, he had control over his lands and the resources therein.

The case also underscores how conflicts may develop between a community organization claiming control of the resources within that community’s territory, and individual land/resource owners who are not even residents of that community. We saw that in Lantud and Manguicao, the operation of bilateral inheritance, gifting and purchases of land make it possible for non-residents to own lands in a community. We thus need to consider how to integrate non-residents into management at the level of the community or local organizations.

In the case of Lantud, the CoE’s insistence that individuals, families or clans can own only ‘ancestral lands’ but that natural resources therein are owned by all the IPs taken as a “community” would have meant that Datu X loses control of the resources in his own lands. This would have contradicted local praxis, which linked land and resource ownership. In any case, the CoE’s notion of indigenous tenure has not been realized, sparing Datu X the possibility of gaining his lands but losing his resources.

The Individual as Land and Resource Manager

Since landownership in these communities is individual, and landownership is linked to resource ownership, it follows that resource ownership is also individual. This means that—contrary to the state’s imaginings—it is the individual land/resource owner, not the community as a group, which is the primary resource-managing unit. It is the individual landowner in Minalwang and Manguicao, for example, who ultimately decides whether or not a rattan stand within the community’s territory is going to be cut or not.

This underscores the largely unappreciated role of the individual land/resource owner in local land and resource management, focused as we are on the “community” and “community-based” resource management. This interest on the communal however may obscure other aspects of land and resource management (following Li 1996), such as the role of the individual.

Since individuals play an important but underrated role in local land and resource management, their respective values or principles are an important management issue. Some people will naturally be more ecologically sensitive than others; just as others will be more interested in maximizing profit from resource extraction. In other words,

and everything else beneath the land, bodies of water, timber and forest products, among others, belong to the state.

indigenous communities are made up of people, not ecological saints and martyrs. It is only logical then to give due consideration to individual values or interests in development planning.

Given the role of the individual, it becomes necessary to stress the equally unappreciated issue of the relationship between communities as a group or local organizations and individual land/resource owners. In particular, we address here the question of representation; i.e., whether a community, local organization, or its leaders can speak or decide for individuals on land/resource issues. We should note that this question arises in a cultural context where individuals own lands/resources, and where these individuals may not even be residents or members of the local organization.

The tenure systems we have examined warn us that we cannot assume that the existence of an actual community or local organization necessarily means that these have the power to decide questions on land and resource tenure (Van den Top and Persoon 2000: 172). In the same way, the existence of indigenous leaders like the *datu*, or any other politico-legal leaders or institutions does not mean that these leaders or institutions can decide land and resource issues; any more than we can assume that a city mayor controls all the lands or resources within his jurisdiction.

How then do we ensure that when we deal with a community as a group, a local organization, or with a community's leaders, they can and do represent the concerned or affected land and resource owners/managers?

This question forces us to consider the *process* by which an organization is established. Is a community organization for resource management necessary at all, if indigenous practices are functioning adequately? Are community members made aware of the possible consequences of establishing a local organization on their traditional land/resource rights? If so, how were these reconciled with the perceived need for collective management? How do community members maintain control of, and participation in the organization's decision making? What measures ensure transparency and accountability of the organization to community members?

Minalwang's experience is instructive in this regard: MIHITRICO is actually built on mutual agreements between the locally relevant actors; i.e., the individual *ga-op* holders or owners. I think this grows out of the fact that each *ga-op* owner traditionally enjoys a large degree of autonomy in terms of land and resource use. With no indigenous political institution transcending individuals, families or *sitios*, explicit agreements among autonomous *ga-op* owners are needed for cooperative action. The result is a structural hierarchy where *ga-op* owners are integrated into *sitio*-level tribal councils, which are then represented at a barangay-level tribal council.

Their ADMP shows how indigenous tenure rules are reconciled with this structure. Their 10-point program states that "(e)ach group of *lumad* is responsible for guarding their own land". This affirms not only the traditional autonomy of each *sitio*, but the *ga-op* owners' rights over her/his lands/resources. Moreover, the ADMP expressly gave *ga-op* owners in each *sitio* control of land utilization, care for timber and rattan stocks, access to local resources and agricultural development. These are management issues that coincide with the culturally defined rights and prerogatives of a *ga-op* holder. Finally, the ADMP explicitly invokes the *Bungkatol ha Bulawan*, which of course is premised on indigenous notions of individual land and resource ownership. In sum, the MIHITRICO monitors and regulates land and resource use, even as the *sitios* and *ga-op* holders retain their traditional control over land/resource use.

MIHITRICO's example illustrates the value of organizing work built on the relevant resource-managing unit; i.e., the *ga-op* holder. Ideally, other communities or organizations would exhibit the same integration of higher-order organization with

culturally or locally defined land/resource management units. MAHANONG's experience however suggests how difficult such an achievement is. In the MKRNP area, there were incipient tensions between the CoE and communities such as Lantud and Dagondalhon in terms of representation, the appropriate level of "community", and the acceptability of the CBFM program.

Flexibility in Defining "Community"

In the communities studied, the main impetus for applying for a CADC was to secure legal recognition or protection of their members' land/resource rights and interests. In other words, they were interested in ensuring their social and economic interests. This emphasizes how people manage their resources for survival, and not to display their ecological sensitivity or acumen.

In as much as the CADC procedures require that the applicant be a "community", how do groups or communities with individual land and resource tenure systems cope with this legal requirement? The answer to this question bears upon the previous issue of the relationship between individuals and the (new) corporate group; i.e., the community as such, or a local organization.

The three communities "invented" a communal entity that would satisfy the legal requirement for an applicant "community" which the state assumes is the principal land/resource-managing unit (cf. Van Den Top and Persoon 2000: 173). In effect, they re-presented the social and political community as the actual land/resource-managing entity even though in reality, it is the individual land/resource owner rather than any corporate group which is the relevant managing unit.

This is not to say that higher- or "community" level management is functionally irrelevant. The experience of the Minalwang elder who tried unsuccessfully to establish a game sanctuary on his *ga-op* is instructive in this regard; game resources have to be addressed at a level higher than the *ga-op*. Similarly, certain resources or issues may best be addressed at a level that transcends the scope and capacity of individual land/resource owners, and enables them to cooperate towards a common objective. The question is not whether higher-level cooperation is necessary, but how it is organized. In particular, it is important that the structure complements existing tenure practices; and that it can cope with the state's false expectation that it is the main management level when it may not actually be such.

The Manobos of Manguicao thus formed MAHANONG, essentially a *sitio*-level association of local residents, some of whom are not landowners. It is significant that not all residents were members of MAHANONG, leading to tension between the organization and at least one landowner. Moreover, because MAHANONG is Manguicao's local organization, its membership does not include non-residents who own lands/resources within Manguicao's territory.

The Higa-onon of Minalwang accomplished something even more difficult: The establishment of MIHITRICO, a barangay-level organization that surmounted traditional *ga-op* and *sitio* autonomy while carefully affirming these institutions' culturally defined rights and prerogatives. This careful integration of a higher-level management structure with autonomous *sitios* and tenure patterns is probably one reason MIHITRICO is comparatively more successful than MAHANONG.

In Lantud's case, there is a multiplicity of definitions of the resource-managing community. While there has been no attempt to define a community as a resource-managing unit at the *sitio*-level, we see that a "community" has been defined at the MKRNP-wide level by the CoE; at the municipal level by the mayors of the affected city

and townships; at the barangay level by neighboring Brgy. Dagundalahon; and at the individual, clan or “ga-op” level, filed by autonomous landowners in the Talakag area. To note, each of these various levels of “community” is legally viable as a CADC or CADT applicant or holder.

The pragmatic solution of creating a community—or more accurately, presenting the community/organization as the relevant resource management unit to the state—to gain tenure security sets up a dual-order system. As far as the state is concerned, the community/organization is the appropriate management unit; the communities’ acquiescence to the state’s misconception of actual tenure praxis may even perpetuate its error. In any case, behind the ‘legal fiction’ of the resource-managing community, members can continue with their individualized tenure system. Tenure on a day-to-day basis thus continues to be locally defined, and the state is seen as having no right to interfere at that level (following Von Benda-Beckmann 1993: 123-124).

While this is a functional solution for Minalwang, it has two possible weaknesses. The first is its assumption that the boundary between the state and its laws, and the community and its practices is rigid and impermeable, rather than negotiable and porous. Given the contentiousness of land/resource issues,⁶² it is possible that a community member may invoke state law in dealings with other members, thereby disrupting the segregation of state laws from local praxis. The success of such dual-order systems thus depends on community solidarity and commitment to the strategy, and the maintenance of indigenous values and notions that support it. Organizers and leaders in Minalwang are thus justified in their concern over the transmission of Higaonon culture to succeeding generations.

Second, it would seem that the greater the differences between actual tenure praxis and the “community” framework set up for applying for tenure instruments, the larger the practical problems of reconciling them. If the “community” framework interferes too much with actual practice, the tension or conflict within or among the involved communities may offset any gains in tenure security. In the Lantud case, incipient problems could arise when the “community” is defined at a level far too removed from the grassroots. The CoE thus criticized the CBFM program, but local communities—including that of Datu X, a member of the CoE—participated in that program. The CoE argued that natural resources belonged to the MKRNP-level community, but in Lantud it was assumed that local landowners were also resource owners. Such differences in principles and practices at different management levels may impair a community/organization’s effectiveness. This brings us back to our previous discussion on representation, the relationship between individuals and the corporate group, and the organizing process in the immediately preceding section.

It is clear that communities show a considerable degree of flexibility in representing their community and tenure systems when dealing with the state (cf. Fortmann and Bruce 1988). The sheer variety of definitions of “community” strongly indicates the negotiability of the very notion of “community” for purposes of applying for tenure instruments.

It also suggests that, in those communities where land/resource tenure is individualized, it was the state (and the NGOs implicated by their advocacy of CADC or CADT applications) that actually introduced communal resource management, in the form of the local organizations established for tenure applications.

⁶² In this regard, we recall the conflicts which surrounded the question of applying DENR Admin. Order no. 2 (1993) within the MKRNP, as well as the tension between Datu X and DALTREPA.

Success in Resource Management Varies

Success in resource management—in terms of consciously integrating ecological considerations in development planning and tenure practice—varies across space and over time.

Variation across space can be seen in the differential performance of each of the study communities, all of which were logged-over. The people of Manguicao collaborated freely in the deforestation of their own territory, and ultimately failed to control rattan-cutting and small-scale logging. Even today, there is no sense of regret or remorse over their involvement in the logging boom; there is on the other hand a wistful nostalgia for that exciting time when people bustled about and money flowed freely.

Minalwang's elders managed to blunt the worst effects of logging, and although they came close to over-exploiting their rattan stocks, they ultimately managed to get it under control.

In Lantud, people cooperated with logging operators, but especially after the inclusion of their community in the BZ of the MKRNP, they limited land and resource use to the BZ, and have participated in innovative and important initiatives to protect the environment. These include their involvement with the KGV and, at least initially, the cultural impact assessment system. Their participation in the CBFM program of the DENR may also be considered a positive development, to the extent that SAFA reforested a portion of an area largely reduced to grass and brush. It would not be surprising if there are other communities within the MKRNP area that are more, or less successful than Lantud in internalizing an environmentalist ethos.

Variation over time can be seen in the changes in intensity with which environmental considerations were integrated into local tenure practice. In Minalwang, the people seem to have started off with relatively high conservation sensitivity, as witnessed by their elders' description of their previous rattan-cutting techniques. When rattan became a marketable product however they became more utilitarian; nearly over-exploiting their stocks. After receiving a CADC they successfully regulated rattan cutting.

In Manguicao, there was initially a general apathy to ecological considerations, which changed when, through SILDAP, they applied for a CADC, set up MAHANONG and tried to regulate tree and rattan cutting at that level. After some partial success, the regulations were relaxed in response to the hardships caused by El Nino and La Nina, and were never again put back in force.

In all three cases, we can see the impact of outside agencies—the state and its agencies, NGOs, the market economy—on local ecological consciousness. Shifting to the internal factors, we may ask if indigenous culture has any clear link with the strength of a community's environmental consciousness?

Minalwang, a cluster of Higa-onon *sitios* with strong links to their indigenous culture and identity—the ADMP itself invokes Higa-onon indigenous law—manifests high consciousness of ecological issues. On the other hand, Manguicao, a community known in the area for its adherence to indigenous spirituality, manifests generally low ecological awareness, even after working with SILDAP. Lantud, a community that apparently shows considerable cultural assimilation, manifests a relatively high degree of consciousness, a result probably of their integration into the MKRNP.

This may be surprising to those of us who assume that indigenous culture and religion “naturally” reflect an environmentalist ethos or perspective. Regulation of resource use through religious beliefs however does not necessarily emanate from an underlying conservationist ethic (Van Den Top and Persoon 2000: 170-171; Vayda 1992: 297-298). In fact, Lewis (1992:64) showed how Ibaloy indigenous religion actually

encouraged them to engage in land conversion and chemical-intensive commercial vegetable gardening.

This challenges a tendency in some of the literature to ascribe to indigenous religions a character supposedly incompatible with capitalism and the exploitative view of nature it embodies (cf. Bennagen and Lucas-Fernan, eds. 1996). The belief that spirits dwell in trees like the *balete* (*Ficus benjamina*), for example, is thought to inhibit tree felling or logging (Magos 1996). However, the literature itself provides evidence that spirits' residence in, or ownership of, trees does not prevent their being felled, provided ritual precautions are taken. Thus, Fay-Cooper Cole describes how the Mandaya (1913:176-177) and the Bukidnon (1956: 97-98) would cut down *balete* trees after a ritual. Garvan says as much of the Manobo of Agusan (1929: 200).⁶³

In Manguicao, the fact that a thing or place is the dwelling or property of spirits does not remove it from human economic activities. It is the function of Manobo ritual to enable humans to exploit resources owned or controlled by spirits; if they allowed the notion that spirits live in or own all of nature to bar access to resources, they would have been effectively disabled from surviving at all.⁶⁴

In a sense, "sacredness" may be negotiated with the spirits, and people as well have room to interpret what the consequences of "sacredness" may be in particular cases. It is thus equally possible to argue that the spirits demand that a person expand or intensify *kaingin*-cultivation, or that they are against the felling or clearing of the forest trees in which they dwell. Thus, in Manguicao, we saw how an elderly *datu* and *baylan* boasted that in all his years of logging, he never met any accident because of his faithful performance of logging rituals.

The point is that indigenous religion—and by extension, indigenous culture—does not necessarily operate as a mechanism for controlling resource use.⁶⁵ Thus, we cannot assume that an indigenous community can manage its lands/resources sustainably (see Poffenberger, ed. n.d.: 97), even where it continues to adhere to indigenous culture/religion. Instead, we must assess each community's environmental capabilities and commitment on a case-to-case basis.⁶⁶ The consequence for

⁶³ All over Mindanaw are stories of loggers or road builders meeting accidents or dying while trying to cut down an old tree, until an elder is called in to make offerings to the spirits, after which the tree is felled without further incident. For me, what is striking about these tales is not that the tree is shown to be the dwelling of a spirit, but that it was cut down in the end.

⁶⁴ Perhaps the misconception that sacredness also means inaccessibility comes from an imposition of our own notions of the sacred on observed cultural practices. The *limokon* dove is *the* omen bird of Mindanaw, and is as the best candidate for a sacred animal. We would expect that the animal would be treated with reverence. Instead, I have seen it shot, trapped and eaten in a number of communities, including those that adhere to indigenous religion/spirituality.

⁶⁵ The evidence presented to the effect that sacred sites act as wildlife sanctuaries is insufficient. To act as a reserve or refuge, the site must be shown to have strategic ecological value in terms of size, location and species composition. Moreover, that so many sacred sites have been destroyed indicates the weakness of this principle as a regulatory mechanism (Olofson 1996: 98; Van Den Top and Persoon 2000: 171). In the same way, I am not aware of any taboo animals in the strict sense of the word. Assuming that there are true taboo animals, they must be shown to be a key species in the local environment, and that their status as such does not merely shift economic pressure onto non-taboo species.

⁶⁶ I note here how the ADMP of the Pakuan Manobo Indigenous Cultural Community flatly states how the community's interest in logging led to its application for a 312 ha. CADC area in Pakuan, Lanuza, Surigao del Sur, resulting in the issuance of the very first CADC in the Philippines, and a cutting permit for 1,709.97 cu. m. of timber (PMICC 1994: 1-2). The PMICC has since applied for more land under a supplementary CADC/CADT claim. The ADMP of

development planners and practitioners is that the issue of tenure security must be distinguished from resource capability. This means that giving a community tenure security will not necessarily mean that the community can or will manage its land/resources sustainably.

In this light, culture change in the sense of loss of local knowledge is not so much of a problem. Environmentally appropriate practices may be relearned, adopted from other cultures, or even from non-IP sources. Indeed, change offers a way for indigenous cultures that may not be particularly ecologically sensitive to transcend its limitations and develop further.

On the other hand, culture change in the sense of eroding social bonds may have more serious implications, given what we've seen of the need for community solidarity—whether as a community *per se* or a local organization—in its tenure projects. MIHITRICO is successful in part because of the involvement of the elders or *ga-op* holders, who agreed among themselves to set up the organization and its governing principles. The invocation of the *Bungkatol ha Bulawan* also deepened the commitment of the members to the organization's objectives. Continued success depends on passing on this commitment to their tenure strategy to the succeeding leaders and members. MAHANONG is less successful because its organizational framework was introduced, and not internally generated as in Minalwang. Problems arose from a failure to involve all relevant landowners, resident or otherwise.

All of which underscores the impact of NGO and other external assistance. An NGO can participate in the process of organizing the community or its organization in a manner that, as in the case of MIHITRICO, bridges the need for higher-level management and respect for functional tenure practices. This requires sensitivity on the NGO's part, and this means familiarization with actual local tenure concepts and praxis.

An NGO must also assess a community's capability in sustainable management, and avoid assuming that by providing access to tenure instruments, the community can function with ecological sensitivity. Should it find that a community is not particularly ecologically sensitive, it can then take the necessary measures. If there are current environmentally sound practices, it could support or enhance such practices. In either case, the community makes a gain, which would not have been possible had the NGO simply assumed local ecological capability.

CONCLUSIONS

The Insufficiency of Tenure Instruments

The centrality of the individual land/resource owner in the actual tenure practices of the study communities operates as a critique of the state's assumption of communal ownership of resources, embodied in the IPRA and DENR Admin. Order no. 2 (1993).

Indigenous groups or organizations seeking legal protection of their members' land/resource rights may apply for CADCs or CADTs, which extend legal tenure rights

Kalihukang Nagkahi-usang Minorya—a group of Higa-onon communities in Lawan-Lawan and Las Nieves, Agusan del Norte province, holding R13-CADC-018 covering 8,001 sq. has.—is indistinguishable from a logging company's operations plan (cf. KNM 1995). Finally, I recall conversations with community organizers working in the Agusan Marsh NIPAS area who said that local Manobo leaders thought DENR Admin. Order no. 2 (1993) and the IPRA gave them the chance to log their own areas, instead of continuing to defer to logging companies or operators.

over resources. For this purpose, the applicants need to present a “community” applicant, as the state assumes that resource management is done at the community rather than individual level. Here there is a risk that its communal representation may obscure or clash with actual tenure praxis.

The disparities between state assumptions on tenure and actual community praxis show the insufficiency of tenure instruments as a measure for enhancing sustainable resource management. In the extreme, a community’s attempt to present a communal face for its CADC application may result in interference with its actual praxis, such that tenure instruments would in effect disable communities from managing their lands/resources.

Moreover, if we dissociate tenure from the assumption of indigenous capability in resource management, we see that even the possession of a dozen different tenure instruments will not mean much if the community itself has a low commitment to or consciousness of environmental issues. Those who would extend assistance or support to IP communities in terms of land/resource management must therefore go beyond merely helping them in their CADC or CADT applications. They must consider if these communities do have environmentally sensitive knowledge and practices on a case-to-case basis. This allows them to assess the necessity for reviving or introducing such knowledge or practices, or merely maintaining or enhancing those that are still practiced.

Organizational commitment to the environmental aspects of land/resource management is also important. Again, the nature of certain resources does require cooperation or coordination at levels higher than the individual land/resource holding. In meeting this objective, the community—however this may be defined—must be committed. This means ensuring that all stakeholders, including non-residents or non-members are involved. The definition of “community” must enhance rather than complicate functional, existing tenure practices. This stresses the importance of the process of organizing the “community” or local organization.

Tenure instruments can thus help in resource management, particularly where they enable communities to combine higher-level management with functional tenure practices. However, they are insufficient by themselves to guarantee that communities will manage their lands/resources sustainably.

Having said that, Minalwang’s CADC was instrumental in asserting local control over lands/resources, and in helping in the sustainable development of its six constituent *sitios*. The secret, again, seems to be in strong local commitment to the tenure project, along with sensitivity to the relationship between the legally required “community” and the affected stakeholders. On the other hand, Manguicao’s and Lantud’s experience illustrates the bureaucratic delays that plague the procedure, and in the latter case, the possibility of resistance to community aspirations arising from the contentiousness of land and resource—and therefore, power—issues.

Avoiding Assumptions

The findings of the project do not purport to describe or represent all communities in northern Mindanaw; their principal value is not descriptive, but cautionary. The findings emphasize the possible variations in the IP experience in this area, warning us against making sweeping generalizations in policy formulation, legislation and development planning.

It is thus quite possible for example that there are communities in this region that do have communal land and/or resource tenure. However, the existence of communities with individualized tenure warns us against continuing to assume that all or even most

indigenous communities have communal tenure. We can no longer rely on the assumption of communal ownership or management. We must look beyond the “community”, to take into account its members’ actual tenure concepts and practices.

We can no longer assume from the mere existence of a community or local organization, or the presence of indigenous or other leaders or politico-legal institutions that these are the locally relevant land/resource-managing units. Indeed, a “community” or organization might not even include all the affected stakeholders, and so may not properly represent them or regulate their land/resource use. Still, though the “community” may not necessarily be the critical managing unit, we should keep in mind the need for institutional development to develop its management capability. No system is perfect, and this means both the legal and the indigenous systems.

In the same way, the data indicates that we need to be wary from now on of assuming that communities are necessarily or naturally ecologically sensitive. As already noted, we need to assess this on a case-to-case basis.

These warnings reiterate the weakness of tenure instruments aimed at the “community” level, but which are based on the unexamined assumptions about the character of IP communities and practices.

The Role of Communities

Having aired that warning against assuming that IP communities automatically can and will manage their lands/resources sustainably, I still believe that they are best positioned to play a role in managing the country’s fragile, critical uplands.

The issue of whether or not they are capable of sustainable resource management is irrelevant to the question of their rights to their lands and resources. *They own their ancestral lands and resources*, irrespective of their environmental management capabilities. As I pointed out somewhere above, it would be unjust to require such a capability of them as a prerequisite to legal recognition of their land or resource rights. Such a requirement would be discriminatory, and legally unfounded. It falls on us then, as a national community, to recognize the IPs’ ownership of much of the uplands.

We must accept this historical, socio-cultural and legal reality, *and* then assess if they have the capability to sustainably manage their ancestral territories. These may be their private properties, but they are vested with public interest. We thus need to either re/introduce appropriate practices or enhance their local tenure concepts and praxis.

In other words, IP communities have an “unavoidable” environmental role arising from their ownership of the ecologically strategic uplands. Our role is to help ensure that their performance of that role is strengthened by relevant knowledge, organizational capacity and sensitivity to ecological issues.

Fortunately, all the communities we considered here showed evidence of capability and willingness to manage lands/resources sustainably, even when they had not yet received tenure instruments they applied for. This emphasizes the still largely untapped management resource that indigenous communities represent.

The Importance of Community Organizing

NGOs and other external agencies have an important role in guiding the organizing process. In Minalwang, the most successful community described here, the role of both NGOs and the concerned government agencies was significant, even where the community already had a relatively strong organizational commitment and

environmental consciousness. It was clear how these external agencies enhanced local knowledge, developed their institutional capacities and deepened the communities' environmental consciousness.

This stresses the importance of the organizing process at the community level. This—along with the recommendation for further, more critical studies—is by now a trite statement, but the prevalence and tenaciousness of the assumptions I warn against, and the resulting lack of specificity in social analysis and development planning make it necessary to repeat it.

Community organizing is important.

It is the best way, in particular, by which we can address the misapprehensions and inadequacies of the government's tenure programs. Careful, informed and negotiated dialogues between stakeholders implicit in the appropriate organizing process is the best way of planning a path through or around the errors and weaknesses of these tenure programs and instruments. It is also the best way of ensuring that a community can make the most of the tenure options offered by the government.

The Strategic Level

I have pointed out that ancestral domains delineation also has the strategic effect of bureaucratizing community land and resource tenure, and integrating hitherto autonomous communities within the control of the nation-state and the arena of global capitalism. Discussions of delineation rarely consider these dimensions.

This does not mean that discourse and praxis in the context of actual community settings are unimportant. It is just that there is rather more to IPs' relations with the state—the issue at the heart of discussions of delineation and empowerment—than this.

We need to reflect, to think. There is a great mass of materials in various media that focus on community experiences in tenure, resource management and related issues. And while there is growing interest in the meanings of these experiences, there are still comparatively few attempts to step back, appreciate or even wonder at these great patterns of concord and conflict.

This is like waging a war without a strategic outlook. True, the marked heterogeneity of Philippine IPs makes the idea of a coordinated nation-wide IP movement problematic. But if uniting the various IP communities seems improbable given today's political and economic context, it is past time that we at least begin to share a consciousness of the strategic dimensions of the issue. Perhaps from the disparate approaches to these strategic concerns, some consensus can eventually be developed; for example, we might agree that *the* issue facing indigenous peoples is not simply land so much as self-determination within the context of the Philippine nation-state.

The current disregard for the strategic dimensions of IP's issues is unfortunate because it is at this level that the necessary task of reflection on the lessons drawn from decades of sacrifice and struggle can be dedicated to guiding us in other struggles to come. This is where great ideas, dreams—such as self-determination—are forged and refined, and our own maturity as a people measured.

SOURCES

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