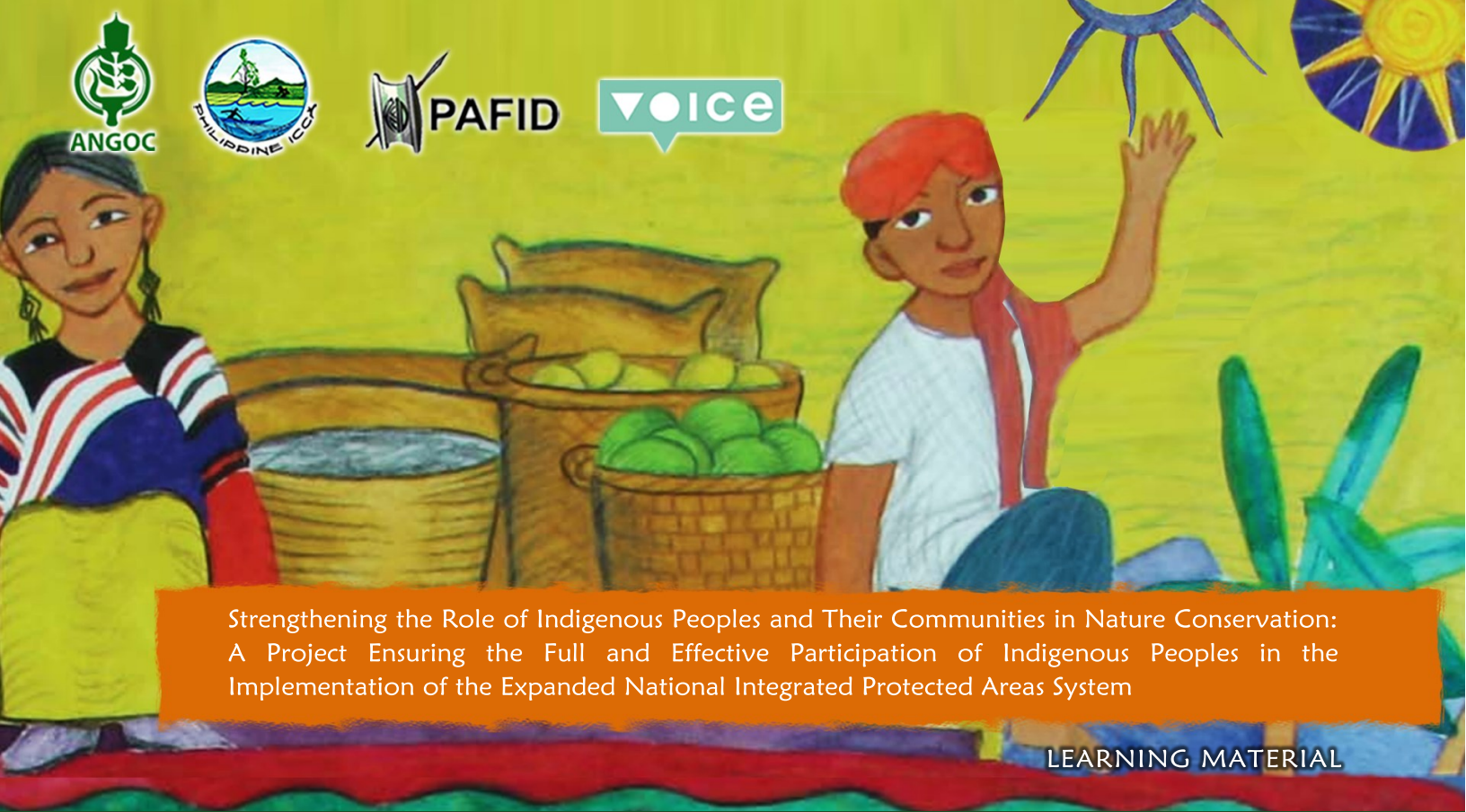




PAFID



Strengthening the Role of Indigenous Peoples and Their Communities in Nature Conservation: A Project Ensuring the Full and Effective Participation of Indigenous Peoples in the Implementation of the Expanded National Integrated Protected Areas System

LEARNING MATERIAL

Forest, Deforestation, and Forest-Wildlife Protection

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Introduction

What comes to mind when the word “forest” is mentioned? Ask a business corporate group, and it is almost certainly the answer is, “a material or economic resource base;” ask the government, “it is a resource base and a Protected Area or both, and inevitably, find itself wriggling out from its policy conflict arena;” ask some non-State entities, it is synonymous to “biodiversity conservation.” For the agricultural sector, forests are crucial for food security for the water supply it provides. To focused groups especially in the academic and scientific community, it connotes wildlife sanctuary while engaging in laudable ventures like “save the eagle” (Mt. Apo) and/or “save the Tamaraw” (Mt. Iglit-Baco).

But in tangible and life-giving terms, what for instance does Mount Apo and the Philippine eagle mean for the Evu Menuvu people and their community? What is it about Mounts Iglit-Baco for the Mangyan people and their community? In other regions of the country are ethnolinguistic groups – like the Mangyans and Evu Menuvu – who thrive with views about forests vastly different from the mainstream. Let us ask: Where are the remaining forests in the country located? Why do they coincide mostly in traditional territories or ancestral domains? Is it because of the government-protected area system or is it because of the traditional governance systems of indigenous peoples (IPs)?

Forest Defined

A forest is a natural resource that supplies multiple environmental economic and social services, significant to human development. Forests are vital to a healthy environment including water and air purification and help prevent soil erosion. Forests also play a critical role in mitigating climate change because they act as carbon sink – soaking up carbon dioxide and other greenhouse gases that would otherwise be free in the atmosphere and contribute to ongoing changes in climate patterns. As early as the 1980s local communities were already noticing the patterns of super typhoons during the wet season, and long droughts in summer.

The remaining forests are found mostly in the country’s ancestral domains.¹ This is attributed, in large part, to the history of IPs’ resistance against colonialism, logging companies, and present-day development aggression as we can see in the chronology of deforestation below.

Already, the environmental crisis in the Philippines as extractive activities in the past century have shown is man-made: dwindling forests, vanishing lands, and floods.

¹ La Vina, Antonio in “Recognition of Ancestral Domains: An Imperative for Democratic Upland Resource Management as cited by Robin Broad and John Cavanagh in “Plundering Paradise: the struggle for environment in the Philippines.”1993.

Why man-made?

Man thinks his environment must be subdued for profit. If he kills the goose that lays the golden eggs, he looks around for another goose until the end when all the geese have disappeared. In the words of Schumacher, “*man does not experience himself as a part of nature, but as an **outside force** destined to dominate and **conquer** it.*” He adds, “*man even talks of a battle with nature, forgetting that, if he won it, he would find himself on the losing side.*”²

Chronology of Deforestation

From the environmental crisis above-described, let us look at the reasons behind it.

1500s. Spanish occupation, the country had 27 million hectares of forest lands.

1900s. Forest cover was estimated at 21 million hectares.³ The succeeding conquerors, the Americans, introduced mechanized logging for timber export to the US. Trees were cut down for shipbuilding and export crop plantation. And to underwrite colonial expenses in governing the Philippines, agricultural lands were opened to further forest depletion. Colonial and industrial logging practices had become the source of income for government, industry, traders, entrepreneurs, employees, workers, and upland communities throughout the Philippines.⁴

Decades after World War II saw further saw the reduction of forest cover through laws.

1946. The Bell Trade Act gave American citizens the right to exploit natural resources as one of the **conditions** for Philippine Independence. Here, **public forests** were allocated to logging concessions as the top source of foreign exchange earnings.

1960s to 70s. In 1964, threats to Philippine wildlife was already noted: “*Until a few decades ago, the wildlife of the Philippines was notable by its abundance; now it is notable for its rarity.*”⁵ The **unrestricted destruction** correlates with the furious ravaging of Philippine forests. Except for the *clouds*,⁶ the country’s virgin forests were cut by logging, sawmilling, plywood, manufacture of veneer, and pulp and paper leaving behind a “*relic of a bygone era.*”⁷

Mining came in resulting in forest reduction to 10.2 million hectares.⁸ Forests were ravaged at a furious pace – “*backed up by one of the most callous and corrupt military establishments*

on earth.”⁹ During the 14 years of Martial Law (1972 to 1986), Philippine forest products (1977) were valued at P1.64 billion. Thus, “*wood exports brought in \$507M in 1974, \$305M in 1975, \$264 in 1976 and \$261.2M in 1977.*”¹⁰ The plunder of natural resources scaled up through the 1980s.

1980s. Forest depletion of 119,000 hectares per year was noted. From 1986 to 1990, it was estimated that a forest cover of “*1,300 square kilometers, the size of 6 basketball courts disappeared every minute.*”¹¹ In another estimate, “*one precious tree is knocked down every 3.5 minutes.*”¹²

In the case of Palawan – “*one of the world’s last living libraries of ecology,*”¹³ Haribon reported that “*forest resources and land resources were given as political patronage and as source of resources to keep people in power and to buy electoral votes.*”¹⁴

1987. The reorganization of the Department of Environment and Natural Resources (DENR)¹⁵ saw the establishment of the Protected Areas and Wildlife Bureau (PAWB), now Biodiversity Management Bureau (BMB), ostensibly to counter deforestation. The PAWB was tasked to formulate, recommend policies, guidelines, rules, and regulations for the establishment and management of an Integrated Protected Area System such as national parks, wildlife sanctuaries, marine parks, and biosphere reserves.

1990s. Despite the State-led logging ban, commercial logging continued although at a decreased pace. In 1990 alone, 75 Timber License Agreements (TLAs) covering over 2.812 million hectares with an annual allowable cut of 4.73 million cubic meters were issued. Well-connected resource controllers used connections to continue cutting. Secretary Factoran admitted, “*DENR is plagued with corruption at lower levels and the government will never have the resources to attend to the environmental problems adequately.*”¹⁶

2000s. Logging operations continue due to “*poor law enforcement*” (DENR-Forest Management Bureau/FMB 2009). By 2003, an estimated 7.2 million hectares were recorded.¹⁷ In 2011, only three (3) timber license agreements (TLAs) remained with an aggregated area of 177,085 hectares located in Western Samar and Zamboanga del Norte (DENR-FMB, 2011). By 2014, only 6.52 million hectares are under actual forest cover in the whole Philippines. Where are these remaining forests located? And for how long?

⁹ Ehrenreich, Barbara. Foreword, “Plundering Paradise: The struggle for the environment in the Philippines.” The Regents of the University of California. 1993.

¹⁰ Abadilla, Domingo. “The Environmental Crisis.” Philippine Education Co Inc. Manila. 1982.

¹¹ Abainza, Estanislao. Bishop, United Church of Christ in the Philippines in his Opening Remarks, “Consultation on Sustainable Forest in Southeast Asia.” Institute of Forest Conservation, College of Forestry, UP-Los Banos. 1993.

¹² Ibid.

¹³ Robin Broad & John Cavanagh. “Plundering Paradise: The Struggle for the Environment in the Philippines.” The Regents, University of California. 1993.

¹⁴ Kalaw, Maximo, Jr. in an interview by Robn Broad and John Cavanagh. “Plundering Paradise: The Struggle for the Environment in the Philippines.” The Regents, University of California. 1993.

¹⁵ Aquino, Corazon President. Executive Order No. 192 to address environmental concerns.

¹⁶ Robin Broad & John Cavanagh. “Plundering Paradise: The Struggle for the Environment in the Philippines.” The Regents, University of California. 1993.

¹⁷ Philippine Climate Change Commission. 2010

² E.F Schumacher. “Small is Beautiful: Economics as if Peoples Matter,” Harper and Row New York. 1973.

³ Environmental Science for Social Change, Ateneo de Manila. 1999.

⁴ DENR-FMB and CoDe REDD-Plus Philippines. 2010.

⁵ Talbot, Lee Dr. Director, Southeast Asia project on Wildlife Resources and Parks, IUCN. “The Tamaraw (Bubalus mindorensis): Observations and recommendations. 1966.

⁶ Higgins, Richard, in “Thoreau and Trees: A Visceral Connection,” quoting Thoreau: “*Thank God they cannot cut the clouds!*” when Thoreau saw how savagely his fellow Americans cut trees in New England, 1800s.

⁷ Butler, Rhett. “Rainforests Country Profile.” Tropical Conservation Science. July 14, 2014.

⁸ Environmental Science for Social Change, Ateneo de Manila. 1999.

Forests and Wildlife: Location and Defense

The country's remaining forests are found in ancestral domains. Maps prepared by the Philippine Association for Intercultural Development (PAFID) showing this correlation have been made numerous times. This correlation is aptly described by Kuna Indians of Panama: "Where there are forests, there are native people; and where there are native people, there are forests."¹⁸

For IPs, forests are not just mountains or sanctuary of wildlife. They form the "ecological library," "hospital," "food markets," and "cathedrals." If for Christians defacing a cathedral would stir outcry, the same rings true for IPs when their forests are turned into open-pit mines.

Stopping Plunder: Stories in the re-telling

Plunder of the country's forests would have been insufferable were it not for the counterpoint of indigenous peoples – one of resistance and hope. Two cases are here selected for hope.

Case 1. The Ikalahan of Sta. Fe, Nueva Viscaya.

In the 1960s, a resort called "Marcos City" was planned over 6,300 hectares of Ikalahan territory in Nueva Viscaya. Fake titles were used to wrest lands away from the indigenous Kalahans. Tempted to resist violently, Ikalahans however chose to fight through the courts. Assisted by two dedicated lawyers, the Pangasinan Regional Trial Court revoked the lowlanders' titles and voided their claims. In a post-court battle period, the Ikalahans recognized the need for a land tenure instrument to secure their occupancy and possession of their traditional lands.

Despite obstacles, the Ikalahan finally obtained a land security under Memorandum of Agreement No. 1 between the Bureau of Forest Development (BFD) under Director Jose Viado representing the government and Simeon Camutiao, Chairman of the Kalahan Education Foundation (KEF) representing the Ikalahan. MOA No.1 accorded respect to the wisdom of indigenous Kalahan elders. Thus, the MOA stated, "KEF should manage and use the area to the exclusion of others; and to protect the forests from incursions by outsiders, prevent forest and grass fires, and protect adjacent forests stands."¹⁹

MOA No. 1 is today's Community-Based Forest Management,²⁰ and people-oriented forestry programs including the Family/Contract Reforestation with Forest Land Management Agreements (FLMA), Integrated Social Forestry Program (ISFP), and the Community Forestry Project (CFP)

¹⁸ Kuna Indians of Panama
¹⁹ Mesina, Sylvia. Living Stories: Exemplary Philippine Practice on Environment and Sustainable Development. "Ikalahan Community Development Projects." 1999.
²⁰ Pres. Fidel Ramos. E.O NO. 263. "Adopting Community-Based Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation. July 19, 1995.

that make communities partners through long-term tenurial stewardship agreements. MOA No. 1 as a tenurial instrument years later transformed into a title. Thus, "the Certificate of Ancestral Domain Title (CADT) is one of the land tenure instruments that traces its roots to the initiative of the Ikalahan people in securing MOA No. 01."²¹

Case 2. The Bontoks and Kalingas in the Chico River Valley.

Indigenous peoples' defense of lands comes with infinite danger. A 1976 Chico River Dam project proposed by former President Marcos was met with opposition by the Kalingas and Bontoks. The project had four segments spanning the municipalities of Sabangan (Chico 1) and Sadanga (Chico 2) both of Mountain Province, and Basao (Chico 3) and Tomiangan (Chico 4) both in Kalinga Province.²² It would have uprooted more than 5,000 Kalingas from their villages, destroyed 1,200 stone-walled terraces, 500 hectares of fruit trees, and would have submerged a 10-kilometer national road spanning two provinces and all villages alongside it.²³

Resistance to the project was largely because of spiritual and cultural values that people attach over these lands. This view of land as sacred is exemplified by the words of Kalinga Pangat Macliing Dulag, here quoted:

“ Apo Kabunian, Lord of us all, gave us life and placed us in the world to live human lives. And where shall we obtain life? From the land. To work (the land) is an obligation, not merely a right. In tilling the land, you possess it. And so land is a grace that must be nurtured. To enrich it and make it fructify is the eternal exhortation of Apo Kabunian to all his children. Land is sacred. Land is beloved from its womb springs life.”²⁴

Following Dulag's murder "in his own house... in the night and showering it with bullets,"²⁵ the intended effect of suppressing the people's opposition worked the opposite — the World Bank-funded project collapsed, even as people's views about ancestral domain and protection of its natural resources rose sharply. This victory inspired other indigenous peoples to struggle against large dams and other large-scale projects in their communities.²⁶

²¹ De Vera, Dave. "From Adversaries to Partners." Indigenous peoples in the Philippines: A Country Case Study. RNIP Regional Assembly, Hanoi, Vietnam. 20-26 August 2007.

²² Lahmeyer International. "Technical Pre-Feasibility Study of the Hydro Electric Development in the Chico River: Chico I, Sabangan Mt. Province; Chico II, Sadanga, Mt. Province; Chico III, Basao Kalinga; Chico 4 Tomiangan, Kalinga. 1973.

²³ Carino, Joanna. "The Chico River Basin Development Project: A case study in development policy." Selected Papers of the 3rd National Conference, "Environment and Man," of UGAT. Agham Tao. Vol. III. 1980.

²⁴ Bennagen, Ponciano. "Tribal Filipinos" in Indigenous View of Land and the Environment." World Bank Discussion Papers No. 188, Pp. 71-72 quoted in Kapunan, Associate Justice, Supreme Court, Separate Opinion in Cruz vs. NCIP, G.R. No. 135385. December 6, 2000.

²⁵ Bantayog Ng Mga Bayani. "Martyrs and Heroes." Quezon City. 2016.

²⁶ Philippine Task Force for Indigenous Peoples Rights. Position Paper on Dams. 2015.

Not to lose momentum, and given the democratic liberal politics of the Cory government, indigenous peoples organizations principally the Cordillera Peoples Alliance successfully lobbied the government for the inclusion of provisions recognizing indigenous peoples' rights in the 1987 Philippine Constitution including for an autonomous region in the Cordillera.²⁷ From these constitutional provisions came the enactment of the Indigenous Peoples Rights Act of 1997 (RA 8371).

What do these cases tell us? Datu Birang, a Lumad from Mindanao has this to say: *"It is better that there be no people with nature, than to have people without nature."*

Forest and Wildlife Protection: Traditional Practices

Traditional practices on forest protection evolve from built-in controls of cultures in relation to space use preventing their overexploitation thereby resulting in conservation. Three cases from Luzon, Island Group, and Mindanao exemplify forest protection while we cite two cases on wildlife protection including the Philippine Eagle and the Tamaraw.

a. **Muyong**

The **Muyong**, is a general Ifugao word for *forest*. Forests close to the ricefields are subdivided into family-private woodlots. Forests far from the rice fields are communal. A **Muyong** owner must perform *hikwat*, at least once a year – an obligation that clears **Muyong** of undergrowth and creepers. This ensures that tree saplings have a better chance to grow. Huge trees in a **Muyong** close to creeks and rocks are not cut as these are believed to be dwelling places of *Pinading* (earth spirits). **Muyong** owners are subject to peer pressure in maintaining the **Muyong**. It is considered a disgrace for an owner to pass to an heir a **Muyong** with few trees.

b. **Awuyuk**

These are lakes sacred to Tagbanuas of Coron Island, Northern Palawan but are connected to ridges with forest cover. Tagbanuas believe they all came from the lakes, hence, prohibit hunting of corals. For this, the 11 sacred lakes of Coron have been named the cleanest lakes for a record six times by the Department of Tourism. Awuyuk forms part of the first ancestral waters officially recognized through a Certificate of Ancestral Domain Title (CADT).

²⁷ Casambre, Athena Lydia. "The Failure of Autonomy for the Cordillera Region, Northern Luzon, Philippines." Towards Understanding Peoples of the Cordillera: A Review of Research on History, Governance, Resources, Institutions and Living Traditions, Vol. 1, Cordillera Studies Center, U.P-Baguio, 2001.

c. **Idsesegilaha**

Idsesegilaha is the "ridge-to-reef" version of Manobos of Mt. Kalatungan, Bukidnon. Similar to their compatriots in Luzon and Island Group, Mt. Kalatungan is treated as the resting place of the "*Diwata*" or forest fairies. The Diwata is held as a resident along the streams and rivers and ensures the flow of clear waters. In return, the Manobos make it their responsibility to protect it from pollution or change that harms its natural flow.

Wildlife Protection: Through Beliefs of Indigenous Peoples

Wildlife protection views and their habitat show exemplary indigenous peoples' practices. Below are examples where commonality is an affinity with nature. They exemplify how forest and wildlife are inextricably interwoven into the fabric of the lives of IPs. While conservation may not be a conscious task, beliefs, and respect towards spirit dwellers of trees and streams have resulted in their conservation.

The following wildlife species, all of the iconic stature, have their habitat in traditional territories of indigenous peoples:

- **Birds:** The Philippine Eagle

To the outside world, the Philippine eagle is a romanticized "monkey-eating eagle" – a view devoid of reality. To the Obu Manuvus/Evu Menuvu, the Philippine eagle is a "spirit owner" of forest flora and fauna. The belief that humans share the world with mystical beings and sees the spirit world and material world as one gives the eagle the stature of "resource owner." Named locally as "*Banog*," the eagle demands reverence and respect, and the villagers in turn keep their ritual obligations. Manuvu life that evolves with wildlife allows "communication" between eagles and villagers. An eagles' communication as interpreted by villagers includes an admonition: *"don't let your kids wander into the open. I might mistake them for an animal and snatch them away..."*²⁸ An example of communication from an eagle is its long and whining calls that signal the death of a sick relative. During tribal wars, the calls can be sentinels against village attacks. Also, hunters who keep their ritual obligations come home with deer or wild pig.

Apart from messages, the eagle symbolizes the traits village people seek in a leader – fearlessness, self-sacrifice, and foresight. In terms of conservation, the eagle and its habitat is a **Pusaka** or heritage of which its preservation and protection meant protection of the Obu Manuvu's culture that is forest-dependent and territory-based.

²⁸ Unified Obu Manuvu Tribal Council. "Cultural Values of Philippine Eagles: *The Indigenous Obu Manuvu Worldview*." Obu Manuvu of Davao City, Philippines. 2017.

- **Land Animal:** The Tamaraw

The Tamaraw is a land animal endemic in Mindoro – the only place in the world where they are found. Despite their short stature at 4 feet, they are known for their big personalities. In 2017, a Hanunuo Mangyan from Mt. Iglit-Baco Natural Park, harking back to that period of strong Tamaraw-Mangyan relations said, “When you say Tamaraw, you must also say Mangyan!”²⁹ This is because the habitat of Tamaraw is not just a physical space. Its sacredness is described, thus, “we consider it our ritual ground that’s why we protect it. Its declaration by government as a protected area cut that umbilical cord that connect[s] us because we are not supposed to enter, but leave it as is.”³⁰

These statements rang loud that a year later, a planning event between the DENR-Biodiversity Management Bureau (DENR-BMB), Tamaraw Conservation Program, Regional Office-MIMAROPA, PENRO/CENRO, and PASu, IUCN and WWF-Philippines, and the Center for Conservation Innovation, among others came out with a management plan³¹ stating that, “the Tau Buhid see their future of the Tamaraw as inextricably linked, so any solution must include both.” Furthermore, the plan recognizes that “Illegal activities against wildlife and natural resources are also illegal acts of intrusion on their ancestral domains.”³²

Threats and challenges

Apart from large-scale extractive projects, encroachment of migrants and management of overlapping of ancestral domains with protected area systems, one perennial and often underestimated threat is the **forest fire**.

Forest fires occur due to natural causes like lightning strikes on trees. High atmospheric temperatures and dryness (low humidity) offer favorable circumstances for a fire to start. The other causes are man-made when any source of ignition comes into contact with flammable material.

In Benguet Province, twelve fires razed nearly 900 hectares of forests and reforested areas in eight municipalities from January to February 2020, and at a cost of P2.077 million in damage.³³ In the municipality of Kabayan alone, of the same province, 643.69 hectares were ravaged including 191.54 hectares under the National Greening Program. The Benguet fires are small ones compared to fires that hit California and southeastern areas of Australia between 2018 and 2019 where 8,527 fires raged in 766,000 hectares of forests engulfing 22,751 homes at a cost of \$35 billion.

²⁹ Perez, Padmapani & BUKLURAN. “Living with the National Problems with National Parks: *Indigenous Critique of Environmental Policy*.” Far Eastern University, 2018.

³⁰ Matigon, Suligam. Vice-President for Island Group and the Visayas, Philippine ICCA Consortium (Bukluran) in a conversation with Giovanni B. Reyes. Consultation on Policies on Protected Areas and Ancestral Domain. Mindoro, 2020.

³¹ Global Wildlife Conservation. “By the year 2050, the Tamaraw, a source of national pride and flagship for Mindoro’s natural and cultural heritage, thrives in well-managed habitats and populations that co-exist with indigenous peoples across Mindoro.” 2018.

³² Ibid.

³³ Flor, Edgardo. Benguet PENRO. “Report to the Cordillera Regional Disaster Risk Reduction and Management Council.” Baguio City, February 28, 2020.

Forest fires are common and in most cases caused by man. As John D. Guthrie, former fire inspector of US Forest Service wrote: “To stage a forest fire you need only [a] few things: a forest, the right atmospheric conditions, and a spark either from a lightning bolt or a match in the hands of a fool. The formula is simple: the bigger the fool, the bigger the fire you will have.”³⁴

Some Fire Prevention and management techniques³⁵ that indigenous rangers and forest stewards can learn through training:

- a. Develop three-meter wide fire lanes around the periphery of the fire;
- b. Arrangement of water spray, fire retardant chemicals should be sprayed from the back tank and if possible by helicopters;
- c. Trained staff of firefighters to control the fire;
- d. Environmental education to include cultural activities, technical-engineering works, people participation, and enforcement. More emphasis be given to people participation through Joint Forest Fire Management;
- e. Prompt detection of fires through a well-coordinated network of observation points, efficient ground patrolling, and communication networks. Fast initial attack measures;
- f. Vigorous follow-up action; and,
- g. Availability of firefighting instruments and resources.

List of Policies, Laws affecting Forest Lands from The Spanish Era to the Present

The following chronology of forest policies in the Philippines gives a contextual view of the historical process of how natural resources, particularly forest lands have been regarded by those who rule and codify their ruling system. These laws do not exactly reflect the protective sustainable practices of those who live in and near forests who believe in keeping the forests for the sustenance of the living earth or “*batawa*”³⁶ among Sagada Igorots which sees nature around as living beings. The same with Mangyans of Mindoro island where earth is seen as “one with the native.”³⁷ At most, these laws that govern forests indicate some protection, but as historically experienced by indigenous peoples, it is protective cover for State exploitation. And as we now witness at present, energy projects like the Magat Dam has facilitated a disaster of mammoth proportions in the Cagayan Valley in Region 2 and Marikina in the Sierra Madre-National Capital Region. It exposes a full cycle contradiction where government energy projects are built on watershed areas apart from mining that have stripped bare once-pristine forests.

³⁴ “Fabulous Ways to Protect Trees and Conserve Forests.” Retrieved from www.conserve-energy-future.com

³⁵ Food and Agriculture Organization of the United Nations. Retrieved from www.fao.org/forestry/

³⁶ “Batawa.” A Sagada Kankanaey term for “earth” which views lakes, rivers, trees, rocks as “living beings.” This view is not uncommon in other indigenous peoples’ communities in the Philippines. Where these views persist, biodiversity thrives.

³⁷ Personal notes, a sentiment by a Buhid Mangyan where he said, “Katutubo ay iisa sa buong mundo, bakit hindi kami tingnan na bahagi ng paglikha?” Consultation on “ENIPAS, IRR and effects on IP communities affected by PA’s.” Bongabong, Oriental Mindoro, February 2020.

During the Spanish Colonial Period

- *Regalian Doctrine or Jura Regalia*. A legal fiction based on feudal conquest theory. The King of Spain claimed ownership of the entire Philippine archipelago. According to this theory, the Spanish Crown had this to say:

“It is our will that all lands which are held without proper and true deeds of grant be restored to us as they belong to us.”³⁸

- *Royal Decree of 25 June 1880*. All persons in possession of real property are considered owners provided they occupied their lands in good faith from 1870 onwards; and,
- *Royal Decree of 13 February 1894, or the Maura Law* – Title to all agricultural lands capable of registration under the Royal Decree of 1880. Any claim to such lands by those who might have applied for adjustment but have not done so at said will not be allowed anymore.

During the American Colonial Period

- *Treaty of Paris, 10 December 1898*. Spain Ceded to the United States the Philippine Archipelago. The U.S paid \$20,000,000 to Spain three months three months after the ratification of the treaty;
- *Forest Act of 1904 (Act No. 1148)*. No license required for residents “within or adjacent to a government-authorized forest concession” to cut forest products for domestic purposes;
- *Mining Act of 1905* – All public lands in the Philippines to be free and open for exploration, occupation, and purchases by the citizens of the U.S and the Philippines;
- *Cariño vs. Insular Government*,³⁹ 23 February 1909. The U.S Supreme Court, then having jurisdiction over all Philippine courts decided in favor of Igorot man Mateo Cariño after the U.S government grabbed his land that it believed was public. The decision stated in part: “...as far back as testimony or memory goes, that land has been held by individuals under a claim or private ownership, it will be presumed to have been held in the same way from before the Spanish conquest, and never to have been Public Land” has never been reversed. The Cariño decision on NATIVE TITLE and the Doctrine that the land had “never been public” has been echoed in subsequent rulings of the Philippine Supreme Court, and according to present law, part of the legal system of the land,⁴⁰ and

³⁸ Law 14, Title 12, Book 4. Novisimas Recopilacion de Leyes de las Indias. Cited in “A Divided Court: Case Materials From the Constitutional Challenge to the Indigenous Peoples Rights Act of 1997” by the Legal Rights and Natural Resource Center

³⁹ 41 Phil. 935, Pp 950. Justice Holmes, citing Section 5 of the Organic Act of 1 July 1902.

⁴⁰ Art. 8, Civil Code of the Philippines. Judicial decisions applying or interpreting the laws of the Constitution shall form part of the legal system of the Philippines.

is the spirit behind the Indigenous Peoples Rights Act of 1987.⁴¹

- *Wildlife Law of 1916* – Prohibits taking or killing of wild animals;
- *Forest Law of 1917* – License required for gathering of any forest products on public lands unless proclaimed as communal forest. All forest products require a permit before they could be transported from origin to the gatherer’s residence;

During Post-World War II

Marcos Government: Under Martial Law

- *Letter of Instruction No. 1260, 1982, and Ministry of Natural Resources Administrative Order No. 48, 1982*. Promotes partnership between government and occupants of the “public domain.” It prohibits citizens residing on land “located within a national park, critical watershed, proclaimed watershed of other reservation” from participating. All occupied areas, ancestral or otherwise covered by a “timber lease agreement, pasture lease agreement, industrial tree plantation agreement, farm lease agreement or any approved government lease or project” other than social forestry are prohibited from forest occupancy.
- *Forestry Reform Code of the Philippines or Presidential Decree 389 (5 February 1974)*. It accelerated land classification and immediate proclamation of permanent forests as forests reserves. This meant unclassified forest lands were classified into alienable or disposable public lands.
- *Revised Forestry Code or Presidential Decree 705 (19 May 1975)*. It classifies all lands 18 percent or more in slope as inalienable and indisposable for settlement. Since most ancestral lands like the Cordillera is 18 percent or more in slope, this law gives indigenous peoples and their communities the status of “squatters” or lessees of inalienable public forest.

Corazon Aquino Government: Under Liberal Democratic Politics

- *1987 Philippine Constitution*.

It still carries the colonial legacy of Jura Regalia (by the King under Spain, by the State under America up to the present). Thus, Sec. 2 Article XII states, “ *All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.*”

⁴¹ RA 8371, Par. (l) on Native Title and Par. (p) on Time Immemorial. Sec. 3, Definition of Terms. Chapter II, RA 8371.

But the same fundamental law saw it fit to incorporate at least seven (7) provisions recognizing and protecting indigenous peoples' rights and interests:⁴²

- a. *Sec. 22, Article II.* The State recognizes and promotes the rights of indigenous peoples with the framework of national unity and development;
- b. *Sec. 5, Article XII.* The State subject to the provision of this constitution and national development policies and program, shall protect the rights of indigenous cultural communities of their ancestral lands and ensure their economic, social and cultural well-being;
- c. *Sec. 1, Article XIII.* The Congress shall give the highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good;
- d. *Sec. 6 Article XIII.* The State shall apply the principles of agrarian reform or stewardship whenever applicable in accordance with the law, in the disposition and utilization of other natural resources, including lands of the public domain under lease or concession, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands;
- e. *Sec. 17. Article XIV.* The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies;
- f. *Sec. 12 Article XVI.* The Congress may create a consultative body to advise the President on policies affecting indigenous cultural communities, the majority of the members of which shall come from such communities; and,
- g. *Article 2, Section 16* provides, "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."



⁴²Puno, Justice of the Supreme Court. In Separate Opinion, cited by Legal Rights Center in "A Divided Court: Case Materials from the Constitutional Challenge to the Indigenous Peoples Rights Act of 1997." Pp 111. 2001.

- *DENR- DAO 1 of 1989.* Industrial Tree Plantation refers to any tract of forestland planted to tree crops primarily to supply raw material requirements of existing or proposed wood processing and energy-generating plants and related industries. A maximum of 20,000 hectares is allowed to be developed within five years. It provides for a 25-year agreement renewable for another 25 years;
- *DENR DAO 4 of 1991.* Provided Certificate of Stewardship Contract/Certificate of Community Forest Stewardship: a contract between individual forest occupant or forest community, association or cooperative and the government allowing the former the right to peaceful occupation possession and sustainable management over a designated portion of forest land for a period of 25 years, renewable for another 25 years conditioned upon environmental protection of the area in the stewardship agreement;
- *DENR DAO 42 of 1991.* Provides for Industrial Forest Plantation Management Agreement (IFMA) between DENR and a qualified person, to occupy and possess, with specified rental, any forest land of the public domain in order to establish an industrial forest plantation (IFP). IFP refers to any tract of forestland and other private and public lands planted to timber-producing species including rubber and non-timber species such as bamboo for forest-based industries as well as for export; and,
- *NIPAS Act or RA 7586 as amended by ENIPAS or RA 11038.* Provides for biological diversity conservation and Protected Area management with at least three key provisions on indigenous peoples including: 1) Section 2 on Declaration of Policies where the "system shall recognize conservation areas and management regimes being implemented by indigenous peoples; 2) Section 9 on Management Plan where management of Protected Areas "shall be harmonized with the Ancestral Domain Sustainable Development and Protection Plan;" and, 3) Section 13 on Ancestral Domains and Customary rights where "**territories and areas occupied and conserved** (emphasis ours) for and by indigenous peoples shall be recognized, respected, developed, and promoted."

Ramos Government: Under a Social Reform Agenda

- *Executive Order No. 263, Series of 1995.* Mandated community-based resource management as the national strategy for managing forests. Section 2 of E.O 263 states, "It is the policy of the State to: a) protect and advance the right of the Filipino people to a healthful environment; b) improve their socio-economic condition through the promotion of social justice, equitable access to and sustainable development of forest land resources; and, c) respect the rights of the indigenous peoples to their ancestral domain by taking into account their customs, traditions, and beliefs in the formulation of laws and policies.

- *Executive Order No. 247, Series of 1995.* On bioprospecting, it lays down rules that indigenous and local communities must first give their prior, informed consent before any outsider can enter and obtain resources from their respective localities;
- *DENR DAO No. 23 of 1993.* Provides for the Forest Lease Management Agreement (FLMA) between DENR and a private person called Forest Land Manager (FLM) granting the later exclusive privilege to occupy, develop and manage the land for a period of 25 years renewable for another 25 years;
- *DENR DAO No. 22 of 1993.* Provides for Community Forest Management Agreement between DENR and organized community granting the later natural resources utilization privileges and responsibilities to protect, conserve and rehabilitate natural resources;
- *DENR Administrative No. 2 (DAO 2) of 1993.* Created a Special Task Force for the identification and delineation of ancestral lands claims in the Cordillera Region that issued Certificate of Ancestral Domain Claims (CADC) and Certificate of Ancestral Land Claims (CALC's), now Certificate of Ancestral Domain Titles (CADTs) and Certificate of Ancestral Land Titles (CALTs) under IPRA.
- *IPRA or RA or 8371.* An Act recognizing the rights of indigenous peoples to their ancestral lands and domains. It carries the concept of Native Title taken from the 1909 case of *Carino vs. Insular Government* where the U.S Supreme Court, then having jurisdiction over all courts in the Philippines debunked the concept of *Jura Regalia* or *Regalian Doctrine*, and declared:

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

Arroyo Government: Under a Strong Republic

- *Executive Order 318, Series of 2004.* Promoting Sustainable Forest Management prohibiting logging of forest resources in old-growth forests including areas covered by NIPAS to ensure the perpetual existence of all native plants and animals.
 - a. Community-based Forest Management (CBFM) shall be the primary strategy in forest conservation;
 - b. CBFM shall be a collaborative undertaking of the national government, LGUs, local peoples, civil society organizations, and private business entities; and,
 - c. Local cultures, values, traditions, religious beliefs, and the rights of indigenous peoples to their ancestral lands and domains as promoted by existing legislation shall be recognized and respected in all forestry undertakings of the State and private sector.

- *Republic Act 9147 or the Wildlife Resources Conservation and Protection Act.* Section 2 (a) states, "It shall be the policy of the State to conserve the country's wildlife resources and their habitats for sustainability. In the pursuit of this policy, this Act shall have the following objectives: a) to conserve and protect wildlife species and their habitats to promote ecological balance; and, b) enhance biological diversity. □

Points to Ponder

- ⇒ What have you learned from knowing the chronological history of forest laws in the country? Please expound.
- ⇒ What do you think are the differences between State and non-State/IP concepts, regulations, on natural resources like forests? Please explain your response.
- ⇒ Do you have any lessons learned from this material?

This learning material was prepared by Giovanni Reyes for the project “Recognizing the Indigenous Communities behind the Conservation of Nature: A Project Pursuing the Full and Effective Participation of Indigenous Communities in the Implementation of the Expanded National Integrated Protected Areas System” Jointly implemented by ANGOC, Bukluran, and PAFID, this initiative is supported through the Sudden Opportunity Grant Facility of VOICE, an initiative by the Netherlands Ministry of Foreign Affairs executed in a consortium between OXFAM Novib, and Hivos.

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The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in promoting food sovereignty, land rights and agrarian reform, sustainable agriculture, participatory governance, and rural development. ANGOC member networks and partners work in 10 Asian countries together with some 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

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The formation of Bukluran Para sa Pangangalaga ng Kalikasan ng Pilipinas (BUKLURAN, Inc.) or the Philippine Indigenous Peoples Community Conserved Territories and Areas Consortium (Philippine ICCA Consortium) is a nationwide network of community membership-based indigenous people's organizations (IPOs) of all ethnographic types. It is premised on bringing together indigenous peoples who assert and utilize traditional governance to protect community-conserved areas. Common to its members is the shared view that indigenous peoples' survival depends on the protection of valuable knowledge systems and the ancestral lands on which we thrive and persist. Our community-conserved areas can become the ultimate driving force in the conservation of biodiversity when our rights to our land and resources are respected and recognized.

Our main purpose is to carry out and realize the full recognition and respect for the rights, governance and self-management of our ancestral lands.

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Philippine Association for Intercultural Development, Inc. (PAFID) is a social development organization which has been assisting Philippine indigenous communities to secure or recover traditional lands and waters since 1967. It forms institutional partnerships with indigenous communities to secure legal ownership over ancestral domains and to shape government policy over indigenous peoples' issues. PAFID works exclusively with the indigenous peoples' sector, specifically upon written or signed requests for assistance from indigenous communities or their representatives. PAFID envisions indigenous communities as responsible stewards of their resources.

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