

**SELECTIVE PRIVATIZATION OF FOREST LANDS
THE PHILIPPINES: AN ALTERNATIVE APPROACH TO
FOREST DEVELOPMENT***

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INTRODUCTION

The forest resources in the Philippines are diminishing at a very fast rate. This has been attributed to destructive logging on the part of the logging companies and slash and burn farming practiced by the uplanders and kaingineros.

The traditional policy of state ownership of the country's forest lands implies that the government should assume a dominant role in the conservation, protection and development of forest resources. The burden of the over all management of forest resources is placed on the government's shoulder, being the owner of forest lands.

With the seemingly unstoppable fast rate of forest denudation, it may be said that the present forest management policies and strategies are ineffective. There seems to be a need to explore other approaches in order to solve the present forest management problems.

One possible alternative to consider is the privatization of forest lands on a selective basis. In this case, selected forest lands in the country may be disposed by the government for private ownership to logging companies, forest dwellers, tribal groups and rural communities.

It is the objective of this paper to discuss some realities whereby privatization of forest lands on a selective basis would be appropriate along the principles of productivity, sustainability, social equity and ecological stability.

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HISTORICAL BACKGROUND OF LAND OWNERSHIP IN THE PHILIPPINES

Historically, state ownership of forest lands in the Philippines finds its roots in the “Regalian Doctrine” which stipulated that all lands in the whole archipelago were owned by the Spanish Crown unless the King of Spain granted ownership to individuals or groups.

The Americans were also quick to use the “Regalian Doctrine” to justify their claims of ownership to over 90 percent of the Philippines land mass during their occupation in the country. Unless proper documents from the previous colonist (Spain) were presented, the Americans insisted that the lands were public.

The 1935, 1973, and the 1987 Constitutions were also dominated by the concept and principles of the “Regalian Doctrine.” The Forestry Reform Code of the Philippines (Presidential Decree No. 705) provides that all lands of public domain including waters, minerals, coal, petroleum and other minerals, all potential sources of energy, fisheries, wildlife and other natural resources belong to the state. The Decree guarantees that the government is the biggest land owner in the country.

Natural resources can be explored, developed or utilized only through license, concession or lease. Article 14 of PD 705 further stipulates that no land of public domain 18% in slope or over shall be classified as alienable and disposable (A and D) lands. Only agricultural lands, industrial or commercial, residential and resettlement land of public domain may be alienated.

Under the national laws and policies on land rights, most uplanders are virtually deprived of their rights to own land. An estimated 8 million Filipinos who have occupied and possessed lands for more than 30 years are indiscriminately labeled as squatters (Lynch, 1987).

CONSEQUENCES OF STATE OWNERSHIP OF FOREST LANDS

There are many untoward consequences brought about by the policy of state ownership of state ownership of forest lands. These may be discussed as follows:

Technical and Political Consequences

Aguilar (1982) stressed that most forest dwellers/uplanders who have stayed in the forest for several generations feel that they own the land, however, national policies claim otherwise. This situation has led to indiscriminate exploitation of forest resources. The uplands became the state of competing complaints over resources between the small land claimants, migrants and indigenous tribes, on one hand, and the corporate structures defended by mining, logging, pasture and other business activities, on the other (Lynch, 1982).

It is said that public ownership presumes that resources will be managed for public interest, but if public interest is not clear, the individuals and groups try to get it to conform with their own interest such as those logging concessionaires who bribe foresters to hide their rampant illegal logging activities on forest lands. Government officials and moneyed/influential politicians enter into the picture, and the result is gross violation of forest laws and regulations to the detriment of the innocent public.

Socio-Cultural Consequences

As mentioned earlier, there are about 8 million Filipinos who have occupied and possessed lands of public domain for more than 30 years. More than 65 percent of these are tribal Filipinos composed on non-Christians and other cultural minorities (Lynch, 1982). They are actually environmentally astute practitioners of swidden farming and, are therefore, agents of forest conservation.

The increasing corporate activity both domestic and foreign, and the upland migratory waves of the westernized Filipinos ensure that those tribal groups will continue to be shifting from one place to the other within the public forest because their ancestral lands have been stolen from them.

Indigenous societies traditionally believed that they cannot survive unless they live in their ancestral lands. However, as a consequence of national policies, they are often considered as squatters in their own territories. The indigenous tribes consider themselves as guardians of the natural environment. They too have legal claims over the lands they occupy by virtues of their long stay and spiritual attachment as part of their whole being.

Enroachment into ancestral lands resulted not only in the loss of traditional means of livelihood of tribal people but also of their culture and identity. A growing number of them are becoming laborers and are subjected to adverse working conditions. Displaced families have been forced to explore higher elevations to survive. Those who were resettled were exposed to poorer living conditions, poor soils, inadequate facilities, lack of livelihood opportunities and suffered from the inadequacy or absence of follow-up programs (Mariano, et.al. 1987).

The Bontocs in the context of existing national laws and policies, cannot own their lands because the slope is more than 18 percent, and therefore, are public forest lands. In real sense, the Bontoc people, following their traditional ownership patterns and resource use have shown that they can utilize and effectively protect the forest while at the same time practicing indigenous soil and water conservation strategies.

Ecological and Economic consequences

Deforestation through destructive logging and erroneous upland cultivation has resulted to tremendous disturbance of the fragile forest ecosystem, erosion of soil, degradation of soil fertility, and consequently, lowering of agricultural production (FAO, undated)

Degraded watersheds with their lowered water-retention capacity caused serious damaged to irrigation schemes and hence, food production in the lowlands become low; siltation of rivers caused flooding with destruction of crops, houses, roads, and the loss of animal and human lives (Palin, 1980; FAO, undated).

THE ISSUE OF SELECTIVE PRIVATIZATION OF FOREST LANDS

The Selective Privatization concept may be simply viewed as granting, for private ownership, selected portions of forest lands/uplands to private individuals or groups or logging companies who have been occupying such lands for a period of at least 20 years. Qualified to own forest lands include tribal Filipinos, cultural minorities, kaingineros, forest communities and logging companies. Privatized forest lands, however, should only be managed for forestry and agroforestry purposes.

According to Seastone (1972), a foremost substantive issue involves the question of disposal of public lands that might be more effectively and efficiently managed and protected by private ownership scheme. While there is a general acceptance of public ownership, it should not be used to conceal situations/realities by which existing public forest lands might logically be in private hands. There are various situations in the Philippines that may justify the disposal of some public forest lands for private ownership scheme. These situations may be presented and discussed as follows:

Urgency of Forest Protection and Rehabilitation

It is a fact that private ownership possesses the logic of protection and conservation, which are vital components of Forest Management. In essence, the incentives inherent in the private property system compel the owner to protect his land and the trees he planted. The system mobilizes the owner as an effective agent of forest protection and conservation (Thomson, 1979).

Recent study conducted by Tomboc (1987), reveals that one of the factors that contribute to the failure of selective Logging System in dipterocarp forest in the Philippines is the laxity in the implementation of forest protection and rehabilitation programs by the logging companies. It may be said that this problem could have been avoided if they had the security of tenure on the forest lands they are occupying. Security of tenure may encourage the occupants to invest on long-term activities such as protection and reforestation.

Under the present system, it seems that the burden of forest protection including forest renewal and rehabilitation are placed in the hands of the government particularly the Forest management bureau (FMB). Under the proposed privatization scheme, forest protection and renew would be the inherent responsibility of the forest owners with little burden on the part of the FMB.

Reforestation or any forest/upland development program in which the basic idea is to encourage the participants/uplanders to plant trees have been widely implemented, but these are increasingly seen as futile. The dilemma such programs face is that, from the legal and policy standpoint, the uplanders/forest dwellers are viewed as enroachers/squatters on government lands. The people think that they have no security of tenure over the lands and know they can be asked to leave at any time. Hence, they have no incentive for long-range investment in planting and tending the trees and in improving the area, which will not become profitable for several years unless they are sure they will be allowed to stay to reap the benefits.

The fact that they do not own the land discourages them to implement long-term forest conservation measures. Based on the study conducted by Cardenas (1986) on the Acceptability of ISFP Policies to Upland farmers, the tenure of 25 years and renewable for another 25 years is even doubted by the participants. If ownership is perceived to be in secured, no farmer/forest manager will willingly make long term improvements necessary for sustainable agroforestry/forest production As Weinstock (1984) puts it, "Who in any culture, would be willing to plant and care for a tree whose fruits will be given for the benefit of another?"

Population Pressure and Shrinking Agricultural Production

According to Harkin (1972), the most talked about force of change in land ownership form public to private is increase in population. In the Philippines, it is a well-accepted fact that population both in the uplands and lowlands is rapidly expanding. Population explosion coupled with low production make the forest lands as target of attack both spatially and economically.

The growing population demands for more space and food for survival. Agricultural productivity is diminishing as a consequence of forest destruction. The ailing economy also puts forest resources to intensive exploitation and use in order to generate more funds to finance the programs and projects designed to help the people. Such illustration would necessitate the conservation of some forest lands/uplands into viable agroforestry production units.

Reclassification of public forest lands will be necessary in order to identify areas that can be managed under sustainable agroforestry system. Conceptually, there would be no reason why certain public forest lands could not be disposed off for private ownership.

Urgency of Protecting the Rights Of Tribal Filipinos

Various laws, decrees, and Administrative Orders were designed to protect the rights and interests of the tribal Filipinos, however, evidence shows that these have been inadequate.

Presidential Decree 1414 signed by President Marcos on June 9, 1979 gave private rights to minority groups regardless of how long they have occupied the forest lands. However, the amendment made on the "Revised Forestry Reform Code of the Philippines" (PD 1559), placed

the minorities on a disadvantaged position instead of benefiting them. According to the decree, “kaingineros, squatters, cultural minorities and other forest occupants of public forests/unclassified public lands shall, whenever the best land use of the area so demands, be ejected and relocated to the nearest accessible government resettlement area.” The amendment only serves to legitimize evictions of minorities from their ancestral lands (Mariano, et.al., 1987).

An immediate recognition of indigenous land ownership by the national government would mitigate the fear and suspicion the tribal people in the public forest lands often have towards forest development programs. It would assure them that ancestral lands would not be taken away abruptly. This, in turn, will likely nurture the respect by the tribal people in indigenous societies towards development programs designed to enhance forest conservation and promote ecological stability.

UNCERTAINTIES OF PRIVATIZATION

Clawson (1977) pointed out that private system of ownership of forest lands would cause some technical and environmental problems. He said that the very essence of private property is the right to exclude others so that the owner may enjoy his property as he chooses. He further stressed. He further stressed, “How in fairness and justice can a society prevent a private owner from using his land as he sees fit?”

In general, the owner does things that produce benefits for him in the short run and avoids those actions, which impose cost and other unpleasant effects on him. He is not usually interested in producing benefits for other people unless he can sell them. He has the opportunity to take choices, which will yield him the largest revenue.

It can be argued, however, that unsound actions by the landowners may be checked through local social controls. Social controls through the formulation of local policies could restrain owners from using their lands as they would. Such controls to be effective should be able to restrain the subjects, otherwise these are useless.

The following questions should be considered relative to the issue of privatization of forest lands/uplands (Oliva, et.al., 1985):

1. How much forest land (in hectares) shall be given to the prospective owners?
2. In the case of ancestral lands, what would be the procedures for fair, honest and rapid evaluation of land rights? How could we prove occupancy since time immemorial? And how could we identify ancestral land boundaries?
3. What sites within the forest would be suitable for private ownership and what crops to be grown?
4. Are there available appropriate production technologies to be used, and are these technologies socially acceptable?
5. How could the government regulate the unsound activities of owners of forest lands?
6. Will the profit motivation on the part of the owners be outweighed by the forest conservation motivation of the government or vice versa?

STRATEGIES TO BACK-UP THE PRIVATIZATION POLICY

To make the privatization policy workable, the following strategies may be considered:

Reclassification of Forest Lands

This should be carried out to determine the suitable areas for privatization. A holistic approach in forest classification should be used. There should be thorough evaluation of all factors (bio-physical and socio-cultural) before arriving at any land use decisions.

The DENR should organize a composite team consisting of members with different field of specialization to perform the classification work. The team shall also conduct continuous monitoring and evaluation of the activities done in the privatized lands. In this case, problems could be properly identified and appropriate solutions could be developed to ensure success.

Interagency Cooperation

There should be harmonious coordination among the different organizations/institutions for the implementation of the program. Department of Environment and Natural resources Office, and Department of Agrarian Reform, for example, should coordinate in the issuance of the Certificates of Land Titles to qualified beneficiaries of the program.

Financial Assistance

To encourage land owners to make long-term investments in their lands, the government should extend low interest loans.

Technical Assistance

Appropriate technologies of production should be properly introduced to the forest occupants/owners especially to small families. Government technicians shall assist in the preparation of plans and other technical services to program beneficiaries.

Immediate Privatization of Tribal Lands

This strategy would encourage participation and cooperation of poor upland owners. This would put to an end the wrong perceptions of tribal groups toward government development programs.

Provision of Support Services

Infrastructures such as roads, bridges, markets, health services and other facilities should be provided.

CONCLUSION AND RECOMMENDATIONS

The foregoing discussions indicate that the system of private ownership in selected forestlands has some potential to contribute to the overall forest development efforts. It appears that there are realities in the Philippines that would justify the privatization of forest lands as one of the approaches for forest management.

However, there is a need to conduct pilot programs on privatization in selected uplands/forest lands to thoroughly evaluate its effectiveness and properly identify some loopholes before its adoption on a wide scale basis is carried out.

A viable scheme in operationalizing the program should be designed in order to assure its implementation to conform with the concepts of social equity, social justice, sustainability/productivity as well as economic efficiency.

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