

## ***Contesting Land and Identity In The Periphery: The Moro Indigenous People of Southern Philippines***\*

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### **INTRODUCTION**

Over the past decades, the resurgence of intergroup conflict in the Philippines has led to a significant current in the direction of ethnicity and identity in the study of land tenure problems where the post-colonial state is involved, particularly in land use and resource allocation among indigenous communities. In the Philippine contemporary tenure situation, it is necessary to look at other categories or identities to understand how social unrest has been catalyzed in other areas of the country, as state action and politics in the center are also presently being shaped, more than ever before, by the demands of ethnicity or indigenous voices at the fringe or periphery. This course leads to approaching conflicts as rooted to the land question triggered by the issue of equitable access to land and resources or rights to a territory that contesting groups view should be acquired or reclaimed not solely on the basis of economic rights to private property in the Western liberal sense, or from a more progressive standpoint of redistributive (“land to the tiller”) reform, but as a determinant of the survival of a community and their culture, the basis of their identity as a people.

The study proceeds from the perspective that views land as “tied up with the very ethnicity of indigenous peoples, inasmuch as their distinct cultures have developed in interaction with and in adaptation to specific environments” (Cariño, 1994: 5). Within this frame, present discourse on land from other indigenous movements in the Philippines emphasize the basic prerogative of self-determination or the collective mandate of a people to community and culture at the core of which is – their ancestral land, the “homeland” or nation, the *bangsa* (Asani, 1980:233). Although articulated within local struggles (i.e., as expressions coming from the Igorots of Northern Philippines and the Moro peoples of Mindanao), these views are concurrent to the growth of an “indigenous global consciousness” in which numerous land rights movements all over the world are diversely engaged in asserting indigenous rights to self-

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determination as stemming from indigenous peoples' status as nations or distinct peoples and their aspirations for political autonomy, governance or sovereignty over their traditional lands (see for example, *The Manila Declaration of the International Conference on Conflict Resolution, Peacebuilding, Sustainable Development and Indigenous Peoples, December 6-8, 2000*. The conference, held in Metromanila, was attended by 90 indigenous leaders representing various indigenous movements from all over the world). Drawing on recent geopolitical thought, Gibson (1999: 53) writes that this sovereignty

extends out of elementary relationships between indigenous people and territory-an indigenous strategic "essentialism" that transcends Western metaphysical and epistemological categories and their libertarian-political and capitalist-economic translations (cf. Carleton, 1994; Goldberg. 1993). For many groups in colonized nation-states...these sovereign attachments to land are expressed in ways that build upon pre-colonial (and pre-capitalist) traditions – "self-determination is then in part a translation of these indigenous spatialities (Levine and Henare, 1995). Its "worlds of meaning" are delineated by assertions of cultural distinctness, and survival as "peoples" who share different ways of thinking and acting, of conceiving social change, or organising economies and societies, of living and healing" (Escobar, 1995:75).

Earlier discourse on the Southern Philippine question has expounded considerably on the Moro people's struggle for self-determination particularly in terms of warfare and anti-colonialism. Other contemporary analyses have dealt with the identity issue on the level of the traditional "cultural community" in opposition to the majority and dominant Christianized Filipino communities, and the influence of transcultural forces, particularly religious (Islamic) movements in Moroland. In addition to existing approaches which are valuable, *Bangsamoro* self-determination still needs to be framed within the context of state-periphery relations, given the continuing compression of Moro communities by the forces of state and capital. The history of Philippine indigenous peoples is punctuated by various forms of struggles, with the outright colonialism of foreign powers fiercely opposed, especially in the Moro sultanates which remained unconquered by Spanish rule until the arrival of the Americans' more modern military "Moro campaigns". However, other forms of expansionism in the post-colonial formation, inflicted by local or domestic powers have been the most difficult to counter. Given the limitations of a work still in progress, this paper attempts to look into one aspect of this systematic takeover by documenting some instances that led to the erosion of Moro traditional land and resource tenure systems and changes in their indigenous notions- their own sense of "place and space".

### **Mindanao and the Moro Struggle**

The setting of this study is Mindanao, the southern island-region with a significant history of interethnic relations with the Christianized North-Filipino migrant settlers, encouraged by state policy, emerging to dominate the political and economic activities in a region originally occupied by the indigenous (Islamized) Moros<sup>1</sup> and the *Lumads*, the non-Moro natives. Part of the heterogeneity of this island-region, is the persistence of pre-colonial land and natural resource tenure patterns, practiced by these indigenous peoples in their

remaining ancestral domains which also possess much of the country's store of exploitable natural resource systems. The paper will thus attempt to briefly delve on the normative elaborations of how the Moro rights to land and resources are created and maintained drawing on earlier studies and recent fieldwork data, as well as look into how these practices which earlier allowed access to ancestral domains were nullified in Moro communities with the post-colonial Philippine state (with its panoply of legal and administrative mechanisms) claiming dominance over Moro *adat*<sup>2</sup> (customary law) on land and resource use. We then attempt to examine how these hegemonies are presently resisted and negotiated by the Moro people's collective actions which are invariably linked with the movement for Moro autonomy and identity (to which state policy responses still remain inadequate and ambivalent). Supplemented by empirical data from a case study of the lakeshore *Maranao* Moros, we also show how these "outside" forces transforming Moro tenure systems are countered in the actual life situations and social relations in the community resulting in an amalgam of various practices governing land and resource use encompassing both *adat* and Islamic precepts, as well as an eventual adoption of new state-advocated land-related laws and institutions resulting from their collective decision to adopt new practices in observance of their right to self-determination.

Peripherized though Moroland may be today, the Moros' self-determination struggle which has come to occupy a critical position in the national political arena, is deeply rooted in colonial times in the bitter wars they fought against the Spanish colonialists under whom they remained unconquered and their fierce resistance to American rule, as well as their claim to more developed social organizations and communities (of flourishing sultanates) compared to the peoples of Northern Philippines in pre-colonial times. Still, the reassertion of their right to self-determination today in tandem with the formation of Moro people's organizations and protest movements has come to define the struggle not only in terms of land rights and recognition of prior ownership or use of ancestral domain and respect for Bangsamoro identity, but their strategies and efforts summon a re-examination of previous agreements on autonomy and governance, regional representative political structures, including the process of formulating and implementing them (see for example, BANGSAMORO CIVIL SOCIETY CONFERENCE, 2001). The extensive dispossession of the Moros and Lumads from their ancestral domains by state expansion projects and state-centered land and resource policies particularly for Mindanao has stimulated this expanded awareness and the search for other arenas in which the Moros can collectively and individually exert influence and assert their traditional rights to land and resources.

### **State Policy In History and Impact On the Moros**

The question of land in relation to the recognition of customary tenure systems is traced back to colonial land law, an understanding of which further adds light on the issue of ancestral land rights as it obtains in Moroland. Towards the end of the 20<sup>th</sup> century, the Spanish colonial administration laid down the framework for the existing state policy contradicting traditional resource rights, in the Royal Decree of 1894 or the Maura Law, which arrogated

to the state the power to deny legal recognition of customary property rights. This perspective finds resonance in national land laws and development programs implemented under successive state administrations, resulting in a history of dispossession of indigenous peoples of their lands. In the words of Lynch, the *“Maura Law provided the legal basis by which the U.S. colonial regime denied any effective recognition of ancestral property rights. More significantly, the philosophy behind the Maura Law provided the legal foundation for the prevailing twentieth-century version of the Regalian Doctrine”* (Lynch, 1988: 108; also cited in Gatmaytan, D., 1992: 45-46.). The legal myth of the Regalian doctrine dating back to the beginning of Spanish occupation, is based on the belief that by virtue of conquest, the entire Philippine islands belong to the Spanish crown barring the claiming or acquisition of private property rights to land by the inhabitants through a documentary grant from the Crown. With the intention of promoting commercial agricultural production, the Spanish government issued an earlier law, the Royal Decree of 1880 requiring landholders to secure formal titles; followed by the decree of 1894 which thus forfeited to the state all lands and real properties previously unregistered (Hayami, 1990:37-38; Royo, 1988). The policy, though, was not extensively applied during the Spanish regime since not all of the islands were successfully brought under the political jurisdiction of the colonial government (Royo, 1988). Spain’s failure to subdue the Moro Muslim sultanates (see Majul, 1974) meant that the Mindanao and Sulu territories were spared from the land laws imposed by the Spanish governing authorities on the conquered and converted (Christianized) inhabitants of Luzon and the Visayas. Use and control of the indigenous inhabitants of their ancestral domains, however, would be voided with the signing of the Treaty of Paris in 1898 at the close of Spanish rule which declared all lands vested in the Spanish crown to become the property of the United States (Agoncillo, 1990: 212). The unfinished task of subjugating the Moro territories would be accomplished by the American colonizers’ severe military campaigns and more superior weaponry, reinforced by a “policy of attraction” which facilitated the establishment of a civilian government (Gowing, 1977:36-41). Under the new colonial administration thus, the Regalian doctrine found place in the state legal system as the basis of all public land laws imposed on the Filipinos. The Organic Act of 1902 of the US Congress granted the American colonial government in the Philippines the authority for various laws to be formulated in administering the extensive public lands. Among the series of land legislation, are the Land Registration Act of 1902 which required the acquisition of a “Torrens Title”, the Public Land Act of 1905 which declared all previously unregistered lands as public lands under the administration of the state, and the Cadastral Act passed in 1913 to make all surveys compulsory to all landowners (Pelzer, 1948: 104-105). These laws thus enabled the operation of new conceptions of resource use and land ownership opposed to indigenous land tenure arrangements. In 1909, the Regalian doctrine was contested in a landmark case in favor of an Ibaloy chieftain (“Carino vs. Insular Government”) in which the US Supreme Court ruled that when Philippine land has been occupied “since time immemorial”, it is presumed “never to have been public land” (Lynch, 1982). Under the succeeding Filipino governments, ownership or access rights of land occupants “since time immemorial” (though legally protected by the guarantees of due process and just compensation enshrined in the state Constitution) continued to be disregarded. However, it needs be noted that the

American Governor-Generals and their colonial subalterns in the Philippines ignored the US High Court's decision and instead, perpetrated the myth of the Regalian Doctrine. During the Commonwealth period thus, 'although there was a growing rhetorical commitment to land reform...little actual redistribution of land occurred, and tenancy actually worsened under American rule' (Owen, cited in Lynch, 1982: 20). (Further, the doctrine which has been carried over up to the present Constitution, provided the basis for the Philippine state to declare lands of the "public domain" as inalienable and indisposable and to classify vast tracts of land as forest or timber, mineral, watershed, national park, town site, military reservation and other such reserves for public use. Only those decreed as agricultural lands may be alienated [1987 Constitution, art. XII, sec. 2]. Maranao Moro lands and resources in Lanao territory have suffered miserably from this state policy [see *Our Lake for Others?*, MSPC Communications, 1978]. Aware of the lobby in the US government for much bigger landholdings in Mindanao (beyond the amounts allowed for American business in the earlier public land acts), the Commonwealth government undertook a vigorous "Filipinization" policy of indentured migration to the south, following the contours of how the western frontier in the United States was won (Magdalena, 1998).

The new property regime in Mindanao thus became an opportunity for the colonized north-Filipino elites to own or lease substantial landholdings as well as a chance for the "legal" or systematic landgrabbing of traditional lands. The long-drawn-out Moro rebellion in the region can be traced back to the "regime of homestead" especially in the 1950's when the Magsaysay administration transferred land-seeking north-Filipinos and peasant rebel ("Hukbalahap") members to Mindanao where they were settled as homestead patent owners by virtue of the public land laws based on the Regalian doctrine, to quell the agrarian unrest in Luzon. But the uprising in the north was then "transferred" to the south when the homestead patents of settlers and the land use holdings of business corporations encroached on the ancestral lands of the Moros and Lumads (non-Muslim indigenous tribes of Mindanao). The land conflict based on ethnic claims had worsened, following the American colonial administration's requirement of a legal land titling system, to the more violent land disputes in the later decades between those who had traditionally occupied the land without legal documents and those who were able to acquire land titles or stake land declarations on the basis of state cadastral surveys or tax declarations (Pelzer, 1948). Several landgrabbers and speculators exploited the fact that the then Bureau of Lands "based priority of claim upon priority of filing instead of priority of occupancy" (Mastura, in Lynch, 1982:35; see also Pelzer, 1948: 142; Pendatun, 1933). Many Moros, especially the Maguindanaos, who took the cadastral survey as a device of imposing taxes upon them, simply abandoned their lands and moved to other areas which had not yet been surveyed or classified as public lands. Others sold their lands away to settlers for ridiculously small payments, and realizing only much later the value of the property they had lost, felt they had been cheated on land which was rightfully theirs (Stewart, 1988: 116). Land disputes arising from conflicting claims based on opposing conceptions of tenure systems would endure as a major irritant in relations among Moros, tribals and Christian Filipino settlers. Beyond shoving the Moros into the interior where most of their communities are found today, the policy of

induced migration resulted in the Christian settlers achieving a numerical minority in provinces where Moros earlier predominated. Areas in which non-Moro settlers came to predominate consequently saw the shift of political power from the Moro people to the Christian migrants culminating in the division of some provinces which were part of the old Moro province and the creation of new political units. Conflicts that swelled during the 1970s and the state's assimilative policies with respect to the Moros and other "ethnic minorities" eventually contributed to the formation of the Moro secessionist movement clamoring for an independent Islamic state under the urging of the Moro National Liberation Front (Bucoy, 1987). But riding on the Moro secessionist issue, just as it did on the "communist" threat, the Marcos government justified the declaration of martial law. Fast forward to the Martial Law regime under Marcos, several Presidential Decrees (P.D.s) were passed which were apparently directed at areas occupied by ethnic communities. A number of these P.D.s facilitated the setting up of big infrastructure projects such as hydroelectric plants and other energy projects, making Mindanao a catch basin for development programs in answer to the Mindanao problem. The question is, in the manner these policies were carried out, this was perceived as benefiting the "outsiders" than the communities in whose lands the development projects were built. The Marcos government tried in vain to contain the growing Moro nationalism by promising autonomy, as the MNLF later succeeded in forging an accord with the Philippine government known as the Tripoli Agreement which allowed for Moro or Muslim autonomy within the "integrity of the Philippine Republic." The agreement stipulated the area of autonomy to embrace 13 out of the 23 provinces in Mindanao, Sulu and Palawan. However, the agreement remained unimplemented until the death of Marcos and the ascension of Cory Aquino, as an aftermath of the 1986 EDSA Uprising. Before the 13 provinces became part of the proposed territory for Moro autonomy, the government conducted a Mindanao plebiscite which resulted in only four provinces with predominantly Moro population opting to be part of Moro autonomy.

Capitalist incursions, aside from state projects, have also harmed Moro local relations of production. The renewed drive to increase exports under the succeeding Ramos and Estrada regimes resulting in the opening of more plantation areas in "Moroland" (for a planned palm oil industry in the Lanao provinces, for instance) and government support for crop conversion for commercial or export production (such as asparagus in South Cotabato) have disturbed Moro ties to ancestral land and the people's relations of reciprocity in the pre-existing tenurial system, as more previously small landholding Moro tillers are increasingly being pushed into the poor peasant and landless farm worker classes (AFRIM, Inc., 1989).

The new land ethos has also caused internal disputes and disparities in land ownership among the members of Moro communities. The documentary regime, which bewildered the Moro Muslims, also disturbed Moro class formations and traditional property concepts. To mention one case, during the first government survey of the 1920's, "a great amount of land in Jolo was directly registered in Sultan Jamal-ul-Kiram's name by persons who had rights of usufruct, not realizing that the distinction between ultimate titular ownership and ownership of

rights of usufruct (among the Tausug Moros ) was not normally made in Western land law” (Kiefer, 1976). Conversely, in Maguindanao, some *datus* who understood the meaning of the new system did obtain titles to their own lands and those of their clansmen, or title in their own names the lands then occupied by their followers (Stewart, 1988:116) providing the legal bases for today’s Moro landlordism. Other tribals and many lowland Christian peasants and migrant settlers were as well bogged down by the cost of surveys not to mention ignorance of such procedures. Thus, most of the earliest titles granted under the land laws went to large landholdings, a situation which also strengthened the position of some *datus*. But while the new land laws buttressed the position of the local traditional elites as they legalized their land claims, scores of their followers who were less knowledgeable about the new system’s procedures were disfranchised, as they even lagged behind many migrant settlers in taking up disposable and alienable lands. Others who were dispossessed were the mass of Moro *sakop* (followers) and other less fortunate village members who simply defaulted in lodging claims to definite parcels of land either through a trust in customary land laws or unwillingness to even pay the land tax (Beckett, 1982: 403).

Significantly, despite the impact of colonial law altering the shape of traditional land use and tenure systems, the indigenous lifestyles of the Moro people would persist to a still substantive degree to present times. The refusal of many Moros to full integration also reflects a prevalent option for the continuance of the indigenous existence as reflective of an aspiration for self-determination. Along with this is the development of a consciousness of a struggle or movement for the preservation and defense of their “homelands” and an assertion of their claims to prior rights to ancestral lands to which is tied their survival and identity as distinct peoples (as *Bangsa*). While the Moros and Lumads constantly face the threat of displacement and loss of their traditional territories, their history is also, more significantly, interspersed with sites of collective struggle and resistance of which the people hold shared memories in both their collective and day to day assertions of their spaces, boundaries, and identities (see survey data, on Moro perceptions on land use natural resource use covering the 13 Moro indigenous groups in Fianza, 1999 [Appendices]).

#### **Post-martial Law Legislation**

The type of tenure reform advocated by the state in response to Moro protests and demands from other areas occupied by indigenous communities still remains problematic. If the colonial process created the first pressures on customary lands, the range of current issues related to the marginalization of indigenous groups are still rooted to the question of ancestral land in the post-colonial period’s state-building and developmental pressures, and recently the processes of economic globalization (see *The Manila Declaration*, 2000). Moreover, in Mindanao, conflict in perceptions of land or property rights has resulted in the usurpation of traditional lands through an alliance between the state, big business and the military (Tadem, cited in Gatmaytan, D, 1992; see

also various documentation in Moro Kurier, 1985-1990 for cases of affected Moro communities.). The overriding question of ancestral land then continues to be a driving force to claims for 'special' land and resource rights through positive legislation that would grant the claimants equal tenure rights with other heretofore dominant economic and social groups, or the demand for separate legal status or autonomy aimed at providing them the appropriate political framework to protect their vested rights over their domains. Whether such responses are aimed at further averting future dispossession or at restoring a previous status of land security or territories lost in the past, these have led to conflicts or strains in inter-group and people-state relations in the Philippine polity, especially as there has been a slow or reluctant process of the state's recognition of customary rights to land and resources.

At the same time, the interaction between indigenous communities who evaded foreign conquest and the colonial majority or more westernized Filipinos continues to be marked oftentimes by discrimination. The prejudice towards indigenous Filipinos and contempt of customary practices built up by centuries of colonial occupation, though now being challenged by both non-state and governmental organizations, nevertheless persists to reinforce state policy ambivalence in the recognition of customary land rights.

Responding to pressure from indigenous communities and supportive civil society groups reaching a high point during the "UN Declaration of 1993 as the International Year of the Indigenous Peoples", the Philippine Congress drafted a number of bills providing for the recognition of ancestral lands and other land tenure rights. These bills, one of which proposed the creation of an Ancestral Domain Commission, were effectively subdued by legislators who had interests in logging, mining, and other extractive industry sectors. Due to persistent and mounting protests however, the Indigenous Peoples Rights Act (IPRA) finally came into being in 1997. Acclaimed by some reform groups and concerned constituents as unprecedented in the state's legislation for social equity and resource sustainability involving the indigenous communities, the (IPRA) law has also drawn reproach from other groups and constituents critical of the process of its enactment and its provisions. For instance, critical groups question the state's sincerity in recognizing indigenous tenure rights, since other laws perceived as ensuring elite and corporate interests such as the National Integrated Protected Areas System Act and the Mining Act were prioritized over the pending bills that intended to protect ancestral land rights. Among the law's provisions seen as biased towards privatization and individualization of land and resources and conceding to big capitalists and landowners, is one that, for example, recognizes "existing vested rights" within ancestral domains (DINTEG, 1998). Thus, the Philippine land and resource tenure scene is also strewn with disputes arising from policy conflicts regarding the determination of land and resource use and the rights of different stakeholder-groups over these uses. Two other important pieces of state legislation relevant to the Moros which supposedly address the the ancestral land question, the Comprehensive Agrarian Reform Law [CARL] of 1988 and the Organic Act for the Autonomous Region of Muslim Mindanao [ARMM] 6734, reflect these contradictions. The equivocal provisions such laws contain allowing conflicting policy interpretations tend to facilitate the erosion,



instead of ensure the land tenure security of customary landowners. The regional Organic Act,, while declaring protection of the ancestral domains of indigenous cultural communities (ICCs) (Sec. 1, Art. XI), nonetheless provides that “titles secured under the Torrens system and rights already vested under...existing laws should be respected” (Sec. 2, Art. XI) (R.A. No. 6734, 1989). The CARL contains a similar provision in defining ancestral lands (which definition, unlike that in O.A. 6734, fails to protect lands lost through *force majeure* or through “forcible usurpation”) which exempts those covered by the Torrens system (Section 9, R.A. 6657 in German, 1992: 6-7). But even if protection of ancestral lands (lost through *force majeure*) seems guaranteed in an exemption the provision allows – “that in the autonomous regions, the respective legislatures may enact their own laws” – alternative agrarian reform laws to be enacted in the autonomous region could not contradict existing state laws (such as Sec. 6 of the 1987 Constitution) nor result in the latter’s amendment. In the Organic Act, a major area of dissension in its enactment is the question of territory or the problem of delineating the scope of the area to constitute the region of autonomy. The issue ultimately stems from the Moro Muslims’ conception of an irrefutable claim to ancestral domain and prior land use rights sanctioned by customary law. Overall thus, present state laws in the Philippines intended to recognize and protect indigenous property regimes and tenurial systems are still inadequate. While some farmer groups have benefited from existing land tenure policies and some agrarian relations were corrected to some extent (such as tenancy arrangements in the rice-producing areas in the Central Luzon region), indigenous communities and poor peasants remain marginalized, even with recent amendments in land reform legislation which continue to be enacted within a framework of property rights based on Western colonial legal traditions. This perspective, which still predominates Philippine state policy on land tenure tend to clash with the traditional tenurial systems observed by indigenous communities and other native tillers in relating with the land and their environment. Moreover, national land policy is also at variance with some Islamic views about property in the Moro areas (Putzel, 1992: 15) beyond the limited application of the Code of Muslim Personal Laws (Presidential Decree 1083) which is part of “the law of the land” and recognizes the Moros’ Islamic laws of inheritance and bequest systems.

A long thread of conflicts arising from the above circumstances, many of which await to be successfully resolved, indicate this present crisis of land use and resource tenure both in the upland and in the lowland Moro rural communities especially where territorial and prior resource rights of their indigenous occupants are rapidly undergoing the stresses of modernization and capitalist development. At the same time, this reality indicates a phase of transition in the Philippine tenure situation in which the interaction or dynamics between existing tenure patterns at variance with each other may later be bridged. More importantly, it can be said that “Moroland” is no longer the “periphery” made dependent on policy-decisions from the center, as the Moro and other Mindanao peoples continue to engage the state and national politics is articulated to the Moro issue. Meanwhile, genuine autonomy and governance for the *Bangsamoro* homeland will remain an aspiration as the government awaits the resumption of peace talks with another Moro group, the Moro Islamic

Liberation Front (MILF) to tackle the unresolved issue of ancestral domain rights (Today, Sept. 21, 2003).

### **Case Study: The Maranao Moros**

The Maranao (from the word *ma'ranao* which literally means people residing near the lake) constitute the largest of thirteen Moro-ethnolinguistic groups in the Philippines. Primarily an agricultural people with rice and corn as their main produce supplemented by freshwater fishing, they are concentrated in the Central Mindanao region around Lake Lanao, the Philippines' second largest inland lake located in Lanao del Sur province. Under the Marcos martial law government, began the construction of the Lake Lanao-Agus River Hydroelectric Complex which aimed at bringing six more dams and facilities to generate the energy supply for the entire Mindanao grid. This huge project taps the powerful flow of the Agus river system that straddles the two provinces of Lanao. Agus I and II were installed in Lanao del Sur and the rest were built in Lanao Norte, except for Agus III which has yet to be installed (for a policy background on the project and more technical details, see Tawagon, 1988: 12-20). Lake Lanao, from which flows the Agus river, has been the symbolic and economic core of the Maranao communities around the lake. As far back as can be remembered that the Maranaos have been a people, *ranao* - the lake - has already existed. It is to Lake Lanao that the Maranaos have bound their identity as a people building their villages, towns and mosques by the lake's shores, cultivating paddy rice on the lake's eastern side (known as *basak* in Maranao folk geography). The richness and variety of the Maranao society's economic base is revealed as one discovers the lake's Western shore having a different ecology and terrain. Called *kalopa'an* (dry land) by the people, here an art and craft tradition (of loom and mat weaving and brassware making) of a sophisticated level developed (Salgado, 1989), complementing farming and other agricultural activities. Through centuries, they have adopted their daily life to the normal fluctuations of the water level of the lake.

The village of Lumbayanague, where field work was conducted, is located in the northwest side of the lake and the biggest of four barangays of Saguian. It is bounded by the town center (Saguian *poblacion*) in the south and the Agus II dam reservoir in the west, and since the *poblacion* is traversed by the national road, Lumbayanague is easily accessible. Saguian town is six kilometers away from Marawi City, the capital town of Lanao del Sur which is populated mostly by Maranaos; it is 30 kilometers away from Iligan city in Lanao del Norte where today Christian settlers have become the majority residents. Barangay Nangka, our other field work site, the neighboring town of Baloi at the border of Lanao Norte, is also easily reached by land transport and is nearer Iligan City. Lanao being outside the typhoon belt, the climate in both upland towns is neither distinctly dry nor wet compared to other regions in the Philippines. Majority of the inhabitants in both villages derive their income from farming with corn as their main product, and root crops such as sweet potato and cassava, and vegetables for selling in the local market and for home use. Upland rice, traditionally their main produce, is now planted only for household consumption. Aside from

cultivating crops, the villagers also raise farm animals like the cow for plowing the fields. Poultry is raised in individual households for home consumption.

Interviews with key informants<sup>4</sup> in the communities of Barangay Nangka, Poblacion Saguiaran and Barangay Lumbayanague concur that these villages from whose lands were contested by the National Power Corporation for the construction of the Agus hydroelectric facilities were part of the four traditional Maranao principalities (equivalent to the sultanates of other Moro ethnic groups) or the four “encampments of the lake” (*pat-a-pangampong a’ ranao*) staked out in earlier times by the Maranaos’ founding ancestors and ancestresses (see Mednick [1965], for a description of the overall indigenous political structure in his noted work on Maranao social organization; cf, Saber, 1968). As an *agama* (“village clan settlement”), barangay Lumbayanague for one, was traditionally the center of the *inged* (Maranao township), founded by Datu Akad, the village’s ancestor, long before Saguiaran was proclaimed a town under the state local government. Because the Americans allowed the Moros to continue practicing some of their indigenous customs and beliefs during their “Moro pacification” campaigns for as long as these did not affect the colonial government’s economic and political interests, the formal structure of the Maranao sultanate has been left intact. Until today, even with the superimposition of Philippine civilian state institutions in the indigenous polity, the system of social and political ranking and positions in the traditional Maranao authority structure has been maintained at least in a ritualistic or symbolic way. The influence still possessed by Maranaos of high traditional rank, although titular, and the status and respect that the community continues to accord them explain why such positions and titles are still much sought after in the Maranao society.

Presumably due to a more developed “semi-feudal” formation wrought by the process of Islamization in pre-colonial times, the Maranaos just like the other major Moro groups subscribed to conceptions of territoriality more defined than those of other indigenous peoples. This structured hierarchy also dictated a more elaborate system of tenurial relations that still flourish in many Maranao communities. Aside from maintaining a communal mosque, a clan settlement or a larger community (an *inged*) laid claim to territory marked by natural boundaries which included both communal property and land eventually subdivided for private use and disposal. (*The subsequent basic descriptions on Maranao land use and tenure are drawn from the significant works of Abdullah, I., 1989; Mednick, 1965; Saber and Tamano, 1961; and the TRICOM research project, 1998; supplemented by this study’s fieldwork data, hereafter referred to as “LF interviews”.*) As with the other Muslim groups, the Maranaos adhere to the concept of land as *pusaka* (heirloom or ancestral property) which then allows one even the rights to uncultivated or seemingly abandoned land (such as a forest) that really is an ancestral property or domain belonging to the old sultanate. *Gapa* or *mianggapa*, which is subdivided land is inherited by a kin group acquired originally through prior right of occupation or use. This may have been originally cleared land and transformed into a habitable or agricultural area such as a ricefield (*gata o lomad*), a swidden farm or residential site (*bangon*) by the original owner (such as the lands opened up by the early settlers Datu Alunan in Nangka, Baloi and Sultan Ambolay of Lumbayanague, Saguiaran

[Lumbayanague (L) interviews]). If one descended from the original owner, he becomes a co-owner of the land by virtue of descent. Such “ownership” concept, (of the “land [remaining] with the kinship groups” linked to the traditional Maranao social structure, explains the fewer instances of tenancy among Maranao Moros in Lanao Norte, compared to the high proportion of tenants among the migrant Christian settlers (Hausherr, 1968-69:111). Claims of descent or lineage (*bangsa*) are determined by two ways; one, by *taritib* or *igma* (“law of the kinsmen”) which specifies the order of succession of descendants of a particular ancestor, and the other, by the *salsila* (genealogy) which traces the traditional ruling families in the *pangampong* (principality) (Abdullah, 1989; cf. TRICOM, 1998). *Gapa* is distinguished from *kakola*, the communal or public lands belonging to the whole *agama* or *pangampong*, owned in common by the inhabitants, such as the vast lands, rivers, lakes, forests, swamps, and the unsettled cogonal areas not otherwise claimed by a specific kinship-group or individual members. Maranao *adat* (customary law) dictates that lands which are inherited (also called *ganat a lokes*, literally, “left by the elders”) are not to be alienated. The reason for this is that lands are collectively owned by the family or related families, the possession – that is, usufruct – of which may revolve around particular members upon prior agreement (Dumarpa, 1984: 47). “Owning” land by the traditional way of occupation and cultivation is also believed to be Islamic and is legitimized with the cultivator’s obligation to pay *zakat* (charity tax) from a portion of the land’s produce. Above all, land is *amanah* (trust) loaned to man only for his use or stewardship for his survival (*Ibid.*: 51). Thus, in the case of land given as reward or gift from the community head, possession of the land does not constitute ownership but a grant of usufruct. Ways of alienation of land in Maranao villages mean then that it is the *use* of the land that is transferred, sold or given as gift. Maranao indigenous land practice also includes the use of natural landmarks to define the territorial claims of the community or to indicate the borders of settlements, and the use of traditional (indefinite) measurements to determine land size. Fruit trees (such as the *durian*, *marang*, mango and banana trees), foliage, big stones, dikes, ditches, creeks and springs, are the most common markers and boundaries (see also, Fianza, 1999). Burial grounds (*dayawan*) are especially important as markers, and the existence of an ancestor’s or ancestress’ tomb (*tampat*) can prove one’s claim to a right to use ancestral land (Buat, 1977). Traditional measurements are largely in terms of *dada*, and *repa* (the foot and fathom).

Many traditional Maranaos also adhere to customary concepts related to tenurial relations in the allocation of land produce and management of the land. These practices are to be understood in the frame of the Maranao social formation and in the context of a co-existing sedentary and shifting or swidden systems of land cultivation. In this context, the *sultans*, *datus*, or clan elders are the administrators of the community’s patrimony, that is, the land and their fruits. Their economic role is in managing the distribution of the share of production in the community, redistributing wealth if the produce is limited, rather than accumulating it. The village heads also personally supervise production on their fields and the distribution of the harvests according to the needs of their *sakop* (followers) and resolve land and other disputes without violence, without recourse to the formal courts administering *adat* or Islamic law. Among the other

“feudal” characteristics of the sultan’s relation with his *sakop* (who may also be vassals or tenants) is that land use payments (in the form of share-cropping, tenancy payments, a portion of produce, tribute or taxes, or labor service) required of his “tenant” tend to be voluntary, variable or indefinite. Thus, one sees a difference between this arrangement and those of share tenants in the Philippine feudal landholding system in which tenancy payments are constant and definite, regardless of the tiller’s productivity. In Saguiaran, it is said that in earlier times, other Moros who came to settle in the village borrowed land from Sultan Ambolay and voluntarily gave him part of their produce as their “lease payment”. This practice though no longer existed in Nangka which today has a higher population of regular share tenants. This is because the traditional settlement of Nangka was interrupted by the American colonial authorities who allocated a big portion of the land as a settlement site for American soldiers. (When the settlement program failed, the American settlers and descendants sold their lands to Maranao and non-Maranao migrant settlers who managed their farms in tenancy arrangements with other landless settlers and migrants.) An established Maranao land custom also found in other Filipino rural communities but which is distinctly Maranao is the system of exchange labor (*kapamagogona* or *kasoda-soda*). In the farm, the whole *agama* membership do not work all together, but only the smaller kinship groups or two families in the same clan engaging in cooperative labor.

The intrusion of a non-Maranao land ownership system in the province since the beginning of American rule following Moroland’s subjugation and integration into the Filipino polity has meant that the pre-existing land tenure system is no longer wholly intact. In the early ‘70s, the National Power Corporation (NPC) sought to expropriate land in Barangay Lumbayanague (in the town of Saguiaran), where an estimated 600 families lived and farmed. As a government agency, the Corporation had the right of *eminent domain*. It said the land was needed for a hydroelectric facility and housing units for their employees. As defined in the Philippine Constitution, eminent domain is the power to take property for public use with just compensation paid to the owner. Early on, concern was expressed in the project’s planning process by academics that change in the river flow effected by the dam system would drastically affect the subsistence base of the more than half-million Maranao population living in the lake basin (Bentley, 1982). Now populated by around 200 families, the present land space occupied by the village is about a third of the original area of 300 hectares, close to 200 hectares of which were forcibly expropriated by the state for the National Power Corporation (NPC), when it expropriated 280 hectares from the Saguiaran land to give way to the construction of the Agus II Hydroelectric Dam complex. (The subsequent discussion on Saguiaran cases also draws substantively from previous documentation of the Dansalan Research Center Research team and Washburn, 1978.)

Maranao right-of-way agents for NPC initially approached some of the residents offering to pay P,90 per square meter for the land. The residents considered this too little. In half of the cases, their refusal to accept this offer was followed by the initiation of court proceedings by NPC. The government, however, had already laid the groundwork for acquisition of the land. In

anticipation of lengthy adjudication, Pres. Marcos issued a Decree stating that the NPC could take over the land needed after a deposit of a fixed sum in the Philippine National Bank and the filing of expropriation proceedings in court. In compliance with the Decree, the Corporation's workers evicted the residents and entered the land, though the Court had not yet ruled and the landowners had yet to receive payment. When the local Court handed down a ruling on the compensation amount, both sides appealed this decision. Further negotiations were undertaken resulting in settlement.

In the other half of the cases, the situation was complicated by the fact that the people resided on and farmed on land which the US government had declared as a military reservation in 1905. With independence, the Philippine government had inherited title to the military reservation and continued to view it as part of the public domain. The area involved was so vast, though, that parts of it had never actually been in active use by the military. Thus, the inhabitants in the area had remained undisturbed, and oblivious to military claims on their land for generations. Many residents of Saguwaran were considered to hold "imperfect title" to the land. By virtue of their continuous possession and exercise of the rights of ownership, they were, in effect, titleholders. They simply lacked the deeds signifying that their land had been surveyed and duly registered with the Bureau of Lands. In these cases, the NPC apparently did not want to take the claimants to court, for to do so would legitimize their land claims, hence they sought to settle the matter through out-of-court negotiations.

In the adjudication process for claimants to be compensated, another complication was triggered. Numerous claims, interventions and counter-claims were filed to determine who in fact "owned" the land being expropriated and what its exact size was. Heirs to adjacent property – like brothers and sisters – could not agree on the exact division of their farms. Some discovered that title to their land had already been issued to relatives more accustomed to the "modern" system. Also, and more to be noted, was that land speculation, involving the purchase of large tracts of land by Maranaos with prior access to the NPC's construction plans, was discovered. Majority of these cases were settled out of court or through mediation by the traditional Maranao leaders (the *sultans* and *datus*) to whom land disputes, like marriage and divorce cases, are an area in which they still exercised considerable authority.

As to the cases of those who occupied land on the military reservation, these were never brought to the Court unlike the expropriation of the private land portion. Slightly more than half of the affected farmers accepted the offer of the right-of-way agents in behalf of NPC, but the rest did not. The 30 families who did not accept the offer petitioned the President for just compensation, arguing that their ancestral claims to the land gave them effective ownership and thus the right to receive just compensation. Later, the complainants were informed of NPC's acceptance of the proposal made by an ad hoc group of local officials who claimed to speak for the affected residents. This precluded further negotiations and the farmers were told to direct further questions to the regional military commander. (In addition, a number of the protesting farmers were said to be taken into military custody and pressured into signing acceptance affidavits of

the offer.) The residents' lawyers also persuaded them to accept the offer (P1.50 per sq. m. including any land improvement), believing that this was the best compromise possible. The sole request granted to the residents was for their burial grounds (*dayawan*) to be left undisturbed during the construction of the power plant. (This was the same concession allowed in the case of the displaced residents of Barangay Nangka, who underwent the same situation when NPC expropriated their land to build the Agus 1V dam and reservoir. )

Like the case of Barangay Lumbayanague, the farmers of Nangka, Baloi, were not adequately compensated and no relocation was also given them. Although military threat was not used to pressure the residents, compensation packages were promised by NPC which persuaded them to relocate. Such promises of compensation programs were never fulfilled. A noted point of issue in the settlement process was that all the tenant residents of the land in contention did not receive any compensation having no documentary proofs of their occupation of their lands, nor had they proof of their tenancy status. In Saguieran, the residents expressed their frustration and bitterness at the dislocation and economic hardships imposed on them. In actions people felt were related to the land case, the workers' barracks on the construction site were strafed, some of the NPC's trucks ambushed, and its workers shot. Also, some soldiers were killed in incidents connected to the project's construction. To this day, intermittent violence near the Power projects continue to mar the peace and order situation in Lanao, including occasional attacks on the project facilities by local rebels believed to be sympathetic to the displaced residents. In Nangka, its relative peacefulness might be due to the bigger military facilities installed near the power plant and also to secure the adjoining Agus plants downstream near Iligan City where the national steel industry and a number of petro-chemical plants have been operating. However, animosities between Muslim and Christian residents became more frequent after Agus IV was built. What was once a community of Maranaos living peacefully with long-time Christian settlers was replaced with two communities (Upper Nangka and Lower Nangka) with the hydroelectric plant complex separating them. Also, when more military units came in, many non-Maranao lowlanders came on their own to settle near the military zone. As for the Sultan of Lumbayanague, he was left with a title or traditional leadership position without meaning since his people were displaced or the whole village dislocated.

The foregoing case illustrates as well the impact of one such state project on ethnic relations which goes beyond the objective disruption it has caused. Lake Lanao is a central symbol of Maranao culture (Saber, 1967). The NPC's intrusion into the economic and symbolic center of this culture and society impinges directly on the people's identity and sense of peoplehood. The words of one informant of Nangka reveals much more when she said, "*the NPC now controls the Agus river because they (NPC) can control the lake's water level. It is our fear that there might come a time when we Maranaos shall be prohibited from using the lake even just for our ablutions for our prayers...*" (trans. fr. Tagalog). The very presence of the projects and the manner in which land has been procured from the local people by the state agencies have also entrenched

Maranao farmers' perception that the project's benefits will go mainly to the *sarung a tao* ("the foreign people").

Although the implementation of the Agus project initially left the Maranaos with the options allowed them by the situation in which the NPC employed methods that were deceptive and coercive, the residents have held on to other means of resistance. Today, many years since the "Saguiaran incidents", one of the residents who have long given up pursuing their claims from NPC through the legal system, said he "*shall leave everything to Allah to take care of all that has taken place...and Allah forbid that no more 'bad' incidents shall happen*". At the present time, the local authorities are still bothered with repeated attacks on the Agus projects, especially those within Maranao areas of habitation. Of late, concerned individuals from the academe, local political leaders and recently formed (Muslim and Christian) non-government organizations have taken up the issues in various venues and in efforts that however need to be sustained and consolidated. Issues on watershed preservation and management have also now merged with claims to property and compensation.

## **SUMMARY AND IMPLICATIONS**

The following themes emerge from the above descriptions of the cases.

-First, is the interaction of two contrasting systems of tenure. One, subscribed to by the Maranaos constituting customary land tenure patterns (combining elements of "adat" and Islamic law and the other, held by the state agencies and the foreign lending agencies, having its antecedent in Western law.

The situation of not having been properly compensated has compelled community members to increasingly adopt state criteria (such as survey maps and paper titles) as proof of land ownership to prevent further loss of their land rights. Further, indigenous institutions for conflict resolution like the *igma*, and "taritib" are reacting to influence from procedures of adjudication of land disputes and current state land policies. One will thus discern from these cases both internal and external forces at play in bringing about a transition in the traditional land tenure systems. However, our data reveal that external, more than internal processes (that is, the incursions of both state and capitalist forces) apply pressure to this perceived transition to the adoption of the national policies on landholding. When queried as to their preference of modes of land dispute settlement, majority of field informants choose the traditional methods of conflict settlement ("adat" and *Shariah*) for disputes involving parties of the same kin, clan group, or "agama".

-The impact of expropriation for the Agus Hydroelectric Projects is also discerned in changes in lifestyles, land use and tenurial statuses especially of those directly affected. Examples of these changes are the decline, if not disappearance of subsistence farming in the affected villages and the slippage of dislocated residents into multiple tenure status or into jobs as farm workers.



-Other issues raised vis a vis the projects are: water level fluctuation, flooding, conflicts in ancestral land claim recognition and the declaration of the contested areas as watershed site and military/government reservation, and the issue of just compensation. Problems are also experienced by Maranaos residing in the neighboring villages who used to fish in Agus river before the water was diverted towards the diversion tunnels.

-The community's dispute with the state agencies involved legal, extra-legal measures, and meta-legal means. Except for the local government units which adopted a cautious and pragmatic stance on the issue, the rest of the stakeholders and support sectors expressed their objection to the state projects and advocated active engagement in support of the land issues articulated by the community residents. In the case of Saguwaran, the conflict settlement in the later phase involved the threat to use force on both sides, with the state finally relying on the threat of military force, and the local rebel group perceived to be supporting the community residents.

-The centrality of identity is evident in the cases of Nangka and Saguwaran. The residents are aware that their power and identity as a people is considerably undermined with their eviction from their lands. This also urges them to adopt to changing circumstances without the loss of their *pusaka* or ancestral domains or at least their "sense of place". For this reason, many of the Maranaos in these two villages are also supportive of the autonomy movement. Like other Moros, they have also expressed their sentiments in other cultural "oral" expressions or texts, in such forms as songs about the *agama* or *inged* or the community / hometown, poems lamenting the sell-out of the homeland.

-As the land use and tenure changes are shaking the foundations of Moro agricultural society a new regime of land tenure based on private property rights and a developing consciousness of a commercial or "cash" value of land is fast emerging. Among the Moros, this process has provided the basis for a type of Moro "landlordism" disenfranchising more of the *sakop* and poorer villagers since the new system did not recognize the traditional territorial rights of communities and the usufruct rights of community members. Such has clearly been the case with many of the land claimants displaced in Nangka and Lumbayanague. Lately, the entry of export crop production (such as palm oil) in the Lanao region has also resulted in pressure on common property and usufruct systems among Maranaos in affected communities. In a recent development, some Maranaos residing in communities outside the ARMM region have sought the assistance of sympathetic non-government organizations in securing their ancestral domains by applying for Certificate of Ancestral Domain Claims as allowed by the Department of Environment and Natural Resources (DENR)'s Administrative Order No. 2 (a mechanism to process ancestral domain claims before the enactment of the IPRA). Only two Maranao claimant organizations, the Pualas Council of Elders Claimant Organization and the Suntan Gumander Ancestral Domain Claimant Organization were organized and they too lagged behind the other indigenous organizations in presenting their claims, unable to comply with the process of documenting them. In the case of Moro communities within the ARMM region, the regional government has yet to formulate its own policies on

ancestral land and develop a land use policy for the region. There is as yet no clear indication of a priority given by ARMM legislative body to land issues. In one instance, the application for an ancestral land claim by a Maguindanao Moro met problems because the ARMM government has no legislation on ancestral domain claims. Legislative work in the ARMM nonetheless has been inadequate due to unavailability of funding pledged by the national government to support the initial phase of the ARMM's operation.

-The implementation of structural adjustment programs sought by the government from multilateral lending agencies as a means to speed up the pace of the administration's economic recovery and industrialization program also contribute to the further diminution of the agrarian reform program and recent state policies on land use and tenure especially for the marginalized communities. Development policies aimed to privilege the private sector in the name of economic liberalization and globalization has further narrowed down the already limited implementation of the CARP and the IPRA, as prime agricultural lands and "public domain" areas are converted into factory and commercial sites (Pioncio and Eco, 2000).

## **ENDING NOTE**

Criticisms have not unattended the movement for a special political status or autonomy as an option to ensure the Moro people's land tenure security. Still, for some Moros, a model of genuine autonomy and agrarian reform, the crafting of which is participated in by real peoples' representatives, might yet bring real concessions to the indigenous communities of Mindanao relating to their land rights and use of resources in their domains, and offer them a sense of security in their community. Consequently, this set-up would allow these communities to strive for a new level of development and broader options in their struggle, with the less likelihood of experiencing anew the forces which caused their displacement within the Philippine state which continues to perform the role of adjudicator of land rights. To this, one Moro's remark is relevant, in declaring that the desire of the Bangsa Moro people "is to be left free and sovereign having their own honoured place in the community of nations...Their national aspiration us nothing more than to enjoy again the prerogative if chartering their own destiny with justice for all and to see the democratization of the wealth of their homeland" (Mastura, quoted in Magdalena, 1996: 47-48).

## **Endnotes:**

1

Moros are the Muslim ethno-linguistic groups indigenous to Mindanao, Sulu and Palawan islands of the southern Philippines. There are thirteen Moro groups in the Philippines with the Maranaos, Maguindanaos, Tausugs, and Samals being the largest groups. Previously a derogatory term coined by the Spaniards to describe the natives of the Southern Philippine islands, many Muslim Filipinos today proudly assert their Moro identity. Now inhabiting mainly the South-western portion of what had been their traditional homeland- Mindanao and Sulu archipelago in the Southern Philippines, the Moros comprise roughly 30% of the region's inhabitants and at least 5% of the Philippine population.

*Adat* in this study is to be understood as used in two senses: 1) as referring to the community's customary laws and 2) the procedures and laws by which the people conduct their behavior and relationships, some of which were in written form and very much influenced by Sharia (Islamic) law (Buat, 1977).

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