The Healing of A Tagbanua Ancestral Homeland

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The last rays of the sun bid goodbye from the huge sloping shoulders of Cabugao hills as dusk brings home barefoot Tagbanua from a day’s toil in Coron Island. Sweat-soaked kerchiefs tied around their necks give little indication of how hard the day has been, even for this hardy tribe. On their weather-beaten faces, they wear a look of despondence that is etched increasingly deeper every time they haul in meager catches from small outrigger boats.

Dong-it, a middle-aged Tagbanua, gasps as he lifts a bundle of assorted fish, “Fish catch has never been smaller.” Dong-it swears that not so long ago, he could bring in 10 to 15 kilos of fish in merely three hours of fishing, using hook and line or other crude fishing techniques and, without going far out to sea. “Fishing, then, was like picking shells during low tide. I wonder where the fish are now,” he recalls.

**Threatened resources**

Where the fish may have gone, the Tagbanua may not be able to follow. Very few own motorized outrigger boats or *banca* to go to places where fish are still bountiful. Most of them make do with makeshift bamboo rafts that can only reach degraded fishing grounds nearby.
The Tagbanua attribute dwindling fish catch to excessive and intense commercial fishing, along with destructive forms of fishing methods, such as the use of sodium cyanide and dynamite. Much of the cyanide-laden live fish commodity originates from remote areas where many migrants have settled, like Coron Island.

International Marine Life Alliance (IMLA), a global network that monitors the health of the seas, points to an increasing trend in cyanide use in Coron. Of the samples taken from various shipment points, five percent tested positive for the use of the highly toxic substance in 1995, six percent in 1996 and four percent in 1997. Initial results of a 1998 survey revealed an astonishing rate of 18 percent. If traditional techniques had been used, argued some fishers, it would have been impossible to ship out such large volumes of live fish.

The fishers’ observation validates a 1998 study by the Philippine Fisheries Development Authority which says that, “live food fish caught with cyanide are routinely shipped out of Palawan in vast undocumented quantities to buyers in Hong Kong, Taiwan, Japan and Singapore.” Sodium cyanide, known to the Jewish people as Prussic acid in the dreaded days of the Holocaust’s gas chambers, is used in electroplating and ore processing. Coral reefs sprayed with cyanide deteriorate, with very little chance of survival or recovery. Such abuse is clearly evident in the heavily degraded coral reef habitat around the island.

Another perennial problem in the area is the use, mostly by migrants, of dynamite fishing. To evade law enforcers, some blast fishers immediately dry the fish caught around small islands like Delian.
before shipping them to town in finished and marketable form. Dynamite used in blast fishing is made up of potassium nitrate, which can easily turn four to five meter-radius corals into rubble. The process of regrowth could take 40 years for even half of the damaged areas to recover.

In a 1992 study, the Philippine Association for Intercultural Development (PAFID) and Silliman University noted that, “the fish yield data indicates an average catch per unit effort (CPUE) of three kilograms per trip.” It added that this finding tends to support the claim of the local fishers that harvest has been decreasing in Coron.

Yet the threat to the coastal resources of Coron Island is only one of the Tagbanua’s many concerns. Harvesting of luray (edible bird’s nest), a trade which dates as far back as pre-Spanish colonization, has also been declining...
because luray has become increasingly difficult to find. The Tagbanua trace this to unregulated tourism activities that disrupt the *balinsasayaw* (swiftlets) habitat.

The problem threatens to worsen as soon as the JICA—assisted (Japanese International Cooperation Agency) Environmentally Sustainable Tourism Development Program for Northern Palawan gets underway. The program has a heavy infrastructure component that includes construction of an airport, hotels and roads. Although, the JICA team recommended that “no tourism should be allowed on and around Coron island except for aerial observations...” This brings little comfort to the Tagbanua. Already, “aerial observations” have brought in tourists in chartered planes flying low over cliffs where *balinsasayaw* make their nest. Said the village leader Kudol Aguilar, “No doubt, dollars will flow, but none of it will reach us.”

The increasing pressure on the ancestral territory has brought economic uncertainty to the tribe. The Tagbanua bear the costs of disruptive and destructive practices that are not of their own doing, so that others make riches while they remain destitute. Here lies the irony: the Tagbanua is poor in the midst of plenty.

This story recounts the Tagbanua people’s struggle to save their inherited territory from resource exhaustion and to hold on to the defining characteristics of their identity—a people at peace with their environment.

**Coron Island**

From a distance, Coron Island is a massive and ‘unbroken limestone wall of sheer precipices’ that juts out from the sea. It is bordered on the north by the hilly peninsula of Busuanga Island and specks of Bulalacao islets on the southeast. Forming part of the Calamian group of islands which is an integral part of the Indo-Australian archipelago, scientists consider it to be at the center of the “coral triangle”, with species diversity declining as distance from this center increases.

Luxuriant stunted forest vegetation, so resilient that they are able to grow on pure rock, dot the craggy cliffs of the island. At the heart of the island, big and splendid *awuyuk* (lakes) held sacred by the tribal folks are set like turquoise on limestone cliffs. The Tagbanua believe the *panya’in* (virulent spirits) dwell in these lakes so they first seek the auspices of a *babailan*
(shaman) before they go to an awuyuk to search for balinsasayaw holes. In passing through it, a Tagbanua uses only the language understood by the spirits, a language entirely different from tinagbanua.

James and Karen Porter, both zoologists from University of Georgia wrote to Robert Schwab of Atlanta, describing the beauty of these inland bodies of water: “Neither of us has seen anything like Coron Island...... the lakes...have virtually no counterpart in the world.”

The scientist couple, who have done extensive scientific work in Central and Southern America, added that Coron Island is one of the few places on earth, “where a native culture could live in harmony with its natural surroundings.” Indeed, the Tagbanua community is part of an intricate web of life that includes tariktik (horn bills), wild boar, pantot (Palawan stink badger) porcupine (Thecarus pumilusi), squirrels (Calloscirius sp), and the Scaly ant eater (Paramanis culionensis), to name only a few.

Coron Island is home to two tribal villages—Banuang Daan and
Cabugao. A scattering of houses line the sand strips of Alimpiu, Diknay and Salamagi that lie at the fringes of the island. Meanwhile, a migrant population lives on the nearby island of Delian, which belongs to Barangay Cabugao. Delian is a limestone edifice with lush mangrove forests covering 236 has. and only 20 has. of flat land and sandy beach.

A look at 1996 census conducted by the Institute of Philippine Culture counted 489 Tagbanua in Banuang Daan and 1,539 in Cabugao, representing 95 percent of the total population of the island.

Cradle of Tagbanua culture

The indigenous folk of Coron Island are distinguished from the Tagbanua people inhabiting the valleys of the central portion of mainland Palawan who are characteristically shifting cultivators. Anthropologist Robert Fox noted the possibility of various Tagbanua sub-groups being derived from a common proto-culture. While their languages are related, there are differences between them that may be the result of specialization and varying degrees of interaction with Hindu-Indonesians and Muslim cultures.

In fact, the people of Coron Island can be distinguished from other tribal villagers of Coron town, even if it is commonly believed that they trace their cultural roots to the island. Coron Islanders have a very complex way of life that revolve around the luyang (caves), awuyuk, talu (corals), teeb sorobleyen (seawaters) and geba (forest).

The Tagbanua subsist barely by foraging kurut and kapari (edible wild tubers) and pogita (octopus) before the advent of sedentary agriculture, or, trade balatan (sea cucumber), samung (seashells). The culture of tambalang (carageenan), a very recent introduction, provides supplemental income all year round. Then as now, especially at the height of the amihan (northeast-erly winds), the most important source of cash is the production of balinsasayaw nests (Callocalia troglodytes), which can be harvested by making an arduous, death defying climb to the caves nestling on top of rugged cliffs.

“Each December, when the amihan (northeastern monsoon) blows and keeps the fishermen inland, the Tagbanua scale the jagged limestone cliffs towards cave entrances high above the sea. Then they make the stealthy and treacherous descent into the dark caves to gather the nests, which they sell to Chinese traders in town.” Historical data shows that the Tagbanua have been trading edible bird’s nest with the Chinese as early as the 11th century AD.
Hiligaynon sea gypsies from the Visayas and Mindanao once raided Coron Island and drove the Tagbanua villagers far in the forests’ interior. As Coron grew into a center of trade and commerce around the mid-1700s, it also became the target of incessant Moro raids that forced the Hiligaynon including some Tagbanua to drift to nearby Busuanga. The Moro exacted exorbitant tributes and smuggled women if the islanders could not pay. The Tagbanuas hid in the inconspicuous caves whenever a guard in the bantayan (watchtower) would spot an approaching vinta.

The diaspora of Tagbanua from the island at this particular time explains why to this day, they can be found across the Calamianes. When the Moro attacks ceased some Tagbanua reclaimed their lost territory while others settled in other uninhabited places such as Bululacao, Malawig, Buenavista, Turda and Tara.

Spain gained a temporary foothold but left practically no mark on Tagbanua culture. The close of the 19th century found the Tagbanua still firmly committed to a hunting, foraging and seafaring way of life; all other economic activities were incidental or peripheral to these pursuits. The Tagbanua people enjoyed a certain level of economic autonomy developed from a steady supply of subsistence goods from their resource base.

Colonization and expropriation of the tribal homeland

Until the mid-century, little had changed in the lives of the Tagbanua. Three factors explain how such equilibrium was made possible: a low population to resource base; an economy that functioned basically for subsistence and not exchange; and cultural norms that made it taboo to indiscriminately exploit the forest and coastal resources.

However, succeeding events would greatly alter the world of the Tagbanua. In the early 70s, the municipal government sequestered many clan-caves when the Tagbanua failed to pay the excessive taxes imposed on them. The tribe clearly remembers those days of hardship and famine. Those who could not abide by this edict had their clan caves auctioned. It is easy to surmise that the former town mayor, moonlighting as a luray trader, wanted to take control of the profitable trade under the guise of protecting them from wanton extraction. When weighed, an equivalent of six old coins of luray, fetches a price of PhP3,000 to 4,800 today depending on its purity.

During the mid-80s, Visayan migrants began arriving in Delian Island.
Realizing the bounty that it offered, the migrants invited their kin to settle on the island. Many people responded, built houses and drew in more of their relatives to come to Delian. Ever obliging, the Tagbanua chose to drift to Coron Island and other nearby islands where their communities thrive to this day. As of last count, the Visayan settlers numbered about 250 families, many of them originating from Cebu, Masbate and Panay. Far from the unsullied island it once was, Delian today is a pitiful sight of neglect.

In the late 80s, the municipal government imposed real property taxes on the Tagbanua based on an assessment made by the Municipal Assessor’s office. This was beyond comprehension for a people who barely lived a hand-to-mouth existence. The tribal folk suspected this to be a mere ploy of the municipal government to confiscate their inherited lands, many of which are blessed with resplendent beaches that can be developed as tourist attractions.

In time, the Tagbanua realized that they were not only at risk of starving; they were in danger of losing their homeland.
The Tagbanua Foundation

Growing resentment led the Tagbanua into thinking about organizing themselves. Encouraged by an American missionary, they set up the Tagbanua Foundation in 1985 primarily to counteract resource-use problems in the island and its environs. One of these was the unrelenting use of sodium cyanide and dynamite, which had already destroyed a large part of coral cover, subsequently reducing fish catch, and making life severely difficult for the Tagbanua.

As a strategy to regain control of their ancestral territory, Kudol Aguilar, the tribe’s free-speaking leader decided to apply for a Certificate of Forest Stewardship Agreement (CFSA), a contract with the Department of Environment and Natural Resources (DENR). This contract allowed them to extract logs on a limited volume, on the condition that they protect the forest from illegal activities. “Parang binibigyan ka ng permiso na pumasok sa sarili mong bahay,” (It’s like having to ask permission to enter your own home) was how the outspoken chairman described the contract. But he realized that they had limited options. With that, Aguilar sought the assistance of the Philippine Association for Intercultural Development (PAFID), a non-government organization, assisting tribal communities. It would take the foundation and PAFID five years to secure the CFSA but not too long for the Tagbanua to realize what little bite the pact really had.

Ancestral domain and ancestral waters

In 1993, DENR made the unprecedented move of passing a law that recognized the inherited rights of the indigenous cultural communities. DENR Administrative Order 02 (series of 1993) or DAO 02 as it came to be called was based on a US Supreme Court ruling, stating that:

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

In effect, the ruling, refuted the Spanish law known as the Maura Act of 1894 which decreed that unless land holdings were documented they
would revert back to the state; this encompassed ancestral domain even as
the very concept of communal property antedates that of the nation state. 
After Spain ceded the Philippines to the United States by virtue of the Treaty
of Paris, even the American colonial government invoked the Maura Act and
promoted the equally ignominious *Regalian Doctrine*¹. Both measures gave
the state the legal pretext for claiming vast tracts of untouched land, most of
which belonged to indigenous cultural communities.

In contrast, DAO 02 provides for the recognition and awarding of Cer-
tificate of Ancestral Domain Claim (CADC), a powerful legal tenurial instru-
ment that grants preferential rights to the tribal communities on extraction,
exploitation, management and protection of a delineated ancestral territory.
It also defines a process on how ancestral domain perimeters would be de-
lineated and subsequently demarcated.

The Tagbanua Foundation saw this as an opportunity to secure their
ancestral territories. As soon as DAO 02 got underway, the Foundation,
again with PAFID’s assistance, filed their claim to the Palawan Special Task
Force on Ancestral Domain (PSTFAD). No fixed markers delineate
Tagbanua territory; only the tribe’s collective memory defines fishing and
hunting grounds, foraging areas, places of worship and burial. Thus, the
community worked with PAFID to mark borders and draw up a map which
they subsequently submitted to the DENR.

The historic claim encompassed a total of 22,284 has. that included not
just the inherited lands of Coron and Delian Islands but also the tribe’s *teeb
sorobleyen* (inherited seas). Kudol argued strongly that fishing, hunting and
foraging defined the very characteristics of the Tagbanua. Remove one part
of their life, and you endanger their entire culture.

The claim would kindle the acrimonious debate between the tribe and
the local government of Coron. For the Tagbanua, there was no love lost.
For many years they had stormed the halls of the municipal government to
help them stop the plunder of Tagbanua territory, but to no avail. If anything,
the local legislative body flexed its muscle and passed resolution upon reso-
lution to the PSTFAD, requesting the body to delay processing of the
Tagbanua’s application. The municipal government asserted that the claim
should not be granted because:

• the ancestral waters are not just used by the Tagbanua but also by
other non-tribal barrio folk;
• it will undermine the fishing industry of the town;
• Coron Island is one of the potential sites in the JICA Masterplan and could be a source of income of the municipality;
• legitimate Tagbanua elders did not execute sworn testimonies to attest to the validity of the claim;
• it is highly improbable for the Tagbanua to manage the said area; and,
• the provisions of DAO 02 do not conform with existing laws.

The Tagbanua refuted these assertions in a petition clarifying their stand on resource use in ancestral territory—simply put, abide by legal means and respect tribal law. Programs of the government and private entities would be welcomed as long as they showed sensitivity to the local culture. The Tagbanua stressed that above all, they only desire recognition of ownership over ancestral territory.

In 1997, the town mayor asked the Tagbanua Foundation that if they could not abandon their claim, they should at least file it with the Sangguniang Bayan (municipal council). But the Tagbanua refused to be lured into another subterfuge. After all, this was the same administration

REALIZATION of how harsh Tagbanua law could be came rather late for Veloso Macoy, barangay captain of Cabugao, Coron. A Tagbanua court charged Macoy and three of his councilors in a Tagbanua tribal court for unlawfully issuing a cutting permit to illegal loggers and subsequently found them guilty.

The case involved loggers from the nearby municipality of Busuanga, who were illicitly cutting ipil hardwood in Delian Island early in 1998. Acting on DENR Administrative Order No. 34, which mandates that “the primacy of customary laws shall be recognized and respected,” tribal folk immediately apprehended the offenders. Thus, the Tagbanua was able to take swift action through their own justice system instead of going through lengthy litigation in regular courts.

In October, the offenders were sentenced to suffer the traditional penalty of panglaw and bordon for having committed such serious offenses. Panglaw is an ancient sanction where an offender is made to squat with a two-foot bamboo pole resting at the back of his knees. The bamboo holes on both ends are filled with grated coconut meat to attract ants. Then the offender meets the mepet (tribal judge) who applies the bordon— a dozen lashes with a rattan cane.

that passed in 1996 Ordinance No. 11, adopting the Environmentally Critical Areas Network (ECAN) land, water and marine zoning of Coron municipality. Under these zoning regulations, ancestral lands and even ancestral domain claims would appear to be non-existent.

Non-negotiability of ancestral water claims

A PSTFAD resolution curtailing the Tagbanua’s ancestral water claim from 100 meters to 50 meters from the shoreline, on grounds that it encroached on municipal waters, tilted the odds in favor of the municipal government. Local DENR officials also averred that the Tagbanua barely used the beaches and lakes.

Undaunted, Kudol tirelessly tapped every forum and conference to tell the story of his people. In a gathering of leaders of indigenous cultural communities in Manila, Kudol persuasively argued out the inseparable union of land and water for the Tagbanua, as the defining feature of their culture. He added that one could not possibly isolate interconnected elements of nature.

The passage of DAO 34 (series of 1996) proved to be another moral victory for the embattled tribe. This measure provided guidelines for the formulation of an Ancestral Domain Management Plan (ADMP) that would govern the claimed territories. Some critics believed, however, an ADMP was beside the point, since broader parameters had already been set by DAO 02. They reasoned out that since DAO 02 already established territorial ownership by virtue of prior, long-term occupancy and beneficial use, utilization and disposal of such territory were concerns of the tribe alone.

In a sense, they were right because the spirit of the CADC is to correct a historical injustice—that of treating ancestral territories as public land and therefore negating rightful ownership over such land by the tribal people. The issue of ancestral domain recognition is an issue of human rights; DAO 34 transformed it to an environmental one.

The tribal villagers of Coron saw it in a different light. An ADMP could be an added layer of protection since resource users of the ancestral domain would have to subscribe to stipulations of the plan. Not surprisingly, the sets of laws and regulations drafted by the tribe on how resources should be ef-
fectively utilized, conserved and protected, simply formalized and put in writing what they had been doing all along. Their ADMP was a compendium of indigenous practices, complete with tribal sanctions meted out to offenders of their oral laws.

The crafting of the ADMP alone was amazing. Tribal elders called for the participation of all Tagbanua, and they responded by filling in every corner of their tribal center, and contributing their share in formulating policies they thought would work best for everybody. As elders reflected on the old days, the tribe decided to revive traditional systems and strategies of ancestral social control, sanctions and penalties. Expectedly, they placed a premium on protecting the environment as the single, most important key to their survival.

For the younger Tagbanua, the sessions taught them an appreciation of the way their ancestors lived. Indiscriminate resource use was never taken lightly, and violators met the full force of tribal law. (See boxed story on page 173)

In sum, the ADMP of Coron Island focused on seven points:
1. resource utilization
2. identification of sacred places particularly the caves, lakes, corals, forests and spirit dwellings
3. manner of inheritance/transfer of properties and possessions
4. how development projects should proceed
5. the use of, and access to, water (saline, fresh and brackish)
6. the assemblea (assembly of Tagbanua villagers) as the most powerful decision-making body, and the Mama’epet (tribal elders) as the governing body
7. traditional sanctions and penalties for the ADMP offenders

Some laughed at the ADMP, as they consider it unrealistic, and scoffed at the capability of the tribal villagers to enforce sanctions contained therein. Subsequent events, however, would prove them wrong and vindicate the Tagbanua.

Coron Island as a proposed protected area

Because of Coron Island’s remaining biodiversity, the National Integrated Protected Area Programme (NIPAP), an agency under DENR that is
funded by the European Union, named it a priority site for development as a protected area. To pursue this goal, NIPAP laid the groundwork by organizing researches, identifying viable enterprises and deploying forest and bay guards. NIPAP hoped to submit its recommendation to the Protected Area and Wildlife Board, the umbrella organization of Protected Area Management Boards (PAMB) and the agency under the National Integrated Protected Areas System (NIPAS) law that will review the proposal for protected area declaration.

The idea of declaring their ancestral territory as a protected area was greeted by the Tagbanua with skepticism, since the law already says that, “ancestral lands and customary rights arising shall be accorded due recognition.” So too did Section 13 of Republic Act (RA) 7586 stress that the DENR “shall have no power to evict indigenous communities from their present occupancy nor resettle them to another area with out their consent.” Their reluctance lay in the fact that the proposed PAMB would be mainly composed of people whom they perceived as having little sympathy for the tribe’s clamor to regain their ancestral territory. They also feared that this would undermine their struggle for self-determination, and in effect, water down the gains they had achieved so far.

In early November 1998, NIPAP and the local government unit (LGU) held a consultation with the tribal folk to settle the issue of PAMB’s composition. The Palawan Council for Sustainable Development (PCSD) acted as mediator. The meeting however reached a deadlock as the Tagbanua stood pat on their proposal that tribal leaders head PAMB. The NIPAP, LGU, and PCSD showed no sign of relenting. All three agencies were jockeying for positions in the soon to be formed PAMB and all of them invoked different laws to justify representation in the management board.

NIPAP, for example, cited Section 11 of the NIPAS law which states that PAMB shall be composed of, “[t]he Regional Executive Director under whose jurisdiction the protected area is located, Provincial Development Officer; one representative from the municipal government; one representative from each barangay covering the protected area; one representative from each tribal community; and, at least three representatives from non-government organizations/local community organizations, and if necessary, one representative from other departments or national government agencies involved in protected area management.” NIPAP was not about to bend the
law just to accommodate what it considered as a “whim and caprice” of the tribe.

For the Tagbanua, the PAMB composition was central to the discussion of establishing a protected area. Section 18 of DAO 25 (1992), which was part of the NIPAS law’s implementing rules and regulations, also states that the site-specific PAMB shall by consensus or majority vote approve or take necessary action pertaining to the implementation of plans in a protected area (underscoring supplied). Since resolution of contentious issues could be subject to a vote, the Tagbanua knew that only full control of PAMB could assure them of a safety valve and guarantee that their interests would be well served.

They were also apprehensive that declaring Coron Island as a protected area would endanger their ancestral entitlements and in the process, undermine or even muddle the rights accorded by DAO 02.

The issue of whose management plan would prevail over the protected area cum ancestral domain opened another round of debate. NIPAS law states that PAMB will outline a set of strategies and plans to effectively manage the protected area. But implementing this would no doubt sow confusion over the entire tribe’s ADMP. A possible recourse was for PAMB to adopt the Tagbanua’s ADMP. This meant that the Tagbanua needed at least a majority in the PAMB to be able to carry out their management plans.

An offshoot of this issue was the delineation and demarcation of management zones. The Tagbanua wanted to know—would the management zones set forth in their ADMP remain, or would PAMB be making another one? If not, what would be PAMB’s raison d’etre? The Tagbanua’s insistence on their tribal plan was understandable. Assuming that they could not gain control of PAMB, the Tagbanua felt that that their aspirations would be obliterated by interests that conflicted with the tribe.

A third and more complicated question was, whose management zones should prevail inside the protected area/ancestral domain—the management zones defined by NIPAS law, or, the traditional resource-use zones based on the tradition and custom of the Tagbanua? The law says that, “[t]he zoning of a protected area and its buffer zones shall not restrict the rights of the indigenous communities to pursue traditional and sustainable means of live-
lihood within their ancestral domain unless they so concur (Section 10, DAO 25).” Did this mean that the ancestral domain management plan would prevail?

Moreover, Strict Protection Zones (SPZ), according to DAO 25, “shall be closed to human activity except for scientific studies and/or ceremonial or religious use by indigenous communities.” No economic activities could thus take place in these zones. The problem was that these areas, although well qualified to be SPZs, were also areas frequented by the Tagbanua who gathered edible birds’ nests for their livelihood. Only by adopting the ADMP of the tribe, where they had clearly outlined the uses of the *awuyuk*, could such complications be avoided.

As if the situation was not confusing enough, the PCSD and the local government of Coron joined the fray. The municipal government, claiming predominance over PAMB, invoked Section 17 of the Local Government Code (RA 7160) which cites the protection of the environment as one of its functions. PCSD’s claim for a seat in the PAMB also had legal basis. The Strategic Environmental Plan for Palawan or SEP (RA 7611), expressly provides that the PCSD shall take the lead in any biodiversity protection and conservation initiatives in the province. Specifically, “the governance, implementation and policy direction of the SEP shall be exercised by PCSD (Section 16, RA 7611).”

Section 17 of RA 7611 also established the Environmentally Critical Areas Network, described as “…. a graded system of protection and development control over the whole of Palawan, including its tribal lands, forest mines, agriculture areas, sea grass beds and surrounding seas.” However, a special law stipulated a particular kind of zonation for tribal ancestral lands, i.e., they shall be subject to the same graded system of control, but cultural considerations would be given stronger emphasis. The PCSD held the responsibility of overseeing governance, implementation and policy directions of the law.

Once again, the tribal villagers found themselves being sucked into another vortex of a legal conundrum where non-Tagbanua reconciled seemingly conflicting laws that in truth favored their long-term interests. Faced with no better alternative, the Tagbanua rejected the “protected area proposal.” After all, they did not have to be told by outsiders that their ancestral domain should be a protected area. Outsiders often tell them about environmentally protective and conservationist practices; they call these their way of
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FIGHTING BACK

Lessons of the Kayangaan Lake assault

IT WAS PAST the hour of nine on that foggy evening of January 5, 1998. One by one, four men armed with bolos (long knives) and harpoons boarded the motorized outrigger boat. A few kilometers before they reached the veranda overlooking Kayangaan Lake, they turned off the motor and quietly paddled their way through.

Two fellows took their positions as lookouts at the lake’s entrance while the two other men smashed a bamboo raft moored nearby and the wooden railings of the veranda. In a matter of minutes, the sneak operation was over.

To accommodate visitors, the Coron local government had constructed the veranda as part of tourism facilities in the lake. However, the Tagbanua—rightful owners of the place by virtue of a Certificate of Forest Stewardship Contract (CFSA) awarded to them by the DENR—were not consulted. “They never learn,” said one of the villagers, in reference to the local officials’ disregard for the Tagbanua. Adding insult to injury, the local government broke its promise to partake with the Tagbanua, Kayangaan’s winnings as “the cleanest lake in the Philippines”.

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Environmental Legal Assistance Center (ELAC) and Conservation International (CI) believed Abella’s claim that tourism disrupted the

nests of the balinsasayaw and consequently caused the drop in edible bird’s nest production. ELAC and CI, working in partnership with the tribe in monitoring the limits of acceptable change in the lake, noted an unprecedented increase in the accumulation of trash with the influx of tourists. Expectedly, Abella was accused of masterminding the attack, a charge he vehemently denied.

Last year, a floating fish cage inside the lake was found blasted to pieces. The Coron town folk, law enforcers included, admit the difficulty of probing the daring assaults. The Tagbanua’s code of silence makes it virtually impossible to investigate suspects. If, indeed these attacks were the handiwork of the Tagbanua, they served one purpose—teaching the local government to recognize that the Tagbanua communities are bent on pursuing their claim.

With the recent awarding of their Certificate of Ancestral Domain Claim, the Tagbanua’s determination to protect their ancestral territories has only increased.

“...I don’t think we are taking anything from anybody. I just think that the time has come for us to directly benefit from what is rightfully ours,” declared Kudol Aguilar, now Chairman of SARAGPUNTA, a conglomeration of all Tagbanua Foundations in Coron.

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life. Indeed, Coron Island is a protected area beyond the contemporary sense. The area has been protected beyond living memory and will remain protected for as long as the Tagbanua live there.

Kudol knew only too well that such intervention would not only undermine their capacity to manage their resources but impair as well the
Kayangaan Lake, sacred to the Tagbanua
Tagbanua’s struggle to determine their own fate. “Paano kami tatayo sa aming sariling paa kung lagi kaming may saklay?” (How can we stand on our feet if we are always propped up by crutches?) In rejecting the proposal of NIPAP, the tribal leader drew strength from a DAO 02 provision which clearly states that no program, even those sanctioned by DENR, can be introduced to the community unless they solicit the tribes’ free and informed consent. Kudol also invoked the SEP which recognizes the rights of the indigenous people over claimed territories.

The CADC awarding

After five years, the Tagbanua’s fight for self-determination finally won recognition on July 26, 1998 when the DENR awarded the CADC to the Tagbanua, an event with no historical precedence in Philippine jurisprudence. Resolving the issue was the Indigenous People’s Rights Act (IPRA) or RA 7631, a compendium of rights of indigenous cultural communities passed in October 1997 that arms tribal peoples with legal instruments to regain and protect their territory. IPRA specifically cites “the right to claim ownership over lands, bodies of water traditionally and actually occupied by the (tribe), sacred places, traditional hunting grounds and fishing grounds” as part of ancestral domain rights.

But while the CADC vested the tribe with preferential rights over the resources found therein, the law remains silent on exclusive use. Implicitly, government continues to have complete control and discretion over access rights to the same resources.
The euphoria over the CADC awarding had not even died down when two Palawan congressmen filed House Resolution No. 11 (series of 1998). The resolution directed the Congressional Committee on Natural Resources to make an inquiry, in aid of legislation, into the grant of CADC by the DENR to the Tagbanua Foundation of Coron Island. A few months before they submitted this resolution, former Justice Isagani Cruz, filed a petition in the Supreme Court asking that some portions of the RA 7631, be declared invalid. Efforts to defeat, derail or even cancel the claims of other cultural groups were also brewing elsewhere. For the Tagbanua, fiercer battles had been fought in the past; there was no reason for turning back.

Insights on the Tagbanua CADC

The Tagbanua’s acquisition of the CADC has become a landmark in the struggle of indigenous peoples nationwide to reclaim their ancestral territory. Decades of government neglect and non-recognition of their land rights have placed them in a veritable crisis of poverty and resource depletion that now threatens not only their livelihoods but their survival as a people. Faced with this challenge, the Tagbanua were drawn to enter into an inhospitable world of legislative processes and legal jargon, as a matter of survival.

Even with CADC in hand, theirs is a battle yet to be completely won. Although attempts to review their CADC have been mothballed, a strong undercurrent that will attempt to weaken their grip on Coron and Delian will proceed in time. Secondly, it should be remembered that the Tagbanua obtained the rights over their ancestral domain through administrative orders, that so happened to dovetail with the interests of government incumbents. Legally, the CADC can easily be overturned by less sympathetic administrations.

Nonetheless, the Tagbanua’s long and arduous battle constitutes a minefield of learnings for parallel or like-minded advocacies:

1. **The importance of a very strong community organization.** When there were very few people to turn to, the tribal villagers turned to each other for support and relief. Not many groups would have withstood the trials and tribulations that they went through. That they
showed such mettle indicates that the Tagbanua will go the distance for their homeland. It was their resolve and perseverance in the face of great odds that mobilized other people to rally to their cause.

2. The significant leverage lent by a favorable legal and policy environment, which in turn helped the Tagbanua to realize the recognition of their ancestral domain. Laws and policies such as DAO 02, DAO 34 and even SEP gave the cause of Coron Island a big boost. But laws and policies also reflect the trends and yes, the interests of a particular ruling order in a given space and time. Laws are also subject to various interpretations, depending on the strength of those who champion or oppose them.

3. The need for a network of sympathetic groups. NGOs, civil society groups and progressive individuals made the cause of the people of Coron Island easier to achieve by providing relevant information, facilitating engagement with critical decision-making bodies and distilling the legalese to the barest essentials that the tribe could understand and apply.

The Tagbanua, Quo Vadis

The Tagbanua of Coron Island have begun their own healing process. They are now in a better position to begin the task of rehabilitating their degraded lands and seas.

In this undertaking, they are backstopped by an ADMP that can provide them some guidance on the mode of resource use as well as the manner by which development should proceed in their area. Efforts in the past to involve the Tagbanua in programs deemed beneficial to the environment, like the NIPAP, failed because proponents determined the scope, pace and priorities separate from the community. The villagers thus ended up in the periphery rather than the center around which any development and conservation programs should evolve.

Engendered by their ADMP, the revival of their time-tested tribal penalties should be reason enough for both tribal folk and outsiders to avoid serious violations of the ADMP which includes the indiscriminate use of resources.

The delineation and demarcation of their tribal territory will enable them to understand the extent of their responsibility. How they succeed in
rehabilitating and restoring the degraded areas will be easier to measure by the rate with which they make desirable impacts.

Their CADC stabilizes their tenure, thereby increasing further their incentive to conserve and protect the environment. Without some form of legal instrument to give them primacy over the use of their lands and seas, it had become increasingly difficult to convince them to cling to their age-old practices, especially in the face of fierce competition over scarce resources. But having regained for the moment their claim on ancestral territory, the Tagbanua wields the power to bargain for a fairer mode of resource use.

Some sectors think that the CADC is the be-all and end-all of the Tagbanua. Not for this resolute and tenacious people who consider it only the beginning of a journey of trying to make sense of their hard-won rights and their accompany responsibilities. The task may be Herculean, but with the resilience by which they hurdled all the obstacles that came their way, there is little doubt that the Tagbanua will endure.

Notes:

1 A small outrigger boat with large colorful sails used by Moro invaders
2 “The Regalian Doctrine is to the effect that all lands of the public domain belong to the state, and that the state is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. Under this doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the state. A positive act of the executive branch is needed to declassify a forest land into alienable or disposable land for agriculture or other purposes.” (Director of Lands vs. Intermediate Appellate Court, 219 Supreme Court Reports Annotated 339, 1993)

Selected Readings:


Laws, Administrative Orders, Resolutions

1. Republic Act No. 7586, AN ACT PROVIDING FOR THE ESTABLISHMENT AND MANAGEMENT OF NATIONAL PROTECTED AREAS SYSTEM, DEFINING ITS SCOPE AND COVERAGE AND FOR OTHER PURPOSES.
2. Republic Act No. 7611, AN ACT ADOPTING THE STRATEGIC ENVIRONMENTAL PLAN FOR PALAWAN, CREATING AN ADMINISTRATIVE MACHINERY FOR ITS IMPLEMENTATION, CONVERTING THE PALAWAN INTEGRATED AREA DEVELOPMENT PROJECT OFFICE TO ITS SUPPORT STAFF, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES. June 19, 1992
3. Republic Act 8371, AN ACT TO RECOGNIZE AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES, CREATING A NATIONAL COMMISSION ON INDIGENOUS PEOPLES, ESTABLISHING IMPLEMENTING MECHANISMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES. October 29, 1997
4. DENR Administrative Order No. 02-93, RULES AND REGULATIONS FOR THE IDENTIFICATION AND DELINEATION OF ANCESTRAL LAND AND DOMAIN CLAIMS. January 15, 1993
5. DENR Administrative Order No. 34-96, GUIDELINES ON THE MANAGEMENT OF CERTIFIED ANCESTRAL DOMAIN CLAIMS. November 12, 1996
6. House Resolution No. 254, RESOLUTION DIRECTING THE COMMITTEE ON NATURAL RESOURCES CALLING FOR AN INQUIRY IN AID OF LEGISLATION
INTO THE GRANT OF A CERTIFICATE OF ANCESTRAL DOMAIN CLAIM BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO THE TAGBANUA FOUNDATION OF CORON ISLAND IN PALAWAN UNDER QUESTIONABLE CIRCUMSTANCES. September 28, 1988

7. Municipal Ordinance No. 96-11, Municipality of Coron, An ordinance delineating and regulating the different land and marine water zones and its uses in the municipality of Coron, Palawan, providing fortwith its administrative, implementation and management and imposition of fees for violations hereto. October 17, 1996.

8. SB Resolution No. 96-35, Municipality of Coron, A resolution requesting Hon. Victor Ramos, Secretary of the Department of Environment and Natural Resources, to temporarily suspend approval or any action pertaining to the application for certificate of ancestral domain claims of the Tagbanua Foundations of the Barangays Cabugao and Banuang Daan (Coron Island), Malawig, Buenavista, Bulalacao and Tara of the Municipality of Coron, Province of Palawan. December 16, 1997.


10. SB Resolution No. 97-12, Municipality of Coron, A resolution addressing to the Provincial Special Task Force on Ancestral Domain (PSTFAD), thru its Chairman, the Provincial Environment and Natural Resource Officer, Department of Environment and Natural Resources, Puerto Princesa City, Province of Palawan strongly requesting the temporary suspension of any action consonant to the application for the issuance of certificate of ancestral domain claims (CADC) of the different Tagbanua Foundations of Barangays Bulalacao, Turda, Buenavista, Malawig, Tara, Decabobo, San Jose, Coron Island, this municipality. June 9, 1997.

11. SB Resolution No. 97-19, Municipality of Coron, A resolution strongly endorsing ECAN Board resolution No. 97-10, to the PSTFAD,
