Photo: Mark Timm

Mangyan woman in Umabang, Philippines, winnows rice. The ancestral land of this tribal people is threatened by outsiders.

WHOSE HOMELAND?

The tribal peoples of the Philippines are attempting to establish their land rights through long-term leases. Legal research may help them go one step further — outright ownership in the form of communal titles.

MARK TIMM

Many of the world's upland tribal communities are under siege. The forests that supply their food, fuel, and shelter are being cut down by logging companies. Mining interests want to extract the minerals beneath their seasonal hillside fields. In some cases, upland villages are flooded by power dams intended to electrify distant cities. Even lowland farmers are moving up into tribal lands as agrobusiness takes over lowland fields.

Many tribal cultures, such as those in the Philippines, have little or no concept of private land ownership or title. The reasoning is that you can't own something you didn't make. In effect, the land is seen as being the communal property of the group who occupies or uses it. This puts such communities at a disadvantage when they complain that outsiders have been granted pasture rights or logging concessions on ancestral tribal lands — lands which have been occupied by the tribal peoples from time immemorial but for which they have no legal proof of ownership, no title. In the Philippines, all lands of a slope greater than 18 degrees — often tribal areas — have actually been declared public land.

Most of the estimated 118 tribal communities in the Philippines have faced at least one of the above-mentioned problems of intrusion. In addition, tribal Filipinos have in past years been confronted with an abusive military and a corrupt regime from which the best they could hope for was indifference.

It is also in the Philippines where some innovative approaches to defending tribal land rights are being tried. The Philippine Association for Intercultural Development (PAFID) is an "intercultural clearing house" for Filipino tribal groups. Established in the late 1960s, PAFID is currently helping about 40 tribal communities do the legal research and political lobbying necessary to set up communal forest leases allowed under a program of the Philippine Ministry of Natural Resources.

The renewable leases run for 25 years and give the community extensive control over resource use in the territory during that time. A board of trustees is set up to make decisions about water management, forest conservation, and other matters.

The difference such control can make is evident if one compares the case of the Mangyan community of Umabang with that of the Ikalahano community of Imugan.

Umabang is a tiny village nestled in the southern mountains of the Philippine island of Mindoro. A three-hour walk from the nearest road, it is part of a community of 2000 Mangyans who have been trying to set up a 4000-hectare communal forest lease.

The Mangyans of Umabang are poor and many suffer from nutrition-related diseases. They are threatened by the spectre of a mine opening to extract coal from their ancestral lands.

More than 400 kilometres to the north, on the northern part of the island of Luzon, the Ikalahanos people of Imugan once faced similarly dark times. The government was evicting them from what it said was public land, while cronies of then-president Ferdinand Marcos were being given title to 6000 hectares on the mountain opposite the Ikalahanos' land.

It took several court battles and two administrations, but in 1974 the Ikalahanos finally got their communal forest lease for 144 730 hectares. Today, most homes in the community have water piped from a nearby watershed and there is an academy where young Ikalahanos learn about their culture and prepare for further university education. Experimental coffee plantations have been set up and fruit orchards planted. And at a local plant, the Ikalahanos make jellies and jams which they sell in Manila.

But such leases are viewed by many as a stopgap and there is unease among tribal people because permanency of access to the land is not assured. The Ikalahanos lease, for example, must be renegotiated by 1999. No lease can be renewed more than once. The effect of this could be to discourage a community from investing any long-term effort in its own development.

In an effort to combat this problem, PAFID is conducting research into the legal and social aspects of establishing titles under which the land would be owned by the community as a whole, rather than simply leased. IDRC is funding the work.

Delbert Rice, the executive officer of PAFID and an American Methodist pastor in Imugan, estimates that 3 million tribal people and 15 million hectares could eventually come under communal forest titles.

The idea is legally unprecedented in the Philippines, although it has worked in parts of Africa and Micronesia. The job of PAFID's legal researchers is to unearth court decisions or legislative clauses which would help the communal title concept stand up in court. For example, much Philippine legislation covering resource exploitation makes the granting of licenses for such work "subject to prior right", which would include ancestral claims.

More telling for the success of communal titles or leases may be their acceptability to tribal groups themselves. Traditionally, a tribal 'village' has often been nothing more than a few huts and fields scattered over several hectares. The idea of giving a board of trustees the final say over how any member of the community uses the land could be as big a stumbling block as any court battle.

The Mangyans were convinced of the value of a communal forest lease only after they found out that it meant they could make decisions within their own community rather than having to trudge down to the district capital for permission to do things.

Mr Rice, who is also a trained anthropologist, says the system has usually won acceptance because tribal elders are usually members of the board of trustees in charge of the lease or title. "Communality is not that important within the community," he says. "What is important is the fact that decision-makers are part of the community. Once they get together and make a common decision, they'll stick by it." ■

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