

Seeing One's Self in the Other:

Charter Change and the Politics of Identity

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We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society, and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity, the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.
-PREAMBLE of the 1987 Constitution

What if our Preamble began “We, the sovereign Filipino peoples...”? Would this create the space needed to acknowledge and build upon the diversity and complexity of our nation's heritage? Would this open a deeper discourse on the politics of shared identity and the right to self-determination? Would seeing one's self in the other enable Filipinos to find their identity and common path to nation building?

One begins with these questions when faced with the prospect of “**Charter change and the Indigenous Peoples' agenda**”. By itself, Indigenous Peoples is a term conveyed by the state on communities who call themselves Ibaloi, Bontok, Ifugao, Aeta, Mamanua, Arumanen ne Manuvu, and so on. It is a term we have embraced in order to navigate between two systems we belong to. So who are we? Who are Indigenous Peoples?

Indigenous Peoples Seeing Ourselves...

The Philippine archipelago is home to an approximate Indigenous Population as of 2000 of 12,887,291 comprising nearly 17% of the total national population and belonging to 110² ethnolinguistic groups. The estimated total land area of ancestral domains as claimed by Philippine IPs is 5,114,275,000 hectares, roughly 17% of the total land area of the Philippines³

A map of the 110 ethnolinguistic groups indicate a geographic spread of IP communities along major Philippine mountain ranges, inland waters and traditional fishing grounds in the case of island groups. Present day locations resulted from decades of community responses to the push of development, limit of resources and the inability of a state to understand time-immemorial concepts of land and resource use practiced by IPs.

Philippine indigenous peoples, on the basis of their history as passed down through genealogical record, have 1) established territory – as in the peace pact boundaries of Mindanao IPs and Muslim Filipinos, 2) identity as a people- as in the case of the *tun-ton* of Ifugao native priests

¹ I am Ibaloi, Ifugao, Bontok and Japanese. This self-ascription is offered as explanation for numerous examples cited from the Cordilleras. Other examples and appropriate instances present in other IP communities may have been overlooked. The shortcoming is wholly the author's.

² The use of, and number of ethnolinguistic groups is not authoritative and present day discourse continues to define and contest the way indigenous groups are defined. For the purpose of this paper, the number is meant to be illustrative and indicative of the diversity of peoples in the Filipino nation.

³ NCIP Primer on Mindanao 2003 p.4

tracing lineage back 21 generations, as well as 3) indigenous governance and custom law⁴ some which have been codified like that of the Teduray. All of these systems pre-date the Philippine Republic and to some extent are practiced until the present. Largely successful resistance of colonization enabled these communities to retain diverse identity, culture and resource-based self-ascriptions that are distinct to each group. Conceptualizing this identity base into mainstream governance is carried by more than a century of struggle and continues to evolve. At present, the discourse may seem to be centered mainly on land rights and the recognition of IP ancestral domains.

Present day State definition of indigenous peoples finds articulation in the 1987 Constitution and was enacted into law with the passage of the Indigenous Peoples' Rights Act (IPRA) of 1997 or R.A. 8371. Thus:

“A group of people or homogenous societies identified by self-ascription or ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, become historically differentiated from the majority of Filipinos.” They likewise include “peoples who are regarded as indigenous on account of their descent from populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.”⁵

But “ancestral domains are both land and people, never one or the other⁶”. The struggle for respect and recognition of ancestral domains and indigenous legal and political systems is what the National Unification Commission⁷ identified as the leading cause of “unpeace” in IP territories. It is what and has been the “flagship” program for IPs under the Social Reform Agenda. “It is our main strategy for alleviating our poverty with the National Anti-Poverty Commission⁸” under asset reform.

For the purpose of this paper, it has to be reiterated that Indigenous Peoples be recognized as having territory, identity as a peoples and indigenous governance and custom law. With this recognition, any initiatives in charting or changing the fundamental law of the land would benefit from a more inclusive approach to nation building and defining the Filipino peoples.

⁴ Hamada-Pawid, Zenaida., R.A. 8371 (IPRA) and the Cordilleras, Tan-awan: Special IPRA issue Tomo 4 Blg. 2 July-Sept 2001 p. 17 reprint of Remarks delivered at the CAR-Region I consultation by the Office of the Presidential Adviser on Indigenous Peoples' Affairs 20-21 May 2001 Golden Pine Hotel, Baguio City.

⁵ Indigenous Peoples (or Indigenous Cultural Communities) as defined by Republic Act. No. 8371 or the Indigenous Peoples Rights Act (IPRA) of 1987.

⁶ Ibid 4. p. 21

⁷ Created by then President Fidel V. Ramos to “formulate and recommend, after consulting with the concerned sectors of society, to the President... a viable general amnesty program and peace process that will lead to a just, comprehensive and lasting peace in the country.” The final NUC report contained the 5 roots of conflict, which specifically cited the plight of indigenous peoples' communities, recommended 3 principles and 6 paths to a just and lasting peace. Then Pres. Ramos signed EO 125 s. 1993 enshrining these as the basis of the Philippine Comprehensive Peace Process. EO 3 s. 2001 of President Gloria Macapagal reiterated and strengthened these principles as the continuing peace process under her administration.

⁸ Ibid 4. p 21

..in Other Filipinos...

Pre-hispanic Philippines was a vibrant diversity of identities contesting space and resources. These identities included present day Ilokans, Tagalogs, Batangueños, Bisayas and Pampanguenos. While conflict between these groups was prevalent, so was trade. Historian William Henry Scott, in his writings, sought to elucidate and properly translate accounts that accurately depicted that time of our history. Historical texts abound that depict highland and lowland Filipinos at war but these, he said, were erroneously translated or taken out of context. One text he stated as usually quoted out of context was Loarca's 1582 Relacion, which in full should completely read:

"There are two kinds of men in this land [Panay] who, though they are all one, behave somewhat differently and are almost always enemies – the one, those who live on the seacoast, and the other, those who live in the mountains, and if they have some peace between them it is because of the necessity they have of one another to sustain human life, because those of the mountains cannot live without the fish and salt and other things and jars and plates which come from other parts, nor can those on the coast live without the rice and cotton which the mountaineers have."⁹

This would be the same of the northern Luzon Ibaloi trading with the Ilokans or the eastern Mindanao Mamanua trading with the Butuanon. So where and when did this divide happen? When did we indigenous peoples and fellow Filipinos see each "other" as different?

Beginnings of Differences

For Mindanao, when Islam was introduced sometime in the 1500s, the beginnings of a dichotomy of "self" and the "other" was planted. The story of the two brothers Tabunaway and Mamalo illustrate for the Mindanao indigenous peoples how the embrace of Islam by one and not by the other led to present day differences between the Moro and the Lumad¹⁰. But even if the indigenous Tabunaway embraced Islam, he and his successors were recognized by the emigrant Sarip Kabungsuwan as distinct self-governed peoples. Privileges based on this recognition were given from one to the other. In his book *Muslim Rebels and Rulers*, Thomas McKenna writes:

The dumatus (neither ruler nor ruled) are the descendants of Tabunaway, a legendary Maguindanaoan chieftain who welcomed Sarip Kabungsuwan to Cotabato. The tarsilas¹¹ record that Tabunaway acknowledged the sovereignty of Sarip Kabungsuwan and his descendants in exchange for certain privileges. The first entitlement was that neither he nor his descendants would pay tribute to any datu. Hadji Abbas expressed the distinction between endatuan and dumatu in his ingged this way: "At harvest time the datu sent sacks to the endatuan who were obliged to fill all the sacks the datu gave them. The dumatus were not sent sacks and did not have to provide rice to the datu." The second dumatu entitlement was that no datu could be proclaimed as sultan without the participation of a Tabunaway descendant. The dumatus have kept their own genealogical records of the Tabunaway descent line, primarily to preserve their privileges vis-à-vis the Maguindanaoan aristocracy. Theirs is the only tarsila in Cotabato that does not trace descent from Sarip Kabungsuwan. The special status of Tabunaway descendants has allowed them to maintain, more so than any other group, their separate bangsa by remaining ancestor focused, self-ruled, and relatively corporate.¹² (emphasis ours)

⁹ Blair and Robertson, Vol. 5, Spanish text on page 120., cited in Scott, William Henry, *Looking for the Prehispanic Filipino and Other Essays in Philippine History*, 1992 p.1-12

¹⁰ again these terms are given by the majority population to those who call themselves Arumanen ne Manuvu, Tausog, Badjao, Samaa, Mandaya, Mamanua, Subanon, Maranao, Maguindanaoan and so on.

¹¹ "The term 'tarsila' is derived from the Arabic 'silila', meaning name-chain" – McKenna, Thomas, *Muslim Rulers and Rebels*. Chapter 3 Islamic Rule in Cotabato p. 49

¹² McKenna, Thomas, *Muslim Rulers and Rebels*. Chapter 3 Islamic Rule in Cotabato p. 50

Pagans and Non-Christians

While Spanish colonial rule appears to have served to ignite Filipino unity against an oppressor and a growing national identity, it further divided the Christian from the non-Christian. With this dichotomy, those who retained their identity as peoples, their territories and their governance systems against the colonial power were labeled as pagans and backward. Worse, on several occasions, world expositions¹³ presented proud indigenous peoples villages as curiosities of a nation that was asserting its right to join the international arena as an independent nation. The backlash was immediate and cruel. The term Igorot came to depict everything that was not what a Filipino citizen of the world was supposed to be. Such disdain has become so deeply rooted that the legacy of the world expositions prompted no less than UN Ambassador Carlos P. Romulo, years later, to say *“These primitive black people, are no more Filipinos than the American Indian is representative of the United States Citizen.”*¹⁴ Scott couldn’t help comment, as I also cannot help but quote- *“Evidently, General Romulo’s preconception also moved him to ignore the fact that those United States citizens belonged to a different race from the Indians their forebears had dispossessed, while he and the Igorots did not.”*¹⁵

The same enmity was shown to the Moro and the non-Christians in the southern Philippines. The end of the Spanish occupation and the establishment of the First Philippine Republic in Malolos and the subsequent American occupation after the Treaty of Paris did little to change this division and dichotomy of identity. Indeed even as the Preamble of the First Republic’s Constitution read *“We the Representatives of the Filipino people...”*, in reality, there was neither an Igorot, a Moro or any non-Christian sitting as a Representative there. And yet, in the resistance against the Americans, 225 of these same Igorots, recruited by Isabelo Andaya of Candon joined the troops in Malolos for the opening engagement of the Philippine American War on February 05, 1899.

Thus, Philippine nation-building has unfortunately been more exclusive than inclusive. The push for uniformity and conformity with an imagined standard of citizenship has influenced our nationalism for over a century. The idea of one nation under one law with one Constitution was, unfortunately blind to the realities of many peoples with many laws and many Constitutions and governance systems.

In order therefore to be able to move forward, it is perhaps instructive at this point to look back at how, through the years, the “other” perceived and defined us indigenous peoples and how the state sought to deal with us. We have gone from being labeled “pagan” to “non-Christian”, to “non-Christian Tribes”, to “National Cultural Minorities”, to “Indigenous Cultural Communities” and now “Indigenous Peoples.” Likewise, it would be enlightening to look back at how we indigenous peoples also saw our “selves” in the emerging Filipino nation.

Non-Christian Tribes

The successful resistance of indigenous peoples to Spanish colonization and the deeply rooted dichotomy between the Christian and non-Christian greeted the American colonizers. By signing the Treaty of Paris, Spain ceded the entire archipelago, its resources and its peoples to America as if it was theirs to cede. This concept of ownership derives from the myth of the Regalian Doctrine:

¹³ The Madrid Exposition of 1887 and the St. Louis Exposition of 1903-1904 as well as subsequent ones where both Igorot and Manobo villages were part of the attractions.

¹⁴ Carlos P. Romulo, *Mother America: A Living Story of Democracy*, (Garden City, 1946), p. 59., cited in Scott, William Henry, *Looking for the Prehispanic Filipino and Other Essays in Philippine History*, 1992 p.1-12

¹⁵ Scott, William Henry, *Looking for the Prehispanic Filipino and Other Essays in Philippine History*, 1992 p.1-12

“The Regalian doctrine proceeds from the premise that all natural resources within the country’s territory belongs to the State in imperium and dominium. This dates back to the arrival of the Spaniards in the Philippines when they declared that all lands in the country as belonging to the King of Spain.¹⁶”

But 1900 Philippines was not a fully conquered nation. The American government saw the reality of unconquered peoples, and their government then sought to deal with the indigenous peoples separately and placed them under a separate government, solely under the power of the upper house of the Philippine Assembly.

Since the Spaniards had failed to pacify the tribes of the Cordillera Central, the American Government also set up a separate form of government for the Mountain Province. The concept of this separate form of government was already included in President William McKinley’s instructions to the Philippine Commission on April 7, 1900:

“In dealing with the uncivilized tribes of the Islands, the Commission should adopt the same course followed by Congress in permitting the tribes of our North American Indians to maintain their tribal organization and government, and under which many of these tribes are now living in peace and contentment, surrounded by a civilization to which they are unable or unwilling to conform.”

Accordingly, when the Philippine Assembly was inaugurated in 1907 as the lower legislative house with the Commission as the upper house, sole legislative power over the “Moro and tribal” people rested in the Commission’s hands. The Mountain Province was created the next year.

Strangely enough, the special province absorbed the first civil government organized under the American administration. A military government had been set up in La Trinidad in February, 1900, but the people were so peaceable that the Commission passed Act No. 48 on Nov. 22, 1900, creating the local and provincial civil governments of Benguet. Civil government in the Philippines generally was not organized until the following Fourth of July.

This separate government however was hadly a recognition of the unique and diverse nations of the peoples of the Philippines but rather an effort to put emphasis on the soonest “acculturation of the peoples of the Mountain Province to modern democratic government.¹⁷”. The Philippine Commission was assisted by the Bureau of Non-Christian Tribes created in 1901, which became a division of the Bureau of Education in 1905 called the “Ethnological Survey” then a division of the Bureau of Science in 1906. When the Jones Bill became law in 1916, all “tribal” peoples were placed under the national legislature with senators and representatives appointed by the Governor General. But the same law required the re-establishment of a bureau charged with their special protection, so the old Bureau of Non-Christian Tribes was re-created by Philippine Legislature Act. No. 2674 on February 20, 1917. Also in February 1920 the Philippine Senate and House of Representatives passed Act No 2878, which abolished the Department of Mindanao and Sulu and transferred its responsibilities to the Bureau of Non-Christian Tribes under the Department of the Interior.¹⁸

Benevolent intentions were undoubtedly present as literature says “both the Commission and the Legislature passed special laws in consideration of the peculiar conditions of the Cordillera peoples. Many of these were intended to protect them from exploitation by non-Igorot carpet-baggers and speculators.¹⁹”

¹⁶ Leonen, Marvic MVF, The Indigenous Peoples Rights Act of 1997: Will this Legal Reality Bring Us to a More Progressive Level of Political Discourse?, Philippine Natural Resources Law Journal, September 1998 p. 13

¹⁷ Baguio Midland Courier article (1973), The Old Mountain Province, **cited** in...

¹⁸ *ibid* 16

¹⁹ *ibid* 16

Land Ownership Rights

Amidst these legal and policy changes, assertions by indigenous peoples of domain ownership went largely undocumented. But in 1909, a case of an Ibaloi *baknang*²⁰ Mateo Cariño, was brought before the US Supreme Court on the question of land ownership. As discussed by Marvic Leonen in the Philippine Natural Resources Journal, the pertinent details of Cariño vs. Insular Government are:

“...The applicant and plaintiff in error (Mateo Cariño) is an Igorot of the Province of Benguet, where the land lies. For more that fifty years before the Treaty of Paris, April 11, 1899, as far back as the findings go, the plaintiff and his ancestors had held the land as owners. His grandfather had lived on it, and had maintained fences sufficient for the holding of cattle, according to the custom of the country, some of the fences, it seems, having been of much earlier date. His father had cultivated parts and had used parts for pasturing cattle, and he had used it for pasture in turn. They all had been recognized as owners by the Igorots, and he had inherited or received the land from his father, in accordance with Igorot custom. No document of title, however, had issued from the Spanish crown... In 1901 the plaintiff filed a petition, alleging ownership²¹”

“Cariño ruled that ... ‘When as far back as testimony goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way from before the Spanish conquest, and never to have been public land.’²²”

The article further asserts that the case, which to this day is not overruled, provides a guide in interpreting the Regalian Doctrine. There are domains and peoples who should not be automatically subsumed under the Regalian Doctrine because they were never conquered by the crown of Spain. Leonen further cites Owen Lynch who observed that:

“...Cariño remains a landmark decision. It establishes an important precedent in Philippine jurisprudence: Igorots, and by logical extension other tribal Filipinos with comparable customs and long associations, have constitutionally protected native titles to their ancestral lands.²³”

Despite this landmark judicial decision, legislative developments such as the commonwealth Constitution of 1935 unfortunately carried a blind spot to the diverse peoples and domain ownership systems of the Philippine Archipelago and unilaterally dispossessed all indigenous peoples of their ancestral domains simply by its definition of the National territory:

The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits which are set forth in Article III of said treaty, together with all the islands embraced in the treaty concluded at Washington between the United States and Spain on the seventh day of November, nineteen hundred, and the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippine Islands exercises jurisdiction²⁴.

²⁰ Richman. Stature among the Ibaloi was determined by wealth in terms of land, cattle and gold as well as the capacity to perform ritual feasts as redistributive occasions of wealth.

²¹ 41 Phil. 936-937, 212 US 449 (1909) cited in Leonen, Marvic MVF, The Indigenous Peoples Rights Act of 1997: Will this Legal Reality Bring Us to a More Progressive Level of Political Discourse?, Philippine Natural Resources Law Journal, September 1998 p. 14

²² *ibid* 20

²³ Lynch, Owen J., “Native Title Private Right and Tribal Land Law: An Introductory Survey,” 57 Phil. L.J. 268, 278 (1982) cited in Leonen, Marvic MVF, The Indigenous Peoples Rights Act of 1997: Will this Legal Reality Bring Us to a More Progressive Level of Political Discourse?, Philippine Natural Resources Law Journal, September 1998 p. 14

²⁴ Article I of the 1935 Constitution on National Territory

By this definition, and following the Spanish Regalian Doctrine, indigenous peoples were likewise unilaterally dispossessed wholesale of their resources. As defined in the 1935 Constitution and carried in each subsequent Constitution to this day, these were now owned by the State and the recognized citizens of that State:

All agricultural timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution²⁵.

Where were the indigenous peoples in this convention? It can be said that they had members and representatives to the 1935 Constitutional Convention. Bontoc had John Diaz Sr., Benguet had Henry Kamora and Ifugao had Miguel Gumangan and Alberto Crespillo, Sr. From the South, Arolas Tulawi of Sulu, Datu Manandang Piang and Datu Blah Sinsuat of Cotabato, and Sultan Alaoya Alonto of Lanao likewise sat in the approval of the Constitution. To this day, these names are regarded as leaders, statesmen and pioneers in their respective areas but sadly it cannot be said that the domains and peoples they represented were recognized and understood by that august 1935 assembly and the Constitution they approved.

National Cultural Minorities

As national identity and nationhood were being forged by the Filipino peoples, the emergence of a sense of a majority and a minority infused national discourse. Those who were more alike formed the majority and those who didn't conform, the minority. Because of this, the term non-Christian was abolished and in its place emerged the National Cultural Minorities. The minoritization of identity-based peoples introduced a dangerous tendency to ascribe a "lesser than equal" perception of those who refused to conform to a common abstract Filipino mainstream identity. Further reading of McKenna illustrates:

In 1954 the Philippine Congress, prompted by an intensification of Muslim "banditry" in Mindanao and Sulu, appointed a Special Committee to investigate what were by then the conspicuous economic disparities between Philippine Muslims and Christians generated by Christian migration to the Muslim South. The committee, headed by Domocao Alonto, a prominent Muslim congressman from Lanao, selected a familiar object of study—"the Moro Problem"—and adopted the colonial discourse of Muslim backwardness and guided integration in its report. The Moro Problem was redefined to accord with the ideology of the postcolonial Philippine nation, referring now to "nothing less than the problem of integrating into the Philippine body politic the Muslim population of the country, and the problem of inculcating into their minds that they are Filipinos and that this Government is their own and that they are part of it" (Congress of the Philippines, House of Representatives, 1955, quoted in Gowing 1979, 208).

The Special Committee recommended the creation of a Commission on National Integration (CNI). A 1957 act of Congress established the commission, authorizing it to "effectuate in a more rapid and complete manner the economic, social, moral and political advancement of the Non-Christian Filipinos" (Congress of the Philippines, House of Representatives, 1957, Republic Act 1888, quoted in Gowing 1979, 208).

The scholarships and educational opportunities of the CNI enabled community members to become professionals and even ranking officials in government. On one hand, these educated indigenous peoples formed the intellectual pools that the State used as tools to further assimilate

²⁵ Article XIII of the 1935 Constitution Section I on Natural Resources

and integrate territories, resources, governance structures and peoples into the mainstream body politic. Natural resource extraction became the main interest of the State in areas where indigenous peoples were found.

The CNI was not without benefit however for indigenous peoples. On the other hand, for some indigenous peoples, the educational opportunities allowed them to engage the State with its own language and for some the educated elite began to form the intellectual pools that contributed to the continuing struggle for self-determination. If there was anything to be said of this development, it was that indigenous peoples engaging external systems and utilizing these engagements for their communities and peoples was a possibility without loss of identity or self. The debate of whether to assimilate or isolate indigenous peoples effectively became moot. The challenge of defining self-determination within Philippine nation-building became imperative.

Generally accepted thinking among policy makers and the general populace at that time was that the non-Christian portion of the Philippine population was a minority, backward and hence, had to be integrated immediately into the greater body politic in order not to slow down the development of the nation. This phenomenon is best described by McKenna by citing Brackette Williams²⁶:

It presents a characteristic instance of the genesis of ethnonationalism—a sweeping political phenomenon for which Brackette Williams has recently offered an innovative reading. According to Williams, any adequate analysis of ethnonationalism must treat ethnic differentiation as "an aspect of a total system of stratification" (1989, 421). In such a system, the most powerful members of any particular nation-state "determine who, among persons of different 'tribal pasts,' is trustworthy and loyal to the political unit" (1989, 419).

Following Williams's schema, in the new Philippine republic only Christian Filipinos were deemed entirely trustworthy and thereby considered "non-ethnic" despite the quite considerable ethnolinguistic diversity found among them. Non-Christian Filipinos (comprising Muslim-Filipinos and "Tribal-Filipinos"), deemed culturally suspect, were labeled "ethnic" (by assigning them hyphenated designators) and regarded as socially and morally substandard. Muslim-Filipinos, comprising the largest single category of non-Christians, were judged to be dangerously disloyal because of their long history of armed enmity toward Philippine Christians.

The distrust and devaluation of Muslims by the Christians who controlled the Philippine state is evidenced in the 1954 report of the Special Committee, which depicts Muslims as socially problematic by nature—mired in poverty as a result of their own ignorance and religious fanaticism. Official expenditures aimed at integrating them into the "body politic" were thought necessary precisely because Muslims were viewed as "holding the nation back" (B. Williams 1989, 435). It is worth noting that while the legislation establishing the Commission on National Integration authorized the commission to institute a broad spectrum of development programs and services ranging from irrigation projects to legal aid to road building, the only component to receive more than token funding was the scholarship program for higher education. In this respect, the postcolonial Philippine government continued the practice established during the American period of "developing" Philippine Muslims not by providing them the material resources of the West but by endeavoring to remove (by the selective provision of university educations) the cultural disabilities perceived to be impeding their advancement and, indirectly, that of the Philippine nation.

²⁶ Fully lifted from McKenna, Thomas, Muslim Rulers and Rebels, Chapter 7, Muslim Separatism and the Bangsamoro Rebellion, (1998), p. 139-140.

This “distrust” carries on to present day assertions against indigenous peoples and Moro indigenous peoples who assert their ownership over their land and resources. We are seen as hindrances to national development and our rights are scaled against that of the majority and the undefined and unquantifiable common good. Labels have evolved over time and the present sees indigenous peoples labeled as anti-development, romantics, cattle rustlers, squatters, protectionists, economic saboteurs, and even economic terrorists.

In whole, the building of Philippine nationhood, already non-inclusive for indigenous and Moros was not without struggles even among those who conformed to the mainstream. The vestiges of the colonial past and the resistance to oligarchy and the rule of the elite ushered in a period of heightened resistance and armed struggle. Economic profit for a few appeared to be the focus of State policy during the 1930s to 1960s and as natural resource extraction pushed indigenous communities further and further inland, pockets of armed resistance emerged.

Armed Resistance

The role that the armed left and the southern secessionist movements played in the articulation of the struggle for self-determination cannot be ignored. In the long continuum of Indigenous and Moro peoples’ defense of their territories, governance and peoples, the ideological armed struggle intersected at one point with community needs and peoples’ initiatives against State-sanctioned displacement and marginalization. At the height of the armed struggle from the 1960s to the 1970s, there appeared no immediate need to nuance an indigenous peoples’ agenda within the dominantly anti-imperialist line of the CPP-NPA-NDF or the secessionist line of the southern movements. The ready recognition by indigenous and Moro peoples for the need to an alternative to State oppression opened their communities to recruitment by these armed groups. There are very few if any indigenous families who did not at one time or another support or join the Communist Party of the Philippines, the National Democratic Front, and the New Peoples’ Army. In the south, a parallel assertion can be claimed by the secessionist movements.

Political Autonomy

This heightened resistance perhaps as well as global trends in recognition of indigenous rights caused a shift in government policy when in 1974, the Commission on National Integration was abolished. In its place, then President Ferdinand Marcos created the Southern Philippine Development Authority (SPDA), which took over the government programs for the Muslims and later became the Ministry of Muslim Affairs, and the Presidential Assistance on National Minorities (PANAMIN), which took over the government programs for the Non-Muslim or other tribal groups. One of its main tasks was to integrate into the mainstream of society certain ethnic groups, which seek full integration into the larger community and *at the same time protect the rights of those who wish to preserve their original lifeways beside the larger community* (P.D. 1414, 1978). The century-long struggle of the indigenous peoples of the Cordillera and the Muslim peoples of Mindanao for self-determination found expression in their bid for political autonomy within their territories as peoples.

This acknowledgement of peoples albeit limited in definition to “ethnic groups” who wished to preserve their original lifeways represented a slight shift away from integration, acculturation and assimilation. Whether this was supported by programs and political will is, however, debatable.

Martial Law

Martial Law brought renewed transgressions against indigenous peoples whose domains contained the resources needed by a State for its defined national development agenda. The use of force was prevalent to quell any resistance to the dictates of the “New Republic”. Upon

declaration of Martial Law in 1971, the 1935 Constitution was suspended and later in 1973, a new Constitution was approved by a Constitutional Convention easily under the control of Marcos. In the 1973 Constitution, the recognition of Indigenous peoples was now reduced to a consideration: “The State shall consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.”²⁷

Poignant stories of indigenous peoples resistance emerged. One of which was the struggle against the construction of the Chico River Dam²⁸

The Chico River Basin Development Project was conceived in 1965, aimed to produce 1,010 megawatts of electricity. There were supposed to be four target dam sites: Sabangan and Sadanga, both in Mountain Province, and Basao and Tomiangan, both in Kalinga. The biggest dam was to be Chico IV in Tomiangan and would have displaced over a thousand Kalinga families alone, directly submerging at least four towns and several hundreds of hectares of land. These included rice terraces, sacred burial grounds, kaingin farms and village homes occupied by the Kalinga tribes for centuries.

The village elders decided that in order to prevent the then Marcos government from building the dam, they must stop any attempt to construct any structure connected with the project. The NPC, guarded by Philippine Constabulary (PC), now the Philippine National Police, wanted to put up a project site headquarters near Dupag.

To stop them, the PC men hit both men and women, using clubs and rifle butts. But the Kalinga women were undaunted. In one instance, it was decided that only the women would confront the PC and NPC personnel. They bared their breasts, a signal of defiance and rage, before they disbanded the camp. To PC elements who were also tribal members, they shouted, “Why have you sold out your land and people?”

Banding together, the tribes in the region successfully resisted the construction of all four dams through tribal mobilizations, petitions, demonstrations and even armed struggle. The Marcos government was forced to withdraw the project, especially in the face of strong public support generated by tribal resistance.

Amidst the struggle for self-determination, the immediate need to survive and to secure their lands and domains became the focus of indigenous peoples’ struggle under Martial Law. Initiatives towards political autonomy, seen as a logical path towards self-determination had to take a backseat to the clamor for the recognition of basic human and property rights. In this milieu, armed struggle and the ideology of the communist party of the Philippines and the southern secessionist movements became the vehicles for the struggle for survival.

Cultural Communities

The struggle for self-determination contributed largely to the struggle against the dictatorship in areas of indigenous peoples. The overthrowing of the Marcos regime brought in a renewed sense of hope for recognition of time-immemorial concepts of domain, custom law and cultural integrity. Political autonomy was once again articulated.

The democratic transition however did not usher in the same openings in the bureaucratic structures of the state:

“Before the collapse of the Marcos regime, however, PANAMIN Secretary Manuel Elizalde Jr., left the country and abandoned his organization. The interim government under Pres. Ferdinand Marcos created another agency, the Office for Muslim Affairs and Cultural Communities (OMACC) by virtue of the Executive Order No. 969. The

²⁷ Article XV (General Provisions) Section 11 of the 1973 Constitution.

²⁸ As related by a Kalinga elder Letty Bula-at to Rowena Caranza, Memories of a Kalinga elder: Recalling the Past, Confronting the Present accessed from <http://www.bulatlat.com/news/2-12/2-12-recalling.html> on 30/07/07

OMACC catered to the needs of both the Muslims and the Non-Muslim communities as its clientele. This agency did not last long as government management soon realized that lumping the Islamicized groups and the ICCs into one office did not work well as envisioned. In January 1987, following the 1986 February Revolution, the OMACC was abolished and the Aquino government issued three Executive Orders creating three distinct and separate offices, as follows, E.O. No. 122-A, creating the Office for the Muslim Affairs (OMA); E.O. 122-B, creating the Office for Northern Cultural Communities (ONCC) and E.O. 122-C, creating the Office for Southern Cultural Communities (OSCC). These three Offices were attached to the Office of the President²⁹.”

The use of the terminology “minorities” was dropped and “cultural communities” entered the discourse. The emphasis was still on differences according to cultural traditions and practices rather than recognition of diverse governance structures and resource-management systems.

Then President Corazon Aquino assumed the Presidency amidst the raging armed conflict in Mindanao and the Cordilleras. Instituting peaceful negotiation as the means to end conflict, Aquino engaged the Cordillera Peoples’ Liberation Army (CPLA), a breakaway from the New Peoples’ Army in the Cordilleras and the Moro National Liberation Front in peace talks. As part of the signed peace agreements with both parties, regional autonomy for both regions was included in the 1987 Constitution.

The 1987 Constitution therefore included an entire Article on Local Government and Autonomous Regions. The full provisions for autonomous regions³⁰ are annexed for reference.

The Constitutional Commission that crafted the 1987 Constitution looked at the grant of autonomy both as a social justice measure as well as a step in ensuring the integrity of the component regions of the Philippine archipelago:³¹

Commissioner Bennagen argued for social justice³²:

“Away from the harsh realities of the neglected and underdeveloped conditions of the Cordilleras and of Mindanao, it is easy for us in the comfort of this hall not to see how our decisions could affect the lives of millions of people whom we do not know. But I do know and have felt the overwhelming passion of the Bangsa Moro to achieve recognition of their right to self-determination. I have been witness to the courage and perseverance of the Cordillera peoples in their struggle for peace and justice. They see regional autonomy as the answer to their centuries of struggle against oppression and exploitation. For so long, their names and identities have been debased. Their ancestral lands have been ransacked for their treasures, for their wealth. Their cultures have been defiled, their very lives threatened, and worse, extinguished, all in the name of national development; all in the name of public interest; all in the name of the common good; all in the name of the right to property; all in the name of the Regalian doctrine; all in the name of national security. These phrases have meant nothing to our indigenous communities, except for the violation of their human rights.”

Commissioner Ople on the other hand argued for the integrity of the Philippine archipelago³³:

"Autonomy on a territorial basis would easily conflict with State but the two are not irreconcilable. If a State fails to induce interest in the continued maintenance of the State

²⁹ NCIP History accessed from <http://www.ncip.gov.ph/agency/history.htm> on 30/07/07

³⁰ Article X (Local Government) Sections 15-21 of the 1987 Constitution

³¹ Complete sponsorship speeches of Commissioners Ople and Bennagen are annexed for reference.

³² R.C.C. NO. 53, Monday, August 11, 1986 Sponsorship Speech of Commissioner Bennagen

³³ R.C.C. 53, Monday, August 11, 1986, Sponsorship Speech of Commissioner Ople

union on the part of frontier outlying or racially alien regions, it incurs the danger of their being annexed or of their gaining independence. As a remedy, the State may grant to such regions a certain measure of self-government within the larger political framework."

[This] Body is presented with a rare opportunity to seal the permanent unity of these two regions with the rest of the Republic by granting them autonomous status within the larger sovereignty of the Republic of the Philippines.

The organic acts for Muslim Mindanao and the Cordilleras were crafted by Congress. The Autonomous Region of Muslim Mindanao (ARMM) was created by R.A. 6734 and later amended by R.A. 9054 which was ratified in a plebiscite on August 2001. The MNLF has declared it does not recognize the 2001 unilateral plebiscite of the government alleging that the provisions of R.A. 9054 run counter to the spirit and intent of the 1976 Tripoli Agreement and the 1996 Peace Agreement.³⁴

Autonomy for the Cordilleras did not come to fruition. The region, except for Ifugao overwhelmingly voted against autonomy as defined by R.A. 6766. To the Cordillera indigenous peoples, the organic act did not represent genuine autonomy. This was compounded by the politicking and bickering amongst the contenders for positions in the regional bodies. In a poignant prologue to a case filed at the Supreme Court opposing the allocation of funds for winding up of activities of the Cordillera Administrative Region body tasked to transition the region into autonomy, the court had this to say:

"The restoration of democracy, with the resultant promulgation of the 1987 Constitution, has allowed more room for creative solutions that accord the utmost respect to the rights and traditions of cultural minorities. Regional autonomy is one of the proffered solutions in the Constitution, and one which the Court has been all too willing to affirm or defer to. It is a solution long dreamed of by ethnic minorities around the world, and its growing acceptance in the international realm is but a further step in the evolution of world civilizations towards the humane, democratic ideal.

There is a certain element of tragedy in the present petition, as it arises from the failure to this day to vitalize the dream of local autonomy of the Cordillera people.³⁵"

The case decision further gives a brief account of the situation leading up to that point;

When President Corazon Aquino assumed the presidency after the EDSA people power revolt, she was confronted with the insurgency in the Cordilleras, a problem of long standing which dates back to the martial rule of then President Marcos. Thus, her government initiated a series of peace talks with the Cordillera People's Liberation Army (CPLA) and the Cordillera Bodong Administration (CBA), both headed by Fr. Conrado Balweg. The dialogues between the representatives of the government and the CPLA centered on the establishment of an autonomous government in the Cordilleras and culminated in the forging of a Joint Memorandum of Agreement on September 13, 1986, whereby the Armed Forces of the Philippines and the CPLA had agreed to end hostilities.

On February 2, 1987, the Filipino people ratified the 1987 Philippine Constitution. Section 15, Article X 1 thereof ordains the creation of autonomous regions in Muslim Mindanao and in the Cordilleras while Section 18, Article X 2 thereof mandates the congressional enactment of the organic acts for each of the autonomous regions.

After the cessation of hostilities, the dialogues went on and these paved the way for the signing on March 27, 1987 of a Joint Statement of the Government Panel and the

³⁴ Rene Q. Bas, GRP-MNLF Agreement: RP without Mindanao, SPECIAL REPORT, Manila Sunday Times, September 04, 2006 accessed from http://www.manilatimes.net/national/2006/sept/04/yehey/top_stories/20060904top5.html on 20 June 2007

³⁵ Atitiw vs. Zamora, EN BANC [G.R. No. 143374. September 30, 2005.]

Cordillera Panel, enjoining the drafting of an executive order to authorize the creation of a policy-making and administrative body for the Cordilleras and to conduct studies on the drafting of an organic act for the autonomous region. Thus, by virtue of her residual legislative powers under the Freedom Constitution, President Aquino promulgated Executive Order (E.O.) No. 220 on July 15, 1987, creating the CAR, which is the interim and preparatory body tasked, among others, to administer the affairs of government in the Cordilleras composed of the provinces of Abra, Benguet, Ifugao, Kalinga-Apayao and Mountain Province and the City of Baguio.

Pursuant to the 1987 Constitution, on October 23, 1989, Congress enacted Republic Act No. 6766 entitled An Act Providing for an Organic Act for the Cordillera Autonomous Region. On January 30, 1990, a plebiscite was held wherein the people of the aforementioned provinces and city cast their votes on the ratification of the Organic Act. The plebiscite results showed, however, that the creation of an autonomous region was approved by a majority of votes in the Ifugao province only and overwhelmingly rejected in the rest of the region. In *Ordillo v. Commission on Elections*, 3 the Court ruled that the sole province of Ifugao cannot validly constitute the Cordillera Autonomous Region and upheld the disapproval of the Organic Act by the people of the region. In said case, the Court also declared E.O. No. 220 to be still in force and effect until properly repealed or amended.

The Present Constitution

The 1987 Constitution gives recognition to indigenous cultural communities within the framework of national unity and development. The distrust of the “other”, however, still pervades the language of the fundamental law of the land. While for the first time, the terms indigenous and autonomy were used pertaining to distinct communities and systems, the nuances of culture and acculturation are still present. The confluence of events and the spirit of the EDSA peaceful revolution brought about the singular opportunity for the biggest strides in defining the struggle for self-determination within and alongside Philippine nation-building. Below are some salient provisions for indigenous cultural communities:

On Identity: The 1987 Constitution recognized the distinct identity and economic, social and cultural rights of indigenous peoples as well as customary laws governing property rights.

Article II, Section 22. The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.

Article XI, Section 5.b. The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.

The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

On Participatory Processes: The 1987 Constitution opened areas for participation at all levels of decision making to organized groups with a deliberate empowerment of peoples’ and community-based representation. A specific article on an indigenous peoples consultative body to advice the president brought indigenous peoples participation in policy and governance to the highest office of the and.

Article II, Section 23. The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.

Article VI, Section 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

Article VI, Section 5. (2) The party-list representatives shall constitute twenty *per centum* of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.

Article XIII, Section 15. The State shall respect the role of independent peoples organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

Peoples' organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.

Section 16. The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

Article XVI, Section 12. The Congress may create a consultative body to advise the President on policies affecting indigenous cultural communities, the majority of the members of which shall come from such communities.

On Knowledge Systems: Recognition of indigenous knowledge by the 1987 Constitution serves to alleviate centuries of discrimination and distrust of systems that were not mainstream. It opened opportunities for innovative, creative and respectful use of our heritage of knowledge.

Article XIV, Section 4. Encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs;

Article XIV, Section 10. Science and technology are essential for national development and progress. The State shall give priority to research and development, invention, innovation, and their utilization; and to science and technology education, training, and services. It shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.

Article XIV, Section 17. The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

“Indigenous Peoples” in the Global Arena

In the Global arena, parallel efforts were gaining ground for the recognition of indigenous peoples. Earlier in 1957, the International Labour Organization (ILO) adopted its Convention 107 that sought to protect the rights of indigenous and tribal peoples who at that time made up a significant number of rural workers. The evolution of the international recognition of indigenous peoples rights is also illustrated in how the ILO evolved from its first Convention to the present ILO Convention 169. In their words³⁶:

When Convention No. 107 was adopted, indigenous and tribal peoples were seen as “backward” and temporary societies. The belief at the time was that, for them to survive, they had to be brought into the national mainstream, and that this should be done through integration and assimilation.

As time went on, this approach came to be questioned. This was due largely to a growing consciousness, and increasing numbers of indigenous and tribal peoples participating at

³⁶ ILO Convention on Indigenous and Tribal Peoples, 1989 (169): A Manual, 2003

international fora, such as the United Nations Working Group on Indigenous Populations.

Between 1987 and 1989, the ILO revised Convention No. 107. During this process, a large number of indigenous and tribal people were consulted and actively participated at the meetings either through their own organizations, or as representatives of employers' and workers' organizations, and of governments.

After two years of intense discussion and drafting, the Indigenous and Tribal Peoples Convention (No. 169) was adopted in June 1989

An important part of ILO 169 was the inclusion of the rights of Indigenous Peoples over their lands. Among the rights mentioned in the said Convention are the rights of ownership and possession of the peoples over lands, which they traditionally occupy. Article 14 of the Convention reads:

1. *The rights of ownership and possession of the peoples concerned over the lands, which they traditionally occupy, shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities.*
2. *Government shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession."*

The Indigenous Peoples' Rights Act of 1998

President Fidel V. Ramos was elected into office in 1992 out of 7 presidential candidates. He was a minority president who won with only 23% of the vote hence he had to prove his capability to unify a country. In his first SONA, he spoke of peace and security as the first urgent problem his government must face. He cited the need to attain a just, comprehensive, peaceful and lasting solution to the internal armed conflict. He created the National Unification Commission³⁷ to "formulate and recommend, after consulting with the concerned sectors of society, to the President... a viable general amnesty program and peace process that will lead to a just, comprehensive and lasting peace in the country."

The Final Report of the NUC contained Three (3) Principles used as parameters in its formulation of a peace process, Five (5) general categories seen as root causes of the internal armed conflicts, and Six (6) paths to peace government was recommended to simultaneously take to achieve a just, comprehensive and lasting peace. The 5th root of conflict identified by the NUC was [The] *Exploitation and marginalization of Indigenous Cultural Communities, including lack of respect and recognition of ancestral domain and indigenous legal and political systems.*

Ramos then put considerable political will and resources behind the Social Reform Agenda and identified key legislation to be passed to support the comprehensive approach to peace. Successful sector-based and civil society lobbying supported this effort and resulted in the passage of the Indigenous Peoples' Rights Act of 1997 (R.A. 8371) on October 1998.

Today, the Indigenous Peoples' Rights Act (IPRA) remains the main articulation of the Philippine state in recognizing the rights of indigenous peoples. It includes a bundle of rights that cover rights to ancestral domains and resources, indigenous knowledge, systems and practices,

³⁷ Chaired by Commissioner Haydee Yorac, with Representatives from the House in the persons of Congressmen Jose Yap and Eduardo Ermita from the Senate, Senators Wigberto Tanada and Rodolfo Biazon from the Executive, Secretary Franklin Drilon, SND Rene De Villa, Bishop Fernando Capalla of the Catholic Bishop's Conference of the Philippines (CBCP) and Dr. Feliciano Carino of the National Council of Churches in the Philippines

participation and informed consent, and political autonomy. Of the bundle of rights, the last one, political autonomy has yet to be upheld and recognized.

The Realities of 2007

The implementation of IPRA has become caught-up in the context of property rights. Basic social services, political empowerment and livelihood and development have taken a backseat to the processing and award of CADTs and CALTs. Community decision-making processes and dynamics are being challenged in the rush to access resources found within ancestral domains. Constitutional provisions on resource ownership by the state still date back to the influence and dictum of the Regalian Doctrine. It is as if on this issue, we have not moved from 19th century Philippines.

Philippine indigenous peoples today stand on solid legal, native, constitutional, cultural and identity-based rights that the Indigenous Peoples' Rights Act seeks to approximate, articulate and protect. The realities of implementation present an arena of struggle that communities are forced to engage through all means possible. We indigenous peoples have become caught between a rock and a hard place in this respect.³⁸

We see the need to continue the long struggle for self-determination as well as the need to define this within Philippine nation-building. Yet we also bear the brunt of daily struggle against a reluctant state, unresponsive bureaucracy, and entrenched vested interests resistant to recognition of our fundamental rights, aspirations and entitlements.³⁹

We have a law that aspires to recognize, promote and protect these rights. Yet we face the biggest challenge to our way of life and well-being under this law.⁴⁰

We want to contribute to Philippine nation-building. Yet as it stands, we are not yet seen fully for the potential we bring to this task.⁴¹

Questions Asked and Answered⁴²

Does the state have the capability to recognize the identities of the nations within the nation?

- This has not yet been achieved but there is a possibility. An indicator of this is the inclusion of the term 'peoples' in the IPRA Law

Does the state have the capability to recognize different systems of land ownership and resource-use?

- This does not hold true so far, but there is a possibility also. If IPs would participate in the drafting of the Constitution, they would protect certain provisions on land ownership and resource-use.

Does the state have the capability to recognize different systems of governance within territories and ancestral domains?

³⁸ C4CC Round Table Consultation with indigenous peoples' leaders, 09 August 2007, Institute of Social Order, Ateneo de Manila, Loyola Heights. *The day also coincided with international indigenous peoples' day.*

³⁹ Ibid 38

⁴⁰ Ibid 38

⁴¹ Ibid 38

⁴² utilized as facilitating and guide questions during the RTD with indigenous peoples' leaders, 09 August 2007. Responses are as documented by the C4CC documentation team.

- At present, there is an overlapping with the Local Government. But within the ancestral domain, there is existing autonomous governance.

Are IPs in the position to participate in the process of Charter Change?

- Presently, there is non-recognition on the capability of IPs to be involved in the process. This is the challenge for C4CC to integrate the concerns of IPs in drafting the Constitution

Dual Identities and Split Personalities

I started the paper with a question whether bringing in the idea of “peoples” into the Charter would open the spaces for a more inclusive nationhood and nation building. I end with the question whether bringing in the idea of “peoples” would be enough. The realities of the politics of identity remain the core of the indigenous peoples’ agenda whether for charter change or for implementation of existing laws. It is not enough to be crafted and legislated into the consciousness of a reluctant state. It entails a daily processes of both sides seeing one’s self in the other. While the boundaries of political identity serve to define and divide rather than infuse and unite, we will remain inconvenient considerations of a nation still seeking to reconcile with its past.

Certain historical contexts have come full circle. The myth of the Regalian Doctrine still permeates our Constitution. We are again distrusted as the other who occupies areas with the remaining natural resources. Education and development as defined by the state serve to empower a few but also tend to divide communities. Aspirations for political autonomy are reduced to structures and personalities. And yet through all these, the intangible shared identity of indigenous peoples push us to imagine that there may yet be a way to hold one’s identity up to nation building to infuse it with the shared heritage of all.

We remain a part yet apart from the Philippine state. We are peoples, we have territory, we have governance structures and custom law. We would like to be productive citizens of a responsive state. We would like to be descendants of a shared heritage. We would like to be Filipino with all the rights, privileges, and responsibilities but with the respect for never having been subjugated by any colonizer and keeping our shared heritage for all generations to come.

What is indeed indigenous peoples’ agenda for Charter Change? Ask us, dialogue with us, seek to see yourself in us, just as we strive to see ourselves in you. Perhaps after the journey, whether we craft the same Constitution or not, we would have seen ourselves in the other and enriched Philippine nation building with the politics of identity.

Seeing One's Self in Others (Broad Recommendations)

In the Round Table Consultation presentation of this paper organized by C4CC, the participants agreed that any attempt to change the fundamental law of the land should have four (4) main elements:

1. The manner and process for charter change should involve indigenous peoples' communities in the proper context of self-determination.
 - Institute a process for consultation and genuine participation by indigenous peoples in Charter Change defined by them and supported by national initiatives
 - Ancestral Domain based vs. district-based
 - Inclusive and not dependent on existing administrative-political structures (Congress, Barangay, LGUs)
 - With access to all relevant information
 - Several IP communities were asked to sign the petition for people's initiative. Anecdotal stories indicate that in some cases, half of the community members signed while half didn't. This was because the support of the Barangay officials were needed for other community concerns hence the compromise that half would sign.
 - Excerpts from the NUC Final Report indicate how these consultations should be done:

“In most consultations, the participants proposed that the process of consultation established by the NUC be continued. Bishop Claver, in his Chronicle column entitled “United Notions” explained it thus:

“I rather think it sprang from a deep and genuine need of a people at the grassroots to participate in some way in decisions touching their lives, their future and well-being. At the Baguio consultation of the Cordillera region, a lady delegate put it very poignantly: ‘*Listen --- don't just decide as if we had nothing to say.*’ She was asking not that the peoples' wishes prevail at all times but that they be taken seriously into consideration in Government's acts in their regard. Government's failure to listen in its regular means of governance is, in their thinking, precisely a major cause of unpeace in this country”
2. Any charter change cannot diminish the gains already enshrined in the 1987 Constitution on the rights and recognition of indigenous peoples' distinct systems and identities.
 - Strengthen provisions recognizing indigenous peoples' rights to self-determination and eliminate ambiguity between provisions on economic development and resource use.
 - Infuse the Charter with a more inclusive attitude towards the diversity and complexity of the Filipino peoples.
 - Utilize terminologies to signify the diversity and identity of indigenous peoples.
 - Ratify International Instruments that protect and promote the rights of Indigenous Peoples and complement local struggles with international perspectives on indigenous peoples' rights and self-determination
 - Ratify ILO Convention 169

- Sign on the Declaration on the Rights of Indigenous Peoples⁴³
On Thursday 29 June 2006, the Human Rights Council adopted the Declaration on the Rights of Indigenous Peoples and recommended its adoption by the General Assembly.
- Utilize the 2nd Decade of Indigenous Peoples as a milieu in which to recognize, protect and promote the rights of Philippine indigenous peoples with a focus on political empowerment.

The five objectives of the 2nd Decade of Indigenous Peoples (2005-2015) are:
Promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects;

Promoting full and effective participation of indigenous peoples in decisions which directly or indirectly affect their life styles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent.

Re-defining development policies that depart from a vision of equity and that are culturally appropriate, including respect for cultural and linguistic diversity of indigenous peoples.

Adopting targeted policies, programmes, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;

Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national level, regarding the implementation of legal, policy and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

3. It may again need a confluence of events similar to the openness and spirit of change that accompanied the 1986 EDSA People power revolution and the 1987 Constitution
4. Whatever political form of government, be it Federal or Parliament or Presidential or a combination of any of the three proposed, should be clearly presented to indigenous peoples' communities and measured against their time-immemorial struggle for self-determination especially for political rights.
 - Adopt the guiding principle that indigenous peoples communities are distinct and unique therefore an indigenous peoples' agenda for Charter change will necessarily be multi-level and cover a wide range of issues and geographic areas. There is no one IP agenda or set number of issues.

⁴³ The Philippines signed the Declaration on Sept 13, 2007. The UN General Assembly voted for the adoption of the UN Declaration on Indigenous Peoples Rights by a vote of 143 - yes, 4 - no and 11 - abstain.

Urgent Issues of the Day (Utilizing issues of the day to move for the long term agenda)

1. Self-Determination

The indigenous peoples of Muslim Mindanao will be faced with the challenge of articulating their concept of self-determination amidst ongoing peace negotiations between the State and the Moro Islamic Liberation Front (MILF). The context is reflective of the historical struggles of the Bangsamoro peoples. The willingness of the State to open discourse on the principle of self-determination will open arenas and venues for the indigenous peoples of Mindanao to likewise deepen their discourse and raise their advocacies on politics of identity.

2. Autonomy

The indigenous peoples of the Cordillera will be faced anew with the challenge of defining autonomy as they have envisioned amidst the emerging option of federalism and the shift to a parliamentary form of government. In the 1986 Constitutional Convention, Commissioner Bennagen had this observation⁴⁴:

Mr. Bennagen noted that the Body had moved a great deal from the innocuous provision on regional autonomy to the threatening concept of federalism. He told the Body that when the Committee discussed this provision on autonomy, it had in mind the concrete elaboration of Section 11⁴⁵ of the General Provisions of the 1973 Constitution, a provision that was honored more in breach than in observance. He pointed out that historically, since the Spanish times, these indigenous cultural communities have been integrated to the national mainstream as "collectivities" in contrast to the effort of the national government to integrate Filipinos as individuals. It was for this reason, he stated, that these cultural communities carried over their distinction even when the Americans came in and it was further elaborated when the American government created a number of organizations that deal specifically with these cultural communities as "collectivities" and not as individuals. He pointed out that these groups had acquired distinctive characteristics and this would warrant an amendment proposed by Mr. Villacorta by classifying them as distinctive groupings.

Mr. Bennagen stated that these cultural communities have already arrived at a self-definition which separates them from the overwhelming majority of lowland Filipino Christians and it is in recognition of this self-assertion that the concept of regional autonomy is being proposed.

The debate and discourse on autonomy must be allowed to happen. This would inform and enrich any efforts towards redefining the type of state or government that indigenous peoples will be part of. The push for autonomy in the continuing struggle for self-determination should also be informed by history and present day community realities. A helpful suggestion is forwarded by Prof. June Prill Brett⁴⁶:

Prill-Brett culls from her studies certain requirements of a productive discourse on Cordillera autonomy as follows: land ownership that rests on the primary of access to land by the people and the value on equality demonstrated in the redistributive function of ritual feasts; resource management; and conflict resolution through legal pluralism as an essential feature of regional Cordillera

⁴⁴ Journal No. 53, Monday, August 11, 1986, Response of Commissioner Bennagen to Interpolation of Commissioner Villacorta.

⁴⁵ 1973 Constitution Article XV (General Provisions), Section 11. The State shall consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.

⁴⁶ Delos Reyes, Charita, Revisiting Cordillera Autonomy, Ti Similia (Official Newsletter of the Academic Staff), UP Baguio August 2006

governance.

Lastly, she argues that a regional autonomous government must focus its efforts in upholding ili (village) level self-governance, not on creating or amalgamating a new locus (i.e. region) of self-governance. She challenges political leaders in the Cordillera to imagine a structure of governance that is not simply a mirror image of the national government and mainstream local governments.

The meaning of the call for the definition of autonomy is “from the grassroots” as opposed to a discourse that is driven by the political scenarios of would-be officials or leaders of an autonomous Cordillera region.

3. Mining and Extractive Industries

During Martial Law, the struggle for self-determination and autonomy took a backseat to property rights. Present day threats to the natural resource of the country and of indigenous peoples may again bring economic rights of indigenous peoples to the fore of policy and Constitutional debate. The effect of global economic and market trends on the economic rights of indigenous peoples will come to a head in this decade. If this should happen, these must not be taken at the expense of political and cultural rights of indigenous peoples.

4. Justice and Security Issues

The 1987 Constitution and the Indigenous Peoples’ Rights Act (R.A. 8371) were both crafted as social justice measures. Both were infused with the intent to correct centuries of injustice and marginalization. The legacy of indigenous peoples and the armed struggle remains vivid and colors most, if not all aspirations for self-determination. It becomes too easy to misunderstand this legacy and label indigenous peoples as armed threats to the security of the state. The labels of economic terrorists, economic saboteurs and anti-development should not be automatically conjured against communities asserting their rights to natural resources and domains.

Today, indigenous peoples remain especially vulnerable to human rights violations and threats to their physical and cultural survival as they continue to assert their political, territorial and cultural rights. The challenge before us is to enshrine in the Charter, a more encompassing blanket of security of human rights that includes dignity, cultural identity and communal security. This would entail examining broader governance frameworks such as Human Security, Social Protection and Interfaith Dialogue.

5. Political Participation

In the end, the realities that define all the challenges above will only be found in the domains and territories of the indigenous peoples. Without their participation, any initiative to craft the fundamental law of the land will negate the character of such a law. The stories and experiences of each community consulted will bring serve to validate the directions and initiatives that any coalition or formation will seek to undertake. The Cordilleras will have their autonomy, Muslim indigenous peoples their self-determination, Blaan, Subanon, Bungkaot their rights to domains with mining resources, Ibalois, their land rights within a chartered city, and the list goes on. To define the indigenous peoples agenda, it would take a whole tapestry weaving the individual strand of each peoples’ aspirations to arrive at the whole.

Annex A: Journal Records of the Constitutional Convention

R.C.C. NO. 53

Monday, August 11, 1986

SPONSORSHIP SPEECH OF COMMISSIONER BENNAGEN

MR. BENNAGEN: Thank you.

Actually, we have a number of arguments for creating the autonomous regions. Many of these have to do with efficiency and manageability, but we will discuss them during the period of interpellations and period of amendments.

Given the little time that I have, I will just read a paper arguing for the granting of autonomous region status to both the Cordilleras and the Bangsa Moro.

For the last several weeks, we have been deliberating on matters that touch the life of every Filipino, born and unborn. Now, we will be deliberating on matters which shall determine the fate and destiny of the Bangsa Moro and the Cordillera people -a fate intertwined with our own, and for the entire country, a future which could spell war and fragmentation or a future of peace and justice for all. Away from the harsh realities of the neglected and underdeveloped conditions of the Cordilleras and of Mindanao, it is easy for us in the comfort of this hall not to see how our decisions could affect the lives of millions of people whom we do not know. But I do know and have felt the overwhelming passion of the Bangsa Moro to achieve recognition of their right to self-determination. I have been witness to the courage and perseverance of the Cordillera peoples in their struggle for peace and justice. They see regional autonomy as the answer to their centuries of struggle against oppression and exploitation. For so long, their names and identities have been debased. Their ancestral lands have been ransacked for their treasures, for their wealth. Their cultures have been defiled, their very lives threatened, and worse, extinguished, all in the name of national development; all in the name of public interest; all in the name of the common good; all in the name of the right to property; all in the name of the Regalian doctrine; all in the name of national security. These phrases have meant nothing to our indigenous communities, except for the violation of their human rights.

I can recite a litany of their grievances, which spans centuries-poverty, illiteracy, malnutrition and death rates. But I will simply quote an old man from the Cordilleras who said: "We asked the government for a teacher, it did not give us one. We asked for some help in fixing our roads, it did not send us any. We asked for a doctor, it did not send us one. Instead, government men came to build a dam and sent in the Philippine Constabulary and the army. These, we did not ask for."

There are statistics on the thousands of indigenous communities displaced by plantations, hydroelectric dams, mining and logging operations by virtue of state laws, presidential decrees and letters of instructions. But it will suffice to quote the eloquent voices of Bontoc and Kalinga warriors. They say: "Long experience has shown us that the outsiders' law is not able to understand us, our customs, and our ways. Always, the state laws make just what is unjust, and make right what is not right. We are planted here, rooted in sacred land. All our dead are buried here. Now we are asked by the government to allow our dead to be covered by the waters of the Chico Dam Project. This is an impossible request. The government assures us that it will spare no effort to disinter the dead, to remove the remains to new and better sites. It does not understand. The very soil we tread on is the dust of our fathers. What kind of law is this that asks us to agree to our annihilation as a people? If we accept the decree of the government, it will be as if we ever doubted that we belong to the land or that we question our ancient law. If we are forcibly relocated, we can tell you that we will no longer consider ourselves under the law."

Let us not forget that among the Bangsa Moro and the Cordillera people were people who were massacred, salvaged, arrested and imprisoned, tortured and raped, all in the name of national security, law and order. For the entire history of the Bangsa Moro and the Cordillera people is a history of oppression and discrimination; but theirs too is a history of heroic resistance against subjugation, tutelage and assimilation by the Spaniards, the Americans, the Japanese, and even against uncaring Filipinos.

We should not, therefore, be surprised if they continue to practice their ancient traditions of tribal democracy and custom law, if they persevere in their cherished belief and persist in their struggle to regain the right to self-determination.

History tells us, without meaning this to be some kind of blackmail, that the Bangsa Moro and the Cordillera people can wield the willpower and determination like fierce knives and sharp spears in demolishing any obstacle in their quest for justice, peace and self-determination. Listen to the fiery words of a Muslim: "If we act in a civilized way which is the way of Islam, they do not listen to us. Pero huramentado o jihad, iyon ang pakikikingan nila."

Honorable Commissioners, we wish to impress upon you the gravity of the decision to be made by every single one of us in this Commission. We have the overwhelming support of the Bangsa Moro and the Cordillera people to grant them regional autonomy in the new Constitution. By this we mean meaningful and authentic regional autonomy. We propose that we have a separate Article on the autonomous regions for the Bangsa Moro and Cordillera people clearly spelled out in this Constitution, instead of prolonging the agony of their vigil and their struggle. This, too, is a plea for national peace. Let us not pass the buck to the Congress to decide on this. Let us not wash our hands of our responsibility to attain national unity and peace and to settle this problem and rectify past injustices, once and for all.

For once, let us think of our indigenous communities even as we think of the whole nation. For once, let us help pave the way for a future of prosperity based on the equality of all people. For once, let us courageously decide on issues based on their internal merits and not to be clouded in our reasoning by the tyranny of emotionally loaded words, as often indicated by statements like "The only good Moro is a dead Moro."

Let me repeat the poignant words of Senator Diokno who wrote to Marcos years ago, during the height of the Bontoc-Kalinga struggle against the Chico Dam Project:

Our indigenous communities are part and parcel of us. They are living links to our yesteryears, perfect exemplars in fact of the barangay democracy you seek to promote. In their culture they may well be a lamp on our past, to our tomorrow. To destroy them is to destroy a vital part of our past, our present and our future. Their death as a people, and we do not hesitate to call it "genocide," will be ours, too, as a nation. Whether justice or injustice, peace or violence, life or death shall prevail, is entirely in your hands.

Finally, let me echo the wise words of the Muslims whom we met during the public hearings: "You in this Commission have a rare opportunity to write a document of peace and justice."

Let us not miss that opportunity.

Marami pong salamat.

SPONSORSHIP SPEECH OF COMMISSIONER OPLE

MR. OPLE: Thank you, Madam President.

I think the Commission is dealing with two reports from the Committee on Local Governments. Committee Report No. 21 deals with local autonomy for the government as a whole, particularly the local units, which I think is very important. It is said that this is a colonial legacy, the overcentralized system of government that denies the role of initiative at the local levels. It is, of course, understandable that a colonial power would first of all annihilate the autonomy of local

units in order to ensure a foolproof security against potential rebellions or disturbances. But at the same time Committee Report No. 25 deals with a more specialized kind of autonomy, that is to say, autonomous regions, on the premise that certain regions with unique cultural, historic, social and even religious bonds where they have been placed in a position of inferiority relative to the dominant groups in society have the right to demand autonomy, a measure of self-determination within the larger political framework of the nation-state. I am addressing my remarks in the next two or three minutes precisely to the purposes of Committee Report No. 25. Within this draft Article, therefore, there is a major provision for the creation of autonomous regions. It is an authority for Congress to provide by law for such regions of autonomy as may be determined to be necessary.

Throughout modern history, Madam President, autonomy for certain regions within the framework of the nation-state has meant a constructive alternative to secessionist aspirations. May I quote briefly from the Encyclopedia of the Social Sciences the following words, and I quote:

“Autonomy on a territorial basis would easily conflict with the State but the two are not irreconcilable. If a State fails to induce interest in the continued maintenance of the State union on the part of frontier outlying or racially alien regions, it incurs the danger of their being annexed or of their gaining independence. As a remedy, the State may grant to such regions a certain measure of self-government within the larger political framework.”

The Muslim-Filipinos in Mindanao have fought for hundreds of years to preserve their independence and their identity from the colonial power. More recently, they precipitated a civil war in Mindanao which has already caused an estimated 100,000 lives, including the lives of noncombatant women and children. The hostilities fortunately were suspended in 1976 as a result of the Tripoli Ceasefire Agreement. But this dormant war may act up all over again with all its renewed fury if no understanding is reached between the Moro National Liberation Front and the Aquino government. I understand that by next month the negotiations will resume in Jeddah where also the organization of the Islamic Conference will be meeting. And that is the whole point. This agreement for peace between Filipinos has been mediated by a 42-nation international organization of the Islamic Conference as though our Muslim brothers have to look beyond our own shores and beyond the capabilities of our own government, across the seas, for justice in the association of their fellow legionists called the Islamic Conference of 42 states. In the Cordillera region, we all know that there is still an ongoing armed rebellion as well as continuous militant but peaceful agitation for autonomy.

The Constitutional Commission is, therefore, presented with one of those rare opportunities, perhaps unrepeatable, to seal the permanent unity of these two regions with the rest of us, with the rest of the republic by granting them autonomous status as proposed in this draft Article within the larger sovereignty of the Republic of the Philippines. The draft Article prepared by the Committee on Local Governments under the distinguished chairmanship of Commissioner Nollado defines the criteria for autonomous regions and their spheres of jurisdiction. It reserves very clearly certain powers that only the national government may exercise including those dealing with foreign affairs, national defense, post, telegraph and communication and even the guidelines of economic policy, and where there is a security force, the supervision of the Armed Forces of the Philippines, and the control of the President of the Philippines.

It calls on Congress to enact the organic acts for two regions — Mindanao and the Cordillera — within one year from the election of its members. So, this is an assignment with a deadline to insure that there will be results. The approval of this provision will immediately raise the hopes, morale and faith in the nation of the millions of our brother Filipinos involved in these regions and will be a major contribution to peace in our land, in our time.

Thank you, Madam President.

Annex B: 1987 Constitutional Provisions on Autonomy

AUTONOMOUS REGIONS

Section 15. There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

Section 16. The President shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed.

Section 17. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

Section 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multi-sectoral bodies. The organic act shall define the basic structure of government for the region consisting of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.

The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

Section 19. The first Congress elected under this Constitution shall, within eighteen months from the time of organization of both Houses, pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras.

Section 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:

- (1) Administrative organization;
- (2) Creation of sources of revenues;
- (3) Ancestral domain and natural resources;
- (4) Personal, family, and property relations;
- (5) Regional urban and rural planning development;
- (6) Economic, social, and tourism development;
- (7) Educational policies;
- (8) Preservation and development of the cultural heritage; and
- (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

Section 21. The preservation of peace and order within the regions shall be the responsibility of the local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws. The defense and security of the regions shall be the responsibility of the National Government.