

# II. THE INDIGENOUS PEOPLES RIGHTS ACT.

**Republic Act No. 8371** is entitled "An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/ Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes." **It is simply known as "The Indigenous Peoples Rights Act of 1997" or the IPRA.**

The IPRA recognizes the existence of the indigenous cultural communities or **indigenous peoples** (ICCs/IPs) as a distinct sector in Philippine society. **It grants these people the ownership and possession of their ancestral domains and ancestral lands, and defines the extent of these lands and domains. The ownership given is the indigenous concept of ownership under customary law which traces its origin to native title.**

“ Other rights are also granted the ICCs/IPs, and these are:

- the right to develop lands and natural resources;
- the right to stay in the territories;
- the right in case of displacement;
- the right to safe and clean air and water;
- the right to claim parts of reservations;
- the right to resolve conflict;<sup>[32]</sup>
- the right to ancestral lands which include
  - a. the right to transfer land/property to/among members of the same ICCs/IPs, subject to customary laws and traditions of the community concerned;
  - b. the right to redemption for a period not exceeding 15 years from date of transfer, if the transfer is to a non-member of the ICC/IP and is tainted by vitiated consent of the ICC/IP, or if the transfer is for an unconscionable consideration.<sup>[33]</sup>

Within their ancestral domains and ancestral lands, the ICCs/IPs are given the right to self-governance and empowerment,<sup>[34]</sup> social justice and human rights,<sup>[35]</sup> the right to preserve and protect their culture, traditions, institutions and community intellectual rights, and the right to develop their own sciences and technologies.<sup>[36]</sup>

To carry out the policies of the Act, the law created the National Commission on Indigenous Peoples (NCIP). The NCIP is an independent agency under the Office of the President and is composed of seven (7) Commissioners belonging to ICCs/IPs from each of the ethnographic areas-- Region I and the Cordilleras; Region II; the rest of Luzon; Island groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern Mindanao; and Central Mindanao.<sup>[37]</sup> The NCIP took over the functions of the Office for Northern Cultural Communities and the Office for Southern Cultural Communities created by former President Corazon Aquino which were merged under a revitalized structure.<sup>[38]</sup>

**Disputes involving ICCs/IPs are to be resolved under customary laws and practices.**

When still unresolved, the matter may be brought to the NCIP, which is granted quasi-judicial powers.<sup>[39]</sup> The NCIP's decisions may be appealed to the Court of Appeals by a petition for review.

Any person who violates any of the provisions of the Act such as, but not limited to, unauthorized and/or unlawful intrusion upon ancestral lands and domains shall be punished in accordance with customary laws or imprisoned from 9 months to 12 years and/or fined from P100,000.00 to P500,000.00 and obliged to pay damages.<sup>[40]</sup>

**A. Indigenous Peoples**

The IPRA is a law dealing with a specific group of people, i.e., the Indigenous Cultural Communities (ICCs) or the Indigenous Peoples (IPs). The term "ICCs" is used in the 1987 Constitution while that of "IPs" is the contemporary international language in the International Labor Organization (ILO) Convention 169<sup>[41]</sup> and the United Nations (UN) Draft Declaration on the Rights of Indigenous Peoples.<sup>[42]</sup>

**ICCs/IPs** are defined by the IPRA as:

“Sec. 3 [h]. *Indigenous Cultural Communities/ Indigenous Peoples--* refer to a group of people or homogeneous societies identified by self-ascription and 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, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the 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.”

**Indigenous Cultural Communities or Indigenous Peoples refer to a group of people or homogeneous societies who have continuously lived as an organized community on communally bounded and defined territory.** These groups of people have actually occupied, possessed and utilized their territories under claim of ownership since time immemorial. They share common bonds of language, customs, traditions and other distinctive cultural traits, or, they, by their resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the Filipino majority. ICCs/IPs also include descendants of ICCs/IPs who inhabited the country at the time of conquest or colonization, who retain some or all of their own social, economic, cultural and political institutions but who may have been displaced from their traditional territories or who may have resettled outside their ancestral domains.

### **1. Indigenous Peoples: Their History**

Presently, Philippine indigenous peoples inhabit the interiors and mountains of Luzon, Mindanao, Mindoro, Negros, Samar, Leyte, and the Palawan and Sulu group of islands. They are composed of 110 tribes and are as follows:

- “ 1. In the Cordillera Autonomous Region-- Kankaney, Ibaloi, Bontoc, Tinggian or Itneg, Ifugao, Kalinga, Yapayao, Aeta or Agta or Pugot, and Bago of Ilocos Norte and Pangasinan; Ibanag of Isabela, Cagayan; Ilongot of Quirino and Nueva Vizcaya; Gaddang of Quirino, Nueva Vizcaya, Itawis of Cagayan; Ivatan of Batanes, Aeta of Cagayan, Quirino and Isabela.
- 2. In Region III-- Aetas.
- 3. In Region IV-- Dumagats of Aurora, Rizal; Remontado of Aurora, Rizal, Quezon; Alangan or Mangyan, Batangan, Buid or Buhid, Hanunuo and Iraya of Oriental and Occidental Mindoro; Tadyawan of Occidental Mindoro; Cuyonon, Palawanon, Tagbanua and Tao't bato of Palawan.
- 4. In Region V-- Aeta of Camarines Norte and Camarines Sur; Aeta-Abiyan, Isarog, and Kabihug of Camarines Norte; Agta, and Mayon of Camarines Sur; Itom of Albay, Cimaron of Sorsogon; and the Pullon of Masbate and Camarines Sur.
- 5. In Region VI-- Ati of Negros Occidental, Iloilo and Antique, Capiz; the Magahat of Negros Occidental; the Corolano and Sulod.
- 6. In Region VII-- Magahat of Negros Oriental and Eskaya of Bohol.

7. In Region IX-- the Badjao numbering about 192,000 in Tawi-Tawi, Zamboanga del Sur; the Kalibugan of Basilan, the Samal, Subanon and Yakat.

8. Region X-- Numbering 1.6 million in Region X alone, the IPs are: the Banwaon, Bukidnon, Matigsalog, Talaanding of Bukidnon; the Camiguin of Camiguin Island; the Higa-unon of Agusan del Norte, Agusan del Sur, Bukidnon and Misamis Occidental; the Tigwahanon of Agusan del Sur, Misamis Oriental and and Misamis Occidental, the Manobo of the Agusan provinces, and the Umayamnon of Agusan and Bukidnon.

9. In Region XI-- There are about 1,774,065 IPs in Region XI. They are tribes of the Dibabaon, Mansaka of Davao del Norte; B'laan, Kalagan, Langilad, T'boli and Talaingod of Davao del Sur; Mamamanua of Surigao del Sur; Mandaya of the Surigao provinces and Davao Oriental; Manobo Blit of South Cotabato; the Mangguangon of Davao and South Cotabato; Matigsalog of Davao del Norte and Del Sur; Tagakaolo, Tasaday and Ubo of South Cotabato; and Bagobo of Davao del sur and South Cotabato.

10. In Region XII-- Ilianen, Tiruray, Maguindanao, Maranao, Tausug, Yakan/Samal, and Iranon.<sup>[43]</sup>

**How these indigenous peoples came to live in the Philippines goes back to as early as 25,000 to 30,000 B.C.**

**Before the time of Western contact**, the Philippine archipelago was peopled largely by the Negritos, Indonesians and Malays.<sup>[44]</sup> The strains from these groups eventually gave rise to common cultural features which became the dominant influence in ethnic reformulation in the archipelago. Influences from the Chinese and Indian civilizations in the third or fourth millenium B.C. augmented these ethnic strains. Chinese economic and socio-cultural influences came by way of Chinese porcelain, silk and traders. Indian influence found their way into the religious-cultural aspect of pre-colonial society.<sup>[45]</sup>

The **ancient Filipinos** settled beside bodies of water. Hunting and food gathering became supplementary activities as reliance on them was reduced by fishing and the cultivation of the soil.<sup>[46]</sup> From the hinterland, coastal, and riverine communities, our ancestors evolved an essentially homogeneous culture, a basically common **way of life where nature was a primary factor**. Community life throughout the archipelago was influenced by, and responded to, common ecology. The generally benign tropical climate and the largely uniform flora and fauna favored similarities, not differences.<sup>[47]</sup> Life was essentially subsistence but not harsh.<sup>[48]</sup>

The **early Filipinos** had a culture that was basically Malayan in structure and form. They had languages that traced their origin to the Austronesian parent-stock and used them not only as media of daily communication but also as vehicles for the expression of their literary moods.<sup>[49]</sup> They fashioned concepts and beliefs about the world that they could not see, but which they

sensed to be part of their lives.<sup>[50]</sup> They had their own religion and religious beliefs. They believed in the immortality of the soul and life after death. Their rituals were based on beliefs in a ranking deity whom they called Bathalang Maykapal, and a host of other deities, in the environmental spirits and in soul spirits. The early Filipinos adored the sun, the moon, the animals and birds, for they seemed to consider the objects of Nature as something to be respected. They venerated almost any object that was close to their daily life, indicating the importance of the relationship between man and the object of nature.<sup>[51]</sup>

The unit of government was the "barangay," a term that derived its meaning from the Malay word "balangay," meaning, a boat, which transported them to these shores.<sup>[52]</sup> The barangay was basically a family-based community and consisted of thirty to one hundred families. Each barangay was different and ruled by a chieftain called a "dato." It was the chieftain's duty to rule and govern his subjects and promote their welfare and interests. A chieftain had wide powers for he exercised all the functions of government. He was the executive, legislator and judge and was the supreme commander in time of war.<sup>[53]</sup>

**Laws were either customary or written. Customary laws were handed down orally from generation to generation and constituted the bulk of the laws of the barangay.** They were preserved in songs and chants and in the memory of the elder persons in the community.<sup>[54]</sup> The written laws were those that the chieftain and his elders promulgated from time to time as the necessity arose.<sup>[55]</sup> The oldest known written body of laws was the Maragtas Code by Datu Sumakwel at about 1250 A.D. Other old codes are the Muslim Code of Luwaran and the Principal Code of Sulu.<sup>[56]</sup> Whether customary or written, the laws dealt with various subjects, such as inheritance, divorce, usury, loans, partnership, crime and punishment, property rights, family relations and adoption. Whenever disputes arose, these were decided peacefully through a court composed by the chieftain as "judge" and the barangay elders as "jury." Conflicts arising between subjects of different barangays were resolved by arbitration in which a board composed of elders from neutral barangays acted as arbiters.<sup>[57]</sup>

**Baranganic society had a distinguishing feature: the absence of private property in land.** The chiefs merely administered the lands in the name of the barangay. The social order was an extension of the family with chiefs embodying the higher unity of the community. Each individual, therefore, participated in the community ownership of the soil and the instruments of production as a member of the barangay.<sup>[58]</sup> This ancient communalism was practiced in accordance with the concept of mutual sharing of resources so that no individual, regardless of status, was without sustenance. **Ownership of land was non-existent or unimportant and the right of usufruct was what regulated the development of lands.**<sup>[59]</sup> Marine resources and fishing grounds were likewise free to all. Coastal communities depended for their economic welfare on the kind of fishing sharing concept similar to those in land communities.<sup>[60]</sup> Recognized leaders, such as the chieftains and elders, by virtue of their positions of importance, enjoyed some economic privileges and benefits. But their rights, related to either land and sea, were subject to their responsibility to protect the communities from danger and to provide them with the leadership and means of survival.<sup>[61]</sup>

**Sometime in the 13th century, Islam was introduced to the archipelago in Maguindanao.** The Sultanate of Sulu was established and claimed jurisdiction over territorial areas represented

today by Tawi-tawi, Sulu, Palawan, Basilan and Zamboanga. Four ethnic groups were within this jurisdiction: Sama, Tausug, Yakan and Subanon.<sup>[62]</sup> The Sultanate of Maguindanao spread out from Cotabato toward Maranao territory, now Lanao del Norte and Lanao del Sur.<sup>[63]</sup>

**The Muslim societies evolved an Asiatic form of feudalism where land was still held in common but was private in use.** This is clearly indicated in the Muslim Code of Luwaran. The Code contains a provision on the lease of cultivated lands. It, however, has no provision for the acquisition, transfer, cession or sale of land.<sup>[64]</sup>

The societies encountered by **Magellan and Legaspi** therefore were primitive economies where most production was geared to the use of the producers and to the fulfillment of kinship obligations. They were not economies geared to exchange and profit.<sup>[65]</sup> Moreover, the family basis of barangay membership as well as of leadership and governance worked to splinter the population of the islands into numerous small and separate communities.<sup>[66]</sup>

**When the Spaniards settled permanently in the Philippines in 1565, they found the Filipinos living in barangay settlements scattered along water routes and river banks.** One of the first tasks imposed on the missionaries and the encomenderos was to collect all scattered Filipinos together in a *reduccion*.<sup>[67]</sup> As early as 1551, the Spanish government assumed an unvarying solicitous attitude towards the natives.<sup>[68]</sup> The Spaniards regarded it a sacred "duty to conscience and humanity to civilize these less fortunate people living in the obscurity of ignorance" and to accord them the "moral and material advantages" of community life and the "protection and vigilance afforded them by the same laws."<sup>[69]</sup>

The Spanish missionaries were ordered to establish *pueblos* where the church and convent would be constructed. All the new Christian converts were required to construct their houses around the church and the unbaptized were invited to do the same.<sup>[70]</sup> With the *reduccion*, the Spaniards attempted to "tame" the reluctant Filipinos through Christian indoctrination using the *convento/casa real/plaza* complex as focal point. The *reduccion*, to the Spaniards, was a "civilizing" device to make the Filipinos law-abiding citizens of the Spanish Crown, and in the long run, to make them ultimately adopt Hispanic culture and civilization.<sup>[71]</sup>

**All lands lost by the old barangays in the process of pueblo organization as well as all lands not assigned to them and the pueblos, were now declared to be crown lands or *realengas*, belonging to the Spanish king. It was from the *realengas* that land grants were made to non-Filipinos.**<sup>[72]</sup>

**The abrogation of the Filipinos' ancestral rights in land and the introduction of the concept of public domain were the most immediate fundamental results of Spanish colonial theory and law.**<sup>[73]</sup> **The concept that the Spanish king was the owner of everything of value in the Indies or colonies was imposed on the natives, and the natives were stripped of their ancestral rights to land.**<sup>[74]</sup>

Increasing their foothold in the Philippines, the Spanish colonialists, civil and religious, classified the Filipinos according to their religious practices and beliefs, and divided them into three types. First were the **Indios**, the Christianized Filipinos, who generally came from the lowland

populations. Second, were the **Moros** or the Muslim communities, and third, were the **infieles** or the **indigenous communities**.<sup>[75]</sup>

The **Indio** was a product of the advent of Spanish culture. This class was favored by the Spaniards and was allowed certain status although below the Spaniards. The **Moros** and **infieles** were regarded as the lowest classes.<sup>[76]</sup>

**The Moros and infieles resisted Spanish rule and Christianity.** The Moros were driven from Manila and the Visayas to Mindanao; **while the infieles, to the hinterlands.** The Spaniards did not pursue them into the deep interior. The upland societies were naturally outside the immediate concern of Spanish interest, and the cliffs and forests of the hinterlands were difficult and inaccessible, allowing the **infieles**, in effect, relative security.<sup>[77]</sup> Thus, the **infieles**, which were peripheral to colonial administration, were not only able to preserve their own culture but also thwarted the Christianization process, separating themselves from the newly evolved Christian community.<sup>[78]</sup> Their own political, economic and social systems were kept constantly alive and vibrant.

The pro-Christian or pro-Indio attitude of colonialism brought about a generally mutual feeling of suspicion, fear, and hostility between the Christians on the one hand and the non-Christians on the other. Colonialism tended to divide and rule an otherwise culturally and historically related populace through a colonial system that exploited both the virtues and vices of the Filipinos.<sup>[79]</sup>

**President McKinley, in his instructions to the Philippine Commission of April 7, 1900, addressed the existence of the infieles:**

“**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 those tribes are now living in peace and contentment, surrounded by civilization to which they are unable or unwilling to conform. Such tribal government should, however, be subjected to wise and firm regulation; and, without undue or petty interference, constant and active effort should be exercised to prevent barbarous practices and introduce civilized customs.”<sup>[80]</sup>

Placed in an alternative of either letting the natives alone or guiding them in the path of civilization, the American government chose "to adopt the latter measure as one more in accord with humanity and with the national conscience."<sup>[81]</sup>

The **Americans classified the Filipinos** into two: the **Christian Filipinos** and the **non-Christian Filipinos**. The term "non-Christian" referred not to religious belief, but to a geographical area, and more directly, "to natives of the Philippine Islands of a low grade of civilization, usually living in tribal relationship apart from settled communities."<sup>[82]</sup>

**Like the Spaniards, the Americans pursued a policy of assimilation.** In 1903, they passed **Act No. 253 creating the Bureau of Non-Christian Tribes (BNCT).** Under the Department of the Interior, the BNCT's primary task was to conduct ethnographic research among unhispanized Filipinos, including those in Muslim Mindanao, with a "special view to determining the most practicable means for bringing about their advancement in civilization and prosperity." **The BNCT was modeled after the bureau dealing with American Indians.** The agency took a keen anthropological interest in Philippine cultural minorities and produced a wealth of valuable materials about them.<sup>[83]</sup>

**The 1935 Constitution did not carry any policy on the non-Christian Filipinos. The raging issue then was the conservation of the national patrimony for the Filipinos.**

**In 1957, the Philippine Congress passed R.A. No. 1888, an "Act to effectuate in a more rapid and complete manner the economic, social, moral and political advancement of the non-Christian Filipinos or national cultural minorities and to render real, complete, and permanent the integration of all said national cultural minorities into the body politic, creating the Commission on National Integration charged with said functions."** The law called for a **policy of integration** of indigenous peoples into the Philippine mainstream and for this purpose created the **Commission on National Integration (CNI).**<sup>[84]</sup> The CNI was given, more or less, the same task as the BNCT during the American regime. **The post-independence policy of integration was like the colonial policy of assimilation understood in the context of a guardian-ward relationship.**<sup>[85]</sup>

The policy of assimilation and integration did not yield the desired result. **Like the Spaniards and Americans, government attempts at integration met with fierce resistance.** Since World War II, a tidal wave of Christian settlers from the lowlands of Luzon and the Visayas swamped the highlands and wide open spaces in Mindanao.<sup>[86]</sup> **Knowledge by the settlers of the Public Land Acts and the Torrens system resulted in the titling of several ancestral lands in the settlers' names. With government initiative and participation, this titling displaced several indigenous peoples from their lands.** Worse, these peoples were also displaced by projects undertaken by the national government in the name of national development.<sup>[87]</sup>

It was in the **1973 Constitution** that the State adopted the following provision:

“The State shall consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.”<sup>[88]</sup>

**For the first time in Philippine history, the "non-Christian tribes" or the "cultural minorities" were addressed by the highest law of the Republic, and they were referred to as "cultural communities."** More importantly this time, their "uncivilized" culture was given some recognition and their "customs, traditions, beliefs and interests" were to be considered by the State in the formulation and implementation of State policies. **President Marcos** abolished the



CNI and transferred its functions to the **Presidential Adviser on National Minorities (PANAMIN)**. The **PANAMIN** was tasked to integrate the ethnic groups that sought 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."<sup>[89]</sup> **In short, while still adopting the integration policy, the decree recognized the right of tribal Filipinos to preserve their way of life.**<sup>[90]</sup>

**In 1974**, President Marcos promulgated **P.D. No. 410**, otherwise known as the **Ancestral Lands Decree**. The decree provided for the issuance of land occupancy certificates to members of the national cultural communities who were given up to 1984 to register their claims.<sup>[91]</sup> In 1979, the **Commission on the Settlement of Land Problems** was created under E.O. No. 561 which provided a mechanism for the expeditious resolution of land problems involving small settlers, landowners, and tribal Filipinos.<sup>[92]</sup>

Despite the promulgation of these laws, from 1974 to the early 1980's, some 100,000 Kalingas and Bontoks of the Cordillera region were displaced by the Chico River dam project of the National Power Corporation (NPC). The Manobos of Bukidnon saw their land bulldozed by the Bukidnon Sugar Industries Company (BUSCO). In Agusan del Sur, the National Development Company was authorized by law in 1979 to take approximately 40,550 hectares of land that later became the NDC-Guthrie plantation in Agusan del Sur. Most of the land was possessed by the Agusan natives.<sup>[93]</sup> Timber concessions, water projects, plantations, mining, and cattle ranching and other projects of the national government led not only to the eviction of the indigenous peoples from their land but also to the reduction and destruction of their natural environment.<sup>[94]</sup>

**The Aquino government signified a total shift from the policy of integration to one of preservation.** Invoking her powers under the Freedom Constitution, President Aquino created the **Office of Muslim Affairs, Office for Northern Cultural Communities and the Office for Southern Cultural Communities all under the Office of the President.**<sup>[95]</sup>

The **1987 Constitution carries at least six (6) provisions which insure the right of tribal Filipinos to preserve their way of life.**<sup>[96]</sup> **This Constitution goes further than the 1973 Constitution by expressly guaranteeing the rights of tribal Filipinos to their ancestral domains and ancestral lands. By recognizing their right to their ancestral lands and domains, the State has effectively upheld their right to live in a culture distinctly their own.**

## **2. Their Concept of Land**

**Indigenous peoples share distinctive traits** that set them apart from the Filipino mainstream. They are non-Christians. They live in less accessible, marginal, mostly upland areas. They have a system of self-government not dependent upon the laws of the central administration of the Republic of the Philippines. They follow ways of life and customs that are perceived as different from those of the rest of the population.<sup>[97]</sup> The kind of response the indigenous peoples chose to

deal with colonial threat worked well to their advantage by making it difficult for Western concepts and religion to erode their customs and traditions. The "infieles societies" which had become peripheral to colonial administration, represented, from a cultural perspective, a much older base of archipelagic culture. The political systems were still structured on the patriarchal and kinship oriented arrangement of power and authority. The economic activities were governed by the concepts of an ancient communalism and mutual help. The social structure which emphasized division of labor and distinction of functions, not status, was maintained. The cultural styles and forms of life portraying the varieties of social courtesies and ecological adjustments were kept constantly vibrant.<sup>[98]</sup>

**Land is the central element of the indigenous peoples' existence.** There is no traditional concept of permanent, individual, land ownership. Among the Igorots, ownership of land more accurately applies to the tribal right to use the land or to territorial control. The people are the secondary owners or stewards of the land and that if a member of the tribe ceases to work, he loses his claim of ownership, and the land reverts to the beings of the spirit world who are its true and primary owners. Under the concept of "trusteeship," the right to possess the land does not only belong to the present generation but the future ones as well.<sup>[99]</sup>

**Customary law on land** rests on the traditional belief that no one owns the land except the gods and spirits, and that those who work the land are its mere stewards.<sup>[100]</sup> **Customary law has a strong preference for communal ownership,** which could either be ownership by a group of individuals or families who are related by blood or by marriage,<sup>[101]</sup> or ownership by residents of the same locality who may not be related by blood or marriage. The system of communal ownership under customary laws draws its meaning from the subsistence and highly collectivized mode of economic production. The Kalingas, for instance, who are engaged in team occupation like hunting, foraging for forest products, and swidden farming found it natural that forest areas, swidden farms, orchards, pasture and burial grounds should be communally-owned.<sup>[102]</sup> For the Kalingas, everybody has a common right to a common economic base. Thus, as a rule, rights and obligations to the land are shared in common.

**Although highly bent on communal ownership, customary law on land also sanctions individual ownership.** The residential lots and terrace rice farms are governed by a **limited system of individual ownership.** It is limited because while the individual owner has the right to use and dispose of the property, he does not possess all the rights of an exclusive and full owner as defined under our Civil Code.<sup>[103]</sup> Under Kalinga customary law, the alienation of individually-owned land is strongly discouraged except in marriage and succession and except to meet sudden financial needs due to sickness, death in the family, or loss of crops.<sup>[104]</sup> Moreover, and to be alienated should first be offered to a clan-member before any village-member can purchase it, and in no case may land be sold to a non-member of the *ili*.<sup>[105]</sup>

**Land titles do not exist in the indigenous peoples' economic and social system. The concept of individual land ownership under the civil law is alien to them. Inherently colonial in origin, our national land laws and governmental policies frown upon indigenous claims to ancestral lands. Communal ownership is looked upon as inferior, if not inexistent.**<sup>[106]</sup>

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