



BUGKALOT CUSTOMARY LAW ON PROPERTY AND INHERITANCE

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Abstract: *The ability of cultural community to progress and preserve itself as a distinct people is anchored on a social order that is nurtured and shaped by the people themselves. This social order, popularly known as customary law, determines the existing social relationships in the community and to the land they claimed to be their own. Although customary laws are unwritten, they are nonetheless, committed to the collected memory; thus, ensuring order in the community.*

This study is primarily a documentation of the customary law of the Bugkalots in matters pertaining to property and inheritance. It sought to determine the Bugkalots' concept of property and ownership, modes of acquisition and the formalities accompanying every transaction; customary laws on inheritance and succession; disposition of property and the settlement of disputes over property ownership and conveyance.

The study was conducted in Landingan, Nagtipunan, Quirino and informants were the group leaders, elders, barangay officials and some of the community members. Anthropological research methods such as fieldwork, interviews, and case studies were used in the study. Results reveal that the Bugkalots have preserved their distinct concepts of property and ownership, vital in the maintaining group of solidarity and identity. Although their lands are untitled, the process of governing inheritance and succession among natural children, adopted children, illegitimate children, second marriage, widow, widower and divorced couples are still crafted within the purview of the customary laws. This olds true with the resolution of disputes over property ownership and conveyance despite the external forces of their environment.

Keywords: *Customary laws, Property, Inheritance, Ownership, Succession*

INTRODUCTION

The Philippines is home to more than 110 indigenous Cultural Communities inhabiting seven-major ethno-linguistic regions. These indigenous people number to more than 12 million or sixteen percent of the 73 million Philippine Population as of 1997 survey (IPRA, 1997). Indigenous cultural communities are known to be distinct from the mainstream



Filipino majority due to their cultural identities, spiritual beliefs, economic practices and political structures.

All Indigenous Cultural Communities in the country today, trace their beginnings on the land upon which culture is rooted and on where they live. For them, the land is their **worship area** (religion), their **institution of learning** (education), their **area of governance** (politics), their **livelihood and market** (economy), their **medical center** (health), their **shelter** (defense and security) and their **history** (IPRA, 1997). For these reasons, cultural communities provide ultimate reverence to their ancestral lands since it is the center of their human existence. As clearly articulated by MacliingDulag, a Kalingapangat, “land is sacred, land is life”. This somehow captures the urgent need of the state to recognize the rights of the Indigenous People to their ancestral lands and ancestral domain.

The 1987 Constitution provides the highest priority to the protection and promotion of the rights of Indigenous Cultural Communities to ensure their social, economic and cultural well-being. Thus, in its declaration of principles and state policies, Article II Section 22 of the constitution provides that “the state recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development”. Similarly, Article VII Section 5 of the Constitution provides that “the state shall protect the rights of indigenous communities to their ancestral lands and expressly authorizes congress to provide for the applicability of customary laws, ownership and extent of ancestral domains. Moreover, its Article in Education, Science and Technology declares that “the state shall recognize, respect and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions, and that the state shall consider their rights in the formulation of national plans and policies.

Carrying out these cultural mandates, then President Joseph Estrada signed into law in 1997 the Indigenous People’s Rights Act (IPRA) or R.A. 8371. IPRA is a comprehensive law that includes not only the rights of the Indigenous Peoples over their ancestral domains but also their rights to social justice and human right, self-governance, and empowerment and cultural integrity. This is in response to the integrity of their cultures, traditions and institutions attached to the land. Hence, IPRA provides autonomy o all cultural communities in matters affecting their social life by making use of their own justice system, conflict resolution institutions, peace building processes and customary laws. IPRA is expected to



solve disputes involving members of every cultural community and is perceived to be a vital instrument to the resolution of national problems, especially conflicts which have ethnic dimensions.

Despite all these constitutional mandates and statutory laws, protecting and recognizing the cultural integrity of indigenous peoples, most cultural communities today are now living within a social system with formalized and constitutional and legal orders. Many of their cultural, social and political practices remain to be regulated by the customary laws. The Bugkalots of Northern Luzon is no exemption. Property and inheritance are transferred from one person to another through customary practices, and disputes along this concern are resolved through existing customs. Nonetheless, the gradual integration of some constitutional laws in defining the Bugkalots' custom law is now emerging in their society. The Bugkalots who continue to practice their customary laws for hundred years is now beginning to adopt some provisions of the constitutional law. On top of the adherence to customary laws is the willingness of the Bugkalots to subscribe to some of the provisions of the constitutional law when necessary. This unique blend is a vivid manifestation that they are starting to be a part of the mainstream society.

Indeed, the Bulagkot culture is experiencing a slow and subtle change which is inevitable. In the process, some traits of their indigenous culture are being modified. Such modification is an evident that culture may change out of already existing cultural patterns or through the people's creativity and ingenuity or merely borrowing from other groups then by inventing them (Ferraro, 1988). Pierre Bourdieu (Ritzer, 1996) asserted that any change or modification in the culture of the people is the product of their mental structures at a given period of time which determines their social relationships.

It is in this light that this study on the Bugkalot customary laws on property and inheritance was conceived to document for posterity the customary laws governing the Bulagkots in matters of property and inheritance before they are completely modified. Documenting this is an important contribution in preserving a part of their culture for the future generation. This addresses the dearth of information about this indigenous group. The data gathered from this dissertation hopes to provide some documentations about the Bugkalots fostering appreciation of their unique cultural identity.



The Indigenous Peoples Rights Act (R.A. 8371) provides that all land disputes and transfer of land or property involving indigenous peoples and indigenous cultural communities be resolved in accordance with customary or indigenous laws. As a cultural community, however, the Bugkalots of Landingan, Nagtipunan, Quirino, adhere to the customary laws of property and inheritance which have not yet been clearly and systematically articulated. Much is committed to collective memory. But the juridical resolution of disputes calls for an accurate articulation of customary laws.

Thus, to better understand the Bugkalots customary laws on property and inheritance, this study sought to determine their concept of property and ownership, modes of acquisition and the formalities accompanying every transaction; customary laws on inheritance and succession; disposition of property and settlement of disputes over property ownership and conveyance.

METHODOLOGY

The anthropological research methods such as fieldwork, interviews and case studies were used in this study considering that it sought to document the “Bulagkot Customary Laws on Property and Inheritance”. The research methods were employed to elicit information on the applicability of the customary laws on property and inheritance. The researcher lived and stayed at the research site from May 10 to October 2003, and series of visits were made to the place from November 2003 to December 2003. Structured interviews were conducted to elicit data on customary laws while case studies were also undertaken to understand the operationalization of customary laws.

The research was substantiated by methods of Sikolohiyang Pilipinosuch as pakapa-kapa approach considering that the researcher is unfamiliar with the research environment and its people. Thus, during the first part of the immersion, the data collection was made through *pagmamasid, pagtatanong-tanong, pagsubok, pagdalaw, pakikilahok at pakikisangkot*.

Bugkalot customary laws are unwritten and are handed down from one generation to the next only by word of mouth. Oral recollection of their customary law is necessary in order to document them in an accurate and systematic manner. Interviewed for the study were group leaders, elders, barangay officials and some community members in Landingan,



Nagtipunan, Quirino who were willing to discuss and share their customary laws particularly on property and inheritance.

Majority of the informants were males aged 40 and above and are married. Others belong to the age bracket of 20-40 years old. Old informants have not gone to formal schooling but can speak Tagalog and English. They earned varied experiences in the realm of politics serving as Municipal Councilors, Barangay Captains and other administrative capacities. Few of the informants' have at least elementary education. Generally, all of the informants are farmers by occupation.

For the purpose of case analysis, concerned natives with experience on property settlement and inheritance were interviewed to document the application of their customary laws in their life. Cases on property and inheritance filed in the barangay office were perused for corroboration. No documents on property settlement and inheritance were found in the municipal level because no property disputes were elevated to it. Settlement of disputes on property starts and ends in the barangay level.

The researcher used the Structured interview Guide as the primary instrument in data gathering. The interview guide was done in English and was translated to Ilocano and Bugkalot. Ilocano is the lingua franca of the place. However some informants who were not fully conversant in Ilocano were interviewed in the Bugkalot language with the aid of a Bugkalot interpreter hired for such purpose. This was to ensure clarity and comprehension on the part of the respondents and easy data collection on the part of the researcher. The open-ended questionnaire consisted of the following: (1) Concepts of Property and Inheritance (2) Acquisition of Property (3) Rules of Inheritance and Succession (4) Disposition of Property (5) Settlement of Disputes over Property Ownership and Conveyance.

Ilocano was used as the medium of communication during the interview. All Bugkalots in the place speak and understand Ilocano, a language that the researcher also speaks and understands well. The interview was conducted from May 10 to October 30, 2003 and validations were done until December 2003. The interview was done with the aid of a video camera and a tape recorder to record the responses of the informants. Pre-test of the questionnaire was conducted personally by the researcher in Ponggo, Nagtipunan where some Bugkalots reside. This was done in order to determine the flaws of the questions and



to allow the necessary changes before it was used in the data gathering process. These informants were non-participants of this study.

On the other hand, Focus Group Discussion was used to ensure comprehensive collection of the data. Documentary analysis was employed to scrutinize barangay and municipal records relevant to disputes and settlement on property and inheritance.

A preliminary survey was made by the researcher on June 24-25, 2002 in Nagtipunan, Quirino and in July 3, 2002 in Nueva Vizcaya. This was made possible through an approved letter of request from the Regional Office of the National Commission of the Indigenous Peoples recommending to the Provincial Officers of both provinces for the conduct of the research. The Provincial Heads directed their respective service center offices to accommodate and provide necessary assistance to the researcher for information regarding the target population. With enough knowledge gained from the survey, the researcher decided to study the Bugkalots in Landingan, Nagtipunan, Quirino due to the big population of Bugkalots in the area.

During the formal data collection, the researcher sought permission from the Municipal Mayor of Nagtipunan and from the NCIP Regional Director for the formal conduct of the study. Letters of information to the Tribal Chieftains, Elders and Barangay Officials of Landingan were prepared to solicit cooperation and support.

The researcher immersed himself in the research area for five months (May 10 to October 30, 2003) and made series of visits to the area from November 2003 to December 2003 which allowed him to personally revisit, observe and interview the respondents. Interviews were held where the respondents felt most comfortable. To document their responses, the researcher used a video camera and a tape recorder.

For the old and male informants, the used of gadgets was gladly accepted. On the other hand, female informants were uncomfortable with the gadgets and so their responses were taken down instead. Generally, male informants were more comfortable in interviews than their female counterparts. Female Bugkalots needed to ask permission from their husband before participating the interview. This reflects the authority of the Bugkalot males to speak on issues like land because distribution of these properties to family members is traditionally a male function.



The data gathered in the study were qualitative in nature. Hence, content analysis of the responses was undertaken. Cases on property and inheritance were taken for further study and analysis. The topics were organized and analyzed in the following order: concept of property and ownership, acquisition of property, laws on inheritance and succession, disposition of property, disposition of property and land conveyance, and, analysis in the observance of customary laws.

RESULT AND DISCUSSION

Concept of Property

The Bugkalot concept of property is directly associated with land (*deign*) which is either individual or communal. *Degin* is the most precious and important in all the group properties because it serve two purposes; (1) Individually, it directly supports life (economic existence) and acts as a social symbol that marks one's individual identity (social existence) (2) Communally, it strengthens social relationships and group solidarity. Land is an indispensable property that determines the survival of the individual, family or group.

High respect for the elders who decide on the division of property and close family ties are crucial factor that preserve the Bugkalot concepts of property. Personal belongings such as *cagit, gabed, kengkong, itang* and bow and arrow for men while *aged, calipaw and ateng* for women, are traditionally held to be precious properties. Moreover, farm and hunting implements and other domesticated animals are also identified to be individual properties.

The Bugkalots concept of communal life emanates from their concept of group life as evidenced in the *bertan*. Communal properties (*pangkaadwanganak*) are factors that lead to the maintenance of group solidarity and harmony. Communal properties may take the form of forests (*kabakiran*), mountains (*biselid*), rivers (*waig*), springs (*tubuy*), cemetery and public market (*tagiwan*).

Concept of Ownership and Modes of Acquiring Property

Bugkalot concept of ownership (*sadik*) is intertwined with their concept of property. For them, to own means the right to use, preserve and transfer the property from one generation to the next. The right to use is exclusive among the group members. On the other hand, transfer of property occurs between parents and children and within group members from one generation to the other.



In terms of acquiring property, the Bugkalots obtain their properties particularly land, through individual efforts (*sadilingkayato*), through inheritance (*mana*), through least (*salda*), and through a sale (*taiw*). Personal effort (*sadilingkayato*) is a basic means of acquiring land which involves perseverance and hard work. As a rule, the land belongs to its first cultivator. The wide forest is opened for individual appropriation through the slash and burning method of cultivation. Before and now, this practice has transformed the forest into productive source of corn, banana, camote and other crops which have supported the group across the years. Meanwhile, tagibuk as an indigenous practice of agriculture makes the Bugkalot distinct from the rest of many indigenous communities in the Philippines. This involves pollarding large trees during

Inheritance (*mana*) is the means by which the Bugkalots' the clearing period making property acquisition easier and faster for the group. property are kept, preserved and transferred from parents to children and the future generations. Culturally, it is the highest legacy a Bugkalots parent can bestow to his children making them eternally remembered throughout the coming generations. *Tekwat or Manangturo* has been the pervading mode of assigning property for inheritance to legitimate heirs with the father having the sole authority to dispose property.

Sale or *taiw* is another mode of acquisition among the Bugkalots and was popularized by the lowlanders through intermarriage. Selling of a property (land) among the Bugkalots is a sensitive issue. Common reasons for the sale of property include education, health, investment, migration, payment of debt and burial expenditures. Culturally, the sale of property is confined to the family members and relatives. In the past, formality to a real sale, meant going through the *sinigaman*. In this practice, the vendor and the vendee will place a pinch of sigam or salt on their palm and promise that no one would ever question the transaction in the future. However, today, practically almost all transactions on sale are done through *patatagor* written contract of sale executed before the Barangay Officials.

Barter is the oldest existing mode of property acquisition and is still an effective and popular medium of exchange among the Bugkalots today. Agricultural lands predominate among all the properties to be bartered and are also carried out through mutual trust, interest and confidence between the two contracting parties. Barter is not exclusive among the members of the group but may include non-Bugkalot members.



Saldaor mortgage as a mode of acquiring property among the Bugkalots has gained tremendous importance in recent years because of the needs for cash to be used for educational, medical, and investment purposes. Most of the lands being mortgaged are agricultural lands having no formalities accompanying every financial transaction.

Customary Laws on Inheritance

The following are the Bugkalots' customary laws on inheritance involving natural children, adopted children, illegitimate children and laws governing division of property among widow/widower, second marriages and property settlement among divorces.

Natural/Legitimate Children (*Anak*)

1. Legitimate children have the priority of inheriting the property of their parents. The rule on equal share is applied especially on agricultural lands. The lollo or the youngest son usually owns the house and lot since it was expected that the parents stay with him during their remaining years. However, if the residential lot is wide, it is divided equally among the children.
2. A child who dies during the lifetime of his parents does not inherit property from his or her parents.
3. An unmarried child has a share in his parent's property. If he/she dies, the property is divided among his surviving brothers and sisters.
4. Other personal properties are inherited based on gender. Female children inherit their mothers' accessories and apparel while male children inherit their father's personal belongings.
5. Farm and fishing implements are divided equally among children.

Adopted Children (*Tagibi*)

1. Adopted children are usually related to the couples. In extreme cases or as mutually agreed upon by the couples, adopted children may not be related to the adoptive parents. Adopted children automatically serve as heirs of the parents. As such, they are entitled to inherit property from adoptive parents.
2. Properties of couples who are *baug* or sterile and who did not adopt any child are given to their relatives upon death. A relative who bears the burial expenses has the right to claim the dead person's property. Property unused for the burial expenditures are sold, and the proceeds are divided among the nearest kinsmen.



3. No property is given to an adopted child once he decides to go back to his natural parents. Leaving his/her adoptive parents terminate his right over the property.
4. Matambeke or couples with natural children grant equal share to an adopted child only if they were adopted at an early age. Adopted children who were taken during their "growing up years" receive less than the natural children do. Such belief is based on the idea that they lived with the adoptive parents for fewer years.
5. Property of childless couples is not inherited by the adopted child alone. Close kins of the couple are given a share although the adopted child receives a larger share.

Illegitimate Children (*Anakmadbalak*)

1. Illegitimate children (*anakmadbalak*) are given property to inherit especially if the family recognizes them. However, the property given is less than the property awarded to natural children.
2. Conjugal property of the illegitimate child's father/mother will never be given as inheritance of the illegitimate child.

Widow/Widower (*Uwega*) and Division of Property

1. *Uwega* or a widow/widower without a child does not inherit the property of the dead spouse. Property of the dead spouse goes back to his family represented by the living parents or his siblings. However, the living spouse has the right to manage conjugal property until his/her death. After which the property is divided among their respective families.
2. The conjugal property of a widow or a widower along with his or her paraphernal property is devolved among their children.
3. Should a couple without children die, their paraphernal and conjugal properties must be divided among their nephews and nieces after deducting the burial expenses.
4. Property of the dead spouse should go back to his family and must not be transferred to the children of a second marriage should the living spouse decide to remarry.

Second Marriage and Division of Property

1. Children of the first marriage cannot share in the property accumulated by their mother or father's second marriage.



2. The heirs of the acquired properties are the children of the second marriage since this is considered as the conjugal property of the couple. This customary law is applicable especially if the father did not bring any property or capital to the second marriage.
3. If the father brought property or capital to the second marriage, children of the first marriage may claim a share but not equal or more than the share to be received by the children on the second marriage.

Divorce and Property Settlement

1. For childless couples, paraphernal property of each couple shall be given back to them while conjugal properties are divided equally between couple.
2. If couple has children, the offended party has the right to manage both the offender's property and all conjugal property for the survival of the family members.
1. After the LuponTagapamayapa or Barangay Officials have decided on the case, the offended spouse takes the property of the offender until he/she dies and reverts back to his/her family.
2. Children of the second marriage cannot inherit the property acquired during the first marriage.
3. Children of the separating couple are asked to choose with whom to live. A baby is usually allowed to stay with the mother for proper nurturing.

Customary Laws on Succession

1. Parents distribute their lands among their children and live a parcel for their daily living. Parents who still alive become the ultimate receiver of whatever property awarded to their children especially if this children have no immediate heir with whom to pass the property on.
2. Bugkalot children, irrespective of sibling order and sex, have the right to inherit property from parent. As a rule, property is divided equally among all members and assigned to the children at a young age. Illegitimate children are also given inheritance for as long as the family member recognize them.
3. A spouse has the right to take the inherited property of a napasi or decease husband/wife especially if they have natural children. The paraphernal property of the dead including the conjugal property, is divided among the children. If childless,



the living spouse keeps the property of the dead spouse and manage it until his/her death.

4. When a husband dies, his paraphernal property is given to the wife and eventually pass on to their children. If childless, their paraphernal property is given back to their respective parents. If he parents are no longer alive, the brother and sisters become heirs to the property.

Manner of Disposing Property

The Bugkalotsociety is generally patriarchal in structures. The father, being the cultivator of the land, has the sole right to dispose the property. Lands to be owned by family members are identified at the children's early age or prior to the death of the father. Although patriarchal in structure, the father recognizes the rights of female heirs to inheritance making them acquire equal inheritance from their male siblings. No written documents are made in disposition of property. *Tekwatormanangturo* is still the pervading manner of property transfer. Strict adherence to the customary law is enforced through societal pressures such as ostracism and ridicule.

Settlement of Disputes over Property Ownership and Conveyance

Disputes over property are rare among the Bugkalots due to their high regard to property ownership. Customary laws on property are religiously adhered to buy the Bugkalots and this has discouraged the occurrence of problems related to ownership and conveyance. These laws are elaborated in the concepts of: *binantan*, *manangturo*, *sinigamanandsinabbi*. Other factors that discourage property disputes especially on ownership and conveyance is their knowledge of communal ownership. Claims on individual ownership follow only after having cleared a specific lot for thepurpose of cultivation. Also, appropriating a land to oneself make no sense as there are abundant resources found in the environment. In as much as lands are held communally, having it titled is remote. Before and now, there are no written records on property. Lands are untitled but due to the influences of education and the threats of migrants, the Bugkalots are now open to titling their lands. Traditionally, Begangit decides on disputes concerning property ownership through the sinabbi while at present, matters of this kind is referred to the eldest kinsmen of both parties involved. If unsettled, the matter is brought to the attention of the LupongTagapamayapa and the barangay officials.



On the whole, the Bugkalots as an indigenous group have developed distinct concept on property and ownership, vital in maintaining group solidarity and identity, and in enhancing property transfer from one generation to other.

Specifically, customary laws governing inheritance and succession among the natural children, adopted children, illegitimate children, widow/widower, second marriages and divorce couples were adhered upon by Bugkalots. Adherence to these customary laws is what Pierre Bourdieu identified to be part of their habitus. The Bugkalots are endowed with mental framework which they perceived, understand appreciate and evaluate their social life. Their customary laws are conceived as instrument in defining and determining their social relations particularly in relation to land.

On the other hand, changes in the Bugkalots customary laws particularly on the concept of sale and mortgage as modes of property acquisition are evident. Customary laws pertaining to settlement if disputes over property ownership and conveyance are likewise challenge by the mainstream concept of law. The Bugkalots have to adjust in order to respond to their changing environment. These adjustments have brought new set of social relation which Bourdieu termed as field. The structure of the field guides the strategies employed by the Bugkalots in order to maintain their social position or find a new status in the hierarchy.

It is clear however, that despite the emergence of these new concept, customary laws are still preferred and widely adhered to by the Bugkalots in the transfer of property and in solving disputes related to the property ownership. It is believed that the dynamic character of the Bugkalot customary laws have made it more effective in responding to changes amidst the influences of changes.

CONCLUSIONS

The Bugkalots as an indigenous group have develop distinct concepts on property and ownership, vital in maintaining group solidarity and identity, and in enhancing property transfer from one generation to another.

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The slight alteration of the Bugkalot customary laws on property and inheritance is attributed to factors like migration, Religion and Politics. The coming in of other cultural groups into the Bugkalot territory, the presence of a new religious faith like the New Tribes Mission, and the creation of political unit are identified to be responsible in modifying the present day Bugkalots' age-old customary laws. It is further conclude in this changes that Bugkalot way of life has not replaced the core values of Bugkalot customs. Instead, the new and the old ones had been incorporated in order to resolve the contradiction within the system.

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