

BOOK REVIEW:

"TIRURAY JUSTICE: Traditional Tiruray Law and Morality"

by Stuart A. Schlegel

This book reminds the reader of the existence of a number of native private legal systems in the country today which operate side by side with the Western-style legal system officially imposed upon us. The legalistic approach which most law professors take of positive law is a direct contrast to that taken by the author of this book, who is not a lawyer, but is an anthropology professor. This book describes, albeit briefly, the social setting in which the Tiruray concept of justice operates as well as the impact their laws have on the life of the tribe. Further, it illustrates how social changes, inspired no doubt by Christian lowlanders or by missionaries, affect the Tiruray tribe's laws and customs.

It is in the study of the legal system of the native tribes of the Philippines where the interplay of law and anthropology is best appreciated, for, at this stage of the tribe's development, law must remain very close to the fabric of primitive society. Any analysis of the relationship between Philippine law and society must therefore start with a study of the legal system of our primitive tribes, for it would be misleading to start with the relationship of our American-imported laws with present-day urbanized Filipino society.

The Tirurays landed in the front pages of Manila newspapers a few months back when they engaged some lowlanders in a running gunbattle somewhere in the province of Cotabato. The Tirurays are a vanishing mountain tribe pushed farther and farther into the hinterlands by Christian settlers and Moslem groups, and the few of them who have not been acculturated live in the dense, tropical forests of western Cotabato.

Despite their isolation, the Tirurays have not been spared from the depredations of loggers nor from the intrusion of curious intellectuals who can manage to wangle a foundation grant to go on an extended safari to some distant country and study the folkways of some tribe. The author of this book is not a parlor scholar, like some of our impecunious professors, for, with some grants-in-aid, he was able to spend more than five years with the Tirurays. In fact, he contributed to the acculturation of the Tirurays,

for he was principal of a high school in Upi, Cotabato from 1960 to 1963. It is therefore mildly surprising that the author ends his book with a note of lament — over the fact the hope for escape from change for the Tiruray is ultimately vain, and over the inevitable disappearance of the elegant feud-settlement system of the tribe.

Tiruray society is basically centered on the household and on the small tribe. The social organization thrives on collectism — for instance in the family, all property, money, crops, etc. belong to the household for common use; in the tribe, fish caught in the river, or flesh of a wild animal caught in hunting, is shared in the neighborhood. Houses are clustered in one small area, and households isolated from others are thought to be stingy and unwilling to share its goods with other households in the tribe.

The one bane of primitive society is its being chained to tradition and custom. The Tirurays live by their *adat*, the moral code of the people which they liken to the Moslem Koran. Since they have no legislature, the Tirurays have some difficulty adapting their *adat* to social changes. However, this system has one merit in that primary rules are not institutionalized into two separate systems — one moral and the other legal. This would prevent, according to the author, the development of a legal code different from that of a moral code, with resulting tensions that bring division of the community. Such tensions experienced in advanced countries with legal codes that have diverted from their moral bases do not occur in Tiruray society, but the price the latter pays, social stagnation, outweighs the advantage pointed out by the author.

The judicial system of the Tirurays finds striking similarities with that of our own. The specialized roles are played by the *kefeduwan*, a fraternity of legal representatives and experts who adjudicate disputes and feuds, and are analogous to our lawyers and judges. Unlike some Christian lawyers, however, the *kefeduwan* is committed to the truth and to respect for just decisions; a *kefeduwan* who sacrifices truth to partisan or personal interest is looked with askance, and he may not be asked to judge a subsequent dispute again. The *kefeduwan* are entitled to part of the settlement if the dispute involves property or compensation; they also have their version of bribery whereby the *kefeduwan* involved may be more interested in the part of the property award for him than in the reaching of a just decision, or he may sell his judgment for some valuable item or for lowlanders' money. Materialism has infected even the non-Christian judges.

The Tiruray concept of negligence or fault is parallel to ours. Thus,

'If a group of men are working together slashing a swidden site, and the bolo blade of one breaks, flies, and cuts the flesh of a companion, there is no bad fedew (feeling). Although by custom the one who caused

the blood to flow will give his injured associate a token gift, he was not 'foolish'. there was no intention to cause harm."

Article 2176 of our Civil Code, which requires a person who causes damage to another through fault or negligence to compensate the victim, finds analogy in the Tiruray rule that "even when there is no intention to hurt, a reasonable exercise of prudence is required by *adat*, and carelessness which runs afoul of someone's feelings is also culpable." The author further observes that "whenever an offense occurs and a *fedew* is made bad, the matter of *sala* (fault or responsibility) and the matter of *benal* (compensation) are immediately raised."

On the whole, the Schlegel book provides a prism through which Western-oriented scholars can look at one of the indigenous legal systems in the Philippines. Its strong point is the author's ability to weave anthropology and sociology into the fabric of a system of law, but then this should not be very difficult in describing a primitive legal system. The book highlights the key role of legal institutions as means of social control, specially in the resolution of conflicts and arbitration of disputes within the tribe. Unlike the casual observer, the author makes an in-depth study of how Tiruray justice actually operates, and follows its social consequences. It is a contribution to Filipino custom law and morality.

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<i>Name</i>	<i>Post Office Address</i>
Editor: PACIFICO A. AGABIN	U.P. Diliman, Q.C.
Business Manager: CRISOLITO PASCUAL	U.P. Diliman, Q.C.
Owner: College of Law, U.P.	College of Law, U.P. Diliman, Quezon City
Publisher: College of Law, U.P.	College of Law, U.P. Diliman, Quezon City
Printer: ENTERPRISE PUBLICATIONS, INC.	107 West Avenue, Quezon City
Office of Publication	College of Law, U.P. Diliman, Quezon City

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Bondholders, mortgages, or other security holders owning one per cent or more of the total amount of security:

In case of publication other than daily, total number of copies printed and circulated of the last issue, July, 1970.

1. Sent to paid subscribers	579
2. Sent to others than paid subscribers	220
TOTAL	799

PACIFICO A. AGABIN
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SUBSCRIBED AND SWORN to before me this 21st day of April 1971, at Quezon City, Philippines, the affiant exhibiting his/her Residence Certificate No. A-1687670, issued at Q.C. on January 19, 1971.

ESTEBAN D. KAMPITAN
NOTARY PUBLIC
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Doc. No. 163;
Page No. 33
Book No. I;
Series of 1971;

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