

EXPLOITATION OF PHILIPPINE FOREST RESOURCES: BRIDGING THE GAP BETWEEN CONSTITUTIONAL POLICIES AND REALITIES *

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I. INTRODUCTION

The rapid depletion of our natural resources is one of the most pressing problems that confronts the country today. Although this problem has not invoked a public response as dramatic or as emotional as the general reaction to the current political and economic issues, it has nonetheless steadily engaged the attention of a growing number of concerned citizens. The increasing volume and frequency of published news reports, articles, commentaries, and researches appraising the status of our natural resources are indicative of a rising awareness among our people of the urgent need to protect and conserve natural resources.

It is often said, with understandable pride, that our country has an abundance of natural resources. This may be so. But if we are not able to stop the over-exploitation of these resources, the time will surely come when this much vaunted abundance will be a thing of the past. If and when this happens, nobody is to blame but ourselves and we deserve to suffer the terrible consequences.

The effort to conserve our natural resources is not a novel one. It has been going on for a considerable number of years. It is only now, however, that it has gained national prominence as a result of the public exposure of its inability to check the unbridled exploitation of these resources. The alarming implications of the inadequacy or ineffectivity of the conservation effort which have often been discussed in both print and broadcast media of communication have all the more emphasized the widely shared view that, as never before, there is now a compelling need to launch a formidable drive to protect and conserve our fast dwindling natural resources.

While the urgent task of conservation encompasses a wide area involving forestry, fisheries, mineral and other resources, it is, however, in the forestry sector that the problem is most acute. The most recent forestry statistics published by the Bureau of Forest Development reveal

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that, in 1983 alone, forest destruction claimed 121,326 hectares.¹ This disturbing picture portrayed the 1983 statistics is not an isolated one. It is only a part of a long series of scenarios depicting in their totality a dismal picture of massive forest denudation. The figures compiled by the Bureau since 1969 clearly show the rapid destruction of our forests. Within a relatively short span of fourteen years, 1,411,459 hectares were destroyed.² The situation becomes even more alarming if we are to consider the possibility that the figures supplied by the Bureau of Forest Development do not accurately reflect the extent of forest destruction. It could be that these figures grossly underestimate the actual rate of deforestation. This possibility can not be discounted in the light of the findings of certain studies conducted by other agencies which show a higher rate of forest destruction.³

But why, one might ask, must we be so alarmed by the destruction of our forests? Are the consequences so grave that we must now muster a concerted will to eliminate the forces of destruction. It is high time for us to realize, before it is too late to take remedial measures, that forests are vital to us not only because they help maintain a sound and stable environment but also because they play a significant role in the national endeavor to accelerate the economic development of our country.

The ecological value of forests can best be appreciated if we consider that forests help regulate the natural water cycle, prevent or lessen soil erosion, water pollution, floods and droughts, minimize destruction from typhoons by serving as barriers to strong winds, and help bring about a wholesome, moderate tropical climate. It must also be mentioned that forests are home to numerous species of precious flora and fauna, some of which are already extinct while many are in danger of eventual extinction by the seemingly unstoppable destruction of their natural environment.⁴

From an economic point of view, forests are valuable assets because they provide the basic materials or resources for certain industries, particularly the wood-based industries. These industries, in turn, provide employment to thousands of our workers, generate revenues for the government and earn, through the exportation of wood and other forest products,⁵ foreign exchange which, as we all know, is badly needed by

¹ BUREAU OF FOREST DEVELOPMENT, MINISTRY OF NATURAL RESOURCES, PHILIPPINE FORESTRY STATISTICS (1983).

² This figure was derived by adding the annual number of hectares covered by forest destruction as compiled by the Bureau of Forest Development from 1969 to 1983.

³ Studies touching on deforestation, protection and rehabilitation of forests have been conducted by institutions or agencies such as the Forest Research Institute, Development Academy of the Philippines, and the Natural Resources Management Center, an agency attached with the Ministry of Natural Resources.

⁴ Among the rare animals which are threatened with extinction are the Philippine Eagle, Philippine Crocodile, Palawan Peacock, Pheasant, Butaan and Pawikan. See BUREAU OF FOREST DEVELOPMENT, ANNUAL REPORT (1983).

⁵ Under Presidential Decree No. 705, otherwise known as the Revised Forestry Code of the Philippines, "forest products" include timber, pulpwood, firewood, bark,

the economic recovery program. All these ecological and economic benefits, however, may be denied us in the not too distant future if we continue to allow the wanton exploitation and destruction of our forest lands.

II. CONSTITUTIONAL AND LEGISLATIVE POLICIES ON FOREST RESOURCES

The Constitution gives special emphasis on the conservation of our natural resources. It is noteworthy that the Preamble specifically mentions the conservation and development of the patrimony of the nation as one of the primordial concerns of government. The specific policy prescriptions, however, are found in Article XIV which deals with the national economy and the patrimony of the nation. There are six sections in this article which have a bearing on natural resources. These are Sections 8, 9, 10, 11, 12 and 16. Let us consider briefly the policies enunciated in these sections.

It is interesting to note that Section 8, which is the lead section on natural resources, starts with an affirmation of the Regalian Doctrine. This doctrine which is founded on the premise of state dominion over all natural resources is well entrenched in our constitutional system. Section 8 unequivocally declares that "all lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, wildlife, and other natural resources of the Philippines belong to the State." This section likewise prescribes two significant policies. First, natural resources are not subject to alienation, with the exception of agricultural, industrial or commercial, residential, and resettlement lands of the public domain. Second, the duration of a license, concession, or lease for the exploration, development, exploitation, or utilization of any of the natural resources is fixed at twenty-five years, renewable for not more than twenty-five years, with the exception of water rights for irrigation, water supply, fisheries or industrial uses other than the development of water power, in which cases, beneficial use may be the measure and the limit of the grant.

The policy prohibiting the alienation of natural resources is particularly relevant to our inquiry since this implies, among others, that public forest lands can never be the subject of private appropriation. Possession of such lands, however long, can not ripen into ownership. Consequently, even if a Regional Trial Court, acting as a land registration court, allows the registration of such lands under the Torrens system, such registration is without any value for it is infected with the vice of nullity. The court

treetop; resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrubs and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.

⁶ The Preamble provides: "We, the sovereign Filipino people, imploring the aid of Divine Providence in order to establish a Government that shall embody our ideals, promote the general welfare, *conserve and develop the patrimony of our nation*, and secure to ourselves and our posterity the blessings of democracy under a regime of justice, peace, liberty and equality, do ordain and promulgate this Constitution." (Emphasis supplied.)

simply has no jurisdiction over the subject matter.⁷ And even if the Director of Lands has issued a patent pursuant to the Public Land Law,⁸ and a Torrens Title was issued thereafter, the same rule would be applied. The Supreme Court has ruled that in such a case, the Torrens Title will not prevail against the State in an action for reversion of land covered thereby when such land is a part of a public forest reservation.⁹

The nationalistic policy of limiting the disposition, exploration, development, exploitation or utilization of our natural resources to Philippine citizens or to corporations or associations at least sixty per cent of the capital of which is owned by such citizens is set forth in Section 9. The same section, however, qualifies this policy by additionally providing that the legislature may allow such citizens, corporations or associations to enter into service contracts for financial, technical, management, or other forms of assistance with any foreign person or entity for the exploration, development, exploitation or utilization of such resources.

The wisdom of the service contract provision introduced by the 1973 Constitution is not beyond question. It is the position of the advocates of the service contract device that our inadequacies in terms of technical, financial, and management resources constitute an obstacle to national development. Hence, in their way of thinking, reliance on foreign service contractors is necessary. While this position assumes a semblance of plausibility, a closer and more critical analysis will demonstrate that the service contract provision possesses a great potential for adversely affecting the policy of conservation of our natural resources. For implicit in this policy is the idea that the Filipinos, and not alien individuals or alien corporations, are the beneficiaries of such resources. The exploitation of our natural resources by foreign service contractors, in effect, enables them to participate in the enjoyment of such resources. Accordingly, it is not difficult to see that an over-reliance on the service contract device, which will correspondingly increase alien participation in the exploitation of our natural resources, would effectively dilute the nationalistic policy emphatically declared in the first part of Section 9.¹⁰

The policy to conserve our natural resources for the benefit of the Filipino people may be further eroded by the implementation of a subsequent provision. Under Article XIV, Section 16, it is provided that "Any

⁷ See *Director of Lands v. Abanzado*, G.R. No. 21814, July 15, 1975.

⁸ Com. Act No. 141 (1936), as amended.

⁹ *Republic v. Samson Animas*, G.R. No. 37682, March 29, 1974.

¹⁰ Presidential Decree No. 705 has provision implementing the service contract policy of the 1973 Constitution. Section 62 of the Code provides: "The Department Head may, in the national interest, allow forest product licensees, lessees or permittees to enter into service contracts for financial, technical, management, or other forms of assistance, in consideration of a fee, with any foreign person or entity for the exploration, development, exploitation or utilization of the forest resources covered by their license agreements, licenses, leases or permits. Existing valid and binding service contracts or financial, technical, management or other forms of assistance are hereby recognized as such."

provision of Paragraph One, Section Fourteen, Article Eight and of this Article notwithstanding, the President may enter into international treaties or agreements as the national welfare and interest may require." Clearly, this provision makes possible the waiving aside of the nationality requirements set forth in Section 9 concerning the disposition or exploitation of our natural resources.

Another policy on natural resources pertains to land classification. Under Section 10, a comprehensive classification of the lands of the public domain is provided. These lands are classified into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands. Allowance is made for other classes as may be provided by law.

It is, however, in Section 11 where the policy of conservation of our natural resources is emphasized. In determining by law the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation or association, and the conditions therefor, the Batasang Pambansa is mandated to take into account conservation, ecological, and developmental requirements of the natural resources. In addition, this section provides:

No permit corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares or acquire by purchase, homestead, or grant in excess of twenty-four hectares. No private corporation or association may hold by lease, concession, license, or permit, timber or forest lands and other timber or forest resources in excess of one hundred thousand hectares; however, such area may be increased by the Batasang Pambansa upon recommendation of the National Economic and Development Authority.¹¹

The last section under Article XIV which affects the disposition of natural resources is Section 12. As amended, this section now reads:

The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution.

Such program may include the grant of distribution of alienable and disposable lands of the public domain to qualified tenants, farmers and other landless citizens in areas which the President may, by or pursuant to law reserve from time to time, not exceeding the limitations fixed in accordance with the immediately preceding section.

The second paragraph of this section and the addition of the word "grant" after "homestead" in Section 11 constitute the Public Land Grant Amendment which was ratified by the electorate at a plebiscite on January 27, 1984.¹²

¹¹ CONST., art. XIV, sec. 11, as amended.

¹² Concerning the superfluity of this amendment, see Carlota, *Public Lands Grants: The Controversy About a Constitutional Superfluity*, 59 PHIL. L.J. 17 (1984).

The policies enunciated in the foregoing constitutional provisions apply to all natural resources. Since our inquiry is focused on forest resources, it is now appropriate for us to consider existing statutory or legislative policies concerning the exploitation and conservation of these resources.

Presidential Decree 705, otherwise known as the Revised Forestry Code of the Philippines, was promulgated in 1975 in response to the urgent need for a judicious exploitation, conservation, and management of our forest resources. This Code has adopted the following policies:

- a) The multiple uses of forest lands shall be oriented to the development and progress requirements of the country, the advancement of science and technology, and the public welfare;
- b) Land classification and survey shall be systematized and hastened;
- c) The establishment of wood-processing plants shall be encouraged and rationalized; and
- d) The protection, development and rehabilitation of forest lands shall be emphasized so as to ensure their continuity in productive condition.¹³

In order to implement these policies, the Bureau of Forest Development is not only mandated to exercise jurisdiction and authority over all forest lands, grazing lands, and all forest reservations including watershed reservations, but it is also held responsible for the protection, development, management, regeneration, and reforestation of forest lands.¹⁴ Its regulatory function over the wood industry was transferred only last July to a newly created agency called Wood Industry Development Authority, or WIDA for short.¹⁵ According to newspaper reports, WIDA was created by Executive Order 1039.¹⁶ If these reports are accurate, and there is no reason to presume otherwise, we have the rather unique situation where an Executive Order has amended a legislative measure.

The Philippine Wood Products Association, the organization of loggers, lumbermen, and plywood manufacturers, was reported to have responded favorably to the creation of the Wood Industry Development Authority.¹⁷ The fact, however, that the subjects of regulation have reacted positively to the creation of the new agency is no assurance that the agency will effectively regulate the wood industry and eventually succeed in phasing out the exportation of logs which, as we shall soon see, is a major cause of forest destruction. Keen observers of the administrative process, both here and abroad, realize only too well that, oftentimes, due to the pressure and influence exerted on the agency by the regulated industry, what event-

¹³ Pres. Decree No. 705 (1975), sec. 2.

¹⁴ *Id.*, sec. 5.

¹⁵ The wood industry covers all wood-based activities such as logging, sawmilling, plywood and veneer manufacture, lumber and lumber products, pulp and paper making, rattan, bamboo and wooden furniture and fixtures, wooden toys, woodcrafts and match making.

¹⁶ See *Bulletin Today*, July 26, 1985, at 21.

¹⁷ See *Bulletin Today*, July 29, 1985, at 19.

ually results is the anomalous situation of the regulator becoming the regulated.

An interesting implication that can be drawn from the emergence of the Wood Industry Development Authority is that the Bureau of Forest Development has no organizational aptness for effective regulation of the entire forestry sector. It has been said that the Bureau can now concentrate on the protection and conservation of our forest resources. With the transfer of its regulatory function over the wood industry to the new agency, the theory is that it is now in a better position to render adequate protection against forest destruction. But the idea that the problem is one of organizational weakness is not indisputable. It may well be that the real problem is one of poor implementation of the law as a result of certain factors such as graft and corruption, insufficient personnel, inadequate budgetary support, and even the peace and order situation in some areas under the regulatory authority of the Bureau of Forest Development.

The existence of two separate agencies which will tackle the problems pertaining to the wood industry and forest conservation may be appealing on paper. However, the fact is that the problems of the wood industry are not exactly distinct and separate from those affecting forest conservation. While the expectation is that these two agencies can co-exist harmoniously with each other, and operate on the basis of mutual cooperation, the realities may be such that conflict and confusion in certain jurisdictional areas can arise. This, of course, will lessen the effectiveness of both agencies. Thus, it is not unreasonable to say that there is simply no guarantee that two agencies, instead of one, will do a better job of implementing the law on the exploitation and conservation of our forest resources.

III. MAJOR CAUSES OF FOREST DESTRUCTION AND THE EFFICACY OF LEGISLATIVE AND EXECUTIVE MEASURES ON FOREST RESOURCE CONSERVATION

After having considered the constitutional and legislative policies on forest resources, it is now proper to identify and analyze the major causes of forest destruction and to subsequently evaluate the efficacy of existing legislative and executive measures on forest conservation. At the outset, it must be mentioned that forests are vulnerable to the destructive effects of natural forces such as pests, insects, disease, lightning and typhoons. But the destruction wrought by these forces are minimal compared to the destruction brought about by human activities such as *kaingin* and excessive, destructive and illegal logging. We shall limit our inquiry to these two activities which, undoubtedly, are primarily responsible for the substantial and rapid depletion of our forest resources.

Before we discuss the specific issues concerning *kaingin* and illegal logging, it would be helpful to review at this point certain basic informa-

tion regarding our forest resources as this would further illumine the serious implications of forest destruction.

The Philippines has a total area of 30 million hectares. As of December, 1983, about 52% or 15.5 million hectares of the total land area are forest lands made up of agri-forest areas (21%), pasture or range lands (3%), production forests (54%) and protection forest (22%). Certified alienable or disposable lands comprise 48% or 14.5 million hectares. The forests have an aggregate area of 11.133 million hectares.¹⁸

Our forest resources can be classified into four types. These are: a) the standing trees which are converted into logs, lumber, plywood, veneer, pulp and paper, and other wood-based products; b) minor forest products such as firewood, charcoal, bamboo, rattan and others; c) wildlife, both flora and fauna; and d) brush and open land comprising all denuded forest lands, croplands, plantations and grazing lands that have been abandoned, including all areas with exposed soil.¹⁹

There are six varieties of forests in the Philippines. These are the Dipterocarp, Molave, Pine, Mangrove, Beach and Mid-mountain and mossy forests. Of these six, the dipterocarp forest is the most important because it is the primary source of our wood-based products. The trees growing in this type of forest include familiar names like *lauan*, *tanguile*, *mayapis*, *yakal*, *apitong*, and *guijo*. These are known in international markets as "Philippine mahogany." These trees thrive best in wet valley bottoms as well as in hilly or mountainous regions, except high altitude areas such as the Mountain Province. Most of them are concentrated in Mindanao.²⁰

The dipterocarp forest is particularly hard-hit by massive deforestation. In a paper read before the First National Conference on the Conservation of Natural Resources held at the Philippine Plaza Hotel in December of 1981, it was pointed out that, from 1971 to 1980, some 1.79 million hectares of it have been deforested, or an average of 179,000 hectares a year. It was likewise observed that "considerable logged areas have been left inadequately stocked, incapable of producing sufficient wood for future economic harvesting operations on a sustained basis."²¹

Deforestation, indeed, is a cause for concern. However, it must be noted that this phenomenon is not endemic to the Philippines. If we may digress for a moment and consider the following report, we will surely be impressed by the worldwide character of forest destruction. According to this distressing report:

¹⁸ BUREAU OF FOREST DEVELOPMENT, *supra* note 1.

¹⁹ MINISTRY OF NATURAL RESOURCES, *THE GREEN MACHINE, A PRIMER ON OUR FOREST RESOURCES* 11 (1983).

²⁰ *Id.* at 8-9.

²¹ Reyes, *Intensifying Conservation of the Philippine Dipterocarp Forest* in *COMPILATION OF PAPERS, FIRST NATIONAL CONFERENCE ON THE CONSERVATION OF NATURAL RESOURCES* 143 (Philippine Plaza Hotel, December 9-12, 1981).

The figures are grim and ominous: more than 11 million hectares of tropical forest are cleared each year, mostly for unplanned agricultural expansion. And although reforestation has been increased, more than 10 hectares of forest are still being lost for every hectare with replanted trees.

This sad state of forests both in the developed and developing worlds has worsened through the years. According to the United Nations Food and Agriculture Organization (FAO), the dangers to the world's forests have already begun to generate growing concern among individuals and nations....

As FAO puts it, tropical forests are under severe pressure everywhere, particularly from expanding agriculture and shifting cultivation. And the rapid depletion and destruction of these vital resources are threatening their potential to continue providing their life-support role to billions of people....

As of 1980, the area of closed tropical forest, most of which are in the humid tropical zone, was estimated to be about 1,210 million hectares. About 1,000 million people live in this zone where the population growth rate averages about 2.2 percent annually.

The rapid population increase is thus exerting great pressure for use of forest land for agriculture. In fact, says FAO, the annual rate of deforestation has been estimated at 7.5 million hectares during the early 1980s. Of the total, 3.5 million hectares have been due to transfer of forest land to permanent agriculture; the rest is attributed to shifting agriculture.

That's not all. Long-term projections indicate that the area of closed tropical forests will be reduced by some 140 million hectares between 1980 and the year 2000. By year 2025, another 100 million hectares are projected to be lost.²² (Emphasis supplied)

The realization that deforestation is a problem which is commonly shared by many nations can hardly provide us any comfort. The disturbing fact remains that the rate of forest destruction in our country is one of the highest in the world. So fast is the pace of forest denudation in our country that in 1983, there were no less than 5.1 million hectares of denuded, open, and unproductive forest lands. Of this number, 1.4 million hectares need immediate reforestation.²³

Partly to blame for the sorry state of our forests is shifting agriculture or cultivation, sometimes referred to as "slash and burn" farming, but more popularly known as *kaingin*. This involves the process of clearing an area in the forest by cutting and burning trees and other vegetation for the purpose of planting rice and other staple crops. The land is productive during the first few years but this productivity rapidly decreases due to erosion and constant exposure to the elements. This eventually forces the *kainginero* to leave his *kaingin* and move on to another area in the forest to repeat the process. Low level of capital inputs, highly fluctuating labor use, and eventual subsistence farming are the chief characteristics of shifting

²² Jara, *Forests Lost at Suicidal Rate*, Bulletin Today, July 30, 1985.

²³ MINISTRY OF NATURAL RESOURCES, *supra* note 19.

agriculture while rapid soil erosion which seriously disturbs the ecological system is one of its undesirable consequences.²⁴

Certain statistical data concerning *kaingin* illustrate the seriousness of the problem. For instance, as of June, 1981, 571,202 hectares were occupied by 164,636 *kainginero* families.²⁵ The extent of denudation of the forests which results from the activities of this rather large number of families dependent on shifting agriculture is not negligible. According to official statistics supplied by the Ministry of Natural Resources, in 1981 alone, out of a total of 24,605 hectares that were deforested, 5,826 hectares were destroyed because of *kaingin*.

The destructive effects of *kaingin* brings into focus the question of the effectivity of the law in seeking to prevent it. Legislative policy has always been one of prevention through the imposition of criminal penalties.²⁶ But this policy has been found to be ineffective. The failure of this punitive approach has prompted the government to pursue other strategies to contain the *kaingin* problem.

Among the strategies employed by the government in past years to discourage shifting agriculture were: the resettlement of *kaingineros* in areas more suitable for continuous agricultural production, their employment as laborers in reforestation work, and, the encouragement of rational land use through combined agriculture and forest management practices, or

²⁴ Segura-de los Angeles, *Agro-Forestation as a Resource Conservation Strategy for National Development: Prospects and Caveats* in COMPILATION OF PAPERS, FIRST NATIONAL CONFERENCE ON THE CONSERVATION OF NATURAL RESOURCES 106 (Philippine Plaza Hotel, December 9-12, 1981).

²⁵ *Id.*

²⁶ Section 69 of Presidential Decree No. 705 provides: "Any person who enters and occupies or possesses, or makes *kaingin* for his own private use or for others any forest land without authority under a license-agreement, lease, license or permit, or in any manner destroys such forest land or part thereof, or causes any damage to the timber stand and other products and forest growths found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00) nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges that would have accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: *Provided*, That in the case of an offender found guilty of making *kaingin*, the penalty shall be imprisonment for not less than two (2) nor more than four (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of restoration of the occupied area as determined by the Bureau.

The Court shall further order the eviction of the offender from the land and the forfeiture to the Government of all improvements made and all vehicles, domestic animals and equipment of any kind used in the commission of the offense. If not suitable for use by the Bureau, said vehicles, domestic animals, equipment and improvements shall be sold at public auction, the proceeds of which shall accrue to the Development Fund of the Bureau.

In case the offender is a government official or employee, he shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position."

agro-forestry, by the *kaingineros* themselves on the areas they occupy so as to stabilize forest occupancy.²⁷

The launching of PROFEM-FL, or Program for Forest Ecosystem Management—Forests for Livelihood, on July 12, 1985, is the latest attempt of government to promote reforestation and the judicious utilization of our forest resources.²⁸ PROFEM-FL integrates PROFEM I and PROFEM II into one major program with new features such as: the active participation of local governments and communities in the overall reforestation efforts; the transformation of forestry projects into sources of livelihood by granting preferential rights to harvest matured trees to those who undertook the reforestation activities; the establishment of community based forestry projects in every municipality for the production of food, fuel, fertilizer, and feeds, including the establishment of seedling banks in strategic sites; the establishment of a reforestation fund from forestry charges and export taxes on logs and wood products; and the inclusion in the elementary and high school curricula of subjects that will make the youth appreciate the forest ecosystem and the conservation of natural resources.

It was, however, the Integrated Social Forestry Program, otherwise known as PROFEM II, which effected a significant response to the problem of *kaingin*.²⁹ The basic policy enunciated in this program is a radical departure from the punitive approach in dealing with *kaingineros*. Under this program, *kaingineros* and other forest occupants and communities dependent on forest lands for their livelihood are, in effect, made agents of the State in food production and in forest development through the issuance of Stewardship Certification or Communal Forest Leases.

What differentiates this program from previous attempts to prevent shifting agriculture is the stewardship agreement that binds the participants and the government. This agreement is actually a form of a lease contract in which an individual forest occupant or forest community association or cooperative is allowed by the government to occupy and possess a designated area of public forest land to be developed into productive farms. What is significant is that the agreement has a duration of twenty-five years, renewable for another twenty-five years. This sufficiently long period of occupancy affords security of tenure to program participants over the lands allocated to them.

Land tenure security, an element that was missing in previous government strategies to prevent or minimize shifting agriculture, is a strong motivating factor that could propel the *kaingineros* to develop the lands

²⁷ Segura-de los Angeles, *supra* note 24, at 106-107.

²⁸ PROFEM-FL is embodied in Letter of Instructions No. 1474 issued on July 12, 1985.

²⁹ This program was launched pursuant to Letter of Instructions No. 1260 issued on July 28, 1982.

they are occupying into productive farms in accordance with sound agro-forestry practices. With the proper motivation, and with the technical, legal, financial, marketing and other necessary assistance that shall be extended to them, there is no reason why this program can not produce better results than the previous government attempts to contain the *kaingin* problem.

Another major contributor to the denudation of our forests is logging or, more accurately, excessive, destructive and illegal logging. The words "excessive" and "destructive" are used advisedly because logging activities, when properly done, will not necessarily bring about forest destruction. In fact, through selective logging and other sound practices in the cutting of timber, a harmonious balance is struck between the economic needs of an expanding population and the requirements of forest resources conservation. Logging, therefore, is not necessarily an anti-conservation activity if we adopt the view, the proper view, that conservation means a judicious, not a total abstention from, exploitation of our natural resources. In the forestry sector, conservation should be taken to mean proper utilization in order to ensure the perpetuation of the forest and its productivity.

Excessive, destructive, and illegal logging activities, however, are diametrically opposed to conservation. By excessive logging, we do not necessarily mean illegal logging. For the cutting of timber may be legally done within the limits, but if those limits are improperly determined by not taking into account the natural capacity of the forest to regenerate itself, then we have the rather ironical situation of legal but nonetheless excessive logging. Destructive logging, on the other hand, refers to the disregard or non-observance of sound practices which have been prescribed to protect the young or premature trees. It is illegal logging that is broader in scope for it is at once excessive and destructive, it being an activity that violates the limitations or restrictions fixed by the law.

Like *kaingin*, illegal logging is an old problem. And like *kaingin*, the government has so far been unsuccessful in its effort to put a stop to it, although we must hasten to add that the Integrated Social Forestry program with its security of tenure incentive has a good chance of minimizing shifting agriculture. Even as we talk about the urgency of the problem, the illegal cutting of timber continues unabated.

The search for an effective answer to illegal logging must take into account the related problem of smuggling or the illegal exportation of logs. The lure of huge and undeclared foreign exchange earnings through illegal exportation induces our loggers to cut more timber than they are allowed in their licenses or permits. Needless to say, this contributes substantially to the denudation of our forests.

Since log smuggling is made possible through the fraudulent use of the log export quota system, another issue that must be addressed forthrightly is whether or not the government should impose a total log export ban. It is in this issue where the government policies can be characterized as "flip-flopping", to borrow a term recently made popular by the Supreme Court in describing the decisions of a certain constitutional agency.

Let us review, briefly, the interesting chain of events regarding the log export ban issue. On April 1, 1974, the government, through Presidential Decree No. 428, adopted the policy of banning log exports to commence on January 1, 1976. This was a significant policy decision which gained a favorable public response. The specific policy objectives were widely publicized. Among these were: the rationalization and development of the wood industry, acceleration of the reforestation program, prevention of forest destruction, and the attraction of foreign capital for wood processing ventures.

On May 19, 1975, Presidential Decree No. 705 was promulgated and the log export ban policy enunciated earlier was reiterated in Section 32 of this decree. However, in December of the same year, Presidential Decree No. 865 was issued to allow the temporary, limited and selective export of logs, thus postponing a total log export ban that would have taken effect on January 1, 1976. The justification offered for the retreat from the original policy was that the full implementation of the total log export ban may adversely affect the country's balance of payments, employment and the stability of the industry. Subsequently, the government adopted a policy of a modified and selective ban on log export for a minimum of three years beginning January, 1979 to allow the wood industry to modernize its processing facilities.

In early 1982, the government, by comparing certain pertinent Philippine and Japanese statistics, discovered that from 1978 to 1981, Philippine log firms overshipped almost 1.5 million cubic meters of logs valued at 273 million U.S. dollars to Japan. This prompted the Natural Resources Minister at the time to strongly recommend to the President the total ban on log exports effective May 1, 1982. This recommendation was disregarded when the President again granted wood firms a grace period to export logs up to December, 1982 under the modified selective ban policy. Up to now, this policy has not been abandoned despite the recent discovery that log smuggling has not stopped notwithstanding the recommendation of the Presidential Council to impose a total log export ban.

If anything is to be derived from the factual background surrounding the log export ban controversy, it is that the government up to now has placed a higher priority on foreign exchange earnings than on the requirements of forest resource conservation. The total log export ban policy declared eleven years ago, and which was supposed to have taken effect

in 1976, must now be fully implemented. We can no longer afford the luxury of delaying it, for the drive to save our forests is a race against time.

IV. CONCLUSION

We can not end this lecture without calling for an active involvement in the worthy endeavor to conserve our rapidly diminishing forest resources. Several decades of over-exploitation, made possible partly by public indifference, have caused so much forest destruction to the extent that we are now starting to suffer the terrible consequences. Long devastating droughts, floods, massive soil erosion and the consequent silting of our rivers are no longer just the wild imaginings of an alarmist. They are here with us, and they will be with us, unless we stem the tide of forest destruction.

What is most painful about all these is the realization that only a few persons are principally responsible for the destruction of our forests. These are the loggers with warped values who, through political patronage, graft and corruption, violate with impunity our laws on forest conservation. In a manner of speaking, they are the privileged few who have enriched themselves by continuously and notoriously plundering the patrimonial property of the Filipino people. In law, this is what we call unjust enrichment at the expense of others. These predators of our forests must be exposed to the glare of public censure and must be made answerable for their wrongdoing.

What is needed now is a concerted, resolute will from government and the private sector to save our beleaguered forests. This is admittedly not an easy task. Aside from the difficulties that will surely be encountered in reforestation, we have to contend with increasing population pressure on an already much reduced forest resource base. The present population growth rate of 2.5 percent, which is far from satisfactory, will bring about a substantially expanded population in a few years and this, in turn, will increase the demand for food from a steadily decreasing land resource base. As noted by a keen observer:

It is a fact that population growth is followed by rapid urbanization of our towns and suburbs which sadly results in a reduction in crop production areas as more and more ricelands are converted to residential and industrial subdivisions. Unless food production per unit area dramatically doubles, the threat of a net food supply gap becomes a reality and, whether it is proper or otherwise, pressures will be exerted on the forests to provide more food production areas. It is an irony, perhaps, but it is a fact that aside from the pressure to allocate more forest lands for food production, the forests will also be pressured to provide more and better timber, paper products, water, other forest products and environmental amenities for our burgeoning population.³⁰

³⁰ Lantican, *Forestry Education: A Vital Key to Conservation* in COMPILATION OF PAPERS, FIRST NATIONAL CONFERENCES ON THE CONSERVATION OF NATURAL RESOURCES 10 (Philippine Plaza Hotel, December 9-12, 1981).

The increasing population pressure on our depleted forest resources serves to underscore the importance of Agro-forestation as a resource conservation strategy. Viewed as "a system of land management whereby forest and agricultural products are produced on appropriate and suitable areas simultaneously or sequentially for the social, economic and ecological benefits of the community", Agro-forestation has a great potential for harmonizing natural resource conservation and production.³¹ The government, therefore, should encourage through adequate funding, researches and studies in this area.

The importance of firm, uncompromising and stable legislative or executive measures on forest utilization and conservation must likewise be emphasized. Constantly changing or "flip-flopping" policies, as in the case of the log export ban issue, indicate a short-term perspective in policy making. While this may be useful at times, in the long run, policies based on short term considerations often turn out to be counter-productive. Keeping faith with the constitutional policy of natural resource conservation requires a long term perspective in order to balance the demands of the present and requirements of the future.

It must, however, be stressed that sound policies, without effective implementation or enforcement, can not bring about the rehabilitation of our forests. This brings us to the urgent need for developing and maintaining a corps of dedicated, efficient and law-abiding officials and employees in all agencies directly or indirectly involved in the task of forest resource conservation. This would require, among others, strong budgetary support from the legislature.

One final point needs to be stressed, and that is the vital role of a vigilant, militant and conservation-conscious citizenry in the effort to conserve our forest resources. It can hardly be denied that indifference, apathy, and the unfortunate lack of conservation values among our people contribute in no small measure to the degradation of such resources. There is some truth to the observation that the only time the citizens complain is when devastating droughts and floods affect them. This attitude can no longer be tolerated. Although changing attitudes takes time, it is never too late to start. Ideally, however, the development of conservation values should start in early childhood for this is the critical time in the development of proper values. It is, therefore, heartening to know that, under Letter of Instructions 1474, subjects in the appreciation of forests and forest ecosystems as well as the preservation and conservation of natural resources are now required to be included in the elementary and high school curricula.

Our brief exploration of the realities concerning the exploitation of our forest resources has shown that we have not heeded the constitutional in-

³¹ Segura-de los Angeles, *supra* note 24.

junction against profligacy in the utilization of such resources. There is, indeed, a wide gap between the policy of conservation and the reality of destruction. It is now our solemn obligation as concerned citizens to bridge that gap, for our own sake and for the sake of generations yet to come.