The Right to a Sound Environment in the Philippines: The Significance of the *Minors Oposa* Case

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■ Introduction

The *Minors Oposa v. Factoran*[1] case is not, strictly speaking, the first environmental case in the Philippines. Indeed, there is a long line of decisions in Philippine jurisprudence involving natural resources utilization, including cases concerning ownership of timber resources,[2] disputes over timber licence agreements,[3] pollution[4] and nuclear power.[5] The Supreme Court has rendered decisions over the conversion of agricultural land to non-agrarian uses (such as industrial or residential). Besides the obvious environmental implications, all of these cases had one element in common: they dealt with the issue from a conflict of rights perspective, and as a result the rationale of each decision was based on due process, property rights, the 'Regalian Doctrine' or the law on agrarian reform.[6]

What distinguishes *Minors Oposa v. Factoran* is that it is the first case which expressly interprets the constitutional right to a balanced and healthful ecology found in the 1987 Philippine Constitution. *Minors Oposa v. Factoran* is also the first and only Philippine case to date which deals with the issue of how to value natural resources not only for present but also for future generations in the Philippines. In short, the *Minors Oposa* case is a landmark decision. As Justice Florentino Feliciano describes it in his concurring opinion:

> [the *Minors Oposa* case] is one of the most important cases decided by this Court in the last few years. The seminal principles laid down in this decision are likely to influence profoundly the direction and course of the protection and management of the environment, which of course embraces the utilization of all the natural resources in the territorial base of our polity.[7]

This article will review the main issues in the case and the unprecedented decision of the Supreme Court before considering the implications and limitations of this case for intergenerational equity and environmental rights in the Philippines.

■ The Issues

The plaintiffs in this case were minors (represented by their parents) and the Philippine Ecological Network, Inc., a nonstock, nonprofit organization. The original defendant was the Honourable Fulgencio S. Factoran, (then) Secretary of the Department of Environment and Natural Resources (DENR). The original complaint was filed as a taxpayers' class action to compel the defendant to cancel all existing Timber Licence Agreements (TLAs) and to cease and desist from granting new applications. This complaint was dismissed by the Regional Trial Court on the procedural ground that the pleadings did not state any cause of action against the defendant and that granting the relief requested would result in the impairment of contracts which is prohibited by the Constitution.

The plaintiffs in turn petitioned the Supreme Court to reverse this ruling on the ground that the trial court

gravely abused its discretion in dismissing the complaint. The Supreme Court ruled in favour of the petitioners and remanded the case to the lower court for trial.

Briefly, the main issues in this case are twofold: first, whether or not the petitioners had a cause of action and second, whether or not cancellation of the TLAs constituted impairment of contracts. This article will only focus on the first issue because in the course of resolving the question concerning the cause of action, the Supreme Court interpreted the constitutional right to a sound environment.

In addition to these issues, the Supreme Court also ruled on the question of whether the petitioners had standing to file this case (locus standi) and whether the matter before the Court was in fact a political question rather than a legal one. While arguably *obiter dicta*, the Supreme Court's pronouncements on these points merit discussion.

■ The Decision

The respondent's argument centred on the proposition that the petitioners failed to allege in their complaint a specific legal right violated by the former for which any relief is provided by law. They also argued that the question of whether logging should be permitted in the country is a political question which should be properly addressed by the executive or legislative branches.

The Supreme Court's unanimous judgment, written by Justice Hilarion Davide, contains several significant statements on standing to sue, the cause of action and the political nature of the issues, which will be reviewed in turn.

Standing to Sue

First, the Supreme Court dealt with the issue of standing. Did the petitioners have standing to file this complaint? The Court held that the petitioners indeed had standing to sue, stating that the civil case was properly a class suit. According to the Court:

> The subject matter of the complaint is of common and general interest not just to several, but to all citizens of the Philippines. Consequently since the parties are so numerous, it becomes impracticable, if not totally impossible, to bring all of them before the court.[8]

The Supreme Court also held that the parents, on behalf of the plaintiff children, correctly asserted that the children represented their generation as well as generations yet unborn. Recognizing intergenerational equity and responsibility was a 'special and novel element' in the case, the Court stated:

> [t]heir personality to sue on behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned.[9]

The Right to a Balanced and Healthful Ecology as a Cause of Action

Second, the Supreme Court agreed that the petitioners had a cause of action. The Court stated:

> The complaint focuses on one specific fundamental right, the right to a balanced and healthful ecology which, for the first time in our nation's constitutional history, is solemnly incorporated in the fundamental law.[10]

The Court then cited Section 16, Article II of the Constitution which provides that:

> The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

It also referred to Section 15, Article II which requires the State to 'protect and promote the right to health of the people and instill health consciousness among them'.

Finally, in support of its proposition that there is a right to a sound environment, the Court cited Exec. Order No. 192 (1987), the Administrative Code, and the Philippine Environmental Policy, all of which express a general policy of environmental protection.

In interpreting these provisions, the Supreme Court recognized the primacy and centrality of the right to ecological security and health among the many rights assured by the Constitution. It said that:

> While the right to a balanced and healthful ecology is to be found under the declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation – the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of mankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come – generations which stand to inherit nothing but parched earth incapable of sustaining life.[11]

Beyond the rhetoric and poetic eloquence of the foregoing, the significance of the Court's statements is

that the right to a sound environment is a self-executory constitutional policy. By itself, independent of specific statutory rights, this right is actionable. What is more, it is actionable against the DENR Secretary who is responsible for implementing the State's constitutional mandate to control and supervise the exploration, development, utilization, and conservation of the country's natural resources.

Political Nature of the Issue and Non-Impairment of Contracts

Third, with respect to the ancillary issues, the Supreme Court pointed out that under Article VIII, Section 1 of the 1987 Constitution, judicial power has been expanded to include:

> the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

Therefore, it was a proper exercise of the Court's discretion to determine whether a legally enforceable right was at stake.

Fourth, on the issue of non-impairment of contracts, the Court ruled that TLAs are not contracts within the scope of the constitutional prohibition; rather they are merely licences which can be withdrawn when public interest or welfare are at risk. It also observed that even if TLAs were considered to be contracts, the non-impairment clause cannot be invoked because there is no law involved. Besides, such a law, according to the Supreme Court, would be justified under the police power of the State.

■ *Minors Oposa v. Factoran*: The Legal Implications

Coupled with the liberalization of the rule on standing, the express recognition of the constitutional right to a sound environment as self-executory makes *Minors Oposa* a truly radical case and has signigicant legal implications. These ramifications will be analysed before commenting on the judgment of Mr Justice Feliciano, who wrote the only separate opinion, which merits closer scrutiny because one could interpret this opinion as a dissent in part.

The Judgment of the Supreme Court

The Right to a Healthful Environment: A Constitutional Right

In sum, what are the legal implications of *Minors Oposa v. Factoran?* First, the Supreme Court clearly recognizes the constitutional right to a sound and healthful ecology as a self-executory and actionable right, independent of specific legal rights. Theoretically, although probably imprudent on the part of a plaintiff or complainant, Article II Section 16 alone can be invoked to question acts or omissions by branches of government. It is as self-implementing as the right to free speech or freedom of religion and other rights found in the Bill of Rights.

It would however be imprudent on the part of environmentalists or communities to rely on this right alone as a basis for legal action. Difficulties in determining what evidence to present would arise if such reliance was made. An environmental case would have a much greater chance of success at the trial level if, for example, evidence of specific violations by a TLA holder of its concession agreement or of forestry laws were introduced. This is the specific legal right that Justice Feliciano (in his concurring opinion reviewed below) indicated may exist on which the *Minors Oposa* petitioners can anchor their claim for relief.

Locus Standi

Second, the case liberalizes standing, at least with respect to environmental disputes. The concept of class suits recognized in this case departs from the normal understanding of the term in Philippine jurisprudence. *Minors Oposa v. Factoran* is also precedent-setting in that it broadens the meaning of who are 'proper parties' in a suit. All actions must be prosecuted and defended in the name of the real party in interest,[12] who has traditionally been restricted to:

> ... the party who stands to be benefitted or injured by the judgment or the party entitled to the avails of the suit. 'Interest' within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.[13]

The significance of *Minors Oposa* is further underscored in comparison to the restrictive ruling of the Philippine Supreme Court in *Lozada v. Commission on Elections*.[14] In that case, the Supreme Court denied a petition to review a decision of the Commission on Elections which refused to call an election to fill vacancies in the National Assembly. According to the Court:

> ... Petitioners' standing to sue may not be predicated upon an interest of the kind alleged here, which is held in common by all members of the public because of the necessarily abstract nature of the injury supposedly shared by all citizens. Concrete injury, whether actual or threatened, is that indispensable element of a dispute which serves in part to cast it in a form traditionally capable of judicial resolution. When the asserted harm is a 'generalized grievance' shared in substantially equal measure by all or a large class of citizens, that harm alone normally does not warrant exercise of jurisdiction... Even his plea as a voter is predicated on an interest held in common by all members of the public and does not

demonstrate any injury specially directed to him in particular.[15]

In the United States (US), legal standing in cases involving the environment has long been settled. However, unlike *Minors Oposa*, standing in the US is always predicated in the complainant's allegation that the action will cause her/him injury whether economic, conservational, recreational, or aesthetic.[16] *Minors Oposa* goes beyond US environmental jurisprudence which requires that specific, material injury must still be alleged before an action can be filed.

Intergenerational Equity: Securing the Rights of Present and Future Generations

Moreover, the explicit recognition in *Minors Oposa* of the right of future generations to be represented by present generations is certainly precedent-setting. While arguably unnecessary since the issue of standing was not really an issue here, the *Minors Oposa* decision is significant because it is one of the first pronouncements on the issue of intergenerational equity and responsibility by a national supreme court.[17] The World Commission on Environment and Development, in *Our Common Future*, succinctly identified why the present generation is faced with this responsibility:

> We borrow environmental capital from future generations with no intention or prospect of repaying. They may damn us for our spendthrift ways, but they can never collect on our debt to them. We act as we do because we can get away with it: future generations do not vote; they have no political or financial power; they cannot challenge our decisions.[18]

The concept of intergenerational equity has already been incorporated into many international instruments, including the Rio Declaration on Environment and Development which provides in Principle 3:

> The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.[19]

Politics of the Environment

Finally, the *Minors Oposa* case is a precedent for the proposition that the formulation and implementation of specific environmental policies are not exclusively within the ambit of the political branches of the Philippine governmental system. Since a self-executory constitutional right is involved, Philippine courts may intervene when there is grave abuse of discretion in denying relief based on the assertion of such a right.

Mr Justice Feliciano's 'Concurring' Opinion

Mr Justice Feliciano, in a concurring opinion, clearly sees the legal implications of this decision. The first point to make is that his concurring opinion does not really clarify what the Supreme Court appears to be saying; rather, he in fact diverges substantially from the reasoning in the main decision. Indeed, a dispassionate observer could sincerely conclude that Mr Justice Feliciano's concurrence is in part a dissent.

For example, on the issue of whether the petitioners had a cause of action, Mr Justice Feliciano disagreed with the majority. According to his decision, the Supreme Court had not identified one specific fundamental legal right on which to base their claim. Although the right to a balanced and healthful ecology is indeed a constitutional right, nothing could be more 'comprehensive in scope and generalized in character'. He disagreed that Sections 15 and 16 of Article II of the Constitution were self-executing and judicially enforceable in their present form. The same is true for the other texts cited by the Court in its main decision.

As to legal standing, Mr Justice Feliciano observed that locus standi 'is not a function of [the] petitioners' claim that their suit is properly regarded as a class suit' but refers to 'the legal interest in which a plaintiff must have in the subject matter of the suit'. He then pointed out the broadness of the class involved in this suit:

> Because of the very broadness of the concept of 'class' here involved – membership in this 'class' appears to embrace everyone living in the country whether now or in the future – it appears to me that everyone who may be expected to benefit from the course of action petitioners seek ... is vested with the necessary **locus standi**. The Court can be seen therefore to be recognizing a **beneficiaries right of action** in the field of environmental protection as against both the public administrative agency directly concerned and the private persons or entities operating in the field or sector of activity involved.[20]

He concludes that whether such right of action 'may be found under any and all circumstances, or whether some failure to act, in the first instance on the part of the government agency concerned must be shown' is not discussed in the decision and presumably left for future determination in a proper proceeding.[21]

On the issue of whether the cancellation of TLAs is a political question, Justice Feliciano clearly agrees, stating that:

> When substantive standards as general as 'the right to a balanced and healthy ecology' and 'the right to health' are combined with remedial standards as broad ranging as 'a grave abuse of discretion amounting to lack or excess of jurisdiction,' the result will be ... to propel courts into the uncharted ocean of social and economic policy making. At least in respect of the vast area of environmental protection and management, our courts have no claim to special technical competence and experience and professional qualification. Where no specific, operable norms and standards are shown to exist, then the policy making departments – the legislative and executive departments – must be given a real and effective opportunity to fashion and promulgate those norms and standards, and to implement them before the courts should intervene.[22]

■ Beyond *Minors Oposa v. Factoran*: The Limits of Judicial Action

Despite the relevance of the Supreme Court decision in *Minors Oposa v. Factoran* for future environmental litigation, reliance on the Philippine Judiciary for the protection of the environment might not be advisable.

Without minimizing the significance of the victory of the plaintiffs in this case, it must be noted that the decision did not result in the cancellation of any timber license agreement and that it took the judiciary three full years (one year by the lower court and two years by the Supreme Court) to dispose of what was basically a procedural issue. In fact, it is highly improbable that the case will proceed to trial since the Supreme Court, as a matter of due process, ordered that all TLA holders be impleaded as indispensable parties. The implication is that evidence must be shown against each TLA holder. One can only surmise how much this will cost and how much time it will take. In the meantime, Philippine forests continue to be denuded. In fact, at an annual deforestation rate of 100,000 hectares per annum, 300,000 hectares of forests were lost while the case was pending from 1990 to 1993.[23]

The more significant players in environmental decision making are the executive and legislative branches. The executive branch – particularly the different bureaucracies within the DENR – are the first and primary forums of most environmental disputes. While the DENR is certainly better equipped technically to deal with these issues, it is fair to observe that there is much to be done by the Department to upgrade its organizational capabilities. In many cases, several environmental decisions by the DENR are made on the basis of political exigency rather than a rigorous economic and scientific analysis of issues. While most environmental decisions must in the final analysis be political, the space for irrational external interventions such as corruption and undue political influence becomes much larger when ignorance or acceptance of the conventional characterizes a bureaucracy.

As for the legislative branch, an analysis of the environmental laws it has passed in recent years such as the law on toxic and hazardous wastes[24] and the National Integrated Protected Areas Act[25] illustrates its responsiveness to the environmental dilemma. Legislation on air pollution, on land management, a total commercial logging ban, and a new forestry code, among others, are on the way to enactment. Whether the laws eventually passed live up to expectations remains to be seen.

Aside from the executive and legislative branches, another alternative forum in environmental disputes are multilateral and bilateral development assistance agencies. Institutions like the Asian Development Bank, the World Bank and USAID are central and crucial players in environmental policy making in the Philippines. By financing many environmental programmes, these entities participate decisively in the environmental decision process. Often, more than the Philippine Congress and the DENR, these institutions are more vulnerable to pressure by environmentalists and communities. Because of their international political vulnerability, these organizations can be pressured to modify, suspend or cancel the financing of environmental programmes or projects which have an adverse effect on the environment. This reality poses important questions and dilemmas regarding national sovereignty. It also stresses the importance of developing domestic forums as viable forums for environmental dispute resolution.

As to other stake-holders, the most important are commercial users and communities of direct users. Commercial users include logging companies, mining companies, and energy developers. The challenge for this sector is to realize and accept the fact that the days of unrestrained exploitation are over. Unfortunately, many commercial users, such as loggers, frequently seek to retain as much power as they can without any willingness to compromise.[26]

Fortunately, these commercial users are now being confronted legally and often physically by communities of direct users,[27] supported by nongovernmental organizations (NGOs), advocating community based resource management strategies. These include indigenous cultural communities protecting their ancestral domains and peasant and fisherfolk communities insisting on their survival as communities. While these communities make use of legal strategies available to them under the legal system, they also often resort to self-help, and in the process develop the concept of private enforcement of legal norms. All over the Philippines, communities, peoples' organizations, and NGOs are at the forefront of environmental protection. It is in reliance on community action that the best hope for enforcing the right to a sound environment lies.[28]

■ Community Based Environment Management and Protection

In the North, the classic definition of the environmental problem is that it is a 'commons' question. Since the publication of Garrett Hardin's influential article[29]

in 1968, the 'tragedy of the commons' has been a popular and accepted concept applied as an explanation for overexploitation in fisheries, overgrazing, air and water population, abuse of public lands, population problems, extinction of species, fuelwood depletion, wildlife decline, and other problems of resource misallocation. Few essays have been as influential as Hardin's, and few ideas so quickly and widely disseminated. But as one author summarized: it 'would be difficult to locate another passage of comparable length and fame containing as many errors'.[30]

Few questioned Hardin's assumption of individual interest unchecked by social relations, and his emphasis on competition (rather than co-operation) as the overriding relationship that shaped interactions among resource users. Under this perspective, the knee-jerk response is the immediate rejection of common property management systems as inefficient and ecologically unsound.

In the South however, particularly in natural resource utilization, the community-based resource system has been proposed as a better alternative to command and control or free market approaches to environmental regulation. The strategy is based on the insight that contrary to the widely held belief that all communally held resources are doomed to suffer from 'the tragedy of the commons', it is now known that a variety of successful sustainable community resource management systems do exist.[31] This recent rediscovery of communal institutions as an effective solution to the commons problem is significant in many ways. These institutions may have a valuable role to play in sustainable use planning but are usually overlooked or underutilized in the planning process. This has happened because of over-emphasis on the kinds of resource management practices dominant in the Western industrialized world in which the significance of common property institutions has declined over time.

Community-based resource management systems range from the right of the community to be consulted before any development project is imposed on it to actually recognizing community control and management of natural resources. Adoption of these systems would also mean developing and accepting common property regimes in international and national legal regimes by recognizing communal title to lands, ceding the control and management of rainforests to the communities that occupy them, protecting the intellectual property rights of indigenous and local communities' traditional knowledge, and in institutionalizing community participation in environmental risk and impact assessment.

■ Conclusion

The *Minors Oposa* decision is a major step forward in environmental protection in two ways: first, it recognizes the right to a sound environment as a self-executory constitutional right; and second, it operationalizes the concept of intergenerational equity by recognizing the right of present generations to sue on behalf of future generations. But an analysis of the social context of environmental decision making in the Philippines illustrates limits of reliance on the judiciary for environmental protection. Indeed, in many areas, it is community action that enforces the right to a clean environment more than governmental measures.

What this analysis reveals is that, in the Philippines, the constitutional policy on the environment is made and remade, interpreted and reinterpreted. In other words, constitutional policy is operationalized not by the Philippine judiciary principally nor even by the Philippine government but by the interaction of a plurality of participants in a social decision making process. These participants include the Judiciary, Congress, the Executive Branch, the DENR and other government institutions, industry and other commercial users of natural and ecological resources, communities of direct users of said resources, NGOs, and international entities such as multilateral financing institutions.

■ Notes

1. *Minors Oposa et al. v. Secretary of the Environment and Natural Resources Fulgencio Factoran*, G.R. No. 101083, 30 July 1993. Reprinted in (1994) 33 ILM 173 (hereafter, *Minors Oposa* or *Minors Oposa v. Factoran*).
2. See *Santiago v. Basilan*, (1963) 9 SCRA 349 and *People v. CFI of Quezon*, (1992) BR. VII, 206 SCRA 187.
3. See *Suarez v. Reyes*, (1963) 7 SCRA 462; *Agusmin Promotional Enterprises v. Court of Appeals*, (1982) 117 SCRA 369; *Tan v. Director of Forestry*, (1983) 125 SCRA 302.
4. See *Pollution Adjudication Board v. Court of Appeals*, (1991) 195 SCRA 112 and *Mead v. Argel*, (1982) 115 SCRA 256.
5. *Tañada v. PAEC*, (1986) 141 SCRA 307.
6. For a basic understanding of the context of Philippine environmental law, see 'Law and Environment: The Philippine Context' in A.G.M. La Viña (ed.), *Law and Ecology* (Manila, Cacho Publishing House, 1991), at 7–18. See also M. Feliciano, A. Tolentino, E. Labitag, W. Gloria, A. Oposa, *Environmental Law in the Philippines* (Manila, Institute of International Legal Studies, U.P. Law Center, 1992).
7. Concurring Opinion of Justice Florentino Feliciano in *Minors Oposa v. Factoran*, n.1 above, at 1.
8. Minors *Oposa v. Factoran*, n.1 above, at 11.
9. *Id.*, at 12.

10. *Id.*, at 14.
11. *Id.*, at 14–15.
12. Rules of Court (Philippines), Rule 3, Section 2 (1964).
13. *Gan Hock v. Court of Appeals*, (1991) 197 SCRA 223, 230. See also *Sustiguer v. Tamayo*, (1989) 176 SCRA 579, 587.
14. *Lozada v. Commission on Elections*, (1983) 120 SCRA 337.
15. *Id.*, at 343.
16. *US v. Students Challenging Regulatory Agency Procedures*, 412 U.S. 669 and *Sierra Club v. Morton*, 405 U.S. 727 cited in 61A Am Jur 2d, Pollution Control, § 35. Injury to aesthetic and environmental interest has been recognized as laying a sufficient foundation for standing: *Save the Courthouse Committee v. Lynn*, 408 F. Supp. 1323 cited in 42 USCA 4332.
17. For a history of the concept of intergenerational equity, see E. Brown-Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and Intergenerational Equity* (1989).
18. World Commission on Environment and Development, *Our Common Future* (Oxford, Oxford University Press, 1987), at 8.
19. Rio Declaration on Environment and Development, reprinted in (1992) 31 ILM 874.
20. Concurring Opinion of Justice Feliciano, n.7 above, at 1–2.
21. *Id.*
22. *Id.*, at 6–7.
23. See Department of Environment and Natural Resources, *Master Plan for Forestry Development* (Philippines, 1990), at 2.
24. Republic Act No. 6969: An Act to Control Toxic Substances And Hazardous And Nuclear Wastes. Providing Penalties For Violation Thereof, And For Other Purposes (1991).
25. Republic Act No. 7586: National Integrated Protected Areas System Act of 1992 (1992).
26. See M. D. Vitug, *The Politics of Logging: Power From The Forest* (Manila, Philippine Center for Investigative Journalism, 1993).
27. Two recent examples are the anti-logging campaigns in San Fernando, Bukidnon and Cagayan Valley, two provinces in the Philippines, where communities directly affected by logging operations have set up barricades and pickets to stop logging trucks from transporting harvested timber.
28. Ed.: see the Fabra Aguilar article in this issue of *RECIEL* for comparative examples of community-based action to protect the environment in Latin America.
29. G. Hardin, 'The Tragedy of the Commons', *Science*, 162 (1968), at 1243.
30. See P. Dasgupta, The Control of Resources (1982), cited in C. Ford Runge, 'Common Property Resources In A Global Context', Working Paper, University of Minnesota (April 1990), at 6. On file at the Social Science Library, Yale University.
31. See R. Rhodes and S.J. Thompson, 'Adaptive Strategies in Alpine Environments: Beyond Ecological Particularism', 2 *American Ethnologist* 535; See also B.S. Orlove, *Alpaca, Sheep and Men* (1977); D. Guillet, *Agrarian Reform and Peasant Economy in Southern Peru* (1979); R.K. Hitchcock, 'Traditional Systems of Land Tenure and Agrarian Reform in Botswana', *J. of African L.*, 24 (1981); A. Legesse, Gada: *Three Approaches to the Study of African Society* (1973).

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