

Compendium of Case Studies of Natural Resource Conflicts in the Philippines

*A Contribution to the Natural Resource-based
Conflicts in the Philippines: A Workshop on
Trends, Challenges, and Actions*

13-14 May 2004
Westin Philippine Plaza, Pasay City

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Introduction

A series of conflict case studies were requested from some organizations participating in the workshop. These have been abstracted and provide an overview of land and coastal natural resource conflicts, some overviews and an insight into institutional problems faced by different stakeholders of natural resources.

These case studies provide substantial lessons learned and workshop participants are encouraged to read them over as our discussions move forward.

Our thanks to all those who contributed to this series of studies.

Case 1: Labo-Capalonga Forest Reserve, Camarines Norte

(Atty. Ipat Luna, Center for International Environmental Law - Community Forest Management Agreement Labo-Capalonga Forest Reserve – Rural Communities and Philippines Forests: Cases and Insights on Law and Natural Resources - pp 1-32)

THE DISPUTE

This dispute was between community foresters, illegal loggers and their backers. The community foresters were members of the Tao Kalikasan Foundation Philippines, Inc. (TKFPI), holding two Community Forest Management Agreements (CFMAs) covering 1,000 ha and 700 ha in the Labo-Capalonga Forest Reserve, Camarines Norte, Philippines.

The TKFPI faces conflicts with illegal loggers and their political backers, and with some members of the community. There is also a masked group of armed men, believed to be illegal loggers, roaming around the area.

In one instance, TKFPI official shadowed the moves of three known illegal loggers over a month and saw a truck owned by mayor filled with lumber. The truck was apprehended by Bantay-Gubat (deputized environment and natural resources officers); the illegal loggers offered a bribe for release. Refusal angered the illegal logger. It led to the TKFPI officers being hunted down; the General Manager and President of TKFPI went into hiding for two months. Some community members involved in illegal logging have stoned or demolished checkpoints set up by the Bantay-Gubat, and threatened their officers. Community relationships are damaged.

ATTEMPTED SOLUTION

TKFPI officials went to the Regional Executive Director (RED) of DENR for help. The RED took their concerns directly to the DENR Secretary after TKFPI revealed its plan to take three busloads of people to the Senate Blue Ribbon Committee. This led to the Second Commander and the Battalion Commander of the military assigned to the area to be relieved from their positions. The new Battalion Commander accomplished several arrests and forfeitures. Unfortunately, the effect of this new vigilance by the military caused TKFPI to slacken their own forest protection efforts, believing that the army was already doing it.

The Bantay-Gubat are frustrated that their arrests do not lead to judicial sentencing due to political and other pressures after arrested persons are turned over the DENR; however they did not know the extent of their own powers including the right to follow up cases at the prosecutor's office. Paralegal training has since been provided and new options developed. This has led to an illegal mini-sawmill being closed, and enforcement of a tree replanting scheme.

Soft tactics for dealing with some apprehended illegal loggers complaining they were only trying to make a living have evolved. TKFPI asks them to plant six seedlings from the TKFPI nursery in the area where they cut; let the TKFPI community logging enterprise take the wood; pay the claimant in which the trees were cut a 35% share; process and sell the lumber as if it were legally cut from the annual operations plan and still allow the logger to be paid for his troubles.

CURRENT STATUS

Unfortunately, for more than a year, no contract has been given by DENR to TKFPI. The timber sold by the people's organization is more expensive than illegally cut wood. Illegal contractors who encourage cutting of timber without permits are paid in advance while members of TKFPI rendering timber harvest are not paid until DENR decides to do so. These issues threaten timber business viability from the community-based group perspective.

An exploration of new possibilities for dealing with illegal loggers is needed that meets the objectives of community foresters, considers illegal loggers part of the community and opens up possibilities for reform within people's organization. Attention needs to be focused less on splitting profits and more on salaries paid to members.

Case 2: Barangay Pilas, Zamboanga Del Sur

(Atty. Reuben Lingating, Center for International Environmental Law - Legal Assistance for Local Communities in CBNRM: Barangaay Pilas, Zamboanga Del Sur - Rural Communities and Philippines Forests: Cases and Insights on Law and Natural Resources - pp 115-132)

THE DISPUTE

This dispute centers on perceived unjust allocation of benefits among barangays over revenues from a prospective mining operation.

DENR recognized ancestral domain claims of the Subanens at Barangay Pilas, in 1996 under the issuance of a Certificate of Ancestral Domain Claim (CADC). A perimeter survey of the 2,278 ha of classified forestland referred to in the Pilas documentation was meant to be conducted by the Provincial Special Task Force on Ancestral Domain – Technical Working Group (TWG); a lack of funding stopped it from taking place.

Tropical Exploration Philippines, Inc. (TEPI) – a subsidiary of RTZ-CRS, was exploring possible entry to the area through their contacts with Pilas' leader. RTZ-CRS promised to negotiate with the community and the leader gave some members mining corporation brochures. Then, the mining corporation was subject to widespread protests from different provincial organizations, spearheaded by the Church. In response to this popular opposition TEPI organized a media conference to explain that the intent of TEPI was simply exploration. TEPI would enter into proper agreements with the government and the local community only if it found mineral deposits containing grades and quantities exploitable for 20-30 years.

Adjacent barangays then referred to the Pilas CADC and believed some of their areas had been included in the document. Since the CADC referred only to Pilas, they are angry that recognition of community-based property rights may only benefit Pilas constituents. They are apprehensive that Pilas might exercise exclusive rights over common grounds and areas of their barangays included in the Pilas CADC.

Concerns about potential unfair revenue distribution were compounded by a Canadian International Development Agency project that identified the Pilas CADC as a target for a P7.0 million Pilas Integrated CIDA Project. Some community leaders were awed by the huge amount of money to be poured into their communities, and others were not.

ATTEMPTED SOLUTION

CIEL looked through the CADC and municipal maps, and found the Pilas CADC might include portions of neighboring barangays. It was argued that together the barangays, with Pilas, could form one CADC together.

Atty. Lingating conducted consultation meetings with the community leaders to discuss options; this proved difficult given a lack of understanding of laws and policies governing rights and obligations under the CADC. One option developed was incorporation of pending applications by the four barangays within the Pilas CADC, giving an undivided claim, requiring reopening and expansion of the designated Pilas

claim. It would mean the CIDA Integrated Project for Pilas would have to be adjusted, yet it was doubtful that CIDA or concerned implementing government agencies would comply. But treating the CADC applications of the four barangays separately would be divisive, especially given shared property rights and relations.

The meeting emphasized that local communities should actively participate in the design and the implementation of all externally initiated projects, including the mining and CIDA initiatives. To better comprehend prospective impacts of the mining operation, it was considered necessary to gather information from various sources, including the DENR, TEPI and outside sources, including independent public interest groups. Finally, there was a perceived need to define the role of existing barangay political units within CADC areas vis-à-vis traditional leaders.

CURRENT STATUS

The communities have agreed to give special emphasis to creating effective enforcement mechanisms over their traditional rights in the drafting of an Ancestral Domain Management Plan (ADMP). They also agreed to hold regular monthly meetings (both the leaders and the community) to discuss means to handle other, similar problems.

Case 3: Catalyzing resolution of resource use conflicts at barangay and municipal levels through information, education and communication (IEC)

(Rebecca Pestano-Smith, Coastal Resources Management Project)

THE DISPUTE

This fisheries-based resource conflict was over access to dwindling fish stocks, reduced by over-fishing and habitat destruction. It is the sort of conflict that is becoming more common among coastal barangays. The conflict was between communities in one coastal municipality, Alcantara, in Cebu Province, over who got to fish in the municipal waters. Its expression was fishermen polarized in opinion over who had access rights, and was moving towards violence.

In early 2000, a group of fisherman from Polo declared a 2 ha area marine sanctuary, off limits to fishermen from other barangays, who they accused of using fine-mesh nets, causing resource depletion. Such action was met with considerable resistance from fishers of the other two barangays – Palanas and Poblacion – fostering intense animosity among them. The Polo fishers claimed that they had to take drastic action to save what is left of their fish stocks. They declared that the fishers from the adjoining barangays were illegally and indiscriminately using fine mesh nets. On their part, the Palanas and Poblacion fishers accused the Polo fishermen of just using the declaration of a marine sanctuary as a means of monopolizing a municipality resource, as illustrated by the presence of numerous privately owned fish corrals immediately outside the so-called marine sanctuary.

A number of incidents occurred wherein the Palanas and Poblacion fishermen tore down some of the fish corrals put in place by the Polo fisherman and confrontations commenced. These lead to death threats and came close to physical violence.

ATTEMPTED SOLUTION

The mayor invited staff from the Coastal Resources Management Project (CRMP) to mediate, and made CRMP aware of a compounding problem; the area under dispute was also claimed by a neighboring municipality.

CRMP took a non-confrontational approach. It brought stakeholders together, and rather than address the conflict encouraged the group to assess that state of the fish resource, and the habitat it depended on. A series of group discussions and problem analysis workshops was facilitated by CRMP including the conduct of an underwater video that confirmed stocks were depleted and the coral reefs and seagrass beds badly damaged.

The stakeholders could now discuss resource management with an understanding of what the state of the resource was. Initial management strategies were agreed on by the opposing parties and the local government took a leadership role in ensuring these agreements were complied with. The negotiation was sealed with handshakes and agreements for a series of follow-up meetings.

CURRENT STATUS

The resolution of the conflict through information, education interventions proved to be a successful catalyst for the Municipality of Alcantara to implement coastal resource management. Tensions have not completely eased between the groups in dispute, but they work to enforce their agreement. The local government legalized the “disputed” marine sanctuary through a municipal ordinance and CRMP assisted in facilitating the conduct of a participatory coastal resource assessment, the formulation of a CRM plan as well as a management plan for the marine sanctuary. Local officials were convinced of the effectiveness of the negotiation and are now annually allocating funds for CRM. Such commitment was proven when a newly elected administration maintained the CRM program and kept funding in place. Fishermen now believe and report that that fish catches are improving as a result of their marine sanctuary and overall CRM efforts.

Unfortunately, while having successfully resolved resource use conflict at their barangay level, Alcantara faces a potential inter-municipality conflict with the neighboring municipality of Moalboal that has laid claim over the marine sanctuary using as basis, the guidelines for the delineation of municipal waters. Alcantara’s fishermen believe that their current efforts will be wasted if the neighbor gets control over their resources. Should control be gained, they said they will unite to defend their traditional fishing grounds.

The respective mayors and members of their municipal councils are now in discussion to arrive at a win-win situation over this issue. For now, it is status quo, with Alcantara continuing to manage and protect the sanctuary.

Case 4: Conflict Resolution for Municipal Water Delineation in the Philippines: Lessons Learned

(Mar Guidote and Alan White, Coastal Resources Management Project)

DISPUTE CAUSES

This article discusses dispute resolution over municipal water mapped boundaries. The Local Government Code of 1991 and Fisheries Code of 1998 prescribe delineation and delimitation of municipal waters for establishing jurisdiction, fisheries management, taxation and revenue generation. Primary responsibility lies with local government units under the guidance of the National Mapping and Resource Information Authority (NAMRIA) of the DENR.

In June 2001, DENR issued the guidelines delineating municipal waters based geodetic and hydrographic standards, sectoral information exchanges, public deliberations and inter-governmental consensus affecting over 950 coastal cities and municipalities. Town coastal features were mapped based on secondary information, later validated by LGUs and cross-validated with neighboring towns; initial maps are preliminary and may change depending on field validation. After cross-checks, final maps were plotted. Consensus among LGUs was the basis for finalizing and certifying maps.

Coastal features and the location of the coastal terminal point determine size and extent of a town's municipal waters, anything from a few to a hundred square kilometers. Conflicts can arise when:

- Discrepancies can cause conflict among neighboring towns especially when historical claims and counterclaims emerge
- Unsettled land boundary in the coastal area affecting establishment of the coastal terminal point from which the line perpendicular to the coastline is drawn

Examples

- A municipality developing a resort on a sandbar where it has a historical claim - the municipality had utilized the area and earned revenue from it for many years until the technical undertaking discovered that the sandbar did not actually belong to this municipality. All attempts to settle the issue failed and a court case is ongoing.
- In some areas, because of a previously unsettled land boundary affecting the coastal zone or a conflicting claim on islands, it was difficult to arrive at an agreed coastal terminal point, albeit provisional, therefore a map can not be drawn. Some municipalities having this problem have just revived court battles to legally affect their claims while others simply abandon the process. The losing players are the direct stakeholders who will have to dispense with the conflict.

ATTEMPTED SOLUTIONS

There are many cases where, in spite of the same conditions as the above, settlement was reached.

- The Municipality of Maria has long regarded a shoal as theirs until the technical undertaking discovered it is between the municipal water boundary of Maria and its neighbor, the Municipality of Lazi. This was important because the shoal is believed to have potential for a diving venture of economic value. The prospect of both sides claiming the whole of the shoal loomed in municipalities' local legislative councils deliberations, each one preparing legal and technical defenses. The provincial government, CRMP and the Siquijor Coastal Resources (SCORE) Project teamed with the NAMRIA-DENR to conduct a public deliberation involving contesting parties. The provincial government summoned mayors, local councils, barangay leaders and people's organization. Prior to the deliberation, the CRMP assisted NAMRIA to develop an interactive mapping program where participants were able to see effects of suggested changes through manipulation of maps projected on the wall. The outcome was an agreement with the shoal co-managed by the two towns, sharing duties, responsibilities and benefits.
- The capitol town of Siquijor and Larena had been at odds for decades over where the coastal terminal point could be established. While an 80-year old marker favored one municipality, the other claims fabrication and faulty government markings; they could not reach an amicable settlement. The provincial government requested CRMP and SCORE to team up to help them address the problem. The team, together with an invited geodetic engineer from a neutral school, the University of the Philippines, Cebu, conducted a field validation involving all key decision makers of the two municipalities, their provincial government and this time, witnesses from other government agencies such as the Department of Interior and Local Government, the Bureau of Fisheries and Aquatic Resources, the DENR, political leaders of their immediate neighbors and the provincial prosecutor. The expert mapped implications of proposed formulas for settlement. While no immediate settlement was reached, findings led to the local legislative bodies conducting a series of joint sessions that established an offshore terminal point, pending a court decision on the land boundary.
- The island municipalities of Panglao and Dauis and the Municipalities of Jagna, Duero and Guindulman, all in Bohol, have established municipal water boundaries after being assisted in cross-validating coastal features after options were mapped for them. These municipalities have agreed to re-draw lines of municipal waters under the technical supervision of NAMRIA.
- The Municipalities of Tubigon, Clarin and Inabangga had a water boundary dispute. Clarin felt it had lost fishing territory to its neighbors. Clarin tried to use diplomacy rather than a court challenge to regain lost waters. Long discussions and joint local legislative sessions were conducted with invited experts sharing options for deliberation. Tubigon's leadership finally decided to abdicate its claim to one uninhabited island so Clarin could

recover its traditional fishing ground on the condition that the other affected municipality, Inabangga made a similar gesture. The Inabangga leadership in return approved the adjustment of its coastal terminal point to accommodate Tubigon's request. Thus, Tubigon's loss of one island resulted in improved navigable routes for all 3 municipalities and Clarin's recovery of some fishing ground.

LESSONS LEARNED

Several lessons have been learned from these exercises:

- First, the act of translating a highly technical mapping process and description into a popular multimedia presentation enhanced understanding about the rationale and implications of possible courses of action
- Transparency in the process increases greater public participation. This in return becomes an opportunity to develop insights and suggestions that form part of a larger and enhanced menu of options for decision makers to consider. The probability of settlement is greater as technical, legal, political, social and economic options increase.
- Promotion of creative approaches let people go beyond the conventional approaches to negotiation and legal recourse.
- National guidelines were controversial and politicized, but solutions were local in cooperation with relevant national agencies.
- Some outstanding problems may take time to solve; they are largely based on historical claims and attitudes that will need creative solutions.

Case 5: Municipal water boundary conflict between Talibon and Bien Unido to be resolved soon

(Environmental Governance Project)

THE DISPUTE

The almost 50-year-old boundary conflict between the towns of Talibon and Bien Unido, both in Bohol province, will soon be put to rest as the Department of Environment and Natural Resources (DENR), through its Environmental Governance (EcoGov) Project, helps facilitate the process of delineating their municipal waters.

For years, the two Bohol municipalities have been in constant conflict over the resource-rich portion of the Danajon Reef. Recently, Talibon officials participated in an EcoGov-sponsored workshop on municipal water delineation which emphasized the importance of having clear water boundaries that could be used as basis for the preparation of management or development plans for coastal resources. It was during this workshop when the boundary conflict between Talibon and Bien Unido resurfaced.

ATTEMPTED SOLUTION

To break the stalemate, DENR's EcoGov Project offered to help in facilitating the meeting between the two municipal mayors and resolving the issue and put the contested portion under effective management before it was too late.

A joint Sangguniang Bayan session was scheduled shortly after the workshop to pass a resolution legitimizing the agreement between the two local chief executives.

A successful outcome was anticipated as Talibon Mayor Marcos Aurestila and Bien Unido Mayor Felix Garcia finally met each other to discuss points of agreement rather than disagreement.

CURRENT STATUS

The co-management agreement of the 550-hectare of mangrove forests will facilitate the resolution of conflict in the coastal areas of Talibon and Bien Unido. This agreement was signed in March, 2004 between the LGU of Talibon and DENR.

The two leaders agreed to set aside the contested portions of their municipal waters covering the Danajon Reef and put them under a co-management scheme.

Case 6: Co-managing Conflict: Conservation initiatives in the Lower Magat Forest Reserve - Resolving Property Rights Conflicts Through Co-management of Forest Lands: The Nueva Vizcaya Experience in Conserving the Lower Magat Forest Reserve

(Environmental Governance Project)

THE DISPUTE

This dispute was over access rights among numerous stakeholders in the Lower Magat Forest reserve. In 1998, before the signing of the co-management agreement for the reserve between DENR and the provincial government of Nueva Vizcaya, 77% of the reserve's forest was open access; 33% under different sorts of tenure issued by DENR.

Varied land uses and demands bred conflict. Migrants who started cultivating land were in dispute with tenure holders. Occupancies triggered property rights disputes. General accessibility of the forest and construction of the Maharlika Highway, cutting across the reserve, provided an opening for heavy in-migration and extractive resource activities, among them illegal logging and charcoal-making enterprises. Disputes grew in proportion, and reserve management was neglected. Government and other sector attempts to rehabilitate the area were wrecked by uncontrolled illegal activities and yearly forest and grass fires.

ATTEMPTED SOLUTION

Provincial Government officials decided to embark and try co-management of the Reserve with DENR and the local communities as partners. A two-step approach was taken:

Step 1: DENR-LGU partnership and LGU Co-Management

The Provincial Government entered into a Memorandum of Agreement with the Regional Office of the DENR for the joint allocation, protection, development, and management of the Reserve; the country's first DENR-LGU watershed management partnership. The co-management agreement created a Steering Committee to review and sign joint venture contracts and other sub-agreements for the protection, development and management of any portion of the reserve. The Lower Magat Forest Reserve Management Office was also established and tasked with the resolution of issues and conflicts within the watershed.

Step 2: Local resolution of conflicts

The LGU began a campaign to manage the reserve creatively with the community. On-site inspections and survey of occupants were conducted to validate claims of the inhabitants. The Provincial Government facilitated a series of dialogues and negotiations between stakeholders. Massive information, education and

communication campaigns were complemented by community organizing activities. With donor support, collective efforts resulted in peaceful settlement of conflicts as tenure holders were convinced about the urgent need to protect and rehabilitate the watershed. They finally agreed to respect each other's claims and enter into Agroforestry Land Management Agreements (ALMA).

The ALMA program transformed squatters into land managers through the provision of 25 years tenure renewable for another 25 years to beneficiaries. About 2,550 ha have been awarded to more than 100 individuals and six Peoples' Organizations within the Reserve. As soon as ALMA was issued to the legitimate claimants and occupants in the co-management area a drastic reduction in land conversion through forest and grassland fires was noticed.

Provincial Government has complemented the ALMA initiative with the Tree for Legacy Program, aiming to enhance economic productivity and ecological stability, reduce poverty incidence in the uplands and reforest open public forest lands including privately-owned lands. Qualified participants are entitled to harvesting rights on planted trees. This has led to reforestation of about 2,000 ha of degraded lands.

CURRENT STATUS

The co-management agreement empowered the LGUs to negotiate with occupants and stabilize the confused state of "property rights regime in forest reserves". Nueva Vizcaya issued sub-agreements to the occupants after surveys and assessment of claims and occupancy. Today, Nueva Vizcaya is top of the list of "must-be" visited places for LGUs desiring to implement an effective forest land use plan. Nueva Vizcaya's success in resolving conflicts in the Lower Magat Forest Reserve using the co-management approach has made the province an acknowledged model which other LGUs wish to emulate. The Nueva Vizcaya's initiative to facilitate resolution of property rights conflicts, combined with rehabilitation and plantation development, has proven to be effective in increasing forest cover of a watershed that was in jeopardy. From resource competitors, the occupants and squatters have become the watershed's social fence, protecting the Reserve from perpetrators of illegal activities.

Case 7: Tenure and Resource Use Conflicts in the Saging Watershed: The Experience of Kidapawan City and Makilala, North Cotabato

(Environmental Governance Project)

THE DISPUTE

The dispute was over part of the Saging River Watershed, which serves as the boundary between Kidapawan City and Makilala in North Cotabato, specifically the area managed by the Metro Kidapawan Water District (MKWD). MKWD built a dam for a metropolitan water supply with a catchment overlapping land claimed by various stakeholders under conflicting customary and statutory laws. The major participants were:

- The Protected Area Management Board (PAMB), chaired by DENR with members coming from LGUs, civil society organizations, private sector, IPs, and local leaders; the national stakeholder.
- Two LGUs, the municipalities of Kidapawan City and Makilala, with political jurisdiction over the sub-watershed.
- MKWD, exercising *de facto* management of the area based on the inherited power from the National Waterworks and Sewerage Authority (NAWASA) and by virtue of the 1996 MOA between the Local Water Utilities Administration (LWUA) and the DENR and Presidential Decree 198.
- Two IP groups, the Makilala tribal group and the Barangay Perez tribal group in Kidapawan City. More than half of the area of the sub-watershed, which is under the MKWD area, is claimed by the tribal group of Makilala (the group of Buhay, Buenavida, Biangan, and Batasan Ancestral Domain Claim Association). The claims fall within the political jurisdiction of Makilala and within the Mt. Apo Natural Park. The claim of the tribal group of Perez overlaps with the total area of the sub-watershed that is under the MKWD and also within the Mt. Apo National Park. The National Commission on Indigenous People, mandated by the Indigenous Peoples Right Act (RA 8371), has been assisting the IPs in legitimizing the ancestral domain claims.
- Farmers, commercial plantation owners, and residents serviced by MKWD.

With several stakeholders' involved and conflicting laws and guidelines, the main question for the Saging River watershed is, "*Who has the mandate and authority to protect, develop, and manage the forest lands of Saging River watershed?*" For example, who has the right to impose fees for the maintenance of the resources enjoyed by local and national populations? With local, national, and indigenous interests and livelihoods at stake, the topic is one of heated debate.

ATTEMPTED SOLUTION

EcoGov is facilitating discussions among LGUs, PAMB, DENR, MKWD and civil society groups as to the role, responsibility, obligations, and rights of various tenure holders and off-site stakeholders in the protection and management of the forestlands in the Saging River watershed. A forest land analysis will be used to explore options for

helping MKWD establish a system for charging water users fees and using revenues to protect and manage the sub-watershed.

Concerns were raised about enforcement of regulations, revenue accountability, benefit transfer payments, determination and negotiation of the water user fee rate, and monitoring and evaluation.

Resolution of these concerns is key for determining whether application of water user fees can be effectively coordinated and institutionalized for the future. For now, maintaining dialogue is the stepping stone in moving forward, facilitating consensus and agreements to resolving existing conflicts.

CURRENT STATUS

Resource use conflict in the Saguing River Watershed has rendered investments in rehabilitation unsustainable. LGUs and PAMB actively promote and coordinate local and national investments in the watershed, but uncertainty over ancestral domain claims and absence of a clear mandate for one organization to coordinate and regulate water and land use in the watershed permits others to engage in unregulated activities that may irreparably damage the watershed. A chaotic situation has emerged; its resolution is an urgent task.

In 2004, EcoGov will facilitate the signing of MOA between the LGUs of Makilala and Kidapawan City, the Metro Kidapawan Local Water District, and the PAMB to set the stage for formalizing and institutionalizing the water's user fee system in order to sustain financing for the protection, development, and management of the Saguing River Watershed.

Case 8: Inter-LGU Negotiations and Conflict Resolution on Coastal Terminal Points and Municipal Waters: The Cases of San Luis and Baler in Aurora; and Dinas and San Pablo in Zamboanga del Sur

(Environmental Governance Project)

THE DISPUTE

Two disputes were tackled, each over delineation of its municipal waters (extending 15 km from the coastline). Municipal waters are managed by LGU's who need to know the full extent and boundaries of coastal areas and marine waters and resources within them. Delineation and delimitation regulations provide for negotiation and amicable agreement between adjacent LGUs on the basis of coastal terminal points (CTPs); boundary points on the coast common to two adjoining municipalities. They provide the basis for projecting seaward the lateral boundaries of the municipal waters.

Most municipalities and cities have political boundary conflicts with neighboring LGUs. Many are wary that CTPs will be adapted to project boundaries of the LGUs' land area, increasing share of revenue allotments. LGUs are wary that any agreement they sign may be used as a basis to resolve existing land boundary conflict. Sometimes, other complicating factors such as differences in political affiliations and interests sometimes come into play. Attempts to reach agreement can lead to greater disagreement. Only 8% (51) of 673 municipalities have certified municipal water boundaries. Disputes are common.

EcoGov has generated two cases on inter-LGU CTP negotiation. One is between Baler and San Luis in Aurora Province, and the other between San Pablo and Dinas in Zamboanga del Sur. Both deal with political boundary conflicts that served as starting points for discussion. In the process of negotiations, however, use rights and claims to critical marine resources emerged as important considerations. What makes it more interesting is the involvement of indigenous community in Aurora, and of the Moro National Liberation Front (MNLF) rebel returnees in Zamboanga del Sur.

CASE 1: SAN LUIS-BALER, AURORA

San Luis and Baler are adjacent municipalities located in the central part of Aurora Province. The two have a combined coastline of about 20 km, covering rich fishing areas in the Pacific coast. San Luis and Baler are two of four contiguous LGUs (the other two are Dipaculao and Dinalungan) which entered into an agreement with the EcoGov Project in July 2003 for assistance in the delineation of their municipal water boundaries and formulation of an inter-LGU fisheries management plan.

Straddling the two LGUs is the ancestral domain claim of a community of Dumagats. Their claim covers about 3,340 ha of land and 4,000 ha of marine waters. The traditional fishing grounds of the Dumagats are located within the coastal zone of the two LGUs, making the Dumagats a major stakeholder in the delineation process.

While existing Dumagat settlements within the ancestral domain claim extend to Baler, the Dumagats consider San Luis as their “home municipality.” They feel that San Luis gives them more recognition and assistance than any other municipalities. San Luis involves a number of Dumagats in the Bantay Dagat that provides protection to the Dibut marine protected area and sanctuary. To the Dumagats, Dibut Bay, which is within their claimed ancestral domain, is an important resource that must be protected.

The conflict

The EcoGov Project gathered the stakeholders of the four municipalities to discuss problems and options for the management of their municipal waters, with initial activities focusing on CTP delineation. Following an orientation on the technical considerations in the delineation and delimitation of coastal waters, the LGUs were given the chance to examine DENR data and the preliminary boundary maps prepared by NAMRIA. San Luis rejected outright the NAMRIA-proposed CTP (located at the coastal point of the San Luis-Baler political boundary). San Luis reasoned that such CTP would cut through Dibut Bay, which through the years has been under its protection.

The EcoGov Project facilitated two negotiation meetings after the initial meeting. The first one was attended by the mayors, technical working group (TWG) members, and other representatives from the barangays located along the boundaries between Baler and San Luis. No agreement was reached, but it was considered fruitful nonetheless as the parties were able to identify a preliminary reference point—which they referred to as “SeaTP” since it is located offshore. The subsequent meeting again resulted in a deadlock even though Baler softened its position and agreed on a CTP at the periphery of Dibut Bay and the marine protected area—Disogsip Point. This was still unacceptable to the other party. San Luis, represented by its Mayor, insisted on having the CTP at Sitio Dibayabay/ Dibudalan Creek, on the basis of a proclamation of one of its barangays, Dibut, which included Dibayabay as one of their sitios. Baler did not give in as it would lose a large part of its coastal zone.

Dibut Bay became the focus of conflict, but the underlying cause seems to be the lack of confidence on Baler’s ability and commitment to help protect Dibut Bay. San Luis and the Dumagats claimed that in the past, Baler had not shown any interest to take part in San Luis’ coastal resource management initiatives in Dibut Bay and that Baler fishermen were involved in illegal fishing activities. San Luis would not even consider co-managing the area with Baler.

The Dumagats supported the position of San Luis and even prepared a petition paper that expressed concern about the effect of the delineation on their rights over their ancestral domain. The Mayor of Baler assured them that Baler fishers would respect Dumagat fishers as they are the pioneers in the area and the primary caretakers of the Dibut Bay. The Sangguniang Bayan of Baler also offered to issue a local ordinance that would ensure Dumagats’ rights over their ancestral domain. The National Commission on Indigenous People (NCIP) assured the Dumagats that their ancestral domain claim would not be affected by any decision on CTPs. The Philippine Association for Intercultural Development (PAFID), an NGO actively working with indigenous peoples (IPs), likewise assured the Dumagats that political boundaries will in no way affect their ancestral domain claims and that any projects established

within their ancestral domain will require their informed and prior consent. The Dumagats were still not convinced.

The outcome

Until now, the LGUs of San Luis and Baler have yet to reach a consensus on their CTP, but they have agreed to continue their dialogue. This appears to be only a temporary setback as both San Luis and Baler have agreed on another critical step towards collaboration: to join Dinalungan and Dipaculao in formulating an inter-LGU fisheries management plan, which will include the enforcement of a unified fisheries ordinance. All four LGUs are working together to finalize the plan and have parts of it implemented as early as March 2004.

CASE 2: DINAS-SAN PABLO, ZAMBOANGA DEL SUR

Dinas and San Pablo are located along the coast of Illana Bay in the Baganian Peninsula of Zamboanga del Sur. They share a wealth of coastal and marine resources and both are traditional fishing areas in the peninsula. Dinas' mangrove area covers about 4,000 ha and is the most extensive in Illana Bay. It has an estimated 3,000 ha of fully developed fishponds as well as 1,000 ha of seaweed farms found in Barangay Takalan, one of its 10 barangays.

The coastal resources of San Pablo are less extensive than Dinas'. However, San Pablo remains a major fish production area in the region. Fishponds and seaweed farms are also found in some of its eight coastal barangays, including Ticala Island.

Dinas' population is 38 percent Muslim. The Vice-Mayor of Dinas was a former MNLF leader. In contrast, the population of San Pablo consists of 10 ethnic groups. The most dominant are the Maguindanaoans, composing 6.45 percent of San Pablo's population.

The conflict

San Pablo was part of Dinas until 1957. The two municipalities have a long-standing political boundary conflict. Recently, this took a different (and violent) turn when Dinas decided to establish a 104-ha marine sanctuary in in Barangay Tarakan, which the fishermen of San Pablo consider as their traditional fishing ground. The marine sanctuary initiative was spearheaded by the Vice-Mayor, who then assigned MNLF rebel returnees as Bantay Dagat members. Since most of the Bantay Dagat members were armed, there were shooting incidents in the marine sanctuary area involving alleged illegal fishers and poachers from San Pablo. The Muslims' "rido" practice (avenging the death of one's relatives) only worsened the peace and order situation.

It was no surprise that the CTP negotiations between Dinas and San Pablo started off under a cloud of distrust, requiring a lot of patience and creativity on the part of those facilitating the process. Members of the Provincial TWG, led by the Provincial Government, did extensive groundwork so that the major actors in the two LGUs would fully appreciate the purpose and advantages of having their municipal water boundary delineated. The membership of Dinas and San Pablo in the Illana Bay

Region 9 Alliance (IBRA 9) and the fact that the delineation activity was being pursued on a bay-wide level also facilitated the conflict resolution process.

From the start, the NAMRIA-proposed CTP was unacceptable to Dinas as it placed Dansalan Island under the control of San Pablo. San Pablo, for its part, would like to move the proposed CTP 200 m farther down the Dinas coastline as it feared that the coastal zone of Ticala Island will be placed under the jurisdiction of Dinas. During the initial discussions, two important facts were revealed. The Dinas Vice Mayor owns large tracts of lands in Barangay Tarakan, where the CTP was being proposed by San Pablo. On the other side, the Municipal Engineer of San Pablo is a major landowner in Ticala Island. These two both had personal and official interests in the issue, making them leading figures (representatives of the LGUs) in the negotiations.

Several meetings were organized for the joint site validation of the suggested CTPs. The first three attempts failed to bring the two parties together. A new strategy was needed for the succeeding meeting in order to reach an agreement. Representatives of EcoGov, DENR and the Provincial Planning and Development Office (PPDO) went to the contested area via Dinas to fetch their representatives. The IBRA 9 Project Management Office (PMO) Manager and staff passed through San Pablo to make sure that San Pablo representatives attend the meeting. The representatives for both municipalities were with armed escorts, creating a very tense atmosphere. After a heated argument, both parties went and inspected the alternative CTPs. This clarified their major concerns, enabling them to finally agree on the lateral projection that would pass between the marine sanctuary of Dinas and Ticala Island of San Pablo. Both parties were assured that Ticala Island would remain a part of San Pablo, while the marine sanctuary will be within the jurisdiction of Dinas.

The outcome

The final negotiation took almost five hours. To seal the agreement, both representatives signed the CTP Field Verification and Validation Form and the PTWG members present signed as witnesses. The Dinas-San Pablo MOA is under deliberation by their respective Sanggunian Bayan (SBs) or municipal legislative councils.

It is worth noting here that while the negotiations were ongoing, the two LGUs, together with six other LGUs of IBRA 9 were preparing their inter-LGU fisheries management plan. The plan is currently being finalized.

LESSONS LEARNED

The process of helping some LGUs to agree on their CTPs or pursue joint planning and enforcement activities in Baler and Illana Bay has demonstrated the need for "credible" and competent professionals who could be the "facilitators". The Philippine Environmental Governance Project (EcoGov) provided that need combined with technical assistance in gathering technical and legal information, analysis, and staff work in order for the different parties and concerned individuals sit down and discuss points of agreements and disagreements. The facilitators should be known to have no "vested interest" in the way they organize and conduct "brokering" efforts. It was also very important to communicate to the contending parties the difference between

the issue at hand and articulation of some personalities who are more driven by their own political interests.

Case 9: Conflict Forests: Official and Unofficial Forest Charges in the Philippines - Disincentives for Legal Timber Harvesting and Production

(Ann Koontz & Susan Naval, Enterprise Works Worldwide)

WHAT HAPPENS WHEN A GROUP TRIES TO SELL TIMBER LEGALLY

A Region 2 Community Based Forest Management (CBFM) agreement holder in the Philippines loads up a truck of timber for sale in Manila. The trip will take approximately 13 hours over land, on a well-traveled highway that handles thousands of buses, trucks, and passenger vehicles daily. While the trip may seem long, the time to get this *fully legal shipment of forest products* ready was a long and costly process.

The shipping forms¹ alone took three days to complete with eight signatures from four officials of the Department of Environment and Natural Resources (DENR), added to five signatures from the CBFM agreement holder. This process also included the payment of required forest charges of P26,415 (\$490) on a truck load of timber containing 8,000 board feet (forest charges are calculated at P1,400 or \$26 per cubic meter of common hardwood). But the pre-harvesting permits and clearances were the real challenge, taking 15 months to complete, with a total cost of P51,800 (\$960) alone for the annual work plan (AWP) with resource use permit (RUP). Without the permits and clearances, no harvesting activities are legally allowed. Below is a chart of the pre-harvesting permits and clearances prepared by the group.

Table 1: Documentation Requirements for Harvesting Permits and Clearances from CBFM Areas

Document	Time	Signatories	Average Cost (P54=\$1)
Affirmed Community Resource Management Framework (CRMF) ²	5 months	CENRO/ PENRO	P72,750 (\$1,347; includes all preparation work)
Affirmed Annual Work Plan (AWP) with Resource Use Plan (RUP)	4 months	CENRO/ PENRO	P51,800 (\$960; includes all preparation work)
Environmental Compliance Certificate (ECC) for Resource Use Permits	3 months	Regional Director for Environment Management Bureau	Application fee - P3,000 (\$56) Professional fee - P3,000-30,000 (\$56-556)
ECC for Mini-Sawmill and Log pond area	3 months	Regional Director for Environment	Application fee - P3,000 (\$56)

¹ *Shipping documents required:* Certificate of Lumber Origin (CLO); Certificate of Transport Agreement; Tally Sheet; Auxiliary invoice; Sales Invoice; and Delivery receipt.

² CRMF preparation costs are one-time – CRMF is the strategic 25-year plan for the whole CBFM area on which all succeeding AWP and RUPs are based.

Document	Time	Signatories	Average Cost (P54=\$1)
		Management Bureau	Professional fee - P3,000-15,000 (\$56-556)
Zoning permit	3 days	Municipal Planning and Development Officer (LGU)	P1,000 (\$18)
Mayor's permit	2 days	Municipal Chief Executive (Mayor)	P500(\$9)
Log pond registration	2 days	DENR CENRO	P200 (\$3.70)

It has been hard work to get the shipment ready and the CBFM group is proud to be abiding by the allowable cut and forest management guidelines outlined in their annual work plan (AWP). This in itself was not easy, as there were local officials, select CBFM members, known illegal loggers and even DENR officials all encouraging the group to bend or ignore the laws. Each had their own self-interests - discredit the group and get their CBFM agreement canceled; hide their own illegal operations behind the legal CBFM operations; or direct financial gain from payoff requests. But the CBFM group stood firm and their fully legal shipment was ready to go to market after 15 months and approximately P175,000 (\$3,241) paid in legally required fees and preparation costs.

Harvested legally, resisted illegal logging temptations, now welcome to standard operating procedures (SOP) during transport.

The CBFM group starts out with the load of timber bound for a pre-arranged Manila buyer. At first, the CBFM group that EnterpriseWorks accompanied during timber transport encountered minimal problems at checkpoints mainly because the group was confident about the legality of the volume being shipped and accompanying paperwork. Minimal still meant 17 stops, all requesting show of documentation and with attempts to extract money.

It is clear from actual transport experience that all checkpoints (DENR, police, army) make the assumption that a forest products shipment is either fully illegal or partially illegal (e.g. padded loads or recycled documentation) and proceed with standard operating procedures (SOP) practices - a euphemism in the Philippines for "grease money" or "payoffs". The "S" for standard is telling. Yes, it is standard and routine.

During the first shipment, the group only paid P200 for police and army checkpoints, and no SOP during the second shipment. However, one DENR checkpoint was adamant in attempting to find a violation in the load "Kaya kong hanapan ng violation yan," he said (*"I could find a violation in your load."*). The CBFM group Chairman explained the concept of CBFM and the DENR team leader then said that he will let this one shipment go. But, the next time the group passes through the checkpoint he will still ask for his share. The DENR official also gave pointers to the CBFM group on how to reuse the shipping papers or pad their shipment volume so that everybody would have a share from the load.

Later, after the army intercepted lumber at another checkpoint (allegedly illegal from another CBFM holder), the army at that checkpoint started asking for their own share from all CBFM loads, regardless of a CBFM group's complete documentation.

EnterpriseWorks did a separate case study based on an “undocumented” rattan shipment going through the same check points that the legal timber shipments passed. The stops and payments are in the table below; note that SOP costs for lumber can be higher, but the magnitude of SOP versus paying required legal costs is telling.

Table 2: Checkpoints and SOP Paid for a Rattan Shipment Not Fully Documented

Location	Amount asked (Pesos)
Lallo	50
Dugo	100
Gattaran	200
Pattao	50
Sta. Teresita	13,000
Baybayog	1,000
Tuguegarao	1,000
Sta. Maria	50
Cordon	500
Cordon	1,500
Bambang	1,500 to 2,000
Aritao	2,000
Dalton	1,500
Piot	500
Caranglan	1,000
San Jose	3,800
Cordon-Bayombong	2,000
Total SOP Payments	P29,750-30,250 (\$550-560)

The total value of the fully documented load of 8,000 board feet of timber was P144,000 (\$2,667) or P18 per board foot of wood ³. The group paid P114,080 in harvesting expenses which includes an amortized amount of the harvesting permits and clearance costs noted in Table 1 (excluding the one-time cost of P72,750 for CRMF affirmation). The “legal” royalties that had to be paid amounted to P26,490.10 (\$490) or 18% of the shipment value. Total costs came to P17.57 per board foot leaving a very slim P0.43 per board foot margin or approximately P3,440 (US \$64) on the entire load). In the end this CBFM group lost money harvesting the trees, since the one time harvesting permits and clearance costs could not be amortized over the projected timber volume and delays in obtaining required signatures meant buyer delivery dates could not be kept.

If the CBFM group had paid even the average low end of SOP (P29,750) against a total shipment value of P144,000 or 21% it seems like the situation would be worse. But, this is only if one follows all the laws and rules. If a forest products operation skirts most of the harvesting permits and clearance requirements, pads loads, and recycles documents the SOP charges become cost effective in contrast to conducting a fully legal enterprise. The SOP system is also faster and more reliable in getting

³ For this case, the truckload of lumber was bought at P18 per board foot (pickup price) and the buyer opted to shoulder the shipping costs since he owns a truck. The CBFM Chairman went along with the shipment to ensure that all documents were stamped as “used” at the checkpoints. This is a means of safeguarding the CBFM group’s receipts since buyers tend to re-use the documents without the group’s knowledge.

the product to market versus being held up for weeks or months for legal paperwork signatures. Not being able to deliver products on time to buyers is a death nail for any business and the SOP system fully understands this principal.

The culture of SOPs and what happens to those who do not play along
Anecdotal evidence suggests that groups who operate legally pay more than illegal operators. This is because there is a perverse “code of honor” among the payoff takers. It was suggested to the CBFM groups that they “recycle” their permits at least three times. As if the payoff taker is saying, yes I know it is wrong for me to take a payment, but I will let you do something illegal so we will all be even. When CBFM groups refuse to buy into this SOP system there are several tactics officials use to punish them.

- Delay or refuse to sign needed paperwork
- Send paperwork back numerous times for additional information or even minor administrative issues such as document formatting and number of copies submitted.
- Entice select CBFM members to break the law and then turn in the entire group when individuals break the law, resulting in suspended CBFM operations or even CBFM cancellation.

FINDINGS

It is not profitable to be a legal timber harvester in the Philippines. The onerous paperwork and permit burdens, contrary to their design intent of effectively regulating forest products harvesting, merely allow more officials the opportunity to extract payments and delay legal shipments. Illegal forest products harvesters rarely replant or manage the forests in a sustainable manner, which is yet another hidden cost of illegal activities. The CBFM program in the Philippines has admirable program goals. But, the incentive structure is sorely lacking to support the goals of effective forest management and profitable legal forest enterprises that benefit the community members who are charged with sustainable forest management.

Collusion among a few people can ruin it for many. In this case study and from experiences of other groups in Region 2, it was found that when a local government official, one DENR official, and a community member and/or former illegal logger colluded it was extremely difficult for the CBFM group to proceed with a legal operation. Too often blanket statements are made about DENR or CBFM groups when really it is a minority of individuals that collude to make a powerful force for the majority to overcome.

Uniting the honest majority, when only one or two officials are colluding can lead to change. In one instance, CBFM complaints and media attention focused on a DENR official got him transferred from the area. But, while the local situation did improve the problem most likely was only transferred to another location in the Philippines. Making examples of “the little guy” (e.g. small CBFM groups) also will not bring about meaningful change. Change needs to come from the top and be enforced throughout the system. This will take time and will only be attained when it becomes more cost effective to operate legally rather than illegally.