

Tenure Reform and Its Impacts in the Philippine Forest Lands¹

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Abstract

This paper examines the tenure reform in the Philippine forestlands through a historical analysis of forest policy development from the colonial period to the present with emphasis over the last three decades. It also analyzes the impacts of tenure reform and the associated policy and related changes in terms of the LIFE indicator (livelihood, income, forest condition and equity) based on review of published and grey literature, results from case studies, and the outputs of multi-sectoral assessments on CBFM.

Despite seemingly radical efforts to restructure forest management, our initial analysis of the impacts of tenure reform in forest lands in terms of the LIFE indicator shows that the anticipated positive impacts are yet to be fully realized on the ground. The issuance of the different tenure instruments have benefitted the government more by effectively recruiting local communities to take on forest management and protection responsibilities – tasks which the government were expected to perform before the tenure reform took place. However, livelihood and income of forest communities have not significantly improved in most cases. The combined effects of unstable policies and overly bureaucratic procedures and requirements, none recognition of communities' use rights over forest resources, and inadequate government assistance prohibit genuine tenure reform from taking root. These factors thwart the accrual of benefits to the upland poor and may impede the promotion of sustainable forest management in CBFMA areas.

The paper advocates three major policy-related interventions to advance the initial gains of tenure reform in the Philippine forest lands: 1) Secure land tenure and property rights; 2) reinvent DENR; and 3) institute social processes that ensure greater participation of local communities and other legitimate stakeholders in the management and sharing of benefits from forests.

Keywords: *tenure reform, community-based forest management, tenure instruments, livelihood, income, forest condition, equity.*

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Introduction

In the Philippines as in most tropical regions, all lands of “public domain” otherwise known as “forestlands” are owned by the state. This framework of state ownership was inherited from former colonial states, since the independent Philippine government relied on colonial legal systems of forestland management in order to use forest resources for national interests (Lynch and Talbott 1995). Until recently, the Philippine government did not acknowledge the tenure rights of forest-dependent communities including the Indigenous Peoples (IPs) who sustainably used forest resources for centuries. At worst, they were criminalized and in some instances evicted from their own ancestral lands by the very government that should be protecting their rights (Dressler, 2005). This legal usurpation has caused conflicts between state forest bureaucracies and rural people over resource access and use (Vitug 1992; Peluso 1992). State’s centralized control over all forestlands and resources have also contributed to grave inequity in terms of distribution of forest benefits in favor of the privileged few and to the onslaught of these resources where the livelihood of millions of forest communities depend (Pulhin 1996; Broad and Cavanagh 1992; Vitug 1993).

To prevent the demise of the remaining forest resources and to democratize access to and sharing of forest benefits, policy reform has been instituted to shift the direction of forest management, particularly since the end of the Marcos dictatorial rule in 1986 (Pulhin and Dizon 2006). The reform involved the dismantling the quasi-monopolistic forestry industry, and installing a community-based forest management (CBFM) system. At present, CBFM covers about 5.97 million hectares or around 38% of country’s total classified forest lands³ involving more than 690,000 household-beneficiaries. This is a radical departure from the traditional corporate approach to forest management and utilization earlier espoused by the State which had placed around 8-12 million hectares or 33% of the country’s total land area of 30 million hectares under the control of the holders of timber license agreement.

At the heart of CBFM system is a tenure reform that provides tenurial security to participating upland communities on terms renewable in 25 years increments. Through the issuance of various types of land tenure instruments, recipient communities may also be allowed to commercially utilize timber from second growth forest – a privilege previously given only to holders of the timber license agreements (TLAs) controlled by the elite sector of Philippine society. Together with these “access and use rights” are the other bundle of rights which should accompany the issuance of these instruments such as the rights for management and exclusion (Ostrom and Schleger, 1992). At present,

³ The Philippine legal system of land classification classified all lands into two general categories: “forest lands”, and “alienable and disposable lands”. Forest lands are lands of public domain, most of which have been the subject of present system of land classification and have been declared as needed for forest purposes while alienable and disposable lands are those that have been declared as not needed for forest purposes. The term “forest land” is therefore a legal rather than a botanical definition which means that these areas are not necessarily covered with forest vegetation.

of the 5.97 million hectares declared as CBFM areas, around 4.4 million hectares are covered by various types of tenure instruments (FMB 2008).

This paper examines the tenure reform in the Philippine forestlands through a historical analysis of forest policy development from the colonial period to the present with emphasis over the last three decades. It also analyzes the impacts of tenure reform and the associated policy and related changes in terms of the LIFE indicator (livelihood, income, forest condition and equity) based on review of published and grey literature, results from case studies, and the outputs of multi-sectoral assessments on CBFM. The paper is a working progress of an on-going research in the Philippines on “Improving Livelihood and Equity in Community Forestry” under the Center for International Forestry Research-Resource Rights Initiative (CIFOR-RRRI) research project. The initial findings presented here are still very tentative and do not include yet some of the empirical evidence from the four case studies covered in the CIFOR-RRRI project. The findings will still be validated with the different stakeholders involve in CBFM through regional and national level consultations.

Land Tenure, Tenure Reform and Bundle of Rights: Some Key Definitions

There are three major concepts that need to be defined: land tenure, tenure reform, and property rights. *Tenure* is derived from a Latin word for “holding” or “possessing”. Hence, land tenure means the terms on which something is held: the rights and obligations of the holder of the land. According to Bruce (1998), *land tenure* is “a legal term that means the right to hold land rather than the simple fact of holding the land.” Bruce emphasizes that one may have tenure over the land but not have taken possession of the land. He thus differentiates land tenure from resource tenure, or the rights to land, trees, and other resources. Meanwhile, Maxwell and Wiebe (1998) explain that land tenure “consists of the social relations and institutions governing access to ownership of land and natural resources.” It is usually defined in terms of a *bundle of rights* which has been described by Bruce (1993) as specific rights to do certain things with land or property. Along this vein, the Philippine Department of Environment and Natural Resources Policy Advisory Group (DENR-PAG 1987) defined land tenure as the bundle of rights that allow individual and groups to gain access to the productive resources on the land (Pulhin, 2000) In this paper, we view land tenure under the definition of the DENR-PAG, but also as social relations between the local communities in forest lands and the institutions governing the bundle of rights associated to these lands and the resources found therein. The nature of this bundle of right is further explained below.

The other concept is *tenure reform*. It describes legal reforms of tenure whether by the state or local communities. According to Bruce (1998), tenure reform can be differentiated from land reform in that the latter involves the redistribution of landholdings and changes the agrarian structure while tenure reform leaves people holding the same land, but with different rights. Hence, under the Philippine condition, tenure reform over forest land refers to the changes in the bundle of rights over forest

land by the people who have been occupying and/or using these areas as a source of livelihood. In the Philippine uplands, these people constitute the indigenous cultural communities, most of whom are native to the place since time immemorial, and the migrants who are recent settlers in these areas.

Schlager and Ostrom (1992) notion of the *bundle of rights* in relation to a given common-pool resource such as forest lands, appears to be a useful starting point to better understand the complexity of tenure reform associated with the evolution of the Philippine forest policies. According to their conceptualization the bundle of rights may be categorized and described as follows⁴:

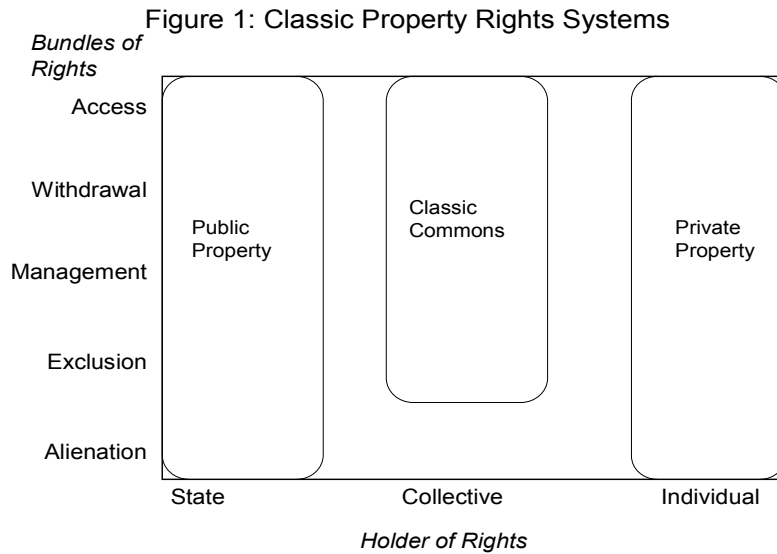
1. *Access*: The right to enter a defined physical area and enjoy nonsubtractive benefits (e.g., hiking, canoeing, sitting in the sun).
2. *Withdrawal*: The right to obtain resource units or products of a resource system (e.g., cutting fire wood or timber, harvesting mushrooms, diverting water).
3. *Management*: The right to regulate internal use patterns and transform the resource by making improvements (e.g., planting seedlings and thinning trees).
4. *Exclusion*: The right to determine who will have an access right, and how that right may be transferred.
5. *Alienation*: The right to sell or lease management and exclusion rights.

For purpose of analysis, Meinzen-Dick (2006) grouped the above rights into the following:

1. *Use rights*, such as the right to access and withdraw from a resource;
2. *Control or decision-making rights*, such as the rights to management, and exclusion; and
3. *Alienation*, the right to rent out, sell, or transfer the rights to others.

Integrating the notion of property rights in terms of “holder of rights” and “bundles of rights” Meinzen-Dick (2006) presents a schematic representation of a classic resource property rights system as shown in Figure 1. We use this representation to serve as an analytical lens by which we explore tenure reform in the Philippine forest lands as described in the subsequent section.

⁴ Agrawal and Ostrom (2001) cited the same category in their later work with specific examples as mentioned under each of the five categories above.



Historical Context of Tenure Reform in Forest Lands

In the Philippines, tenure reform in forest land developed alongside the evolution of forest policies. Following our earlier periodic classification (Pulhin 2003, Pulhin and Dizon 2006), we divided the history of Philippine forest policy into four periods: pre-colonial, forest policy of the colonial period (1500s to 1946), post-colonial exploitation (1946 to 1970s), and a shift towards community-based forest management (1980s to present). This brief review draws heavily from our earlier work (see for instance Pulhin and Dizon 2006; Pulhin et al. 2007) but differs in terms of emphasis on the issue of tenure reform giving more particular attention on the development of CBFM over the last three decades or so.

Pre-colonial period

Prior to colonization by Spain, land ownership in the Philippines was generally communal. Forests were accessible to all and 'ownership' was vested in whoever cleared and cultivated them first (Fernandez, 1976). Land was never owned in the same way as the present concept of land ownership implies. People possessed 'access' rights to occupy the land and to harvest the fruits of their labour (withdrawal rights) while respecting their territorial boundary (Lynch, 1984). There appears to be no clear articulation on the *management* and *exclusion rights* in the manner they are conceived by common pool resource scholars today while right to *alienate* seems to have never been conceived of.

Colonial period (1500s to 1946)

During the Spanish colonial era, royal decrees were promulgated which placed Philippine land and natural resources under state control and regulation. The

introduction of the Regalian Doctrine undermined traditional rights to land ownership as well as other prior claims of indigenous communities to forest resources. The Spanish colonizers institutionalized the notion of state ownership of forest land and forest resources in the country through the establishment of a forest bureaucracy and its constituent instruments which allocated proprietary rights for forest use. In 1863, the *Inspeccion General de Montes* (IGM) was created, which governed the utilization of the country's forest resources. Such decree vested the *use, control* and *alienation rights* over forest lands and resources in the hands of the colonial government.

While the United States controlled the Philippines beginning in 1898, the American colonial government asserted ownership over forests and forest land. The 1902 Organic Act and the 1935 Constitution perpetuated the spirit of the Regalian Doctrine by assuming that all forest lands in the entire archipelago belong to the state. This vested the complete bundle of property rights over forest lands and resources to the state in terms of *access, use, management, exclusion and alienation*. Consequently, indigenous peoples were considered as squatters in their own ancestral lands and were treated as criminals for doing their traditional shifting cultivation practice.

With the entrance of the American logging companies in the country, the forest industries in the Philippines flourished throughout the American period as *use rights* over productive forests were transferred by the colonial government to these companies without necessarily the corresponding accountability to manage these resources. Thus, the boom in the forest industry also prompted a steady loss of forest throughout the era of American rule. Severe deforestation continued through Japanese rule during the occupation in World War II due to heavy forest exploitation for war purposes.

Post-colonial exploitation (1946-1970s)

During this period, there was no major change in tenure policies regarding forest lands and resources as the government continued to support the system of property rights promoted by the Regalian Doctrine. Even with Philippine independence, subsequent constitutions such as that of 1973 and 1987 stipulated that all lands of public domain, meaning all the classified forest lands, belong to the state. Therefore, the full bundle of rights associated with forest lands and resources remained with the government.

Forest exploitation increased during the post-war period since large-scale logging expanded to meet increased market demands for timber in Japan and the United States. This generated more revenue for the government to help accelerate national rehabilitation and development. However, many politicians and well-connected individuals granted with *use rights* by the government also amassed wealth from the exploitation of forest resources.

Several decades of such forest exploitation has brought about inevitable negative impacts. To address these, the Marcos administration starting in 1969 formulated a number of programs that rallied the involvement of individuals and upland communities

in forest rehabilitation. These included the Kaingin Management of 1969, Forest Occupancy Management (FOM) in 1975, the Family Approach to Reforestation (1976), and the Communal Tree Farming (CTF) in 1978. These programs, while seen as the forerunners of present community-based forest management program of the government, have not really provided land tenure security to forest occupants. Except for the CTF Program, recipients of both the FOM and FAR were treated as squatters and were tapped by the government merely as source of cheap labor to rehabilitate what had been destroyed and protect the remaining forest resources.

Policy shift towards Community-Based Forest Management (1980s to present)

Marcos era

Recognizing the potential role of local people in the conservation and development of forest resources, Letter of Instruction 1260 was issued on July 28, 1982. This policy consolidated the FOM, FAR, and CTF into one comprehensive program entitled the Integrated Social Forestry Program (ISFP). It had three major objectives: to stem the tide of forest destruction by shifting cultivation; to help fight poverty among the forest occupants; and to help rehabilitate the degraded forest environment. (Agaloos 1990) Unlike the earlier programs, the ISFP granted stewardship agreements to qualified individuals and communities allowing them to continue occupation and cultivation of upland areas which they were required to protect and reforest in turn. The program provides security of tenure for a period of 25 years, renewable for another 25 years, through a Certificate of Stewardship (CS) or a Certificate of Community Forest Stewardship (CCFS). ISFP participants have corresponding *use rights* and *management* responsibilities as stipulated in the different policy instruments created to implement the program.

The launching of ISFP signaled the official adoption of social forestry as a forest management and development strategy in the Philippine uplands. (Payuan, 1983) The growing local and international concern for “people-oriented forestry” provided the momentum for the establishment of related programs and projects in the country under the banner of social or community forestry. In the same year ISFP was officially launched, an inventory by Bernales and dela Vega (1982) showed that there were already 255 upland projects in the country which may be generally categorized as “social forestry projects”. These projects were implemented by the government and the private sectors, including Non-Government Organizations (NGOs).

However, the emergence of social/community forestry as a development strategy in the Philippines should be understood within its broader political context during the 1970s and 1980s. Social forestry emerged not solely in response to the worsening poverty and forest degradation in the Philippine uplands, although these were major contributory factors (Pulhin 1996) Neither was its emergence merely an international import, although this was also instrumental (Aquino, del Castillo and Payuan 1987). Social forestry also arose primarily as a state strategy to control and stabilize the intense political unrest in the countryside in the 1970s and the 1980s (Pulhin 1996). It was part

of the overall rural development counterinsurgency strategy during this period of the Marcos administration (Bello, Kinley and Bielski 1982).

Despite the emphasis on local people's involvement in forestry activities and the provision of a 25-year period of tenurial security to its participants, the first generation of government social forestry projects did not sufficiently depart from conventional practice. These projects mostly aimed to "get the trees in the ground rather than to get the household economies of the rural poor off the ground." (Peluso 1992: 242) The primary rationale was forest resource creation and protection to support the national agenda in forest management. Any benefit to local people was just a bonus intended mainly to win their support and involvement in forestry activities.

Aquino administration

The restoration of democratic Philippine government, starting in 1986, placed the issue of social equity at the center of the country's forest policy agenda. (DENR Policy Advisory Group 1987) To guard against the inequities of the past monopolistic allocation, the new Constitution contains provisions mandating equitable access and distribution of benefits from the country's natural resources. Policy reforms were initiated by some radical reformists that joined the government of the newly instituted Aquino administration (Korten 1994) mainly in response to the clamor of the civil society sector to bring about transformation in the forestry sector (Broad and Cavanagh 1993). These policies envisioned dismantling the quasi-monopolistic forestry industry controlled by a select few, and installing a community-based forest management system that provide tenurial security to upland communities. Policies were said to be based on the pragmatic realization that the ultimate survival of the Philippine forests lies in the hands of million of smallholders (Ramos 1993).

In 1987, the National Forestation Program (NFP) under the Aquino administration promulgated a new reforestation policy offering market incentives and involving communities, families, NGOs, and corporations in management initiatives. The NFP aims to reforest open lands for plantation and rehabilitate denuded watersheds in order to ensure sustained production of wood and other products for wood-based industries, provide livelihood for upland dwellers, and restore and maintain ecological balance (de Guzman 1993) After about three years of implementation, the program paved the way for the issuance of Forest Lease Management Agreements (FLMAs), new 25-year tenurial arrangements that entitled holders to develop the project site and utilize the products therefrom in accordance with stipulated government rules and regulations.

In 1989, the issuance of the DENR Department Administrative Order No. 123 established the Community Forestry Program (CFP). This program aims to provide the upland farmers legal access to forest resources and to the financial benefits that can be derived therefrom. Further, it also seeks to create strong incentives for upland residents to implement forest conservation, establish multi-use forest management by participating communities, and optimize forest resource utilization and management (de Guzman 1993). Under the program, tenure is given to qualified community

organizations through yet another arrangement, the Community Forest Management Agreement (CFMA), covering a period of 25 years, renewable for another 25 years.

Community forestry continued to expand in the 1990s with the implementation of other people-oriented forestry programs throughout the country. Its development has been facilitated by numerous agencies providing financial as well as technical support (Pulhin et al. 2007). It also stimulated the entrance of new key players in the forestry sector, especially the NGOs, POs, LGUs, academe and research agencies. In 1991, the Local Government Code was passed into law which devolved certain forest management rights and responsibilities including ISFP and forest protection to local government units. This paved the way towards the development of various co-management arrangements between DENR and LGUs in partnership with the local communities that grant certain *management and limited use rights* to local communities to a given forest lands.

The rights of indigenous cultural communities were also recognized by the Aquino administration through two policy instruments. Republic Act No. 7586, the National Integrated Protected Areas System (NIPAS) Act of 1992 encouraged community participation in the delimitation of land boundaries and in the management of protected areas. The enactment of policy on the Certificate of Ancestral Land Claims (CALC) reasserted the rights of indigenous peoples to their ancestral lands. These two important policy instruments underlined the role of public and community involvement in resource management.

Ramos administration to the present

The next administration to take power was that of President Fidel V. Ramos, who issued Executive Order 263 in 1995, a landmark policy institutionalizing the Community-Based Forest Management (CBFM) Program. Declared as the national strategy to attain sustainable forest management and social equity, CBFM, like ISFP in the preceding decade, integrated all forestry programs under the people-oriented principle of espousing public participation in local forest management. These include the Integrated Social Forestry Program, Upland Development Program, Forest Land Management Program, Community Forestry Program, Low Income Upland Communities Project, Regional Resources management Project, Integrated Rainforest Management Project, Forestry Sector Project, Coastal Environment Program, and Recognition of Ancestral Domain Claims (Pulhin 2003). With the integration of these various programs under one umbrella, new projects were issued CBFMAs (Community-Based Forest Management Agreement) as tenurial instruments, while projects covering ancestral domains/lands were given Certificate of Ancestral Domain Claim (CADC)/Certificate of Ancestral Land Claim (CALC). Just like the other agreements, CBFMA and CADC/CALC have tenure coverage of 25 years renewable for another 25 years. They entitle their holders to develop, utilize and manage specific portions of forest lands pursuant to an approved government regulations and procedures.

To operationalize social equity and community participation in forest resources management, the DENR's CBFM National Strategic Plan of 1997 has earmarked 9 million hectares of the country's total classified forest land of 15.8 million hectares for community management by 2008. This represents a drastic departure from the previous forest management approach which placed 8-10 million hectares of forest land (one-third of the country's total land area) under the control of the powerful elite, particularly the timber logging corporations. (Pulhin 2003)

More recently, after decades of struggle by the IPs and their supporters, the Philippine Congress enacted the Indigenous People's Right Act of 1997 (IPRA), the passage of which is considered a breakthrough in the history of Philippine legislation. Through IPRA, ancestral domain was finally recognized in legislation as private, discrediting the notion of state ownership over all classified forest lands. Under this law, indigenous peoples (IPs) can apply for a Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT) to certify their ownership of the land. However, IPRA prohibits the selling of these lands despite the fact that they are private. In essence, except for the *alienation right* which is retained by the state, the rights to use, control and exclude others as far as established ancestral domains and lands are concerned have been vested to the IPs.

Figure 2 presents the key events and policies that influence tenure reform in forest lands from a corporate timber license agreement (TLA) approach of forest management and utilization towards a CBFM system. The figure also depicts the declining trend of TLA coverage as against the present coverage of CBFM. In summary, the historical overview indicates that the recent acceptance of local people as forest managers and the recognition of their *use and management rights* (including exclusion right especially in the case of CADT holders) through the different land tenure instruments was actually an outcome of negotiation, contestation, and accommodation among many actors with diverse interests at various levels – national, international and local. After nearly three decades since the inception of the Integrated Social Forestry Program, the journey to meaningful tenure reform, important especially to the millions of forest-dependent people living in the Philippines, continues, and as the following discussion on the impacts of this reform will show, every step forward can easily be followed by one or more steps in the opposite direction.



MOA – Memorandum of Agreement

PD – Presidential Decree

MIPAS – National Integrated Protected Area System (Republic Act 7586)

IPRA – Indigenous People's Rights Act (Republic Act 8371)

Sources:

Rosado (1988); Borja and Revilla (1977); DENR-FMB Philippine Forestry Statistics (1990-2005);

Figure 2: Key policies and events influencing tenure reform and trends in forest cover, TLA and CBFM coverage in the Philippines

Impacts of Tenure Reform

Following the CIFOR-RRR Framework of analysis, the following sections analyze the impacts of tenure reform and its associated interventions through the CBFM system in terms of LIFE (livelihood, income, forest condition and equity) indicators at the national level.

Impacts on Livelihood and Income

Incorporation of livelihood activities is a major strategy that characterized most forest tenure reform initiatives. A common approach in the Philippines in the late 1980s to the early 2000 was to contract out to a PO the different site development activities, such as reforestation, agroforestry, assisted natural regeneration, and timber stand improvement. Part of the proceeds from these activities is set aside for livelihood projects, which are jointly identified with the communities concerned (Pulhin and Inoue, to be released).

In support of the above livelihood activities, credit and/or marketing cooperatives have also been organized in some communities through the project's community organizer or

assisting organization. Cooperative members are trained on various livelihood activities, including simple bookkeeping and financial management, for more effective functioning of the organization.

Other than project funds, sources of capital for livelihood activities may come from limited utilization of forest products such as timber, rattan and other forest products. This applies particularly to those projects which have been given a permit to utilize forest products including timber harvesting to augment participants' incomes. The scheme is based on the principle of "borrowing from nature to finance community and forest development." The idea is to plow back part of the sales income from legally harvested products from natural forests or existing plantations to finance livelihood projects, reforestation, and related forestry activities to ensure forest sustainability.

There is a mixture of experiences and outcomes in relation to the promotion of viable livelihood projects as a component of tenure reform. Where organized and capable communities are sufficiently backed with strong support systems, viable livelihood projects may be developed resulting to increases in the income among upland households. Noted example is the case of the Kalahan Educational Foundation (KEF) where the Ikalahan tribe with the assistance of foreign missionary was able to develop a viable small scale food processing using locally available wild berries that they supply to big department stores in Metro Manila. Other examples are the CBFM projects in the Bulalacao, Alcoy, Cebu and in Labo-Capalunga, Camarines Norte where participants used the reforestation income for agroforestry development and other livelihood projects (Borlagdan, Guiang & Pulhin 2001).

By and large, however, experiences in most CBFM sites are replete with struggling POs attempting to forge viable livelihood projects given the constraints of marginal land and limited external support from the government. For instance, of the 11 cases studied by Contreras and associates under a research project funded by the Center for International Forestry Research, only one site has credit support mechanism. Such a support was not even provided by the State but by a church-based NGO. Related problems noted are weak links to market, shortness of employment opportunity provided by reforestation and plantation development, and uncertainty of being able to harvest the planted trees in the future (Contreras 2003). Similarly, Miyakawa *et al.* (2005) show that 20 out of 47 POs they analyzed lack income generating activities. Also, of the 11 POs that organized themselves into cooperatives, five went bankrupt due to poor management as reflected in the absence of accounting records, lack of transparency in decision-making, and very low or low profits.

Livelihood-support projects may also be ill conceived and often not sustainable. In two of the six cases analyzed by a study coordinated by the Food and Agriculture Organization, a total of 20 livelihood-related projects were initiated by POs but most were eventually discontinued due to a host of technical, managerial, and organizational problems (Pulhin 2005). Moreover, an assessment of 155 CBFM sites conducted by the Environmental Governance project indicated that 116 or about 75% have been rated

not to meet the minimum criteria set in terms of support for non-forest-based livelihood activities (Castillo *et al.* 2007).

Adding value in upland villages is also very limited. Agroforestry products and timber are rarely processed locally, which means that significant opportunities for generating income are missed. Similarly, products are usually not linked to viable and stable markets, preventing POs from obtaining adequate returns for their products (Pulhin 2005).

While opportunities to harvest timber provide much needed income to finance a variety of livelihood activities, these have not been fully realized in CBFMA areas. Major obstacles include unstable policies on timber utilization as reflected in the series of national cancellations of resource use permits of POs which were allowed to do timber harvesting. This is best illustrated in the case of the Ngan, Panansalan, Pagsabangan Forest Resources Development Cooperative (NPPFRDC) in Compostela Valley in Mindanao which incurred losses of close to PhP3M (US\$72,330) as a result of a series national cancellations of resource use permit none of which involve any violations in the part of the Cooperative (See Box 1 for details).

On top of unstable policies, excessive bureaucratic requirements multiply transaction costs and facilitate graft and corruption in the bureaucracy (Pulhin 2007, Dugan and Pulhin 2006). For instance, the San Roque Multi-Purpose Cooperative (SOROMCO) in Compostela Valley in Mindanao had to hire a private forester who charged exorbitant fee to be able to comply with the technical requirements of DENR. On top of this, it has to bribe the DENR and Philippine National Police Officials in order to secure timber utilization and transport permits and get through police checkpoints without hassle (IRR, UDRC 2008).

Most POs also lack the necessary capital for timber harvesting operations, which makes them vulnerable to the control of financiers and middlemen who dictate timber price. Moreover, the availability of illegally cut timber depresses prices of legally cut timber (Pulhin 2005).

Impacts on Forest Condition

Tenure reform through CBFM has motivated the local communities to be actively involved in different forest management activities such as forest rehabilitation and protection. Over the last ten years, DENR records indicate that CBFM projects have developed a total of more than 500,000 ha of agroforestry, tree plantations, and mangrove rehabilitation within the 5,503 CBFM sites. In addition, CBFM participants have contributed to the establishment of plantations in areas outside the forests, such as in their own private areas and other alienable and disposable lands, amounting to 8,223 hectares as of 1999 (Tesoro 1999). More recently, an assessment made by the Environmental Governance project concludes that the development of forest production areas within forestlands is the CBFM strongest point at 70% of the 155 sites evaluated (Castillo *et al.* 2007).

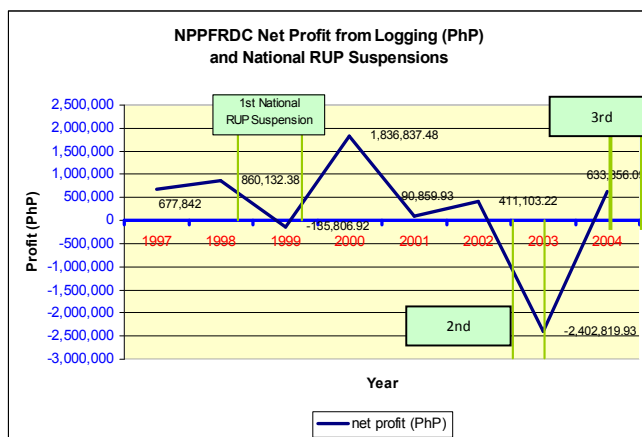
Box 1: Impacts of unstable policy on timber harvesting: the Case of Ngan, Panansalan, Pagsabangan Forest Resources Development Cooperative (NPPFRDC).

NPPFRDC is one of the forty CBFMA sites in Region 11 managing a total area of about 58,000 hectares (DENR Region XI 2004). The NPPFRDC is the only wood producer in the country that has been certified by SmartWood - an internationally recognized standard setting body that accredits and monitors forest products coming from sustainably managed forest. The NPPFRDC was the first PO to be certified in the ASEAN Region in November 2000. Its area used to form part of a TLA area of Valderrama Lumber Manufacturers Company, Incorporated (VALMA), comprising 26,000 hectares.

Despite its “certified” status, NPPFRDC was not spared by the series of national cancellations of resource use permits (RUP) by the DENR Secretaries. As shown in the figure below, the cooperative has been on the losing end owing primarily to the three national RUP suspensions, which had disrupted its operations. In 2003 alone, it incurred a net loss of around PhP2.4 million, a huge sum that was badly needed by the cooperative (NPPFRDC 2004b). Comparing the net profit of the Cooperative with the forest charges that have gone to the coffers of government, it’s very evident that the government has gained more from timber harvesting than the Cooperative itself. This implies that the government has been in a win-win situation, as it has been able to achieve forest development and protection with only minimal costs, and has gained “profit,” to the detriment of the Cooperative.

The socioeconomic impact of the community-based timber enterprise is quite apparent in terms of employment generation among the residents of the three barangays. Many are also saying that without the cooperative, forest resources within the CBFM area may have been significantly reduced due to illegal logging, swidden farming, and timber poaching.

During an RUP suspension, however, the community experiences a domino effect. Given the on-and-off operations of the CBTE, some of the workers sell their properties in order to cope with household expenses. Worse, their children stop going to school because of the lost of food allowance. Some were also forced to engage in illegal cutting activities to eke out a living in the absence of alternative sources of livelihood. Moreover, forest destruction increased in the area since the Cooperative can no longer hire permanent forest guards to man the exit points of the illegal loggers.



Source: .Pulhin et al. 2007

Consistent with the above-mentioned field assessment, Pulhin (2005) noted that forest cover is maintained or extended and environmental quality improved based on in-depth case studies conducted on six CBFM sites. In three sites, a marked increase and improvement in forest cover was noted as a result of plantation establishment/ reforestation and the adoption of agroforestry. Additional plantation areas were also established in the other three sites. Moreover, despite limited resources, all the POs continue to conduct forest protection activities. However, the cancellation of resource use rights have compelled some PO members to engage in illegal cutting activities that contribute to forest destruction (Pulhin et al 2007).

CBFM communities also served as the first line of defense in the protection and management of the forest resources. Accounts of local communities stopping illegal logging and other forest violations are common in many CBFM sites. It was established that the government is able to save at least 127 million pesos annually (around US\$ 3.1 M at current exchange rate) by allowing the communities to manage and protect CBFMP sites, instead of hiring additional forest guards to protect and secure these areas (Tesoro 1999). Similarly, the Japan International Cooperation Agency (JICA)-DENR policy component review team concluded, based on the field review of 70 sites, that “CBFM is very effective to control forest fires, illegal logging and other violations such as shifting cultivation committed within CBFM areas” (Miyakawa et al. 2006). Since the farms of PO members are located inside or adjacent to the forested areas, they safeguard the forests even without payment of allowances. The same review noted that more than 90% of POs in the 47 sites visited conduct foot patrol on voluntary basis.

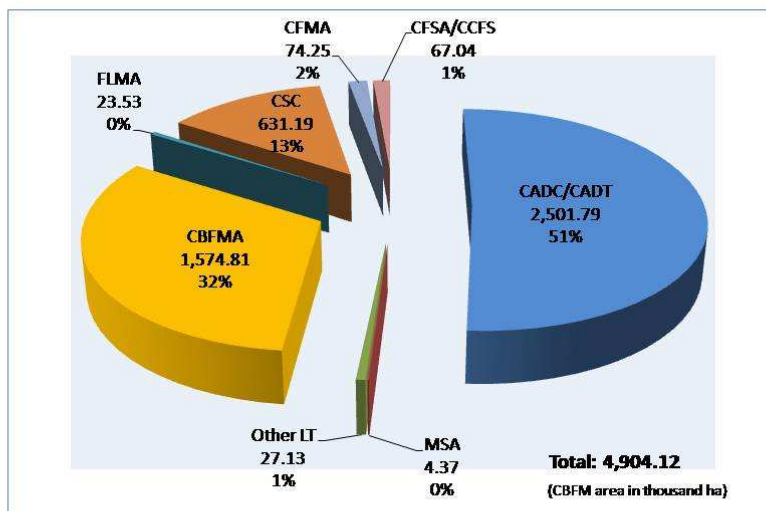
On the overall, a review conducted by Lasco and Pulhin (2006) concludes that the environmental effects of CBFM and its technologies such as management of tropical forests (enrichment planting, timber stand improvement or TSI and limited harvesting), rehabilitation of degraded lands (reforestation, assisted natural regeneration (ANR)) and agroforestry are largely positive. CBFM has led to the conservation of natural forests and the associated biodiversity. The planting of trees in farms and landscapes has led to soil and water conservation, carbon sequestration and biomass production.

While Lasco and Pulhin (2006) concluded in their review that a comprehensive research that assesses the total environmental impact of CBFM projects nationwide is still lacking, there are sufficient evidence that the provision of tenure through the CBFM system has in general contributed both to the further diminution of forest cover and improvement in forest condition in many areas. Indeed, as the trend in the national forest cover indicates, continues decline in forest cover has been arrested starting in the 1990s with the increasing number of forest land being placed under CBFM. While tenure reform is certainly not the only factor that contributed to this, it undoubtedly plays an important role in improving the overall forest condition in the country as many case studies and reviews have attested.

Impacts on Social Justice and Equity

At the core of tenure reform in the Philippine forest lands is the goal of promoting social justice and equity in management and utilization of the country's forest resources. As mentioned earlier, this was pursued starting in the post-Martial law period through the cancellation of erring TLAs and non-renewal of those whose license has expired. The initiatives to drastically depart from the traditional elite-based natural resources utilization to community-based resources management have been supported by a number of previous DENR secretaries: Fulgencio Factoran, Angel Alcala, Victor Ramos, and Heherson Alvarez (Pulhin 2003) In fact, during the term of Victor Ramos, CBFM was named as the Department's banner program, thereby gathering support from the various sectors and political or organizational actors.

It may be argued that the goal of social justice and equity has been addressed at the national level by CBFM through transfer of access and management of 5.97 million hectares of forestland to local communities and individuals, a privilege that used to be monopolized by well-off TLA holders. This constitutes around 38% of country's total classified forest lands as against the 825,000 hectares currently covered by TLAs. Of the 5.97 million hectares under CBFM, 4.7 million hectares are currently under various forms of land tenure instruments are indicated in figure 3.



Source: DENR-FMB Philippine Forestry Statistics (2005)

Figure 3. CBFM areas under various forms of land tenure instruments

Despite the issuance of various forms of tenure instruments under CBFM, the property rights of the recipient communities of these tenure instruments remain unstable. As stipulated under the CBFM policy, land tenure instrument like the Community-Based

Forest Management Agreement entitles the recognized People's Organization the right to develop, utilize, manage and conserve a specific portion of forest land consistent with the principles of sustainable development and pursuant to the PO's over all management plan of the area for a period of 25 years which may be renewed for the same period.

In theory, the access, use, management, and partly, exclusion (in terms of the PO's rights to exclude others from doing illegal or destructive activities in the area) rights over CBFM areas are being relegated by the government to these POs. In reality however, much of the control over property rights is retained by the government. Since 1998, there had been three national suspensions of resource use permits by three previous DENR Secretaries without necessarily following due process. For instance, the 1998 suspension by the then DENR Secretary Cerilles was "based on the allegations of abuses by CBFM POs. Investigations later proved the allegations to be false and instead highlighted the effectiveness of the forest protection activities of the local communities" (Borlagdan et al 2001:136). The worst situation was the cancellation of all existing CBFMAs in 8 Regions by the then DENR Secretary Defensor on January 5, 2006, except for those with on-going foreign assistance, allegedly due to non-compliance or violations by POs. Later assessment done by the DENR Central Office itself showed that very few of these POs have really committed grave violations as far as the provisions of the CBFMA is concerned. On the contrary, Miyakawa (2006:2)), a Japanese policy expert on CBFM, noted that "there are many observations indicating that CBFMP is very effective to control forest fires, illegal logging and other violations committed inside CBFM areas".

At the local level, social equity and benefit sharing remain important concerns (Miyakawa et al. 2005, Pulhin 2005, Miyakawa et al. 2006, Pulhin 2006). The small number of members in many POs appears to have benefited mainly members of the villages' elite. Benefits are often captured by leaders and more educated members at the expense of the poorer constituents (Dahal and Capistrano 2006). Strategic interventions are still needed to achieve the social justice and equity objective of CBFM. The first and important step forward is to abandon the practice of general and/or nationwide bans and punishments. After all, such actions are unlawful and can be contested in court according to the text of the CBFMA (Pulhin et al. 2007).

DENR Administrative Order No. 96-29 provides for a due process in imposing sanctions in case of PO violations to CBFMA provisions. Article VII of the Administrative Order stipulates that:

Compliance by the POs with the terms and conditions of the CSC/CBFMA shall be monitored and evaluated by the DENR and the concerned LGU. The findings shall be discussed with the PO, including recommended solutions to address the problem, if any. In the event of non-compliance with, or continued violations of, the terms despite the lapse of six (6) months from the date of notification about such infraction or non-compliance, the PO's permits to utilize and transport forest products and other natural resources shall be suspended for at least six (6) months to not more than one (1) year."

In all the three nationwide suspensions of RUPs/CBFMAs, the above provision on penalties and sanctions which was crafted by DENR itself was never observed. Indeed, the DENR has been the major violator of its very own policy.

The unstable land tenure and resource use policy however, can be largely attributed to the absence of legislated law that supports CBFM. Since E. O. 263 is just a Presidential issuance and its implementing rules and regulations (IRR) are just issued by the DENR Secretary, the CBFM policy is very vulnerable to political pressures and the whims and wishes of whoever occupies the top DENR position. The way to stabilize land tenure and resource use policy is therefore to enact a forestry law that supports the CBFM strategy.

Conclusion and Policy Implications

This paper traces the evolution of forest policies in the Philippines from the colonial period to the present, and highlighted the trend from a highly regulatory, centrally controlled and industry-biased forest policy towards a more decentralized, participatory and people-oriented approach that has typified the direction of policy formulation over the last three decades. At the core of this policy shift is the tenure reform in the Philippine forest lands pursued in terms of transfer of forest management and use rights from TLAs to local communities through the adoption of CBFM as the national strategy for the promotion of sustainable forest management and social justice and equity in the uplands. Central to the CBFM strategy is the issuance of various forms of land tenure instruments by the government to participating local communities. Despite seemingly radical efforts to restructure forest management, our initial analysis of the impacts of tenure reform in forest lands in terms of the LIFE indicator indicates that the anticipated positive impacts are yet to be fully realized on the ground. The issuance of the different tenure instruments have benefitted the government more by effectively recruiting local communities to take on forest management and protection responsibilities – tasks which the government were expected to perform before the tenure reform took place. However, livelihood and income of forest communities have not significantly improved in most cases. The combined effects of unstable policies and overly bureaucratic procedures and requirements, none recognition of communities' use rights over forest resources, and inadequate government assistance prohibit genuine tenure reform from taking root. These factors thwart the accrual of benefits to the upland poor and may impede the promotion of sustainable forest management in CBFMA areas.

The analysis of the tenure reform in the Philippine forest lands and its impacts points to the following policy implications (Pulhin 2007):

Securing land tenure and property right. As revealed in so many studies, securing land tenure and property rights is a necessary condition for successful CBFM implementation. Legislated policy on CBFM would provide more stability and clear direction in implementing as well as securing incentive system to the participating

communities. On the other hand, “soft rights” embedded in some land tenure instruments like CBFMA which are not legislated (e.g. Executive Order and Department Administrative Order), hence cannot be defended and can be withdrawn any time by the DENR Secretary, do not provide sufficient incentive to encourage communities to invest on human and financial resources into forest management (Gilmour *et al.* 2005). These rights are very vulnerable to political pressures and changes and can easily result to adverse socio-economic and environmental impacts when immediately suspended or withdrawn. Moreover, legislated community forestry policy should be “enabling” rather than “enforcing” (Gilmour *et al.* 2005). It should be flexible enough to accommodate varying local conditions, facilitative rather than restrictive, and simple enough for community to understand and enforce.

Necessity for the reinvention of DENR. The adoption of CBFM strategy requires a whole new set of knowledge, skills, values, and attitude within the forestry bureaucracy. This means a major departure from the traditional regulatory or policing function which the DENR has been playing for almost a century towards a more supportive and facilitative role to assist communities to improve their livelihood and the condition of the forests (Nair 2006). As such, the DENR has to reinvent itself to be able to cope up with this new role and maintain relevance. In terms of governance, this requires devolving not only responsibilities but also authorities to local communities, changing outmoded regulatory policies and procedures, and retooling of staff to effectively perform negotiation, conflict resolution, extension services, and related developmental skills to better serve the local communities.

Instituting social processes that ensure greater participation of local communities and other legitimate stakeholders in the management and sharing of benefits from forests. One of the unique features of the forest resources is the multiple stakeholders associated with its multiple uses representing local to global interests. Thus, efforts towards sustainable forest management need to consider these varying interests, without marginalizing the concerns of the local communities especially those whose lives depend on these resources for survival. This calls for the development and institutionalization of social processes that will ensure that local communities and other legitimate stakeholders are able to participate meaningfully in decision making concerning forest management and benefit sharing from forests. An enabling policy environment that will facilitate dialogues among different stakeholders is necessary move the initial gains of policy reform forward.

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