

The Intersection of Decentralization and Conflict in Natural Resource Management:

Cases from Southeast Asia

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Working Paper 17

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in Natural Resource Management:**
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Abstract

In efforts to rush to decentralize, the questions of to what degree and in what ways do decentralization reforms influence conflict related to the management of natural resources have been largely overlooked. This study seeks to contribute to the analysis of decentralization reforms by examining the role of decentralization in generating, exacerbating or otherwise influencing conflict. The document explores the relationship between decentralization and conflict, comparing two case studies and examining the conditions surrounding local natural resource conflict. Secondary literature was assessed. Data were collected through group and individual interviews with key informants and relevant actors from associated fields. The research indicates that sufficient time and resources are needed in order for unnecessary conflict to be averted. The drawbacks of haste and the need to ‘take time’ are essential components of developing genuine democratic and effective local governance. With conflict deeply embedded in processes of decentralization, a better approach is to seek to predict and constructively manage tensions. By imposing realistic expectations on what decentralization can deliver and carefully assessing and undertaking reforms in complex contexts, conflict conceivably can be mitigated and the frustrated backlash to inadequate decentralization reforms can be minimized.

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Research Problem

As of 2002, some 60 countries were in various stages of decentralizing the management of their natural resources (Agrawal 2002). Despite the popularity of ‘decentralization’ reforms, the authenticity of their positive impacts has yet to be empirically demonstrated, and in some cases these reforms have arguably been characterized by disappointed expectations of their promised results (Rondinelli 1981; Conyers 1983; Ribot 2002a). “There is wide-spread belief that decentralization leads to better services, more efficiency and democratic government. Although this causal relationship is often assumed to exist, there is little hard evidence beyond the perception of those directly involved: ministers of finance, regional governors, mayors, donors and civil society” (Frank 2004: 6). In addition to the serious methodological challenges posed by the study and review of decentralization, as illustrated by Cohen and Peterson (1996), the main criticisms of decentralization processes have been related to their insufficient implementation and to the accusation that these reforms have served to strengthen the wrong people (Conyers 1983). Ribot (2002a) argues that in practice, it is often deconcentration, delegation, privatization or isolated test projects that have been undertaken in the name of decentralization. Local institutions are often unrepresentative of, and unaccountable to, local communities (Ribot 2003). A key lesson from assessments of decentralization conducted to date has been that despite stated government commitments to decentralization, resistance often accompanies the transfer of appropriate and sufficient powers to local authorities (USAID 2000:3).

Conflict is one of the ingredients in precipitating decentralization reforms, at times in response to the demand of communities for greater control over the resources critical to their survival. But in efforts to rush to decentralize, the reverse of this equation has been largely overlooked. *To what degree and in what ways do decentralization reforms influence conflict related to natural resource management (NRM)?* This study seeks to contribute to the analysis of decentralization reforms through the examination of one particular aspect of its potential impacts: its role in generating, exacerbating, or otherwise influencing conflict.

Conflict continues to be a pressing concern in research relating to NRM (Ayling and Kelly 1997; Anderson et al. 1998; Tyler 1999). As Tyler notes, however, the dimensions, level and intensity of conflicts vary greatly. Much of the literature on conflict in NRM has taken the form of resolving disputes and analysing mechanisms to this end (Penzich and Wohigenant 1994), while a greater need to analyse the relationship between policy and conflict has begun to emerge as a pressing theme. States are increasingly finding that global information flows can draw immediate global attention to potential conflicts. Responses to this have seen efforts devoted to resource planning and policy revisions relating to implementation and degrees of centralization (Tyler 1999). Tyler notes that policy has an increasingly well-documented role in generating or aggravating conflicts, suggesting that the nature of resource conflicts has yet to be well understood and incorporated into policy formulation and reform processes. Several of the documented impacts of policy on natural resource conflicts noted by Tyler (1999) include piecemeal approaches to reform, particularly decentralization, and insufficient support for these reforms. Research relating directly to decentralization and conflict is a topic on which there would seem to be a relative lacuna in the literature. Agrawal and Ostrom (1999) appear to support this, noting the gap in specific detail, and the need for greater attention to powers and capacities in devolution literature. They comment:

“Advocating for decentralization or devolution as a general aim and ignoring specific details may be appropriate as a rhetorical strategy against the concentration of power. But such a lack of specificity does not provide sufficient guidance when it is necessary to create a policy-relevant plan to put devolution in practice” (1999: 76).

Given the abundance of research conducted on decentralization and conflict independently, and the potential impacts resulting from their intersection, this is a gap that warrants greater attention. This document explores the relationship between decentralization and conflict, through a comparative examination of two case studies and the conditions surrounding local natural resource conflict. The document will be of particular interest to those devising or implementing policies for decentralization, and addresses the gap on conflicts resulting from decentralization. The findings of this

research are intended to be exploratory to serve as a launching point for further work examining hurdles on the path to decentralization.

Introduction: A Background to Decentralization of NRM

Decentralization has come to be viewed as a solution to many of the struggles of governance, for reasons that are both implicit and explicit (Conyers 1983), but always varied and often complex. This is particularly true in the case of the management of natural resources in developing countries. Natural resource management is claimed to be particularly well suited to local democratic control through decentralization, relative to other areas such as health and education. This is because it is based on the requirement of specific local knowledge, involves the reliance of rural communities on natural resources for their livelihoods, and acts as a direct source of wealth and a target for investment (Ribot 2003).

The call for decentralization reforms has been informed by beliefs that, by virtue of increased proximity to the people they serve, democratic local institutions will provide a path to greater efficiency and equity in development and management activities. As noted above, however, results associated with the decentralization of NRM have been ambivalent. In addition to the dearth of research measuring and analysing the success of decentralization reforms, there are notable cases in which elite groups have captured the benefits of decentralization efforts for their own use (Ribot 1999; Baviskar 2002; Brannstrom 2002; Pacheco 2002; Resosudarmo 2002). Ribot (2003) points out the backlash that has been occurring against the decentralization of natural resources, and environmental agencies in some countries have claimed that excessive decentralization has jeopardized the natural resource base (Bazaara 2002; Latif 2002; Resosudarmo 2002). Despite reservations, Ribot (2003) has argued for the need to allow sufficient time for decentralization reforms to be fully legislated and implemented prior to serious assessment. Reforms should not be isolated, but approached in combination with a commitment that, “accompanying measures be identified to assure environmental protection, justice and freedom from conflict” (Ribot 2003: 2). This document expands on

Ribot's concern, seeking to squarely place decentralization processes within local specificities of environment, history and identity.

Defining Decentralization

The concept of decentralization has been emphasized and pursued sporadically throughout the last half of the twentieth century. In its waxing and waning, objectives and definitions of decentralization similarly have been subject to flux (Cohen and Peterson 1996). The seminal definition of decentralization is that presented by Rondinelli, Nellis and Cheema (1983). They define decentralization as the transfer of responsibility for planning, management and resource raising, and allocation from the central government and its agencies to: (a) field units of central government ministries or agencies, (b) subordinate units or levels of government, (c) semi-autonomous public authorities or corporations, (d) area-wide, regional or functional authorities, or (e) non-governmental private or voluntary organizations (1983:9).

Challenges to Decentralization

The imperative to achieve accountability, and the difficulty in ensuring it, continues to be an underlying theme in decentralization research. The overarching question in examining accountability is: do selected institutions represent, and are they accountable to, the populations for whom they are making decisions? It is therefore considered essential, in ensuring authentic local management of resources, to choose and build upon representative and accountable local institutions. Decentralization has the potential to empower groups other than local communities – i.e., central government, line ministries, non-governmental organisations (NGOs) and customary authorities. In its less constructive form, deconcentration, it is believed to lack true local accountability (Ribot 2002a). Complaints have been made “that powers have been decentralized to the ‘wrong’ people – either central government appointees or a local elite – and so there has been no meaningful increase in the participation of the mass of the people” (Rondinelli 1981, as quoted in Conyers 1983:106).

Similarly, grassroots groups and NGOs may not be adequately accountable to local people. Central governments, NGOs and donors often target chiefs, headmen and

customary authorities as appropriate local authorities – while their authority may in fact be undemocratic, and their legitimacy inherited through fear. Such entrenched local authorities are notorious for maintaining gender inequalities and favouring divisive ethnic relationships (Ribot 2002b). Significantly, claims have been made that, “responsiveness to the poor is a rare outcome of decentralization” (Crook and Sverrisson 2001: iii). Dupar and Badenoch (2002) suggest, based on their studies, that the local authorities given highest marks for responsiveness are those with the least control over productive assets. While not stemming directly from Dupar and Badenoch’s findings, it could be argued that the stronger the mechanisms for downward accountability, the greater the satisfaction of the community; and the stronger the social ties between local leaders and constituents, the greater the perceived responsiveness.

Summary and Implications

This review covers some of the nascent issues in NRM decentralization and decentralization generally. Natural resource management appears to be a sector in which decentralization may be particularly effective and desirable. It also constitutes a number of challenges that may be more complex and multifaceted than those in other sectors. The potential benefits of decentralization, however, generally warrant its careful consideration for NRM as well as for governance across the board. The relationship between decentralization and democratization has played a central role in advocacy for decentralization reforms. The perceived trajectory from ‘governed’ to ‘active participants’ in the process of governance has served as a launching point for those seeking to facilitate not only the advance of democratic processes, but also liberalization and decentralization. This association, however, has yet to be fully demonstrated and has suffered criticism for its over-simplicity.

The premise that increased democratization may correspond with processes of decentralization is one with relevance to this study. Accounts on the intersection of these processes have been contradictory. The International Institute for Democracy and Electoral Assistance (IDEA) Handbook on Participation, Representation, Conflict Management and Governance (Sisk 2001:72), in its chapter entitled “Democracy as Conflict Management”, claims that “democracy is a system of managing social conflicts

that arise from community diversity using a set of agreed social rules”. If this claim is accepted, one must consider the interplay of decentralization with increased levels of democratization, and correspondingly, reduced conflict. If a relationship existed, one would expect to see correspondence between these factors. Questions then arise as to how to gauge whether increased democratization has occurred at the local level. Can this democratization be linked to processes of decentralization and, if applicable, has there been a correspondence in levels of conflict? Beyond the absence of overt conflict, what are the implications for the building of peace?

Conflict in NRM and Possible Links to Decentralization

NRM and Conflict

Natural resource use continues to be an aggravating factor in armed conflicts – resources are often the most visible and symbolic cause of disputes (Tungittiakorn 1995). Responses have included increasing efforts devoted to resource planning as well as revising central policies dealing with NRM – all efforts essentially to minimize conflict. Means and Josayma (2002) claim that conflict in NRM is not simply an outcome of centralized decision-making or changes to more decentralized forms of governance. It is an inevitable situation in which people have differently defined interests and goals in natural resource use and management. A growing body of literature argues the constructiveness of conflict as a normal and common part of social and political life, and that the true need is for collaborative approaches that maintain a healthy respect for the different and often conflicting values and interests of multiple groups (Tyler 1999; Means and Josayma 2002). Even more provocatively, Brown (1983) suggests that attempts should not be made to remove conflict entirely because it can provide a powerful source of change. “Conflict management can require intervention to reduce conflict if there is too much, or intervention to promote conflict if there is too little” (Brown 1983:9, quoted in Driscoll 1994:8). It can serve as a catalytic force by pointing towards inequality, potential loss, potential obstacles to progress and the need or desire of communities to assert rights (Means and Josayma 2002).

Policy and Conflict

Ample evidence suggests that policies have generated or aggravated conflicts. Based on the record of counter-productivity in conventional resource conflict interventions, it can be deduced that the nature and dynamics of resource conflicts are poorly understood (Tyler 1999). Policy specifically related to decentralization reforms and their intersection with contexts of conflict is a central concern of this research. Inadequate or contradictory policies and laws have been identified as common causes of conflicts over NRM use and management (Tyler 1999). 'Policy,' as used here, refers to programs, strategies, plans and their implementation resulting from public or collective decision-making (Lindayati 2000). In order for any transfer of responsibilities to yield successful management, commensurate rights are required, and a critical role remains for states in enforcing regulations, punishing violators and settling disputes. Recognition must exist that state agencies and users are not the only relevant groups, but that local government, NGOs and private companies all play important roles. Initial negotiation is needed between different parties, and clear understandings developed of roles, rights and responsibilities in order for conflict to be mitigated (Meinzen-Dick and Knox 1999).

Tyler (1999) points out that it is precisely because the state is not a disinterested party that its role in resolving conflicts can and should be limited – however, regardless of its role, state support may be essential to the success of reforms through powers of enforcement and support for implementation efforts. Changes in the way states are interpreting their roles and defining stakeholders is influencing the way governance is operationalized. “Innovative mechanisms are likely to lead to policy support for new institutions and processes outside the formal realm of state authority, and the emergence of new actors and skills to manage conflict situations” (Tyler 1999:268). Despite the value in the use of locally specific solutions, there exists a need to modify and integrate existing tools with relevance to conflict management generally.

Summary and Implications

The diffuse relationship between natural resources and conflict has been well documented, with natural resources serving as one of the more visible causes of violent disputes. The dimensions and levels of conflict are multiple, as are its manifestations,

which range from systemic tensions to interpersonal violence. State responses to conflict related to natural resources have included efforts to revise central policies, including moves towards decentralization. But the origins of conflicts are often complex and multiple. Based on the counter-productivity of conventional resource conflict interventions, we can suggest that the dynamics between policy and conflict have yet to be well understood. The direction suggested by the foremost scholars of the resource – conflict – policy dynamic leads towards developing innovative approaches to governance. This may extend to a blending of traditional and national systems, and the emergence of new actors and sets of skills.

The summary above shows a gap in existing research on the intersection of conflict and decentralization. While conflict's role in precipitating decentralization has been acknowledged, decentralization's role in precipitating conflict has been minimally explored. This is thus the question framing this research. Is there a link between decentralization reforms and conflictual dynamics? If so, where and in what forms does the overlap between these dynamics lie? Further, the above discussion points towards a need for an innovative structuring of the 'problematique' as well as practical approaches with which to address this dynamic in decentralization reforms. How might a re-framing of the conflict-decentralization question lead to an improved understanding of practical conditions and applications, and how these precipitate conflict?

Methods

The research began with an assessment of the secondary literature. On the basis of the dearth of research on the potentially conflictual impacts of decentralization reforms, it was determined that field research would contribute to the existing body of literature. The selection of field sites in Southeast Asia was based on several criteria. First was an interest in those countries in which explicit and extensive decentralization reforms were underway. Second, an attempt was made to identify particular countries and cases in which decentralization reforms were apparently leading to, or acting simultaneously to, local-level conflicts surrounding NRM. As a result, the extensive decentralization reforms in Cambodia and the Philippines were identified as fruitful cases, and the more local sites

in Ratanakiri and Sagada emerged through investigation as conflictual contexts of possible interest. It must be noted, however, that the research for this project was conducted during an internship funded by the International Development Research Centre (IDRC) and the cases selected were also those with strong pre-existing relationships between IDRC-linked researchers and local government. It also bears note, from a methodological perspective, that in each of the cases eventually chosen, the local sites consisted primarily of indigenous and minority peoples. This raises the question of the generalizability of this research to majority and non-indigenous contexts. Clearly, this is an area requiring further study and the findings in this paper can only be exploratory in the issues they seek to raise.

The data collection for this research was conducted over a 2-4 week period in each of the field sites. A series of group and individual interviews were conducted in the research sites of Kok Thom, Kok Thoy, Lanminh and O Chum in Cambodia, and Fidelisan in the Philippines. Additionally, interviews were conducted with key informants and relevant actors from various associated fields. These included NGOs, project managers, local government representatives (mayors, commune¹ chiefs, provincial representatives, etc.) and researchers on related topics.

Given the relatively brief amount of time that was spent in the field, it is not credible to argue that the researcher gained considerable trust from the communities. Also, given the rather technical concepts relating to decentralization, it was found that the questions and information being sought were not necessarily appropriate for most community members in both Cambodia and the Philippines, thus the interviews cannot be considered representative. It was often those who were politically involved who were the most knowledgeable about decentralization and local government processes, and these individuals had particular biases. Certain groups, including marginalized community members and women, were therefore under-represented in field interviews and data collection. To counter these inherent biases, triangulation was attempted through extensive interviews with key informants outside of the immediate communities, and through a careful review of existing literature. Finally, translation of information from local

¹ An administrative unit in Cambodia, comparable to the municipal level.

languages presented a challenge that was not entirely overcome in this research project. Translators were used, and at times information was passing through several language translations and individuals before being recorded in English. While every effort was made to ensure the accuracy of translations, a result of this is that few direct quotations are used, and that multiple voices and perspectives were relied upon for validation.

Findings from Field Cases

Ratanakiri, Cambodia

Background

The northeastern province of Ratanakiri has some of the most fertile red volcanic soils in all Cambodia. Ratanakiri is biologically diverse and is one of the few areas in Cambodia that is extensively populated by indigenous ethnic minorities. The Kreung, the Tampuan and the Jarai, the main indigenous groups in Ratanakiri, all practice forms of swidden agriculture that stand in contrast to the wet paddy rice production of the lowland Buddhist Khmers. Despite its wealth of high-quality soil, population density in Ratanakiri has remained low, with a long-maintained equilibrium averaging 30 people per square kilometre in each village 'territory' (Fox 1996). Never fully amalgamated within the Angkorian Empire, Ratanakiri has found itself, however, on the receiving end of a series of externally propelled projects, among them some of the most violent and defining events in Cambodian history. Ratanakiri was one of the first areas in which the Khmer Rouge gained a foothold and one of the last areas where they ceased to be active. It was also the site of some of the most intensive carpet-bombing during the US – Vietnam War.

Increasingly, the cash economy has made inroads in Ratanakiri. While, in many cases, monetary income represents a small source of overall subsistence (averaging US\$5/month), it is nonetheless increasingly desirable. Motorbikes, televisions and karaoke sets are all highly coveted items and are changing both the livelihoods of Ratanakiri residents and the physical face of the province. Cash cropping is becoming increasingly widespread, with plantation crops gaining in popularity - cashews, mangoes and tobacco, to name a few. Superficially amusing, but symptomatic of deeper responses to

change, one of the noted negative impacts of the introduction of karaoke has been the theft of cashews from private plantations in payment for songs at local karaoke shops (200 Riel/ song, about 6 cents US). Few Ratanakiri villages have electricity, but in the case of one of the 'success story' communes, Somthom, a generator, has been purchased for the village and consequently cashew theft for karaoke has become a noted concern.

Many of the conversations with local government and international support staff suggested that a number of factors had aligned throughout Ratanakiri such that a critical threshold was being breached and an urgent situation unfolding. Of these factors, perhaps most significant was the increased security of the only land access road into Ratanakiri. Until 2002, the road into Ratanakiri had been subject to Khmer Rouge attacks and most travel into the province was deterred. After 2002, with the Khmer Rouge effectively dissolved, Khmer from the lowlands were able to access Ratanakiri and its perceived bounty of business opportunities. The 'business confidence' demonstrated by lowland Khmers arriving in Ratanakiri is in part related to the easily accessible land (through purchase, trickery or theft from local communities and corrupt officials), and the rich fertility of the province's natural resources. As a result, the population of the province has begun to swell; in 1996 the provincial population estimate was 64,400 (Ministry of Planning 1997) and in 2004, the population was estimated to be 116, 400 (<http://www.world-gazetteer.com>) - almost double the population in less than a decade. The population is growing proportionately more swiftly in Ratanakiri's capital, Banlung, than in the Cambodian capital, Phnom Penh, mainly because of ethnic Khmer migration (McAndrew 2001). Additionally, the increase in land sales, and particularly land speculation, has been linked to the proposed development of Road 78, which crosses the Cambodian border as Road 19 in Vietnam. The development of business operations, including shopping malls, is being discussed for the intersection of these two countries and Laos, which also borders Ratanakiri.

Decentralization

Decentralization has been a central plank in the Cambodian government's vision for rebuilding the country. International donor agencies have advocated and heavily

financed this vision and, perhaps as corollary, it has not always been effectively undertaken. The Seila Program (*seila* means foundation stone in Khmer) is a joint effort of the Cambodian government and United Nations Development Program (UNDP) to decentralize the country's governance systems. Recognizing the limited capacity of the Cambodian government staff, UNDP had provided support for this effort through its advisory program to the Cambodia Area Rehabilitation and Regeneration (CARERE) Project², now defunct. What used to be CARERE has been re-christened the Partnerships for Local Government (PLG) Unit, and supports policy development and regulations relating to decentralization and local development under the Seila rubric. One of the main projects of the PLG team in Ratanakiri is to assist the Department of the Environment in conducting its Participatory Land Use Planning (PLUP) Program. This is undertaken with the intent of strengthening local land rights through the demarcation of traditional village boundaries. With the creation of communes as legal administrative entities, and the inauguration of commune councils in 2002, the basic regulatory framework and institutional and administrative systems for decentralization are claimed now to be in place.

The key mechanisms through which governance is being decentralized in Ratanakiri include Village Development Councils (VDCs), Commune Development Councils (CDCs) and the development plans produced by these respective committees. A third pivotal body is the Provincial Rural Development Committee (PRDC), which as a part of a broader national decentralization strategy, in 1998 initiated acts to coordinate, assess and endorse the planning activities of the various levels (including village, commune, district, province and national). With respect to the decentralization of NRM specifically, NRM committees were established in target villages with the mandate to raise natural resource issues in Village Development planning meetings.

In Ratanakiri, the processes of decentralization have followed a course reflecting, yet distinct from, those of the rest of the country. Given the remoteness of the province, its ethnic diversity and its recent history of Khmer Rouge dominance, the Cambodian

² The CARERE Project of the UNDP merged activities with the IDRC research project, which had an office in Ratanakiri until this point in 1997. This merger resulted in the Community Based Natural Resource Management (CBNRM) Project, whose team assisted this particular research project.

government has been relatively weak in Ratanakiri and has accepted considerable involvement from the strong NGO presence there. In this context, the PLG team developed under strong leadership with a view to preserving environmental and cultural integrity – primarily through the development of decentralized, local governance. It served originally in an implementation role for projects that exceeded the capacity of the then-local government.

Given the relatively small population in the provincial capital, Banlung (currently about 10,000), the NGO community worked closely with the PLG team and collaborated in the objectives and implementation of a number of projects. As the local government gained in capacity and experience, the role of the PLG gradually became an advisory one, with the actual implementation of projects increasingly left to departmental line agencies. This shift in roles has coincided with the improved articulation of interests by the national government, and has been a source of frustration for NGOs active in the province. They have come to view the PLG team as collaborating with, and protecting, the government. This has set the stage for a thicket of conflict and tension, which while perhaps not stemming directly from decentralization processes, intersect explicitly with them in Ratanakiri. The re-alignment of structures inherent in decentralization has exacerbated struggles for power and jurisdiction that had previously lain dormant – particularly in this case between NGOs and the government.

Micro-level Tensions

Three Ratanakiri communes were studied in the course of conducting this research: Kok, Lanminh and O Chum Communes. Their selection was based on several criteria. First was an interest in contexts where decentralization and NRM processes had led to tensions, ‘constraints’ or conflicts. Communes that represented success stories were omitted. Second was a desire to explore and compare these issues in the context of territorial delineations and the various land mapping projects that had taken place. A series of mapping projects had been initiated over the past decade including a primary initiative sponsored by the Swedish International Development Agency (SIDA), and later a more comprehensive Indigenous Land Planning initiative.

The PLG team believed that many of the problems emerging in Kok Commune were partly related to the prior SIDA-funded, 'quick' process of land mapping promoted because of the agency's alarm over accelerating rates of land alienation occurring in indigenous areas and bypassing the more time-consuming community empowerment and awareness steps. Lanminh represented a case of resource-wealth related conflict through the proliferation of precious gem mining and its impacts on affected communities. Despite the extensive, illegal and environmentally destructive nature of gem mining in Lanminh Commune, a number of commune residents expressed a keen sense of powerlessness in being able to address these concerns. Finally, O Chum Commune is experiencing boundary pressures from neighbouring communes, and particularly the provincial capital of Banlung, as populations in the province swell. O Chum residents have been engaged in the widespread selling of untitled, communal lands in what is typical of province-wide trends, and the ethnic diversity of this commune seemed to make it a particularly compelling case.

Kok Commune

In addition to meeting with commune officials, interviews were conducted in two primary villages of the Kok Commune: Kok Thom and Kok Thoy. Interviews were held with a range of relevant groups (i.e., commune councils, NRM committees) and at individual and household levels. The PLG staff generally identified Kok Commune as one of the more prominent sites of conflict, tension and general confusion in the province. The PLG and line department staff attributed much of the conflict in this commune to the activities of the commune chief and his nephew. The nephew had apparently conspired to buy up a large amount of the village land, while negotiating with community members that they might remain on their plots for at least 'the foreseeable future'. It seemed that such a scenario was not uncommon in many parts of the region, and that it often ended with the official owner of the lands gradually forcing residents off of their traditional properties. In addition, the 'parent' village, Kok Thom, had apparently lost land that had been sold to

'outsiders'³ by the more recent offshoot village, Kok Thoy, to which the commune chief and his nephew belonged.

Through meetings with members of the Kok Thom village, including those of the local NRM committee, it became clear that the situation was unsatisfactory to the villagers and was perceived to have deteriorated. Generally, the sense was that their ability to meet basic needs and pursue livelihoods had diminished. The traditional 'village' had lost considerable land through encroachment, theft and sales, and it was estimated that current village territory was some fifty percent of what it had traditionally been. Through group interviews it was claimed that rice (the dietary staple) was insufficient, and that fuel wood and non-timber forest products such as wild game were much less accessible than previously, leading to claims of 'never' being able to eat meat. (This needs to be balanced against the fact that the timing of the interviews was during the wet season, traditionally a nutritionally lean time.) It was also suggested that limited access to housing materials through deteriorating forest quality and increasing distance to forested areas has left villagers with smaller, lower quality housing than in the past.

Several concerns appeared to have particularly ignited village-level frustrations. First was the loss within the past few years of access to a lake that the village had previously claimed. A local health department official evidently had received the blessing of the district chief⁴ to clear and establish a plantation in the area adjacent to the lake. While, based on interviews, the village as a whole was not happy with this, it had not been challenged because the land had not been under cultivation at the time of its being enclosed. Eventually, however, the official planted rice around the circumference of the lake and forbade the villagers to traverse the paddy fields to access the lake. Members of the village claimed that they could not remember a time in which the lake had not been their primary source of protein (fish, frogs, small animals), and since the loss of access they had not succeeded in finding any replacement sources. On confronting the health official, a village delegation was presented with a document he claimed was a land title

³ 'Outsiders' in this sense means non-indigenous individuals who do not have long histories in the area and do not practice similar patterns of communal land management.

⁴ A district is an administrative unit higher than municipal, yet lower than province.

(because most of the villagers are illiterate and have limited, if any, Khmer language ability, they could not assess the veracity of the document). The villagers also believed that, since he had occupied the land adjacent to the lake for several years, he was legally entitled to it. This example is emblematic of the villager lack of awareness of legal entitlements. The 2001 Land Law makes it illegal for sales of land to occur to Khmers, or non-indigenous community members, in lands that are communally managed by indigenous peoples. Furthermore, lakes are considered state property and are inalienable.

The 'quick' process of commune mapping produced a map document but did not succeed in obtaining village- and commune-level consensus, support or even basic community-level awareness. The national-scale mapping initiative of the Land Management and Administration Program (LMAP)/ Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ, German Agency for Technical Cooperation) later reviewed and critiqued this SIDA-supported 'quick' process. As a result, SIDA reversed its accelerated attempt to demarcate the province and eventually the more comprehensive Indigenous Land Use Planning initiative replaced it. The PLUP team intended to return to Kok Commune in 2004-05 in order to resume the community awareness and empowerment steps that had earlier been bypassed. The intensity of the problems confronting the village was perceived to have accelerated rapidly over the several months immediately prior to this research being undertaken in mid-2004.

A second village studied in Kok Commune was Kok Thoy. About 5 years ago, the two Kok villages (Kok Thom and Kok Thoy) were a single village, and it was as a result of sickness that the village split, as custom relating to dangerous spirits dictated, and the new 'offshoot' village, Kok Thoy, relocated a few kilometres away from the 'parent' village. The commune chief of Kok Commune belonged to Kok Thoy, and his house, complete with karaoke set and vats of rice wine, appeared better off than those of most other villagers (although it was explained that to be elected for the post required 'respect' and that wealth was a prerequisite for 'respect'). Some members of Kok Thom suggested that the newer Kok Thoy had been selling land that Kok Thom villagers considered theirs. When asked about inter-village and inter-commune conflict, the

village-level discussions clearly expressed tensions between themselves and Kok Thoy. However, when similarly questioned, Kok Thoy residents claimed that there were no tensions between the two villages, and that Kok Thom's problems were due to the lack of consensus within the village as to whether or not land should be sold.

The interviewing in Kok Thoy was conducted at the house of the commune chief's nephew – the same nephew who had been accused of buying up the village land. While the interviewees were mainly NRM committee members, when asked for more detail about the problem of land sales they identified, they responded that they could not say, because the person responsible would not be happy with them. Interestingly, when the commune chief was interviewed along with the commune council, and asked about the causes of the commune's problems, he attributed it to the NRM committees having too much power. The commune council is elected and is ultimately answerable to its political party, and theoretically its constituents. The NRM committees are likewise elected but are trained, organized and supported by the Department of the Environment. The exact nature of the dynamic in this commune is unclear because conflicting versions were being offered but it would seem that the NRM committees either are hindering the commune chief's sale of lands, or are demanding a cut of the proceeds.

Lanminh Commune

The second commune studied was Lanminh and the village of Kamang. While the villages in this commune did not appear as impoverished as those in Kok Commune, and the village chief claimed that all was well and that 'development' had benefited the village, prior discussions with PLG staff had indicated major problems relating to mining in the area. The village chief and his positive assessment of current developments dominated the group interview process until several other village members challenged his position and became actively involved in criticizing recent local events, at which many of the villagers assembled became vocal in affirmation. It emerged that the commune village chiefs had joined forces and were collectively petitioning the district chief to ban non-traditional forms of mining from the commune. The presence of 'outsiders' continuing unregulated mining within the commune and surrounding areas was presenting a breadth of problems that were, at minimum, beyond the capacity of local

actors to resolve. In fact, the national military had been dispatched at one point to attempt control of the mining that was taking place throughout Ratanakiri (which means 'mountain of gems' in Khmer), but were effectively subsumed under the control of the miners through various forms of graft. The failure of the national military to effectively manage the situation spurred 'devolution' of powers to the village level. While given limited authority to enforce regulations, the relatively poor, illiterate villagers were left with the burden of attempting to regulate the miners.

The detrimental impacts of mining on the environment and human health are well documented (Ripley et al. 1996; Oxfam 2004). Mining for gold, as taking place in Ratanakiri alongside gem mining, introduces chemical compounds, such as mercury, which are used to separate gold from the rest of the rock material. Not only is mercury highly toxic but also, during the mining process, dangerous minerals naturally present in rocks and soils are released via weathering and carried into various water sources (Oxfam 2004). In mining areas, the concentration of these minerals may be thousands of times above the ambient background level. At these high concentrations, heavy metals such as mercury, lead, tin and cadmium are poisonous and other inorganic materials such as acids, salts, nitrates and chlorine, not normally toxic in low concentrations, may become sufficiently concentrated to lower drinking water quality and adversely affect aquatic life. A report recently released by the Cambodian Ministry of Industry, Mines and Energy in collaboration with Oxfam America corroborates the effects of this. The report finds that technological changes in gold processing and recovery are likely exacerbating health and safety problems not only for miners but also for other Cambodians living near small-scale mining (Oxfam 2004).

The group interviews that were conducted in Lanminh (including elders, male community members, women and children) resulted in expressions of great concern over the impacts of the mining. Villagers most commonly articulated concerns with the potential impacts on their own and their children's health. There seemed consensus in the village-level discussions that villagers could no longer bathe in the rivers and streams as they once had, and now were having to carry water to be boiled for bathing. It was noted that fish populations, once a primary source of protein, are plummeting, as are other forms of

wildlife living in and around the watershed. Abandoned mine shafts pose risks because they are unmarked and unregulated, and villagers' departures from well-worn paths are at their risk. The miners themselves were viewed as a source of concern. Villagers claimed that often the miners had previously been soldiers, and utilized whatever natural resources were at their disposal unchallenged. Confrontations with miners were professed to end badly for the villagers.

The interviewed villagers expressed sore disappointment when addressing their concerns with higher levels of authority, namely the past and present commune chiefs. It was pointed out that the commune chief does not live near the affected waters and therefore has little personal stake in preserving their quality. Yet he was argued to have much to gain from cooperating and colluding with the miners. As one young male villager explained, "Yes, sure he helps us, but since others can pay more, he helps them more." This same villager related how he had attempted to press charges against miners illegally mining on the communal lands he farmed. He was immediately disadvantaged by his functional illiteracy and lack of fluency in Khmer, but upon being told that he would 'need to pay to sit in the police office chair', he decided that the overall costs were too great, and chose instead to 'stay quietly'. In another incident in which villagers were hoping to have a particular mining site blocked, they slaughtered a calf (a considerable investment where people will go months without meat) as tribute to the commune chief. He accepted their 'payment' but, in violation of local norms, already had accepted 'payment' previously from the other side and therefore did not act on behalf of the villagers as anticipated. The villagers attending the discussion group were vocal in their frustration with this perceived betrayal and their limited ability to seek redress.

O Chum Commune

The interplay of dynamics in O Chum Commune can be described as a microcosm of those being played out at the provincial level. Land loss through sales, grabbing and encroachment (plots of land reported in some areas to be sold some six times over), an increasing population struggling to sustain itself with less land, inter-village and inter-commune disputes, ethnic diversity and corruption are all issues that plague this commune and are present at the provincial scale. O Chum Commune is also home to

the district centre and, at the time of this study, there were discussions surrounding the clearance of land in O Chum in order to build a market in the district centre. Land speculation in O Chum is prevalent because, being adjacent to the provincial capital of Banlung, it provides residents with lower property costs than Banlung, while still within access of the larger town. It was also suggested that O Chum was a particularly popular site of resettlement for ethnic minorities working within Banlung, which is mainly populated by Khmers, largely because it would permit them to continue farming.

A Khmer PLG team member related how, on his previous research trip to O Chum, several villagers approached him offering to sell him land. Discussions with the NRM committee in O Chum and then with the commune council conveyed their view that the primary problem was limited land, and the cause of this was suggested to be encroachment by other districts and communes - not particularly the sale of land by local community members. When asked about the sale of land, both groups (NRM committee and commune council) agreed in principle that the sale of land should be stopped, at least to outsiders interested in buying land for business purposes. Stories were recounted of villagers being tricked by outsiders, one of which involved a commune council member being asked to thumbprint permission for an outsider to plant cashews on communal land. Unable to read, he was unaware until too late that it was a bill of sale.

A point repeatedly raised through interviews with the NRM committee members relates to their involvement and influence in the practice of land sales. Comments by the commune chief in Kok, which of course need to be taken judiciously, suggest that a well-organized structure exists; he claimed that NRM committee members were receiving a set rate payment for each plot sold. Finally, an interesting dimension of the scenario in O Chum lies in the relationship between ethnicity and conflict. Despite reportedly increasing levels of inter-village, inter-commune and other forms of tension, the ethnic diversity of O Chum has not emerged as a substantial source of divisiveness. The commune council at the time of the interviewing was made up of Jarai, Kreung and Khmer, and council members professed to have no strain in their interactions and that inter-ethnic disputes were low on their list of problems facing the commune. This would appear to be

supported by history where inter-village and inter-ethnic conflict seems to have been exceptional.

Institutional Framework

One of the pieces of legislation of greatest significance to Ratanakiri is that of the 2001 Land Law. It is of particular salience in that it was the critical situation of spiralling land sales in Ratanakiri that initially prompted its passing. The 2001 Land Law makes the considerable contribution to the institutional framework of Cambodia of affording it formal provisions for communally managed lands. It also takes specific account of the indigenous minorities, particularly in remote provinces such as Ratanakiri, according them legal protection of traditional and customary land management. In Article 23, the Land Law designates an indigenous community as:

“A group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use.”

In Article 26 of the Land Law, provisions are made specifically for the collective management of indigenous minority lands. Additionally, some types of State public land are considered eligible for registration under collective title, particularly where these relate to forest areas managed by the community for protection, spiritual and burial purposes.

The process by which the 2001 Land Law was enacted reflects the dynamics being played out at the local and provincial levels in Ratanakiri. The NGOs active in that province had joined forces with more broadly based international agencies and succeeded in sufficiently pressuring the national government for the legislation to be instituted. Many of these NGOs in Ratanakiri remain active in the pursuit of their objectives and approaches, and have been bolstered by their success with the 2001 Land Law. The value of this law lies in the pre-existing legal context of land ownership. In 1975, under the Khmer Rouge Regime, private property was abolished and only came to

be reinstated in 1989⁵. Although, in principle the right to hold private land titles was recognised, few people actually received land certificates and, in 1992, a new land law further exacerbated an already problematic situation. Rather than addressing the issue of land grabbing that had taken place before the implementation of the law, the 1992 Land Law effectively made such takeovers legal. The confusion and lack of clarity surrounding land titles led to increased land grabbing and concentrated control of land. In 1998, the Asian Development Bank (ADB), amidst considerable controversy, undertook a review of Cambodia's land legislation and made revision of the Land Law a precondition for release of the next tranche of its agricultural Sector Reform Program. After 2 years of discussions, the revised land law was approved by the National Assembly and Senate and became law on 31 August 2001⁹. However, the involvement of the ADB in land management has raised deep concerns, primarily that the structural bias of the Bank, as well as the Cambodian government's enthusiasm for cash crops and plantations, would result in the new land law favouring investors' rights over those of villagers.

Themes Emerging from the Ratanakiri Context

A web of issues arises from the Cambodia case study; one of the most murky and problematic in Ratanakiri is the titling and sale of land. Indigenous communities have seemed at least to have formal consensus that the private sale of lands by individuals in areas that have traditionally been communal is a practice that does not benefit the community. But, as one elder stated, while during official meetings people agreed that sales of communal land were wrong, outside of the meetings, sales of land by individuals continued and accelerated. Village leaders in Kok Commune, when asked about their inability to halt the dispersal of land, claimed that they could "suggest to the people what was the right way, but that finally it was up to the people to decide for themselves". The village leaders declared unanimously that the sale of land was mostly done unofficially and without the granting of titles, and therefore their signatures and approval were easily bypassed. Money changed hands and, despite the suggested lack of higher authority, the community felt obliged to honour transactions made.

⁵ http://www.oxfamkong.org/graphics_pages/land_and_forest/Countries/Cambodia.htm - Oct.4, 2004.

The Khmer support staff with whom this study was conducted expressed difficulty in relating to this problem, and chalked it up to cultural difference. In more authoritarian Khmer society, they suggested that if the leader disallowed a certain practice such as land sales, this would be respected, and if not, enforced swiftly and decisively. The more egalitarian indigenous societies of Ratanakiri apparently proscribed such direct and confrontational approaches, preferring to suggest and consensually influence behaviours. According to the Kok Thom village chief, it was a small community, and conflicts and tensions resulting from confrontational actions would make living and working together difficult. However, when the PLUP team suggested the long-term implications if more direct oppositional action was *not* taken, in at least one of the villages studied, the village chief stated that they had recently decided to supersede traditional norms and to more assertively enforce violations of the private land sale ban. This presents an interesting case of social capital restricting the willingness of community members to impose ‘sanctions’ on a proscribed behaviour, and yet conversely it is insufficient to outweigh the benefits of private gain through land sales.

This leads to the intersection of these dynamics with decentralization and conflict. The negotiation by Ratanakiri residents of traditional lifestyles versus ‘modern’ forms is the context underpinning processes of decentralization and redefining jurisdictions. Conflict occurring on this stage is taking various forms. Among these are questions of local representation, struggles for power by local stakeholders, contested jurisdictions by government sectors and levels and, visibly in the case of Ratanakiri, an animated negotiation between Cambodian government representatives and those of international NGOs over the political football of land sales.

On one side of the debate, the argument of the Cambodian government is the need to provide equal opportunity for all Cambodians. In the context of Ratanakiri, this has several implications. First, as the rest of lowland Cambodia is being increasingly populated and land is becoming less readily accessible, it is difficult for the government to disallow a re-distribution of lowlanders to less populated regions of the country. Second, the government articulates the need to provide all Cambodians, Khmer or otherwise, with the universal right to private ownership, and thereby sale, of land. To

deny Ratanakiri indigenous peoples alienable rights to land is to deny them the rights held by the rest of the Cambodian populace. The Cambodian government struggles with, and likely manipulates, the apparent dilemma this poses. The preservation of traditional culture and systems is at least apparently incompatible with national entitlements to private rights.

The burden of choice raises an interesting question. For indigenous community leaders to choose either private ownership or otherwise is a personal as well as a collective decision. If they decide against privatization, it will be at the risk of their own power base, because it will inevitably contradict the wishes of at least some community members wishing to fully engage with the cash economy. The Cambodian government stands to lose by taking a definitive position either way. They will be criticized most strongly by international and foreign NGO observers for issuing the deathblow to local indigenous cultures in the interest of economic gain. But, as the government argues, to insist on a land sale moratorium is to incite domestic criticism for preventing development of communities who desire it; criticism that will come not least from the indigenous peoples themselves.

The perception of the mainly international NGOs in the province tends to be different from that of the government, and in Ratanakiri their voice is especially strong. The NGOs emphasize the urgency of the situation, citing rapidly accelerating sales of land and erosion of indigenous culture as rationale for aggressive intervention. They emphasize the corruption and cynicism at all levels of government, and the global necessity to preserve the province with its forests and cultures intact. At the time of this research, the NGOs had joined forces to demand a halting of rampant land sales, and a petition was being circulated to higher levels of government requesting a complete moratorium on the sale of indigenous lands. While the government argues that this denies indigenous communities rights universal to the rest of Cambodians, NGO workers counter that allowing private land sales denies indigenous people their *communal rights*. The NGOs have been outspoken in pointing out the role the government has played, often to the detriment of the indigenous communities and their resources. And conversely the government has resisted and stonewalled the NGOs wherever possible, while still

maintaining international donor funding. The government and those sympathetic to its position raise, not unfairly, the question of the NGOs' accountability to local populations. Unlike political representatives, they are not elected and bear no stake in the day-to-day negotiations played out at the community level to ensure survival.

The question, however, and the crux of the problem in Ratanakiri, is the actual position taken by the indigenous communities themselves on how best to manage their resources and preserve their identity. Over the course of this research and serious attempts to ascertain a representative viewpoint of indigenous interests, the present author's sense at least is that there was no clear, commonly held view on the best course of action. The assessment of Ruth Bottomley (2002) on local responses to logging in Ratanakiri appears to parallel the reactions of communities to the problem of land sales:

"The response has been more diverse, complex, and contradictory. In addition to apparent incidents of resistance, there have also been cases of acquiescence, negotiation, and even outright cooperation with logging teams. This suggests that the local actions are not autochthonous, but are illustrative of the way in which the local is responsive to the larger society in which it functions (Bottomley 2002:588)."

Their resistance, particularly compared to that demonstrated in the Sagada context later discussed, is minimal. Ratanakiri communities are visited, studied and organized extensively and have come to recognize the answers appropriate for respective actors. In order to facilitate processes, and with a view to receiving financial support, community members have come to recognize the 'right' answers. A number of village heads had signed the recent NGO-sponsored petition banning land sales, but their widespread illiteracy and noted desire to meet expectations of outside 'benefactors' throws into question the veracity of their genuine support, much less that of the rest of the villagers. As a PLG team member noted, "The villagers will say entirely different things on different days of the week depending on who is visiting them."

Contrary perhaps to the views of others involved in Ratanakiri (particularly international NGO workers), this author *does* accept that decentralization actually is taking place in that province. True, from some perspectives what is occurring appears to be

deconcentration, with the central government replicating itself in areas in which it previously had limited foothold. However, I argue that there is at least the structural space and opportunity for entry points into genuine decentralization of decision-making powers. The obstacles to fully realizing this are multiple. One obvious challenge is the capture of positions of power by local (or external) elite. There are inevitably members of local governance bodies whose actions are determined more by personal interest than community representation. This is possibly reinforced by local- and community-level acceptance (or at least absence of vocal challenging) of hierarchies and inequitable representation. It is not clear whether this is a result of recent histories of subordination, a context in which vocal contestation is associated with personal risk, or a matter of traditions differing significantly with modern conceptions of the democratic process.

Sagada, The Philippines

Background

The case of the Philippines provides a contrasting scenario. Not only are the indigenous highland communities considerably different from those of Ratanakiri in their identity and their approaches, but also the government responses to their demands have diverged from those of the Cambodian government. Nevertheless, these two cases have certain similarities and recurrent themes that make comparison useful. Both countries have experiences of colonization, have been governed by highly centralized systems subsequent to independence and have seen a rapid recent degradation of their natural resources.

In addition, the communities studied in both Ratanakiri in Cambodia and Sagada in the Philippines are considered indigenous minorities, are highland dwellers practicing subsistence agriculture and have lived in lands and conditions considered marginal by their broader respective national societies. In both cases, highlanders have been portrayed as backward and primitive, and state policies, which included assimilation within national majority cultures through education, religion and farming techniques, were presented in terms of “civilizing” and contributing to the “social evolution” of the peoples. Bottomley (2002) notes that, although clothed in the language of welfare, these policies were founded upon the desires of the state to create a homogenous and ordered nation.

A particularly palpable difference between the two case studies has been the ability of the Filipino highlanders to develop a collective identity as Igorots, as ‘mountain people’, and thereby consolidate their political weight. During their longer history of political activism, the Igorots of the northern Philippines have fashioned strong and coherent visions of their interests and goals, and these have been distilled into a fierce call for autonomy and self-determination.

Sagada Municipality is located in the largest and most northern Philippine island of Luzon. The history of the northern mountain region of the Philippines differs from that of the rest of lowland Philippines. It is suggested that while a majority of the groups within the Philippines can be considered indigenous to the Philippine islands, it is the transformation of their respective traditional cultures under colonial occupation that has distinguished them from their more traditional, ‘indigenous’ kin to the north (and in certain other isolated areas). While the Spanish colonized much of the Philippine islands and successfully installed their legal and institutional structures, the Spanish never succeeded in securing control of either the Igorot region in the north, or the Muslim kingdom in the far south (Mindanao). Whereas the Spanish Regalian Doctrine⁶ held sway throughout the colonized Philippines, the Igorots repeatedly repulsed vigorous Spanish attempts at securing dominance in the northern Cordillera.

For most of recorded history, and continuing in practice up until the present, there existed no discrete conceptualization of ‘Igorot’ identity. Nor was there generally a higher authority than that at the village level. While there was a broader identification with other villages of shared language, solidarity beyond the village level was fluid. The construction of ‘Igorot-ness’ appears to have been created largely by the Spanish, who referred to the ‘savage Igolottes’ (Sianghio 2004), but it has been more recently and organically galvanized in powerful political movements resisting attempts by the independent Filipino state to centralize authority in the region. Proliferation of tales of the ‘savage’ and headhunting proclivities of the Igorots by the Spanish and subsequent regimes reinforced in the minds of lowland Filipinos the threat and degradation posed by

⁶ The Spanish introduced Regalian Doctrine claims for the state ownership of all natural resources. The Regalian principle was similarly used throughout other colonized territories including North America and resulting in the ‘Crown Lands’ of Canada.

the Igorots. Throughout the research for this study, the author found poignant the degree to which particularly educated, enterprising Igorot individuals of the past several generations have experienced, and repeatedly expressed, discrimination by their lowland peers. Perhaps partially as a result of this discrimination, the formation of well organized, well-educated and increasingly well-traveled highlanders promoting the 'Igorot' identity as a source of unity and pride became widespread. It is not difficult to find wide evidence of international Igorot associations, including a quarterly publication for the diaspora Igorot population⁷.

Despite the generic and historically derogatory term 'Igorot', the highlanders of the Philippines are composed of considerable ethnic, cultural and linguistic diversity. Similar to the various ethnic groups of Ratanakiri, they share comparable patterns of land use and resource management. This has contributed to their ability to develop unifying concepts and terms useful for political and administrative purposes. One of these shared concepts is that of the *ili*, or ancestral domain. As the basic unit of geographic scale, the *ili* traditionally consisted of a single village, its rice terraces, forest and other sites of spiritual and practical use.

Subsequent to independence, 'Imperial Manila' strove to incorporate and develop the highlands through a centralized approach of standardized governance. With the national unrest of the 1980s, during which the Marcos regime was overturned, the opportunity arose for the Igorots to collectively bargain for the recognition and formalization of their traditional governance and management practices. In keeping with this push for the codification of traditional systems, they succeeded in realizing traditional boundaries through legislation in the form of nationally acknowledged Certificates of Ancestral Domains, known formally as a Certificate of Ancestral Domain Claim (CADC). While the recently established Ancestral Domains often roughly follow administrative boundaries (i.e., municipalities and *barangays*, or village administrative level), their delineations have not matched pre-existing borders precisely and so have served as a considerable source of confusion and conflict over territorial rights.

⁷ International BIBAK Association, <http://www.aenet.org/igorot/bibak.htm>, cited Oct. 2004.

Fidelisan

The Philippines case study for this research focused at both the municipal level (Sagada Municipality) and at the local level, on a particular village in the Sagada Municipality, Fidelisan (also known as Pidlisan). The selection of Sagada was based on IDRC's prior involvement with funding the Natural Resource Management Project (NRMP 2), an initiative aimed at the delineation of ancestral domains in the area. Given the focus of this document on conflict in particular, the Cordillera Studies Centre (CSC) staff involved in implementing the NRMP 2 suggested a closer examination of the ongoing conflict between Fidelisan and its neighbouring village, Dalican (of Bontoc Municipality). Fidelisan is considered to be one of the most traditional villages in the municipality, and is the 'parent village' from which a number of surrounding villages have broken off. Many of the Cordilleran ethnic groups were at one time engaged in warfare and symbolic headhunting. This warrior tradition was emphasized by village members interviewed, with repeated references to the need 'to be brave' and honour their warrior pasts. This became particularly evident when inquiring about their relations with neighbouring Dalican.

The conflict between Fidelisan and Dalican surrounds, at least superficially, control of a contested water source. Fidelisan claimed that the fresh water spring, which is situated on the Fidelisan side of the separating *mountain ridge*, has traditionally been theirs and is located within their ancestral domain. The village of Dalican, however, claims that the ancestral domain boundary is *the river* at the base of the mountain ridge, not the ridge itself, thereby making the water source Dalican's. The dispute between the two villages over water access has a long history, more recently involving their respective municipalities as disputants. The first recorded deaths associated with the water feud occurred in the 1930s, culminating in the most recent murder in 1997. The saliency of the conflict was evident in interviews with the village elders who predicted 'the next tribal war'.

The role of local political interests in this dispute deserves note. Researchers familiar with the case at CSC suggested that the 1997 incident was spurred by the actions of politicians seeking votes. Being the year of a municipal election, a local politician is

reported to have 'donated' water pipes to the water-poor village of Dalican. The provision of water pipes with no existing source of their own water unsurprisingly prompted the Dalican villagers to divert water from Fidelisan's source. The Fidelisan residents were incensed by the diversion of what they considered to be *their* water, and subsequently dismantled and 'hid' the Dalican water pipes. The situation escalated and led to the killing of a Fidelisan villager who, according to the Fidelisan account, happened to be tending his fields, and reportedly accelerated the arming of Dalican residents with automatic weapons. The municipalities of both Sagada and Bontoc have backed their respective villages and have engaged in disputes at municipal and even national levels. Sagada municipality has argued that the water source is within the ancestral domain of Fidelisan and that traditional norms dictate that the downstream community determines water use. Bontoc municipality has argued for the use of the administrative municipal boundaries, which would designate water rights to Dalican.

Conflict over water, while often more complex than simply a resource dispute, is becomingly disturbingly familiar to rural Filipinos. The Philippines military reports that over the past decade some 276 villages have fought over water rights, water boundaries and shared agreements.⁸ Dalican has made the interesting accusation that Fidelisan is interested in utilizing ancestral domain boundaries as opposed to administrative boundaries for the increase in geographic territory that it would entail, thereby increasing their eligibility for Internal Revenue Allotment (IRA). The IRA is at present allocated to both municipalities and *barangays* on the basis of both population and territory, population-50%, land area-25% and equal sharing-25% (Valdelon 1999). As the mayor of Sagada Municipality claimed, being the smallest municipality in the province, Sagada simply 'couldn't afford' to cede any territory.

Another set of issues confronting Fidelisan echoes the gem mining concerns of Ratanakiri but with the residents commanding greater apparent self-determination in enforcing their resource control. Despite the keen interest of the Department of Environment and Natural Resources (DENR) in accessing the rich gold mines located in and around Fidelisan village, until the present it has deferred to the strong opposition of

⁸ http://www.ittind.com/waterbook/philippines_war.asp, cited 4 Oct. 2004.

Fidelisan residents. An example of the potential for conflict inherent in the pluralistic Philippine legal system (in the special conditions of the Cordillera at least), the state considers all untitled lands and natural resources to be its property, while Cordilleran customary law views land and resources to be the property of those occupying the land. In order to provide formal approval for Fidelisan's small-scale mining activities, with a handful of miners working part time and using traditional methods, the DENR has offered to 'lease' the mines to Fidelisan. The village has vehemently rejected this, with elders questioning why they would lease something that is already theirs. An article detailing the mining dispute in Fidelisan reports that the Fidelisan residents have acted decisively and fairly in the past in managing their mining resources (Rogers 1997). When elders from the downstream village of Dantay complained about silt and mercury residue from the mine site affecting the quality of their stream water, the elders of Fidelisan acted promptly. They declared the mine closed and it remained so for 2 years.

The tolerance that the DENR is showing Fidelisan in allowing it full control of its potentially valuable mines is no mere matter of high principles. As Steve Rogers of the Multinational Monitor noted, "To economists and government planners, the small miners are a mere nuisance. Their output is minimal, and they stand in the way of 'rational' exploitation of mineral deposits. But until their claims are addressed, it is likely that more confrontations -- possibly violent ones -- will occur" (Rogers 1997). Historically, efforts to oppose the wishes of Cordilleran groups such as the Kankanaey speakers of Sagada have been at the expense of those challenging them. During the 1980s, the government with World Bank support attempted to construct a major hydroelectric dam on the upper Chico River. The local peoples resisted, first with protests, then with civil disobedience and finally with armed insurrection. The government finally was forced to abandon the dam and a three-province forest exploitation scheme that it also had planned. This incident has since complicated interactions between the government and Cordillera residents, while simultaneously reinforcing the capability of Cordillerans to successfully negotiate their demands.

Decentralization and Institutional Framework

The case of the Cordillera region of the northern Philippines could be described as possessing what Santos called *interlegality* (quoted in Bromley 1994:46), also commonly referred to as ‘legal pluralism’ – a multiplicity of legal orders simultaneously interacting with one another. A number of institutional structures and laws are acting and overlapping at multiple levels. Within this thicket of legal constructs, there is little insurance in the laws serving their intended goals, rather they appear to provide the more powerful actors with a selection of legal means by which to most effectively pursue their interests. As a result of the confusion surrounding the various legislative instruments and repeated experiences of exploitation in the hands of the central government, Fidelisan residents interviewed for this research expressed deep suspicion and reservation about the intentions of even the most progressive seeming legislation. Examples of this include the Indigenous Peoples Rights Act (IPRA), and more recently the Department Order (DAO) 2 and CADC. The IPRA promisingly proclaims that:

“The State recognizes the inherent right of ICCs/IPs to self governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social, and cultural development”⁹.

The Revised Forestry Code of 1975 (Presidential Decree 75) classified all forest areas and all lands over 18 percent slope to be public and non-alienable. This Code was a particularly bitter source of resentment in the Cordillera where most of the terrain is well over the 18 percent rule. The existence of centuries-old terraced rice fields, often at remarkable slopes, and their inability to be considered alienable or private agricultural lands, stands in sharp contrast to the traditions that have historically governed them, thereby denying communities legitimacy and security of tenure over their ancestral territories. DAO 2 represented a significant shift in government attitudes to traditional and customary systems of resource management. The rapid degradation of certain public areas of the Cordillera (i.e., Mount Data National Park) led to recognition by the state that, without empowering local communities and providing secure tenure to their

⁹ Section 13 of Republic Act 8371. Indigenous Cultural Communities (ICCs), Indigenous Peoples (IPs).

traditional lands, sustainable management of natural resources would be unlikely (Colognon Jr. 2001). Like the Land Law in Cambodia, the passing of the DAO 2 was hastened by the stipulation of ancestral domain recognition as prerequisite to release of a tranche of international donor (United States Agency for International Development, USAID) funding (McDermott 2001). In the DAO 2, national laws recognize that the state is not the sole legitimate actor in land management. It states:

“The policy is intended to preserve and maintain the integrity of ancestral domains and ensure recognition of the customs and traditions of the indigenous cultural communities (and) to identify and delineate ancestral domain and land claims, certify them as such, and formulate strategies for their effective management” (DENR DAO 2, 1993).

Ancestral domain, as it is defined in the DAO 2 involves:

“All lands and natural resources occupied or possessed by indigenous cultural communities, by themselves or through their ancestors, communally or individually, in accordance with their customs and traditions since time immemorial, continuously to the present except when interrupted by war, *force majeure*, or displacement by force, deceit or stealth. It includes all adjacent areas generally belonging to them and which are necessary to ensure their economic, social and cultural welfare” (DENR DAO 2, 1993).

However, the DENR’s definition of ancestral domain serves among other things to unearth increasingly difficult questions. What constitutes ‘time immemorial’? Are there differing concepts of time immemorial and ancestral domain for different groups? Who is to adjudicate claims of ancestry related to a territory? And, related, does ‘all adjacent areas *generally* belonging to them’ refer to the community’s own perception, the consensus of neighbouring groups, documentation or other forms of claim? The Fidelisan – Dalican conflict pulls upon threads from this loose institutional framework. The Dalican claim insists that first, *administrative* rather than ancestral domain boundaries should be used, and second, that even if ancestral domain boundaries were used, that the water source is within *their* ancestral domain. This raises the question of how an ancestral domain is determined. The Fidelisan residents dismiss the Dalican claim to ancestral domain because they can remember a time before the Dalican,

specifically, they claim that the Dalican migrated to the region from Cervantes within the past several hundred years. Researchers at CSC challenged this view of entitlement relating to ‘first coming’. It was suggested that length of time spent in specific location was, in fact, not determinant (and contrary to the DAO 2 definition), that ‘domain’ was determined *by the successful defence of one’s territory* against encroachment by neighbouring groups. This view contends that ethnic groups in any given area traditionally accepted such militarily enforced boundaries as determining domain. In this definition of ancestral domain, the Dalican, while perhaps not having the length of residency claimed by Fidelisan, have successfully defended their boundaries up until the present, thereby validating their claim to ancestral ‘dominion’ of the territory.

A corollary of this argument would perhaps raise the consideration that such a violent contestation of boundary as is being seen now between Fidelisan and Dalican might in fact be in keeping with traditional, indigenous norms and processes. If it is desired that traditional structures and cultures be maintained, perhaps the contemporary context is a continuation of this and the blurred boundaries between national and local norms need to be more carefully articulated. The conflicting accounts of the two villages as to where the *ili* boundary traditionally lies raises the question of *who* adjudicates conflicting claims between communities and determines the veracity and strength of each group’s claim. The National Council of Indigenous Peoples (NCIP) has been designated this role, but their legitimacy with indigenous groups (as a newly convened body) and their ability to derive and enforce judgments remains unclear.

Another significant legislative instrument, the Local Government Code of 1991, was passed with the purpose of formalizing the principles of decentralization and local autonomy within the national legislative framework. Decentralization is intended to occur through mechanisms for local communities to be involved in developing plans and programs for their own regions. In principle, Local Development Councils are to be set up from the *barangay* to the provincial levels of government and, if a community so decides, a local environment office may also be set up to address local environmental concerns. As Colognon Jr. (2001) points out, while creating a local Environment and Natural Resource (ENR) office with limited functions is optional, enormous responsibilities are

delegated to local governments. The extent to which the Local Government Unit and civil society are able to operationalize the provisions of the 1991 Local Government Code (LGC) is an indicator of the community's own capacity for self-help (Colognon Jr. 2001). While there is increasingly a semblance of an enabling policy framework, particularly when viewed relative to other Southeast Asian states, there are also multiple contradictions posed by other national policies, some of which are discussed later.

Discussion of Case Studies and Decentralization – Conflict Dynamic

Nandini Sundar (2001:331) suggests that “it is often the incompleteness or indeterminacy of territorial projects, rather than their successful execution, that creates tensions. This (often deliberate) indeterminacy acts in the favour of certain classes over others and leaves room for violence to play a defining role in drawing boundaries”. Such institutional or legal indeterminacy, she argues, allows for violence to emerge because territorial and legal classifications are subject to different interpretations according to divergent interests. Ribot (2002a:50) comments that democratic decentralization is a threat when “poorly or partially implemented, thus not delivering the benefits it promises and losing the support of those it is meant to empower”. This document argues that NRM-related decentralization exacerbates existing conflicts and triggers new ones through a multiplicity of means, primarily through such dynamics as indeterminate and insufficient reforms, haste, local power vacuums and the disproportionate involvement and influence of local interest groups.

Having identified these patterns linked to policy failure in both of the cases studied and the broader literature (Tyler 1999; Ribot 2002a), attempt is made here to interpret these shortcomings. Are they the results of resistant agendas? Do they represent a reduction to the lowest common denominator via a pluralistic political process; or perhaps results of well-meaning, but poorly structured policies enacted by governments of limited capacity? The argument made is that often a combination of all three factors is involved, the exact interaction of which varies according to case. In both the Philippines and Cambodia, overlapping and contradictory legislative structures may reflect a case of growing pains, and be anticipated in the development of a solid legal framework.

Nonetheless, resistance and conflict, as is argued throughout this document, are to be inherent in the structural re-ordering presented by decentralizing processes.

Indeterminacy as a critical source of decentralization failure is visible in an array of dynamics. Among these are conflicting institutional frameworks, inconsistency and a general lack of a well-developed legislative structure. The indeterminacy resulting from conflicting institutional frameworks serves as a significant source of bias and confusion. These conflicting frameworks act as a playing field upon which the most opportune legislation for a given powerful actor is operationalized. The failure to enforce enabling legal instruments and to allow their overriding by other more expedient pieces of legislation results in a cynicism that is well documented (Therkildsen 1993; Crook and Sverrisson 2001), and was seen with striking clarity in the case of Fidelisan, where resistance to even progressive decentralization reforms raises issues of legitimacy and credibility. The three main pieces of Philippine legislation presented in this document, IPRA, DAO 2 and LGC, would appear to be particularly enlightened for the region, and yet an overall pessimism about the merits of the government and the ‘government’s laws’ prevails among the indigenous communities who would appear to benefit most from them. This is a result of the inconsistent and biased means by which legislative instruments have been selectively applied. McDermott (2001:40), in her study of the CADCs offers another critique, “Indeed the lack of clarity in DENR’s administrative orders regarding indigenous community rights and their implementation may serve the function of appearing to resolve these debates and to address advocates’ demands – without devolving effective new rights to communities”.

Insufficiency is an additional theme flagged here as directly implicated with decentralization failure, in this case through tepid and incomplete implementation. Insufficient decentralization refers in this document to processes that are inadequate, that deliberately or unintentionally fail to effectively shift powers, political, financial and otherwise, away from central government and into the hands of subsidiary bodies (Tyler 1999; Ribot 2002b). Insufficiency can and does take place, as in the case of Cambodia, through diluted forms of decentralization. With its history of strongly centralized governance, the government’s de facto attempts to decentralize at times have been

characterized as limited to deconcentration.¹⁰ While efforts to decentralize were seen to be insufficient (particularly by the NGOs pushing for greater reforms), with versions of the central government re-invented at provincial and commune council levels, the concurrent strands of devolution reforms being undertaken in Cambodia must be recognized and differentiated. The administrative reforms being implemented explicitly purport to promote deconcentration, namely through the strengthening of the role of provincial governors. This earlier administrative reform process has been followed by a separate set of reforms to strengthen local processes of service delivery, namely through a focus on commune council development planning. It is this latter process of strengthening local governance potential that holds the key to what may prove to be a genuine process of decentralization and eventually democratization.

Haste surfaced in both Ratanakiri and Sagada as a factor in decentralization-related conflict. Specifically, the haste of the state or NGOs in executing decentralization processes, for example the demarcation of governance jurisdictions, has been a conduit of both insufficiency and indeterminacy. In the case of Ratanakiri, a key constraint in decentralizing has been indeterminacy over the territorial rights of indigenous groups. While neighbouring villages have normatively recognized these, the de facto system of territorial delineation is vulnerable to exploitation and made fragile both by external factors, such as the cash economy and political interests, and by internal factors relating to changing lifestyles, values and processes of 'modernization'. As a Ratanakiri project report notes, traditionally no clear boundaries designated user areas throughout the province (Bann 2003). The clear demarcation of boundaries by the mapping teams is thus acknowledged by the team to be an 'un-traditional' practice and one which introduces a new source of potential conflict (Vandergeest 2003).

The PLG team suggested that the strain and tension evidenced in Kok Commune were symptomatic of a process of 'what not to do' and a negative example of a poorly implemented demarcation and land titling initiative. As discussed in the document, Kok Commune was mapped in an expedited process that was later abandoned after coming

¹⁰ In interviews with key NGO workers in Ratanakiri, government decentralization efforts were claimed to be more accurately a form of 'deconcentration.'

under attack by external reviewers. Although in the mapping of Kok Commune it was initially intended that the team would return and conduct the empowerment and awareness raising aspects of the program, this had not occurred to date. The Kok Commune residents interviewed (and these tended to be the most involved and aware within the community) appeared poorly informed, anxious and vulnerable to exploitation by more powerful members of the commune. The interviewed villagers of both Lanminh (mapped through the 'slow' process) and O Chum (modified case of 'slow' and 'quick') projected greater confidence and organization than Kok. The sources of conflict for these first two communes appeared to be largely external, while in the case of Kok it was clearly internal as well - exacerbated by frustrations of being unable to effectively comprehend and address rapidly emerging challenges. While there was a patent trade-off between a less comprehensive but swifter and cheaper process vs. a more expensive, thorough and lengthy process, the PLG staff interviewed saw no long-term substitute for the empowerment and awareness building steps. The CBNRM Coordinator writes, "Assisting communities to discuss, negotiate and come to mutually agreeable solution(s) was an important role of the CBNRM Core team and the Provincial Conflict Resolution Committee. Rapid expansion to cover the whole province in a short time left the team trying to cover new communes rather than provide this important support".

Haste was similarly a theme in the Sagada case study, and once again apparent in an abbreviated process of boundary delineation. Immediately subsequent to the passing of the DAO 2 legislation recognizing the rights of indigenous peoples to their ancestral domains, the national levels of government had begun efforts to operationalize the legislation through the issuing of CADCs. In the case of Sagada as with other localities, this occurred *prior* to the requisite Ancestral Domain Management Plan (ADMP) being developed. While the CADC was issued in 1999, even at the time of writing this document in 2004, the ADMP had yet to be approved. Clearly, delineation of traditional boundaries is a subject fraught with potential conflict. Sufficient time and resources, including conflict resolution and arbitration mechanisms, need to be devoted in order for unnecessary conflict to be averted. The drawbacks of haste, and the need to 'take time' as Ribot phrases it, are essential components of developing genuinely democratic and effective local governance.

“This impatience with democratic process in order to achieve external aims undermines some basic principles of decentralization. Based on this kind of impatience, democratic processes are circumvented and the institutionalizing of the representative aspect of decentralization is marginalized” (Ribot 2002b).

Factors that May Complicate Decentralization of NRM

In the interest of providing practical recommendations on the initiation and implementation of decentralization reforms, some signposts are suggested here for those contexts in which decentralization reforms may prove to elicit greater conflictual results than in others. Repeating the caveat that the case studies in this research focused on indigenous/ minority groups and may not be representative of dynamics occurring in majority/ non-indigenous contexts, on the basis of the secondary research it seems that the following conditions may have broader relevance.

In cases where there is either resource scarcity (i.e., insufficient water, as in the case of Fidelisan) or high resource value/ abundance (i.e., the presence of precious gems and metals in Ratanakiri), conflict and/ or other complications may be expected in attempted decentralization reforms. Where the political boundaries do not reproduce customary boundaries, or where these either are not delineated or are contested, conflictual decentralization can be anticipated. Further, where there have been divisive colonial histories and where there is a heterogeneous population makeup (i.e., ethnicity, culture, religion), it can be expected that decentralization processes may be complex.

The question of representation is similarly conflictual. With respect to internal representation, challenges exist in establishing the accountability and representativeness of traditional leadership. Where customary modalities of leadership do not incorporate the plural voices of community members, and particularly marginalized members such as women and other minority groups, there is a strong likelihood that inequitable systems will be reproduced and calcified in newly established governance structures. Similarly, difficulties in establishing the legitimacy of external representation (i.e., the international NGOs in the case of Ratanakiri) may be equally problematic. The personal and organizational agendas of external groups may overshadow the voices of community

members themselves, particularly (as is often the case) where community voices are multiple and undecided.

Finally, limited experiences with local governance will contribute to the decentralization of powers that may be more vulnerable to problems of elite capture, corruption and general lack of initiative in seizing available opportunities for local decision-making and expression. In sum, these signposts, which undeniably cover in one sense or another *all* states undergoing decentralization, are not intended to devalue the process of decentralization. Rather, they are provided as a means of anticipating where conflicts and problematic areas may emerge. This hopefully will contribute to greater sensitivity, preparation and effective management of decentralization of NRM in these contexts.

Conclusions

In essence, I have questioned here whether decentralization, particularly in the cases studied, has proven to be as much of a panacea as the literature would suggest. Various local tensions and calls for greater community participation have played a role in triggering decentralization reforms. But how successful, if at all, have they been in redressing these concerns? On the basis of the cases studied here, I argue that decentralization has not, at least *during* and *immediately subsequent* to the process, succeeded in accomplishing its stated goals. While the mitigation of tensions between different actors and at different scales is in many cases a motivating factor in decentralization reforms, in the cases studied it can be argued to have at least superficially done the opposite.

This being said, I contend that conflictual outcomes are not inherently negative, and that such conflict may be harnessed to redress existing power imbalances within structures internal and external to communities. With conflict deeply embedded in processes of decentralization, a more useful way of framing the question, rather than being one of how best to avoid conflict, is argued here to be one of how best to *predict and manage* conflict in ways that constructively direct tensions. Insufficient and indeterminate decentralization efforts, local power vacuums and elite capture of decentralized powers are all dynamics operating to negate the beneficial outcomes of decentralization to local

communities, and particularly to diminish the empowerment of less enfranchised members of these communities. By imposing realistic expectations on what decentralization can deliver and by carefully assessing and undertaking reforms in complex contexts, it is conceivable that disempowering conflict can be mitigated and the frustrated backlash to inadequate decentralization reforms can be minimized.

Acronyms & Abbreviations

ADB	Asian Development Bank
ADMP	Ancestral Domain Management Plan
CADC	Certificate of Ancestral Domain Claim
CARERE	Cambodia Area Rehabilitation and Regeneration Project
CBNRM	Community based natural resource management
CDC	Commune Development Council, Cambodia
CSC	Cordillera Studies Centre, The Philippines
DAO	Department Order
DENR	Department of Environment and Natural Resources, The Philippines
ENR	Environment and Natural Resource office
GTZ	German Agency for Technical Cooperation
ICCs	Indigenous Cultural Communities
IDEA	International Institute for Democracy and Electoral Assistance, Sweden
IDRC	International Development Research Centre, Canada
IPRA	Indigenous Peoples Rights Act
IPs	Indigenous Peoples
IRA	Internal Revenue Allotment
LGC	Local Government Code
LMAP	Land Management and Administration Program
NCIP	National Council of Indigenous Peoples
NGO	Non-governmental organization
NRM	Natural resource management
NRMP	Natural Resource Management Project
PLG	Partnerships for Local Government
PLUP	Participatory Land Use Planning program
PRDC	Provincial Rural Development Committee, Cambodia
SIDA	Swedish International Development Agency
UNDP	United Nations Development Program
USAID	United States Agency for International Development
VDCs	Village Development Councils, Cambodia

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