

Promoting Access to Land through Partnership

The project “Pursuing Land Partnerships in the Philippines: Finding Common Ground to Address Land Conflicts between Farmers and Indigenous Peoples,” which was implemented by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) from 2002 to 2006, is one of four country level multistakeholder mechanisms (the others being in Indonesia, South Africa, and Guatemala) that emerged following the launch in 2002 of the Land Alliances for National Development (LAND) Partnership.

The LAND Partnership, an initiative of the International Land Coalition (ILC), aims to facilitate the implementation of Agenda 21, a comprehensive blueprint of action to be taken globally, nationally and locally by organizations of the UN, governments, and major groups in pursuit of sustainable development. In particular, Chapter 14 (Item 14.17) of Agenda 21 promotes the equitable access of rural people to land and other resources on which their livelihood depends. Depending on the nature of the need that is being addressed and on the preferences of the stakeholders, LAND partnerships can take the form of alliances, fora, joint commissions, or joint field programs, whose aim is to discuss, negotiate, and implement policies, programs and service delivery systems that would enhance the rural poor’s access to land.

In early 2003, the ILC started talks with ANGOC about the prospects for establishing such mechanisms in the Philippines. The Philippines’ Department of Agrarian Reform (DAR) was invited, and agreed to jointly convene the initiative with ANGOC. ANGOC also consulted with other institutions such as Non-government organizations (NGOs), farmers organizations and government agencies that would want to collaborate on land related issues. Following these initial discussions, it was decided to conduct a study that would assess past and present mechanisms that have been formed by key stakeholders in the country in support of land related reforms and policies. The “Land Study” would also determine how such mechanisms could be improved, and in what ways, and if forming an entirely new mechanism would be the better option.

A Land Partnership Protocol for the Philippines was signed in Rome, Italy on November 7, 2003 by the ILC, ANGOC and the DAR. This agreement assigned lead roles to the DAR (on behalf of the Philippine Government) and to ANGOC (as representative to civil society

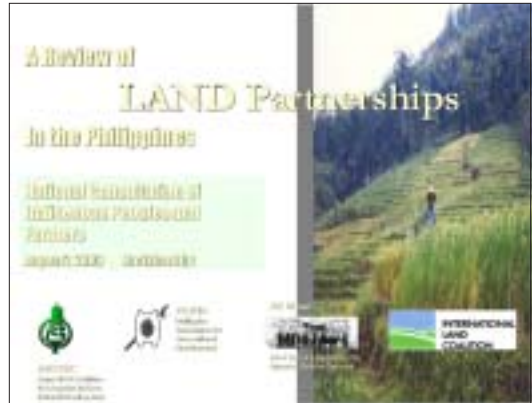
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organizations [CSOs]) in the implementation of the Land Study and of other activities in connection with the Land Partnership in the Philippines.

The Land Study

The Land Study, also referred to as “A Review of Land Partnerships in the Philippines”, had three parts. Part 1 summarizes the provisions of three social and land related reforms in the country since the enactment of the 1987 Constitution. These are the

Comprehensive Agrarian Reform Law (CARL), or Republic Act 6657, passed in 1987; the Indigenous People’s Rights Act (IPRA), or Republic Act 8371, passed in 1997; and the Urban Development and Housing Act (UDHA), or Republic Act 7279, passed in 1992. The Study goes on to assess progress in the implementation of these laws, which has been rather dismal, and to describe the general policy environment which has contributed to their poor showing. The Study points out a number of factors which have given rise to land related conflicts and disputes. The first of these is the confusion about what constitutes “common” or state land. The confusion has its roots in a legal precept called the Regalian Doctrine which has underlain property laws since the Spanish administration of the country. The Regalian Doctrine held that at the time of conquest, all lands and other natural resources in the conquered territories automatically become the property of the King of Spain. With this single proclamation, entire native communities, including the indigenous groups, were disenfranchised. When the republican system was later introduced, the State replaced the Spanish King as owner, and all land was declared as public land. The American occupation government did little to break up the land monopolies created under Spanish rule. Instead the Philippine Bill of 1902 upheld the Spanish system of cadastral laws. Private land ownership was also further strengthened through the introduction of the Torrens Title system under the 1902 Land Registration



Act. Subsequent land laws in the country, as expressed in the 1935, 1973 and 1987 Constitutions, are all based on the doctrine of the State as the primary landowner.

Sec. 12. That all the property and rights which may have been acquired in the Philippine Islands by the United States... are hereby placed under the control of the Government of said Islands...

Section 12, Philippine Bill of 1902

Recent attempts by indigenous groups to reclaim their ancestral domains—especially since the passage of the IPRA—have given rise to conflicts between this sector and the government, particularly where

“All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.”

From the 1987 Philippine Constitution

the latter awards ancestral domain areas to logging and mining concessionaires, or where it reclassifies the lands for other uses, including redistribution under agrarian reform.

The other factors cited in the Study include a poor land administration system, as evidenced by overlapping and fragmented responsibilities among no less than 19 land agencies; conflicting and/or outdated land administration laws; poor management of land records resulting in their loss, destruction, or alteration; incomplete cadastral information or mismatch between information held by different agencies.

Part 2 identifies three major types of government-CSO mechanisms that have been established to deal with land related concerns. These are:

- ▶ Existing mechanisms created by virtue of Republic Acts, Special Orders and Joint Memorandum Circulars involving the cooperation of various national government agencies and civil society groups;
- ▶ Ad hoc Technical Working Groups (TWGs), Task Forces and Quick Reaction Units/ Teams to augment and support existing mechanisms related to project implementation and policy formulation; and
- ▶ Partnerships and collaborations among government, civil society groups and the private sector, often through direct donor support, bilateral programs and foreign assisted projects.

Table 1 on the next page presents the Study’s assessment of these government-CSO mechanisms.

Part 3 starts by proposing five thematic areas for establishing/strengthening land partnerships, as follows:

1. Regular mechanisms that monitor and ensure the inclusion of access to land, especially Agrarian Reform, in the national development agenda/programs;

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2. Implementation and/or completion of existing land focused reform programs, such as CARP, IPRA and UDHA;
3. Inter-sectoral discussions and negotiations to resolve inter-policy conflicts and to harmonize overlapping institutional mandates under different land related legislation;
4. Pro-active policy discussions towards new land legislation;
5. Broad based policy discussions, consensus building and joint advocacy vis-à-vis pending bills and policies that threaten to reverse the gains of land related reforms.

This section goes on to recommend that future mechanisms must grapple with such issues as:

- ▶ Should such mechanisms aim for a common, multistakeholder agenda?
- ▶ Is a formal mechanism preferable to a loose consultative arrangement?
- ▶ Should the convenors of such mechanisms utilize existing structures?
- ▶ At what level should the mechanisms be established?

The section ends by presenting a number options on how such land partnership mechanisms could be structured: (1) as an umbrella organization; (2) as Special Thematic Fora; (3) as legislative campaigns; and (4) through field implementation within sectors.

(For the text of the Land Partnership Study, please see Annex A)

Following the publication of the Study, convenors of the LAND project in the Philippines decided to focus on a specific sub-theme to get the project going: how to address overlaps in the areas covered by CARP and IPRA, and to address conflicts between Agrarian Reform Beneficiaries (ARBs) and indigenous peoples (IPs). The convenors noted that of the existing mechanisms cited in the Study, none specifically addresses these conflicts nor ensures the participation of CSOs in the process. Having thus decided to focus on this sub-theme, the project was assigned the following objectives:

- ▶ Convene inter-sectoral and multi-stakeholder discussions on the issue of overlapping land claims at the national and field levels; and
- ▶ Agree on policies and mechanisms for the resolution of land conflicts, especially between farmers and IPs.

In terms of activities, the project would conduct the following: local consultations in the conflict areas; a national consultation among IPs and farmers; a policy dialogue with government agencies.

ANGOC partnered with two Philippine based NGOs, namely: the Philippine Association for Inter-Cultural Development (PAFID), as support group to the IP sector, and the People's

Table 1. Assessment of Government-CSO Mechanisms for Land Related Concerns

THEMES	ASSESSMENT/MAIN COMMENTS
1. Overall focus	<ul style="list-style-type: none"> ▶ Majority of the mechanisms have a highly sectoral focus (e.g., farmers/agrarian reform, indigenous peoples, etc.) ▶ On the other hand, there are few GO-CSO mechanisms that deal with cross-sectoral land issues such as land conversion; or bring together different sectors to dialogue ▶ Mechanisms that discuss cross-sectoral land issues are mainly limited to government agencies. These include the DAR-NCIP Composite Policy Review & Formulation Group, the TWG on the Harmonization of IPRA, etc. These deal mainly with harmonizing policies, administrative procedures and agency responsibilities. Civil society is not involved. ▶ Three of the GO-CSO mechanisms, namely the Philippine Council for Sustainable Development (PCSD), NAPC and Land Administration and Management Project (LAMP)--are constituted by representatives from different sectors, as they deal with cross-cutting and related themes--sustainable development/environment, poverty eradication, and land administration, respectively. It is noted that NAPC and LAMP relate with the same "basic sector" constituencies. ▶ However, while the compositions of these bodies are multisectoral, discussion on access to land still tend to remain largely sectoral (e.g., PCSD discussed access to land per ecosystem--e.g., lowland/agriculture, urban ecosystem, uplands and IPs, etc.) ▶ A major concern has been how to translate resolutions/action agendas formulated at the national level to the local level, as these are seldom adopted by local government units unless funding or additional resources are made available (e.g., efforts by PCSD to "localize Agenda 21", or to develop local sustainable development plans.) local government units (LGUs) prefer to do "investment plans"--in order to capture external resources or to generate local revenues.
2. Structure/ Composition	<ul style="list-style-type: none"> ▶ GO-initiated mechanisms tend to be dominated by government agencies. ▶ In all GO-CSO joint mechanisms, there have been few representatives from the private sector. ▶ Sometimes, there is confusion in distinguishing between NGOs and the private sector (e.g., business foundations).

THEMES	ASSESSMENT/MAIN COMMENTS
2. Structure/ Composition	<ul style="list-style-type: none"> ▶ CSO representatives, mostly from the NGO/PO sector, either voluntarily became involved, were selected by the sector itself, or even appointed by government (in the case of GO-initiated mechanisms).
	<ul style="list-style-type: none"> ▶ CSOs often demand a process of self-selection of their own representatives. However, representation from CSOs is often difficult to determine/select due to the lack of established processes. Constituencies are often the basis for selecting representatives.
	<ul style="list-style-type: none"> ▶ Previous assessments on joint GO-NGO Mechanisms say that more effective mechanisms often come in the form of special projects, task forces and NGO/PO-led (or “demand-side” initiatives).
	<ul style="list-style-type: none"> ▶ Continuity of the mechanism is often vulnerable to changes in government (change in administrations and assigned staff/personnel).
	<ul style="list-style-type: none"> ▶ Difficulty to convene mechanisms when high officials are involved due to hectic schedules and changes in delegated representatives.
	<ul style="list-style-type: none"> ▶ Successful mechanisms highly dependent on facilitation--i.e., the capacity of particular individuals or groups in a “secretariat” or “liaison” role--whether from CSOs or government.
	<ul style="list-style-type: none"> ▶ “National” mechanisms tend to be too “Manila-centered”.
3. Function/ Mandate	<ul style="list-style-type: none"> ▶ On the reasons for establishment of joint mechanisms <ul style="list-style-type: none"> ▶ Mechanisms are usually backed up by some legal mandate (i.e., law, MOA, Executive Order, Special Order); ▶ On the other hand, mechanisms which are CSO/Basic Sector-led are usually born out of a process/campaign/advocacy; ▶ A third type of mechanism are those that have been established in line with a foreign assisted project.
4. Accomplishments	<ul style="list-style-type: none"> ▶ Stated positive outcomes: <ul style="list-style-type: none"> ▶ Political negotiations, whether or not a compromise is reached; ▶ Better understanding of policy impacts and implications, from different and even conflicting local perspectives and interests; ▶ Transfer/exchange/sharing of knowledge, experiences and resources between government and CSOs; ▶ On occasion, resolution of concrete, problematic cases; ▶ Public constituency for pursuing reforms.

THEMES	ASSESSMENT/MAIN COMMENTS
4. Accomplishments	<ul style="list-style-type: none"> ▶ Common issues: <ul style="list-style-type: none"> ▷ Accomplishments and continuity highly depend on political will of incumbent government officials; ▷ Turfing/overlapping roles of government agencies on some functions delay accomplishments; ▷ Changes in representatives may impede continuity of the processes/programs; ▷ Questions arise as to whether local constituencies are adequately informed of national level discussions and agreements.
5. Funding/Resources	<ul style="list-style-type: none"> ▶ Government-infused resources are often necessary to sustain mechanisms. ▶ Externally driven donor-led mechanisms are often not sustained beyond the project cycle. ▶ CSOs tend to be seen more as “equal partners” when they are able to raise their own resources (e.g., as co-convenors, co-sponsors, or ability to maintain their own counterpart secretariats).
6. Partnership	<ul style="list-style-type: none"> ▶ Common stance taken by partners is one of “critical collaboration”; partnerships are forged among independent, autonomous entities and groups. ▶ Generally, joint GO-CSO mechanisms arrive at decisions by consensus. “Agree to disagree” is the path often taken when no clear decision is reached. ▶ Internal dynamics and differences exist among CSOs; hence, CSOs often have to reach consensus first among themselves before engaging in discussions and negotiations with other parties. ▶ On accountability: unclear whether there are clear and adequate feedback mechanisms to the basic sectors concerned.

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Campaign for Agrarian Reform Network (AR Now!), as support group to the farmers sector. Funding support for the project was provided by the International Land Coalition (ILC), the Foundation for the Philippine Environment (FPE) and the Foundation for a Sustainable Society, Inc. (FSSI).

From December 2005 to January 2006 meetings were held among ANGOC and its partners to decide which areas the project would cover and to agree on what the project should deliver. ANGOC likewise met with concerned agencies to orient them on the initiative.

The two areas that were chosen were the Don Carlos Estate in Bukidnon, Mindanao, and the ancestral domains of the Buhid Mangyans in Oriental Mindoro.

Based on initial assessments by the project partners of the situation in the two areas, it was decided that the project would try to create a venue where the conflicting sectors could come to understand the basis of the other group's land claims and aspirations. Rather than aspiring to test proposed dispute settlement mechanisms, the project settled for the more modest objective of drawing out lessons from the experience that could inform the task either of strengthening existing mechanisms or designing one from scratch.

The framework on the next page shows the stages in the process that was undertaken:



Two pilot sites of the Philippines' Land Partnership

