



Tackling corruption for governing REDD in the Philippines

Grizelda Mayo-Anda

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Abstract

Forest governance in the Philippines during the post-colonial period has involved protracted efforts to arrest and reverse patterns of overexploitation of forest products and land. Much of this loss is commonly attributed to weak enforcement of existing forestry laws, to mismanagement, and to abuses including corruption. National efforts aimed at reversing forest degradation have taken on a new dimension in the context of recent international focus on actions aimed at mitigating the effects of climate change, and there is keen interest in participating in schemes for Reducing Emissions from Deforestation and Forest Degradation (REDD) in the country. This Issue paper assesses past experience related to forest management in the Philippines with a view to providing policy considerations for the implementation of REDD. It addresses the possible challenges REDD may face in terms of the Philippines' governance context, focusing in particular on issues of rent-seeking and corruption in the forestry sector. Some policy options for REDD are discussed for the consideration of various actors, not least prospective donors of REDD schemes in the country.

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1 Introduction

Forest governance in the Philippines during the post-colonial period has involved protracted efforts to arrest and reverse patterns of overexploitation of forest products and land. Indigenous forests now cover less than 8.6% of total land mass, down from 70% at the beginning of the 20th century.¹ Heaney (2007) describes the rate of forest loss over past decades as one of the most rapid recorded anywhere in the world. Today, forest cover is lost at a rate of around 100,000 hectares per year, with much of this loss commonly attributed to weak enforcement of existing forestry laws, to mismanagement, and to abuses including corruption.²

National efforts aimed at reversing forest degradation have taken on a new dimension in the context of recent international focus on actions aimed at mitigating the effects of climate change. Schemes aimed at supporting the long-term effective management of forests through their commodification as reserves of carbon are widely considered a comparatively cheap and practicable policy option for climate change mitigation. Chief among such schemes is Reducing Emissions from Deforestation and Forest Degradation (REDD)³ evolved from the United Nations Framework Convention on Climate Change (UNFCCC).⁴ REDD seeks to combine forest protection with objectives related to climate change mitigation, biodiversity conservation, and improvements in local livelihoods. Since the 13th Conference of the States Parties to the UNFCCC held on Bali, Indonesia, in December 2007, the REDD concept has broadened further to include actions aimed at enhancing forest carbon stocks and sustainable forest management.

There is keen interest in participating in REDD schemes in the Philippines. Government and civil society recently collaborated to develop the Philippine National REDD+ Strategy (PNRPS), which aims to provide a strategic outlook for the development of REDD schemes and specifies actions in several overlapping areas.⁵ In April 2010, the Philippines also adopted its National Framework Strategy on Climate Change (NFSCC) pursuant to the Climate Change Act (2009), in which the PNRPS is included. A Climate Change Commission (CCC) has been created under the Climate Change Act and mandated to ensure its implementation. The CCC has initiated the drafting of a National Climate Change Action Plan (NCCAP) scheduled to be completed by April 2011. The CCC will have formal oversight of REDD schemes in the country, while the Department of Environment and Natural Resources (DENR) will serve as an implementing agency.

This Issue paper assesses past experience related to forest management in the Philippines with a view to providing policy considerations for the implementation of REDD. It addresses the possible challenges REDD may face in terms of the Philippines' governance context, focusing in particular on issues of rent-seeking and corruption in the forestry sector. Some policy options for REDD are discussed for the consideration of various actors, not least prospective donors of REDD schemes in the country.

The paper is based on a review of relevant literature, supplemented by semi-structured interviews with individuals representing a cross-section of actors involved in governance of the Philippines' forests. Interviewees included public officials from the Climate Change Commission, current and former officials of the DENR and Forest Management Bureau, a representative from a foreign development agency, a

¹ Heaney (2007).

² Castillo and Guiang (2006) cite a review by EcoGov2 which concluded that most existing community forests and ancestral domain areas fall short of acceptable forest management standards.

³ According to UN-REDD, Reducing Emissions from Deforestation and Forest Degradation (REDD) aims to create a financial value for the carbon stored in forests, offering incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development. It uses the term "REDD+" to refer to programmes that go beyond deforestation and forest degradation, and include the role of conservation, sustainable management of forests and enhancement of forest carbon stocks. Since it is beyond the scope of the present paper to offer insights into technical forest management issues, the term REDD is used consistently to refer to both "REDD" and "REDD+" programmes. For more information, see: www.un-redd.org/

⁴ See: <http://unfccc.int/documentation/items/2643.php>

⁵ These are: Enabling Policy; Governance; Resource Use, Allocation and Management; Research and Development; Monitoring, Reporting and Verification; and Capacity Building and Communication. See: DENR (2010).

representative of the private sector, a representative of a local government unit, and representatives from civil society organisations. All interviewees were involved in existing discussions and initiatives relating to REDD in the Philippines.⁶

The paper follows a straightforward structure: The first section provides an overview of environmental governance in the Philippines; the second section provides a perspective on corruption; the third section analyses corruption challenges in the forest sector specifically, and includes a discussion of their relevance for REDD; the fourth and final section addresses policy considerations of relevance for addressing corruption in REDD schemes.

2 Environmental governance

2.1 The legal and regulatory maze

An aggregate of laws, executive and administrative orders govern the environment and natural resource-related activities in the upland, lowland, and coastal zones. This framework is a combination of antiquated and newer laws, and the institutions and processes that govern the environment and natural resources have been shaped by the country's colonial history. Since Spanish colonial authorities introduced state ownership of all natural resources, the use, development, and management of natural resources has largely been under state control.⁷ This basic policy establishes the responsibility of the state to protect and conserve natural resources for the benefit of present and future generations. Likewise, this system underpins the state's aim to promote growth and development through generating revenues from natural resources and imposing penalties linked to illegal resource exploitation.

This legal framework does not apply direct accountability to government actors where negative effects of natural resource exploitation are borne by local residents and communities. It has also been argued that government agencies often lack the capacity to effectively regulate natural resource use or to enforce environmental laws, sometimes resulting in destructive patterns of resource use. State policy on property rights and resource use, moreover, largely ignores the rights of indigenous peoples and conflicts with their customary laws. Customary law on land and natural resources is founded upon a traditional belief that no one owns the land except the gods and spirits, and that those who work the land are merely its stewards.⁸ Concepts such as "possession" and "ownership" as posited in national laws are therefore often considered to contradict the beliefs of indigenous communities.

The Revised Forestry Code⁹ (1975) and Public Land Act¹⁰ (1936) continue to be regarded as the basic legal documents on forest and land use respectively. Following the Marcos era, a thrust towards decentralization and comprehensive resource management was reflected in the National Integrated Protected Areas System¹¹ (NIPAS, 1992), the Strategic Environmental Plan for Palawan¹² (SEP law, 1992) and the Local Government Code (1991).¹³

The Local Government Code (LGC) is an important document as it concretized the constitutional policy on government decentralization and democratization. Whereas in the past resource management programmes originated from national government agencies, such as the DENR and the Department of

⁶ A current DENR official interviewed is the Assistant Secretary for Administrative Reforms and Anti-Corruption. This individual has been involved in the formulation of specific anti-corruption and ethical policies and guidelines for DENR officials and personnel. A former DENR official served as Undersecretary for Legal and Policy Issues and served as a key negotiator for REDD.

⁷ Referred to as the Regalian Doctrine. See: Article 12, Section 2, Philippine Constitution.

⁸ See Bennagan (1991).

⁹ See Presidential Decree No. 705.

¹⁰ See Commonwealth Act No. 141.

¹¹ See Republic Act 7586.

¹² See Republic Act 7611.

¹³ See Republic Act 7160.

Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), the LGC substantially reversed this process, giving primary management responsibilities to local government units. In particular, the LGC gives local government units greater fiscal autonomy through various powers to levy taxes, fees or charges. The code also provides for people's direct participation in the planning and implementation of resource management plans, thus establishing a system where local communities, non-governmental organisations (NGOs), academic and scientific institutions can become partners of local government. The devolution of environmental and natural resource management functions is also envisaged by the code.¹⁴ In the mid- to late- 1990s initiatives were formally undertaken covering several provinces in order to mainstream participatory planning, with generally encouraging results in the promotion of "cross-sectoral" linkages particularly in natural resource management aspects of local governance.¹⁵ Indeed, LGUs are now provided with an array of environmental and natural resource management powers within their territorial jurisdictions. These include powers related to protection, regulation, revenue generation, local legislation, enforcement, provision of services, extension and technical assistance, and the performance of intra-governmental relations and relations with NGOs and people's organizations.

2.2 Special environmental laws

A specific example of LGU involvement in natural resource management is to be found in Palawan, one of the most important provinces in the country in terms of biodiversity conservation. The Philippine Congress passed landmark legislation in June 1992 known as the Strategic Environmental Plan (SEP) for Palawan.¹⁶ The law seeks to provide a policy framework for sustainable environmental development of the province, mandating a multipartite body (the Palawan Council for Sustainable Development or PCSD) to provide direction in the SEPs implementation).

The SEP provides for a zoning scheme termed the Environmentally Critical Areas Network (ECAN). ECAN prescribes specific uses for designated zones: the terrestrial zone covers mountains, ecologically important low-lying hills and lowland areas; the coastal zone covers foreshore areas, mangroves, coral reefs and fishing grounds; tribal land zones are traditionally claimed by indigenous communities as their ancestral territories.

The institutionalization of protected area management is underpinned by the National Integrated Protected Areas System Act (1992) which recognizes the importance of the protected areas system as a mechanism for biodiversity conservation. The NIPAS law is termed "process legislation" since it defines the mechanism by which the national park system will be governed, using biodiversity principles, site-specific management strategies and public participation. Management of the protected area is exercised by the Protected Area Management Board (PAMB), which is a multi-sectoral policy and governing body composed of representatives from the DENR, the local government unit (including village officials), affected communities and the private sector.

2.3 Indigenous peoples' concerns and community participation in resource management

The conflict between national and customary law noted above is counterbalanced by constitutional provisions on the rights of indigenous peoples. The Indigenous People's Rights Act (IPRA, RA 8371)¹⁷ recognises indigenous peoples' ¹⁸ possession and "ownership"¹⁹ of their ancestral lands/domains and also

¹⁴ See Section 17, Republic Act 7160.

¹⁵ See: Lipmann, H. and R. Blue (2000).

¹⁶ See Republic Act 7611.

¹⁷ The Constitution, under Article 2, Section 22, provides that the State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development. It further provides that the State shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural wellbeing.

¹⁸ The Constitution uses the phrase "indigenous cultural communities", but Philippines indigenous peoples' groups and support groups use the phrase "indigenous people", consistent with international conventions such as the United Nations Declaration on the Recognition of Indigenous Peoples. This paper uses the term "indigenous peoples".

deals with the civil, political, social, cultural and tenure rights of indigenous peoples.

The legal framework also notes that the development and management of natural resources shall be made accessible to poor and disadvantaged groups, who are often direct users of resources (farmers, forest dwellers, marginal fishers). The constitution therefore provides for small-scale use of natural resources and promotes “social forestry” in the form of community forest management.

2.4 Rhetoric versus reality

Though the legal framework generally provides impetus and guidance to formally mandated institutions to implement resource management, challenges arise linked to the overlapping of institutional roles, divergence in goals, and conflicting priorities. This situation is further complicated by the often unclear interface between formal institutions and local community actors, who have their own customary laws. This renders natural resource management frequently ineffective, and encouraging various actors to work together is recognized as a continual challenge. A recent review of the Philippines’ progress towards achieving the Millennium Development Goals underlines that effective enforcement, regulation and monitoring of environmental policies is undermined by rent-seeking in the system of securing permits, licenses and concessions to exploit natural resources.²⁰

3 A perspective on corruption

The Philippines became notorious for corruption in public life at the end of the Marcos regime, as international media focused on the excesses of Mr. Marcos and his associates. During this period efforts to institutionalize action against corruption began with establishment of the Presidential Commission on Good Government (PCGG) tasked with recovering public assets lost during the former dictatorship. The passage of the 1987 Constitution strengthened oversight bodies, such as the Commission on Audit, and created new watchdogs such as the Office of the Ombudsman. Special courts were also established (such as the Sandiganbayan), mandated to serve justice in instances of corruption or abuse of government authority.

Tapales (1995) has portrayed corruption in the Philippines as a “cultural and psychological phenomenon in a country marked by incompatible legal and cultural norms”. In its most recent Corruption Perceptions Index, Transparency International rates the Philippines 2.4 out of a cleanest possible score of 10 (TI: 2010). In 2009, the World Bank rated the country with a score of -0.71 for its control of corruption (on a scale ranging from -0.25 to 2.5, where higher values correspond to better governance).

Present and past political administrations have undertaken to address corruption by means of administrative issuances and programmatic interventions with the stated aim of instilling transparency and accountability in government transactions beyond the legal measures in place. Moratalla (1999) notes that there is no need for further legislation to ease corruption levels in the country:

“The Philippines does not need any more laws against corruption. If anything, what it needs is a re-examination of anticorruption laws not only to remove duplication, but also to ensure that those existing are accepted by the populace and enforceable by the anti-corruption agencies.”

¹⁹ The Philippine Indigenous Peoples’ Rights Act provides for the indigenous concept of ownership: “that ancestral domains are the indigenous peoples’ private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed”; and “covers sustainable traditional resource rights” (Section 5, Chapter III, RA 8371).

²⁰ Ronquillo et al in Social Watch and UNDP (2010).

4 Corruption and the forestry sector

The last two decades have seen the Philippines move away from a state property regime in forest management towards decentralized tenure arrangements and community-based approaches. This has generally been considered a welcome departure from the previous system characterized by over-centralisation of decision making and a bias towards large-scale economic utilization.

Two basic community tenure instruments for forests have been put in place. First, the Community-Based Forest Management Agreement (CBFMA) can be awarded by the DENR to what are termed “People’s Organizations” (POs) for periods of 25 years, with a possibility of renewal for a further 25 years. Second, Certificate of Stewardship Contracts (CSCs) can be granted by the DENR to individuals and families for 25 years, and are renewable for periods of the same duration. The latter have been awarded to forest and indigenous community holders of Certificates of Ancestral Domain Claims (CADCs) and Ancestral Land Claims (CALCs). The passage of the IPRA has also allowed ancestral domain claims to be converted into certificates of ancestral domain title (CADT).

Under CBFMAs and CSCs, communities are required to develop a community resource management framework and an annual workplan, both to be approved by local DENR offices. Communities must also obtain a DENR permit to use forest resources for commercial purposes. The CBFMA instrument has not been without its challenges. An interviewee representing the DENR Anti-Corruption Office explained that the CBFMA had ushered in irregularities in the issuance of legal titles. The involvement of public officials in the manipulation of land classification documents in favour of a particular applicant was noted as typical.

Other loci of corruption in the sector are activities related to harvesting, transportation, and the sale of forest products (both timber and non-timber). Indigenous communities note that bribes have been solicited by the DENR, by the military and by police personnel, as part of transaction costs for the transportation of rattan products.²¹ Bribes are also noted to relate to processes of compliance with forestry guidelines or requirements.

Interviewees perceived oversight of the forestry sector by the DENR in particular to be weak. Observations were made about how corruption within the department discourages effective forest management even in instances where there is demonstrable capacity in local government units and communities. An example is where the implementation of forest inventories is interrupted by the necessity of paying a bribe to individual DENR personnel to progress with the activity.

Saijse (2008) observes that while the paradigm of forest management in the Philippines has transformed dramatically in recent years, a series of daunting challenges remain. He highlights in particular a critical need to increase local capacity to implement community-oriented forestry programmes.

²¹ Non-timber Forest Products Task Force (2005).

Table 1: Legal instruments for forest ownership, access and control

Legal Instrument	Legal Basis	Nature/Definition
Community-Based Forest Management Agreement	DENR Department Administrative Order (DAO) 22-93; Executive Order (EO) 263 (1995); DENR DAO 96-29 (1996)	A production sharing agreement between a community and the government to develop, use, manage and conserve a specific portion of forestland, consistent with principles of sustainable development and pursuant to a community resource management framework.
Certificate of stewardship	EO 263 (1995); DENR DAO 96-29 (1996)	A 25-year contract, renewable for another 25 years, awarded to individuals or families occupying or tilling portions of forests.
Industrial forest management agreement	DENR DAO 04-97	A 25-year production sharing agreement between the DENR and an individual or corporation to develop, use and manage a tract of forestland, other public land, or private land to grow timber species (including rubber) and non-timber species (including bamboo and rattan).
Socialized industrial forest management agreement	DENR DAO 24-96	An agreement in which the DENR grants a natural or juridical person the right to develop, use and manage a small tract of forestland (1 to 10 hectares for individuals or single families, 10 to 5,000 hectares for associations or cooperatives), consistent with the principle of sustainable development.
Certificate of ancestral domain claim	DENR DAO 02-93	A certificate issued by the DENR to an indigenous community or people declaring, identifying, and recognizing their claim to a territory they have possessed and occupied and used, communally or individually, in accordance with their customs and traditions since time immemorial.
Certificate of ancestral land claim	DENR DAO 02-93	A certificate issued by the DENR to an indigenous Filipino individual, family, or clan declaring, identifying, and recognizing their claim to an area they have possessed, occupied, and used, by themselves or their predecessors, since time immemorial.

Source: Department of Environment and Natural Resources.

Support to natural resource management has, in recent years, accounted for a significant proportion of official overseas development assistance (ODA) to the Philippines. In 2006, for example, loans allocated to the DENR amounted to USD 95 million, representing 5.5% of rural development loans. For the same year, grants towards the environment and natural resource sectors amounted to USD 83.3 million, representing 40% of all rural development grants.²² It has been argued, however, that such support has had only limited impacts on deforestation and forest degradation, or on the livelihoods of local forest communities.²³ The evidence provided to support this view partly relates to the continued rapid decline of forest cover in the country. It is also noted that despite allocation in the post-Marcos era of development funds targeted towards the forestry sector amounting to almost USD 1 billion, little information is available on how this investment has been spent (Guiang: 2006).

²² National Economic Development Authority (2007).

5 Governance and corruption challenges for REDD

An anticipative discussion of potential governance and corruption challenges during REDD project design, implementation and monitoring can, in part, be based on current challenges known to be present in the forestry sector. A broad consensus on obstacles to the effective implementation of REDD schemes emerged from the interviews:

- Sufficient legal and institutional mechanisms exist to achieve meaningful results on the ground, but existing problems of corruption in the forestry sector imply that current institutional and legal mechanisms are likely to provide only a weak accountability check on REDD schemes.
- The main government agency with responsibility for natural resource management and the environment (the DENR) – and which is the designated government implementing agency for REDD – is the target of persistent allegations of corruption. Court cases filed against DENR personnel alleged to have engaged in corruption are to date few and mostly involve mid-level rather than high-ranking staff. This situation has been publically acknowledged by DENR Secretary Ramon Jesus Paje following his appointment.²⁴
- Rent-seeking activities in natural resource management are perceived to be widespread, as is impunity for engaging in such activities.²⁵ Some interviewees estimated that around one in ten instances of corruption in the environment sector are actually prosecuted, though this figure has not been substantiated by any formal survey.
- Corruption in the forestry sector can involve a complex network of individual participants and follow unwritten rules of secrecy and (mis)conduct.

Interviewees also recognized that a lack of technical expertise and human resources within relevant government agencies – such as the Forest Management Bureau (FMB), the primary agency for forestry – does not appear to be a particular challenge. The presence of individuals skilled in conducting forest resource inventories and surveys, in developing forest land use plans, and in conducting forest-focused policy research, were all noted. A predominant observation was that these human resources are not maximized due to the negative working environment in which individuals find themselves. This could be addressed through stronger supervisory and leadership roles on the part of the government agencies concerned. The role of these agencies could be enhanced by tapping into the technical expertise of civil society involved in forest and climate initiatives.

An important element of the Philippines' engagement with REDD so far has been the development of the Philippine National REDD+ Strategy (PNRPS), which has involved collaboration between public officials (from the DENR and FMB) and civil society. The strategic planning process was completed after more than a year, and involved local, national, and international stakeholders. A broad range of actors can claim "ownership" of development of the PNRPS given the numerous consultations, workshops, writeshops, and component group planning sessions that have been undertaken. The PNRPS identifies several broader issues of governance that could stifle REDD development both in the short and long term. These issues include: difficulties associated with asserting carbon rights, ownership and tenure; problems in deciding upon schemes for benefit-sharing; the existence of outdated and conflicting forestry policies; and the presence of institutional and jurisdictional conflicts among agencies tasked with implementing various environmental rules.

5.1 Determining carbon rights

The PNRPS highlights carbon ownership as a critical policy question. During community consultations and workshops for drafting the PNRPS, stakeholders identified that potential areas for REDD

²⁴ GMA News Online, "New DENR chief to fight corruption, climate change effect", 7th July 2010 (Accessed at: <http://www.gmanews.tv/story/195075/new-denr-chief-to-fight-corruption-climate-change-effects>).

²⁵ J. Opiniano, "Rent seeking equals low investment, high migration", Philippine Daily Inquirer, 1st April 2008.

implementation are located inside Community-Based Forest Management Agreement (CBFMAs) and Certificates of Ancestral Domain Titles (CADTs) areas. It is envisaged that, in such cases, carbon rights will be allocated directly to indigenous peoples as forest dwellers and “owners”, and to private land title holders, subject to government tax and other regulatory requirements. It has been noted, however, that some form of sharing scheme between CBFMA holders, local government units and national government bodies should also be considered.

Protected Areas Management Boards (PAMBs) also hold responsibilities for managing certain protected areas, with their obligations coupled with benefits which might be considered to constitute carbon rights.²⁶ Given the background of a state policy of ownership of all natural resources, the state might also claim ownership of carbon as a publically owned asset, possibly attempting to sell or lease out areas of forest to generate revenues. In such instances, the PNRPS states that the principle of priority for community rights should govern revenue sharing. Interviewees noted, however, that in view of the country’s present socio-economic status²⁷, government authorities are keen to obtain access to increased revenue flows via REDD schemes.

The PNRPS has considered weaknesses in institutional and political arrangements that have hampered the implementation of comprehensive environmental laws and policies. The *modus operandi* outlined for achieving effective governance of REDD entails multilevel, multistakeholder participation. The pursuit of such participatory activities would appear to constitute a major shift in the manner in which community forestry activities are to be implemented. Further consideration of other policy and institutional reforms that may be required to support the effectiveness of this shift seems to be required.²⁸ The establishment of a national multistakeholder REDD council (NMRC) with representation from indigenous and forest communities is a proposed governance mechanism that could help articulate local community views. Such a structure at national level could be replicated at the provincial or municipal level to focus on REDD implementation at this level. The policies underpinning such structures should provide clear selection criteria for members, noting specific qualifications, roles, and responsibilities, and identifying to whom individuals in specific roles are accountable towards.

5.2 Initiating pilot work and studies

REDD pilot projects are being undertaken in the provinces of Aurora and Palawan, both in the Luzon region. These aim to enhance local forest governance and assessment of forest carbon stocks and biodiversity co-benefits. Informational meetings and orientation seminars have been held involving municipal and barangay (village) officials, indigenous and farmer communities. Work to review local forest policies and land use plans in light of REDD has also begun.

The German development agency, GIZ, is implementing REDD projects in the island of Panay, Western Visayas and in Southern Leyte, under its climate and forest policy programme. These pilots seek to determine how REDD approaches can contribute to biodiversity and forest protection. Scoping activities are being undertaken and commitments from local government units are being sought. GIZ has also provided support to undertake a series of forest policy studies identified under the PNRPS, including on the drivers of deforestation and forest degradation, carbon rights, the free, prior and informed consent process, and on forest policies.

6 Some policy considerations

Fully-fledged REDD projects have yet to be implemented in the Philippines, and schemes are still at the stages of policy development and piloting. Interest in engaging with REDD, however, is growing among

²⁶ See: Philippine National REDD-plus Strategy.

²⁷ The Asian Development Bank (2009) measured an increase in poverty incidence among Philippine households from 24.4% in 2003 to 26.9% in 2006. The number of poor families also increased from 4 million in 2003 to 4.7 million in 2006.

²⁸ See: Philippine National REDD-plus Strategy.

various stakeholders. The following section considers policy approaches for addressing governance and corruption challenges potentially applicable for future REDD work in the Philippines.

6.1 Encouraging transformative forest governance

An obvious pitfall REDD will want to avoid is to succumb to the same corruption challenges that have contributed to disappointing results in previous forestry projects. This implies the development of effective governance safeguards. An NCIP official has already proposed one set of safeguards that seeks to further integrate consideration of indigenous peoples' rights into decision-making processes for REDD (shown in Box 1). Although such safeguards may help encourage local political accountability for forest use, there is no certainty they will help address other governance and corruption concerns linked to REDD. It is reasonable to suggest that consideration should also be given for how REDD implementation can be spared the faults and disincentives present in the existing forestry permitting system. One mechanism for doing so could be the national multistakeholder REDD council (the MNRC mentioned above). This body, tasked with overseeing the designated national REDD authority and technical working groups, should develop clear protocols for monitoring and evaluating REDD projects.

Another potential pitfall identified by interviewees was that REDD will be "marketed as money". This was viewed as a mistaken approach since it would likely encourage less than reputable actors to attempt to engage in REDD projects. An example pointed to is the unproven allegations that senior government officials brokered a carbon deal with an indigenous community in the Bicol region at the behest of a private company that has gained a reputation as a so-called "carbon cowboy".²⁹ Such situations could be avoided if clear protocols are established for REDD project proponents to follow, which allow local communities to fully appreciate REDD as an opportunity enabling them to effectively protect watersheds and biodiversity in their localities. As mentioned above, a locally-organized multistakeholder REDD council could actively be involved in identifying, monitoring and evaluating REDD projects.

6.2 Sustaining momentum in the PNRPS process

The PNRPS has so far been viewed as a progressive process in developing a consensus among various actors – government bodies, civil society organizations, development institutions, and private sector actors³⁰ – on a framework for REDD. Beginning with regional consultations and workshops, the PNRPS document was crafted by various groups convened in a writeshop. Individuals from various sectors, including national and international actors, were then asked to critique a draft version. Several smaller group meetings were held to work on a budget and activities to underpin implementation of the document.

A challenge identified in interviews for this study was for the PNRPS effort to be elevated from its current technical level to the political level. The strategies, planned activities and budgets for "REDD preparedness" require a certain level of political commitment if they are to be conducted within the projected timeline of three years. The Climate Change Commission (CCC), in particular, could be strengthened so that it can inspire initiatives. CCC implementing rules and regulations could be reviewed with a view to encouraging responsiveness to the PNRPS document. The CCC could also initiate processes and activities that would lead to the establishment of the national multistakeholder REDD council and the designated national authority. Guidelines and protocols for such governance mechanisms should ideally form part of the CCC's rules and regulations.

²⁹ The allegations were raised during separate interviews with Climate Change Commissioners Naderev Sano and Lucille Sering. The author was not in a position to validate the allegations and simply takes note of the issue as raised by the two interviewees.

³⁰ PNRPS proceedings state that more than 60 individuals from over 30 organizations participated in its drafting. These included the Ateneo School of Government, the Climate Change Commission, the DENR-Ecosystems Research Development Bureau (ERDB), the Forest Management Bureau (FMB), the Protected Areas and Wildlife Bureau (PAWB), the Department of Science and Technology (DOST), the Forest Products Research and Development Institute (FPRDI), Greenpeace Southeast Asia, the IUCN National Committee of the Netherlands, Kitanglad Integrated NGOs, the National Mapping and Resource Information Authority (NAMIRA), the National CBFM Peoples' Organizations Federation, the Forestry Development Centre, the Technical Working Group on Adaptation to Climate Change and Conservation in Biodiversity (ACCBio), the National Commission on Indigenous Peoples (NCIP), the Palawan Council for Sustainable Development, and the Society of Filipino Foresters (SFF).

There is general appreciation of the role that civil society groups can play in making REDD work in the Philippines. Certain civil society organizations such as the Non-Timber Forest Products-Exchange Programme (NTFP-EP), the Kalahan Educational Foundation, and other members of the Code-REDD network, appear to have robust understanding of forestry challenges, and this expertise should be further harnessed for the benefit of REDD.

Box 1: Proposed safeguards for REDD

The REDD+ can only be implemented in ancestral domain areas based on the following premises:

- 1. To ensure CARBON RIGHTS for indigenous peoples;**
 - a. Demarcated and delineated ancestral domain areas
- 2. Right to develop land and natural resources**
 - a. Free Prior Informed Consent (FPIC)
 - b. Formulated Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs) with formulated investment protocols for REDD+ or any carbon forest engagements;
 - c. Capacitation of IP communities
 - a. such as trainings on domain management, negotiation skills, corporate and investment planning, REDD+ training and orientation, local and international instruments related to REDD+;
 - b. Established community monitoring and evaluation REDD+
 - d. Formation of Technical Working Group (TWG) of pro-IP technical advisers to review Memorandum of Agreements (MOAs);
 - e. Establishment of ancestral domain trust funds for payment of compensation for REDD+;
 - f. Development projects to increase resiliency/strength of IP/ICC communities in the establishment of defense systems to secure peace and security (cultural safety) over traditional territories;
 - g. The declaration of ancestral domains as zones of peace in REDDable areas and the establishment of complaints mechanisms and NCIP Quick Response Team (QRT) with fund support in defense of violations of protocols of these peace zones
- 3. Right to self-governance and empowerment**
 - a. Enforced traditional decision-making processes of elders recognized by DENR/LGU and other agencies on resource management;
 - b. Community workshops for transference of decision-making processes to the next generation;
 - c. Inter-domain exchange or knowledge sharing through workshops for best practices in the REDD+ experience;
 - d. Capacitation of indigenous political leadership through trainings for mandatory IP representation and participation in other local legislative exercises/processes or bodies;
 - e. Establish legal support groups to advocate for and support protection of indigenous rights in defense of and formulate government laws and policies

Source: Atty. Leilene Marie Gallardo, National Commission on Indigenous Peoples.

6.3 Broadening participation in and knowledge of REDD

Present international discourse portrays REDD as a relatively quick and straightforward mechanism. Interviewees for this study, however, expressed a view that it is a complicated concept. It was acknowledged that time and resources were required for broadening participation so that actors at various levels have an opportunity to acquire adequate knowledge of what REDD schemes entail.

It was noted that the judiciary should become a focus of information exchange and training, since instances of corruption linked to REDD will ultimately be brought to them. The training arm of the high

court (the Philippine Judicial Academy, or Philja) has already conducted training among judges, prosecutors, DENR lawyers and key provincial management staff with regard to new rules in the prosecution of environmental cases, subsequent to the establishment of environmental courts. This work could be extended to include climate change issues.

It is recognized that REDD activities should build on whatever gains have been made through existing community-based forest management schemes. REDD requires, however, that existing national and local rules and regulations integrate its incentives. This could be done in the form of a specific national law on REDD, or via amendment of existing laws. Pending pieces of legislation with potential relevance for REDD schemes are the sustainable ecological forest management bill, the land use management bill, and the freedom of information bill.

Management bodies and oversight functions for REDD are likely to be strengthened to some extent by the institutionalization of multisector, multistakeholder involvement, including an international monitoring component. It is currently argued by some that financing of REDD projects can and must be done outside the conventional mode of government project implementation for forest management. This, however, raises crucial questions for how knowledge and capacity transfers relating to REDD will benefit the central public sector body responsible for the forestry sector. Another way forward could perhaps be to consider mechanisms where REDD funds are not solely managed by the DENR.

6.4 Establishing access to information and transparency norms

Interviewees expressed a view that members of the public should have easy access to information on REDD projects and that transparency of information on forest inventories, carbon baselines, success criteria, and project goals, should be a norm in REDD implementation. In terms of generating key pieces of information which should be transmitted, the DENR and FMB require support to achieve a realistic inventory of forest resources and a credible baseline of stored carbon. Funding appears to be potentially available for such activities within the framework of the REDD national strategy process.³¹

6.5 Approaches for insulating REDD monitoring from corruption

It was also noted that strategies must be developed to ensure that measurement, reporting, and verification (MRV) activities for REDD will be protected from manipulation. Civil society actors were considered to have a critical role to play as monitoring bodies, and should be supported in their attempts to provide feedback on REDD project implementation. Civil society monitoring alone, however, was viewed by interviewees as an insufficient means for ensuring high quality evaluations of REDD project impacts. It was suggested that, in addition, formal MRV activities would be required based on multisectoral and multistakeholder participation, and accompanied by close supervision from international development institutions.

³¹ The United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), and the Food and Agriculture Organization (FAO), have recently expressed interest in supporting REDD activities in the Philippines.

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Abstract

Forest governance in the Philippines during the post-colonial period has involved protracted efforts to arrest and reverse patterns of overexploitation of forest products and land. Much of this loss is commonly attributed to weak enforcement of existing forestry laws, to mismanagement, and to abuses including corruption. National efforts aimed at reversing forest degradation have taken on a new dimension in the context of recent international focus on actions aimed at mitigating the effects of climate change, and there is keen interest in participating in schemes for Reducing Emissions from Deforestation and Forest Degradation (REDD) in the country. This Issue paper assesses past experience related to forest management in the Philippines with a view to providing policy considerations for the implementation of REDD. It addresses the possible challenges REDD may face in terms of the Philippines' governance context, focusing in particular on issues of rent-seeking and corruption in the forestry sector. Some policy options for REDD are discussed for the consideration of various actors, not least prospective donors of REDD schemes in the country.