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Implications of the Forest Charges Law to Rattan-based Livelihoods of Indigenous Peoples of the Philippines

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Abstract: This policy research investigated the question: "What are the implications of Republic Act 7161 (or the Forest Charges Law) as it is interpreted, imposed, and implemented towards sustainable rattan-based livelihoods of indigenous peoples (IP) communities in the Philippines?" An in-depth review and analysis of the Act was undertaken by examining the past policies, relevant administrative orders, and memorandum circulars issued by the Department of Environment and Natural Resources (DENR) and relevant forerunner agencies. The policy performance of forest charges *vis-a-vis* collection and resource conservation targets and the perceptions of the IP communities towards RA 7161 were assessed. Results provide evidence that the provision of the Act on rattan forest charges is disadvantageous to IP rattan gatherers who usually gather the rattan raw material for the rattan value chain and play a crucial role in achieving the goals of sustainable forest management. Recommendations are provided toward creating a

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more favorable policy environment beneficial to IP practices on rattan harvesting and utilization.

Keywords: *forest charges, forest policy, rattan, indigenous peoples, livelihood, sustainable forest management*

INTRODUCTION

In many countries, natural resources belong by law to the State. The private sector, composed of companies and individuals utilizing these assets, is often regulated by government to ensure that these resources are managed for the best interest of its citizens. From an economic perspective, sustainable and equitable management of these resources requires that the resource rent be recovered by the government through policy instruments such as the imposition of appropriate taxes.

Policy instruments to guarantee sustainable management of natural resources include setting limits to the amount that can be harvested and levying fees to discourage over-exploitation. One of the overriding concerns in imposing levies is to set them high enough to capture the rent generated at the most profitable and sustainable level of production. Thus, it becomes unprofitable for the private sector to harvest at levels that deplete the resource stock.

The collection of forest charges on timber and non-timber forest products gathered from Philippine forests was affirmed through Republic Act 7161,[3] which also increased the rates relative to PD 705 (Revised Forestry Code of the Philippines). For the purpose of this study, RA 7161 shall be referred to as the "Forest Charges Law" because of its very long title[3]. Forest charges are

taxes imposed by government on individuals or groups that extract timber and minor forest products from publicly owned forest lands. Charges on forest products are part of "other taxes," which represent compulsory payments to finance government operations (Tax Reform Act of 1997).

Minor forest products, also better known as non-timber forest products (NTFPs), are subject to forest charges. NTFPs encompass all biological materials other than timber that are extracted from the forests for human use (de Beer & McDermott, 1996). NTFPs are important to people all over the world, particularly the forest-dwelling indigenous peoples (IPs) who have been using these resources since time immemorial. NTFPs do not only form part of the culture of IPs; they also support many aspects of the IPs' sources of livelihood. In addition to the economic benefits, interest in NTFPs also stems from their contribution to meeting the environmental objectives in forest areas (Razal & Palijon, 2009). These benefits serve as incentives for communities to engage in forest conservation/sustainable forest management activities.

Among the country's NTFPs, rattan ranks high in economic importance. There are around 80 species of rattan (Baja-Lapis, 2010) that can be found in the Philippines. These rattan species grow largely in natural dipterocarp stands, and to some extent, in submarginal and mossy forests. The trend in the Philippines on rattan production and year-to-year collection of forest charges on rattan (split and unsplit) from 2005 to 2011 is shown in Table 1.

Mainly because of the strength, lightness, versatility, and pliability of its stems, rattan is widely used by furniture and handicraft industries, making it an export winner for the country. Globally, Filipino furniture designers such as Kenneth Cobonpue from Cebu City have been recognized for the inspired and intricate designs of their rattan-made furniture products.

Rattan and rattan products have significantly contributed to employment, and to income and foreign exchange generation for the country (Pabuayon, 1991). Employment in the rattan industry includes those who are involved in the gathering and collection of poles from the forests, as well as those who are engaged in trading and transporting, material preparation, processing, and marketing of raw rattan poles, derivatives and split rattan, and finished rattan products.

The rattan value chain actors in the Philippines are broadly classified into (a) gatherers or cutters, (b) *kapatas*, permittees, or people's organizations (POs) as the first rattan consolidation point, (c) traders (provincial, national, and wholesale traders), and (d) manufacturers and exporters. IP gatherers are considered as the first link in the rattan marketing chain. A gatherer harvests rattan and brings it to a *kapatas,* trader, or PO (local consolidator). The *kapatas* buys rattan poles from the gatherers and sells these to a permittee or acts as a point person or local manager in the area for the permittee. A permit from the Department of Environmental and Natural Resources (DENR) to harvest rattan is required for all rattan harvesting. Traders serve as intermediaries among rattan gatherers, permittees, and manufacturers and oftentimes, they advance cash or goods to gatherers through the *kapatas* to set gatherers off to go to the wild to harvest rattan poles. The manufacturers and exporters of rattan purchase raw canes and semi-processed splits from the traders to work into their designs. The manufacturers are responsible for cultivating buyers, arranging trade credit, designing products, and controlling quality of the final products (FRAME, 2006).

Problem Statement

Indigenous communities identified the following as the most important barriers to their ability to derive sustainable

incomes from rattan pole harvesting and trading: a) lengthy permitting processes, b) cumbersome requirements, and c) high transaction costs. In addition, forest charges are considered to be one of the thorniest requirements as they tend to eat up a large portion of their income. Consequently, some IPs take the risk of bypassing this requirement and conduct their rattan gathering operations illegally, i.e., without appropriate permits and licenses. Case studies on rattan utilization in ancestral domain areas (Gatmaytan, 2004) showed the adverse impact of forest charges on the ability of the community to manage their resources in a sustainable manner. Forest charges increase operational costs of rattan cutters and other users, while correspondingly decreasing the profit from the sale of already very low-priced products. Some rattan cutters have been emboldened to bypass the taxes and evade government monitoring altogether.

Technocrats in government generally pay little attention to the importance of NTFPs to the local and national economy. As such, the production and utilization of NTFPs are overlooked in the policy making and planning process, thereby neglecting the many benefits that can accrue from these resources, particularly in reducing poverty among upland dwellers. Long-held perceptions on NTFPs need to be corrected, as current trends reveal the potential of NTFPs to contribute to upland community development.

These suggest the need for a more in-depth examination of government policies on forest charges, on how much should be reasonably imposed, and whether their collection fulfills the purpose and objectives set by the government to protect, conserve, and develop forest resources.

This policy research study investigated the question: "What are the policy implications of RA 7161 (referred to in this study as the Forest Charges Law) as it is interpreted, imposed, and

implemented towards sustainable NTFP-based livelihoods of indigenous peoples' communities in the Philippines?"

The specific objectives of the study are:

1) to undertake an in-depth review and analysis of RA 7161 by examining the following: past policies related to forest charges and enacted prior to RA 7161 as well as relevant administrative orders/memorandum circulars that provided guidance in implementing forest charges collection for NTFPs;
2) to examine the policy performance of NTFP forest charges (in terms of its revenue collection and fund utilization);
3) to determine the perception of IP communities towards RA 7161 in terms of their awareness, understanding, and social acceptability of paying forest charges for NTFPs; and
4) to provide recommendations geared towards creating a more favorable policy environment for NTFP utilization beneficial to the IPs.

METHODOLOGY

A qualitative research approach was utilized including (1) content analysis to examine the aspects of the Forest Charges Law as well as related policies, and (2) interview of selected IP communities to assess their perception of the implementation of RA 7161 and its impact on their livelihood.

Secondary data were gathered through desk reviews of the various polices, implementing rules and regulations (IRRs), department administrative orders (DAOs), and memorandum-circulars (MCs) as well as historical data sets of forest charges collection and utilization by the DENR.

Primary data were gathered through key informant interviews (KIIs) from individuals, communities, and traders involved in the extraction and/or harvesting of NTFPs, particularly rattans in the provinces of Quirino, Mindoro Oriental, Palawan, and the CARAGA region. The analytical framework examined aspects such as legislative basis (previous laws that have provisions on forest charges collection), policy performance, its relevance, as well as the socio-political acceptability of the policy as perceived by the indigenous peoples.

RESULTS AND DISCUSSION

Forest Charges and Forest Revenue Systems

Forest revenue systems comprise a key component of forest sector policy in most countries. The policy revenue system includes a wide range of levies, from area fees and stumpage fees to sales, income, and export taxes. Its primary intention is to generate revenues for government from forests through a system that is designed to capture the resources' "true value." The levies and fees are imposed on private firms and individuals in exchange for the right of access to resources in state-owned forests, particularly timber and in some cases, non-timber forest products. Most forest revenue systems aim to raise income for the public purse. They are also seen as economic signals to private producers and land owners, primarily because of their influence on the prices at which resources are made accessible.

There are continuing efforts in various countries to reform forest revenue systems by linking forest revenue collection to forest management costs. These efforts include the following schemes (Landell-Mills & Ford, 1999):

a) *User fees and service charges.* This is considered as the most direct linkage wherein the forest authority collects user fees or service charges to cover the costs of providing specific services to the private sector. Some countries that have adopted cost recovery to pay for particular forest services include Honduras, Latvia, Bolivia, Finland, and Ghana.

b) Establishing a forestry fund. A fund is set up that is dedicated to forest management and development and is financed by revenue from forest charges. A range of 10 percent to 25 percent of stumpage sales tax is allocated for forest rehabilitation. This is practiced in countries such as Slovenia, Brazil, Indonesia, Malaysia, India, and Honduras. In a few cases, governments devolve responsibility for forestry to a financially autonomous body with revenue-raising powers (where there is forest authority corporatization and privatization).

c) *Revenue sharing with land-owning communities.* In countries where community forests are important, there has been a trend to channel all or a portion of the revenue collected by governments from forest users to landowners, as part of broader reforms to increase community involvement in forest management. This is the case in Papua New Guinea, where reforms to the revenue system have prioritized the interest of landowners. Since 1996, local communities have received 95 percent of royalty revenue, and the government has collected a Project Development Levy. In Ghana, the government is constitutionally required to return a share of timber royalties to landowners. In Mexico, *ejido* and indigenous community landowners were awarded the right to lease and sell rights to their forests, which meant that they - and not the government - currently receive all the revenue from third party use.

Historically, governments have maintained low charges to support the development of their respective forest products industry (Landell-Mills & Ford, 1999). However, the forest revenues and forest fees have been deemed to be well below the value of the timber and other forest resources. In the Philippines as well as in other tropical countries, the low valuation of forest products, particularly timber, is believed to have promoted forest exploitation (Umali, 2005; Othman & Abdul Ghani, 2003; Ma & Broadhead, 2002).

Despite rates that are perceived to be lower than the resources' "true value", governments in many countries, in general, still encounter difficulties in implementing their respective forest revenue systems. This is evident in disproportionate collections relative to volume extracted, arrears in payments by resource users, and alleged corruption among the ranks of those tasked to collect the fees (Gillis, 1992; Salim & Ulisten, 1999 cited in Gray, 2002). Literature and anecdotal evidences have shown that there is widespread avoidance and abuse, "side" payments, illegal logging, and illegal NTFP extraction activities. Thus, it is contended that forest revenue systems offer very little incentive for stakeholders "to harvest timber efficiently or to use the forest sustainably" (Gray, 1983; Repetto & Gillis, 1998; Grut, Gray, & Egli, 1991; Gray, 1996; Karsenty, 2000 cited in Gray, 2002).

On the other hand, increased forest charges do not appear to automatically lead to accrual by the government of the forest rent. In Malaysia, for instance, a system that leaves high value timber in the forest (also known as high-grading) to evade forest charges on the more expensive timber had reportedly been practiced (Othman & Abdul Ghani, 2003). Avoidance of high forest charges and other fees associated with getting rattan harvesting permits also appear to be the rule rather than the exception for some indigenous Filipino communities. These IPs engage in

"recycling" of documents or "misdeclarations" such as underreporting of shipment volumes and other illegal practices to realize better returns for their harvests (Gatmaytan, 2004; Aquino, 2007).

Philippine Forestry Policies

As per Section 3, Article XII of the 1987 Philippine Constitution, forest or timberlands cannot be alienated. As such, their management, protection, conservation, and development remain a major responsibility of the government. Executive Order No. 192 issued in 1987 created the DENR as the main government body vested with the powers that relate to the use and preservation of all natural resources including the forests and the goods and services therein.

The DENR can enter into different forms of tenurial arrangements with private individuals, corporations, communities, and indigenous people's groups to manage and develop limited areas of forestlands in exchange for the rights to utilize the natural resources therein. In the absence of an updated forest law, the rights to utilize forest resources are still defined by Presidential Decree 705 (Revised Forestry Code of the Philippines). This decree provides that the utilization of forest resources is subject to the grant of a license with a fixed duration and the payment of corresponding fees, including forest charges.

After the 1986 People Power Revolution, a string of forestry -related executive orders (EOs) pertaining to the management of the country's forest were issued. In 1987, EO 273 entitled "Adopting a Value-Added Tax, Amending for the Purpose Certain Provisions of the National Internal Revenue Code and for Other Purposes" was signed by then President Cory Aquino. Also in 1987, EO 277 entitled "Amending Sec. 68 of PD 705, as amended,

otherwise known as Revised Forestry Code of the Philippines, for the purpose of penalizing possession of timber or other forest products without the legal document required by existing forest laws, authorizing the confiscation of illegally cut, gathered, removed and possessed forest products and granting rewards to informers of violation of forestry rules and regulations" came into effect.

In the National Forest Assessment: Forest Policy Analysis, Carandang (2005) pointed out that while most of the provisions of PD 705 were considered to be operational, there had been major changes in policies resulting from a maze of decrees, orders, directives, and letters of instruction, circulars, and memoranda that have influenced forest governance in the country. While there has not been any major legislated forestry sector policy in the Philippines, the existing overarching policy has remained the four decades-old PD 705.

When Republic Act 7161 for a component aspect of the forestry sector was enacted in 1991, it was viewed somewhat as suggestive of skewed priorities as it emphasized the need for revenue generation derived from harvesting timber and non-timber resources. On the other hand, efforts to enact the Sustainable Forest Management Act or variants thereof have been underway since the late 1980s but have been, to date, unsuccessful.

Legislative Basis for the Collection of Forest Charges

Pre-RA 7161 policies. From the time the country was held as an American colony, certain laws with specific provisions had been used as basis for collecting forest charges. The 1904 Forest Act (No. 1148) regulated the use of public forest and forest reserves in the Philippine Islands. The enactment empowered the Philippine Bureau of Forests (under the Department of Interior) to collect for

the government certain fees for harvesting timber and other products from the forest.

Section 12 of the Forest Act of 1904 provided that:

> *"…On all the gums and resins and other forest products gathered or removed from any province there shall be paid on the actual market value thereof ten per centum…"*

Before the issuance of PD 705, Forestry Administrative Order No. 11 of 1961 authorized the collection of forest charges that covered different types of fees for various licenses as well as bonds required of those applying for permits to extract both timber and minor forest products.

One year after the fall of the Marcos regime, the newly organized DENR issued Department Administrative Order 80 series of 1987, which laid out regulations governing the measurement, assessment, and payment of forest charges on timber and other forest products. Among the salient provisions in DAO 1987-80 are the categorization of timber species into four major groups, fixing of prescribed amount of forest charges on different forest products, the procedure for payment, and penalties for violations.

Republic Act 7161. Republic Act 7161 was enacted in October 1991, which prescribed higher rates to be collected as forest charges from those who cut and gather timber and NTFPs. The payment of forest charges was in lieu of the administrative charge on the environment and other fees and charges imposed thereon. The collection of forest charges, therefore, has effectively become a tax imposed by government on individuals or groups that "extract" resources on forestlands, which are lands of the public domain.

RA 7161 departed drastically from DAO 1987-80 in terms of the imposed rates, following suggestions from donor governments that the forest charges were too low and did not sufficiently cover the environmental cost of extracting forest resources. Thus, for timber, the forest charges had been pegged at 25 percent of the actual FOB market price. For NTFPs, Section 5 of RA 7161 "prescribed that all other forest products of forestland such as rattan, gums and resins, beeswax, gutta-percha, almaciga resin, and bamboo shall be charged at 10 percent of the actual FOB market price." A summary of relevant provisions of RA 7161 can be seen in Table 2.

System of Imposing and Collecting Forest Charges

To implement RA 7161, the DENR issued in various years, the following administrative orders: DAO 1991-56, 1993-39, 1994-40, 1995-19, and 2000-63. These orders imposed the specific charges for different groups of timber and non-timber species based on their FOB market prices. RA 7161 further stipulates that forest charges should be adjusted by the DENR Secretary on a yearly basis depending on the actual FOB market prices of forest products. These forest charges are subject to the recommendations by an inter-agency committee that the DENR Secretary was empowered to create.

In principle, the charges are pegged at the market prices which RA 7161 has promulgated to be the FOB price of the different forest products. The FOB price is taken as the weighted yearly average of monthly prices by all the monitoring stations per island group (i.e., Luzon, Visayas, and Mindanao). The designation of different price monitoring stations in different DENR offices across the country was based on price differences that exist among island groups. This would then be reflected through different forest charges rates that would apply depending on the location of the source of timber and NTFPs.

A careful look at the rates of forest charges suggests that over the years, there had been little or no rate differences among the regions. The government sets fixed amounts for all types of forest products, which could not be promptly adjusted with fluctuations in market prices. In fact, current forest charge rates were still based on the 1995 DAO, which were presumably based on the 1994 FOB market prices.

Judging from the number of DAOs issued, the rates have only been revised five times since the passage of RA 7161, or after more than 20 years. This is a contravention of Section 6 of RA 7161, which stipulates that the actual FOB price of forest products, from which forest charges are based, should be determined on a yearly basis by a committee. The committee would consist of the DENR as the lead agency, and would include representatives of the NEDA, the DTI, the BIR as well as the wood and furniture industry and consumer sectors. Perhaps, the difficulty of convening such a group annually has prevented the yearly issuance of a DAO that prescribes forest charges.

The infrequent issuance of a DAO on forest charges may be acceptable during periods when actual prices of forest products are high. Since the market has, for the most part, been negatively affected by the global recession, then the forest charges had become disproportionately high relative to current prices in recent years. The situation is worse in the case of NTFP gatherers, because the practice of collecting forest charges is to deduct a fixed amount representing the forest charge from the farm gate price of their produce. They are virtually helpless when traders tell them that the market price is low. This would mean lower net payments or farm gate prices for their products albeit the forest charges deducted would remain pegged to the value based on a relatively high FOB.

At the field level, the system of assessing forest charges based on the volume of timber and NTFPs harvested, affords opportunities for official abuse and manipulation by authorities mandated to perform such role. DENR scalers or duly authorized forest officers are tasked with estimating volumes and kinds of harvested forest products, which serve as the basis for amount of forest charges to be paid. Among the illicit actions reported that stem from officials performing functions associated with assessing forest charges include misdeclaration, under-declaration, and intentional wrong identification of species. An example of misdeclaration is when harvested forest products are claimed to be obtained from planted sources and not from natural forests. Under-declaration involves reporting lower volumes than what were actually harvested or transported. It is also anomalous to identify a premium species as a lesser value species from which lower forest charges would be collected. These illegitimate actions often could not happen without the connivance of government officials and the clients they serve.

If the government sticks with the volume-based approach for determining forest charges, it should also introduce improvements in measurement capability, product classification and identification, document tracking in the field, and monitoring systems to minimize, if not eliminate abuse, by duly authorized officials.

Rattan trading at the community level is based on at least 10 different sizes: $^{5}/_{6}$, $^{3}/_{8}$, $^{7}/_{16}$, $^{1}/_{2}$, $^{5}/_{8}$, $^{3}/_{4}$ for poles that are less than 2 cm in diameter, and $^{7}/_{8}$, 1, 1 $^{1}/_{8}$, and 1 $^{1}/_{4}$ for poles having diameters larger than 2 cm. This means that prices received by rattan harvesters will depend on the actual size of the rattan that they collect. The smaller the size, the lower is the price received. Small diameter rattans like *sika* and *arurog* are desirable for woven parts and for accents. On the other hand, large diameter rattans

such as *palasan* and *ditaan* are used for frames and provide the strength and stability of rattan furniture.

However, for the purpose of imposing forest charges, DENR classifies unsplit rattan into only two categories: below 2 cm and above 2 cm. The department uses a fixed forest charge of PhP 0.65 for those below 2 cm in diameter and a corresponding fixed amount of PhP 0.85 for poles bigger than 2 cm. This practice is unfair to rattan harvesters who are paid less for the small-diameter rattans yet are taxed the same forest charge for their produce regardless of actual diameter.

Table 3 shows the comparison in the computation of the ratio of forest charge to actual price received by the harvesters for different sizes of rattan poles for the two diameter categories. Since every batch of rattan poles harvested will always be a mixture of different sizes of rattans, rattan harvesters would always be on the losing end when selling their poles. Their incomes are further reduced by the uniform amount of forest charge imposed on their produce.

Table 3 also shows that with $^{5}/_{16}$-inch rattan pole, the rattan gatherers would only get paid PhP 2.00 for it. The trader pays for every pole according to their individual sizes. However, the government scaler, who assesses forest charges, would merely count all the poles having diameters less than 2 cm. Consequently, the government scaler would charge the lot of rattan poles that are less than 2 cm in diameter with PhP 1.95 for each and every pole. This means that the gatherer actually pays an actual rate of 98 percent as forest charge for his/her $^{5}/_{16}$-inch poles, which is much higher than the 10 percent prescribed in RA 7161.

All other sizes, except the 1 $^{1}/_{4}$ inch sized poles, are actually charged more than 10 percent as a result of the practice by DENR

scalers of charging rattan poles based only on two-diameter classes. A 3-m long, 1 $^1/_4$-inch pole will fetch a selling price of PhP 26, with a forest charge of PhP 2.55, or 10 percent of its actual selling price. But this is the only size for which the forest charge is consistent with the law. Thus, as the forest charges undervalue the rattan poles and consequently reduce the gatherers' incomes from their harvest, this practice is grossly disadvantageous to rattan harvesters. If the administrative order is not amended and the practice of having only two-diameter classes would continue, this might lead to unsustainable harvesting of rattan resources. To offset lost income as a result of disproportionate forest charges, individual IPs may resort to overharvesting to maximize cash incomes from this livelihood activity. Under such a scenario, the purpose of imposing forest charges as "resource rent" in order to provide a mechanism for sustainable forest management is defeated.

Careful analysis of specific provisions of the various DAOs on forest charges reveal that there have been efforts in subsequent orders to institute reforms and changes to address some of the flaws noted in the previous DAOs. However, such amendments are not sustained and even nullified when a new administration takes over. Besides, there exist inconsistencies in interpretation of an administrative order at the field level. Administrative policy reforms not supported by legislation make changes impermanent and subject to the whims of incoming officials.

Policy Performance of NTFP Forest Charges

In terms of policy performance, the collection of forest charges on unsplit rattan has contributed significantly to the total amount of forest charges for NTFPs, accounting for about 87 percent of total NTFP forest charges between the years 2005 to 2011 (Table 1). However, Razal (2009) found out that in some

years, there have been inconsistencies between the reported rattan production volumes versus the amount of NTFP forest charges collected by the government. Discrepancies can be partly attributed to anomalous practices mentioned earlier, such as misdeclaration and underreporting in the volume of harvest and recording of NTFP forest charges. These are suggestive of the vulnerability of the forest revenue system for NTFPs to fraudulent practices. Hence, the government should exercise greater vigilance in monitoring and in processing information received from the field offices. It should implement reforms to stop activities that undermine the forest revenue system.

Over a 30-year period from 1976 to 2007, the total amount of PhP 174,455,260 or about 2.5 percent of the total forest charges, was collected from timber and NTFPs. The forest charges on timber amount to tens of billions of pesos, showing the meager contribution of NTFPs to the total forest charges revenue. The study undertaken by Razal, Dolom, Villanueva, Camacho, & Peralta (2005) asserted that "government statistics on forest charges show that NTFPs contribute a seemingly insignificant amount to the national economy compared to timber, which provides between 93 to 99 percent of the annual figures."

In terms of fund utilization, the total forest charges collected would only account for less than one percent of transfers to LGUs. The proportion of NTFP forest charges that contribute to LGU appropriations would correspondingly be lower, estimated at a meager 0.0255 percent. Hence, the policy of exacting 10 percent forest charges on NTFPs is not only disadvantageous to the poor IPs who harvest them, but its share is also insignificant *vis-a-vis* revenues that the government could use to serve its citizens or to finance activities to protect the forest, including NTFPs.

The irony is that while the imposition of forest charge was partly designed as an instrument to insure the sustainability of forest resources, the amount is so small to make an impact on forest protection. Worse, it creates a situation that tempts IPs to harvest rattan resources in less than sustainable manner. Although small relative to government revenues, the amount that rattan gatherers forego to pay off forest charges is substantial relative to their household incomes, hence aggravating their poverty because of the limited opportunities for a living in upland areas. Apparently, NTFP forest charges as a policy is not only unable to recover resource rent, but it is also detrimental to sustainable forest management, which is one of its purported objectives.

Lessons from the Field

IP communities revealed a basic understanding of the need to fulfill obligations pertaining to the payment of forest charges. They demonstrated tacit approval of the law that prescribes the payment of charges for harvesting forest products, which they agreed should be followed. However, there is reservation on whether such payments actually accrue as net income or revenue share of the national government. One IP community's view of an "ideal situation" was when forest charges, after becoming part of the government revenue, would later trickle down to benefit the barangays.

In the interviews, the payment of forest charges did not figure with the respondents as a factor that gatherers considered when they decided on the intensity of harvesting NTFPs. However, in situations when income was much lower than expected, the IP community tended to overharvest to recoup anticipated losses.

IPs did not contest the FC rates which they have come to accept, acceding to the right of government to impose taxes at rates

it sees fit. However, the reason for the 10 percent charge on NTFPs was not clear to them, and they had no knowledge on the basis for the imposition of the 10 percent rate other than saying that it was prescribed by law. In the discussion of pre-RA 7161 policies in the present study, the Forest Act of 1904 carried a provision that stipulated a 10 percent charge on gathering forest resources such as "gums and resins and other forest products gathered or removed…" Hence, the precedent rate of 10 percent was set at a time when conditions were much different from today, but the 10 percent forest charge has remained.

IPs also appeared to have trust in the capacity of the DENR staff to properly scale NTFPs for forest charges purposes. Besides, they said that IPs themselves were the ones who would provide the declaration (information on the actual harvests), which the DENR staff generally accept as true and correct. However, some IPs conceded that "misdeclaration" could happen, especially among communities that tend to overharvest more than what was allowed in their permits.

Some IPs also lamented that in actual trading, they would actually offer traders stockpile of rattan poles with varying sizes. The traders would then buy their rattan harvest at rock bottom prices depending on individual sizes. But they are compelled to pay forest charges that were based on the "average-sized" poles, i.e., PhP 0.65 for all poles less than 2 cm in diameter and PhP 0.85 for poles larger than 2 cm in diameter.

By law, forest charges are directly levied on those who are actually engaged in extracting NTFPs. Because IPs and upland dwellers do not have cash to pay off such charges, the practice is for traders who buy the rattan poles from the gatherers to automatically deduct the assessed value of forest charges from the cash they pay out to the rattan gatherers. The businessmen-traders

then deal with the DENR field offices in the actual payment of forest charges during the process of seeking permits to transport the rattans. This creates an impression among the IP gatherers that the cash they received were only actual payments for rendered labor services in the cutting and carrying of rattan poles on their backs. This often negates the value of these resources being extracted from within their ancestral domains.

The IP gatherers preferred the middlemen to shoulder the forest charges without deducting the same from their payment in harvesting rattan and other NTFPs. This freed them from the burden of paying this amount and gave them a more decent income. The income also served as their reward for the implicit function of protecting the resources within their ancestral territory.

The on-the-spot deduction of forest charges from payments for their harvest was a difficult pill to swallow for most IP communities who were rattan harvesters. Some of them felt that they were indefinitely "bound" to middlemen who could provide them cash advances before rattan harvesting expeditions. They used these cash advances to buy supplies during the almost three-to-four day rattan harvesting trek to the mountains away from their families. Being already indebted to the middlemen, they become powerless in negotiating prices that are virtually 'dictated' by the middlemen. This situation has created a sense of resignation among them, especially as they had limited alternative livelihood options.

Some IP communities had misconceptions that only the government (and the unscrupulous officials) solely benefited from forest charges. They found forest charges to be irrelevant to the community's needs, and to some extent, even inimical to overall community well-being. Hence, community representatives have suggested decreasing the rates of forest charges to scrapping it altogether.

CONCLUSIONS

IP communities play a crucial role in the country's forest management systems given government's limited capacity to protect the forestlands. For performing such a role, IPs must be provided with rewards and even given incentives for their contribution in achieving the goals of sustainable forest management.

A comparison between RA 7161 and a colonial law on forestry in the Philippines, the Forest Act of 1904, however, showed that the country still largely subscribes to the provisions laid out in the latter, which formed the basis for subsequent regulations on forest charges.

For IP communities dependent on the forest for survival and livelihood, such a colonial policy is unsuitable to their culture, traditional laws, and indigenous knowledge, skills, and practices (IKSPs).

Specific provisions in the DAOs under RA 7161 showed that even though the DENR undertook some policy reforms, these changes have been made at the administrative level and were easily amended or nullified by a new administration. Further, interpretations varied at the field level, and these were usually detrimental to the IP stakeholders. Some field-level officials even willfully misinterpret the policies when policy reforms are not supported by legislation.

The share of NTFP forest charges in government revenue is rather small, contributing little to government operations. The government probably even spends more to maintain the salaries of officials tasked to assess the value of NTFP harvests. Further, forest charges impinge heavily on the take-home income of IP

communities. To offset such losses, IPs tend to overharvest and sometimes, even collude with government officials in cheating by misdeclaring or underdeclaring their harvest. These practices negate the government's ability to recover resource rents. Thus, other sectors of society should subsidize initiatives and programs that are geared towards forest conservation and sustainable forest management.

The 10 percent forest charge on NTFPs based on the outdated Forest Act of 1904 coupled with evidence gathered from the field point to a deficient policy on NTFP Forest Charges. Hence, current provisions of RA 7161 should also be amended to make it more advantageous to IPs in terms of allowing them to get a fair share of their labor, and to be a more effective tool for the government to recoup resource rent and protect the forest.

RECOMMENDATIONS

This policy research study subscribes to Molintas' (2004) recommendation, which stressed thus: "For many indigenous peoples, the state's development policies have not worked in their favor. In the first place, these laws have always been biased against indigenous concepts of ownership. Perhaps taking a step backward, to look once again at these state-sponsored laws, to be able to discern what to reform in these legal texts, is but proper. The IPs have done more than enough to adjust or even to work within these laws. Now it is time to attempt another approach – to reform the legal texts to meet the needs of the indigenous peoples."

Specific recommendations are the following:

1. DENR needs to develop a tool/system for appropriate and fair assessment of forest charges that will be beneficial to the IPs and other players in the rattan value chain. The

DENR, in particular the Forest Management Bureau, must pay greater attention to ensuring greater reliability of the data on rattan production as this affects the sustainability of forest resources.

2. The government should improve the mechanism on how forest charges are determined. Umali (2005) stated: "The current available financing mechanisms dealing on collection of forest charges and fees, trust funds, and other plough-back mechanisms should be evaluated as to collection efficiency, impact on beneficiaries, and the use or re-investment in the forestry sector."

3. The DENR should evaluate other means to generate funds for forest conservation and protection, highlighting the benefits that forests provide for other sectors of society, so as not to rely on forest charges, especially on NTFPs. Forest charges, especially on NTFPs impinge on the livelihoods of forest-dependent people. Other countries' experiences can be explored such as that of Papua New Guinea, Ghana, and Mexico in putting in place forest revenue schemes (Landell -Mills & Ford, 1999). These may include revenue sharing with local communities as this is in line with the government's thrust on community-based forest management (CBFM).

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END NOTE

[3] An Act incorporating certain sections of the National Internal Revenue Code of 1977, as amended, to Presidential Decree No. 705, as amended, otherwise known as "The Revised Forestry Code of the Philippines," and providing amendments thereto by increasing the forest charges on timber and other forest products

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TABLES

Table 1. Yearly production of, and forest charges on rattan (solid and split) in 2005-2011 (Source: FMB, 2005-2012)

YEAR	PRODUCTION OF RATTAN		FOREST CHARGES ON RATTAN (PhP)
	Split rattan ('000 kg)	Unsplit rattan ('000 lineal meters)	
2005	13	12,970	9,111,214 (99.1)[a] (7.2)[b]
2006	5	9,773	6,129,723 (96.0) (3.2)
2007	14	4,888	3,531,963 (90.5) (2.0)
2008	18	5,151	3,227,295 (89.5) (2.0)
2009	34	3,102	2,382,096 (81.6) (2.25)
2010	3	3,757	2,499,770 (78.2) (1.6)
2011	35	4,515	2,622,384 (71.9) (10.9)

[a] as percentage of total forest charges on NTFPs

[b] as percentage of total forest charges on roundwood

Table 2. Summary of relevant provisions of RA 7161

SECTION	RELEVANT PROVISION
Section 3 - Charges on Timber Cut in Forestland	Collection of charges on each cubic meter of timber cut in forestland, whether belonging to the first, second, third, or fourth group, twenty-five percent (25%) of the actual FOB market price based on species and grading. For pulpwood and matchwood cut in forestland, forest charges on each cubic meter shall be ten percent (10%) of the actual FOB market price.
Section 5 - Charges on Minor Forest Products	Rattan, gums and resins, beeswax, gutta-percha, almaciga resin, and bamboo shall be charged at ten percent (10%) of the actual FOB market price.
Section 6	Actual FOB market price of forest products is annually determined by the DENR Secretary through a committee composed of representatives from the DENR; the National Economic and Development Authority (NEDA); the Department of Trade and Industry (DTI); the Bureau of Internal Revenue (BIR); the wood and furniture industry; and consumers sectors. This committee will formulate the criteria and/ or guidelines in the determination of the actual FOB market price to be used as the basis for the assessment of the *ad valorem tax* taking into consideration production cost (developing cost, contingencies, and miscellaneous cost), species and grade of timber and forest products gathered within public forestlands, alienable and disposable lands and private lands. Forest charges collected shall be in lieu of the administrative charge on environment and other fees and charges imposed thereon. Planted trees and other forest products harvested from industrial tree plantations and private lands covered by existing tiller or by approved land application are exempted from payment of forest charges.

Table 3. Comparison of percentage of forest charges at actual sizes and actual buying prices vs. percentage of forest charges (FC) at average sizes and average prices

AVERAGE SIZE (as per RA 7161)	BELOW 2 cm						ABOVE 2 cm			
Prescribed FC per linear m	PhP 0.65						PhP 0.85			
Actual FC per pole (1 pole = 3 linear m)	PhP 1.95						PhP 2.55			
Actual size (in inch)	5/16	3/8	7/16	1/2	5/8	3/4	7/8	1	1 1/8	1 1/4
Actual size (in cm)	0.79	0.95	1.11	1.27	1.59	1.91	2.22	2.54	2.86	3.18
Actual buying price (in PhP) of rattan poles	2	3	3	4.86	6.25	11.17	11.75	14	20.25	26
FC as a percentage of the actual price of each pole	98%	65%	65%	40%	31%	17%	22%	18%	13%	10%

Sources: Gatmaytan (2004), FRAME (2006), Aquino (2007), and DAO 1995-19