

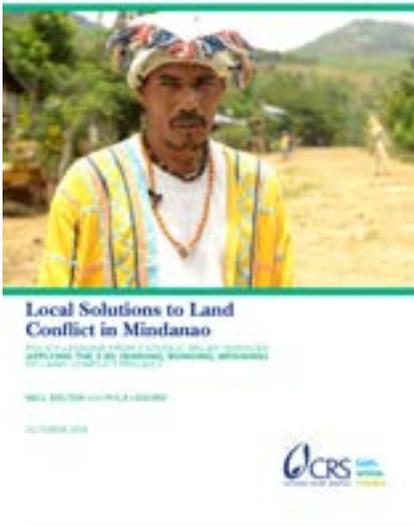


Local Solutions to Land Conflict in Mindanao

POLICY LESSONS FROM CATHOLIC RELIEF SERVICES' **APPLYING THE 3 BS (BINDING, BONDING, BRIDGING)** TO LAND CONFLICT PROJECT

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Datu Dionisio Bacag is one of the Traditional Leaders and Village Councilors trained by CRS through the Applying Bonding, Binding and Bridging Approach to Land Conflict.

According to him “because of the process led by CRS, there was a big change in the way people deal with land conflicts. We held a cultural ritual called *pamaas* where we had a gathering, and the parties asked for forgiveness and this leads to reconciliation. The conflict was resolved in the presence of the visitors which consist of indigenous people, officials from the National Commission on Indigenous People and from concerned government agencies. **Now, people listen to each other.**”

This paper presents a land conflict typology and key policy-related lessons from the **Applying the 3 Bs (Binding, Bonding, Bridging) to Land Conflict (A3B)** project implemented over a 3-year period in 20 barangays in four municipalities in Central Mindanao with funding from the United States Agency for International Development (USAID).

As the A3B experience shows, meaningful steps can be taken at the local—barangay (village) and municipal—level to generate viable alternative solutions to land conflicts. This focus on local policies and practices is both expedient and responsive to the multi-faceted causes and dynamics of land conflict.

Solutions generated by A3B address the three most common types of land conflicts in target areas: **boundary conflicts, mortgage or transactional disputes, and competing land claims.**

In addition, the Municipal Interagency Working Groups established under the A3B provide a sustainable platform for coordination of relevant bodies, and a means of operationalizing the Joint Administrative Order, No. 1, Series of 2012 issued by the Government of the Philippines.

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LIST OF ABBREVIATIONS

A3B	Applying the 3B's (Binding, Bonding, Bridging) to Land Conflict Project
AD	Ancestral Domain
CBFM	Community-based Forestry Management
CRS	Catholic Relief Services
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
IP	Indigenous Peoples
ISF	Integrated Social Forestry
JAO	Joint Administrative Order
LRA	Land Registration Authority
LT	Lupong Tagapamayapa
MIWG	Municipal Interagency Working Group
NCIP	National Commission on Indigenous Peoples
TRLs	Traditional and Religious Leaders
USAID/CMM	U.S. Agency for International Development, Office of Conflict Management & Mitigation



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EXECUTIVE SUMMARY

Competition over land is a root cause of persistent conflict in Mindanao. Questions of ancestral domain and land tenure are important not only for individual claimants, but also for the success of the peace process between the government and Moro rebels fighting for an autonomous territory—Bangsamoro—on the island. A history of competing land claims and contradictory national legislation often gives way to violent, contentious, and unproductive means of addressing land conflicts.

There is particularly weak protection of Indigenous Peoples' (IP) land rights, as customary systems of collective land ownership clash with contemporary, Western models of individual property rights and formal legal titles. Meanwhile, there are multiple government agencies charged with land administration, resulting in competing and overlapping tenurial frameworks that further complicate land conflicts. Yet, in this wider context, meaningful steps can be taken at the local—barangay (village) and municipal—level to generate viable alternative solutions to land conflicts.

This paper presents key lessons from the Applying the 3Bs (Binding, Bonding, Bridging) to Land Conflict (A3B) project implemented over a 3-year period in 20 barangays in four municipalities in Central Mindanao.

As the A3B experience shows, a focus on local policies and practices is both expedient and responsive to the multi-faced causes and dynamics of land conflict by providing the flexibility to adapt to actual circumstances in communities.

A3B also illustrates the critical role of civil society in laying the foundation for these localized policy changes, including demonstrating the potential for resolving seemingly intractable land conflicts. A3B combined a grassroots, bottom-up approach to policy reform—generating citizen demand for accountability and performance from local government units and from government line agencies responsible for land administration—with strategic use of existing reform platforms, such as the Joint Administrative Order (JAO) of 2012 that mandated coordination and cooperation among these line agencies.

A3B also strengthened the capacities of *Lupong Tagapamayapa* (LTs), the barangay-level conflict resolution structures mandated to adjudicate land claims without going through the court system; LTs were complemented by the engagement of traditional and religious leaders acting as mediators and facilitators. Throughout the project, relationship-building at all levels was a critical foundation for policy and structural change.

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KEY LESSONS

The A3B project catalogued three principal types of land conflicts in Central Mindanao: 1. Boundary conflicts 2. Mortgage and Transactional conflicts, and 3. Competing land claims. In addition to the formation of sustainable municipal structures to continue addressing land conflicts, together with a range of local stakeholders, the project identified policy solutions tailored to each of the types of conflicts.

Lessons and recommendations include:

Municipal Inter-Agency Working Groups (MIWGs) formed by mayoral Executive Orders to provide a way to operationalize the Joint Administrative Order (JAO) No. 1, Series of 2012. The MIWG model creates a forum for coordination among the agencies and municipal officials whose decisions influence land tenure, use, and transactions, allowing them to develop sustainable solutions tailored to fit each local context. MIWG priorities will ideally be guided by:

- o Reviewing the overlay of their respective survey maps to identify overlaps and conflicts among different tenurial instruments; and,
- o Conducting consultations in each barangay to review the existing land situation.

For Boundary Conflicts:

Joint surveys along the contested border are important components of boundary conflict mediations in cases where conflicting parties have relatively equal power.

For Mortgage and Transactional Conflicts:

- o Local policies prohibiting or limiting the mortgaging, leasing, and/or sale of IP land have helped to curb mortgage-related conflicts. Potential negative impacts of such policies—like increased under-the-table sales or unorthodox leases—can be mitigated by complementary policies requiring that tribal and/or barangay leaders be informed prior to any land sale or lease.
- o Mortgage conflict can also be minimized by requiring that a certificate of claim be presented prior to sale; the certificate of claim, certified by local leaders, can serve as a proof of ownership in the absence of a title.

For Competing Land Claims:

- o Certificates of Actual Occupancy provide protection against competing land claims. These certificates are attested to by local officials and filed as a requirement in relevant land management agencies; this is an equalizing approach for marginalized groups who frequently lack documentation in increasing their land security.
- o Setting a high standard for land claims can help to reduce the prevalence of land conflicts; for example, requiring a sizeable bond be filed with the barangay for each claim.

BACKGROUND

Competition over land is a root cause of persistent conflict in Mindanao, with historic origins and ongoing dynamics that reinforce ethno-religious divisions and perpetuate social tensions.

This conflict plays out at interpersonal, intergroup, and community levels as well as between armed groups. Policies established during the colonial period, such as those promoting resettlement of residents—predominantly Christians—from other parts of the Philippines to Mindanao, and those favoring commercial interests, led to increasing marginalization of Mindanao’s existing Muslim population (Moros) and Indigenous Peoples (IPs).¹ For example, Moros constituted 76% of the population in Mindanao in 1903, but this figure had dwindled to 34% by 1939.²

The post-colonial government perpetuated and expanded similar resettlement programs in hopes of quelling agrarian unrest elsewhere in the country³; subsequent land reform efforts benefitted settlers and elite interests disproportionately compared to non-elite Moros and IPs.⁴

Meanwhile, the adoption of a Western model of land ownership that favored individual property rights and formal legal titles to land was at odds with customary systems in which land was inherited and held by communities, and managed under the leadership of chieftains, or *datus*. A small number of these *datus* learned quickly to use the new system to their personal benefit, unfairly titling their own lands and those of their clansmen to establish large holdings.⁵ Overall, however, these changes gradually dispossessed Moro and IP populations of their lands.⁶

This history thus set the stage for land disputes to foster wider conflict among identity groups—Christian, Moro, and IP—and for conflict-related displacement that created further pressures on available land. For example, a number⁷ of Moro communities remain displaced due to armed conflict in the 1970s, with their former lands occupied by Christian settlers.

IPs, meanwhile, tend to remain marginalized from mainstream society, leaving them unaware of their history or rights, and with resulting weak land tenure security.

Many settlers, while acknowledging their origins outside of Mindanao, are reluctant to vacate lands they have acquired, whether through legitimate or illegitimate means. Mindanao’s wealth of natural resources has also attracted industrial attention. As private corporations have sought to expand their holdings, logging, mining, and agricultural enterprises have been placed into competition with farmers, IP clans, and even local government units (LGUs). Land grabs by powerful interests and encroachment by outsiders into protected areas and ancestral domains (AD) are common.⁸

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1. For a comprehensive review of relevant policies and legislation from the Spanish colonial period through the present, see the chapter entitled “Laws and Issuances Affecting the Moro Lands,” in *Land Tenure Stories in Central Mindanao* (Davao City: Local Governance Support Program in ARMM, 2009) 23-62.

2. William LaRousse. *Walking Together Seeking Peace: The Local Church of Mindanao-Sulu Journeying in Dialogue with the Muslim Community (1965-2000)* (Quezon City: Claretian Publications, 2001), 96.

3. Eric Gutierrez and Saturnino Borres, Jr., “The Moro Conflict: Landlessness and Misdirected State Policies,” *Policy Studies* 8 (East West Center Washington, 2004), 7-8.

4. *Ibid.*, 29-30 and 38-39.

5. “Land Disputes in Conflict-Affected Areas of Mindanao,” Joint Report of the World Bank - International Organization for Migration Scoping Mission (May 2013), 8.

6. Hence the mandate of the Transitional Justice and Reconciliation Commission, established in accordance with the Normalization Annex of the Framework Agreement on the Bangsamoro to “address marginalization through land dispossession,” among other issues.

7. This is widely recognized; however most available data tracks more recent displacement figures, with the current estimates of approximately 119,000 conflict-displaced people in Mindanao mostly attributable to fighting since 2013. “Philippines IDP Figures Analysis,” Internal Displacement Monitoring Centre, <http://www.internal-displacement.org/south-and-south-east-asia/philippines/figures-analysis> (accessed 15 October 2015).

8. For example, the World Bank-IOM scoping report found instances of encroachment in all of the Central Mindanao provinces visited (“Land Disputes in Conflict-Affected Areas of Mindanao,” 10-12) and also noted the issue of encroachment related to mining operations (28) and to settlement patterns (36).

Present-day institutional arrangements have created additional challenges. Early inequities in access to and protection of property rights (land access, use, and ownership) have, over time, been aggravated by the existence of contradictory property laws, legal pluralism, inconsistent legal interpretations, and poor documentation of land titles.

There is a multiplicity of government agencies charged with land tenure administration, including the Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR), Land Registration Authority (LRA), and the National Commission on Indigenous Peoples (NCIP).

Different agency regulatory systems have created conflicting and overlapping land tenure frameworks, such that different agencies may issue tenurial instruments to different parties for the same parcel of land, based on each agency's respective mandate. There has been little consistent coordination among these agencies or with local governments.

This confusion results in numerous land-related disputes that are extremely difficult to resolve, especially as land users may produce various competing permits, licenses, and other legal documents to validate their claims. Especially in communities in which different identity groups co-exist, these competing claims may act as triggers for violent conflict with potential for wider escalation.

Many community members, meanwhile, lack understanding of their own rights and responsibilities regarding land ownership. They are therefore vulnerable to predatory or deceitful practices. Land transactions are often not properly documented, exacerbating boundary disputes as well as competing claims for the same land.

Among IP communities, selling or mortgaging land to meet financial pressures has become increasingly common,⁹ despite traditional approaches to communal stewardship of land; this often happens without full awareness of the implications of doing so. Socio-economic differences create unequal access to justice, with poor households financially unable to pursue or defend their land claims in court. These poor households also suffer most from any loss of income from land that cannot be used while it is being contested.

A CRITICAL MOMENT

Questions of ancestral domain and land tenure are important not only for individual claimants, but also for the success of the peace process between the government and Moro rebels fighting for an autonomous territory—Bangsamoro—on the island. The Bangsamoro peace process is at a critical juncture, with land matters among the most contentious issues.¹⁰

Jurisdiction over ancestral domain claims in Bangsamoro areas, for example, remains an open question of particular concern to IPs living in Bangsamoro areas. Even as these larger political issues are debated at national levels, local steps taken toward addressing the sources and symptoms of land disputes and tensions will help to clear the path to sustainable peace for all people of Mindanao.

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9. As observed by A3B partners and staff.

10. See, for example, the World Bank-IOM joint report, "Land Disputes in Conflict-Affected Areas of Mindanao," ii, 2.

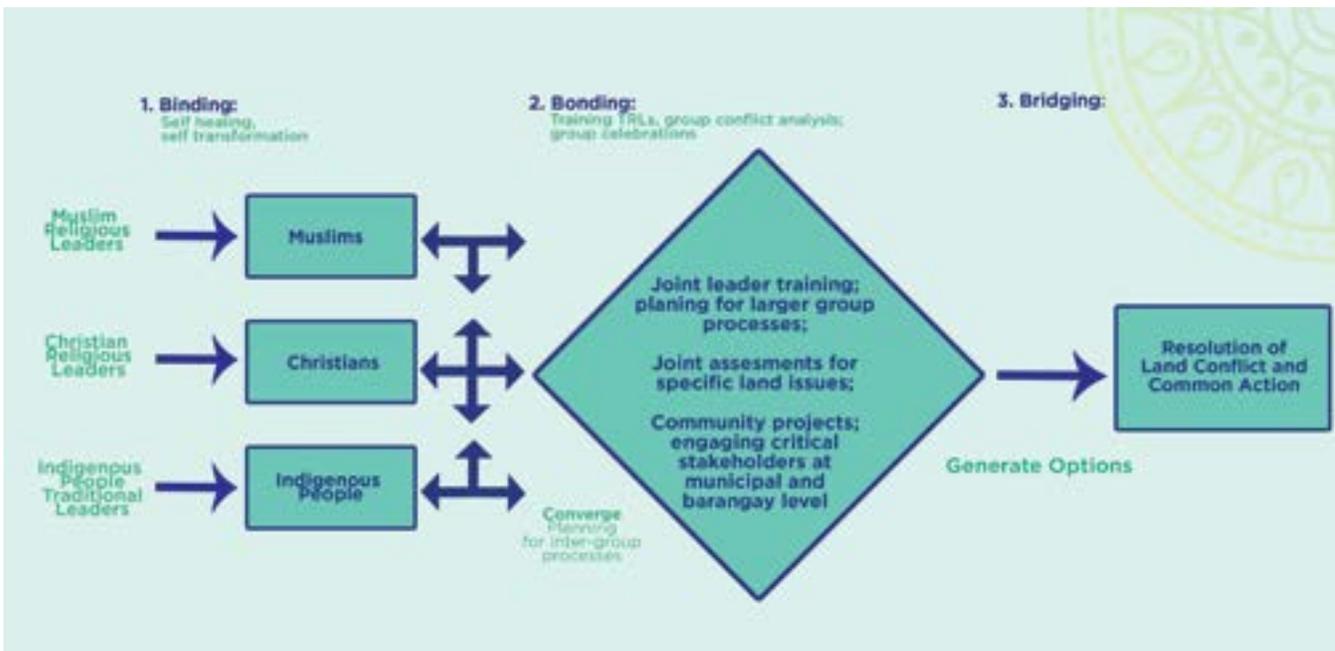
CRS' A3B APPROACH

In this context, CRS employed a new approach to address the challenge of land conflict in Central Mindanao. Funded by the U.S. Agency for International Development’s Office of Conflict Management and Mitigation (USAID/CMM), the Applying the 3B’s to Land Conflict in Mindanao project used a 3-step process —binding, bonding, and bridging—to reconcile conflicts related to land use, access, and ownership within and among identity groups.

In the A3B model (Figure 1), binding activities create space for individual self-transformation and trauma healing; bonding activities strengthen relationships and mutual understanding within the respective identity groups; and bridging activities develop trust between identity groups to foster dialogue in the resolution of land conflicts. With the objective that “Diverse groups in Central Mindanao collaboratively resolve land-related conflict,” A3B worked in 20 barangays spread across four municipalities in Central Mindanao: Ampatuan, Maguindanao; Magpet, NorthCotobato; Polomolok, South Cotabato, and Senator Ninoy Aquino, Sultan Kudarat.

Key elements of the A3B approach included engaging and equipping traditional and religious leaders (TRLs) to act as community peace facilitators, and strengthening local conflict resolution mechanisms such as the government-mandated Lupong Tagapamayapa (LTs or village pacification committees).¹¹ A3B’s local NGO partners trained and supported TRLs and LTs to facilitate community-level dialogue and mediation among conflicting parties.¹² The project also linked to stakeholders at barangay and municipal levels to assure institutional support for community-identified solutions to land conflicts, and to establish durable mechanisms for inter-agency field coordination and joint policy review.

Figure 1. Binding, Bonding and Bridging Framework



11. 143 TRLs were mobilized by A3B and have formed 4 municipal interfaith networks; 293 LT members from 20 barangays completed peacebuilding, conflict resolution, and mediation trainings.

12. During the life of A3B, 6,455 individuals participated in a total of 383 binding and bonding activities including trainings and workshops, peace and conflict mapping exercises, community consultations, dialogue sessions, intra group and intergroup celebrations, and land policy review sessions and meetings.

RESULTS

As a result of A3B, 35 land conflict cases in the target municipalities were successfully resolved through dialogue and mediation.¹³ According to the project final evaluation, in some municipalities, fewer cases were brought to court—a costly and contentious process in which the identification of ‘winners’ and ‘losers’ can worsen social relationships—and community members gained a better understanding of rights and responsibilities related to land as well as the confidence to act on these rights and to engage in community matters. A wide variety of project stakeholders, across all municipalities, cited improvements to the conflict resolution process as the most significant change to result from A3B.¹⁴

These outcomes particularly increased access to justice and land tenure security for vulnerable and marginalized populations, who ordinarily would not have the resources, capacity, or confidence to access themselves of the court system or formal institutions. A3B also contributed to improved relationships¹⁵ among conflicting parties and opposing identity groups, as well as between community members and government agencies.

A3B has also strengthened structures and systems necessary to support nonviolent resolution of land-related conflicts. The A3B intervention helped to clarify when customary practices and mediation should be used, versus when to make use of the courts.

The roles and contributions of TRLs in addressing land conflict were recognized and, in some cases, formalized in the inclusion of TRLs in LTs and/or LGU processes. Similarly, roles and responsibilities of LGUs and government line agencies were clarified; working relationships among these line agencies were enhanced by the establishment of four Municipal Inter-Agency Working Groups (MIWG) involving a total of 34 municipal agencies and 14 provincial-level government offices. These MIWG adopted a total of 16 land policies in support of the land conflict resolution.

LAND CONFLICT TYPOLOGY

Crafting effective policy solutions to land conflicts in Mindanao begins with a comprehensive understanding of the varied and multifaceted forms these conflicts take. A typology of land conflicts is offered here based on A3B experience in Central Mindanao.

The A3B project initially catalogued a total of 25 different types of land conflict cases in its 20 target barangays, later consolidating this to a 17-category typology. Within this typology, three major categories of land conflicts can be identified: boundary conflicts, mortgage or transactional conflicts, and competing land claims. Each of these types of land conflicts were prevalent across all of the CRS target municipalities.

They also correspond to the three most common types of conflicts noted in a review of secondary data from barangay, police, and court records.¹⁶ A fourth major category, conflicts related to reclaiming of land, was also present in all four target municipalities.

13. Successful resolution is defined in A3B as “cases having identified solution options mutually agreed upon by conflicting groups.” Successful cases also include those which resulted to land security of vulnerable communities, especially IPs. Criteria for prioritizing conflicts varied across municipalities, but all included the following: willingness of parties to dialogue; and, potential for the conflict to be resolved at a local (community or municipality), i.e. within the scope of TRLs’ and local officials’ capacity and authority. Another common criteria was the potential for the conflict to result in violence if left unaddressed.

14. Improvements to the conflict resolution process emerged as the most frequently cited domain of change during an end-of-project Most Significant Change story collection process, and was also a prominent theme in focus group discussions during the evaluation.

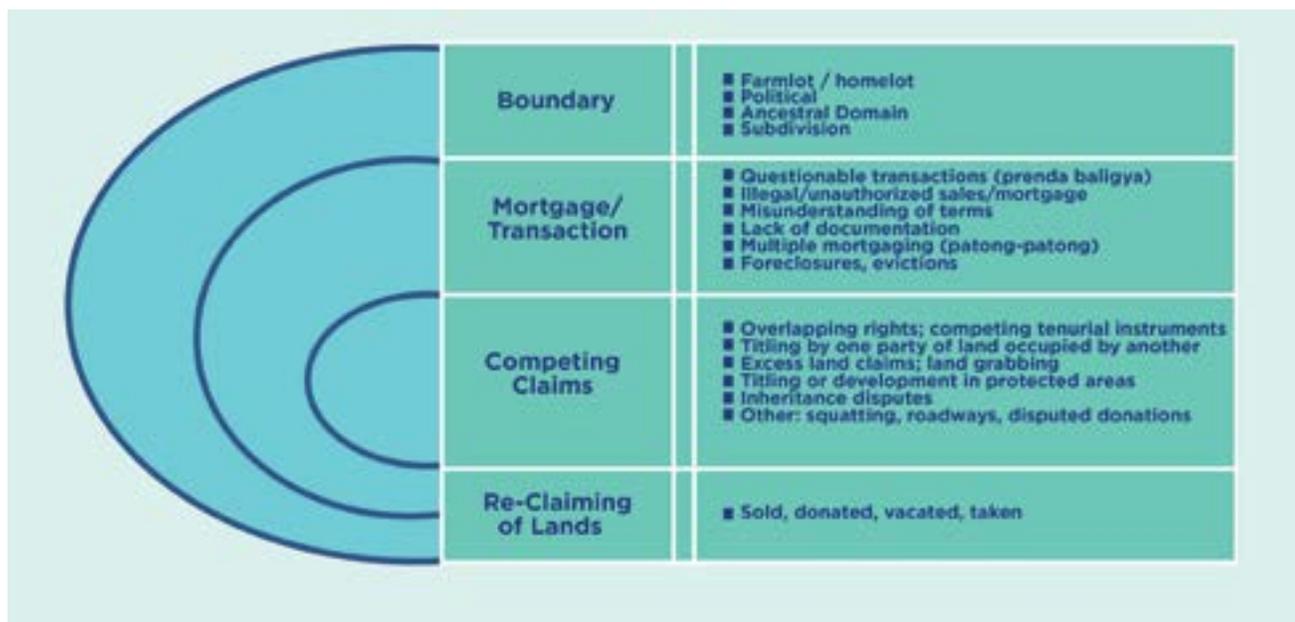
15. This includes higher levels of mutual trust and respect as well as improved cooperation, as reported by respondents from the final evaluation.

16. Data sources consulted at A3B mid-term included logbooks of LTs and barangay LGUs as well as records of Philippine National Police, Municipal Trial Court, and Regional Court for Polomolok.

As represented in Figure 2, below, these major categories encompass a variety of types of conflicts; they are also applicable to conflicts among parties as varied in scale and influence as individuals, families, clans, political entities, or corporations, which can result in greater or lesser degrees of complexity in the respective conflicts.

While some conflicts were more explicitly related to broader conflict dynamics and historical grievances than others, CRS found that most conflicts had some relationship to this wider context.

Figure 2. Land Conflict Typology



- **Boundary conflicts:** Of these, disputes between individuals and families over home lot and farm lot boundaries are the most common. However, conflicts over boundaries of political units are also relatively prevalent, sometimes affecting private parties as well, as do contentions over the delineation of Ancestral Domain (AD) areas. Rarely, the subdivision of lands under group or collective title is cause for conflict.
- **Mortgage and transactional conflicts:** Among the most common cases are questionable land transactions (prenda baligya) in which one party claims that the land was only mortgaged while the other claims it was sold, and illegal or unauthorized selling or mortgaging of land, such as mortgaging of parcels of IP reservations [collective lands], mortgaging without notification of the proper authorities, mortgaging of parcels by influential clans without the consent of the land owner, and beneficiaries of Certificates of Land Occupancy Awards (CLOA) issued under land reform programs selling or mortgaging their land.

However, almost any facet of mortgaging land can be contentious. CRS recorded other conflicts related to misunderstanding of the terms of the mortgage, with sellers demanding additional payment after the transaction or occupants of mortgaged land and demanding payment from the owners for their efforts to develop the land. Such misunderstandings and questionable transactions are exacerbated by the involvement of third parties or middle-persons.

Lack of documentation also fosters conflict in cases involving mortgaged land or claims that land has been sold by a prior or deceased owner; in some cases of actual sales, land title has not been properly transferred to the buyer after the transaction.

Other challenges include multiple mortgaging (*patong-patong*; *prenda*) of the same parcel to multiple individuals or to a series of parties, making it difficult for the original owner to reclaim the land. Finally, bank foreclosures and the practice of holding farmers' land as collateral for loans are sources of vulnerability in mortgage cases. Other transactional issues include landlord-tenant disputes such as evictions without due process, and fraudulent substitutions of one parcel for another in the course of a transaction.

- **Competing land claims:** These conflicts are often caused by overlapping and contradictory land rights supported by competing tenurial instruments. Both parties may hold the same type of tenurial instrument (such as a certificate of title from the Registry of Deeds) for the same area of land, or their claim may be supported by different tenurial instruments, permits or conflicting survey results. For example, a private company may hold an Integrated Forestry Management Area (IFMA) permit in an area for which an IP community holds a Certificate of Ancestral Domain. Or, at the time a CLOA was issued, the same tract of land may have been owned by another party holding certificate of title. In other cases, a lack of clarity in land reform processes has led to non-beneficiaries holding CLOAs, or land being occupied by parties other than those listed on the CLOA.

Competing land claims can also occur in the absence of tenurial instruments. Other examples of competing land claims include titling by one party of land occupied by another, claims of land grabs, and excess land claims wherein an entity claims or possess a larger area of land than they are legally entitled to. Such excess claims also affect public lands.

Titling of land within protected areas, as well as illegal plantations in these areas, are also sources of conflict.

Other types of competing land claims include family disputes related to inheritance, squatting, and conflicts over road right-of-way. In other cases, land has been donated for a public purpose (such as a school site) without the knowledge or consent of the original land owner.

Any of the above types of land conflicts can lead to **re-claiming of lands** by former occupants or heirs. Efforts may be made to reclaim land after a legitimate or illegitimate sale, but also to claim ancestral land with the intention of later selling it. Land donations and their boundaries have also been disputed by heirs seeking to reclaim their family lands.

In some cases, alleged victims of land grabbing seek to reclaim their lands once the alleged person has left the area or no longer controls the land while in other cases, Moro families displaced by armed conflict have returned to find their land occupied by Christians and even mortgaged to another party, and are still seeking to reclaim the land decades later. The A3B project also saw an increase in cases of IP clans and families seeking to reclaim their land.

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17. This may be in contravention of Agrarian Reform regulations, or may also lead to conflict if the CLOA awardee does not want to give up the land after sale/mortgage.

EFFECTIVE SOLUTIONS AND POLICY RECOMMENDATIONS

The variety and complexity of land conflict cases in Mindanao presents challenges to prescribing solutions. There is no blanket resolution to resolve many sources of competing or overlapping land claims, boundary disputes, encroachment in ancestral lands, questionable sales and financing, forced eviction, and land grabbing; nor is it appropriate to treat symmetrical conflicts, in which parties are relatively equal in power, resources, and capacities, in the same manner as asymmetrical conflicts such as between individuals and corporations or political entities.¹⁸

The A3B model was, however, flexible enough to address a wide range of land conflict cases involving multiple configurations of conflicting parties. A3B developed the relationships, structures and processes necessary for conflicting parties to reach their own solutions as well as to identify policy fixes for recurrent types of conflicts. Fundamental keys to A3B's success included:

1. **Relationship-building as a critical first step towards land conflict resolution.** Time and effort was dedicated to ensuring comprehensive consultation at every stage of the process, not only in resolving specific land conflict cases, but also in the formative stages of mapping peace and conflict issues in target communities. CRS and local NGO partners also built relationships with key champions within government structures, relying on their support to engage peer officials and build momentum towards collaboration. Finally, the project not only worked with the more vocal and visible segments of the target communities, but also sought to engage and empower marginalized groups, particularly IPs.
2. **Recognize the complementarity of TRLs to official land conflict resolution.** Engaging respected and influential TRLs to serve as community peacebuilders was a key element of the A3B model. In order to ensure that these TRLs served as credible connectors for dialogue and conflict resolution, local partners dedicated time to analyzing each TRL's relational power, position, and credibility, including their own land interests, connections to conflicting parties, and political affiliations. At the same time, the project linked these TRLs to state-sanctioned bodies such as LTs and to local officials to ensure their mutual involvement in the resolution effort. In many target locations, TRLs and their roles in conflict resolution gained formal recognition through resolutions from barangay LGUs.
3. **Combine a grassroots, bottom-up approach to policy reform with strategic use of existing reform platforms.** By empowering community members to engage with their government, A3B generated citizen demand for accountability and performance from LGUs and from line agencies. At the same time, the project seized the opportunity presented by the Joint Administrative Order (JAO) No. 1 of 2012 mandating coordination and cooperation among these line agencies, working with Mayors to organize coordinating bodies at the municipal level.
4. **Demonstrate the success of alternate solutions at the community level before asking municipal leaders to consider new structures, policies, and procedures.** Once local NGO partners had established a track record for the effectiveness of the A3B model, Mayors and other leaders were more open to the project's proposals.

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IP communities have found ways to engage more proactively and effectively with government agencies in order to protect their land tenure. In one barangay in Polomolok, a conflict with a powerful individual led an IP community that had previously been designated an Integrated Social Forestry (ISF) area to decide to file their AD claim with NCIP in order to prevent future land claims from outsiders and provide greater land security to the whole community.

A communal Certificate of Actual Occupancy, with delineation of household plots, was filed with NCIP as a means of establishing the AD area in question. In the meantime, IP leaders notified DENR of this filing in order to prevent the issuance of additional ISF licenses in the area while the AD claim is under review with NCIP.

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18. The A3B team found that more binding and bonding activities were required in asymmetrical conflict cases in order to prepare and empower marginalized individuals and groups before engaging in bridging efforts.

THE MIWG: A CRITICAL STRUCTURE

As noted above, **Municipal Inter-Agency Working Groups (MIWGs)**¹⁹ provide a way to operationalize the Joint Administrative Order (JAO) No. 1, Series of 2012.²⁰ By creating a forum for coordination among the agencies and municipal officials whose decisions influence land tenure, use, and transactions, the MIWG model has tremendous potential to reduce the prevalence of land conflict with solutions that are tailored to fit each local context. They also contribute to sustainability of land conflict solutions by providing an ongoing space for open communication and collaboration, as well as the sharing of technical and financial resources.

Preparing the ground

MIWGs were created in the four A3B municipalities through Executive Orders issued by the respective Mayors. Forming an MIWG thus requires support and buy-in from the Mayor as well as representatives of the relevant line agencies, namely DENR, DAR, and NCIP/ Office of Southern Cultural Communities (OSCC). CRS found that this can be achieved by demonstrating to the Mayor the importance of addressing land conflicts, as well as cultivating relationships with the principal agencies.

Recommendation: A directive from regional divisions of the relevant line agencies will help to ensure that provincial- and municipal-level representatives are empowered provincial and municipal-level representatives the JAO and understand that doing so is part of their mandate (and should be budgeted accordingly). This will minimize the need for budget inputs from the municipal level.

Functionality

Each of the four MIWGs is slightly different in composition and mandate. Nevertheless, there are some commonalities. Each MIWG includes an appropriate mix of stakeholders, including at minimum the line agencies, the Municipal Assessor, and representatives of identity groups as appropriate to the area. The mandate and terms of work for the MIWG is spelled out in the Executive Order creating the body.

Recommendation: Identify a **few key champions** for each MIWG to assist move the group forward. Ultimately, however, it is the experience of working together to address actual land conflict cases that will allow MIWG members to establish meaningful relationships with one another and to experience the benefits of cooperation. This will lead to stronger buy-in and the improved communication that is at the core of the MIWG's task.

Scope of Work

The Executive Orders asked MIWGs to meet regularly in order to perform functions such as assessing and conducting inventories of all land disputes in the municipality, coordinating among member agencies to intervene, and recommending appropriate action, including policy recommendations, to resolve these disputes.

Recommendations: One of the most important contributions MIWGs can make to addressing land conflict would be to **conduct an overlay of their respective survey maps**, in order to identify areas where different tenurial instruments may conflict or overlap. This would allow MIWGs to identify priorities for their joint work.²¹ Overlaid or synchronized maps could then be provided to the barangay leadership.

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In Magpet, the MIWG determined that, when specific land conflict cases are brought to its attention, it will convene an ad hoc core group consisting of the barangay captain, a TRL, and the tribal chief as appropriate to consult with the MIWG in the resolution of the case.
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19. While different A3B municipalities chose different titles for their workings groups—among them, Municipal Technical Working Group [MTWG] and Municipal Inter-Agency Coordinating Committee (MIACC), these bodies will be referred to collectively in this paper as “MIWG.”
20. For further information, see the Joint DAR-DENR-LRA-NCIP Memorandum Circular No. 08-12, “Clarifying, Restating and Interfacing the Respective Jurisdictions, Policies, Programs, and Projects of the DAR, DENR, LRA and the NCIP in Order to Address Jurisdictional and Operational Issues between and among the Agencies.”
21. This process parallels that undertaken at the barangay level in A3B: Peace & Conflict Mapping was conducted first, with conflicts being prioritized based on mapping results.

This mapping review can be preceded or complemented by **consultations in each barangay to review the existing land conflict situation**. This was done in Polomolok under the leadership of the Mayor, who convened meetings [*Kapihans*] in all barangays to make an inventory of land conflicts by *sitio* (sub-barangay enclaves); on the basis of priorities identified in these meetings, DAR is now conducting assessments of lands with conflicting claims. Similar *Kapihans* were led by MTWG members in Senator Ninoy Aquino municipality to reach a decision on how to handle issues around the selling and mortgaging of IP lands.

MIWGs can also facilitate a new mode of **communication and coordination among member agencies**. In Magpet, MIWG members agreed that no participating entity would accept new land transactions in the municipality without barangay approval, and without checking with one another to be sure the transaction was clear to proceed. This new policy is being proposed for endorsement and dissemination at higher levels. Just as significantly, this cooperation signals a new era for these agencies in Magpet; now, “Walang iwanan” (“Nobody will be left behind”) as all contribute their ideas to help resolve land issues.

POLICY SOLUTIONS FOR PREVALENT CONFLICTS

A3B partners and communities devised local-level solutions corresponding to each of the three major categories of land conflict presented in the typology above. These include:

For Boundary Conflicts:

Joint surveys are an important component of boundary conflict mediations. In boundary conflict cases where conflicting parties have relatively equal power, such as between individuals or between two barangays, the act of physically examining the contested border together can open new perspectives and allow solutions to emerge. To be effective, the survey exercise should involve all conflicting parties, facilitated by the TRL mediator(s), and involve participation of barangay officials as well as neighbors who can add to the understanding of the history and usage of the contested area.

For Mortgage and Transactional Conflicts:

Local policies prohibiting or limiting the mortgaging, leasing, and/or sale of IP land have helped to curb mortgage-related conflicts. Some such policies also prohibit additional loans being added to original mortgage amounts, in order to protect land occupants from foreclosure as well as from manipulation by more powerful individuals and interest groups. It is noted that there can be potential negative consequences of such policies, to the extent that they might encourage under-the-table sales or unorthodox leases. These risks can be minimized by enacting policies such as that adopted in Kauran, Ampatuan, stipulating that those who proceed with a land sale or lease without informing the tribal council and/or barangay LGU are subject to losing their land or paying a large fine.

Mortgage conflict can also be minimized by requiring that a certificate of claim be presented prior to sale. Such a certificate of claim can serve as a proof of ownership in the absence of a title. The MIWG in Senator Ninoy Aquino municipality has established a new policy that a transaction must be certified by leaders at the *sitio* and *purok* (smallest administrative unit) levels, as well as by the tribal council if relevant, before going to the barangay and then on to the municipality. This is similarly done in Polomolok, where a certificate of occupancy (see below) or ownership signed by the tribal leader and/or the barangay captain is intended to be presented prior to any land transaction.

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To be effective, the survey exercise should involve all conflicting parties, be facilitated by the TRL mediator(s), and involve participation of barangay officials as well as neighbors who can add to the understanding of the history and usage of the contested area.
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For Competing Land Claims:

Certificates of Actual Occupancy provide protection against competing land claims. This is an equalizing approach for marginalized groups, who frequently lack documentation, to assert their claims.²² IPs in Kauran, Saniag, and Tomicor in Ampatuan municipality report that these certificates, signed by the *sitio* leader, barangay captain, tribal chief, and IP Mandatory Representative to the MIWG, have provided them land security where they previously held none.

The certificates are then to be filed with the NCIP and the Municipal Assessor, and reportedly are given credence by DENR. In Polomolok, barangay LGUs now issue certification of land ownership; this practice is complemented by a pronouncement from the Mayor requiring the DAR and the Assessor to inspect the areas in question in order to confirm actual occupants.

These certificates have served as part of AD claims with NCIP, and could serve as a possible basis for renewal of stewardship certificates with DENR. In Kinilis, Polomolok, the barangay LGU passed a local resolution to conduct an inventory of the actual tillers and occupants of lands, in order to resolve problems with foreclosed lands. In Senator Ninoy Aquino municipality, certification of land ownership in AD lands is required to pass through *sitio* and then tribal leaders before receiving a barangay confirmation.

Other measures help to reduce the prevalence of land conflicts by **setting a high standard for land claims.** In Kauran, Ampatuan, the Barangay enacted an ordinance wherein a claimant for a given piece of land must provide a bond of P30,000 as a way to ensure that only serious claims are presented.

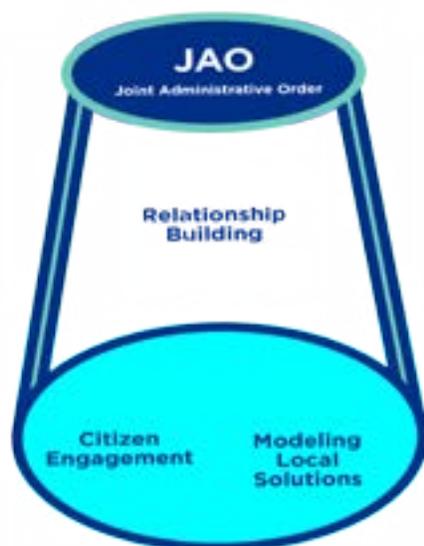
There is, however, a justice concern with this policy, given that the option to present a claim would only be available to those with adequate funds; P30,000 (approximately USD650) is a steep sum for many households to produce.

Other simple steps that can be taken at the local level include:

Educate community members and leaders on land-related laws

as was done in A3B through legal literacy and *Kapihan* sessions bringing community stakeholders together with government agency representatives.

Figure 3. A3B Policy Approach Model



²² In one case, community members seeking Community Based Forestry Management (CBFM) awards were concerned that they would lose out to a powerful individual who had been flaunting his connections. A *Kapihan* between DENR, NCIP, and the community dispelled these fears, when DENR representatives made a public commitment to prioritizing community claims. Through this open communication, DENR became socially accountable to the community.

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In Kinilis, Polomolok, the barangay LGU passed a local resolution to conduct an inventory of the actual tillers and occupants of lands, in order to clarify occupancy issues related to foreclosed lands.
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Using JAO No. 1 of 2012 as a unifying policy mandate, A3B promoted government coordination and citizen engagement in dialogue collective action regarding land conflict. This process yielded locally-derived and relevant solutions to land conflict, while strengthening social cohesion through intentional relationship building throughout the process.
.....

Topics may include emphasis on the rights and responsibilities of land ownership, as well as the modalities and documentation required for land-related transactions. It is important to present the pros and cons of filing land records at the barangay and municipal levels: on the one hand, doing so can afford a measure of protection to land owners and occupants, but it should be understood that in so doing they also become subject to taxation and other relevant fees.

Harmonize land records between the barangay and the municipality. This may include registration of land occupancy with the Municipal Assessor.

FUTURE HORIZONS

The policies and procedures recommended above were identified as an effective means in mitigating and preventing land-related conflict and violence in Mindanao, in ways that promote social cohesion among conflicting groups. They do not address the underlying issues of poverty driving, for example, the frequent mortgaging of lands, particularly among IPs.

The question remains, once IPs have secured their ancestral domain, and other vulnerable farmers have secured their land claims, will they have sufficient means for their livelihoods? In Senator Ninoy Aquino municipality, closer engagement between IP communities and non-IPs begun through the A3B process has now created greater awareness of IP needs. The municipal government has partnered with NCIP to devise an IP development plan in which cooperatives will be managed by IPs themselves.

This kind of focus on sustainable development including and perhaps especially in Bangsamoro areas, will ultimately be needed to end the cycle of grievances driving conflict in Mindanao.

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It is important to present the pros and cons of filing land records at the barangay and municipal levels: on the one hand, doing so can afford a measure of protection to land owners and occupants, but it should be understood that in so doing they also become subject to taxation and other relevant fees.

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ANNEX I: EXPANDED LAND CONFLICT TYPOLOGY

Below are the specific sub-types of land conflicts identified by A3B, listed in order of prevalence under each major category:

A. Boundary Conflicts	Farmlot/homelot boundary conflicts *Encroachment Political boundary disputes *Ancestral Domain (AD)/ancestral land issues Sub-division of lands under AD or group title
B. Mortgage/Transactional Conflicts	Mortgage conflicts: - Questionable transactions (prenda-baligya) - Illegal or unauthorized selling or mortgaging - Misunderstanding of terms - Multiple mortgaging (patong-patong) - Bank foreclosures - Using land as collateral Tenancy issues Fraudulent/deceitful transactions & conflicts over documentation/ land swapping
C. Competing Land Claims	Competing land claims: - Competition for the same parcel of land - Titling by one party of land occupied by another - Overlapping ownership - Competing claims related to a natural resource - Claims of a larger parcel than entitled - Conflicting tenurial instruments or multiple titles - Conflicting survey results - Titling of protected lands - Claims to public lands *Encroachment *Ancestral Domain/ancestral land issues Land inheritance disputes Land Grabbing Road right-of-way Donation of land for school site
D. Re-claiming of Land	Reclaiming of land

**Encroachment cases cut across the Boundary Conflict and Competing Claims categories, as do issues related to Ancestral Domain/ancestral lands.*

ANNEX II: MIWG POLICY PROPOSALS

The A3B Municipal Interagency Working Groups generated 16 policy proposals for local structures to address land conflicts, of which six had been adopted by the respective municipal governments by the end of the project. These 16 policy proposals were as follows:

Adopted Policies	Municipality
Executive Order establishing MIWG (or local equivalent)	Ampatuan Magpet Polomolok Senator Ninoy Aquino
Barangay Lagubang: Based on consultation facilitated by the MIWG, adoption of local policy prohibiting ‘prenda-baligya’ or mortgage of land by IPs effective June 18, 2015. Transactions related to land may be honored in case of an emergency situation as long as parties involved have due consultation with the chieftains or <i>datus</i> . It was also agreed that a survey on the Native Conservation Area will be conducted to ascertain land concerns.	Senator Ninoy Aquino
Barangay Kuden: Agreement to adopt a local policy that selling or buying of IP land - especially to non-residents - inside the reservation is prohibited.	Senator Ninoy Aquino
Proposed Policies	Municipality
Ordinance to prohibit selling and mortgaging of Integrated Social Forestry (ISF) rights in the municipality.	Ampatuan
Guidelines for Barangay LGUs in issuing certification with regard to land claims by establishing a pre-requisite that individual claimants should secure a certificate or clearance from their respective (a) tribal Chieftain if IP or (b) purok/ <i>sitio</i> President if non-IP.	Polomolok
<p>Prohibition of selling of lands by IPs</p> <p>Streamlining land transaction processes, such that any deed (sale, lease or donation) should be signed by DAR, NCIP and DENR, as a matter of land security. DENR and DAR to ensure that they will promptly inform NCIP whenever presented with land transactions involving IPs, or within the AD claims.</p> <p>Coordination between NCIP and Municipal Tribal Chieftain/IP Mandatory Representative (IPMR) to the MIWG. The latter to issue an ordinance prohibiting selling, mortgaging and all other land related transactions involving IPs, which would be cascaded down to the Barangays. NCIP to work for the strengthening of the IPMRs in the barangays in coordination with the municipal IPMR, thus in the process strengthening the latter’s role.</p> <p>Clear process flow, with key steps and guidelines, of barangay land conflict resolution by using the mediation approach to conflict resolution.</p> <p>Establishment of a municipal-level databank on land use and land conflicts.</p> <p>Establish a MIWG structure at the barangay level with a point person who also forms part of the Barangay Peace and Order Council of the MIWG at the barangay level, with proposal for a point person similar to the barangay Agrarian Reform Committee (BARC) as part of the Barangay Peace and Order and Safety Plan.</p> <p>Conversion of some forest areas into alienable land.</p>	Magpet



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