

COASTAL LAND TENURE: A SMALL-ISLANDS' PERSPECTIVE

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Abstract

Land tenure is a major source of conflict in many countries around the world and especially along the coasts of small islands where the limitations of size render the disputes particularly acute. For example, the loss of just one beach can be significant in the small-island context, in contrast to continental countries with their longer coastlines and wider resource base. Many small islands in the Caribbean, Indian Ocean and Pacific regions are experiencing rapid tourism growth, especially along their coasts. This is impacting coastal resources that islanders traditionally take for granted. Unfortunately, it is not until such areas become inaccessible, or their resources are destroyed, that people become aware of the loss of their heritage. And by this time it may be too late.

Against this background - and in view of the need to find innovative ways to share commonly held resources in an equitable manner - an intersectoral platform for 'Environment and Development in Coastal Regions and in Small Islands' was established by the United Nations Educational, Scientific and Cultural Organization in 1996. This initiative seeks to contribute to the development of an integrated approach to the prevention and resolution of conflicts over resources and values in coastal regions and small islands. Three specific approaches have been adopted: field-based projects, university chairs and twinning networks, and a multi-lingual Internet-based discussion forum on 'Wise Coastal Practices for Sustainable Human Development'.

Several case studies, relating to conflicts over the use of coastal lands and beach resources in islands in the Caribbean, Indian Ocean and Pacific regions, are discussed in this paper. Land tenure patterns differ from island to island and from region to region. For instance, in some islands in the Caribbean, private ownership of land extends to the high water mark, and in a few isolated cases, the floor of the sea is privately leased. In other Caribbean islands, as well as some in the Indian Ocean, particularly those with a French history, the land adjacent to the coastline is owned exclusively by the government and can only be leased, not sold, to private individuals. In contrast, in many islands in the Pacific, and others in the Indian Ocean, e.g. the Maldives, there is a pattern of customary ownership, with communities, villages and clans owning coastal lands.

Regardless of the specific land tenure system, most islanders regard beaches as public property for the use and enjoyment of all. Wherever development interferes with this concept, conflicts arise, whether in Barbados over the competition for beach space, or in the Seychelles over the 'right' of access to the beach, or in the Surin Islands over the entitlement of a group of indigenous people to follow their traditional hunting and gathering lifestyle.

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Wise practice agreements are proposed as a way to reduce such conflicts by bringing together all the stakeholders involved in a particular situation, in a framework of voluntary compliance. Testing such agreements in the field of coastal land tenure remains a challenge for the future.

Introduction

'The coast plays an important role in island life and almost every economic sector has a strong stake in the coast. Anguilla, like many of its sister islands in the Caribbean, often boasts with pride that it has some of the best and most pristine beaches. Yet, with its small size, Anguillans realise that if they were to destroy even one beach, or sacrifice one on behalf of development, it would in fact, represent a significant percentage of the island's natural resources, its bread and butter'.

Sharon Roberts-Hodge, 2001.

Land tenure is a major source of conflict in many countries around the world and especially along the coasts of small islands where the limitations of size render the conflicts particularly acute. As mentioned above, the loss of just one beach can be significant in the small-island context, in contrast to continental countries with their longer coastlines and wider resource base.

Many small islands in the Caribbean, Indian Ocean and Pacific regions are experiencing rapid tourism growth, which is often concentrated in the coastal area. While such growth may result in an improved standard of living (at least for some), increased pressures on coastal areas and resources that islanders have traditionally taken for granted, may also result. Unfortunately, it is not until such areas become inaccessible or their resources are destroyed, that people become aware of the loss of their heritage. And often by this time it is too late to retrieve what has already been lost. In Providenciales in the Turks and Caicos Islands, *'the term "beach access" was unknown to the islanders, taking, as they did, the right to get to the beach for granted'*, (Ethlyn Gibbs-Williams, quoted by Cambers, 2000).

Against this background - and in view of the need to find innovative ways to share commonly held resources in an equitable manner – a global platform for 'Environment and Development in Coastal Regions and in Small Islands' (CSI) was established by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1996. CSI seeks to contribute to the development of an integrated approach to the prevention and resolution of conflicts over resources and values in coastal regions and small islands.

Three approaches lie at the core of the CSI philosophy:

- Field-based projects provide a framework for intersectoral action on the ground and represent the building blocks of the endeavour
- University chairs and twinning networks provide for interdisciplinary training, awareness and capacity building, and also support the field project activities
- A multi-lingual, Internet-based discussion forum on ‘Wise Coastal Practices for Sustainable Human Development’, builds on the experiences of the field projects, as well as the university chairs and twinning arrangements, to formulate and test wise practice concepts in a global perspective

Some 20 field projects, spread around the world, provide the opportunity for local action on the ground. Twelve of these field projects are in small islands, see Table 1. During inter-regional meetings, in Samoa in December 2000 (UNESCO, 2001a), and in Dominica in July 2001 (UNESCO, 2002), representatives of these small-island projects met to further a small-island agenda based on the concept of wise practices.

Table 1 CSI projects focusing on small islands

Project title	Participating islands
Caribbean Sea:	
Managing beach resources and planning for coastline change: Caribbean islands Project summary available at www.unesco.org/csi/act/cosalc/summary_7.htm	Anguilla, Antigua and Barbuda, British Virgin Islands, Dominica, Grenada, Haiti, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, San Andres Archipelago (Colombia), Turks and Caicos Islands, US Virgin Islands.
Caribbean Coastal Marine Productivity Program (CARICOMP): Sustaining coastal biodiversity benefits and ecosystem services Project summary available at www.unesco.org/csi/act/caricomp/summary14.htm	Jamaica, Cayman Islands, Carrie Bow Cay and Turneffe Islands (Belize), Curaçao, Bonaire, Margarita (Venezuela), Trinidad and Tobago, Barbados, St. Lucia, Saba, Puerto Rico, Dominican Republic, Haiti, Cuba, Bahamas, Bermuda (as well as other continental Caribbean countries)
Enhancing coastal and fisheries resource management through stakeholder participation, local knowledge and environmental education, Arcadins Coast, Haiti Project summary available at www.unesco.org/csi/act/haiti/summary11.htm (English) www.unesco.org/csi/act/haiti/summary11f.htm (French)	Haiti
Sustainable livelihoods for artisanal fisheries through stakeholder co-management in the Portland Bight Protected Area, Jamaica Project summary available at www.unesco.org/csi/act/jamaica/summary13.htm	Jamaica
Socio-economic and environmental evaluation and management of the southern coast of Havana Province, Cuba Project summary available at www.unesco.org/csi/act/cuba/summary12.htm	Cuba
Pacific Ocean:	

Sound development in the Motu Koitabu urban villages, Port Moresby, Papua New Guinea Project summary available at www.unesco.org/csi/act/png/summary_5.htm	Papua New Guinea
Promotion of indigenous wise practices: medicinal knowledge and freshwater fish, Moripi Cultural Area, Gulf Province; food security, Trobriand Islands, Milne Bay Province, Papua New Guinea Project summary available at www.unesco.org/csi/act/png2/summary15.htm	Trobriand Islands and (mainland) Papua New Guinea
Education for sustainable village living: Saanapu and Sataoa villages, Upolu Island, Samoa Project summary available at www.unesco.org/csi/act/saanapu/summary_6.htm	Samoa
Southeast Asia:	
Reducing the impact of a coastal megacity on island ecosystems: Jakarta and the Seribu Islands, Indonesia Project summary available at www.unesco.org/csi/act/jakarta/summary_2.htm	Java and Seribu Islands
Coastal resources management and ecotourism: an intersectoral approach to localising sustainable development, Ulugan Bay, Palawan, Philippines Project summary available at www.unesco.org/csi/act/ulugan/summary_3.htm	Palawan
A place for indigenous people in protected areas, Surin Islands, Andaman Sea, Thailand Project summary available at www.unesco.org/csi/act/thailand/summary_4.htm	Surin Islands
Inter-regional:	
Small Islands Voice Website: http://www.smallislandsvoice.org	An initial focus on St. Kitts and Nevis, Seychelles, and Palau, to be followed by extension to other islands in the Caribbean, Indian Ocean and Pacific regions.

Wise practices have been defined as *actions, tools, principles or decisions that contribute significantly to the achievement of environmentally sustainable, socially equitable, culturally appropriate, and economically sound development in coastal areas* (UNESCO, 2000). The concept of ‘wise practices’ builds on previous efforts, which have attempted to define what should be done through ‘best practices’. Acknowledging the inequalities and diversities of the real world, the wise practices initiative attempts to provide guidance on ‘what can wisely be done under the prevailing circumstances’. Thus the goal is to define the wisest possible action under existing conditions and constraints.

During the inter-regional, small-island meetings in Samoa and Dominica, it became clear that land tenure, especially in coastal areas, is a major cause of conflict. The granting of

property rights without giving necessary consideration to customary resource users has in many cases undermined the ‘common’ or public status of coastal resources.

This paper reviews some of the specific issues involved in coastal land tenure in selected small islands and further discusses the respective coastal property rights through specific case studies from the following regions:

- Caribbean Sea: Anguilla, Barbados, Haiti, Jamaica, St. Lucia, St. Vincent and the Grenadines, Turks and Caicos Islands
- Indian Ocean: Maldives, Reunion, Seychelles, Surin Islands
- Pacific Ocean: Papua New Guinea, Samoa

The research underlying this paper is based on the activities undertaken in the field projects (see Table 1), the inter-regional small-island meetings, and the results of a short questionnaire survey circulated to colleagues working on the field projects in these three regions. The questionnaire focused on national policy regarding coastal land tenure; administrative and legislative frameworks; problems and issues.

Ownership of coastal lands and conflicts

Many of the small islands considered in this paper were formerly under colonial governance, either French or British. This history has led to some significant differences in land ownership adjacent to the shore.

Islands under former French colonial governance

In the Seychelles, a decree, the ‘Cinquante Pas du Roi,’ reserved an area, extending about 100 m inland from the high water mark, where no private ownership or even development was permitted, except for military fortifications (Payet, 2002). Fishermen were allowed access to this area and a few settlers were allowed temporary use of the land. However, in 1903, it was concluded by the local court that this decree had not been implemented and was not in force. In the Indian Ocean island of Reunion, a dependency of France, evidence of a similar decree is still apparent in the land ownership pattern.

In the Caribbean, where many islands were also colonised by France, a similar pattern of coastal land ownership can be observed. For example, in St. Lucia, the land adjacent to the beach is owned by the government and forms the Queen’s Chain. This land extends 60 French ‘pas’ (French feet) or 57 m inland from the high water mark. The purpose of this coastal reservation, dating from the French occupation of the island, was primarily for the positioning of fortresses for the island’s defences (Cambers, 1989). The Queen’s Chain extends around the coast, except where there are large towns (e.g. Castries, Soufrière), where the land adjacent to the beach is freehold. As a general policy, land within the Chain cannot be purchased, only leased, although there are a few exceptions where portions of the Queen’s Chain have been sold. Persons wishing to develop land in the Queen’s Chain generally have to own adjacent hinterland. However, problems sometimes arise when persons who do not own adjacent lands apply for the use of the

Chain and do not consult with neighbouring land owners. The landward limit of the Chain is not a pre-set line, except where previous leases have been issued. In an undeveloped area, the boundaries of the Queen's Chain have to be established by the government, and will remain set even if there is major shoreline retreat (such as may occur during a hurricane). It seems that St. Lucia is in a fairly unique position in the Caribbean, with so much of its coastal land in public ownership, thereby allowing greater control over the planning of new beachfront development (Cambers, 1998).

Haiti, another island that was also once under French control, has a similar pattern of coastal land ownership. Here, no one can own land within 16 m of high water mark, the equivalent of the French law 'Les Quinze Pas du Roi'. There is, however, very little enforcement of this and other laws in Haiti – a fact that has contributed to the over-exploitation of coastal resources.

Islands under former British colonial governance

In many of the islands once under British control, private ownership of coastal lands extends to the high water mark. (This is often in contrast to the public's perception of beach ownership, as will be discussed later in this paper.) In cases of coastline change, and unless there is specific legislation in a particular island, British Common Law is invoked, which provides for a seaward or landward change in the property boundary only if the change is of a gradual nature. A sudden change of the property boundary, such as due to reclamation or a new sea defence structure does not change the boundary.

In Jamaica, licences issued under the Beach Control Act have given exclusive use of the foreshore and floor of the sea to some licensees, who have then been able to deny access to other users of the beach and sea in the licensed area. Although no new 'exclusive licences' are being issued, many of those granted are renewed yearly and remain legally in force (Blue, 2001). These are a cause of conflict, especially since there is a perception on the part of the public that they have a right to the foreshore, even through private lands. In addition, many of the 'better' beaches are under private control (Gardener, 2001). A new beach policy has been prepared in Jamaica and is awaiting government endorsement.

In contrast, a community ownership concept for coastal lands may be seen in the Maldives. Given that the country is composed of small low-lying coral islands, the concept of 'coast' in the Maldives includes the total land area of each island and its surrounding lagoon, extending over the reef flat to the outer edge of its reef. Inhabitant communities of individual islands regard the surrounding lagoon and reefs as an integral part of their coast. While some individual home and agriculture plots are delineated in this 'coastal area', the rest of the land area - the beach, lagoon and reef - are community wealth and used by all. Access to and from beaches is not a major issue as individual land plots are setback from the beach slope. Beach protection is regarded as a community activity (Hameed and Ali, 2001).

A similar situation can be found in Samoa, where 80% of all the land is under customary ownership. This is particularly the case in the coastal areas outside the capital Apia, where most of the villages are located. Villagers retain a high degree of autonomy over coastal lands, and almost all activities on these lands take place with the explicit approval of the village councils, composed of the traditional leaders (Matai). Use of coastal lands for agriculture and development largely takes place at the discretion of concerned villagers and families. The intertidal zone and adjacent marine areas are in principle public lands; however, most villages retain the right to use marine areas bordering the village land regardless of the official policy.

Since the Samoan economy is growing at a very fast rate, there is considerable pressure to open up coastal areas to tourism, industry and resource extraction. Previous developments have left a lasting memory, e.g. the construction of a major pier on the northern coast of Upolu Island disrupted tidal flow through a village's mangrove area and caused significant reduction in the coastal fisheries catch. In view of the high degree of autonomy held by the villages, there is a need to ensure that these communities are able to make informed choices on sustainable development in their areas.

Many villages in coastal areas that feature visitor attractions will levy a small fee to access a particular beach. Usually basic services, e.g. huts (fales), mats and pillows, are provided in exchange for the fee. This helps the villagers keep the beach area clean and attractive. (In Samoa, village beautification contests are important events).

Another example of customary land ownership may be seen in Papua New Guinea. Here nearly all lands (98%) are customarily owned, according to the Constitution. The remaining 2% is either State land or has been purchased from local owners. In Papua New Guinea, people have a special attachment to the land:

'Land to Papua New Guineans.....means our identity, culture, uniqueness and heritage. To us, the sea, air, birds, flowers, trees, fish and reefs, all represent our cosmos and our universe. We refer to "mother earth" as the provider. We are but temporary tenants who live off what she provides to sustain us. What remains is for future generations. We believe that everything on the surface of the land, in the sea and under the ground is ours'. (UNESCO, 2001b).

Where lands have been purchased, there have been many conflicts, the most well known case concerns the copper mine dispute at Bougainville. Developers do not always fully research the land tenure system in Papua New Guinea, thereby neglecting the values of local people regarding land and resulting in socio-political conflicts.

In all the aforementioned islands, the ownership of the seabed (the land below high water mark or low water mark) is almost exclusively in the hands of the government (with some exceptions as has been seen in Jamaica). While this paper concentrates on the ownership and use of coastal lands above high water mark, it is of interest to look at some of the conflicts that arise over the use of the seabed in small islands. In the San Andres

archipelago of Colombia, there is competition for resources between the native islanders and impoverished migrants fleeing from the mainland's political and financial insecurities. A high level of resentment exists among native islanders because of the perceived take-over of the coastal area and the depletion of resources by immigrants, continental exporters and the tourist industry. In order to try and address these conflicts, a regional multiple-use marine protected area system is being implemented.

The foregoing discussion has shown the variations in coastal land tenure – from private property to customary ownership - in small islands around the world. However, there are points of similarity in the nature of the conflicts, many of which are a direct result of increasing tourism and industrial development. Some of these will now be discussed further through four specific case studies.

Case studies

Sharing beach space in Barbados

In Barbados, tourism development started relatively early, in the 1960s. Consequently, by the end of the following decade, much of the west and south coasts of the island, in particular the land between the coastal highway and the sea had been extensively developed for tourism. However, by the start of the 1980s, there was considerable concern about the rate and extent of tourism development, and in particular the fact that the sea was no longer visible to islanders walking or driving along the coastal highways.

'A closer look at what had happened in one generation as a result of thoughtless building construction in the name of progress, showed the irony of a small island community which, from the beginning of its history, was given to regarding the "encircling sea" as the richest of its possessions, being gradually denied so much as a glimpse, was seen in all its tragedy.' (Hutt, 1980).

A movement was born called 'Windows to the Sea', which sought to permanently establish a number of openings to the sea from certain stretches of the public highway along the west and south coasts. This initiative, supported by the Christian Action for Development in the Caribbean, prepared a report, which contained recommendations, not only for creating openings with views of the sea, but also for establishing coastal and beach facilities and accesses (Hutt, 1980). The report and the movement played a significant role in raising public awareness. Also some of the issues raised by this initiative were later followed through by the Barbados Town and Country Planning Department with their physical development plans for the island (Town and Country Planning Development Office, 1983), and by the Coastal Zone Management Unit (Atherley, 1987).

It is interesting to note that even some 20 years later, a similar concern still exists. In 2000, at Mullins Bay on the west coast of Barbados, a local group successfully protested the erection of a large wall, which would have restricted views to the sea.

However, the problems in Barbados in the 1980s were not limited to having a view of the sea, or even getting access to the beach, they also included other social issues at the beach itself. In Barbados, and indeed in many other Caribbean islands, there is no such thing as a private beach, since the foreshore (the land between low water mark and high water mark) is public land. The configuration of most Caribbean beaches, combined with the small tidal range, results in a very narrow foreshore strip – sometimes just a few metres wide. The part of the beach between the high water mark and a structure such as a property fence or the tree line generally falls into a ‘grey’ area. Often it is in fact private land, but in the view of most Caribbean residents, it is perceived as public land and therefore available for the use and enjoyment of all.

As tourism properties have developed close to the beach, conflicts have arisen as residents and tourists have to learn to share the same space. A major concern of the tourism industry is to provide a safe environment for visitors as well as to protect them from harassment. Within the hotel grounds, this can be relatively easily achieved; the beach, however, is another matter. In Barbados in the 1980s, there was a serious problem of visitors being harassed on the beach, and the chairman of the Barbados Tourism Board, Mr. Jack Dear, introduced beach wardens to patrol the beaches. This was interpreted by some as a means of keeping Barbadians off the beach (Patullo, 1996). A calypso entitled ‘Jack’ provides a glimpse of some of the local sentiment at that time:

*I grow up bathing in sea water
But nowadays that is bare horror
If I only venture down by the shore
Police is telling me I can't bathe anymore*

*Chorus:
I want Jack to know that the beach belong to me
That can't happen here over my dead body
Tell Jack that I say that the beach belong to me'*

Now, 20 years later, while many of these concerns still remain, there are organisations mandated to manage beach use. For example, the National Conservation Commission deals with beach cleaning, beach safety, vending at beaches, and provides beach rangers (Neblett, 2001). However, as was seen in the case of Mullins Bay, conflicts still arise, and there is a need for participatory mechanisms involving concerned parties as well as government agencies.

Conflicts over coastal hotel development in Canouan, St. Vincent and the Grenadines

In St. Vincent and the Grenadines, beachfront property has, for a number of years, been the prime target of foreigners, who could pay higher prices than nationals. As a result, many of the prime beachfront properties are foreign owned. Regulations are now in place, which stipulate that an Alien Land Holding Licence must be obtained from the Ministry of Foreign Affairs, before foreigners can purchase land. Owners of beachfront

lands, whether local or foreign, must also ensure that there is a public access to the beach. Permanent structures must be at least 12 m from the high water mark, and permits are required from the Physical Planning and Development Board. Despite these regulations, it is not uncommon to find hotels and restaurants almost on the water's edge.

Canouan, in the Southern Grenadines, is a small island just 6 km long and 2 km wide, with a population of less than 1,000 residents, largely involved in fishing, tourism and farming. Islanders traditionally use the beaches for fishing, relaxation and exercise. At the end of the 1990s, large tracts of government-owned lands were acquired on a long-term lease by foreign developers, for the construction of a multi-million dollar hotel complex, casino and golf course. This hotel is now one of the most exclusive in the country and attracts some of the rich and famous. Canouan comprises just 755 hectares, of which the northern two thirds (486 hectares), where many of the best beaches are located, have been leased for the hotel complex.

While this project brought 100% employment to the residents of Canouan, it also caused considerable conflict. The islanders' dissatisfaction became violent at the end of 2000. Angered by the construction of a wall that denied them access to Godahl Beach, they engaged in a rock-throwing incident with hotel security personnel (Barbados Advocate, November 18, 2000). Roadblocks were set up, and public meetings and demonstrations held. It took the intervention of several government ministers, from both the ruling and opposition parties, and the posting of Special Service Police Units in the area, to restore some form of normalcy.

The conflict, which had been brewing for at least two years prior to this incident, revolved around several issues:

- The feeling that too much land had been given to foreigners
- The islanders' traditional church and cemetery were desecrated during the construction process
- Islanders felt threatened and unable to access and use the beach

While there has been no further physical conflict, there is in place only an uneasy truce. For although the government has stated that the public must be given unimpeded access to the beach, this access consists of a simple footpath with no provision for vehicles.

Fencing off the beach in Seychelles

Seychelles consists of 115 islands, some composed of granite and others of coral rocks. Most of the population lives in three of the granite islands (Mahé, Praslin and La Dique), where, because of the steep topography, only a small percentage of flat land is available near the coast. This scarcity of coastal land for building purposes has already led to the reclamation of over 600 hectares of land along the east coast of Mahé.

A developer wishing to undertake tourism development in Seychelles must engage in a number of consultations, which involve the collaboration of several ministries and

authorities. However, sometimes conflicts arise between different institutions. On the basis of the Environment Protection Act 1994, the Ministry of Environment can stop any development, which it deems will have an adverse impact on the environment. In a number of cases, development permits have been issued by the Ministry of Land Use and Habitat, which have caused the Ministry of Environment to issue stop orders. Attempts to resolve these conflicts have resulted in the inclusion of senior policy-makers in the Town and Country Planning Authority, which then ensures appropriate co-ordination of the planning application. Nevertheless, landowner and public conflicts do arise.

Landowner conflicts arise, especially when the restrictions and conditions for development are very stringent. A case in point involves the development of a luxury hotel at one of the last remaining undeveloped beaches of Seychelles. The regulations provide for a minimum and maximum number of hotel rooms, which may not fit within a developer's plans or budget.

In another example, the government has embargoed development in a few selected coastal areas, conforming to its policy not to develop the entire coastline for tourism. Landowners here claim that their rights are being abused since they cannot develop their properties. This has resulted in some concessions being granted, and the establishment of very low-key developments in these embargoed areas.

Public conflicts arise, especially relating to access to beaches, as more and more of the coastal lands are being taken up by hotel developers who want to have total exclusivity for their guests. One example concerns a luxury hotel constructed on the island of Praslin. To preserve the privacy of its clients, the hotel management obtained permission, despite certain objections, to fence off the entire area around the hotel and prohibit local citizens from crossing the hotel compound (without prior appointment) to get to the beach. This not only caused public outrage, but also raised concerns among policy-makers as to the type of hotel development traditionally accepted in Seychelles. The hotel's argument is that they are not preventing access to the beach but only restricting locals from crossing the hotel compound to get to the beach. While this is a favourite argument often advanced by hotel managers in other islands, the point remains here that island residents now have to take a boat or walk about 1 km before reaching the beach. Naturally, they consider this to be unfair and unreasonable. Local communities are aware of the demands of hotel development and tourism, but they are nevertheless unhappy with the situation, as previously, no hotel in Seychelles had been physically fenced off to the Seychellois. This development has unfortunately set a precedent and now many new hotel developers wish to fence off their property under the guise of security. This is a matter of intense debate within the general public and the government.

Living on the beach in the Surin Islands, Thailand

The Moken are a group of 3,000 nomadic sea-faring people, who have traditionally migrated between Myanmar and Thailand. Some 200 Moken people live on a semi-permanent basis in the Surin Islands, a group of five small islands in the Andaman Sea, off the south-western coast of Thailand. They build temporary settlements on the

beaches and harvest marine and land resources. In 1981, the Surin Islands were designated a Marine National Park (Ko Surin National Park), under the jurisdiction and administration of the Marine Parks Division of the Royal Thai Forestry Department. Under the National Parks Act (1961), settlements other than those of the Park authorities are prohibited, as are the exploitation and extraction of natural resources. However, because the Moken people had lived in the islands before the Park was established, and considering that they do not hold official Thai citizenship – which would have allowed them to be resettled elsewhere in the country - their presence in the park was tolerated.

The Park Superintendent is in charge of the islands and the surrounding waters, and together with a number of staff, is stationed on the islands or at the National Park Office in Khuraburi on the Thai mainland. While representatives of other government departments, e.g. the Department of Local Administration, visit the islands occasionally, the Moken tend to escape the attention of both the local and central government because of their small population size.

Since the establishment of the Ko Surin Park, concerns have been raised that the Moken's traditional hunting and gathering, and trading of green snails and top shells, disturb the ecological balance of the Park. However, the Moken are an integral part of these islands and have a right to their traditional place of living and lifestyles. The islands have been included on a tentative list of UNESCO World Heritage sites in Thailand.

In order to address these concerns, a field project was initiated in December 1997, implemented by the Chulalongkorn University Social Research Institute and supported by UNESCO through its Bangkok Office, the Intergovernmental Oceanographic Commission and CSI. A series of workshops were held, bringing together the Moken, government officials, academics and non-governmental organizations. The project activities - which include resource assessments, preparation of reading material for Moken children, basic health and welfare training - seek to explore sustainable development options, so that the Moken they can maintain and enhance their lifestyle while conserving the biodiversity of the Surin Islands (UNESCO, 2001c).

While efforts have been started to maintain a dialogue between the Park Superintendent, academic researchers and the Moken, the latter still remain relatively uninformed about the activities of the Park. Language and culture undoubtedly present barriers, as does the fact that there is no specific mechanism or forum for regular dialogue.

Discussion

One of the main factors emerging from the analysis of land tenure systems and the case studies is the diversity that exists from island to island and from region to region. This variety points to the conclusion that there is no simple answer to the issues that relate to coastal property ownership and rights. Not only does the legal dimension have to be considered, but also islanders' perception of the law.

During a workshop on coastal stewardship in Dominica in 2001 (UNESCO, 2002), participants visited and discussed two specific coastal conflict situations in Dominica, both relating to the ownership of coastal lands. One related to a case where the fishermen's usual access to the beach was barred. The second involved a conflict between two beachfront landowners, one of whom was a tourism operator. Analysis of these two conflicts showed that the traditional tools of legislation and accompanying enforcement have shown little success in the field of beach management - a result of undefined agency responsibility, inadequate and antiquated laws, and a lack of political support. And while it is undoubtedly necessary to strive to improve coastal laws and their enforcement, it is also timely to simultaneously explore other options.

One option that was discussed in detail at the Dominica workshop is that of a *wise practice agreement*, which may be defined as a voluntary accord among multiple users of a resource(s) founded on mutual recognition of rights to the resource(s). These ideas have been discussed in the literature using terms such as 'voluntary agreements' or 'social contracts' or 'sustainable development agreements'. Such agreements have the potential to bring together all the stakeholders, e.g. at a particular beach site, in a framework of voluntary compliance, to work out problems and resolve conflicts – before they reach crisis proportions. It was recognized that these agreements are not a panacea for all conflict situations and they do not replace the need for legislation and enforcement. Indeed there is an entire spectrum of measures from voluntary compliance to external enforcement.

The steps involved in establishing such a wise practice agreement were defined as follows:

- (1) To identify and bring together, under equitable arrangements for discussion, all the stakeholders. (The government is of course a major stakeholder).
- (2) To reach agreement on the multiple uses of the resource and the boundaries of the area covered by the agreement.
- (3) To develop decision-making procedures, rules of compliance and dispute resolution mechanisms.

Wise practice agreements should be characterised by:

- Efficiency: a minimum or absence of disputes, with limited effort needed to ensure compliance
- Stability: an adaptive capacity to cope with progressive changes, such as the arrival of new users or techniques
- Resilience: a capacity to accommodate surprise or sudden shocks
- Equitability: a shared perception of fairness among the members with respect to inputs and outcomes

The lead agency, or catalyst, to initiate a wise practice agreement will depend on the specific context. It could be a university group, a government agency, a non-governmental or community-based organisation, a private developer, or other concerned

individual. It will also be necessary to carefully specify the role of the various partners in the agreement, and for those stakeholders to understand and comply with the conditions.

One of the most difficult steps in setting up a wise practice agreement might be the first stage, i.e. to identify the stakeholders. It is necessary to identify the partners in the agreement, and a mechanism for bringing all the stakeholders together under equitable arrangements for discussion. There may be value biases in determining valid stakeholders, for instance, those seen as ‘trouble-makers’ may be excluded. Difficulties may also be encountered in determining the representativeness of groups or individuals identified as stakeholders. Also some stakeholder groups may lack expertise in the consultative process.

The question of who should take the lead in the wise practice agreement or the conflict resolution process is a very pertinent one. The answer will nearly always depend on the specific circumstances and the particular situation. Leadership is a quality that cannot be taught, since often it emerges, and should be nourished, as the process progresses.

It should be emphasized that such voluntary agreements have considerable potential for conflict resolution and prevention, especially in the field of coastal land tenure in small islands and elsewhere. However, as was noted in the Dominica workshop (UNESCO 2002) such agreements need to be in place before conflicts reach crisis proportions, and are taken to a higher level, such as a court of law, for resolution.

Concluding Remarks

Many conflicts result from the way a resource is valued, e.g., the beachfront property owner who clears the trees in order to have an ocean view, attaches different values to those trees than does the resident visiting the beach to relax in their shade. Informal approaches, such as wise practice agreements, which include effective and efficient communication, and the full participation of all concerned parties, may provide a local, on-the-ground approach for solving coastal land tenure conflicts – before they reach crisis proportions such as legal action. The next step is to try out such approaches.

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