

## LEGAL ISSUES AFFECTING SUSTAINABILITY OF INTEGRATED COASTAL MANAGEMENT

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### ABSTRACT

*Most integrated coastal management projects that are implemented in developing countries have generally failed to continue after donor support is withdrawn. The Integrated Coastal Management Sustainability Research Project proposes to study, in a multidisciplinary manner, the sustainability of integrated coastal management activities in the Philippines and Indonesia after formal project termination. Legal research is one of the components of this research project. The research aims to: (a) identify the policy, legal, and institutional framework that provides support for the implementation of integrated coastal management, and (b) show the importance of a legal framework and its effective enforcement in sustaining integrated coastal management even after support is gone.*

*This paper will argue that a legal framework and its effective enforcement foster the sustainability of integrated coastal management. Laws, regulations, ordinances, and other legal instruments buttress the sustained implementation of integrated coastal management programs, if they are applied or enforced. In the Philippines, although there are numerous laws that provide policy and regulatory framework for integrated coastal management, these laws are not enforced properly for a variety of reasons. To find out the issues affecting enforcement, field research was conducted in two sites in the Philippines: Mabini, Batangas and Bais Bay, Negros Oriental. Specific interviews with key informants in these sites were conducted. Preliminary results of the qualitative analysis show that because of conflicting policies, confusion of roles, political interference, lack of interest to fully prosecute cases, selective enforcement, and informal enforcement mechanisms, enforcement in the two above-mentioned sites was weak. Due to the ineffective law enforcement as well as inadequate legal regime, integrated coastal management activities floundered after donor support was withdrawn.*

**LIST OF ACRONYMS**

<b>BFAR</b>	<i>Bureau of Fisheries and Aquatic Resources</i>
<b>CEP</b>	<i>Coastal Environment Program</i>
<b>CFARMC</b>	<i>City Fisheries and Aquatic Resource Management Council</i>
<b>CMMO</b>	<i>Coastal and Marine Management Office</i>
<b>CRM</b>	<i>Coastal Resources Management</i>
<b>CRMP</b>	<i>Coastal Resources Management Project</i>
<b>CSC</b>	<i>Certificate of Stewardship Contract</i>
<b>CVRP</b>	<i>Central Visayas Regional Project</i>
<b>DA</b>	<i>Department of Agriculture</i>
<b>DAO</b>	<i>Department Administrative Order</i>
<b>DENR</b>	<i>Department of Environment and Natural Resources</i>
<b>DILG-LGS</b>	<i>Department of Interior and Local Government-Local Government Sector</i>
<b>DOJ</b>	<i>Department of Justice</i>
<b>DOST</b>	<i>Department of Science and Technology</i>
<b>DOTC</b>	<i>Department of Transportation and Communications</i>
<b>DOT</b>	<i>Department of Tourism</i>
<b>EISS</b>	<i>Environmental Impact Statement System</i>
<b>ENRO</b>	<i>Environment and Natural Resource Office</i>
<b>EO</b>	<i>Executive Order</i>
<b>FAO</b>	<i>Fisheries Administrative Order</i>
<b>FARMC</b>	<i>Fisheries and Aquatic Resource Management Council</i>
<b>FLC</b>	<i>Foreshore Lease Contract</i>
<b>FSP</b>	<i>Fisheries Sector Program</i>
<b>ICM</b>	<i>Integrated Coastal Management</i>
<b>ISF</b>	<i>Integrated Social Forestry</i>
<b>LGC</b>	<i>Local Government Code</i>
<b>LGCAMP</b>	<i>Lingayen Gulf Coastal Area Management Program</i>

<b><i>LGU</i></b>	<b><i>Local Government Unit</i></b>
<b><i>MARINA</i></b>	<b><i>Maritime Industry Authority</i></b>
<b><i>MFARMC</i></b>	<b><i>Municipal Fisheries and Aquatic Resource Management Council</i></b>
<b><i>MPA</i></b>	<b><i>Marine Protected Area</i></b>
<b><i>NGO</i></b>	<b><i>Non-government Organization</i></b>
<b><i>NIPAS</i></b>	<b><i>National Integrated Protected Areas System</i></b>
<b><i>PAWB</i></b>	<b><i>Protected Area and Wildlife Bureau</i></b>
<b><i>PD</i></b>	<b><i>Presidential Decree</i></b>
<b><i>PCAMRD</i></b>	<b><i>Philippine Council for Aquatic and Marine Research Development</i></b>
<b><i>PCG</i></b>	<b><i>Philippine Coast Guard</i></b>
<b><i>PFC</i></b>	<b><i>Philippine Fisheries Code</i></b>
<b><i>PNP</i></b>	<b><i>Philippine National Police</i></b>
<b><i>PNP-MARIG</i></b>	<b><i>Philippine National Police-Maritime Group</i></b>
<b><i>PTA</i></b>	<b><i>Philippine Tourism Authority</i></b>
<b><i>RA</i></b>	<b><i>Republic Act</i></b>

### **Introduction**

A complex web of interrelated laws comes into play when one steps into the coastal zone in the Philippines. This observable fact becomes inevitable where government enacts laws in order to pursue a broad range of environmental policy objectives. Accordingly, there are laws that address environmental protection in general and statutes that are aimed at, *inter alia*, fisheries management, forestry protection, environmental risk assessment, protected area management, pollution control, and biodiversity protection, in particular.

Within the foregoing legal setting, a number of integrated coastal management initiatives have been implemented in the Philippines. These projects and/or programs, implemented by either government or non-government entities, have varied successes and failures. However, some of these processes have

been discontinued and, in some cases, failed to meet their goals after formal project termination and funding has been used up. Examples of such projects include the Central Visayas Regional Project (CVRP), the Fisheries Sector Program (FSP), the Apo Island Showcase, the Batangas Bay Coastal Management Project, the Coastal Resources Management Project, and the Lingayen Gulf Coastal Area Management Program. It has been suggested that CVRP had a very limited success for it missed meeting most of the goals set.<sup>1</sup> On the other hand, the FSP is generally regarded as a success in reshaping Philippine policy thrusts on fisheries.<sup>2</sup> And while some projects ceased upon the drying up of funds, some CRM initiatives managed to sustain themselves. The Apo Island experience in Negros Oriental proves the latter point.<sup>3</sup>

### **Methodology**

**Objectives.** This paper will identify the policy, legal and jurisdictional framework that provides authority for ICM in the Philippines. The elements of ICM will be examined with respect to the existing laws and regulations in order to provide a closer understanding of how it works in the given national situation. To do this, the legal research gathered and reviewed all legislation relevant to coastal management. Local legislation was also collected from the two case study sites—Bais Bay, Negros Oriental and Mabini, Batangas. Finally, secondary authority<sup>4</sup>, such as commentaries from eminent authorities and case reporters<sup>5</sup> that contain the decisions of the courts, were gathered.

Likewise, this paper will also address the main question of whether laws, regulations, ordinances, and other legal instruments buttress the sustained implementation of ICM if they are applied and enforced. Studies have shown that legal compliance is a key to the success of ICM interventions, particularly marine protected area establishment.<sup>6</sup> The actual enforcement of laws will therefore be used as a tangible measure of ICM sustainability. Local court dockets showing the number and status of cases that were filed, prosecuted, and decided on were used to enrich the data sets.

The second research activity gathered information about legal enforcement issues during and after donor ICM projects in the two study sites mentioned. This part of the research is based on detailed, open-ended interviews with a number of key actors such as *Bantay dagat*<sup>7</sup> in both sites, members of the resource management council, local government officials, resort owners, provincial environment officers, and legislative members. A total of 40 interviews were conducted in the two case study sites. A qualitative analysis of these interviews was performed using the *Atlas.ti* software. The research analyzed the inputs from various stakeholders on the various legal and institutional issues on ICM; concrete results on ICM implementation and compliance vis-à-vis law and policies; the ICM enforcement processes; motives of ICM implementers and enforcers; and the nature and purpose of the relevant ICM statute or regulation.

***Focus of the Legal Research.*** This research work was not designed to provide all-encompassing answers to legal queries on Philippine experience in ICM. Admittedly, this legal research was constrained to rely on court dockets and local legislative logbooks or ordinance master lists for documentary data on violations and infractions of ICM-related laws and ordinances in select ICM sites. It did not have the time or resources to trace the parties-litigants in the various cases and obtain from them information related to their cases. Moreover, this work limited itself to examining two case studies, considering that more than 2 dozens potential ICM projects were earlier identified.

Nevertheless, to have a relatively comprehensive treatment of the subject (i.e., legal implications in sustaining or weakening ICM in the Philippines), this legal research limited its analysis to certain issues: (a) identifying overlaps and gaps in ICM legislation which give rise to conflict or confusion; (b) conflicting mandates and authority of said laws, which may negate any gains made by any agency or group tasked to implement the laws; and (c) vertical and horizontal integration in relation to enforcement and

implementation of ICM-related laws. In the two case studies (Bais Bay and Mabini, Batangas) mentioned, site-specific issues of (1) mangrove management and (2) marine protected area management, are examined using the foregoing foci. A comprehensive legal study which includes other aspects such as land use management water quality management, pollution management will not be undertaken at this time to keep the scope of the study manageable. At any rate, the two core issues will address resource use, degradation, and conflict which are important dimensions of ICM problems.

**Case studies.** Past ICM activities in selected sites in the Philippines were chosen as case studies. Legal research took place in Central Visayas (Bais Bay in Negros Oriental Province) and Central Luzon (Mabini in Batangas Province) of the Philippines. Bais Bay demonstrates the difficulties local governments faced in assuming total responsibility over ICM implementation after outside donor support was withdrawn while Mabini (commonly known as Anilao) illustrates how initiatives by non-government organizations floundered after formal project termination. These two case studies are identified not because they are assumed to be ICM failures (emphasis added). To the contrary, these studies significantly elucidate the interplay of factors in the formulation, implementation, and monitoring of ICM. It is assumed that by focusing on these two sites (out of more than a dozen or so), critical insights can be drawn regarding the legal and institutional factors or elements that promote or inhibit ICM sustainability after termination of funding resources in ICM projects.

## **Research Results**

**Legal Framework for ICM.** A legal framework for ICM is a basic structure for the integrated management of coastal resources deriving authority from or founded on law and established rules. This legal scaffolding is primarily supported by the Constitution which is the supreme law from which all other laws,

such as statutes, executive, and administrative orders, court decisions, and local ordinances, emanate. The basic framework of the Philippines' legal authority for ICM is elaborated in the following matrix.

**Table 1. Basic Legal Framework for ICM**

Law	Relevant ICM Provisions	Function
1987 Constitution	Article II, Sections 15 and 16 (Promotes right to a healthy environment), Article XII, Section 2, par. 1 (All natural resources owned by the State), Article XII, Section 2, par. 2 (Duty of State to protect marine wealth), Article XII, Section 2, par. 3 (Priority to subsistence fishermen), Article II, Sections 22 and 23 (Rights of non-government organizations to assist State)	Empowers Congress, within prescribed limits, to enact legislation and formulate governmental policy
Congressional Acts (i.e., Republic Acts or RAs)	Philippine Environment Policy (PD 1151) Philippine Environment Code (PD 1152) Local Government Code (RA 7160) Agricultural Fisheries Modernization Act (RA 8435) Fisheries Code (RA 8550) Solid Waste Management Act (RA 9003) Forestry Code (PD 705, amended by RA 7161) National Integrated Protected Areas System Act (RA 7586) Environmental Impact Statement System Act (PD1586)	Policies for environmental protection, resource management, pollution control, and habitat protection
International Treaties	Rio Declaration, Convention on Climate Change, Convention on Biodiversity, Chapter 17 of Agenda 21	A treaty is given force and effect as any statute that is legislated by Congress

Table 1. Cont'd

<p>Administrative Orders (AO)</p>	<p>Department AO 96-37 (EIA), DAO 92-30 (devolution), DAO 93-19 (Coastal Environment Program), DAO 90-15 (mangrove management), Fisheries AO 193 (taking whale sharks and manta rays), FAO 198 (commercial fishing), FAO 201 (active gear fishing), FAO 202 (coral exploitation), FAO 203 (muro-ami), FAO 204 (use of superlights)</p>	<p>Agency rule-making subject to limitations laid down by the Constitution and laws</p>
<p>Executive Orders</p>	<p>Executive Order No. 192: Creation of the Department of Environmental and Natural Resources (DENR) to protect the environmental integrity of Philippine waters. EO 15 and EO 370: Creation of Philippine Council for Sustainable Development (PCSD).</p>	<p>Formally written and passed into law in the exercise by the President of its executive functions</p>
<p>Court Decisions</p>	<p>Some landmark jurisprudence includes the cases of Oposa vs. Factoran, Taño vs. Socrates (G. R. No. 110249, 1997), Laguna Lake Development Authority vs. Court of Appeals (251 S.C.R.A. 42, 1995), and Technology Developers Inc., vs. Court of Appeals (G. R. No. 94759, 1991).</p>	<p>Constitutional authority of courts is to interpret laws and ultimately establish what the law allows or prohibit</p>
<p>Ordinances</p>	<p>RA 7160 (Local Government Code of 1991) and RA 8550 (Fisheries Code of 1998)</p>	<p>Local government units to enact ordinances to protect the environment and enjoin illegal and destructive fishing practices within municipal water</p>



Numerous laws and regulations have been established for coastal and marine resources, activities, coastal users, and environments in the Philippines. In fact, over 50 pieces of legislation, which affect coastal resources, were noted in 1997.<sup>8</sup> The list grows as more laws, rules, and regulations have been enacted on fishery, forestry, tourism, mining, land use, reclamation, energy, shipping, and all other decrees that have bearing on coastal zone development and conservation and are vital to marine resources protection.

From these laws, a legal basis for government institutions to manage coastal and marine resources has emerged. Tolentino<sup>9</sup> considers three landmark statutes in the Philippines in the field of environmental protection: Philippine Environmental Policy (Presidential Decree or PD 1151),<sup>10</sup> Philippine Environment Code (PD 1152),<sup>11</sup> and Environmental Impact Statement System (PD 1586),<sup>12</sup> as the legislative base for coastal zone management. PD 1151 sets forth the environmental protection policies for the country, recognizes the right of the people to a healthy environment, and renders compulsory the submission of environmental impact statements for environmentally-critical projects, or projects located in environmentally-critical areas.<sup>13</sup> PD 1152, on the other hand, outlines the guidelines for the formulation of national standards for air and water quality, land use management, fisheries management, and wildlife protection, among others. It deals with all aspects of the Philippine environment in its totality and not on a fragmented basis.<sup>14</sup>

On the other hand, La Viña<sup>15</sup> claims that the Philippine government has always relied principally on regulatory mechanisms to manage the marine and coastal zones, particularly to control activities, allocate resources among users and potential users, and resolve conflicts among competing values. These regulatory mechanisms can be classified into two broad categories: (a) those used to regulate access to and use of public resources such as fisheries, mineral deposits, forestry, flora and fauna, and public land; and (b) those used for environmental protection such as the Environmental Impact Statement System, National Integrated

Protected Areas System (NIPAS), and pollution control.<sup>16</sup>

Finally, the Department of Environment and Natural Resources, et al.<sup>17</sup> have established a legal and policy framework for coastal management which is largely comprised of management systems provided in several major laws, namely the Local Government Code,<sup>18</sup> the Philippine Fisheries Code,<sup>19</sup> the NIPAS Act,<sup>20</sup> and the Agricultural Fisheries Modernization Act.<sup>21</sup>

In the inventory and analysis of ICM-related laws, it is apparent that a coastal policy has yet to be formulated and formalized in a national legislation. The multiplicity of laws has caused decision-making problems and affected the efficient functioning of the government agencies involved in the implementation of ICM.

#### ***Jurisdictional and Institutional Framework.***

Administrative jurisdiction is deemed important for the proper implementation of ICM. In the Philippines, administrative jurisdiction is determined through the administrative functions of government agencies, the unit of coastal space, and the natural resources within its national territory. The National Territory as described in Article I of the Constitution states in part:

*The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.*

The national government exercises sovereignty and jurisdiction over the entire internal waters. To protect the environmental integrity of these waters, the Department of Environment and Natural Resources exercises primary authority pursuant to Executive Order No. 192.<sup>22</sup> Coastal area management may be considered as an integral part of its responsibilities. In order to pursue its mandates, the DENR has formulated policies and programs that focus on the management of mangroves and associated terrestrial and aquatic flora and fauna within the marine

zone.

Notwithstanding DENR's authority, municipalities are likewise given the power to manage *municipal waters* the extent of which is expressly delineated under the Fisheries Code and Local Government Code.<sup>23</sup> The municipalities or cities are to manage the fisheries and aquatic resources within *municipal waters*. To assist these LGUs in fishery enforcement functions, the *Bantay dagat* members may be deputized by the Bureau of Fisheries and Aquatic Resources or local government units after receiving formal training in coastal law enforcement. In addition, Municipal and/or City Fisheries and Aquatic Resource Management Council (M/CFARMC) members may also be deputized as fish wardens to assist in the enforcement of fishery laws, rules, and regulations in municipal waters.

Needless to say, there are other national government agencies that play supporting roles to the DENR and/or LGUs. This is shown in Table 2 matrix below.

**Table 2. Administrative Jurisdictions of Government**

GOVERNMENT AGENCY	ADMINISTRATIVE FUNCTIONS	LEGAL BASES
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR)	Conservation of the environment and natural resources	EXECUTIVE ORDER 192 § 4 (1987).
LOCAL GOVERNMENT UNITS (LGUs)	Responsible for the management of all fishery/aquatic resources within municipal waters.	PHILIPPINE FISHERIES CODE § 16 (1998) & LOCAL GOVERNMENT CODE (1991)
BUREAU OF FISHERIES AND AQUATIC RESOURCES (BFAR) - DEPARTMENT OF AGRICULTURE	Provide technical assistance to LGUs; and enforcement and formulation of laws outside the municipal waters.	PHILIPPINE FISHERIES CODE § 64, 65 (1998).

**Table 2. Cont'd**

DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT - LOCAL GOVERNMENT SECTOR (DILG-LGS)	Monitoring policies on decentralization and local governance.	REPUBLIC ACT 6975
PHILIPPINE NATIONAL POLICE - MARITIME GROUP (PNP-MARIG)	Performs all police functions over Philippine territorial waters and rivers, and coastal areas.	REPUBLIC ACT 6975, as amended by REPUBLIC ACT 8551
DEPARTMENT OF TRANSPORTATION AND COMMUNICATION (DOTC) -MARITIME INDUSTRY AUTHORITY (MARINA)	Issuance of certificate of Philippine registry to commercial fishing boats	
DEPARTMENT OF TRANSPORTATION AND COMMUNICATION (DOTC) - PHILIPPINE COAST GUARD	Regulation of municipal fishing boats, Enforcement of environmental laws in the high seas and Philippine territorial waters, and Control marine pollution.	EXECUTIVE ORDER 477
DEPARTMENT OF TRANSPORTATION AND COMMUNICATION (DOTC) - PHILIPPINE PORTS AUTHORITY	Maintenance of port facilities and services	PRESIDENTIAL DECREE 505
DEPARTMENT OF TOURISM (DOT) & PHILIPPINE TOURISM AUTHORITY (PTA)	Development of tourist zones in coastal areas	PRESIDENTIAL DECREE NO. 189, as amended by PRESIDENTIAL DECREE NO. 564.
DEPARTMENT OF SCIENCE AND TECHNOLOGY (DOST) - PHILIPPINE COUNCIL FOR AQUATIC AND MARINE RESEARCH AND DEVELOPMENT (PCAMRD)	Research and development for fishery and aquatic resources.	EXECUTIVE ORDER 128.

**Agencies involved in ICM.**

Furthermore, administrative jurisdiction for ICM initiatives is also determined either by the units of coastal space, or the natural resources within its territory. Administrative jurisdiction of coastal spaces becomes increasingly complicated if spatial and resource jurisdictions are accounted as well. For instance, as to the first, municipal waters are generally under the control of LGUs. However, should there be endangered species (i.e., green turtles or dugongs) in this aquatic area, then the Protected Area and Wildlife Bureau of the DENR retains jurisdiction over them.

In the case of foreshore areas, the DENR is primarily responsible for awarding Foreshore Lease Contracts, while the LGU is charged with zoning of foreshore lands within their respective territories. Other agencies are still involved through various mandates such as the Housing and Land Use Regulatory Board which approves the land use plans and zoning ordinances of LGUs, the BFAR which designates foreshore lands as reservations for fish sanctuaries and as mangrove cultivation areas, Department of Public Works and Highways which approves permanent improvements, the Department of Tourism when the area is a tourist zone, and the Philippine Ports Authority when the area involved is a port zone.

Altogether there are a number of juridical units in the government that exercise separate management powers, authority, and mandates relevant to ICM. In particular, cabinet-level departments, bureaus, and attached agencies are charged with directly or indirectly regulating activities, spaces, and resources in the coastal zone. Various national councils also supervise the regulation of access, use, and allocation of coastal resources and spaces. Other entities are also present in the milieu as technical, advisory and recommendatory councils. While the list of institutions is somewhat impressive, only a fraction thereof is totally or primarily involved in coastal management affairs.

Various laws cover a myriad of activities that directly affect the coastal zone and its resources. Naturally, these laws create policy issues and conflicts. Overlapping and conflicting jurisdictions of agencies and regulatory efforts eventually lead to inefficiency and ineffectual government policies and undertakings due to default, disparate goals and objectives, uncoordinated projects, and rivalry.<sup>24</sup> This is more than apparent in the Philippines. The lack of an effective and integrated coastal management program is due in part to the absence of a rational framework for ICM, which will be discussed comprehensively in the succeeding section.

## **Discussion of Issues**

### **A. No Specific Legal Framework for ICM in the Philippines**

A legal framework for ICM is necessary to ensure that government policy for ICM is implemented and ICM-related laws are enforced. Without the legal framework, there is simply no basis in which policies can be formulated and actions can be implemented. ICM is based on both statutory and participatory elements. The statutory framework is the means necessary in order to formulate the policies and to provide authorities for government institutions with the end of managing coastal and marine resources in an integrated manner. An institutional framework is indispensable to ensure coordination and/or coordinative action by government and non-government institutions in the implementation of ICM programs.

Despite the presence of numerous laws relevant to the coastal zone and its resources, there is a total absence of an integral and coherent program and policy for the integrated management of these resources. The multiplicity of laws has not benefited ICM. There are inadequacies and discrepancies in the legislation (e.g., out-dated laws, not adapted to new principles). And these laws commonly overlap in subject matter and delegate various types of authority and responsibility over the marine environment to

numerous government agencies. For instance, much of the coastal environmental legislation dates back to the 1970s. Presidential Decree Nos. 705 and 1586 are good examples. Moreover, some of these laws or decrees still adopt the top-to-bottom implementation approach over the community-based paradigm. In addition, some laws tend to overlap with each other. For example, the Fisheries Code and the Department of Agriculture understandably give premium to food security and productivity, yet the DENR emphasizes resource conservation. Thus far, no attempt has been made to harmonize these laws.

The long history of coastal management in the Philippines is also marked by a lack of coherence between sectoral policies. Coastal management initiatives had to work within existing laws and institutions that do not necessarily support integrated management of the coastal zone and its resources. For instance, the DENR has its own ICM agenda that it pursues via the Coastal Environment Program (CEP). This is without regard for other species-related projects that seek to protect the turtles, dugongs, or whale sharks. On the other hand, the DA also caters to ICM-related undertakings, such as promotion of fish reserves and refuges.<sup>25</sup> The DA also adheres to objectives that impact on ICM concerns. These objectives include the conservation of fishery resources,<sup>26</sup> and more specifically the management of “fishery and aquatic resources, in a manner consistent with the concept of an integrated coastal area management in specific natural fishery management areas...”<sup>27</sup> Moreover, the coastal LGUs also have their own parochial fisheries and coastal management ordinances. Oftentimes, these pieces of local legislation generally mimic what existing national laws on the same subjects already treat. In short, there is redundancy.

What is sorely lacking, then, is a national legislation dedicated purely to ICM. Notwithstanding the growing interest and the many good initiatives on ICM, there is still no national ICM policy and institutional framework. Clearly, there are factors which are limiting the implementation of an integrated legal framework.

First, the legal and institutional framework for ICM has not been formally adopted. Elements of a fully integrating structure exist but not brought together in one single decree. Although enabling laws for coastal management in general exist, no legal and institutional framework for ICM in particular is present. Attempts were made in the past to formulate and recommend programs for the integrated and coordinated management of Philippine maritime and ocean affairs through cabinet committees.<sup>28</sup> However, the existence of these committees was essentially short-lived for reasons not documented. For now, there is no specific agency appointed as solely responsible for ICM because there is still no national ICM policy/strategy. Although the DENR attempted to draft such a policy a few years ago, this was never formally adopted in a strict legal sense.

Second, the fact that ICM process is still in its early stages and sectoral approaches tend to dominate is another factor which limits integration. Historically, separate legislation approached each issue sectorally. There was a law for each of the resources found within the coastal ecosystem and administrative arrangements followed the same pattern. There is insufficient horizontal and vertical coordination because administrative jurisdiction is situated at different administrative levels (national, regional, provincial, and municipal) and at different government agencies (DENR, DA-BFAR, etc.).

***Supportive Legal Framework.*** Nevertheless, ICM is not a lost cause altogether. There are still encouraging signs in the pursuit of a functional Philippine ICM. Presently, the DENR has proposed a National Coastal and Marine Management Policy and is currently undertaking public consultations on the proposed framework. Whether or not this will result in the acceptance of a national ICM policy or common ICM strategy still remains to be seen. DENR Secretary Heherson Alvarez<sup>29</sup> notes that the Coastal and Marine Management Office (CMMO) will serve as the national coordinating office of the DENR for all consultations on the



proposed framework and all other coastal and marine environment activities.

Moreover, statutes and regulations that influence coastal management in a variety of ways have been in existence for decades. Similarly, the emergence of coastal laws in the 1990s has useful implications for ICM implementation. Two of these laws—the PFC and the LGC—are two good steps toward ICM.

In accordance with the PFC, municipal and city governments are to be solely responsible for the management of the resources within their territory.<sup>30</sup> There is likewise a clear legal mandate for LGUs to achieve the state policy objective of integrated management of fishery and aquatic resources. And to support integration, Integrated FARMCs serve as the venues for close collaboration among LGUs in the management of contiguous water resources.

Legal support for ICM is also found in the LGC. Section 3 thereof provides that LGUs shall share with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction. Furthermore, pursuant to the General Welfare Clause,<sup>31</sup> the LGUs shall discharge the duties and functions devolved to them such as, *inter alia*, implementation of community-based forestry projects, solid waste disposal systems or environmental management systems, tourism facilities and other tourist attractions, and enforcement of forestry laws, pollution control laws, small-scale mining laws, and other laws on the protection of the environment.

Finally, the LGC supports inter-LGU undertakings. Section 33 of the LGC provides that LGUs may, through appropriate ordinances, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes beneficial to them. Thus, the LGUs involved may, upon approval by the *Sanggunian* (local legislature), contribute funds, real estate, equipment, and other kinds of property and appoint or assign personnel under such terms and conditions, as may be agreed upon by the participating local units through a memorandum of agreement. Inter-

agency agreements are often resorted to by LGUs, especially those around bays and lakes, to resolve conflicts, and to achieve some form of coordination.<sup>32</sup> However, these types of agreement are often criticized to have no true permanency in nature and effective only as long as the agencies are disposed to honor them.<sup>33</sup> Hence, these agreements are solely dependent on the continued interests of the LGUs to cooperate with each other.

***Supportive Jurisdictional and Institutional Frameworks.*** There are jurisdictional options available for ICM. Under national laws, the DENR and the municipal and/or city governments are at the forefront of all other governmental units and/or agencies in the implementation of ICM.

By virtue of Executive Order No. 192, the DENR, which was created in 1987, is tasked with the duty to conserve and protect the natural resources in the entire archipelago. Its power is comprehensive and extends from the terrestrial to the marine environment. However, the Bureau of Fisheries and Aquatic Resources (BFAR), which is technically under the Department of Agriculture, has a historical mandate over the regulation and management of all fishery resources in the Philippines. This authority of BFAR, thus, limits the more expansive authority of the DENR.

With the introduction of the LGC, the legal authorities over the management of the coastal and marine zones have been consolidated and assigned to a single entity—the municipality or city. Historical administrative arrangements showing the DENR and BFAR with similar authorities have been changed. Hence, *a priori*, LGUs have the legal authority to set policies and programs to manage the resources found within their territorial boundaries. On the other hand, national government agencies like the DENR and BFAR are secondarily responsible and are only expected to provide technical assistance to the LGUs as far as the management of municipal waters is concerned. If these national and local units can strike a good balance of powers and authorities

through constant communication and increased collaboration, ICM will slowly emerge.

Under both the LGC and PFC, the jurisdiction of municipalities and cities, which include the municipal land and water area at least up to 15 km from the shoreline, enables these LGUs to initiate ICM within their territorial boundaries. The LGC likewise reinforces the participation of NGOs in local governance, particularly in the delivery of basic services, which include coastal resource management. Thus, local governments can now be considered at the forefront of the efforts to manage the coastal and marine environment.

However, the management by local governments is still at its infancy while its programs are still riddled with bureaucratic problems and political uncertainties.<sup>34</sup> If a national ICM policy or strategy will not be adopted, programs and policies affecting the coastal zone and its resources would always be vulnerable to changes in policy, which is a real consideration in view of the political and administrative changes in local governance. Hence, there is an increasing awareness of the growing need for a national policy or strategy because without which there will be neither a common understanding nor a shared vision to guide LGUs towards ICM.

In brief, the influx of national laws and policies for coastal resources management occurred only in the 1990s. An aggregate of these laws may provide a promising platform for sustainability. The LGC is one such law that also bears a great potential for sustainability. Coupled with what the PFC provides, the intent to work towards sustainable integration is clear. Specifically, the elements for ICM are clearly apparent in view of the integration of local governments for the management of common resources pursuant to LGC and PFC provisions.

The importance of a national policy for ICM cannot be overemphasized. It provides the basic structure for implementation. But policies are good only as long as the government intends to implement and enforce them. Effective

coastal policy and law implementation must address all aspects of the law enforcement continuum including legislation and regulation, apprehension, prosecution, judgment, education, and monitoring.<sup>35</sup> However, law enforcement is always cited as one of the problems affecting the effective implementation of coastal management programs in the Philippines.<sup>36</sup> The next section discusses some of the enforcement issues in two areas in the Philippines.

## **B. Enforcement Issues**

If an ICM program is well planned and implemented, then sustainable benefits from coastal resources can accrue to the greatest number of people.<sup>37</sup> However, effective implementation of ICM is oftentimes hampered by the lack of enforcement of coastal and marine laws due to some major obstacles such as conflicting policies, laws, and implementation programs; lack of patrol boats and other basic equipment to conduct monitoring and surveillance; lack of adequately trained coastal law enforcement units; slow justice system; and lack of public awareness of fisheries laws and consequences of illegal activities.<sup>38</sup> Without effective coastal law enforcement, ICM simply cannot succeed. Hence, aside from the legal and institutional framework, law enforcement will also be used as a measure to assess the ICM sustainability.

Law enforcement process goes through the following phases: prevention, detection, apprehension, prosecution, and imposition of penalty. The process usually starts at the LGUs that are mandated by the LGC and PFC to enforce fisheries and other related laws within their territory.<sup>39</sup> LGU officials who are charged with primary responsibility for coastal law enforcement are the *Barangay* Captain, Municipal or City Mayor, Provincial Governor, local PNP Chief of Police, *Sanggunian* (local legislative council) members, and other local officials.<sup>40</sup> In addition, citizens, volunteer groups, and other interest groups such as Municipal FARMCs, *Bantay dagat*, and deputized fish wardens play an important role

especially in the preventive aspect of coastal law enforcement.<sup>41</sup> At the national level, key agencies with mandates for coastal law enforcement consist of uniformed and non-uniformed agencies,<sup>42</sup> and these include: PNP, PNP-Maritime Group, Department of Interior and Local Government, Philippine Coast Guard, DA-BFA, Philippine Navy, DENR, DOJ, etc.<sup>43</sup>

Because the research project focused on two case study sites: Bais Bay in Negros Oriental and Mabini in Batangas, this paper will consequently focus on enforcement issues specific only to these sites. In a socio-economic study,<sup>44</sup> it was noted that majority of the respondents (project and non-project participants) felt that before the start of the implementation of the projects in Bais Bay, violation of laws was rampant. During the implementation, law enforcement improved. When the projects were terminated, majority of the respondents felt that violation of rules was the same or decreased. However, they reported that illegal fishing was stopped or minimized after the projects. On the other hand, the majority of the respondents in Mabini reported that rules and regulations were violated before and after the ICM project. Law enforcement only improved during project implementation when illegal fishing was stopped.

Based on the in-depth interviews with law enforcement agents in the local communities and the concerned government agencies, some enforcement issues were uncovered. The following sections, from B.1 to B.7, will discuss these issues and uncover the factors that affect sustainability of the enforcement measures.

**B.1 Conflicting Policies.** Government formulates policies to aid in managing use, access, and allocation of resources. However, conflicts among resource users often arise due to ambiguous policies and differing interpretations. In Mabini, the controversy centers on the interpretation of a municipal ordinance regulating diving and fishing. In the case of Bais Bay, however, the enforcement of mangrove laws is hampered due to confusing policies on mangrove cutting.

***Contrasting Interpretations of MPA Ordinance.***

Municipal Ordinance No. 11-91 established portions of *Barangays* San Teodoro and Bagalangit in Mabini, Batangas as “fish sanctuaries”, namely: Twin Rocks, Arthur’s Rock, White Sand Rock, and Cathedral Rock. The Ordinance also declared as a marine reserve the entire shoreline and reef of 700 meters offshore. [Appendix 1 shows the original text of Ordinance 11-91].

In 1993, an amendment was made to Ordinance 11-91. Only three fish sanctuaries were retained in Twin Rocks, Arthur’s Rock, and Cathedral Rock. [Appendix 2 shows the complete version of the Amended Ordinance]. The amended Ordinance provides, under Section 3 thereof, that SCUBA diving and snorkeling are prohibited inside the sanctuary; in Section 4, catching of fish and gathering of corals within the sanctuary is banned. On the other hand, traditional fishing using hook and line, spearfishing without SCUBA or compressors, use of nets or *salok* for catching *dulong* and traps are allowed outside of the fish sanctuaries but within the marine reserve.

Curiously though, after the proviso establishing White Sand Rock as part of the marine reserve area, the following rider statement: “*SCUBA diving and snorkeling is [sic] absolutely prohibited inside the sanctuary*” was inserted. A cardinal rule in the interpretation of statutes provides that the words, phrases, and provisions are to be interpreted in their ordinary, commonly accepted usage, and without resort to forced or subtle construction. Hence, because the Ordinance uses the word *sanctuary* in referring to the prohibition on SCUBA diving and snorkeling, this cannot be construed in another way.

However, another rule of statutory construction states that every part of the statute must be interpreted with reference to the context. This means that since the rider statement immediately followed the proviso referring to White Sand Rock as a marine reserve then the prohibition against SCUBA diving and snorkeling may have referred to any of these activities within the marine reserve. But what is unclear is whether the term *sanctuary* refers

to the White Sand Rock marine reserve or to the three fish sanctuaries. In actual usage, the two terms—marine sanctuary and marine reserve—may be interpreted to mean the same kind or different MPAs.

This confusion is evident in the study area because, as disclosed by one ICM practitioner, the Ordinance was enacted to create better SCUBA diving areas and to stop illegal fishing.

*Under the 1991 Ordinance, diving was not restricted, except for spearfishing using SCUBA. In the marine reserve, all illegal fishing activities were banned. It was aimed at stopping illegal activities of fishermen coming from Tingloy (the neighboring island LGU)...and to create better SCUBA diving areas which serve tourism interests...*

However, the Ordinance was also aimed at protecting the integrity of the corals and breeding areas of fishes. According to a municipal official in Mabini,

*The objective is to protect the corals and at the same time to have a breeding area for fishes. Because HARIBON (a local non-government organization) explained, and I also believe that if there are sanctuaries, these will serve as breeding places. So, the fishes will multiply and will migrate somewhere in the area of Mabini. In this case, the fishermen will benefit from the fishes that have migrated. That is one of the concepts used.*

Most respondents also reported that the Ordinance was amended in 1993 without proper consultations. Furthermore that the amendment was done at the instance of a group of dulong fishermen in the area. A resort owner affirmed their claims in the following statement.

*One of the reasons why the Ordinance was amended in 1993 was because the dulong fishermen were very upset about the 1991*

*Ordinance. They wanted to take White Sand Rock (a sandy area which is their dulong fishing area) and to allow the dulong fishing in the area. They banned diving because they wanted to get back at the resorts. There were no public consultations done...*

Although the amendment expressly banned any diving activity within the foregoing sanctuaries, this ban has not been enforced. One of the main reasons why it has not been enforced is the different interpretation given to the ambiguous provision on diving. Local fishermen are unanimous in asserting that diving is not allowed inside the sanctuaries. One fisherman claims that diving causes a lot of disturbance inside the sanctuary.

*Diving is really prohibited inside the sanctuary because how can the fishes breed if there are lots of disturbance.*

On the other hand, one resort owner asserts that the prohibition on diving is overlooked because the area is commonly regarded as a diving spot.

*In terms of the Municipal Ordinance, which states that diving is not allowed in MPAs, people are dealing with it with their eyes closed. Because even before this area became an MPA, even before the Municipal Ordinance, this area is already a diving spot. [emphasis added]*

Contrasting interpretations of the established rules do lead to non-enforcement or passive enforcement of law. According to a *Bantay dagat*:

*Yes, we are not seriously enforcing the law or ordinance concerning the anchorage and diving in the sanctuary. We are still trying to hold a meeting with boatmen and divers concerning these matters but unfortunately they don't show up.*

Admittedly, non-enforcement of this Ordinance has become one



of the significant issues that militates the *Bantay dagat* against continually enforcing the ban on diving and even, against fishing inside the sanctuaries as well.

***Unclear Mangrove Policies.*** The DENR is primarily responsible for mangrove management in the Philippines by virtue of Presidential Decree 705.<sup>45</sup> The Integrated Social Forestry (ISF) program was implemented in 1982 and provides, among others, incentives for local participation in the co-management of forest resources, through the provision of legal tenure over forest areas.<sup>46</sup> In Bais Bay, the ISF program has been centered on the provision of certificates of mangrove stewardship to local residents.<sup>47</sup> Mangrove policy changes culminated in 1990 with the passage of DENR Administrative Order 15 which prohibited the granting of mangrove timber license and/or permit of any kind that authorizes the cutting and/or debarking of the trees for commercial purposes in areas outside the coverage of Fishpond Lease Agreements (FLAs) and mangrove plantations.<sup>48</sup>

Subsequently, the cutting of all kinds of mangrove species was strictly prohibited under Section 71 of RA 7161.<sup>49</sup> This new decree has led to confusion with respect to the principles laid down under the ISF Program. Based on the principle of land stewardship, individuals, families, or forest communities/associations including indigenous cultural communities may enter into stewardship agreements called Certificate of Stewardship Contracts (CSCs) with the DENR. Thereafter, these mangrove plantation developers are allowed to cut planted trees found within and adjacent to the social forestry area, whether intended for personal or commercial purposes.

According to a DENR employee, the differing policies have complicated matters and created an obvious predicament for some of their employees working in Bais Bay.

*Because of CSC, they are allowed to cut and then here comes a law saying there is no cutting of mangroves. This is really a problem for us. Which*

*would prevail—the banning or the CSC [because DENR also issued that CSC]?*

The problem has also confused local enforcers in Bais City. Presently, there are CSC holders in Barangay Okiot of the City where the Talabong Mangrove Forest is situated. A local official reports that CSC holders are confused whether they are allowed to plant and develop (which includes cutting) mangroves.

*Private individuals have planted mangroves through a CSC. These people are confused about the ban on cutting since they feel as though they are deprived of their private property. This confusion has even resulted in a controversy in one barangay in Bais...*

Another policy problem occurs for mangrove areas which have been previously released for fishpond development but are now unutilized or abandoned. A DENR official observes that abandoned fishponds create opportunities for illegal cutting of mangroves to happen.

*In the 1960s, the Philippine government started to develop mangrove areas into fishponds and banks accepted some of these fishpond areas as collateral for private loans. But when the loans remained unpaid, the banks foreclosed the fishponds. Due to the foreclosure, a number of mangrove areas were abandoned after that. It is in these areas where there are unregulated cutting of mangroves.*

In connection with this issue, this DENR official admits that his office intrinsically loses authority to the BFAR when mangrove areas are released for fishpond development.

*BFAR goes into fishpond, DENR does not allow cutting, so how could those areas be developed as fishponds? But how could we allow cutting if we spend millions in mangrove reforestation. Those are already big, standing trees. Why should*

*we allow them to cut and we are even planting?  
It is hard to plant and hard to grow.*

But more confusion is created because the DENR has to retain its authority to enforce the ban on cutting. While the DENR strictly adheres to the ban on cutting, the BFAR implicitly allows it due to its fishpond development program. Clearly, a conflict arises in this instance.

**B.2 Confusion of Enforcement Roles.** Torell<sup>50</sup> observes that the existing institutional set-up is not only complex, confusing, and sectoralized, but more importantly, it is fragmented. This fragmentation is one of the major systemic hindrances to more effective management of the marine and coastal zones.<sup>51</sup> Multiple laws and regulations exist, possibly inconsistent with each other, and oftentimes, various agencies or levels of government apply these differently. These issues are further elucidated in Mabini and Bais Bay.

***Overlapping Jurisdictions.*** The primary responsibility to enforce environmental laws in municipal waters lies with the LGU. Hence, full prosecution of cases can be done by the LGU alone with minimum help from the maritime police and the coast guard. However, according to Mario (not his real name), a *Bantay dagat*, cases have not been fully prosecuted not because of lack interest on their part but because their powers overlap with that of the Coast Guard or Philippine National Police.

*Q: Is this due to lack of interest to fully prosecute cases?*

*Mario: We will never establish the fact that we lack interest to fully prosecute cases. We will still follow and respect the law but sometimes our powers overlap with those of other sectors like Coast Guards or PNP.*

*Q: What are the difficulties or constraints encountered which affect the full prosecution of*

cases?

*Mario: There are people out there whose authority over the prosecution of our cases overlaps with ours and that is beyond our control.*

One of the difficulties of the Bantay dagat is the overlapping of jurisdiction with other agencies, leaving them feeling powerless. While they are committed to fully prosecute cases, other players enter the enforcement picture resulting in an overlap of law enforcement functions. The overlapping and consequent limitations of Bantay dagat roles are perceived to have impinged on the prosecution of cases in the area.

***Uncoordinated Programs.*** The lack of coordination among the different LGUs in Bais Bay: Bais, Tanjay, and Manjuyod is a festering problem. For as long as it can be remembered, there have been no common management actions by the three LGUs in the utilization, allocation, and access of Bais Bay. In fact, these LGUs have drafted their coastal resource management plans independent of each other. One City official confirms that the implementation of these plans is likewise uncoordinated.

*Yes, in fact they [Manjuyod] have a very good CRM Plan compared to us [Bais]. But still they don't coordinate with us.*

Because the LGUs engage in disjointed management strategies, each LGU undertakes management activities that are not acceptable to other LGUs around the Bay. The LGU officer further admits that there is lack of common understanding among the three LGUs.

*... Though we're supposed to have the sea zoning, which was already approved, we could have started it but ... as for now it remains pending. [You know] delineation is very important because ... we are also in between Tanjay and Manjuyod. What happens is that Tanjay is already doing oyster farming in our area and is also fishing in*

*our area. That is now the big problem because there is no common understanding among the three municipalities.*

One of the contributing factors for the absence of coordination between LGUs is the so-called 'sandbar issue'. The sandbar<sup>52</sup> has been an ongoing controversy between Bais City and Manjuyod, with both of these LGUs claiming the sandbar as part of their respective territories. Although the issue has been brought to the *Sangguniang Panlalawigan* (provincial legislative council) for resolution, no decision has been reached. Presently, there is a pending case in a civil court. For as long as the ownership and possession of said sandbar remains unclear, problems like pollution cannot be addressed. In fact, a City official claims

*... We also have this issue here at the sandbar and it all started when they [Manjuyod] invited people to stay there overnight... and that's going to cause pollution, and the red tide bloomed there in the North, so I'm worried about it ...*

It is quite clear that the LGUs are uncooperative with each other. Likewise, joint law enforcement efforts are not undertaken by these LGUs while violations continue to occur in the Bay. Simply put, inter-LGU controversies and separate plans have inhibited joint management efforts and common actions for the protection of Bais Bay.

**B.3 Selective Enforcement.** Selective law enforcement, by reasons of political interference and discretionary prosecution employed by the local enforcers, exists in both Mabini and Bais Bay. The strong influence of political leaders in the community has often resulted in non-prosecution of cases. Local political leaders often persuade law enforcers to excuse minor infractions of the law. Likewise, the wide discretion of local enforcers restrains the full prosecution of cases.

*Political Interference and Discretionary Prosecution.* There

is selective enforcement in Mabini because of political payoffs and pressures. Interference of politicians favoring the dismissal of cases filed against their political allies and followers have made it difficult for the *Bantay dagat* to file cases and prosecute offenders. There are also instances where the Barangay Captain or the Mayor requests the settlement of cases because, according to a *Bantay dagat*,

*...the offender is a relative of the Barangay Captain or the Mayor... You can't get politics out of these cases...*

There was also a time when the Mayor even requested to settle the case against commercial fishers in order to accommodate the requests of Mayors from adjoining towns. This was raised by one *Bantay dagat*.

*...Sometimes even Mayors from other towns ... will ask our Mayor not to proceed with the filing of charges. Our Mayor would in turn ask the police and the head of the Bantay dagat to just settle the case and not prosecute because he [the Mayor] already has a verbal agreement with the other mayors that the offenders will no longer break our laws... it is a natural process in the LGU.*

However, there are also those who believe that *barangay* officials and the *Bantay dagat* exercise their discretion in the settlement of cases. For instance, local *Bantay dagats* will simply excuse an offender who is a resident of the community.

*... the offenders who are residents of the community] are usually freed because the enforcers know them.*

So, enforcement is highly personalized because the *Bantay dagat* can exercise their discretion, on a case-to-case basis, in choosing whether an offender should be fully prosecuted.

**Political Interference.** Because of the strong political

influence of the Mayors, there have been instances when laws were selectively enforced in Bais Bay. According to a former *Bantay dagat* president, more cases are actually dismissed due to political interference.

*Q: What are the situations when you didn't pursue a case against the violator?*

*Larry: There were some that were beyond my control, especially cases involving offenders who were close to the Mayor. Whenever we catch these people, we were told to send them directly to the Mayor. Likewise, at times, when there was already an affidavit, we just waited for the subpoena summoning us to meet at the fiscal, but then the fiscal is also under the Mayor. So the case would just be forgotten, and later on it would just disappear. That's what usually happens.*

*Q: So, when the cases are settled out of court, is it often dismissed?*

*Larry: Yes, there would be no case anymore. Especially when the person is close to the Mayor..., well, I think you cannot deny that fact.*

*Q: In your estimate, how many have been already imprisoned (prosecuted)?*

*Larry: You can just count them, there are more cases dismissed. The reason is political interference on people's will. (2002)*

In one instance, the Mayor sought the release of 15 people who were caught by the *Bantay dagat* with a truckload of illegally cut mangroves.

*Q: So, what happened to the offenders?*

*Larry: During the time of Mayor xxx? Those 15 people we caught...the Mayor even gave them money for fare. We, who caught them..., he didn't even give us fare.*

This type of political interference is the source of

discouragement and frustration among the *Bantay dagat*. Most of the time, it keeps them from fully executing their enforcement functions.

**B.4 Minimal or Non-punishment of Offenders.** Under the current legal set-up, enforcement of law means that administrative sanctions or criminal penalties are imposed for violations of environment-related laws such as fishing using dynamite, cutting of mangrove trees, or causing pollution. These violations result in cases filed and offenders penalized with fines or imprisonment as dictated by law. However, in most of the violations in Mabini, Batangas and Bais Bay, offenders were not penalized at all and in the rare times that they were, only with the minimum penalty.

*Imposition of Minimum Penalty.* Cases which were prosecuted in Mabini resulted in the imposition of the minimum penalty or even dismissal for lack of evidence.<sup>53</sup> Though there may be cases that were filed for violations of environment-related laws, some of these cases are filed pursuant to a municipal ordinance rather than a national law. According to a Mabini police officer,

*What happens is that we are pressured to file the case as an offense against a municipal ordinance rather than under the national law because the former merely imposes a lesser penalty.*

In this instance, although offenders are arrested, they are soon released after paying the minimum penalty (e.g. fine amounting to only P1,000). The penalties for commercial fishing pursuant to the Municipal Ordinance and the national law, Fisheries Code, are distinguished in Figure 1.



**Figure 1. Penalties under Ordinance 11-91, as amended, and Fisheries Code**

VIOLATION	ORDINANCE 03-2000	FISHERIES CODE
Commercial Fishing	First Offense - FINE not exceeding P1,000 Second Offense - FINE not exceeding P2,000 Third Offense - FINE not exceeding P2,500	FINE equivalent to the value of catch or P10,000 &/or IMPRISONMENT of 6 months

On the other hand, the enforcers justify the mere imposition of fines. A resort-owner enforcer discloses that

*...with small fishermen who are poor people who need to feed their family, it's already my initial instinct to just forgive them. I often give them canned goods because what they catch is not even enough for the whole family.*

Thus, some enforcers believe that an infraction of a municipal ordinance must be punished only minimally or not at all.

***Minimal or Non-punishment at the Pre-prosecution Stage.*** Only a few mangrove-related cases have actually been filed in the civil courts of Bais.<sup>54</sup> However, when these cases were filed, the offenders were penalized. But some of these cases were also dismissed or only minimal penalties were imposed (e.g. fine of P20.00). Under current laws, the penalties for the cutting of mangrove trees are shown in Figure 2.

**Figure 2. Penalties for Illegal Cutting of Mangrove Trees.**

VIOLATION	LEGAL PROVISION	PENALTIES
Illegal conversion of mangroves	RA 8550 Sec 94	Imprisonment from 6 years and 1 day to 12 years and/or fine of P80,000; Provided, that if the area requires rehabilitation or restoration as determined by the court, the offender should also be required to restore or compensate for the restoration of the damage.

Fig. 2 (Cont'd)

VIOLATION	LEGAL PROVISION	PENALTIES
Unauthorized cutting, gathering, and/or collecting timber or other forest products without legal documents	PD 705 Sec 68	Qualified theft as defined and punished under Arts. 309 and 301 of Revised Penal Code; Confiscation of timber or forest products cut, gathered, collected, or removed and the machinery, equipment, implements, and tools used therein; Cancellation of license agreement, lease, or permit and perpetual disqualification from acquiring any such privilege without prejudice to further civil action.

Oftentimes, cases do not reach the civil courts because these are compromised at the pre-prosecution stage (i.e., before the filing of the criminal complaint). At times, cases are also settled at the administrative level. For instance, a DENR officer usually issues a warning and orders first-time offenders to plant another mangrove tree in exchange.

*... Then if ever, they are called for a dialogue. If there's just a small destruction, it is often settled amicably with some compromise. And then they are just ordered to plant another mangrove to replace the ones they cut down. So, it is settled immediately. [DENR] does not need to pursue the case. But if it's already a big problem, then maybe that's the time it would result in a case....*

The local DENR also enters into a verbal agreement or understanding with the offender who is made to promise not to further commit any violation of the law. One Provincial Prosecutor justifies this,

*Sometimes, the laws have to be humanized. So long as there is no substantial damage on the part*

*of the government, the applications of the law need not be strict.*

Reprimanding first-time offenders are also practiced by the *Bantay dagat* in Bais Bay. There are instances where the *Bantay dagat* merely warns the offenders, upon the instance of the *Bantay dagat* president or a *barangay* official. A *Barangay* Captain in Manjuyod, also admits of merely giving a warning to illegal fishers in the area and if the latter heed such warnings, then the illegal act is forgiven.

*Usually when we arrest someone, we advice him not to continue the illegal activity. Most often he will always follow what we tell him. That is why we no longer have any incidence of mangrove violations.*

There may also be instances where offenders are compulsorily detained or kept in police custody by the local enforcers. One local official in Tanjay deems such detention as sufficient to deter offenders from further committing the same offense again.

*Actually what we do is try to scare the person that he would end up in prison especially in the presence of the DENR representative. But if it's a first-timer we kind of soften up because it is not a habitual act. If the people from the DENR will not pursue the case, what we do is make sure that everybody in the community will understand that the act will not be repeated....*

**B.5 Dominant Informal Compliance Systems.** Informal compliance mechanism begins at the discretion of village leaders (Mayors, *Barangay* Captain, and Councilors) and local enforcers (*Bantay dagat*) who enforce the laws, including the imposition of penalties and sanctions. This informal structure somehow dominates the formal legal system in the prosecution and judgment especially for environmental infractions committed by local community members. Resort to such often excuses offenders from being

penalized by the formal compliance bodies, e.g., courts.

***Resolution of Cases within the Community.*** In Mabini, *Bantay dagat* members and resort owners monitor and guard the sanctuaries. When illegal fishers are arrested, informal systems are utilized before a case is filed in the civil courts. Together with the *Barangay* Captain, local enforcers often exercise their discretion and settle cases against first-time offenders. These offenders are excused and merely warned that repeat offenses will be punished severely. The warning is often considered as adequate deterrence for further offenses. This can be seen in the following statement by a *Bantay dagat*.

*First offense, we talk to them and discuss things out. They are warned and later we share with them that we have laws that will be implemented upon them if they do it again.*

A Municipal official further discloses that cases are usually settled at the municipal hall rather than at the civil courts.

*The cases we have here no longer reach the courts; they are settled here in our municipal hall although they go through the processes of been filed in court and the offenders are only made to pay fines. The offenders always try to make a bargain for their cases. This people are not really criminals but are just trying to make a living so we settle the cases amicably.*

Thus, this type of compliance system comprises of either the local political leaders (e.g., *Barangay* Captain, Councilors, Mayor) or the local enforcers (e.g., *Bantay dagat*, resort owners). In these cases, prosecution of cases pursuant to regular criminal procedures is often not adhered to. As a result, offenders are not punished accordingly.

***Combining Formal and Informal Systems of Compliance.*** The informal justice system in the community begins with the *Barangay* Captain and the *Bantay dagat* for cases

regarding the cutting of mangroves. For the *Bantay dagat*, the decision to allow out-of-court settlement depends on specific circumstances. On one occasion, a *Bantay dagat* allowed the offender to go scot-free when there were no fellow *Bantay dagat* members around.

*...these are done only when there are no other Bantay dagat members around. Otherwise, the other members will say that he [Bantay dagat] is not setting a good example.*

However, the enforcement process goes through the formal system of compliance in the administrative bureaucracy as well. A DENR officer admits to allowing settlement or compromises for offenses causing minor destruction. Thus,

*... If there's just a small destruction, it is often settled amicably and a compromise is made. And then they are just ordered to plant another mangrove to replace the ones they cut down. So, it is settled immediately. [DENR] does not need to pursue the case. But if it is already a big problem then maybe that's the time it would result in a case.*

As a rule, primary jurisdiction of most environmental disputes belongs to the proper administrative agencies following the rule on prior exhaustion of administrative remedies. Before a case is filed in court, the community environment officer (CENRO) of the DENR can decide at the initial stages of the investigation whether or not to proceed with the filing of the case. But DENR officers often abuse this discretion.

**B.6 Inadequate Enforcement Capacities.** A prominent scholar in environmental law in the Philippines once stated that the efficient implementation of coastal-related laws rests largely on law enforcers and resource management experts.<sup>55</sup> But the ineffective enforcement of laws is sometimes due to the lack of patrol boats and other basic equipment, lack of adequately trained coastal law

enforcement units, and lack of support from the government. Needless to say, government capability for managing natural resources is often sorely inadequate.<sup>56</sup> These inadequacies sometimes militate against using the administrative agencies as a forum for settling disputes because these agencies have inadequate vehicles, fuel, communications equipment, travel allowances, and manpower.<sup>57</sup> Thus, the inadequacies of the various authorities involved in the enforcement such as *Bantay dagat*, the prosecutors, and the courts impinge on the full enforcement of laws.

*Systemic Problems of Administrative Agencies.* The difficulty of *Bantay dagat* members to properly equip themselves in order to be able to adequately perform their police functions is a major factor hampering their enforcement efforts. One Municipal official admits that due to lack of necessary equipment, e.g. patrol boats, flashlights, and other implements, it was hard to enforce the laws.

*We have problems enforcing the law because we don't have enough budget — budget for the Bantay dagat volunteers and for their transportation (patrol boat, gasoline, and maintenance).*

Local enforcement is also inhibited by lack of paralegal knowledge, weak logistical support, and little financial capacity to attend court hearings. As a result, there is general lack of interest to fully prosecute cases and to resort to court processes. One court employee admits that this lack of interest has affected the efficiency of the civil courts as well.

*The main problem here is within the justice system, they (the community) don't follow-up the case that's why it is always pending...*

When cases do reach the courts, criminal convictions are difficult because of lack of sufficient evidence. A *Bantay dagat* asserts that this is due to the inadequate knowledge by police authorities of fisheries laws.

*We sometimes don't have enough evidence because the police still don't have enough knowledge on fisheries law.*

Thus, local enforcement efforts are often handicapped by inadequate training and lack of equipment which are essential for their effective functioning.

***Inherent Problems of Local Enforcers.*** In Bais Bay, enforcement efforts fail to sustain because political leadership changes every three (3) years.<sup>58</sup> Oftentimes, official tenure of *Bantay dagat* members is co-terminus with the incumbent Mayor. They may be changed every time a new Mayor is elected. Accordingly, for each new set of *Bantay dagat*, re-training is necessary because new members often lack the necessary experience and paralegal knowledge. According to a *Bantay dagat*,

*Well, there are still some that use "tubli", and my co-members are still afraid to arrest them. They (new Bantay dagats) still lack experience so, what will I do?*

The *Bantay dagat* members are also inhibited by the lack of adequate personnel, boats, and other equipment. This can be seen in the following statement by a *Bantay dagat*,

*Yes, [we have problems in detecting crimes before] because we can't patrol all of the area, because as you can see the mangrove reserve is a big area. So we really lack personnel... We also don't have [equipment] yet.*

On the part of the government, the prosecution of cases by the DENR is sometimes derailed because of lack of government prosecutors who can handle the environmental cases. According to a DENR officer, there are many cases on illegal upland logging but the office lacks the lawyers to handle these cases.

*Definitely, we really lack lawyers because nobody would also apply due to low salary. There are*

*many cases in the upland, usually cutting and logging [of forest products].*

Another DENR officer discloses that witnesses cannot appear in court without the needed funds for transportation and allowance.

*...Lack of funding is also a constraint especially for transportation of witnesses and their allowance. If we can't give witnesses money for transport, we cannot expect them to appear in court...*

Aside from lack of adequate personnel, insufficient funding adversely affects the performance of enforcement duties.

**B.7 Influential Compliance Behaviors.** Compliance to laws cannot be wholly attributed to the use of sanctions. Oposa<sup>59</sup> posits that under the current Philippine legal set-up, sanctions and the use of “force” to coerce, albeit legally, are heavily relied upon in the modification of behavior, and that this legal regime relies solely on “enforcement” rather than “voluntary compliance and implementation”. This type of enforcement, which is also called the “command and control” strategy, has been criticized as inefficient as well as unjust because he believes that it is doubtful whether the Philippine bureaucracy is in a position to enforce environmental legal norms given its dismal historical record.<sup>60</sup>

Aside from strict adherence to laws, moral sentiments can influence compliance behavior as well. An enriched theoretical model of regulatory compliance, which was developed by Sutinen and Kuperan, accounts for other determinants of compliance such as moral obligation and social influence.<sup>61</sup> Hence, perceptions of the fairness and appropriateness of the law and its institutions can help determine compliance as well.<sup>62</sup> Sutinen also provides evidence to support from a number of experiments that people do not act as free riders<sup>63</sup> when given the opportunity.<sup>64</sup> Instead, many people persist in paying for public goods although conditions allow them to maximize free riding.



Some of these determinants of compliance are employed in this study to fully understand the other non-apparent issues affecting enforcement. The following subsections will discuss voluntary compliance behaviors illustrated by legitimacy, moral suasion, and free riders.

***Legitimacy to Established Rules, Policies, and Enforcement Authorities.*** Coastal management activities often involve the limitation of resource access and use by the coastal stakeholders. In the Philippines, the Fisheries Code mandates several mechanisms for limiting access to coastal resources. These include establishment of protected areas and fisheries management strategies such as demarcated fishery rights, limited entry into overfished areas, closed and open season, catch ceiling limitations, and licensing. Jentoft posits that fisheries management, like other forms of government interference in economic and civic life, must observe the legality principle.<sup>65</sup> However, he admits that legality is not a sufficient condition for legitimacy for the management system must also be justified according to some moral principles and values.<sup>66</sup> Without such legitimacy, strictly enforcing regulations will not be an easy task. And when the enforcement mechanism breaks down, the limitations set by established regulations are disregarded.

The legitimacy of the MPA Ordinance has been strongly questioned by the resort owners, one of the major resource users in Mabini. By far, their strongest objection to the Ordinance is the inappropriateness of the process of enactment of the ordinance. The resort owner believes that the ordinance is not appropriate for they were not properly consulted when it was enacted. Hence, their lack of recognition of the Ordinance, which prohibits diving inside the sanctuaries, is justified. A *Bantay dagat* likewise admits that no public consultations were conducted during its amendment in 1993.

*As to the amendment of the Municipal Ordinance, we were unable to follow it up probably because the Sanggunian Bayan saw the*

*need to change and there was someone who passed a resolution without our involvement. Which means that we were not consulted about the amendment of that Ordinance... Maybe the reason is to change and not make the Ordinance strict as that of 1991.*

The local community also believes that they have not benefited much from their share of protecting the sanctuary. A local fisherman alleges that it is the resorts that have reaped more benefits from the sanctuaries while continuing to violate the rules against diving inside the sanctuary.

*... the sanctuary is supposed to be for the community, because HARIBON told us that after two to three years the fish there would increase. But what is happening now? We are not the ones who are benefiting from this. The resort in front of the sanctuary benefits from it ... The resorts also help in protecting although they are also the ones letting the divers in and along with that, ... when you are diving those boats are going to drop anchors and these really destroy the corals, ... not the fishing done by the local community.*

Aside from the established rules, most respondents in the area admit that although there are enough and appropriate laws, these are not implemented well by the government agencies. A *Barangay* Captain thinks that the Ordinance has minimized illegal fishing but not diving.

*I think we have enough (laws) already because as you can see the illegal fishing has already decreased. But if you look at diving, I think the law doesn't have anything to do with it, because it has not stopped.*

Hence, the ordinance was viewed as effectively implemented against illegal fishing but its effectiveness does not extend to diving.

***Moral Suasion and Personal Values of Enforcers.***

This paper maintains that an individual's personal values influence compliance behavior. Effectively, the moral development of enforcers is an important factor in determining how enforcement is done within their jurisdictions. If the enforcers exhibit a high regard for the law and greater consideration for the legal rules, then this leads to greater compliance. Otherwise, there will be a greater tendency for the enforcers themselves to become a party to the illegal activities or to choose to ignore these illegal activities.

An apparent behavioral characteristic of enforcers in Mabini is the different views they have on what are considered illegal activities. One resort owner believes that violations within the sanctuaries are those pertaining to fishing.

*Yes, [there are violations of MPA laws] and KKP (Kabang Kalikasan ng Pilipinas, a local NGO) bans spear fishing among SCUBA divers (tourist) but allows it among the local fishermen because according to them these people are poor. Local fishers therefore spear fish in the sanctuary everyday. These violations started in 1991 but even before the sanctuary was established the locals have been doing these violations.*

Illegal activities, as viewed by the resort owners, are clearly different from that viewed by the fisherfolk. One community member in Mabini considers illegal anchoring of boats and diving as major offenses because these can cause more destruction to the corals.

*...we should be apprehending these boats, [as well as] divers because they are the ones that destroy the corals, not the fishing. [Emphasis added]*

On the other hand, a *Bantay dagat* in Bais Bay believes that granting exceptions to illegal acts is acceptable if offenders refrain from committing the same offense again.

*It is not right if an offender escapes punishment.  
But warnings are sufficient to avert any  
subsequent violations.*

Likewise, a former *Bantay dagat* president asserts that when cases are dismissed due to political interference, these are beyond his control.

*As long as we are being paid our salary, as long  
as we have done our jobs, and have worked  
accordingly, that [dismissal] is okay.*

The above comments illustrate that some enforcers in Bais Bay do not exhibit desirable values that encourage voluntary compliance to laws.

**Targeting 'Free Riders'.** Conditions to maximize free riding are more than available in both Mabini and Bais Bay. It is shown that given the opportunity, resource users freely utilize or access, and benefit from, public goods (e.g., MPAs and mangroves) without paying for them. One *Barangay* Captain identifies resort visitors, divers, local boatmen, and resort owners as constant violators of the MPA ordinance.

*The resorts should also control the divers going  
inside the sanctuary. You know, these resorts help  
in the protection of the sanctuary, but because of  
their business they are also the ones destroying  
the resources.*

Likewise, the *Bantay dagat* believes that divers and boatmen should feel responsible for protecting the sanctuaries. Instead, these resource users freely access and utilize the fish sanctuaries without complying with their obligation to conserve. A *Bantay dagat* notes that boatmen do not properly anchor in the sanctuary while divers are still allowed in the sanctuary.

*[Our] main concern is the proper anchoring in  
Twin Rocks Marine Sanctuary. We address these  
issues to the people who are abusing the sanctuary.  
As much as we wanted to, we would not allow*

*divers anymore in Twin Rocks and the resort owners should be ready about our plans. [I] would like to express my disappointments and for a fact that I pity the divers who pretend to be educated in urban contexts and yet not educated enough to show concern for our coastal resources.*

Free access and utilization of resources by the boatmen and divers have frustrated the efforts of the local *Bantay dagat* to enforce the laws and regulations in the Mabini sanctuaries. Despite their recognition of free ridership, the enforcers have tolerated the continued access and use of the free riders in the area.

### **Conclusion and Recommendations**

Majority of the ICM activities in the Philippines have ceased due to a number of factors. One such hindering factor is the absence of a clear policy framework unifying sectoral objectives and/or setting national aspirations and policy directions for ICM. The present legal structure for implementing ICM is culled from relevant provisions of the Constitution, national statutes, administrative regulations, and local ordinances. As it is, there is no single decree that sets and institutionalizes a national policy or strategy for ICM. What should be recognized is that ICM cannot be effectively implemented without an overarching policy and institutional framework.

Clear policies for ICM is needed to address the non-integration of jurisdictional authorities as well as provide mechanisms for resolving jurisdictional conflicts. The mandates of the various government institutions are presently founded on different legal authorities and dispersed among the coastal spaces and resources involved. Understandably, there are resulting inadequacies and discrepancies in the legislation (e.g., out-dated laws, gaps, and overlaps in jurisdiction) making institutional functions highly uncoordinated and

law enforcement essentially ineffective. When these policies are not enforced, ICM processes tend to break down.

Hence, a national law setting ICM policy objectives and institutional arrangements is called for. The proposed law should lay down the basic program policies for ICM. These policies must address an ICM strategy that is national in scope and at the same time adaptive to local conditions. Likewise, the national ICM policy objectives must be founded on basic integration principles, i.e., inter-governmental coordination, consistency of national policies with local actions, land-use planning and regulation, special area management, critical area protection, marine mammal protection, and environmental impact assessment. These strategies can be drawn chiefly from the United States coastal and ocean policy. Among the strength of the US coastal zone management program is its intergovernmental coordinating mechanism and its legal requirement for consistency of federal actions with state coastal policies.<sup>67</sup> Likewise, the United States Coastal Zone Management Act of 1972 articulates as its major premise that “[t]he key to a more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone.”<sup>68</sup> By considering all these key lessons, it is essential to provide in the Philippine ICM policy for local government planning and development of coastal resources. At the same time, a national policy that is multi-sectoral and coordinative in character must be established to oversee the formulation, adoption, implementation, and monitoring of an ICM program.

At present, local level implementation of ICM programs and projects has been provided under the LGC. However, an amendment of the existing provisions in the LGC is necessary. This amendment should focus on the expansion of authorities of the municipal governments in accordance with the principles of

local autonomy and decentralization. The best and most effective managers of coastal resources are the local government units. Local governments provide a prime institutional mechanism for the successful implementation of marine environmental protection by translating international standards and recommendations into well-grounded local programs.<sup>69</sup> But these LGUs are daunted by such constraints as lack of resources, lack of capability, weak law enforcement, and lack of participation. Hence, the following amendments are proposed to increase capacity and resources for local governance:

*(a) Expansion of the present scope of powers of the local legislative and executive officers.* Most attempts to integrate efforts by the foregoing local officers are, at best, *ad hoc* in nature (e.g. through technical working groups, advisory councils, and the like). There are two options that may be available. First, an Oversight Committee can be created with membership coming from both the local legislature and executives. The Committee can serve as a venue for coordination and collaboration of projects for local ICM. Secondly, an Environment and Natural Resources (ENR) Office should be compulsory for all LGUs. Presently, the appointment of the ENR Officer is optional for all local government units<sup>70</sup> but for reasons of funding, the local governments prefer not to create such office. The LGC provides for an ENR Officer to be at the frontline of the delivery of services concerning the environment.<sup>71</sup> The ENR Officer is empowered to develop plans and strategies, particularly those pertaining to the environment, which the local executives are empowered to implement and provide for.<sup>72</sup> In effect, the ENR Office can be a mechanism for increased coordination and integration between the local legislature and executives.

*(b) Enhancing the role of the provincial government in inter-LGU coordination and policy frameworks for ICM.* The role of provincial governments with respect to ICM is limited under the present LGC.<sup>73</sup> In reality, the provinces do not possess direct jurisdiction over any land and water areas in the province except

to prescribe limits and restraints on the use of property within its territory. But in recent years, the trend shows that provincial governments are taking a more active role in promoting coastal resource management by providing technical and logistical support to coastal municipalities.<sup>74</sup> Provinces are proving to be key partners in promoting certain tasks such as providing CRM as a basic service to municipalities or cities through technical assistance, training, information management, strengthening and harmonizing local policies, evaluating and validating city CRM plans and programs, serving as a broker/catalyst to link projects and programs with the needs of coastal municipalities or cities, and promoting CRM.<sup>75</sup> Hence, it is the province which can best promote inter-LGU arrangements and ensure the coordination and integration of coastal management activities.

Effective law enforcement is necessary as well. Established rules are part and parcel of the ICM process. Compliance with pro-ICM rules must be attained to avert a breakdown in the implementation of management activities. This can be dealt with by addressing conditions that hamper full enforcement such as unclear policies, lack of coordination, inadequate training and education, among others. The following are key recommendations:

*(a) Established rules and regulations must be clear from any ambiguous provisions.* The absence of clear policies becomes a hindering factor against effective enforcement. For instance, the unclear ordinance has resulted in varying, often conflicting, interpretations among coastal stakeholders. Clear regulatory policies have to be expressly written in the law. Moreover, a comprehensive stakeholder consultation is necessary before a law is written. Thus, it is important to avoid any ambiguity in the policies.

*(b) Jurisdictional roles must be clarified.* Institutional weaknesses resulting in poor law implementation and enforcement are addressed by clarifying and strengthening jurisdictional mandates of the various law enforcement agencies.<sup>76</sup> For instance,



the *Bantay dagat* members should have proper operational guidelines in the enforcement of ICM laws. The Department concerned should expressly provide this in an administrative order. The *Bantay dagat* is considered to be at the frontline of the enforcement of coastal laws and thus, can be empowered through this administrative order to develop plans and strategies, particularly those pertaining to law enforcement

*(c) Conflict resolution mechanisms must be developed.* What is becoming increasingly apparent is the reliance on community processes not only in conflict resolution of resource use but in decisions of environment-related cases as well. Perhaps it is time to develop village level mechanisms for settling disputes and cases of illegal fishing violations, mangrove cutting, etc. Attaining environmental justice is often delayed by the characteristic full case dockets in civil courts. This delay somehow militates against using this as a forum for environmental disputes. The environment, simply put, cannot wait for the slow grind of justice, and thus, the tragedy is that alternative forums will be, and have already been, used by the communities.<sup>77</sup> This is not to say, however, that environmental litigation and the courts should be the primary or principal recourse for the resolution of environmental issues. Hence, other modes of conflict resolution can be explored whereby the legal and socio-political aspects of the controversy are crystallized and resolved by the society at large and the administrative organs of the body politic.<sup>78</sup> Under present laws, community resolution of certain cases is allowed through the *Katarungang Pambarangay* whereby amicable settlement by the *Lupon Tagapamayapa* is prescribed for disputes involving offenses punishable by imprisonment of one (1) year and less or a fine of five thousand pesos and less. The scope of the powers of the *Lupon Tagapagpamayapa* can be expanded to include environment cases not so much as to not make this mechanism germane to all offenses but to stress importance of environmental protection.

*(d) Increase the capacity for enforcement.* Capacities for law enforcement that need to be addressed are: the law-making capacity of local legislative councils and administrative agencies to write clear policies, the logistical capacity (e.g., patrol boats, equipment), funding capacity of local and national agencies, and prosecutorial capacity of enforcement authorities. LGUs must be required to deliver ICM as a basic service and hence, be enjoined to mandatorily set aside an ICM fund that would include support for the ICM enforcement units. More lawyers in government need to be trained in environmental law to ensure proper prosecution of cases.

*(e) Encourage behaviors that lead to voluntary compliance.* Legitimate rules and authorities contribute to voluntary compliance behaviors. Hence, regulatory measures should be set up with proper consultation mechanisms to build consensus and attain legitimacy among the coastal stakeholders. Likewise, when a rule system is embedded in the personal values of these stakeholders, then it is easier to correct illegal behavior patterns. Finally, 'free riding' is detrimental to effective law enforcement. Thus, measures to limit free access and use of the coastal resources have to be strictly enforced.

*(f) Implementation of public education programs.* Only a community which is fully informed and sensitized to the values of protecting the coastal environment can enhance ICM implementation and enforcement. Public education on the nature of law, aspects of enforcement, and fundamental principles can raise the awareness for environmental management and substantially reduce the burden of enforcement from the government. It can also raise the moral values of enforcement authorities and avoid the tendency of free riding. Finally, legitimacy of established rules is improved when public consultations are conducted with the stakeholders. Informed decision-making needs the active participation of the community.

Law plays a strategic role in the implementation of an effective system for the integrated management of the coastal zone

in the Philippines. Although many coastal-related laws have been used to legitimize certain coastal management measures, what is apparent is the lack of a common framework for integration of these management measures, thus resulting in ineffective law enforcement and unsustainable coastal management programs. Hence, when all legal elements are present, that is, there is a legal framework and effective law enforcement, then sustaining integrated coastal management is possible.

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### Notes

<sup>1</sup> Silliman University Marine Laboratory, Center of Excellence in Coastal Resources Management, Document No. 7/97, *Assessment of the Central Visayas Regional Project 1: Nearshore Fisheries Component 5* (1997).

<sup>2</sup> Department of Environment and Natural Resources, et al., *Philippine Coastal Management Guidebook Series No. 2: Legal and Jurisdictional Guidebook for Coastal Management in the Philippines* 11 (2001). [hereinafter *Guidebook Series No. 2*]

<sup>3</sup> Angel C. Alcalá, *Roles of Community-Based Fisheries Management and Marine Reserves in Coastal Fisheries*, 38 (3-4) *Silliman Journal* 165, 159-169 (1997).

<sup>4</sup> Primary sources contain the actual law. Constitution, court decisions, cases, statutes, treaties, and administrative regulations are all examples of primary sources. On the other hand, secondary sources are materials which comment on, explain, annotate, and critique these primary sources. Usually, they include treatises, legal periodical articles, legal encyclopedias, annotations, law dictionaries, commentaries, continuing legal education publications, opinions of the Secretary of Justice, and other agencies. Myrna S. Feliciano, *Methods of*

*Legal Research* 3 (2000) (unpublished manuscript, on file with University of the Philippines Law Center).

<sup>5</sup> It is to be noted that the legal profession has its own unique system of citation. One of the citation norms is sometimes used in this paper. The key reference is the publisher's print volume that is created over a year after a decision is handed down. At [http://wwwsecure.law.cornell.edu/topics/legal\\_writing.html](http://wwwsecure.law.cornell.edu/topics/legal_writing.html)

<sup>6</sup> Richard B. Pollnac, Brian Crawford, and Maharlina L. Gorospe, *Discovering Factors that Influence the Success of Community-based Marine Protected Areas in the Visayas, Philippines*, 44 *Ocean and Coastal Management* 683-710 (2001).

<sup>7</sup> Bantay dagat, which literally means *sea watch*, assist in coastal law enforcement. Bantay dagat members may be deputized as fish wardens after receiving coastal law enforcement training. In some cities and municipalities, the Bantay dagat collaborates with local police, Coast Guard, and other government agencies to plan, conduct, and execute coastal law enforcement operations.

<sup>8</sup> Jay L. Batongbakal, *The Coastal Environment and the Small-Scale Fisherfolk: Advocacy for Community-Based Coastal Zone Management*, 66 *PHIL. L.J.* 204, 149-245 (1997). [hereinafter Batongbakal, *The Coastal Environment*]

<sup>9</sup> Amado S. Tolentino, Jr., *Philippine Coastal Zone Management: Organizational Linkages*, in *Proceedings of the 5<sup>th</sup> Symposium on Coastal and Ocean Management*, 1 *Coastal Zone '87* 704 (O. T. Mangoon et al. Eds., May 26-29, 1987). [hereinafter Tolentino].

<sup>10</sup> Presidential Decree No. 1151 (1977).

<sup>11</sup> Presidential Decree No. 1152 (1977).

<sup>12</sup> Presidential Decree No. 1586 (1978), as amended by DENR Administrative Order No. 37 (1996).

<sup>13</sup> Tolentino, *supra* note 9, at 704.

<sup>14</sup> *id.*

<sup>15</sup> Antonio G. M. La Viña, ICLARM Working Paper Series No. 5, *Management of Fisheries, Coastal Resources and the Coastal Environment in the Philippines: Policy, Legal and Institutional Framework* 15 (1999).

<sup>16</sup> *id.*

<sup>17</sup> Guidebook Series No. 2, *supra* note 2, at 11.

<sup>18</sup> Republic Act No. 7160 (1991).

<sup>19</sup> Republic Act No. 8550 (1998).

<sup>20</sup> Republic Act No. 7586 (1992).

<sup>21</sup> Republic Act No. 8435 (1997).

<sup>22</sup> Executive Order No. 192 § 4 (1987) provides, in part: "The Department [of Environment and Natural Resources] shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, specifically forest and grazing lands,

mineral resources, including those in reservation and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos." Thus, even after the passage of the LGC in 1991, the DENR retained some of its powers including forest management in forestlands which are not devolved to the LGUs, mines, and geosciences management which are not covered by the Small-Scale Mining Act, environmental impact assessment (EIA), protected area management, land management, and ecosystem research.

<sup>23</sup> Municipal waters include not only streams, lakes, inland bodies of water, and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586 (The NIPAS Law), public forest, timber lands, forest reserves, or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities. Philippine Fisheries Code § 4(58) (1998).

<sup>24</sup> Batongbakal, *The Coastal Environment*, *supra* note 8, at 175.

<sup>25</sup> Philippine Fisheries Code § 80, 81 (1998).

<sup>26</sup> *See id.* § 2c (1998).

<sup>27</sup> *See id.* § 2f (1998).

<sup>28</sup> Attempts have been made in designing a national policy and legal framework for coastal management. One of the first undertakings was the National Marine Policy. The Policy adopts the archipelagic nature of the Philippines in development, planning, implementation of United Nations Convention on Law of the Sea, and all maritime and coastal concerns. In order to oversee the administration of the National Marine Policy, the Cabinet Committee on Marine and Ocean Affairs was established by virtue of a number of Executive Orders (Executive Order No. 738, E.O. No. 328, E.O. No. 186, and E.O. No. 132). The Cabinet Committee was first established by President Marcos by virtue of Executive Order No. 738 dated 3 October 1981 entitled "Establishing Cabinet Committee on the Treaty on the Law of the Sea (CABCOM-LOS)." In 1988, President Aquino issued Executive Order No. 328 to reconstitute the CABCOM-LOS and increased its membership from 6 to 12. In 1994, President Ramos expanded under EO 186 the coverage of the CABCOM-LOS and renamed it as the Cabinet Committee on Maritime and Ocean Affairs (CABCOM-MOA). Finally, President Estrada issued EO 132 to strengthen the mandate of CABCOM-MOA. At <http://>

www.dfa.gov.ph/maritime/cabcom.html.

<sup>29</sup> Secretary Heherson Alvarez, Keynote Address at the National Conference "Sailing Toward Rio +10: For a Stronger Philippine Role in Shaping International Marine Environmental Policy" (July 26, 2002) (transcript available in the Philippine Center for Marine Affairs, Inc.). The Coastal and Marine Management Office (CMMO) of the DENR was established through DENR Administrative Order No. 08, s. 2002. Sec. Alvarez further disclosed that this office builds on the CEP and creates an interim administrative arrangement to ensure the efficiency and effectiveness of the DENR in the delivery of services for coastal management, pending the approval of congressional initiatives to strengthen the country's management systems.

<sup>30</sup> Philippine Fisheries Code § 16 (1998).

<sup>31</sup> Local Government Code § 17 (1991).

<sup>32</sup> Batongbakal, *The Coastal Environment*, *supra* note 8, at 173-174.

<sup>33</sup> *id.* at 174.

<sup>34</sup> Leila Sievanen, *The Implications of Decentralization for ICM* (this issue).

<sup>35</sup> Department of Environment and Natural Resources, et al., *Philippine Coastal Management Guidebook Series No. 8: Coastal Law Enforcement 3* (2001). [hereinafter *Guidebook Series No. 8*]

<sup>36</sup> Batongbakal, *The Coastal Environment*, *supra* note 8, at 176; Tolentino, *supra* note 9, at 699.

<sup>37</sup> *Guidebook Series No. 8*, *supra* note 35, at 12.

<sup>38</sup> See *e.g. id.*, at 4.

<sup>39</sup> *id.* at 18.

<sup>40</sup> *id.* tbl. 5.

<sup>41</sup> *id.* tbl. 6, at 20.

<sup>42</sup> *id.* at 18.

<sup>43</sup> *id.* tbl.4, at 17.

<sup>44</sup> Robert S. Pomeroy, Enrique G. Oracion, Demberge A. Caballes & Richard Pollnac, *Economic Benefits and Integrated Coastal Management Sustainability* (in this issue).

<sup>45</sup> Revised Forestry Code (1975).

<sup>46</sup> Bradley B. Walters, *People, Policies and Resources: Mangrove Restoration and Conservation in the Bais Bay Basin, Negros Oriental and Wider Philippine Context* 159 (undated) (unpublished, on file with Silliman University Marine Laboratory).

<sup>47</sup> *id.* These stewardship contracts are actually 25-year renewable leases of a certain mangrove area.

<sup>48</sup> Under such legal premises, several acts are not allowed: the granting of mangrove timber license and/or permit, commercial cutting and/or debarking of mangrove trees in areas outside FLA areas and mangrove plantations. Implicitly, what may be allowed is the granting of license or permit for non-

commercial cutting or debarking of mangrove trees inside FLA areas and mangrove plantations.

<sup>49</sup> Republic Act 7161 § 71 provides: Charges on Firewood, Branches and Other Recoverable Wood Wastes of Timber. — Except for all mangrove species whose cutting shall be banned, there shall be collected forest charges on each cubic meter of firewood cut in forestland, branches and other recoverable wood wastes of timber, such as timber ends, tops and stumps, when used as raw materials for the manufacture of finished products, Ten Pesos (P 10.00).<sup>77</sup> [emphasis added]

<sup>50</sup> Magnus Torell, *Preface to LA VIÑA*, ICLARM Working Paper, *supra* note 15, at vii.

<sup>51</sup> *id.*

<sup>52</sup> This *sandbar* is a thin spit of land that is submerged at high tide at the mouth of North Bais Bay. It is believed to have touristic potential owing to the stilted guesthouses which were built on it by the Municipality of Manjuyod.

<sup>53</sup> From 1981 to 2001, there were nine (9) environment-related cases filed in the Municipal Circuit Trial Court of Mabini-Tingloy. Among the 9, three (3) of these were cases for violation of Section 33 of PD 704 (2 were dismissed for lack of evidence and 1 case was archived), one (1) case was filed for violation of FAO 163, s. 1986 (accused was found guilty of muro-ami), four (4) cases for violation of Section 6, Municipal Ordinance 03-2000 (22 accused in one case voluntarily entered plea of guilty for commercial fishing and sentenced to fine of P1,000 each while 3 cases are still on-going), and one (1) case for violation of Municipal Ordinance No. 08-90, s. 1990 (criminal complaint was filed against accused for spearfishing using SCUBA). Interestingly, there were no cases filed for violation of the controversial Ordinance (11-91, as amended).

<sup>54</sup> Court records show that from 1981 to 2001, three (3) criminal cases were filed relating to Section 68 of PD 705 penalizing any person who cuts, gathers, collects, or removes timber or other forest products without license. In one case, accused was found guilty and penalized with 1 year imprisonment and fine of P13,000 with subsidiary imprisonment. One case was dismissed while in another case, the accused pleaded guilty to a lesser offense of unjust vexation and fined for only P20.00.

<sup>55</sup> Tolentino, *supra* note 9, at 705.

<sup>56</sup> Batongbakal, *The Coastal Environment*, *supra* note 8, at 178.

<sup>57</sup> *id.*

<sup>58</sup> Local Government Code § 43(a) (1991).

<sup>59</sup> Antonio A. Oposa, Jr., *Legal Marketing of Environmental Law*, 6 Duke J. Comp. & Int'l L. 273 (1996).

<sup>60</sup> Antonio G. M. La Viña, *The Right to a Balanced and Healthful Ecology: The Odyssey of a Constitutional Policy*, 69 PHIL. L.J. 154 (1994). [hereinafter La

Viña, *The Right to a Balanced and Healthful Ecology*]. According to this author, a "command-and-control" strategy connotes that of a superior body - the State laying down specific standards that all must follow, monitoring compliance with such standards, and enforcing such compliance by coercive and other measures.

<sup>61</sup> Jon G. Sutinen & K. Kuperan, *A Socio-economic Theory of Regulatory Compliance*, 26(1/2/3) *International Journal of Social Economics* 174-193 (1999). [hereinafter Sutinen & Kuperan, *A Socio-economic Theory*]

<sup>62</sup> K. Kuperan and Jon G. Sutinen, *Blue Water Crime: Deterrence, Legitimacy, and Compliance in Fisheries*, 32(2) *Law & Soc'y. Rev.* 312 (1998).

<sup>63</sup> Free riders are defined as people who persist in not investing substantial proportions of their resources into public goods when conditions designed to maximize free riding are present.

<sup>64</sup> Jon G. Sutinen, *Morality and Fairness, Their Role in Fishery Regulation*, 26(1/2/3) *International Journal of Social Economics* 8 (1992).

<sup>65</sup> Svein Jentoft, *Legitimacy and disappointment in fisheries management*, 24 *Marine Policy* 142 (2000).

<sup>66</sup> *id.*

<sup>67</sup> Biliana Cicin-Sain & Robert Knetch, *Integrated Coastal and Ocean Management* 320 (1998).

<sup>68</sup> Barbara A. Vestal, *Dueling with Boat Oars, Dragging Through Mooring Lines: Time for More Formal Resolution of Use Conflicts in States' Coastal Waters?*, 4 *Ocean and Coastal L.J.* 16 (1999).

<sup>69</sup> Jay L. Batongbakal, *A Proposed Framework for Local Marine Environmental Protection in the Philippines*, 72 *Phil. L.J.* 92 (1997).

<sup>70</sup> *Local Government Code* § 484(a) (1991).

<sup>71</sup> *See id.* § 485(b)(4) (1991).

<sup>72</sup> *See id.* § 485(b)(2) (1991).

<sup>73</sup> According to the LGC, the powers and responsibilities of the provincial government include: (1) the exercise of supervisory authority over component cities and municipalities of the province to ensure that their acts are within the scope of their prescribed powers and functions; (2) adopt adequate measures to safeguard and conserve land, mineral, marine, forest and other resources of the province in coordination with component cities and municipalities; (3) in the same manner as that exercised by its component municipalities and cities, exercise protective and enforcement measures; and (4) the provincial legislative council, Sangguniang Panlalawigan, can adopt measure and safeguards against pollution. *See id.* § 459-468 (1991).

<sup>74</sup> Secretary Heherson Alvarez, *Keynote Message at the Philippine Provincial Coastal Resource Management Festival: "Provincial Governance Moving Ahead in Coastal Resource Management"* 12 (February 20, 2002) (transcript available in the Coastal and Marine Management Office).



<sup>75</sup> Florendo B. Barangan, Presentation at the Philippine Provincial Coastal Resource Management Festival: "Provincial Governance Moving Ahead in Coastal Resource Management" 19 (February 20, 2002) (transcript available in the Coastal and Marine Management Office).

<sup>76</sup> M. Mikhail Lee L. Maxino, Manuel R. Arbon, & Rose-Liza V. Eisma, *Policy and Legal Framework in Coastal Resource Management: A Commentary*, 1(1) *Silliman L.J.* 98 (1998).

<sup>77</sup> La Viña, *The Right to a Balanced and Healthful Ecology*, *supra* note 43, at 154.

<sup>78</sup> Antonio A. Oposa Jr., *Law Begins with Desire: The Role of the Law in Environmental Protection*, 1(1) *Silliman L. J.* 16 (1988).

**APPENDIX 1. MUNICIPAL ORDINANCE NO. 11-91 OF  
MABINI, BATANGAS**

Republika ng Pilipinas  
Lalawigan ng Batangas  
Bayan ng Mabini  
-oOo-

**TANGGAPAN NG SANGGUNIANG BAYAN**

**HALAW SA KATITIKAN NG NAKARAANG KARANIWANG  
PAGPUPULONG NG  
SANGGUNIANG BAYAN NG MABINI, BATANGAS NA GINANAP SA  
BULWAGANG PULUNGAN NOONG IKA-16 NG OKTUBRE  
1991 GANAP NA IKA-10:30 NG UMAGA**

**MGA DUMALO:**

Kgg. Ruben R. Amurao,	Punong Bayan
Kgg. Vicente C. Magnaye,	Panggalawang
	Punong Bayan
Kgg. Herminigildo D. Jusi,	Kagawad
Kgg. Jorge H. Magmanlac,	Kagawad
Kgg. Rowell M. Sandoval,	Kagawad
Kgg. Gabriel O. Sawali,	Kagawad
Kgg. Geronimo B. Reyes,	Kagawad
Kgg. Gonzalo O. Bantugon,	Kagawad
Kgg. Aniceto O. Tatlonghari,	Kagawad
Kgg. Benjamin A. Panganiban,	Kagawad, ABC
	President
Kgg. Deomedes B. Panganiban,	Kagawad, PKKB
	Tserman
Kgg. Andres M. Maramot,	Kagawad, Agr.
	Labor Sector Rep.

**HINDI DUMALO:**

Kgd. Reynaldo M. Panopio,	Kagawad, Ind.
	Labor Sector Rep.

KAUTUSAN BLG. 11-91

**KAUTUSANG NAGTATAKDA SA ILANG BAHAGI  
NG BARANGAY SAN TEODORO  
AT BAGALANGIT NG BAYANG ITO BILANG SANTUARYO AT  
RESERBADONG LUGAR PARA SA MGALAMANG-DAGAT.**

Sa bisa ng kapangyarihang ipinagkaloob sa Sangguniang Bayan ng Mabini, ipinag-uutos na:

Seksiyon 1. Sasaklawin ng RESERBA NG DAGAT ang buong baybayin ng San Teodoro at Bagalangit at pitong daang metro palayo sa baybayin;

Seksiyon 2. Ang apat (4) na "fish sanctuaries" at ang kanilang hangganan ay ang mga sumusunod:

- a. MAG-ASAWANG BATO – Sasaklawin ng sanktuaryong ito ang isang daang metro pahilagang kanluran ng "Punta" (isang malaking bato na matatagpuan sa hilagang kanluran ng Sitio Balanoy), tatlong daang metro pa-timog Silangan at dagdag na limang daang metro palayo sa baybayin mula sa marka ng laki ng tubig.
- b. ARTHUR'S ROCK – ang sanktuaryong ito ay magsisimula sa tapat ng bahay ni Machete hanggang sa tapat ng bahay ni Doroteo Manibo at limang daang metro palayo sa baybayin mula sa marka ng tubig.
- c. WHITE SAND ROCK – ang sanktuaryong ito ay magsisimula sa tapat ng bahay ni Doroteo Manibo hanggang sa tapat ng bahayni Dr. Allan White at Limang daang metro palayo sa baybayin mula sa marka ng laki ng tubig.
- d. CATHEDRAL ROCK – ang sanktuaryong ito ay pumapalibot sa Cathedral Rock na may sukat na tatlong daang metro mula sa bahay ni Ventura sa bahay ni Pementel at tatlong daang metro palayo sa baybaying mula sa marka ng laki ng tubig.

Seksiyon 3. Labag sa batas ang pangingsida o pangunguha ng kabibi, corales mula sa santuaryo. Subalit pinahihintulutan ang pangangalaga at panghuhuli ng semilya ng bangus at papayagan kung may pahintulot mula sa Sangguniang Bayan.

Seksiyon 4. Na ang pamamahayan ng mga lamang-dagat sa labas ng santuaryo subalit nasasakop ng Reserbadong lugar ay ilalaan lamang para sa makalumang pamamaraan ng pangingsida at gamit, gaya ng, pangangawil, pamamana ng manumano, paggamit ng lambat at bubo. Gayunman, ay ipinagbabawal ang paggamit ng dinamita, maging pulbura o kemikal, sodium cyanide at iba pang lason, panghuhuli ng isdang pang-aquarium, panghuhuli ng "endangered species" kagaya ng pawikan, pamamana na gumagamit ng Compressor o scuba, at panghuhuli ng sabalo.

Seksiyon 5. Bumubuo ng Lupong Tagapagpaganap (Resource Executive Committee) at mga katungkulan:

Ang lupong tagapagpaganap (REC) ang namamahala sa "Municipal Marine and Fish Sanctuary" na binubuo ng Punong Bayan bilang Tserman, dalawang iba pang pambayang opisyal; opisyal ng agrikultura' punong barangay ng San Teodoro at Bagalangit' "marine expert", mula sa Haribon Foundation at Kagawaran ng Pangingsida at Kalikasang Dagat (BFAR) bilang "consultant".

Ang Lupong Tagapagpaganap at babalngkas ng mga alituntunin/patakaran para sa epektibong pagpapatupad ng kautusan sa pahintulot ng Sangguniang Bayan at bubuo pa ring Lupong Tagapamahalang binubuo ng may-ari ng lupa; may-ari ng resort; at bangkero na itatalaga ng Tserman ng REC; pagpapatupad ng mga planong nakasaad sa kautusan.

Seksiyon 6. Sino mang lalabag sa kautusang ito ay papatawan ng penand gaya ng sumusunod:

Reserbadong Lugar:

Unang Pagkakasala – multang P500.00 o dalawang (2) linggong pagkapiit o multa at pagkabilanggo ayon sa itatadhana ng hukuman.

Ikalawang Pagkakasala – Multang P700.00 o tatlong (3) linggong pagkapiit o multa at pagkabilanggo ayon sa itatadhana ng hukuman.

Sanktuaryo:

Unang pagkakasala – multang P500.00 o isang (1) linggong pagkapiit o multa at pagkabilanggo ayon sa itatadhana ng hukuman.

Ikalawang pagkakasala at susunod pa – multang P700.00 o dalawang (2) linggong pagkapiit o multa at pagkabilanggo ayon sa itatadhana ng hukuman.

Seksiyon 7. Ang kautusang ito ay magkakabisa 10 araw pagkatapos makapagpaskil ng sipi ng ordinansa sa “Bulletin Board” ng bayan at sa dalawang matataong lugar ng bayan.

PINATIBAY: Ika- 16 ng Oktubre, 1991.

PINATUTUNAYAN KO ang kawastuan ng kautusang nakasaad dito.

(SGD) IMELDA C. ILAGAN

Kalihim Pambayan

PATOTOO:

(SGD) RUBEN R. AMURAO

PunongBayan

**APPENDIX 2. 1993 AMENDMENT TO MUNICIPAL ORDINANCE 11-91**

Be it ordained by the Sangguniang Bayan of Mabini, Batangas duly assembled in session that:

**Section 1.** The entire shoreline and reef of 700 meters offshore of both barangays would be within the municipal marine reserve.

**Section 2.** The three (3) sanctuaries and its boundaries are as follows:

- a. Twin Rocks – this sanctuary would run from the western boundary of Balanoy Village to about 300 meters beyond Twin Rocks and extend 500 meters offshore.
- b. Arthur's Rock – this sanctuary would run in the front of the house of Mr. Machete to the front of the house of Mr. Doroteo Manibo and extend 500 meters.
- c. Cathedral Rock – this sanctuary would surround cathedral rock and would run in the front of the house of Mr. Ventura to the front of the house of Mr. Pimentel and extend in the south 500 meters offshore.

**Section 3.** White Sand Rock will be part of the Reserve Area where other traditional fishing method is allowed. SCUBA diving/snorkeling is absolutely prohibited inside the sanctuary.

**Section 4.** It shall be unlawful to catch fish or to gather corals within the sanctuary. However, gathering of sea shells at a maximum of knee depth level of water is allowed inside the sanctuary from the month of May, June, July, August, September and October only.

**Section 5.** The marine sanctuary outside of the fish sanctuary but within the Municipal Marine Reserve is called a traditional fishing area where only traditional fishing hook and line, spear fishing without compressor/ SCUBA, use of nets, salok for catching "DULONG" and traps are allowed.

**Section 6.** Composition and Duties of the Executive Committee.

There shall be a Resource Executive Committee (REC) composed of the Municipal Mayor as Chairman, two (2) other municipal, municipal agricultural officer, and Barangay Captain of San Teodoro and Bagalangit, marine experts from Haribon Foundation and Bureau of Aquatic Resources who will act as consultants.

The Resource Executive Committee shall promulgate rules/guidelines for the effective implementation of this ordinance with the consent of the Sangguniang Bayan. It shall create resource management committee composed of landowners, fishermen, resort owners, and boatmen to be appointed by the Chairman of the REC, to implement management plans stipulated in the ordinance.

**Section 7.**

1. Any person or group of persons caught/apprehended for violations of the ordinance shall be penalized as follows:

Reserve Area:

First Offense – fine of not less than P300.00 but not more than P600.00 or imprisonment of 3 to 7 days or both fine and imprisonment in the discretion of the court.

Second Offense – fine of not less than P600.00 but not more than P1,500.00 or imprisonment of 8 to 14 days or both fine and imprisonment in the discretion of the court.

Third Offense – fine of not less than P1,000.00 but not more than P2,000.00 or imprisonment of 15 to 30 days or both fine and imprisonment in the discretion of the court.

Sanctuary:

First Offense – fine of not less than P1,000.00 but not more than P1,500.00 or imprisonment of 31 to 60 days or both fine and imprisonment in the discretion of the court.

Second Offense – fine of not less than P1,000.00 but not more than P1,600.00 or imprisonment of not less than 61 days but not more than 120 days.

2. Vessels, watercraft/s and equipment or instrument used in the commission of the crime shall be confiscated and forfeited in favor of the government.

**Section 8.** Repealing Clause: The ordinances inconsistent with this ordinance are hereby repealed, modified, and amended accordingly.

**Section 9.** Effectivity: This ordinance shall take effect 15 days after the approval of the Sangguniang Panlalawigan and posted in the Municipality's Bulletin Board and the two (2) conspicuous places in the municipality.

APPROVED UNANIMOUSLY this 3<sup>rd</sup> day of May, 1993.