

PRIMER ON THE PROPOSED

**Regional Sustainable
Forest Management Act
RLA Bill No. 91**



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Table of Contents

STATUS OF THE FOREST AND FOREST LAND IN THE ARMM	1
SALIENT FEATURES AND PROVISIONS	3
KEY STRATEGIES AND APPROACHES	6
INSTITUTIONAL AND IMPLEMENTATION MECHANISMS	8
ECONOMIC USE AND UTILIZATION	13
PERMITS AND LICENSES	16
RESOURCE GENERATION AND FUNDING	17
PROTECTION AND ENFORCEMENT	18



STATUS OF THE FOREST AND FOREST LAND IN THE ARMM

Q *What is the present status of ARMM forests and forest lands?*

A Based on NAMRIA (2000) data, about 44 percent of ARMM's 1.2 million ha of land area is classified as forest land. These are distributed to the five provinces as follows: Lanao del Sur (65.26 percent), Maguindanao (38.55 percent), Basilan (31.03 percent), Sulu (28.20 percent) and Tawi-Tawi (26.20 percent).

Q *What is the ecological importance of forests/forest lands to the ARMM people?*

A Forest lands are both economically and ecologically important in the region. It is presently used as source of timber and minor forest products, as well as source of water for domestic, religious uses and hydro-electric power generation. It is also home to our indigenous communities/people and a habitat of unique flora and fauna in Mindanao.

Q *What is the present condition of forest/forest lands of ARMM?*

A The Philippines is one of the Southeast Asian countries that has the highest deforestation rate. As a consequence, its 70 percent forest lands in 1900 was reduced to only about 18 percent in 2002. Deforestation has brought other

forms of environmental problems like food and water insecurity, wood shortage, pollution, soil erosion, siltation and many more. Worst is the incidence of poverty. Four provinces of the ARMM—Sulu, Tawi-Tawi, Maguindanao and Lanao del Sur—belong to the top ten poorest provinces in the country with an average poverty incidence of 57.45 percent. These complex environmental problems may have influenced poverty incidence in the uplands by reducing livelihood opportunities.

Q
A

What is sustainable forest management?

Sustainable forest management is the process, with the combined efforts of the government and communities, of conserving, protecting, developing, constructively utilizing, and managing our forest lands and their resources. This is done to ensure the continuous production of desired goods and services for the present and future generations without impairing the natural productivity of the forest thereby enhancing ecological balance.



SALIENT FEATURES AND PROVISIONS OF THE REGIONAL LEGISLATIVE ASSEMBLY (RLA) BILL No. 91 (OR RSFMA)

Q

What is the proposed RSFMA?

A

The Regional Sustainable Forest Management Act (RSFMA) for the ARMM is an expression of the quest of the inhabitants of the Region for self-determination as manifested in the grant of autonomy. It is an answer to the inadequacy of applicable laws on forests and forest lands. It aims to broaden and expand the co-management scheme of forests and their resources among the government agencies and units, local communities and civil society organizations.

Q

What are the objectives of the RSFMA?

A

The objectives of the RSFMA are:

1. To empower local communities to address the unregulated destruction and degradation of forest lands;
2. To attain sustainable development through the conservation, protection, constructive utilization, management and development of natural resources; the just and equitable distribution of natural wealth, the just enjoyment thereof, and the alleviation of poverty;
3. To strengthen and institutionalize the relationship between the DENR National and the DENR-ARMM and;
4. To enhance the technical and administrative capability of the DENR-ARMM.

Q A

What is the key feature of RSFMA?

The key feature of the RSFMA is the incorporation of Islamic principles such as:

- *Khilafah* and *Amanah* which refer to the concept of stewardship and trust. This means that man has been entrusted by Allah with the upkeep and maintenance of everything on earth.
- *Tahsin al-Ardh* which refers to the principle that the community is required to beautify the earth. It is therefore the duty of every man to maintain the landscape or greeneries of the earth which include planting and replanting of bare or barren lands.
- *Ihya al-mawat* which refers to the principle of cultivating dead lands. This implies that it is the duty of every individual to rehabilitate and make productive dead or barren forest lands as a result of destructive and unregulated cutting of trees and other vegetation.
- *Amr bi'l-ma'ruf* and *Nahi 'ani'l-munkar* which refer to the principle of encouraging what is right and forbidding what is wrong. These imply that all inhabitants of ARMM are duty bound to assist in the protection of their forest lands and resources.

Q A

What are the other features of the RSFMA?

The other features of the RSFMA are:

➤ **Tenure**

Sustainability is equated with the use of resources for the longest possible time for the greatest number of people. Tenurial instruments for the development and utilization of forest resources like leases or licenses may last for 25 years subject to renewal.

➤ **Institutional arrangements**

While the DENR-ARMM is the lead agency in the implementation of the provisions of the RSFMA, the local government units (LGUs) are given vital roles in the management of forest lands and the resources found therein. Authority of other government agencies mandated under existing laws to administer projects/ programs within forest lands shall be respected.

➤ **People's participation**

The RSFMA is virtually a people's law. This is so because:

- a. ARMM inhabitants are given preferential rights in the exploration and exploitation of the ARMM's forest resources.
- b. Community forests may be set aside for them for development applying indigenous concepts of management in accordance with their *taritib ago igma* and consistent with the fundamental law of the land;
- c. ARMM inhabitants are to be consulted before any form of development is implemented in forest lands within or adjacent to their communities; and
- d. Their ancestral domains and ancestral lands are fully respected consistent with the Indigenous Peoples Rights Act.

KEY STRATEGIES AND APPROACHES

Q *How do we conserve and protect our remaining forests?*

A First, we will sub-classify our forest lands into protection and production forests. The protection forests, which comprise virgin or old growth forests, and all the areas enumerated in Section 3 of R. A. No. 7586 (National Integrated Protected Areas Act), such as: strict nature reserve; natural park; natural monument; wildlife sanctuary; protected landscapes and seascapes; resource reserve; natural biotic areas; and other categories established by law, conventions or international agreements which the Philippine Government is a signatory, shall be closed for commercial logging. Example of a protected area is the Lake Lanao Watershed Reservation. (Sections 5-a & 15, RLA Bill No. 91)

Q *When and why do we delineate forest boundaries on the grounds?*

A Within five years upon the effectivity of this Act, the Department in coordination with NAMRIA and the LGUs shall delineate the boundaries of forest lands. This is done to set aside permanently forest lands for protection and production purposes.

Q
A

How do we sustainably utilize our forest lands?

Under this Act , a Forest Land Use Plan (FLUP) shall be prepared by the LGUs in coordination with the Department and shall be made an integral part of LGUs, Comprehensive Land Use and Development Plan (CLUDP). Under the FLUP, all protection and utilization activities are stipulated for the guidance of the LGUs.

Q
A

Which area of forest management is given priority, protection or utilization?

Protection and rehabilitation of our forestlands shall receive priority attention (Chapter IV-C, RLA Bill No. 91). Right now, only about 20 percent or 133,030 ha of the ARMM's forest lands are covered with trees. This sad state of ARMM's forest lands leave us no option but to prioritize forest protection and rehabilitation, otherwise the remaining 20 percent forest cover will be gone soon.



INSTITUTIONAL AND IMPLEMENTATION MECHANISMS

Q

How do we address the twin tasks of forest protection and rehabilitation?

A

The Regional Government and the communities have to combine efforts in addressing these problems. First, the Regional Government shall, in coordination with and cooperation of the LGUs and the local communities, shall prepare a comprehensive forest rehabilitation program within one year after the passage of the RSFMA. Massive reforestation shall be done in the entire region as mandated in Article XII, Section 14 of R. A. No. 9054 (Section 24, RLA Bill No. 91).

Q

What is the role of local communities in the protection, rehabilitation, utilization, management and development of our forest lands and forest resources?

A

Local communities, especially those within or adjacent to forest lands, shall be involved not only in the protection, development or rehabilitation of our forest lands but also in the constructive use of forest lands sub-classified as production forests (Section 25, RLA Bill No. 91). This is in accordance with the Islamic principles of *Khilafa* and *Amanah* or stewardship and trust, respectively, which states that Muslims are the stewards of the earth and its resources. As Trustees, Muslims are likewise required to beautify the earth in accordance with the Islamic principle of *Tahsin al-Ardh*.

Local communities, non-government organizations (NGOs), peoples organizations (POs), civil society organizations, or individuals may also be deputized as forest officers. Likewise, they shall be equally represented in City or Municipal Forest Protection Councils which are vested with law enforcement powers and authorities (Sections 36, & 37, RLA Bill No. 91).

Community-Based Forest Management and Community Forest Management are adopted as principal strategies (Section 25, RLA Bill No. 91) to ensure the participation of local communities, multi-sectoral groups, NGOs or POs in all spheres of forest management (Section 10, *ibid*).

Q

How does Community-Based Forest Management differ from Community Forest Management?

A

These two strategies are similar in the sense that the forest land areas involved are set aside by the Regional Government for a specific community for management purposes. However, the manner of conserving, protecting, constructively utilizing, managing and developing these forest lands and the resources found thereat differ in that the former involves the application of sound management principles established by existing law, rules or regulations, whereas in the latter, the *Taritib ago Igma* or customary *Adat* law of the local community apply subject to Constitutional and legal limitations.

Both strategies require management plans prepared by the proponent communities with technical aid from the DENR-ARMM.

Q

How will the Department operationalize participation of civil society organizations?

A

The Department, through the Mindanao State University-Forestry Resource and Environment, Policy and Governance Center, will formulate criteria in recognizing civil society organizations that will participate in forest land activities at the community level.

Q

Are there incentives for participating individuals or communities?

A

Yes. Organized communities, NGOs, POs and other accredited or registered organizations engaged in forest plantations may be exempt from withholding taxes and forest charges. Also, they may be given priority to access credit assistance being granted by government lending institutions (Section 29, RLA Bill No. 29).

Those participating in forest protection activities shall be given monetary rewards for giving information that establishes *prima facie* proof of forest law violation. In cases where the information leads to the seizure and confiscation of illegally obtained forest products, and results to conviction of the violator, the informer shall be entitled to 20 percent of the proceeds of the seized or confiscated illegal forest products after its sale through public auction (Section 39, RLA Bill No. 91).

Q

What is the role of the LGUs?

A

The LGUs, with technical assistance from the DENR(ARMM) shall establish and maintain City or Municipal Forest Nurseries, Tree Parks or Communal Forests and Forest Protection Councils (Sections 26, 27, & 37, RLA Bill No. 91).

Q

How can the Regional Government effectively carry out forest protection activities?

A

Forest protection is not the sole responsibility of the Regional Government, particularly the DENR-ARMM. It is a social responsibility or *fardh kifayah*. The LGUs, the communities and the Muslim peoples in general as *Khalifatu 'Llah fi'l-Ardh* have to perform their solemn duty of encouraging what is good and forbidding what is wrong (*'amr bi 'l-ma'ruf wa nahi 'ani 'l-munkar*). On the basis of these Islamic beliefs, deputation of Forest Officers shall be authorized under the proposed law (Section 36, RLA Bill No. 91); City or Municipal Forest Protection Councils shall be created (Section 37, RLA Bill No. 91). To add more teeth to these efforts, assistance from other law enforcement agencies of the government like the Armed Forces of the Philippines, Philippine National Police, Department of Justice, and others, shall be provided for (Section 38, RLA Bill No. 91).

Q

Most of the provisions of the proposed law are expressed in general terms. How can these be implemented?

A

The Oversight Committee, which shall be created by the Regional Governor within three months upon effectivity of the RSFMA, composed of the Regional Executive Secretary as Chairman, and representatives from the RLA, the Cabinet, the Shari'ah Courts, the Mindanao State University, and others as members, shall be convened to promulgate the implementing rules and regulations of the Act. The Implementing Rules and Regulation shall provide in detail the manner or methods on how the Act will be implemented.

Q
A

Which is the lead agency to implement this RSFMA?

The DENR-ARMM is the lead agency for the protection, conservation, constructive utilization, management and development of all forest lands and unclassified lands of the public domain in the Region.

ECONOMIC USE AND UTILIZATION

Q *If commercial logging will be banned in protection forests, how can these areas be of economic use?*

A These areas shall be developed into other uses like ecotourism, ecological and genetic services, research and nature study, biodiversity conservation and other compatible uses (Section 17 & 18, RLA Bill No. 91). Experience in Costa Rica teaches us that developing portions of their forests into ecotourism may greatly increase the income derived therefrom compared to its economic returns when the same areas were used for commercial logging.

Q *How can we meet local demands for wood and other forest products?*

A Forest lands sub-classified as production forests shall be developed into forest plantations, rattan cultivation, bamboo plantations and other non-wood forest species thereby optimizing utilization of forest products. (Section 20, RLA Bill No. 91)

Q *Can we import logs to sustain our needs instead of cutting our remaining production forest?*

A Yes, the Regional Governor encourages the importation of logs and lumber to conserve our remaining production forest in the region.

Q

Why do we have to rationalize and regulate forest-based industries in ARMM?

A

The Region has few remaining production forests where we can derive forest goods and services to meet local demands. It is necessary to organize the forest-based industries in such a manner that while we try to meet our needs we are also achieving socioeconomic development and environmental stability in the Region.

Q

What revenues can the government derive from the utilization of our forests and forest lands to support the implementation of the RSFMA?

A

Aside from the fees and rentals for the utilization and exploitation of forests and forest lands (Section 54, RLA Bill No. 91), forest charges on timber, rattan and other minor forest products (Section 55 & 56, *ibid*), fees on administrative services rendered (Section 58, *ibid*), fines shall also be imposed as penalties for the violation of the provisions of the RSFMA in addition to the proceeds of seized and confiscated illegal forest products sold at public auction (Sections 62, 63, 64, 65, 66, & 39, *ibid*).



Q

In the past, Manila-based corporations and non-ARMM resident businessmen were the ones enjoying privileges in forest concessions, licenses, or permits in the utilization of our forest resources. Will the set up be the same under the RSFMA?

A

Not anymore. The Bangsamoro and other inhabitants of the Autonomous Region have preferential rights in the exploration, protection, development, management and constructive utilization of our forest lands and forest resources (Section 23, RLA Bill No. 91 and Section 8, Article III & Section 7, Article XII of R. A. No. 9054).

Q

What are the modes of access to the exploration and utilization of our forest resources?

A

The proposed law reiterates the modes of access to natural resources as provided for in the 1987 Constitution, such as directly by the State, joint venture, production sharing, and co-production agreement (Section 20, RLA Bill No. 91).

PERMITS AND LICENSES

Q

What will happen to existing licenses or permits issued prior to this Act?

A

The Department will allow existing licenses or agreements or permits earlier issued by law to continue until their expiration, provided that the licensees or permittees concerned will manage such forestlands according to approved management plans.

Q

What is the extent of power and authority of the Regional Secretary on the utilization of forest resources?

A

The Regional Secretary has the authority to issue permits, licenses and other form of agreements for the constructive utilization of forest resources, including ancestral domains and ancestral lands. Without such permits, licenses, or agreements to utilize forest resources, said activity will be considered illegal and unlawful (Sec. 70).

RESOURCE GENERATION AND FUNDING

Q
A

How shall the implementation of this Act be financed?

The implementation of this Act shall be financed through the following sources: regional and local shares from the national wealth, 10 percent of the Internal Revenue Allotment (IRA) of LGUs, trust funds, endowments, donations, grants, aids, docket fees, charges and rentals, fines and fees, issuances of notes and debentures, bonds and Regional appropriations (Sec. 68), and General Appropriations (Sec. 69).

PROTECTION AND ENFORCEMENT

Q

Can the Secretary or his Representative confiscate and impose fines?

A

Yes. The DENR-ARMM Secretary or his representative has the authority to order the confiscation of forest products deemed illegally harvested, extracted or transported including tools, equipment, conveyance and machinery used for such illegal activities.

In all cases of minor violations, the Regional Secretary will be authorized to impose fines and penalties.

Q

What is a Citizen's Suit?

A

A Citizen's Suit is a civil, criminal or administrative action, filed by any citizen in the proper court against:

- a) Any person who violates or fails to comply with this Act and/or its Implementing Rules and Regulations.
- b) The Department or other implementing agency with respect to any arbitrary order, decision, rule or regulation issued in relation to this Act.
- c) Any public officer who willfully or grossly neglects the performance of an act enjoined by this Act or its Implementing Rules and Regulation, or abuses his authority in the performance of his duty.

