

**The Philippine Environmental Governance 2 Project**

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# **Coastal Law Enforcement Report for Zamboanga Sibugay**

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## ACRONYMNS

AFP	-	Armed Forces of the Philippines
BFAR	-	Bureau of Fisheries and Aquatic Resources
CAFGU	-	Civilian Armed Forces Geographical Unit
CENRO	-	Community Environment and Natural Resources Office
CLEG	-	Coastal and Fisheries Law Enforcement Group
CRM	-	Coastal Resources Management
CVO	-	Civilian Volunteer Organization
DAI	-	Development Alternatives, Inc.
DENR	-	Department of Environment and Natural Resources
EcoGov	-	The Philippine Environmental Governance Project
ENRO	-	Environment and Natural Resources Office
GPS	-	Global Positioning System
IEC	-	Information, Education and Communication
IEG	-	Institute of Environmental Governance
LGU	-	Local Government Unit
MAP	-	Marine Protected Area
MENRO	-	Municipal Environment and Natural Resources
NGO	-	Non-Government Organization
NIPAS	-	National Integrated Protected Areas System
PNP	-	Philippine National Police
PO	-	People's Organization
RTD	-	Regional Technical Director
SB	-	Sangguniang Bayan
TNA	-	Training Needs Assessment
TWG	-	Technical Working Group
USAID	-	United States Agency for International Development



# **COASTAL LAW ENFORCEMENT REPORT FOR ZAMBOANGA SIBUGAY (DECEMBER 30, 2005)**

## **INTRODUCTION**

The USAID/Philippines Environmental Governance 2 Project (EcoGov 2) supports the Government of the Republic of the Philippines' (GRP) and USAID Philippines' goal of revitalizing the economy by promoting better environmental governance, stimulating economic growth, and increasing food security. Specifically, EcoGov 2 promotes improved environmental governance among local government institutions, promotes the better management of forestlands, promotes the better management of coastal areas, encourages better management of municipal solid waste, and facilitates LGU investment into sanitation facilities. EcoGov 2 is a successor to the EcoGov 1 project of 2001-2004. Development Alternatives, Inc. (DAI) was the prime contractor for EcoGov 1 and is now the prime contractor of EcoGov 2. EcoGov maintains a headquarters in Manila and works in northern Luzon, Central Visayas, and the southern, central, and western portions of Mindanao.

Target 3 of the EcoGov 2 contract is to place 800 hectares of coastal area under improved management, establish 20 marine protected areas (MPAs), and improve the management of 60 existing MPAs. Common to each of these targets is the establishment of the legal basis for plans and protected areas, and the enforcement of such laws. This issue is now of particular importance in the Illana and Sibuguey Bays of western Mindanao. Thus, EcoGov has engaged Coastal Law and Policy Specialist to train community paralegal volunteers in the region and to provide a legal analysis of mangrove management issues in Zamboanga-Sibugay. The Coastal Law Enforcement Specialist is tasked to do the following:

1. Prepare a program for coastal and fisheries law enforcement for the Sibuguey Bay area;
2. Together with EcoGov full-time personnel, assess the need for enforcement training by different sets of participants (e.g., community volunteers, police, LGU officials);
3. With EcoGov personnel, prepare training designs and materials for the different sets of participants identified in the assessment, taking into account the existing training modules of EcoGov and other projects/ organizations;
4. With the support of EcoGov's field office(s), conduct at least one law enforcement training;
5. Describe and analyze the system and instruments of tenurial control over mangroves in the province;

6. Working with information already collected by EcoGov (e.g., maps, socio-economic data, data on tenure), conduct interviews with government officials and local stakeholders to develop an in-depth analysis of Tungawan and present information suitable for a database on the municipality's tenure holders in the mangrove/foreshore area; and,
7. Present the legal and policy options for managing mangrove resources in the province.

## **SOURCES, COVERAGE AND LIMITATIONS OF THE REPORT**

This report covers the result of the five-day field visit by the Coastal Law Enforcement Specialist in the Sibuguey area from September 8, 2005 to September 13, 2004. The specialist administered training needs assessment questionnaires to the participants. He also conducted participatory law enforcement mapping in the municipalities of Tungawan, R.T. Lim, Naga, and Payao, all in Zamboanga Sebugay and observed an actual law enforcement patrol operation conducted in the Tungawan municipality. Results of the separate meetings with the Department of Environment and Natural Resources (DENR) Executive Director, two regional technical directors (RTDs) and two division chiefs of the DENR, officials from the Bureau of Fisheries and Aquatic Resources and EcoGov field Staff, the 3-day law enforcement training and other follow up activities are also included in this report.

The responses of the interviewees were tabulated and summarized. Original law enforcement maps were copied and digitized to fit in the report. Also incorporated were pictures documenting the activities conducted during the field visit and relevant annexes.

The discussions and analysis contained in this report were based on the factual observations, result of interviews, known theories of law and personal insights of the specialist based on environmental law enforcement experiences in various areas.

The figures and numbers mentioned in this report were mostly based on estimates given by those who participated in the consultative meetings in the four municipalities. These figures therefore are to be taken as instructive rather than conclusive.

## **METHODOLOGY**

The following steps were taken to generate the information acquired hereunder:

*TNA Questionnaire.* The participants were asked to answer a training needs assessment (TNA) questionnaire prepared for the purpose. Ting Nanola facilitated the process and

explained the questions which were written in Filipino. Thereafter, the TNA forms were collected, tallied and analyzed along with other information.

*Participatory Mapping.* Information taken from the participants were used to make an improvised map drawn on a Manila paper. The participants were asked to identify the areas where the violations they listed in the questionnaire occur. The output of this workshop is a map showing the various violations and their location.

*Interview with key informants.* Local Government officials were asked to answer a set of questions relative to coastal law enforcement. Among the questions asked were the number and identity of persons involved in law enforcement, availability of resources for coastal law enforcement, incidents of violations and frequency of enforcement activities. The informants were also asked to describe the procedures they currently used in effecting coastal law enforcement.

*Site Patrol.* One regular law enforcement patrol operation was observed and documented. Information gathered from this activity includes the size, speed, and seaworthiness of the vessel, fuel consumption, time to reach destination, coastline contour and many others.

*Interview with the Bureau of Fisheries and Aquatic Resources (BFAR) and DENR personnel.* Part of the process is to interview personnel from National Government Agencies involved in coastal resource management and law enforcement, namely DENR and BFAR. The Regional Director, two Regional Technical Directors, two section chiefs of DENR as well as the Assistant Regional Director of BFAR were interviewed.

## **FINDINGS**

### **MUNICIPALITY OF TUNGAWAN**

Seventeen participants attended the meeting. Among the participants were the Mayor, the Chief of Police, several Barangay Captains, the Coastal Resources Management (CRM) Working Group Members and Bantay Dagat members. All of them answered the training needs questionnaire and participated in the community law enforcement mapping.

Tungawan has two declared MPAs. The larger MPA has an area of about 880 hectares while the other one measures 100 hectares. Less than 20% of the original mangrove forest remains. Its remaining mangrove area is now being protected

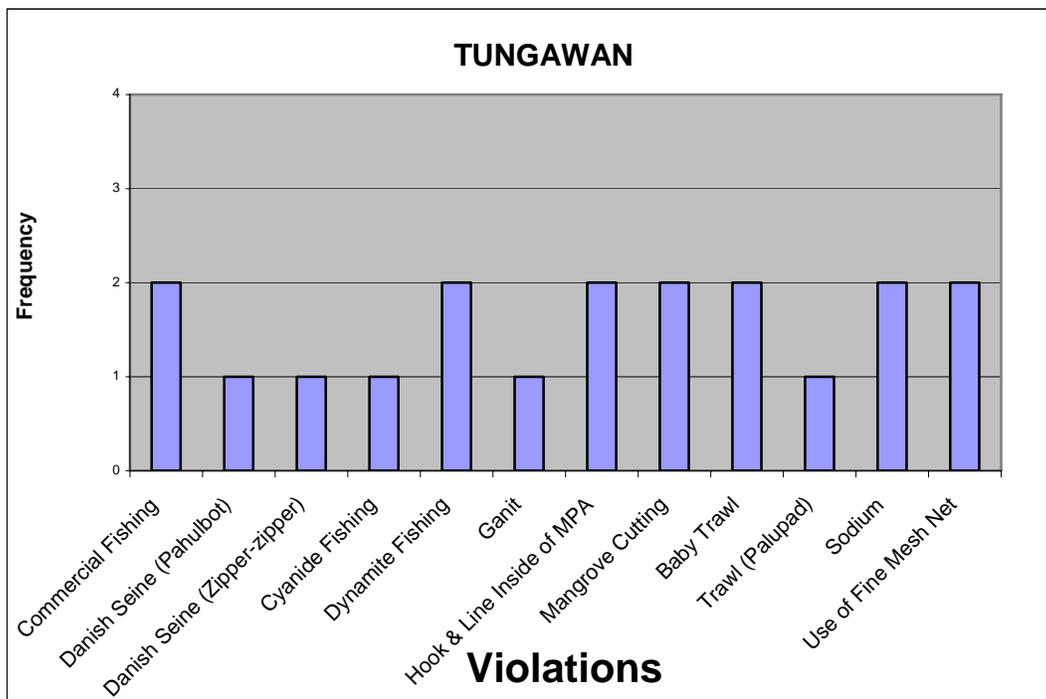
Protecting the coastal area of Tungawan are 14 Bantay Dagat members and eight municipal employees. Security for law enforcement operations is provided by Police Officers, Army and the Civilian Armed Forces Geographical Unit (CAFGU). The municipality has two speed boats (local made) which are augmented by five patrol bancas operated by five active coastal barangays. One of the speed boats of the Municipality can



Two kinds of trawl fishing were observed in the area. The small one called “baby trawl” (manned by two fishermen), operate along the coast of San Vicente, Sto Nino, Tupalay and San Pedro. The commercial type “*palupad*” (manned by 10 fishermen), operate throughout the municipal waters at a distance of about 5 to 6 kilometers from the coastline.

Danish Seine are also of two kinds: the big one is locally known as “*Giant*” or “*Zipper*” (operated by 15-20 persons); and the small one, called “*buli-buli*” or *hulbot-hulbot*” is manned by 2-4 persons. Both the “giant” and hulbot-hulbot operate about 5 to 6 kilometers from the coastline.

Aside from Danish Seine, commercial purse seiners also operate in the coastal waters of Tungawan. These purse seiners were usually observed at a distance of 12-13 kilometers from the coastline. It was reported, however, that the service light boats of the purse seiners operate near the coast (about one kilometer distance from the shoreline). The light boats reportedly use their bright light to attract and aggregate the fish near shore and then slowly guide the school of fish towards deep waters where the main boat (purse seiner) awaits to catch the aggregated school of fish. This method is done, presumably to avoid detection by the enforcers and also to avoid legal liability as the act being penalized by the Fisheries Code is actual fishing. From the perspective of the purse seiners, the act of drawing the fish to deep waters or to areas beyond the municipal water is not yet fishing and therefore, does not constitute a violation of Republic Act No. 8550.



Use of fine mesh nets was also observed in the coastal areas of Baragay San Vicente and Sto. Nino. Other illegal acts include, mangrove cutting (prevalent in Barangays Sto Nino,

San Vicente, Libas and Look Labuan) and conversion of mangrove areas to fishponds in Brgy. San Vicente and Baluran. It has been estimated that more than half of the existing fishponds in the area came from the illegal conversion of mangrove areas to fishponds. Premature release of poisoned waters from fishponds, which result in unintentional poisoning of adjacent fry and fishing grounds, is common in fishpond areas. Summarized below are the kinds and frequency of violations observed by the participants in the assessment conducted by the project.

### **Enforcement Operation**

The Municipal Government of Tungawan, Zamboanga-Sibugay, started its law enforcement operation in August 2004. Since then, they have conducted 26 apprehensions. Twenty-three of those apprehended were fined while complaints were filed against the remaining three violators. These cases are now pending in court and in the Prosecutor's Office. Their enforcement operation is divided into three teams: the apprehension team; the search and inventory team; and, the impounding team.

According to the participants, enforcement patrols were more frequent and regular during the early months of their law enforcement operations. This resulted in the drastic drop in illegal fishing incidents. This positive outcome allowed them to reduce the number of patrols and led to a shift in their patrol strategy from regular patrol to regular unannounced patrol. They add that, because of increased community support and better intelligence, the law enforcement teams now conduct sea-borne operations based on community reports.

### **Capability**

The strong resolve of the municipality to respond to coastal and fisheries violations is shown by the ongoing active law enforcement efforts. This resolve is probably one major advantage that Tungawan has over the other municipalities. While Tungawan is relatively better equipped than the other municipalities visited, the law enforcement team of Tungawan is only at par with the other municipalities when it comes to training.

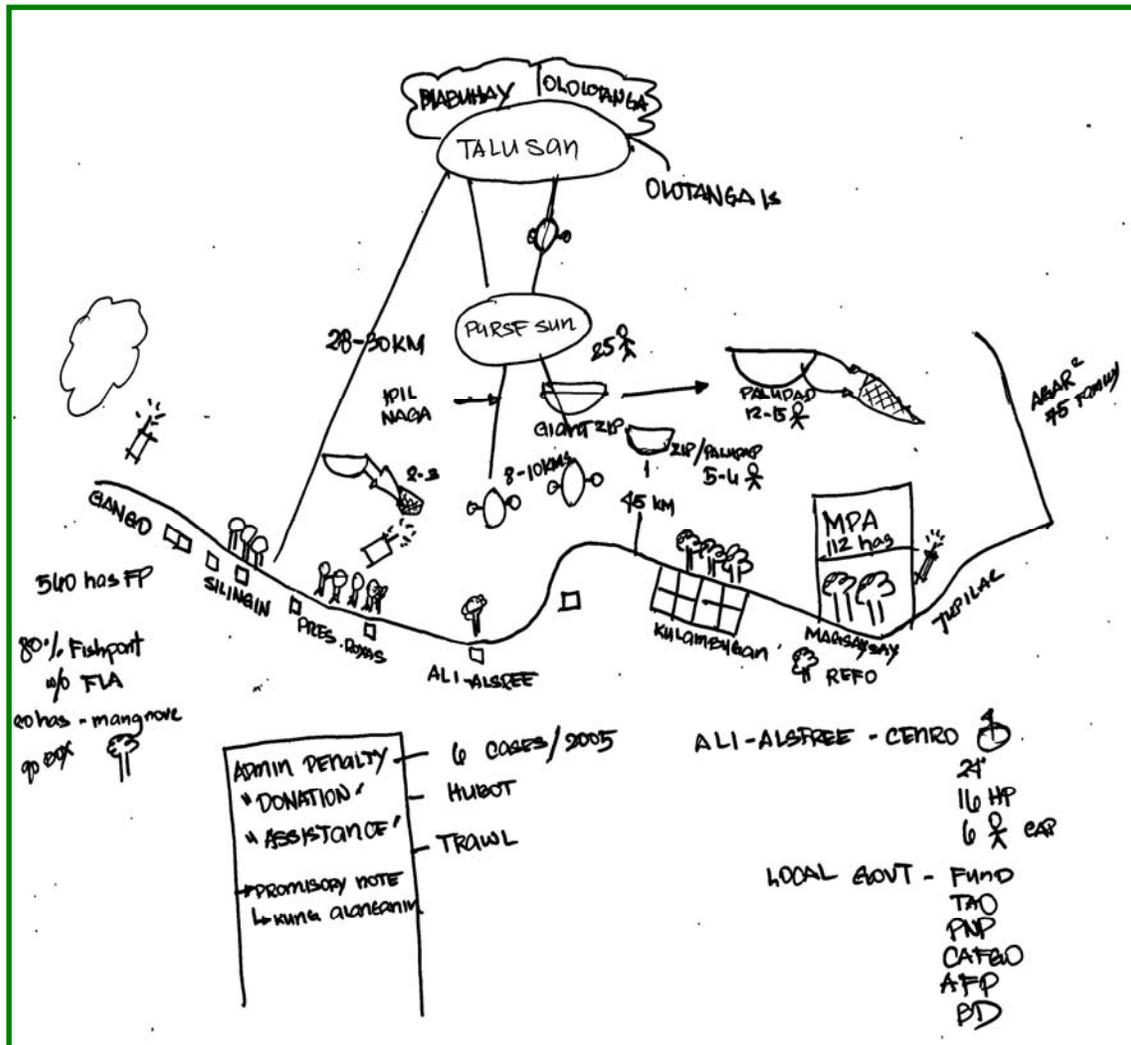
Tabulated result of the TNA questionnaires indicate that majority of the participants (76%) have attended training on the Fisheries Code and are implementing its provisions. However, only few of them (23%), have attended trainings on Forestry and National Integrated Protected Areas System (NIPAS) Act. In addition, none of the respondents who attended these trainings are really familiar with either these laws nor are they using these laws.

In terms of law enforcement skills, only five of the respondents are aware of the rights of the accused. Only one participant is fully familiar with boarding procedure, evidence gathering and documentation and filing of complaints. Two are knowledgeable and experienced in arrest and seizure procedures. None of the respondents attended a training on or is familiar with Criminal Procedure.

The respondents identified lack of logistics (patrol boats, arms, budget) and training as areas that need to be addressed in order to further enhance their law enforcement capacities. On the training component, the participants listed 12 topics that they want to learn. Evidence Gathering and Documentation (1), Boarding Procedure (2), Rights of the Accused (3), Arrest, Search and Seizures (4) are the topics that the participants want to be prioritized.

### MUNICIPALITY OF RT LIM

The consultation participants explained that illegal fishing remains a problem in the coastal waters of RT Lim and Zamboanga-Sibugay. The community law enforcement mapping identified the coastal areas of Barangays Gango, Silingan, President Roxas and Tupilac where dynamite fishing is prevalent. The use of noxious substance is not identified or observed in any part of RT Lim. Below is the copy of the participatory law enforcement map which indicate among others, the types of violations observed and their location.

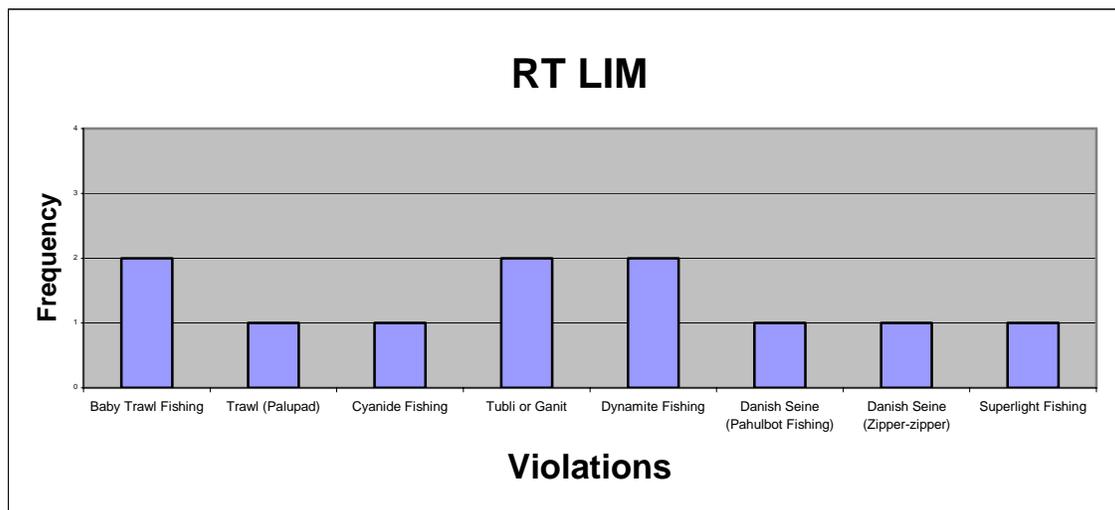


Similar to the case of Tungawan, two kinds of trawl were observed. The “baby trawl” operate at a distance of 2-3 kilometers from the shores of Gango, Silingan, President Roxas and Ali-Alstre while the commercial type (“*palupad*”), operate throughout the municipal waters of RT Lim. They operate at the distance of about 8-10 kilometers from the coastline.

The commercial size Danish seine, “*Giant*” or “*Zipper*” and the small type, called “*buli-buli*” or *hulbot-hulbot*” also intrude in the coastal waters of RT Lim. The “giant” operate at the distance between 8 to 10 kilometers while “*hulbot-hulbot*” was observed within 4 to 6 kilometers from the coastline.

Commercial purse seine also operate in the coastal waters of RT Lim. These purse seines were usually observed at a farther distance of 12-15 kilometers from the coastline. Similar to the case of Tungawan, the service light boats of the purse seines, operate near the coast to attract and aggregate the fish near the shore and then slowly guide the school of fish towards the deep waters where the main boat (purse seine) awaits to catch the aggregated school of fish.

Mangrove cutting was not reported. However, the participants mentioned that about 80% of the 560 hectares of fishponds are not covered by FLA. Majority of the fishponds are located in Brgy. Kulambugan, while the rest are located in Brgy. Ali-Alstre, President Roxas, Silingan and Gango. Premature release of poisoned waters from fishpond, which result in the unintentional poisoning of adjacent fry and fishing ground, is common in fishpond areas. Summarized below are the kinds and frequency of violations observed by the participants in the assessment conducted by the project.



**NOTE: 1-ONCE A WEEK, 2-DAILY AND 3-MANY TIMES DAILY**

## **Enforcement Operation**

RT Lim is just starting to enforce the fisheries law. As of September 2005, six incidents of illegal fishing were reported. These incidents involve small Danish seine ("*hulbot-hulbot*") and trawl. The violators were meted with administrative penalties. The violators were required to write promissory notes stating that they will not repeat the violation. They were also "fined" for the violation. The participants mentioned, that since there is no ordinance providing for administrative penalties, the amounts collected were recorded and receipted as "donation" and "assistance."

Patrol operation is not yet regular. The enforcement structure and operations plan is yet to be developed although the consultation participants have identified the staff from the MAO Office, Philippine National Police (PNP), CAFGU, Armed Forces of the Philippines (AFP) and Bantay Dagat as components of the law enforcement team for the municipality.

## **Enforcement Capability**

Tabulated results of the 16 TNA questionnaires indicate that majority (10 out of 16) has no knowledge or has heard about the Fisheries Code. A lower number of persons (14 out of 16), has knowledge or has heard about the Forestry Code. In addition, only three of the respondents who have knowledge of the Fisheries Code are fully familiar with the same and have actually used the same in enforcement function. None of the respondents are fully familiar or have used the Forestry Code.

In terms of law enforcement skills and knowledge, only four of the respondents are aware of the rights of the accused. Only one is familiar with boarding and arrest procedure. No one is familiar with evidence gathering and documentation and filing of complaints. None of the respondents have attended a training or is familiar with criminal procedure.

The respondents identified lack of logistics (patrol boats, arms, budget), security and trainings as hindrance to their law enforcement efforts. On the training component, the participants listed seven topics that they want to learn. Of these topics, their priority appear to be the following: Fisheries Code (1), Coastal Resource Management (2), rights of the accused (3), arrest searches and seizures and boarding procedure (4).

In terms of resources for law enforcement, the Municipality has one 24 feet, 16-horse power patrol boat which can carry a maximum of six enforcers. Obviously, this boat is not enough to cover the patrol requirement of seven coastal barangays of RT. Lim.

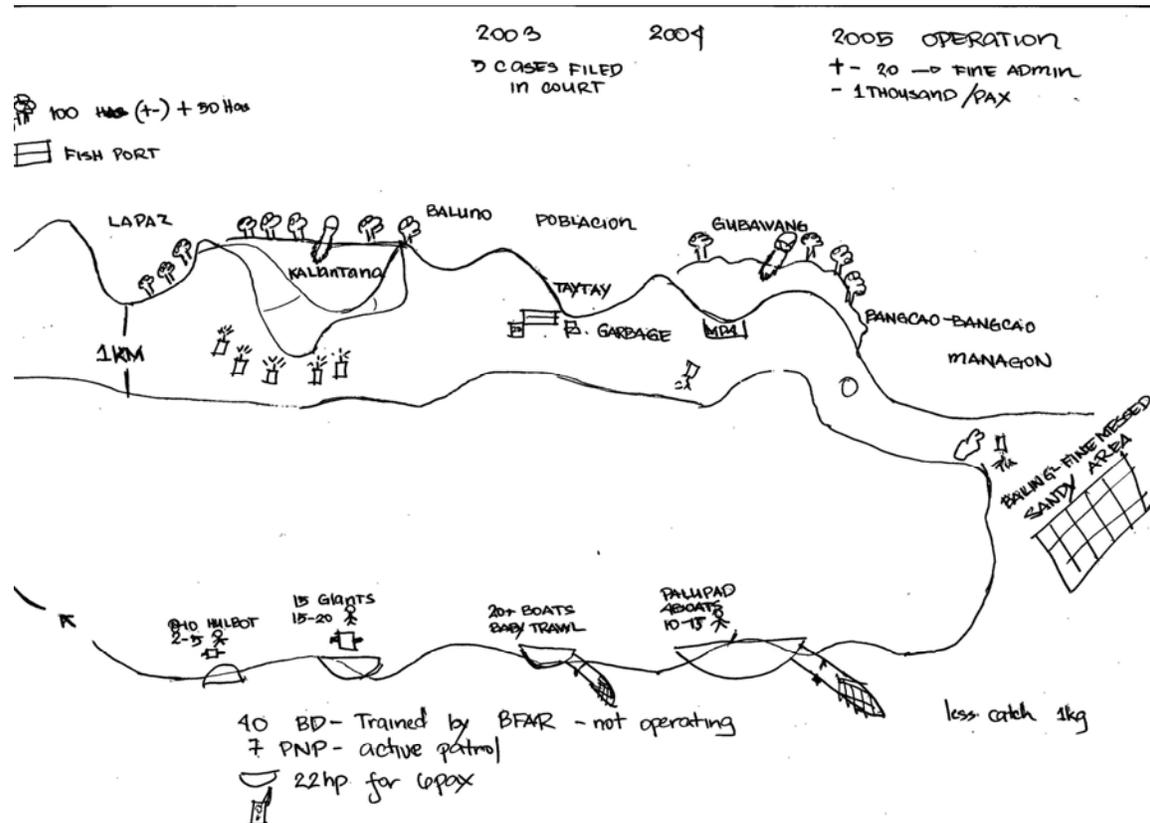
## MUNICIPALITY OF NAGA

Eleven participants from the municipality of Naga attended the consultative meeting. The participants include the Mayor, the Municipal Administrator, the Chief of Police, several Barangay Captains, the CRM Working Group Members and Bantay Dagat members. Like the other two municipalities, all of them were asked to answer the training needs questionnaire and to participate in the community law enforcement mapping.

The Municipality of Naga has one declared MPA and a fishing port which serves as base for the fishing operation of both the small-scale and commercial fishing in Sibuguey Bay. It has seven coastal barangays and several small islands within its municipal fishing area.

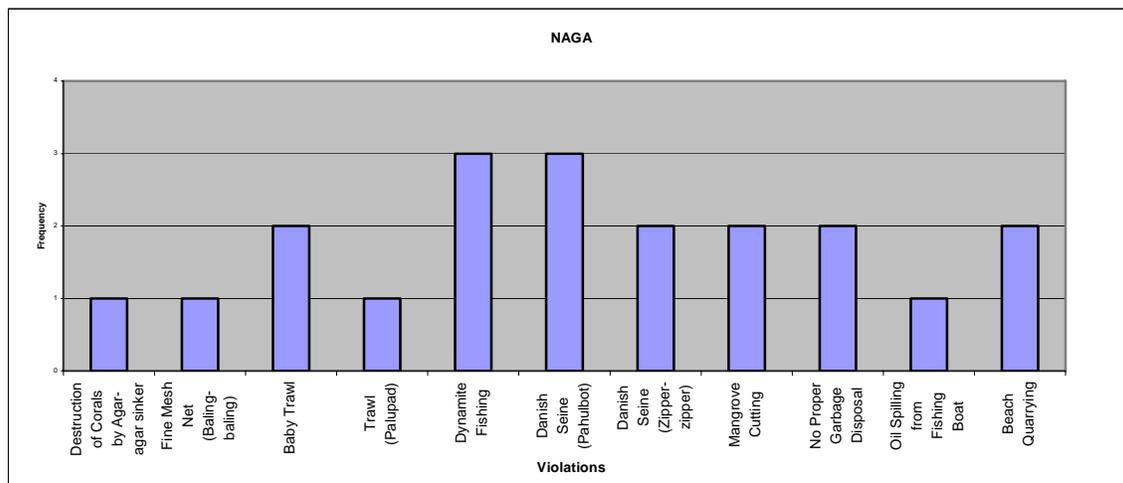
### Violations Observed

Results of community law enforcement mapping showed that dynamite fishing was prevalent in the coastal areas of Brgy. Kaliantana. Dynamite fishing was also observed in Brgy. Managon and in Brgy. Gubawang near the area of the MPA. Use of noxious substance was not observed but the use of fine mesh net (*baling*) was reportedly prevalent in the sandy area of the municipality. Below is the copy of the participatory law enforcement map, which indicate, among others, the types of violations observed and their location.



While commercial purse seines were not reported to be operating in the municipal waters of Naga, more than 20 “baby trawl” and four commercial type “*palupad*”, frequent the area. Trawling operations appear to be unabated as they were reportedly operating as near as one kilometer from the coastline. Fifteen Danish seine “*Giant*” or “*Zipper*” and 10 “*buli-buli*” or *hulbot-hulbot*” also operate in the same area where trawling occur.

Majority of the mangrove area of Naga has long been converted to fishponds. Only around 100-150 hectares of mangrove reportedly remain. Yet, mangrove cutting was still observed in Brgy. Kaliantana, Gubawang and Baungcao-bungcao. Oil spill from fishing boats docked in the fishing port and improper garbage disposal was reported to occur daily while illegal extraction of sand was reported to happen once a week. Summarized below are the kinds and frequency of violation observed by the participants during the assessment conducted by the project.



### Enforcement Operation

The consultation participants reported that law enforcement operation started sometime in 2003 resulting to five cases filed in court. No apprehension was reported for year 2004 while over twenty apprehensions were made in 2005. No court cases were filed in 2005 as all violators were simply made to pay a fine of Php. 1,000 for each person found violating the law.

### Capability

Trained to protect the coastal waters are 40 Bantay Dagat members and seven PNP officers. However, the 40 Bantay Dagat members are not yet active in law enforcement operation. The municipality has one 22 horse power boat with six passenger capacity. Tabulated results of the TNA questionnaires indicate that majority of the participants (8 out of 11) have attended training on the Fisheries Code. However, only three of them are fully familiar and are actually using the same. It is also indicated that none of the respondents have attended trainings on the Forestry Code and the NIPAS Act.

In terms of skills on law enforcement, six of the respondents are aware of the rights of the accused. Six are familiar with boarding procedure, seven are aware of evidence gathering and documentation while six have indicated familiarity with criminal procedure. When it comes to actual practice of these skills, however, only one have indicated full appreciation .

The respondents identified lack of logistics (patrol boats, arms, budget) and trainings as hindrance to their law enforcement function. On the training component, the participants listed seven topics that they want to learn about. Of these topics, their priority are the following: Fisheries Code (1), Arrest, search and seizure (2), Evidence gathering and documentation and boarding procedure (3), Rights of the accused (4), Preservation of municipal sanctuary (5).

## **MUNICIPALITY OF PAYAO**

The Municipality of Payao, Zamboanga-Sibugay, plays hosts to important natural resources not found elsewhere. These resources reportedly consist of, among others, over 4,000 hectares of mangrove, vast sea grass areas , over 2,000 hectares of sea weed farms, rich coral areas and fishing grounds. It also plays host to endangered species like sea turtles and dugong. Payao has one declared MPA measuring about 220 hectares.

Eleven participants attended the meeting including the Mayor, the Municipal Agriculture Officer, several Barangay Captains, the CRM Working Group Members and Bantay Dagat members. All of them were requested to answer the training needs questionnaire and to participate in the community law enforcement mapping.

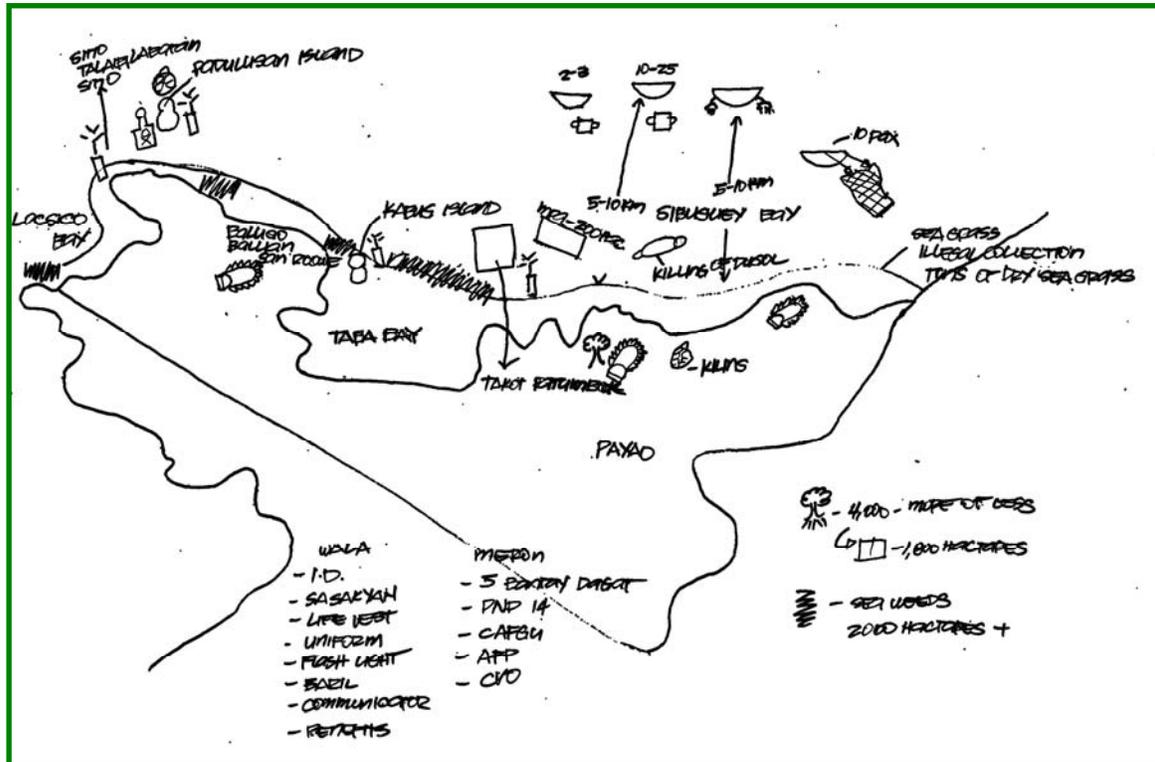
Payao has five Bantay Dagat members, 14 PNP officers, members of CAFGU, AFP personnel, municipal employees and Civilian Volunteer Organization (CVO) that can be tapped for coastal law enforcement operation. However, the municipality lacks the basic resources to carry out the task. Unlike the three municipalities, Payao has no patrol boat, communications equipment and safely gadgets. Aside from patrol boat, the participants listed life vests, uniforms, flashlights, identification cards, insurance benefits and firearms as necessary for effective coastal law enforcement.

### **Violations Observed**

The community law enforcement mapping showed that dynamite fishing happen throughout the coastal area of Payao. Special areas of concern were Sitio Talaib, in Brgy Labatan, Padilusan Island and Kabug Island where incidence of dynamite fishing was reportedly very high. Use of noxious substance was also prevalent in Padilusan Island but was not observed elsewhere. Below is the copy of the participatory law enforcement map, which indicate among others, the types of violations observed and their location.

“Baby trawl” were not observed to be operating along the coast of Payao. The commercial type (“*palupad*”) operate throughout the municipal waters at the distance of

about 5-6 kilometers from the coastline. The two kinds of Danish seine (“Giant” or “Zipper” and “buli-buli” or *hulbot-hulbot*) operate at the distance between 5 and 10 kilometers from the coastline while commercial purse seines also operate in the same area. Interestingly, these purse seines do not employ the same strategy of deploying their light boats near shore and then slowly guiding the school of fish towards deep waters where the main boat (purse seine) waits to catch the aggregated school of fish. Instead, the purse seines conduct the whole fishing activity within the 5-10 kilometers distance from the coastline.

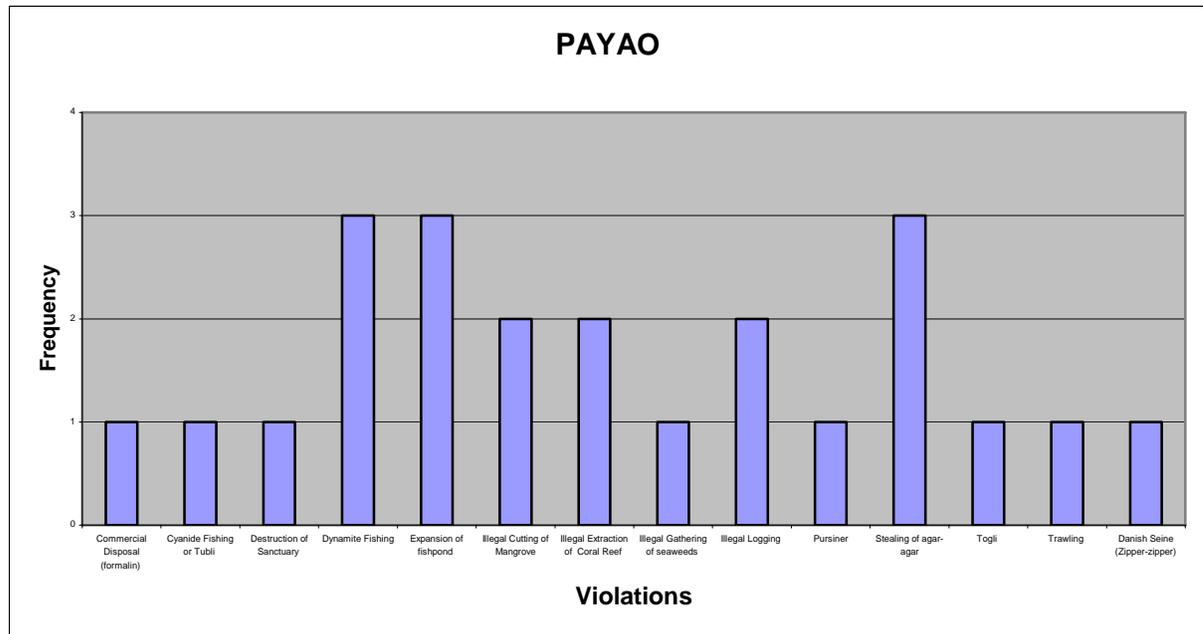


The use of fine mesh nets was not reported. Mangrove cutting was reported to be prevalent in Barangays Batugo, Ballan, San Roque, Silal, Kima, Kulasian, Bulanan and Guiwan. It has been estimated that about 1,800 hectares of the more or less 4,000 hectares of mangrove areas have been converted to fishponds. Premature release of poisoned water from fishponds, which result in unintentional poisoning of adjacent fry and fishing grounds was likewise mentioned.

Commercial collection of dried sea grasses was also identified. This raises a particular concern as this is the only instance that this type of resource extraction was mentioned. It was reported that over 12 tons of dried sea grasses was shipped from the municipality directly to market in Cebu. Coral extraction for housing and construction of public works was also reported.

Sea turtles and dugongs were reportedly being slaughtered in the area. Sea turtles were reportedly being collected in Padilusan Island and in the coast of Silal, Kima, Kulasian,

Bulanan and Guiwan. This indicates that the area is still very rich in marine life including endangered species that require immediate protection. Summarized below are the kinds and frequency of violations observed by the participants in the assessment conducted by the project.



### Enforcement Operation

Coastal law enforcement operation to arrest violators of fisheries and other environmental laws appears to be wanting. This came rather as a surprise, since it was reported in a Philippine Daily Inquirer article that the former mayor of Payao died during and in the course of an actual fisheries law enforcement operation. No apprehension was reported for the year 2005 or from previous years. Moreover, there is no concrete indication that coastal law enforcement will happen within the immediate term. Interviews with the Local Chief Executive and the local police officers indicate some degree of willingness to conduct coastal law enforcement. However, the limited capacity, resources and prevailing peace and order situation in the area pose serious challenges to such initiative.

### Capability

Tabulated result of the TNA questionnaires indicate that majority of the participants (8 out of 12) have attended trainings on the Fisheries Code. However, only few of them (4 out of 12) have attended trainings on Forestry Code while half (6 out of 12) have attended training on the NIPAS Act. Only one of the respondents who attended the forestry training is really familiar with the law and had used the same.

In terms of skills on law enforcement, only one respondent is aware of the rights of the accused. Only one respondent is fully familiar with evidence gathering and

documentation, court procedure and arrest and seizure procedure. Only two have had experience writing affidavits and criminal complaints.

The municipality lack logistics (patrol boats, arms, budget), human resources and trainings to effect law enforcement. On the training component, the participants listed six (6) topics that they want to learn about. Of these topics, their priority appeared to be the following: Fisheries Code (1), coastal resource management (2), boarding procedure (3), arrest, search and seizure (4), ecosystems (5), Local Government Code (6).

## **GENERAL AND SPECIFIC OBSERVATIONS**

### **COMMON AND SITE SPECIFIC VIOLATIONS**

The Municipalities of Tungawan, RT. Lim, Naga and Payao Zamboanga-Sibugay present an interesting environmental enforcement challenge. As expected, the municipalities share common environmental law violations. These violations include dynamite fishing, fishing with the use of noxious substance, use of fine mesh nets, use of destructive fishing gear such as bottom trawl and Danish seine, and commercial fishing and use of active fishing gear inside municipal water.

Illegal conversion of mangrove to other uses, primarily for fishpond development is also prevalent in all the four municipalities. By and large the municipality of Payao has the highest estimated illegally constructed fishpond covering over 1,500 hectares. Killing of dugong and sea turtles as well as commercial collection of dried sea grass and corals were also reported in Payao. These last three violations were not reported in the other three municipalities.

The documented incidence of illegal fishing raises grave concern. For instance dynamite fishing is reported to happen daily in Tungawan and RT Lim while the same violation is reported to happen many times daily in Naga and Payao. If this information is correct, and we interpret “many times daily” as at least five incidents, “daily” as one incident a day and “once a week” as one incident per week, then the minimum number of dynamite fishing incidents in the four municipalities in one year can go as high as 4,380. Using the same assumptions, baby trawl fishing will account for at least 01,151 violations a year. Summary of the estimated number of coastal and fisheries violations in the four municipalities each year is shown in Annex Tables 1 and 2 (page 44).

Our estimate indicates that there is a total of sixteen thousand four hundred seventy four coastal and fisheries law violations committed in the four municipalities each year. Comparing the number of recorded apprehensions with the estimated number of violations, is like comparing a drop of water with a bucket filled with water. The extent of damage this number of violations has on the coastal and fisheries resources in the four

municipalities, can be subject of further study. At the moment, suffice it to say that the viability of the coastal and fisheries resources in the four municipalities is clearly at risk.

### **DEVELOPMENTAL STAGE OF KNOWLEDGE, SKILLS AND CAPACITY**

In terms of local capacity to implement coastal and fisheries law, it would appear that most of the conditions for effective coastal and fisheries law enforcement are still wanting. Tungawan appears to be advanced compared to the other three municipalities as shown by its active law enforcement effort. RT Lim exhibited some effort to enforce the laws but it has not reached the stage where cases are filed in court against violators. Naga appears to have most number of violators but aside from a training conducted by BFAR, recorded actual enforcement activities are relatively low. The situation in Payao is very challenging because while many who were interviewed were aware that coastal and fisheries law violations are prevalent in their area, concrete actions to prevent or address them are generally wanting.

The level of knowledge and skills in implementation of coastal and fisheries laws are relatively low in the four municipalities. These knowledge and skills are important to effect the desired level of coastal and fisheries law enforcement. Only few of the respondents have had trainings on Fisheries Code, Forestry code, enforcement procedures, documentation and evidence gathering. Still fewer are those that have actual experience on environmental law enforcement. This observation is revealing considering that majority of the respondents are considered to be active participants in the ongoing CRM effort. From here we can surmise, that the level of knowledge and skill on coastal and fisheries law enforcement amongst other vital CRM players is even lower.

### **PEACE AND ORDER CONDITION**

General knowledge of prevailing peace and order situation in the area and actual observation of actual law enforcement patrol indicate that security for coastal law enforcement is an important concern. Unlike in other areas of Luzon where coastal law enforcement can be effectively implemented even with relatively small armed security component, coastal and fisheries law enforcement in the municipalities covered by this report must and should include a relatively strong security component. In Tungawan for example, at least eight heavily armed security escorts accompany the enforcement operations.

### **NEED FOR SPECIAL SKILLS AND TRAINING**

Special skills and training are required in the successful enforcement and prosecution of coastal and fisheries law. The nature of these special skills is determined by existing regulation, the nature of the offense and the rules of court on admissibility of evidence. For instance, trees identification and scaling are important in apprehension and successful

prosecution of illegal cutting cases, while mapping and plotting are important components for a successful prosecution of poaching and violation of Section 90 of Republic Act 8550. Expert testimony is also important in the prosecution of dynamite and cyanide fishing cases.

### **FIELD AND POLITICAL REALITIES POSE CONSIDERABLE CHALLENGE**

Sibuguey Bay continues to hold a vital continuous natural mangrove forest and coastal resources of the country. Endowed with much resource, the area has been the source of marine organisms and forest products both legal and illegally obtained for generations. Understandably, the areas' natural resources are now the subject of two seemingly opposing interest- the interest to conserve and protect and the interest to utilize and benefit, lawfully or unlawfully from the resources. Conservation organizations, international funding institutions and officially, the government represent the group espousing the first one, while majority of the local inhabitants, especially those whose means of livelihood depend on the utilization of the coastal and fisheries resources represents the second.

It would be unrealistic to believe that the people in the area who are primarily dependent on the utilization of the portion of these vast resources would be fully supportive of resource management and the full implementation of the Coastal and Fisheries Law Enforcement Program. Despite official pronouncements of support from local officials on coastal and fisheries law enforcement, local political realities will continuously challenge local officials from full implementation of the coastal and fisheries law.

### **SOURCE, CHARACTERISTICS AND NATURE OF COASTAL AND FISHERIES LAW**

Another critical factor that should be considered is the characteristics and nature of coastal and fisheries laws that need to be enforced. Our Revised Penal Code is a listing of various acts that provide for penal sanctions while the rest of prohibited acts are found in Special Laws. Penal provisions contained in the Revised Penal Code and those contained in Special Laws have both substantial and historical differences. Acts being punished in the Revised Penal Code are generally categorized as *mala en se*, or wrong in itself while acts punished by specials laws are known as *mala prohibita*, or wrong by reason of the prohibition.

The historical origin of the former is the universal concept of right or wrong. It assumes a kind of general acceptance and permanency. The latter is based on specific circumstance and can vary from time to time and from place to place depending on the circumstances. Except in self-defense, our moral judgment will find killing a man as wrong even if no law prohibits the same. On the other hand, cutting trees or catching fish are not wrong in itself. Depending on the circumstances, cutting trees or catching fish can be made unlawful by legislation. Most penal provisions sought to be enforced in environmental laws fall under the category of *mala prohibita*. Consequently:

- Most actions being penalized by environmental laws are not perceived as wrong in itself by the general population like fishing with fine mesh net or using active gears in municipal water. There is a need, therefore, for people, particularly the enforcers and possible violators, to know and understand for themselves the content of the legislation and why some acts are prohibited;
- Violation of coastal and fisheries laws does not necessarily result in negative community or societal sanction. Societal contempt comes easier to a thief than to an illegal fisher;
- Because of lack of knowledge and understanding, community support for special penal legislation, is low or hardly palpable. Enforcement of special laws, especially its penal provisions, is often unpopular. This negatively affects the disposition of law enforcers who could be vulnerable to societal and political pressure;
- Coastal and fisheries legislations, which contain penal provisions, are fairly recent compared to those in the Revised Penal Code. Awareness on the existence and appreciation of these laws is very low. Recent training conducted by Tanggol Kalikasan and the Institute of Environmental Governance involving national and local officials confirm the very low level of appreciation among local officials who are likewise mandated to enforce these laws.

## **RECOMMENDATION**

### **COASTAL AND FISHERIES LAW ENFORCEMENT PROGRAM**

There is a consensus among CRM players that there are enough laws, rules and regulations that promote resource management and protection. While not perfect, our fisheries and coastal laws are strong pieces of legislation that provide enough protection for our coastal and fisheries resources. Despite the presence of these laws, destruction of our coastal and fisheries resources remain unabated as these laws are often violated. The estimated 16,467 violations of coastal and fisheries law in the four municipalities covered by this report attest to this trend.

Sustained coastal and fisheries law enforcement is necessary to stem the tide of resource destruction in Sibuguey Bay, brought about by continued violations of coastal and fisheries laws. A coastal and fisheries law enforcement program should be in place and implemented in conjunction with other resource management initiatives to ensure the protection and productivity of the coastal and fisheries resources of Sibuguey Bay.

## PRINCIPLES AND CONCEPTS OF COASTAL AND FISHERIES LAW ENFORCEMENT

The proposed Coastal and Fisheries Law Enforcement Program in Sibuguey Bay must be consistent, efficient, just and sustainable even beyond the term of any externally supported coastal and fisheries law enforcement program. The program should take into account the need to maintain the balance between the processes required to carry out the program and the need to produce tangible and measurable results. Appropriate use of participatory processes is encouraged at the level of issue identification, problem solving and to a certain extent implementation and result monitoring. To achieve the above stated goals and objectives, it is recommended that the Coastal and Fisheries Law Enforcement Program for Sibuguey Bay should be guided by the following principles and concepts:

- ***Multi-stakeholdership*** - All those who depend on and protect the resources of Sibuguey Bay should be seen as stakeholders who are bound to benefit in the sound management, conservation and protection of the Bay, through effective, efficient and sustained coastal and fisheries law enforcement. Therefore, coastal and fisheries law enforcement should be pursued and implemented in partnership with all stakeholders in the Bay.
- ***Sustainability through self reliance*** - where the goal is for stakeholders and permanent institutions to willingly employ their respective resources to ensure sustained coastal and fisheries law enforcement. Thus, coastal and fisheries law enforcement programs should take into account available local resources and local capacity to manage and finance continuous enforcement activity. Support from external sources should be directed for start up activities such as training and capacity building. Purchase of equipments and floating assets should take into consider local capacity to pay for the cost to operate and maintain such equipments.
- ***Site Specific*** - Coastal and fisheries enforcement is attended and affected by the dynamism of several factors, including specific destructive practices, nature, condition and location of resources, prevailing peace and order condition, availability and accessibility of resources, policy and law, among others. Results of the participatory law enforcement mapping clearly show the variations. Hence, lessons culled from similar and related experiences on coastal and fisheries law enforcement should be used as guide and not as template for each municipality.
- ***Law enforcement is a continuum*** - Law enforcement starts with crime prevention and end in deterrence. Prevention is more effective and least costly while deterrence is achieved only after conviction and penalty is meted out. Thus, crime prevention should be given preference in all enforcement programs. On the other hand, if apprehension is made, the effort should be directed until conviction.

- ***Respect for Human Rights*** - Coastal and fisheries law enforcement should be implemented with full respect for, and promotion and protection of, the Constitution and Basic Human Rights as enunciated in the Philippine Constitution, international instruments, laws, rules and regulations, and jurisprudence. Coastal and fisheries law enforcers should be given appropriate orientation on how to respect human rights and the value of adhering to these principles.
- ***Primary Jurisdiction of Municipal Government*** - Local Governments, particularly the Municipal Government has the primary jurisdiction on coastal and fisheries law enforcement in municipal waters. The important role and political leadership of municipal and barangay governments, and the provincial government, should be a paramount consideration in attaining effective and sustained law enforcement. Translated to project operational terms, bulk of intervention should be directed toward attaining local government capacity for coastal and fisheries law enforcement. This in a way is a different approach to community law enforcement where the focus of the intervention is on organized community members.

## **COMPONENTS OF THE PROGRAM**

Based on the observations, principles and concepts earlier presented, we are proposing a multi-component coastal and fisheries law enforcement program to be implemented in Sibuguey Bay. This law enforcement program shall include the following components: (1) Formation of coastal and fisheries law enforcement group; (2) Capacity building and strengthening of enforcement groups, (3) Coastal and fisheries mass information, (4) Collation of intelligence information and surveillance (5) Support for and actual enforcement operation (6) Legal and institutional support for prosecution and defense; (7) Enforcement policy support; (8) Formation of bay-wide coastal and fisheries law enforcement group.

### **1) Formation of Municipal Coastal and Fisheries Enforcement Group (CLEG<sup>1</sup>)**

Coastal and fisheries enforcement is founded on the mandates of various legislations, rules, regulations and agreements that lay down the powers, duties and responsibilities of governmental institutions and the participation of private citizens. Success of enforcement of coastal and fisheries law in Zamboanga Sibugay lies therefore, with both national and local government agencies and the able support and participation of stakeholders. Among the government institutions mandated to implement coastal and fisheries laws are the following:

- 1) Department of Environmental and Natural Resources
- 2) Bureau of Fisheries and Aquatic Resources
- 3) Philippine Coast Guard

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<sup>1</sup> This acronym was first introduced in the province of Bohol by the FISH Project of USAID.

- 4) Philippine National Police
- 5) Philippine National Police-Maritime Group
- 6) Armed Forces of the Philippines
- 7) Department of Interior and Local Government
- 8) Provincial Government of Zamboanga-Sibugay
- 9) Municipal government within the Sibuguey Bay
- 10) Barangay government within the Sibuguey Bay
- 11) Fisheries and Aquatic Resources Management Councils

The above named institutions should be encouraged to maximize the possibilities, within the context of their powers, duties and responsibilities, to directly and collaboratively participate in coastal and fisheries law enforcement. This can be done through the formation and institutionalization of composite coastal and fisheries law enforcement groups (CLEG) in each municipality. The formation of the municipal wide composite law enforcement group can eventually give rise to a wider and more encompassing Sibuguey Bay Coastal and Fisheries Law Enforcement group. Initial members of the municipal wide enforcement group may include the following:

- 1) Forest Ranger from Local CENRO
- 2) BFAR Deputized Fish Examiner
- 3) Philippine Coast Guard (when available)
- 4) Philippine National Police
- 5) Philippine national Police-Maritime Group (when available)
- 6) Armed Forces of the Philippines (when available)
- 7) Municipal Agriculture Officer and staff
- 8) Barangay Captains of Coastal Barangay
- 9) Deputized Bantay Dagat
- 10) Members Fisheries and Aquatic Resources Management Councils

The Municipal CLEG can be institutionalized through a memorandum of agreement amongst the local government and the line agencies. The creation and operational protocols can be made and established by an Executive Order of the Municipal Mayor. The local Sangguniang Bayan on the other can support the coastal and fisheries law enforcement initiative by allocating the necessary budget for capacity building, enforcement operation, and prosecution. The Municipal Sanggunian can also pass local coastal and fisheries ordinances, policies, programs and plans that pursue the objectives and substance of coastal and fisheries law enforcement.

The Municipal CLEG shall operate primarily in their respective municipality in a non-exclusive manner. This means that their operation shall be in conjunction with other regular law enforcers. However, to avoid confusion and possible conflict with other law enforcement agencies, the Mayor shall coordinate with other law enforcement groups working in the area.

A complementary Sibuguey Bay Resource Management Council composed of the Governor and all Mayors and other stakeholders of all the municipalities may be

organized, as mandated by the Local Government Code. This Council shall be responsible, among others, for ensuring that law enforcement initiatives of the different municipalities are consistent and properly coordinated.

## **2) Capacity and Strengthening of Enforcement Groups**

Costal and fisheries law enforcement is largely dependent on the capacity of the enforcement group and support institutions. Thus, successful coastal and fisheries law enforcement program should include strengthening the capacity of the governmental institutions to manage and protect the coastal and fisheries resources of Zamboaga-Sibugay. At the same time, it also requires empowerment of other stakeholders, to participate in resource management and protection.

Effectiveness of these institutions in Province of Zamboaga-Sibuguey appeared to be generally developmental in stage when measured by (1) their personnel capacity to rigidly enforce coastal and fisheries laws within their respective jurisdictions; (2) their willingness to allocate resources for law enforcement purposes; (3) availability of these resources; 4) their capacity to formulate and enforce plans, policies, ordinances, rules, regulations, and programs towards protection and sustainable utilization of the coastal and fisheries resources; (5) their capacity to show substantial number of apprehensions and prosecution; and (6) the viability of public support and participation in coastal and fisheries law enforcement.

The capacity of the decision makers and law enforcers from the local government of the four municipalities has earlier been described. Clearly, there is a need to implement a capacity building program for these decision makers and enforcers. Based on the Training Needs Assessment, the project would like to recommend two sets of training for all the Municipalities covered by the project.

One training is directed to decision makers and enforcement support groups, which in the local government context include the local Sanguniang Bayan, members of Fisheries and Aquatic Resources Management Council, designated CRM working group, local NGOs and POs. These groups of participants are not necessarily coastal and fisheries law enforcers, but people with considerable power to influence and/or decide on matters of budget, planning, and coastal and fisheries law enforcement support activities such as intelligence gathering and information and education campaign.

The objective of this training is to inform the target participants on 1) the current state of the coastal and fisheries resources in their respective area; 2) the laws related to these resources; 3) the different interventions legally available to protect the coastal and fisheries resources; and 4) the role that each group or individual can play in coastal law enforcement. At the end of each training, the group can write an action plan, which can guide the group's course of action on a short term (six months to one year) basis. Suggested design for this training is as follows:

<b>Topic</b>	<b>Objective</b>	<b>Content</b>	<b>Method</b>
State of the Coastal and Fisheries Resources in Sibuguey Bay	Develop a consensus on the state of coastal and fisheries resources in the area; develop a vision for coastal and fisheries resources in the area and list activities that need to be done to achieve this vision.	State of the Coastal Environment; Vision for the Coastal Environment; List of action to attain the vision	Participatory workshop with input and processing
Role of Government in the protection of coastal and fisheries resources	Identify and explain the Constitutional provisions on the environment; Local Government Code provisions and those of other laws on the role of Local Government in coastal and fisheries resource protection and management	Constitutional provisions on the environment; Local Government Code provisions on the role of Local Government in environmental protection and resource management	Animated lecture and discussion; chalk talk.
Coastal and Fisheries Law	Enumerate and explain relevant provision in Forestry Code, Chainsaw act, Coconut Conservation Act, Fisheries Code, Municipal Fisheries Ordinances, Fisheries Administrative Orders and other related issuances.	Revised Forestry Code as amended (focus on mangrove); Chainsaw Act and related issuances; R.A. 8550; Relevant Fisheries Administrative Orders; Municipal Ordinance of Tungawan, RT Lim, Naga, Payao, Zamboanga-Sibugay, as the case may be.	Lecture with power point presentation
Management Intervention	Identify and explain the different resource management interventions that are available for implementation in their respective area.	Fish sanctuary establishment; mangrove enhancement; coastal zoning; close and open season; etc.	Lecture-discussion/ case study presentation
Introduction to Coastal and Fisheries Law Enforcement	Explain the importance of law enforcement; define arrest and explain when arrest can be made; draw and explain criminal case flow; explain the role of local legislative bodies and support groups in coastal and fisheries law enforcement.	Case Study on the impact of law enforcement; definition of arrest and citizen's arrest; when arrest can be made; criminal case flow; role of support groups in law enforcement	Lecture-discussion with case study presentation
Planning	List activities or programs that need to be implemented in their given area in response to identified issues; prioritize the programs listed; draw an implementation plan for the programs identified.	Review of the first workshop; input on planning process; planning Proper	Participatory Planning Process

The other training is designed primarily for the coastal and fisheries law enforcers. These include regular and designated coastal and fisheries law enforcement agents and such other persons or volunteers from institutions who will participate in the coastal and fisheries law enforcement efforts. The training shall include topics on science, substantive law, procedural law and enforcement skills. To be included in the training program are Standard First Aid and Basic Life Support, as well as Safety Training at Sea to promote the protection and safety of law enforcers. Proposed design for this training is indicated below:

<b>Topic</b>	<b>Objective/s</b>	<b>Contents</b>	<b>Method</b>
Preliminary Activities -Opening -Introductions -Expectation -House Rules			
Enforcement Situation	Develop a consensus on the state of coastal and fisheries law enforcement in the area; develop a vision for coastal law enforcement and list actions to attain this vision.	State of the coastal and fisheries Law enforcement; Vision for coastal and fisheries law enforcement ; List of action to attain the vision	Participatory workshop with input and processing
Break			
Government and the Environment	Identify and explain the Constitutional provisions on the environment; Local Government Code provisions and those of other laws on the role of local government in coastal and fisheries protection and resource management, which are the source of authority for enforcers to implement coastal and fisheries laws.	Constitutional provisions on the environment; Local Government Code provisions on the role of local government in environmental protection and resource management	Animated lecture and discussion; chalk talk.
Lunch Break			
Forestry and Other Related Laws	Enumerate and explain the elements of the crimes spelled out in Forestry Code, Chainsaw act, Coconut Conservation Act and other related issuances	Revised Forestry Code as amended (focus on mangrove); Chainsaw Act and related issuances	Lecture with power point presentation
Break			
Fishery Laws	Enumerate and explain the elements of the crimes spelled out in Fisheries Code, Municipal Fisheries Ordinances, Fisheries Administrative Orders and other related issuances.	R.A. 8550; Relevant Fisheries Administrative Orders; Municipal Ordinance of Tungawan, RT Lim, Naga, Payao, Zamboanga-Sibugay	Lecture- discussion with power point presentation
Day 2 Preliminaries -Recap -Others			
Arrest, Searches, Seizures and Detention	Define and explain arrest; enumerate the situations where warrantless arrest can be effected; list and explain the rights of the accused; give examples of situations where lawful searches can be made	Definition of arrest; when to effect warrantless arrest; rights of the accused; when lawful searches can be made; how to effect lawful search;	Lecture- discussion with power point presentation

<b>Topic</b>	<b>Objective/s</b>	<b>Contents</b>	<b>Method</b>
	and how to effect lawful search; provide timeframes when suspects can be legally detained.	rules on detention.	
Break			
Criminal Procedure	Relate how the Criminal Justice System works; draw and the explain the criminal case flow; list roles of enforcers in criminal prosecution	Criminal Justice System; Criminal Case Filling; Criminal Case Flow; Roles of Enforcers in Criminal Prosecution	Lecture- discussion with power point presentation
Lunch Break			
Investigation and Evidence Gathering	Explain the concept and use of investigation; narrate the rules on custodial Investigation; define evidence; Enumerate and explain the relevant rules on evidence (admissibility of evidence)	Investigation in general; Rules on Custodial Investigation; Relevant Rules on Evidence (admissibility of evidence; competency and relevancy, hearsay rule etc.)	Lecture- discussion with power point presentation
Break			
Forms Familiarization	Writing of complaints, affidavits, seizures and apprehension receipts and apprehension reports	Writing of complaints, affidavits, seizures and apprehension receipts, and apprehension reports	Lecture, Case Study and Workshop
Boat and boat parts identification	Draw and identify the different parts of a vessel; explain the purpose and use of each part; list areas of the vessel which should be inspected during law enforcement operation.	Different parts of a vessel; purpose and use of each part; areas of the vessel which should be inspected during law enforcement operation.	Animated lecture with pictures and video presentation.
Preliminaries -Recap -Others			
Rules on Navigation and Seamanship	List and explain the rules on navigation; list aids to navigation; and explain the use and function of each navigational aid.	Rules on navigation; aids to navigation; use and function of navigational aid; introduction to map and compass reading.	Lecture discussion; role playing and exercises.
Break			
Lecture: Boarding Procedure  Field Laboratory Boarding	Identify and explain the part of the boat where law enforcer should board; act out safety and security procedure when boarding; list and identify the areas to be inspected; and fill up the necessary forms after boarding.	Part of the boat where law enforcer should board; Safety and Security Procedure when boarding; areas of the boat to be inspected; forms needed to be filled up	Lecture, workshop and field laboratory

Topic	Objective/s	Contents	Method
		after boarding; and tips on boarding	
Preliminaries			
Safety and First Aid			
Break			
Enforcement Laboratory	Practice and act out patrol operation; boarding and apprehension; prepare the necessary forms, documents and evidence for case filing; actual filing of complaint	Actual patrol operation; boarding and apprehension; necessary forms, documents and evidence for case filing; actual filing of complaint with the prosecutor or Municipal Trial Court	Practical Exercise from Law Enforcement Patrol to Filing of Complaint
Training Assessment and Closing Activities			Filling up of Assessment Forms

Barangay captains and the SB chairperson on environment of all the barangays within and surrounding the bay may also undergo training on Environmental Governance designed by Tanggol Kalikasan for barangay officials. This training program, called the Institute of Environmental Governance (IEG), is accredited by the Local Government Academy and the Department of Local Government for nationwide implementation. The accreditation allows the IEG to collect registration fees out of barangay funds from the officials being trained. Considering the number of participants to be trained, the constant changes in the person of local officials on account of elections and the need to keep all these key officials informed, this training program can be established and operated by a local state college or university to ensure long term sustainability. Mayors, designated Municipal ENRO, the SB Chair on Environment, local PNP can likewise be trained on the same subject, on a program specifically designed for their needs. The concept paper of this particular training program is attached as Annex.

### 3) Coastal and Fisheries Mass Education

Having recognized the low appreciation and understanding of the general population on the provision and merits of coastal and fisheries laws and how violation of these laws directly affects the stakeholders, it becomes imperative to conduct mass information and education campaign. The information and education campaign in the context of coastal and fisheries law enforcement shall have the following objectives:

- Informative. This recognizes that the general population are not really aware of the existence, contents and implications of coastal and fisheries law enforcement. That the necessary legal presumption that the people ought to know (*ignorantia legis non excusat*) should be combined with real effort to make the information readily available and understandable;

- Transformative. The goal of coastal and fisheries mass information in the context of law enforcement is to effect behavioral change. People must understand the reason behind the coastal and fisheries regulations so that they will support and follow the regulations without need of being coerced.

Coastal and Fisheries IEC shall be implemented before and during the conduct of actual coastal and fisheries law enforcement and shall continue until such time that sufficient public support has been generated. This component may include the following activities: (1) creation of interpretative billboards; (2) popularization of coastal and fisheries laws in comic form; (3) regular radio and television broadcast in areas where the same is applicable; (4) mainstreaming environmental law education thru the use of mass media.

Moreover, it is recommended that relevant provisions of law be translated or explained in the language or dialect understood by the general population. As much as possible, the same should be written and explained in layman's language. Among the laws that can be translated and explained are the following: (1) The Law on Illegal Logging; (2) The Chainsaw Act; (3) Wildlife Conservation Act; (4) Law on Illegal Fishing and Poaching; (5) Relevant Provisions of the Local Government Code; (6) Relevant Provisions on the Solid Waste Management Act and others.

To further promote the popularization of the coastal and fisheries law enforcement and conservation effort in Sibuguey Bay, laws and other relevant activities can be presented in film. Video production of relevant legislations and dissemination thereof to general population is very helpful. These video productions shall always be included as part of regular and special trainings, symposiums or lectures conducted within the area of or about Sibuguey Bay.

To provide awareness and information and to generate public support, all operations, apprehensions and status of prosecution in the context of the coastal and fisheries law enforcement should be made available to both local and national media. Media access to this information should be encouraged and facilitated to ensure that newsworthy enforcement efforts or activities are published. Experience in other areas shows that timely dissemination of law enforcement actions discourage undue intervention by powerful people, collusion and corruption.

#### **4) Collation of Information and Surveillance.**

It is assumed that aside from the result of the project's community mapping, there are existing information on the operation, location, frequency and even identity of violators of coastal and fisheries law in the area. There may be a need to collate all these information, and process the same to bring out the initial picture of environmental law violations in the entire bay. The collated information can be drawn on a map and be the basis of initial surveillance plan of the Municipal Coastal and Fisheries Law Enforcement Group.

The initial surveillance will have for its purpose, (1) verification of the collated information; (2) area familiarization; (3) further data gathering for purposes of enforcement operation. Initial surveillance can be done in the municipal waters, in the mangrove area, fish trading areas and fish landing points.

Information taken in the initial surveillance will help in the operations planning of the municipal coastal and fisheries law enforcement group and its day-to-day law enforcement operation. The initial information on the surveillance operation will also help identify areas where check-points, observation posts and stations can be constructed or established.

## **5) Support for and Actual Enforcement Operation**

As earlier proposed, CLEG shall be organized in each municipality within and bounding Sibuguey Bay to effect sustained law enforcement actions. Each member of the group shall be trained on environmental law enforcement for both coastal and fisheries component and shall be deputized to carry on the task of enforcement by the Office of Municipal Mayor. The Municipal Mayors shall have operational control over the activities of the coastal and fisheries law enforcement groups.

These CLEGs should be provided with all the necessary logistical, material, technical and legal support. Law enforcement operations should be based on updated intelligence information to ensure operational success. Each group should be equipped with necessary equipments and implements, including firearms, computers, printers and communication equipments.

As far as practicable, operation in the area shall be on a “start to finish” basis. This means that the work of the CLEG is deemed complete only upon the filing of appropriate charges before the prosecutor’s office or the court. Operationally, this requires that the apprehension, seizure, investigation, detention and filing of cases should have been completed before the CLEG physically withdraw from a particular area of operation.

Procedure for apprehension for coastal and fisheries law violation shall be standardized. Relevant portions on the rules of engagement of the PNP, seizure, examination procedure of the Bureau of Fisheries and Aquatic Resources (BFAR) and those of the Department of Environment and Natural Resources shall be adopted to the extent that they are applicable in the area. This standard apprehension procedure shall be part of the manual of operations for Sibuguey Bay, which shall be reproduced and issued to all enforcement agencies operating in the area. All apprehensions made should result in successful prosecution and conviction. Proper gathering and preservation of evidence is essential to successful prosecution of coastal and fisheries cases.

Another activity proposed under support for actual enforcement operation is the regular law enforcement operations clinic. Here, representatives of CLEGs meet regularly with lawyers and other experts to report and discuss experiences and issues related to enforcement.

## **6) Support for Prosecution and defense**

Coastal and fisheries law enforcement is not complete without conviction and punishment of the violator. Thus, litigation and prosecution is seen as important element of the coastal and fisheries law enforcement program. Successful prosecution of coastal and fisheries law violation starts on the level of the apprehending officials. Necessarily, there has to be close collaboration and understanding between members of the apprehending team and the prosecutor.

Collaboration and teamwork between apprehending officers and prosecutors has always been a challenge even in ordinary criminal cases. We have reasons to believe that the same situation exists in the prosecution of coastal and fisheries law violations. (1) Unfamiliarity of the public prosecutors on the substantive and procedural aspects of coastal and fisheries law violations; 2) incessant substitution of prosecutors assigned to handle cases; (3) absence of private party interested to pursue the case, i.e. to do follow ups and to pay the cost; and (4) re-assignment of apprehending officers to other areas which due to distance, prevent them from testifying in cases, are the known drawbacks, among others, to effective prosecution.

With these in mind, we believe that either permanent special prosecutor be assigned to handle cases of coastal and fisheries law violation in the whole Sibuguey Bay or all prosecutors assigned in Zamboanga-Sibugay will be given appropriate orientation and if necessary, training on coastal and fisheries law. Measures should also be taken to minimize staff re-assignments, especially for personnel who need to testify in the prosecution of violators.

In addition, support will also be given for needed legal research and administrative expenses so that members of CLEG can do the coordination and follow up. Items allowable for support under legal research include standard textbooks on coastal and fisheries law and compilation of environmental law jurisprudence. On the other hand, administrative support will include photocopying expenses, expenses for transcript of stenographic notes and others.

Transportation and living expenses incurred by witnesses and prosecutors in relation to the prosecution of coastal and fisheries law violations should be made available. During the initial phase, this matter should be brought forward for discussion among the various CRM players. Sustainability mechanism shall later on be developed to ensure the continuation of support to witnesses after the termination of the project.

Taking into account experiences in areas that we are familiar with, the law enforcement program for Sibuguey Bay should include legal defense for enforcers facing harassment suits. Anecdotal information shows that harassment suits if not properly addressed have profound effect on the welfare and disposition not only of individual enforcers facing harassment suit, but on the whole law enforcement effort. A mechanism to respond to this need should be developed and a legal defense fund should be generated and allocated for this purpose.

## **7) Enforcement Policy Support;**

The goal of policy development in the context of the coastal and fisheries law enforcement program is not to enact new legislations to be implemented. Rather, this refers to policy development in aid of implementation and enforcement of existing policies in the context of coastal and fisheries law enforcement. These policies may include (1) implementation protocols among and between members of Coastal Law Enforcement Groups; (2) standardized apprehension procedure for terrestrial and marine environmental violations; (3) establishment of a centralized documentation and case docketing system; (4) formulation of standardized system of release of information on updates and status of coastal and fisheries enforcement actions to the general public; and (5) rewards and incentive system for the Coastal and Fisheries Law Enforcement Group, individual members thereof, as well as informers and participating members of the community;

## **8) Formation of Bay wide Coastal and Fisheries Law Enforcement Group.**

The project can also facilitate the formation of a Bay Wide Coastal and Fisheries law Enforcement Task Force. This Task Force shall be directly under the control and supervision of the Provincial Government and the Bay Wide Council and shall be composed of elements from the Philippine National Police, Armed Forces of the Philippines, Philippine Coast Guard, Bureau of Fisheries and Aquatic Resources, Department of Environment and Natural Resources and duly recognized volunteer law enforcers. This task force shall operate in strategic areas within and outside the Sibuguey Bay and shall play a supporting role to the municipal coastal and fisheries law enforcement group. The task group shall be responsible for apprehending “big-time” violators of coastal and fisheries law. Logistical support, training and incentives should likewise be provided to the Task Force. Operations protocol for the Task Force should be consistent with the operations protocols of the municipal coastal and fisheries law enforcement group.

## **PROGRAM PHASES**

We propose that the first six components should be implemented in all the four municipalities in various phases within an indicative period of three years. During this period or thereafter, other municipalities who wish to adopt the program can also participate until such time that all the municipalities in Sibuguey Bay are implementing their respective municipal law enforcement program. It is projected that implementation of last component should commence on the second year, when the law enforcement program of the four municipalities have already taken shape. Outlined below is the propose timeline for the various components of the propose law enforcement program:

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12
<b>(1) Formation of four (4) coastal and fisheries enforcement group</b>												
➤ Municipal Ground working and organization												
➤ MOA signing between LGU and participating NGAs												
➤ Launching of Municipal Coastal Law Enforcement Group												
<b>(2) Capacity building and strengthening of Enforcement Groups</b>												
➤ Municipal Orientation on coastal and fisheries law for enforcement and policy support groups												
➤ Capacity Building Training for Members of Law Enforcement Group												
➤ Specialized Training for selected enforcers												
<b>3) Coastal and fisheries mass information</b>												
➤ Identification/engagement of media channel/IEC group												
➤ Production of Information Materials												
➤ Public diffusion of information materials.												
➤ Impact Assessment												
<b>4) Collation of Initial Information and Surveillance</b>												
➤ Gathering and Collation of Intelligence Information												
➤ Initial Surveillance												
<b>4) Support for and actual enforcement operation</b>												
➤ Acquisition of Equipments												
➤ Adoption of Law enforcement procedures / protocols												
➤ Enforcement Planning												
➤ Enforcement Operation												
➤ Quarterly Law Enforcement Clinic												
<b>5) Legal and Institutional support for prosecution and defense</b>												
➤ Formalization of prosecution's role in law enforcement.												
➤ Prosecutors Training on Coastal and Fisheries Law												
➤ Formation/Orientation of legal support group												
<b>6) Policy support for Law Enforcement</b>												
➤ Enforcers and Local Legislative Forum												
➤ Drafting local policies in support of law enforcement.												

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12
➤ Local adoption of policies in support of law enforcement												
➤ Implementation of Approved Policies												
➤ Implementation assessment and Policy Review												
<b>7) Formation of Bay wide Coastal and Fisheries Enforcement Group</b>												
➤ Formation of Bay Resource Management Council												
➤ Bay Wide Law Enforcement Planning Workshop												
➤ Formation/Planning/Capacity Building of Bay Wide Task Force												
➤ Drafting/adoption of Bay enforcement protocol												
➤ Operation of Bay Wide Task Force												
➤ Assessment/ Quarterly Clinic												
<b>8) Program Monitoring and Evaluation</b>												
➤ Bi-Annual Program Evaluation												
➤ Annual Program Evaluation												
➤ Final Program Evaluation												

## TRAINING FOR MUNICIPALITY OF TUNGAWAN

The ongoing active law enforcement operations in Tungawan Municipality, created an opportunity for the project to respond by providing the much-needed capacity building training. This opportunity has never been timelier as the project's plans and resources have in fact been directed towards this end.

As early as September 22, 2005, logistical preparations already began with initial contact of possible speakers and preparation of training materials. Coordination was undertaken with the municipal government of Tungawan to ensure attendance of training participants and the preparation of necessary counter parting scheme. On October 1, 2005, the project was ready to conduct one training for at least 40 participants in the Municipality of Tungawan.

Because of the positive response of the municipal government of Tungawan, we recommended that a combination of basic and advance coastal law enforcement training focusing on law enforcement skills and procedure be given by the project (Please refer to Training Design for Content). EcoGov approved the recommendation and the training was conducted from October 6 to October 8, 2005.

The input and discussion component of the training was held in Sibugay Grand Hotel with thirty nine participants in attendance. Among the participants were two members of

the Sanguniang Bayan of Tungawan, the Acting Chief of Police, detachment commander of the army based in the area, police officers, members of the CRM working group, members of the bantay dagat and members of the local CAFGU involved in providing security during coastal law enforcement. Ting Nanola, Ramon Blanco, Captain Oliver Tanseco, Atty. Nelia Lagura and Atty Asis Perez, were members of the training team.



The second part of the training was the actual boarding and arrest exercises and preparation of documents for case filing. The activity was held in the municipality of Tungawan on the third day. The LGU of Tungawan provided the patrol boat, identified the site and provided personnel who were given the role of fishery law violators. Also, the recently impounded trawl was used as the object of boarding and apprehension for the exercise.



Outlined below is the summary of the process, topics, and other observations during the conduct of the three-day training.

Registration	
Preliminaries	Christian and Muslim prayers were recited successively before the singing of the National Anthem. Ting Nanola gave the welcome remarks for EcoGov. He also facilitated the expectation setting and led the discussion of the rationale of the training as well as the schedule of activities for the three- day program.
Coastal Environmental Situationer	After the preliminaries, the participants were asked to illustrate the state of the coastal environment of Tungawan, to determine their collective vision for the same, and identify the actions needed to be undertaken to attain their collective vision. These were done through participatory workshop. The participants were divided into three groups and each group was made to report on the outcome of their respective workshop. The participants agreed that the coastal environment of Tungawan is becoming productive again as a result of their collective effort to protect it. Despite this relatively improving state, participants all recognized that the rich natural resources are continually being threatened by destructive fishing methods. Expectedly, their collective vision is to continuously protect the resources and ensure that the threats are effectively addressed. They listed information education campaign, collaborative law enforcement among the coastal municipalities, and resource enhancement program such as mangrove planting as priority activities that will lead to the realization of their vision.
Government and the Environment	After the workshop, the Constitutional provisions on the environment and the Local Government Code provisions on the role of the local government in environmental protection and resource management were discussed to situate the participants on their role as agents of the government tasked to implement the law.
Forestry and Other Related Laws	Provisions of the Revised Forestry Code that relates to the cutting, gathering and possession of timber as well as Chainsaw Act and related issuances were also discussed with the participants. These laws are relevant to the coastal area as the mangrove resources fall under the classification of forest resources and that mangrove species of any size is considered as timber.
Fishery Laws	During this session, provisions of the Fisheries code defining the extent of municipal water and sole power of Local Government to grant exclusive fisheries privileges and fishing rights over this water were emphasized along with the corresponding responsibility of local government to manage and regulate the use of this municipal water. In addition, the various violations of the fisheries code, the corresponding penalties for each violation and the period of time within which a complaint must be filed after each arrest were all clarified during the session. Relevant Fisheries Administrative Orders such as FAO 201, FAO 177 and FAO 205 were also

	discussed along with the pertinent provisions of the Municipal Ordinance of Tungawan, Zamboanga Sibugay
Arrest Searches Seizures and Detention	During the session, the requirements of lawful arrest and the appropriate conduct of the same were discussed and clarified with the participants. Further emphasis was given to the conduct of a valid warrant less arrest as this is the mode of apprehension commonly effected against violators of fisheries law in Tungawan. In addition, the requirements for effecting lawful searches with warrant and the validity of effecting lawful search incidental to warrant less arrest were likewise clarified. Moreover, the rights of the suspected violators and those accused of committing fisheries law violation were discussed and given strong emphasis to ensure that enforcers trained under the project will not violate the human rights of suspected violators.
Criminal Procedure	The participants were given an input on the Criminal Justice System, requirements and process of criminal case filing, criminal case flow and roles of enforcers in criminal prosecution.
Investigation and Evidence Gathering	Investigation in general; Rules on Custodial Investigation; Relevant Rules on Evidence (admissibility of evidence; competency and relevancy, hearsay rule etc.)
Forms Familiarization	Writing of Complaints; Affidavits; Seizures and Apprehension Receipts and Apprehension Reports
Boarding Procedure	The afternoon and evening of the second day covered discussion and familiarization on Rules on Navigation and Seamanship, map reading, boat identification, boarding and procedure and safety precaution.
Training Assessment and Closing Activities	The morning of the third day was spent in actual boarding exercises. The participants were divided into three teams, with each team having a team leader, security, search, and documenter. Each team was made to conduct mock boarding, search and arrest exercises using the municipal owned patrol boat (a recently impounded commercial fishing boat docked at about 800 meters away from the shore of Tungawan town.) The training team commissioned five volunteers from the municipality to act as suspected fisheries law violators and created different mock scenario of fisheries violations. Each team was required to identify the violation committed and to act based on the circumstances as found. The exercise was a practical way of improving the skills of the participants in boarding and to instill in them the inputs given in the afternoon of the second day. Each team spent about an hour doing the exercise as the instructor provides guidance and show important pointers during boarding, search and restraint of persons. Photographs were also taken during the exercise. These photographs were shown later to the participants during the activity assessment that followed. The photographs were used by the instructor to illustrate weak points and strong points as observed during the exercise.
Document Preparation	The last part of the training was the preparation of required documents for case filing in court. Here, the three groups were asked to prepare a joint affidavit, criminal complaint, apprehension report and other required documents. Using the mock violation scenario found by the respective

	teams during the boarding and apprehension exercise, each group worked on the exercise for two hours and reported the result on the plenary.
Training Assessment	After all the topics were discussed and workshops and exercises were done, the participants were asked to assess the training.

## CASE UPDATE

As mentioned in the preliminary report, the LGU of Tungawan recently apprehended and filed cases against the crew of two commercial trawl fishing boats and the boat owner. In addition, the fish were all confiscated and sold in public auction and the fishing vessels were impounded by the LGU. The LGU also opposed the motion filed by the owner before the Prosecutors Office to have the custody of the vessel released in her favor. From the time of the apprehension, project was informed and consulted on the matter and we provided some mentoring and legal advice to the members of the CRM TWG, the Mayor and the Municipal Legal Consultant.



The result of the project's limited intervention appeared to be positive as the LGU was able to properly conduct their first confiscation and sale of confiscated fish through public action and obtained a favorable decision from the prosecutor's office. The prosecutor denied the motion of the owner to have the custody of the fishing vessel.

## CAPACITY FOR LOCAL LAWYER

Finding the need to ensure availability of local legal support as necessary component of the coastal law enforcement program, EcoGov supported the participation of Atty. Climaco, the legal adviser of the LGU of Tungawan, to the Environmental Lawyers' Conference and Workshop held at Panglao, Bohol from October 25 to October 27, 2005. The conference introduced Atty. Climaco to the concept of environmental lawyering where she was exposed to the recent developments in the law as well as experiences in handing environmental cases of practicing lawyers in other areas of the country.

**Annex Table 1**

Municipality	Destruction of Corals by Agar-agar sinker	Fine Mesh Net	Trawl	Dynamite Fishing	Danish Seine	Mangrove Cutting	No Proper Garbage Disposal	Oil Spilling from Fishing Boat	Beach Quarrying	Commercial Disposal of Formalin	Use of Toxic Substances (Cyanide, Tubli)
<b>Naga</b>	52	52	417	1,825	2,190	365	365	52	365		
<b>Payao</b>	365		52	1,825	52	365				52	104
<b>RT Lim</b>			417	365	104						417
<b>Tungawan</b>		365	417	365	104	365				365	104
<b>Total</b>	<b>417</b>	<b>417</b>	<b>1,303</b>	<b>4,388</b>	<b>2,450</b>	<b>1,095</b>	<b>365</b>	<b>52</b>	<b>365</b>	<b>417</b>	<b>625</b>

**Annex Table 2**

Municipality	Destruction of Sanctuary	Expansion of Fishpond	Illegal Gathering of Seaweeds	Illegal Logging	Pursiner	Stealing of Agar-agar	Superlight Fishing	Hook & Line Inside of MPA	Total Number of Incidents per Municipality
<b>Naga</b>									5,683
<b>Payao</b>	52	1,825	52	365	52	1,825			6,986
<b>RT Lim</b>							52		1,355
<b>Tungawan</b>								365	2,450
<b>Total</b>	<b>52</b>	<b>1,825</b>	<b>52</b>	<b>365</b>	<b>52</b>	<b>1,825</b>	<b>52</b>	<b>365</b>	<b>16,474</b>