



**PHILIPPINE ENVIRONMENTAL GOVERNANCE 2 PROJECT (ECOGOV 2)**

# **Philippine Forest and Wildlife Law Enforcement** *Situationer and Core Issues*



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# PHILIPPINE FOREST AND WILDLIFE LAW ENFORCEMENT:

*Situationer and Core Issues*

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## **DISCLAIMER**

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## ACRONYMS

ARMM	-	Autonomous Region in Muslim Mindanao
CBFM	-	Community-Based Forest Management
CENRO	-	Community Environment and Natural Resources Office
DAO	-	Department Administrative Order
DENR	-	Department of Environment and Natural Resources
DILG	-	Department of the Interior and Local Government
DOJ	-	Department of Justice
EcoGov	-	Philippine Environmental Governance Project
EO	-	Executive Order
FLEG	-	Forest Law Enforcement Group
GPOA	-	General Program of Action
IBP	-	Integrated Bar of the Philippines
IFMA	-	Industrial Forest Management Agreement
IPRA	-	Indigenous People's Rights Act
JMC	-	Joint Memorandum Circular
LGC	-	Local Government Code
LGU	-	Local Government Unit
MENRO	-	Municipal Environment and Natural Resources Office
MFPC	-	Multisectoral Forest Protection Committee
NEAT	-	National Environmental Action Team
NIPAS	-	National Integrated Protected Area System
PD	-	Presidential Decree
PEDO	-	Police Environmental Desk Officer
PNOC	-	Philippine National Oil Company
PO	-	People's Organization
RA	-	Republic Act
SIFMA	-	Socialized Industrial Forest Management Agreement
TLA	-	Timber License Agreement
TWG	-	Technical Working Group
UPLB	-	University of the Philippines – Los Baños
USAID	-	United States Agency for International Development



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# **FOREST LAW ENFORCEMENT**



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## I. THE FORESTRY SECTOR

The Philippines is one of the 18 mega diverse countries in the world.



The country has more than 52,170 described species, about half of which are found nowhere else in the world. Studies show that on a per unit area basis, the Philippines is the top mega diversity country. However, unsustainable logging operations and illegal timber trade continue to pose serious threats to the country's species richness. In 1917, the country still had 17 million ha, or more than 50% of her 30 million ha land area. Today, the latest estimate shows that only about 7.168 million ha of Philippine forests remain (Philippine Forestry Statistics, 2003).

In the 60's and 70's the forestry sector was a major contributor to the country's economy. The Master Plan for Forestry Development of the Philippines (1991) indicated that for almost two decades, agriculture, logging, mining and fisheries together contributed annual almost P15 billion to the country's gross value added. Although this was almost doubled in 1988 (P25 billion), the share of forestry and logging dramatically plummeted from 12.5% in 1970 to only about 2.3% in 1988.

In the 2003 Annual Report of DENR, it was reported that the Philippines—from being a major tropical timber exporter up to the 70's has become a net importer of forest products (65%-70% of wood requirements).

About 18-20 million Filipinos live in the uplands under abject poverty.

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## **II. OVERVIEW OF FOREST MANAGEMENT IN THE PHILIPPINES**

### **A. LEGAL FRAMEWORK**

#### *State ownership of natural resources*

This is contained in Article XII, Sec. 2 of the 1987 Philippine Constitution, thus: “all lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated”.

Accordingly, “the exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production sharing agreements with Filipino citizens or corporations or associations at least sixty per centum of whose capital is owned by such citizens”.

#### *Two major classification of forest Lands*

The first are the protection forests. These are the protected areas and the proclaimed watersheds. They are called “set-asides” or protection forests because they have been legislated or proclaimed for the public good. Their primary purpose is for preservation and biodiversity conservation. They fall under the general category of national parks under Article XII, Sec. 3 of the 1987 Philippine Constitution.

The second are the production forests. These forests are to be sustainably managed primarily for the utilization of the resources therein such as timber and non-timber forest products. In the 1987 Constitution, they fall under the category of forest or timber lands.

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## **B. AGENCIES TASKED WITH FOREST MANAGEMENT**

### *DENR as primary agency*

DENR is the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources as well as the licensing and regulation of all natural resources (EO 192, 1987).

### *LGUs as partners / co-managers*

Under RA 7160 (Local Government Code of 1991), "local government units (LGUs) shall share with national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction".

Section 17 of the LGC went on to devolved certain forest management functions to LGUs, such as enforcement of forestry laws in community based forestry projects, integrated social forestry programs and communal forests, subject to supervision, control and review of the DENR.

In 1998, DENR and DILG issued Joint Memorandum Circular No. 98-01 entitled "Manual of Procedures for DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions."

In 2003, in an effort to strengthen the partnership, DENR-DILG issued Joint Memorandum Circular No. 2003-01 entitled "Strengthening the DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions."

### *Other agencies having jurisdiction over forest lands*

By virtue of other laws and Presidential Proclamations, other agencies have also been given jurisdiction and management over certain forest areas such as UP with respect to Mt. Makiling (RA 6967, 1989) and PNOC over Tiwi Geothermal, Tongonan and Palimpinon watershed areas (PD 1515).

In the Autonomous Region in Muslim Mindanao, management of the forest lands is entrusted to the ARMM government.

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## C. MAJOR FORESTRY LAWS

The principal law governing forest management in the country is PD 705 (1975) otherwise known as the “Revised Forestry Code of the Philippines”. The Code contains basic forestry standards and practices such as areas needed for forestry, multiple use, forest utilization and management, and criminal offenses and penalties. PD 705 has been amended by PD 865, PD 1559, PD 1775, BP 83, RA 7161 and EO 277.

Another important law in forestry is RA 7586 (1992) or the “National Integrated Protected Area System” (NIPAS). This is the principal law governing set asides or protected areas. NIPAS encompasses outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, all of which are designated as protected areas. The protected areas include strict and nature reserve, natural monument, wildlife sanctuary, protected landscapes and seascapes, resource reserve and natural biotic areas.

RA 8371 (1997) or the “Indigenous People’s Rights Act” (IPRA) will also have great impact on forest management. Other laws include RA 9072 (2001) or the “National Cave and Resources Management and Protection Act”, RA 9147 (2001) “Wildlife Resources Conservation and Protection Act”, and RA 9175 “The Chainsaw Act.”

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### **III. ISSUES IN FOREST MANAGEMENT**

#### **A. NON DEMARCATION OF FOREST BOUNDARIES**

Earlier, we have discussed the two major classifications of forest lands—that of set-asides or protection forests and production forests. Knowing the classification and boundaries on the ground is very important as management and activities will depend on what kind of forest is being managed.

Unfortunately, the metes and bounds of the forest lines have not been delimited. This despite Article XII, Sec. 4 of the 1987 Philippine Constitution which states: “The Congress shall as soon as possible, determine by law the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished, except by law. The Congress shall provide, for such period as it may determine measures to prohibit logging in endangered forests and watershed areas”.

For the past several years, DENR has launched several reforestation activities supported by Overseas Development Assistance. DENR had encouraged the use of fast growing species and had promised the communities the chance to harvest the same. Many of the trees planted are now mature, and the communities who planted them would like to harvest. The DENR would not allow because the area is a critical watershed, a fact they have belatedly learn.

#### **B. NEED FOR MORE ACCURATE WORKABLE DEFINITION ON THE MODES OF DEVELOPMENT AND UTILIZATION OF FOREST RESOURCES**

Prior to the 1987 Constitution, the modes of access to natural resources management was either through a lease, license agreement or permit. In other words, the government issues the permit, and in return, the logging company pays only fees and other charges, keeping for itself the enormous profits from the utilization of the natural resources.

For example, for so many years, the forest charge for almaciga, lauan, tanguile or premium hardwood harvested was only P30.00 per cubic

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meter, while the company was able to sell the same for about P2,000.00 – P3,000.00 per cubic meter. No wonder, timber concessionaires became so rich. Their goal was to cut more and export more. At the expense of our natural resources! It was only with the passage of RA 7161 (Forest Charges law, 1991) that forest charges were increased.

Be that as it may, the 1987 Constitution has so wisely moved away from the lease, license or permit system. Now, development and utilization of natural resources can only be done directly by the State, or through co-production, joint venture or production sharing agreements. The shift is obviously to ensure that the State is able to get a fair return on the utilization of natural resources. Unfortunately, there is as yet no working definition on what is the share of the government in joint venture, co-production or production sharing agreements in forest products utilization.

For example, under DENR DAO 96-29, “CBFM is a production sharing agreement which is designed to ensure that participating community shall enjoy the benefits of sustainable utilization, management and conservation of forest lands and natural resources therein. The government share in these benefits in the form of increased natural resource protection and rehabilitation, forest charges, fees and/or taxes as determined and agreed upon”.

In the case of IFMA, according to regulations the sharing of the profit between the holder thereof and the government shall be negotiated between the said holder and the DENR immediately following the approval of the CDMP and the grant of ECC, taking into consideration, among others, the following cost factors:

- plantation establishment, management, infrastructure and harvesting costs as well as mitigation measures;
- fixed assets, equipment and machines directly related to plantation development and harvests;
- kind and volume of products that shall be harvested and prevailing fair market price thereof;
- variation in the rates of interests and foreign exchange for financial investments;
- expenses incurred in indirect activities such as community development, etc.;
- forest charges and taxes paid; and
- reasonable margin for profit and risks.”

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From the enumeration, the government may end up owing the IFMA holder! In any case, capturing the true value of the forests has been elusive as yet.

### **C. NON-IMPLEMENTATION OF THE LGC PROVISION ON LGU SHARE IN NATIONAL WEALTH**

Aside from mandating LGUs to share with the national government the responsibility in the maintenance of ecological balance within their territorial jurisdiction, the LGC also gives to LGUs the right to share in the national wealth. The provision under RA7160 thus states:

“Sec. 289. Share in the Proceeds from the Development and Utilization of national Wealth. – Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.”

Sec. 290. Amount of Share of Local Government Units. – Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and other taxes, fees, or charges, including related surcharges, interests or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.”

In forestry, LGUs share in the national wealth is limited to the forest charges collected in timber harvesting of natural forests.

Although, there are many LGUs who are committed to good environmental governance, many LGUs feel that natural resources management and protection are cost centers. Many are therefore reluctant to participate actively.

### **D. NON-IMPLEMENTATION OF THE REWARDS TO INFORMERS UNDER PD 705**

The provision reads:

“Sec. 78-B – Rewards to informants. – Any person who shall provide any information leading to the apprehension and conviction of any offender for any violation of this Code or other forest laws, rules and regulations, or confiscation of forest products, shall be given a reward in the amount of

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twenty per centum (20%) of the proceeds of the confiscated forest products.”

The law is quite clear. Unfortunately this has not been implemented by DENR for quite sometime now.

## **E. ISSUANCE OF TAX DECLARATIONS INSIDE FOREST LANDS**

As stated by the Constitution, with the exception of alienable and disposable lands, all natural resources can not be alienated. Thus, in a long line of cases, the Supreme Court has ruled that titles issued inside forest lands are void from the beginning, as even long, adverse and continuous possessions of these forest lands do not ripen into ownership.

While this principle is quite clear, the reversion process is very slow. It is common knowledge that there are many forest lands where titles have been issued.

Aside from anomalous titles obtaining in forest lands, another issue which affects forest management and leads to conversion of forest lands into other uses is the practice of LGUs in issuing tax declarations inside forest lands. Accordingly, not for the forest lands but for the growing crops therein. Although tax declarations are not evidence of ownership, possessions of tax declarations especially in the rural areas are treated almost as evidence of ownership. If tax declarations involving growing trees/crops in forest lands are issued, transfers of the same are often made, and after a little while, the use of the land becomes agricultural or residential.

This, despite Sec. 85 of PD 705 as amended which reads:

Sec. 85 – Tax Declaration on Real Property.

“Imprisonment for a period of not less than two (2) nor more than four (4) years and perpetual disqualification from holding an elective or appointive office, shall be imposed upon any public officer or employee who shall issue a tax declaration on real property, without a certification from the Director of the Forest Development and Director of Lands or their duly designated representatives that area declared for taxation purposes is alienable and disposable lands, unless the land is titled or has been occupied and possessed by members of the national cultural minorities prior to July 4, 1955.”

## IV. FOREST LAW ENFORCEMENT IN THE PHILIPPINES

### A. THE LAW ON ILLEGAL LOGGING

Section 68 of PD 705 as amended by Executive Order No. 277 (1987) is the law governing illegal logging. It provides:

*“Sec. 68. Cutting, Gathering and/or Collecting Timber, or Other Forest Products Without License. Any person who shall cut, gather, collect, or remove timber or other forest products from any forest land, or timber from any forest land, or timber from alienable and disposable public land, or from private land, without any authority, **or possess timber or other forest products without the legal documents** as required under existing forest laws and regulations, shall be punished with the penalties imposed under Article 309 and 310 of the Revised Penal Code: Provided,*



*that in case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.*

*The Court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found.”*

*“Sec. 68 – A. **Administrative Authority of the Department Head or His Duly Authorized Representative to Order Confiscation.** In all cases of violations of this Code or other forest laws, rules and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products illegally cut, gathered, removed, or possessed or abandoned, and all conveyances used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter.”*

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Prior to EO 277, prosecution of illegal logging cases was difficult. The State has to prove beyond reasonable doubt the various elements of the crime such as the cutting, gathering, collecting, or removing timber from forest lands or from alienable and disposable land. In EO 277, “mere possession of timber or forest products, without the legal documents” consummates the crime of illegal logging.

*Likewise, EO 277 has authorized the DENR to conduct administrative confiscation proceedings in illegal logging cases. In the case of “Paat vs. Court of Appeals (1997), the Supreme Court has occasioned to rule that when an administrative confiscation has been initiated by DENR, the courts can no longer issue replevins, until such time that the administrative proceedings are terminated. This has somehow cured the exasperating experience before of DENR forest officers who, risking lives and limb proceed with the detection, apprehension and seizure of forest products or timber, only for these timber and forest products to be released through the remedy of replevin. .*

## **B. LAW ON KAINGIN**

Sec. 78 of PD 705, as amended, is the law on unlawful occupation or destruction of forest lands and grazing lands. The law penalizes any person who enters and occupies or possesses, or makes kaingin for his own private use or for others, any forest land or grazing land without authority.



## **C. ROLE OF GOVERNMENT AGENCIES AND TENURE HOLDERS IN FOREST LAW ENFORCEMENT**

### ***DENR***

Under Section 5 (k) of EO 192, “DENR shall assume responsibility for the assessment, development, protection, conservation, licensing, and regulation as provided for by law, where applicable, of all natural resources; the regulation and monitoring of service contractors, licensees, lessees, and permittees for the extraction, exploration, development and utilization of natural resources products.”

### ***LGUs***

Under RA 7160 the following are the powers of LGUs:

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General:

To share with national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction.

Specific:

- For Cities and Municipalities

“Pursuant to national policies and subject to supervision, control and review of the DENR, implementation of community based forestry projects which include integrated social forestry programs and similar projects; management and control of communal forests with an area not exceeding fifty (50) square kilometers; establishment of tree parks, greenbelts, and similar forest development projects”.

- For Provinces

“Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small scale mining law, and other laws on the protection of the environment; and mini-hydro electric projects for local purposes”.

From the above reading, one will note that many forestry projects should have been devolved to cities and municipalities while forest law enforcement in community based projects should have been the responsibility of provinces. Unfortunately, fifteen years after RA 7160 was passed, devolution of forestry projects, even under supervision, review and control of the DENR has not materialized, and no province as yet has been chiefly in charge of forest law enforcement in community based projects.

DENR–DILG Joint Memorandum Circulars 98-01 and 2003-01 were issued to implement the devolution and to form and strengthen the partnership between DENR and the LGUs. Unfortunately, the devolution and partnerships have not been fully implemented on the ground.

- Other agencies having jurisdiction over forest lands

As jurisdictions have been conferred by law to these agencies (UPLB, ARMM, National Power Corporation and others), management and control of these forest lands are within their responsibilities. Unfortunately, there are reports on various occasions to the effect that illegal logging and other forest destruction occur in such areas.

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- Tenure Holders

Tenure holders are given long term access rights to forest lands usually for 25 years, renewable for another 25 years.

One of the major responsibilities of tenure holders in forest lands such as (TLAs, IFMA, CBFM, SIFMA) is to manage and protect their respective areas. In the case of TLAs and IFMA holders, they are even required to employ professional foresters.

In the case of CBFM, People's Organizations (POs) are given the privilege to occupy, possess, utilize and develop forestlands and its resources and to be entitled and to the sustainable utilization of forest resources within their areas, but with corresponding obligation to protect their areas.

#### **D. COMMUNITY PARTNERSHIP IN FOREST LAW ENFORCEMENT**

The Multisectoral Forest Protection Committee (MFPC), is a product of the World Bank assisted ENR-SECAL Program. As the term implies, MFPCs are composed of membership from various sectors of society such as the church, youth, academe, police, media, women, military, DENR, LGU, NGOs and other groups and has for its primary objective the assistance to DENR in the fight against illegal logging.

From an initial target of 15 MFPCs in 1992, the program expanded to cover all regions, provinces and municipalities. In 1995 and 1996, DENR issued DAOs 95-17 and 96-39 Institutionalizing the MFPC within the DENR system.

##### ***PEDO***

Recently, the DILG through Secretary Angelo Reyes established a Police Environmental Desk Officer in every police station.

##### ***IBP***

The Integrated Bar of the Philippines, through its National Environmental Action Team (NEAT) has likewise committed itself in the assisting the government in environmental law enforcement.

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***Designating Special Prosecutors and Courts to Handle Illegal Logging Cases***

The DOJ and the Supreme Court has designated special prosecutors and courts to handle cases of illegal logging.

**E. PRESENT INITIATIVES IN FOREST PROTECTION**

***General Program of Action (GPOA) of the DENR***

In its 10 point program as stated in the GPOA, the DENR has identified "Enforcement of environmental rules and natural resources regulations" as its number one priority. This include programs and projects on anti-illegal logging operations, protection from fire, pest and diseases, encroachment and illegal resource extraction, resolution of land cases, conflicts and fake titles and wildlife enforcement.

***Forest Law Enforcement Group (FLEG) Program***

The FLEG is a World Bank assisted program designed to curb illegal timber trade East Asia. It had its Customs and Law Enforcement Workshop last November 28-30, 2006 in Cebu City.

***Criteria and Indicators under the International Timber Organization***

The C & I Project of the ITTO is designed to measure sustainable forest management in the field. Changes in forest cover and other forestry activities are measured on a regular basis.

***EcoGov 2 under USAID***

EcoGov 2, through its forestry component, is also involved in forest law enforcement.

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## **V. ISSUES AND RECOMMENDATIONS TO IMPROVE FOREST LAW ENFORCEMENT**

### **A. STRENGTHEN DENR FOREST LAW ENFORCEMENT CAPABILITY**

From interviews, the following have been identified as factors affecting DENR's effectiveness in forest law enforcement:

- Absence of unified environmental law enforcement mechanism.

Accordingly, while DENR has major concerns such as forestry, mining, environment and clean air, environmental law enforcement is fragmented.

- Lack of resources

DENR's budget has actually declined during the last five years. Presently, each forest guard is still guarding 4,000 ha with a measly P50.00–P100.00 traveling allowance per month.

- Lack of DENR's surveillance equipment

Since forest areas are far flung, DENR needs effective surveillance equipment such as helicopters and small planes.

- Weak DENR Legal Support

To strengthen the DENR Legal Service will include training, computerization of the legal department and incentive schemes for lawyers to enter and stay in the DENR.

- Lack of the Forest Management Bureau's involvement forest law enforcement

While FMB has become a staff Bureau, its personnel to include its lawyers may be used for forest law enforcement operations.

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## **B. STRENGTHEN MFPCs AND PARTNERSHIP WITH OTHER SECTORS**

The MFPCs have proved to be cost effective partner of the DENR in forest protection. To a large extent, MFPCs have been credited to be responsible in the dismantling of big time illegal logging in Regions 2, 4, 8, 9, 10 and 11 in the early 90's. This is because if the selection process for MFPC members is followed, the MFPCs bring to the fore of forest protection the stature and commitment of its members. DENR must remember however that MFPC members are just volunteers and it is incumbent for the DENR to provide the necessary logistics, leadership and most specially commitment.

## **C. STRENGTHEN AND INSTITUTIONALIZE LGU INVOLVEMENT IN FOREST LAW ENFORCEMENT**

The laws (RA 7160) and regulations (DENR-DILG JMCs 98-01 and 2003-01) on devolution of forest management functions to LGUs and partnership with DENR are already in place. Unfortunately, LGU involvement in forest management and forest law enforcement is still isolated. These are usually in places where there are foreign assisted projects or where the LGUs themselves are environmental champions.

It is important to note however that the LGUs are among the real stakeholders of the forests since they are already in said areas. Given the existing laws and regulations, the corporate powers of LGUs, involving them in forest management and forest law enforcement will definitely be a big boost to forest law enforcement.

In fact, an interesting policy issue would be to allow the LGUs to be given the opportunity to invest in forest plantations.

## **D. GIVE TENURE HOLDERS DUE PROCESS PRIOR TO SUSPENSION OR REVOCATION**

Another major issue in forest law enforcement is the practice of DENR to suspend validly issued tenure instruments or rights arising there from without due process.

In various forums, the wood industry has complained about their difficulty in investing in forestry as they fear that DENR without due process would suspend or cancel their operations. Of late, the CBFM program has been much affected because the DENR has suspended the issuance of resource use permits of the entire program on the findings that some POs

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have violated their tenure instruments. The suspensions however came about without affording due process to the tenure holders.

Aside from its negative impacts on the program itself (IFMA, SIFMA, CBFM), this situation is inimical to forest law enforcement as when the areas become open access, then the forest area will be subject to timber poaching and other illegal forestry activities.

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## **VI. DENR-LGU-COMMUNITY PARTNERSHIP: CASE OF WAO, LANA DEL SUR**

Wao is a municipality in Lanao del Sur under the Autonomous Region in Muslim Mindanao (ARMM).



Prior to 2002, illegal logging was rampant. The ARMM DENR office was far from the municipality, and the LGU did not know what to do. The other sectors of the community did not like what was happening and resorted to name calling and blaming the DENR ARMM and the local government.

It was at this juncture that the USAID assisted project mobilized the DENR, the LGU and the other stakeholders. After heated exchanges during the initial meetings, the DENR, the LGUs and the

community agreed to join hands and chart the future of their forest lands.

The Technical Working Group (TWG) composed of the LGU, the DENR and other sectors of the community went on to prepare the municipality's forest land use plan. The FLUP provided the basis for closing open-access areas in Wao and identified the ways of protecting its more than 12,000 ha of forest cover (natural and planted). The town has seven watersheds, six of which are critically threatened by illegal logging.

Wao, through its Sangguniang Bayan and Mayor provided the necessary funds for the FLUP and forest law enforcement. From an original commitment of P455,00.00, it has added P350,000.00 more. The municipality, with the DENR and the community has embarked on a massive and aggressive anti-illegal logging campaign, resulting in the confiscation of logs totaling more than 33,000 board ft. It has banned logging trucks and closed a wood processing plant believed to be buying illegal cut logs. For its part, the ARMM-DENR has put up a CENRO office in Wao.

At the LGU side, there was established a Municipal Environment and Natural Resources Office (MENRO), and created a MENR Council to provide policy directions in natural resources management.

Today, forest management and forest law enforcement are joint endeavors of the DENR, the local government and the community.



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# **WILDLIFE PROTECTION**



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## I. THE PHILIPPINES AS A MEGADIVERSE COUNTRY AND HOTSPOT AREA

As stated, the Philippines is one of the 18 mega diverse countries in the world.

According to experts, the number of species in a country is one measure of biodiversity. The Philippines has 204 species of mammals, of which 54% or 111 species are found nowhere else; 101 species of amphibians, 78% of which is endemic; 258 species of reptiles with 66% endemism; and 576 species of birds with 34% or 195 endemic species (PBCP, 2002). On wild flora, the country has about 14,000 species representing five percent of the world's flora. These include more than 8,000 species of flowering plants or angiosperms, 33 species of gymnosperms, 1,100 species of pteridophytes, and 1,271 species of bryophytes (PPCSAP, *in prep*). There are many more species that remain unknown to science (Heaney *et.al.*, 1997; Heaney & Regalado, 1998; Brown *et. al.*, 1999). Per hectare, the Philippines probably harbors more diversity of life than any other country on Earth (Heaney as cited in the PBCP, 2002). Because of the remarkable diversity in Philippine biological resources, the country is considered as one of the 18 megadiversity<sup>1</sup> countries in the world. The megadiverse countries together contain 70 to 80% of global biodiversity (Mittermeier *et.al.*, 1997, 1999; Myers *et.al.*, 2000, as cited in the PBCP, 2002). (Cited in Josie de Leon's Masteral Paper at DAP, 2006).

Unfortunately however, with the loss of the country's forest cover, the habitat of wild fauna has likewise been lost. Habitat destruction can be attributed to logging, both legal and illegal, mining and energy projects, land use conversion, kaingin, pest and diseases, etc. According to the IUCN, the Philippines continue to face biodiversity crisis unparalleled in magnitude. The Philippines thus is considered as a biodiversity hotspot.

While habitat destruction is considered as the reason for wildlife loss, other factors include weak institutional and legal mechanisms, domestication and hybridization, introduction of exotic species, and over-exploitation for food and trade (NBSAP, 1997).

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## **II. LEGAL FRAMEWORK FOR WILDLIFE PROTECTION**

### **A. CONSTITUTION: STATE OWNERSHIP OF WILDLIFE RESOURCES**

As with forest lands, wildlife resources are also owned by the State. As wildlife is essential to preserve biological diversity, the State is also duty bound to protect our country's wildlife resources.

### **B. NATIONAL LAWS PROTECTING WILDLIFE**

Among the national laws that protect our wildlife resources include:

- PD 705 (1975) otherwise known as the Revised Forestry Code of the Philippines which mandates the protection of forest lands, including the conservation of wildlife and regulating the hunting thereof;
- PD 1152 of the Philippine Environment Code of 1977 which mandates the DENR to establish a system of national exploitation and conservation of wildlife resources and to encourage citizens' participation in the maintenance and/or enhancement of their continuous productivity by: regulating the marketing of threatened wildlife resources, reviewing all existing rules and regulations on the exploitation of wildlife resources, and conserving the threatened species of wild fauna;
- Republic Act (RA) 8485 or the Animal Welfare Act of 1998 which intends to protect and promote the welfare of all animals in the Philippines by regulating the establishment and operations of all facilities utilized for breeding, maintaining, keeping, treating, or training of all animals either as objects of trade or as household pets;
- RA 7160 or the Local Government Code which mandates local government units to share with the national government the responsibility in the maintenance of ecological balance within their territorial jurisdictions; and

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- RA 7586 of the National Integrated Protected Areas System of 1992 which established protected areas for the protection of biological diversity.

### **C. INTERNATIONAL COOPERATION AND AGREEMENTS**

At the international level, the Philippines is a member of ASEAN which is advocating biodiversity conservation and wildlife protection through the ASEAN Working Group on Nature Conservation and Biodiversity (AWGNCB), and the ASEAN Regional Center for Biodiversity Conservation.

Also, the Philippines is a signatory to the “Convention on International Trade in Endangered Species of Wild Fauna and Flora” (CITES) in 1981. This treaty aims to regulate the international trade of wildlife species, its parts and by-products. It sets international policies on trade of wildlife which include the issuance of CITES Export, Import or Re-export Permit for species listed under CITES Appendices. It prohibits the trade of CITES species unless the individuals for trade are bred in captivity in CITES-registered facilities. The treaty requires member-countries to designate CITES Management and Scientific Authorities that will ensure the strict implementation of CITES regulations.

The Philippines also ratified its membership in two other international conventions: the Convention on Biological Diversity (CBD) and the Convention on the Conservation of Migratory Species (CMS). The member-countries to the CBD are obliged, among others, to conserve sites noted for rich biological diversity, develop national framework on biodiversity conservation and ensure that any use of biodiversity is sustainable and equitable (CBD Text, PAWB). The CMS, on the other hand, requires member-countries to, among others, adopt strict protection measures for migratory species, especially those categorized as being in danger of extinction, and their habitats. (Cited in paper of Josie De Leon, DAP).

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### **III. INSTITUTIONAL ARRANGEMENTS IN THE IMPLEMENTATION OF RA 9147**

The DENR is the primary government agency responsible for terrestrial wildlife protection. The office in the DENR is the Parks and Wildlife Bureau. The Department of Agriculture on the other hand as represented by the Bureau of Fisheries and Aquatic Resources is the agency responsible for declared aquatic critical habitats, all aquatic resources and all marine mammals except Dugong.

For the province of Palawan however, both for terrestrial and aquatic, it is the Palawan Council for Sustainable Development.

#### **A. RECENT INITIATIVES IN THE IMPLEMENTATION OF RA 9147**

Since its passage in 2001, the following have been done by government towards wildlife protection:

- 1) Issuance of the IRR for Ra 9147
- 2) Issuance of DAO 2004-15 establishing the national list of threatened wild fauna species and other wildlife species
- 3) Issuance of DAO 2004-60 requiring registration of endemic and exotic species in possession of private individuals, rescue centers, pet shops and zoological gardens
- 4) Preparation of a National Biodiversity and Strategy Action Plan and Philippine Biodiversity Conservation Priorities
- 5) Partnerships with some LGUs and Private Sector on wildlife protection such as in Bicol National Park, Inter-Agency Wildlife Management Committee on Animal Welfare and MOA between the City of Manila and the DENR

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## **V. ISSUES AND CONCERNS IN THE IMPLEMENTATION OF RA 9147**

RA 9147 is a good law insofar as it provides for the legal arsenal for wildlife protection. However, there are issues hindering its effective implementation. These can be classified into educational issues or those that relate to information and education campaigns, engineering or those that relate to infrastructure and enforcement or those that relate to actually apply the law.

### **A. EDUCATION**

- Lack of information materials regarding RA 9147 such as what are the ban species for trading, and what are the prohibited acts.
- Lack of technical expertise in the DENR, Wildlife Enforcement Officers and LGUs in the proper identification of wildlife and in paralegal.
- If the officers tasked to apprehend illegal wildlife peddlers do not know how to identify a particular wildlife, then wildlife law enforcement will have little chance of success.

### **B. ENGINEERING**

- Lack of wildlife rescue centers
- Lack of wildlife traffic monitoring units
- At present, only the airports of Davao, Zamboanga, Manila, Cebu and Subic have monitoring units, while only the port of Manila has a monitoring unit.

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## **C. ENFORCEMENT**

- Lack of resources for wildlife protection
- In fact, there is no separate budget allocation as yet in the General Appropriations Act for wildlife protection.
- Absence or lack of institutional arrangements with other countries to combat entry and exit of wildlife and / or exotic wildlife species.
- Lack of checkpoints / monitoring units at airports and ports
- Harassment against those who enforce the Wildlife Act

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## **VI. RECOMMENDATIONS TO STRENGTHEN WILDLIFE PROTECTION**

Among the recommendations to strengthen wildlife protection are:

- Comprehensive IEC program
- Capacity building for DENR, DA, PCSD, LGU and police agencies on the law on wildlife protection
- Set up programs to protect those who protect wildlife
- Set up monitoring checkpoints and units in all air and seaports
- Set up wildlife rescue centers
- Establish partnerships for stakeholders participation in wildlife law enforcement, particularly with the LGUs
- Establish institutional arrangements with other countries to combat illegal entry and exit of wildlife

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## **REFERENCES**

DENR, 2003 Statistics

CBFM Guidelines

IFMA Guidelines

Local Government Code of 1991 (RA 7160)

Philippine Constitution

PD 705

RA 9147

RA 7586

RA 7160

De Leon, Josie: \_\_\_\_\_ Masteral Thesis in DAP