

Community-Based Paralegal Formation Process and Training Toolkit

Protecting the Watershed Forest Reserves
through Legal Empowerment

Legal Strategy Framework in Combating Threats to Biodiversity





COMMUNITY-BASED PARALEGAL FORMATION PROCESS AND TRAINING TOOLKIT

A Part of the Project

“Protecting the Watershed Forest Reserves through Legal Empowerment”

Prepared and produced by:

**Balay Alternative Legal Advocates for Development in Mindanaw, Inc.
(BALAOD Mindanaw)**

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For their untiring journey and strong commitment to protect their families, their community and their watershed forest.

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Acronyms

AFMA	Agriculture and Fisheries Modernization Act
ALG	Alternative Law Groups
AMMB	Alternative Minerals Management Bill
ATM	Abante Tribu Manobo
BALAOD Mindanaw	Balay Alternative Legal Advocates for Development in Mindanaw, Inc.
BAYWATCH	CarCanMadCarLan BAYWATCH Foundation, Inc.
BEAT	Baywide Enforcement and Action Team
BLGU	Barangay Local Government Unit
BPLT	Basic Paralegal Training
CABUSTAM	Cagayan Butuan Surigao Tandag Malaybalay
CADT	Certificate of Ancestral Domain Title
CARCANMADCARLAN	Carrascal Cantilan Madrid Carmen Lanuza municipalities
CBFM	Community based Forestry Management
CCFS	Certificate of Community Forest Stewardship
CDC	Carac-an Development Corporation
CISFIA	Cantilan Irrigation System Federation of Irrigators Association

CSC	Certificate of Stewardship Contract
DENR	Department of Environment and Natural Resources
EO	Executive Order
EPO	Environmental Protection Order
FPE	Foundation for the Philippine Environment
IPRA	Indigenous Peoples Rights Act
IPYO	IP Youth Organization
ISLAMDUNK	Islahanon Andam Magdumala nan Kinaiyahan
KBA	Key Biodiversity Area
LGU	Local Government Unit
LRC	Legal Rights and Natural Resource Center
MGB	Mines and Geosciences Bureau
MMDC	Marc Ventures Mining Development Corporation
MPA	Marine Protected Area
MPSA	Mineral Production Sharing Agreement
NAMRIA	National Mapping and Resource Information Authority
NAGMAGKAAYO	Nagkahugpong Mananagat alang sa Kalambuan sa Ayoke
NEWCAPP	New Conservation Areas in the Philippines Project
NGO	Non-Government Organization

NIA	National Irrigation Authority
NIPAS	National Integrated Protected Areas System
NLUMA	National Land Use and Management Act
PL	Paralegal
PP	Presidential Proclamation
PO	Peoples Organization
RA	Republic Act
RD	Regional Director
RTC	Regional Trial Court
SAC	Social Action Center
SB	Sangguniang Bayan
SLE	Structured Learning Activity
SOS	Site of Struggle
SURIF	Surigao del Sur Irrigators Federation
TDA	Tourism Development Area
TNA	Training Needs Assessment
TEPO	Temporary Environmental Protection Order

Introduction

This training tool kit is produced based on BALAOD Mindanaw’s years of experience in doing community paralegal formation and legal empowerment. The process and content described herein are drawn from the actual works of the organization, which is committed to advancing the legal and justice issues of the marginalized sectors and communities in Mindanao through alternative lawyering, paralegalism, and active non-violence.

In particular, this toolkit was written during the period of the project “Protecting the Watershed Forest Reserves through Legal Empowerment” implemented in the Municipality of Cantilan, Surigao del Sur. The project and the production of this toolkit are supported by the Foundation for the Philippine Environment (FPE). BALAOD Mindanaw and FPE share the vision of local communities who are mindful of the environmental impact of various activities conducted in their localities and are active in promoting for their protection. This is premised on the perception that to ensure genuine and sustaining protection of valuable ecosystems, natural resources and the country’s biodiversity, environmental consciousness and conservation action should spring from those who are grounded in the community directly benefiting from the natural resource and are immediately impacted by environmental damage.

As exemplified throughout this toolkit, paralegalism is seen as an effective mechanism in environmental protection. This strategy has emerged from among the civil society movements due to the recurring issues on the lack of knowledge on basic human and

community rights, the lack of knowledge of the country's laws and legal system, and the lack of access to justice. To top it all, there is a lack of recourse provided by the legal system. Paralegalism seeks to respond to these inadequacies in order to address and promote the needs of the marginalized sectors, and their lack of access to and use or control of their resources. Taking legal action helps ensure better protection for critically important ecosystems while providing communities and stakeholders with formal recognition of their rights for legal protection. ***Thus, legal empowerment, through paralegal formation of the community, is needed to protect their rights, and to secure firm and State-sanctioned resolutions on environmental and natural resource conflicts.***

Through its work, BALAOD Mindanaw has proven that paralegalism and peaceful meta-legal strategies, such as community's strong advocacy campaign, can advance the basic sectors' and communities' interests, and improve access to justice, equality and resource tenure, all in the context of active people's participation in governance.

At the core of the successes and gains are the community members, the indigenous peoples, the farmers, the fisherfolks and the rural poor who have continued to fight for their rights, and who continue to stand for what is right and just. At the core of every sustained movement for structural change, justice and development are the people themselves who seek to make those aspirations a reality. This is the spirit that continues to move alternative lawyering and paralegalism as a way of life in their quest to advance access to justice and make the legal system work for the marginalized communities.

How to use this training toolkit

This training toolkit is developed for the community and people’s organizations (POs) that wish to replicate the process of paralegal formation and community legal empowerment. This can also be used as reference for government agencies and civil society organizations (CSOs).

In this toolkit, BALAOD Mindanaw tries to capture its engagement using the Community Legal Strategy framework. The important elements of commitment and engagements of the basic sectors and local organizations, bolstered by capacity-building activities, such as Paralegal Formation and Strengthening, Community Planning, Tactical Sessions, Constituency Building and Networking, lead to effective community mobilization and participation, strengthened legal action and responsive local policy advocacy.

These interventions are discussed in this toolkit. It describes the process of paralegal formation work in a community setting and provides a step-by-step guide. It identifies the activities that need to be undertaken and shares helpful tips on what or how it can be done, based on BALAOD Mindanaw’s experiences with the community, and substantiated with the learning and insights from their work.

Also included in this toolkit is the training module and session guide. This is the detailed guide for conducting the Basic and Advanced Paralegal Orientation and Training. The training is the main venue for community paralegals to gain knowledge and understanding, build new or enhance existing skills for paralegal work and community advocacy campaigns. Each module outlines the objective for the session, the time allotment, methodology and materials needed. Instructions for workshops and structured learning exercises (SLE) are also included.

Although the time needed for each session is indicated, it is best for the trainers or organizers/ facilitators to decide on whether to limit or extend the number of hours needed to deliver the session. This would depend on how each session will contribute to the overall goal of the training formation program, as well as on the level of understanding and absorption capacity of the participants.

As for the substance, the contents in each module are carefully selected and capsulized to ensure that the concepts and ideas are well understood while avoiding information overload on the part of the participants. It is up to the trainers or organizers/ facilitators to determine which topics require extensive input and discussion. Some of the topics may be skipped.

Other topics may also be added for each module. Again, this depends on the overall objective and on the needs of the participants. Thus, there is flexibility on the inputs that will be given to paralegal trainees.

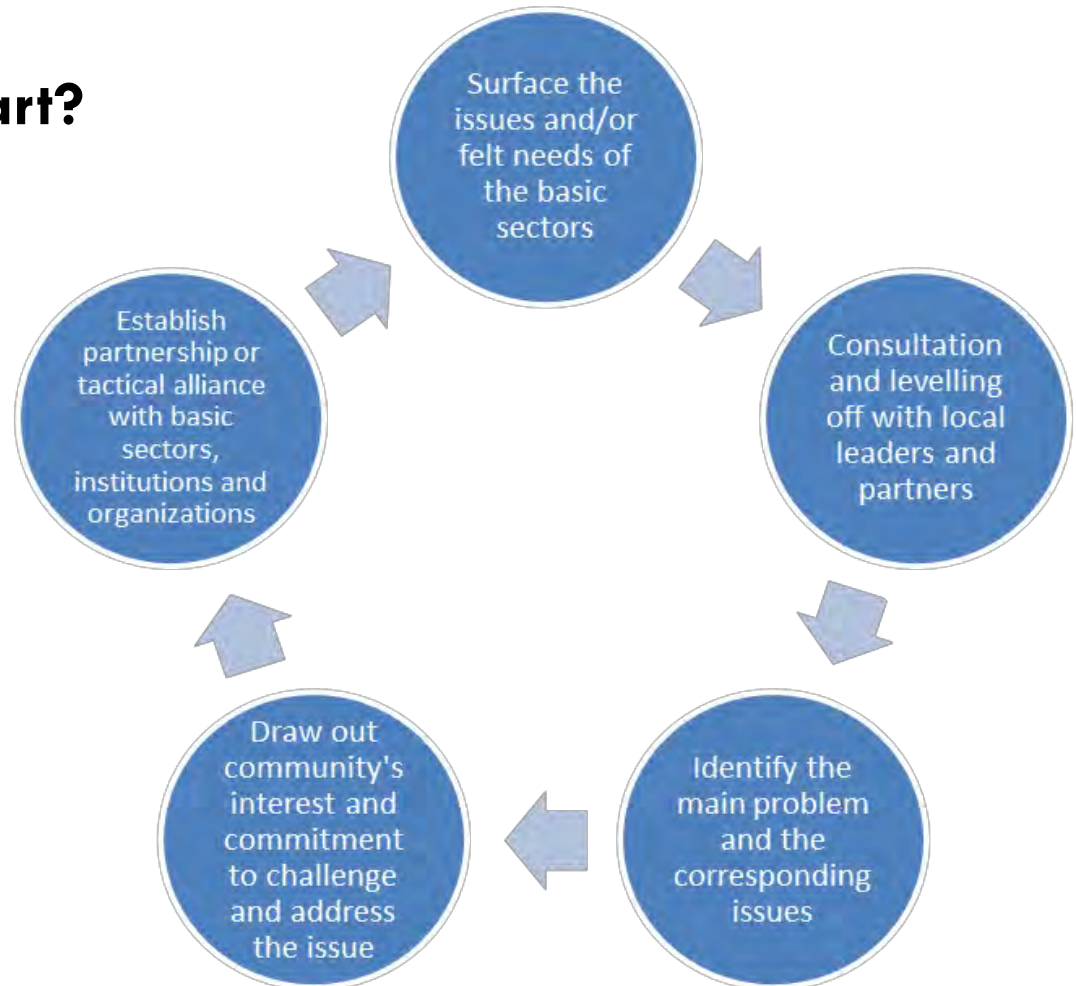
The contents are laid-out in easy readable format, and thus can be reproduced for distribution to the participants. BALAOD Mindanaw would like to caution that for each community and case, there are different contexts and nuances. As such, the guidance provided in this toolkit should be adapted to the situation and does not in any way impose a fixed methodology in accomplishing the goals of the community's advocacy campaign.



The Paralegal Formation Process

How do we start?

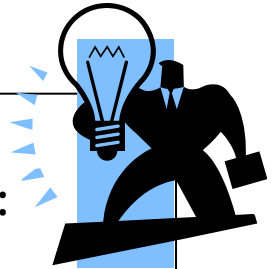
1. Groundworking and Community Organizing



Who do we talk to?

2. Establishing partnerships with the basic sectors and local institutions

- ◆ Identify who are the leaders and/or the emerging leaders from the affected sector and from the community.
- ◆ Identify who are the key persons and information sources to talk to.
- ◆ Identify common goals, desires or common areas of work or mandate as platform for coming together in partnership.
- ◆ Establish partnership with the local institutions
- ◆ Local Government Units (LGUs) – barangays, municipal and provincial
- ◆ Basic sectors and POs
- ◆ Church-based or faith-based groups
- ◆ Private sector or local businesses
- ◆ Schools or the academe
- ◆ Local non-government organizations (NGOs)



REMEMBER:

The basic sectors, who are mostly affected by the issue, should be part of the paralegal formation process and should assume major roles in the advocacy.

What are the knowledge and skills we need?

3. Capacity-Building (Basic Paralegal)

The Basic Paralegal Formation Orientation and Training will provide the necessary knowledge and skills for community paralegals to become leaders in any social/ environmental advocacy campaign. It will also help build the human resources of the community that enable them to have better access to justice.

The training provides knowledge on important concepts such as paralegalism and development. It also provides discussion on pertinent laws and policies relating to natural resource and management, and other related topics. Furthermore, it enhances the skills of the paralegals that are necessary in the performance of their duties, in providing legal assistance to the community, and in doing tasks required in advocacy campaign, policy lobbying and community mobilization. For a discussion on how to go about with the training, please refer to page 12.

4. Paralegal Clinics/ Tactic Sessions

- ◆ Set a regular date, once a month or once every two (2) months, for paralegals to meet and share regular updates. This will include the activities that they are conducting in their sector, updates on the issues and concerns, and monitoring of the cases or legal actions undertaken.
- ◆ Shared analysis and evaluation of the campaign should be part of the collective process of the paralegals. This would be a good venue for strategizing and scenario-

building, which serves as input to the coalition's planning.

- ◆ Use this venue as preparatory meetings for collaborative activities, such as the local and/or national policy lobbying.
- ◆ Paralegal clinics should also be the time to assess the effectiveness of the paralegals if they are able to carry out their responsibilities and have applied their skills; and if they need further training or refresher courses to sharpen their skills and enhance their knowledge.



5. Sectoral Strengthening/ Strengthening of People's Organization/ Continuous Community Organizing

- ◆ Conduct information-education-communication (IEC) campaigns among sector members and neighbours.
- ◆ Education sessions or simple issue analysis.
- ◆ Informal sharing and exchange of thoughts with neighbours in order to increase constituency support.
- ◆ Gain other forms of support from the sector members, such as sharing of resources, providing volunteers, free use of venue or facilities, and others
- ◆ Work with existing local groups in the community (e.g. BEC, neighbourhood association, others)

How can we advance our advocacy and take pro-active, non-violent action?

6. Coalition-Building and Networking

- ◆ Formalize partnerships with basic sectors and local partners in order to have a strong and unified mobilization in bringing about the desired goals.
- ◆ Once there is an agreement among the partners and supporters of the advocacy campaign, the following steps can be done to formalize the coalition:

Agree on a primary unified goal	Spell out the bases of unity	Identify and articulate the guiding Principles of Partnership
Establish the structure of the coalition	Ensure that the basic sectors are well-represented. Define the process for membership	Identify the Governing Body, Campaign Management Committee and other working committees
Coalition planning	Based on the primary goals	Should cover the components on PO strengthening, legal battle, network/coalition strengthening, community mobilization, policy advocacy and supporting LGU champions

- ◆ Coalition working committees can focus on the following areas:
 - ◆ **Communication and Media**
 - ◆ **Finance**
 - ◆ **Membership**
 - ◆ **Research, Documentation & Advocacy**
 - ◆ **Networking, and**
 - ◆ **Good Governance**



Continuous communication and reaching out to other local organizations and neighbouring institutions can bring benefits to the coalition as more organizations and sectors will join and lend support. For example, from the municipal association of farmer-irrigators, the coalition membership may grow and include the province-wide federation of irrigators. The coalition may also approach prominent personalities and organizations/ institutions, such as big universities to support or join the coalition, for they are able to bring more credibility and media attention to the campaign.

Another aspect of coalition-building is to network with other coalitions or alliances that deal with similar or related issues and advocacies. For example, with the Cantilan mining opposition, working with the 'Save Palawan Movement' helped the campaign in light of the national and international prominence being enjoyed by these two (2) groups.

How do we handle the dynamics in a coalition?

A multi-stakeholder coalition involves different personalities and, at times, results in conflicts among members. To help resolve internal issues:

- ◆ Have a very **clear basis of unity**. Clarify among all members of the coalition that there is a common goal for which they need to coordinate their work with.
- ◆ Lay out the **principles of engagement**. Refer back to their basis of working together.
- ◆ Coalition members should **make adjustments** for the benefit of the advocacy. There are members who do not strongly or openly declare their position. As such, they can be encouraged to provide other forms of assistance such as providing interns or volunteers to work with the coalition or to provide information.
- ◆ **Open communication** is the key, especially in discussing the directions and plans.
- ◆ **Constantly touch base** with the members of the coalition and talk to the people who are involved in the advocacy.

Paralegal Training and Design

The sample Training Design for Capacitating the Community-Based Paralegals and Other Environmental Advocates is available on page 22.

How do we start?

- ◆ Identify the training participants or paralegal trainees based on the recommendations of the basic sector or the community. The identification will be guided by a set of qualifications.
- ◆ Conduct the **training needs assessment (TNA)**.
- ◆ Identify what are the needs based on the TNA results.
- ◆ Design the training program and session.
- ◆ Prepare the budget needed for conducting the training.
- ◆ Identify the source of funds and counterparts for the training needs.
- ◆ Assign tasks to the community partners.



Organizing the training

- ◆ Confer with the targeted participants/ trainees on the best date when they are available for the training.

- ◆ Identify the resource persons for the topics that will be discussed in the training.
- ◆ Send out formal invitation to the targeted participants and to the resource persons with the following information: what is the training about, when and where the training will be; why the training is being conducted; what are expected or required of the participants when they attend.
- ◆ Community counterpart in the organizing, either through sharing of financial costs or providing assistance in kind, would help the local partners feel that they are equal stakeholders in the activity.

How do we manage and facilitate the training?

Regular parts of the training

- **Preliminaries**

- ◆ Prayer
- ◆ Pambansang Awit
- ◆ Welcome remarks
- ◆ Providing the context and background
- ◆ Introduction of participants thru games or interactive approach
- ◆ Expectation setting
- ◆ Presentation of objectives and training design, and levelling off with participants' expectations

Expectations

Pa-ila-ila

- ◆ **Recap of the previous session or the previous day**

Let participants recall the significant points discussed the previous day through games and/or different Structured Learning Exercises (SLE). This is an effective way of reinforcing the participants' learning.

- ◆ **Open forum**

Always allot time for questions and clarifications from the participants, as well as period for sharing of experiences and opinions. It is important to nurture a healthy and participative atmosphere among the participants, facilitators and resource persons. Participants also have wisdom and insights they can share from which everyone can learn.

- ◆ **Linking points to the next session**

Ensure that participants understand the relationship of the next session or topic to the previous discussion and to the overall training. The linking talk serves as a quick disposition-setting for the participants.

- ◆ **Synthesis on the overall training program**

At the end of the training, give a synthesis that will enable the participants to 'bring something home.' The synthesis should capture the most important points that have been discussed, and what were the significant processes and progress that the participants had achieved during their days in the training.

- ◆ **Breaks for snacks and meals, and ice-breakers**

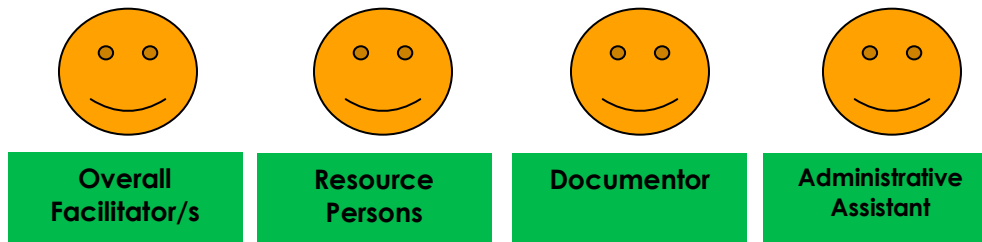
- ◆ **Evaluation** for both administrative/logistical concerns and training content.

◆ **Process documentation**

Provides a written record of what took place during the actual training activity, and will be a very useful reference for evaluation purposes. Aside from the sequential order of activities and topics given, it is important to note the interaction of participants and the resource persons and facilitators, participants' inputs and clarifications. Issues and concerns of participants, especially those that are not addressed during the training activity should be noted. Action plans and resolutions reached by the group should also be noted for future follow-ups. Highlights of the training should be written, as well as recommendations for the next training or process.

Process documentation will include the attendance sheet with the contact information of the trainees/paralegals, community plans drafted by the paralegals, and any (summarized) references which may have been distributed to the participants. Captioned photos should be part of the documentation.

Who are the people we need to do the training?



Campaign Management

1. Policy Advocacy and Lobbying – should result from the paralegal sectoral plans

- ◆ Identify **priority local legislative agenda** that directly address the issues affecting the basic sectors. Input from the PLs and the partner institutions are very important in identifying the legislative agenda.
- ◆ Conduct **legal research** to find the legal bases of the proposed ordinance or policy.
- ◆ **Draft the ordinance/ specific provisions** that are being proposed.
- ◆ Hold **dialogues, forums and workshops with the Sangguniang Bayan** to facilitate the process of enacting the local legislation.
- ◆ **Inform** constituents/ sector members and **raise support** for the passage of the ordinance/ policy.

In the case of the Cantilan coalition's advocacy for the protection of their watershed, their anti-mining campaign was adopted as an electoral agenda of the mayoral candidate in the 2010 elections. Mayor Genito Guardio won based on this election platform, and it became a set policy during his administration. It helped to push for two local ordinances that inhibited the expansion of mining activities in Cantilan.

- ◆ **Regularly update** with the SB and attend their sessions to track progress of the lobby
- ◆ Know the **legal basis** of your demands or call to action, both on national laws and local ordinances. Be familiar with the functions, responsibilities and jurisdiction of the government authorities you are engaging with, both local and national.
- ◆ Lobby for local policies and ordinances that will **reinforce national laws, strengthen the protection of basic human rights**, or that will **provide a mechanism for localizing provisions** of national laws or programs.
- ◆ Identify a **‘champion’** among local legislators, members of the Sangguniang Bayan/ Panlalawigan, or the Congressional District Representative who can help push for the policy agenda. When possible, **conduct dialogues with concerned government agencies and members of Congress to gain more support** for your policy lobby.
- ◆ **Link up** with related **national policy lobby groups** with campaigns that are related to your advocacy, or would favourably benefit the marginalized sector being affected by the issue. For example, the Cantilan anti-mining coalition also supported the national campaigns for the passage of the Alternative Minerals Management Bill (AMMB) and the National Land Use and Management Act (NLUMA). The latter would put in place mechanisms for stakeholder driven land use planning for local governments, and would also cover the watershed area that they are trying to protect from mining.



2. Community Mobilization

- ◆ Conduct **brainstorming** and **strategizing sessions** to consider all options before deciding on the best community or campaign mobilization.
- ◆ Conduct wide **information dissemination** about upcoming mobilizations to ensure that there will be many community members who will attend and participate in the activity, especially for those that are intended to be a ‘show of force.’
- ◆ Prepare a **security and back-up plan**.
- ◆ **Tasking** should be clear among the coalition members.



How do we manage communications and documentation of the overall process?

3. Communications

- ◆ A campaign slogan is useful in popularizing the campaign. It makes the advocacy catchy and quick to recall.
- ◆ Logo of the organization or the coalition provides quick association as to the legal identity/ies of the group or coalition.
- ◆ Campaign paraphernalia: banners or tarps, t-shirts, ballers, pins, others.



4. Organizational record-keeping and documentation

- ◆ Keep a chronology of events or a timeline of significant events, periods or milestones of your advocacy. A historical timeline provides important background on the development of the issue and also helps identify factors and actors contributing to the issue.
- ◆ Compile minutes of meetings.
- ◆ Compile formal resolutions, declarations, and signed agreements of the group or the coalition.
- ◆ Keep **signed and received copies** of letters, documents or petitions sent out to partners or to authorities and parties concerned.
- Compile articles and other clippings or other publications and videos made by the press or other organizations about your campaign.

5. Photo and video documentation

- ◆ Take photos of persons and each activity conducted. Capture moments that would be a highlight or of significance for the activity/ process.
- ◆ Photos should be organized and labelled/captioned for easy reference.
- ◆ “A picture is worth a thousand words.” Photos can serve as powerful tools to deliver the message of your advocacy. These can be used to enhance your campaign print materials and promotion.
- ◆ Take photos for posterity and memories.
- ◆ Brief video clips or video presentation (3 or 5 minutes) that could be broadcasted on the internet or distributed in CDs will also be very useful in promoting the campaign.



6. Media campaign and press relations

- ◆ Organize a pool of speakers and sectoral representatives who can serve as spokespersons for the community/ coalition and the campaign. The basic sectors should also have their representative/ spokesperson. Clarify information that should be shared and those that are confidential.

- Develop and maintain good relationship with trustworthy media outlets for print, radio, television and the internet, to promote and bring attention to your advocacy.
- Write press releases to popularize the issues, promote the calls of the affected groups and call attention or demand action from authorities.
- When possible, maximize the social media on the internet to promote the advocacy and gain support.
- Conduct press conferences during milestone activities. Ensure that a good and equal representation of the sectors and organizations have opportunity for media exposure to present a comprehensive range of views and positions on the issue. Have representatives of the basic sector and persons of authorities or known personalities, like Bishops or heads of academe, to be part of the panel of speakers.



REMEMBER:

Having a pool of designated speakers/ spokespersons can help provide a consistent and well-formulated message to the public. It ensures that information provided is factual, that there is no ‘information leak’, and that the spokespersons are knowledgeable in all details of the campaign, ready to answer questions from the media.

Training Design for Capacitating Community-based Paralegals and Other Environmental Advocates

Objectives:

- ◆ Enhanced knowledge and skills of community-based paralegals and other environmental advocates on various laws relating to the environment;
- ◆ Increased awareness on environmental protection and resource conservation; and
- ◆ Ensured effective participation of affected communities and other advocates in addressing environmental concerns.

Specific Objectives:

- ◆ Paralegals and environmental advocates articulated significant and relevant provisions of environmental laws affecting the communities;
- ◆ Enhanced skills of paralegal and other advocates in organizing, mobilizing, lobbying, networking and campaign management, among others; and
- ◆ Formulated community campaign plan for the watershed protection.

The table on next page shows the topic outline of the Advanced Paralegal Training design:

MODULE	TOPIC	SESSION DURATION
MODULE I Defining the Framework and Concept of Environmental Protection and Other Access to Justice Issues	Session 1 - Basic Information to Human Rights	1.5 hours
	Session 2 - National/ Local Situation; Concept of Law and the Philippine Legal System <ul style="list-style-type: none"> ◆ Review of the concept of law ◆ Analysis of the Philippine legal system ◆ State of the country’s natural resources ◆ Government Priority (Preservation vs. Extraction) 	2 hours
	Session 3 - Concept of Development <ul style="list-style-type: none"> ◆ Roles of the community, women, and the different sectors (youth, peasants, fisherfolks, IPs) in development and environmental protection ◆ Development Priority 	1 hour
	Session 4 - Paralegalism and the Roles of Paralegals in Environmental Protection <ul style="list-style-type: none"> ◆ Review the basic principles and concept of paralegalism ◆ Who are the community-based paralegals and their important roles in the community ◆ Roles of other sectors in the community 	2 hours

MODULE	TOPIC	SESSION DURATION
MODULE II – Laws and Other Issuances Related to Environmental Development and Protection	Session 5 - Relation of Community to Resources <ul style="list-style-type: none"> ◆ Interconnectedness of resources ◆ Four laws of ecology ◆ Inter-action, discussion/ sharing ◆ Classification of resources/land 	1 hour and 30 minutes
	Session 6- Forestry Laws in the Philippines <ul style="list-style-type: none"> ◆ Revised Forestry Code of the Philippines (PD 705) ◆ NIPAS Law (RA 7586) ◆ With emphasis on the rights of tenured migrant and watershed protection ◆ Prohibitions 	1 hour and 30 minutes
	Session 7 - Indigenous Peoples' Rights Act (RA 8371) <ul style="list-style-type: none"> ◆ IP rights ◆ Free Prior and Informed Consent (FPIC) ◆ Role of IPs/ Lumads in protecting the domain and watershed 	1 hour and 30 minutes
	Session 8 - Philippine Fisheries Code of 1998 (RA 8550) <ul style="list-style-type: none"> ◆ Background of RA 8550, the governing policies, coverage and objectives of the law ◆ Laws and policies affecting the municipal waters ◆ Prohibited acts 	2 hours

MODULE	TOPIC	SESSION DURATION
MODULE II – Laws and Other Issuances Related to Environmental Development and Protection	<i>Session 9 - Philippine Mining Act of 1995 (RA 7942)</i> <ul style="list-style-type: none"> ◆ Salient features ◆ Prohibition and penalties ◆ Critique/ effects of mining on resources ◆ Advocacies/ updates of the proposed AMMB 	2 hours
	<i>Session 10 - Local Government Code with Emphasis on the Venues for People’s Participation in Governance for Environmental Protection</i> <ul style="list-style-type: none"> ◆ Powers and functions of LGUs in environmental protection ◆ Venues for people participation in community development ◆ Roles of civil society organizations ◆ Mandatory consultations ◆ LGU-NGO-PO partnership in development 	2 hours

MODULE	TOPIC	SESSION DURATION
MODULE III – Enhancement and Development of Skills of Paralegals and Environmental Advocates for Watershed Protection	Session 11 - Case Analysis	
	Session 12 - Interview and Affidavit-Making	5 hours
	Session 13 - Community Organizing and Mobilization <ul style="list-style-type: none"> ◆ Understanding the community situation ◆ Basic concept of CO ◆ Role of People’s Organization and the different sectors in the community ◆ Basic preparations before the community actions ◆ Identification/ prioritization of issues/ concerns and possible form of actions ◆ Discussions on do’s and don’ts and possible implications of the identified form of actions 	2 hours
	Session 14 - Issue /Policy Advocacy through Meta-Legal Tactics <ul style="list-style-type: none"> ◆ What is issue/policy advocacy? ◆ Comparison of legal and meta-legal tactics ◆ Forms of meta or extra legal tactics ◆ Lobbying for the passage of an ordinance for environmental protection 	1 hour and 30 minutes
	Session 15 - Community Planning <ul style="list-style-type: none"> ◆ Discussion/ sharing of the previous community plan ◆ Participation of the 1st batch core leaders ◆ Formulation of community plan 	3 hours

Modules and Session Guides

MODULE I – DEFINING THE FRAMEWORK AND CONCEPT OF ENVIRONMENTAL PROTECTION AND OTHER ACCESS TO JUSTICE ISSUES

SESSION 1 - Basic Information to Human Rights

Objectives:

At the end of the session, the participants are expected to:

1. Know the concept and principles of Human Rights;
2. Identify the inherent characteristics of human beings that form their human dignity and the basic rights accrued to it.

Methodology: Game, interactive discussion with Powerpoint presentation

Time Required: 1.5 hours

Materials:

2 bags of assorted candies, LCD

Session Outline

- I. Definition of Human Rights
- II. Characteristics of Human Rights
- III. Affirmations of Human Rights

SESSION DISCUSSION

Structured Learning Exercise (SLE):

LIVING IN A STRAIGHT JACKET

Procedure:

1. Ask the participants to stand at least 1 meter away from each other.
2. Give the participants the following situations and explain to them the consequences they have to do in case they are affected with the situations presented. (Note: Participants are not allowed to move or change their position until the facilitator tells them to at ease)
 - a. Those who do not have their own house and lot, close your left hand.
 - b. Those of you who are women, close your eyes
 - c. Those who do not live in the city, put your right hand at your nape
 - d. Those who were not able to finish college, bend sideways
 - e. Those who feel that their family income is not enough to support the family's upkeep, look up
 - f. Those who are below 18 years old, stretch your right foot.
 - g. Those who do not have access to basic health and medical services, raise your left hand
 - h. Those who have a family member, within the fourth civil degree, working abroad, put your elbows together
 - i. Those who are members of indigenous cultural communities, squat
 - j. Those who are men, you may remove any one consequence you like.
3. While the participants are holding their respective positions, throw candies in the floor and ask them to get as many candies as they can.
4. Those who were able to get the most number of candies win.

Guide Questions:

1. How do you feel?
2. Who is the most immobile? Mobile?
3. Who among you were able to get candies? Were not able to get candies?
4. Are the situations reflective of your current status in life?
5. What do the consequences represent?
6. How do you relate the game in real life?

INPUT:

In Filipino 101, the root word of “*karapatan*” is “*dapat*” which literally means either must or automatic.

Definition of Human Rights

The definition of human rights may be seen in various international human rights instruments. The United Nations has adopted an international definition which is now currently being used in human rights discourses.

However, as many international bodies and international laws suggest different articulations as to definition of human rights, it is still important to stress the simplicity of the concept – human rights are the rights of a person simply because he or she is a human being.

Human Rights is the **basic standards** without which people cannot live with **dignity**. To violate someone’s human rights is to treat that person as though he or she were not a human being. To advocate human rights is to demand that the human dignity of all people be respected.

The idea of human rights introduces the idea of **justice and fairness** in the natural order of the world, thereby giving human existence a higher sense and purpose.

Human Rights principles hold up the vision of a **free, just and peaceful world** and set minimum standards for how individuals and institutions everywhere should treat people.

IN CLAIMING THESE HUMAN RIGHTS, EVERYONE ALSO ACCEPTS THE RESPONSIBILITY NOT TO INFRINGE ON THE RIGHTS OF OTHERS AND TO SUPPORT THOSE WHOSE RIGHTS ARE ABUSED OR DENIED.

Characteristics of human rights

- ☑ **Human rights are ‘inherent’** to each individual.
- ☑ **Human rights are ‘universal’** – because they apply to everyone in the world.
- ☑ Human rights cannot be taken away – **human rights are inalienable.**
- ☑ To live in dignity, all human beings are entitled to freedom, security and decent standards of living concurrently – **human rights are indivisible and interdependent.**
- ☑ **Human Rights is everyone’s RESPONSIBILITY** for its respect, protection, promotion and fulfillment.

Human Rights as Inspiration and Empowerment

Human Rights are both inspirational and practical. Human rights principles hold up the vision of a free, just and peaceful world and set minimum standards for how individuals everywhere should treat people.

Human rights also empower people within a framework for action when those minimum standards are not met, for people still have human rights even if the laws or those in power

do not recognize or protect them.

Affirmations of Human Rights

Consistent with the definition, human rights exists with or without human rights instruments, laws and national policies. However, the documents particularly those legally binding affirm the universality and indivisibility of human rights.

◆ **International Laws/ Instruments**

- Universal Declaration of Human Rights (UDHR)
 - **Member states** of the United Nations pledged to promote respect for the human rights of all.
 - **Commission on Human Rights** – in charge of drafting a document spelling out the meaning of the fundamental rights and freedoms proclaimed in the Charter.
 - **10 December 1948** – the UDHR was adopted by the 56 members of the UN. The vote was unanimous although eight nations chose to abstain.
 - **International Magna Carta** - extended the revolution in international law ushered in by the UN – namely, that how a government treats its own citizens is now a matter of legitimate international concern, and not simply a domestic issue. It claims that all rights are ***interdependent and indivisible***.
 - **More than 185 nations** now in the UN had incorporated the UDHR's principles into their constitutions.
 - Although a **declaration** is not a legally binding document, the UDHR has achieved the status of **customary international law** – because people regard it as a “*common standard of achievement for all people and all nations.*”

- International Covenant on Civil and Political Rights (ICCPR)
 - Focuses on such issues as the right to life, freedom of speech, religion & voting
- International Covenant of Economic, Social and Cultural Rights (ICESCR)
 - Focuses on such issues as food, education, health & shelter
- 1987 Philippine Constitution
 - Article III, Bill of Rights
 - Article XIV, Human Rights
- Special Laws (Social Legislations)
 - RA 9262, Anti-Violence Against Women and Their Children Act
 - RA 9344, Juvenile Justice and Delinquency Prevention Act
 - Etc.
- LGU Ordinances
- Other National Policies / Executive Issuances

SESSION 2: National and Local Situation; Concept of Law and the Philippine Legal System

Objectives: At the end of the session, the participants are able to:

1. Understand the concept of law and its characteristics;
2. Be familiar with the three branches of government and their functions;
3. Know the limitations of the powers of the State; and
4. Be aware of the local and national situation, particularly the environmental situation.

Session Guide:

I. Structured Learning Exercise: “Word Association”

- ◆ The participants shall be divided into smaller groups. Each group shall be given ¼ size of mindanaw paper and marker pen. They shall be asked to write/ identify as many words as they can that could be associated with the word “LAW” in five (5) minutes. The group that can identify the highest number of words within the allotted time shall be the winner.

II. Input 1

III. Structured Learning Exercise: “Where do I belong?”

- ◆ The participants shall be divided into smaller groups. Each group shall be given a prepared house-shaped manila paper along with meta-cards containing the names of different public officials and agencies that can be found in the three (3) branches of the government. The groups shall fill up the blanks and arrange the cards, based on hierarchy, from national to the local government. The group

that will get the most number of correct answers will be the winner.

IV. Input 2

V. Synthesis

Content Outline:

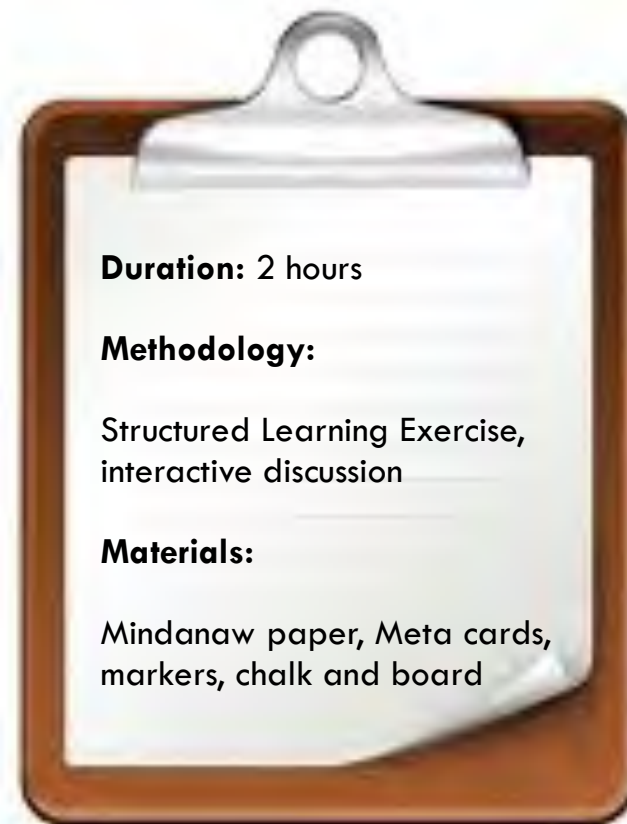
I. Introduction

- A. Concept of Law
- B. Classification of Laws
- C. Hierarchy of Laws

II. The Philippine Legal System

- A. Definition of a State
- B. Elements of a State
- C. The Three Branches of Government and their Functions
- D. Principle of Separation of Power and System of Checks and Balances
- D. Relation of the National Government to the Local Governments
- E. Powers of the State vs. Rights of the People

III. National and Local Situationer



I. INTRODUCTION

Every society is governed by a set of laws which inhabitants follow and obey to maintain harmony and order. Enacted by the inhabitants themselves or through their representatives, these laws are formulated and implemented towards the promotion of the common good and development. They can be amended or repealed in order to be responsive to the needs and well-being of the people.

A. Concept of Law

a. Definition of Law

Law is a rule of conduct that is just and obligatory. Enacted by a legitimate authority for the common good, it mandates what is right and what is wrong. It is a source of rights and obligations. It is applicable to all persons similarly situated.

b. Sources of Law

Constitution is the fundamental law of the land. It is defined as an instrument by which the powers of the government are established, limited and defined, and by which their powers are distributed among several departments for their safe and useful exercise for the benefit of the body politic. Some of the significant provisions contained in the Constitution are:

- ◆ The basic civil and political rights of the citizens, and the limitations on the powers of the government embodied in the Bill of Rights;

- ◆ The State's mandate to promote social justice;
- ◆ The organization of the government, its political subdivisions and instrumentalities, and its powers relative to its administration and operation; and
- ◆ The State's mandate on local autonomy among the LGUs.

c. National Laws are laws enacted by the Congress of the Philippines, as the national law-making body of the government.

d. Administrative Issuances refer to the rules and regulations issued by the executive branch intended to fix the details in the execution or enforcement of a policy set out in the law. They must not override, but must remain consistent with the law that they seek to apply and implement. They are intended to carry out, not to supplant nor to modify the law.

The various administrative issuances that may be issued by the President are the following:

Executive Orders – provide for rules of general or permanent character in implementation.

Administrative Orders – relate to particular aspects of governmental operations pursuant to his/her duties as administrative head.

Proclamations – fix a date or declare a status or condition of public interest upon the existence of which the operation of a specific law or regulation is made to

depend, and shall have the force and effect of an executive order.

Memorandum Orders – matters of administrative detail or of a subordinate or temporary interest that only concern a particular officer or office of government.

Memorandum Circulars – matters relating to internal administration that must be brought to the attention of all or some of the departments, agencies, bureaus or offices of the government for information or compliance.

General or Special Orders – acts and commands of the President in his or her capacity as Commander in Chief of the Armed Forces of the Philippines.

- e. **Court Decisions** - “Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.” (Art. 9, New Civil Code)

- f. **Treaties and Executive Agreements** refer to international agreements that involve political issues or changes in national policy or those involving international arrangements of permanent character. On the other hand, international agreements embodying well-established national policies and traditions and those involving arrangement of a more or less temporary nature usually take the form of *executive agreements*.

Treaties need the ratification of the Senate of the Philippines while executive agreements require only an executive action and may take the form of Agreements or Protocols.

- g. Ordinances and Resolutions** are laws passed by the LGUs in the exercise of their legislative power. Ordinances are intended to permanently direct and control matters applying to persons and things in general. They are expressive of a law or regulation and have passed three (3) readings. Resolutions, on the other hand, are temporary in nature and merely express an opinion or sentiment of the law-making body. They need not pass the required three (3) readings.

B. Classification of Laws

1. According to source	2. According to nature
Constitution National laws Regional laws Administrative issuances Court decisions Treaties and executive agreements Ordinances and resolutions	<p>Substantive laws refer to laws that define and create rights (e.g., Family Code of the Philippines, Civil Code of the Philippines)</p> <p>Procedural laws refer to laws that provide remedies for the enforcement of substantive laws (e.g., The Revised Rules of Criminal Procedure, Revised Rules of Civil Procedure)</p>

3. According to subject	4. According to promulgating authority
<p>Public laws Constitution Election laws Local Government Code Administrative Code National Internal Revenue Code</p> <p>Private laws Family Code Code on Muslim Personal Laws Corporation Code Civil Code</p> <p>Criminal/ Penal laws Revised Penal Code Comprehensive Dangerous Drugs Act of 2002 Anti-Sexual Harassment Law Anti-Rape Law</p> <p>Social Justice Labor Code of the Philippines Comprehensive Agrarian Reform Law Cooperative Code of the Philippines Indigenous Peoples’ Rights Act</p> <p>Natural Resources National Integrated Protected Area System (NIPAS) Mining Laws</p>	<p>Acts refer to laws passed by the Philippine Legislature</p> <p>Commonwealth Acts refer to laws or statutes passed by the Philippine Assembly from 1935 – 1945</p> <p>Republic Acts refer to laws passed by the Congress of the Philippines in 1946- 1971; and those passed by Congress from 1987 to the present</p> <p>Presidential Decrees refer to laws issued by the President (Ferdinand Marcos) during the period of Martial Law in the exercise of his legislative powers from 1971 to 1986</p> <p>Batas Pambansa refer to laws passed by the Batasang Pambansa from 1981 to 1986</p> <p>Executive Orders refer to the laws issued by the President (Corazon C. Aquino) in the exercise of her legislative powers under the 1986 Freedom Constitution up to the establishment of Congress in 1987.</p> <p>Muslim Mindanao Autonomy Acts refer to laws passed by the Regional Legislative Assembly of the Autonomous Region of Muslim Mindanao.</p>

C. Hierarchy of Laws

The Constitution is the fundamental law and the highest law of the land.

National law is passed after three readings by the Congress of the Philippines and signed into law by the President. It is enforced throughout the country.

Regional law is passed after three readings by the Regional Legislative Assembly of the Autonomous Region of Muslim Mindanao and approved into law by the Regional Governor of ARMM. It is enforced only in the provinces and cities that comprise the ARMM.

Local law, consisting of the ordinances and resolutions, is passed by the local *Sanggunian*. It is submitted for approval to the Local Chief Executive. It is enforced only within the territorial jurisdiction of the LGU concerned.

II. THE PHILIPPINE LEGAL SYSTEM

A. Definition of State

A State is a community of persons, more or less numerous, permanently occupying a definite portion of a territory, independent of external control, and possessing an organized government to which the great body of inhabitants render habitual obedience.

B. Elements of a State

1. **People** - community of persons numerous enough to be self-sufficing, and to defend themselves, and small enough to be easily administered and sustained
2. **Territory** - land, water, air space above them and the submarine areas below them
3. **Government** - the agency or instrumentality of the State through which the will of the State is formulated, expressed and realized.
4. **Sovereignty** - the ultimate source of legal authority or the power to adopt or alter the Constitution, which resides in the people. It also means the capacity to conduct international relations.

C. Three (3) Branches of the Government

The three (3) branches of the government are the executive, legislative and judiciary branches. They are the political and legal branches of the government. They are co - equal and coordinate bodies and are supreme in their own spheres. They operate under the principles of separation of powers and checks and balances to prevent one department from encroaching on the prerogatives of the others.

C. Three (3) Branches of the Government (continuation)

<p>Executive is the branch that is tasked to enforce and administer the law passed by Congress. As provided under the Constitution, “the Executive power shall be vested in the President of the Philippines” (Art. VI, Sec. 1, 1987 Constitution) and by virtue of which, the president assumes a plenitude of authority and corresponding responsibility.</p>	<p>Legislative is the law-making body that is composed of the House of Representatives and Senate, more popularly known as Congress. It is where the laws are discussed, deliberated, debated and passed upon by our Representatives and Senators.</p> <p>In addition to law-making, powers of non-legislative nature are also exercised by Congress. Among these powers are the canvassing of the presidential elections, declaration of a state of war, impeachment, and confirmation of presidential appointees.</p>	<p>Judiciary is the body primarily charged with the interpretation of our laws. It ensures that justice and fairness are upheld in the application of laws.</p> <p>It determines whether one department had encroached upon the power of the other. Although holding neither the purse nor the sword, the judiciary is an indispensable department of every democratic government. It is also trite to say that courts of justice are the bastions of rights and liberties of our people.</p>
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D. Principle of Separation of Powers and System of Checks and Balances

Underlying Principles:

The Philippines is a democratic and republican state. Sovereignty resides in the people and all government authority emanates from them (Art. II, Sec.1, 1987 Constitution).

Civilian authority is at all times supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory (Art. II, Sec.3, 1987 Constitution).

Executive

- ◆ Exercises veto power over laws passed by Congress
- ◆ Exercises the power to appoint magistrates of the courts upon recommendation from the Judicial and Bar Council (JBC)

Legislative

- ◆ Exercises the power of confirmation of cabinet members through the Commission on Appointments (CA)
- ◆ Initiates and tries the impeachment against the President, Vice-President and members of the Supreme Court, Constitutional Commissions and the Ombudsman

Judiciary

- ◆ Exercises judicial review or power to test the constitutional validity of the executive or legislative acts
- ◆ Congress may not increase the Supreme Court's appellate jurisdiction without its advice or concurrence

E. Relation of the National Government to the Local Governments

Local Government Units (LGUs) consisting of the provinces, cities, municipalities and barangays are the political subdivisions of the State. These subdivisions possess police power, eminent domain and power of taxation through delegation by Congress upon the passage of the Local Government Code of 1991 (RA 7160) and the Local Government Code of the Autonomous Region in Muslim Mindanao (Muslim Mindanao Act No. 25). These Codes grant to the LGUs political and fiscal autonomy from the national government. As such, prior to implementing any national program, national agencies are mandated to conduct mandatory public hearing within the territorial jurisdiction of the LGU concerned.

This delegated autonomy, however, does not allow LGUs to undo acts of Congress and of the RLA. Also, general supervision is exercised by the President over them in order to ensure that their acts are within the scope of their prescribed powers and functions.

Limitations of the Powers of the State:

- ♦ **Due Process Clause** – No person shall be deprived of life, liberty or property without due process of law (Art. III, Sec.1, 1987 Constitution)
- ♦ **Equal Protection Clause** - All persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed.

F. Powers of the State vs. Rights of the People

Inherent Powers of the State	Basic Rights of the People
<p>Police Power – the power to restrain and regulate the use of liberty and property in promoting public welfare</p> <p>Taxation – the power to impose financial burden upon persons and property as a means of raising revenue to defray the necessary expenses of the government</p>	<p>The fundamental right of the people to life, liberty and property. Under the Due Process Clause they are understood as follows:</p> <p>Life – is the enjoyment of all God given faculties that can make one’s life worth living.</p> <p>Liberty – is the freedom to do right and never wrong. It is not an unbridled license but a liberty regulated by law. A person is free to act but he may exercise his rights in a manner not injurious to others.</p> <p>Property – is anything that can come under the right of ownership and be the subject of a valid contract.</p>

III. NATIONAL AND LOCAL SITUATIONER

A situationer should contain the following:

- ◆ Current or burning issues
- ◆ National profile including information on economic status and resources
- ◆ Socio-political and cultural issues
- ◆ Local profile, e.g. the island/ region or province, including basic demography and economic status
- ◆ Environmental situation, including ecology and biodiversity, as well as those which have environmental issues, such as extractive industries, environmental degradation, others
- ◆ Issues that are prevalent to the basic sectors, such as poverty, human rights issues, land rights issues and others



REMEMBER:

A situationer should provide the background and context of the issue/s being faced by the community/ basic sector

SESSION 3: Concept of Development

Objectives:

At the end of the session, the participants are able to:

1. Share their views and understanding of development;
2. Know and understand the various development concepts; and
3. Come up with a common development priority and framework.

Session Guide:

- I. Using Metacards: The participants will be instructed to write on the cards their notion of development. The cards will then be posted on the board and grouped into thematic clusters. These clustered responses will then be processed and linked to the input.
- II. Input
- III. Inter-active discussion with the participants

Content Outline:

- I. Definition
- II. Types of Development
- III. Approaches to Development
- IV. Indicators of Development
- V. Priorities of Development

I. DEFINITION

There are various definitions and/or description of what development is, but there are some common features, which will be discussed below. Development is a process of positive change from a lower state to a higher state. Examples: egg – chick – chicken; slave – free person; municipality – city.

II. TYPES OF DEVELOPMENT

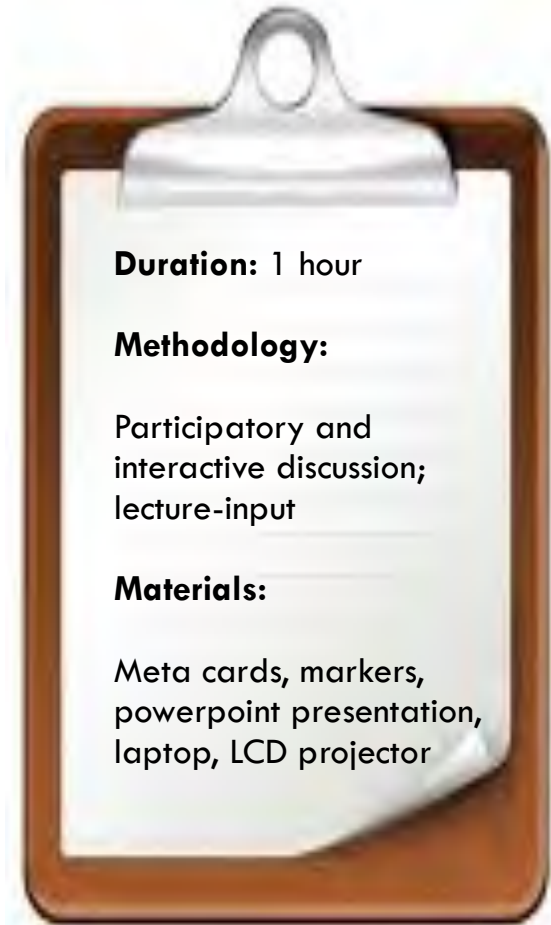
A. People development process

- ◆ Development at all times should respect human dignity.
- ◆ The process is aimed at raising the people's awareness and consciousness.
- ◆ The process in effect breaks the culture of silence.
- ◆ The process ensures that the people are not just beneficiaries but are primary movers.

B. Economic development process

- ◆ This means an increased income and production of the people and the society.
- ◆ This includes wise utilization of the critical resources (human, natural, physical or material, and financial resources). Increasing trade and investments, primarily rural-based, is also taken into account.

C. Environmental development process



- ◆ Very crucial in the process of coping with production is people's quality of life, quality of resources available, and people's capacity to make all these resources productive.
- ◆ In general, it is important that in all these processes, people must be the subject of development regardless of all those technical indicators. Holistic development refers to the realization of peoples' potentials, in harmony with the wise use of resources.

III. APPROACHES TO DEVELOPMENT

The types of development may be viewed based on who dictates it, who are working in attaining it, and who will eventually benefit from it. Below are the three (3) models of approaches to development:

A. Welfare Approach

- ◆ Need for immediate assistance from the outside, for instance, during disaster.
- ◆ The ones identifying the problem are the outsiders.
- ◆ The approach effects no significant change because the problem remains after the assistance is stopped.
- ◆ The approach, if not properly managed, nurtures the culture of dependency.

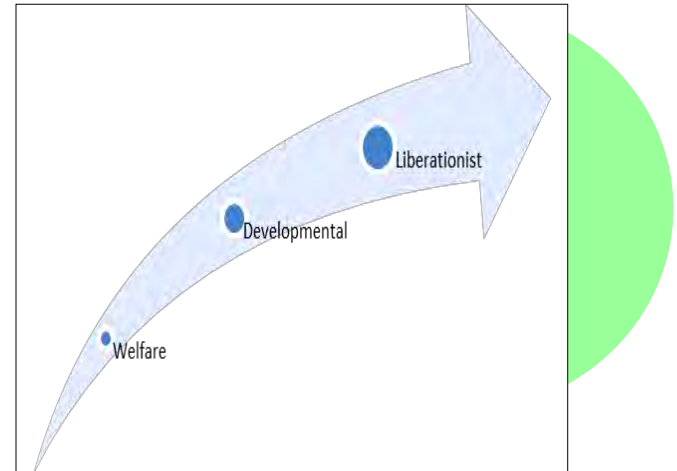
B. Developmental Approach

- ◆ The ones identifying the problem and the possible solution are the outsiders. For example, the international organization would say to a poor country that the reason of their condition is that they lack infrastructure, economic policies, etc. The poor country then will be advised to borrow money for the needed infrastructure, to make some adjustments in the economic policy like export oriented agriculture production, and others.

- ◆ The participation of the concerned community is limited
- ◆ The approach assumes that the root cause of the problem is the lack of needed resources, which can be sourced only from the outside.

C. Liberationist Approach

- ◆ The problem is identified and defined by the concerned community.
- ◆ The role of the outsiders is limited only to the facilitation of the process.
- ◆ The solution to the problem is formulated and led by the concerned community.
- ◆ Local resources are tapped as primary input in resolving the problem.



IV. INDICATORS OF DEVELOPMENT

Development may be gauged through the following:

- > Comparing the situation before with the situation at present
 - Effects to the lives of the people
 - Effects to the livelihood of the people
 - Effects to the environment and ecology
- > Comparing what was planned to what actually happened
 - Who wanted change?
 - What is to be changed?

Comparison of situations and indicators of 'development':
the municipality (rural) vs. city (urban)

Municipality



*Small amount of IRA;
Limited facilities and Infrastructure;
Few schools and hospitals;
Less opportunities;
Cheaper cost of living
Personal community interaction
Kids are monitored
Clean water
Air and food are fresh*

City



*Large amount of IRA
With Facilities and infrastructures
With big schools and big hospitals
More Opportunities
Expensive cost of living
Personal interaction even with neighbors is
uncommon
Increasing number of "street kids"
Polluted water
Air and food are not fresh*

Development may also be gauged based on the desire of the basic sectors, for instance:

Farmers – Development may be defined as having security in land tenure, high farm productivity and income, with access to adequate support services like post-harvest, irrigation, credit facility, among others.



Indigenous People (IPs) – Development may just be security and control over their ancestral domain, preservation of indigenous culture and practices, be respected by other people and be free from any form of discrimination, among others.

Fisherfolks – Development may mean recognition and protection of their rights over municipal waters, to have clean and safe fishing ground, among others.

Workers – Development may be defined simply as having security of tenure for their job, adequate wage, humane treatment, safe working environment, among others.



Development may also be gauged by examining the source of the rights of the sector and pairing it with the corresponding responsibilities, for instance:

Farmers – They have the right to use the land but, in turn, they have the responsibility to ensure that the practices employed will not destroy the fertility and the long term productivity of the land.

IPs – Their rights over the ancestral domain is based on native title held by the past generation. As such, they have the responsibility of ensuring that the resources therein can sustain the needs of the generations to come.

Fisherfolks - They have the primary right to utilize the fishery resources of the municipal waters. In exchange, it is their responsibility to ensure that resources are sustainably utilized. They should refrain from engaging in illegal and destructive activities like dynamite and cyanide fishing.

V. PRIORITIES OF DEVELOPMENT

With various issues that need to be prioritized in development, below are some conflicting interests that may be considered for resolution:

- ◆ Immediate gain vs. **sustainable source of livelihood**
- ◆ Minerals vs. **food, water, fish, and healthy environment**
- ◆ Mining vs. source for **potable water, irrigation, rivers, etc.**
- ◆ Mining vs. **abundant fishery resources**

SESSION 4: Paralegalism and the Roles of Paralegals in Environmental Protection

Objectives: At the end of the session, the participants are able to:

1. Review the basic concept and principles of paralegalism;
2. Review and identify the roles and duties of a paralegal in the community, including their role in environmental protection; and
3. Identify new or relevant approaches to address resource tenure and other justice issues.

Session Guide:

I. Structured Learning Exercise – “Word Release”

- ◆ The participants shall be divided into four (4) groups. Each group will be given metacards and pentel pens.
- ◆ The facilitator will ask the participants what they can recall about paralegalism/ paralegal, their characteristics, roles and responsibilities. They will also be asked about their unforgettable experiences or difficulties as paralegals, if any.
- ◆ The participants will write their answers (word or phrase) on the metacards and explain thereafter.
- ◆ With the help of the participants, the facilitator shall group the answers into categories (i.e., characteristics, roles, and responsibilities) and synthesize all the points raised.

II. Input

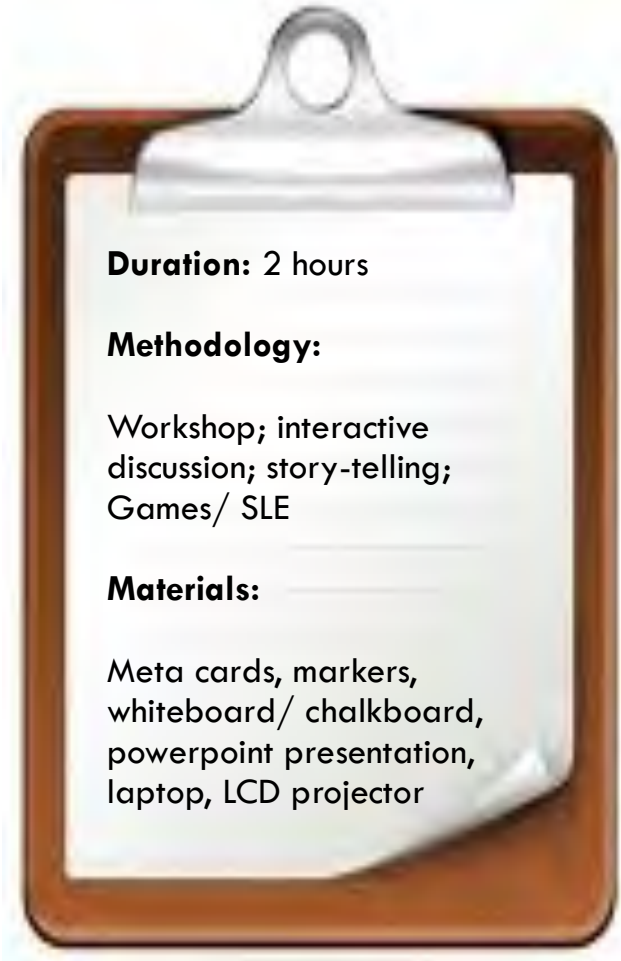
Content Outline:

- I. Introduction
- II. On Paralegalism
 - A. Bases of Paralegalism
 - B. Principles of Paralegalism
 - 1. Views/Beliefs on Laws
 - 2. Views on Social Change
 - C. Traditional and Alternative Legal Aid
- III. The Paralegal
 - A. Definition
 - B. Characteristics of a Paralegal
 - C. Roles and Responsibilities of a Paralegal
- IV. Conclusion

I. INTRODUCTION

The philosophy of paralegalism is an important component in alternative lawyering. The basis of paralegalism is the recognition of the capacity of the basic sectors (e.g., farmers, fisherfolks, indigenous people) to know and understand the law and its effective use in addressing the legal issues which confronted them and their community, without relying much on the assistance of a lawyer.

Paralegalism is a legal empowerment strategy “directed at organized groups



Duration: 2 hours

Methodology:

Workshop; interactive discussion; story-telling; Games/ SLE

Materials:

Meta cards, markers, whiteboard/ chalkboard, powerpoint presentation, laptop, LCD projector

belonging to marginalized sectors and communities. It aims to provide marginalized groups with knowledge on laws and skills that they can use in addressing justice issues including access and lack of it.”

II. ON PARALEGALISM

A. Bases of Paralegalism

In general, the unjust social structures that promote inequity, inequality, and oppression can be considered as one of the bases of why there is paralegalism. Specifically, the existence of the following issues and concerns among marginalized groups that are needed to address by the community is the practical consideration why there is paralegalism:

- (a) lack of knowledge on basic human and community rights;
- (b) lack of knowledge and analysis of laws and legal system;
- (c) lack of access to laws/legal system;
- (d) inadequacy of laws/legal system to address and push for the needs of the marginalized sectors; and
- (e) lack of access and use/control of resources.

Social Context



- ◆ The basic sectors do not have sufficient capacities and skills to protect their rights and interests;
- ◆ There are not enough number of lawyers to support and assist the legal needs of the marginalized sectors;
- ◆ Only the rich have the opportunity and means to hire lawyers who will protect and defend their interests;
- ◆ Most lawyers work within the framework and are supportive of the present legal system;
- ◆ Only temporary remedy is given by the client-lawyer relationship;
- ◆ Most of the basic sectors are too dependent on the lawyers in the protection of their rights;
- ◆ There is a need to know how to use the law to change the present system of society; and
- ◆ Genuine change can only be realized if it starts from the bottom, from the people and the communities belonging to the basic sectors of society, especially the marginalized sectors.

In light of the foregoing, the formation of community paralegals is much needed. The bases for the formation are –

- ◆ People should not be passive in accepting the present legal and social system;
- ◆ The present legal system constrains the basic sector to be over-dependent on lawyers for protection of their rights and interests.
- ◆ It is the duty of the basic sectors to protect and defend their rights and interests without being dependent on lawyers; and
- ◆ There is a need to push for change while working within the existing legal system.

B. Principles of Paralegalism

1. Views/Beliefs on Laws - The strategy of paralegalism is to use the law creatively in order to address the issues affecting the farmers, indigenous peoples, fisherfolks and other marginalized groups on the following premises:

Laws are real. Their existence cannot be ignored¹. It is expected that laws are made to be followed by each individual and should not be violated.

Laws are not necessarily just. They are not neutral. Even accepting that the legislature strives to maintain a just legal order, human limitations force us to admit that it would be approaching but never reaching perfection.

Laws are made by people or law is man-made. The laws that are formulated by the legislature are naturally affected by their motivation. The formulation and the implementation of the law depend on who made and executed the law. Most of the time, the one who made the law serves and protects his/her interest and does not serve the interest of the majority.

Laws are tools. They may be used to protect a particular sector or to protect the interest of the opposing party. Hence, it is important to know and understand the provisions that can be maximized to protect the interests of the user.

Laws can be changed. They are evolving and dynamic. There are so many laws that are not applicable and necessary to the present situation. There are also laws that are not favorable to the basic sectors or to the environment. Thus, the need to analyze existing laws and push for the corresponding amendment or repeal.

2. Views on Social Change

¹ *Legal Rights and Natural Resources Center, Paralegal Philosophy and Basic Developmental Legal Aid/Alternative Lawyering Premises, Paralegal Training Manual*

The Story of Pugoy and Tugoy

There were two friends, Pugoy and Tugoy. One day, Pugoy was kind of weak, so Tugoy carried him on his back to go somewhere. Pugoy got thirsty. Luckily, they found a river and Tugoy fetched some water for his friend. They continued traversing the road and each time Pugoy would get thirsty, they would stop to let Pugoy drink.

After a few hours in that difficult arrangement, Tugoy got the idea to put a straw in their container. This would allow Pugoy to drink water anytime he wants, without having to ask Tugoy for direct help, and they could have an uninterrupted journey.

Even so, it took the friends a long time to reach their destination. After a while, they both realized that in order to have a smoother and faster journey, both of them should help each other.

The three (3) different views on social change are:



CHARITY



DEVELOPMENTAL



LIBERATIONIST

Charity - There is no intention to change the societal structures. This view accepts the present structure, without seeing its limitations. The assistance extended is only temporary, only for particular cases, and only for as long as the individual client needs it. Legal assistance is viewed as a free service to be given away to the unfortunate victims of the society.

Developmental – This embraces the view that there is a need for change, which must come from those in possession of power. Change is expected once business and economy in general improves. However, there is no intention to change the system. Rather, it is hoped that in maximizing the skills of people, more will be benefited.

Liberationist – This adopts the view that genuine change can only come about if there is a thorough structural change. To accomplish this, it is necessary to strengthen and mobilize the basic sectors. Change comes from a conscientized and strong movement of the civil society, especially with the participation of the basic sectors like the workers, farmers and urban poor.

C. Traditional and Alternative Legal Aid

There are two (2) kinds of legal aid -- traditional legal aid and alternative or developmental legal aid. Paralegalism adheres to the principles of alternative legal aid.

TRADITIONAL LEGAL AID	ALTERNATIVE LEGAL AID
Accepts without question the legitimacy of the legal system and the social milieu in which it thrives	Recognizes that there is inequality in the present structure of the society
Recognizes that all laws are legitimate, and must be implemented to the fullest	Does not accept that all laws are true and legitimate; holds the view that there is a need to change the oppressive law
Thinks that injustice in society is due to the human frailty and to the wrong implementation of laws	Reasons out that it is structural inequality which is the root of injustice in society
Views legal aid as a form of charity to the less fortunate	Views legal aid as an instrument of change in the society
Maintains a lawyer – client relationship that is overly dependent	Encourages self-confidence and collective action, and discourages over-dependence on lawyers
Does not promote any strategic change in the structure of the society	Has a perspective of changing system / structure of the society.

III. THE PARALEGAL

A. Definition

A paralegal is an individual who is knowledgeable in laws and legal skills even though he or she is not a lawyer. The paralegal works on the legal needs of the marginalized/basic sectors and people's organizations. His/her work does not depend on having direct assistance from the lawyer.

B. Characteristics of a Paralegal

The paralegal should possess most of the following characteristics:

Objective, analytical, and creative mind with a great desire to learn

Bold and daring

Can adjust to any situation

Patient and receptive
(listens to the problems of the people)

Always ready

Can stand on their own

Critical and observant



With integrity

Smiling and happy

Principled and committed heart which trusts and empathizes with the people

Sensitive

Knowledgeable in the laws and legal processes affecting the concerned sector

C. Roles and Responsibilities of a Paralegal

In the court. The following tasks can be accomplished by the paralegal in relation to cases pending with the court:

- ◆ Research and gather evidence necessary for the resolution of the case;
- ◆ Interview witnesses;
- ◆ Draft affidavits and other necessary documents necessary to the case; and
- ◆ Follow – up pending cases.

In the community. Community-based paralegals play an important role in the community. There are so many sectors like peasants, IPs, women, youth, and fisherfolks with different issues and concerns. Some of them have no access to justice and other basic services.

Opportunity to avail of services from government agencies and institutions is difficult especially when the community is not organized. This is where the importance of community-based paralegals comes in. They can assume the following tasks:

- ◆ Organize the community;
- ◆ Explain to the basic sectors and community about their rights and the law and policies affecting them;
- ◆ Present to the community the inadequacy of the law and its implementation;
- ◆ Mobilize the basic sectors to push for their rights;
- ◆ Explain the status of the pending cases; and
- ◆ Facilitate tactic sessions with community esp. on identification of strategies for the fast resolution of cases and issues

In changing the society. Changing the present society is not easy. Since birth, we have been accustomed to seeing the poor and marginalized sectors with little or no access to basic services and justice. In order to be heard, they have to depend on the traditional lawyer – client relationship and prepare funds for the case.

It is, however, difficult to explain or advocate changes when the priority of the community is to find their daily needs, rather than to join discussions and mobilizations. In order to facilitate change in the community, the paralegal needs to assume the big task of organizing the community. More particularly, they need to do the following:

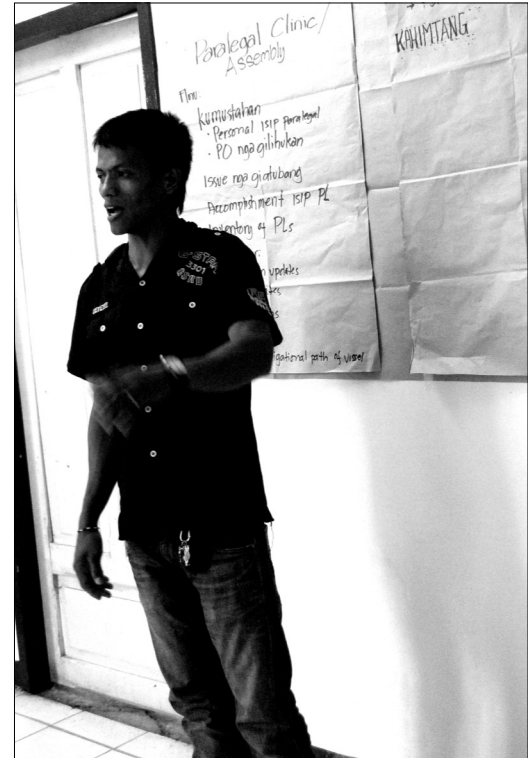
- ◆ Network with the people’s organization in the community to address the resource tenure and other justice issues;
- ◆ Promote a different kind of relationship between lawyers and client – strive for a relationship that is not overly-dependent;
- ◆ Continue organizing for the purpose of preparing people in their struggle for their rights;
- ◆ Mobilize community to protect their rights; and
- ◆ Advocate for favorable laws that promote and protect the rights of the marginalized sector.

In assisting lawyers. When and where lawyers are available to assist the marginalized sectors, the paralegal should undertake the following:

- ◆ Discuss with the lawyers possible scenarios and arguments;
- ◆ Provide updates on the status of the case and the affected community;
- ◆ Assist the community in looking for the solutions to their issues and concerns; and
- ◆ Mobilize people in order to hasten the struggle for their rights.

IV. CONCLUSION

Paralegalism is an advocacy for a particular way of life of a lawyer and a legal advocate. A life that is not based on sacrifices and compromise, but a way of life that is a choice and a life-long commitment.



MODULE II – LAWS AND OTHER ISSUANCES RELATED TO ENVIRONMENTAL DEVELOPMENT AND PROTECTION

SESSION 5: Relation of Community to Resources

Objectives: At the end of the session, the participants are able to:

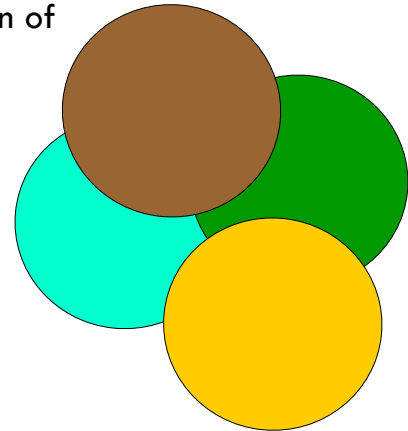
1. Know and understand the concept of regalian doctrine;
2. Learn the different kinds and classification of resources;
3. Be familiar with the tenurial instruments of each resource; and
4. Know and appreciate the laws and issuances on the relation of communities to different resources

Session Guide:

- I. Structured Learning Exercise: “Drawing and Identification of Resources”
- II. Input
- III. Synthesis

Content Outline:

- I. Introduction
- II. Kinds of Resources in the Community
- III. Historical Background
- IV. Relations of Resources
- V. Classification of Land/Resources



VI. Pertinent Laws on Resources and Tenurial Instruments

I. INTRODUCTION

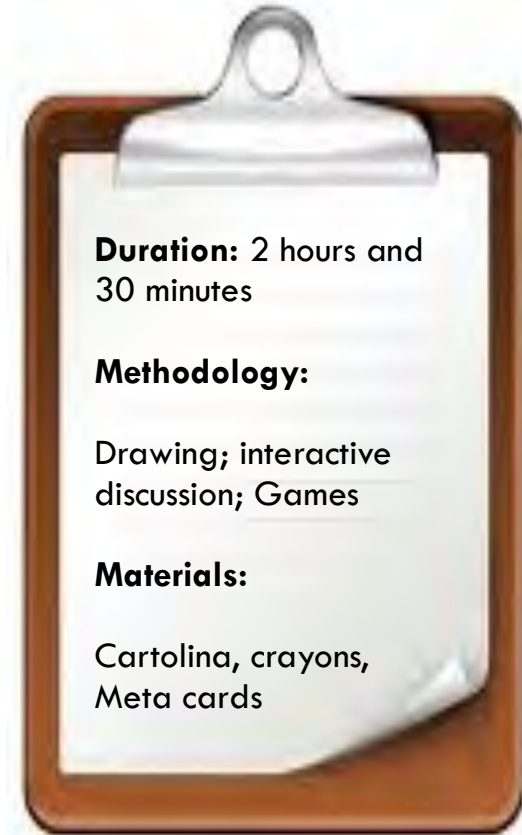
Since the time man was created, natural resources are his/her partner to live abundantly. Land, forests, minerals, animals, water and other resources provided man everything. However, man was not able to conserve and protect the resources that surrounded him/her. Worse, man destroys the resources that he/she is dependent on for life.

With the different relations of man with resources, there are also many ways to conserve and protect the resources. What is important is that man appreciates the significance of the resources to the life of all inhabitants.

II. KINDS OF RESOURCES IN THE COMMUNITY

The different kinds of resources in the community are:

- a. Land
- b. Water and Coastal Resources
- c. Timber or Forest
- d. Minerals
- e. Others



III. HISTORICAL BACKGROUND

Before the arrival of the Spaniards, there was no concept of ownership. Groups of people occupied a certain territory and then simply transferred to another if food becomes unavailable.

When the Spaniards conquered and dominated our land for more than 300 years and called it “Philippines,” they introduced the concept of Regalian Doctrine on the whole territory. At that time, all resources were owned by the King of Spain. The Spaniards had this doctrine embedded in the Philippine system such that all resources, at present, are owned by the State. Under the said concept, the State controls all the natural resources in the country. All lands belong to the State. The same doctrine was adopted in our 1987 Philippine Constitution.

Regalian Doctrine

Section 2, Article 12 of the 1987 Constitution provides that “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. 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 60% of whose capital is owned by such citizens. Such agreements may be for a period not exceeding 25 years, renewable for not more than 25 years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant. xxx”

IV. RELATIONS OF RESOURCES

Of Resources

- ◆ Everything is related to everything else. Everything is interconnected. The loss of the trees results to loss of flora and fauna species. Soil erosion leads to siltation.
- ◆ Everything must go somewhere. Burning of forest will produce carbon dioxide that will affect the air.
- ◆ NATURE knows best. If we will not manage and develop the resources, nature will have the last and final say.
- ◆ There is no such thing as a free lunch. Whatever you do to the system will have its effect on you.

Of Communities and Individuals with Resources

- ◆ **Stewards** – The people are stewards of all natural resources. No one owns them. The people are just the protectors.
- ◆ **Owner** – An owner has the right to possess, dispose, destroy, use, and defend his/her property against any intruder.
- ◆ **Lessee and Tenant** – the person is a lessee or tenant when he/she just leases the property from an owner/rightful possessor to use the property and, in return, pays rent.
- ◆ **Farmworker** – a person is a farmworker when he receives wages from the rightful owner or manager of the property. His/her relationship is with the owner or manager, and not with the property.
- ◆ **Squatter** – a person who occupies or possesses the property without the consent of the rightful owner or possessor.

V. CLASSIFICATION OF LAND/RESOURCES

According to Ownership

Public Dominion are lands owned by State. Under the New Civil Code, the lands under public dominion are the following:

- ◆ Those that are for public use (e.g., roads, bridges);
- ◆ Those that are for public services (e.g., military camps, hospitals, public schools);
- ◆ Those intended for the development of national wealth; and
- ◆ Those that are not for any of the foregoing uses are classified as patrimonial properties.

Private lands are owned by private individuals or Filipino corporations. Under property law, the person who claims ownership shall have the burden of proving his ownership, one of which is through presentation of his title thereto. The land owned by individuals can be used for residential purposes, and those owned by corporations can be used for educational, industrial and other productive purposes.

According to Legal Classification

The Chief Executive has the authority to classify the lands. But for agricultural lands owned by the state or subdivision of the state, it can be classified by Congress as the following:

- ◆ Forest Lands
- ◆ Mineral Lands
- ◆ National Parks – for the conservation of biodiversity areas

- ◆ Agricultural Lands
- ◆ Alienable and Disposable – CA 141 Free Patent/ OCT; HP; PD 27-ED; RA 6657 CLOA; IPRA RA 8371 for CADC/CADT and CALC/CALT
- ◆ Ancestral domains - community, all resources, and the overall environment, cannot be transferred; Right to transfer among members of same ICCs/IPs; May apply under CA 141 and Land Registration Act; NCIP – National Commission on IP

VI. PERTINENT LAWS ON RESOURCES AND TENURIAL INSTRUMENTS

A. Article XII, 1987 Philippine Constitution

Sec. 2 – 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. 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 60% of whose capital is owned by such citizens. Such agreements may be for a period not exceeding 25 years, renewable for not more than 25 years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

Sec. 3 – Lands of public domain are classified into agricultural, forest, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding 25 years, renewable for not more than 25 years, and not to exceed 1000 hectares in area. Citizens of the Philippines may lease not more than 500 hectares, or acquire not more than 12 hectares thereof by purchase, homestead or grant.

Sec. 4 – Congress shall determine the specific limits of forest lands and national parks.

Sec. 5 – In protecting the rights of indigenous cultural communities to their ancestral lands, Congress may provide for the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domains

Sec. 7 – Aliens/foreigners, except through hereditary succession, may not own lands in the country.

B. Indigenous Peoples Rights Act of 1997 (RA 8371)

Sec. 56 – Property rights within the ancestral domains already existing and/or vested upon effectivity of RA 8371, shall be recognized and respected, such as the Certificate of Ancestral Domain Claims/Certificate of Ancestral Domain Title, and Certificate of Ancestral Land Claims/Certificate of Ancestral Land Title.

Summary of Classification

Public							Private				
Non Alienable and Disposable							Alienable and Disposable Lands				
Forest / Timber	Mineral lands	National Parks	Public Agricultural lands					Private agricultural	Industrial	Commercial	Etc
			Agricultural	Residential	Industrial	Commercial	etc				
Water Resources							ANCESTRAL DOMAIN LANDS				

SUMMARY OF TENURIAL OPTIONS ACCORDING TO CLASSIFICATION

	Private	Public			
		Classification according to Constitution			
	Private Agricultural Lands	Public Agricultural Lands	Forest /Timber Lands	Mineral Lands	National Parks
Applicable Laws	RA 6657, as amended by RA 8532 and RA 9700	CA 141 (Public Land Act) Memo Circular 14/19	PD 705, as amended (Revised Forestry Code of the Philippines) EO 263 (Community Based Forest Management) DAO 29-96	RA 7942 (Philippine Mining Act of 1995) RA 7076 (People's Small Scale Mining Act of 1991)	RA 7586 (National Integrated Protected Areas Act)

	Private	Public			
		Classification according to Constitution			
	Private Agricultural Lands	Public Agricultural Lands	Forest /Timber Lands	Mineral Lands	National Parks
Government agency responsible	DAR	DAR/ DENR	DENR	DENR MGB	DENR
Tenorial instruments	CLOA / EP/ TCT/ OCT	Free Patent Homestead Patent Sales patent	ISFP Certificate of Stewardship Contract (CSC) and Certificate of Community Forest stewardship (CCFS) Community Forest Program ; Community Forest Management Agreement (CFMA) Forest Land Management Program (FLMP) Forest Land Management Agreement (FLMA) <u>CBMFA –CSC</u> ISF		

Ancestral Domain / Lands	
Applicable Laws	RA 8371 (Indigenous Peoples' Rights Act)
Government agency responsible	National Commission of Indigenous Peoples (NCIP)
Tenurial Instruments	Certificate of Ancestral Land Title (CALT) Certificate of Ancestral Domain Title (CADT)

SESSION 6: Forestry Laws in the Philippines

Objectives: At the end of the session, the participants are able to:

1. Know and appreciate the different laws and policies pertaining to forests and other resources found therein;
2. Know the different tenurial instruments that may be applicable to forests;
3. Understand the issues and problems concerning forest resources;
4. Identify resources in their area and issues concerning the same;
5. Review salient features of NIPAS Law; and
6. Have an idea on how to use the law in the advancement of their interests.

Session Guide:

- I. Input
- II. Interactive discussion for clarifications
- III. Workshop – “Resource Mapping”
 - Divide the participants into geographical (or sectoral) subgroups and provide each subgroup with mindanaw paper and colored pens;
 - Ask the participants to draw different resources in their areas and identify underlying issues surrounding their area and/or faced by their sectors. Allot 15-20 minutes; and
 - Ask each subgroup to report the output to the plenary.

Guide Questions:

What are the resources/issues you identified?

What is the status of these resources/issues identified?

Are there any threats that would likely worsen the situation in the area?

What are the current programs/interventions present in the area for the protection of the resources?

Who are the key players in the areas? (Note to the facilitator: players include both protector and destructor)

IV. Input

V. Interactive discussion for clarifications

Content Outline:

I. Introduction

II. Revised Forestry Code

A. Different Laws and Policies on Forests

B. Forestry Programs of the Government

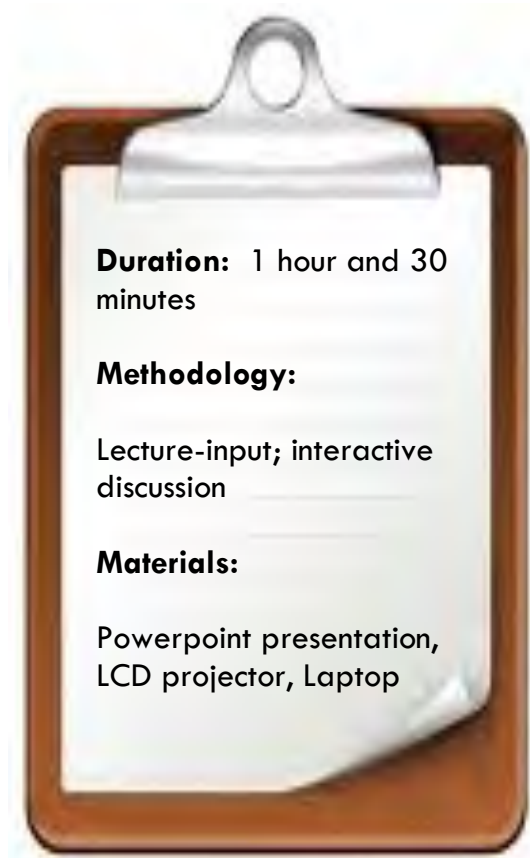
III. National Integrated Protected Area System (NIPAS) Law (RA 7586)

A. Protection Area

B. Administration of the Protected Area

C. Rights of the Communities

D. Prohibited Acts



I. INTRODUCTION

Some of the pertinent provisions of the Constitution on protecting our forests are as follows:

“The State shall protect and advance the right of the people to a balance and healthful ecology in accord with the rhythm and harmony of nature” (Art II, Sec. 16)

“All lands of the of the public domain, water, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forest or timber, wildlife, flora and fauna, and other natural resources are owned by the State” (Art. XII, Sec. 2)

“Lands of the public domain are classified into agricultural, forest, or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to uses to which they may be devoted” (Art. XII, Sec.3)



II. REVISED FORESTRY CODE

A. Different Laws and Policies on Forest

Revised Forestry Code of the Philippines (PD 705, as amended)

Sec. 15 Topography

“No land of the public domain eighteen percent (18%) in slope or over shall be classified as alienable and disposable, nor any forest land fifty percent (55%) in slope or over as grazing land”

Sec. 78. Cutting, Gathering and/or Collecting Timber or Other Forest Products without License

“Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber or other forest products 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 legal documents as required under existing rules and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code; Provided that in the case of partnership, 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.”

Punishable Offenses

1. Cutting, gathering, collecting or removing of timber or other forest products from any forest land without authority. Elements are:

- ◆ There must be cutting, gathering, collecting or removing of timber or other forest products;
- ◆ The timber or other forest products are cut, gathered, collected or removed from any forest land; and
- ◆ The cutting, gathering, collecting or removing is without authority.

2. Cutting, gathering, collecting or removing of timber from alienable or disposable public and or from private land. Elements are:

- There must be cutting, gathering, collecting or removing of timber;
- The timber is cut, gathered, collected or removed from alienable or disposable public land or from private land; and
- The cutting, gathering, collecting or removing is without authority.

Premium Hardwood
refers to narra,
molave, dao,
kamagong, acacia,
akle, apawit,
banuyo,
batikuling, hetis,
bolangeta, teak,
tindalo and
mangis (DA078)

Persons Liable

The cutter

The gatherer

The collector

The remover

The possessor or any and all persons who appear to be responsible for the commission of the offense defined in Section 68 of PD 705, as amended by EO 227.

In case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession

3. **Possession of timber or other forest products without the legal documents as required under existing forest laws and regulations.** Elements are:
- ◆ Possession of timber or other forest products; and
 - ◆ The possession is without the legal documents as required under existing forest laws.

Examples of authority to cut, gather, collect, remove timber and other forest products:

1. **Timber License Agreement (TLA)** and other existing license permits—These permits were issued by the DENR in pursuance to PD 705 and the old constitution, and continue to be in full force and effect until their expiry dates
2. **Timber Production Sharing Agreement (TPSA)**
All license issued by the DENR to utilize timber resources from forest areas, in lieu of TLA, in compliance with Sec. 2, Art XII, of the 1987 Constitution (DAO 78.)
3. **Private Land Timber Permits (PLTP)**
A license granted by the DENR to landowners themselves to cut, gather, collect, remove timber found (natural grown) within their private lands.

4. Special Permits Permit to cut narra and other premium hardwood in the forest areas, civil/ military reservations or resettlement areas; Permit to cut narra and other premium hardwood found (natural grown) in private lands.

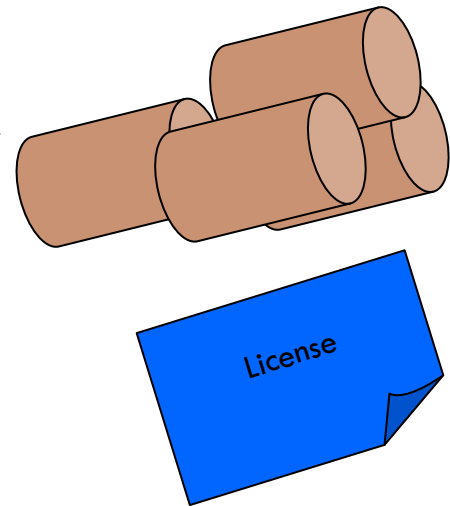
This authority is known as the **Special Private Land Timber Permit (SPLTP)** issued to landowners themselves (DENR Memorandum Circular 22, series of 1990)

*Note: Instead of permit, only **CERTIFICATION** from the CENRO shall accompany shipment from the forest products of the private titled land or tax declared alienable and disposable land.*

Documents Required by Forest Laws and Regulations

Documents required for the shipment or transport of logs/ timber

- ◆ Certificate of Timber Origin (CTO)
- ◆ Auxiliary Invoices
- ◆ Sales or Commercial Invoices
- ◆ Log Supply Contract or LSPA
- ◆ Logs must be scaled and marked with Forest Officers marking hatchet and licensee's Registered Private Log Mark (DAO 34)



- ◆ Certificate of Transport Agreement (DAO 59)

Note: The Certificate of Transport Agreement can be dispensed with –

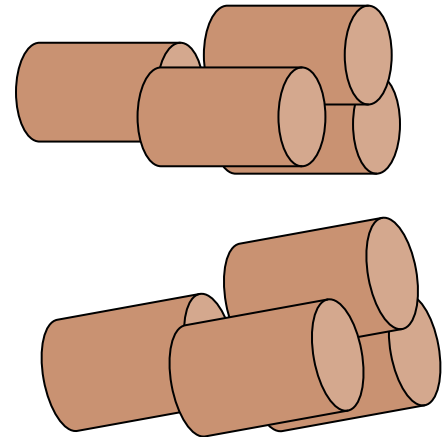
- ◆ If the owner of CONVEYANCE is the same owner of the timber or other forest product to be transported or shipped or
- ◆ If immediately prior to the loading of any forest product, the conveyance owner notifies the Community Environment and Natural Resources Officer (CENRO) of the planned shipment, in which case, the CENRO shall issue instead a CLEARANCE FOR THE TRANSPORT OF FOREST PRODUCTS (DAO 59).

Sanctions on Shipments of Log/Timber Without CTO

Timber that are transported or shipped without the accompanying CTO shall be presumed as coming from illegal sources and shall be subject to confiscation and disposition in accordance with EO 227 and other laws and regulations on the matter. The offender shall be subject to prosecution (Par.9, DAO 34)

Validity of CTO

The Certificate of Timber Origin shall be issued on per shipment basis. The CTO shall be valid only for a period of 15 days (including Saturdays, Sundays and Holidays) from the date of the issuance or after loading in case of export, or in case of domestic transport, upon discharge at the point of destination, renewal or extension thereof should be secured from the nearest DENR Office.



Transport of Lumber

- ◆ Original Copy of the Certificate of Lumber Origin (CLO)
- ◆ Lumber Sales Invoice (in case of lumber sale)
- ◆ Tally Sheets
- ◆ Delivery Receipt
- ◆ Certificate of Transport Agreement unless dispensed with under DAO 59-A.

Persons Authorized to Confiscate and Seize

1. Forest Officer or employee of the **Forest Management Bureau**;
2. Personnel of the **Philippine National Police**;
3. An **agency, barangay or barrio official** or any qualified person to be deputized by the department head;
4. **Special Forces** of the Armed Forces of the Philippines organized in every region to enforce forest laws under MOA by the Secretaries of the DND and DENR;
5. **DENR Officers** and other authorized personnel of the DENR subject however that their authority is ***within their territorial jurisdiction***;
6. Such other persons and officers that may be designed by the Dept. Head in the exercise of his administrative authority.

Subject of Administrative Confiscation/ Seizure

- ◆ Illegally cut, gathered, collected, removed or possessed timber or other forest products.
- ◆ All conveyances, either by land, water, air, used in the commission of the offense
- ◆ All tools and equipments used in committing the offense shall be confiscated and seized and forfeited in favor of the government.

Other Penal Provisions

Sec. 79 Unlawful occupation or destruction of forest lands and grazing - “It shall be unlawful for 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 under license, agreement, lease, license or permit xxx”

Sec. 81 Illegal occupation of national parks system and recreation areas - “Any person who shall, without permit, occupy for any length of time any portion of the national parks system XXX”

Jurisprudence

Director of Lands vs. Court of Appeals (172 SCRA 455)

The Supreme Court consistently ruled that possession of forest lands can never ripen into ownership.

Oposa vs. Facturan, G.R. No. 101083, 30 July 1993

The Supreme Court declared that while the right to a balanced and healthful ecology is found under the declaration of Principle and State Policies and not under the Bill of Rights, it does not follow that it is less important than any civil or political right enumerated in the latter.

Alejandro Tan, et. al. vs. People of the Philippines, May 1998—

The Supreme Court reiterated that lumber is included in the term timber. Lumber is a processed log or processed forest raw material.

DENR RSOG vs. Hon. Teodulo Mirasol, November 1995

It is not necessary for the purposes of conviction that the accused himself, cut, gathered, collected or removed the timber or forest products. Mere possession of such forest products without the legal documents already constitutes violation of the law.

Mustang Lumber, Inc. vs. Court of Appeals, G. R. No. 104988, 18 June 1986

It is settled in that in the absence of intent to the contrary, words and phrases used in the statute should be given their plain and ordinary meaning and in so far as possession of timber without the required legal documents is concerned, Sec. 68, PD 705 makes no distinction between raw or processed lumber.

B. Forestry Programs of the Government

- 1. Integrated Social Forestry (DAO 04) (ISF)**
- 2. Socialized Industrial Forest Management Program (DAO 24)**
- 3. *Usufruct* (DAO 99-29)**
- 4. *Community Based Forest Management Program* (DAO 96-29)**

1. Integrated Social Forestry (DAO 04) (ISF)

Policy	Protect the environment, alleviate poverty and promote social justice by enlisting the people directly using forest lands in the task of the stewardship of the uplands.
Qualified Beneficiaries	<ul style="list-style-type: none"> ◆ Individual families or forest communities/ associations including indigenous cultural communities who must be: ◆ Citizens of the Philippines; ◆ Of legal age; ◆ Are actual tillers or cultivators of the land to be allocated; ◆ Living within the project area or adjacent barangay/ sitio in order to actively participate in stewardship activities
Disqualification	<ol style="list-style-type: none"> 1. Those who already have stewardship agreements or are married to holders of stewardship contracts 2. Those who have had previous stewardship agreements cancelled for cause, such as when public interest demands as determined by the Secretary of the DENR.

1. Integrated Social Forestry (DAO 04) (ISF)

<p>Tenorial Instruments</p>	<p>Certificate of Stewardship (CS) – the document issued by the government to qualified individual forest occupants pursuant to the Stewardship Agreement. It has a duration of 25 years and renewable for another 25 years.</p> <p>Certificate of Community Forest Stewardship (CCFS) – the document issued by the government to qualified forest communities, associations, including indigenous cultural communities pursuant to the Stewardship Agreement</p>
<p>Size of the area awarded</p>	<ol style="list-style-type: none"> 1. Individuals shall be allowed a maximum of five (5) hectares only 2. Associations/organizations shall be allowed a maximum of 2,000 hectares
<p>Responsibilities of the Qualified Beneficiaries / Participants</p>	<ol style="list-style-type: none"> 1. Abstain from cutting or harvesting naturally growing timbers within and adjacent to social forestry area, except when authorized by DENR in accordance with existing forest regulations and guidelines; 2. Refrain from transferring or assigning their allocated land or any portion thereof without prior approval from the DENR Secretary or his authorized representative; 3. Prevent and suppress fires within the project areas and other areas immediately adjacent thereto.

<p>Transfer shall be allowed in the following</p>	<ol style="list-style-type: none"> 1. Death or incapacity of the original stewards; 2. Movement outside of the area by the steward; 3. Change of vocation in the stewardship agreement holders from upland farmers or when the stewards cease to be actual tillers of the area
<p>Incentives</p>	<ol style="list-style-type: none"> 1. No fees shall be collected for the use of the allocated land under the stewardship agreement; 2. All income /proceeds derived from the land shall accrue to the program participants; 3. Unless otherwise provided by law, forest products derived from and/or harvested from the project area shall be exempted from payment of forest charges; 4. Technical, legal, financial, marketing, credit and other needed assistance shall be extended to program participants. 5. Program participants may avail of assistance provided by other government agencies and non-government and or private organizations; 6. Upon expiration of the Stewardship Agreement, program participants or their direct next of kin shall have the right of pre-emption to any subsequent stewardship agreement covering thereof allocated, and when for some reasons the government opts not to allocate the land for stewardship, the participant concerned shall be entitled to just compensation for permanent improvement including trees.

1. Integrated Social Forestry (DAO 04) (ISF)

Cancellation of Stewardship Agreement	<ol style="list-style-type: none">1. When a program participant fails to comply with the terms and conditions of the agreement within six (6) months after being notified of his neglect in writing by the RED2. Serious and continued violation of forestry laws, rules and regulations in the development of the area3. When public interest demands, as determined by the Secretary of the DENR.
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2. Socialized Industrial Forest Management Program (DAO 24)

Policy	<p>To ensure the equitable access to sharing of rights to natural resources development and utilization by providing opportunities to the people to participate actively in forest plantation development.</p> <p>As an incentive for the participation of qualified tree planters, they shall be granted the privilege to benefit from their crops which shall consist primarily of trees for wood production, non-timber and other cash crops that may be interplanted.</p>
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2. Socialized Industrial Forest Management Program (DAO 24)

<p>Qualified Beneficiaries</p>	<ol style="list-style-type: none"> 1. Individual/Single Family Units - Filipino citizens, of legal age and preferably residents of the municipality where the area is located. Actual occupants of the area will be given priority. Provided that in case of government employees, they shall qualify with the consent of their respective heads of agency 2. Cooperatives and Associations - whose members are Filipino citizens and residents of the province where the SIFMA site is located and duly registered with CDA or SEC as the case may be. These cooperatives must show proof of financial capability and technicality to develop the area.
<p>Disqualification</p>	<ol style="list-style-type: none"> 1. Individuals, cooperatives and associations who have been previously issued with Tree Farm Lease Agreements (TFLAs), Industrial Forest Management Agreements or other agreements that were cancelled due to their incompatibility to comply with the provisions of the contract including the failure to develop open and denuded lands and other plantable areas within the prescribed period. 2. Individuals, cooperatives and associations whose officers have derogatory records; 3. Holder of any existing forest permit, license, lease or management agreement.

2. Socialized Industrial Forest Management Program (DAO 24)

Application Requirements	Interested individuals, cooperatives and associations may file their applications for SIFMA with the concerned CENRO with the following: 1. For individual and Family units a) Community Tax Certificate; b) Certification from the barangay captain and municipal / city mayor that the applicant is a resident of the area where the site is located; c) If a government employee, authorization from the head of the department or agency where the applicant is employed.
Application Requirements	2. For cooperatives /Associations a) Certified true copy of the Certificate of Registration with the CDA or SEC; b) List of duly elected officers as certified by the Board Secretary; c) Resolution/minutes of the meeting, duly certified by the Secretary indicating the cooperative's interest in the program
Tenurial Instruments	SIFMA – through this agreement the DENR shall assign the responsibility to manage the forestlands which shall have a duration of 25 years renewable for another 25 years. The SIFMA may be transferred, conveyed or sold, in whole or in part, to any person, cooperative, association qualified to participate under the program.

2. Socialized Industrial Forest Management Program (DAO 24)

Size of the area awarded	<p>The area that may be awarded in a SIFMA under this program is as follows:</p> <p>For individual/family – 1 to 10 hectares</p> <p>For association/cooperative – over 10 has. to 500 has.</p>
Incentives	<ol style="list-style-type: none"> 1. All planted trees belong to the SIFMA holder who shall have the right to harvest, sell, and utilize such trees and crops, except those retained for environmental purposes; 2. Export logs, lumber and other forest products harvested from the SIFMA; 3. Participants of the program who are actual occupants shall be given priority in the event rules, regulations or laws in the future shall allow a more permanent tenurial arrangement; 4. All plantation products derived from the SIFMA shall be exempted from payment of forest charges ; 5. Technical Assistance should SIFMA holder wish to confederate into a larger organization.

3. *Usufruct* (DAO 99-29)

Policy	It is the policy of the DENR to establish, manage, and conserve tree farming within the forestlands where occupation is not allowed. The DENR employees shall lead in these forestation efforts which in the long run will redound to their benefit.
Qualified Beneficiaries	All DENR personnel are qualified to participate in the following manner: <ol style="list-style-type: none">1. As individual2. As an association
Tenurial Instruments	The Contract of Usufruct includes the profit sharing scheme with the government. In no way does this contract give the participant acquisitive right or ownership over the land.
Size of the area awarded	The area that may be awarded under this program is as follows: <ol style="list-style-type: none">a. For individuals – maximum of 5 hectaresb. For Association – minimum of 5 hectares and maximum of 50 hectares

3. *Usufruct* (DAO 99-29)

Application Requirement	<p>For individual DENR Employees</p> <ol style="list-style-type: none">1. Duly accomplished application form for evaluation of the CENRO;2. Development Plan for approval of concerned authority per standing policies;3. Community Tax Certificate. <p>For Associations</p> <ol style="list-style-type: none">1. Certified true copy of the Certificate of Registration with authorized office;2. List of duly elected officers and members and their addresses, duly certified by the Board Secretary;3. Resolution/minutes of the meeting duly certified by the Board Secretary, indicating their interest in the program;4. Development plan for approval of concerned authority per standing policies. <p>The CENRO shall evaluate these documents and, if found in order, shall prepare a contract of <i>Usufruct</i> to be approved by the Secretary</p>
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4. Community Based Forest Management Program (DAO 96-29)

<p>Policy</p>	<p>Protect and advance the right of the Filipino people to a healthful environment; Improve their socio-economic conditions through the promotion of social justice, equitable access to and sustainable development of forestlands resources;</p> <p>Respect the rights of the indigenous peoples to their ancestral domains, take into account their customs, traditions and beliefs in the formulation of laws and policies. Active and transparent community participation and tenurial security shall be among the key strategies for achieving these goals.</p>
<p>Qualified Beneficiaries</p>	<p>The principal participants in the CBFMP shall be the local communities as presented by their organizations herein referred to as Peoples Organizations (POs) --</p> <ol style="list-style-type: none"> 1. Members shall be Filipino citizens; 2. Members may either be: <ol style="list-style-type: none"> a. Actually tilling portions of the area to be awarded; b. Traditionally utilizing the resource for all or substantial portion of their livelihood; or c. Actually residing within or adjacent to the areas to be awarded

4. Community Based Forest Management Program (DAO 96-29)

<p>Tenurial Instruments</p>	<p>a. Community Based Forest Management Agreement (CBFMA) is an agreement between the DENR and the participating People’s Organization. The CBFMA has a duration of 25 years.</p> <p>b. Certificate of Stewardship Contract (CSC), which has a duration of 25 years renewable for another 25 years, shall be awarded to individuals or families actually occupying or tilling portions of the forest land. The CSC shall be issued only within the established CBFM areas, subject to allocation and endorsement of the PO.</p> <p>c. Certificate of Ancestral Domain Claim- Community based Forest Management Agreement (CADC-CBFMA) – shall be the tenurial instrument for CADC or CALC holder respectively, who opt to enter into a CBFMA over the portions of the ancestral domains or ancestral lands within the forestlands.</p> <p>Note: The lapse of the tenurial instruments shall not extinguish the ICCs/IPs claim to their ancestral domains and lands, whether or not such claim is recognized or not.</p> <p>CSCs and CBFMAs are contracts between the government represented by the DENR and a participant/PO for the management of a determinate and demarcated portion of forest land.</p>
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Incentives	<ul style="list-style-type: none"> a. To occupy, posses, utilize, and develop the forestlands and its resources within a designated CBFM area and claim ownership over introduced improvements, ICCs and IPs shall be deemed not have to waived their rights to ancestral lands and domains and the right to lay claim to adjacent areas, which may after investigation, proved to be in fact part of their ancestral domain; b. To allocate to members and enforce rights to use and sustainably manage forest lands resources within the CBFMA area; c. To be exempt from paying the rent for use of CBFMA areas; d. To be exempt from paying charges on timber and non-timber products harvested from the plantation in accordance with RA 7161; e. To be properly informed and be consulted of all government projects to be implemented in the area. A POs consent shall also be secured by the DENR prior to the granting and or renewal of the Contracts, leases, permits of the extraction and utilization of natural resources within the areas; provided, that an equitable sharing arrangement shall be reached with the PO prior to any grant or renewal to an individual or legal entity that is not from or based in the affected community; f. To be given preferential access by the DENR to all available assistance in the development and implementation of the CRMF, RUP and AWP; g. To receive all incomes and proceeds from the sustainable utilization of resources within the CBFMA area subject to the provisions of the NIPAS law; h. To enter into agreements or contracts with government or private entities for the development of the CBFMA areas; provided that public bidding and transparent contracting procedures are followed.
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III. NATIONAL INTEGRATED PROTECTED AREA SYSTEM (NIPAS) LAW (RA 7586)

The National Protected Areas System (NIPAS) Act or RA 7586 is a national legislation that provides a process and comprehensive means of administration of a declared protected area. This is in line with the state policy on environmental protection for the benefit of the Filipinos and the next generations to come.

NIPAS law recognizes the importance of multi-sectoral and integrated coordination among the government, the public, the indigenous cultural communities and the civil society organizations (NGOs and POs). The law believes that thru this, the intention to provide clean environment and better living condition will be achieved.

A. Protection Area

Protected Area refers to identified portions of land and water set aside by reasons of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation. There is a need to manage these areas, preserve its nature and defend from humans' destructive use.

Categories

According to the NIPAS law, a protected area may be categorized as:

- Strict nature reserve;
- Natural monument;
- Resource reserve;
- Protected landscapes and seascapes; and
- Other categories established by law, convention or international agreements to which the Philippine government is a signatory.
- Natural park;
- Wildlife sanctuary;
- Natural biotic areas;

Process

The NIPAS Law does not intend to be the primary mechanism in the administration of the protected area. The establishment and operationalization of the system shall involve the following:

- a) Areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as identified virgin forests before the effectivity of this Act are hereby designated as initial components of the System. The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act;
- b) Within one (1) year from the effectivity of this Act, the DENR shall submit to the Senate and the House of Representatives a map and legal description or natural boundaries of each protected area initially comprising the System. Such maps and legal descriptions shall, by virtue of this Act, constitute the official documentary representation of the entire System, subject to such changes as Congress deems necessary;
- c) All DENR records pertaining to said protected areas, including maps and legal descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public.

These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) where the NIPAS areas are located;

- d) Within three (3) years from the effectivity of this Act, the DENR shall study and review each area tentatively composing the System as to its suitability or non-suitability for preservation as protected area and inclusion in the System according to the categories established in Section 3 hereof and report its findings to the President as soon as each study is completed. The study must include in each area:
- ◆ A forest occupants survey;
 - ◆ An ethnographic study;
 - ◆ A protected area resource profile;
 - ◆ Land use plans done in coordination with the respective Regional Development Councils; and
 - ◆ Such other background studies as will be sufficient bases for selection.

B. Administration of the Protected Area

Protected Area Management Board (PAMB)

A Protected Area Management Board for each of the established protected area shall be created and shall be composed of the following:

- A. the Regional Executive Director under whose jurisdiction the protected area is located;
- B. one (1) representative from the autonomous regional government, if applicable;

- C. the Provincial Development Officer;
- D. one (1) representative from the municipal government;
- E. one (1) representative from each barangay covering the protected area;
- F. one (1) representative from each tribal community, if applicable; and
- G. at least three (3) representatives from non-government organizations / local community organizations, and if necessary, one (1) representative from other departments or national government agencies involved in protected area management.

C. Management Plan

There shall be a general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative management techniques including, if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researchers, site-specific policy development, pest

Functions of PAMB

The Board shall, by majority vote, decide the ff:

- a. allocations for budget;
- b. approve proposals for funding;
- c. decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy.

The members of the Board shall serve for a term of five (5) years without compensation, except for actual and necessary traveling and subsistence expenses incurred in the performance of their duties.

management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites and for close coordination between and among local agencies of the Government as well as the private sector.

Each component area of the System shall be planned and administered to further protect and enhance the permanent preservation of its natural conditions. a management manual shall be formulated and developed which must contain the following: an individual management plan prepared by three (3) experts, basic background information, field inventory of the resources within the area, an assessment of assets and limitations, regional interrelationships, particular objectives for the managing the area, appropriate division of the area into management zones, a review of the boundaries of the area, and a design of the management programs.

D. Zoning

For effective administration, protected area can be divided into the following zones:

- ◆ Strict Protection Zone
- ◆ Sustainable Use Zone
- ◆ Restoration Zone
- ◆ Habitat Management Zone
- ◆ Multiple-Use Zone
- ◆ Buffer Zone - is an identified area outside the boundaries of an immediately adjacent to designated protected area pursuant to Section 8 that needs special development control in order to avoid or minimize harm to the protected area
- ◆ Cultural Zone
- ◆ Recreational Zone
- ◆ Special Use Zone

E. Integrated Protected Areas Fund (IPAF)

There is hereby established a trust fund to be known as Integrated Protected Areas (IPAS) Fund for purposes of financing projects of the System. The IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges of fees imposed by the Government or any political subdivision or instrumentality thereof.

All incomes generated from the operation of the System or management of wild flora and fauna shall accrue to the Fund and may be utilized directly by the DENR for the above purpose. These incomes shall be derived from:

- ◆ Taxes from the permitted sale and export of flora and fauna and other resources from protected areas;
- ◆ Proceeds from lease of multiple- use areas;
- ◆ Contributions from industries and facilities directly benefiting from the protected area; and
- ◆ Such other fees and incomes derived from the operation of the protected area.
- ◆ Disbursements from the Fund shall be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

F. Rights of the Communities

NIPAS Act recognizes the rights of the two (2) communities in a protected area – the indigenous cultural communities and the tenured migrant.

Indigenous Cultural Community - refers to a group of people sharing common bonds of language, customs traditions, and other distinctive cultural traits, and who have, since time immemorial, occupied, possessed and utilized a territory.

NIPAS Act recognizes the right of the Indigenous Cultural Communities in their right to self-determination. They should be represented in PAMB and their cultures and traditions should be respected and integrated in the administration of the protected area.

Tenured Migrant Communities - are communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas in accordance with this Act and are solely dependent therein for subsistence.

G. Prohibited Acts

Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- a. Hunting, destroying, disturbing, or mere possession of any plants or animals or products derived therefrom without a permit from the Management Board;
- b. Use of any motorized equipment without permit from the Management Board;
- c. Mutilating, defacing or destroying objects of natural beauty, or objects of interest to cultural communities (of scenic value);
- d. Damaging and leaving roads and trails in a dam condition;
- e. Squatting, mineral locating, or otherwise occupying any land;

- f. Constructing and maintaining any kind of structure, fence or enclosure, conducting any business, exposed or unsanitary conditions, refuse or debris, or depositing in ground or in bodies of water; and
- g. Altering, removing, destroying or defacing boundary mark or signs.

Whoever violates this Act or any rules and regulations issued by the Department pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the preceding section shall be fined in the amount of not less than Five thousand pesos (P5,000) not more than Five hundred thousand pesos (P500,000), exclusive of the value of the thing damaged or imprisonment for not less than one (1) year but not more than six (6) years, or both, as determined by the court; Provided, That, if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or compensate for the restoration to the damage: Provided, further, That the court shall order the eviction of the offender from the land and the forfeiture in the favor of the Government of all minerals, timber or any species collected or removed including all equipment, devices and firearms used in connection therewith, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible for the act of his employees and laborers: Provided, finally, That the DENR may impose administrative fines and penalties consistent with this Act.

SESSION 7: Indigenous Peoples Rights Act (RA 8371)

Objectives: At the end of the session, the participants are able to:

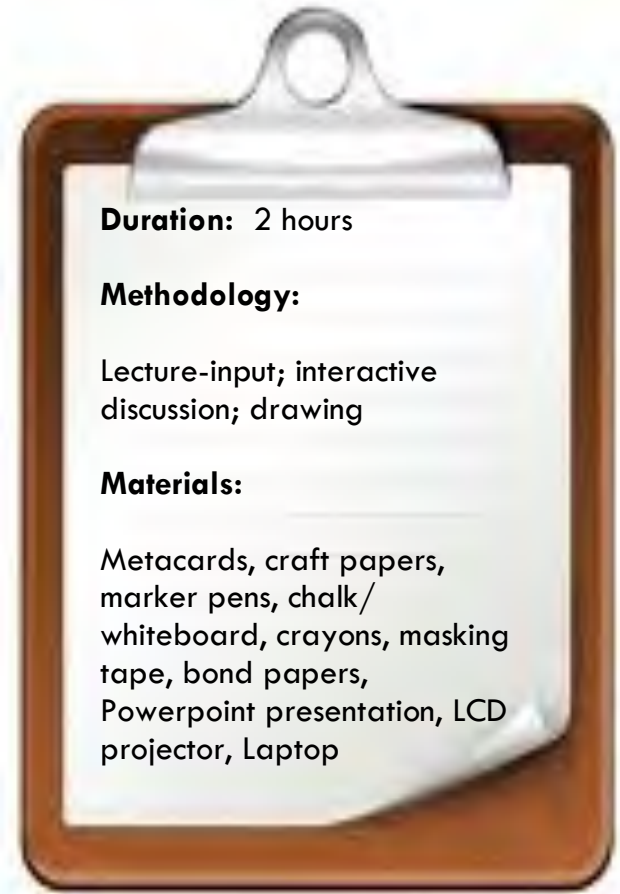
1. Understand the basic concepts/principles and overall framework of the Indigenous People's Rights Act (RA 8371);
2. Comprehend the role of the indigenous people (IP) in the context of development;
3. Identify the issues besting the IPs; and
4. Formulate plans that will address the issues and concerns of the IPs.

Session Guide:

- I. Input
- II. Interactive discussion for clarifications and participants' input

Content Outline:

- I. Indigenous Peoples' Rights
- II. Free Prior and Informed Consent (FPIC)



I. INDIGENOUS PEOPLES' RIGHTS

A. 1987 Constitution:

Art II Sec 22 (Declaration of Principles and State Policies). The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.

Art III Sec 1 (Bill of Rights). No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of laws.

Art X Sec 20 (Local Government). Within its territorial jurisdiction and subject to the provisions of this Constitution and National laws, the organic act of autonomous region shall provide for the legislative powers over:

- ◆ Administrative organization;
- ◆ Creation of source of revenues; and
- ◆ Ancestral domain and natural resources.

Article XII Sec 5 (National Economy and Patrimony). The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being. The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

B. An Act to Recognize, Protect, and Promote the Rights of Indigenous Cultural Communities/ Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefore, and for Other Purposes (RA 8371)

Popularly known as the Indigenous Peoples Rights Act of 1997 (IPRA), RA 8371 was enacted on 29 October 1997. It was enacted ten (10) years after the constitutional mandate to protect and uphold the rights of IPs.

The four (4) basic rights of ICCs/IPs under Sec. 7 to 37 are:

- Right to Ancestral Domains and Lands**
- Right to Self-Governance and Empowerment**
- Right to Social Justice and Human Rights**
- Right to Cultural Integrity**

The ICCs/IPs shall have priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources for a period of not exceeding twenty-five (25) years renewable for not more than twenty-five (25) years, provided that a formal and written agreement is entered into with the ICCs/IPs concerned or that the community, pursuant to its own decision making process, has agreed to allow such operation.

Definition of terms

Indigenous Peoples refer to Filipinos who have continuously lived as organized communities in defined territories (ancestral domains) since time immemorial, and have retained some or all of their own social, economic, cultural and political systems. This includes those who may have been displaced from their domains or may have resettled outside their ancestral domains

Ancestral Domains refer to all areas generally belonging to ICCs/IPs comprising land, inland waters, coastal areas, and natural resources therein. It shall include ancestral lands, forest, pasture, residential, agricultural, & other lands individually owned whether alienable or disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources & lands which may no longer be occupied by the ICCs/IPs but from which they have had traditional access (Chap 2, Sec. 3a, IPRA).

Native Title of IPs is embodied in a Certificate of Ancestral Domain Title. Section 11 provides that the rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/



IPs over the territories identified and delineated.

Rights and Obligations under IPRA

Rights to Ancestral Domains

Right of ownership -- the right to claim ownership over lands, bodies of water traditionally occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domain.

Right to develop and manage lands and natural resources -- subject to Section 56, the right to develop, control and use lands and territories traditionally occupied

Right to stay in territories – the right to stay in the territory and not to be removed therefrom.

Right in case of displacement -- In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/ IPs.

Right to claim parts of reservations;

Right to regulate entry of migrants;

Right to safe and clean air and water

Traditional resource use rights;

Right to resolve conflicts;

Right to determine & decide priorities for development

Right to Ancestral Lands

Right to transfer land/property among members of the same ICCs/IPs, subject to customary laws and traditions

Right to redeem land/property



Picture courtesy of The Samdhana Institute

Right to Self-Governance & Empowerment

Self-Governance

Justice system, conflict resolution institutions and peace building processes

Right to participate in decision-making

Right to determine and decide priorities for development

Tribal Barangays

Vested Rights under Sec. 56

Property rights within the ancestral domains already existing and/or vested upon effectivity of IPRA shall be recognized and respected.

Obligations of IPs

Maintain ecological balance

Restore denuded areas

Observe laws



Picture courtesy of The Samdhana Institute (Phil)

The National Commission on Indigenous Peoples (NCIP)

1. **Mandate of the NCIP** is to protect and promote the interest and well-being of indigenous peoples with due regard to their beliefs, customs, traditions and institutions. As such, it shall serve as the primary government agency responsible for the formulation and implementation of pertinent and appropriate policies, plans and programs to carry out the policies set forth in the new law.

2. NCIP PROGRAMS

Land Tenure Security. Delineation and Titling of Ancestral Domains through Issuance and Registration of Certificate of Ancestral Domain Titles or Ancestral Land Titles (CADT/CALT)

Establishing Model AD Communities through Development and Peace. Development of Ancestral Domains through the Ancestral Domains Sustainable Development Protection Plan (ADSDPP)

Enforcement of Human Rights and Empowerment of IPs.

The Indigenous Peoples Consultative Body (IPCB)

IPCB was established by virtue of Section 50 of RA 8371 and NCIP A.O. # 1, Series of 2003.

IPCB is an independent body constituted at the provincial, ethnographic, regional, and national levels. It is composed of representatives from Ancestral Domain areas (leaders, elders, including women and youth representatives); Indigenous Peoples Organization and Existing Tribal Councils. IPCB serves as the voice of the IPs/ICCs on matters relating to their problems, aspirations and interests.

The urgent policy guidelines to be deliberated by IPCB are: (i) mandatory representation in Local Sanggunian Body of City and Municipality; and (ii) creation of Tribal Barangay.

CORDILLERA & REGION

Bontoc, Balangao, Inseg, Tinggian,,
Kankanaey
Kalanguya, Karao, Ibaloi,
Ayangan, Ifugao, Tuwali, Kalinga
Apayao

**REGION II, CARABALLO
MOUNTAINS**

Agta, Kalanguya, Bugkalot, Isinai,
Gaddang, Aggay , Dumagat ,
Ibanag, Itawis, Ivatan

**REST OF
LUZON/SIERRA
MADRE MOUNTAINS**

Aeta, Negrito. Baluga,
Pugot, Abell ing, Agta,
Dumagat, Remontado,
Bugkalot, Cimarón,
Kabihug, Tabangnon,
Abiyán, (Aeta), Isarog,
Itom

ISLAND GROUPS

Agutaynon, Tagbanua,
Dagayanan, Tao't Bato,
Batak, Palawanon
Molbog, Iraya Mangyan,
Hanunuo Mangyan, Alangan
Mangyan, Buhid Mangyan,
Tadyawan Mangyan,
Batangan Mangyan,
Gubatnon Mangyan, Ratagnon
Mangyan, Ati, Cuyunon, Ati
Sulod/ Bukidnon, Magahat
Koralanos, Ata, Bukidnon,
Escaya, Badjao, Kongking

**NORTHERN & WESTERN
MINDANAO**

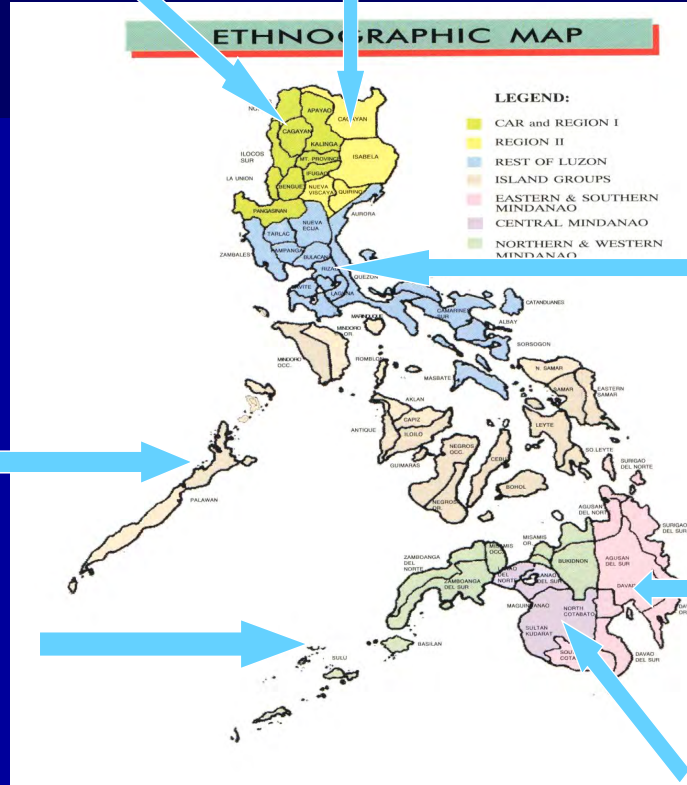
Manobo, Subanen Mansaka,
Dibabawon, Banwaon, Bagobo,
Ubo Manobo, Tagakaolo,
Talaingod,, Langilan,
Mamanwa, Higaonon, Blaan,
T'boli, Kalagan, Tagabawa,
Manobo Blit, Matigsalag,
Tigwahanon
Sangil

**SOUTHERN & EASTERN
MINDANAO**

Manobo, Mandaya,
Mansaka, Dibabawon,
Banwaon, Bagobo, Ubo
Manobo, Tagakaolo,
Talaingod, Langilan,
Mamanwa, Higaonon, Blaan,
T'boli, Kalagan, Tagabawa,
Manobo, Blit, Matigsalag,
Tigwahanon, Sangil

CENTRAL MINDANAO

Arao-nanon, Tiruray, Bagobo,
Ubo Manobo,
Higaonon, Maguindanao,
Maranao, Iranon, Karintik
Blaan Lambangian

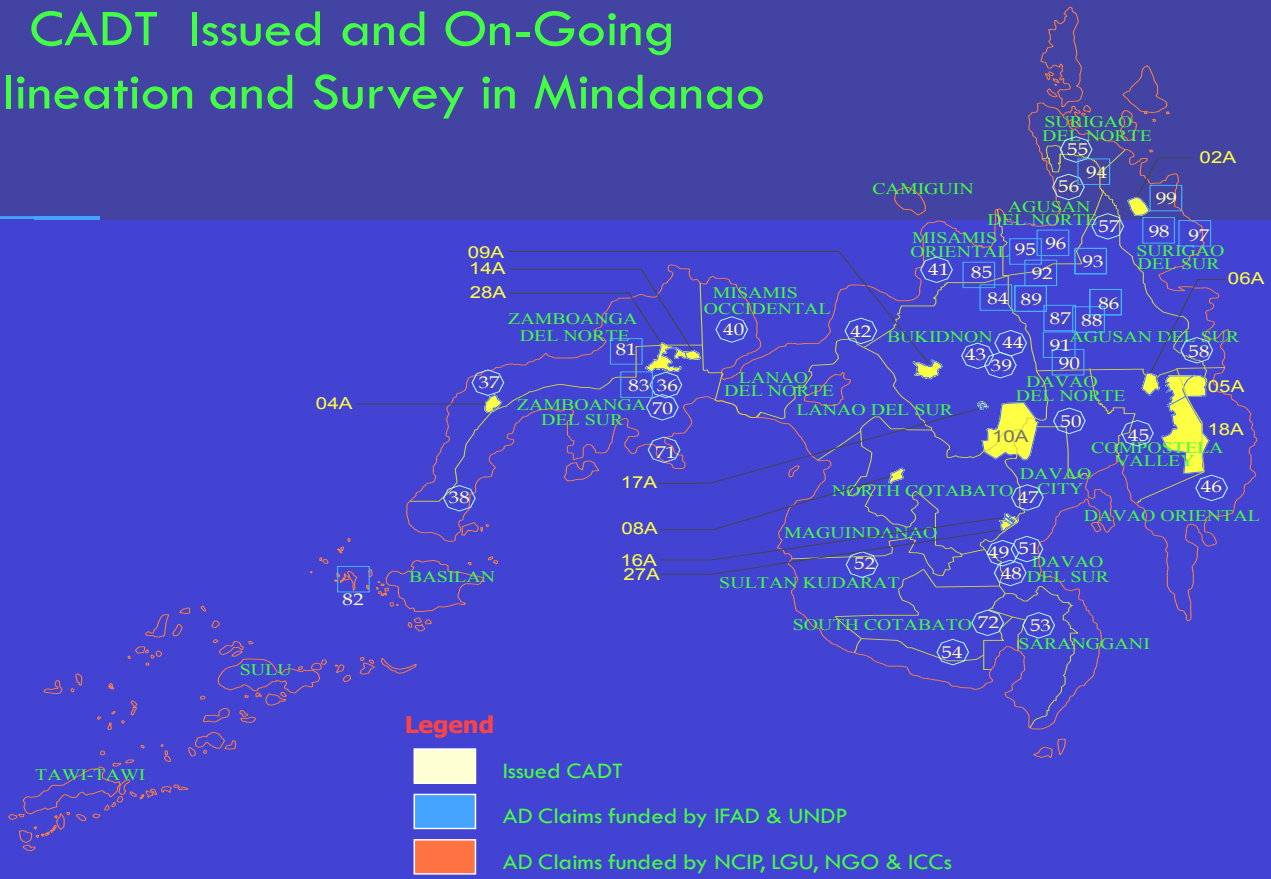


• 110 TRIBES • 12 MILLION • 5 MILLION HECTARES

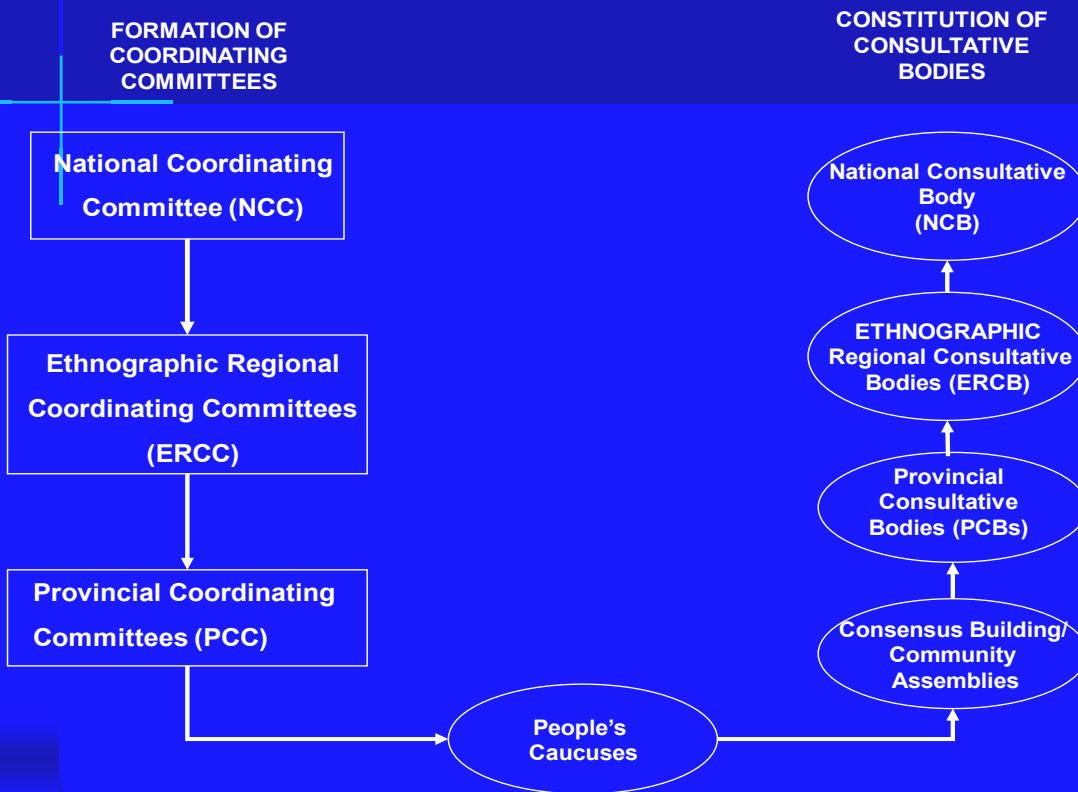
Ancestral Domain Situation in the Philippines

11,778,190	Total IP Population (as of year 2004)
36.10%	Luzon
3.06%	Visayas
60.84%	Mindanao
17%	Proportion of IP Population to National Population
110	Number of Tribes/Ethnographic Groups
5,405,805 has.	Total Estimated Area of Ancestral Domain
181	Number of CADCs Issued under DAO 2 S.1989
397	Total Number of AD Claims
2,627,300 has.	Total Area of CADC areas
216	Number of New Application for CADT
3,778,505 has.	Total Area of New Application for CADT
29	Total CADT Issued (13 in Mindanao)
604,143.6629 has.	Total No. of Has
313,543.28 has	Total No. of Has in Mindanao
150,099	Total No. of Beneficiaries
112	Total CADT in process (45 claims in Mindanao)
2,216,175.55	No. of Has
1,034,505.73 has.	No. of Has in Mindanao

CADT Issued and On-Going Delineation and Survey in Mindanao

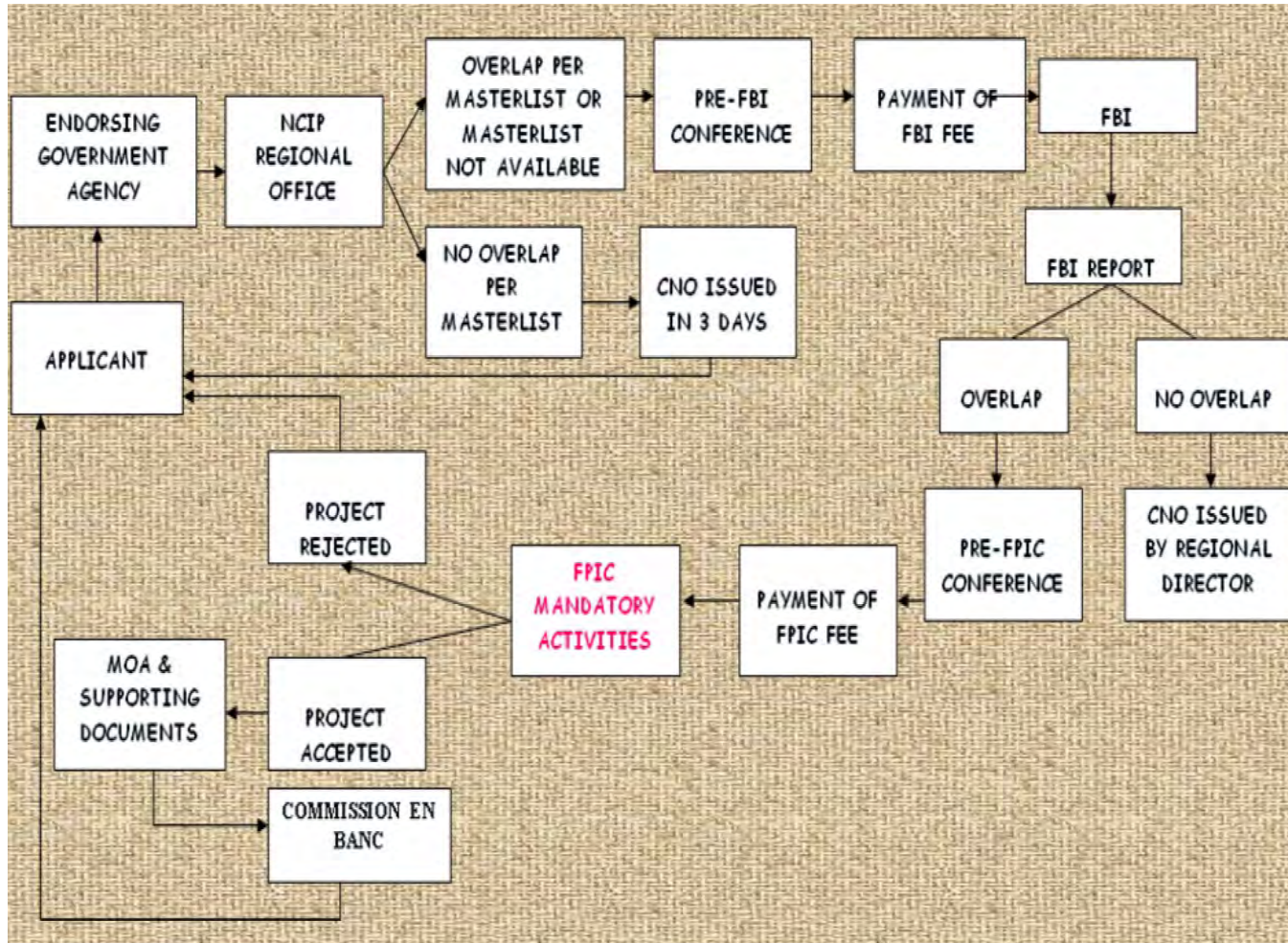


PROCESS OF CONSTITUTING THE COORDINATING COMMITTEES AND CONSULTATIVE BODIES



II. FREE, PRIOR AND INFORMED CONSENT (FPIC) PROCESS

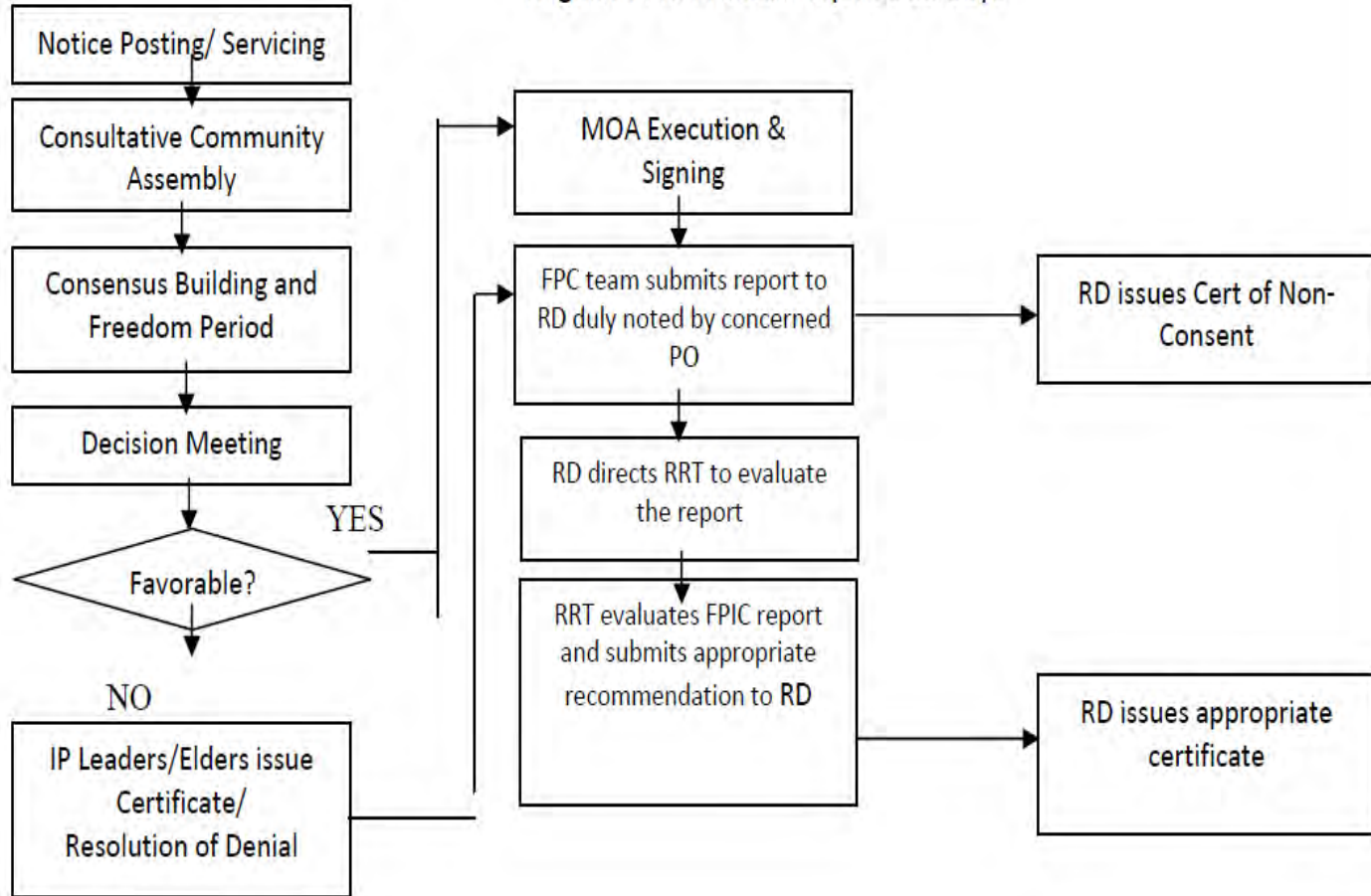
(NCIP Administrative Order 1, Series of 2006)



THE REGULAR FPIC PROCESS FLOWCHART

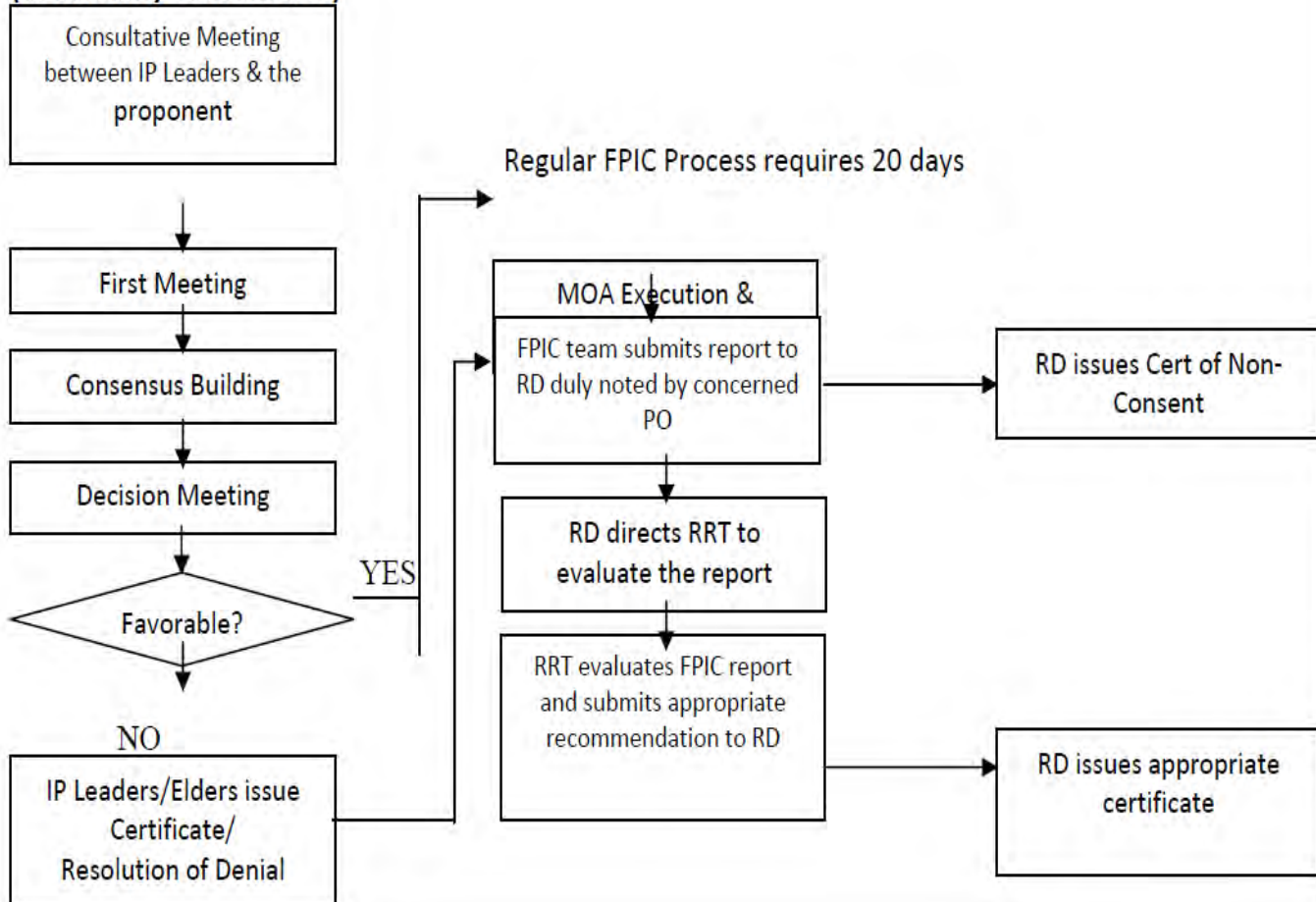
(Community Consultation)

Regular FPIC Process requires 55 days



THE SPECIAL FPIC PROCESS FLOWCHART

(Community Consultation)



Issues in the FPIC Process

- ◆ In many cases, the process merely ratifies on-going mining activities;
- ◆ The process alienates customary ways;
- ◆ The participation of elective officials affects the credibility of the process;
- ◆ The FPIC process is administered in an atmosphere of fear and coercion;
- ◆ Bribery and deceit are employed during the FPIC process;
- ◆ There is insufficient information during the FPIC process to form basis of collective consent;
- ◆ NCIP is not impartial in arbitrating the FPIC process;
- ◆ The determination of the presence or absence of consent is dependent on the caprices of NCIP;
- ◆ NCIP does not recognize that there should be consensus decision of the community as basis for giving or withholding consent
- ◆ NCIP lacks data on indigenous peoples and their territories;
- ◆ The NCIP FPIC Guidelines are liberal towards extractive industries.

Recommendations to the FPIC Process

"FREE"

No consultations should be held outside the affected community.

The community should be given the opportunity to discuss among themselves without the presence or interference of the project proponent/company or government representatives.

The NCIP should only be an observer and should not direct or intervene in the decisions of the community regarding the entry of projects.

Attendance sheets should not be misrepresented as signatures signifying consent.

The NCIP should not serve as spokespersons or representatives of the company/project proponent but rather should support the right of the indigenous peoples to be heard and their decisions to be respected. In the entire process, it should display bias for the indigenous community.

Elected officials should not be allowed to sign the memorandum of understanding on behalf of the community.



Elective officials should not be made part of governing councils in areas where such councils are allowed by customary laws.

Any money or compensation should be for the whole community and not given to individuals.

Dole-outs, bribes, gifts should be prohibited since these create *utang na loob* (sense of indebtedness).

Company/project proponent should not be allowed to hire liaison officers from the community and NCIP.

The State should not deploy police and military personnel in areas affected by extractive industries especially during the conduct of the FPIC process.

The government should immediately abrogate the Investment Defense Force.

The NCIP should closely monitor cases of human rights violations and take the initiative to prevent them, considering that it has become the State's standard operating procedure to deploy the military in mining areas.

The Commission on Human Rights should also closely monitor human rights situations in areas affected by mining applications in indigenous territories and demand from NCIP and DENR reports on the same.

"PRIOR"

The affected community should be consulted even prior to the making of a project feasibility study, and they should be involved in the planning phase including research activities.

The NCIP should adopt a strict policy that any company that operates prior to the conduct of the FPIC process, even if granted a permit by DENR or any other government agency, shall not be granted a Certificate of Precondition and shall be blacklisted.

The NCIP should *motu proprio* exercise its injunctive power and order the cessation of mining operations without the FPIC of impacted communities.

The NCIP should conduct a census of indigenous peoples *with or without CADTs* and disaggregate them from the rest of the population.

The NCIP should prepare a Philippine map highlighting indigenous communities. The map, along with the census, will serve as an automatic notice to the government of those areas where FPIC is necessary for any project.

"INFORMED"

In consultations, all stakeholders -- affected indigenous peoples, settlers, migrants and communities around the project -- should be made participants.

Consultations should be conducted not only among people in the project site but also among those in areas affected by the impacts of the project, e.g. downstream communities.

Information and education campaign, including the project's environmental impact assessment, must be part of the FPIC process and should also be conducted in adjoining areas.

Communities need an overview of all information, both positive and negative impacts, of development projects. This should be given by third parties or an independent body to ensure that indigenous peoples have access to full information and that their concerns are adequately articulated. Such a body will safeguard the indigenous peoples from being disenfranchised in the decision making.

Information on the project and all its impacts should be given/written in the language understood by the community. Information should include proponent/company profile.

Funds should be provided by the government for the community to get expert advice from independent experts/consultants.

Education on the FPIC process should be undertaken among proponents, affected community and concerned NCIP personnel.

In every community, the NCIP should facilitate the creation of such a body which is not selective in membership. The office should also send notices to all local and national NGOs working on indigenous issues whenever a particular indigenous territory is targeted for a development project, in order that any organization concerned can take the initiative to participate in the process.

"CONSENT"

Consent should be understood to mean the decision of one hundred percent (100%) of the community, expressed either directly or through their legitimate representatives.

Where a project is rejected by the community, the FPIC process should no longer be conducted, even with the entry of a different project proponent. To keep implementing the FPIC process is tantamount to harassment of the community. No other business entity should be allowed to file the same application over the area for the next ten (10) years, unless the community itself makes the invitation to interested entities.

If the period for the conduct of the FPIC lapses without the consensus of the people, this should be taken to mean denial of consent, unless the community itself, acting in consensus, asks for extension. The process should not be fast-tracked to comply with the prescribed period.

The NCIP should not impose a decision-making process unknown to customary ways such as secret balloting to choose elders or to give consent.

Decision-making among indigenous peoples always involves consensus building and not the tyranny of numbers which has the potential of creating factions and destroying the collective spirit of the community. Dividing the community through votation should be avoided.

The organization of a Council of Elders should not be made mandatory by NCIP. Where a community practices direct democracy and does not have a Council of Elders, there should be no attempt to organize one; otherwise NCIP becomes a tool to corrupt the culture contrary to its mandate to defend it.

The council whose voice will be heard should be an existing council and not one formed for the purpose of the FPIC process. Otherwise, it is artificial and alien to the customary ways of the community.

Traditional leaders should be recognized. NCIP should desist from the practice of giving certification to leaders appointed by officers/ agencies of government.

The NCIP should create positions for anthropologists who possess the necessary knowledge of customary ways and the social skills in facilitating proceedings in indigenous communities.



To safeguard the integrity of NCIP and remove doubts that Certificates of Precondition are issued in spite of legitimate opposition, a national multi-sectoral committee should be formed to review the FPIC process conducted for every application to operate an extractive industry. This committee recommends to NCIP the issuance or non-issuance of a Certificate of Pre-Condition. To be headed by NCIP, the committee should include credible NGOs with a track record of promoting indigenous peoples' rights.

SESSION 8: Philippine Fisheries Code of 1998 (RA 8550)

Objectives: At the end of the session, the participants are able to:

1. Have reviewed the salient features of the Fisheries Code of the Philippines;
2. Link current situations the community is experiencing in some prohibitions provided in the Fisheries Code of the Philippines; and
3. Gain ideas on available remedies under the Fisheries Code of the Philippines and other environmental laws.

Session Guide:

I. Activity – Discussion using the Community Resource Map

(Note: A workshop on Resource Mapping should be conducted first before running this Module.)

Using the Community Resource Map, ask the participants the following questions:

- ◆ What are the different coastal/marine resources available in your areas?
- ◆ What are the issues the community is currently experiencing in relation to the coastal/marine resources?
- ◆ How do you address these issues? What types of interventions have been made in addressing these issues?
- ◆ What are the gaps and challenges?
- ◆ What are your plans in sustaining your interventions?

The following may also be asked to know the grasp of the participants as far as RA 8550 is concerned:

- ◆ What do you understand about municipal waters?
- ◆ Who has the priority right in using the municipal waters?
- ◆ Who has the jurisdiction over the municipal waters?

- ◆ What is FARMC, its composition and functions?
- ◆ Cite some prohibitions mentioned in RA 8550.

II. Input

III. Interaction/ forum

Content Outline:

I. Introduction

II. Bases of RA 8550

III. Policies and Objectives

IV. Definition of Terms

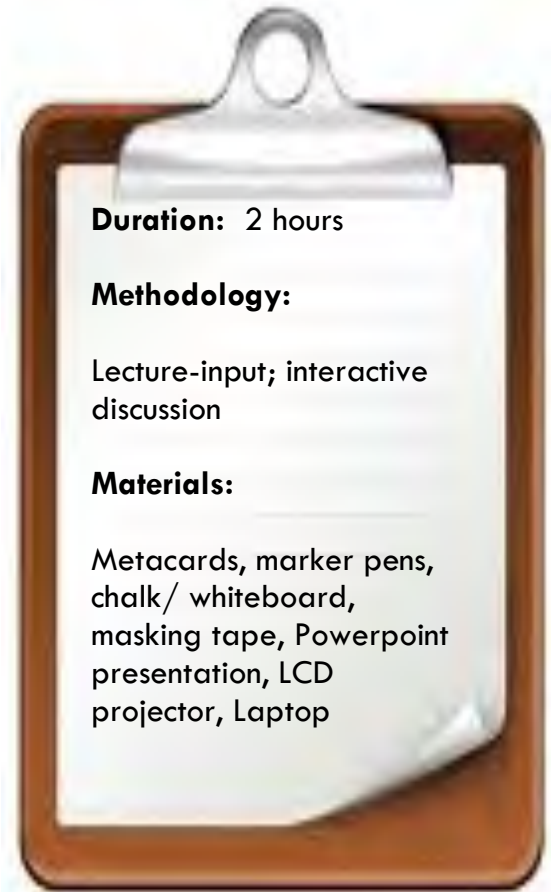
V. Prohibitions

I. INTRODUCTION

The Philippine Fisheries Code (RA 8550) is the primary law governing the protection and management of Philippine marine and coastal resources. It intends to ensure that Filipino fisherfolks, particularly small and subsistent fisherfolks, are prioritized in the exploitation of our marine and coastal resources. It also provides a mechanism for sustainable development ensuring that the future generation will not be deprived of our coastal and marine resources.

II. BASES OF RA 8550

The 1987 Philippine Constitution, as the highest and fundamental law of the land provides bases for the enactment of the Philippine Fisheries Code, to wit --



Article I – National Territory

“The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.”

Article II, Section 15

“The State shall protect and promote the right to health of the people xxx”

Article II, Section 16

“The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”

Article XII, Section 2

“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. 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. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fish-workers in rivers, lakes, bays and lagoons.”

Article XIII, Section 7

“The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.”

It is also important to relate other national laws, international treaties and agreements, and other executive issuances in the appreciation of the Philippine Fisheries Code. Some of these are:

- ◆ Labor Code of the Philippines (for fishworkers)
- ◆ RA 8435 or the Agriculture and Fisheries Modernization Act of 1997
- ◆ RA 8371 or the Indigenous Peoples' Rights Act
- ◆ RA 7586 or the National Integrated Protected Areas Systems Act of 1992
- ◆ RA 7160 or the Local Government Code of 1991
- ◆ PD 1586 or the Environmental Impact Statement Law Establishing an Environmental Impact Statement System, Including Other Environmental Management Related Measures and for Other Purposes
- ◆ PD 979 or the Marine Pollution Decree

Relevant International Treaties and Agreements are:

- ◆ United Nations Convention on the Law of the Sea (UNCLOS)
- ◆ Code of Conduct for Responsible Fisheries of 1995
- ◆ Action Agenda for Sustainable Development

Relevant executive Issuances are:

- ◆ **EO 305 Series of 2004** – Devolving to Municipal and City Governments the Registration of Fishing Vessels (Three (3) Gross Tonnage Below)
- ◆ **EO 240 Series of 1995** – Creating the Fisheries and Aquatic Resources Management Councils (FARMCs) in Barangays, Cities and Municipalities, Their Composition and Functions

Note that aside from the above enumerated policies, administrative policies were likewise issued detailing the implementation of RA 8550.

III. POLICIES AND OBJECTIVES OF RA 8550

Under Section 2A of RA 8550, it is the policy of the State to:

- ◆ Achieve food security;
- ◆ Limit access to resources for exclusive use and enjoyment of Filipino citizens;
- ◆ Ensure sustainable development;
- ◆ Protect the rights of the fisherfolk, especially of the local communities with priority to municipal fisherfolk, in the preferential use of the municipal waters;
- ◆ Provide support to the fishery sector;
- ◆ Manage fishery and aquatic resources management; and
- ◆ Ensure the active participation of the Philippine government and the civil society in fishery resource management.

As for the objectives, Section 2B provides --

- ◆ **Conservation, protection and sustained management** of the country's fishery and aquatic resources;
- ◆ **Poverty alleviation** and the provision of supplementary livelihood among municipal fisherfolk;
- ◆ **Improvement of productivity** of aquaculture within ecological limits;
- ◆ **Optimal utilization** of off-shore and deep-sea resources; and
- ◆ Upgrading of **post-harvest technology**.

IV. DEFINITION OF TERMS

Aquatic Pollution - the introduction by human or machine, directly or indirectly, of substances or energy to the aquatic environment which result or is likely to result in such deleterious effects as to harm living and non-living aquatic resources, pose potential and/or real hazard to human health, hindrance to the aquatic activities such as fishing and navigation,

including dumping/disposal of waste and other marine litters, discharge of petroleum, or residual products of petroleum or carbonaceous materials/substances, and other radioactive, noxious or harmful liquid, gaseous or solid substances, from any water, land or air transport or other human-made structure. Deforestation, unsound agricultural practices such as the use of artificial fish feed, and wetland conversion, which causes similar hazards and deleterious effect shall also constitute aquatic pollution.

Aquatic Resources - includes fish, all other aquatic flora and fauna and other living resources of the aquatic environment, including, but not limited to, salt and corals.

Commercial Fishing - the taking of fishery species by passive or active gear for trade, business or profit beyond subsistence or sports fishing, to be further classified as:

- a. Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT;
- b. Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and
- c. Large scale commercial fishing - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.

Fisherfolk - people directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources.

Fisherfolk Cooperative - a duly registered association of fisherfolk with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertakings in accordance with universally accepted cooperative principles.

Fisherfolk Organization - an organized group, association, federation, alliance or an institution of fisherfolk which has at least fifteen (15) members, a set of officers, a constitution and by-

laws, an organizational structure and a program of action.

Fisheries - refers to all activities relating to the act or business of fishing, culturing, preserving, processing, marketing, developing, conserving and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic resource thereof.

Fishing Gear - any instrument or device and its accessories utilized in taking fish and other fishery species.

- a. *Active fishing gear* is a fishing device characterized by gear movements, and/or the pursuit of the target species by towing, lifting and pushing the gears, surrounding, covering, dredging, pumping and scaring the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, bag nets, paaling, drift gill net and tuna longline.
- b. *Passive fishing gear* is characterized by the absence of gear movements and/or the pursuit of the target species; such as, but not limited to, hook and line, fishpots, traps and gill nets across the path of the fish.

Municipal fisherfolk - persons who are directly or indirectly engaged in municipal fishing and other related fishing activities.

Municipal waters - include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points



where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore inlands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities.

Non-governmental organization (NGO) - an agency, institution, a foundation or a group of persons whose purpose is to assist people's organizations/associations in various ways including, but not limited to, organizing, education, training, research and/or resource accessing.

People's Organization - a bonafide association of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership and structure. Its members belong to a sector/s who voluntarily band themselves together to work for and by themselves for their own upliftment, development and greater good.

Philippine waters - include all bodies of water within the Philippine territory such as lakes, rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, and barangays and the waters around, between and connecting the islands of the archipelago regardless of their breadth and dimensions, the territorial sea, the sea beds, the insular shelves, and all other waters over which the Philippines has sovereignty and jurisdiction including the 200-nautical miles Exclusive Economic Zone and the continental shelf.

V. PROHIBITIONS

Section 86 – Unauthorized fishing or engaging in other unauthorized fisheries activities

- Section 87 – Poaching in Philippine waters
- Section 88 – Fishing through explosives, noxious or poisonous substance and/or electricity
- Section 89 – Use of Fine Mesh Net
- Section 90 – Use of active gear in the municipal waters and bays and other fishery management areas
- Section 91 – Ban on coral exploitation and exportation
- Section 92 – Ban on *Muro Ami*, other methods and gear destructive to coral reefs and other marine habitat
- Section 93 – Illegal use of Superlights
- Section 94 – Conversion of Mangroves
- Section 95 – Fishing in Overfished areas and during closed season
- Section 96 – Fishing in Fishery Reserves, Refuge and Sanctuaries
- Section 97 – Fishing or taking of rare, threatened or endangered species
- Section 98 – Capture of *Sabalo* and other breeders and spawners
- Section 99 – Exportation of breeders, spawners, eggs or fry
- Section 100 – Importation or exportation of fish or fishery species
- Section 101 – Violation of Catch Ceilings
- Section 102 – Aquatic Pollution
- Section 103 – Other violations
 - ◆ Failure to Comply with Minimum Safety Standards
 - ◆ Failure to Conduct a Yearly Report on all Fishponds, Fish Pens and Fish Cages
 - ◆ Gathering and Marketing of Shell Fishes
 - ◆ Obstruction to Navigation or Flow and Ebb of Tide in any Stream, River, Lake or Bay
 - ◆ Construction and Operation of Fish Corrals/Traps, Fish Pens and Fish Cages
- Section 104 – Commercial Fishing Vessel Operators Employing Unlicensed Fisherfolk or Fishworker or Crew
- Section 105 – Obstruction of Defined Migration Paths
- Section 106 – Obstruction to Fishery Law Enforcement

SESSION 9: Philippine Mining Act of 1995 (RA 7942)

Objectives: At the end of the session, the participants are able to:

1. Understand laws, policies and other issuances in relation to the Philippine Mining Act of 1995;
2. Familiarize with the salient features, prohibitions and penalties; and
3. Validate some issues and concerns in relation to the effects of mining operation in the community.

Session Guide:

- I. Participants will be asked to give their understanding about the mining law and its effect; leveling off among participants will be facilitated;
- II. Input
- III. Interactive discussion
- IV. Processing of session

Content Outline:

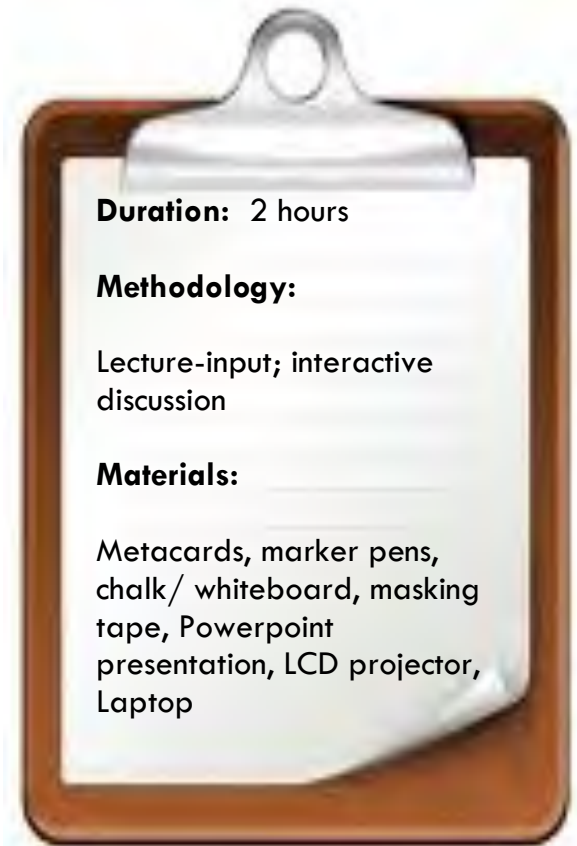
- I. Regalian Doctrine
- II. People's Small Scale Mining Act of 1991
- III. The Philippine Mining Act of 1995
- IV. Effects of Mining
- V. Issues on Mining
- VI. People's Response to Mining

I. REGALIAN DOCTRINE

Section 2, Article 12, of the 1987 Constitution. 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. 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. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law.

II. PEOPLE'S SMALL SCALE MINING ACT OF 1991

RA 7076 (also known as the People's Small Scale Mining Act of 1991) identified and delineated the people's small scale mining areas. DENR AO # 34 series of 1992 "Rules and Regulations to Implement RA 7076 otherwise known as People's Small Scale Mining Act of 1991" was issued to implement.



III. PHILIPPINE MINING ACT OF 1995

RA 7942 (also known as the Philippine Mining Act of 1995), maintains the meridional block and contracting system established under previous mining laws. Issuances relevant to this law are:

- ◆ DENR AO 40 Series of 1996, “Revised Implementing Rules and Regulations of RA 7942, Otherwise known as the Philippine Mining Act”
- ◆ DENR AO 61 Series of 2000,
- ◆ Executive Order No. 279 “Prescribes the general guidelines and framework for the negotiation and award of joint venture, co-production and production sharing agreements and Financial and Technical Assistance Agreement (FTAA) for the development of mineral resources. This order expressly authorized the Secretary of DENR to award such contract to qualified applicants.”

Definition of Terms

Mining - process of extracting minerals from the earth

Small Scale Mining- mining activities which rely heavily on manual labour using simple implements and methods and use explosives or heavy mining equipment. It does not exceed 50,000 metric tons of ore.

Large Scale Mining- involves the mobilization of substantial capitalization, heavy equipment, high technology and a much bigger workforce.

Stages of Mining

- ◆ **Exploration**- searching for mineral resources
- ◆ **Development**- work undertaken to explore and prepare an ore body or a mineral deposit for mining
- ◆ **Utilization**- extraction/disposition of minerals
- ◆ **Mineral Processing**- milling, benefaction or upgrading of ores or minerals to convert to marketable products
- ◆ **Decommissioning**- final mine rehabilitation



Areas Open to Mining

(Sec. 18, RA 7942) All mineral resources in public or private lands, including timber or forestlands as defined in existing laws, shall be open to mineral agreements or financial technical assistance agreement applications:

- ◆ Public and private lands not covered by valid and existing mining rights and mining operations
- ◆ Lands covered by expired/abandoned mining permits
- ◆ Mineral Reservations
- ◆ Timber or forest lands

Areas Conditionally Closed to Mining

- ◆ Military and other government reservations
- ◆ Areas covered by valid and existing mining rights
- ◆ Areas covered by small scale miners
- ◆ Areas near or under public or private buildings, cemeteries, archaeological and historic sites, bridges, highways, railroads, reservoirs, dams or other infrastructure projects, public or private works, including plantations or valuable crops if there is no written consent of the government agency or private entity concerned
- ◆ Ancestral lands if there is no FPIC from the tribal leaders

Areas Absolutely Closed to Mining

Areas expressly prohibited by law

- ◆ Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws.
- ◆ Areas covered by valid and existing mining rights
- ◆ Areas which the DENR Secretary may exclude

Modes of Mineral Agreements

Mineral Production Sharing Agreement (MPSA)

Government Rights (ownership of minerals); Private Company (investment, labor, technology, management)

Joint Venture

Government Rights + Equity; Private Company + Equity

Co-Production

Government Rights + other input (equipment, personnel)

Private Company + other input (equipment, personnel)

Financial and Technical Assistance Agreement (FTAA)

100% foreign-owned

Direct State Utilization

Government undertakes everything

Mining rights - auxiliary rights of mining companies

Timber Rights

Easement Rights

Arbitrary Rights

Water Rights

Benefits of mining companies:

1. Tax holiday 5-10 years
2. 100% repatriation in dollars
3. Confidentiality



IV. EFFECTS OF MINING

On the Environment

Forest Denudation is the primary effect because mining operations clear all vegetation, the flora and fauna, including of course, the forest. Vast areas of forest will be cleared, destroying the physical structure and landscape of the environment, thus, resulting to the loss of biodiversity in the area.

Soil Erosion is one of the effects of mining, which takes place when trees and vegetation are cut, scrapped or uprooted from the mountains. The absence of trees will result in serious soil erosions since no roots hold and keep them in place.

Siltation occurs when large amount of soil are deposited into river banks and lakes. As denudation takes place and mining operations continue, more and more precious soil are wasted since rains wash them down to different tributaries, bays and coastal waters along with the mining tailings.

Water pollution is inevitable during the course of the mining operations. Toxic wastes from the mining sites find its way or are casually dumped to the rivers in the course of



mineral extractions. The wastes from the processing of mineral ore are likewise toxic and are one of the major water pollutants.

Siltation of rivers happens because erosion, silt intrusion and mine tailings worsen the condition of our water system. As pollution in water resources increases, in the long term, this may significantly impair the suitability of the water for any of its beneficial uses for human survival.

These will have negative impacts on the livelihood and health of the majority of the Filipinos because floods, drought, diseases and poisoning will become a daily problem to many, particularly the children- the most vulnerable victims of all ecological tragedies. Some environmental impacts of mining operations are soil degradation, loss of vegetation, increased erosion and contamination by mine tailings.

To the Indigenous People

- ◆ **Food Insecurity**
- ◆ **Assault on Cultural Integrity**
- ◆ Mining induced **Displacement and Resettlement**
- ◆ Heightened **Militarization and Human Rights Violations** (extra-judicial killings; women & children, education, etc.)
- ◆ **Corruption of Traditions and Customary Political Institutions**
- ◆ **Environmental Degradation**
- ◆ **Polarization of Communities**



To the Philippine Economy

- ◆ Mining gross production value in 2007 was valued at Php 101.5 billion pesos
- ◆ Government tax collection in 2007 was at Php 10.4 billion pesos
 - National Government Agencies collected Php 8.35 billion pesos
 - BIR collected Php 942 million pesos
 - DENR/MGB collected Php 774 million pesos
 - LGUs collected Php 357.9 million pesos
- ◆ Contribution of mining sector to 2007 GDP was merely 1.4% (consistent in the last three (3) decades)

ISSUES ON MINING

Resource Control –The most deplorable impact of large-scale mining is that it vests resource control in the hand of the elite

Social Impact – a study of the mining sector in Ecuador reveals the following vulnerable groups and the principal causes of their vulnerability:

Adult miners -- poor sanitation and contaminated water supplies result in intestinal parasites and other enteric infections, occupational injuries, communal violence, STDs and alcoholism

Women, children, unborn children and child laborers -- neurological damage from indiscriminate use of mercury resulting in poisoning occupational injuries and enteric infection, prostitution related health hazards including STDs and violent injury to women and girls.

IPs as laborers -- susceptible to poor treatment and low pay, occupational injuries, malnutrition and communicable diseases.

State of Philippine Forests

The Philippines needs an ideal 54% of forest cover to maintain its natural ecological processes
(*Sajise, 1996*)

The Philippines has 23% of forest cover left (*NAMRIA, 1988*)

Major Watersheds

The Philippines has 18 identified major river basins

13 out of 18 major river basins have forest cover below 20% of its total area

Land ownership – for communities struggling to gain recognition of their rights over the natural resources, including the land, which they have acquired through tradition/ and or utilization, a mining firm’s entry enacts a death blow. Company seizure on the ownership of the land and control of the water and access to the resources within derails community efforts for community ownership.

Land degradation – whatever mining method is utilized, the fact remains that land is to be excavated of the landscape. While land degradation is more apparent in surface mining, underground methods are not absolved from affecting land. The sheer volume that is extracted to form the tunnels, its disposals, alters the landscape, and may heighten soil instability and erosion.



Water requirements – mineral production requires tremendous amount of water in different stages of the operation.

Waste – mine tailings are defined as excavated soil, rocks and other wastes from the mining operations that are of no economic value to miner. From this, most mines also have waste from milling operations called mine tailings.

Pollution and contamination – as stated by an Australian consultant – “Mining activities invariably involve the handling, storage, use or production of materials which have a potential to pollute or contaminate the surrounding environment. Contamination impacts can adversely affect

Crunching the numbers

Claimed investments was only 35%

Job creation was only at 158,000 in 2008

Actual tax collection was only at 11%

Actual paid-up investments (SEC) was only at less than 10%!

GDP contribution is only 1%

Agriculture GDP contribution is at 16.5%

both human and ecosystems.

Water contamination at mines can occur when streams, rainwater and melting snow come in contact with toxic mine materials. Mine drainage is generally regarded as potentially the single largest cause of adverse environment impact resulting from mining. Pollution may also affect air quality by dust or acid or “acid rain.”

Energy requirements – mining and mineral processing, especially metal production, consume a large amount of energy. And since power generation facilities would normally be situated near the mining sites, this also ushers the entry of energy industries that are also destructive to the environment, such as the building of a coal-powered plant.



WHAT ARE THE PEOPLES' RESPONSE TO MINING?

Options available to communities

- ***During pre-exploration stage, inclusion of areas which are closed to mining operations***
- ***Invoke Local Government Code provision on Mandatory Consultations and LGU approval of mining applications***
- ***IPs can refuse FPIC to mining companies***
- ***Legal options such as filing of cases under the New Rules of Procedure for Environmental Cases***
- ***Continuous education among community members***

What are the calls of the communities?

- ***Scrapping of the Philippine Mining Act of 1995 and passage of the Alternative Minerals Management Bill (AMMB)***
- ***Moratorium on Large-Scale Mining Operations***
- ***Passage of the National Land Use Management Act (NLUMA)***

SESSION 10: Local Government Code with Emphasis on the Venues for People's Participation in Governance for Environmental Protection

Objectives: At the end of the session, the participants are able to:

1. Acquire knowledge on the basic principles, over-all framework, and salient features of the Local Government Code (LGC);
2. Understand the nature, functions, and powers of LGUs;
3. Know and understand the different venues for people's participation in governance; and
4. Recognize the need to participate in the various LGU processes.

Session Guide:

I. Structured Learning Exercise – “Picture Analysis”

- ◆ The objectives of this activity are: (i) to discuss the differences between urban and rural development with respect to access to wealth, basic services, infrastructure, etc.; (ii) to make the participants appreciate the need for local autonomy; and (iii) to discuss the importance of the LGC in granting local autonomy to the LGUs.
- The facilitator will show the two (2) sets of pictures to the participants and ask them what they observe from each set of pictures. Their observations will be written on the board, which the facilitator will synthesize and lead the discussion to the concept of local autonomy.

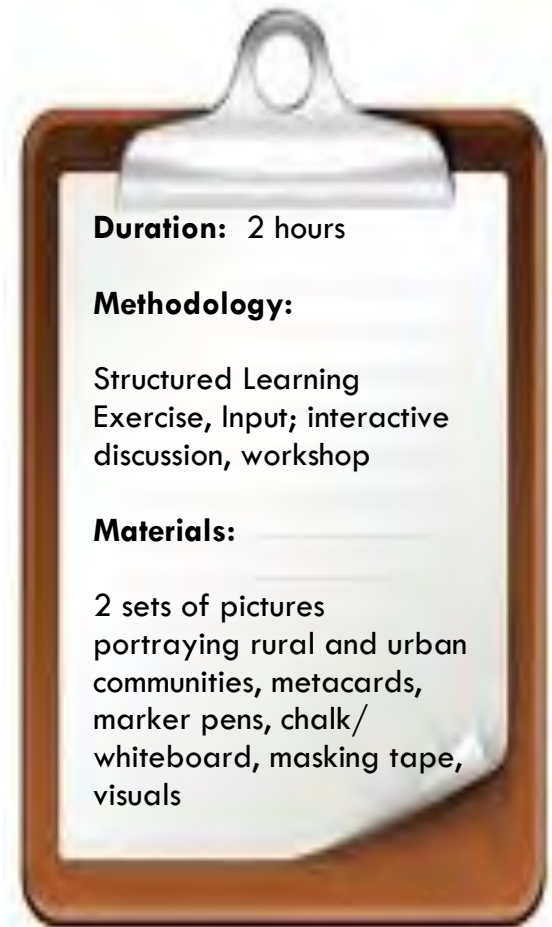
II. Input

Content Outline:

- I. Concept of Autonomy
- II. Basic Principles under the LGC
- III. Policies under Decentralization
- IV. Modes of Decentralization
- V. Powers and Functions of LGU
- VI. Role of the National Government in Decentralization
- VII. Different Venues of Peoples Participation
 - A. Recall
 - B. Initiative
 - C. Mandatory Consultation
 - D. Local Sectoral Representation
 - E. Local Special Bodies
 - F. Inter-action between NGOs, POs and the LGU

I. CONCEPT OF LOCAL AUTONOMY

In realizing the concept of local autonomy as enshrined in the 1987 Constitution, the LGC provides for the institutionalization of a policy of decentralization to cover all LGUs — barangays, municipalities, cities and provinces. Local autonomy is “self governing”. It is the granting of more powers, authority, responsibilities and resources by the national government to the LGUs in order to be self-reliant and active partners in attaining national goals.



Consistent with local autonomy, the LGC also grants the LGUs with fiscal autonomy to expand their power to generate resources for the realization of their respective priority programs.

II. BASIC PRINCIPLES UNDER THE LGC

The basic principles underlying the LGC may be gleaned from Section 3, Art. X (Local Government) of the 1987 Constitution.

Republic Act No. 7160, otherwise known as the Local Government Code (LGC) of 1991, was signed into law on 10 October 1991 and became effective on 1 January 1992. It consists of four (4) books with 536 sections (Book I: General Provisions; Book II: Local Taxation and Fiscal Matters; Book III: Local Government Units; and Book IV: Miscellaneous and Final Provisions). The Implementing Rules and Regulations of the LGC consist of 39 Rules and 475 articles.

The LGC devolves certain powers from the central government to LGUs to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. It provides for a more responsive and accountable local government structure instituted through a system of decentralization where LGUs are given more authority, powers, responsibilities, and resources. It also institutionalizes people's participation in local governance, thus, providing the people several avenues to participate in the formulation of programs and policies affecting their welfare.

III. POLICIES UNDER DECENTRALIZATION

1. Transferring to the LGUs the primary responsibility of delivering basic services and facilities;
2. Transferring to the LGUs certain regulatory powers over detailed and specific activities in the locality, e.g., the reclassification of agricultural lands (Office of the President), enforcement of environmental laws (DENR), inspection of food products and quarantine –(DOH);
3. Enhancing the governmental and corporate powers of the LGUs;
4. Improving and providing distinctions between the relations of the national government and LGUs in accordance with a decentralized set-up;
5. Institutionalizing LGU-NGO/PO/private sector relations to make them active partners for local autonomy; and
6. Deconcentrating central authority to regional or field offices of national agencies.

IV. MODES OF DECENTRALIZATION

1. **Devolution** involves the transfer of certain power, authority, functions, and responsibilities from the national government to various political and territorial subdivisions of the country such as provinces, cities, municipalities and barangays. Note that devolution merely involves political decentralization and not independence from the national government. Example: The regulation of tricycle operation is now granted to the Sangguniang Bayan/Lungsod from the Department of Transportation.

2. **Deconcentration** is the transfer of certain power, authority, functions, and responsibilities from the central government to its regional or field offices. The latter is given expanded authority in the implementation of national policies. Example: The transfer of certain responsibilities from the national to the regional office of the Department of Education, Culture, and Sports (DECS).
3. **Debureaucratization** is the transfer of certain government functions to voluntary, private, or non-governmental organizations. The rationale behind this policy is to allow the private sector or the non-government and people's organizations to do certain government activities which can be done more efficiently by them. Example: Operation of public markets.
4. **Democratization** is the most innovative nature of the LGC as it highlights specific provisions calling for an "active partnership" principle between NGOs/POs and the LGUs in the implementation of local autonomy. The involvement of the local population in identifying development priorities and concerns is known to generate not only their goodwill but also their greater interest, cooperation, and support that are necessary to enhance the legitimacy and viability of any project.

V. POWERS AND FUNCTIONS OF THE LGUS

A. Dual nature and functions of LGUs:

1. **Public or Governmental** – It acts as an agent of the State for the governance and management of the territory and the inhabitants.

2. **Private or Proprietary** – It acts as an agent of the community in the administration of local affairs. As such, it acts as a separate entity, for its own purposes, and not as a subdivision of the state.

B. Powers and functions

1. **Creation, division, or merger of barangays** -- Provinces and cities, through an ordinance, are empowered to create, divide, merge, abolish, or alter boundaries of barangays located within their territorial jurisdictions, subject to such limitations and requirements prescribed in the LGC. The power to create LGUs, however, remains with Congress.
2. **General welfare clause.** Every LGU shall exercise the powers expressly granted, those necessarily implied therefrom, those necessary, appropriate, or incidental for their efficient and effective governance, and those that are essential to the promotion of the general welfare.
3. **Delivery of basic services and facilities.** LGUs are encouraged to be self-reliant and to continue exercising the powers and discharging duties and functions for the effective delivery of basic services and facilities. Presently, they are required to perform a minimum set of service delivery facilities and functions.
4. **Create own sources of revenues and wealth.** LGUs are granted the power and authority to devise and implement mechanisms for realizing their development plans, programs, and priorities as well as to create their own revenue sources, levy taxes, impose fees, or charges which shall accrue to them exclusively.

5. **Power of eminent domain.** An LGU, through its local chief executive (LCE) and acting pursuant to an ordinance, can exercise the power to expropriate private property for public use, purpose or welfare for the benefit of the poor and the landless, upon payment of just compensation.

6. **Corporate or municipal powers.** Every LGU as a corporation shall have the following powers:

- To have continuous succession in its corporate name;
- To sue and be sued;
- To acquire or convey real or personal property;
- To enter into contracts through the LCE;
- To have and use a corporate seal; and,
- To exercise such other powers as are granted to corporations, subject to such limitations provided under the Code and other laws.

LGUs shall enjoy full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises.

7. **Power to negotiate and accept grants and donations.** Upon the authority of their respective Sanggunians, LCEs may negotiate and secure financial grants or donations from local and foreign assistance agencies without necessity of securing a clearance or approval from any national government agency or from a higher LGU.

8. **Power to reclassify agricultural lands.** Section 20 of LGC provides --

“Section 20. Reclassification of Lands: (a) A city or municipality may, through an ordinance passed by Sanggunian, after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the DA; or (2) when the land shall have substantially greater economic value for residential, commercial, or industrial purposes as determined by the Sanggunian concerned: Provided, that such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:

- (1) For highly urbanized and independent component cities, 15%;
- (2) For component cities and first to third municipalities, 10%; and
- (3) For fourth and sixth class municipalities, 5%

Provided, further, That, agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act 6657, otherwise known as “The Comprehensive Agrarian Reform Law shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of the said act.

(b) The President may, when public interest so requires and upon recommendation of the National Economic and Development Authority, authorize a city or municipality to reclassify lands in excess of the limits set in the next preceding paragraph.

- (c) The local government units shall, in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources; Provided, That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.
- (d) Where approval of a national agency is required for reclassification, such approval shall not be unreasonably withheld. Failure to act on the proper and complete application for reclassification within three (3) months from receipt of the same shall be deemed as approval thereof.
- (e) Nothing in this section shall be construed as repealing, amending, or modifying in any manner the provisions of RA 6657.”

VI. ROLE OF THE NATIONAL GOVERNMENT IN DECENTRALIZATION

The President, through the Department of Interior and Local Government (DILG), exercises general supervision directly over provinces, highly urbanized cities and independent component cities; and indirectly, through the provinces, with respect to their component cities and municipalities; and through the cities and municipalities, with respect to their component barangays.

VII. VENUES FOR PEOPLE'S PARTICIPATION

- A. **Recall** is a method of removing an elective official on the ground of loss of confidence.

How is the power of recall exercised?

The power of recall is exercised through the following:

- ◆ By a resolution adopted by a preparatory local recall assembly in an open public session;
- ◆ By a written petition of at least 25 % of the total number of registered voters.

Who comprise the Preparatory Recall Assembly?

- ◆ The preparatory recall assembly in provincial level shall consist of all the mayors, vice-mayors and members of the Sangguniang Bayan in all the municipalities within the province.
- ◆ In the City and Municipal level, the preparatory recall assembly shall consist of all the barangay captains and members of the sangguniang barangay.

What is the procedure in Recall process?

A written petition for recall shall be publicly signed before the Election Registrar or his representative in the presence of a representative of the petitioner and official sought to be recalled;

The petition shall be filed with the COMELEC or its representative who will post the petition in a public place for not less than ten (10) days but not more than 20 days to verify the genuineness of the signatures.

Upon the lapse of the period, the COMELEC shall announce that it is accepting candidates for the position. They shall prepare a list of candidates which shall include the name of the official sought to be recalled.

The COMELEC shall set a date for election which shall not be later than 30 days for barangays, cities and municipality and 45 days in case of the province after the petition has been filed.

What is the effect of recall?

The official subject to recall shall be removed from office unless he garners the highest votes, in which case, the confidence of the people in him remains.

How often can recall be exercised?

Only once during the term of the official concerned. No recall shall be conducted within one year from the date the official assumed office or one (1) year immediately prior to a regular local election.

What are the pros and cons in conducting a recall process?

On the positive side, recall process is clearly implementable by a national body (i.e. COMELEC). On the negative side, such can only be exercised once during the term of the local official and may not be exercised during the first and last years of his term, which means it is available only in the second year.

B. Initiative is a legal process whereby the registered voters of an LGU may directly propose, enact amend or repeal any ordinance. **Local Referendum**, on the other hand, is the legal process whereby the registered voters of the LGU may approve, amend, or reject any ordinance enacted by the sanggunian.

Who can institute local initiative?

No less than 1,000 voters in a city or province, 100 in municipalities and 50 in barangays can file a petition with their respective Sanggunians proposing the adoption, enactment, repeal or amendment of an ordinance.

What is the process of Initiative?

The petition shall be submitted to the sanggunian concerned for favorable action who shall act on the petition within 30 days from submission. Should the sanggunian fail to act within the said period, the proponents may invoke their power of initiative and notify the sanggunian concerned;

The proposition shall be furnished to the election registrar who will serially number the proposition and shall post it in publicly conspicuous places;

The COMELEC shall set up signature stations as in many places as warranted. The proponents shall have 90 days in case of the province, 60 days for municipalities and 30 days for barangays to collect the required signatures. Failure to obtain the desired numbers of signature will defeat the proposition.

When the required number of propositions is obtained, the COMELEC shall set a date for the initiative during which the proposition shall be submitted for approval by the registered voters of the LGU concerned within 60 days from the date of certification by the COMELEC, 45 days in case of municipalities and 30 days in case of barangays.

If the proposition is approved by majority of the votes cast, it shall take effect after 15 days from the certification by the COMELEC as if affirmative action has been made by the sanggunian concerned.

What are the pros and cons of Initiative?

On the positive aspect, initiative ensures participation of citizenry in local governance through legislation. Also, it provides a clear procedure in making an initiative.

On the negative aspect, it can only be exercised once a year. Also, the ordinance enacted is not permanent for it may be modified, altered, repealed by the sanggunian after six (6) months. Furthermore, the 3% voting percentage requirement is difficult to obtain.

C. Mandatory Consultation is a declared national policy that requires all national agencies and offices to conduct periodic consultations with appropriate LGUs, NGOs and POs, other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.

What is the duty of the National Government in implementing projects or programs?

It is the duty of the national government agencies or government or controlled corporations authorized or involved in the planning and implementation of any project or program to consult the people on those projects that may cause:

- ◆ Pollution
- ◆ Climatic change
- ◆ Depletion of non-renewable resources
- ◆ Loss of crop land and range land
- ◆ Loss of forest cover
- ◆ Extinction of animal or plant species.

These programs need consultation with LGUs, NGOs and other sectors concerned to explain to them the goal and objectives of the projects/programs, impact upon the people and the community in terms of environmental or ecological balance and the measures to be undertaken to prevent or minimize the ensuing adverse effects.

Also, it is emphasized under the LGC that occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided in accordance with the Constitution.

What specific cases require LGUs to conduct mandatory public hearings?

- ◆ Classification of agricultural lands
- ◆ Permanent or temporary closure of roads
- ◆ Imposition of taxes
- ◆ Transfer of sites of public facilities (e.g. markets, terminals, etc.)
- ◆ Contracting loans and other forms of indebtedness.

What are the pros and cons of mandatory consultation?

On the positive aspect,

- ◆ It is mandatory in character; The consultation made prior to implementation is a clear recognition of POs, NGOs and other sectors; and
- ◆ The prior approval from the sanggunian shows genuine devolution.

On the negative side,

- ◆ The POs and NGOs have no power to decide since the consultation made is merely consultative in nature;
- ◆ There is no clear meaning of the word “implementation”;
- ◆ The law is vague as to which sanggunian will ultimately decide the fate of national project; and

- ◆ The law does not provide specific scheme of resolving possible conflict between LGUs.

D. Local Sectoral Representation is a system where representatives from local sectoral groups are elected to sit as members of the local sanggunians (legislative councils) in all municipalities and cities.

What are the reasons for the introduction of the concept of local sectoral representation?

Local sectoral representation is an essential democratization principle. The local sectoral representation system is a key feature in the 1991 LGC that ensures the continued democratization of local governance. It provides for a more responsive and accountable local government by involving community stakeholders in legislation and development planning.

The perspective of sectoral representative will enhance local legislation. Local sectoral representation may be considered as the local counterpart of the Party List system, which allows sectoral parties to be elected as representatives to the Congress. Under the constitution 20% of the seats of the House of Representatives are reserved for party-list representatives. This constitutional mandate is implemented by RA 7904.

Sectoral representatives and the sectors they represent constitute considerable human resources, which can contribute their share to local government including resource mobilization.

What is the basis of sectoral representation?

“Legislative bodies of local government units shall have sectoral representation as may be prescribed by law”(Sec. 9, Art. 10, 1987 Constitution).

In what legislative bodies is sectoral representation mandated?

The LGC mandates that sectoral representation shall be present in all LGUs, such as the Sangguniang Panlalawigan Sangguniang Panglungsod, Sangguniang Pambayan and Sangguniang Pambarangay.

What are the different sectors sanctioned to be present in the different legislative bodies of different LGUs?

The LGC mandates that there shall be three (3) sectoral representatives in every legislative body that shall come from women, workers and the third from the following sectors: urban poor, IPs, communities, disabled persons or any sector as may be determined by the Sanggunian concerned within 90 days prior to the holding of next local elections as may be provided by law.

How are sectoral representatives chosen?

The sectoral representatives shall be chosen through an election duly conducted for that purpose and not by appointment.

Note: Last January 17, 1995, the COMELEC issued resolution No. 2573 setting the guidelines governing the election of sectoral representatives to sit in the local legislatures on May 8, 1995. However, Congress intervened and said that such exercise needs an enabling law despite the provisions of the LGC on sectoral representation in the sanggunian.

E. Local Special Bodies

These are the Local Development Council, Local Health Boards, Local School Boards and other special bodies that advise and regulate over specific functions of the LGU. Their functions and composition are contained in the following pages.

Function	Composition
1. Local Development Council	
Formulate and recommend to the sanggunian a development plan	A) All punong barangays in case of cities/municipalities and all mayors in case of the province; B) The chairperson of the Committee on Appropriations C) The congressperson or his authorized representative; and D) Representatives of non-governmental organizations operating in the LGU, who shall constitute not less than one-fourth (1/4) of the members of the council.
2. Local Pre-qualification Bids and Awards Committee (PBAC)	
Conduct prequalification and bidding and recommend awards	A) Local Chief Executive – Chairman; B) Representative from the minority party of the sanggunian; C) Treasurer; D) Representatives from the non-government organizations; and E) Certified Public Accountant.
3. Local School Board	
A. Determine the annual supplementary budget needs for operating and maintaining public schools;	A) Local Chief Executive- Chairperson; B) School District supervisor- Co- Chairperson; C) Chairperson of the education committee of the sanggunian; D) Local Treasurer; E) SK Federation representative;

Function	Composition
3. Local School Board (continuation)	
<p>B. Serve as advisory committee on educational matters to the sanggunian concerned;</p> <p>C. Recommend changes in the names of public schools within the territorial jurisdiction of the LGU for the enactment of the sanggunian concerned; and</p> <p>D. Authorize local treasurer to disburse funds pursuant to the duly prepared budget.</p>	<p>F) Representative from the Parents Teachers Association; and</p> <p>G) Representative from the teachers.</p>
4. Local Health Boards	
<p>A. Propose annual budgetary allocations for the operation and maintenance of health facilities and services within the Municipality, City, and Province, as the case may be;</p> <p>B. Advisory committee on health matters to the sanggunian; and</p> <p>C. Create committees for human resource development and personnel selection.</p>	<p>A) Local Chief Executive-Chairperson;</p> <p>B) Health officer-Vice-chairperson;</p> <p>C) Chair of the Committee on Health in the sanggunian concerned;</p> <p>D) Representative from the private sector or NGO involved in health services; and</p> <p>E) Representative from the DOH in the Municipality.</p>

Function	Composition
5. Peoples Law Enforcement Board (PLEB)	
Hear and decide complaints against members of the Philippine National Police	A) Member of the Council; B) Barangay Captain; and C) Three (3) members of the community.
6. Local Peace and Order Council	
Formulate plans and monitor programs	A) Local Chief Executive; B) Representatives from the local offices of national government agencies; C) Chairperson of the Sanggunian, Committee on Peace and Order; and D) Members from the private sector.

What are the Pros and Cons in Local Special Bodies?

On the positive side:

- There is a clear recognition of the POs and NGOs participation in local governance; and
- There is a recognition of the basic concerns such as health, development, peace and order and education.

On the negative side:

- ◆ The powers of the LSBs in general are merely recommendatory;
- ◆ The actions of the LSBs are still subject to review and approval by higher LGU;
- ◆ The representatives from NGOs and POs are minority in LSBs;
- ◆ The head of the LDC who participates in formulating the development plan has the power to veto; and
- ◆ It needs further legislation before its adoption.



F. LGU-NGO-PO Partnership

1. NGOs as **active partners** of LGUs in development. The LGC empowers LGUs to enter into contracts with the private sector under the BOT (build-operate –transfer) schemes. Through this provision, NGOs and POs may undertake BOT schemes for pro-people infra projects and commit LGU concerned to support the said project. Examples are the construction of hospitals, livelihood training center, Day Care Centers, etc.
2. LGUs may enter into **joint undertakings** with POs and NGOs. Specific provision of the LGC allows LGUs to enter into joint ventures and cooperative arrangements with POs, NGOs and the private sector to engage in the following functions and responsibilities:
 - Delivery of certain basic services;
 - Capability and livelihood projects; and
 - Development of local enterprise to enhance the social and economic well-being of the people.

3. *LGU may **provide assistance** to NGOs and POs*, LGUs may provide assistance to farmers and fisherfolk organizations by ensuring that fisherfolks be given the preferential use of community marine and fishing resources both inland and offshore. This is made explicit by granting the registered POs and cooperatives of the marginalized fisher folks the preferential right over the following privileges and benefits:
 - ◆ Erect corral oyster, mussel and other aquatic beds within the municipal waters; and
 - ◆ Gather, take, catch bangus fry, prawn fry or kawag-kawag and other fry species from municipal waters by nets, traps, and other fishing gears, provided the taking must be for their consumption and subsistence livelihood.

4. *Grant of **franchises***. The LGC mandates preferential treatment in the grant of franchises to cooperatives and duly registered organization among the marginalized sectors. This preference shall be on the following areas:
 - The operation or maintenance or lease of public utilities owned by the LGU; and
 - Establishment, construction, operation and maintenance of ferries, wharves and markets and other similar activities as may be provided by law to ensure the latter's participation in local governance.

5. *Grant of **tax exemptions***. LGUs are not allowed to impose or exercise their taxing authority on agricultural and aquatic products when marketed by marginal and subsistence fisherfolks. According to RA 6938, all cooperatives, regardless of the amount of their accumulated reserves and undivided net savings, are exempt from payment of local taxes. However, under RA 6810, the Kalakalan 20 enterprises of the Countrywide and Barangay Business Enterprises have to pay to the municipality or

city where they are registered.

6. Capability Building. One venue for active participation is within the provision that LGUs may enter into joint ventures and such other cooperative arrangements with POs/ NGOs private sectors in the delivery of capability building programs such as trainings, leadership seminars and other active interaction between the NGO/PO leaders and officials of the LGUs.

7. Sharing of technical expertise. NGOs might share their technical expertise with LGUs particularly in undertaking local development plans such as PRA-BDP .

Module III – ENHANCEMENT AND DEVELOPMENT OF SKILLS OF PARALEGALS AND ENVIRONMENTAL ADVOCATES FOR WATERSHED PROTECTION

SESSION 11: Case Analysis

Objectives:

At the end of the session, the participants are expected to

1. Identify the following:
 - a. Issues to be raised
 - b. Evidence that needs to be presented to the court
 - c. Arguments that need to be researched
2. Determine if there is a legal basis to file a case

Methodology: Structured learning exercise and inter-active discussion

Input

One of the basic skills that a paralegal needs to learn is case analysis. Not all disputes can be filed as a case in court. Not all instances of violence and abuse can be brought before the court. There are disputes where there is no “cause of action.” This is why a paralegal is expected to know how to analyze a case.

- I. Find out if there is a cause of action

You may use the “T.A.R.P.” method (Thing, Act, Right and Prayer)

Thing	Thing that is involved in the case
Act	Act that caused the case to be filed
Right	Right that was violated or obligation that was not complied with
Prayer	What remedy do you wish the court to grant for the aggrieved party?

Activity Guide

The facilitator will divide the participants into few manageable groups to discuss and determine the TARP in a given problem. Depending on the issues in a certain area, the facilitator may draft few applicable examples.

The group will then present their output in the plenary and the facilitator will ask from the other groups if they agree with the output of the presenter and provide the proper answer and guidance in the determination of the TARP.

For example:

- a. A person is sideswiped by a car.
 - Thing : the car
 - Act : sideswiping
 - Right : the right to expect other people to obey traffic rules
 - Prayer : damages

- b. A coconut tree is cut.
Thing : coconut tree
Act : cutting the tree
Right : security of land tenure, peaceful possession of the land
Prayer : damages

II. Know the facts

Example:

“Attorney, my son often gets sick since the start of mining operation in our municipality. This happens whenever the operation is fast paced and many trucks pass by our barangay leaving behind traces of dust. Our source of potable water is also often filled with dirt especially when it rains hard where mud from the mining site slides down to our barangay. The elementary school where my son goes to is also at the foot of the mountain where the mining operation is conducted. Many of my child’s schoolmates also get sick often. ”

Facts:

- ◆ Look for the important information, such as:
- ◆ Mining operation (legally operating? If yes, are they following the right protocol?)
- ◆ Have a child (What is the child’s name? What age?)
- Mining trucks pass by their barangay (how often? What do they carry?)
- Potable water source filled with dirt (How often? What kind of dirt?)
- Mining operation near school premises (distance from the mining site to the school? How many children go to school?)
- Etc.

III. Know the issue

There are 3 kinds of issues:

1. Legal – What is the right interpretation of the law?
Example: Is the mining operation legally operating and following proper procedure according to the Mining Law?
2. Factual – From the two contradicting versions of facts of the parties, which version is true? What is the chronological sequence of events?
Example: Was the child’s illness caused by the effects of mining operation to their environment or was the child’s immune system weak?
3. Both legal and factual – An encompassing issue covers both legal and factual issues.

Example:

- a. Legal issue: Is there a violation on the part of the company when they operate near the school premises and the community?
- b. Factual Issue: Is the child’s illness a random instance or an outbreak? Was the mining company carefully operating so as not to cause harm to the environment and to the people?

SESSION 12: Interview and Affidavit-Making

Objectives:

At the end of the session, the participants will be able to:

1. Acquire skills in identifying facts to be used in preparing legal documents like affidavit that will assist in resolving disputes particularly on environmental cases;
2. Understand and know how to formulate relevant questions that will be used in legal research, affidavit making, and in other legal processes.
3. Know and understand the importance of legal documents such as affidavit and its parts; and
4. Know how to draft affidavit (Q & A form affidavit) to be used in filing a case particularly on environmental issue.

Session Outline:

Part I: Legal Interview

- I. SLE (structured learning exercise): Role Play
- II. Input
 - ◆ Definition and elements of legal interview
 - ◆ Requirements in a legal interview
 - ◆ Some Points for the interviewer to remember
 - ◆ Common problems in conducting legal interviews
 - ◆ Note-Taking
 - ◆ Things to watch out for during the interview

Part II: Affidavit-Making

- I. Input
 - ◆ Definition of Affidavit
 - ◆ Parts of an Affidavit
- II. Individual writeshop / Workshop on the actual Drafting of Affidavit
- III. Critiquing of the Draft affidavit of participants

Session Guide:

- A. Time required: 5 hours
- B. Materials needed: Manila papers, pentel pens, metacards, yellow pad/bond paper
other props for the role play

Discussion and Structured Learning Exercise (SLE)

Part I: Legal Interview

I. Activity Guide for Role Play:

The facilitator will prepare a short case pertaining to environment issue. He/she will ask two participants to study the case and assign one as the interviewer and the other one as the interviewee. The two participants will be asked to enact the actual interview. After the role play, the facilitator will solicit comments and observations on the interview which they saw. From the comments and observations from the participants, the facilitator will start sharing some inputs on tips and processes of legal interview.

Sample Case (**Based on the Cantilan Scenario**):

In 1995, Marc Ventures Mining Corporation started operating in Cantilan, Surigao del Sur. Despite several opposition from the community and the local government, the company was able to pursue its' operation. In 2011, a typhoon hit Surigao del Sur which caused flooding particularly in Cantilan. Immediately, the severe flooding submerged houses, destroyed crops and killed livestock and other farm animals. After the flood subsided, local residents found the water in their irrigation to be foul-smelling and brown-blue-green in color. In the long term, local residents suffered decreased crop production by reason of silt deposits on their fields.

Elena and her family (husband George and her two daughters and 1 son) were a few of the affected individuals affected by the flooding in Cantilan in 2011. Their farm was damaged and included the loss of 2 carabaos (*added facts*).

II. Discussion Content:

A. Definition

Legal interview is the communication of two or more people that is primarily intended to gather information that may be used for a case or for an issue that is legal in nature.

The elements of a legal interview are:

1. It takes place between an interviewer and an interviewee;
 - ◆ The issue that is given attention has a legal aspect. The problem at hand is a legal problem of the interviewee or of another person; and
 - ◆ The interviewer, who may be a paralegal or a lawyer, presents his/her opinion as to the possible legal remedies.

B. Requirements in a Legal Interview

1. Knowledge of the law

It is not necessary that the interviewer be an expert of the law. The basic requirement is for the interviewer to connect the problem of the interviewee to the law.

2. Knowledge of the purpose of the interview

This is important in order for the interviewer to know what data or information to look for during the interview. This way, time is not wasted dwelling on information that is not very important to the problem being addressed.

3. Adequate Preparation

Before the scheduled interview, the interviewer should have an idea on what questions need to be answered by the interviewee and what will be the flow of the interview questions. It would help if the interviewer has a questionnaire or interview forms at hand. However, it is also important that the interviewer does not stick to the questions in the interview forms only, especially if there are other questions that need to be answered. There are instances where the questions have to be expanded in order to have a better understanding of the facts and the issues involved.

C. Some points for the interviewer to remember

1. Proper set-up

a. The environment

The place where the interview shall be held should have some privacy and should be comfortable. Arrange the seats in such a way that the interview becomes more

personal. (For example, do not place anything that physically divides the interviewer and the interviewee, like a table).

It is also important that the decorations and other objects inside the venue appear to be neutral. Take out any object that may distract the attention of the interviewee.

b. Emotional preparedness

It is important that the interviewer and the interviewee are comfortable with each other. This is important so that the interviewer gets the information that needs to be gathered from the interviewee.

The interviewer has the obligation to foster a relationship with the interviewee that is based on trust. The interview will not be fruitful if there is no trust between the interviewer and the interviewee. If there is no trust, the information gathered may not be accurate.

2. Initiating the interview

The interviewer should explain at the outset the importance of being open and of having information that is both complete and accurate.

The interviewer should make sure that the interviewee is comfortable. This can be done by talking about other things first until the interviewee has rested and is no longer nervous about the interview.

There are two ways of initiating the interview, depending on the circumstances of the interview.

- a. Let the interviewee start the telling his/her story. The interviewer may encourage the interviewee to say whatever it is that he/she is thinking or whatever it is that is bothering her. This method is good in winning the trust of the interviewee. On the other hand, this method may take too long because it can be expected that the interviewee will say many facts that are not even relevant to her legal problem. But if the pros and cons of this method are weighed, it will become apparent that this method is still effective because the interviewer will get information that may help in understanding and pursuing the case or legal problem. Furthermore, the interviewer may get an idea of what the interviewee expects of him/her.
- b. If the interviewee is having a hard time talking during the interview, or if he/she is uncomfortable talking about her legal problem, it may be better to have the interviewer start the interview by propounding questions to the interviewee. But if there comes a point where the interviewee can tell his/her story without feeling uncomfortable, the interviewer should stop asking questions and allow the interviewee to tell his/her story at his/her pace.

3. Information that interviewer should get

It is important that the interviewer has a clear idea of what information needs to be gathered during the interview. This will dictate the flow of the whole interview.

The interviewer should treat with confidentiality the information he/she was able to gather from the interviewee, especially if the information is on very sensitive matters. At the outset, the interviewer should assure the interviewee that whatever he/she says during the interview shall, as much as possible, be treated with confidentiality. This assurance may facilitate the interviewee to disclose important information.

4. Manner of Conducting the Interview

If it is necessary to write down notes while conducting the interview, it is important to explain this to the interviewee.

As much as possible, do not interrupt the interviewee while she/he is relating her/his story. Watch out for legal angles in the story. Refrain as much as possible, from giving your personal opinion or judgment about the interviewee's previous acts. Be sensitive about non-verbal communication like being restless or the refusal to talk about certain issues.

D. Common problems in conducting legal interviews

1. On the interviewee

- a. Usually, the interviewee does not know all the facts and incidents relevant to the issue. And even if she/he knows them, she/he may have difficulty relating them to the interviewer in an orderly manner. There are also instances where, due to nervousness or fear of being judged, the interviewee finds it difficult to tell the exact story. In these cases, it is important for the interviewer to be patient, respectful and persistent.
- b. The interviewee may also have a hard time recalling the relevant events and the chronology of the same. This is especially true if he/she is under stress and/or if a long period of time has elapsed between the events and the interview date.
- c. The interviewee may have a hidden need for attention or sympathy. She/ He may be afraid that she/he will be judged as a "bad person" by the interviewer if she/he discloses everything to the latter. This problem may also crop up if there is lack of trust on the part of the interviewee towards the interviewer.

2. On the interviewer

- a. The interviewer may fail to recognize the weaknesses or limitations of the interviewee.
- b. The interviewer may overly rely on verbal communication as a source of information, foregoing information that may be received from non-verbal communication.
- c. The interviewer may suffer from lack of sympathy.
- d. The interviewer's lack of trust in the interviewee will also prevent a meaningful and open interview from being conducted.

E. Note Taking

It is important to have notes about the information gathered from the legal interview, because it will serve as a record to which the interviewer can refer during the course of the research. In order to prevent any feeling of discomfort on the part of the interviewee, note-taking can be done right after the interview (and not during), if the interviewer has a very good memory. Note taking during the interview may be done if the reason for such act is explained to the interviewee.

The interviewer must also allay any apprehension on the part of the interviewee that some of what she/he says is being ignored by the interviewer; thus it is important that the interviewer takes down notes from the start of the interview.

F. Things to watch out for during the interview

Remember that sometimes, the actual events and the chronology thereof may be presented differently by someone who has another mind-set version of what transpired.

All the conversations go through the following process and there may be difficulties encountered in each step.

- a. Expression of message
 - ◆ Source of the message
 - ◆ Manner of expressing the message
 - b. Receipt of the message
 - ◆ Receipt of the message
 - ◆ Understanding / application of the message
3. The information given by the witnesses depends on the reliability of their memory. In some cases, there will be errors in recalling event. The following factors may affect the ability to recall events.
- a. Receipt of the message
 - ◆ attention given
 - ◆ stress level
 - ◆ expectations that are rooted in:
 - ◆ culture
 - ◆ personal preference
 - ◆ experiences

- b. Reliability of memory
 - ◆ Retrieval of memory

4. Choosing the witnesses

- a. It is easier for the judge to believe a witness who is amiable.
- b. The perception of the judge is affected by the words chosen by the witness.
 - ◆ Use of the words “perhaps”, “maybe”
 - ◆ Repeating that which has been said before, which may be perceived as an indicator of uncertainty in what the witness is saying
 - ◆ Use of rhetorics which mean nothing in substance
 - ◆ The tone of voice used

5. Do's and don't's

- a. Don't contradict the version of the client.
- b. Refrain from making any personal judgments on the interviewee.
- c. Be serious.
- d. Make sure that the witness knows her/his role and the role of the paralegal.

PART II: AFFIDAVIT-MAKING

I. Activity Guide

The facilitator will first give input on the definition and parts of affidavit. He/she will discuss how to make affidavit by showing an example of an affidavit written on a manila paper. After the discussion, he/she will show one example of a narration of case written on a manila paper. The facilitator may utilize the situation/case used in the role play.

After the short discussion, the facilitator will ask the participants to choose their partner and ask them to draft their own affidavit in a question and answer (Q& A) form of affidavit based on the given narration of fact. The team will be given three hours to draft their respective affidavits. The affidavit should be written on a bond paper or yellow pad paper.

The facilitator including other members of the training team will guide each participant while they are drafting their respective affidavit. After all participants' affidavits are submitted and checked, the facilitator will now summarize some tips on how to write an affidavit by discussing some of the mistakes of the participants during the writeshop vis-a vis the sample affidavit.

II. Discussion Outline

A. Introduction

An affidavit is a document that is frequently used in cases and other legal issues. More often than not, the paralegal and the members of the community will encounter an affidavit during the course of her work in connection with a case he/she is supporting. The paralegal or the affected community who wants to file a case against mining operators, illegal loggers, and other violations committed against our environment would have to execute an affidavit, especially if she/he/they choose to file a criminal case or civil case or even environmental case against the perpetrator. Thus, the affidavit is a basic document that a paralegal or representative from the community needs to know how to make. The paralegal or representative from the community will find out that affidavit-making is a simple and easy task and can easily be mastered.

B. Definition and concept of an affidavit

The affidavit is a document that states something about a certain event. It is executed by a person called the “affiant,” who, in effect, states her/his personal knowledge about this certain event.

The statement made by the affiant is sworn to in order to verify that what is written in the document is true and correct and is based on her/his personal knowledge. And because this is a sworn statement, the document is considered a public document. This means that if and when the document is used in a particular case, it may be presented or introduced in evidence without need of proving first that it was duly executed by the affiant. And also because it is a sworn statement, the affiant may be prosecuted for the crime of perjury, if she/he is found to have made an untrue statement under the affidavit.

The affidavit may narrate a certain event that is needed to be disclosed or told by the affiant. Because of this, the affidavit is considered to be a frequently used legal form that a paralegal or a representative from the community needs to be familiar with. Thus, it is necessary for the paralegal or representative from the community to master the skill of affidavit-making.

C. The parts of an affidavit

1. The place of execution

“Republic of the Philippines }
_____ City }”

2. This is found in the uppermost left corner of the document. From reading the place of execution, the reader will be able to check if the notary public was within her jurisdiction when she administered the oath-taking of the affiant.

The *scilicet*

“SS”

The *scilicet* is written on the space beside the place of execution. *Scilicet* is taken from the Latin terms “*scire licet*”, which means “namely,” “to wit” or “in particular.” This is written on the affidavit to show the particular place where the document was executed.

3. The title of the document

“*Sinumpaang Salaysay*” or “*Affidavit*”

The title is written on the center after the space where the place of execution is written. It is important to place the title so that at first glance, the reader will be advised that the document she is holding is an affidavit.

4. Personal circumstances of the affiant

“I am Rico Albor, of legal age, Filipino, and a resident of Bgy. Patpat, Cantilan, Surigao del Sur, after having been sworn to in accordance with law, do hereby depose

and state that:”

The personal circumstances of the affiant are written on the first part of the affidavit. The name of the affiant, her/his age (or the fact that she/he is or is not of legal age), her/his civil status, and her/his residence are all written on this part of the affidavit. The second part of the paragraph states that the affiant voluntarily and freely executed the affidavit.

5. The body of the affidavit

1. *I am a farmer and President of Cantilan Farmers Irrigators Association, Inc., an organization of farmers in the Municipality of Cantilan, Surigao del Sur;*
2. *Many of us plant rice in our farmlands, and there are also coconut, cassava, and corn plantations found in our barangay community;*
3. *Our biggest problem has always been mining companies who are operating in our Municipality ;*
4. *Since Marc Ventures entered into our Municipality in 1995, there has been endless vigilance on our part as farmers in opposing and stopping their entry into our lands;*
5. *Etc.*

After writing the personal circumstances of the affiant, the affiant then states the allegations that are related to the particular event which is being related. These allegations must be of the affiant’s personal knowledge. It is better if the body is written in such a way that there are numbers to the paragraphs and the events are chronologically arranged. In order to have a clearer statement of facts, it is

suggested that each paragraph should only contain one idea or point.

6. The last paragraph in the body of the affidavit

In the last paragraph of the statement, the affiant must state the reason(s) why she/he is executing the affidavit

“6. This statement is executed in order to attest to the truth of the foregoing and for the purpose of filing a : Injunction with Moral Damages and with Urgent Ex Parte Application for Temporary Environmental Protection Order and/ or Environmental Protection Order against SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, et al.

7. The signature of the affiant

“IN WITNESS WHEREOF, I have hereunto affixed my signature this ___ day of _____, 20____, in _____.

_____(signature)
“Juan de la Cruz
Affiant”

The signature of the affiant should be affixed after the last paragraph of the body of the affidavit. The signature affirms the fact that the affidavit was executed by the affiant. It is also necessary that the affiant state the date and place when he/she affixed his signature to the affidavit.

8. Jurat

“SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20____,
affiant exhibiting to me her/his Community Tax Certificate Number or Government ID
_____ issued on _____ in _____.

(signature)

Notary Public

Until 31st of December 20____

PTR No. _____

Doc. No. _____;

Page No. _____;

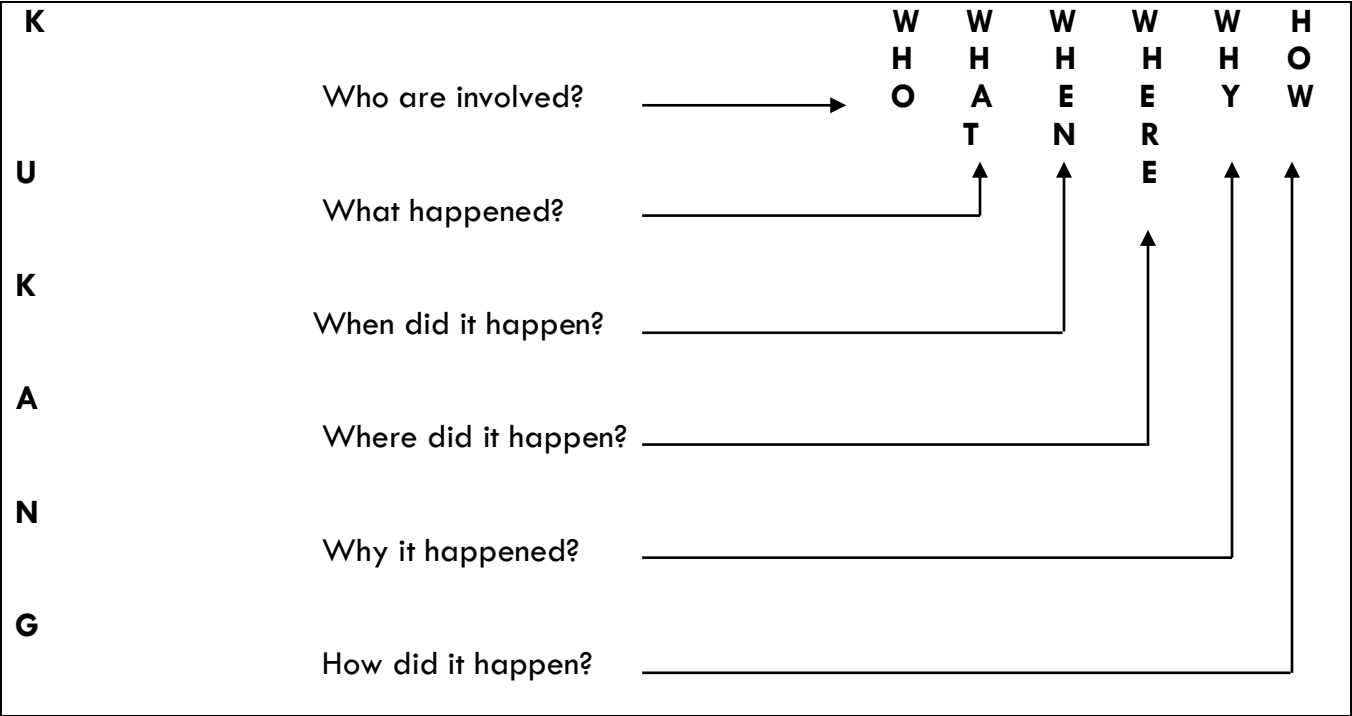
Book No. _____;

Series of 20____.

The jurat is the certification of an official who is authorized to administer oaths that the statement was signed and subscribed before him/her. The community tax certificate of the affiant, its date and place of issuance must also be stated

D. Points/Tips to Remember in Drafting Affidavit

In drafting affidavit, remember 5 W's (Who, What, Where, When, Why) and 1 H (How) or in Cebuano, "KUKANG" (Kinsa, Unsa, Kanus-a, Asa, Ngano, Giunsa).



E. Example of an Ordinary Affidavit

Republic of the Philippines)
Surigao City) S.S

AFFIDAVIT

“I am Rico Albor, of legal age, Filipino, and a resident of Bgy. Patpat, Cantilan, Surigao del Sur, after having been sworn to in accordance with law, do hereby depose and state that:”

- 1. I am a farmer and President of Cantilan Farmers Irrigators Association, Inc., an organization of farmers in the Municipality of Canitlan, Surigao del Sur;*
- 2. Many of us plant rice in our farmlands, and there are also coconut, cassava, and corn plantations found in our barangay community;*
- 3. Our biggest problem has always been mining companies who are operating in our Municipality;*
- 4. Since Marc Ventures entered into our Municipality in 1995, there has been endless vigilance on our part as farmers in opposing and stopping their entry into our lands;*
- 5. Recently, the exploration activities of Marc Venture have been causing us a lot of problems concerning our lands and environment, although it is still in its exploration phase;*

6. *I saw together with other members of my organization the continuing destruction of the Carac-an Watershed and the areas surrounding the mountain range, and it is deeply worrying us because we are afraid of its detrimental effects to our farmlands;*

7. *The forest areas that are being cleared by the exploration activities of MMDC have been serving as our community watershed areas where the waterways like creeks and streams drain into our irrigation canals and supply our rice fields of water;*

8. *This statement is executed in order to attest to the truth of the foregoing and for the purpose of filing a : Injunction with Moral Damages and with Urgent Ex Parte Application for Temporary Environmental Protection Order and/ or Environmental Protection Order against SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, et al.*

IN TRUTH WHEREOF, I hereunto set my hand this 21st day of June 2013
at Surigao City, Philippines.

Rico Albor
Affiant

SUBSCRIBED AND SWORN TO before me, this 21st day of June, 2010, affiant, exhibiting to me his Senior Citizens I.D. No. 0228 issued at Cantilan, Surigao del Sur on January 31 2010, and acknowledged the execution of the above-cited document as his free and voluntary act and deed.

Doc. No. _____
Page No. _____
Book No. _____
Series of 2010.

VI. Example of an affidavit filed under the New Environmental Rules

(Adopted from the Case Files of BALAOD in Cantilan)

Note: The caption of affidavit will defer depending on whether there is already existing case filed in court. If there is already a pending case, the caption of the case filed will be used in the Q & A form of an affidavit. If none, the ordinary heading, which is the place of execution of an affidavit).

Example of the Caption:

**REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
Branch _____
11th Judicial Region
Cantilan, Surigao del Sur**

JAIME “DATU DAGSAAN” BAT-AO, LIQUISA IRRIGATORS ASSOCIATON, represented by Peter William Olan, NAGKAHUGPONG MANAGATAY PARA SA KALAMBUAN NAN AYOKE (NAGMAKAAYO), hereby represented by Crisologo F. Anino, Sr. Lydia L. Lascano, and Nick Matthew Q. Iriberi, a minor represented by his Father Vicente Cirili Iriberri,

Plaintiffs,

- versus -

Special Civil Case No. 224

For: Injunction with Urgent Ex Parte Application for Temporary Environmental Protection Order (TEPO) and/ or Environmental Protection Order (EPO) under the Rules of Procedure for Environmental Cases (A.M. No. 09-6-8-SC)

**MARC VENTURE MINING AND DEVELOPMENT CORPORATION
(MMDC)**

,

Defendant.

X-----X

SWORN STATEMENT

Example of an ordinary caption/heading or place of execution of an affidavit.

**Republic of the Philippines)
Municipality of Cantilan) s.s.**

AFFIDAVIT

Republic of the Philippines)
Municipality of Cantilan) S.S.

SWORN AFFIDAVIT

Affiant, after having been duly sworn in accordance with law, hereby deposes and says that:

Q1 Please state your name, age, nationality, and residence.

A I am Rico Albor, of legal age, Filipino, and a resident of Bgy. Patpat, Cantilan, Surigao del Sur

Q2 What is your occupation, if any?

A I am a farmer.

Q3 How long have you been a farmer?

A I have been a farmer all my life. I raised my family and sent my children to school through farming. I continue to attend to my farm until now in Bgy. Patpat.

- Q4 *What is the major agricultural product in your place, if any?*
A Many of us plant rice in our farmlands, and there are also coconut plantations found in our barangay community. Other farmers also plant to produce cassava and other root crops.
- Q5 *What is your estimation as to the size of the rice fields in your area, if you can?*
A I would estimate that there is about One Hundred Fifty Hectares (150 has.) of ricelands in Barangay Patpat.
- Q6 *How long did you live in your Barangay?*
A I together with my family have been living in our barangay for more than 30 years.
- Q8 *Since the time you lived in your barangay, what were the natural calamities you experienced, if any?*
A Since the past years, it is only now that we experienced flooding where all our belongings including our farms were affected.
- Q9 *What was/were the reason, why there was this kind of flooding in your barangay?*
A The only reason why there was flooding in our towns was due to mining operations of Marc Ventures Mining.
- Q10 *And what is your reason in saying that the mining companies have been the cause of flooding?*
A Since Marc Ventures Mining entered into our barangay in 1995, many trees in our forests were cut and later on our rivers became polluted.

Q15 *You said that mining operations have been causing you a lot of problems related to your land and environment. Apart from cleared forests and rivers polluted, what are these other problems, if any?*

A We saw that there were soil erosion and polluted waters that come from the drilling sites. These waters are being drained into the creeks and river systems in the low-lying areas of our barangay until it reaches our farmlands through the irrigation canals that we have set up to allow these waters to pass through.

Q16 *Are there other complaints or problems that you have encountered, if any?*

A The topsoil of some of our lands have hardened.

Q33 *And, how do you feel about this?*

A It causes me and us a lot of worry and deep anxiety. We are almost at a loss on how to protect our livelihood, our farms, and our people about the impending gravity of the effect of mining operations to our lands.

Q34 *What did you do about these fears and flooding, if any?*

A I together with our neighbors will file a complaint against the mining companies.

Q42 *Are you executing this statement to attest to the truthfulness of the foregoing facts and circumstances, and for such other legal purposes they may serve?*

A Yes, I am.

IN TRUTH WHEREOF, I hereunto set my hand this 21st day of June 2010 at Surigao City, Philippines.

RICO ALBOR
Affiant

SUBSCRIBED AND SWORN TO before me, this 21st day of June, 2010, affiant, exhibiting to me his Senior Citizens I.D. No. 0225 issued at Cantilan, Surigao del Sur, on 31 January 2010, and acknowledged the execution of the above-cited document as his free and voluntary act and deed.

Doc. No. _____
Page No. _____
Book No. _____
Series of 2010.

SESSION 13: Community Organizing and Mobilization

Objectives: At the end of the session, the participants are able to:

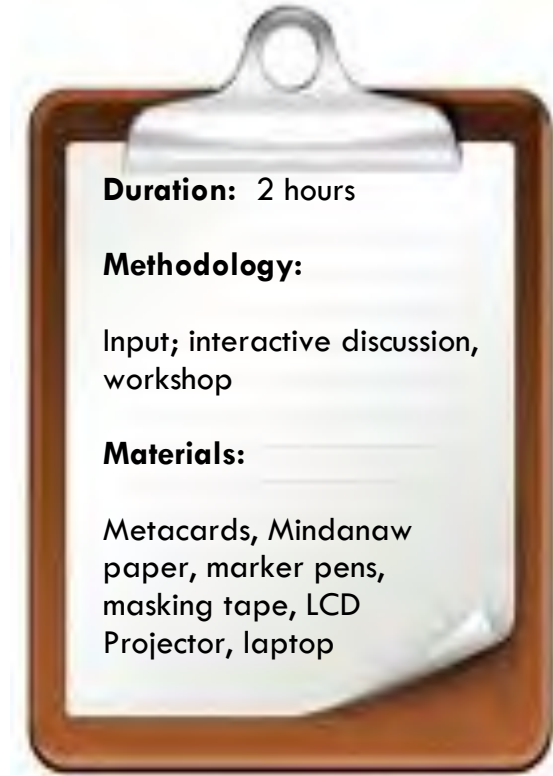
1. Understand the basic concept of community organizing; and
2. Gain an understanding how it works to protect their rights and their environment.

Session Guide:

- I. Input
- II. Workshop
- III. Interactive discussion

Content Outline:

- I. Concepts of Community Organizing
- II. Issue-Based Organizing
- III. Community Organization
- IV. Community Organizing Principles
- V. Community Organizing Standards
- VI. Community Mobilization



I. CONCEPTS OF COMMUNITY ORGANIZING

The concept of “Community Organizing” can be understood by dissecting the two (2) words. **Organizing** means alive or living just like an organism that moves, thinks and decides in a coordinated manner.

Organizing is not just a gathering of people. It is about establishing systems, structures, and processes that will be followed by the members. An organization is expected to follow a shared direction, work for a shared goal and act according to a commonly agreed code of conduct.

Community can be understood to mean a particular gathering of individuals defined by a commonality. In most instances, community refers to a clearly defined geographical area like barangay, zone, purok, etc. (this is true for fisherfolks, farmer, IPs). Organizing, though, can be done even without a defined geographical area. Example for this is credit cooperative where members do not necessarily come from a specific zone or barangay. Commonality may come in a form of common thematic or sectoral interest.

Community Organizing (OCE-CSWCD, UP)

Community organizing is a development strategy for building people’s capabilities towards self-determination and self-reliance. It is a method and process of educating, organizing and mobilizing people which leads to their own development. It is both a method and a process. As a method, it follows some basic steps. The correctness of strategy depends on sound community diagnosis. Because it is a process the particular stage or entry point a community organizer utilizes is greatly dependent on his/her reading of the local condition.

Community organizing is a continuous process of: (a) educating people to understand their critical consciousness or their existing conditions; (b) organizing people to work collectively and efficiently on their problems; and (c) mobilizing people to develop their capability and readiness to respond and take action on their immediate needs towards solving their long-term problems.

In the tradition of Philippine civil society, Community organizing is a process of conscientizing marginalized sector or community and harnessing their political power for them to transform the unjust situation that they are in.

II. ISSUE-BASED ORGANIZING

Organizing may come in many forms, motives or purpose, but the most common as far as Philippine Civil Society is concerned is issue-based organizing. This may be due to the fact that sectors and communities always face issue or problems, and also on the fact that people with shared interest can easily be gathered especially if this interest is at risk. Issue can be purely sectoral, can also be thematic or can be geographical. Sectoral issue may include land and housing for the urban poor, security to the access of municipal waters by the fisherfolks, land for the peasant, etc. Thematic can be issues not exclusively shouldered by a particular sector like logging and mining. In the case of mining, the people to be organized may come from different sectors, identity, persuasion, or even social class because the character of the issue and the impact it may cause will affect the entire community.

Community organizers, in most cases follow, the ten (10) steps of community organizing. In actual practice, the growth or evolution of the organization may vary depending on the context of the community. It may not result directly to the formalization of the organization. Different level of Interim structures and system may precede the formal establishment of the organization and the drive to pursue the formalization and the building of confidence depend on the track record and



experience of these interim structures. An organization may start at core group stage having less than ten (10) members. The process of organizing may turn the core group into a committee or task force. A committee or task force already has a simple tentative plan and set of tasks. As the process goes some of the objectives, plans and set tasks will become more complex to the extent that a need for a more formal mechanism emerges, thus formalizing the organization becomes a necessity.

The following are the ten (10) Community Organizing Steps

1. Integration

This refers to the process where the community organizer tries to establish rapport and communication with the members of the community by learning and participating in their everyday life. Thus, living in the community is a basic requirement for organizers, particularly at the start of the training in order to ensure that he or she imbibes the culture, expressions, nuances of community life.

2. Social Investigation

This is the process of systematically learning and analyzing the various structures and forces in the community - economic, political and socio-cultural. It results in a community portrait which is a scientific collation and synthesis of data gathered. It provides a clear picture of the community.

3. Tentative Planning and Strategizing

Planning is the process of identifying goals and translating them into specific activities to meet community needs or solve community problems. The final plans and decisions have to be done by the people in the community, but the organizer can begin the process.

4. Groundwork

This process provides the rigor of organizing as a transformative and dialogical process. This refers to the one on one or at times in small groups dialogue where the organizer engages the people in evoking their views, analysis, attitudes, beliefs around the issues. This process is aimed at securing the people's participation from the analysis, planning of solutions and actions.

5. Meeting

Getting to know the culture, history, economy, leaders, history and lifestyle of people in the community. Establishing rapport with the people to imbibe community life by living with them. Participating in the social and economic, formal and informal activities of the community.

The community meeting is the step in organizing where as many people as possible in the community are gathered to formally discuss the issues raised during the groundwork to plan their actions to address the issues.

6. Role Play

This refers to the process where the people act out the forthcoming dialogue, negotiation (or confrontation, as the case maybe) that will take place between the leaders of the people and the authority (target) mandated to act on the community problem. Various scenarios are played out to develop strategies /tactics to manage the possible ways in which the event will unfold. Thus, the formulation of Plans A, B, C, etc.

7. Mobilization

This refers to the community action undertaken to address and resolve the identified community issues and concerns. For the issue-based organizers, this can be in the form of negotiation or dialogue coupled with pressure tactics. For the socio-economic based organizers, this refers to the mobilization of people to start and run a socio-economic project.

8. Evaluation

Based on the 1985 “Tagisan” reflection of community organizers, evaluation is the process of discovering what the people accomplished, what was not achieved, the strengths and weaknesses of the action, its causes, and how these weaknesses can be prevented or minimized, while looking into how gains can be maximized.

9. Reflection

Based on the dialogical character of the community organizing process, aimed at consciousness raising and transformative action, the reflection process evokes from the participants the following: what they felt, thought, learned as individuals or as a groups from the process. In this dialogue, the Socratic question and answer method is still applied to establish the insight, analysis of each participant, based on his/her own naming of the experience.

10. Establishing People’s Organization

The aim of community organization is to develop independent people’s organization who will serve as representatives to the outside community in securing solutions towards improving the quality of life in the community. After some victories in issues addressed by the community members, formal election of leaders, approval of by-laws and constitutions, formation of committees constitute the consolidation of the initial organizing process.

III. COMMUNITY ORGANIZATION

The concept of community organization has evolved through the years. The following represents the range of ideas representing this evolution from the western theorists to the synthesis of Filipino contemporary community organization practitioners.

Community organization is the process of bringing about and maintaining adjustment between social welfare needs and resources in a geographical area or special field of service (Dunham, 1958)

It is a process, by which a community identifies its needs and objectives, orders/ranks or objectives, develops the confidence and will to work at these needs and objectives, takes action in respect to them and in so doing, extends and develops cooperative and collaborative attitudes and practices in the community (Ross, 1955 and 1976).

It refers to the mobilization of force around real or created conflict in order to force communication and movement. Controversy is used as a tool for organizing strong citizen-based groups, which can affect the decision making process. Through such means, citizens are helped to become articulate, informed and politically active and to exercise their collective influence at the point where decisions are made (Ronnow, 1969)

Community organization is a systematic, planned and liberating change process of transforming a complacent, deprived and malfunctioning community into an organized, conscious, empowered, self-reliant, just human entity and institution (PESP).



IV. COMMUNITY ORGANIZING PRINCIPLES

During the 1994 National Rural Community Organizing Conference, Community Organizing was defined as a collective, participatory, transformative, liberative, sustained and systematic process of building people's organizations by mobilizing and enhancing the capabilities and resources of the people for the resolution of their issues and concerns towards effecting change in their existing and oppressive exploitative conditions.

The principles of community organizing are:

The **social condition of the poor** itself gives opportunities to conscientize the people.

Tactics should be within the experience of the people and outside the experience of the target.

People generally act on the basis of their **self-interest**.

Man **learns more effectively** and more deeply **from his own actual experiences**. Hence the importance of reflections on his actions, his experiences. **Action – reflection** form an integral part of the CO methodology.

The **process of organizing** moves from simple, concrete, short term and personal issues to more complex, abstract, long-term and systemic issues.

Man needs to deepen and widen his horizon, therefore, he must move from the particular to the universal, from the concrete to the abstract, to **apply one's experience and**

its lesson to another situation. Hence, there is a need for theories, a need to read, and to meet other experiences learned in order to bring about the widening and deepening of each man's individual horizon.

V. COMMUNITY ORGANIZING STANDARDS

Organizational Development (OD) refers to the quality of organizational functioning of the people's organization as it fulfills its aspirations. Specifically, OD seeks to ensure that the following features of the organization are clear and operative: 1) Organizational Goals and Objectives, 2) Organizational Structures, 3) Leadership/Membership, 4) Education Programs, 5) Mechanisms for Internal Relationships Enhancement, and 6) The Financial Capability of the PO

The basic standards of community organizing are:

Critical, Creative and Collective Consciousness Raising – refers to the level of awareness or consciousness of the leaders and members of the PO. Specifically, this area of concern seeks to assess the PO's: 1) Socio-Political Awareness, and 2) Community Orientedness and Group Centeredness

Coalition Effort and Advocacy Work – the efforts initiated by the organizer, and eventually undertaken by the people's organization, to establish common ground with other POs and sectors on an issue-to-issue basis. In some instances, the alliance formed is strategic in nature, especially if the issue is a long term one. Advocacy work is the effort of PO/NGO to call the public's attention or the resource holder/controller (most likely the government) to an issue that needs immediate action from the group or the public.

Overcoming Gender and other Biases – the ability of the PO to recognize the gender issues within the public and private sphere of their community. It is also the capability to develop appropriate programs and measures that will ensure equality and respect for the rights of women and other marginalized sectors.

Resource Tenure Improvement (RTI) – this area of concern seeks to evaluate the impact of the people's organization in improving their relationship with the major natural resources— land, water (lakes, rivers, municipal waters/deep sea) and forest resources in the community.

Economic Self-reliance Strengthening – this area of concern refers to the capability of the people's organization to develop and manage economic projects or enterprises for increased incomes, economic growth, social equity, and environment sustainability.

Agricultural Development and Ecological Nurturance – refers to the ability of the PO to plan and implement programs that will develop the natural resources of the community to meet their basic needs, while ensuring the right of future generations to these resources.

Democratic Participation in Governance – The POs' capability to participate directly in the governance of their community. This also relates to their participation in mainstream political activities.

VI. COMMUNITY MOBILIZATION

Community mobilization refers to direct action of the affected sector in the community. People get themselves together to demand or protest against an unfavorable policy by the government or company. Most of the community action is led by organized

sector with clear objectives and targets.

It is important that before launching a community action, the sector involved should participate in the decision. A successful output of the action is a result of a clear plan, priority issues and concerns are properly identified. The possible forms of action are clearly discussed with the members of the organization for purposes of securing their commitments while explaining the worst possible scenario and the implication of the action undertaken.

Preparations:

- Creation of committees to directly manage and handle the campaign
 - ⇒ Core campaign committee/ central command
 - ⇒ Negotiating panel / speakers bureau
 - ⇒ Logistic / medic committee
 - ⇒ Finance committee
 - ⇒ Propaganda/ media/ networking
 - ⇒ Paralegal/ legal committee
 - ⇒ Marshal / internal security
 - ⇒ Education/ membership committee
- Documents that are necessary for the campaign
- Budget
- Support groups
- Alliance work



SESSION 14: Issue/Policy Advocacy through Meta-Legal Tactics and Tips on Managing Campaigns

Objectives: At the end of the session, the participants are able to:

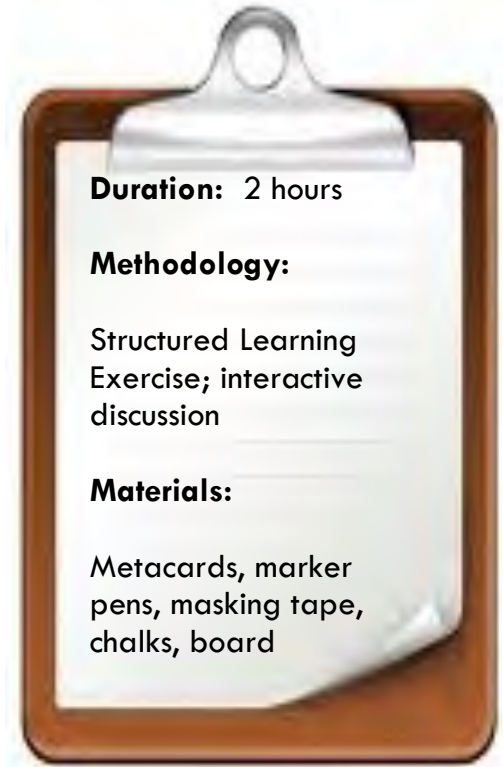
1. Distinguish legal from meta-legal strategies;
2. Identify appropriate legal and meta-legal strategies in resolving problems or issues faced by the community;
3. Appreciate the importance of combining meta-legal and legal tactics in resolving issues; and
4. Learn some tips in managing campaigns and in engaging in a coalition.

Session Guide:

- I. Structured Learning Exercise – “Connect the dots”
Participants will be instructed to connect the nine (9) dots illustrated in the board without lifting the pen. Four (4) straight lines should connect the dots.
- II. Processing / discussion/ sharing
What did you observe during the game?
What did the group do?
How do you relate the game to your work as paralegals?
- III. Input

Content Outline:

- I. Understanding the Legal and Meta Legal tactics to address and resolve issues.
- II. Some forms of metalegal tactics



- III. Things to prepare before launching a mobilization or mass campaign
- IV. Tips on Managing Issue-Based Campaign

I. UNDERSTANDING THE LEGAL AND META LEGAL TACTICS TO ADDRESS AND RESOLVE RTO /OJ ISSUES.

Legal strategy– A particular approach in responding and resolving an issue or problem using legal process as provided by law. This is the most common course of action. While it is good to follow the law, we should also know the limitations it brings in terms of making options. Sometimes, strict adherence to what is written will only perpetuate the status quo and resist any changes. The following are some of the challenges:

1. Legal processes are dependent mainly on government bureaucracy, and the reality at the moment speaks of bureaucratic delays and hitches. So seeking solution through legal strategy alone will take a very long process.
2. Laws can be interpreted in many ways and most of the time the dominant interpretation favors the "haves" and depriving the "have nots". Legal process also requires tedious steps and numerous documents which may limit access to those who can afford.
3. Strict adherence to rules may sometimes overlook the social context and the "human side" of the issue.
4. In most instances the marginalized groups, sectors or communities cannot afford the legal process.



Metalegal Strategy – a particular set of actions aimed at resolving an issue faced by basic sectors using steps, processes and ways not

necessarily provided under the law. The following are some of the qualities of metalegal strategy:

1. Not strictly “ legal” but not necessarily “illegal” process. These include a set of actions not provided by law but not, otherwise, categorically prohibited.
2. Relatively quick in responding or resolving a problem or issue.
3. It may expose the advocates to the risks of disciplinary actions, sanctions, fines and penalties or may result to a case because metalegal is situated somewhere between the legal and illegal.
4. It needs a longer time of preparation and support of a large number of people.

II. SOME FORMS OF METALEGAL TACTICS

A. Preparation phase

1. **Base Organizing** – establishing, strengthening and/or consolidating sectors and/or communities directly affected by the issue. Community folks not directly affected can also be tapped for support.
2. **Alliance Building with likeminded groups and individuals** – establishing, strengthening and maintaining links with solidarity groups who share the same advocacy. Building alliances is not only about adding numbers. It is also good to pool together different experiences, skills, knowledge, enriching discussions and debates to strengthen arguments and polish agenda.



B. Action phase

3. Noise/text/phone barrage – conduct of noise barrage in front of the concerned agency or office of the opposing party or facilitate an organize text or call barrage.

4. Petition – gather support through signatures from members, community folks and support groups. The gathered signatures can be a powerful force to pressure the concerned Agency.

5. Solicit support of influential person or institutions – personalities commonly sought for support are Bishops, Priests, individuals who are close to the opposing side, high ranking officials of the government and other institutions. These personalities can be tapped for support or asked to mediate.

6. Dialogue and Negotiation– some of the problems or issues can be resolved through dialogue or negotiation with concerned agency and or opposing party.

7. Use of the Media – media can be a very good ally in any campaign. Establishing link and friendship with media people may help us in communicating our cause with the public and gain favorable public opinion.

8. Launching of mass protest action, mass rally, picket, etc. – mobilizing organized sectors and communities as well as supporters to pressure agencies to act on the demands. These forms of action use pressure through the use of numbers or warm bodies. To get an optimum number of “organized protestors”, crucial components are organizing and logistical preparation.

9. Hunger strike – a tested and effective way of expressing protest. Preparation is very crucial so it should be given ample time. Preparation includes physical, psychological and emotional aspects not only for those who will undergo the hunger strike

but also for the base organization, the community and the support group. Establishing strong link with the media is also important in communicating the cause.

10. International pressure – Many solidarity organizations from other countries who share the same sentiments with us who are influential can be helpful to our cause.

11. Lobbying – usually used in pushing for policy proposals.

12. Policy Proposals -- Submit policy proposal to allied Senator or Congressperson

13. Congressional Hearings -- Send delegation to attend committee discussion of the Senate and House of Representatives that will decide on proposed policy.

14. Plenary Sessions -- Attend plenary session of Senate or House of Representatives during discussions on issues affecting marginalized people.

III. THINGS TO PREPARE BEFORE LAUNCHING A MOBILIZATION OR MASS CAMPAIGN

1. Conduct consultation and discussion with the members of the concerned organization (if organized) and the people directly affected by the issue. The process should ensure that affected organization and individuals understand the issue, the common objectives and the desired goals to be achieved. If the affected community members are not yet organized, issue-based organizing may be initiated through the consultation. A new organization may be established before the launching of the mass campaign.
2. The consensus of all the members and affected individuals on the goals, calls, methods and forms of campaign.

3. Members should understand and accept the responsibilities and tasks, possible risks and outcome.
4. In identifying plans, metalegal and legal strategies and tactics may be combined. One good character of metalegal process is that it is not necessarily exclusive and can be combined with legal processes. Metalegal tactics may be used to push for the favorable resolution of legal battle.
5. It should be emphasized that metalegal strategies may be more effective if the concerned agency or the opposing party knows our positions and demands.
6. The strategies and tactics employed may greatly affect the interest of the opposing party. The group should be prepared on the possible reprisal by the opposing party through filing of cases against leaders and members and other forms of reprisal.
7. Formulate campaign plans and conduct of profiling of opposing party.

IV. TIPS ON MANAGING ISSUE-BASED CAMPAIGN

Issue-based campaign may be defined as an extensive activity by a group or sector aimed at increasing awareness of the community or society on a particular issue to get their sympathy and support. The favorable opinion and sympathy of the people will further strengthen struggle of the group or sector into achieving their demand from the agency concerned.

Players of an Issue

Target – who are the officials, office or agency having the power to provide for our demand?

Constituents – the group of people or sector directly affected by the issue, they are the primary force of the campaign

Allies – these are like-minded groups or communities, or personalities who can help in the campaign

Opponents – these are the personalities or groups opposed to our cause

Successful Campaign

In all instances, any community activity or program shall start on the level where the people are. The following are the elements:

- ⇒ The campaign should touch the lives, experiences and imagination of the people
- ⇒ The campaign should excite and encourage people, rather than frustrate them
- ⇒ The campaign should define the specific tasks of the people or community

Ingredients of a Successful Campaign

- ⇒ Deep understanding of the issue
- ⇒ Solid organizational base
- ⇒ Clear message
- ⇒ Clear plan (objective, tasks, activities and expected results)
- ⇒ Expand allies and support groups
- ⇒ Clear plan for internal communication or feedback mechanism for the base and allies

Venue:

Congress
Government Agencies

Local Government
Community

Media
Streets

Coalition/Alliance as a vehicle in the Campaign

In many cases, campaigns are stronger and more viable if backed by a Coalition or Alliance. What is a coalition/alliance? What is its nature? Coalition/Alliance is often composed of groups or individuals from different sectors, identities, traditions, discipline, philosophy and or persuasion. Generally, coalition/alliance is tactical and temporary, that is, it will self-destruct once its basis of unity no longer exists. Because of this nature, coalition/alliance is vulnerable and fragile. Some mechanisms or safety nets can be installed to maintain cohesiveness of the coalition/alliance. These may include, among others, the basis of unity of the coalition/alliance and the code of conduct for its members. The following are some of the tips:

- ◆ A **clear basis of unity** should be agreed upon;
- ◆ **Relationship, responsibilities and expectations should be clarified;**
- ◆ **Equality** in treatment among members;
- ◆ **Consensus** processes;
- ◆ **Managing messages and communication**, like designation of official spokesperson or agreeing that no statement will be issued to public using the name of the coalition/alliance without the consent of the members;
- ◆ Others

SESSION 15: Community Planning

Objectives: At the end of the session, the paralegals are able to

1. formulate their plan of action to address their issue and/or to pursue the goals of their advocacy towards the protection of the watershed forest reserve

Session Guide:

I. Input

II. Workshop:

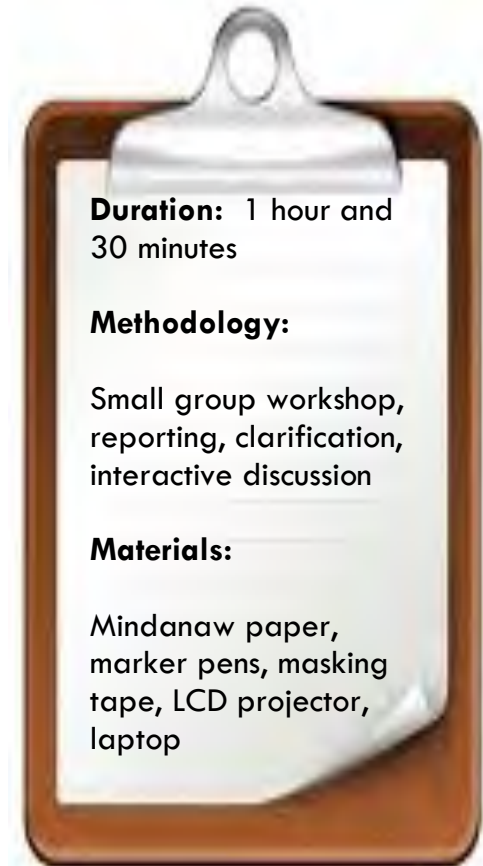
- ◆ Grouping of participants according to sector that will allow them to discuss what strategy should be pursued in their sectoral campaign.
- ◆ The sectoral planning matrix will be explained to the groups, as to what each column or item means, and how they will answer it.
- ◆ After the workshop, the group leader will report their plan. Interactive discussion with the facilitators and other participants will help to clarify their plan.

III. Reporting and discussion

Content Guide:

I. Planning

II. Workshop Guide



I. PLANNING

Planning is crucial for many reasons. First, when working with networks, coalition and other like-minded groups, it is necessary to minimize conflicts and differences in order to attain the desired results. Planning is important because it allows the members of the organization or group to set and clarify common goals and objectives. By doing so, internal conflicts and differences are resolved at the earliest possible time.

The problem with limited resources is another factor that is threshed out during planning. Identification of what can be done in order to maximize the available resources is commonly discussed during this activity.

It should be noted, however, that planning for advocacy work is different from project planning. Planning for advocacy work involves a long term vision for social change and demands careful analysis of external constraints and opportunities, and internal program capacity for addressing the problems. There are many factors beyond the advocate's control and, as such, a flexible timeframe is indicated. In project planning, on the other hand, the planners have a lot of control over the implementation of the project and can construct a logical timeframe that can be closely followed.

Planning for advocacy work is about collective action. Individuals acting on their own have little influence over policy makers. Speaking with a collective voice has greater chance that the legislators and executive will listen to the demand of the sector or groups. To act together, by planning together, this will reaffirm the commitment of all stakeholders, minimize conflict in implementation, expedite action, and forge a common set of directions.

Four (4) areas to be covered in the sectoral community planning are:

II. Workshop Guide

1. The participants will be grouped per sector (e.g., Indigenous Peoples, Peasants, Urban Poor, Fisherfolks, Private Sector, Church or Church-Based Groups, Academe, and Others).
2. The sectoral planning matrix will be presented and each item indicated therein will be explained. A sample on how to answer the matrix.
3. Each group will be asked to identify a leader who will facilitate the discussion, and a documentor who will take notes of the members' input.
4. Each group will be provided with Mindanaw paper and marker for them to write in large format their accomplished sectoral plan.
5. After the allotted time, group reporting will be done to present the sectoral plan to the plenary.
6. The overall facilitator and other participants will ask questions for clarifications; recommendations for suggestions will also be given.



Sectoral Planning Matrix

Sector	Name of Organization		Number of Members	Location
Objectives	Critical Activities	Expected Results	Timeframe	Person In Charge

Annexes

A. Training Needs Assessment

I - Basic Information

Name/ <i>Pangalan</i> :		Status/ <i>Kahimtang</i> : Married/ <i>Minyo</i> () Single () Widowed/ <i>Balo</i> ()	
Gender: Female/ <i>Babae</i> ()	Male/ <i>Lalaki</i> ()	Educational Attainment/ <i>Edukasyon</i>	
Address:		Elementary ()	High school()
		College () Course/ <i>Kurso</i> :	
		Others/ <i>Uban pa</i> :	
Contact Number:		Email address:	
Name of the Organization/ <i>Pangalan sa Organisasyon</i> :			
Position in the Organization/ <i>Posisyon sa Organisasyon</i> :		Contact Person:	

Other position held in the community/ <i>Ubang posisyon sa komunidad:</i>	
Barangay official/ <i>Barangay opisyal:</i> _____	
Barangay Development Council _____	
Lupon Member () Purok Opisyal () Others/ <i>Uban pa</i> _____	
Petsa / Tuig nga nagsugod isip Paralegal:	

II – Level of Knowledge and Skills

Please check the box with the corresponding number to indicate the level of your knowledge and skill; the highest score is 5. / *Palihug og tsek sa box kung unsa nga numero ang level sa inyong kahibalo ug kahanas, pinakataas ang numero 5.*

Knowledge and Skill/ <i>Kahanas ug Kahibalo</i>	1	2	3	4	5
1. Knowledge about resource laws/ <i>Kahibalo sa balaodnong pangkinaiyahan</i>					
2. Knowledge about Forestry Reform Code (PD 705)/ <i>Kahibalo mahitungod sa balaod sa Kabukiran (PD 705)</i>					
3. Knowledge about Fisheries Code (RA 8550)/ <i>Kahibalo mahitungod sa balaod sa Kadagatan (RA 8550)</i>					
4. Knowledge about IPRA (RA 8371) / <i>Kahibalo mahitungod sa balaod sa indigenous People (RA 8371)</i>					
5. Knowledge about the Agrarian Reform Law (RA 6657) / <i>Kahibalo mahitungod sa balaodnong Repormang Agraryo (RA 6657)</i>					
6. Knowledge about the Local Government Code (RA 7160)/ <i>Kahibalo mahitungod sa Balaodnong Lokal (RA 7160)</i>					

7. Knowledge about the Philippine Mining Act (RA 7942) / <i>Kahibalo mahitungod sa Balaodnong Pagmina (RA 7942)</i>					
8. Analyzing a (legal) case / <i>Pag-analisa og Kaso</i>					
9. Gathering of evidence / <i>Pagpangita og ebidensya</i>					
10. Drafting an affidavit / <i>Paghimo og Affidavit</i>					
11. Drafting a Court Pleading / <i>Paghimo og Pleading (dokumento nga isumite sa korte)</i>					
12. Drafting a contract or agreement / <i>Paghimo sa kontrata o kasabotan</i>					
13. Facilitating a meeting in a barangay organization / <i>Pag-facilitate sa meeting sa Barangay o organisasyon</i>					
14. Appearing before the Court / <i>Pag-atubang sa Korte</i>					
15. Giving an echo seminar / <i>Paghatag og echo seminar</i>					
16. Holding a dialogue / <i>Pakig istorya o dialogue</i>					
17. Resolving conflicts / <i>Pag husay sa mga bangi</i>					
18. Coordinating with other sectors in society / <i>Pakig lambigtay sa ubang sector sa katilingban</i>					
19. Coordinating with government agencies / <i>Pakig lambigit sa Ahensya sa Gubernu</i>					
20. Using meta legal tactics to resolve issues / <i>Paggamit sa meta legal nga taktika aron masulbad ang isyo</i>					

III – Issues and Concerns

ISSUES OR PROBLEMS presently being faced or experienced in the community/ <i>MGA ISSUES o PROBLEMA sa katilingban nga gisagubang ug nasinati</i>	STATUS of the issue/ <i>Kahimtang sa isyo</i>	RECOMMENDATION to resolve the problem or issue/ <i>Rekomendasyon sa pagsulbad sa isyo o problema</i>

Name of the Training attended / <i>NGALAN SA TRAINING</i>	Date and venue/ <i>PETSA ug LUGAR</i>	SPONSOR / ORGANIZER

IV – Trainings/ Seminars Attended

Use the back of the paper for additional space for your answers / *kon daghan inyong tubag, mahimo nga isulat sa likod niining papel*

What are the additional knowledge/ information and skills related to the protection of the environment that you would like to learn? *Unsa ang mga dugang kahibalo og kahanas ang gusto nimong mahibaluan mahitungod sa pagprotekta sa kinaiyahan?*

V – Linkages/ Networks/ Coalitions

PARTNER ORGANIZATION / INSTITUTION / AGENCY	ISSUES / PROJECTS nga gi-implementar	When did the partnership begin? / <i>Kanus-a nagsugod ang PARTNERSHIP</i>

VI – Suggestions or Recommendations for Policies, Laws and/or Ordinances to protect the Environment/ *Sugyot o Rekomendasyon nga mga Polisiya, Balaodnon, Ordinansa sa pagprotekta sa Kinaiyahan*

Use the back of the paper for additional space for your answers / *Palihug sulat sa likod ang ubang impormasyon*

B. Sample Sectoral Plan

Name of Group: NAGMAKAAYO and ISLAMDUNK NAGMAKAAYO - 96 member households ISLAMDUNK - 92 member households				
Address/Location: Sitio Ayoke and Brgy. General Island, Cantilan Surigao del Sur				
COMMUNITY PLAN				
Goal	Activities	Timeframe	Result	Person Responsible
<u>P.O. Strengthening</u> - To strengthen the community's resolve in standing against the mining operation.	Conduct of regular monthly PO meeting and community assembly.	Until the mining operation completely stop	Successfully stopped the mining operation.	Mr. Crisologo Anino, Mr. Almer Senados and Core Group.
<u>LEGAL</u> – To enforce the TEPO against MMDC.	Conduct of continuous information drive.	May - Dec 2012	Obtained favorable order from the Court.	Mr. Vicente Iriberry, Ms. Emma Hotchkiss, BALAOD Mindanaw.

<p><u>POLICY DEVELOPMENT</u> – To fully implement R.A. 8550</p>	<p>Push for strict implementation of R.A. 8550 for the protection of the marine and aquatic resource.</p>	<p>Continuing activity</p>	<p>Municipal water is protected and small fisherfolks have access to the marine resources.</p>	<p>All fisherfolk POs.</p>
<p>To have an ordinance that will prevent the construction of loading area for mining ore.</p>	<p>Push for the passage of an ordinance preventing the construction of loading area for mining ore.</p> <p>Strengthen link with allies from the Sangguniang Bayan</p>	<p>2012-2013</p>	<p>Large vessels are prevented from plying within the municipal waters.</p> <p>Small municipal fisherfolks are free from disturbance caused by activities of large vessels.</p>	<p>All fisherfolk PO Chairperson & PL Core Group, LGU, DA, and BALAOD Mindanaw</p>
<p>To establish navigational lane and put a limit on ship's tonnage that are permitted to enter the Municipal waters</p>	<p>Submit the proposed ordinance to the SB members.</p>	<p>ASAP</p>		
<p><u>CAMPAIGN</u> – To have continuous information and education campaign against mining.</p>	<p>Conduct of regular I.E.C.</p>	<p>ASAP</p>	<p>Increased the awareness of the community and strengthened their position against mining.</p>	<p>PO Core Group, Baywatch Foundation, Inc., LGU</p>

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BALAOOD Mindanaw, Inc.

ALTERNATIVE LAWYERING and PARALEGALISM mean working with the poor and enhancing their knowledge and capacities in effectively using the law as tools in advancing and protecting their rights. In its advocacies, BALAOOD is always mindful that its work does not only resolve actual conflict but should also contribute to social change. Sharing common struggles with the poor can result in making relevant changes in the legal system that benefits the marginalized. In a nutshell, it is about “taking the law and putting it in the hands of the poor and marginalized communities”.

BALAOOD believes and is committed to the following:

Principle of Subsidiarity.

Principled Partnerships with Local Governments and Democratic Participation in Governance.

Promotion of Human Rights and Paralegalism as the main strategy in addressing resource tenure and access to justice issues.

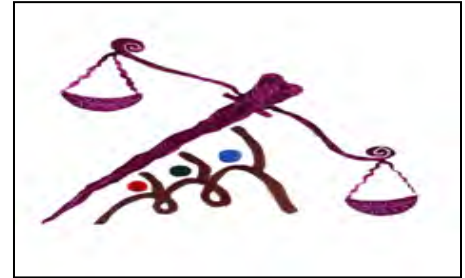
Recognizing the role of Women in Governance and Development.

Solidarity with like-minded Stakeholders.

Pursue Active Non-Violence (ANV) both as an end and as a process in resolving conflicts and building peace.

PROGRAMS and SERVICES

- A. Community-based Paralegal Formation Program and Peacebuilding
- B. Local and National Policy Research and Advocacy
- C. Test Case and Policy-determining Litigation Work
- D. Mainstreaming Alternative Lawyering



VISION

“Kaangayan, Kalambuan, Kalinaw sa Mindanaw, sa Pilipinas, sa Kalibutan”

(Equity, Development, Peace in Mindanao, the Philippines, the World).

MISSION

BALAOOD Mindanaw works with marginalized sectors and communities in Mindanaw through alternative lawyering and paralegalism, stressing active non-violence as an integral part thereof in the advancement of justice, gender equality, and resource tenure improvement in the context of active peoples’ participation in Governance.

E. Other BALAOD Services

1. Conduct of trainings and seminars on the following laws:
 - Human Rights including International Human Rights Instruments and International Humanitarian Law
 - Comprehensive Agrarian Reform Program (CARP) and other tenurial laws
 - Indigenous Peoples Rights Act (IPRA) and other laws affecting IPs
 - Local Government Code and other related laws (Local Legislation, Katarungang Pambarangay, etc)
 - Violence Against Women and Children (VAWC) and other Women’s Issues
 - Juvenile Justice Law and other related children’s laws
 - Philippine Fisheries Code and other related laws
 - Labor Code of the Philippines and other related laws
 - Environmental laws and other related policies (Rules of Procedure for Environmental Cases, Forestry Code, Philippine Mining Act, etc)
2. Institutional Development and Organizational Strengthening (IDOS)
3. Gender Sensitivity Training (GST)
4. Local Policy Development
5. Policy and Legal Research
6. Research and Documentation
7. Legal Writing and Policy Advocacy
8. Contract Making and Review
9. Campaign and Negotiation Skills

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**Community-Based Paralegal Formation Process and Training Toolkit
BALAOD Mindanaw, Inc.**

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