

# Philippines

## Community Paralegals: Recognition & Financing



Community paralegals are trained in basic law and in skills like mediation, organizing, education, and advocacy.

They are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. All share a common purpose: to help people to understand, use, and shape the law.

## Introduction

Community paralegals are dedicated to legal empowerment: they help people to understand, use, and shape the law. These advocates are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. They are trained in law and policy and in skills like mediation, organizing, and advocacy. Some are generalist – they engage whatever justice issues community members bring to them. Others specialize – they may focus on supporting survivors of sexual violence, or protecting community land rights, or in addressing failures in the delivery of public services.

Community paralegals are client-facing. Although they are called "community paralegals," they are not the kind of paralegals who primarily serve as lawyers' assistants. Community paralegals work with clients to seek concrete solutions to instances of injustice, often at the community or administrative levels. They form a dynamic, creative frontline that can engage formal and traditional institutions alike. Moreover, just as primary health workers are connected to doctors, community paralegals are often connected to lawyers who may help to pursue litigation or high-level advocacy if frontline methods fail.

This research brief is part of a series that reviews the nature of the work undertaken by community paralegals, and the extent to which that work is recognized or funded by government. Please note that the first briefs published for this series focus on the types of community paralegals who have been formally recognized either in law or policy. We acknowledge that this is just a small part of a much larger picture. Beyond the government-recognized paralegals discussed in these briefs, a broader, dynamic ecosystem of community paralegals operates effectively without state recognition in many countries. We aim to one day expand our research to offer a more comprehensive analysis of this larger universe. For now, however, our research briefs are limited to offering summary information and illustrative examples of the community paralegals who have been formally recognized by law or policy.

Each of these briefs is a living document-- if you have an update, addition or a correction, please contact us at [community@namati.org](mailto:community@namati.org).

## Acknowledgements

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		Notes
<b>NATURE OF WORK</b>		
<b>Recognition*</b>		
Are community paralegals formally recognized?	Yes	In laws and rules of procedure relating to certain quasi-judicial tribunals.
What are community paralegals called?	-	Formerly, “paralegals” or “non-lawyers.”
<b>Recognized Functions</b>		
Educating community and clients about the law?	Yes	
Mediating disputes?	N/S	Not specified in law, but occurs in practice.
Organizing community members for collective action?	Yes	Not specified in law, but occurs in practice.
Advocating to authorities?	Yes	
Monitoring for violations of rights?	Yes	
Litigating (with or without the help of lawyers)?		The Supreme Court of the Philippines prohibits community paralegals from practicing law in courts. However, paralegals can represent clients in quasi-judicial tribunals of certain administrative agencies.
- Criminal	No	
- Civil	Yes	
Navigating administrative processes?	Yes	
<b>Recognized Places of Work</b>		
Government-run offices or legal aid centers?	N/S	Not specified in law, but occurs in practice.
Non Governmental Organizations?	N/S	Not specified in law, but occurs in practice.
Independent practice?	N/S	
<b>INDEPENDENCE AND ACCOUNTABILITY</b>		
Is the independence of community paralegals explicitly protected?	No	
Are there boards or bodies that monitor community paralegals?	No	
If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)?	No	
If so, do these boards or bodies include civil society representatives?	No	
<b>QUALITY AND STANDARDS</b>		
Must community paralegals meet certain criteria in order to practice?	Yes	
Is there a board, body, or certification scheme to recognize qualified community paralegals?	No	
<b>SCALE AND FINANCING</b>		
Does any public revenue fund community paralegals?	Yes	Through the Department of Agrarian Reform.

Do Community Paralegals Work on this Issue?	Is Community Paralegal Work on this Issue Formally Recognized?	Does the Government Fund Community Paralegals who Work on this Issue?
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*Note: The Philippine Government funds paralegal work through the Department of Agrarian Reform’s Agrarian Justice Paralegal Support Fund.*

Issues			
Criminal Justice	Yes	?	No
Civil and Political Rights	Yes	?	No
Education	Yes	?	No
Environmental Justice	Yes	Yes	?
Family Law	Yes	?	No
Health	Yes	?	No
Housing	Yes	?	No
Labor & Employment	Yes	Yes	No
Land & Natural Resources	Yes	Yes	Yes
Migrants, Refugees, & Citizenship	Yes	?	No
Peace-building	Yes	?	No
Transparency	Yes	?	No
Water & Sanitation	Yes	?	No

Key
N/S = Not specified                      ? = Unknown. To share data on this point, contact <a href="mailto:community@namati.org">community@namati.org</a>

\*Note that we consider the following as sources of formal recognition: legislation, regulations, policies, court judgments, memorandums of understanding, etc.

## The Law In Practice

### Defining Community Paralegals

#### Are community paralegals recognized? How are they defined?

The Philippine judiciary does not formally recognize community paralegals. In fact, the Supreme Court has held that a person not admitted as an attorney, including paralegals, cannot engage in the practice of law.<sup>1</sup>

Despite this lack of formal recognition in the judicial system, paralegals have been active in the Philippines since the 1930s, and are widely employed by the strong network of human-rights organizations in the country.<sup>2</sup> Paralegals have also gained recognition in quasi-judicial tribunals.<sup>3</sup> They are entitled to appear before several tribunals, including the Department of Agrarian Reform Adjudication Board; the National Labor Relations Commission; and the National Commission for Indigenous People.<sup>4</sup>

In the Philippines, the term paralegal refers to a layperson with some knowledge of the law and the workings of government, who has had some training in these fields, and practices his or her paralegal skills in the name of some organization, whether state or non-state.<sup>5</sup>

**In this brief, we refer to community paralegals as “paralegals.”**

#### What do community paralegals do? What issues do they focus on?

Paralegals serve a particular group or category of people whose rights are being inadequately recognized or insufficiently fulfilled by the state.

Paralegals engage in: (i) education on human rights, constitutional rights and provisions, and legal rights and procedures; (ii) legal research, investigation, documentation and casework; (iii) mediation in conflict and dispute resolution, especially at the village-level; (iv) representation in quasi-judicial tribunals; (v) law enforcement as *bantay gubat* (forest guards) and *bantay dagat* (municipal water guards); (vi) policy advocacy around local and

<sup>1</sup> RE: SC Access to Justice for the Poor Project, SC En Banc Resolution A.M. No. 05-2-01-SC, (Feb. 15, 2005).

<sup>2</sup> J. Franco, H. Soliman, and M.R. Cisnero, *Community based paralegalism in the Philippines: From social movements to democratization*, JUSTICE & DEVELOPMENT WORKING PAPER SERIES, 5 (Washington, DC: The World Bank, 2014).

<sup>3</sup> In the Philippines, the term “courts” is utilized to refer to dispute tribunals located within the judicial branch, while the term “quasi-judicial tribunals” refer to dispute-resolution offices located within the executive branch.

<sup>4</sup> Franco, Soliman & Cisnero, *supra* Note 2, at 9-10.

<sup>5</sup> *Id.* at 7.

national laws, policies, and programs; and (vii) organization and mobilization of people to assert claims based on their legal rights.<sup>6</sup>

Alternative Law Groups, Inc. (ALG) is a coalition of 23 legal resource NGOs engaging in alternative law practice throughout the Philippines, who employ law as tool for social justice, change and development across many different issue areas.<sup>7</sup> Among ALG’s membership are organizations focused on non-formal education and training for farmers, workers, urban poor and indigenous populations, as well as organizations that focus on specific sectors such as environment, women, agrarian issues, and children.<sup>8</sup> Examples include the Alternative Legal Assistance Center (SALIGAN), which works on protecting women’s rights and fighting against gender-based violence. Foundation for the Philippine Environment (FPE) and the Philippine Tropical Forest Conservation Foundation are also members; they work together on a program, EnDefense, a funding mechanism for litigation and legal action to protect the country’s environment and natural resources.<sup>9</sup>

Where do community paralegals work?

Paralegals in the Philippines are primarily community-based and often engage with grassroots organizations. Paralegals are active in various institutions within Philippine society and, depending on their position, can involve different relationships with the state.

Paralegals work within peoples’ organizations, such as farmers or fisherman associations, advocating for the rights of those working in basic, non-professional sectors. These paralegals engage in basic fact-finding, gathering data to build cases, and insuring that there is accountability and functioning complaint mechanisms.<sup>10</sup>

Others are connected to and recognized by local government units, usually the barangay (village). In this role, paralegals mediate petty disputes, often as a prerequisite to filing a case in court, and can influence local officials to issue ordinances or orders on a wide range of issues.<sup>11</sup>

Further, paralegals are members of non-governmental organizations, who serve a particular group or category of people whose justice concerns revolve around their standing as members of a particular community.<sup>12</sup>

<sup>6</sup> *Id.* at 8.  
<sup>7</sup> *History*, ALTERNATIVE LAW GROUPS, INC., (2015) <http://alternativelawgroups.ph/index.php/about-us/history>.  
<sup>8</sup> *Id.*  
<sup>9</sup> Walter Leitner International Human Rights Clinic, *A handbook for the Justice and Peace Commission: Best practices of community legal advice programs, program assessment and recommendations*, 56 (Fordham Law School: Dec. 2008), [https://www.cartercenter.org/resources/pdfs/peace/conflict\\_resolution/liberia/leitner-handbook-justice-peace-commission.pdf](https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/liberia/leitner-handbook-justice-peace-commission.pdf); see also *Current Projects – EnDefense*, ALTERNATIVE LAW GROUPS, INC., (2015), <http://alternativelawgroups.ph/index.php/projects/curent-projects/endefense>.  
<sup>10</sup> Walter Leinter International Human Rights Clinic, *supra* at 9.  
<sup>11</sup> *Id.*  
<sup>12</sup> *Id.*



Finally, some paralegals work alongside or within government institutions. In agrarian disputes, farmer-paralegals can represent themselves, or their farmers' organization or its members, before the Department of Agrarian Reform Adjudication Board.<sup>13</sup> In employment disputes, a paralegal may represent fellow union members before the National Labor Relations Committee.<sup>14</sup> In indigenous peoples' disputes, a paralegal may represent a party to a dispute before the National Commission for Indigenous Peoples, which handles the rights of Indigenous Cultural Communities and Indigenous Peoples.<sup>15</sup> In fishery and forestry cases, paralegals may voluntarily participate in the enforcement of violations of fishery laws before the Bureau of Fisheries and Aquatic Resources or violations of forestry laws before the Department of Environment Natural Resources.<sup>16</sup>

## Independence and Accountability

### Is the independence of community paralegals explicitly protected?

There are no laws that explicitly protect the independence of paralegals.

### Are there boards or bodies that monitor community paralegals? If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)? Do these boards or bodies include civil society representatives?

There are no boards or bodies that monitor paralegals. Paralegals are accountable to different institutions based on their affiliations, such as peoples' organizations, non-governmental organizations, local government units, or governmental institutions that they work for.<sup>17</sup> Overall, little monitoring of paralegals is conducted, primarily due to a lack of funding and resources for paralegals and a need to prioritize other interests.<sup>18</sup>

## Quality and Standards

### Must community paralegals meet certain criteria in order to practice? Is there a board, body, or certification scheme to recognize qualified community paralegals?

There are established criteria and standards that paralegals working within governmental institutions must meet and follow.

<sup>13</sup> Department of Agrarian Reform Adjudication Board, *Rules of Procedures*, (2009), <http://www.iloilocity.gov.ph/bacfiles/2009%20DARAB%20Rules%20of%20Procedure.pdf>.

<sup>14</sup> National Labor Relations Committee, *Rules of Procedure*, (2011), <http://nlrc.dole.gov.ph/content/NLRC%20Rules%20of%20Procedure%202011.pdf>.

<sup>15</sup> National Commission on Indigenous Peoples, *Revised Rules of Procedure*, (2014), [http://ncipcar.ph/pdf\\_files/admin\\_orders/ncip%20admin%20circular%20no%201,%20s%202014%20\(revised%20rules%20of%20procedure\).pdf](http://ncipcar.ph/pdf_files/admin_orders/ncip%20admin%20circular%20no%201,%20s%202014%20(revised%20rules%20of%20procedure).pdf).

<sup>16</sup> The Philippines Fisheries Code of 1998, Rep. Act No. 8550, §124 (Phil.); see also Department of Environment and Natural Resources, *DENR Revised Guidelines on the Deputation of Environment and Natural Resources Officers (ENRO)*, § 4, 5 for a list of additional qualifications, which include literacy, mental competency, and moral character.

<sup>17</sup> Franco, Soliman, and Cisnero, *supra* Note 2, at 8-9.

<sup>18</sup> *Id.* at 16.

Under the Department of Agrarian Reform Adjudication Board (DARAB) 2009 Rules of Procedure, non-lawyers including paralegals may appear before the Board or its Adjudicators if he or she: (i) appears as a party to the case; (ii) represents a farmer's organization or its members with proof of authority signed by the President or head of the organization; (iii) is a law student who has completed his or her third year of regular law curriculum and is enrolled in a recognized law school's clinical legal education program approved by the Supreme Court, and who is under the supervision and control of a member of the Integrated Bar of the Philippines accredited by the law school; or (iv) is a DAR Legal Officer duly authorized by the appropriate Head of Office.<sup>19</sup>

Under the Labor Code, non-lawyers including paralegals may appear before the Commission or any Labor Arbiter only if they represent themselves, their organization or its members.<sup>20</sup>

The Revised Rules of Procedure before the National Commission on Indigenous Peoples hold that non-lawyers including paralegals may appear in any proceedings before the Commission or the Regional Hearing Office provided that he or she: (i) appears as a party to the case; (ii) represents an organization or its members and has written authority showing proper representation; (iii) is a duly accredited member of a legal aid office; and (iv) is an accredited paralegal aid or member of an accredited Indigenous Peoples Organization with written authority to represent the organization. The appearance of a paralegal may be denied, when in the opinion or assessment of the commission or the Regional Hearing Officer, the rights and interests of a party may not be best served or will be compromised by the lack of skill and experience of the paralegal.<sup>21</sup>

### Is community paralegal training available? What does it look like?

Given the longstanding tradition of paralegalism in Philippine culture, there is a strong network of public interest lawyers who are capable of training paralegals. The institution that a paralegal is affiliated with normally administers the training based on their area of work.

Paralegal training makes a clear distinction between legal literacy (know your rights) and skills training (taking action to enforce and implement your rights). Standard paralegal training includes: (i) analysis of the situation of the specific sector or population of concern; (ii) introduction to the philosophy of developmental legal advocacy or legal empowerment; and (iii) instruction in the specific human rights norms and legal principles that have application to participant's situations and the skills needed to enforce those rights.<sup>22</sup>

<sup>19</sup> Department of Agrarian Reform Adjudication Board, *supra* Note 13, at 16.

<sup>20</sup> National Labor Relations Committee, *supra* Note 14, at 2.

<sup>21</sup> National Commission on Indigenous Peoples, *supra* Note 15, at 6.

<sup>22</sup> Franco, Soliman, and Cisnero, *supra* Note 2, at 10, 22.



## Public Financing

### Does any public revenue fund community paralegals?

The Department of Agrarian Reform established the Agrarian Justice Paralegal Support Fund to assist farmer-paralegals in their operations. This includes logistics support for farmer-paralegal desks in field offices; assistance in documentation and research of agrarian implementation issues, cases, and other paralegal activities. These funds, however, are specifically not to be used as legal fees for lawyers or honoraria for farmer-paralegals, or capacity building or training.<sup>23</sup>

Outside of public revenue, paralegals receive the majority of their financial support from donors. These include, but are not limited to: the Ford Foundation, the Asia Foundation, the Catholic Organization for Relief and Development Aid, the Netherlands Organization for International Assistance, and the German Catholic Bishops' Organization for Development Cooperation.

## Practitioner Perspectives on Community Paralegals

### General observations about the law as it is implemented in practice

One argument for the recognition of paralegals is that formal recognition of paralegals may mitigate the scarcity of public interest lawyers in the Philippines. This would allow paralegals to provide necessary specialization to address the concerns of specific disadvantaged communities, especially at the barangay level. Paralegals might also benefit from the legitimizing effects of state certification and the setting of performance standards.

Arguments against the recognition of paralegals hold that it may lead to exclusion of marginalized groups based on social or political biases, leaving out the very people that community-based paralegalism tries to empower.

<sup>23</sup> Jose Mari B. Ponce, *Reaffirming the vital role of farmer-paralegals in facilitating the delivery of agrarian justice and providing for the creation of agrarian justice paralegal support fund*, MEMORANDUM CIRCULAR 15-04, (Department of Agrarian Reform, Aug. 6 2004), <http://lis.dar.gov.ph/documents/1547>.

## ANNEX: The Law (Excerpts)

### The Comprehensive Agrarian Reform Program, Republic Act No. 6657

#### Chapter XII – Administrative Adjudication

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Section 50. Quasi-Judicial Powers of the DAR.

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Responsible farmer leaders shall be allowed to represent themselves, their fellow farmers, or their organizations in any proceedings before the DAR: Provided, however, That when there are two or more representatives for any individual or group, the representatives should choose only one among themselves to represent such party or group before any DAR proceedings.

### The 2009 Department of Agrarian Reform Adjudication Board (DARAB) Rules of Procedure

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#### Rule VIII – Appearances

Section 1. Appearance. -- A lawyer appearing for a party is presumed to be properly authorized for that purpose. A non-lawyer may appear before the Board or any of its Adjudicators, if:

- a. He represents himself as a party to the case;
- b. He represents a farmers' organization or its members, provided that he shall present proof of authority from the organization or its members or such authority duly signed by the President or head of the organization;
- c. He is a law student who has successfully completed his third year of the regular four-year prescribed law curriculum and is enrolled in a recognized law school's clinical legal education program approved by the Supreme Court. His appearance pursuant to this rule shall be under the direct supervision and control of a member of the Integrated Bar of the Philippines duly-accredited by the law school. Any and all pleadings, motions, memoranda or other papers to be filed must be signed by the supervising attorney for and in behalf of the legal aid clinic.
- d. He is a DAR Legal Officer duly authorized by the Head of Office in accordance with the internal regulations of the Department of Agrarian Reform. For this purpose, the DAR Legal Officer must have the prescribed authorization form before he may be allowed to appear before the Board or any of its

Adjudicators, Provided, that when there are two or more representatives for any individual group, such individual or group should choose one representative.

### Labor Code of the Philippines

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#### Art. 222. Appearances and Fees.

1. Non-lawyers may appear before the Commission or any Labor Arbiter only: (1) if they represent themselves; or (2) if they represent their organization or members thereof.
2. No attorney's fees, negotiation fees or similar charges of any kind arising from any collective bargaining agreement shall be imposed on any individual member of the contracting union: Provided, However, that attorney's fees may be charged against union funds in an amount to be agreed upon by the parties. Any contract, agreement or arrangement of any sort to the contrary shall be null and void.

### The 2011 National Labor Relations Commission (NLRC) Rules of Procedure

#### Rule III – Pleadings, Notices and Appearances

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##### Section 6. Appearances. —

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b) A non-lawyer may appear in any of the proceedings before the Labor Arbiter or Commission only under the following conditions:

- 1) He/she represents himself/herself as party to the case;
- 2) He/she represents a legitimate labor organization, as defined under Article 212 and 242 of the Labor Code, as amended, which is a party to the case: Provided, that he/she presents to the Commission or Labor Arbiter during the mandatory conference or initial hearing: (i) a certification from the Bureau of Labor Relations (BLR) or Regional Office of the Department of Labor and Employment attesting that the organization he/she represents is duly registered and listed in the roster of legitimate labor organizations; (ii) a verified certification issued by the secretary and attested to by the president of the said organization stating that he/she is authorized to represent the said organization in the said case; and (iii) a copy of the resolution of the board of directors of the said organization granting him such authority;
- 3) He/she represents a member or members of a legitimate labor organization that is existing within the employer's establishment, who are parties to the case: Provided, that he/she presents: (i) a verified certification attesting that he/she is authorized by such member or members to represent them in the case; and (ii) a verified certification issued by the secretary and attested to by the president

of the said organization stating that the person or persons he/she is representing are members of their organization which is existing in the employer's establishment;

- 4) He/she is a duly-accredited member of any legal aid office recognized by the Department of Justice or Integrated Bar of the Philippines: Provided, that he/she (i) presents proof of his/her accreditation; and (ii) represents a party to the case;
- 5) He/she is the owner or president of a corporation or establishment which is a party to the case: Provided, that he/she presents: (i) a verified certification attesting that he/she is authorized to represent said corporation or establishment; and (ii) a copy of the resolution of the board of directors of said corporation, or other similar resolution or instrument issued by said establishment, granting him/her such authority.

c) Appearances of a non-lawyer in contravention of this section shall not be recognized in any proceeding before the Labor Arbiter or the Commission.

d) Appearances may be made orally or in writing. In both cases, the complete name and office address of counsel or authorized representative shall be made of record and the adverse party or his counsel or authorized representative properly notified.

## The 2014 Revised Rules of Procedure before the National Commission on Indigenous Peoples (NCIP)

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### Rule VIII – Representations and Appearances

Section 1. Appearances. — Lawyers and NCIP legal officers may appear before the Commission en banc or the Regional Hearing Office as counsel for any of the parties. A non-lawyer may appear in any proceedings before the Commission or the Regional Hearing Office provided that:

- a. He/she appears as a party to the case;
- b. He/she represents an organization or its members conditioned upon presentment of a written authority showing proper representation;
- c. He/she is duly accredited member of any legal aid office; and
- d. He/she is an accredited paralegal aide or member of an accredited Indigenous Peoples Organization (IPO) subject to the presentation of a written authority to represent the IPO.

Section 2. Appearance of a Non-lawyer may be Denied. — When, in the opinion or assessment of the Commission or the Regional Hearing Officer that, the rights and interests of a party litigant may not be best served or will be compromised due to lack of skill and experience of a non-lawyer appearing as counsel in a case, the appearance of said non-lawyer may be denied. But where the party litigant cannot afford the services of a lawyer, the Regional Hearing Officer or the Commission en banc shall appoint a counsel for said party.