

Among the programs and services NCIP provides to indigenous peoples include:

- Policy services;
- Certificate of ancestral domain title services;
- Human and economic development services; and,
- IP rights protection services.

B. Regional/Provincial/Municipal/Local

Management of community-based forestry projects, enforcement of fishery laws including conservation of mangroves, management of municipal waters as well as communal forests are devolved to the local government units (LGUs).

There is a Joint Memorandum Circular Order by the DENR, DILG, and LGUs that explains their devolved functions with other government agencies on land use planning.

LGUs are also mandated to approve ordinances and resolutions for the protection of the environment and impose penalties for acts which endanger the environment.

IV. Issues and Recommendations:

A. Findings of general review of literature

As stated in the VGSSF, tenure rights to land in the coastal/waterfront area are critical for ensuring and facilitating access to the fishery, for accessory activities (including processing and marketing), and for housing and other livelihood support. The health of aquatic ecosystems and associated biodiversity are a fundamental basis for their livelihoods and for the subsector's capacity to contribute to overall well-being.

However there are issues and problems that hinder the enjoyment of small-scale fishers of tenure rights. The health of fishery resources is also degraded, limiting the small-scale fishers' capacity to contribute to overall well-being. Among the issues and concerns faced by the small-scale fishers are:

1. On Governance of Tenure of Small-scale Fishers:

Small-scale fishing communities do not have secure tenure rights to resources that serve as the basis for their social and cultural well-being. While the establishment of fisherfolk settlement is mandated by RA 8550, there still no clear guidelines on how this will be implemented. BFAR is currently establishing the CFLCs envisioned to help fisherfolk secure access to coastal areas, but the mechanism on assessing its effects is yet to be in place.

On the use of municipal waters, the law mandates that municipal waters are for the use of small-scale fishers, but delineation of municipal waters has not been completed. Currently, there are no accepted guidelines for delineating the waters of municipalities with offshore islands, and even the waters of municipalities without offshore islands are yet to be completed.

The coverage of municipal waters as defined by the Local Government Code and the Fisheries Code is in direct conflict with the IPRA. According to De Vera and Zingapan (2017), existing laws of the country do not vest private ownership to any body of water, which are considered a part of the public domain in perpetuity. Ancestral waters of the IPs such as the one of Tagbanwa in Coron physically overlaps with the municipal waters of the LGU of Coron. Hence, issues and conflict in jurisdiction as well as authority to zone the ancestral waters vis-à-vis the Municipal waters and regulate activities arise.

The case of Coron shows overlapping or conflicting laws in the management of ancestral waters as mandated by IPRA and municipal waters by the Fisheries Code

Coron Island is host to two villages located in Barangays Cabugao and Banwang Daan, both are populated predominantly by Tagbanwa.

The Tagbanwa of Cabugao and Banwang Daan do not primarily depend on agriculture for their subsistence. Their real income comes from two sources: 1) fish and other aquatic resources, such as *tekbeken* (octopus), *balat*, *samung*, *latuk* (edible seaweed) and others; and, 2) edible birds' nests or *luray* for those who own clan caves.

The role of the elders (*mepet*) and parents are highly valued and respected in the Tagbanwa society. The *mepet* are traditionally consulted on matters affecting the clans and on important issues affecting both communities. They prescribe sanctions and mete out penalties for infractions against customary, and sets the rules over disputes on ancestral lands and resource extraction. Hence, in the past, the *mepet* were held in high regard for their knowledge of customary laws and played important roles in decision-making for the community.

The *mepet* define the reserved areas including the “no-go” zones as well as the *panyaan* (aquatic areas) and the *amlaran* (terrestrial areas) which are both traditionally avoided by Tagbanwa because of a belief that certain areas are sensitive or remain under the influence of an unseen, spirit world.

These reserved areas are not coincidentally ecologically intact and sensitive areas. The *awuyuks* (sacred lakes in Coron), for example, are part of Coron Island's precious watershed and shelter the swiftlet caves, which are so valuable to the Tagbanwa income. The *panyaan* too are areas, which remain pristine and not a few, are adjacent to fish hatcheries or sanctuaries.

However the introduction of the *barangay* system of political governance brought a profound change to their customary political structures. There was no place for the council of elders in the *barangay* system and the local government structure tended to centralize decision-making and services with the municipal government and with Puerto Princesa.

The Tagbanwa Foundation of Coron Island or TFCI was organized in 1985 as a response to three issues that confronted the Tagbanwa community: 1) the public bidding or *subasta* of the Tagbanwa clan caves carried out by the municipal government; 2) the influx of migrant settlers into Coron Island, most especially into Delian Island.; and, 3) the issuance of tax declarations by the municipal assessor on parcels of Tagbanwa land to outsiders.

In 1985 the TFCI began to apply for a Community Forest Stewardship Agreement (CFSA) with the DENR covering the islands of Coron and Delian. After years of persistence, the application was granted in 1990 and following the conditions set forth in the agreement, the DENR returned the clan caves to the TFCI and rescinded all the tax declarations issued on both islands.

From meetings and exchanges held by and within the TFCI board members and *barangay* leaders regarding the scope of their ancestral land claim, it was clear that the Tagbanwa's home ranges included not only the ancestral islands but also the traditional fishing grounds, fish sanctuaries, diving areas for *balat* and *samung* and other submerged areas that were threatened with destruction. It was realized that the CFSA was not equipped to protect these vital areas since the tenure instrument was limited to lands in the public domain. After studying the land tenure options, a consensus was reached to take advantage of PCSD's founding charter, Republic Act 7611 passed on 19 June 1992, that expanded the definition of ancestral domains in Palawan to include coastal zones and other submerged areas. On 19 February 1993, seven Coron *barangays* filed an application for a CADC with the CENRO, seeking support from the PCSD, the mayor, and other municipal executives.

After four years of working together and advocating for their CADC application in different government agencies and fora, the seven Tagbanwa foundations federated into the Saragpunta, a name that was hewn from the word *saragpun*, which means “let us gather.” Today Saragpunta consists of several community organizations based in the following areas: Coron Island, Delian Island, Bulalacao Island, Camanga Islands, Napaskud Island, Tara Islands, Turda, Buenavista, and Malawig in the municipality of Coron; Biong in the municipality of Culion; and Calait in the municipality of Busuanga.

The processes that the Tagbanwa undertook to formally define the extents and generate evidences and proofs of time-immemorial ownership and Governance of their Ancestral Domains are detailed as follows:

1. Community Meetings and Informal Exchanges
2. Bases for the Boundaries of the Ancestral Domain
3. Community Sketch Maps
4. Global Positioning System (GPS) Surveys
5. Map Validation
6. Advocacy to PCSD, CENRO, PSTFAD, and the DENR

The maps became important tools to introduce, locate, explain, and convince government authorities and policy makers of the vital importance of the ancestral waters to the continued survival of Calamian Tagbanwa communities. The maps and their technical description were validated by the PSTFAD and were presented to the PCSD and the Coron Municipal Council. The maps and other basic documents of the CADC application were forwarded to the Regional Office for Region 4B, and consequently endorsed to the Office of the DENR Secretary. In all the hearings where the maps and other documents were presented, not a single opposition disputed the veracity of the evidence (the historical accounts, place names, and the claim of the Calamian Tagbanwa).

In response to the Saragpunta’s application, the Coron Sangguniang Bayan filed more than 14 municipal resolutions opposing the ancestral domain claim. The Council cited the interest of the burgeoning tourism industry, large-scale commercial fishing, as well as the entry of the European Union (EU)-funded conservation program for the Integrated Protected Areas. The municipal council, however did not dispute the evidence that the Calamian Tagbanwa, have held time immemorial possession, occupation and utilization over these areas.

Addressing the counter-claims filed to reduce the Coron Island application, then Undersecretary Antonio La Viña used the maps as bases for his decision to recommend the recognition of the Coron Island CADC.

On 12 June 1998, the Tagbanwa struggle for recognition of their ancestral aomain (land and water) finally came into fruition. The CADC of Coron island consisting of 22,400 hectares of land and waters was signed and approved by then DENR Secretary Victor O. Ramos after an exhaustive review of the claim.

In 2002, five years after the enactment of IPRA, the National Commission on Indigenous Peoples (NCIP) converted the Tagbanwa’s CADC into a Certificate of Ancestral Domain Title (CADT) – a legal title formally recognizing the rights of possession of IPs over their ancestral domains identified and delineated in accordance with the rules of the IPRA. Upon further review of the claim, in 2002, the NCIP promulgated Administrative Order 1, series of 2002 that determined with finality the validity of the CADT. After the review and revalidation, the total area of the CADT increased by 2,236 hectares from their previous coverage of the Tagbanwa’s claim.

The approval and issuance of the Coron CADT served as a precedent for the recognition of two other CADT claims in Northern Palawan, which included substantial parts of the ocean and aquatic resources. In 2008, the CADT application of the Tagbanwa of Calait Island covering 55,539.1057 hectares (93 percent or 51,855 hectares as ancestral waters), was approved and was later awarded in March 2010. The CADT of the Tagbanwa communities in *barangays* Tara, Malawig and Buenavista covering at least 75,639.39 hectares was also approved in 2010, but has not been awarded as of this writing.

Source: De Vera, D. and Zingapan, K. (2017). *The Ancestral Lands and Waters of the Indigenous Tagbanwa Communities of Northern Palawan*. Quezon City. ANGOC.

2. Sustainable Resource Management

The State has not yet enacted the affective policies and measures for long-term conservation and sustainable use of fishery resources, as evidenced by stagnant levels of fish catch. Fisheries production has remained relatively stagnant at 1 to 1.4 million metric tons per year. Natural resource degradation continues in both inland and coastal waters due to the prevalence of illegal activities not just in the waters but in lowland and upland areas as well.

Mangrove degradation has been continuing. The National Greening Program has not been effective in rehabilitation of the mangroves because the program is overly focused on the number of propagules planted without due regard to the suitability of species and planting sites.

The case of Infanta in Quezon Province as an example of overlapping policies in the coastal waters

On 14 September 2000, the municipality and residents of Infanta (Protestant) filed a protest against the fishpond lease agreement (FLA) application of Macario Asistio Jr. (Protestee) over the 15.55694-hectare land situated in Barangay Binuasan. The complaint was filed under BFAR.

The area in contention was originally duly certified for fishpond development on 9 December 1957 by the Director of Forestry for Ramon Tuazon. Tuazon further requested the Director of Fisheries to submit a resolution to the town council, after which the municipality posed no objection to the conversion of the area. Hence, a 10-year FLA No. 1107 on 3 February 1959 to expire on 28 February 1969. Upon being awarded the FLA, Tuazon assigned the leasehold rights over FLA No. 1107 to the Development Bank of the Philippines (DBP) for a security of loan.

However, due to Tuazon's non-payment, DBP sold its leasehold rights to Ciriaco A. Reyes on 5 April 1960. Reyes was able to obtain a 25-year FLA No. 4460 on 5 December 1985, to expire on 31 December 2009.

But on 19 July 2000, FLA No. 4460 was cancelled due to abandonment of the area by Reyes. This was evident due to the full vegetation of second growth mangroves in the fishpond since 1992. Reyes also recommended that the interest over the area be transferred in favor of Asistio who applied for a new FLA for the area on 30 August 2000.

Protestant cited that the Protestee violated the following legal provisions:

- (1) Ministry of Natural Resources Memorandum Order No. 0030 and 0030 B series 1980, terminating the release of lands of public domain for fishpond purposes and banning the processing and issuance of FLA over areas in the Municipality of Infanta. This was issued by then Minister Jose Leido, Jr. ;
- (2) RA 8550 of 1998, Section 94 which states "it shall be unlawful for any person to convert mangroves into fishponds or for any other purposes" and Section 49 stating "all abandoned, undeveloped or underutilize of fishponds covered by FLAs not fully producing within five years from the date of approval of the lease shall automatically revert to public domain for reforestation";
- (3) Presidential Decree, Section 68 prohibiting the cutting of timber without permit;
- (4) DENR Administrative Order No. 21, Series 1992, Proclamation 2146, Presidential Decree 1586 which necessitate the conduct of an environmental impact assessment for environmentally critical areas such as mangrove areas;
- (5) DENR Memorandum Order No. 9817 issued on November 03, 1998 by then Sec. Antonio Cerilles, that prohibits the zonification of mangrove areas for fishpond development and releasing mangrove forestlands previously zonified as such; and,
- (6) Batas Pambansa No. 08 of the Municipality of Infanta issued on November 16, 1998 preserving the remaining mangrove areas in Infanta that are not previously cultivated or developed for fishpond for the benefits of the residents of Infanta.

After thorough study and deliberation, it was ascertained that the entirety of the 15.55694 hectares can still and should be reverted to its original mangrove state. Also, the area in contention is still under the jurisdiction of BFAR.⁸

Finally, no rights and no privileges have been given to Asistio since his application has not yet been approved.

Source: De Ruña, G. (2017). *Access and Rights to Water Resources in Infanta and Polilio Group of Islands, Quezon*. Quezon City. ANGOC.

3. Social Development, Employment and Decent Work

Small-scale fishers are still among the poorest of the poor. There are no social development safety nets to address the basic social needs of small-scale fishers, such as education, health services, financial services, social protection, and public infrastructure. Nor are there mechanisms in place to address issues related to decent work, in particular, occupational health and safety, including safety at sea of municipal fishers and commercial fish workers.

4. Disaster Risks and Climate Change

Disasters as well as fast and slow onset impacts are already felt by the small-scale fishers. They are the first to bear the brunt of extreme weather events, increase in sea surface temperatures already affect their livelihoods and rising tidal levels affect their settlement areas, but no clear policies on addressing the vulnerabilities of coastal communities. The two major laws on disaster risks and climate change made no mention of securing the tenure of affected communities especially of small scale fishers. There are no set policies on analysing the differential impacts of disasters and climate change especially on small-scale fishers.

5. Policy Coherence, Institutional Coordination and Collaboration

Holistic approach to fisheries management is difficult at the local level due to the following factors:

- a) Overlapping roles of agencies hamper the effective and coherent resource management. For example, mangroves, sea grass and coral reefs (fish habitat) are under the DENR jurisdiction while fish stock are under the DA-BFAR jurisdiction;
- b) DA-BFAR and DENR, the two agencies with major roles in small scale fisheries, are both devolved to the LGUs. Within the municipal local government unit (MLGU), the “representative” of DA-BFAR is the Fisheries Technician, while the Municipal Environment and Natural Resources Officer is the DENR’s representative. Unfortunately, not all MLGUs have these two technicians within their personnel rosters; and,
- c) There is lack of consolidation of local development plans, specifically the Municipal Comprehensive Land Use Plans (MCLUPs), Barangay Development Plans (BDPs) and Provincial Development Plans (PDPs) as well as the ADSDPP.

B. Recommendations on enhancing implementation of VGSSF in the Philippines

1. Governance of Tenure of Small Fishers

The issue of fisherfolk settlement needs to be addressed to secure tenure of fisherfolk. DA should enact a department order on the establishment of fisherfolk settlement and take the lead in convening concerned agencies and in ensuring their compliance in the implementation of fisherfolk settlement

program. At the local level, CLUPs of coastal municipalities and cities should include areas allocated for fisherfolk settlement. At the national level, the National Land Use Act bill, which has been pending in Congress for several years now, should finally be legislated that includes specific provisions for fisherfolk settlements.

Gaps in municipal water delineation should be addressed, including fast-tracking of delineation of waters of municipalities without offshore islands, and formulate with guidelines for municipalities with offshore islands.

Customary rights to ancestral waters should not be compromised. Sectoral participation of IPs in legal and government processes should be strengthened. There should also be capacity building of the IP sector which is crucial in ensuring their meaningful participation in these mechanisms and decision-making processes. The CLUPs of the LGUs should include and respect the ADSPPs of the indigenous peoples in the area.

The NAMRIA should recognize ancestral waters and CADT areas. NAMRIA should mark ancestral domain areas for the information of non-IP and commercial fishers.

2. Sustainable Resource Management

There is a need to ensure that National Greening Program (NGP) implementation in the coastal and riverbank areas are led by fisherfolk communities in said areas. Also, small scale fishers' roles in sustainable resource management through organizing and capacity building towards maximizing existing platforms such as the FARMCs.

3. Social Development, Employment and Decent Work

BFAR should continue to pursue its national registration programs, specifically the (a) FishR for the municipal fisherfolk; (b) BoatR for the fishing vessels; (c) GearR for the fishing gears. These registrations are important to identify the small-scale fisherfolk to be assisted, while supporting VGSSF implementation. Also, BFAR should continue to conduct technology training courses and provide assets, e.g., the construction and/or provision of fiberglass boats – which come with sustainable and environment-friendly gears, such as gill nets, hook and line instead of wooden boats.

BFAR should continue to assist fisher women through training programs on post-harvest technologies through the WINFISH and the continuing registration of women as fishers.

The Community Fish Landing Centers (CFLCs) were envision to reduce post-harvest losses as well as venues for skills trainings on disaster-resilient fisheries-based livelihoods and resource management such as monitoring fish catch and stock assessment. They are to be eventually managed by fisherfolk groups. Ensuring that operations of these centers indeed benefit the fisherfolks will help improve the social and economic situation of the small scale fishers. The NFARMC can be a platform for monitoring the CFLCs.

Fisherfolk beneficiaries should be given full recognition of their roles at all levels of CFLC implementation. The Memorandum of Agreement should specify roles of beneficiaries in the implementation and operation of CFLCs.

Aside from ensuring the promulgation of beneficial policies for fisheries workers – such as the proposed DILG Department Order 156-16 – programs should be formulated and set in place to ensure decent working condition and fair income for small scale fishers involved in the whole fisheries value chain.

4. Disaster Risks and Climate Change

At the local level, there is a need to undertake policy advocacy to secure fisherfolk tenure in times of disasters and climate change impacts (e.g., rise in sea levels). Meanwhile at the national level, there is a need to undertake policy advocacy to examine sectoral impacts of disasters and climate change.

5. Policy Coherence, Institutional Coordination and Collaboration

There should be feedback mechanisms for better-informed decisions:

- Between CSOs/fisherfolk organizations and local government
- Internal to the government agencies, e.g. among bureaus of the same agency, as well as national to regional offices
- Among local governments especially those sharing the same fishing grounds
- Among local/devolved government agencies and their national level counterparts

There should also be inter-agency collaboration for holistic approach to the fisheries issues, where each agency contributes efforts based on their respective mandates. There should be delineation and harmonization of roles for more holistic approach to fisheries issues.

The small-scale fishers believe that the creation of a Department of Ocean, Fisheries and Aquatic Resources is imperative to manage water resources in the 7,641 islands of the Philippines.

V. Conclusion and Ways Forward

As highlighted during the National Multi-stakeholder Forum on the VGSSF (Quezon City, Philippines; 2 October 2017), the VGSSF are only guidelines that may serve as checklist for what good governance and policies for small scale-fisheries could or should be. However, they need to be applied in the national context and according to the national legal system.

This paper showed an abundance of laws of resource management, each law with its own structures for implementation. As with other issues and concerns, small-scale fisheries have an abundance of laws and regulations without coherence, their implementing structures lack coordination and collaboration.

As such, the local government units (LGUs) suffer the problem on coherence. With the numerous plans that they need to formulate and consolidate, they need skills in effective local governance to make sure each plan and each agencies contribute to the attainment of VGGSF objectives and principles.

Finally, international development cooperation partners have the opportunity to assist LGUs by documenting and disseminating good practices (including process description, guidelines and tools). As a starting point, the Coron and Quezon case studies (included in this paper) are sources from which positive lessons can be drawn. This sharing of good practices will facilitate “horizontal” knowledge management and exchange on the fishery sector. Such knowledge sharing may input into the national legal and regulatory framework of the fishery sector system (“vertical” knowledge management and exchange), thereby making the latter more coherent. ■