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# SUSTAINABLE FISHERIES MANAGEMENT PROJECT (SFMP)

Supporting the Fisheries Commission's  
Community Fisheries Watchdog  
Communities: Legal Review of the  
Bantay Dagat Program in the  
Philippines

APRIL 2016



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Friends of the Nation



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## ACRONYMS

BD	Bantay Dagat
DA-BFAR	Department of Agriculture-Bureau of Fisheries and Aquatic Resources
CoP	Chief of Party
CIP	Conservation International-Philippines
CRC	Coastal Resources Center at the Graduate School of Oceanography, University of Rhode Island
FARMC	Fisheries and Aquatic Resources Management Council
FC	Fisheries Commission
GPS	Global Positioning System
ICT	Information and Communications Technology
IEC	Information and Education Campaign
IUU	Illegal Unreported Unregulated
LCE	Local Chief Executive
LGU	Local Government Unit
MCS	Monitoring, Control and Surveillance
MFARMC	Municipal Fisheries and Aquatic Resources Management Council
NFARMC	National Fisheries and Aquatic Resources Management Council
NFMF	National Fisheries and Management Fund
PCG	Philippine Coast Guard
PN	Philippine Navy
PNP	Philippine National Police (PNP)
PNP-MC	PNP-Maritime Command.
MOFAD	Ministry of Fisheries and Aquaculture Development
NGOs	Non-Governmental Organizations
SFMP	Sustainable Fisheries Management Project
SSG	SSG Advisors
URI	University of Rhode Island
USAID	United States Agency for International Development
WWF	World Wildlife Fund

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## INTRODUCTION

The Bantay Dagat (BD) or “sea guardian” program is a community-based law enforcement institution in the Philippines that engages fisherfolk in coastal villages or barangays on a volunteer basis to support the detection and enforcement of illegal fishing in coastal waters. The BD program has been highly effective and has been formally institutionalized in coastal and fishery law enforcement in existing national laws and local ordinances in the Philippines.

The BD draws on the participation of communities in the management and protection of coastal and marine ecosystems, and it supplements the capacity—in terms of limited personnel and resources to patrol vast coastlines—of LGUs in conducting law enforcement activities. However, while the basic objectives of the program are the same across the Philippines, different national agencies and local government units (LGUs) have taken different approaches to integrating the BD into local law enforcement activities.

This review presents the various aspects of the BD’s implementation, including organization, membership, operations, benefits for volunteers, and explores the challenges encountered in the design and implementation of the BD. It then identifies the legal foundations of the BD and describes how it was organized, developed and implemented in the Philippines. On these premises, the nation’s legal framework is discussed, focusing on key and relevant provisions of specific national laws and local ordinances. The review then explores the different modalities of the BD’s operation at the local level and adaptation of the program to different local contexts. Finally, this review presents a number of recommendations to provide insights on how specific challenges for the sustainability and effectiveness of the program can be addressed.

## OVERVIEW OF BD OPERATIONS AND MANAGEMENT

### Operations

Generally, the BD’s activities include seaborne patrolling and monitoring; surveillance and evidence collection; regular meetings with law enforcement staff; information, education, and communication (IEC) activities related to fisheries laws and marine conservation in local communities; and the detection, pursuit and apprehension of violators of fisheries laws. One study has shown that ideally, a BD volunteer should conduct regular patrol operations 12 to 13 times in a month to ensure effective law enforcement.<sup>1</sup> In addition to their role in apprehending offenders, heightened visibility of law enforcement agent within municipal waters effectively deters or pre-empts illegal fishing activities.

The ideal size of a patrol team is six to eight persons. Each BD unit must have a team leader, a lookout, a radioman, a documenter, a navigator, and an engine operator, as well as members tasked to form a boarding team and to provide security for the team. Individual members may assume more than one task since in most cases BD units have fewer than six to eight members on board.<sup>2</sup>

Common violations committed by both municipal fishers and commercial fishers include the use of illegal fishing methods and illegal equipment such as explosives, cyanide, compressors as a breathing apparatus, and fine mesh nets. Nevertheless, there are also violations that are

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<sup>1</sup>ROSALES, COSTS IN ENFORCING FISHING RULES AND REGULATIONS IN VERDE PASSAGE, *supra* at note 39.

<sup>2</sup> MADERAZO, *supra* note 41, p. 18

specific to commercial fishers, such as fishing within municipal waters (or 15km from shore). A person is considered to be engaged in commercial fishing if the vessel used is more than three gross tons, regardless of whether the fishing gear used is passive or active gear.<sup>3</sup> Fishing with the use of active gear is not allowed within municipal waters.

Most if not all of the arrests of violators of fisheries laws, as well as the searches and seizures made on fishing vessels, are done without a warrant. These arrests and searches typically happen during routine or planned seaborne patrol operations. It is therefore important for Philippine BD members to be knowledgeable about the procedure for conducting a warrantless arrest and seizure. Any legitimate questions as to the legality of the arrest or search could invalidate the arrest of the violator or exclude the evidence gathered during the search. In addition, the length of time of the detention of the suspect can raise additional challenges to the legality of an arrest made by the Bantay Dagat, given that the required travel time from the point of arrest to the nearest police station may exceed the legal period for detention and delivery of a suspect arrested without a warrant (between 12 and 36 hours, depending on the offense).<sup>4</sup>

Ideally, in the conduct of seaborne patrol operations, a local police or other national government law enforcement officer should accompany BD. But due to the lack of local police personnel or the unavailability of national law enforcement agents, the BD usually conduct patrol operations on their own, risking their own safety in the process. Thus, it is common for BD members to request that they be authorized to carry firearms to defend themselves. No law requires BD to carry firearms in the performance of their law enforcement duties, but on their own and in their private capacity some BD members apply for licenses to carry and possess firearms.

A BD member should be able to read a navigational map and use a geographic positioning system (GPS) device; conduct a proper boarding procedure; collect and handle confiscated items and evidence for use in a case against violators; and fill out legal forms. However, putting these skills to good use requires the availability of patrol boats; communication equipment such as handheld radios, cell phones, and megaphones; GPS devices; navigational maps; cameras for documentation; flashlights; and life vests.

The BD are also critical to the “soft approach,” to law enforcement in the Philippines, by playing an active role in educating their communities about marine laws and the value of conservation. Sometimes BD conduct village meetings to inform community members about a new ordinance or national law and any associated penalties in the form of fines or

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<sup>3</sup> PHILIPPINE FISHERIES CODE, sec. 4(10). *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: 1. *Small scale commercial fishing* – fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT; 2. *Medium scale commercial fishing* – fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and 3. *Large scale commercial fishing* – fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.

<sup>4</sup> This is the 12-18-36 Rule, referring to the number of hours that a person arrested without a warrant can be detained by a law enforcer or apprehending officer. This is found under Art. 124 of the Revised Penal Code of the Philippines. Those arrested for offenses by imprisonment from 1 day to 30 days must be brought to the proper judicial authorities within 12 hours; for offenses punishable by imprisonment from 1 month and 1 day until 6 years, within 18 hours; and for 36 hours for offenses punishable by imprisonment of 6 years and 1 day to life imprisonment.

imprisonment. This is a form of social marketing for marine laws, intended to increase local understanding and compliance.<sup>5</sup>

### **Organization and Membership**

As a community-based organization, BD volunteers are generally composed of fisherfolk recruited from the coastal villages adjoining the municipal waters. Municipal fisherfolk are persons directly or indirectly engaged in municipal fishing and other related fishing activities.<sup>6</sup> BD are selected at the local level by the Municipal Agriculture Office, and at the national level by the Philippine Department of Agriculture's Bureau of Fisheries and Aquatic Resources (DA-BFAR)—a national agency with jurisdiction over commercial fisheries.

Although membership in the BD is voluntary, more often than not, members of the BD are political supporters – or at least not identified with the political opponent – of the incumbent mayor of their town or city. This political aspect of the appointment of BD somewhat limits the field for recruitment.

Membership in the BD is open to both men and women, but it is still a male-dominated organization, owing to the fact that capture fishing is done mostly by men. However, women perform equally important activities in the Philippine fishery sector, such as the preparation of nets and baits and post-fishing activities such as selling and processing fish catch.

On average, local government units (LGUs) each have about 20 to 30 deputized BD, depending on the resources of the LGU and the number of coastal villages in the municipality. But not all members are actively taking part in law enforcement activities at any given time; renewal of membership is done every three years as the BD's term in office is usually co-terminus with the incumbent mayor.

DA-BFAR deputizes and renews the deputation of BD members every two years, with the submission of regular reports by the BD volunteer as a condition for renewal. Appointment as a BD may be revoked by DA-BFAR if the volunteer is convicted in a criminal case; found guilty in an administrative case; found to have aided any violators; found to have obstructed or hindered fishery law enforcement officers in the enforcement of fishery laws, rules, regulations and ordinances; found to have committed acts that constitute a cause to disqualify him or her from public office; or have repeatedly failed to submit their required monthly report.<sup>7</sup>

### **Training**

In order to get appointed and deputized as a BD, volunteers must first undergo a three-day training program, conducted either by the national or regional office of DA-BFAR or the Office of the Mayor, with the Municipal Agriculture Office acting as the BD coordinator<sup>8</sup>.

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<sup>5</sup> PHILIPPINE COASTAL MANAGEMENT GUIDEBOOK NO 8: COASTAL LAW ENFORCEMENT, a Coastal Resource Management Project of the Department of Environment and Natural Resources, Department of Environment and Natural Resources, the Bureau of Fisheries and Aquatic Resources, and the Department of Interior and Local Government, Cebu City (2001). Available at [http://oneocean.org/download/db\\_files/crmguidebook8.pdf](http://oneocean.org/download/db_files/crmguidebook8.pdf)

<sup>6</sup> PHILIPPINE FISHERIES CODE, sec. 4(56).

<sup>7</sup> Monitoring, Control and Surveillance (MCS) System for the Philippines On Law Enforcement Existing Guidelines / References Relative to the Implementation of Republic Act No. 8550 known as the Fisheries Code of 1998. Available at <http://www.bfar.da.gov.ph/services?id=162>

<sup>8</sup> MARIO MADERAZO, GABAY SA PAGBABANTAY, MGA PAMAMARAAN AT PAALALA PARA SA MGA BANTAY-DAGAT, Conservation International-Philippines (2009).



DA-BFAR conducts its deputation training only upon request from the Local Chief Executives (LCEs) or the Municipal or City Mayors. However, this does not preclude the local government from organizing and conducting its own deputation training, especially if it has the capacity and resources. In the Philippines, agriculture services, which cover fisheries, are devolved by the national government down to the local governments (province, city or municipality).<sup>9</sup> However, given the limited resources on the part of the local governments, they still primarily rely on DA-BFAR to conduct deputation training for the BD in their respective jurisdictions.

There is no training module officially prescribed by the government for the BD. However, the three-day deputation training for the BD is geared to provide members with the necessary legal, logistical, and technical skills. Basic training is normally required of anyone seeking to be deputized by BFAR or the city/municipal mayor, and such training covers basic orientation on BD work, discussion of national and local fisheries laws, vessel identification, detection of fish caught by explosives, conducting warrantless arrest and seizure, and basic skills in completing legal forms such as the preparation of sworn statements. After completing the three-day training, the participants are each given a deputation letter from the city/town mayor or the DA-BFAR as well as an identification card.

A three-day training program for about 20 to 30 participants costs about thirty thousand pesos Philippine currency (or approximately USD \$640)<sup>10</sup> to cover food expenses, the venue, and the honoraria given to resource persons. In a year, a city or municipality typically conducts two or three trainings, while the DA-BFAR conducts its own training of BD depending on the availability of funds and upon request by towns and/or cities covered by the operations of their regional office.

Non-government organizations (NGOs) with expertise in legal and para-legal work, or with specific projects related to the management and protection of a specific fishing ground or coastal resource, also provide additional and specialized training, such as advanced training courses for the BD in partnership with the local government. This training covers specialized topics designed to equip the BD with the technical skills to ensure the effective conduct of seaborne patrol, the use of navigational equipment such as GPS, operations planning, boarding procedure and apprehension at sea, life-saving techniques and legal documentation. National law enforcement agencies such as the Philippine Navy, the Coast Guard and the Philippine National Police's Maritime Group are usually tapped in the conduct of these specialized trainings.

### **Benefits**

BD volunteers do not receive any regular remuneration from the local government or from BFAR. That said, they are given stipend or honorarium on a per patrol basis of two hundred pesos (about USD \$4-\$5) and one hundred pesos (about USD \$2) for transportation expenses when attending meetings. In addition, in some municipalities, BD are also supported by

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<sup>9</sup> LOCAL GOVERNMENT CODE, sec. 17(b)(1)(i) for a barangay (village), sec. 17(b)(2)(i) for a municipality, sec. 17(b)(3)(i) for a province, and sec. 17(b)(4) for a city.

<sup>10</sup>RINA MARIA P. ROSALES, COSTS IN ENFORCING FISHING RULES AND REGULATIONS IN VERDE PASSAGE, Conservation International Philippines, 4 June 2008, available at <http://www.conservation.org/global/philippines/publications/Documents/Costs%20of%20Enforcement.pdf>.

NGOs, the private sector,<sup>11</sup> or a corporate foundation.<sup>12</sup> In these cases, BD have been provided with accident and life insurance on a yearly basis, livelihood assistance for their families, or additional compensation for their monthly patrol days.<sup>13</sup>

The current benefits and incentives system in the Philippines leaves much to be desired. A study noted that an individual BD member spends an average of 100 hours a month, which can be equated to an unearned monthly income of roughly Php1,900 (or USD \$40).<sup>14</sup> This is a substantial loss for a fishing household, which typically earns only Php5,000 (or USD \$106) monthly.<sup>15</sup> Hopefully, with the National Fisheries Management Fund (NFMF), there will be an improvement in the funding support provided to BD volunteers.

To supplement benefits for the BD, a number of municipalities are now using a local ordinance to provide an incentive scheme to members of the BD. A number of municipalities have adopted an ordinance to collect fees from users of environmental services – for example, a diver’s fee for dive spots<sup>16</sup> or an environmental user fee for natural tourist destinations such as seascapes, beaches, rivers, or caves.<sup>17</sup> Some of these municipalities have stipulated in their fishery ordinances that a certain percentage of these fees be used to support the Bantay Dagat, and that a percentage of fines collected be given to the apprehending team, to create additional incentives for law enforcers and the BD.<sup>18</sup>

## Challenges

Regular meetings for the BD are necessary to facilitate effective coordination between members and with other local enforcement agencies. However, effective coordination and dynamic working relations between the BD members and the local Philippine National Police (PNP) in the enforcement sites remain a challenge. BD members cite this lack of coordination as a main problem area for local law enforcement.

Further, availability of legal counsel to provide necessary legal advice and defend BD against harassment suits is also needed. But most BD organizations rely on national NGOs to provide

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<sup>11</sup> *Firstgen Bankrolls Batangas Marine Ecosystem Project*, Philippine Daily Inquirer, August 17, 2015, available at <http://business.inquirer.net/197228/firstgen-bankrolls-batangas-marine-ecosystem-project>

<sup>12</sup> *SM has community-based livelihood programs in Batangas*, BUSINESSMIRROR, page B5 (February 17, 2010), text reproduced in <http://www.sminvestments.com/sm-has-community-based-livelihood-programs-batangas>.

<sup>13</sup> Interview with Rey Manalo Chairman of BD of Tingloy and Rodrigo De Jesus, Chairman of BD of Calatagan. Both of their BD organizations are the active ones in the province of Batangas.

<sup>14</sup> RINA MARIA P. ROSALES, *INCENTIVES FOR BD TEAMS IN VERDE ISLAND PASSAGE*, Conservation International Philippines, 2009, available at [http://www.conservation.org/global/philippines/publications/Documents/Incentives\\_for\\_Bantay\\_Dagat\\_in\\_Verde\\_Passage.pdf](http://www.conservation.org/global/philippines/publications/Documents/Incentives_for_Bantay_Dagat_in_Verde_Passage.pdf).

<sup>15</sup> *Ibid.*

<sup>16</sup> MUNICIPAL ORDINANCE 01 2003 (MUN. ORD. 01-2003), An Ordinance Creating a Coastal Resources Management Board, prescribing certain conservation management fees/charges for the use of the municipal waters of Tingloy, Batangas for diving purposes, providing penalties for violation thereof, and for other purposes.

<sup>17</sup> MUN. ORD. 06-03, An Ordinance establishing an Environmental User’s Fee System in the Municipality of Puerto Galera, Oriental Mindoro.

<sup>18</sup> MUN. ORD. 20-06-2005, promulgating the FISHERIES AND COASTAL RESOURCE MANAGEMENT CODE OF JAGNA, BOHOL, sec. 70. This municipal fisheries code provides, as an incentive to BD, a share (50 percent) in the fines imposed on violators. Available at <http://jagna.gov.ph/wpcontent/uploads/2011/04/Fisheries-and-Coastal-Resource-Management-Code.pdf>.

them with legal assistance either via a lawyer or a para-legal, given the inadequate resources of the LGUs.

For many local governments, providing the BD with the necessary skills and appropriate technical, logistical and legal support remains a challenge given limited resources. NGOs and the private sector can sometimes fill the gaps, but they have to contend with high turnover of BD members, corresponding to changes in leadership in the local government.

The average cost of current BD operations for the local governments is estimated to be Php400,000 annually (or USD \$8,500).<sup>19</sup> This covers expenses for patrolling, trainings, and meetings. However, for an efficient BD operation, it was estimated that the current level of allotment should be increased by three times, or to about Php1.2 million annually (or USD \$25,550). On top of this, local governments also have to invest in seaborne patrol-related equipment such as GPS, megaphones, life vests, and cameras, which add up to an additional cost of approximately Php446,000 (or USD \$9,500) annually.

## **LEGAL FOUNDATIONS OF THE BANTAY DAGAT**

As a community-based institution that enforces coastal and fisheries laws, the BD operates within various legal and regulatory frameworks that define its nature, functions and limitations.

As with all other natural resources in the Philippines, fisheries are owned by the State, and state policy mandates their protection.<sup>20</sup> From a sectoral perspective, fisheries refer to all activities relating to the act or business of fishing, preserving, processing, marketing, developing, and managing aquatic resources.<sup>21</sup>

The State regulates such activities and prescribes specific standards through laws, rules and regulations being implemented by various government agencies at the national and local level. BD's participation in coastal and fisheries law enforcement proceeds from the constitutional State Policy to encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.<sup>22</sup>

The Philippine Constitution also has a specific social justice provision that mandates the State to protect the rights of subsistence fishermen to the preferential use of communal marine and fishing resources, both inland and offshore. This constitutional mandate directs the State to protect, develop, and conserve such resources, adding that such protection shall extend to protecting offshore fishing grounds of subsistence fishermen against foreign intrusion.<sup>23</sup>

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<sup>19</sup> ROSALES, COSTS IN ENFORCING FISHING RULES AND REGULATIONS IN VERDE PASSAGE, *supra* at note 39, available at

<http://www.conservation.org/global/philippines/publications/Documents/Costs%20of%20Enforcement.pdf>.

<sup>20</sup> The 1987 Constitution of the Philippines (CONST.), Article XII (*National Economy and Patrimony*), Section 2 (art. XII, sec. 2), in relation to Principles and State Policies, CONST., art. II, sec. 16, available at <http://www.gov.ph/constitutions/1987-constitution/#article-xii>.

<sup>21</sup> Republic Act 8550, sec. 4 (31), hereinafter cited as the PHILIPPINE FISHERIES CODE OF 1998. The full title is "An Act Providing for the Development, Management and Conservation of the Fisheries and Aquatic Resources, Integrating All Laws Pertinent Thereto, and For other Purposes." Available at <http://region3.bfar.da.gov.ph/ra8550.pdf>.

<sup>22</sup> CONST. art. II, sec. 23.

<sup>23</sup> CONST. art. XIII, sec. 7.

The Republic Act 8550, as amended by Republic Act 10654 or the **Philippine Fisheries Code of 1998**<sup>24</sup> is a special law that governs the fisheries sector. It is a codification of all laws relating to the utilization, management and protection of coastal and fisheries resources, guided by the policy objectives of addressing widespread poverty in coastal areas, ensuring food security and curbing and preventing fisheries resources degradation, among others.<sup>25</sup>

The BD finds legal justification in Section 158 of the Philippine Fisheries Code:<sup>26</sup>

*Section 158. Persons and Deputies Authorized to Enforce this Code and Other Fishery Laws, Rules and Regulations.* The law enforcement officers of the Department [of Agriculture], the Philippine Navy, Philippine Coast Guard, Philippine National Police (PNP), PNP-Maritime Command, **law enforcement officers of the LGUs** and other government enforcement agencies, are hereby authorized to enforce this Code and other fishery laws, rules and regulations. **Other competent government officials and employees, punong barangays and officers and members of fisherfolk associations who have undergone training on law enforcement may be designated in writing by the Department as deputy fish wardens in the enforcement of this Code and other fishery laws, rules and regulations.** (emphasis supplied)

Law enforcement officers of Local Government Units (LGUs) are expected to work not only with the Philippine Fisheries Code's implementing agency, the Department of Agriculture (DA), but also with law enforcement agencies in the national government, such as the Philippine Navy (PN), the Philippine Coast Guard (PCG), the Philippine National Police (PNP), and the PNP-Maritime Command. The jurisdictions of these different agencies, both national and local, are defined under the Monitoring, Control and Surveillance (MCS) System for the Philippines on Law Enforcement.<sup>27</sup>

In order to become law enforcers for the LGUs, BD members must first undergo the required training. Such delegation of governmental law enforcement is within the powers of LGUs (including cities and towns/municipalities), as provided under the **Local Government Code of 1991** (Republic Act 7610). BD members may also be designated as fish wardens after undergoing training from the DA-BFAR. This provides the legal basis for BFAR to conduct the deputation training for the BD, despite the devolution of basic services from the national government to the local governments under the Local Government Code.

The BD operate at the local level as part or in support of the local and national enforcement agencies within the territorial jurisdiction of the LGUs. They are primarily dependent on the law enforcement authority of the local chief executive, namely city mayors and town mayors.

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<sup>24</sup> Enacted in 1998 as part of the Social Reform Agenda (SRA) of the then President Fidel Ramos. The law repealed the Presidential Decree on Fisheries (P.D. 704), ushering a policy shift in the fishery sector from a centralized governance focused on expansion and utilization of fishery resources to a decentralized orientation directed to rights-based access to resources and participation of resource users and integrated management, conservation and utilization of fisheries and aquatic resources. It paved the way for a greater role of the LGUs in the management of fisheries within their jurisdiction.

<sup>25</sup> PHILIPPINE FISHERIES CODE, sec. 2.

<sup>26</sup> PHILIPPINE FISHERIES CODE, sec. 158, as amended by Republic Act 10654; *n.b.*, this was formerly sec. 124 prior to being renumbered by RA 10654.

<sup>27</sup> See Monitoring, Control and Surveillance (MCS) System for the Philippines on Law Enforcement, at the official BFAR website, available at <http://www.bfar.da.gov.ph/services?id=124>.

The local autonomy of the LGUs and the corresponding devolution of powers from the national government to local governments of provinces, cities, municipalities and barangay have allowed for the active and direct participation of the BD in coastal and fishery law enforcement.

LGUs share with the National Government the responsibilities for the maintenance of ecological balance within their territorial jurisdiction.<sup>28</sup> The coastal law enforcement mandate of the LGUs is articulated under the general welfare clause.<sup>29</sup> It is an expressed delegation of police power by the national legislature to LGUs, such as city governments and municipal governments, to “enhance the right of the people to a balanced ecology.”<sup>30</sup>

Although enacted prior to the Fisheries Code, the Local Government Code gives the mayors of cities and municipalities the mandate to enforce fishery laws within municipal waters, as well as to conserve and maintain the mangroves,<sup>31</sup> and to issue such executive orders as are necessary for the proper enforcement and execution of laws and ordinances.<sup>32</sup> To carry out their law enforcement power, mayors of cities and municipalities can act as the deputized representatives of the National Police Commission, formulate the peace and order plan for their own municipality or city, and implement that plan, upon its approval, and exercise general and operational control and supervision over the local police in their respective municipalities.<sup>33</sup>

The local legislative councils of cities and municipalities are vested with delegated legislative power,<sup>34</sup> including the power to enact municipal ordinances penalizing the use of explosives, noxious or poisonous substances, electricity, muro-ami, and other deleterious fishing methods and to prosecute any violation of the provisions of applicable fishery laws.<sup>35</sup>

Municipal waters<sup>36</sup> are the area of responsibility for local law enforcers, including the Bantay Dagat. It is the portion of the sea extending 15 kilometers from the coastline and it includes inland bodies of water such as lakes, rivers and streams located within their respective

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<sup>28</sup> LOCAL GOVERNMENT CODE, sec. 3(i).

<sup>29</sup> LOCAL GOVERNMENT CODE, sec. 16.

<sup>30</sup> Metropolitan Manila Development Authority v. Bel-Air Association Inc, G.R. No. 135962, 328 SCRA 836, (March 27, 2000), available at <http://sc.judiciary.gov.ph/jurisprudence/2000/mar2000/135962.html>.

<sup>31</sup> LOCAL GOVERNMENT CODE, sec 17(b)(2)(i).

<sup>32</sup> LOCAL GOVERNMENT CODE, sec. 444(b)(2)(iii).

<sup>33</sup> LOCAL GOVERNMENT CODE, sec. 444(b)(2)(v). Under this provision, the deputization of the local chief executives must also be in accordance with the DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT ACT of 1990 (Republic Act 6975), as amended by the PHILIPPINE NATIONAL POLICE REFORM AND REORGANIZATION ACT of 1998 (Republic Act 8551).

<sup>34</sup> MMDA v. Bel-Air Assoc. Inc., *supra* note 12.

<sup>35</sup> LOCAL GOVERNMENT CODE, sec. 149(b)(3). PHILIPPINE FISHERIES CODE, sec. 97, bans ‘muro-ami’ and any of its variation, and such similar gears and methods that require diving, other physical or mechanical acts to pound the coral reefs and other habitat to entrap, gather or catch fish and other fishery species.

<sup>36</sup> PHILIPPINE FISHERIES CODE, sec. 4(58). *Municipal Waters* – includes not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are so situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of the respective municipalities.

territories.<sup>37</sup> The Philippine Fisheries Code supports the jurisdiction of the LGUs over municipal waters.<sup>38</sup>

The Bureau of Fisheries and Aquatic Resources (BFAR) is a line bureau under the Department of Agriculture and its function, among others, is to enforce all laws and regulations governing the conservation and management of fishery resources, except in municipal waters,<sup>39</sup> the latter being the sole and exclusive jurisdiction of the LGUs.

The Philippine Fisheries Code, as amended, recognizes the risk and hazard of conducting law enforcement activities at sea as well as the difficulty of apprehending violators and obtaining evidence against them. It provides that assaulting, resisting, intimidating, harassing, seriously interfering with, or unduly obstructing or delaying a fisheries law enforcer, authorized inspector or observer or other duly authorized government officer is a serious violation of the code.<sup>40</sup> Prior to the amendment of the Philippine Fisheries Code, the provision had applied only to BD deputized by BFAR. But now the law includes the deputized fish wardens of the LGUs, to protect them against any form of obstruction to their law enforcement duties.<sup>41</sup>

Deputized law enforcers, including the BD, have the following duties: 1) to enforce all fishery laws, rules and regulations governing the conservation and protection of fisheries and aquatic resources within their area of jurisdiction; 2) to arrest, even without a warrant, any person or persons who has committed or is committing an offense penalized under the provisions of existing fishery laws, rules, regulations and ordinances; 3) to deliver within the prescribed period the offender and any paraphernalia used in illegal fishing, including confiscated fish, if any, and file the proper complaint with the appropriate official designated by law; 4) to conduct local education and information campaigns against all forms of illegal fishing in coordination with the LGU and BFAR and other concerned agencies; 5) to submit monthly accomplishment reports to the LGU and BFAR; 6) to act as a government witness in court; and 7) to assist in the disposition of confiscated fish either found positive for

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<sup>37</sup> Ibid.

<sup>38</sup> PHILIPPINE FISHERIES CODE, sec. 16. *Jurisdiction of the Municipality/City Governments*. – The municipal/city government shall have jurisdiction over municipal waters as defined in this Code. The municipal/city government, in coordination with FARMC, enact appropriate ordinances for this purpose and in accordance with the National Fisheries Policy. The ordinance enacted by the municipality and component city shall be reviewed pursuant to RA 7160 by their sanggunian [local legislative council] of the province which has jurisdiction over the same. The LGUs shall also enforce all fishery laws, rules and regulations as well as valid fishery ordinances enacted by the municipal/city counselor.

<sup>39</sup> PHILIPPINE FISHERIES CODE, sec. 65(n).

<sup>40</sup> PHILIPPINE FISHERIES CODE, as amended, sec. 84(h).

<sup>41</sup> PHILIPPINE FISHERIES CODE, as amended, sec. 115. *Obstruction to Fishery Law Enforcement Officer*. – The fishing vessel owner, master or operator or any other person acting on behalf of any fishing vessel who assaults, resists, intimidates, harasses, seriously interferes with, or unduly obstructs or delays a fishery law enforcement officer, authorized inspector or observer, **the deputized fish warden of the LGU**, or any lawfully-boarding government officers, in the exercise of their duties shall be penalized under this Code. Any person who does not allow any authorized officer or an observer to exercise any of the legal duties shall be deemed to be obstructing that officer or person.

Upon a summary finding of administrative liability, the offender shall be punished with cancellation of license or permit and an administrative fine of One million pesos (P1,000,000.00) for fishing vessels operating in Philippine waters or Two million pesos (P2,000,000.00) for fishing vessels operating beyond Philippine waters. Upon conviction by a court of law, the offender shall be punished with imprisonment from six (6) months to two (2) years and a fine twice the amount of the administrative fine and cancellation of license or permit.

explosives or abandoned to charitable or penal institutions, except fish found or suspected of having been caught with the use of poisonous substances.<sup>42</sup>

The **Rules of Procedure for Environmental Cases**<sup>43</sup> provides the legal procedure in prosecuting environmental cases whether civil or criminal in nature arising from the different environmental laws, including the Philippine Fisheries Code. These rules address the procedural concerns peculiar to environmental cases.<sup>44</sup> One of its notable provisions relevant to BD operations is the legal justification for any peace officer or individual deputized by the proper government agency to conduct warrantless arrest. Such actions have the presumption of regularity.<sup>45</sup>

**SEC. 1. Arrest without warrant; when lawful. – A peace officer or an individual deputized by the proper government agency may, without a warrant, arrest a person:**

- (a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense; or
- (b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.

**Individuals deputized by the proper government agency who are enforcing environmental laws shall enjoy the presumption of regularity under Section 3(m), Rule 131 of the Rules of Court when effecting arrests for violations of environmental laws (*emphasis supplied*).**

Another provision of the Environmental Rules of Procedure worthy of note is the protection of law enforcers such as the BD from harassment suits that may be filed against them in the performance of their duties as enforcers of environmental laws. Under the Rules, it is referred to as Strategic Legal Action Against Public Participation (SLAPP). The remedy provided is the dismissal of the case, whether civil or criminal, filed against a law enforcer or any person if the Court in a summary proceedings finds it to be SLAPP.<sup>46</sup>

In 2015, the Republic Act 10654 amended the Philippine Fisheries Code of 1998, and the procedure for dealing with SLAPP suits was codified into law, further bolstering what was provided in the Environmental Rules of Procedure:

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Existing Guidelines / References Relative to the Implementation of Republic Act No. 8550 known as the Fisheries Code of 1998. Available at <http://www.bfar.da.gov.ph/services?id=162> GR. No.

<sup>43</sup> Rules of Procedure on Environmental Cases, A.M. No. 09-6-8-SC, promulgated by the Supreme Court of the Philippines on 13 April 2010.

<sup>44</sup> *Annotation to the Rules of Procedure for Environmental Cases*, available at [http://philja.judiciary.gov.ph/assets/files/pdf/learning\\_materials/A.m.No.09-6-8-SC\\_annotation.pdf](http://philja.judiciary.gov.ph/assets/files/pdf/learning_materials/A.m.No.09-6-8-SC_annotation.pdf).

<sup>45</sup> *People of the Philippines v. Pablito Andaya*, G.R. No. 183700, October 13, 2014, available at <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/183700.pdf>.

<sup>46</sup> Strategic lawsuit against public participation (SLAPP) refers to an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights. See Rule 6 for Civil Case and Rule 19 for Criminal Case of the Rules of Procedure for Environmental Cases.

SEC. 139. *Strategic Lawsuit Against Public Participation (SLAPP) in the Enforcement of this Act.* – A legal action filed to harass, vex, exert undue pressure, or stifle any legal recourse that any person, institution, or the government has taken or may take in the enforcement of this Code shall be treated as a Strategic Lawsuit Against Public Participation (SLAPP).

The hearing on the defense of a SLAPP shall be summary in nature, the affirmative defense of a SLAPP shall be resolved within thirty (30) days after the summary hearing. If the court dismisses the action, the court may award damages, attorney's fees, and costs of suit under a counterclaim if such has been filed. The dismissal shall be with prejudice.

If the court rejects the defense of a SLAPP, the evidence adduced during the summary hearing shall be treated as evidence of the parties on the merits of the case. The action shall proceed in accordance with the Rules of Court.

The amended Fisheries Code also established a National Fisheries Management Fund (NFMF). It is intended to enhance the budget for the conservation, preservation, protection, management, development and regulation of fisheries and aquatic resources; research and development and capacity building of various stakeholders, including provision for scholarships; supplementary livelihoods for poverty alleviation; and improvement of productivity and processes of various stakeholders (see Figure 1).<sup>47</sup> It shall be administered by the Bureau of Fisheries and Aquatic Resources as a special account,<sup>48</sup> and it will be sourced from administrative fines and penalties imposed under the Fisheries Code, among others.<sup>49</sup> This will benefit BD as the NFMF will support the cost of litigation where the apprehending party or parties become respondents<sup>50</sup> or defendants in any tribunal or court of law. The NFMF is also earmarked for payment for the cost of rehabilitation, medical expenses for injury, or indemnity for death of law enforcement officers, including deputized volunteers<sup>51</sup> and capacity-building of deputized fish wardens.<sup>52</sup>

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<sup>47</sup> PHILIPPINE FISHERIES CODE, sec 142

<sup>48</sup> Ibid.

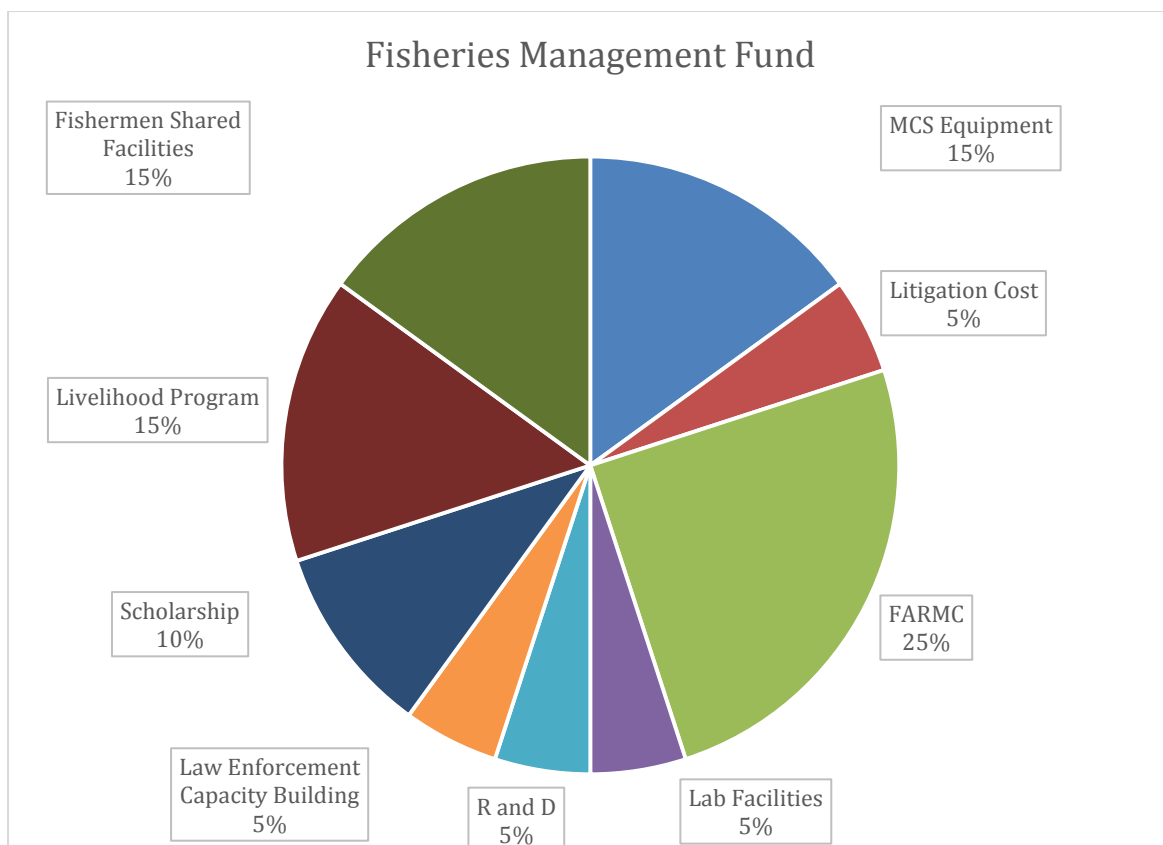
<sup>49</sup> Ibid.

<sup>50</sup> PHILIPPINE FISHERIES CODE, sec 142(b).

<sup>51</sup> PHILIPPINE FISHERIES CODE, sec 142(c).

<sup>52</sup> PHILIPPINE FISHERIES CODE, sec. 142(f).





## VARIATION IN BD PROGRAM IMPLEMENTATION

Depending on the municipality, the BD program is implemented in slightly different forms across the Philippines. The experiences presented in this review reflect the effectiveness of community-based law enforcement for the protection of coastal resources. Operating in an area-specific context, the BD thrives in partnership with various institutions. But central to its operation is the momentum stemming from a spirit of volunteerism and the innate motivation of communities to protect the natural resources upon which they depend.

### Commission-type of Organization

The BD Commission (BDC) of Cebu City was created through an Ordinance by the City Council in March 1998. But even in the 1980s, there were efforts on the part of the city government to address violations of fishery laws, notably the use of explosives such as dynamite. Poverty among marginal fisherfolk was also viewed as a key driver of various illegal fishing activities. On these premises, the BDC was organized to develop and provide livelihood programs to marginal fishermen; to provide a viable and effective program for the conservation and protection of aquatic/marine resources; and to strengthen cooperation and partnership between and among government agencies and civil society organizations, for the purpose of pooling and mobilizing available and potential resources to implement and enforce all existing fishery laws, rules and regulations, and ordinances.

The BDGC is under the direct supervision and management of the Mayor of Cebu City, who sits as Chairman over the 10-member commission composed of representatives from different agencies, the local legislative council, NGOs, the BFAR, and fisherfolk.<sup>53</sup>

The term of office of all members of the Commission is co-terminus with the City Mayor, unless pre-terminated by the latter.<sup>54</sup> Except for the members of the Local Council who are elected local officials and are members of the Commission, the rest of the members serve at the discretion of the City Mayor.

The administrative and operational aspects of the Commission are lodged with the Program Director who is directly accountable to the City Mayor.<sup>55</sup> The task of the Program Director is to implement effectively and efficiently all the plans, directives and programs of the Commission; submit periodic reports to the Chairman of the Commission; and to prepare the agendas of Commission meetings and provide the records of the meeting minutes.<sup>56</sup>

Compared with the BD program in other municipalities, where fisherfolk themselves are personally involved in law enforcement activities, the role of fisherfolk as members of the BDGC in Cebu is limited to the gathering of information needed for the improvement of their livelihoods. In Cebu, for the actual conduct of seaborne patrols, fisherfolk serve as navigators or they provide logistical support to the local police in the conduct of law enforcement activities. In Cebu, illegal fishers are well armed, and only trained and skilled law enforcement personnel can competently deal with them. Two years ago, the Program Director of the Commission was gunned down by an unknown assailant. The murder was as a result series of arrests within a number of commercial fishing operations.

The Commission as envisioned by the Ordinance integrates law enforcement with the prosecutorial aspects of the criminal justice system. The membership of the fisherfolk and NGOs in the BDGC integrates the need to address poverty, although it is limited to the provision of alternative livelihoods, such as livestock raising and local craft making. Their participation also informs the design and implementation of programs and policies that the Commission plans to pursue. In this regard, the Commission also assumes a policy-advisory role to the Local Chief Executive and the Local Legislative Council. This will expedite the filing of cases against violators, address one of the root causes of criminal fishing practices, through the provision of alternative or supplemental livelihoods.

**Cost of Operation.** The amount of Php1, 000,000 (or about USD \$21,460) is appropriated for the annual operation of the Commission. This covers the honorarium for the members of the Commission and costs to cover the short-term contracts denominated as “job orders” tasks. The costs of patrolling, such as fuel and food, are borne by the City Government or law enforcement agencies such as the Coast Guard and the Maritime Police. The city government with the Regional Office of BFAR shares training costs. Usually, the city government takes

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<sup>53</sup> CITY ORDINANCE NO. 1636 (CITY ORD. 1636), An Ordinance Creating the BD Commission of Cebu City for the Purpose of Developing and Implementing Livelihood Projects for Marginal Fishermen. Conserving and Protecting the Marine and Aquatic Resources within the City, Enforcing All the Existing Fishery And Aquatic Laws, Laws Governing Marine Pollution, Rules and Regulations, Thereby Eradicating Illegal Fishing Practices and Appropriating Funds Therefor, sec. 3.

<sup>54</sup> CITY ORD. 1636, sec. 5.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

care of the venue and food for the participants, while the BFAR provides for the trainer or resource person.

### **Bantay Dagat and Local Policy Making through MFARMC**

The town of Calatagan is a municipality with 19 coastal villages. The BD program started in Calatagan in 2000, with the support of the World Wildlife Fund (WWF). Conservation International-Philippines (CIP) later continued the work done by WWF.

The support of these international NGOs has helped to institutionalize the BD program in Calatagan. This was further reinforced by the support of a philanthropist through Conserve and Protect Ocean (CAP Ocean), a local NGO that supported the BD operations from its infancy in 2000 through 2010.

But prior to the involvement of these NGOs, the active presence and participation of one people's organization laid the foundation for the institutionalization of the BD in Calatagan. That group is SAMACA or *Samahan ng Maliliit na Mangingsida sa Calatagan* (Association of Small Fishers of Calatagan), a community-based people's organization in Calatagan. Even in other municipalities, the presence of people's organizations such as SAMACA played an important role in the formation of the BD because these organizations serve as local environmental advocacy groups in the absence of a BD organized by the LGU or BFAR.<sup>57</sup>

The chairperson of the Calatagan BD, Rodrigo de Jesus, said that most of the recruited members of the BD, including himself, are active members from SAMACA. He also believes that the BD program draws its momentum from the Filipino *bayanihan* culture or "community spirit".

In 2006, the Fisheries Code of Calatagan<sup>58</sup> was adopted by the town's local legislative council. The ordinance was a result of local policy advocacy by the members of the Municipal Fisheries and Aquatic Resources Management Council (MFARMC) after their review of existing fishery ordinances. The adoption of the Ordinance helped improve the operations of the BD in Calatagan. It mandated that the qualification and disqualification of a BD member shall not be based on educational attainment or political affiliation.<sup>59</sup> Their appointment shall remain effective even under the term of the successor of the previous town mayor unless they are removed for appropriate cause<sup>60</sup>. The local government is also mandated to appropriate funds in order to provide financial, logistical and technical support to the BD operations. To date about Php400,000 (about USD \$8,600) is allocated annually by the local government for the honoraria of members, gasoline for patrol boats, repair and maintenance, trainings, and meals during quarterly meetings.<sup>61</sup>

Unique also to the Ordinance of Calatagan is the provision allowing commercial fisherfolk to fish within municipal waters as near as 10 to 15 kilometers from the shore.<sup>62</sup> As a result of this provision, the LGU was able to recruit BD from among the commercial fishers. The tenure and stake of the fisherfolk is also enhanced by the provision on the management of the

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<sup>57</sup> Interview with Virginia Bartolome, Director, BFAR Region IV-A, 10 February 2016.

<sup>58</sup> MUNICIPAL ORDINANCE NO. 83, Series of 2006, (MUN. ORD. 83, s.2006) An Ordinance Enacting the Fisheries Code of Calatagan.

<sup>59</sup> MUN. ORD. 83, s.2006, sec. 3, art. XI.

<sup>60</sup> MUN. ORD. 83, s.2006, sec. 2

<sup>61</sup> Interview with Emerlinda Cadano, Municipal Agriculture Officer of Calatagan, 3 February 2016

<sup>62</sup> MUN. ORD. 83, s.2006, Sec. 3, Article V, Supra note 57.

Marine Protected Areas (MPAs). The BD provide the law enforcement component in MPA management.

The Philippine Fisheries Code institutionalized the participation of fisherfolk in policy making at the local and national level through the Fisheries and Aquatic Resources Management Council (FARMC).<sup>63</sup> This concept originated from the practice of local fishing communities. Its effectiveness lies in the involvement of resource users in decision-making on any intervention to manage coastal and fishery resources. The national government through the National Fisheries and Aquatic Resources Management Council (NFARMC) and the local government through the city or municipal FARMCs are mandated to consult fisherfolk on any policies or programs that will affect them.<sup>64</sup>

The composition of the MFARMC of Calatagan is based on the fishery resources that are being managed and utilized by community members. Hence, there are representatives from the resource users of seaweeds, mangroves, marine protected areas, municipal capture fisheries and the commercial capture fisheries. This arrangement augurs well for the law enforcement activities of the BD since the various problems affecting the use of fishery resources are discussed and taken into consideration in conducting fishery law enforcement activities.

Aside from enforcing national and local fishery laws, the BD of Calatagan are also mandated to conduct arrests of violators with the assistance of the local police.<sup>65</sup> They also coordinate with the local fisheries council, the MFARMC, and the BFAR at the village level. The BD sit in one of the working committees of the MFARMC.<sup>66</sup> Although independent from the MFARMC, the BD maintain close coordination with other MFARMC members in pursuing advocacy for local policies with the local council or for specific actions that should be undertaken by the office of the town mayor on matters involving the management and protection of the town's fishery resources. The BD conduct regular joint quarterly meetings facilitated by the town's Municipal Agriculture Office.

Providing support in the filing and prosecution of cases is another important function of BD.<sup>67</sup> In practical terms, the BD monitor the progress of the cases involving the violation of fishery laws filed with the local court. If they are part of the apprehending team that conducted the warrantless arrest of violators, they are obliged to testify in court and they also provide support to the local police in gathering necessary evidence.

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<sup>63</sup> PHILIPPINE FISHERIES CODE, Chapter III, Article II [*The Fisheries and Aquatic Resources Management Councils (FARMCs)*], sec. 68 et seq.

<sup>64</sup> Based on the provisions of RA 8550, the following are the matters requiring the national and local government to consult fisherfolk through FARMC: 1) Management, conservation, protection, utilization and disposition of fishery and aquatic resources; 2) Enactment of proper ordinance; 3) Determination of license fees on fisheries activities; 4) Establishment of catch ceiling limitations; 5) Establishment of closed seasons; 6) Allowing commercial fishers to fish within 10.1 to 15 km of the municipal waters; 7) Formulation of mechanism for the exclusion/inclusion procedure in limiting entry to municipal waters; 8) Designation/construction of zones for fish pens, fish cages etc; 9) Determination of defined migration path; 10) Establishment of post-harvest facilities; 11) Recommending to DA areas for fishery reserves or for educational or research; and 12) Establishment of fishery refuges and sanctuaries

<sup>65</sup> MUN. ORD. 83, s.2006, sec. 4(ii), Article XI.

<sup>66</sup> MUN. ORD. 83, s.2006, sec. 4(iii), Article XI.

<sup>67</sup> MUN. ORD. 83, s.2006, sec. 4(iv), Article XI.

## Tingloy Experience

### *BD as an Independent Community Organization*

The BD can also exist as a local organization independent of local government. This is the case of the BD of Tingloy, Batangas, an island municipality within the Verde Island Passage. To date, it is one of the most active BD organizations in the province of Batangas. In 1999, university students doing research in the town encouraged fisherfolk in Tingloy to organize a community organization. After a year, BFAR conducted a deputation training for the members of the organization, called *Nagkakaisang BD ng Tingloy* (United Sea Guardians of Tingloy). As volunteers, the members did not receive any remuneration from BFAR nor from the local government. However, under the Baywatch Project by the World Wildlife Fund (WWF), they started receiving small honorariums for their seaborne patrols.

Conservation International-Philippines (CIP) took over after WWF finished its 6-year project implementation, and in 2010, First Gen Corporation (FG), a corporation engaged in renewable energy, started supporting the logistical and operational requirements of the BD of five provinces within the Verde Island Passage, including Batangas Province (and the town of Tingloy).<sup>68</sup>

The BD of Tingloy, as a registered association, have the advantage of dealing directly with their benefactors. Financial, operational and logistical support are directly channelled to the organization from the private sector and international NGOs. Further, to date, the local government has allocated Php350,000 (or about USD \$7,500) for their operation.<sup>69</sup> FG's support consists of allocation for Php32,000 (approximately USD \$700) for the monthly stipend for BD members, Php420 liters of fuel per month for patrols, fiber-glass boats worth Php400,000 (about USD \$8,600), Php12,000 (about USD \$260) for educational assistance to the children of BD members, and Php50,000 (about USD \$1,000) for boat maintenance.<sup>70</sup> FG has also provided support for a livelihood project focused on noodle-making by providing a machine worth PHp20,000 (about USD \$430).<sup>71</sup> The livelihood program enabled BD members in Tingloy to make a modest investment in a local lending company.<sup>72</sup> Currently, the BD of Tingloy have 27 members, consisting of 17 men and 9 women, mostly between 40 to 50 years of age.<sup>73</sup>

The local government can afford to provide financial support to the BD operations due to the income derived by the municipality from diver and tourist fees. This is supported by a local ordinance which also mandates the BD to collect the diver's fee aside from their usual law enforcement function.<sup>74</sup>

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<sup>68</sup> *The Grass is Greener [and the Oceans Are Bluer] on Our Side: First Gen Corporation 2010 Annual Report*, available at [http://www.firstgen.com.ph/uploads/files/blurb-39\\_file-484\\_first\\_gen\\_2010\\_annual\\_report\\_for\\_web\\_.pdf](http://www.firstgen.com.ph/uploads/files/blurb-39_file-484_first_gen_2010_annual_report_for_web_.pdf)

<sup>69</sup> Interview with Rey Manalo, Chairman of Nagkakaisang Bantay Dagat ng Tingloy.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> MUN. ORD. 01-2003, An Ordinance Creating a Coastal Resources Management Board, prescribing certain conservation management fees/charges for the use of the municipal waters of Tingloy, Batangas for diving purposes, providing penalties for violation thereof, and for other purposes (22 September 2003).

## **Provincial Level Operation of BD**

The Batangas BD Network (BBDN) evolved out of the Bay Watch Network (BWN) organized in May 2002. It started as an informal and loose network not registered with the Securities and Exchange Commission, with members from six municipalities along Balayan Bay – namely the towns of Balayan, Calatagan, Mabini, Nasugbu, San Luis and Tingloy – and with the World Wildlife Fund (WWF) as the network’s partner NGO. Back then, BWN members met every two months to coordinate law enforcement activities, such as reporting apprehensions and law enforcement trainings. The network also engaged the provincial government of Batangas on issues such as the protection and conservation of Balayan Bay, as well as the provision of technical and logistical support to BD.

Conservation International-Philippines (CIP) continued the work done by WWF in supporting the BBDN. To date, the provincial government has adopted an executive order creating a province-wide inter-agency task force of coastal and marine law enforcement, including the BBDN.<sup>75</sup> The provincial government also supports skills training related to marine law enforcement and environmental laws for the BD and provides socio-economic benefits to BD members and/or immediate family members, such as livelihood assistance, insurance, and honoraria.

## **CONCLUSION**

The role of the BD is necessary and crucial in the protection and management of coastal and fishery resources in the Philippines. This is especially true for enhancing the participation of local communities for the promotion of environmental protection and conservation. The resources of the State in its efforts to conduct effective law enforcement are limited, and the BD have effectively complemented and supplemented the State’s capacity.

State support to community-based law enforcement is supported by existing national laws. This is enhanced by expressed provisions of the Philippine Fisheries Code recognizing the legitimacy of persons other than government personnel who have undertaken appropriate training under the LGUs or the BFAR to be deputized as BD. The participation of fisherfolk in national and local policy-making through the Fisheries and Aquatic Resources Management Councils (FARMCs) helped shape local policies for effective law enforcement and the sustainability of BD operations.

Municipal fisherfolk have an advantage in undertaking community-based law enforcement since they are equipped with traditional knowledge on the complex coastal and marine ecosystem, as well as an understanding of the social and political power dynamics within their communities. Their volunteerism and good will for the betterment of their communities and local environment helps make the BD an effective vehicle for environmental protection.

## **RECOMMENDATIONS**

The following are recommendations for replicating the BD program in Ghana:

- Conduct a review of existing laws, policies and programs in fishery law enforcement to ascertain the applicability and possible legal status of such as program in Ghana.

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<sup>75</sup> Executive Order 2011-02, Adopting and Incorporating Marine Law Enforcement Strategies in the Integrated Coastal Management (ICM) Plan of the Province of Batangas, Series of 2007 and Creating Batangas Environmental Response Team (BERT) for Coastal, Marine and Inland Waters Environmental Protection.

- Identify national and local institutions, whether formal or informal, that are engaged in environmental protection and social justice in order to assess their willingness and capacity to support community-based law enforcement.
- Map current threats and actual violations of existing fishery laws and other related laws in order to determine the level of appropriateness of community participation in law enforcement and to identify possible roles for local fisherfolk and communities in supporting local enforcement and environmental protection.
- Integrate law enforcement strategies with any existing or future resource management and conservation plans, whether at the community or national level.
- Survey stakeholders in the fisheries sector to determine their level of interest and available commitment (in terms of time, resources, and influence) to support the initiative.
- Conduct a financial analysis of the expected costs to operate a similar program in Ghana and assess possible revenue sources.

## **ANNEX**

Links to codes referenced in this report:

1987 Philippine Constitution - <http://www.gov.ph/constitutions/1987-constitution/>

Annotated Rules of Procedure for Environmental Cases

[http://philja.judiciary.gov.ph/assets/files/pdf/learning\\_materials/A.m.No.09-6-8-SC\\_annotation.pdf](http://philja.judiciary.gov.ph/assets/files/pdf/learning_materials/A.m.No.09-6-8-SC_annotation.pdf).

Fisheries Code of 1998, as amended by RA 10654 - <http://www.gov.ph/2015/02/27/republic-act-no-10654/>.

Local Government Code of 1991 -

[http://www.lawphil.net/statutes/repacts/ra1991/ra\\_7160\\_1991.html](http://www.lawphil.net/statutes/repacts/ra1991/ra_7160_1991.html)