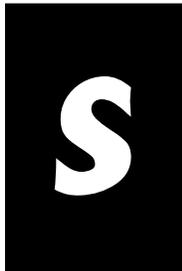


Chapter 6

INSTITUTIONAL and LEGAL FRAMEWORK

INTRODUCTION



Sarangani Bay is one of the few areas in the Philippines to fall under RA 7586 or the NIPAS Act of 1992. On 5 March 1996, President Fidel V. Ramos signed Proclamation 756, which established Sarangani Bay and portions of the municipal waters of Maitum, Kiamba, and Maasim as a protected seascape. The purpose is to protect and conserve the coastal and marine resources within the area.

Aside from Proclamation 756, the management and use of the coastal resources in the profile area are governed by various national and local policies through laws that are being implemented by different government institutions. These include the following:

- Department of Environment and Natural Resources (DENR);
- Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR);
- Department of the Interior and Local Government (DILG);
- Department of Transportation and Communication (DOTC);
- Philippine Coast Guard (PCG); and
- Department of Science and Technology-Philippine Council for Aquatic and Marine Research and Development (DOST-PCAMRD).

Each of these agencies has roles to play in CRM. In some cases, roles and jurisdiction overlap. A more detailed discussion on this may be found in the *Legal and Jurisdictional Guidebook for Coastal Resource Management* (DENR *et al.* 2001). This chapter only discusses the roles of these agencies in relation to the profile area.

The Local Government Code (RA 7160) has devolved some responsibilities to LGUs in CRM previously dispensed by national agencies. This chapter also discusses the LGU's response to the decentralization of certain CRM functions in the profile area as well as the various roles, activities, and programs of NGOs working in Sarangani Bay.

CURRENT STATE OF THE PHILIPPINE COASTAL ZONE LAW

This section briefly discusses the legal framework for CRM. A more comprehensive discussion can be found in the *Legal and Jurisdictional Framework for Coastal Management* (DENR *et al.* 2001).

The Philippine Constitution establishes sovereignty over natural resources through Article XII, Section 2: "All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, flora and fauna, and other natural resources are owned by the State. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State shall protect the nation's marine wealth ... and exclusive economic zone and reserve its use and enjoyment exclusively to Filipino citizens." The Philippine Constitution also protects the right of the people to organize and participate in social, political, and economic decision-making.

The Philippine Constitution is very specific in protecting the rights of subsistence fishers, especially of local communities. It provides for preferential use of communal marine and fishing resource.

The following presents a chronological overview of the state of legislation regarding CRM starting in 1975, when the fisheries decree was promulgated.

- In 1975, the rules and regulations on the fishing industry were developed, upholding provisions of the Fisheries Act of 1932. Mangrove forests were placed under the jurisdiction of the DENR but fishponds were retained under BFAR.
- In 1976, the marine pollution decree was passed. Commercial trawls and purse seines were banned within a distance of 7 km from the shoreline in north and south Leyte, Samar, and Sorsogon. Penalties provided for under Presidential Decree 704 (Fisheries Decree of 1975) for certain forms of illegal fishing and dealing in illegally caught fish and others were increased. The DENR created the National Mangrove Committee. Following the examples set by Leyte, Samar, and Sorsogon, commercial and other fishing gear operating within a distance of 7 km from the shoreline may be banned by the President of the Philippines upon the recommendation of the Secretary of Natural Resources.
- In 1977, the promotion and regulation of the exploration, exploitation,

utilization, and conservation of coral resources, existing beneath territorial waters in the marine economic zone of the Philippines, and the protection of these resources were ensured as provided for under existing laws. Coral gathering was limited to educational and scientific purposes. The Secretary of Natural Resources was assigned to train *barangay* officials as deputy fish wardens or deputy wardens.

- In 1978, the Philippine Environment Code was passed. In the same year, the Philippine exclusive economic zone (EEZ) was established.
- In 1979, a Coastal Zone Management Committee composed of 22 government agencies was formed.
- In 1981, the Province of Palawan declared certain parcels of public domain as mangrove swamp forest reserves.
- In 1984, fisheries and aquatic resources were required to be issued permits prior to exportation.
- In 1985, distant water fishing fleets were encouraged.
- In 1986, the gathering, taking, and collection of *kapis* shells and the collection of *kapis* less than 80 mm in size were prohibited. The operation of commercial trawl and purse seine in marine waters within 7 km from the shoreline of all provinces in the Philippines was banned. *Muro-ami* and *kayakas* were prohibited from operating in Philippine waters. The gathering and transporting of mollusks belonging to the genus *Triton* or *Charonia* and *Cassis* were also prohibited.
- In 1987, BFAR's administration, regulatory, and enforcement functions were abrogated and subsumed under the DA. The National Mangrove Research Program merged with the Forest Research Institute (FORI) to form the Ecosystems Research and Development Bureau (ERDB). The DENR and BFAR were given mandates for fisheries development during the same year.
- In 1990, rules and regulations governing the gathering, culture, and export of shelled mollusks (Phylum Mollusca) were established. The Presidential Commission on Illegal Fishing and Marine Conservation was constituted to coordinate all government and nongovernment efforts in the planning and implementation of a national program for the conservation of marine and coastal resources.
- In 1991, 7 fish sanctuaries were established. Congress passed the Local Government Code (RA 7160).
- In 1992, the NIPAS Act was passed.
- In 1993, the Coastal Environment Program of the DENR was established.
- In 1994, some regulatory functions pertaining to fishing regulations were devolved to LGUs.
- In 1995, Fisheries and Aquatic Resources Management Councils (FARMCs) were created. The coordinating mechanism and funding were provided for the implementation of the Monitoring, Control and Surveillance for the



Figure 6.1. Fish sanctuary established in Alabel by the DA and LGU.

Conservation and Protection of Renewable Resources (MCS-CPRR) system for the Philippines.

LOCAL GOVERNMENT

The local government in each coastal municipality of Sarangani Province and GSC issued several ordinances for the protection and management of their coastal areas. Figure 6.1 is an example of protection of the coastal resources through the

establishment of a fish sanctuary. This is a sign that LGUs are taking an active part in CRM. All of the LGUs assigned a fisheries technician to handle fishery and coastal resources issues.

Glan provides for a variety of ordinances covering the various aspects of CRM. Quarrying, mangrove protection, and establishment of fish sanctuaries are regulated through various ordinances. Fisheries is a major concern of this municipality as shown by the wide number of ordinances that regulate fishing methods, types of fish caught, and commercial fishers fishing in municipal waters. Municipal fishers are also required to secure a permit before fishing in municipal waters.

Ordinances in Malapatan primarily focus on the regulation of commercial fishers, registration of municipal vessels, classification of municipal waters, and dumping of garbage along the shoreline. As an example, the municipal CRM budget for Malapatan is itemized in Table 6.1.

Resolutions and ordinances issued by Alabel focus on similar issues as the

Table 6.1. 1998 CRM budget for Malapatan.

Item	Cost (PhP)
Maintenance and logistics of 2 patrol boats	
Fuel and spare parts	11,250
Supplies and materials	11,250
Procurement of binoculars and radio hand sets	37,500
Training and IEC	
Supplies and materials	7,500
Means and snacks	15,000
Honoraria	3,750
Educational tours to CRM sites	
Transportation/lodging/meals	15,000
Establishment of ARs, ADs and other fishery projects	
Supplies and materials	45,000
Mangrove rehabilitation/reforestation	
Supplies and materials	15,000
Incentives of deputy fish warden	
Seaborne patrol and apprehension	11,250
Total	172,500

previous municipalities. The municipality established fish sanctuaries and prohibited commercial fishers in their municipal waters. Additionally, the municipality issues privileges in operating fish corrals, oyster culture bed, and the gathering of *bangus* fry or fry of other species for propagation within Alabel. The municipality also has strong linkages with CRMP.

Kiamba is also active in instituting CRM-related ordinances and resolutions. The focus is similar to other municipalities (prohibition of commercial fishing in municipal waters and the use of illegal fishing methods, and establishment of fish sanctuaries). This municipality also has strong institutional linkages with CRMP. Ordinances require persons bringing fish outside of the municipality to pay an inspection fee. Ordinances also regulate *bangus* fry gatherers, including one that prohibits discarding fry of any species ashore. The municipality also provides for special treatment for organizations and cooperatives in the acquisition of *bangus* fry in the municipal waters of Kiamba. It is also one of the few municipalities which have created a municipal environmental protection and management committee.

Maitum has addressed similar issues; however, it has more ordinances regulating the catching of *bangus* fry. The *barangays* in the municipality are also active in CRM and have created *barangay* CRM teams. This municipality also has ordinances that regulate the price of fish and meat in the municipality.

In Maasim, *payao* owners are not allowed to install within 3 km from the shoreline of Maasim at high tide. Some fishing methods such as *licum* are prohibited. *Bangus* fry harvesting is also regulated.

GSC has different priorities compared to the municipalities in Sarangani Province. This is due to the degree of development in the city compared to the outlying municipalities. The city takes the lead in the protection of the coastal resources in the whole Sarangani Bay through various resolutions requesting the national government to provide support or guidance (such as declaration of Sarangani Bay as a protected seascape). Its focus is more on garbage dumping, wastewater discharge, and regulating fish landing sites and payment of fees, rather than on commercial fishing (majority of commercial fishers dock in GSC).

As a whole, Sarangani Bay is a protected seascape and falls under the rules and regulations of RA 7586 or the NIPAS Act of 1992. As such, Sarangani Bay falls under the general administration of the DENR. A Protected Area Management Board (PAMB) has been formed to manage Sarangani Bay under the guidance of the DENR with the full participation of all concerned LGUs.

NGOs INVOLVED IN INTEGRATED COASTAL MANAGEMENT

Several NGOs directly or indirectly work on coastal zone management. Table 6.2 presents the names of the NGOs with their goals, objectives, and target beneficiaries.

The roles of these NGOs are:

- Advocacy for the rights of the poor and the under-represented;
- Community mobilization and organization;
- Capability building and skills development;
- Participation in research and studies;
- Provision of access to resources; and
- Provision of linkages and communication between various stakeholders.



Figure 6.2. Newly renovated patrol boat for Sarangani Province currently in drydock in GSC.

Other NGOs have previously worked in the area. According to Olive (1993), organizations that have been successful in asserting their rights for access and control have some sort of assistance from NGOs. Table 6.3 presents some of the NGOs that have worked in the Sarangani area. Most of the funding for NGOs focusing on fisheries are from USAID or other donors.

Table 6.2. List of academic and nongovernment organizations working on integrated coastal zone management.

NGO	Thrust	Area concerned
Mahintana Foundation	Community organizing	Alabel, Malapatan
Maguindanao Development Foundation	Community organizing	Alabel, Malapatan
Mindanao State University Foundation	Fishery assessment	Sarangani Bay
South Cotabato Foundation	Community organizing	Alabel, Malapatan
Tambuyog Development Center	Community-based CRM	Katubao, Kiamba

COMMUNITY ORGANIZATIONS

Community organizations in the area have mostly been formed by NGOs. Various cooperatives in the area are being assisted by NGOs. Some large fishers' organizations in the profile area include the South Cotabato Purse Seiners' Association (SOCOPA) which was established mainly to combat sea piracy. Other associations include the

Table 6.3. Past fishery NGO work in Sarangani, type of assistance offered, and sources of funds.

NGO	Target groups	Type of assistance	Main source of funds for fishery groups
Structural Alternative Legal Assistance for Grass Roots (SALAG)	Small-scale Muslim fishers	Loans; legal and organizational assistance	Law graduates from Ateneo de Manila
Mahintana Foundation, Inc. (MFI)	Small-scale fishers	Grants; technical and organizational assistance	Dole Philippines and USAID
South Cotabato Foundation, Inc. (SCFI)	Small-scale fishers	Loans; technical and organizational assistance	USAID and international church groups
Fisheries Research and Development Center (FRDC)	Small-scale fishers	Research, legal and organizational assistance	Agro-aquatic Services Association, Inc. (AASA)
Business Resource Center (BRC)	Small-scale fishers	Loans; research and financial management assistance	USAID and Notre Dame of Dadiangas College
Sarangani Bay Marine and Inland Resource Conservation Foundation			
Earth Island Institute, Philippines			
Fisherfolk Resource and Development Center of GSC			

General Santos Traders and Tuna Exporters Organization (GSTTEOI) whose members are also members of SOCPA and the Umbrella Fish Landing Association (UFLA) that provides fishers ready buyers for their catch.

CRMP has assisted in the formation of 29 *barangay* teams out of the 64 coastal *barangays* prior to the formation of FARMCs. In 1997, CRMP began assisting in the formation of FARMCs. During the year, CRMP assisted in the formation of 21 *barangay* FARMCs, 1 city FARMC, and 1 municipal FARMC. FARMCs are intended to institutionalize the major role of local fisherfolk and other resource users in community-based planning and implementation of policies and programs for the management, conservation, development, and protection of fisheries and aquatic resources in municipal waters. The functions of the FARMC include:

- Preparation of the municipality/city integrated fishery development plan for submission to and approval by the municipal/city/provincial development council;
- Formulation of recommendations to the municipal or provincial council regarding the enactment of municipal fishery ordinances;
- Enforcement of fishery laws and rules and regulations in the municipal waters; and
- Provision of advice to the municipal/city or provincial council on fishery matters through the committee on fisheries.

FARMCs are to be provided with technical assistance from the DA, DENR, DILG, Department of Justice (DOJ), and other government agencies. Unfortunately, in the profile area, FARMCs have been discouraged due to conflicts with LGUs and some powerful people with vested business interests in coastal resources. FARMCs have become a political issue in Sarangani because the FARMC has the power to screen and approve CRM-related projects. Some LGUs see this as infringing on their responsibilities.

As a protected seascape, Sarangani Bay is managed by a Sarangani Bay PAMB with the executive committee comprised of 29 members representing LGUs, the DENR, NGOs, other national government agencies, the academe, people's organizations, and others. Thus far, several meetings have been held and more are programmed to finalize the Sarangani Bay Integrated Coastal Management Plan. However, Sarangani Bay is now under the jurisdiction of Region 12 although the Chair of the PAMB is still DENR Region 11. The PAMB Chair of DENR Region 11 Technical Director for the Ecosystems Research and Development Sector has his office in Davao City, a 3-hour land trip from GSC. According to some people, this is one of the reasons why DENR has not been able to give the necessary attention and importance to Sarangani Bay. There is a DENR PENRO based in Alabel but it has other priorities and a very limited budget. DENR personnel cite the size of the protected area makes it very difficult to cover.

The PAMB can be the multiple use marine reserve development authority that is recommended by the MGP. MGP envisions this body to (1) be the venue for discussion of CRM issues; (2) decide matters relating to planning the conservation, protection, and utilization and development of coastal marine resources; (3) coordinate the enforcement of fishery and environmental laws; (4) decide on proposals, work plans, action plans, and guidelines for the management of coastal and marine resources; (5) promulgate initial policies, rules and regulations, and promote sustainable development programs; and (6) ensure the implementation of CRM programs.

SUMMARY

Although there has been a lot of support in the formation of community organizations (primarily by NGOs), these organizations do not seem to have a profound impact on bay-wide management activities. Most of the organizations, once formed, remain inactive primarily due to lack of funds and the lack of attention given to it by its members. The active adoption of the Sarangani Bay-wide Plan by the PAMB will provide an excellent opportunity for the implementation of an integrated management plan that can complement the CRM efforts of the LGUs.