



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

*On behalf of the Department of Environment and Natural Resources, may I commend the Coastal Resource Management Project (CRMP) for developing the **Legal and Jurisdictional Guidebook for Coastal Resource Management in the Philippines**. This Guidebook reinforces the DENR's capacity to strengthen coastal resource management efforts in the Philippines.*

*Through this Guidebook, local government units will be enlightened on their legal and jurisdictional roles in the management of coastal resources, within the context of devolution and decentralization of environmental functions. Just as other DENR publications, such as the Solid Waste Management Manual, have capacitated local government units in managing local environmental concerns, we are certain that this Guidebook will also serve the LGUs effectively as they exercise their developmental regulatory functions in coastal environment management.*

*Let me therefore enjoin all users of this Guidebook to collectively work for sustainable management of our coastal resources.*

*Mabuhay ang mga baybayin at karagatan.*

**VICTOR O. RAMOS**  
Secretary





**DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT**

*Greetings!*

*It is with greatest pleasure that we congratulate the publication of the **Legal and Jurisdictional Guidebook for Coastal Resource Management in the Philippines.***

*The Department of Interior and Local Government believes that this document will contribute to capacity building of local government units insofar as coastal resource management within their respective territorial jurisdictions are concerned. The emphasis that we place on the proper management of coastal resources is highlighted in this document. The Philippines is an archipelagic country and more than 60 percent of its municipalities are located in the coastal zone. The sustainability of economic as well as ecological attributes of these coastal areas is crucial to the overall development of the country. The local governments, being the forefront of resource use activities, shall benefit immensely from the publication of this Guidebook.*

*We wish to thank our partners in the formulation of this Guidebook — the Department of Environment and Natural Resources (DENR), the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), the Coastal Resource Management Project (CRMP), as well as the other institutions that have in one way or another, contributed to its formulation. We are confident that this cooperative project will continue to sustain our efforts in coastal resource management.*

**MABUHAY!**

**ROBERTO Z. BARBERS**  
Secretary





**DEPARTMENT OF AGRICULTURE**

*Greetings!*

*The Department of Agriculture has been at the forefront of coastal resource management in pursuit of its Mission to uplift the lives of coastal fisherfolk and ensure that fisheries continue to be a profitable source of livelihood. In the many years that we have spent on continuous dialogue with our coastal communities and their local governments, we have recognized that coastal resource management can only be successful when roles are well defined and people are aware of the long-term benefits of fisheries management and, as a result, practice responsible resource use activities. The local governments are responsible for ensuring that such sustainable use practices are supported by a sound institutional and political framework. In the light of the devolution of fisheries management functions to the LGUs, there is therefore an urgent need to build local government capabilities on fisheries and coastal resource management.*

*Because community education on roles and responsibilities in CRM is an essential element of any coastal management regime, I am indeed very pleased that the **Legal and Jurisdictional Guidebook for Coastal Resource Management in the Philippines** has been formulated and shall be distributed to CRM practitioners in our coastal areas. With the Guidebook, I am confident that the institutional strengthening of LGUs insofar as implementing CRM regulatory activities is concerned will be further improved and CRM regimes as a whole would be implemented with more profound impacts.*

*I am therefore delighted to endorse the distribution of the Guidebook. The document represents a milestone in multi-sectoral efforts to reach out and enlighten coastal communities on the legal and jurisdictional aspects of CRM. As we in the DA renew once more our commitment towards sustainable management of fisheries and coastal resources, we are confident that the Guidebook will usher in a fresh challenge as well to our local government units to institute local CRM programs.*

  
**SALVADOR ESCUDERO III**  
Secretary





**DEPARTMENT OF AGRICULTURE - BUREAU OF FISHERIES AND AQUATIC RESOURCES**

*At this point in time when the sustainability of the country's coastal resources is being threatened by environmental degradation and overexploitation, the formulation of the **Legal and Jurisdictional Guidebook for Coastal Resources Management in the Philippines** is a bright and positive move in addressing sustainable use issues in the fisheries sector. The Guidebook provides the legal bases for local government regulatory functions in fisheries management. It is, in the long run, a tool for supporting comprehensive coastal resource management programs in the country. There is no other document that deals with fisheries and CRM legalities in such a broad and dissecting manner.*

*I therefore endorse the distribution of this Guidebook for utilization by all sectors concerned with sustainable management of coastal resources as their principal instrument to assist them in arriving at resource management decisions with greater confidence and probity.*

*I would also like to take this opportunity to invite all our partners in fisheries management to join us in our intensified efforts to find solutions to pressing problems in fisheries. The publication of this Guidebook has taken us one more step closer to our goal.*

  
**DENNIS B. ARAULLO**  
Director



## COASTAL RESOURCE MANAGEMENT PROJECT

*The Coastal Resource Management Project (CRMP) Team is grateful for the opportunity to assist the Government of the Philippines in the development of this **Legal and Jurisdictional Guidebook for Coastal Resource Management in the Philippines**. We thank our partners in this process for their active participation and commitment to its completion.*

*CRMP's primary mandate is focused on assisting and facilitating the local implementation of coastal resource management. "Think Globally, Act Locally", a familiar saying to many of us, cannot be used more appropriately than in the context of coastal resource management in the Philippines. Local solutions to environmental and natural resource management problems are being sought worldwide as these responsibilities are being devolved to the most fundamental tier, the local government. With the passage of the Philippine Local Government Code (RA 7160) in 1991, the responsibility for managing municipal waters has been largely devolved to the local government unit; with this responsibility come not only opportunities but challenges. For this reason, the **Legal and Jurisdictional Guidebook for Coastal Resource Management** was designed specially for use by local government units and communities to clarify responsibilities, policies and laws to catalyze sustainable use of coastal resources throughout the Philippines.*

*The coastal environment represents a highly complex and interconnected system where the interplay between biophysical, social, and economic forces provides many challenges to effective management. For this reason, cooperation and collaboration with coastal stakeholders are key operational modes that will foster the necessary partnership and consensus building across a broad cross section of the coastal community, including local government units, national government agencies, academe, non-government organizations, and coastal communities. Local government units must foster partnerships with each other, the coastal communities they represent, and other stakeholders in order to carry out the substantial tasks at hand, recognizing that fish, mangroves, and coral reefs are unaware of geopolitical boundaries and elections.*

*Local government units, being closest to the day-to-day problems, have more than the unique insight and incentive to implement sound practices in coastal resource management. They also represent the coastal communities' last safety net. Without leadership and action on the part of local government, the coastal resource base that supports economic development in coastal areas will ultimately collapse. It is hoped that this **Legal and Jurisdictional Guidebook for Coastal Resource Management** will serve as a vital tool assisting local government units clearly define their roles and responsibilities and make informed decisions about the legal and jurisdictional aspects of coastal resource management that lead to active implementation.*

**THE CRMP TEAM**





# ACKNOWLEDGMENTS

This Guidebook is a collaborative effort of the Department of Environment and Natural Resources (DENR), the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), the Department of Interior and Local Government (DILG), several academic and scientific institutions, and non-governmental Organizations (NGOs) through the Coastal Resource Management Project (CRMP).

The individuals and organizations who have contributed to the completion of this document include:

## From the Department of the Environment and Natural Resources (DENR):

### *Office of the Secretary*

- ◆ Secretary Victor Ramos, Secretary, DENR
- ◆ Ms. Diane Angela Eustaquio

### *Office of the Undersecretary for Field Operations*

- ◆ Undersecretary Virgilo Marcelo
- ◆ Ms. Amelita Tamayo
- ◆ Asst. Director Bert Tortoza, National Forestation Development Office

### *CRMP Project Management Office (PMO) Region 7*

- ◆ Regional Executive Director Jeremias Dolino
- ◆ Regional Technical Director Flor Barangan
- ◆ Ms. Emma Melana

### *Office of Legal and Legislative Affairs*

- ◆ Undersecretary Antonio La Viña
- ◆ Atty. Francisco Saavedra
- ◆ Atty. George Gilbert de la Cuesta

### *Office of the Undersecretary for Environment and Programs Development*

- ◆ Undersecretary Delfin Ganapin
- ◆ Ms. Nilda Baling
- ◆ Director Marlito Cardenas, (Former) Director Manny Gaspay, and Ms. Fe Palacay, Environmental Management Bureau (EMB)

- ◆ Director Wilfredo Pollisco, Asst. Director Celestino Ulep, and Ms. Lynette Laroya, Protected Areas and Wildlife Bureau (PAWB)
- ◆ Director Urbano Pilar, Mr. Oscar Francisco, RTD Remilio Atabay and all the staff of the Coastal Environment Program (CEP)
- ◆ Ms. Nancy Faith Racelis and Mr. Flor Benitez, Land Management Bureau
- ◆ Director Rafael Camat, Ms. Sarah Jane Escalona, and Ms. Myrna Gumangan, Foreign Assisted Projects Office (FASPO)
- ◆ Asec. Sabado Batcagan, Ms. Monina Cunanan, and Ms. Ruby Buen, Planning and Policy Studies Office

## From the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR):

- ◆ Director Dennis B. Araullo, BFAR Director; Atty. Romeo de Sagun and Mr. Virgilio Santos, from Fisheries Resource Administration/Legal Division; Mr. Henry Lugayon, the Licensing Division; and Ms. Jessica Muñoz, CRM Division

## From the Department of Interior and Local Government (DILG):

- ◆ Director Teresita Mistal, Bureau of Local Government Development
- ◆ Ms. Zoraida “Nini” Aquende
- ◆ Atty. Ronaldo Alcanar, Legal Division

## From the Technical Working Group:





- ◆ Drs. Liana McManus and Annette Juinio-Meñez, Marine Science Institute;
- ◆ Mr. Marciano Carreon III, Fisheries Sector Program;
- ◆ Messrs. Larry Manao and Delfin Carlos of the National Coalition for Fisheries and Aquatic Reform (NACFAR);
- ◆ Dr. Florangel Rosario Braid, Mr. Ramon Tuazon, and Mr. Vic Milan, Asian Institute for Journalism and Communication (AIJC);
- ◆ Atty. Mikhail Lee Maxino, College of Law and Center of Excellence for Coastal Resource Management (COE-CRM), Silliman University and Atty. Jay Batongbacal, who also provided the “External Review” of the document.

We acknowledge the support of the officers and staff of the United States Agency for International Development, specifically the Environmental Management Office; Tetra Tech EM Inc., the main contractor to this project; and PRIMEX and GLOVIS, sub-contractors to this project.

We acknowledge the CRMP team for accepting the challenge to respond to a fundamental problem in coastal resource management. CRMP provided financial and technical support to the various meetings, discussion groups, and consultations and the overall project direction and management that made this Guidebook possible.

Those assisting with compilation, writing, and editing were:

- ◆ Ms. Annabelle Cruz-Trinidad, Policy Advisor
- ◆ Mr. Benjamin Francisco, Policy Researcher;
- ◆ Dr. Catherine Courtney, Chief of Party;
- ◆ Dr. Alan White, CRM Advisor;

Those providing other support include:

- ◆ Dr. Alexander Flor, IEC Advisor;
- ◆ Ms. Evelyn Deguit, CO Advisor;
- ◆ Ms. Rebecca Pestaño-Smith, DEVCOM Specialist;
- ◆ The Learning Area Coordinators, namely: Ms. Fe Portigo, Olango; Ms. Mel Corkum, San Vicente, Palawan; Mr. William Ablong, Bais Bay, Negros Oriental; Mr. Hermie Cabangon, Sarangani Bay, Sarangani; Mr. Melchor Maceda, Malalag Bay, Davao del Sur and Mr. Camilo Cimagala, Bohol;
- ◆ Ms. Asuncion Sia, copy editor; Ms. Ida Juliano, layout and graphics artist; and Ms. Teresa Pol, Secretary.





# ACRONYMS AND ABBREVIATIONS

|                      |   |                      |   |
|----------------------|---|----------------------|---|
| <b>AIJC</b> .....    | Asian Institute for Journalism and Communication                                    | <b>DND</b> .....     | Department of National Defense                              |
| <b>AO</b> .....      | Administrative Order  | <b>DND-PCG</b> ..... | Department of National Defense-Philippine Coast Guard       |
| <b>AR</b> .....      | artificial reef   | <b>DOH</b> .....     | Department of Health  |
| <b>Art.</b> .....    | Article   | <b>DOST</b> .....    | Department of Science and Technology                        |
| <b>ASEAN</b> .....   | Association of Southeast Asian Nations  | <b>DOT</b> .....     | Department of Tourism                                       |
| <b>BAS</b> .....     | Bureau of Agricultural Statistics   | <b>DOTC</b> .....    | Department of Transportation and Communication              |
| <b>BFAR</b> .....    | Bureau of Fisheries and Aquatic Resources   | <b>ECA</b> .....     | Environmentally Critical Area                               |
| <b>BLGD</b> .....    | Bureau of Local Government Development  | <b>ECC</b> .....     | Environmental Compliance Certificate                        |
| <b>BLGS</b> .....    | Bureau of Local Government Supervision  | <b>ECP</b> .....     | Environmentally Critical Project                            |
| <b>BMG</b> .....     | Bureau of Mines and Geosciences   | <b>EEZ</b> .....     | Exclusive Economic Zone                                     |
| <b>BSWM</b> .....    | Bureau of Soils and Water Management  | <b>EGF</b> .....     | Environmental Guarantee Fund                                |
| <b>CA</b> .....      | Commonwealth Act  | <b>EIA</b> .....     | Environmental Impact Assessment                             |
| <b>CARL</b> .....    | Comprehensive Agrarian Reform Law   | <b>EIARC</b> .....   | Environmental Impact Assessment Review Committee            |
| <b>CB-CRM</b> .....  | community-based CRM   | <b>EIS</b> .....     | Environmental Impact Statement                              |
| <b>CBBE</b> .....    | Community and Barangay Business Enterprises   | <b>EMB</b> .....     | Environmental Management Bureau                             |
| <b>CDO</b> .....     | cease-and-desist order  | <b>EMF</b> .....     | Environmental Monitoring Fund                               |
| <b>CEP</b> .....     | Coastal Environment Program   | <b>EMP</b> .....     | Environmental Management Plan                               |
| <b>CITES</b> .....   | Convention on the International Trade in Endangered Species of Wild Flora and Fauna | <b>EMPAS</b> .....   | Environmental Management and Protected Areas Service        |
| <b>CLOA</b> .....    | Certificate of Land Ownership Award   | <b>EO</b> .....      | Executive Order   |
| <b>CO</b> .....      | Community Organization  | <b>ERA</b> .....     | Environmental Risk Assessment                               |
| <b>COE-CRM</b> ..... | Center of Excellence for Coastal Resource Management                                | <b>FAO</b> .....     | Fisheries Administrative Order                              |
| <b>CRLC</b> .....    | Coastal Resource Leadership Challenge   | <b>FARMC</b> .....   | Fisheries and Aquatic Resources Management Council          |
| <b>CRM</b> .....     | coastal resource management   | <b>FASPO</b> .....   | Foreign-Assisted Projects Office                            |
| <b>CRMP</b> .....    | Coastal Resource Management Project   | <b>FSP</b> .....     | Fisheries Sector Program                                    |
| <b>CVRP</b> .....    | Central Visayas Regional Project  | <b>GLOVIS</b> .....  | Global Vision   |
| <b>DA</b> .....      | Department of Agriculture   | <b>GMOA</b> .....    | General Memorandum of Agreement                             |
| <b>DAO</b> .....     | Department Administrative Order   | <b>HLURB</b> .....   | Housing and Land Use Regulatory Board                       |
| <b>DAR</b> .....     | Department of Agrarian Reform   | <b>IATCEP</b> .....  | Inter-Agency Task Force on Coastal Environmental Protection |
| <b>DENR</b> .....    | Department of Environment and Natural Resources                                     | <b>ICLARM</b> .....  | International Center for Living Aquatic Resource Management |
| <b>DENR-MGB</b> ..   | Department of Environment and Natural Resources-Mines and Geosciences Bureau        | <b>ICM</b> .....     | Integrated Coastal Management                               |
| <b>DEVCOM</b> .....  | Development Communication   | <b>IEC</b> .....     | Information, Education and Communication                    |
| <b>DILG</b> .....    | Department of Interior and Local Government   | <b>IPAF</b> .....    | Protected Areas Fund  |





|                      |  |                       |  |
|----------------------|--|-----------------------|--|
| <b>IRR</b> .....     | Implementing Rules and Regulations                                     | <b>Officer</b>        |  |
| <b>km</b> .....      | kilometers   | <b>PFDA</b> .....     | Philippine Fisheries Development Authority               |
| <b>LGA</b> .....     | Local Government Academy   | <b>PIA</b> .....      | Philippine Information Agency                            |
| <b>LGC</b> .....     | Local Government Code  | <b>PNP</b> .....      | Philippine National Police                               |
| <b>LGCAMP</b> .....  | Lingayen Gulf Coastal Area Management Program                          | <b>PNP-MARICOM</b> .. | Philippine National Police Maritime Command              |
| <b>LGU</b> .....     | Local Government Unit  | <b>PO</b> .....       | People's Organization                                    |
| <b>LMB</b> .....     | Land Management Bureau   | <b>PPA</b> .....      | Philippine Ports Authority                               |
| <b>LMP</b> .....     | League of Municipalities of the Philippines                            | <b>PRIMEX</b> .....   | Pacific Rim Innovation and Exponents, Inc.               |
| <b>LOI</b> .....     | Letter of Instruction  | <b>RA</b> .....       | Republic Act   |
| <b>LOS</b> .....     | Law of the Sea   | <b>RED</b> .....      | Regional Executive Director                              |
| <b>MARICOM</b> ..    | PNP Maritime Command   | <b>RTD</b> .....      | Regional Technical Director                              |
| <b>MARINA</b> .....  | Maritime Industry Authority  | <b>SB</b> .....       | Sangguniang Bayan  |
| <b>MLLW</b> .....    | Mean Lowest Low Water  | <b>SCRA</b> .....     | Supreme Court Reports Annotated                          |
| <b>MOA</b> .....     | Memorandum of Agreement  | <b>Sec.</b> .....     | Section  |
| <b>MSY</b> .....     | Maximum Sustainable Yield  | <b>SP</b> .....       | Sangguniang Panlalawigan                                 |
| <b>NACFAR</b> .....  | National Coalition for Fisheries and Aquatic Reform                    | <b>SPCPD</b> .....    | Southern Philippines Council for Peace and Development   |
| <b>NARRDS</b> .....  | National Aquatic Resources Research Development Systems                | <b>SUML</b> .....     | Silliman University Marine Laboratory                    |
| <b>NBOO</b> .....    | National Barangay Operations Office                                    | <b>TURF</b> .....     | Territorial Use Rights in Fisheries                      |
| <b>NEDA</b> .....    | National Economic and Development Authority                            | <b>TWG</b> .....      | Technical Working Group                                  |
| <b>NEPC</b> .....    | National Environmental Protection Council                              | <b>UNCED</b> .....    | United Nations Conference on Environment and Development |
| <b>NGA</b> .....     | National Government Agency   | <b>UP-MSI</b> .....   | University of the Philippines-Marine Science Institute   |
| <b>NGO</b> .....     | Non-Government Organization  | <b>USAID</b> .....    | United States Agency for International Development       |
| <b>NIPAS</b> .....   | National Integrated Protected Area System                              | <b>ZOPAD</b> .....    | Zone for Peace and Development                           |
| <b>OIC</b> .....     | Officer-in-Charge  |                       |  |
| <b>OECE</b> .....    | Overseas Economic Cooperation Fund                                     |                       |  |
| <b>PAB</b> .....     | Pollution Adjudication Board   |                       |  |
| <b>PAWB</b> .....    | Protected Areas and Wildlife Bureau                                    |                       |  |
| <b>PCAIFMC</b> ..... | Presidential Committee on Anti-Illegal Fishing and Marine Conservation |                       |  |
| <b>PCAMRD</b> .....  | Philippine Council for Aquatic Marine Research and Development         |                       |  |
| <b>PCG</b> .....     | Philippine Coast Guard   |                       |  |
| <b>PD</b> .....      | Presidential Decree  |                       |  |
| <b>PEA</b> .....     | Public Estates Authority   |                       |  |
| <b>PENRO</b> .....   | Provincial Environmental Natural Resources                             |                       |  |





# C ONTENTS

| <u>Chapter</u>  | <u>Page</u> |
|---|-------------|
| <b>CHAPTER 1. ABOUT THIS GUIDEBOOK</b>                                      |             |
| 1.1 BACKGROUND AND FOCUS .....  | 1-1         |
| 1.2 OBJECTIVES .....  | 1-3         |
| 1.3 CONTENT ORGANIZATION .....  | 1-3         |
| <b>CHAPTER 2. BACKGROUND ON COASTAL RESOURCE MANAGEMENT (CRM)</b>           |             |
| 2.1 CRM ISSUES .....  | 2-1         |
| 2.2 CRM PROCESSES AND FEATURES .....  | 2-3         |
| 2.3 CRM EXPERIENCE IN THE PHILIPPINES: LESSONS LEARNED .....                | 2-5         |
| <b>CHAPTER 3. NATURE AND EXTENT OF JURISDICTIONAL PROBLEMS</b>              |             |
| 3.1 CHARACTER OF COASTAL RESOURCES AND ITS IMPLICATIONS TO MANAGEMENT ..... | 3-1         |
| 3.2 INSTITUTIONAL FRAMEWORK .....   | 3-1         |
| 3.3 ANALYSIS OF INSTITUTIONAL OVERLAPS AND IMPLICATIONS TO CRM .....        | 3-15        |
| 3.4 ROLES OF NON-FORMAL INSTITUTIONS IN CRM .....                           | 3-17        |
| 3.5 LEGAL FRAMEWORK FOR CRM .....   | 3-18        |
| <b>CHAPTER 4. CRM PROBLEM NETWORK AND JURISDICTIONAL AUTHORITY</b>          |             |
| 4.1 OPEN ACCESS .....   | 4-1         |
| 4.2 HABITAT DESTRUCTION .....   | 4-10        |
| 4.3 ENFORCEMENT .....   | 4-14        |
| 4.4 RESOURCE ENHANCEMENT AND CONSERVATION .....                             | 4-18        |
| 4.5 DEVELOPMENT ACTIVITIES .....  | 4-20        |
| <b>CHAPTER 5. COMMONLY ASKED QUESTIONS ANSWERED</b>                         |             |
| 5.1 CAPTURE FISHERIES AND FISHERY LAW ENFORCEMENT .....                     | 5-1         |
| 5.2 MANGROVE FORESTRY AND AQUACULTURE .....                                 | 5-16        |
| 5.3 PROTECTED AREAS .....   | 5-20        |
| 5.4 ENVIRONMENTAL ISSUES, INCLUDING POLLUTION AND HABITAT MANAGEMENT .....  | 5-24        |
| 5.5 LEGISLATION, TAXES, AND PENAL PROVISIONS .....                          | 5-36        |
| 5.6 MINING, QUARRYING AND FORESHORE .....                                   | 5-42        |





| <u>Chapter</u>                 | <u>Page</u> |
|--------------------------------|-------------|
| 5.7 INSTITUTIONAL ISSUES ..... | 5-46        |

**ANNEX**

- A GLOSSARY
- B A THEMATIC CLASSIFICATION OF CRM-RELATED ISSUANCES
- C SCHEDULE OF ACTIVITIES OF THE POLICY COMPONENT
- D INDEX OF SELECTED SUBJECTS

**TECHNICAL REFERENCES**  
**PROJECT PROFILE**

| <u>Figure</u>   | <u>Page</u> |
|---|-------------|
| 1-1 PROCESSES AND KEY PLAYERS IN THE FORMULATION OF THE GUIDEBOOK.....  | 1-2         |
| 2-1 PARTICIPATORY PLANNING AND IMPLEMENTATION PROCESS .....   | 2-4         |
| 3-1 VARIED ECONOMIC ACTIVITIES OCCURRING IN THE COASTAL ZONE .....  | 3-2         |
| 3-2 A TYPICAL COASTAL VILLAGE AND THE VARIOUS AGENCIES INVOLVED IN IMPLEMENTING ITS CRM AND<br>DEVELOPMENT ACTIVITIES ..... | 3-3         |
| 3-3 BFAR ORGANIZATIONAL STRUCTURE .....   | 3-6         |
| 3-4 DENR ORGANIZATIONAL STRUCTURE .....   | 3-10        |
| 3-5 DILG ORGANIZATIONAL STRUCTURE .....   | 3-12        |
| 3-5 TRENDS IN CRM AS DEPICTED BY LEGISLATION IN THE LAST 20 YEARS .....   | 3-31        |
| 3-6 BASIC CRM JURISDICTIONAL PROCESS BEFORE AND AFTER THE LGC .....   | 3-32        |

**LIST OF FIGURES**





| <u>Figure</u>  | <u>Page</u> |
|--|-------------|
| 4-1 CRM PROBLEM NETWORK No. 1: OPEN ACCESS .....   | 4-3         |
| 4-2 CRM PROBLEM NETWORK No. 1: OPEN ACCESS - LICENSES AND PERMITS .....  | 4-4         |
| 4-3 CRM PROBLEM NETWORK No. 1: OPEN ACCESS - TAXATION .....  | 4-6         |
| 4-4 CRM PROBLEM NETWORK No. 1: OPEN ACCESS - LEASE .....   | 4-7         |
| 4-5 CRM PROBLEM NETWORK No. 1: OPEN ACCESS - RESTRICTIONS .....  | 4-8         |
| 4-6 CRM PROBLEM NETWORK No. 1: OPEN ACCESS - PROPERTY RIGHTS .....   | 4-9         |
| 4-7 CRM PROBLEM NETWORK No. 2: HABITAT DESTRUCTION .....   | 4-11        |
| 4-8 CRM PROBLEM NETWORK No. 2: HABITAT DESTRUCTION - DIRECT .....  | 4-12        |
| 4-9 CRM PROBLEM NETWORK No. 2: HABITAT DESTRUCTION - INDIRECT .....  | 4-13        |
| 4-10 CRM PROBLEM NETWORK No. 3: LACK OF ENFORCEMENT .....  | 4-15        |
| 4-11 CRM PROBLEM NETWORK No. 3: LACK OF ENFORCEMENT - APPREHENSION .....   | 4-16        |
| 4-12 CRM PROBLEM NETWORK No. 3: LACK OF ENFORCEMENT - PROSECUTION AND IMPOSITION OF PENALTY ....   | 4-17        |
| 4-13 CRM PROBLEM NETWORK No. 4: RESOURCE ENHANCEMENT AND CONSERVATION .....  | 4-19        |
| 4-14 CRM PROBLEM NETWORK No. 5: DEVELOPMENT ACTIVITIES .....   | 4-21        |
| 5-1 CASE 1: THE MUNICIPAL TERRITORIAL WATERS SHALL BE MEASURED FROM THE OUTERMOST POINTS OF ISLANDS BELONGING TO THAT MUNICIPALITY .....   | 5-3         |
| 5-2 CASE 2: WHERE A GROUP OF ISLANDS BELONGING TO MUNICIPALITY A IS LOCATED WAY OFFSHORE (SAY MORE THAN 30 KM), THE GROUP OF ISLANDS SHALL ASSUME ITS OWN 15 KM BOUNDARY .....   | 5-4         |
| 5-3 CASE 3: WHERE THERE IS LESS THAN 30 KM OF MARINE WATERS BETWEEN THE SHORES OF MUNICIPALITY A AND THE OUTERMOST POINTS OF ISLANDS BELONGING TO MUNICIPALITY B, THE MUNICIPAL WATERS SHALL BE EQUIDISTANT BETWEEN THE SHORES OF A AND THE ISLANDS OF B ..... | 5-5         |





Table

Page

**LIST OF TABLES**

|     |  |      |
|-----|--|------|
| 3-1 | KEY LEGISLATION THAT INFLUENCED BFAR’S ROLE IN FISHERIES MANAGEMENT IN THE LAST 30 YEARS ..... | 3-4  |
| 3-2 | MAJOR LEGISLATION THAT INFLUENCE DENR’S ROLE IN COASTAL AREA MANAGEMENT .....                  | 3-8  |
| 3-3 | INSTITUTIONAL MANDATES AND FUNCTIONAL OVERLAPS IN COASTAL AREA MANAGEMENT .....                | 16   |
| 3-4 | CLASSIFICATION OF CRM LEGISLATION ACCORDING TO GEOPHYSICAL ZONATION AND RESOURCE<br>USE .....  | 3-19 |
| 3-5 | COMPLEMENTARITY OF LGC PROVISIONS AND EXISTING LAWS ON CRM .....                               | 3-37 |
| 3-6 | DEVOLVED CRM FUNCTIONS CLASSIFIED ACCORDING TO SECTOR AND ENABLING LAWS .....                  | 3-50 |
| 5-1 | LAWS GOVERNING ILLEGAL FISHING ACTIVITIES AND PENALTY SCHEDULE .....                           | 5-11 |
| 5-2 | MARINE PROTECTED AREAS .....   | 5-23 |

Box

Page

**LIST OF BOXES**

|     |   |      |
|-----|---|------|
| 2-1 | MAJOR LESSONS LEARNED FROM CRM PROGRAMS .....       | 2-10 |
| 3-1 | TYPES OF ISSUANCES IN HIERARCHY OF IMPORTANCE ..... | 3-47 |





Coastal resource management (CRM) is an increasingly important issue for the Philippines. In recent years, more and more Filipinos have come to realize the tremendous impact of coastal resources on the country's well-being. These resources, increasingly under threat from destruction and overexploitation, need to be protected, managed, and nurtured for generations to come.

A first step in setting up viable resource management systems is to decide who and what entities have jurisdiction over the resource. Before any concrete, long-term, and sustainable actions can be taken to protect and manage resources, it must be clear where the responsibility lies. In short, the legal and institutional framework must be clear to all concerned, so that all responsible, able, and willing parties can play a constructive role in the management of coastal resources.

In CRM, the legal and jurisdictional issues facing the country have been complicated by the devolution of many responsibilities to local government units (LGUs) under the Local Government Code of 1991 (LGC). While the devolution raises hope for a more direct and responsive management regime, it also complicates the lines of authority over resources. LGUs today have more responsibilities over various resources than in the past, but they are often not yet capable of managing these resources. A first step in improving this situation is to clarify the LGUs' responsibilities in relation to national agencies. It requires that all LGUs have a thorough understanding of the national legal framework for CRM. The clarification can be made by addressing:

- ◆ The legal basis for CRM
- ◆ Roles and scope of responsibilities of LGUs and National Government Agencies (NGAs)
- ◆ National laws and administrative orders for local level use

To assist in the clarification of these issues, the Coastal Resource Management Project (CRMP), a technical assistance project funded by the United States Agency for International Development (USAID) and implemented by the Department of Environment and Natural Resources (DENR) in partnership with the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), the Department of Interior and Local Government (DILG), LGUs, non-government organizations (NGOs), people's organizations (POs), and the academe, initiated a consultative process to produce this *Legal and Jurisdictional Guidebook for Coastal Resource Management in the Philippines*. In addition to the NGAs, the process involved the coastal communities and LGUs in CRMP's six learning areas; CRMP; and multi-sectoral Technical Working Group (TWG) convened especially for this purpose (Figure 1-1). Many of the questions discussed and answered by the TWG were raised by LGUs themselves as well as by other groups who desire more effective management of their communities' coastal resources.

By supporting a process of multi-directional communication among the concerned NGAs, LGUs, and various NGOs,

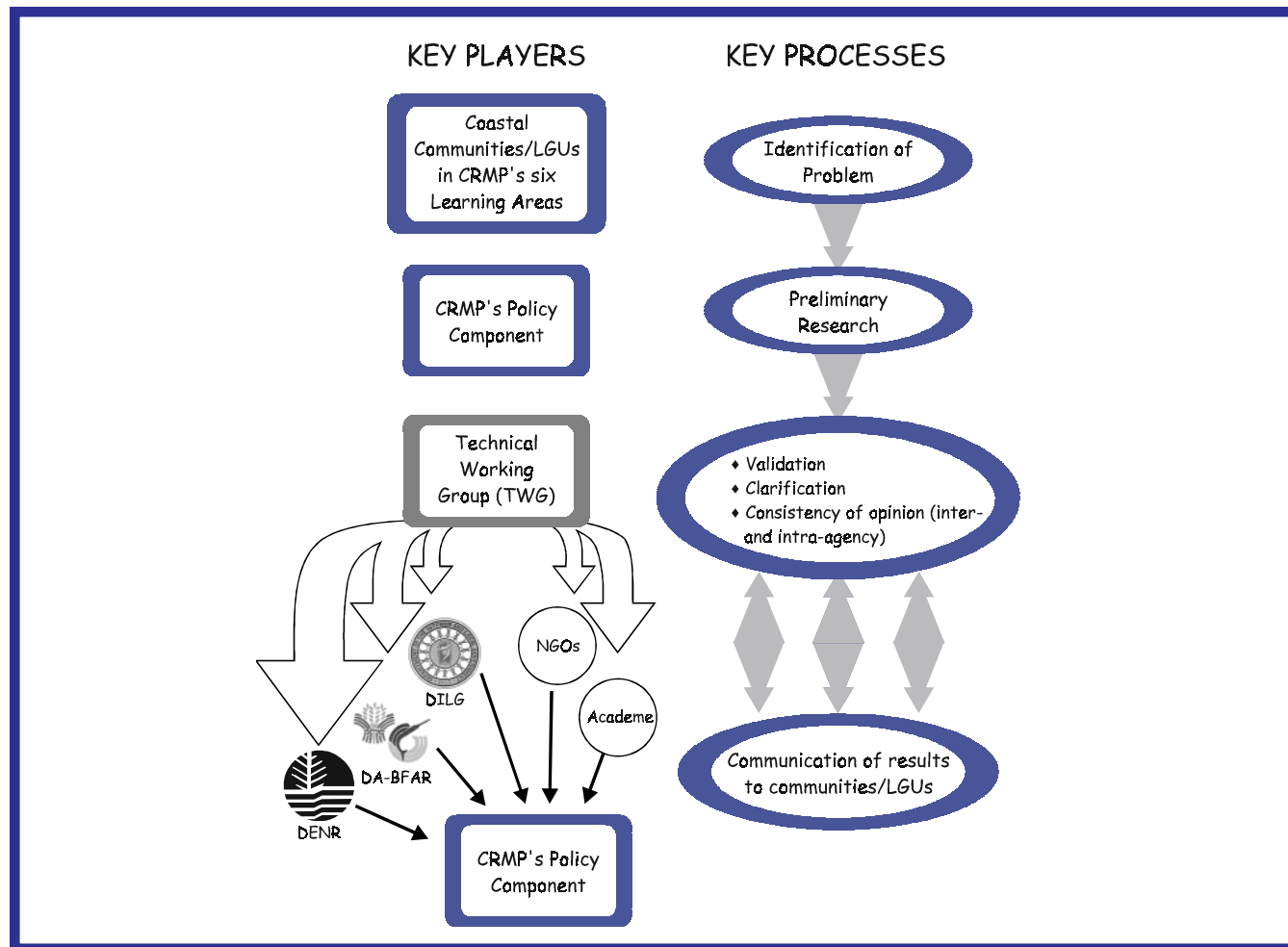
## 1.1 BACKGROUND AND FOCUS



# 1 About this Guidebook



**FIGURE 1-1**  
**PROCESSES AND KEY PLAYERS IN**  
**THE FORMULATION OF THE GUIDE-**  
**BOOK**



CRMP facilitated a wide-ranging exchange of information and ideas, thus ensuring that the resulting Guidebook reflects the various concerns of all levels of government.

This Guidebook is the beginning of a long-term effort to clarify issues affecting the implementation of CRM in the





Philippines. Since LGUs have an increasing responsibility over CRM-related matters, they are the primary focus of this work, but there is a wide range of organizations and individuals who are expected to benefit from it as well. These include academic institutions and researchers, POs, NGOs, and government organizations that make up the CRM practitioner community.

## 1.2 OBJECTIVES

This Guidebook aims to:

- ◆ Provide a comprehensive base of information on the legal basis for CRM
- ◆ Determine and clarify how existing laws and policies can be used to address CRM issues
- ◆ Clarify responsibilities of LGUs and NGAs towards sustainable CRM
- ◆ Respond to commonly asked questions about CRM

This Guidebook provides information on the legal and jurisdictional framework for CRM, a prerequisite to formulating a plan or a set of guidelines for CRM in the Philippines.

## 1.3 CONTENT ORGANIZATION

To help users get the most out of this Guidebook, we divided the material into four chapters (beginning with Chapter 2) as follows:

- ◆ Chapter 2 explains CRM in the Philippine context. This chapter cites several past and current projects as examples of CRM lessons and directions.
- ◆ Chapter 3 highlights the difficulties of pursuing CRM in the face of the many functional overlaps among the various agencies involved in CRM and the rigid national legal framework within which the laws are set.
- ◆ Chapter 4 identifies and resolves jurisdictional issues in relation to major coastal issues.
- ◆ Chapter 5 answers and explains commonly asked questions about CRM-related jurisdictional issues.

Annexes include a comprehensive list of all laws and orders relating to CRM, a glossary of terms, and a subject index for easy reference.

This Guidebook is envisioned to be an evolving document. After ascertaining jurisdiction, the succeeding initiatives would be focused on the development of a “Procedural Manual” for CRM. The CRM Hotline, which was developed to enhance interaction of the users of this Guidebook with CRMP and the TWG, is included in this document as a detachable page.



The Philippine archipelago is endowed with ecologically diverse and economically important coastal resources such as mangroves, estuarine areas, and coral reefs, among others. Managed properly, these resources can benefit the Philippine economy in a sustained way.

## 2.1 CRM ISSUES

Mangrove forests and their associated flora and fauna export nutrients that support part of the food chain; they are also important breeding and nursery grounds for many species of fish and shrimps. Estuarine areas and seagrass beds are important nursery and grazing grounds for many species of aquatic organisms that are both ecologically and economically important. The country's coral reefs, which cover approximately 27,000 square kilometers (sq km) and nurture about 488 different coral species, account for about 30% of the country's total fish production (ADB 1993). More importantly, the reefs serve as an important resource base for sustained food production: a healthy coral reef ecosystem can produce an estimated 20 tons or more of fish and other edible marine products per sq km per year. The sustainable catch from a good reef over 10 years is about 200 tons, while a destroyed reef will yield only about 72 tons over the same period (White and Savina 1987; White 1987; White 1989). Moreover, in many coastal areas, the coral reefs, beaches, and clear waters support a growing tourism industry that provide livelihood to many coastal dwellers.

Today, our shallow shelf areas, which encompass a total of 18.4 million hectares (ha), support a fishing industry that accounts for about 4.3 % of the country's Gross National Product (GNP) and provides employment to more than one million people (BFAR 1991). Fish and other marine products supply up to 70% of the total animal protein intake and 30% of the total protein intake of Filipinos. Clearly, maintaining fisheries productivity is vital to the country's food security. Projections indicate that even at a slower rate of population growth, the country will have to produce an additional 719,000 tons of fish by the year 2010 in order to support a per capita consumption equal to the 1994 level (Bernacsek 1996).

From both the economic and environmental standpoints, it is obvious that coastal resources are important assets that should be managed properly by the LGUs and their communities. Chapter 28 of the UN's Agenda 21 (Local Authorities) highlights the vital role of the LGUs in educating the public and mobilizing people to help in the effort towards the sustainable development of the coastal zone. The LGC likewise emphasizes this role, saying that LGUs share with the national government the responsibility in the management and maintenance of the ecological balance within their respective jurisdictions. After all, among government units, it is the LGU that is closest to the people and has the authority to shape and reshape policies on resource utilization.

It is therefore essential for LGUs to address, using holistic and best practices available, CRM issues that are increasingly being experienced in coastal areas at present. These include:

- ◆ **Declining fisheries productivity due to overharvesting and loss of habitats.** Per capita consumption of fish





has declined from 37 kilograms in 1990 to 28.5 kg in 1994, a trend attributed to the diminishing supply of fish. Although the country's current fish production of 2.69 million tons represents a 17% incremental growth since 1984, a large part of this has been attained at the expense of sustained yield levels as shown by the steady decline in the contribution of municipal fisheries to total fisheries output. The decline in catch rates has not been arrested despite the fact that, under the LGC, municipal waters have been expanded to include marine waters within a distance of 15 km from the shorelines. While there are many reasons for such decline, the open access nature of resource exploitation is considered to be a primary cause. Over the last ten years, even as catch rates diminished, the open access nature of fisheries caused a doubling of fishing effort, a situation exacerbated by the employment of more efficient, but often irresponsible and destructive, fishing methods.

- ◆ **Rapid population growth and migration to coastal areas.** The coastal areas are under increasing pressure from rapid population growth (2.4% per annum (PCSD)) and the consequent concentration of development activities in the coastal strip. With almost 60 % of the population living within coastal areas — that is, in 815 coastal and municipalities and 25 cities (ADB 1993; Tan 1993) — the marine environment has been increasingly threatened by pollution, reclamation and conversion of fragile habitats, and unsustainable consumption practices.
- ◆ **Increasing environmental damage.** Overfishing, the use of destructive fishing practices, and habitat conversion have resulted in the alarming degradation of coastal areas. With more than 70% of mangrove forests already converted for aquaculture, reclaimed for other land uses, or logged over, only about 150,000 ha of the original mangrove cover of 450,000 ha in 1918 remain (DENR 1988); of these, only 6 % are in excellent condition (Tan 1993). Coral reefs have been severely reduced — over 70 % have reportedly been damaged and only 5 % of the remaining reefs are in excellent condition (Gomez *et al*, 1994). Other benthic habitats are being destroyed or altered by siltation from denuded upland forests where loose topsoil is washed down to the coasts by rainwater or through river systems, which also carry significant amounts of pollutants from industrial and domestic sources. In particular, pollution from point sources, which in many areas is associated with the outflow of untreated domestic sewage, causes seawater quality to deteriorate and over time may adversely affect seafood quality and, directly or indirectly, human health as well. This alarming situation is manifested by the increasing frequency of the red tide in a growing number of semi-enclosed bays.

***Low level of awareness of the real causes of environmental problems and the effective approaches to institutionalizing sustainable use practices.*** Public awareness of environmental problems, their real causes and



solutions remains low in many areas. Moreover, the interrelationships between upland and coastal ecosystems are not sufficiently considered in development planning. While the devolution of primary resource management functions to local governments is considered to be a milestone for the application of community-based management regimes, most of the coastal communities remain institutionally deficient in the area of CRM, and political will to institute reforms is weak. Many institutional issues are thus associated with ineffective policy and jurisdictional capacity at the local level and, in general, with poor enforcement of fishery and environmental laws.

**Widespread poverty in the coastal areas.** Most fisher families are counted among the poorest of the poor. Lacking alternative sources of income, skills and capital, these families have made fisheries their ‘livelihood of last resort’. This situation, combined with the declining productivity of coastal waters, has made it more difficult for LGUs to change the open access regime in coastal fisheries.

Clearly, policy and strategy reforms are critically needed to address the many CRM problems LGUs are facing. Those activities that make these reforms possible constitute the basic elements of CRM.

CRM — also referred to in various quarters as ‘coastal management’, ‘coastal zone management’, ‘coastal area management’, and ‘integrated coastal management’ — has been practiced in the Philippines for nearly two decades. Attempts to arrest declining fish yields, the loss of mangrove forests, and the degradation of coral reefs have been made, both on a small and focused level and on a macro and integrated scale. White and Lopez (1991) give us this broad definition of the concept:

*“Integrated coastal management (ICM) comprises those activities that achieve sustainable use and management of economically and ecologically valuable resources in the coastal areas which consider interaction among and within resource systems as well as those of humans and their environment.”*

In specific terms, CRM may be defined as the process of planning, implementing and monitoring sustainable use of coastal resources through participation, collective action and sound decision-making. The CRM plan is formulated through a multi-sectoral and interdisciplinary consultative process aimed at identifying and prioritizing resource management issues, fostering consensus, and generating support for the CRM program. The draft plan is then reinforced by ecological studies and investigations that define the cause-and-effect relationship of identified issues,

## 2.2 CRM PROCESSES AND FEATURES



# 2

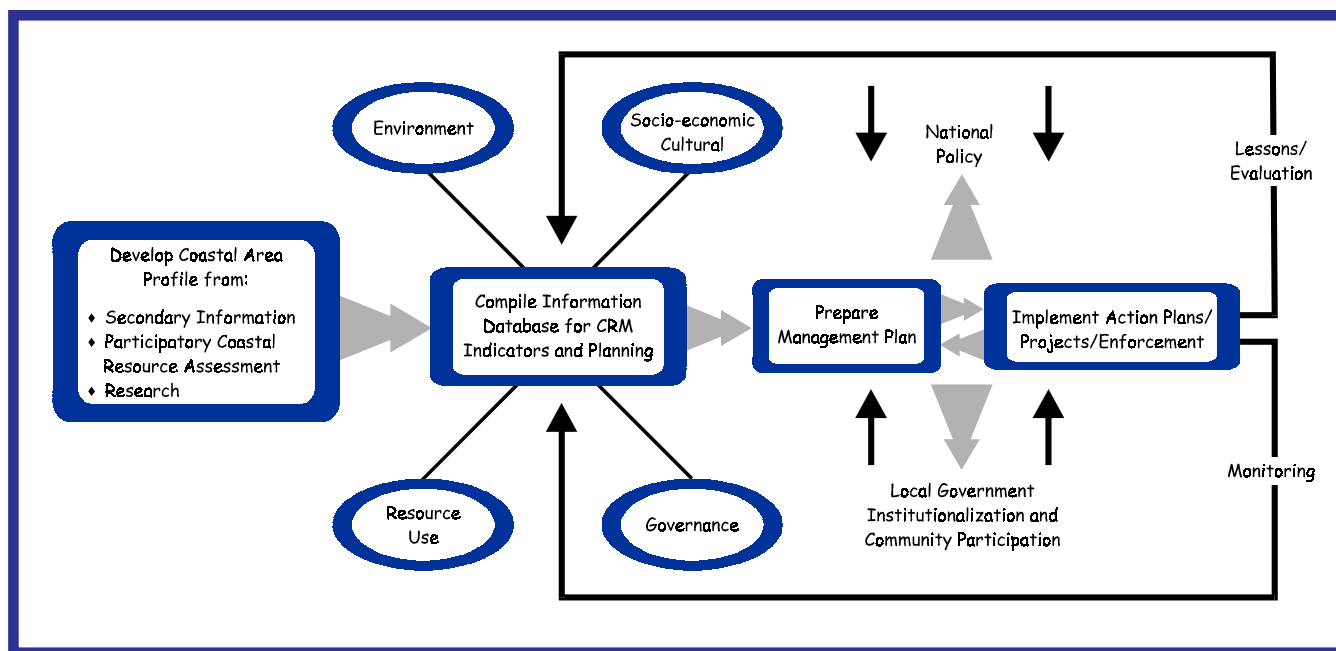
## Background on Coastal Resource Management



spell out strategic interventions, identify responsibilities for implementation, and provide scientific explanations of the CRM actions undertaken (Figure 2-1). In all these, the participation of the community in decision-making is deemed essential.

CRM offers a number of advantages over traditional forms of development planning. *The International Workshop on Integrated Coastal Management in Tropical Developing Countries* (IWICM 1996) cited four such advantages:

**FIGURE 2-1.**  
**PARTICIPATORY PLANNING AND**  
**IMPLEMENTATION PROCESS**  
(White and Lopez 1991).



- ◆ CRM promotes understanding of the natural resource systems which are unique to the coastal areas and their sustainability within the context of a wide variety of human activities.
- ◆ It optimizes the multiple use of coastal resource systems through the integration of ecological, social, and



economic information.

- ◆ It promotes interdisciplinary approaches and intersectoral cooperation and coordination to address complex development issues and formulate integrated strategies for the expansion and diversification of economic activities.
- ◆ It helps governments to improve the efficiency and effectivity of capital investment and natural and human resources in achieving economic, social, and environmental objectives as well as in meeting international obligations concerning the coastal and marine environment.

Efforts in coastal management in the Philippines date as far back as the early 1970s when several projects involving the establishment and management of marine sanctuaries were implemented in the Visayas through Silliman University. Over a span of more than two decades, integrated CRM evolved from the application of various resource management models, namely centralized, community-based, and collaborative coastal management (Christie and White, 1997). While many of the coastal management projects so far implemented were driven by donor agency funds, the application of participatory approaches and involvement of NGAs has contributed significantly to community empowerment on resource management.

The coastal resource issues being addressed today are basically the same issues that triggered management interventions years ago. Significant gains have been documented in some aspects of resource management and these have essentially enabled some fisheries in certain areas to recuperate. Other issues, however, particularly those associated with changing the open access regime in coastal fisheries, remain largely intractable in the light of pervasive poverty in coastal areas. The devolution of primary national government responsibilities in 1991 has reinforced community-based coastal management on the one hand, but has created institutional vacuums as well.

What is evident is that awareness of CRM's importance has been developed over a broad multi-sectoral base, and CRM is gaining a foothold in an increasing number of localities. Substantial work still has to be undertaken, chiefly in the area of capability-building and developing more effective interdisciplinary approaches to coastal resource research and management. Nonetheless, successful examples of CRM programs are demonstrating both economic and environmental benefits in site-specific areas and projects. These include:

### 2.3 CRM EXPERIENCE IN THE PHILIPPINES: LESSONS LEARNED



## Background on Coastal Resource Management



### 1. THE CENTRAL VISAYAS REGIONAL PROJECT (CVRP) I

The CVRP was a pilot project in integrated community-based rural development. One of its components was watershed management, including nearshore fisheries development, which implemented a coastal resource management program in the provinces of Negros Oriental, Cebu, Bohol, and Siquijor from 1984 to 1992. The interventions included mangrove reforestation, coral reef protection and marine sanctuary establishment, artificial reef (AR) and fish aggregating device (FAD) installation, and mariculture. The Silliman University Marine Laboratory (SUMML) assessed the project from 1995 to 1996 to determine the status of the project's interventions and their impact on the ecosystem and the community.

### 2. THE LINGAYEN GULF COASTAL AREA MANAGEMENT PROGRAM (LGCAMP)

This program started in 1986 under the ASEAN CRMP which received funding support from USAID and member governments of the ASEAN. Comprehensive resource and ecological assessments were undertaken in the gulf for three years, after which a coastal area management plan was evolved. The implementation of the Lingayen Gulf Coastal Area Management Plan (LGCAMP) is presently being managed and coordinated by a Technical Secretariat created within the regional office of the National Economic and Development Authority (NEDA). The LGCAMP is composed of 20 projects grouped under 8 programs covering, among others, fisheries management, rehabilitation of critical habitats, coastal zonation, and alternative livelihood development. In 1993, Lingayen Gulf was declared as an environmentally critical area through Proclamation 156. The Lingayen Gulf Coastal Area Management Commission (LGCAMC) was later created to coordinate the management of the area.

### 3. THE FISHERIES SECTOR PROGRAM (FSP)

The largest, and perhaps the most comprehensive, CRM program ever to be launched in the country is the Department of Agriculture's (DA) FSP. Implemented from 1990 to 1996 under a US \$180 million funding from the Asian Development Bank (ADB) and Overseas Economic Cooperation Fund (OECF) of Japan, the FSP was a policy-based program loan with CRM as the centerpiece program in 12 priority bays. With its multi-sectoral and multidisciplinary



design, the FSP was implemented by a huge network of institutions that included 6 NGAs, 9 regional offices of the DA, 8 research institutions, 11 NGOs, and at least 3 banking institutions, all supervised by a program management office.

The FSP's objectives were:

- ◆ Regeneration of coastal resources, rehabilitation of the coastal environment, and the alleviation of poverty among municipal fishermen through the diversification of their sources of livelihood
- ◆ Intensification of aquaculture productivity within ecological limits
- ◆ Inducement of commercial fishing away from overfished nearshore waters and into the EEZ

By and large, the FSP's policy reforms have succeeded in reshaping the current policy directions of government in the management of fishery resources. This is clearly manifested in BFAR's Medium Term Fisheries Development and Management Plan where the same policy framework has been adopted. It is particularly interesting to note that the passage of the LGC has actually reinforced these same policy directions and now constitute the foundation for legislative reforms at the local level.

The implementation of these policies into more concrete strategies has been carried out under the FSP through a package of interventions:

- ◆ Establishment of 22 fish sanctuaries
- ◆ Organization of more than 1,000 fishermen associations to prepare them for core group resource management
- ◆ Conduct of rapid resource assessments and resource and ecological studies that became the basis for determining sustainable catch levels
- ◆ Redirection of research and extension work towards CRM;
- ◆ Enactment of municipal fishery ordinances in most of the municipalities covered by the program

## Background on Coastal Resource Management



- ◆ Establishment of a credit seed fund for alternative livelihood of organized municipal fisherfolk
- ◆ Rehabilitation of mangrove swamp in 6,000 ha of degraded coastal forests
- ◆ Strengthening of fishery law enforcement mechanisms and capabilities

A detailed review of the accomplishments and impacts of the FSP conducted by PRIMEX in 1996 brought to fore some valuable lessons from the program's implementation which have significant bearing on the establishment of a tangible and stronger jurisdictional framework for CRM.

Despite having initiated valuable policy reforms and raised CRM awareness and support over a wide area, the FSP has not completed the institutionalization of sustainable resource-use practices in its bay areas. Moreover, LGU commitments to pursue CRM based on strategies that the program initiated remains weak, specially after funding support was withdrawn. While increases in the average catch of municipal fishermen have been noted in many areas, the issue of fishing effort reduction remains intractable and the open access regime persists in the bay areas. The legislative mechanisms to correct the situation likewise remain largely weak.

#### 4. OTHER CRM AND CRM-ASSOCIATED PROJECTS

Starting 1993, numerous CRM and CRM-associated projects have been initiated in many parts of the country by a host of institutions. These include:

- ◆ DA-BFAR's Medium Term Fisheries Development and Management Plan
- ◆ Coastal Environment Program (CEP) of the DENR, which is involved in resource assessment; community organizing; mangrove reforestation; Information, Education, and Communication (IEC) campaigns; alternative livelihood; and the establishment of protected seascapes.
- ◆ National Aquatic Resources Research and Development Systems (NARRDS, 1993 to 1998) of the Philippine Council for Aquatic and Marine Research and Development (PCAMRD) which focuses on CRM and several CRM-related projects that have been implemented by the agency. A notable sub-project is the development of a CRM training module for LGUs.
- ◆ The University of the Philippines Marine Science Institute (UP-MSI) community-based CRM program in Bolinao, Pangasinan. Using its vast experience and data bank on the state of the marine resources of the



municipality, UP-MSI has succeeded in focusing community attention on the various resource management issues in the coastal area of Bolinao. This was culminated in the recent disapproval of the establishment of a cement factory in the area.

In addition, many LGUs are in the process of instituting marine resource rehabilitation projects, the most common of which is the establishment of artificial reefs and fish sanctuaries within their respective territorial waters.

These various efforts are viewed as a positive development towards a broader sustainable coastal management. However, the seemingly unisectoral approaches applied in these various projects suggest that integrated planning mechanisms are flawed and that a jurisdictional framework to streamline and strengthen inter-agency collaboration is necessary to maximize investments in CRM.

### 5. MAJOR LESSONS LEARNED FROM CRM PROGRAMS

Significant experiences and lessons have been generated from the successes and failures of past CRM programs in the Philippines. Because the same problems in sustainable management of coastal resources confront LGUs at present, these lessons serve as valuable considerations in developing CRM programs at the local level and in sustaining the management regimes that are to be introduced.



# 2

## Background on Coastal Resource Management



### Box 2-1. MAJOR LESSONS LEARNED FROM CRM PROGRAMS

- ◆ Baseline information is a prerequisite to plan for CRM and to do comparative analyses of 'with' and 'without' project scenarios.
- ◆ CRM plans which build on good information included in environmental profiles that evolve with the planning process are more likely to succeed.
- ◆ Quality technical expertise is a key determinant of overall success.
- ◆ The sustainability of CRM interventions is essential for success but cannot always be determined without testing in the actual situation.
- ◆ An integrated planning process can bring together the divergent efforts of different government and non-government organizations involved in management.
- ◆ Participation at all levels is a prerequisite to the acceptance and implementation of a CRM plan.
- ◆ Real and practical results at the field level such as improved income or fish catch is one certain sustaining force for CRM at the community level.
- ◆ The sustainability of CRM requires continuing support from government, NGOs and the private sector.
- ◆ Political will must always be harnessed to start and to sustain projects.



The problem of jurisdiction in CRM has two dimensions: 1) physical, from which coastal resources are characterized as complex, diverse, and interrelated systems; the problem of jurisdiction arises because of the inherent difficulty of assigning discrete functions and boundaries to coastal resources; and 2) institutional, which describes the government agencies involved in CRM, their mandates, and functions. The lack of a single agency involved in CRM as well as overlapping functions is emphasized here.

The links between the physical and institutional framework point to rigidities characterized by institutional structures being forced on non-rigid resources. There are notable inconsistencies between the national legal system and local level legal regimes. Attempts to clarify the hierarchy of laws and the spirit and intent of the LGC in relation to existing national laws and administrative orders (AO) are discussed here.

The coastal zone is defined as the strip of land and adjacent lake or ocean space (water and submerged land) in which the land ecology and land use affect lake and ocean space ecology and vice versa. Functionally, it is a broad interface between land and water where production, consumption and exchange processes occur at high rates of intensity. Ecologically, it is an area of dynamic biochemical activity but with limited capacity for supporting various forms of human use. Geographically, the outermost boundary is defined as the extent to which land-based activities have measurable influence on the chemistry of the water or on the ecology or biota. The innermost boundary is one kilometer from the shoreline except at places where recognizable indicators for marine influences exist like mangroves, nipa swamp, beach vegetation, sand dunes, salt beds, marshlands, bayous, recent marine deposits, beach and sand deposits and deltaic deposits, in which case the one kilometer distance shall be reckoned from the edges of such features (NEPC 1980).

The difficulty of managing coastal resources is a result of:

- ◆ Varied economic activities in the coastal area (Figure 3-1)
- ◆ Management of economic activities is sectoral in nature; thus, a host of institutions have jurisdiction over coastal resources and no single entity manages the coastal zone in an integrated and holistic manner (Figure 3-2)

Many of the problems associated with CRM have been attributed to divergent goals and weaknesses in the capabilities of agencies tasked to ensure the proper development of the coastal resource base. In the Philippines, the institutional framework for the management of fisheries and coastal resources has been described as “lacking in central focus, authority, or leadership, and is characterized by a fragmentation of functions among a number of Cabinet departments”

### 3.1 CHARACTER OF COASTAL RESOURCES AND ITS IMPLICATIONS TO MANAGEMENT

### 3.2 INSTITUTIONAL FRAMEWORK



# 3

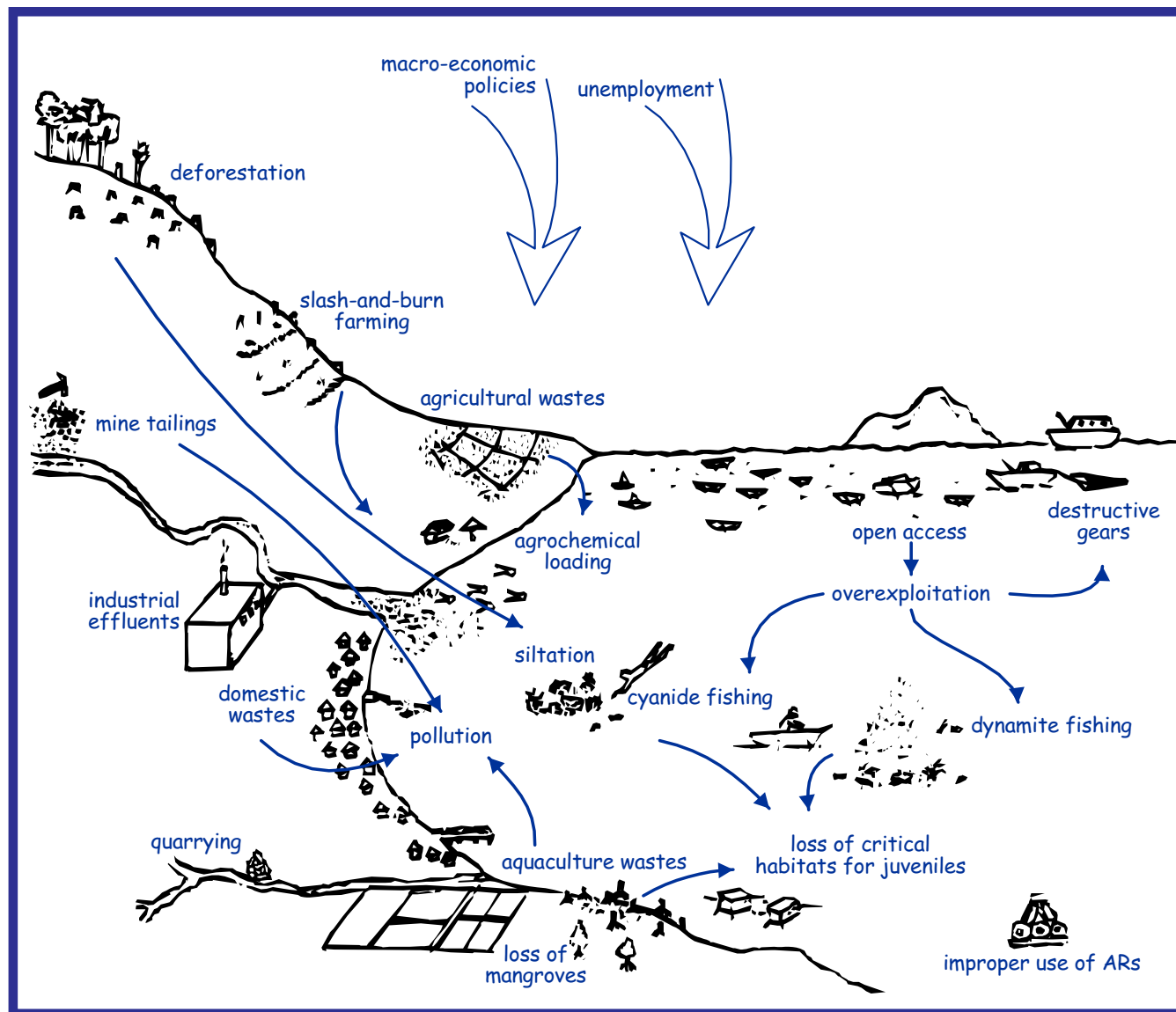
## Nature and Extent of Jurisdictional Problems



**FIGURE 3-1.**  
**VARIED ECONOMIC ACTIVITIES**  
**OCCURRING IN THE COASTAL ZONE**

Various economic activities are dependent, both directly and indirectly, on coastal resources. The resource users themselves are pursuing objectives that do not complement each other thus causing wastage and inefficient resource use. An overexploited fishery, for example, is known to have excess labor and capital which should have been used more efficiently in other economic sectors.

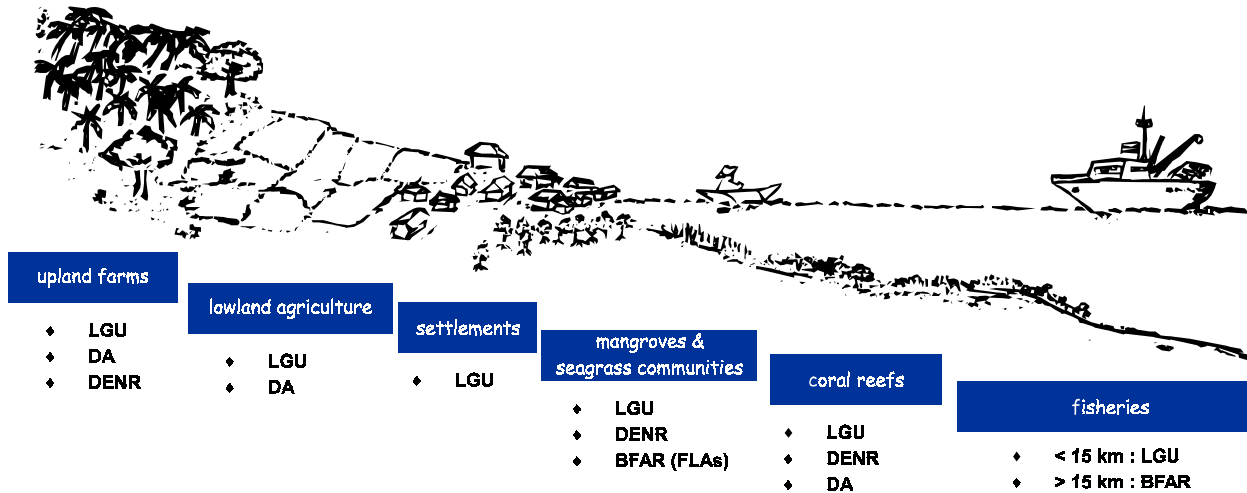
Resource use issues in the coastal zone are not limited to those which occur in the coast itself. Coastal waters serve as a catch basin for lowland and upland activities such as agriculture (agri-chemical loading), human settlements (organic wastes), and mining and forestry (siltation and pollution). When varied players are involved, it is difficult to ascertain accountability.





**FIGURE 3-2.**  
**A TYPICAL COASTAL VILLAGE AND**  
**THE VARIOUS AGENCIES INVOLVED**  
**IN IMPLEMENTING ITS CRM AND**  
**DEVELOPMENT ACTIVITIES**

(Adapted from Fellizar et. al. 1996)



*A host of institutions have jurisdiction over coastal resources. There is no single agency which manages the coastal zone in an integrated and holistic manner. In addition, the LGU is another institution to contend with in CRM.*

(PRIMEX 1996). While this may be true for certain sectoral concerns, recent discussion initiated by the CRMP with the DA-BFAR, DENR, and DILG has helped to clarify institutional roles and jurisdictions and define the legal environment for many CRM strategies. The institutional situation has been further improved with the passage of the LGC which devolved many responsibilities previously being dispensed by national government agencies to the local governments. The following describes the fundamental mandates and agency responsibilities of the major institutions involved in CRM.

## 1) DA-BUREAU OF FISHERIES AND AQUATIC RESOURCES (BFAR)

The jurisdiction of BFAR as the country’s main steward for fishery resources has been influenced by a series of legislation (Table 3-1). BFAR evolved from the former Philippine Fisheries Commission which was created in 1963 through RA No. 3512. Under Presidential Decree No. 704, or the Fisheries Decree of 1975, BFAR exercised jurisdiction and assumed responsibilities over the formulation, administration, and implementation of fisheries policies,

## Nature and Extent of Jurisdictional Problems



**TABLE 3-1.**  
**KEY LEGISLATION THAT INFLUENCED**  
**BFAR'S ROLE IN FISHERIES**  
**MANAGEMENT IN THE LAST 30**  
**YEARS**

| YEAR | LEGISLATION   | FEATURE(S)   |
|------|---------------|--|
| 1963 | RA 3512       | Created the Philippine Fisheries Commission  |
| 1975 | PD 704        | BFAR's mandates include development and management of the country's fisheries  |
| 1984 | EO 967        | Administration of BFAR was transferred from DNR to MAF (some functions, such as those related to the management of coastal and marine habitats remained with DNR)                                      |
| 1986 | EO 116        | BFAR was relegated to the food production group of DA and became a staff bureau<br><br>Abolition of BFAR's administrative, regulatory and enforcement functions<br><br>Abolition of BFAR's field units |
| 1987 | EO 292        | Assigns to both DA and DENR fisheries-related functions  |
| 1991 | RA 7160 (LGC) | Devolves specific fishery management functions (regulatory and enforcement) to LGUs  |

regulatory measures, licensing, research, and statistical information gathering over all aquatic resources of the country except in municipal waters which remained under the jurisdiction of the respective municipal or city governments.

A series of Executive Orders (EO) designed to rationalize the structure of existing government institutions greatly changed the scope of BFAR's jurisdiction over fishery resources. Moreover, these promulgations have caused some confusion instead of clarification. For example, Title XIV of EO 292 grants DENR the responsibility to control and supervise the exploration and development of the country's natural resources, including fisheries and off-shore resources, and to promulgate rules, regulations, and guidelines on the issuance of licenses, permits, and concessions involving the use of the country's freshwater, brackishwater, and marine resources. Under Title IV, however, the DA has the mandate to promote the well-being of fishermen and accelerate the development and optimum utilization of fishery resources in order to attain food security.

At present, however, due to technical considerations, BFAR still continues to exercise regulatory and quasi-judicial functions, and is still regarded as the principal agency concerned with fishery resource management. This is clearly



demonstrated in the DA's FSP where BFAR was the lead executing agency of the Program in 12 priority bays. Under the program, policy reforms related to sustainable use of fishery resources based on maximum sustainable yields (MSYs) were initiated by the DA and these policies continue to be the essential element of BFAR's Medium Term Fisheries Management and Development Plan for 1993 to 1998. Under the present set-up, BFAR is responsible for the following basic tasks:

- ◆ Continue to provide policy direction on CRM implementation in the country as enumerated in the medium term fisheries plan
- ◆ Provide technical assistance to LGUs in the development of CRM plans for their respective municipal waters
- ◆ Assist in the organization of Fisheries and Aquatic Resources Management Councils (FARMCs)
- ◆ Provide services to LGUs, FARMCs, and fishermen associations in the conduct of resource studies and researches from which local fisheries management measures can be based
- ◆ Provide training and extension services on various aspects of CRM
- ◆ Assist LGUs in the establishment of fish sanctuaries through site evaluation studies and, depending on the LGU's desire, enact Fisheries Administrative Orders (FAO) to support the sanctuaries
- ◆ Provide logistical and institutional assistance to the organization and operation of fishery law enforcement task forces at the local level, including the establishment of cyanide detection laboratories
- ◆ Coordinate with LGUs and ensure that subsisting FAOs are being implemented
- ◆ Continue to regulate fishing activities beyond municipal waters

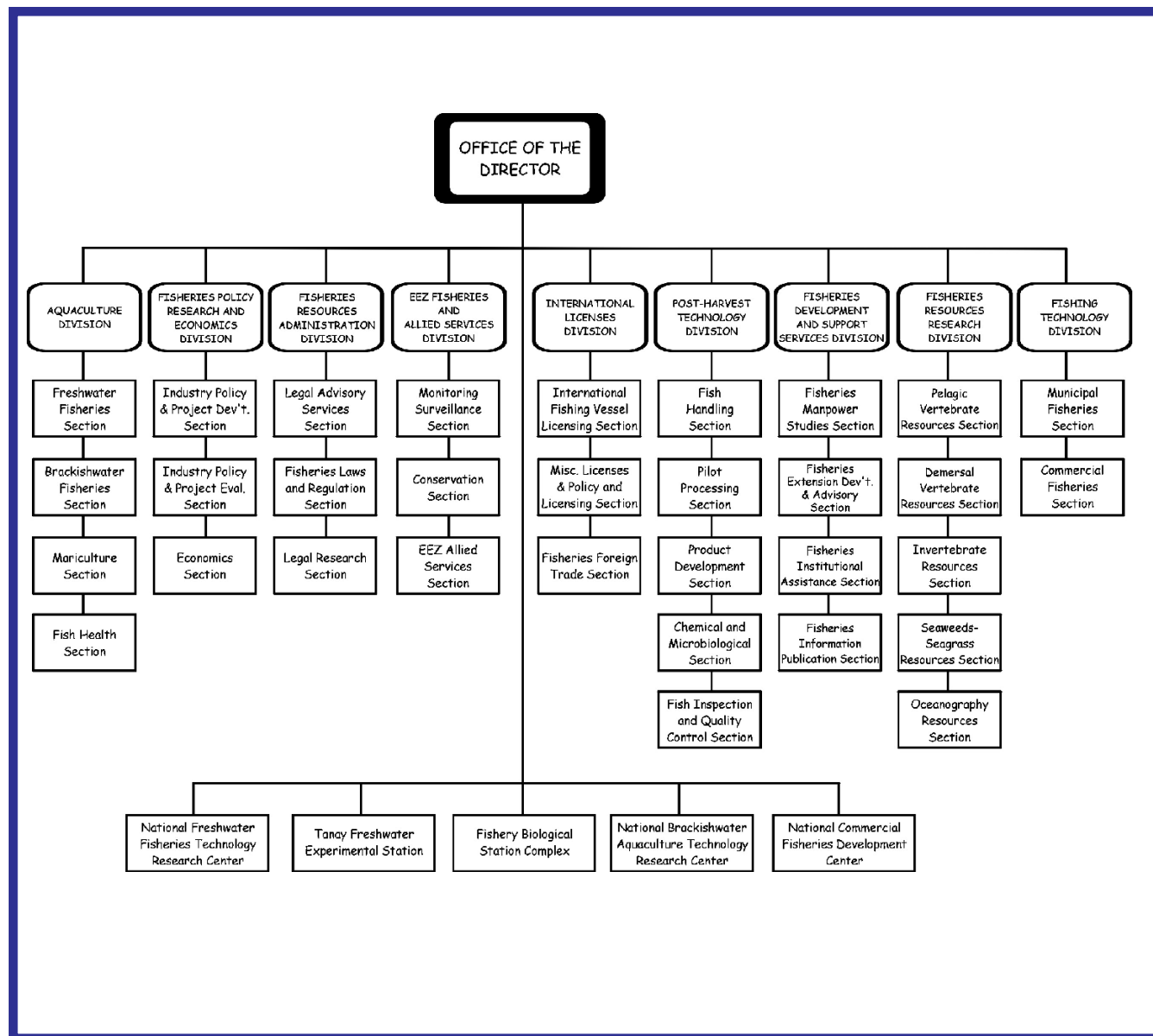
BFAR's organizational structure, showing the lines of functions after its relegation to staff bureau is shown in Figure 3-3.

## 2) DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR)

Coastal area management has been an integral part of the DENR's responsibilities. The agriculture and natural



**FIGURE 3-3.**  
**BFAR ORGANIZATIONAL**  
**STRUCTURE**





resources sectors were previously under a single department called the Department of Agriculture and Natural Resources (DANR). In 1974, DANR was split into the DA and the Department of Natural Resources (DNR). A series of cabinet modifications undertaken before the 1990s eventually left DENR with a significant mandate on CRM (Table 3-2). A 1987 EO reorganizing the DENR (EO 192) did not list “fisheries” as one of the sectors under DENR’s jurisdiction, but as stated earlier, EO 292, which effectively amended EO 192 as it came out more than a month later, broadly mandated DENR to exercise responsibility for:

- ◆ The full exploration and development, as well as the judicious...utilization, management, renewal, and conservation of the country’s forest, mineral, land, water, fisheries, wildlife...and other natural resources (Sec. 1 of Title XIV)
- ◆ The promulgation of rules, regulations, and guidelines on the issuance of licenses, permits, concessions, lease agreements, and such other privileges concerning the development, exploration, and utilization of marine, freshwater and brackishwater, and over all aquatic resources of the country... [In addition, DENR] shall continue to oversee, supervise, and police our natural resources (Sec. 4 of Title XIV)

To implement its mandate, DENR has been involved in policy issuances and programs that focus on the management of mangroves and associated terrestrial and aquatic flora and fauna within the marine zone. It has not directly involved itself, however, on fishery regulatory, licensing, research, and enforcement functions which are presently being exercised by BFAR.

Apart from the AOs concerning mangrove resource management and conservation, DENR, pursuant to RA 7586, implemented in 1993 the National Integrated Protected Areas System (NIPAS) to address the Department’s marine concerns by including seascapes in the category of protected areas. In 1993, DENR launched its Coastal Environment Program (CEP) through DAO No. 19 series of 1993, which aimed to uplift the socio-economic conditions of the country’s coastal population through the protection of the environment and the implementation of strategic interventions on resource assessments, CO, information and education campaigns, and the identification and establishment of impact sites and seascapes.

Many of the functions that DENR retained after the devolution relate to forest management in forest lands not devolved to the LGUs; mines and geo-sciences management that does not fall under the purview of the small-scale mining act; environmental management, specifically the implementation of the environmental impact assessment system (EIA) for businesses and projects not covered by Kalakalan 20; management of protected areas under the NIPAS; land management; and ecosystems research.

## Nature and Extent of Jurisdictional Problems



**TABLE 3-2.**  
**MAJOR LEGISLATION THAT**  
**INFLUENCE DENR'S ROLE IN**  
**COASTAL AREA MANAGEMENT**

| YEAR | LEGISLATION | FEATURE(S)   |
|------|-------------|--|
| 1974 | PD 461      | The Department of Agriculture and Natural Resources is divided into the DA and DNR.  |
| 1975 | PD 705      | Releases to the administration of BFAR mangrove areas suitable for fishpond development; establishes mangrove areas needed for forest purposes   |
| 1975 | PD 825      | Penalizes improper disposal of garbage   |
| 1976 | PD 979      | The marine pollution decree vests on DENR-Environmental Management Bureau (EMB) the authority to promulgate laws governing marine pollution  |
| 1978 | PD 1586     | The Philippine Environmental Impact Assessment is established under the administration of DENR   |
| 1984 | EO 967      | BFAR is transferred from the Ministry of Natural Resources to the Ministry of Agriculture and Food. However, jurisdictional authority over management of marine environment, including coral reefs and other marine habitats, remains with the Ministry of Natural Resources |
| 1987 | EO 292      | Mandates DENR to exercise responsibility for the exploration and development of natural resources, including fisheries   |
| 1990 | RA 6969     | Toxic Substances and Hazardous and Nuclear Waste Control Act   |
| 1991 | RA 7076     | A People's Small-Scale Mining Program is established and placed under the supervision of the DENR  |
| 1992 | RA 7586     | NIPAS Law declares eight categories of protected areas, including protected seascapes under the administration of DENR-PAWB  |
| 1992 | DAO 30      | Defines scope of devolved DENR functions to LGUs   |
| 1993 | DAO 19      | Establishes the Coastal Environment Program (CEP)  |
| 1995 | RA 7942     | The Philippine Mining Act is approved  |
| 1995 | EO 263      | Adopts Community Based Forest Management (CBFM) as the National Strategy to ensure the sustainable development of the country's forest lands resources and providing mechanisms for its implementation   |



On the other hand, many of the basic functions that relate to CRM have been devolved by DENR to the LGUs. These include:

- ◆ Implementation of community-based forestry projects: integrated social forestry projects, new regular reforestation projects, forest land management agreements, and other community forestry projects
- ◆ Management and control of communal forests with an area not exceeding 50 sq km
- ◆ Management, protection, rehabilitation, and maintenance of small watershed areas as identified by DENR
- ◆ Enforcement of forestry laws in community-based forestry projects and communal forests
- ◆ Establishment, protection, and maintenance of tree parks; greenbelt areas; and other tourist attractions in areas identified by DENR
- ◆ Implementation of the Rehabilitation in Conservation Hotspots project and the Conservation of Rare and Endangered Species project in areas identified by DENR
- ◆ Enforcement of pollution control laws, including the issuance of environmental clearance certificate (ECC) for projects under Kalakalan 20, adjudication of cases involving complaints against businesses under Kalakalan 20, and apprehension of smoke-belching vehicles
- ◆ Solid waste disposal and other environmental management systems related to hygiene and sanitation
- ◆ Implementation of cease-and-desist orders (CDO) issued by the Pollution Adjudication Board.

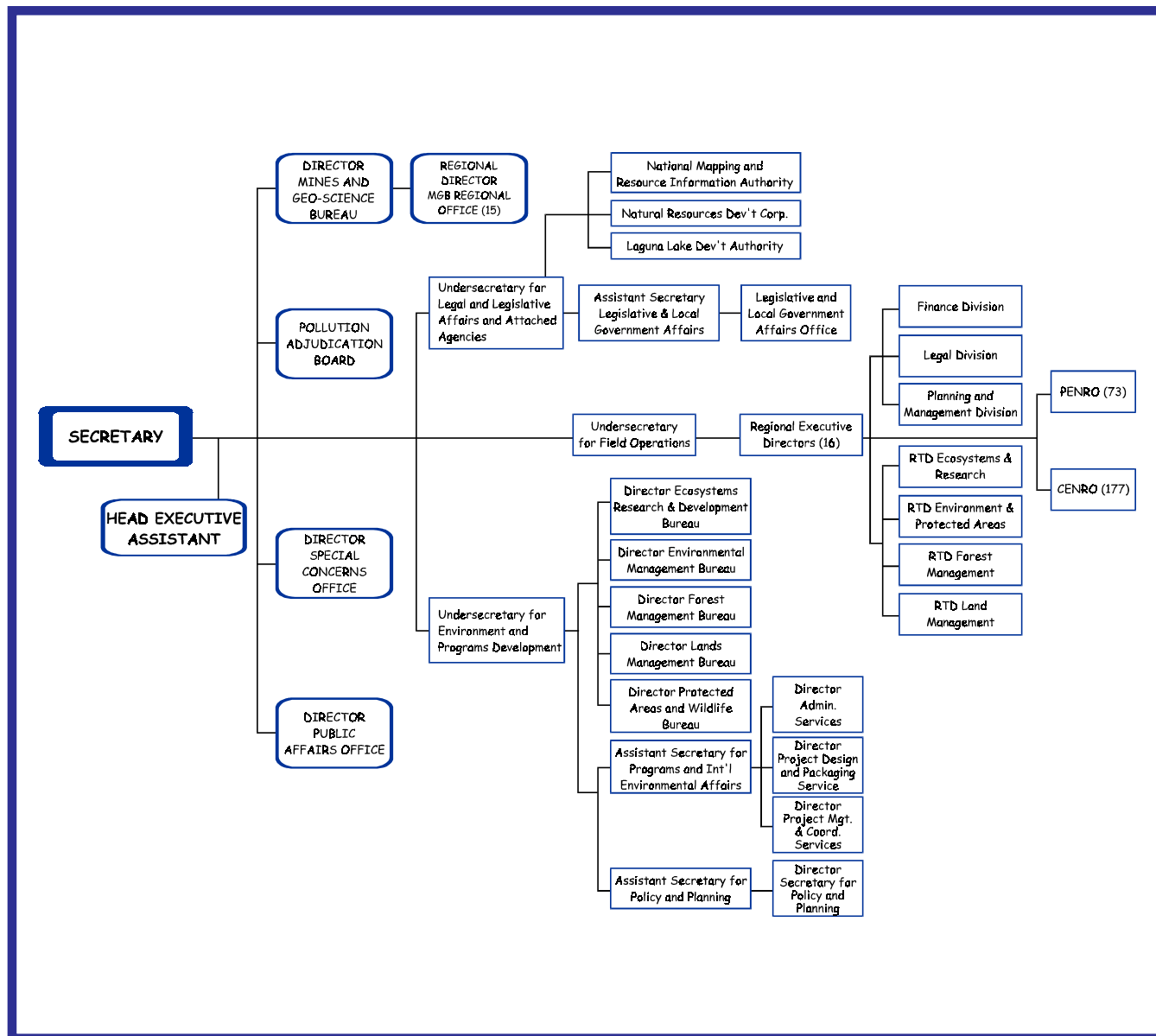
The DENR's organizational structure is shown Figure 3-4.

### 3) DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENTS (DILG)

DILG was reorganized by virtue of RA 6975 which created two basic sectors within the department — the Local Government Sector and the Interior or Public Safety Sector. The former, which is responsible for planning,



**FIGURE 3-4.**  
**DENR ORGANIZATIONAL**  
**STRUCTURE**





implementing, monitoring, and evaluating plans, programs, and policies pertaining to local autonomy, decentralization, and local governance, consists of the Bureau of Local Government Development (BLGD), Bureau of Local Government Supervision (BLGS), National Barangay Operations Office (NBOO), Local Government Academy (LGA), and staff bureaus. The BLGD is in charge of establishing and prescribing policies, guidelines, systems, and approaches to local governments, and in evaluating local development policies to enhance the participation of local governments in planning and implementation. It also provides support services to the Oversight Committee of the LGC in its sustained implementation. The BLGS, on the other hand, is the principal staff bureau that formulates policies pertaining to general supervision over LGUs and provides assistance in the preparation of national legislation affecting local governments. The latter sector, which is composed of the National Police Commission, the Philippine National Police (PNP), the Bureau of Fire Protection and the Bureau of Jail Management and Penology, is responsible for planning and implementing the Department's programs on peace and order and public safety.

RA 6975 (the DILG Act) created the PNP Maritime Command (PNP-MARICOM), a maritime police unit within the PNP, and has been vested with the authority to perform all police functions "over Philippine territorial waters and rivers, coastal areas from the shoreline to one mile inland to include ports and harbors and small islands of two miles in length or diameter with less than 1,000 population". Section 24 of RA 6975 also clarified that after an 18-month transition period, the PNP-MARICOM will absorb all police functions of the Philippine Coast Guard (PCG). This transition period ended on June 1992.

Although the extent of the PNP-MARICOM's jurisdiction over the entire Philippine territorial waters remains unqualified, there is general acceptance of the delineation of its jurisdiction with that of the PCG inasmuch as the former is under the DILG while the latter is under the Department of National Defense (DND). The PCG, apparently out of administrative expediency, retains its jurisdiction over the enforcement of Philippine laws on the high seas on top of its usual functions of ensuring safety at sea and enforcement of marine anti-pollution laws.

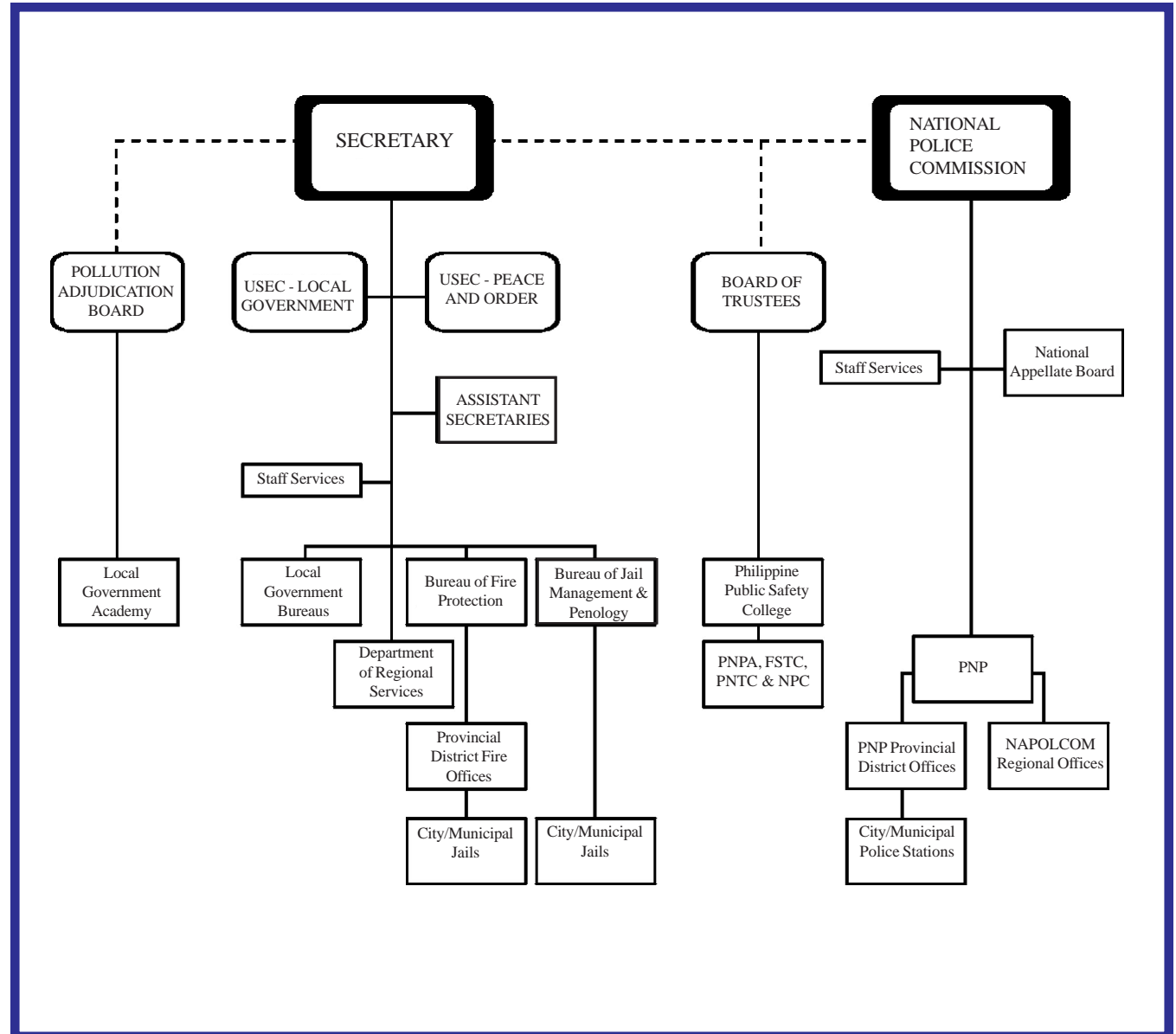
DILG's basic organizational structure is shown in Figure 3-5.

#### 4) DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (DOTC)

The DOTC's direct involvement in CRM can be found in two of its attached agencies: the Maritime Industry Authority (MARINA) and the Philippine Ports Authority (PPA). Under EO 125, the DOTC "is the primary policy, planning, programming, coordinating, implementing, regulating, and administrative entity of the executive branch of government in the promotion, development, and regulation of dependable and coordinated networks of transportation



**FIGURE 3-5.**  
**DILG ORGANIZATIONAL**  
**STRUCTURE**





and communications systems.” In practice, DOTC undertakes policy formulation, infrastructure development, and regulatory functions, and is currently involved in the construction of fish ports, municipal ports, as well as the improvement and maintenance of 100 existing lighthouses in the country.

The MARINA is responsible for the promotion and development of the maritime industry, the regulation of shipping, and maritime safety regulatory functions in collaboration with the PCG. MARINA used to be involved in the registration and inspection of commercial fishing boats but this is now performed solely by the PCG. MARINA’s role is limited to the issuance of certificate of Philippine registry to commercial fishing boats operating in the country. Unlike the PCG, however, MARINA does not have any regulatory mandate over municipal fishing boats.

The PPA is responsible for the development of ports and the provision and supervision, control, operation, and maintenance of port facilities and services. The PPA also regulates the establishment of private ports.

It is important to note that both the PPA and the MARINA rely on the PCG to enforce regulations and ensure compliance to maritime safety requirements.

### 5) DEPARTMENT OF NATIONAL DEFENSE-PHILIPPINE COAST GUARD (DND-PCG)

The PCG was established in 1967 through Republic Act 5173 as a major unit of the Philippine Navy. It is mandated to (1) promote safety at sea, (2) promote maritime security as an armed force, (3) assist in the implementation of laws in the high seas and waters under Philippine jurisdiction, and (4) safeguard marine resources and environment. In the enforcement of anti-pollution laws, the PCG is specifically tasked to (1) prevent, mitigate, and control marine pollution through a system of ship-based pollution monitoring, and (2) enforce applicable environmental laws in the seas.

Apart from being the lead agency in the enforcement of anti-marine pollution laws, the PCG is tasked, under Section 17 of PD 704, to perform all functions relating to the registration, documentation, inspection, and manning of all types of fishing boats (except those registered as municipal fishing boats) plying Philippine waters, and to certify their seaworthiness. More significantly, the PCG is also tasked to maintain a registry of all municipal fishing bancas and to certify and quantify in the process the gross tonnage of such fishing bancas before they can be issued a municipal fishery license.

Take note that while the DND-PCG and MARICOM are both involved in the enforcement of maritime laws, the latter is mandated, through section 24 of RA 6975 (Local Government Act of 1990), to absorb and perform all police

## Nature and Extent of Jurisdictional Problems



functions of the PCG and maintain peace and order “over Philippine territorial waters and rivers, including ports of entry and exit”. Fishery law enforcement task forces in most of the coastal municipalities in the country thus employ MARICOM personnel.

### 6) DEPARTMENT OF SCIENCE AND TECHNOLOGY-PHILIPPINE COUNCIL FOR AQUATIC AND MARINE RESEARCH AND DEVELOPMENT (DOST-PCAMRD)

PCAMRD started as a unit under the Philippine Council for Agriculture Research and Development which was attached to the DA. During the 1987 reorganization, PCAMRD was placed under DOST as one of its sectoral planning councils through EO 128 and was given the following broad mandates:

- ◆ Monitor aquatic and marine research and development projects
- ◆ Formulate strategies, policies, plans, programs, and projects for aquatic and marine science technology
- ◆ Generate external funds

In carrying out its mandate, PCAMRD provides research and development directions for fisheries and aquatic resources through its 5-year NARRDS. NARRDS consists of a network of research and development institutions, state colleges and universities, and regional research stations of DA and DENR; it directly overlaps with DA-FSP’s research and extension component which is being implemented by the Bureau of Agricultural Research. Also, two PCAMRD projects are now in the pipeline: the Integrated Coastal Resources Development and Coral Reef Conservation and Management programs.



The issue of overlapping institutional mandates in CRM is regarded as one of the most common constraints in comprehensive CRM programming. Indeed, with DA, DENR, PCAMRD, and possibly a host of other NGOs pursuing their own CRM programs to emphasize their respective credibility in the field of CRM, there seems to be a plurality of jurisdictional mandates which gives the impression that the government's response to coastal problems is largely uncoordinated. This has resulted in some major institutional inconsistencies:

### 3.3 ANALYSIS OF INSTITUTIONAL OVERLAPS AND IMPLICATIONS TO CRM

- ◆ Currently, there are at least three cabinet departments (DA-BFAR, DENR, DOST-PCAMRD) with CRM activities included in their mandates, but not one is able to address CRM problems from a holistic and integrated perspective. Moreover, organizational coordination and collaboration between these agencies are grossly inadequate, resulting in dispersed accountabilities (Table 3-3).
- ◆ Despite the fact that it is still performing planning and regulatory functions, EO 116 has effectively watered down the functions of BFAR and dispersed them to several line agencies of DA. Therefore, for an LGU to be able to secure fisheries management expertise that used to be dispensed only by BFAR, it now has to solicit the assistance of several agencies. Under this scenario, it is imperative for local governments to develop their own capabilities along these disciplines.
- ◆ There are at least two coordinating mechanisms established for CRM programs: the Presidential Committee on Anti-Illegal Fishing and Marine Conservation (PCAIFMC) and the Inter-Agency Task Force on Coastal Environmental Protection (IATCEP). The PCAIFMC, created through Executive Order No. 114 in 1989 and comprising 8 cabinet-level members, is tasked to coordinate all marine conservation efforts in the country and to review and recommend policies on marine resources conservation. Since its establishment, only the PCAIF Secretariat has managed to meet periodically and has implemented a fishery patrol boat distribution program. The IATCEP, which was established through EO 117 in 1993, is chaired by DENR and is tasked to conceptualize and implement coastal protection programs in 21 priority sites.
- ◆ Both DA and DENR are involved in the establishment of marine protected areas; the former historically assuming such a function through the issuance of FAOs, and the latter through the more recent NIPAS program. With the devolution of management functions to local governments, the DA has been effectively stripped of its mandate to directly establish fish sanctuaries in municipal waters (but it is assumed it may still exercise this function outside municipal waters) and the DENR, on the other hand, is now faced with strong LGU pressure to cede to the concerned LGUs its authority to manage protected areas established within municipal waters.

Recognizing the involvement of a host of NGAs and NGOs in CRM implementation, current efforts in CRM prioritize

## Nature and Extent of Jurisdictional Problems



**TABLE 3-3.**  
**INSTITUTIONAL MANDATES AND**  
**FUNCTIONAL OVERLAPS IN**  
**COASTAL AREA MANAGEMENT**

| CRM CONCERNS/ACTIVITIES  | INSTITUTIONS MANDATED TO ADDRESS CONCERN(S)    |
|--|--|
| Policy formulation   | LGU, FARMC, NGA, DENR                          |
| Resource assessments: coastal marine                                       | DA-BFAR, DENR, PCAMRD<br>DA-BFAR, DENR, PCAMRD |
| Statistics gathering & compilation:<br>fisheries<br>mangroves<br>fishponds | DA-BAS<br>DENR<br>DA-BFAR                      |
| Establishment of protected areas<br>LGU, DA-BFAR, DENR, Congress           |  |
| Mangrove reforestation   | LGU, DENR                                      |
| Fishery licensing: municipal waters<br>offshore waters                     | LGU<br>DA-BFAR                                 |
| Fishery law enforcement  | LGU-PNP, PCG, DA-BFAR, deputies                |
| Pollution law enforcement  | LGU, PCG, DENR                                 |
| Land use management  | LGU, DENR                                      |
| Tourism management   | LGU, DOT                                       |
| Reclamation  | DENR (LMB and EMB), PEA                        |
| Pollution monitoring, including marine waters                              | LGU, DENR-EMB, PCG                             |
| Establishment of municipal/fishing ports                                   | PFDA, PPA, LGU                                 |
| Research   | DA-BFAR, DA-BAR, DOTC-PCAMRD                   |



the following considerations:

- ◆ Defining LGU roles in coastal area management
- ◆ Strengthening LGU capability in CRM
- ◆ Building multi-participatory approaches into an integrated CRM framework

The government recognizes the roles of NGOs and POs in catalyzing development in the rural areas, particularly in securing the people's participation in the decision-making process and amplifying the community's role in environmental protection. Most of the more than 17,000 NGOs listed with the Securities and Exchange Commission have evolved in the pursuit of institutional strengthening of local governments, provision of social services, and policy advocacy. Their operations are normally characterized by special goals on (1) social reforms, (2) participatory management, (3) community development for alternative livelihood and empowerment, and (4) basic services delivery. NEDA encourages NGAs to involve NGOs in development projects, in recognition of the fact that NGOs can better deliver to communities front-line services which a government agency is normally constrained to accomplish. The LGC also encourages LGUs to involve NGOs (Section 34 to 36).

### 3.4 ROLES OF NON-FORMAL INSTITUTIONS IN CRM

The FSP's involvement of 12 NGOs in its CRM program generated some important lessons:

- ◆ NGOs are most effective in CRM education, community organizing (CO) and advocacy work
- ◆ Local NGOs have practical knowledge of local needs and capabilities valuable to CRM
- ◆ Non-involvement of an LGU in the selection process for NGOs may give rise to animosity between the LGU and the NGO, with the former seeking to take over the work of the latter especially where a significant amount of financial package is involved in the CO contract
- ◆ Some flexibility should be allowed for the NGO to be able to participate in the planning stage for CO work
- ◆ It is advisable to have an NGO partner that has the capability to provide counterpart inputs to the CO work in government-funded projects

The jurisdictional problem arising from the legal environment is borne by conflicting laws or provisions, difficulty and variance in interpretation, and the multiplicity of institutions that are tasked to interpret and enforce such laws.

# 3

## Nature and Extent of Jurisdictional Problems



### 3.5 LEGAL FRAMEWORK FOR CRM

This section is a comprehensive review of the legal framework for CRM (see Annex 1 for a thematic classification and brief description of CRM-related laws). In the Philippines, there is no single legislation that explicitly covers CRM. Thus, the laws and AOs pertaining to CRM activities are based on our definition of the coastal zone and of the activities that occur there. The resources and activities identified in the coastal zone include: fisheries, aquaculture (pond and mariculture), coastal forestry, tourism, mining and quarrying, ports and harbor development, human settlements, and industrial development. Accordingly, the scope of legislation analyzed in these document refers to these resources and activities.

Legislation and related EOs do not conform to the sectoral disaggregation of coastal resources, and do not lend themselves to geographical scoping (Table 3-4). Nevertheless, issuances have been observed to reflect changes in management policies with concerns for environmental protection becoming nascent during the late 1980s (Figure 3-5).

Our analysis of the LGC focuses on two aspects: First, the basic features of the LGC are presented and its implications to CRM analyzed. The landmark features of the LGC include decentralization, autonomy, resource generation, and mobilization. Decentralization and autonomy changed the institutional set-up of CRM implementation (Figure 3-6) with major roles and responsibilities now emanating from the LGU. Thus, LGUs are assigned the delivery of basic services and facilities, jurisdiction over its resources, and the attendant regulatory and legislative functions. This feature can be used, advantageously or otherwise, to aggressively pursue local policies that support sustainable management. Resource generation and mobilization give the LGU greater power to manage its resources efficiently. However, the strategy for resource generation should not be mutually exclusive from a management plan, or it can encourage the pursuit of short-term gains and hasten resource destruction.

Secondly, the provisions of the code with respect to CRM are presented in relation to existing laws. The LGC, while providing the broad rubric for sustainable environmental management, should be used in conjunction with existing statutes and AOs which articulate the specific rules and regulations pertaining to resource use. The discussion focuses on the institution of local level legal regimes for CRM and highlights the desirable features of local ordinances in the context of national laws and the hierarchy therein.

#### GENERAL FEATURES OF THE LGC AND IMPLICATIONS ON CRM

The implementation of the Local Government Code of 1991 (LGC) is an event of major significance in local governance in the Philippines. It has tremendously enhanced the governmental and corporate powers of LGUs,



**TABLE 3-4.**  
**CLASSIFICATION OF CRM**  
**LEGISLATION ACCORDING TO**  
**GEOPHYSICAL ZONATION AND**  
**RESOURCE USE**

| ENVIRONMENTAL POLICY LEGISLATION | UPLAND   | COASTAL ZONE  | OFFSHORE |  |
|----------------------------------|--|---|----------|--|
|                                  | Philippine Constitution, Art II, Sec 15 & 16: The State shall protect and promote the right to health of the people; the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.  |   |          |  |
|                                  | Constitution, Art XII, Sec 2: 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.  |   |          |  |
|                                  | Constitution, Art. XIII, Sec 7: The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research...and other services.   |   |          |  |
|                                  | Constitution, Art XIII: The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged.  |   |          |  |
|                                  | PD 1151 (1977): The Philippine Environmental Policy: to create, develop, maintain and improve conditions under which man and nature can thrive in productive and enjoyable harmony   |   |          |  |
|                                  | RA 7160, Sec 3: The LGUs shall share with the national government the responsibility in the management and maintenance of ecological balance within their respective jurisdictions.  |   |          |  |
|                                  | RA 7160, Sec 16-17: Every LGU shall exercise the powers expressly granted, those implied therefrom, as well as the powers necessary, appropriate, or incidental for its efficient governance, and those which are essential for general welfare. Section 17 outlines LGU functions in the delivery of basic services relative to general welfare, including the protection of the environment. |   |          |  |
|                                  | RA 7160, Sec 447: The Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants, pursuant to Section 16 of the LGC.  |   |          |  |
|                                  | RA 7942. The Philippine Mining act of 1975. All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State.  |   |          |  |
|                                  |  | Commonwealth Act 141 (Public Land Act of 1936). Title III, Chapter IX: classification and concession of public lands suitable for residence, commerce and industry. Sec 59-68: rules governing lease of reclaimed, foreshore, and/or marshy public lands. |          |  |



## Nature and Extent of Jurisdictional Problems



**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**

|  | UPLAND  | COASTAL ZONE   | OFFSHORE   |
|--|---|--|--|
| <b>ENVIRONMENTAL POLICY LEGISLATION</b>        |   | Lands Administrative Order 8-3 (1936 as amended). Rules and regulations governing the issuance of temporary permits of occupation and use of non-mineral, non-timber public lands and of lands and real properties of the Commonwealth of the Philippines.         |  |
| <b>INSTITUTIONAL MANDATES AND JURISDICTION</b> | EO 192: The reorganization Act of the DENR, establishes mandate of the DENR to include the conservation, management and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservations and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources. |  |  |
|  | DAO 30, s1992. Guidelines for transfer and implementation of DENR functions devolved to LGUs.   | EO 292 (1987): Grants mandates both to DA and DENR over fisheries management. Title XIV states DENR's responsibilities for judicious management of fishery resources; Title IV tasks DA to promote the well-being of fishermen & accelerate fisheries development. |  |
|  |   | PD 704, Sec 4: Spells out jurisdiction of BFAR in the management, protection, utilization... of fishery resources in the country except in municipal waters which shall be under the jurisdiction of the municipal or city governments.                            |  |
|  |   | AO 114 : Constitutes the Presidential Committee on Illegal Fishing and Marine Conservation, vesting it with the authority to coordinate all efforts in the implementation of a national program for the conservation of marine and coastal resources.              |  |
|  |   | E.O. 117 (1993): Establishes the Inter-agency Task Force for Coastal Environment Protection.   |  |
|  |   | RA 6975. An Act establishing the PNP under a reorganized DILG.   |  |
|  |   | DA-DILG MOA (1994): Devolves to LGUs authority to grant licenses for fish cages, gathering of aquarium fishes, <i>kapis</i> & shelled mollusks, establishment of seaweed farms, ... establishes closed   | AO 201 (1995): Provides for the coordinative mechanism and funding for the implementation of the monitoring, control and surveillance system of the Philippines for the conservation |



| INSTITUTIONAL MANDATES AND JURISDICTION | UPLAND | COASTAL ZONE   | OFFSHORE   |
|---|--------|--|--|
|   |        | seasons.<br>DAO 46, s1994. Creation of PAMB.<br>DAO 42 s1994. Guidelines for entering into MOAs with other NGAs, NGOs, and private institutions for the development and management of protected areas.<br>PD 1084. Creation of the Public Estates Authority.     | and protection of renewable (marine) resources and designating the DA as the implementing agency for the MCS-CPRR system<br>PD 601. Assigns the Philippine |
|   |        | EO 240 (1995) Creates FARMCs in barangays, municipalities; defines their composition and functions.<br>RA 6975. An Act establishing the PNP under a reorganized DILG.<br>PD 601. Assigns the Philippine Coast Guard the task of marine environmental protection. | Coast Guard the task of marine environmental protection  |
|   |        | DA-DILG-DENR-DOJ Joint AO 2 (1996): Implementing rules and regulations of EO 240.<br>DA-DILG Joint AO 3 (1996): Implementing guidelines on granting of preferential treatment to small fisherfolk relative to 15-km municipal waters                             |  |
|   |        | PD No. 1015: The President may ban the operation of commercial and other fishing gear within a distance of 7 km from the shoreline upon the recommendation of the Secretary of Natural Resources.  |  |
|   |        | DAO 28, s1995. Composition and authority of PAMB Executive Committee.<br>DAO 45, s1994. Clarifying some provisions of RA 7568, including creation of PAMB.   |  |
|   |        | DAO 23, s1995. Implementing rules and regulations of RA 7942 otherwise known as the Philippine Mining Act; includes provisions on administrative functions, scope of application, quarry operations, mineral reservations and                                    |  |

**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**





**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**

|   | UPLAND   | COASTAL ZONE | OFFSHORE  |
|---|--|--------------|---|
| INSTITUTIONAL MANDATES AND JURISDICTION | environmental protection.  |              |   |
|   | DAO 46, s1994. Creation of the Protected Area Management Board (PAMB).   |              |   |
|   | RA 6810. An Act establishing the Magna Carta for countryside and barangay business enterprises, granting exemptions from any and all government regulations and other incentives and benefits therefor.                  |              |   |
|   | RA 6975 (1990). An act establishing the Philippine National Police ... (which) shall absorb the police functions of the Philippine Coast Guard.  |              |   |
|   | EO 252 (1979). Designates the Public Estates Authority as the agency primarily responsible for all reclamation projects.   |              |   |
|   | DAO 30, s1992. Guidelines for the transfer and implementation of DENR functions devolved to the local government units   |              |   |
|   | DAO 18, s1991. Rules and regulations governing the distribution of cancelled or expired FLAs under EO 407 as amended by EO 448; identifies responsibilities of BFAR and DAR with respect to cancelled or abandoned FLAs. |              |   |
|   | PD 1152: Title II (water quality management); Title IV, (conserving fishery resources).  |              |   |
|   | PD 704: Fisheries Decree of 1975; Sec 4 (jurisdiction); 31-32 (fish sanctuaries); 33-38 (prohibitions & penalties).  |              |   |
|   | PD 1599: Establishing the Philippine 200 mile EEZ.   |              |   |
| CAPTURE FISHERIES                       | FAO 3 (1935) : provides for conservation of <i>banak</i> ; regulates the construction of fish corrals (must be at least 200 m apart).  |              | PD 704, Sec16; 17; 20; 21 & 22: Prescribes rules & regulations on commercial fishing operations in the Philippines. |



| CAPTURE FISHERIES | UPLAND | COASTAL ZONE   | OFFSHORE  |
|-------------------|--------|--|---|
|                   |        | FAO 11 (1935): Regulations for the protection of marine mollusca.  | FAO 144 (1983): Other rules and regulations for commercial fishing: licensing, catch recording, etc.                              |
|                   |        | FAO 122 (1977) : Prohibits the use of <i>pantukos</i> (seine) used to catch <i>siliniasi</i>   | FAO 188 (1993): Prohibits the operation of tuna purse seine nets with mesh less than 3.5 inches.                                  |
|                   |        | RA 7160: Sec 131 (r): redefines municipal waters to include that portion of the sea within 15 km from the shoreline.                           | FAO 156 (1986): Prohibits commercial trawl and purse seine operations 7 km from shorelines.                                       |
|                   |        | RA 7160: Sec.149 (a): Vests authority on LGUs to grant fishery privileges, gather fry, impose fees/licenses to fishing vessels less than 3 GT. | FAO 163 (1986): Prohibiting operation of <i>muro-ami</i> in all Philippine waters   |
|                   |        | RA 7160, Sec 447 (a)(2)(xi): Vests authority on SBs to grant privileges for fish corrals, pens, gathering of fry.                              | LOI 1328: Prohibits operation of commercial trawl and purse seine in waters 7 km from the shorelines of all Philippine provinces. |
|                   |        | MNR AO 12 (1979). Regulations for the conservation of marine turtles in the Philippines.   | LOI 480 (1976): Bans commercial trawl & purse seine within 7 km from the shorelines of Leyte, Samar.                              |
|                   |        | DAO 55, s1991. Declares the <i>dugong</i> or Sea Cow as protected marine mammal in the Philippines.  |   |
|                   |        | FAO 157 (1986): Rules on gathering of <i>kapis</i> shells.   |   |
|                   |        | FAO 158 (1986): Prohibits gathering, selling... of mollusks belonging to genus <i>Triton</i> , <i>Charonia</i> and <i>Cassis</i> .             |   |

**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**





**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**

|                          | UPLAND | COASTAL ZONE  | OFFSHORE |
|--------------------------|--------|---|----------|
| <b>CAPTURE FISHERIES</b> |        | <p>FAO 164 (1987): Rules governing operation of <i>hulbot-hulbot</i> in the Philippines.</p> <p>FAO 168 (1990): Bans the collection of <i>T. gigas</i>, <i>T. desara</i>, and <i>Hippopus porcellanus</i>; sets licensing requirements for gathering of shelled molluscs.</p> |          |
|                          |        | <p>PD 1219 &amp; 1698 (1980): Provisions on exploitation and conservation of coral reef resources.</p>  |          |
|                          |        | <p>FAO 184 (1992): Guidelines for the experimental collection of precious and semi-precious corals.</p>   |          |
|                          |        | <p>FAO 185 (1993): Bans the taking, capture, sale, purchase, possession, and transport of dolphins.</p>   |          |
|                          |        | <p>FAO 185-1 (1997): Amends FAO 185 by adding whales and porpoises in the ban of taking, catching, selling, purchase...of dolphins.</p>   |          |
|                          |        | <p>FAO 129 (1980): Bans the capture, sale, and transport of dolphins.</p>   |          |
|                          |        | <p>FAO 155 (1988): Regulates the use of fine mesh nets.</p>   |          |
|                          |        | <p>FAO 190 (1994): Regulates <i>pa-aling</i> fishing and prohibits its operation in municipal waters.</p>   |          |
|                          |        | <p>LOI 550 (1977): Assigns the Secretary of Natural Resources to train barangay officials as fish wardens.</p>  |          |
|                          |        | <p>PD 1058 (1976): Increases penalties for illegal fishing as provided in PD</p>  |          |



|                   | UPLAND                                      | COASTAL ZONE   | OFFSHORE   |  |
|-------------------|---|--|--|--|
| CAPTURE FISHERIES |   | 704.<br>PD 704, Sec 42-44: Establishes the Fisheries Loan and Guarantee Fund & defines credit mechanism for fisheries.   |  |  |
|                   |   | DA-DILG Joint Administrative Order (April 4, 1996). Regulates the use of "superlights" in fishing.<br>DA-DILG Joint Administrative Order No. 3 (1996). Rules on preferential treatment for small fisherfolk. |  |  |
|                   | MANGROVE SWAMPS CONSERVATION AND MANAGEMENT |  | RA 7160: Chap. 3, sec. 389 (9); 391 (4); 444 no 3(vii); 447 no 1(vi), no. 2(vii), no 4(ii), (iii), (vi); no 5 (I), (ii), (iii),(vii), (viii); Sec 458.   |  |
|                   |   |  | PD 704: Fisheries decree of 1975, Sec 23 to 29 - coastal fishponds.  |  |
|                   |   |  | FAO No. 125: Rules governing the granting 25-year Fishpond Lease Agreements.   |  |
|                   |   |  | MNR AO No. 3: Lands classified for fishpond development shall not be alienable & disposable.<br>DAO 182, s1991. Rules governing the distribution of cancelled or expired FLAs.<br>DAO 3. Policies and guidelines for the award and administration of mangrove stewardship agreement. |  |
|                   |   |  | PD 705: Forestry Code, sec 13; 16; 33; 43: maintenance of swamplands & mangroves for shore protection.   |  |
|                   |   |  | RA 7160: Sec 20: Reclassification of lands.  |  |
|                   |   |  | DAO 15: Regulations governing the  |  |

**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**





**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**

|  | UPLAND                                   | COASTAL ZONE  | OFFSHORE |
|--|--|---|----------|
| <b>MANGROVE SWAMPS CONSERVATION AND MANAGEMENT</b> |  | utilization & management of mangrove resources, Sec 1-13.<br>MNR AO 42: Expansion of mangrove forest belt areas to 100 meters along shorelines of typhoon-prone areas.  |          |
|  |  | MNR AO 76: Establishment of buffer zones in coastal and estuarine areas.<br>PD 2152: Declaration of Palawan & certain areas as mangrove swamp forest reserves.  |          |
|  |  | DAO 3, s1991: Provides tenure over mangrove forest lands to qualified and deserving individuals for them to develop and maintain as permanent mangrove forests.<br>Joint DA-DENR General Memorandum Order No. 3, s1991. Guidelines for the cancellation and reversion of FLAs to mangrove forest lands.<br>DA-DAR Administrative Order 18, s1991. Guidelines governing redistribution of expired FLAs to agrarian reform beneficiaries. |          |
| <b>WASTE MANAGEMENT AND MARINE POLLUTION</b>       | PD 1152: Title III: Land Use Management. | RA 7161 (1991). Incorporating certain sections of the National Internal Revenue Code to PD 705 and among others, bans cutting of all mangrove species.  |          |
|  |  | PD 979 (1976): Prevention and control of marine pollution due to dumping of wastes; vests responsibility to formulate marine pollution policies on the EMB; authorizes PCG to enforce marine pollution laws; establishes a penalty schedule.  |          |
|  |  | RA 2056 & PD 256: Removal of obstructions in public navigable rivers.   |          |
|  |  | PD 984: Guidelines on waste and effluent management.  |          |



|                                       | UPLAND | COASTAL ZONE   | OFFSHORE |
|---------------------------------------|--------|--|----------|
| WASTE MANAGEMENT AND MARINE POLLUTION |        | PD 1067: The Water Code of the Philippines.  |          |
|                                       |        | PD 1586: Establishes an Environmental Impact Statement System.<br>DAO 35 : Establishes effluent standards. |          |
|                                       |        | PD 424: Creates a National Water Resources Council.  |          |
|                                       |        | DAO 29: Implements RA 6969: Hazardous Wastes Control Act.  |          |
|                                       |        | DAO 34: Classification and usage of water resources.   |          |
|                                       |        | PD 1152: Title II: water quality management; Title I: air quality management; Title V: waste management.   |          |
|                                       |        | PD 1152: Title IV (Natural Resources Management and Conservation; Title III: Land Use Management.          |          |
|                                       |        | PD 705: Revised Forestry Code of the Philippines. (1975).  |          |
|                                       |        | PD 463: Mineral Resources Development Decree of 1974.  |          |
|                                       |        | DAO 85, s1990. Mine waste and tailings fee.  |          |
| UPLAND FORESTS WATERSHED MANAGEMENT   |        | RA 3571: An act prohibiting the cutting of trees, plants in parks.   |          |
|                                       |        | Act 3572: An act prohibiting the cutting of certain tree species.  |          |
|                                       |        | RA 7160: Sec. 3; 16; 20; 447.1.a(vi), 5(l); 17.2; 444.3(vii).  |          |

**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**





**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**

|  | UPLAND   | COASTAL ZONE | OFFSHORE |
|--|--|--------------|----------|
| <b>UPLAND FORESTS AND WATERSHED MANAGEMENT</b> | <p>DAO 102: Lifts suspension on exploitation permits in forest reserves.</p> <p>E.O. 211: Prescribes the interim procedures in the processing and approval of applications for the exploration, development and utilization of minerals.</p>   |              |          |
| <b>PROTECTED AREAS AND MARINE RESERVES</b>     | <p>RA 7586: The NIPAS Act: Establishes the National Integrated Protected Areas System, defines 8 categories of protected areas, and provides guidelines for protection and management of areas under NIPAS categories.</p>   |              |          |
|  | <p>FAO 128 (1980): Establishes the Sumilon Island Fish Sanctuary.</p>  |              |          |
|  | <p>Proclamation 438: Declares Apo Island and its surrounding waters within the municipality of Zamboangita, Negros Oriental as protected seascape/landscape.</p> <p>DAO 3, s1993. Guidelines for the formulation of site-specific management plan for protected areas.</p> <p>DAO 35. Criteria and guidelines for the categorization of protected areas under the NIPAS.</p> |              |          |
|  | <p>Proclamation No. 592: Declares the Sagay, Negros Occidental marine reserve.</p>   |              |          |
|  | <p>DA General Memorandum Order No. 3, s1990: Prescribes guidelines for the establishment of marine sanctuaries and defines the criteria for site selection and management.</p>   |              |          |
|  | <p>Proclamation No. 431: Declares the</p>  |              |          |

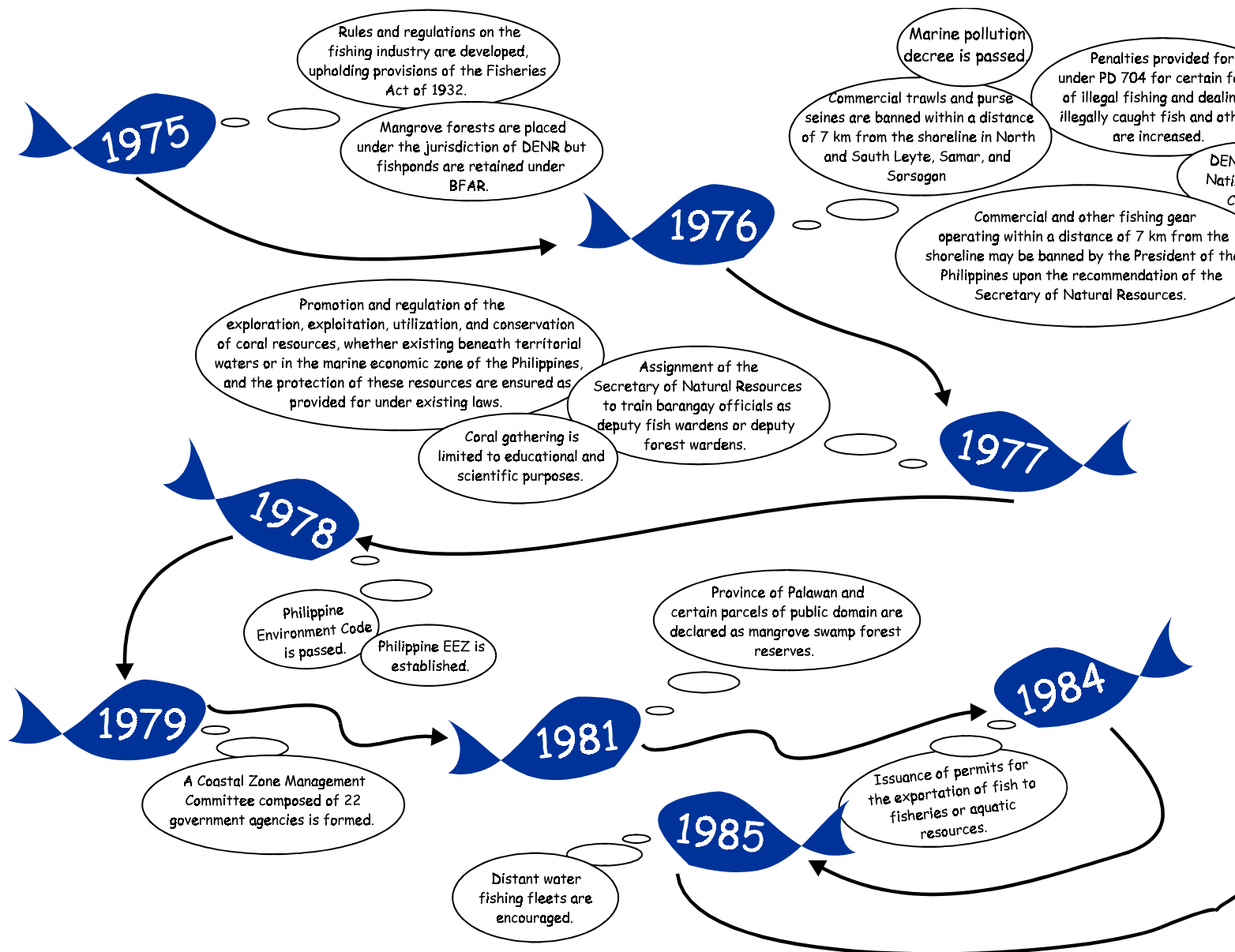


| PROTECTED AREAS AND MARINE RESERVES | UPLAND  | COASTAL ZONE  | OFFSHORE   |
|-------------------------------------|---|---|--|
|                                     |   | waters, islands of Pujada Bay as protected seascape/landscape (Mati, Davao Oriental).   |  |
|                                     |   | PD 2152: Declares the entire province of Palawan and certain parcels of the public domain and/or parts of the country as mangrove swamp forest reserves.<br>Proclamation No. 756: Establishes Sarangani Bay and a portion of the municipal waters of Maitum, Kiamba and Maasin, Sarangani Province as protected seascape. |  |
|                                     |   | AO 28 (1992): Guidelines for the issuance of permits for pebble-picking along beaches.<br>Various FAOs declaring fish sanctuaries in bays covered by the Fisheries Sector Program.  | PD 463 Sec. 10: All submerged lands beneath territorial waters are established as mineral reservation. |
|                                     | DAO 85 s1990: DENR imposes fees on mine tailings and wastes to compensate for damage to lands, agricultural crops, forest products, marine life, aquatic resources and the destruction of privately-owned infrastructure. |   |  |
|                                     | RA 7076. An Act creating a people's small-scale mining program.   |   |  |
|                                     | RA 7942. Philippine Mining Act of 1995. All mineral resources are owned by the State....  |   |  |
|                                     | PD 463. Mineral Resources Development Decree.   |   |  |
|                                     | PD 1586. Environmental Impact Statement System.   |   |  |

**TABLE 3-4. (CONTINUED)  
CLASSIFICATION OF CRM  
LEGISLATION ACCORDING TO  
GEOPHYSICAL ZONATION AND  
RESOURCE USE**



## Nature and Extent of Jurisdictional Problems



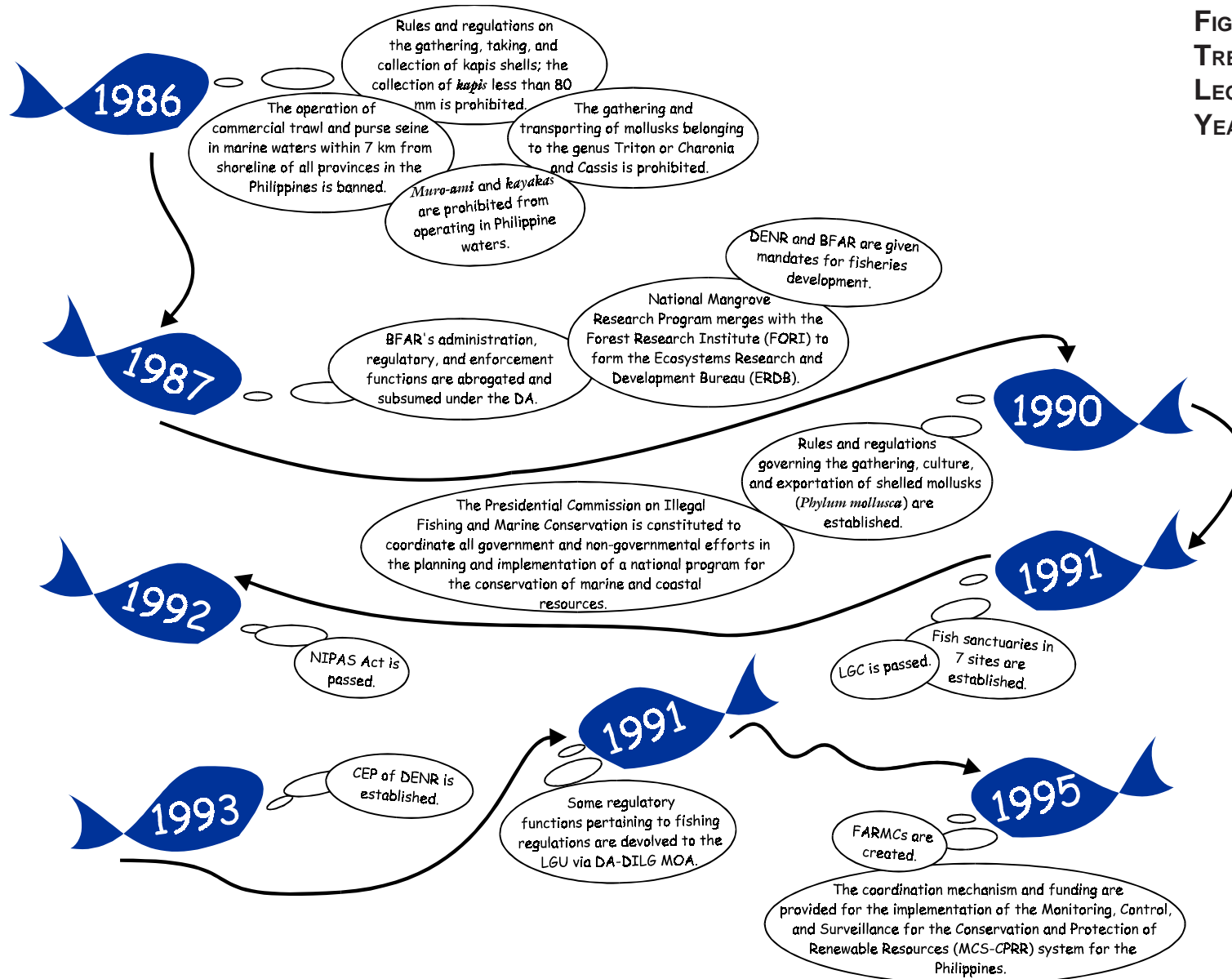


FIGURE 3-5. TRENDS IN CRM AS DEPICTED BY LEGISLATION IN THE LAST 20 YEARS

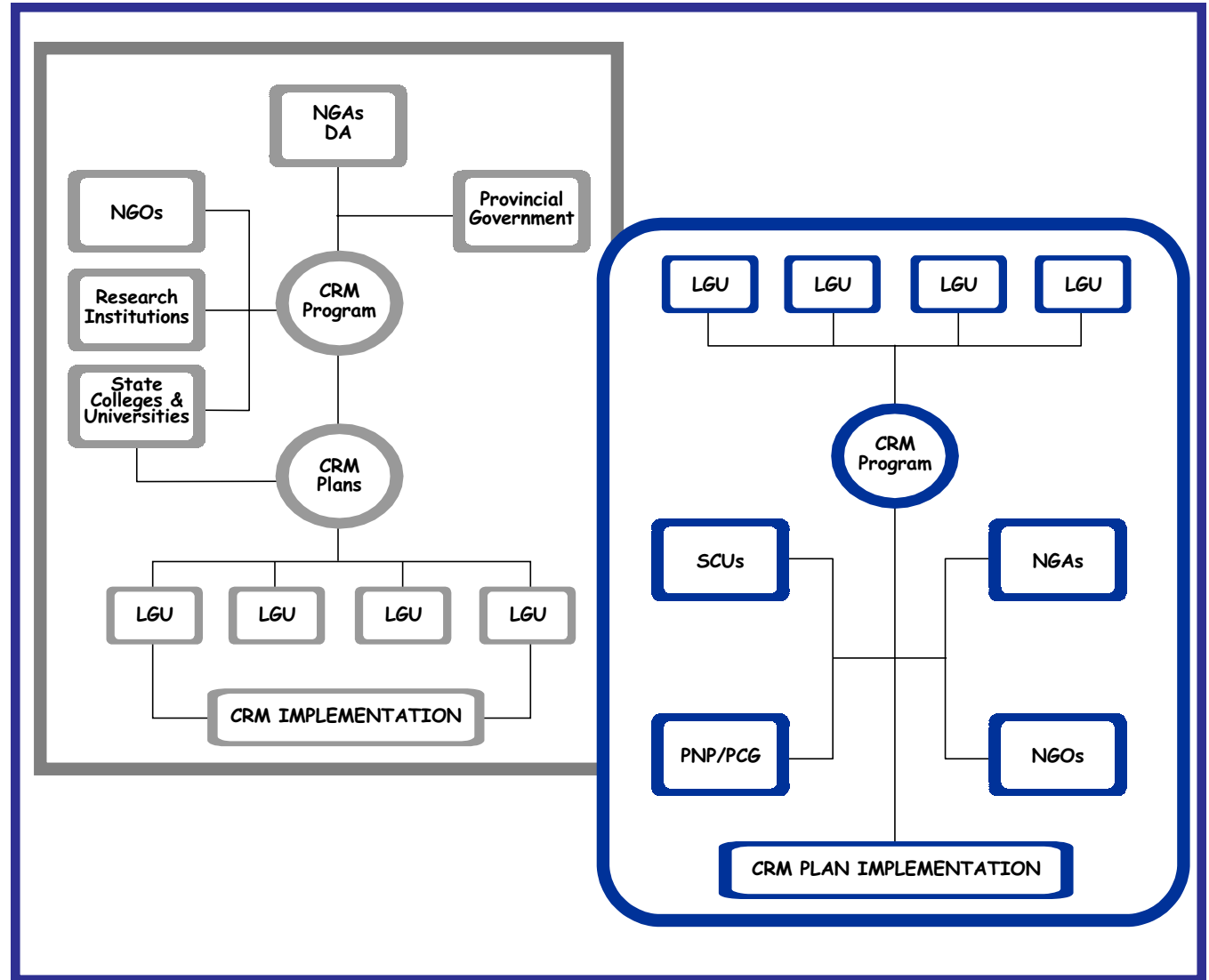


# 3

## Nature and Extent of Jurisdictional Problems



**FIGURE 3-6.**  
**BASIC CRM JURISDICTIONAL**  
**PROCESS BEFORE AND AFTER THE**  
**LGC**





specifically in two important aspects: political autonomy and decentralization, and resource generation and mobilization.

### SPECIFIC PROVISIONS ON DECENTRALIZATION AND AUTONOMY

In accordance with the 1987 Constitution (Article II, section 25; Article X, Sections 1, 2, and 15), LGUs now enjoy a greater measure of autonomy and self-governance. Congress's intent was for LGUs to possess "genuine and meaningful local autonomy" to accelerate their "fullest development as self-reliant communities and make them more effective partners in the attainment of national goals." (Article X, section 1, 1987 Constitution).

Autonomy refers to the power of LGUs to enjoy limited self-government as defined by law (Pimentel, *The LGC of 1991*, p. 14). The Constitution declares that local autonomy means "a more responsive and accountable local government structure instituted through a system of decentralization." Autonomy, however, is not meant to end the partnership and interdependence between the central government and LGUs; otherwise, it might usher in a regime of federalism which is not the intention of the Constitution. LGUs are subject to regulation, however limited, to enhance self-government.

Autonomy implies decentralization of administration or power. There is decentralization of administration when the central government delegates administrative powers to political subdivisions to broaden the base of government power. This makes LGUs: 1) more responsive and accountable and 2) more effective partners in the pursuit of national development and social progress (*Limbona v. Mangelin*, 70SCRA 786). Decentralization of power, on the other hand, involves an abdication of political power in favor of LGUs declared to be autonomous (*Limbona v. Mangelin*, supra). In this kind of decentralization, the autonomous government is free to chart its own destiny and shape its future with minimum intervention from central authority.

The extent and character of political decentralization is a debatable subject. Some sectors perceive a "managed" decentralization or a mere decentralization of administration and not of power owing to the fact that LGUs, specifically the provinces, highly urbanized cities and independent component cities are supervised by the President (LGC, Sec. 25). The LGC, furthermore, provides for a recall process for abusive officials even in the midst of their terms (Article X, section 3, 1987 Constitution). In *Hebron v. Reyes* (104 Phil. 175), the Supreme Court stated that "when the procedure for the suspension of an officer is specified by law, the same must be deemed mandatory and adhered to strictly in the absence of express or clear provision to the contrary". In another case, the Court ruled that the removal and suspension of public officers are always controlled by the

**Section 3(f)**  
"local government units may group themselves, consolidate or coordinate their efforts, services and resources for purposes commonly beneficial to them"

**Section 3(i)**  
"local government units shall share with the National government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction subject to the provisions of this code and national policies"

**Section 26**  
"duty of national government agencies in the maintenance of ecological balance — it shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, non-governmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof"

**Section 27**  
"prior consultations required — no project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2(c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained: Provided, that occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution"



**Sections 34**

“role of people’s and non-governmental organizations — local government units shall promote the establishment and operation of people’s and non-governmental organizations to become active partners in the pursuit of local autonomy.”

**Sections 33**

“cooperative undertakings among local government units — local government units may, through appropriate ordinances, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them. In support of such undertakings, the local government units involved may, upon approval by the sanggunian concerned after a public hearing conducted for the purpose, contribute funds, real estate, equipment, and other kinds of property and appoint or assign personnel under such terms and conditions as may be agreed upon by the participating local units through Memoranda of Agreement”

**Section 35**

“linkages with people’s and non-governmental organizations — local government units may enter into joint ventures and such other cooperative arrangements with people’s and non-governmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people”

**Section 36**

“assistance to people’s and non-governmental organizations — a local government unit may, through its local chief executive and with the concurrence of the sanggunian concerned, provide assistance, financial or otherwise, to such people’s and non-governmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction”

particular law applicable and its proper construction subject to constitutional limitations (Lacson v. Roque, 92 Phil. 456).

Yet, it may also be argued that the actual decentralization of powers is proven by the enumeration of functions devolved to LGUs at various levels, including that of legislation, which is unarguably, far from being merely administrative. Furthermore, the accountability of public officers to one central government does not derogate from the distribution of powers.

The DILG views decentralization as the transfer of power and authority from central to lower levels of a government system and takes any of three forms: deconcentration, devolution, and debureaucratization. Deconcentration is the transfer of power, authority or responsibility to plan, decide, and manage from the central to the local government. Deconcentration serves the purpose of devolution.

Devolution refers to the act of the National Government to transfer political and territorial powers to local government units, they being territorial and political subdivisions of the State. It includes the transfer of responsibility in the delivery of basic services, regulatory functions, expansion of financial base, and mandatory absorption of national agencies personnel.

Debureaucratization or privatization is the process of transferring some public functions and responsibilities to voluntary, private, or non-government organizations.

Genuine autonomy and self-reliance are possible only if LGUs are authorized to manage their resources and generate their own wealth. The LGC authorizes the LGUs to levy taxes, fees, and charges on real property, business, trade, natural resources such as sand, gravel, and other quarry resources. The LGUs can also levy professional, amusement, community, and franchise taxes, and collect fishery rentals, fees and charges as provided for under sections 135 to 142, 145 to 149 of the LGC.

Furthermore, the LGUs may impose reasonable fees and charges for services rendered and fix the rates for the operation of public utility owned, operated, and maintained by them within their jurisdiction and, likewise, fix the rates for the imposition of toll fees and charges for the use of any public road, pier, waterway, bridge,

*DILG’s view of decentralization: deconcentration, devolution and debureaucratization*

the rates for the operation of public utility owned, operated, and maintained by them within their jurisdiction and, likewise, fix the rates for the imposition of toll fees and charges for the use of any public road, pier, waterway, bridge,



ferry, or telecommunication system funded and constructed by the LGU concerned (sections 153 to 155).

Decentralization and autonomy virtually changed the institutional set-up of CRM implementation. The passage of the LGC effected a structural power shift that placed coastal local governments and cities at the forefront of sustainable resource management. Prior to the enactment of the Code, resource management programs and action plans typically originated from national government agencies, with the support of scientific and academic institutions that generated the technical information base for management strategies (Figure 3-6). These programs were then transmitted down to LGU “clienteles” who were tasked to participate in the implementation strategies.

Under the Code, the process has been reversed given the devolution of primary management responsibilities to the local government. The people’s participation in the planning stages at the local level has been amplified and now constitutes the foundation of CRM planning. Under this set-up, the NGAs, NGOs, and scientific institutions become partners of the LGU in refining their respective CRM plans and in the provision of specialists to support plan development and implementation.

Cooperative undertakings among LGUs augur well for integrated CRM. Usually, the effective management of resource systems such as fisheries and forests does not lend itself to rigid geo-political boundaries. Independent actions taken by LGUs on matters pertaining to resource management may therefore result in negative consequences, the end result of which is further resource degradation and economic losses. The integrated approach, borne by cooperation among LGUs, is expected to rationalize resource use and improve enforcement.

Decentralization and autonomy also afford the LGU flexibility in resource management and place them at the forefront of cases where nationally (and environmentally) critical projects (ECP) are proposed. Existing laws and AOs may be interpreted as limitations on the powers of LGUs; however, the mandate for consultations under Sections 26 and 27 of the LGC ensures that the opinions of the constituents of LGUs are articulated and addressed.

Consistent with greater fiscal autonomy, section 186 of the LGC provides that LGUs may exercise the power to levy taxes, fees, or charges on any base or subject not otherwise specifically enumerated in the Code. The objective is to enable the LGUs to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national development and social progress. The taxing authority of the LGUs thus includes the power to retain and to disburse revenues without undue interference from the national government. Fiscal autonomy is even more

### RESOURCE GENERATION AND MOBILIZATION

#### Section 3(d)

“the vesting of duty, responsibility, and accountability in local government unit shall be accompanied with provision for reasonably adequate resources to discharge their powers and effectively carry out their functions; hence, they shall have the power to create and broaden their own sources of revenue and the right to a just share in national taxes and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas.”

#### Section 129

“power to create sources of revenue — each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.”

#### Section 186

“power to levy other taxes, fees or charges — local government units may exercise the power to levy taxes, fees, or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, that the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, that the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for that purpose.”

#### Section 289

“share in the proceeds from the development and utilization of national wealth — local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.”



enhanced by encouraging the LGUs to group themselves, consolidate, or coordinate their efforts, services, and resources for purposes beneficial to them and to their constituents with minimum intervention from the central government.

The Code also provides that the LGU be entitled to a share derived from the utilization of its “wealth”. The urge to generate “wealth” from the use of natural resources as provided by Section 289, should be tempered with sustainable objectives and concerns for ecological imbalance.

#### LEGAL PARAMETERS FOR LOCAL LEVEL CRM

The LGC embodies a comprehensive legal regime for local-level management, including that of coastal resources, “*but it does not constitute a regime in and of itself*” (Abregana et al 1996). For the most part, specific guidance is needed to respond to questions pertaining to jurisdiction, type of municipal ordinance, conflicts and resolution of conflicts, and extent of devolution to local communities.

Legal parameters for local level CRM include national issuances and their hierarchies and rules on **predictability** (and its corollary, **consistency**) and **formality** (Abregana et al 1996) to which the local government is expected to conform. Specific guidance is provided by national laws on fisheries, mangrove forestry, mining and quarrying, and environmental protection which should be upheld by local governments. The national law may be merely enforced or local ordinances may be written — consistently — with the national law. This section critically analyzes the provisions of the LGC pertaining to CRM and complements these with related national issuances (Table 3-5). The hierarchy of issuances is also discussed to serve as guidance in local legislation and enforcement, and the norms of predictability and formality are presented.

The legal order follows a hierarchy in terms of one rule being superior to the other. The validity of the rule in the hierarchy is tested by the norm of whether or not it is contrary to a superior rule (Box 3-1).

**The Constitution is the fundamental law**, all other laws are derived from it. When the court declares a law to be inconsistent with the Constitution, the law shall be void and the Constitution shall govern (Art. 7, Civil Code). An unconstitutional act is not a law; it confers no right and imposes no duties; it imposes no protection; it creates no office; it is in legal contemplation inoperative, as though it has never been passed (Municipality of Malabang vs. Benito, 27 SCRA 533). Constitutional provisions related to the protection and conservation of the environment is reflected in Art II (Sec. 15 and 16) and Art XII (Sec. 2) (see Annex 1).



| The Code Says:  | Related Laws and Administrative Orders  |
|---|---|
| <p>A BARANGAY SHOULD PROVIDE “SERVICES AND FACILITIES RELATED TO GENERAL HYGIENE AND SANITATION, BEAUTIFICATION AND SOLID WASTE COLLECTION” (SEC. 17(B)(1)(III))</p>  | <p>RA 3931 - Pollution Control Law<br/>                     PD 825 - Penalize improper waste disposal<br/>                     PD 856 - Sanitation Code of the Philippines<br/>                     DAO 35 s1990 - Establishes effluent standards</p>   |
| <p>A MUNICIPALITY SHOULD PROVIDE “EXTENSION AND ON-SITE RESEARCH SERVICES AND FACILITIES RELATED TO AGRICULTURE AND FISHERY ACTIVITIES WHICH INCLUDE DISPERSAL OF LIVESTOCK, POULTRY, FINGERLINGS, AND OTHER SEEDING MATERIALS FOR AQUACULTURE; ...WATER AND SOIL RESOURCE UTILIZATION AND CONSERVATION PROJECTS; AND ENFORCEMENT OF FISHERY LAWS IN MUNICIPAL WATERS INCLUDING THE CONSERVATION OF MANGROVES (SEC. 17 (B)(2)(L))</p> <p>AND</p> <p>(A) MUNICIPALITIES SHALL HAVE THE EXCLUSIVE AUTHORITY TO GRANT FISHERY PRIVILEGES IN THE MUNICIPAL WATERS AND IMPOSE RENTALS, FEES OR CHARGES THEREFOR IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.</p> <p>(B) THE SANGGUNIANG BAYAN MAY:</p> <p>(1) GRANT FISHERY PRIVILEGES TO ERECT FISH CORRALS, OYSTER, MUSSEL OR OTHER AQUATIC BEDS OR BANGUS FRY AREAS, WITHIN A DEFINITE ZONE OF THE MUNICIPAL WATERS, AS DETERMINED BY IT: PROVIDED, HOWEVER, THAT DULY REGISTERED ORGANIZATIONS AND COOPERATIVES OF MARGINAL FISHERMEN SHALL HAVE THE PREFERENTIAL RIGHT TO SUCH FISHERY PRIVILEGES: PROVIDED, FINALLY, THAT IN THE ABSENCE OF SUCH ORGANIZATIONS AND COOPERATIVES OR THEIR FAILURE TO EXERCISE THEIR PREFERENTIAL RIGHT, OTHER PARTIES MAY PARTICIPATE IN THE PUBLIC BIDDING IN CONFORMITY WITH THE ABOVE CITED PROCEDURE.</p> | <p>PD 1067 - The Water Resources Code: conservation of fish and wildlife shall be coordinated with other features of water resources development</p> <p>PD 704 -The Fisheries Decree of 1975; specifically sections 17, 20 and 21 (commercial fishing boat licensing); sections 23-26 (fishpond lease); sections 31-38 - prohibitive acts in fishing and penalties therefor; sec 4-9 - Jurisdiction of the Bureau of Fisheries and Aquatic Resources; section 42-44 - establishing the Fisheries Loan and Guarantee Fund; except sections 2, 16 and 29 which were repealed by the LGC.</p> <p>RA 6541 - prohibition on electro-fishing.</p> <p>PD 1015 - President may ban commercial fishing within 7 km from the shorelines upon recommendation of Secretary of Natural Resources.</p> <p>PD 1219, as amended by PD 1198 - conservation of corals.</p> <p>LOI 1328 - bans operation of trawls and purse seine within 7 km from shorelines of all provinces</p> <p>PD 1058 - increases penalties for illegal fishing provided for in PD 704</p> <p>EO 116 - reorganizes the Department of Agriculture</p> <p>EO 240 (s1995) - creates FARMCS</p> <p>EO 1047 - encourages distant-water fishing</p> <p>EO 292 (s1987) - Administrative Code of 1987</p> <p>MNR AO 3 - lands suitable for fishponds to be placed under the administration of BFAR.</p> <p>MNR AO No. 12, s1979 - regulates the conservation of</p> |

**TABLE 3-5  
 COMPLEMENTARITY OF LGC PROVISIONS AND EXISTING LAWS ON CRM**





**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC**  
**PROVISIONS AND EXISTING LAWS**  
**ON CRM**

| The Code Says:  | Related Laws and Administrative Orders  |
|---|---|
|   | <p>marine turtles in the Philippines<br/>                     DAO No. 55, s1991 - declares the <i>dugong</i> or Sea Cow as protected marine mammal in the Philippines</p>   |
| <p>(2) GRANT THE PRIVILEGE TO GATHER, TAKE OR CATCH <i>BANGUS</i> FRY, PRAWN FRY OR <i>KAWAG-KAWAG</i> OR FRY OF OTHER FISH SPECIES FROM THE MUNICIPAL WATERS BY NETS, TRAPS OR OTHER FISHING GEAR TO MARGINAL FISHERMEN FREE OF ANY RENTAL, FEE, CHARGE OR ANY OTHER IMPOSITION WHATSOEVER.</p> <p>(3) ISSUE LICENSES FOR THE OPERATION OF FISHING VESSELS OF THREE (3) TONS OR LESS FOR WHICH PURPOSE THE SANGGUNIANG BAYAN SHALL PROMULGATE RULES AND REGULATIONS REGARDING THE ISSUANCES OF SUCH LICENSES TO QUALIFIED APPLICANTS UNDER EXISTING LAW:</p> <p>PROVIDED, HOWEVER, THAT THE SANGGUNIAN CONCERNED SHALL, BY APPROPRIATE ORDINANCE, PENALIZE THE USE OF EXPLOSIVES, NOXIOUS OR POISONOUS SUBSTANCES, ELECTRICITY, MURO-AMI, AND OTHER DELETERIOUS METHODS OF FISHING AND PRESCRIBE A CRIMINAL PENALTY THEREFOR IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE: PROVIDED, FINALLY, THAT THE SANGGUNIAN CONCERNED SHALL HAVE THE AUTHORITY TO PROSECUTE ANY VIOLATION OF THE PROVISIONS OF APPLICABLE FISHERY LAWS (SEC. 149).</p> | <p>FAO 3 - regulations for the conservation of <i>dalag</i>, <i>kanduli</i> and <i>banak</i></p> <p>FAO 11 - protection of marine mollusca</p> <p>FAO 82 - prohibits use of strong lights in Taal Lake</p> <p>FAO 122 - prohibits the use of <i>pantukos</i></p> <p>FAO 125 - rules on granting of 25 -year FLAs.</p> <p>FAO 127 - prohibits use of motorized push nets in Lakes Bato and Buhi</p> <p>FAO 129 - bans capture, possession, etc. of <i>Sabalo</i></p> <p>FAO 144 - rules and regulations on commercial fishing.</p> <p>FAO 146 - rules on the gathering and farming of seaweeds;</p> <p>FAO 148 - rules on gathering of tropical aquarium fish.</p> <p>FAO 155 - regulates use of fine mesh nets in fishing</p> <p>FAO 156 - prohibits trawl and purse seine fishing within 7 km from shorelines.</p> <p>FAO 157 - licensing requirements for gathering of <i>kapis</i> shells.</p> <p>FAO 158 - prohibits gathering of molluscs belonging to genus <i>Triton</i>, <i>Charonia</i>, <i>Cassis</i></p> <p>FAO 160 - rules governing the establishment of fish cages and pens.</p> <p>FAO 161 - rules governing issuance of lease for pearl culture.</p> <p>FAO 163 - prohibits <i>muro-ami</i> and <i>kayakas</i> fishing in all Philippine waters</p> <p>FAO 164 - restrictions on the operation of <i>bulbot-bulbot</i> in Philippine waters</p> |



| The Code Says: | Related Laws and Administrative Orders   |
|----------------|--|
|                | FAO 167 - establishes a closed season of 5 years for conservation of sardines in the Visayan Sea   |
|                | FAO 168 - licensing requirements for gathering or culturing of shelled molluscs;   |
|                | FAO 170 - prohibits the operation of <i>sudsod</i> in Panguil Bay  |
|                | FAO 173 - bans exportation of <i>bangus</i> fry  |
|                | FAO 184 - guidelines for experimental collection of corals   |
|                | FAO 185 - ban on capture of dolphins   |
|                | FAO 185-1 - amends Section 1 and 2 of FAO 185 by adding whales and porpoises in the ban on the taking, catching, selling, purchasing, and possessing of dolphins |
|                | FAO 188 - prohibits operation of tuna purse seine nets with mesh size less than 3.5 cm.  |
|                | FAO 190 - prohibits <i>pa-aling</i> fishing in municipal waters  |
|                | FAO 192 - strengthens fish quarantine system in the Philippines  |
|                | DA-DILG Joint MOA, April, 1994 - devolution of more fishery functions to the LGUs.   |
|                | DA-DILG Joint Administrative Order No. 3 - rules on preferential treatment to small fisherfolk.  |
|                | DA-DILG-DENR-DOJ Joint Memorandum Order No. 2 - guidelines on implementation of EO 240   |
|                | JOINT DA-DILG Administrative Order No. 4 - regulation on the Utilization of Superlights for Fishing Purposes series of 1996.                                     |
|                | DAO 15 - establishment and management of mangrove plantations  |
|                | DAO 30, s1992- guidelines for transfer and implementation of DENR functions devolved to LGUs   |
|                | DAO 30, s1994 - guidelines for NGO-assisted community-based mangrove forest management   |

**TABLE 3-5(CONTINUED)  
COMPLEMENTARITY OF LGC  
PROVISIONS AND EXISTING LAWS  
ON CRM**



# 3

## Nature and Extent of Jurisdictional Problems



**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC**  
**PROVISIONS AND EXISTING LAWS**  
**ON CRM**

| The Code Says:  | Related Laws and Administrative Orders   |
|---|--|
| <p><i>A MUNICIPALITY SHOULD “PURSUANT TO NATIONAL POLICIES AND SUBJECT TO THE SUPERVISION, CONTROL AND REVIEW OF THE DENR, IMPLEMENT COMMUNITY-BASED FORESTRY PROJECTS WHICH INCLUDE INTEGRATED SOCIAL FORESTRY PROGRAMS AND SIMILAR PROJECTS; MANAGE AND CONTROL COMMUNAL FORESTS WITH AN AREA NOT EXCEEDING (50) SQUARE KILOMETERS; ESTABLISH TREE PARKS, GREENBELTS, AND SIMILAR FOREST DEVELOPMENT PROJECTS” SEC. 17 B(2) (ii).</i></p> | <p>RA 7161 - amendments to National Internal Revenue Code of 1977; bans cutting of all mangrove species</p> <p>RA 7881 - amendments to RA 6657, CARL, pertaining to coverage of fishponds</p> <p>RA 7586 - NIPAS act</p> <p>DAO 25, s1992 - IRR of the NIPAS act</p> <p>PD 705 - mangroves and swamplands needed for coastal protection; such areas are not to be alienated (Sec. 16 &amp; 43); identifies river banks, easements, deltas, etc. as reforestable areas (Sec. 33); mangroves suitable for FLAs (Sec.13 &amp; 38).</p> <p>EO 292 - Administrative Code of 1987</p> <p>EO 192 - reorganization of the DENR</p> <p>DAO 3 - policies on mangrove stewardship agreements</p> <p>DAO 4, s1990 - water usage/quality classification</p> <p>DAO 7 - suspends of acceptance of prospecting permits in reservations</p> <p>DAO 13 - regulations on the establishment of buffer zones within forest lands</p> <p>DAO 15 - regulations governing management of mangroves</p> <p>DAO 19 - creates the CEP program</p> <p>DAO 28, s1993 - establishes the CEP Office</p> <p>DAO 30, s1992 - Guidelines for the transfer and implementation of DENR functions devolved to local government units</p> <p>DAO 30, s1994 - implementing guidelines for NGO-assisted community-based mangrove forest management</p> |





| The Code Says:   | Related Laws and Administrative Orders   |
|--|--|
|  | <p>(CBMFM) for the DENR</p> <p>DAO 34, s1991 - guidelines for issuance of environmental compliance certificate for fishpond development</p> <p>DAO 76 - establishment of buffer zones in coastal and estuarine mangrove areas</p> <p>DENR Memo Circular No. 19 s1993 - establishes the Coastal Environment Program (CEP)</p> <p>MNR AO No. 3 - transfers lands suitable for fishponds to BFAR administration</p> <p>MNR AO No. 42 - expansion of mangrove buffer zones in typhoon prone areas</p> <p>JOINT DAR-DA Administrative Order No. 18 - rules and guidelines governing the distribution of cancelled or expired FLAs under E.O. 407 as amended by E.O. 448</p> <p>JOINT DA-DENR General Memorandum Order No. 3 - guidelines on the Implementation of Section 24, paragraphs 2 and 3, of PD 704 as amended, and Section 43 paragraph 3, of PD 705 as amended s1991.</p> |
| <p><i>A MUNICIPALITY SHOULD PROVIDE "SOLID WASTE DISPOSAL SYSTEM OR ENVIRONMENTAL MANAGEMENT SYSTEM AND SERVICES OR FACILITIES RELATED TO GENERAL HYGIENE AND SANITATION"</i><br/>(<u>SEC. 17 B(2) (vi)</u>)</p> | <p>RA 6969 - Toxic and hazardous waste act</p> <p>RA 6810 - establishes countryside and barangay business establishments</p> <p>PD 856 - Sanitation Code of the Philippines</p> <p>PD 1067 - Water Code of the Philippines</p> <p>PD 1152 - Philippine Environment Code, Title II -water quality</p> <p>PD 1586 - establishes the EIA system</p>   |

**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC**  
**PROVISIONS AND EXISTING LAWS**  
**ON CRM**





**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC**  
**PROVISIONS AND EXISTING LAWS**  
**ON CRM**

| The Code Says:  | Related Laws and Administrative Orders   |
|---|--|
|   | <p>DAO 96-37 - revising DAO 21, s1992, to further strengthen the EIS system</p> <p>PD 979 - Marine Pollution Decree</p> <p>PD 825 - penalizes improper waste disposal</p> <p>DAO 35, s1990 - revised effluent regulations of 1990</p> <p>DAO 34, s1990 - revised water usage and classification/water quality criteria</p> <p>DAO 30, s1992 - Guidelines for the transfer and implementation of DENR functions devolved to local government units</p>  |
| <p><i>A MUNICIPALITY SHOULD PROVIDE "INFRASTRUCTURE FACILITIES INTENDED PRIMARILY TO SERVICE THE NEEDS OF THE RESIDENTS OF THE MUNICIPALITY AND WHICH ARE FUNDED OUT OF MUNICIPAL FUNDS INCLUDING, BUT NOT LIMITED TO, ... FISH PORTS; SEA-WALLS, DIKES, DRAINAGE AND SEWERAGE AND FLOOD CONTROL" (SEC. 17 B(2) (VIII))</i></p> <p><i>AND</i></p> <p><i>A PROVINCE SHOULD PROVIDE "INFRASTRUCTURE FACILITIES FUNDED OUT OF PROVINCIAL FUNDS INCLUDING....INTER-MUNICIPAL WATERWORKS, DRAINAGE AND SEWERAGE, FLOOD CONTROL,...RECLAMATION PROJECTS" (SEC. 17(B)(3)(VII))</i></p> | <p>PD 857 - designates the Philippine Ports Authority to oversee and manage ports</p> <p>PD 256 - the Secretary of Public Works and Highways may hear complaints pertaining to obstruction of waterways</p> <p>DAO 30, 1992 - Guidelines for the transfer and implementation of DENR functions devolved to local government units (series on devolved land management functions)</p> <p>DAO 96-37 - revising DAO 21, s1992, to further strengthen the EIS system</p> <p>PD 1084, EO 252 (1979) -creates the Public Estates Authority and designates it as the primary agency responsible for all reclamation projects</p> <p>MNR AO 76 - establishes buffer zones in coastal and estuarine mangrove areas</p> <p>Commonwealth Act 141 (The Public Land Act of 1936) - classification and concession of public lands suitable for residence, commerce and industry; rules governing sale or lease of reclaimed, foreshore, and/or marshy public lands</p> |



| The Code Says:   | Related Laws and Administrative Orders  |
|--|---|
| <p><i>A MUNICIPALITY SHOULD PROVIDE</i> "TOURISM FACILITIES AND OTHER TOURIST ATTRACTIONS, INCLUDING EQUIPMENT, REGULATION AND SUPERVISION OF BUSINESS CONCESSIONS, AND SECURITY SERVICES FOR SUCH FACILITIES" (<u>SEC. 17 B(2) (xi)</u>)</p> <p>AND</p> <p>(xii) TOURISM DEVELOPMENT AND PROMOTION PROGRAMS (<u>SEC. 17(B)(3)(xii)</u>)</p> | <p>PD 564 - the Philippine Tourism Authority Charter, which tasks this Agency to administer and regulate our tourist zone and marine reserves</p> <p>RA 7586 - NIPAS Act</p> <p>PD 1586 - establishes the EIS system</p> <p>DAO 96-37 - revises DAO 21, s1992, to further strengthen the EIS system</p> <p>DAO 08, s1991 - guidelines on the issuance of ECC for the conversion of agricultural lands to non-agricultural uses</p> <p>MNR AO 76 &amp; DAO 76, s1987 - establishment of buffer zones in coastal and estuarine mangrove areas</p> <p>MNR AO 42 - expansion of forest belt areas in storm surge typhoon prone areas: mangrove forest belt areas expanded to 100 m strip inland along shorelines facing seas, oceans and other water bodies in specific provinces</p> <p>EO 525 (1979) - designates the PEA as the agency primarily responsible for all reclamation projects</p> <p>DENR Memo Circular No. 12 (sept. 1991) - policy on the issuances of licenses, leases, and permits covering islands with areas less than 50,000 has.</p> <p>Lans General Circular No. 58 (1979) - directing District Land Officers to collect occupation fees on foreshore, marshy, reclaimed, and other government lands occupied by any person without authority or permit</p> <p>DAO 34, s1990 - revised water usage and classification standards/water quality criteria for tourist areas</p> <p>Commonwealth Act 141 (1936) - rules governing sale or lease of reclaimed, foreshore and/or marshy public lands</p> <p>PD 1067 - The Water Code of the Philippines: Article 51 states that use of the banks of rivers, lakes, streams and ponds, throughout their entire length and within a</p> |

**TABLE 3-6 (CONTINUED)  
COMPLEMENTARITY OF LGC  
PROVISIONS AND EXISTING LAWS  
ON CRM**





**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC**  
**PROVISIONS AND EXISTING LAWS**  
**ON CRM**

| The Code Says:   | Related Laws and Administrative Orders  |
|--|---|
|  | <p>distance of 3 m in urban areas, 20 m in agricultural areas, and 40 m along forest areas along their margins are subject to public easement where building of structures of any kind is prohibited</p>  |
| <p><i>A PROVINCE SHOULD PROVIDE "AGRICULTURAL EXTENSION AND ON-SITE RESEARCH SERVICES AND FACILITIES WHICH INCLUDE THE ..... ORGANIZATION OF FARMERS AND FISHERS COOPERATIVES AND OTHER COLLECTIVE ORGANIZATIONS, AS WELL AS TRANSFER OF APPROPRIATE TECHNOLOGY" (SECTION 17(B)(3)(I))</i></p>   | <p>Joint Administrative Order No. 2 (DA-DILG-DENR-DOJ), implementing rules and regulations of EO No. 240 (FARMCs)<br/>                     EO 240. Creates FARMCs<br/>                     RA 7586 - NIPAS Act; organization of PAMBs<br/>                     DAO 30, s1992- guidelines for the transfer and implementation of DENR functions devolved to LGUs<br/>                     Joint DA-DILG AO No. 3 - implementing guidelines for granting of preferential treatment to small fisherfolk relative to the 15 km municipal waters</p>   |
| <p><i>A PROVINCE SHOULD "PURSUANT TO NATIONAL POLICIES AND SUBJECT TO SUPERVISION, CONTROL AND REVIEW OF THE DENR, ENFORCE FORESTRY LAWS LIMITED TO COMMUNITY-BASED FORESTRY PROJECTS, POLLUTION CONTROL LAW, SMALL-SCALE MINING LAW AND OTHER LAWS ON THE PROTECTION OF THE ENVIRONMENT; AND IMPLEMENT MINI-HYDRO ELECTRIC PROJECTS FOR LOCAL PURPOSES" (SECTION 17(B)(3)(III))</i></p> <p><i>AND</i></p> <p><i>"THE PROVINCE MAY LEVY AND COLLECT NOT MORE THAN 10% OF THE FAIR MARKET VALUE IN THE LOCALITY PER CUBIC METER OF ORDINARY STONES, SAND, GRAVEL, EARTH, EXTRACTED FROM PUBLIC LANDS OR FROM THE BEDS OF SEAS, LAKES, RIVERS, STREAMS, CREEKS; PERMIT TO QUARRY SHALL BE ISSUED BY THE PROV. GOVERNOR" (SEC. 130)</i></p> | <p>RA 7942 - the Philippine Mining Act of 1995<br/>                     RA 7076 - creates a people's small-scale mining program<br/>                     RA 6810 - provides for the establishment of countryside and barangay businesses<br/>                     RA 7586 - NIPAS Act; prohibits mining in protected areas<br/>                     RA 6969 - Toxic and hazardous waste act<br/>                     PD 463, as amended by PD 1385 and PD 1677 - mineral resources development decree of 1974<br/>                     PD 1152 - the Philippine Environment Code<br/>                     PD 1067 - The water code of the Philippines, article 77 - mine tailings shall not be dumped into rivers and waterways<br/>                     PD 1198 - requires the rehabilitation of areas to their original condition</p> |



| The Code Says:   | Related Laws and Administrative Orders  |
|--|---|
|  | <p>PD 1586 - establishes EIS system</p> <p>DAO 82, s1992 - guidelines for issuance of permits for pebble picking along beaches</p> <p>DAO 23, s1995 - implementing rules and regulations for RA 7942, otherwise known as the Philippine Mining Act of 1995</p> <p>DAO 85, s1990 - imposes fees on mine tailings</p> <p>DAO 30, s1992 - guidelines for the transfer and implementation of DENR functions devolved to local government units</p> <p>DAO 96-37 - revising DAO 21, s1992, to further strengthen the EIS system</p> <p>DAO 85, s1990 - establishes mine wastes and tailing fees</p> <p>DAO 28, s1992 - guidelines for issuance of permits for pebble picking along beaches</p> <p>DAO 35, s1990 - establishes effluent standards</p> |
| <p><i>THE PUNONG BARANGAY SHALL</i> (1) ENFORCE ALL LAWS AND ORDINANCES WHICH ARE APPLICABLE WITHIN THE BARANGAY (2) ENFORCE LAWS AND REGULATIONS RELATING TO POLLUTION CONTROL AND PROTECTION OF THE ENVIRONMENT (<u>SECTION 389</u>)</p> <p><i>THE MUNICIPAL MAYOR SHALL</i> ENFORCE ALL LAWS AND ORDINANCES RELATIVE TO THE GOVERNANCE OF THE MUNICIPALITY... AND SHALL ISSUE SUCH EXECUTIVE ORDERS AS ARE NECESSARY FOR THE PROPER ENFORCEMENT AND EXECUTION OF LAWS AND ORDINANCES. (<u>SECTION 444(B) (2) (III)</u>)</p> <p><i>THE PROVINCIAL GOVERNOR SHALL</i> ENFORCE ALL LAWS AND ORDINANCES RELATIVE TO THE GOVERNANCE OF THE PROVINCE, AND SHALL ENSURE THAT THE ACTS OF COMPONENT CITIES AND MUNICIPALITIES</p> | <p>RA 5173 - creates the Philippine Coast Guard and tasks it to implement laws within Philippine waters</p> <p>RA 6975 - creates the Maritime Police Unit and tasks it to perform all police functions over Philippine territorial waters and rivers</p> <p>PD 1160 (1977) - the barangay captain, councilman, zone chairman are deputized as peace officers, with authority to arrest violators of rules and regulations governing pollution control</p> <p>PD 825 (1975) - the Secretary of Public Works, with assistance from health officials and the local government concerned, implements the law providing penalty for improper disposal of garbage and</p>   |

**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC PROVISIONS AND EXISTING LAWS ON CRM**



# 3

## Nature and Extent of Jurisdictional Problems



**TABLE 3-5 (CONTINUED)**  
**COMPLEMENTARITY OF LGC PROVISIONS AND EXISTING LAWS ON CRM**

| The Code Says:   | Related Laws and Administrative Orders   |
|--|--|
| <p>ARE WITHIN THE SCOPE OF THEIR POWERS; ISSUE EXECUTIVE ORDERS FOR THE FAITHFUL AND APPROPRIATE ENFORCEMENT AND EXECUTION OF LAWS AND ORDINANCES. THE MUNICIPAL MAYOR SHALL: ADOPT MEASURES TO SAFEGUARD AND CONSERVE LAND, MINERAL, MARINE, FOREST AND OTHER RESOURCES OF THE MUNICIPALITY (SECTION 444(B)(3)(VII); SECTION 465(B)(2)(I AND III); (B) (3) (V))</p> | <p>other forms of uncleanliness</p> <p>PD 600 (1974) - the Philippine Coast Guard has the primary responsibility to enforce laws, rules and regulations governing marine pollution</p> <p>PD 1058 - increases penalties provided for under PD 704 for certain forms of illegal fishing and dealing in illegally caught fish, etc</p> <p>PD 979 - Marine Pollution Decree; responsibility to enforce laws, rules and regulations governing marine pollution</p> <p>LOI 550 - directs the Secretary of Natural Resources to train barangay officials as deputy fish wardens and/or deputy forest wardens</p> <p>EO 114 - constitutes the Presidential Committee on Illegal Fishing and Marine Conservation</p> <p>EO 117 - establishes the Inter-Agency Task Force for Coastal Environment Protection</p> <p>AO 201 - provides for the coordination mechanism for monitoring, control and surveillance</p> <p>DAO 41, s1991 - guidelines governing the deputation of Environment and Natural Resources Officers</p> <p>DAO 03, s1995 - guidelines and criteria to be observed in selecting LGU, NGO and PO representatives to PAMB</p> <p>All subsisting Fisheries Administrative Orders (FAOs) issued by the BFAR</p> |



**Republic Acts or statutes, including international treaties ratified by Congress, which have the same force as statutes are categorized as primary issuances in this guidebook.** *Republic Acts (RA)* are laws passed by the Philippine Congress. However, presidential issuances (Executive Orders) during Martial Rule (legislative function was ensconced with the executive branch) as well as those exercised by President Corazon Aquino, also have the same force as statutes.

**International treaties which have been ratified by Congress** include the Law of the Sea, CITES, London Convention, Basel Convention and Montreal Protocol (Sec. 3.3.4).

**Executive Orders and department administrative orders (DAO) are enabled by primary issuances; they are categorized as secondary issuances in this guidebook.** Pursuant to a RA, a government agency is thereby ordered to develop Implementing Rules and Regulations (IRR) which then become a DAO. Again, administrative rules and regulations shall be valid only when they are not contrary to the laws or the Constitution (Article 7, Civil Code).

**Ordinances emanating from LGUs are subsidiary in nature and must, at all times, be consistent with the higher laws.** Ordinances issued by LGUs have no validity when they contradict either a statute or the Constitution (*Primicias vs. Municipality of Urdaneta, Pangasinan*, 93 SCRA 462). Ordinances also carry no validity when they contradict AOs that were written pursuant to a superior law. The rationale of the requirement that the ordinances should not contravene a statute is obvious. Local governments are only agents of the national government. Local councils exercise only delegated legislative powers conferred on them by Congress as the national lawmaking body (*Magtajas vs. Pryce Properties Corp., Inc* 234 SCRA 255). The LGC provides guidance on the hierarchy of issuances with respect to different levels of LGUs.

**The tests of a valid ordinance are well established and must conform to the following substantive requirements:**

- ◆ It must not contravene the Constitution or any statute
- ◆ It must not be unfair or oppressive
- ◆ It must not be partial or discriminatory

- ◆ Constitution
- ◆ Republic Acts and International treaties ratified by Philippine Congress
- ◆ Commonwealth Acts, Public Acts, Batas Pambansa
- ◆ Presidential Decrees issued during the Marcos era and Executive Orders of President Aquino
- ◆ Presidential Decrees and Executive Orders not included above; Letters of Instructions and Presidential Proclamations
- ◆ Administrative Orders
- ◆ Ordinances of local governments

### Box 3-1. TYPES OF ISSUANCES IN HIERARCHY OF IMPORTANCE

## Nature and Extent of Jurisdictional Problems



- ◆ It must not prohibit but may regulate trade
- ◆ It must be general and consistent with public policy
- ◆ It must not be unreasonable

**The superiority of laws and issuances is also determined by chronology with the latest issuance having more force than the previous one. But always, a statute is superior to an issuance or ordinance.**

**Judicial decisions, which are not classified as laws or administrative issuances, are also used as reference when applying or interpreting the laws or the Constitution.**

**Where issues have not been brought to court, the opinion of the Secretary of Justice is also considered and given high regard.**

The legal regime supporting local level management as suggested by Abregana et al (1996) should conform to the rules of **predictability** (and its corollary, **consistency**) and **formality**. The predictability feature ensures that local legal regimes are supportive of a set of objectives, such as sustainability of resource use, and that it is possible to measure success rate. In the same manner, individuals affected by said regime should be able to foresee the effects of compliance or non-compliance to their actions. Predictability and consistency are achieved when legal instruments can be applied to as wide an area as possible. These generic instruments are often lodged in the State or in a significant political unit and at times may traverse international boundaries. The LGC permits a consolidation of local level legal instruments to be applied in a certain zone, such as a bay management council, via its provision on cooperative undertakings. Resource management initiatives should consider this feature seriously because activities in contiguous and nearby LGUs may affect the condition of natural resources in another. Moreover, enforcement is facilitated when LGUs agree to implement complementary rules. The formality feature assigns to formal structures or instrumentalities of the state key tasks of resource management including: information gathering, promulgation of management measures, allocation decisions, and enforcement (Abregana et al 1996). This is articulated clearly in the LGC where specific units of government are assigned a variety of tasks relevant to CRM. The succeeding section deals with tasks that have been explicitly devolved by the LGC and related issuances.

### DEVOLVED CRM FUNCTIONS

This section outlines the functions which are expressly devolved by the LGC as supported by relevant national laws and AOs.



No other CRM activity is accorded emphasis in the Code more than the fishery sector. Section 149, fishery rentals and charges, provides for the granting of various types of fishing privileges by the municipal government. In addition, the DA-DILG MOA of April 1994 outlines fishery-related functions that have been devolved (Table 3-6).

For other CRM activities such as forestry, mining, land use, and environmental protection, the LGC provides for a “managed” scope of devolution. DAO 30, s1992 states that DENR remains the primary government agency responsible for the conservation, management, protection, development, and proper use of the country’s environment and natural resources within their territorial jurisdiction. Furthermore, the implementation of devolved functions as provided by the LGC shall be subject to the department’s supervision, control, and review. DAO 30 of the DENR articulates the functions pertaining to forest, land, protected areas and environmental management which have been devolved to the LGU. Said administrative order further specifies which functions have been retained by DENR.

The LGC also introduced substantial changes (not to mention, some degree of confusion) in the scope of existing national laws, in particular, PD 704, or the Fisheries Decree of 1975. These changes include:

- ◆ Section 131(r) expanded the scope of municipal waters to 15 km from the 3 nm (approximately 5.5 km) limit set out by PD 704 (Sec. 3). Interpreted in conjunction with Section 4 of PD 704, which excludes BFAR’s general jurisdiction over municipal waters, this provision effectively reduces the geographic scope of BFAR’s responsibility. While the applicability of national laws regulating the use of specific gears or vessels within the 7 km area cannot be denied, the legality of its use in expanded municipal waters (7.01 km to 15 km) is still in question.
- ◆ The Code (Sec. 534(e)) repeals Section 2, 16, and 29 of PD 704. Section 2 of PD 704 establishes the state policy towards fisheries, the highlights of which include:

*“accelerate and promote the integrated development of the fishery industry”*

*“keep the fishery resources of the country in optimum productive condition through proper conservation and protection”*

*“encourage and promote the exportation of fish and fishery/aquatic products to enable the fishery industry to contribute positively to the development and growth of the national economy”*

*“private sector is not just a privileged beneficiary but also an active participant and partner of the*



**TABLE 3-6.**  
**DEVOLVED CRM FUNCTIONS**  
**CLASSIFIED ACCORDING TO**  
**SECTOR AND ENABLING LAWS**

| DEVOLVED CRM FUNCTIONS  | ENABLING LAWS  |
|---|--|
| <b>1. FISHERIES</b>   |  |
| 1.1 Grant fishery privileges to erect fish corrals, oyster, mussel, or other aquatic beds, or <i>bangus</i> fry areas within a definite zone of municipal waters  | LGC sec. 149 (b) (1)<br>LGC sec. 149 (b) (2)                                     |
| 1.2 Grant privileges to gather, take or catch <i>bangus</i> fry, prawn fry or <i>kawag-kawag</i> or fry of other species from municipal waters to marginal fishermen free of charge...  | LGC sec. (b) (3)<br>LGC sec. 149 (b), sec. 17 (b) (2) (1)                        |
| 1.3 Issue licenses for operation of fishing vessels 3 GT or less  | LGC sec. 149 (b)   |
| 1.4 Penalize use of explosives, noxious or poisonous substances, electricity, <i>muro-ami</i> and other deleterious methods of fishing; enforcement of fishery laws in municipal waters   | LGC sec. 447 (a) (1) (vi)  |
| 1.5 Prosecute any violation of the provisions of applicable fishery laws  |  |
| 1.6 Enact ordinances for the protection of the marine environment and imposition of appropriate penalties for actions which endanger the environment such as dynamite fishing and other activities which result in...ecological imbalance   | LGC sec 447 (a) (5) (xii)<br>LGC sec 17 (20) (i)<br>DA-DILG MOA dated April 1994 |
| 1.7 Approve measures and adopt quarantine regulations to prevent the spread of diseases   |  |
| 1.8 Disperse fingerlings and other seeding materials for aquaculture  |  |
| 1.9 Issue permits to construct fish cages, gather aquarium fishes, gather <i>kapis</i> shells, gather/culture shelled mollusks; issue licenses to establish seaweed farms, establish cultured pearl farms; issue auxiliary invoice to transport fish; establishment of closed seasons | LGC sec 447 (a) (1) (vi)   |
| 1.10 Amicably settle boundary disputes between 2 or more municipalities within the same province, or involving municipalities or component cities of different provinces  | LGC sec 118  |
| <b>2. FORESTRY</b>  |  |
| 2.1 Ensure conservation of mangroves  | LGC sec 17 (2) (ii)  |
| 2.2 Protect the environment and impose appropriate penalties for acts which   |  |



| DEVOLVED CRM FUNCTIONS   | ENABLING LAWS  |
|--|--|
| <p>endanger the environment such as ...illegal logging and smuggling of logs, smuggling of natural resources products and endangered species of flora and fauna, slash-and-burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance</p>  | <p>LGC sec 17 (b)(2); sec 447 (a)(5)(i); DAO 30, s1992</p>   |
| <p>2.3 Provide for the establishment, maintenance, protection, and conservation of communal forests (with an area not exceeding 50 sq km) and watersheds, tree parks, greenbelts, mangroves, and implementation of other similar forest development projects, including: Integrated Social Forestry Projects, new regular reforestation projects, completed family and community-based contract reforestation projects, forest land management agreements, community forestry projects; subject to DENR guidelines</p> | <p>DAO 30, s1992; LGC sec 138</p> <p>LGC sec 17 (b) (3) (iii);<br/>DAO 30, s1992<br/>DAO 30, s1992</p> |
| <p>2.4 Enforcement of forestry laws in community-based forestry areas (province/city)</p>  |  |
| <p>3. MINING</p>   |  |
| <p>3.1 Issue permit and collect fees for <i>guano</i> collection and to extract sand, gravel and other quarry resources (provincial governor)</p>  | <p>LGC sec 447 (a) (2) (vii-ix);<br/>DAO 30, s1992</p>   |
| <p>3.2 Enforce small-scale mining laws, subject to policies of DENR (province/city)</p>  | <p>LGC sec 447 (a) (4)</p>   |
| <p>3.3 Verify and adjudicate conflicts over <i>guano</i> collection and sand, gravel and other quarry resources (province/city)</p>  | <p>LGC Sec. 17 (2) (vi); DAO 30, s1992</p>   |
| <p>4. LAND USE</p>   |  |
| <p>4.1 Adopt a comprehensive land use plan; reclassify land within jurisdiction of municipality; enact integrated zoning ordinances in consonance with approved comprehensive land use plan; conduct cadastral, special, and isolated surveys</p>  | <p>LGC sec.468 (a) (4) (i)</p> <p>DAO 30, s1992</p>  |

**TABLE 3-6. (CONTINUED)  
DEVOLVED CRM FUNCTIONS  
CLASSIFIED ACCORDING TO  
SECTOR AND ENABLING LAWS**





**TABLE 3-6. (CONTINUED)**  
**DEVOLVED CRM FUNCTIONS**  
**CLASSIFIED ACCORDING TO**  
**SECTOR AND ENABLING LAWS**

| DEVOLVED CRM FUNCTIONS   | ENABLING LAWS  |
|--|--|
| 4.2 Regulate activities relative to the use of land, buildings and structures within the municipality in order to promote the general welfare  | DAO 30, s1992<br>DAO 30, s1992   |
| <i>5. ENVIRONMENT</i>  |  |
| 5.1 Implement solid waste disposal system or environmental management system, and services or facilities related to general hygiene and sanitation   | LGC Sec. 447 (a) (1) (vi);<br>sec. 458 (a) (1) (vi); sec. 468 (a) (1) (vi) |
| 5.2 Enforce laws and regulations related to pollution control and protection of the environment (barangay)   |  |
| 5.3 Adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province, in consonance with approved standards on human settlements and environmental sanitation   |  |
| 5.4 Issue Environmental Clearance Certificate (ECC) for projects and businesses under Kalakalan 20   |  |
| 5.5 Adjudicate cases involving complaints against businesses under the Kalakalan 20  |  |
| 5.6 Implement cease-and-desist orders issued by the Pollution Adjudication Board   |  |
| 5.7 Approve ordinances and pass resolutions that will protect the environment and impose appropriate penalties for acts which endanger the environment, ...and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes or ecological imbalance |  |



*government in the conservation and development of the fishery resources of the country”*

- ◆ The LGC does not provide parallel positions on this repealing clause and it is unclear which of these aspects are repealed.
- ◆ Section 16 of PD 704 establishes the need for a license, lease, or permit for any fishery activity in Philippine or municipal waters. The LGC thus repeals this provision by assigning to the municipality the right to issue licenses, leases, or permits for the use of municipal waters.
- ◆ Section 29 of PD 704 states that a municipal or city ordinance relating to the granting of fishery privileges should be duly approved by the Secretary. This approval is rendered unnecessary by the LGC.

### INTERNATIONAL TREATIES

The Philippine Government has affirmed its commitment to support global efforts to protect the environment by participating in the formulation and signing of several international treaties on various aspects of environmental management. Among these are treaties that are relevant to CRM:

- ◆ International Convention for the Prevention of Pollution of the Sea by Oil, 1964
- ◆ Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter, 1973
- ◆ International Convention for the Prevention of Pollution from Ships, 1973
- ◆ Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES), 1981
- ◆ Montreal Protocol on Substances that Deplete the Ozone Layer, 1991
- ◆ Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention), 1993

In addition, and perhaps more importantly, the Philippines is signatory to global programs of actions that are not strictly treaties but are nonetheless more significant in the area of environmental management. These include:

## Nature and Extent of Jurisdictional Problems



- ◆ The Law of the Sea, 1994
- ◆ Agenda 21: Protection of the Oceans, All Kinds of Seas, Including Enclosed and Semi-Enclosed Seas, and Coastal Areas and The Protection, Rational Use and Development of Their Living Resources; UNCED, 1992
- ◆ Global Programme of Action for the Protection of the Marine Environment From Land-Based Activities, UNEP, 1995

These treaties have significant implications to resource management programs at the local level. The ratification of the Law of the Sea (LOS) has formally established the Philippine 200-mile Exclusive Economic Zone and substantially enlarged the country's maritime jurisdiction. However, under the LOS, the Philippines also committed to protect and preserve the marine environment through the adoption of appropriate measures, rules, and regulations.

In fact, some of these treaties have been implemented locally through the promulgation of complementary national laws. These include RA 6969 (Toxic Substances, Hazardous and Nuclear Wastes Control Act) which implements the country's commitments to the Basel Convention, PDs 602 and 979 for the prevention of marine pollution, and the Philippine Agenda 21 as the local blueprint for implementation of the provisions of UNCED's Agenda 21. It should be noted that CRM is one of the major strategic interventions being proposed under Agenda 21.

The treaty of greater significance as it involves the cooperation of local government authorities in its implementation is the CITES. CITES is a treaty between 130 nations which have agreed to control or prohibit trade in over 40,000 species of animals and plants, depending on the level of threat to their survival. The Parties to the treaty apply a system of permits and certificates which are issued when certain conditions are met and which have to be presented when consignments of specimens of species listed under the agreement leave or enter a country. Since the sources of these flora and fauna are directly within their jurisdiction, local governments are required to prevent the collection of, trafficking of, and trade in the species listed under CITES. The list includes 21 species of marine mammals (whales, dolphins, a species each of *dugong* and porpoise); 3 species of *reptilla* (seawater snakes); 2 species of *Arowana*; 1 species of giant catfish; 7 species of shelled mollusks (*Tridacna spp. and Hippopus spp.*); and at least 26 species of corals. The gathering of mollusks, which are protected under the CITES, is prohibited under FAO Nos. 158, 168, and 168-2. All corals, on the other hand, are protected under PD Nos. 1219 and 1689. The capture, sale, possession, transport, and purchase of dolphins are prohibited under FAO No. 185. FAOs are considered national laws whose implementation now lies within the responsibility of the LGUs.



The lack of information on the scope of LGU responsibilities can be seen as one stumbling block to proper and timely management. This section identifies major CRM issues and determines the jurisdictional authority of LGUs or NGAs in addressing these issues. Five major CRM issues are analyzed here: open access, habitat destruction, resource enhancement, law enforcement, and development activities. Each of these issues then becomes a nucleus branching out into various spokes which are minor clusters of issues or expansions of the mother issue, thus the term *Problem Network*. For example, there are several facets of the coastal law enforcement issue (the nucleus): apprehension, prosecution, and imposition of penalty (the spokes). Meanwhile, the spokes corresponding to the open access nucleus, such as licensing, lease agreements, and property rights, are actual resolution mechanisms. For the rest, the resolution is implicit as the network eventually branches out to specific elements. Conflict resolution is realized when the appropriate agency, whether the LGU or the NGA, acts upon it. Nevertheless, the first step is to ascertain responsibility — this is what this section strives to achieve.

The problem networks respond to three critical questions:

- 1) What is the major CRM issue to be addressed?
- 2) Who may address such issue?
- 3) What is the legal basis for this?

**What is open access?** An open access situation exists when the resource, usually state-owned or public property, is available for all to utilize. Any individual, or any number of individuals, have the right to use such resource without fear of present or future exclusion. Unless property regimes exist, a marine resource is often an open access resource. In the past, forests (including mangroves) were also open access resources; today, enough policies have been instituted to regulate their use.

**What happens to the resource when open access exists?** Resource degradation and dissipation of economic rent<sup>1</sup> are very often the end results of an open access situation. In a fishery, open access leads to a sub-optimal number of fishers chasing fewer and fewer fish. The increasing pressure to catch more fish is aggravated by the use of deleterious fishing gears, cyanide, and dynamite fishing, causing damage not just to the fish but also to the habitats that support them. The open access condition is worsened by the absence of alternative employment conditions in the other economic sectors. Meanwhile, economic rent dissipation occurs when there is overcapitalization and oversupply

## 4.1 OPEN ACCESS

<sup>1</sup> Net benefits accruing to society from resource use over and above opportunity costs.





of labor in the fishery resource.

*How is an open access situation managed?* The need to regulate becomes essential not just in determining the numbers of participants but also in the intensity of resource use. Several mechanisms are analyzed to respond to one or both of these problems. These include 1) issuance of license and permits; 2) taxation; 3) lease or rental fees; 4) restrictions; and 5) the assignment of property rights (Figures 4-1 to 4-6). Auxiliary invoices are issued for monitoring the flow and transport of fishery products; they do not have an exclusionary effect, except for those who are unwilling to pay the fee (based on volume of shipment). Nevertheless, invoices are lumped together with licenses and permits because of similarity in their design.

Access may also be limited to restricting resource use. Restrictions may be spatial, temporal, or technological in nature. Area restrictions prohibit certain types of activities within an area. For fishing, the area restriction is essentially the boundaries of municipal waters (as defined by law) and, within this zone, a demarcated fishing area. Temporal restrictions, such as closed seasons, have been used mainly to rejuvenate the resource. In most cases, a combination of restrictions (e.g., area and gear) is used. Gear and mesh size restrictions are analyzed within the framework of enforcement because the jurisdictional question is more acute.

The assignment of property rights confers on a particular aggrupation (which may theoretically include a private individual) the management and sometimes exclusive use of certain or entire fishing zones. FARMCs, as an institutionalization of fisherfolks' involvement in resource management, may be viewed as an "indirect" assignment of rights to manage municipal waters. A derivative of property rights is preferential treatment, which limits, to a certain extent, the participation of outsiders in a process. In both cases, the exclusion of individuals becomes possible and regulation can be developed by the resource stewards.

The problem network indicates that limitations on resource use, like the granting of licenses and permits for fisheries, are within the jurisdiction of the LGU. The LGC stresses the preferential treatment for cooperatives of marginal fishers (Sec. 149). The conferment of property rights to selected segments of communities was also realized by DENR when it developed its Mangrove Stewardship Agreement (DAO 3, s 1991). In the same manner, small-scale mining cooperatives covered by RA 7076 are given preferential right to apply for a small-scale mining agreement for a maximum aggregate area of 25% within declared mineral reservations (Section 22, DAO 23, s1991).

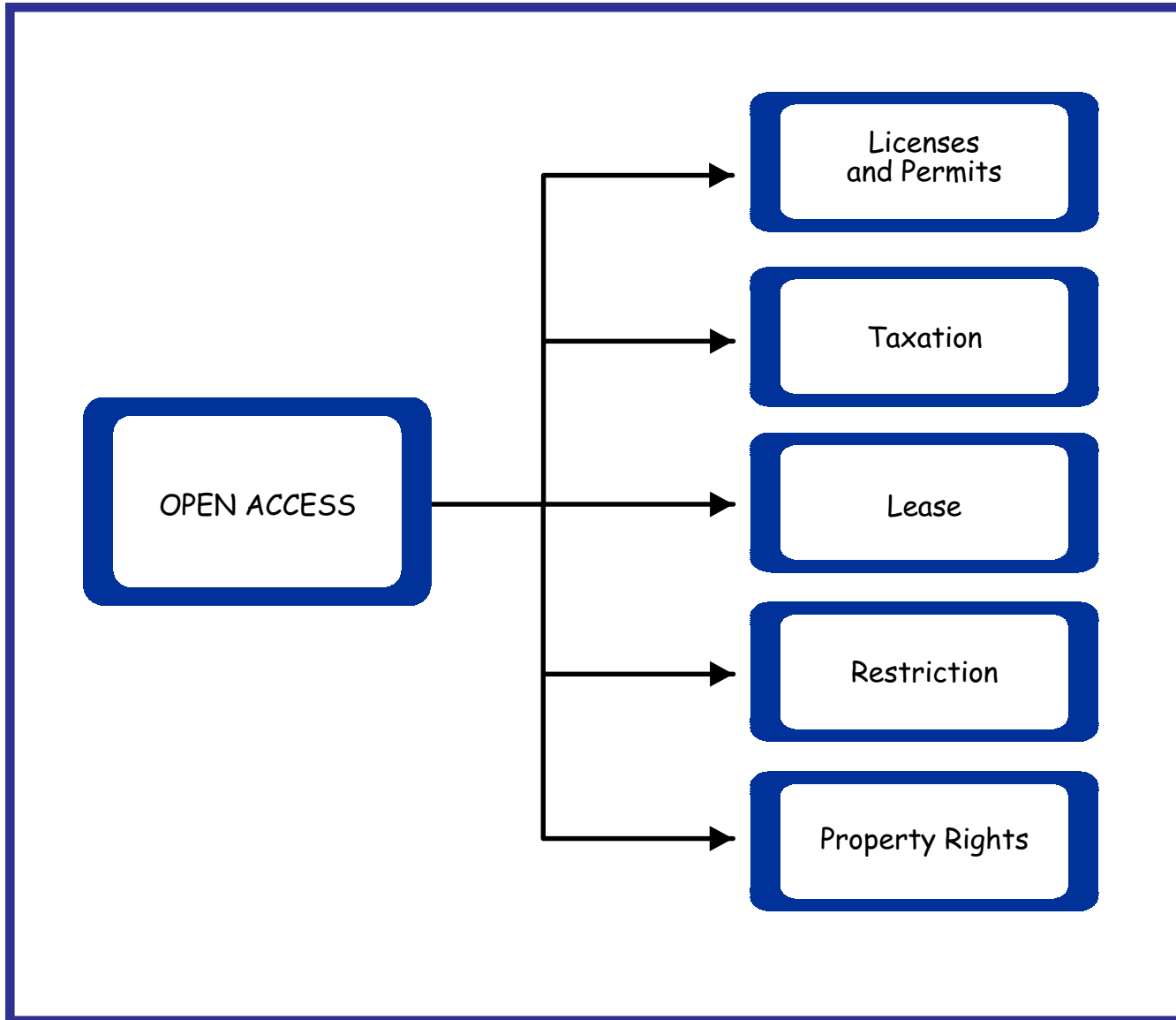


FIGURE 4-1.  
CRM PROBLEM NETWORK  
No. 1: OPEN ACCESS

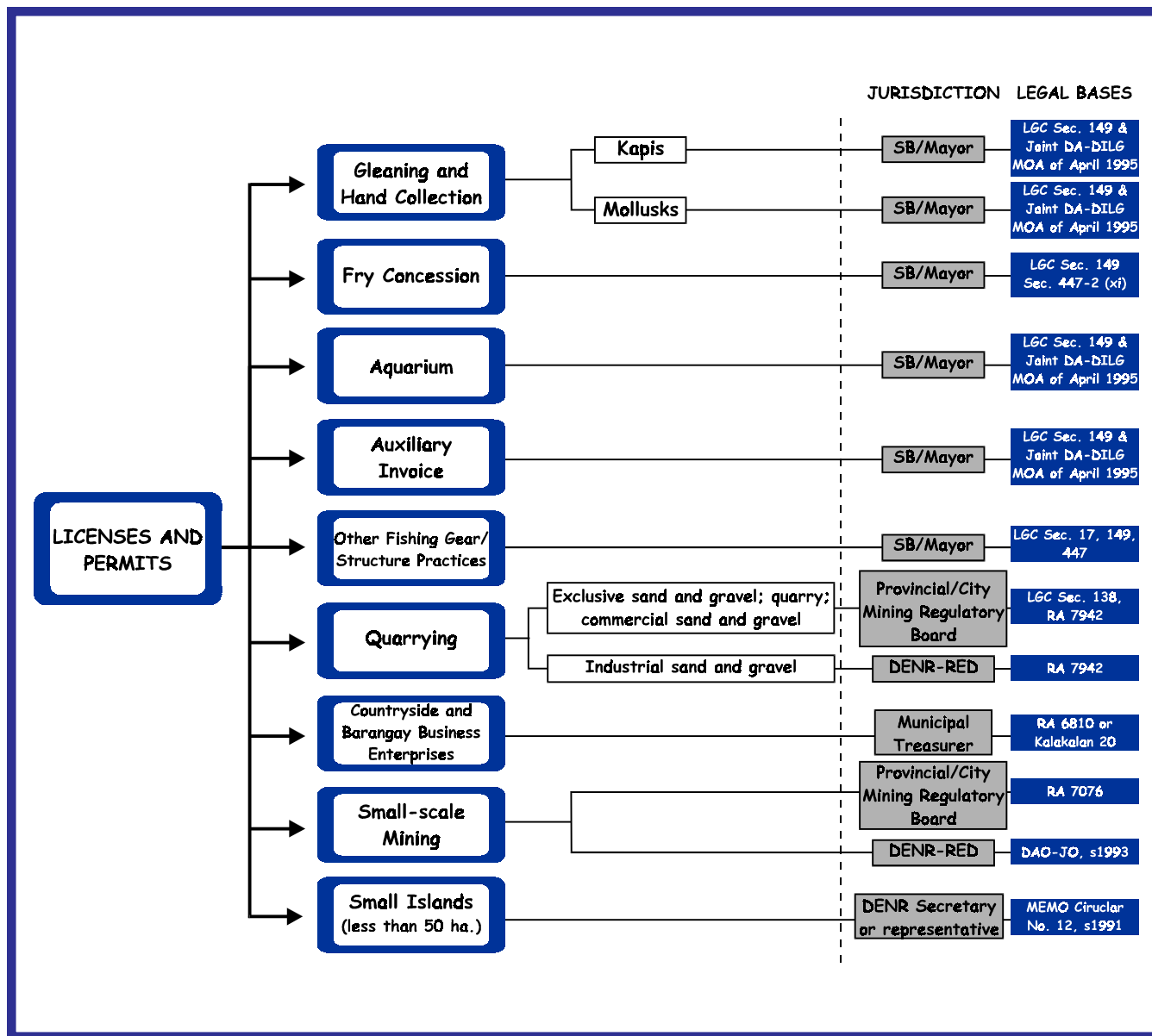


# 4

## CRM Problem Networks and Jurisdictional Authority



**FIGURE 4-2.**  
**CRM PROBLEM NETWORK**  
**No. 1: OPEN ACCESS - LICENSES**  
**AND PERMITS**



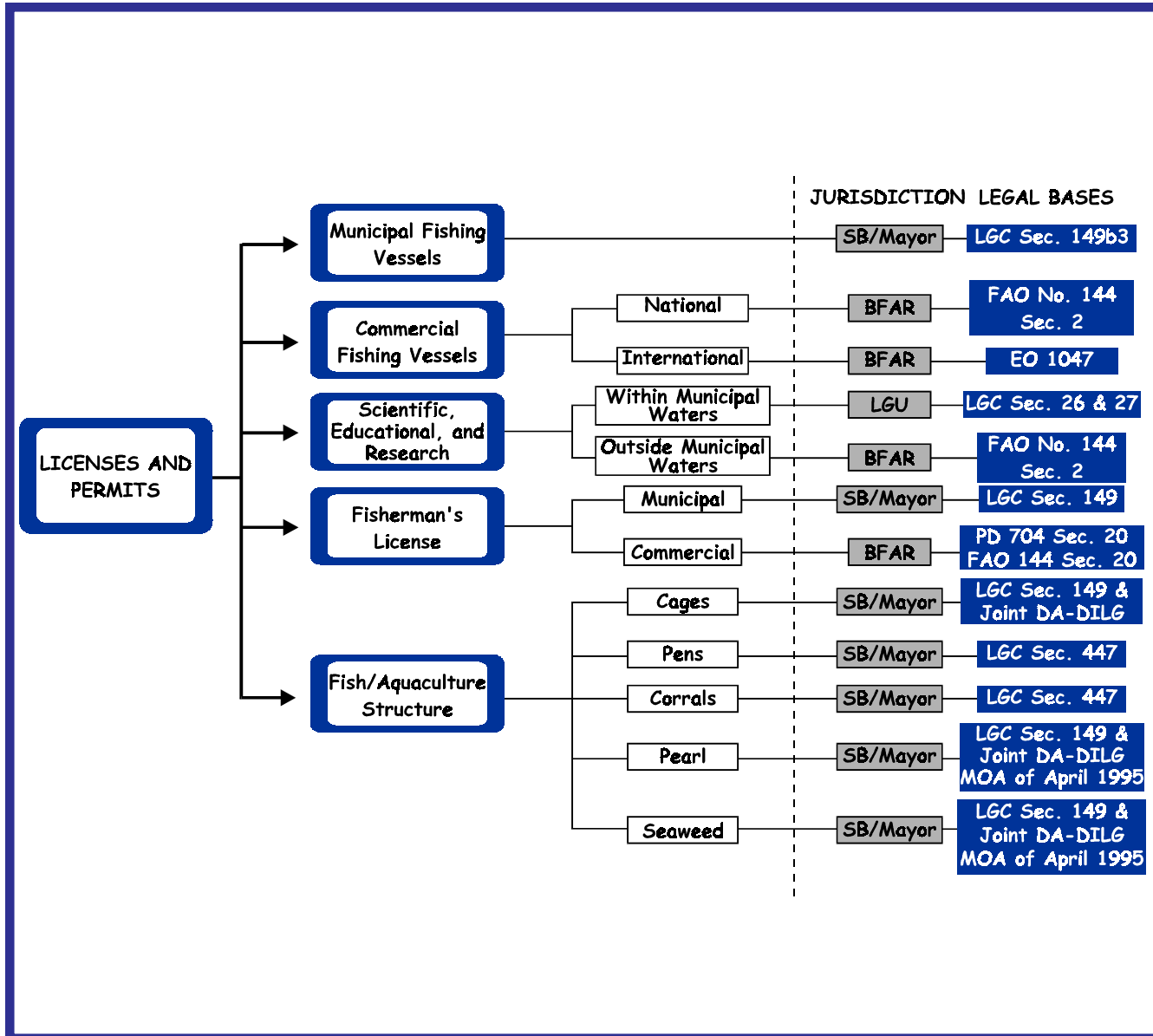


FIGURE 4-2. (CONTINUED)  
CRM PROBLEM NETWORK  
No. 1: OPEN ACCESS - LICENSES  
AND PERMITS

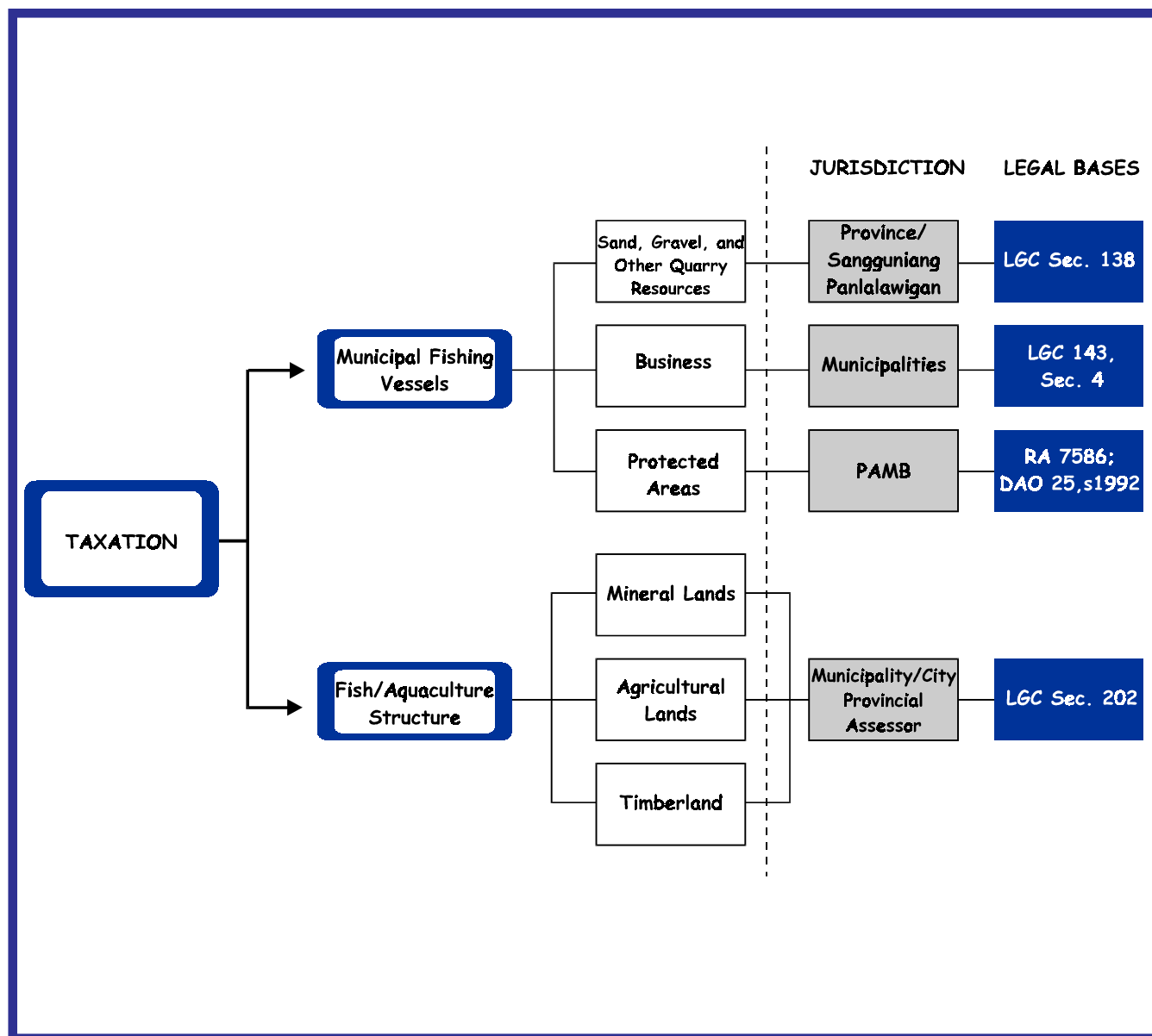


# 4

## CRM Problem Networks and Jurisdictional Authority



**FIGURE 4-3.**  
**CRM PROBLEM NETWORK**  
**No. 1: OPEN ACCESS - TAXATION**



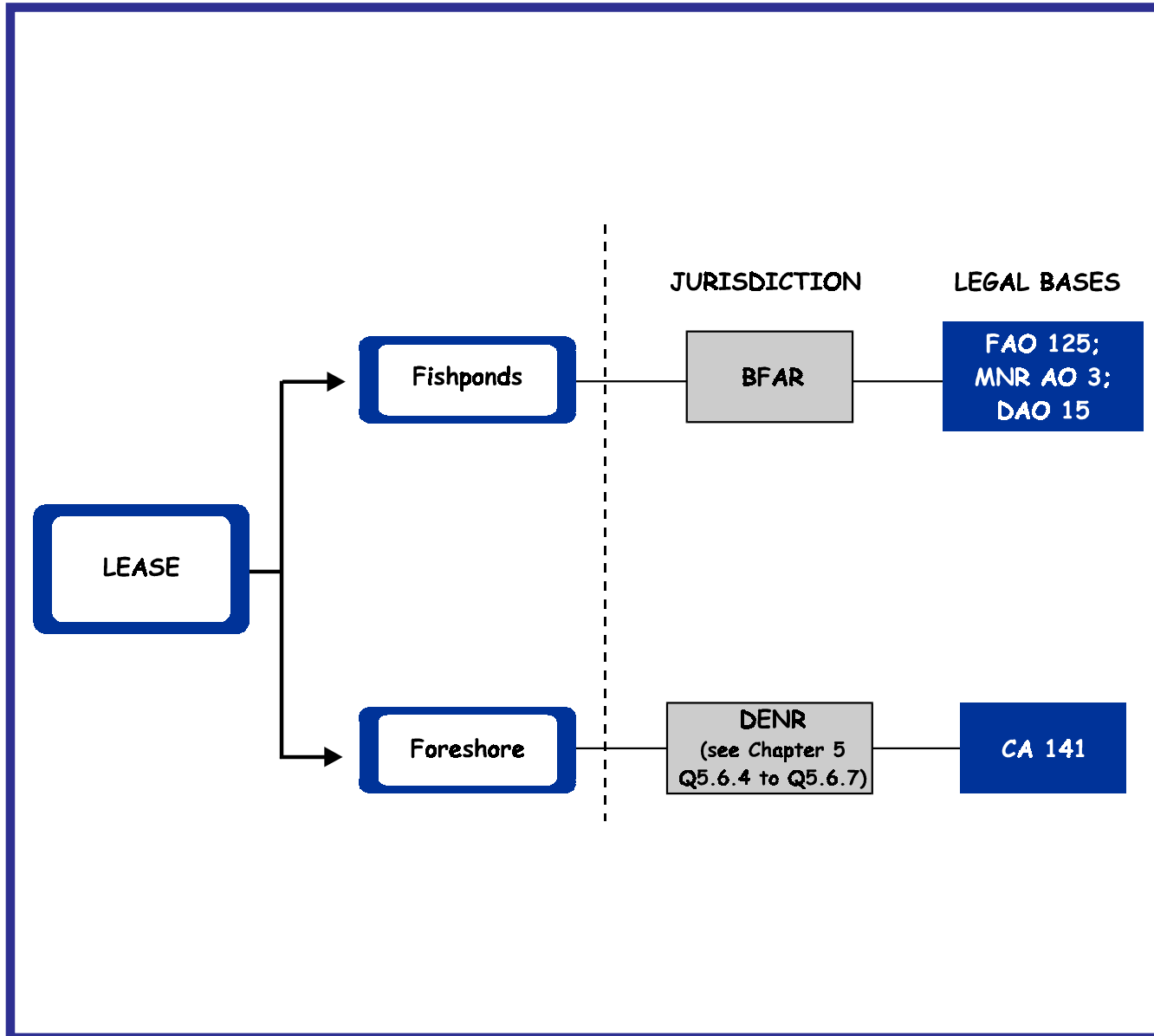


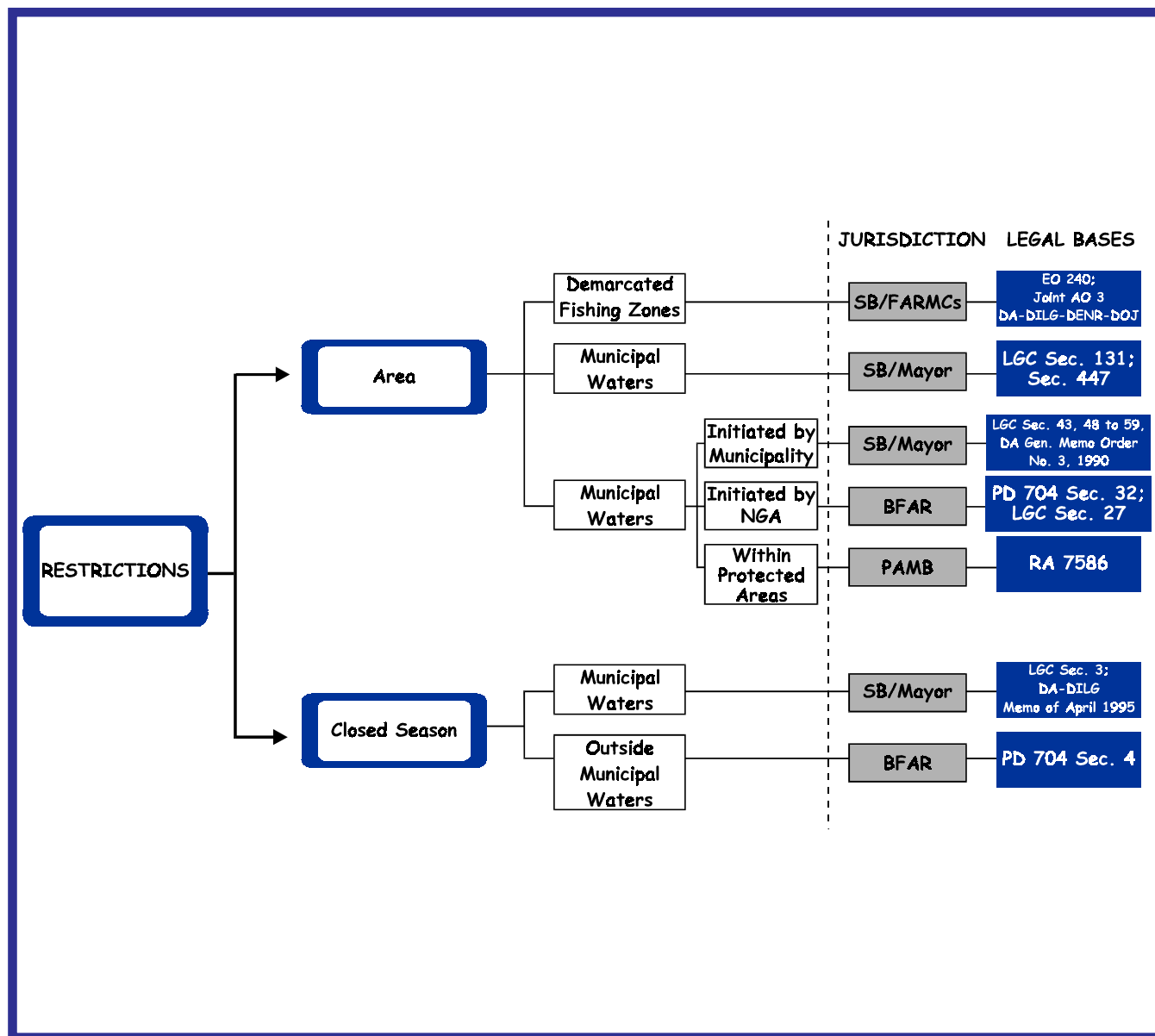
FIGURE 4-4.  
CRM PROBLEM NETWORK  
No. 1: OPEN ACCESS - LEASE

# 4

## CRM Problem Networks and Jurisdictional Authority



**FIGURE 4-5.**  
**CRM PROBLEM NETWORK**  
**No. 1: OPEN ACCESS -**  
**RESTRICTIONS**



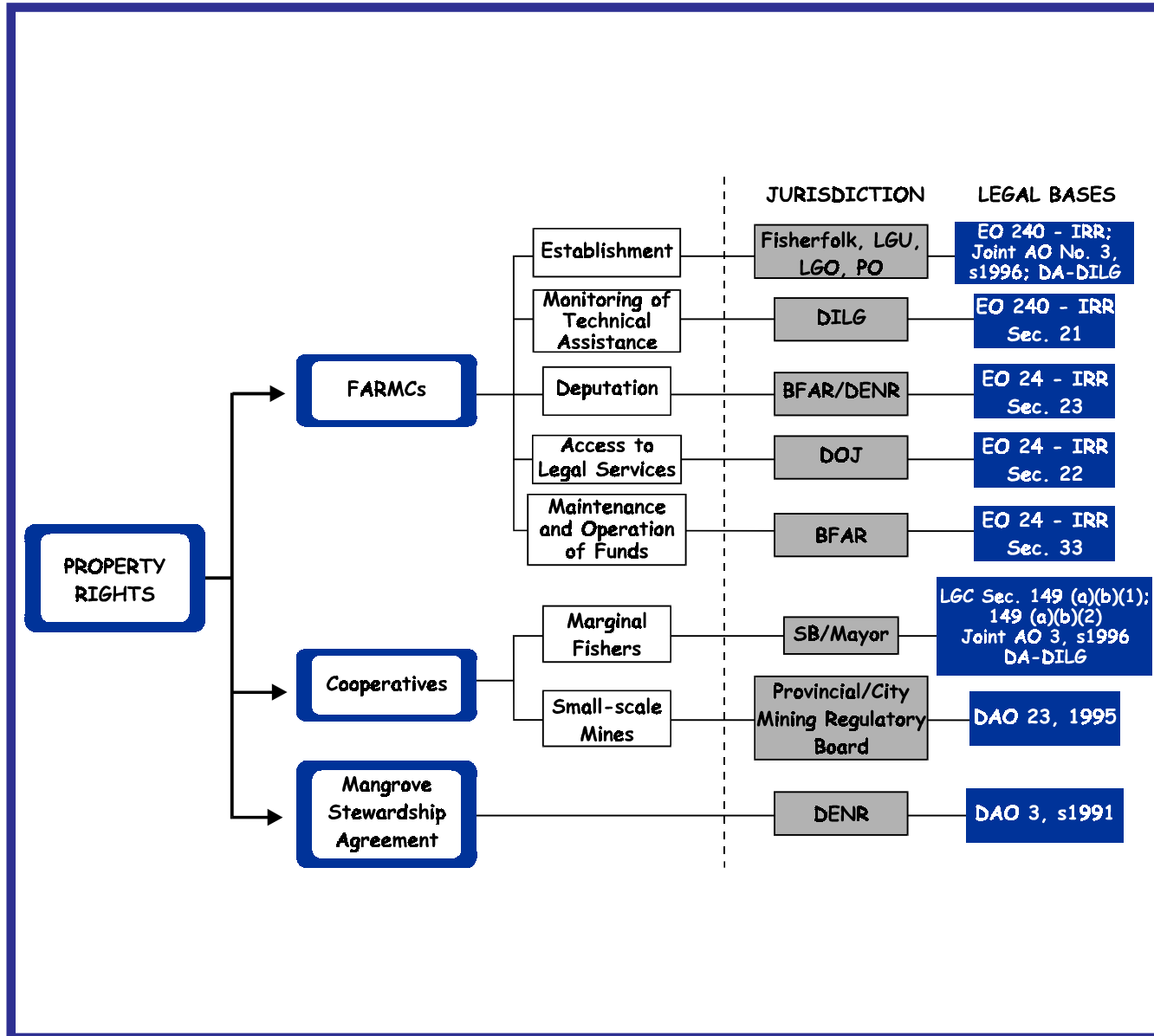


FIGURE 4-6.  
CRM PROBLEM NETWORK  
No. 1: OPEN ACCESS - PROPERTY RIGHTS



# 4

## CRM Problem Networks and Jurisdictional Authority



### 4.2 HABITAT DESTRUCTION

Habitat destruction is an important CRM issue not only because of the loss of goods and services derived from coastal ecosystems but also because of the partial or total impairment of important ecological functions (Figures 4-7 to 4-9). Mangrove and coral reef systems are considered here because of their vulnerability to man-made threats and the numerous economic and ecological benefits attributed to them. Mangroves are sources of fishery and forestry products; they are also an important nursery ground for juveniles of fish. Coral reefs provide habitats to fishery resources and protection against tidal surges and storms as well as enhance the aquatic environment.

Two classes of factors causing destruction are evaluated here: (1) direct factors, i.e., activities which directly and/or immediately cause partial or total damage and (2) indirect factors or externalities which are effected by activities external to the coastal system but which nevertheless have a long-term, and at times irreversible, impact on these systems. The direct factors considered here include coral mining which is an extractive activity causing the actual removal of corals from their habitat; blast fishing which results in immediate reef destruction; and cyanide fishing, which while targeting reef fish, eventually causes the destruction of coral polyps. Deleterious methods of fishing, such as *muro-ami* and *pa-aling*, utilize similar procedures, like driving and scaring fish into nets by using lines or pounding on corals. Problems pertaining to coral reef destruction can be addressed by the LGUs through the enforcement of existing national laws or through legislation as provided for by the LGC.

Conversion completely obliterates the ecological and economic attributes of mangroves. The jurisdiction for mangrove use and management is lodged with DA-BFAR and DENR. DA-BFAR retains its role in the issuance of lease agreements and monitoring of fishpond productivity in areas released for fishpond purposes while DENR is involved in the general area of mangrove management including reforestation. DENR also requires fishponds to submit ECCs. The scope of LGU jurisdiction for mangroves is limited to that provided for in DAO 30, s1992 and the enforcement of national laws.

Pollution and siltation are problems caused by terrestrial and upland activities such as mining, forestry, and agriculture. Two types of establishments are considered here to highlight the jurisdictional issue: Community and Barangay Business Enterprises (CBBEs) and non-CBBEs. CBBEs are within the jurisdiction of the municipalities or cities with devolved environmental management functions, such as the issuance of ECCs and the adjudication of pollution cases involving complaints against CBBEs (DAO 30, s1992). CBBEs registered with the Department of Trade and Industry between 1991 to 1994 are not covered by the EIS system. For CBBEs which have been registered after 1994, exemption from the EIS system is valid for a period of 5 years beginning from their date of registration; thereafter, they shall be subject to DENR's EIS system (DAO 96-37, s1996).

Pollutants from non-CBBEs such as oil spills, mine tailings and hazardous wastes are not within the jurisdiction of the LGU (Figure 4-7). Siltation problems are within the jurisdiction of the LGU, specifically the province (LGC, Section 17), and the barangay (LGC Sec. 389(a)(9)), PD 1160); where the cause has been ascertained to come from



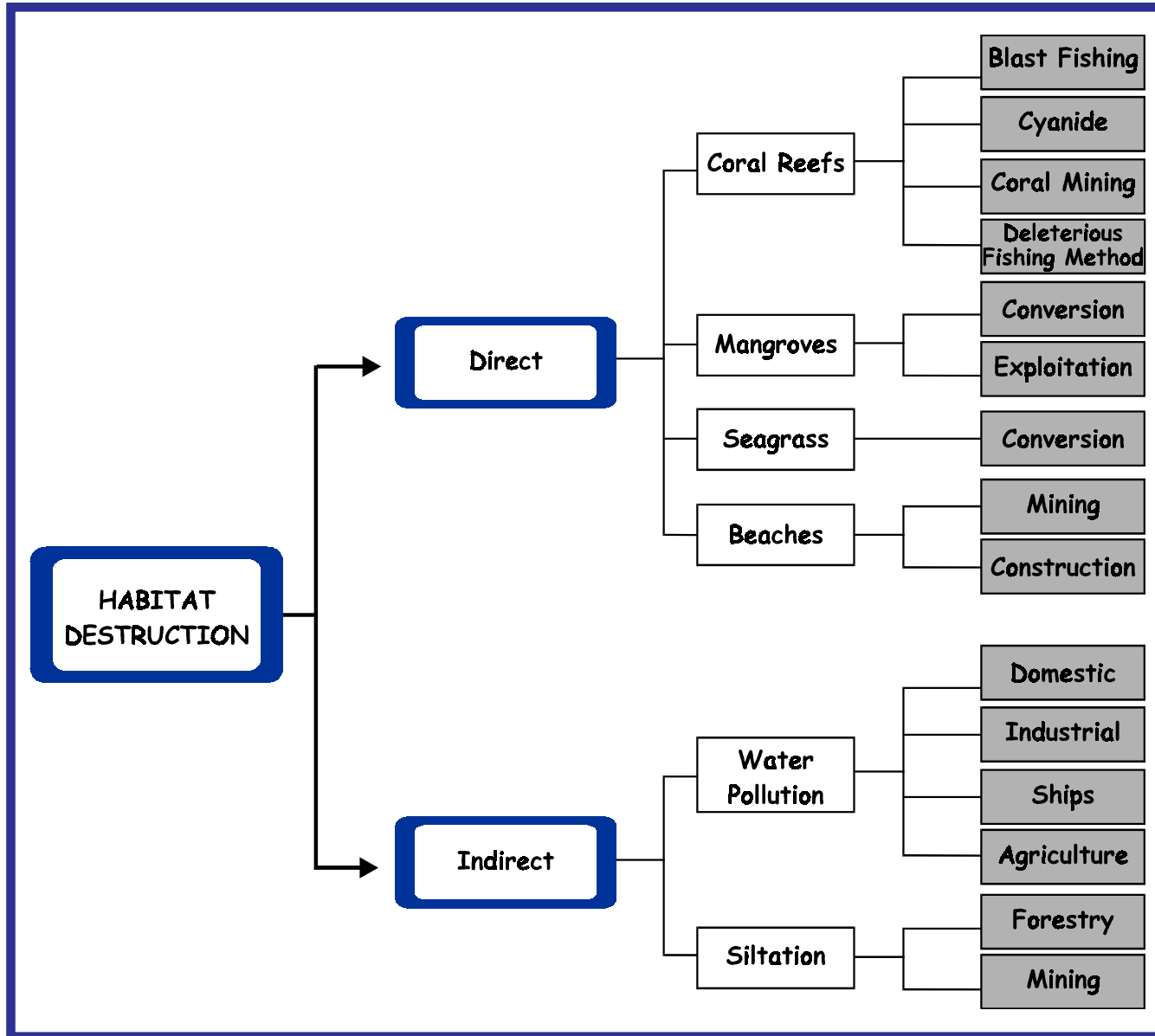


FIGURE 4-7.  
CRM PROBLEM NETWORK  
No. 2: HABITAT DESTRUCTION

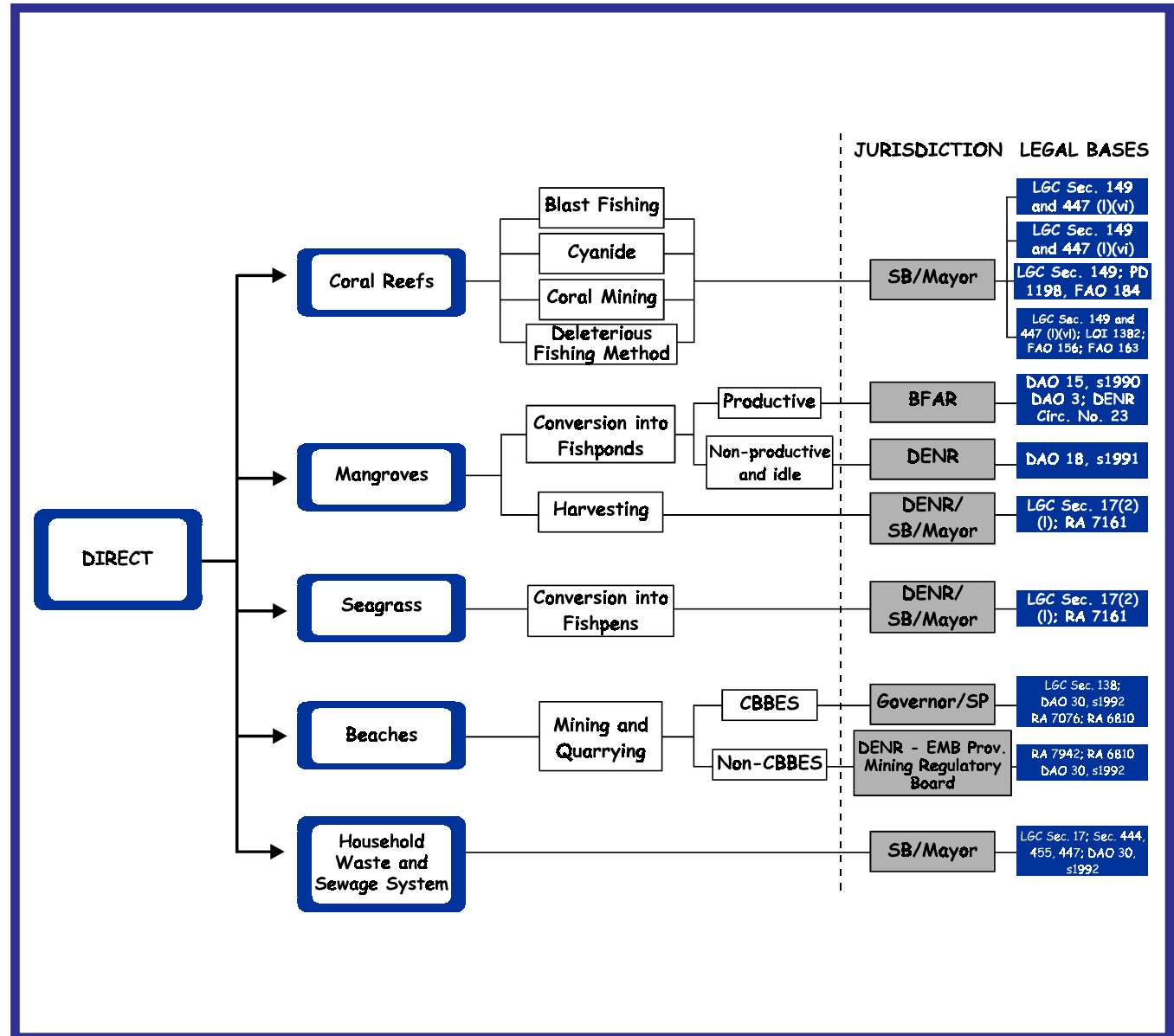


# 4

## CRM Problem Networks and Jurisdictional Authority



**FIGURE 4-8.**  
**CRM PROBLEM NETWORK**  
**No. 2: HABITAT DESTRUCTION -**  
**DIRECT**



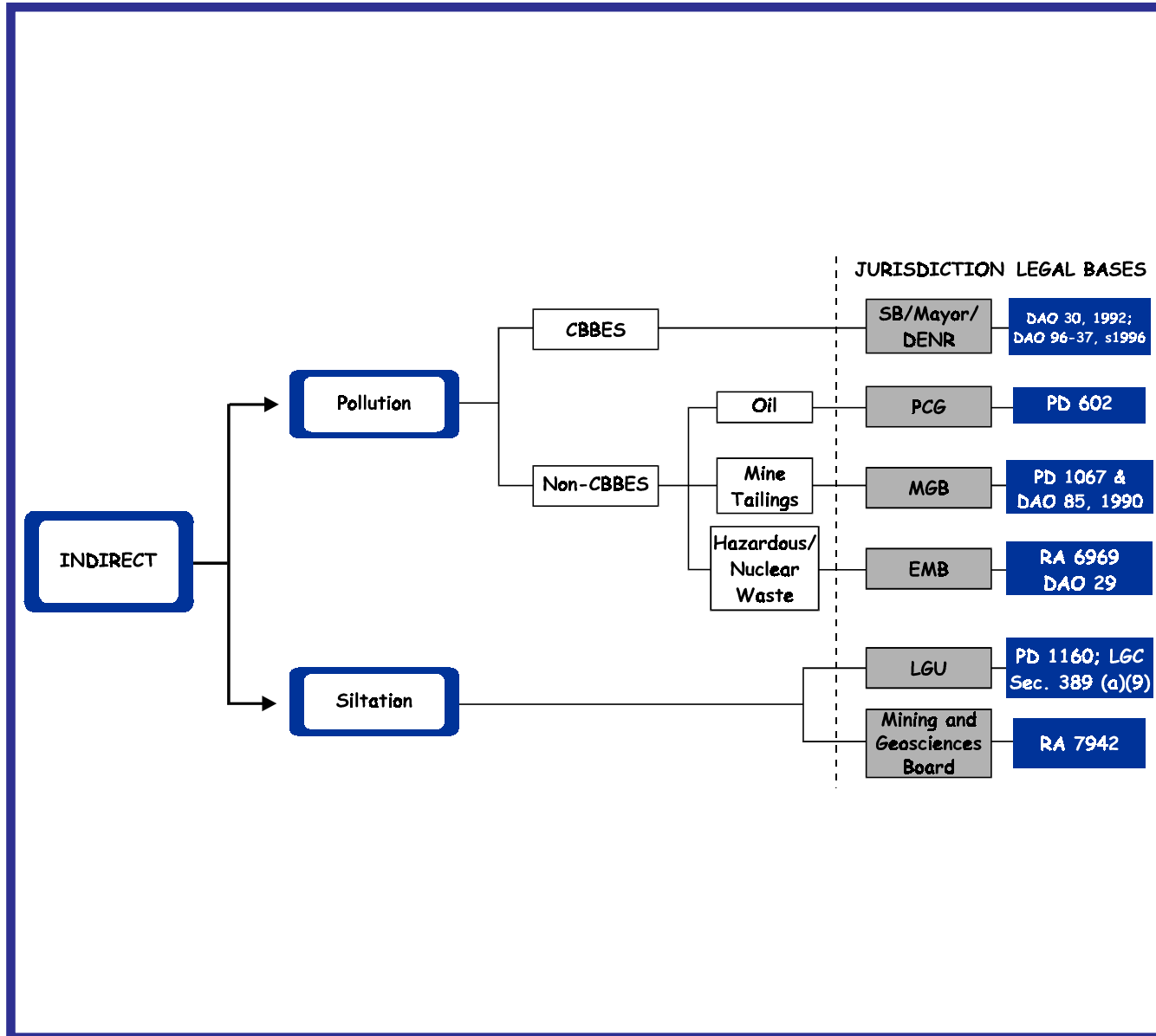


FIGURE 4-9.  
CRM PROBLEM NETWORK  
No. 2: HABITAT DESTRUCTION -  
INDIRECT



# 4

## CRM Problem Networks and Jurisdictional Authority



mining operations, the DENR-MGB may issue cease-and-desist orders while the DENR-EMB may require the permit-holder to remedy the practice that violates anti-pollution laws and regulations.

### 4.3 ENFORCEMENT

Enough laws have been written to manage our resources but enforcement is extremely weak. There are two reasons for this: the slow process of justice and the system of “incentives” that encourage people to break the law. Enforcement, as analyzed here, involves all processes from apprehension to prosecution (Figures 4-10 to 4-12). The first level of enforcement, apprehension, already faces logistical bottlenecks, such as the lack of patrol vehicles and trained personnel, especially for fisheries. When apprehension is successful, there is no guarantee that the case will sufficiently progress and reach prosecution level. For one, there is a dearth of legal practitioners familiar with CRM. (Data generated by the FSP show that most apprehensions have not progressed sufficiently to reach the prosecution stage.) The “incentive” system for thwarting the law is borne by a token system of penalties, the *padrino* system, the tolerance and espousal of short-term solutions such as dynamite fishing (which usually translates to destructive resource use) and the lack of political will among the leaders.

Enforcement approaches can either be positive (encourage compliance with the requirements of the law without going to the courts) or negative, for which legal sanctions are imposed. The latter is exercised by a competent authority like an administrative regulatory body or any court having appropriate jurisdiction when criminal and civil aspects are involved (Castillan 1977).

Enforcement can be carried out either by administrative sanctions or by the Court (Tolentino 1992). “Administrative sanctions are frequently used in environmental law enforcement as defined in the implementing rules and regulations.” In such cases, penalties can be meted out by the regulatory agency without court proceedings. This system normally provides for an administrative appellate procedure with final appeal to a competent court. Meanwhile, the courts provide the venue for administrative agencies “to seek enforcement of their needs and review of actions of administrative agencies to see to it that functions are performed in a proper manner.”

The importance of the judicial institution in the implementation and enforcement of environmental laws cannot be overemphasized due to the following:

- ◆ The novelty of environmental law and the consequent necessity of defining new terms and concepts and redefining old ones



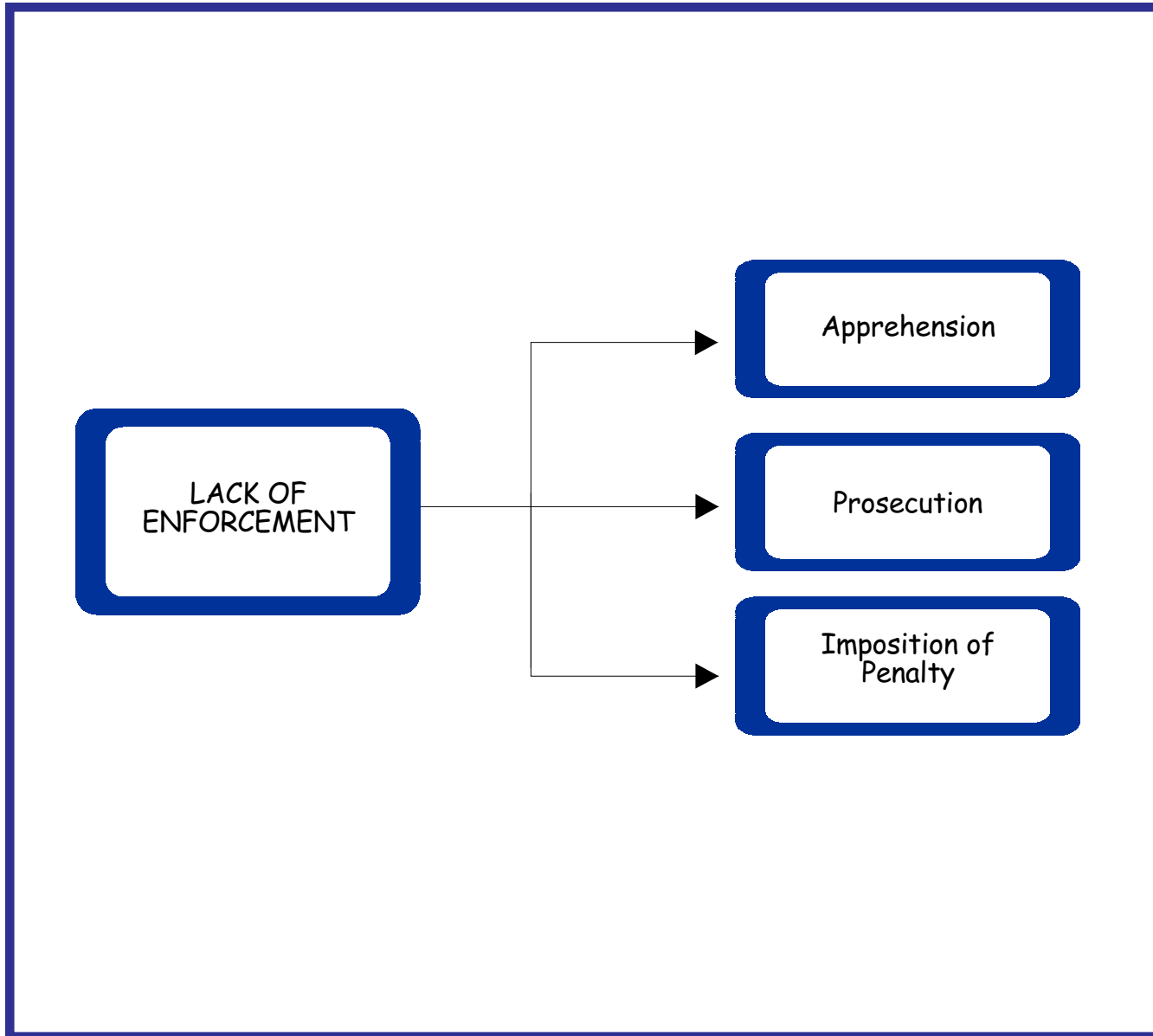


FIGURE 4-10.  
CRM PROBLEM NETWORK  
No. 3: LACK OF ENFORCEMENT

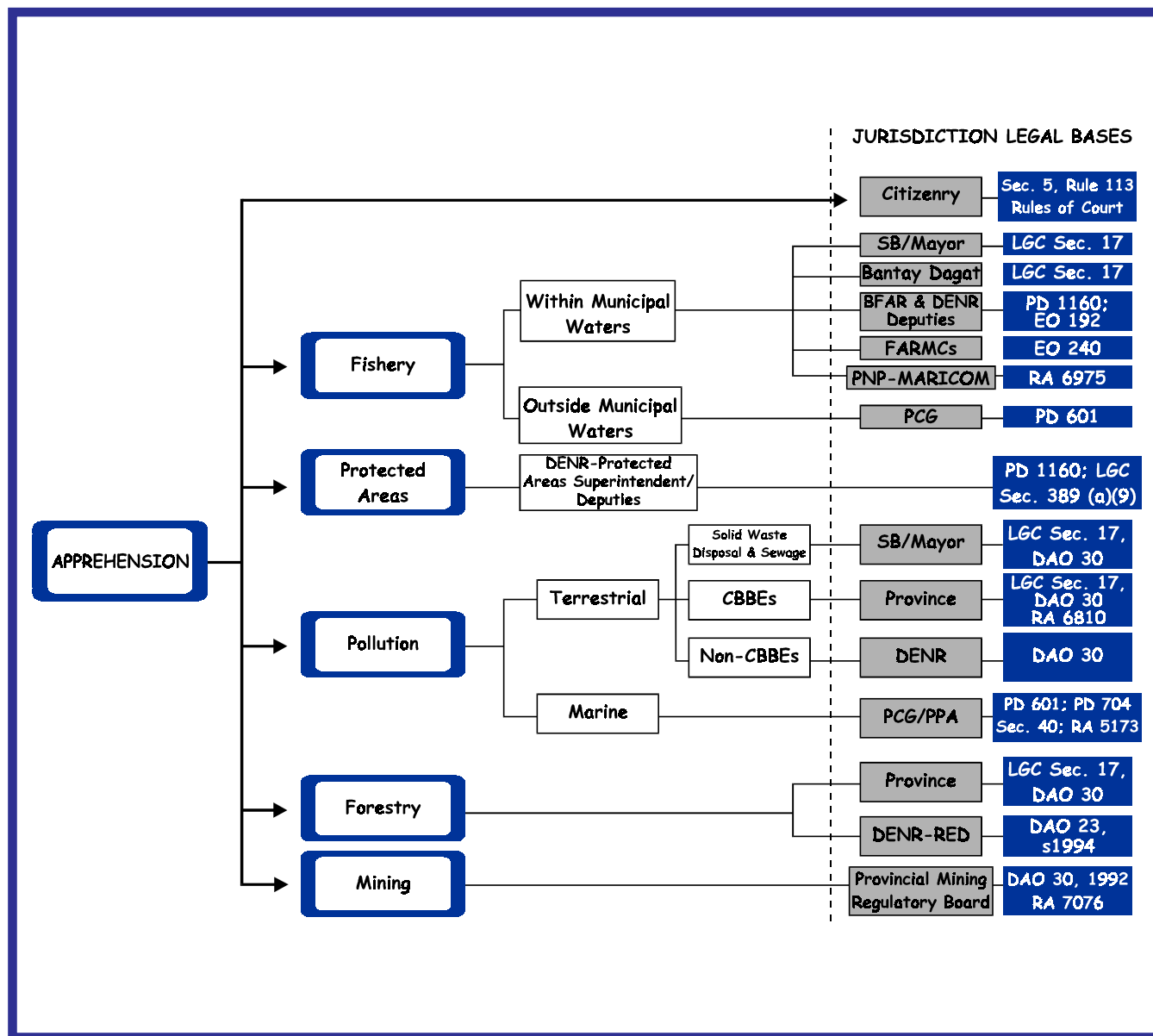


# 4

## CRM Problem Networks and Jurisdictional Authority



**FIGURE 4-11.**  
**CRM PROBLEM NETWORK**  
**No. 3: LACK OF ENFORCEMENT -**  
**APPREHENSION**



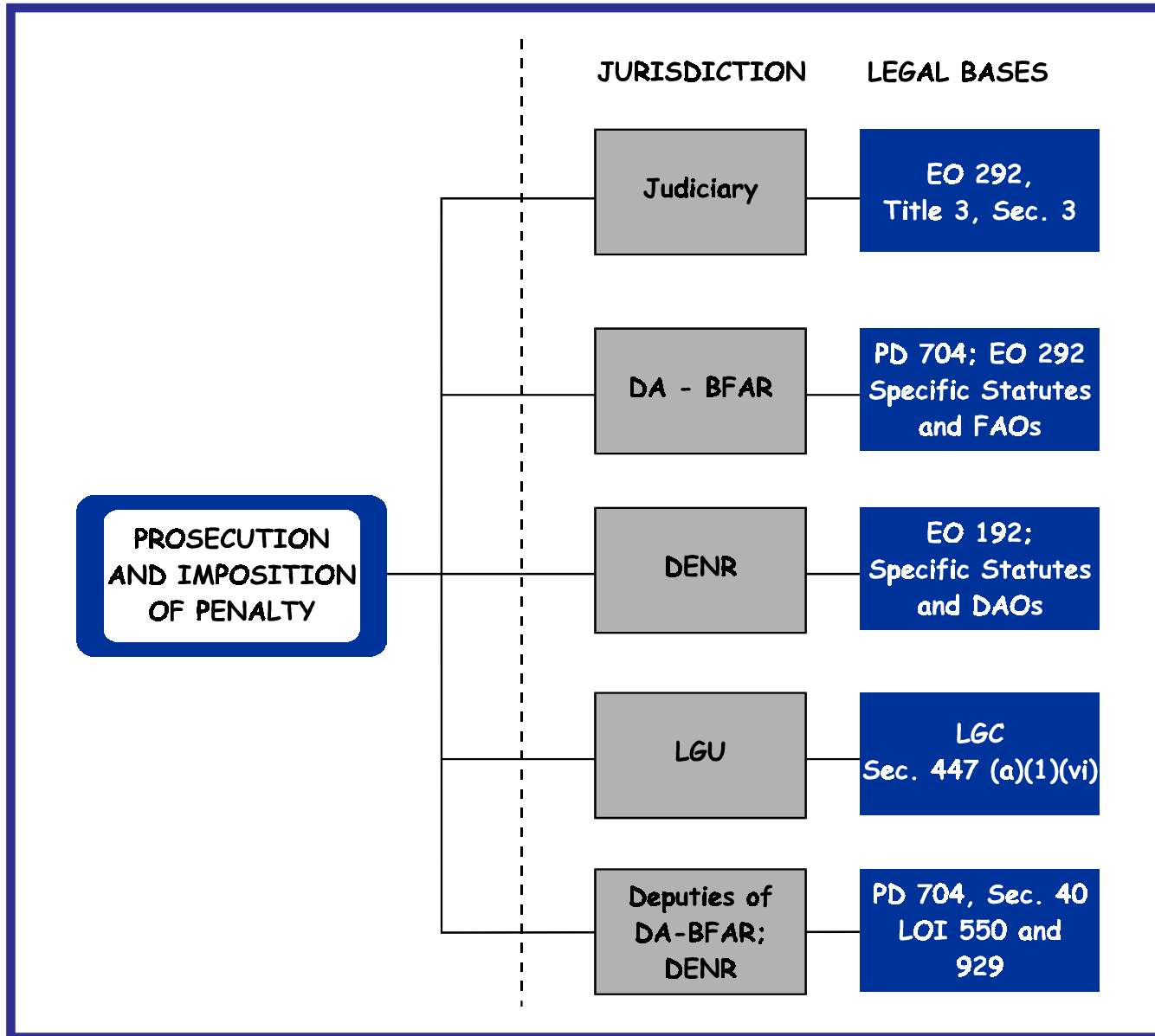


FIGURE 4-12.  
CRM PROBLEM NETWORK  
No. 3: LACK OF ENFORCEMENT -  
PROSECUTION AND IMPOSITION OF  
PENALTY



# 4

## CRM Problem Networks and Jurisdictional Authority



- ◆ The importance of the right asserted in environmental cases arising out of the irrevocable impact of environmental decisions justifies more thorough-going judicial review
- ◆ The value judgments present in environmental cases call for the talents and training of the courts and judges rather than those of administrators (ESCAP 1977)

Administrative sanctions pertaining to the enforcement of environmental laws are lodged in the DA-BFAR for fishery laws and DENR for environmental laws. These are found in various national laws as well as DAOs. However, it is difficult to impose administrative fines because national agencies do not have sufficient field staff to monitor compliance. The LGU can fill this void by enacting ordinances which impose fines as provided for by the LGC. While national laws already exist, and there is a case against double jeopardy, local level ordinance can deal with specific offenses not covered by national laws. Such enforcement is akin to an administrative sanction. It must be stated, however, that this LGU function does not dilute nor diminish the powers of the Department Secretaries (and their representatives) to impose fines as they are enabled by different laws.

The enforcement network developed to identify jurisdictional responsibilities shows the extent of authority of LGUs, particularly with respect to fishery laws (both ordinances and national laws). This authority, however, is shared with NGAs, which is why shirking of responsibilities is common.

### 4.4 RESOURCE ENHANCEMENT AND CONSERVATION

Resource enhancement and conservation are viewed as positive strategies for management rather than mere defensive techniques (Figures 4-13). The LGU can be at the forefront of resource enhancement and conservation initiatives by enforcing subsisting laws or by enacting ordinances specific to their localities. Several national laws and AOs that deal with conservation and resource enhancement exist including, for fisheries, specific FAOs for the conservation of 1) milkfish (FAO 129 and 173); 2) marine tropical aquarium fish (FAO 148); 3) *kapis* and other mollusk species (FAO 157 and 158); 4) coral resources (PD 1219 and 1198); and 5) marine turtles, eggs, and shells (FAO 29, 76 and 88). In addition, the declaration of closed seasons has been devolved to LGUs and the establishment of fish sanctuaries is entirely within the jurisdiction of the LGU. There is no single entity with monopoly over the guidelines and policies for artificial reef (AR) deployment, an enhancement technique that has gained wide popularity in local communities. Nevertheless, this document mentions the current move of DENR, DA-BFAR, DILG, and DND to declare a temporary moratorium on AR deployment pending further scientific inquiry.

The NIPAS Law (RA 7586) is the country's centerpiece for protected area management. Various Presidential Proclamations have also established protected seascapes. On the subject of potential conflicts between the PAMB and



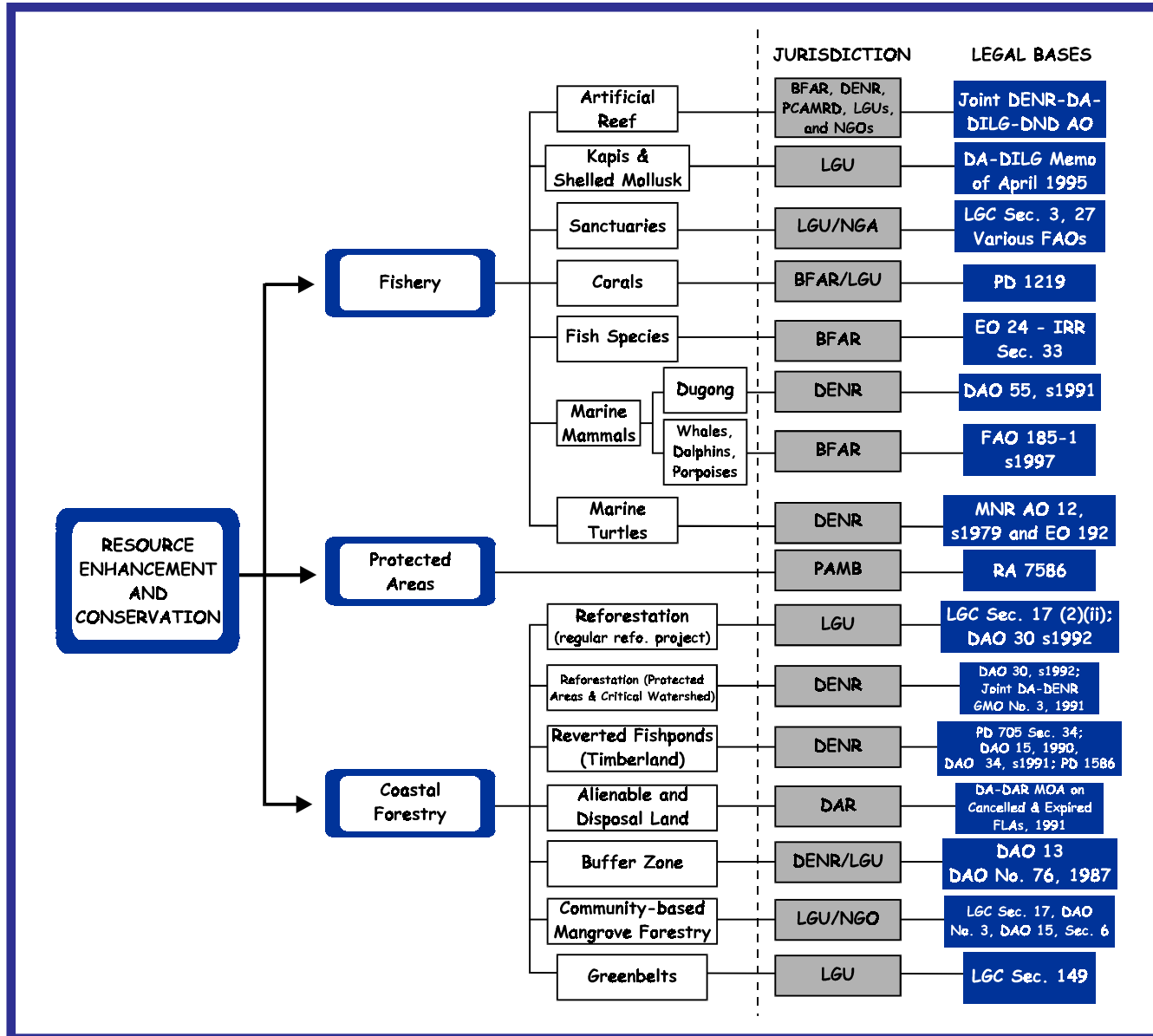


FIGURE 4-13.  
CRM PROBLEM NETWORK  
No. 4: RESOURCE ENHANCEMENT  
AND CONSERVATION



# 4

## CRM Problem Networks and Jurisdictional Authority



the LGU regarding jurisdiction, this document articulates some clarifications.

Aside from the enforcement of existing national laws, municipalities, cities and provinces may also enact ordinances to *protect the environment* (Section 447(a)(1)(vi)), LGC; “*adopt measures to safeguard and conserve land, mineral, marine, forest, and other resources of the municipality*” (Section 444(a)(b)(3)(vii), *ibid.*); “*authorize the establishment, maintenance and operation by the city government of ferries, wharves, and other structures intended to accelerate productivity related to marine and seashore or offshore activities*” (Section 458(5)(iii), *ibid.*); and “*adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province, in consonance with approved standards on human settlements and environmental sanitation*”.

### 4.5 DEVELOPMENT ACTIVITIES

The coastal zone comprises critical ecosystems and covers a strategic land-and-water interface that makes it an ideal location for development activities. The huge task of development is assigned to both local governments (LGUs) and NGAs, such as the Philippine Tourism Authority, Public Estates Authority, and Philippines Ports Authority, which have specific mandates. It is often the case that development activities experience a growth spurt with regulation and planning being applied only in an *ad hoc* nature or invoked only during crises. The problem network clarifies the scope of responsibility of LGUs and national agencies (Figure 4-14). The need for LGUs and NGAs to consult, collaborate, and plan in an integrated manner is not apparent in the network but CRMP would like to stress this aspect of development.

A sure sign of progress is land development, including the development of land categorized as public land. Potential issues include rampant conversion of agricultural lands, destruction of coastal ecosystems brought about by reclamation activities, and pollution caused by construction. Land classification activities for LGUs are limited to that of the conduct of cadastral surveys (DAO 30, s1992) with DENR being mainly responsible for the classification of timberlands, mineral lands, protected areas, as well as those belonging to the broad category of public land. LGUs, specifically cities and municipalities, are empowered by the LGC to reclassify agricultural land for residential, commercial, and industrial purposes. However, the DA would have to certify that such conversion is feasible while DENR is tasked to oversee the implementation of the EIS system for land conversion. Foreshore areas are classified as public lands (see 4.36 and 4.38) and can only be disposed of by lease agreements. Reclamation projects can be carried out by provinces and municipalities (LGC, Sec. 17(b)(3)(vii) and Sec. 17(b)(4)) but the PEA is mandated to oversee all reclamation projects.

Tourism is considered a strategic development activity because of its potential to generate foreign exchange and to absorb excess employment from the fishery sector. Tourism-related activities such as diving and swimming may be



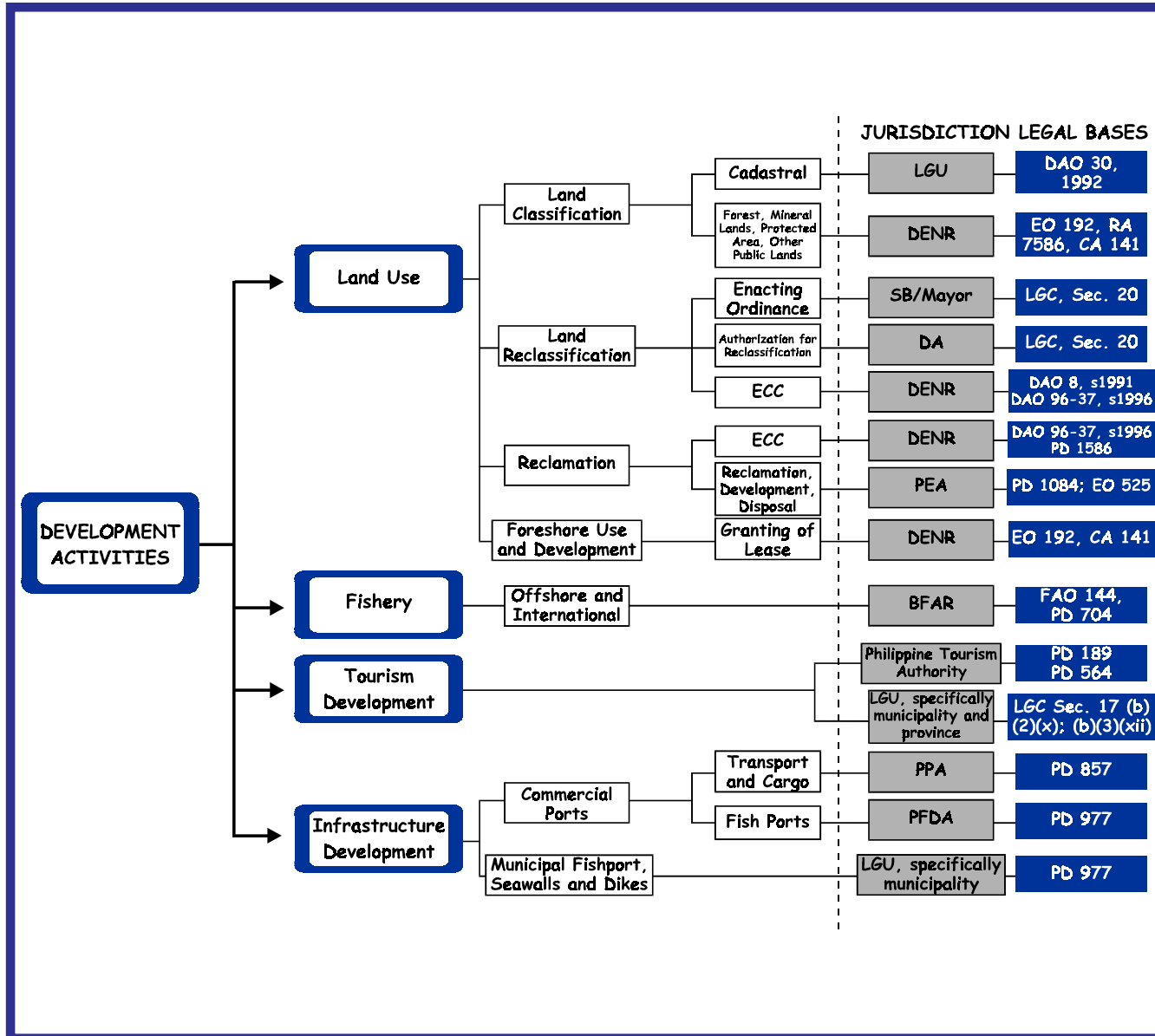


FIGURE 4-14.  
CRM PROBLEM NETWORK  
No. 5: DEVELOPMENT ACTIVITIES



# 4

## CRM Problem Networks and Jurisdictional Authority



less of an extractive nature than fishing but unregulated establishment of tourist operations may also cause environmental stress. Both municipalities and provinces can set up tourist facilities (RA 7160) but it is the Philippine Tourism Authority which coordinates all tourism project plans and operations (PD 189 and PD 564). The role of DENR is to see to it that the EIS system is implemented in tourist sites located in ECAs and in the ECPs (e.g. golf projects). Local governments are empowered to enact ordinances that cater to specific aspects of tourism-induced issues in their localities, like the use of anchor buoys and collection of endangered flora and fauna, which may not have been dealt with adequately and concisely by national laws.



Most, if not all of the questions answered in this section were generated from CRMP's six learning sites in San Vicente, Palawan; Olango Island, Cebu; Northwest, Bohol; Bais Bay, Negros Oriental; Malalag Bay, Davao del Sur, and Sarangani Bay, Sarangani Province. These questions have been asked in fora organized by the project including Coastal Resource Leadership Challenge Workshops, Policy Forum, Technical Working Group Meetings, and Consultation Workshops (Annex C). Some questions are truly "commonly asked" while some others were drafted by the project to clarify or respond to some prevailing issue. A small number are theoretical and anticipatory in nature.

Using various forms of legislation, attempts were made to respond to these questions. In addition, a rigorous procedure of review by DENR, DA-BFAR, and DILG was initiated to attain a level of confidence and consensus. The questions are grouped under several relevant subjects.

**Q** 5.1.1 Does a municipal ordinance banning the use of certain fishing gears within municipal waters need approval from the national agencies for the ordinance to be effective?

**A** No. The municipality or city may institute ordinances banning the use of certain fishing gears without approval from the national agencies. Sections 48 to 59 of the LGC enumerate the step-by-step procedure in local law-making vested on the Mayor and the Sangguniang Bayan (SB) and the manner of approving and validating local legislation by the Sangguniang Panlalawigan (SP) pursuant to Sections 54 and 56, respectively. Section 534 (e) expressly repeals only Sections 2, 16, and 29 of PD 704 and not section 4, which provides for Department approval before any ordinance is passed. Section 534 (f) states that "*all general and special laws, acts, city charters, decrees, executive orders, proclamations*

*and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.*" This provision thus renders section 4 of PD 704 irrelevant.

Section 17 of the LGC clearly devolves the enforcement function to the appropriate LGU, i.e. "*for a municipality: enforcement of fishery laws in municipal waters...*". Section 149 further reinforces this capability by identifying the appropriate entity, the SB, specifying its powers and the mechanism to enforce such powers through ordinances: "*the SB shall, by appropriate ordinance, penalize the use of explosives, noxious or poisonous substances, electricity, muro-ami, and other deleterious methods of fishing and prescribe a criminal penalty in accordance with provisions of this code; the SB shall have the authority to prosecute any violation of applicable fishery laws*".

## 5.1 CAPTURE FISHERIES AND FISHERY LAW ENFORCEMENT





**Q** 5.1.2 Who should delineate municipal fishing boundaries?

**A** The LGC of 1991 devolves to municipalities the exclusive authority to grant fishery privileges within municipal waters which have been redefined under Section 131 (r) to include all marine waters between the municipality's coastline up to a distance of 15 km offshore and parallel to the coastline.

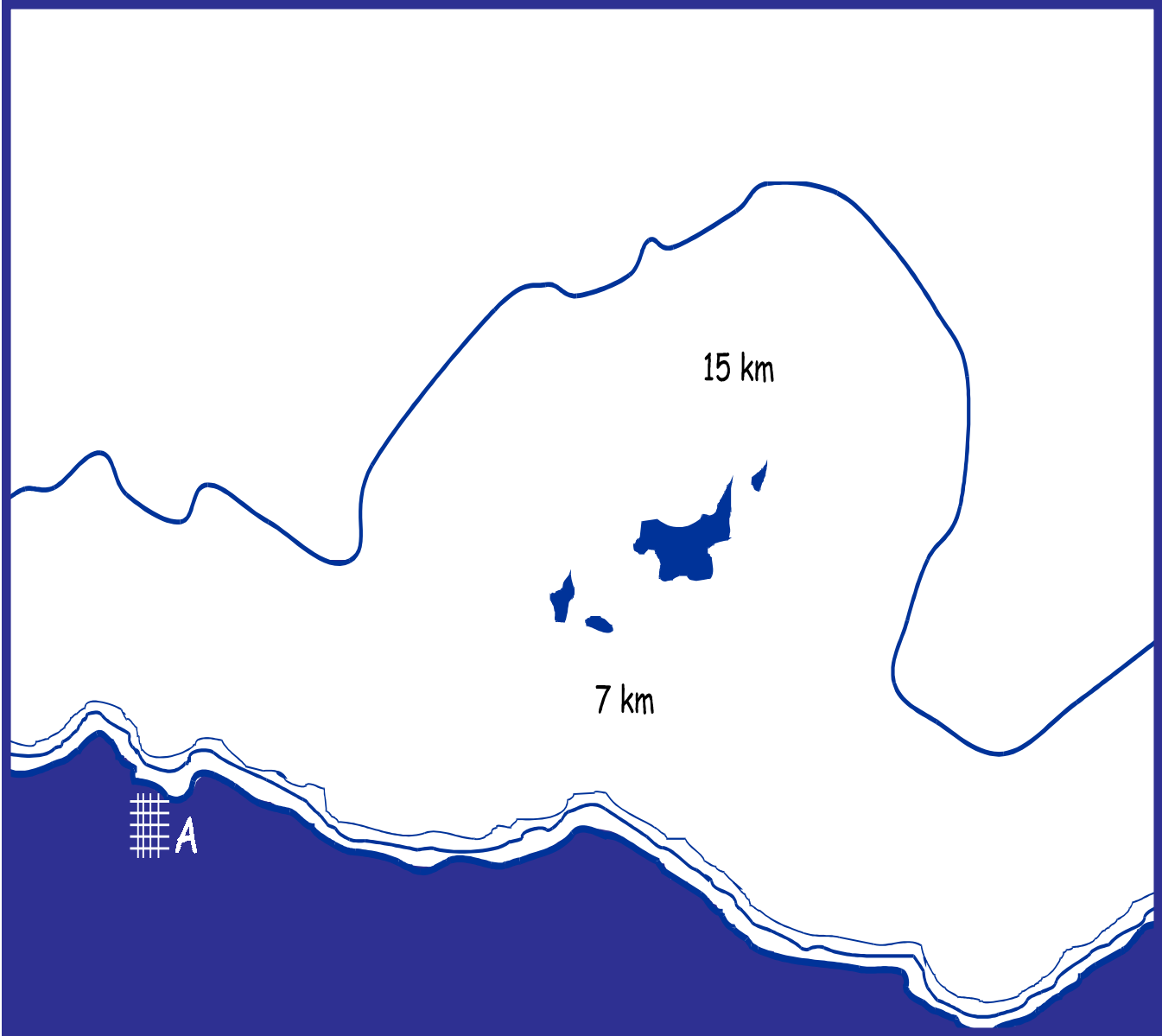
Based on these provisions, it becomes incumbent for the municipal governments to measure, delineate, zonify, and produce maps of their respective territorial boundaries, employing in the process the services of a certified geodetic engineer. Such a measure is a pre-requisite for the issuance of fishery privileges and the effective governance of the fishery resources. For purposes of efficiency and expediency, the delineation of municipal territorial waters should be undertaken jointly by contiguous municipalities to avoid future controversies in boundary lines.

The provisions for the amicable settlement of boundary disputes between barangays, municipalities, and component cities are found in LGC Section 118.

**Q** 5.1.3 How should different prototypes of coastal municipalities measure their municipal waters?

**A** Section 131 of the LGC defines "municipal waters" as "including 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 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". The measurement of municipal waters for three prototypes of coastal municipalities are shown in Figures 5-1, 5-2, and 5-3.



**FIGURE 5-1.**  
**CASE 1: THE MUNICIPAL TERRITORIAL WATERS SHALL BE MEASURED FROM THE OUTERMOST POINTS OF ISLANDS BELONGING TO THAT MUNICIPALITY**

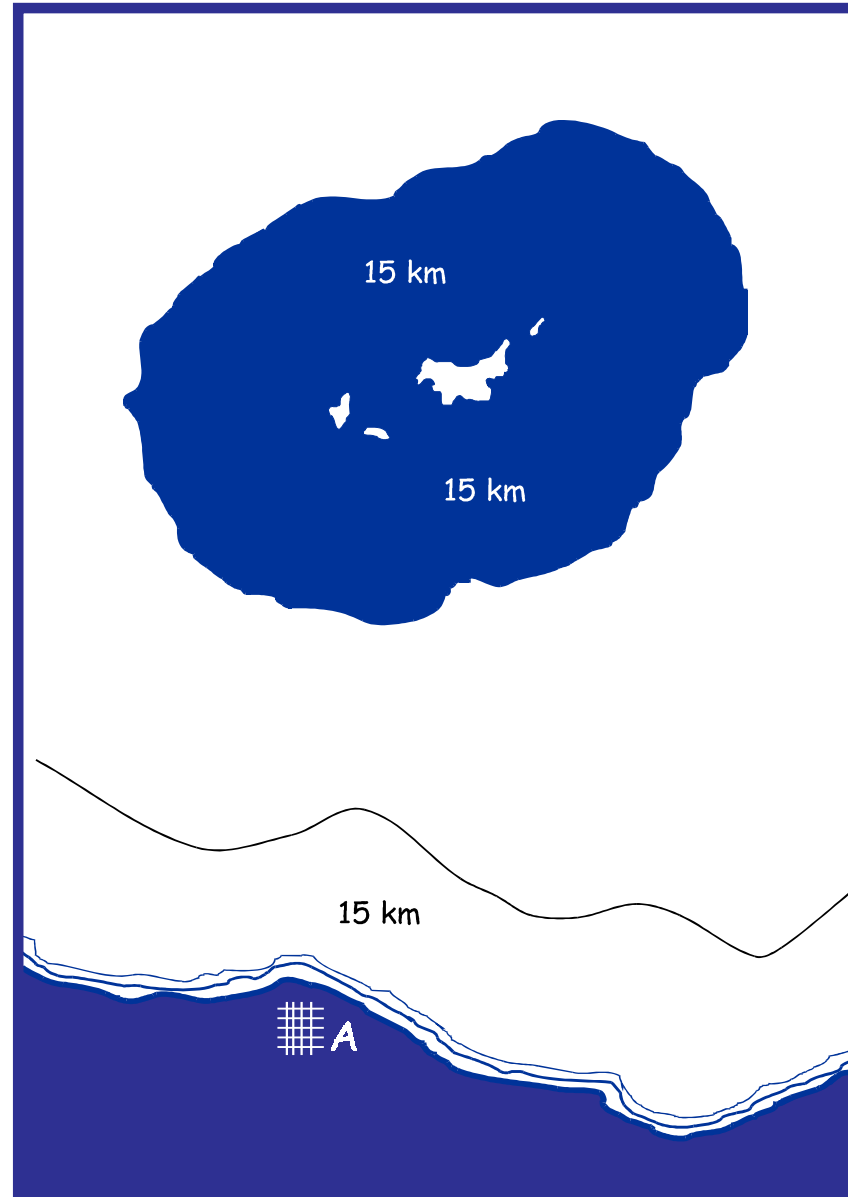


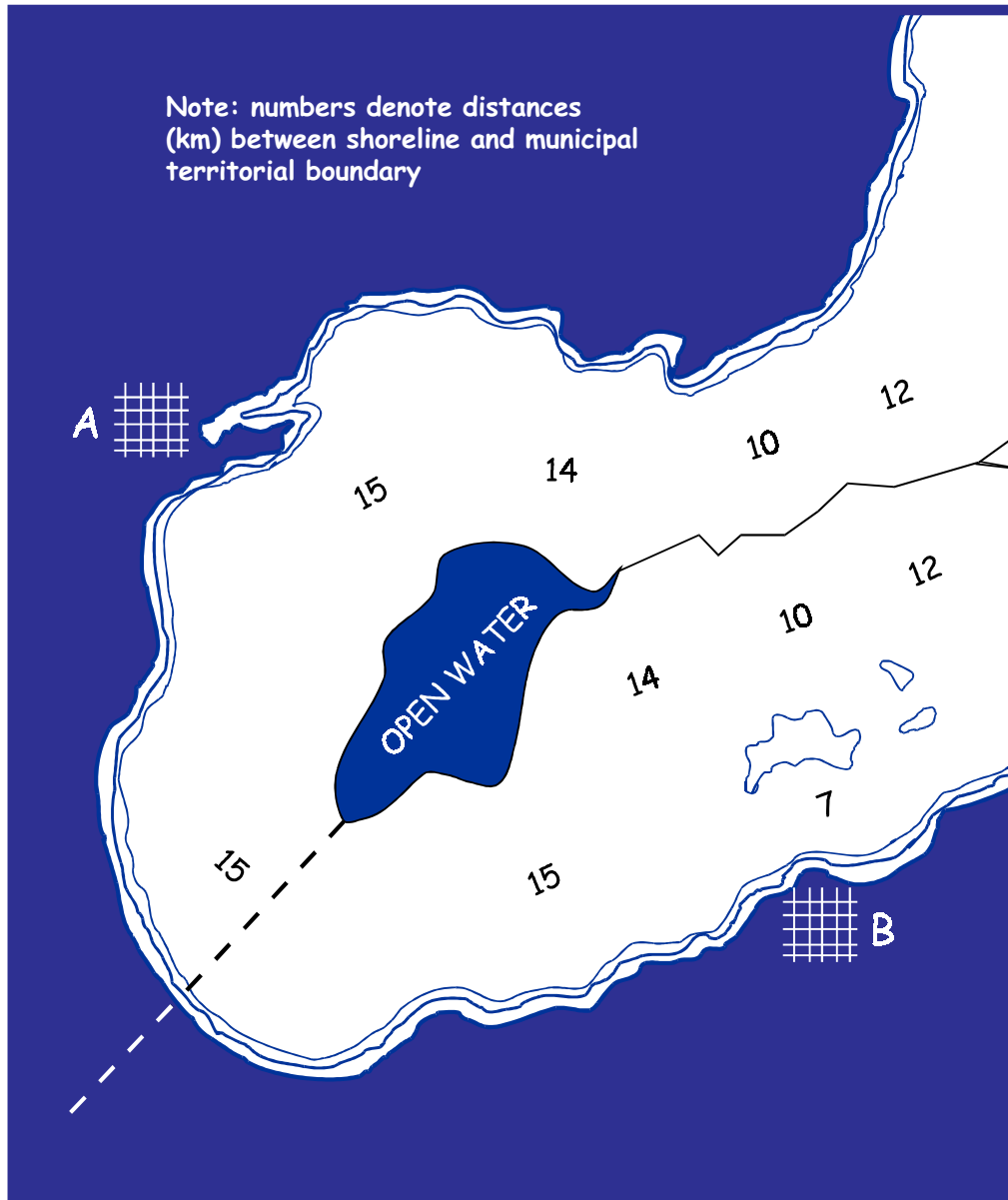
# 5

## Commonly Asked Questions Answered



**FIGURE 5-2.**  
**CASE 2: WHERE A GROUP OF ISLANDS BELONGING TO MUNICIPALITY A IS LOCATED WAY OFFSHORE (SAY MORE THAN 30 KM), THE GROUP OF ISLANDS SHALL ASSUME ITS OWN 15 KM BOUNDARY**





**FIGURE 5-3.**  
**CASE 3: WHERE THERE IS LESS THAN 30 KM OF MARINE WATERS BETWEEN THE SHORES OF MUNICIPALITY A AND THE OUTERMOST POINTS OF ISLANDS BELONGING TO MUNICIPALITY B, THE MUNICIPAL WATERS SHALL BE EQUIDISTANT BETWEEN THE SHORES OF A AND THE ISLANDS OF B**





**Q** 5.1.4 Is commercial fishing allowed within municipal waters?

**A** The issue of whether commercial fishing within the 15-km municipal territorial waters is legal or not has been interpreted in various and often conflicting angles, largely depending on sectoral interests. While the different interpretations remain unchallenged, DA-BFAR, which has jurisdiction over fisheries, has issued its official position on the matter: it declares that the

commercial fishing licenses issued by the BFAR are not valid for fishing operations within municipal waters. This position is contained in three policy instruments:

- ◆ A Memorandum dated 12 December 1991 from then DA Secretary Senen Bacani to the Officer-in-Charge of the BFAR and all DA Regional Directors directing that, “[i]n line with the DA’s efforts to equitably distribute access to the country’s marine resources and help uplift the livelihood of sustenance fishermen, all licensing units are hereby instructed to place the following notation on all commercial fishing boat licenses: “NOT VALID FOR FISHING OPERATIONS WITHIN MUNICIPAL WATERS AS PROVIDED BY LAW.”
- ◆ On August 24, 1993, in response to persistent queries on the matter, then BFAR Director Guillermo Morales issued an Inter-Office Memorandum declaring the “official stand (of the BFAR) on the issue of commercial fishing in municipal waters”. The Memorandum states: “Our official stand on the above matter is that DA/ BFAR cannot issue Commercial Fishing Boat Licenses for operations within 15 km because the jurisdiction in municipal waters is exclusive to the LGUs. On the other hand, we also believe that LGUs cannot issue permits for commercial fishing boats to operate within 15 km because their authority is only limited to the issuance of permits/licenses to boats 3 gross tons or less”. In this pronouncement, BFAR based its position on Section 149 of the Local Government Code which provides that municipalities shall have the exclusive authority to grant fishery privileges in municipal waters, including the licensing of fishing vessels 3 GT or less.
- ◆ To strengthen this official position, then DA Secretary Roberto Sebastian issued on November 26, 1993 a Memorandum to all DA Regional Directors quoting verbatim the entirety of and reaffirming the foregoing BFAR Inter-Office Memorandum.



**Q** 5.1.5 Should municipal fishers be disallowed from fishing in waters beyond their municipal boundaries?

**A** There is no national law that prohibits municipal fishers from fishing beyond their municipal boundaries, i.e, fishing in municipal waters in which they are non-residents. However, Sec. 149 of the Local Government Code provides for the *Sangguniang Bayan* to promulgate rules and regulations regarding the issuances of fishing boat licenses, including

the possibility of prohibiting non-resident municipal fishers from fishing in contiguous municipal waters. It is strongly suggested, though, in the spirit of cooperative undertaking (RA 7160, Sec. 33), that contiguous coastal municipalities develop a uniform fishery ordinance for said resource system.

**Q** 5.1.6 Can the SB promulgate payment of a fisherman's license or permit?

**A** Yes. Section 3 (d) of the LGC states that “*local government units shall have the power to create and broaden their own sources of revenue...* ”. Municipal fishers not belonging to the group defined as marginal may be imposed a license for regulatory purposes. Moreover, Section 149 (a) states that municipalities shall have the exclusive authority to grant fishery privileges in

municipal waters and impose rentals, fees, or charges therefor while Section 149(b)(3) grants the SB the power to “*issue licenses for the operation of fishing vessels of three (3) tons or less, for which purpose the Sangguniang Bayan shall promulgate rules and regulations regarding the issuance of such licenses to qualified applicants under existing law*”.

**Q** 5.1.7 Can the SB or mayor via ordinance prohibit the use of certain gears not otherwise covered in existing FAOs and alter the mesh sizes provided by law?

**A** Yes. The broad implication of Section 149 of the LGC, “*the Sanggunian concerned shall, by appropriate ordinance penalize the use of...., and other deleterious methods of fishing and prescribe a criminal penalty therefor*” and the specific powers and functions expressly stated in Section 447(a)(1)(vi) mean that the SB may prohibit the use of certain gears. Moreover, LGC Section 3(I) supports such move by saying that the LGC shall share with the national

# 5

## Commonly Asked Questions Answered



government the maintenance of ecological balance. These statements, however, put the burden of proof on the SB to conclusively determine the deleterious effect of the gear discriminated upon.

Municipal ordinances affecting mesh size of nets should conform to existing national laws and administrative orders, such as FAOs on mesh sizes – FAO 155 (less than 3 cm) , FAO 155-1 (based on fishing gear), FAO 188 (tuna purse seine to take effect in Sept 1998), and FAO 190 (*pa-aling*).

**Q** 5.1.8 Before any Bantay Dagat members are organized and authorized by the LGUs, if there is any illegal fishing within view of the local fishermen and stakeholders, will they be able to make arrests and seizures? Is the citizen's arrest allowed or is there a need to inform the

**A** Yes, by virtue of citizen's arrest under the Rules on Criminal Procedure, as amended. PCG's prior consent or knowledge is not necessary.

**Q** 5.1.9 Marginal fishers can freely gather, take, or catch bangus fry, prawn fry (*kawag-kawag* or fry of other fish species) and fish from the municipal waters. How will the LGU ensure the enforcement of this LGC provision? Who will ensure such enforcement – LGUs or the BFAR?

**A** LGUs. However, they are not prohibited from seeking the assistance of other government enforcement agencies like BFAR or the PCG. (LGC, Section 444 (b) (2) (vi) ).



**Q** 5.1.10 A public bidding was conducted to award a 5-year fry concession to the highest bidder (assuming that there are no organized cooperatives of marginal municipal fishers). However, the lessee petitioned the council to lower the lease rates by 20%. Moreover, an extension of the original lease

**A** No. The requirement of competitive bidding, in the event that there are no marginalized groups participating, is for the purpose of inviting competition and to guard against favoritism, fraud, and corruption in the

letting of fishery privileges. There is no doubt that the original lease contract in this case was awarded to the highest bidder, but the reduction of the rental and the extension of the term of the lease appear to have been granted without previous public bidding. The resolution is null and void as it is contrary to law and public policy.

**Q** 5.1.11 Can community health officers give permits to those engaged in fishing with use of compressors?

**A** Community health officers certify only the dive-worthiness of individuals and not the fishing activity held in conjunction with the diving. The granting of fishery privileges, regardless of the gear(s) to be used, is exclusive to the SB. The SB may require health certificates for those who are engaged in fishing with the use of compressors but this shall not in any way substitute as a fishery license.

**Q** 5.1.12 Is fishing with the use of compressors legal?

**A** There is no law (national) that bans the use of compressors as an aid to fishing. However, if the fishing operation involved, such as the use of cyanide, is prohibited by a national law, then the diver using a compressor shall be liable under PD 704 as amended by PD 1058. If the fishing activity comprises the gathering of marine mollusks, the diver should possess a shell fishing license from BFAR (FAO 11).  
A municipality has the discretion of banning compressors in



# 5

## Commonly Asked Questions Answered



fishing through an appropriate municipal ordinance if the fact that compressor diving in association with specific fishing activities causes ecological imbalance is established.

**Q** 5.1.13 Who has jurisdiction over the enforcement of fishery and environmental laws within municipal waters?

its implementing FAOs) and locally (municipal fishery ordinance) promulgated.

**A** Under Section 17 of the LGC, enforcement of fishery laws within the territorial waters of a municipality has been devolved to the respective municipal or city governments. On the other hand, the enforcement of community-based forestry laws, small-scale mining laws, pollution control laws, and other laws on the protection of the environment has been devolved from DENR to the provincial governments. For fishery laws, it has been clarified by BFAR that it is the duty of the LGUs to enforce fishery laws that are both nationally (PD 704 and

**Q** 5.1.14 What is illegal fishing?

**A** Illegal fishing is fishing with the use of destructive materials or substances such as dynamite or its derivatives, noxious or poisonous substances, electricity or the use of fishing gear prohibited by existing fishery laws, rules, and regulations.

**Q** 5.1.15 What laws prescribe penalties for illegal fishing activities and what are the respective penalties?

**A** See Table 5-1.



**TABLE 5-1.  
LAWS GOVERNING ILLEGAL FISHING  
ACTIVITIES AND PENALTY  
SCHEDULE**

***Blast or dynamite fishing* ..... PD 704; as amended by PD 1058**

- √ Mere possession of explosives: imprisonment ranging from 12 to 25 years
- √ Fishing with explosives: imprisonment ranging from 25 years to life imprisonment: provided that if the use of explosives results in:
  - ◆ Physical injury to any person; the penalty shall be imprisonment ranging from 25 years to life imprisonment; or
  - ◆ The loss of human life; the penalty shall be life imprisonment or death.

***Cyanide fishing* ..... PD 704; as amended by PD 1058**

- √ Imprisonment ranging from 8 to 10 years, provided that if the use of substance results in:
  - ◆ Physical injury to any person; the penalty shall be imprisonment from 10 to 12 years; or
  - ◆ The loss of human life, the penalty shall be imprisonment from 20 years to life, or death.

***Electrofishing* ..... RA 6541**

- √ Imprisonment ranging from 2 to 4 years

***Use of fine-mesh nets* ..... FAO 155, s1986**

- √ A fine of not less than P500.00 but not more than P5,000.00 or imprisonment of not less than 6 months to 4 years, or both such fine and imprisonment, at the discretion of the court: Provided, however, that the Director of BFAR is empowered to impose upon the offender an administrative fine of not more than P5,000.00 including the confiscation of the fishery nets or paraphernalia and the fish catch.

***Knowingly possess, deal in, sell, or dispose for profit illegally caught, taken, or gathered fish or aquatic products* ..... Section 33 par. 2, PD 704 as amended**

- √ Imprisonment of 5 to 10 years (as amended by Sec. 3, PD 704).

***Fishing with the use of fine-mesh nets, except when these nets are used for catching bangus fry, glass eels, and other species which by nature are small but already mature***

**..... Section 34 PD 704 & FAO 155 as amended by FAO 155-1 s1994**

- √ Imprisonment from 6 months to 4 years or a fine of not less than 500.00 but not more than P4,000.00 or both (PD 704, FAO 155)
- √ Taking or catching of *sabalo* (60 cm or more) or full-grown milkfish in Philippine waters (FAO 129, FAO 129-1 - except those caught in freshwater. FAO 129-2 - provided proper certificate from CENRO exists) Fine of P500.00 to P5,000.00 or imprisonment of 6 months to 4 years or both at court's discretion.





**TABLE 5-1. (CONTINUED)  
LAWS GOVERNING ILLEGAL FISHING  
ACTIVITIES AND PENALTY  
SCHEDULE**

|  |   |
|--|---|
| <i>Gathering, catching, taking, removing marine tropical or aquarium fishes without permit</i>   | <i>FAO 124 as amended by FAO 148</i>        |
| √ Imprisonment of 8 to 10 years  |   |
| <i>Exportation of bangus fry</i>   | <i>Section 36 PD 704</i>                    |
| √ Imprisonment of 1 year to 5 years or a fine of P1,000.00 to P5,000.00 or both  |   |
| <i>Gathering and farming seaweed without license or permit</i>   | <i>FAO 108 as amended by FAO 146</i>        |
| √ Imprisonment of 6 months to 4 years or a fine of P500.00 to P5,000.00 or both  |   |
| <i>Exportation or importation of fish and fishery products without permit</i>  | <i>Section 18 PD 704, FAO 157 &amp; 135</i> |
| √ Imprisonment of 6 months to 4 years or a fine of P500.00 to P5,000.00 or both  |   |
| <i>Transporting fishery products from point of origin to another place without auxiliary invoice</i>   | <i>FAO 2-89/19-6, FAO 145</i>               |
| √ Imprisonment of 6 months to 4 years or a fine of P500.00 to P5,000.00  |   |
| <i>Discharging and placing in Philippine waters substances or materials deleterious to fishery aquatic life</i>  | <i>Section 27 PD 704</i>                    |
| √ Imprisonment of 6 months to 4 years or fine of P500.00 to P5,000.00 or both  |   |
| <i>Foreign boat illegally fishing in Philippine waters</i>   | <i>Section 39 PD 704</i>                    |
| √ Confiscated administratively including the catch and fishing equipment without prejudice to criminal or civil action that may be taken against the owner or operator |   |
| <i>Construction or establishment of fish pond or fish enclosures in inland waters without permit</i>   | <i>FAO 109</i>                              |
| √ Imprisonment of 6 months to 4 years  |   |
| <i>Importation and/or possession of live piranha</i>   | <i>FAO 126</i>                              |
| Imprisonment of 6 months to 4 years  |   |
| <i>Vessels entering fishery reserved or enclosed area</i>  |   |
| Fine not exceeding P5,000.00   |   |



**TABLE 5-1. (CONTINUED)  
LAWS GOVERNING ILLEGAL FISHING  
ACTIVITIES AND PENALTY  
SCHEDULE**

|   |
|---|
| <p><i>Collecting, gathering, utilizing, possessing, transporting, disposing of marine turtles, turtle eggs, or any of its products, except in Reg. 9 and 12..... MNR Adm. Order No. 12, Series 1975</i></p> <p>√ Imprisonment of not more than 6 years or a fine of P600.00 or both</p>   |
| <p><i>Obstruction of fishery officer boarding fishing vessels for inspection ..... Section 41 (d) PD 704</i></p> <p>√ Fine not exceeding P500.00 and cancellation of license</p>  |
| <p><i>Unlawful obstruction or delays in the inspection and/or movement of fish and fishery products when such inspection and movement are authorized..... PD 704 Section 38 (d) D 704</i></p> <p>√ Imprisonment of not more than 2 years or a fine of not more than P2,000.00 or both</p> |
| <p><i>Fishing in Philippine waters with the use of muro-ami (drive-in-net), kayakas, scareline (Serosca) FAO 163, s1996</i></p> <p>√ Imprisonment of 6 months to 4 years or fine of P500.00 to P5,000.00 or both</p>  |
| <p><i>Catching, taking, selling, purchasing, possessing, and transporting Dolphins ..... FAO 185, s1992</i></p> <p>√ Imprisonment of 6 months to 4 years or fine of P500.00 to P5,000.00 or both</p>  |
| <p><i>Importation of live shrimp and prawns at all stages except those with special permit ..... FAO 189, s1993</i></p> <p>√ Imprisonment of 6 months to 4 years or fine of P500.00 to P5,000.00 or both</p>  |

**Q** 5.1.16 What types of fishing gears are banned?

**A** The banning of specific types of fishing gears is provided for in several administrative issuances (FAOs). Gears which are banned totally or in relation to specific areas or fishing practices include:

- ♦ **Pantukos**, defined as a tuck seine operated from two boats during moonless nights for catching *siliniasi* (fry or young of fish belonging to the family *Clupeidae*, sardines and herring) whereby schools of fish are driven into the net by a cordon of driver boats. The prohibition is specific for the operation of *pantukos* with the use of lighted torch (*waswas*) and the use of



kerosene, crude oil, gasoline, or any flammable substance poured on any water area and ignited to scare or drive the fish towards the gear. FAO 122, s1977, is the relevant administrative issuance regulating this gear.

- ◆ ***Muro-ami***, or drive-in net, defined as a Japanese fishing gear used in reef fishing which consists of a movable bag net and two detachable wings effecting the capture of fish by spreading the net in an arc form around reefs and shoals. With the aid of scaring devices, a cordon of fishers drive the fish from the reefs toward the bag portion of the whole net. ***Kayakas***, a local version of the muro-ami but smaller in size uses bamboo or wood as scare devices as well as coconut or other leaves or materials as scarelines to drive fish out of the coral reefs. The use of said gears is prohibited in all Philippine waters (FAO 163, s1986).
- ◆ ***Hulbot-hulbot***, a fishing gear consisting of a conical net with a pair of wings, the ends of which are connected to two ropes with *buri*, plastic strips or any similar materials which, with hauling ropes passing through a metallic ring permanently attached to a tom weight, serve as scaring or herding device when hauled into a fishing boat. The prohibition is limited to the use of such gear with fine-mesh nets less than 3 cm within a distance of 7 km and using fishing boats more than 3 GT from the shoreline of all coastal provinces. Provided, however, that for provinces comprising several islands or islets, the 7-km distance shall be measured perpendicularly from the shorelines of such islands or islets. Provided, further, that in a group islands or islets where the distance between islands or islets is 14 km or less, the group shall be treated as one island or islet and the 7-km distance shall be reckoned from the outer shorelines of such group of islands or islets. Regulations pertaining to the use of *hulbot-hulbot* is provided by FAO 164, s1987.
- ◆ **Commercial trawls and purse seines** are prohibited from operating in marine waters within a distance of 7 km from the shorelines of all provinces of the Philippines. Provided, that in coastal areas 7 fathoms deep or more which are not reached by sustenance fishers, the operation of commercial trawl and purse seines may be allowed by the Minister of Natural Resources, upon the recommendation of the BFAR Director (1328 LOI 1983).
- ◆ **Tuna purse seine** nets with mesh size less than 3.5 cm are prohibited from operating in Philippine waters. FAO 188, s1993, specifies these provisions and includes a repealing clause for FAO 155, in so far as commercial fishing boats using tuna purse seine nets are concerned.
- ◆ ***Pa-aling*** refers to a fishing gear consisting of a net set at coral or shoal reef areas whereby fish are driven towards the net by means of air bubbles produced by compressors. FAO 190, s1994, defines as unlawful the use of commercial *pa-aling* within municipal waters as defined in the LGC; the water jurisdiction of the



PCSD under RA 7611; the water area east of 119°30', south of 13°00 and north of 10°30; and fish sanctuaries, protected areas, and marine parks and reserves.

**Q** 5.1.17 Is it unlawful to burn or destroy apprehended illegal fishing gears?

gears. Apprehension does not necessarily connote conviction. Unless the apprehended persons are declared guilty by final court judgment, they are presumed innocent. Thus, their fishing apparatus should be preserved until the court orders its destruction. The fishing apparatus serves as vital evidence in court.

**A** Yes. The penalties provided by law (PD 704 and appropriate FAOs) are imprisonment and/or fine, cancellation of permits or licenses, and the seizure of fishing boats and illegal fishing apparatus pending criminal proceedings. The LGC authorizes the LGUs to impose only fines and/or imprisonment for violation of ordinances. There is no law authorizing the burning and destruction of apprehended illegal fishing

**Q** 5.1.18 Who are deputized to enforce fishery laws, rules, and regulations?

**A** Members of the PCG, PNP, local police forces, government law enforcement agencies, and other competent government employees duly appointed in writing by the Secretary of Agriculture are made deputies of said Secretary in the enforcement of all fishery laws, rules, and regulations.

**Q** 5.1.19 Who are qualified to be deputized as Fish Wardens and what is the legal basis for such deputation?

**A** Municipal mayors, duly elected barangay officials, and officers of duly registered fishers associations. The legal basis is Section 40 of PD 704, as amended; LOI 550 and LOI 929.

# 5

## Commonly Asked Questions Answered



### 5.2 MANGROVE FORESTRY AND AQUACULTURE

**Q** 5.2.1 The DA-BFAR is responsible for the leasing of fishponds on government land (fishpond lease agreements). Has the issuance of FLAs been devolved to the LGUs?

**A** No, the issuance of FLA has not been devolved to the LGU. This power is still retained by the DA-BFAR.

**Q** 5.2.2 Who has jurisdiction over mangrove resources?

**A** Under the LGC, the conservation of mangroves, as well as the implementation of community-based forestry projects (including integrated social forestry programs) has been devolved to the LGUs (municipality or city) pursuant to national policies and subject to the supervision, control, and review of DENR (Sec 17 (2)(i),(ii)). The pertinent guidelines to effect the

devolution of these functions are spelled out in DAO 30, s1992. Community-based forestry projects refer to DENR developmental projects involving local communities which include the integrated social forestry projects, family and community contract reforestation, forest land management agreements, community forestry program, and other similar projects. On the other hand, the management, protection, and development of all other areas outside communal forests remain with DENR.

National policies and DENR guidelines for sustainable management of mangrove resources are contained in numerous legal instruments. The basic management framework is provided for in PD 705 or the Forestry Code of the Philippines which ascertains the jurisdiction of DENR in the management of forest land including that of mangroves. DAO 15, s1990 enumerates the various regulatory measures on mangrove conversion and conservation. Other laws that relate to mangrove resources include DAO 3, s1990 : policies for the award of mangrove stewardship contracts; DAO 76, s1987: establishment of buffer zones in mangrove areas; and DENR AOs, Memorandum Circulars, and BFAR Fisheries AOs relating to the control and management of fishpond lease areas converted from mangroves swamps.





**Q** 5.2.3 Which agency has jurisdiction over illegally expanded fishponds which employ the method of planting lines of mangrove to catch soil from the mainland, and in effect reclaiming land?

**A** Both DENR and BFAR can sue the FLA owner. If the fishpond owner has expanded and encroached in an area not released to BFAR for fishpond purposes, then DENR has jurisdiction over the case. On the other hand, BFAR, which has administrative jurisdiction and management over FLAs can prosecute the FLA owner for violating the terms and conditions of the FLA, which prohibits the illegal expansion of fishponds.

**Q** 5.2.4 Who has jurisdiction over reverted fishponds?

**A** DA-DENR Joint General Memorandum of Agreement (GMOA) Order No. 3, s1991 prescribes the guidelines for the reversion of FLAs into mangrove forest lands. Accordingly, FLAs found to be violating these guidelines will be reverted back to the administration of DENR. On the other hand, the DA-DAR AO 18, s1991, prescribes the guidelines to be followed in

the redistribution of cancelled and/or expired FLAs to agrarian reform beneficiaries. Cancelled FLAs can only be transferred to the administration of the DAR if the fishponds are situated in alienable and disposable lands; otherwise, they revert to the category of timberland which then becomes subject to the jurisdiction of DENR (DA-DENR Joint General Memorandum Order No. 3, s1991).

**Q** 5.2.5 What are illegal fishponds?

**A** Illegal fishponds can be any of three things: 1) fishponds sited in areas which are released for fishpond development but operate without FLAs, 2) fishponds sited in areas not released by DENR for fishpond development, and, 3) fishponds converted from mangrove swamps after the issuance of DAO 15, s1990, which prohibits further conversion of

thickly vegetated mangroves to fishponds.



# 5

## Commonly Asked Questions Answered



The illegality of item 1) is borne by FAO 60, Section 24 of PD 704 and FAO 125, s1979. This provides the rules and regulations governing the conversion of ordinary fishpond permits (1 year) into 25-year FLAs, including eligibility for filing, where and how applications are filed, terms and conditions of the FLAs, rentals and surcharges and grounds for termination, cancellation, or rescission of FLA. Fishponds that operate in BFAR's area of jurisdiction without FLAs violate these laws and AOs. In this case, the Regional Fishery Officer should be alerted.

Item 2) is illegal because it is a violation of MNR AO No. 3. Item 3) is illegal because it is a violation of DAO 15, s1990.

**Q** 5.2.6 Who has jurisdiction over illegal fishponds?

**A** Fishponds sited in areas which have been released by DENR for fishpond development but which operate without FLAs are within the jurisdiction of BFAR.

prohibits further conversion of thickly vegetated mangroves into fishponds, are within the jurisdiction of DENR, specifically the Lands Management Services of the DENR Regional Office for public lands and the Forest Management Bureau for forest lands.

**Q** 5.2.7 What procedures are in place to legalize illegal fishponds?

**A** The joint DA-DENR GMOA 3, s1991 states that if the area released to DA-BFAR or any part thereof is actually occupied and developed prior to the effectivity of the Order, the occupant shall, within 180 days from effectivity, file a fishpond lease application thereon, comply with and submit to DA-BFAR all requirements for the issuance of a FLA, and pay the

penalties due pursuant to FAO 60 for each year since development began.

All applications for fishpond lease over forest lands which have not been released for fishpond development by DENR shall automatically be returned without being acted upon.





Q

**5.2.8 Are fishponds exempted from agrarian reform?**

A

Yes, fishponds are exempted from the Comprehensive Agrarian Reform Law (CARL). This is provided for by RA 7881 which amended certain provisions of RA 6657 or the CARL. Section 2 of RA 7881 amends Section 10 (b) of RA 6657, Exemptions and Exclusions, to read: “private lands, actually, directly and exclusively used for prawn farms and

fishponds shall be exempt from the coverage of this Act: Provided, that said prawn farms and fishponds have not been distributed and Certificate of Land Ownership Award (CLOA) issued to agrarian reform beneficiaries under the Comprehensive Agrarian Reform Program”.

Q

**5.2.9 Are ECCs necessary for fishponds?**

A

Yes. Fishponds, as defined by DAO 34, s1991, are aquaculture activities *within the mangroveecosystem* and include prawn and shrimp culture, seaweed farming, oyster, mussel and clam culture, saltbeds, and other fishpond production activities. Fishpond development thus imperils the extraction of mangrove products, which are classified as an ECP by DAO 96-37 and located in an ECA, which is the mangrove itself (*ibid*).

Q

**5.2.10 What is the coverage of the ECC for fishponds?**

A

All existing fishponds and new fishpond development projects regardless of area, situated in alienable or disposable lands or in mangrove forest lands which have been zonified as suited for such activity, are covered by the EIS system. Existing fishponds which were operational prior to 1982 except in cases where their operations are expanded in terms of daily production capacity or area, or the process is limited, or not

covered by the EIS System (sec. 20, Art II, DAO 96-37, s1996). Further, fishpond development projects shall be considered critical if such will involve utilization of areas equal to or greater than 25 ha (par 3, B, NEPC Office Circular No. 3, s1983). Fishponds are also subject to penalties or fines under DAO 96-37, s1997.

# 5

## Commonly Asked Questions Answered



### 5.3 PROTECTED AREAS

**Q** 5.3.1 Who has jurisdiction over areas designated as protected areas – the Protected Areas Management Board (under the NIPAS Act) or the LGU? In cases where the PAMB and the LGU do not agree on matters governing the protected areas, how is the conflict to be resolved?

**A** The PAMB. Section 10 of RA 7586 (NIPAS Act) provides for the administration and management of the NIPAS: “*the NIPAS is hereby placed under the control and administration of the DENR. For this purpose, there is hereby created a division in the regional offices of the Department to be called the Protected Areas and Wildlife Division in regions where protected areas have been established, which shall be under the supervision of a Regional Technical Director, and shall include subordinate officers, clerks, and employees as may be proposed by the Secretary, duly approved by the Department of Budget and Management, and appropriated for by Congress.*” Section 11 provides for a Protected Area Management Board (PAMB) which shall be established for

each protected area. Each PAMB includes several nominees from various LGUs, including one representative from the autonomous regional government, if applicable; the Provincial Development Officer; one representative from the municipal government; one representative from each barangay covering the protected area; one representative from each tribal community, if applicable; and, at least three representatives from NGOs or local community organizations; and, if necessary, one representative from other departments or NGAs involved in protected area management.

Section 7 of DAO 25 (s1992), or the implementing rules and regulations for RA 7586, further provide for a two-tiered management planning: “*NIPAS site management planning and implementation shall be undertaken by protected area staff, which may include an NGO component, and by technical specialists and representatives of local communities within and near the site following a general planning strategy prepared at the national level. The protected area management plan shall be contained within a management manual as provided by Section 9 of the Act. Protected area management shall be under the direction of a site-specific Protected Area Management Board as provided in Chapter V of this Order and NGOs are expected to play an important role in area management along with DENR staff.*”

The issue of jurisdiction for protected areas within municipal waters is also articulated in the definition of municipal waters, which expressly excludes “*streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forests, timber lands, forest reserves or fishery reserves.....*” (LGC, Section 131r).

Since majority of the PAMB members are representatives from LGUs and considering that the Board is mandated by law as the site-specific policy-making body of protected areas, the LGUs have greater influence in the decision-making process than the other representative groups. Therefore, the decision of the Board carries the majority vote of





representatives from the LGUs.

It must be noted, however, that the legislative and taxation functions of the LGUs and the administrative authority of the PAMB have different legal bases which are not necessarily in conflict. The LGUs can legislate and impose taxes that shall be effective throughout their territorial jurisdiction, including that of protected areas, because these are functions guaranteed by the Constitution.

**Q**

**5.3.2 Can the LGU create a fish sanctuary within its municipal waters without authority or approval from DENR, BFAR, or any other national agency?**

**A**

Yes, the LGU can create fish sanctuaries within its municipal waters without authority or approval from DA-BFAR. LGC Section 3 states that “*the LGU shall share with the National Government the responsibility in the management and maintenance of ecological balance within its territorial jurisdiction subject to the provisions of this*

*code and national policies*”. This can be done by issuing a specific ordinance. The LGU may seek technical assistance from DA-BFAR in establishing fish sanctuaries. DA GMOA 3 (s1990) provides the guidelines for the establishment of fish sanctuaries.

In cases where the initiative to create a fish sanctuary emanates from the NGA, permission has to be requested from the LGU as provided for by Section 27 of the LGC which states that “*no project or program initiated by the NGA shall be implemented unless approved by SB and appropriate consultations are made*”.

The establishment of fish sanctuaries within proclaimed protected seascapes (RA 7586) in municipal waters needs authorization from the PAMB.

**Q**

**5.3.3 Is there a law or regulation governing the establishment, utilization, and management of artificial reefs (AR) in municipal waters?**

**A**

None. However, a joint DENR-DA-DILG-DND AO is in the process of being signed by the four departments.<sup>2</sup> This AO provides for a nationwide moratorium on artificial reef deployment

<sup>2</sup> DENR and DA have signed the memo as of July, 1997.



# 5

## Commonly Asked Questions Answered



pending formulation of policy guidelines. The moratorium will take effect for one year upon the signing of the joint AO.

**Q** 5.3.4 If the municipality decides that a coastal area will be developed as a tourism resort and disregards the mandate of the province that such area shall be declared as a protected seascape, will the province be able to overturn the municipality's decision?

**A** No (LGC section 56 (c). In relation to section 17 (b) (2) (xi) and section (b) (3)(xii), the reviewing power of the SP under Section 56 of the LGC is limited to a determination of whether the ordinance or action of a municipality or component city is within the power conferred upon it by law (Sec. 5.6). Since a municipality is empowered to provide tourism facilities and attractions within its territory (Sec. 17), the SP cannot overturn the municipality's action.

**Q** 5.3.5 What laws govern the catching of marine mammals and who has jurisdiction over them?

**A** The taking, catching, sale, purchase, possession, transport and export of whales, porpoises and dolphins are prohibited by FAO 185, s1992, and FAO 185-1, s1997. Jurisdiction over these types of marine mammals is with DA-BFAR while jurisdiction over the protection and conservation of the *dugong* or sea cow (*dugong dugon*) is with the PAWB as provided by DAO 55, s1991.

**Q** 5.3.6 Who has jurisdiction over the conservation of marine turtles?

**A** The DENR, specifically the PAWB, has jurisdiction over the conservation of marine turtles. This is provided for in MNR AO 12, s1979, which assigns to the (then) Bureau of Forest Development (BFD) and BFAR the enforcement of this order. PAWB absorbed the functions of BFD via EO 192, including jurisdiction over marine turtles.





**Q** 5.3.7 What are the proclaimed marine protected areas and where are they located?

**A** See Table 5-2.

| NAME OF PROTECTED AREA                      | REGION | PROCLAMATION NO./DATE AREA (has)                             |
|---|--------|--|
| Palaui Island Marine Reserve                | 2      | Proc. No. 447/August 16, 19947,415                           |
| Batanes Protected Landscape and Seascape    | 2      | Proc. No. 335/February 28, 1994213,578                       |
| Masinloc and Oyon Bay Marine Reserve        | 3      | Proc. No. 213/August 18, 19937,568                           |
| Tubbataha Reef National Marine Park         | 4      | Proc. No. 306/August 11, 198833,200                          |
| Apo Reef Natural Park                       | 4-B    | Proc. No. 868/February 20, 199611,677                        |
| Taklong Island National Marine Reserve      | 6      | Proc. No. 525/February 8, 19901,143.45                       |
| Sagay Protected Seascape                    | 6      | Proc. No. 592/June 1, 199528,300                             |
| Apo Island Protected Landscape and Seascape | 7      | Proc. No. 438/August 9, 1996691                              |
| Guiuan Protected Landscape and Seascape     | 8      | Proc. No. 469/September 26, 199460,448                       |
| Turtle Island Heritage Protected Area       | 9      | MOA inked between Malaysia and Philippines/May 31, 19961,740 |
| Pujada Bay Protected Landscape and Seascape |        | 11 Proc. No. 431/July 31, 199421,200                         |
| Sarangani Protected Seascape                | 11     | Proc. No. 756/March 5, 1997215,950                           |

**TABLE 5-2.  
MARINE PROTECTED AREAS**



# 5

## Commonly Asked Questions Answered



**Q** 5.3.8 In the event that a barangay has passed a resolution recommending the creation of a fish sanctuary within its waters, but the municipal mayor or the SB refuses to approve the resolution, what are the legal remedies?

**A** Section 398 of the LGC enumerates the powers of the barangay assembly to include the “adoption of initiative as a legal process whereby the registered voters of the barangay may directly propose, enact, or amend any ordinance”.

Section 121 and 122 of RA 7160 specifies who and how the process of local initiative may be carried out.

**Q** 5.3.9 Can the LGU apprehend fishers illegally fishing in protected marine waters?

**A** Yes. Section 149 of the LGC authorizes the SB to prosecute any violation of applicable fishery laws. The LGU and any of its deputies can therefore apprehend fishermen violating any fish sanctuary or protected area within its territorial jurisdiction. If the violation occurs within a protected marine area under the NIPAS Act, the LGU is likewise authorized to enforce

the provisions of the Act but its law enforcement officers must be deputized by the PAMB. The national law enforcers such as the PNP-MARICOM and the PCG may also apprehend illegal fishers.

## 5.4 ENVIRONMENTAL ISSUES, INCLUDING POLLUTION AND HABITAT MANAGEMENT

**Q** 5.4.1 What are the LGU's role and powers in enforcing effluent standards set by the DENR-EMB on wastewater?

**A** The relevant LGU which is vested with the power to enforce pollution control law is the city or province (LGC Sec. 17(b)(3)(iii); Sec. 17(b)(4) ). Nevertheless, this power is subject to the control and review of DENR. The broad guidelines provided by DENR with respect to devolved functions, including that of environmental management, is contained in DAO 30, s1992. The role and powers of the province in enforcing

wastewater standards include: (1) enforce pollution control law and other laws on the protection of the environment; (2) approve ordinances and pass resolutions that will protect the environment and impose appropriate penalties for





acts which endanger the environment and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes or ecological imbalance; (3) adopt measures and safeguards against pollution in consonance with approved standards on environmental sanitation; and (4) implement cease-and-desist orders issued by the Pollution Adjudication Board (PAB).

The relevant effluent standards are embodied in DAO 35, s1990. DAO 96-37 provides guidance on the EIS system.

Q

**5.4.2 What law can be used to control solid waste disposal and who should enforce this?**

A

The LGU should enforce policies pertaining to solid waste disposal. Section 17 (Basic services and facilities) of the LGC states that “*local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this code.*”

*Such basic services and facilities include, for a barangay, services and facilities related to general hygiene and sanitation, beautification, and solid waste collection; for a municipality, solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation.”* The responsibility of cities and municipalities for providing an efficient system of collecting, transporting, and disposing refuse is also provided for in Section 82 of PD 856 (Sanitation Code).

PD 856 s 1975, Chapter XVIII, provides for a system of refuse (inclusive of all solid waste products such as garbage, rubbish, ashes, night soil, manure, dead animals, street sweepings, and industrial wastes) disposal.

Q

**5.4.3 Factory X is located in LGU 1, but only a hundred meters from the border of LGU 2. If the effluents of Factory X seep into the municipal waters of LGU 2, can the latter seek the closure of said factory?**

A

Yes. LGU 2, through its local council, can abate without judicial proceeding any nuisance which may injure or endanger the health of its inhabitants. The effluents from Factory X which had seeped into the municipal waters of LGU 2 can be declared as a nuisance and can then be abated. Homeowners Association of El Deposito v. Lood (47 SCRA 174, 29



September 1972) recognized the power of local governments to order abatement of nuisance per se. The police power of the State justifies the abatement or destruction by summary proceedings of public nuisances per se (Szitchon v. Aquino, 98 Phil 694).

LGU 2 can pass an ordinance relative to the protection of the environment such as an anti-pollution law and other measures against acts which may accelerate the eutrophication of rivers and lakes and cause ecological imbalance, or to support a complaint of the general public. It cannot, however, enact an ordinance seeking to directly control the activities of a factory or firm allegedly causing pollution. The proper action of LGU 2 would be to seek recourse by petitioning DENR to investigate the offending factory for possible violation of the EIS system and the cancellation of its ECC. It can also seek recourse through the provincial board (assuming that LGU 1 & 2 are municipalities within the jurisdiction of the same province) so that the issue can be investigated and settled with the PAB (see Annex 1 sec 5.29).

**Q** 5.4.4 What is role of the LGU in implementing the law on toxic substances, hazardous and nuclear wastes control act (RA 6969)?

**A** The rules and regulations governing the importation, manufacture, processing, sale, distribution, transportation, use, storage, and disposal of toxic and hazardous wastes as defined in RA 6969 shall be administered by the DENR Secretary or his duly authorized representative, or through any other department, bureau, office, agency, state university or college, and other instrumentalities of the Government for which assistance in the form of personnel, facilities, and other resources is sought by DENR in the discharge of its functions (Sec. 5 of DAO 29, s1992). In the discharge of his functions, the Secretary may appoint and deputize officers subject to the conditions, limitations, or restrictions as may be prescribed by him and in accordance with the provisions of DAO 29. In both RA 6969 and its implementing rules and regulations (DAO 29), the LGU has not been tasked with direct responsibilities for the control and prevention of toxic and hazardous wastes. Nevertheless, the overall LGU mandate for environmental management as provided for by the LGC implies that LGUs should be constantly monitoring activities related to toxic and hazardous wastes within its territorial jurisdiction and should report any illegal or ecologically dangerous activities to the DENR.



Yes. LGUs, in enforcing national laws, may



**Q** 5.4.5 Can LGUs prevent the passage of vessels carrying toxic and/or nuclear waste through its municipal waters?

prevent the passage of ships carrying toxic and/or nuclear wastes (RA 6969). Moreover, it is recommended that the LGU approach DENR which has jurisdiction over nuclear, hazardous, and toxic wastes or any of its designated environmental protection officers, who are authorized to stop, detain, inspect, and remove to some suitable place for inspection and examination any vehicle or boat believed or likely to be used for the transport of

chemical substances or hazardous wastes without the necessary permit from the DENR (Sec 9, DAO 29, s1992).

**Q** 5.4.6 Can an LGU enjoin a national project like an oil pipeline under its municipal waters?

**A** No. PD 1818 prohibits the issuance of restraining orders or injunctions in cases involving an infrastructure project, mining, fishery, forest or *other natural resource* development projects of the government. Corollarily, the LGUs cannot enjoin any government activity critical to the economic development effort of the nation. The pursuit of essential government projects such as an oil pipeline cannot be

hampered by the LGUs because it would imperil public interest. However, the LGC provides for a system of consultation between NGA and LGU for projects or programs that may cause “*pollution, climate change, depletion of non-renewable resources, etc.*” (Sec. 26 and 27). This is further strengthened by DILG Memo Circular No. 52, s1993, enjoining strict adherence to the aforementioned provisions of the LGC. Likewise, it is also assumed that the project does not violate the EIA Law (DAO 96-37) or the provisions/conditions of the ECC because if so, the LGU can seek the assistance of DENR and DENR-PAB for the issuance of a Notice of Violation or CDO.

**Q** 5.4.7 Who is responsible for the enforcement of anti-marine pollution laws within municipal waters?

**A** The local governments, specifically, the Province, the PCG, the PNP-MARICOM and its deputies, and DENR. PD 979, or the Marine Pollution Decree of 1976 and PD 601 of 1974 has delegated to the PCG the function of enforcing laws against the pollution of the sea. RA 6975 Section 35(b)(1) vests on the PNP-MARICOM the power to enforce laws, including



marine pollution laws, over all Philippine waters. PD 1160 deputizes the Barangay Captain, the Barangay Councilman and Barangay Zone Chairman to “enforce and implement national and local laws, ordinances and rules and regulations governing pollution control and other activities which create imbalance in the ecology or disturbance in environmental conditions”. Lastly, the LGC (Sec. 17(b)(3)(iii)) provides for the Province to enforce pollution control laws for CBBEs (under Kalakalan 20). Non-CBBEs are under the jurisdiction of the DENR.

**Q** 5.4.8 Who will penalize industries that discharge effluents in coastal waters? Is it DENR through the PAB or LGUs? If it is the local council, is there a need for an enabling ordinance?

**A** Both the DENR, thru the Pollution Adjudication Board (PAB) and the LGU may penalize industrial owners who discharge untreated or insufficiently treated industrial effluents into the coastal waters. The former may penalize said polluters by virtue of PD 984, the National Pollution Control Decree of 1976, while the LGU may penalize said polluters through an enabling ordinance.

Under Section 19 of EO 192, the Reorganization Act of the Department of Environment and

Natural Resources (1987), the PAB assumed the powers and functions of the National Pollution Control Commission with respect to the adjudication of pollution cases under RA 3931 and PD 984. While RA 7160 conferred broad powers on the LGUs, these powers do not include those vested in the PAB by EO 192 in relation to PD 984. Therefore, the PAB retains exclusive jurisdiction over pollution cases under PD 984.

Such exertion by the PAB of exclusive jurisdiction over pollution cases covered by PD 984 does not, however, mean that the LGUs can no longer be effective partners of the national government in the management and maintenance of ecological balance within their respective territorial jurisdictions. Within their respective territorial jurisdictions, LGUs may still enhance the right of the people to a balanced ecology in at least three ways, i.e., by assisting the PAB in the implementation of its orders and decisions, by passing ordinances which penalize acts of pollution, and through abatement of nuisance.

Under Section 3.3 of DAO 30, s1992, the implementation of cease-and-desist orders issued by the PAB has been devolved to the LGUs. Such devolution is consistent with the LGUs’ power to enforce pollution control laws and other laws on the protection of the environment.

The act of discharging untreated or inadequately treated industrial effluents into the coastal waters may also be



penalized under a separate local ordinance, as authorized by Section 447 of the LGC for a municipal legislative body, Section 458 of the LGC for a city council, and Section 465 of the LGC for a provincial legislature. It is the specific ordinance that would authorize the LGU to impose fines and penalties, including imprisonment, on the erring firms, separate and distinct from those provided under PD 984.

Section 8 of RA 3931, An Act Creating the National Water and Air Pollution Control Commission (1964), which was subsequently amended by PD 984, provides that “[n]o investigation being conducted or ruling made by the Commission [the PAB’s predecessor] shall prejudice any action which may be filed in court by any person in accordance with the provisions of the New Civil Code on nuisance.” The aforementioned provision, in relation to Sections 447 and 458 of the LGC, empowers the municipal and city legislatures to penalize pollutive firms based on the Civil Code provisions, and their own ordinances, on nuisance.

While Section 16 of the LGC grants the LGUs police powers, the exercise of such police powers must be made in relation to enabling legislation, especially when the imposition of penalties such as closure, imprisonment, and imposition of fines is involved.

We reiterate therefore that both the PAB and the LGU may penalize the owners of industrial firms discharging untreated or inadequately treated effluents into coastal waters, although the powers of these two (2) entities to penalize the pollution arise from different laws.

**Q**

**5.4.9 Who should enforce the law if cement mining plants discharge effluents that alter the marine environment. DENR or the LGUs? Assuming that such effluents will adversely affect the migrating whales because the marine mammal fauna is altered, is the cement mining plant penalized through an ordinance or an international treaty? If it is penalized thru a treaty, who will enforce such a treaty?**

**A** Neither the DENR nor the LGUs shall enforce the applicable laws. The Coast Guard, together with the PNP, is tasked to enforce laws relating to marine pollution. PD 601, the Revised Coast Guard Law of 1974, provides that the one of the specific functions of the Coast Guard is:

*To enforce laws, promulgate and administer rules and regulations for the prevention of marine pollution within the territorial waters of the Philippines*



*in coordination with the National Pollution Control Commission (Section 5(p)).*

The PNP, on the other hand, is mandated under RA 6975, the Department of Interior and Local Government Act of 1990, to take over the functions of the Coast Guard:

*The PNP shall absorb xxx the police functions of the Coast Guard. In order to perform its powers and functions efficiently and effectively, the PNP shall be provided with adequate land, sea, and air capabilities and all necessary material means of resources.*

The PNP performs this function under the Maritime Police Unit. At present, the Maritime Police Unit and the Philippine Coast Guard are in close coordination in the enforcement of laws relative to marine pollution.

As a general rule, treaties cannot penalize individuals. Treaties are generally binding only on States which have ratified them, so the obligations imposed by a treaty are only directly binding on the State. Liability for failure to comply with the treaty obligations is imposed not on the individual but on the State-party to the treaty.

It is the obligation of the State-party to enforce the provisions of the treaty upon its citizens by virtue of a municipal law. The exception to the rule is when the treaty itself recognizes the legal personality of individuals under international law such as in certain human rights instruments and certain environmental treaties (e.g., adoption of the polluter-pay principle).

At present, there is no specific treaty penalizing individuals who have caused marine pollution. However, the Philippine Government is a State-party to the United Nations Convention on the Law of the Seas (UNCLOS). Under UNCLOS, the Philippine government is obligated to undertake measures to protect the marine environment. Article 207 of UNCLOS provides that:

- ◆ State shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.
- ◆ States shall take other measures as may be necessary to prevent, reduce and control such pollution.
- ◆ The obligation imposed on the Philippine government is in the form of an undertaking to adopt laws pertaining to the marine environment. Individuals are not penalized under this treaty. We note, however, that



under Section 9(d) of PD 984:

*[a]ny person who violates any of the provisions of, or fails to perform any duty imposed by this Decree or its implementing rules and regulations or by Order or Decision of the Commission [now the PAB] promulgated pursuant to this Decree, thereby causing the death of fish or other aquatic life, shall in addition to the penalty above prescribed, be liable to pay the government damages for fish or aquatic life destroyed.*

Q

#### 5.4.10 Who has jurisdiction over siltation problems?

**A** Under Section 17 of the LGC, the LGU (province) has been tasked to enforce pollution control laws, small-scale mining laws, and other laws on the protection of the environment, pursuant to national policies and subject to the supervision, control, and review of DENR. Under Section 447 (a)(1)(vi), the SB is empowered to protect the environment, and impose

appropriate penalties for acts which endanger the environment including activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance. Within its territorial jurisdiction, therefore, the LGU is empowered to enact ordinances to mitigate siltation problems and enforce national laws concerning the matter. If siltation occurs as a downstream effect of an activity elsewhere beyond the LGU's territory, the LGU has the primary responsibility for monitoring and pinpointing the causative factors of siltation and reporting these to DENR and other concerned NGAs for appropriate action. The causes can be a wide range of activities - deforestation, mining, agricultural run-off, local dredging for roads and infrastructure, even sludge from localized sources. Where a complaint has been lodged by the LGU, the DENR regional office is tasked to investigate such complaints relating to possible violations of the EIS system (DAO 96-37). The EMB Director or the RED is empowered to impose penalties on persons or entities found violating the provisions of PD 1586 or its implementing rules and regulations, as well as issue a CDO. In cases where the cause of siltation comes from lands and resources directly under the LGU jurisdiction, such as slash-and-burn farming in LGU-covered lands of the public domain, the LGU can directly act against the violators by invoking appropriate local ordinances on the matter.

Under RA 7942 (Philippine Mining Act of 1995), the Regional Director of the Mines and Geosciences Bureau may issue CDOs or suspend mining or quarrying operations in cases of imminent danger to the environment, until the danger is removed or appropriate measures are taken. Moreover, the Regional Director, in consultation with the DENR-EMB, shall require the contractor, permit-holder, or lessee to remedy the practice which is not in accordance





with anti-pollution laws and regulations.

**Q** 5.4.11 Who has jurisdiction over the reclassification of lands?

determined by the DA or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the *Sanggunian* concerned (LGC, Sec. 20).

**A** The city or municipality may, through an ordinance passed by the *Sanggunian* after conducting public hearing for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically suitable and sound for agricultural purposes as

**Q** 5.4.12 What guidelines can be used on the conversion of agricultural lands to non-agricultural uses?

**A** An ECC is required for the conversion of prime and non-prime agricultural lands (DAO 8, s1991). The conversion of prime agricultural lands, declared as environmentally critical under Proclamation No. 2146, to non-agricultural uses are covered by the EIS system and DAO 96-37, s1996. Non-prime agricultural lands cover the following:

- ◆ Lands that have ceased to be economically feasible and sound for agricultural purposes or the land or locality has become highly urbanized and has a greater economic value for residential, commercial, or industrial purposes
- ◆ Lands classified as commercial, industrial, and residential in new revised town plans approved by the Housing and Land Use Regulatory Board (HLURB) with the concurrence of the Inter-Agency Planning Task Force



- ◆ When the dominant use of the area surrounding the subject of the application is no longer agricultural, in the case of a city or municipality which does not have land use plans or integrated zoning ordinance duly approved by the HLURB

Applications for land conversion covering areas classified as prime agricultural lands above 5 ha shall be processed at DENR-EMB in accordance with existing rules and regulations under PD 1586. Land area which covers less than 5 ha and non-prime agricultural areas irrespective of land area shall be processed at the Environmental Management and Protected Areas Service (EMPAS) of the DENR Regional Office.

**Q** 5.4.13 Is it illegal to collect or harvest corals?

**A** PD 1219, as amended by PD 1698, bans the gathering, collection, harvesting, transporting, possession, sale and/or export of *ordinary corals*. For precious and semi-precious corals, however, PD 1219 does not mention a prohibition on harvesting but declares nonetheless that “*the Minister of Natural Resources may issue a special permit to only one person/corporation for a*

*limited time to conduct experimental collection of precious and semi-precious corals*”. In section 11, moreover, it is stated that any person gathering precious or semi-precious corals without a permit shall be penalized by imprisonment or a fine, or both. Subsequently, FAO No. 184 provides the guidelines for the issuance of a special permit to collect precious and semi-precious corals.

**Q** 5.4.14 Is the cutting of mangroves prohibited in areas which were replanted by

**A** Yes. Cutting of all mangrove species is prohibited under the RA 7161: “*An act incorporating certain sections of the National Internal Revenue Code of 1977, as amended, to PD 705, as amended, otherwise known as the ‘Revised Forestry Code of the Philippines’ and providing amendments thereto by increasing the forest charges on timber and other forest*

*products*”. The law does not provide for any exemption. For example, selective cutting or cutting from replanted areas is construed to effect a total and absolute ban.



**Q** 5.4.15 What is the scope of the Environmental Impact Statement (EIS) System?

**A** DAO 96-37 (s1996) classifies the activities falling within the scope of the EIS system into two broad categories:  
1) Environmentally Critical Projects and 2) projects located in Environmentally Critical Areas. Specific activities falling within these two categories are:

**Environmentally Critical Projects**

- ◆ Heavy industries
- ◆ Non-ferrous metal industries
- ◆ Iron and steel mills
- ◆ Petroleum and petro-chemical industries including oil and gas
- ◆ Smelting plants
- ◆ Resource extractive industries
- ◆ Major mining and quarrying projects
- ◆ Forestry projects
- ◆ Logging
- ◆ Major wood processing projects
- ◆ Introduction of fauna (exotic animals) in public or private forests
- ◆ Forest occupancy
- ◆ Extraction of mangrove products
- ◆ Grazing
- ◆ Fishery projects
- ◆ Dikes for/and fishpond development projects
- ◆ Infrastructure projects
- ◆ Major dams
- ◆ Major power plants (fossil-fueled, nuclear fueled, hydro-electric or geothermal)
- ◆ Major reclamation projects
- ◆ Major roads and bridges
- ◆ Golf course projects



### Projects located in Environmentally Critical Areas

- ◆ All areas declared by law as national parks, watershed reserves, wildlife preserves, and sanctuaries
- ◆ Areas set aside as aesthetic potential tourist spots
- ◆ Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine wildlife (flora and fauna)
- ◆ Areas of unique historic archeological or scientific interest
- ◆ Areas which are traditionally occupied by cultural communities or tribes (indigenous cultural communities)
- ◆ Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, and others)
- ◆ Areas with critical slopes
- ◆ Areas classified as prime agricultural lands
- ◆ Recharged area of aquifers
- ◆ Water bodies characterized by one or any combination of the following conditions:
  - Tapped for domestic purposes
  - Within the controlled and/or protected areas declared by appropriate authorities which support wildlife and fishery activities
- ◆ Mangrove areas characterized by one or any combination of the following conditions:
  - With primary pristine and dense young growth
  - Adjoining mouth of major river systems
  - Near or adjacent to traditional productive fry or fishing grounds which act as natural buffers against shore erosion and strong winds, and on which people are dependent for their livelihood
- ◆ Coral reefs characterized by one or a combination of the following conditions:
  - With live coralline cover 50% or above
  - Spawning and nursery grounds for fish which act as natural breakwater of coastlines

# 5

## Commonly Asked Questions Answered



**Q** 5.4.16 What projects are not covered by the EIS System?

**A** The following projects and undertakings are not covered by the EIS System:

- ◆ Projects which are not considered as environmentally critical or located within an ECA
- ◆ ECPs or projects within ECAs which were operational prior to 1982, except in cases where their operations are expanded in terms of daily production capacity and area, or if the process is modified
- ◆ CBBEs covered by RA 6810, otherwise known as the Magna Carta for Countryside and Barangay Business Enterprises (*Kalakalan 20*), and registered with the Department of Trade and Industry between 1991 and 1994. Provided, that unless otherwise amended by law, non-coverage of such CBBEs shall only subsist for a 5-year period from its date of registration.

## 5.5 LEGISLATION, TAXES, AND PENAL PROVISIONS

**Q** 5.5.1 Distinguish an ordinance from a resolution.

**A** An ordinance prescribes a permanent rule of conduct or government, while a resolution is of a temporary character only. It may be stated that, as a general rule, matters upon which the municipal corporation desires to legislate must be drawn up in the form of an ordinance, while all acts that are done in its ministerial capacity and for a temporary purpose may be put in the form

of a resolution. An ordinance requires greater formalities in its enactment than a resolution.

The term “resolution” denotes something less formal than the term “ordinance”. Generally, it is a mere expression of the opinion or mind of the council concerning some matter of administration coming within its official cognizance and provides for the dissolution of a particular item of administrative business of a municipal corporation.

**A** A *fee* is a charge fixed by law or agency for the services of a public officer. A *license* is a right





**Q**

**5.5.2 Define, fee, license, and tax.**

or permission granted in accordance with law by a competent authority to engage in some business, occupation, or transaction. In order for a license to be considered merely as a regulatory measure, it must only be of a sufficient amount to include the expenses of issuing the license and the cost of the necessary inspection of police surveillance, taking into account not only the expenses of direct regulation but also incidental consequences.

A *tax* is an enforced contribution, usually monetary in form, levied by the law-making body on persons and property subject to its jurisdiction for the precise purpose of supporting governmental needs. Taxes are for revenue purposes, whereas fees are for purposes of regulation. Taxes are levied in the exercise of taxing power, whereas fees are a consequence of the exercise of the police power. In view of these distinctions, a reasonable rate of fee must necessarily be lower than what may be deemed as a reasonable rate of tax.

LGC Section 133. *Limitations on the taxing powers of LGUs.* Marginal farmers or fishers are exempt from taxes, fees or charges on agricultural and aquatic products imposed by LGUs.

**Q**

**5.5.3 An ordinance imposing an annual tax for the operation of fishponds was enacted by a municipal council and approved by the Provincial Board. Does the ordinance need approval from the BFAR?**

**A** No. Sections 48 to 59 of the LGC enumerate the step-by-step procedure in local law-making vested on the Mayor and the SB and the manner of approving and validating local legislation by the Sangguniang Panlalawigan (SP) pursuant to Sections 54 and 56, respectively. While Section 534 (e) expressly repeals only Sections 2, 16, and 29 of PD 704 and not Section 4, which provides for Department approval before any ordinance is passed, Section 534 (f) of the LGC states that “*all general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are*

*hereby repealed or modified accordingly.*” This provision thus renders Section 4 of PD 704 irrelevant.



**Q** 5.5.4 Can an LGU issue a unique ordinance that has not been dealt with sufficiently by any national law?

*and of endangered species of flora and fauna, slash-and-burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes or ecological imbalance.”* An LGU may issue an ordinance that responds to the concerns raised above as long as it does not contradict any national law. For example, an LGU may issue a regulation regarding the anchoring of buoys which has not been covered sufficiently by any national legislation.

**A** The LGC provides for the ordinance-making function of the SB Section 447(a)(1)(vi) and that of the SP Section 468(a)(1)(vi) to include the enactment of ordinances or resolutions that “*protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products*

**Q** 5.5.5 Do LGUs have the authority to impose penalties?

general welfare of their constituents (Sec. 391(a)(1), thus deriving their authority to impose penalties.

**A** The authority of LGUs to impose penalties on acts that endanger the environment is borne by the LGC Sections 447(a)(1)(vi), for municipalities, and Section 458(a)(1)(vi), for cities and provinces. Barangays are also empowered to enact ordinances as may be necessary to discharge the responsibilities conferred on them by law and to promote the

**Q** 5.5.6 What types of penalties can be imposed and what are the limitations?

**A** Penalties may be in the form of fines or imprisonment or both. The LGC provides for a schedule of fines for different LGU levels.

Barangays, however, may only impose fines in amounts not exceeding P1,000.00 for violation of barangay ordinances (Sec. 391(a)(14)).



Municipalities may approve ordinances imposing a fine not exceeding P2,500.00 or imprisonment for a period not exceeding 6 months or both at the discretion of the court (Sec. 447(a)(1)(iii))

Cities and provinces may approve ordinances imposing a fine not exceeding P5,000.00 or imprisonment not exceeding 1 year or both at the discretion of the court (Sec. 458(a)(1)(iii) and Sec. 468(a)(1)(iii))

**Q** 5.5.7 Can an LGU penalize acts that endanger the environment if national laws already provide for such penalties?

**A** In enacting ordinances imposing penalties for acts that endanger the environment, LGUs must note the acts already penalized under national laws and statutes. This is because the Constitution provides that if an act is tried under an existing law and an ordinance, a conviction or acquittal under either shall constitute a bar against another prosecution for the same act (Constitution, Art. III, Sec. 21).

In order to avoid double jeopardy complications, it would be advisable for LGUs to enact ordinances that penalize only those acts that are not yet covered by national penal statutes. Insofar as acts already penalized by national laws are concerned, local ordinances may provide for strategies or modes to make their enforcement more effective, with the sanctions to be imposed in accordance with pertinent national laws or statutes.

**Q** 5.5.8 What are the existing national penal laws on the environment?

**A** Acts and omissions already penalized by national laws (excluding fisheries, which is tackled separately in item 6.13), include:

◆ **Forest Conservation**

Cutting, gathering, and collecting timber or other forest products without authority (P. D. 705, Sec. 68). The penalty for violation of the law is imprisonment of 2 to 20 years depending on the value of timber cut, gathered, or collected.





Possession of timber or other forest products without legal documents as required under existing forest laws and regulations (P. D. 705, Sec. 68). The penalty is imprisonment of 2 to 20 years depending on the value of timber possessed.

Unlawful occupation or destruction of forest lands. The penalty consists of a fine ranging from P5,000.00 to P20,000.00 and imprisonment ranging from 6 months to 2 years, and payment of 10 times the rental fees and other charges which would have accrued (P. D. 705, Sec. 69).

◆ **Pollution**

Throwing, running, draining, or disposing into any of the water, air, and land resources any organic or inorganic matter or any substance in gaseous or liquid form that shall cause pollution (P. D. 984, Sec. 8). The penalty consists of a fine of P200.00 to P5,000.00 per day during which the violation continues or imprisonment from 1 month to 6 years or both.

Littering or throwing of garbage, filth, or other waste matters in public places (P. D. 825, Sec. 2). Offenders are penalized with imprisonment of 5 days to 1 year or a fine P100.00 to P2,000.00 or both.

Discharging of oil, noxious, gaseous, and liquid substances from or out of any ship, vessel, barge, or other man-made structures at sea (P. D. 979, Sec. 4[a]). Penalty for violation is imprisonment of 30 days to 1 year or a fine of P200.00 to P1,000.00 or both.

Throwing, discharging, disposing, dumping from out of any ship, vessel, barge or other floating craft or vessel, or from the shore, wharf, manufacturing establishment or mill, any refuse matter other than that flowing from streets and sewers (P. D. 979, Sec. 4[b]). Penalty for violation is imprisonment of 30 days to 1 year or a fine of P200.00 to P1,000.00 or both.

Disposing of material of any kind in any place on the bank of any navigable river (P. D. 979, Sec. 4[b]). Penalty for violation is imprisonment of 30 days to 1 year or a fine of P200.00 to P1,000.00 or both.

◆ **Environmental Protection**



Operating any ECP or ECA without first securing an ECC (PD 1586, Secs. 4 and 9). Penalty for violation is a fine of P50,000.00.

Violation of terms and conditions in the issuance of ECC (PD 1586, Sec. 9). Penalty is a fine of P50,000.00 for every violation.

◆ **Toxic Substance and Hazardous Wastes**

Knowingly using a chemical substance or mixture which is imported, manufactured, processed, or distributed in violation of RA 6969 and its rules and regulations (RA 6969, Sec. 13[a]). Penalty is imprisonment of 6 months and 1 day to 6 years and 1 day and fine of P600.00 to P4,000.00.

Failure or refusal to submit reports, notices or other information, allow access to records or permit inspection of establishment where chemicals are manufactured, processed, stored, or held (RA 6969, Sec. 13[b]). Penalty is imprisonment of 6 months and 1 day to 6 years and 1 day and fine of P600.00 to P4,000.00.

Failure or refusal to comply with pre-manufacture and pre-importation requirements (RA 6969, Sec. 13[C]). Penalty is imprisonment of 6 months and 1 day to 6 years and 1 day and a fine of P600.00 to P4,000.00.

Storage, importation or bringing into Philippine territory any amount of hazardous and nuclear wastes (RA 6969 Sec. 13[d]). Penalty is imprisonment of 12 years and 1 day to 20 years.

◆ **Protected Areas**

The penalty for the commission of any of these acts is a fine of P5,000.00 to P50,000.00 exclusive of the value of the thing damaged, or imprisonment of 1 to 6 years or both:

Hunting, destroying, disturbing, or mere possession of any plants or animals or products derived from protected areas without a permit (RA 7586, Sec. 20[a]).

Dumping of any waste products detrimental to the protected area, plants, and animals or inhabitants therein (RA 7586, Sec. 20[b]).

Use of motorized equipment within protected areas without a permit (RA 7586, Sec. 20[c]).

# 5

## Commonly Asked Questions Answered



Mutilating, defacing, or destroying objects of natural beauty or objects of interest to cultural communities (RA 7586, Sec. 20[d]).

Damaging and leaving in damaged condition roads and trails in protected areas (RA 7586, Sec. 20[e]).

Squatting, mineral locating or otherwise occupying land in protected areas (RA 7586, Sec. 20[f]).

Constructing and maintaining any kind of structure, fence or enclosures, conducting any business enterprise in protected areas without a permit (RA 7586, Sec. 20[g]).

Leaving refuse or debris in exposed or unsanitary condition, or depositing this in ground or in bodies of water in protected areas (RA 7586, Sec. 20[h]).

Altering, removing, destroying, or defacing boundary marks or signs within protected areas (RA 7586, Sec. 20[I]).

## 5.6 MINING, QUARRYING AND FORESHORE

**Q** 5.6.1 Under the LGC, who is responsible for the granting of quarry permits, the Director of the Bureau of Mines and Geosciences or the Governor?

**A** Permits to extract sand, gravel, and other quarry resources from public lands and river beds shall be issued exclusively by the SP (LGC, Sec. 138). Quarry permit applications, commercial sand and gravel permit applications, and exclusive sand and gravel permit applications, may be filed with and processed by the Provincial or City Mining Regulatory Board. The corresponding quarry permit may be granted by the Provincial Governor or City Mayor to a qualified person covering an area of not more than 5 ha for a term of 5 years, renewable for one or more terms but not to exceed 25 years in the case of quarry permits. (RA 7942, Sec. 90 and 91).

Industrial sand and gravel permit applications may be filed with and processed by the DENR Regional Office with the





corresponding permit being granted by the RED to a qualified person for the removal of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering an area of more than 5 ha but not to exceed 20 ha at any one time for a term of 5 years, renewable for like periods but not to exceed a total of 25 years. For areas covering 5 ha or less, an industrial sand and gravel permit may be filed at and processed by the Provincial or City Mining Regulatory Board and the corresponding permit granted by the Governor or City Mayor (RA 7942, Sec. 92 and 93).

**Q** 5.6.2 What are the conditions and limitations of quarry and commercial or industrial sand and gravel permits?

**A** The permit shall be for the exclusive use of the permit holder and cannot be transferred without prior written approval of the RED or the City Mayor or Provincial Governor.

Misrepresentations contained in the application shall be a cause for suspension or revocation of permit.

No extraction or removal of materials shall be allowed within a distance of 1 km from the boundaries of reservoirs

established for public water supply, archaeological and historical sites, and any public or private works or structures, unless prior clearance is obtained from the agency or owner concerned. No extraction or removal of materials shall likewise be allowed in offshore areas within a 500-meter distance from the coast and 200 meters from the mean low tide level along the beach. In addition, *extraction of sand and gravel along beaches is prohibited under Batas Pambansa Blg. 265.*

The removal or taking of materials under the permit shall be confined within the area specified therein.

The permit shall *ipso facto* terminate after the whole quantity of the kind of materials specified has been removed or taken.

For small quarry and commercial sand and gravel permits, commitment to secure an ECC must be made prior to the extraction, while large quarry and commercial sand and gravel permits and all industrial sand and gravel permits shall be required to secure an ECC before the application is processed.



**Q** 5.6.3 Who grants small-scale mining permits?

upon presentation of an area clearance from the concerned DENR regional office (DAO 50, s1993).

**A** Small-scale mining permits shall be issued by the Provincial Governor upon area clearance from the concerned DENR regional office and upon recommendation by the Provincial or City Mining Regulatory Board provided that for areas located within the municipalities of the National Capital Region, the permits shall likewise be issued by the concerned municipal mayors

**Q** 5.6.4 What is the legally accepted boundary for foreshore areas?

*equinoctial tides. Where the tides are not appreciable, the shore begins on the land side at the line reached by the sea during ordinary storms or tempests.* The absence of clear parameters with which to delineate foreshore from terrestrial land has resulted in the proliferation of illegal structures and appropriations in the foreshore area.

**A** The available definitions of foreshore lands do not indicate a measurable boundary: foreshore lands shall refer to *that part of the shore which is alternately covered and uncovered by the ebb and flow of the tide* (DAO 29, s1991). Land AO No. 8-3 of April 1936, as amended, defines “shore” as *that space covered and uncovered by the movement of the tide. Its interior or terrestrial limit is the line reached by the highest*

**Q** 5.6.5 Can foreshore areas be appropriated as private property?

means; (2) foreshore; (3) marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers; and (4) lands not included in any of the foregoing classes. Lands classified as (1), (2) and (3) shall be disposed of to private parties by LEASE ONLY and NOT otherwise as soon as the President, upon recommendation by the Secretary of Agriculture and Natural Resources, declares that those land are not necessary for the public

**A** No. While the boundaries for foreshore remain unclear, its being part of the public domain cannot be questioned.

Commonwealth Act 141, Chapter IX, lists down the classification and concession of PUBLIC LANDS suitable for residence, commerce, and industry to include: (1) lands reclaimed by the government by dredging, filling, or other



service and are open to disposition under this chapter.

A recent decision of the Supreme Court G.R. No. 68166, February 12, 1997, on the titling of accreted land in Manila Bay invokes Article 4 of the Spanish Law of Waters of August 3, 1866, to establish the fact that foreshore areas constitute public lands, i.e., *“Lands added to the shores by accretions and alluvial deposits caused by the action of the sea, form part of the public domain. When they are no longer washed by the waters of the sea and are not necessary for purposes of public utility, or for the establishment of special industries, or for the coast-guard service, the Government shall declare them to be the property of the owners of the estates adjacent thereto and as increment thereof.”* The decision states that the foreshore of Manila Bay is public land and is therefore not capable of being appropriated by a private person.

**Q** 5.6.6 Who has jurisdiction over foreshore leases?

**A** The DENR. The powers and functions of the Department include the *“exercise of exclusive jurisdiction on the management and disposition of all lands of the public domain and [DENR] shall continue to be the sole agency responsible for classification, subclassification, surveying and titling of lands in consultation with appropriate agencies”* (EO 192).

**Q** 5.6.7 Who may approve foreshore leases?

**A** The Undersecretary for Field Operations approves original and renewal of leases of foreshore lands covering more than 50 ha. If the area is from 6 to 50 ha, it is the Regional Executive Director (RED); for area less than 6 ha, it is the PENRO (DAO 38, s1990).

**A** EO 240 recommends the creation of FARMCs

# 5

## Commonly Asked Questions Answered



### 5.7 INSTITUTIONAL ISSUES

**Q** 5.7.1 Is the establishment of FARMCs obligatory?

discretion to adopt or reject any of its recommendations.

in coastal barangays, cities, and municipalities. However, in the absence of penal provisions to the contrary, LGU is not obligated to establish a FARMC. It now appears that the initiative should emanate from organized fisherfolk in the municipality or city. It should also be noted that EO 240 has specified that the decisions of a FARMC are only recommendatory and an LGU has the

**Q** 5.7.2 Is data gathering also a responsibility of LGUs?

information (Sec. 486 (b) (3) (1), LGC).

**A** Yes. The LGC has granted the LGUs with the power and authority to gather data which are essential to research and information service, and for the formulation of resolutions and ordinances (Secs. 17, 447 (a) (1) (vi) & Sec. 458 (a) (1) (vi)). Moreover, the Information Officer of the LGU has the duty and function relative to the gathering of relevant, adequate, and timely

**Q** 5.7.3 What law or national agency governs the issue of resettlement in coastal areas?

the relocation of their affected inhabitants.

**A** Section 27, in relation to Section 26 of the LGC, provides that occupants in areas where a project or program which may affect ecological balance is to be implemented shall not be evicted unless appropriate relocation sites have been provided in accordance with the provisions of the Constitution. Under the LGC, the LGUs are conferred with powers and authority to perform specific functions and responsibilities including



## A

**Alienable and Disposable Lands.** Those lands of the public domain which have been the subject of the present system of classification and certified as not needed for forestry purposes. (PD 705; DAO 15, s1990)

**Aquatic Pollution.** The introduction by man or machine in the grounds or waters, directly or indirectly, whether in or out of Philippine fishery areas, of substances or energy which results or is likely to result in such deleterious effects as to harm living and non-living aquatic resources or causes hazards to human health, or hindrance to aquatic activities such as fishing, including the dumping/disposal of waste or other matter and the discharge of petroleum or residual products of petroleum or carbonaceous materials/substances, oil, coal or coal tar, lampblack, aniline, asphalt, bitumen, mining and mill tailings, molasses, garbage or refuse, and other noxious or harmful liquid, gaseous or solid substances from or out of ships, vessels, barges, platforms, floating crafts or other man-made structures at sea, aircraft, shores, wharves, processing establishments or mills of any kind. (PD 984: National Pollution Control Law of 1976)

## B

**Buffer Zone** (in NIPAS areas). Identified areas outside the boundaries of and immediately adjacent to protected areas that need special development control in order to avoid or minimize harm to the protected area. (RA 7586: NIPAS Law)

## C

**Closed Season.** The period during which fishing is prohibited in a specified area or areas in Philippine waters, or the period during which the catching or gathering of specified species of fish or fishery/aquatic products or the use of specified fishing gear to catch or gather fish or fishery/aquatic product is prohibited. (PD 704)

**Coastal Water.** An open body of water along the country's coastline starting from the shoreline (MLLW) and extending onward up to the 200-meter isobath or three-kilometer distance, whichever is farther. (DAO 35, s 1990)

**Coastal Zone.** The strip of land and adjacent lake or ocean space (water and submerged land) in which the land ecology and land use affect lake and ocean space ecology and vice versa. Functionally, it is a broad interface between land and water where production, consumption and exchange processes occur at high rates of intensity. Ecologically, it is an area of dynamic biochemical activity but with limited capacity for supporting various forms of human use. Geographically, the outermost boundary is defined as the extent to which land-based activities have measurable influence on the chemistry of the water or on the ecology or biota. The innermost boundary is one kilometer from the shoreline except at places where recognizable indicators for marine influences exist like mangroves, nipa swamp, beach vegetation, sand dunes, salt beds, marshlands, bayous, recent marine deposits, beach and sand deposits, and deltaic deposits in which case the one-kilometer distance shall be reckoned from the edges of such features. (NEPC, 1980)

**Commercial Fishing.** Fishing for commercial purposes in waters more than seven (7) fathoms deep with the use of fishing vessels more than three (3) gross tons. (PD 704)

# A

## Glossary



**Communal Mangrove Forest.** A tract of public forest set aside by the Secretary of the Environment and Natural Resources upon the recommendation of the Director of the Forest Management Bureau for the exclusive use of the residents of the municipality. (DAO 15, s1990)

**Coral.** Consists of small anemone-like organisms belonging to Phylum *Coelenterata* which secrete their own skeletons of various forms that may be hard, soft, stony or horny. They include skeletons of anthozoan coelenterate characterized as having a rigid axis of compact calcareous or horny spicules, belonging to the genus *Corallium* as presented by the red, pink and white corals which are considered as precious corals; skeletons of anthozoan coelenterate characterized by thorny, horny axis such as the *Antipatharians* represented by the black corals which are considered semi-precious corals; and ordinary corals which are any kind of corals that are not precious or semi-precious. (PD 1219: The Coral Resources Development and Conservation Decree.)

## E

**Effluent.** A general term denoting any wastewater, partially or completely treated, or in its natural state, flowing out of a manufacturing plant, industrial plant or treatment plant. (DAO 35, s 1990)

**Environmentally Critical Area (ECA).** An area that is environmentally sensitive and is so listed under Presidential Proclamation No. 2146 s1981, as well as other areas which the President may proclaim as environmentally critical in accordance with Section 4 of PD 1586. (DAO 21, s1992 as amended by DAO 96-37, s1996)

**Environmental Clearance Certificate (ECC).** The document issued by the DENR Secretary or the Regional Executive Director certifying that, based on the representations of the proponent and the preparers, as reviewed and validated by the EIARC, the proposed project or undertaking will not cause

a significant environmental impact; that the proponent has complied with all the requirements of the EIS System; and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination. (DAO 11, s1994)

**Environmentally Critical Project (ECP).** A project that has high potential for significant negative environmental impact and is listed as such under Presidential Proclamation No. 2146 s1981 and Presidential Proclamation No. 803 s1986, as well as other projects which the President may proclaim as environmentally critical in accordance with Section 4 of PD 1586. (DAO 21, s1992 as amended by DAO 96-37, s1996)

**Environmental Guarantee Fund (EGF).** A fund that proponents required or opting to submit an EIS shall commit to establish when an ECC is issued by DENR for projects or undertakings determined by the latter to pose significant public risk, to answer for damage to life, health, property, and the environment caused by such risk, or requiring rehabilitation or restoration measures. (DAO 21, s1992 as amended by DAO 96-37, s1996)

**Environmental Impacts.** The probable effects or consequences of proposed projects or undertakings on the physical, biological and socio-economic environment that can be direct or indirect, cumulative, and positive or negative. (DAO 21, s1992 as amended by DAO 96-37, s1996)

**Environmental Impact Assessment (EIA).** The process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating and enhancement measures. (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994)

**Environmental Impact Assessment Review Committee (EIARC).** A body of independent technical experts and professionals of known probity from various fields organized by the EMB/RED whose main tasks are to evaluate the EIS and other documents related thereto, and make appropriate



recommendations to the EMB/RED regarding the issuance or non-issuance of ECCs. (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994)

**Environmental Impact Statement (EIS).** The documents of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures. (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO No 11, s1994)

**Environmental Impact Statement (EIS) System.** The entire process of organization, administration, and procedures institutionalized for purposes of assessing the significance of the effects of any project or undertaking on the quality of the physical, biological and socio-economic environment, and designing appropriate preventive, mitigating and enhancement measures. (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994)

**Environmental Management Plan (EMP).** A section in the EIS that details the prevention, mitigation, compensation, contingency and monitoring measures to enhance positive impacts and minimize negative impacts of a proposed project or undertaking. ( DAO 21, s1992 as amended by DAO 96-37, s1996)

**Environmental Monitoring Fund (EMF).** A fund that proponents required or opting to submit an EIS shall commit to establish when an ECC is issued by the DENR for its project or undertaking, to be used to support the activities of the multi-partite monitoring team. (DAO 21, s1992 as amended by DAO 96-37, s1996)

**Environmental Risk Assessment (ERA).** The use of scientific methods and information to define the probability and magnitude of potentially adverse effects which can result from exposure to hazardous materials or situations. (DAO 21, s1992 as amended by DAO 96-37, s1996)

**Exclusive Economic Zone.** An area beyond and adjacent to the territorial sea which shall not extend beyond 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of the UNCLOS. (PD 1599 and Article 55, Part V of UNCLOS)

## F

**Fee.** A charge fixed by law or ordinance for the regulation or inspection of a business or activity. (RA 7160)

**Fish and fishery/aquatic products.** Fish includes all fishes and other aquatic animals such as crustaceans (crabs, prawns, shrimps and lobsters), mollusks (clams, mussels, scallops, oysters, snails, and other shellfish). Fishery/aquatic products include all other products of aquatic living resources in any form. (PD 704)

**Fish Cage.** A stationary or floating fish enclosure for aquaculture purposes, made of synthetic net, wire/bamboo screens or other materials set in the form of an inverted net (*hapa* type), with or without cover. (FAO 160)

**Fish Pen.** A fish enclosure made up of closely-woven bamboo screens, nylon screens, or other materials attached to poles staked to the water bottom enclosing a given area for the purpose of growing fish to various sizes. (FAO 160)

# A

## Glossary



**Fish Refuge or Sanctuary.** A designated area where fishing and other forms of activities that may damage the ecosystem of the area are prohibited. (DA-DENR-DILG-DOJ Joint Administrative Order 2, s1996)

**Fisherfolk.** Person directly or personally and physically engaged in taking and/or culture of fish and processing of fishery and/or aquatic resources. (DA-DENR-DILG-DOJ Joint Administrative Order 2, s1996)

**Fisheries.** All activities relating to the act or business of gathering, catching, taking, breeding, culturing, preserving, processing, and marketing of fish and other aquatic resources; the fishing grounds, and the right to fish/take aquatic products therefrom. (PD 704)

**Fishery License.** A permit to operate specific types of fishing boats and/or fishing gears and other paraphernalia for a specific duration in areas in Philippine waters. (DA-DENR-DILG-DOJ Joint Administrative Order 2, s1996)

**Fishery Reserve.** A designated area or areas where fishing activities are regulated and set aside for special purposes such as education and research. (DA-DENR-DILG-DOJ Joint Administrative Order 2, s1996)

**Fishing Gear.** Any instrument or device, including its accessories, used in taking fish and fishery products, and may either be active or passive fishing gears. (DA-DENR-DILG-DOJ Joint Administrative Order 2, s1996)

**Fishing with the use of explosives.** The use of dynamite, other explosives or chemical compounds that contain combustible elements or ingredients that upon ignition by friction, concussion, percussion or detonation of all or parts of the compounds, will kill, stupefy, disable or render unconscious any fish or fishery/aquatic product. It also refers to the use of any other substance and/or device which causes an explosion that is capable of producing the said harmful effects on fish or fishery/aquatic products. (PD 704)

**Fishing with the use of obnoxious or poisonous substances.** The use of any substance, plants, extracts or juice thereof, chemicals, whether in raw or processed form, harmful or harmless to human beings, which kill, stupefy, disable or render unconscious fish or fishery/aquatic products. (PD 704)

**Fishpond Lease Agreement.** A privilege granted by the state to a person or group of persons to occupy and possess in consideration of specified rental any public lands for the raising of fish and other aquatic products. (DAO 15, s1990)

**Forest Lands.** The public forest, the permanent forest or forest reserves, and forest reservations. (DAO 15, s1990)

## L

**License (in forestry).** A privilege granted by the State to a person to utilize forest resources within any forest land, without any right of occupation and possession over the same, or conduct any activity involving the use of any mangrove forest resources. (FAO 15, s1990).

## M

**Mangrove Area.** The area found along the sea coast and estuaries whether sparsely or thickly vegetated with true and/or associated mangrove species, or open swampy areas, including brackish fishponds, extending alongstream where the water is brackish. (DAO 15, s1990)

**Mangrove Resources.** All terrestrial and aquatic flora and fauna in the mangroves including land and minerals which could bestow any form of services, influences, and amenities to man and the environment. (DAO 15, s1990)



**Mangrove Buffer Zones.** Strips of land at least 50 meters in width fronting seas, oceans and other bodies of water and 20 meters on both sides of river channels/banks maintained and developed to enhance the protective capability of the mangroves against strong currents, winds and high waves except in areas covered by Ministry Administrative Order 42, s1986. (DAO 15, s1990)

**Mangrove Forest.** The forest stand found in the mangrove areas and composed primarily of mangrove and associated species. (DAO 15, s1990)

**Marginal Fishermen.** An individual engaged in subsistence fishing which shall be limited to the sale, barter, or exchange of marine products produced by himself and his immediate family. (RA 7160)

**Mine Wastes and Tailings.** Mine wastes are soil and rock materials from surface or underground mining operations with no economic value to the generator of the same. Mine tailings are materials, whether solid or liquid segregated from ores during concentration/milling operations which have no economic value to the generator of the same. (DAO 85, s1990; DAO 23, s1995)

**Minerals.** All naturally occurring inorganic substances in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy. (DAO 23, s1995)

**Municipal and/or Small-scale Fishing** refers to fishing utilizing fishing vessels of three (3) gross tons or less, or using fishing gear not requiring the use of boats. (PD 704)

**Municipal Waters.** Include not only streams, rivers, lakes and tidal waters within the municipality, not being the subject of private ownership and not included within national parks, public forests, timberlands, forest reserves or fishery reserves, but also marine waters included between two lines drawn

perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two municipalities are situated on opposite shores such that there is less than thirty (30) kilometers of marine waters between them, the third line shall be a line equidistant from the opposite shores of the respective municipalities. (RA 7160)

## N

**National Integrated Protected Areas Systems (NIPAS).** The classification and administration of all designated protected areas to maintain essential ecological processes and life support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible. (RA 7586)

**NGOs.** Refers to an agency, institution, a foundation or a group of persons whose purpose is to assist people's organizations/associations in various ways including, but not limited to, organizing, training, and research and/or access to resources. (DA-DENR-DILG-DOJ Joint Memorandum Order 2, s1996)

## P

**Philippine Waters.** All bodies of water within the Philippine territory such as lakes, rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays, and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, municipal districts, and barangays, and the water around, between and connecting the islands of the archipelago regardless of their breadth and dimension, and all other waters belonging to the Philippines including the territorial sea, exclusive economic zone and continuous zone, the sea bed, the insular shelves, and other submarine areas over which the Philippines has sovereignty or jurisdiction. (PD 704)



# A

## Glossary



**Protected landscapes/seascapes.** Areas of national significance which are characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through recreation and tourism within the normal lifestyle and economic activity of these areas. (RA 7586: NIPAS Act)

## Q

**Quarrying.** The process of extracting, removing and disposing of quarry resources found on or underneath the surface of private or public land. (DAO 23, s1995)

## S

**Stewardship Agreement** (for mangroves). A contract entered into by and between an individual mangrove user or mangrove user association or cooperative and the Government which grants the former the right to the exclusive use of a specified mangrove area in return for managing that area according to a Stewardship Plan. (DAO 03, s1991)



One of the basic and essential tasks in assessing the existing policy framework is the scoping and identification of available legal and administrative instruments. This listing of laws, issuances and administrative orders is organized thematically for easy reference and contains abridged descriptions of particular laws or provisions thereof.

Sovereignty is established by virtue of a constitutional provision that states, “*all lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State*”.... “*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 in its archipelagic waters, territorial seas and exclusive economic zone and reserve its use and enjoyment exclusively to Filipino citizens*”.

The allocative function is borne by the constitutional provision allowing “*small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority [given] to subsistence fishermen and fishworkers in rivers, lakes, bays and lagoons*”. The LGC, aside from re-allocating powers from the central government, also broadens the revenue-generating capacity of LGUs, which is tantamount to re-allocation of wealth.

Regulations spell out the “do’s and don’ts” of resource usage. Included here are primary (statutes) and subsidiary laws, i.e., administrative orders of relevant government agencies. Related to the regulatory function is the deterrence function. Usually, offenses that are addressed by this function carry a penal character. Tobin (1992) opines that laws intended to improve CRM are likely to be reductive, i.e., with the purpose of reducing the occurrence of undesirable or harmful behavior.

Another theme is protection. The Philippine Environmental Policy (PD 1151), the NIPAS Act and various provisions of PD 705 on mangrove protection are examples of this type of legislation. The constitutive function establishes or defines the mandates of government agencies while the last theme is developmental, or that which provides for investment/development incentives or guidelines.

- 1.1 **Constitution. Article II, Sec. 16.** The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.
- 1.2 **Constitution. Art. XII, Sec. 2. (The Regalian doctrine).** 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

# 1.0 SOVEREIGNTY

# B

## A Thematic Classification of CRM-related Issuances



natural resources shall be under the full control and supervision of the State.

- 1.3** *Constitution. Art. XIII:* The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged.
- 1.4** *RA 7942. Philippine Mining Act of 1995, Sec. 2.* All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. *Sec. 4:* Mineral resources are owned by the State and the exploration, development, utilization, and processing thereof shall be under its full control and supervision.
- 1.5** *PD 463 (as amended by PD 1385 and PD 1677). Mineral resources development decree of 1974.* All mineral deposits in public or private lands within the territorial limits of the Philippines belong to the State.
- 1.6** *PD 1067. The Water Code, Art. 3.* All waters belong to the State; all waters that belong to the State cannot be subject to acquisitive prescription; the State may allow the use or development of waters by administrative concession.

## 2.0 ALLOCATION

- 2.1** *Constitution. Art. XII, Sec. 2.* The State shall protect the nation's marine wealth in its archipelagic waters, territorial seas and EEZ, and reserve its use and enjoyment exclusively to Filipino citizens. The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority [given] to subsistence fishermen and fishworkers in rivers, bays, lakes and lagoons.
- 2.2** *Constitution. Art. XII, Sec. 5.* The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.
- 2.3** *Constitution. Art. XIII, Sec. 7.* Protection of the right of subsistence fishers, especially of local communities, to the preferential use of the communal marine and fishing resources; ii) support to fishers through appropriate technology and research, adequate financial, production and marketing assistance and other services; iii) protection, development and conservation of communal marine and fishing resources, extending to offshore fishing grounds of subsistence fishers, against foreign intrusion.
- 2.4** *Commonwealth Act 141. (Public Land Act of 1936). Title III, chapter IX.* classification and concession of





public lands suitable for residence, commerce and industry. *Sec. 59-68.* rules governing sale or lease of reclaimed, foreshore, and/or marshy public lands.

- 2.5 **RA 7076. *An act creating a people’s small-scale mining program and for other purposes.*** Promotion and rationalization of viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation’s mineral resources.
- 2.6 **RA 7942. *Philippine Mining Act of 1995, Sec. 2.*** The State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands as provided for by the Constitution. *Sec. 5.* A small-scale mining cooperative covered by Republic Act 7076 shall be given preferential right to apply for a small-scale mining agreement for a maximum aggregate area of twenty-five percent (25%) of such mineral reservation, subject to valid existing mining/quarrying rights as provided under Section 112 Chapter XX hereof.
- 2.7 **DAO 23, s1995.** Implementing rules and regulations of RA 7942 otherwise known as the Philippine mining act; includes provisions on administrative functions; scope of application; quarry operations; mineral reservations and environmental protection.
- 3.1 **RA 6541.** Prohibiting electrofishing and punishing offenders.
- 3.2 **RA 6975 (Dec. 13, 1990), *An act establishing the Philippine National Police under a reorganized Department of Interior and Local Government, and for other purposes; Sec. 24 and Sec. 35 (b).*** Powers and functions of the PNP, .... in addition, the PNP shall absorb the police functions of the Coast Guard; Support units - the PNP shall be supported by administrative and operational support units; MARITIME — headed by a Director with the rank of Chief Superintendent, the Maritime Police Unit shall perform all police functions over Philippine territorial waters and rivers.
- 3.3 **RA 7161 (1991).** Incorporating certain sections of the Internal Revenue Code to PD 705, among others, bans the cutting of all species of mangroves.
- 3.4 **RA 7942. *Philippine Mining Act, Chapter VII, Quarry Resources.*** Any qualified person may apply to the provincial/city mining regulatory board for a quarry permit on privately-owned lands and/or public lands for building and construction materials. A permittee shall pay a quarry fee as provided for under the implementing rules and regulations; the permittee shall also pay the excise tax as provided by pertinent laws.

**3.0 REGULATION AND DETERRENCE**



# B

## A Thematic Classification of CRM-related Issuances



Any qualified person may be granted a permit by the provincial governor to extract and remove sand and gravel from an area of not more than 5 ha. Any qualified person may be granted an exclusive sand and gravel permit by the provincial governor to quarry and utilize sand and gravel or other loose or unconsolidated materials from public lands for his own use provided there will be no commercial disposition thereof.

- 3.5 **PD 1015.** The President of the Philippines, upon the recommendation of the Secretary of Natural Resources, may ban the operation of commercial and other fishing gears within a distance of 7 km from shoreline.
- 3.6 **PD 1058.** Increases penalties provided for under PD 704 for certain forms of illegal fishing and dealing in illegally caught fish, etc.
- 3.7 **PD 1198.** Amendment of PD 1219 (1977) and limitation of permits to gather corals in limited quantities for scientific or educational purposes only and limits the grant of a special permit to experimental collection of precious and semi-precious corals.
- 3.8 **PD 1219.** Promotion and regulation of the exploration, exploitation, utilization and conservation of coral resources, whether existing beneath territorial waters or in the marine economic zone of the Philippines, and to ensure the protection of these resources as provided for under other existing laws.
- 3.9 **PD 463. Mineral Resources Development Decree.** Also sets penalty for those causing sludge or tailing and other mine and mill wastes to accumulate in, or flow from their mining claims so as to cause danger, injury or obstruction to any public road, rivers, or streams; establishment and reversion of mineral reservations; existing claims in reservations and prospecting, exploration and exploitation of minerals in reserved lands and mineral reservations; offshore areas established as mineral reservations. **Quarry resources.** May be exploited only through permits on privately-owned lands or through licenses on public lands; a valid holder of a quarry permit shall have the right to extract, remove and dispose of all the quarry resources found on or underneath the surface of the area embraced in his permit or license, subject to existing laws, rules and regulations promulgated thereunder.
- 3.10 **PD 601. Revised Coast Guard Law of 1974, Sec. 2a and f.** The Philippine Coast Guard created pursuant to RA 5173 shall have the following general objectives: a) to enforce or assist in the enforcement of all applicable laws upon the high seas and territorial waters of the Philippines including ports, customs zones, waterways and other inland waters; f) to enforce laws, promulgate and administer regulations for marine environmental protection of the territorial waters of the Philippines.



- 3.11 **PD 704. Fisheries Decree of 1975.** Regulation of fishery activities and development of fishery industry.
- 3.12 **PD 704, Sec. 17.** Prescribes the rules for issuance of commercial fishing boat license and restricting commercial fishing operations to waters seven (7) or more fathoms deep.
- 3.13 **PD 704, Sec. 23.** No public lands suitable for fishpond purposes shall be disposed of by sale except those that have been processed and approved before Nov. 9, 1972; such application covers fully developed fishponds not exceeding 24 ha.
- 3.14 **PD 704, Sec. 24.** Fishpond lease is for a period of 25 yrs, renewable under 25 years also; 50% of leased area should be developed and producing on a commercial scale within 3 years with the remaining portion being developed and producing commercially within 5 years, beginning from execution of lease contract; lease areas not developed within 5 years shall revert to public domain for disposition (excluding the previous leaseholder); no portion should be sub-leased.
- 3.15 **PD 704, Sec. 25.** Size of fishponds is 50 ha for individuals and 500 ha for associations and corporations; a larger area may be approved by the Secretary.
- 3.16 **PD 704, Sec. 26.** The Bureau, subject to the approval of the Secretary, shall identify and set aside public lands which shall be subdivided into family-sized ponds and leased in accordance with guidelines established by the Fishery Industry Development Council.
- 3.17 **PD 704, Sec. 31 and Sec. 37.** Outlines prohibitions and penalties, among them, prohibitions on various forms of illegal fishing, fishing with fine mesh nets, trawling in waters less than 7 fathoms; ban on the export of *bangus* fry and pollution of waters.
- 3.18 **PD 704, Sec. 38.** Prescribing the penalties for various offenses outlined in PD 704.
- 3.19 **PD 705. Forestry Code, Sec. 13.** Mangrove and other swamps not needed for shore protection and suitable for fishpond purposes shall be released to, and be placed under the administrative jurisdiction and management of BFAR.
- 3.20 **PD 705. Forestry Code, Sec. 16.** Areas needed for forest purposes include strips of mangroves or swamplands at least 20 meters wide, along shorelines facing oceans, lakes and other bodies of water, and

# B

## A Thematic Classification of CRM-related Issuances



strips of land at least 20 m wide facing lakes; all mangrove swamps set aside for coastal protection shall not be subject to clear cutting operation; mangrove swamps released to the BFAR for fishpond purposes which are not utilized, or which have been abandoned for 5 years shall revert to the category of forest land.

- 3.21 **PD 705. Forestry Code, Sec. 33.** Identifies river banks, easements, deltas, swamps, former river beds and beaches as reforestable areas and covered with suitable and sufficient trees.
- 3.22 **PD 705. Forestry Code, Sec. 38.** Control of concession area needed for license agreement which is transferrable; obligation of holder to adopt all protection and conservation measures conforming to multiple use and sustained yield management.
- 3.23 **PD 705. Forestry Code, Sec. 43.** Mangrove forests which protect the shoreline, the shoreline roads, and even coastal communities from the destructive force of the sea during high winds and typhoons shall be maintained and not alienated; such strips must be kept from artificial obstructions.
- 3.24 **PD 825. Providing penalty for improper disposal of garbage and other forms of uncleanness and for other purposes.** Garbage, filth and other waste matters shall be placed in proper receptacles for the disposition thereof by garbage collectors; sets penalty for any person littering; assigns the Secretary of Public Works and health officials as well as LGUs to supervise implementation of this decree.
- 3.25 **PD 984. Pollution decree of 1976.** Provides guidelines on waste and effluent management.
- 3.26 **EO 211.** Prescribes the interim procedures in the processing and approval of applications for the exploration, development and utilization of minerals.
- 3.27 **LOI 1328.** Prohibits the operation of commercial trawl and purse seine in marine waters within 7 km from shoreline of all provinces in the Philippines.
- 3.28 **LOI 480.** Bans commercial trawls and purse seines within a distance of 7 kilometers from the shorelines of Northern Leyte, Southern Leyte, Northern Samar, Eastern Samar, Western Samar, and Sorsogon.
- 3.29 **DAO 07, s1989.** Suspension of the acceptance of application and issuance of prospecting permits in government reservations (including mangrove reserves).
- 3.30 **DAO 102, s1989.** Lifts the suspension on acceptance of application and issuance of prospecting and



exploration permits in forest reserves.

- 3.31 **DAO 14, s1989.** Amends MNR AO No. 518, s1984, on the establishment of certain areas in Northwestern Palawan as marine turtle sanctuary and promulgation of rules for the administration and control thereof.
- 3.32 **DAO 15, s1990, Sec. 11.** Continuing assessment of mangrove resources.
- 3.33 **DAO 15, s1990, Sec. 13.** Mangrove plantation developers shall be allowed to cut the planted trees found within their respective plantations through clear cutting by strips system, provided they secure a permit from the immediate office of the DENR.
- 3.34 **DAO 15, s1990, Sec. 14.** Silviculture practice should be a combination of seed-tree method and planting; in the course of harvesting, at least 40 healthy trees per hectare shall be retained.
- 3.35 **DAO 15, s1990, Sec. 3.** Granting and/or renewal of mangrove timber license in areas outside the coverage of FLAs shall no longer be allowed.
- 3.36 **DAO 15, s1990, Sec. 4.** No conversion of thickly vegetated mangrove forests shall be allowed.
- 3.37 **DAO 15, s1990, Sec. 5.** In cases where legally acquired and productive fishponds are within mangrove forest reserves and wilderness areas and the government decides to revert them to forest lands, owners will be justly compensated.
- 3.38 **DAO 15, s1990, Sec. 6.** Issuance of certificate of stewardship contract.
- 3.39 **DAO 15, s1990, Sec. 7.** No cutting of trees within existing FLA areas shall be allowed without a permit from DENR.
- 3.40 **DAO 15, s1990, Sec. 9.** Fishpond development allowed only in denuded areas which have been zonified as suited for such activity. Estuarine mangroves which are predominantly, if not totally, vegetated with shrubs shall not be disposed for fishpond development.
- 3.41 **DAO 85, s1990.** Imposes fees on mine tailings and wastes to compensate for damage to lands, agricultural crops, forest products, marine life, aquatic resources and the destruction of infrastructure which are privately

# B

## A Thematic Classification of CRM-related Issuances



owned.

- 3.42 **DAO 34, s1990.** Revised water usage and classification/water quality criteria amending sections 68 and 69, Chapter III of the 1978 NPCC rules and regulations. Includes water quality classification for coastal and marine waters starting with SA: waters suitable for propagation of shellfish, tourist areas and coral reef parks; SB: recreational water class I for bathing, swimming, diving; fishery water class I for spawning areas of bangus and similar species; SC: recreational water class II for boating and fishery; water class II for commercial and sustenance fishing.
- 3.43 **DAO 35, s1990.** Establishes effluent standards.
- 3.44 **DAO 03, s1991.** Policy and guidelines for the award and administration of mangrove stewardship agreement.
- 3.45 **DAO 04, s1991.** Revises regulations governing the Integrated Social Forestry Program.
- 3.46 **DAO 34, s1991.** Guidelines for the issuance of environmental compliance certificate for fishpond development.
- 3.47 **DAO 55, s1991.** Declaring *dugong* or sea cow as protected marine mammal in the Philippines.
- 3.48 **DAO 28, s1992.** Guidelines for the issuance of permits for pebble-picking along beaches.
- 3.49 **DAO 34, s1992.** Rules and regulations to implement RA 7076, otherwise known as "People's Small Scale Mining Act of 1991".
- 3.50 **DAO 29, s1991.** Guidelines for the inventory and sketching of foreshore areas.
- 3.51 **DENR Memorandum Circular No. 5.** Conditions governing the issuance of mangrove cutting permits within approved FLA areas and the survey of mangrove areas for FLA applicants.
- 3.52 **FAO 3.** Provides for the conservation of *banak* (mullet), establishing a closed season from November 15 to January 15 of each year, and regulating construction of fish corrals (must be at least 200 m apart).
- 3.53 **FAO 11.** Rules and regulations for the protection of marine mollusca, e.g., licensing requirements, minimum



size of shells that can be taken.

- 3.54 **FAO 24.** Regulations governing the scientific examination of fish caught or carried by fishing boats and for the other purposes.
- 3.55 **FAO 29.** Rules and regulations governing the gathering of aquatic turtle eggs.
- 3.56 **FAO 76.** Regulations governing the collecting and gathering of marine turtles.
- 3.57 **FAO 82.** Prohibits the operation of all fishing gears using strong light to attract fish in Taal Lake.
- 3.58 **FAO 88.** Regulations for the conservation of turtles, turtle eggs and turtle shell in the Philippines.
- 3.59 **FAO 118.** Establishes a fish sanctuary in Taal Lake to be known as the Taal Lake Sanctuary.
- 3.60 **FAO 122.** Prohibits the use of *pantukos* (seine used to catch *siliniasi*).
- 3.61 **FAO 125.** Rules and regulations governing the granting of 25-year FLAS.
- 3.62 **FAO 127.** Prohibits the operation of motorized push nets (*sarap/sacag*) to catch *tabios/sinarapan* in Lakes Buhi and Bato, Camarines Sur.
- 3.63 **FAO 129.** Bans the capture, sale, possession, and transport of *sabalo*.
- 3.64 **FAO 144.** Rules and regulations on commercial fishing: licensing, restrictions (**Sec. 12 and 13**), catch recording.
- 3.65 **FAO 146, s1983.** Rules and regulations governing the gathering and farming of seaweeds.
- 3.66 **FAO 148.** Regulations on gathering, catching, taking, or removing of marine tropical aquarium fish.
- 3.67 **FAO 155.** Regulates the use of fine mesh nets in fishing.
- 3.68 **FAO 156.** Prohibits commercial trawl fishing and purse seine operations within a distance of 7 km from the

# B

## A Thematic Classification of CRM-related Issuances



shorelines and directs law enforcement authorities to enforce such ban.

- 3.69 **FAO 157.** Rules and regulations on the gathering, taking, collection of *kapis* of the species *Placuna placenta*.
- 3.70 **FAO 158.** Prohibits the gathering, sale, and transport of mollusks belonging to the genus *Triton* or *Charonia* and *Cassis*.
- 3.71 **FAO 160.** Rules and regulations governing the construction, establishment or operation of fishpens and fish cages in Philippine waters.
- 3.72 **FAO 161.** Revised rules and regulations governing the issuance of lease for pearl culture.
- 3.73 **FAO 162.** Revised rules and regulations governing the issuance of permit for the exportation of live mud crabs or alimango (*Scylla serrata*).
- 3.74 **FAO 163.** Prohibits the operation of *muro-ami* and *kayakas* in all Philippine waters.
- 3.75 **FAO 164.** Rules governing the operation of *hulbot-hulbot* in Philippine waters.
- 3.76 **FAO 165.** Establishes a closed season of five (5) years for the operation of commercial fishing boats including the operation of a gear known as *buli-buli* within the water portion of Lamon Bay, Lopez Bay and Calauag Bay in Quezon.
- 3.77 **FAO 166.** Establishes a closed season of five (5) years in Panguil Bay for the operation of filter net, which is locally known as *sanggab*.
- 3.78 **FAO 167.** Establishes a closed season of five (5) years for the conservation of sardines and herrings and mackerels in the Visayan Sea.
- 3.79 **FAO 168.** License requirements for gathering or culturing shelled mollusks in Philippine waters.
- 3.80 **FAO 170.** Prohibits the operation of *sudsod* (scissors or push net) in Panguil Bay.



- 3.81 **FAO 171.** Establishes a closed season of five (5) years for the operation of commercial fishing boats within the water portion of Macalajar Bay, Cagayan de Oro City.
- 3.82 **FAO 172.** Establishes a closed season of five (5) years for the operation of commercial fishing boats and the employment of *hulbot-hulbot* by both commercial and municipal fishing boats in Polillo Strait and portion of Lamon Bay, Quezon Province.
- 3.83 **FAO 173.** Bans the exportation of *bangus* fingerlings (*hatirin*).
- 3.84 **FAO 174.** Establishes a closed season of 5 years for the operation of ringnets using fishing boats more than 3 GT within 7 km from the shoreline of Camiguin Province.
- 3.85 **FAO 175.** Establishes a closed season of 5 years for the operation of commercial or municipal fishing boats using trawl, modified Danish seine or motorized push net in Manila Bay.
- 3.86 **FAO 183.** Prohibits the importation of yellowfin tuna and tuna products from certain countries.
- 3.87 **FAO 184.** Guidelines on the experimental collection of precious and semi-precious corals in Philippine waters.
- 3.88 **FAO 185.** Ban on the taking or catching, sale, purchase, possession, and transport of dolphins.
- 3.89 **FAO 185-1.** Amending FAO 185 by adding whales and porpoises in the ban on the taking or catching, sale, purchase, possession, and transport of dolphins.
- 3.90 **FAO 187.** Revised schedule of fees and charges for services rendered by the Bureau of Fisheries and Aquatic Resources.
- 3.91 **FAO 188.** Prohibits the operation of tuna purse seine nets with mesh size less than 3.5 inches.
- 3.92 **FAO 190.** Regulations governing *pa-aling* fishing in Philippine waters; prohibits operation of *pa-aling* in municipal waters.
- 3.93 **MNR AO 3.** Land suitable for fishpond development shall not be classified as alienable or disposable but zonified as areas suitable for fishpond development; these areas are under the administration and

# B

## A Thematic Classification of CRM-related Issuances



management jurisdiction of BFAR; processing of FLAs shall be a responsibility of BFAR.

- 3.94** *MNR AO 12, s1974.* Regulations for the conservation of marine turtles in the Philippines.
- 3.95** *Lands Administrative Order No. 8-3 (1936; as amended).* Rules and regulations governing the issuance of temporary permits of occupation and use of non-mineral, non-timber public lands and of lands and other real properties of the Commonwealth of the Philippines.
- 3.96** *Lands General Circular No. 58 (1979).* Directs District Land Officers to collect occupation fees on foreshore, marshy, reclaimed, and other Government Lands occupied by any person or entity without authority or permit.
- 3.97** *DENR Memorandum Circular No. 12 (September 10, 1991).* Policy on the issuances of licenses, leases, and permits covering islands with areas less than 50,000 hectares.
- 3.98** *DENR Memorandum Circular No. 7 (May 15, 1991).* Conditions governing the issuance of mangrove cutting permits within approved FLA areas and the survey of mangrove areas for FLA applicants.
- 4.1** *RA 6969 and DAO 29. Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 and implementing guidelines.* Classify what wastes are hazardous; set rules and responsibilities and instructions for handlers of wastes; provide a manifest system to track hazardous substances.
- 4.2** *RA 7586. NIPAS Act.* Establishment and management of the National Integrated Protected Areas System (NIPAS). NIPAS encompasses outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animal, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as protected areas.
- 4.3** *RA 7611.* An act adopting the strategic environmental plan for Palawan, creating the administrative machinery for its implementation, converting the Palawan integrated area development project office to its support staff, providing funds therefore, and for other purposes.
- 4.4** *PD 1067. Water resources code, Art. 73 and 74.* The conservation of fish and wildlife shall receive proper

## 4.0 PROTECTION





consideration and shall be coordinated with other features of water resource development programs to ensure that fish and wildlife values receive equal attention with other project purposes. Swamps and marshes which are owned by the State and which have a primary value for waterfowl propagation or other wildlife purposes may be reserved and protected from drainage operation and development.

- 4.5 PD 1151. Philippine Environmental Policy.** Creation, development, maintenance and improvement of conditions under which man and nature can thrive in productive and enjoyable harmony with each other, to fulfill the social, economic and other requirements of present and future generations of Filipinos and to ensure the attainment of an environmental quality that is conducive to a life of dignity and well-being.
- 4.6 PD 1152. Philippine Environment Code.** i) Management of air and water quality, land use; ii) natural resource management and conservation; waste management; iii) conservation and utilization of surface and groundwaters; iv) population and environment balance; v) preservation of cultural environment; vi) integration of environmental education into the school curriculum; and (vii) tax incentives for the installation and manufacture of anti-pollution equipment and devices.
- 4.7 PD 1586. Environmental Impact Statement System.** All agencies and instrumentalities of the national government, including GOCCs, private corporations, firms and entities with projects or proposed projects that may significantly affect environmental quality must comply with an Environmental Impact Statement System.
- 4.8 PD 2151.** Declaration of certain islands and/or parts of the country as wilderness areas.
- 4.9 PD 2152.** Declaration of the entire province of Palawan and certain parcels of the public domain and/or parts of the country as mangrove swamp forest reserves.
- 4.10 PD 856. Sanitation Code, Chap. 7, Industrial hygiene.** Sewage disposal should be by means of a municipal or city sewerage system; all wastes incident to the operation of the industrial plant shall be collected, stored, or disposed of in a manner to prevent health hazards, nuisances, and pollution; an abatement program for the control of vermin shall be maintained.
- 4.11 PD 979. Marine Pollution Decree.** i) prevention and control of marine pollution due to dumping of wastes and other matter which create hazards to human health, harm living resources and marine life, damage amenities, or interfere with legitimate uses of the sea within territorial jurisdiction of the Philippines; ii)

# B

## A Thematic Classification of CRM-related Issuances



responsibility to promulgate national rules and policies governing marine pollution is vested on the EMB; iii) responsibility to enforce laws, rules and regulations governing marine pollution is vested on the Philippine Coast Guard.

- 4.12 **EO 263 (1995).** Adopts community-based forest management (CBFM) as the national strategy to ensure the sustainable development of the country's forestland resources and provides mechanisms for its implementation.
- 4.13 **Proclamation 431.** Declares the waters, islands of Pujada Bay as protected seascape/landscape (Mati, Davao Oriental).
- 4.14 **Proclamation 438.** Declares Apo Island and its surrounding waters within the municipality of Zamboangita, Negros Oriental as protected seascape/landscape.
- 4.15 **Proclamation 592.** Declares the Sagay, Negros Occidental marine reserve.
- 4.16 **Proclamation 756.** Establishes Sarangani Bay and a portion of the municipal waters of Maitum, Kiamba and Maasin as protected seascape.
- 4.17 **DAO 08, s1991.** Guidelines on the issuance of Environmental Compliance Certificate (ECC) or Environmental Clearance (EC) for the conversion of agricultural lands to non-agricultural uses.
- 4.18 **DAO 34, s1991.** Guidelines for the issuance of Environmental Compliance Certificate (ECC) for fishpond development.
- 4.19 **DAO 03, s1993.** Guidelines for the formulation of a site-specific management manual and management plan for protected areas.
- 4.20 **DAO 04, s1993.** Guidelines for the adoption of the IPAS general management planning strategy (GMPS).
- 4.21 **DAO 15, Sec. 12.** Establishment of mangrove plantations.
- 4.22 **DAO 15, Sec. 8.** Establishment, development and management of communal mangrove forests: the development and management of communal mangrove forests shall be the responsibility of the community under the concept of community-based forest management and in accordance with an approved Management



Plan to be monitored closely by the DENR Regional Office.

- 4.23 **DAO 16, s1993.** Guidelines for the establishment and management of buffer zones for protected areas.
- 4.24 **DAO 17, s1993.** Guidelines for the conduct of protected area suitability assessment.
- 4.25 **DAO 28, s1995.** Clarification on the provisions of NIPAS Law regarding the modification of boundary of the protected area and its buffer zone.
- 4.26 **DAO 35, s1993.** Criteria and guidelines for the categorization of protected areas under the National Integrated Protected Areas System (NIPAS).
- 4.27 **DAO 96-29, s1996.** Implementing rules and regulations for EO 263.
- 4.28 **DAO 76, s1987.** Establishment of buffer zone in coastal and estuarine mangrove areas.
- 4.29 **FAO 128.** Establishes a fish sanctuary in Oslob, Cebu to be known as the Sumilon Island Fish Sanctuary.
- 4.30 **FAO 151.** Establishes a fish sanctuary in Manila Bay to be known as the Manila Bay Fish Sanctuary.
- 4.31 **FAO 176.** Establishment of the Tambulig Fish Sanctuary in Tambulig, Zamboanga del Sur.
- 4.32 **FAO 177.** Establishment of the Calauag Fish Sanctuary in Calauag, Quezon.
- 4.33 **FAO 178.** Establishment of the Capoocan Fish Sanctuary in Culasian Point, Capoocan, Leyte.
- 4.34 **FAO 179.** Establishment of the Babatngon Fish Sanctuary in Calangawan Island, Babatngon, Leyte.
- 4.35 **FAO 180.** Establishment of the Barugo Fish Sanctuary in Jalaba Point, Balud, Barugo, Leyte.
- 4.36 **FAO 181.** Establishment of the Perez Fish Sanctuary in Perez, Quezon.
- 4.37 **FAO 182.** Establishment of the Loculan Shoal Fish Sanctuary and Marine Reserve in Clarin, Misamis Occidental.

# B

## A Thematic Classification of CRM-related Issuances



4.38 **MNR AO 42.** Expansion of forest belt areas in storm surge and typhoon-prone areas, mangrove forest belt areas of 50 m are expanded to 100 m strip inward along shorelines fronting seas, oceans and other water bodies in specific provinces; 20 m strip for river bank mangroves is expanded to 50 m on both sides in the provinces identified.

4.39 **MNR AO 76.** Establishment of buffer zones in coastal and estuarine mangrove areas.

## 5.0 CONSTITUTIVE

5.1 **RA 2056; PD 256.** i) the Secretary of Public Works and Highways could hear complaints on the removal or demolition of obstructions in any public navigable river or waterways or communal fishing grounds.

5.2 **RA 7160, Sec. 131 (r).** Redefines municipal waters to include marine waters within a distance of 15 km from the shoreline.

5.3 **RA 7160, Sec. 138 .** The province may levy and collect not more than 10% of the fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks; permit to quarry shall be issued by the provincial Governor.

5.4 **RA 7160, Sec. 149 (a).** i) municipalities shall have the exclusive authority to grant fishery privileges in municipal waters and impose rentals, fees or charges; ii) grants fishery privileges to municipalities and cities to erect fish corrals; oyster, mussel or other aquatic beds; or *bangus* fry areas, within a definite zone of the municipality or city waters; iii) duly registered organizations and cooperatives of marginal fishers have the preferential right to such fishery privileges; iv) grants privileges by municipality or city to gather, take or catch *bangus*, prawn or any other species of fry and fish from the municipal waters by nets, traps or other fishing gears to marginal fishers free of any rental fee, charge or any other imposition; v) grants licenses by cities and municipalities for the operation of fishing vessels of three tons or less; vi) adoption of adequate measures to safeguard and conserve mineral, marine, forest and other resources of the province; vii) imposition of appropriate penalties for acts which endanger the environment; viii) establishment, maintenance, protection and conservation of communal forests and watersheds, tree parks, greenbelts, mangroves and other similar forest development projects.

5.5 **RA 7160, Sec. 16.** Every LGU shall exercise the powers expressly granted, those implied there from, as well as the powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential for general welfare.



- 5.6** *RA 7160, Sec. 17.* For a municipality: extension and on-site research services and facilities related to fishery and agriculture; enforcement of fishery laws in municipal waters including the conservation of mangroves; infrastructure facilities including fishports; tourism facilities and other tourist attractions, including acquisition of equipment, regulation and supervision of business concessions, and security services for such facilities; LGU responsibilities for the delivery of basic services; solid waste disposal; extension and research; laws on protection of the environment.
- 5.7** *RA 7160, Sec. 17.* For a province: tourism development and promotion programs; pursuant to national policies and subject to the supervision, control and review of DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, mini-hydro-electric projects, and other laws on the protection of the environment; organization of farmers and fishers cooperatives and other collective organizations as well as transfer of appropriate technology.
- 5.8** *RA 7160, Sec. 26.* Responsibility of NGA or GOCC to consult with LGUs, NGOs and other concerned sectors on projects that may cause pollution, climate change, depletion of non-renewable resources, loss of cropland, rangeland or forest cover, and extinction of plant and animal species, explaining the goals and objectives thereof, the impact upon the people and community in terms of environmental or ecological balance, and measures that will be undertaken to minimize adverse effects.
- 5.9** *RA 7160, Sec. 27.* No project or program initiated by NGA shall be implemented unless approved by the *sanggunian* and appropriate consultations are made.
- 5.10** *RA 7160, Sec. 289, Sec. 290, Sec. 291, and Sec. 292.* LGUs shall have an equitable share in the proceeds derived from the utilization and development of national wealth within their respective areas; in addition to the internal revenue allotment, have a share of 40% of the gross collection derived by the national government from mining taxes, royalties, forestry and fishery charges and such other taxes, fees or charges; share may be either 1% of gross sales or 40% of mining taxes, royalties, forestry and fishery charges; provides sharing between component LGUs.
- 5.11** *RA 7160, Sec. 3.* Operative principles of decentralization. LGUs shall share with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction; LGUs shall have the power to create and broaden their own sources of revenue and the right to a just share in national taxes and an equitable share in the proceeds of the utilization and development of national wealth within their respective areas.

# B

## A Thematic Classification of CRM-related Issuances



- 5.12** *RA 7160, Sec. 33.* Cooperative undertakings among LGUs. LGUs may, through appropriate ordinances, group themselves for purposes commonly beneficial to them.
- 5.13** *RA 7160, Sec. 34, Sec. 35, and Sec. 36:* Role of POs and NGOs; LGUs may enter into joint ventures with them to engage in delivery of basic services, capacity-building and livelihood projects; promote ecological balance; may, through the local CEO and *sanggunian*, provide assistance, financial or otherwise, for economic, social, environmental or cultural projects.
- 5.14** *RA 7160, Sec. 447 (a) (2) (xi).* Grant the privilege of constructing fish corrals or fish pens or the taking of *bangus* and prawn fry.
- 5.15** *RA 7160, Sec. 447 (a) (i) (vi).* Empowers the SBs to approve ordinances and pass resolutions necessary for effective municipal government, including protection of the environment and imposition of appropriate penalties for acts which endanger the environment such as dynamite fishing and other activities which result in population or ecological imbalance.
- 5.16** *RA 7160, Sec. 447.* Empowers the SB to authorize the establishment and operation of ferries, wharves and other structures (also included are marine and seashore activities intended to accelerate productivity); regulation of the preparation and sale of fish for public consumption; approval of measures and adoption of quarantine regulations to prevent introduction and spread of diseases.
- 5.17** *RA 7160, Sec. 534 (e).* Repealing clause: Repeals Sections 2, 16, and 29 of PD 704.
- 5.18** *RA 7611.* An act adopting the strategic environmental plan for Palawan, creating the administrative machinery for its implementation, converting the Palawan integrated area development project office to its support staff, providing funds therefor, and for other purposes.
- 5.19** *PD 189.* Amends part IX of the Integrated Reorganization Plan by renaming the Department of Trade and Tourism as the Department of Trade, and creating the Department of Tourism with a Philippine Tourist Authority attached to it in lieu of the Philippine Tourist Commission.
- 5.20** *PD 424. Creation of a National Water Resources Council.* The council was granted regulatory and executory functions (determine and grant water rights); advisory and recommendatory (advise NEDA on matters pertaining to water resource development); composed of DPWH, DENR, NEDA, NIA, and NPC.



- 5.21 PD 564 (1974). (amending PD 19, 1973).** Creates the Philippine Tourism Authority Charter, which tasks this Agency to administer and regulate tourist zones and marine reserves.
- 5.22 PD 602 (1974).** Establishes the Oil Pollution Operations Center in the Philippine Coast Guard.
- 5.23 PD 704 Sec. 4.** Outlines the jurisdiction of the BFAR in the management, conservation, development, protection, utilization, and disposition of fishery resources in the country except municipal waters which shall be under the municipal or city government.
- 5.24 PD 979 Marine Pollution Decree.** i) prevention and control of marine pollution due to dumping of wastes and other matter which create hazards to human health, harm living resources and marine life, damage amenities, or interfere with legitimate uses of the sea within the territorial jurisdiction of the Philippines; ii) responsibility to promulgate national rules and policies governing marine pollution is vested on the EMB; iii) responsibility to enforce laws, rules and regulations governing marine pollution is vested on the Philippine Coast Guard.
- 5.25 PD 1084 (1977).** Creates the Public Estates Authority (PEA), which is responsible for integrating, directing, and coordinating all reclamation projects for and in behalf of the Government.
- 5.26 PD 1160.** Deputation of barangay captain, council person and zone chairperson as peace officers with authority to effect arrest of violators in accordance with law for purposes of enforcing and implementing national and local laws, or ordinances and rules and regulations governing pollution control and other activities which create imbalance in the ecology or disturbance in environmental conditions.
- 5.27 EO 525 (1979).** Designates the Public Estates Authority as the agency primarily responsible for all reclamation projects.
- 5.28 EO 654 (1981).** Further defines certain functions and powers of the Public Estates Authority.
- 5.29 EO 114.** Constitutes the Presidential Committee on Illegal Fishing and Marine Conservation and tasks it to coordinate all governmental and non-governmental efforts in the planning and implementation of a national program for the conservation of marine and coastal resources.
- 5.30 EO 117.** Establishment of the Inter-agency Task Force for Coastal Environmental Protection.

# B

## A Thematic Classification of CRM-related Issuances



- 5.31 **EO 192.** The reorganization Act of the DENR; establishes mandate of the DENR to include the conservation, management and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservations and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources.
- 5.32 **EO 240.** Creates FARMCs in barangays, cities and municipalities; defines their composition and functions.
- 5.33 **EO 292. *The Administrative Code of 1987.*** Grants mandates to both DENR and DA over fisheries development. Title XIV states that DENR has the primary responsibility for the full exploration and development as well as judicious management, renewal and conservation of the country's fisheries resources. Title IV, however, grants DA the task to promote the well-being of fishermen and accelerate the development of fisheries.
- 5.34 **EO 371, s1996. *Proclaims a special zone of peace and development (ZOPAD) in the Southern Philippines, and establishes therefor the Southern Philippines Council for Peace and Development and the Consultative Assembly.*** Provision for entrepreneurial development support, livelihood assistance and credit facilities especially in the vulnerable sectors such as women, farmers and fisherfolk; provision for capacity-building assistance for local communities and organizations.
- 5.35 **LOI 550.** Assignment of the Secretary of Natural Resources to train barangay officials as deputy fish wardens and/or deputy forest wardens.
- 5.36 **Administrative Order 201.** Provides for the coordination mechanism and funding for the implementation of the monitoring, control, and surveillance for the conservation and protection of renewable resource system for the Philippines; and designates DA as the implementing agency for MCS-CPRR system.
- 5.37 **DA General Memo. Order No. 3, s1990.** Prescribes the guidelines for the establishment of marine sanctuaries and defines the criteria for site selection and management.
- 5.38 **DA-DAR Administrative Order No. 18, s1991.** Guidelines governing the distribution of cancelled and expired Fishpond Lease Agreements (FLA) under EO 407 as amended by EO 448.
- 5.39 **DA-DILG Memorandum of Agreement of April 1994.** Devolves to the LGUs authority to grant licenses for the construction of fish cages; and the gathering of aquarium fishes, *kapis* shells, shelled mollusks; issue



auxiliary invoice to transport fish and for the establishment of seaweed farms, pearl culture farms; and establish closed seasons in municipal waters.

- 5.40 **DAO 38, s1990.** Revised regulations on the delineation of functions and delegation of authorities over regulatory, administrative, and financial matters of DENR officials.
- 5.41 **DAO 03, s1995.** Procedural and/or documentary requirements; guidelines and/or criteria to be observed and/or followed in the selection of representatives of LGUs, NGOs, and POs to the Protected Area Management Board.
- 5.42 **DAO 15, Sec. 10.** Responsibility for and authority over the protection, development and management of mangroves.
- 5.43 **DAO 18, s1991.** Rules and guidelines governing the distribution of cancelled or expired FLAs under EO 407 as amended by EO 448; identifies responsibilities of DA-BFAR and DAR with respect to cancelled or abandoned FLAs.
- 5.44 **DAO 41, s1991.** Guidelines governing the deputation of Environment and Natural Resources Officers (ENRO), including criteria for deputation.
- 5.45 **DAO 15, s1992.** Creates a Philippine Council for Sustainable Development and defines its composition, powers and functions.
- 5.46 **DAO 27, s1993.** Guidelines for the management of protected areas under the administrative jurisdiction of two regions.
- 5.47 **DAO 3, s1991.** Guidelines for the implementation of Section 24, paragraphs 2 and 3, of PD 704 as amended, and Section 43, paragraph 3, of PD 705, as amended; promotion of the rational utilization of mangrove forest lands which have been released for fishpond development; reconciliation of the provisions of Section 24, p. 2 and 3 of PD 704 as amended, with Section 43, p. 3 of PD 705 as amended.
- 5.48 **DAO 30, s1992.** Guidelines for the transfer and implementation of DENR functions devolved to the Local Government Units.
- 5.49 **DAO 17, s1992.** Delineation of functions and implementation of the integrated social forestry program after



the devolution of functions to the local government units .

- 5.50** *DAO 30, s1994.* Implementing guidelines for NGO-assisted community-based mangrove forest management (CBMFM) for the DENR.
- 5.51** *DAO 39, s1994.* Defines and clarifies a tenured migrant as eligible to become a steward of a portion of the land within a protected area.
- 5.52** *DAO 4, s1994.* Creates the Project Coordination Unit for all IPAS projects.
- 5.53** *DAO 40, s1994.* Sequential diagram of NIPAS Law requirement on the establishment and management of protected areas.
- 5.54** *DAO 42, s1994.* Guidelines for entering into MOAs with other government agencies, NGOs, and private institutions for the development and management of protected areas.
- 5.55** *DAO 45, s1994.* Clarifies some provisions of RA 7568, including creation of PAMB, categorization of existing and proposed protected areas, conduct of public hearings, functional relationship of the protected area supervisor and DENR officers.
- 5.56** *DAO 46, s1994.* Creation of the Protected Area Management Board (PAMB).
- 5.57** *DAO 47, s1993.* Revised rates of fees for entrance to and use of facilities inside protected areas.
- 5.58** *DAO 56, s1993.* Composition of the Protected Areas Fund (PAF) Governing Board.
- 5.59** *DAO 28 s1995.* Composition and authority of PAMB Executive Committee.
- 5.60** *Joint Administrative Order No. 2 (DA-DILG-DENR-DOJ).* Implementing rules and regulations of EO 240 (FARMCs).
- 5.61** *Joint Administrative Order No. 3 (DA-DILG).* Implementing guidelines for the granting of preferential treatment to small fisherfolk relative to the 15 km municipal waters. Includes provision for zonification.
- 5.62** *Joint DA-DENR General Memorandum Order No. 3, s1991.* Guidelines for the implementation of section 24, paragraphs 2 and 3 of PD 704 as amended, and section 43, paragraph 3 of PD 705 as amended.



Prescribes the guidelines for the cancellation and reversion of FLAs into mangrove forest lands under the administration of DENR.

- 5.63 **Joint DAR-DA-DENR-DILG Administrative Order No. 1.** Rules and regulations governing the conversion of public agricultural lands to fishponds and prawn farms pursuant to RA 6657 as amended by RA 7881.
- 5.64 **DENR Memorandum Circular No. 10 (August 6, 1992).** Clarification regarding the devolution of functions to LGUs concerning the mines sector under DAO s1992 as amended.
- 6.1 **RA 6810.** An act establishing the Magna Carta for countryside and barangay business enterprises, granting exemptions from any and all government rules and regulations and other incentives and benefits therefor, and for other purposes.
- 6.2 **PD 463 (as amended by PD 1385 and PD 1677). Mineral resources development decree of 1974.** Provides for a modernized system of administration and disposition of mineral lands and to promote and encourage the development and exploitation thereof.
- 6.3 **PD 704. Sec. 2.** Defines the policy of the State to accelerate the integrated development of the fishery industry and to keep the fishery resources in optimum productive condition through proper conservation and management. It is emphasized here that the private sector is not only a privileged user but also a partner in conservation and development.
- 6.4 **PD 704 Sec. 42 and Sec. 44.** Establishes the Fisheries Loan and Guarantee Fund and the institutional mechanism for granting loans to the fishing industry.
- 6.5 **PD 1599.** Establishing the Philippine EEZ which extends to a distance of 200 nm beyond and from the baselines from which the territorial sea is measured.
- 6.6 **EO 371. Proclaiming a special zone of peace and development (ZOPAD) in the Southern Philippines, and establishing therefor the Southern Philippines Council for Peace and Development and the Consultative Assembly.** Projects to be implemented in the ZOPAD shall include health and sanitation services, water supply development; airports and seaports; development and promotion of tourism; environmental and marine resources improvement program to protect and conserve natural resources.
- 6.7 **EO 1047.** Encouraging distant water fisheries by the Philippine commercial fishing fleet.

## 6.0 DEVELOPMENTAL

## Schedule of Activities of the Policy Component



| TITLE OF WORKSHOP             | DATE               | VENUE                      |
|-------------------------------|--------------------|----------------------------|
| Policy Forum                  | December 16 1996   | Hotel Rembrandt, Q.C.      |
| 1 <sup>st</sup> TWG Meeting   | December 17, 1996  | Hotel Rembrandt, Q.C.      |
| 2 <sup>nd</sup> TWG Meeting   | January 28, 1997   | DENR, Visayas Avenue, Q.C. |
| 3 <sup>rd</sup> TWG Meeting   | September 3, 1997  | DENR, Visayas Avenue, Q.C. |
| <b>In-house Discussions</b>   |                    |                            |
| BFAR                          | March 21, 1997     | BFAR, Quezon Avenue, Q.C.  |
|                               | June 25, 1997      | BFAR, Quezon Avenue, Q.C.  |
| DENR                          | April 3, 1997      | DENR, Visayas Avenue, Q.C. |
|                               | July 29, 1997      | DENR, Visayas Avenue, Q.C. |
| DILG                          | April 4, 1997      | DILG Office, Cubao, Q.C.   |
| <b>Consultation Workshops</b> |                    |                            |
| Negros Oriental               | June 19 - 20, 1997 | Dumaguete City             |
| Davao del Sur                 | June 17, 1997      | Malalag                    |
| Sarangani                     | June 18, 1997      | General Santos City        |
| Bohol                         | July 24 -25, 1997  | Clarín, Bohol              |
| Palawan                       | August 15, 1997    | San Vicente                |





## Aquaculture

- fishpond lease agreements, 5-16
- exemption, 5-19
- licensing of, 5-16, 5-18
- reversion, 5-17
- statutes, 3-25

## Artificial Reef

- establishment, 5-21 to 5-22
- issues, 5-21 to 5-22
- management, 5-21 to 5-22

## Bantay Dagat

- citizen's arrest, 5-8
- fish wardens, 5-15

## Development Activities

- land use, 4-20, 4-22, 5-32
  - classification, 4-20
  - foreshore lease, 4-20, 5-45
- ports, 4-20
- tourism, 4-22
  - resort, 5-22
  - statutes and orders, 3-43, 4-22

## Enforcement

- apprehension, 4-16
  - burning of apprehended gears, 5-15
  - cease-and-desist order, 5-25
- deputation, 5-15
- fish wardens, 5-15
- legal basis, 5-15
- enforcement problems, 4-14 to 4-17
- jurisdiction
  - in municipal waters, 5-10
  - in protected areas, 5-22, 5-24
- marine pollution, 5-27, 5-28
- oil spill, 4-14

- penalties, 5-10 to 5-16, 5-38
  - determination of, 5-38
  - imposition of, 4-18, 5-38, 5-39
- prosecution, 4-17
- toxic wastes, 5-26

## FARMCs

- establishment, 4-2, 5-46
- legal basis, 5-46

## Fisheries

- commercial fishing, 5-6, A-1
- dynamite fishing, 5-1
- gear regulation, 5-7, 5-9, 5-13
  - banning of gears, 5-7, 5-13
  - mesh size, 5-8
- compressor diving, 5-9
- fish sanctuaries, 5-21, 5-24
- illegal fishing, 5-8, 5-10
  - use of dynamite, 3-37, 5-1
  - use of poisonous substances, 3-37, 5-7
- licensing, 5-7
  - promulgation by Sangguniang Bayan, 5-7
- marine mammals, 5-22
- marine reserves, 3-29
- municipal fishing area, 5-2
  - banning of municipal fishers in contiguous waters, 5-7
- municipal waters, 3-49, 5-2, 5-7
  - establishment of, 5-2
  - commercial fishing in, 5-6
  - delineation of, 5-2
  - granting of concessions in, 5-9
- prohibitions on the gathering or taking of
  - corals, 5-33

- dolphins, 5-22
- mollusks, 4-18
- marine turtles, 5-13, 5-22
  - sabalo*, 5-11

## Fishponds

- agrarian reform, 5-19
- conversion from mangroves
- ECC, 5-19
- illegal, 5-17
- lease agreement, 5-16

## Foreshore Area

- definition, 5-44
- jurisdiction, 5-44 to 5-45
- lease, 5-45

## Habitats

- direct, destruction of, 2-2, 4-10, 4-12
  - coral reefs, 4-10
  - mangroves, 4-10
- indirect, destruction of, 4-10, 4-13
  - water quality, 5-24 to 5-31
  - siltation, 5-31
- fish sanctuary, establishment of, 5-21, 5-24
- protected areas, 4-20, 5-20, 5-23, 5-41
  - resolution of conflicts, 5-24, 5-22

## Land Use

- agricultural, 5-32
- cadastral survey, 4-20
- ECC, 5-19, A-2
- jurisdiction, 5-32
- non-agricultural, 5-32
- reclassification, 4-20, 5-32

## Laws

- classification of, 3-19 to 3-29
  - administrative orders, 3-47
  - executive orders, 3-4, 3-47
  - ordinances, 4-18, 5-38
    - validity of, 3-47 to 3-48
  - presidential decree, 3-47
  - statutes, 3-48

## Local Government Code

- basic services, 3-34
  - cooperatives, 3-37, 4-2
  - facilities, 3-37, 3-41, 3-37
  - research, 3-37, 3-44
- consultation, 3-35
- cooperative undertakings, 3-35
- fisheries and aquaculture, 3-37
  - licenses, 3-37, 3-38, 4-2
  - permits, 3-37, 3-38, 4-2, 5-7
  - marginalized fisherfolk, 5-8
- forestry, 3-40
  - mangroves, 4-10
    - community-based forestry projects, 3-10
- infrastructure, 3-42
- hygiene and sanitation, 3-37, 3-41
- joint ventures
- mining/quarrying, 3-44, 5-42, 5-43
- preferential rights, 3-37, 4-2
- special features
  - decentralization, 3-18, 3-33 to 3-36
  - mobilization, 3-10, 3-33 to 3-36
  - political autonomy, 3-18, 3-33 to 3-36
  - resource generation, 3-18, 3-33 to 3-36

# D

## Index of Selected Subjects



tourism, 3-43, 4-22, 5-22

### Open Access

permits, 4-2, 4-4 to 4-5  
preferential rights, 4-2  
problem network, 4-1 to 4-9  
property rights, 4-2, 4-7  
restrictions, 4-2, 4-8  
taxation, 4-2, 4-6  
zonation, 4-2

### Mangroves

buffer zone, A-1  
communal forest, A-2  
conservation and management, 3-7, 5-16  
conversion into fishponds, 2-2  
cutting, 5-33  
data gathering, 3-16  
definitions, A-4  
illegal expansion of ponds, 5-17  
FLA reversion, 5-17  
    into A & D lands, 5-17  
stewardship, 5-16

### Mining

granting of permits, 5-42, 5-44  
oil pipeline, 5-27  
quarrying, 5-42, 5-43, A-6  
siltation, 5-31  
small scale, 3-44, 5-44

### Pollution

aquatic pollution, A-1  
industrial effluents, 5-24, 5-25, 5-28, 5-29  
jurisdiction, 5-24 to 5-32  
law enforcement, 5-24 to 5-32  
oil spill, 4-14  
sewage, 5-24

siltation, 4-14, 5-31  
solid waste, 5-25  
toxic wastes, 5-26  
water quality, 5-24 to 5-32