

Chapter 8 WHO'S IN CHARGE?

(Legal and Institutional Framework)

Among all Philippine provinces, Palawan stands out in the environmental scene not only because of its status as a major repository of biological diversity. Its reputation as an ecologically sensitive area has also given rise to a unique law called the Strategic Environmental Plan for Palawan or simply SEP. The centerpiece of the SEP law is the creation of an Environmentally Critical Areas Network (ECAN), basically a zoning system that divides each of the province's 23 towns and the capital city into core zones, buffer zones, and multiple-use zones (See Box 8.1). **Core zones** are restricted areas, such as national parks, marine reserves, and higher elevations that require maximum protection and minimal human intrusion. These core zones are surrounded by **buffer zones**, which are meant to shield the inner areas from economic activities. The lower and generally more developed areas are designated as **multiple-use zones**, where most town sites and settlements are found.

Under the SEP law, equitable access to resources is emphasized and local community management is encouraged. Ecological viability and social acceptability of development projects are given importance.

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created to implement the law. To decentralize decision-making, ECAN boards are supposed to be organized in each municipality with members from LGUs, tribal groups, and NGOs.

San Vicente is one of the pioneers in the implementation of the SEP. It was the first town to draw up an ECAN map and establish a communal forest, and the first to obtain the PCSD's approval for both. The municipality has finished the preliminary ECAN map for the terrestrial zone of 9 barangays; only Caruray, which is facing funding constraints, has yet to be delineated.

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These achievements came about as a result of the SEP-San Vicente Project, which then Mayor Antonio Alvarez created on April 3, 1993. The Project seeks to promote the self-sustaining development of San Vicente's fishers, farmers, and forest dwellers. It also recognizes the stakeholders' role as managers of the town's natural resources. The Project is based on the idea that if people are given the means to be self-sufficient, then there will be no need for external financial assistance, and local communities will become self-reliant.

The mayor's office assigned the Project's management to the newly-created Technical Assistance Office (TAO), composed mostly of experienced community organizers from the Visayas and Mindanao. The organizers' advantage was their facility with the language of many migrants in fishing communities, who share their origins.

The special project also made significant achievements in the area of coastal marine conservation according to the latest annual report of the municipal government. SEP-SVP personnel and supporters are protecting 1,538 hectares of mangrove forests. Fish sanctuaries have been identified in the following sites: 42.77 hectares in Binga, 45 hectares at the Poblacion, 123 hectares in Port Barton, and 25 hectares in Caruray. Some 20 hectares of artificial reefs are being managed in Binga, Port Barton and Caruray. The project also protects 130 hectares of seagrass beds.

From the interviews and sessions conducted during the PCRA, it would be fair to conclude that the biggest achievement of the Project was raising the environmental consciousness of most residents. One of the residents' complaints was that the laws

were too strict to the point of limiting their livelihood pursuits (which were, more often than not, destructive in nature). Almost everyone agreed, however, that illegal fishing in the municipality was drastically reduced as a result of marine patrols and community organizing efforts.

Some fishing communities have set up, and are still maintaining, their marine sanctuaries. To help increase productivity, the project staff introduced the use of fish-aggregating devices, such as *payaws* and *arongs* to the fishers. The effectiveness of these structures is still being debated.

Sadly, most of the fishers' and farmers' organizations, which the project helped set up, have become inactive. Many fishers attributed this to lack of capital or financial assistance for the projects they identified.

PCRA participants also expressed concern about the project's continuity. Mayor Alvarez, who initiated the project, completed his third and last term in 1998. Many San Vicente residents said they were afraid the SEP would go the way of similar projects, which expired with their initiators' terms of office, even as they acknowledged that municipal legislation put in place during Mayor Alvarez's term could provide continuity in the effort to protect the marine environment (Table 8.1).

One such legislation is Sangguniang Bayan Resolution 54-A Series of 1995 & Ordinance No. 5 Series of 1995, which bans the operation of compressor-aided fishing method in the municipal waters of San Vicente. This law sets the following penalties: first offense — P500 per person on board; second offense — P1,000 per person on board; third offense — P2,000 per person on board and confiscation of fishing gear or 6 months imprisonment or both. The rationale for this legislation is that the compressor-aided fishing method results in overfishing and is not sustainable. It also destroys coral reefs, poses danger to divers resulting in paralysis and death, and is often associated with the use of dynamite and sodium cyanide. The law covers the following activities: spearfishing; gill netting in coral reef areas; collection and gathering of shells, aquarium fish and other marine products; deep sea fish corral; *basnig*; *talakop*; *baling* or bag net; *paaling*; and other deleterious methods of fishing.

Municipal legislation put in place during Mayor Alvarez's term could provide continuity in the effort to protect the marine environment.

Another law is Resolution No. 16-B, Series of 1994 & Ordinance No. 2 Series of 1994, which prohibits the operation of all transient migrants and non-residents of *basnig*, *likom-likom*, *pangulong*, and *galadgad* within the municipal waters of San Vicente. It imposes the following penalties: first offense — P1,000 fine; second offense — P2,000 fine; third offense — P2,500 fine or 6 months imprisonment or both.

Another set of guidelines which has implications for coastal development in San Vicente and all of Palawan are the PCSD guidelines for coastal tourism establishments in Palawan (Box 8.2). These guidelines are particularly important for guiding development initiatives in Port Barton.

TABLE 8.1. Resolutions and ordinances pertaining to coastal management in San Vicente.

DATE	TITLE
February 21, 1994	Resolution No. 16-B, s. 1994. "Resolution prohibiting the operation of all transients/migrants and non-residents of Basnig, Likom-Likom, Pangulong, Galadgad Fishing Operators within the municipal waters of San Vicente."
February 21, 1994	Resolution No. 16-A, s. 1994. "Resolution prohibiting the operation of Hulbot-Hulbot in the municipal waters of San Vicente, Palawan."
September 25, 1995	Resolution No. 54-A, s. 1995. "Resolution banning the operation of compressor aided fishing method in the municipal waters of San Vicente, Palawan."
November 27, 1995	Resolution No. 74, s. 1995. "Resolution authorizing the Barangay Councils, this municipality to create a special body whose members shall be coming from the different organizations in the barangays, to manage and protect the coral reefs, fish sanctuaries and other resources within their barangays as approved land and water use plan for San Vicente."
November 10, 1997	Resolution No. 110, s. 1997. "Resolution/Ordinance declaring a fish sanctuary at Albaguen Island."
November 24, 1997	Resolution No. 126, s. 1997. "Resolution/Ordinance declaring a fish sanctuary at Nagolon Island 500 has. and Kinabuga-an Point 5.0 has."
January 6, 1998	Municipal Ordinance No. 03, s. 1997. "An ordinance declaring a fish sanctuary at Albaguen Island."
January 6, 1998	Municipal Ordinance No. 10, s. 1997. "An ordinance declaring a fish sanctuary at Nagolon Island 50 has. and Kinabuga-an Point 5,000 has."

Box 8.1. Summary of the PCSD guidelines for the coastal/marine component of the Environmentally Critical Areas Network (ECAN) for Palawan.

BASIC CONCEPT AND POLICY

The whole of Palawan is considered as one protected area composed of subprotected areas with different levels of management options. The underlying philosophy is to provide equitable access to the resources and to assign responsibility for their management to the local government unit and the community. Palawan's ECAN Coastal Zone shall adopt the concept of marine parks and reserves, which usually requires limited entry and encourages various uses with emphasis on education, recreation, and preservation.

It is the policy of PCSD to support and promote the sustainable development of Palawan through proper conservation, utilization and development of its natural resources to provide optimum yields on a continuing basis. It shall also promote and encourage the involvement of all sectors of society and maximize people participation in natural resource management, conservation, and protection. PCSD also recognizes the significance of preserving and declaring certain areas free from human intervention to maintain ecological balance.

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COVERAGE OF COASTAL/MARINE AREAS

Coastal areas included in ECAN zones shall consist of all the surrounding waters starting from the highest water mark extending up to 15 km in the open sea of mainland Palawan and its islands, waters between islands and islets forming part of the province, small islands not covered under the terrestrial ECAN guidelines, and all mangrove areas and mangrove associates.

COASTAL ZONES AND THEIR CRITERIA

The classification and criteria for coastal zones are as follows:

1. Core Zone

1.1 Coral Reefs

- a) Portion of contiguous or aggregation of reefs with the highest percentage of live coral cover, with an area of at least 25% thereof, located in areas optimal to enhancing fish recruitment based on oceanographic conditions, linked with seagrass beds.
- b) Coral reef areas containing all species found in the management unit.

1.2 Seagrass Beds serving as link habitat of the coral core zones and / or providing habitat for endangered species.

1.3 Coastal marine habitat of endangered species declared by IUCN, CITES, DENR, or PCSD.

1.4 All areas with standing mangrove forests.

1.5 Uninhabited islands or portions of undeveloped islands not subject to existing private rights or in cooperation with the owner.

1.6 Protected coastal areas forming part of declared parks and sanctuaries, such as Tubbataha Reef National Marine Park, St. Paul Subterranean River National Park, Ursula Island, Calait Game Preserve and Bird Sanctuary, and El Nido Marine Reserve.

1.7 All areas declared as protected by the concerned LGU.

2. Multiple Use Zone

2.1 Buffer zone — serves as the transition between the strictly protected core zone and the general use zone where important species and processes necessary for sustaining the core zone are to be maintained.

2.2 General use zone — the development area where different compatible and sustainable activities may be carried out in five subdivisions:

- a) Communal Fishing Ground where monitoring is done to ensure a sustainable level of production

- b) Communal Mangrove Forest and Mangrove Swampland Area which are presently used

by communities, fishpond developers, etc. Areas opened without undergoing the normal legal process shall be converted to communal mangrove subject to valid private rights and government regulations.

c) Tourism Development Area

d) Visitor Use Area where appropriate recreation and general education activities, such as snorkeling, scuba diving, and kayaking are allowed.

e) Sustainable Development Area where other structures and activities may be allowed subject to environmental regulations.

Local communities shall be involved in all phases of the ECAN from delineation up to its implementation and long-term management.

CONSULTATION

With the assistance of PCSDS, the LGU shall organize a Barangay Management Council composed of LGUs, NGOs and POs, and other concerned agencies prior to the identification of the coastal zone. The PCSDS shall coordinate with these groups in the information campaign regarding the ECAN zoning process. Local communities shall be involved in all phases of the ECAN delineation up to its implementation and long-term management. Trainings, seminars, and other participatory activities shall be conducted to empower the communities. The LGU shall be responsible for holding community consultations.

ACTIVITIES

The following may be allowed in each zone:

1. Core Zone

- a) navigation for local fishers if there is no alternative route
- b) research authorized by PCSD
- c) emergency situations, e.g. when there is threat to human lives

2. Multiple Use Zone

2.1 Buffer Zone

- a) restricted recreation — swimming and snorkeling, non-motorized boating (row boats, kayaks, canoes, wind surfing), guided scuba diving
- b) research and monitoring authorized by PCSD
- c) pre-approved visitor education activities, e.g. tours given on guide boats
- d) cultural activities of indigenous people
- e) installation of information boards for environmental purposes

2.2. General Use Zone

- a) Communal Fishing Ground — non-destructive fishing, aquaculture and mariculture, fry collection and shell gathering, navigation, fishery support facilities and infrastructure (e.g. docking area), artificial reefs
- b) Communal Mangrove Forest — plantation and aquasilviculture, mangrove rehabilitation, salt ponds, recreation, such as bird-watching and hiking, research and monitoring authorized by PCSD, educational activities
- c) Tourism Development Area — building of infrastructure, such as resorts, recreation, artificial reefs, habitat structures (e.g. bird-watching nests)
- d) Visitor Use Area — environmental education, such as study tours, recreation, such as snorkeling and swimming, sports fishing, picnic grounds and beach sheds
- e) Sustainable Development Area — pebble-picking, salt making, wharf construction, reclamation, shipping, solid and liquid waste management

ZONING PROCESS

Steps to be undertaken and responsible agencies are as follows:

1. Identification of Zones - The PCSD shall coordinate with the LGU and its BMCs in identifying the initial coastal zones. The LGU shall conduct preliminary assessment of the coastal areas with the assistance of the PCSD.
2. Preliminary Mapping - The LGU and its BMCs shall conduct mapping activities with the assistance of PCSDS and appropriate agencies.
3. Ground Truthing and Field Validation - The PCSDS shall spearhead the field validation of the preliminary maps (1:50,000) through consultations, GPS, and surveys with the assistance of the LGU, BMCs, and concerned agencies. Upon completion, an ECAN map shall be prepared and submitted to the PCSD for approval.
4. Conflict Resolution - The ECAN Boards and the concerned BMC shall resolve earlier claims, conflict, or opposition through consultation and negotiation.
5. Zoning Plan - Upon the PCSDS' recommendation, the LGU shall submit its zoning plan (with technical description and allowable activities) to the PCSD for approval. The PCSDS and LGU may review and update the plan whenever new information is available.
6. Boundary Delineation - Upon approval of the plan, the PCSDS shall conduct field delineation, which involves surveying and marking visible boundaries. Local government units shall provide funds for this activity in coordination and consultation with the CENRO, provincial government, DA-BFAR, and other organizations.

MANAGEMENT

Local government units (city or municipality) shall exercise general supervision and control over the management of their coastal/marine areas in conformity with existing laws, e.g. NIPAS and SEP.

Upon the PCSD's approval of its zoning plan, the LGU through its BMC shall prepare a comprehensive management plan taking into consideration the following issues:

1. stakeholders' participation in the conservation and development of natural resources
2. encroachment of commercial fishing vessels on municipal waters
3. treatment of protected areas under NIPAS
4. inter-agency participation
5. protection of coastal areas and enforcement of fishery laws
6. monitoring and evaluation schemes, including pollution control
7. regulatory measures/permit system
8. allowed activities for each zone
9. provision of alternative livelihood projects
10. protection of the access rights of the community to the natural resources
11. migration and settlement within coastal areas

The management plan shall be evaluated by the PCSDS to ensure its conformity with the SEP Law and other guidelines. The Plan shall then be adopted by the Sangguniang Panlalawigan through a provincial resolution, and the Sangguniang Bayan through a municipal resolution. Upon its adoption, the Plan shall be submitted to the PCSD for approval.

The LGU shall implement the management plan through its BMC. The PCSDS shall lead the monitoring and assessment, conduct environmental studies, and undertake intensive environmental education and extension services.

Box 8.2. Summary of PCSD guidelines for tourism-oriented establishments in Palawan relevant to coastal zones.

- The mandatory beach front easement along the coastline shall be established at 5 meters from the tree line identified by LGUs. There shall be no permanent or temporary structures or signs for whatever purpose within the mandatory easement except those authorized by the LGUs.
- The established building line of 5 meters from the mandatory beach front easement shall govern the siting of all structures along the coastline.
- All permanent structures shall at least be 10 meters from the established high water level of mangroves, swamps, and freshwater lagoons.
- Construction along established waterways, intermittent or perennial, shall observe the 5-meter easement on both sides of the waterway.
- Waterways that flow through or traverse a tourist development area shall not be relocated or blocked and any structure that will tend to impede the free flow of water shall not be allowed.
- The preservation of trees and other species of plants in the province is mandatory.
- Plants not indigenous to the province shall not be introduced unless properly cleared with the LGUs and the DENR.
- Solid waste shall be separated at source into recyclable, biodegradable, and compostable material. If composting is to be done at backyards, the composting pit shall be located at least 25 meters away from any water source and shall be covered with sufficient soil after every disposal.
- Discharge of waste water from kitchen sinks, toilet, and bath facilities shall be through appropriate connections to the septic tank, which shall be provided by all establishments either individually or communally. Septic tanks shall be located at least 25 meters away from any water source. No septic tank shall be constructed under any building. The effluent from septic tanks shall be discharged into designated absorption fields.
- The use of indigenous materials, such as wood, nipa, and bamboo shall be encouraged. The overall design concept shall adopt Philippine architecture for tropical environment.
- In no case shall the management or accommodation facilities allow swimming in coastal waters beyond 10 p.m. and appropriate notices shall be posted within the establishment to inform the guests of this regulation.
- Any tourism-oriented establishment must prepare an initial environmental examination (IEE) report. The concerned LGU, in consultation with the Tourism Committee of the PCSD, shall determine whether an Environmental Compliance Certificate (ECC) shall be required prior to the approval of the said application. However, an ECC must first be secured for establishments located in an environmentally critical area, which includes mangroves, coral reefs, small islands, and areas classified as ECAN Core Zones by the PCSD.
- The LGU, in consultation with the PCSD through its Tourism Committee, may require the proponent to prepare an Environmental Impact Statement (EIS) in addition to the IEE, where it is deemed necessary in view of its potential environmental impact.