

# Role of Communities, NGOs and Universities in Enforcement<sup>1</sup>

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## Presentations

### 1. Case of Mexico

Social participation is recognized in Mexican law. Important to make sure laws made are adequately enforced. Social participation is important in development of plans and rules. Identify community leaders and establish committees at the community level to assist in surveillance for illegal activities. Establishment of these committees usually result in illegal activities being substantially reduced in this manner. Each protected area in Mexico has an advisory council and it is important to have enforcement representatives on these councils. Outside protected areas, can also have committees in sites where protected species may be found e.g. (turtle nesting sites). Often, after rules promulgated, we find the rules are not clear so important to get feedback and adjust, revise to make them better. Community surveillance can reduce the overall enforcement. May need to provide some funds for instance for gasoline for patrols. These community surveillance committees must be connected to the responsible authorities.

Case presented was for a small community and in these cases it is effective. Community participation works well in small communities. Hotels like to participate, but in some cases hotels keep the small turtles for 24 hours or more and this is a problem as they must be released within 7 hours. Is there a report of paper on this? Communities keep records of violations and this goes into an electronic database kept by the communities.

### 2. A Study on the Impact of Community Based Law Enforcement in Tayabas Bay

*Asis Perez*

Community volunteer enforcers started in the early 1990s. Community programs never systematically assessed in the Philippines. Many of the threats to coral reefs and fisheries well known and laws in place since the 1970s, but a big problem was inability of national government to enforce the laws. It is necessary for community participation. More important in areas where government is less effective. Community involvement started in 70s and more regular and organized and deliberate, such as *bantay dagat* (sea watch) program, Study in Tayabas Bay. Commercial fishing banned in the bay but 200 plus vessels registered. Municipalities have jurisdiction out to 15 kms. and are responsible for their protection. Findings in 10 municipalities - number of cases filed declined from 1995 to 2002 from 135 to 44. Most cases from one municipality. 32 percent by police, and 21 percent filed by deputy wardens - community volunteers. And 34 percent - police and deputy wardens - so volunteers involved in more than half.

Outcomes of cases: 10 dismissed, 6 percent, archived, 60 percent pleaded guilty and 11 per bargained, a 77 percent conviction rates - higher than overall national conviction rates. Most violations were fine mesh net and commercial fishing. And dynamite cyanide fishing. High percentage of repeat offenders and repeat vessels. Opinion survey on why these results on fisheries violations. Most responses to violations - easy and big money, low penalty, poverty, no alternative sources of income. And why repeat offenders low penalty has higher percentage.. How to get people to stop violations. Confiscate gear, more implementation and

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higher penalty and address poverty issues. Factors that strengthen bantay dagat community volunteers - training, logistics, financial support and legal support. Factors that hinder = intervention by politicians, lack of financial support, lack of enforcement. Factors that hinder effective prosecution - low penalty, judicial backlog, absence of lawyer or power to confiscate. Outlook: Sea wardens exist and very effective. And good collaboration with law enforcers. but puts volunteers at risk, and related to trainings, organizations and material support.

Discussion - conclusion that penalty is low but bomb fishing penalty if 6-12 years...study only includes municipal court cases not regional where most destructive fishing cases are handled. Most violations also in the municipality where enforcement is weak.

Is municipal jurisdiction better than national for enforcement - yes - national government cannot control everywhere so local government is only way to get effective enforcement. How many cases go from to regional trial courts - probably about 100. What is relationship of filed cases versus number of actual violations? Did study in another area - 16000 violations in 3 municipalities over a year but apprehension rates - only 200.

### 3. Enforcing Regulations in Loerto Bay National Park

No-take zones - idea is that fishers will get spillover benefits, but problem is resources for enforcement. Two small no-take areas. Only .07 and 3,7 percent of no-take areas. Project started in 2000 with review of management plan. No-take areas started about 2001. Established with community consultation. Ecological indicators established and social indicators as well including surveillance, knowledge of people of no-take areas. Joint patrolling of areas and communication programs. Signage for no take areas and of rules available - booklets given to communities and fishers. Knowledge of boundaries and knowledge of rules - high level of knowledge. Surveillance and patrolling - percentage of times people not in the area - less and less observance of illegal fishing since 93, percentage 65 percent to 2006 32 less than 90 percent with illegal fishing. Sport fishers are more problematic with violations. Abundance inside no takes - abundance has not changed - outside there is a decline. Effort has been more or less stable. Conclusions: Need clarification of roles of NGO versus government.

#### Discussion

- Do you keep records of warnings and second offences?

We only have record of who has been arrested.

- On the use of volunteers - cases presented showed that government authorities wanted citizen volunteers. In a country where authorities are not interested, how do we convince them that volunteers can be effective?

Need to define the powers of authority versus what a vigilante can or cannot do legally. Need to make sure that the legal limit of citizen participation is clear and respected. Three kinds of participation - policy making through consultation, second is providing information and lastly - participating in surveillance and arrests - may be more problematic in certain jurisdictions. In places where government has no capacity - often government will welcome, and other areas if enforcers are involved in illegal activities, may not want citizen involvement as their involvement will be unmasked. But also - citizens may also use "volunteer" opportunities inappropriately - report on a competitor. Each place will need to make their own decisions.

The goal we are after is high compliance behavior and if we can build social capital among communities and user groups, it will make the job of the enforcement officer easier if

frequency of violations are lessened. Poverty is often a big driver of why people violate the law - they are desperate, and often the *padrino* system in the Philippines for example makes prosecution difficult. Funding perhaps should not be used for high tech. Often we never get to the stage of trying to enforce, don't always need to go back to rules, need to give it a chance first and see if enforcement can work.

Donors seem to want to put funds into policy development but in many cases that is not the problem. Problem is implementation and donors should put funds into policy implementation.

Honest people will do the right thing, and a regulation gives you a right to enforce and you need to look out for those that are not honest. Need to use public education, train law enforcers and improve surveillance. Need to address root causes of compliance that can solve the problem. Need for instance to reduce poverty in the Philippines or address population growth problems. If just treat symptoms - not good enough.

While poverty is one problem, often a problem is also business - illegal behavior driven by business interests. Also need to look at the far end of the spectrum, help to advertise the successes of what works. Look at tools. Poverty is a key problem and if you have a too heavily handed enforcement - exacerbate the problem. In Mexico, projects often work to provide alternatives to communities and also give property rights over resources to improve incentives.

One of the problems is that basic enforcement training is absent - the basics are often missing. Street officers need to know the basics. Will always be a small group that will always violate the laws so enforcement will always be needed. Make sure grass roots enforcement personnel are taken care of - people on the front line need the skills and resources. Need to focus more on the tools of operational side. Need to go after the bad actors that have the tendency to always break the laws - need to target these problem offenders. In Philippines - trying to strengthen classic law enforcement and rely less on volunteers - trying to reduce burden on these volunteers.

Reliance on volunteers can be a short-term solution until government capacity is fully capable. Maybe need to put together a tool kit for enforcement with many modules on enhancing community volunteer programs and ways to publicize successes, etc. Create a mechanism for that to come into existence - a guidebook. Need to put into the cases - context and links to other information. CSI is pretty straightforward but for community based - needs to be more informational and less prescriptive. Have a collection of standard operating procedures; what does a record book look like. Make it very operational as well. What standard equipment, how to make sure evidence is admissible.

Communities can be involved in many ways - planning and formulating regulations and surveillance. It is important that communities also understand the reason for the laws and this helps can their attitudes which in the past may have been ambivalent to some laws. While communities can do quite a bit of self enforcement, behavior of migrants is more difficult.

### **Recommendations**

One proposal for 3 conclusions of this session: Recognize importance of volunteer/citizen involvement, training of volunteer programs very important and last - promote formal link between enforcers, NGOs and research communities. Communities can help with enforcement as well as increasing high compliance. Education can help - info on laws but also what are the benefits. Change will of people to comply. Laws will never be perfect and need to be revised and adapted over time - especially new laws such as environmental law which is relatively new.

Hard to get information on this topic of enforcement - suggesting we set up a network. Laura suggested several themes such as investigation, prosecution and legislation, capacity building, regional cooperation and also to where to publish information? There was not much information on how to prevent violations, much of what we discussed was about after violations occurred. What are the best options and issues that should be covered by the law. We will send out list of participants and email contacts. Important to share lessons learned. We need someone to set this up however. Laura will take the lead on this - send a form to everyone and send it out to everyone. A spreadsheet of information on people attending the enforcement sessions.

## **Environmental Risk Assessment**

### Recommendations:

- Endorse role of ERAs
  - Focus resources on greatest threats
  - Document risks remaining due to resource constraints
- Endorse Regional Coordination
  - Formation of multi-assessment impact investigation capacity
  - Set lead agency for investigation - based on impact type - or who has most resources to bring to bear, or who has the training,

### Actions

- Exchange information on ERA and examples through the developing network
- Develop guidance on ERAs in enforcement document/guidelines to be developed
- Provide training once guideline books are developed
- Sharing of vessel response protocols and other relevant information