

An In-Depth Review of the NIPAS Law and Related Statutes on the Establishment and Management of Protected Areas in the Philippines

A Final Report | August 31, 2011

Imprint

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ENRD PROGRAM
POLICY REVIEW

03

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THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES – PROTECTED AREAS AND WILDLIFE BUREAU (PAWB)
AND THE DEUTSCHE GESELLSCHAFT FÜR INTERNATIONALE ZUSAMMENARBEIT (GIZ) GMBH. IN PARTNERSHIP WITH
THE SILLIMAN UNIVERSITY



ACRONYMS AND ABBREVIATIONS

AFMA	- Agriculture and Fisheries Modernization Act
BFAR	- Bureau of Fisheries and Aquatic Resources
CADT	- Certificate of Ancestral Domain Title
DA	- Department of Agriculture
DAO	- Department Administrative Order
DAR	- Department of Agrarian Reform
DENR	- Department of Environment and Natural Resources
DOJ	- Department of Justice
ECC	- Environmental Compliance Certificate
EnRD	- Environment and Rural Development
FARMC	- Fisheries and Aquatic Resources Management Council
GIZ	- Deutsche Gesellschaft fuer Internationale Zusammenarbeit
GOCC	- Government Owned and Controlled Corporation
GoP	- Government of the Philippines
ICC	- Indigenous Cultural Communities
IPAF	- Integrated Protected Areas Fund
IPRA	- Indigenous Peoples Rights Act
IRR	- Implementing Rules and Regulations
LGC	- Local Government Code
LGU	- Local Government Unit
MEAT	- Management Effectiveness Assessment Tool
METT	- Management Effectiveness Tracking Tool
MPA	- Marine Protected Area
NCIP	- National Commission on Indigenous Peoples
NGA	- National Government Agency
NIPAS	- National Integrated Protected Areas System
NPAAAD	- Network of Protected Areas for Agricultural & Agro-industrial Dev't
PA	- Protected Area
PAMB	- Protected Area Management Board
PAO	- Protected Area Office
PASu	- Protected Area Superintendent
PAWB	- Protected Areas and Wildlife Bureau
PAWD	- Protected Areas and Wildlife Division
PD	- Presidential Decree
RA	- Republic Act
RED	- Regional Executive Director
RFCP	- Revised Forestry Code of the Philippines
RTD	- Regional Technical Director
WCPA	- World Commission on Protected Areas
SAFDZ	- Strategic Agricultural and Fisheries Development Zone



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Foreword

The Philippines is among the 18 most mega-diverse countries in terms of biological diversity. The diversity of the country's flora and fauna is enormous and many of them are found nowhere else in the world. Sadly, it is also considered as the "hottest of the hotspots", in terms of biological diversity. Habitat destruction is at an alarmingly rapid rate and inadequacies exist in the current environmental framework. The Philippines adopted the Protected Area Management system as an approach for protecting and maintaining the natural biological and physical diversities of the environment notably on areas with biologically unique features to sustain human life and development, as well as plant and animal life through the legislation of RA 7586 or the National Integrated Protected Areas System (NIPAS Act). However, the implementation of NIPAS Act remains a challenge because of its certain provisions which are in conflict with other environment laws.

The Philippine Development Plan (PDP) 2011-2016 duly acknowledged the abovementioned facts i.e. implementation of various laws and policies are confused by overlapping and conflicting policies and mandates. Thus, the need for an in-depth review and harmonizing a number of conflicting relevant laws and policies affecting natural resources was undertaken.

This joint study of GIZ Philippines (formerly known as GTZ) through its Environment and Rural Development (EnRD) Program and the Protected Areas and Wildlife Bureau (PAWB) of the Department of Environment and Natural Resources (DENR) in partnership with the Silliman University (SU) is very timely.

This study, entitled "An In-depth Review of NIPAS and Related Statutes on the establishment and management of Protected Areas in the Philippines", critically assessed nine legislations namely: National Integrated Protected Areas System, Revised Forestry Code of the Philippines, Wildlife Resources Conservation and Protection Act, Philippine Fisheries Code, Agriculture and Fisheries Modernization Act, Philippine Mining Act, Indigenous Peoples' Rights Act, Local Government code of 1991 and the Convention on Biological Diversity. It builds on the experiences of the study team in the implementation of various environmental projects in the Philippines. Complementing the policy study is the management effectiveness assessment conducted by the joint Philippine-German team in identified six sites representing terrestrial and marine ecosystems.

This report contains the findings and recommendations to harmonize conflicting legislations between the NIPAS and the other laws affecting natural resources. On behalf of the study team, GIZ, PAWB and SU expect that the recommendations of this study will hopefully be used to clarify and ultimately resolve conflicting areas in the implementation of the NIPAS and the other legislations.



A Message From Our Partner

The NIPAS Law is one of the country's milestones in terms of conserving biological diversity and promoting sustainable development. Its enactment provided a shift in the management perspective particularly for DENR. Where before all the burden of management and decision-making lies with the Department, the NIPAS Act is innovative in that the administration and decision-making of a proclaimed protected area lies within a Management Board which is composed of the Local Government Units, indigenous and local communities and the non-government organizations chaired by the DENR.

While two decades of implementation somehow lessened the issues and challenges *then*, new challenges emerged such as the global climate change. The NIPAS Act has to be improved to address these pressing concerns, its provisions has to be dynamic and comprehensive enough to anticipate growing threats.

As such, we are very appreciative of GIZ for providing financial assistance in order to conduct a review of the NIPAS Act and Other Related Laws on the Establishment and Management of Protected Areas in the Philippines. The results of the Study and its accompanying recommendations will indeed be valuable for the Protected Area and Wildlife Sector to further improve our policy on the management of protected areas in the Philippines. The results of the Study may also be used as basis to further the advocacies on protected area management.

Meanwhile, we look forward to strengthened partnership with GIZ. Policies, no matter how comprehensive will always be futile without relevant sectors working together towards common goals and shared responsibilities.

Theresa Mundita S. Lim

Director

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Protected Areas and Wildlife Bureau



EXECUTIVE SUMMARY

The National Integrated Protected Areas System Act of 1992 (Republic Act No. 7586), commonly known as the NIPAS Act was enacted primarily for biodiversity conservation. This law provides the legal and developmental framework for the establishment and management of protected areas (PAs) in the Philippines. It has a vital role in implementing one of the top ten major approaches of the Philippine Strategies for Sustainable Development. However, no review has yet been done on this Act, despite the need for it. The law needs to be harmonized with other laws, and needs to be strengthened because although it is all right in protecting habitats, it is weak inadequate in terms of protecting mobile species.

Thus, Silliman University has been engaged by the DENR and the GIZ to review the NIPAS Act. The review is aimed to identify which of the law's provisions should be amended to improve its ability to provide stronger legal and policy backstops for multi-scale Protected Area (PA) management in the Philippines.

The terrestrial and marine sites picked out for the study were chosen for their geographical, topographical and political relevance. Their current states of affairs were verified using the Management Effectiveness Tracking Tool (METT) and Management Effectiveness Assessment Tool (MEAT).

The analysis in this review is based on how the NIPAS Act is being practiced and applied on the ground, as well as on how the law's policies correlate with other existing laws in the country through comparative analysis. The analysis provides the salient features and provisions of the NIPAS law and other pertinent laws as well as the existing and potential problem areas.

Comparative Legal Analysis of the NIPAS Act

The pertinent laws that were examined for provisions that may hinder the successful implementation of the NIPAS Act are:

1. The NIPAS Law and the 1987 Philippine Constitution
2. The NIPAS Law and the Convention of Biological Diversity
3. The NIPAS Law and the Revised Forestry Code of the Philippines
4. The NIPAS Law and the Wildlife Resources Conservation and Protection Act
5. The NIPAS Law and the Philippines Fisheries Code
6. The NIPAS Law and the Agriculture and Fisheries Modernization Act
7. The NIPAS Law and the Philippine Mining Act
8. The NIPAS Law and the Indigenous People Rights Act
9. The NIPAS Law and the Local Government Code

Recommendations to the NIPAS Act

Using the six (6) parameters of PA “management effectiveness” adopted by the World Commission on Protected Areas (WCPA), an earlier study by Silliman University of six (6) PAs in the Visayas showed five (5) of them being poorly managed. The study identified ten (10) “critical factors of effectiveness”. The 10 are consistent with and confirmed in other studies and observations in the elsewhere in the Philippines (e.g., see assessments of PA management effectiveness in the Philippines in the “Report on the Workshop on Management Effectiveness Assessment of Protected Areas” by Paul

Basintal, Assistant Director, Sabah Parks, at the 2nd ASEAN Heritage Parks Conference & 4th Regional Conference on Protected Areas, 23-27 April 2007, Kota Kinabalu, Sabah, Malaysia; also see experiences in the Northern Sierra Madre Natural Park in Arano & Pearson 1998 and Snelder & Bernardo 2005; also, DENR-USAID CRMP 2002 and La Vina et al., 2011). The comparative legal analysis and the review of the NIPAS Act on the basis of the 10 critical factors led to the following recommendations:

1. Provide clear criteria of what characteristics areas should have to be included within the NIPAS. This recommendation pertains to Section 5 of the Act which is on the “Establishment and Extent of the System”. A specific set of criteria will strengthen the implementation of the NIPAS, and will guide the implementors and policy makers what areas to consider for inclusion in the NIPAS.
2. Streamline the administrative steps in establishing a PA. The current administrative procedure in establishing a PA is tedious and bureaucratic. The process should be streamlined by eliminating repetitive procedures and giving PAWB more authority in the review process.
3. Improve the NIPAS fencing mechanism. The law does not set the minimum criteria to serve as bases on how different PAs should be categorized. To prevent vagueness and avoid abuse of administrative discretion, the law should provide the minimum criteria in determining the appropriate category of a proposed protected area, subject to additional criteria as may be deemed necessary, and in the identification and establishment of PA buffer zones.
4. Improve the NIPAS gating mechanism. The NIPAS law is not clear on the time-frame within which policy makers should formulate the individual management plan of a particular PA. Section 9 of the NIPAS Act should be amended to require a general management planning process to produce a management plan for each protected area within a specific period of time, based on a management strategy as has been adopted by the PAWB.
5. Improve the sourcing mechanism. The current funding mechanism (called the IPAF) for the implementation of the NIPAS law is insufficient. The IPAF should be restructured. It should come from the annual budget through an automatic appropriation from the General Appropriations Act (GAA). The existing sources of revenue for the IPAF should only be supplemental. The law should also encourage the establishment of private foundations for the sole purpose of generating public and private support for the protected areas.
6. Strengthen the existing adaptability mechanisms of the law. The current adaptability mechanisms of the NIPAS law are inadequate. The law is weak regarding the protection of areas that are proposed to be included within the system. It is recommended that Section 6 of the NIPAS Act be strengthened by protecting proposed areas for inclusion or expansion in this manner. In the same vein, the disestablishment of an already proclaimed PA should be made more stringent in order to uphold the policy of the law of preserving areas of rich biodiversity in perpetuity.

7. Restructure the management board. There is a need to clearly define the roles and responsibilities, qualifications, selection, appointment, term of office and removal of PAMB members. The composition of the PAMB should be streamlined so that it will be more of a management board as it should be, rather than an assembly of stakeholders as it now operates.
8. Improve the staffing and personnel opportunities in the PA. The law should provide concrete provisions on staffing and personnel opportunities, salaries, benefits, and security of tenure of the staff and personnel actually involved in PA management.
9. Eliminate vague terminologies in the law, resolve constitutional issues, clarify jurisdictional issues.
10. The term “national park” needs to be defined not as a mere forest reservation, but as a constitutional category of public land. Section 4 (e) of the NIPAS Act should be amended to be consistent with the definition of “national park” found in Republic Act No. 9486, otherwise known as the Central Cebu Protected Landscape Act of 2007.
11. Eliminate terrestrial bias in the law. Amendments to the NIPAS law should be introduced to include marine ecosystems where the law mentions forest and terrestrial areas. Examples are Section 18 where the term “field officers” are made to refer to “all officials, technical personnel and forest guards”, and Section 20 where the NIPAS law punishes “hunting”, “destroying objects of scenic value”, “damaging roads and trails”, “squatting, mineral locating, or occupying any land”, “constructing or maintaining any kind of structure, fence or enclosures”, and “altering, removing destroying or defacing boundary marks”, which all appear to refer to terrestrial areas alone.



Introduction

The Philippines is one of the most biologically diverse countries in the world. Its biological wealth, represented by its flora and fauna, is enormous and has an extraordinarily high rate of endemism being considered as the “center of the center” of marine shore fish diversity¹. However, it is also the “hottest of the hotspots” in terms of biological diversity because of the rapid rate of habitat destruction, inadequacies in the environmental framework, and ineffective implementation of existing laws.

Thus, the National Integrated Protected Areas System Act of 1992 (Republic Act No. 7586, NIPAS Act) was enacted “to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution” (Section 2, NIPAS Act).

For almost two decades, protected area (PA) management has gained attention as a resource management strategy primarily due to global concerns over the loss of biological diversity, which is essential to human survival. The establishment of protected areas is considered as the most cost-effective means for preserving genes, non-mobile species, habitats and ecological processes. Protected areas are also considered as one of the most important on-site tools for biodiversity conservation.

In the Philippines, the conservation of biodiversity is among the ten major strategies adopted in the Philippine Strategy for Sustainable Development, which aims

to achieve economic growth without depleting the stock on natural resources and degrading the environment. A centerpiece of the government’s action in this regard is the establishment of an integrated protected area system.

The NIPAS Act provides the legal and developmental framework for the establishment and management of protected areas (PAs) in the Philippines. The implementing guidelines of the law are further set and defined under DENR Administrative Order (DAO) No. 2008-26.

NIPAS is the classification and management of all designated PAs, in order to maintain essential ecological processes and life-support systems, preserve genetic diversity, ensure sustainable use of resources found therein, and maintain their natural conditions to the greatest extent possible.

In the context of environmental governance in the Philippines, the NIPAS Act is recognized as both a legal and policy instrument. As a legal instrument, it sets the regulatory bounds and stipulations for identifying, delineating, and managing PAs, including who shall do so, how they are to do so, and how their activities and efforts are to be funded. It thus also sets the basis for adjudicating conflicts over PAs. As a policy instrument, it provides the basis for

¹Carpenter, K. and V. Springer 2005. “The Center of the Center of Marine Shore fish Biodiversity, Philippines. *Environmental Biology of Fishes*. 72:467:480

how government is to mobilize its political, administrative and fiscal resources and capabilities toward achieving the intentions of the Act and to otherwise pursue the environmental, moral and social imperatives of protecting certain areas and biophysical and cultural assets of the country. It also provides the basis for all other entities involved and which have interests and stakes on effectively managing PAs, to collaborate with or oppose and correct the actions of government.

Under the NIPAS law, the management of a particular PA is placed under a Protected Area Management Board (PAMB), which is a locally based multi-sectoral body. The Department of Environment and Natural Resources (DENR) maintains oversight function over all PAs through the Regional Executive Director (RED), who chairs the PAMB. The PAMB issues the policies that govern the specific PA and issues the necessary clearances for specific proposed activities within the PA. The PAMB draws representation from different sectors, such as government agencies, non-government organizations, peoples' organizations and the local government units (LGUs). The implementing arm of the PAMB is the Protected Area Staff, headed by the Protected Area Superintendent (PASu). The PASu serves as the secretariat of the PAMB and is the chief operating officer of the PA. The PASu is directly responsible to the PAMB and the RED of the DENR.

The Philippine government has given priority to reviewing the NIPAS law primarily because since its enactment in 1992, no thorough review has been carried out while new legislation has come into

force. Moreover, in its implementation, the NIPAS law appears to be strong in protecting habitats but weak in terms of protecting mobile species like birds, whales and dolphins. Consequently, the strengthening of the NIPAS law is needed, as well as its harmonization with different laws. This strengthening and harmonization should be based on a thorough analysis of how these laws interact in practice, as well as how the policies established by the law are implemented at the grassroots. This study aims to provide a thorough policy and legal analysis of the NIPAS law in order to identify areas and policy of the law which need to be improved or changed.

This undertaking was prompted by an interest shared by the Philippine Government and the GIZ to strengthen the effectiveness of managing protected areas (PAs) in the Philippines. It was their shared belief that one particular way to do so would be to re-examine the National Integrated Protected Areas (NIPAS) Act to identify how it might be strengthened by way of amendments, based on evidence from the ground.

The task at hand for which Silliman University has been engaged by DENR and the GIZ is to review the NIPAS Act for the purpose of identifying which of its provisions, if any, may be amended to improve its ability to provide stronger legal and policy backstops for multi-scale (local to national) PA management in the Philippines. The task involves doing a review of the letter, spirit, and legal constructions of the Act against (1) findings of recent field assessments by Silliman and some German students of factors determining

the effectiveness of ground-level management of 6 coastal and terrestrial PAs, and (2) the provisions of other laws on natural resources and land-uses in the Philippines.

Accordingly, Silliman undertook the following approach of work to accomplish this task:

1. Review the findings of the Silliman-German field assessments and of other related studies and experiences from elsewhere, to identify and list the factors that seem to have the most prominent effects (either facilitate or subvert) effective ground-level management of PAs.
2. Review the NIPAS Act for which of its provisions relate to the identified factors of effectiveness. The provisions were assessed for (a) relevance to the factors, and (b) how they either weaken or strengthen each factor. Relevance and ability to weaken or strengthen a factor are determined on the basis of the strength of the legal construction of the NIPAS provision, and on how the provisions of other pertinent laws may boost or erode the legal and policy teeth of the provision, in relation to a factor.
3. Engage PAWB, GIZ and other experts to validate the team's findings on which provisions of the NIPAS Act seem to affect most the factors, to solicit from them viewpoints and information on the policy dimensions, relevance and implications of the provisions.
4. Based on (1), (2) and (3), formulate amendatory statements on the NIPAS Act, which the DENR might consider for proposing to Congress.

This Report describes what Silliman has

accomplished as of August 31, 2011, which is the end date of its engagement by GIZ. All efforts have been expended by Silliman to do quality work on this task within the timeframe of its engagement by GIZ, including ensuring sufficient advice and inputs from PAWB, GIZ and others, as would be commensurate to the critical importance of this endeavor.



The NIPAS Law and Constitutional Issues

Environmental law in the Philippines is still in its initial stages. Though a number of laws have already been passed to protect the environment and address related issues, there is an acute problem in the implementation of laws. Part of the problem is due to the fact that some of our environmental laws are not well crafted. This is understandable since environmental legislation is still an emerging trend in the Philippines. People are just beginning to listen with the recent natural disasters and the threat of global warming. But a lot of change has occurred since 1992; thus, there is a need to review the NIPAS and related laws to reflect and address these changes.

The NIPAS Act was passed pursuant to the Constitutional mandate of protection and conservation of the environment. Under Section 3, Article XII of the 1987 Philippine Constitution, lands of public domain are classified into four categories: agricultural, forest or timber, mineral lands, and national parks. The NIPAS law provides the legal framework for the establishment and administration of a comprehensive system of integrated protected areas within the classification of national park as provided in the Constitution.²

Section 4 of Article XII on National Economy and Patrimony provides that Congress shall as soon as possible determine by law the specific limits of forests lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished except by law. Therefore, Congress is mandated by the Constitution to enact laws which are aimed at the

preservation and conservation of forest lands and national parks.

The NIPAS Act further categorizes protected areas into strict nature reserve, natural park, natural monument, wildlife sanctuary, protected landscapes and seascapes, resource reserve, natural biotic areas and other categories established by law, conventions, or international agreements which the Philippine government is a signatory.

Under the law, all areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as identified virgin forests before the effectivity of the Act are to be designated as initial components of the System.³ Additional areas with outstanding physical features, anthropological significance and biological diversity may also be included in the system.⁴

There were 202 identified initial components of the NIPAS comprising of proclaimed national parks, game refuge and wildlife sanctuaries, nature reserves, wilderness areas, mangrove reserves, watershed reservations, fish sanctuaries, protected landscapes and seascapes,

²Section 2, NIPAS

³Section 5(a) NIPAS

⁴Section 6, Ibid

among others. Thus far, of the 202 initial components, there are one hundred twelve (112) protected areas formally proclaimed by the President under the System covering 3.54 million hectares. However, only 13 protected areas have been officially declared by law as part of the NIPAS.⁵

Section 7 of the law also provides for the disestablishment or withdrawal of a PA from such category or for the modification of an area's boundaries as warranted by a study and with sanction from the PAMB. The provision also mandates that the disestablishment of a PA under the System or modification of its boundary shall take effect pursuant to an act of Congress.

Analysis

The NIPAS Act does not create a new category of land in addition to those specified in the Constitution. A closer look into the history of constitutional land classification reveals this. The 1935 constitution did not contain a specific provision classifying lands of public domain but Art. XIII mentioned agricultural, timber and mineral lands.

In the 1973 constitution, land of the public domain was classified into seven separate categories: agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing land, and authorized the Batasang Pambansa to make other classifications. Again there is no mention of national park.

Only the 1987 constitution returned the classification of 1935 – agricultural, forest or timber and mineral – and added “national

parks” in its classification.

The Philippines had a national parks law as early as 1932. In 1 February 1932, Act No. 3915, *“An Act Providing for the Establishment of National Parks, Declaring such Parks as Game Refuges and for Other Purposes”*, was enacted. It defines National parks as “Areas of the public domain, which because of their panoramic, historical, scientific or aesthetic value, should be dedicated and set apart as a national parks for the benefit and enjoyment of the people of the Philippine Islands”.

A more contemporary definition of national parks is given in the Revised Forestry Code, Presidential Decree No. 705 dated 19 May 1975, as “a forest land reservation essentially of primitive or wilderness character which has been withdrawn from settlement or occupancy and set aside as such exclusively to preserve the scenery, the natural and historic objects and the wild animals or plants therein, and to provide enjoyment of these features in such a manner as will leave them unimpaired for future generations”.

Forest Administrative Order No. 7 identifies the purpose of national parks as to: preserve panoramic, scenic or aesthetic interest; provide for recreation; and to preserve flora and fauna, geological features, historic or prehistoric remains and any other feature of scientific or ethnological interest. However, neither a precise definition of national parks, nor specific criteria for selecting areas for national park status is given. In view of the NIPAS act, from the

⁵www.chm.ph/index.php?option=com_content&view=article&id=104%3Anipas&catid=40%3Across-cutting-issues&Itemid=146 last accessed July 04, 2011

standpoint of the classification of public lands, it is said that the terms ‘protected area’ and ‘national park’ are synonymous.

The NIPAS Law does not create a new land classification apart from that already provided under the 1987 Constitution, but merely seeks the declaration of certain lands with outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems into ‘protected areas’ so they can be included in the national integrated protected areas system for their more efficient conservation and management. This declaration in turn puts the declared area (by official legislation) within the ambit of the Constitutional land classification of National Parks.

One area for concern in the NIPAS law is the wide latitude of discretion given to the DENR secretary as regards the issuance of permits for certain activities inside the protected area. Section 20 of the NIPAS Act prohibits hunting, destroying, disturbing, or mere possession of any plants or animals or products derived therefrom, use of any motorized equipment, constructing or maintaining any kind of structure, fence or enclosures, conducting any business enterprise without a permit. This necessarily means that these acts are not prohibited if with permit. The law does not provide for guidelines for the administrative exercise of discretion to issue permits. Hence, the law can be perceived as vague and an undue delegation of powers.

Another issue is Section 12 requiring an Environmental Impact Assessment (EIA).

This provision of the NIPAS Act allows activities which are outside the scope of the management plan provided an EIA is conducted and the results are positive. The very purpose of a management strategy under Section 9 is to serve as a guide for the administration of the PA’s according to its unique characteristics. Why then should proposals for activities outside the scope of the management strategy be allowed?

Moreover, there is the opinion that the NIPAS Act can be challenged as being void on the ground of vagueness. This opinion states that the NIPAS Act, specifically the portion on prohibited acts (Section 20), lacks comprehensible standards which allow the people to necessarily guess at its meaning and differ as to its application. It is repugnant to the Constitution in two respects: (1) it violates due process for failure to accord persons, especially the parties targeted by it, fair notice of the conduct to avoid; and (2) it leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the government muscle.

For instance, how can people know in advance what waste products are detrimental to the protected area? Clearly, the law does not punish the dumping of waste products per se, but only those waste products that are detrimental to the protected area. Moreover, destroying objects within a PA does not seem to be punishable by itself. What is punishable is to mutilate, deface or destroy objects of natural beauty, or objects of interest to cultural communities (of scenic value). Again, the NIPAS Act imposes no standard at all because one may never know in advance what is naturally beautiful

or of scenic value to some people but is not so to others [See *People vs. Nazario*, 165 SCRA 186 (1988), citing *Connally vs. General Const. Co.*, 269 U.S. 385 (1926)].

In *People v. Dela Piedra*, 92 350 SCRA 163, the Philippine Supreme Court acknowledged the principle that the due process clause mandates that criminal laws must be clearly and certainly worded as to give fair notice and guide those who come within its coverage in planning their conduct so as to avoid its penalties, a principle that functions as one of the legal rationale of the vagueness doctrine. It held:

“Due process requires that the terms of a penal statute must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties. A criminal statute that “fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute,” or is so indefinite that “it encourages arbitrary and erratic arrests and convictions,” is void for vagueness. The constitutional vice in a vague or indefinite statute is the injustice to the accused in placing him on trial for an offense, the nature of which he is given no fair warning.”

It is doubtful whether subsequent implement rules could cure the vagueness in the statute.

There is a need to take a closer look into these seeming inconsistencies in the law to make a more reliable and sound piece of legislation. A law cannot be properly implemented if its provisions are vague

or inconsistent with other laws and the Constitution. Recognizing the inherent flaws is a step closer to the achievement of enacting laws which are socially relevant and proactive.



Comparative Legal Analysis of the NIPAS Law

Laws are dynamic. They are enacted to provide solutions to societal problems that arise or may arise in the future. However, since laws are enacted based on societal needs, these needs change overtime. Along with changes in societal needs, government policies and objectives also change. Changes in government policies result in legal conflicts. Environmental laws, such as the NIPAS Act, are no exception.

A review of a law requires not only an analysis of the policies the law seeks to implement but also a comparative analysis of the law vis-à-vis existing statutes which directly or indirectly affect the successful implementation of said law.

In order to understand and examine better the NIPAS Act, it is important to compare it to other existing laws which affect its implementation in a myriad of ways. A provision of another law may be deemed relevant or not relevant to a NIPAS provision in any of the following ways: (1) it is repealed by NIPAS (e.g., if it's covered by the repealing clause of the NIPAS); (2) it supersedes NIPAS in that it was enacted after NIPAS and NIPAS is covered by its repealing clause; (3) it is as legally operative as the NIPAS over PAs so that it can complicate the implementation of NIPAS; or (4) it has been established by principles of law and jurisprudence of be ascendant to NIPAS. The comparative analysis herein focuses more on number (3) because numbers (1) and (2) are not difficult to verify. The repealing clause of the NIPAS law (Section 23) does not repeal any particular law. It repeals in general all laws and rules not consistent with the NIPAS law. But repeals by implication are not

avored; thus, an analysis on whether there exists a repeal still leads to a discussion of number (3). Numbers (2) and (4) are not needed at this time because there is no law or jurisprudence that repeals, supersedes, nullifies, or is more superior to the NIPAS law when it comes to protected areas.

Due to numerous laws that have a bearing on PAs or their management, a review of these laws and NIPAS law becomes imperative in order to strengthen the NIPAS and avoid or clarify complications.

Below is a summary of several comparative analyses between the NIPAS Act and laws which affect the former's successful implementation. The comparative analyses reflect the salient features of the laws compared, a brief legal assessment of the provisions of the laws, and a succinct examination of the problem areas which have risen based on experience, as well as possible problem areas which have not yet cropped up.

The NIPAS Law and the Convention on Biological Diversity

The NIPAS Law and the Convention on Biological Diversity

The Convention on Biological Diversity (CBD) is an international legally binding treaty with the following goals: (1) conservation of biological diversity (or biodiversity); (2) sustainable use of its components; and (3) fair and equitable sharing of benefits arising from genetic resources. Its objective is to develop national strategies for the conservation and sustainable use of biological diversity. It is often seen as the key document regarding sustainable development. The Convention was opened for signature at the Earth Summit in Rio de Janeiro on 5 June 1992 and entered into force on 29 December 1993.

Likewise, the NIPAS Act governs the protection of wildlife species and their habitats through the establishment and management of protected areas in the country. The Act was passed for the protection of outstandingly remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals representative of biogeographic zones and related ecosystems.

The salient points of the NIPAS law

- The NIPAS Act of 1992 or Republic Act (RA) No. 7586 is a landmark Philippine legislation which allows government to pinpoint and/or classify public land and water areas with outstanding biological diversity as well as anthropological significance. One of the end goals of this law is to conserve and preserve the country's natural heritage through the establishment and management of a comprehensive system of integrated protected areas that is consistent with the principles of biological diversity and sustainable development.
- In emphasizing biodiversity conservation and sustainable development, the NIPAS Act mandates the adoption of a co-management approach. Under Section 11 of the law, each established PA is to be administered by the PAMB led by the Regional Executive Director (RED) of the Department of Environment and Natural Resources (DENR). Other members of the PAMB include representatives from the LGU concerned, local tribal communities where needed, local-based people's organizations (POs) and non-government organizations (NGOs).
- With such a diverse composition, the PAMB is expected to come up with site-specific strategies and policies in all matters pertaining to the protection, planning, and administration of each established protected area. To this end, the PAMB shall adopt and be guided by a management plan/manual.⁶ Any proposals for activities or projects to be implemented within a specific PA which is not covered by the management plan for the same shall be subjected to an environmental impact assessment⁷ in order to mitigate possible negative environmental effects.
- Section 3 categorizes protected areas, the bases of which among others are other categories established by law, conventions or international agreements which the Philippine Government is a signatory.

Salient points
of the NIPAS Law

⁶Section 9, RA 7586

⁷Section 12, RA 7586

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- All areas protected under earlier laws are automatically considered part of the new PA System.
- Section 5 provides for the procedure in the establishment and operationalization of the NIPAS and also identifies the initial components of the System.
- Section 6 gives the DENR Secretary the power to proposed additional areas to be included in the system.
- Section 7 provides that DENR Secretary has the discretion to withdraw or disestablish a certain PA.
- Section 8 identifies and establishes buffer zones adjacent to each PA in order to avoid or minimize harm on the same.
- Section 9 provides for a general management planning strategy to serve as a guide in formulating individual plans for each PA.
- Section 10 lays down the primary role of the DENR in enforcing the environmental plan with regards to the ecological balance in the protected areas.
- Section 11 provides for the creation of the PAMB for each PA which shall be composed of representatives from actual stake-holding groups on each PA.
- Section 12 requires proposals of activities outside the scope of management plan to be subject to an environmental impact assessment and for the same to secure an ECC before such undertaking is initiated.
- Section 14 only allows survey/exploration on selected categories of PA solely for the purpose of gathering information on energy resources and only if such activity is carried out with the least damage to surrounding areas. A law is required to be passed by Congress for the further exploitation and utilization of such energy resources found therein.
- Section 16 provides for an Integrated Protected Areas Fund (IPAF) which shall be generated from various sources and from the operation of the system.
- NIPAS Act recognizes the jurisdiction of other agencies empowered to manage protected areas, such as LGUs, or local bodies created by indigenous peoples.
- Creation of local boards (Protected Areas Management Board or PAMB) consisting of representatives from stakeholders to manage protected areas.
- Full recognition of ancestral lands and indigenous people's customary rights in protected areas.
- A process for removing protected areas from the System if they do not meet NIPAS criteria, such as areas that have lost most or all their original vegetation.
- Establishment of tenurial instruments under which qualified members of communities who reside in the PAs can become stewards of land in the area's multiple use zone.

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- The DENR is the lead agency in the administration of the NIPAS and among others it is mandated to submit to the Senate and House of Representatives a map and legal description of natural boundaries of each protected area, which shall constitute the official documentary representation of the entire system.
- Prohibited acts and penalties thereof are defined.

The salient points of the Convention on Biological Diversity

- Article 7 (a) mandates the identification of components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down by the Convention.
- Article 8 mandates the establishment of a system of protected areas for the conservation of biological diversity in accordance with the guidelines developed for the selection, establishment and management of the same.
- Article 8 also sets the measures for “In-situ” conservation which is basically aimed for the protection of ecosystems, natural habitats, populations of species and other biological resources found in PAs as well as its adjacent areas, and promotes the conservation of biological diversity and sustainable use of its components. Such measures shall be integrated in the development and implementation of plans or other management strategies.
- Article 9 sets the measures for ex-situ Conservation in complement with In-situ conservation.
- Article 10 provides for the sustainable use of components of Biological Diversity by adopting appropriate measures for its use, encouraging the use of cultural practices, supporting local populations to develop and implement remedial actions in degraded PA, and encourage cooperation between the government and private sectors in developing methods for sustainable use of biological diversity.
- Article 14 requires environmental impact assessment to any proposed projects that are likely to have significant adverse effects on biological diversity with a view of avoiding or minimizing such effects.

Salient points of the Convention on Biological Diversity

Assessment

The CBD, as an international treaty, identifies a common problem, sets overall goals and policies and general obligations, and organizes technical and financial cooperation. However, the responsibility for achieving its goals rests largely with the countries themselves. Governments need to provide the critical role of leadership, particularly by setting rules that guide the use of natural resources, and by protecting biodiversity where they have direct control over the land and water. Under the Convention, governments undertake to conserve and sustainably use biodiversity. They are required to develop national biodiversity strategies and action plans, and to integrate these into broader national

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plans for environment and development. This is particularly important for such sectors as forestry, agriculture, fisheries, energy, transportation and urban planning. Although the NIPAS Act was enacted and came into force earlier than the CBD, the NIPAS Act serves as the legal basis for the "In Situ" conservation strategy of biological diversity in the Philippines, in accordance with the undertaking of the Philippine Government under Article 8 of the CBD, in which the Philippine government is a signatory.

Considering that the NIPAS Act is one of the local or municipal laws enacted by the Philippine government in order to comply with its obligations as a contracting party of the CBD, there is no provision in the NIPAS Act which is inconsistent or in conflict with any provision of the CBD. The CBD contains broad and encompassing provisions regarding the establishment of a national system protecting and managing areas possessing significant ecological values. The NIPAS Act provisions put the CBD in effect in the Philippines.

The NIPAS Law and the Revised Forestry Code of the Philippines

The NIPAS Law and the Revised Forestry Code of the Philippines

[Presidential Decree No. 705, as amended by P.D. No. 1559, P.D. No. 865, P.D. No. 1775, Batas Pambansa (B.P.) Blg. 701, B.P. Blg. 83, Republic Act (R.A.) No. 7161, Executive Order (E.O.) No. 277 and 83 O.G. No. 31]

The salient points of the Revised Forestry Code of the Philippines (RFCP)

- The State generally is the steward and, therefore, allocates and manages our mutual resources through the existing line agencies.
- Utilization of natural resources should benefit citizens of the country both of the present and future generations.
- Ecological, cultural and developmental considerations are taken into account in the utilization of our natural resources.
- The concept of “multiple use” of land is given emphasis.
- Rehabilitation of degraded ecosystems.
- Encouragement of wood processing and the gradual phase out of log exports.
- Socio-political dimensions of forestry (NGO's, people's organization and multi-sectoral participation).
- A system of protected areas was established and rights of the cultural minorities recognized.

Assessment

Given these key features of the NIPAS Act and the RFCP, it can be seen that both contain some common objectives and programs, namely:

1. Social Forestry began to emerge and a new direction in forestry policy was set, such as, (a) due recognition of ancestral lands and rights (Section 13, NIPAS law) and (b) rights of possession which may include places of abode and worship, burial grounds, and old clearings (Section 3 (mm), Presidential Decree No. 389). These are two milestone provisions which reinforced the existing social forestry program.
2. The rights of indigenous people to their ancestral lands were given importance by both laws. More than mere recognition, the NIPAS Act upheld the rights of these people, tenured migrants and other affected communities to participate in decision-making processes related to the management of the protected areas (Section 11, NIPAS law).
3. The role of the LGUs in both the NIPAS Act and the RFCP as a result of the passage of the Philippine Local Government Code (LGC) devolving central power and authority to LGUs has been significantly increased. The implementation of community based forestry program is one of the responsibilities given to the local units from the central government. The LGC elucidates the roles, functions, powers, and authorities of the LGUs in

Salient points of the Revised Forestry Code of the Philippines (RFCP)

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shaping the development template of their localities. Among others, the LGC explicitly mandates the LGUs to manage their natural resource endowments and perform the devolved functions of DENR in order to ensure the maintenance and protection of the environment's integrity.

Areas of concern

Weaknesses and conflicts are present in both the NIPAS Act and the RFCP that hamper efficient and effective management of the PAs.

1. One weakness is found in the Declaration of Policy of the NIPAS Act, Section 2 (paragraph 3) which states that: *“x x x There is established a National Integrated Protected Areas System (NIPAS), which shall encompass outstandingly remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as “protected areas”*. On the other hand, Presidential Decree No. 705 contradicts Republic Act No. 7586 by way of its policy statement under Section 2 [subsections (a),(b), (c), and (d)] which provides that the State shall adopt the following policies: (a) the multiple uses of forest lands shall be oriented to the development and progress requirements of the country, the advancement of science and technology, and the public welfare; (b) land classification and survey shall be systematized and hastened; (c) the

establishment of wood-processing plants shall be encouraged and rationalized; and (d) the protection, development and rehabilitation of forest lands shall be emphasized so as to ensure their continuity in productive condition. The NIPAS law seeks protection of biologically important public lands, including terrestrial and forest areas, while the RFCP allows, even encourages utilization, exploitation, and commercial production and consumption of forest areas and resources.

2. A deeper analysis of the current process of NIPAS and RFCP policy formation reveals major concerns, namely, the challenge of building consensus among the different policy makers, the need to put more emphasis on monitoring and evaluation of existing policies rather than simply focusing on policy formulation, such as in Section 11 (a) to (d) of the NIPAS Act.
3. The RFCP focuses on industrial development and regulation as shown in Sections 2, 19, 22, 29, and 30 of PD 389, while NIPAS Act focuses on resource preservation (Sections 2, 3 and 5, NIPAS law), causing conflicts that may diminish the overall success of various government programs.
4. In the NIPAS Act, the diversity of stakeholders involved in policy formulation gives rise to a wide range of interest and perspectives which make consensus-building a difficult task as revealed in Section 11 of the NIPAS law [subsections (a) to (d)].

The NIPAS Law and the Revised Forestry Code of the Philippines

5. The NIPAS Act has inadequate systems for financial planning, budgetary management and revenue generation limit long-term solution for PAs. The establishment and operational disbursement of the IPAF is inefficient under Section 16 (a) to (d) and raises several issues as to the bureaucratic process of assessing funds, retention of PA sub-fund at site, retention of the whole IPAF for the PA, sharing with LGU's, use of IPAF for livelihood of local communities and tenured migrants, and guidelines on the acceptance and use of donations and grants.
6. The coverage of resource use rights and tenure instruments is still wanting under the NIPAS Act considering that issues relating to who has the authority to issue the use right in PA whether PAMB or PASu. Current practice would depend on the users, levels of authority, types of resource use, size, sites, and impacts of the proposed use. There is no difference between individual or community tenured migrants under the NIPAS Act. Overlapping between PA and ancestral domain and limitations of funds for management must also be considered in the NIPAS Act.
7. Under Section 2 of the NIPAS Act the policy of the law is the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution. However, the constitutional classification of "National Park" is an ambiguous term. Historically the legal term "national park" as it is

now understood, was defined under PD 705 (enacted in 1975) as a forest land reservation. Being a forest land reservation, national parks were still within the ambit of the term "forest lands" as defined under PD 705.

When the 1987 Constitution became effective, "national park" became a constitutional land classification all on its own. When the NIPAS Act became effective in 1992, Protected Areas were deemed classified under the "national park" constitutional category. However, the NIPAS Law itself did not have an operational definition of the constitutional land classification of "national park". In fact, the NIPAS Law retained the definition of "national park" under PD 705 as being a forest reservation. Since a "national park" is a forest reservation, and a forest reservation is forest land, then protected areas which are classified under national park, is essentially forest land. This, of course, may be academic and is clearly not the case. However, the above analysis only serves to show the need to have an operational definition of "national park" as a constitutional land classification and not as a mere forest reservation as it now stands.

And if only to dramatize this point, some queries may be raised: Are the provisions of PD 705 applicable in forest lands declared as protected areas? If an act performed inside a forest land that has been declared as a PA constitutes an offense under both PD 705 and RA 7586 or the NIPAS Act, which law prevails? What about acts that constitute an offense under PD 705, but not under RA 7586, such as unauthorized surveys of

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forest lands, or pasturing livestock inside forest lands? Will these acts inside protected areas be punished under PD 705? What about the matter of penalties, considering that the penalties for the same offenses vary under PD 705 and RA 7586? Needless to say, the established principle in law is that ambiguities and doubts are construed strictly against the government and liberally in favor of the accused. There is ambiguity when the act falls under more than one law or when the law is susceptible to more than one interpretation (U.S. vs. Abad Santos, 36 Phil. 243; *Suy Sui vs The People of the Philippines*, G.R. No. L-5278, February 17, 1953).

The recent enactment of Republic Act No. 9486, otherwise known as the Central Cebu Protected Landscape Act of 2007, does not seem to help clarify the confusion. RA 9486 defines “National Park” in a manner that is already known. It says that National Park shall refer to “*land of the public domain classified as such in the 1987 Constitution x x*” which is merely a repetition of what the Constitution already says. RA 9486 further provides that National Park “*x x x includes all areas under the NIPAS pursuant to Republic Act No. 7586 primarily designated for the conservation of native plants and animals, their associated habitats and cultural diversity*”, which is a repetition of what the NIPAS law states. Thus, the queries presented remain unanswered.

The NIPAS Law and the Wildlife Resources Conservation and Protection Act

The NIPAS Law and the Wildlife Resources Conservation and Protection Act

(Republic Act No. 9147)

The salient points of the Wildlife Resources Conservation and Protection Act

- Its provision is enforceable for all wildlife species found in all areas of the country including protected areas under the NIPAS law.
- It provides for the regulation in the collection and possession of wildlife and other necessary regulations.
- The DENR is the lead government agency in the implementation of this law.
- Critical habitats for wildlife are established.
- It establishes source of fund for its management [Wildlife Management Fund].
- Defines the illegal acts that may be committed under the act and the corresponding fines and penalties thereof.

Assessment

The noble purpose of the enactment of the NIPAS law is for the protection of the environment. It is also from the same consideration that the Wildlife Resources Conservation and Protection Act was born.

In essence the NIPAS law and the Wildlife Resources Conservation and Protection Act complement each other and basically there is not much of a conflict between the two laws.

The NIPAS Law has a larger area of concern as it concerns PA and with it are different aspects of the environment including different flora and fauna, as well as their habitat. On the other hand, the Wildlife Resources Conservation and Protection Act is more specific at concerns specifically on wildlife only, which may or may not be within a protected area.

Areas of concern

As far as the NIPAS law and the Wildlife Resources Conservation and Protection Act are concerned, there are no serious conflict and both laws complement each other.

However, in Section 20 [a] of the NIPAS law, regarding the issuance of permit in hunting, destroying, disturbing, or mere possession of any plants or animals or products from a protected area, it is the PAMB which issues said permit.

Although in practice, the PAMB merely issues a “clearance” which serves as the basis for the issuance of a permit by the DENR field office or the DA-BFAR office if found to be valid and justified, Section 20 (a) of the law clearly uses the word “PERMIT” for PAMB to issue, not a mere “clearance”. This runs counter to the power of the DENR to issue permits under the Wildlife Resources Conservation and Protection Act.

Salient points of the Wildlife Resources Conservation and Protection Act

The NIPAS Law and the Wildlife Resources Conservation and Protection Act

There may be instances when the PAMB authorizes gathering or possession of certain wildlife species found within a protected area, while the DENR prohibits the collection of the said wildlife species regardless of whether it is gathered from a PA or not. This situation leads to an apparent conflict and prejudice not only the grantee of the permit but also the authority of the PAMB.

The NIPAS Law and the Philippine Fisheries Code

The NIPAS Law and the Philippine Fisheries Code

(Republic Act No. 8550)

The salient points of the Fisheries Code of 1998

- Features a co-management approach in the establishment of a framework for the development, management and conservation of the nation's fisheries.
- Exploitation of the country's fishery resources on a limited access basis only, with food security as the overriding consideration in its utilization, management, development, conservation and protection.⁸
- Municipal fisherfolks' preferential use of municipal waters on the basis of maximum sustainable yield (MSY) or total allowable catch (TAC), depending on the availability of resources in the area.⁹
- Decentralization of municipal waters to LGUs¹⁰
- Expansion of municipal waters from seven (7) to fifteen (15) kilometers from the general coastline¹¹, beyond which are considered commercial waters
- The reconstitution of the Bureau of Fisheries and Aquatic Resources (BFAR) under the Department of Agriculture (DA) as the lead agency in fishery resource management¹²

- The creation of a multi-sectoral recommendatory body – the Fisheries and Aquatic Resource Management Councils (FARMCs) – in different levels of government.¹³

Salient points of the Fisheries Code

Assessment

Under the Philippine Fisheries Code of 1998 or Republic Act No. 8550, the equivalent of the PAMB is the Fisheries and Aquatic Resource Management Councils (FARMCs) at various levels of government.¹⁴ The creation of the various FARMCs is one of the salient features of RA 8550, along with the following: decentralization of municipal waters to LGUs¹⁵; the expansion of municipal waters from seven (7) to fifteen (15) kilometers from the general coastline,¹⁶ beyond which are considered commercial waters; and the reconstitution of the Bureau of Fisheries and Aquatic Resources (BFAR) under the Department of Agriculture (DA) as the lead agency in fishery resource management.¹⁷

⁸Section 2, RA 8550

⁹Section 2, RA 8550

¹⁰Section 16, RA 8550

¹¹Section 4, par. 58 of RA 8550

¹²Sections 63-67, RA 8550

¹³Sections 69-70; Section 73; Section 76 of RA 8550

¹⁴Sections 69-70; Section 73; Section 76 of RA 8550

¹⁵Section 16, RA 8550

¹⁶Section 4, par. 58 of RA 8550

¹⁷Sections 63-67, RA 8550

The NIPAS Law and the Philippine Fisheries Code

With these innovations, the Fisheries Code or RA 8550 is also seen as a landmark environmental legislation. Like the NIPAS Act, RA 8550 employs a co-management approach via FARMCs. Membership in FARMCs include a representative from the Committee on Agriculture/Fisheries of the concerned *sangguniang bayan/panglungsod*, a representative from the Development Council of the concerned LGUs, a representative from the private sector, plus a specified number of representatives from municipal fisherfolk/fish workers/commercial fishers that does not preclude women and youth participation.¹⁸

To this end, members of the various FARMCs are tasked to provide assistance in the preparation of municipal/national/integrated fishery development plan, recommend the enactment of municipal/integrated fishery ordinances, advise the LGU on fishery issues and provide assistance in the enforcement of fishery laws, rules and regulations.¹⁹ Under Section 81 of RA 8550, FARMCs are empowered to recommend the creation of fishery refuges/sanctuaries which are now more popularly referred to as marine protected areas (MPAs).

The creation of MPAs under Section 81 of RA 8550 is a shorter process than that prescribed under the NIPAS Act. Taken in conjunction with Section 16 of RA 8550, a MPA is created once an appropriate and duly-passed city/municipal ordinance is approved by the sanggunian of the province which has jurisdiction over the same.

The LGU upon consultation with the concerned FARMCs and the DENR may even automatically designate fifteen percent (15%) of its total coastal area as a MPA, based on best available scientific data and where applicable.²⁰ This is in contrast to the lengthy procedure for creating a new MPA under Section 5 of the NIPAS Act which, among others, requires the submission of reports such as forest occupants' survey and PA resource profile, the holding of a public hearing, the issuance of a presidential proclamation declaring the area as a MPA and, ultimately, congressional approval.

Since a MPA can be established through the Fisheries Code and through the NIPAS Act, this raises the question as to which body has jurisdiction over the same: is it the LGU-FARMC or the PAMB? It is being pointed out that since Section 4, paragraph 58 of RA 8850 defines municipal waters as those including “*not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (the NIPAS Law) x x x [emphasis supplied]*”, thus excluding protected areas from municipal waters, then the PAMB has jurisdiction. This claim is consistent with Section 5(a) of the NIPAS Act which declares that the initial components of the NIPAS are those areas or islands within the Philippines which have been previously set aside by law/presidential

¹⁸Sections 69-70; Section 73; Section 76 of RA 8550

¹⁹Sections 72, 74 and 77 of RA 8550

²⁰Section 81, RA 8550

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decree/ presidential proclamation/executive order as falling under any of the categories of protected areas established under Section 3 of the same Act e.g. natural park, wildlife sanctuary, protected seascapes. Consequently, Section 4, paragraph 58 of RA 8550 provides an explicit exclusion to the general scope of applicability of the Fisheries Code covering all Philippine waters including other waters over which the Philippines has sovereignty and jurisdiction, all aquatic and fishery resources, and all lands devoted to aquaculture.²¹

It would appear then that the above Fisheries Code provisions preempt possible conflicts with RA 7586 by allowing protected areas under the NIPAS Act, which are physically within municipal waters, to remain within the ambit of the PAMB concerned. This implies that prohibitions enumerated in Sections 86 to 106 of the Fisheries Code do not apply to said PAs physically found within municipal waters, as these areas are technically and legally not part of the municipal waters. In case of dispute it will be the PAMB/DENR that prevails over the FARMC/BFAR. In like manner and pursuant to Section 81 of the Fisheries Code, the DENR-led PAMB under the NIPAS Act is still the body that administers and supervises over “all marine fishery reserves, fish sanctuaries, and mangrove swamp reservations already declared or proclaimed by the President or legislated by the Congress of the Philippines”.

Areas of concern

In actuality, a contentious jurisdictional overlap between the NIPAS law and the Fisheries Code exists. Under the Fisheries Code, primary responsibility for protecting and managing fisheries and coastal resources has been devolved to local governments. The Fisheries Code, and not the NIPAS Act, provides the framework for local legislation to establish marine protected areas and sanctuaries. It also suggests mechanisms and standards for the conservation of fishery resources such as open and closed seasons, the prohibition of destructive fishing methods (for example, blast fishing, the use of fine mesh nets), and monitoring maximum sustainable yields.²² As a consequence, local governments that have invested heavily in coastal and marine conservation through the establishment of marine protected areas under the Fisheries Code can be resentful when the DENR pushes for declaring these areas as ‘protected landscape/seascape’ under the NIPAS Act.²³

Since coastal and marine areas declared as protected areas under the NIPAS Act are excluded as municipal waters, they are effectively removed from the jurisdiction of local governments. In case of dispute over

²¹Section 3, RA 8550

²²La Vina, Antonio; Kho, James; and Caleda, Mary Jean. (N.D.) Legal framework for Protected Areas: Philippines. As found in <http://cmsdata.iucn.org/downloads/philippines.pdf>

²³La Vina, Antonio; Kho, James; and Caleda, Mary Jean. (N.D.) Legal framework for Protected Areas: Philippines. As found in <http://cmsdata.iucn.org/downloads/philippines.pdf>

The NIPAS Law and the Philippine Fisheries Code

the same area, will it be the PAMB/DENR that prevails over the FARMC/BFAR? But what about marine protected areas declared by as such by the LGU, through an ordinance? Will these areas be considered NIPAS areas, or will these areas be under the jurisdiction of the LGU?

The government has tried to address this concern in a USAID-funded research by the Coastal Resource Management Project Team, a technical assistance project of the DENR, entitled “A Policy Study on The Clarification of Jurisdiction Between The Department of Environment and the Department of Agriculture For Coastal Research Management”. The end view of this study is to “identify the jurisdictional issues that have been created by the enactment of the Fisheries Code, suggest a framework for how such issues are clarified, and to recommend concrete to allocate and harmonize the responsibilities of the two agencies”.²⁴ As such, one of the policy recommendations which impacts the jurisdictional overlap between the NIPAS Act and the Fisheries Code is as follows: “Where management plans geographically converge, the two agencies shall undertake a process of effective consultation and, if necessary, take joint management action, in order to coordinate their management plans.”²⁵ Furthermore, in terms of establishment of reserves and sanctuaries under Sections 45, 80, and 81 of the Fisheries Code vis-a-vis Sections 5 and 6 of the NIPAS Act, the recommended policy is for the DENR and DA-BFAR to create common procedures, standards and criteria for the same in order to minimize differences between the two agencies whether or not to classify the area as such.

However, the reality remains that the findings of a number of interdisciplinary studies on coastal resource management reveal that the subsequent declaration of a MPA under the NIPAS Act can sometimes undermine already existing community-based coastal resource management initiatives as well as some of the powers devolved to the LGUs under the LGC of 1991. For instance, Apo Island in Negros Oriental, Philippines, has been protected by an ordinance of Dauin municipality since late 1986. Through a Marine Management Committee composed of local stakeholders, with the support of the local PNP plus technical advice from Silliman University, the MPA in Apo Island flourished. When Apo Island became a protected landscape and seascape in 1994 under the NIPAS Act, its management was placed in the hands of the PAMB. The management style then shifted away from one that was purely participatory on the part of the locals.

The decision-making capacity of the local residents of Apo Island was diminished with a DENR-led PAMB, and so was their sense of ownership over the MPA. Moreover, the local fishery sector is not really represented in the PAMB created for the PA in Apo Island. Yet one of the keys to a successful management of a MPA is the active involvement of local stakeholders who have the greatest interest

²⁴http://oneocean.org/download/20020828/DA-DENR_policy_paper.pdf

²⁵http://oneocean.org/download/20020828/DA-DENR_policy_paper.pdf

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in the protection of – as well as the earnings in – their particular MPA.²⁶

Since the NIPAS Act places management of a MPA within a national framework, it can also easily fall prey to bureaucratic and tedious governmental processes. For example: pursuant to Section 16 of the NIPAS Act, all income generated by the community in the management and operation of the MPA accrues to the IPAF which can be utilized directly by the DENR for operational expenses or channeled back to the community via specific development projects. Moreover, this provision in the NIPAS Act expressly states that “disbursements from the Fund shall be x x x in the amounts authorized by the DENR.” Not only that, but Rule 18 of DENR Administrative Order (DAO) No. 2008-26 dated December 24, 2008 divides the IPAF into two, with matching specific and lengthy processes in order for each PA to be able to access the same: the Central IPAF and the Protected Area Sub-Fund.

According to the IPAF Handbook²⁷, a governing board manages the Central IPAF. This governing board is composed of “the DENR Secretary, four representatives from the DENR and other government agencies, two from accredited NGOs, and two representing indigenous communities.” Twenty-five percent (25%) of all income by the PA are contributed by each PA towards the Central IPAF, except grants and donations which it fully retains. In order to access the Central IPAF, each PAMB needs to submit, among others, a duly-approved Work and Financial, Project Proposal, and Resolution to the IPAF Governing

Board for review and approval.²⁸ Once approved, the Work and Financial Plan will be submitted by the DENR Secretary with an accompanying letter request to the Secretary of the Department of Budget and Management (DBM), who will then issue a Notice of Cash Allocation in order for the requested amount from the Central IPAF to be released. This implies a lengthier process for the release of the IPAF as compared with funds appropriated by the sanggunian for the protection of the environment pursuant to Section 447, paragraph 1 (vi) of the LGC.

The release of the IPAF Sub-Fund is an even more tedious process than the release of the Central IPAF since there are more channels to go through. The IPAF Sub-Fund is under the management of the PAMB which monitors the collection, accounting and depositing of collected fees. It is usually the PASu who collects the fees and donations as well as gives regular accounting reports to the PAMB. It is the PAMB that shall request for the appropriation of funds from the local IPAF Sub-Fund. The request shall be coursed to the DBM through the Protected Areas Wildlife Bureau (PAWB) and

²⁶Raymundo, Laurie. (2004). *Community-Based Coastal Resources Management of Apo Island, Negros Oriental, Philippines: History and Lessons Learned*; White, Salamanca

²⁷As found in http://www.iapad.org/publications/vol_10_ipaf%20handbook_1-57.pdf

²⁸IPAF Handbook vol. 10 as found in http://www.iapad.org/publications/vol_10_ipaf%20handbook_1-57.pdf; Rule 18.9 of DAO No. 2008-26

The NIPAS Law and the Philippine Fisheries Code

endorsed by the Provincial Environment and Natural Resource Office (PENRO) or the Regional Executive Director (RED) of the DENR.

While the NIPAS Act states that IPAF is its primary funding source and that PA earnings will accrue to the same, the Fisheries Code mandates the creation of separate funds for the NFARMC, IFARMC, and M/CFARMC.²⁹ In addition, the law also provides for the establishment of five (5) other funds e.g. Fishery Loan and Guarantee Fund, Aquaculture Investment Fund.³⁰ The Fisheries Code also has a novel feature in that qualified Filipino fisherfolk and fisheries enterprises may avail of other fisheries financing facilities, especially as to rural credit.³¹ The Fisheries Code is also specific as to where the money for each fund will be sourced from e.g. one hundred million pesos (Php 100,000,000.00) will be taken from the DA's allocation in the General Appropriations Act for the Municipal Fisheries Grant Fund.

Unlike the funds created under the Fisheries Code, the NIPAS Act does not specify the source of the IPAF. Section 16 of the NIPAS Act merely mentions that the Integrated Protected Areas (IPAS) “may solicit and receive donations, endowments and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes, charges or fees imposed by the government for any political subdivision or instrumentality thereof”. This leads to several problem areas.

First, money for the IPAF has no definitive value/range of value and this affects budget

allocation for each PA under the integrated system. There may be a sizeable inflow of donations/endowments/grants in one month and none after several months which will set the pattern for PAs receiving their share of the IPAF.

Second, the IPAF is centralized and needs DENR authorization to be released. This is a lengthy, bureaucratic process; not only do the PAs have to periodically report and remit their earnings, they also have to wait quite a while for their share of the funds to be released. Moreover, a centralized fund is unfair in terms of sharing and distribution. With a centralized fund, high income PAs shares its earnings with low income PAs. Conversely, in order to maintain its operations, low income PAs rely on the subsidy of high income PAs through the IPAF. As such, user fees collected by a high income PA do not necessarily go directly towards actual on-site management and community benefits. Furthermore, centralized funds limit a PA's share in the IPAF such that in some cases the fund per hectare of area to be protected is insufficient.

Third, limited funding from the IPAF affects staffing opportunities in the PA. While the NIPAS Act only mentions those who are categorized as field officers charged with catching violators of the law³²,

²⁹http://oneocean.org/download/20020828/DA-DENR_policy_paper.pdf

³⁰http://oneocean.org/download/20020828/DA-DENR_policy_paper.pdf

³¹Section 114, RA 8550

³²Section 18, RA 7586

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its Implementing Rules and Regulations³³ prescribes that ideally, there should be a PASu designated as on-site chief DENR officer with specific administrative and regulatory duties.³⁴ The PASu can delegate his duties to his staff, which includes administrative officers, community relations officers, biologists/research workers, and office clerks.³⁵ As such, in actuality the PAs are staffed. However, due to the limited and delayed funds from the IPAF, not all staff positions are filled. Oftentimes, the ratio of staff to the area covered by the PA is not enough for its effective management. There are also instances where PA staff members are actually full-time employees of other departments or agencies; working for the PA is just a sideline for them.

Furthermore, unlike the NIPAS Act which only has one (1) primary source of funding i.e. IPAF, the Fisheries Code mandates the creation of separate funds for the NFARMC, IFARMC, and M/CFARMC.³⁶ In addition, the law also provides for the establishment of five (5) other funds e.g. Fishery Loan and Guarantee Fund, Aquaculture Investment Fund.³⁷ The Fisheries Code also has a novel feature in that qualified Filipino fisherfolk and fisheries enterprises may avail of other fisheries financing facilities, especially as to rural credit.³⁸ However, the guidelines for implementing and sustaining these funds are not specified.

In terms of apprehending and prosecuting violators of the NIPAS Act, Section 18 provides for field officers deputized by and vested with the authority from the DENR to investigate, search, and arrest violators

of laws relating to protected areas. Section 19 of the same Act also provides for special prosecutors designated by the Department of Justice (DOJ) to prosecute violations of laws, rules, and regulations in protected areas. These two provisions are couched in general terms. More often than not, police intervention is still needed to apprehend violators of the NIPAS Act since PAs are usually understaffed. Also, it is unclear if the DOJ has fulfilled its mandate to designate special prosecutors to handle violations of the NIPAS Act.

Similarly, the Fisheries Code mentions only in broad and abstract terms its mandate to strengthen the prosecution and conviction of violators of fishery laws.³⁹ To this end, the law enumerates groups tasked to enforce RA 8550 e.g. those from the Navy, Coast Guard, PNP, and PNP-Maritime.⁴⁰ Deputy fish wardens trained in law enforcement may even be designated as such by the DENR.⁴¹ RA 8550 also provides for the continuous training and re-orientation of state prosecutors on fishery laws, rules, and regulations.⁴² With coastal LGUs also being trained in terms of its resource management, there is a relatively good incidence of fishery violators being caught. However, the

³³DAO No. 25, series of 1992

³⁴Section 38, DAO No. 25, series of 1992

³⁵Section 39-40, DAO No. 25 series of 1992

³⁶Section 79, RA 8550

³⁷Sections 109-113, RA 8550

³⁸Section 114, RA 8550

³⁹Section 125, RA 8550

⁴⁰Section 124, RA 8550

⁴¹Section 124, RA 8550

⁴²Section 125, RA 8550

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prosecution of apprehended violators is a different matter altogether. More often than not, violators have prominent backers who make use of the compadre/palakasan system, ensuring that the incidents involving them will not reach the courts.

Even if both the NIPAS Act and the Fisheries Code make broad and/or abstract references as to how violations thereof will be prosecuted, the same cannot be said in terms of specific prohibited acts and penalties under both laws. The Fisheries Code, being a comprehensive consolidation and updating of fishery laws, is very specific in enumerating prohibited acts and penalties embodied in Sections 86 to 106 e.g. fishing in fishery reserves or refuges. On the other hand, Sections 20 of the NIPAS Act lists nine (9) prohibited acts and its penalties are found in Section 21 of the same Act. However, it is evident from a reading of the prohibited acts under RA 7586 that it shows terrestrial bias.

It is not only in the aspect of prohibited acts where the NIPAS Act shows terrestrial bias. For instance, Section 5 (d) of the NIPAS Act states that within 3 years from the enactment of RA 7586, the DENR shall review each area initially made as components of the system as to its suitability for protection as a PA. To this end, the review “**must**” include studies such as a forest occupant’s survey and a land use plan which gives the impression that this particular provision was created with a terrestrial PA in mind.

Furthermore, there is no assurance that the fishery sector will be represented in the

PAMB since Section 11 of the NIPAS Act only makes a generic reference to “*x x x (1) representative from the autonomous regional government, if applicable; the Provincial Development Officer; one (1) representative from the municipal government; one (1) representative from each barangay covering the protected area; one (1) representative from each tribal community, if applicable; and, at least three (3) representatives from non-government organizations/local community organizations, and if necessary, one (1) representative from other departments or national government agencies involved in protected area management.*”

Even in terms of prescribing who are tasked to apprehend violators, the NIPAS Act shows terrestrial bias. Section 18 of the law, in describing who are considered “field officers”, speak only of “*all officials, technical personnel, and forest guards employed in the integrated protected area service or all persons deputized by the DENR*”. This provision is too generic and insufficient to cover marine protected areas/protected seascapes in an archipelagic country like the Philippines.

The NIPAS Law and the Agriculture and Fisheries Modernization Act

The NIPAS Law and the Agriculture and Fisheries Modernization Act (Republic Act 8435)

Assessment

The NIPAS Act was enacted with the objective of creating integrated protected areas within the classification of national parks. The purpose of these protected areas is for the protection, management and enhancement of biological diversity and to protect the same from destructive human exploitation. The subject of the law is the PA that is legally recognized to be protected and conserved.

On the other hand, the AFMA was enacted in order to increase productivity of the agricultural sector, increase market efficiency and promote modernization. The object of the AFMA is to modernize and industrialize the agriculture and fishery sector of society.

While it also creates a physical area called the Strategic Agriculture and Fisheries Development Zone (SAFDZ), it is not the protection of this area that is the object of the law. The object is to give both farmers and fishermen the opportunity to optimize production.

It would thus appear that the policies of both laws are divergent. The NIPAS law is aimed at conservation and preservation of wildlife and biodiversity through setting-up legal demarcations as to where human activities may be prohibited, allowed or minimized in certain geographical areas.

On the other hand, AFMA is aimed at modernizing Philippine agriculture and aquaculture, which in itself encourages utilization and exploitation of resources rather than conservation and protection.

There are various activities supporting the production and marketing aspects of agriculture and fisheries development under AFMA. Foremost is the identification of Strategic Agricultural and Fisheries Development Zones (SAFDZ). These are zones identified based on the network of protected areas for agricultural and agro-industrial development or NPAAAD. What makes SAFDZ vital is the principle of using efficiency in assigning agricultural areas for food production and security.

Areas of concern

A key feature of the NIPAS law is that it not only includes terrestrial areas but include marine and freshwater habitats as well. This is where a conflict between the two laws may arise. Much like the conflict between the NIPAS law and the Fisheries Code, there are some marine habitats which have been declared as protected seascapes. If an area delineated in the AFMA as a SAFDZ comes within an area created by the NIPAS law as a protected area, then there is conflict in jurisdiction and policy implementation. Section 20 of the NIPAS Act prohibits, among others, the hunting of animals and possession of plants within the protected area. The SAFDZ, on the other hand, is supposed to be an area of production. When a SAFDZ is included in a protected area, which one prevails, the NIPAS Act or

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the AFMA?

It appears that there is no conflict on this respect, because the definition of “seascape” in the NIPAS Act is *“an area of national significance which [is] 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 the areas”*. The “harmonious interaction between man and land” can be interpreted as including production and harvesting, but “within the normal economic activity of the area”, as the law says. However, what is “normal”? Does this include economic production and economic harvesting? If it does not, then there is a problem, because AFMA envisions commercial production and harvesting. The fact that AFMA intends to use technology on the resource indicates that the use of the resource is above normal.

Another problem is that one of the objectives of AFMA is *“to modernize the agriculture and fisheries sectors by transforming these sectors from a resource-based to a technology-based industry”*. The fact that the AFMA intends to use technology to enhance production automatically is antithetic to conservation and is inconsistent with what the NIPAS Act might consider normal.

It therefore appears that if an area is considered a SAFDZ, it cannot be a protected seascape. It cannot be both.

This conflict of jurisdiction has yet to be resolved. It would appear that the NIPAS law prevails over AFMA in marine areas

declared and identified as PAs. However, the LGUs occupying the coast of the marine PA, in most cases, would prefer utilization of marine resources rather than conservation. It is to be noted that the PAMB, which is the governing board of a particular PA is composed mostly of elected officials of the LGU. Given this scenario, the LGU would more likely prefer to execute policies concerning SAFDZ, than the protectionist policies if the area is also declared as a PA.

To resolve this conflict, either law should provide for education or information drive on the local officials in order to make them understand that conservation is better than utilization in the long run, and that conservation should be given preference over utilization where an area is declared as a protected seascape.

The NIPAS Law and the Philippine Mining Act

The NIPAS Law and the Philippine Mining Act

(Republic Act No. 7942)

Salient points of the Philippine Mining Act of 1995

- The Mining Act of 1995 provides for the areas that are open to mining operations, which includes timber or forestlands among others.
- It recognizes some areas that are closed to mining and one of those areas are those expressly prohibited under the NIPAS law and others.
- Ancestral lands are not open to mining without prior consent of the indigenous cultural community concerned.
- The DENR is the lead government agency in the implementation of this act
- A local board Provincial Mining Regulatory Board is limited only for the regulation of small scale mining
- Safety and environmental protection as well as rehabilitation of the areas subject to mining activities are established.
- Mining contractors were granted the rights to cut trees and timbers within the mining area as may be necessary in his mining activity. Likewise, a contractor is also given water rights aside from other rights necessary for his mining operation

Assessment

The primary objective of the enactment of the NIPAS law is for the protection of the environment. On the contrary, however, the basic purpose of the Mining Act of 1995 is economic rather than environmental protection. Hence, there is more contrast in the afore-said laws than coherence.

In the NIPAS law a particular area can only be considered a PA if it has been declared as such before the effectivity of the said act or after its approval. The basic principle here is that it is not a PA if there is no declaration as such. This is clearly provided under section 5 of the NIPAS Law. Hence, prior declaration of an area to be a PA is necessary before it can be considered as such. This scenario will lead to dependence on Congress to have an area be declared a protected one.

It is important to note that a PA which is declared and identified as such by congress through its own Republic Act is easier to manage and to protect than that which is only identified by executive issuances and proclamations. In order to better manage a protected area, a “tailored-fit” law must be enacted. This is so because protected areas are diverse. A PA may be as vast as an entire sea or as small as a tiny island. It may be an uninhabited area or an area adjacent to a metropolis. Thus, each PA has its own specific requirements for management.

On the contrary, however, under the Mining Act of 1995, under section 18, thereof, *“x x x all mineral resources in public or private lands, including timber or forestlands*

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as defined in existing laws, shall be open to mineral agreements or financial or technical assistance agreement applications.” In short basically all areas are open to mining including forest and timberlands and this does not need any further act of congress to be declared as such. It is already a self-executing act.

Taking into account these conflicts of the two legislative enactments, if an issue will arise, for example, that a particular “*timber or forestland*” is part of a proposed protected area, the general rule would be, it is open to mining except when declared as protected area. Thus, even if it is a timber or forestland so long as it is not yet declared a protected area, it is open to mining.

This bias towards mining is manifested in the case of PICOP RESOURCES, INC. VS. BASE METALS, ET AL. G.R. NO. 163509, DEC. 6, 2006, where there is an issue of whether a wilderness area is open to mining or not, where the Honorable Supreme Court said, that:

*“Although the above-cited area status and clearances, particularly those pertaining to MPSA Nos. 012 and 013, state that portions thereof are within the wilderness area of PICOP, there is no showing that this supposed wilderness area has been proclaimed, designated or set aside as such, pursuant to a law, presidential decree, presidential proclamation or executive order. **It should be emphasized that it is only when this area has been so designated that Sec. 20 of RA 7586, which prohibits mineral locating within protected areas, becomes operational.**”*(emphasis added)

Based on the above-quoted decision of the Supreme Court there seems to be no conflict because the wilderness area has not yet been proclaimed as a PA, hence, open to mining. However, the above decision illustrates how easy it is for an area to be declared open to mining than to be declared as a PA. It is on this point that the conflict lies. Although a PA is closed to mining, a better scrutiny of the Mining Act, however, will demonstrate that PAs being closed to mining is an irony. It is an irony because if an area is not yet declared a PA by any law, or executive act, said area is still open to mining despite the fact that it has been identified as an area containing rich biodiversity or rare biophysical attributes. Essentially, before an area is declared a PA, it is open to mining.

This situation also holds true in ancestral lands because although ancestral lands are recognized by the NIPAS law, the Mining Act of 1995 provides that ancestral lands shall be open to mining provided there is prior consent from the indigenous cultural community.

Moreover, it is apparent in both the NIPAS law and the Mining Act of 1995 that there is conflict between the two laws as far as matter of priorities are concerned in relation to the environment, but ironically the lead government agency in charge of the implementation of the two laws is the same, the DENR. If this is the case definitely there will be conflict in resolving some issues that may involve the same set of laws. Hence it is a must that there must be proper specification of roles.

On another point, basically under the

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NIPAS law the funds to sustain its implementation are very limited. It has no proper source of funding despite the huge role it plays in protecting the environment.

In essence, as far as the NIPAS law and the Mining Act of 1995, are concerned, their conflict lies without doubt on the issue as to which areas are open to mining and which area is part of the protected area. In this regard, it is recommended that Section 5, of the NIPAS law be amended and that the criteria of what a PA is, should be properly defined so that if a particular area falls on this criteria there is no more need for Congress to declare it as a PA it will be automatically considered as such. This is to avoid so much dependence on Congress to declare first an area to be considered a PA which will entail so much time and effort, contrary to the mining area which is already declared as such under the Mining Act of 1995.

The NIPAS law should also be amended to the effect that another lead government agency should be in charged with its implementation and not the DENR so that conflicts can be avoided. If not, another agency should be tasked with the protection of the environment and the implementation of conservation laws in order to segregate the utilization functions of the DENR as the lead agency from its conservation functions.

The NIPAS Law and the Indigenous Peoples' Rights Act (Republic Act No. 8371)

Assessment

The NIPAS Act was enacted with the objective of creating integrated protected areas within the classification of national parks. The purpose of these integrated areas is for the protection, management and enhancement of biological diversity and to protect the same from destructive human exploitation.

On the other hand, the IPRA was enacted in order to recognize, protect and promote the rights of indigenous cultural communities and indigenous people. The IPRA law enforces the 1987 Constitution's mandate that the State should craft a policy to recognize and promote the rights of indigenous cultural communities (ICCs) and indigenous peoples (IPs) within the framework of national unity and development,⁴³ and "to protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being."⁴⁴

The object of the NIPAS Act is the PA that is *delineated* by the law for the conservation

⁴³Section 22, Article II of the 1987 Constitution.

⁴⁴Section 5, Article XII of the 1987 Constitution.

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and protection of biodiversity and natural processes while the object of the IPRA is the recognition of the *rights* of the indigenous peoples. It is the rights of the indigenous peoples that the law seeks to protect.

Similar to the NIPAS Act, the IPRA also delineates a physical area for a specific purpose. While the NIPAS Act calls it *protected area*, the IPRA calls it *ancestral lands and ancestral domain*. It is within their ancestral land or ancestral domain that the indigenous peoples may enforce the rights recognized by the IPRA.

Thus, the IPRA law restores the rights of indigenous peoples over their ancestral lands and ancestral domains. The term *ancestral land* under the IPRA refers to lands occupied by individuals, families, and clans who are members of indigenous cultural communities, including residential lots, rice terraces or paddies, private forests, swidden farms, and tree lots. These lands are required to have been “occupied, possessed, and utilized” by them or their ancestors “since time immemorial, continuously to the present.”⁴⁵

Ancestral domains are defined as areas generally belonging to indigenous cultural communities, including ancestral lands, forests, pasture, residential and agricultural lands, hunting grounds, worship areas, and lands no longer occupied exclusively by indigenous cultural communities but to which they had traditional access, particularly the home ranges of indigenous cultural communities who are still nomadic or shifting cultivators. Ancestral domains also include inland waters and coastal areas

and natural resources therein.

Ancestral domains are also required to have been “held under a claim of ownership, occupied or possessed by indigenous peoples, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present.”⁴⁶

The IPRA law enumerates the rights of indigenous peoples over their ancestral domains/lands. These are the right of ownership over the ancestral lands/domain, right to develop and manage lands and natural resources, right to stay in territories and not to be displaced therefrom, right to regulate entry of migrants and other entities, right to safe and clean water, right to claim parts of reservations, and right to resolve conflicts according to customary law.

The law also stipulates that the indigenous peoples and their communities have the responsibility to maintain ecological balance, restore denuded areas, and “adhere to the spirit and intent of the Act.”

The similarity lies in the fact that both the NIPAS and IPRA laws affect the natural resources found within the physical areas delineated and identified by the laws. The difference is that while the NIPAS deals with the conservation and preservation of the

⁴⁵http://oneocean.org/download/20020828/DA-DENR_policy_paper.pdf

⁴⁶http://oneocean.org/download/20020828/DA-DENR_policy_paper.pdf

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natural resources, the IPRA deals with the management, preservation and utilization of the natural resources by the indigenous peoples.

Under the NIPAS Act, the DENR identifies existing protected areas such as natural parks, sanctuaries and reserves, then, within one (1) year from the effectivity of the Act, the DENR submits a map to the Senate and the House of Representatives. The map then becomes the official documentary representation of the entire system, subject to such changes as Congress may deem necessary. All documents related to the map shall be kept by the DENR but shall be made available to the public. The map is subject to review by the DENR within three (3) years from the effectivity of this act. Any changes which the DENR deems necessary to propose shall be subject to public hearing. After public hearing, the DENR makes a recommendation to the President, who thereafter makes his own recommendation to Congress.

Under the IPRA law, ancestral domains which have already been identified by DENR Administrative Order No. 2, Series of 1993 and other laws existing prior to its enactment may be issued a Certificate of Ancestral Domain Title (CADT) without going through regular Delineation Process.

Under the NIPAS Act, the DENR is vested control and administration over the protected areas. The DENR Secretary is vested with certain regulatory powers, like the power to (1) collect administrative fees, (2) control the construction and operation of road and other public utilities, (3)

control occupancy and settlement within the protected areas. The Secretary can enter into contracts with government and private agencies to carry out the purposes of the Act. He can also accept funds in the name of the Government of the Philippines in the interest of the protected areas and the activities within. But even in the face of all the foregoing provisions, the law does not appear to have divested the LGU with the political governance over the protected areas.

In contrast, Section 52.1 of the IPRA law divests DAR, DENR, DILG, DOJ and the Commissioner of the NDC of jurisdiction over Ancestral Domains. Even the MTC and RTC have no jurisdiction over disputes involving rights of indigenous peoples. Such disputes are resolved according to tribal customary laws and practices. If still unresolved, the dispute will be referred to the NCIP, whose decisions are appealable directly to the CA.

Areas of concern

The DENR is the agency that has the authority to recommend the creation of the PA. Under the IPRA, the DENR has been divested of jurisdiction over lands identified as ancestral domain. This jurisdiction has been restored, albeit not completely, under Section 13 of the NIPAS Act. The DENR, under the said provision, was conferred rule-making powers for ancestral lands and domains located inside a protected area. But this presupposes that the ancestral domain is within a PA. But what if it is the PA that is within the ancestral domain?

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Likewise, who determines and identifies if an area within an ancestral domain should become a PA? The NIPAS act does not address this issue.

Moreover, although the NIPAS law recognizes the rights of indigenous cultural communities within their ancestral domain, such recognition does not give these indigenous peoples complete control over the resources within an ancestral domain found inside a protected area. In fact, this is why the DENR is given regulatory and rule making authority by the NIPAS law, subject to the restriction against eviction and forced resettlement.

However, under the IPRA law, indigenous peoples are guaranteed not only possession and occupation of ancestral lands, but also all other rights that comes with a claim of land ownership, such as the right to utilize all the natural resources within the land, right to develop the land, and right to exclude other persons from the land. If a PA is located inside an ancestral land or domain, which prevails -- the guaranteed and recognized rights of the indigenous peoples or the regulatory power of the DENR? This conflict has not been resolved by the implementing rules and regulations of both laws.

Section 58 of the IPRA states that “*ancestral domains or portions thereof which are found necessary for x x x protected areas x x x as determined by the appropriate agencies x x x shall be maintained, managed and developed for such purposes.*” However, the provision goes on to say that “the ICCs/IPs concerned shall be given the responsibility to maintain,

develop, protect and conserve such areas”. The government agencies are supposed to only give “full and effective assistance”. The ICCs/IPs can turn over the responsibility “in writing” but this can only be “temporary”.

From the foregoing, it appears that the IPRA grants the ICCs/IPs priority in the management of a PA within an ancestral domain. It is therefore wrong to say that a PA is not part of the ancestral domain. On the contrary, the PA is in fact under the control of the ICCs/IPs. But how effective will the ICCs/IPs be in the management? Wouldn't the DENR be in fact in a better position to manage the PA?

To resolve this conflict, the law must clearly state that if an area within an ancestral domain is delineated as a PA, it should be considered taken out of the ancestral domain, so that the IPRA is no longer effective within it. The law should also state clearly that the management of the PA should be the responsibility of the DENR and not the ICCs/IPs. Possible consequential conflicts should likewise be resolved, i.e. what if the DENR personnel are barred entry into the PA where the PA is located in the middle part of the ancestral domain, and like cases.

The NIPAS Law and the Local Government Code

The NIPAS Law and the Local Government Code (Republic Act No. 7160)

Assessment

The political desire in enacting the NIPAS Act is to create a system that would ensure the protection of areas identified to have biologically unique features to sustain human life and development, including plant and animal life, commonly referred to as protected areas. The same law recognizes the positive role of the local governments, as a lead supporting body of the national government, in the effective governance of these areas, including the use and enjoyment of the resources therein. On the other hand, the LGC is the actualization of the most coveted principle of local autonomy, now enjoyed by the local governments. The same Code epitomizes a certain degree of independence from interference of national authorities and dominance of local governments in their respective territorial jurisdictions. Thus, it is crucial to determine whether or not the NIPAS Act, in its noble concern to protect the environment, has indeed respected the local autonomy of local governments, and has effectively encouraged active support and participation of the local governments in the national undertakings that directly affect them.

It is a basic principle of law to reconcile two or more seemingly conflicting legal provisions with the end view of giving effect, as much as possible, to all these provisions. This is the first recourse. Thus, the following

are the aforementioned notable provisions which may be reconciled, to wit:

Section 389(b)(9) of LGC vis-a-vis Section 11 of the NIPAS Act

Section 389(b) (9) of LGC mandates the Punong Barangay to enforce laws and regulations relating to pollution control and protection of the environment, within his jurisdiction. On the other hand, Section 11 of the NIPAS Act mandates the creation of PAMB for each PA. It empowers the Board decide, by majority vote, the allocations for budget, approve proposals for funding, and decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy. It mandates who should be members of the PAMB.

On its face, there appears no conflict between these provisions. However, when powers conferred are already given life in real situations, significant problems arise. It is explicit that the protection of individual protected areas (PAs) is now primarily lodged under the jurisdiction of the PAMB. Yet, the territorial integrity reposed by law and the Constitution on respective LGUs is not at all insignificant. In fact, this is their basic power as a consequence of the constitutionally created concept of local autonomy.

The inherent problem of these provisions lies on the territorial integrity of LGUs which happen to be included within a protected area. For instance, if an activity within the PA which also happens to be

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within the territorial jurisdiction of the local government, is permissible to the PAMB, in accordance with its Management Plan, can the LGU legally stop such activity on the ground that it can cause pollution to the environment, and it can particularly affect the residents of their area? Or in reverse, in the event that an activity is allowed by the LGU through an Ordinance but is banned by the PAMB, which prevails? Who has the authority to determine whether or not an activity is permissible within the territorial jurisdiction of the LGU and within a particular PA at the same time?

Section 465 (b)(3)(V) and Section 468(1)(vi) of LGC vis-a-vis Section 10 and 11 of the NIPAS Act

Section 465 (b) (3) (V) of LGC empowers the provincial governor to initiate and maximize the generation of resources and revenues, and apply the same to the implementation of its development plans, program objectives and priorities, and in relation thereto, he is authorized to adopt adequate measures to safeguard and conserve land, mineral, marine, forest and other resources of the provinces, in coordination with the mayors of component cities and municipalities. Section 468(1) (vi) of LGC also mandates the Sangguniang Panlalawigan to protect the environment and to 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 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 of ecological imbalance.

On the other hand, Section 10 of the NIPAS Act places the NIPAS under the control and administration of the DENR, through the PAWD, headed by the Regional Director. The same provision places under the authority and responsibility of the Secretary of DENR the following tasks: (1) prescribe prohibited and permissible human activities in PAs, including construction of buildings and structures thereon and the materials to be used, and the control of the occupancy of certain suitable portions of the PAs; (2) implement land-use and zoning plans in the adjoining areas of PAs to protect the latter from harmful effects of activities in adjoining areas; (3) mandate the preparation and review of all management plans of PAs; (4) deputize field officers and delegate his power for the implementation of the NIPAS Act; (5) prescribe and collect fees from any person or entity, including government agency for any benefit derived from the use of PAs; (6) impose fees and fines for violations of rules and regulations for the protection of PAs; (7) enter into contracts or agreements in relation to the enforcement of NIPAS Act; (8) accept gifts or bequests of money for NIPAS funds; (9) call on support from government agencies, educational institutions, NGOs, and private sectors in the implementation of NIPAS Act; (10) report to the President and to Congress the status of PAs.

There should be no collision of powers between the DENR, PAWD, and PAMB on one hand, and the LGUs on the other. The provisions of law should be harmonized to

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bring about a shared responsibility among them. They should coordinate and work together for the protection of the national wealth.

On the ground, however, there can be disagreements and the PAMB and the LGUs often compete for authority and jurisdiction over the PAs. For this reason, it is recommended that the chief executives of LGUs themselves become active members of the PAMB.

Sections 129, 468(2)(ii) and 132 of LGC vis-a-vis Section 10 (f) and (I)

Section 129 of LGC empowers the LGUs to create its own sources of revenue and to levy taxes, fees, and charges, consistent with the basic policy of local autonomy. Such impositions accrue exclusively to the LGU concerned. Section 468(2) (ii) of LGC also empowers the Sangguniang Panlalawigan to enact ordinances levying taxes, fees and charges, granting tax exemptions, incentives and reliefs relative to the generation and maximization of the use of resources and revenues its development plans and programs. Thus, Section 132 of LGC mandates that the imposition of taxes, fees, and charges to generate revenue shall be exercised by the Sanggunian of the LGU concerned through an appropriate ordinance.

On the other hand, Section 10 (f) and (I) of the NIPAS Act empowers the Secretary of the DENR to prescribe and collect fees from any person or entity, including government agency for any benefit derived from the use of PAs; and to accept gifts or bequests of

money for the IPAF.

The constitutionally-conferred power of the LGUs to impose taxes, fees, and charges to generate sources of revenues within its territory is a constitutional right as an aspect of local autonomy. Thus, despite the authority of the DENR to impose fees on all entities for the benefit they derive from the use of PAs, it does not preclude nor restrict the power of the LGUs to impose similar fees on activities within confines of the PAs within their territorial jurisdiction. Their powers can co-exist simultaneously and the exercise thereof are both subject to the same constitutional limitations.

Areas of concern

Some laws may be harmonized but there are legal provisions that are inadvisable to co-exist, otherwise, it would result to public confusion and ineffective governance. It is detrimental to efficient public service. The proper recourse would either to recognize one provision as superior to the other, or to make necessary modifications to accommodate both provisions. The LGC has several conflicting provisions with the NIPAS law, more significantly in the areas of jurisdiction and funding.

Sections 289, 290, 291, 292, and 293 of LGC vis-a-vis Section 16 of NIPAS Act

Section 289 of LGC entitles the LGUs to 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

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the inhabitants by way of direct benefits. Thus, under Section 290 of LGC, the law prescribes the 40% share of the LGUs of the gross collections derived by the national government from the preceding fiscal year from the utilization and development of the national wealth by private persons or entities. This power of the LGU is further strengthened under Section 291 of LGC. This provision entitles the LGUs to a (1) 1% of the gross sales or receipts of the preceding calendar year; or (2) 40% of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees, or charges, that the concerned government agency or GOCCs would have paid if it were not otherwise exempt, as LGU's share, whichever is higher, based on the preceding fiscal year from the proceeds derived by any government agency or government-owned or controlled corporation engaged in the utilization and development of national wealth.

Moreover, Section 293 of LGC mandates that the share of LGUs from the utilization and development of national wealth shall be automatically released to the concerned LGUs, without a need of any further action.

On the other hand, Section 16 of NIPAS Act mandates that all income generated from the operation of the System or management of wild flora and fauna shall accrue to the IPAF, which may be derived from the following: (1) taxes from the permitted sale and export of flora and fauna and other resources from protected areas; (2) proceeds from lease of multiple-use areas; and (3) contributions from industries and facilities directly benefiting from the protected area.

Moreover, disbursements from the IPAF shall

be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

The NIPAS Act mandates that all income generated from the operation of the PAs shall pertain to the IPAF which shall be disbursed solely for the administration and protection of the PAs. On the other hand, the LGC reiterates the constitutional right of LGUs to have an equitable share in the development and utilization of national wealth, which of course includes those found in PAs within their territorial jurisdiction.

This is mandated by no less than the Constitution. Notably, Section 1, Art. X of the Constitution uses the words “national wealth” which is not limited to natural resources but to all kinds of wealth including lands of public domain and wealth from activities derived from such lands, including PAs. Significantly, this refers to the share of the LGUs in the development and utilization of national wealth. It is quite unmistakable that this pertains to its share in all activities which generate income in connection with the management, development, and utilization of the resources of any protected area, including exaction of taxes, fees, or charges.

On one hand, it may be argued that the funds derived from activities within a certain PA will be used for the management and protection of the same PA which is still within the territory of the same LGU. In other words, it is still the same territory of the LGU which is directly benefited. On the other hand, it can also be argued that what were “utilized” are resources within the territory of the concerned LGU so

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that, as mandated by law, its share shall be automatically given to it, and the disposal or disbursement of the same should be under its own discretion, not with the national agency.

This contentious issue calls for the identification of priorities of the government and this is a matter of policy. It is within the province of our policy-makers to ascertain their policy on this matter which involves equally important consideration.

Sections 26, 27 and 10 of LGC vis-à-vis Sections 10, par 2(h) and 12 of NIPAS Act

Section 26 of LGC makes it the obligation of the government agencies or GOCCs involved in the planning and implementation of projects or programs that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, range-land, or forest cover, and extinction of animal or plant species to: (a) consult with the LGUs, non-governmental organizations, and other sectors concerned and (b) explain the goals of the project or program, its ecological and environmental impact upon the people and community, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

Section 27 of LGC mandates that no project or program shall be implemented by government authorities unless prior consultations with the LGUs under Section 26 are complied with, and prior approval of the sanggunian concerned is obtained. Moreover, occupants of the areas affected must be provided with relocation sites

before such projects are implemented.

In contrast, Section 10, par 2(h) of the NIPAS Act authorizes the DENR to enter into contracts and/or agreements with private entities or public agencies as may be necessary to carry out the purposes of NIPAS Act but fails to mention any prior consultation with the LGUs concerned. Further, Section 12 of NIPAS Act mandates that proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. It further states that no actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environment Impact Assessment (EIA) system. Most importantly, in instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as will minimize any adverse effects and take preventive and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion.

The LGC provisions, taken together, emphasize the indispensable role of the LGUs and other stakeholders in matters affecting the protection of the environment within their territorial jurisdiction. Being the ones that will be directly affected by these projects or activities sanctioned by national authorities, LGUs and other stakeholders should be properly addressed

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and apprised of the possible harmful effects thereof and must be assured that adequate measures will be ensured to avoid or minimize these adverse effects. This will also be an avenue for local communities to participate in the decision-making of concerns that directly affect them. The consultation requirement is a manifestation of people's power and an assertion of their right to a balanced ecology.

On issues like this, the co-management approach is still relevant. And the voice of the LGUs concerned can be adequately raised through their respective representative in the PAMB. This is to avoid duplication of work or unnecessary interference in the System. This approach is also more effective, simple, and speedy. However, the fact remains that the clear provisions of the LGC on prior consultations are dispensed with under the NIPAS Law.



Policy Analysis of the NIPAS Law

GIZ was requested by the Protected Areas and Wildlife Bureau (PAWB) of the Department of Environment and Natural Resources (DENR) to assist in “A Desk Review of NIPAS and Related Laws on the Establishment and Management of Protected Areas in the Philippines”. Six (6) initial sites in the Visayas were identified for the review. The six sites in the Visayas were selected by PAWB, GIZ and Silliman University, believed to geographically, typographically and politically represent the state of affairs of Protected Areas management in the Philippines. Three of the sites are terrestrial: Mount Kanla-on Natural Park (MKNP), Northwest Panay Peninsula Natural Park (NWPPNP), and Balinsasayao Twin Lakes Natural Park (BTLNP). Sagay Marine Reserve (SMR) covers the marine area and its inclusive islands while Panglao Island Protected Seascope (PIPS) covers only selected mangrove areas. Only Tañon Strait Protected Seascope (TSPS) is wholly marine. The purpose of the review is to get the most recent information on the current state of affairs in PA management in the Philippines through testing using the various PA management assessment tools; Management Effectiveness Tracking Tool (METT) and Management Effectiveness Assessment Tool (MEAT).

Thus, from July 20 to August 31, 2010, a team of experts and students from Silliman University carried out the case study for determining and validating the Management Effectiveness of the six identified sites using METT and MEAT. The sites were subjected to an in-depth analysis using six management effectiveness parameters of

the World Commission on Protected Areas (WCPA). The six parameters used were: Context, Planning, Process, Input, Output, and Outcome. The framework of analysis focused on the effectiveness of the NIPAS law in protecting genes, species, habitats, and ecological processes.

The study revealed that except for SMR which obtained an average of Level 3 rating under the MEAT and 90% under the METT, the sites are poorly managed. Tañon Strait Protected Seascope scored the lowest under MEAT (Level 0) and METT (28%), followed by PIPS scoring Level 0 under MEAT and an average rating of 30% under METT. Panay Peninsula Natural Park had a MEAT rating of Level 0 and METT rating of 32% while MKNP had a MEAT rating of Level 1 and METT rating of 43%. Balinsasayao Twin Lakes Natural Park obtained relatively higher ratings than the other sites, but still had low ratings, Level 3 under MEAT and 50% rating under METT. Among the major reasons for the low ratings were the following: (1) lack of adequate budget leading to lack of capable staff and patrolling facilities; (2) very large and less-informed PAMB; and (3) lack of political support. These arose from ambiguous or very broad statements in the NIPAS laws and/or conflicting statements in the NIPAS law with the status quo, or with other laws, such as the Local Government Code. The study team therefore came up with various recommendations on how to improve and enhance the management effectiveness of the protected areas.

Building on the 6 study sites (under METT and MEAT) and the team's experience in

other PA's of the Philippines, this review of the NIPAS law is being conducted to strengthen further the implementation of the governing law of PAs in the Philippines.

In order to systematically analyze the NIPAS law, several critical factors were identified as bases. How the NIPAS law and its policy measure up to these critical factors determine how effective and efficient PA management is in the Philippines. These critical factors were identified to affect the determinants of effectiveness, across and despite the level of institutionalization of the PA under the NIPAS Act. They have been found to also affect the degree to which a PA is able to achieve higher levels of institutionalization.

Critical Factors of Management Effectiveness

There is a law identifying and establishing the protected area

The foremost critical factor in determining the management effectiveness of a PA is the existence of a law which not only recognizes and identifies the protected areas subject to government regulation but also institutionalizes the establishment of these protected areas.

The NIPAS Act was enacted for the establishment, management, protection, sustainable development, and rehabilitation of protected areas to ensure the conservation of biological diversity.

The Act provides standards and guidelines on how a site is established and disestablished as a protected area, which is not only relevant, but vital for the sustainable management of

protected areas in the Philippines. This means that the establishment of protected areas and its consequent management is institutionalized, systematized, and organized. Moreover, the PA is protected by legislation.

Section 5, [a] and [b] of the law provides that all areas or islands in the Philippines that were proclaimed/ designated/ set aside pursuant to law and other legal enactments are designated as initial components of NIPAS. This defines and identifies the initial areas covered by the NIPAS Act.

The DENR is mandated to submit to the Senate and House of Representatives a map and legal description of natural boundaries of each protected area, which shall constitute the official documentary representation of the entire system. This defines and delineates the protected areas for proper identification, and it also helps in the actual monitoring of the protected areas. Not only does NIPAS law identify and establish protected areas, it also allows for the inclusion of additional areas under the system or expansion of existing PAs. Thus, in Sec. 6, the law gives power to the DENR Secretary to propose and recommend the establishment of certain areas as PA which contains features of any of the categories of a PA as defined by law. This allows the DENR to identify and categorize possible new areas to be included in the system and be subjected to protection and regulation like any other PAs.

However, findings from the 6 case studies suggest that all else equal, a site being protected by a specific law (on it being a PA) would have more protection than otherwise. But, the NIPAS Law makes it very difficult and complicated to pass a law customized to the needs, features,

and conditions of the PA. As a result, many PAs have no specific and appropriate governing laws. Before an area can have its own RA? It has to pass all the thirteen steps as stipulated in Section 5 in the NIPAS Law. Consequently, of the one hundred twelve (112) proclaimed protected areas in the Philippines under the NIPAS covering 3.54 million hectares, only thirteen (13) protected areas have “tailored-fit” special laws passed by Congress.⁴⁷ Moreover, there are forty-three (43) PA bills filed in Congress which are still pending.⁴⁸

Amending the NIPAS Act to facilitate legislation (i.e., a Congressional Act) to protect specific sites, or allow for local legislation (ordinances) to have a similar effect on protecting a site as an Act of Congress, is likely to improve the effectiveness of protection.

The governing law has a “fencing mechanism” which clearly sets physical and legal boundaries of the protected area

It is not enough that a PA is identified and established by law. It is also critical that the law sets boundaries for said protected area, either physical, social, political, or legal. This is called a “fencing mechanism”. The setting up of physical, moral, political, or legal boundaries is important in managing protected areas since it provides those who are tasked to protect and manage the areas with a tool against possible encroachment and exploitation. It helps not only in settling boundary and perimeter disputes with inhabitants and informal settlers, but also jurisdictional disputes between and

among government agencies mandated to protect and manage the area.

The NIPAS Act identifies the boundaries of the areas or islands to be covered and determines management zones. It mandates that PA boundaries be clearly delineated and demarcated with concrete features.

Section 5 of the NIPAS Act adopts the existing boundaries of the PAs as the initial components of the system. The same provision requires that these existing boundaries and related legal documents be made available to the public. This requirement is not only to promote public awareness, but this also serves as an element of due process in the regulation of human conduct within the protected areas. Section 5 also provides procedures for the modification of existing boundaries of a protected area.

The NIPAS law, under Section 8 thereof, establishes zones contiguous to the PA which, likewise, have to be protected to prevent damage to the PA. This provision mandates the establishment of “peripheral buffer zones” in every protected area, when necessary, to protect the PA from harmful activities. The management of these buffer zones are to be included in the management plans of PAs.

The NIPAS law does not specify the actual land area of the buffer zones and the criteria in determining which PAs need or do not need buffer zones. Said criteria are

⁴⁷As of June 30, 2011, from DENR- Protected Areas and Wildlife Bureau (PAWB).

⁴⁸As of July 15, 2011, from DENR- Protected Areas and Wildlife Bureau (PAWB).

to be found in DENR issuances and the Implementing Rules (IRR). This grants the DENR a wide latitude in determining and modifying the buffer zones. This should be amended because although the silence in the law might be seen as a positive feature (as it allows flexibility in legal enforcement), the non-specification in the law may cause the overlapping of buffer zones with timber or forest lands, or with mining reserves. The silence in the law on how buffer zones and other management units of a site are to be determined may create situations where the view of technical experts, the bureaucracy, and local peoples and interests, may not coincide; hence putting the site into a perpetual state of conflict.

Adjustments on the NIPAS law should include measures to address management issues relating to PAs which need to be large due to the kind of mobile species sought to be protected (i.e., whales and dolphins in the Tañon Strait), and those relating to the conservation of highly mobile species. For instance, in addition to the core PA, the buffer zone may be designed to protect the highly mobile species for foraging, breeding, migrating, etc.

For the law to be effective, the setting up of boundaries in a “fencing mechanism” should not only demarcate the area of the PA, but should also clearly identify and stipulate the items to be managed. This means that the resources to be managed within the PA should be identified.

Thus, the NIPAS Act sets the different categories of protected areas and the criteria in the determination of the appropriate category of a particular PA. In making distinctions and categorization of PAs into: (a) Strict nature reserve; (b) Natural park; (c) Natural

monument; (d) Wildlife sanctuary; (e) Protected landscape and seascapes; (f) Resource reserve; and (g) Natural biotic areas, the law takes into consideration the unique biodiversity of the area for its inclusion. This is a form of a fencing mechanism since it identifies and categorizes what resources are to be managed and how it should be managed. The “fencing” requirement is more effective if contained in a site-specific law.

The governing law has a “gating mechanism” which clearly sets qualifications, procedures and controls on entry, occupancy and exit in the PA

For the effective management of a PA, there must be a “gating mechanism” which allows, to some extent, human intervention within the PA. “Gating” refers to controlling entry to a site; this is fundamental to the concept of PA; thus, the NIPAS Act must provide, or cause to be provided, clear processes for determining gating controls to a site, including who shall be involved in setting up and formulating these controls (i.e., government, local people, independent experts, etc.) A gating mechanism allows personnel and staff to enter or occupy the PA for the purposes of monitoring, assessment, and protection. Hence, the governing law should set clearly the qualifications, procedures, controls on entry, occupancy and exit of people in the protected area.

The NIPAS law itself does not concretely have a gating mechanism. What the NIPAS law provides is an indirect gating mechanism through the formulation of a management plan of the PA. The NIPAS Act does not provide

for procedures for regulating human activity in a protected area. Regulation of human activity is made dependent on the management plan.

Some aspects of this gating mechanism are provided under the IRR of the NIPAS law, also known as DENR Administrative Order (DAO) No. 2008-26. Rule 15 of DAO No. 2008-26 mandates the establishment of procedures for the survey and registration of occupants of PA as well as the management of tenured migrants. This rule sets a mechanism to control the entry, occupancy, and exit in the PA. Also, Rule 16 of DAO No. 2008-26 provides guidelines and procedures regarding survey and exploration for energy resources within a protected area.

The absence of a clear gating mechanism and dependency on a management plan makes the NIPAS law less effective in regulating human activities within the protected area. A number of protected areas do not have their own management plans yet, hence, procedures in regulating human intervention in these protected areas are vague and disorganized. In fact, of the current one hundred twelve (112) proclaimed PAs, only twenty-nine (29) have concrete management plans.⁴⁹ In addition, the setting of a gating mechanism in the IRR, and not in the law itself, makes it easier for the lead agency to revise, amend or suspend the procedures of control and regulation. *The absence of clear gating mechanisms in the NIPAS Act is possibly one cause for its weakness as a legal backstop for effective protection of PAs.*

In contrast, the Fisheries Code of the Philippines or R.A. No. 8550 sets clear gating mechanisms for human activities. For example, Section 5 of RA 8550 provides that use and exploitation of fishery and aquatic resources in Philippine waters are reserved exclusively for Filipinos. Non-Filipinos may conduct research and survey activities within Philippine waters under strict regulations and for purely research/scientific/ technological and educational purposes which should benefit Filipino citizens.

Section 7 of RA 8550 provides that the Department of Agriculture shall issue licenses and permits for the conduct of fishery activities subject to the maximum sustainable yield (MSY) of the resource in the area as determined by best available evidence. In this regard, resource users in the local communities adjacent/nearest to the municipal waters shall be preferred.

Moreover, the Fisheries Code clearly defines what is small-scale fishing, medium-scale fishing, commercial fishing, and what areas are open to small, medium or commercial fishing and what areas are closed. The said law also sets closed seasons when fishing is banned.

Similarly, the Wildlife Act (R.A. No. 9147) provides for clear mechanisms for the collection of wildlife flora and fauna. Thus, Section 7 in conjunction with Section 23 of

⁴⁹As of June 30, 2011, from DENR- Protected Areas and Wildlife Bureau (PAWB).

the Wildlife Act allows the collection of wildlife species using appropriate and acceptable wildlife collection techniques with least or no detrimental effects to the existing wildlife populations and their habitats and only for scientific, or breeding or propagation purposes, and only by accredited individuals, business, research, educational or scientific entities. Section 7 also allows the collection of non-threatened wildlife species by indigenous people for traditional use and not primarily for trade. These kinds of gating mechanisms are absent in the NIPAS law.

The governing law has a “resourcing mechanism” which clearly sets the sources of funds and controls on funding for the operation of the PA

Much like any institution or entity, funding is a critical factor in managing a protected area. The operations for monitoring and protecting a PA need staff and equipment. Maintaining personnel and their necessary equipment needs a constant flow of funds. Hence, a PA can only be managed efficiently and effectively if it has access to funding and it has a procedure to control the accrued funds.

The NIPAS Act has a “resourcing mechanism”. Section 16 of the law establishes the IPAF which basically is a trust fund for purposes of financing projects of the PA System and income generating activities. Generated income accruing towards IPAF are derived from (a) Taxes from the permitted sale and export of flora and fauna and other resources from protected areas; (b) Proceeds from lease of multiple-use areas; (c) Contributions from industries and facilities

directly benefiting from the protected areas; and (d) Such other fees and incomes derived from the operation of the protected area. In addition, the IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and said endowments are exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government for any political subdivision or instrumentality thereof.

The NIPAS Act also sets controls over how these funds may be disbursed. Hence, it provides that IPAF disbursements shall be made only for duly-approved projects endorsed by the PAMB in the amounts authorized by the DENR and solely for the protection/ maintenance/ administration/ management of the PA. Although the NIPAS law has a resourcing mechanism (the IPAF), it does not necessarily follow that this resourcing mechanism is effective. The NIPAS Act has been in effect for nearly two decades now, and the funding mechanism of the NIPAS has been problematic and controversial.

However, the IPAF funding mechanism is inadequate and complicated. Most PAs do not have enough revenues to sustain their operational expenses of protecting the area and preserving their territorial boundaries. Moreover, being a centralized trust fund controlled by the national government, disbursements from the IPAF are tedious and often encounter bureaucratic delays. Not only do the PAs need to periodically report and remit their earnings, they also have to wait for a longer time for their share of the IPAF to be released.

In contrast, the Fisheries Code mandates the creation of separate funds for the NFARMC,

IFARMC, and M/CFARMC.⁵⁰ The Fisheries Code also provides for the establishment of five (5) other funds, such as the Fishery Loan and Guarantee Fund and the Aquaculture Investment Fund.⁵¹ The Fisheries Code is also specific as to where the money for each fund will be sourced from, e.g. One Hundred Million Pesos (PhP100,000,000.00) will be taken from the DA's allocation in the General Appropriations Act for the Municipal Fisheries Grant Fund.

Unlike the funds created under the Fisheries Code, the NIPAS Act does not provide for a specific and stable source of the IPAF. The IPAF depends on the flow of money from earnings of the PA, contributions, donations, endowments, and grants. There may be a sizeable inflow of earnings/donations/endowments/grants in one month and none after several months. This is especially true in areas that are dependent on user fees from tourists. Also, PAs designated as strict nature reserve or natural parks often become tourism destinations in order for these areas to generate income and sustain themselves. This development is in conflict with their purposes as stated in the NIPAS law itself.

In fact, the law fails to mention if funds for the implementation of the NIPAS should be automatically appropriated under the General Appropriations Act. Since money for the IPAF has no definitive value/range of value, this affects budget allocation for each PA under the integrated system.

The governing law provides and defines who are to be responsible for which aspects of the management of the PA

The preservation of the integrity of the PA and the conservation of the resources within it cannot be maintained without personnel and staff to micro or macro manage it. The law establishing the PA must designate the persons who are responsible for its management, control or supervision and enumerate those who can be made accountable and liable for its destruction or exploitation.

The NIPAS Act designates the persons who are responsible for the maintenance and management of established protected areas. Section 10 of RA 7586 places control and administration of the NIPAS under the DENR, through the PAWD. The PAWD of each regional office is supervised by a regional technical director (RTD), and staffed by officers/clerks/ employees as proposed by the DENR Secretary. The funds for the staffing of PAWD shall be appropriated by Congress and duly approved by DBM.

The same provision assigns the following tasks to the DENR Secretary: (1) prescribes prohibited and permissible human activities in PAs, including construction of buildings and structures thereon and the materials to be used, and the control of the occupancy of certain suitable portions of the PAs; (2) implements land-use and zoning plans in the adjoining areas of PAs to protect the latter from harmful effects of activities in adjoining areas; (3) mandates the

⁵⁰Section 79, RA 8550

⁵¹Sections 109-113, RA 8550

preparation and review of all management plans of PAs; (4) deputizes field officers and delegate his power for the implementation of the NIPAS Act; (5) prescribes and collect fees from any person or entity, including government agency for any benefit derived from the use of PAs; (6) imposes fees and fines for violations of rules and regulations for the protection of PAs; (7) enters into contracts or agreements in relation to the enforcement of NIPAS Act; (8) accepts gifts or bequests of money for NIPAS funds; (9) calls on support from government agencies, educational institutions, NGOs, and private sectors in the implementation of NIPAS Act; (10) reports to the President and to Congress the status of PAs.

The IRR of the NIPAS Act sets the Protected Areas and Wildlife Bureau (PAWB) as the lead bureau of DENR for the system-wide management of NIPAS as well as for the preparation of the General Management Plan.

To micro-manage a particular protected area, Section 11 of RA 7586 provides for the creation of a PAMB for each protected area. The members of the Board are appointed by the Secretary of the DENR for a term of five (5) years without compensation, except for actual and necessary traveling and subsistence expenses incurred in the performance of their duties. The IRR of the NIPAS Act also mandates the PAMB to exercise management authority over the buffer zones on behalf of the DENR and to be responsible for site specific management of the PA.

However, the NIPAS Act, while clearly listing the responsible agencies and groups, is unclear on the operational distinctions between “national PA policy-making”, “site management policy-making”, and “site operational management”. The DENR handles both policy-making and

operational management; the PAMBs likewise possess a wide latitude of discretion that confuses both policy-making and operational management.

The governing law provides adaptability mechanisms

Change is constant, and PA management is no exception. For effective PA management, the governing law must have “adaptability mechanisms” which gives those who are tasked to manage the PA some flexibility and adaptability in times of change, whether said change is gradual or sudden. Changes not only include bio-physical changes in the PA itself but also changes in leadership, policy and stakeholders.

The NIPAS law contains several adaptability mechanisms. Section 6 of the law allows additional areas to be integrated into the System aside from the initial components. This provision gives the DENR Secretary the discretion to propose the inclusion in the System of additional areas with outstanding physical features, anthropological significance and biological diversity. When new areas are discovered or uncovered containing unique physical features, anthropological significance and biological diversity during the effectivity of the Act, the DENR Secretary is given much flexibility to include these new areas within the System.

On the other hand, in the event of large-scale changes in the already established PAs, which include ecological, physical and socio-economic changes, Section 7 of the law sets a procedure for the disestablishment of a PA or modification of its boundaries when in the opinion of the DENR a certain PA

should be withdrawn from the system or disestablished. This allows flexibility in case certain areas are no longer suitable as a PA and thus, can be put to some other use. The disestablishment or modification of boundaries can only be done by Congress, upon the recommendation of the DENR Secretary, and as sanctioned by majority of the members of the PAMB. The land disestablished as a PA shall revert to the public forest category, unless Congress classifies it otherwise. Section 7 of the law also gives the DENR Secretary the power to recommend the transfer of jurisdiction over the disestablished PA to other government agencies to serve other priority programs of national interest. These mechanisms allow the PA System to be adaptable to changes in the macro-management level or the national level.

The NIPAS law also has mechanisms for adaptability in the micro-management level or local level. Section 9 of the NIPAS Act mandates the formulation of a general management planning strategy, as guide in formulating management plans for individual PAs, in promoting the adoption and implementation of innovative management techniques, and in providing guidelines for the protection of ICCs, tenured migrant communities, other government and private sectors. The preparation of a general management plan for all PAs and the corresponding site-specific management plan for a particular PA are adaptability mechanisms which gives the managers some leeway in handling challenges within the PA. It should be noted that different PAs have different ecological, biodiversity, physical and socio-

economic properties. A planning strategy for a mangrove PA will not be effective in a marine area or forest reserve. Hence, the law mandates that each PA should have its own management plan.

The adaptability mechanisms in the NIPAS law can still be improved. For instance, specific guidelines and conditions for the disestablishment or modification of PAs can be placed in the law to regulate the DENR Secretary's discretion. An unregulated exercise of discretion can be a boon or bane to effective protection -- boon if used to consolidate wide views on the matter; bane if used to promote one use over another (such as mining over protection).

Another improvement may be the fixing of a definite timeframe for the formulation of individual management plans for each PA. Since there is no definite timeframe, there are a number of protected areas in the Philippines that do not have their own "individualized" management plans. This negates the adaptability mechanism in the law which seeks to localize management plans because these protected areas continue to use a generic management plan which may not be suitable to the PA.

There is a local body managing the site

The highly bureaucratic set-up of governments makes on-site management of numerous protected areas daunting if not, impossible. Thus, there is a need to have a local body to protect and manage the

site, composed of individuals who are not only familiar with the protected area, but are also stakeholders who have interest in the protection and preservation of the resources within the protected area. In this regard, the innovative feature of the NIPAS law is that it mandates the creation of a PAMB for each established protected area.

The PAMB feature of the NIPAS law can be better. One area of concern is the diversity of the composition of the PAMB. This diversity of stakeholders involved in on-site policy formulation gives rise to a wide range of interest and perspectives which make consensus-building a difficult task. The number of members of the PAMB may vary from ten individuals to more than one hundred. This is primarily due to the variability of the size of a protected area. One can just imagine the wide range of interests among the different stakeholders of a PA straddling three provinces.

Another concern is that the PAMB is composed mostly of appointees of elected local officials. These elected officials have a term of only three years. This means that whatever the board has agreed upon in terms of policy, management, and enforcement may change when the officials also change after the elections. Thus, long term plans and strategies are difficult to establish. PAMBs are intended to be inclusive; but this is presently being done by way of being enumerative (whoever matters get them into the PAMBs). There is a need to rethink the composition of the PAMBs and the powers and accountability of its membership. Are PAMBs to be the “entire stockholders’ assembly”, or a “Board of Directors”?

Furthermore, the PAMB has no definite rule-

making authority. The NIPAS law is vague as to the duties, responsibilities, and powers of the PAMB. In fact, the law only enumerates the duties and responsibilities of the PAMB in general terms. Without rule-making power, the PAMB cannot issue regulations in order to strictly enforce its management strategy within its jurisdiction.

The managing local body is highly representative and independent

As mentioned above, the PAMB is the local body tasked to micro-manage a particular PA. Ideally, each PA should have its own managing board. Having a highly representative managing board is critical because a managing board composed of individuals that are not representative of the various sectors of society would have difficulty getting the support of the stakeholders, and would most likely experience resistance from local communities. Stakeholders’ support is essential not only in terms of physical protection of the PA, but also in terms of funding and law implementation.

Likewise, an independent managing board is important in PA management because a managing body that is subservient to a particular interest would not have the support of the stakeholders since their interests would not be represented.

To be representative of the sectors comprising the PA does not mean to be unwieldy in number. While a highly representative PAMB ensures wide representation of locals, giving them a sense of “ownership” over the PA, this does not mean that the PAMB needs to be managed by a large group. Mechanisms for regular membership meetings and consultations

can be devised to support a leaner, more efficient management team. Is the current PAMB truly representative of the area to be protected? A closer look at the PAMB composition shows that there is no requirement that in a marine or coastal area, the fisherfolks should be represented in the PAMB. In a terrestrial area, there is likewise no provision for the representation of forest occupants.

As to the independence of the PAMB as a managing entity, Section 11 of the NIPAS Act empowers the Board to decide, by majority vote, the allocations for budget, approve proposals for funding, and decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy.

It is important to note that the PAMB is headed by the DENR-RED, not by a local representative. Thus, in this sense, the PA is not actually being managed by a local body. In many cases, meetings are not being held and urgent matters not being promptly attended to because of the unavailability of the DENR-RED to call for or attend meetings.

The members of the PAMB are adept

For site management of the PA to be effective, members of the local body formed to direct management of the site should be proficient and skillful. Thus, Section 11 of the law provides for the selection and appointment of board members who possess the technical know-how, knowledge

of law, understanding of local cultures pertinent and relevant to managing PA, interest, integrity, and commitment to the conservation of natural resources.

It would be advisable for the IRR to set guidelines for the selection process to ensure that those recommended and selected to the board possess these minimum requirements. In addition, the NIPAS law or its IRR should provide for a mechanism for regular workshop for PAMB members.

The PAMB is active

The local body should be active in managing its PA. The NIPAS Act does not specify when or how often the PAMB should meet. The NIPAS IRR (DAO-2008-26) mandates the PAMB *en banc* to meet at least twice a year. The IRR also gives the PAMB authority to promulgate rules on calling special meetings.

It would be good to include in the law or the IRR the schedule for regular board meetings.

The PA Office has sufficient staff and personnel

The appropriate number of and selection process for PA Office personnel is necessary for successful PA management. The NIPAS law provides certain personnel for the law's implementation, such as regional offices of the PAWD (Section 10), field officers who are authorized to investigate and search premises and buildings and make arrests

in accordance with law (Section 18), special prosecutors designated by the Department of Justice to prosecute violations of PA laws, rules, and regulations (Section 19), and the PASu, who serves as the primary officer responsible for on-site law enforcement, and serves as Head Secretariat to the PAMB and its Executive Committee.

Placing the NIPAS within the national framework presents difficult challenges. Bureaucratic delays encountered in the release of operational funds from the IPAF hamper staffing opportunities and efficient management of the PA. Due to the limited and delayed funds from the IPAF, not all staff positions are filled. Oftentimes, the ratio of staff to the area covered by the PA is not enough for its effective management. There are also instances where PA staff members are actually full-time employees of other bureaus or agencies and working for the PA is just a secondary designation. In fact, almost all of the current PA personnel are DENR field officers under other bureaus within the department and merely designated as PA staff, including the PASu.

The PA Office staff and personnel are properly tenured and sufficiently paid

There is no provision in the NIPAS Act concerning the salaries and benefits of the staff and personnel of the PA Office.

Section 11 provides that the members of the Board shall serve for five years. There is no provision that deals with cases where a board member resigns, dies or is removed for cause.

For the field officers, the law does not mention

about their security of tenure. It would be advisable for the law or the IRR to provide for security of tenure and for the professionalism of PA personnel and staff.

The LGUs' support for PA management is regular and institutional

Under the NIPAS law, on-site management of established PAs is localized. This ensures participation of local stakeholders. In order for a co-management approach to be effective, the support of LGUs is highly critical. The NIPAS law tries to satisfy this critical factor by appointing local representatives to the PAMB. Furthermore, Section 5 of the Act provides that the LGUs and other stakeholders may submit their views on a proposed action in the System.

Rule 2.1.3 of the IRR provides that “the management plan of protected areas shall be integrated with the comprehensive land use plan of the local government units.” Even so, there is no clear provision in the NIPAS Act indicating the specific and extent of support the LGUs should provide for PA management. Absent any legal provision which clearly delineates the role of the LGUs in PA management, some LGUs think that PA management is the job of the DENR, and they need not directly support PA management. So far, the only support given by the LGUs is in recommending membership to the PAMB. This matter should be addressed in the law or the IRR. The role of the LGUs in PA management, including the form and extent of their support, should be clearly defined.



Recommendations to the NIPAS Act

Below are proposed amendments to the NIPAS Act. These encompass existing provisions that are likely to strengthen the Act (as basis for effective management of PAs) if aptly amended. These proposed amendments assume that pertinent regulatory measures shall be accordingly strengthened as well. These proposed amendments were identified from an assessment of the Act from three (3) angles:

1. "Law-to-law", or how the stipulations of the NIPAS Act relating to the 10 critical factors of management effectiveness were found to be consistent with, weakened, or boosted by other pertinent and related laws;
2. "Law-to-science", or how the language and legal constructions of the NIPAS Act relating to the 10 critical factors of effectiveness, were found to be consistent with the empirical findings of field studies of PA management effectiveness, in the 6 PAs earlier assessed by the Silliman Team and German students as well as findings from elsewhere in the Philippines;
3. "Law-to-policy", or to how the language and spirit of the NIPAS Act as a whole, and of its provisions pertinent to the 10 critical factors of effectiveness, can be properly and sufficiently executed through executive and administrative orders, regulations and issuances, given existing constitutional prescriptions and jurisprudence on the functions and powers of the Executive Branch and of its agencies.

The following amendments and revisions to the NIPAS Act of 1992 in red might be proposed:

Provide a clear criteria of what characteristics areas should have to be included within the NIPAS

The NIPAS Act does not clearly set the criteria as to what characteristics areas should have to be included within the system. By providing a minimum set of criteria in order for the policy makers to determine which areas should be included within the System, any vagueness in the law on the extent and coverage of the System will be averted and eliminated. This will further strengthen the enforcement of the law. Hence, it is recommended that Section 5 of NIPAS Act be amended as follows.

Section 5 Establishment and Extent of the System -- The unique biodiversity and human-biodiversity interactions in an area shall be the main consideration in the determination of areas for inclusion in the NIPAS. These areas must be

representatives of a particular bio-geographic zone and/or have one or more of the following characteristics: (1) naturalness of the area to sustain ecological processes and functions and to help in climate change adaptation and mitigation such as flood minimization, among others; (2) abundance and diversity of species of flora and fauna; (3) presence of threatened and/or endemic species; (4) extent and intensity of pressures and threats to wildlife and ecosystems; and/or (5) presence of unique or outstanding geological features that support biodiversity.

The establishment and operationalization of the System shall involve the following:

- a. All areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as identified virgin forests before the effectivity of this Act are hereby designated as initial components of the System. Likewise, all areas of land or waters that have been determined by the PAWB as needing urgent protection shall be deemed reserved for eventual declaration as a protected area, unless otherwise declared by law. All areas covered by this Act shall be governed by existing laws, rules and regulations, not inconsistent with this Act.

The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act;

- b. Within one (1) year from the effectivity of this Act, the DENR shall submit to the Senate and the House of Representatives a map and legal description or natural boundaries of each protected area initially comprising the System. Such maps and legal description shall, by virtue of this Act, constitute the official documentary representation of the entire System, subject to such changes as Congress deems necessary;
- c. All DENR records pertaining to said protected areas, including maps and legal descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public. These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) where NIPAS areas are located;

d. Within three (3) years from the effectivity of this Act, the DENR shall study and review each area tentatively composing the System as to its suitability or nonsuitability for preservation as protected area and inclusion in the System according to the categories established in Section 3 hereof and report its finding to the President as soon as each study is completed. The study must include in each area:

1. A forest occupants survey;
2. An ethnographic study;
3. A protected area resource profile;
4. Land use plans done in coordination with the respective Regional Development Councils; and
5. Such other background studies as will be sufficient bases for selection.

The DENR shall:

- i. Notify the public of the proposed action through publication in a newspaper of general circulation, and such other means as the System deems necessary in the area or areas in the vicinity of the affected land thirty (30) days prior to the public hearing;
 - ii. Conduct public hearings at the locations nearest to the area affected;
 - iii. At least thirty (30) days prior to the date of hearing advise all local government units (LGUs) in the affected areas, national agencies concerned, people's organizations and non-government organizations and invite such officials to submit their views on the proposed action at the hearing not later than thirty (30) days following the date of the hearing; and
 - iv. Give due consideration to the recommendations at the public hearing; and provide sufficient explanation for his recommendations contrary to the general sentiments expressed in the public hearing;
- e. Upon receipt of the recommendation of the DENR, the President shall issue a presidential proclamation designating the recommended areas as protected areas and providing for measures for their protection until such time when Congress shall have enacted a law finally declaring such recommended areas as part of the integrated protected area systems; and
- f. Thereafter, the President shall send to the Senate and the House of Representatives his recommendations with respect to the designations as protected areas or reclassification of each area on which review has been completed, together with maps and legal description of boundaries. The President, in his recommendation, may propose the alteration of existing boundaries of any or all proclaimed

protected areas, addition of any contiguous area of public land of predominant physical and biological value. Nothing contained herein shall limit the President to propose, as part of his recommendation to Congress, additional areas which have not been designated proclaimed or set aside by law, presidential decree, proclamation or executive order as protected area/s.

Streamline the administrative steps in establishing a PA

The current administrative procedure in establishing a PA under Rule 6.6 of DAO 2008-26 is tedious and bureaucratic. It is recommended that said Rule be streamlined by eliminating repetitive procedures and giving PAWB more authority in the review process.

6.6 The following activities shall be undertaken in the establishment of protected areas under the NIPAS (Annex B):

x x x

6.6.7 Regional Review and Recommendation – The Secretary shall create NIPAS Review Committees both at the National and Regional Offices to lead the review of proposed protected areas. The Regional NIPAS Review Committee (NRRC) shall be composed of the Regional Executive Director (RED) as Chairperson with the Regional Technical Directors of the Protected Areas, Wildlife and Coastal Zone Management Service (PAWCZMS), Forest Management Service (FMS) and Land Management Service (LMS), Regional Directors of Environmental Management Service and Mines and Geo-Sciences Service as members. The NRRC in consultation with other concerned government agencies and RDC shall review all documents pertaining to the proposed protected area. All documents/ recommendations shall be endorsed by the RED to the Office of the Secretary, **through the PAWB**. The endorsement shall include: i) draft Presidential Proclamation designating the area as protected area; ii) statement summarizing the rationale for its establishment; iii) the basic management approach; iv) map with technical description of the proposed protected area and buffer zone including photographs or videos of the area; v) record of public hearings; vi) certificate of concurrence of other government agencies, and vii) other documents as may be required later during the national review.

6.6.8 National Review and Recommendation – The National NIPAS Review Committee (NNRC) shall be composed of **the Director of the Protected Areas**

and Wildlife Bureau (PAWB), as chairperson, the Administrator of National Mapping and Resource Information Authority (NAMRIA), Director of Policy and Planning Studies Office (PPSO), and the Assistant Secretary for Legal Service. The NNRC shall review the recommendations of the Regional NIPAS Review Committee and may request for the comments and recommendations of other concerned national agencies and institutions on the proposed protected area, if so warranted. The NNRC shall make a final review of all the documents pertaining to the proposed protected area and shall submit its recommendation to the Office of the Secretary. Thereafter, the DENR shall recommend to the Office of the President the approval of the establishment of the protected area under the System. x x x

Improve the NIPAS fencing mechanism

The current NIPAS fencing mechanism includes Section 3 on the categories of PAs, Section 5 [a] and [b] regarding the extent of the System and Section 8 on buffer zones. Although the NIPAS Act enumerates the different categories of PAs within the System, the law does not set the minimum criteria to serve as bases on how different PAs should be categorized. To prevent vagueness and avoid abuse of administrative discretion, it is recommended that Rule 4 of DAO 2008-26, with slight modification, be incorporated in Section 3 of the law to read as follows.

SECTION 3. Categories. — The following categories of protected areas are hereby established:

- (a) Strict nature reserve;
- (b) Natural park;
- (c) Natural monument;
- (d) Wildlife sanctuary;
- (e) Protected landscape and seascapes;
- (f) Resource reserve;
- (g) Natural biotic areas; and
- (h) Other categories established by law, conventions or international agreements which the Philippine Government is a signatory.

The following shall be the minimum criteria in determining the appropriate category of a proposed protected area, subject to additional criteria as may be deemed necessary by the Secretary:

Natural Features -- pertain to the representativeness of the various ecosystems, the diversity of biota and habitats and the ecological processes in the proposed protected area;

Management Objectives -- pertain to the range of possible objectives for managing a proposed protected area that are attuned to the natural features and/or prevailing socio-economic conditions of the area; and

Allowable Human Activities -- pertain to the degree of possible allowable uses of the various natural resources based on the over-all assessment of the proposed protected area.

Moreover, it is recommended that another set of minimum criteria be inserted into the law regarding the identification and establishment of PA buffer zones. This is to preclude vagueness in the law and avoid abuse of administrative discretion. The criteria set in Rule 9 of DAO 2008-26 is sufficient as basis. Section 8 of the NIPAS law should read as follows.

Section 8 Buffer Zones -- For each protected area, there shall be established peripheral buffer zones when necessary, in the same manner as Congress establishes the protected area, to protect the same from activities that will directly and indirectly harm it. Such buffer zones shall be included in the individual protected area management plan that shall be prepared for each protected area. The DENR shall exercise its authority over protected areas as provided in this Act on such area designated as buffer zones.

Whenever and wherever a buffer zone is needed, any or a combination of the following criteria may be used in the identification and establishment of buffer zones:

Ecological Criteria - refer to the capability of the site to serve as an additional layer of protection by providing extension of habitats or corridors for wildlife and other ecological services.

Economic criteria - refer to the capacity of the site to provide gainful employment and sustainable alternative sources of livelihood for local communities, to deflect pressure away from the protected area.

Social criteria - refers to the capacity of the site to provide a social fence against the threat of encroachment by communities residing near or adjacent the protected area.

Site criteria – refers to the suitability of a buffer zone being located in a particular area within or in the periphery of a protected area.

The Secretary may set other or additional criteria in the identification and establishment of buffer zones.

Improve the NIPAS gating mechanism

The gating mechanism under the NIPAS Law largely depends on the management plans of declared PAs. However, the law is not clear as to the time-frame within which policy makers should formulate the individual management plan of a particular PA. It is therefore imperative that the law itself should provide this time-frame. Thus, it is recommended that Section 9 of the NIPAS Act on Management Plans be amended as follows.

Section 9 Management Plans -- There shall be a general management planning process to produce a management plan for each protected area. This shall be based on a management strategy as has been adopted by the PAWB. All land- and water-use plans in the area shall be consistent with the management plan. Each plan must be produced within a year after a presidential proclamation has been issued to establish the site as a protected area, and/or within a year after the PAMB has been organized. Appropriate public consultations shall be observed in the formulation of the management plans.

Moreover, issuance of EIAs for activities within the PA which are outside the PA management plan should not be allowed. The very purpose of having a management plan is to control activities in the protected area, therefore allowing activities outside of the management plan defeats the very purpose of having one. It is recommended that Section 12 of the NIPAS Law be revised in this wise.

Section 12 Environmental Impact Assessment -- Development activities inconsistent with the management plan shall not be allowed. Allowed activities shall require an EIA and a Free and Prior Informed Consent of the PAMB. Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environment Impact Assessment (EIA) system. In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as will minimize any adverse effects and take preventive

and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion.

Furthermore, a stricter policy on exploration, survey, development and utilization of energy resources found within protected areas should be found in the law itself. Currently, Rule 16 of DAO 2008-26 allows the development of facilities for exploitation and utilization of non-extractive renewable energy resources within protected areas even without an enacted law. This should not be allowed. The law does not distinguish between renewable and non-renewable resources in declaring that “Any exploitation and utilization of energy resources found within NIPAS areas shall be allowed only through a law passed by Congress”, hence the IRR should not make such distinctions. It is therefore recommended that Section 14 of NIPAS Act be amended to reflect this stricter policy.

Section 14 Survey of Energy Resources -- Consistent with the policies declared in Section 2 hereof, protected areas, except strict nature reserves and natural parks, may be subjected to exploration only for the purpose of gathering information on energy resources and only if such activity is carried out with the least damage to surrounding areas. Surveys shall be conducted only in accordance with a program approved by the DENR, and the result of such surveys shall be made available to the public and submitted to the President for recommendation to Congress. *Development activities that are of urgent national interests may be allowed but only upon a law enacted by Congress. Provided, that these activities pose minimum permanent damage to the quality and value of the protected area.*

Finally, penalties for violations of the NIPAS Law should be increased. Considering the significant negative impact of the penalized illegal activities to Philippine natural resources and the ecological balance, it is imperative that the penalties be increased to serve as a deterrent to would-be violators. Hence, the penal provisions of the law should be amended as follows.

Section 21 Penalties -- Whoever violates this Act or any rules and regulations issued by the Department pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the preceding section shall be fined in the amount of not less than *Ten Thousand Pesos (P10,000.00) nor more than One Million pesos (P1,000,000.00)* or from 1% to 5% of the total value of the damage to the ecosystem, whichever is higher or determinable, exclusive of the value of the thing damaged, or imprisonment for not less than one (1) year but not more than twelve (12) years, or both, depending on the gravity of the offense, *at the discretion of the court.* Provided, that, if the area requires rehabilitation

or restoration as determined by the court, the offender shall also be required to restore or compensate for the restoration to the damage. **Provided, further, that the penalties herein shall be in addition to whatever penalties may be imposed on the offender for violating the laws protecting fisheries, wildlife, or any particular species of flora or fauna.** Provided, further, that the court shall order the eviction of the offender from the land and the forfeiture in favor of the Government of all minerals, **corals**, timber or any species **and materials** collected or removed including all equipment, devices and firearms used in connection therewith, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly, **personally, and legally accountable** for the act of his employees and laborers: Provided, finally, that the DENR may impose administrative fines and penalties consistent with this Act.

Improve the sourcing mechanism

The current IPAF is insufficient in supporting the implementation of the NIPAS Act. It is recommended that the IPAF be restructured. IPAF should come from the annual budget through an automatic appropriation from the GAA. The existing sources of revenue for the IPAF should only be supplemental. Section 16 should be amended, and a new provision, Section 17 should be inserted.

Section 16 Integrated Protected Areas Fund -- There is hereby established a trust fund to be known as Integrated Protected Areas (IPAS) Fund for purposes of financing projects of the System. **The total amount of revenues from protected areas deposited to the national government shall be the same amount allocated automatically in the GAA for site-specific PA management. Seventy-five percent (75%) of such allocation shall be disbursed by PAWB to the specific protected areas that contributed to the Fund.**

The IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government or any political subdivision or instrumentality thereof.

The incomes generated from the operation of the System or management of wild flora and fauna shall accrue to the Fund and may be utilized directly by the DENR for the above purpose, **subject to existing laws, rules and regulations.** These incomes shall be derived from:

- a. **Fees and incomes** from the permitted sale and export of flora and fauna and

- other resources from protected areas, **such as water and ecosystem services**;
- b. Proceeds from lease of multiple-use areas;
- c. Contributions from industries and facilities directly benefiting from the protected areas; and
- d. Such other fees and incomes derived from the operation of the protected area.

Disbursements from the Fund shall be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

This Section shall be without prejudice to the application of Sections 291 and 293 of the Local Government Code.

Section 17. Other Sources – The PAMBs may create private foundations that shall have the sole purpose of generating public and private support for the protected area; provided, the foundation observes guidelines to be set up by the PAWB upon consultations with the DBM and the COA. In addition, together with pertinent government agencies and units, the PAMBs may take measures to acquire funds as are allowed by law; provided, that such funds shall be exclusively used to sustain the management of the protected area. The PAMB may also solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government for any political subdivision or instrumentality thereof.

Strengthen the existing adaptability mechanisms of the law

Sections 6 and 7 provide the adaptability mechanisms of the NIPAS law, though these mechanisms are inadequate. The law is weak regarding the protection of areas that are proposed to be included within the system. It is recommended that Section 6 of the NIPAS Act be strengthened by protecting proposed areas for inclusion or expansion in this manner.

Section 6 Additional Areas to be Integrated to the System -- **Upon the recommendations of the PAWB Director, the Secretary shall propose the inclusion into the System** of additional areas with outstanding physical features, anthropological significance and biological diversity in accordance **with pertinent**

provisions of this Act. When additional areas for inclusion or areas for expansion of existing protected areas have been identified by the DENR and indorsed to the President, the processing of applications for lease/license/permit of any project/activity therein shall be held in abeyance, except for projects that are compatible with the objectives of the NIPAS. Existing lease/license/permit granted by the DENR of any project/activity inside the identified area shall be automatically suspended, unless the Secretary deems otherwise.

In the same vein, the disestablishment of an already proclaimed PA should be made more stringent in order to uphold the policy of the law of preserving areas of rich biodiversity in perpetuity. Hence the following amendment to Section 7 of the law is recommended.

Section 7 Disestablishment as Protected Area -- When in the opinion of the DENR a certain protected area should be withdrawn or disestablished, or its boundaries modified as warranted by a study and sanctioned by the majority of the members of the PAMB of a site herein established in Section 11, and/or after consultation with the stakeholders, if a management board has not been organized, it shall, in turn, advise Congress. Disestablishment of a protected area under the System or modification of its boundary shall take effect pursuant **only** to an act of Congress. Thereafter, said area shall revert to the category of public forest unless otherwise classified by Congress: Provided, however, **that the DENR shall not propose the withdrawal or disestablishment of a protected area established and declared as such by law, within ten (10) years from its establishment or declaration; Provided, further,** that after disestablishment by Congress, the Secretary may recommend the transfer of such disestablished area to other government agencies to serve other priority programs of national interest.

Section 15 needs to be amended to clarify jurisdictional issues and to strengthen the NIPAS law vis-à-vis the Indigenous Peoples' Rights Act or Republic Act No. 8371.

Section 15 Areas Under the Management of Other Departments and Government Instrumentalities -- Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR, such jurisdiction shall **remain with the said department or government instrumentality, as in the case of marine protected areas (MPAs) created by local government units pursuant to the Fisheries Code of 1998 in which case, jurisdiction over these areas shall remain with the concerned local government units. However, the DENR, DA-BFAR, and/or other concerned government agencies shall undertake a process of effective consultation and, if necessary, take**

joint management action, in order to coordinate their respective management plans. Said government agencies should create common procedures, standards and criteria in the establishment, classification, management of protected areas taking into account the declared State policy of securing for the Filipino people of present and future generations the perpetual existence of all native plants and animals.

Where the protected area is part of an ancestral land or ancestral domain as defined under Republic Act No. 8371, jurisdiction shall remain with the DENR, through the PAMB. In the management of such protected area, there should be regular consultations with the indigenous cultural communities or indigenous peoples in accordance with its customary laws without prejudice to the basic requirement of the existing laws on free and prior informed consent: Provided, further, that no indigenous cultural communities or indigenous peoples shall be displaced or relocated without their written prior informed consent.

Restructure the management board

The PAMB's roles and responsibilities in the management of PAs are not well defined under the law. Likewise, the qualifications, selection, appointment, term of office and removal of PAMB members are not clearly provided in the NIPAS Act. In order to strengthen the law, these factors should be included in the law itself and should not be made dependent on administrative issuances.

The composition of the PAMB should also be restructured. The current set-up of PAMB membership is inefficient. It is recommended that the composition of the PAMB be streamlined so that it will be more of a management board as it should be, rather than an assembly of stakeholders as it now operates. Hence it is recommended that Section 11 of the law be completely revised in the following manner.

Section 11 Protected Area Management Board -- A Protected Area Management Board for each of the established protected area shall be created and shall be composed of the following: the Regional Executive Director under whose jurisdiction the protected area is located; one (1) representative from the autonomous regional government, if applicable; **the Provincial Governor and/or either the Provincial Planning and Development Officer or the PG-ENRO; the Mayor of each municipality or city that is within the protected area; the Punong Barangay of each barangay that is within the protected area; one (1) representative from each NCIP-registered indigenous community in the site, if applicable; at least three (3) representatives from academic institutions, non-government organizations and community organizations, including people's organizations, church or civic**

organizations duly-accredited by any competent government entity, provided that at least one (1) of these three (3) representatives belong to the fisheries sector in protected areas covering fishing communities, or forest occupants in terrestrial protected areas; provided further that at least one (1) of these representatives belong to an academic institution. These representatives shall be based in or near the protected area; one representative, if necessary, from other departments or national government agencies involved in protected area management. In situations where two or more such departments or agencies are involved, their representative shall be chosen by and among themselves. In any case, at least 60% of the composition of the PAMB should be from the local stakeholders.

In the event the Municipal Mayor or the Punong Barangay decline, or is unavailable for any reason, the Municipal Mayor and the Punong Barangay shall designate their respective representatives. For purposes of Sections 26 and 27 of the Local Government Code, consultations with the Municipal Mayor, the Punong Barangay, or their representatives in the Board shall be regarded as full compliance of the consultation requirements.

The Board shall, by a majority vote, decide the allocations for budget, approve proposals for funding, decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy. The members of the Board shall serve for a term of five (5) years without compensation, except for actual and necessary traveling and subsistence expenses incurred in the performance of their duties. They shall be appointed by the Secretary of the DENR as follows:

A member who shall be appointed to represent each local government down to barangay level whose territory or portion is included in the protected area. Each appointee shall **either be the head of such LGU or the person he designates**, except for the Provincial Development Officer who shall serve ex officio;

A member from non-government organizations who shall be endorsed by heads of organizations which are preferably based in the area or which have established and recognized interest in protected areas;

The RED/s in the region/s where such protected area lies shall sit as ex officio member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area;

The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the secretary shall designate one (1) of them to be the Chairman.

Vacancies shall be filled in the same manner as the original appointment.

The Protected Area Management Board (PAMB) shall use a consensus or majority vote, to approve or take necessary actions such as, but not limited to the following:

- a. Decide matters relating to planning, resource protection and general administration of the area.
- b. Approve proposals, work plans, action plans and guidelines for the management of the protected area in accordance with the approved Management Plan.
- c. Manage the delineated and demarcated protected area boundaries, buffer zones and ancestral domains within a protected area as well as recognize the rights and privileges of indigenous communities under the provisions of this Act.
- d. Promulgate rules and regulations to promote development programs and projects on biodiversity conservation and sustainable development consistent with the Management Plan of the protected area.
- e. Ensure the implementation of programs as prescribed in the Management Plan in order to provide employment to the people dwelling in and around the protected area.
- f. Control and regulate the construction, operation and maintenance of roads, trails, water works, sewerage, fire protection and sanitation systems and other utilities within the protected area.
- g. Monitor and evaluate the performance of protected area personnel, NGOs and the communities in providing for biodiversity conservation and socio-cultural and economic development and report their assessments to the DENR.

Selection and Appointment of Board Members -- The DENR Secretary shall formally appoint the PAMB members. The RED/s in the region/s where such protected area lies shall sit as ex officio member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area; The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the secretary shall designate one (1) of them to be the Chairman. The Provincial Development Officer(s) shall serve in an ex-officio capacity. Representatives of municipalities or cities shall be the Mayor or should he decline, a resident of the municipality or city recommended by the Mayor. Concerned NGO/ local community organizations based in the area or with recognized interests in protected areas shall choose their representatives by and among themselves.

All members of the board shall be natural-born citizens of the Philippines, at least twenty-five years of age at the date of appointment, and able to read and write.

Term of Office and Compensation -- Board members shall serve for a term of three years without compensation, except for actual and necessary travelling and subsistence expenses incurred in the performance of their duties. Provided, that whenever a vacancy occurs during the term of a member, a new member shall be appointed in the same manner as the original appointment in order to complete the unfinished term of the said vacancy.

Executive Committee -- In view of the large size of the Management Board expected in some NIPAS sites, the PAMB may create an Executive Committee. The Board en banc shall determine the authorities to be delegated to the Executive Committee. Provided that, the Executive Committee Chair shall be co-chaired by the DENR RED as chair of the PAMB and by the highest elected Public Official who is a member of the PAMB.

Removal -- A member of the PAMB may be removed for cause including, but not limited to, the following:

- a. More than three (3) successive unexcused absences during regularly scheduled Board meetings;
- b. Commission of acts prejudicial to protected area management as embodied in R.A. 7586, or other existing rules and regulations governing protected areas;
- c. Graft and corruption; and
- d. Conviction on criminal acts.

Source of Seed Fund -- DENR shall provide a seed fund for the operation of the PAMBs with counterparts from LGUs representing the PAMB.

It is also recommended that the general membership of PAMB meet regularly, perhaps twice or thrice a year and its Executive Committee meet every month or every two (2) months. It is also proposed that the current set-up of designating the DENR RED and the city/municipal mayor as co-chairpersons be institutionalized as this commendable arrangement addresses the problem of cancelled meetings due to the unavailability of the RED to call or convene the meetings. This set-up also makes the PAMB a truly local body with national members, instead of a national entity with local representatives. The NIPAS

IRR may provide guidelines for meetings, quorum, voting, attendance, and other details.

Improve the staffing and personnel opportunities in the PA

Of all the aspects of PA management, staffing and personnel opportunities is the most overlooked aspect by the NIPAS. The NIPAS Law miserably fails to provide anything concrete on staffing and personnel opportunities, salaries and benefits, and security of tenure of the staff and personnel. To address this, it is recommended that a new provision be inserted between Section 11 and Section 12 of the NIPAS Act.

Section 12 The Protected Area Superintendent (PASu) -- There shall be created a Protected Area Superintendent for each protected area. The PASu shall have the qualifications, salary and benefits corresponding to the size and complexity of the protected area.

The functions, responsibilities, powers, accountabilities, facilities, and personnel of PASus shall be specified by the DENR Secretary upon recommendations of the PAWB.

Appointments of PASus to any particular site shall require the recommendation of the PAWB Director, the RED and concurrence of the PAMB.

The DENR Secretary shall issue the pertinent rules, regulations and orders as would be necessary to properly implement the intentions and provisions of this Act. Provided, such rules, regulations and orders are consistent with existing laws, regulations on budget, finance and civil service regulations.

The PAWB shall regularly evaluate all PAMBs for their effectiveness in managing a protected area, based on their management plans.

Provide for and promote mechanisms for alternative dispute resolution

The NIPAS Act needs to provide for alternative dispute resolution (ADR) or conflict management mechanisms for appropriate cases, such as arbitration, mediation, and conciliation with the objective of achieving speedy and impartial justice and actively promoting party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangements to resolve their disputes. Such mechanisms may disallow parties to invoke the jurisdiction of courts without prior recourse to the ADR processes.

Thus, a new provision should be inserted between Section 23 and Section 24, to wit:

Section 24 Alternative Dispute Resolution

The DENR Secretary shall issue the pertinent rules, regulations and orders as would be necessary to implement an effective alternative dispute resolution (ADR) or conflict management mechanism for appropriate cases with the objective of achieving speedy and impartial justice and actively promoting party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangements to resolve their disputes. Parties to a dispute shall not be allowed to invoke the jurisdiction of courts without prior recourse to the ADR process.

Eliminate vagueness in the law

Section 20 of the NIPAS Act needs to be amended to eliminate ambiguity and constitutional challenge.

Section 20 Prohibited Acts -- Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- a. Hunting, ~~fishing, gathering, collecting~~, destroying, disturbing, or ~~possession~~ of any plants or animals or products derived therefrom without a permit from the DENR Secretary after clearance to be obtained from the PAMB; ~~Provided, that the DENR Secretary exercises these powers upon advice of pertinent government agencies;~~
- b. Dumping of any ~~hazardous and toxic products and other pollutants in the protected area;~~
- c. Use of any motorized equipment without a permit from the Management Board;
- d. ~~Gathering, collecting~~, mutilating, defacing or destroying ~~any objects of special or cultural value within the protective area, as may be defined in the Implementing Rules and Regulations;~~
- e. Damaging and leaving roads and trails in a damaged condition;
- f. Squatting, mineral locating, or otherwise occupying any land;

- g. Constructing or maintaining any kind of structure, fence or enclosures, conducting any business enterprise without a permit;
- h. Leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water; and
- i. Altering, removing destroying or defacing boundary marks or signs.
- j. introduction of alien or exotic species or genetically modified organisms;
- k. possessing, selling or exporting ordinary precious and semi-precious corals, whether raw or in processed form;
- l. fishing or taking of rare, threatened, or endangered marine species as listed in CITES and as determined by the DA-BFAR;
- m. fishing or operating any fishing vessel within Philippine waters if made by any foreign person, corporation, or entity;
- n. Other punishable offenses under Sections 90, 93, and 96 of Republic Act No. 8558 committed within fishery reserves, refuge, sanctuaries, and marine protected areas established under said law or pursuant herein.
- o. Other acts inconsistent with the management plan and/or applicable laws such as the Fisheries Code, Wildlife Resources Conservation and Protection Act, and others.

The term “national park” needs to be defined not as a mere forest reservation, but as a constitutional category of public land. Section 4 (e) of the NIPAS Act should be amended to be consistent with the definition of “national park” found in Republic Act No. 9486, otherwise known as the Central Cebu Protected Landscape Act of 2007.

Section 4 x x x

- e. **National Park** refers to the land of the public domain classified as such in the 1987 Constitution which includes all areas under the NIPAS pursuant to Republic Act No. 7586 primarily designated for the conservation of native plants and animals, their associated habitats and cultural diversity.

Commercial production and harvesting of the resources found in PAs should not be allowed. This should be made clear in the definition of a protected

landscape/seascape in Section 4 (i) of the NIPAS Act.

Section 4 x x x

i. **Protected landscapes/seascapes** are 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; **Provided that for purposes of this Act, the phrase “normal lifestyle activity within these areas” does not include commercial production and harvesting of the resources found therein which will undermine the principles of biodiversity conservation.**

Furthermore, it should be clarified in the NIPAS law that an area within an ancestral domain declared as a PA should be managed by the DENR and not the ICCs/IPs. The NIPAS Act should govern, and not the IPRA.

Section 15 Areas Under the Management of Other Departments and Government Instrumentalities

x x x

Where the protected area is part of an ancestral land or ancestral domain as defined under Republic Act No. 8371, jurisdiction shall remain with the DENR, through the PAMB. In the management of such protected area, there should be regular consultations with the indigenous cultural communities or indigenous peoples in accordance with its customary laws without prejudice to the basic requirement of the existing laws on free and prior informed consent: Provided, further, that no indigenous cultural communities or indigenous peoples shall be displaced or relocated without their written prior informed consent.

Eliminate terrestrial bias in the law

Finally, amendments to the NIPAS law should be introduced to include marine ecosystems where the law mentions forest and terrestrial areas. Examples are Section 18 where the term “field officers” are made to refer to “all officials, technical personnel and forest guards”, and Section 20 where the NIPAS law punishes “hunting”, “destroying objects of scenic value”, “damaging roads and trails”, “squatting, mineral locating, or occupying any land”, “constructing or maintaining any kind of structure, fence or enclosures”, and “altering, removing destroying or defacing boundary marks”, which all appear to refer to terrestrial areas alone. Section 18 should read as follows.

Section 18 Field Officers -- All officials, technical personnel and forest guards employed in the integrated protected area service or all persons deputized by the DENR, upon recommendation of the Management Board shall be considered as field officers and shall have the authority to investigate and search premises and buildings and make arrests in accordance with the rules on criminal procedure for the violation of laws and regulations relating to protected areas. Persons arrested shall be brought to the nearest police precinct for investigation.

For purposes of this Act, the term “field officers” also applies to all officials, personnel, deputies, and persons duly authorized to enforce the Fisheries Code of 1998 and all other fishery laws, rules and regulations as defined under Section 124 of the Fisheries Code.

Nothing herein mentioned shall be construed as preventing regular enforcers and police officers from arresting any person in the act of violating said laws and regulations.



References

- Bernas, S.J. 2003 Ed, The 1987 Philippine Constitution, A Commentary.
- Carpenter, K. and V. Springer 2005, "The Center of the Center of Marine Shore Fish Biodiversity, Philippines. Environmental Biology of Fishes. 72:467:480.
- Raymundo, Laurie. (2004), Community-Based Coastal Resources Management of Apo Island, Negros Oriental, Philippines: History and Lessons Learned.
- Nolledo, Jose N. 2004 Ed, Local Government Code.
- Pimentel, Aquilino, Jr., The Local Government Code of 1991, The Key to National Development.
- Rufus Rodriguez, 5th Ed. The Local Government Code of 1991 Annotated.
- White, Salamanca, and Courtney (2002). Experience with Coastal and Marine Protected Area Management in the Philippines.
- White, Alan T. and R.O. De Leon, 1996. Mangrove Resource Decline in the Philippines: Government and Community Look for New Solutions. Tambuli, November 1996.
- DENR Administrative Order (DAO) No. 2004-32, Revised Guidelines on the Establishment and Management of Community-Based Program in Protected Areas, August 31, 2004.
- DENR Administrative Order (DAO) No. 2007-17, Rules and Regulations Governing Special Uses within Protected Areas, July 25, 2007.
- DENR Administrative Order (DAO) No. 2008-24, Guidelines for the Assessment and Delineation of Boundaries Between Forest Lands, National Parks, and Agricultural Lands, December 8, 2008.
- DENR Administrative Order (DAO) No. 2008-26, Revised Implementing Rules and Regulations of Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992, December 24, 2008.
- DENR Administrative Order (DAO) No. 2009-09, Standard Design and Specification of Signs, Buildings, Facilities and Other Infrastructure that may be Installed and/or Constructed within Protected Areas, August 20, 2009.
- DENR Administrative Order (DAO) No. 25, Series of 1992 Republic Act No. 7586
- Republic Act No. 8850
- Republic Act No. 8371
- Republic Act 8435
- Republic Act No. 7076
- Republic Act No. 9147
- The Philippine Mining Act of 1995
- IPAF Handbook Vol. 10 as found in http://www.lapad.org/publications/vol_10_ipaf%20handbook_1-57.pdf
- <http://www.fao.org/docrep/w8440elw844eo2.htm>, Rural Development through Entrepreneurship.
- DENR Administrative Order No. 2008-26, Revised Implementing Rules and Regulations of Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992. Retrieved March 15, 2011, From http://server2.denr.gov.ph/files/dao-2008-26_114.pdf.
- Text of the Convention on Biological Diversity. Retrieved March 15, 2011, From <http://www.cbd.int/convention/text/>.
- Global Environment Facility. (2009, September). Philippines-Terrestrial Protected Areas. Retrieved April 12, 2011, From <http://www.thegef.org/gef/sites/thegef.org/files/repository/philippines-terrestrial%20protected%20areas.Pdf>.
- Handbook for the Establishment and Management of Integrated Protected Area Sub-Funds, http://www.lapad.org/publications/vol_10_ipaf%20handbook_1-57.Pdf.
- Ipaf Handbook Vol. 10 as found in http://www.lapad.org/publications/vol_10_ipaf%20handbook_1-57.pdf
- La Vina, Antonio, Kho, James, and Caleda, Mary Jean (N.D.), Legal Framework for Protected Areas: Philippines. As found in <http://cmsdata.lucn.org/downloads/philippines.pdf>.
- http://oneocean.org/download/20020828/da-denr_policy_paper.pdf
- http://www.chm.Ph/index.php?Option=Com_Content&View=Article&Id=104%3anipas&Catid=40%3across-Cutting-Issues&Itemid=146



Annex 1

Proposed Ammendments to the NIPAS Law

ANNEX 1: PROPOSED AMENDMENTS TO THE NIPAS LAW

AN ACT PROVIDING FOR THE ESTABLISHMENT AND MANAGEMENT OF NATIONAL INTEGRATED PROTECTED AREAS SYSTEM, DEFINING ITS SCOPE AND COVERAGE, AND FOR OTHER PURPOSES

Republic Act No. 7586

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1 Title

This Act shall be known and referred to as the **National Integrated Protected Areas System Act of 1992**.

Section 2 Declaration of Policy

Cognizant of the profound impact of man's activities on all components of the natural environment particularly the effect of increasing population, resource exploitation and industrial advancement and recognizing the critical importance of protecting and maintaining the natural biological and physical diversities of the environment notably on areas with biologically unique features to sustain human life and development, as well as plant and animal life, it is hereby declared the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution.

It is hereby recognized that these areas, although distinct in features, possess common ecological values that may be incorporated into a holistic plan representative of our natural heritage; that effective administration of these areas is possible only through cooperation among national government, local government and concerned private organizations; that the use and enjoyment of these protected areas must be consistent with the principles of biological diversity and sustainable development.

To this end, there is hereby established a National Integrated Protected Areas System (NIPAS), which shall encompass outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as protected areas.

Section 3 Categories

The following categories of protected areas are hereby established:

- (a) Strict nature reserve;
- (b) Natural park;
- (c) Natural monument;
- (d) Wildlife sanctuary;
- (e) Protected landscape and seascapes;
- (f) Resource reserve;
- (g) Natural biotic areas; and
- (h) Other categories established by law, conventions or international agreements which the Philippine Government is a signatory.

The following shall be the minimum criteria in determining the appropriate category of a proposed protected area, subject to additional criteria as may be deemed necessary by the Secretary:

Natural Features -- pertain to the representativeness of the various ecosystems, the diversity of biota and habitats and the ecological processes in the proposed protected area;

Management Objectives -- pertain to the range of possible objectives for managing a proposed protected area that are attuned to the natural features and/or prevailing socio-economic conditions of the area; and

Allowable Human Activities -- pertain to the degree of possible allowable uses of the various natural resources based on the over-all assessment of the proposed protected area.

Section 4 Definition of Terms

For purposes of this Act, the following terms shall be defined as follows:

- a. **National Integrated Protected Areas Systems (NIPAS)** is 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;
- b. **Protected area** refers to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;
- c. **Buffer zones** are identified areas outside the boundaries of and immediately adjacent to designated protected areas pursuant to Section 8 that need special development control in order to avoid or minimize harm to the protected area;
- d. **Indigenous cultural community** refers to a group of people sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who have, since time immemorial, occupied, possessed and utilized a territory;
- e. **National Park** refers to the land of the public domain classified as such in the 1987 Constitution which includes all areas under the NIPAS pursuant to Republic Act No. 7586 primarily designated for the conservation of native plants and animals, their associated habitats and cultural diversity.

- f. **Natural monument** is a relatively small area focused on protection of small features to protect or preserve nationally significant natural features on account of their special interest or unique characteristics;
- g. **Natural biotic area** is an area set aside to allow the way of life of societies living in harmony with the environment to adapt to modern technology at their pace;
- h. **Natural park** is a relatively large area not materially altered by human activity where extractive resource uses are not allowed and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use;
- i. **Protected landscapes/seascapes** are 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; **Provided that for purposes of this Act, the phrase “normal lifestyle activity within these areas” does not include commercial production and harvesting of the resources found therein which will undermine the principles of biodiversity conservation.**
- j. **Resource reserve** is an extensive and relatively isolated and uninhabited area normally with difficult access designated as such to protect natural resources of the area for future use and prevent or contain development activities that could affect the resource pending the establishment of objectives which are based upon appropriate knowledge and planning;
- k. **Strict nature reserve** is an area possessing some outstanding ecosystem, features and/or species of flora and fauna of national scientific importance maintained to protect nature and maintain processes in an undisturbed state in order to have ecologically representative examples of the natural environment available for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state;
- l. **Tenured migrant communities** are communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas in accordance with this Act and are solely dependent therein for subsistence; and
- m. **Wildlife sanctuary** comprises an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment where these may require specific human manipulation for the perpetuation.

Section 5 Establishment and Extent of the System

The unique biodiversity and human-biodiversity interactions in an area shall be the main consideration in the determination of areas for inclusion in the NIPAS. These areas must be representatives of a particular bio-geographic zone and/or have one or more of the following characteristics: (1) naturalness of the area to sustain ecological processes and functions and to help in climate change adaptation and mitigation such as flood minimization, among others; (2) abundance and diversity of species of flora and fauna; (3) presence of threatened and/or endemic species; (4) extent and intensity of pressures and threats to wildlife and ecosystems; and/or (5) presence of unique or outstanding geological features that support biodiversity.

The establishment and operationalization of the System shall involve the following:

- a. All areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as

identified virgin forests before the effectivity of this Act are hereby designated as initial components of the System. Likewise, all areas of land or waters that have been determined by the PAWB as needing urgent protection shall be deemed reserved for eventual declaration as a protected area, unless otherwise declared by law. All areas covered by this Act shall be governed by existing laws, rules and regulations, not inconsistent with this Act;

The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act;

b. Within one (1) year from the effectivity of this Act, the DENR shall submit to the Senate and the House of Representatives a map and legal description or natural boundaries of each protected area initially comprising the System. Such maps and legal description shall, by virtue of this Act, constitute the official documentary representation of the entire System, subject to such changes as Congress deems necessary;

c. All DENR records pertaining to said protected areas, including maps and legal descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public. These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) where NIPAS areas are located;

d. Within three (3) years from the effectivity of this Act, the DENR shall study and review each area tentatively composing the System as to its suitability or unsuitability for preservation as protected area and inclusion in the System according to the categories established in Section 3 hereof and report its finding to the President as soon as each study is completed. The study must include in each area:

1. A forest occupants survey;
2. An ethnographic study;
3. A protected area resource profile;
4. Land use plans done in coordination with the respective Regional Development Councils; and
5. Such other background studies as will be sufficient bases for selection.

The DENR shall:

- i. Notify the public of the proposed action through publication in a newspaper of general circulation, and such other means as the System deems necessary in the area or areas in the vicinity of the affected land thirty (30) days prior to the public hearing;
- ii. Conduct public hearings at the locations nearest to the area affected;
- iii. At least thirty (30) days prior to the date of hearing advise all local government units (LGUs) in the affected areas, national agencies concerned, people's organizations and non-government organizations and invite such officials to submit their views on the proposed action at the hearing not later than thirty (30) days following the date of the hearing; and

iv. Give due consideration to the recommendations at the public hearing; and provide sufficient explanation for his recommendations contrary to the general sentiments expressed in the public hearing;

e. Upon receipt of the recommendation of the DENR, the President shall issue a presidential proclamation designating the recommended areas as protected areas and providing for measures for their protection until such time when Congress shall have enacted a law finally declaring such recommended areas as part of the integrated protected area systems; and

f. Thereafter, the President shall send to the Senate and the House of Representatives his recommendations with respect to the designations as protected areas or reclassification of each area on which review has been completed, together with maps and legal description of boundaries. The President, in his recommendation, may propose the alteration of existing boundaries of any or all proclaimed protected areas, addition of any contiguous area of public land of predominant physical and biological value. Nothing contained herein shall limit the President to propose, as part of his recommendation to Congress, additional areas which have not been designated proclaimed or set aside by law, presidential decree, proclamation or executive order as protected area/s.

Section 6 Additional Areas to be Integrated to the System

Upon the recommendations of the PAWB Director, the Secretary shall propose the inclusion into the System of additional areas with outstanding physical features, anthropological significance and biological diversity in accordance with pertinent provisions of this Act. When additional areas for inclusion or areas for expansion of existing protected areas have been identified by the DENR and indorsed to the President, the processing of applications for lease/license/permit of any project/activity therein shall be held in abeyance, except for projects that are compatible with the objectives of the NIPAS. Existing lease/license/permit granted by the DENR of any project/activity inside the identified area shall be automatically suspended, unless the Secretary deems otherwise.

Section 7 Disestablishment as Protected Area

When in the opinion of the DENR a certain protected area should be withdrawn or disestablished, or its boundaries modified as warranted by a study and sanctioned by the majority of the members of the PAMB of a site herein established in Section 11, and/or after consultation with the stakeholders, if a management board has not been organized, it shall, in turn, advise Congress. Disestablishment of a protected area under the System or modification of its boundary shall take effect pursuant only to an act of Congress. Thereafter, said area shall revert to the category of public forest unless otherwise classified by Congress: Provided, however, that the DENR shall not propose the withdrawal or disestablishment of a protected area established and declared as such by law, within ten (10) years from its establishment or declaration; Provided, further, that after disestablishment by Congress, the Secretary may recommend the transfer of such disestablished area to other government agencies to serve other priority programs of national interest.

Section 8 Buffer Zones

For each protected area, there shall be established peripheral buffer zones when necessary, in the same manner as Congress establishes the protected area, to protect the same from activities that will

directly and indirectly harm it. Such buffer zones shall be included in the individual protected area management plan that shall be prepared for each protected area. The DENR shall exercise its authority over protected areas as provided in this Act on such area designated as buffer zones.

Whenever and wherever a buffer zone is needed, any or a combination of the following criteria may be used in the identification and establishment of buffer zones:

Ecological Criteria - refer to the capability of the site to serve as an additional layer of protection by providing extension of habitats or corridors for wildlife and other ecological services.

Economic criteria - refer to the capacity of the site to provide gainful employment and sustainable alternative sources of livelihood for local communities, to deflect pressure away from the protected area.

Social criteria - refers to the capacity of the site to provide a social fence against the threat of encroachment by communities residing near or adjacent the protected area.

Site criteria – refers to the suitability of a buffer zone being located in a particular area within or in the periphery of a protected area.

The Secretary may set other or additional criteria in the identification and establishment of buffer zones.

Section 9 Management Plans

There shall be a general management planning process to produce a management plan for each protected area. This shall be based on a management strategy as has been adopted by the PAWB. All land- and water-use plans in the area shall be consistent with the management plan. Each plan must be produced within a year after a presidential proclamation has been issued to establish the site as a protected area, and/or within a year after the PAMB has been organized. Appropriate public consultations shall be observed in the formulation of the management plans.

Section 10 Administration and Management of the System

The National Integrated Protected Area System is hereby placed under the control and administration of the Department of Environment and Natural Resources. 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. The Service thus established shall manage protected areas and promote the permanent preservation, to the greatest extent possible of their natural conditions.

To carry out the mandate of this Act, the Secretary of the DENR is empowered to perform any and all of the following acts:

- a. To conduct studies on various characteristic features and conditions of the different protected areas, using commonalities in their characteristics, classify and define them into categories and prescribe permissible or prohibited human activities in each category in the System;
- b. To adopt and enforce a land-use scheme and zoning plan in adjoining areas for the preservation and control of activities that may threaten the ecological balance in the protected areas;

- c. To cause the preparation of and exercise the power to review all plans and proposals for the management of protected areas;
- d. To promulgate rules and regulations necessary to carry out the provisions of this Act;
- e. To deputize field officers and delegate any of his powers under this Act and other laws to expedite its implementation and enforcement;
- f. To fix and prescribe reasonable NIPAS fees to be collected from government agencies or any person, firm or corporation deriving benefits from the protected areas;
- g. To exact administrative fees and fines as authorized in Section 21 for violations of guidelines, rules and regulations of this Act as would endanger the viability of protected areas;
- h. To enter into contracts and/or agreements with private entities or public agencies as may be necessary to carry out the purposes of this Act;
- i. To accept in the name of the Philippine Government and in behalf of NIPAS funds, gifts or bequests of money for immediate disbursement or other property in the interest of the NIPAS, its activities, or its services;
- j. To call on any agency or instrumentality of the Government as well as academic institutions, non-government organizations and the private sector as may be necessary to accomplish the objectives and activities of the System;
- k. To submit an annual report to the President of the Philippines and to Congress on the status of protected areas in the country;
- l. To establish a uniform marker for the System, including an appropriate and distinctive symbol for each category in the System, in consultation with appropriate government agencies and public and private organizations;
- m. To determine the specification of the class, type and style of building and other structures to be constructed in protected areas and the material to be used;

- n. Control the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection, and sanitation systems and other public utilities within the protected area;
- o. Control occupancy of suitable portions of the protected area and resettle outside of said area forest occupants therein, with the exception of the members of indigenous communities area; and
- p. To perform such other functions as may be directed by the President of the Philippines, and to do such acts as may be necessary or incidental to the accomplishment of the purpose and objectives of the System.

Section 11 Protected Area Management Board

A Protected Area Management Board for each of the established protected area shall be created and shall be composed of the following: the Regional Executive Director under whose jurisdiction the protected area is located; one (1) representative from the autonomous regional government, if applicable; the Provincial Governor and/or either the Provincial Planning and Development Officer or the PG-ENRO; the Mayor of each municipality or city that is within the protected area; the Punong Barangay of each barangay that is within the protected area; one (1) representative from each NCIP-registered indigenous community in the site, if applicable; at least three (3) representatives from academic institutions, non-government organizations and community organizations, including people's organizations, church or civic organizations duly-accredited by any competent government entity, provided that at least one (1) of these three (3) representatives belong to the fisheries sector in protected areas covering fishing communities, or forest occupants in terrestrial protected areas; provided further that at least one (1) of these representatives belong to an

academic institution. These representatives shall be based in or near the protected area; one representative, if necessary, from other departments or national government agencies involved in protected area management. In situations where two or more such departments or agencies are involved, their representative shall be chosen by and among themselves. In any case, at least 60% of the composition of the PAMB should be from the local stakeholders.

In the event the Municipal Mayor or the Punong Barangay decline, or is unavailable for any reason, the Municipal Mayor and the Punong Barangay shall designate their respective representatives. For purposes of Sections 26 and 27 of the Local Government Code, consultations with the Municipal Mayor, the Punong Barangay, or their representatives in the Board shall be regarded as full compliance of the consultation requirements.

The Board shall, by a majority vote, decide the allocations for budget, approve proposals for funding, decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy. The members of the Board shall serve for a term of five (5) years without compensation, except for actual and necessary traveling and subsistence expenses incurred in the performance of their duties. They shall be appointed by the Secretary of the DENR as follows:

A member who shall be appointed to represent each local government down to barangay level whose territory or portion is included in the protected area. Each appointee shall **either be the head of such LGU or the person he designates**, except for the Provincial Development Officer who shall serve *ex officio*;

A member from non-government organizations who shall be endorsed by heads of organizations which are preferably based in the area or which have established and recognized interest in protected areas;

The RED/s in the region/s where such protected area lies shall sit as *ex officio* member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area; and

The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the secretary shall designate one (1) of them to be the Chairman. Vacancies shall be filled in the same manner as the original appointment.

The Protected Area Management Board (PAMB) shall use a consensus or majority vote, to approve or take necessary actions such as, but not limited to the following:

- a. Decide matters relating to planning, resource protection and general administration of the area.
- b. Approve proposals, work plans, action plans and guidelines for the management of the protected area in accordance with the approved Management Plan.
- c. Manage the delineated and demarcated protected area boundaries, buffer zones and ancestral domains within a protected area as well as recognize the rights and privileges of indigenous communities under the provisions of this Act.
- d. Promulgate rules and regulations to promote development programs and projects on biodiversity conservation and sustainable development consistent with the Management Plan of the protected area.

- e. Ensure the implementation of programs as prescribed in the Management Plan in order to provide employment to the people dwelling in and around the protected area.
- f. Control and regulate the construction, operation and maintenance of roads, trails, water works, sewerage, fire protection and sanitation systems and other utilities within the protected area.
- g. Monitor and evaluate the performance of protected area personnel, NGOs and the communities in providing for biodiversity conservation and socio-cultural and economic development and report their assessments to the DENR.

Selection and Appointment of Board Members -- The DENR Secretary shall formally appoint the PAMB members. The RED/s in the region/s where such protected area lies shall sit as ex officio member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area; The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the secretary shall designate one (1) of them to be the Chairman. The Provincial Development Officer(s) shall serve in an ex-officio capacity. Representatives of municipalities or cities shall be the Mayor or should he decline, a resident of the municipality or city recommended by the Mayor. Concerned NGO/local community organizations based in the area or with recognized interests in protected areas shall choose their representatives by and among themselves.

All members of the board shall be natural-born citizens of the Philippines, at least twenty-five years of age at the date of appointment, and able to read and write.

Term of Office and Compensation -- Board members shall serve for a term of three years without compensation, except for actual and necessary travelling and subsistence expenses incurred in the performance of their duties. Provided, that whenever a vacancy occurs during the term of a member, a new member shall be appointed in the same manner as the original appointment in order to complete the unfinished term of the said vacancy.

Executive Committee -- In view of the large size of the Management Board expected in some NIPAS sites, the PAMB may create an Executive Committee. The Board en banc shall determine the authorities to be delegated to the Executive Committee. Provided that, the Executive Committee Chair shall be co-chaired by the DENR RED as chair of the PAMB and by the highest elected Public Official who is a member of the PAMB.

Removal -- A member of the PAMB may be removed for cause including, but not limited to, the following:

- a. More than three (3) successive unexcused absences during regularly scheduled Board meetings;
- b. Commission of acts prejudicial to protected area management as embodied in R.A. 7586, or other existing rules and regulations governing protected areas;
- c. Graft and corruption; and
- d. Conviction on criminal acts.

Source of Seed Fund -- DENR shall provide a seed fund for the operation of the PAMBs with counterparts from LGUs representing the PAMB.

Section 12 The Protected Area Superintendent (PASu)

There shall be created a Protected Area Superintendent for each protected area. The PASu shall have the qualifications, salary and benefits corresponding to the size and complexity of the protected area.

The functions, responsibilities, powers, accountabilities, facilities, and personnel of PASus shall be specified by the DENR Secretary upon recommendations of the PAWB.

Appointments of PASus to any particular site shall require the recommendation of the PAWB Director, the RED and concurrence of the PAMB.

The DENR Secretary shall issue pertinent the rules, regulations and orders as would be necessary to properly implement the intentions and provisions of this Act. Provided, such rules, regulations and orders are consistent with existing laws, regulations on budget, finance and civil service regulations.

The PAWB shall regularly evaluate all PAMBs for their effectiveness in managing a protected area, based on their management plans.

Section 13 Environmental Impact Assessment

Development activities inconsistent with the management plan shall not be allowed. Allowed activities shall require an EIA and a Free and Prior Informed Consent of the PAMB. Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environment Impact Assessment (EIA) system. In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as will minimize any adverse effects and take preventive and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion.

Section 14 Ancestral Lands and Rights Over Them

Ancestral lands and customary rights and interest arising shall be accorded due recognition. The DENR shall prescribe rules and regulations to govern ancestral lands within protected areas: Provided, That the DENR shall have no power to evict indigenous communities from their present occupancy nor resettle them to another area without their consent: Provide, however, That all rules and regulations, whether adversely affecting said communities or not, shall be subjected to notice and hearing to be participated in by members of concerned indigenous community.

Section 15 Survey of Energy Resources

Consistent with the policies declared in Section 2 hereof, protected areas, except strict nature reserves and natural parks, may be subjected to exploration only for the purpose of gathering information on energy resources and only if such activity is carried out with the least damage to surrounding areas. Surveys shall be conducted only in accordance with a program approved by the DENR, and the result of such surveys shall be made available to the public and submitted to the President for recommendation to Congress. Development activities that are of urgent national

interests may be allowed but only upon a law enacted by Congress. Provided, that these activities pose minimum permanent damage to the quality and value of the protected area.

Section 16 Areas Under the Management of Other Departments and Government Instrumentalities

Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR, such jurisdiction shall remain with the said department or government instrumentality, as in the case of marine protected areas (MPAs) created by local government units pursuant to the Fisheries Code of 1998 in which case, jurisdiction over these areas shall remain with the concerned local government units. However, the DENR, DA-BFAR, and/or other concerned government agencies shall undertake a process of effective consultation and, if necessary, take joint management action, in order to coordinate their respective management plans. Said government agencies should create common procedures, standards and criteria in the establishment, classification, management of protected areas taking into account the declared State policy of securing for the Filipino people of present and future generations the perpetual existence of all native plants and animals.

Where the protected area is part of an ancestral land or ancestral domain as defined under Republic Act No. 8371, jurisdiction shall remain with the DENR, through the PAMB. In the management of such protected area, there should be regular consultations with the indigenous cultural communities or indigenous peoples in accordance with its customary laws without prejudice to the basic requirement of the existing laws on free and prior informed consent: Provided, further, that no indigenous cultural communities or indigenous peoples shall be displaced or relocated without their written prior informed consent.

Section 17 Integrated Protected Areas Fund

There is hereby established a trust fund to be known as Integrated Protected Areas (IPAS) Fund for purposes of financing projects of the System. The total amount of revenues from protected areas deposited to the national government shall be the same amount allocated automatically in the GAA for site-specific PA management. Seventy-five percent (75%) of such allocation shall be disbursed by PAWB to the specific protected areas that contributed to the Fund.

The IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government or any political subdivision or instrumentality thereof.

The incomes generated from the operation of the System or management of wild flora and fauna shall accrue to the Fund and may be utilized directly by the DENR for the above purpose, subject to existing laws, rules and regulations. These incomes shall be derived from:

- a. Fees and incomes from the permitted sale and export of flora and fauna and other resources from protected areas, such as water and ecosystem services;
- b. Proceeds from lease of multiple-use areas;
- c. Contributions from industries and facilities directly benefiting from the protected areas; and
- d. Such other fees and incomes derived from the operation of the protected area.

Disbursements from the Fund shall be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

This Section shall be without prejudice to the application of Sections 291 and 293 of the Local Government Code.

Section 18 Other Sources

The PAMBs may create private foundations that shall have the sole purpose of generating public and private support for the protected area; provided, the foundation observes guidelines to be set up by the PAWB upon consultations with the DBM and the COA. In addition, together with pertinent government agencies and units, the PAMBs may take measures to acquire funds as are allowed by law; provided, that such funds shall be exclusively used to sustain the management of the protected area. The PAMB may also solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government for any political subdivision or instrumentality thereof.

Section 19 Annual Report to Congress

At the opening of each session of Congress, the DENR shall report to the President, for transmission to Congress, on the status of the System, regulation in force and other pertinent information, together with recommendations.

Section 20 Field Officers

All officials, technical personnel and forest guards employed in the integrated protected area service or all persons deputized by the DENR, upon recommendation of the Management Board shall be considered as field officers and shall have the authority to investigate and search premises and buildings and make arrests in accordance with the rules on criminal procedure for the violation of laws and regulations relating to protected areas. Persons arrested shall be brought to the nearest police precinct for investigation.

For purposes of this Act, the term “field officers” also applies to all officials, personnel, deputies, and persons duly authorized to enforce the Fisheries Code of 1998 and all other fishery laws, rules and regulations as defined under Section 124 of the Fisheries Code.

Nothing herein mentioned shall be construed as preventing regular enforcers and police officers from arresting any person in the act of violating said laws and regulations.

Section 21 Special Prosecutors

The Department of Justice shall designate special prosecutors to prosecute violations of laws, rules and regulations in protected areas.

Section 22 Prohibited Acts

Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- a. Hunting, fishing, gathering, collecting, destroying, disturbing, or possession of any plants or animals or products derived therefrom without a permit from the DENR Secretary after clearance to be obtained from the PAMB; Provided, that the DENR Secretary exercises these powers upon advice of pertinent government agencies;
- b. Dumping of any hazardous and toxic products and other pollutants in the protected area;
- c. Use of any motorized equipment without a permit from the Management Board;
- d. Gathering, collecting, mutilating, defacing or destroying any objects of special or cultural value within the protective area, as may be defined in the Implementing Rules and Regulations;
- e. Damaging and leaving roads and trails in a damaged condition;
- f. Squatting, mineral locating, or otherwise occupying any land;
- g. Constructing or maintaining any kind of structure, fence or enclosures, conducting any business enterprise without a permit;
- h. Leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water; and
- i. Altering, removing destroying or defacing boundary marks or signs.
- j. introduction of alien or exotic species or genetically modified organisms;
- k. possessing, selling or exporting ordinary precious and semi-precious corals, whether raw or in processed form;
- l. fishing or taking of rare, threatened, or endangered marine species as listed in CITES and as determined by the DA-BFAR;
- m. fishing or operating any fishing vessel within Philippine waters if made by any foreign person, corporation, or entity;
- n. Other punishable offenses under Sections 90, 93, and 96 of Republic Act No. 8558 committed within fishery reserves, refuge, sanctuaries, and marine protected areas established under said law or pursuant herein.
- o. Other acts inconsistent with the management plan and/or applicable laws such as the Fisheries Code, Wildlife Resources Conservation and Protection Act, and others.

Section 23 Penalties

Whoever violates this Act or any rules and regulations issued by the Department pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the

preceding section shall be fined in the amount of not less than Ten Thousand Pesos (P10,000.00) nor more than One Million pesos (P1,000,000.00) or from 1% to 5% of the total value of the damage to the ecosystem, whichever is higher or determinable, exclusive of the value of the thing damaged, or imprisonment for not less than one (1) year but not more than twelve (12) years, or both, depending on the gravity of the offense, at the discretion of the court. Provided, that, if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or compensate for the restoration to the damage. Provided, further, that the penalties herein shall be in addition to whatever penalties may be imposed on the offender for violating the laws protecting fisheries, wildlife, or any particular species of flora or fauna. Provided, further, that the court shall order the eviction of the offender from the land and the forfeiture in favor of the Government of all minerals, corals, timber or any species and materials collected or removed including all equipment, devices and firearms used in connection therewith, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly, personally, and legally accountable for the act of his employees and laborers: Provided, finally, that the DENR may impose administrative fines and penalties consistent with this Act.

Section 24 Alternative Dispute Resolution

The DENR Secretary shall issue the pertinent rules, regulations and orders as would be necessary to implement an effective alternative dispute resolution (ADR) or conflict management mechanism for appropriate cases with the objective of achieving speedy and impartial justice and actively promoting party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangements to resolve their disputes. Parties to a dispute shall not be allowed to invoke the jurisdiction of courts without prior recourse to the ADR process.

Section 25 Separability Clause

If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or section of this Act.

Section 26 Repealing Clause

All laws, presidential decrees, executive orders, rules and regulations inconsistent with any provisions of this Act shall be deemed repealed or modified accordingly.

Section 27 Effectivity Clause

This Act shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation.



Annex 2

Final Report Protected Area Management Effectiveness Assessment and MEAT-METT Testing

Conducted by

Silliman University
and the Environment and Rural Development Program (EnRD) - GIZ

August 30, 2010

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Abbreviations & Acronyms

AT	Agricultural Technician
BTLNP	Balinsasayao Twin Lakes Natural Park
CCEF	Coastal Conservation Education Foundation
DENR	Department of Environment and Natural Resources
EnRD	Environment and Rural Development
FGD	Focused Group Discussion
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (German Technical Cooperation)
IP	Indigenous People
LGU	Local Government Unit
MEAT	Management Effectiveness Assessment Tool
METT	Management Effectiveness Tracking Tool
MKNP	Mount Kanlaon Natural Park
MPA	Marine Protected Area
MSN	MPA Support Network
NGO	Non-Governmental Organization
NWPPNP	Northwestern Panay Peninsula Natural Park
PA	Protected Area
PASu	Protected Area Superintendent
PAWB	Protected Areas and Wildlife Bureau
PIPS	Panglao Island Protected Seascape
PNP	Philippine National Police
PP	Presidential Proclamation
PPDO/C	Provincial Planning and Development Officer/Coordinator
RA	Republic Act
SAPA	Special Agreement for Protected Area permit
SB	Sangguniang Bayan
SMR	Sagay Marine Reserve
SU	Silliman University
SP	Sangguniang Panlalawigan
TSPS	Tañon Strait Protected Seascape
WCPA	World Commission on Protected Areas
WPC	World Parks Congress

Foreword

The GTZ-Philippine-German Technical Cooperation Environment and Rural Development Programme Phase 2 engaged Silliman University to assess management performance of six protected areas in the Visayas, which are all under the National Integrated Protected Areas System (NIPAS). The appraisal was supported by GTZ as part of its technical assistance to the Department of Environment and Natural Resources. These sites include three forest and three marine sites.

GTZ selected Silliman University (SU) to undertake this assessment because of the latter's widely-recognized track record in coastal and marine research and management through its Institute of Environmental and Marine Sciences, in terrestrial biology through its Center for Tropical Studies and in environmental law through Dr. J. Salonga Center for law and development. Silliman has had long familiarity with the sites.

The team, which was a composite of mentors and students both from SU and GTZ, accomplished this assessment in less than two weeks, but the results are by no means abbreviated. This report contains the first most extensive documentation of the management effectiveness of six NIPAS sites in the Visayas. The information contained here include not only the results of the assessment but also the profiles of the sites and an evaluation of the assessment tools used.

Field work was conducted on July 23-Aug 8, 2010. To make sure that accurate data would be collected, the members of the team underwent a week-long training on the tools, assessment techniques and site familiarization.

The success of this undertaking was made possible with the support and assistance of the Department of Environment and Natural Resources, the local government units where the PA's are located, and the management and staff of GTZ - EnRD led by its Director, Dr. Walter Salzer, to all whom we are very grateful.

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Executive Summary

Six NIPAS sites in the Visayas, Philippines were assessed for management effectiveness on July 19 – August 12, 2010 using Management Effectiveness Tracking and Assessment Tools (METT & MEAT). Two of the six protected areas assessed (Sagay Protected Landscape and Seascape and the Mount Kanlaon Natural Park) have acquired congressional action while the rest have only presidential proclamations.

Highest management effectiveness was seen in Sagay Marine Reserve obtaining an average of Level 3 Rating under the MEAT and 90% under the METT. It also scored highest for all components among the six sites. Factors contributing to the high management effectiveness rating were 1) compliance with the 13 steps of establishment of the protected area under NIPAS culminating in its own Republic Act, 2) politically under one LGU with strong support and co-managed by the LGU who sits in the PAMB as co-chair, 3) has a management plan, relatively adequate and secure staff and budget.

Lowest management effectiveness was seen in Tañon obtaining an average of below Level 1 Rating under the MEAT and 33% under the METT. It also scored lowest for all components among the six sites. Due to its sheer size of almost 500,000 hectares, and a very large PAMB composition of 268 members, management is done through a 36-member Executive Committee. It has no management plan, has only one designated staff (PASu) and no definite budget.

In all cases, outcomes outweighed inputs. At first glance, one could say that this could be an artifact of the tool since there are only two questions that addressed outcomes which were very general, i.e., 1) Economic benefit - Is the protected area providing economic benefits to local communities, e.g. income, employment, payment for environmental services; (2) Condition of values-What is the condition of the important values of the protected area as compared to when it was first designated? To both questions, most respondents answered in the positive with a note that the benefits or maintenance of values were mostly due to local efforts or initiatives.

It could also be argued that the mere act of proclaiming an area under NIPAS has brought about its transformation into a more protected and productive ecosystem.

Factors that were found to be critical to management were secured and able staff, adequate budget, and LGU support and participation.

Recommendations for immediate mitigation include appropriation from the PAWB budget commensurate with the size of the PA, hiring of full-time PASu and PA staff (not just designations), greater participation and support from the municipal /city/provincial LGUs.

PART 1 INTRODUCTION

Background

GTZ-EnRD

GTZ is a federally owned company working worldwide in the field of international cooperation for sustainable development. GTZ implements the Environment and Rural Development (EnRD) Program which seeks to strengthen the capacity of government agencies at the national and sub-national levels to sustainably manage natural resources. Its interventions consist mainly of advisory services and capacity development measures in the areas of natural resource governance (i.e. forestry, fisheries, and disaster risk management) and the promotion of sound environmental and rural development policies.

- On September 26, 2009, the GTZ and the Departments of Agriculture, Agrarian Reform, and Environment and Natural Resources entered into an Implementation Agreement for the Second Phase of the Environment and Rural Development (EnRD) Program which aims to contribute to the Philippine development objective of sustainably improving the management of natural resources by responsible agencies as well as by supported local governments and communities.
- Section 11 paragraph 11.1 of the aforementioned Implementation Agreement provides that any of the parties may conclude a binding agreement that will specify additional details concerning the execution of the EnRD Program;
- GTZ and PAWB covenants - for and in consideration of the foregoing premises and the mutual covenants herein set forth, the Parties hereto have agreed to jointly undertake an in-depth review of the NIPAS Law and related laws on protected area management, referred to as the Project, copy of the Terms of Reference is attached (Annex 2) and form an integral part of this Agreement.

Silliman University

Silliman University is a non-stock, non-profit, non-governmental Christian institution of higher learning in the Philippines committed to total human development for the well-being of society and environment. To achieve environmental well-being, it has infused degrees and courses into its academic offerings such as Environmental Communication in the College of Mass Communication, Environmental Science and Environmental Advocacy in the Institute of Environmental and Marine Sciences, Environmental Governance in the School of Public Administration and Governance and Environmental Law in the College of Law. It is one of select higher education institutions in the country granted autonomous status by the Commission on Higher Education. The same government agency has also awarded SU as having the best research program in the Philippines and designated Silliman as a Center of Development in Marine Science and Biology, among others. With support from the United States Agency for International Development, Silliman is a Center of Excellence in Coastal Resource Management and its community-based coastal resource management and marine protected areas programs have received recognition worldwide.

Rationale of the Study

GTZ-EnRD was requested by the Protected Areas and Wildlife Bureau (PAWB) to assist in an “*An In-depth Review of NIPAS and Related Laws on the Establishment and Management of Protected Areas in the Philippines*” (refer to attached ToR). Task number 5 of the ToR provides for the conduct of a case study that will serve as input to the wider NIPAS review exercise. Six (6) initial sites in the Visayas composed of 3 terrestrial and 3 marine protected areas were already identified. The idea is to get most recent information on the current state of affairs in Protected Area Management in the Philippines through testing the various Protected Area management assessment tools.

Goal and Objectives

This case study aimed to carry out task number 5 of the ToR “*An In-depth Review of NIPAS and Related Laws on the Establishment and Management of Protected Areas in the Philippines*”. Specifically, the case study sought to:

1. Obtain most recent information on the status of Protected Area (PA) Management in the Philippines
2. Carry out field testing of the following assessment tools:
 - a. Management Effectiveness Tracking Tool (METT)
 - b. MPA Management Effectiveness Assessment Tool (MEAT)
3. Advise PAWB through GTZ on the measure/s to possibly harmonize the METT and MEAT PA assessment tools.

Specific Tasks

To achieve the above objectives, the Team for the duration of the study were to:

1. Conduct consultation with the key stakeholders of the Selected PAs including but not limited to PAWB-DENR, PASu, PAMB representatives (to include LGU, NGOs, PO, etc.);
2. Prepare and conduct conceptually and logistically field testing of the METT and MEAT in three marine and three terrestrial protected areas in the Visayas with bad, medium and good performance selected by PAWB METT to be applied in one MPA and the TPAs and MEAT in two MPAs. Activities on each site were to include:
 - a. Orientation Workshop
 - b. Field visits
 - c. Assessments and report writing
 - d. Presentation of results and observations
3. Incorporate a group of European exchange students led by the GTZ Representative who then form part of the research team;
4. Share experiences and foster exchange in conducting field assessments with the European student group;
5. Produce a report regarding the observations of protected areas management in the selected sites as an input to the wider objectives of this NIPAS review activity;
6. Recommend measures for possibly harmonizing the METT and MEAT for considerations of PAWB through GTZ;
7. Organize a validation and presentation workshop.

Expected Outputs

1. Assessment Report on the Status of Protected Area (PA) Management in the Philippines using Visayas field visit experience, with attached report on the field testing of METT and MEAT;
2. Recommendations for the harmonization of the METT and MEAT;
3. Presentation of results and observations.

Study Sites

Six sites in the Visayas were selected by PAWB, GTZ and Silliman believed to geographically, typographically and politically represent the state of affairs of Protected Areas management in the Philippines (Fig. 1.1). Three of the sites are terrestrial: Mount Kanlaon Natural Park, Northwest Panay Peninsula Natural Park, and Balisasayao Twin Lakes Natural Park. Sagay Protected Landscape and Seascape covers the marine area and its inclusive islands while Panglao Island Protected Seascape covers only selected mangrove areas. Only Tañon Strait Protected Seascape is wholly marine. Table 1.1 below details the location and size of the study sites; Table 1.2 details the legislation that established them.

Table 1.1 Location and size of the Protected Areas under study.

No.	Name of PA	Coordinates		Size in hectares
		Latitude	Longitude	
1	Mount Kanlaon Natural Park	See comments		24,557.00
2	Sagay Protected Landscape and Seascape	11°0'59"N	123°29'E	32,000.00
3	Northwest Panay Peninsula Natural Park	See comments		12,009.29
4	Tañon Strait Protected Seascape	11°17'37"N	123°43'48"	450.00 (in original PP) 518,221.00 (in DENR tech. description)
5	Balisasayao Twin Lakes Natural Park	9°21'N	123° 10'E	8,016.50
6	Panglao Island Protected Seascape 4 blocks <i>Block 1</i> <i>Block 2</i> <i>Block 3</i> <i>Block 4</i>	Between 9°34'30.31"N and 9°37'30.31"N	123°44'45.66"E and 123°15'55.06"E	385,665.90 <i>31,422.10</i> <i>30,078.50</i> <i>52,300.20</i> <i>271,865.10</i>

Table 1.2 Legal basis for the establishment of the Protected Areas under study.

No.	Name of PA	Presidential Proclamation		Republic Act	
		No.	Date Issued	No.	Date Issued
1	Mount Kanlaon Natural Park	1005	8 May 1997	9154	11 Aug. 2001
2	Sagay Protected Landscape and Seascape	592	1 Jun. 1995	9106	14 Apr. 2001
3	Northwest Panay Peninsula Natural Park	186	18 Apr 2002		
4	Tañon Strait Protected Seascape	1234	27 May 1998		
5	Balisasayao Twin Lakes Natural Park	414	21 Nov. 2000		
6	Panglao Island Protected Seascape	426	22 Jul. 2003		

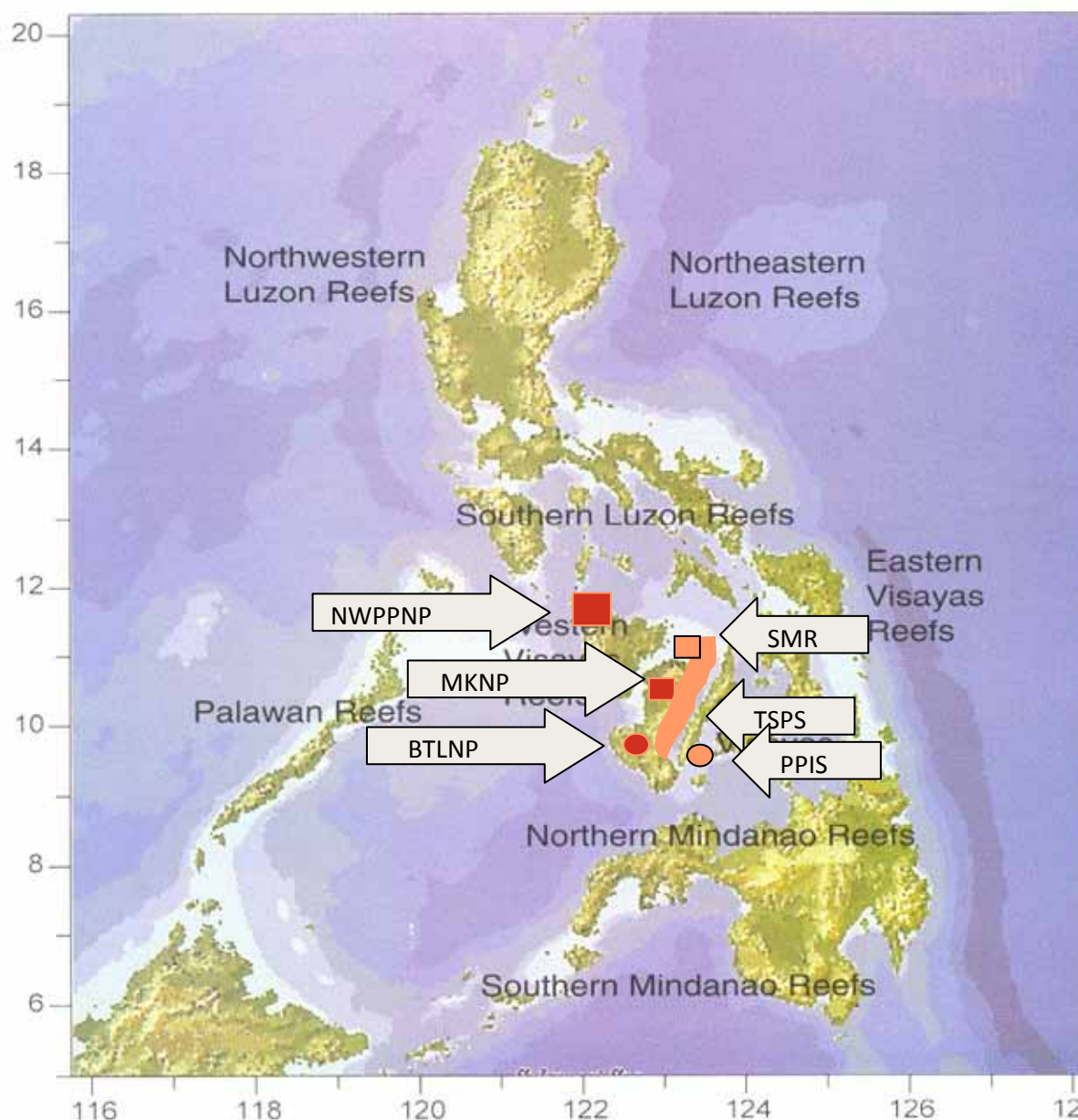


Figure 1.1 Map of the Philippines showing location of the assessed sites. **NWPPNP** = Northwestern Panay Peninsula Natural Park; **MKNP** = Mt. Kanlaon Natural Park; **BTLNP** = Balinsasayao Twin Lakes Natural Park; **PPIS** = Panglao I. Protected Seascape; **TSPS** = Tañon Strait Protected Seascape; **SMR** = Sagay Marine Reserve.

Assessment/ Conceptual Framework

Definition of Terms

"Buffer zones" are identified areas outside the boundaries of and immediately adjacent to designated protected areas pursuant to Section 8 that need special development control in order to avoid or minimize harm to the protected area.

"Indigenous cultural community" refers to a group of people sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who have, since time immemorial, occupied, possessed and utilized a territory.

"Tenured migrant communities" are communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas in accordance with this Act and are solely dependent therein for subsistence.

NIPAS "is 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" (Sec. 4, [a], RA 7586).

Protected Areas is defined under RA 7586 as "portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation". Under this system, eight categories of PAs are established:

"Strict nature reserve" - an area possessing some outstanding ecosystem, features and/or species of flora and fauna of national scientific importance maintained to protect nature and maintain processes in an undisturbed state in order to have ecologically representative examples of the natural environment available for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state.

"Natural park" - a relatively large area not materially altered by human activity where extractive resources uses are not allowed and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use.

"Natural monument" - a relatively small area focused on protection of small features to protect or preserve nationally significant natural features on account of their special interest or unique characteristics.

"Wildlife sanctuary" - comprises an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment where these may require specific human manipulation for their perpetuation.

"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.

"Resources reserve" - an extensive and relatively isolated and uninhabited area normally with difficult access designated as such to protect natural resources of the area for future use and prevent or contain development activities that could affect the resource pending the establishment of objectives which are based upon appropriate knowledge and planning.

"Natural biotic area" - an area set aside to allow the way of life of societies living in harmony with the environment to adopt to modern technology at their pace.

Other categories established by law, conventions or international agreements which the Philippine Government is a signatory. (Sec. 3)

Framework for assessing Protected Area Management Effectiveness

As defined by the World Commission on Protected Areas (WCPA Guidelines, 2006), **PA management effectiveness** is a measure of how well a protected area is being run in protecting its values and achieving its goals and objectives. The assessment of PAs includes consideration of design issues and adequacy and appropriateness of management systems and processes delivery of PA objectives including conservation of values.

Regular management effectiveness assessment and monitoring is crucial for PAs since these areas which are critical for *in-situ* conservation are subjected to multiple and serious threats, some just emerging. During a review of protected areas by the World Parks Congress (WPC) in 1992, it was found that three of the five most common threats were management deficiencies rather than direct impacts on resources. Effective management was also identified one of four major issues of global concern during that Congress. In the 2003 WPC, delegates' survey identified inadequate monitoring and evaluation as the second most serious barriers to effective management after inadequate funding (ACB 2008).

In assessing management effectiveness of PA, a framework shown in Figure 1.2 (modified from Leverington, 2008) is utilized. Under this framework are six components, namely 1) Context; 2) Planning; 3) Inputs; 4) Process; 5) Outputs; and 6) Outcomes, each evaluated according to specific criteria (see Table 1.3). The description of each component and their specific criteria were taken from Hockings et al. (2000) and Leverington et al. (2008).

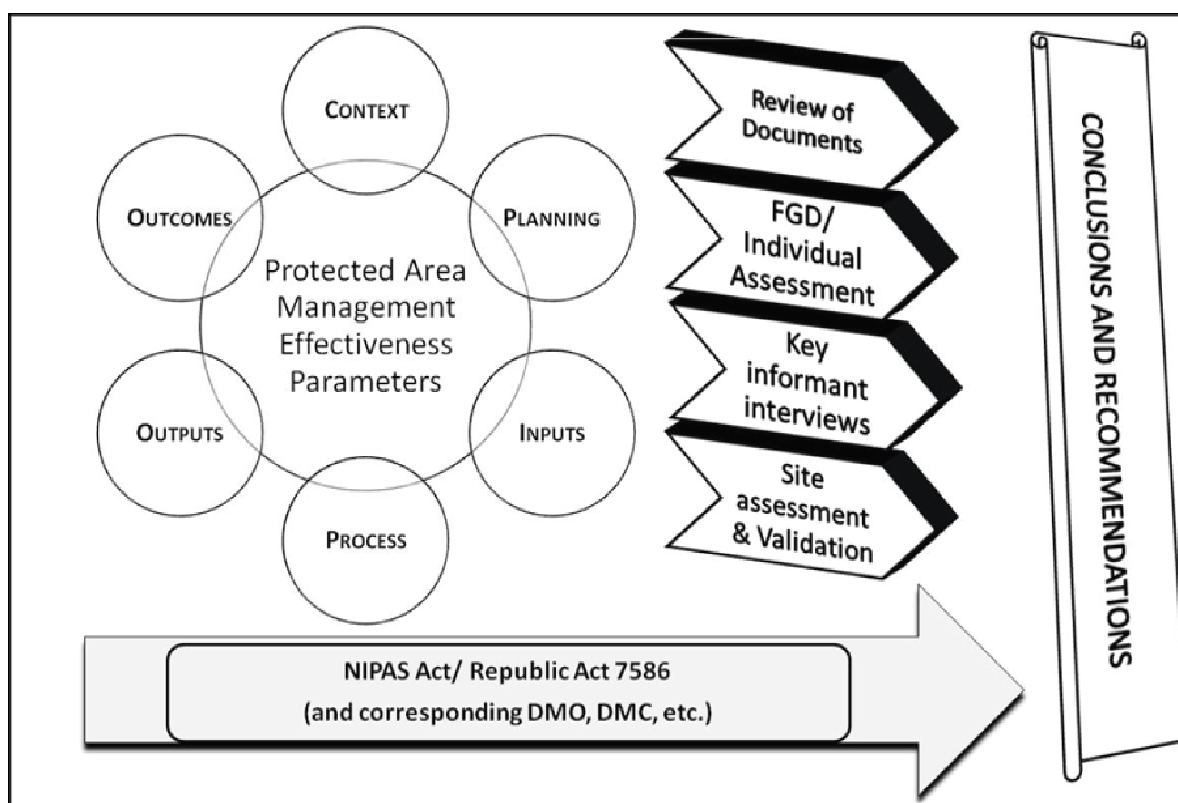


Figure 1.2 Management Effectiveness Assessment Framework Modified from WCPA

Table 1.3. Framework for assessing management effectiveness of protected areas and protected area systems (Hockings et al., 2000)

Elements of evaluation	Context	Planning	Inputs	Process	Outputs	Outcomes
	<i>Where are we now?</i>	<i>Where do we want to be and how do we get there?</i>	<i>What do we need?</i>	<i>How do we go about the mgt?</i>	<i>What did we do (products or services produced)?</i>	<i>What did we achieve?</i>
Criteria	Significance/ values Stake-holders Threats National context	PA legislation and policy PA system design Reserve design Mgt planning	Resources available to the agency Resources available to the PA	Suitability of mgt processes and the extent to which established/ accepted processes are implemented	Results of mgt actions Services and products	Impacts: effects of mgt in relation to objectives
Focus of evaluation	Importance	Design & Planning	Resources	The way in which mgt is conducted	Delivery of products & services	Achievement of goals/ objectives

Context

Context refers to the significance of the area. It describes threats and how vulnerable the area is with regard to these threats. It also describes the importance of the area in relation to national policy and how different partners are involved. Criteria used to evaluate context are:

- Significance
- Threats
- Vulnerability
- Engagement of Partners

Since the PAs are located in the Philippines, the National Integrated Protected Areas System (NIPAS) established under RA 7586 serves as the legal framework for protected area management. The following paragraphs give some important excerpts from the republic act.

NIPAS INITIAL COMPOSITION - All areas or islands in the Philippines previously proclaimed, pursuant to a law, decree, proclamation or order, as falling under any of above-mentioned categories (including virgin forests).

Exceptions - Legislative and taxation functions remain to be effective throughout their territorial jurisdiction, including that of the protected area, since these functions are constitutionally guaranteed (Sec. 5, Art X, 1987 Constitution).

-- Establishment, protection and maintenance of tree parks, greenbelts and other tourist attractions in areas identified and delineated by the DENR.

-- Section 15 thereof states: "Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR, such jurisdiction shall, prior to the passage of this Act, remain in the said department or government instrumentality; Provided, That the department or government instrumentality exercising administrative jurisdiction over said protected area or a portion thereof shall coordinate with the DENR in the preparation of its management plans, upon the effectivity of this Act."

SECTION 5. Establishment and Extent of the System. — The establishment and operationalization of the System shall involve the following:

- a. All areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascapes as well as identified virgin forests before the effectivity of this Act are hereby designated as **initial components of the System**. The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act;
- b. **Within one (1) year** from the effectivity of this Act, the DENR shall submit to the Senate and the House of Representatives a map and legal description or natural boundaries of each protected area initially comprising the System. Such maps and legal descriptions shall, by virtue of this Act, constitute the official documentary representation of the entire System, subject to such changes as Congress deems necessary;
- c. All DENR records pertaining to said protected areas, including maps and legal descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public. These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) where NIPAS areas are located;
- d. **Within three (3) years** from the effectivity of this Act, the DENR shall study and review each area tentatively composing the System as to its suitability or unsuitability for preservation as protected area and inclusion in the System according to the categories established in Section 3 hereof and report its findings to the President as soon as each study is completed. The study must include in each area:
 - 1) A forest occupants survey;
 - 2) An ethnographic study;
 - 3) A protected area resource profile;
 - 4) Land use plans done in coordination with the respective Regional Development Councils; and
 - 5) Such other background studies as will be sufficient bases for selection.

The DENR shall:

- 1) Notify the public of the proposed action through publication in a newspaper of general circulation, and such other means as the System deems necessary in the area or areas in the vicinity of the affected land thirty (30) days prior to the public hearing;
- 2) Conduct public hearing at the locations nearest to the area affected;
- 3) At the least thirty (30) days prior to the date of hearing advise all local government units (LGUs) in the affected areas, national agencies concerned, people's organizations and nongovernment organizations and invite such officials to submit their views on the proposed action at the hearing not later than thirty (30) days following the date of the hearing; and

- 4) Give due consideration to the recommendations at the public hearing; and provide sufficient explanation for his recommendations contrary to the general sentiments expressed in the public hearing;
- e. Upon receipt of the recommendations of the DENR the President shall issue a presidential proclamation designating the recommended areas as protected areas and providing for measures for their protection until such time when Congress shall have enacted a law finally declaring such recommended areas as part of the integrated protected area system; and
- f. Thereafter, the President shall send to the Senate and the House of Representatives his recommendations with respect to the designations as protected areas or reclassification of each area on which review has been completed, together with maps and legal description of boundaries. The President, in his recommendation, may propose the alteration of existing boundaries of any or all proclaimed protected areas, additional of any contiguous area of public land of predominant physical and biological value. Nothing contained herein shall limit the President to propose, as part of this recommendation to Congress, additional areas which have not been designated, proclaimed or set aside by law, presidential decree, proclamation or executive order as protected area/s.

As of 2010, of the more than 100 protected areas in the Philippines under NIPAS, only 11 PAs have acquired their respective Republic Act (RA), including Mount Kanlaon Natural Park and the Sagay Protected Landscape and Seascape (Table 1.4)

Table 1.4. Protected Areas with Republic Acts.

No.	Name of PA	Presidential Proclamation		Republic Act	
		No.	Date Issued	No.	Date Issued
1	Batanes Protected Landscape and Seascapes	334	28 Feb. 1994	8991	5 Jan 2001
2	Northern Sierra Madre Natural Park	978	10 Mar. 1997	9125	22 Apr. 2001
3	Mount Kanlaon Natural Park	1005	8 May 1997	9154	11 Aug. 2001
4	Sagay Protected Landscape and Seascape	592	1 Jun. 1995	9106	14 Apr. 2001
5	Mount Kitanglad Natural Park	896	24 Oct. 1996	8978	9 Nov. 2000
6	Mount Malindang Natural Park	228	2 Aug. 2002	9304	30 Jul. 2004
7	Mount Apo Natural Park	882	24 Sept. 1996	9237	3 Feb. 2004
8	Mount Hamiguitan Range Wildlife Sanctuary			9303	30 Jul. 2004
9	Mts. Iglit-Baco National Park			6148	09 Nov 1970
10	Central Cebu Protected Landscape	441	2003	9486	07 June 2007
11	Mimbilisan Protected Landscape (Mis. Or.)			9494	22 Aug 2007

Planning

Planning Criteria

- Legal status / land tenure
- Boundary demarcation
- PA site design
- Management plan and biodiversity objectives

SECTION 9. Management Plans. — There shall be a general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative management techniques including, if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researches, site-specific policy development, pest management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites and for close coordination between and among local agencies of the Government as well as the private sector.

Each component area of the System shall be planned and administered to further protect and enhance the permanent preservation of its natural conditions. A management manual shall be formulated and developed which must contain the following: an individual management plan prepared by three (3) experts, basic background information, field inventory of the resources within the area, an assessment of assets and limitation, regional interrelationships, particular objectives for managing the area, appropriate division of the area into management zones, a review of the boundaries of the area, and a design of the management programs.

Inputs

Inputs Criteria

- Staffing input
- Funding input
- Infrastructure/equipment input
- Information/ inventory

SECTION 16. Integrated Protected Areas Fund. — There is hereby established a trust fund to be known as Integrated Protected Areas (IPAS) Fund for purposes of financing projects of the System. The IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government for any political subdivision or instrumentality thereof. All incomes generated from the operation of the System or management of wild flora and fauna shall accrue to the Fund and may be utilized directly by the DENR for the above purpose. These incomes shall be derived from:

- a) Taxes from the permitted sale and export of flora and fauna and other resources from protected areas;
- b) Proceeds from lease of multiple-use areas;
- c) Contributions from industries and facilities directly benefiting from the protected areas; and
- d) Such other fees and incomes derived from the operation of the protected area. Disbursements from the Fund shall be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

The Handbook for the Establishment and Management of Integrated Protected Area Sub-funds (Bacudo et al., 2001) gives the process flow for accessing the IPAF is as follows: PAMB prepares an approved work and financial plan; PAMB requests for the disbursement of the PA Sub-fund through the DENR Regional Office; then to the Protected Area and Wildlife Bureau (PAWB), as the Secretariat of the IPAF-GB; the staff evaluates and prepares the documents for the endorsement of the PAWB Director to the DENR Secretary; the DENR Secretary then approves and endorses the request to the

Office of the Secretary of Department of Budget and Management (DBM); and the DBM releases the funds by issuing the advice of NCA to the PENRO where the PA belongs. Finally, upon the receipt of the said advice, the PA management disburses the funds for its operation and maintenance.

Processes/ Management Body:

Process Criteria

- Governance and capacity (includes financial management)
- Infrastructure/equipment maintenance
- Staffing – process
- Law enforcement
- Stakeholder relations
- Visitor management
- Natural resource management
- Values and threat monitoring and research

The following sections of the NIPAS Act provide for the details regarding the management body.

SECTION 10. Administration and Management of the System.

— The National Integrated Protected Areas System is hereby placed under the control and administration of the Department of Environment and Natural Resources. 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**. The Service thus established shall manage protected areas and promote the permanent preservation, to the greatest extent possible of their natural conditions.

To carry out the mandate of this Act, the Secretary of the DENR is empowered to perform any and all of the following acts:

- a) To conduct studies on various characteristic features and conditions of the different protected areas, using commonalities in their characteristics, classify and define them into categories and prescribe permissible or prohibited human activities in each category in the System;
- b) To adopt and enforce a land-use scheme and zoning plan in adjoining areas for the preservation and control of activities that may threaten the ecological balance in the protected areas;
- c) To cause the preparation of and exercise the power to review all plans and proposals for the management of protected areas;
- d) To promulgate rules and regulations necessary to carry out the provisions of this Act;
- e) To deputize field officers and delegate any of his powers under this Act and other laws to expedite its implementation and enforcement;
- f) To fix and prescribe reasonable NIPAS fees to be collected from government agencies or any person, firm or corporation deriving benefits from the protected areas;
- g) To exact administrative fees and fines as authorized in Section 21 for violations of guidelines, rules and regulations of this Act as would endanger the viability of protected areas;

- h) To enter into contracts and/or agreements with private entities or public agencies as may be necessary to carry out the purposes of this Act;
- i) To accept in the name of the Philippine Government and in behalf of NIPAS funds, gifts or bequests of money for immediate disbursements or other property in the interest of the NIPAS, its activities, or its services;
- j) To call on any agency or instrumentality of the Government as well as academic institutions, nongovernment organizations and the private sector as may be necessary to accomplish the objectives and activities of the System;
- k) To submit an annual report to the President of the Philippines and to Congress on the status of protected areas in the country;
- l) To establish a uniform marker for the System, including an appropriate and distinctive symbol for each category in the System, in consultation with appropriate government agencies and public and private organizations;
- m) To determine the specification of the class, type and style of buildings and other structures to be constructed in protected areas and the materials to be used;
- n) Control the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection, and sanitation systems and other public utilities within the protected area;
- o) Control occupancy of suitable portions of the protected area and resettle outside of said area forest occupants therein, with the exception of the members of indigenous communities ; and
- p) To perform such other functions as may be directed by the President of the Philippines, and to do such acts as may be necessary or incidental to the accomplishment of the purpose and objectives of the System.

SECTION 11. Protected Area Management Board. — A Protected Area Management Board for each of the establishment protected area shall be created and shall be composed of the following: the Regional Executive Director under whose jurisdiction the protected area is located; one (1) representative from the autonomous regional government, if applicable; the Provincial Development Officer; one (1) representative from the municipal government; one (1) representative from each barangay covering the protected area; one (1) representative from each tribal community, if applicable; and, at least three (3) representatives from nongovernment organizations/local community organizations, and if necessary, one (1) representative from other departments or national government agencies involved in protected area management.

The Board shall, by a majority vote, decide the allocations for budget, approve proposals for funding, decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy. The members of the Board shall serve for a term of five (5) years without compensation, except for actual and necessary travelling and subsistence expenses incurred in the performance of their duties. They shall be appointed by the Secretary of the DENR as follows:

- a) A member who shall be appointed to represent each local government down to barangay level whose territory or portion is included in the protected area. Each appointee shall be the person designated by the head of such LGU, except for the Provincial Development Officer who shall serve ex officio;
- b) A member from nongovernment organizations who shall be endorsed by heads of organizations which are preferably based in the area or which have established and recognized interest in protected areas;

- c) The RED/s in the region/s where such protected area lies shall sit as ex officio member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area; and
- d) The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the secretary shall designate one (1) of them to be the Chairman. Vacancies shall be filled in the same manner as the original appointment.

Outputs

Output Criteria

- Achievement of work program

SECTION 20. Prohibited Acts. — Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- a) Hunting, destroying, disturbing, or mere possession of any plants or animals or products derived therefrom without a permit from the Management Board;
- b) Dumping of any waste products detrimental to the protected area, or to the plants and animals or inhabitants therein;
- c) Use of any motorized equipment without a permit from the Management Board;
- d) Mutilating, defacing or destroying objects of natural beauty or objects of interest to cultural communities (of scenic value);
- e) Damaging and leaving roads and trails in a damaged condition;
- f) Squatting, mineral locating, or otherwise occupying any land;
- g) Constructing or maintaining any kind of structure, fences or enclosures, conducting any business enterprise without a permit;
- h) Leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water; and
- i) Altering, removing destroying or defacing boundary marks or signs.

Outcomes

Outcomes Criteria

- Management plan objectives achieved
- Condition assessment (all values)
- Net effect of park on community

SECTION 2. Declaration of Policy. — Cognizant of the profound impact of man's activities on all components of the natural environment particularly the effect of increasing population, resource exploitation and industrial advancement and recognizing the critical importance of protecting and maintaining the natural biological and physical diversities of the environment notably on areas with biologically unique features to sustain human life and development as well as plant and animal life, it is hereby declared the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution. It is hereby recognized that these areas, although distinct in features, possess common ecological values that may be incorporated into a holistic plan representative of our natural heritage; that effective administration of these areas is possible only

through cooperation among national government, local government and concerned private organizations; that the use and enjoyment of these protected areas must be consistent with the principles of biological diversity and sustainable development.

To this end, there is hereby established a National Integrated Protected Areas System (NIPAS), which shall encompass outstandingly remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as "protected areas."

13 steps of the NIPAS Act

1. Compilation of maps and technical description
2. Initial screening
3. Public notification
4. Initial consultation
5. Survey/Census and Registration of PA Occupants
6. Resource Profiling
7. Initial protected area plan
8. Public hearing
9. Regional review and recommendation
10. National review and recommendation
11. Presidential proclamation
12. Congressional action
13. Demarcation

Indigenous peoples (IP) as defined under Sec. 3h, Chap. 2, Republic Act No. 8371, R.A. 8371 is An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous People, Creating a National Commission of Indigenous People, establishing Implementing Mechanisms, Appropriating Funds Therefore, and for Other Purposes.- This refer to "a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos."

Traditional people (TP)- This refer to a group of people who manifest traditional culture as opposed to what is considered modern or western culture but this group is not necessarily indigenous to the community or have ancestral claim to a particular territory. This people are considered to have maintained traditional cultural practices or way of life. Example of this will be rural Filipinos who still manifest what is considered as Filipino tradition and are relatively isolated from the urban way of life. In a way, IPs are traditional people but not all traditional peoples are IPs. This distinction has to be made clear.

PART 2 METHODOLOGY

Study Design

The study design consists of four phases (Fig. 2.1) – a) Preparatory, b) Assessment and Field Visits, c) Analysis and Report Writing, and d) Presentation of Results.

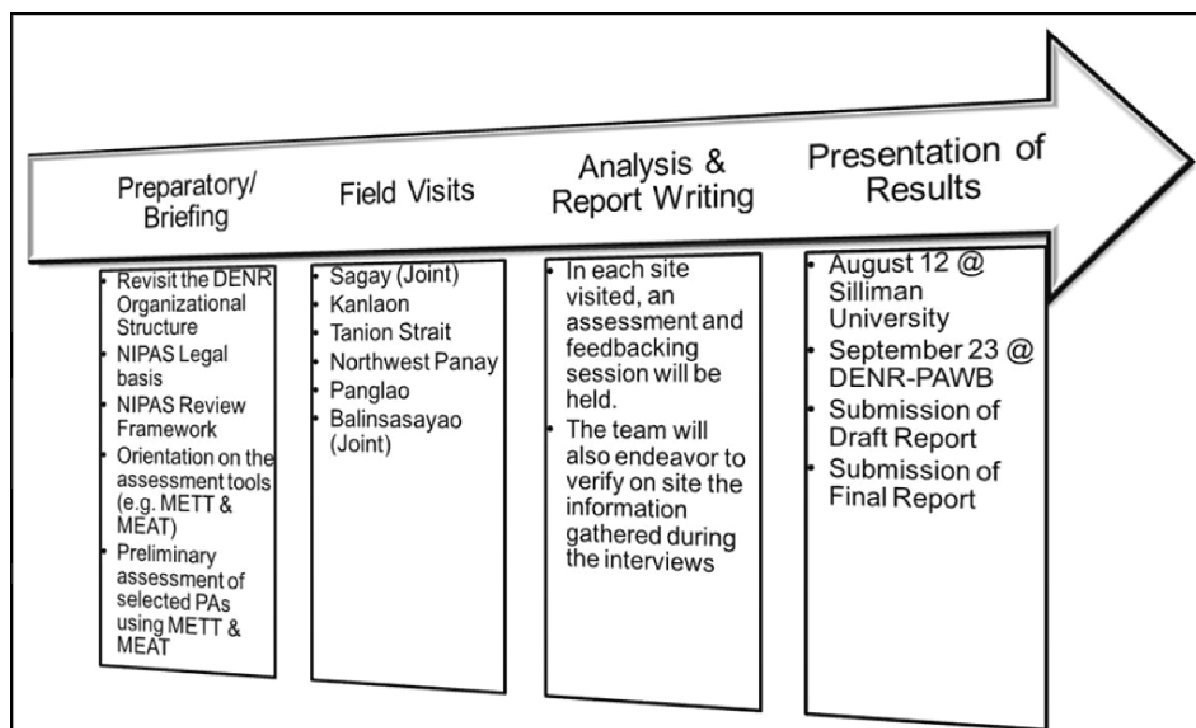


Figure 2.1. Study Design.

During the Preparatory Phase an orientation on the study and on the assessment tools was conducted. The MEAT tool was refined since this was the first time it would be used on a NIPAS site. Preliminary assessment of selected PA was done as practice run.

Two study teams were formed: marine and terrestrial. Simultaneous field visits were conducted, except for Sagay and Balinsasayao where the two teams assessed the area jointly. This was because Sagay was a pilot testing site for marine and Balinsasayao for terrestrial. Validation was done through a feedback meeting, ocular inspection, interviews and document review. The overall results were presented to representative respondents as well as to PAWB.

Study Team

The study team consists of three mentors and seven students (Fig. 2.2): three student volunteers from University of Maastricht College in the Netherlands sponsored by GTZ and four student volunteers from SU with mentors Mr. Jose Shaleh Antonio from GTZ and A/Prof. Renee Paalan for terrestrial and Dr. Nida Calumpong for marine from SU.



Figure 2.2. The study team (from left to right – Oliver Paderanga, Franziska Salzer, Nida Calumpong, Tilman Vahle, Renee Paalan, Charlotte Merten, Elise Basa, Ian Canlas, Richard Pavia, and Shaleh Antonio).

Study Program

The study team adopted a triangulation strategy in determining and assessing the management effectiveness of each protected area. The strategy makes use of the various sources of information and data gathering techniques aimed at obtaining the most recent, objective, and verifiable information about the status of the protected areas. This information comes from

- a) Available secondary information about the site;
- b) Key informant interviews;
- c) Ocular inspection of the site assessment;
- d) Focus group discussion;
- e) Survey using the METT and MEAT assessment tools.

Assessment Tools

1. Management Effectiveness Tracking Tool (METT)

The METT was developed and designed by Sue Stolton and others (2007) for the World Bank/WWF Alliance for Forest Conservation and Sustainable Use. It has already been used to assess 1163 protected areas in more than 50 countries.

The METT tool uses questions based on the WCPA framework.

The METT tool is primarily a self-assessment tool, although during the conduct of the survey the questions needed explaining as English is usually not the primary language used by the protected area staff and management board, and the style of questioning and the words used in the tool were in the English of the international community and not as used in the US, which is the English most Filipinos are used to.

The respondent is asked to choose the best or most appropriate from a set of (usually) four answers to specific questions and scores are awarded for each answer, with a higher score being given to responses indicating better management. There are several questions which are categorized into the different components of the WCPA framework. Scores are converted into percentages for each component and also into an overall score, which are then presented in a bar-chart.

Apart from questions with “regular” scores, there are a few questions whose scores contribute to the total score but are not used in computing for the percentage. These are the “bonus” or “additional” points, which can be seen to represent actions or management interventions which are not basic requirements for proper functioning but are plus factors. These are also shown as bars on top of the “regular” bars on the charts.

The METT tool also includes a questionnaire focusing on threats, which aids in the analysis of the context of the protected area.

There are 31 questions in the METT questionnaire (in the version provided by PAWB), with each question having a choice of (usually) four answers, and the respondent is asked to pick the “best” answer – the one most appropriate or representative of the current situation in the protected area being assessed. Each of the answers has a corresponding score (0 being the lowest score, to 3 being the highest), with a higher score being given to responses indicating better management. These scores are then added to give the assessed site a rating. All are summed up for an over-all rating, and different combinations of questions relevant to the component are added up to give ratings for each of the management effectiveness components of the WCPA (context, planning, etc.).

The METT tool was designed to give a quick overview concerning PROGRESS in management effectiveness, not necessarily give a score. To give a good picture of the state of management, the tool requires a quorum or 50% + 1 of the members of the Management Board to be present to answer the questions.

Questions that were found to be not applicable to the PA being assessed and were not answered should not be included in the analysis.

- Total Maximum Score: Number of Applicable Questions * 3 (highest possible score for each question)
- Total Score: Sum the scores of the answers of all applicable questions
- Regular: Divide Total Score by Total Maximum Score
- Bonus: Divide Total Bonus Score by Total Maximum Score
- Regular + Bonus = Percentage rating

Answers of all respondents were averaged to give a site rating. Results were also analysed per component.

There is also a separate questionnaire for the threats, though in this case the answers are not scored. A list of threats is given, and the respondent is asked to rate each threat as *high*, *medium*, *low*, *no data*, or *not applicable* – from threats which are “seriously degrading values” to those which are “not present or not applicable in the PA”. Respondents are asked to choose “no data” if no information is available to rank the threat.

Threats were analysed as to which of those listed received the most number of highs from the respondents. These were compared to the results of the site validation.

PAWB adopted METT as the primary instrument for measuring management effectiveness of protected areas in the Philippines. The version adopted by PAWB (see Appendix A) is the version designed primarily for terrestrial sites, with some focus on wetland management. PAWB added some questions (those concerning tenurial instruments and SAPA), and changed the scoring system (scores for answers to questions were reflected in only one component; in the 2007 METT, the score for a particular answer could be reflected in the computation of the total score of more than one component). This version can also be used with marine protected areas (though there is also a “marine METT” available by Staub and Hatzios, 2004, adapted directly from the original METT).

2. Management Effectiveness Assessment Tool (MEAT)

A local assessment tool designed for marine protected areas (MPAs) sponsored by the MPA Support Network (MSN), the MEAT as a tool was originally developed by W. Ablong and E. Dolumbal in 2001 for tracking progress in local MPA establishment for the USAID-funded CRM Project and subsequently modified by CCEF, EcoGov, MSN and this case study (see Appendix B).

Made to assist local communities to improve the management of their MPAs, the MEAT tool was designed to be dynamic and not provide a definitive statement of the status of any MPA rated with it. It has so far been applied to community-based MPAs, and its inclusion in this study is being sponsored by the MPA Support Network (MSN). As such, the study team was also asked to test the MEAT tool, and to assess its applicability to NIPAS sites.

The MEAT tool requires the presentation of proofs to validate the answers in the questionnaire, usually in the form of documents such as ordinances or minutes of meetings. This requirement poses a difficulty in large NIPAS areas where documents are often not available in any one particular site.

The questions are presented as yes/no queries, with each affirmative answer having a corresponding score. Scores are added and the protected area is said to attain a certain level after achieving a required minimum number of points with a greater number of points achieving a higher level. A level, however, will only be awarded if certain threshold questions have been answered affirmatively and a required minimum number of years of implementation have been accomplished for that particular level. Resulting analysis provides an indication of level of effectiveness in MPA management, with higher levels indicating more effectiveness of management.

Levels in MEAT are “the protected area is (Level 1) **established**”, (2) **“strengthened”**, (3) **“sustained”** or (Level 4) **“institutionalized”**.

Assessment of the Tools

Since METT has already been assessed (see Leverington et al., 2008), only MEAT was assessed using the principles and guidelines from Leverington et al. (2008). A matrix evaluating MEAT is attached as Appendix C.

Overall, MEAT is useful in tracking progress in the establishment of protected areas. Instead of components, it has thresholds but cannot dissect the strengths and weaknesses of the management

body. It relies heavily on documents for verification which are generally lacking or lost even at the regional level. It does not have a threat section, although it has an awareness/perception section.

Assessment Procedure

Focus Group Discussions/Individual Assessment

- Participants from PAMB members, PASu, PA staff, involved LGUs, enforcement teams, others
 - Sagay: 11 participants, 5 PAMB members
 - Tañon Strait: 107 participants, roughly 72 PAMB members
 - Panglao Island: 12 participants, 5 PAMB members
 - Mt. Kanlaon: 9 participants, all PAMB members except PASu
 - NW Panay: 10 participants, all PAMB members except PASu
 - Balinsasayao: 18 participants, 12 PAMB members
 - The number of participants was fluctuating, and not constant. This was expected as the Pas themselves were of different sizes.
- Orientation on NIPAS 13 steps, the study etc.
- Copies of the questionnaire (METT and MEAT) were given to the participants, who were also asked to indicate the agency or office they represented; the PASu indicated basic details of the protected area (size, budget staff numbers, key values)
- Questionnaires were answered individually if possible, clustered into small homogeneous groups if a large number of participants were present
- Questions were projected and read from LCD projector and, to provide clear understanding, were explained item per item, often using examples from the area
- While the respondents were answering, discussions resulting from and pertaining to the item-by-item explanations of the questions were also conducted

Feedback & Validation

- Graphical feedback on MEAT level and METT percentage were given right away and discussed in an open forum for validation
- If the schedule allowed, results on threats were also fed back after the site validation (2 days after the initial meeting) to validate the findings and discuss prioritization of actions
- Meetings usually lasted eight hours.

Site Assessment and Validation

- Ocular inspection of the sites (including snorkelling, if necessary), photo documentation etc. was done for firsthand assessment of the areas. Results of the ocular inspection also served to validate the results of the METT and MEAT tools.
- On-site visits focused mostly on the threats, but attention was also directed at other significant concerns, such as whether boundaries were delineated, or on presence of IEC materials.

Key Informant Interview

- Information was also gathered from direct stakeholders on site

Review of Documents

The MEAT tool requires that documents be presented to support the answers given for most of the questions given in the questionnaire. As such, sites to be visited were given notice several weeks beforehand that these documents were required and were to be presented during the site visit. Many of the required documents were not available on site during the site visits, however, for various reasons (no office, somebody else had them, etc.). In these cases, the respondents were given one week to send copies (electronic or paper) of the required documents. If these documents were not received, this would be taken to mean that the documents do not exist.

During site validation, office visits were also made to the DENR Regional office in Cebu City or GTZ office in Bacolod. Even here, many documents were missing.

PART 3 MANAGEMENT EFFECTIVENESS ASSESSMENT

Prior to the conduct of the site visits, a 3-day orientation workshop attended by PA staff, PAMB members and other stakeholders was conducted wherein the following were taken up:

- a) Orientation on the assessment;
- b) Briefing on the PA by its respective PASu;
- c) The NIPAS law;
- d) Overall framework for the NIPAS law review;
- e) Orientation on the assessment tools to be used (MEAT and METT);
- f) Refinement and modification of the MEAT tool;
- g) Preliminary assessment of the case study sites;
- h) Detailed activities of the field visits and the corresponding document requirements.

A shortened version of the orientation workshop was repeated at the start of the on-site assessments.

- 1) Site assessment and validation and gathering of secondary information
 - Joint assessment of Sagay Marine Reserve and Balinsasayao Twin Lakes Natural Park
 - Simultaneous assessment of marine and terrestrial sites
 - Tañon Strait Protected Seascape
 - Panglao Island Protected Seascape
 - Mt. Kanlaon Natural Park
 - Northwest Panay Peninsula Natural Park
 - Simultaneous assessment of marine and terrestrial site
 - Focus group discussion participated by the PASu/PAO and PAMB members
 - Key informant interviews in each site
 - Facilitated assessment using the two tools
 - Presentation of preliminary results/snapshots of PA Management effectiveness using METT and MEAT results and validation
 - Analysis and report writing
 - Presentation of the Study Results to respondents and PAWB

SAGAY MARINE RESERVE



Figure 3.1. Map of Negros Occidental with the municipality of Sagay shaded red.

Description

The Sagay Marine Reserve (SMR) comprises an area of 32000 ha, located at 11°0'59"N and 123°29'E in Negros Occidental, Visayas, Philippines. First, in 1983, Carbin Reef was established as a fish sanctuary under the Municipal Ordinance No. 2. Later on, this was extended to the other islands of Molocaboc, Diutay, Matabas and Suyac and the reefs of Panal and Macahulom. The Sagay Marine Reserve as a NIPAS site started with the Presidential Proclamation 592 on June 1, 1995, which followed former DENR Sec. Dr. Angel C. Alcala's recommendation of the integration of Sagay into the wider NIPAS act. Finally, on April 14, 2001, the "Sagay Marine Reserve Law" (Republic Act 9106) passed Congress, sponsored by Cong. Alfredo G. Marañon, Jr.

Today, SMR is managed by the Protected Area Management Board (PAMB), consisting of the City Mayor, one representative from DENR, the City Planning and Development Office, the Department of Agriculture, the chief of the PNP and SP on Environment, the SMRSu, one representative from Commercial Fishing, the religious sector, the youth, the NGO, two people representing the fisher folk and the Barangay Captains of Himogaan Baybay, Old Sagay, Taba-ao, Bulanon, Vito and Molocaboc. PAMB is co-chaired by the mayor of Sagay City and the DENR Regional Executive Director of Region VI.

The PAMB of SMR has control over nearly P6 Million annually, consisting of P3 Million meant to maintain bantay dagat operations and salaries, and P3 Million given to the City Environment Office which was being created in 2001. All in all, the Local Government Unit (LGU) shoulders the whole budget. In addition, the PAMB controls 55 people in total in order to improve the management of the Protected Area (PA).

Effectiveness of the PAMB in managing the SMR results from various factors. Firstly, political support of the project has always been high due to the fact that the political leaders of the area have not changed significantly during the last decade. In contrast, most mayors are from the same families, hence providing for continuity of the program. Secondly, the close cooperation with the LGUs and the fact that the management of the PA is based on the LGUs has led to significant cooperation with stakeholders. Lastly, the PAMB is supported in the management from NGOs and Academic institutions such as Silliman University, SEAFDEC and also enforcement support from PNP and Coast Guards. Support from GTZ was also provided under the EnRD program CFRM component. This relatively high level of management effectiveness is proven by several awards, such as the Gawad Galing Pook award for innovation and replicability of the project, given to SMR in 1997 or it was rated the 1st Runner up in the Best Aquatic Resource Management in the Philippines contest of DOST-PCAMRD, given by Senator Magsaysay on January 31, 2003. Following, SMR became the Best Eco-Tourism Destination in Western Visayas in 2006. Lastly, on December 7, 2007, the reserve was rated 1st Runner up as the Best Protected Area in the entire Philippines beating almost 200 other entries in a competition that was organized by the Marine Support Network (MSN).

Findings

Threats

Table 3.1. Top threats as rated by participants.

Threats	Others*	PASu	PA	Study Team
1.1 Housing and Settlement	Low	Medium	Medium	High
2.4 Marine and freshwater aquaculture	Low	Medium	Medium	Low
4.3 Shipping lanes and canals	Low	Low	Low	High
5.4 Fishing, killing and harvesting aquatic resources	Medium	Medium	Low	High
6.1 Recreational activities and tourism	Low	Low	Low	Low
9.1 Household sewage and urban waste water	Low	High	Medium	High
9.2 Industrial, mining and military effluents and discharges	N/A	High	Low	No data
9.4 Garbage and solid waste	Low	Low	Low	High
12. 5 Loss of support to communities and projects due to changes in political leadership	N/A	N/A	Low	High

*Others - representatives from other agencies or institutions



Figure 3.2 Solid waste in Suvac Is.

During the study, the overall threats to the SMR were determined as follows: Probably most important, housing and settlement seem to impose a higher danger to the reserve than indicated by the respondents. Although housing and settlement was rated as either medium or low by the respondents (see Table 3.1), the study group saw a much greater impact during its field validation. The difference in the perception might be caused by the fact that the amount or area of housing is low compared to the overall area of 32000 ha.

However, considering the relatively small surface of the islands on which housing is possible, settlement is comparatively high, with houses built directly next to or sometimes even into the sea.



Figure 3.3 Houses along the shores of Molocaboc.

During site validation, the group was also able to see areas in which waste was being used as the basement for the construction of new houses on water. Moreover, as indicated by the 5-Year (2008-2012) Coastal Fisheries Resources Management Plan, the increase in housing and settlement leads to the cutting of mangroves in wide areas.

Connected to this threat of new settlement is the danger of increasing household sewage and urban waste water. The study group agrees with the PASu who rated this threat high. As pointed out by the group *Others*, household sewage is especially high in the barangays of Old Sagay,

Himoga-an Baybay, Bulanon, Vito and Taba-ao.



Figure 3.4 Solid waste in Molocaboc floating in the mangrove area.

Furthermore, the study team found that the threat of garbage and solid waste is high, which is in direct contrast to the answers of the respondent who rated this impact low. Pictures taken during site validation reveal the acute danger of garbage being used as basement for houses (see above). Additionally, garbage was swimming next to the shore. However, the study team does take into account that within the SMR, research was conducted that showed that garbage has decreased compared to five years ago. Moreover, plastic bottles are recycled on the mainland and annually, a shoreline clean-up is conducted with help of the local school.

Even supportive to this threat of pollution are discharges from industry, mainly from the two sugar factories which led to fish kill in the past. This will be worsened by the slaughterhouse which is not yet operating.

However, in order to establish a direct link between the operation of the factories and the water quality, a water quality test is needed. Therefore, the study team agreed that there was insufficient data to rate the impact of industrial effluents.



Figure 3.5 Newly-constructed pier in Old Sagay.

Negative influence of tourism, caused by infrastructure or facilities is very low, as indicated by all respondents. As estimated by the PA and the others group, there are about 3000 to 4000 tourists annually, which are too few as that one should consider them as a negative impact on the area.

Another important threat to the SMR is the construction of the harbour. Although the respondents did not rate this threat of shipping lanes and canals as high, the study team is convinced that the operation of ROROs in the future might increase the problem of industrial activities.

The SMR is also threatened by marine and freshwater aquaculture, such as fish corals and fish pens in Vito, sea ranching in Panalsagon and grouper culture in barangay Bulanon and barangay Taba-o, according to the group *Others*.



Figure 3.6 Flourishing shell industry in Molocaboc. CITES – protected giant clam shells, *Tridacna* and *Hippopus* among those sold.

Additionally, there are fish cages and seaweed culture in Bulanon (PA). The research team however agrees with the others group in rating the impact of marine and freshwater aquaculture as low as the impact in relation to the whole area seems comparatively low.

the fishing, killing and harvesting of aquatic resources. The study team is convinced that this imposes a high threat, being in contrast to the ratings of the PASu, the others and the PA who rated this threat medium, medium and low respectively. Pictures of shell harvesting in Molocaboc including endangered species such as giant clams led to this result.

More important and one of the main threats originates in

The PA group noted this problem under the threat category “mining”. In comparison to Panglao, Bohol, there is a huge number of shells being collected. Apprehension however is difficult taking into consideration that the sale of shells has already become a flourishing business. Possible solutions would be incentives to reduce the shell collection, such as the establishment of quotas. This would restrict the quantity of collected shells, which subsequently would most probably lead to an increase in price. As pointed out by the others group. The main problem to such a solution is the lack of capacity to calculate economic benefits, including time wasting, money etc. on the side of those gathering and selling the shells for cheap prices.

Lastly, loss of political support is rated as not existent by all three respondent groups. Interestingly, the study team has agreed that the loss of political support would indeed impose one of the highest threats. As shown in the presentation on the SMR held by the PASu, the success of the reserve relies to a great extent on the continuity in political support which is caused by the fact that the last mayors, Local Chief Executives and Barangay Captains in the area have closely worked together and have supported their decisions.

METT Results

The SMR attained 90% as an overall score for the effectiveness of its PA management as measured by the Management Effectiveness Tracking Tool (METT). The METT assesses management effectiveness in six (6) separate categories: context, planning, inputs, process, output and outcome, as established by the WCPA (SOURCE).

Context. When the Republic Act 9106, or “Sagay Marine Reserve Law”, passed congress on April 14, 2001 legal status of the SMR was established and ensured. The legal status being the only factor that characterizes the context in the METT, the SMR attains 100% in this category.

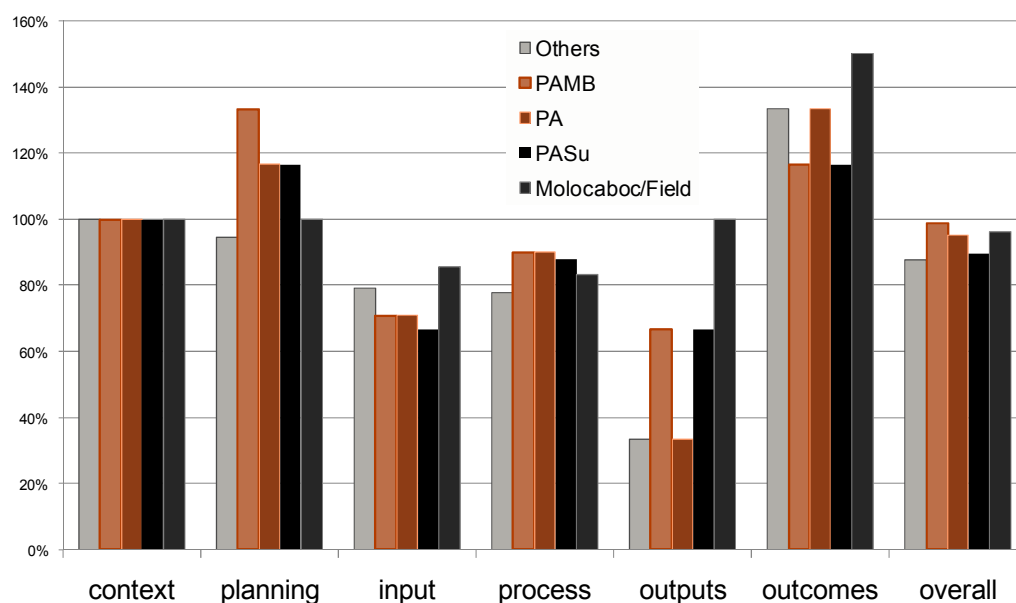


Figure 3.7 SMR METT overall chart.

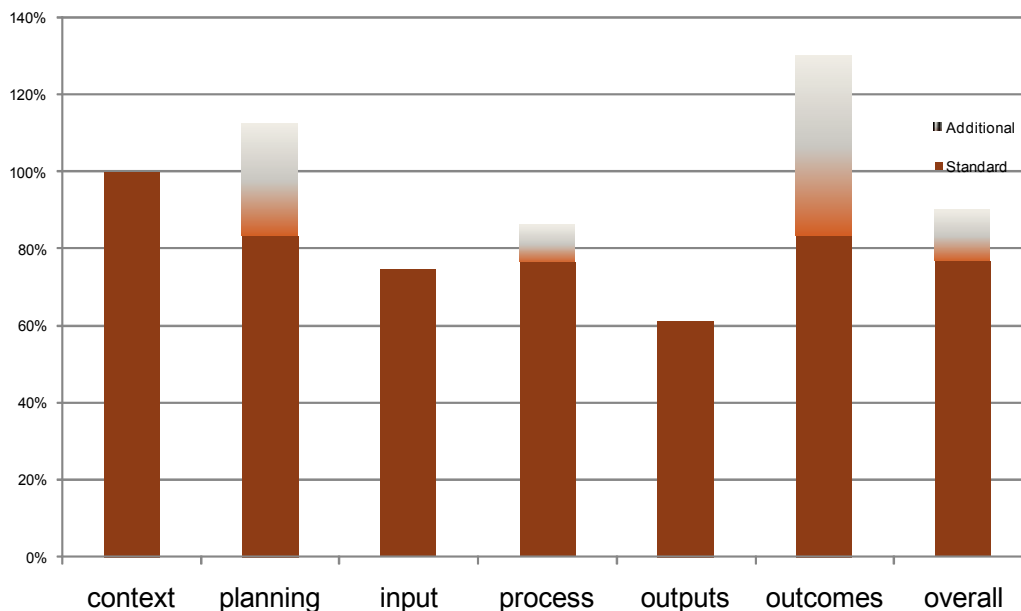


Figure 3.8 SMR METT average score including additional points.

Planning. This category considers PA regulations, design, the management and work plan and the planning of adjacent land and water use. According to the respondents of the METT, regulations for controlling land use and activities inside the SMR exist. The design, meaning the size and shape of the MPA, is considered to be appropriate for species and habitat conservation and the maintenance of ecological processes. The Management Plan (MP) was prepared with the input of stakeholders. Today, the MP is at least partially implemented and updated regularly to include the results of research and surveys. The PASu and PAMB state that it is harmonized with other development plans. Adjacent land and water use planning is said to at least partially take into account the long-term needs of the MPA. But the construction of the new port in Sagay, considered a major threat to the wildlife in the SMR, proves otherwise. Legally, Sec. 14 of RA 9106 denies the right to inhibit the construction of ports to the management of the SMR. Despite the construction of the new port, planning and management of the surrounding area provides adequate environmental conditions to sustain relevant habitats. The majority of respondents believe there are sufficient corridors to allow wildlife passages to areas outside the MPA. Lastly, a regular work plan exists and many activities are being implemented. Full implementation is inhibited by financial constraints.

Inputs. Staff numbers are below optimum level for management activities. According to the PAMB and the group of other respondents, one could add more bantay dagat personnel and some plantilla positions are not filled. Training of staff is adequate, but could be improved to fully achieve the objectives of management, such as training in GPS usage, fishing vessel registration, encoding and computer literacy, especially casual employees. Staff (with the assistance of the police) has adequate capacity and resources to enforce management legislation, but some deficiencies remain. The available budget is acceptable but could be further improved to fully achieve effective management. Collected fees make some contribution to the MPA; the IPAF is not accessed. Budget management is adequate, but could be improved. The respondents consider personnel and equipment, such as radars, boats and communication tools, as areas for improvement. In terms of biophysical information, scientific studies by the SEAFDEC are sufficient to manage the area.

Process. The boundaries are well-known and sufficiently demarcated. Protection systems are in place and largely effective in controlling access and resource use, though there are some transgressions. The shell mining/harvesting is a case in point. There are some specific and active management programs, such as the yearly coastal clean-ups, to address threats to biodiversity conducted regularly and substantially, but some issues are not addressed. Additionally, there are

also resource enhancement programs such as clam and abalone seedlings, artificial coral reefs and mangrove reforestation. There is an Information, Education and Communication (IEC) program but it only partly meets the needs and could be improved because it lacks funding and only reaches part of the population. There are programs to enhance community welfare, which, according to PA staff, are chosen by the local communities according to where they see the need. Local communities actively support the MPA, as they understand that it is good for them. Local communities have input into discussions relating to management, but the extent to which they a direct role in management decisions is rated differently by the respondents. PA staff and others rate it fairly low, while the PAMB and PASu consider the area to be co-managed with the LGU. A good monitoring and feedback system is in place.

Output. There is some disagreement as to whether tenurial instruments and SAPAs have been issued; while the PASu and Molocaboc state that no tenurial instruments have been issued, PAMB and PA staff say that tenurial instruments have been issued with the CRMP that was prepared and implemented. It was also stated that there were permits to harvest certain species. The evaluation of visitor facilities differed substantially between respondents. While Malocaboc considers them excellent, PA staff and others rate them as “inappropriate” and PAMB and the PASu as “adequate”.

Outcome. Two factors constitute the high score of the SMR concerning outcome. Firstly, there is some flow - if not a major flow - of economic benefits to local communities. Secondly, most respondents agree that biodiversity and ecological values are predominantly intact, but some claim that they have been partially degraded.

Conclusion. Compared to the other sites assessed during this study, the overall score of the SMR is highest.

MEAT Results

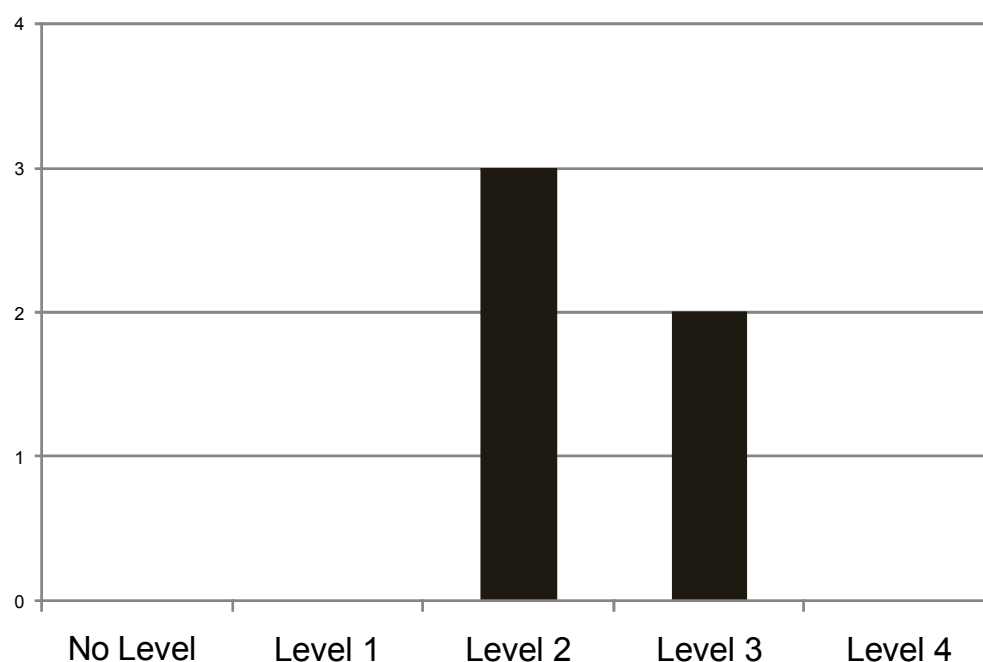


Figure 3.9 SMR MEAT results

The Sagay Marine Reserve only reached a high of Level 3 as it failed several threshold questions of the MEAT, namely:

- MPA not financially self-sustaining

- IEC program not sustained over 5 years
- There is no regular performance monitoring of PAMB (though there was some disagreement on this).

Conclusion

All in all, the effectiveness of the SMR as rated by the MEAT and METT questionnaires is high. Ranking in the MEAT between levels two and three and in the METT between 87 and 95 percent, the management is effective. However, despite the high METT score, the MEAT indicates that SMR has not reached the highest level yet which one would assume since the METT score is high. The fact that SMR can only be ranked level two or three is due to its failure to pass the threshold questions for these levels. One of the threshold questions for level four is that the NIPAS site should be financially self-sustaining. SMR fails to pass this question for all respondents because it is exclusively financed by the LGUs. However, according to the NIPAS law, the protected areas should finance themselves through revenues. Given the fact that SMR does not collect any fees (or low ones?), the goal of being financially self-sustaining seems unreachable for the moment.

Recommendations

Despite the overall positive rating of the SMR, the identified threats show in which parts the reserve still needs improvement. Most importantly, illegal fishing and shell gathering are still in place and need to be stopped. Possible solutions would be the stricter apprehension of people breaching the law and a quota on how many shells are to be collected at maximum. This could be done by additional legal support and an extension of the law enforcement groups. To facilitate their work, increased collaboration of the different LGUs within the SMR, especially among the islands of Cebu and Panay, could be helpful.

Secondly, the budget seems rather insecure since it depends on the cooperation of the LGUs and their heavy financial support. A solution out of this dependence would be the establishment of user fees to the park, varying for Philippine residents and foreigners.

In order to stop the threat of garbage, actions such as the annual coastal clean-up in collaboration with the school could be conducted on a more frequent basis. At the same time, this activity can form part of a wider IEC which reminds people of the negative effect of bad waste management.

TAÑON STRAIT PROTECTED SEASCAPE

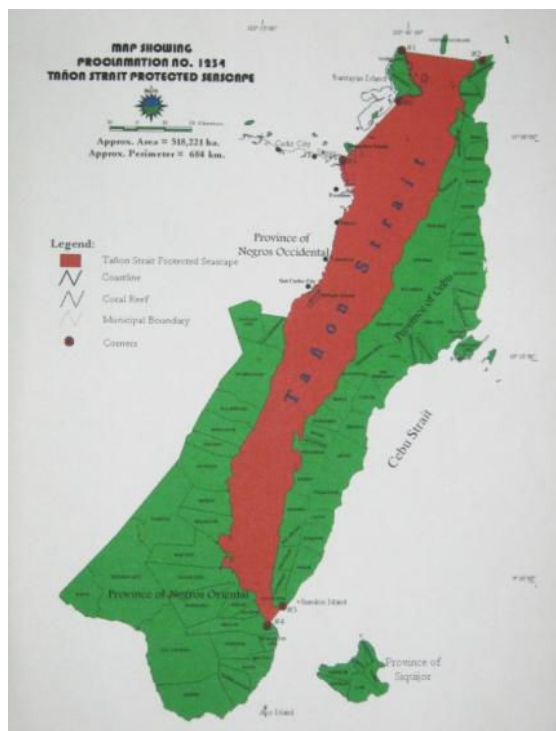


Figure 3.10 TSPS in red.

Description

The Tañon Strait is a body of water between the Negros and Cebu Islands, connecting the Visayas Sea and the Cebu Strait - Bohol Sea (Fig. 3.9). It has a total area of about 3,108 km² and a total coastline of approximately 452.7 km (Green et al. 2004).

All three major ecosystems typical of Philippine coastal areas – coral reefs, seagrass beds, and mangrove forests/stands – can be found within and on either side of the Strait. The Strait is also a major fisheries area.

The strait was declared a protected seascape under Presidential Proclamation 1234 by President Fidel V. Ramos in 1998 due to the following characteristics:

1. The Tañon Strait straddles the islands of Negros and Cebu and is a distinct habitat of the chambered nautilus (local name, tuklong), a migration route of Whale Sharks, and home to at least nine species of cetaceans;
2. The Strait houses a relatively high marine biodiversity with the northern portion known for its cetacean populations, thus whale and dolphin-watching (eco-tourism) is also a major industry besides fishing.

It does not yet have a Republic Act of its own.

Being a protected seascape, it is an area of national significance 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 the area.

The TSPS has a total area coverage of around 518,221 hectares according to the technical description of the DENR (although the original presidential proclamation mistakenly only gives an area of 450 hectares). It encompasses the coastal areas along the Tañon Strait from the municipality of Santander south of Cebu to the western portion of the Municipality of Daan Bantayan including the eastern portion of the Municipality of Madridejos and Sta. Fe and the Southern portion of the Bantayan in the province of Cebu, from the Municipality of Sibulan to the Municipality of Vallehermoso in the province of Negros Oriental, and from the city of San Carlos to the municipality of Escalante in the province of Negros Occidental.

Findings

Threats

The top threats as perceived by the respondents were as follows:

- Loss of support to communities and projects due to changes in political leadership
- Commercial and industrial areas
- Housing and settlement
- Loss of keystone species (e.g. top predators, pollinators etc)
- Hunting, killing and collecting terrestrial animals (including killing of animals as a result of human/wildlife conflict)

The team saw the following as threats:

- Fishing, killing and harvesting aquatic resources
- Nautilus fishing industry
- Commercial fishing, with no active enforcement against it
- Cetacean by-catch
- Agricultural and forestry effluents (e.g. excess fertilizers or pesticides)
- Loss of support to communities and projects due to changes in political leadership

Except for the concern on political support, the respondents and the study team saw things differently, with the respondents seeing more of the coastal threats, whereas the objects of protection, the marine mammals, were mostly pelagic.

Context. Legislation wrongly gives an area several magnitudes smaller than what should be. The PA is not supported by a Republic Act.

Planning. In order to come up with a management plan, the TSPS-PAMB resolved to adopt and consolidate the Coastal Resource Management (CRM) plans of the component LGUs within the TSPS, naming it the Mosaic General Management Plan. Thus, instead of being a general plan providing the framework and backbone upon which the plans of the components are to be based, the TSPS management plan is merely a collection and amalgamation of largely uncoordinated ordinances. In addition, not all component LGUs have come up and finished formulating their CRM plans, making the Mosaic General Management Plan incomplete.

Input. No resource or socioeconomic assessments have been made or coordinated by the PAMB. Knowledge on the status of the TSPS is based mainly on studies made by other agencies, e.g. NGOs and the academe.

During the survey, there was only one personnel from the DENR acting as TSPS staff – the Protected Area Superintendent (PASu), who did not have any office space assigned to him for this position.

A budget for protected area management exists within the Annual Work and Financial Plan of DENR Region 7, but there is none specified for the TSPS or for any of the protected areas in Region 7 for that matter. The TSPS does not yet have any access to the Integrated Protected Areas Fund (IPAF).

In terms of IEC initiatives of the TSPS, there are no billboards about it, no maps displayed, no flyers. There is simply no IEC program for the TSPS.

Process. The TSPS is supposed to be managed by the PAMB. The Regional Office of the DENR Region 7 lists a total of 286 PAMB members for TSPS – 3 City Mayors, 22 Municipal Mayors and 261 Barangay Captains. The list of members of the PAMB as provided for in the documents located in the regional office is different from that stipulated by the NIPAS Act in that it lacks, or fails to mention, the DENR Regional Executive Director and the Provincial Planning & Development Officers for each province in which the protected area is found. It should be noted that the TSPS is found in the area belonging to two regions and three provinces.

As effective management by almost 300 board members is next to impossible, the TSPS-PAMB Executive Committee was created. The Executive Committee is composed of 24 board members – 14 coming from Cebu, seven coming from Negros Oriental and three coming from Negros Occidental. Members from Negros Occidental have not been attending meetings, however.

There is a lot of confusion regarding jurisdiction and responsibilities of the PAMB, DENR and the LGU – most notably in the Negros Occidental area.

Newly elected officials usually do not know their responsibilities and duties as members of the PAMB – many do not even know that they are members at all. Elections often result in loss of continuity in management and also often in loss of support for management initiatives.

There is no protection in the areas critical to and no protection leading to the objectives of the TSPS, which is mainly to protect and conserve the marine mammal populations in the area. All protection is from the individual LGUs, is mostly uncoordinated from the point of view of the TSPS, goes almost exclusively to the coastal areas, and is mostly focused on the locally managed marine reserves.

Outputs. No outputs were given.

Outcomes. Even with all the shortcomings of the procedures, planning, implementation, etc., the condition of the area is still good, and there is also some economic benefit being gained. This is, however, probably more an outcome and a result of all the individual efforts of the component LGUs, such as their own local and small protected areas within the TSPS, than an outcome of the protection of the TSPS as a whole as managed by the PAMB.

Conclusion. The TSPS had the poorest performance among all of the sites.

METT Results

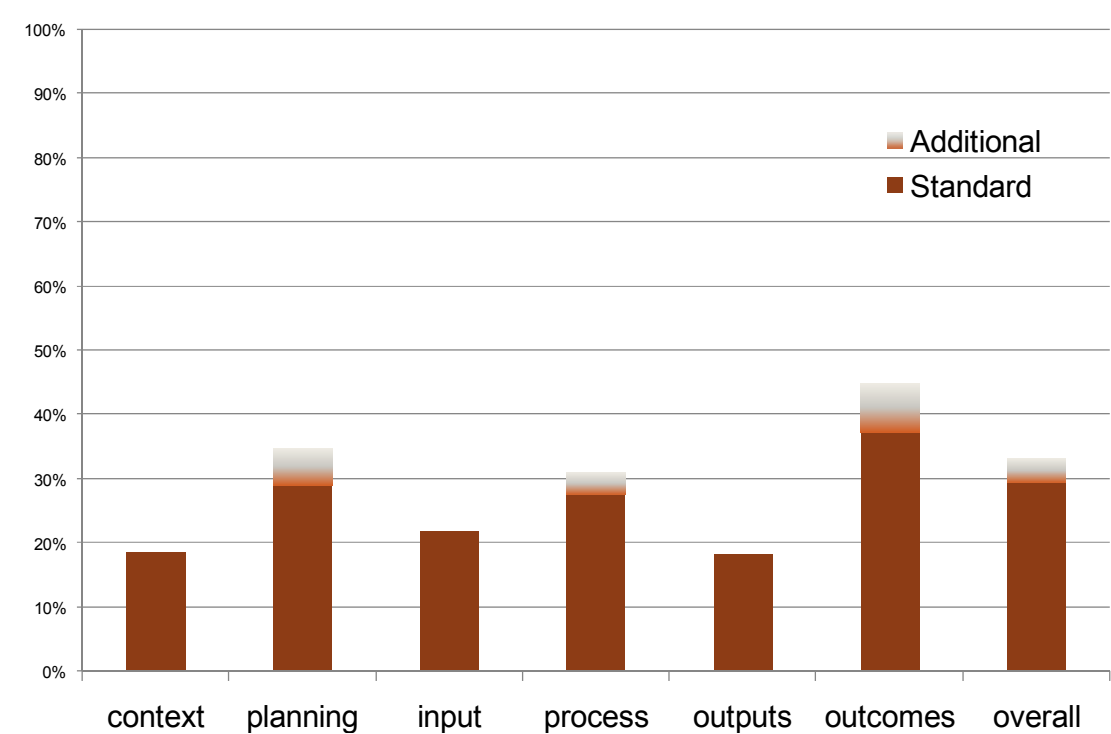


Figure 3.11 TSPS Overall METT results

MEAT Results

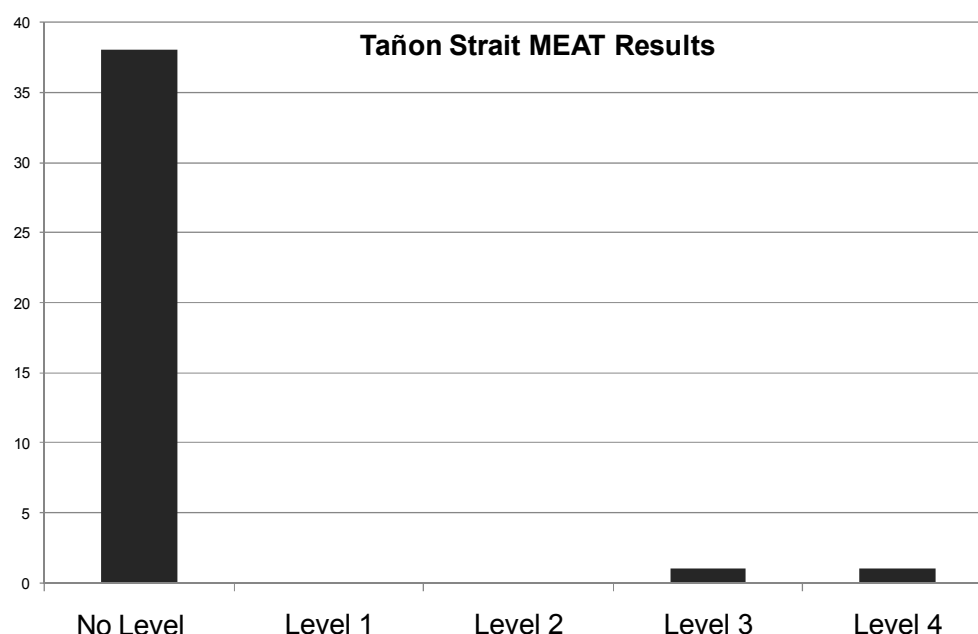


Figure 3.12 TSPS MEAT overall chart.

Both the METT and the MEAT (Figs. 3.11-3.12) give the TSPS low ratings, which is reflective of the overall management. Important to note, however, are the relatively high rating for outcome in the METT and the presence of respondents whose answers to the questionnaires resulted in the awarding of levels 3 and 4 in the MEAT for the TSPS. In the METT, the high outcome is reflective of the results of the individual efforts of the respective LGUs within the TSPS. This is also the case for the MEAT, wherein a respondent answered the questions in the context of the locally managed marine reserve and not in that of the TSPS, resulting in a level 3 for the protected area. The respondent who gave the level 4 result was too embarrassed by the result and declined to be questioned.

Conclusions

Management of the TSPS can be assumed to be either very poor or non-existent. With the general management plan incomplete and composed mostly of a collection of local CRM plans focused mainly on the individual coastal areas of their respective LGUs, the objective of the TSPS to protect the marine mammals cannot be achieved.

Recommendations

Formulation of a backbone plan upon which the individual CRM plans can be based or the setting up of minimum standards or guide policies aimed at achieving the TSPS objective, upon which the individual LGUs can add or which the LGUs can incorporate into their own individual plans.

Newly elected officials should be updated as to what their responsibilities and duties are with regard to the TSPS. All the concerned officials of the LGUs, whether newly elected or not, should be informed what the respective jurisdictions, powers, responsibilities and duties are of all the agencies involved: the DENR, the PAMB, the LGUs, etc.

PANGLAO PROTECTED LANDSCAPE AND SEASCAPE

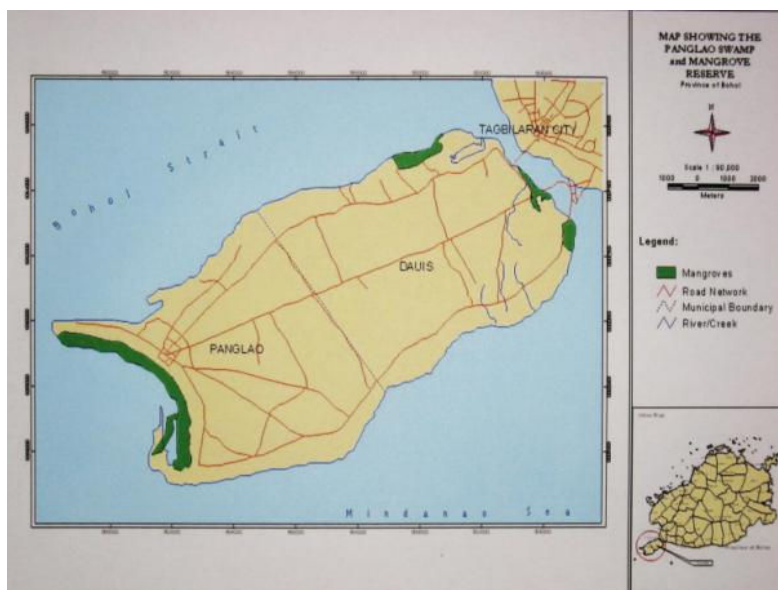


Figure 3.13 Panglao island, Bohol, showing the areas included in the PIPS (Dark Green).

Description

The Panglao protected landscape and seascape, located in Panglao Island, in the Province of Bohol, is unique in having been proclaimed twice as a protected area. It was initially established on December 20, 1981, through Presidential Proclamation are , which included the entire island (coasts as well as all inland areas) as part of national Mangrove Swamp Forest Reserve system, which aimed to preserve the country's remaining mangrove forests.

A second Presidential Proclamation (P.P. 426) issued twelve years later on July 22, 2003 amended the previous designation by reducing the total area and location of the protected area to four pockets of mangrove habitat found around the island, and integrated these into the National Integrated Protected Area System (NIPAS) as the Panglao Island Protected Seascape (PIPS). (Fig. 3.12)

The Panglao Island Protected Seascape covers all the mangrove areas, tidal flats, seagrass bed, coral reefs, white sand and other natural scenic attraction of the four sites. These are located within the Barangay of Danao, Poblacion, Doljo, Panglao, Bohol and the barangays of Poblacion, Totolan, Songculan, Dauis, Bohol and lie between Latitude 9°34'30.31" / Longitude 123°44'45.66" and Latitude 9°37'30.31" / Longitude 123°51'55.06". The four sites range from 30 hectares to 272 hectares, and comprise an area totalling roughly 385 hectares (Table3.3).

Table 3.3 Component mangrove areas of PIPS. From PP 2152.

Site	Location	Area
Block 1	Brgy. Poblacion, Dauis	314,221 sq.m
Block 2	Brgy. Poblacion, Dauis	300,785 sq.m
Block 3	Brgy Songcolan-Totolan, Dauis	523,002 sq. m
Block 4	Brgy. Poblacion, Doljo	2,718,651 sq.m.

The Panglao Island Protected Seascape, being a NIPAS site, is managed directly by the DENR through the Protected Areas Management Bureau (PAMB), represented in the area by the Protected Area Superintendent (PASu).

The main objective of the declaration of the PIPS is for the preservation of the remaining mangrove forest habitats in the designated areas, as well as the entire coastal areas included, for the protection and conservation of the island's biodiversity in the midst of increased tourism in the area.

Findings

Threats

The results of the respondents ranking of the various threats and how these could affect their respective protected areas are listed below (Table 3.4)

Table 3.4. List of threats. Those rated as No data and NA are excluded in this list.

High	Medium	Low	
		1	1.1 Housing and settlement
		1	1.3 Tourism and recreation infrastructure
		1	5.4 Fishing, killing and harvesting aquatic resources
		1	6.1 Recreational activities and tourism
		1	7.2 Dams, hydrological modification and water management/use
	1		7.3a Increased fragmentation within protected area
		1	9.1 Household sewage and urban waste water
			9.3 Agricultural and forestry effluents (e.g. excess fertilizers or pesticides)
		1	9.4 Garbage and solid waste
	1		10.2 Earthquakes/Tsunamis
		1	10.3 Avalanches/ Landslides
		1	10.4 Erosion and siltation/ deposition (e.g. shoreline or riverbed changes)
		1	11.3 Temperature extremes
		1	11.4 Storms and flooding
			12.3 Destruction of cultural heritage buildings, gardens, sites etc.
		1	12.5 Loss of support to communities and projects due to changes in political leadership

In general, no major threats (ranking high) were noted by the respondents. Only two threats were considered of medium intensity (Habitat fragmentation and earthquake/tsunamis). The rest of the threats were considered to be either low or not applicable.

Based on personal observations, as well as conversations with residents, the following threats were considered to be important enough to warrant closer investigations:

- Coral damage due to unregulated diving activities
- Destruction of mangrove tracts due to road and residential development
- Entry of collectors of tropical marine fish for aquariums
- Collections of shells for costume jewellery and specimen collectors
- Pollution from sewage (either raw or treated from resorts)

Graphed below are the results of the two assessment tools used in the study (MPA Management Effectiveness Assessment Tool – MEAT; and the Management Effectiveness Management Tool -

METT) as answered by the respondents in the study site. These reflect the eight groups or clusters that were created to accommodate the various interest groups involved in the management of the protected area.

METT Results

The results of the METT, as obtained from the eight respondent clusters, shows a relatively low (<40%) rating for the overall performance of the PIPS. This is representative of the general trends seen in the six components representing the management effectiveness parameters. Context is relatively high, but the succeeding three (planning, input, and process) are very low, indicating little or no activity being performed by the management body or those being observed and interpreted by the stakeholders (Fig. 3.14)

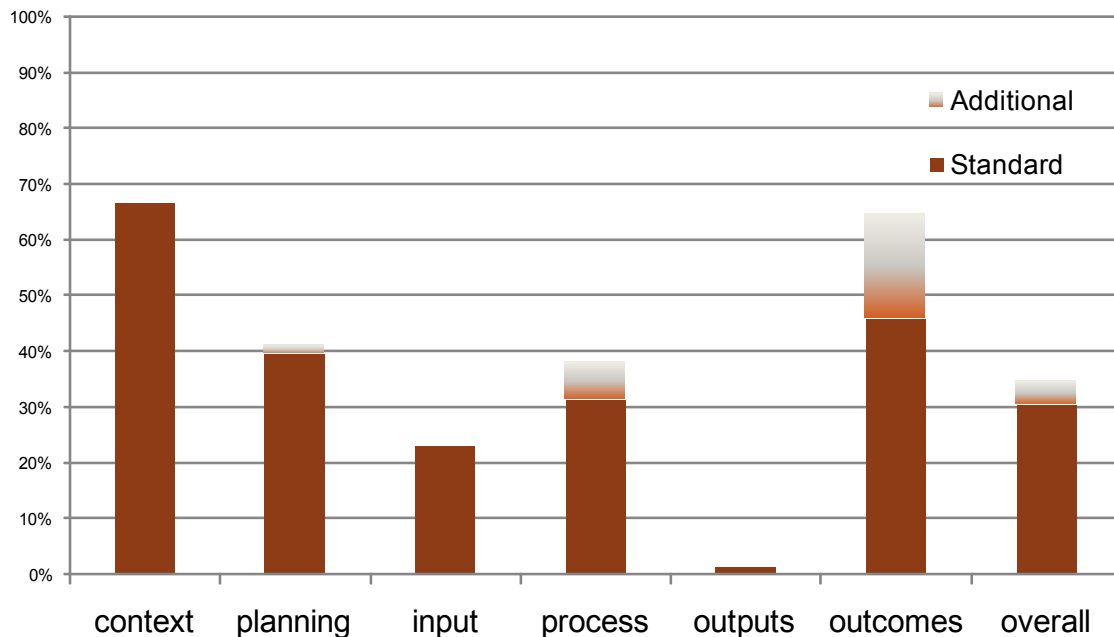


Figure 3.14 Graph showing the average results of the METT assessment tool in PIPS.

It is interesting to note that although that the general trends for the overall scores of the six components are low, there seems to be a disparity in how these involve or affect the rating of the outputs and outcomes of the protected area management body. The low output observed on the graph is directly representing the result of poor inputs, process, and planning, but the outcomes are relatively high. Since the outcomes represent the condition of values of the area, these respondents may be rating or observing the high outputs that are not the result of the NIPAS system but rather by the various local government units (Municipal and Barangay) that are more active in these areas than the national management body (PAMB).

Looking at the eight respondent groups involved in the assessment, it can be observed that the general trends of the results for the six component parameters are almost the same across the groups, despite their differences in educational and work backgrounds. The only exception was one answer from the Bohol Marine Triangle- PADAYON (BMT-Padayon), which was the only respondent who gave a score for the outputs section. Upon questioning though, the respondent stated that the scores were more relevant for the performance of the representative group and the LGUs rather than the PAMB. (Fig. 3.15).

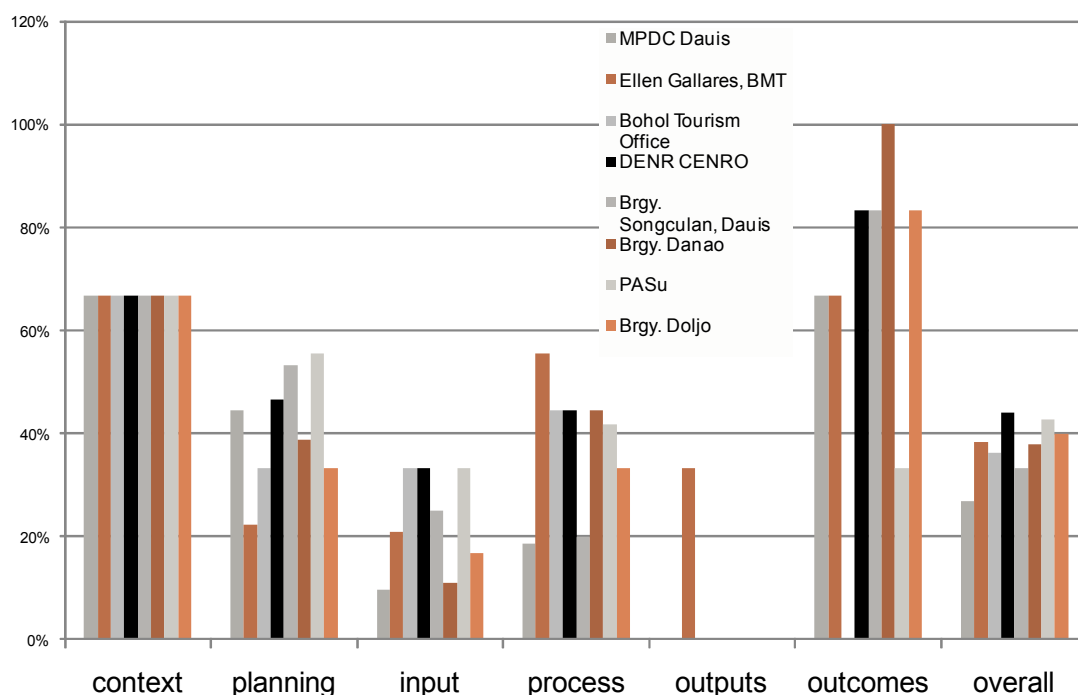


Figure 3.15 Graph showing the individual results of the METT assessment tool in PIPS.

MEAT Results

All of the respondents rated the PIPS at level 0, the lowest level in the MEAT scale (Fig. 3.16). This reflects the current perceptions of the participants regarding the performance of the PAWB and its representatives in managing the protected area. The lowest level indicates little to no participation of the management body in correctly managing the protected area (i.e., no IEC, no clear management plan, no infrastructure etc.).

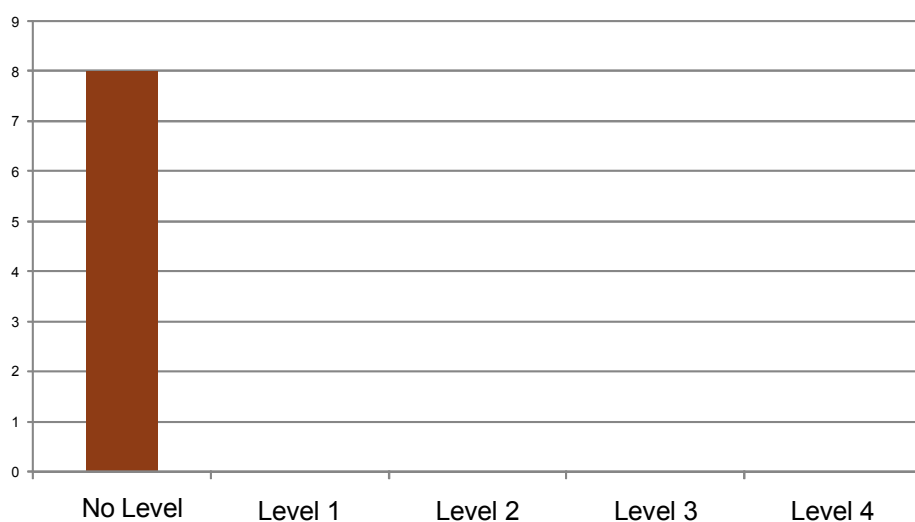


Figure 3.16 Graph showing the results of the MEAT assessment tool in PIPS.

The rating of the PIPS at the lowest level may mean two things: that little or no activity is being performed by the management body and its representatives (PAWB), or, if any are being done, these are not being made known to the stakeholders.

Conclusions

The results of the two assessment tools used in this survey (MEAT and the METT) as gleaned from the eight respondent cluster groups, illustrate a trend that is representative across many of the protected areas in the country under the NIPAS act: that although these protected areas were selected and identified to be protected and improved, conditions of values in the sites have mostly deteriorated, or have remained stable at best. For those sites that have showed significant improvements of values, these were either rare exceptions (Apo island being a prime example), or were sites that were managed more by the local government unit (municipal or barangay level) than by the PAMB, the specific agency that is supposed to directly govern the sites. The results of the MEAT test (zero) illustrate this very well – the management body has not had a chance to implement the very basic components or acts in properly managing the protected area. This general consensus from both the stakeholders as well as the LGUs (as well as LGU officials that are technically part of the PAMB) can be gleaned from METT, the second assessment tool given to the respondents. The low scores are directly attributable to the low performance of the PAMB, or if any activities have been performed, to a lapse in management not allowing the stakeholders to witness or know these activities. The unique composition of the Outcome parameter (that should normally be indicative of good inputs, planning, and process, reflects the general trend among many protected areas in the region, and probably elsewhere, that many protected areas are doing relatively well, but not because of the management body, but rather by the activities of the local government units that the PAMB was supposed to replace.

Recommendations

Based on the proceedings of the assessment meetings in Panglao, Bohol, the results of the assessment tools, and personal observations on the condition of the site and the general outlook of the respondents, the following recommendations can be made:

1. That the management body for NIPAS, the PAMB, should be more involved in the management of the protected area sites and not just rely on the activities of the local government units to perform tasks that are basically theirs.
2. That the PAMB should make efforts to activate the LGU officials that are technically members of the local PAMB, so that these people can continue their tasks under PAMB management than at the local government level.
3. That in view of the more visible and commendable role of the various LGUs in managing the protected areas, some revision of the NIPAS act should be in order to allow LGUs to officially play a bigger role in the conservation of their local natural resources, than rely on the national government that is inactive and lacks sufficient budget and manpower to properly dispense its functions.

MOUNT KANLA-ON NATURAL PARK

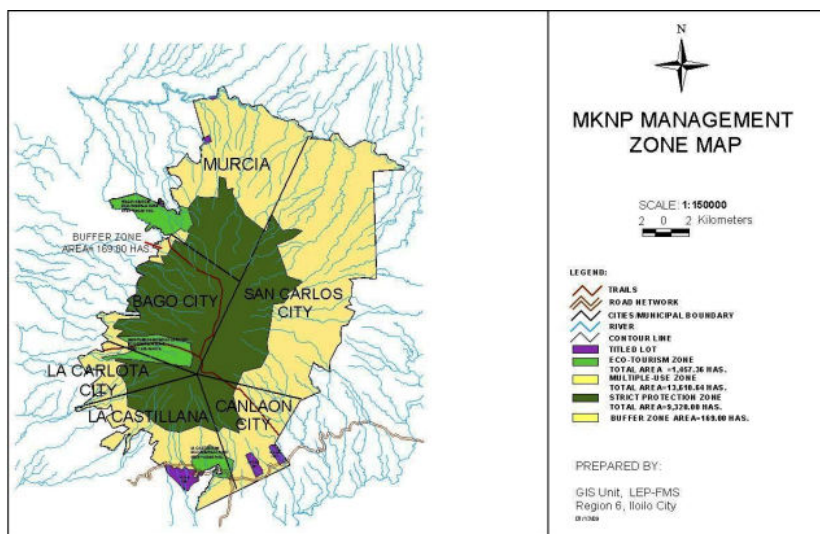


Figure 3.17 Map showing management zones of MKNP (Photos from MKNP GMP)

Description

Mount Kanla-on in Negros Island was proclaimed as a protected area under the category of a Natural Park through Presidential Proclamation No. 1005 on May 8, 1997. It forms part of the Western Visayas Biogeographic Zone and is an important area for biodiversity conservation. The WVBZ represents 9% of the total area of the 15 biogeographic zones of the Philippines (PAWB, 1998).

Location

Mount Kanlaon is the most dominant landmark in Negros Island's principal mountain chain that covers the municipalities of Murcia and La Castellana and the cities of Bago, La Carlota, San Carlos and Canlaon. It is located in the northern portion of Negros Island and falls within the political jurisdiction of the provinces of Negros Occidental and Oriental in Regions VI and VII. It lies approximately between 10°20' and 30' N latitude and between 123°00' and 123° 15' east longitude.

MKNP covers an area of 24,557.60 hectares or 95.80 sq. miles representing 2% of the total land area of Negros Island. Negros Occidental accounts 92% of its land area and 8% for Negros Oriental.

The following are excerpts from the Mount Kanlaon Natural Park Management Plan:

Habitats and Ecosystems

The habitats of MKNP are characterized along altitudinal range and are classified as 1) Lowland Areas, 2) Montane Forests and 3) Mossy Forests.

Indigenous People (IP) and Cultural Profile

MKNP is host to two groups of indigenous people whose population is slightly over 200 households. They are the Atis or Negritos and the Bukidnons. The Negritos are black skinned with kinky hair and flat noses to whom the name Negros comes from. The Atis, are highly nomadic in character and don't have permanent settlements in the area.

The IPs are mostly engaged in agriculture using slash and burn and into production of rice, corn and vegetables. Other sources of income are fishing, hunting and private employment.

Land Use Ownership and Tenure

The presence of settlements inside the MKNP has significantly altered the land use and classification of the parkland. While 55.24% or 11,537.48 hectares still have primary and secondary forest cover, some 29.10% or 7,148.05 hectares are already cultivated with some 291.10 hectares already titled. Tenured migrants in the PA include the IPs and settlers who occupy some 6,680 hectares of parkland covering home and farm lots which amount to 115.89 hectares and 6,564.4 hectares.

The average land holding owned by an occupant within the MKNP is 2.14 hectares. Biggest average land holding is in the municipality of Murcia at 3.79 hectares while the smallest average land holdings is in Canla-on City at 1.29 hectares. The socio economic survey showed that 48.72% of the park residents own less than 1 hectare of land while 24.79% own between 1 and 2 hectares. In addition, 6.48% have holdings over 5 hectares while 11.72% own land between 2-3 hectares.

Stakeholders

The PAMB is the site-based policy making body of the PA formed under the NIPAS Law. It is composed of representatives from LGUs, POs, NGOs, IPs, Barangays, and other government agencies with the DENR REDs from region VI and VII and the Provincial Planning and Development Coordinators as ex-officio members.

The DENR is the primary government agency that administers the NIPAS. The DENR RED for region VI acts as the Chairperson of the Board. There are two DENR regional offices that cover MKNP- region VI and VII, with their corresponding PENR offices (Negros Occidental and Oriental). There are also three regular CENR Offices and three other sub- CENROs in the municipalities/cities covering the Park. The agency is also responsible in overseeing that policies, programs and projects adopted and implemented by the PAMB are within the context of the existing rules and regulations and environmental standards. DENR region VI established the office of the PASu to serve as Secretariat to the operations of the PAMB with the PASu as the DENR Chief Operating Officer of the PA.

There is now a growing recognition among the LGUs in Negros on the importance of MKNP as a protected area. The conservation of the PA has already been included in the development framework of the LGUs, covering the park. While they convey the sentiments of protecting the area for environmental considerations, economic and social dimensions are also among their prime interest particularly with the presence of several barangays in the PA. Delivery of basic social and economic services to the settlements in the PA is a priority of the LGUs.

The stake of LGU varies depending on the conditions of the area. Ecotourism development is the focus of La Carlota and Bago cities, which is supported by the provincial government. In Canlaon and San Carlos LGUs are concerned with agricultural enhancement and productivity because of the vast areas in the park already devoted to it. La Castellana government also showed interest in tourism development and agricultural production. In Murcia and Bago, the LGUs are also endorsing the geothermal development project in their areas.

Political interests are also a reality with the number of voting population inside the park. The local officials particularly the mayors wield influence among the people with the power to implement various programs and projects with vast resources at their disposal. The LGUs are in the best position to support the PAMB in harmonizing conservation and development efforts in the PA. The LGUs can also enact policies supportive of the efforts to conserve the biodiversity in MKNP.

The interests of other government agencies primarily focus on the accomplishment of their respective programs and projects mostly related to the delivery of social services and economic development. Some of these projects maybe compatible with park development but there are some that may also pose a threat to the integrity of the PA. Potential uses of the different resources of the park had attracted the interests of various agencies. Among these are energy exploration and development, irrigation and water rights, infrastructure projects such as roads, markets, day care and health centers, school buildings and rural electrification.

Agricultural enhancement and productivity is the primary focus of the agriculture sector because of the vast areas within the park devoted to it. In Canlaon City, the extensive vegetable production in the park accounts as one of the major revenues of the LGU. Moreover, concerned agencies for the IPs are also working for the ancestral domain claims of the Bukidnons.

The prime interests of the different communities within the PA are focused on livelihood and land tenure security. Majority of these households is dependent on the area for survival. Aside from the land they are occupying, some park residents are also engaged in resource extractive activities particularly gathering of minor forest products as source of income.

The IPs, meanwhile, are seeking recognition of their ancestral domain claim including respect of their traditional beliefs, practices, culture and traditions. There are also absentee and transient claimants in MKNP who are seeking consideration for their continued occupancy and cultivation of farms inside the area. POs also exist in the park that had gained recognition in the implementation of conservation programs.

A number of NGOs have been existing and operating inside the PA. The PBSP is engaged in restoration activities, PRRM is working for rural development, FFF is promoting farm production and tenurial security of farmers, PsPN initiated land use planning with LGUs, while Green Alert Environment Network conducted awareness raising campaigns along with other NGOs. Civic clubs are also making use of the area for their tree planting activities.

The private and business sectors are highly dependent on the populace in the marketing and promotion of their products for personal and commercial gains. These include drawing in of profits and establishing social acceptance and strengthening of their market bases. Billboards bearing commercials of soft and hard drinks and other products proliferate in various areas of the park. Cock breeding has become a lucrative enterprise due to the ideal cool temperature and vegetation of the park even during summer. MKNP's water outlet/gateway serves as source of La Tondeña's mineral water line that is now marketed in commercial volumes. Its rich and fertile soils have made Canlaon City the vegetable basket of Negros while its ridges and peaks serve as ideal communication repeater sites.

Local government officials, ex-local officials and private entities with business interests inside the park provide capital and funding and mobilize local folks in small scale yet profitable ventures such as farming and cock breeding. Some entrepreneurs had gone to the point of leasing zones with local residents for personal gains and future economic base. The tourism potential of the area has attracted several agencies for possible ventures in recreational zones of the PA.

Churches and other religious sectors are ready support groups for generating mass action for advocacy and campaign for the marginal sectors. With the presence now of communities, various religious groups are operating inside the park including the construction of churches. Religious practices such as spiritual and medical rejuvenation and renewal especially during the Holy Week are done by several sects who believe that the PA offers divine powers and is sanctuary of spirits.

Both local and foreign visitors and tourists generally visit the park to enjoy the sights and to experience and learn from ecology and culture. MKNP is a favourite tourist destination and has been host to thousands of mountain enthusiasts and hundreds of pilgrims. The Lenten Season is considered as the peak season for trekking activities. Before the CPPAP, it is estimated that about 3,000 trekkers join these periodic activities alone. With the full implementation of the PAMB ordinance seeking regulation and generation of revenues for the PA in 1997, only 200 trekked to the summit out of the 1,900 who visited the park. Many of the visitors contented themselves visiting the entrance stations. Feedback and sharing of comments and suggestions from park visitors to the management are essential in developing schemes in nature tourism, environmental education and promoting the park in both national and global markets.

Academic institutions recognize the potentials of the PA for research, education and curriculum development. It is a natural museum serving as vast laboratory and reference for social, natural and other applied sciences and researches. It serves as venue for field exposures, research and studies of local, national and even international schools. It is also a training ground for scouting, religious mission, curriculum training and other technical skill courses. Scientific research for biological conservation and medical pursuits are viewed apart from the interest of the academe. Bio-prospecting /piracy rights maybe a major concern.

The current insurgency problem in Negros Island is comparatively better than previous years. However, MKNP still provides an excellent refuge to the rebel movements. The settlements inside the park also serve as base for recruitment, mass base building and political support for the advancement of their political and economic cause.

Findings

Threats

The following were found to be the threats in the area:

- Volcanoes
- Housing and settlement
- Logging and wood harvesting
- Droughts
- Earthquakes
- Annual and perennial non-timber crop cultivation
- Introduced genetic material (e.g. genetically modified organisms)
- Household sewage and urban waste water
- Energy generation, including from hydropower dams
- Fire including arson
- Loss of support to communities and projects due to changes in political leadership

METT Results

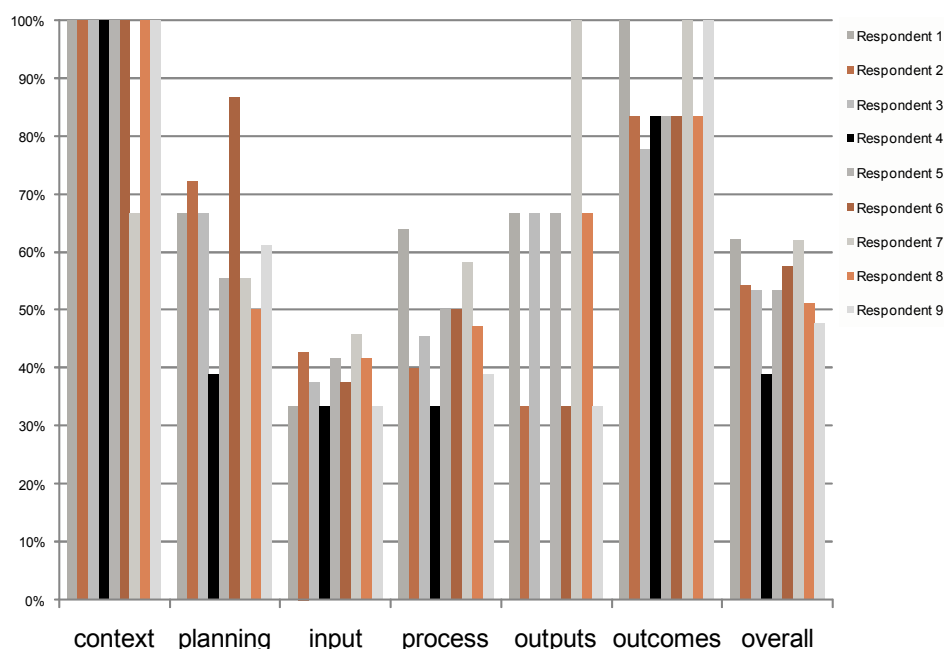


Figure 3.18 MKNP METT results by component.

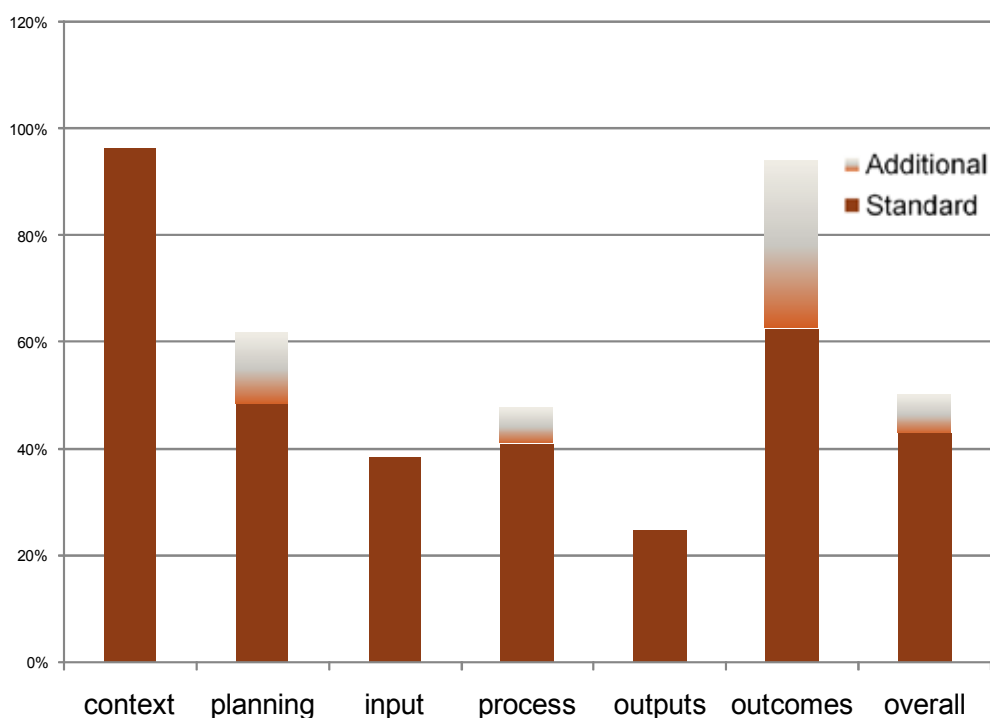


Figure 3.19 MKNP METT results by respondents.

Context. The MKNP rated high in context as it already has an RA.

Planning, input, process, outputs. The MKNP already has a management plan. Input has been minimal due to budget and staffing constraints. The park has never accessed IPAF since its establishment and has been depending on the budget as provided by the DENR which allocates only less than Php 1.00 per hectare. Due to the fact that MKNP had been established a long time ago, majority of its regular staff have grown old to the level of retirement that they are no longer fit enough to perform their tedious duties of maintaining the park as large as MKNP. The park rated low in output as there has not been much development in the site in respect to the park's

objectives. With most LGUs in the area focusing mostly on agriculture and development inside the park, many developments within the park are moving away from the park’s primary objective, which is to “Protect, conserve, and enhance the habitats and biodiversity of MKNP to sustain and improve its life support system capacity”.

Outcomes. The park still rated high in outcomes in spite of the poor ranking it got in outputs as it still is able to attain some of the objectives of conservation and protection. Probably because of the over exploitation of the areas outside of it, the park’s ecosystem looks relatively a lot better in comparison and as such a lot of visitors still come to admire it.

Conclusion. The park has a mediocre rating of 42.9% (plus an additional 7% from the bonus questions), given that it already has had an RA for more than a decade.

MEAT Results

The MKNP fared poorly with the MEAT, with less than half of the respondents saying that it has reached level 1 (see Figure 3.20).

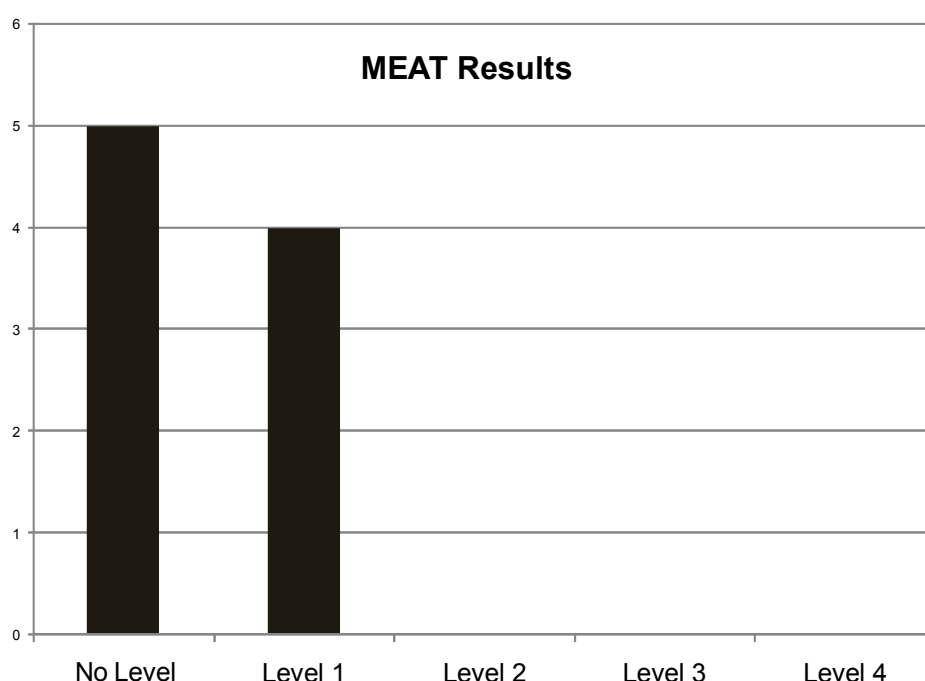


Figure 3.20 MKNP MEAT results.

Recommendations

There is a need for the following:

- Enforcement against kaingin and unrestricted wood logging;
- Sustainable farming practices.
- Settle issues concerning usages of titled properties covered by MKNP.
- Budget for park maintenance should be allocated and secured.
- Education and general improved governmental services to raise standard of living of the community and reduce need to exploit the environment; and
- Improved livelihood programmes to relieve pressure from land.

NORTHWEST PANAY PENINSULA NATURAL PARK



Figure 3.21 Map of Northwest Panay Peninsula showing the Natural Park within the municipalities.

Description

The Northwest Panay Peninsula has been identified as a hotspot for biodiversity conservation within the Negros-Panay Faunal Region hotspot. It is one of the priority sites for biodiversity conservation in the country, containing a highly significant low-elevation forest and associated wildlife. It was proclaimed by President Gloria Macapagal Arroyo as Natural Park under the NIPAS Act of 1992 on April 25, 2002 with an area of 12,009.29 hectares by

virtue of Presidential Proclamation 186. The Protected Area Management Board (PAMB) for the Northwest Panay Peninsula Natural Park was formally installed two years later on May 4, 2004. The general objective for the establishment of the Northwest Panay Peninsula Natural Park is to establish demarcated boundaries and functional management structure with empowered communities geared towards the upliftment of socio-economic condition of stakeholders through the implementation of livelihood, eco-tourism projects and rehabilitation of denuded areas to ensure biodiversity conservation for sustainable development.

Technical Description

The Natural Park (Figure 3.20) begins at BLLM No. 7 PSC-08, Libertad, Antique to corner No. 1 North $82^{\circ}37'E$, 3,326.4 meters; Thence S $74^{\circ}34'W$, 1,389.91 meters to corner 2; Thence N $74^{\circ}23'W$, 1,671.82 meters to corner 3; Thence S $64^{\circ}12'W$, 2,112.89 meters to corner 4; Thence N $54^{\circ}59'W$, 1,306.72 meters to corner 5; Thence N $47^{\circ}07'W$, 1,572.37 meters to corner 6; Thence N $36^{\circ}09'W$, 1,331.49 meters to corner 7; Thence N $43^{\circ}16'E$, 1,743.57 meters to corner 8; Thence N $40^{\circ}18'E$, 1,049.46 meters to corner 9; Thence N $11^{\circ}45'W$, 766.12 meters to corner 10; Thence N $07^{\circ}16'E$, 1,735.66 meters to corner 11; Thence N $30^{\circ}53'W$, 669.43 meters to corner 12; Thence N $31^{\circ}50'E$, 1,188.35 meters to corner 13; Thence N $87^{\circ}15'E$, 2,298.33 meters to corner 14; Thence N $15^{\circ}19'E$, 1,171.69 meters to corner 15; Thence S $84^{\circ}01'E$, 2,398.04 meters to corner 16; Thence N $87^{\circ}54'E$, 805.44 meters to corner 17; Thence S $48^{\circ}23'E$, 2,356.49 meters to corner 18; Thence S $50^{\circ}18'E$, 1,269.20 meters to corner 19; Thence S $58^{\circ}49'E$, 1,424.64 meters to corner 20; Thence S $78^{\circ}05'E$, 2,152.13 meters to corner 21; Thence S $51^{\circ}59'E$, 1,238.41 meters to corner 22; Thence S $30^{\circ}12'E$, 2,266.24 meters to corner 23; Thence S $05^{\circ}39'E$, 1,685.24 meters to corner 24; Thence S $22^{\circ}26'W$, 1,764.83 meters to corner 25; Thence S $53^{\circ}35'W$, 1,081.73 meters to corner 26; Thence N $86^{\circ}42'W$, 533.23 meters to corner 27; Thence S $10^{\circ}33'W$, 1,117.38 meters to corner 28; Thence S $79^{\circ}32'W$, 962.01 meters to corner 29; Thence N $57^{\circ}20'W$, 1,807.07 meters to corner 30; Thence N $64^{\circ}49'W$, 1,535.10 meters to corner 31; Thence N $74^{\circ}48'W$, 2,453.48 meters to corner 1, the point of beginning containing an approximate area of Twelve Thousand and Nine and $29/100$ (12,009.29) hectares more or less subject to the actual ground survey.

The Northwest Panay Peninsula Natural Park covers two provinces and five municipalities: in the province of Antique, the municipalities of Pandan and Libertad; and in the province of Aklan, the municipalities of Nabas, Buruanga and Malay. A total of 22 barangays are located inside the park. An estimated 2,500-5,000 ha of old growth forest is reported to remain in this area with tall undisturbed dipterocarp forest, forest on limestone, lower montane forest and bamboo forest and is considered as having the most extensive and best quality lowland forests remaining in the Negros and Panay Endemic Bird Area (Mallari, *et al.* 2001).

Another important entity in the management of the NWPPNP is the Northwest Panay Biodiversity Management Council (NPBMC). This is a multi-sectoral body organized in 1999, and was created to provide venue to discuss environmental issues and problems among stakeholders of the area and partner agencies/institutions. Forest guards, known as the Task Force Anak Talon, was formed by the NPBMC as an effort to further the protection and conservation of the Northwestern Panay Peninsula. The NPBMC works closely with the PAMB to reduce the pressure on the PA from the surrounding communities through development programs and activities geared towards the protection, conservation and sustainable use of the resources. The NPBMC also can provide assistance to the PAMB, whenever necessary.

The Philippine Endemic Species Conservation Project (PESCP), backed by the Frankfurt Zoological Society, focuses on the conservation of endemic flora and fauna species. They have initiated a range of conservation measures and programs in the area since 1996.

Since PESCP had difficulty in accessing funding, having had no legal identity in the country, it consequently formed the Bioresource Conservation Trust of the Philippines, Inc. (BioCon) as a non-government organization (NGO). Over the years, relations between PESCP and BioCon became strained, resulting with PESCP forming another fully accredited Philippine non-government organization in 2005; the Philippine Association for Conservation and Development (PhilConserve).

Findings

Threats

The following were seen to be as threats in the area:

- Industrial, mining and military effluents and discharges
- Mining/quarrying
- Logging and wood harvesting
- Loss of keystone species
- Housing and settlement
- Erosion and siltation

METT Results

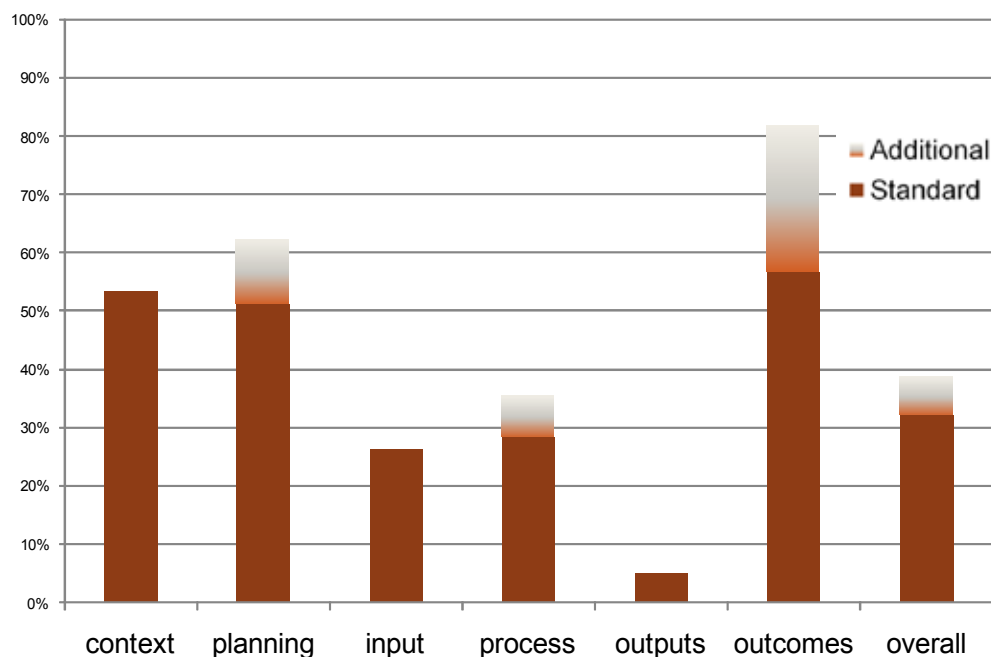


Figure 3.22 NWPPNP METT overall chart.

Context. The NWPPNP Act of 2007 was in its third reading in the Senate and was sponsored by Sen. Jamby Madrigal but was overshadowed by a high-profile case (Hayden Kho versus Katrina Halili). So until now, NWPPNP has no RA.

Planning. The draft management plan was submitted to the PAMB for comment last July. Biological Monitoring System results not incorporated into the MP. When the PASu invited the MENROs, the CLUPs were brought for reference and used.

- *Protected area objectives:* some of the members are new and have not been oriented on the objectives of the PA
- *Adjacent land and water use:* There was supposed to be a PAMB meeting resolution for water resource use, regarding the Environmental Compliance Certificate of Boracay but this did not push through. Water for Boracay comes from Malay (Brgy Napaan and Nabaoy) and there is also a dam for irrigation in Napaan. Although these are outside the PA, the headwaters are inside the watershed of the NWPPNP. The draft of the MOA (between the Boracay Island Water Company and the municipality of Malay) is still to be signed, however.

Inputs. Regarding equipment: a motorcycle for the use of the PASu was purchased. Staffing is incomplete (there is only the PASu) and there is no office. There is no fees system; IPAF not accessed.

Process. IPs: Ati- only in Malay, but some are found outside the PA, none of them are members of the PAMB, although the PASu identified the IPs as users of the PA and should be members. However, when the IPs were invited, they were reluctant to join. On the other hand, local communities are members and have input.

There is some research by the PESCP, but with the current situation they are not sharing their results for the management of the PA, they are only using these for their own purposes.

There is some confusion as to whether the river system itself is included, as only the watershed is usually mentioned; there is quarrying and boulder extraction downstream. There was some IEC in the past, the Pista ng Gubat, which was done before until 2007.

It is being initiated by the PASu and BioCon to request for a percentage of Boracay's profits as an environmental fee to be plowed back into the NPBMC, also a user's fee from the adjacent spring resorts.

The demarcation of the PA is not clear to the locals and there is also no rules and regulations adapted to the local circumstances. The people only know of the regulations from the IEC of BioCon, the people do not know the basis for these prohibitions; only at the level of IEC.

Outputs. There are no visitor facilities, even though a lot of potential is being seen.

Outcomes. As knowledge of the demarcation and regulated activities is minimal, there are some transgressions, such as tree planting at the buffer zone. People had been harvesting honey, though their practices have now become different. The hunting has now been limited.

Conclusion. The park got a regular score of 32%, plus 6.7% as an additional score.

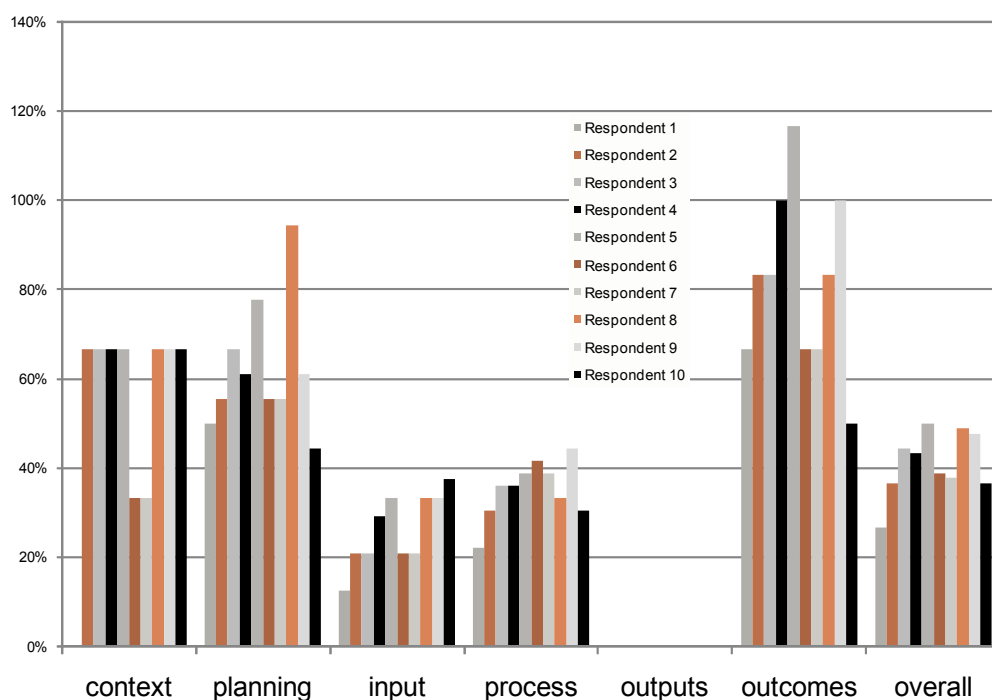


Figure 3.23 NWPPNP METT results by respondents.

MEAT Results

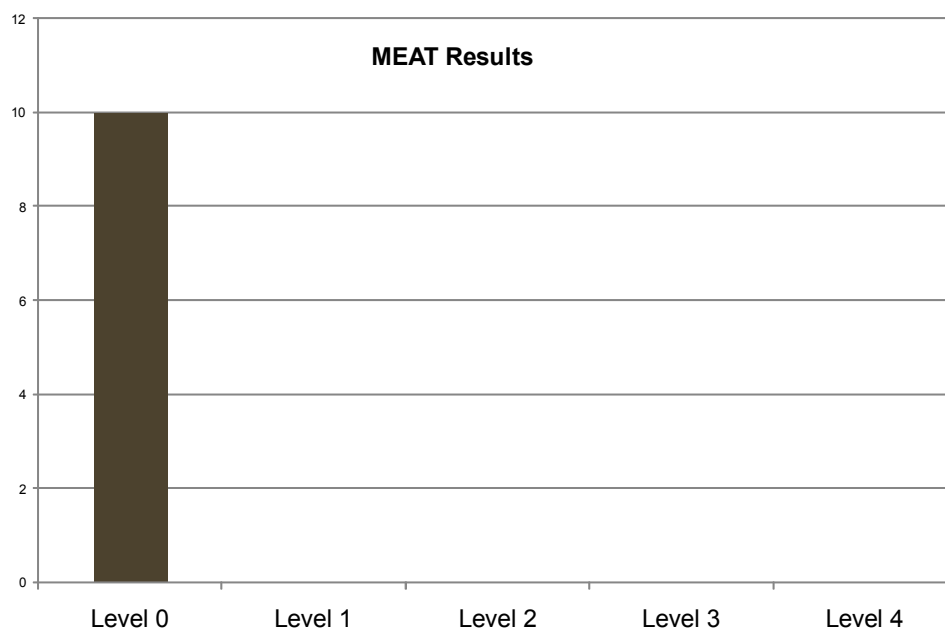


Figure 3.24 NWPPNP MEAT results

NWPPNP did not reach the lowest level (Level 1) when rated using the MEAT. This was mostly due to problems with document retrieval, as some of the files have been lost and a lot are scattered with different agencies.

Recommendations

There is a need for the following:

- Strengthen enforcement against kaingin and unrestricted wood logging;
- Genuine political will to eradicate mining.
- Education and general improved governmental services to raise standard of living of the community and reduce need to exploit the environment; and
- Improved livelihood programmes to relieve pressure from land.

BALINSASAYAO TWIN LAKES NATURAL PARK

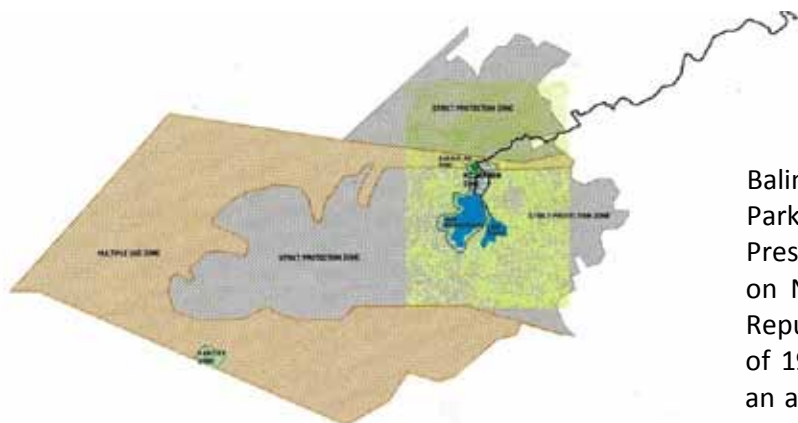


Figure 3.25 Map of BTLNP.

Description

Balinsasayao Twin Lakes National Park was established through Presidential Proclamation No. 414 on Nov 21, 2000 in accordance to Republican Act No. 7586 (NIPAS act of 1992) – after which it comprises an area of 8016.5 hectares situated in the municipalities of Valencia, Sibulan and San Jose, Negros Oriental. It lies at coordinates 9°21'

North and 123° 10' East. Protected Area Suitability Assessment (PASA), Resource Basic Inventory (RBI) and Initial Protected Area Plan (IPAP) were conducted in the PA prior to its proclamation.

The goals of BTLNP are the protection and preservation of the natural features of the area, including remaining vegetation and wildlife. Also it protects the life support base of the communities living in and adjacent to the Protected Area (PA), such as the watershed. The vision formulated in the General Management Plan (GMP) reads as to establish “A center of biodiversity conservation and eco-tourism in the Philippines with direct community participation and where economic opportunities of the people are in harmony with nature”.

The topography of the park is mostly mountainous, at elevations between 800 and 1400m above sea level. The Balinsasayao lakes lie at 830m elevation, with a maximum depth of 90 meters and surface area of 76 hectares. Two mountains lie close to the lakes, Mt. Guintabon with 1241m less than one km northeast, and Mt. Guinsayawan with 1788m circa four km south of the lakes.

The top soil found in the area is generally of volcanic nature, although the steep slopes make farming and consequently utilization of its potential fertility difficult. Especially without coverage, the soil is easily washed out, which becomes apparent in the strongly silted rivers during rainy times. Humidity ranges from 80% to 96%, the mean rainfall is 2000 m/year and mean temperature is 27.2° C.

Originally the area is covered with dense tropical rainforest. However, merely one third of the terrain is still covered with natural forests. Reasons for this are timber production programmes by local governments during the 1970's, operation thunderstorm as a reaction to the strong insurgency movement in the 1980's, and a traditional culture of Kaingin. There is high value timber to be found in the forests, although it is largely depleted due to intensive logging, community expansion and Kaingin.

Several endangered and mostly endemic species can be found in BTLNP, such as the Negros Bleeding heart pigeon; The Philippine tube-nosed fruit bat; and the Negros forest frog. In total, 114 species of birds, 27 species of mammals and 49 species of frogs are reportedly found in BTLNP but under heavy pressure from habitat destruction “brought about by slash and burn forest farming, commercial and illegal logging, fuel wood gathering, charcoal production and livestock raising” (GMP) periodic storms, droughts, floods and disease pose additional threats, as do habitat fragmentation, hunting, killing and collection of wild animals and plants.

The year 2000 census shows a total population of circa 7200 people in 1500 households, plus additional 600 households from outside the PA cultivating over 680 hectares within the park.

Considering average growth rates of up to 3.73% and almost 50% of the population in the age group 16-25 years, population pressure must be considered a serious threat to the values of the PA (especially since, reportedly, local culture requires men wooing for women to present a patch of cleared, meaning 'owned', land before being allowed to marry.)

All barangays within the PA have elementary schools but only one high school are accessible to the local community. Consequently, general education is lacking for the broader population, which impacts most severely in the areas of Health- and sexual education as well as knowledge in - sustainable - farming and forest management. This must be considered a further, threat to the attainment of the vision of BTLNP.

Health care is equally weak although the Department of Health and Provincial Health Office have been busy in coordinating programmes aiming at improving health care services. For example, in Brgy. Enrique Villanueva there is only one midwife and one Barangay health worker for over one thousand people (2002).

Overall, the weak infrastructure – there are only three roads in bad condition leading into BTLNP – impedes the community's connection to near markets and services, which complicates the development.

The Protected Area Management Board is mandated to manage and enforce the rules and regulations of BTLNP. As provided in the NIPAS act of 1992, it consists of the Protected Area Superintendent (PASu), representatives of all Barangays and LGUs as well as further stakeholders in the PA, like NGOs and the Energy Development Corporation (EDC) which has projects in the vicinity of the PA. Although it was not possible to attain a members' list, a 2007 attendance list indicates 23 attending members. Xx PAMB members were present when the management assessment evaluation was conducted for this study. Additionally, park rangers provided an image from the very front of PA rule enforcement.

In filling out the MEAT and METT questionnaires for this assessment, the respondents were partly grouped according to their function, resulting in 12 sets of answers. After being briefed on the purpose and setup of the study they were facilitated throughout the questionnaires by a member of the research team, while others supervised the process and answered individual questions. This ensured maximum completeness and reliability of the answers.

In the following, the results obtained from the two questionnaires, as well as site visits, individual interviews and documents, will be presented briefly.

Findings

Threats

Generally, the respondents were divided on most important issues. Especially in those issues that were observed to significantly threaten wide areas of the National park, like invasive plants, fires, erosion and wood logging, it can be observed that the opinions of the respondents diverge strongly. Also, the individual respondents partly answered very differently: The LGU representative and the Barangay of Villanueva scored "high" in 21 and 18 cases respectively, considering many threats as significantly detrimental to the goals of the PA, while all others, including the PASu, did so in not more than 6 cases. This division within the PA management Board was reaffirmed by Henry Abancio, President of CUFAI.

On the other hand, the participants were nearly unanimous on other issues, for example that neither commerce nor tourism poses significant threats to the PA. It may be noted however that in the case of tourism infrastructure, the LGU representative scored "high". The Roads through the PA, Aquaculture in the lakes, sewage and solid waste, livestock and agricultural effluents were also ranked "low" by most respondents.

On the contrary, only on the matter of Storms the group unanimously ranked “high”. On all other threats that were identified as significantly detrimental by the research team, the questionnaires produced very opposing opinions by the PAMB members. For example, six out of eleven respondents considered non-timber crop cultivation (2.1) a high threat, while four assessed it as low. Having said that, curiously the majority of respondents considered utilization of portions of the PA for crop farming (2.1b) as a low threat.

Furthermore, on logging (5.3), deliberate vandalism (6.5), fire (7.1) and invasive animals, the group remained deeply divided if they should be rated as high, medium or low threat. Besides, DENR and BTLFA considered the hydropower dam by EDC as a high threat to the PA, while all others were at least concerned about possible impacts of energy production (3.3) and rated “no data”, indicating a lack of research in the impact of the dam on the PA.

Since the ratings of the PASu were completely contrary to those of the LGU representative and the Punong Brgy. of E. Villanueva – the latter of which is very immediately affected, even surrounded, by the threats to the park –, they will be considered individually here. The PASu rated as high: crop cultivation (2.1), vandalism (6.5), Loss of keystone species (7.3d) and storms (11.4). While his general ratings were rather positive, it is interesting that he rated Fire (7.1), Edge Effects (7.3c), Agricultural and forestry effluents (9.3), erosion (10.4) and loss of political support (12.5) all as low threats, as these were all observed as rather significant threats during the field visit; considering the quote by the CUFAI president, this could show that the PASu is not able to fulfil his role as protector of the PA properly. This is not surprising considering the fact that reportedly he only visited the PA twice since taking office.

Table 3.5 The most significant threats to BTLNP according to the respondents (only those rated “high” at least three times)

Threats	High	Med	Low	No data
2.1 Annual and perennial non-timber crop cultivation	6	0	4	1
5.3 Logging and wood harvesting	4	3	4	0
6.5 Deliberate vandalism, destructive activities or threats to protected area staff and visitors	3	2	5	1
7.1 Fire including arson	4	1	6	0
7.3d Loss of keystone species (e.g. top predators, pollinators etc)	3	1	4	3
8.1a Invasive non-native/alien animals	3	5	3	0
10.1 Volcanoes	3	0	0	8
10.2 Earthquakes/Tsunamis	6	1	3	1
10.3 Avalanches/ Landslides	4	7	0	0
11.4 Storms and flooding	7	1	0	3
12.1 Loss of cultural links, traditional knowledge and/or management practices	3	3	1	4
12.5 Loss of support to communities and projects due to changes in political leadership	3	2	6	0

Table 3.6 The most significant threats according to the study team

2.1 Annual and perennial non-timber crop cultivation

- 5.3 Logging and wood harvesting
- 6.5 Deliberate vandalism, destructive activities or threats to protected area staff and visitors
- 7.1 Fire including arson
- 7.3a Increased fragmentation within protected area
- 7.3b Isolation from other natural habitat (e.g. deforestation, dams without effective aquatic wildlife passages)
- 7.3c Other 'edge effects' on park values
- 7.3d Loss of keystone species (e.g. top predators, pollinators etc)
- 8.1 Invasive non-native/alien plants (weeds)
- 9.3 Agricultural and forestry effluents (e.g. excess fertilizers or pesticides)
- 10.3 Avalanches/ Landslides
- 10.4 Erosion and siltation/ deposition (e.g. shoreline or riverbed changes)
- 11.2 Droughts
- 12.1 Loss of cultural links, traditional knowledge and/or management practices
- 12.5 Loss of support to communities and projects due to changes in political leadership

Site visit validation found that:

The community is settling right at the boundaries of the strict protection zone so much so that 80% of the community rely on forest resources for livelihood; there is some wildlife poaching (of birds for birdcages).

The community maintains coconut plantations, livestock breeding and corn- as well as sugarcane fields (some rice paddies) these are found not only in the buffer zone and multiple use zone, but even far into the strict protection zone. No crop circulation/intercropping is being implemented, nor are fields separated by strips of bushes or grass; because of this erosion is washing out the top soil. Local knowledge about (sustainable) agriculture & forest management vanished during 1970's with state timber programmes; since then there has been a concentration on timber production although some worm composting has been introduced since late 1990's, apparently initiated by a German development agency. The water in the rivers and water catchments is brown to milky, showing heavy signs of siltation caused by the corn- and sugarcane agriculture. Kaingin (Slash and and Burn) is a common practice as signs of recent fires could be found virtually everywhere. Culture considers only cleared land as rightfully claimed land (marital culture required owned patch of land)

Although the Military has been successful in stopping resistance groups by establishing a HQ in the community, a large part of the area has become a no man's land; the military's Operation Thunderstorm heavily impacted on forest cover, and removed people from their lands.

Only patches of natural forests remain in PA, even in SPZ and in the multiple use zone, weeds (*Tribulos cestoides*) encroach on the native vegetation.

The PA lacks support of the governor whose interest is focussed on developing the area. The LGU and several PAMB members support this view or at least comply with the policies advanced by the governor, which reduces the effectivity of the PAMB significantly, according to the president of the local PO, CUFAI, the members of which feel themselves unable to enforce rules & regulations.

The PO's vision is "to have unified peaceful, educated and progressive communities that will develop, utilize, conserve and preserve specific portions of the forestland, consistent with the principle of sustainable development."

It aims at establishing sustainable forest management, including selective harvesting, fire protection through physical means and enforcers, protection from pests and other threats, and providing the local community with supplement livelihood to reduce pressure on the remaining forests

In the interview with the president of CUFAI, he pointed out that the PAMB is only 50% operational because the political agenda of the governor is not considering the PA but rather aims at developing the area for agriculture. Therefore the PAMB is split. This is generally reflected in the cumulated answers of the threats.

PAMB members do not even know the borders of PA. The PASu visited only twice and is thus badly informed about the state of the PA.

Enrique Villanueva is the biggest barangay within the PA – its community lives virtually entirely within PA – and it is growing (Villanueva grew by 50 households from 2002 to 2007).

The community of Brgy E. Villanueva comprises ca 1200 in ca 160 households, with average household income (P22000) is below poverty level (P48000) (1997 RRSA by DENR) and the demographic structure shows a strong concentration of young people (49% in 16-25), which signifies population pressure to increase in the future. There are 60% men and 40% women, which may be due to high birth and mortality, which is a strong indicator for low living standards.

Education is poor mainly because the school facilities are very poorly maintained and teachers can only reach the community for several days per week. Circa 50% of the population has received primary education, additional 30% are currently or have graduated elementary education; only 15% are in high school or have a high school degree as a High School set up only in the early 2000s.

The community is hard to reach since roads are in poor condition; parts are only accessible by 4x4 vehicles. In addition, high insurgency activity aggravates LGU services and health service provision.

Barangay Development Plan 2006-2010 II Resolution No. 06-08 of Sangguniang Bayan (2006) recognizes the poor development of the community of Brgy E. Villanueva. Its pressing problems relate to lack of education, basic services and funds. As such, basic health and nutrition information are absent in the community, leading to unrestricted population growth, malnourished children and poor hygienic conditions. Only one midwife and one Barangay Health Worker are available to the community while there is no Health center.

The Barangay's access to greater society is restricted by bad road connections and only few utility lines. This includes access to local markets to sell produced goods.

METT Results

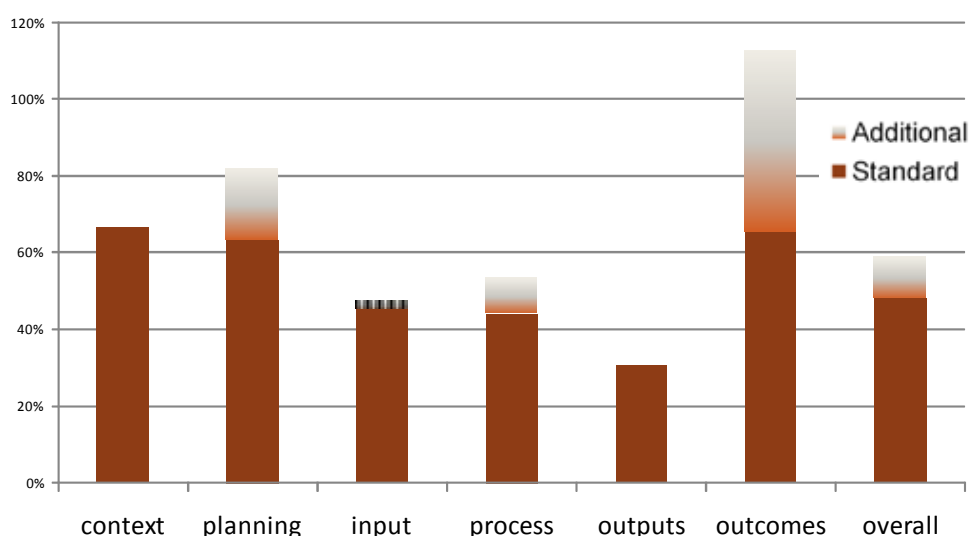


Figure 3.25 BTLNP METT overall chart.

Context. The BTNLP did not score highly in context as it does not yet have a Republic Act.

Planning. The PAMB is split on whether to protect and conserve the area or to support the thrusts of the Governor, which is to develop the area for agriculture. The PA does have a General Management Plan, but for the most part has remained un-implemented due to the conflicts of interest within the PAMB.

Inputs and Outputs. Most of the recent developments in the PA are results of individual initiatives of the LGUs in the area, and not coming from initiatives of the PAMB. In comparison to some other PAs, the BTLNP is relatively better in the sense that there are PA officers and staff assigned to the park.

Process. Implementation of the management plan is weak; this is reflected by the fact that the PASu has only visited the park twice.

Outcomes. Although management is inadequate, there is still some protection afforded to the area, as is reflected in the average score of the park for this category.

Conclusion. Overall, the PA scores about 50% of the regular points.

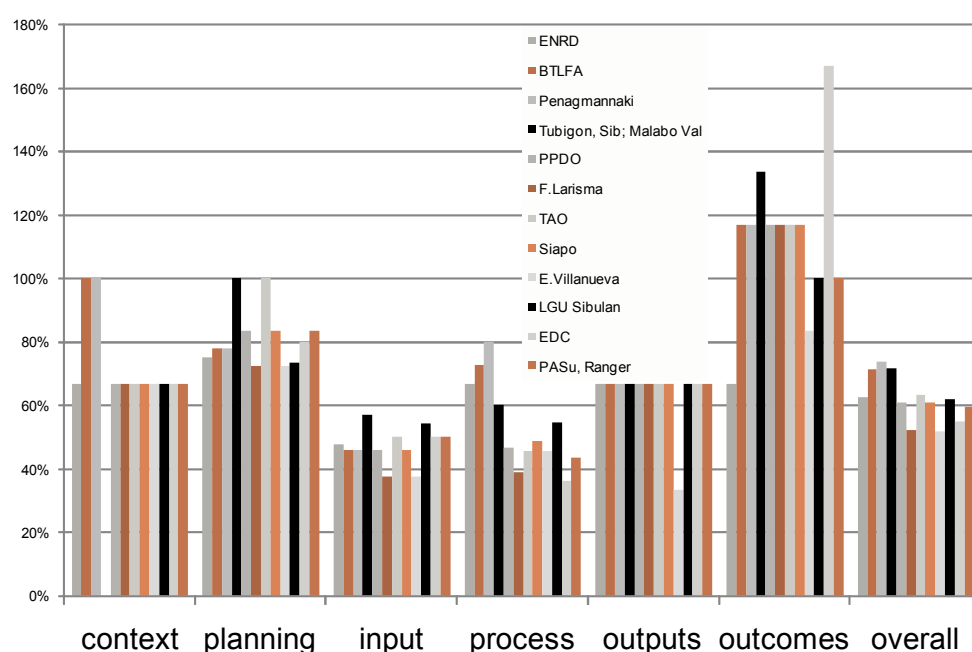


Figure 3.26 BTLNP METT results by respondents

MEAT Results

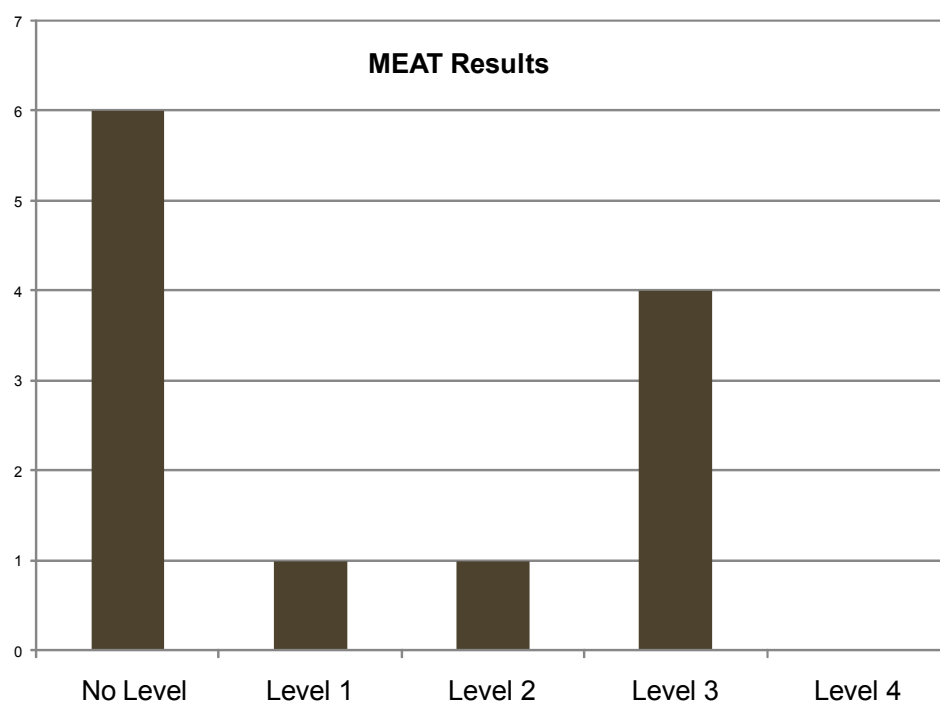


Figure 3.27 BTLNP MEAT results

Conclusions

- PA lacks RA
- PA lacks effective enforcement
- There is an agreement within the PAMB and PA staff that the budget is insufficient, but there is no move done to find out how much should be sufficient.
- Tourism is done well and does not threaten the goals stated in GMP
- However, severe threat through kaingin, unregulated crop cultivation especially of corn, sugarcane, rice and coconut even in the strict protection zone
- Consequently strong erosion and siltation
- PO's provide basic government services but cannot sufficiently implement sustainable resource management
- Lack of political support: Governor is not supportive and PAMB members yield to pressure
- Very Weak PAMB
- Very strong pressure by the population on the resources of the area.

Recommendations

There is a need for the following:

- improved forest- and agriculture management, such as
 - Crop-circulation,

- More measures to improve yields while restricting further expansion, and
 - Widespread introduction of composting;
- Stronger reforestation programs;
- Enforcement against kaingin and unrestricted wood logging;
- Education and general improved governmental services to raise standard of living of the community and reduce need to exploit the environment; and
- Improved livelihood programmes to relieve pressure from land.

SUMMARY OF FINDINGS ON MANAGEMENT EFFECTIVENESS

Threats

The most common threat cited (all PAs except NWPPNP) was the *loss of support to communities and projects due to change in political leadership*. This shows that management of protected areas is highly dependent on the support of the LGUs, even though the protected areas are NIPAS sites – i.e., protected at the national level. This was also the issue that came up again and again during the focus group discussions (FGD)

The next most common threat was (the intrusion of) *Housing and Settlement* (listed in four of the six PAs).

Pollution as a threat was common to all sites, although the sites differed on the source or cause of pollution (*Household sewage and urban waste water, Agricultural and forestry effluents (e.g. excess fertilizers or pesticides), Industrial, mining and military effluents and discharges or Garbage and solid waste*; many PAs also listed more than one source).

Fishing, killing and harvesting aquatic resources was a threat common to all marine PAs, while *logging and wood harvesting* was common to all terrestrial areas.

MEAT Results

Comparing Level Ratings across sites, SMR was rated by its respondents as between Level 2&3; BTLNP's rating was distributed across Levels 0-3, MKNP was split between Level 0-1, all except two of the respondents from TSPS rated it below Level 1 while all respondents from NWPPNP and PIPS rated their PA below Level 1.

Among the 54 respondents from TSPS, one person rated it Level 4 while another rated it Level 3. Upon validation, however, the respondents, both Punong Barangay indicated that they were only rating the MPAs located in their barangay.

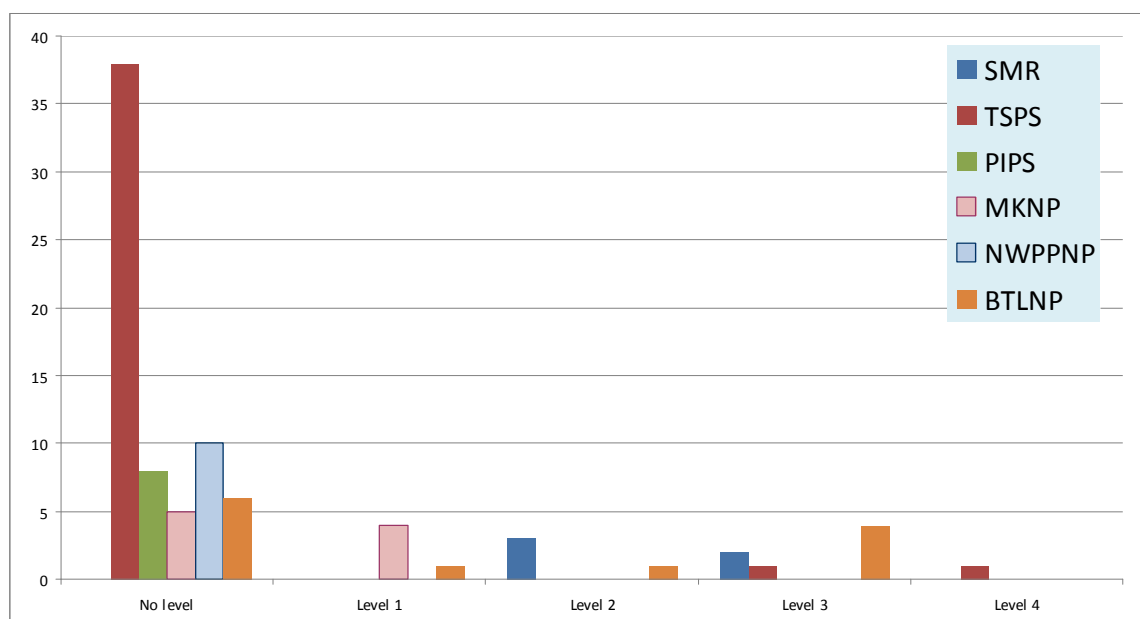


Figure 3.28. Results of assessment using MEAT from all sites.

One of the advantages with the MEAT is that respondents can automatically see where they are in the stages of establishment of PA since it gives levels (Levels 1-4). However, It is clear from the results above, that if the respondents have varied interpretation of the tool and if the document requirement is not satisfactorily met, an unclear picture like that of BTLNP is obtained.

METT Results

Highest rating of 77% (90% including bonus) was obtained by SMR (Fig.3.29). All the rest obtained ratings below 50% with TSPS rating the lowest (29%, 33% including bonus).

The high management effectiveness seen in Sagay Marine Reserve could be due to the following:

- Has its own RA that allows for co-management between DENR and LGU by making CLE co-chair of PAMB;
- Complied with the 13 steps of establishment of the protected area under NIPAS;
- Politically under one LGU with strong political support;
- Has a management plan;
- Has relatively adequate and secure staff: 55 staff: 32,000 ha (1:580);
- Has relatively adequate budget – P 6M for 2010 (P187/ha);
- Has an office with good document archiving and retrieval system and references;
- Has facilities for patrolling-boats, watchtowers;
- Has IEC program and visitor facilities;

Lowest management effectiveness was seen in Tañon. Due to its sheer size and a very large PAMB composition, its management body although identified has not really been oriented on the importance of the PA and the goal of protection, much more on their roles, duties and responsibilities. Because it was established primarily for the protection of the marine mammals it supports (see PP1234), which necessitates the large area, the PAMB composition under the NIPAS (because it has no RA yet), becomes unmanageable and has created a major block in its

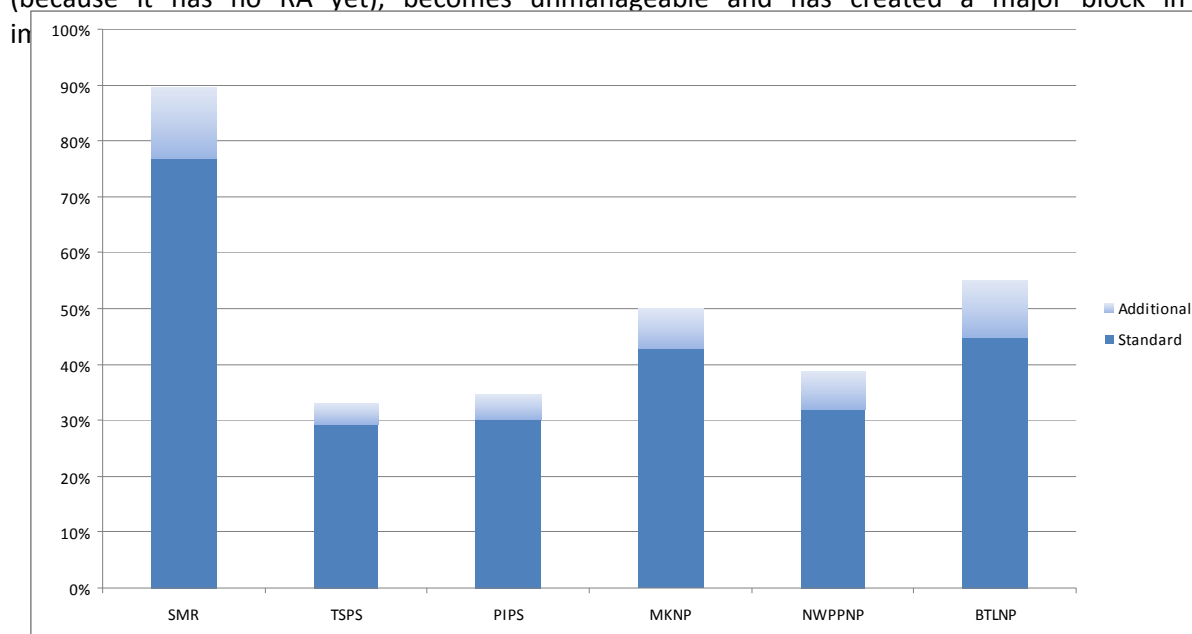


Figure 3.29. Average ratings of all sites using METT.

SMR also rated highest in all components (Fig. 3.29).

1. In terms of context, SMR and MKNP rated highest since both have their own respective RA. All the rest only have Presidential Proclamations. **On the average, these two protected areas have acquired PA status through congressional action for a period of 5 years.** TSPS rated the lowest.

Although Mt. Kanlaon has its own RA, the R.A. defined its boundaries politically under 2 regions, 2 provinces, 4 cities, 2 municipalities and 15 barangays without any provision for co-management. In other words, the RA effectively removed it from the jurisdiction of the LGU, thus also removing LGU support. In the management plan, there is an allocation of around 20M/yr but there is no indication where this money would be coming from. Its actual budget for 2010 was P 400,000 for 2010 (P16/ha). For such a large area of 24,557 ha, it only has 2 staff: 24,557 ha (1:12,278). The office is not well maintained and has very limited facilities, and limited IEC program and visitor facilities.

TSPS AND PIPS have no clear statement of significance in their PP. Both also suffer from flawed legislation. For example, in PP 1234, the TSPS covers only 450 ha but when one puts the coordinates supplied in the PP in the map and computes for the area, it is more than 450,000 ha., a mistake of a thousand –fold. This is critical for funding allocation.

For PIPS, PP 426 is the second legislation and it reduced the original area under protection from 11,000 ha to 385 ha without justification.

2. In terms of planning, the four PA with management plans rated high while PIPS and TSPS which have no approved management plan rated lowest.
3. All sites also rated very low in terms of inputs. For PIPS, there is only one 1 staff: 1: 385 ha while in TSPS, it is 1 to 1:450,000 ha, BTLNP has 2 staff: 8,016 ha (1:4,008) and a budget of budget of 150,000 for 2010 (P/ha). Fifty per cent of the PAs studied had no office, no facilities, no IEC and no research.
4. Only the SMR rated high in process. This is reflective of the state of most of the PAMBs, many of the members of which are unsupportive of the PA, may not know what their responsibilities and areas of jurisdiction are or may not even know that they are members.
5. Expectedly, all sites rated lowest in terms of outputs. These are mostly expressed in terms of infrastructure. All sites also rated in terms of outcomes. This is mostly due to the way the questions are structured as it was not specified as to whether the benefits obtained or the maintenance of values were due to the management of the PA or by the separate interventions of the LGU.
6. **In all cases, outcomes outweighed inputs.**

At first glance, we could say that this is an artifact of the tool. There are only two questions in METT that address outcomes:

Economic benefit – Is the protected area providing economic benefits to local communities, e.g. income, employment, payment for environmental services?

Condition of values – What is the condition of the important values of the protected area as compared to when it was first designated?

To both questions, most respondents answered in the positive with a note that this is mostly due to local efforts or initiatives.

It could also be argued, however, that the mere act of proclaiming an area under NIPAS has brought about its transformation into a more protected and productive ecosystem.

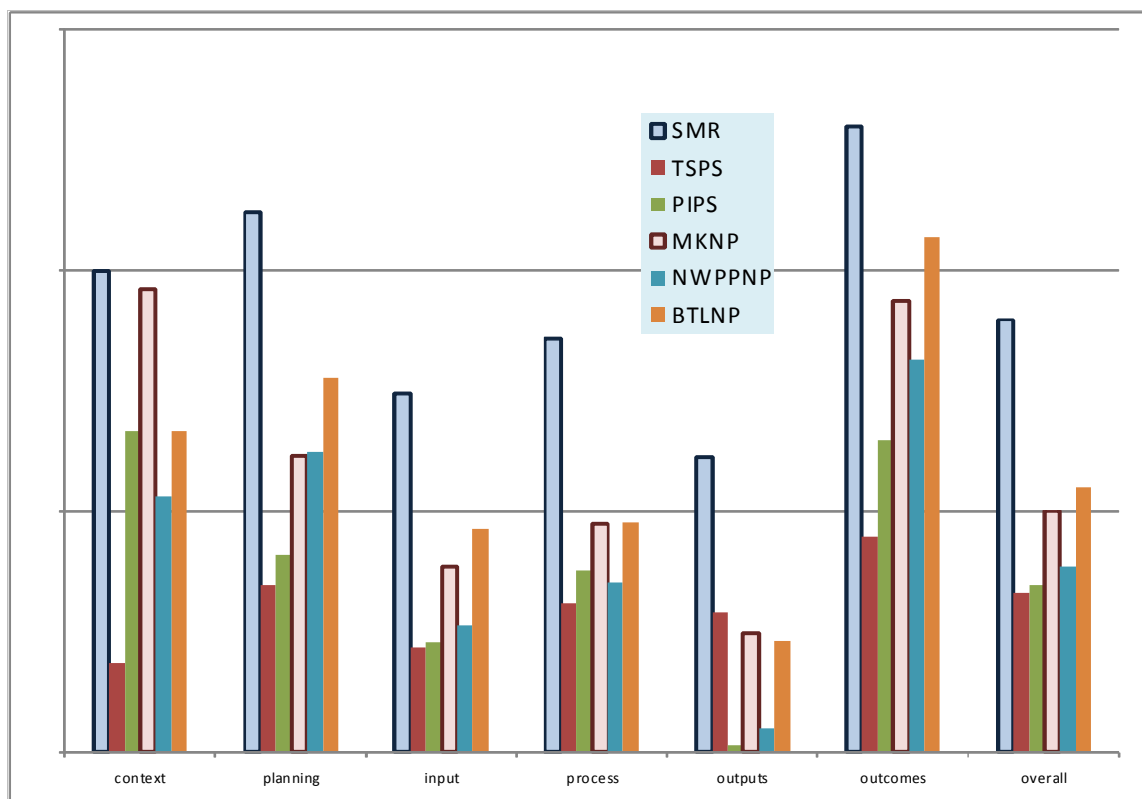


Figure 3.30. Ratings of all sites per component using METT.

Conclusions

- 1) SMR obtained highest rating using both MEAT and METT while TSPS obtained the lowest.
- 2) INPUTS such as BUDGET and PERSONNEL, and consequently OUTPUTS got LOWEST ratings.
- 3) HOWEVER, all sites rated high in OUTCOMES.
- 4) HAVING ITS OWN REPUBLIC ACT does not guarantee management effectiveness.
- 5) PA design has to take into consideration political jurisdictions and participation.
- 6) METT and MEAT, although just rapid assessment tools, give a quick view of the performance of the management body.
- 7) The MEAT tool has to be tested against other marine assessment tools such as those of Pomeroy et al. (How is my MPA Doing, METT –marine) for better comparison.
- 8) This assessment has brought upfront several issues that are helpful in the review of the NIPAS Law.³

Recommendations

- 1) There has to be full-time PASu and staff (not designated) and secured and sufficient budget.

- 2) The Republic Acts must indicate source of budget, among others.
- 3) The RA must also allow for co-management among LGUs, local communities and NGAs.
- 4) The composition of the PAMB must be reviewed.
- 5) PAMB members should be oriented as to what their responsibilities are, what their jurisdiction (as PAMB) is and also on what the goals, objectives and plans of the PA are. This could be done after every election, when newly elected officials (and therefore new PAMB members) come in.
- 6) In monitoring management effectiveness, a single assessment tool is recommended. METT is recommended but the language has to be simplified and translated in the dialect. Questions pertaining to outcomes must be specific. The threat section has been modified to accommodate the MPAs.

Recommendations for the tools

METT

- The METT tool has to be translated in the dialect since there were differences in the interpretation.
 - In NWPNP where the tool was used 2 weeks before this assessment, there was a large disparity in the overall score obtained (60+ against 30+).
- Each respondent has to study the tool beforehand.
- There is a need to modify the tool a bit to balance the number of questions for each component. As it is, it is very heavy on process – more of the questions pertain to process (12 questions), as compared to those for context (1), output (1) or outcome (2).
- There is a problem with nested questions, as in the case of the questions regarding budget or equipment. For example, there are three questions regarding budget: one regarding sufficiency of budget, the other security and the third regarding budget management. The point was raised that if no budget exists for the protected area, how should the questions on security and management be answered? Should these be left blank and not included in the analysis? This should be clarified as the number of applicable questions impacts the percentage rating of the protected area.
- It is suggested that "threats" section (Data Sheet 2) be integrated into the scoring by converting the qualitative scores into numerical scores and deducting the total score in "threats" from the overall score.
- METT may adopt the LEVEL RATING SYSTEM of MEAT for immediate recognition of level of effort.

MEAT

- The MEAT tool has to be tested against other marine assessment tools such as those of Pomeroy et al. (How is my MPA Doing, METT –marine) for better comparison.
- There is no threat section.
- Since the MEAT focuses mostly on the existence of certain documents, these documents should be prepared beforehand and made available during the period of assessment.
- Basis in differences in scoring responses should be provided. Why are some responses given a score of 3 and some given only 1?

Both tools

- The tools are successful in providing a quick overview of effectiveness of management by the management body in individual protected areas and so should be used reiteratively to see trends and progress; the exercise was also one that built constituency and was observed to promote team building and so repetition of the exercise over time would help strengthen management and would also help to provide a degree of continuity of management.
- The use of good facilitators who are familiar and comfortable with the tools, especially for respondents using the tools for the first time, is recommended as a lot of respondents found difficulties understanding the language and terms used in the tools. The facilitators should be able to converse well with the respondents; if the facilitators are not able to speak in the local dialect spoken by the respondents, the respondents and facilitators should at least be able to understand each other well.
- Items in the questionnaire should be explained one by one, giving examples that are familiar to the respondents. Care should be taken that the respondents clearly understand the terms in the questionnaires.
- Feedback should be immediate, or done as soon as possible to build better communications within the management team and provide the way for a good discussion of relevant issues (many of the respondents may be seeing each other only during this time). Immediate feedback can also help to clarify any misconceptions regarding the questions and these can be corrected immediately, both on the side of the respondent and on the side of the results of the survey.

Areas for harmonization

Questions

The MEAT and the METT are tools that assess different aspects of protected area management effectiveness. The MEAT employs a checklist of required items (mostly documents) that ought to exist before a protected area can be declared established, strengthened, sustained or institutionalized (the levels). The METT on the other hand assesses the perception of the management body in regard to whether they see their management as effective. For example, MEAT asks whether a budget exists and will require documentation to prove it, and METT will ask whether the respondents think that this is sufficient. Items that are covered in MEAT may be covered in METT, but the latter does not ask for proof or documentation. Conversely, what is covered in METT may also be covered in MEAT, but MEAT does not ask whether what is provided is sufficient or fits what is required for effective management.

There are therefore several options:

1. Use both tools;
2. Use only METT but require documents or other proof to be presented to back up the answers provided;
3. Use only MEAT.

The first option is time consuming. The second option will make the results more credible. The third option is not advised as this would make survey results incomparable to international assessments and standards.

Respondents

The MEAT/ document retrieval should only be directed at the PASu or the PA staff. The METT should target the management body, the PASu and PA staff and other persons or LGU members involved in the running of the PA.

Mode/method of application

If both tools were used the MEAT could be answered first, and then the FGD can be based on what is reflected in the results of the MEAT. Application of the MEAT requires that documents and other pertinent items (photographs, etc.) be presented during the assessment. The PASu should then be informed way ahead of time of this requirement so that the documents can be accessed by the assessors.

The METT requires explanation of each item and some FGD on the issues covered by the questionnaire (i.e., threats). Several facilitators may be needed to explain the items and facilitate the discussion. The number of facilitators will vary depending on the number of respondents expected to be present during the meeting.

Frequency

Assessment should be done regularly, at least once a year. It is also recommended that new officials/PAMB members should be oriented on their responsibilities, jurisdiction and the status of the PA prior to the assessment.

PART 4 IMPLICATIONS OF CASE STUDY RESULTS ON NIPAS ACT

NIPAS Act or RA 7586

The Philippines has one of most diverse ecosystems in the world. Its 7,107 islands with 30 million hectares of land and 18,000 kilometers of coastline are home to unique species of flora and fauna that has a high percentage of local endemism. However, the country's remaining biological diversity and the ecosystems that support it are in constant threat of destruction.

The NIPAS Act or known as National Integrated Protected Areas System or Republic Act 7586 was enacted in response to an urgent need to protect the rich biological diversity of the Philippine ecosystems, which is seriously threatened by human exploitation.

Among its main features are:

- designation of an added layer of protection to stabilize protected area boundaries by establishing buffer zones; and
 - recognition of ancestral rights and the inclusion of the policy of community sustainability with concern for the development of the socio-economic and political fibers of the communities that directly uses the resources.
- 290 protected areas

NIPAS “is 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” (Sec. 4, [a], RA 7586).

“to maintain a zoo without a cage”

Categories of Protected Areas

- Strict nature reserve;
- Natural park;
- Natural monument;
- Wildlife sanctuary
- Protected landscape and seascapes;
- Resource reserve;
- Natural biotic areas, and
- Other categories established by law, conventions or international agreements which the Philippine Government is a signatory. (Sec. 3)

Protected Area – refers to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;

Protected landscapes/seascapes – are 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;

NIPAS INITIAL COMPOSITION - All areas or islands in the Philippines previously proclaimed, pursuant to a law, decree, proclamation or order, as falling under any of above-mentioned categories (including virgin forests).

Exceptions - Legislative and taxation functions remain to be effective throughout their territorial jurisdiction, including that of the protected area, since these functions are constitutionally guaranteed (Sec. 5, Art X, 1987 Constitution).

-- Establishment, protection and maintenance of tree parks, greenbelts and other tourist attractions in areas identified and delineated by the DENR.

-- Section 15 thereof states: "Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR.

-- Special law granting jurisdiction over a designated protected area to a particular entity.

Management and Implementation

-- DENR through the PAMB

-- PAMB Composition -- RED under whose jurisdiction the protected area is located; one representative from the autonomous regional government, if applicable; Provincial Development Officer; one representative from the municipal/ city government

Types of Uses/Services Provided

-- Protected areas may provide any of the following permitted uses or services:

1. Maintenance of biodiversity and environmental services
2. Scientific research/educational activities/environmental monitoring
3. Protection of cultural, historical, or archaeological heritage; scenic beauty
4. Resource utilization/extraction
5. Tourism and recreation
6. Maintenance of indigenous use or habitation
7. Multiple use/open options
8. Contribution to rural development
9. Others

Management Plans

-- General Management Planning Strategy (GMPS). GMPS shall serve as a guide in the formulation of NIPAS site specific management plan.

Integrated Protected Areas Fund (IPAF)

-- Trust fund to finance projects of the NIPAS.

-- All incomes earned by the PA's are deposited to the National Treasury as a trust fund, with 75% of the collection to be allocated to the protected areas that generated the revenue, and the balance, retained by the central IPAF to support non-revenue earning protected areas and the operation of the IPAF Governing Board.

-- Sources of the fund: sale and export tax, lease, contributions, and other fees and income derived from the operations.

-- As of 2004, there were only 68 protected areas that earned IPAF revenues, and that only 12 of these revenue-generating protected areas had managed to secure the release of its IPAF fund. Conversely, 56 protected areas had not actually received back their IPAF earnings and not one of the 140 non-earning protected areas had obtained financial support from the central IPAF.

-- Considering the 18 years of NIPAS law implementation, the current IPAF operation raises serious doubt as to the capacity of the IPAF to finance the NIPAS as envisioned by law.

-- For non-earning protected areas , the reasons offered why no fees or income are collected are:

- a. PAMB-related — no resolutions passed, lack of meeting and coordination, prolonged discussion, PAMB not organized or has just been organized, lack of capacity of PAMB members;
- b. System-related — no/lack information, policy, guidelines, or systems;
- c. Capital-related — lack of facilities, infrastructures and initial capital/fund;
- d. Process-related -- resolution to collect fees not yet endorsed by DENR officials or was just approved; awaiting proclamation of protected area, lack of priority given by DENR officials for PA to earn income; and
- e. Others — no need for income generation, area is occupied by squatters.

Activities within PAs

-- DOs: Conduct studies; categorize, prescribe permissible or prohibited activities; adapt land use scheme and zoning plan; review all management plans; promulgate rules & regulations; deputize field officers for enforcement; fix NIPAS fees; exact administrative fees and fines; enter into contracts; accept funds, gifts, or bequests; call on any public or private entity; submit annual report; establish a uniform marker; determine what structure or building to be constructed; control the construction and operations of roads and other public utilities; control occupancies; others.

-- DONTs: Hunting, destroying, disturbing or mere possession of any plants or animals without permit; dumping of waste products; use of motorized equipment without permit; destroying objects of natural beauty or objects of interest to cultural communities; damaging roads and trails; squatting or mineral locating; constructing structures without permit; living in exposed condition refuse or debris; depositing debris in ground or bodies of water; destroying boundary marks or signs.

PENALTIES

Fine: Ph P 5,000 – 500,000

Imprisonment: 1-6 years, or both fine & imprisonment

Rehabilitation or restoration

Eviction

Forfeiture

Administrative fines and penalties

Challenges/Problem areas/Proposals for Study

-- After 10+ years, only eleven (11) protected areas have been formally established by congressional actions (see page 27):

-- Many of those that were initially identified become merely paper parks.

-- Lack of a national land-use policy that will delineate clearly the boundaries of the forest line and other land uses including Pas.

- Conflict of NIPAS Act with various national laws e.g. Local Government Code of 1992; the mining act of 1995; Indigenous People's right act (IPRA) of 1997, Agriculture and Modernization Act of 1997 (conflicts involved the area coverage; and appropriate land use e.g. mining claims).
- Lack of national constituency for biodiversity conservation in general and protected areas work in particular due to limited awareness among the general populace.
- Limited number of conservation professionals.
- Limited management of enforcement capacity.
- Limited resources.
- Limited up-to-date natural science and socio-economic information that can guide the management plans.
- Unclear delineation of responsibilities of PAMB and other stakeholders causes difficulty in implementing programs and projects as well as achieving coordination and cooperation among stakeholders.
- Although the duties and functions of the PAMB as a body are spelled out in the NIPAS Act, there is ambiguity with regard to the roles and interrelationships of the stakeholders represented in the PAMB. Thus, the role of the community in the present arrangement is limited to participating in the decision-making process in PAMB, just like any other stakeholders. The roles of the barangay council and the local people's organizations (POs) as well as their functional relationship with the PAMB are not specified, except for the membership of the barangay captain and PO representatives in the board.
- The disbursement of funds to the PAs from the Protected Area Sub-fund suffers from bureaucratic red tape. The process of disbursing the funds is circuitous, takes a long time, requiring a long and heavy flow of documents and too many signatories.
- Process flow: PAMB prepares a duly approved Work and Financial Plan (WFP); PAMB prepares a breakdown of expenses in a designated format; PAMB submits its resolution approving the project/proposal/WFP, and its accomplishment report; the PENRO requests the DENR Regional Office (RED) for the utilization of the trust fund; then to the Protected Area and Wildlife Bureau (PAWB), as the Secretariat of the IPAF-GB; the staff evaluates and prepares the documents for the endorsement of the PAWB Director to the DENR Secretary; the DENR Secretary then approves the request. The actual release of the money to be utilized requires another process flow
- The existing remittance procedures had created conflicts between DENR and the AIPLS community to such an extent that some community members were pushing for the abolition of the PAMB and the return of the management of the sanctuary to the previous Marine Management Council (MMC).
- There is a need to streamline the financial procedures of IPAF particularly the Protected Area Sub-fund.
- The PAMB should be given a degree of fiscal autonomy in the management and use of the Protected Area Sub-Fund.
- An amendment to the NIPAS Act of 1992, particularly in Section 16, should be introduced to give the PAMB the authority to retain and disburse 75% of the IPAF without need of depositing said fund to the National Treasury.
- Recent studies show (1) buffer zones are inadequate to alleviate effects of fragmentation, contamination by agrochemicals, hunting, and unsustainable or illegal logging; (2) fate of biodiversity within protected areas is therefore inextricably linked to the broader landscape context, including how the surrounding agricultural matrix is designed and managed.

- What if the species you are protecting requires landscape approach?
- The present management system is the same regardless of ecosystem types. However marine protected areas are at a disadvantage as management systems and practices are apparently designed mostly for terrestrial environment. This is evidenced by the lack of standard operating procedures and skilled personnel in marine protected areas *vis-a-vis* terrestrial protected areas. If this predicament continues, marine protected areas, which comprise about a third of the total protected areas in the country, may deteriorate faster than their terrestrial counterparts.
- There is also a large gap in the institutional arrangements as conflicting jurisdiction arises in marine protected areas — there are the Bureau of Fisheries and Aquatic Resources (BFAR) and the Local Government Units (LGUs) that are equally exerting their authorities and legal mandates in these areas.
- As there are limited policy pronouncement regarding National Parks and Protected Areas under NIPAS law, it would be helpful to clarify the institutional relationship between the two systems and how to merge the two in accordance with the prevailing law, especially those national parks that were established before the NIPAS law and become part of the initial component of the NIPA system, only to be reclassified again as national parks. What would happen to private lands within protected areas or national parks that cannot be inherently segregated? Will the constitutional land classification of ‘national parks’ also include marine protected areas declared under by the NIPAS law? Would there be a difference on the funding and budgeting system, if ever old national parks do not become protected areas eventually?
- Currently, existing systems are more suited to terrestrial ecosystems. Separate management systems and prescribed practices suited for marine PAs should also be formulated.
- There are PAs proposed to be disestablished because of the presence of occupants/settlers/squatters. If this will set a precedent in PA disestablishment, many protected areas would encourage illegal occupation and could suffer similar fate.
- Other reasonable schemes may be tested such as ‘3-10 year moratorium’ on IPAF remittance, or imposing a threshold, say Php1 million before applying the fund sharing ratio. These schemes are calculated to primarily give PAs that have no or little earnings the opportunity to stabilize its organization and fund base, and a better chance of financial viability.
- Explore sources of fund such as charges for resource use and development (like offsite use of water), sharing of tourism-revenue with LGUs or NGOs or POs that put up improvements within protected areas.

From Practical to Philosophical

- 1) Protected areas are complex resource, political and administrative systems; the NIPAS Act is a good example of how to confuse the means that seeks to achieve a clear end.
 - a. Simplification seems crucial (e.g. Sagay, also Puerto).
 - b. NIPAS issues are more politics than science.
 - c. Participation is more crucial than presence.
- 2) NIPAS Act is complexed by other laws and governmental mandates
- 3) Protected Area management is highly complexed by poverty set against a context of competing users of resources
- 4) There might be a need to inquire deeper into how local “knowledge funds” and social capital might be invested to achieve science and policy objectives of PA management (Rights versus Relationships).
- 5) There is a need for inventive funding, not necessarily set entirely against governmental regulations. People in PAs for example do not transact business using paper and documents; the government requires these.
- 6) Low publics? Marginalization of PAs and PA Management. Is there an “unfunded mandate”?
- 7) Legal sepsis? Causing international confusion and incompatibility of mandates, especially when complexed with different multilateral environmental agreements and other international agreements and instruments (e.g., the widened doors or transactional investments under GATT-WTO)
- 8) Legal schizophrenia? PA or exploitation?

Amend the law?

Either harmonize with others to strengthen it, or use amendment to push for Land Use Act.

“Genetically-rich areas”, “bio-cultural diversity” which are “complex resource systems” in a “land-starved” country.

PART 5 REFERENCES

- Ablong, W., E. Dolumbal and A. White. 2001. MPA Report Guide. Coastal Resource Management Project. TetraTech, Manila.
- Alcala, A.C., A.B. Bucol and P. Nillos-Kleiven. 2008. Directory of Marine Reserves in the Visayas, Philippines. Foundation for the Philippine Environment and Silliman University-Angelo King Center for Research and Environmental Management, Dumaguete City, Philippines. 178 pp, 10 figs.
- ACB. 2008. Guidelines for the Availment of Technical Assistance Resources for Joint Research Programmes on Biodiversity in the Asean Region. ASEAN Centre for Biodiversity. College, Laguna 4031, Philippines
- Bacudo I, J Aglionby, G Rambaldi, P Matsuura, and T Blastique. 2001. Handbook for the Establishment and Management of Integrated Protected Area Sub-funds. Essentials of Protected Area Management in the Philippines, Vol. 10. NIPAP, PAWB-DENR, Philippines.
- Hockings, M., Stolton, S. and Dudley, N. 2000. Evaluating Effectiveness: A Framework for Assessing the Management of Protected Areas. IUCN, Gland, Switzerland and Cambridge, UK. x + 121pp.
- Leverington, F., Hockings, M., Pavese, H., Costa, K.L. and Courau, J. 2008. Management effectiveness evaluation in protected areas – A global study. Supplementary Report No. 1: Overview of approaches and methodologies. The University of Queensland, Gatton, TNC, WWF, IUCN-WCPA, AUSTRALIA.
- Mallari, NA, BR Tabranza Jr. and MJ Crosby. 2001. Key conservation sites in the Philippines: a Haribon Foundation and BirdLife International directory of Important Bird Areas. Makati City: Bookmark Inc.
- PAWB. 1998. The First Philippine National Report to the Convention on Biological Diversity. Protected Areas and Wildlife Bureau, Department of Environment and Natural Resources, Philippines. 110 pp
- Staub, F and ME Hatzioles. 2004. Score Card to Assess Progress in Achieving Management Effectiveness Goals for Marine Protected Areas, Revised Version. World Bank, Washington, USA. 30pp.
- Stolton, S., Hockings, M., Dudley, N, MacKinnon, K, Whitten T and Leverington, F. 2007. Reporting Progress in Protected Areas – A Site-level Management Effectiveness Tracking Tool. 2nd ed., WB/WWF Forest Alliance, WWF, Glan Switzerland.

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