

Promoting Amicable Settlement at the Local Level: The Barangay Justice Service System Methodology

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Abstract

This paper discusses the methodology adopted in the implementation of “Barangay Justice Service System (BJSS) Project in Maguindanao Province from 2003 to 2007. There were five modules covered in the project implementation such as: Katarungan Pambarangay; Counselling; Mediation, Para Legal; and Shariah or P.D. 1083, known as “The Code of Muslim Personal Laws of the Philippines.” Lectures, workshops, case analyses and role play were the main methods used in the series of trainings/seminars conducted for the implementation of this project. As envisioned, cases filed at the regular courts were reduced substantially based on the records, especially those of civil cases that were within the jurisdiction of the Katarungan Pambarangay level. They were already taken cared by the barangay officials who underwent the BJSS training/seminars. A more improved and systematic ways of settling disputes at the local level were also established, and these were evident with the proper documentations and records of cases, and settlements which were not properly given due importance in the past administration justice at the barangay level. Finally, the success of the project is not only attributed to the support of the local leaders, but most especially the community residents who have been very cooperative in all the phases of the project implementation due to its relevance, and responsiveness in seeking a speedy, and impartial delivery justice services at the local level.

Keywords: Philippine Justice System Methodology at the Local Level

Introduction

Promoting amicable settlement at the local level is an alternative mechanism adopted to expedite the resolution of cases filed by disputing parties at the local level. This is also used an option to reduce the thousands of cases filed in the Philippine regular courts which are unattended and seemed to be dormant. The lack of court judges and inability of the disputing parties to pay the lucrative lawyers’ fees are the common reasons used to explain the slow pace of justice in the Philippine justice system.

However with the interventions of Civil Society Organizations (CSOs) whose main focused was to capacitate individuals handling cases at the local level, the problem on the slow pace of justice at the community local level seemed to find appropriate solution. More specifically, with the financial support of United States for International Development (USAID), in partnership with the Jerry Roxas Foundation Inc., (JRF) and the Maguindanao Foundation for Good Governance and Development Incorporated (MFGGFI), a project called “Barangay Justice Service System (BJSS)” was implemented in Maguindanao Province, whose main purpose was to complement the peace and development initiatives of the government by providing awareness and easy access to justice service at the local level.

In particular, the program was crafted with two major purposes: first, it will improve the awareness and technical know-how of individuals handling disputes and cases at the local level so that they will become effective in their works; second, it will enhance immediate action to cases filed at the local level so that they could no longer be elevated to the municipal level, and thus, clogging of court dockets could be avoided¹.

After five year of implementation, the project had served Six Hundred Three (603) barangays (villages) of Maguindanao coming from the Municipalities of Datu Odin Sinsuat, Talayan, Talitay, DatuPiang, North Upi, South Upi, Datu Blah, Mother Kabuntalan, and North Kabuntalan respectively. All of these municipalities were mainly dominated by Muslims populace with few Christians and highlanders, particularly, Tidurays.

Contrary to some speculations, the project was not designed to change the existing structure and practices in the community; rather it enhances, and made them more systematic and proactive. Thus, its implementation was highly supported by the local people. These were evident by the full cooperation of both the local leaders, and the community residents in all its phases of implementation.

However, just like other projects in the past, the BJSS was not spared out from doubts and suspicions. This is a recurring scenario brought about by sad experience in the past where the communities were just used as a “dummy” and façade in the pursuit of personal agenda of some interest groups.

Despite of its noble purposes, there were still questions raised like, will BGSS suits to the peculiarities of the Bangsamoro Communities in Maguindanao Province? How could justice services become accessible and inexpensive for the poor without necessarily changing the established traditional approaches and methods to dispute settlement at the local level? What methodology will be adopted, and how will the implementers go about these? These quires will be provided appropriate explanations in the succeeding discussions.

The Project Methodology and Strategies

The BJSS follows certain methodologies and strategies of implementation which were consistent with the acceptable norms and standards in the Bangsamoro Communities in Maguindanao Province. These include:

Social Preparation Strategies

A courtesy call to the local Chief Executive is a must before the project is to be lunched to selected local communities. This activity is a sort of protocol, and courtesy to the Local Chief Executive and other local officials whose purpose is discussion of what is the project all about. This is a good strategy for gaining the support of the local officials and subsequently for seeking logistical counterpart from them. Following this process is the social preparations of the identified pilot communities which were divided into three distinct but related phases:

1. *Baseline Survey* – community residents of recipient barangays were asked of some base - line information pertaining to the dispensation of justice at the local level. Specifically, they were asked about their level of knowledge and familiarity of common offenses and crimes committed at their communities, and how disputes are settled at the local level.
2. *Social Marketing* - Both the barangay officials and residents were gathered in a general meeting with the presence of the municipal officials to discuss and orient them on what the project is all about. The Staff of the MFGGDI would discuss the project content and focus, and subsequently how could it be helpful for dispute resolution in a particular community. As an output, a Barangay Resolution adopting the BGSS is required as basis for the project implementation. In addition, the organization of Barangay Justice Advocates for the particular barangay is also required which consists of ten (10) individual members of the community who are credible and can be relied upon by the barangay officials.
3. *Case Documentation and Inventory* - Cases, whether on record or not, were reviewed for documentation and inventory purposes. This process helped in monitoring whether cases filed in the barangay had increased or substantially reduced after the implementation of the project.

Modules Covered in the Project Implementation

Barangay Officials of the recipient communities were required to attend a series of trainings/seminars for the BJSS project. The training methodologies adopted for this particular project include lectures, discussions, case analyses and role play, and workshops and presentations.

¹See Objectives of BJSS in the brochure.

These activities were facilitated by experts from the academe, and practitioners who were tapped by MFGGDI to undergo BJSS trainers' training in Capiz, Iloilo, Philippines in 2003. There were five modules covered in the project which include:

1. KatarunganPambarangay
2. Mediation
3. Counselling
4. Para-legal
5. Shariah – P.D. 1083 or the “Code of Muslim Personal Laws”

How are these module implemented?

Module 1 - The Katarungan Pambarangay

Contrary to some doubts that the “Katarungan Pambarangay” or Barangay Justice would overhaul the existing community structure and practices in dispute settlement at the local level, this module did not intend to change those practices; rather it institutionalized them by providing more systematic processes for amicable settlement so that the case result would become more convincing and acceptable to the disputing parties.

In the previous practice, local disputes were brought to the most recognized and respected leader of the community for settlement. Usually these leaders were the elders of prominent and influential families who have gained higher respect among the local residents. They became leader because of their wide experience and social status in the community. The dispensation of justice is based largely on the experience of these leaders in handling cases and with consultation with the Council of Elders. Often time, justice is served through fair trial in the traditional way, but in instances where the disputing parties were not contented of the decision, it has no specific processes or rules to follow that guarantee for a fair resolution, acceptable to the disputants. Further, the traditional practices were not keen on providing documentation and records of case proceedings, and subsequently its resolution. The leader acts as the “living witness” that is, he guarantees the implementation of whatever is the result of the case.

Under the Katarungan Pambarangaylaw or P.D 1508, while these traditional practices remained as the basis of this law, it has substantial improvements on the content². The law specified the steps and processes necessary in the pursuit of a fair, just and inexpensive amicable settlement in three levels:

First, the Punong Barangay (*village head*) will conciliate the two disputing parties on his own capacity as head of the community. He would try to convince these parties for an amicable settlement on the issues that become source of conflict between them. He would promote the spirit better neighborhood in the community as one family in order to settle the case.

Second, if the Punong Barangay failed on his attempt to conciliate the two disputing parties, he will organize the so called “*Lupon Tagapamayapa*” or peace seeking committee, a group of 10 to 20 persons tasked to assist him in settling the case amicably. He chairs this Lupon with the following functions:

1. Receive all complaints, written or verbal, filed by individuals against other persons who are subject to amicable settlement;
2. Summon respondents, with notice to the complainants for them to appear before him/her for mediation;
3. Resolve the issue of venue of settlement and refer any legal question to the Secretary of Justice or his/her duly designated representative;
4. Arbitrate and render an arbitration award when agreed by the conflicting parties;
5. Constitute the Pangkat ng Tagapagkasundo should he fail to settle the parties;
6. Appoint the members of the Pangkat should the parties fail to agree on the composition of the three-member Pangkat by drawing of lots;
7. Administer oaths in connection with any matter relating to all proceedings in the effective implementation of the Katarungang Pambarangay;
8. Set the time, date and place of hearing, and preside over the monthly meeting of the lupon;
9. Prepare the agenda of each meeting;

²See the KatarunganPambarangay law, P. D. 1508, and the Local Government Code of 1991.

10. See to it that the Lupon exercises administrative supervision over the various Pangkats and perform such powers, duties and functions as may be prescribed by law, or ordinances;
11. Where the mediation or arbitration is made by him/her, she/he shall attest to the certification signed or issued by the Lupon Secretary;
12. Upon successful conclusion of his/her mediation efforts, he shall reduce to writing in a language understood by both parties.³

Third, if the Punong Barangay failed to settle the case through the Lupon, he may resort to organize a three-men committee called *Pangkat* to continue his conciliatory efforts⁴. These people are selected from the Lupon members, and duly agreed by both parties. The *Pangkat* will use arbitration method, that is, to negotiate, and make a strong appeal for both parties to agree and settle amicably. If both parties agreed, they will put their agreement into writing on a language understood by both. However, if they do not agree, and will insist to elevate the case to regular trial court, the *Pangkat* Chairman may attest a certification to be issued by the *Pangkat Secretary*, a requirement for filing an action or proceedings in the regular court, or any government office for adjudication. Without this certification, the case will not be acceptable to the regular court.

Module 2 - Mediation

To reinforce his conciliation function, the Barangay Chairman with other officials were also equipped with appropriate knowledge about mediation process as an important method in enhancing amicable settlement at the barangay level. With the intervention of a third party, who should be neutral and could go on – in - between; iron out some differences, the disputants may not aggravate the situation. This intervention may result to cool down the situation.

There were some evidences of mediation practices in the past under traditional leadership, but these practices did not observe a more systematic approach of “going in between” the two disputing parties, and submit themselves to an agreement duly acceptable to both. The traditional leaders simply assert their influence to control the situation. To some extent they become authoritative to silence the case, which could possibly result into the dissatisfaction of the case result especially to the aggrieved party.

Under the BJSS project however, the barangay officials were equipped to assume this challenging role of mediation with the purpose of enhancing amicable settlement between the two disputing parties. Through this new methodology, the barangay officials were exposed to several lectures, workshops, role play and simulation, case analyses that prepared them to become more ready in assuming mediation role between the two conflicting parties. Specifically, the following mediation road map and steps were taught to them in the series of training/seminars conducted:

1. Preparation for mediation
2. Mediator’s opening remarks
3. Parties’ sharing of perspective on issues and concerns
4. Mediator’s summary of issues to be addressed
5. Problem solving on each issue or set of issues
6. Reaching closure
7. Written agreement⁵

This road map is the general direction of how the mediation process is going to prosper until reaching the agreement. Depending on the situation, each level has specific steps which could be flexible due to unforeseen circumstances.

Module 3 - Counselling

With the use of the so called “soft – heart” approach, with emotional healing processes, the Counselling Method showed that even the most tough guy or notorious man in the community would learn to bend a little to open his heart, and become rational being to listen to explanation.

³See KatarunganPambarangay Law, P.D 1508; the Local Government Code of 1991; and KP Manuals.

⁴ See page 29 KatarungangPambarangay: Making it Work by Tom Villarín, also in R.A. 7309, KP Implementing Rules and Regulations.

⁵Please see Mediation Road Map in the BJSS Manual.

By experience, the traditional practices popularized the concept of “advice- giving”, which means that when there are problems, like disputes or misunderstanding between two or more individuals, or between neighborhood in the community, the leaders, or the parents themselves give advises for solution, either solicited or not.

However, so to speak, this is not to say that the wisdom of advice-giving is not good or nor helpful. In many instances, this process has also been tested and proven to be valuable in many situations.

Contrary to the most common process of advice- giving, the Counselling Method is far different. Under the BJSS methodology, the Barangay Officials were trained and subsequently re-tooled for the use of a more systematic approach in dealing with problematic persons. This is done through verbal, and face to face communication. It is a skill to be developed that one has to nurture, and continuously practice to become more effective in dealing with complex problems. The following are the steps in the Counselling processes adopted:

STEP 1: Welcome the counselee; build rapport, establish your goals; set time agreement

STEP 2: Move into counseling for Emotional Release

STEP 3: Get the facts. Distinguish between the facts and the counselee’s inferences or assumptions

STEP 4: Help the counselee identify next steps/possible solutions

STEP 5: Come to agreement. Share positive and negative consequences

STEP 6: End the session by affirming the counselee, bolstering his/her spirit.⁶

The aforementioned steps were just a patterned and they may not be at all the time followed sequentially. However what is very crucial here is the ability of the Counsellor, in particular, these Barangay Officials to listen to the grievances of the problematic person; process them through emotional healing, so that they could elicit from their clients possible ways or alternatives for coping up with the situation based on other experiences in the past. If the clients have limited options to solve the problem, the Counsellor may assist and help by citing similar situations he knew in the past, and apparently, how those situations were overcome by the concerned individuals. Listening skills of the Counsellor in this process has to be developed in order to get a complete grasp of the situations being experienced by the problematic persons or clients. Apparently, the Counsellor could cite some “eye-opener” alternatives if he has the complete picture of the problematic situation. These things however are achieved if Counsellor has developed listening skills and understanding. Therefore, the Counsellor in this process simply helps and acts as a facilitator.

Module 4 - Para Legal

The Para-Legal method was emphasized as the last option left for the disputing parties to seek justice under the Philippine Judicial System. This is where the provisions of the law prevail based on the rules of evidences presented before the regular trial court for arraignment purposes

However, under the BJSS methodology, filing of cases directly to the court is highly discouraged. Cases that are subject of Katarungan Pambarangay could only be elevated to the regular court if all the necessary remedies provided under the KP Law have been exhausted, and did not work. If these requirements are not properly observed, much more if there is no certification issued by the Pangkat Secretary attested by the Chairman, and duly endorsed by the Punong Barangay, the court will return back the case to the barangay concerned⁷.

The Para Legal method did not intent to make these barangay officials to become expert of law because law profession under the Philippine Educational System is completed in four years period. What was emphasized here, however, was at least for them to gain understanding of how Philippine Laws worked, and how cases filed in the regular trial court prosper under specific court jurisdiction.

Subject areas covered in this component included Civil and Criminal Procedure, Family Code, and Human Rights. However while all these areas were interesting, the barangay officials became more attentive to the discussions on Human Rights due to its relevance and necessity that everyone especially the conflict –affected areas should be aware of.

⁶ See Counseling Manuals provided by the GRF.

⁷Cases subject to KP Law jurisdictions are those whose liability for imprisonment do not exceed one year, and whose penalty do not exceed P500.00: Please see KP Implementing Rules and Regulations or R.A. 7309.

Interestingly, to enrich participants' learning, the Code of Muslim Personal Laws in the Philippines enacted under P.D. 1083⁸ was also highlighted in the series of BJSS trainings/seminars. In fact it has become regular subject area in these trainings/seminars because most of the participants were Muslims. However due to time constraints, the discussions of this module were only limited to Muslim Marriages, Divorce, and property ownership as enshrined in the Code.

On the entirety, what made the BJSS project interesting and attractive, aside from its relevance in conflict resolutions at the community level is that all the modules were delivered on the local vernacular, particularly in "Maguidananaon dialect" that could easily be understood by the participants. This is in anticipation of the lower educational background of the recipient barangay officials.

The BJSS Project: Way Forward

Despite of the completion of the project in 2006, the structure it has built in the recipient communities should be nurtured to continue its noble purposes. In fact, this even provided opportunity for the barangay officials to put into practice the theories and concepts they have learned from the BJSS trainings/seminars attended.

As a follow up activity however, the recipient barangays officials underwent seminar on Project Sustainability Action Program (PSAP). This activity was designed primarily to ensure that the barangay officials who have attended the BJSS trainings/seminars could come up with their concrete plan of actions in support of barangay justice system at their respective barangays.

Fortunately, due to popular demand and good impact to the community, the BJSS, despite of its completion in 2007 was extended into another phase for two years. This time, the coverage has expanded to other barangays which were not covered in its previous operations. At the same time, during this second phase, the program was awarded to another partner NGOs of GRF which was also operating in Maguindanao and Cotabato City. However, most of the program facilitators and Resource Persons were same experts involved in its previous implementation.

As a process however, these facilitators and experts involved in the second phase underwent a refresher and enrichment course for the upgrading of the modules and methodology in the project implementation, and in Barangay Governance.

Lessons learned, reflections and challenges

A more improved methodology in settling disputes amicably at the local level through the BJSS was a breakthrough in so far as dispensation of justice service at the local level is concerned. Individuals handling cases in the past showed that they were not keen on putting into records or documents of the case proceedings and settlement. However, these individuals, particularly the barangay officials, after attending the BJSS trainings/seminars were awakened about these shortcomings, and have realized these gaps. Apparently, because of their knowledge acquired from the trainings/seminars attended, they have started to establish their respective documentation system, and subsequently, maintain log books and filing system for proper record purposes. The project had also generated more interest and support not only from barangay officials but most especially the community residents after learning that BJSS project does not intent to change the established traditional practices and standards of settling disputes in the community, in fact the purpose is to strengthen them. Furthermore, the project posted greater challenges to the barangay officials to research more, and get familiar with their respective functions as elected officials to enhance more effective governance at the local level.

⁸Cases subject to KP Law jurisdictions are those whose liability for imprisonment do not exceed one year, and whose penalty do not exceed P500.00: Please see KP Implementing Rules and Regulations or R.A. 7309.

Concluding Impression

The implementation BJSS became successful in Maguindanao Province as evident in the gradual reduction of cases filed in the regular court. Most cases, especially those at the jurisdiction of Katarungan Pambarangay were already taken cared by barangay officials who have attended the series of BJSS trainings/seminars. Using methods such as lectures, workshops and presentations, case analyses and role play the five modules such as Katarungan Pambarangay, Counselling, Mediation, Para-legal and the Shariah or RA1053 known as the "Code of Muslim Laws in the Philippines," were adopted in the local communities. The recipient barangay officials have also improved significantly their system of handling disputes at the local level using amicable settlement as a method and as an alternative. Apparently, justice became inexpensive and accessible for every member of the community. Consequently, this process resulted to the decongestions of cases filed at the Regular Trial Court.

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