

**PROBLEMS IN THE IMPLEMENTATION OF LOCAL COMMUNITY JUSTICE SYSTEM IN TAMUGAN, MARILOG DISTRICT, DAVAO CITY**

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The study was conducted to determine the problems in the implementation of local community justice system in Tamugan, Marilog District, Davao City. The primary data were gathered using Focus Group Discussion of eight (8) Arbitration council members of Tamugan, Marilog District, Davao City. The data was acquired through guide questions and focus group discussion. The results of the study showed the following: not all disputes were settled by the conciliatory body and was decided to issue a certification to file an appropriate case in the court, there is a lack of technical capacity among conciliatory body in resolving disputes, there is an insufficient budget allocation for the members of justice system, there is a conflict between indigenous beliefs and mainstream law.

**Keywords:**

Arbitration, Amicable settlement, Conciliation, Mediation, Alternative dispute resolution, Qualitative research, Case study.

**INTRODUCTION**

The local community is the smallest political subdivisions in the Philippines. The local community justice system is an alternative, community-based mechanism for dispute resolution of conflicts between members of the same community. It provides a venue for disputing parties to search for a mutually acceptable solution. Local community justice system was first recognized in 1978 with the enactment of PD 1508 under Marcos government and was strengthened and further consolidated within the decentralization framework and the enactment of the 1991 Local Government Code (RA 7160). The link between decentralization and the recognition of alternative dispute resolution is what makes in the Philippines case original and attractive, mainly considering the long highly centralized tradition imposed by colonial powers. The local community justice system is the result of a challenging devolution of powers and functions from the central government to the local community and represents the only decentralized justice programme that has been legally and politically recognized. The alternative dispute resolution programme at the local community level whose ultimate goal is to improve access to justice through the amicable settlement of family and community disputes.

The conciliatory council is the body that comprises the arbitration members and on it sit the chairman of the local community having 10 members. The body is normally constituted every three years and holds office until a new body is constituted in the third year. The local community justice system formalized the Filipino tradition to seek help of community elders or tribe leaders in resolving disputes between members of the same community, and uses the chairman (highest elected official in a local community) and the arbitration members (committee of respected community members). It is only when the local community justice system has failed to resolve the dispute that the parties are allowed to bring their case to court. The case study aims to explore the capability of the Conciliatory body in Tamugan, Marilog District in resolving disputes in the community.

**OBJECTIVE OF THE STUDY**

The study was conducted to determine the problems encountered of the conciliatory body in Tamugan, Marilog District in resolving disputes in the community. Specifically it sought the following;

**METHODOLOGY**

The study was conducted in qualitative design. Focus group discussion was used in which the key informants exchanged knowledge, ideas and opinions based on topics supplied by the researchers. Creating homogeneity in the focus group discussion can help participants feel more comfortable expressing their opinions. Eight (8) out of ten (10) arbitration members, the local community chairman and community secretary were the key informants of this study. Thematic content analysis was used in order to interpret the responses of the key informants and analyzed the data gathered.

**RESULTS**

The following are the obtained results that emerged in the study regarding the problems in the implementation of local justice system as experienced by the arbitration members of Barangay Tamugan, Marilog District, Davao City.

**DISCUSSION**

**Willingness of both parties ( complainant - respondent ) to be settled.** The conciliatory body emphasized the importance of settling disputes between parties in which speedy dispensation of justice is more accessible in a community based justice system. The local community justice system where the conciliatory body belongs is based on a long tradition of amicable settling of disputes among family and community members whose origin can be traced back to the pre-colonial period. Given the hierarchical social structure of the local community, which were usually head by the council of elders, these cultural traditions plays an important role in facilitating a community based dispute resolution methods nowadays.

**Lack of technical capacity among arbitration body in resolving disputes.** The members of arbitration body reveals that there is no formal training, seminars or workshops conducted by the concerned government agencies such as Department of Interior and Local Government ( DILG), Local Government Unit ( LGU) and Department of Justice ( DOJ) in the implementation of local justice system in every community specifically in the scope and limitations of their functions as the arbitration body of the local community. There is very little training opportunities available. This may be traced to the lack of inter-agency clarity on which Department is responsible for the training and supervision of the Local Community Justice System. This lack of clarity has been the bone of contention between the Department of the Interior and Local Government, and the Department of Justice. Because of this lack of clarity, there are no clear, systematic and sustained training programs for Conciliatory members from either of these two agencies. It has also created an "open access" mentality among agencies and non government organizations. There is an overwhelming need for availability of legal advise and information. This is especially with regard to the practice of arbitration. Local community have little access to legal knowledge and disputants are therefore on the mercy of the elected of the local community officials and conciliatory members who are in most cases untrained. <sup>2</sup>

**Insufficient budget allocation for the members of the justice system.** The arbitration body admits that they receive 500 pesos per month as their honorarium being the member of the said body. Further, such amount of honorarium is not enough to cover their expenses on rendering their services as arbitration member. The intentions of the members of the arbitration body in delivering such services is to continually support the orderliness of the local community. According to the 1991 Local Government Code of the Philippines explicitly mandates the annual direct transfer of financial resources of 20% of the internal revenue allotment from the central government to the local community. Similarly, it establishes the local community budgets shall dedicate 10% of their general fund to the legislative council fund, up to 55% of Personal Services ( PS ) , 20% development funds, 5% for Gender and Development ( GAD) and 10 % for unforeseen calamities. Once the annual mandatory appropriations have been deduced, the surplus can be allocated to other operating expenses such as the allocation of honorarium and allowances to the conciliatory members.

**Tendency to decide on biased grounds.** The arbitration body received negative feedback from some local residents in the community on their manner in resolving disputes. Feedback arises especially in the concern of the party in which the complainants will have to choose two ( 2) out of the 3 members of the arbitrary body that will administer in resolving the disputes. This portion is closely tied up with the recommendations on revisions of the law in accordance to local justice community system wherein the head of the community is an elected

official, , and thus is a political being. One of the major sources of polarization in Philippine society is elections, with politicians and parties vying for votes of community members. More often, local community are polarized among loyalties to different candidates. Supporters and relatives of losing candidates often hesitate to use the local community justice system to resolve disputes, especially if the other party supported the winning candidate. There is always the perception and fear that the elected local official could not and would not be impartial in facilitating the resolution of disputes, favoring his supporters and relatives.

**Conflict between Indigenous beliefs and mainstream law.** One of the interviewed members of the arbitration body is one of the tribal leader in the community and he manifested that there is differences between Indigenous laws from the mainstream law. Conflict arises when one of the parties belongs to the Indigenous group and the other one wants to settle in traditional / mainstream law. On the history of the two justice systems, both the tribal and local justice systems are guided by their respective laws but differ primarily on the nature and implementation of laws. There are rules and regulations in for the implementation of the laws in order to facilitate the compliance and achieve its objectives particularly in accessing justice. On the purpose of the two justice systems, both the tribal and local justice systems have the same purpose which is the maintenance of social order and settlement of conflicts but differ in the concept of amicable settlement.

#### CONCLUSION

Justice is attained through the availability of alternative justice system in the local community in a manner that conflict resolution was based on cultural, mutual understanding between the members of the community, amicable settlement rather than law based. The importance of local community justice system is to help in decongest a huge backlog of cases in the formal justice system by lines of communication, participation and influence in case dispensation. Also, there is a need to build partnership between the government and civil society to improve security and access justice for the poor. Local community justice system addressed and resolve family and community disputes in a more efficient, cheaper and quick way than formal courts. Local community mediation and conciliation systems are proliferating as a means to overcome the existing inequalities in access to justice and enable the poor communities to realize their legal rights.

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