

“Barangay Justice Service System (BJSS) Project as an Alternative Mechanism in Dispute Resolution in Maguindanao, Southern Philippines: A Content Analysis”.

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Abstract

This paper discusses a project called “Barangay Justice Service System (BJSS) implemented in Maguindanao Province of Southern Philippines whose purpose is to provide awareness and easy access to justice by improving the awareness and technical know-how of individuals handling disputes and cases at the local level. Specifically, the paper delved into analysis of the content and subject areas of the project, including the mechanisms and strategies adopted covering five (5) modules of implementation which include: Katarungan Pambarangay; Counselling; Mediation, Para Legal; and Shariah or P.D. 1083, known as “The Code of Muslim Personal Laws of the Philippines.” As it was envisioned, the project implementation resulted to a more accessible and inexpensive justice services at the local communities in Maguindanao Province. This is evidenced by the reduction of cases filed at the regular trial courts, especially those of civil cases that are within the jurisdiction of the Katarungan Pambarangay level. A more improved and systematic ways of settling disputes at the local level were also established by providing proper documentations and records of cases, and settlements which were not properly given attention in the past at the barangay level. In the end, the program became successful because of the support not only of the local leaders, but including the community residents due to its relevance, and responsiveness towards seeking a speedy and impartial delivery justice services at the local level.

Key Words: *Barangay Justice Service System (BJSS) Project in Maguindanao, Southern Philippines.*

Introduction

The idea of strengthening the traditional ways of settling disputes at the barangay level was an off-shoot and alternative mechanism to the continuing congestions of cases filed in the regular courts of the Philippines. Thousands of cases that need immediate response were not properly acted upon due to limited number of judges, aside from the incapacity of the disputing parties to pay lawyers, and shoulder the burden of expensive court arraignment. However, while these conditions were considered wicked problems in the Philippine Justice System but there were also some alternative mechanisms that were provided purposely to reduce the court dockets filed in the regular trial courts. More specifically, with the financial support of United States for International Development (USAID), and with the partnership of 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, Southern Philippines in 2003.

The project complemented the Government's peace and development efforts by providing awareness and easy access to justice service at the local level.

It was a packaged of social development interventions aimed at promoting family and community peace at the grassroots. Specifically, it improves the awareness and technical know-how of individuals handling disputes and cases so that they will become more effective in their works. Further, it also enhances immediate action of cases at the local level so that it could no longer be elevated to the municipal level, and thus subsequently, clogging of court dockets is avoided¹. 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.

The implementation of the project was very attractive as indicated by the full cooperation of both the local leaders and the community residents of the recipient barangays. However, there were still questions raised like, will BGSS suits to the peculiarities of the Bangsamoro Communities? How could justice services become accessible and inexpensive for the poor without necessarily changing the established traditional approaches and methods to dispute settlement? These queries will be appropriately answered in the succeeding discussions of this paper.

The Implementation of BGSS: Social Preparation Stage

Like other projects in the past, a courtesy call to the local Chief Executive is a must requirement before the launching of the project to a particular local government unit takes place. This process is indispensable as a sort of protocol, and apparently for gaining the support of the local government officials and for possible logistic counterpart. Following this process is the social preparations of the recipient community which were separately divided into three distinct but related phases:

1. *Baseline Survey*- Recipient barangays were asked of some base - line information pertaining to barangay justice, and its dispensation at barangay level. Local residents were specifically asked of their level of knowledge of common offenses and crimes committed at the local level, and how disputes are settled at the barangay level.
2. *Social Marketing* - Both the barangay officials and residents were gathered together 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 discusses the project content and focus, and subsequently how could it be helpful for dispute resolution in the 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 consist 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 will help monitor whether cases filed in the barangay will increase or substantially reduce after the implementation of the project.

How does Barangay Justice Service System (BJSS) Project Work?

All the recipient barangay officials underwent a series of trainings/seminars using lecture method, discussions, role playing, and workshops. These were facilitated by some experts from the academe, and practitioners who were also topped by MFGGDI to undergo BJSS trainers' training in Capiz, Iloilo in 2003. There were five subject areas covered in the project which included:

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

¹ See Objectives of BJSS in the brochure.

These five subject areas were the ones implemented by the MFGGDI in the entire duration of the project in Maguindanao which have gained much support from the local leaders due to relevance, especially in dispensation of justice at the community level.

The Katarungan Pambarangay

The “Katarungan Pambarangay” or Barangay Justice does not intent to change the traditional practices of dispute settlement established in the community. Instead, it institutionalizes these practices by providing more systematic processes for amicable settlement whose result would become more acceptable to the disputing parties.

Traditionally, disputes in the barangays are brought to whoever is the recognized and respected leader of the community. Normally, those elders that come from prominent families who command higher respect among the neighbours were the ones appointed as community leader. The dispensation of justice is based on his experience, and through consultation with the Council of Elders. Often time, justice is served, but in instances where the disputing parties were not contended of the decision, it has no specific processes or rules to follow that guarantee for a fair resolution, and winning back the trust and confidence of the aggrieved party. Further, the traditional practices are not particular of providing documentation and records of case proceedings, and subsequently its resolution. The leader acts as the “living witness” that guarantees the implementation of whatever is the outcome of the case. Under the Katarungan Pambarangay law 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 of better neighbourhood in the community as one family.

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;
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;

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

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 reduce their agreement into writing on a language understood by both. However, if they do not agree, despite of all efforts, the *Pangkat* Chairman will attest to the certification to be issued by the *Pangkat Secretary*, requirement for filing an action or proceedings in the regular court, or any government office for adjudication.

Counselling Method

Another process adopted in settling disputes at the community level is Counselling Method. Using the so called “soft – heart” approach, with emotional healing processes, even the most tough guy or notorious man in the community would bend a little to open his heart, and become rational being to listen to explanation.

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 neighbourhood 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.

However, the concept of Counselling is not equated to advise- giving. It is more of helping and becoming facilitator in order for the problematic clients to identify possible solutions for his problem. Under the BJSS project, the Barangay Officials were trained and subsequently re-tooled for the use of a more systematic approach in dealing with problematic persons 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 process:

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.⁵

Whether the aforementioned steps were strictly followed or not do not matter. What is more important here is the ability of the Counsellor, and for that matter the Barangay Official concerned to listen to the grievances of the problematic person; process them through emotional healing, so that he could elicit from this client a possible ways or alternatives for coping up with the situation based on other experiences in the past. If the client is short of this experience and alternative, the Counsellor may cite similar situations he knew in the past, and apparently, how were those situations been overcome by the concerned individuals.

Listening skills of the Counsellor here specifically, the barangay official concerned has to be developed in order to get a complete grasp of the situations plaguing the problematic person or client. 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 he has developed his listening skills and understanding. Therefore, the Counsellor in this process simply acts as a facilitator.

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

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

⁵ See counseling manuals provided by the GRF.

Mediation

In addition to the conciliation function, the barangay officials were also equipped with appropriate knowledge about mediation process as an important tool in enhancing amicable settlement at the barangay level. The disputing parties may not aggravate the problem with somebody, who is neutral, and a third party, and who could go - in- between; iron out some differences; and thus, cool down the situation. Facilitating the disputing parties to engage in principled negotiation which will end up with an agreement is the greatest consolation the mediating individual could achieve.

There were some evidences of mediation practices in the past under traditional leadership, but these did not pass through a more systematic approach of “going in between” the two disputing parties, and submit themselves to an agreement duly acceptable to them through mediation process. The traditional leaders simply assert their influence to control the situation.

The barangay officials were now better equipped to assume this challenging role of mediation with the purpose of enhancing amicable settlement between the two disputing parties. Through the BJSS project, these barangay officials were exposed to several lectures and workshops that prepared them to become more ready in assuming this role between the two conflicting parties. Specifically, the following mediation road map and steps were taught to them in the training:

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 agreement⁶

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.

Para Legal

The Para-Legal component of the project was emphasized as the last option left for the disputing parties where they could elevate the case to the higher court purposely to seek justice. This is where the provisions of the law prevail based on the rules of evidences presented before the regular trial court for arraignment purposes. Actually, filing of cases directly to the court is highly discouraged by the project. Cases that are subject of Katarungan Pambarangay⁷ 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 concerned⁸.

The delivery of lectures on Para Legal did not intent to make these barangay officials to become expert of the 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 lecture 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 Please see mediation road map in the BJSS Manual.

⁸ Cases 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 the BJSS program, the Code of Muslim Personal Laws in the Philippines enacted under P.D. 1083⁹ was also highlighted in the series of BJSS trainings/seminars. In fact it has become regular subject areas in these trainings/seminars because most of the participants were Muslims. However due to time constraints, the discussions 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 lectures 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.

Completing the BJSS Project: Way Forward

The completion of the project did not mean termination of its structure organized in the recipient communities. 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. After the completion of the BJSS project, the recipient barangays underwent for the Project Sustainability Action Program (PSAP). This activity is a follow up workshop 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 another 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 of the project underwent a refresher and enrichment course for the upgrading of the modules and methodology in the project implementation, and in Barangay Governance.

Lessons Learned

The BJSS project provided a more systematic approach for amicable settlement of disputing parties at the barangay level. As mentioned earlier, while the traditional practices were not particular of providing proper records and documentations of case proceedings and settlement, the barangay officials, after attending the BJSS trainings/seminars came to realize these gaps and shortcomings. Apparently, because of their knowledge acquired from the BJSS 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 including the community residents after learning that BJSS program does not intent to change the established traditional practices 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.

Concluding Impression

A unique program ever implemented in the conflict affected areas of Maguindanao that has significant impact in the pursuit of speedy, inexpensive and impartial justice at the local level. With the BJSS project modules implemented such as the Katarungan Pambarangay, Counselling, Mediation, Para-legal and the Shariah or RA1053 known as the “Code of Muslim Laws in the Philippines,” the recipient barangay officials have improved significantly their system of dispute resolution at the local level using amicable settlement as a method, and as an alternative.

Cases, particularly those that are within the jurisdictions of barangay level were no longer brought to regular trial courts, instead settled at the barangay level.

⁹ Cases 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.

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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