

Five Municipal Case Studies on the Philippine Barangay (Village) Mediation System¹

By

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Abstract

Three villages each in five municipalities were studied as a method for assessing the Barangay (village) mediation system as an avenue for access to justice by the poor in the Philippines, especially poor women and children. The assessment were meant to provide recommendation on amendments to the current Katarungang Pambarangay (Village Justice) Law and strengthen the system by infusing institutional changes. It was found that in general, there is a wide variety of practices and interpretation of the Katarungang Pambarangay Law. Practices differ from one barangay to another. The KP Law, while generally observed, is ignored when impracticable, and local variations are concocted. Practices are adapted on local conditions, and based on convenience and practical considerations. This is most evident in the process of selecting *Lupon Tagapamayapa* (village mediation committee) members. However, more often, the composition of the Lupon Tagapamayapa becomes a moot and irrelevant question. There are many other actors involved in dispute resolution. More than the *Lupon Tagapamayapa*, it is the *barangay captain (village chief)*, *barangay kagawad (village councilmen)*, *purok (area) leaders* and traditional elders who are the front liners in dispute resolution. Only in urban areas were the Pangkat Tagapagkasundo (conciliation panel) is constituted, and often, the disputants do not have a say on its composition.

Lupons are largely active in urban areas; the farther the village is from the urban center, the less cases are reported in the barangay, and the less frequent the *Lupon* is constituted. This is probably because the opportunities for crime are present in urban areas, and less so in areas far from the center. The profile of Lupon Tagapamayapa members surveyed is very telling: on the average there are 10-14 members, but urban areas would most likely have more than that, because of the high caseload. Lupon Tagapamayapa members are mostly males, with barangays even having 100% male members. Women are a minority. Most LT members are middle-aged. There is little distinction made between mediation, conciliation and arbitration. Disputants hardly have a say on how their cases are to be disposed of. Oftentimes, the barangay captain employs a combination of mediation and arbitration. Moslem and indigenous practices are still very influential. Even in mixed communities, when one or both parties are Moslems, the barangay officials seek the help of datus, imams and Ulamas in resolving disputes, instead of referring the cases to the Lupon Tagapamayapa. In disputes involving indigenous peoples, barangay officials refer the case to the tribal chieftains and councils.

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The processes are mostly open to the public, unless the parties request closed-door sessions or unless the barangay captain and lupon tagapamayapa members decide otherwise.

The paper recommends amendments to the Katarungang Pambarangay Law meant to infuse institutional strengthening mechanisms. Recommendations include making the composition of the lupon tagapamayapa more gender-age and culturally balanced; limiting the role of the barangay captain in mediating cases; making arbitration compulsory after mediation has failed; and requiring confidentiality and privacy of mediation processes. The proposed amendments to the KP Law are meant to embody greater citizen participation, with citizens exercising their right to choose their preferred dispute resolution mode (mediation, arbitration or formal court processes), having a greater voice on who will facilitate the resolution of their disputes, and generally having control over decisions on matters that affect their lives.

I. Background

One of the focus mechanisms for accessing justice for the poor at the lowest levels is the Barangay Justice System (BJS). The BJS or the *Katarungang Pambarangay* (KP) was institutionalized through Presidential Decree 1508, promulgated in 1978, and the Local Government Code of 1991 as a strategy for improving and making the justice system more responsive to the needs of communities. Organized in the villages, the BJS or the *Katarungang Pambarangay* has since been widely recognized as an alternative system of resolving disputes at the local level. At the forefront of this system is the elected *punong barangay* who simultaneously acts as chief executive and presiding officer of the local legislative council. Assisting the *punong barangay* is the *lupon tagapamayapa* (conciliation panel) whose members consist of 10-20 persons of known integrity, competence, and fairness who are selected from among those residing or working in the *barangay*. The *lupon* tries to amicably settle disputes within a period of sixty (60) days from the date of its submission.

II. Study Outputs

The Case Study was expected to generate the following outputs:

- a. Assessment of the procedures, practices, systems, performance, and human (competency) and financial resources of the BJS;
- b. Proposed strengthening and reform measures that will address issues arising from the assessment;
- c. Proposed amendments to the KP Law and related implementing procedures

III. Methodology

1. ***Secondary Data Research: Review of Related Laws and Literature.*** The objective of the review of past studies was to present the over-all policy environment and legal framework of the Katarungang Pambarangay; and to present recent studies and findings concerning the BJS operations and policy recommendations. Reviews were conducted on: legal issuances creating and organizing the Katarungang Pambarangay, and review of previous studies conducted on the BJS

2. ***Key Informant Interviews of National-Level Experts.*** Seven national-level experts were interviewed for the assessment, to gather key viewpoints and opinions on the current state of the BJS, issues and concerns and possible recommended measures. National-level key informants included the author of the KP Law, Directors of key units of the Department of the Interior and Local Government, key civil society actors, lawyers, and mediation practitioners.

3. ***Key Informant Interviews at the Field Level.*** Over a hundred key informants were interviewed in 13 barangays from five municipalities in the provinces of Oriental Mindoro, Camarines Sur, Capiz, Lanao del Norte, and Sultan Kudarat) over a period of four weeks in March and April, 2007. The objective of the key informant interviews at the barangay level was to analyze the key operating systems, procedures and practices operating at the BJS in selected target barangays, including the extent to which those conform to or depart from the parameters provided by the KP Law.

4. **Selection of Sample Barangays and Respondents:** The municipalities were chosen from among the 36 municipalities in the five provinces of Oriental Mindoro, Camarines Sur, Capiz, Lanao del Norte, and Sultan Kudarat. Criteria for selecting sample barangays and municipalities were: cultural/industry mix, and caseload of KP. From each province, one municipality was selected, for a total of five sample municipalities. From each sample municipality, one barangay nearest the first level courts and the municipal government, one target barangay farthest from the center, and as practicable as possible, one midway barangay were surveyed. The assumption of this methodology is that the barangay nearest to the center of government (i.e, nearest the municipal hall and the hall of justice) with the highest caseload would represent the barangays having the best institutional conditions for access to justice as it has the best access to the mechanisms of government and the formal justice system, while the farthest barangay with the highest caseload would present the most challenging conditions being faced by the *katarungang pambarangay*. One other justification for the methodology is that the barangay nearest the center were expected to have a higher caseload than a rural barangay, as the opportunities for crime and conflicts are more present in urbanizing areas, whereas the midway barangay would allow for other factors such as cultural mix, industry types, and average socio-economic status of residents. Other considerations in selecting the sample barangays were: socio-cultural mix (eg. Muslim-Christian or Christian-Lumad, representation of coastal and non-coastal areas), and the commitment and capacity of DILG field personnel to arrange the FGDs and interviews quickly and efficiently.

From these criteria, the following municipalities and barangays were selected:

PROVINCE	MUNICIPALITY	BARANGAYS
Oriental Mindoro	Puerto Galera	Rural- Tabinay Midway/Coastal- Sabang Urban – Poblacion
Camarines Sur	Tigaon	Rural – Cuyaoyao Midway - Salvacion Urban-Poblacion
Capiz	Dao	Rural- Manhoy Urban- Duyoc
Lanao del Norte	Baloi	Rural /Mixed Muslim- Christian– Nangka Urban – Ma. Cristina
Sultan Kudarat	Tacurong City and Esperanza	Rural/Mixed IP-Christian – Pamantingan Midway /Mixed Muslim-Christian- Ala Urban – Brgy. Poblacion, Tacurong City

Informants came from the following sectors:

a) either one of the following: barangay captain, secretary of the lupon or at least one active member of the Lupon. When all were available at the time of the field visit, a focus group discussion (FGD) was conducted. FGDs were preferred to that of one-on-one interviews as there is simultaneous validation and checking among respondents.

b) at least one community member from among those who are not users of the system but influences the practices and views of the community on women's and children's rights (parish priests, datu, imam, NGOs, POs, rural health worker, day care worker, or head of a local women's group). If more than one of these were available at the time of the field visit, an FGD was conducted

c) as practicable as possible, at least one recent user of the system.

A. General Barangay Organizational Structure

Existing literature on the Katarungang Pambarangay largely focuses on the Lupon Tagapamayapa. By legal definition, the Lupon Tagapamayapa is equated with the concept of barangay justice. However, in order to understand barangay justice in its generic sense (i.e., justice as it is obtained in the barangay), it is important to understand the entire barangay structure and examine which actors play a role, either in a primary or adjunct capacity, when citizens attempt to access justice at the lowest level. This paper thus does not limit the concept of barangay justice to the operations and practices of the Lupon Tagapamayapa alone, but to the entire barangay structure itself.

The Local Government Code of 1991 Section 324 mandates the barangay with three most basic functions. A) as a *basic political unit*, the barangay is the smallest political entity used for governance; b) As a *primary planning and implementing unit*, the barangay is mandated to plan development projects in its territory and to deliver basic services of the government; and c) as a *forum*, the barangay is the sounding board of the views of the people on various governance topics. In relation to the first and last basic functions, the barangay provides a *venue for the amicable settlement of disputes*.

The Local Government Code mandates each barangay to have a punong barangay, seven sanggunian barangay members, the sanggunian kabataan chairman, a barangay secretary, and a barangay treasurer. The law also mandates the formation of a Lupon Tagapamayapa. The sangguniang barangay may form community brigades and create other positions or offices necessary subject to budgetary limitations. For purposes of the Revised Penal Code, the punong barangay, sangguniang barangay members, and members of the lupon tagapamayapa in each barangay shall be deemed as persons of authority in their jurisdictions, while other barangay officials and members who may be designated by law or ordinance and charged with the maintenance of public order, protection and security of life and property, and any barangay resident who comes to the aid of persons in authority, shall be deemed agents of persons in authority.

The term of office of elective barangay officials is three years. They may not serve for more than three consecutive years for the same position.

B. The Katarungang Pambarangay (KP) System: Chapter 7, Sections 399-422 of the Local Government Code

The Barangay Justice System (BJS) or the Katarungang Pambarangay (KP) was institutionalized through Presidential Decree 1508, promulgated in 1978, and the Local Government Code of 1991 as a strategy for improving and making the justice system more responsive to the needs of communities. The creation of the BJS can be considered a significant milestone in making redress of grievances accessible to the poor. Another objective of the BJS is to recognize traditional and indigenous modes of dispute resolution, because even before the BJS was established, time-honored traditions based on kinship, *utang na loob* (debt of gratitude), *padrino* (patronage), *pakikisama* (comradeship), and community mores already define, however informally, how justice should be served.

Organized in the villages, the Katarungang Pambarangay or Barangay Justice System is a widely recognized alternative system of resolving disputes at the local level. While there are other existing modes of alternative dispute resolution (ADR), such as those traditionally practiced by local communities and indigenous peoples, the BJS has been accepted and used all over the country. The BJS promotes ways of resolving disputes through the mechanisms of conciliation, mediation, and arbitration, which are perceived to be more aligned with community values geared towards consensus rather than adversarial modes as exemplified by the formal court system.

The punong barangay is concurrent Chair of the Katarungang Pambarangay. Assisting the punong barangay is the *lupon tagapamayapa* (mediation committee) whose members consist of 10-20 persons of known integrity, competence, and fairness who are selected from among those residing or working in the barangay. The *lupon*, through the *pangkat tagapagkasundo* (conciliation panel, consisting of three members of the lupon) tries to amicably settle disputes within a period of sixty (60) days from the date of its submission. The barangay secretary acts as custodian of KP records, records the results of the mediation proceedings before the punong barangay, and submits reports to the proper city or municipal courts and relevant agencies. The system is exemplified by informal processes and the prohibition of the presence of lawyers during its proceedings.²

Jurisdiction and Coverage of Cases of the BJS

The jurisdiction of the BJS is limited to cases where the applicable penalty is imprisonment of not more than one year or a fine not exceeding five thousand pesos. Crimes committed by government personnel in the performance of official duties as well as crimes having no private offended parties are however outside the system. All agrarian disputes within the coverage of the Comprehensive Agrarian Reform Law (CARL) are likewise outside the application of the BJS and are instead referred to another barangay-

² The disputing parties are however not prohibited from consulting lawyers prior to or during the mediation process.

level dispute resolution mechanism, the Barangay Agrarian Reform Committees (BARCs).

Disputes cognizable by the BJS are often referred to as “minor disputes or offenses” including petty thievery, slander, gossip, collection of loans, petty destruction of property and crops, and the like. There are three general categories of types of cases recorded by the BJS in their quarterly reports: criminal, civil and other cases. Upon closer scrutiny, the other cases mentioned refer to those that fall outside its jurisdiction, but are registered as a dispute, are mediated, and either resolved or unresolved by the barangay. In recent years, there had been an increasing number of cases involving domestic violence, child abuse, and rape incidents filed by citizens with the BJS. With the enactment of various legislation on violence against women and children (VAWC) as well as legislation related to children in conflict with the law (CICL), Family Courts were established to hear cases on these³. The BJS still gets involved in VAWC and CICL cases through the issuances of Protection Orders and diversion programs, respectively, with close coordination with Family Courts prosecutors/public defenders, the police, and municipal social workers and health officers.

The primary objective of PD1508 was to decongest the courts of its cases. By setting limits on cases that may be filed with the regular courts, the law hopes to give judges ample time to study the cases and prepare good decisions. It further aims to provide conditional access to formal adjudication by giving the disputants a venue to settle their differences with the aid of community mediators and respected elders.

C. Other Important Stakeholders at the Barangay

What is evident however from this study was that while the Katarungang Pambarangay Law is limited to the Lupong Tagapamayapa with the Barangay Captain as its Chair and the Barangay Secretary as its documenter, there are a variety of actual practices on the ground that do not limit mediation, conciliation and even arbitration to these actors alone. Various actors within the barangay and sometimes even the whole barangay structure itself are often involved in dispute resolution.

In many provinces, the *barangay kagawads*(village councilmen) and *barangay tanods*(village police) are actively involved in dispute resolution. More often, cases are brought first to ***Purok*** leaders (who are more often the Kagawad assigned in that *purok* and is a resident of that *purok*). A *purok* is a subunit of the barangay composed of a cluster of households. Each barangay can have as many *puroks* as deemed practicable and necessary, but in many cases, there are as many *puroks* as there are barangay council representatives, usually seven, with each one represented at the *barangay* council by their respective *kagawad*. On cases where the number of *puroks* exceed the number of *kagawads*, *purok* leaders represent their *puroks* at barangay meetings.

As mentioned above, the *barangay kagawads* is the village level council members, the legislative arm of the villages. Their mandated function is to enact ordinances and plan

³ one bench among the Regional Trial Courts is usually designated as a Family Court. In areas where there is no designated Family Courts, or where they are geographically inaccessible, the nearest Municipal or Circuit Courts may accept family-related cases and VAWC cases.

for *barangay* development. In actual practice, however, as they are salaried officials, most *barangays* maximize their *kagawads* by assigning them many committee memberships and conferring them with problem-solving mandates, including that of dispute resolution.

Along with the *barangay kagawad*, the *barangay tanod* also plays an important role in conflict resolution and maintenance of peace and order in the community. The *barangay tanod* as a whole is a community brigade composed of civilian volunteers appointed by the Punong Barangay upon the recommendation of *barangay kagawads* acting as *Barangay Peace and Order Committee*. The Local Government Code provides for a maximum of 20 tanods in each barangay; however, villages may create more as necessary “in accordance with the needs of public service, and subject to the budgetary limitations of the barangay”. The Punong Barangay can designate a “Chief Tanod/Ex-O” to head the group. The *tanods* can also be organized in teams of two to four members in each team headed by a Team Leader.

With the advent of progressive women- and children-related laws, the barangay officials, especially the *Punong Barangay*, plays an increasingly important role in access to justice of vulnerable groups. More than the *Lupon Tagapamayapa* (who although are considered persons of authority by the Code, are however not salaried members of the barangay structure and are not elected), the *barangay* captain benefits from the assistance of the *barangay kagawads* and *tanods* in dispute resolution.

D. Other Important Stakeholders at the Municipal Level

For the Department of Interior and Local Government, two front line service providers play very important roles in the barangay justice system and dispute resolution: The Mayors, and the Municipal Local Government Operations Officers (MLGOOs)

The *Municipal Mayor* is the local chief executive at the municipal level. The Mayor (and in some cases, the Vice Mayor, when the latter works closely and is of the same party as the Mayor) in many instances becomes the final mediator/ arbiter of disputes that are unresolved by *barangays*. Because the Katarungang Pambarangay do not have jurisdiction over disputants belonging to different *barangays*, Mayors then provide a valuable alternative to the courts. He/She often becomes the default dispute resolution of last resort, especially among disputants who are personally known to him/her or are connected to him/her in any way from the various networks of relationships found in Philippine villages. In Muslim areas such as in Lanao del Norte, where cases of *rido* (Maranao clan wars) can often become very violent and deadly, and often involve multiple *barangays* and clans, the Mayors play an important role in dispute resolution.

The ***Municipal Local Government Operations Officer*** (MLGOO) is the front line field personnel for the DILG. They plan, organize, direct/implement, and monitor the DILG’s programs and activities in the municipality. They provide technical assistance to the local chief executives at the municipal and barangay levels, and provide secretariat assistance to the Municipal Council at the municipal level. Perhaps because of their influence in

municipal governance, they are often referred to as “*little mayors*”. In relation to the *Katarungang Pambarangay*, the MLGOOs are automatic members of the KP Monitoring Units, and in majority of the cases, is the sole monitoring authority involved in gathering reports and providing supervision over the *Katarungang Pambarangay*. They are also looked on to provide training and advise to barangay officials and Lupon Tagpamayapa members. In some cases, the MLGOO is sometimes called upon to settle disputes that the barangay is unable to settle, or to mediate in cases where parties involved are barangay officials.

Other important stakeholders who invariably find themselves providing services to barangay disputants are: Municipal Social Welfare Officers, Chief of Police and Women’s Desk Officers, Municipal Health Officers, Fiscals, Prosecutors and Judges at the MTC, MCTC, NCIP for communities with indigenous peoples, and datus and Ulamas for communities with Moslem populations.

II. Issues/Problems Identified from the Review of Related Literature and National Level Key Informant Interviews

The Katarungang Pambarangay has been established for more than twenty years now and yet the program is suffering from weak and inadequate institutional support. The enactment of the Local Government Code in 1991 was expected to assist in strengthening the BJS and its institutional network. This still needs to be realized fully. However, in general, the BJS has done its share by providing the venue for justice to be accessible to the community.

All literatures, surveys, and researches reviewed for this Institutional Assessment demonstrate the need to review the support given by government and nongovernment institutions to the BJS. While the BJS presently works well, strengthening support for the system through information, training and capacity-building measures, and inter-agency cooperation will definitely solidify its role in improving the public’s, especially poor people’s, access to justice.

The BJS needs to be interfaced with other laws that aim to protect the rights of indigenous peoples over their ancestral lands and domain.

There is a need to review the role of the punong barangay/barangay captain in view of the fact that he is an elective/political official, because much of the literature, survey and interviews reveal that many residents do not use the system because of the lack of credibility on the punong barangay to render judgment or facilitate dispute resolution in an impartial manner.

There is a need to review the composition of the Lupon. While one literature suggests that the lupon should be elected, to be able to raise awareness on its existence, interviews and other literature point to the fact that there is a need to depoliticize the whole system and divert cases away from political figures into more credible members of the community.

There is a need to increase the prestige of the whole system by providing incentives for law graduates and other professionals to volunteer their services to the community by serving as Lupon members or advocates, or even as paralegals.

There is a need to increase the jurisdiction of the BJS to include other barangays in adjacent municipalities and even provinces to resolve the problems relating to access by disputants belonging to different barangays. There is also a need to increase the jurisdiction in the nature of cases, i.e increase the amounts covered to be able to include cases such as violation of the bouncing checks law which currently represent a large proportion of the court dockets.

There is a need to improve the access to family courts and strengthen its tie-up with the BJS.

There is a need to put in place a strategic training and capacity-building program that addresses the enormous problem of training 42,00 barangay Lupons, which translates into 400,000-800,000 Lupons with a term of three years. A program that aims to address such a huge human resource training needs should take cognizance of the information, training and capacity-building needs and resource needs of such an undertaking.

III. Case Studies of Five Municipalities: Results of Barangay Level Key Informant Interviews and Municipal Level Focus Group Discussions⁴

Municipal Profiles

1. Tigaon, Camarines Sur - Tigaon is located in the eastern part of Camarines Sur. It has a total land area of 10,988 hectares. It is 44 kilometers northeast of Naga City and 492 kilometers South of Manila. A total of 45,500 (2004) persons in 8,650 households are presently inhabiting the town. 4,350 of these are located in the only urban barangay of Poblacion. The town is agricultural with abundant supply of palay, corn, root crops, sugarcane, coconut, citrus, vegetables, marine, livestock and poultry products . Formerly world-renowned because of its high quality of abaca fibre, Tigaon's supply of abaca is now depleted due to massive conversion of abaca plantations into sugarcane and/or corn.

2. Puerto Galera, Oriental Mindoro-Puerto Galera is currently classified as a third class municipality in the province of Oriental Mindoro. According to the 2000 census, it has a population of 21,925 people in 4,424 households. It is the northwesternmost municipality in Oriental Mindoro.

Puerto Galera is three and a half hours away from Manila: first by bus to the port of Batangas City and then by motor boats, called "fast-crafts". This coastal town is famous for its numerous pocket beaches and snorkeling and diving spots. Recent years has seen a

⁴ For brevity and to comply with the requirements of the APMF Conference, the detailed results of research findings per municipality has been excluded in this report. Instead, the report proceeds immediately to general findings and recommendations

huge reduction in the number of fishermen in the area, as they shift to and gain higher revenue from tourist-related activities.

Puerto Galera is home to Sabang Beach and White Beach, favored by foreign and local tourists respectively. These two are extensive beaches with first-class to economy-class accommodations and an active night life in bars and restaurants. Behind the beaches are the huge and generally unexplored mountain ranges of central Mindoro. Mangyan tribes are scattered over the mountains sides - some of the tribes in the innermost parts of the mountains have no contact with the outside world. Of the eight tribes on Mindoro, the Iraya, living in the Puerto Galera area, is the largest. Although a minority, there is also a significant number of Moslems living in the Poblacion (estimated at 700 people).

3. Balo-i, Lanao del Norte - Balo-i is a crossroad of two cities: Iligan City and Marawi City. This Municipality is strategically located in terms of trade development and agricultural growth. Balo-i serves as one of the outlets of the said two cities for commercial and agricultural products. Balo-i enjoys a mild climate almost free from the direct effects of tropical typhoons. Excessive weather disturbances are unheard of. Balo-i is still basically an agricultural community with a total effective agricultural land of approximately 11,698.25 hectares representing 83.71% of the total land area. These are distributed to the following major crops: rice, corn, legumes and coconut.

Seventy percent of the municipalities' approximately 39,000 inhabitants are Moslems. Three out of 21 barangays of Balo-i have mixed Christian-Muslim populations.

The area is most famous for its waterfalls, springs, lakes and parks, and there is a significant number (10% of population) of fisherfolk.

On the Maranao Conception and System of Justice⁵

Some notes on Maranao culture is worth mentioning here to describe Lanao provinces' Muslim population's justice system. The Maranaos are proud of their cultural heritage and values, and understanding these values would lead to a better understanding of Maranao traits and behavior.

Maranaos are noted for their *maratabat* and *rido* (sometimes spelled *ridu*) - values that refer to self-esteem, personal dignity, honor and pride, on one hand, and family feuds, conflicts, revenge, and acts of retribution on the other. Maranaos are extremely sensitive people, especially when their *maratabat* is at stake. The Maranao's honor and dignity are everything to him, so that the wounding of these, whether real or imagined, becomes a challenge to his manhood. *Maratabat* is the key to Maranao psychology, the single most emotionally charged concept among Maranaos. Derived from an Arab term, *maratabat* means "rank", "honor", or "status", similar to the Spanish "*amor proprio*" meaning self-esteem. It is often equated with the Tagalog "*hiya* (shame)" or "*yabang* (pride)". It is directly proportional to the Maranao's rank and status; an individual's unusual behavior is a manifestation and a validation of the *maratabat* of his position in the social hierarchy.

⁵ From Bartolome, Claribel's Maratabat and Rido: Implications for Peace and National Development

In addition to the personal dignity and extreme sensitivity, *maratabat* is the Maranao's expression of social position or rank consciousness, sustained by social coercion. It is also a mechanism for controlling conflict and achieving reconciliation, a sort of welfare and social security system, and a defense mechanism. A Muslim scholar refers to a close relationship between *maratabat* and the Arabic words *tartib* and *martabah*. *Tartib* is order, arrangement, or sequence, while *martabah* means rank or grade a person possesses in relation to an order.

Maratabat involves and manifests, or is related to shame, anger, aggression, hostility and violence. It is one of the major roots of Maranao conflict and their non-resolution. When an individual transgresses a Maranao *adat* (custom), the Maranao reacts, and his reaction, whether negative or positive, is what is referred to as *maratabat*.

In *maratabat*, the Maranao puts the law into his own hands to avenge a personal or family injury. Otherwise, he will be continually insulted by those who knew of the unavenged offense. Until the majority of the Maranaos decide to describe to the legal procedure of administration of justice, *rido* will always take place.

Rido is a Maranao term which can be equated with feud, conflict, discord, and disagreement. The ambit, however, of what can be classified as *rido* is too wide to discern immediately. *Rido* could either be petty trouble or a grave conflict; however, it is usually associated with major confrontations. *Rido* also applies as a generic term for whatever trouble that may ensue out of the conflict. It is vendetta pitting one person, family or clan against another.

4. Tacurong City and Esperanza, Sultan Kudarat- Esperanza is a third class municipality in the province of Sultan Kudarat, Philippines. According to the 2000 census, it has a population of 47,578 people in 9,598 households. Esperanza is politically subdivided into 19 barangays.

Brgy Ala, a rice and corn farming community, is located 18 kms from Tacurong City, and could be reached in 30minutes from the City by bus. It has approximately 3,000 population in 525 households. Ala hosts two detachments- one for the Philippine Army, and one for the Police. As of 2006, there are 225 Maguindanaoans residing in Ala. ***Brgy Pamantingan*** is about the same size as Ala, with a population of 3,355, 75% of which is Teduray (an indigenous people), while the rest are Ilongo, Cebuano and Manobo.

A Note on Maguindanaoans

Some notes on ***Maguindanaoan*** culture is worth mentioning at this point, as Sultan Kudarat's Moslem population is predominantly Maguindanaoan. The Maguindanaon justice system is mostly uncodified, but the current generations still practice the age-old system of administration of justice handed down through verbal history and oral tradition. Such is the case of Maguindanaoans of Brgy Ala in Esperanza, Sultan Kudarat.

A *datu* is the ruler of the elders of the community, who is always a male. However, women are allowed to participate in decision-making. One becomes a datu by lineage, and among the sons, one is chosen to become a datu by age and experience, and the trust and confidence one has earned from the community members. The Maguindanao enforce a system of sanctions and punishment which is in most cases a product of consensus among elders (usually, five elders) in the community. The Maguindanaoans usually enforce punishments through compensation in cash; retribution is not favored. The elder's word, when handed down, is final and executory.

A Note on the Teduray Indigenous Peoples⁶

The *Teduray* (also called *Tiruray*) indigenous peoples is also noteworthy. There are an estimated 300,000-500,000 *Tedurays* living in Central Mindanao, scattered among the provinces of Shariff Kabunsuan, Maguindanao, and Sultan Kudarat. Their center of governance is located in South Upi, Maguindanao, the "seat" of the *Teduray* Justice and Governance System (TJG). Headed by a Chieftain, the TJG is the equivalent of the Muslim "sultanate". The *Tedurays* have managed to codify their justice system⁷, composed of three parts: their *Ukit* (Constitution), *Tegudon* (Customary Laws), and *Dowoy* (Penal Code). It is noteworthy that there are women leaders in *Teduray* communities, and women leaders are organized into a *Mintailan*, whose influence is equivalent to that of a *Timuay*.

Barangay Pamantingan's population is predominantly *Teduray*.

5. Dao, Capiz- Located in central Capiz in Central Philippines, *Dao* (pronounced Da-o) is a fourth class municipality 33 kms from Roxas City, 61 kms from Kalibo and 88 kms from Iloilo. Land area totals 8,640 hectares. It covers 17 rural barangays and three urban barangays. Surrounded by valleys and hills, 5,000 has are devoted to agriculture. A mostly-Hiligaynon-speaking, mostly Christian nation, 87% of whom are Roman Catholic population, with nomadic Aeta tribes in inland pockets.

Two barangays were visited in Dao: Brgy Manhuy, and Brgy Duyoc. Of the two, Brgy Duyoc perhaps represent the ideal conditions for access to justice, although it is located at approximately the same distance as Manhuy from the town proper, and although it had a very low KP caseload.

IV. Issues Arising from the Case Studies and Implications on Access to Justice for Women, Children and Other Vulnerable Groups

⁶ Based on interviews with Timuay Melan Ulama, Assistant Director of the Organization of Southern Cultural Communities.

⁷ For more information on the *Teduray* Justice System, contact Timuay Santos Unsad at the Organization of Southern Cultural Communities in Cotabato City.

1. ***In general, there is a wide variety of practices and interpretation of the Katarungang Pambarangay Law.*** Practices differ from one barangay to another. The KP Law, while generally observed, is ignored when impracticable, and local variations are concocted. Practices are adapted on local conditions, and based on convenience and practical considerations. This is most evident in the process of selecting Lupon Tagapamayapa members: either 1) the Brgy Captain selects from among community members; more often than not these are former barangay officials who lost in the elections, the most oft-repeated reason being that they are already familiar with barangay governance and have obtained trainings (“*may alam*”); or 2) puroks/ sitios nominate and brgy. council approves; or 3) Purok leaders become automatic lupon members. Very rarely do people volunteer to become members of the Lupon.

However, more often, the composition of the Lupon Tagapamayapa becomes a moot and irrelevant question. There are many other actors involved in dispute resolution. More than the *Lupon Tagapamayapa*, it is the *barangay captain*, *barangay kagawad*, *purok* leaders and the elders who are the front liners in dispute resolution. It is only in urban areas where the *Pangkat Tagapagkasundo* is constituted, and often, the disputants do not have a say on its composition.

2. ***On the constitution and composition of Lupong Tagapamayapa.*** Lurons are largely active in urban areas; the farther one is from the center, the less cases are reported in the barangay, and the less frequent the Lupon is constituted. This is probably because the opportunities for crime are present in urban areas, and less so in areas far from the center. However, in one urbanizing area (Sabang, Puerto Galera in Oriental Mindoro), the Lupon, although receiving compensation, is inactive, and dispute resolution is practiced by the Brgy tanods (*barangay police*), and the *kagawads*. This could be explained by the fact that in Sabang, a highly commercialized tourist spot, residents are transient in character. Disputes mostly involve compensation for sex workers, and disputants are more often sex workers from nearby provinces, on one hand, and foreign tourists, on the other. Perhaps the barangay “police” is deemed a more decisive and authoritative figure, by virtue of their coercive power, rather than the barangay officials.

The profile of Lupong Tagapamayapa members surveyed is very telling: on the average there are 10-14 members, but urban areas would most likely have more than that, because of the high caseload. Lupon Tagapamayapa members are mostly males, with barangays even having 100% male LT members. Women are a minority, with only **one** barangay surveyed having half of its Lupon Tagapamayapa as females. The age of members are also telling: most are middle-aged, with members having as old as 80 years old, with very rare cases of having members in their 30s. Even in mixed communities, Lupon Tagapamayapa members are dominantly Christian. In rural areas, majority of members are farmers; only the urban areas display membership of retired professionals.

This profile has many implications on access to justice for women and her children. Women will hesitate to bring their cases to a predominantly male tribunal especially if the respondent is a male. On cases involving family matters, women would rather seek

out other women to confide in and bring their troubles to. There is also the danger of machismo being a factor in facilitating disputes, with women fearing a lack of kindredship and sympathy among a predominantly male body for resolving disputes. Children and the young disputants may also find little sympathy among people whose ages are far removed from theirs, and who have very little understanding of issues confronting the youth.

3. On Mediation and Arbitration. There is little distinction made between mediation, conciliation and arbitration. Disputants hardly have a say on how their cases are to be disposed of. Oftentimes, the barangay captain employs a combination of mediation and arbitration (in Western societies, the practice is commonly referred to as *med-arb*), while all stakeholders call it “settlement”. Mediation, conciliation or arbitration are hardly mentioned, if at all.

4. Cases Handled, including VAWC cases. Most common cases handled include: slander (*paninirang puri*), brawls (*suntukan, bugbugan*) and public disturbances, collection of money, petty theft, petty destruction of crops, dogbites, and threats. Women and children-related cases include: sexual harassment, acts of lasciviousness, attempted rape, rape (including marital), spousal and child abuse, child support, and children in conflict with the law.

The latter cases involving women and children are interesting because recent legislation, especially the Anti Violence Against Women and their Children Act (RA 9262, often referred to by barangay officials as VAWC) expressly prohibits mediation on domestic violence cases. The barangays may be forgiven for mediating cases because of lack of knowledge with this fairly recent legislation, and therefore has implication on training and capacity-building. However, even in communities where there is awareness of the VAWC law, disputants themselves may prefer to have their cases mediated at the barangays because of the unpredictability and inaccessibility of the court system, and the lack of support services for victims of violence. Women and children rarely report abuse, although community members are aware that there are incidences of abuse. If they do report abuse, women very rarely pursue cases in court, again for lack of support services. Poor people ALWAYS prefer to settle VAWC cases.

5. On knowledge of Laws, Gender Sensitivity, Availability of Legal Services. 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 Barangay 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 Lupon Tagapamayapa members from either of these two agencies. It has also created an “open access” mentality among agencies and non government organizations, exemplified by the phenomenon of employees of the Commission on Audit providing trainings to Lupon Tagapamayapa members.

As a result, there is uneven level of knowledge of the laws, especially those relating to women and children, and on the respective roles of barangays and other duty holders in their implementation. VAWC cases are routinely referred to the Municipal Social Workers who are overextended. Lupon Tagapamayapa and other barangay officials lack gender and child sensitivity, lack understanding of Muslim and indigenous culture, and are not sensitive to the needs of indigenous peoples.

There is an overwhelming need for availability of legal advise and information. This is especially with regard to the practice of arbitration. Villages have little access to legal knowledge and disputants are therefore on the mercy of barangay officials and Lupon Tagapamayapa members who are in most cases untrained.

6. *On Cultural Practices.* Moslem and indigenous practices are still very influential. Even in mixed communities, when one or both parties are Moslems, the barangay officials seek the help of datu, imams and Ulamas in resolving disputes, instead of referring the cases to the Lupon Tagapamayapa. In disputes involving indigenous peoples, barangay officials refer the case to the tribal chieftains and councils. This has several implications. Many Moslem and indigenous practices are blatantly anti-women, favour corporal punishment for children, and exact blood money and other forms of retribution not provided for under Philippine laws. While many insiders and even outsiders of these societies justify the practices under the principle of self-determination and respect of various cultures, such practices go against universal human rights laws, and the Convention for the Elimination Against All Forms of Discrimination Against Women (CEDAW). Such cultural practices also justify the continued practice of *rido*, which contributes to the problems on peace and order in Moslem areas, to the detriment of economic development in that region.

7. *On Confidentiality and Privacy of Proceedings.* Confidentiality is rarely protected and observed. The processes are mostly open to the public, unless the parties request closed-door sessions or unless the *barangay captain* and *lupon tagapamayapa* members decide otherwise. This is probably the reason why women rarely report cases of abuse and violence, and why residents who can afford it otherwise resort to filing cases in courts, a more arduous and expensive processes. The culture of “shaming”, while may be effective against repeat offenders of petty crimes, will also deter any prospective user of the system, particularly those whose cases are sensitive, and for those who value their reputation in the community.

8. *On Monitoring and Standardization of Performance.* Only the Municipal Local Government Operations Officers monitor the lupon performance, often through collection of summary reports. The KP Monitoring Unit is therefore rarely constituted, and monitoring is left to the MLGOOs.

9. *On Local Coordination and Inter-Agency Collaboration on access to justice of women and children.* There is very little coordinative mechanisms in place. Most are informal networks of municipal actors. There is lack of clarity of roles between barangay and municipal officials. As a result, social workers, the police, barangay officials and

prosecutors/public defenders are at odds with each other on specific cases, have unharmonized operating procedures, perform on a piecemeal basis, and generally finger-point when offenders go scot-free. Local Women and Child Protection Councils are variably active. Most are active only during Women's and Children's Months. Because of the sheer number of Municipal and Barangay Councils mandated by various laws, women- and children Councils are not sustained, and most were established for compliance purposes only. There are no rehabilitative programs for substance abuse. This is significant because much of the domestic violence and juvenile offences are directly related to, and triggered by, substance abuse. Majority of municipalities have no temporary shelters; if there are at all, these are very inaccessible.

V. Recommendations

This portion is closely tied up with the recommendations on revisions to the KP Law. One of the major flaws of the KP Law is that the Katarungang Pambarangay is headed by the Punong Barangay, and mediation is first conducted on the Barangay Captains level, who is mandated to mediate disputes within 15 days, instead of immediately delegating the authority to mediate the Pangkat Tagapagkasundo. This has many weaknesses. First, the barangay captain 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, barangays are polarized among loyalties to different candidates. Thus, supporters and relatives of losing candidates often hesitate to use the BJS to resolve disputes, especially if the other party supported the winning candidate. There is always the perception and fear that Punong Barangays could not and would not be impartial in facilitating the resolution of disputes, favoring his supporters and relatives.

Based on the preliminary findings, the following proposals for amendments to the KP Law are being considered:⁸

a. List of lupon members⁹

The list of Lupon members should include qualified persons representing *various sectors of society* and should be *gender-balanced*. Candidates to be included in the list should be selected by a Board –which could be called the Barangay Lupon Board (BLB) – composed of three persons, who should evaluate applications and interview the candidates. The Board should then recommend the selected candidates to the Barangay Captain. Lupon members should be appointed by the Sangguniang Barangay for a 3-year term, which can be extended successively. The list of Lupon members should be as long as required by the actual number of cases in each Barangay. Membership of the Lupon

⁸ Drafted in close collaboration with Mr. Felipe Ureta, Team Leader for the European Technical Assistance Team of the Access to Justice for the Poor Project. These proposals are currently awaiting comments from the Department of Interior and Local Government's Legal Division. These will also be forwarded to the Department of Justice for their comments.

⁹ **Main articles to be amended** : KP Law: SEC 399, 400, 401, 402
KP Rules: Rule II a); Rule III, Section 1 A; Rule IV, Sections 1, 2, 3, 4, 7

should be open to persons with experience in court annexed mediation or any kind of alternative dispute resolution mechanisms. The Barangay Captain could propose the members of the Board for appointment as Lupon members. Also, outstanding persons from the indigenous communities (*datus*, elders, *sultans*) could be appointed members of the Lupon.

The three members of the Board are to be appointed by the Sangguniang Barangay, upon the proposal of the Barangay Captain, for a 3-year term among qualified persons with experience in justice related fields in the public sector, private sector or civil society organisations. They should serve only one term and should be replaced annually by thirds, in order to encourage participation of qualified citizens on a rotation basis. They should serve without remuneration, but should be paid transport and subsistence allowances.

The Board, in addition to selecting candidates to the Lupon, should also monitor and evaluate the performance of Lupon members, and recommend new candidates for appointment every year. As part of its monitoring function, the Board should call monthly meetings with Lupon members. It should also make proposals to the Sangguniang Barangay for improvement of procedures and practices.

The Board should report to the Sangguniang Barangay: the Board should thus have consultative and advisory functions, with the decision-making power being exercised by the Sangguniang Barangay.

Rationale. The selection of candidates for the Lupon should be done in accordance with clear criteria and transparent procedures. Most importantly, the Lupon composition should be gender-balanced.

Creating a Board in charge of the selection of candidates would contribute to the impartiality of the process. While the Barangay Captain would retain the power to propose the candidates, based on the recommendation of the Board, the power to appoint them would be transferred to the Sangguniang Barangay in order to avoid criticisms that the Barangay Captain has appointed the Lupon members on a partisan basis.

Lupon members should be appointed for a 3-year term, with the well-performing ones having the possibility of being re-appointed for successive 3-year terms. The Lupon and the citizens would thus benefit from the continuity and permanency of the best mediators or arbitrators. This would avoid replacing the Lupon members whenever a Barangay election brings a new person to the office of Barangay Captain.

The Lupon should thus be a list or pool of selected persons willing to serve the community as mediators or arbitrators. The list should include as many members as required by the number of cases being filed at the Barangay (while the minimum number of 10 lupon members is appropriate, there should not be a maximum number). The Lupon membership could thus be drawn from different and various sectors of society and fields of expertise, including indigenous leaders.

By having the Board members appointed for 3-year terms with one new member being appointed every year, it is meant to encourage participation of qualified persons as board members. The prohibition of re-appointment for a successive second term aims at the same goal.

Giving the Board the tasks to monitor and evaluate the performance of Lupon members, call monthly meetings of the Lupon, and come up with proposals for improvement of procedures and practices are all intended to guarantee that such tasks are performed impartially and efficiently, with the Sangguniang Barangay retaining the decision-making power.

b. Powers of the Barangay Captain¹⁰

The Barangay Captain should be responsible for receiving complaints, summoning the respondent (or the witnesses, where applicable), resolving on his/her competency or on objections to the venue, appointing mediators or arbitrators chosen by the parties, setting dates and times for mediation or arbitration sessions, taking oaths, executing settlements agreed by the parties and awards issued by arbitrators, as well as other functions attributed him/her by specific laws, e.g. the issuance of Barangay Protection Orders (BPO); but he/she should not act as a mediator nor an arbitrator.

The Barangay Captain could delegate his/her powers to other Kagawads, where required by the number of cases being filed at the Barangay.

Rationale. The Barangay Captain should be responsible for those functions which involve the exercise of power (such as the ones enumerated above), but not for those which require impartiality, neutrality and non-partisanship, such as mediation and arbitration.

This does not go contrary to Filipino traditions of mediation and amicable settlement of disputes, but instead can strongly contribute to strengthening those traditions and ensuring their sustainability in the future.

Mediation performed by the Barangay Captain is often perceived by the parties as politically biased from the fact that he/she is the elective executive in the Barangay.

Therefore, removing the mediation and arbitration functions from the scope of competencies of the Barangay Captain is intended to enhance his/her authority as an elected official exercising strong powers (such as the ones enumerated above), while at the same time preserving him/her from being blamed for bias and partiality.

c. Mediation and Arbitration¹¹

¹⁰ **Main articles to be amended:** KP Law: 399, 410 b), 411; KP Rules: Rule III, Section 1 B, C; Rule VII

¹¹ Main articles to be amended 404, 410 b), 413 a); Rule III, Section 1 C, Section 3, Section 4; Rule VI, Section 9

It is proposed that *mediation* and *arbitration* take place according to the following steps:

1. The Barangay Captain appoints one mediator chosen by the parties by common accord from the Lupon list, who should perform his/her function within the period determined by the law (15 days).
2. If agreement is not reached by the parties, the Barangay Captain could appoint a Pangkat of three mediators chosen by the parties from the Lupon list, provided that the parties agree to having a second phase of mediation by a Pangkat. If the Pangkat is constituted, it should perform its function within the period determined by the law (15 days).
3. If mediation fails (either by the aforesaid mediator or by the Pangkat, where this was constituted), arbitration should be compulsory for the parties for all civil cases up to a certain amount, and for all criminal cases within the jurisdiction of the Barangay Captain as determined in the law. For civil cases, the Barangay Captain should appoint one arbitrator chosen by the parties from the Lupon list; for criminal cases, the Barangay Captain should appoint 3 arbitrators chosen by the parties from the Lupon list to form a Pangkat. The persons who acted as mediators should not act as arbitrators as well. Arbitration should take place over a period of at least 15 days; certain cases could require longer periods (to be determined).

Rationale. Given that the Barangay Captain would no longer mediate, a mediator chosen by the parties should be appointed in his stead.

A second stage of mediation by the Pangkat should be optional, given that the parties may not find it worthwhile to go through mediation again, this time by a 3-member Pangkat. The fact that only around a rough estimate of 10% of the cases reach the Pangkat mediation stage reveals this reluctance of the parties to a second stage of mediation.

Instead, arbitration should be made compulsory in order to favor the resolution of cases at the Barangay level and prevent cases from being filed in court which can be resolved at the Barangay level; this would contribute to de-clogging the court dockets.

However, a distinction between civil and criminal cases should be made: given that all civil cases without quantitative limits fall under the authority of the Barangay Captain (except cases where one of the parties is a corporation or between persons living in different municipalities), it seems appropriate to limit compulsory arbitration to cases under a certain amount (to be determined). In criminal matters, however, the Barangay Captain's authority is limited by law to cases where the penalty is up to 1 year of imprisonment or a fine of 5,000 pesos; therefore, all criminal cases falling under these limits could be subject to compulsory arbitration. Compulsory arbitration in civil cases could efficiently be done by one arbitrator only, while for criminal cases a 3-member Pangkat should be formed.

The current period for arbitration provided for in the law (10 days) seems too short; therefore, it is proposed to extend the arbitration period to at least 15 days, while allowing for longer periods depending on the cases.

d. Confidentiality and other principles on mediation sessions¹²

The mediation sessions at the Barangay should not be open to the public (although arbitration sessions can be public) nor should minutes of the mediation proceedings be kept nor submitted to the courts. While appearance of parties in person is a key principle, it should be made clear that parties could be accompanied by persons that can help them, such as friends and relatives (provided that they are not lawyers).

- The mediator should keep in utmost confidence all information obtained in the course of the mediation process.
- The mediator should discuss issues of confidentiality with the parties before the beginning of the mediation process including limitations on the scope and extent of the duty of confidentiality provided in any private sessions or caucuses that the mediator holds with a party.
- Information obtained through mediation proceedings at the Barangay should be subject to the following principles and guidelines: a) Information thus obtained shall be privileged and confidential; b) A party, mediator, or non-party participant may refuse to disclose and may prevent any other person from disclosing confidential information; c) Confidential information shall be inadmissible in any adversarial proceedings, whether judicial or quasi-judicial. However, evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by its use in mediation; d) In such an adversarial proceeding, the persons involved or previously involved in a mediation may not be compelled to disclose confidential information obtained during mediation: i) the parties to the dispute; e) The parties may, by an agreement in writing, stipulate that the settlement agreement shall be sealed or not disclosed to any party, except in any proceedings to enforce or repudiate the settlement.

Rationale. Confidentiality contributes to the success and integrity of the mediation process. Confidentiality is essential to effective mediation because it promotes a candid and informal exchange regarding events in the past. This frank exchange is achieved only if participants know that what is said in the mediation will not be used to their detriment through later court proceedings or other adjudicatory processes.

The mediator should make reasonable efforts to ensure that each party understands the nature and character of the mediation proceedings, including private caucuses, the issues, the available options, the alternatives to non-settlement, and that each party is free and

¹² **Main articles to be amended:** KP Law: 404 b), 414; KP Rules: Rule III, Section 4 b) and e); Rule VI, Section 7: KP Law: 415

able to make whatever choices they desire regarding participation in mediation generally and regarding specific settlement options.

If the mediator believes that a party is unable to understand, or fully participate in, the mediation proceedings for any reason, the mediator may either: a) limit the scope of the mediation proceedings according to the parties' ability to participate, and/or recommend that the party obtain appropriate assistance in order to continue with the process; or b) terminate the mediation proceedings. The mediator should recognize and keep in mind that the primary responsibility of resolving a dispute and shaping of a settlement rests with the parties.

Where appropriate, the mediator should recommend that the parties seek outside professional advice to help them make informed decisions and to understand the implications of any proposals. In the absence of any applicable rules, RA 9285, otherwise known as the Alternative Dispute Resolution Act and its Implementing Rules and Regulations should be a reference for mediators and for mediation processes at the Barangay level.

e. Delineation of functions between the Department of Justice and the Department of the Interior and Local Government

One of the biggest stumbling block in increasing the capacity of Lupong Tagapamayapa members is on the lack of clarity between the jurisdiction over the Katarungang Pambarangay by the Department of Justice (DOJ) and the Department of the Interior and Local Government (DILG). The Local Government Code shifted the burden of supervising the KP from the DILG to the DOJ without specifying who is ultimately responsible for training and monitoring of their performance. Thus, it was largely left to the Municipal Local Government Units, the Municipal Local Government Operations Officers to train and Non Government Organizations to train the Lupong Tagapamayapa. This has largely resulted to a skewed level of capacities and skills of the Lupong Tagapamayapa, with higher income cities and municipalities having better trained Lupon members. This has grave implications to access to justice of poor and vulnerable groups: those who are far from the center and who are poor, who needs access to justice more, have less access to training and capacity building, thus depriving its citizens of quality dispute resolution services.

It is thus an imperative to clarify once and for all the delineation of functions of the DOJ and the DILG over the supervision and training of the Lupong Tagapamayapa. This paper recommends that training and supervision revert back to the DILG, since their front line service personnel are closer to the barangays, from the DOJ personnel who do not have much presence in the municipalities except for the public attorneys and prosecutors who are overly extended and few in numbers. Also, the DILG has a training arm, the Local Government Academy, and a resource center, The Local Government Resource Center, in all Regional jurisdiction of the country that serves as repository of electronic and physical copies of reference materials on local governance. It thus in a better position to

train Lupong Tagapamayapa members and other community mediators in a consistent and standardized manner.

f. Training and Capacity-Building

Training the Lupong Tagapamayapa is an overwhelming challenge. 10-20 Lupong Tagapamayapa members in each village, multiplied by almost 40,000 villages amounts to almost a million Lupong Tagapamayapa members needing training and refresher courses every three years. With limited resources, a single department such as the DILG would not be able to cover all of the barangays in any given time period. However, the regime of “open access” and the lack of standardization should also be addressed, and the practice of providing training by agencies with no mandate and capacity to train (eg., the case of municipalities receiving training from the Commission on Audit) should be regulated. There needs to be a system of accreditation for civil society groups and non-government organizations with local presence to in turn train Lupong Tagapamayapa members.

VI. The Future: Towards a Citizen-Driven Justice System

The barangay justice system is about citizen participation in the dispensation of justice at the lowest levels. The Philippine barangay justice system is a fusion of folk traditions and Western conceptions of justice, tempered by universal declarations of human rights. The above proposed amendments to the KP Law are meant to embody greater citizen participation, with citizens exercising their right to choose their preferred dispute resolution mode (mediation or arbitration), having a greater voice on who will facilitate the resolution of their disputes, and generally having control over decisions on matters that affect their lives.

This is not too far behind the concept of village-level tribunals composed of lay people (not judges and lawyers) that would hear cases similar to the formal court system. In the future, dare we hope to see the transformation of a judicial system that is bureaucratic and inaccessible, to one that is truly a citizen-driven judiciary? Given appropriate national and local government support, given greater citizen awareness of their rights, given a higher level of skills and a sense of civic duty, the barangay justice system may very well be headed to that direction.