



Interfacing customary and state laws as a peace-building strategy

Law students at the Father Saturnino Urios University (FSUU) in Butuan City are being challenged to go against the tendency to adopt the legal sparring and battles stereotyped in television and film courtroom drama.



Atty. Josefe Sorrrera-Ty, Dean of FSUU's College of Law

Under the FSUU's Urian Legal Assistance Program (ULAP), they are encouraged to rethink the intimidating and forceful language that lawyers resort to in argumentation and debate and instead be more conflict-sensitive on how they speak, act and even dress up when dealing with Indigenous Peoples (IP) groups in the Caraga region.

Caraga is a region where most of the conflict have been resource based and involving IPs. So we do get quite a number of requests for legal assistance from IPs and other marginalized community members of Caraga.

Dean Sorrrera-Ty

She established ULAP in 2014 not just as a “practice court” for law students to gain needed practical experience, but as a training ground for them “to help bring about peace using the law.” She was convinced that aside from legal expertise, additional skills were needed to enable them to provide legal services to IPs and other marginalized groups.

Forging partnerships

Dean Sorrrera-Ty turned to GIZ's Conflict Sensitive Resource and Asset Management (COSERAM), a joint undertaking of the Philippine and German



Law students during an ULAP workshop.

Governments. COSERAM implemented by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) for the German Federal Ministry for Economic Cooperation and Development (BMZ) together with five Philippine government agencies: the National Commission on Indigenous Peoples (NCIP), Department of Environment and Natural Resources (DENR), National Economic Development Authority (NEDA), Department of Interior and Local Government (DILG), and the Office of the Presidential Adviser on the Peace Process (OPAPP).

Together with the COSERAM program, law students who joined ULAP were trained on conflict sensitivity and transformation, gender sensitivity and were oriented on customary law and its interface with the law on the Katarungang Pambarangay (KP) or the barangay justice system. They also

learned about the Indigenous Peoples' Rights Act (IPRA) and their right to Free and Prior Informed Consent (FPIC), among others.

“ Our partners under COSERAM helped us realize that there is not just one legal system in Caraga. The customary law is also legal. IP groups differ in their way of resolving conflict as they also have different legal systems. With the aid of COSERAM, we realized that there are laws which are not taught in school, but which bring about peace. ”

Dean Sorrera-Ty



Datu Makalipay from Esperanza, Agusan del Sur discusses Manobo customs and traditions to law students.

Getting to know IPs

An important component of the COSERAM program is improving the people's access to developmental legal aid and paralegal services through the barangay-based institutions, particularly the KP. This is done by providing transformative legal aid and paralegal services that acknowledge creative alternative resolution mechanisms and processes, including the knowledge, systems and practices of the IPs.

"If we want to partner with the IPs on conflict resolution, we should also understand how they settle disputes. Their customary laws should complement our mainstream legal system, the national law. The challenge is we know very little of customary laws," admits Dean Sorrrera-Ty.

For example, members of the Manobo IPs in Esperanza, Agusan del Sur do not go to court or even the Katarungang Pambarangay (Barangay Justice System) to settle disputes. Instead, the aggrieved

party and the perpetrator of the crime ‘surrender’ to the most senior elder of the IP group, who then negotiates a ‘settlement’ for the crime, says Datu Makalipay. The settlement is then validated by a ritual consulting ancient spirits.

But even as the IP group’s method of dispute settlement prevails, the local police and the barangay are now informed of disputes involving these communities. “In some cases, the fiscal’s office and the municipal judge are also copied in to inform these offices about the settlement,” he says.

Working together

Meanwhile, ULAP continues to work with COSERAM and IPs on understanding these communities better so they can provide needed paralegal and legal services without ignoring or offending the IPs’ customs, rights, traditions and laws, while working within the confines of state laws.

“One clear illustration is a dispute over the boundaries claimed by three IP groups on an 80-hectare property in San Agustin,” says Dean Sorrrera-Ty. These IP communities agreed on the boundaries among themselves then allowed ULAP to witness a ritual involving the slaughter of a pig to seal the agreement.



Datu Makalipay is the chieftain of the Manobos in Esperanza, Agusan del Sur.

The law students were able to observe how IP groups identify boundaries using natural markers like mountains, rivers and streams. Geodetic engineers then drew up the technical description of the boundaries, which was made part of the documentation of the agreement signed by the community members. This is interfacing in action: a boundary dispute between two Ancestral Domains settled peacefully and efficiently using customary laws, and eventually reduced into a written and legally-binding agreement (i.e. MOA) which was signed by all the concerned ICCs/IPs.

“ We hope to see more opportunities where we can interface customary law and national law. ”

Dean Sorrrera-Ty.

“ We don’t immediately have to go to court or use the mainstream legal system. When there are conflicts involving IP groups, we can also consider their own methods of resolving conflicts. ”

Lawyer William Radaza

Conflict sensitivity

In another instance, Lawyer William Radaza drew on the capacity development trainings given by COSERAM under ULAP in responding to a request lodged at the Butuan City Legal Office.

When a datu asked to set up checkpoints to monitor the trafficking of illegal drugs and the transport of illegal forest products in his community, Radaza asked the NCIP to step in and help the IPs understand that the effort must also involve the participation of the national police. Not only can the police help maintain peace and order, they can also help protect the IPs should safety issues arise.

Radaza says that under ULAP, he witnessed a settlement between two IP groups on a boundary dispute and realized that “we don’t immediately have to go to court or use the mainstream legal system. When there are conflicts involving IP groups, we can also consider their own methods of resolving conflicts.”

It is this ability to interface and harmonize seemingly conflicting laws like the mainstream legal system and the customary laws of IPs that Dean Sorrera-Ty hopes to develop in law students of FSUU who join ULAP.

Enhanced curriculum

Since last year, conflict sensitivity and transformation, cultural sensitivity and other concepts learned from COSERAM under ULAP have been integrated into the law school curriculum.

For example, conflict sensitivity is integrated in subjects like legal writing and legal research; environmental laws & natural resources; and the IPRA law in the subject on human rights.

Atty. Marjorie Leigh Montero-Llano

Dean Sorrera-Ty admits though that most law schools still carry a syllabus skewed towards increasing their students' passing percentage at the Bar Exams which does not include conflict- or culture-sensitivity. This is why she supports moves to make representation at the Legal Education Board to expand the Bar Exam coverage and influence the law school curriculum accordingly.

Improved legal access

According to COSERAM's 2016 report, the marginalized population (esp. women and Indigenous Peoples) in 243 municipalities/barangays has access to "improved services concerning land- and resource related rights and mechanisms for conflict transformation".

As part of the replication efforts by partners of COSERAM, FSUU-ULAP has also conducted capacity development sessions at the San Sebastian College Recoletos and the Liceo



Atty. Marjorie Leigh Montero-Llano, ULAP Supervising Lawyer

Legal Assistance Center of the Liceo University – College of Law in Cagayan de Oro City in Region 10, and the Ateneo de Davao University – Ateneo Legal Services Office (AdDU-ALSO) in Davao City in Region 11.

"It will not be just FSUU," says Dean Sorrera-Ty. If efforts to enhance the law school curriculum and Bar Exam coverage succeed, then "hopefully, we will have a new breed of lawyers who are conflict-sensitive and conflict-transformative," she says.



ULAPeers: Fourth year law student Juderick Ramos, Mary Grace Renon and ULAP alumnus Atty. William Radaza.

SUMMARY

Naningkamot ang Father Saturnino Urios University (FSUU) nga mausab ang nawong sa mga abogado diha sa Butuan City pamaagi sa ilahang Urian Legal Assistance Program (ULAP). Gitun-an ug gi-ila sa ilang mga estudyante ang mga lumulupyong sa ilang komunidad, labina ang mga tribu o Indigenous People (IP) aron masabtan nila ang ilang mga balaod, pamaagi, kultura ug panggobyerno. Kini gibuhat aron makahatag sila ug epektibong serbisyong legal nga nagarespeto sa kinaiya sa tribu nga dili supak sa balaod sa nasud. Kay matud pa sa ilang dean sa college of law, ang maayong abogado kanang kamao mangita ug asang dapita magtugma ang nagkalain-laing mga pamaagi aron malikayan ang bangi ug makab-ot ang kalinaw. Ang ULAP gisuportahan sa COSERAM (Conflict Sensitive Resource and Asset Management) Program.

