
USING COORDINATED ENFORCEMENT TO PROTECT FORESTS FROM ILLEGAL LOGGING IN THE PHILIPPINES

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1 INTRODUCTION

Fifty years ago, more than half of the Philippines' 30 million hectares of land area was old growth tropical rain forest. By 1988, satellite imagery indicated that only 800,000 hectares of the virgin forests remained – the millions of other hectares of forest being victims of illegal commercial logging and the slash and burn farming that follows in the wake of illegal logging.

In the 1980s, five critical regions were identified: four regions covered with virgin forests that were still subject to large-scale felling, and additional regions that served as marketplaces for illegal forest products.

The regions containing significant virgin forest resources included: the north-eastern Province of Isabela the eastern seaboard Province of Samar, and the south-eastern seaboard Provinces of Surigao and Agusan. Adjoining provinces were also identified as critical areas – not because they contained virgin forests but because they served as markets for illegal forest products.

The population was mostly indifferent to the decline in virgin forest areas. Those who were concerned felt generally helpless, as the perception was that powerful politicians and military personnel were behind illegal logging operations. In addition, people felt that the Department of Environment and Natural Resources, which is charged with oversight of the nation's forests, was also a part of the problem. The perception was that illegal logging could not occur without the cooperation of the Department of Environment and Natural Resources personnel. However, a closer look at the situation revealed that the forest rangers and other Department of Environment and Natural Resources personnel actually had little choice. In the milieu that they were working, they were forced to cooperate with wealthier groups. If they did not cooperate, they faced either transfer to another region or threat to life and limb. Moreover, such cooperation served to supplement their meager monthly income.

Although there were laws designed to control and manage the harvesting of timber, economic incentives facilitated the erosion of the reserve of virgin forest resources. Forestry (legal and otherwise) was the primary source of livelihood for many communities. Until 1992, there were only a handful of convictions for violations of the forestry laws. Hardly any of the worst offenders were ever apprehended, much less prosecuted.

This case study focuses on the efforts of a group of men who sought to utilize the law to reduce the environmental damage done by illegal logging. It describes in detail the effort to create a 'legal army' made up of personnel from different agencies of government which were critical in the effective enforcement of forestry laws. The unique quality of this group is that its factors were not united in a single common cause but rather wanted to address separate, though related, forestry issues. This case study details a massive law enforcement campaign that, at the very least, exhibited the political will to curb illegal logging.

2 SUMMARY OF THE LEGAL MECHANISM

Since 1975, the Philippines has had a comprehensive law on Forestry (Presidential Decree (PD) No. 795). The law and its regulations are voluminous and detailed. The law provides that:

“Any person who shall cut, gather, collect or remove timber or other forest products from any forest land without any authority under a license agreement, lease license or permit, shall be guilty of qualified theft...In case of partnership, association or corporation, the officers who ordered the cutting, gathering or collecting shall be liable...” (Sec. 68, PD 705)

The law was extremely difficult to enforce because, for all practical purposes, it was next to impossible to apprehend persons in the middle of the forest. Consequently, the point of contact was usually in the highway where the forest products were being transported and in the milling stations and lumber yards where the forest products were being readied for the market. Thus, Executive Order 277 (1987) made mere possession of illicit forest products an offense punishable as qualified theft.”

As described below, criminal procedures allowed for inquest proceedings in the field. When a person has been apprehended in the act of committing an offense, he may be subjected to an immediate, on-the-spot hearing to determine probable cause and to temporarily detain violators pending release on bail.

In 1990, a major law enforcement campaign, called the Monitoring and Enforcement Component, was designed with funding from the World Bank. As part of this enforcement campaign, a forestry enforcement project was prepared and implemented. Following the presidential elections of 1992, a new Secretary of the DENR was appointed.

3 WHAT HAPPENED?

3.1 The August 1992 Raid

The first phase of the project was to test the provisions of the law and applicable criminal procedure. It was necessary to send a message to the illegal logging community that the law can be used against big-time offenders, and that the law could be applied in a swift and painful manner. Consequently, a raid was planned in Region IV, a known market and milling center. The initial raid was aborted due to an information leak, and a second raid was planned which allowed more time for preparations.

A team of dedicated and experienced officials from the Department of Justice, the National Bureau of Investigation and the Department of Environment and Natural Resources was assembled. To document and publicize the effort, a photo-journalist was invited to join the team. This would be the first time this type of team had been organized for the sole purpose of apprehending criminals behind the illegal forestry operations rather than merely intercepting the illegal logs and forest products. For security reasons, the legal team had to be small, mobile and hand-picked. This team was part of a bigger team of the Department of Environment and Natural Resources that was to conduct surveillance in Butuan City and included a light plane. The specific objective was known only to the Legal Team Leader, the Department of Justice and the National Bureau of Investigation.

To ensure that the raid would be legal, the team secured a special order from the Secretary of the Department of Justice authorizing the travel and participation in the conduct of operations by its personnel. To ensure secrecy in the event a search or arrest warrant was necessary, the Deputy Court Administrator of the Supreme Court prepared a letter

addressed to the concerned judges of the Region introducing the team, the team leader, and the team's mission. Upon arrival, the team coordinated with the local courts and the DOJ Prosecutor's Office to ensure their availability at all time in case the operation occurred during the night.

Late in the afternoon of August 13, 1992, the surveillance team spotted presumably illegal logs floating in the river at the back of a large plywood factory. The Legal team was mobilized into action.

Security guards bearing shotguns guarded the factory compound. It was important that the team also exhibit a show of force to prevent the guards from resisting and thereby avoiding violence; overpowering force is essential to foreclose even an attempt to resist. Thus, in coordination with the local Military and without disclosing the Team's intention, a squad of battle-uniformed soldiers, armed with Armalite rifles and rocket launchers, was secured as a back-up force.

Once the team verified that the suspected logs were in fact illegal, the team dispatched the local investigating prosecutor to the plywood factory's compound. Then and there, the team commenced inquest proceedings under the direction of a street-smart member of the Legal Team, State Prosecutor Reynaldo Lugtu. Before the formal proceedings began, the persons arrested – the General Manager, the Assistant General Manager, and the Procurement Officer – called for their counsel who arrived and asked for the team's 'authority.' At this juncture, the team showed the counsel their 'authority' – the Special Order from the Department of Justice Secretary.

Before midnight and barely six hours from the start of the operation, the corporate officers arrested were in jail. For the first time in the history of Philippine natural resources law enforcement, top officials of a logging company were arrested, subjected to an inquest, and jailed. Instead of the inquest being conducted in the Office of the Investigating Prosecutor, it was conducted in the field, in this case, at the sawmill.

3.2 Institutional Cooperation

Prior to this campaign, one of the chief complaints of the Department of Environment and Natural Resources personnel was the lack of understanding and cooperation from other concerned institutions that resulted in frequent dismissals of illegal logging cases. The success of the August 1992 raid demonstrated the benefits of agency cooperation, and pointed to the need to institutionalize the arrangements to ensure the success of ongoing enforcement efforts. This was accomplished through the use of a series of Memoranda of Agreement between relevant agencies and judicial offices. The Memoranda of Agreement process was designed to enlist the personal support of the concerned agencies and to educate them on the intricacies of forestry law enforcement. The critical agencies were the Department of Justice, the National Bureau of Investigation and the Courts of Law.

3.3 Creation of the National Steering Team

One major weakness of previous law enforcement efforts that the forestry enforcement project sought to remedy was that once a case was filed, the different agencies, including the Department of Environment and Natural Resources personnel, would lose initiative or become subject to undue and extreme financial or political pressures. This was addressed by creating a National Steering Team composed of senior members of the various governmental organizations with jurisdiction over illegal forest activities. The National Steering Team closely monitored enforcement efforts in the various regions. The National Steering Team would convene the local Department of Justice, the Department of

Environment and Natural Resources, National Bureau of Investigation, Police and Judges, and NGOs in a day-long meeting in their respective locales, rather than in the air-conditioned comfort of offices and hotels in Metro Manila. These meetings would run through each and every pending case and National Steering Team members with the problems in the field. Being high-ranking in their respective departments (Department of Environment and Natural Resources and Department of Justice), the National Steering Team members would be in a position to immediately address any problems encountered. Through the meetings, field personnel would be kept on their toes knowing that the higher-ups are watching and monitoring the flow of the cases. In addition, field personnel would develop the confidence to resist and have a convenient 'scapegoat' when being subjected to social or political pressures. They could easily point to the fact that the National Steering Team was monitoring every step of the way and that they would be held answerable in public for any mishandling of the cases. Above all, the National Steering Team was meant to deliver the message that the government was serious in its efforts to curtail illegal logging.

4 DID THE LEGAL MECHANISM WORK ?

The success of the effort to enforce the forestry laws may be classified in two ways: the legal operation, and the overall effort to coordinate the actions of the concerned institutions.

The legal operation was meant to deliver the message that the law can be used to administer swift and decisive justice. To the extent that several agencies of government, cooperating with the media and NGO elements, were able to coordinate their activities and launch a massive operation with almost surgical precision was, in itself, an accomplishment unprecedented in the history of environmental law enforcement in the Philippines. That prominent persons were arrested and charged was by itself a singular achievement. Indeed, the law can be made to work when a few key people are determined to make it work. Creative application of the law can achieve the desired end of sending a message.

With respect to the total effort to educate the concerned agencies and to coordinate their functions, the statistics on the rate of convictions tell a compelling story. Since July 1995, 180 convictions for forestry law violations have been recorded. Virtually no violations were recorded prior to 1992.

To be sure, the legal enforcement effort has suffered numerous setbacks. Certain prominent suspected violators were eventually acquitted on technicalities and other reasons. For example, the suspected violators in the first Butuan raid (where inquest proceedings were held in the field) were acquitted on reasonable doubt. The law requires that for corporations, the officials who ordered the possession or cutting be held liable. In practical evidentiary terms, however, it is next to impossible to prove, for example, that the General Manager actually ordered the cutting or the possession of illegal forest products. The law needs to be amended to the effect that the General Manager or other responsible officer, being in control of the firms' operations, shall be presumed to have ordered the illegal operations.

In the end, it is noteworthy that many who violated the forestry law were prosecuted. The fact that the number of convictions has escalated is a credit to the men and women who dared to uphold the law.

5 WHY DID THE LEGAL MECHANISM WORK ?

The Memoranda of Agreement process contributed significantly to the success of the forestry enforcement project, by facilitating the interagency cooperation necessary to carry out the raids and follow through on the enforcement actions. Another major factor in the success of the enforcement projects was the creation of the National Steering Team. By creating a coordinated mechanism for monitoring enforcement efforts throughout the country, the National Steering Team was able to address the problem of undue influence on local officials charged with forestry enforcement.

Media attention was also important to the success of the enforcement effort. The success of the operation was publicized in order to send a message to those who profited from the illegal timber trade – the government was now committed and able to enforce the forestry law. The publicity also served to help solidify popular support for the forestry law enforcement effort. Although there are few statistics to prove it, it is reported that this single operation dramatically reduced illegal forest products trade in the area. The operation unquestionably showed that given cooperation by the various agencies concerned, illegal logging operations can be raided and shutdown.

6 CONCLUSION: LESSONS LEARNED

To strengthen the enforcement effort, the delivery of swift and substantial penalties must be coupled with maximum publicity. If law enforcement is to serve as a deterrent, those that violate the law must be aware of the consequences. The raid on the plywood factory in August 1992 and subsequent air, land, and sea raids conducted in June and July 1993 in other critical areas of the country (code named Oplan Jericho) received wide-spread media coverage. The broad media coverage ensured that others in the illegal logging community were aware of the increased enforcement efforts. In addition, the media coverage raised public awareness of the extent and environmental consequences of illegal logging. Oplan Jericho could, perhaps, be considered the turning point of public awareness in the campaign against illegal logging in the Philippines. Unfortunately, many subsequent phases of the enforcement campaign gained no publicity at all. Because of the lack of preparation and budget in this aspect of the operations, certain scenes that would have delivered a dramatic impact were not recorded in still or in moving pictures: rappelling down from a helicopter in the middle of the sea to arrest a boat, the airborne landing team in Isabela, and the bold braking of doors in Butuan. In addition, the National Steering Team follow-up meetings did not receive any media coverage.

This narrative focuses solely on the legal enforcement effort. Law enforcement cannot exist in a vacuum. It must not only be supported by governmental authority, but also by the local community and the public at large. This is possible only when the community is sufficiently aware of the importance of the campaign and is ready to support it. Educating the public on environmental issues is another reason to why media coverage is so important. Publicizing environmental campaigns and enforcement actions can provide a valuable opportunity to educate the public.

Another lesson to be learned is that in a highly personalistic society such as the Philippines, institutional efforts must be coupled with the development of personal relations by and among the players. There needs to be a 'champion' who has the leadership qualities and charisma to rally the different forces of government. He or she can be an NGO member, or better yet, a person who is clothed with official authority. If that champion is gone, the

institutional efforts are bound to falter. With a new management team at the helm of the Department of Environment and Natural Resources, a meeting between the Secretary and the Legal Team (of the Department of Justice, National Bureau of Investigation and the Office of the Solicitor General) is being arranged. Hopefully, the Department of Environment and Natural Resources Secretary can now assume the lead, and, with official authority in his hands, make things move forward.