



BARANGAY JUSTICE SYSTEM IN THE PHILIPPINES: CHALLENGES AND INNOVATIONS

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ABSTRACT

The main objective of Barangay Justice System is to informally settle cases through the Lupon members acting as mediators. Mediators do not apply the rule of criminal law but they are to facilitate harmonious settlement through agreement of both parties. In this role of the mediators, this study investigated the challenges encountered by mediators during settlement, how did they deal with these challenges and do they have innovations in the Barangay Justice System to respond barriers of successful settlement. This study is qualitative in nature with Focused Group Discussion n(FGD) and personal interview of the Lupon members as the data gathering instrument. Data was transcribed, coded and analyzed themes and patterns. Results shows that that the barangay justice system is effective, the themes that emerge challenging the mediators during settlement are: Disputants Ability to Comprehend, The Challenge of Persuading Disputants who do not Cooperate for Settlement, the of challenge of not Exceeding from the mandated Authority of the Lupon in Execution of Agreement in selected cases and The Challenge of Dealing with Disputants Negative Attitude Towards Barangay Justice System. Innovations in amicable settlement are Coordination with other government or non-government agencies who has specialization with the dispute, On-site Dispute Settlement and single-out counselling of both complainants and disputants and Giving sanctions and reprimand.

KEYWORDS: *Barangay Justice System, Mediators, Amicable settlement, challenges, innovation*

INTRODUCTION

Mediation is a process which a third party acts as mediators who manages other persons' conflict or disagreement. This procedure is universal in application as it can be used to settle disputes among family members, neighborhood, community, business and workplace in any type of issues (us.sagepub.com) Dispute resolution is an alternative to adjudication of a presiding judge of a court or an officer of a government agency, a tool for a speedy trial (Sam and Sam, 2014). It is also used to decongest court dockets and as an instrument to administer a better quality of justice. In this nature of dispute resolution, professionals agree that the discussion of the offending behavior, the effect to the victim and the reparation of the offender has been a long practice resulted to the concept of Restorative Justice today (King, 2008).

In the Philippine tradition, disputes are amicably settled before elders who gained experience in handling cases. They belong to prominent or influential families recognized and respected by the community., and they administer justice based from their experience Sam, R. & Sam, S. (2014). This practice formally became a part of the Philippine Criminal Justice System when President Ferdinand E. Marcos ordered the Presidential Commission to create a law for the institution of dispute resolution system in the barangay. As a result, the Presidential Commission drafted the PD 1508 also known as

Katarungang Pambarangay Law and was signed by President Ferdinand E. Marcos on June 11, 1978 (Tabucanon, G., Wall, J. & Yan, W., 2008). This law mandates every barangay should organize their Lupon Tagapamayapa (LT) consisting 10-20 members, and they shall act as conciliators during amicable settlement (par. A of Sec. 1) Further, this law provides the authority of the LT (conciliation panel) to settle issues punishable by not exceeding thirty (30) day imprisonment and a fine of not more than Two hundred (Php200.00) pesos (par. 3 of Sec. 399).

It was, however, repealed by the *Revised Katarungang Pambarangay Law under RA 7160* effective on January 1, 1992. Substantial changes have been established from PD 1508 to RA 7160 like the authority of the *Lupon Members* to settle complaints punishable by not more than One (1) year imprisonment or a fine of not more than Php5000.00 prior to the filing in court and the procedures in dispute resolution (par. c of Sec. 408). Said cases shall be recognized by the court only when the Barangay Secretary issues a certificate of filing a complaint in court upon compliance with all other requirements set by the law (Sec. 419).

The procedure for amicable settlement was specifically provided under RA 7160, *to wit*:



SECTION 410. Procedure for Amicable Settlement. –

(a) Who may initiate proceeding – Upon payment of the appropriate filing fee, any individual who has a cause of action against another individual involving any matter within the authority of the lupon may complain, orally or in writing, to the lupon chairman of the barangay. (b) Mediation by lupon chairman – Upon receipt of the complaint, the lupon chairman shall, within the next working day, summon the respondent(s), with notice to the complainant(s) for them and their witnesses to appear before him for a mediation of their conflicting interests. If he fails in his mediation effort within fifteen (15) days from the first meeting of the parties before him, he shall forthwith set a date for the constitution of the pangkat in accordance with the provisions of this Chapter. (c) Suspension of prescriptive period of offenses – While the dispute is under mediation, conciliation, or arbitration, the prescriptive periods for offenses and cause of action under existing laws shall be interrupted upon filing of the complaint with the punong barangay. The prescriptive periods shall resume upon receipt by the complainant of the complaint or the certificate of repudiation or of the certification to file action issued by the lupon or pangkat secretary: Provided, however, that such interruption shall not exceed sixty (60) days from the filing of the complaint with the punong barangay. (d) Issuance of summons; hearing; grounds for disqualification – The pangkat shall convene not later than three (3) days from its constitution, on the day and hour set by the lupon chairman, to hear both parties and their witnesses, simplify issues, and explore all possibilities for amicable settlement. For this purpose, the pangkat may issue summons for the personal appearance of parties and witnesses before it. In the event that a party moves to disqualify any member of the pangkat by reason of relationship, bias, interest, or any other similar grounds discovered after the constitution of the pangkat, the matter shall be resolved by the affirmative vote of the majority of the pangkat whose decision shall be final. Should disqualification be decided upon, the resulting vacancy shall be filled as herein provided for. e) Period to arrive at a settlement – The pangkat shall arrive at a settlement or resolution of the dispute within fifteen (15) days from the day it convenes in accordance with this section. This period shall, at the discretion of the pangkat, be extendible for another period which shall not exceed fifteen (15) days, except in clearly meritorious cases.

During amicable settlement, mediators utilize different approaches or strategies. Nevertheless, there is this discussion on the advantage of settling the dispute in the barangay to both

parties than bringing it before the court. It is because the mediators, together with the disputants, aim to come up with a win-win solution and no longer it is difficult to determine who is actually wrong and who is entitled to damages (Tabucanon et al., 2008).

The Philippine Barangay Justice System (BJS) is weakened by the lack of strengthening support for the system, the need to review the role of the Punong barangay/barangay captain in view of the fact that he is an elective/political official, surveys and literature also 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. Also, literatures suggest the need to review the composition of the *Lupon*, members should be elected to raise awareness on its existence while 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 Aquino, R. (n. d.).

Although the law provides the legal procedure that guide the mediators on the steps in the settlement of dispute, *Lupon* members most of the time, should do their functions by discretion, use art and skills to successfully mediate so that both parties must settle and agree for actions that satisfies their demands. This implies that any situation or circumstances that arise not covered by the provisions of the law will be taken into action by discretion. There are studies conducted on the performance of the *Lupon* members in the settlement of dispute, problems encountered in dispute settlement and factors affecting successful mediation however most of these studies are quantitative in nature while only few was conducted in a Qualitative design. Researchers sought the advantage of using Qualitative research design as it enables to study the complex aspect of mediation. In this study it focuses on the challenges in mediation process and their innovations in response to such issues.

METHODOLOGY

This study explored how the *Lupon* members perceived the implementation of Barangay Justice System. It also includes the investigation of the challenges in the amicable settlement of disputes filed in the barangay and the innovations made by the *Lupon* members in response to these issues that may challenge their capacity to settle disputes or on how do they address issues that arise not provided by the law. Qualitative research design was used with the “Thematic style” of analyzing data in search of themes or patterns that arises from the responses of the participants. Braun, V. and Clarke, V. (2006) stated that a theme captures something important about the data in relation to the research question, and represents some level of patterned response or meaning within the data set. The participants of this study are the members of the *Lupon* who have actual experiences in facilitating amicable settlement in urban barangay particularly in Barangay San Fermin and Barangay District 2 in Cauayan City, Philippines on March 2020. Data



were gathered through Focused Group Discussion (FGD) and personal interview using unstructured interview guide to allow in-depth extraction of relevant data. Part of data gathering procedure is the seeking of permission from the Barangay Chairman for an interview together with the *Lupon* members and the permission to access important file of the Barangay Secretary for the triangulation of results.

RESULTS/FINDINGS

A. Profile of the Participants

There are fifteen (15) participants on this study. Nine (9) are college degree holders and six (6) barely reached the college level. Most of them are serving the barangay as *Lupon* ranging from 5-8 years, 1-2 years and one has been serving for seventeen (17) years already. Most of them are retired from the service in Law Enforcement sector, Academic Sector and Local Government Unit while other members are Businessmen. Documents also shows their outstanding achievement their plaque of being one of the Outstanding *Lupon* Tagapamayapa in the local and national category.

Perception of *Lupon* members on the Implementation of Barangay Justice System

The theme that emerge from responses when participants were asked on how do they perceive the implementation of Barangay Justice System.

Theme 1. Barangay Justice System is well implemented

The *Lupon* members stated that they attend seminars organized by local and national government in different places. Majority of the *Lupon* members attend seminars through the initiative and support of the Barangay Captain. They are also given monthly incentive of Php1000.00 and uniforms. In the implementation of barangay Justice System, the *Lupon* members stated verbally the procedures of amicable settlement, authorities of the *Lupon* and cases under the jurisdiction of the *Lupon* Tagapamayapa. *Lupon* members has no problem in the implementation of the Barangay Justice System and its processes as Kagawad 3 answered “*wala namng problema, naimplement nmn namin ng mabuti at saka nakakaya naman namin na i-settle ang mga kaso*” (there’s no problem we implemented well and we are able to settle the cases). This reaction manifest their confidence that they are compliant with the provisions of the barangay justice System that they can successfully settle disputes applying the Barangay Justice process provided by the law.

B. Challenges in Amicable Settlement by *Lupon* Members

When participants were asked on the challenges in amicable settlement, the following are the themes that emerge:

Theme 1: Disputants Ability to Comprehend

Lupon members found illiterate disputants as a challenge for a successful mediation in their narration specifically Kagawad 8 said “*pinag-uusapan po nmin Mam kasi*

may mga disputants na ang hirap makaintindi cguro dahil illiterate kaya kahit paulit ulit naming ipaintindi ang sitwasyon o pangyayari ay di pa rin nya naiintindihan” (we talk about it Ma’am because there are disputants who hardly comprehend maybe because he is illiterate so even if we repeatedly explain the situation or or circumstances explain still he can’t understand) it is a struggle for the *Lupon* to deal with disputants who cannot understand or comprehend the facts and circumstances of the issue/dispute or when one of the disputants has low level of thinking due to low level of education. When the participants were asked how do they address the situation similar answers can be drawn from Kagawad 1 as he said “*ginagawa naming ang lahat na ipaintintdi yung sitwasyon, nagbibigay kami ng paliwanag sa kung ano ang proseso at tamang hakbang pero hnd pa rin nya naiintindihan, pinapayuhan naming na humingi muna ng payo sa mga kakilala nya o sa may mga experience na*”(we do everything to let him understand the situation, we give explanation on what process and steps but still couldn’t understand, we advise to ask advise from his acquaintances or to those who have experience). Obviously, the respondents try hard to deal with this type of disputants and advise them to ask opinion or ideas from friends or those who had experience the same issue. In this cases *Lupon* members are giving disputants the chance or enough time to analyze the situation or facts of the case and have clearer understanding of the process and nature of barangay Justice.

Theme 2: The Challenge of Persuading Disputants who do not Cooperate for Settlement

The negative attitude towards the law affects the successful settlement of dispute in the barangay. Respondent tends to disregard the authority of summon served to them in their belief that they don’t need to appear before the *Lupon* because they don’t have liability or they consider themselves innocent from the complaints filed. There is the lack of cooperation with the authority and it hampers the dispensation of justice in the barangay as Barangay Captain 1 said “*may mga taong hindi sumisipot sa barangay hearing kahit na may summon na naiserve sa kadahilanang wala daw silang kasalanan*” (there are people who do not appear in the barangay hearing even there is summon served for the reason that they seem have no violation). Under the Barangay Justice System, failure of parties to arrive on the amicable settlement the council will still issue a certificate of filing a case in court indicating that a settlement failed after several attempt of resolving the case in the barangay. The challenge here is how would they persuade the disputants to cooperate. This findings is in consonance with findings of Zhang, Y. and Chen, L. (2017) in China, they concluded that successful mediation is largely dependent on disputants’ motivations. Ramanthan, U. (2013) state that persuading someone to communicate allows the exchange of information thereby discussion of the concerns of both parties leads to successful mediation. *Lupon* as mediators must



Theme 3: The challenge of not Exceeding from the mandated Authority of the Lupon in Execution of Agreement in Unpaid Debt and Prevention of Repeat Offenders.

The Barangay Chairman considers the failure of respondents to comply with the agreement made during the settlement as a problem. It is a manifestation that respondents are not sincere with their oath made before them as Kagawad 2 said “*may mga respondent na paulit ulit na nireklamo dahil sa utang, di tumutupad sa agreement*” (there are respondents who repeatedly complaint because of unpaid debt and did not comply with the agreement). This means that agreement made in the barangay do not guarantee compliance of the respondents. Sec. 417 of RA 7160 states that the amicable settlement or arbitration award may be enforced by execution by the lupon within six (6) months from the date of the settlement. After the lapse of such time, the settlement may be enforced by action in the appropriate city or municipal court. In this provision it does not provide a rule on how would the Lupon members enforce or execute the agreement. They don’t have the authority to impose sanction or punishment for non-compliance of the respondents on agreement made. The challenge now then is how the Lupon members enforce the agreement without exceeding on the power vested in them. This is also the reality on repeat offenders as Kagawad 9 said “*oo Mam, may mga cases na paulit ulit na inirereklamo ang iisang residente dahil sa panggugulo pero ang ginagawa namin kelangan pa rin naming harapin ang reklamo kasi idinulog dto sa opisina nmin*” (Yes, Ma’am there are cases that they repeatedly complaint over the same resident because of making trouble but what we do is we need need to attend the complaint since it is brought in our office) this test how Lupon members would prevent repeat offenders of different cases with different complainants.

Theme 4: The Challenge of Dealing with Disputants Negative Attitude towards Barangay justice System

The amicable settlement of cases not exceeding One (1) year imprisonment or a fine of not exceeding Php5000.00 is a pre-requisite before the filing of such cases in court regardless of the persons’ economic status. However, studies show that the Barangay Justice System is the cheapest and fastest way of attaining justice by the poor. In this provision, Lupon members are challenge in cases were disputants bring with them their political affiliation an influential person drawn from the statement “*may mga iba na pupunta dto sa barangay kasama ang kamag-anak na abogado, graduate ng law or mgpapakilala na kamag-anak ng isang opisyal sa gobyerno*”. These are acts trying to intimidate the Lupon members to influence fair process disputants proceed to the barangay office with their relatives that are lawyers or graduate of law. Lupon members must have to observe maximum tolerance to avoid misconduct. Lupon members are challenged in dealing with them so as not to appear impolite or to maintain harmonious relationship while enforcing fairness and equality in the process. It was also revealed that some economically abled disputants prefer not to settle the case in the barangay because they can afford the expenses as

Rspondent 1 said “*yung iba mag-file lng kaso at ang gusto makakuha lng ng certification lalo na kung kaya nla magbayad ng abogado*” (some just file the case to get certification especially those who can afford to pay an attorney”. It implies that some complainants prefer the court to hear and try their case than in the barangay, there is the dissatisfaction in the barangay justice system. The challenge is that Lupon members have to discuss the objective of BJS and the type of justice it offers.

C. Innovations in Settling Disputes in the Barangay

The participants revealed that during amicable settlement, they have to wear their uniforms before appearing to the hall, they maintain daily details of officers on duty and participants involve themselves in barangay officials program extending their service to the community not just acting as mediators in amicable settlement. Apart from the amicable settlement procedure provided by law, when a complaint filed a case at their office, the disputants automatically have the choice to select their mediators although in the Katarungnag Pambarangay Law it provides that the barangay chairman will conduct mediation before passing it to the Lupon as Barangay Secretary 1 said “*hinahayaan naming na sila ang mamili sa kung sino ang gusto nila na humarap sa settlement, pero mag-iinhibit yung mga Lupon na kamag-anak ng isa sa kanila*”. This ensures that disputants do not have any doubt on the fairness in the discussion during settlement because it is their own choice. It is the disputant’s preference and agreement. Before the start of settlement, it always start with a short prayer.

Theme 1: Coordination with other government or non-government agencies who has specialization with the dispute

Theme 1 is drawn from different responses with similar thought with the statement of Kagawd 10 as he said “*kung ang kaso ay tungkol sa lupa o boundary nagtatawag kami ng taga-LRA sa city hall para sya ang magpapaliwanag sa kaso o kung tungkol nmn sa pagkasira ng ari-arian at kung mgkano ang amountna dapat bayaran dun kami sa mga businessman humihingi ng inpormasyon*” (In n cases of land dispute we call representative from the city land and registration unit to explain the case or if it is about cases involving payment of damaged property and how much amount to be paid w go to businessman and ask information). Also, Lupon Tagapamayapa also hear cases not covered by their authority when both disputants prefer to settle the case at the barangay office like the of Homicide through Negligence drawn from their statement “*may mga kaso na dinadala dto sa barangay na hnd naman naming sakop pero dahil dto nla gusting pag-usapan ang kaso kaya hinaharap naming gaya ng kaso ng aksidente at may namatay*” (there are cases brought in the barangay which is not under the jurisdiction but since they want to about the case here so we face it just like cases of Homicide through Negligence). This shows that the Lupon members coordinate with professionals with field of specialization in cases not under their jurisdiction.



Theme 2. On-site Dispute Settlement and single-out counselling of both complainants and disputants

In heated confrontation were both parties cannot agree, Lupon members use single-out counselling, they hear both sides one by one as Kagawad 1 stated *“kapag nagkainitan ng ulo at hirap sila mgkasundo, ginagamit naming yung single-out counselling, pinapalabas muna naming yung isa. Kakausapin nmin kung ano nangyari para makuha nmin kung ano talaga ang nangyari at kung ano gusto nla na hind naririnig ng kabilang panig”* (when head heated up and they don't agree, we use the single-out counselling, we send the other one outside, we ask what happened for us to get what was actually happened and what they really want not being heard by the other party). Lupon members also practice onsite-settlement or ocular inspection of the property in dispute *“ginagawa dn naming on-site settlement don kami mismo sa boundary ng pinag-aawayang lupa kami mismo nag-uusap”* (we also do on-site settlement we settle at the actual boundary of the land in dispute). Single-out counseling is the strategy wherein respondent or the complainant tell his side, tell about the facts of the case with the Lupon without the presence of the other complainant.

Theme 3. Giving sanctions and reprimand, petition to temporarily oust the person from the community

In case were respondents do not cooperate or do not appear in the schedule of settlement Lupon members personally visit the respondent at his residence drawn from the statement of Kagawad 11 as *“pinupuntahan naming sa bahay nla at inaalam kung ano ba talaga ang dahilan at bakit di sya sumisipot”, “kapag ka hnd sumusunod sa usapan binibigyan dn naming ng sanction kagaya ng pag petisyon na pansamantala munang umalis sa lugar yung respondent, nagco-coccus din kami na mga lupon para pag-usapan yung kaso at kung paano namin harapin yung kaso”*(we go to their house and know what is really the reason of not showing, when he doesn't abide with the agreement we give sanctions like we petition for the respondent to temporary leave the place, we Lupon have coccus to talk about the case and what to” . In this approach of the Lupon, it is a shift from the traditional strategy in amicable settlement and they don't rely on issuance of certificate of filing a case in court as a remedy to unsettled case. Lupon members became watchful of community's criminal behavior.

DISCUSSION

It is implied that the effective implementation of the Barangay Justice System in the barangay is supported by high level of education of the Lupon members that they have a broader knowledge in social interaction and understanding human behavior, the combination of their community group sector from the law enforcement, academe, religious, business and LGU employees. The fact that they are retired from the service they can also give full time in the service as Lupon and they can also apply their experience from their previous work in dealing with related cases. The support given by the Barangay

Captain is at the same time a factor for effective implementation.

The challenges in amicable settlement are the attitude of the respondents and complainant, their willingness to cooperate in the settlement of dispute. This challenge the ability of the Lupon to act as mediators-facilitating the conversation and discussion of the issue and to finally come up with an agreement, the test of maximum tolerance from offensive attitude of the disputants and the need to empathize on the situation of the disputants to understand their emotions. To satisfy a complainant in the barangay, the damage and injury brought by the dispute needs to be considered and repaired this is the common concept between Barangay Justice and Restorative Justice. Irvine, C. & Farrington, L. (2017) discussed the importance of dealing with emotion in mediation they stated that the attempt of maintaining professional distance, the need to be neutral, the need to be rational than emotional during mediation are the potential risk in gathering rich data while Della, N. (1999) proposed that the Individualist and Relational ideological frameworks have material implications for the concept and the practice of fostering empathy between the parties to a mediation: The problem-solving framework fosters a social interaction which can be understood as transactional empathy while the transformative framework fosters an interaction described as relational empathy.

Basically Barangay Justice is justice outside the rule of law that Lupon members should not act as judges to determine who is guilty or innocent but it is implied that broad knowledge on different issues in-dispute is important during mediation based from the Lupon Tgapamayapa innovative responses on the challenges in amicable settlement they coordinate with other government or non-government agencies who has specialization with the dispute. The help of professionals help build trust and confidence of the disputants. This implies that Lupon members believe that they can deliver justice better with the help of these agents. From this context, researchers suggest that the implication of the profile of Lupon to successful mediation be investigated.

CONCLUSION

The traditional concept of amicable settlement under Barangay Justice System is still applicable even in this modern world however challenged by the ability of the implementers to handle different behavior of disputants which requires logical innovative approaches convincing to the senses of disputants to achieve peaceful settlement. The appointment of Lupon members coming from different sector is an advantage as they are a combination of different profession with different skills and experiences fitted to the varied personality and profile of disputants. Moreover, the need to gain the trust and confidence among the Lupon members by the disputant is important.



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