

# KATARUNGAN PAMBARANGAY (VILLAGE JUSTICE) – THE SOUL OF THE PPA’S INDIVIDUALIZED, COMMUNITY-BASED RESTORATIVE JUSTICE PROGRAMME

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## I. DEFINITION OF TERMS

1. **Restorative Justice** is a process through which remorseful offenders accept responsibility for their misconduct to those injured and the community that, in response allows the reintegration of the offender into the said community. It creates obligation to make things right through proactive involvement of victims, ownership of the offender of the crime, and the community in search for solutions which promote repair, reconciliation, reempowerment, and reassurance.
2. **Restorative Justice Programme** means any programme that utilizes restorative processes or aims to achieve restorative outcomes.
3. **Restorative Process** means any process in which the victim, the offender, and/or any individual or community members affected by a crime actively participate together in the resolution of matters resulting from the crime or offence, often with the help of a fair and impartial third party.
4. **Restorative Outcome** means any agreement obtained as a product of a restorative justice process.
5. **Restitution** is a process upon which the offenders accept accountability for the financial and/or non-financial losses they have caused to the victim.
6. **Community Work Service** is work performed without compensation by an offender for the benefit of the community as a formal or informal sanction.
7. **Parties or Stakeholders** mean the victim, the offender and the community affected by a crime that may be involved in a restorative justice process.
8. **Facilitator** is a third party who is fair, honest and impartial, whose role is to facilitate the restorative processes.
9. **Victims** are those who are directly injured or affected by the crime committed.
10. **Community** is a stakeholder who is indirectly injured or affected by the crime committed.

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11. **Offenders** are clients of the Parole and Probation Administration who were granted probation, parole or conditional pardon.
12. **Mediation** is a voluntarily process facilitated by a Mediator, with conformity to achieve voluntary agreement through communication and negotiation regarding the dispute.
13. **Conciliation** a process facilitated by an impartial conciliation to act as intermediary to open the line of communication between disputing parties with the objective to resolve their disputes.
14. **Arbitration** is a voluntary dispute resolution process facilitated by one or more arbitrators, appointed in accordance with the agreement of parties or rules promulgated pursuant to law, resolve a dispute by rendering award (Section 3(d)) RA 9285.
15. **Complainant** is a party filing complaint before the Lupon or Pangkat.
16. **Respondent** is a party being complaint before the Lupon or Pangkat.
17. **Katarungan Pambarangay** is a system of justice administered at the village level for the purpose of amicable settling of disputes through mediation, conciliation or arbitration without resorting to Courts of Law.

## II. INTRODUCTION

The development of criminal justice is a clamour of society to achieve public justice. Public Justice is the forerunner of punishing law violators by depending on prison as a way of dispensing justice. In the past, private justice is characterized as a private vengeance, and which assume that prison is less punitive and more humane. In reality, private justice, in broader context is not necessarily private, and does not necessarily involve vengeance. This, however, contributes to explore other ways of dispensing justice and now the development of private restorative justice. Private in the sense that persons affected by the impact of crime decided to meet together, voluntarily and actively participate in the resolution of their differences.

## III. PRISON AND HUMAN RIGHTS

A basic postulate which is almost always present in all fundamental laws of every state is that “No person shall be deprived of life, liberty or property without due process of law or be denied the equal protection of law.”<sup>1</sup>

As defined in the Criminal Justice System, Philippine Criminal Law is a branch or division of law which defines crimes, treats of their natures and provides for their punishments (12 Cys.129).<sup>2</sup>

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<sup>1</sup> Philippine Constitution of 1987, Article III.

<sup>2</sup> The Revised Penal Code, Criminal law, Book I by Luis B. Reyes, Article I, 19th edition, 2017, page 1.

By definition, criminal law is a product of a Classical School of thought established to protect the society through the imposition of a State standard punishment anchored on retribution or punitive justice. The idea of retributive justice, in the words of Justice Melecio-Herrera, rests on some dubious, interesting and intriguing assumptions.<sup>3</sup> First, Justice can be done by making the offender worse off (though imprisonment or execution); Second, there is a reasonable manner of determining the “just dessert” of criminal conduct in terms of prison sentences; and Third, the issue of justice is addressed by evaluating past event (crime committed). The focus therefore is on individual guilt and guilt is what justifies punishment. The victim, the raptured public order, the offence, all these recede to oblivion while the full attention is on the “just dessert” that the criminal deserves.

Deprivation of liberty, as a penalty is a costly intervention, and has a lot of added dehumanizing effects. In our country, prisoners are forced to survive under the worst conditions. The requirement of minimum standards for the treatment of prisoners are completely not observed, and the effects:

1. Congestion in confinement facilities aggravated by subhuman conditions due to inadequate supplies and services;
2. Lack of rehabilitation and intervention programmes to help prisoners improve or acquire social, economic and other life skills in preparation for their rejoining society;
3. Reported human rights violations;
4. Failure to provide adequate facilities and services to prisoners differently able and with special needs;
5. Unfair/unequal treatment of prisoners tilting to favour influential and prominent personalities deprived of liberty;
6. Jail/prison disturbances ushered by the existence of underworld organizations and other syndicates;
7. Absence of an effective reintegration programme for released offenders, particularly those who have been discharged from prison after completely serving their sentences;
8. Failure of administration of justice as private offended parties are unable to be compensated for their damages; and
9. The community or the raptured social fabric issues and problems are not appropriately handled and therefore unresolved.

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<sup>3</sup> The Criminal law Context of Restorative Justice by Justice Ameurfina Melecio-Herrera, published in *the CBCP ECPPC Pagkalinga 25 years of Prison Pastor core 1975-2000*.

#### IV. ALTERNATIVE WAY OF JUSTICE

An Act of Providing For A Local Government Act of 1991, specifically chapter 7, Section 399 to 442,<sup>4</sup> provides the landscape of Katarungan Pambarangay (Barangay Justice). It paved the way to establish a means a settling of disputes in the village level and lessening the caseloads of the Courts and other Agencies in the Justice System.

The Philippine Society is described as a highly personal and intimate community of “interrelated persons” of which the present political unit is structured. The most dominant characteristic of Philippine Society is the encompassing influence of close personal relations upon almost any conceivable human dealings or transaction.<sup>5</sup> With that, since crime or conflict happen in the context of the intricate web of personal relationships, adversarial and retributive conflict resolution methods such as litigation are usually not suitable.

In an association of people, what controls them is the degree of connectedness; of relationship, anchored on common and shared interest and a sense of connection based on that shared interest. These bonds of common feelings constitute “communitarian existence.”<sup>6</sup>

When a crime or conflict is committed in a community, the assumption is that three (3) relationships are disturbed:

1. Relationship between victim and the offender;
2. Relationship between offender and the community; and sometimes
3. Relationship between the victim and the community.

The three stakeholders are affected by the impact of crime or conflict, and relationship is disturbed, and deserve to be addressed appropriately. The offender should be accountable to rectify/correct a wrong committed and retribute whatever damages are inflicted (Accountability).<sup>7</sup> The victim deserves to be compensated and be empowered again (Competency Development). The community deserves an orderly and peaceful society (public safety).

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<sup>4</sup> *Presidential Decree No. 1508, The Katarungan Pambarangay Law of the Philippines, promulgated in June 1978, and further amended by Republic Act No. 7160, An Act of Providing For A Local Government Act of 1991, Chapter 7, Section 399 to 442.*

<sup>5</sup> *Pe, C and Tadiar, A (1982), (Ecls) International Survey of Conciliation system, Sosmena, J 88 APOM Papers at 291. Cited in the Barnes Paogram or conflict Resolution Working Papers.*

<sup>6</sup> National Institute of Correction, US Department of Justice: Restorative Justice Principles, Practices and Implementations (1983), a Resource for state and local corrections

<sup>7</sup> An assessment of the Implementation of PPA’s Restorative Justice Program in the Parole and Probation Administration Offices of Bataan Province, Sta. Rosa City and Baguio City submitted to the National Defense College of the Philippines, by Manuel G. Co, page 33.

## V. KATARUNGAN PAMBARANGAY (KP) – ASCENDANT OF DOJ-PPA RESTORATIVE JUSTICE

The KP System (Village Justice) was institutionalized under Presidential Decree No. 1508, which took effect on 30 December 1978.<sup>8</sup> Its real intent is to recognize the cultural heritage of the Filipinos, where differences among people are not resolved through a formal or adversarial manner, but by means of an effective problem-solving mechanism of negotiation, mediation or conciliation. This is a time-honoured tradition of the Filipino people rooted on our historical background.<sup>9</sup> The essential objective is to achieve a peaceful and harmonious resolution of conflicts anchored on Filipino values which we treasured most like: *pakikisama* (community spirit); *Utang na Loob* (debt of gratitude) and kinship. In addition, relevant values such as *pakikipagkapwa-tao* (human relation), *pakikiisa* (unifying spirit), generosity and helpfulness, love and caring, respect, strong family and community ties, and other sets of values that a majority of Filipinos endeavour most in their lives.

## VI. LUPON-TAGAPAMAYAPA-KATARUNGAN PAMBARANGAY (VILLAGE JUSTICE)

A system of settling disputes or differences operating in all barangays in the country with the objective to promote, among others, the speedy and effective administration of justice, by laying the ways to amicably resolve personal and family differences among barangay members which considerably reduced the bloating of court dockets.

The Katarungan Pambarangay is put to flesh by a “Lupon Tagapamayapa” to solve disputes within the village level before going to court. It consists of 10 to 20 members in the Barangay and chaired by the Barangay Chairman (Village Chief). The Members of the Lupon shall possess the following qualifications: Residing or working within the village; possess integrity; impartiality; independence of mind; sense of fairness; reputation; and not disqualified by law.

If there are matters involving questions of law, the provincial, city legal officer or the municipal legal officer or prosecutor shall provide legal advice on matters of questions of law whenever necessary.

The Lupon of each barangay has the power to settle disputes with the following exceptions:

1. Where one party is the government or any subdivision or corporate body;
2. Where one party is a public officer or employee, and the disputes relate to the performance of official functions;
3. Offences where there is no private offended party;

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<sup>8</sup> A Guide to the Katarungan Pambarangay System by: Atty. Gregorio Austral, Philippine Center for Civic Education and Austral Democracy.

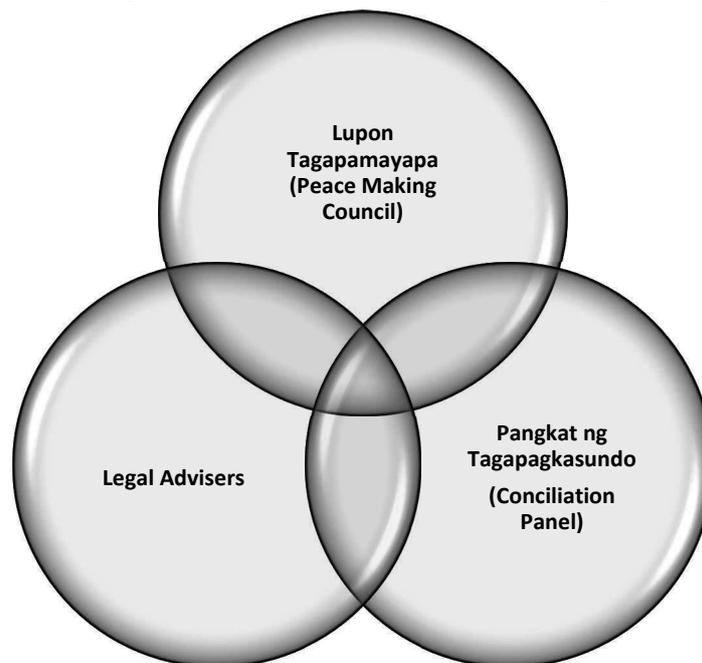
<sup>9</sup> <<https://owlcatron.com>>social-services>.

4. Offences punishable by imprisonment of more than one (1) year or a fine of Five Thousand Pesos (P 5,000.00);
5. Where conflict involves real property located in different cities or municipalities unless the parties agree to submit their differences to the settlement by the Lupon;
6. Conflict involving parties who actually reside in Barangays (Village) of different cities or municipalities, except where Barangay (Village) units adjoin each other and the Parties agree to submit their differences; and
7. Such other classes of disputes which the President may determine in the interest of Justice or upon recommendation of the Secretary of Justice.

**A. The Three Components of KP<sup>10</sup>**

1. Lupon Tagapamayapa
2. Pangkat ng Tagapagsundo
3. Legal Advisers

**Components of Katarungan Pambarangay<sup>11</sup>**



**B. Pangkat ng Tagapagkasundo (Conciliation Panel)**

It is a panel composed of three (3) members who are chosen by the parties to the dispute from the list of the members of the Lupon (Council). In case the parties fail to agree on the pangkat membership, the same shall be determined by lots drawn upon by the Lupon Chairman.

<sup>10</sup> <<http://zabalketa.org>>upload>Guideto theKCP2016/02Zalbaketa>.

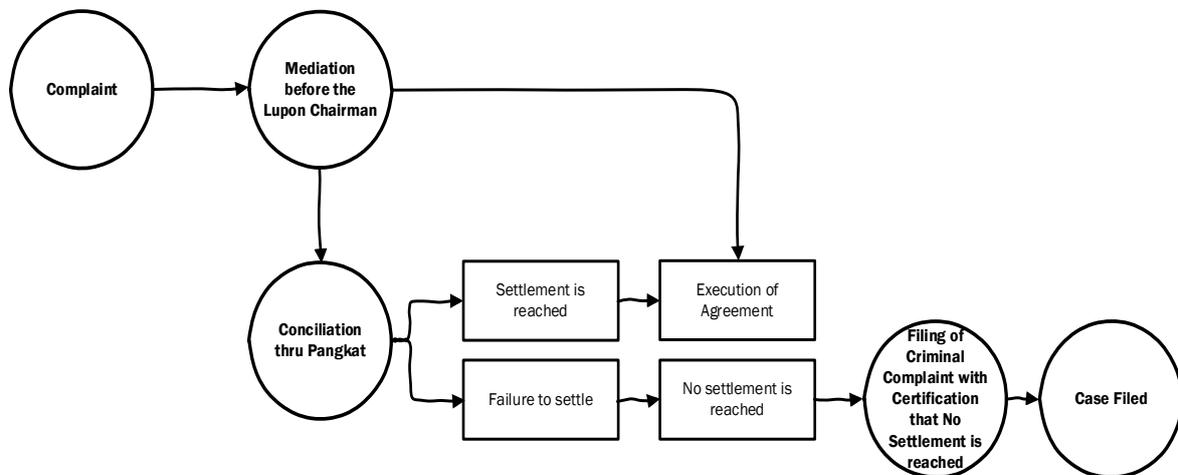
<sup>11</sup> <[Zabalketa.org](http://Zabalketa.org)>2016>02>Gu, Chapter 2, A guide to the Katarungan Pambarangay, by Atty. Gregorio Austral, Philippine Center for Civic Education and Democracy page 6.

**C. Who Is Disqualified from Membership in the Pangkat**

1. Relationship
2. Bias
3. Interest
4. Any other similar ground

**D. Lupon/Pangkat Authority**

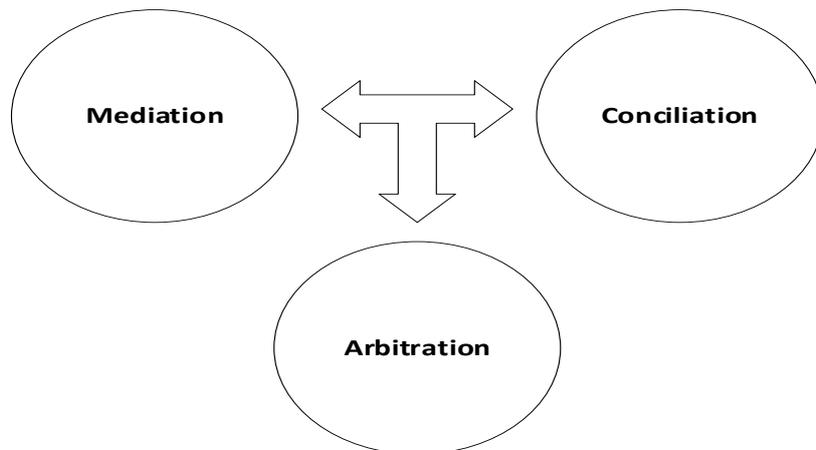
Basically, the Lupon and the Pangkat have no power to punish parties and their witnesses for contempt as it is only an inherent power of the Courts of Law.<sup>12</sup> However, the Lupon and the Pangkat, may file an application to cite any party or witness who refuses to appear without justifiable reason to cite uncooperative personalities for indirect contempt before a Court of Law. If found guilty, the person cited may be fined not exceeding Five Thousand Pesos (P 5,000.00) or imprisonment not exceeding one (1) month, or both.



**E. Stages of KP**

The Katarungan Pambarangay (KP) has three stages as shown below<sup>13</sup>:

1. Mediation
2. Conciliation
3. Arbitration



<sup>12</sup> Zabalketa.org>2016>02>Gu, Chapter 4, Chapter 2, A guide to the Katarungan Pambarangay, by Atty. Gregorio Austral, Philippine Center for Civic Education and Democracy page 39.

<sup>13</sup> A Dissertation entitled “The Barangay Justice System in the Philippines: Is it an Effective Alternative to Improve Access to Justice for Disadvantaged People?” Silvia Sanz – Ramos Rojo, September 2002.

## **F. Pre-Condition to Filing of Complaint Before the Court of Law**

Katarungan Pambarangay is not a Court of Law as duly recognized by the Constitution.<sup>14</sup> It is an innovation of the Philippine Justice System to usher the resolution of disputes at the Barangay (Village) level to achieve peace and harmony and likewise to be an accessible and effective form of achieving justice without resorting to adversarial proceedings.

## **G. Consequences of Non-Appearance**

Upon the non-appearance of the complainant, the Lupon may dismiss the complaint and its dismissal shall bar the complainant from seeking any judicial recourse for the same cause of action.<sup>15</sup> On the other hand, the non-appearance of the respondent may bar the respondent from invoking counterclaims caused by or necessarily connected with the action filed by complaining party and, if invoked, may be dismissed. Its dismissal shall bar the subject respondent from filing a counterclaim in court. Likewise, unreasonable non-appearance may be a ground for issuance of a certification to file action and as consequence wilful failure or refusal may be a ground for citation for indirect contempt of court.

## **VII. BASIS OF RESTORATIVE JUSTICE IN THE PPA**

The United Nations Commission on Crime Prevention and Criminal Justice (ECOSOC) through draft Resolution recommended to the UN Economic and Social Council the adoptions of the “Basic Principles on the Restorative Justice Programme in Criminal Matters.”<sup>16</sup> The said document is a formulation of UN standards in the field of mediation and restorative justice. The Philippines being a signatory, ensured the adoption of this resolution in its law and procedures.

In the Philippines, the restorative paradigm become an alternative mode of settling disputes in all areas of legal, political, economic, environmental, social and even in administrative proceedings.<sup>17</sup> In a post-conviction, the Parole and Probation Administration (PPA) adapted restorative justice as a way to reintegrate offenders by reconciling with the victim and the community, and the opportunity to make things right.

Restorative Justice is founded on four (4) key values<sup>18</sup>:

1. Encounter: Create opportunities for victims, offenders, and the community members who voluntarily decide to meet together and discuss the crime and its aftermath;
2. Amends: Expect offenders to admit accountability and take steps to repair harm they have caused;

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<sup>14</sup> <<http://www.unafei.or.jp>>topic3>.

<sup>15</sup> Zabalketa.org>2016>02>Gu, Chapter 4, A guide to the Katarungan Pambarangay, by Atty. Gregorio Austral, Philippine Center for Civic Education and Democracy page 40.

<sup>16</sup> ECOSOC Resolution 2000/14, UNODC.E/2000/INF/ADD.2at35(2000)teoppo

<sup>17</sup> *An Assessment of the Implementation of PPA's RJ Program in the Parole and Probation Offices of Bataan Province, Sta Rosa City and Baguio City (2008).*

<sup>18</sup> “Working For Justice That Heals (2006)” A Source Book of Prison Ministry, Published by the Catholic Bishop Conference of the Philippines-Episcopal Commission on Prison Pastoral Care (CBCP-ECPPC) (Source: Daniel Vann Noss).

3. Reintegration: Seek to restore victims and offenders as a whole and help them become contributing members of society; and
4. Inclusion: Provide opportunities for parties with a stake in a specific crime to participate.

#### **A. Supervision and Treatment Components**

The Parole and Probation System (DOJ-PPA) is a line-bureau type of organization established under the Department of Justice in the Philippines. In carrying out its mandate, the Administration is organized into sixteen (16) Regional Offices, and as of December 2019, it has 227 City and Provincial Field Offices strategically located all over the Philippine Archipelago.

The Agency twin-concepts of corrections such as way to alternative treatment of offenders through probation or suspended sentence or as a re-entry intervention like parole and pardon with parole conditions, are the significant mandate of the Agency. The central goals of community corrections is to enhance the safety of the State and its citizens by preventing reoffending of offenders and making them productive and law-abiding citizens.

The “flesh and bone” of the community-based correction of offenders is its treatment intervention. The Agency adapted a three (3) pronged approach in the treatment of offenders with Restorative Justice as its philosophical foundation, Therapeutic Community Ladderized Program as its major treatment modality, and volunteer mobilization as its lead community resources.

#### **B. Restorative Justice**

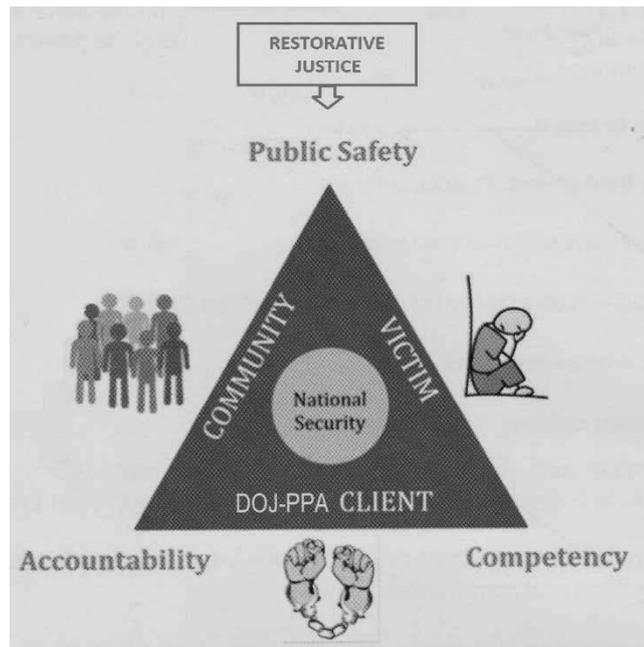
My discussion will just centre on Restorative Justice as the philosophical foundation of the Agency in reconnecting and integrating offenders into the mainstream of the community.

The Agency’s Restorative Justice programme treats crime as a violation of people and right relationships. It creates an obligation “to make things right and to right the wrong” committed through proactive involvement of victims, ownership of crime by the offender, and the participation of people in the barangay (Village) as community resource.

With this, the Agency Restorative Justice programme is inspired by the Katarungan Pambarangay (KP) or Village Justice. The intervention is to elevate or allow the important participation of the victims and the community leaders and members through their more active involvement in the justice process, holding the offender directly accountable to the people and providing a range of opportunities for dialogue, negotiation and problem solving, which can lead to a greater sense of community safety, social harmony and peace for all.

RJ in the heart of the Agency mandate anchored on Communitarian Spirit of Justice and sense of Community relation to address the disturbed relationship as it hurts people and their connections with each other.

By way of illustration, please see below:



Crime or conflict hurts people and relationships. The three stakeholders are disturbed by the impact of crime or conflict; therefore, their relationship is affected, and they deserve the end-goals of restorative justice. The client-offender should be accountable to correct his or her mistake, and retribute whatever damages were inflicted (accountability). The victim has to be compensated and be empowered again (competency development). The community and its inhabitants deserve an orderly and peaceful society (public safety).

The DOJ-PPA's role, through its provincial and City Field Offices, is very vital in the implementation of the RJ programme with respect to its clientele who are in the process of supervised rehabilitation and reintegration. The RJ programme, which has implications on the total efforts in the rehabilitation and reintegration of offenders, has vital national consequence on the evolving issues of human rights and social justice. These offenders, if not properly managed, and if the appropriate treatment is not implemented, certainly have an impact on national security.

Restorative justice emphasizes the importance of elevating the role of the victims and the community members through more active involvement in the justice process, holding offenders directly accountable to the people they have violated and providing a range of opportunities for dialogue, negotiations, and problem solving, which can lead to a greater sense of community safety, social harmony and peace for all.

### 1. Three (3) Fundamental Principles of Restorative Justice

Crime is more than law breaking:

- i. therefore, victims, offenders and the affected communities should have opportunities for active involvement in the justice process as early and fully as possible;
- ii. justice therefore, requires that all stakeholders should work to heal victims, offenders, and the communities who have been affected;

- iii. therefore, we must rethink the relative roles and responsibilities of the government and the community. In broad terms, in promoting justice, government is responsible for preserving just order, and the community for establishing just peace.

## 2. The Basic Elements of Restorative Justice

- Encounter: Create opportunities for victims, offenders and the community members who want to meet and discuss the crime and its aftermath;
- Amends: Expect offenders to take steps to repair harm they have caused to their victims;
- Reintegration: Seek to restore victims and offenders as a whole and help them become contributing members of society; and
- Inclusion: Provide opportunities for parties with a stake in a specific crime to participate in the resolution.

## 3. The Goals of Restorative Justice

- Exert effort to appropriately respond to the victim's harm;
- Accordingly hold offenders accountable;
- Reduce the revictimization;
- Improve active involvement and cooperation of victims; and
- Protect and empower victims.

## 4. The Benefits of Restorative Justice

- It views criminal acts more comprehensively: rather than defining crime only as lawbreaking, it recognizes that offenders harm victims, communities and even themselves;
- It involves more parties: rather than giving key roles only to government and the offender it includes victims and communities as well;
- It measures success differently: rather than measuring how much punishment has been inflicted, it measures how much harm has been repaired or prevented;
- It recognizes the importance of community involvement and initiative in responding to and reducing crime, rather than leaving the problem of crime to the government alone.

5. The Objectives of Restorative Justice

- To proactively involve the community to support and assist in the rehabilitation of victims and offenders;
- To attend to the needs of the victims, survivors and other persons impacted by the crime as vital participating stakeholders in the criminal justice system, rather than mere objects or passive recipients of service or intervention that may be unwanted, inappropriate or ineffective;
- To reintegrate offenders to the social mainstream and to encourage them to assume active responsibility for the injuries inflicted on the victims and the community;
- To ultimately heal the effects of the crime or wrongdoing suffered by the respective stakeholders; and
- To prevent further commission of crime and delinquency.

6. Comparison of Retributive and Restorative Justice

<b>RETRIBUTIVE JUSTICE</b>	<b>RESTORATIVE JUSTICE</b>
State and Community	
Crime is an act against the State; a violation of law; an abstract idea.	Crime is an act against an individual person and/or the community
Control of crime lies in the criminal justice system	Control lies in the community
Community is peripheral as represented by the State through the court, prosecution and defence attorney	Community as a facilitator in the restorative process
Offender and Victim	
Reliance on justice professionals	Direct participation by the stakeholders
Victims are peripheral to the process	Victims are central to the process of resolving a crime
Focus on establishing guilt and the law violated by looking at the past (Did he/she do it?)	Focus on problem solving regarding liabilities/obligations by looking to the future (What should be done?)
Response to address offender's past	Response to address harmful consequences of offender's behaviour; emphasis on the future
Relationship	
Emphasis on adversarial relationship (win-loss)	Emphasis on dialogue and negotiation (win-win)
Accountability	

Crime is an individual act with individual responsibility	Crime has both individual and social dimensions of responsibility
Offender accountability is defined as taking punishment.	Accountability is defined as assuming responsibility and taking action to repair the harm.
Punishment is effective; threat of punishment deters crime; punishment changes behaviour.	Punishment alone is not effective in changing behaviour and is disruptive to community harmony and good relationships.

## VIII. VICTIMS OF CRIME

### A. Victimology

Victimology is the scientific study of victimization, including the relationships between victims and offenders, the interactions between victims and the criminal justice system – the police, prosecution, court and corrections services – and the connections between victims and the other social groups and institutions. In RJ, no such classification of victimless crime is acceptable, because all crimes have direct or indirect victims and even the offender is also in broad terms considered a victim.

In reality, the issue of victimization is an encompassing issue that involves not just the direct victims, but likewise the indirect victims who have suffered the effect of victimization. The traditional justice system does not recognize the suffering of these indirect victims like the members of the family of the complainant (victim), and the community that are affected.

Restorative efforts shifted the definition of a case from an offender-based focus to victim-focus, and likewise change the nature of the intervention to humanize and transform the means by which community safety, accountability, competency development and healing of victims is achieved. The community, a side stream victim, facilitates the process through participative dialogue, and responds to present and future needs and obligations of stakeholders. In the case of the offender, restorative efforts are directed towards “righting the wrong” committed, and voluntarily understanding harm from the other person’s point of view; recognizing the fact that he or she has choices; taking steps to make changes for the better so that it will not happen again. To a victim, the above are his or her possible expectations and will satisfy his or her craving for truth and justice thereby reducing the chronic and catastrophic stressors that traumatized the victim.

### B. 10 Fundamental Victim’s Rights in the UN Declaration

1. The fundamental rights for victim to be treated with compassion and the dignity of the victim to be respected.
2. The right of the victim to receive information.
3. The right of the victim to provide information to the authorities; that is it allows for the views of the victim to be presented and considered in the course of criminal proceedings.

4. The right of victims to have proper assistance throughout the legal process.
5. The right of victims to protection of privacy and physical safety.
6. The right of victims to participate in any formal dispute resolution (restorative justice was not included in the 1985 UN Declaration).
7. The right of victims to social assistance.
8. The right of victims to restitution by the offender.
9. The right of victims to state compensation.
10. The right of victims that the State should build partnerships between government agencies, NGOs, and civil society to promote victims' rights.

## **IX. STAGES OF RESTORATIVE JUSTICE**

Restorative justice, as a new model of balanced justice, is globally emerging and experiencing remarkable growth of awareness and interest as a newly discovered correctional theme, guiding framework or paradigm shift ultimately focused to promote and encourage active involvement of the three (3) stakeholders in a crime situation, specifically the victim, offender and the community. As an emerging concept, the treatment of crime is future oriented, and it affords the stakeholders a chance to be heard and participate in the making of a better and brighter future by arriving at a solution which promotes repair, reconciliation, reassurance and re-empowerment.

### **A. Investigation Stage**

This starts the introduction of RJ concepts and processes to victims and their family and the community. Probation and Parole Officers get in touch with the victim and the community to listen to the victims' version of the offence, the effect of victimization on their lives, families, future, and plans to overcome the impact of victimization should be given importance in the RJ process. Likewise, obtaining victims' suggestions on how the damage/harm inflicted by the crime could be repaired, and accordingly healed. Soliciting stakeholders' interest for their introduction to the restorative process shall commence during this stage.

### **B. Supervision Stage**

An RJ programme (e.g. payment of civil liability or any RJ outcome as a result of an RJ process during the stage) should be part of the condition of client's conditional release incorporated in his My Personal Development Plan (MPDP) previously called Supervision Treatment Plan (STP).

### **C. Basic Guide for the DOJ–PPA Restorative Justice Practitioner**

- The Parties should be brought within the programme of their own free will. Parties should have the right to seek legal advice before and after the restorative process;

- Before agreeing to participate in the restorative process, the parties should be fully informed of their rights, the nature of the process, and the possible consequences of their decision;
- Neither the victim nor the offender should be induced by unfair means to participate in RJ processes or outcomes;
- Where no agreement can be made between the parties, the case should be withdrawn from the restorative process;
- In the event agreement was reached by the parties, it should be put in writing to give substance/essence to the agreement. The failure to implement any provision of the agreement made in the course of the restorative justice is a basis for the withdrawal of the case from the programme; and
- Discussion and disclosure made during the process shall be treated with strict confidentiality and shall not be disclosed and used against the parties involved.

#### **D. Supervision Process with Restorative Justice Impact**

1. A Probation and Parole Officer individually assigned to handle investigation and supervision caseloads shall act as RJ planner. As such, he/she has the following responsibilities:
  - a. Identifies and recommends to Chief Probation and Parole Officer (CPPO) a potential case for a peacemaking encounter;
  - b. Conducts dialogue to explore together the possibility of the RJ process;
  - c. Coordinates/collaborates with responsible members and leaders of community for their participation in the conference;
  - d. Serve as facilitator of the conference;
  - e. Assists in the healing process of stakeholders based in the STP;
  - f. Prepares case notes reflective of RJ values utilizing the following points:
    - i. Impact of crime and effect of victimization;
    - ii. Victim inputs and involvement opportunities;
    - iii. Offender opportunity to take direct responsibility for the harm.
2. A chief Probation and Parole Officer shall have the following responsibilities:
  - a. The CPPO approves the case for a Peace Encounter Conference and issues office order;

- b. Monitors plans and agreement for implementation achieved during the conference and sets direction to realize success of the process.
3. Volunteer Probation Assistants (VPAs) have the following responsibilities as assigned or designated by the CPPO or OIC:
  - a. Work in close consultation and cooperation with the Supervising Officer in the conduct of the RJ process;
  - b. Keep all information about the supervisee in strict confidentiality;
  - c. Make reports of activities in relation to the RJ process;
  - d. Denote a substantial and quality time for supervision of clients;
  - e. Act as resource individual, as donor, lecturer, speaker, organizer, coordinator, facilitator, mediator and planner for RJ activities;
  - f. VPAs assigned to supervise clients may be deputized to secure a Circle of Support venue, provide refreshments, etc.;
  - g. Endeavour to heal the victim, client and community relationships; and
  - h. Attend RJ activities as may be required.

#### **E. Ground Rules to Ensure Order during the Restorative Justice Process**

1. When somebody is talking, participants are expected to listen and refrain from interrupting.
2. When a participant wants to be heard, he should raise his hand and wait until the mediator/facilitator recognizes him to speak. Likewise, a participant should be advised to remain seated throughout the process and may only stand when acknowledged by the facilitator or mediator.
3. Participants are asked to refrain from saying foul or vulgar statements or making unnecessary comments.
4. Cell phones or any gadgets which may disturb or disrupt the process must be turned off.
5. Sharp or pointed objects and any deadly weapon are not allowed inside the activity room.
6. All matters discussed are to be kept confidential.

#### **F. Four Sequential Objectives**

During and at the conclusion of the restorative sessions, the stakeholders on any RJ process should:

1. Admit the harm inflicted. When crime happens there is damage to the stakeholders (e.g. broken relationships, physical harm etc.). This realization is essential for the offender as he needs to reach that point of accepting the fact that he had caused harm. Thus, it is important for the facts to be discussed carefully.
2. Share and understand the harmful effects of the crime. Sharing feelings about what happened can promote openness to the stakeholders. Personal liberation can be achieved and every incident properly discussed can transcend perspectives. Differences are levelled off as feelings are expressed to one another.
3. Agree on terms of reparation. An agreement entered after undergoing the process of careful dialogue and discussion is an indication of a successful encounter. Steps for total reconciliation with the victims are laid down through the terms stipulated in the agreement of the parties. This also provides re-employment of the stakeholders who were previously degraded by the crime.
4. Understand future behaviour and plan actions. This is carrying out of the plans for “amends”. Renewed behaviour and actions of the offender signify his remorse for the crime committed and that he is working towards righting the wrongs of the past. This ensures that the reforms implemented are genuine.

## **G. DOJ – PPA’s RJ PROCESSES**

### **1. Mediation**

Mediation is also known as VOM (Victim-Offender-Mediation). It is a form of alternative dispute resolution (ADR), a way of resolving disputes between parties with concrete effects. Typically, a third stakeholder, the mediator, assists the parties to negotiate a settlement. The mediator may moderate disputes in a variety of fields, such as commercial, legal, diplomatic, interested victim/s an opportunity to meet the offender in a safe and structured setting, and engage in a mediated discussion of the crime. In mediation for criminal cases, a neutral third party provides a bridge for dialogue between Victim and Offender.

### **2. Conferencing**

Conferencing is a voluntary, structured meeting between offender/s, victim/s and/or both parties’ family and friends, in which they address consequences such as restitution and other outcomes.

- a. Family Conferencing – composed of different members of the family;
- b. Group Conferencing – composed of the victim’s and the offender’s support groups.

### **3. Circle of Support**

Circle of support (COS) is a model of RJ which provides an opportunity for victims, offenders and community to discuss the crime, and its aftermath, particularly its effects on the relationship in the community. It also provides opportunities for stakeholders to participate in its resolution and expects offenders to take steps to repair the harm they have caused. Its ultimate objective is to restore broken relationships among the victims, offenders and community.

Circle of support can be considered as an appropriate RJ Model in the community-based treatment of offenders because of the active involvement of community as represented by the Volunteer Probation Assistants (VPAs) or other members such as but not limited to barangay officials in the process. The success of the Circle of Support lies not only on the skill of the facilitator, but more importantly, on the readiness and openness of parties – (victims, offenders, supporters and community representatives) to come together and to collectively decide on what can be done to repair and restore broken relationships among the stakeholders.

The role of the Probation and Parole Officer is only to facilitate the process. We want the community to eventually own the model and espouse or use any of the other RJ processes as tools in healing broken relationships among its members. With this end in view, the stakeholders will hopefully benefit from the results thus, rendering the community as the strongest pillar of our criminal justice system.

## **X. INDIGENOUS PRACTICES**

### **A. Guidelines and Principles for Indigenous Practices**

#### **1. Guidelines on the Conciliation Practices of Indigenous Tribal Clients of PPA-DOJ**

(Based on the Paper of PPO II Joyce A. Rendon, Region XI)

It is the policy of the PPA-DOJ to:

- Preserve, promote and protect the rights of the PPA tribal clients to cultural integrity and identity and to prescribe mechanisms to protect their customary beliefs;
- Ensure and guarantee the due exercise of rights of the concerned tribal community to reject or allow the intervention, documentation and publication of PPA-DOJ of the indigenous conciliation practice undertaken.

#### **2. Operating Principles of Indigenous Process**

In the implementation of the RJ programme to PPA tribal clients, the following measures shall be adopted:

- Protection of cultural intellectual rights and cultural treasures. PPA-DOJ shall give utmost respect and recognize the religious beliefs, tradition, ceremonies and culture of the concerned community. Any risks or foreseen adverse impacts must be fully disclosed to the concerned community. Thus, measures for the elimination or mitigation of the occurrence of such risks must be given utmost attention.
- Tribal community consent. Prior consent by the concerned tribal community shall be secured before any case referral of the DOJ-PPA may commence. Their voluntary consent should be based on informed opinion which means that they should be fully informed of what the activity is all about, the resources collated and the expected output, among other concerns.
- Culture sensitivity. The cultural peculiarities and specific circumstances of the concerned community shall be respected and given due compensation.

- Participatory. The full anticipation of the tribal community in all levels and stages of the activity shall be required. The nature and dynamics of participation of concerned stakeholders shall strictly adhere to customary laws. The Probation and Parole Officers shall limit themselves only to referral, coordination to the concerned indigenous community, documentation, monitoring to the agreement reached and evaluation of the whole activity.

### 3. Role of the Probation and Parole Officer

- Identification and referral of a potential case for indigenous conciliation practice to CPPO;
- Proper approval of the case referral and issuance of an Office Order;
- Make coordination to the concerned indigenous community;
- Ensure compliance to the concerned indigenous community;
- Facilitate, coordinate and document the whole activity;
- Assist the concerned indigenous community in the crafting and execution of agreements;
- Monitor compliance of the terms and conditions of agreements entered into;
- Prepare case notes reflective of the progress of the indigenous conciliation practice undertaken;
- Coordinate with the National Commission on Indigenous People if necessary.

## **B. Kinds of Indigenous Practices**

### 1. The Ifugao Justice System

(Based from the Article of Prof. Mary Constancy Barrameda)

The Ifugao Justice System can be described as the process by which peace and harmony in the Ifugao community should be preserved and maintained, through a peaceable resolution of a dispute over a wrong or wrongs that threaten an eruption of conflict. This is based on public determination of the truth concerning the alleged wrong or wrongs participated in by the community or its representatives, permitting a collective decision or judgment of guilt or innocence, with appropriate sanctions, compliance of judgment, and rituals for healing and restoration of social fabric.

Vital to this justice system is the Ifugao religion. It is the firm belief that justice is basically the intervention of their God in the vindication of the innocent and the exposure and condemnation of wrongdoing in the breach of peace, and the purging of sin committed in the latter case through repentance by prompt acknowledgement of guilt, atonement through payment of stipulated reparation, and reconciliation with aggrieved parties through healing rituals called *hidit*.

## 2. The Manobo Justice System

When conflict is caused by gossip, the Datu will conduct his investigation. Then, both the identified source and subject of the gossip are summoned to his presence. Based on the merit of his investigation, he would counsel and warn them not to repeat the issue. When both parties agree, he would cover the gong to symbolize an end to the conflict or gossip and will no longer hear the issue. However, if the gossip continues, the offender will be fined or penalized to the Datu's specification. Then, the Datu will say:

- *Tampud Tabahon* – cut a rattan to close the case;
- *Tadto Mata Alaw* – point to the sun and promise not to do it again;
- *Abukkatuso* – turn off the lamp to indicate that the gossip is off;
- *Sagpong Talinga* – cover the ears so that one will not hear;
- *Sagpong Ta Mata* – even if she sees it, she will keep quiet so that there will be no trouble;
- *Sablagan* – the offender will give the offended party food or animals. When she receives the *sablag*, she will not do anything because the fairies had blessed her.

## 3. Manabo-Dulangan Justice System

The Justice System of the Manobo-Dulangan ICCs is called Antang-antang. The common infractions are coveting another man's wife, theft, cattle rustling, homicide, murder and land disputes. These disputes are usually brought to the attention of the Sultan or Datu for resolution.

### **C. Restorative Justice Outcome**

Restorative Outcome is an agreement obtained as a product of a restorative process. Each hallmark of the restorative process – Mediation, Conferencing, Circle of Support and other indigenous ways of setting disputes – ends with an agreement on how the offender will make amends for the harm caused by the crime. The two traditional justice sanctions used in a restorative response to crime are Restitution and Community Work Services.

#### 1. Restitution

Restitution is the payment by an offender of a sum of money to compensate the victim for the financial losses caused by the crime.

#### 2. Community Work Service

As an integral component of Restorative Justice, Community Work Service (CWS) imposed upon an offender whether as a probation or parole condition or part of the treatment plan. In a way, work service in the community as an intervention if properly implemented will connect the missing link between the offender struggling to reintegrate himself and the community disturbed by the effect of the offender's behaviour necessary to make the treatment therapy a workable intervention, and not just to restrain offender's movement, or merely an added compliance with imposed conditions, thereby defeating its real purpose.

*a. Definition of Community Work Service*

Community work service (CWS) is a work performed by the offender without compensation for the benefit of the community as an outcome of an RJ process reached on a restorative agreement among stakeholders. CWS is:

- A free public labour performed by a criminal offender as a sanction for an offence for the benefit for the benefit of the community.
- Its essence is to present a meaningful lesson for the offender-client to realize that crime he has committed has a public repercussion, and therefore on his part incurred restorative obligation to settle.
- As a restorative practice, it should be included either as a condition of his release on individualized community-based programme or incorporated in the My Personal Development Plan (MPDP)

*b. Goals of Community Work Service*

- Holds offender accountable for the harm caused to the community.
- Provide communities with human resources that can improve the quality of life in public environment, business and even individual residences.
- Helps offender develop new skills through supervised work activities.
- Allows victim a voice and occasionally some direct benefit by recommending the type of community work service.
- It has three aims: Accountability on the part of the offender; Competency development; and Community Protection or safety.

*c. Forms of Community Work Service*

- Mentoring and Integrational Service – Offenders will develop their maturing needs through caring for other people; example: with senior citizens, orphanage or street children.
- Economic Development – to link directly in a business project; examples: cleaning downtown area, tree planting, maintenance of business zones, housing restoration, garbage and waste management, cleaning of esteros, recycling, construction, repair of streets, and the like.
- Citizenship and Civic Participation – experiential activities which involve solving community problems; examples puppet shows that showcase values, street dramas, peer-counselling.
- Helping the Disadvantaged – This will enhance offender's self-esteem; examples: assist handicapped, assist in soup kitchen, tutor peers, visit the aged in jails and hospitals.

- Crime prevention Projects – Examples: “barangay ronda”, giving testimony to the youth.

*d. Coverage*

For Probationers: All, except when:

- The community does not accept them;
- Due to ill health that may hinder performing CWS;
- If working or staying outside the country with proper authority;
- Other work/job which may not give probationers time for CWS;
- All at the discretion of the supervising officer.

For Parolees/Pardonees: All, provided they will not pose danger to the community.

*e. Time frame*

Serving client should be granted time to adjust to life which is not more than six (6) months before doing CWS. Its duration should depend on the length of the project, needs of the offender and the community within the RJ framework.

Probation / Surveillance Period	Length of CWS
6 years but not less than 5 years	144 hours or 6 hours/week
Not more than 5 years but not less than 4 years	120 hours
Not more than 4 years but not less than 3 years	96 hours
Not more than 3 years but not less than 2 years	72 hours
Not more than 2 years but not less than 1 year	28 hours
Less than 1 year	24 hours

*f. Procedural Implementation*

1. Such community work shall be recommended as one of the conditions on the case of probation and/or included in the My Personal Development Plan (MPDP), specifying the number of hours of community work to be rendered by the offender, the type of work service, and possibly the place and the contact person in the community. A successful community work service programme basically requires a true public-private partnership. All these may be done in coordination with local government units, other government offices, civic and religious organizations and other significant community support and healing circles.
2. During initial supervision, the client offender shall execute an undertaking duly subscribed before the Chief Probation and Parole Officer (CPPO) that he/she is willing to render community work service in compliance with the conditions of his/her probation or My Personal Development Plan (MPDP).
3. The undertaking shall be in triplicate distributed as follows: 1) Supervision Case Folder, 2) Responsible persons or office giving community work to client, 3) Client.

4. After completion of Community Work Service, the offender shall secure a Certification that he/she performed work service in a particular community, indicating therein the type or kind of work performed, the number of work hours rendered, and the date when community service is done.
5. Such Certification obtained by the client shall be surrendered to the PPA Office to be filed in his folder.
6. Compliance of this condition on Community Work Service shall be indicated in the Final or Summary Report submitted by his/her Supervising Officer to the court or Board of Pardons and Parole.

*g. CWS Indicators of Success*

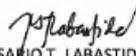
1. Must have satisfactorily completed the prescribed number of hours of community work service;
2. Presence of established community linkage and work resources;
3. Has gained a certain degree of recognition and/or benefited the community;
4. Has maintained a favourable relationship with his/her community worker and the community;
5. Gained positive attitude towards work and sense of satisfaction for his voluntary service; and
6. Gained or enhanced competency in a specific area of work.

**RESTORATIVE JUSTICE PROGRAM**

YEAR	NO. OF CLIENTS INVOLVED IN RJ PROCESS				RJ OUTCOME/ CIVIL LIABILITIES		
	MEDIATION	CONFERENCING	CIRCLE OF SUPPORT	OTHERS	Number of clients involved in community service activities	Number of clients with CL	Total amount of CL Paid
2010	173	302	31		1,381	1,186	25,324,050.63
2011	284	1,104	45		2,246	1,285	6,741,846.47
2012	434	797	96		10,548	1,115	11,201,548.65
2013	478	881	193		6,198	439	5,649,443.29
2014	476	2,086	212		3,401	390	7,207,509
2015	1,281	7,086	576	50	11,811	1,947	14,514,697.71
2016	616	7,360	786	700	10,020	352	18,571,379.27
2017	1572	35,915	2623	929	22,370	371	28,468,640.52
2018	3495	28174	3,762	1381	22,424	24,567	23,790,768.78
2019 (3rd Qtr.)	4379	35,065	6,366	1769	30,469	11,927	132,342,721.87

Restorative Justice Program  
alo12/19/2019

*JM/19*

  
 Submitted by: ROSARIO T. LABASTIDA  
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