



International Tropical Marine Ecosystems Management Symposium 3

Global Problems, Local Solutions

Enforcement and Investigation Theme

Abstracts for session 2: Creating Enforceable Regulations

CREATING ENFORCEABLE REGULATIONS

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The 33,200-hectare TRNMP is the only offshore MPA in the Philippines. It lies in the middle of the Sulu Sea and is composed of two uninhabited atolls. Tubbataha is believed to be a source of fish and coral larvae enriching fisheries in the greater Sulu Sea. The Park is managed under a no-take policy by the multi-sectoral Tubbataha Protected Area management Board (TPAMB). It is guarded year-round by a composite team of equipped marine park rangers housed in a station located centrally in the Park. National regulations for protected areas are specified under the National Integrated Protected Area System Act (NIPAS) of 1972. Additional regulations specific to Tubbataha are formulated by the TPAMB. Information and education activities and stakeholder consultations are regularly conducted to gather the views of stakeholders, respond to their concerns and issues, and inspire support for conservation. When these fail to deter violations, regulations are backed up by a competent corps of enforcers with adequate equipment and high morale who conduct arrests and take prompt legal action. However, the alacrity of field personnel is unmatched by the prosecution of cases. Prosecution is a protracted process because of the lack of public prosecutors. Penalties for violations in MPAs are generally lax and judges appreciative of the value of MPAs are uncommon. There is a need to increase the number of prosecutors, intensify penalties for violations in MPAs, and an even more pressing need of increasing the understanding and appreciation of judges for marine ecology.

THREE CASES OF CORAL REEF DESTRUCTION AND INVESTIGATION IN THE PHILIPPINES

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Under Philippine laws it is unlawful to gather, possess, sell or export ordinary precious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes. The violator will be liable for criminal, administrative and civil damages.

The Philippine Fisheries Code of 1998 and Fisheries Administrative Order 202 of 2002 provide the ceilings for criminal and administrative penalties but the Revised Penal Code provides wider latitude to exact economic sanctions on the violator depending on the extent of the damaged coral reef. This civil liability arising from a system that establishes the cost of the damaged resource is high on the agenda of academic discussions but rarely find its way to public policy discussions.

There are different formulas prescribed by known experts for estimating the cost of damaged coral reefs but the absence of a government-imposed national standard exposes these formulas to arbitrary use of individual experts. Findings by these experts are rarely checked or contested by another expert, if at all there are efforts to validate them.

This paper describes three cases of coral reef destruction and investigation in the Philippines. The first case is the accidental grounding of M/V Malindo II in 2004 in Busuanga; the accidental grounding of M/V Rainbow Warrior in Tubbataha Marine Park in 2005 and the gathering of corals in Sangat Marine Park in 2006, all in the western Philippine province of Palawan.

Though it describes the causes of the damage to the reef area, the extent and estimated cost of the damage, the valuation formula used, the profile of valuers and the sanctions imposed, it highlights the manner by which the investigations were conducted.

The paper also includes discussions on the detection and reporting conditions in the country and recommends the: installation of a national reporting system; the establishment of transparent quick response investigation mechanism; standardization of valuation system; the accreditation of accountable government and independent valuation experts and a proposed scientific disposal system. Amendment to existing Philippine laws will also be discussed.

THE STRATEGIC APPROACH TO COMPLIANCE IN THE GREAT BARRIER REEF MARINE PARK

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The Great Barrier Reef Marine Park is managed and protected through zoning plans and regulations. A network of 164 highly protected, no take, areas together cover 115,240 square kilometres. In addition, fishing is also regulated in zones that comprise twice that area. A high level of compliance with zoning provisions is crucial for them to be effective in their goal protecting the biodiversity and ecology of the Marine Park. Regulation of waste discharge, shipping activities, tourism and recreation use and other activities further helps manage impacts on fragile environments. High use and remote areas each present unique challenges to compliance management.

There are those who seek to exploit the significant gains available from illegal activity, particularly in taking some of the high value species in protected areas.

Recognising that resources to undertake compliance will always be limited, the Great Barrier Reef Marine Park Authority has developed a successful strategic approach. Consideration of compliance issues began very early in the design and development of new zoning plans and regulations. Well-developed risk assessments target surveillance and enforcement resources at the areas, times and sources of greatest ecological threat. Increasing use of intelligence and multi-agency cooperation has improved surveillance and helped implement successful enforcement operations. Quality control of investigation processes, effective prosecution and significantly higher penalties have further increased deterrence of illegal activity.