

Border controls as emergency measure against COVID-19: How can conflicts in the region be eased?

Crisante Gemeniano Jr., EnP, MBA

JD Law, Ateneo de Davao University

Abstract

This paper looks into the disaster-conflict dynamics arising from the imposition of emergency measures in the Caraga Region against COVID-19. Specifically, it studies the relationship between disaster and conflict arising from the imposition of tightened regional border controls through lockdown between April-October 2020, as a means to prevent and contain the spread of the virus. This undertaking is unique in terms of its contribution to the existing literature on the legal aspects of disaster management, considering that the emergence of COVID-19 is a novel phenomenon not just in Caraga Region's context but on the national level as well.

The analysis on subject, regional border controls is grounded on the inherent police power of local governments to implement actions essential to the promotion of general welfare, as contemplated in Section 16 of the Local Government Code of 1992 (Republic Act No. 7160). This study then largely employs the grievances-opportunities-feasibility model used by Harris et al. (2013) in identifying and understanding the development of conflict in disaster contexts. It applies the said framework to Caraga's case to ascertain the nature of the conflicts that arose in the imposition of tightened regional border controls against COVID-19, and determine potential means as to how these conflicts can be eased in the event that similar disasters arise in the future.

Results of the study indicate that the implementation of said border controls as a means to contain the spread of COVID-19 in the region gave rise to conflicts, largely through the development of grievances on the part of negatively affected parties. Among others, the study recommends that in consideration of future disasters or pandemics, policymakers may need to consider deliberately establishing accessible channels where critical information may be conveyed to the public, and venues where conflicts resulting from grievances may be properly handled and addressed.

Keywords: COVID-19, Border Control, Local Governance, Pandemic Response

1. Introduction

Overview on borders

A border is a real or artificial line that separates geographic areas. Borders are political boundaries. They separate countries, states, provinces, counties, cities, and towns. A border outlines the area that a particular governing body controls. The government of a region can only create and enforce laws within its borders (Border, 2020).

Governments implement and protect their borders for several reasons. According to the Department of Homeland Security, the agency mandated to protect the United States' border integrity, cites that protecting borders is essential to security, economic prosperity, and national sovereignty (Border Security, 2020). In several international contexts, borders keep aliens from entering or citizens from leaving a country. For instance, countries such as North Korea, Myanmar, and Cuba rarely allow their residents to cross their borders.

Among others, borders also serve to protect resources. They provide the mechanism to allow entry into a certain jurisdiction particular specific goods and people who provide services that are either beneficial, not inimical, and lawful to the interests of those in the receiving area. Taking into account that there are three methods of entering a particular area, by land, sea, or air, and considering the number of people, vehicles and cargo entering the same, one will see the magnitude of the task of maintaining borders (Coleman, 2005).

Borders bring with them certain natural implications in times of disasters and calamities. In cases involving multiple countries, the Asia-Pacific Disaster Report 2015 released by the United Nations Economic and Social Commission for Asia and the Pacific

(UNESCAP) acknowledges that the impact of natural disasters often extends beyond the boundaries of a single country. This is explained further by McLean and Bas (2020) by citing that natural disasters such as cyclones, droughts, earthquakes, floods, landslides, volcanoes, or pandemics routinely have cross-border implications.

They further said that disasters with seemingly localized impacts contained within the borders of a given state may have indirect short-term or long-term effects on other countries through refugee flows, conflict spillovers, volatility of global commodity prices, disruption of trade relations, financial flows, or global supply chains (Conflict and Cooperation, 2020). Consequently, borders have the natural tendency to set conflicts into motion, or exacerbate existing ones, as people and movement flows are severely affected in times of disasters.

Conflict in general

Different groups of people often come into conflict when a problem cannot be solved, when values clash, or when there is ambiguity over ownership of land and resources. In their study on the effect of disasters on conflict, Harris et al. (2013) analyzed the various literature on the complex relationship between the two concepts. Aside from presenting that a significantly large majority of studies suggest that natural disasters ignite or exacerbate conflict, the study also concluded that conflict arises or is intensified in times of disaster due to the interplay of these three factors: grievances, economic opportunities, feasibility.

Under Harris et al.'s framework, grievances arise as resources become scarce, or imbalances between areas of scarcity and abundance become more pronounced. Meanwhile, disasters can also affect the distribution of economic resources, encourage the

appropriation of resources by some groups, and present opportunities for criminal activities which can lead to violence. Lastly, disasters may make insurrection easier by weakening or distracting the government apparatus or strengthening the legitimacy of rebel groups more feasible.

Not surprisingly, the Harris et al. study cited that the impact natural disasters have on conflict and stability can depend on the way a government responds to it.

Use of borders in the time of COVID-19

The onslaught of the Coronavirus disease 2019 (COVID-19) prompted governments to use borders as their means to control the spread of the virus. No less than United Nations Secretary General António Guterres highlighted in his speech on March 2, 2020 that states have closed their borders in order to suppress the destructive effects of the pandemic. Relatedly, the United Nations Commission on Human Rights called out to governments that while they have tightened controls at their borders in an effort to contain the spread of COVID-19, it is critical that such measures be implemented in a non-discriminatory manner, in line with international law, and prioritizing the protection of the most vulnerable (UN Commission on Human Rights, 2020).

In response to President Rodrigo R. Duterte's release of Proclamation No. 922, S. 2020, dated 08 March 2020, entitled "Declaring a State of Public Health Emergency Throughout the Philippines" and Proclamation No. 929, S. 2020, dated 17 March 2020, entitled "Declaring a State of Calamity Throughout the Philippines Due to Corona Virus Disease 2019", regional bodies in Caraga responded thereto through various means such as the establishment of border controls, among others. The said controls were contemplated to complement the general and enhanced

community quarantines (G/ECQ) implemented by the local government units (LGUs) in the region.

Recognizing that regional boundaries, being the primary regional entry and exit points, are the first line of geographical defenses against the threat of COVID-19, the Caraga Regional Task Force for COVID-19 One Caraga Shield (RTF-COCS)¹ issued the following resolutions:

1. Resolution No. 03, S. 2020, dated 25 March 2020, entitled "A Resolution Strengthening Caraga's Entrance and Exit Points Against Covid-19 through the Set-Up of Regional Boundary Checkpoints and Establishing Funds from the Local Government Units (LGUs) for the Implementation Thereof";
2. Resolution No. 08, S. 2020, dated 01 April 2020, entitled "A Resolution Establishing Total Lockdown Along the Regional Borders of Caraga Region While Maintaining Modified Community Quarantine Within the Region Effective Immediately"; and
3. Resolution No. 22, Series of 2020, "A Resolution Implementing General Community Quarantine (GCQ) Within Caraga Region, Lockdown Along its Regional Borders, While Extending the Enhanced Community Quarantine (ECQ) in Butuan City for the Period May 1 to 15, 2020."

¹ In a meeting held last March 25, 2020, by virtue of Resolution No. 01, S. 2020, "A Resolution Creating the Regional Task Force Corona Virus Disease 2019 (COVID-19) to be Known as 'One Caraga Shield' and Instituting its Membership and Functions Thereof", the Caraga Regional Development Council (RDC), Regional Peace and Order Council (RPOC) and the Regional Disaster Risk Reduction and Management Council (RDRRMC), as represented by their respective Chairpersons and key principal members, agreed to create the RTF-COCS to implement a region-wide, unified effort across LGUs against COVID-19.

The general intent of the abovementioned resolutions, the last two in particular, was to protect the Caraga Region from high-risk neighboring regions which have already recorded positive cases by the hundreds. At the time the said resolutions were passed, the region then registered zero confirmed cases of COVID-19. Notwithstanding, the said issuances considered the then prevailing Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF) resolutions which classified certain categories of people, goods, and services into basic and essential, and thus should be allowed for movement across Caraga.

In effect, the rise of the COVID-19 pandemic prompted the region to place its borders on lockdown as a means for safety and precaution.

2. Statement of the problem

With the COVID-19 pandemic being novel in nature, the Caraga Region implemented various emergency responses in place. The list below enumerates the various methods through which the region countered the adverse effects of the health crisis, among others:

1. Implementation of general and modified community quarantines (G/MECQ) by LGUs;
2. Reduction or outright suspension in the operations of certain establishments;
3. Cancellation and suspension of various land, sea, and air transportation;
4. Restrictions in the movements of people related to their regular outdoor and work-related activities;

5. Cancellation of scheduled tourism-supported celebrations and related activities;
6. Establishment of minimum safety and health protocols;
7. Institutionalization of alternative work-from-home arrangements;
8. Implementation of the Social Amelioration Program (SAP) by the DSWD; and
9. Establishment of regional boundary checkpoints and tightening of the same.

Considering the region's putting in place various emergency measures to respond to the challenges brought about by COVID-19, this paper focuses on the tightening of Caraga Region's borders via lockdown from April 2020 until October 2020 as a means to prevent the spread of COVID-19. In particular, this paper attempts to shed light on the following questions:

1. Was the establishment of regional border controls and the tightening relative thereto a valid exercise of police power?
2. What were the nature of the conflicts that arose and how did they emerge?
3. How can these conflicts be eased in the event of future disasters?

The paper, in the course of answering these questions, also intends to classify the reported conflicts arising from the said regional border lockdown according to their attributes, and identify policy implications in preparation for future disasters.

The above-listed questions that this paper intends to answer are significant in that they will form part of literature in responding to potential conflicts arising from local disasters. According to the International Institute of Social Studies under the Erasmus University in Rotterdam, responses to disasters have changed considerably in recent decades. The same has moved away from reactive responses to disasters and towards more proactive attention to risk reduction². In doing so, this paper ambitions to contribute to existing literature in building the region's resilience against disasters.

Furthermore, this paper aims to add unique value to the existing written work on the legal aspects of disaster management. The emergence of COVID-19 pandemic is a unique and novel phenomenon in the Caraga Region's context. At present, there is a plethora of references for the region when it comes to crises resulting from typhoons, earthquakes, landslides but there is a remarkable scarcity of the same when it comes to pandemic or outbreaks.

To accomplish the above tasks, the paper adopts the all-inclusive definition of "disaster" as articulated by the International Federation of Red Cross and Red Crescent Societies (2020), such as: "A disaster is a sudden, calamitous event that seriously disrupts the functioning of a community or society and causes human, material, and economic or environmental losses that exceed the community's or society's ability to cope using its own resources."

3. Theoretical and Conceptual Framework

² International Institute of Social Studies (2020). *When disaster meets conflict*. Erasmus University (Rotterdam). Retrieved on 02 November 2020 from <https://www.iss.nl/en/research/research-projects/when-disaster-meets-conflict>.

The descriptive and qualitative approach employed to analyze the conflict dynamics arising from the region's establishment of regional border controls and its subsequent tightening largely relies on the integration of the following legal and research frameworks:

Legal framework

Section 13 of Article X in the 1987 Constitution provides that LGUs may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them in accordance with law. Relating such provision to the case at hand, the LGUs in the region as represented by their respective Provincial Governors and the Mayor of the Highly Urbanized City (HUC) of Butuan unanimously agreed that there was an urgent need to intensify measures to effectively safeguard the health and safety of Caraganons against COVID-19. At the time, the same was to be achieved by means of controlling the ingress and egress of both people and goods at the regional boundaries, through the set-up of border controls (i.e., checkpoints). In principle, the LGUs in the region saw the benefit of consolidating and coordinating their efforts to halt the potential spread of the virus right at their doorstep.

Accordingly, the said LCEs also invoked the General Welfare Clause enshrined in the Republic Act No. 7160 or the Local Government Code of 1991 to justify the actions taken by the RTF-COCS on the region's borders, to wit:

Section 16. General Welfare. – Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to

the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants. (Emphasis by the author)

Taking altogether the constitutional and statutory provisions above, Caraga Region's implementation of tightened border controls through the agreement by and between the Provincial Governors and the Butuan City Mayor in order to promote the health and safety of Caraganons during the COVID-19 crisis is well within the autonomy of LGUs envisaged by the 1987 Constitution and RA 7160.

In view of the foregoing, it may be asserted that the said LGUs were exercising their police power as municipal corporations. In the case of *United States vs. Salaveria* (G.R. No. 13678, 12 November 1918), it was cited that not only does the State achieve its purposes through the exercise of the police power, but the municipality does the same. Like the State, the police power of a municipal corporation extends to all matters affecting the peace, order, health, morals, convenience, comfort, and safety of its citizens - the best and highest interests of the municipality.

Meanwhile, Richards and Rathbun (1999) discussed in their seminal paper the role of police power in attaining the desired outcomes in 21st century public health. They argued that the bargain that makes public health possible is that an individual must give up some personal freedom in exchange for the benefits of being in a civilized society. They also pointed out that for a disease control program that includes personal restrictions to survive a legal challenge, it must meet the following standards:

1. Address a real problem that poses a direct threat to third parties;
2. Develop a scientific control strategy;
3. Implement that strategy in the most effective way, with the least restrictions consistent with the resources available;
4. Evaluate the program periodically to show that it is working; and
5. Phase out the program when it is no longer epidemiologically sound.

Indeed, even the 1987 Constitution acknowledges that there are certain rights that may be derogated in the rightful exercise of police power. One of these is the right to travel which had been largely impinged by the region's set-up of tightened border controls³. Section 6 of Article III provides that "xxx Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law."

Research framework

³ Upon the implementation of the regional border lockdown, the region adopted the Philippine National Police's (PNP) list of authorized persons outside of residence (APOR), released on 17 April 2020, in identifying individuals who may be allowed to travel during the quarantine period.

According to a study conducted by the United Nations Development Programme (UNDP) in 2011, disasters and conflicts do not follow a simple logic of “disaster X leads to conflict Y” or vice versa. Each interface is a complex phenomenon in its own right and may present several different and potentially contradictory relationships between conflict and disasters. Furthermore, the case studies which the said UNDP paper assessed have shown that in specific contexts, disasters and conflicts were linked through common causes including poor governance, environmental mismanagement, migration/displacement and disaster/conflict-blind crisis responses (UN Development Programme, 2011).

Nevertheless, there is widely available literature linking disasters as a precursor of conflict. Peters et. al (2019) cited that generally, disasters have been found to increase the risk of civil conflict in the short and medium term in low- and middle-income countries. Xu et. al (2016) agrees to this observation by remarking that indirectly, disasters can result in social grievances and resource scarcities which can trigger social conflicts.

Border closures and travel restrictions were among the first measures most governments took to suppress the ill effects of the CoVID-19 pandemic. Within those borders, governments have introduced radical and sometimes costly measures to halt the spread of the virus, shutting down their economies, closing many areas of public life, and limiting domestic mobility (Rosert, 2020). In view of this, the region’s response by locking down its borders was in pace with those developments at the global stage.

In a study conducted by Wood et. al (2007), they investigated the capacity of internal border control to limit influenza spread in an emergent pandemic in the context of Australia. In particular, their study looked into simulating the effect of restrictions on internal travel, overseas travel, and economic imports to the spread

of influenza. Their results revealed that if combined with restrictions on overseas travel, restrictions on internal travel may have a role in pandemic control, even for major centers. However, the economic impact of restrictions in major centers could be enormous, with severe consequences for service and travel industries. As such, Woods et al. recommended that for policymaking purposes, the situation in which said restrictions might be most applicable for extended use is in the protection of small, relatively isolated centers. Interestingly, the interventions described in the study were very similar to those deployed in the Caraga Region throughout the duration of border lockdown only that the same were implemented over a large, contiguous area instead of small, relatively isolated areas.

Potential conflicts may also be creatively circumvented amidst the imposition of border lockdowns. In a case study featured by the Centers for Disease Control and Prevention, Namibia helped manage the potential conflict with its neighboring country Angola arising from the non-delivery of HIV medicines into the latter as a result of the former's border lockdown. Namibia, like many other countries, closed its borders to help prevent the spread of COVID-19 into communities. This caused many challenges, including preventing people with HIV in Angola from getting the care and treatment they would have usually accessed in Namibia. Healthcare teams in the regions bordering Angola quickly came up with a solution: to work with officials from the Ministry of Safety and Security at border posts to move medicines to the borders when patients could not get through. As a result, healthcare workers from the nearby clinics have been regularly visiting the official border crossing points and other newly established temporary sites. With the help of the police officers at the post, they collect the health passports from the Angolan patients and provide the necessary medicines (Centers for Disease Control and Prevention, 2020).

In 2013, Harris et al. (2013) looked into the risks associated with the nexus of natural disasters and conflict, among others. Their study found out that the weighing of available evidence suggests that natural disasters instigate or exacerbate pre-existing conflicts. In particular, the presence of the following factors, namely *grievances*, *economic opportunities*, and *feasibility*⁴, give rise or aggravate potential conflicts in an area in the following

Grievances can be deepened by natural disasters that increase resource scarcity or cause more acute imbalances between areas of scarcity and abundance. Grievances can also increase with the unequal distribution of ex-post humanitarian aid or ex-ante preventative/protective measures by governments or other agencies. Weak government responses to natural disasters can also contribute to conflict.

The disruption caused by natural disasters can present economic opportunities for criminal activity, while their impact on livelihoods can lead individuals to join armed groups. In some cases, though, good access to reconstruction aid can increase the opportunity cost of conflict.

The feasibility of conflict can also be changed by natural disasters, either by strengthening or weakening one side in a conflict directly or through the appropriation of aid. For instance, disasters may make insurrection easier by weakening or distracting the government's efforts or strengthening the legitimacy of rebel groups.

Taking into account the said factors for the purposes of policy making, Harris et al. assert that interventions aimed at reducing

⁴The said study also finds that political opportunities for engaging in conflict can arise when disasters create a smokescreen for advancing political or military objectives (such as increasing military spending, deploying troops to sensitive areas, or manipulating aid to some groups over others).

natural disaster risk can have positive or negative effects on the dynamics of conflict. Conversely, interventions aimed at preventing conflict can have positive or negative effects on the likelihood and impact of natural disasters. The ideal scenario, therefore, is to have interventions that reduce the likelihood of natural disasters and conflict.

4. Research Paradigm

This paper considers the following frameworks in order to obtain answers to the questions identified in the study:

Police Power

Of the three fundamental powers of the State, the exercise of police power has been characterized as the most essential, insistent, and the least limitable of powers, extending as it does to all the great public needs. It may be exercised as long as the activity or the property sought to be regulated has some relevance to public welfare⁵.

Nevertheless, as cited in *National Development Company vs. Philippine Veterans Bank* (G.R. Nos. 84132-33, 10 December 1990) and *Planters Products, Inc. vs. Fertiphil Corporation* (G.R. No. 166006, 14 March 2008), police power must be exercised within the limits set by the Constitution, which requires the concurrence of a lawful subject and a lawful method. Thus, our courts have laid down the test to determine the validity of a police measure as follows: (1) the interests of the public in general, as distinguished from those of a particular class, requires its exercise; and (2) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.

⁵ Cruz, I. (2007). *Constitutional Law*. Central Lawbook Publishers.

For the purposes of this study, this paper employs the above criteria in determining whether actions of local government units are a valid exercise of police power.

Disaster-Conflict Dynamics

In order to sift through the disaster-conflict dynamics at play upon the implementation and the tightening of the region's border controls amidst the health crisis, this paper largely undertakes the grievances-opportunities-feasibility model used by Harris et al. (2013) in identifying and understanding the development of conflict in disaster contexts. In their model, they assert that grievances, opportunities, and feasibility are the three main drivers of conflict during times of disasters. Furthermore, disasters may have a significant impact

on each of these possible causes of conflict, which in turn may encourage further conflict or peace.

Grievances are widely seen as contributing to conflict. Relevant grievances may be economic inequalities or inequalities in access to political power. Grievances may be fueled by government actions and inactions – exploitation, neglect, corruption and so on. Grievances may exist among state and non-state actors.

Meanwhile, opportunities include both economic and political opportunities. Disasters can affect the distribution of economic resources, encourage the appropriation of resources by some groups, and present opportunities for criminal activities which can lead to violence. Similarly, a disaster, and the response relative thereto can create political opportunities which may lead to increased conflict.

Feasibility centers on the ability of various groups to conduct violence. For example, where a central government and its security forces are relatively weak, the feasibility of rebellion is likely to be greater. Nevertheless, among the three drivers of conflict in disaster contexts, feasibility provides the most ambiguous outcomes. Insurgents and governments can use natural disasters to strengthen their own position and this can lead to an escalation of violence or to its diminution and cessation. For example, natural disasters can speed up or slow down a war depending on the overarching trajectory of conflict. If rebels are losing and are further weakened by a natural disaster, then the war is likely to be shortened (Enia, 2008).

Statement of Hypotheses

Considering the foregoing frameworks on police power and disaster conflict dynamics, this paper then assumes the following hypotheses:

1. The establishment of regional border controls and the tightening relative thereto is a valid exercise of police power.
2. In the implementation of the said border controls as an exercise of police power, conflicts emerged in the form of grievances experienced by those negatively affected by the said controls.
3. In the event of future disasters, conflicts may be eased by providing mechanisms to address those grievances.

5. Research Methodology

This paper undertakes a deductive and qualitative approach in analyzing cross-sectional information arising from the implementation of tightened border controls in the Caraga Region during the height of the COVID-19 threat.

Data analyzed in the study were retrieved from the records of the Regional Task Force for COVID-19 One Caraga Shield (RTF-COCS) between April-October 2020, the period during which the said regional border controls were made effective⁶. The RTF-COCS, being the highest policy-making body in the region with regard to responding to the pandemic⁷, is ultimately responsible for resolving issues and concerns arising from regional measures formulated against COVID-19. Its Secretariat is responsible for providing information to the RTF-COCS. Included in the said information are the specific concerns and issues arising from the decisions handed down by the said Task Force for region n-wide implementation, among which is the set-up of the subject region-wide border controls.

Data obtained from the RTF-COCS records⁸ were then evaluated and examined based on the attributes of the issues and concerns reported by various stakeholders in the region. The study intentionally focused on written records to ensure traceability and authenticity of the reported issues and concerns. Nevertheless, the study also consciously adopted an all-inclusive approach in terms

⁶ The author is part of the RTF-COCS Secretariat which allowed him access to critical information for purposes of preparing this paper.

⁷ The RTF-COCS currently acts as the regional counterpart of the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-MEID). The RTF-COCS was created on 25 March 2020 by the Caraga Regional Development Council (RDC), Caraga Regional Peace and Order Council (RPOC) and Caraga Regional Disaster Risk Reduction and Management Council (RDRRMC) to develop a region-wide and unified approach in combating the threat of COVID-19 in the region.

⁸ Among others, RTF-COCS records analyzed included the original written complaints from the general public which were received by the Secretariat, agreements reached during the RTF-COCS meetings conducted, and resolutions passed by the RTF-COCS.

of permitting different sources of said issues and concerns not only to obtain an acceptable number of samples for purposes of analysis but also to facilitate a comprehensive capture of recurring themes among the identified conflicts. For instance, the study did not only consider written complaints against the subject border restrictions which were generated from the private sector but also included in its analysis those raised by national government agencies (NGAs).

To determine the manifestation of conflict in the issues and concerns reported to the RTF-COCS Secretariat, the grievances-opportunities-feasibility model by Harris et al. (2013) was used. Specifically, conflict is deemed to be present if any of the following criteria were satisfied, viz:

1. Whether the reported issue or concern describes the presence of scarcity or restriction of access to particular resources (grievance);
2. Whether the reported issue or concern describes shifts in the distribution of economic resources thereby favoring certain groups over others (opportunity); and
3. Whether the reported issue or concern refers to “weakened state capacity and legitimacy, creating opportunities for the disgruntled to engage in violent resistance” (feasibility).

Using the forecited criteria, the conflicts deemed present were subsequently grouped according to their triggers (i.e., grievance, opportunity, and feasibility). Analysis was then performed to establish the presence of recurring themes across conflicts reported within the same group. The said process was developed to capture more meaningful insights as to how the implementation of region-wide borders triggered a particular type of conflict, if any,

which shall then be the basis of identifying recommendations and policy implications under this study.

Meanwhile, the resolution on whether the subject border measures were a valid exercise of police power was facilitated through referencing existing Philippine jurisprudence on police power. In particular, the criteria from said jurisprudence was used to examine whether the region's tightened border controls may be justified as a solid exercise of police power. To further enrich the said analysis, standards cited by Richards and Rathbun (1999) were adopted to conclude whether the subject border measures would remain tenable if the same were examined and thereby survive a legal challenge.

6. Results and Discussion

Border controls as a valid exercise of police power

In order to determine whether the tightening of the region's borders was a valid exercise of police power, analysis was conducted through the following tests:

1. Whether the said measure qualifies as a valid exercise of police power under existing Philippine jurisprudence;
2. Whether the said measure can survive a legal challenge; and
3. Whether the said measure falls within the ambit of the General Welfare Clause (Section 16) of the Local Government Code of 1991.

As cited in *National Development Company vs. Philippine Veterans Bank* (G.R. Nos. 84132-33, 10 December 1990) and *Planters*

Products, Inc. vs. Fertiphil Corporation (G.R. No. 166006, 14 March 2008), the constitutional exercise of police power requires the concurrence of a lawful subject and a lawful method. For a police measure to be valid, it must meet these two requirements: (1) the interests of the public in general, as distinguished from those of a particular class, requires its exercise; and (2) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals. Furthermore, as settled in *United States vs. Salaveria* (G.R. No. 13678, 12 November 1918), municipal corporations as in the case of LGUs are accorded with authority to exercise police power.

In the case at bar, the Provincial Governors and the Mayor of the Highly Urbanized City (HUC) of Butuan unanimously agreed on 01 April 2020 that there was an urgent need to protect the region from its high-risk neighbors. At the time, Central Visayas, Northern Mindanao, and Davao Regions already recorded positive COVID-19 cases in hundreds while Caraga registered zero. Furthermore, the region then had no existing facilities capable of detecting, isolating, and treating confirmed COVID-19 cases. Considering the region's proximity to these aforesaid areas and limitations in its own medical capacities, these LCEs deemed that border protection was the first practical line of defense against the threat of the virus. Thus, the RTF-COCS issued Resolutions Nos. 08⁹ and 22¹⁰ Series of 2020, both of which reflected the decision of the LCEs to use tightened border controls as an emergency measure against COVID-19.

A detailed review of the said RTF-COCS resolutions show that the above border policy intended to discriminate between three major groups: (1) Caraganons within the borders of the region

⁹ A Resolution Approving the Harmonized Guidelines for the Lockdown of Regional Borders of Caraga Region Under General Community Quarantine.

¹⁰ A Resolution Implementing General Community Quarantine (GCQ) Within Caraga Region, Lockdown Along its Regional Borders, While Extending the Enhanced Community Quarantine (ECQ) in Butuan City for the Period May 1 to 15, 2020

during the height of the health crisis, (2) Caraganons located outside the region who wish to return home in light of the pandemic, and (3) non-Caraganons who wish to carry on with their usual transactions and business in the region amidst the pandemic. At the heart of the said policy was to protect the region from the virus which may be transmitted through persons traveling from areas where COVID-19 cases were rampant. Subsequently, the last two groups largely experienced the adverse effects of the subject border controls.

Moreover, relative to the above border policy was the enumeration of certain groups of individuals which the region allowed to enter and traverse the region as a matter of exception, subject to the presentation of certain requirements. A thorough review of Sections II, III and IV of the aforementioned RTF-COCS resolutions reveal that there was a clear intent among the region's leaders to only permit movements that involved basic and essential commodities. Furthermore, in narrowing down the specific persons which may be allowed to transact in the region, the said resolutions invoked the applicable guidelines issued by the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF) at the time, particularly IATF Resolution No. 14, S. 2020 dated 20 March 2020 which was complemented by IATF- Joint Task Force Corona Virus (JTFCV) Shield Guidelines on Authorized Persons Outside Residence (APOR) issued on 17 April 2020. Hence, it may be argued that the implementation of the subject border controls, with its classifications and its operating guidelines, were not arbitrary, unreasonable, and capricious¹¹.

Neither was the subject of border policy oppressive in nature. As may be gleaned from *Ochate vs. Deling* (G.R. No. L-13298, 30

¹¹ *Philippine American Life Insurance Company vs. Auditor General* (G.R. No. L-19255, 18 January 1968)

March 1959), “oppression” means an act of cruelty, severity, unlawful exaction, domination, or excessive use of authority. Though the tightened regional borders may have indeed caused delays and additional costs for those wishing to enter the region, the said inconveniences do not necessarily fall into the above definition of “oppressive” contemplated by the courts.

Meanwhile, presented below are the results of the analysis using the framework cited by Richards and Rathbun (1999) as useful in determining whether a disease control program that includes personal restrictions can stand to survive a legal challenge:

Table 1. Summary of findings on Caraga Region’s border control policy against legal challenge standards by Richards and Rathbun (1999)

Standard	Attributes of Caraga’s border control policy
1. Address a real problem that poses a direct threat to third parties	The region’s border policy intends to protect Caraganons from the potential COVID-19 transmission, subsequent to interactions with persons coming high-risk regions who may have contracted the virus and may have become asymptomatic carriers of the same.
2. Develop a scientific control strategy	Limiting face-to-face interactions between persons is among the well-entrenched scientific controls against the pandemic. Throughout the meetings of the RTF-COCS, Department of Health (DOH) Caraga consistently advanced the idea of limiting the influx of non-Caraganons entering the region as among the primary means of

Standard	Attributes of Caraga's border control policy
	curbing COVID-19 transmission from neighboring high-risk regions.
3. Implement that strategy in the most effective way, with the least restrictions consistent with the resources available	The region's leaders were unanimous that controlling COVID-19 at the borders is a more strategic and cost-effective way in controlling the threat of the virus, using the IATF guidelines as key reference, rather than containing the disease once it is already widely transmitted among Caraganons within the region.
4. Evaluate the program periodically to show that it is working	Throughout the meetings of the RTF-COCS, matters concerning border control were consistently listed in the meeting agenda. Prior to the IATF's decision to permit the re-entry of locally stranded individuals (LSIs) and returning overseas Filipinos (ROFs) back to their respective regions, Caraga was recognized nationally for having the lowest incidence of COVID-19.
5. Phase out the program when it is no longer epidemiologically sound	The subject border policy was impliedly phased out by the region's leaders when the IATF's explicitly allowed interzonal movements under the <i>Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines</i> amended as of 08 October 2020.

A quick review of the RTF-COCS resolutions passed between April-October 2020 provides a clear showing that the region's

border policy against COVID-19 stands to survive a legal challenge, if any.

Finally, general welfare clauses, as a rule in the delegation of police power to municipal corporations, are given wide application by municipal authorities and are liberally construed by the courts. Such is the progressive view of Philippine jurisprudence¹². The General Welfare Clause in Republic Act No. 7160 or the Local Government Code of 1991 reads:

Section 16. General Welfare. – Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants. (Emphasis by the author)

Taking a wide application of the above General Welfare Clause would immediately classify the implementation of tightened border controls in the region as clearly within the purview of the

¹² United States vs. Salaveria (G.R. No. 13678, 12 November 1918)

above statutory provision. For all intents and purposes, the said controls were designed to promote the health and safety of Caraganons against the pandemic.

Hence, in view of the preceding discussions, the following may be categorically stated, viz:

1. The subject border control measure qualifies as a valid exercise of police power under existing Philippine jurisprudence;
2. The said measure can stand against a legal challenge, if any; and
3. The said measure falls within the ambit of Section 16 of the Local Government Code of 1991, also known as the General Welfare Clause.

Manifestation and triggers of conflict

In order to ascertain the presence of conflict and its triggers relative to the imposition of the regional border controls, a thematic analysis was conducted on the various written communications received by the RTF-COCS Secretariat relative to the subject policy. In particular, written complaints from various sources on strict border controls were surveyed to understand how the said policy may have initiated any of the following triggers of conflict under the Harris et. al (2013) model, namely: grievances, opportunities, and feasibility. In general, issues and concerns relative to the policy are first brought to the attention of either the Caraga Regional Task Force Against COVID-19 (RTF-COVID19) which is headed by the Office of Civil Defense (OCD) – Caraga, and the Caraga Regional Screening and Validation Committee (RSVC) which is led by the Department of the Interior and Local Government (DILG) – Caraga.

Depending on the gravity of reported issues and concerns, the same are elevated to the attention of the RTF-COCS.

To complement the above thematic analysis, documents from the RTF-COCS Secretariat such as meeting agenda, list of agreements reached and resolutions passed, and actual resolutions prepared by the RTF-COCS, among others, were examined to verify the existence of conflict and their logical triggers from the vantage point of the region's leaders. Between April-October 2020, the RTF-COCS already conducted twelve (12) teleconference meetings to discuss pressing issues and concerns related to COVID-19, inclusive of complaints and requests which in one way or another are linked to the region's border policy. Decisions reached by the RTF-COCS are then reflected in resolutions prepared relative thereto.

The table below summarizes the nature of the resolutions passed by the RTF-COCS, classified according to their general attributes and actions they required from various stakeholders. As of October 2020, the RTF-COCS already passed a total of ninety-six (96) resolutions.

Table 2. Summary of Caraga RTF-COCS resolutions, classified according to their high-level attributes

Classification	Count (Percent to total number)
1. Resolutions requesting actions from line agencies and concerned national bodies, particularly the IATF-MEID and NTF Against COVID-19	33 (35%)
2. Resolutions requesting actions from LGUs regarding issues and concerns that have regional implications	11 (10%)

Classification	Count (Percent to total number)
3. Resolutions aimed at strengthening implementation of community quarantine measures (including those referring to the regional border control policy)	28 (30%)
4. Resolutions approving the other actions and initiatives of the RTF	24 (25%)
Total	96 (100%)

A quick view on the above data shows that strengthening the region's control measures easily make up almost a third of the RTF-COCS' decisions. This suggests that key among the priorities of the region's leaders is to implement measures geared to protect the region from COVID-19 transmission, among which are the subject regional border controls.

An analysis of the cited written documents also reveal that grievances largely resulted from the establishment of tightened control borders. These grievances underwent thematic mapping into one of the categories summarized below:

Table 3. Thematic summary of grievances reported relative to the implementation of regional border policy

Classification	Example
1. Restriction of access to work or livelihood	"The border controls effectively limit the extent of work that I or my employees can do within Caraga Region."

2. Restriction of access to critical goods and services	"The border controls effectively delayed the delivery of basic and essential commodities from neighboring regions into Caraga Region."
3. Restriction of access to important travel points	"The border controls limit my travel options even if I just need to pass through Caraga Region and not stay therein."
4. Additional costs in conducting business within Caraga Region	"The additional requirements required for those allowed to enter and exit Caraga Region, such as the presentation of medical certificates, imposes additional costs for the concerned travelers."
5. Simple inconvenience	"The border controls in place simply present an inconvenience."

Considering the written requests to the RTF-COCS relative to the above inconveniences, the following reliefs were prayed for:

1. To provide a wider and a more inclusive set of exemptions for those who may be allowed to enter and exit Caraga Region;
2. To issue RTF-COCS ID passes that may be presented at the regional borders to facilitate access without question from the authorities in-charge thereat;
3. To provide subsidies or support to those adversely affected by the high cost of securing border policy

requirements (such as shouldering of costs of medical clearances); and

4. To remove the said border controls due to their “oppressive” effect to those adversely affected by the same.

Worth noting is that the RTF-COCS decided not to extend any of the abovementioned reliefs but rather provided mechanisms on a case-to-case basis. In hindsight, the RTF-COCS did not entertain the idea of releasing RTF-COCS ID passes as the same is prone to tampering and are likely to instigate further grievances.

Nevertheless, important to highlight is that across the reported grievances, either misinformation or lack of information on the said border policy were disclosed by the complainants. Not surprisingly, included in the reports received by the RTF-COCS are multiple cases of heated verbal exchanges between those intent on entering the region and personnel stationed at the regional border checkpoints. Also recorded were incidents involving complainants emphatically venting out their inconvenient experience with the staff from the OCD Caraga and the DILG Caraga.

Meanwhile, it is interesting to note that none of the issues and concerns raised fall within the scope of opportunities and feasibility triggers under the Harris et. al (2013) model. Notwithstanding, the reported conflicts arising from the opportunities trigger were traced within the Region, among which include sellers taking advantage of the health crisis through the overpricing of hygiene products (e.g., face masks, alcohol, etc) and basic commodities (rice, canned goods, etc) sold.

In view of the preceding discussions, the following may be categorically stated, viz:

1. There were conflicts that developed as a result of the implementation of regional border controls; and
2. The said conflicts emerged from grievances arising from said border policy.
3. Misinformation and lack of information on Caraga Region's border policy were reported by those adversely affected.

7. Conclusion and Policy Implications

The preceding analyses show that the implementation of tightened regional border controls in response to COVID-19 was a valid exercise of police power by the LGUs in the region. Citing Philippine jurisprudence on police power, the said measure was intended to serve the interest of the general public, as distinguished from those who want to maintain their freedom in interregional movement in a time of significant uncertainty and threat to public health. Furthermore, the said means was reasonably necessary in light of the health crisis for the purpose of protecting Caraganons from the virus, considering that neighboring regions were already flagged as high-risk. Neither was the said measure oppressive as the implementation of the same was not harsh, dishonest, or wrongful, nor a visible departure from the standards of fair-dealing¹³, considering the remarkable confusion and anxiety of the general public in determining the effective response against an unseen adversary.

¹³ Duhaime's Law Dictionary (2020). *Oppressive Definition*. Retrieved 01 December 2020 from <http://www.duhaime.org/LegalDictionary/O/Oppressive.aspx>

Nevertheless, this paper also established that the implementation of said border measures triggered grievances on the part of those who intended to ingress into and egress out of Caraga Region between April-October 2020. These grievances, in turn, simmered into conflicts, which further exacerbated the already present confusion and uncertainty on the part of those whose interregional movements were adversely affected. The said conflicts, among others, were largely prompted by the asymmetric information that transpired between the implementing agencies and the general public.

Considering the foregoing discussion, much may be gleaned by the government in its use of policy tools in effectively responding to similar disasters in the future. Though jurisprudence, time and again, emphasizes the broad nature of police power wielded by municipal corporations, the same should not be regarded as a panacea to difficulties arising from uncertain contexts such as emergencies in public health. The exercise of the General Welfare Clause in the Local Government Code of 1991 should be complemented with mechanisms that address grievances arising from the employment of the same.

Specifically, the means that significantly communicate to and educate the public on the intent of general welfare mechanisms in place will largely resolve perceptions of arbitrariness and unreasonableness on the part of implementing institutions, and in turn alleviate the former's disoriented state. The government may also consider using multiple communication avenues to ensure that such important messages are widely and timely disseminated, and not just rely on existing traditional ones such as print, radio, TV, and even social media. Identifying such communication channels way ahead of disasters will largely prepare the general public as to where critical information in uncertain times may be retrieved.

Equally important is the deliberate set-up by LGUs and their partner implementing institutions of avenues and mechanisms where grievances arising from general welfare mechanisms may be heard, handled, and addressed. This step requires significant intent and attention since government agencies, by and among themselves, are largely constrained according to their respective mandates. This, in turn, limits their ability to respond with agility only on cases which largely fall under their respective mandates, leaving other equally crucial grievances on the sidelines. A potential approach that may be utilized when employing police power in uncertain disaster-related contexts is to complement said measures with deliberate and accessible venues where the public's grievances may be expressed, heard, and attended to, or even simply mitigated in the event that full resolution of the same may not be feasible. Subsequently, the effective handling of said grievances will largely ease conflicts that are simply waiting to break out in times of disaster.

8. Recommendations

This paper limited its analysis on the disaster-conflict dynamics arising from the implementation of tightened border controls in response to the COVID-19 threat on public health. While the said measure is among the significant means adopted to counter the pandemic, other equally important measures were also set-up within the ambit of police power and the General Welfare Clause, such as the imposition of enhanced and general community quarantines (E/GCQ), forced reduction of working hours among establishments, and restrictions in public transportation.

Relative thereto, this paper recommends the conduct of a study on the disaster-conflict dynamics streaming from the enforcement of community quarantines, cutback in the operating

hours of business establishments, and restraints on the operation of public vehicles, among others. This study anticipates an equally interesting interplay of various factors leading to the development of conflict and opportunities in the region, arising from the employment of said measures. Results of the proposed study will shed additional insights on the legal aspects of disaster management, particularly as to how conflicts may be eased in the formulation of emergency response mechanisms in uncertain disaster contexts.

References

- Centers for Disease Control and Prevention (2020). When borders are shut: Providing ART medicine to all patients during the COVID-19 pandemic. U.S. Department of Health & Human Services. Retrieved 02 November 2020 from <https://www.cdc.gov/globalhealth/stories/2020/art-covid.html>.
- Coleman, K. (2005). Protecting our borders. Retrieved 02 November 2020 from <https://www.directionsmag.com/article/3296>.
- Cruz, I. (2007). Constitutional Law. Central Lawbook Publishers.
- Duhaime's Law Dictionary (2020). Oppressive Definition. Retrieved 01 December 2020 from <http://www.duhaime.org/LegalDictionary/O/Oppressive.aspx>
- Enia, J. (2008). Peace in its Wake? The 2004 Tsunami and Internal Conflict in Indonesia and Sri Lanka. *Journal of Public and International Affairs*, Princeton University. Retrieved 03 November 2020 from <https://jpia.princeton.edu/sites/jpia/files/2008-1.pdf>

Inter-Agency Task Force for the Management of Emerging Infectious Diseases (2020). Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines, as Amended. Retrieved 15 November 2020 from <https://www.doh.gov.ph/COVID-19/IATF-Resolutions>.

Inter-Agency Task Force for the Management of Emerging Infectious Diseases (2020). Recommendations Relative to the Management of the Coronavirus Disease 2019 (COVID-19) Situation. Resolution Nos. 14-37, S. 2020. Retrieved 15 November 2020 from <https://www.doh.gov.ph/COVID-19/IATF-Resolutions>.

IFRC (2020). What is a disaster? Retrieved on 02 November 2020 from <https://www.ifrc.org/en/what-we-do/disaster-management/about-disasters/what-is-a-disaster/>

International Institute of Social Studies (2020). When disaster meets conflict. Erasmus University (Rotterdam). Retrieved on 02 November 2020 from <https://www.iss.nl/en/research/research-projects/when-disaster-meets-conflict>.

Harris, K., Keen, D., and Mitchell, T. (2013). When disasters and conflicts collide: Improving links between disaster resilience and conflict prevention. Overseas Development Institute.

McLean, E. and M. Bas (2020). Natural Disasters and Cross-Border Implications. Oxford University Press. Retrieved 02 November 2020 from <https://doi.org/10.1093/acrefore/9780190846626.013.550>

National Development Company vs. Philippine Veterans Bank (G.R. Nos. 84132-33, 10 December 1990)

National Geographic (2020). Border. Retrieved 02 November 2020 from

<https://www.nationalgeographic.org/encyclopedia/border/>.

National Geographic (2020). Conflict and Cooperation. Retrieved 02 November 2020 from

<https://www.nationalgeographic.org/encyclopedia/border/>.

Ochate vs. Deling (G.R. No. L-13298, 30 March 1959)

Peters, K., Holloway, K., and Peters, L. (2019). Disaster risk reduction in conflict contexts. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) Working Paper No. 556. Retrieved 02 December 2020 from

<https://www.odi.org/sites/odi.org.uk/files/resource-documents/12691.pdf>

Philippine American Life Insurance Company vs. Auditor General (G.R. No. L-19255, 18 January 1968)

Philippine National Police (2020). IATF-JTFCV Shield Guidelines on Authorized Persons Outside Residence (APOR) as of 17 April 2020. Retrieved 20 November 2020 from <https://primer.com.ph/blog/2020/04/21/iatf-releases-full-list-of-authorized-persons-outside-residence/>

Planters Products, Inc. vs. Fertiphil Corporation (G.R. No. 166006, 14 March 2008)

Regional Task Force for COVID-19 One Caraga Shield (April 2020). Resolution No. 08, Series of 2020, "A Resolution Approving the Harmonized Guidelines for the Lockdown of Regional Borders of Caraga Region Under General Community Quarantine." Retrieved signed copy from the RTF- COCS Secretariat on 30 November 2020.

Regional Task Force for COVID-19 One Caraga Shield (May 2020). Resolution No. 22, Series of 2020, "A Resolution Implementing General Community Quarantine (GCQ) Within Caraga Region, Lockdown Along its Regional Borders, While Extending the Enhanced Community Quarantine (ECQ) in Butuan City for the Period May 1 to 15, 2020." Retrieved signed copy from the RTF-COCS Secretariat on 30 November 2020.

Richards, E. and Rathbun, K. (1999). The role of police power in 21st century public health. University of Missouri Kansas City School of Law. Retrieved 02 November 2020 from <https://biotech.law.lsu.edu/cphl/articles/pp-jstd.pdf>

Rosert, E. (May 2020). How to Open Borders during the Covid-19 Pandemic: Differentiating, Zoning, and Unifying. Global Policy Journal. Retrieved 02 November 2020 from <https://www.globalpolicyjournal.com/blog/05/05/2020/how-open-borders-during-covid-19-pandemic-differentiating-zoning-and-unifying>

United Nations Commission on Human Rights (2020). COVID-19 does not discriminate; nor should our response. Retrieved 02 November 2020 from <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25730&LangID=E>

United Nations Development Programme (2011). Disaster-Conflict Interface: Comparative Experiences. Bureau for Crisis Prevention and Recovery.

United States Homeland Security (2020). Border Security. Retrieved 02 November 2020 from <https://www.dhs.gov/topic/border-security>

United States vs. Salaveria (G.R. No. 13678, 12 November 1918)

Wood, G., Zamani, N., MacIntyre, C.R., and Becker, N. (2007). Effects of Internal Border Control on Spread of Pandemic Influenza. National Center for Biotechnology Information, U.S. National Library of Medicine. Retrieved 02 November 2020 from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2878213/>.

Xu, J., Wang, Z., Shen, F., Ouyang, C., and Tu, Y. (2016). Natural disasters and social conflict: A systematic literature review. Retrieved 03 December 2020 from <https://www.sciencedirect.com/science/article/abs/pii/S2212420916300024>