



Campaign for Land Use Policy Now! (CLUP Now!)

National Land Use Act: Policy Brief

Rationale

Land issues in the Philippines

There are three categories of land in the Philippines: (i) protected areas, (ii) alienable and disposable land; and (iii) privately owned land. Of the total Philippine land area of 30 million hectares, 15.88 million are forest lands or protected areas and 14.12 million are alienable and disposable lands, which are mostly (64.8 percent) titled and privately owned. The remaining alienable and disposable (A&D) lands are patrimonial properties, which are public lands presently owned by the state for public use but which can be alienated if its present use is no longer appropriate. These figures, however, do not reflect actual land use because of the unclear delineation of forest lands. Forest lands have been defined as lands with a slope of greater than 18 degrees. However, forest lands may be reclassified if they are deemed to be more valuable for agricultural use.¹

Aside from management and use, the other main issues of protected areas are conflict over property rights. Protected areas are characterized as common property, i.e., they are owned by the State, but private parties or groups through arrangements, such as leasehold, can enjoy usufruct rights. For instance, the enactment of the Indigenous People's Rights Act (Republic Act 8371 of 1997) resulted to conflicting claims between the IPs and other sectors or the State on the ownership and use of ancestral lands and resources therein.

Another weakness of Philippine land policy is the failure to clearly identify society's preferences regarding land use and the national framework over the use of our land and resources. Thus, significant problems arise in the use and allocation of land, e.g., the continuing tension behind the conversion of agrarian reform lands to non-agricultural use and exploitation of protected lands. Thus, without a clear and consistent land use policy, the government finds itself in a policy bind: sometimes supporting sectors that would favor agricultural use over urban use, and on other occasions favoring those sectors that demand land for real estate development and other non-agricultural uses.

Various laws have been enacted for the classification or reclassification of lands into different uses. In particular, the laws paramount to land classification are the following: ²

- (1) Presidential Decree 399, which reserves strip lands along highways or public roads for human settlements and other non-agricultural uses;
- (2) Republic Act (RA) 7279, Urban Development and Housing Act;
- (3) RA 7916, Special Economic Zone Act, which identifies areas reserved for economic zone development and prescribes the manner of identifying such areas;

¹ Llanto, G.M and Ballesteros, M.M (2003). Land Reform Special Edition: Land issues in poverty reduction strategies and the development agenda. ISSN 0251-1894. Retrieved <<http://www.fao.org/docrep/006/y5026e/y5026e0d.htm#bm13>>

² Llanto, G.M and Ballesteros, M.M (2003). Land Reform Special Edition: Land issues in poverty reduction strategies and the development agenda. ISSN 0251-1894. Retrieved <<http://www.fao.org/docrep/006/y5026e/y5026e0d.htm#bm13>>

- (4) RA 7160, Local Government Code of 1991, which provides for the mechanism for apportioning agricultural lands at the local level;
- (5) RA 6657, Comprehensive Agrarian Reform Program, which provides restrictions on the classification of agricultural and agrarian lands including protected areas;
- (7) RA 8435, or the Agriculture and Fisheries Modernization Act (AFMA), which identifies a network of protected areas for agriculture and agro-industrial development, in effect impinging on existing laws on protected areas under the DENR.;
- (8) RA 8850 or the Philippine Fisheries Code, which has provisions that run counter to earlier laws defining the utilization and disposal of mangroves;
- (9) RA 8370, the Indigenous People's Rights Act, which recognizes ancestral domains on lands including mineral lands and gives priority rights to indigenous peoples; and
- (10) RA 7942 Mining Act, which provides that all natural resources, particularly minerals, are owned by the state. There is a need to review these laws in order to craft a consistent and socially acceptable land-policy framework that supports the requirements of sustainable economic growth, equity and poverty alleviation.

On top of conflicts on land and resource use in the Philippines, climate change even aggravated the condition of Filipinos, especially the most vulnerable sectors living in danger zones and hazard prone areas. A report by German Watch, an environmental organization, on the Global Climate Risk Index of 2015, lists the Philippines as a highly vulnerable country to weather-related disturbances, like storms, floods and heat waves.³ Risk experts also consider the Philippines as the tenth most-affected country by climate change with certain sectors- particularly the agriculture, farming, and fisheries sectors – bearing the most productivity and economic impact.

Evidently, the onslaught of natural induced disasters and calamities brought about by climate change has been nothing but minimal. The damages to agricultural production brought about by extreme weather events such as typhoon, flooding, and droughts have accumulated to billions of pesos. On October 2015, the Department of Agriculture (DA) estimates a total of 5.9 Billion agricultural damaged caused by Typhoon Lando.⁴ While in February 2016, strong El Niño damaged an estimate of 4 Billion on Philippine farms that relates to a total of 79,617 tons of produce grew in 47,868 ha of farms tended by some 35,000 farmers.⁵ Farmers, who belong to the rural poor, suffer the most during these calamities where they rely on agriculture production as a source of income and livelihood.

Clearly, the effects of disasters bring about a domino effect to the lives of many Filipinos. With damaged crops and lands comes a decrease in food production. Decrease in food production result in higher prices of food commodities. With increased prices of food products, more people have lesser access to food.

It is in this regard that the Philippines the needs for a National Land Use Act, a proposed law governing the management of the country's land and water resources amidst climate change and extreme weather conditions and events that has long been overdue. The 1987 Philippine Constitution mandates the Congress to “give highest priority to the enactment of measures that

³ Pagaddu, R.A (2016). Government and its Role in the Implementation and Enhancement of the Crop Insurance Program in the Philippines. NIA Complex, Diliman, Quezon City.

⁴ <http://www.gov.ph/2015/10/20/agriculture-damage-from-lando-hits-p5-9-billion/>

⁵ <https://business.inquirer.net/207351/el-nino-farm-damage-rises-to-p4b>

protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments. Although the Local Government Code of 1991, RA 7160 mandated Local Government Units to prepare their respective comprehensive land use plans enacted through zoning ordinance which shall be the primary and dominant bases for future use of land resources (Section 20, RA 7160). Still, up to this day, many of the LGUs either have no CLUPs or have yet to update their CLUPs.

The National Land Use Act (NLUA), the proposed legislation that regulates the management of the country's resources, has been pending in Congress for more than twenty (20) years. NLUA has been close to passing the last 2 congresses in both the Senate and the House of Representatives (HOR) but failed to be enacted. Now more than ever, we need a national land use law that will set the guidelines in delineating areas for protection, production, settlements and infrastructure in order to ensure that our lands and resources are protected and utilized in a manner beneficial and sustainable to all sectors of society and the future generations. The proposed national land use law will help present and future generations of Filipinos to adapt to climate change, the growing population and its demands for safe and secure housing, food and livelihood.

Main features of the NLUA

- The NLUA seeks to institutionalize land use and physical planning to determine and evaluate appropriate land use and allocation patterns by crafting a National Physical Framework Plan (NPFP) with physical planning as the basis for development planning. The NPFP will follow a long-term planning of 30 years with regular review and updating every 10 years. The framework of NPFP will follow the “ridge-to-reef” framework for physical planning.
- The NLUA will institutionalized Four Land Use Categories indicating broad spatial directions and policy guidelines for land uses:
 - ✚ **Protection Land Use** refers to the use of land primarily for rehabilitation, conservation, and protection purposes and the promotion of the country's ecological and life-support systems. Planning for protection land use intends to achieve environmental stability and ecological integrity, ensure a balance between resource use and the preservation of some areas with environmental, aesthetic, educational, cultural and historical significance, aid and protect people and human-made structures from the ill-effects of natural hazards.
 - ✚ **Production Land Use** refers to the most efficient, sustainable, and equitable utilization, development and management of land for productive purposes which are not classified for protection land use as defined in this section. Areas included in this category are agricultural lands, coastal and marine zones, production forest, mineral lands, energy resource lands, industrial, and tourism development areas where productive activities could be undertaken to meet the country's requirements for economic growth and development.

- ✚ **Settlements Development** refers to the use of urban and rural lands for settlements development purposes and/or improvements on existing settlements involving the spatial distribution of population, identification of the roles and functions of key urban centers, determination of relationships among settlement areas, and the provision of basic services and facilities to such settlements.
 - ✚ **Infrastructure Land Use** refers to the use of land dedicated to the provision of basic services that foster economic and other forms of integration necessary for producing or obtaining the material requirements of Filipinos, in an efficient, responsive, safe and ecologically friendly built environment. It includes, among others, sub-sectors like: road networks, transportation and communication facilities, social services, environmental service facilities, and utilities.
- The land use categories identified in the national physical framework guidelines will be used at the local level to craft the CLUPs of each of the cities and municipalities. The planning process shall employ the combined top-bottom, bottom-up approach.

Other important provisions

- The NLUA proposes the creation of Interagency Technical Committee led by NAMRIA to implement, coordinate and monitor the National Base Mapping Program to be created under the proposed Act. The spatial and non-spatial data created under this Act shall be downloaded to the LGU as well as existing land information data from the NGAs to be used as tools in crafting the CLUP. Moreover, National Geo-hazard Mapping Program to be initiated under this Act shall outline areas prone to liquefaction, landslides, severe flooding, lahar, ground rupturing, tsunamis, river erosion, coastal erosion, earthquake, lava flow, etc.
- Prime agricultural lands for food security and self-sufficiency are protected from conversion to other land uses.
- Ancestral Domain Management Plans or Ancestral Domain Sustainable Development and Protection Plans (ADSDPP) shall be adopted in the CLUP and/or other plans that the LGU is mandated to produce. Right to self-determination and FPIC shall be upheld in formulation of all plans as provided for by the IPRA.
- Settlements Development – Settlements in particular housing or residential developments, within geo-hazard areas may be allowed provided that mitigating and/or protective measures are adopted to address the potential danger or risk to lives and property within such settlements. Residential zones as designated in the CLUP shall be considered as outside geo-hazard areas.

17th Congress Legislative Updates

This 17th Congress, the National Land Use and Management Act (NLUA) was again refiled in both the Senate and the House of Representatives. In the HOR, there are seven (7) bills filed in the Special Committee on Land Use (SCLU) chaired by Rep. Christopher “Kit” Belmonte. During the organizational meeting of the SCLU on 11 October 2017, the members of the Committee voted to move for the approval of HB 52 at the Committee level since it is essentially the same version that was approved on 3rd Reading last 16th Congress. The SCLU also conducted a Stakeholder’s forum on

the condition of the Philippine land resources and the importance of the enactment of the national land use policy last January 20, 2017. Five (5) members of the SCLU attended the forum.

Last 7 March 2017, the Committee on Appropriations already approved the appropriation provisions of HB 52. On March 14, a day before Congress had its recess, Committee Report No. HB 5240, the consolidated version was approved on 2nd Reading at the House of Representatives. HB 5240 has finally been approved on third and final reading at the House of Representative on May 2, 2017. The approved version has been transmitted to Senate Committee on Environment and Natural Resources.

In the Senate, there are four (4) NLUA bills filed by Sen. Risa Hontiveros, Sen. Gringo Honasan, Sen. Loren Legarda, and Sen. Joel Villanueva. The NLUA bills filed are lodged in the Committee on Environment and Natural Resources chaired by Sen. Cynthia Villar. The Committee has yet to schedule a committee hearing or a stakeholder's forum on the pending NLUA bills.

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