



# The long-standing need for a National Land Use Act

## FAO Legislative Advisory Group in the Philippines (FLAG-PH) Pilot initiative

The Philippines has 30 million hectares of land and inland waters, being utilized by over 108 million people. With the continuing drive for sufficient and nutritious food, shelter, and sustainable livelihood, there is immense pressure on finite land and resources.

State regulation of property acquisition, ownership, use, and disposition with the aim of enhancing rights and reducing inequalities, is enshrined in Article XIII, Sec. 1 of the 1987 Philippine Constitution. However, the distribution of land in the country at present is highly skewed, and its use is heavily politicized. While there are a multitude of laws and policies governing land and natural resources, and asset reform laws which aim to equitably distribute land and resources, they are sectoral in nature, address land-use issues in a fragmented manner, and often overlap with one another.

Recognizing the need to enact a systematic way of managing resources, communities, civil society, and government agencies alike have long-called for the passage of the National Land-Use Act (NLUA). The NLUA seeks to institutionalize a holistic, rational, and comprehensive land use and physical planning mechanism, which will appropriately identify land use and allocation patterns in all parts of the country. Enacting a NLUA would also provide for an environment that would better foster food security.

Initially composed of 10 legislators from both Houses of Congress (Senate and House of Representatives), **The FAO Legislative Advisory Group in the Philippines (FLAG-PH)** serves as a platform which aims to contribute to addressing national food security and nutrition issues by taking the necessary legislative actions that would impact on the agriculture, fisheries, forestry, and environment and natural resources sectors.

FLAG-PH is a pilot initiative of FAO in the Philippines under a larger effort to build a Parliamentary Alliance in the Asia-Pacific region. FLAG-PH's activities includes consultations with provincial and municipal governments, local legislative councils, farmers, fisherfolks, indigenous groups, and civil society organizations as part of its objective to advance food security and nutrition in the Philippine legislative agenda.



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### Rationale for enacting a national land-use act

Improper land use planning, coupled with the present sectoral approach to resource governance, results to unsustainable, uncoordinated, and unregulated use of land. In turn, such a situation spurs conflicts over land-use and management, between and among government agencies, local government units, the private sector, and common folk in rural and urban areas.

According to the National Economic and Development Authority (NEDA) (2019),<sup>1</sup> improper land-use planning results to uncoordinated and unsustainable use of the country's land, which manifests in:

- uncontrolled development that encroaches on prime agricultural lands and other fragile areas;
- indiscriminate conversion of prime agricultural lands to non-agricultural uses, which affects food security;

<sup>1</sup>FLAG-PH with FAO and ANGOC conducted a media forum on the NLUA on 8 October 2019, and a learning session on the NLUA co-organized with the Senate Economic Planning Office (SEPO) on 22 October 2019. During both events, NEDA, represented by Undersecretary Adoracion Navarro and Assistant Secretary Mercedita Sombilla respectively, presented the National Land Use Council's draft executive version of the NLUA. NEDA has been gathering feedback and inputs to the present draft, and plan to release a revised version by November 2019.

- development of poorly-planned settlements that lack basic amenities including transport and other infrastructure facilities to enhance better communication and connectivity; and,
- proliferation of informal settlements in unsafe and hazard-prone areas, e.g., waterway easements and steep slopes.

As per former Department of Environment and Natural Resources Undersecretary Elmer Mercado, EnP, legislating a National Land-Use Policy will be the “most lasting change needed for our country’s future.” By 2030, the population of the country is expected to rise to 128 million, with a longer life expectancy, and more than 56 percent of the total population residing in urban areas (Mercado, 2019). Moreover, there is a growing population of more than two million informal settlers in urban areas and 20 million informal settlers in public domain land. This increasing sprawl of settlements makes the provision of social services difficult and more costly (Campaign for Land Use Policy Now!/CLUP Now!, n.d.). Managing space within urban centers thus becomes not only a physical and institutional challenge but more importantly a social, economic and governance challenge.



Participants during the FLAG-PH and SEPO Learning Session on the National Land Use Act.

The effects of climate change are also realities that the National Land-Use Act aims to address. While climate change (physically) impacts land and natural resources, adapting to and mitigating the effects of climate change and achieve resilience will have to involve proper, long-term land use planning. The NLUA will promote the protection of areas needed to maintain ecological balance, which in turn will decrease the country’s vulnerability to the effects of climate change. It will also aid the identification of geo-hazard and disaster-prone areas, which will then inform local government units (LGUs) and national agencies in planning for resilient production and settlement areas.

The NLUA, should it be enacted, will advance the right of Filipinos for a healthful ecology and improved quality of life, through land use planning with standardized mechanisms in the future allocation of land and resources, rooted in principles of sustainable development and inclusive growth. This shall include the determination of areas that would be under protection for future needs of forthcoming generation of Filipinos.

The NLUA would also harmonize present policies on land use, to address competing uses of land and balance the country’s needs for food, settlements, biodiversity, climate resilience, and industry.

### Legislative history of the NLUA

Different versions of the NLUA has been filed in the Philippine legislature since the 9th Congress (1994), but not one bill has been transmitted from the Congress to the Office of the President. In 2013, the NLUA bill which passed the House of Representatives almost reached the third reading in the Senate, but was not able to pass through the Upper House before the closing of the 15th Congress. In the 16th and the 17th Congress, the bill consistently passed the third reading in the House of Representatives, but neither Congresses saw any movement on the bill from the side of the Senate. In the current 18th Congress, at the time of this writing, there are 16 separate NLUA bills filed in the House of Representatives, and four NLUA bills filed in the Senate.

For three consecutive State of the Nation Addresses (SONA) since 2017,<sup>2</sup> President Rodrigo R. Duterte has declared the NLUA as a priority legislation. During his most recent SONA, the President appealed that legislators “immediately pass the NaLUA to ensure the rational and sustainable use of our land and our physical resources, given the competing needs of food security, housing, businesses and environmental conservation.”

Since December 2018, the NEDA-National Land Use Committee (NLUC) has been conducting consultations in support of their proposed version of the NLUA. In July 2019, the NEDA board adopted the NLUC version of the bill. The NLUC is still in the process of gathering feedback to improve its present version of the NLUA. While the President reportedly supports the NLUC’s version, the bill has to secure the endorsement of the six Cabinet Clusters to be the official executive version. As of October 2019, NEDA has received the endorsement from the Cabinet Clusters on (a) Human Development and Poverty Reduction and (b) Climate Change Adaptation and Mitigation.

### Salient features of the NLUA

Employing both top-bottom and bottom-up approaches, the NLUA mandates the review, adoption, and updating of land use plans at various national, regional, provincial, and local (city/municipality) levels:

- national physical framework plan;
- regional spatial development framework;

<sup>2</sup>Previous administrations from the time of President Fidel Ramos, Gloria Macapagal-Arroyo and Benigno Aquino III have also included the passage of NLUA as a priority administration measure during their time in office.

- provincial development and physical framework plan; and
- comprehensive land-use plan.

Versions of the NLUA bill provide for *long-term* national land use planning (30 years) with regular review and updating every 10 years, with the view of ensuring that the resources are used in a sustainable manner. It also emphasizes the strong linkage and complementation of sectoral development and implementation plans with national and local land use plans. The bills provide major considerations and parameters on land use planning such as:

- identification of hazard-prone areas;
- recognition and protection of ancestral domains;
- protection of environmentally-critical areas and prime agricultural lands;
- identification of areas for human settlements; and
- identification of areas for the commercial and infrastructure development.

The version of the bill that has passed the 17th Congress (HB 5240), included particular mention of four land use policy categories: protection land use, production land use, settlements development, and infrastructure land use. The NLUA NEDA version does not specify such land use policy categories.

The NLUA also has specific provisions for several special areas of concern including:

- forest lands, watershed reservation, and national parks;
- coastal zone, marine resources, and waterways easement;
- settlements development;
- agricultural lands;
- mineral and energy resource lands;
- industrial development areas;
- tourism and heritage areas; and
- transportation and other infrastructure development.

The NLUA also highly emphasizes the recognition and sanctity of ancestral claims and respect of IP rights over their tribal lands.

In the NEDA version, the implementation of the NLUA is envisioned to be coursed through a National Land Use Council, chaired by the NEDA with the Department of Environment and Natural Resources as vice chair, and with several pertinent government agencies as members.<sup>3</sup> This arrangement is mirrored at the regional level. At the local government levels, Provincial, and City/Municipal Land-Use Policy Committees will be composed of the existing technical working group (TWG) members for land use formulation composed of mostly LGU implementing units.

The version which passed in the House of Representatives during the 17th Congress (HB 5240), calls for a more independent, robust, and accountable National Land-use

Commission that is attached to the Office of the President, headed by a Cabinet Secretary. It shall have counterparts at the regions. At the local government levels, local land-use planning and management boards shall be created as a local special body at the provincial, city, and municipal levels. Half of the members of the boards shall come from LGUs, and other members shall be representatives from the private sector, NGOs, CSOs, sectoral organizations, and the academe. The local planning board shall be headed by a technical representative from the Commission.



#### NLUA as a contributor to food security

The Philippines is an agricultural country, with around 25 percent of its employed population engaged in agriculture in 2017 (Philippine Statistics Authority/PSA, 2018). Filipinos depend largely on rice, yet while consumers are burdened by rising prices of rice, farmers have also suffered from the low selling prices of *palay*. In 2017, the average domestic retail price of well-milled rice reached almost 43.00 PHP per kilo, while farm price per kilo was at 18.21 PHP (PSA, 2018). Come the first week of October 2019, while the domestic retail price of well-milled rice decreased (41.94 PHP/kilo), the farm gate prices of *palay* also dipped to a very low 15.56 PHP per kilo (PSA, 2019b).

Moreover, the country regularly imports more grains. In 2018, the country imported more than two million metric tonnes of rice and over a million metric tonnes of corn (worth more than 61 billion PHP). There is a manifest rise in grain imports from less than a million metric tonnes of rice and less than 500 thousand metric tonnes of corn (worth over 24 billion PHP) in 2017 (PSA, 2019a). This was all prior to the enactment of the Rice Tariffication Law (RA 11203). All these persist while agricultural lands are continually converted into non-agricultural purposes. Between 1988 and 2016, at least 97 000 hectares of agricultural lands - the size of Metro Manila and Cebu City combined - were approved for conversion. The figure excludes pending applications and illegally converted lands (Cabildo, Subingsubing, and Reysio-Cruz, 2017). These conversions have led to the decrease in farm profitability, decrease in land available for food and timber production, soil degradation, and the deterioration of farmer- communities (Flores-Obanil, 2015).

<sup>3</sup>During the Media Forum and Learning Session on NLUA, it was recommended that the NCIP, DILG and representatives from CSOs be included in the NLUC.



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According to Teodoro Mendoza, former Trustee of the Philippine Rice Research Institute (PhilRice), if farmers were able to plant on 1.5 million hectares of favorable lands and produce around 7.5 tonnes per hectare during the dry season, then plant on 2.6 million hectares during the wet season producing 4.5 tonnes per hectare, the resulting 23.4 million metric tonnes a year would be more than enough to supply the country's demands for rice (Mogato, 2019).

Noting that conversion of agricultural lands impairs agricultural production and threatens the country's food security (Flores-Obanil, 2015), the NLUA classifies prime agricultural lands under protection land use, which are perpetually prohibited from conversion thus permanently protecting these lands from utilization and development that are not in line with their existing use (CLUP Now!, n.d.). While ensuring the availability of lands for cultivating food crops, this measure will also secure sources of livelihood for farmers who are among the most affected by poverty, food insecurity, and malnutrition, despite being the primary producers of food.

Further, proper land use planning (i.e., designating appropriate areas for settlements, infrastructure, and for commercial use) will prevent the unsustainable use of forest resources. Protecting forestlands will ensure the provision of their ecosystem services, including flood control, not just for the safety of settlements but also for ensuring water sustainability and the preservation of agricultural productivity.

## Way forward

It is seen that the enactment of NLUA re-affirms the goals of the State to ensure food security and to protect and advance the right of the Filipino people to a balanced, productive and healthful ecology through the rational, proper and sustainable allocation, utilization, development and management of land and resources, natural heritage and biodiversity through a ridge to reef ecosystem approach. Stakeholders are thus encouraged to formally submit their inputs to NEDA in relation to the draft NEDA-NLUC version before NEDA shall present an updated version of the proposed bill to the Economic Development Cluster.

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