

Scoping of Legislations on Climate Change and Natural Disasters vis-à-vis Tenure



ANGOC



Asian NGO Coalition for Agrarian Reform and Rural Development

33 Mapagsangguni Street
Sikatuna Village, Diliman
1101 Quezon City, Philippines

P.O. Box 3107, QCCPO 1101, Quezon City, Philippines
Tel: +63-2 3510481 Fax: +63-2 3510011
Email: angoc@angoc.org
URL: www.angoc.org

Facebook: www.facebook.com/AsianNGOCoalition
Twitter: <https://twitter.com/ANGOCorg>
Skype: asianngocoalition

Founded in 1979, ANGOC is a regional association of national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance, and rural development. ANGOC network members and partners work in 14 Asian countries with an effective reach of some 3,000 NGOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy debates with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

ANGOC is the convener of the Land Watch Asia (LWA) campaign. ANGOC is also a member of the International Land Coalition (ILC) and the Global Land Tool Network (GLTN).

About the Authors

Dr. Antonio Gabriel La Viña



He is a teacher, thinker, lawyer, author, social entrepreneur, and an environmental and human rights advocate. He was Executive

Director of the Manila Observatory from 2016 to 2017, Dean of the Ateneo School of Government (ASoG) from 2006 to 2016, with vast international and domestic experience in climate and environmental policy, including through an eight-year stint at the World Resources Institute, an international environmental think tank based in Washington DC, and a stint as undersecretary of the Department of Environment and Natural Resources (DENR) of the Philippines.

Atty. Joyce Melcar Tan



She currently consults with the Asian Development Bank on Environmental Law in Asia and teaches Natural Resources and Environmental Law, as well as International Climate Change Law at the Ateneo Law School. She was part of the Philippine delegation for the 21st and 22nd Conferences of Parties to the United Nations Framework Convention on Climate Change.

Scoping of Legislations on Climate Change and Natural Disasters vis-à-vis Tenure^{1,2}

Prepared by

Dr. Antonio GM La Viña and Atty. Joyce Melcar Tan

in behalf of
the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)

for the project
“Mainstreaming Voluntary Guidelines on Governance of Tenure (VGGT): Philippines”
supported by the Food and Agriculture Organization (FAO)³ of the United Nations

November 2017

Citation:

La Viña, A. and Tan, J. (2017). *Scoping of Legislations on Climate Change and Natural Disasters vis-à-vis Tenure*. Quezon City: Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Disclaimer:

The views presented in this document do not necessarily reflect those of FAO.

Acronyms

AFMA	Agriculture and Fisheries Modernization Act
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
BFAR	Bureau of Fisheries and Aquatic Resources
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension with Reforms
CBFM	Community-Based Forest Management
CC	climate change
CCA	Climate Change Act
CCC	Climate Change Commission
CLUP	comprehensive land use plan
COP21	21st Conference of the Parties to the United Nations Framework Convention on Climate Change
CSO	civil society organization
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DRR	disaster risk reduction
DRRM	Disaster Risk Reduction Management
DRRM Act	Philippine Disaster Risk Reduction and Management Act
ENR	Environment and Natural Resources
FAO	Food and Agriculture Organization of the United Nations
FLUP	forest land use plan
FMB	Forest Management Bureau
GHG	greenhouse gas
HB	House Bill
ICCA	Indigenous Peoples and Community Conserved Areas and Territories
ICCs	indigenous cultural communities
IPCC	Intergovernmental Panel on Climate Change
IPRA	Indigenous Peoples' Rights Act
IPs	indigenous peoples
JAO	joint administrative order
KRA	Key Result Area
LGC	Local Government Code
LGU	local government unit
LULUCF	land use, land use change, and forestry
NAMRIA	National Mapping and Resource Information Authority
NCCAP	National Climate Change Adaptation Plan
NGAs	national government agencies
NIPAS	National Integrated Protected Areas System Act
NHA	National Housing Authority
NLU	National Land Use Bill
PAGASA	Philippine Atmospheric, Geophysical and Astronomical Services Administration
PSF	People's Survival Fund
RA	Republic Act
SAFDZ	Strategic Agriculture and Fisheries Development Zones
UDHA	Urban Development and Housing Act
UNDP	United Nations Development Programme
UNFCC	United Nations Framework Convention on Climate Change
UNISDR	UN Office for Disaster Risk Reduction
UNU-EHS	United Nations University Institute for Environment and Human Security
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security

Scoping of Legislations on Climate Change and Natural Disasters vis-à-vis Tenure⁴

Key Points:

- Philippine laws on climate change and natural disasters have strong linkages with each other, but their linkages to tenure rights are abstract. They contain policy declarations that may be construed as recognizing the importance of property rights and the adverse impacts climate change and disasters can have on the enjoyment of these rights. However, the operational provisions of these laws lack clear protections for tenure rights in the event of disruptions in the enjoyment of these rights due to climate change and natural disasters.
- International instruments on climate change and natural disasters do not provide explicit references to tenurial rights, while the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)* expressly mentions its linkages to climate change and natural disasters.
- On 2 May 2017, the House of Representatives approved a bill on national land use (*NLU*), which refers to linkages between climate change and natural disasters on one hand, and land rights on the other. This bill, HB 5240, is entitled “*An Act Instituting A National Land Use and Management Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes.*” It was forwarded to and received by the Senate on 9 May 2017.
- There are five bills on NLU pending in the Senate. The Senate committee in charge of these pending bills will deliberate on them and produce a consolidated version of the Senate NLU bill. If HB 5240 is compatible with the Senate’s bill, the final version’s enrolled form will be printed and transmitted to Malacañang for the President to either sign into law or return to the Senate with a veto message. If there are differences between the Senate and House bills, a Bicameral Conference Committee will be constituted to reconcile conflicting provisions. The Conference Committee will then submit a report on the reconciled version of the bill, which then has to be approved by both houses. The Senate will then print the reconciled version in its enrolled form and submit it to the Office of the President (Pastrana and Raval, 2001 as cited in Senate, 2017).
- Working with champions in both houses of the legislature, as well as executive agencies dealing with tenure rights over land, forests, and fisheries, could facilitate the enactment into law of an NLU bill that incorporates the proposal to explicitly link climate change and natural disasters to tenure rights.

I. Introduction

Land tenure systems are the legislative and administrative frameworks that provide the basis for members of society to access land and natural resources (FAO, 2003: 70). They define the ways that land and natural resources can be held, as well as the security of those rights (FAO, 2003: 70). Tenurial security refers to the degree of recognition and guarantee of real estate rights (FAO, 2003: 76). According to the Food and Agriculture Organization of the United Nations (FAO), tenurial security is important because it encourages the conservation and sound use of natural resources and promotes investments that improve agricultural productivity (FAO, 2003: 76). It is thus important in the provision of food security. It is also an important tool to reduce conflicts about the use of real property (FAO, 2003: 76).

However, the possession of tenurial rights in itself is not enough. Even if individuals have these rights, the enjoyment of these rights could be impaired or even rendered impossible due to climate change and natural disasters (Freudenberger and Miller, 2010). For example, the ownership or possession of tenurial rights over land would be meaningless if that land disappears or becomes unusable because it becomes completely flooded from a super-typhoon, or is submerged indefinitely due to sea level rise. The first example usually occurs during and in the aftermath of a disaster, while the latter can happen due to climate change. Other climate change impacts include severe droughts, which can render arable lands barren and infertile (thereby impairing food security), land subsidence due to excessive groundwater extraction (affecting water security) or loss of coastal areas due to sea level rise (which could have adverse impacts on livelihoods). These could affect the value and productivity of land, and render certain natural resources scarce or unavailable (Freudenberger and Miller, 2010). For instance, low-lying coastal areas prone to storm surges and rising sea levels could devalue, and lands suffering salt-water intrusion could be abandoned, both resulting in outmigration (Freudenberger and Miller, 2010).

In its National Framework Strategy on Climate Change, the Philippine government pointed to estimates of the National Mapping and Resource Information Authority (NAMRIA) that a sea level rise of one meter can lead to an estimated land loss of 129,114 hectares (OP CCC, 2010: 10). Any of these events could potentially result in the landowner losing his property or its economic value, making tenure rights worthless.

Because of the Philippines' vulnerability to climate change and disasters, it is important that the government recognizes, through legislation, the linkages between climate change and disasters on one hand, and tenurial rights on the other, so that legal protections of tenurial rights are not rendered useless by these extraneous phenomena.

Addressing issues surrounding tenurial rights increases the resilience and reduces the vulnerability of communities (OP CCC, 2010: 10). Tenure rights are especially important for members of society that are generally considered more vulnerable to adverse impacts of climate change and natural disasters (Brown, Slaymaker, and Mann, 2007; Corendea and Mani, 2017; and TERI and RRI, 2009). These include women, children, and the elderly. Improving

legislation on tenurial rights has the dual potential of (1) regulating and eventually reducing emissions from the land use, land use change, and deforestation to mitigate climate change (mitigation), and (2) improving the ability of communities to cope with the adverse impacts of climate change (adaptation).

This paper examines selected Philippine laws and international instruments on climate change and natural disasters to determine whether or not they contain explicit links to tenurial rights over land, forests, and fisheries.⁵

The paper covers legislation and does not include implementing rules and regulations, department orders, administrative orders, and other executive issuances. Neither does it deal with challenges in the implementation of the laws, since the study is limited to a desk research (content analysis) of statutory laws.

Context: Linkages between climate change/natural disasters and tenurial rights

Climate change is today's greatest global challenge, with the potential to threaten the whole spectrum of socioeconomic and cultural capital across continents. The Intergovernmental Panel on Climate Change (*IPCC*), the world's largest conglomeration of scientists monitoring climate systems and modelling multi-decadal scenarios, has published extensive reports on the evidence and causes of large-scale changes in the climate systems, and outlooks for different regions.

The land use, land use change, and forestry (*LULUCF*) sector is a major contributor of greenhouse gas (*GHG*) emissions, second only to fossil fuel combustion (*IPCC*, 2014). High emissions of *GHGs* into the atmosphere have caused climate change at rates much faster than would have occurred with only natural variability (*IPCC*, 2014).

Climate change is projected to increase the severity and frequency of extreme weather events such as tropical cyclones or typhoons (Brown, Slaymaker, and Mann, 2007). This in turn increases the potential for disasters and its concomitant effects. The impacts of climate change are not uniform, but are "geographically diverse and sector specific" (*IPCC*, 2013; Freudenberger and Miller, 2010). In other words, these impacts and the temperature increase will differ across regions. A global temperature increase of 2°C could mean a 45 percent increase of warm nights in Sub-Saharan Africa, and a 40 percent rise in South Asia (World Bank, 2013).

As one of the world's most climate vulnerable countries (*UNU-EHS*, 2015: 46), the Philippines will very likely follow the regional pattern of a warmer climate, sea level rise, increased stress in coastal and marine systems, decline in food productivity, and water scarcity. The Philippines' geographical location and geological composition make it exceedingly susceptible to physical and economic devastation from typhoons, which pass through the country 20 times yearly on average (*OP CCC*, 2010: 7). In the past decades, the Philippines has already experienced record-breaking extreme weather events, which have caused substantial losses of life and property and affected overall productivity (Yumul, et. al., 2011).

The UN Office for Disaster Risk Reduction (*UNISDR*) defines disaster as a “serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources (UNISDR, 2009).” A disaster results when a hazard interacts with community-based factors that leave a community without sufficient coping capacity vulnerable to loss and damage (UNISDR, 2009; Mayhorn, 2005). In other words, a disaster results when a vulnerable community is exposed to a hazard and it lacks the capacity to cope with its effects.

Climate change and disasters adversely affect tenurial security because they reduce the available lands, fisheries, and forests, or render them unusable or inaccessible (FAO, 2012: v). Displacement interrupts the economic, social, cultural, and political lives of communities (Freudenberger and Miller, 2010).

In 2004, a United Nations Development Programme (*UNDP*) Report on disasters ranked the Philippines as the world’s most vulnerable country to tropical cyclone occurrence, and third most prone to such seasonal events (OP CCC, 2011: 3). Over a decade later, the Philippines’ situation remained the same. In 2015, the United Nations University Institute for Environment and Human Security (UNU-EHS) published its World Risk Report with a focus on food security issues, wherein it ranked the Philippines as the third most vulnerable country to the impacts of climate change (UNU-EHS, 2015: 46). Only Vanuatu and Tonga, both of which are small-island developing States, were considered more vulnerable than the Philippines. The population of these two countries combined is just over a third of that of the Philippines. The Philippines’ special circumstances of vulnerability, combined with its high exposure to extreme weather events and other climate change impacts and the insufficient coping capacity of its coastal communities, make it imperative that the Philippines take necessary protective measures. One such measure is the reform of its governance of tenure rights.

II. Review of selected Philippine laws and international frameworks on climate change and disasters vis-à-vis tenure rights

This section is divided into two parts, the first dealing with domestic laws and the second dealing with international conventions and instruments. The first is further divided into two subsections. The first subsection briefly discusses the laws on climate change and natural disasters and examines whether or not they provide explicit links to tenurial rights. The second subsection identifies some key legislation governing tenurial rights and determines whether they provide explicit references to climate change and natural disasters. Because the focus of this paper is on linkages between climate change/natural disasters and tenure rights, descriptions of the laws have been kept brief.

A. Philippine Laws

1. Laws on Climate Change and Natural Disasters

The Philippines' basic law on climate change is the **Climate Change Act of 2009**, Republic Act No. 9729. It has the declared policy of protecting and advancing the people's Constitutional right to a balanced and healthful ecology in accord with the rhythm and harmony of nature (Phil. Constitution, Art. II, Sec. 16; Climate Change Act, Sec. 2). It also recognizes the importance of the principle of sustainable development (FAO, 2012).

The law created the Climate Change Commission (CCC) to be the sole policymaking body of the government in charge of coordinating, monitoring and evaluating the government's programs and action plans relating to climate change (Climate Change Act, Sec. 4). It requires the CCC to establish a National Framework Strategy on Climate Change, which is to form the basis of a program for climate change planning, research and development, extension, and monitoring of activities to protect vulnerable communities from the adverse effects of climate change (Climate Change Act, Sec. 11). Following the framework, the CCC is mandated to come up with a National Climate Change Adaptation Plan (*NCCAP*) (Climate Change Act, Sec. 13).

In compliance with its mandate, the CCC issued the National Framework Strategy on Climate Change 2010-2022 (*National Strategic Framework*) in 2010, which declares adaptation and mitigation as national priorities, although "with an emphasis on adaptation as the anchor strategy. Whenever applicable, mitigation actions shall also be pursued as a function of adaptation (OP CCC, 2010: Sec. 2.7)." It identified the energy sector as a Key Result Area (*KRA*) for mitigation, which necessarily involves energy efficiency and conservation, renewable energy, and environmentally sustainable transportation. Other KRAs for mitigation named were sustainable infrastructure, national REDD+ strategies, and waste management (OP CCC, 2010).

Since the Philippines' particular needs require that strategies pertaining to the aforementioned mitigation KRAs be undertaken within an adaptation context, the CCC likewise identified several KRAs for adaptation. These include enhanced vulnerability and adaptation assessments, integrated ecosystem-based management, biodiversity protection, water governance and management, climate-responsive agriculture, a climate-responsive health sector, "climate-proof" infrastructure, and, necessarily, disaster risk reduction (*DRR*) (OP CCC, 2010). These were identified to ensure sustainability, success, and preparedness against the effects of climate variability and extremes (OP CCC, 2010). For a climate-responsive agricultural sector, the National Strategic Framework identifies the following strategic priorities:

- (a) reduce climate change risks and vulnerability of natural ecosystems and biodiversity through ecosystem-based management approaches, conservation efforts, and sustainable ENR-based economic endeavors such as ecotourism;

- (b) increase the resilience of agriculture communities through the development of climate change-sensitive technologies, establishment of climate-proof agricultural infrastructure and climate-responsive food production systems, and provision of support services to the most vulnerable communities; and,
- (c) improve climate change resilience of fisheries through the restoration of fishing grounds, stocks and habitats and investment in sustainable and climate change-responsive fishing technologies and products (OP CCC, 2010).

The National Strategic Framework is complemented by the NCCAP, developed to solidify what the CCC called a “realistically achievable country-driven program of action for integrated climate change adaptation and mitigation (OP CCC, 2011, Sec. 2).” The NCCAP identified seven strategic priorities to pursue, specifically: food security, water sufficiency, ecosystems and environmental stability, human security, climate-smart industries and services, sustainable energy, and knowledge and capacity development (OP CCC, 2011, Sec. 4). It then recommended three priority projects for the five years following its issuance: vulnerability assessments; demonstration sites for eco-towns; and research and development on renewable energy and sustainable transport system support (OP CCC, 2011, Sec. 4).

A year after the Climate Change Act took effect, **Philippine Disaster Risk Reduction and Management Act of 2010 (DRRM Act)** was enacted.

The DRRM Act defines the term “disaster risk reduction” as the “concept and practice of *reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters, including through reduced exposures to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events* (DRRM Act, Sec. 3(n)) [italics supplied].” Through this definition, the law recognizes improper land management as one of the underlying causes of disasters (DRRM Act, Secs. 2-3).⁶ Thus, the governance of rights to own and access land, and to use natural resources found there, could minimize the potential for disasters.

The DRRM Act emphasizes the need for contingency planning, mitigation, preparedness, prevention, and response to the hazards brought about by the Philippines’ particular vulnerability to climate change. It also seeks to mainstream DRR and climate change in development processes, capacitate local government units (**LGUs**) for DRR, and recognize local risk patterns across the country through a national early warning and emergency alert system, among others (DRRM Act, Sec. 2(k)). The DRRM Act institutionalizes a stronger, more localized DRRM structure by providing for the coordination of regional and local DRRM councils at their respective levels, recognizing that local councils have greater awareness of the exigencies of situations facing their locality (DRRM Act, Secs. 10-12, 15).

The DRRM Act makes the following declared policies: to uphold the Constitutional right to property by addressing root causes of vulnerabilities to disasters, and mainstreaming DRRM and climate change in development processes, particularly with respect to land use (DRRM Act, Secs. 2(a) and 2(g)).

Like the Climate Change Act, this law mandates the establishment of an inter-departmental and cross-sectoral body to achieve its goals, and provides for the development of both a DRRM framework and DRRM plan (DRRM Act, Secs. 5, 6, 9). The law transformed the National Disaster Coordinating Council into the National Disaster Risk Reduction and Management Council, headed by the Secretary of National Defense (DRRM Act, Sec. 5). The Office of Civil Defense, meanwhile, has been tasked to administer a comprehensive national program for the continuous and progressive development of strategies and approaches to manage hazards, vulnerabilities, and consequences related to DRR (DRRM Act, Secs. 8-9).

However, unlike the Climate Change Act, the DRRM Act identified particular funding sources to ensure the implementation of its provisions, such as the Local Calamity Fund, the Quick Response Fund, and the National DRRM Fund (DRRM Act, Secs. 21-22).

To remedy this gap in the climate law, Republic Act No. 10174 (People's Survival Fund Amendment, Sec. 13) amended the Climate Change Act of 2009 to establish a People's Survival Fund (*PSF*). It incorporated a financial mechanism "supplementary to any annual appropriations allocated by relevant government agencies for climate change-related programs and projects and by [LGUs,] (People's Survival Fund Amendment, Sec. 20)" to "support adaptation activities of local governments and communities[.] (People's Survival Fund Amendment, Sec. 20)" The PSF is to originate from domestic and international allotments, although the law provides for an opening balance of PhP 1 billion (People's Survival Fund Amendment, Sec. 19). Subsequent balances from all sources should not go lower than its PhP 1 billion opening balance, subject to conditionalities (People's Survival Fund Amendment, Sec. 19).

The PSF can be used to support adaptation activities for, among others, land management (People's Survival Fund Amendment, Sec. 20). This could potentially be a useful tool to protect tenure rights to land by, for example, supporting projects that improve flood protection, coastal defenses, or increase the structural integrity of roads.

2. Laws on land Tenure

The Philippines has several laws governing tenure rights. While selected laws have been identified here, the discussion focuses on whether or not these laws provide linkages to climate change and natural disasters.

a. Philippine Constitution

The Philippine Constitution keeps all lands of the public domain, as well as forests and fisheries, within State ownership and forbids the alienation of natural resources, except for agricultural lands (Phil. Constitution, Art. XII, Sec. 2). It also reserves the use and enjoyment of marine wealth found in its archipelagic waters, territorial sea, and exclusive economic zone exclusively to Filipino citizens (Phil. Constitution, Art. XII, Sec. 2). It requires the State to exercise full control and supervision of any exploration, development, and utilization of natural resources (Phil. Constitution, Art. XII, Sec. 2).

The Constitution also provides that “the use of property bears a social function (Phil. Constitution, Art. XII, Sec. 6).” Its social justice and human rights provisions require the State to “regulate the acquisition, ownership, use, and disposition of property and its increments (Phil. Constitution, Art. XIII, Sec. 1, para. 2).” It also ensures people’s rights against arbitrary evictions, and demolition of homes. However, the Constitution, which was adopted in 1987, does not contain any express provision on climate change or natural disasters.

b. Public Land Act

The Public Land Act, Commonwealth Act 141, is the basic law that regulates lands of the public domain, subject to special laws such as those governing timber and mineral lands (Public Land Act, Sec. 2). The original law was enacted in 1936, during the commonwealth regime. As it is a very old law from the period before climate change and disasters became subject of regulation, it does not contain explicit linkages to climate change and natural disasters.

The Indigenous Peoples’ Rights Act of 1997 (*IPRA*) is the primary law protecting the rights of indigenous cultural communities (*ICCs*) and indigenous peoples (*IPs*) of the Philippines. It states that *ICCs/IPs* have the rights of ownership and possession of their ancestral domains. The *IPRA* makes no mention of climate change. With regard to natural disasters, however, the *IPRA* specifically states:

In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced *ICCs/IPs* in suitable areas where they can have temporary life support systems: Provided, That the displaced *ICCs/IPs* shall have the **right to return to their abandoned lands** until such time that the normalcy and safety of such lands shall be determined: Provided, further, That **should their ancestral domain cease to exist** and normalcy and safety of the previous settlements [] not [be] possible, displaced *ICCs/IPs* **shall enjoy security of tenure over lands to which they have been resettled**: Provided, furthermore, That **basic services and livelihood shall be provided** to them to ensure that their needs are adequately addressed (*IPRA*, Sec. 7 (d)) [emphasis supplied].

This recognizes past experiences of *ICCs/IPs* of being displaced due to natural disasters, and thus losing their access to their ancestral lands. To remedy this loss, the *IPRA* mandates the government to resettle them in appropriate areas and endeavor to help them return to their lands. Throughout this process, the law ensures that the displaced persons are given access to basic services and livelihood opportunities.

a. NIPAS Act

The National Integrated Protected Areas System Act of 1992 (*NIPAS Act*) establishes a system of protected areas all over the Philippines in order to ensure the conservation of natural resources for the benefit of future generations.

The NIPAS Act grants special protection to ICCs with regard to their access rights. For example, in order to implement the law, the law allows the DENR Secretary to control the occupancy of suitable portions of the protected area and resettle forest occupants outside of those identified areas, *except* members of indigenous communities (NIPAS Act, Sec. 10 (o)).

The NIPAS Act protects ICCs/IPs from being evicted from their ancestral lands if these are within protected areas (NIPAS Act, Sec. 4 (l)). The Act requires a management planning strategy to be created, which is to be used as a guide in formulating individual plans for each protected area. This strategy must include “innovative management techniques including, if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researches, site-specific policy development, pest management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities (NIPAS Act, Sec. 4 (l)).”

The Act defines tenured migrant communities as “communities within protected areas which have actually and continuously occupied such areas for five (5) years before” their designation as protected areas and are solely dependent on those areas for their subsistence (NIPAS Act, Sec. 9).

While the NIPAS Act recognizes certain tenure rights to ICCs/IPs, it does not make explicit references to climate change and to natural disasters.

b. CARP as amended by CARPER

The Comprehensive Agrarian Reform Law of 1988 (*CARL*), Republic Act 6657, and its expansion, Comprehensive Agrarian Reform Program Extension with Reforms (*CARPER*), Republic Act 9700, were enacted precisely to grant rights to farmers and farm workers with respect to the lands they till. These laws provide for the redistribution of public and private agricultural lands to benefit farmers and farm workers regardless of the existing tenurial arrangements they may have with landowners. While these laws grant numerous rights, they do not make explicit linkages to climate change and natural disasters.

c. Urban Development and Housing Act of 1992

The Urban Development and Housing Act of 1992 (*UDHA*) is intended to provide socialized housing to the underprivileged and homeless citizens. It has the policy of making available to underprivileged and homeless citizens land (UDHA, Sec. 2 (b) (5)), decent and affordable housing, basic services, and employment opportunities (UDHA, Sec. 2 (a)). It also has the policy of providing “for an equitable land tenure system that shall guarantee security of tenure to Program beneficiaries but shall respect the rights of small property owners and ensure the payment of just compensation (UDHA, Sec. 2 (d)).”

While the UDHA makes no express mention of climate change or natural disasters, it does have a reference to displacement. It mandates the LGUs, in coordination with the National Housing Authority (*NHA*) to relocate and resettle “persons living in danger areas such as *esteros*, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and in other public places as sidewalks, roads, parks, and playgrounds (UDHA, Sec. 29).” While not directly related to climate change or disasters, this resettlement mandate could potentially be used for these phenomena, especially if they make the living areas of communities “danger zones” because of the risk factors they bring about.

d. Local Government Code of 1991

The Local Government Code of 1991 (*LGC*) imposes on the national government agencies (*NGAs*) the duty to minimize adverse effects of projects and programs that may cause climate change and environmental degradation. It provides:

Section 26. *Duty of National Government Agencies in the Maintenance of Ecological Balance.* - It shall be the duty of every national agency or government-owned or controlled corporation authorizing or **involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult** with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the **measures that will be undertaken to prevent or minimize the adverse effects** thereof [emphasis supplied].

The LGC provides for the powers, functions, and mandates of different officials of local government units (*LGUs*). One of the functions of the city and municipal mayors and the provincial governor is to carry out emergency measures necessary during and in the aftermath of man-made and *natural disasters* and calamities (LGC, Book III, Title Two, Ch. III, Art. I, Sec. 444 (b)(1)(vii) [Municipal Mayor]; LGC, Book III, Title Three, Ch. III, Art. I, Sec. 455 (b)(1)(vii) [City Mayor]; LGC, Book III, Title Four, Ch. III, Art. III, Sec. 465 (b)(1)(vii) [Provincial Governor]).

The LGC imposes upon the relevant *Sanggunian*, the legislative body of the LGU, the duty to adopt measures “to protect the inhabitants of the [municipality, city, and province] from the harmful effects of man-made or natural disasters and calamities and to provide relief services and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events (LGC, Book III, Title Two, Chapter III, Art. III, Sec. 447 (a)(1)(iv) [*Sangguniang Bayan*]; LGC, Book III, Title Three, Chapter III, Art. III, Sec. 458 (a)(1)(iv) [*Sangguniang Panlungsod*]; LGC, Book III, Title Four, Chapter III, Art. III, Sec. 468 (a)(1)(iv) [*Sangguniang Panlalawigan*].”

It also mandates the different LGU officers to provide frontline services within their expertise, particularly during and in the aftermath of man-made and natural disasters and calamities, *viz*:

Health Officer	health services delivery (LGC, Title V, Art. VIII, Sec. 478 (b)(5))
Administrative Officer	delivery of administrative support services (LGC, Title V, Art. X, Sec. 480 (b)(3))
Legal Officer	protecting human rights and prosecuting any violations thereof (LGC, Title V, Art. XI, Sec. 481 (b)(4))
Agriculturist	delivery of basic agricultural services, particularly those needed for the survival of the inhabitants (LGC, Title V, Art. XII, Sec. 482 (b)(4))
Social Welfare and Development Officer	service delivery, particularly those which have to do with immediate relief during and assistance (LGC, Title V, Art. XIII, Sec. 483 (b)(4))
Environment and Natural Resources Officer	services concerning the environment and natural resources, particularly in the renewal and rehabilitation of the environment (LGC, Title V, Art. XIV, Sec. 484 (b)(4))
Architect	architectural planning and design, particularly those related to the redesigning of spatial distribution of basic facilities and physical structures (LGC, Title V, Art. XV, Sec. 485 (b)(4))
Information Officer	providing information with special attention to victims, to help minimize injuries and casualties during and after the emergency, and to accelerate relief and rehabilitation (LGC, Title V, Art. XVI, Sec. 486 (b)(4))
Cooperatives Officer	services concerning cooperatives organization, rehabilitation or viability-enhancement, to aid in their survival and, if necessary subsequent rehabilitation (LGC, Title V, Art. XVII, Sec. 487 (b)(4))
Veterinarian	veterinary related activities, such as in the outbreak of highly-contagious and deadly diseases, and in situations resulting in the depletion of animals for work and human consumption (LGC, Title V, Art. XIX, Sec. 489 (b)(4))
General Services Officer	general services-related activities, such as the possible or imminent destruction or damage to records, supplies, properties, and structures and the orderly and sanitary clearing up of waste materials or debris (LGC, Title V, Art. XX, Sec. 490 (b)(4))

While the LGC makes the foregoing explicit references to natural disasters and provides for state obligations that are activated during these events, the LGC does not have explicit linkages to climate change.

e. Revised Forestry Code

The Revised Forestry Code, which regulates the use of forestlands, does not contain any provisions on either climate change or natural disasters (PD 705).

f. Community-Based Forest Management (EO 263) and Sustainable Forest Management (EO 318)

Executive Order 263, signed by former President Fidel V. Ramos, adopts Community-Based Forest Management (*CBFM*) as a national protection strategy for Philippine forests and contains strong tenurial rights provisions relating to forestlands. Executive Order 318, signed by former President Gloria Macapagal Arroyo, adopts a sustainable forest management approach in watersheds and incorporated CBFM within it. While these two executive orders focus on the protection of forests, they make no mention of either climate change or natural disasters.

g. The Philippine Fisheries Code of 1998, as amended

The Philippine Fisheries Code of 1998 was amended in 2015⁷ to make the law more stringent and impose greater penalties on illegal, unreported, and unregulated fishing. The law provides that the State should adopt a flexible policy towards the attainment of food security, responsive to changes in demographic trends for fish, emerging trends in the trade of fish and other aquatic products in domestic and international markets, and the law of supply and demand. Neither the 1998 law nor its 2015 amendment provide express linkages to climate change and natural disasters.

h. The Agriculture and Fisheries Modernization Act (AFMA) of 1997

The AFMA was enacted on 22 December 1997 in order to modernize the agriculture and fisheries sectors to help achieve the goals of a more equitable distribution of opportunities, income and wealth; a sustained increase in the amount of goods and services produced by the nation; and promote food security, among others. The law provides for the identification of areas as Strategic Agriculture and Fisheries Development Zones (SAFDZ) within the network of protected areas for agricultural and agro-industrial development to ensure that lands are efficiently and sustainably utilized for food and non-food production and agro-industrialization (AFMA, Sec. 6). It also requires LGUs to prepare and update, every four years, land use and zoning ordinances incorporating the SAFDZ (AFMA, Sec. 10). Further, it calls on the Department of Agriculture (*DA*) to formulate medium-and long-term plans addressing food security, poverty alleviation, social equity and income enhancement concerns based on the improvement of small farmers' land tenure, among other indicators (AFMA, Sec. 14 (f)). The law contains numerous provisions targeted at modernizing local agriculture and fisheries, the two sectors that are critical to ensuring national food security.

Section 16 of the AFMA mentions global climate change and mandates the DA, which has jurisdiction over the fisheries sector, to coordinate with the Philippine Atmospheric, Geophysical and Astronomical Services Administration (*PAGASA*), the Philippine weather bureau, to devise a method of regularly monitoring and considering the effect of global climate changes, weather disturbances, and annual productivity cycles for the purpose of forecasting and formulating agriculture and fisheries production programs (AFMA, Sec. 16). While the AFMA has this single provision on climate change, it does not make explicit references to disasters or disaster risk reduction and management.

i. Relevant bills pending in Congress

1. On national land use⁸

There are currently five bills pending before the Senate on a national land use (*NLU*) policy.⁹ Meanwhile, the House of Representatives already approved a consolidated bill¹⁰ on it, House Bill No. 5240 (*HB 5240*), entitled “*An Act Instituting A National Land Use and Management Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes.*” The House approved this bill on 2 May 2017 and forwarded it to the Senate on 9 May 2017.

HB 5240 provides for sustainable traditional resource rights of indigenous communities. The resources include land, air, water, and minerals; plants, animals, and other organisms; collecting, fishing, and hunting grounds; among others (H.B. 5240, Sec. 4).

The bill provides for the allocation of certain types of lands to identified groups. For example, Section 24(d) of the bill provides for certain areas in coastal zones to be allocated to traditional fisherfolk who are inhabitants of those areas, members of registered fisherfolk organizations, holders of stewardship lease contracts or titles to ancestral domains, or any form of property rights arrangements who participate in coastal resource management initiatives. It further provides that the government shall issue marine tenurial rights to organizations based on criteria to be established by the National Land Use Policy Council (NLUPC). The law contains additional measures protecting fisherfolk from displacement (H.B. 5240, Sec. 24 (e)).

The Senate Committee on Environment and Natural Resources, the committee in charge of the four pending NLU bills, will have deliberate on them and produce a consolidated version of the Senate NLU bill. This committee is chaired by Sen. Cynthia Villar. If the Senate Committee determines that HB 5240 is compatible with the Senate’s bills, the final version’s enrolled form will be printed and transmitted to Malacañang for the President to either sign into law or return to the Senate with a veto message. If there are substantial differences between the Senate and House bills, a Bicameral Conference Committee will be called to reconcile conflicting provisions. The Conference Committee will then submit a report on the reconciled version of the bill, which must be approved by both houses. Following this, the Senate will then print the reconciled version in its enrolled form and submit it to the Office of the President for approval (Pastrana and Raval, 2001 as cited in Senate, 2017).

2. On community-conserved areas

There is also a pending bill to enhance the protection of areas that are currently being managed by indigenous and local communities, by supporting them and the conservation measures they are implementing (PAFID, 2017). This bill on *Indigenous Peoples- and Community-Conserved Areas and Territories*, or the ICCA bill, seeks to recognize and support the significant role that IPs and local communities play in the preservation of important ecosystems across the country, as a complement to government’s management of these areas (PAFID, 2017). This bill is meant to enhance the NIPAS Act, by officially recognizing and supporting the protection of ecosystems by IPs and local communities (PAFID, 2017). It is also intended to

strengthen the connections between the NIPAS and IPs, whose rights are recognized in the IPRA (PAFID, 2017).

B. International Conventions

1. Climate Change and Natural Disasters

The United Nations Framework Convention on Climate Change (*UNFCCC*) is a treaty that provides a framework for international cooperation to address the climate challenge (UNFCCC, 2014a). It was adopted during the 1992 Rio Earth Summit with the ultimate goal of stabilizing atmospheric greenhouse gas concentrations “at a level that would prevent dangerous anthropogenic interference with the climate system (UNFCCC, Art. 2).” The UNFCCC enjoys near-universal membership, with 197 Parties having ratified it (UNFCCC, 2014b). These include all 193 UN Member States, plus the European Union, Niue, Cook Islands, and the State of Palestine (UNFCCC, 2017).

One of the UNFCCC’s foundational principles is common but differentiated responsibilities, based on the understanding that developed countries caused most of the historical and current emissions and are also the ones with the greatest financial and technological capacity to reduce future emissions. Another of its declared principles is sustainable development. It states:

The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change (UNFCCC, Art. 3 (4)).

At the conclusion of the 21st Conference of the Parties to the UNFCCC (*COP21*) on 12 December 2015, 196 Parties adopted a landmark agreement in Paris, intended to guide long-term global action on climate change. This came to be known as the **Paris Agreement** (Bergedieck, 2016; McKenzie, 2016).

The Paris Agreement is guided by the UNFCCC principles of equity and common but differentiated responsibilities and respective capabilities. It sets ambitious long-term goals of keeping the global average temperature increase to well below 2°C above pre-industrial levels and pursuing efforts to limit such increase to 1.5°C, fostering climate resilience, and transitioning towards low-carbon development without threatening food security (Paris Agreement, Art. 2). To achieve these, Parties are to pursue both mitigation and adaptation measures, with developed country Parties providing means of implementation (finance, technology, and capacity) to developing country Parties. This flows from a recognition that mitigation and adaptation are complementary strategies to reduce and manage climate change risks (IPCC, 2014: 17).

Article 5(2) of the Paris Agreement encourages Parties to implement and support, including through results-based payments, the existing framework for policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries; and alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests (UNFCCC, Art. 5 (2)).

The Sendai Framework for Disaster Risk Reduction 2015-2030 (*Sendai Framework*) was adopted at the Third UN World Conference in Sendai, Japan, on 18 March 2015 as a successor instrument to the Hyogo Framework for Action 2005-2015 (SFDRR, *Foreword*). The Sendai Framework promotes the mainstreaming of DRR measures into national and local land use policy development and implementation (SFDRR, Clauses 30 (f), 33 (j) and 33 (k) (2015)).

The UNFCCC, the Paris Agreement, and the Sendai Framework do not contain explicit references to tenure rights over land, forests, and fisheries.

a. Tenurial rights

The VGGT contains provisions directly related to the protection of tenurial rights in the face of climate change and natural disasters. It states that laws and policies must prevent and respond to the effects of climate change (VGGT, 23.1). In the negotiation and implementation of mitigation and adaptation programs, the VGGT encourages States to facilitate the participation of all people, especially farmers, small-scale food producers, and vulnerable and marginalized people, who hold legitimate tenure rights (VGGT, 23.3).

With respect to disasters, the VGGT urges States to consider tenure aspects of land, fisheries and forests in preventing, preparing for, and responding to disasters, as well as in reconstructing and rehabilitating areas after disasters have occurred (VGGT, 24.1, 24.3-24.5).

In its statement of guiding principles on the responsible governance of tenure, the VGGT provides that States should “[r]ecognize and respect all legitimate tenure right holders and their rights, take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, and refrain from infringement of tenure rights of others (VGGT, 3.1.1).”

III. Analysis

Section II examined whether or not the laws on climate change and natural disasters provide explicit links to tenurial rights. It then identified a number of laws governing tenurial rights and examined whether or not they provide explicit references to climate change and natural disasters.

Philippine laws on climate change and natural disasters have strong linkages with each other, but their linkages to tenure rights remain abstract. They contain policy declarations that may be construed as recognizing the importance of property rights and the adverse impacts climate change and disasters can have on the enjoyment of these rights. However, the operational provisions of most domestic laws lack clear protections for tenure rights in the event of disruptions in the enjoyment of these rights due to climate change and natural disasters.

The Climate Change Act of 2009 mentions the “wise management of land and the environment” as a component of disaster risk reduction (Climate Change Act, Sec. 3 (h)). However, it does not discuss land rights or governance. The DRRM Act recognizes improper land management as one of the underlying causes of disasters; however, it does not regulate tenure rights over land. Neither of these laws discusses tenure rights over forests and fisheries.

One possible reason for this is that laws are intended to be read alongside other existing laws within a legal system. Thus, while laws may include policy declarations that govern broader rights, their operational provisions regulate a narrow and specific set of activities that relate directly to the subject matter at hand.

With regard to the laws relating to land governance, many of these laws do not contain express linkages to climate change and disasters. One reason for this is that many of these laws were enacted decades ago, before climate change and natural disasters became part of policy discussions.

International instruments on climate change and natural disasters like the UNFCCC, Paris Agreement, and the Sendai Framework do not provide explicit references to tenurial rights. In contrast, the *Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT) expressly mentions its linkages to climate change and natural disasters.

There are a number of challenges in linking tenurial rights with climate change and disasters in legislation. Among these are issues that relate to policy and administration. For example, there is an absence of an overall legal framework that deals with the nexus of tenure rights, climate change, and disasters. Each law assigns an agency to implement its provisions, and these agencies often function within their own specialized areas, resulting in a siloed approach overall. For example, the DENR’s Land Management Bureau, Forest Management Bureau (*FMB*), Bureau of Fisheries and Aquatic Resources (*BFAR*), the Department of Agrarian Reform (*DAR*), and other related agencies would focus on tenure rights; the Climate Change Commission would focus on climate change; the National Disaster Risk Reduction and Management Council and the Office of Civil Defense would focus on disasters. While these different agencies can and do coordinate with one another, there is no single agency that takes the lead in managing the nexus of the three fields: tenure rights, climate change, and disasters.

Also, because each law identifies its own implementing agency, some overlaps have resulted with regard to the jurisdiction of implementing agencies. This has led to some confusion about which agency is charged with particular tenurial rights.

With regard to implementation, it appears that there are also numerous challenges in mainstreaming the three areas of tenure rights, climate change, and disasters. These include the lack of financial resources, personnel with adequate and appropriate technical capacity, as well as technological resources to fully implement these laws. Power imbalances between the national and local government may also adversely affect the implementation of laws at the local level. For example, there has been a move to categorize major power plant projects as national government infrastructure projects. This could make it easier for rights of way over lands to be expropriated for the use of these power plants (including coal-fired power plants), not just for the facilities themselves, but also for potentially long stretches of land needed to connect the facilities to the national grid. The expedited grant of these rights of way could potentially conflict with the tenurial rights of small landowners in areas that may be affected by expropriation.

IV. Recommendations

There are several opportunities for reform in tenure rights legislation, particularly in linking tenure rights to climate change and natural disasters.

National land use bill. One key opportunity is to use HB 5240 as a springboard for policy discussions. Because the VGGT already explicitly mentions the linkages between tenurial rights and climate change/natural disasters, it can be used as a hook in the NLUA campaign. Since the consolidated house bill has been forwarded to the Senate, it would be helpful for interested parties to contribute to the discussions in the Senate on the pending Senate bills on NLU. It would be crucial to make proposals at this stage, when the discussions are at their peak, so that any issues that some policymakers may have on particular proposals could already be threshed out and addressed. In the lobbying process, it would be useful to highlight the issue of climate change impacts on tenurial security.

The proposals could be by way of submitting talking points, policy briefs, and other instruments that can stimulate discussion and debate on the crucial issues. These documents should thoroughly consider and preemptively respond to concerns of large real estate developers, which are heavily lobbying against the passage of the NLUA. Submitting proposed policy instruments such as draft guidelines and orders would greatly aid legislative agencies since it would be easier for them to work with existing draft documents.

Bill on IP- and community-conserved areas. The passage of the ICCA bill has important implications for tenurial rights because it would add biodiversity conservation as a basis for IPs and local communities to remain in the lands they occupy and protect. In other words, IPs and local communities would be able to claim tenure rights over lands and waters that they themselves manage and conserve.¹¹ As with the proposed methods of engagement for the NLU bill, proposals and talking points can be submitted to aid Congress in the deliberations for the ICCA bill.

RA 10121 Sunset review. Another opportunity for engagement is the ongoing sunset review of the DRRM Act. Under this review process, government agencies are supposed to conduct public consultations to evaluate the effectiveness of the DRRM Act and propose measures to strengthen the law. Pursuant to this mandate, the NDRRMC has been holding public consultations and soliciting submissions on various areas of the law. This poses a crucial opportunity for engagement. Proposals can be formulated and submitted to the NDRRMC regarding the linkages between disasters (and climate change) and tenurial rights, and ensuring that the occurrence of disasters does not deprive communities and citizens of these rights. For example, one common effect of disasters is the widespread destruction of legal documents such as land titles that establish a person's legal right over land. This puts into question the tenurial rights of persons over lands that they customarily reside in or whose resources they utilize. Thus, processes to facilitate the reconstruction of land titles, as well as interim measures protecting tenurial rights, could be proposed to prevent or minimize displacement due to disasters. Another consideration is that some people prefer to remain in unsafe locations that are closer to jobs and livelihood opportunities, rather than moving to safe spaces that are far from economic opportunities. However, this may be difficult to address in the sunset review process, as it may need holistic government interventions (tackling not just land rights but also access to livelihood opportunities and needed infrastructure, like roads, schools, and hospitals). Nonetheless, it is an important consideration that could guide proposals to improve the DRRM Act.

PSF. As discussed above, the People's Survival Fund is a significant facility for managing climate change impacts and disaster risks by focusing on adaptation measures. It is available to LGUs and local communities that wish to implement adaptation projects within their territories. However, despite the publication of a handbook on accessing the PSF, many LGUs and CSOs have found it difficult to complete proposals, citing a lack of capacity to establish that their proposed projects are in fact adaptation measures (PSF, n.d.). As of 22 September 2017, only four projects had been approved by the PSF Board, with a combined funding requirement of PhP 196.08 million, despite a programmed annual fund of at least PhP 1 billion allocated for the PSF in the National Treasury (PIA, 2017).

In parallel, in order to increase public awareness of the importance of making these linkages, it would be advisable for interested groups to launch advocacy campaigns that could help spur greater discussion of these critical issues.

Working with champions in both the legislative and executive agencies would be very helpful in pushing the agenda to make linkages between climate change and natural disasters on one hand, and tenure rights to land, forests, and fisheries on the other, explicit in legislation and implemented in government policies, programs, and projects.

a. Senate

Senator Cynthia Villar, the chairperson of the Senate Committee on Environment and Natural Resources, would be a crucial policymaker to engage with (SunStar Baguio, 2017). Although she has been reluctant to support the NLU bill, efforts should nevertheless be

pursued to win her support since, as committee chair, she is instrumental to the speed and efficacy of the deliberations on the bill. Senators Gringo Honasan, Risa Hontiveros, Loren Legarda, and Joel Villanueva, who have filed their bills on national land use for the 17th Congress, could be potential partners in proposing improvements to the pending NLU bill (SunStar Baguio, 2017). They could be good champions echoing the CSO position to already pass the long-pending NLU bill.

It would be helpful to note that, in the past, the NLU bill was blocked on second reading by Senators Bongbong Marcos, Tito Sotto, Juan Ponce Enrile, and Manny Villar (SunStar Baguio, 2017). Perhaps it would be advisable to engage with these officials to inquire about their reservations and try to address these directly. Also, since the real property developers' lobby is very strong, it would also be useful to listen to and list points to address their major concerns, so that an overall strategy can be formulated to engage with them.

b. House of Representatives

In the House of Representatives, Representatives Jose Christopher “Kit” Belmonte, Special Land Use Committee Chairperson, and Representatives Kaka Bag-ao and Tom Villarin, Teddy Baguilat have been champions of NLU bills (HOR, 2017). It would be useful to work with them and seek their help in pushing for reforms in the Senate NLU bills.

In addition to the above-mentioned representatives, HB 5240 was authored by the following: Reps. Deputy Speaker Romero Quimbo (2nd District, Marikina City), Reps. Sherwin Tugna (Party-list, CIBAC), Rozzano Rufino Biazon (Lone District, Muntinlupa City), Maximo Rodriguez Jr. (2nd District, Cagayan de Oro City), Virgilio Lacson (Party-list, MANILA TEACHERS), Jose Antonio Sy-Alvarado (1st District, Bulacan), Manuel Sagarbarria (2nd District, Negros Oriental), Enrico Pineda (Party-list, 1-PACMAN), Juan Pablo Bondoc (4th District, Pampanga), Aurelio Gonzales Jr. (3rd District, Pampanga), and Henedina Abad† (Lone District, Batanes) (HOR, 2017). These policymakers could be potentially be engaged in discussions about the advisability of linking climate change and disasters with tenure rights.¹²

c. Executive Offices

In the Executive Department, the different agencies and offices that deal with tenure rights, climate change, and disasters could be engaged in discussions about the importance of linking tenure rights with climate change and disasters through legislation. Since these officials are tasked with executing laws, their feedback with regard to the implementation of laws and, consequently, their recommendations would hold great weight. These agencies and offices include the DENR Central Office, its Land Management Bureau (LMB), the National Commission on Indigenous Peoples (NCIP), the Climate Change Commission (CCC), Department of Agriculture (DA), Department of Agrarian Reform (DAR), and the NDRRMC (collectively, the national government agencies or NGAs).

These NGAs could promulgate joint administrative orders (JAOs) and other administrative issuances that contain model provisions expressly recognizing and supporting the linkages between tenurial rights and climate change/natural disasters, which the local governments can adopt in ordinances for their comprehensive and forest land use plans (CLUPs and FLUPs).¹³ These issuances would have the effect of declaring and calling for the implementation of a policy respecting these linkages. Another issuance that could be more difficult to secure, but could also work, is an Executive Order to be issued by President Duterte recognizing and supporting these linkages.

Significantly, according to the Climate Change Act, the CCC has the power to “[r]ecommend legislation, policies, strategies, programs on and appropriations for climate change adaptation and mitigation and other related activities (Climate Change Act, Sec. 9 (e)).” The law also mandates the CCC to coordinate with the NDRRMC.¹⁴ These mandates could be used as basis for engaging with these offices.

CSOs can lobby the CCC to formulate a climate, forest, and land use policy and work to incorporate forest and land use in the Nationally Determined Contribution (NDC). Since the NDC is still being developed for submission to the UNFCCC Secretariat as part of the Philippine government’s commitments under the Paris Agreement, this could be a good intervention area.

One consideration with respect to the CCC is that it is chaired by the President of the Philippines. However, both former President Aquino and current President Duterte have only met the CCC once, which indicated the relatively low value they placed on the CCC, and militating against the CCC’s ability to move its agenda forward. Also, when laws and executive issuances on climate change were being formulated, focus was predominantly placed on clean energy, and so the linkages between climate change and tenurial rights governance was not discussed thoroughly. This is something that the CSO community can emphasize moving forward.

Laws would be difficult to implement without the cooperation of LGUs. Thus, their inputs in the policymaking process are very important. LGUs that have high vulnerability and exposure to climate change and disasters would be ideal partners in proposals to improve governance around these areas.

Finally, in engaging with policymakers, it would be advisable to already include gender considerations in discussions. This would help promote the mandates reflected in different laws about mainstreaming gender in different areas of governance. ■

Endnotes

- ¹ La Viña, A. and Tan, J. (2017). *Scoping of Legislations on Climate Change and Natural Disasters vis-à-vis Tenure*. Quezon City: Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).
- ² This paper has been finalized based on the discussions and recommendations from various processes: a) National Multi-stakeholder Forum on the Tenure and Climate Change [Department of Agriculture, Quezon City; 10 November 2017]; b) two multi-stakeholder provincial consultations with community members, line agencies and local government units [Cagayan de Oro, Misamis Oriental; 7 September 2017 and Tacloban, Eastern Samar; 28 September 2017]; and, c) roundtable discussion with civil society organizations [Ateneo de Manila University, Quezon City; 6 September 2017].
- ³ The views presented in this document do not necessarily reflect those of FAO.
- ⁴ This paper complements previous study of Quizon, A and Pagsanghan, J.I. (2014). *Review of Selected Land Laws and the Governance of Tenure in the Philippines: A Discussion Paper in the Context of the VGGT*. Quezon City: ANGOC and GIZ. Retrieved from http://www.angoc.org/wp-content/uploads/2014/10/VGGT-and-Philippine-laws_web.pdf.
- ⁵ This paper does not focus on fisheries. For an extensive discussion on this sector, please see the companion piece to this paper: Rodriguez, M. (2017). *Scoping Paper on the VGSSF and Philippine Policies and Laws on Fisheries*. Quezon City: ANGOC.
- ⁶ See Philippine Disaster Risk Reduction and Management Act of 2010, § 2 (g), and § 3 (x), which provide:

SEC. 2. *Declaration of Policy*. - It shall be the policy of the State to:

(g) **Mainstream disaster risk reduction and climate change in development processes** such as policy formulation, socioeconomic development planning, budgeting, and governance, **particularly in the areas of** environment, agriculture, water, energy, health, education, poverty reduction, **land-use** and urban planning, and public infrastructure and housing, among others;

SEC. 3. *Definition of Terms*. - For purposes of this Act, the following shall refer to:

(x) "Mitigation" - structural and non-structural **measures** undertaken **to limit the adverse impact of natural hazards**, environmental degradation, and technological hazards and to ensure the ability of at-risk communities to address vulnerabilities **aimed at minimizing the impact of disasters**. Such measures include, but are not limited to, hazard-resistant construction and engineering works, the formulation and implementation of plans, programs, projects and activities, awareness raising, knowledge management, **policies on land-use and resource management**, as well as the **enforcement of comprehensive land-use planning, building and safety standards, and legislation** [emphasis supplied].
- ⁷ *This lapsed into law on 27 February 2015 without the signature of the President, in accordance with Art. VI, Sec. 27 (1) of the Constitution. For an in-depth discussion of fisherfolk rights, please see the companion paper on the VGSSF.*
- ⁸ For a more detailed discussion of the history and key provisions of the NLU bills pending in Congress, see Campaign for Land Use Policy Now! (CLUP Now!). (2017). *National Land Use Act: A Policy Brief*. Quezon City: ILC-NES Philippines. Retrieved from <http://ilc-nes.ph/wp-content/uploads/2017/10/2-National-Land-Use-Act-A-Policy-Brief.pdf>.
- ⁹ Based on a review of publicly accessible documents at the Senate website (senate.gov.ph). See also SunStar Baguio. (7 May 2017). Ifugao lawmaker lauds passage of Land Use Act. *SunStar Baguio*.

Retrieved from <http://www.sunstar.com.ph/baguio/local-news/2017/05/07/ifugao-lawmaker-lauds-passage-land-use-act-540594>.

These include:

S.B. 25, “An Act Instituting A National Land Use Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes,” filed by Senator Gringo Honasan on 30 June 2016

S.B. 34, “An Act Instituting A National Land Use Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes,” filed by Senator Loren Legarda

S.B. 1015, “An Act Instituting A National Land Use Policy, Providing the Implementing Mechanisms Therefore [sic], and for other Purposes,” filed by Senator Joel Villanueva on 15 August 2016

S.B. 1144, “An Act Instituting A National Land Use and Management Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes,” filed by Senator Risa Hontiveros Baraquel on 14 September 2016

S.B. 1522 “An Act Instituting A National Land Use Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes,” filed by Senator Miguel Zubiri on 26 July 2017

¹⁰ According to the House of Representatives website, another bill, House Bill No. 4551 (**HB 4551**) entitled “*An Act Instituting A National Land Use and Management Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes*” with Hon. Maximo Rodriguez Jr. as its principal author, has been pending with the Committee on Land Use since 7 December 2016. The House of Representatives website does not list this bill as one of those substituted by House Bill 5240, like all the other bills on national land use. However, Rep. Rodriguez is listed as one of the authors on the final/third reading of HB 5240. Also, HB 5240 was approved with zero nay votes and zero abstain votes. Thus, the pertinent provisions of HB 4551 may have already been consolidated with HB 5240.

¹¹ In theory, campaigns can also be launched to strengthen the provisions of the IPRA. These could include acknowledging that climate change and disaster risks both impact the IPs’ ability to exercise their rights and recognizing that tenurial rights decrease their vulnerabilities. However, this effort would also require congressional action (*i.e.*, amending a law), so it would be subject to the same difficulties as the NLU bill. It must also be noted that the NLU bill has been tagged as a priority bill by the current administration, whereas IPRA amendments are not part of the current priorities. Thus, it may be difficult to forward discussions on amending the IPRA at this time. Also, amendments to improve the IPRA would impact mainly the rights of IPs/ICCs, instead of the whole population (which would be the beneficiary of the enactment of a NLUA). Thus, focus can be placed on the NLU bill, but improvements to the IPRA can certainly be considered as additional measures in the overall national strategy.

¹² Congresswoman Henedina Abad of the Lone District of Batanes has since passed away.

¹³ These issuances could contain provisions to the following effect:

Considering the global problem of climate change and its serious impacts on Filipino communities, including the increasing intensity and frequency of natural disasters, and recognizing that climate change and natural disasters both adversely affect the people’s ability to enjoy their rights over land, fisheries, and forest products, it is the government’s declared policy to recognize the important linkages between climate change and natural disasters, on one hand, and tenurial rights on the other (called the “Linkages”).

To implement the government’s declared policy of recognizing these Linkages, all national government agencies and all local government units are directed to incorporate in all national

and local policies, plans, and programs the necessary safeguards to prevent the dilution of tenurial rights due to climate change and natural disasters.

All existing policies, plans, and programs shall be amended accordingly.

National and local government agencies charged with the registration and administration of tenurial rights shall formulate and implement safeguards to protect rights holders from displacement due to climate change and natural disasters, including those resulting from the loss or destruction of official documents and records establishing their tenurial rights.

¹⁴ Section 9 (j) of the Climate Change Act of 2009 refers to the “National Disaster Coordinating Council” as the government’s disaster management agency; however, the Philippine DRRM Act of 2010 has transformed the NDCC into the NDRRMC.

¹⁵ See, for example:

The VGGT encourages States to include women in consultations for the preparation and implementation of strategies for those who may be displaced due to climate change [VGGT 23.2]

The VGGT also provides that “Policies and laws that ensure tenure rights should be non-discriminatory and gender sensitive.” [VGGT 4.4]

The Climate Change Act of 2009 requires the National Strategic Framework to have a component on gender mainstreaming [Climate Change Act of 2009, as amended by Republic Act No. 10174, § 12 (2011)]

The Climate Change Act of 2009 requires at least one of the three commissioners of the CCC to be female [Climate Change Act of 2009, as amended by Republic Act No. 10174, § 7 (2011)]

The PSF Amendment (RA 10174) contains the declared policy of incorporating a “gender-sensitive, pro-children, and pro-poor perspective in climate change and renewable energy efforts, plans, and programs.” [Climate Change Act of 2009, as amended by Republic Act No. 10174, § 2 ¶ 3 (2011)]

In the use of the PSF, the PSF Amendment prioritizes projects that are responsive to gender differentiated vulnerabilities [Climate Change Act of 2009, as amended by Republic Act No. 10174, § 24 (g) (2011)]

The DRRM Act of 2010 has a declared policy of ensuring that disaster risk reduction and climate change measures are gender responsive [Philippine Disaster Risk Reduction and Management Act of 2010, § 2 (j) (2010)]

References

- Bergedieck, L. (5 April 2016). COP2–Insights into Climate Negotiations from Halldór Thorgeirsson. *Chicago Policy Review*. Retrieved from <http://chicagopolicyreview.org/2016/04/05/cop21-insights-into-climate-negotiations-from-halldor-thorgeirsson/>
- Brown, D., Slaymaker, T., and Mann, N.K. (2007). *Access to assets: Implications of climate change for land and water policies and management*. Overseas Development Institute. Retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.587.3303&rep=rep1&type=pdf>
- CLUP Now! (Campaign for Land Use Policy Now!). (2017). *National Land Use Act: A Policy Brief*. Quezon City: International Land Coalition – National Engagement Strategy (ILC-NES) Philippines and CLUP! Now. Retrieved from <http://ilc-nes.ph/wp-content/uploads/2017/10/2-National-Land-Use-Act-A-Policy-Brief.pdf>

- Corendea, C. and Mani, T. (2017). *Hybrid legal approaches to human mobility in the context of climate change*. United Nations University – Institute for Environment and Human Security (UNU-EHS). Retrieved from <https://ehs.unu.edu/blog/articles/hybrid-legal-approaches-to-human-mobility-in-the-context-of-climate-change.html>.
- FAO (Food and Agriculture Organization of the United Nations). (2003). *Multilingual thesaurus on land tenure*. Retrieved from <http://www.fao.org/3/a-x2038e.pdf>.
- Food and Agriculture Organization of the United Nations (FAO). (2012). *The Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security*. Rome: FAO. Retrieved from <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>
- Freudenberger, M. and Miller, D. (January 2010). *USAID Issue Brief: Climate Change, Property Rights and Resource Governance*. United States Agency for International Development (USAID). Retrieved from https://www.climatelinks.org/sites/default/files/asset/document/USAID_Land_Tenure_Climate_Change_and_Tenure_Issue_Brief-061214.pdf.
- HOR (House of Representatives). (3 April 2017). *House institutionalizes national land use [press release]*. Retrieved from <http://www.congress.gov.ph/press/details.php?pressid=10013>.
- Intergovernmental Panel on Climate Change (IPCC). (2013). *Climate Change 2013: The Physical Science Basis – Technical Summary*.
- IPCC. (2014). *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.)]*. Geneva: IPCC. Retrieved from http://www.ipcc.ch/pdf/assessment-report/ar5/syr/SYR_AR5_FINAL_full_wcover.pdf
- Mayhorn, C. (2005). Cognitive Aging and the Processing of Hazard Information and Disaster Warnings. *Natural Hazards Review*, Vol. 6, No. 4, pp. 165-170. Reston, VA: American Society of Civil Engineers. Retrieved from https://www.researchgate.net/publication/248880544_Cognitive_Aging_and_the_Processing_of_Hazard_Information_and_Disaster_Warnings.
- McKenzie, B. (2016). *The Paris Agreement: Putting the first universal climate change treaty in context*. Retrieved from http://www.bakermckenzie.com/files/Uploads/Documents/Environmental/ar_global_climatechangetreaty_jan16.pdf
- Office of the President, Climate Change Commission (OP CCC). (2010). *National Framework Strategy on Climate Change 2010-2022*. Retrieved from http://www.neda.gov.ph/wp-content/uploads/2013/10/nfsc_sgd.pdf.
- OP CCC. (2011). *National Climate Change Action Plan: 2011-2028*. Retrieved from <http://climate.emb.gov.ph/wp-content/uploads/2016/06/NCCAP-1.pdf>.
- People’s Survival Fund (PSF). (n.d.). *Proponent’s Handbook: A Guide on How to Access the People’s Survival Fund*. Climate Change Commission. Retrieved from: <http://psf.climate.gov.ph/wp-content/uploads/2016/12/PSF-AmendedHandbook.pdf>.
- Philippine Association for Intercultural Development (PAFID). (2017). *The Philippine ICCA Bill: A Policy Brief*. Quezon City: ILC-NES Philippines and PAFID. Retrieved from <http://ilc-nes.ph/wp-content/uploads/2017/10/3-The-Philippine-ICCA-Bill-A-Policy-Brief.pdf>
- Public Information Agency (PIA). (2017). *PSF board approves P196-M worth of climate-change adaptation projects*. Retrieved from: <http://pia.gov.ph/news/articles/1000384>.
- Quizon, A. and Pagsanghan, J.I. (2014). *Review of Selected Land Laws and the Governance of Tenure in the Philippines: A Discussion Paper in the Context of the VGGT*. Quezon City: ANGOC and GIZ. Retrieved from http://www.angoc.org/wp-content/uploads/2014/10/VGGT-and-Philippine-laws_web.pdf.

- Rodriguez, M. (2017). *Scoping Paper on the VGSSF and Philippine Policies and Laws on Fisheries*. Quezon City: ANGOC. [Manuscript].
- Senate of the Philippines. (2017). Legislative Process. *Senate Website*. Retrieved from <https://www.senate.gov.ph/about/legpro.asp>.
- Sendai Framework on Disaster Risk Reduction 2015-2030. (2015). Retrieved from http://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf
- SunStar Baguio. (7 May 2017). Ifugao lawmaker lauds passage of Land Use Act. *SunStar Baguio*. Retrieved from: <http://www.sunstar.com.ph/baguio/local-news/2017/05/07/ifugao-lawmaker-lauds-passage-land-use-act-540594>.
- The Energy and Resources Institute (TERI) India and Rights and Resources Initiative (RRI) USA. (2009). *Conference Report: International Conference on Community Rights, Forests, and Climate Change*. New Delhi: TERI India and RRI USA. Retrieved from: http://www.teriin.org/themes/biodiversity/pdf/Conference_on_community%20rights_%20forests%20and%20CC.pdf.
- U.N. Framework Convention on Climate Change (UNFCCC). (2014a). *First steps to a safer future: Introducing The UNFCCC*. Retrieved from: http://unfccc.int/essential_background/items/6031.php.
- UNFCCC. (2014b). *Background on the UNFCCC: The international response to climate change*. Retrieved from: http://unfccc.int/essential_background/convention/items/6036.php.
- UNFCCC. (2017). *Status of Ratification of the Convention*. Retrieved from: http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php.
- United Nations International Strategy for Disaster Reduction (UNISDR). (2009). *UNISDR Terminology on Disaster Risk Reduction*. Retrieved from: <http://www.unisdr.org/files/7817UNISDRTerminologyEnglish.pdf>.
- United Nations University - Institute for Environment and Human Security (UNU-EHS). (2015). *World Risk Report 2015 – Focus: Food Security*. Retrieved from https://collections.unu.edu/eserv/UNU:3303/WRR_2015_engl_online.pdf.
- World Bank. (2013). *Turn Down the Heat: Climate Extremes, Regional Impacts, and the Case for Resilience*. Report for the World Bank by the Potsdam Institute for Climate Impact Research and Climate Analytics. Retrieved from http://www.worldbank.org/content/dam/Worldbank/document/Full_Report_Vol_2_Turn_Down_The_Heat_%20Climate_Extremes_Regional_Impacts_Case_for_Resilience_Print%20version_FINAL.pdf.
- Yumul, G. Jr., et. al. (2011). Extreme Weather Events and Related Disasters in the Philippines, 2004-2008: A Sign of What Climate Change Will Mean?. *Disasters*, 35(2), Disasters, pp. 362-382.

Statutes:

Philippine Constitution (1987).

Adopting Community-Based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation, Executive Order No. 263 (1995).

An Act Establishing the People's Survival Fund to Provide Long-Term Finance Streams to Enable the Government to Effectively Address the Problem of Climate Change, Amending for the

Purpose Republic Act No. 9729, Otherwise Known as the “Climate Change Act of 2009,” and for other Purposes, Republic Act No. 10174 (2011).

An Act Instituting A Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for its Implementation, and for other Purposes [Comprehensive Agrarian Reform Law of 1988], Republic Act 6657 (1988).

An Act Mainstreaming Climate Change into Government Policy Formulations, Establishing the Framework Strategy and Program on Climate Change, Creating for this Purpose the Climate Change Commission, and for other Purposes [Climate Change Act of 2009], Republic Act No. 9729 (2009).

An Act Prescribing Urgent Related Measures To Modernize The Agriculture And Fisheries Sectors Of The Country In Order To Enhance Their Profitability, And Prepare Said Sectors For The Challenges Of The Globalization Through An Adequate, Focused And Rational Delivery Of Necessary Support Services, Appropriating Funds Therefor And For Other Purposes [The Agriculture And Fisheries Modernization Act Of 1997], Republic Act No. 8435 (1997).

An Act Providing for a Local Government Code of 1991 [Local Government Code of 1991], Republic Act 7160 (1991).

An Act Providing For The Development, Management And Conservation Of The Fisheries And Aquatic Resources, Integrating All Laws Pertinent Thereto, And For Other Purposes [The Philippine Fisheries Code Of 1998], Republic Act No. 8550 (1998).

An Act Providing for the Establishment and Management of National Integrated Protected Areas System, Defining its Scope and Coverage, and for other Purposes [National Integrated Protected Areas System Act of 1992 (NIPAS Act)], Republic Act 7586 (1992).

An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of all Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise, Known as the Comprehensive Agrarian Reform Law of 1988, As Amended, and Appropriating Funds Therefor [Comprehensive Agrarian Reform Program Extension with Reforms], Republic Act 9700 (2009).

An Act Strengthening the Philippine Disaster Risk Reduction and Management System, Providing for the National Disaster Risk Reduction and Management Framework and Institutionalizing the National Disaster Risk Reduction and Management Plan, Appropriating Funds therefor and for other Purposes [Philippine Disaster Risk Reduction and Management Act of 2010], Republic Act 10121 (2010).

An Act to Amend and Compile the Laws Relative to Lands of the Public Domain [Public Land Act], Commonwealth Act 141 as amended (1936).

An Act To Prevent, Deter And Eliminate Illegal, Unreported And Unregulated Fishing, Amending Republic Act No. 8550, Otherwise Known As “The Philippine Fisheries Code Of 1998,” And For Other Purposes [The Philippine Fisheries Code Of 1998, As Amended], Republic Act 10654 (2015).

An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and for other Purposes [Urban Development and Housing Act of 1992 (UDHA)], Republic Act 7279 (1992).

An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/ Indigenous Peoples, Creating A National Commission on Indigenous Peoples, Establishing

Implementing Mechanisms, Appropriating Funds Therefor, and for other Purposes, [The Indigenous Peoples' Rights Act of 1997 (IPRA)], Republic Act 8471 (1997).

Promoting Sustainable Forest Management in the Philippines, Executive Order No. 318 (2004).

Revising Presidential Decree No. 389, Otherwise Known As The Forestry Reform Code Of The Philippines [Revised Forestry Code Of The Philippines], Presidential Decree 705 (1975).

Bills (Pending Legislation)

House Bill No. 5240, An Act Instituting A National Land Use and Management Policy, Providing the Implementing Mechanisms Therefor, and for other Purposes.

Treaties

U.N. Framework Convention On Climate Change, adopted 9 May 1992, entered into force 21 March 1994, 1771 UNTS 107 [UNFCCC].

Paris Agreement, adopted 12 December 2015, entered into force on 4 November 2016. FCCC/CP/2015/10/Add.1. [Paris Agreement].

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) promote secure tenure rights and equitable access to land, fisheries and forests as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment. This work builds on and supports the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Voluntary Guidelines on the Right to Food), which were adopted by the FAO Council at its 127th Session in November 2004, and the 2006 International Conference on Agrarian Reform and Rural Development (ICARRD).

The VGGT were endorsed by the Committee on World Food Security (CFS) in May 2012. The Guidelines were developed through a broad global partnership of international, regional and national organizations of different types that work together to achieve global changes in governance of tenure. The development followed an inclusive process involving a series of consultations and negotiations.

The VGGT provide a framework that States can use when developing their own strategies, policies, legislation, programs and activities. They allow governments, civil society, the private sector and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices.

The VGGT have 169 provisions, covering 23 topics encompassing five major themes: (1) General Matters (Principles); (2) Legal Recognition and Allocation of Tenure Rights; (3) Transfers and Changes to Tenure; (4) Administration of Tenure; and, (5) Responses to Climate Change and Disasters.

The VGGT is one of the very few international documents that directly addresses the protection of tenurial rights in the event of climate change and disasters. It urges States to consider tenure aspects of land, fisheries and forests in preventing, preparing for, and responding to disasters, as well as in reconstructing and rehabilitating after the occurrence of disasters. The directly relevant provisions are Section 23 on *Responses to Climate Change*, and Section 24 on *Responses to Natural Disasters*. In addition, Sections 7 to 10 provide for the *legal recognition and allocation of tenure rights and duties*. Section 10 on *informal tenure* is also particularly important, as those without legally-recognized tenure are often most at risk on the impacts of climate change.

This paper examines the linkages between climate change and natural disasters, with land tenure, as reflected in major Philippine legislations and international instruments on the mentioned subject matters. It concludes that Philippine laws on climate change and natural disasters have merely abstract linkages to tenure rights, while the VGGT is one of the few international instruments which address these linkages. This review also peers into proposed legislations in the country that could address the identified gaps.

Scoping of Legislations on Climate and Natural Disasters vis-à-vis Tenure was prepared by Atty. Antonio GM La Viña and Atty. Joyce Melcar Tan for the project “Mainstreaming Voluntary Guidelines on Governance of Tenure,” implemented by ANGOC and supported by the Food and Agriculture Organization (FAO) of the United Nations.

The views and information provided in this document do not necessarily reflect the views and policies of FAO.