

The VGGT and the NLUA: Areas of Convergence

VGGT Part 1: PRELIMINARY:
Objectives

NLUA Chapter 1: Section 2: Introductory
provisions: Declaration of Policies

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VGGTs seek to improve governance of tenure of land, fisheries and forests. They seek to do so for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development.

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NLUA

The *NLUA* is aligned with the overall objective of the Voluntary Guidelines (VGGT) which is to *improve governance of tenure of land, fisheries and forests*. Stated as the primary objective of the *NLUA* (as reflected in its Declaration of Policies) -- to provide for a rational, holistic and just allocation, utilization, management and development of the country's land and water resources, it directly reflects the essence of instituting land governance reforms.

Moreover, the *NLUA* contributes in this overall objective of improving governance of tenure of land by instituting a national land use framework and policy for a *rational, holistic and just allocation, utilization, management, and development* of the country's land and water resources. The Declaration of policies in the *NLUA* as stated above appears to be more categorical in describing the HOW aspects of "improved governance" (in the VGGT) by using the terms *rational, holistic* and *just* and further elaborates on "tenure of land, forests and fisheries" by defining the policy to cover the allocation, utilization, management and development of the country's land and water resources.

The VGGTs' objective to improve governance and putting emphasis on *vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development* in the VGGTs is matched in the *NLUA* by the same emphasis placed on need for policies on land and water use to be consistent with the principles of *social justice and equity, environmental integrity and sustainable development for the common good*.

Overall, the objective of the VGGT *to improve governance of land tenure for the benefit of all, with emphasis on vulnerable and marginalized people with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development* is reflected and specified/elaborated in Nos. 1-12, Section 2, Second Paragraph of the *HB 108*.

Table 1. Declaration of Policies and Principles

1. Maintenance and preservation of environmental integrity and stability; (environmental protection)
2. Sustainable and just management and utilization of natural resources; (sustainable social and econ devt)
3. Disaster risk reduction and climate risk-based planning; (vulnerable groups)
4. Protection of prime agricultural lands for food security, with emphasis on self-sufficiency through efficient and sustainable use of land resources consistent with the principles of sound agricultural development, natural resources development, and agrarian reform; (food security, rural development, sustainable social & econ development)
5. Protection and conservation of the country's natural heritage, permanent forest lands, natural forests, critical watersheds and key biodiversity areas to ensure adequate forest cover to maintain ecological processes in the country; (environmental protection)
6. Sustainable development and management of water resources. (environmental protection)
7. Settlements, transportation and other infrastructure development in support of inclusive growth and rural, urban and regional development; (economic development; poverty eradication, social stability)
8. Improved access to affordable housing by increasing its supply through direct allocation, better access to unutilized lands, and multiple use and higher densities, where appropriate; (housing security)
9. Respect for and protection of the traditional resource right of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) to their ancestral domains; compliance with free and prior informed consent of ICCs/IPs; and recognition of customary laws and traditional resource use and management, knowledge, and practices in ancestral domains; (vulnerable, marginalized people)
10. Equitable access to land through State intervention that guarantees its affordability to basic sectors
11. Energy security/self-sufficiency
12. Meaningful participation of the basic sectors

2. In addition, the VGGTs further seek to:

- a) Improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to use, manage and control land, fisheries and forests.
- b) Contribute to the improvement and development of the policy, legal and organizational frameworks regulating the range of tenure rights that exist over these resources.
- c) Enhance the transparency and improve the functioning of tenure systems.
- d) Strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; organizations of farmers and small scale producers, of fishers, and of forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

NLUA

Sec. 98 (re Access to Information) *of the NLUA* supports the more specific objective of the IPs re enhancing transparency and improve the functioning of tenure systems while *Sec. 5-66 of the NLUA* that elaborate On land use framework proposed in the NLUA serve the VGGTs' objective (d). This land use framework seeks to guide national agencies, including the NLUPC created under this bill, as well as LGUs in determining the allocation and use of land within their jurisdiction and territories.

VGGT Part 1: PRELIMINARY:
Nature and Scope

NLUA Chapter 1: Section 3: Scope

The Guidelines are voluntary, global in scope, should be interpreted and applied consistent with existing obligations under national and international laws, in accordance with national legal system. They are meant to complement and support national, regional and international initiatives to address HR and provide secure tenure rights to land, forests and fisheries.

- The Guidelines can be used by States, implementing agencies, judicial authorities, local governments, CSOs, basic sectors, academia, private sector and persons concerned with tenure governance.

NLUA

As a policy that will govern land use at all levels in the country, the NLUA would require the implementing national agencies, the NLUPC and the LGUs to adopt the land use framework being proposed, in determining the allocation and use of land within their territorial jurisdiction.

It is being desired therefore, that the processes leading toward the enactment of the NLUA would benefit from the VGGTs as the latter can be used as the lens in enhancing further the provisions related to tenure and governance of resources for the common good.

VGGT Part 2: GENERAL MATTERS: NLUA Chapter 1: Section 2: Declaration of Policies Chapters 2-6, Section 6-66.

This part expounds on the general principles of responsible tenure governance that States have obligations under applicable international HR instruments.

3A General Principles; 3B: Principles of Implementation

1. Policies of Implementation are essential to contribute to responsible governance of tenure of land, fisheries and forests.
 - 1.1 Principle #5 re Holistic and sustainable approach: recognizing that natural resources and their uses are interconnected, and adopting an integrated and sustainable approach to their administration.

NLUA

Sec. 2 of the NLUA re in the Declaration of Policies and Principles states that, it is the policy of the State to provide for a rational, holistic and just allocation, utilization, management and development of the country's land and water resources so that their use is consistent with the principles of equity, social justice, environmental integrity and SD, directly resonates with this VGGTs' provision. Further, this principle is further embodied in *Chapters 2-6, Sec. 6-66 of the NLUA*.

- Principle #6 re Consultation and Participation: engaging and seeking the support of those that have legitimate tenure rights and could be affected by decisions, prior to decisions being taken, and responding to their contributions.

NLUA

Public participation is one of the salient features of the *NLUA*. It ensures that in all levels of planning and policy making, the stakeholders, are given an opportunity to actively participate in the process. Participation of women in particular is given premium as it specifically provides that half of the sectoral representatives in all levels are women. Avenues for participation are provided via the planning process and planning structures.

The bill proposes a structure that will increase people's participation in land use planning and applies the combined bottom-up top-bottom approach in the planning.

Specifically, *HB 6545* seeks to integrate and institutionalize people's participation in defining the framework of land utilization and management. It provides for the mandatory participation of stakeholders, particularly the basic sectors, in key decision making bodies on land use policy at all levels. This ensures meaningful opportunities for the different stakeholders to participate in the land use process.

- Principle #8 re Transparency clearly defining and widely publicizing policies, laws and procedures in applicable languages, and widely publicizing decisions in applicable languages and in formats accessible to all.

NLUA

Chapter 11 of the NLUA re Transitory and Final Provisions, specifically Section 98. Access to Information; Access to records and documents pertaining to official acts, transactions, or decisions, as well as to data used as basis for policy development by the NLUPC shall be made available to the public.

- Principle # 9 re Accountability holding individuals, public agencies and non- state actors responsible for their actions and decisions according to the principles of the rule of law.
- Principle #10 re Continuous improvement: States should improve mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and secure on-going improvements.

Table 2. Special Areas of Concern and Stakeholder Participation

Sector Theme	NLUA Provisions	Significance
Ancestral Domains	SECTION 7. Land Use Plans for Ancestral Domains; Land use plans of ancestral domains shall be formulated by the ICCs/IP themselves	The NLUA recognizes the right of the IPs to self-determination. It recognizes and respects the traditional and customary methods/processes of the IPs in designating/allocating the use of lands in AD.
Forest Lands and Reservations of Watershed	Chapter 3 Special Areas of Concern, Article 5 (Forest Lands and Reservations of Watershed), Section 19, 20, 21 Reversion of Alienable and Disposable Lands to Forestlands Critical Watershed Areas Formulation and Implementation of Integrated Watershed Management Plans	The NLUA mandates the participation of concerned NGAs, the LGUs concerned, and/or concerned GOCCs (in the case of critical watershed areas), upon mandatory consultations with the concerned sectors and communities, in undertaking these activities in forest land and reservations of watersheds
Coastal Zones	Chapter 3 Special Areas of Concern, Article 6 (Coastal Zones), Section 26 LGUs, in coordination with the DENR, the FARMCS, local fisherfolk organizations and other affected sectors such as women and youth, shall conduct the Coastal Zoning Resource Management Plan (CZRMP) which shall be incorporated in the CLUP.	NLUA further institutionalizes public participation esp the fisherfolk sector including women and youth and further strengthens the FARMCS as a mechanism for these sectors to engage in CRM
Tourism Development Areas	Chapter 3 Special Areas of Concern, Article 11 (Tourism Development Areas), Section 46: Criteria for Designating Tourism Development Areas. SECTION 47. Identification and Preservation of Cultural Heritage.	These activities shall be done in consultation and coordination with the concerned LGUs, national government agencies, the private sector and the affected communities.
Infrastructure Development	SECTION 48. Allocation and Use of Land for Infrastructure Development.	The National Economic and Development Agency (NEDA), in consultation with the concerned national government agencies, LGUs, and the private sector shall identify and periodically review, update and/or revise the list of priority infrastructure projects
Physical Framework and Land Use Plan	Sections 50, 51, 54 Planning Process: The physical framework and land use planning process shall be participatory, following a combined bottom-up and top-down approach, with mandatory public hearings/consultations conducted at all levels, and shall consider available and updated multidisciplinary scientific information of land uses. Sections 56, 59 re Implementing structures: Composition of the NLUPC. The NLUPC shall be headed by the Secretary of the NEDA as Chairperson.	The participation of the concerned stakeholders is highlighted in the formulation of the national policy guidelines It is also important to note that in the local land use bodies, there are sectoral representatives and other stakeholders. (Please refer to Section 63 (Composition of the PLUPMB), Sec. 66 re Composition of the C/MLUPMB) Basic Sectors are represented in the Implementing structures: Two (2) representatives each from four (4) basic sectors directly involved in land use, namely: urban poor, peasants, fisherfolk, and indigenous peoples who shall be appointed by the respective National Anti-Poverty Commission (NAPC) sectoral councils (50% women).
Physical Framework and Land Use Plan	Training, Education and Values Formation: Section 78 IEC and Capacity Building: Sec. 79 In order to develop a well-informed, responsible and committed citizenry who value the protection, conservation and development of the country's limited land, and other physical resources, the State shall mandate the inclusion of sustainable land use education or any subject related thereto in the curricula of primary, secondary and tertiary education.	The NLUA promotes the development of citizens' consciousness and collective values formation on protection, conservation and development of land as a limited resource. Purposive development of capacities on land use planning and management for national and local government officials, community leaders, representatives of NGOs, POs, the religious sector, and the general public is also an area to be supported.

Table 3. NLUA (Chapter 10) of NLUA contains provisions on Incentives, Sanctions, and Penalties specifically outlines under Sections 80-90

Relevant Provisions	Type	Focus
SECTIONS 80-81.	SECTIONS 80-81. System of Incentives and Awards	The NLUPC shall come up with a system of incentives and awards to LGUs that regularly update their CLUPs/ZOs once every eight (8) years.
SECTION 82-90	System of Sanctions	<p>SECTION 89. Failure to Formulate, Implement and/or Enforce the CLUPs and Zoning Ordinances (ZOs).</p> <p>The NLUPC, in coordination with the DILG, shall investigate, review, and recommend the filing of charges against local chief executives and other local officials and employees responsible for the formulation, implementation and/or enforcement of the CLUPs in the following cases:</p> <ul style="list-style-type: none"> • Failure of the CLUPs/ZOs to conform to the guidelines provided in the NPPF; • Failure to complete the preparation of the CLUP despite the availability of funds, resources, and support by the Sanggunian concerned; • Failure to provide appropriate budgetary allocation to effect its implementation; and • Failure to implement and enforce the CLUP/ZO due to negligence of duty; <p>SECTION 82. Fine for Failure to Commence or Complete the Development of Agricultural Lands with Approved Conversion Order.</p> <p>SECTION 83. Persons Abetting Illegal Conversion.</p> <p>SECTION 84. Penalty for Reclassification of Protected Agricultural Lands and Exceeding the Limit of Areas Allowed for Reclassification.</p> <p>SECTION 85. Payment of Disturbance Compensation. Following the order of priority stated in Section 22 of R.A. 6657, as amended by R.A. 9700, agricultural lessees and share tenants, regular farm workers, seasonal farm workers, other farm workers, actual tillers or occupants of public lands collective, or cooperative of the above beneficiaries, and others directly working On land affected by agricultural land use conversion.</p> <p>SECTION 90. Illegal Conversion of City or Municipal Parks, Communal Forests, and Tree Parks in Subdivisions.</p>

Any public official or employee, whether elected, appointed or holding office/employment in a casual, temporary, holdover, permanent, or regular capacity, found to be responsible for any of the foregoing acts, shall be punished with forfeiture of salaries and allowances, and suspension.

NLUA

The *NLUA* contains extensive and specific provisions on a system of monitoring and review of the framework plans and of the law.

Table 4. Provisions on Monitoring and Review

Relevant Provisions	Content and Focus
Chapter 3, Special Areas of Concern, Art. 1, Sec. 9	Review of Land Classification – NLUPC to review the current land classification system & definitions used to reflect the actual use of lands in the country
Chapter 3, Special Areas of Concern, Art. 1, Sec. 50	National Land Use Planning Process – The period of coverage (time frame) of the national, Regional and provincial framework plans and the municipal/city CLUPs shall be thirty years with regular review and updating every 10 years
Chapter 8, Mapping and Data Management for Land Use Planning, Sec. 74	Ground Delineation – All maps shall be updated as new important information and data become available or as determined by urgent need. Updating should not be more often than every 10 years
Chapter 8, Sec. 67	Approval and review of PFP and CLUPs of LGUs shall be submitted by the local land use board to the LDCs, for endorsement (transmission) to the local Sanggunian for Approval
Chapter 8, Sec. 68	Approval of RFP and NFP by the RPLUPC and NLUPC respectively provided that such processes and guidelines shall be prepared and issued by the NLUPC within six (6) months from the effectivity of this Act
Chapter 8, Sec. 77	Submission of Annual Report On Implementation of CLUPs and ZOs. The Local Land Use Boards shall submit their annual report On implementation of their LUPs to their respective Sanggunian
Chapter 11, Sec. 91	Mandatory Review every Ten (10) years – The Congress shall undertake a mandatory review of this Act at least once every 10 years to ensure that land use policies and guidelines remain responsive to changing situations
Chapter 11, Sec. 94	Congressional Oversight Committee On Land Use Act – to be composed by 7 members from the Senate and 7 members from the House of Representatives. The OC shall function for a period of not more than 3 years to oversee the implementation of this Act.

VGGT Part 2: GENERAL MATTERS:

b5 Policy, Legal and Organizational framework related to tenure governance

NLUA

Chapter 5: Implementing Structure NLUPC

Chapter 6: Regional and Local LU Policy

2. Policy, Legal and Operational Framework related to tenure governance (b.5)

2.1. States should place responsibilities at levels of government that can most effectively deliver services to the people. States should clearly define the roles and responsibilities of agencies dealing with tenure of land, fisheries and forests. States should ensure coordination between implementing agencies, as well as with local governments, and indigenous peoples and other communities with customary tenure systems.

NLUA

The implementing structures at the national, regional and local levels, including their powers, roles and responsibilities have been defined in *NLUA* and as well, allocation of necessary resources thru appropriations for their regular operations proposed. *Chapter 5 of the NLUA* provides for the creation of the NLUPC, which will be composed of the various heads of agencies, particularly those that are involved in land use. As the highest policy making body the NLUPC has also been designated to resolve land use policy conflicts between or among agencies, branches or levels of government. The NLUPC is tasked to ensure that the RPPF, PPF and CLUPs will be consistent and in harmony with the NPFP. *NLUA: Chapter 5: Sec. 55, 56, 57, 58, 59*

At the local level, there are local land use policy boards which will ensure the creation and implementation of the land use framework set forth in the *NLUA*. In forest land use management, where a watershed area covers several municipalities across a number of provinces, an inter-LGU Task Force drawn from RLUPC and concerned MLGUs shall be formed to formulate the watershed management plan. *Chapter 6: Sec. 60, 61, 62,63, 64, 65, 66*

Though this has not been emphasized in the VGGTs, the *NLUA* contains provisions that ensure fiscal support for the operations of the NLUPC. *Sec. 96 on Appropriations of the NLUA* assures the allocation of resources/budget for the implementation of the law and its continued application (inclusion in GAA). At the local level, appropriations for the regular operations and activities of the local LUPC are proposed to be included in the annual budget of the LPDO. *Sec. 96*

3. States should define and publicize opportunities for civil society, private sector and academia to contribute to developing and implementing policy, legal and organizational frameworks as appropriate. (Please see item 4.2 re Principle #6 re Consultation and Participation)

3.1. States and other parties should regularly review and monitor policy, legal and organizational frameworks to maintain their effectiveness. (Please refer to NLUA provisions on Continuing Improvement)

VGGT Part 2: GENERAL MATTERS: NLUA Chapter 5: Implementing Structure and Mechanism
6. Delivery of services

4. Delivery of services

4.1. To the extent that resources permit States should ensure that implementing agencies and judicial authorities have the human, physical, financial and other forms of capacity to implement policies and laws in a timely, effective and gender-sensitive manner. Staff at all organizational levels should receive continuous training, and be recruited with due regard to ensuring gender and social equality.

NLUA

Chapter 5 of NLUA contained sections that provide for the necessary structure and mechanism that will have the necessary organizational mandate and the commensurate financial and technical capacities to carry out the roles and functions as defined. Gender and social equality is a consideration in the selection of membership of the NLUPC particularly in getting the basic sectors (UP, peasants, fisherfolk and IPs), half should be women, as representatives.

Sections 58 creates the NLUPC Secretariat from the existing unit of NEDA in-charge of Land Use and Physical Planning Coordination, thus, building on accumulated experience and technical knowledge from the agency. *Sec. 59 of the NLUA* further defines the functions of the NLUPC Secretariat (11 functions) that describe the wide-range and comprehensive support that the Sect stands to offer : database development & build-up, coordination with agencies and LGUs , monitoring, technical assistance, assistance to LGUs, development of a long-term capability program on land use planning. However, with regard consideration for gender and social equality at all organizational levels in recruitment of staff for the Secretariat is beyond the scope of the *NLUA* (i.e. HRD policies of government will apply).

VGGT Part 3: LEGAL RECOGNITION AND ALLOCATION OF TENURE RIGHTS AND DUTIES: 9. IPs and communities with Customary Tenure System

NLUA:
Provisions on Ancestral Domains

5. IPs and communities with Customary Tenure System

- 5.1. States and NSAs should acknowledge that land, fisheries and forests have social, cultural, spiritual, economic, environmental and political value to IPs and communities with customary tenure systems.*
- 5.2. IPs with customary tenure systems that exercise self-governance of land, fisheries and forests should promote and provide equitable, secure and sustainable rights to those resources*
- 5.3. States should provide appropriate recognition and protection of the legitimate tenure rights of IPs with customary tenure systems. Such recognition should take into account the land, fisheries and forests that are used exclusively by a community and those that are shared, and respect the general principles of responsible governance.*
- 5.4. IPs and other communities with customary tenure systems should not be forcibly evicted from such ancestral lands*
- 5.5. States should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of IPs and other communities with customary tenure systems*
- 9.8 States should protect IPs and other communities with customary tenure systems against unauthorized use of their land, fisheries and forests by others.*
- 9.10 States and NSAs should strive, together with representative institutions of affected communities to provide technical and legal assistance to communities to participate in the development of tenure policies, laws and projects in non-discriminatory and gender sensitive ways*

NLUA

NLUA recognizes the IPs/ICC's right to self determination and acknowledges their right to determine the use of their lands in accordance with their traditions and customs. In line with this, *NLUA* provides for land use planning in Ancestral Domains. Land Use Plans for AD shall be formulated by the ICCs/IPs themselves in accordance with their needs and traditional resource and management systems with assistance from the NCIP, the LGUs and civil society concerned. Such plans shall be recognized and adopted in the baranggay, city/municipal, provincial, regional and national *PFPs* (Sec. 7).

More specifically, the *NLUA* provides under *Section 14-16* Special Areas of Concern pertaining to Ancestral Domain, additional guidelines in land use planning in Ancestral Domains. Ancestral domain policies shall be adopted in the LGU's land use plan (Sec. 16). The ADMP or the ADSDPP shall be adopted in CLUP and CDP (Sec. 15). Priority areas for agricultural development within the AD shall be developed in accordance with their ADSDPP.

Physical Framework Plans made prior to the delineation of ADs shall, without prejudice to the rights of the ICCs/IP concerned, adopt different land use categories in accordance with their particular needs and traditional resource and management systems.

VGGT Part 2: LEGAL RECOGNITION AND ALLOCATION OF TENURE RIGHTS AND DUTIES: 10 Informal Tenure **NLUA Chapter 3: Special Areas of concern**

6. On Recognition of Special Tenure

- 6.1. *Where informal tenure to land, fisheries and forests exist, States should acknowledge it in a manner that respects existing formal rights under national law and in ways that recognize the reality of the situation and promote social, economic and environmental well-being. States should promote policies and laws to provide recognition to such informal tenure.*
- 6.2. *States should ensure that all actions regarding informal tenure are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments, including as appropriate to the right to adequate housing.*

6.3. States should take all appropriate measures to limit the informal tenure that results from overly complex legal and administrative requirements for land use change and development on land. Development requirements and processes should be clear, simple and affordable to reduce the burden of compliance.

6.4. Where it is not possible to provide legal recognition to informal tenure, States should prevent forced evictions that violate existing obligations under national and international law, and consistent with relevant provisions under Section 16.

NLUA

Under the Special Areas of Concerns the *NLUA* pays special attention to protecting or reinforcing the tenure rights of the basic sectors that have been previously secured through other existing laws such as the *IPRA*, *UDHA*, *Fisheries Code* and the *CARPER*.

Chapters 2 (Framework for LU Planning) and *3* (Special Areas of Concern) contain sections that reinforce the tenure rights of basic sectors emanating from existing policies that are related to asset reforms. For the IPs, *NLUA* fully recognizes the Sustainable Traditional Resource Rights or the rights of ICCs/IPs to sustainably use, manage, protect and conserve a) land, air, water, and minerals; b) plants, animals and other organisms; c) collecting, fishing and hunting grounds; d) sacred sites; and e) other areas of economic, ceremonial and aesthetic value in accordance with their indigenous knowledge, beliefs, systems and practices.

Also, *NLUA* mentions of areas ... accessible to the sea and identified for fisherfolk settlement and housing but are not part of or are not within any protected land use areas shall be allocated to traditional fisherfolk who are inhabitants of the coastal communities and/or members of registered fisherfolk organizations and/or holders of stewardship lease contracts or titles to ancestral domains or any form of property right arrangements who participate in coastal resource management initiatives, subject to the usual census procedures of the Housing and Urban Development Coordinating Council (HUDCC); The State shall endeavor to issue marine tenurial rights to organizations concerned based on a criteria to be established by NLUPC;

Specifically, for the marginalized fisherfolk, areas that are neither sub-classified as mangrove, fisherfolk settlement nor fishpond may be devoted to recreational or tourism. Provided, that such undertaking will not result in environmental degradation and displacement of small fisherfolks. In cases where it may not be possible to provide legal recognition to informal tenure, designating recreational or tourism development as land use should prevent forced evictions of the sector that violate existing state obligations.

For the urban poor and fisherfolk sectors, the *NLUA (Art. 9, Settlements Development, Sec. 39)* establishes the Socialized Housing Zones thus formalizing recognition to the right to decent housing of these sectors consistent with the provisions for socialized housing of UDHA that established the basis of allocating the informal tenure rights to these sectors.

Each city or municipality in urban or urbanizable and rural areas shall designate lands for socialized housing and resettlement areas for the immediate and future needs of the underprivileged and homeless in their territory, pursuant to existing laws and regulations. The designated sites for socialized housing shall be located in residential zones, and shall be zoned as socialized housing zones that are integrated in the city's or municipality's zoning ordinance, duly approved by the NLUPC, pursuant to existing laws and regulations. Fisherfolk settlements and housing in coastal municipalities shall be zoned near the sea for easy access to their livelihood as provided under *Sections 24 to 26* hereof. (*Art. 9, Settlements Development, Sec. 39*)

**VGGT Part 3: LEGAL RECOGNITION
AND ALLOCATION OF TENURE
RIGHTS AND DUTIES: 12 Investments**

NLUA Four (4) Policy Areas

7. On Public and Private Investments

7.1. State and non-state actors should acknowledge that responsible public and private investments are essential to improve food security. Responsible governance of tenure of land, fisheries and forests encourages tenure right holders to make responsible investments in these resources, increasing sustainable agricultural production and generating higher incomes. States should promote and support responsible investments in land, fisheries and forests that support broader social, economic and environmental objectives under a variety of farming systems. States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.

NLUA

The *NLUA* adheres to the understanding of long-term comprehensive land use plan or CLUP of a city or municipality to be consistent with its higher level counterparts: the PCLUP/PPFP, RPPF, and finally, the NFPP, which represent the physical framework plans of the provincial, regional and national levels, respectively. These framework plans generally embody policies on settlements, protected areas, production areas, and infrastructure areas. With areas properly categorized, areas that are open to investments (production, settlements, and infrastructure) are properly delineated and location of investments can be properly sited.

The four policy areas² correspond to the four generalized land use areas within any given political/administrative unit or territory, i.e. areas for living (settlements), areas for making a living (production), the areas taken up by infrastructures to connect and support the two areas (infrastructure), and the life support systems (protected areas). These four policy areas taken together would leave no part of the territory without appropriate policy cover. The life support systems or protected areas refer to those areas that are not built over but are left in their open character because they perform their function best in that condition, i.e. as a source of fresh food, clean air, safe water, and also as receptor of wastes generated in the settlements, infrastructure, and production areas.

VGGT Part 3: ADMINISTRATION OF TENURE: 17 Records of Tenure Rights

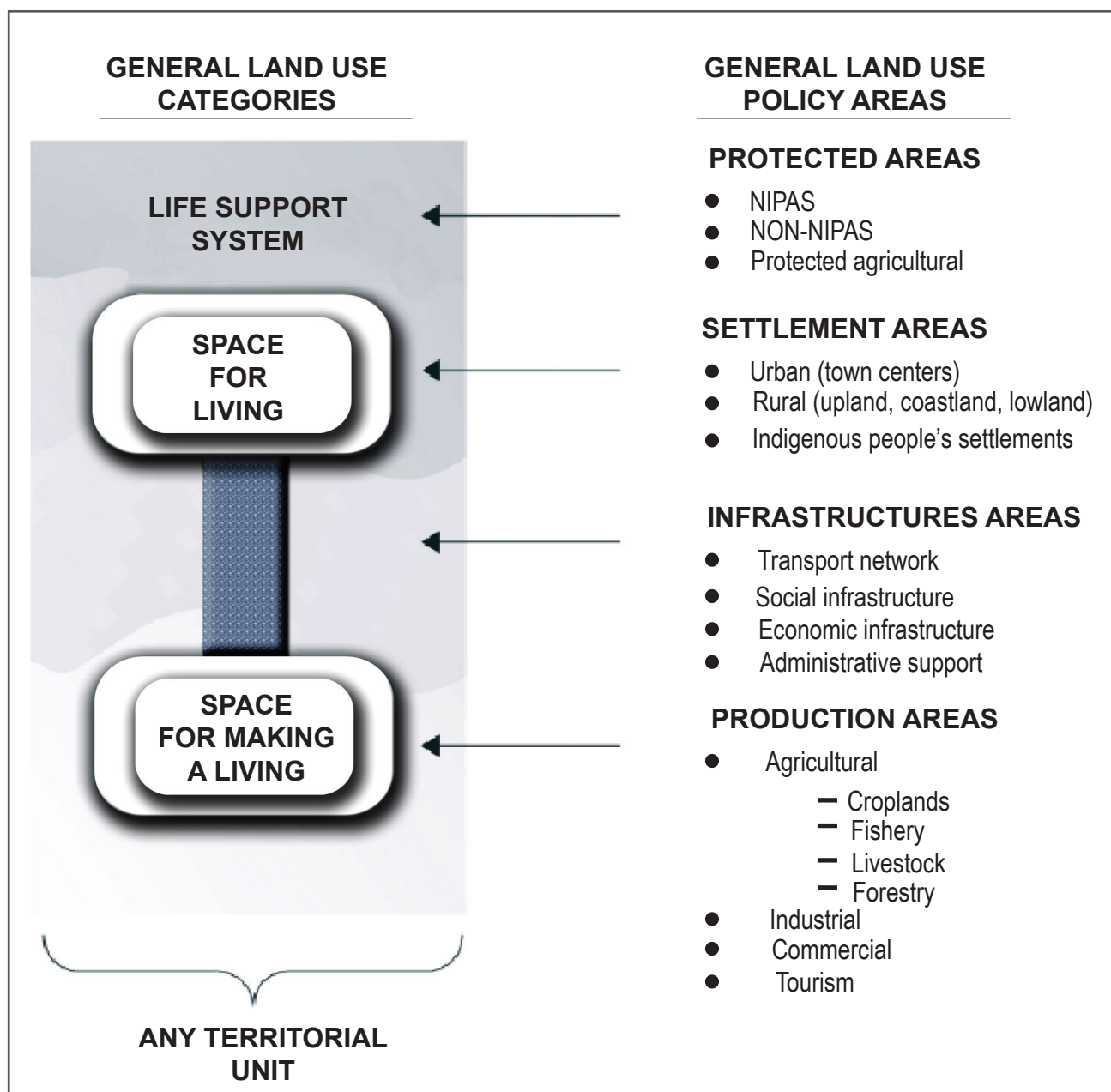
NLUA -- Chapter 7: Adoption, Approval and Review of Local Land Use and Physical Framework Plans, Section 69

8. On Records and Tenure Rights

8.1. States should provide recording systems appropriate for their particular circumstances, including the available human and financial resources. Socio-culturally appropriate ways of recording rights of indigenous peoples and other communities with customary tenure systems should be developed and used.

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² Originally conceptualized by E.M. Serote for the National Land Use Committee, the four policy areas became the basic substantive content of the national, regional, and provincial physical framework plans. The same were also used as a basis for drafting the proposed National Land Use Act which is pending in Congress as of this writing.

Figure 1. Conceptual Framework on the Four Policy Areas



including the available human and financial resources. Socio-culturally appropriate ways of recording rights of indigenous peoples and other communities with customary tenure systems should be developed and used. In order to enhance transparency and compatibility with other sources of information for spatial planning and other purposes, each State should strive to develop an integrated framework that includes existing recording systems and other spatial information systems. In each jurisdiction, records of tenure rights of the State and public sector, private sector, and indigenous peoples and other communities with customary tenure systems should be kept within the integrated recording system. Whenever it is not possible to record tenure rights of indigenous peoples and other communities with customary tenure systems, or occupations in informal settlements, particular care should be taken to prevent the registration of competing rights in those areas.

NLUA

*Chapter 7 of NLUA, under Sections 69-76 expounded On Adoption, Approval and Review of Local Land Use and Physical Framework Plans, Compiling of Datasets, updating of Maps, Ground Delineation of Permanent Forest Line, Completion and Updating of Existing Cadastral Surveys. **The emphasis being placed on developing an integrated spatial database on information and mapping system is consistent with the VGGTs’ purpose to enhance transparency and compatibility of information needed for spatial planning.***

The key features of the provisions mentioned include the establishment of the National Spatial Database Information and Mapping System (NSDIMS) to be led by NAMRIA and other supporting agencies. The system shall be responsible for creating a database for the production of base and decision maps for all planning levels of standard scales, and other indicators, based on Planning Guidelines and Standards approved by the NLUPC. In cases of ancestral domains, self-delineation by ICCs/IPs of their ancestral lands shall be employed to determine boundaries as provided for under IPRA. This supports the contention of the VGGTs about *records of tenure rights of the State and public sector, private sector, and indigenous peoples and other communities with customary tenure systems should be kept within the integrated recording system.*

9. On Regulated Spatial Planning

9.1. Regulated spatial planning affects tenure rights by legally constraining their use. States should conduct regulated spatial planning, and monitor and enforce compliance with those plans, including balanced and sustainable territorial development, in a way that promotes the objectives of these Guidelines. In this regard, spatial planning should reconcile and harmonize different objectives of the use of land, fisheries and forests.

NLUA

NLUA cites as a definition of LUP ... proper management of land resources by using land in a manner consistent with its natural qualities so that it does not lose its productivity while it is continually made to produce for the benefit of man and other life forms that depend on it.

Article XII, Section 6, Philippine Constitution of 1987 establishes the fact that “The use of property bears a social function, and all economic agents shall contribute to the common good ... subject to the duty of the State to promote distributive justice and to intervene when the common good so demands. The State shall then regulate the acquisition, ownership, use, and disposition of property and its increments.”

It is from this context that the *NLUA* is seen to serve as a key implementing policy in the administration of tenure, specifically in pursuing Regulated Spatial Planning section of the VGGTs. The State and its counterpart, the LGUs, have been given the mandate by the *LGC (RA 7160) Section 447 (a) (2), RA 7160*

- (vi) Prescribe reasonable limits and restraints On use of property within the jurisdiction of the municipality;
- (vii) Adopt a comprehensive land use plan for the municipality: Provided, That the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;
- (viii) Reclassify land within the jurisdiction of the municipality, subject to the pertinent provisions of this Code;
- (ix) Enact integrated zoning ordinances in consonance with the approved comprehensive land use plan

NLUA also proposed a set of Categories of Land Uses for planning purpose (*Chapter 2, Section 6*) particularly in determining and defining the national, regional and provincial framework and CLUP.

In designating the use of land according to the 4 categories, the state through the NLUPC regulates and limits in that:

- a) Certain areas (lands classified under Protection Land Use) are generally restricted from being used for other purposes aside from their intended use or function which are primarily for rehabilitation, conservation and protection purposes and the promotion of the country's ecological and life-support systems. Planning for protection land use intends to achieve environmental stability and ecological integrity, ensure a balance between resource use and the preservation of some areas with environmental, aesthetic, educational, cultural and historical significance, and protect people and human-made structures from the ill effects of natural hazards. Tenurial right of farmers to keep prime agricultural lands from conversion is part of the lands that are subject for protection land use.

Caution is also provided, in the determination of the functional uses of lands within ancestral domains. The *NLUA* emphasizes that other sub-categories of land uses in delineated ancestral domains may be formulated by the concerned ICCs/IPs themselves in accordance with their particular needs and traditional resource and management systems.

- Use of land through the land use planning process is guided by these 4 categories.
- b) Individual and entities that will violate these standards may be held liable under the NLUA as provided for in stipulations of penalties and sanctions. This is consistent with the VGGT that sees the role of the State in regulated spatial planning, to include monitoring and enforcement to ensure compliance with those plans, including balanced and sustainable territorial development
 - c) This regulation function of the State of the land shall be aided by the use of a set of standards prescribed in the NLUA (and prescribed by the NLUPC). The need for setting standards in the land use planning process is to ensure the protection of land and its resources as well as to eradicate unabated and indiscriminate use of land which lead to its destruction and displacement of affected stakeholders.
 - d) The NLUA through the NLUPC and the local land use bodies regulates and monitors the land use planning process and ensures that the standards set forth in the law will be followed in relation to allocation and use of land.

The adoption of the four (4) land use categories being put forward in the proposed NLUA, if implemented efficiently and effectively, will result in responsible use of land which will lead to sustainable use of our land and resources, thus ensuring food security and abundance of resources for the future generation, as well as minimizing effects of natural calamities – the goal of regulated spatial planning.

9.2 States should ensure that regulated spatial planning is conducted in a manner that recognizes the interconnected relationships between land, fisheries and forests and their uses, including the gendered aspects of their uses. States should strive towards reconciling and prioritizing public, community and private interests and accommodate the requirements for various uses, such as rural, agricultural, nomadic, urban and environmental. Spatial planning should consider all tenure rights, including overlapping and periodic rights. Appropriate risk assessments for spatial planning should be required. National, regional and local spatial plans should be coordinated.

NLUA

On Interconnected relationships. The NLUA's objectives of food security, sustainable use and conservation of resources are the primary considerations for the land use standards to be applied in the use of land, forests and fisheries. *Sec. 2 of NLUA under the Declaration of Policies highlights a policy of the State to ... treat groups of islands, including parts of islands, interconnecting waters and other natural features which are so closely related as forming an intrinsic geographical, economic and political entity.*

This policy describes its full recognition of the interconnected relationships between land, forest and water resources and addressed thru regulated spatial planning. In relation to this, the different provisions under the *Special Areas of Concern* that specify the guidelines in use of land, fisheries and forests further expound On ways to address this inter-connectedness to achieve the objectives of the *NLUA*.

On objective of spatial planning. In relation to the objective of spatial planning to be also able to reconcile and harmonize different objectives of the use of land, fisheries and forests and consider all tenure rights including overlapping and periodic rights, this is being addressed by the various provisions On roles and functions of the implementing structures (NLUPC, RLUPC, PLUPC, local LU Boards) that include among others, “Integrate and harmonize all laws and policies relevant to land use in order to come up with a rational, cohesive, and comprehensive national land use framework” and, “Resolve policy conflicts on land uses between or among agencies, branches or levels of government and unresolved LU policy conflicts at the regional level”. These powers and functions of the NLUPC also resonate at the regional and local levels through the RLUPC and PLUP Board.

The important function of the *NLUA* in pursuit of the objective to reconcile and harmonize the different objectives of the various uses of land while considering all tenure rights as espoused in the VGGTs, presents the most compelling reasons for the need to have a national policy on land use. First, this is in response to the common recognition about the perceived inadequacy of existing Land Use policies to address the issue of conflicting land use Issues. The *NLUA* hopes to address this gap by developing a framework that facilitates the process of determining priorities for land use across sectors while putting a premium on long-term sustainability, local productive capacity and over-all social equity. Secondly, while there are national laws on land regulation that apply to public domain (*NIPAS*, *IPRA*); there is no national law that covers land use regulation for private domain. This power has been devolved to the Local Government Units through the mandated formulation of the Comprehensive Land Use Plans (CLUPs) and the accompanying Zoning Ordinances (ZO) and thus, the process becomes discretionary to the LGUs if pursued without making reference to any national law. Without the *NLUA*, regulation of tenure (as provided in existing national laws) stands to be limited to national government functions which may not necessarily be carried or reflected in the regulation of land use being held as a function of the LGUs through the CLUP.

**VGGT Part 1: RESPONSES
TO CLIMATE CHANGE AND
EMERGENCIES**

**NLUA Chapter 2: Section 6: FRAMEWORK
FOR LAND USE PLANNING:**

10. On Responses to Climate Change and Emergencies

- 10.1 States should ensure that the legitimate tenure rights to land, fisheries and forests of all individuals, communities likely to be affected with an emphasis on small-scale food producers and vulnerable, marginalized people are respected and protected by laws*
- 10.2. States should strive to prepare and implement strategies with the participation of all people, women and men, who may be displaced due to climate change.*
- 10.2. Ensure participation of all individuals with emphasis on farmers and small scale producers and vulnerable people who have legitimate tenure rights of the negotiation and implementation of mitigation and adaptation programs.*

NLUA

Sec. 6 of the *NLUA* defines the areas to be placed under the Protection Land Use Category to include geo-hazard prone areas and high risk/danger zones and the identification of risk reduction measures to ensure the prioritization of life and safety. Specifically identified and assessed extremely hazardous and high-risk/ danger zones should be protected and cleared from all forms of human-made obstacles, obstructions to ensure and secure public health and safety. The *NLUA* does not explicitly contain provisions on the implication of a land use protection policy covering high risk areas to the tenurial rights of the affected fisherfolk community. However, other existing policies such as the *Climate Change Act of 2011* and the *RA 10121* or the *Disaster Risk Reduction and Management Act of 2012* would complement such apparent policy gap. The case of current policy on “no build zone” or the “no dwelling zone” policy envisioned to be applied in Yolanda stricken areas located along the coastlines, the application of these policies -- the *Climate Change Act of 2011* and the *RA 10121* or the *Disaster Risk Reduction and Management Act of 2012* that require the formulation of the DRRM Plan and the Climate Change Action Plan factor in proper consultation and consideration of the tenurial concerns of the affected vulnerable sectors.

As required in the NLUA, (and required by the LGC) LGUs formulate their respective CLUPs. Areas subject to protection policy will be properly identified including the so called high-risk/danger zones. Concerns as to the capacities of the LGUs as well as those of the concerned agencies and key stakeholders in the implementation of the approved CLUPs and the corresponding investment plans and programs have been consistently raised.