

II. Assessment of the VGSSF vis-à-vis Philippine Laws and Policies

A. Framework

The Water Code, Fisheries Code and Local Government Code provided the overall framework on the use of water and fishery resources giving preference to small-scale fishers. While the Code declared that all waters belong to the State, it also mandated, among others, that riverbanks and seashore as easement of public use in the interest of fishing. Fishing is an activity that allows access to the easement zones. Meanwhile, although mainly for taxation purposes, the Local Government Code mandated the 15 kilometers from the shoreline as municipal waters and under the jurisdiction of the local government. This helped lay the foundation for the preferential use of municipal waters by the municipal/small-scale fishers.

RA 8550 further strengthened the preferential use of municipal fishers in the nearshore waters (defined as municipal waters, 15 kilometers from the shoreline). It also mandated the creation of fisherfolk settlement areas that can help protect small fishers' access to the fishing ground.

Aside from covering the *General Principles* of VGSSF, the abovementioned Codes also covered the guidelines under *Responsible Fisheries and Sustainable Development*, particularly on 'Governance of Tenure in Small Scale Fisheries and Resource Management.' The Codes recognize and mandate the involvement and participation of stakeholders in governance and natural resource management; and the provision of services required for 'Value Chains, Post-harvest and Trade.'

Policy coherence was mentioned in all three Codes as part of the reasons for their formulation and approval. However, it was only the Fisheries Code that provided for the continuous information research through the fisherfolk registration and boat registration, with platforms accessible to local stakeholders. Capacity development, especially for municipal fisherfolk organizations, is also covered by the Fisheries Code to ensure effective engagement of the sector in resource management.

B. Sector-Based and Tenure Reforms

The five laws and policies studied under 'Sector-Based and Tenure Reforms' all covered in part the general principles of VGSSF. 'Respect for Human Rights and Dignity,' respect of cultures as well as equity and equality are evident for indigenous peoples through the IPRA as well as in CBFM. While labor is emphasized through the Labor Code and the DOLE Order 156-16, s.2016 (Rules and Regulations Governing the Working and Living Conditions of Fishers on board Fishing Vessels Engaged in Commercial Fishing Operations). Gender rights are also secured in the Magna Carta of Women and the Philippine Plan for Gender Development.

Sustainability of water, forest, and fishery resources as well as holistic and integrated approach is part of the basis of IPRA, Labor Code, and the CBFM strategy.

The CBFM also reflects the VGSSF guidelines on 'Value Chain, Post-harvest, and Trade' since it recognizes the indispensable role of local communities in forest protection, rehabilitation, development, and management; and that entrusting the responsibility to the community of stakeholders and affording them equitable access to forest and coastal resources are viable management strategies.

Social responsibility and promoting community solidarity are manifested in the laws studied through the free, prior, and informed consent for indigenous peoples, mandating the local special bodies in the Local Government Code and the formation of Fishery Aquatic Resource Management Councils (FARMCs) as mandated by the Fisheries Code.

The CBFM strategy covers the guidelines on governance and resource management. The IPRA also covers the said guidelines as it mandates for the indigenous peoples to manage the resources in their ancestral domains in a manner consistent with the cultures. Both the IPRA and Labor Code cover the guidelines on sustainable development, employment, and decent work. Meanwhile, the target of CBFM is on restoration for the stability of ecosystem as protection against disasters and climate change.

Gender equality is covered by Magna Carta and the Philippine Plan for Gender Development. IPRA also ensures gender equality, as equal protection and non-discrimination of indigenous peoples are secured by the law consistent with international laws including the Convention on CEDAW. Also, rights of indigenous women and services that should be provided to them are detailed in Section 26 of IPRA.

Recognition of the role of ICCs/IPs in resource protection and management that addresses the problem of coastal habitat destruction also contributes to the attainment of the guidelines on disaster risk and climate change.

On ‘Enabling Environment,’ IPRA reflects the guidelines on policy coherence by mandating the formulation and implementation of Ancestral Domain Sustainable Development and Protection Plan (ADSPP). This is an integrated, holistic strategic plan for each declared ancestral domains claimed by the ICCs/IPs using spatial planning approaches.

IPRA and Labor Code covers ‘Capacity Building’ since these laws mandate the development of skills development program for IPs and workers through the National Manpower Development Program and Education Program of NCIP and DOLE, respectively.

C. Natural Resource Management, Protection and Use

The six laws under ‘Resource Management, Protection and Use,’ have different emphasis. While these laws are for the sustainable use of the resources, AFMA places emphasis on sustainable use and modernizing agriculture and fisheries, while the Forestry Reform Code, Wildlife Act, and The Act Adopting the Strategic Environmental Plan for Palawan focuses on the protection, development, and rehabilitation of natural resources to ensure continuity in productive conditions.

AFMA covers the VGSSF guidelines on ‘Value Chain, Post-harvest and Trade’ while the Forestry Code puts emphasis on the protection of forests, especially mangrove forests, which protect the shoreline and coastal communities from the destructive force of the sea during high winds and typhoons.

The Philippines have a system for classifying protected areas, mandated by the NIPAS Act of 1991. Areas found to be outstandingly remarkable and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems are designated as “protected areas.”

Areas under NIPAS are approved through Presidential Proclamation, such as in the case of Biri Larosa Protected Landscape and Seascape (Proclamation No. 291) and Samar Island Forest Reserve (Proclamation No. 4422).

Proclaimed Protected Areas (PAs) are managed by PAMB, where local organizations are represented and able to participate in policy and program formulation.

Aside from NIPAS-mandated areas, there are numerous protection mechanisms implemented at the local level through municipal and provincial ordinances, e.g. Fish Sanctuaries, Marine Protected Areas

(MPAs), Marine Reserves, Demarcated Fishery Areas, Mangrove Reserve, etc. Local communities also get to participate in the management of these areas particularly through the Fishery Aquatic Resource Management Councils (FAMRCs), the multi-stakeholder council mandated by the Fisheries Code.

IPRA is a law that places in the hands of the ICCs/IPs the sustainable utilization and management of the natural resources within the ancestral domains, including ancestral waters; and thus, covers a significant number of provisions in the VGSSF.

Protection and regulations on the utilization of wildlife, on the other hand, are governed by the DENR for the terrestrial and wetland species, and DA for the aquatic critical habitats, aquatic resources except dugong. Wildlife Enforcement Officers are delegated to arrest violators of the law.

The Strategic Environmental Plan for Palawan has the Palawan Council for Sustainable Development (PCSD) as the mechanism for its implementation. The provisions of these laws address in part the sustainable resource management provisions of the VGSSF.

D. Risk Management

The Climate Change Act is focused on the creation of CCC whose major task is the formulation of framework strategy and programs on climate change, and the National Climate Change Action Plan. This plan is supposed to be adopted at the local level; however there is no clear mechanism on how the CCC will ensure such, except through coordination with the DILG, and the local government units. There is also no clear link between climate change and the need to secure the tenure rights of the people, especially the small-scale fishers.

The Philippine Disaster Risk Reduction and Management Act is also focused on institutional frameworks, particularly on transforming the National Disaster Coordinating Council (NDCC) into NDRRMC and the respective regional and local DRRM councils. There is also no clear link between disasters and ensuring the security of tenure of small scale fishers – e.g. provisions for fisherfolk settlement areas.

The Ecological Solid Waste Management Act, on the other hand, is the country's major policy in addressing the problem of pollution caused by solid waste. The law is anchored on the State policy of ensuring the protection of public health and environment. This law can help implement VGSSF principle of integrated and holistic approach to address disaster risk and climate change in small scale fisheries.

E. Provincial/Municipal or City/Local Ordinances

Local governments from the provincial to barangay level are granted with local legislative power by virtue of Chapter III, Section 48-59 of the Local Government Code. Legislations are in the form of resolutions or ordinances. Legislations approved by Barangay Councils are subject for review by the Municipal Council while legislations approved by the Municipal/ City Councils are subject for review by the Provincial Councils.

Management of municipal/city waters (those that are 15 kilometers from the shoreline) are implemented by the local government through a Comprehensive Municipal (or City) Fishery Ordinance and thus it is important that the ordinance reflects the principles of the VGSSF. Civil society organizations working in the fishery sector engage the local government officials as well as the fisherfolk organizations to make sure the ordinance serves the best interest of the small fisherfolk. The NGOs for Fisheries Reform (NFR) for instance, drafted a Model Comprehensive Fishery Ordinance which serves as guide for local government officials in ensuring that necessary elements of fishery

management are covered by their ordinance. In 2016 the model ordinance was revised to incorporate any changes brought about by the recently approved Republic Act 10654.

Central to the management of municipal/city waters is the determination of the boundary, and local government units are mandated to delineate their respective waters through the National Mapping and Resource Information Authority (NAMRIA). However, the lack of clear guidelines on delineation especially of the municipalities with offshore islands hampered the completion of this mandate.

There are locally-managed resource management tools mandated through local ordinances, e.g. fish sanctuaries, marine protected areas, demarcated fishery areas, among others. Governance of these areas are mandated by local ordinances and managed by deputized fish wardens with the Fishery Aquatic Resource Management Councils. Annual budget allocation are also set by the local government for the management of these areas.

III. Scoping of roles, tenurial and resource management instruments, and programs for fishery sector of selected government agencies

Following are the selected government agencies that have roles and programs for the fishery sector that can play a role in implementing the VGSSF in the Philippines.

A. National

1. Bureau of Fisheries and Aquatic Resources

BFAR is the principal and competent government agency responsible for the development, improvement, management, and conservation of the country's fisheries and aquatic resources contributing to reducing poverty and providing supplementary livelihoods among municipal fisherfolk; improving aquaculture productivity within ecological limits; making optimal use of offshore and deep sea resources; and helping upgrade post-harvest technologies (Department of Agriculture Administrative Order No. 3, series of 1998).

With the devolved function of BFAR at the LGU level, BFAR assists LGUs on Coastal Resource Management (CRM) planning based on their needs.

BFAR recognizes the need of the fishery sector for access to water resources in the light of ongoing developments such as reclamation and other structures, as well as encroachment of commercial fishing operations in municipal fisherfolk areas that may exacerbate issues on water resources. Hence, it is important that the municipal water delineation be completed. However, approval of the guidelines for its implementation, particularly in municipalities with offshore islands, remains pending in the Supreme Court. At present, BFAR could only do so much as following up the Supreme Court to fast track the decision on this matter. For the municipalities without offshore islands, mapping of municipal waters is done by the LGU concerned and NAMRIA with BFAR providing technical assistance.

BFAR is implementing ecosystems approach to fishery management through the establishment of FMAs. In FMAs, the important element is inter-LGU cooperation and establishment of zonation where access and control of fishers are clearly laid out. Hence, FMAs can be implemented even in areas not yet delineated.