

When big business and farmers' interest collide:

A discussion of the drivers
and effects of farmland
conversion in the Province
of Bulacan, Philippines

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April 2021

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ACKNOWLEDGMENT

Special thanks to Ka Elvie and Mark Joseph for assistance in the focus group discussions with farmers in Bulacan, including the Samahan ng mga Nagkaka-isang Magsasaka ng Sta Barbara, on 5 August 2020.

Appreciation goes to the participants of the focus group discussion last 8 March 2021 for their inputs in finalizing the paper.

Thanks to Fair Finance Philippines through the Initiatives for Dialogue & Empowerment through Alternative Legal Services, Inc. (IDEALS, Inc.) for the financial support for the conduct of this study.

DISCLAIMER

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CITATION

Arceo-Dumlao, M.C., Baladad, E., Marquez, N.D., Musni, D.H.J., Naungayan, M.J. (2021). *When big business and farmers' interest collide: A discussion of the drivers and effects of farmland conversion in the Province of Bulacan, Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and Fair Finance Philippines (FFP).

When big business and farmers' interests collide

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List of Acronyms Used

ACPC	Agricultural Credit Policy Council
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
AO	Administrative Order
ASEAN	Association of Southeast Asian Nations
BSP	Bangko Sentral ng Pilipinas (Central Bank of the Philippines)
CALABARZON	Cavite, Laguna, Batangas, Rizal and Quezon (provinces)
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CLT	Certificate of Land Transfer
CSO	civil society organization
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DHSUD	Department of Human Settlements and Urban Development
EP	Emancipation Patent
FDI	Foreign Direct Investment
LBP	Land Bank of the Philippines
LGC	Local Government Code
LGU	local government unit
NIA	National Irrigation Administration
NLUA	National Land Use Act
NAMRIA	National Mapping and Resource Information Authority
NEDA	National Economic Development Authority
NLUC	National Land Use Council
NPL	non-performing loans
PCIC	Philippine Crop Insurance Corporation
PSA-AIS	Philippine Statistics Authority's Agricultural Indicators System
RA	Republic Act
ROD	Register of Deeds
SEC	Securities and Exchange Commission
SEPO	Senate Economic Planning Office
USD	US Dollars

Introduction

Context

According to Elvira “Ka Elvie” Baladad, a farmer-leader of PARAGOS-Pilipinas, among the roots of the problem of food insecurity in the Philippines is the limited and diminishing land area dedicated to agriculture, particularly for rice.

“Filipinos will surely go hungry if nothing is done with the unabated conversion of irrigated, irrigable and rainfed lands planted to our staple food-rice,” Baladad warned.

However, what Senator Cynthia Villar once said is also true: “There is no ban on land conversion.” There are supposed to be stringent requirements and processes in place to ensure that conversion, if indeed necessary, is done properly and with due consideration to all stakeholders involved, particularly the farmers, and the country’s overarching need to be food secure.

Among the strict rules on land conversion - or simply the act of changing the current use of an agriculture land into non-agricultural use as approved by the Department of Agrarian Reform (DAR) - is that irrigated and irrigable lands should not be eligible for conversion. This is stipulated by Section 22 of Republic Act 9700 amending Section 65 of Republic Act 6657 or the Comprehensive Agrarian Reform Law.

For land conversion to be approved, a certification is required from the Department of Environment and Natural Resources (DENR) confirming that landholdings to be converted are alienable and disposable. Further, another certification from the National Irrigation Authority (NIA) verifying that the area to be converted is neither irrigated nor irrigable is mandatory, according to Department of Agriculture (DA) Administrative Order (AO) 1 of 2017 and DA AO 18 of 2020.

And yet rampant land conversion has continued, as seen in at least two instances in the province of Bulacan, where prime agricultural and irrigated land has been transformed into commercial developments and residential subdivisions.

In recent years, policy issuances have further facilitated conversion of agricultural lands to other uses. Among these are the DA AO 30 Series of 2020, which revokes the DA AO 18 of 2020 and mandates that certification from the different agencies including NIA and DENR are no longer required for land conversion applications. The DA cites that this is in line with the Ease of Doing Business Act (RA 11032). Further, DAR issued AO 1 of 2019 to fast-track the process of converting agricultural lands to other uses.

And while it is true that there is a need to build houses to accommodate the growing Filipino population, it is also necessary that Filipinos do not build on places where farmers grow food. Otherwise, how will Filipinos feed its growing population?

Comparing the annual production and consumption of rice from 2014 to 2020, the Philippines has been in deficit for rice production since 2018 at almost 197,000 metric tons during the said year. In 2019, rice production deficit has risen to more than 1.4 million metric tons (see Annex A).

Box I. Current process for land use conversion

According to the Comprehensive Agrarian Reform Law (RA 6657), agricultural land may be converted after five years from the awarding of the land, if the land in question is no longer sound for agricultural purposes, or if a locality has become urbanized, thus making the land more valuable when used for residential, commercial, or industrial uses. Owners of private agricultural lands, fully-paid beneficiaries of the agrarian reform program, and government entities may apply for the conversion of agricultural lands. While this process may be lengthy and involves numerous requirements, only the Department of Agrarian Reform (DAR) may provide the conversion order. The requirements for agricultural land classification and corresponding timeline per step may be accessed here: <http://invest.cfo.gov.ph/pdf/part2/conversion-of-land-to-commercial-and-industrial-use.pdf>

Under DAR Administrative Order 1, Series of 2019, the agency issued guidelines to streamline the tedious process of land use conversion. The conversion should be acted upon within 30 working days from the date of filing and docketing – from as long as 24 months – provided these applications comply with the requirements and all the documents are complete and sufficient in form and substance, although it can be cut if protests are filed. The Land Use Cases and Regional Land Use Cases Committee are mandated to convene within five days to evaluate applications for land conversion.

It was also provided that the Environmental Compliance Certificate (ECC) from the Department of Environment and Natural Resources (DENR) is no longer part of the requirements for processing the applications for land conversion. Meanwhile, if the proposed project is within Environmentally Critical Areas (ECAs) or will involve the establishment of an Environmentally Critical Project (ECP), the ECC issued by the DENR shall still constitute part of the conditions for the validity of the conversion grant. Failure to secure an ECC will revoke the conversion grant.

However, a conversion grant is no longer necessary if the land can be actually, directly, and exclusively used as a resettlement area or relocation site of persons displaced by a nationally-declared calamity – that is if the area is declared neither irrigated nor irrigable, or that there are no tenants on the land.

According to DAR, AO No. 01, Series of 2019 “reflects the directive” of President Duterte for “all agencies that play a role in determining if the requirements provided by the law for land conversion to come up with a solution that makes sure the process will not be delayed subject to the tillers’ rights and food sufficiency.”

The DAR also stressed that applications for land use conversion under this AO does not mean “automatic approval” of applications as these will still be evaluated under agrarian reform laws.

Further, AO 6, Series of 2019 was issued, mandating the creation of a Land Use Cases Committee, which will issue decisions, resolutions and/or orders related to, among others, applications for land conversion, petitions for revocation of exemption/exclusion orders and appeals from the decision of regional directors relative to applications for conversion involving lands with an area of five hectares and below.

These support Executive Order No. 75 issued in Feb. 2019 that directed all departments, bureaus, and offices of the government to identify public lands devoted to our suitable for agriculture that can be distributed to qualified beneficiaries.

DAR Secretary Castriciones had said that the implementation of the EO would boost the government’s Comprehensive Agrarian Reform Program. □

In 2017, the total converted land and permanently non-restorable areas is at 150,686.40 hectares (NIA, 2017). In the same year, the 150,686.40-hectare of lands (irrigated and irrigable), if not converted into other land uses, could have produced around 208,625.32 MT of rice (computed using traditional seeds' yield). With the assumption that the effects of land conversion to rice production reflects in the next year (2018), the potential yield of the converted land in 2017 will be more than enough to address the deficit of 196,817.60 MT in 2018 (see Table below).

Table 1. Potential rice yield of converted lands in 2017

Total converted land and permanently non-restorable areas in 2017 (in hectares)*	Potential yield of converted land in 2017 (in MT)**	Computed deficit in rice production in 2018*** (in MT)
150,686.40	208,625.32	196,817.60

* Source: Status of Irrigation Development data based on NIA's inventory as of 31 December 2017

** Computed by multiplying the total converted land and permanently non-restorable areas in 2017 with the average palay production per hectare using the traditional seeds' yield of 2.13 MT/ha – the lowest yield among the types of palay seeds (DA-PhilRice, 2020), then multiplied by 65 percent recovery.

*** Refer to Annex A for the computation

This reveals a disturbing pattern: the Philippines destroys farms that could have otherwise been used for food production. As a result, the country lags behind Association of Southeast Asian Nations (ASEAN) counterparts where Filipinos produce an average of 3.98 million metric tons of rice annually – far from the ASEAN countries' annual average of 4.3 million metric tons.

According to the Philippine Statistics Authority's Agricultural Indicators System (PSA-AIS) report on output and productivity, in 2019, the country's area harvested for agricultural crops was at 13.30 million hectares. This figure is 1.3 percentage points lower than the 2018 record. The area harvested for *palay* which was at 4.65 million hectares, also went down by 3.1 percentage points (PSA, 2020c).

The drive for more real estate also has a direct effect on the conversion of agricultural lands. In a rapidly growing and dense country with a population of 109 million, the real estate sector has flourished as it attempts to meet the steady demand for decent housing. This is evidenced by the constant inflow of Foreign Direct Investments (FDI) into the real estate sector. Only in 2013 did net FDI slide below a hundred million USD. In 2018, FDI in real estate was its highest in recent years, at 294 million USD (BSP, 2020). Investments in this industry trump those in agriculture and mining (See Figure 1).

**Net FDI Trends by Industry (in Million USD):
Philippines, 2010-2020**



*preliminary data
Data source: Bangko Sentral ng Pilipinas (BSP) (2020)

Figure 1. Net FDI Trends in the Philippines

Of special importance is Central Luzon (Region III) that has historically been the rice basket of the Philippines. Central Luzon has the highest total irrigable area of 483,830.18 hectares nationwide of which, 323,964.80 hectares are already irrigated (NIA, 2017). Unfortunately, Central Luzon also sees the largest total conversion of agricultural lands at 23,592.10 hectares (15.66 percent of the total conversion in the Philippines) permanently non-restorable areas as of 2017 (NIA, 2017).

The majority of those converted agricultural lands were converted to residential uses to make way for housing projects in peri-urban or near-city locations.

Such conversion is a painful process when seen from the point of view of lifelong farmers such as Marciano Mananghaya, Petronilo Bernardo, Mario Pacheco, Petronilo Bernardo, and Cecila Maniego. For decades, they lived a quiet life raising crops and their growing families. But today, they can only look at what once was their farmland spanning roughly 58 hectares in a small village in Baliuag, Bulacan with alternating feelings of fury and sadness. The land on which they built their homes, raised their families, and planted various fruit trees and harvested rice had been taken from them by private landowners, who have in turn proceeded - despite the farmers' vigorous and sustained protests - to parcel it out and sell to the private sector for commercial use.

Despite their advancing years, dwindling resources, and weakening morale, the brave farmers continue to fight for their right over the land where they had stayed for decades, saying that they are no longer fighting for it for themselves, but rather for their children and their grandchildren. It has been an arduous and expensive battle and the farmers involved in the case have no illusions that it will become easier, for their adversary has deep pockets and has the support of people in powerful positions, including leaders of various local government units.

Their case mired in the dockets of the DAR Central Luzon office is unfortunately far from an isolated one. Such incidents where farmers have lost their farmland that is rightfully theirs and legally vested under the Comprehensive Agrarian Reform Law (CARL) to private entities eager to convert precious land into commercial developments is unfortunately duplicated all over the country. This thus threatens the Philippines' food security as the land capable of producing food to adequately feed the growing population is alarmingly dwindling.

A Global Agricultural Information Network report of the US Department of Agriculture showed that the Philippines will likely suffer the largest decline in rice production this 2020 and in 2021, with the shrinking of agricultural land due to rampant conversion to commercial use being one of the contributing factors (Miraflor, 2004).

Objectives and uses of the study

This study aims to contribute to identifying solutions for the financial sector to stem the tide of land use conversion of ricelands in Bulacan province, Central Luzon, Philippines. As such, the study has:

- engaged farmers in Bulacan province, in particular from the municipalities of Baliuag and Plaridel on the identification of real estate developers involved and effects of land use conversion to the local rice industry, particularly to smallholder rice farmers;
- analyzed the policy conditions that led to the unabated rise of the conversion of ricelands in Bulacan; and,
- formulate recommend actions to address the issues identified.

Methodology, scope, and limitations of study

To meet the objectives of this study, the researchers drew heavily from interviews and focus group discussions with six farmers in Baliuag, Bulacan who continue to pursue their agrarian reform case involving

58 hectares of land and a young farmer of nearby Plaridel who noted the increasing hectare of prime agricultural land in his area being lost to conversion into industrial and commercial projects such as property development.

The research focused on these two areas in Bulacan because of the clear example of land conversion of prime agricultural land into commercial developments that benefited big business.

These interviews were complemented by discussions with non-government organizations as well as research of pertinent government data needed to shed light on the phenomenon of land conversion. An online Focus Group Discussion (FGD) to discuss the case and discuss potential courses of action was organized with farmers and civil society support groups last 8 March 2021.

More interviews and visits to the pertinent government offices would have been conducted but it became impossible to do so because of the lockdown protocols put in place since March 2020 to halt the spread of COVID-19 that led to limited government operations, bans on face-to-face meetings, and strict controls over people's mobility.

Also, financial data were difficult to come by as non-listed or private corporations in the Philippines have long been reluctant to share their data to the public. Plus, the quarantine measures made it impossible to personally go to the offices of the Securities and Exchange Commission (SEC) to conduct a more in-depth study. Private companies can also hide behind stringent data privacy and protection and bank secrecy laws, allowing them to keep potentially incriminating evidence of wrongdoing beyond the reach of regulators.

Shrinking agricultural lands in Central Luzon and Bulacan

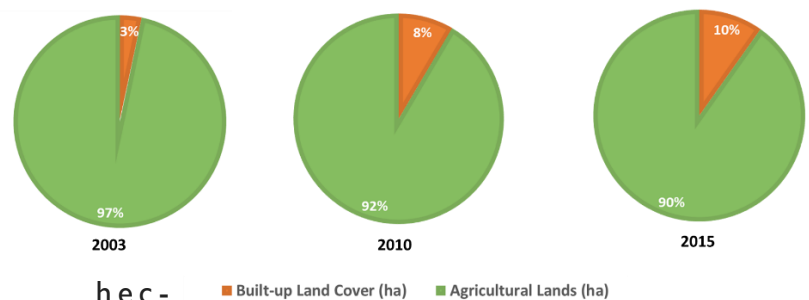
In Central Luzon and particularly in the province of Bulacan, the trend of declining agricultural land is unmistakable.

As is the trend for the rest of the country, the number of farms considerably increased while the size of farms and average farm area (in hectares) decreased in Central Luzon from 2002 to 2012, thus pulling down potential productivity. As per the 2012 Census of Agriculture and Fisheries, the total number of farms in the region was 361,545 (from 341,466 in 2002), totaling 446,176 hectares (from 552,104 in 2002), with an average farm area of 1.2 hectares (from 1.6 hectares in 2002) (PSA, 2012a).

This general trend may be attributed to three factors: a) land division among families, b) the implementation of agrarian reform, and c) conversion of agricultural lands into other uses for urban development (PSA, 2012b).

As the region is where most of the country's primary food staple is produced, agriculture is also a significant livelihood source in Central Luzon. As of April 2020, around 213 thousand individuals in the region² are employed in agriculture – more than 201,000 males and over 11,000 females (PSA, 2020f).

Share of Built-up Areas and Agricultural Lands Among Total Alienable and Disposable Lands: Central Luzon, 2003 to 2015



Authors' computation. Data sources: Philippine Forestry Statistics (2003, 2010, 2015), NAMRIA Land Cover shape files (2003, 2010), Central Luzon Regional Development Plan: 2017-2022 Midterm Update (from NAMRIA's partial 2015 Land Cover)

Figure 2. Share of Built-Up Areas and Agricultural Lands in Central Luzon

² 6.6% of the total working population of around 3.2 million

However, as Figure 2 shows, the decrease in agricultural lands in favor of built-up areas has been becoming more apparent in recent years. Spatial data from the National Mapping and Resource Information Authority (NAMRIA) exhibit how the share of agricultural lands has been shrinking from comprising 97 percent (1.14 million hectares) of the total alienable and disposable (A&D) lands in 2003, to 90 percent (1.09 million hectares) of the total A&D lands in 2015.³

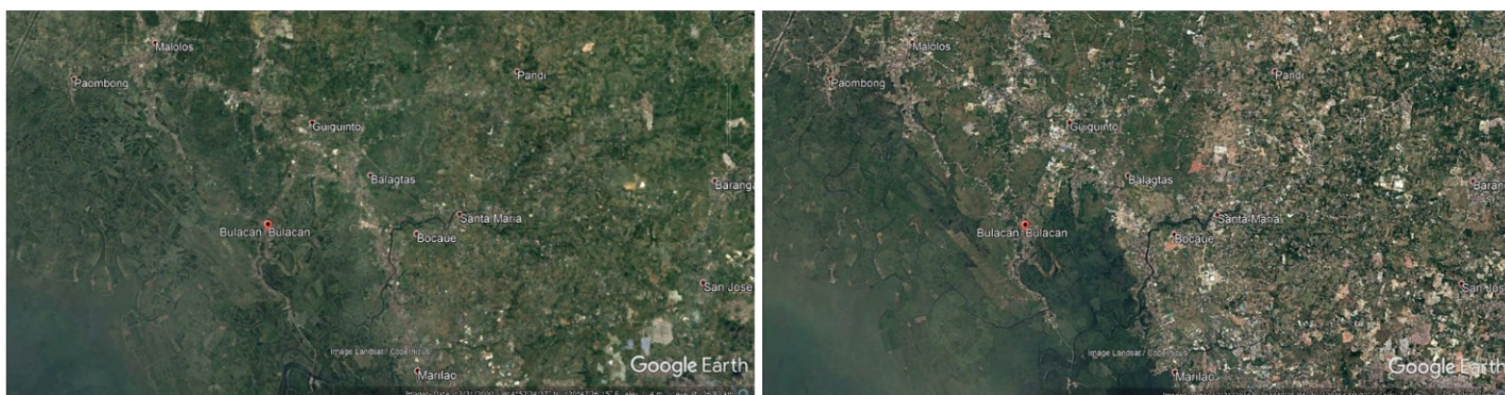
It is not difficult to see that decreasing agricultural lands and increasing population are closely correlated. With a growth in population comes the need to satisfy demand for housing and urban infrastructure. Such is evident in Central Luzon.

As early as 1995, the forces that would exert pressure on the rapid industrialization of the area to the detriment of the agriculture were already at play. The administration of former President Fidel V. Ramos, who then advocated the rapid industrialization of the Philippine economy, sought Japan's help to put together the Central Luzon Development Program (CLDP). Central Luzon was given special focus because it was deemed a rapidly urbanizing region, a receiving area of spillover from Metro Manila and with highly established agriculture as the mainstay of its regional economy, putting it in a position to contribute a great deal to the country's gross domestic product. The CLDP "paradigm" espoused by the Japan International Cooperation Agency that prepared the master plan indeed spelled out the vision to make Central Luzon an "industrial heartland."

Sitting just above Metro Manila, the region continues to be more populous and urbanized. The most recent population census revealed that the population of Central Luzon grew by over one million from 2010 to 2015, reaching over 11.22 million individuals with a 1.95 percent growth rate.

Bulacan — a peri-urban province that begins where Metro Manila ends — had the highest population with 3.2 million people dwelling in the area. It was also the fastest-growing province in Central Luzon, with an average annual population growth rate of 2.28 percent from 2010 to 2015 (PSA, 2016). A quick bird's eye view of the province through satellite images (see Figure 3) will confirm how the landscape of the province changed over the course of a few years, due to increasing population and the growth of built-up areas.

Satellite Image: Province of Bulacan, 2000 (left) and 2016 (right)



Source: Google Earth Pro

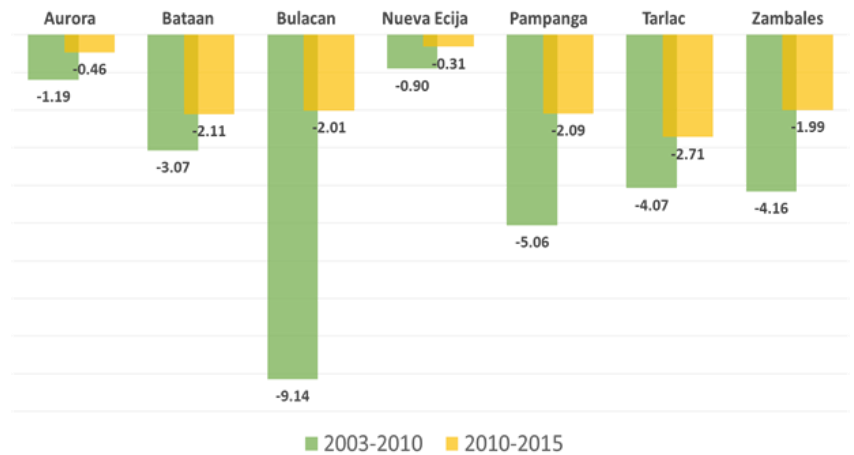
Figure 3. Satellite Images of the Province of Bulacan

³ Computed by Naungayan using data from Philippine Forestry Statistics (2003, 2010, 2015), NAMRIA Land Cover shape files (2003, 2010), Central Luzon Regional Development Plan: 2017-2022 Midterm Update (from NAMRIA's partial 2015 Land Cover)

Unsurprisingly, Bulacan is also the province with the highest percentage of decline of agricultural lands among the provinces of Central Luzon. From 2003 to 2015, Bulacan shed 19 thousand hectares of agricultural lands (about 11 percent of the 176 thousand hectares of agricultural lands in 2003). Figure 4 shows this comparative decrease from 2003 to 2010, and from 2010 to 2015.

Palay is the primary crop planted in the farmlands of Bulacan and in the rest of Central Luzon. Since 1978, the areas harvested for *palay* in Bulacan ranged from a low of 40 thousand to 88 thousand hectares. In 2019, *palay* was harvested in almost 78 thousand hectares of land in Bulacan -- the smallest annual area harvested since 2011. From 2014 to 2019, the area harvested for *palay* also decreased by 4.84 percent as is shown in Table 2. By contrast, although the hectares are small compared to those for *palay*, area planted for high value crops (such as banana, mango, string beans, ampalaya, and papaya) increased substantially.

**Percentage of Decline of Agricultural Lands:
Provinces of Central Luzon, 2003-2010 and 2010-2015**



Author's computation. Data sources: Philippine Forestry Statistics (2003, 2010, 2015), NAMRIA Land Cover shape files (2003, 2010), Central Luzon Regional Development Plan: 2017-2022 Midterm Update (from NAMRIA's partial 2015 Land Cover)

Figure 4. Percentage of Decline of Agricultural Lands in the Provinces of Central Luzon

Table 2. Area Harvested and Volume of Production of Selected Crops in Bulacan

Selected crops in Bulacan	Area Harvested		Volume of Production	
	2019 (in hectares)	% of Change (2014-2019)	2019 (in metric tons)	% Change (2014-2019)
Palay	77,990	-4.84	368,658	-0.93
Corn	1,158	-0.77	5,008	36.61
Banana	1,540	16.73	20,257	6.76
Mango	8,926	1.87	9,218	6.26
String beans	835	25.00	17,769	-1.19
Ampalaya	305	6.64	4,801	15.87
Papaya	278	42.78	3,854	78.51

Author's computation. Data source: Philippine Statistics Authority (2020d, 2020e, 2021a, 2021b)

The trends in the volume of production are less straightforward. The annual volume of *palay* production in Bulacan dipped to as low as 119 thousand metric tons in 1998. In recent years however, the production volume has been swinging stably between 350 and 380 thousand metric tons per year. The production volume in 2019 was 368 thousand metric tons, almost three thousand metric tons higher than the volume for the previous year. Compared to 2014 though, the 2019 figure was almost one percent lower. Meanwhile, corn and other high value crops have significantly increased their production volume as may be gleaned from Table 2 above.

When put into the context of the Philippines being an agricultural, rice-eating country who also happens to be the world's top rice importer (Ocampo, 2020), the decline in area harvested for *palay* and the stagnation of *palay* production in Bulacan are causes for concern.

Relying on imports for a food staple makes the country vulnerable to uncertainties. Rice-exporting countries are not immune to the effects of climate change, extreme weather events, and sudden economic shocks that may affect the quantity and prices of their rice (Almojuela-Tolentino and Tolentino, 2015). As we witnessed during the COVID-19 pandemic, major exporters like Vietnam may decide to restrict trade should they need to keep supplies abundant for their own citizens.

Drivers of land conversion in Bulacan

While Bulacan's, Central Luzon's, and the country's populations continue to rise, the *total* land area remains the same. Hence, increased pressure to feed more people with decreasing areas for cultivation may lead to increased conflicts related to access to resources and food (Almojuela-Tolentino and Tolentino, 2015).

Housing and Infrastructure Needs

Due to its proximity to the National Capital Region, housing and infrastructure projects proliferate in Bulacan as a contributing solution to decongest Metro Manila.

Box 2. Expansion of Real Estate Projects in Bulacan

Bulacan is described as the *Gateway to the North*, being the province that first greets travelers as they move past the northern tip of Metro Manila. The province, with three component cities and 21 municipalities, is the fastest growing economy in Central Luzon. Being in close proximity to Metro Manila, it has been a favorite destination for property developers and investors looking to capitalize on the desire of urban workers for decent dwellings away from the congestion of Metro Manila. The province is a haven for low-, mid-, and high-end real estate projects.

Informal settlers from Metro Manila cities of Makati, Manila, Taguig, and Quezon City are offered affordable housing units in Bulacan. Areas like San Jose del Monte City and the municipality of Pandi are where many of the National Housing Authority's resettlement sites are.

Meanwhile, big real estate companies such as Senator Villar's Vista Land — under which is Camella, the Philippines "largest homebuilder;" Ayala Land; Avida Land; Asian Land; and Rockavilla Realty and Development have developed and continue to develop multiple subdivisions and housing projects in Bulacan. Camella for one, has a 300-hectare residential site in Malolos, three subdivisions in San Jose del Monte, and an ongoing project in the municipality of Bulacan.

Responding to investor interest in Bulacan, several infrastructure projects and development plans will make the province more accessible to families in search of a home, everyday commuters, and businesspersons alike. Among such projects are the Stage 3 of the Metro Manila Skyway System, Metro Rail Transit System Line 7, proposed 2,500-hectare Bulacan International Airport, Bulk Water Supply Project, and 50 billion PHP Mega City. □

Source : Lamudi, 2019

The more specific drivers of land conversion in Bulacan are shown through the case studies in Baliuag and Plaridel in Bulacan (to be presented in the next section).

DAR and LGU favoring local elites

This issue is particular to the case in Baliuag, Bulacan where a land development proceeded within the more than 57-hectare landholdings in Sta. Barbara, Baliuag despite an ownership issue pending for around 50 years between the farmers and the landowner.

Exploitation of legal loopholes afforded by agrarian reform laws

The case of Plaridel, Bulacan case presents a situation where prime agricultural lands are being converted into subdivisions developed by a real estate developer through formal processes. There are also circumstances where the real estate developer turns off the irrigation pipe then pours massive amounts of soil on the farmland to pass it off as being idle and no longer used for agriculture – making the land applicable for land conversion.

Less earnings from rice farming

Due to decreasing volume of rice production and rice farming income in Plaridel, Bulacan, farmers are forced to sell their lands to the private developers who take advantage of their situation and offer high selling prices to their ricelands. This results to rampant selling of agricultural lands in the area.

The situation of Bulacan epitomizes the dilemma of many urban fringes: the delicate balancing of interests of urban and rural components. The province needs to support its growing population's need for housing and the province's trajectory of urbanization, while ensuring that rural dwellers have secured livelihoods and are able to contribute enough food for rest of the country.

Unfortunately, conversion of land utilized for cultivating staples is irreversible. While technology provides more flexibility in the utilization of land for settlements, the same cannot be said for the use of land for agricultural production. In the case of the latter, the availability of land remains the most crucial element.

Two Case Stories of Land Conversion in Bulacan, Philippines

CASE 1: The case of Sta. Barbara farmers in Baliuag, Bulacan

Their case began in 1973 when the rice farmers were granted Certificates of Land Transfer (CLTs) pursuant to Presidential Decree 27 issued in 1972 that directed the “emancipation of tenants from the bondage of the soil,” thus mandating the transfer to them of the ownership of the land that they till.

According to Paragos-Pilipinas, the original copies of the CLTs, were taken by Alfredo Peralta and Celing de Guzman, the *encarnados* or representatives of landowner Veronica Gonzales, immediately after these were awarded to the rice farmers. These certificates have never been turned over to the farmers.

Worse, the farmers were not told by DAR that they should start paying their dues to the Land Bank of the Philippines (LBP) and instead continued to pay rent to the *encarnados*. They only started paying the LBP in 1990 and most of them have finished paying their amortizations in 2008.

However, because of their lack of knowledge on the law and procedures, they were unable to get a Certificate of Full Payment and consequently were unable to request DAR to issue their Emancipation Patents (EPs).

This opened the door for landowner Veronica Gonzales to file an ejectment case against the farmers in 2002 on grounds that her landholding was exempt from the coverage of PD 27 of 1972 (which covers land and corn farms) because the 57-hectare property had already been transferred to different persons and the ceiling for coverage was no longer applicable.

Initially, the farmers seemed on the verge of enforcing their legal claim as on 30 March 2004, the Central Luzon Office of DAR generated EPs ready for registration with the Register of Deeds (ROD) in Guiginto, Bulacan.

The registration was refused, however, because of the pending case of Veronica Gonzales, who steadfastly refused to recognize the farmers' legal claim over the property they have been tilling for decades.

The rice farmers' fortunes took a turn for the worse in 2018 when the Regional Agrarian Reform Adjudicator of Central Luzon ruled against the farmers of Sta. Barbara, leading to the painful demolition of their homes and the confiscation of their harvest.

But the demolition and the eviction of the farmers should not have happened since the demolition order was based merely on fabrications.

The strongest basis for the decision to evict was the supposed 18 December 1992 exemption order issued by then-DAR Regional Director Antonio M. Nuesa, stating that the landholdings of Veronica Gonzales et al. were not to be covered by the Comprehensive Agrarian Reform Program (CARP), given that the landholdings are within the retention right of the 18 co-owners. Thus, the emancipation patents should be cancelled. This claim was backed by the Court of Appeals and eventually by the Supreme Court, which supposedly rendered the farmers' claim moot.

However, a 2003 certification from the records officer of the regional DAR office showed that no such exemption order exists. As stated in the 28 May 2018 order by Regional Director Homer Tobias, "it is apparent that the sole reason why the CARP coverage of the subject landholding was not favored because of that Exemption Order. It is apparent, too, that upon verifications made, it turned out that there is no copy, original or duplicate, on file with the records of this Office that allegedly issued the said Exemption Order." Thus, he ruled that because of that, the earlier directive to proceed with the coverage "is more equitable" under the circumstances.

The 28 May 2018 order granted the petition filed by Cecilia Maniego, Renato Natividad, Edilberto Natividad, Roberto Bernardo, Juanito Fajardo, Mario Pacheco, Rodolfo Dimaapi, Alberto Enriquez, Benigno Cabingao, Flordeliza Galvez, Marciano Mananghaya, and Faustino Mananghaya "for the full implementation of CARP coverage" involving the concerned landholdings with a total area of 57.7626 hectares at Barangay Sta. Barbara, Baliuag, Bulacan.

The farmers were ecstatic over the decision as it represented a rare legal victory for the farmers who have been battling for ownership of the property for close to 50 years.

Their elation was short-lived, however, as the DAR Regional Office issued a different order on 14 February 2019, withdrawing the 28 May 2018 order and setting aside the Certificate of Finality of 02 October 2018.

The Provincial Agrarian Reform Officer also declined to implement agrarian reform over the land area in question, citing a 2004 decision by the Court of Appeals that prevented DAR from covering the landholdings under CARP, since the latter takes legal precedence over the Regional DAR's 28 May 2018 order.



Above: Photos taken during a confiscation of Sta. Barbara farmers' harvest last November 2018

The farmers immediately filed a motion for reconsideration as a Certificate of Finality had indeed already been issued and so the provincial office has no choice but to implement it. Unfortunately, no action has been taken since then, with the pandemic further slowing down the judicial process. The case continues to drag on, but even with the ownership issue still hanging over the property, the farmers lament that they remain out of the only home they knew for much of their lives and that redevelopment has proceeded. Moreover, illegal structures have been constructed on an irrigation that supplies water to the landholdings under dispute.

Box 3. Damage to tax-funded irrigation structures in Sta. Barbara; help from DOJ sought

In a letter sent to Department of Justice Secretary Menardo Guevarra on 2 October 2020, Paragos Pilipinas head Elvira Baladad detailed how Sta. Barbara Barangay Captain Cesar Basco Chico allowed the erection of structures “on top of the irrigation canal and along the legal easement which are detrimental to the irrigation system and continuous flow of irrigation to the adjoining ricefields located in other *barangays*.”

Photos attached to the letter to Guevarra showed a “People’s Park” constructed on top and across the irrigation canal, and in that canal is an enclosure made of hollow blocks now used as a fishpond. Though the fishpond was eventually removed due to the valid complaints of farmers from several *barangays*, there are still traces it left. The National Irrigation Administration did not take any measures to rehabilitate the damaged portions of the canal.

As if these were not enough, construction of what is claimed to be a quarantine center for COVID-19 patients is ongoing along the legal easement of the irrigation system and in front of the thick fence allegedly being constructed by manufacturing firm Mighty Corporation.

To top it all, Baladad told Guevarra that Chico was constructing a portion of his hotel on top of the irrigation canal and even encroached on the supposed NIA Road. The illegal extension effectively closed the road and prevented the ingress and egress of the residents of Sta. Barbara.

“It is high time that the mandate and jurisdiction for the National Irrigation Administration be studied and if there is a necessity to file an amendment or a new bill to address their police powers (if any) to safeguard the irrigation systems that they have developed and funded by the government with people’s money,” Baladad said. □

In a grim turn of events, the Sta. Barbara farmers’ lawyer Atty. Anselmo “Sato” Carlos and his aide were killed during an ambush by unidentified gunmen last 28 January 2020. As of writing, the farmers have not yet found a new lawyer to assist them with their claims.

The fact that land conversion continues despite supposed safeguards in the law can be attributed mainly to the exploitation of legal loopholes afforded by agrarian reform laws.

For example, there is a provision in the Comprehensive Agrarian Reform Law for land to be converted from agricultural to non-agricultural use after the land is awarded to the farmer-beneficiaries, if the land has either ceased to be economically feasible for agricultural use or if that the area has become urbanized, and the land now has greater economic value for non-agriculture use.

The final decision on the conversion, however, lies with the DAR, which then may work at cross purposes as it is also in the position to redistribute land to farmer-tillers, especially private land that landowners sometimes desperately hold on to.

Then there is the Local Government Code (LGC) that has empowered local government units (LGUs) to *reclassify* a portion of farmlands for non-agricultural use. With the certification from the local legislative bodies, this is the first step towards land conversion. While *reclassification* is only one step in the conversion process, in many cases, *reclassified* agricultural lands without conversion orders are already being used for non-agricultural purposes.

Box 4. Reclassification vs Conversion of Agricultural Lands in the Philippines

Though sometimes thought to be one and the same, there are marked differences between land reclassification and land use conversion.

In the case of agricultural land, *reclassification* is the act of **identifying** how the land in question will be used for non-agricultural purposes (industrial, commercial, residential). Agricultural lands must first be certified as eligible for reclassification by the Department of Agriculture. Reclassification of lands is done by local government units (LGUs) and is enshrined in the land use plans of the LGUs. Non-agricultural lands may also be reclassified back to lands for agricultural use.

On the other hand, *land use conversion* is the process of actually **changing** the physical use of agricultural land into other uses, as approved by the Department of Agrarian Reform (DAR). DAR is the sole agency that may approve or disapprove conversion of agricultural lands.

It is important to note that reclassification is only a prerequisite for land use conversion. LGU reclassification **does not** automatically result to the conversion of agricultural land. Any unauthorized use of agricultural land for non-agricultural purposes is considered illegal. □

Source : Limbo (2017)

These loopholes thus defeat the very spirit of social justice through agrarian reform and threaten food security at the same time.

According to a 1996 study by Greg Bankoff, the devolution of responsibility and regulatory authority to LGUs had “often tended to favor local elites.”

These elites “have used their influence to back candidates sympathetic toward their interests into positions of power at the local government level. These groups have generally proved to be effective lobbyists in favor of land conversions” (Bankoff, 1996).

What Bankoff concluded from studying land grabbing or land conversion in the provinces of Cavite, Laguna, Batangas, Rizal, and Quezon (CALABARZON) apply to cases in Bulacan, such as that involving the Sta. Barbara farmers.

CASE 2: Rampant land conversion in Plaridel, Bulacan

It is often said that those who have less in life should have more in law. Reality, however, often presents a profoundly different picture, one that unfortunately supports the commonly held belief that the system has been designed – perhaps even rigged – to favor the rich and the powerful. Such is the case in Plaridel, Bulacan where 16 hectares of prime agricultural land were successfully converted into a residential subdivision developed by Lumina Homes, a subsidiary of publicly listed Vista Land Inc., where politicians who are members of the Villar family are significant shareholders.

This occurred despite the stiff opposition of a group of farmers in the area who validly questioned, among others, why the prime agricultural land could be converted into a commercial piece of property when it was irrigated, thus violating the provision that irrigated land should remain agricultural in nature.

The case involves eight parcels of land in Barangay Culianin, Plaridel, Bulacan with a combined area of 12.473 hectares that was sold by a group of landowners in 2012 to Lumina Homes Inc., one of the subsidiaries of Vista Land Inc. that focuses on the socialized housing segment servicing mainly minimum wage earners.

These property owners earlier granted Camella Homes Inc. – now Vista Land Inc. – a special power of attorney authorizing the multi-billion company chaired by former Senator Manuel Villar, or any one of its authorized representatives, to “follow up, obtain clearances, request and applications before the Department of Agrarian Reform (DAR) and other government agencies or offices for the land use conversion and/or exemption from the coverage of the Comprehensive Agrarian Reform Program.”

Box 5. Potential Conflict of Interest in the Senate?

The Villar family is among the wealthiest, most powerful clans in the Philippines. In 2020, Forbes Magazine revealed that Manuel “Manny” Villar is the second richest man in the country, with a net worth of 7.2 billion US dollars as of February 2021. He formerly served as Senator of the Philippines and as a speaker of the Philippines’ House of Representatives. His wife, Cynthia Villar, is an incumbent Senator serving her second term, who ranked first in the senatorial race in 2019. Their son Mark Villar, on the other hand, is the Secretary of the Department of Public Works and Highways.

The family is known to be shareholders of top real estate companies. In 2017, Senator Cynthia Villar declared in her Statement of Assets and Liabilities (SALN), the following business interests and financial connections: Vistaland & Lifescapes, Inc., Fine Properties, Inc., M.B. Villar Company, Inc., Macy’s Inc., Mooncrest Property Development Corp., and Hollinger Holdings Corp.

Senator Villar, however, also chairs the Senate Committees on Agrarian Reform, on Agriculture and Food, and on Environment and Natural Resources. And there is there is concern among civil society and rural stakeholders, that Senator Villar’s business interests which deal with land and property development, collide with her roles as chairperson of the mentioned committees. In many cases, farmers, indigenous people, or fisherfolk come into conflicts with property or infrastructure development that may displace them from their land. Senator Villar could therefore find herself deciding on laws that may affect her businesses, either positively or negatively.

Conflict of interest as described in Section 3 of Republic Act No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, “arises when a public official or employee is a member of a board, an officer, or a substantial stockholder of a private corporation or owner or has a substantial interest in a business, and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of official duty.” The same law mandates that officials with conflict of interest must resign from positions of power within businesses or divest his/her shareholdings.

Yet even if she personally divests, she still remains as a member of a family deeply entrenched in the real estate business. The public might then come to wonder – how high is public interest in Senator Villar’s list of priorities? □

What followed was the filing of application on 05 October 2013 with the DAR to convert these prime pieces of agricultural property to residential uses, thus paving the way for the construction and development of some 2,000 socialized housing units.

The Housing and Land Use Regulatory Board (HLURB)⁵ itself certified in 2012 that these pieces of property are agricultural in nature, based on the Comprehensive Land Use Plan and Zoning Ordinance of the town of Plaridel in the province of Bulacan, and that indeed, in 2013, it was proposed that these eight parcels of property covering 12.473 hectares be developed into residential subdivision projects.

The conversion process then began with the issuance by the local government of an ordinance reclassifying these pieces of property “from agricultural to residential use.”

The Certificate of Eligibility for Reclassification of Agriculture Lands was then issued by the Department of Agriculture (DA) on 18 October 2013, on grounds that the HLURB had categorized the area as “socialized housing,” that the local government had reclassified the property into residential use, it is not the only remaining food production area in the community and will not hamper the availability of irrigation or productivity of the nearby farmlands.

The DAR conducted an ocular inspection the following month and handily declared that the area was untenanted. It was also at this point that the DAR noted the opposition to the project filed by a group headed by farmer-leader Jimmy Tadeo.

Representing some 49 individuals including neighboring farmers, Tadeo alleged in his opposition that no public hearing was conducted and that there were farmers who objected to the proposed conversion; the development would result in flooding in the area to the detriment of the neighboring farmers; there was feared irregularity in the approval of the *barangay* resolution approving the conversion of the properties. Finally, he said that the pieces of property were fully irrigated thus not to be converted under Republic Act 9700 or 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 the Comprehensive Agrarian Reform Law of 1988, or more commonly known as CARPER.

However, the Villar group was adamant in pursuing the project involving some 2,000 units in the combined area covered by the case. It cited a ready market since the property was near the Bulacan Industrial Estate where there were many workers in factories needing low-cost housing. And in response to the allegations, the hired consultants countered that a public hearing had been conducted and that nobody objected to the proposed conversion. It also attached government certifications stating that the properties were no longer used for agriculture; adequate drainage facilities will be placed and that there is no ground to support the fear that the intended project will deny other parcels of land of water.

It also said that the resolution was a collective and independent act of the *Sangguniang Barangay* of Culianin and has the presumption of regularity. Further, it cited that the area, although formerly planted with rice, has not been cultivated for more than three years thus can no longer be strictly classified as agricultural.

The case was still being heard but the Villar group could not wait. It went ahead with earth-moving activities in January 2014 using heavy equipment like bulldozers in clear violation of DAR rules, prompting the group of Tadeo to file a “very urgent motion” for the DAR to issue a cease-and-desist order. It even submitted video evidence of the alleged illegal conversion of the property even with the final decision still pending.

After a series of back and forth, the DAR in the end decided – expectedly – in favor of Lumina Homes.

On whether the land is irrigated therefore not eligible for conversion, the DAR said the area was actually “within the periphery” of the irrigated area and is no longer irrigated because farming activity had stopped, thus left idle. “It is clear that conversion may be allowed,” the DAR decision issued on 04 November 2015 by DAR Usec. Luis Meinrado C. Pangulayan said.

⁵ Now merged within the Department of Human Settlements and Urban Development (DHSUD)

That the DAR did agree that “premature conversion” had been committed did not change the decision, with the Villar group getting away with a “stern warning” not to undertake premature conversion, the equivalent of a mere slap on the wrist.

Thus, again, farmers’ concerns were brushed aside with the more moneyed and powerful proponents using the legal system to its full advantage.

Lumina Homes had since been fully developed, further beefing up the coffers of the Villar company. Fears of flooding have also come to pass with farmers in the surrounding areas complaining five years later about their fields being submerged in water during heavy rains, pointing to the real estate development as the sole culprit.



From top: Ka Jimmy Tadeo stands on bulldozed agricultural land (@Inquirer); Lumina Homes-Plaridel (@Lumina Homes)

Lumina Homes is even looking to expand its footprint to include adjoining properties, posing another threat to farmers in the area who often feel helpless and powerless against such influential and deep-pocketed opponents.

With the “permanent conversion” of these pieces of property from agricultural to commercial, the Philippines suffers another reduction in agricultural land, exacerbating already grave concerns over food security.

And the further reduction is expected as conversion of agriculture property to non-commercial use continues unabated in Bulacan, a province just north of the capital of Metro Manila that is enjoying brisk economic activity due to its proximity to the capital.

This means added pressure to convert what remains of the agricultural land in the area as entrepreneurs as well as large corporations are drawn to its property development prospects, not just for residential but for commercial use as well, particularly for manufacturing and logistics.

These companies do not even need to resort to extra-legal means to achieve their ends, they just need to apply the right pressure to secure the necessary forms, certifications and approvals needed to make the land conversion happen.

“Legal land grabbing” was how Mark Joseph Jose, a young farmer from Plaridel, describes what is happening all around him in his town.

Common tactics used to force the conversion include turning off the irrigation pipe then pouring massive amounts of soil on the farmland to pass it off as being idle and no longer used for agriculture. This then makes it easier for the National Irrigation Administration (NIA) to issue a certificate of non-irrigation, one of the documents required to secure the conversion, effectively skirting the law that categorically states that irrigated agricultural land cannot be converted.

Then there are the required certifications from the local government units, from the barangay all the way to the provincial body – all must sign off on the planned conversion to commercial use. It is not difficult to imagine that money must have changed hands to secure the approvals.

And it happens up and down the line, from the NIA to the DA and the DAR.

“*Pag nakumpleto na mga requirements, ‘yun na ‘yun, makakakuha na ng zoning [ordinance] and pwede na ma-convert. Di na nga nila kailangan pumunta dito, basta magbayad lang ng fee ayos na,*” (“Once they have acquired the requirements, that’s it, they will get the zoning [ordinance] and the land can be converted. They do not even need to come here, so long as they pay the necessary fees.”) Jose said.

According to Tadeo, the *barangay* officials themselves were there and witnessed the bulldozing of the disputed property but did not lift a finger even if there was no decision yet from DAR on whether the property had indeed already been converted for commercial use.

On the other hand, Jose noted that at the height of the community quarantines in the second quarter of 2020 to stem the spread of COVID-19, the leveling of agricultural land that had been applied for conversion continued despite supposed restrictions.

Once these applications are approved, their already dire situation can only worsen.

“*Pag matuloy lahat ‘yan, wala nang magiging drainage, magiging swamp na yung bukid,*” (“If all of those [conversions] push through, the drainage will be gone, the farm will turn into a swamp”) said Jose, “*Dati walang ganyang bumabaha, nung bukid pa yan kasi kayang saluhin yung tubig. Ngayon nung naging bahayan na, na-block na, kaya dito na sa amin dumadaan yung tubig.*” (Before, floods do not occur because the farms absorb the water. Now that those have been turned into residential areas, the waterway has been blocked, so the floods run through our area.)

The revenue gain from selling property to developers is compelling, indeed. Because of the proximity of Plaridel to the National Capital Region (NCR), especially with the opening of the bypass road that has made it easier for goods to travel from the agricultural and trading centers in Nueva Ecija and further up to Cagayan and Isabela, for example, to the market in Manila, the per square meter price has jacked up to some P3,000 a square meter from just P50 to P150 a square meter when Plaridel was still a quiet agricultural town.

Jose said the offers for the land could be irresistible considering that many farmers can only earn about P100,000 a year from a one-hectare property. If they sell it outright, they stand to easily earn at least a million. “*Sobrang laki po ng presyuhan,*” (“The selling prices [for agricultural land] are really high,”) he said.

“*Kaya nakikita na yung bukid nagiging unti-unting industrial,*” (“We see that the farms are slowly turning into industrial areas” said Jose. This happens despite the fact that Plaridel is one of the towns fortunate enough to have irrigation facilities that allow the land to produce crops at least twice a year.

Today, the landscape is dotted by signs of economic development, from warehouses to glass and precast manufacturing facilities. And more will soon be added to the list if wholesale conversion of the agricultural land will be allowed to continue.

The short-term gains, however, have far-reaching implications, not least of which is the continued reduction in the area available to produce food for the Philippines’ ever-growing population. If left unchecked, the Philippines may have subdivisions and other commercial establishments stretching as far as the eye can see, but without its own food to eat.

Enabling factors of land conversion in the Philippines

Taking into the national context, the following presents the enabling factors of land conversion in the Philippines – recognizing that these factors play an important role in further facilitating the increasingly alarming concerns of land conversion in every part of the country.

Policies that enable continued conversion

Department of Agrarian Reform Administrative Orders No. 1, series of 2019 and No. 6, series of 2019

When the Duterte administration took power in 2016, there was hope that pro-farmer policies will be implemented by DAR given the appointment of Rafael “Ka Paeng” Mariano as Secretary of the said government agency. And indeed, Mariano did not wait long before announcing that he would pursue a two-year ban on the conversion of agricultural land and also review all land conversion agreements from the time the agrarian reform law was passed by the Corazon Aquino administration in 1988.

Apparently, these moves did not sit well with legislators – many of whom own large tracts of land or are real estate developers themselves – thus his appointment was rejected.

In came current Agrarian Reform Secretary John Rualo Castriciones, who not only dropped the move to ban conversion for two years, but did the exact opposite and issued a policy in 2019 to shorten the conversion process, supposedly to make it easier to build socialized housing for low-income Filipinos. Under his watch, he issued Administrative Orders (AOs) 1 series of 2019⁵ and 6 series of 2019.⁶

As Castriciones said during his confirmation hearing, land conversion was allowed under the law and “must be properly implemented.”

Indeed, it has become a policy of the current administration to pursue land conversion, following the order by President Duterte in early 2019 to create a task force to, among others, speed up the conversion of agricultural lands to residential, commercial, and industrial uses, cutting the process from 24 months to an alarming 30 days.

Following the AOs, the DAR formed the Inter-Agency Special Task Force on Land Use Conversion comprised of agencies that handle land conversion applications. In addition to the DAR, the other participating agencies include the Department of the Interior and Local Government, Department of Agriculture, Housing and Land Use Regulatory Board, National Housing Authority, and the Housing and Urban Development Coordination Council. The Department of Energy is also involved when the land conversion is for the purpose of energy production.

“In pursuing this endeavor, it is foremost in our plans that each step [is] environmentally viable and socially feasible. It should also protect tillers’ rights and ensure food security,” Castriciones said in the statement.

⁵ Streamlining the Processing of Applications for Land Use Conversion Under DAR Administrative Order No. 1, Series of 2002

⁶ Creation of a Collegial Body on Land Use Conversion and Exemption/Exclusion from CARP Coverage

Rice Tariffication Law of 2019 (RA 11203)

Moreover, the enactment of the Rice Tariffication Law in 2019 led to lower returns for local farmers, further driving them to consider selling their lands to be converted into other purposes. The mentioned law liberalized rice trade, thus allowing easier entry of foreign-grown rice into the domestic market and pulling the prices down for locally produced rice.

Credit support falling short for farmers but flourishing for the real estate sector

Access to credit has long been cited as one of the factors behind the dismal productivity levels, such that it has become difficult for farmers to rise from poverty. Yet while investments, support services, and incentives to promote agriculture have been wanting, investments in property development have been surging. Farmers are seen by banks as a high credit risk, meaning they are seen as having a high probability of being unable to pay back their loans. This is why banks have been reluctant to lend to the agriculture sector but are more than happy to lend to those who want to purchase or develop property for commercial use.

Take for example the share of real estate lending by the banking system. Just last August 2020, the Bangko Sentral ng Pilipinas (BSP) decided to raise the limit on the universal and commercial banks' lending to the real estate sector to 25 percent of their portfolio from 20 percent (Chipongian, 2020). This means an additional P1.2 trillion injected to real estate activities, including residential, commercial, and industrial property development. As of end-June 2020, the banks' lending to real estate activities amounted to P1.719 trillion, higher than the same time in 2019 of P1.471 trillion, based on BSP data.

But at the same time, Philippine banks continued to fall short of their mandated loan thresholds for agriculture and agrarian reform. Under the Agri-Agra Reform Credit Act of 2009 (RA 10000), all banking institutions (government or private) are mandated to allocate 25 percent of their total loan portfolio to the agriculture and fisheries -- 10 percent for the agrarian reform credit and 15 percent to other agricultural credit. Yet in 2019, BSP reported that loans extended by the banks to the agriculture sector (amounting to around P733 billion), was 11.8 percent only of the total portfolio.

In 2019, monetary Board member Bruce Tolentino had mentioned that fines collected by BSP from banks that fail to comply with the Agri-Agra Law's mandated allocations has reached more than P6 billion in the two prior years, mentioning that "Many of the banks prefer to pay the penalty rather than actually lend to farmers because farmers are poor credit risks, so they pay" (Agcaoili, 2019).

Data from the Agricultural Credit Policy Council (ACPC) further reveal that the credit gap in the agriculture sector was at P367 billion in 2016 (Agcaoili, 2019). The figures show that the 2.9 percent of total loans allocated for agriculture, fisheries, and forestry, fall far behind the allocations for consumer loans (17.5 percent) and real estate loans (19.9 percent).

Non-passage of proposed laws to stop rampant and illegal land conversion

House Bill 7115 (An Act Including the Conversion or Causing the Conversion of Irrigated or Irrigable Lands As a Prohibited Act and Imposing Its Corresponding Penalty Amending for the Purpose Republic Act No. 6657, as amended, otherwise known as the Comprehensive Agrarian Reform Law of 1988)

The bill that was pushed by former House Speaker Pantaleon Alvarez passed on second reading in 2018 aims to address threats to food security in the country by prohibiting the conversion of irrigated and irrigable lands in the country.

Box 6. Republic Act (RA) 10000 or the Agri-Agra Reform Credit Act

When the 10,000th law was signed in 2009, the government intended to pursue equal access to opportunities for farmers and fishermen, in an effort to promote rural development. The spirit of the law is on enhancing access of the agricultural sector to financial services and programs that increase market efficiency and promote the modernization of the farm sector.

The mandated lending to agriculture and agrarian reform requires banks to allocate 25 percent of their total loan portfolio to the two sectors — 10 percent for the agrarian reform credit and 15 percent to other agricultural credit.

The decade-old law, however, has failed to steer the target level of bank funds to the farm sector. In end-September 2018, universal and commercial banks' compliance to the 10-percent required lending to the agrarian reform sector hit 0.79 percent; their compliance to the 15-percent required lending to the agricultural sector reached only 12.95 percent.

The thrift banking sector follows the universal and commercial banks' trend, with a 1.2-percent compliance rate against the 10-percent mandate for the agrarian reform sector and 6.19 percent as against the 15-percent mandate for the agricultural sector.

Even rural and cooperative banks — whose major market are composed of farmers and fishermen — are finding it increasingly difficult to comply with the mandatory lending to the agrarian reform and agricultural sector, data from the Bangko Sentral ng Pilipinas (BSP) showed.

Five-year data trend from the BSP showed that while rural and cooperative banks are still the only banking group that is able to comply with the Agri-Agra lending quotas, their share in this sector has been shrinking over the years.

This is despite the crucial role of agriculture in a country's overall development.

Data from the BSP also showed that the non-performing loan (NPL) ratio of agricultural loans has actually been decreasing along the overall decline in NPLs of the whole banking industry. From an NPL ratio of four (4) percent in 2014, the NPL ratio of Agri-Agra loans dropped to 2.78 percent in 2018 as end-September 2018.

However, this is still higher than the NPL ratio of the banking industry, which posted a ratio of 2.3 percent in 2014, 1.7 percent in 2017, and between 1.83 percent and 1.87 percent in 2018.

But even, not by so much that to justify the banks' seeming stubborn reluctance to lend to the agriculture and agrarian reform sectors that contribute greatly to poverty reduction as the potential beneficiaries are among the poorest in the country. □

To be penalized are, among others, any person who directly participates in the conversion of irrigated and irrigable land, who induces the landowner or farmworker in the conversion, who benefits from the conversion of the irrigated or irrigable land.

Irrigated land is defined in the bill as “lands serviced by natural irrigation or irrigation facilities, as delineated by the Department of Agriculture [DA] or the National Irrigation Administration [NIA], which includes lands where water is not readily available as existing irrigation facilities need rehabilitation or upgrading, or where irrigation water is not available year-round.”

Irrigable lands, meanwhile, are those “suitable for the conduct of agricultural activities which require irrigation and display physical features justifying the operation of an irrigation system.”

Senate Bill 256 or the Agricultural Land Conversion Ban Act

Alarmed by the very real possibility that food security would be heavily compromised by ever-shrinking farmlands due to wholesale conversion of prime agricultural land, measures are being pushed in Congress to put a halt to the unbridled conversion of agricultural land into residential, commercial, industrial, and other non-agricultural uses, a process that is prone to corruption.

In 2019, Senator Francis Pangilinan filed Senate Bill 256 or the Agricultural Land Conversion Ban Act that seeks to put a stop to the transformation of farmlands into other uses to ensure that the Philippines can produce food to feed its own people.

“This measure aims to protect farmlands for which government already spent to irrigate. This is also critical for food security in the country. Normally, prime agricultural lands are being targeted for conversion,” Pangilinan said.

In a Press Release of the Senate of the Philippines in August 2019, Senator Pangilinan cited that Luzon suffers most from massive land conversion, making up 80.6 percent of the entire country’s approved land conversions. This is followed by Mindanao with 11.6 percent and Visayas with 7.8 percent.

“Since CALABAZON and Central Luzon are producers of big volumes of *palay* and other crops, these conversions seriously threaten food sufficiency and the sustainability of our agricultural economy,” Pangilinan said in the explanatory note.

The bill seeks to amend Section 20 of the Local Government Code (LGC), requiring additional approval from the Departments of Agriculture (DA), Agrarian Reform (DAR), and Environment and Natural Resources (DENR), as well as local government units (LGUs) before land reclassification and conversion.

Under the bill, conversion of agricultural lands requires certification from DA indicating that such lands are not included among those classified for conversion or reclassification and that the land has ceased to be economically feasible for agricultural purposes.

For DAR, lands to be converted should not be programmed for distribution to agrarian reform beneficiaries while for DENR, the proposed reclassification should be ecologically sound.

The proposed bill also provided that “all irrigated and irrigable agricultural lands planted but not limited to rice, corn, sugar, coconut, vegetables and fruit trees... shall not be converted into non-agricultural uses”, taking into consideration that the Philippines needs whatever land is left to continuously and adequately feed its people.

The Proposed National Land Use Act (NLUA)

The need to have such a land use policy in place, however, has never been more urgent due to pressures from a growing population and the country's economic growth policies.

As said in a December 2014 Policy Brief by the Senate Economic Planning Office (SEPO), prime agricultural lands tend to have the same characteristics that would also make them prime lands for urban development.

“Because agriculture is almost always the least favored open when compared economically with major land developments, prime agricultural lands are very much prone to agricultural land use conversion,” the brief said.

Thus, the need for a National Land Use Act to protect “prime agricultural lands,” defined as highly productive farmlands, very fertile and highly suitable for growing the country's major food crops such as rice and corn.

The proposed NLUA specified that all lands subject to CARP, including those lands covered under the notice of compulsory acquisition/voluntary offer to sell, should be protected from conversion pending the distribution and installation of farmer-beneficiaries.

The policy briefing said that this also aligns with the provisions of the CARPER Law, which allows land use conversion after the lapse of five years from award only when: 1) the land ceases to be economically feasible for agriculture; or, 2) the locality has become urbanized and the land will have a greater economic value for other purposes.

It is here where the contention lies as certifications to indicate that the land is no longer “economically feasible” or that the property will be better used for other purposes instead of agriculture can be easily secured, thus the proposed more stringent guidelines under bills proposing bans to conversion.

Plus, the policy brief also noted the valid point that agrarian reform lands are “prime” and thus exempted from conversion to the beneficiaries, though not necessarily in the eyes of the bureaucracy that will rather convert the land for property development, for example. This then demands a proper definition of the term “prime agricultural lands” that warrants absolute prohibition from conversion and reclassification, given the heated debates surrounding the national land use policy.

“Since implementing prohibitions on agricultural land use conversion will affect the expansion of urban areas where majority of the population live, and where most jobs are generated, a stringent set of criteria on identifying prime agricultural lands must be developed,” the brief said.

In the House Bill version filed Representative Kaka Bag-ao during the 17th Congress, prime agricultural lands are those that cover:

- all contiguous irrigated areas and irrigable lands already covered by irrigation projects;
- all alluvial plan lands highly suitable for agriculture whether irrigated or not that have been identified to satisfy the country's needs for food self-sufficiency and security;
- agro-industrial croplands or lands presently planted and suitable to industrial and high-value crops; and,
- highlands, or areas located at an elevation of 500 meters or above and have the potential for growing semi-temperature and high-value crops outside of declared permanent forestlands and protections forests, and are not located in ecologically-fragile and environmentally-critical areas.

However, the contentious issue raised by the housing sector, that impede the passage of the NLUA for years, points towards the bill constraining the availability of land for housing and urban use due to its “catch-all” definition of prime agricultural lands.

Intending to address the said concern, the National Land Use Committee (NLUC) of the National Economic and Development Authority (NEDA) drafted a version where, “in line with the principle that balances food security with the economic efficiency of higher-density uses, land use conversion may be allowed when the land ceases to be economically feasible and sound for agricultural purposes, or when the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes” (Sombilla, 2019). The definition of “prime agricultural land” proposed for protection under the National Land Use Council (NLUC) version of NLUA, is, therefore, narrowed down to areas that are covered by the Strategic Agriculture and Fisheries Development Zones or SAFDZs.⁷

Box 7. Housing backlog vs. housing priorities in the Philippines

According to the Department of Human Settlements and Urban Development (DHSUD) Secretary Eduardo del Rosario, the housing need from 2017 to 2020 is about 6.5 million. To close this housing gap, the “government needs to build 250,000 houses a year. Currently, however, the housing sector can only build 203,000 to 205,000 units annually between 2016 and 2019” (statement by DSHUD Secretary in Business Mirror, 2020).

Housing backlogs are accumulation of several years of failures to respond to this problem by the government and the private sector – one partly being the State spending less than 0.1 percent of the GDP for housing; and other factors including weak monitoring mechanisms, rising resettlement and administrative cost, unreliable poverty data, and selfish interventions of public officials. The housing and real estate developers constantly blamed the housing failures on the lack of lands allocated for housing development and have further claimed that the protection of agricultural lands from conversion leave little lands available for settlements including housing, infrastructure, tourism, real estate development, and other non-agricultural development (Flores-Obanil, 2015).

However, with the obvious rampant expansion of residential subdivisions in Metro Manila and especially in its adjacent provinces, they would seemingly suffice the need for housing. According to Flores-Obanil (2015), this observation not addressing the housing issue may be explained by the fact that real estate developers are prioritizing the construction of medium- and high-cost housing, leaving high deficits for available socialized, economic, and low-cost housings.

In a 2016 to 2030 data by the Philippine Statistics Authority, the demands for socialized and economic housings are at more than 1.3 million and 2.5 million. On the other hand, the demands for medium- and high-cost housings are merely at around 78 and 11 thousand demands, respectively. □

At present, the Executive, headed by the National Economic Development Authority (NEDA), is crafting an executive order version of the land use bill based on the NLUC version of NLUA.

⁷ SAFDZ refers to the areas within the Network of Protected Areas for Agricultural and Agro-industrial Development (NPAAAD) identified for production, agro-processing and marketing activities to help develop and modernize, with the support of government, the agriculture and fisheries sectors in an environmentally and socio-culturally sound manner.

Positive developments and other opportunities that may be pursued at the national level

Review of the Proposed DAR-DOJ Cooperation in the Implementation of the Agrarian Reform Program

There were discussions in 2019 on a proposed Joint Administrative Order between DAR and the DOJ on the implementation of agrarian reform program that was being pushed as it was felt that continuing collaboration and coordination between the DAR and the DOJ was indispensable to the prosecution of offenses resulting from acts or omissions that obstruct the successful implementation of the Comprehensive Agrarian Reform Program.

One of the key provisions of the proposed JAO is the creation of a Provincial Task Force on Illegal Conversion that will, among others, commence the proper criminal complaints against those alleged with the crime of illegal or premature conversion and ensure the conviction or proper adequate punishment for the guilty parties.

The Task Force will also coordinate with LGUs to monitor land use activities; identify activities that constitute illegal or premature conversion and identify harassment actions against farmers, farmworkers, or tenants.

The draft JAO also called for the creation of a National Task Force on Illegal Conversion that will monitor the activities and coordinate efforts of the provincial task forces. The National Task Force that will be co-chaired by the Secretary of Agrarian Reform and Secretary of Justice will also be tasked to secure the cooperation of other CARP implementing agencies to achieve a whole-of-government approach in preventing illegal and premature conversion.

Implementation of sustainability reporting guidelines for publicly listed companies, financial sector

In 2019, the Securities and Exchange Commission issued a Memorandum Circular No. 4, requiring publicly listed companies to submit an annual sustainability report together with their annual report that will spell out how they invest in sustainability efforts in accordance with the Sustainability Development Goals of the UN. The circular, outlined information that companies will have to share with the public that spans their nonfinancial performance across the economic, environmental, and social aspects of their organizations.

Information that is supposed to be disclosed include investment flows into the national economy, such as in communities as well as their practices of procurement, which may include land acquisition. The SEC has adopted a “comply or explain” approach in the implementation of the rule for the first three years, or until 2022, during which there will be no penalty for failing to provide required material explanation if they can provide reasonable explanations. But given the pandemic, this period of more relaxed implementation of the law may be extended.

The Philippine Stock Exchange has required that the sustainability reports be made part of required disclosure requirements, opening an avenue for civil society organizations to press at least the listed companies to disclose loans that flow into private companies that may be converting land through questionable means.

As it is, annual reports and continuing disclosure requirements do not specify the individual loans extended by the financial institutions, and further inquiry is stopped by the data privacy and bank secrecy laws. The BSP took its own major step toward meeting the SDGs by issuing Circular 1085 series of 2020 in April 2020 that establishes the Sustainable Finance Framework. This is in recognition of the fact that climate change and other environmental and social risks could pose financial stability concerns because of their implications on banks' operations and financial interest.

The BSP said that it recognizes “the critical role” of the financial industry in pursuing sustainable growth “by enabling environmentally and socially responsible business decisions.”

The framework as spelled out currently does not make direct mention of rampant land conversion as a key business risk, but financial institutions could be made aware of the dire implications on food security, the consequences of which are already being seen through rising costs of basic commodities.

Reforms in the Agri-Agra Law

The BSP, along with the Departments of Agriculture and Agrarian Reform recently approved amendments to the implementing rules and regulations of the Agri-Agra Reform Credit Act, which they say will mean improved access to financing for the agriculture, fisheries, and agrarian reform sectors. “The amendments to the Agri-Agra rules are the product of the concerted efforts of the DA, DAR, and the BSP to mobilize bank sector financing towards the agrarian reform, fisheries and agricultural sector by addressing challenges identified in the operationalization of the law,” BSP Governor Benjamin Diokno said in a 19 March 2021 statement.

The amendments include expanding the eligible modes for compliance with the 10-percent agrarian reform credit requirement by including loans to members of agrarian reform households and financing of activities that generally benefit agrarian reform beneficiaries, their households, as well as their communities.

Recommendations

Based from the demands of the affected farmers and inputs provided by CSOs and farmer organizations during an online focus group discussion organized by ANGOC, the following recommendations are thus forwarded:

In relation to the Bulacan cases

- The farmers of Brgy. Sta. Barbara of Baliuag, Bulacan who have valiantly continued to press their claim over the land where they had raised their families recommend, among others, that legal services for farmers be strengthened, either from professional or alternative law groups. They related that farmers are usually up against powerful and deep-pocketed landowners and thus will need strong support from the legal profession. Unfortunately, such services are beyond the reach of most farmers, prompting many to just give up their claim and accept any compromise agreement. With the assurance that quality services will be in place, then the farmers will be in a better and stronger position to pursue their rightful claim over their land.
- It is also recommended that civil society support groups and legal support groups conduct a dialogue with the Department of Agrarian Reform (DAR) Regional and Provincial Offices to discuss the Sta. Barbara case and explore actions for the halting of illegal conversion activities on the subject landholding through:

- ⇒ Issuance by the DAR of a Cease-and-Desist order or other orders/resolutions.
- ⇒ Filing of illegal conversion and other cases against the owners/claimants.

- It is also recommended that farmers as well as local civil society organizations in Bulacan be organized to present a united front against those pushing for illegal conversion of prime agricultural property in the province.
- The cases discussed above may also be disseminated by civil society through traditional and social media to generate greater public awareness and support.

In relation to actions sought from the national government

- Legislative measures
 - ⇒ An enabling law should be passed to prohibit the conversion of ricelands (whether irrigated, irrigable, or rainfed) into residential, commercial, and industrial developments.
 - ⇒ Congress should also immediately pass the National Land Use Bill, with the clear provision that irrigated, irrigable, and rainfed prime agricultural lands be protected in perpetuity to ensure food security. What constitutes prime agricultural land should be harmonized across the various versions of the NLUA.
- Executive/Program Implementation
 - ⇒ DA, DAR, in coordination with other land agencies, are urged to produce and disseminate a comprehensive inventory of lands devoted to rice production, that may be disaggregated (by *barangay*, municipality/city, province, and region), is regularly updated, and that is easily available to the public, for the government to determine and be transparent about the total area still planted and harvested with rice per riceland classification (i.e., irrigated, irrigable, rainfed).
 - ⇒ Similarly, the DAR, NIA, and other agencies involved in land conversion must also provide updated data on land conversion, where they are and who are the companies or landowners involved.
 - ⇒ The DAR must strictly carry out and implement Sec. 22 of RA 9700 that provides that failure to implement the conversion plan within five years from approval will mean that the land will be automatically covered by CARP.
 - ⇒ In instances when the land covered by the conversion order is found to be irrigated and irrigable, land that has not yet been redeveloped can be reclaimed through the CARP, and the land may be distributed to rice farmers who are more than willing to cultivate and make the land productive.
 - ⇒ DAR is urged to repeal the administrative orders (AOs 1 and 6 of 2019) that seek to hasten the conversion process.
 - ⇒ DAR and the DOJ are also implored to convene a meeting to discuss the proposed Joint Administrative Order on the cooperation in the implementation of the agrarian reform program.
- Local government units
 - ⇒ LGUs from the *barangay* up, are requested to be more transparent on the proposals to convert agricultural lands into industrial and commercial uses. Proposals must be publicly announced. Legal conversion” can easily happen if the public is not even aware that the land is already up for conversion.

- ⇒ LGUs are also urged to strictly implement Section 20 of Local Government Code which sets limits on LGU's authority to reclassify lands. LGUs' implementation of this, on the other hand, should be monitored by the Department of Human Settlements and Urban Development.
- For the Securities and Exchange Commission and the Bangko Sentral ng Pilipinas
 - ⇒ In light of Memo Circular 4 of 2019, the Securities and Exchange Commission must monitor the required submission of sustainability reports by the publicly listed companies, including the banks and other financial institutions, whose funds may end up with companies leading land conversion efforts.
 - ⇒ In line with its recently issued Sustainability Framework, the BSP is urged to require banks and other financial institutions under its purview to strictly adhere to due diligence requirements and submit sustainability reports. Measures should be taken to inspect banks' dealings with companies involved in rights violations against communities.
 - ⇒ The BSP is also recommended to promote stricter implementation of the Agri-Agra Law and to recommend reforms to financial policies that may facilitate better credit support for farmers. Implementing more farmer-responsive loan programs will also be in line with BSP's Sustainability Framework and will allow banks to be more competitive.
 - ⇒ Both agencies must also expressly recognize that unsustainable land conversion and erosion of food security that do present key business risks for banks and financial institutions.

In relation to actions that civil society organizations should pursue

- Civil society must engage the DAR Central Office in discussions on policy reforms related to access to legal services and speedy disposition of agrarian related cases. The issuance of joint orders between DAR and DOJ may be explored further to facilitate the filing of and resolution of cases related to agrarian disputes.
- Support groups should also organize a high-level inter-agency dialogue on land conversion between civil society, the National Anti-Poverty Commission, the DAR, and other land agencies involved in the conversion process.
- It is the civil society's role to also conduct campaigns and information dissemination workshops with the private sector and other business-regulating agencies. Networks of businesses must continually be engaged in discussions and made partners in implementing actions related to sustainable development as well a business and human rights. After all, triple bottom-line (social, environmental, financial) sustainability also ensures more stable profit.
- CSOs must also engage the banking sector (both public and private entities) to further explore how banking decisions may affect the rights of small farmers and other marginalized groups, and to make these actors more circumspect and aware of land rights when extending loans to large infrastructure of property development projects. The banking sector must also be engaged to jointly work on how financial policies may be more cohesive, and to discuss how adhering to sustainability guidelines by SEC and BSP may lead to less regulatory risk for banks.
- Finally, a strategy meeting among civil society and other advocates should be organized to discuss lobbying strategies for pertinent bills, particularly those related to agrarian reform and preventing land conversion.

Conclusion

The Philippines' food security is increasingly under threat.

It has a young and growing population of about 110 million that needs to be fed and yet the government, pushed by well-connected private individuals and companies, has been allowing the conversion of scarce agricultural land into alternative uses, leaving the already poor and marginalized farmers out in the cold.

As proven by the case in Bulacan, when powerful commercial forces are unleashed, they overwhelm the rights of farmers, to the point that they are forced out of the very land that is the only home they have ever known and one that should have been theirs by right. □

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Annexes

Annex 1. Year Indicator of Production vs. Population-Consumption

Year	Rice production* (MT)	Annual Pop'n	Annual Per-Capita Rice Consumption** (MT)	Total consumption (MT)***	Surplus or Deficit**** (MT)
2019	12,305,000.00	107,290,000.00	0.128	13,779,254.70	(1,474,254.70)
2018	12,469,000.00	105,760,000.00	0.120	12,665,817.60	(196,817.60)
2017	12,607,000.00	104,170,000.00	0.119	12,406,647.00	200,353.00
2016	11,528,000.00	102,530,000.00	0.108	11,055,809.90	472,190.10
2015	11,870,000.00	100,980,000.00	0.112	11,271,387.60	598,612.40
2014	12,405,000.00	99,880,000.00	0.114	11,420,279.20	984,720.80

* Source: Rice production data from PSA's Supply Utilization Accounts of Selected Agricultural Commodities, 2017 to 2019 (PSA, 2020a)

** Source: Rice Net Food Disposable Per Capita Data per Year from PSA's 2019 Selected Statistics on Agriculture (PSA, 2020b)

*** Computed by multiplying the annual population with annual per capita rice consumption

**** Computed by finding the difference of rice production and the total consumption

Annex 2. Comparative Shares of Built-Up and Agricultural Lands among Alienable and Disposable Lands in the Provinces of Central Luzon

Province	A&D Lands (ha)*			Built-up Land Cover (ha)			Agricultural Lands (ha)*****		
	2003	2010	2015	2003**	2010***	2015****	2003	2010	2015
Aurora	132,008.00	132,008.00	132,008.00	504.60	2,071.67	2,670.00	131,503.40	129,936.33	129,338.00
Bataan	69,325.00	69,975.00	69,975.00	4,199.32	6,845.93	8,177.00	65,125.68	63,129.07	61,798.00
Bulacan	185,333.00	185,333.00	185,333.00	8,800.22	24,935.95	28,167.00	176,532.78	160,397.05	157,166.00
Nueva Ecija	330,985.00	343,257.00	343,257.00	5,866.91	21,054.63	22,063.00	325,118.09	322,202.37	321,194.00
Pampanga	164,912.00	172,616.00	172,616.00	12,423.59	27,844.88	30,875.00	152,488.41	144,771.12	141,741.00
Tarlac	184,975.00	184,975.00	184,975.00	4,214.69	11,569.49	16,276.00	180,760.31	173,405.51	168,699.00
Zambales	116,378.00	116,485.00	116,485.00	2,984.90	7,805.02	9,969.00	113,393.10	108,679.98	106,516.00
Total	1,183,916.00	1,204,649.00	1,204,649.00	38,994.23	102,127.57	118,197.00	1,144,921.77	1,102,521.43	1,086,452.00

* Based on Philippine Forestry Statistics 2003, 2010, and 2015

** Computed using GIS (data source: NAMRIA 2003 Land Cover)

*** Computed using GIS (data source: NAMRIA 2010 Land Cover)

**** Based on Central Luzon Regional Development Plan: 2017-2022 Midterm Update (data source: NAMRIA's partial 2015 Land Cover)

***** Computed by subtracting the built-up land cover from A&D lands