



# Land Watch Asia

LAND USE

## Land, Property and Tenurial Rights in a Changing Coastal Environment

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ANGOC and the LWA campaign have been working to advance the land rights of the rural poor through protecting and promoting the gains of progressive legislations and initiatives on agrarian reform and access to land. As such, the campaign shall pursue the lobbying of the passage of national land use and facilitate sharing of tools and approaches in land use planning among CSOs.

In the Philippines, a national land use law has yet to pass. While a number of legislations addressing land use issues have already been passed, these policies, however are sectoral and fragmented in approach and do not address priorities for land use that cut across sectors and put premium on long-term sustainability, local productive capacity and over-all social equity. Clearly, the absence of a land use framework result in increasing cases of conflicting claims on land use, which threatens the livelihood and security of the poor.

Thus, ANGOC and CLUP Now! have been engaging in constructive dialogues with the Philippine Congress as well as government agencies regarding the importance of enacting a national land use act as it is seen as a critical piece of legislation that will provide a rational, holistic, and just allocation, management, utilization, and development of the country's land resources. The Deutsche Gesellschaft Für (GIZ), Foundation for the Philippine Environment (FPE), and MISEREOR have been supporting this initiative.

On a similar vein, members of the International Land Coalition (ILC) in the country have been implementing a national engagement strategy (NES) with the objective of creating conditions for inclusive and people-centered land-related policy change. Part of NES is addressing inter-sectoral concerns on land and future legal frameworks affecting land rights, which includes the passage of the pending National Land Use Act (NLUA).

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## CONTEXT

The Philippine coastal environment is changing.

The Philippine archipelago's coastline runs approximately 36,289 kilometers, second only to Indonesia. A significant number of today's 100 million Filipinos reside in coastal zones. In 2005 for instance, there were already 43 million living in coastal areas. In 2015, the population density there is pegged at 405 persons per square kilometer. By 2020, the coastal population is estimated to reach up to 55 million with an annual population growth rate at 2.26%. (See Table 1).

Coastal land areas are heavily contested resources. The rise in population in the coastal areas attests to its growing significance, especially with the aggressive development of tourist destinations. However, due to impacts of climate change and natural disasters, hazard exposure and disaster risks to coastal areas are increasing in extent and severity. Consequently, resource use conflicts within coastal areas are perceived to intensify to the detriment of poor and marginalized fisherfolk and the already degraded coastal environment.

This paper depicts these land use conflicts particularly in Yolanda-affected fishing communities in Barangay 88 and Barangay Anibong in Tacloban City; the municipalities of Bantayan, Madrideojos and Sta. Fe in Northern Cebu; Sicogon Island in the municipality of Carles in Iloilo; and the municipality of Guiuan in Eastern Samar. These areas were heavily affected by Super Typhoon Yolanda (international name: Haiyan) on November 8, 2013, which paralyzed around 117 coastal cities and municipalities in 14 provinces and six regions in the Philippines. Yolanda left a debilitating impact to the coastal environment, where coral reef areas have been reduced to rubble and mangroves destroyed.

The Philippine government and international organizations extended humanitarian aid in epic proportions. In 2014, the national government allocated in its General Appropriations Act the amount of Php 100 billion for the rehabilitation and recovery of Yolanda-affected communities. Realizing the need for a change in policy framework, the national government likewise issued several policy instruments to specifically address the mounting issues on lands and property rights in particular and human rights in general.

**Table 1. Population Density in Coastal Areas**

Parameter	2000	2005	2010	2015	2020
<b>Population</b>					
National	76,498,735	84,299,000	92,736,000	100,571,000	108,210,000
Coastal Areas	39,007,905	42,992,490	47,295,360	51,291,210	55,187,100
Non-Coastal Areas	37,490,830	41,306,510	45,440,640	49,279,790	53,022,900
<b>Land Area (square kilometers)</b>					
National	300,000	300,000	300,000	300,000	300,000
Coastal Areas	136,400	136,400	136,400	136,400	136,400
Non-Coastal Areas	163,600	163,600	163,600	163,600	163,600
<b>Population Density (Person per square kilometers)</b>					
National	255	281	309	335	361
Coastal Areas	286	315	347	376	405
Non-Coastal Areas	229	252	278	301	324

**Source:** Archipelagic Development, DENR, 2003 (as cited in Calvan, 2010).

## Current Land Issues in the Coastal Zones

### One of the primary issues in relation to the utilization of coastal zones is the establishment of settlements for fisherfolk.

Section 108 of Republic Act 8550 or the Philippine Fisheries Code of 1998 mandates the Department of Agriculture (DA) through the Bureau of Fisheries and Aquatic Resources (BFAR) to provide safe and secure fisherfolk settlements near their fishing grounds.

The Philippine Asset Reform Report Card, a study on land tenure in the lowland, upland and coastal areas conducted by civil society organizations and academic experts in 2008, found that out of 92 respondents, 80 people or 87% said there were fisherfolk in their community who were informal settlers. Around 64 or 69.6% are in danger of eviction (Habito, 2008). A dismal performance in land reform in the fisheries sector can be attributed to low prioritization on the part of the local government units to provide tenure and support to their fishing constituents and the lack of technical guidelines and financial support from the national government. At present, the National Anti-Poverty Commission, in partnership with DA-BFAR and civil society organizations (CSOs), are implementing the Fisherfolk Shelter (FiSH) for Stewards Program in Yolanda-affected communities.

### Most foreshore lands in the Philippines are under threat of commercialization and privatization.

In 2011, reports on plans to develop an eco-tourism hub complete with an international airport at the heart of Panglao Island in the Visayas Region startled several fishing communities in Bohol. The impacts of altering a natural landscape both in terms of biological diversity and economic importance to the small fisherfolks of Panglao Island are unimaginable.

In waters surrounding Bohol, for instance, a Korean company called Biosystems, Co. Ltd., has entered into a joint venture agreement with the Provincial Government of Bohol to develop more than 100,000 hectares (ha) of municipal waters for seaweed production. However, the seaweed is not produced for food but for biofuels. Hundreds of small fisherfolk are potentially displaced as their fishing grounds are turned to areas for biofuel production.

In the Municipality of Casiguran, Province of Aurora in Luzon island, a special economic zone that measures around 13,852 ha of lands, including an airport just a few kilometers from the shore, is underway.

In the Calamba/Laguna/Batangas/Rizal/Quezon (CALABARZON) Region, development of tourist destinations, conversion of mangroves into fishponds and development of road networks have resulted in further displacement and marginalization of the fishing population and degradation of coastal environment (Ablola and Calvan, International Land Coalition, 2010).

### Issues on Implementation of Fisherfolk Settlement

The Philippine government needs to address the following issues in light of its implementation of fisherfolk settlement programs in Yolanda-affected communities:

- The NHA requires that land to be enrolled under its settlement program should be large in scale. LGUs, on the other hand, can only find small lots without owners or encumbrances.
- The NHA, under the Commission on Audit policy, requires that titled lands can be enrolled under its program. Available lands, most of the time, have tax declarations.
- Row house designs under the governments' resettlement program is not sensitive to the needs of fisherfolk. Single detached units are still more appropriate.

## Land Issues in the Aftermath of Super Typhoon Yolanda

Super Typhoon Haiyan that hit communities in the Visayas region resulted to heavy damages to lives and properties. More than 6,000 were reported dead and 1,472,251 families were affected. Around 918,261 families were left homeless (Office of the Presidential Assistant for Rehabilitation and Recovery, 2014). It was estimated that Yolanda affected 117 cities and municipalities resulting into displacement of around 205,128 families who were residing in danger areas (Office of Civil Defense, 2014).

The government projected an estimated 24,981 ha of land are needed to accommodate these displaced families. All in all, necessary funding requirements for resettlement of people affected by the typhoon was pegged at around Php75 billion.

Super Typhoon Yolanda opened a Pandora's Box. Several land-related issues emerged as the government struggled to deliver on the rehabilitation and recovery needs while affected communities struggled to bounce back from the deadly effects of the typhoon. Yolanda further stressed the complex issues surrounding land utilization and governance in the Philippines.

The failure of LGUs to study or consider geological hazards in land use planning put people at high risk. Urbanization in some areas, where concentration of population is high, and the lack of awareness of hazards such as storm surges, reflects lack of readiness and weak capacities to bounce back when disasters hit.

The case of Brgy. 88 in Tacloban City showed the inability of LGUs to use disaster-related information and climate change data to manage land utilization. A two-hectare land near the Fishermen's Village in Brgy. 88 was auctioned for sale by the LGU, prior to Yolanda. A fisherfolk group called Timex, applied and paid for that portion of land. After Yolanda, homes were devastated and the City Disaster Risk Reduction and Management Office declared portion of the two-hectare land as highly vulnerable to storm surges, which in turn provided the basis for the LGU to relocate the residents to resettlement sites approximately 15 kilometers away.

Members of Timex were in limbo whether the land they paid for several years will be turned over to them. In the first place, the LGU had the responsibility of ensuring lands they intend to auction are not vulnerable to hazards. The case of Timex in Brgy. 88 reflects a potential threat to existing property relations when disasters hit.

### **Lease agreements that give holders the right to utilize portions of the public domain were also questioned especially with the pronouncement of the 40-meter no build zones.**

Tenurial rights are also threatened by climate change and disasters. In Region 8, mangrove areas cover around 36,790.56 ha, of which 4,725.18 ha were under fishpond lease agreements (FLAs). Most FLAs in Eastern Samar and Leyte are located within the no build zones.

Balancing of priorities in terms of food security, adaptation and maintaining ecological balance thus comes into play. The importance of mangroves as natural barriers against storm surges and storms is widely documented. Typhoon Yolanda emphasized the need to review government's framework on utilizing mangrove areas to increase fish production as complementary to increasing the natural defense of communities from storm surges.

### **Large scale displacements of fishing communities away from their income sources.**

In Sicogon Island in the town of Carles, Iloilo province, tourism development gave way to massive displacement. More than 300 resident families of Sicogon Island, mostly members of the Federation of Sicogon Island Farmers and

Fisherfolks Association (FESIFFA) and victims of typhoon Yolanda, struggled to return to their homes because of the declaration of no build zones. *(See separate paper on Up for Grab: Municipality of Sicogon, Iloilo.)*

#### **Proposed Guiding Principles for No Build Zones**

- Evidence-based policy, wherein policy is informed by science.
- Recognize existing legal and customary tenurial rights
- Integrity of foreshore as a land resource should underscored
- Critical areas utilized for livelihood should be considered.
- Clearly state the functions of different levels of governance.

### **Heavy damages to important fishery habitats.**

This had been noted in the Municipality of Iloilo. The Northern Iloilo Alliance for Coastal Development (NIACDEV) and the LGU of Concepcion conducted rapid appraisal of coral reefs in the aftermath of Yolanda. The coral reefs in *Takot Lutaw* fronting the Pan de Azucar Mangrove eco-park showed how typhoon Yolanda damaged the area. This shoal has 63.3% live coral cover based on the assessment of a team from the University of the Philippines Visayas conducted last November 2012. The results showed that nothing was left because everything was swept away by big waves from the storm surge that occurred in the area.

The coral reefs along the vicinity of Malangabang island in Barangays Malangabang and Salvacion were also devastated by strong waves. Data from previous surveys conducted last August 2010 after the occurrence of bleaching showed that 30-50% live coral cover composed mainly of fringing reefs. After Haiyan these corals were all turned into rubble and transformed into a seawall and formed a lagoon between the shoreline and previously sloping area where reefs abound. There were no more live coral fragments left except those along the vicinity of Sipol Islet where some 25–30 live corals remained. Even the solitary corals were upturned and destroyed.

### **Policies fell short of addressing protection and livelihood issues.**

In December 2013, President Benigno Aquino III publicly stated that a 40-meter no build zones should be established in areas heavily devastated by Super Typhoon Yolanda. This was later changed to safe and unsafe zones to accommodate areas reserved for livelihood of fisherfolk and for tourism.

Aside from substantial displacements of fishing households, the legal and scientific bases of the policy remained problematic. The Philippine Water Code or Presidential Decree 1067 governs the use of water resources whether as salvage zones, recreation, fishing or navigation but not to classify them as danger areas or not fit for dwelling. Moreover, implementation of the policy would not only entail relocation of people but also development of new livelihoods and ensuring tenurial rights for both displaced and host communities. Without a clear legal framework to govern its implementation, humanitarian response groups would not know where to put their needed resources effectively.

In the absence of proper land use and management, fishing communities in particular become highly vulnerable to the impacts of extreme weather events such as strong typhoons and storm surges. Without security of tenure and land allocation for safe resettlement, adaptive capacities of fishing communities are weakened.

The absence of a national guideline to help LGUs to determine which areas are safe and which are not resulted in the misinterpretation of the policy. This led to further displacement of typhoon victims. In the Municipality of Carles in Iloilo, residents of Sicogon Island were prevented from returning to their homes by the Sicogon Development Corporation (SIDECO). The homeless residents occupied part of a forest in the island and resulted into cutting of trees. In some areas in Tacloban City, Leyte province, LGUs invoked the President's pronouncement even without a formal policy instrument. LGUs, thus, prevented humanitarian organizations from providing support to people living within the 40-meter no build zones.

A year after, five government agencies namely the Department of the Interior and Local Government (DILG), the Department of Environment and Natural Resources (DENR), the Department of National Defense, the Department of Science and Technology (DOST) and the Department of Public Works and Highways issued Joint Memorandum Circular No. 1 series of 2014. Entitled 'Adoption of Hazard Zone Classification in Areas Affected by Typhoon Yolanda (Haiyan) and Providing Guidelines for Activities Therein,' the policy provided coordination mechanisms between the five agencies on how to classify coastal areas and how to determine levels of vulnerabilities from floods, landslides and storm surges. Protection issues, on the other hand, are partly covered by the Human Rights Advisory Number 2014-001 and DSWD Memorandum Circular No. 64 or the guidelines for the implementation of shelter assistance project for families with partially and totally damaged houses due to Typhoon Yolanda.

However, the three policy instruments still lack provisions to address other external stressors such as the presence of mining and logging activities that might increase the level of vulnerabilities of communities. In addition, the three policies are silent on critical areas needed for fish and seaweed drying areas, boat docking sites and other important fishery-related activities that need to be considered in the determination of safe zones, unsafe zones and controlled areas.

## **Threats to Protected Seascapes and Wilderness Areas**

Some Yolanda-affected areas were declared protected landscapes, seascapes and wilderness, which slowed down the government in granting tenurial rights, particularly for fisherfolk. In the case of the Municipalities of Bantayan, Sta. Fe and Madrideojos in Northern Cebu, then President Ferdinand Marcos declared in 1981 parts of the Bantayan Island as protected wildlife area by virtue of Presidential Proclamation 2151.



The proclamation declared 650 ha out of the island's total land area of 11,250 ha as areas for nesting sites for marine turtles and mangrove protection, among others. In the early months of rehabilitation and recovery, relocation programs in the three coastal municipalities are hampered due to unclear land classification. However, by mid-2014, the DENR in Region 7 approved the Bantayan Island Wilderness Area Management Plan, which will result into the utilization of the 10,600 ha of alienable and disposable lands for relocation sites and other allowed activities.

Prior to this, Congressman Benhur Salimbangon of the 4<sup>th</sup> district of Cebu filed House Bill 1941 in the 16<sup>th</sup> Congress that declared portions of public domain in the three municipalities to be open for agricultural, tourism and residential purposes. The House Bill aims to amend Presidential Proclamation 2151.

These initiatives to change the land classification and land uses in Bantayan Island gained mixed reactions. On one hand, there are those people saying that there is a need for the amendments because of the increasing demand for resettlement sites as well as to maximize the full potential offered by the booming tourism industry in the island. On the other hand, there are those people who are reluctant to open up the lands of Bantayan island due to fear of aggressive development that might result into further degradation of mangroves and beach forests. There are also a significant number of residents who fear that their homes will be replaced by beach resorts and in turn result into virtual privatization of foreshore lands. The same problem can be observed in the Municipality of Guiuan in Eastern Samar wherein a portion of which was declared in 1994 as protected seascape and landscape by virtue of Presidential Proclamation 469 (Declaring the Coastal Areas of the Municipality of Guiuan, Province of Eastern Samar, and Neighboring Islands, as Protected Landscapes/Seascapes).

## RECOMMENDATIONS

- **Options for Retreat, Accommodation and Protection to Guide Hazard Zone Classification.**

In general, actions to address impacts of natural disasters to coastal areas broadly fall into three categories: retreat, accommodation, and protection.<sup>1</sup>

*Retreat* implies no effort to protect coastal land but actually abandoned it and ecosystem is shifted landward. *Accommodation* means people continue to use the land at risk but do not attempt to prevent the land from being flooded and instead erect emergency flood shelters, elevate buildings on piles, convert agriculture to fish farming, or grow flood- or salt-tolerant crops. *Protection* involves hard structure such as seawalls and dikes, as well as soft solutions such as dunes and vegetation.

The retreat, accommodation and protection options may be considered in hazard zone classification as stipulated in the JMC No. 1 series of 2014. To complement this, the national government agencies should provide technical and financial support to local government units and communities particularly in mapping and tagging of people that will be displaced by the establishment of hazard zones.

- **Community-Specific Disaster Risk Reduction and Management Response.**

Recently, there have been various efforts to address the vulnerability of coastal areas in times of natural disasters and most of which are usually characterized by changes in technology and social (and economic) organization.<sup>2</sup> However, it was pointed out that these strategies may disorient people from their former staple crops, livelihoods, and environment, especially indigenous peoples.<sup>3</sup>

These considerations helped in making efforts to address coastal vulnerability to be community-specific. One important element of such is communities identifying their own exposure & risks to hazard impacts.<sup>4</sup> At a minimum, determinants of an inclusive disaster framework include the following: access and distribution of resources, technology, information and wealth; risk perceptions; social capital and community structure; and institutional frameworks that address climate change hazards.<sup>5</sup> Participation of communities and LGUs in the design, planning and implementation of DRRM and rehabilitation and recovery should be underscored.

Identification of fisherfolk settlement areas should likewise be emphasized. At present, the National Housing Authority (NHA) is tasked to provide for permanent settlement to the Yolanda victims. However, one of the primary stumbling blocks to setting-up permanent resettlements in Yolanda-affected communities is the absence of suitable lands as well as the lack of funds for LGUs to buy lands. These resettlement areas are often left-out of the drafting of the Comprehensive Land Use Plans (CLUPs) of municipalities. The national government agencies need to resolve these issues immediately.

- **National Framework for Land Use and Governance.**

In addition, for a robust implementation, a national framework that is supported by the government must be made as this would better support efforts across all levels.<sup>6</sup> One way of mitigating & adapting to the impacts of climate change to coastal communities is land governance. It is broadly defined as the policies, processes, and institutions by which land, property, and natural resources are being managed.<sup>7</sup> It involves four core components: a) land tenure to secure and transfer rights, b) land value for assessment and taxation, c) land use for planning and control, and d) land development to implement utilities, infrastructure, construction planning, and schemes to change existing land use. To put it in simple terms, the purpose of land governance is to manage relationship between people, policies, and places to achieve sustainable development.<sup>8</sup>

A national framework is thus imperative to ensure the sustainable use and management of a finite resource, such as land, and for the poor farmer and fisherfolk sectors to have continuous access to these resources where their lives and livelihoods depend on. ■

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## Endnotes

- <sup>1</sup> Gilbert, J. & P. Velingga, 1990
- <sup>2</sup> Oliver-Smith, 2009
- <sup>3</sup> Ibid
- <sup>4</sup> U.S. Indian Ocean Tsunami Warning System Program, 2007
- <sup>5</sup> Dolan, A.H. & I.J. Walker, 2003
- <sup>6</sup> Daly, et al., 2010
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Founded in 1979, ANGOC is a regional association of 15 national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC member networks and partners work in 14 Asian countries with an effective reach of some 3,000 NGOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy debates with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

ANGOC is a founding member of the International Land Coalition (ILC), regional convener of the Land Watch Asia (LWA) campaign and the Asian Alliance Against Hunger and Malnutrition (AAAHM–Asia). ANGOC is also a member of the Global Land Tool Network (GLTN) and the Indigenous Peoples' and Community Conserved Territories and Area (ICCA).

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Land Watch Asia (LWA) is a regional campaign to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional

development agenda. The campaign involves civil society organizations in seven (7) countries—Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, and the Philippines. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and encourage the sharing of experiences on coalition-building and actions on land rights issues.



Deutsche Gesellschaft für Internationale (GIZ) GmbH is an international development organization of the Federal Government of Germany working in more than 130 countries worldwide. The organization is guided by the concept of sustainable

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FPE is the first and largest grant-making organization for civil society environmental initiatives in the Philippines. Its support goes primarily to protecting local

conservation sites and strengthening community and grassroots-led environmental efforts in more than 65 critical sites through more than 1,400 projects. The establishment of FPE on January 15, 1992 was meant to abate the destruction of the country's natural resources. As many as 334 NGOs and grassroots organizations, along with 24 academic institutions, helped set its course through a process of nationwide consultations. Subsequently, Philippine and United States government agencies and NGOs raised the foundation's initial \$21.8-million endowment through an innovative "debt-for-nature" swap. Today, FPE remains committed to fulfilling its roles as a catalyst for cooperation, grantmaker, and fund facilitator for biodiversity conservation and sustainable development. Know more about FPE at [www.fpe.ph](http://www.fpe.ph).



ILC is a global alliance of intergovernmental, governmental and civil society organizations working together

with the rural poor to increase their secure access to natural resources, especially land. Know more about ILC at [www.landcoalition.org](http://www.landcoalition.org).



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