

Tenure reform in fisheries and aquatic resources

Overview

THE Philippines has 2,200,000 square kilometers of territorial waters including its Exclusive Economic Zone (EEZ), and a coastline length of 36,289 kilometers. Territorial waters consist of 266,000 square kilometers of coastal area, and 1,934,000 square kilometers of oceanic area. The coral reef area (within 10 to 20 fathoms where reef fisheries occur) covers some 27,000 square kilometers. The shelf area (which is characterized by a depth of 200 meters), meanwhile, covers 184,600 square kilometers. Inland waters where small-scale fishers are also located, include swamplands, lakes, rivers and reservoirs plus freshwater and brackish water fishponds cover a combined area of 749,386 hectares. In 2019, the country ranked 8th among the top fish producing countries in the world, and 11th in aquaculture production (BFAR, 2021).

Based on the Bureau of Fisheries and Aquatic Resources (BFAR) Fisheries Profile of 2021, total fisheries production reached 4.25 million metric tons (MT), equivalent to PhP 302.44 billion. Growth in production volume dropped by 3.46 percent from the 2020 production of 4.40 million MT. The value of production at current prices grew by 10.59 percent from the previous value of production at PhP 273.49 billion. Table 1 shows the breakdown of the total fisheries production for 2021.

Municipal capture fisheries posted a 2.69 percent increase in volume of production against the total in 2020, while aquaculture and commercial fisheries exhibited declines of 3.30 percent and 10.78 percent, respectively as compared to 2020.

Based on 2021 Municipal Fisherfolk Registration System (FishR) data, 2.19 million municipal fisherfolk were registered in various fishing activities (e.g., gleaning, aquaculture, fish processing, vending, and other fisheries-related activities). Half (50.03 percent) of the registered fishers were involved in capture

fishing while gleaning and aquaculture activities accounted for 11.59 percent and 11.28 percent of the total number, respectively. Meanwhile, fish processing, vending, and other fisheries-related activities provided jobs to 189,562 municipal fisherfolk. There were 923 commercial fishing vessel operators based on Fishing Vessel E-licensing System (FeLiS) (BFAR, 2021).

As of 2021, fisherfolk continue to be among the poorest of the poor with a poverty incidence of 30.6 percent,² way above the Philippine poverty incidence of 18.1 percent (PSA, 2021). Of all the regions, the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) recorded the highest poverty incidence among fisherfolk at 43.9 percent (see Table 2).

Table 1. Total Fisheries Production (2021)

Type	Production (MT)	Percentage (%)
Municipal	1.13	26.59
Aquaculture	2.25	52.94
Commercial ¹	0.87	20.47
Total	4.25	100.00

Sectoral reform programs

Among the major laws and policies of the Philippines with regards to fisherfolk are the following:

Republic Act 8550 – The Fisheries Code of 1998

The Philippine Fisheries Code was passed in 1998, after years of lobbying by civil society organizations working with the fisheries sector. The Code establishes

¹ Deep sea fishing beyond the 15-kilometer limit from the shore

² Based on the preliminary result of 2021 Family Income and Expenditure Survey (FIES)

food security as the overriding consideration in the utilization, management, conservation, and protection of fishery resources. Among the Code's objectives are: (1) conservation, protection, and sustained management of fishery and aquatic resources; (2) poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk; and, (3) improved productivity in the industry through aquaculture, optimal utilization of offshore and deep-sea resources, and upgrading of post-harvest technology.

When seen as a tenure reform instrument, certain provisions of the Fisheries Code need to be highlighted.

Local governance over municipal waters. Local government units (LGUs) are given jurisdiction over municipal waters as defined by the Code. LGUs in consultation with the Fisheries and Aquatic Resource Management Councils (FARMCs) shall be responsible for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters.

Preferential access. The Code limits access to fishery and aquatic resources in the country to Filipino citizens, and provides small fisherfolk and their organizations with preferential use of municipal waters. Municipal waters are defined to include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586 (National Integrated Protected Areas System) law, public forest, timber lands, forest reserves or fishery reserves, but also coastal marine waters within 15 kilometers from the shore. Commercial-scale fishing is not allowed in municipal waters, except in special cases where they are given municipal permits, and only in waters over 10.1 kilometers from the shore with a depth of at least seven fathoms (12.8 meters).

Fisherfolk settlements. Section 108 of the Code mandated the creation of fisherfolk settlement areas, to be located in certain areas of the public domain, near fishery areas.

Table 2. Poverty incidence among fisherfolks (PSA 2021^p)

Region	Estimate (%)
PHILIPPINES ^{1 2}	30.6
NCR ^a	*
CAR ^{a b c}	*
Region 1	*
Region 2 ^a	*
Region 3	23.0
Region 4-A	14.7
MIMAROPA ²	22.2
Region 5 ¹	28.0
Region 6	22.6
Region 7 ^{1 2}	39.8
Region 8 ¹	31.5
Region 9	43.0
Region 10 ¹	26.1
Region 11 ¹	21.9
Region 12 excluding Cotabato City ²	37.8
CARAGA ^{1 2}	39.2
BARMM including Cotabato City ^{2 d}	43.9

Notes on Table 2:

Fisherfolks refer to employed individuals 15 years old and over whose primary occupation is fishing. These include occupations under Skilled Agricultural, Forestry and Fishery Works and Elementary Occupations in the 2012 Philippine Standard Occupational Classification (PSOC).

* - Coefficient of variation of regional poverty incidence among fisherfolks is greater than 20 percent.

p - This is based on the preliminary results of the 2021 Family Income and Expenditure Survey (FIES).

1/ significant change; The increase or decrease in the poverty incidence among fisherfolks between 2015 and 2018 is significant at 10 percent level of significance ($\alpha = 0.10$).

2/ significant change; The increase or decrease in the poverty incidence among fisherfolks between 2018 and 2021 is significant at 10 percent level of significance ($\alpha = 0.10$).

a/ Caution in utilizing the estimate for these regions must be observed due to its very small sample size (<50) in 2015.

b/ Caution in utilizing the estimate for these regions must be observed due to its very small sample size (<50) in 2018.

c/ Caution in utilizing the estimate for these regions must be observed due to its very small sample size (<50) in 2021.

d/ BARMM estimates exclude the 63 barangays from different municipalities of the Province of Cotabato.

Executive Order 263, series of 1995

This Executive Order (EO) establishes community-based forest management as the national strategy in recognition of the indispensable role of local communities in forest protection, rehabilitation, development, and management. Participating organized communities are granted access to forestland resources under long-term tenurial agreements (25 years, renewable for another 25 years) using environment-friendly and sustainable harvesting methods as stipulated in a site-specific management plan. Mangroves, as part of forest resources, may also be covered by community-

based forestry management (CBFM) agreements involving organized fisherfolk communities.

BFAR Fisheries Administrative Order 197-1, series of 2000

This Fisheries Administrative Order (FAO) gives preference to fisherfolk organizations as well as micro, small, and medium enterprises (MSMEs) in the lease of public lands for fishponds and mangrove-friendly aquaculture through the issuance of Fishpond Lease Agreements (FLAs) and Mangrove Aquasilviculture Contracts (MASCs). Among the notable terms of the leases are annual rentals to be paid by the lessee to the government, and the required production quotas (in kilograms per hectare). Leases may be cancelled on grounds that include violation of fishery laws, non-adherence to good aquaculture practices, sub-leasing or development of the area for other purposes, as well as abandonment, and non-development or underutilization of the area.

Republic Act 10654

RA 10654 of 2014 amended RA 8550. The amendment strengthened measures to deter illegal, unreported and unregulated (IUU) fishing. It increased the penalties for commercial fishing violators and poachers, and mandated the installation of monitoring, control and surveillance systems on all flagged Philippine fishing vessels (Quizón et al., 2018).

BFAR Fisheries Administrative Order 263, series of 2019

This FAO established 12 Fishery Management Areas (FMAs) across the country. It also aims to provide a science-based, participatory, and transparent governance framework and mechanism to sustainably manage fisheries in the FMA areas, consistent with the principles of the ecosystem approach to fisheries management (EAFM) anchored on food security and supplementary livelihood for poverty alleviation. This is consistent with the objectives of RA 10654.

Each FMA will have their respective Management Bodies (MBs) and Scientific Advisory Groups. The FMA-MBs are to be composed of the following: concerned LGUs, the BFAR regional office, other national government agencies, NGOs involved with the fisherfolk, and representatives from the following sectors: municipal fishing, commercial fishing, aquaculture, processors/traders/ market organizations, academe, and indigenous people (where appropriate).

Status of implementation and related issues

The Fisheries Code gave municipal fishers priority access to municipal waters. Given this, the delineation of the municipal waters is imperative to designate the exact areas where municipal fishers have preferential rights, and to establish violations of commercial fishing vessels, i.e., intrusion and illegal fishing in municipal waters. However, 19 years after the issuance of Department of Agriculture Administrative Order No. 1, the “Guidelines for Delineating/ Delimiting Municipal Waters for Municipalities and Cities *Without* Offshore Islands” similar guidelines for delineating municipal waters for local governments *with* offshore islands have still not been issued. This is due to disagreements regarding the reckoning point, that is, the point where the

Figure 1. Illustration of determining the municipal waters using the mainland principle.

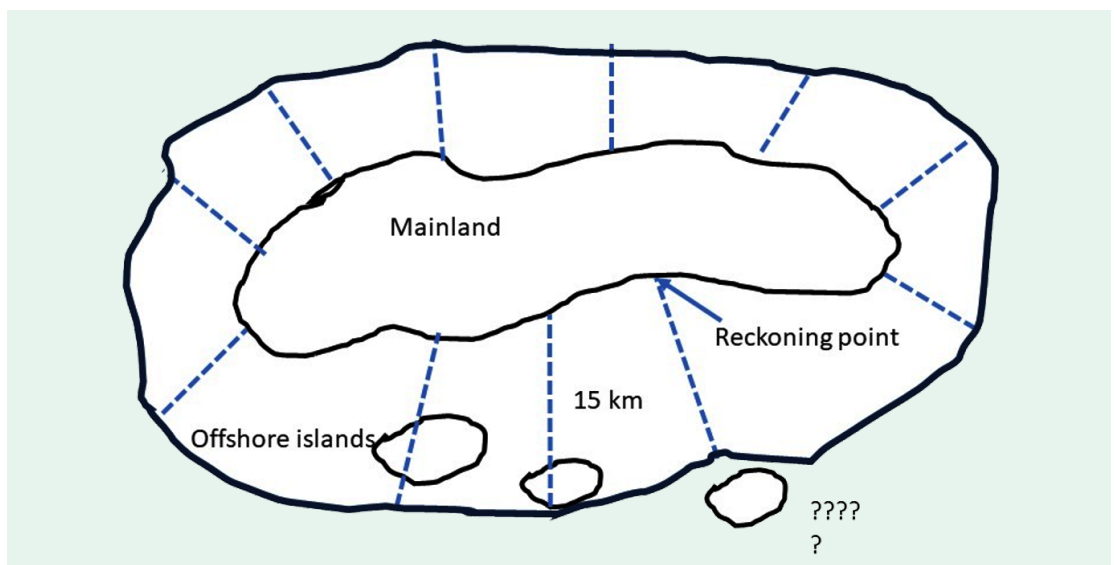
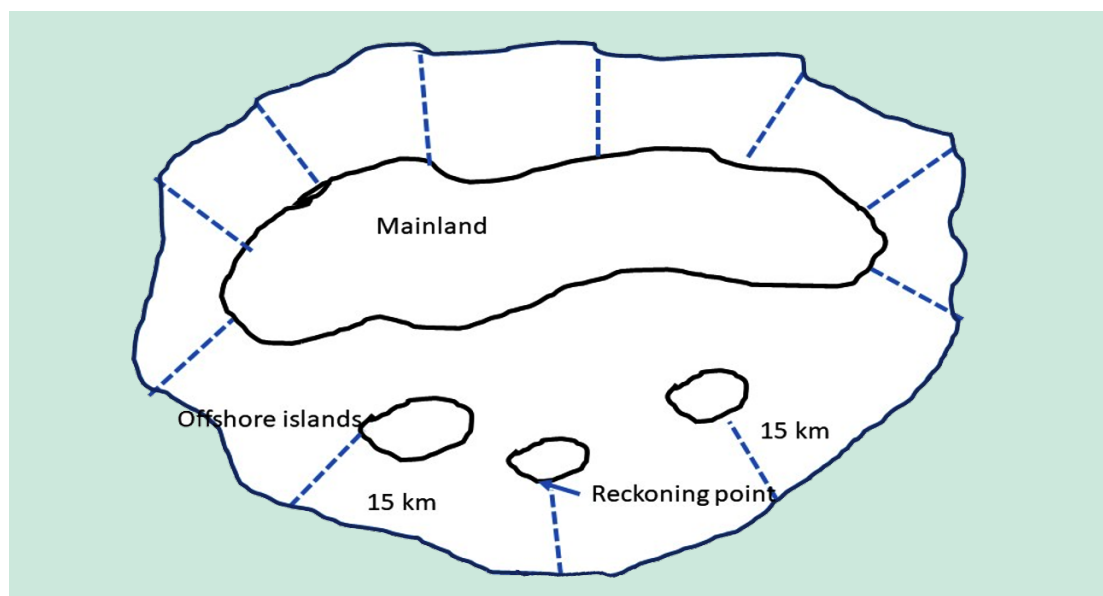


Figure 2. Illustration of determining the municipal waters using the archipelagic principle.



measurement of the 15-kilometer boundary will start. BFAR and the commercial fishing sector are claiming that the “general coastline” referred to in the law means “coastline of the mainland municipality/city” otherwise known as the “mainland principle.” On the other hand, the municipal fishing sector are claiming it should start “from the farthest island occupied by the said municipality.” This is known as the “archipelagic principle.”

Based on latest available data from the National Mapping and Resource Information Authority (NAMRIA), of the 930 total coastal LGUs, 310 have delineated municipal waters with certified maps. Of these, only 79 have local ordinances. All 930 LGUs have already asked for delineation of their municipal waters but the finalization is always stalled due to boundary conflicts and disputes.

It can be seen from the above illustrations that municipal waters will be bigger if the archipelagic principle is utilized. This makes areas for commercial fishers farther from the shore, and therefore, this is the reason they are opposing this principle.

While the guidelines for delineation have yet to be issued, BFAR Fisheries Administrative Order (FAO) 263, s. 2019 was approved, establishing 12 Fishery Management Areas (FMAs) across the country. In FMAs, the important element is inter-LGU cooperation and designation of zones where access and control of fishers are regulated. Hence, FMAs can be implemented even in areas not yet delineated. Meanwhile, delineation of municipal waters of municipalities with offshore islands remain unsettled.

Table 3. FMA, Area, Regional Composition and Lead BFAR Regional Office (DA-BFAR, 2019)

Fisheries Management Area	Area (Hectares)	Regional Composition	Designated Lead
1	50,534,500	2, 3, 4A, 5	Region 2
2	30,009,800	8, 13, 11	Region 11
3	16,665,900	12, BARMM, 9	Region 12
4	15,207,600	9, BARMM, 6, 7	Region 9
5	48,541,700	4B, 6	Region 4-B
6	29,393,000	1, 3, 4A, 4B, NCR	Region 3
7	1,669,900	4A, 5, 8	Region 5
8	1,409,000	8, 13	Region 8
9	2,822,800	7, 8, 9, 10, 13	Region 10
10	1,526,500	7, 8	Region 7
11	2,038,600	5, 6, 7	Region 6
12	3,667,400	4A, 4B, 5, 6	Region 4-A

The objective of BFAR FAO 263, s. 2019, is to establish FMAs and provide a science-based, participatory and transparent governance framework and mechanism to sustainably manage fisheries in such areas, consistent with the principles of Ecosystem Approach to Fisheries Management (EAFM) anchored on food security, and supplementary livelihood for poverty alleviation consistent with the objectives of the Amended Fisheries Code (DA-BFAR, 2019). FMA Management Bodies are to be organized for each FMA.

Access of the municipal fisherfolks to the fishing grounds is another important element of preferential access to the municipal waters. However, while the Fisheries Code (Section 108) mandates the setting up of fisherfolk settlement areas, there are still no clear implementing rules and regulations on how this is to be achieved, in spite of lobbying efforts from fisherfolk organizations and even the National Anti-Poverty Commission-Artisanal Fisherfolk Sectoral Council. The dwelling places of the fisherfolks are usually located in foreshores and public lands with no security of tenure, hence they face the constant risk of eviction.

As of 2021 the number of municipal fisherfolk was 2,190,438. the breakdow is shown on Table 4.

Meanwhile the breakdown of the number of fisherfolks by gender and region are shown on Table 5.

The fishing privilege in municipal waters is mandated by Section 17 of the Fisheries Code, which states that:

Table 4. Number of municipal fisherfolk as of 2021 by fishing sector (BFAR, 2022)

Sector	No. of Registered Fisherfolk	Percent (%)
Capture Fishing	1,095,774	50.03
Gleaning	253,825	11.59
Aquaculture	247,164	11.28
Fish Vending	147,038	6.71
Fish Processing	42,524	1.94
Others	404,113	18.45
Total	2,190,438	100.00

“The duly registered fisherfolk organizations/cooperatives shall have preference in the grant of fishery rights by the Municipal/City Council pursuant to Section 149 of the Local Government Code xxxxx”

In addition, Section 19 states that:

“The LGU shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and/or other related purposes; Provided, That the FARMC shall submit to the LGU the list of priorities for its consideration. xxxx”

The above sections underscore the importance of registration to be granted preferential use of municipal waters. For this purpose, the BFAR implemented the Fisherfolk Registration System (FishR) but the consolidation and updating of the data at the LGU and BFAR levels has been problematic. The rural LGUs in particular do not have the human resources and infrastructure to maintain fisherfolk registries.

On illegal fishing and intrusion of commercial fishers in municipal waters

From 2020 to 2021, the BFAR, together with the United States Agency for International Development (USAID) and various partners in the field, conducted a series of assessment workshops on IUU fishing in Philippine waters. A Philippine IUU Fishing Index and Threat Assessment Tool (I-FIT) was used to assess how big of a threat IUU fishing posed to a given area (prevalence) during the previous year, why it was occurring (vulnerability), and what was done to address it (response). In total, 54 workshops were conducted involving 777 participants from 160 municipalities and cities in nine of the twelve FMAs in the country. Scoring was based on I-FIT’s standardized indicators and a 1-4 (good-to-bad) rating scale. Participants scored their LGU on each indicator, and the scores were averaged to form the LGU’s score for that indicator. Thereafter, the

Table 5. Number of municipal fisherfolk, by gender and region (FAO et.al, 2022)

Region	Male	Female	Total
NCR	10,396	2,831	13,227
CAR	31,321	14,726	46,047
Region 1	88,174	29,920	118,094
Region 2	94,730	32,822	127,552
Region 3	104,515	35,367	139,882
Region 4-A	119,426	45,259	164,685
Region 4-B	120,930	65,475	186,405
Region 5	152,524	57,761	210,285
Region 6	131,457	76,445	207,902
Region 7	104,136	46,351	150,487
Region 8	131,883	35,576	167,459
Region 9	60,308	34,997	95,305
Region 10	56,475	33,936	90,411
Region 11	46,085	21,218	67,303
Region 12	58,590	23,856	82,446
CARAGA	52,676	22,377	75,053
BARMM	160,268	87,627	247,895
Total	1,523,894	666,544	2,190,438

indicator scores were combined into a composite IUU fishing index score representing the risk of IUU fishing in a given area.

The scores derived from I-FIT fall mostly within the 2.00 to 3.00 range of the scale, with the national IUU fishing index, prevalence, vulnerability, and response scores averaging 2.58, 2.51, 2.53, and 2.76, respectively. The results indicate an overall moderate risk of IUU fishing. This is borne out by participant observation

indicating that, in about half of the assessed LGUs, enforcement was fairly strong, and that there was a decrease in IUU fishing between the year in review and the year before. The prevalence and vulnerability scores are very close (2.51 and 2.53, respectively), indicating that the prevalence of IUU fishing in a given area is associated with that area’s vulnerability (attracting factors) to IUU fishing (DA-BFAR, 2022b).

As of 31 December 2022, there are a total of 923 commercial fishing vessel operators in the country (see Table 6).

On participation in land and resource governance

Section 69 of the Fisheries Code mandates the creation of Fisheries and Aquatic Resource Management Councils (FARMCs) from the national to the municipal/city level. At the local level, the Municipal/City FARMCs (M/CFAMRCs) are composed of three representatives from the LGU, one representative each from the NGO and private sectors, one representative from the DA, and 11 fisherfolk representatives. Of the 11 fisherfolk, seven are municipal fisherfolks, three are commercial fishers and one fish worker; a representative from youth and women fisherfolk sector is

Table 6. Commercial fishing vessel operators in the Philippines as of 31 December 2022 (DA-BFAR, 2022a)

Region	No. of Operators
NCR	203
CAR	0
Region 1	65
Region 2	55
Region 3	75
Region 4-A	87
Region 4-B	44
Region 5	63
Region 6	34
Region 7	20
Region 8	55
Region 9	56
Region 10	14
Region 11	14
Region 12	123
CARAGA	15
BARMM ³	no data
Total	923

³ No data was indicated in the BFAR data

included. In terms of number therefore, municipal fisherfolks have adequate representation.

Table 7 details the number of FARMCs formed per region (FAO et al., 2022).

FARMC representatives lament that FARMCs are only recommendatory bodies, which limits their capacity to engage in fisheries management. One illustration of this was the approval of DA in 2021 to import 60,000 metric tons of small pelagic fish in January 2022, despite the objections of 13 out of 15 National FARMC (NFARMC) members.

The NFARMC is comprised of the Agriculture Undersecretary, an Interior and Local Government Undersecretary, five members from the fisherfolk sector, five members from the commercial, aquaculture and fish processing sector, two experts from the academe and one from a nongovernment organization (NGO) involved in fisheries. During the January 2022 deliberations, 13 industry representatives were united in rejecting the proposal of the DA to allow another round of importation for the first quarter of 2022. The two remaining members, who are from the government, supported the importation proposal. The NFARMC pointed out that there was still unused volume from the importation program approved in the last quarter of the previous year. Despite this, the DA proceeded with approving the importation, citing that the national FARMC is just “recommendatory” (Arcalas, 2022).

Table 7. Total FARMCs formed, per region (FAO et al, 2022)

Region	No. of FARMCs
CAR	61
Region 1	93
Region 2	48
Region 3	57
Region 4-A	95
Region 4-B	71
Region 5	87
Region 6	84
Region 7	131
Region 8	120
Region 9	49
Region 10	47
Region 11	30
Region 12	48
CARAGA	73
Total	1,094

In a July 2023 Fisheries Sectoral Consultation, it was noted that on paper, agriculture and fisheries are devolved by virtue of the Local Government Code (LGC) and the Fisheries Code, hence the municipal waters are under the jurisdiction of the LGUs. However, FARMCs lack support from LGUs and BFAR. Aside from the municipal/city FARMCs, there is also supposed to be a Municipal Fisheries Office in each coastal municipality. However, not all LGUs have the resources and capacities to establish said office as well as provide support to the FARMCs.

Also, Section 79 of the Fisheries Code states that a separate fund for the NFARMC, IFARMCs, and M/CFARMCs shall be established and administered by the DA-BFAR from the regular annual budgetary appropriations. However, due to the limited budget of BFAR, no support to municipal FARMCs is being extended.

Meanwhile, with the establishment of the twelve FMAs in the country, FMA Management Bodies (MBs) are to be established as well as stated in BFAR FAO 263, s. 2019. One seat per sector (for sectors such as municipal fishing, commercial fishing, aquaculture, processing, among others), is allotted in the FMA-MB. The FMA-MBs may opt to increase the number of representatives per sector but the sector will only have one vote each. To ensure that the concerns of the sector are well articulated in the FMA-MB, the representative needs to conduct extensive consultations, which would require resources.

On giving preference to fisherfolk organizations as well as micro, small, and medium enterprises (MSMEs) in the lease of public lands for fishponds and mangrove-friendly aquaculture through the issuance of Fishpond Lease Agreements (FLAs) and Mangrove Aquasilviculture Stewardship Contracts (MASCs)

Philippine mangroves have been depleted due to overexploitation by coastal dwellers, and conversion to agriculture, salt ponds, industry, and settlements. Aquaculture, however, has been identified as the major cause of the decline. Over the last few years, awareness about the importance of mangroves to the

environment and economy has grown. Abandoned fishponds are now being rehabilitated with urgency to increase mangrove areas in the country, while protecting remaining forests.

BFAR’s FAO 197-1 lays out the revised rules and regulations governing the lease of public lands for fishpond and mangrove-friendly aquaculture. However, the cancellation of abandoned, unutilized and undeveloped (AUU) fishponds, as well as the granting of MASCs have been very slow. Based on the 2022 Report on the Status of Artisanal Fisheries in the Philippines, the following is the total area covered by applications for Aquasilviculture Stewardship Contracts (Table 8):

Emerging threats and opportunities for achieving/strengthening tenure security

Revision of RA 10654

As discussed above, several provisions of RA 8550 as amended by RA 10654 favoring the municipal fisherfolks have yet to be implemented.

Despite this, the law is about to be subjected to amendments yet again this 2023, and the proposed revisions threaten the preferential rights of the municipal fishers over municipal waters.

Table 8. Applications for Aquasilviculture Stewardship Contracts by region, province, and area covered (FAO et al, 2022)

Region	Province	Area covered (hectares)
Region 2	Cagayan	3.49
Region 4-A	Quezon	15.89
Region 4-B	Marinduque	7.38
Region 5	Masbate	10.00
Region 6	Aklan	3.73
Region 7	Bohol	8.70
Region 9	Zamboanga del Sur	6.56
	Zamboanga City	9.99

Table 9 shows the proposed revisions to Section 18, “Users of Municipal Waters” as discussed during the consultation conducted by BFAR in May 2023. These

proposals would further erase the preferential rights of the municipal fishers over the municipal waters and further worsen their economic situation.

Table 9. Proposed revisions to RA 8550 Amended by RA 10654, Section 18, “Users of Municipal Waters”

Section	Proposed revision	Implications/Threats to tenure security
<p>SEC. 18. Users of Municipal Waters. – All fishery activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk. The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within the ten point one (10.1) to fifteen (15) kilometer area from the shoreline in municipal waters as defined herein, provided, that all the following are met: (a) no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency; (b) fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the Department; (c) prior consultation, through public hearing, with the M/CFARMC has been conducted; and (d) The applicant vessel as well as the shipowner, employer, captain and crew have been</p>	<p>Section 18, Users of municipal waters - xxx The municipal or city government, however, may shall, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate xxx</p> <p>SEC. 18. Users of Municipal Waters. – xxx The municipal or city government, however, shall, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate in municipal waters as defined herein, provided, that all the following are met: a. no commercial fishing in municipal waters with depth of 20 fathoms (36.5 meters) or less as certified by the appropriate agency; xxx</p>	<ul style="list-style-type: none"> • Change of “may” to “shall” indicates that LGUs will no longer have the option to NOT allow commercial fishing in the 10.1 to 15-kilometer municipal waters. If granting access to commercial fishers in municipal waters becomes obligatory, this in effect decreases the fishing ground available for municipal fishers. It will undermine the “preferential rights” granted to the subsistence fisherfolk as indicated in the 1987 Constitution and in the national laws. • The proposal is to delete the word “within the ten-point one (10.1) to fifteen (15) kilometer area from the shoreline” will allow commercial fishing even within the one kilometer municipal waters. This is ill-advised since it will intensify the competition between the municipal and commercial fishing subsectors to the disadvantage of the former.

<p>certified by the appropriate agency as not having violated this Code, environmental laws and related laws. Xxx</p>		<ul style="list-style-type: none"> • The proposal is to do away with the distance and focus on the depth as bases for allowing commercial fishing in municipal waters. But bathymetric maps, especially on the Eastern seaboard reveal that 20 fathoms can be as near as one kilometer from the shore. This means from the previous 10.1 to 15 kilometers from the shore, commercial fishers will be allowed to fish even as near as one kilometer from the shore, eliminating all preferential rights for subsistence fisherfolk.
---	--	---

On the delineation of municipal waters of municipalities and cities with offshore islands, it was also reiterated by BFAR that the “general coastline” mentioned in the law refers to the coastline of the mainland municipality/city. This means the guidelines that will eventually be approved would still adhere to mainland principle, rather than archipelagic principle.

When the revision of RA 10654 was mentioned by President Ferdinand Marcos Jr. in his July 2023 State of the Nation Address (SONA), BFAR was approached by Congress to submit proposals. BFAR conducted another online consultation on 1 August 2023. The participants called for an assessment of the implementation of RA 100654 as this would determine if the problem is the law itself or just the implementation of the law.

BFAR heeded the call for an assessment and in partnership with the Fish Right Program, conducted a 2-day assessment in late August 2023. Based on the

reports of BFAR, it was obvious that the constraints in achieving the objectives of the law was poor implementation due to lack of financial and human resources. Sadly though, the agency insisted on its recommendation to amend the law, contrary to the views of the marginalized fisherfolks that the problem lies in implementation and that there is no need to amend the law at this time.

Land reclamation

Reclamation is a deliberate process of converting foreshore land, submerged areas or bodies of water into land by filling or other means using dredge fill and other suitable materials for specific purposes. There are two types of land reclamation. One involves a change from an area's natural state, while the other is restoration of an area to a more natural state. The first one can refer to creating dry land from an area covered by water - such as a sea, lake, or swamp. The second can refer to bringing the land-damaged from natural or human causes - back into use for growing trees or agricultural crops (PRA, n.d.).

The first type of land reclamation is a major threat to the municipal fisherfolk's access to coastal and marine resources. As stated by two fisherfolk leaders,⁴ land reclamation involves privatization of their fishing ground. Fisherfolk lose access to the fishing ground which is their primary source of livelihood. This also forces them to fish further away from the shore, causing an increase in fishing expenses and a decrease in income. It is also a violation of their fundamental rights over the coastal and marine resources. Land reclamation also leads to displacement from their homes, which are usually located in the coastal areas.

Land reclamation also destroys the natural resources and is thus a violation of environmental management policy. It destroys fish habitat like mangroves, corals and seagrass. Reclamation can lead to depletion of fish stock and therefore it is a food security threat as well. It also disrupts natural waterways causing flooding. Finally, land reclamation destroys not just the coastal and

⁴ Based on interview with PANGISDA-Pilipinas and Pambansang Katipunan ng Samahang Kanayunan conducted on 3 August 2023

marine resources but also the upland resources, because the land fillings usually come from the mountain areas.

Threat to Participation in Land and Resource Governance

The establishment of Management Bodies in FMAs further limits the role of municipal fishers in coastal and marine resource management. The Management Bodies have only one representative per sector and given the size of the FMAs there is no clear mechanism to ensure that the representative brings in the consolidated concerns of the sector at the FMA level. The feedback loop from the FMA-MB to the M/C/IFARMCs is also not clear.

Considering that the municipal waters remain under the jurisdiction of the LGUs, there is also no clear mechanism to ensure the policies agreed upon at the FMA level are translated into laws and ordinances at the LGU level. This concern is not covered by the FAO 263.

Assessment: Ways Forward

Priority areas

In 2021, a 10-point Philippine Blue Agenda for Sustainable Fisheries was developed by municipal fisherfolk partners of NGOs for Fisheries Reform (NFR) and Pangangisda Natin Gawing Tama (PaNaGAT). The agenda was based on a review of the Comprehensive National Fishery Industry Development Plan (CNFIDP) and a nationwide consultation with fisherfolks. It calls on government and other stakeholders to undertake specific actions to protect the rights, livelihood and environment of affected communities.

The agenda contains the peoples' alternatives in response to the Philippine government's Blue Economy policy, a model of economic development that supposedly focuses on the sustainable management and use of natural and other resources in the maritime sector. However, the basic sectors' experience

with government's grand economic plans is that these do not always uphold the rights of the people. More often than not, these favor the rich and the big investors at the expense of the marginalized sectors and the natural resources that serve as the backbone of the latter's livelihood. Thus, despite programs such as the CNFIDP, small-scale fisherfolks continue to experience low fish catch and low income due to degraded coastal and marine resources, weak implementation of fishery laws and a limited number of policymakers and leaders advocating the interests of small-scale fisherfolks.

The 10-point Philippine Blue Agenda for Sustainable Fisheries is as follows:

1. Define the tenurial status of municipal waters. Delineate municipal waters using archipelagic principle.
2. Provide social protection to fishers, which includes insurance especially for fish wardens, housing, legal, services, cash transfer, and health care.
3. Strengthen fisherfolk management of the coastal and marine resources through the establishment of municipal fishery officers, building capacities of FARMCs and fish wardens, as well as approval of the bill on the Department of Fisheries and Aquatic Resources (DoFAR).
4. Strengthen monitoring, control, and surveillance mechanisms in the fisheries. This includes the implementation of electronic catch documentation and traceability system (ECDTS) and vessel monitoring mechanisms (VMMs).
5. Strengthen women and youth involvement in fisheries management through the establishment of women-managed areas, inclusion in the fisherfolk registry, and provide equitable and just compensation for their work.
6. Strengthen economic and sustainable finance mechanisms for the fishers.
7. Strengthen climate and disaster resilience of coastal and island communities.
8. Respond to the effects of COVID-19.
9. Protect fishers from displacement brought about by destructive coastal development.
10. Address the problem of marine pollution.

Recommendations

The municipal fisherfolk organizations and partner CSOs have submitted to BFAR the following recommendations regarding the proposal to amend RA 10654 that threatens their preferential rights over the municipal waters:

- *Conduct consultations in every region with representatives from the fisheries and aquaculture industry on the status and implementation of the Fisheries Code in the country.* In this way, affected subsectors will have the chance to decide whether amendments are in fact needed.
- *The government should also include in the consultations the representatives from the academe, scientific community, and the Science Advisory Groups of the Fisheries Management Areas (FMAs).* In this way, the assessment on the implementation of RA 10654 will be supported by appropriate data.
- *Use the result of the consultations as basis to decide whether RA 10654 amendments are timely and appropriate.*
- *Ensure that the rights stated in the Constitution, such as the preferential rights of subsistence fishers to use the coastal resources, are protected.*

In addition, DA-BFAR should approve the guidelines for the delineation of municipal waters of municipalities and cities with offshore islands using the archipelagic principle. This is to help establish the boundaries of the 15-kilometer municipal waters.

DA-BFAR, in coordination with the appropriate government agencies, should implement Section 108 of the Fisheries Code through the establishment of fisherfolk settlement areas. This is to help ensure their access to their fishing grounds. ■

References

- Arcalas, J. Y. (2022). DA's move to import fish stirs more questions. In *Business Mirror*. <https://businessmirror.com.ph/2022/01/24/das-move-to-import-fish-stirs-more-questions/>
- DA-BFAR. (2019). Toolkit on Rolling-out Fisheries Management Area Implementing FAO No. 263 s. 2019. Department of Agriculture – Bureau of Fisheries and Aquatic Resources (DA-BFAR).
- DA-BFAR. (2022a). *Philippine Fisheries Profile 2021*. DA-BFAR.

- DA-BFAR. (2022b). *Philippine IUU Fishing Assessment Report 2021*. DA-BFAR.
- FAO, DA-BFAR, and RARE. (2022). *Report on the Status of Artisanal Fisheries in the Philippines*. Food and Agriculture Organization (FAO), Department of Agriculture – Bureau of Fisheries and Aquatic Resources (DA-BFAR), and RARE.
- PRA. (n.d.). *What is reclamation*. Philippine Reclamation Authority (PRA). <https://www.pea.gov.ph/faq-menu/what-if-reclamation>
- PSA. (2021). *Official Poverty Statistics of the Philippines: Preliminary 2021 Full Year*. Philippine Statistics Authority (PSA).
- Quizon, A., Marzan, A., de Vera, D., and Rodriguez, M. (2018). *State of Land and Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Acknowledgments

This paper was developed with the support, guidance, and insights of the fisherfolk representatives during the Sectoral Focus Group Discussion of the 2023 State of Land and Resource Tenure Reform and Emerging Challenges to Increase Tenure Security for the Rural Poor conducted last 26 July 2023 in Iloilo City.

In addition, two fisherfolk leaders also provided inputs in a separate interview last 3 August 2023 particularly on the issue of reclamation:

Ruperto Aleroza, Pambansang Katipunan ng Samahang Kanayunan (PKSK) and Vice-Chair for Basic Sectors as leader of Artisanal Fisherfolk Sector of the National Anti-Poverty Commission (NAPC)

Pablo Rosales, President of Pangisda-Pilipinas

Citation

- Rodriguez, M. (2023). *Tenure Reform in Fisheries and Aquatic Resources (2023)*. In ANGOC (Ed.). (2024). *2023 State of Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).



The **Global Land Tool Network (GLTN)** is an alliance of global, regional, and national partners contributing to poverty alleviation and the Sustainable Development Goals through increased access to land and tenure security for all. The Network's partnership of organizations is drawn from the rural and urban civil society, international research and training institutions, bilateral and multilateral organizations, and international professional bodies. GLTN takes a more holistic approach on land issues and improves on global land coordination through development, dissemination and implementation of pro-poor and gender responsive land tools. These tools and approaches contribute to land reform, good land governance, inclusive land administration, sustainable land management, and functional land sector coordination.



The **United Nations Human Settlements Programme (UN-Habitat)** helps the urban poor by transforming cities into safer, healthier, greener places with better opportunities where everyone can live in dignity. UN-Habitat works with organizations at every level, including all spheres of government, civil society, and the private sector to help build, manage, plan, and finance sustainable urban development. UN-Habitat envisions cities without slums that are liveable places for all, which do not pollute the environment or deplete natural resources.



We Effect is a non-profit organization based in Sweden advancing gender-equality, cooperative principles, and the rights-based approach to development.

Land and resource tenure reforms have long been instituted in the Philippines, manifesting a rights-based approach to poverty reduction and social equity. In 2023, the Comprehensive Agrarian Reform Law (CARL) marked its 35th year, while the Indigenous Peoples Rights Act (IPRA) and the Philippine Fisheries Code reached their 26th and 25th years, respectively.



This publication seeks to assess the state of implementation of these asset reform laws and programs from the perspective of civil society and basic sectors of farmers, indigenous peoples, rural women, and small fisherfolk.



It discusses achievements, issues, and gaps in the implementation of these reform programs; and recommends areas to further strengthen tenure security of the rural poor.

