

The NLUA benefits ALL

A POLICY BRIEF ON THE PROPOSED NATIONAL LAND USE ACT (NLUA)

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The Philippines encounters around 20 typhoons in a year. In the immediate past years, the country has been experiencing storms, heavy rains, long dry spells, and other calamities that are stronger than they used to be.

The most devastating and heartbreaking in recent years was super typhoon Yolanda (with international name Haiyan) which hit the central part of the Philippines in November 2013. Consequently every year, lives are lost, properties destroyed, and entire communities are levelled to the ground when such disasters occur. Would a national land use policy have lessened the damage brought by natural calamities on lives, properties and communities?

This policy brief aims to describe the realities of land use in the Philippines and the effects of the absence of a national land use policy on communities. It will show how the passage of a land use law and its proper implementation could minimize, if not totally avoid, the harmful consequences of natural calamities. It also explores how it can contribute to providing a safe, secure, and

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sustainable environment for communities and businesses, and promote overall economic development by looking at the experience of countries that have enacted and implemented a national land use policy. In conclusion, this paper asserts that the proposed National Land Use Act (NLUA), in fact, benefits all sectors of society.



Typhoon Yolanda in Tacloban and other disasters underscore the need for the NLUA (Trocaire from Ireland)

Stark realities on land use in the Philippines: What has been happening all these years?

Land is a finite resource. The Philippines' total land area is 300,000 sq. km. It has become more scarce as population increases each year. The Philippine census survey reveals the country's population at above 60 million in the 1990s or 20 years ago. With a growth rate of 1.82 percent, the population of the Philippines reached 92.338 million people according to the 2010 census. World population statistics estimated the Philippine population at 97.704 million people as of December 2013. Yet land is used by everyone, whether for residential, community, agricultural, business or commercial purposes. The inappropriate use of land or irresponsible exercise of property rights aggravates the scarcity already brought forth by the rising population.

EFFECTS OF POOR LAND USE PLANNING AND IMPLEMENTATION

Poor land use planning and implementation are manifested in many forms. Prime agricultural lands and food production areas are indiscriminately converted into residential and commercial/industrial sites or non-agricultural uses. Forests and other protection areas are declared mining sites. Housing projects are erected on danger zones. Informal settlers, on the other hand, settle for shanties along the waterways, if only to find shelter within the city or near their place of work.

These self-seeking occupations and careless activities wherein people construct houses, buildings and other structures on land that is not suitable for these purposes, translate to lower production levels, and tragedies resulting from natural or human-made calamities. A case of conversion of agricultural lands into urban uses in Cavite around the 1990s, for instance, revealed that about 83 percent of the total productive capacity of various crops and livestock was lost due to conversion. While non-agricultural residents, local agricultural vendors, local public officials and private land developers were in favor of land conversion,

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farmers and former tenants considered themselves worse off after land conversion¹. This is a sad reality, considering the Philippines as predominantly an agricultural country and with around one-third of the country's labor force of 38 million people employed in the agricultural sector.

On the other hand, human-made and natural calamities such as typhoons, heavy rains and earthquakes have caused landslides and floods which destroyed houses and structures, especially those built on danger zones, and for some occasions, entire communities. These in turn have resulted in the loss of many lives and properties.

- The Cherry Hills landslide in August 1999 caused by the heavy rains of typhoon Olga took the lives of 58 residents. Cherry Hills subdivision in Antipolo, Rizal was situated in an elevated terrain cut along the perches of the Sierra Madre mountains.
- Typhoon Reming in 2006 ravaged the Bicol Region and claimed the lives of 900 people who were buried in the mud coming down from Mayon Volcano.

¹ Danilo C. Cardenas, "Effects of Land-Use Conversion on Local Agriculture: The Case of Cavite, Philippines," Socio-Economics Research Division, PCARRD, Los Baños, Laguna, accessed May 27, 2014, ftp://ftp.fao.org/es/esa/beijing/cardenas_landuse.pdf.

- Tropical storm Sendong hit the country in December 2011 and caused torrential rains that led to catastrophic flooding. Region 10 or Northern Mindanao suffered the most, affecting 117,971 families and 673,947 persons, and resulting in casualties of more than a thousand and some PhP1.6 billion damage in agriculture and properties. Exactly a year later, in December 2012, typhoon Pablo again devastated Mindanao with the estimated cost of damage to properties at PhP36.9 billion; infrastructure at PhP7.6 billion; agriculture at PhP26.5 billion; and private properties PhP2.8 billion.
- Ondoy in 2009 and two episodes of rains brought about by the southwest monsoon, also known as Habagat in 2012 and 2013 submerged Metro Manila and nearby provinces, each flood event affecting about a million families or 3-4 million persons.
- In November 2013, Super typhoon Yolanda tore down many communities in Central Philippines resulting in the following: 3.42 million families or 16.1 million persons affected; 1.14 million

houses destroyed; more than 6,000 died; 591 municipalities and 57 cities affected; PhP15.75 billion damage to roads/bridges and other structures; PhP9.49 billion of damaged crops; PhP6 billion damage to fisheries and 2.89 billion to livestock; PhP231 million in irrigation facilities and 1.65 billion in other agricultural infrastructure destroyed. Labor supply was also affected in Tacloban and other areas hit by the typhoon as residents, especially the professionals and skilled ones, migrated to other cities such as Cebu and Manila.



Metro Manila flooding during Typhoon Ondoy (Department of Foreign Affairs and Trade)

THE NLUA AND OTHER LAND BILLS IN CONGRESS

The foregoing realities and developments since the 1990s are among the unfortunate effects of the absence of a national land use policy. Again, without a land use policy that can guide the rational and holistic use of land resources, there have been several cases of diversion of the use of land from its original purpose. Lands that should have been protected were used for extractive, non-regenerating industries. Agricultural lands were converted to residential uses. Land for settlements was used for commercial or industrial endeavors. These imprudent uses translate to lower food production, destruction of properties and entire communities especially in times of disaster. Aggravated by issues on land ownership, local and foreign investors have been dissuaded to pour in their resources and help build the communities.²

Sufficient Philippine laws with regard to land have already been created to regulate its acquisition, ownership, use and disposal. These include the Comprehensive Agrarian Reform Law in 1988, CARP with extension and reforms or CARPER in 2009, Urban Development and Housing Act of 1992, Mining Act of 1995, Indigenous People's Rights Act of 1997,

Despite the certification of President Benigno Aquino III and the past presidents on the bill as urgent or priority, the NLUA has not been approved to date, and thus continues to languish in the legislature.

² Cielito F. Habito, Ph.D., personal interview, Makati City, 12 May 2014; Fernando T. Aldaba, Ph.D., personal interview, Quezon City, 6 May 2014; Nathaniel von Einsiedel, personal interview, 7 May 2014.

Agriculture and Fisheries Modernization Act of 1997, the Philippine Fisheries Code of 1998, and the Biofuels Act in 2006. But these laws were sectoral in nature, and passed in a fragmented manner. They did not address overlapping and/or conflicting land issues.

To rationalize the above laws, the NLUA was filed as early as the 9th Congress in 1994. Bills on land use have been filed every Congress, with legislators expressing support for such a policy. However, strong opposition to and disagreements over certain

provisions of the bill, such as the non-conversion of prime agricultural lands, and a lengthy 10-year period to review the land use plans, resulted in its failure to get it passed into law. In the 15th Congress, more than 70 or about one-third of the House of Representatives coauthored the bill on land use while practically all senators authored the Senate version. Despite the certification of President Benigno Aquino III and the past presidents on the bill as urgent or priority, the NLUA has not been approved to date, and thus continues to languish in the legislature.

Promises of a having a national land use policy: What might have been with the NLUA?

LAND USE POLICY AND PATTERNS ABROAD

Because of their national legislations and effective implementation, Japan, Singapore and Australia have been able to maximize their land resources for the benefit and convenience of their peoples.³

In Japan, the Comprehensive National Land Development Act of 1950 was the basis of their first National Comprehensive Development Plan in 1962-1968. This plan adopted the Growth Pole development strategy where the development of industrial cities is encouraged to be outside of the large metropolis. The first National Comprehensive Development Plan was followed by four more plans. The second plan (1969-1976) established the construction of networks of transportation (including motorways and railways); the third plan (1977-1988) outlined a resettlement scheme for an environment conducive to human habitation; the fourth plan (1989-2000) focused on the development of Japan's National Capital Region; and the fifth plan (up to

2015) aims to prepare the basics for a multi-axial structure which involves the participation of different entities and cooperation of regions for national and regional development.

Planning was also conducted at the regional level where Japan was divided into eight regions. Legislation enacted after the 1960s concerning regional planning includes the Industrial Relocation Promotion Act of 1972. This law specified the regions to which specific industries should be relocated, and the financial assistance and tax incentives provided for relocation. Japan was also able to determine its heritage sites subject to preservation. At the local level, the most relevant legislation was the City Planning Act of 1968 given Japan's high rate of urbanization. Spaces in the city were classified as 'Urban Promotion Area' and 'Urban Control Area' to ensure that agricultural land area was not converted.

For Singapore, most of its land is for industrial rather than agricultural use. Strategic land use in Singapore started with a Concept Plan in 1971. The development of this Concept Plan was in the context of the proliferation of urban slums and rapid population growth in the 1960s. In 1998, the Planning Act was enacted. It provided for the development of a Master Plan which outlines the land use plan and desired

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³ Nathaniel von Einsiedel, personal interview, Makati City, 7 May 2014

density; it also specified the conservation areas. The first Master Plan was formulated in 2008 following the Concept Plan in 2001. It informed the land sales and development control. It is reviewed every five years. Notably, in every step of planning in Singapore, public consultation was done.

Finally, Australia saw the need for land use and land cover mapping early on in 1972, and established the Commonwealth Advisory Committee on the Environment. The committee recognized the need for

an efficient, coordinated and comprehensive planning of land use, both at the national and state levels and for a national survey of land use. Several institutions were later formed to work into the national and state levels. Based on the Australian Land Use and Management (ALUM) classification scheme, the primary classes of land are: conservation and natural environments; production from relatively natural environments; production from dry land agriculture and plantations; production from irrigated agriculture and plantations; intensive uses; and water.

THE NLUA AND ITS PROSPECTS FOR THE PHILIPPINES

The Philippines' NLUA proposes the crafting of a National Physical Framework Plan (NPFPP) which shall define the national strategy and objectives of the country's urban, rural and regional development. The framework plan that aims to be rational and holistic shall indicate broad spatial directions and policy guidelines encompassing the four categories of land use, namely: protection, production, settlements and infrastructure development.

These categories will ensure that the nation's lands and resources are protected and utilized in a manner that is beneficial and sustainable for all sectors of society today and for future generations.

Regional and provincial physical framework plans, and comprehensive land use plans at the city/municipal level good for about thirty years shall then be formulated. The entire planning process will hence employ a combined top-down, bottom-up approach.

A national land use policy council (NLUPC) to be composed of representatives from the government, business or market institutions, and civil society

organizations will act as the highest policymaking body. A corresponding land use council will be established at the regional level, while land use boards

will be created at the provincial and city/municipal levels. Participation of all stakeholders at all levels is thus required. All sectors will be involved and represented in defining the framework plan and guiding principles for land allocation and utilization, and in

the actual planning, implementation and monitoring processes. The concerns of all sectors shall then be taken into account (e.g., agrarian reform, agricultural and fishery concerns, mining on IP lands, business and industry, and housing).



NLUA champions in Congress (www.facebook.com/CLUPNow)

But the NLUA filed in Congress has often been associated with being anti-business since delineations following land use categories may limit the profit potentials of businesses. This may be especially true for those who regard land as commodity or who make money *out of* land as against those who make money *on* land. While the Philippines is largely an agricultural country, the supply of land suitable for business, industry and non-agricultural purposes is limitless. If the soil surface runs out, for instance, air space can still be used to build vertically. There are, however, technical and legal limits. Technically, the use of the land can be as high as the load bearing capacity can allow. Legally, there are, for instance, height limits such as in places located at the approach of airport runways. Local zoning ordinances also impose limits on building heights, primarily for the traffic generating potential, limitations of parking space and for aesthetic purposes.⁴

The rich agricultural lands of the country can best be maximized by using them for purposes that will bring out the fruits of agriculturally superior soils. Natural resource for plant growth may be wasted if prime agricultural lands are appropriated to non-agricultural use as this would disregard the potential of the soil to produce quality output. Modern agriculture, nonetheless, integrates business elements into its activities.⁵

It cannot be denied that profit remains as the prime motivation of the business sector. Their main concern

is the location of their business, and how accessible their products or services are to the market and their suppliers. With the NLUA, areas for trade and industry can be properly delineated and provided with the necessary infrastructure, while labor supply and a conducive policy environment can also be assured.⁶

The business sector is also interested in keeping their enterprises and projects for a long time. Owing to the constant changes in the economy, business environment, and other relevant aspects in Philippine society, they conduct planning activities as frequently as they can to stay relevant with the times. Their plans cannot be static or fixed; instead, the sector wants to be assured of flexibility in land use.⁷ Given that comprehensive land use plans are good for a maximum of 30 years, the business sector supports the conduct of a regular review of the plans, every five years as an example, if only to remain relevant with the changing needs of the times.

⁴ Ernesto M. Serote, personal interview, Quezon City, 2 May 2014.

⁵ Ibid.

⁶ Ernesto M. Serote personal interview, Quezon City, 2 May 2014; Nathaniel von Einsiedel, personal interview, Makati City, 7 May 2014.

⁷ Fernando T. Aldaba, Ph. D., personal interview, Quezon City, 6 May 2014

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The NLUA benefits all

If use of the land is regulated in a holistic and rational way, there are high prospects for overall orderly development in a country.⁸ As clear land use guidelines for planning and implementation at all levels are set from a national land use policy, the use of the areas in a given locality and in the country as a whole are properly determined. The national policy promotes the protection of areas needed for the rehabilitation, conservation and preservation of land and resources in the country to maintain ecological balance. This is particularly crucial in these times as the nation exerts efforts on decreasing its vulnerability to the effects of climate change. Food production levels are expected to rise as the prime agricultural areas are nurtured to assure the food supply of the growing population.

Homes, workplaces and business establishments are built on safe and secure grounds. With the rising population, shelter and housing will also be addressed as land will be allocated for settlements, including government mass housing programs. On the other hand, roads, bridges, transportation and communication facilities are erected in proper locations to facilitate access to economic and social services.

Adopting the right use of land in the right places to be determined in a participatory way by all sectors, including business, through the land use policy councils/boards will help minimize the risks and threats that natural and human-made calamities may bring. With the NLUA, local government units as well as national agencies will also be better informed on formulating land use plans and executing the strategies that will provide for safe, secure, and sustainable communities throughout the country. Comprehensively, environmental and sacred areas are protected while production, settlements and infrastructure areas are maximized for present and

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The Green March gathered various sectors to call for the passage of the NLUA (www.facebook.com/CLUPnow)

future generations. This programmatic development all over the Philippines increases the probability of enticing investors, both local and foreign, to invest or expand their business, and contribute to the economic development of the country.⁹

It may be useful to remind ourselves at this point that land as a natural resource is given free, and which everyone must therefore enjoy. It finds basis in the moral principle of the universal destination of goods, that God created the goods of the earth *to be shared fairly by all mankind under the guidance of justice tempered by charity*.¹⁰

The 1987 Philippine Constitution affirms the social dimension of the use of property, and the duty of the State to promote social justice and to intervene in regulation whenever necessary. Article XII Section 6 states that “the use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups... shall have the right to own, establish and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.”

Passage of the National Land Use Act *now* is the first crucial step to rationalizing and regulating the use of land for the interest of *all* sectors of the present and future generations.

⁸ Nathaniel von Einsiedel, personal interview, Makati City, 7 May 2014

⁹ Cielito F. Habito, Ph.D., personal interview, Makati City, 12 May 2014; Fernando T. Aldaba, Ph.D., personal interview, Quezon City, 6 May 2014; Nathaniel von Einsiedel, personal interview, 7 May 2014.

¹⁰ Paul VI. *Populorum Progressio*: Encyclical of Pope Paul VI on the Development of Peoples

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A Safer Future For All of Us
Campaign for Land Use Policy (CLUP)
Now! calls for the passage of the
proposed National Land Use Act.

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