

# ***The Fate of the National Land Use Act in a Federalist System***

**Campaign for Land Use Policy Now (CLUP Now!)**

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**San Alberto Hurtado Hall, Ateneo de Manila University  
Loyola Heights, Quezon City**

**Atty. Marlon J. Manuel**

# Changing the Constitution

- **What we have now**
- **What must be protected**
- **What could change**

# **1987 Philippine Constitution**

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the under-privileged.**

# **1987 Philippine Constitution**

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 6. The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, 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.**

# 1987 Philippine Constitution

- **ARTICLE XIII – SOCIAL JUSTICE AND HUMAN RIGHTS**
- **Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.**
- **To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.**

# 1987 Philippine Constitution

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. X X X**

# 1987 Philippine Constitution

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 2. X X X The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. X X X**

# **1987 Philippine Constitution**

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 2. X X X The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country.**



# **1987 Philippine Constitution**

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. XX  
X**

# 1987 Philippine Constitution

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 3. X X X Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof, by purchase, homestead, or grant.**

# **1987 Philippine Constitution**

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 4. The Congress shall, as soon as possible, determine, by law, the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished, except by law. The Congress shall provide for such period as it may determine, measures to prohibit logging in endangered forests and watershed areas.**

# **1987 Philippine Constitution**

- **ARTICLE XII - NATIONAL ECONOMY AND PATRIMONY**
- **Section 5. The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.**

**The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.**

# **1987 Philippine Constitution**

- **ARTICLE XIII – SOCIAL JUSTICE AND HUMAN RIGHTS**
- **Section 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost, decent housing and basic services to under-privileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners.**

# 1987 Philippine Constitution

- **ARTICLE X – LOCAL GOVERNMENT**
- **Section 7.** Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

# 1987 Philippine Constitution

- **ARTICLE X – LOCAL GOVERNMENT**
- **Section 20.** Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:
  1. Administrative organization;
  2. Creation of sources of revenues;
  3. Ancestral domain and natural resources;

X X X                  X X X                  X X X

# Local Government Code

- **Section 18. *Power to Generate and Apply Resources.*** - Local government units shall have the power and authority . . . to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits X X X



# Local Government Code

- **Section 291. *Share of the Local Governments from any Government Agency or Owned or Controlled Corporation.*** - Local government units shall have a share based on the preceding fiscal year from the proceeds derived by any government agency or government-owned or controlled corporation engaged in the utilization and development of the national wealth based on the following formula **XXX**

# Local Government Code

- **Section 20. *Reclassification of Lands.* -**
- **(c) The local government units shall, in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources: Provided. That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.**

# Local Government Code

- **Section 447. Powers, Duties, Functions and Compensation. – (MUNICIPALITY)**
- **(2)(vii) Adopt a comprehensive land use plan for the municipality: Provided, That the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;**
- **(viii) Reclassify land within the jurisdiction of the municipality, subject to the pertinent provisions of this Code;**
- **(ix) Enact integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations; x x x**

# Local Government Code

- **Section 458. Powers, Duties, Functions and Compensation. – (CITY)**
- **(2) (vii) Adopt a comprehensive land use plan for the city: Provided, That in the case of component cities, the formulation, adoption or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;**
- **(viii) Reclassify land within the jurisdiction of the city, subject to the pertinent provisions of this Code;**
- **(ix) Enact integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations;**

# Local Government Code

- **Section 468. Powers, Duties, Functions and Compensation. – (PROVINCE)**
- (2) (vii) Review the comprehensive land use plans and zoning ordinances of component cities and municipalities and adopt a comprehensive provincial land use plan, subject to existing laws; and

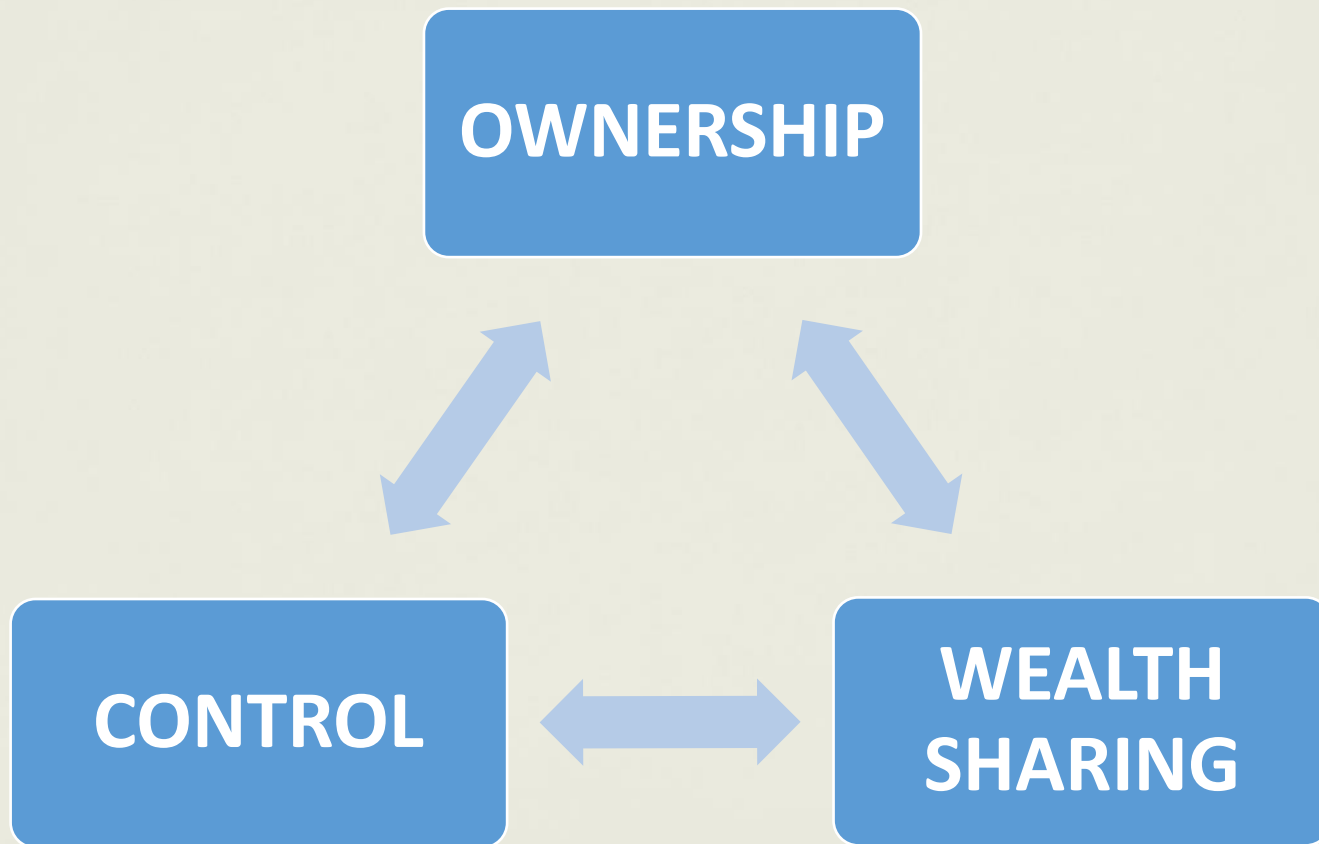
# Changing the Constitution

- **What could ChaCha change?**
- **What are the implications of a shift to a federalist system on natural resources management?**

# **Significance: Natural Resources Issue**

- **Major source of national income**
- **Major source of conflict**
- **Issue overlaps with ethnic, linguistic or religious divides**
- **Political stability**
- **Investor confidence**

# Management of Natural Resources





# DELICATE BALANCE OF FEDERALISM



UNION



NON-  
CENTRALIZATION

# OWNERSHIP

- **Older federations (USA, Canada, Austria) – ownership by state**
- **20<sup>th</sup> Century constitutions – natural resources for national benefit (South Africa, Nigeria, Indonesia, PNG, India)**
- **More recent constitutions – combination of national standards and regulations, and more regional involvement (Iraq, Sudan, Indonesia viz. Aceh, Nigeria viz. Niger Delta)**

# **CONTROL**

- **Dividing responsibility for specific aspects of authority (South Africa and Sudan)**
- **Coordinated strategy in a central coordinating mechanism composed of regional representatives (Germany)**
- **Dividing legislative and executive powers**
- **Establishing an inter-governmental commission (Sudan's National Petroleum Commission)**

# WEALTH SHARING

- **Allocating certain types of revenues to state or provincial governments and certain types to national governments (Canada and Sudan)**
- **Centralized collection, and subsequent sharing between levels of government based on a formula (Nigeria, Venezuela, Indonesia viz. Aceh)**
- **Combinations (Iraq)**

# Fate of National Land Use Act?

- Land use policy may or may not be “national”
- If national, allocation of control to states, and extent of powers, will be a major area to consider
- If not national, different legislative bodies of states will be new arena for advocacy