

Improving Land Sector Governance in the Philippines

Implementation of Land Governance Assessment Framework (LGAF)



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LIST OF ACRONYMS

A & D	Alienable and disposable
ADB	Asian Development Bank
ADSDPP	ancestral domain sustainable development and protection plan
AFFLA	agroforestry farm lease agreement
AFP	Armed Forces of the Philippines
ALI	Agrarian Law Implementation
ANGOC	Asian NGO Coalition
AO	Administrative Order
APD	areas for priority development
APECO	Aurora Province Economic Zone Corporation
ARBs	agrarian reform beneficiaries
ARCDP	Agrarian Reform Community Development Program
ARMM	Autonomous Region for Muslim Mindanao
ARNow	Agrarian Reform Now
BARC	Barangay Agrarian Reform Council
BIR	Bureau of Internal Revenue
BJS	Barangay Justice System
BLGF	Bureau of Local Government Finance
BOI	Board of Investments
C	Carbon
CA	Commonwealth Act
CADT	Certificate of Ancestral Domain Title
CALT	Certificates of Ancestral Land Title
CALABARZON	Cavite, Laguna, Batangas, Rizal and Quezon provinces
CAR	certificate authorizing registration
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CAS	Country Assistance Strategy
CBD	Convention on Biodiversity
CBFMA	community based forest management agreement
CBFMP	community based forest management program
CDC	Clark Development Corporation
CENRO	Community Environment and Natural Resources Office/r
CFP	Community Forestry Program
CFSA	community forest stewardship agreement
CITES	Convention on International Trade of Endangered Species
CLOA	certificate of land ownership award
CLUP	comprehensive land use plan
CMP	Community Mortgage Program
COA	Commission on Audit
CoP	Convention of the Parties
CSC	certificates of stewardship contracts
CSR	corporate social responsibility

DA	Department of Agriculture
DAO	Department Administrative Order
DAR	Department of Agrarian Reform
DBP	Development Bank of the Philippines
DENR	Department of Environment and Natural Resources
DILG	Department of Interior and Local Government
DoF	Department of Finance
DoJ	Department of Justice
DPWH	Department of Public Works and Highways
DTI	Department of Trade and Industry
ECC	Environmental Clearance Certificate
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMB	Environmental Management Bureau
ENR	environment and natural resources
ENRM	environment and natura resources management
EPIRA	Electric Power Industry Reform Act
eTRACS	Enhanced Tax Revenue and Assessment System
FAO	Food and Agriculture Organization
FBs	famer beneficiaries
FLAg	special forest land use agreement
FLAgT	Forest Land Use Agreement for Tourism purposes
FLMA	forest land management agreement
FLUP	forest land use plan
FP	Free Patent
FPIC	Free Prior and Informed Consent
GDP	gross domestic product
GIS	geographic information system
HLURB	Housing and Land Use Regulatory Board
HP	Homestead Patent
HUCs	highly urbanized cities
HUDC	Housing and Urban Development Council
ICCAs	indigenous community conserved areas
IEE	initial environmental examination
IEM	integrated ecosystems management
IFAD	International Fund for Agirculture Development
IFMA	Industrial Forest Management Agreement
IKSP	indigenous knowledge systems and practices
ILC	International Land Coalition
IPs	indigenous peoples
IPAF	Integrated Protected Area Fund
IPRA	Indigenous Peoples Rights Act
IPSAP	Institute of Private Sector Appraisers
IRA	internal revenue allotment

ISF	Innovation Support Fund
ITC	International Institute for Aerial Survey and Earth Sciences
JAO	Joint Administrative Order
JFPR	Japan Fund for Poverty Reduction
JICA	Japan International Cooperation Agency
JT	Judicial titles
KBAs	key biodiversity areas
LA	land administration
LAMP	Land Administration and Management Project
LAM	land administration and management
LAMS	land administration and management system
LARA	Land Administration Reform Act
LARRIPP	Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples Policy
LBP	Land Bank of the Philippines
LC	land classification
LETS, Inc.	Land Equity Technology Services, Inc.
LGAF	Land Governance Assessment Framework
LGC	Local Government Code
LGI	land governance indicator
LGUs	local government units
LMB	Land Management Bureau
LP	Lupon Tagapamayapa (Peace Council)
LRA	Land Registration Authority
LSDF	Lands Sector Development Framework
LSLA	large scale land acquisition
LTCP	Land Titling Computerization Project
LTI	land tenure improvement
LUP	land use planning
LVT	land valuation and taxation
MAG	Mass Appraisal Guidebook
MIMAROPA	Marinduque, Oriental and Occidental Mindoro, Romblon and Palawan provinces
MRPAAO	Manual on Real Property Appraisal and Assessment Operations
MRVs	monitoring reporting and verification
MSA	Miscellaneous Sales Agreement
NAMRIA	National Mapping and Resource Information Authority
NCI	National Convergence Initiative
NCIP	National Commission on Indigenous Peoples
NCPAG	National College of Public Administration and Governance
NCR	National Capital Region
NEDA	National Economic and Development Authority
NGO	non government organization
NGP	National Greening Program
NHA	National Housing Authority
NHMFC	National Home Mortgage Finance Corporation

NIPAS	National Integrated Protected Areas System
NPC	National Power Corporation
NRIP	National Resettlement Implementation Plan
NRM	natural resources management
NSDI	National Spatial Data Infrastructure
NTRC	National Tax Research Center
OCT	original certificate of title
PADCC	Philippine Agricultural Development and Commercial Corporation
PAFID	Philippine Association for Intercultural Development
PAMB	Protected Area Management Boards
PASUs	Protected Area Superintendents
PAWB	Protected Areas and Wildlife Bureau
PCBRMA	protected area community based resource management agreement
PCCI	Philippine Chamber of Commerce and Industry
PD	Presidential Decree
PDP	Philippine Development Plan
PDAP	Partnerships for Development Assistance in the Philippines
PDF	Philippine Development Forum
PDP	Philippine Development Plan
PENRO	Provincial Environment and Natural Resources Office/r
PES	payments for ecosystems services
PEZA	Philippine Economic Zone Authority
PFDA	private forest development agreement
PIN	parcel identification number
PLM	public land management
PNB	Philippine National Bank
PNOC	Philippine National Oil Company
PPA	Philippine Ports Authority
PVS of LRA/RoD	parcel verification service
PVS	Property Valuation Standards
PWPA	Philippine Wood Producers Association
RA	Republic Act
RAPs	Resettlement Action Plans
RCBC	Rizal Commercial Banking Corporation
RDs	Registry of Deeds
RED	Regional Executive Director
REDD+	Reducing Emissions from Deforestation and Degradation
REGALA	Local Government Revenue Generation and Land Administration Reform
RELS	reference emission levels
RoD	Register of Deeds
RoW	right of way
RPT	real property taxes
RPUs	real property units
RTC	Regional Trial Courts

SBMA	Subic Bay Metropolitan Authority
SEF	special education fund
SIFMA	Socialized Industrial Forest Management Agreement
SLP	special land use permit
SMEs	small and medium enterprises
SMVs	schedule of market values
SOCKSARGEN	North Cotabato, Sarangani, Sultan Kudarat provinces and Cotabato and General Santos cities
SPLULA	special land use lease agreement
SUCs	State Universities and Colleges
SUDECOR	Surigao Development Corporation
TCT	transfer certificate of title
TDN	tax declaration number
TFLA	tree farm lease agreement
TLA	timber license agreement
TOR	terms of reference
TRO	temporary restraining order
UDHA	Urban Development and Housing Act
UNFCCC	United Nations Framework Convention on Climate Change
US	United States
USAID	United States Agency for International Development
VRA	Valuation Reform Act
WB	World Bank

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We hope the report will serve as a useful platform for regular review of state of governance in the lands sector, and in propelling land governance in the national agenda. As the current administration continues to place governance as a key priority; and with the recent pronouncement of the President to legislate the Land Administration Reform Bill, we hope the attention and stakeholder engagement that was spurred thru the LGAF will be sustained.

This report, and other relevant LGAF materials are available at <http://econ.worldbank.org/programs/lgaf>.

EXECUTIVE SUMMARY

Introduction

Land is considered a vital resource for any nation. It serves as the platform for carrying out social, cultural and economic activities. Access to land is an important means for promoting growth and equity and achieving social justice in many countries. The process by which decisions are made regarding access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled are crucial in determining whether the country has what it takes to derive the desired benefits from this limited natural capital.

The Land Governance and Assessment Framework (LGAF) was developed by World Bank and its partners to provide a tool for diagnosis of land governance issues, establishment of benchmarks and monitoring progress over time. It comprises a set of detailed indicators to be rated on a scale of pre-coded statements (from lack of good governance to good practice, A-D). The process helps to establish a consensus and priority actions on: (i) gaps in existing evidence; (ii) areas for regulatory or institutional change, piloting of new approaches and interventions to improve land governance on a broader scale; and (iii) criteria to assess the effectiveness of these measures. Thus, LGAF helps put in place a structure and process to systematically track progress in improving land governance over time.¹

At the time of LGAF completion in the Philippines, about 36 countries have carried out and/or are in the process of undertaking similar studies; with a number of them effectively using the results for broader stakeholder engagement on land issues, and developing policy options for moving forward. Other countries such as Peru, for example, have set up independent land observatories to keep on tracking progress in the implementation of actions identified from the LGAF.

LGAF in the Philippines

The country study commenced in December 2012 with the engagement of Land Equity Technology Services, Inc. (LETS, Inc.) as the Country Coordinator. The scope of the Philippines LGAF covered seven modules:

Core Modules

Legal and Institutional Framework - assessed the extent to which the range of existing land rights is legally recognized. It also reviewed the level of documentation and enforcement, and the cost of enforcing or gradually upgrading these rights. The scope included an examination as to whether regulation and management of land involve institutions with clear mandates as well as policy processes that are transparent and equitable.

Land Use Planning, Management and Taxation - examined land use restrictions and whether these are justified on the basis of the public interest. It also looked at promptness and transparency in the granting of necessary exemptions; as well as the efficiency of land use planning in major cities. Finally, it investigated the transparency of determining taxes on land and real estate, and efficiency in collection.

Management of Public Land - assessed the extent to which public landholdings are justified and transparently inventoried and managed; whether expropriation procedures are applied in the

¹ Deininger, Klaus; Harris Selod and Anthony Burns. The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector. 2012. The World Bank.

public interest through clear, transparent, and fair processes involving the compensation of all those who lose rights; and transparency and monitoring transfer or devolution of state land.

Public Provision of Land Information – determined whether land information systems provide sufficient, relevant, and up-to-date data on land ownership to the general public and accessibility, affordability, and sustainability of land administration services.

Dispute Resolution and Conflict Management – assessed the existence of affordable, clearly defined, transparent, and unbiased mechanisms for the resolution of land disputes and whether these mechanisms function effectively in practice.

Optional Modules

Large-Scale Acquisition of Land Rights – examined land rights recognition, conflicts and land use planning and practices; incentives, procedures and requirements for investments; as well as environmental and social safeguards.

Forestry – assessed the country commitment to sustainability and climate change mitigation; policies for recognition of public goods aspects of forests and promoting their sustainable use; actions to support private sector to invest sustainably in forest activities; recognition of livelihood aspects of traditional and indigenous forest dependent communities; and forest land use, tenure and land conversion; and effectiveness of controlling illegal logging and other forest crimes.

In all, the assessment covered 30 indicators involving 108 dimensions of the LGAF (see section 7.2 LGAF scorecard).

Its implementation followed the general steps described in the Manual which consist of expert investigation to prepare background materials and panel briefing notes; panel workshops to review the preliminary scoring by Experts; technical validation workshop to discuss the initial results with stakeholders; and policy dialogue to present the key findings and recommendations to government officials and other sectors. In all, about 90 individuals from 39 agencies and organizations from academe, private sector, government, NGO groups, LGU and the World Bank participated in the LGAF discussions. This report reflects the consensus ratings; as well as the main recommendations resulting from the above process.

Philippine Context

The LGAF is set against an interesting era in Philippine politics, democratic and governance reforms, and economic transformation.

No less than the President has placed good governance on top of his agenda. His ascent into power in 2010 reflects a huge backing by the public to rid the country of corruption, widely perceived as the root cause of poor economic performance; low investor confidence, mismanagement of the government budget, among others. The many decisions demonstrate the government's strong political will to carry this out; thus earning investor confidence in the process; and freeing up crucial public funds for important priority projects that would have otherwise been "lost" to corruption.

The country's economic performance for the two quarters in 2013 effectively captures the fruits of such work, along with the ranking of the Philippines to investment grade by two international investment grading agencies.²

Indeed, the country is at the crossroads of economic growth. After decades of being a developing country, it has recently gained a status of lower middle income country. No longer the "sick man" of Asia, the Philippines has attained modest growths over the last few decades, albeit at a much slower pace than most of its Asian neighbors. The challenge is how to sustain this growth, yet at the same time, address the inequities that have resulted from past policies

² Fitch and Standard and Poor's ratings given in 2013.

and institutions. A higher goal is to reduce mass poverty that is at the root cause of instability, political alienation, exodus of Filipino talents and skills, among others.

In terms of land governance, the country currently has a number of initiatives that address some of the key policy and institutional issues that affect the ability of government to provide the preconditions for more equitable, transparent, and participatory decision making processes on matters affecting land.

The attention to the issues in the lands sector had its beginnings as early as 1998 when the DENR, sought the assistance of the World Bank to undertake an assessment. The Joint government and Expert group produced a report called the Informal Policy Note, which outlined the key issues and the priority actions that require attention. Since then, the government has been making strides in addressing the interrelated issues through testing of cost effective procedures, policy studies, and pilots of innovative approaches.

There is a commitment to complete land redistribution under the Comprehensive Agrarian Reform Program, by end of 2014. This should effectively transfer lands to the actual tillers, and the same time, remove the uncertainties in the rural land market. Concomitant with this, is an institutional study on a post CARP scenario to determine the most appropriate role of agencies upon completion of redistribution.

There is currently, an active debate on a National Land Use Act policy, that was almost legislated by the end of Congress' session in June, 2012. This has been a two decades old proposal to ensure the proper allocation of land to various uses; and that land conversion and development are guided by a framework to meet the country's long term requirements for food security, settlements, industrial and economic development, among others.

A long process towards harmonization of implementing policies and procedures of DENR, DAR, DoJ/LRA in the issuance of tenurial instruments in public lands was completed, leading to a Joint Administrative Order in 2012.

Following the lessons from LAMP1, which was carried out from the period 2001 to 2005³; the second phase of Land Administration and Management Project (LAMP) is nearing completion, poised to implement the roll out of land administration and management systems (LAMS) to computerize the title and survey records in DENR. The Project has also successfully rolled out systematic titling in three provinces, using more streamlined approaches.

There is currently, a growing uptake by LGUs in land administration and management; evidenced by experiences from LAMP2; ADB REGALA Project, linking improved tenure security, better land use planning with increased local revenues and strengthening local governance.

Two major bills have been submitted to Congress as a result of LAMP's work: the Land Administration Reforms Act (LARA) and the Property Valuation Reforms Act (VRA). These are meant to address the systemic constraints affecting service delivery in land administration; and in the adoption of market based valuation of properties by LGUs, respectively.

A Lands Sector Development Framework (LSDF) was completed which provides a roadmap for a 20-year program on LAM reform and implementation. This was submitted to NEDA, and portions have been taken up by the Philippine Development Plan (PDP).

Despite the above, several key challenges are expected to highlight the importance of improving land governance in the Philippines.

First, the country has one of the fastest growing population in Asia. With a population nearing 100 million, this is expected to place undue pressure on use of land and its rational and equitable allocation among competing uses. Population distribution is highly skewed in favor of the key cities and urban areas, representing 65% of the total population, growing at a rate of

³ The first phase of LAMP, or otherwise known as LAMP Learning and Innovation Loan, was funded by the World Bank; in parallel with the AusAID funded technical assistance named Philippine – Australia LAMP.

2.9%. These areas also experience rapid urbanization processes. The rural population on the other hand, is where poverty is concentrated, thus posing additional challenges for planning and budget allocation.

Second, investments in agriculture and property development are being stymied by continuing property rights problems and inconsistent policy. Property rights in the countryside are also insecure. Confirmation of ownership through titles would help in stimulating investments and providing incentives for greater farm productivity and increased incomes.

Third, smaller sized farms resulting from completion of land redistribution pose challenges in improving productivity to meet food security. Concomitant policies to encourage investments in large scale agriculture should provide for adequate social safeguards for small farmers or CLOA holders and indigenous peoples; and environmental safeguards.

Fourth, degradation of the country's forests and natural resources has continued, affecting the poor greatly, due to their dependence on these resources. More secure property rights for tenure holders, consistent policy, would provide incentives for improved sustainable resource management.

Fifth, as the country scales up public investments in infrastructure to promote inclusive growth, it becomes more crucial to set clear and equitable policies on expropriation and safeguards for those whose properties would be affected.

Finally, the challenges of creating an improved environment for private investments are associated with having a well-functioning land market, that is backed up by access to reliable land information, an efficient and complete registry, and clear and transparent procedures for rights registration and transactions on real property.

Underlying all the above is the fact that *the country still ranks poorly in international comparisons of the enforcement of law and contracts, and competition measures.* It ranks 105 among 176 countries in a 2012 global corruption index, with a score of 34.

The assessment is therefore considered very timely, in light of the current issues, initiatives and strong political will to improve governance in all fronts, as a way of achieving the goal of inclusive growth.

LGAF Major Findings and Recommendations

Overall, the ratings reflect the strong legal and policy framework for land in the Philippines, backed up by centuries old legislations and program to recognize long held rights and the Constitutional provision for recognition of indigenous peoples' customary rights. The assessment also showed elements of best practice in policies related to land redistribution, land use planning, housing provision, partnerships between investors and communities, and LGU authorities on land use and zoning; and taxation. Key constraints to realizing their full potential include weaknesses in implementation, institutional overlaps, gaps in operational procedures, lack of policies in for example, fair compensation for expropriated properties; and absence of systematic monitoring of sector performance.

Indicators and Dimensions with High Governance Ratings (A Ratings)

Strong legal framework and clear land policies

The country fared high on the strength of its legal framework for land rights recognition. In the rural areas, the Comprehensive Agrarian Reform Program (CARP), Commonwealth Act 141, Republic Act 636 and the recently issued Republic Act 10023 all put in place the policies for recognition of rights of more than 90% of the country's rural population; including long held individual and group rights. Likewise, procedures have been developed such that formal fees for first time registration under the administrative mode of disposition – that is, Free Patent mode

– are affordable estimated at 0.27 to 0.44 % of the market value. This is considered as best practice standards.

The Indigenous Peoples' Rights Act (IPRA) on the other hand, laid out the policy for recognition of customary rights and the systems and procedures for mapping and registration of these lands; relying on both documentary and non-documentary forms of evidence.

The Forestry Code and the National Integrated Protected Areas System (NIPAS) Act both recognize the public goods aspects of forest lands; serving as the rationale for maintaining these lands under the public domain.

Disturbance compensation for changes in land use involving conversion of rural to urban conversion is provided for under the CARP law, to protect the interests of the tenant and/or rights holder.

Appropriate management of common property in condominiums is recognized under the Condominium law of 1966.

While there are restrictions on land use, ownership and transferability on rural lands, these are deemed justified on the basis of public interest; mainly to balance the equity goals espoused in land policies.

There are policies governing expropriations, but the laws are very clear that these cannot be used for private interests.

In cases of conflict, the country has in place, a Barangay Justice System which serves as the mechanism for first level community resolution of disputes before these are brought to the formal courts. The BJS is recognized as part of the formal system, yet is accessible and provides for a resolution in the first instance of conflict. To strengthen the BJS, the courts do not accept cases lodged before them without a certification that these were not resolved at the barangay level.

Good Governance Practices

Strong campaign for good governance, computerization efforts, and advocacies for greater transparency in government all contributed to the country's best practice ratings in the following aspects.

There is strong public participation in the formulation of land policies, owing to the vibrant civil society sector, and the democratic space created by the legislative process. Likewise, several laws reinforce the requirement for public consultations in the formulation of policies at the national and local levels, enabling inputs from stakeholders in policy making.

Government agencies are mandated to make their reports public on a regular basis; thus providing better basis for accountability and independent monitoring of progress in policy implementation.

In the same way, public display of fees in the registry is widely practiced, as well as very clear and transparent procedures in processing of residential building permit applications. The period by which these permits are issued (less than two weeks) is considered best practice, per LGAF standards.

Technology has improved transparency and access to information in a less discretionary way. Zonal values of the Bureau of Internal Revenue (BIR) are publicly available on line. The computerization of the registries, made possible through the Land Titling Computerization Project (LTCP) of the Land registration Authority (LRA) has increased efficiency in access to records provided proper fees are paid.

Also considered good practice is the way economically relevant private encumbrances are reflected in the registry records; as well as public restrictions on the property. The country's registry is considered financially sustainable, with the LRA and RoD earning more than double

its budget requirements. In fact, the agency is one of the highest earning agencies in government. Finally, there is sufficient capital investment in the registry through the build operate and own (BOO) scheme adopted under the LTCP.

Areas Needing Improvement (B Rating)

The Philippines was rated as “B” – to mean the country’s performance represent the second best set of options that make progress towards good land governance. In a number of cases, improvements in the systems and procedures could translate into best practice, while in some – the lack of policies would block opportunities for further improvement.

Legal and Institutional Framework

Existing policies do not recognize rights of informal settlers, which constitute about 15% of the country’s urban population. Alternative modes of formalization include relocation; and low cost housing programs in identified areas in the urban centers.

Tenure individualization of collective rights (CLOAs and CMPs) is a complex process and takes a long time to complete. In the case of CLOAs, the inclusion and exclusion process is the main cause of delay; while in the case of CMPs, completion of payments is required before collective rights are divided.

The country’s efforts at recognition, mapping and registration of ancestral domains are still considered second best practice, with only 56% completion. In the face of continuing threat to ancestral lands, this is considered an urgent priority.

Because protected areas are established mainly on public lands; the country lacks policies and procedures for compensation for loss of rights in case of establishment of protected areas. As a matter of procedure, what are recognized are prior rights.

Other options for first time registration, such as thru Miscellaneous Sales, require higher formal fees, estimated at 1.7 to 1.8% of market values. This applies to residential properties more than 200 sq m; and in areas that have not been zoned as residential.

While procedures allow the use of non-documentary forms of evidence, alongside formal proofs in recognition of rights; these are still not regarded as best practice standards.

There are minimal vertical overlaps in responsibilities within land agencies and with LGUs. Clarity in the delineation of responsibilities among levels of government would be required.

Land Use Planning and Management

Urban land use restrictions on ownership, use, easements and danger zones, are generally justified, but are not enforced; thereby they do not achieve their objectives.

Public participation in land use and classification processes such as CLUPs, forest boundary delineation, forest land use planning, and PA management planning can still be improved to be more meaningful, and encompass various stages in the processes.

LGUs have not taken advantage of land use planning as a mechanism to determine urban form; and anticipate changes arising from demand for land for various uses. In practice, changes in land use planning are mainly driven by national infrastructure projects and investments by private sector, thus resulting in uncontrolled growth and direction of urban development.

On Property Valuation and Taxation

Current practices have resulted in lost opportunities for capture of appropriate levels of revenues from property taxes which could have been used by LGUs to finance local development projects.

Market based valuation is provided for under the Local Government Code, and supplemented by a Mass Appraisal Guidebook (MAG) issued recently by the Bureau of Local Government Finance

(BLGF). However, LGUs do not use these and/or have no capacities to undertake. Thus, in the Philippines; only six LGUs have applied market based valuation of properties and used these in their SMVs.

Very few LGUs have complied with the mandatory provision for regular updating of SMVs every three years. As of June 2013; 62 out of 80 provinces and 114 out of 144 cities are in default in their SMV updating.

The above factors work in combination resulting in LGU assessed values that are way below the true market values – sometimes the difference is 1000%. As basis for property tax determination, these impact heavily on internal revenue generation capacity by LGUs.

Large Scale Land Acquisition

A number of pre requisites to good governance in large-scale investments in rural lands and portions of the public domain are in place. However, there remain inadequacies in implementation, monitoring, and provision of information required by both investors and host communities. Altogether, these have resulted in creating a negative perception on intents of large scale investments thereby undermining its effectiveness as a strategy for stimulating inclusive growth in the rural sector.

Mapping of forest lands boundary has been completed except for the Autonomous Region of Muslim Mindanao (ARMM). However, the mapping and registration of all individual and communal rights within forest lands are still huge tasks that require resources and attention.

Land use restrictions on rural land can generally be identified on the ground for CARP areas, but this is not so for forest lands, ancestral domains and national parks.

Policies and guidelines encourage direct negotiations between rights holders and investors but in most cases, these are not always transparent. Reports of improper procedures in securing free, prior and informed consent (FPIC), lack of full disclosure on the proposed investments, and misrepresentation have been documented.

Between national agencies and LGUs, the information required from investors are not consistently applied, thus creating confusion and opportunities for discretion.

Generally, investment applications receive a response within six months. However, this could take longer with the Department of Agrarian Reform (DAR) if it involves land tenure improvement issues. Other factors, such as community apprehensions, lack of understanding by host communities and limited transparency further delay the process.

Environmental and social safeguards are in place, but there is weak monitoring of compliance.

There are avenues to lodge complaints by affected parties with responsible agencies depending on the nature of the complaint, such as Department of Labor and Employment (DOLE), Department of Environment and Natural Resources (DENR), and DAR. This could be further improved with a common or dedicated lodgment of complaints on matters involving LSLA.

On Forestry

The country's public lands constitute about half of the country's total land area. Large portions of these are classified forest lands, key biodiversity areas and protected areas, and ancestral domains. Regardless of official land classification, these are essentially forested areas, managed to provide ecosystem services, forest production and livelihood, and forest-based industries. The assessment confirmed that while most of the policies are already in place, much could be improved with effective implementation and consistent application; resourcing, and re allocation of resources.

The country is signatory to most important international conventions, but there are limited resources to implement them. These include the Convention on Biodiversity (CBD), UN

Framework on Convention on Climate Change (UNFCCC), Convention on International Trade of Endangered Species (CITES), and Ramsar Convention.

Historically, forest management plans and public funds have focused on increasing forest cover, and rehabilitating degraded forests. Equal attention should be given to providing incentives for forest communities and tenure holders to encourage sustainable behavior.

Forest certification and chain of custody systems are still in their infant stage. A recommendation is to accelerate this process, to improve competitiveness of forest products and forest based industries. These actions should be complemented by effective control of illegal logging and illegal harvesting of forest products, to enable the certification system to be beneficial.

There is a commitment to SMEs, but the country could do more to promote competition, income generation and productive rural employment. With about one third (30 million) of the population living in the uplands, a more positive environment for incentives driven forest management systems is expected to stimulate rural economic growth; provided sufficient safeguards are in place.

FLUP process allows public participation in planning and land use allocation; however, it is not yet widely implemented. The recent moves to integrate the FLUP processes into CLUPs, and enhance FLUP to be more inclusive of the entire public domain (including protected areas, ancestral domains and other reservations); as well as integrated biodiversity, disaster risk, and vulnerability concerns are in the right direction.

There have been some gains in the campaign and enforcement of regulations against illegal logging, hunting, and trade of prohibited wildlife. Efforts at illegal logging could be improved if assessed against domestic supply and demand of wood in the country. Considered good practice is the strong inter and intra agency efforts and multi-agency efforts to combat forest crimes in the Philippines but these are patchy, and not sustainable.

Recommendations to Improve Governance

Addressing the above involve a combination of actions designed to improve implementation of existing policies and procedures already in place. These include:

- Compliance to Local Government Code to regularly update CLUPs and SMVs with concomitant capacity development support to enable LGUs to use the appropriate tools and methods already available. In the case of property taxation, support to LGUs to improve tax mapping, computerization of records and linking with other revenue collection functions can do a lot to improve capacities to generate local revenues.
- Simplify procedures to make more affordable, transparent and participatory process for individualization of collective CLOAs, payments for Miscellaneous Sales Patents, and titling using the Free Patent procedures in partnership with LGUs.
- Support institutions to develop their capacities to carry out their mandates (NCIP, Local Peace Councils, LGUs in use of market based values in SMV updating)
- Pursue current proposals and plans to install the forest certification system, roll out of LAMS, upscaling of PES, implementation of REDD+, and benefit sharing in the use of forest resources.
- Develop new policies to address deficiencies and gaps. These include interim tenure instrument for informal settlers, compensation for loss of rights in PA establishment; and de politicization of SMV updating through the Valuation Reform Act.

Areas Where Philippines is Struggling to Meet Good Governance Criteria (C or D Ratings)

Registry records do not reflect land ownership by women. The country has progressive laws and policies that provide equal opportunities for women. Existing policies likewise

recognize ownership rights of women, however, forms and agency records do not capture gender data thus making it impossible to report on the extent of land owned by women. There is a need to revise judicial forms and titling application forms to reflect gender data and continuously analyze gender disaggregated ownership information.

The practice of informal payments to secure first time titles is very common. While the level of informal payments is low in proportion to formal fees, studies in some provinces revealed the prevalence of the practice, thus acting as a disincentive for mass titling. A more comprehensive study on the extent of the practice in remaining provinces is needed; and appropriate measures implemented to eliminate this behavior.

Except for CARP, there is lack of regular and meaningful monitoring of land policies. Land policies have strong equity objectives. It is essential to institutionalize policies for regular and meaningful monitoring of progress and impact of land policies into equity goals/objectives through NEDA, Philippine Institute for Development Studies (PIDS), or appropriate institution.

Except for CARP, there are serious inadequacies in budget, resources and institutional capacity to implement land policies. These include implementation of the IPRA, the Free Patents Act, and other laws thereby creating serious gaps in achievement and serious delays in the realization of benefits. It is crucial that resources be prioritized to develop capacities and funding to institutions in charge of implementing land policies – NCIP; DENR (titling and cadastral surveys); LGUs through LGU led LAM innovations

Weak land use planning and implementation of land use restrictions.

Land use planning in major cities has been ineffective in controlling the pace, direction and intensity of urban development. As a result, major cities in the Philippines face uncontrolled urban expansion, with services not being able to keep pace with demands. LGUs should be more proactive in urban planning, making sound projections on directions, scope and extent of urban growth so that services and infrastructures can be projected in advance. To address the lack of synergy between the plans of national and local governments, consistency of plans should be observed across LGU boundaries and within provinces and economic regions through a hierarchy of land use policies to better guide local governments.

While there have been active development of new housing units in the largest city, these mainly respond to demand and investments rather than meeting housing needs. Thus, there is still growing informality; urban planning is still unable to cope with urban growth. LGUs should seek to increase their landholdings to give them a stronger hand in leveraging compliance with socially desirable patterns of urban development.

There are wide variations between allowed and actual residential plot sizes due to lack of monitoring. There are a large proportion of land (forests, foreshore), whose actual use are not in line with use plans; signifying a clear lack of monitoring. In addition to improving LGU capacities to monitor land use change; it is important to consider devolving to LGUs, regulation of ownership, acquisition and disposition of properties. It would also help is provinces and their component cities and municipalities be held jointly responsible in regulating land use within their territorial jurisdiction.

In forest lands, a review of the 18% slope criteria in classification of forest lands is in order to consider placing areas below 30% in slope and below as alienable and disposable lands.

There are strong horizontal overlaps in mandates of key land agencies. These include DAR, DENR, LRA, and NCIP, reflecting the many agencies issuing original titles, review and approval of survey plans, and maintenance of land records in various forms. These affect efficiency in service delivery and prohibit access by the public and government agencies to complete and reliable land records. Furthermore, the current state of records and overlapping mandates create confusion among the public and create long standing disputes owing to contradictory rulings issued by the agencies. All these combined create fertile ground for

syndicates, informal payments and additional costs on the part of the clients. In most cases, the 'victims' are the poor and uneducated who are not familiar with procedures and laws.

The most recent DAR-DENR-NCIP-DoJ/LRA Joint Administrative Order (JAO) is a step in right direction. More importantly, it is crucial that priority be given to earlier proposals for the approval of the Land Administration Reform Act (LARA). Successful implementation of this action would constitute one of the pillars of good land governance.

A large number of urban/residential and rural properties are still untitled. It is estimated that approximately 11 million parcels in the Philippines have not been issued titles. In cities such as Alaminos, Pangasinan; the proportion is about 60% of all parcels are untitled. While there have been discussions about the accuracy of such estimates, a more systematic land tenure improvement planning at each LGU would reveal the extent of the problem, after having secured all the records from the land agencies.

For a country with so much informality in land tenure; it is expected that the contribution of the property market to GDP would be much less optimal. The situation constrains the effective functioning of the land market and affects investments in property development. Insecure land tenure likewise exposes the property owners, particularly the poor, to undue risks. On the part of LGUs, having a large proportion of untitled properties result in incomplete tax rolls, thereby affecting their ability to properly collect property taxes.

The study recommends that titling be given a boost, but this would require a good inventory of land records to ascertain estimates and identify propriety areas where there are huge proportions of untitled properties. The titling roll out can consider the streamlined procedures implemented under LAMP and the REGALA Project, done in partnership with LGUs – which stands to benefit most through improved ability to collect property taxes.

There are strong disincentives to registration of land transactions. High transfer taxes and other costs; coupled with perceived bureaucratic processes, work to discourage formal registration of land transactions. In the Philippines, capital gains tax is placed at 6% of assessed or zonal values; and 1.5% documentary stamp tax. Additional costs include the IT fee imposed by RoD with the computerization of registries. Against the international benchmark of less than 1% of the property values; the cost of transfers in the country have been computed at approximately 10% of market value; 62% of assessed value; and 30% of the value reflected in the Deeds of Sale.

Coupled with the large numbers of untitled properties, the situation impacts on the completeness of the registry, the ability of government to collect appropriate fees and taxes, and breeds dishonesty in registration of transfers. It is recommended that a study be undertaken to simulate the impacts of reducing the rate of transfer taxes and other related costs; with the aim of encouraging more property owners to formally register their transactions.

Information on the registry/cadastral is not up to date. This situation arises from the high transfer costs which discourages many property owners from registering their transactions; the high proportion of untitled properties and thus transactions on these properties remain outside the formal system; incomplete cadastral surveys and outdated tax maps. Combined, these result in unreliable land records; high cost of securing accurate records, as clients have to pay for their own research to verify the accuracy, particularly for large investors. These also contribute to delays in the formalization of housing, as it takes time to ensure the records are correct before transactions are brokered between the beneficiaries and third parties. Outdated land records likewise have the effect of reducing overall investor confidence in the registry.

The recommendations related to addressing the causes of outdated land records would have the impact of improving the situation. These include review of transfer taxes and related costs to encourage greater registration of transactions; accelerate titling of untitled properties for greater coverage; completion of cadastral surveys in the country; and improvement in sharing of records between LRA and DENR. The recent initiatives to roll out the land administration and

management system by DENR to all regions would greatly enhance the inventory of records within the agency, and funding support to complete the cadastral surveys are steps in the right direction. However, these actions need to be coupled with greater data sharing between the LRA and DENR. The restrictions associated with the LTCP contract on records sharing have to be addressed for this to be realized.

There are complex processes for formalization of urban housing. Among the available modes for urban housing formalization, on site development is the most preferred by informal settlers, with free hold as the only means available to secure formal property rights. The process becomes complex in light of the low reliability of records from the land agencies, thus causing substantial delays and costs in the purchase of properties by community beneficiaries. For communities willing to relocate, the difficulty lies with the absence of comprehensive shelter plans by LGUs to cater to the needs of the informal urban sector, despite the provisions in the Local Government Code. The result is growing informality in the urban areas, thereby affecting tenure of urban settlers, the values of prime urban properties, and disrupting the land use plans and zoning.

The study recommends considering alternative modes of formalization, such as interim tenure in light of refusal of informal settlers to relocate. This action should be combined with strengthening and fast tracking the Community Mortgage Program. LGUs should be encouraged to develop comprehensive shelter plans and engage in urban housing for the poor and underprivileged. This can be done by identifying in the CLUPs, areas for low cost housing programs, and by engaging in land banking to make available, areas for future requirements of cities.

The public does not capture benefits arising from changes in permitted land use. Sections 240-245 of the Local Government Code authorizes the LGUs to capture about 60% of the cost of public projects benefitting private property owners, in the form of special levy, or what is internationally known as betterment taxes. However, this has not been implemented by LGUs, thereby depriving the government the opportunity to recover portions of the cost of public infrastructure projects. In practice, these are used for private gains, as individuals or corporations who benefit from such investments appropriate such 'windfalls' for themselves. In worst cases, such investments have benefitted certain individuals by influencing the location of public infrastructure.

It is recommended that BLGF undertake pilot studies and prescribe specific guidelines on special assessment for use by LGUs to comply with the Local Government Code provisions. It is also crucial to institutionalize donation as an alternative application of worsement compensation and betterment levy through LGU ordinance.

LGUs have not maximized their internal revenue generation capacity. Use of inappropriate valuation methodologies, lack of regular updating of LGUs SMVs, poor collection efficiency, unclear policies on LGU authority to grant exemptions, result in low levels of internal revenue generation. Only six cities have complied with the Local Government Code provision to use market based valuation in the updating of SMVs despite the issuance by BLGF of the Mass Appraisal Guidebook. This is seen as a huge gap in capacities among local Assessors and Treasurers that need to be addressed with urgency. An effect of this is the use of very low levels of assessed values as basis for compensation of properties in cases of expropriation for local infrastructure projects. Likewise, the highly political process of SMV updating has prevented many LGUs from regularly updating their SMVs. Most LGUs have also exceeded their authorities in granting exemptions from payments of property taxes, in their bid to attract investments. The poor state of LGU tax records, outdated tax maps, non-imposition of administrative and judicial remedies in handling delinquencies, have all resulted in low collection efficiencies. For the period 2003-2010, the average collection rate is only 59%. Finally, the very low proportion of LGU earnings from real property taxes creates a cycle of increased dependence on the IRA,

which in turn create disincentives to increase internally generated revenues. As of June 2013; IRA dependence stood at 80% for provinces; 76% for municipalities; and 43% for cities.

Sort term recommended actions could aid in addressing some of the capacity constraints and improving implementation of existing policies, and are expected to result in limited increases in property tax collections. These include support to LGUs to develop their capacities to use market based valuation, adopt property tax systems and formulate local policies to improve revenue generation. These would require a massive program considering the huge gap across some 1,600 LGUs in the Philippines. Implementation of sanctions for Treasurers for not imposing administrative and judicial recourse to delinquent tax payers should likewise be enforced. Long term actions that could address the systemic issues associated with the above include: (i) refilling of the Valuation Reform Act to depoliticize the updating of SMVs and adoption of market based valuation procedures in the process; (ii) review of levels of transfer taxes to minimize disincentives for under declaration of property values in transactions; and (iii) examination of IRA provisions in the LGC to remove disincentives for generating internal revenues.

The government has no resettlement policy that would define just compensation for socio economic and income losses (small businesses and commercial establishments) arising from public expropriation proceedings. Existing policies on expropriation are varied and inconsistent. The preparation of resettlement action plans (RAPs) is not supported by a national policy, thus only foreign assisted projects have RAPs by the strength of the loan and grant agreements between the donor and Philippine government. Outside of these, agencies have no legal basis to prepare RAPs and payment of adequate compensation. The use of market values and upfront payment in compensating owners of properties subject of expropriation is only guaranteed in national infrastructure projects; thereby creating an uneven application of fairness in compensation. Other types of projects use only assessed values as basis for compensation, and need only to pay 15% of the total value to acquire the property.

These are clear policy gaps that should be given attention in the medium term; as the government increase its investments in infrastructure development to stimulate growth. In the immediate term, some actions should be implemented to improve transparency and monitoring or payments made to owners of expropriated properties. Agencies should be able to develop their own RAPs on the basis of administrative policies until a national law is passed. Concerned government agencies should also make accessible to the public, through their own webs, expropriation data. Finally, agencies involved should engage external monitoring agents to keep track of promptness of compensation, values paid, and other indicators. Over the long term, the government should formulate a national resettlement policy to provide for prompt compensation and entitlements, grievance redress and sustainable livelihood restoration and improvement program. A related action would be amendment of R.A. 8974 to cover locally implemented projects and those implemented by LGUs.

The processes for appeal of land dispute rulings are lengthy and expensive. The study revealed that cases decided by the Supreme Court in 2012 showed that in more than 90% of the cases it took more than 20 years for cases to be resolved with finality. Even cases first filed with the lower courts as far back as 1970 were only decided by the Supreme Court in 2012. In fact, it is commonly acknowledged that land related cases take a very long time to be resolved, in many cases spanning decades, and in some, outliving the parties involved.

Serious reforms in the administration of justice system is warranted to unlock the potential of these properties and minimize the social costs of delays. Organization of court records could also help in monitoring of land cases. In the long term, the setting up of dedicated Land Courts and/or Land Adjudication Boards would need to be considered as option among others, to speed up the resolution of land cases.

Conflicts related to use or ownership rights and directly or indirectly related to land acquisition are relatively frequent; and the inability to address these conflicts expeditiously and in a transparent manner results in long pending disputes.

In the Philippines, large scale land acquisition takes the form of investor agreements with farmers/CLOA holders, forest tenure holders and indigenous peoples communities to make available large tracts of land to support plantations, and other agri forest enterprises. Modest ratings in the indicators and dimensions in these areas are linked with over regulation, overlapping policies and jurisdictions, weak monitoring for compliance, lack of investor incentives, and vulnerability of community organizations.

Conflicts usually arise due to unfulfilled promises, low rentals; noncompliance with FPIC procedures, and/or when IP rights are not recognized. Public institutions involved in land acquisitions are regularly audited, and their reports made public, but these are based on general audit and civil service rules. There are written but unclear provisions in law or regulations regarding incentives for investors and their applicability have to be negotiated on a case by case basis in a way that is often discretionary. Mechanisms to allow the public to obtain benefits from the investment (or investing party) other than compensation (e.g., schools, roads, etc.) are rarely used or applied in a discretionary manner. While procedures to fully cover economic, social, and environmental issues for joint venture agreements in public/community land are in place, these are not implemented effectively. Finally, compliance with safeguards related to agricultural investments is weak and/or inadequately monitored on a regular basis.

The potential for large scale investments in agriculture to spur rural development is limited by the above, thus creating a general negative perception on the intents of the program. It is important to establish standards for benefit sharing that is understood by both the communities and investors; strengthen monitoring systems for compliance with agreements – preferably through an independent entity; and establish a code of ethics for government staff (national and LGU) and private sector for LSLA. It is also important to support capacity development of local communities/rights holders to ensure they are in a position to ask the relevant questions from the investors, demand appropriate rights, and understand their responsibilities and risks. Finally, it is crucial that the capacities of BJS in resolving conflicts related to LSLA be developed to address disputes arising in the first instance.

Incentives such as PES and REDD+ are still in their infant stage in the Philippines. The national policies governing these are not yet fully developed, and implementation has mainly been through pilots only. Thus, their potential to contribute to sustainable forest management and effective management of protected areas has not yet been realized.

Classification of forests into various uses and ownership are not yet clearly defined and demarcated. While the delineation and demarcation of forest boundaries is almost complete; specific uses, tenure and leases within forest lands have not been completely inventoried and registered. The delineation and demarcation of protected areas, while proceeding under a program, lacks the necessary budget and resources to complete in the immediate term. All these information should be reflected in an integrated map showing all the interests in public lands, and made accessible to the public. This program should be initiated as soon as possible to ensure proper allocation and recognition of clear use rights and improve accountability in forest conservation, exploitation and benefit sharing.

Summary

The assessment revealed that the country achieved good governance ratings in enabling laws, policies and procedures – strong and clear land policies. Furthermore, the strong democratic space allows participation and public inputs in development and monitoring of policies and programs. The government commitment to good governance promotes adherence to transparency, public provision of information; thereby enabling the Philippines to achieve best practice standards in the relevant dimensions. Finally, adoption of information technology and

modernization has contributed to good governance – e.g., LTCP – resulting in more transparent, efficient provision of land administration services.

The application of the LGAF has demonstrated too, that it could be a powerful instrument for prioritizing actions and establishing benchmarks for governance in land. Modest governance ratings were given in implementation of policies owing to resource constraints, weak procedures, or simply lack of compliance (weak incentives, ignoring policies); weak monitoring. Thus, for dimensions rated as second best practice, the study has surfaced areas where best practice standards can be achieved by way of addressing procedural and implementation weaknesses of existing policies; increasing the level of resource allocation in certain areas; capacity building and/or institutional development; and those requiring more focused studies to better inform policies, and develop cost effective options.

Addressing dimensions where the country is rated as “struggling to meet good governance criteria” would require more comprehensive measures, improved/new policies, but will address systemic issues. For most of these dimensions, it is clear that addressing the underlying causes of poor governance would require new policies or revision of existing policies; and/or investments over the medium to long term to address huge gaps in coverage.

The above assessment has likewise shown that the beyond improving governance in the identified areas; the proposed actions will have far ranging impacts on inclusive growth, equity, tenure security of the poor, and economic growth in both urban and rural areas. On the part of government, the reform measures would have the effect on the ability to increase revenues that are crucial for fuelling public investments for socio economic development.

It is important to note that the government has already laid out a Lands Sector Development Framework (LSDF) – a 20 to 30 year program that is meant to address the inadequacies in the lands sector. The LGAF reinforces the LSDF by way of establishing clear benchmarks of governance following internationally accepted indicators, that will be useful for monitoring progress over time. Further, the LGAF has clearly identified areas for priority actions that should be given attention in the medium and long term, thus providing a strong basis for more strategic response.

Box 1. Land Governance Reform Agenda

Policy Reforms:

National policy on resettlement

Re filing of following Bills:

- (i) Land Administration Reform Act
- (ii) Property Valuation Reform Act
- (iii) National Land Use Act

Amendment of Local Government Code (further study)

Review of National and Local Property Taxes and Fees

Judicial Reforms in the Disposition of Land Related Cases

Programs

1. Accelerated titling of public lands
2. Upscale LGU led initiatives in local LAM reforms
3. Establishment of a National Spatial Data Infrastructure

Impacts of Weak Land Governance – Social, Economic, and Fiscal Costs of Inaction

The above assessment has confirmed that the costs of inaction would have far ranging impacts on the economy, social protection of the poor and vulnerable, and the government's fiscal position. These underscore the importance of improving land governance, as an effective instrument for addressing the interconnected issues affecting the sector.

The following paints a scenario where there is status quo or delayed action on the indicators and dimensions assessed as "struggling to meet good governance criteria".

The huge gap in titling renders a high proportion of the country's population with weak/insecure tenure. These are usually the poor and vulnerable, such as rural farmers and indigenous peoples. Such high informality subsequently discourages investments and affects land market activity. Thus, the contribution of the property sector to the country's GDP would remain below potential.

In prime urban centers, the growing informality would continue to affect land values, uses and development potential of the cities; in addition to the social unrest normally associated with huge informal settlements.

The persistence of strong horizontal overlaps among land agencies will continue to deprive the public access to reliable, up to date records. The unnecessary redundancies in budgets and staff will also prevail. The situation will continue to affect investment confidence in the registry, huge costs of delays in formalization of rights, and contribute greatly to long - standing conflicts.

Inability to address property valuation and taxation reform measures will perpetuate LGU dependence on the IRA as the main source of funding for local socio economic development programs, as this will reduce the opportunity to collect property taxes essential for development and delivery of government services.

Unresolved disputes will continue to lock away the properties in question out of the land market; create uncertainty and prolong conflicts in land.

Weak support systems for forestry, public land management and large scale land acquisition will restrain rural development, employment and promoting equity and benefit sharing from sustainable use of land and forest resources.

Inadequate mapping, inventory of use rights and tenure in lands of the public domain will continue to constrict investment potential, discourage sustainable management of resources; and sow confusion, thereby leading to more long standing disputes.

All the above considered, there will continue, an environment which creates strong opportunities for syndicates and other professionals to take advantage of the situation for their own benefit at the expense of the poor, landless and the vulnerable.

Surely, the above scenario is not consistent with the current government's thrust of good governance and inclusive growth, with a focus on ensuring the poor and disadvantaged benefit from the fruits of development. On the one hand, the expected benefits of improved land governance reforms would help lay the foundations and essential elements for achieving these objectives.

Box 2. Expected Impacts of Land Governance Reforms

- ✓ More secure property rights
- ✓ Reduced incidence of conflicts
- ✓ Improved socio economic well-being of communities/IP groups
- ✓ Reduced informality in prime urban areas, thus affecting land values, uses and development potential
- ✓ Increased investments in property development, improved contribution of property sector to GDP, revitalized land market activity
- ✓ Improved revenues
- ✓ Enhanced rural development potential

Suggestions on Way Forward

The following actions are suggested to advance consideration of the recommendations presented in this study.

Firm up the formulation of a Land Governance Agenda thru the establishment of a multi sectoral body to review the recommendations vis a vis the LSDF. Such group could form the backbone of what may be called a Land Governance Coalition sharing a common vision of advocating and monitoring actions to address the main findings from the LGAF. It is recommended that in view of the cross cutting concerns of LGAF, an oversight agency senior official be named as the Chair, in alternate with a civil society or a land agency representative.

On the basis of the above, the body or coalition should seek consensus to prioritize the actions for implementation and allocate responsibilities among the key member organizations and personalities. These actions could be categorized as those requiring inclusion in the legislative agenda; those requiring investments to scale up implementation; and those requiring administrative actions or improvement in procedures and systems to provide incentives for compliance.

Present the Land Governance Agenda to the Cabinet/President for adoption. These could be used to update the current PDP and/or used as basis for engagement with development partners through the PDF mechanism.

Monitor implementation through institutionalization of LGAF to track progress in land governance. A repeat of the LGAF could be made in 2016 to establish the achievements undertaken, and use the results to feed into the next PDP of the incoming new President.

To take advantage of the expertise and experience already gained in the LGAF country study, it is recommended that more focused LGAF be undertaken on the following to further investigate the unique issues present in these situations:

- Mindanao LGAF to determine priorities in a regional setting which is currently the focus of development interventions, and yet is abundant in land and natural resources. The rich cultural history of the region would also offer a good backdrop to surface the distinct issues and determine how these impact on land governance.
- More detailed investigation of the large scale land acquisition module is recommended to address the main limitations posed in this study. This could be done in parallel with the Mindanao LGAF. It is envisaged that as CARP is completed in 2016, the challenge in stimulating rural agricultural growth would include among others, providing a suitable environment for LSLA to operate in a way that benefits the rural economy, small farmers, and also contribute to meeting food security.

- Metro Manila LGAF to explore land governance issues in a highly urban setting. It is expected this will offer a different perspective to both the national and Mindanao LGAF; and help provide a model for other cities.

1 INTRODUCTION

1.1 Background and Overview of LGAF

Land is a vital resource for any nation. It serves as the platform for carrying out social, cultural and economic activities. Access to land is an important means for promoting growth and equity and achieving social justice in many countries. The process by which decisions are made regarding access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled are crucial in determining whether the country has what it takes to derive the desired benefits from this limited natural capital.

The Land Governance Assessment Framework was developed by World Bank and its partners to provide a tool for diagnosis of land governance issues, establish benchmarks, and monitor progress over time. It comprises a set of detailed indicators to be rated on a scale of pre – coded statements (from lack of good governance to good practice, A – D). The process helps to establish a consensus and priority actions on: (i) gaps in existing evidence; (ii) areas for regulatory or institutional change; and (iii) criteria to assess the effectiveness of these measures. Thus, LGAF helps put in place a structure and process to systematically track progress in improving land governance as measures are implemented.⁴

Based on country experiences, its implementation has proven that it can serve as an effective tool for surfacing key policy issues and their prioritization. It has also been shown that even in highly complex situations with weak land governance, the technical and participatory nature of the process helped provide an unbiased assessment of the land sector and an agreement on next steps that is backed by stakeholders.⁵

At the time of LGAF completion in the Philippines, about 36 countries have carried out and/or are in the process of undertaking similar studies; with a number of them effectively using the results for broader stakeholder engagement on land issues, and developing policy options for moving forward. In other countries, LGAF results are feeding into land policy development (Georgia, Nigeria and Malawi), design of land projects (Ukraine), land regularization pilots (Nigeria), improving land administration and large scale land related investments (Ghana), and further development of Reducing Emissions from Deforestation and Degradation (REDD+), forestry and indigenous peoples (IP) agenda (Indonesia)⁶. Other countries such as Peru, for example, have set up independent land observatories to keep on tracking progress in the implementation of actions identified from the LGAF.

This document represents the country report for the Philippines. It describes the process for implementation and the country context. The assessment of land governance is also presented, as well as the policy analysis, conclusions and recommendations. The report is intended to serve as a reference guide for government and other land practitioners in non- government organizations, private sector, academe and other groups to help shape the direction, focus and support for the land sector, and how progress in improving governance can be effectively monitored.

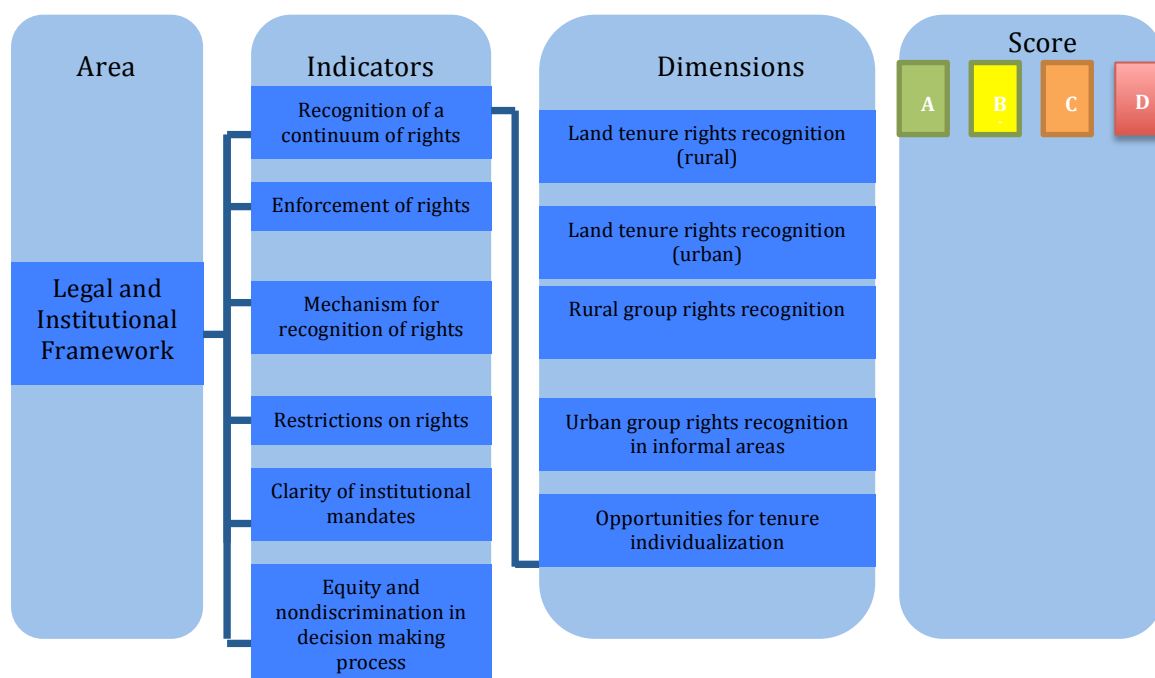
The LGAF consists of five core modules and two optional modules. Each module has a set of indicators to be investigated, which in turn is composed of several dimensions to be assessed. There LGAF structure therefore is hierarchically arranged, from the module to the dimension. A typical structure of dimension is shown in Figure 1.

⁴ Deininger, Klaus; Harris Selod and Anthony Burns. The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector. 2012. The World Bank.

⁴ Ibid.

⁶ Bell, Keith. December, 2012. Land Governance. Powerpoint presentation.

Figure 1. Structure of the Assessment Framework



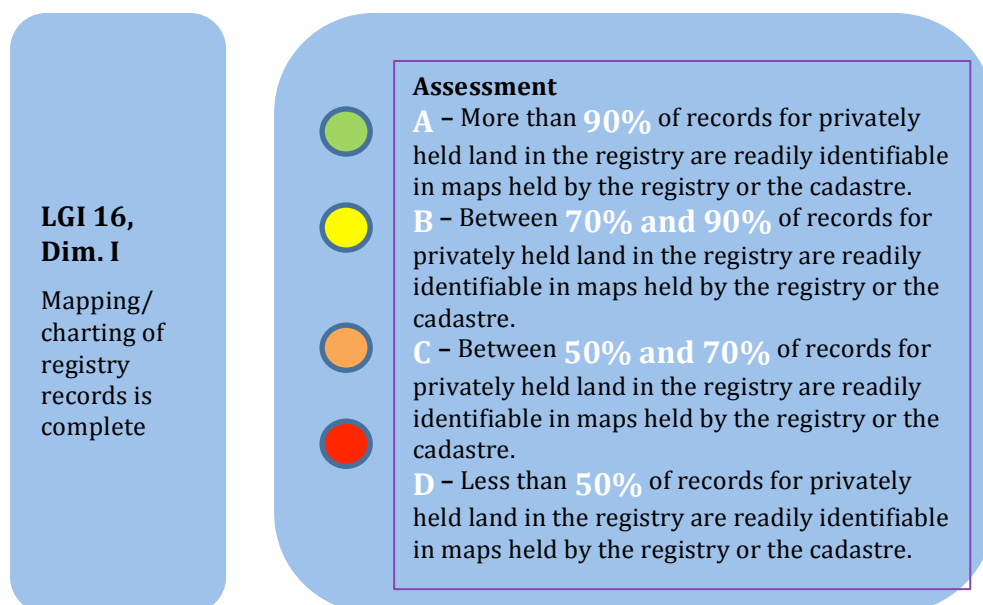
The LGAF consist of a number of pre identified indicators and dimensions; each with a corresponding set of pre coded statements to choose from that corresponds to specific ratings. The selection consists of a four - point scale that ranges from best practice to lack of governance.

Table 1. Rating Scale for LGAF Dimensions

LGI-X, Dimension I	Assessment
Brief description of dimension	<p>A – Dimension description is the best option towards a good land governance scenario.</p> <p>B – Dimension description is generally the second best set of options that make progress towards good land governance.</p> <p>C – Dimension description generally struggles to meet the criteria for good land governance however some attempts are being made.</p> <p>D – There are no attempts in this area that indicate good land governance operates</p>

The description of rating scales and/or coding were based on international experience; and were uniformly applied in all countries adopting the LGAF, thus enabling benchmarking with global best practice standards. Figure 2 illustrates a typical scoring system for the dimension **“mapping/charting of registry records is complete”** under the indicator **“completeness of the registry”** in Module 6 – Public Provision of Land Information.

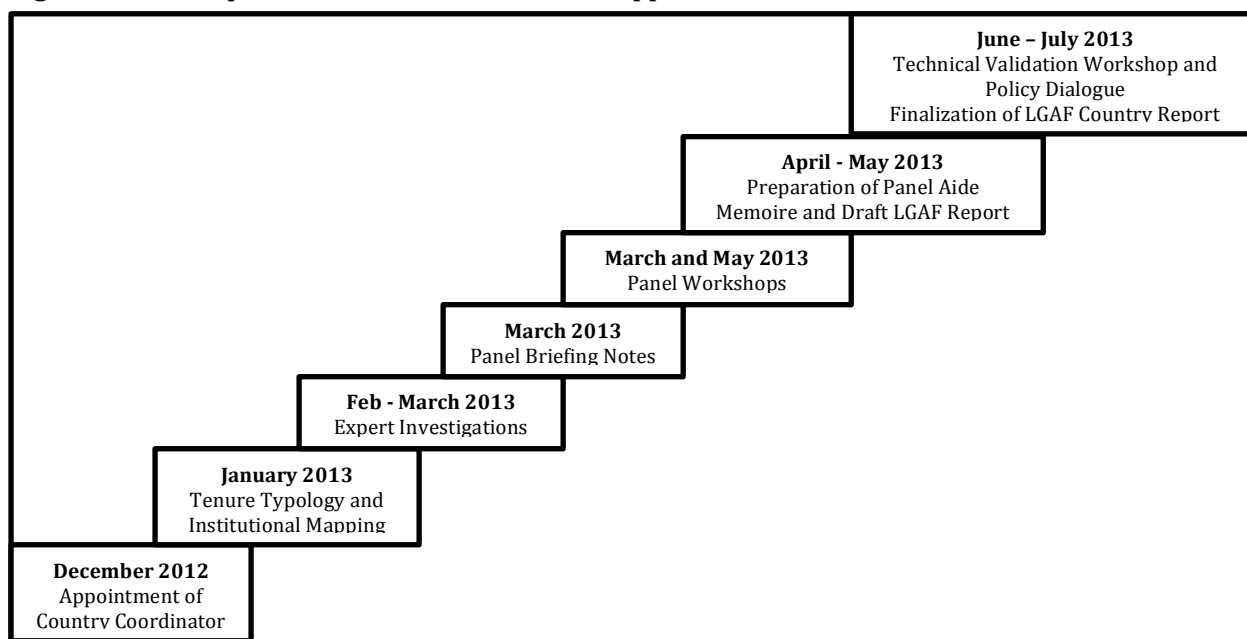
Figure 2. Sample of Coded Statements for LGAF Dimensions



1.2 LGAF Process

As laid out in the LGAF Implementation Manual, the process is led by a National Country Coordinator working with National Experts to prepare background analysis using already existing studies, information and data. Initial assessments were given by the Specialists which were then considered and assessed by panels of national experts from various backgrounds. The aim is for consensus scoring on the dimensions. The results were then validated at a national technical workshop to identify key policy recommendations. The conclusions from the process were then presented to policy makers through a Policy Dialogue. Figure 3 presents the LGAF implementation process in the Philippines.

Figure 3. LGAF Implementation Process in the Philippines



The study began in December 2012 with the selection of the Country Coordinator and was completed in June, 2013. Preparatory activities included coordination with the Department of Environment and Natural Resources (DENR) officials as the agency with the most responsibilities in land management in the Philippines. Introductions by the World Bank likewise helped in ensuring that the Country Coordinator, through Land Equity Technology Services, Inc.; are properly acknowledged as the entity responsible for carrying out the study.

The following describes the major steps taken in the LGAF:

Review of LGAF Definitions and Dimensions

The LGAF contains a set of definitions applied in the analysis. The review found that most of the definitions are applicable to the Philippines. Nonetheless, there were terms in the Manual that refer to more specific circumstances in the country context. For example, rural lands as referred in the LGAF are used to denote all types of lands including forests, national parks, and agricultural lands; whereas in the Philippines, there is a distinction between agricultural lands which are considered private, and public lands in forest areas and national parks. In the assessment, qualifications were made to clearly distinguish how the dimensions were applied.

The review of dimensions involved determination of their relevance to the country situation. A key decision was made whether or not to tackle the dimensions in the optional modules considering the tight budget for the study. In the end, the importance of issues in forestry and large scale land acquisition (LSLA) in the Philippines prevailed. All the dimensions were included in the assessment and a table was produced indicating the possible sources of information for each. These were given to the Experts as guide in their investigations.

Expert Investigations

Primary background studies on land tenure and institutional mapping of land agencies were undertaken by the Land Tenure and Institutions Expert. Data gathering was guided by the instructions and templates provided in the Manual. The tenure typology and institutional map were provided to the Experts for their guidance.

A total of six Experts were recruited for the LGAF:

- Land Tenure and Administration Expert (Mr. Brian S. Garcia)
- Urban Land Use Planning and Development Expert (Professor Ernesto Serote)
- Land Valuation and Taxation Expert (Ms. Lina Isorena)
- Resettlements Expert (Ms. Annabelle Herrera)
- Large Scale Land Acquisition Expert (Professor Roel Ravanera)
- Forestry and Natural Resources Management Expert (Dr. Ernersto S. Guiang)

The investigations were designed to be short; and relied heavily on available data and studies. For some dimensions, primary data were gathered to illustrate the situation from examples, and not to establish a national level trend or data. The outputs of Experts were Panel Briefing Notes on the dimensions assigned. Expert investigations benefited greatly from the studies and wealth of information undertaken under the two phases of the Land Administration and Management Project (LAMP). These pertain to the modules on land tenure, land policy, land administration, and property valuation and taxation.

Panel Workshops

A total of nine workshops were organized for this study. Eight of these were held in March, while the Forestry Panel workshop was held in May, 2013. Due to the short period between the completion of panel briefing notes and the workshops; some of the background materials were not circulated well in advance as planned.

As the draft panel notes were received from the Experts and reviewed by the Country Coordinator, these were submitted for review by the World Bank. These enabled the conduct of the workshops as scheduled.

Aide Memoires were prepared by the Country Coordinator upon completion of the workshops, and circulated to the panel members for comments. These form part of the documentation of the study.

Technical Validation and Policy Dialogue

The Workshop was held on June 4, 2013; and involved key officials from government agencies, NGOs, members from the academe, private sector, professional groups, basic sector groups, and WB representatives. About 70 participants attended the workshop, in light of the broad range of topics covered by the country study.

The Validation Workshop served as an opportunity for wider review of the assessment of dimensions, and confirmed the ratings. It also strengthened the analysis particularly of modules where panel attendance was limited.

LGAF Experts made presentations on the assessment of governance on the following:

- Land Tenure and Administration
- Urban Land Use Planning and Development
- Property Valuation and Taxation
- Expropriation of Properties
- Large Scale Land Acquisition
- Forestry and Public Land Management

A key output of the workshop was a policy matrix containing priority policy recommendations emanating from the assessment of dimensions. These were presented to senior government officials and key stakeholders for consideration.

The Policy Dialogue was held on June 6, 2013; attended by key officials from DoF, DENR, HLURB, DAR, DA, and other agencies. In addition to confirming the main findings, the participants commented on the analyses, and expressed interest on major recommendations. Towards the end, the DENR and DoF officials supported the creation of an informal Technical Working Group to consider in detail the actions necessary to implement the priority recommendations arising from the study.

Other Activities

During the course of LGAF implementation, the Country Coordinator had the opportunity to attend the Annual Land and Poverty Conference in Washington in April 2013. The Philippines LGAF experience was presented during the Pre-Conference Workshop with development partners on April 8, 2013. Valuable insights were shared by other Country Coordinators well advanced in the LGAF process, particularly those who have initiated monitoring of performance in governance, implementation of sub national LGAFs, and are using the results to influence major land policies.

Briefing notes were prepared for one on one meetings with the DAR Secretary, LRA Administrator, NEDA Director General and DENR Secretary during their separate visits in Washington. These meetings with WB officials raised the profile of Philippine LGAF and stimulated interest in the outcomes. An exploratory meeting was also held with the WB Executive Director of the Philippines and the WB Country Coordinator to consider whether the ongoing discussions to formulate the Country Assistance Strategy (CAS) can accommodate additional programs emanating from the LGAF. In June 2013; a briefing was also made by WB with the DoF Secretary, during the G8 Summit.

As a result of the above coordination work, a high level presentation was made with DAR and DENR Secretaries and the LRA Administrator on May 24, 2013 to present the main findings and policy recommendations. The officials acknowledged the conclusions from the study, and expressed support for most of the recommendations.

As a result of linkages established with the Philippine Development Forum, two presentations were made – one in mid February 2013; and the other on May 23, 2013. The first presentation was aimed at providing an overview and background on the study, its scope and schedules. The May presentation discussed the main findings and recommendations. The study was well received, where the members confirmed the assessment results and ratings. The PDF members also appreciated the recommendations, and made suggestions on how the report can be more widely circulated and brought to the attention of policy makers. The development partners present also expressed interest to further discuss the final report, as basis for future engagement with government.

1.3 Scope of Assessment

The country study covered the five core modules including the two optional modules. In all, these involved a total of 30 indicators with 108 dimensions:

Table 2. Scope of Philippines LGAF

Thematic Area	Indicators	Dimensions
Core Modules		
Legal and Institutional Framework	6	27
Land Use Planning, Management and Taxation	5	17
Management of Public Land	4	16
Public Provision of Land Information	4	13
Dispute Resolution and Conflict Management	2	7
Optional Modules		
Large Scale Land Acquisition	3	16
Forestry	6	12
TOTAL	30	108

Core Modules

Legal and Institutional Framework - assessed the extent to which the range of existing land rights is legally recognized. It also reviewed the level of documentation and enforcement, and the cost of enforcing or gradually upgrading these rights. The scope included an examination as to whether regulation and management of land involve institutions with clear mandates as well as policy processes that are transparent and equitable.

Land Use Planning, Management and Taxation – examined land use restrictions and whether these are justified on the basis of the public interest. It also looked at promptness and transparency in the granting of necessary exemptions; as well as the efficiency of land use planning in major cities. Finally, it investigated the transparency of determining taxes on land and real estate, and efficiency in collection.

Management of Public Land - assessed the extent to which public landholdings are justified and transparently inventoried and managed; whether expropriation procedures are applied in the public interest through clear, transparent, and fair processes involving the compensation of all those who lose rights; and transparency and monitoring transfer or devolution of state land.

Public Provision of Land Information – determined whether land information systems provide sufficient, relevant, and up- to-date data on land ownership to the general public and accessibility, affordability, and sustainability of land administration services.

Dispute Resolution and Conflict Management – assessed the existence of affordable, clearly defined, transparent, and unbiased mechanisms for the resolution of land disputes and whether these mechanisms function effectively in practice.

Optional Modules

Large-Scale Acquisition of Land Rights – examined land rights recognition, conflicts and land use planning and practices; incentives, procedures and requirements for investments; as well as environmental and social safeguards.

Forestry – assessed the country commitment to sustainability and climate change mitigation; policies for recognition of public goods aspects of forests and promoting their sustainable use; actions to support private sector to invest sustainably in forest activities; recognition of livelihood aspects of traditional and indigenous forest dependent communities; and forest land use, tenure and land conversion; and effectiveness of controlling illegal logging and other forest crimes.

2 BACKGROUND DATA AND INFORMATION

2.1 General Data and Information

2.1.1 Historical Context of Land in the Philippines

More than three centuries of Spanish occupation of the Philippines has created large disparities in land ownership. Under this rule, the concept of communal use was replaced with the concept of Regalian Doctrine and private individual ownership of lands through the adoption of the Law of the Indies and Maura Law or the Spanish Mortgage Law. During this period, there was massive disenfranchisement of land when the Spanish crown issued royal land grants to colonists who developed large plantations in Luzon, then the nation's heartland. Filipino landowners were dispossessed and their tenant farmers were placed under the authority of new landlords. Such large inequality, accompanied by oppression, fueled the revolt in the Philippines against the Spanish rule.

During the American regime, Filipinos were given greater responsibility for governing their own land. Many Philippine officials replaced Spanish haciendas with their own large plantations, thus perpetuating the inequality in land ownership. The US government attempted to address this land tenure problem through redistribution of many large parcels of church-owned land that had been expropriated by the Spanish in the 16th century through public offerings for sale, in what are now termed as friar lands. However, this program failed to transfer land ownership to the farmers but allowed few Filipinos with resources to increase their landholdings. Thus, this had the effect of prolonging the landlord-tenant relationship that had become synonymous with Philippine agriculture.⁷

Subsequent political changes did little to alleviate the basic Philippine problems of poverty and land tenure. Partly due to its historically high inequality there has long been intermittent incidence of peasant unrest and rural insurgencies in the Philippines. As a result, the issue of land reform (or 'agrarian reform' as more commonly called in the Philippines, of which land reform constitutes the major part) has continuously been on political agenda at least since the early part of the twentieth century.⁸

Policies enacted by the Philippines in the 19th century were all directed at dismantling the skewed distribution of land, and the formalization of land rights but still following much of the Regalian Doctrine introduced under the Spanish era.

Subsequent policies include the Land Registration Act of 1902; the Cadastral Act of 1913; and the Public Land Act of 1936. These policies strengthened the concept of private ownership of what are called alienable and disposable lands (A and D). On the other hand, the Regalian Doctrine was further carried in the 1987 Constitution that upheld that all lands belong to the state unless alienated. This explains the large expanse of public lands that are under the management of government instrumentalities. Perhaps the key exception to this was the Indigenous Peoples Rights Act, which confirmed that lands held under customary law, belong to the indigenous peoples, and were not considered public.

⁷ Greenberg, Lawrence, 1987. **A Case Study of a Successful Anti-Insurgency Operation in the Philippines, 1946-1955.** (<http://www.history.army.mil/books/coldwar/huk/ch1.htm>). Analysis Branch U.S. Army Center of Military History Washington, D.C., 1987.

⁸ Fuwa, Nobuhiko, 2000. **Politics and Economics of Land Reform in the Philippines: A Survey.** A background paper prepared for a World Bank Study, Dynamism of Rural Sector Growth: Policy Lessons from East Asian Countries. (<http://www.h.chiba-u.ac.jp/mkt/LANDREF.pdf>)

2.1.2 Philippine Geography

The Republic of the Philippines is an archipelagic country with a total land area of approximately 30 million hectares, distributed among some 7,100 islands. About 1,000 of these islands are inhabited, and less than one half of these are larger than 2.5 square kilometers. Eleven large islands take up about 95% of the total land area. The country is located around 800 km from mainland Asia and is situated between Taiwan and Borneo. Luzon and Mindanao are the two largest islands.

Based on the Constitution, there are only four major land classifications in the Philippines: agricultural, mineral lands, forest lands and national parks. Lands of the public domain comprising forest lands, mineral lands and national parks constitute about 50 % of the total land area; while alienable and disposable lands, comprising private agricultural lands, residential, commercial and industrial – constitute about 47% or 14.19 million hectares. The rest are still unclassified pending final evaluation.

Customary lands, or what are called in the Philippines as ancestral domains - straddle between A and D and public domains. However, by virtue of the Indigenous Peoples Rights Act (IPRA) which recognized IP rights to these properties; these are classified as private property.



2.1.3 Administration

In terms of its political geography, Philippines is divided into a hierarchy of local government units with 81 provinces as the primary unit. The provinces are further subdivided into cities and municipalities, which are in turn, composed of barangays. The barangay is the smallest local government unit.

The Local Government Code of 1991 devolved many functions and responsibilities to LGUs. Among the land related functions include taxation of properties, land use planning and development, cadastral surveys. LGUs likewise have their own executive and legislative authorities as defined under the Code. Among the authority vested with the LGUs is the power to exercise eminent domain; handed down from the national government.

Other national government functions were likewise devolved in 1991, such as health and agricultural extension services, and some environment and natural resources functions such as solid waste management and management of communal forests. Much of the public land

management responsibilities, including land administration functions were retained by the national government.

The Philippines is also divided into 17 regions with all provinces grouped into one of the 16 regions for administrative convenience. The government bureaucracy works along these regional divides, for ease of providing services. The National Capital Region (NCR) however, is divided into four special districts. All regions, except for the Autonomous Region for Muslim Mindanao (ARMM), have no political power.

All regions except one (Metro Manila) are subdivided into provinces. Each province is headed by a governor. Its legislative body is the Sangguniang Panlalawigan (Provincial Board) composed of the different members from Sanggunian districts, which in most cases are contiguous to the congressional districts.

Regions, aside from having provinces may also have independent cities, classified either as highly urbanized or independent component cities. These are cities that are not under the jurisdiction of a province, and therefore they do not share their tax revenues with the province, and in most cases their residents are not eligible to elect or be elected to provincial offices. Cities that are politically a part of a province are called component cities. Municipalities are always components of a province, except Pateros, Metro Manila, which is independent.

Cities and municipalities are headed by a Mayor. The legislative arm of these units are the Sangguniang Panlungsod City Council) for cities and Sangguniang Bayan (Municipal Councils) for municipalities, which are composed of councilors elected at-large or in some cases, by Sanggunian district. These Councils serve as the local legislative bodies at the LGU levels.

Cities (both component and independent ones) and municipalities are further divided into barangays. The barangay is the smallest political unit. In some populous cities, barangays are grouped into zones and/or into districts for administrative purposes. In rural areas, sitios or puroks are the preferred ways of subdividing barangays for administrative purposes. Each barangay is headed by a Barangay Chairman.

Below barangays are smaller communities known as sitios and puroks. Not all barangays are so sub-divided. Their leadership is not a recognized Local Government Unit and are not elected in regular general elections. These are most common in less populated, rural barangays where you might have several pockets of population spread out over a wider area and surrounded by farms or undeveloped mountainsides, or even on different islands.

Among the regions, MIMAROPA, a cluster of large islands in Luzon; and Davao region; are the largest in terms of land area; although these are predominantly rural regions. These regions also host the biggest areas of the public domain in the Philippines. The National Capital Region is the seat of industry, commerce, business and government, and is considered the most populous, with an estimated population of 11.8 Million as of 2010 census, which is about 12.7% of the country's total population.

2.1.4 Demography

The Philippines has a rapidly growing population. Based on 2010 census, the country's population is placed at 92.33 Million. This is higher by 15.83 million compared to the 2000 population of 76.51 million; thus representing a growth rate of 1.9 percent annually on the average during the period 2000-2010. In 1990, the total population was 60.70 million.

Table 3. Philippine Population

Census Year	Philippine Population (in million)	Annual Growth Rate (in percent)
2010	92.34	1.90 (2000-2010)
2000	76.51	2.34 (1990-2000)

1990	60.70	
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By 2040, it is expected that the Philippine population will reach 141.67 Million; or a population density of 4.72 persons per hectare; against the current density of 3.08.

Compared to other countries in the region, the Philippines has one of the fastest growing population. Indonesia has maintained a population growth rate of 1%; while Thailand has maintained a modest 0.6% growth, compared to the Philippines' annual growth rate of 1.7%. Thus, in 1970, when both Thailand and the Philippines have populations of 36 million each; Thailand has maintained its population in 2009 to 66.5 million; compared to the Philippines' 92.2 million.

Among the 17 regions, CALABARZON had the largest population with 12.61 million, followed by the National Capital Region with 11.86 million and Central Luzon with 10.14 million. The population of these three regions together comprised more than one-third (37.47 percent) of the Philippine population. These figures indicate a rapidly growing urban population within and around the major urban center of NCR – the seat of the country's capital. The least most populous regions include Cordillera Administrative Region (1.6 million); CARAGA region with 2.42 million; and MIMAROPA with 2.74 million.

Among the provinces, Cavite had the largest population with 3.09 million. Bulacan had the second largest with 2.92 million and Pangasinan had the third largest with 2.78 million. Both provinces are considered within the peri urban areas of Metro Manila; and are recipients of spill over growth of the capital.

Six other provinces surpassed the two million mark: Laguna (2.67 million); Cebu, excluding its three highly urbanized cities Cebu City, Lapu-Lapu City, and Mandaue City (2.62 million); Rizal (2.48 million); Negros Occidental, excluding Bacolod City (2.40 million); Batangas (2.38 million) and Pampanga, excluding Angeles City (2.01 million).

The provinces with a population of less than 100,000 persons were Batanes (16,604), Camiguin (83,807), and Siquijor (91,066).

Of the 33 highly urbanized cities (HUC), four surpassed the one million mark. Three of such HUCs are in NCR: Quezon City (2.76 million), City of Manila (1.65 million), and Caloocan City (1.49 million). Outside NCR, only Davao City has a population of more than one million (1.45 million).

2.1.5 Current Economic, Social and Policy Issues in the Philippines

The Philippines is currently at the cross roads of economic growth. After decades of being a developing country, it has recently gained a status of lower middle income country. No longer the "sick man" of Asia, the Philippines has attained modest growths over the last few decades, albeit at a much slower pace than most of its Asian neighbors. A more serious concern is that the benefits of such progress have remained with a few section of the population thus not really making a difference in the inequity that has plagued the country for many centuries. An added dimension to the critical problem facing the Philippines is the widespread perception of massive corruption and questions of political legitimacy.

Thus, the ascent into power of President Benigno Aquino III in 2010, is a reflection of the Filipino aspirations of what he strongly stood for – promoting good governance, and upholding the rule of law.

The Philippine Development Plan of 2011-2016 therefore embodies such ideals. Banking on the concept of inclusive growth, it purports to address the inequities created out of the policies and institutions of the past; and reduce mass poverty that is at the root cause of instability, political alienation, exodus of Filipino talents and skills, among others. It is also aimed at preventing the

“middle income trap” by ensuring that such growth will be sustained, and propel the Philippine economy to the next level.

Indeed, the historical performance of the Philippine economy has been characterized as erratic. An analysis of the Philippine economy as described in the PDP is presented in Box 1.

Table 4. Philippines: Country Basic Facts

Country Basic Facts (Year :2011)	
Population, total (millions)	94.85
Population growth (annual %)	1.7
Surface area (sq. km) (thousands)	298
Life expectancy at birth, total (years)	69
Literacy rate, youth female (% of females ages 15-24); (2008)	98
Prevalence of HIV, total (% of population ages 15-49)	0.1
GDP (2011, US\$) (billions)	224.8
GNI (2011, US\$) (billions)	209,72
GNI per capita, Atlas method (2011, US\$)	2210
Foreign direct investment, net inflows (% of GDP)	1,869,000,000 0.83%
Time required to start a business (days)	36
Source: www.worldbank.org/data/onlinebases/onlinebases.html	

Box 3. Analysis of Philippine Economic Performance (source: PDP 2011-2016)

Since 1981, growth has averaged only 3 percent annually. This is well below the postwar growth rates of several high-performing Asian economies.

With population still increasing at more than 2 percent per year, per- capita incomes have risen only 20 percent in real terms from 1981 to 2009.

Over the same period, by comparison, per capita income increased four-fold in Malaysia, five-fold in Thailand, and 11-fold in PR China, an era in which absolute mass poverty was basically eradicated in these countries.¹

While poverty incidence did decline between 1991 and 2009, the rate of decline has been exceedingly slow. There have been periods, such as between 2003 and 2006, when the poverty incidence actually increased despite above-average economic growth.

For every percentage- point increase in income-growth in the Philippines, poverty incidence falls by about 1.5 percentage points compared with the range of 2.9 to 3.5 for high-performing economies and the 2.5 average for a set of 47 developing countries. Relative to international experience, therefore, Philippine economic growth thus, by far, has largely bypassed the poor.

Compared to other countries in the region, income inequality in the Philippines is high. The Gini ratio, a measure of inequality, is in the mid-40s, whereas in Indonesia and Vietnam the Gini ratio is pegged at 38-39. Moreover, there has been no secular tendency towards falling inequality; movements in the Gini ratio have been erratic at best, declining in the early 1990s, rising until 2000, then falling slightly before leveling off at a still-high level by 2006. In general, it is safe to conclude that the trade-off between growth and inequality that is commonly observed in other countries still raises no policy dilemma in the Philippines, where low growth has been accompanied by increasing or high inequality.

The PDP has identified three major structural underpinnings that prevent the country from achieving inclusive growth. These are:

- Inadequate infrastructure due to weak investments;
- Weak institutions and governance failures;
- Inadequate levels of human development; and

- Poor and degraded state of environment and natural resources.

In terms of governance, the Plan acknowledged that the country also ranks poorly in international comparisons of the enforcement of law and contracts, and competition measures. Furthermore, it notes that:

“Risks to large- scale investments can also arise from the bias, incompetence, or outright corruption on the part of some regulatory agencies and other oversight bodies, as well as lead to a culture of litigiousness, encouraged by misplaced judicial activism. Less sensationally but with not less damage, local governments impose their own share of arbitrary requirements and demands for corruption rents, which take a toll especially on the investment and employment decisions of many small- and medium-scale enterprises.”

In agriculture, the importance of securing property rights in the pursuit of governance and stimulating investments were underscored:

“In agriculture, meanwhile, investment has been stymied by continuing property- rights problems and inconsistent policy. Property rights in the countryside are also insecure. In the remaining areas under land reform coverage, for example, slow implementation creates uncertainty of ownership, both on the side of traditional landowners, and the new landowners, many of whom have yet to receive individual titles to their cultivated parcels.”

The role of improving the state of the country’s environment and natural resources in realizing inclusive growth is recognized. A deteriorated state is felt most by the poor, who depend on natural resources for their livelihood and survival.

The LGAF therefore is quite timely in the Philippine context because it addresses the very issues that the Philippines are trying to confront.

Governance is a key pillar of the current administration, and since the historical roots of inequality has been associated with uneven distribution of land as assets; the results of LGAF are expected to sharpen the country’s strategies in this regard. Moreover, there have been a number of recent actions taking place in the Philippine political landscape, which makes LGAF highly relevant at this point in time.

There is a commitment by the Aquino administration to complete land redistribution by the end of 2016. There is therefore an urgency to fast track the survey, mapping and registration of the individual and collective rights resulting from this process. Related to this, there is an ongoing institutional study on land administration and management that aims to develop options for a post CARP scenario.

There is an active national land policy debates and discussions on a 20 year proposal for a National Land Use Act. The intent is to provide a national framework for land use allocation that will enable the country to meet its demand for housing, food security, environment and natural resources services, and industry. This is expected to put some order in what is currently an anarchic expansion of certain land uses to the detriment of other equally important uses.

A number of related Bills have likewise been filed in Congress that addresses the key issues in the lands sector. These are: the Land Administration Reform Act (LARA) – which seeks to establish a single land agency; the Property Valuation Reform Act (VRA) that aims to improve compliance to regular revision of SMVs, and mandate the use of market prices in LGU's SMV, among others.

The country has completed a very long consultative process at developing the National REDD+ Strategy and the National Climate Change Action Plan. As a result, a strong constituency has been established in support of these programs. These would address the readiness of the country for an eventual REDD+ international agreement; while at the same time put in place the

necessary safeguards and actions to mitigate the impacts of climate change and improve resiliency.

There were projects completed, ongoing and planned in the lands sector that sought to address some of the deficiencies identified. These include the Land Titling Computerization Project (LTCP); which has recently completed the computerization of about 85% of the country's Registry of Deeds offices. The two phases of the Land Administration and Management Project (LAMP) also initiated investigations of the policy and institutional constraints to effective governance and which developed a long term agenda for the LAM sector, called the Lands Sector Development Framework (LSDF). The LAMP projects also tested and rolled out in selected provinces, streamlined procedures for titling in partnership with LGUs, and the computerization of land records within the DENR regional offices. The ongoing REGALA Project shows the benefits to LGUs of local led LAM reforms in terms of improved internal revenue generation capacity, better governance and service delivery, and enhanced planning and local development in participating cities.

2.2 Land Issues

2.2.1 Overview of Land Tenure in the Philippines

In the Philippines, lands are either public domain (State-owned) or alienable and disposable (A&D). Publicly owned lands include classified forest lands, mineral lands, and national parks (1987 Constitution, Article XII, Section 2), and as such are subject only to usufruct and resource utilization rights under certain conditions (Llanto, 2003). Only A&D lands can be privately owned, (which include agricultural lands and reclassified lands) and privately owned lands (based on State grants or laws passed since colonization) These lands are subject to: 1) purchase which vests ownership; or 2) lease which vest only the right to occupy and use for the period agreed upon. In 2003, 64.8% of lands classified as alienable and disposable were privately owned.

Customary ownership rights over ancestral lands are recognized in the Constitution and Indigenous Peoples' Rights Act (IPRA). The Supreme Court ruled that colonizers only acquired dominion over unoccupied or unclaimed portions of the Philippine archipelago, and ancestral lands are deemed private lands based on customary or native title outside the scope of the Regalian doctrine.

Aside from ownership, other forms of tenure for which there are laws governing their practice in the Philippines include lease (of land or residential units), usufruct, and cooperative housing. Intermediate or temporary tenure systems are not provided for by law, but are established on the project level. Examples of intermediate tenure instruments that confer use rights and some degree of security of tenure would be the certificates of lot awards issued by the National Housing Authority (NHA) to beneficiary families, for units in resettlement projects or areas subject to presidential land proclamations.

The primary land tenure systems operating in the Philippines are associated with the country's land classification. Thus, lands of the public domain or state lands are managed through a system granting tenure rights to use and occupy portions of the domain. The Philippines' total land area of about 30 million hectares is legally classified into two major classifications: (i) forestlands, and national parks; and (ii) alienable and disposable lands.

As of 2011, classified forestlands and established national parks covered 15.05 million hectares or 50%; unclassified forestland of 0.755 million hectares or 3% and alienable and disposable lands spanning 14.19 million hectares or 47%. Of the 15.05 million hectares of the public domain, about 4.1 million are not covered by any tenure agreement or instrument, which leaves them essentially under open access conditions. (Table 5).

Most of the country's ancestral domains are located within forest lands. By virtue of the IPRA, these are carved out of the public domain as certificates of ancestral domain titles (CADTs) are issued. On the other hand, once unclassified forest lands are determined suitable for alienation and disposition; these will form part of areas subject to titling.

Table 5. Land Tenure Instruments in Forest Lands⁹

No.	LTI Type	Number	Area (has)
1	Timber License Agreement (TLA)	3	177,085.00
2	Industrial Forest Management Agreement (IFMA)	146	1,034,192
3	Socialized Industrial Forest Management Agreement (SIFMA)	1,872	35,918
4	Agroforestry Farm Lease Agreements (AFFLA)	8	1,275
5	Tree Farm Lease Agreement (TFLA)	75	6,815
6	Forestland Grazing Management Agreement (FLGMA & FLGA)	325	89,634
7	Special Land Use Permit (SLP)	175	889
8	Special Land Use Lease Agreement (SPLULA)	17	87
9	Forest Land Use Agreements for Tourism Purposes (FLAgT)	32	992
10	Special Forest Land Use Agreement (FLAg)	15	2,592
11	Community-Based Forest Management Program (CBFMP)		
11.1	CBFM Agreement	1,790	1,633,892.11
11.2	Other CBFM Tenure (CSC, FLMA, CFSA, CFP, etc.)	3,314	3,200,024.02
12	Approved CADT and CALT	414	4,276,639.25
13	PACBRMA (protected area community based resource management agreements)	58	22,240.03
14	Areas under Other Management Arrangements		
14.1	Philippine National Oil Corporation (PNOC)		266,326.00
14.2	National Power Corporation (NPC)		337,721.00
14.3	National Irrigation Administration		22,243.00
14.4	Co-Management Agreement with LGUs	153	485,536.65
	TOTAL	8,427	11,668,974.71
	Total forestland		15,805,325.00
	Tenured		11,668,974.71
	Untenured		4,136,350.29

There are no comprehensive estimates of the population occupying the forest lands, national parks and other portions of the public domain. In 2000, it was estimated that some 20 Million Filipinos, representing about 26% of the country's population, live in the uplands¹⁰. In the 1980s, a more comprehensive study was undertaken which estimated that about one third of the population live in the uplands¹¹

The country's 14.19 Million of alienable and disposable lands are given to private ownership; and subject to a system of titling, purchases, leases, registration and recording. This includes the agricultural lands subject to redistribution under the CARP.

Figure 4 illustrates the major land classification in the Philippines, while Table 10 shows the major land classifications, responsible agencies and population estimates in these lands¹².

Table 6 shows the land tenure typology in the Philippines, following the LGAF.

⁹ Philippine Forestry Statistics, 2011. Note that this does not reflect the 4.06 million of terrestrial protected areas in the Philippines.

¹⁰ www.fao.org/docrep/009/ag256e/AG256E02.htm.

¹¹ Cruz, Ma. Concepcion, et.al. **Population Pressure and Migration: Implications for Upland Development in the Philippines**, Journal of Philippine Development, 1988, Vol. XV, No. 1-b.

¹² The areas within forest lands and national parks include those claimed by indigenous peoples. The 4.3 Million hectares represent only those portions of ancestral domains where CADTs have been issued.

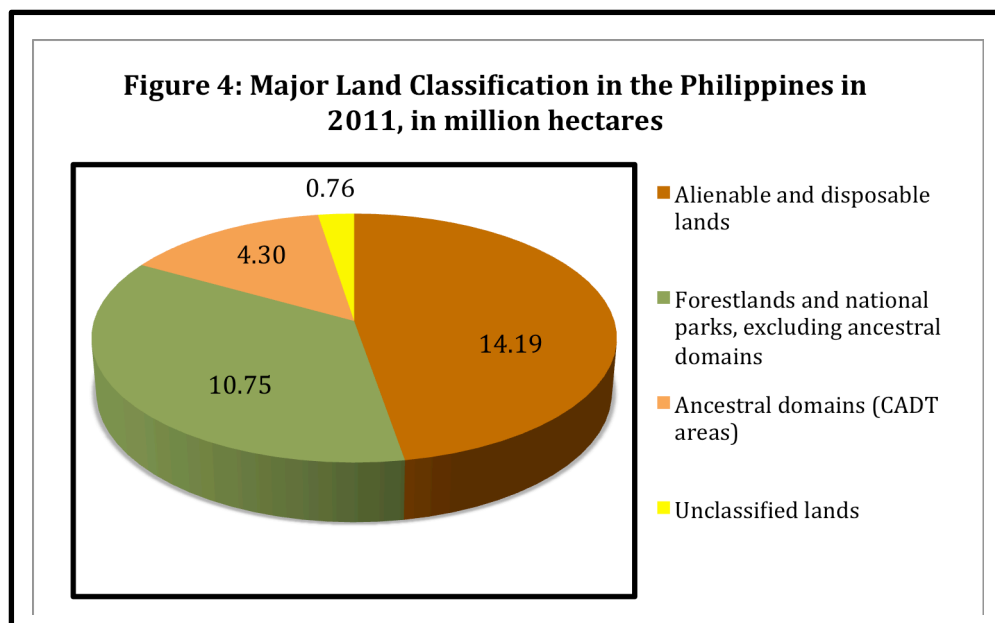


Table 6. Land Classifications, Responsible Agencies and Population Estimates

Land Classifications	Responsible Agencies	Area Estimates	Population Estimates
Alienable and disposable lands <ul style="list-style-type: none"> • Urban and rural residential lands • Agricultural lands • Public alienable and disposable lands 	LRA-RoD for registration Lands Management Bureau for titling of public alienable and disposable lands Department of Agrarian Reform for redistribution	14.19 million hectares	No estimates ¹³
Public lands <ul style="list-style-type: none"> • Forest lands • National parks/protected area • Mineral lands • Other reservations 	DENR and other agencies for watersheds under jurisdiction of other agencies	15.05 million hectares	20 million (estimates)
Ancestral domains	NCIP	7.7 million (estimates)	12-14 million (estimates)

¹³ By deduction, the estimate of population in these areas could reach 58.3 million. That is, total population of 92.3 M as of 2010; minus the 34 Million population of IPs and upland occupants.

Table 7. Summary of Philippine Land Tenure Typology¹⁴

Tenure Type	Legal Recognition and Characteristics	Remarks
Established Tenure in Private and Public Land		
<p>Registered/titled individual property ownership in Urban and Rural Areas</p> <p>Full freehold -Judicial Decrees/Titles -Miscellaneous Sales Patents -Residential Free Patents -delayed freehold titles that have matured or prescribed into full freehold</p> <p>Delayed freehold - Free Patent (Agricultural) -Homestead (Agricultural) -CLOAs (Agricultural – Agrarian Reform)</p>	<p>Legal Recognition: RA 386 as amended (Book II of the Philippine Civil Code – Property Ownership and its Modifications); PD 1529 or the Philippine Land Registration Decree of 1978; CA 141 or the Public Land Act; CA 2259 or the Cadastral Act; RA 6657 or the Comprehensive Agrarian Reform Act; RA 10023 or the Residential Free Patent Act</p> <p>Registration/Recording: Recorded in the Registry as maintained in the local Registry of Deeds offices in cities or provinces</p> <p>Transferability: Yes. Transferable with no restriction for full freehold. Delayed freehold titles have restriction on transfer and mortgages ranging from 5 to 25 years.</p>	
<p>Registered/titled private ownership of groups/communal</p> <p>Condominium Titles (Shared equity tenure) Collective CLOAs (Agricultural – Agrarian) CADT/CALTs of Indigenous Peoples in the Ancestral Domain/Land Claims</p>	<p>Legal Recognition: RA 386; PD 1529; RA 4726 or the Philippine Condominium Act of 1966.; RA 6657; Republic Act 8371 or the Indigenous Peoples Rights Act</p> <p>Registration/Recording: Yes. Titles are registered/recorded in the local registry office</p> <p>Transferability: Yes. Subject to certain restrictions on common areas.</p>	
<p>Unregistered private ownership</p> <p>This refers to land which have qualified with the 30 years prescription and occupant have been deemed to have acquired an imperfect title.</p> <p>In the case of Residential Free Patents the prescription period is 10 years.</p>	<p>Legal Recognition: RA 386 Book II – Civil Code; CA 141 (Title III, Chapter VIII, Section 65); RA 730; RA 10023 (Residential Free Patent); PD 1529;</p> <p>Registration/Recording: Eligible for Registration upon formalization.</p> <p>In cases where patents have already been issued but still unregistered, the actual patents are usually held pending at the RoD. The records of the patents issued</p>	<p>Formalization of these lands can be done either through judicial or administrative process.</p> <p>The judicial process involves confirmation of imperfect titles by filing petitions for ordinary land registration proceedings through the Municipal or Regional Trial Courts.</p> <p>Titling can also be done administratively. Administrative titling through three (3) tracks depending on</p>

¹⁴ Extracted from **Land Tenure Typology, LGAF Philippines Country Study**. January 2013. Prepared by Brian S. Garcia, LGAF Land Tenure and Administration Expert. Land Equity Technology Services, Inc.

Tenure Type	Legal Recognition and Characteristics	Remarks
	<p>are maintained by the agencies which issued the patent. Compliance with the requirements, usually payment of fees, by the grantee shall cause the patents to be registered.</p> <p>Transferability: Possible. Possessory rights are usually transferred informally. The relevant laws recognize the transfer of possessory rights even if informal with the provisions of taking possession/occupation of predecessors-in interest.</p>	<p>the qualification of the land and the qualification of the occupant/applicant. Formalization can be done through Miscellaneous Sales, either by public auction or direct sales, or starting in 2010 through issuance of Free Patents to residential lands.</p> <p>The enactment of RA 10023 was expected to fast-track the titling of residential lands in cities and municipalities which have long been untitled. However, the accomplishment appears to be much lower than expected with less than 100,000 residential free patents issued as of 2012.</p>
<p>Registered government ownership including insular properties and undisposed friar lands</p>	<p>Legal Recognition: RA 386 Book II – Civil Code;</p> <p>Registration/Recording: Presidential Proclamation is required. Unless the occupation has been officially proclaimed said occupation/ownership cannot be registered and recorded. Special patents issued by LMB are registered in the local registry offices where the property is located</p> <p>Transferability: Possible. But any further disposition of any land titled under special patents requires Congressional approval for those named under national government agencies and their respective Sanggunian (local councils) for those under the name of local government.</p>	<p>RA 10023 provides for the issuance of special patents over public land actually occupied and used for public schools, municipal halls, public plazas or parks and other government institutions for public use or purpose. Since the enactment of this law no government lands have been titled under this provision. The implementation of this provision of RA 10023 is currently under review since the Office of the President is concerned that this can be abused by some LGUs.</p>
Temporary or Provisional Tenure		
<p>Leases and rentals in Private Lands</p>	<p>Legal Recognition: RA 386 Civil Code Book II and Book IV (Laws on Obligations and Contracts)</p> <p>Registration/Recording: Possible</p> <p>Leases can be recorded/annotated in the titles at the registry.</p> <p>Transferability: Yes, subject to the lease/rental agreement</p>	<p>There is no requirement and no provision for registration of rentals particularly short term ones.</p>
<p>Leases and Rental in Public Lands</p>	<p>Legal Recognition: RA 386 Civil Code Book II and Book IV</p> <p>Registration/Recording: Possible</p> <p>Transferability: Possible.</p>	<p>With most of government lands unregistered there is also no means of registering long term leases in government lands. In few where ownership is also registered with either a national government agency or local government, long term leases can be registered</p> <p>Tenure instruments are used as means to recognize use and occupation in</p>

Tenure Type	Legal Recognition and Characteristics	Remarks
		public domain. See Table 9.
Emerging Tenure		
Occupation in unclassified public lands	Legal Recognition: None, until the land is classified either as A&D or as forestland then the appropriate tenurial instrument can be issued as appropriate Registration/Recording: No, until classified and formalized Transferability: No, unless formalized	
Informal occupation and use in privately owned and government lands (informal settlement)	Legal Recognition: None. But formalization possible pursuant to the UDHA Law Registration/Recording: No Transferability: No.	Informal settlers in the Philippine context, is defined as households whose tenure status is “rent-free without consent of owners.” UDHA uses the term homeless and underprivileged citizens. The UDHA required the LGUs and NHA to conduct a census of informal settlers. However, only a handful of LGUs conduct regular “censuses” and report their findings to HUDCC. The UDHA also explicitly declares that “squatter evictions will be discouraged as a practice.”

2.2.2 History and current status of land policies

In the Philippines prior to the Spanish Colonization land is held communal in nature. With the barangay as the administrative unit, land is tilled by all, including the datu and his family, and everybody has access to land for their subsistence. These arrangements are normally governed by customary laws and established traditions (Constantino, 1975). The notion of private ownership of land was irrelevant in the barangay social order, being an extension of the family. It was said that during this time, it did not make sense to claim particular tracts permanently, given there was much land available (Francia, 2010). Per William Henry Scott, the first historian to discuss Philippines pre-Hispanic land tenure, “these lands were held in usufruct, not in fee simple – that is to use but not to own or alienate” (May, 2004). These ancestral lands, communal in use by the barangays before the colonization of the Philippines, are now recognized as part of the ancestral domain.

With the Spanish colonization of the Philippines, the concept of communal use was replaced with the concept of the Regalian Doctrine and private individual ownership of lands through the adoption of the Law of the Indies and Maura Law or the Spanish Mortgage Law. When the Philippines was ceded by Spain to the United States of America by the Treaty of Paris, the American introduced the Torren’s System of Registration based on the Massachusetts Law. The Americans also enacted the Friar Lands Act of 1903 by which an estimated 166, 000 hectares of friar lands were acquired for redistribution purposes.

The 1987 Philippine Constitution declares that all lands of the public domain belong to the State (Art. 7, Sec. 2). State ownership is premised on the Regalian Doctrine (*jura regalia*), the legal concept employed by the Spanish Crown in claiming exclusive dominion over the Philippine archipelago upon conquest in 1521. Under this doctrine, title to all lands became vested in the Crown, and private ownership was acquired only through royal grants or decrees. This was continued during United States (US) colonization, the Philippine Commonwealth period under the 1935 Constitution, and upon independence in the 1973 and 1987 Constitutions. The Constitution classifies the public domain into agricultural, forest or timber, mineral lands or national parks (Art. 7, Sec. 3). Of these, only public agricultural lands may be alienated (i.e., subject of private ownership) and further classified by law according to use (Art. 7, Sec. 3).

On November 6, 1902, the Philippine Commission enacted Act 496 known as the Land Registration Act which established the Torren's System of Registration in the Philippines. The Cadastral Act (Act 2259) which was enacted on February 11, 1913 provided for compulsory registration of land titles with private ownership. Under this Act, registration of titles was judicial in nature. The enactment of the Public Land Act of 1936 provided measures by which public agricultural lands can be disposed or alienated through homestead, free patent (by prescription), sale or leases.

In the period after World War II, government tried to contribute to the improvement of land tenure system in the Philippines through the enactment of land reform laws such as Land Reform Act of 1955 (redistribution of large estates) and Agricultural Land Reform Code (abolishing share tenancy arrangements). In 1972, a more decisive land reform law was promulgated through Presidential Decree No. 27 placing all rice and corn lands with more than seven (7) hectares under the redistribution program.

After the historic EDSA People Power revolution the major land reform laws are the 1988 Comprehensive Agrarian Reform Law (CARL) and the 1992 Urban Development and Housing Act (UDHA).

The CARL broadened the scope of rural land reform by including private and public agricultural lands regardless of crops and tenure arrangements, and providing for support services to agrarian reform beneficiaries, including infrastructure, capability-building and credit/marketing assistance. Lands were to be distributed to landless farmers and farm workers within a period of 10 years, but when this was not achieved, the law was extended for another 10 years, and then again extended until 2014. Up to this date, the land reform in the Philippines is still an unfinished business, with a commitment to complete land redistribution under the term of President Aquino till 2016.

The UDHA established the legal framework for urban land reform and housing for informal settlers, slum dwellers and other underprivileged. Key provisions include the prohibition on summary evictions and demolition of dwellings without due process and adequate resettlement, and the provision of government loans to low-income households through the Community Mortgage Program.

On 9 March 2010, Congress passed Republic Act 10023 which aims to facilitate the registration of residential lands in areas which have been classified as public alienable and disposable lands. The law allows the issuance of a free patent requiring only 10 years of actual occupation. It covers all lands zoned as residential areas, including town sites and military reservations. By virtue of this law, any actual occupant may apply for a free patent for up to 200 square meters in highly urbanized cities, up to 500 square meters in other cities, up to 750 in first and second class municipalities, and up to 1000 square meters in all

other municipalities. This law can facilitate the poor people's access to untitled land in the urbanizing areas.

The Civil Code of the Philippines (Republic Act 386) provides the general controlling guidelines on property ownership including guidelines governing the leases and rentals of urban and rural lands. The Rent Control Act of 2009, on the other hand, provides for more specific regulations on rent increases for residential units.

Overall, the legal framework establishing the rules of access to secure tenure in the Philippines favors the legal acquisition of land or housing tenure through ownership or freehold. Rules governing proprietary rights and the transfer of ownership of land, for instance, are much more developed than rules on renting, long-term leases, or usufruct.

3 LAND GOVERNANCE ASSESSMENT

Module 1 - Legal and Institutional Framework

INDICATORS ASSESSED:

- LGI 1 – Recognition of rights – extent to which range of rights is recognized by law
- LGI 2 – Enforcement of rights - whether the rights recognized by law are enforced (including secondary rights as well as rights of minorities and women)
- LGI 3 – Mechanisms for recognition of rights – consistency and affordability of rights recognition mechanisms (formalization) with existing tenure practices
- LGI 4 – Restrictions on rights – justifications of restrictions on land rights
- LGI 5 – Clarity of institutional mandates - clarity of mandates of land institutions, effectiveness of the land administration system in avoiding horizontal and vertical overlaps, and the ability to share land-related information
- LGI 6 – Participation and equity in land policies - equity and transparency of land policy formulation and implementation

LGI 1 - Recognition of Rights

			Score			
LGI-Dim	Topic		A	B	C	D
LGI 1 - Recognition of Rights						
1	i	Land tenure rights recognition (rural) <i>Assesses the extent of the legal recognition of the rights held by households in rural areas.</i>				
1	ii	Land tenure rights recognition (urban) <i>Assesses the extent of the legal recognition of the rights held by households in urban areas.</i>				
1	iii	Rural group rights recognition <i>Assesses the extent to which regulations concerning group rights in rural areas define how user groups can organize themselves, impose internal rules, interact with the outside, and call on external agencies to enforce rules.</i>				
1	iv	Urban group rights recognition in informal areas <i>Assesses the extent to which regulations concerning group rights in urban areas define how user groups can organize themselves, impose internal rules, interact with the outside, and call on external agencies to enforce rules.</i>				
1	v	Opportunities for tenure individualization <i>This assesses whether the law provides adequate mechanisms to accompany the transition of customary or collective tenure towards individualization if so desired by land users.</i>				

Existing legal framework provides for recognition of rights held by more than 90% of the country's rural population.

The country has sufficient policies and laws to recognize rights of more than 90% of the rural population either through a range of freehold, customary rights, forest and protected area land tenure, and even tenants in agricultural lands.

The existing Torrens System of Registration recognizes the rights of individuals in privately held lands. The Comprehensive Agrarian Reform Program (CARP) and related laws allowed the distribution of lands to actual tillers, tenants and other eligible farmer beneficiaries (FBs), subject to a maximum five-hectare retention limit on agricultural land ownership. This law also allowed agricultural cooperatives or organizations to be issued collective certificates of land ownership award (CLOAs).

In the case of public lands, existing laws allow for recognition of rights of actual occupants; either through formal titles in lands which have been classified as agricultural alienable and disposable lands, or issuance of tenure instruments in what are considered to be part of the country's public domain.

For public agricultural alienable and disposable lands, the Public Land Act of 1936 provided measures by which these types of properties can be disposed or alienated through homestead, free patent (by prescription) or by leases. Essentially, the issuance of Free Patent, which is the most commonly used form of disposition, recognizes long term, unchallenged possession through the use of non-documentary forms of evidence.

In lands of the public domain (classified forest lands and protected areas), the rights of occupants are recognized through a range of individual or collective instruments such as community based forest management agreements, socialized industrial forest management agreements, and certificates of stewardship agreements (CSCs). These have a duration of 25 years, which are renewable for another 25 years maximum. There is no clear policy though, on what happens once all such agreements expire. Currently, there are a number of expiring CSCs, and clear guidelines have not been issued. In protected areas, the rights of occupants thereto are recognized provided they have been there prior to establishment. Long term protected area community based resource management agreements (PACBRMA) are issued by the DENR to allow such communities continued occupation subject to certain restrictions.

Existing laws provide for recognition of rights held by urban population (70-90%), except those of informal settlers

The Land Registration Act, Cadastral Act and Property Registration Act provide legislative and policy support for titling of urban lands for residential, commercial and other purposes through judicial titling. Commonwealth Act 141 also includes provision for titling of residential and commercial lands through Miscellaneous Sales Patents. Republic Act 730 allowed for titling of lands actually used for residential purposes without the requirement of public auction (direct sale).

On 9 March 2010, Congress passed Republic Act 10023 which aims to facilitate the registration of residential lands in areas which have been classified as public alienable and disposable lands. Essentially, it extended the titling instrument which used to apply only to public alienable and disposable agricultural lands to residential lands. It also reduced the number of years of actual possession required before a patent can be issued (i.e., from 30 to 10 years). It covers all lands zoned as residential areas, including town sites and military

reservations. By virtue of this law, any actual occupant may apply for a free patent for up to 200 square meters in highly urbanized cities, up to 500 square meters in other cities, up to 750 in first and second class municipalities, and up to 1000 square meters in all other municipalities. This law can facilitate the poor people's access to untitled land in the urbanizing areas; as long as they meet the qualifications; one of which is evidence of long held possession or occupation. The law also provided for titling of lands claimed by agencies of the government through the issuance of Special Patent.

Given the above, the rights of urban informal settlers in private and public lands are not recognized by law. The National Housing Authority (NHA) indicated the magnitude of informal settlers as of July 2011 at total of 1,502,336 families or more than 9 million population which represents 15 % of the estimated total urban population of 62 million at the time.

To provide protection for informal settlers, the Urban Development and Housing Act (UDHA) was enacted in 1992. It established the legal framework for urban land reform and housing for informal settlers, slum dwellers and other underprivileged. Key provisions include the prohibition on summary evictions and demolition of dwellings without due process and adequate resettlement, and the provision of government loans to low-income households through the Community Mortgage Program (CMP). The UDHA also provides for a clear policy and processes through which their rights can be formalized either through on-site development or relocation. This law mandates local governments to conduct land inventory, register informal settlers and allocate land for secure tenure. It also compels housing developers to provide land or funds for social housing.

There are no more recent reliable estimates of urban informal settlers in the Philippines. It is important that their magnitude and distribution be determined so that LGUs can integrate tenure improvement concerns for informal settlers in the preparation of comprehensive shelter plans. It is thus essential for the National Statistics Office (NSO) to fast track the census of informal settlers and incorporate these in the socio economic statistics to serve as basis for planning CMPs and land tenure improvements by LGUs.

The tenure of most groups in rural areas is formally recognized and clear regulations exist regarding groups' internal organization and legal representation.

Considered best practice, Philippine laws and regulations recognize most forms of group rights in rural areas. These include collective Certificates of Land Ownership Award (CLOAs) for agrarian reform beneficiaries, certificates of ancestral domain titles (CADTs) for indigenous peoples, and other tenure instruments in forest lands such as community based forest management agreements (CBFMAs); and PACBRMA in protected areas.

All of these group tenure rights except for the CADT, are governed by duly registered organizations with internal rules and procedures. These organizations, commonly referred to as peoples' organizations or POs, can enter into contracts or legal agreements with other parties for joint venture arrangements, land rentals, and/or benefit sharing schemes. CADT holders also have such rights, but their organization should be registered with government to enter into legal contracts with other parties.

Tenure holders in public forests are given long term access rights for 25 years, renewable for another 25 years. In the case of CBFM, forest occupants are assisted in forming a People's Organizations (POs) which is then given the privilege to occupy, possess, utilize

and develop forestlands and its resources and to be entitled to the sustainable utilization of forest resources within their areas, but with corresponding obligation to protect their areas.

Group tenure in informal urban areas is formally recognized and clear regulations exist regarding the internal organization and legal representation of groups.

Also considered best practice in land governance, recognition of urban group tenure in informal urban areas is possible through the CMP under the UDHA. It is directed at small and medium-sized informal settler communities inhabiting privately owned lands whose owners are willing to sell their property. Presidential proclamations cover informal settlers occupying government-owned lands that have not been used for the purpose for which they were acquired or allocated. Finally, government and private sector employees who want to buy land and/or construct or improve a house apply for housing loans provided by government pension funds and financial institutions.

CMP developed as a result of the need to resolve land tenure problems faced by communities threatened with eviction. Organizations of the urban poor lobbied for the enactment of the Urban Development and Housing Act in 1992, which established legal safeguards against forced evictions and mandated the implementation of social housing programmes for informal settlers. This law gave stronger legal basis and additional incentives to presidential land proclamations and programs such as the CMP. Given that the CMP was designed to be a demand-driven approach, it is the community needing assistance which decides to participate in the programme and initiates the moves leading to such participation.

Opportunities exist for tenure individualization of collective rural and urban group rights, but the procedure is costly and takes a long time to complete

In the rural areas, opportunities exist for tenure individualization of collective CLOAs and CADTs. The subdivision of collective CLOAs into individual CLOAs for agrarian reform beneficiaries (ARBs) require the conduct of further documentation of ARBs and they have to undergo an inclusion and exclusion process, conduct and approval of parcellary survey, and the issuance and registration of individual CLOAs. This could prove to be a difficult and expensive process, particularly the survey and registration of individual rights. DAR provides a very small budget for surveys that is considered way below the tariff prescribed by Surveyors. The process also involves subdivision survey review and approval at the DENR, which usually take a long time to complete.

The demand for individualization is increasing among LGUs, who have concerns that the presence of collective CLOAs have prevented them from collecting the appropriate amount of property taxes, since it is not clear who and how payments can be apportioned among the members. In the interest of strengthening individual rights, a few LGUs have started to provide assistance for the subdivision of collective CLOAs, in many instances shouldering the expenses associated with surveys and registration.

Individualization of communal rights is provided for under section 12 of the Indigenous Peoples Rights Act (IPRA). However, the law that applies would be the Commonwealth Act 141 or the Land Registration Act 496. Thus, only a few have availed of this provision, since it essentially runs counter to most common customary laws of communal ownership. Only 17,293 hectares have been covered by 257 certificates of ancestral land titles (CALTs).

In the urban areas, tenure individualization is possible only after the community has fully acquired the property under the CMP. Amortizing owners under the CMP or of resettlement lots and/or housing units enjoy secure tenure without the right to sell the subject lot or

housing unit. This restriction is contained in legally binding contracts. But while they cannot sell their units/lots, amortizing owners cannot be evicted and therefore virtually enjoy full tenure security. Once the housing loan is paid in full, former informal settlers who have either become beneficiaries of resettlement programmes and the CMP acquires a freehold or a full title which is the highest form of tenure. With full ownership comes the right to sell the land and/or housing unit.

LGI 2 - Enforcement of Rights

			Score			
			A	B	C	D
Enforcement of Rights						
2	i	Surveying/mapping and registration of claims on communal or indigenous land <i>Assesses the extent to which boundaries to communal land have been surveyed / mapped and the communal rights registered.</i>				
2	ii	Registration of individually held land in rural areas <i>Assesses the extent to which majority of individual properties in rural areas are formally registered¹⁵</i>				
2	iii	Registration of individually held land in urban areas <i>Extent to which majority of individual properties in urban areas are formally registered.</i>				
2	iv	Women's rights are recognized in practice by the formal system (urban/rural) <i>Extent to which the <u>tenure rights of women are enforced through the registration of land in their names or jointly</u></i>				
2	v	Condominium regime that provides for appropriate management of common property				
2	vi	Compensation for loss of rights due to land use changes				
2	via	Rural to urban conversion				
2	vib	Establishment of national parks/protected areas				

Customary rights are recognized by law, but coverage needs to be improved

The recognition of customary rights by indigenous peoples (IPs) is strongly protected by the Constitution and more specifically through the Indigenous Peoples Rights Act (IPRA). Following this law, the National Commission on Indigenous Peoples (NCIP) has undertaken a program of survey, mapping and registration of ancestral domains with the aim of issuing a certificate of ancestral domain title (CADT). Since the program started in 2002, a total of 158 CADTs have been approved and registered covering 4.3 million hectares. In addition, the NCIP has also approved 257 certificates of ancestral land titles (CALTs), covering some 17,293 hectares. Combined, these represent about 56% of the total area occupied by some 12-15 million IPs in the Philippines. This is still below the 90% coverage, which is the accepted LGAF standard of best practice.

There has been a slow down of CADT registration since 2012; where only 2 CADTs were approved, compared to the period 2008-2010 period where as high as 45 CADTs (2009) with an area of more than 1 million hectares had been approved. Approximately 3.4 million hectares of ancestral lands are either undergoing social preparation, survey or on process

¹⁵ 'Registered' does not necessarily mean that the final certificate or title has been issued. 'Registered' may mean that the rights are recorded unambiguously in the land administration system and there are generally few disputes over the recorded information.

for approval of CADT or CALT. The 2009 draft IP Master Plan targeted the completion of the remaining more than 3 million hectares in five year time.

Acceleration of CADT issuance is affected by tribal boundary conflicts, limited funds to undertake the necessary surveys; and issues related to overlaps with other tenure rights. In January 2012, the NCIP, DENR, DAR and LRA/DoJ signed a Joint Administrative Order suspending the registration of all CADT applications which are subject of overlaps with DAR and DENR; until such time that these have been validated in the surveys, and appropriate exclusion processes have been undertaken to take these out of the CADT, or annotate the existence of other long term tenure instruments in the registration of CADTs.

In the face of continuing threat to ancestral lands; and the need to find suitable areas for agricultural investments for food security, the mapping of registration of the remaining ancestral domains is an urgent concern.

A large proportion of individually held urban and rural parcels are not registered

Despite the existence of Public Land Act since 1936; there remain large portions of individually held land in both urban and rural areas that are not registered. Estimates vary greatly since there is no complete inventory of untitled public A and D lands. The time taken between cadastral survey to record the extent of claims by land holders and the processing of individual properties has allowed informal subdivision, transfers, mortgages on these properties even prior to titling thereby making it more complicated as titling gets further delayed. A more comprehensive study undertaken under the Land Administration and Management Project Phase 1 (LAMP1) estimate that that only 54% of an estimated total 24.2 million parcels are titled (13,051,132 parcels). Of these 70% or 9.1 million are residential.¹⁶ Thus, there are about 11.132 million parcels that are still to be titled. City and municipal level mapping conducted as part of the study also indicates a range of between 0.9 – 34% untitled lands in the urban centers of the Philippines. The mega urban areas of National Capital Region, Cebu and Davao reported less than 20% untitled lands. With the enactment of Republic Act 10023, the DENR has been able to title at least 100,000 residential lands in 2011 – 2012. It is safe to assume that at least 50% of individual lands in urban areas are formally registered.

Any country with so much wealth remaining informal, can expect that the economy would have a limited contribution from the property sector.

The constraints to titling have been assessed and addressed in some ways. Under the two phases of LAMP, expedited procedures for processing of titles were tested and rolled out in a few provinces. These include simplifying the requirements and more reliance on non-documentary forms of evidence to recognize long term, unchallenged possession. Modifications to the procedures have likewise been made to provide for stronger partnership with LGUs, thereby reducing the cost to the national government, at the same time enhancing the ability of LGUs to properly collect property taxes. More recently, Republic Act 10023 was enacted, paving the way for streamlined processes for titling of residential properties within size limits; and reducing the formal fees that have to be paid. The DENR has also recently allocated substantial investments in the completion of cadastral surveys; however, this does not extend to titling of surveyed properties.

In addition to securing ownership for the remaining 46% of A&D land parcels, LAMP has proposed in the land laws and the tenancy study reports that secondary rights be

¹⁶ Philippine – Australia Land Administration and Management Project. **Land Tenure Study**. 2004

registered, such as long term leases. The use of the land tax declaration certificate as a proxy for a title deed is very extensive (21.5 M less 13.1 M, or 8.4 Million parcels) in the rural areas. This fact when seen in the light of experience in LAMP land titling municipalities in Leyte where the SNS (boundary adjudication document) is perceived as providing good evidence of land tenure, should lead policy makers to re-think the traditional approach to land titling in the Philippines, so that the whole country could enjoy tenure security in a reasonably shorter time-frame and at a reduced cost than otherwise will be the case. The case is different however, in the urban areas, where city dwellers and informal settlers have preference for formal titles. The issuance of intermediate instruments would have to be tested to improve efficiency and cost effectiveness in recognition of long term rights.

Women's land rights are recognized, but are not properly recorded in the registry

While the law does not discriminate the registration of properties in the name of women owners either individually or jointly; in practice, titles are issued in the name of the head of the family, usually the male member. Under LAMP, such practice has been rectified, such that more detailed investigation of whether possession as acquired through the male or female spouse, and subsequently recorded. However, this is not widely implemented in other areas outside of the LAMP covered provinces.

Moreover, the fact remains that no gender data are available on the ownership of lands titled through judicial means (i.e., Original Certificate of Title and Transfer Certificate of Title). This is because the land records database of the Register of Deeds (ROD) are not gender-disaggregated. The process of title registration does not require the identification of sex/gender of the title holders. Gender- disaggregation of land records is also difficult for all types of land titles – both administratively and judicially issued – because land tenure judicial forms do not bear the sexes of the owners -- sex-disaggregation at this period relies merely on the sounds of the names of holders – and do not indicate the nature of ownership of lands titled to married individuals (i.e., individual or conjugal properties). To determine the true extent of any gender bias, would require the RODs to keep a record of gender data for ownership of all parcels and to keep it up to date as transfers occur.

Common property under condominiums is recognized and there are clear provisions in the law to establish arrangements for the management and maintenance of this common property

Republic Act 4726 or the Philippine Condominium Act of 1966 provides for clear policies on the management of common property in condominiums.

Section 5 of the said law defines condominium as an interest in real property consisting of interest in a unit and an undivided interest in common, directly or indirectly, in the land upon which it is located and other common areas of the building. Further, the law specifies that title to the common areas, including the land, may be held by a corporation specially formed for the purpose. in which the holders of interest are automatic members. to the exclusion of others, in proportion to the appurtenant interest of their respective units in the common areas.

There is compensation for loss of rights due to rural to urban conversion, but not in establishment of protected areas

Current policies do not provide for compensation for loss of rights due to land use changes resulting from the establishment of protected areas; since the areas subject to these are essentially part of the public domain. Occupants therefore, do not have secure rights, unless they have tenure instruments prior to establishment. Nonetheless, in all cases, there are

legal recognition of prior rights, such as community based forest management agreements, mining exploration permits; and in practice, these are allowed to expire until their full term. However, economic activities may be affected if these are not compatible with conservation objectives. For communities without tenure, these are formalized through a process of review and issuance of community based protected area resource management agreements, which allow them to continue their occupation, enjoy the benefits of sustainable resource use compatible with protected area management, for a period of 25 years.

In the case of rural to urban conversion to residential, commercial or industrial purposes, the process goes through a rigorous process by DAR, upon approval by the LGU of a zoning ordinance, specifying the reclassification of the lands. These processes can also happen in private agricultural lands, in which case, there are direct negotiations between the owners and buyers. Farmers affected can also enter into joint venture arrangements with corporations, and they can jointly apply for conversion. The proliferation of large subdivisions to meet urban housing demand, have mainly been done through these conversions, or in the parlance of LGUs, changes in zoning. The law provides for disturbance compensation equivalent to five (5) times the average of the gross harvests on the landholding during the last five preceding calendar years or a certain percentage of the converted land, whichever is higher, as determined by DAR.¹⁷

The more important issue however, is the extent to which such conversion may be allowed all throughout the Philippines, the location of such land use changes; and their overall effect on the total food security of the country. These issues are addressed in the proposed National Land Use Act, which has been in Congress for about two decades. It is hoped that there will be better rationalization of land use changes, such that these do not necessarily affect the ability of the country to meet its land requirement for various uses.

LGI 3 - Mechanisms for recognition of rights

LGI-Dim	Topic	Score			
		A	B	C	D
Mechanisms for Recognition					
3	i		Yellow		
3	ii	Green			
3	iii				
	iiia	Green			
	iiib		Yellow		
	iiic				Red
3	iv		Yellow	Orange	
3	v			Orange	
3	vi	Green			

¹⁷ R. A. 6389. Code of Agrarian Reforms of the Philippines. 1971

¹⁸ Rating is between B and C. Amount of informal fees is "not significantly less" than formal fees but generally not equal to the formal fees. The score given therefore was between B and C.

Policies and procedures allow the use of non-documentary forms of evidence to obtain recognition of a claim to property along with other documents

Although still considered second best practice, there is wide use of non-documentary forms of evidence along with other documents to support a claim. These have the same strength as the provided documents.

Current DENR processes for administrative titling allows for the acceptance of testimonial evidences where no documentary evidences are available. Testimonial evidences as contained in a Joint affidavit of two disinterested person or adjacent property owners can be executed to support the application¹⁹.

The DAR process for identification of agrarian reform beneficiaries is also not fully dependent on documentary form of evidences.

In the recognition of ancestral lands, proof of claims include the testimony of elders or community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners. Any one (1) of the following authentic documents is recognized:

- Written accounts of the ICCs/IPs customs and traditions;
- Written accounts of the ICCs/IPs political structure and institution;
- Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;
- Historical accounts, including pacts and agreements concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs;
- Survey plans and sketch maps;
- Anthropological data;
- Genealogical surveys;
- Pictures and descriptive histories of traditional communal forests and hunting grounds;
- Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and
- Write-ups of names and places derived from the native dialect of the community.

Legislation exists to formally recognize long-term, unchallenged possession in public lands

There is strong recognition of long-term unchallenged possession under Philippine laws. However, all these apply only to public lands. Adverse possession of private lands is not recognized under Philippine laws. What is duly recognized however, is the long held right of the private property owner.

Commonwealth Act 141 recognizes 30 years possession either by himself or through his/her predecessors in interest, portions of public agricultural lands subject to disposition.

The Civil Code on the other hand, recognizes 10 years possession in good faith, and 30 years possession in bad faith.

The most recent legislation, that of Republic Act 10023 or the Residential Free Patent Law, recognizes continuous possession of 10 years to support a claim.

¹⁹ DENR Manual of Land Disposition.

In the case of ancestral lands, occupation since time immemorial is recognized under the Constitution, and the IPRA.

Formal fees are not deterrent to first time registration

Among all the titling options, the administrative process (Free Patent, for both agricultural and residential) is more widely used since it is more streamlined and entails the least amount of fees; in both cases not exceeding 0.5% of the property value. Titles issued under this mode however, carry a five year restriction on transfers and mortgage. The relevance of such restriction should be reviewed in light of the requirement of 30 and 10 years possession under the CA 141 and RA 10023.

For residential properties, the Free Patent has limited application to areas not exceeding 200 sq. m and those that are zoned residential in the land use plans of LGUs and actually used as residential. Properties outside of these will have to be titled either through Miscellaneous Sales or Judicial titling.

Miscellaneous Sales Patent require the claimant to repurchase the property by paying a certain proportion of the assessed value. This mode of titling therefore is more costly on the part of the claimant; estimated to be less than 2% of the market value; which is still considered second to best by LGAF standards. Properties acquired through MSP carry the same restrictions on sale and mortgage as in Free Patent issued titles.

While judicial titles do not carry with them any restriction upon issuance; it is the most expensive mode of first time registration; exceeding 25% of the market value of the property. This is due to the payments that need to be made to lawyers. RDs, Local Assessors and DENR Land Officers and Clerk of Courts estimate the cost to be not lower than P 150,000 per parcel.

Experience from LAMP1 confirm that administrative titling, mainly through the Free Patent mode, can be completed in two months in agricultural areas; and about much faster in residential areas (based on REGALA experience). Likewise, the testing of titling procedures undertaken in LAMP1 attest that the judicial titling mode is very complex and takes a long time to complete. In the case of parcels in Leyte, two years was not enough to complete the entire process of judicial titling, as this require the Office of the Solicitor General to file the cases, and several appearances in courts.

For other types of urban lands such as commercial and industrial lands, the policies for appraisal and processes need to be reviewed to facilitate titling.

There are informal fees that need to be paid to effect first time registration

Cases of payment of informal fees, while quite common in practice, are seen as not very significant overall, on the average not exceeding the amount of formal fees. In some places however, the amount could be significant, and has historically been regarded as one of the key disincentives to first time titling, particularly on demand.

While the proportion of informal fees is against formal fees is a good measure of governance, how widespread the practice is among title applicants is a serious concern. It is common knowledge that rural titling has been beset with too much delays, informal payments, and opaque procedures, particularly the sporadic processes adopted before the introduction of systematic procedures. These were widely documented in a number of studies undertaken under LAMP1 and LAMP2.

In a study undertaken in Leyte province under LAMP2 on the cost and time to issue titles under the Free Patent mode of titling of agricultural lands, the following key findings emerged²⁰:

- More land claimants under the sporadic – regular titling procedures had to follow up their application, and incurred the highest expense compared to applicants under the LAMP systematic titling procedures and under the comprehensive agrarian reform program (CARP);
- Of the composition of costs incurred in following up of applications, those under the sporadic regular procedures had to pay an average of Php 330 (US \$ 8.25) for tips to employees, which constitute about 43% of the costs incurred;
- For about 40% of respondents under the sporadic regular titling procedures, there was no need to follow up on their applications. They hired or paid somebody to do this task for them. The average amount spent per lot was P 9,382.35, (US \$ 234) or equivalently, P 0.82 per square meter. Payments were made to friends (4), surveyors (2), relatives (2), and an employee at the assessor’s office. The others (7) did not identify the person to whom payments were made. (See Table below).

In a similar study undertaken in the provinces of Bohol and Bukidnon, the same trend emerged²¹:

- 39% of the responses for CARP said they followed up on the application while majority of the respondents for LAMP (60%) said that they did nothing and just waited for the notice of release for their land titles.
- A significant number of applicants under CARP (9%) revealed that they gave gifts and services to inspectors/employees of the government. It is significant to note that none of the respondents from LAMP2 had to go through this experience to get their titles.
- CARP applicants had to spend as much as ten times on the average for application fee (Php 500 to 600, when the official application fee is only Php 50); compared with their counterparts under the LAMP2 systematic adjudication procedures.
- With respect to composition of costs, CARP applicants had to spend for the services of Surveyors while applicants under the systematic titling procedures did not spend for this item.

The systematic titling is now more widely used in a number of provinces – Leyte, Bukidnon, Bohol, Ilocos Norte. This means the regular sporadic titling on demand for agricultural areas is still applied but only in areas where there is no roll out of LAMP. A number of LGUs have likewise adopted the systematic titling approach, but combined with tax mapping processes, such as those initiated under the LAMP2 Innovation Support Fund.

Experiences from Bayawan, San Carlos, Legazpi and Ilocos Norte indicate that the fastest time for new OCTs to be issued under the LTCP is 4 months. Under the Bayawan CLAIMS Project Systematic Titling, some patents are still pending registration two years after transmittal to the RD. Some property owners who want to fast track the registration are forced to deal with the payment of facilitation fees to get their OCTs in much faster time.²²

In Olongapo City, several property owners paid thousands of pesos to some personnel of the CENRO and local assessor’s office to prepare sketch plans thinking that it can already be

²⁰ Study on Cost and Time to Issue Titles Under Systematic and Sporadic land Titling Procedures, Research Grant under LAMP2. ALICIA A. BALAGAPO Gabino P. Petilos, Ph.D., Manuel R. Espina, Ed.D., Malaquias A. Conde, Ph.D., Marcial M. Monge, D.M., Leonardo G. Oñate, Ed. D. Leyte Normal University, August 2008.

²¹ LAMP 2. Study on the Cost and Time to Secure and Issue Free Patent Titles under LAMP2 and DENR-CARP funded Titling Procedures, June 2010.

²² Interviews with clients of RoD Dumaguete City

used to support their Miscellaneous Sales Applications.²³ Individually the facilitation fees paid are not really that much, ranging from a few hundreds to a couple of thousands. But if these informal fees paid to facilitate completion at various stages of the process are added up it can be significant in value. For those who have more patience however and are willing to wait the process can still be completed even without payment of facilitation fees.

Geodetic Engineers and Lawyers who offer their services for titling of lands intimated that they usually already factor the cost of informal fees that they anticipate they will have to pay for when they quote their rates to clients. The fees go through all agencies involved in the titling/registration process - from the local assessor's to DENR to BIR and RDs.

The lack of general knowledge of procedures, the complexity of processes, among others, have contributed to clients preferring to make informal payments to facilitate titling. This increases the real cost of titling on the part of applicants and therefore discourages people to be part of the formal system.

While it is clear that reports and feedback reveal the prevalence of informal payments in first time registration on demand, more regional data is needed to provide better assessment. The results could then be used in monitoring this governance dimension in a national titling roll out.

The requirements for formalizing housing in urban areas are not clear, straightforward, or affordable but many applicants from informal areas are managing to satisfy the requirements.

In the Philippines, the ultimate meaning of formalization is “converting squatters to the status of freeholders or titled property owners”. There are four modes of formalization pursued by the government: 1) relocation or resettlement with secure tenure on the new site; 2) Outright purchase or expropriation by the local government of private estates illegally occupied and resale of the acquired property to the occupants thereof on easy terms; 3) comprehensive slum upgrading with secure land tenure usually on government-owned land that had been illegally occupied; and 4) CMP of the National Home Mortgage Finance Corporation (NHMFC) which involves land acquisition, site development, and house improvement by organized informal settler communities with loan funds initially provided by originators who are in turn reimbursed by purchasing the mortgage by the NHMFC, a government agency. The subject site may be already occupied by the beneficiaries or may be located elsewhere. Fund originators may include local government units, national government agencies, non-government organizations, socio-civic organizations, or private banking institutions. The first three steps involve a very long and protracted process, and entail the most expense by the government. The CMP is considered the most affordable and accessible, yet is beset with many difficulties.

The requirements for applying for a CMP loan are spread over three to six steps depending on site circumstances namely, 1) release of purchase commitment line (PCL); 2) site development; 3) vertical development; 4) community organization; 5) letter of guarantee (LOG); and 6) mortgage takeout. The length of time it takes to complete the requirements ranges from two years to four years. The delays may be attributed to the difficulty of securing the necessary documents. Reportedly, delays are also caused by changing requirements with each changing administration.

²³ Interviews with clients of DENR, Olongapo City

In a case study by Yap, et.al.²⁴; it was clearly documented how the CMP process can become laborious and protracted. This is because of poor records of agencies, thus creating confusion on the identity of real owners of the property where the informal settlements are located. In the said study, it took four presidents and about 40 years, and yet the community has not been successful in acquiring the property. The same is true in the case of experience of LAMP in Quezon City, where informal settlers are preyed upon by syndicates capitalizing on the many agencies people have to deal with, the unorganized records of these agencies, and the informal fees that people have to pay to secure accurate records, information and processes.

Because no other forms of tenure are used by the government to formalize informal settlements except by freehold, those who cannot afford the cost of acquiring property remain property-less and are in constant threat of eviction or dislocation. To be sure some intermediate modes of holding off eviction such as renting and usufruct do exist. Often however, renter informal settler families (ISFs) rent space from fellow ISFs who are equally under threat of eviction. Even in a so-called usufruct arrangement, defined in NSO reports as “occupied free with owner’s consent”, the owner may not have given his consent freely and voluntarily.

The complexity of the existing land administration system is seen to restrict access to legal tenure and formalization of housing. Multiple institutions that manage the system have overlapping functions or implement inconsistent mandates. Problems associated with the system also include high transaction costs and the difficulty in obtaining land records. In the midst of the complicated and lengthy legal processes involved in securing tenure, a dynamic informal land market thrives with syndicates selling land rights to city dwellers who are unable to afford payments for buying and owning land, or even acquiring use rights, legally. Other issues related to formalization include the high cost of subdivision of properties to small parcels, and the high cost of registration of these newly subdivided properties.

The population of the Philippines currently stands at near 100 million, of which 63% live in cities and the urban areas. If the current trends prevail, the Philippines is projected to be 70% urban less than a decade hence, or an urban population of around 86 million. Given the size of the urban poor population, a major challenge confronting development agencies, policymakers, and social actors concerned with addressing poverty is how to provide better access to secure housing tenure.

Efforts to provide secure tenure to informal settlers are made difficult by the fact that many of them live in danger areas. Around 50% or 760,000 of the total 1.5 million informal settler families live in communities situated along river lines which are frequently affected by typhoons and sea surges; along coastal (shoreline) or seashores which are affected by seasonal rains, sea surges and erosion; in communities that developed in infill or open dumpsite and most households earn from scavenging; and along major highways which are along heavily trafficked roads and corners.

There is a clear need for LGUs to strengthen and improve the processes for delivery of government’s urban poor housing initiatives. Improved access to reliable land records can do so much to ease the process, particularly in privately owned and public lands. It is also

²⁴ Yap, David Leonides T.; Tarita L. Ledesma; and Myla A. Cruz. 2003. *Four Presidents and the Quest for Land Ownership: Formal and Informal Land Acquisition Processes in Riverside Barangay Santolan, Pasig City*. Philippine-Australia LAMP Research Grants.

important to complete the census of informal settlers to provide sound bases for planning and management of land tenure improvement activities.

There is a clear, practical process for the formal recognition of possession but this process is not implemented effectively, consistently or transparently.

Overall, existing processes to formalize possession are governed with clear rules. These pertain to informal urban settlement on private and public lands, as well as informal occupation in forest lands and protected areas. However, difficulties in implementation; coupled with rapid growth in urban population; has resulted in rising informality in the urban areas. In addition to the constraints discussed above, the preference for freehold as the form of formalization has resulted in many occupants without secure tenure, particularly in the urban areas. An added issue is the limitation of the law for cities and provinces only to undertake CMP.

In the case of forest lands and protected areas, the speed of formal recognition of occupation through issuance of tenure instruments is overtaken by the pace by which new settlements are established in forest lands. While the forest demarcation is almost complete, there is still a need to reinforce these with on the ground management by engaging local government units and other local bodies to share in the responsibility. The expanse of forest lands and protected areas is too large for DENR to handle by itself.

LGI 4 - Restrictions on Rights

			Score			
LGI-Dim	Topic		A	B	C	D
Restrictions on Rights						
4	i	Restrictions regarding urban land use, ownership and transferability <i>Assess the potentially harmful impact of land rights restrictions in urban areas.</i>				
4	ii	Restrictions regarding rural land use, ownership and transferability <i>Assess the potentially harmful impact of land rights restrictions in rural areas.</i>				

The country has a set of restrictions on property that are justified largely to serve the public interest, but in many cases, these are largely violated or not enforced; thereby not fully achieving their objectives.

The Constitution of the Philippines spells out the basic restrictions on land ownership – that is; only Filipino citizens can own properties. This policy protects the Filipino interests so that they do not end up being dispossessed of lands from foreigners who have more resources to buy properties. However, in practice, this is circumvented through the use of dummies; of Filipino spouses registering ownership of properties in behalf of their foreign spouses. This provision is one of the subjects of the proposal to amend the Constitution on the grounds of encouraging more foreign investments in the Philippines.

In private agricultural lands, the CARP law has set five hectares as the maximum area that can be owned by the landholder; with three hectare each for members of the immediate family. The excess is subject to redistribution under the agrarian reform. These restrictions are at the core of the country’s social justice agenda, to promote equity in land ownership. Conversion into nonagricultural uses is strictly prohibited, as is the case of transfers, mortgage, sale or inheritance during the prescription period of 10 years. These provisions

are to ensure that the ARBs continue to benefit from the program as designed. However, there have been reported cases of transfer of rights within this restriction period; mainly in times of distress and/or abandonment of farming by the original beneficiaries. The extent to which this is happening has not been comprehensively documented, but this is common knowledge. There have also been cases of agrarian lands being reverted back to their original owners; and/or informally consolidated to improve productivity and incomes. The lack of capital and investments on the part of ARBs are factors that have contributed to this. The government is aggressively pursuing its agrarian reform community development program (ARCDPs), in order to provide the necessary support services to beneficiaries. Moreover, it has set up polices to support beneficiaries in evaluating proposals for joint venture agreements with private companies to protect them from undue negative effects of indiscriminate large scale land acquisition.

For public agricultural lands awarded to long time occupants under the Free Patent mode of original titling; there is a five year restriction on transfers and mortgage; though there have been reported cases of informal transfer of rights or ownership within this period. Much of this is on account of the very long time between survey approval, at which time the claimant is recorded; and the processing of titling, at which time the titles are awarded and registered with the RoD. The same CARP restrictions on size of landholding apply, although in the procedures established, it is impossible to check the total area owned by the beneficiary across different locations. Confirmation of long held occupation in public A and D lands is considered part of the agrarian reform program, although this does not essentially involve redistribution.

By law, forest lands and protected areas belong to the state and are therefore not to be alienated for private purposes. The government however, issues various tenurial instruments to recognize long term occupation and as part of the overall management strategy. In forest lands, tenure instruments are granted to communities through the community based forest management agreements (CBFMAs); and to individual families through certificates of stewardship contracts (CSCs) for a period of 25 years, renewable for another 25 years. The issuance of CSCs has long been suspended to give way to more communal way of forest management. However, there has been a clamor for individualization of these rights due to the volatility of community organizations, making it impossible to clearly allocate rights, resources and responsibilities across its members. Many of the CSCs granted more than two decades ago are also expiring soon, and calls for a clear policy on how these should be governed. Despite these provisions, resource use is heavily regulated by DENR. CBFMAs are supposed to prepare their management plans, and all resource uses need permits from DENR. In the recent past, there have been suspensions in the issuance of resource use permits and/or harvesting in CBFMA areas thereby serving as disincentives for participants. A more stable policy needs to be in place that should provide sufficient incentives for CBFMA and other forest tenure holders to become effective partners in sustainable forest management.

In protected areas (PA), the tenure instrument is called the protected area community based resource management agreements (PACBRAMA) with a period of 25 years, renewable for another 25 years. The intent is to ensure that the communities within the PA become active agents of management, through some form of incentives that allow them to benefit from resource uses that are compatible with PA management. A key constraint however, is the limited funds to effectively keep pace with the census and registration of occupants, issuance of PACBARMA, and provision of technical support to these communities.

There is a set of restrictions as well on CADTs issued by NCIP. By law, the principle of Regalian Doctrine does not apply to ancestral domains. Thus, CADTs are considered private property by virtue of the IPRA. This interpretation however, has been challenged in the Supreme Court, without a definitive resolution since the decision resulted in a split opinion among the justices. Thus, there are some who continue to hold on to the view that ancestral domains are part of the country's public lands. Nonetheless, the restrictions include prohibition on sale, transfer or mortgaging of CADTs. However, the IPs can enter into agreements with investors for the development of portions of their domain subject to their ancestral domain sustainable development and protection plan (ADSDPP). A clear responsibility however, is for IPs to ensure the conservation of portions of their domains. Since the process of determining the extent of ancestral domains is through self ascription, there are no limits to their size. Thus, CADTs cover large expanses of forests, and coastal areas of the Philippines. Recently, ancestral domains have become the magnets of investments due to their size, and overlaps with areas with expansive forest cover, highly productive zones, and mineral deposits. These developments signal a clear need to develop sufficient safeguards, and capacity development of IP communities, so that they can make informed decisions about their domains; while at the same time ensuring the cultural, spiritual, and environmental values of their territories are not compromised.

The current restrictions on urban land use, ownership, transferability and rent control were largely developed with the aim of protecting the public interest, in practice, these have not been enforced and/or do not achieve their objectives. A revisiting of these restrictions and/or their implementation or enforcement would have to be made to ensure they serve their desired purposes.

In the urban areas, land use is controlled through the zoning regulations, although for many LGUs which have not updated their comprehensive land use plans (CLUPs) regularly, zoning is largely dictated by actual land use rather than being used as an instrument for better land use allocation. Size limits apply only to the lands under the UDHA, which is ironic since it applies only to those who cannot afford to buy properties. Land prices is essentially controlled by the market, except for some 244 areas identified for priority development (APDs); that are subject to low cost housing by government. These are mainly government owned lands that have been identified for the segment of the urban population without secure tenure, the homeless, and underprivileged.

Rent control in the urban areas has the opposite effect of pushing up the rental rates due to the cut off mark. As practiced, property owners merely quote rates above the cut off in order to evade coverage under the law. There is thus a need to revisit the Rent Control Law so that it achieves the desired objectives; or whether such law is relevant at all.

LGI 5 - Clarity of Institutional Mandates

LGI-Dim			Score			
			A	B	C	D
Clarity of Mandates						
5	i	Separation of institutional roles				
5	ii	Institutional overlap <i>Assesses if there is a clear delineation of institutional responsibilities with respect to the spectrum of land related issues.</i>				
5	iii	Administrative overlap <i>Assesses level with which central, regional, and local institutions dealing with land have clearly assigned functions and responsibilities</i>				
5	iv	Information sharing				

LGI-Dim	Topic	Score			
		A	B	C	D
	<i>Assesses whether land-related information, both textual and spatial, is maintained in a uniform way that is accessible at reasonable cost by all the institutions that might have an interest in land issues and need this information. Such public institutions may include land use planning agencies, local authorities, courts, disaster management agency, etc.</i>				

A study on institutional arrangements undertaken under LAMP1 has concluded that the present land administration system is highly inefficient. This is because the structure of the system has major defects and the system is administered badly.²⁵ (Box 1).

Box 4. Main Findings from the Institutional Arrangements Study of Land Administration Agencies (PA – LAMP, 2002).

The major structural defects of the present system are:

- conflict between laws regulating the system and its administration;
- two procedures for titling land (administrative and judicial procedures);
- multiple forms of ownership rights in land;
- multiple land valuation methods;
- counter-productive interaction between procedures for real property taxation and title registration.

These structural defects in turn give rise to significant duplication and overlap in the roles, functions and activities of the key land administration agencies.

The major administrative defects of the present system are:

- poor segregation of functions and, related to this, a lack of focus on the delivery of good service to users of the land administration system (other government agencies and members of the public);
- cumbersome decision-making structures;
- excessive 'corporate overhead' and staffing of 'support' functions, including that resulting from the number of agencies involved;
- a lack of formal incentives and penalties related to performance;
- widespread perceptions/allegations of conflicts of interest and corruption.

There are separation of roles and responsibilities of the agencies involved in the administration and management of lands based on respective mandates. However, there are apparent overlaps.

The country rating for this dimension fits into the following pre coded statement: *In situations that can entail conflicts of interest or abuse (e.g. transfers of land rights) there is some separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy but there are overlapping and conflicting responsibilities that lead to frequent problems.*

The institutional set up of land related agencies in the Philippines is that there is clear separation of roles between the executive, legislative and judiciary in terms of execution of

²⁵ Philippine Australia Land Administration and Management Project. **Institutional Arrangements Policy Study**. July 2002.

laws, law making, and arbitration of disputes arising from implementation of policies; respectively.

Between the judiciary and executive branches however, there are overlaps in terms of issuance of first time titles. There are parallel judicial and administrative means of titling properties; which lead in issuance of double titles. Likewise, the Courts can reconstitute titles if there is a representation that these have been lost or burned. However, a common cause of double titles is the issuance of reconstituted titles in the name of somebody else over properties where original titles still exist.

Within the executive branch however, the separation is not quite distinct, such that there are overlapping and conflicting responsibilities that lead to frequent problems. For example, a number of government agencies own land; make decisions on land administration and management; and decide on appeals against these decisions. These include the DENR, which owns and manages public lands and some government properties; it is also involved in disposition of lands through an adjudication process. The Public Reclamation Authority (PRA) is another agency that owns and manages public lands, and disposes of such lands through bidding processes. The Philippine Ports Authority (PPA) also reclaims land, and at the same time disposes of lands. The DAR likewise is in charge of redistribution, formulates specific policies related thereto, and hears and decides on agrarian disputes.

There are horizontal overlaps among institutions involved in land administration and management leading to confusion, double titling, and overlapping tenurial instruments

There is a wide degree of horizontal overlap among the land related agencies. In titling for example, DENR issues patents for different types of land – Homestead and Free Patent over agricultural lands, Miscellaneous Sales Patents for residential, commercial and industrial lands, and Residential Free Patents for residential lands – the courts also adjudicates claims of ownerships and judicially confirm imperfect titles over all types of A&D lands. There have been a lot of reported cases wherein parcels of lands have been issued a patent by DENR and a judicial decree by the Court to different owners with both titles registered with the RD. DAR also undertakes titling in public A&D lands. For claimants of agricultural lands this made the process even more confusing as they don't know where to go for the titling of their agricultural lands. With DENR and DAR both exerting all efforts to accomplish their respective targets, this shared jurisdiction has caused a lot of tension and conflict among operators of both agencies as they compete for areas and beneficiaries. To address the issue, DAR and DENR issued Joint Memorandum Circular 14 and 19 clarifying jurisdiction over public agricultural A&D lands. But even with this issuance, the tension has never completely disappeared as operators from both agencies developed their own conflicting interpretations of what is otherwise a clear delineation of jurisdiction. Several cases in the courts are due to duplicate issuance of titles by DENR and the Courts as well as by DENR and DAR.

NCIP issues CADTs and CALTs over ancestral domains of indigenous peoples which are mostly in forest/timberland area. With DENR issuing tenure instruments to formalize rights of forest occupants, there is potential for these issuances to overlap with each other, particularly since delineation surveys by the two agencies are done in isolation of each other.

Several national agencies are conducting their own land surveys for titling and other purposes. These land surveys are done using different standards and systems and most

often than not performed without any coordination between the agencies. Generally land surveys are reviewed and approved by DENR. But even within DENR there are still some confusion about the level of authorities required for the monitoring, review and approval despite a fairly extensive and detailed Manual of Approvals.

Roles and responsibilities of DENR while defined in the Manual of Land Surveys (DAO 2007-09) and Manual of Approvals (DAO 98-24) are sometimes disregarded. An example of this is the cadastral survey project in the remaining unsurveyed area of Olongapo City conducted in 2009 – 2010. The survey firm contracted by the Regional Office to undertake the survey commenced started without coordinating with the CENRO and the City Government. The Regional Office even failed to notify the CENRO that the survey team of the winning contractor has already been mobilized and started work in the area. When the survey project started to get problematic the Regional Office blamed the CENRO for not providing Project oversight. This is also the situation that happened in Negros Oriental with the recent political boundary survey contracts awarded by Region VII in that area. The survey contractor commenced work without notice to CENRO Dumaguete. Yet when problems started to surface the Regional Office transferred supervision to CENRO Dumaguete.

Both DENR and LRA have authority to approve subdivision and consolidation surveys for lands that are already titled. Technically it is difficult to contemplate an agency such as LRA approving subsequent subdivision or consolidation of lots when it does not have in its possession records of the original survey. Records of LRA approved surveys are also not furnished to DENR and this means that even if DENR wants to it cannot reflect these new surveys to update the cadastre.

The NCIP conducts and approves its own survey of ancestral domain claims. Considering that there is no sharing of survey information between DENR and NCIP, cases of conflicts and overlaps in issuance of tenure instruments such as CBFMA in ancestral lands. The recent Joint Administrative Order between NCIP, DENR, DAR and LRA should correct these overlaps in the future processing of tenurial instruments and ancestral domain claims.

Thus, it can be concluded that the mandated responsibilities of the various authorities dealing with land administration issues are defined but institutional overlap with those of other land sector agencies and inconsistency is a problem.

The overlaps in policy implementation and institutional mandates have persisted for a long time and has resulted in long standing disputes, and has led to many problems. The overlaps and conflicts persists even with issuance of joint memorandum circulars between the agencies since field offices tends to have different interpretations. It is hoped that the 2012 Joint Administrative Order No. 1 among NCIP, DAR, DENR and LRA/DoJ would provide solution to these long standing issues.

The government should consider giving high priority to the refilling of the LARA Bill in the next Congress. This should address the institutional overlaps, and address the systemic weaknesses that plague the delivery of services in the LAM sector. Addressing this issue will impact on titling, ease of registration, and facilitate the formalization rights by informal settlers in the highly urbanized areas.

Division of land-related responsibilities between the different levels of administration and government is clear with minor overlaps

Within agencies, there are some vertical overlaps as well. The DENR is one of the largest of the agencies of the Philippine government. It has a very diverse mandate and a very

complex organization. It is common in these types of organizations to have some overlap of functions and a lot of confusions regarding levels of authority. Potential areas of overlaps are in those delegated functions such as in approval of Patents. Patents with areas up to 5 hectares are approved by the Provincial Environment and Natural Resources Officer (PENRO) while those with areas in excess of 5 hectares are approved by the Regional Executive Directors (RED). Patents in excess of 10 hectares have to be approved by the DENR Secretary. In 2009, the former Secretary revoked the delegation of signing authority to the PENROs and REDs and ordered that only the Secretary can approve all types of Patents issued by DENR. This was subsequently rescinded by the next Secretary and the delegation to the PENROs and REDs were returned.

The DENR Manual of Approvals clearly set-out the levels of authority for each and every function, including its land related responsibilities. The manual provides a succinct guide which when followed should ensure that overlaps are avoided. The other land administration and management agencies are not as complex, with focused mandates and simple organization that overlaps are not common. DAR is only responsible for land acquisition and redistribution as well as provision of support services to beneficiaries of the comprehensive agrarian reform program (CARP). The responsibilities, functions and levels of authority from the Central Office to its different regional offices down to its provincial and municipal offices are well defined and easy to observe with very little opportunities for overlap. The delineation of responsibilities and functions between the LRA and its Register of Deeds in the Provinces and Cities are also well defined with no areas of overlaps seen.

More important than overlaps, the bigger problem is the often lack of coordination between the different offices at different levels even within each of the agencies.

Information related to rights in land is available to interested institutions and although this information is available at reasonable cost, it is not readily accessible as the information is not maintained in a uniform way.

The overlaps or duplication in the functions of land related agencies has resulted in the maintenance of separate records/information that do not conform to some standard, thus precluding sharing of these among agencies. This situation has contributed to further inefficiencies as cited in the Institutional Arrangements Study.

The National Mapping and Resource Information Authority (NAMRIA) makes available at uniform scale topographic maps to all users at reasonable cost. Most national agencies use NAMRIA maps as basis for the preparation of various thematic maps. It is these agency-prepared thematic maps that are not easily available or accessible. Parcel-based land information is usually available at the city or municipal assessors' offices. However, not all local assessors regularly and systematically update their data entries.

Land use information and maps are prepared by cities and municipalities usually in connection with the formulation or updating of their CLUPs. These are generally accessible to the public on request. But these are poorly maintained especially the maps in analog format making retrieval difficult if not impossible. Increasing use of GIS systems however is bound to lead to improved data management at the local level.

The LAMP Policy Study on Access to Land Information revealed that the following major problems surfaced: (1) the difficulty in securing land-related data from government agencies; (2) the lack of ownership among agencies to establish a database of land record information; (3) the significant costs and efforts required to improve accuracy of land records; and (4) the difficulty of linking land records of different government agencies. So

far, there is no clear policy for data sharing among government agencies and access by the public to land information and for avoiding the potential duplication of efforts to gather and process the same land information needed by various stakeholders.²⁶

Each of the LAM agencies has their own system of records management. DENR's records are usually organized by jurisdiction or location (province, municipality, barangay) and use cadastral lot numbers as reference. RoD's records are organized sequentially using the title number as reference. LGU Assessor's records are organized by barangay and use the Parcel Identification Number (PIN) or tax declaration number (TDN) as reference.

While sharing of land information between agencies is not a major issue, the use of different systems and references in the management of records poses difficulty in access.

The agencies of the government responsible for maintaining and managing land records should develop a unified data standards so that land records management, particularly storage and retrieval can be harmonized across all agencies, including local government units; which are at the receiving end of the process. The lack of access to updated registry records is affecting the ability of LGUs to complete its tax maps, thereby, resulting in inefficiencies in property tax collections. Moreover, lack of access to survey records prevent the LGUs from engaging in proper land tenure improvement planning and delivery of titling services to its constituents.

LGI 6 - Participation and Equity in Land Policies

			Score			
LGI-Dim	Topic		A	B	C	D
Equity and Non-Discrimination						
6	i	Clear land policy developed in a participatory manner <i>The extent with which land policy statement draws on wide input from different sectors</i>				
6	ii	Meaningful incorporation of equity goals <i>Measures impacts of land policies on equity issues and monitoring</i>				
6	iii	Policy for implementation is costed, matched with the benefits and is adequately resourced <i>Measures efficiency and transparency by comparing expected benefits of land policies with corresponding costs and availability of adequate resources</i>				
6	iv	Regular and public reports indicating progress in policy implementation <i>Measures progresses in policy implementation by looking at existence of publicly accessible reports.</i>				

The country has clear land policies developed in a participatory manner

The Philippines rates high in this governance dimension, owing to its comprehensive land policy and the democratic processes that enable the public to fully participate in decisions affecting them.

The Philippine Constitution provides the basic land policy for the state. Many laws laid out in detail the different state policies on lands. The Philippine land legal infrastructure is fractured and several key legislations from the Land Registration Act of 1903 to the 1913 Cadastral Act, the Public Land Act of 1936, the Revised Forestry Code, the 1988

²⁶ Llanto, Gilberto M., Marife M. Ballesteros, and Aniceto C. Orbeta. **Policy Study on Access to Land Information**. Philippine-Australia Land Administration Project. January 2005.

Comprehensive Agrarian Reform Law, the Urban Development and Housing Act of 1992, the Indigenous Peoples Act of 1997, to the Residential Free Patent Act of 2010 and many laws in between provides an insight into the evolution of state policies and governance of lands in the Philippines.

In the past, laws were passed with very little benefit of consultations, particularly the Presidential Decrees issued during the Martial Law era of the Marcos administration. But after the EDSA Revolution of 1987, the legislative processes became more consultative. The Philippine Congress conducts extensive public hearings across the country in legislating new laws. The House Rules Declaration of Principles and Policies states that *“The House of Representatives is the House of the People. The involvement and participation of the people in the processes of legislation shall be encouraged, guaranteed and sustained.”* The sessions of the Congress are also open to the public.

Even executive issuances such as implementing rules and regulations, administrative orders, etc. are required to undergo public hearings and consultations to ensure that the sentiments of the key stakeholders are considered in the drafting and finalization of the laws and other issuances. The legislative and policy making process in the Philippines have become more conscious of social development principles and being inclusive of all stakeholders’ concerns.

Many of the recent landmark legislation are products of demands from the community and major stakeholders such as the Urban Development and Housing Act of 1992 which was a response to the issues of the rapidly growing urban poor population. The IPRA law was passed to address the issues of the indigenous peoples whose rights are being marginalized, pushed out of their ancestral lands by the government for infrastructure projects, and by private farming interests and natural resource concession holders. The Residential Free Patent Law was borne out of the clamor from the communities for the titling of their residential lands since the existing mode then was very costly to access.

More recently, the debates relating to the National Land Use Act has been very participatory but protracted. Many sectors have made known their positions on certain issues, and various fora and technical discussions were held to debate on the many dimensions of the proposed Bill.

Law making however, is a highly political process, and although there are public inputs, the resulting policy could still be a mixture of interests and compromises to account for the views of many sectors.

Land policies in the Philippines incorporate equity goals. These are meaningfully monitored, but this can be improved to clearly establish their impacts on achievement of objectives.

The 1987 Philippine Constitution, Article II (Declaration of Principles and State Policies) laid out the basic policies of the State to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life for all (Section 9). It values the dignity of every human person and guarantees respect for human rights (Section 11). It recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men (Section 14). It promotes social justice in all phases of national development (Section 10). It also promotes comprehensive rural development and agrarian

reform (Section 21); and recognizes and promotes the rights of indigenous people's communities within the framework of national unity and development (Section 22).

In line with these state policies, the government passed several landmark legislations and pursued many projects to operationalize the declared state principles and policies. In 1987, the Comprehensive Agrarian Reform Law was passed to formalize the Comprehensive Agrarian Reform Program to redistribute lands to landless farmers and farmworkers to fast-track rural development and promote social justice. Migrants, seasonal farmworkers and women are recognized and given equal access to the Program as qualified beneficiaries. The rights of indigenous peoples are recognized and protected. The Presidential Agrarian Reform Council (PARC) provides policy direction and implementation oversight to DAR and other CARP Implementing Agencies. It also monitors the implementation and achievement of the Program objectives.

In 1992, the UDHA was passed to address landlessness in the urban sector. The Act lays down the groundwork for a comprehensive and continuing urban development and housing program. It addresses the right to housing of the homeless and underprivileged Filipino people. This law seeks to provide social housing to the marginalized sector by addressing their access to land and housing, relocation, demolitions, and promoting private sector participation in housing. The HUDC, HLURB, NHA and DILG, implements and monitors the implementation of activities for this law.

Also in 1992, the enactment of the Women in Development and Nation-Building Act (RA 7192) mandated the NEDA, with the assistance of the National Commission on the Role of Filipino Women, to ensure that the different government departments, including its agencies and instrumentalities which, directly or indirectly, affect the participation of women in national development and their integration therein to (1) formulate and prioritize rural or countryside development programs or projects, provide income and employment opportunities to women in the rural areas and thus, prevent their heavy migration from rural to urban or foreign countries; (2) include an assessment of the extent to which their programs and/or projects integrate women in the development process and of the impact of said programs or projects on women, including their implications in enhancing the self-reliance of women in improving their income; (3) ensure the active participation of women and women's organizations in the development programs and/or projects including their involvement in the planning, design, implementation, management, monitoring and evaluation thereof; (4) collect sex-disaggregated data and include such data in its program/project paper, proposal or strategy; (5) ensure that programs and/or projects are designed so that the percentage of women who receive assistance is approximately proportionate to either their traditional participation in the targeted activities or their proportion of the population, whichever is higher. Then in 2008, Republic Act 9710 or the Magna Carta for Women was enacted. The MCW is a comprehensive women's human rights law that seeks to eliminate discrimination through the recognition, protection, fulfillment and promotion of the rights of Filipino women, especially those belonging in the marginalized sectors of the society. It conveys a framework of rights for women based directly on international law. One of its salient features is giving equal status to men and women on the titling of the land and issuance of stewardship contracts and patents. However, even with these legislation there seems to be no meaningful monitoring of women's equitable access to land considering the dearth of data. In fact the current system or process in the registry does not allow gender disaggregation of data. Many of the field offices of DENR and DAR are also not so conscious about gender rights and protection in the investigation and recording of land rights.

In 1997, the Philippine Government enacted Republic Act No. 8371, known as the Indigenous Peoples' Rights Act (IPRA), to give effect to the constitutional recognition of indigenous peoples' rights. The IPRA recognizes indigenous peoples' inherent rights, including their right to self-determination, to ancestral domains and the applicability of customary laws governing property rights, to self-determined development and to the requirement that free prior informed consent be obtained in relation to any developments that have impact on them. It also recognized ancestral domain rights, acknowledging indigenous peoples' time immemorial collective possession of their ancestral domains and establishing mechanisms for these to be delineated and formalized.

Local migration is most often driven by search for more productive jobs and livelihood. This is perhaps the reason why the mandate to oversee their welfare fell into the Philippine Department of Labor and Employment (DOLE). However, the agency's priority is clearly on temporary migrant workers overseas, such that not much attention is being paid to local migration issues. The Local Government Units may be in better position to do a more meaningful monitoring of local migrant since many of them usually confronts housing issues and ends up in the informal settlements and contributes to the growing magnitude of informal settlers especially considering that migration pattern is usually from rural communities to urban communities where it is perceived there are more and better employment opportunities.

There are serious inadequacies in the implementation of land policies; in the area of budget, resources, and institutional capacity

The abundance of laws has resulted in insufficient budgets for their implementation. While in the crafting of legislations, costs are considered as these are requirements for deliberation; in reality many laws are unfunded or has no clear funding source. In instances like this the agencies are forced to source funds from their existing appropriation to fund the implementation of the new policy/legislation. This therefore means that it cannot be funded fully and therefore cannot be fully implemented. In many cases, agencies were in default of the implementation required under the law. Also by re-appropriating funds this can mean that activities where the funds were sourced will also suffer. An example of laws with no clear funding source is the Residential Free Patent Law. CA 141 and succeeding amendments extending the period of issuance of agricultural Free Patents also had no clear funding source, which meant that after many years, titling of public agricultural lands has not been completed. The Free Patent is partially funded under the CARP program, however, these are not sufficient to complete titling of untitled agricultural lands.

The IPRA law obviously has no secure funding which has contributed to the slow process of CADT processing and issuance. The NCIP is also severely under resourced such that there is very little provision for operating funds of its regional and provincial offices. These constraints have affected the NCIP's ability to deliver on the intents of the IPRA law.

The National Integrated Protected Areas System (NIPAS) Law is also severely underfunded. The law mandates the completion of establishment of all protected areas under the system to be completed in three years since it took effect in 1992. However, more than twenty years after, there are still huge gaps in the coverage of the national protected area system, due to limited funding allocations, and lack of capacities in the agencies and LGUs.

Among all the laws, only CARP has secure source of funding based on its legislation. Despite this, its implementation has been extended due to implementation shortfalls.

There is a clear need to reconsider the funding and resource allocation to agencies in order to provide adequate levels of support to implement existing land laws, and enable them to achieve their objectives.

Formal land institutions report on land policy implementation in a regular, meaningful, and comprehensive way with reports being publicly accessible

The assessment rates the Philippines as one with best practice in this dimension. As part of the Aquino administration's strong thrust on transparency and good governance, all reports are uploaded into the respective agency websites.

Thus, all of the land agencies/institutions implementing the different land policies are required to report the implementation progress regularly. These are usually contained in the annual reports submitted by the agencies. The different agencies also produce several reports that can be issued monthly, quarterly or semi-annual. However, in some cases the reports that can be accessed starts only from 2010. Reports previous to 2010 would have to be accessed from the physical records of the agency. Agencies like DENR, DAR, NHA usually print out yearbooks containing the agency's reports of accomplishment against their mandates. Copies of these annual publications are usually maintained in the agency's libraries.

The progress of the CADT/CALT issuance for example can be accessed through the Ancestral Domains Database Information System (ADDIS). The list of approved CADTs, CALTs, certificate of preconditions and compliance certificates, the list of approved ADSDPPs as well as the maps showing approved CADTs in the different ethnographic areas can easily be accessed through the agency website www.ncip.gov.ph.

Progress and updates on CARP implementation can be accessed from the DAR website (www.dar.gov.ph). A summary of the CARP accomplishment from areas surveyed, issued with CLOAS or Patents to number of beneficiaries and support services can be viewed from the agency website.

In addition to public reporting, the agencies provide regular reports to Congress during annual budget hearings on the status of their programs, and during exceptional reporting when there are queries on program implementation.

Module 2 - Land Use Planning, Management and Taxation

INDICATORS ASSESSED:

LGI 7 – Transparency of land use restrictions - *extent to which land use and management regulations are justified and transparent*

LGI 8 – Efficiency of land use planning - *adequacy of land use plans and regulations.*

LGI 9 – Speed and predictability of enforcement of restricted land uses - *transparency and efficiency in the process for the delivery of permissions for restricted land uses.*

LGI 10 – Transparency of valuations - *transparency, accuracy, and public availability of land and property valuations.*

LGI 11 – Tax collection efficiency - *extent to which authorities effectively implement tax collection.*

LGI 7 - Transparency of Land Use Restrictions

LGI-Dim		Topic	Score			
			A	B	C	D
Transparency of Land Use						
7	i	In urban areas, land use plans and changes to these are based on public input <i>Assesses extent of public input in urban land use plans and in changes to these plans</i>				
7	ii	In rural areas, land use plans and changes to these are based on public input <i>Assesses extent of public inputs in rural land use plans and in changes to these plans</i>				
7	iii	Public capture of benefits arising from changes in permitted land use <i>Assesses existence and transparency of mechanisms to allow the public to capture significant part of the gains from changing land use.</i>				
7	iv	Speed of land use change <i>Assesses whether majority of land where land use has changed is transferred to its destined use within a period of 3 years.</i>				

There is inadequate public input in urban land use planning

Existing guidelines for land use planning provide for extensive consultation during the process. However, in practice, public consultation is conducted toward the end of the process, i.e., when a draft plan is nearly completed and is then presented to various stakeholders for comments. People's comments and reactions may or may not result in some revisions of the draft plan. In very few cases, such as those of Quezon City and Puerto Princesa City, public input is built into the planning structure through the organization of sectoral and functional committees with multi-stakeholder representation and into the process by getting these committees involved in all steps of the planning process. The issues, concerns and advocacies espoused by these sectoral representatives find their way into the plans. This practice however, is dependent on the willingness of the LGU to follow the prescribed process.

In the majority of cases, the plans are not revised or changed until they “expire” and then a new one is prepared. Plan revision is not normally done as a result of monitoring and evaluating the success or failure of the plan, nor of feedback from the people. A few plans do get revised or changed when there is a change of administration or when applications for reclassification of large areas of agricultural land are brought up for decision by the local legislative body. Local legislative bodies are often sympathetic to proposals to reclassify agricultural lands because of the prospect of deriving higher revenues from taxes assessed on non-agricultural lands.

It is therefore essential for LGUs to place more efforts in ensuring there is regular updating of their CLUPs, including meaningful public participation in the land use planning and updating processes. The DILG and HLURB can assist in this regard by providing appropriate technical assistance, developing capacities, and inclusion of relevant LGAF dimensions in monitoring land governance at the LGU level.

There is wide variability in public participation in rural land use planning

Land use planning and changes in land use plans in rural areas happen in the following types of lands/processes:

Land classification, evaluation delineation and demarcation – this process involves the determination of the forest line boundaries and assessment of the status of lands. This also results in the determination of public agricultural alienable and disposable lands which can be released through the titling process. The delineation process is a largely technical exercise, and involves less public inputs. The results are maps of forest boundaries, their delineation, and demarcation on the ground with the assistance of local community representatives and LGUs. The results are to be compiled and submitted to Congress for enactment of the country’s final forest line.

In classified forest lands – many local government units have undertaken forest land use planning (FLUPs) as part of their local development planning functions; even if forest land management is not entirely their responsibility. The FLUPs results from public participation, particularly the forest communities who are affected by the process. In most instances, these FLUPs are mainstreamed in the LGUs comprehensive land use plans (CLUPs). There are moves now by the DENR to roll out FLUP in all LGUs, and incorporate these in all CLUPs. FLUP processes do not result in changes in land use. The main result is clear allocation of forest lands to various uses and tenurial instruments, the prioritization of watersheds to be managed, and the identification of open access areas which are potential for co management between DENR and the LGUs concerned. The preparation of FLUPs however, is not a mandated practice; and depends on the commitment and interest of the LGU.

In ancestral domains – the process follows self delineation by the IP communities, with support from NCIP and other NGOs. In many cases, there is no input by other sectors, such as LGUs and DENR; which often results in overlaps (in the case of DENR), and non-recognition (in the case of LGUs) of the CADT.

In establishment of protected areas – this entails a change in land use classification from forest lands to national park. The process follows a 13-step procedure as prescribed under the NIPAS Act; which provides for a lengthy consultation process with the immediate communities, as well as discussions in Congress, prior to enactment of legislation authorizing the change in legal classification. Once the protected area is established, there is also an extensive consultation process to develop the PA management plan. Public inputs

are likewise sought in the preparation of this plan, which specifies the detailed land uses within the protected area.

Mechanisms to allow the public to capture benefits from changing land use are rarely used and applied in a discretionary manner

The Philippines rates poorly in this dimension. The implementation of relevant policies to enable public capture of benefits arising from changes in permitted land use has largely been ignored; thereby resulting in some members of society unduly benefitting from these. At best, such benefits are captured in changes in property tax assessment, but because the LGU schedule of market values is way below the true market values and almost always out of date, this does not materialize. Full implementation of this law will also prevent those with vested interest to unduly influence the location of major public infrastructure projects for their benefit. In a similar way, compensation for expropriated properties or those affected by ROW or other government projects are not compensated fairly.

There are at least three beneficiaries from whom benefits of public works investments should be captured for the public: the general consumers; the direct users of the facility; and the landowners within the immediate vicinity of the public improvement project. The mechanisms of capture are the consumption tax, user fees and charges, and the special benefit assessment, respectively. The first two are in active use in the Philippines; the third mechanism, though authorized by existing laws, is hardly applied at all.

The law on special benefit assessment or betterment levy has been in existence for nearly three-quarters of a century. It first appeared in the Assessment Law (Commonwealth Act 470) dated June 16, 1939. The same provision was carried over in two other subsequent laws. The special assessment provision was contained in Sections 47-55 of the Real Property Tax Code (Presidential Decree 464) of 1974, then it appeared again as Sections 240-245 of the 1991 Local Government Code (Republic Act 7160). So far there are no records of its application in any part of the country. While some countries, notably Colombia, Mexico, and some states of the United States of America, finance substantial portions of their public works projects through this tax, the Philippines has not even tried to tap this veritable gold mine.

A variation of the betterment levy is however observed to be rampant in the Philippines. This refers to the practice of landowners donating a portion of their land for use as a site for public institutions such as a school, a health center, a barangay hall, and the like, in obvious anticipation of windfalls in the form of business opportunities to be generated by the government project in the immediate vicinity as well as in terms of increases in the value of the remaining portion of their property. In such a transaction, the government does not find it necessary to capture for the public the land value increment because it did not have to pay compensation to the land owner in the first place. The Filipino localism for this practice is “quits”. The Americans have an equivalent practice which they aptly call “wipeouts for windfalls”.

The only mechanism for public capture of the benefits of changed land use from landowners is the real property tax. But the benefits are not captured in real time due to the fact that land value assessment is not done systematically and regularly. The very wide discrepancy between the LGU schedule of market values and the current market values can hardly make up for the difference in terms of public capture of benefits through property taxes.

It is therefore about time that the government should enforce the existing provisions of sections 240-245 of RA 7160 or the Local Government Code, pertaining to special

assessment. The BLGF can assist in developing specific guidelines and appropriate training for LGU Assessors on these.

Monitoring land use change based on their assigned use is not yet widely practiced in the Philippines

Monitoring land use change is not yet an established practice in the Philippines. Thus, it is very difficult to determine the rate of change; and whether land use changes are in accordance with the plan or in spite of the plan. Few isolated attempts at analyzing land use change as an integral part of the CLUP planning process were undertaken in Dagupan City, Puerto Princesa City, and Quezon City, with varying results and utility for CLUP updating.

It can be assumed that the speed of land use change is directly related to the rate of urbanization, therefore it can be assumed that it is highest in Metro Manila and environs. Such changes are influenced largely by national government investments in road construction and by private investments, big and small. Local governments, on whose shoulders land use regulation falls, tend to be passive onlookers rather than proactively determining the direction and pace of development through their land use plans. Unplanned development also results in inefficiencies in land use allocation.

This is an important area that requires attention in order to prevent speculation and capture of benefits by only a few. Updating of CLUPs should be based on the assessment of the extent to which changes in land use were adhered to in the previous plan, as basis for policy making, and better alignment of the updated CLUP with demands and actual land use changes.

LGI 8 - Efficiency of land use planning

LGI-Dim		Topic	Score			
			A	B	C	D
Efficiency of Land Use Planning						
8	i	Process for planned urban development in the largest city <i>A process for planned urban development is followed in practice in the largest city in the country.</i>				
8	ii	Process for planned urban development in the 4 largest cities (exc. largest) <i>Assesses whether a process for planned urban development is followed in practice in the 4 largest cities other than the largest city in the country.</i>				
8	iii	Ability of urban planning to cope with urban growth <i>Assesses the ability of urban planning to cope with urban growth.</i>				
8	iv	Plot size adherence <i>Measures the share of the population that violates plot size restrictions is low.</i>				
8	v	Use plans for specific land classes (forest, pastures etc.) are in line with use <i>Verifies that the proportion of land use in contravention of existing regulations or land use plans in rural areas is small.</i>				

Urban land use planning is not effective in controlling urban growth and spatial development

Urban growth is happening in an ad hoc manner in most of the urban centers of the Philippines, signifying a breakdown in urban planning. This creates pressure on the location of government infrastructure development, and service provision for the growing city population. Unplanned development also creates inefficiencies in land use allocation, such that prime properties can be subject to informal settlements and other low value uses.

In the case of Quezon City which is the most populous city in the Philippines; its development was triggered by expansion of Manila and that its growth was meant to receive the spill over development from Manila and San Juan cities. The formal planning of Quezon City was to prepare it as the country's national capital. City planning then benefitted from the technical services of the National Planning Commission. When this support ceased, urban expansion and development has not been effectively controlled. Rather, the key drivers of urban expansion were the circumferential roads that were built at the center and around Metro Manila (C1 to C7).

The same situation holds true for the next four largest cities in the Philippines. A key issue is that LGUs are not fully utilizing their regulatory powers in land use through the zoning process. This also stems from the fact that there is still that widely held belief that if land is private, then LGUs cannot control its use and development. An associated concern is that LGUs are not doing land banking; instead, this is done by the private sector for speculative investments. A few LGUs who undertake land banking is doing this mainly for shelter, rather than for urban development. Increased awareness and education is required to improve LGUs appreciation of the value of planning and zoning; and the regulatory powers associated with development rights. A related concern is poor compliance by LGUs of the mandated regular updating of CLUPs. Thus, the

The situation has become an excellent ground for speculation and elite capture of benefits from land use and zoning, particularly in rapidly urbanizing areas in key cities of the Philippines. To address these, the LGUs should therefore be more proactive in urban planning, making sound projections on directions, scope and extent of urban growth so that services and government infrastructure can be projected in advance. More importantly, consistency of plans across LGU boundaries and within provinces and economic regions should be made, through national, regional and provincial land use policies, to better guide local development. This could be achieved with the passage of the National Land Use Act.

Urban planning is not able to cope with urban growth

The LGAF used the indicator “number of new formal dwellings” to measure the ability of urban planning to cope with urban growth. However, in the Philippines, this indicator is considered inadequate.

A unique feature of urbanization in the Philippines is that while there is robust residential property development in Manila and key cities particularly in construction of condominiums, this does not reflect the ability of urban planning to cope with urban growth. The fact is, there remains a huge unmet demand for housing and growing informality in the urban areas. Thus, the current oversupply of housing is not effectively reducing housing need, currently placed at 5 million units. Rather, supply is driven by perception of what is needed. It is estimated that there has been a 47% increase in new condominium units since 2012. Rather, the current boom in condominium development caters to the upper middle to high- income classes, and responds more to speculative demands for investment.

The NHA and HUDCC therefore should encourage LGUs and the private sector to invest more in meeting the housing demands of the lower and middle income sectors of society to effectively reduce informality. In addition, the mandate of municipal governments with respect to socialized housing provision should be clarified.

There is low compliance on residential plot size in urban areas

A survey of compliance on residential plot size was not feasible at the time of LGAF assessment. However, it is common knowledge that there are huge deviations between what are allowed and what actually exists on the ground in terms of residential plot sizes. Requirements for residential lot houses are prescribed in two existing laws, PD 957 for commercial housing and BP 220 for low-cost housing. To the extent that residential development projects submit themselves to the regulatory system of government, the standards are assumed to be fully complied with. But it is a known fact that not all builders secure the necessary clearances and permits and that local building officials are not known to conduct field inspections to ferret out violations. Hence, the incidence of violations may be significant. Variations across cities may be more in degree than in kind.

Worth noting here is the practice of “re-subdivision” which is common practice. Re-subdivision is resorted to in the case of formerly approved subdivisions under the provisions of PD 957 that are not sold out or abandoned by the developer for whatever reasons. These are later subdivided again by other developers or by ISFs usually place them under the CMP scheme. But this time the re-subdivision standards are lower adhering to the provisions of BP220.

It is therefore essential that proper zoning and monitoring of subdivisions should be made to ensure adherence to plot size standards. More importantly, the restrictions on plot sizes should be revisited in terms of how it contributes to the objective of urban land reform and providing equal opportunity for all Filipinos to own land.

Use plans for specific rural land classes (forests, pastures, etc.) are generally not in line with use

There was outright consensus among panel members that in the case of areas under the public domain – forest lands and protected areas, use plans are not in line with actual use. This is due to the fact that classifications of land are legal statutes following technical criteria, and are not necessarily based on actual use.

A good example of the above, the panel noted, is the status of forest cover of what are legally classified as forest lands. A good proportion of forest lands are not necessarily covered with forests; and/or are used for other purposes. In the absence of specific data on this dimension, it is estimated that about 30-50% of lands set aside for specific uses are in contravention with existing regulations.

The general public needs to be educated on the meaning and purpose of the legal classification of land to raise the level of their compliance. More importantly, this situation underscores the fact that there is a general breakdown of land use classification and allocation; such that areas designated for specific purposes are already de facto used for other uses. The enactment of the National Land Use Act would provide the broader framework for rationale land use allocation at the national level, in consideration of the current and future needs of the country, thereby achieving more approximate use plans with actual use. A review of the 18% slope criteria in the classification of forest lands is in order to consider areas below 30% in slope to be classified as alienable and disposable lands.

LGI 9 - Speed and Predictability of enforcement of restricted land uses

LGI-Dim	Topic	Score			
		A	B	C	D
Speed and Predictability					

			Score			
LGI-Dim	Topic		A	B	C	D
9	i	Applications for building permits for residential dwellings are affordable and processed in a non-discretionary manner. <i>Assesses whether the requirements for building permits for residential dwellings are clearly disseminated and applications are affordable and processed in a non-discretionary manner.</i>				
9	ii	Time required to obtain a building permit for a residential dwelling <i>Assesses whether the time needed to obtain a building permit for residential dwellings is short.</i>				

The country rated highly in terms of dimensions relating to the indicator on speed and predictability of enforcement of restricted land use. The policies and procedures for granting building permits are well developed, and are implemented by LGUs.

Residential building permits are granted promptly and transparently

The requirements by LGUs for the processing of building permits essentially follow the provisions of the National Building Code. Thus, locational clearance, fire safety inspections, and copies of titles are deemed justified and reasonable. The length of time to issue the permits likewise depend on the completeness of the requirement submitted by the applicant. In cases where the requirements are complete, the issuance of the permit does not take two weeks, which is well within the best practice standards of three months.

The fees likewise are standard across all LGUs, following the fee schedule issued regularly by the DPWH.

These requirements and fees are publicly available in the LGU offices, and in the websites.

LGI 10 - Transparency of valuations

			Score			
LGI-Dim	Topic		A	B	C	D
Transparency of Valuation						
10	i	Clear process of property valuation <i>Assesses the extent to which the process of property valuation for tax purposes is clear, transparent, and comprehensive, and if based largely on market prices and regularly updated.</i>				
10	ii	Public availability of valuation rolls <i>Assesses public availability of valuation rolls.</i>				

Property assessment for tax purposes are not based on market prices and valuation rolls are not updated regularly

The Local Government Code (LGC) of 1991 clearly prescribed that assessment of properties subject to taxation should be based on market prices.²⁷ Section 201 of the Code provides that “all real property, whether taxable or exempt, shall be appraised at the current and fair market value prevailing in the locality where the property is situated.” Section 219 of the Code further provides that “LGUs shall undertake a general revision of real property assessments within two years after the effectivity of the Code and every three years thereafter.”

²⁷ The LGC, or Republic Act No. 7160 was approved on October 10, 1991 and became effective January 1, 1992.

There is however, wide disparity between what the law says and practice. Three factors basically influence the wide gap between the recorded values and the market prices: (i) the use of and reliance on the understated values submitted by property owners as basis of valuation; (ii) outdated methodology for determining schedule of market values (SMVs) and (iii) very poor record of local government units (LGUs) in regular revision of their SMVs thus rendering the recorded values outdated and obsolete.

While there are clearly prescribed methods for estimation of LGUs SMVs, the practice has been that property owners understate the value of their properties when reporting to both to the national and local governments to avoid paying the appropriate taxes²⁸. LGUs rely strongly on the official documents submitted by property owners as basis for determining the market values for fear of being sued by the property owner even though the real transaction prices are practically everyone in the community. They would rather be safe and use the official documents even if the prices contained therein are much lower than the actual transaction cost.

Prior to the issuance of the Mass Appraisal Guidebook (MAG) which describes in very detailed terms how market values are determined, LGUs followed a formula in the Manual on Real Property Appraisal and Assessment Operations (MRPAAO) whereby they get the average and the median of the sales values as reported to the assessor by the property owners, added up the two values, then divided the sum by two and the resulting figure became the base unit market value. There is deviation from market values using this formula because to begin with, the recorded sales values are understated. Based on what the valuation experts are saying, there should be no averaging of values.

In many instances, the practice is that the LGU or local officials predetermine how much the SMV should increase (say, 10% or 15%) without regard to what is existing in the property market. On this basis, the whole process of SMV revision just becomes a desk exercise. This is the reason why there are values up to the last two decimal places or centavos – such as P157.45 per square meter.

Under the MAG, the assessor is supposed to gather sales data and not just rely on what is submitted, validate these data and analyze the results of the validation together with data from secondary sources as well as from their own local knowledge. If Assessors follow this process, they should be able to capture the real market values. The problem now is that even with the MAG, only the LAMP, and now the REGALA LGUs, have been trained on this reformed valuation process. There is no information as to whether the other LGUs have adopted the MAG or still following the old processes and procedures.

Thus, most of the recorded values in the SMVs are understated. In the 1980s, the National Internal Revenue Code was amended to address these very low market values. The Code authorized the Bureau of Internal Revenue (BIR) to divide the Philippines into different zones and to establish zonal values for lands to be used as basis for collecting the national taxes related to land transfers. Prior to this, the BIR also used the SMV as the basis for collecting land-related national taxes. Thus, at present, while local governments use their SMVs for collecting property taxes, the national government uses the zonal values and in

²⁸ National taxes paid on property transfers are the capital gains tax or the estate or donor's tax, whichever applies, and the documentary stamp tax. These taxes amount to approximately 7.5% of the transaction price. The local governments, on the other hand, collect the local tax on transfers (one half percent of the transaction price) and the annual real property tax which is a maximum of 2% for cities and 1% for provinces, of the taxable base.

almost all cases, the two values are different. Although there may be some exceptions, the zonal values are usually higher than the LGUs' SMVs.

In terms of LGU compliance with the mandatory general revision of their SMVs every three year; there is a declining trend through the years. From a high of 83% in 1993, less and less LGUs have revised their Schedule of Market Values (SMV) as the table below would show.

Year	% of LGUs that Revised their SMVs
1993	83%
1996	63%
1999	54%
2002	36%
2005	31%
2008	25%

Non-compliance with the regular revision of the SMV is aggravated by the fact that the LGC does not provide a sanction for LGUs that do not revise. In a bid to force the LGUs to comply with the Code, the Department of Finance and the Department of Interior and Local Government issued Joint Circular 2010-01 (October 18,2010) reiterating the LGC provision and directing all LGUs to revise their SMVs and conduct a general revision. Pursuant to this, 52 LGUs (21 provinces and 31 cities revised their SMVs over the period 2011 to 2013.

More recent data from BLGF reveal that as of 2013, only about 22% of provinces and cities have updated SMVs.

Table _____. Status of LGU Updating of SMVs as of 2013²⁹

	Provinces	Cities
Maximum age of SMVs	28	24
Minimum age of SMVs	1	1
Mean age of SMVs	7.05	9.5
No. of LGUs with SMVs 4 years old and over	62	114
(% of total number of LGUs)	(78%)	(79%)
Total Number of LGUs	80	144

To illustrate how wide the disparities are between the recorded values and the market prices, the following data from selected LGUs are presented³⁰:

Naga City – In a 2009 study undertaken under the Land Administration and Management Project 2 (LAMP2); the values in effect were based on 1995 market prices making the SMV almost 14 years old. Property values increased significantly after the revision. In the case of residential lands, increases ranged from 150% to 900%. For commercial lands, the increases were from 16% to 171%; while for agricultural lands, the increases ranged from 42% to 209%.

²⁹ Source: BLGF

³⁰ Based on studies under the WB-AusAID funded Land Administration and Management Project, Phase 2.

Mandaue City – In a similar study under the above Project, the SMV was affectively based on 1989 market values making it obsolete by approximately 20 years. With the revision, the average increase in the values of residential lands was 2148%; for commercial lands, it was 1484%; and for residential lands, the average increase was 1523%.

Other case studies using first hand data illustrate the same points:³¹

Tayabas City - in 2012, the city's SMV are approximately ten years old. The gap in the recorded values and the market prices ranges from 535% to 2098% for residential lands and from 1049% to 1712% for commercial lands.

Legazpi City - in 2012; their current SMV is based on 2002 market values. The gap between the recorded values and market prices range from 306% to 871% for residential lands and from 193% to 347% for commercial lands.

San Carlos City - the disparities between the recorded values and market prices are not so wide because the city has been regularly revising its SMV in accordance with the law. Its last SMV revision was in 2008. Thus, the gap in the values ranges from 131% to 227% for residential lands and from 115% to 127% for commercial lands.

Bayawan City - its SMV was last revised in 2011. The gap between the recorded values and market prices ranges from 67% to 300% for residential lands. In the case of commercial lands, the gap is between 18% to 122%.

To facilitate the implementation of the new concepts of real property appraisal and assessment envisioned in the Local Government Code, the Department of Finance/Bureau of Local Government Finance have recently promulgated/issued the Philippine Valuation Standards (PVS), the MRPAAO and the MAG. These documents, particularly the MAG, explain in detail how the correct market values can be determined given the existing conditions in the property market. They are supposed to help the Assessor in performing his/her function of property appraisal and assessment. It may be safe to assume, however, that despite the promulgation of these executive issuances, only six LGUs are practicing the procedures and methodologies prescribed for the reformed valuation process.³²

A key factor behind the non-updating of SMVs is that the process has become politicized such that those running for elections are hesitant to provide regular updates for fear of voters' backlash. In theory, the Assessors have the power to do valuation, but the Local Legislative Councils of the LGUs have the power to approve the SMVs; which is proving difficult. Thus, immediately after the approval of the Local Government Code, 83% of LGUs updated their SMVs. However, there has been a declining trend ever since, such that in 2005, only 25% of LGUs were complying; and in 2013, only 22% were complying.

An added complication to the above is the fact that people equate SMV updating with higher taxes; which should not be the case. However, the more LGUs delay their updating of SMVs, the more this will result in substantial increases in market values which can lead to higher tax burdens if no mitigating measures are introduced in the tax structure. Regular updating every three years should result in minimal increases in the tax burden. Increases in tax rates results not only from updating of SMVs. In the case of Mandaue city, changes in land

³¹ Based on studies under the ADB – Japan Fund for Poverty Reduction funded REGALA Project (Support to Local Government Revenue generation and Land Administration Reforms). The Project provides technical assistance to partner LGUs in the revision of their SMVs.

³² Five of these were assisted by the ADB REGALA Project, namely: Bayawan City; Legazpi City; Tayabas City; San Carlos City and Alaminos City. Naga city is the 6th city, which was a pilot site of LAMP2.

use were largely responsible for increases in tax rates. However, this is not because of proactive zoning, but rather zoning by default since the subject areas were already being used for industrial purposes.

The proposed Valuation Reform Act (VRA) should provide authority to the VRA to approve SMVs, in order to remove the political influence in the updating of SMVs. Further, the VRA has a provision which states that if LGUs do not update their SMVs, they lose their authority to collect taxes. This provision could provide enough sanction for LGUs not updating their SMVs regularly.

Valuation rolls are publicly accessible

The zonal values used by the BIR for the whole country are uploaded to its website and anyone may access this information by going online. In the case of the local governments, the BLGF has likewise uploaded to its website the SMVs used by LGUs. Anyone can download from the website the scanned copy of the SMV as well as the ordinance that authorized it. The SMVs are also available in hard copies at the Assessor's office and anyone who may want to get information about the market values for a particular place or location can go to the Assessor and request for it. Technically, the SMVs are public records that should be accessible to everyone.

LGI 11 - Tax collection efficiency

LGI-Dim	Topic	Score			
		A	B	C	D
Tax Collection Efficiency					
11	i	Exemptions from property taxes are justified <i>Checks that tax proceeds are not significantly reduced by a high number of exemptions to the payment of land and property taxes.</i>			
11	ii	Property holders liable to pay property tax are listed on the tax roll <i>Assesses the completeness of the tax roll</i>			
11	iii	Assessed property taxes are collected <i>Measures the closeness amount of tax revenue collected to the potential.</i>			

There is wide discretion in the application of exemptions to payments of property taxes

The LGC effectively repealed all RPT exemptions previously given under special laws. It limited the number of properties that will enjoy tax exemption. Section 234 enumerates them as follows:

1. Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.
2. All charitable institutions, churches, parsonages or convents appurtenant thereto including mosques, non-profit or religious cemeteries and all lands, buildings and improvements which are actually, directly and exclusively used for religious, charitable or educational purposes.
3. All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power,

4. All real property owned by duly registered cooperatives as provided under RA No. 6938 (the Cooperatives Law).
5. Machinery and equipment exclusively used for pollution control and environmental protection.

The exemptions provided in the LGC are clearly based, in addition to equity and constitutional grounds, on national development policy and social considerations and there is no problem in their implementation.

In practice, however, some LGUs resort to the taxation powers vested in them under the LGC to grant exemptions. In their desire to attract investments into their locality, LGUs offer real property tax exemption as an incentive. This exemption is usually contained in the investments incentives ordinances that many LGUs enact. Giving up revenues in exchange for more economic activities is seen by LGUs as a better policy that can address problems of unemployment and non-utilization of the other resources of the LGU.

The following cases illustrate the points above:

Alaminos, City in Pangasinan passed Ordinance 2006-11 on October 13, 2006 providing incentives to investors in the city. This include exemption from the basic real property tax due to the city but excluding the shares of barangays for a period of two years from the start of the commercial operations of the business enterprise.

Mandaue City gives a 25% to 50% real property tax discount (based on the amount of investments) to new businesses and existing enterprises planning to expand their investments. This practice is clearly not in consonance with the LGC because an LGU can condone or reduce the real property tax only “in case of a general failure of crops or substantial decrease in the prices of agricultural or agri-based products, or calamity” in the area.

San Carlos City in Negros Occidental passed in 1998 an ordinance entitled the San Carlos City Investment Incentives Code. It provides incentives to business establishments locating in the city which include full tax exemption from the basic RPT and SEF for five years from registration or start of commercial operations, whichever comes earlier.

Another instance when LGUs have granted tax exemptions is when they give real property tax amnesty to delinquent taxpayers. This is a common practice among LGUs in their desire to raise revenues. Some of the LGUs that have, at one time or another in the past, issued tax amnesties are Quezon City, Caloocan City, Meycauayan City and several others.

Without clear policies, the granting of exemptions can be subject to abuse and discretion, to benefit private interests. It is recommended that BLGF/DOF, together with DILG and the DOJ, should review the power of LGUs to grant RPT exemptions and their use to attract investments. In the meantime that no definitive official position is in place, BLGF should be more pro-active in giving advice to LGUs in the correct implementation of the RPT exemption authority allowed to them.

A large proportion of property tax payers are not listed on the tax roll

Section 205 of the LGC prescribes that Provincial or City Assessors shall maintain an assessment roll listing all real property, whether taxable or exempt, located within the

territorial jurisdiction of the LGU. Real property shall be listed, valued and assessed in the name of the owner or administrator, or anyone having legal interest in the property.

The records of the BLGF show that as of December 2011, there were a total of 28,882,312 taxable real property units (RPUs) all over the country. No breakdown is available but these RPUs include lands, buildings/improvements and machineries. By actual use, the properties are further subdivided into residential, commercial, industrial and agricultural.

However, Assessors are not able to accomplish this list fully and accurately because of their strong dependence on the property owners reporting to them the details of their properties and very often, the property owners do not report to, or provide accurate reports to the Assessor. This is particularly true of buildings and improvements and machineries. Only when the Assessor and/or his staff go on ocular inspections do they discover new buildings and improvements and it is not unusual for these buildings/improvements to have been existing for several years before they are discovered by the Assessor and listed in the assessment roll. The same is true for machineries.

Moreover, under the LGC, there are several government officials and private persons who are required to furnish the Assessor certain information but fail to do so. This includes the following:

- Registrar of Deeds to prepare and submit to the provincial city and municipal assessor an abstract of his registry “which shall include brief but sufficient description of the real properties entered therein, their present owners, and the date of their most recent transfer or alienation accompanied by copies of corresponding deeds of sale, donation or partition or other forms of alienation.”
- Any public official or employee who issues to any person “a permit for the construction, addition, repair, or renovation of a building, or permanent improvement on land, or a certificate of registration for any machinery, including machines, mechanical machines contrivances, and apparatus attached or affixed on land or to another real property, shall transmit within 30 days of its issuance, a copy of such permits or certificates, to the assessor of the province, city or municipality where the property is situated.”
- All geodetic engineers, public or private, are required to furnish free of charge “to the assessor of the province, city or municipality where the land is located with a white or blue print copy of each of all approved original or subdivision plans or maps executed by them within 30 days from receipt of such plans from the Lands Management Bureau, the Land Registration Authority of the Housing and Land Use Regulatory Board, as the case may be.”

With the above legal provisions, notwithstanding, the Assessor is usually not provided on a regular basis by the persons concerned, the information that is supposed to be transmitted to him. One of the reasons for this is lack of sanctions for non-compliance.

In the case of lands, the ones that are not usually listed in the assessment roll are those covered by the Comprehensive Agrarian Reform Program (CARP) that have already been transferred to the beneficiaries. Since the implementation of the CARP involves several agencies/institutions, the procedures are somewhat complicated such that information is not always given or received on time by the concerned party. Thus, the non-listing of the CARP beneficiaries who are now the new owners of the land, in the assessment roll.

Another case when property owners are not listed in the assessment roll is when a particular land/property had already been bought but the new owner did not report the

sale or transfer to the Assessor. The property is carried in the Assessment Roll under the name of the previous owner making this piece of information incorrect. The same can also be said for many heirs who inherited properties from their deceased parents and who refuse to report to the Assessor even if the property had already been informally or even officially divided among the heirs. The subdivision of properties is not usually reported to the Assessor or if it is, it can be long after the subdivision has taken place.

Updating of tax maps is also a function of LGU capacities and the practice of due diligence. In the case of some LGUs, investments in GIS and mapping capabilities, the establishment of databases, the installation of property tax and revenue collection computerized systems; as well as regular field inspections have all helped in ensuring the tax rolls are up to date. In many cases, this had the effect of improving tax collection efficiency while at the same time improving their service to the public. The experience of REGALA and LAMP ISF LGUs have shown that much can be achieved if a combination of capacity development and local LGU tax policies can be enforced at the LGU level. These should be pursued more widely in order to improve capacities to collect property taxes.

Property tax collection efficiency is very low

In a study undertaken by the National Tax Research Center (NTRC), it was revealed that for the period 2003 to 2010, an average of 59% of the real property taxes due were collected by LGUs. Broken down annually, the ratios of the taxes collected are as follows:

YEAR	PERCENT OF RPT COLLECTED³³
2003	57%
2004	58%
2005	61%
2006	66%
2007	61%
2008	57%
2009	59%
2010	54%

Under LAMP2 and REGALA Project, Tax Compliance Studies were undertaken for selected LGUs. These studies applied more rigorous methodology which involved inventory of all properties, the taxes due during the current and prior years; and analyses of variations in collections across property types and localities within the LGU jurisdictions. The following illustrate the collection efficiencies based on this method:

Naga City (2007)	-	63%
Mandaue City (2008)	-	67%
Bayawan City (2009)	-	36%
Legazpi City (2009)	-	33%
Alaminos City (2011)	-	74%
San Carlos City (2011) ³⁴	-	60%
Tayabas City (2011)	-	40%

Records of the BLGF on the collection efficiency of LGUs show that for 2011, the average efficiency for all LGUs is 78% broken down into 79% for cities and 76% for provinces. On a

³³ Basic RPT only

³⁴ Data for San Carlos and Tayabas cities are preliminary

regional basis, Region 11 has the highest collection efficiency at 101% followed by Regions 2 and 3 which both registered 97% efficiency. At third place are Regions 4A, 6 and 10 at 86%. The least efficient in collecting RPT is Region 8 which reported a 33% efficiency followed by Region 4B at 48%. Closely following is CAR with 49% efficiency followed by Regions 12 and 1 with 34% and 55%, respectively.

The manner of computing and reporting on tax collection efficiency is a concern. The above BLGF data shows regions, cities reporting more than 100% efficiency, which is theoretically not possible. Based on the listing, there were LGUs that recorded more than 200% and 300% efficiency. The initial explanation for these numbers is that the collection figure for these LGUs combined both the current year and prior years collection thereby making unequal the equation of collectibles versus actual collection. BLGF however, is in the process of cleansing the database.

The high dependence of many LGUs on the internal revenue allotment (IRA) creates disincentives to collect property taxes. As it is, the IRA increases every year thus benefitting all LGUs in the process. On the average, provinces and municipalities have IRA of 80 percent and 76 percent, respectively of their total budget, while cities have a more balanced ratio (43 percent), based on average consolidated data from 2001-2010. Cities' performance is largely attributable to special cities and HUCs, hence there are many other cities with relatively high dependency on IRA. There is definitely some value in looking at the impacts of IRA on local revenue performance, and devise ways to use this as incentives for to improve internal revenue generation capacity and collection efficiency.

The above collection record also shows that administrative and judicial remedies provided in the LGC for the collection of delinquent RPT are not rigorously implemented. Sanctions for local officials (primarily the treasurer and his staff) for not collecting the RPT are not utilized.

Treasurers should therefore be required to seriously carry out their task of ensuring that all property taxes that are due are collected and appropriate sanctions should be meted out for non-compliance. To assist Treasurers in their task, BLGF should conduct intensive trainings on the use of administrative and judicial remedies for collecting delinquent taxes.

As the REGALA Project has shown, the cleansing and computerization of tax records have likewise produced the benefit of improving LGU capability to increase its property tax collection. Part of such support to LGUs therefore, would be the promotion of appropriate integrated computerized systems for property tax assessment and collection. In addition, LGUs should regularly conduct tax compliance studies to determine their collection efficiency and serve as basis for developing an improved revenue collection program.

Module 3 - Management of Public Land

INDICATORS ASSESSED:

LGI 12 – Identification of public lands – *assesses whether public land ownership is justified, inventoried, under clear management responsibilities, and relevant information is publicly accessible.*

LGI 13 – Incidence of expropriation - *assesses whether expropriations occur in the public's general interest and whether it is efficiently resorted to.*

LGI 14 – Transparency of expropriation procedures - *assesses the transparency of expropriation procedures and fairness of associated compensation*

LGI 15 – Public land allocated transparently

LGI 12 - Justification of public land ownership and management clarity

			Score			
LGI-Dim	Topic		A	B	C	D
Identification of Public Land						
12	i	Public land ownership is justified and implemented at the appropriate level of government <i>Assesses whether public land ownership is justified by cost-effective provision of public goods (or avoidance of externalities) at the appropriate level of government.</i>				
12	ii	Complete recording of publicly held land <i>Assesses whether all public land and property is inventoried in a way that allows clear and unambiguous identification of boundaries.</i>				
12	iii	Assignment of management responsibility for public land <i>Assesses whether responsibility for managing different types of public land is clearly assigned.</i>				
12	iv	Resources available to comply with responsibilities <i>Assesses whether institutions responsible for managing public lands have resources available to comply with their responsibilities.</i>				
12	v	Inventory of public land is accessible to the public <i>Assesses whether information in the public land inventory is accessible to the public (Information includes property lists, details of current use, maps etc.).</i>				
12	vi	Key information on land concessions is accessible to the public. <i>Assesses whether key information for concessions (the locality and area of the concession, the parties involved and the financial terms of the concession) is recorded, up-to-date and publicly accessible.</i>				

Public land ownership is justified in most cases by provision of public goods but responsibility is often at the wrong level of government.

In the Philippines, the government is the biggest landowner since it manages about half of the country's territory through the issuance of tenure rights and regulation of uses over these areas.

Under the Philippines 1987 Constitutions, lands of the public domain are classified as: agricultural, forest/timber lands protected areas-national parks, and mineral lands. Only agricultural lands may be alienated and can be subjected to agrarian reform. Forest lands that have been classified as agricultural can be subjected also to land reform.

State "ownership" of the public domain - forest lands and protected areas; are justified on the basis of provision of environmental and other public goods and services. As a country facing high risk of natural disasters and related events, the protection and sustainable management of forest lands and key biodiversity areas are important for improving the resiliency of its ecosystems. Further, as an archipelagic country, the continued provision of ecosystem services such as water and other environmental goods and services is important for its food security and sustained economic growth.

However, management of these lands rest mainly with DENR, through the grant of long term agreements with communities for onsite effective management. Resource use and planning is still heavily regulated, and subject to changing policies of DENR. This situation has discouraged communities to establish long-term perennial crops. With no access to loan financing, communities remain dependent on LGUs, DENR, NGOs and donors for support in development activities.

It is essential that greater devolution of management responsibilities be given to LGUs, and stronger recognition of the role of local communities and other organizations in their management.

While the main responsibility for public land management rest with DENR, other agencies also have some interests in lands of the public domain. These include DAR, Department of Energy, National Commission on Indigenous Peoples (NCIP), and the many Bureaus under the DENR. This has resulted in overlaps in the issuance of tenure instruments and permits, thus causing a lot of conflicts and incompatible uses. It is common for portions of forest lands or protected area to have within these, overlaps with ancestral domains, mining claims, energy exploration permits, among others. The recent issuance of Joint NCIP, LRA, DAR, DENR Administrative Order could prevent overlaps and conflicts in the future. Another outcome of such ambiguity is that it has resulted in some form of impasse in terms of enforcement of rights, and investments in the development of public lands, thus essentially rendering large portions of public lands under open access conditions.

More than 50% of public land is clearly identified on the ground or on maps.

The DENR has been successful in the mapping and demarcation of the country's forest estate. Except in the Autonomous Region of Muslim Mindanao (ARMM), forest boundary delineation for the whole country is completed and now on its final stages of evaluation and in some areas, legislation. In all, about 79,245 km of forest boundaries have been delineated.

Tenured areas within forest lands and protected areas are delineated in maps available within the DENR offices. There is no single reference however, of all these interests in a single map that is available to the public.

In the case of protected areas needs to be done, such that these are clearly mapped and boundaries properly demarcated. Only 12 of the 113 proclaimed protected areas have fully demarcated boundaries.

It is important for DENR to proceed with the final stages of evaluating the forest boundary delineation and the process of legislation as required by the Constitution. This will be useful for planning and land use allocation, both at the national level, and at the level of individual LGUs. To be useful to LGUs and other users, it would be necessary to make this information available on line and in digital form for LGUs.

There is enough ambiguity in the assignment of management responsibility of different types of public land to impact to some extent on the management of assets.

Such ambiguity manifests in the way inventories of public lands and information on concessions are held. There are inventories and maps of tenure types and resource managers over portions of forest lands, in the field offices of DENR. However, these are in various forms, in most cases, not ground validated. There have also been reports of undue influence in the forest boundary delineation such that the validation parties found forest sections that do not meet the prescribed criteria to be released as A and D.

There is no single reference map or database which shows all the interests on the forest lands and protected areas. One has to go to each different database and map to find out all the tenure types and status of a particular forest land or protected area. The same holds true for information on land concessions. These are scattered among the Mines and Geosciences Bureau (MGB) for mining permits and licenses; with the PAWB for protected areas and key biodiversity areas and the permits within; with the Lands Management Bureau for titled and untitled properties as well as public A and D lands; and with the Forest Management Bureau for industrial forest management agreements (IFMA), CBFMA, and other tenure and interests. An added layer would be the CADTs issued by NCIP, energy exploration permits issued by the DoE, and CLOAs issued by DAR.

There is clearly a need for more integrated approach to the management of these lands, to veer away from the commodity driven management and planning of public lands and resources therein. The recent integrated ecosystems management (IEM) approach that is being promoted hopes to achieve some convergence of these approaches, and create a sense of better management of portions of watersheds, through sound resource use and allocation to achieve commonly agreed objectives. Within an LGU territory, a better understanding of all such interests in the public domain can be achieved through the FLUP process, where all these information are put together for the appreciation of the LGU. However, only a few LGUs have been into FLUPs.

There are significant constraints in the budget and/or human resource capacity but the system makes effective use of limited available resources in managing public lands. – particularly in PA management

Despite these huge responsibilities, there are serious funding and resource gaps in these agencies to effectively fulfil their land management functions. However, the system makes effective use of limited resources in managing public lands. Among the responsibilities, forest management has historically been the recipient of investments, focusing on massive reforestation, forest boundary delineation, and the current National Greening Program. The

cadastral program has recently received huge allocations too, since 2012 with the aim of completing all unsurveyed areas in the country.

What is needed is attention to the protected area management program so that the National Integrated Protected Areas System (NIPAS) can be implemented according to the intents of the law. This should boost the efforts towards conservation, protection, rehabilitation and management of these areas.

Additional support is also required for the NCIP so that it is able to accelerate the survey, mapping and registration of CADTs, and support the capacity development of IP organizations.

Information in the public land inventory is incomplete

There are inventories and maps of tenure types and resource managers over portions of forest lands, in the field offices of DENR. However, these are not readily accessible to the public and seldom available in digital form. Protected areas are also mapped and included in the database of the PAWB.

What is severely lacking is information on public A and D lands such as cadastral maps, as well as the location of titled and untitled properties. This information is crucial for LGUs in their planning functions and in the implementation of their land tenure improvement programs. In most cases, these land related records and information are not properly inventoried in the DENR, many records have been damaged from fires, floods, while some are missing due transfers of offices, and removal from the files. The current effort under the additional financing of LAMP2 to inventory and computerize the DENR land records through LAMS would contribute greatly to resolving the situation.

The FLUP/CLUP processes can serve as important tools for making information on tenured areas, public A and D and other allocations are more transparent and accessible to the public. These LGU initiated efforts, with DENR and NCIP support will greatly aid in planning, validation, and promotion of investments for development and conservation. Acceleration of more inclusive FLUP and CLUP processes should therefore be strongly supported.

Key information for land allocations/concessions are recorded but is not publicly accessible

Information on concessions and other interests in public land are recorded in the DENR, distributed across its various Bureaus and agencies.

In the case of mining concessions and exploration permits, these are uploaded at the MGB website. The PAWB maintains a database of all protected areas. However, the list of Special Use Agreements in Protected Areas (SAPA), and other activities where there are existing Memorandum of Agreements with DENR are maintained at the regional offices. In the case of tenurial instruments in forestlands, these are available at the FMB, with more detailed information at the regional offices. NAMRIA maintains the maps showing the location of forest lands. However, for public alienable and disposable lands and the cadastral maps, this information are not readily available and one has to go to the different regional offices to locate these and validate on the ground.

Many of the government properties held by the national government agencies and LGUs are not titled, and there is no integrated database which contains all these information. The opportunity offered by RA 10023 to facilitate the issuance of Special Patents to government

properties has not been maximized in view of the lack of implementing guidelines pertinent thereto.

Other public lands include reclaimed areas whose records are maintained by the Public Reclamation Authority (PRA). Such list is not readily available to the public either.

The lack of a comprehensive repository of all these maps and information and lack of access to the public to these data has affected planning by LGUs and others who might have an interest in engaging in joint venture agreements in public lands.

In some instances, even NAMRIA had difficulty in identifying which lands are to be reverted to forest lands resulting from misclassification by the Land Evaluation Parties; in the course of their work in validation of forest boundaries. This stem from lack of information on which lands have been released as A and D, and out of these, which properties have been titled. This situation created opportunities for those with vested interest to benefit by way of appropriating for themselves, portions of forest lands that should not be released as A and D.³⁵

Other examples include difficulty in implementing the conversion of abandoned fishpond lease agreements to mangroves, in light of lack of good information on the owners and locations of expired fishpond lease agreement holders.

The current efforts of NAMRIA and the DENR regional units in updating, validating, correcting records of the Land Evaluation Parties (LEPs) could help harmonize overlaps and make this information accessible to the public. NAMRIA should also accelerate its master mapping of all information on land concessions by province, city and municipality for dissemination and use of the public.

LGI 13 and 14 - Justification and fairness of expropriation procedures

LGI-Dim			Score			
			A	B	C	D
Incidence of Expropriation						
13	i	Transfer of expropriated land to private interests				
13	ii	Speed of use of expropriated land				
Transparency of Procedures						
14	i	Compensation for expropriation of ownership				
14	ii	Compensation for expropriation of all rights				
14	iii	Promptness of compensation				
14	iv	Independent and accessible avenues for appeal against expropriation				

There is room for strengthening the policy framework in the Philippines so that expropriation fairly compensates all those who lose rights, and follows clear and transparent processes.

Laws provide that expropriation be used solely for public interests, but there is no monitoring of transfers of expropriated lands

In the Philippines, expropriation of private property is solely for public use and interests. In the absence of data however, on transfers of all expropriated land in the country, it is difficult to determine whether portions of these were transferred to private interests. Data on expropriation are scattered among many agencies, and there is very little monitoring on

³⁵ Panel 9 LGAF Workshop. Aide Memoire.

the extent of expropriated land, the amount of compensation, promptness of compensation, and use of expropriated land. These data are also not publicly accessible.

Some reporting and monitoring mechanisms need to be in place to keep track of this function of government. LGUs are also authorized to expropriate by virtue of the LGC, and have done so, for purposes of establishing low cost housing projects, or settlement projects for informal settlers. A few isolated cases have been reported about LGUs transferring expropriated land for commercial purposes, but these need to be more fully documented. The extent to which portions of these have been transferred for private use is still undetermined.

There is inconsistency in the values used to compensate expropriated properties

Only national infrastructure projects have clear policies for expropriation and compensation using market rates (RA 8974). There is currently no policy to provide compensation for income losses. In the case of national infrastructure projects, the BIR zonal value is used as basis for valuation despite the fact that there are other standards cited in said law for valuing land. For other projects, the policies that apply are PD 1533 and EO 1035 which uses the values declared by the owner/administrator or as determined by the Assessor pursuant to the Real Property Tax Code, whichever is lower, as basis for compensation. These values are way below market rates, in some cases undervalued by as much as 1000%; due to the outdated LGUs' schedule of market values; and because SMVs are not based on market prices. These amounts will not enable the affected property owner to find replacement property of equal value.

Only national infrastructure projects pay prompt compensation for expropriated properties

There are varying provisions in existing laws with regard to the promptness of compensation. Most favored are expropriated properties of national infrastructure projects, wherein based on RA 8974, 100% payment should be made immediately to the owners. Payment is based on the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR). Payment shall also include the replacement cost of improvements and/or structures upon filing of the complaint and after due notice.

For projects other than national infrastructure and those projects of the LGUs, property owners are not compensated promptly. In the case of the former, PD 1533 and EO 1035 provide that the government can immediately take possession, control, and disposition of the property upon payment of 10% of the assessed value of the property based on the tax declaration of the owner. In the case of projects of LGUs, the applicable law is RA 7160 that allows the LGUs to take possession of the property upon payment of 15% of the value of the property based on the tax declaration.

There are delays in the transfer of expropriated properties to their destined use

Speed of use of expropriated land is affected by delays owing to project approvals, negotiations, release of budgets, payments, particularly for foreign assisted projects. Thus, the panel opined that it is safe to say that less than 50% of expropriated land have been transferred to their destined use in the last three years. This does not augur well for good governance.

There is no national resettlement policy that would ensure displaced households maintain their prior social and economic status; and provide for a grievance redress system

Current policies on compensation do not distinguish urban and rural properties in terms of fairness, compensated rights and timeliness of compensation. In the case of urban registered properties, there is no legislation that will provide for compensation for loss of future income by business establishments. Similarly, for registered rural properties, there is no legislation that would allow for compensation for future income losses from agricultural production.

For unregistered properties, there is no legislation that provide for compensation. In the case of foreign assisted projects where resettlement action plans (RAPs) are prepared, these types of compensation are recommended. The types and estimates of compensation therefore, very depending on the policy of the donor institution on RAPs. The lack of legislation has also affected consistency in implementation. There were even cases where DPWH ROW agents encounter difficulties due to disallowances by the Commission on Audit.

There is therefore an urgent need to have a national resettlement policy that embodies, aside from proper and prompt compensation and entitlements, grievance redress and sustainable livelihood restoration and improvement program. This policy should apply uniformly to all types of government projects, regardless of the funding source, and the level of who executes it. Such grievance redress system should also be accessible and affordable to poor property owners affected by expropriation. This is made worse by RA 8975 which prohibits the lower courts to issue temporary restraining orders (TRO), preliminary injunctions, or preliminary mandatory injunctions on national government infrastructure projects. While DPWH has a Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples Policy (LARRIP); it is not founded on legislation, but an Administrative Order issued by the agency. Hence, it has no legislative basis, and therefore, subject to audit interpretations anytime. There is a National Resettlement Implementation Plan (NRIP) which was produced in 2003 through WB support; but this needs updating.

Module 4 - Public Provision of Land Information

INDICATORS ASSESSED:

LGI 16 – Completeness of registry - *extent to which the registry provides a complete geographic coverage of land parcels and its accessibility to land users.*

LGI 17 – Reliability of records – reliability of information contained in the registry

LGI 18 – Cost effective, accessible, sustainable - *cost-effectiveness and financial sustainability of land administration services*

LGI 19 – Transparency - *whether fees are determined and collected in a transparent manner*

LGI 16 - Completeness of Registry

LGI-Dim	Topic	Score			
		A	B	C	D
Completeness of Registry					
16	i	Mapping of registry records <i>The share of registered private rights readily identifiable on a map is high.</i>			
16	ii	Economically relevant private encumbrances <i>Assesses completeness of registry information about economically relevant private encumbrances.</i>			
16	iii	Economically relevant public restrictions or charges <i>Assesses completeness of registry information about economically relevant public restrictions and charges.</i>			
16	iv	Searchability of the registry (or organization with information on land rights) <i>Assesses whether records can be searched by both right holder name and parcel</i>			
16	v	Accessibility of records in the registry (or organization with information on land rights) <i>Assesses accessibility of Information in the registry by all interested parties.</i>			
16	vi	Timely response to a request for access to records in the registry (or organization with information on land rights) <i>Assesses timeliness of response to a request for access to records in the registry</i>			

A large proportion of registered privately held rights are not readily identifiable on a map

The Philippines has only one register of all land records. However, there are various agencies involved in surveying, mapping and recording and approval of cadastre; and therefore, information relating to surveys and cadastral and municipal maps are spread across these organizations.

The Land Management Bureau and its regional offices in the DENR are responsible for cadastral survey of all alienable and disposable lands that are subject to original titling. Review and approval of survey plans are also the responsibility of the LMB and DENR regional offices.

The Land Registration Authority (LRA) was also vested authority to review and approve survey plans. It maintains its own cadastral index maps based on the survey plans it reviews and approves; and this information are not shared with the DENR. Furthermore, there are differences in the projection of the index maps maintained by the LRA and DENR.

There is no complete inventory or index map showing the location of the various records and plans, customers are required to visit all three locations in order to build a complete picture over the area. The information in respect to patents is also stored in these three locations.

All titles registered at the different Register of Deeds Offices nationwide are supposed to be supported by an approved survey. Therefore all titles in the Registry should be reflected in the cadastre. However, the RoD's do not usually hold copies of these cadastral maps. Maps are also not used in the operations of the registries. Cadastral maps are held by DENR and mostly are not updated to reflect subsequent transaction such as subdivision or consolidation even if the surveys for these transactions are also being approved by the agency. A lot of records, including maps have been either lost or destroyed due to fires, natural calamities and the last war (World War II). Many of these lost or destroyed records have never been reconstructed/reconstituted. The inventory of land records were never taken seriously by the agencies that holds the records such that it is impossible to assess the actual number of records that still exist and those that have been lost or destroyed.

In the case of Legaspi city, the records of the survey including the cadastral maps were destroyed during the fire which burned down the Office of the DENR. The DENR is now currently being assisted by the City Government in reconstructing the cadastre using information from the titles in the City Register of Deeds. There are other LGUs in the same situation.

The lack of a complete map of registry records has resulted in weak planning for tenure security, among others. Comparing the latest land sector statistical report of LMB with the results of the 2004 LAMP Land Tenure Status, the 2004 study indicated a total of 13,051,132 land parcels titled yet the inventory of approved lots in LMB's statistics is only 7,080,540. This represents a gap of 5,970,592 or the approved lots represent only 45% of parcels titled in the Registry. The huge gap can be attributed to the fact that DENR do not anymore account for subdivisions (or consolidations) subsequently approved after the approval of the cadastral or original survey. These isolated surveys are usually not anymore updated into the cadastral maps. The authority of LRA to approve surveys of titled lands further complicates the situation. LRA approved surveys are not usually shared with DENR and the LRA also do not hold the cadastral maps and therefore cannot update it.

Further contributing to the state of land records is the fact that cadastral survey is not yet complete across the country. There are still many municipalities that are still either partially surveyed or unsurveyed. Since 2010, DENR has contracted out massive cadastral survey projects. Several political boundary surveys are also on-going nationwide.

Phil-LARES as part of its commitment in the LTCP is currently working on producing an index map for Metro Manila by digitizing title information, building up the cadastre parcel

by parcel using the technical descriptions found in the title. The problem with this process is it cannot capture untitled lands and therefore cannot reproduce the whole cadastre.

This state of affairs has been identified as one of the many justifications for establishing a single land agency. Merging the registry and cadastre agencies would benefit the public, and pave the way for a unified system of records management.

Economically relevant private encumbrances are consistently recorded and can be verified at low cost

Recording of private encumbrances are on voluntary or on-demand process but are recorded consistently and in a reliable fashion as annotation at the back of the titles.

Where no fee is specified, registration or annotation of this encumbrances will require payment of registration fee which uses a schedule (from a low of PhP 21 to a high of PhP 8,796) based on the assessed value of the land or the amount in consideration whichever is higher, plus issuance and certification fee and IT service fee (PhP 344.93/deed, instrument or entry).

Anybody interested to check or verify encumbrances attached to the title can access it for a fee (PhP 215.58 IT service fee for query/research). They can also secure true copies of the title/documents for a fee.

Socially and economically relevant public restrictions are consistently recorded

Recording of relevant public restrictions are recorded consistently and in a reliable fashion as annotation at the back of the titles. The public restrictions recorded/annotated in the titles includes:

- Levy
- Tax liens – PhP 30
- Easements
- Right of way, public highways or roads
- Limitation to disposition of properties arising from agrarian reform laws and regulations

Where no fee is specified registration/annotation of this encumbrances will require payment of registration fee which uses a schedule (from a low of PhP 21 to a high of PhP 8,796) based on the assessed value of the land or the amount in consideration whichever is higher, plus issuance and certification fee and IT service fee (PhP 344.93/deed, instrument or entry).

The registry is searchable by both right holder name and parcel

The Land Titling Computerization Project (LTCP) of the LRA has made possible any search by owners name or title easier, faster and more accessible with the launch of the A2A (Anywhere to Anywhere Service) and PVS (Parcel Verification Service). In a computerized Registry (on-line to the LTCP) the primary key for searching the registry is the title number.

Box 5. Private Encumbrances recorded on the title

- Registration and release of mortgages
- Court or judicial orders – PhP 60
- Long-term leases
- Sale of portion or partial transfer
- Conditional sale
- Option to purchase or promise to sell
- Sale subject to redemption or repurchase/redemption of properties sold
- Surety and bonds
- Powers of attorney, letters of administration, appointment of guardian, resolution or revocation – PhP 120
- Levy
- Adverse claims
- Lis pendens – PhP 30
- Extra-judicial settlement
- Right or ways
- Rent contract
- Attachments
- Building and improvements – PhP 60

The cadastral lot number can also be used to search the registry. The facility to search using property holders was however recently deactivated such that the RoD now have to revert to the manual search of the title if only the title holders name is known or given.

If searches have to be done manually, the easiest way is if the title number is known. Titles searches can also be done using the cadastral lot number or name of the title holder but this will take more time to do.

Copies or extracts of documents recording rights in property can be obtained by anyone who pays the necessary formal fee

Titles and other documents in the different Registry are considered public document and by operation can be accessed by anyone. The searching of the records of the RODs is permitted by Property Registration Decree 1529. Section 56 therein provides:

“All records and papers relative to registered land in the office of the Register of Deeds shall be open to the public in the same manner as court records, subject to such reasonable regulations as the Register of Deeds, under the direction of the Commissioner of Land Registration (now administrator of LRA), may prescribe.”

The LTCP has made it more accessible to the public such that anywhere, there is an on-line RoD, anybody can search for pertinent title information. An interested person in Manila can go to any of the on-line Registry anywhere in Manila to secure copies of titles or title information for lands located in Cebu City for example or anywhere as long as the RoD in the location of interest is also already on-line. Access to the information or copies of the title documents do require payment of fees, including the IT service fee. Securing a certified or true copy for 1 title for example can cost Php 401.30.

There is timely response to request for access to records in the registry

Obtaining copies or extracts of documents from the different Registry of Deeds Offices is reasonably easy and fast. Even in Registries still using manual process (such as Legazpi City RoD) these can be secured within the day of request. Interviews of clients coming from Legazpi City, San Carlos City, Ilocos Norte, Bayawan City mostly revealed that it is not difficult to get certified/true copies of titles and other documents from the RoD and most get it within the day of request (interviewees were selected from clients who are transacting with the local assessor’s office)

The LTCP has made this process even more accessible and faster. That is for titles that are already in the system. However, for titles or documents that are not yet in the system the time taken to actually obtain the requested copies can vary from 3 weeks to 3 months. Actual observations were made in 3 of the computerized RoD (San Carlos, Ilocos Norte and Negros Occidental) and generally those clients who requested copies of titles of documents obtain it within the day. In less than 10% of cases their requested copies cannot be provided within the day as these involved relatively recent transactions and the titles/documents are not yet in the system.

Officers of Banks such as Land Bank of the Philippines (LBP), Rizal Commercial banking Corporation (RCBC), Philippine National Bank (PNB), Allied Bank gave good ratings indicating that they can usually get their request within the day or at least the day after they made their request.

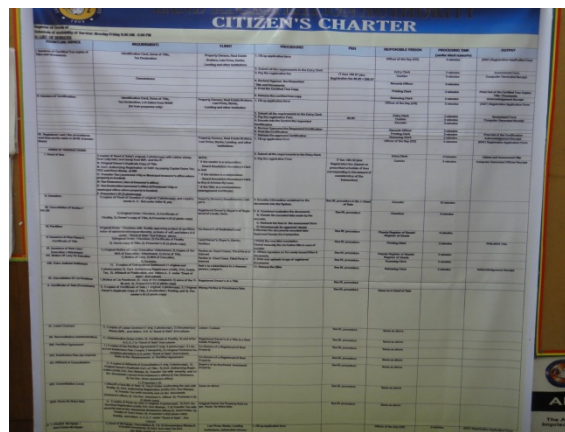
A more important concern however, is the reliability of records kept at the registry. While access to information is fast and easy, the RoDs do not retire old records which partly

explains why searching by name would yield various records, even if these pertain to the same property.

LGI 17 - Reliability of the registry

LGI-Dim			Score			
			A	B	C	D
Reliability of Records						
17	i	Focus on customer satisfaction in the registry		Yellow		
17	ii	Registry/ cadastre information is up-to-date				
17	iii	Registry			Orange	
17	iiib	Cadastre				Red

Service standards are published, but not effectively monitored



Citizen's Charter such as the one pictured above (taken from Legazpi City RoD) laying out the service standards for the different RoD transactions are displayed prominently outside the offices of the entire RoD's. The Citizen's Charter covers all transactions in the RoD providing detailed description of the processes and procedures, fees, requirements, persons responsible for completing the transactions, processing time under ideal situations and the outputs. There were also differences in the published Citizen's Charter between RoDs that are still in the manual system against those that are already on-line to LTCP. The differences are mainly on processing times and fees. These Citizen's Charters (for LRA and RoDs) are also published in the LRA website (<http://lra.gov.ph>).

There are some concerns though in terms of monitoring RoD performance against the published service standards. Feedback from some indicated that the LTCP system tracks the progress of the transaction and these are used to monitor staff performance. But it is not clear whether the individual performances are being consolidated to assess the performance of the Office as a whole against the Citizen's Charter. Performances and issues are reportedly usually discussed during national meetings organized by LRA.

The panel reported that the difficulty in lodging a complaint against a government employee could be one of the reasons why there are not so many known actions taken on nonperformance.

The registry and cadastre information are not up to date

There are a number of reasons why information in the registry and cadastre are not updated.

First, the fact that some 40% of the country's A and D lands are untitled; and that there are informal transactions already happening in these parcels mean that the cadastre and registry records are utterly incomplete.

Second, many of the land surveys have been approved years ago and that while land claims have changed since then, these are not captured in the cadastral maps held by DENR.

Third, LGU records, which are considered to reflect the closest to the reality on the ground; are also incomplete. This is because majority of the LGUs are not conducting tax mapping and/or updating tax maps as a regular function.

Another reason is that there is poor sharing of information among the LGU Assessors, LRA and DENR. In many instances isolated surveys approved by DENR and LRA (subdivision and consolidation) are not shared with the local assessor's offices. There are several instances where surveys approved by the DENR Regional Offices are not even furnished to the field offices. It has been the experience under the LAMP 2 Innovation Support Fund and the ADBJFPR-REGALA Project that CENROs do not have a complete copy of the cadastral maps and other survey records. The CENROs are also not regularly furnished copies of subdivision plans (if furnished at all). The active maps within the DENR and LRA are its projection maps but these maps are treated as closely guarded secrets and never shared with other agencies.

Another reason is that a large portion of property owners does not register their transactions due to a number of factors. A few RoD and LGU Assessors interviewed in the course of LGAF estimate that between 10-20% of such transactions are not registered. The reasons given were:

- High cost of capital gains tax
- High costs of surveys and lengthy process of survey approval
- Requirement for tax clearance from the Assessors' office which can entail higher expense particularly if the owner is in default in payments

In a study under LAMP2³⁶ to determine the extent to which subsequent transactions have occurred on titles and Certificates of Land Ownership Award (CLOAs) issued, and how these transactions are captured in the RoD, the following were the key findings:

- 84% of all titles issued were still in the names of original owners as registered with the RoD; 16% of parcels have new lot owners;
- More than half of those reportedly under new owners have unregistered transactions;

Major reasons given for not registering subsequent transactions include the high cost of transfers; lack of familiarity with the process; too many requirements; lack of knowledge of the need to register; presence of red tape or fixers; high cost of back taxes that need to be paid; and no knowledge on where to register.

When respondents were asked about suggestions on how to improve the registration

³⁶ LAMP2. **Study on Registration of Subsequent Land Transactions.** June 2010. The study was undertaken in Leyte, Bohol and Bukidnon. The study covered titles that were released during the period 1996-2000; meaning the titles have passed the restriction period and are eligible for subsequent transactions.

system; the following were given.

- create awareness on the importance of land registration through information and education campaign;
- adopt a simplified registration system with less requirements;
- reduce registration fees; and
- establish One Stop Shop for lands services

Among the 38 percent of respondents who encountered problems and difficulties in the registration process, the following feedback were given:

- processing at RoD is time consuming and slow;
- the OSS/RoD is located far from their residences;
- presence of red tapes/fixers;
- too many requirements, some of which are difficult to produce;
- expensive due to high costs of transport and other expenses in following up titles;
- it takes too long for the relocation survey to be done;
- cadastral survey is very slow and expensive, surveyors not readily available, and surveys are not done properly;
- subdivision of mother titles is very expensive;
- it is difficult to locate the boundaries of their properties;
- processing at DENR is very long and high expenses for payment of taxes.

This situation has affected the credibility of the registry and cadastre; and the reliability of records kept therein. Such state affects the time and cost required to start investments, and property development, since verification and payments for such services would have to be required. A classic case was the well-publicized hearing of the Supreme Court Justice impeachment trial; where the LRA records yielded so many properties of the Justice registered under his name; only to find out that most of these have subsequent transactions on them.

For those involved in the CMP, participants have found it difficult to secure reliable records from the registry thus delaying the process for acquisition. The inconsistent records held by various agencies – LMB, LRA and Assessors Office has further fueled the business of syndicates to benefit from the poor state of records. A number of case studies and documentations have revealed that this situation has contributed to the slow pace of formalization in the urban areas; and in the titling program of the government.

LGI 18 - Cost effectiveness and sustainability

			Score			
LGI-Dim	Topic		A	B	C	D
Cost Effective and Sustainable						
18	i	Cost of registering a property transfer				
18	ii	Financial sustainability of the registry				
18	iii	Capital investment				
18	iiia	Registry				
18	iiib	Cadastre				

The cost of registering a property transfer is considered high: about 10% of the property value

Against a global standard of less than one percent of the property values; the Philippines has a record high of about 10%. Such high cost in transfer of properties has always been cited as the primary deterrent for registration of subsequent transaction. The capital gains tax is computed at 6% of the sale value, assessed value or zonal value whichever is highest, plus 1.5% documentary stamp tax. Reducing the capital gains tax on transfers may encourage registration of subsequent transaction and will ensure that the cadastre can be kept up to date.

In a study undertaken on the impacts of national and local land related property taxes, it was noted that the *“present practices associated with the administration of the capital gains tax have also reduced the potential revenues that could be generated by this tax. The frequent use of values for capital gains assessment purposes that are considerably below current market levels significantly reduces the revenue potential of this tax in its current form.”*³⁷

This prohibitive rate has encouraged a lot of informality in the registration of transactions. It is almost common practice to have two versions of the Deeds of Sale: one which reflects the true value of the transaction and kept between the seller and the buyer; and second the document which reflects lower values of sale and used as basis for the determination of capital gains taxes and other transfer taxes. This second version is also used as reference in registration of the sale with the Registry of Deeds. Related to this, the above study also noted that *“property transaction compliance costs are further increased by the frequent need to make unofficial payments to bureaucrats to facilitate the completion of land transactions, especially for the registration of land transfers.”*

The cost of registering the transfer at the RD has also increased significantly due to the IT service fees. This cost can even go higher in registration in more complex registration where there are more supporting documents attached. The fees are **PhP 344.93** per deed/instrument processed for registration, including, but not limited to supporting documents that are indispensable to the registration of the main document and PhP 215.58 for issuance of every title. There might still be some room for rationalization of the fees to make it more affordable and accessible to the property owners.

The registry is financially sustainable through fee collection

The LRA, through its RoD, is one of the government’s top earning agencies. Its income exceeds its operating costs by more than half. Data gathered from the agency’s website showed that for 2012; its appropriation is Php 925 Million; while its income for the first six months is already Php 2.3 Billion.

Given the Philippines’ “one fund policy”, all earnings are remitted to the Bureau of Treasury and the agency cannot retain any of its earnings. The agency is always dependent on what the national government will appropriate for its operation. If the agency can be allowed to retain a higher percentage of its surplus then this can allow the agency to undertake much needed projects that can further improve its capacity to perform its mandate.

There is investment capital in the system, but insufficient to ensure medium to long term sustainability

³⁷ LAMP2. 2007. Land Equity International. **Review of National and Local Land Related Taxes and Fees.**

The LRA has for some years, been applying modern technologies to improve its land records management system. A combination of microfilm and computerized database system was introduced in the past and has greatly improved the security, reliability and accessibility of land title information in the registries. More recently, starting in the early 2000' the LRA has embarked on a massive computerization and modernization project at no cost to the government. The LTCP, currently on its Phase IV has successfully computerized and modernized 114 RDs nationwide under a "Build Operate Own (BOO)" scheme in partnership with Phil-LARES as the private sector investor. The LTCP made possible queries on the status of land title anywhere, anytime from on-line RDs nationwide. The system allowed LRA and its RDs to shift from largely paper-based to a paperless system thereby ensuring tighter control over land titles, faster turn-around time in the generation and issuance of land title. The system also made possible tracking transaction status on-line.

In a few months' time the DENR's LMB will also undertake a massive computerization and modernization project of its land records management. Through a World Bank additional financing of the Second Land Administration and Management Project (LAMP 2), the Land Administration Management System (LAMS) will be rolled-out to the Regional and other field offices. This will computerize land records management for surveys and public land applications. The LAMS will also facilitate access by agencies to land records, the LGUs in particular, to be of use for land use planning, development, and property assessment and taxation.

The DENR has also allocated some P 3 Billion to complete the cadastral surveys in the Philippines until 2016. This investment should contribute to completing the records, and facilitate the titling of the remaining untitled parcels.

These initiatives will boost the capability of the LMB/LMS to provide the needed services to LGUs and other clients, through better records.

Given the above, the registry is still seen as having better prospects of being more financially sustainable, through incomes from subsequent transactions. On the other hand, the investment in the DENR/LMB to improve cadastral records represents a one-time capitalization.

LGI 19 - Transparency

LGI-Dim			Score			
			A	B	C	D
Transparency						
19	i	Schedule of fees is available publicly				
19	ii	Informal payments discouraged				

The schedule of fees for different services is publicly accessible

The fees for the transactions in the Registries are accessible to the public as this are published in the Citizen's Charter posted in the offices of the LRA and the different RDs nationwide. That these Charter are actually displayed prominently has been verified through visits to the LRA and 7 RDs (Leyte, Ilocos Norte, Negros Oriental, Legazpi City, San Carlos City, Dumaguete City, and Tacloban City). There is no reason to doubt that the Citizen's Charter is also displayed prominently in the rest of the Registries nationwide. In addition the fee schedule is published in the LRA website:

<http://www.lra.gov.ph/files/lrafeeschedule1.pdf>
<http://www.lra.gov.ph/files/adjitfees.htm>.

and

In contrast DENR is not as consistent in displaying its Citizen's Charter and schedule of fees. While the fees are published in the agency website, the lay-out of its offices does not make the fees as readily accessible as the fee schedule in the LRA website.

The LAMP conducted several studies to examine the extent to which payments were made for services without receipts. The results confirmed that indeed, there were certain transactions and payments made without official receipts; both at the RoD and at the DENR offices. It is expected that as the LTCP is rolled out, this will minimize these practices within the RoD. Similarly, in DENR, it is expected that as titling services follow the systematic procedures, and involve LGU staff, the procedures will be more transparent and simple; thus eliminating the need for informal payments to secure titles and approve subdivision surveys.

Mechanisms to detect and deal with illegal staff behavior exist in some registry offices

The LTCP computerized system which had been rolled-out in most of the RDs nationwide already serves as a major deterrent in illegal staff behavior. The system allows for tracking of each and every transaction from lodgment to approval and on the principle of "first in, first out"; RDs are able to detect irregularities (such as transactions getting preferential treatment over other earlier transactions) and can immediately investigate to check if indeed there are suspicious or anomalous informal transactions on the side. There is also "ageing" of transaction and even LRA do track this on-line (for live RDs) and can immediately call the attention of the RD.

In compliance with Civil Service rules, each RD also has put in place a simple feedback mechanism following the "*Mamamayan Muna, Hindi Mamaya na*" (loosely translates as *Citizen Now and Not Later*) program. Suggestion boxes are in place in most RDs. Complaints received are given due course following the prescribed Civil Service Rules and Regulations. Any complaints received by the RD are endorsed to the LRA for investigation and proper disposition. Another track that any citizen can take for any redress or grievance is through the Ombudsman. In the interest of due process, the experience in government is it takes time for complaints and cases filed against erring government employees to be resolved with finality.

While it is quite difficult to record the incidences and extent to which informal payments are being practiced in the registry, an illustrative case would be relevant for the analysis. Under LAMP2, two Exit Surveys of the One Stop Shop in Leyte were undertaken to determine client experiences on service delivery. These were carried out before the computerization, and therefore reflective of the manual method of service delivery. The following were the key findings from the 2008 study:³⁸

- There were reported cases of clients paying more than the indicated official actual costs, payments made without official receipts, and payments made outside the Cash office have been reported.
- There were documented cases of non-official payments/fees to fixers and Assisting Professionals;
- About 25% of respondents had concerns with the process; in about 9% of the cases, someone asked for an amount not part of the official fees

³⁸ LAMP2. 2009. Report of the OSS Independent Monitor.

- Among the perceived reasons for not being able to complete their transactions on their first visit, 44% cited personal reasons which include: (i) I know someone inside the OSS who can facilitate things for me; (ii) I am a regular client; (iii) I call up the office before I come; (iv) I submitted documents some time ago to someone else; and (v) I paid someone who has been helping others in their land transactions.

It should be mentioned that there is a widespread perception of corruption and informal payments in the land related agencies. It would be important to monitor the impacts of the computerization and other procedural reforms, including efforts to improve transparency and reduce discretion in the delivery of land related services. Thus, regular independent monitoring through client surveys would be important tools to keep track of progress in governance.

Module 5 - Dispute Resolution and Conflict Management

INDICATORS ASSESSED:

LGI 20 – Assignment of responsibility - *accessibility and adequacy of existing conflict resolution mechanisms.*

LGI 21 – Low level of pending conflict - *whether an efficient institutional framework can limit the opportunity for costly disputes to arise before they have a chance to become established, or where there are legitimate disputes, if the institutional framework can deal with those disputes in a reasonable time.*

LGI 20 - Accessibility of conflict resolution mechanisms

			Score			
LGI-Dim	Topic		A	B	C	D
Assignment of Responsibility						
20	i	Accessibility of conflict resolution mechanisms				
20	ii	Informal or community based dispute resolution				
20	iii	Forum shopping				
20	iv	Possibility of appeals				

State sanctioned conflict resolution mechanisms are available at the community level

The Philippines has instituted a Katarungang Pambarangay (Barangay Justice System – BJS) as an alternative, community based mechanism for dispute resolution. It is operated by the smallest of the LGU – the barangay and overseen by the barangay chairman, the highest elected officials of the barangay. These panel mechanisms were designed to make available, a way of administering justice and resolving and/or mediating conflict at the local level through non-adversarial means. The BJS is designed not merely to decongest the courts of cases but to address inequalities in access to justice, particularly experienced by marginalized communities. The primary role of the system is not to decide disputes and impose a solution on the parties but to assist the parties in discussing the possible amicable settlement of their disputes. Before cases are accepted by the Courts or agencies, a certification from the Lupon Tagapamayapa (Peace Council) that the case has been heard at the BJS.

A concern however, is the capacity of the Peace Councils to mediate land related cases. In the experience of LAMP, such councils need support to familiarize themselves with the provisions of relevant laws, and to improve their mediation skills. A regular assessment of capacities would have to be made as new officials are elected, and adequate support provided, so that these mechanisms can serve as effective instruments for mediating land related cases at the local level.

For agrarian cases, the CARP provides for the establishment of Barangay Agrarian Reform Committees (BARC) in every barangay in rural communities. It is dedicated to hearing cases related to tenancy, tenure and disturbance compensation. All other related agrarian cases

are taken up at the Agrarian Law Implementation (ALI). Very often, the BARC Chairman is invited by the Barangay Chairman and the Lupon Tagapamayapa on most land disputes. Parties have the option to elevate their case to provincial and regional agrarian reform committees, if these are not resolved at the BARC.

Decisions reached at the BARC and BJC are recognized by the courts.

There is minimum scope for forum shopping

The Rules of Courts provides for a clear assignment of responsibilities for resolving conflicts. Rule 7, Section 5 requires a certification from the BJS/LP before it accepts cases filed before higher courts.

However, while there are rules there are still several reported instance when certain litigants do resort to forum shopping. In one of the recently decided cases by the Supreme Court, G.R. No. 193415, the Court found the petitioner in a real property mortgage foreclosure case guilty of forum shopping for filing multiple suits based on similar facts while seeking similar reliefs—acts proscribed by the rules on forum-shopping and failing to report the filing of their Second Complaint within five (5) days, in violation of their undertaking to do so.

Processes for appeal of land dispute rulings entails high cost and takes a long time to resolve

The Rules of Courts provides a clear mechanism for appeals. Rule 40 provides the process for appeals from decisions of the Municipal Trial Court. The process for appeals from decisions of the Regional Trial Courts are contained in Rule 41. Rule 43 provides for the process of petitioning for review of RTC decision to the Court of Appeals. Rules 44 – 55 lays down the procedures for appeals at the Court of Appeals. Rule 56 B contains the procedure for appeals in the Supreme Court.

While a clear process exist to appeal rulings of land cases, the process is very costly and can take years to be finally resolved. A review of cases decided by the Supreme Court in 2012 showed that in more than 90% of the cases it took more than 20 years for cases to be resolved with finality. Even cases first filed with the lower court as far back as 1970 were only decided by the Supreme Court in 2012.

Some reforms in the administration of justice system is warranted to unlock the potential of these properties and minimize the social and economic costs of delays.

LGI 21 - Efficiency of conflict resolution

			Score			
LGI-Dim	Topic		A	B	C	D
Low Level of Pending Conflicts						
21	i	Conflict resolution in the formal legal system <i>Checks the proportion of land disputes in court cases</i>		Yellow		
21	ii	Speed of conflict resolution in the formal system <i>Checks if land conflicts are resolved within a reasonable amount of time</i>				Red
21	iii	Long-standing conflicts (unresolved cases older than 5 year) <i>Assesses level of long-standing cases in the formal system.</i>				Red

Land related cases constitute a small percentage of cases filed in Courts; however cases take many years to be resolved

In the Philippines, land related cases are classified as civil cases. Data taken from Tacloban City Regional Trial Courts (RTC) in the course of the LGAF study showed that land related disputes constitute 43% of the total number of civil cases, or about 7% of the active cases in Court. These ranges are supported by estimates from other Courts in Quezon City, Legaspi, San Carlos City, Bayawan city, and Laoag City, which place at less than 10%, the proportion of land related cases in Courts. Since the courts do not have databases of their cases, further research would need to be required to get more accurate statistics. Nonetheless, it is common that criminal offenses are also made in the course of land related conflicts, so there could be a case of under reporting if viewed from the proportion of active civil cases in Court.

Table 9. Land Related Cases in Tacloban City RTC

Type of Dispute	Number of conflicts (in sample or dataset)	Average Time to Resolve (months)
Total cases in sample/dataset = 586 civil cases from 2008 - 2012 of which 256 involves land related disputes		
Inheritance/family dispute	15	> 5 years
Property transaction/contract	47	> 5 years
Challenge to ownership	101	> 5 years
Expropriation	6	> 5 years
Boundary dispute		
Dispute over use	3	> 5 years
Trespass		
Right of access/passage	4	> 5 years
Mortgage/loan		
Other (please specify) Land acquisition	80	> 5 years

A more important concern is the length of time for land related cases to be resolved, such that in the Philippines, it is almost impossible for such cases to be settled within one year in the first instance Court anywhere in the Philippines. In the Tacloban case, the Executive Judge reported that it is common for land cases to take more than 5 years in the courts to get resolved. Other RTCs reported too that it is very common to have land cases still unresolved in the lower courts that are more than 10 years old.

A review and analysis of all cases decided by the Supreme Court in 2012 revealed that of the total 961 cases decided with finality, 163 involved land dispute cases. Of these, 159 or 97% took more than 5 years for the lower courts to issue decisions.

A key reason for this is the fact that civil cases traditionally are given less importance in the lower courts. In the case of Philippine Courts which are characteristically undermanned, due to the low percentage of such cases in their portfolio. Priority is given to criminal cases especially where the accused are already in jail. In some courts, only 1 civil case is

scheduled for hearing each week. In some cases, an average of 2 land cases were decided each year. Moreover, there are very few lawyers who specialize in land laws and even those who do so are not familiar with the complexities of the land laws and the land administration system.

The lengthy process for the Courts to reach a decision on land related cases have a bearing on the cost to the parties. The filing fee, for instance, depends on the size of the land in question, and is assessed based on certain percentage of its value. The protracted process necessitates payments to lawyers, and expenses in documentation and Court hearings.

It is thus common for parties to resolve their cases outside the Courts given the slow pace of the justice system. The situation is alarming, as land is a sensitive issue, which is known to divide families; and affect investments in property development and transactions on the land. Further research would have to be made on the extent and nature of land related cases brought to the Courts; how such conflicts are resolved outside of the formal system; to determine the kind of judicial reforms that would be required to address the deficiencies.

Module 6 - Large Scale Acquisition of Land Rights

LSLA	Topic	Score			
		A	B	C	D
1	Most forest land is mapped and rights are registered		Yellow		
2	Conflicts generated by land acquisition and how these are addressed				Red
3	Land use restrictions on rural land parcels can generally be identified.		Yellow		
4	Public institutions in land acquisition operate in a clear and consistent manner.			Orange	
5	Incentives for investors are clear, transparent and consistent.			Orange	
6	Benefit sharing mechanisms for investments in agriculture			Orange	
7	There are direct and transparent negotiations between right holders and investors.		Yellow		
8	Information required from investors to assess projects on public/community land. ³⁹	Green			Red
9	Information provided for cases of land acquisition on public/community land.		Yellow		
10	Contractual provisions on benefits and risks sharing regarding acquisition of land			Orange	
11	Duration of procedure to obtain approval for a project		Yellow		
12	Social requirements for large scale investments in agriculture			Orange	
13	Environmental requirements for large scale investments in agriculture		Yellow		
14	Procedures for economically, environmentally, and socially beneficial investments. ⁴⁰				
15	Compliance with safeguards related to investment in agriculture			Orange	
16	Procedures to complain if agricultural investors do not comply with requirements.		Yellow		

LSLA 1 – 2 Land rights recognition and conflicts

Boundaries of the country's forest estate and the classification into various uses and ownership are clearly defined and demarcated

The Philippines has been successful in delineating the boundaries of the country's forest estate. Demarcation of forest land boundary, accompanied by ground marking of the boundaries between forest land and alienable and disposable land, began in 2000 in accordance with DENR Administrative Order No. 2000-24, and completed in 2012 spanning 79,245 km of forest line. The completed forest line boundary, however, has not included the forest land in the Autonomous Region of Muslim Mindanao (ARMM). Work in ARMM was initiated by DENR after signing a memorandum of agreement with ARMM to undertake a joint effort in the conduct of forest line boundary delineation, which runs to about 3,475 km. The survey results are being assessed and validated by the National Assessment and Delineation Committee (NADC) on a per province basis for final approval and endorsement to the House of Representatives. According to Sec. 4, Article XII of the 1987 Philippine Constitution, the final forest lines have to be enacted into law by Congress.

In delineating the forest lines, land classification (LC) maps were used by DENR as reference

³⁹ D for LGUs; A for Philippine Agribusiness Development Corporation (PADC)

⁴⁰ Not applicable. Public and community lands cannot be transferred.

to determine the location of the survey lines.

Most forest lands⁴¹ that are under tenurial arrangements or stewardships are mapped and registered at DENR Regional Offices (sometimes available at the PENRO and CENRO levels).

In protected areas, only 12 out of the 113 proclaimed protected areas have fully demarcated boundaries. There are ongoing efforts to delineate and demarcate the boundaries of all proclaimed protected areas. All of the protected areas however, are fully mapped, as these are the bases for their establishment. The survey and registration of protected area occupants however, is still an ongoing effort. Only 58 protected area community based resource management agreements (PACBARMA) have been issued, covering 22,000 hectares.

There are parallel efforts to clearly demarcate other ownership and uses within forest lands, but this is proving difficult due to inaccurate mapping undertaken in the early years of forest boundary delineation. Ground validation is ongoing to ensure boundaries are accurate, and that the resulting maps are reflected on common rectified topographic maps. This process however, is slow due to the limited manpower in the National mapping and Resource Information Authority (NAMRIA), the agency responsible for all mapping activities.

Completion of ground validation, updating of maps based on the results; and documentation of all tenure and other interests in the public domain; including the CADTs, would be an important step towards identifying available areas for large scale production activities. A key element of such effort is ensuring that NCIP maps of CADTs follow the same standards, and that these are capable of being reflected in an integrated map showing all the interests in the land.

Land acquisition generates conflicts

There are a number of avenues by which land and/or use rights are acquired for large-scale investments in agriculture. In the case of agricultural areas where CLOAs have been awarded, the mechanism is through leaseback and outgrower arrangements between the CLOA holders and the investors. While there are regulations and rules set by DAR governing such arrangements, there have been well documented cases where the CLOA holders end up renting out their properties under long term arrangements with corporations, with the farmers being hired as wage laborers. In some cases, the rent is quite low and the terms not followed which generates conflicts eventually. In the case of oil palm plantations, some of the grievances reported include the lack of financial support to farmer beneficiaries, the vulnerability of small holders to leaseback schemes for which they receive low rent, and unfulfilled promises of employment and other benefits. As a result, many of the farmers who enter such schemes remain impoverished while having abdicated access to and control of their lands.

In public forests, particularly in areas awarded with community based forest management agreements (CBFMAs), the mechanism is through joint venture agreements with investors which grant the latter the right to use portions of the area under CBFMA for other productive use. Conflicts arise when the area designated for development is not in accordance with the community based resource management framework of the CBFMA holders. Furthermore, there had been reported cases of conversion of portions of areas

⁴¹ In the Philippines, forest land is a legal land classification; to distinguish it from areas covered with forests. Other interests in areas with forest cover include ancestral domains. These are excluded from the forest land classification. In the same manner, national parks or protected areas are excluded from the forest land classification.

covered with natural forests to give way to plantations.

In the case of development activities within ancestral domains, the scheme is by securing a Free and Prior Informed Consent (FPIC) with the community before permission is given to develop portions of the ancestral domain. Conflicts arise when there is disagreement among community members about the Project, when there is misrepresentation by some IP leaders on the wishes of the entire community; and in extreme cases, lack of information by investors of the full terms and expectations of the agreement.

Another way of large scale investments that is fully protected by law is the establishment of economic zones. Conflicts arise when the existence of IP communities are not recognized, when their participation is not sought in decision making, and when their views are not considered or in some cases disregarded. There is also this policy conflict between the IPRA and the laws establishing the economic zones, particularly RA 7916 section 29, which states that:

Eminent Domain. – The areas comprising an ECOZONE may be expanded or reduced when necessary. For this purpose, the government shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the ECOZONE for: (a) consolidation of lands for zone development purposes; (b) acquisition of right of way to the ECOZONE; and (c) the protection of watershed areas and natural assets valuable to the prosperity of the ECOZONE.

If in the establishment of a publicly-owned ECOZONE, any person or group of persons who has been occupying a parcel of land within the Zone has to be evicted, the Philippine Economic Zone Authority (PEZA) shall provide the person or group of persons concerned with proper disturbance compensation: Provided, however, That in the case of displaced agrarian reform beneficiaries, they shall be entitled to the benefits under the Comprehensive Agrarian Reform Law, including but not limited to Section 36 of Republic Act No. 3844, in addition to a home lot in the relocation site and preferential employment in the project being undertaken.

In such instances, conflicts arise when ECOZONE authorities do not recognize traditional resource management systems and indigenous knowledge systems and practices (IKSP). The right to governance and management of the AD by the IPs is compromised as traditional leadership structures as well as justice systems are supplanted by the EcoZone Management Authorities created by the Law re: Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), among others. Furthermore, land-use zoning which should be the exclusive authority of the IPs under IPRA has been taken over by the Corporate Planning Offices of the Eco-zones. In extreme cases, traditionally sensitive areas such as ritual grounds, burial grounds and other reserves set aside by IP communities are not respected, such as when SBMA established the Freeport zone overlaps with the sacred groves of the Aeta communities.

In other areas, there have been cases of harassment and intimidation sometimes by the paramilitary and/or forced eviction from their land – as in the case of Agusan del Sur in the 80's.

Thus, large scale land acquisition of land rights generate numerous conflicts, and that due to the lack of access to legal recourse, lack of understanding of labor and corporate laws, limited information, weak capacities, of the aggrieved parties (usually the small holders,

tenured populations, and indigenous peoples); it takes a long time for these conflicts to be resolved.

These cases have painted a negative perception on large scale land acquisition in the country. Despite these, such investments are seen as necessary to stimulate rural development and alleviate the many rural poor, particularly the forest dwellers and IP communities, from poverty. However, the government should provide a strong support system to ensure adequate safeguards are followed, and that there is credible independent monitoring of such deals. Government efforts in developing incentives and promotion towards the private sector would be put to waste if these issues are not addressed.

An important player in these acquisitions is the LGUs. They can issue business permits and permits to operate; as well as reclassify lands. Proper technical assistance would be needed for the LGUs to play a more responsible role in promoting investments in large scale agriculture development in the Philippines.

LSLA 3 – 4 Land use planning and practices

Land use restrictions on majority of rural land parcels (40-70%) are difficult to identify on the ground

While there are no on the ground inventories made on the rural parcels; it is common knowledge that except for areas covered by CARP (which should include most of the agricultural areas); areas within riparian zones and easements, other land use restrictions cannot easily be identified on site. People interested in knowing such restrictions would have to rely on local knowledge, but this can prove to be not reliable.

Forest lands for example, are determined on the basis of slope and other technical criteria and not solely on the extent of their forest cover. The forest boundary demarcation however, should ease the identification of the extent of forest line, particularly if these have been ground validated through community participation. There would therefore be local knowledge of the extent of such boundaries.

Ancestral domains are likewise difficult to pinpoint due to the large expanse of their coverage, and also because their boundaries do not respect whether these are A and D or forest lands. There are overlapping claims, use rights and classifications over these lands. A case in point is that most of ancestral lands are within forest lands, protected areas and mining applications. It is therefore important that the ancestral domain sustainable development and protection plan (ADSDPP) be integrated with the LGU's CLUPs, and that the CLUPs should also capture the tenurial status and land classifications of all lands within their territories. A key issue however, is the lack of coordination among agencies responsible for the issuance of use rights over the public domain; lack of openness of some IP communities and NCIP to engage with other stakeholders; and the weak public consultation process in the development of the CLUPs.

In order to promote investments in large scale acquisition therefore, it is important that the LGUs have updated CLUPs and that these should reflect all the applicable restrictions on rural lands. Those who have gone through the FLUP and CLUP processes have found it very useful as a tool for directing investments and identifying areas which should be protected to supply public goods and services.

Public institutions involved in large scale land acquisition maintain high level of ethical standards

Public institutions involved in land management and acquisitions include: DENR, DAR, NCIP, PADCC, DTI, BOI, and the LGUs. All these institutions are regularly audited and their reports can be made public upon request.

PADCC as a government owned and controlled corporation operating as an agribusiness promoter under the DA submits all reports to its mother agency (DA) and the Office of the President. Reports are listed in the PADCC website and are available upon request. The Commission on Audit (COA) of the Philippine Government audits PADCC.

While all agencies have clear standards of ethical performance being part of the civil service, implementation is quite variable; with some members personally involved in brokering deals with investors that are most often disadvantageous to small holders, indigenous peoples and tenured communities.

At the local level, LGUs exercise substantial influence on the investors, the community and even on national government agencies. After all, LGUs are the ones issuing permits to operate. Unfortunately, their performances vary and may depend, to a greater extent, on the local executives.

A case study commissioned by the Asian NGO Coalition (ANGOC) in Quezon, Bukidnon revealed the complexity of the dynamics at the local level where LGUs can facilitate or stop projects in their localities. In this case and in the absence of a comprehensive land use plan, the provincial government approved the establishment of a pineapple plantation. And yet, a study commissioned by the municipal government showed the investment will contaminate their source of potable water. Eventually, the project was stopped.

What is lacking in government is proactive involvement in monitoring the implementation of agreements directly entered into between the farmers, IPs and local communities and investors of large scale agricultural production areas. Thus, in most cases, they are left on their own to deal with conflicts and issues that arise out of such agreements. Usually, support organizations such as NGOs and other cause oriented groups take on the responsibility of conducting detailed investigations and providing legal and technical support to ensure their concerns are raised and dealt with properly by appropriate agencies.

LSLA 5-11 Investments

Incentives for investors are not consistently applied

In general, incentives for investors⁴² are clear and transparent as in the following:

Board of Investments (BOI)

To register with BOI and avail of incentives (which require certain conditions to be met), the following conditions are given:

- Filipino enterprises:
 - 1) If project is in the list of preferred projects in the current Investments Priority Plan (IPP) which BOI issues yearly;

⁴²Incentives for investors includes any mechanism to increase the attractiveness of investments (tax breaks, subsidies, waiver of fee or licensing requirements, improved credit facility, improved insurance facility, etc.)

- 1a) If project is not listed,
 - i) At least 50% of the production is for export;
 - ii) At least 70% of production is for export (for enterprises with foreign ownership greater than 40%)
- Foreign-owned firms/those whose foreign participation exceeds 40% of the outstanding capital stock who intend to engage in domestic-oriented activities:
 - 1) Proposal to engage in an activity listed in the IPP as pioneer
 - 1a) If it fails to meet the pioneer classification, it can opt to be an export-oriented firm, with export requirement of at least 70% of actual production.
- In terms of size, there is no minimum figure determined, as long as the project is for commercial operation.

DENR also provides the following incentives with corresponding requirements for its Integrated Forestry Management Agreement (IFMA/DAO 99-53):

- May interplant secondary crops between trees within areas designated for IFP.
- All trees and other crops established pursuant to the IFMA belong to the IFMA holder who shall have the right to harvest, sell and utilize such trees and crops.
- Allow the IFMA holder without restriction to export logs, lumber and forest products derived from IFMA area; provided that logs harvested from naturally growing trees (not planted) in the IFMA area and the lumber manufactured from such logs will not be exported.
- All plantation products derived from an IFMA area shall be exempted from forest charges; provided, that logs from trees growing naturally (not planted) and other forest products naturally growing in an IFMA as well as logs from trees planted in compliance with TLA reforestation obligations of TLAs shall be subject to forest charges stipulated in RA 7161.
- Entitlement to all relevant incentives provided for under the Omnibus Investment Code and to all applicable incentives enumerated under Section 36 of PD 705, as amended.
- Transfer developed plantations that are at least three (3) years old to a cooperative upon fair compensation or payment thereof by the cooperative itself or through a financing institution or to compensation or payment thereof by the cooperative itself or through a financing institution or to open up public investment
- Use stable plantation crops that are at least three (3) years old as collateral or security for loans

PADCC is not mandated to give incentives but under the Philippine Laws an investor is entitled to incentives as laid out in the omnibus investment code, RA 9367 (Biofuels Act), RA 9513 Renewable Energy Act), BOI guidelines, PEZA guidelines and Local Government Investment Code.

In forest plantations, the incentives for investors are affected by changing policy environments. For example, in the late 1990s, the DENR Secretary suspended the issuance of resource use permits in CBFMAs. More recently, cutting was suspended in natural forests; thus affecting the incentives under the IFMA and CBFMAs. Such instability does not bode well for encouraging investments, particularly if investors have incurred huge loans to

support their operations; and that feasibility assumptions considered the returns from harvesting from portions of the natural forests.

CBFMAs also lack incentives, since these instruments cannot be used for collateral. Thus access to capital is a constraint. Joint venture agreements, which are allowed under CBFMAs, have weak uptakes due to the inconsistency of the policy environment and too much regulation.

Benefit sharing mechanisms are not well developed

There is much room to improve in the area of establishing clear policies and mechanisms for benefit sharing regarding investments in agriculture, including game farm/conservation. What happens is direct negotiation on the terms; and that such sharing happens out of the investor's social responsibility agenda. This results in uneven implementation, too much latitude for negotiation, and lack of standards for host communities to benefit from the investments.

There are direct negotiations between investors and right holders but is not always transparent

Almost all negotiations between agrarian reform beneficiaries (ARBs) and investors are done directly and many are beyond the knowledge of DAR. The agribusiness venture agreements, however, need to be filed and approved by DAR. While resulting agreements are almost always to the benefit of farmers some investors complain of "overregulation".

PADCC only facilitates the negotiation involving land deals. The investor should present their business arrangement or scheme prior to any negotiation and if deemed acceptable, the land owner/s or cooperatives or associations may enter into agribusiness venture arrangement, subject to governing rules and regulations of the concerned agencies to ensure that investor and farmers are mutually benefiting from the project.

For the EIA process, a public consultation (scoping) is required first, as stated in the social acceptability clause of PD 1586 and in the ECC.

At the local level, investors have to get approval from LGUs. Depending on the local executives, the process may not be that transparent and often discretionary.

In the case of ancestral lands, the IPRA is very clear on the direct negotiation between IP communities and investors, or any project proponent for that matter, under the FPIC mechanism. However, in practice, there has been strong discretion by NCIP of the FPIC process. The existing procedures where the applicant pays NCIP for the processing of FPIC with the IP community may have to be revisited. Timing is also important in securing the FPIC. Moreover, many FPICs issued by NCIP have been disputed by the IP communities who were supposed to issue them in the first place.

There were also reported cases that negotiations take place between the investors and some so called community leaders or representatives who have no mandate whatsoever from the whole community. This results in confusion and capture of benefits only by the so called leaders or elite members of the community, to the disadvantage of the rest of the community affected.

More important than ensuring there is direct negotiations is the manner by which such decisions were secured; and the information that were made available upon which decisions were made. There have been documented cases, where rights holders complain of not being fully informed about the returns and other conditions associated with the

agreements; thus resulting in conflicts and disputes. Direct negotiation also assumes that both parties have equal levels of awareness about the deals, and are equally empowered to specify the terms and conditions of the agreements. In cases of negotiations between corporate officers and IP communities, CLOA holders and forest communities, this seems not to be the case. Thus, this calls for technical support from third parties to ensure the rights holders are fully aware of the potential benefits and risks associated with these agreements. NGOs have so far performed such role. However, in cases where there are no NGOs operating in the area, there is hardly any source of independent assessment of proposals.

Sufficient information is required from investors to assess the desirability of projects on public/communal land

Investments in large scale agriculture are required by national government agencies to comply with environmental impact assessments, and other technical, social and financial feasibility criteria. While these are deemed sufficient, the LGUs are not fully aware of these. Most LGUs do not have sufficient standards with respect to the information that should be submitted to review the feasibility of large scale projects. It is common practice that there is no rigid review of information from the investors or proponents, even from the perspective of the communities. In this regard, it was felt that both communities and LGUs should be capable of careful assessment of investment proposals, such that they should be aware of what questions to ask. While DTI representatives are called in to assist the LGUs, these are almost always made after a decision has been made. Current LGU readiness to conduct objective review of proposals is quite poor, and this is a gap that must be addressed, in light of the extended role of LGUs in approval of investment proposals. Other support could take the form of providing technical assistance in terms of what types of crops to promote based on assistance from DA, rather than relying on investors to do so.

To promote transparent decision making, PADCC organizes community consultations on investment proposals. However, this mechanism would only be useful if the participants are able to ask the relevant questions. In all these, the IP communities are the most vulnerable because of their weak capacity to engage with investors and ask the right questions, particularly on technical and economic matters.

For cases of land acquisition on public/community land, investors are required to provide information; but these are not publicly accessible

On the part of the Board of Investments, their office does not give out information on investors as a matter of policy; unless there is a Court order or if there is expressed permission from the investor to do so.

DAO 16 Of 2012 as an addendum to DAO 42 requires the Private Forest Development Agreement (PFDA) holder to submit a Development and Management Plan with the assistance of Foresters from CENRO Office. The PFDA Holder is also required to submit annual progress report to CENRO concerned.

In ancestral domain areas, the NCIP AO 3 provides the list of needed requirements and the comprehensive process by which investors inform the community and the public. As outlined in Section 22 of this AO, the applicant/investors need to present to the community the operation plan, costs and benefits to ICC/IP, adverse effects and mitigating measures, among other information. Sharing by experts and other stakeholders including NGAs, LGUs, NGOs, and IPO are also welcomed and encouraged. The information provided will also have to be validated by NCIP.

While these are the provisions of existing laws, there is no regular monitoring of whether investors actually give out all the essential information about the project. There is also no depository of such information, and one has to research these from the different agencies. Communities and interested parties requiring more detailed information on the investments would have to undertake their own research.

There are no clear standards for benefit sharing with communities in large scale land acquisition projects

While there are direct negotiations between the landholders and investors in CARP covered areas, these terms are reviewed and approved by the appropriate agrarian reform committee (i.e., provincial, regional, etc.). Despite these however, it is not clear in these policies whether benefit and risk sharing is required. What is ensured in these policies is that such arrangements do not generate transfer of ownership from the landholder to the investor; and to ensure that there is fair and just treatment of landowners. There are provisions however, of transfer of skills to agrarian reform beneficiaries. In most cases however, these agreements result in employer-employee relationship between the CLOA holders and the investor, thus negating the very intent of the CARP.

In ancestral domains, any contract or agreement that the tribe must enter into should be tripartite with NCIP. In some agreements, NCIP has shares in the benefits as well. In the case of the Joint Management Agreement between the IP community and the Subic Bay Management Authority (SBMA), there are provisions for benefit sharing.

Thus, there are no standards or policies that prescribe benefit sharing between the investors and communities or rights holders. What happens is purely discretionary and dependent on the direct negotiations between the parties. There is clearly a need to put in place such standards so that there are clear expectations in order to avoid conflicts in the future.

Most investment applications are reviewed and receive a response within six months

In general, existing prescribed processes specify certain periods for the completion of reviews of applications. In the case of agrarian reform areas, DAR is involved in the process. While the processing time is reasonable, in most cases, approval takes a longer time particularly if there are issues related to land tenure improvement.

In securing FPIC in ancestral lands, the NCIP facilitates the process. There is a prescriptive period of 55 days to process the FPIC, but it is common for parties to go beyond this period, particularly when there are apprehensions on the project by the communities.

The role of DENR is in the review of EIA and issuance of ECC. In CBFM areas, there is no need for ECC, instead, only an IEE is required; except in areas exceeding 100 hectares. There are prescribed periods for the review of EIA, but in some cases, the documents are sent back to the proponents for further study.

Despite the above standards, there are cases where there has been wide discretion in the review of documents and additional requirements set to finalize the review and approval process. The reasons are many, but the most important pertain to community perceptions or social acceptability of the project. In some cases too, there were conflicting decisions made by various layers of government, such as between the provincial and municipal LGUs. These kinds of uncertainties contribute to the poor transparency in the processes.

LSLA 12-13 Environmental and social safeguards

Social and environmental safeguards for investors are implemented with discretion

Under DAR AO9, conditions for approval of any agribusiness venture agreements include social safeguards such as assurance of economic profitability, reasonable level of risks, availability and suitability of basic facilities, agrarian reform beneficiaries skills development, etc. The same AO makes reference to environmental considerations in the use of agricultural technology and ensuring the productive capacity and sustainability of land and natural resources. However, there have been reported cases of negative environmental impacts resulting from plantations.

For DENR and NCIP, there are provisions in the law that require bonds, MOA, CSR to state the public benefits, as stated in the following laws:

- EIA / PD 1586, in its social acceptability clause and
- NCIP AO 3, series of 2012 states the requirement to post bond which shall be clearly stated in the MOA

PD 1151 or the Philippine Environmental Policy also prescribes guidelines for EIA and compliance with environmental standards. This policy states:

All agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations firms and entities shall prepare, file and include in every action, project or undertaking which significantly affects the quality of the environment a detail statement on:

- *the environmental impact of the proposed action, project or undertaking*
- *any adverse environmental effect which cannot be avoided should the proposal be implemented;*
- *alternative to the proposed action;*
- *a determination that the short-term uses of the resources of the environment are consistent with the maintenance and enhancement of the long-term productivity of the same; and*
- *whenever a proposal involve the use of depletable or non-renewable resources, a finding must be made that such use and commitment are warranted.*

Before an environmental impact statement is issued by a lead agency, all agencies having jurisdiction over, or special expertise on, the subject matter involved shall comment on the draft environmental impact statement made by the lead agency within thirty (30) days from receipt of the same.

Implementation of these policies, however, is to some extent discretionary, and in some cases, have resulted in conflicts. Further, there are no guidelines that set the standards by which both parties shall be assessed for compliance. There are also no systematic monitoring on how socials safeguards are being adhered to. There are cases though, of reviews in exceptional cases where there are reported serious breaches of agreements, particularly in cases involving ancestral lands.

There are mechanisms with the various agencies to check on compliance with safeguards. DAR has a committee that inspects, evaluate findings and even cancellation of agribusiness agreements. DENR has also multi-stakeholder monitoring teams to check for compliance.

However, these compliance mechanisms are generally weak. It is common knowledge that implementation of actions to address findings is not consistently implemented. There have been issues with exacting compliance with agreements resulting from monitoring. This is

associated with the fact that compliance monitoring is financed by the investor, which can become self - serving. The same arrangement holds true in securing FPIC, where the budget for the validation and consultation processes are sourced from the proponent, and given to NCIP.

There are also numerous reports from the field that these agreements are not complied with. For example, permits may be issued for sand and gravel operation but mining is the activity actually implemented.

These practices undermine the overall credibility of safeguards, and overall confidence in the systems. Government should be serious in this respect, or appoint independent monitoring teams to regularly report on effectiveness of implementation.

LSLA 14 – 16 - Institutional capacity and coordination

Procedures are in place to identify and select economically, environmentally, and socially beneficial investments

There are existing procedures for identification of beneficial investments but these are not implemented effectively.

Under PADCC, land owner/s submits their letter of intent to offer their lands for investments. Submissions with complete documentation will be included in the land inventory list for development. Lands under DENR, DAR, and NCIP that are classified as marginal or underutilized are being offered for agribusiness investments to local and international investors, including areas under the jurisdiction of Armed Forces of the Philippines (AFP) and state universities and colleges (SUCs) subject to governing rules and regulations.

PADCC, together with the other rural development agencies, then conducts stakeholders' meetings and briefings.

The investor should present their business arrangement or scheme prior to any negotiation and if deemed acceptable, the land owner/s or cooperatives or associations may enter into agribusiness venture arrangement, subject to governing rules and regulations of the concerned agencies to ensure that investor and farmers are mutually benefiting from the project.

If the project is acceptable to the community, the investor complies with the agri-investment requirements of the LGU, DA, DENR, DAR, BOI and BIR. Social and environment hazards as well as risk and benefits are detailed in the documents required by these agencies.

PADCC's role, however, is facilitative and effective implementation will depend on other line agencies and LGUs. LGUs exercise substantial authority and influence that may and may not have result to what is expected.

More often than not, the direct negotiation process results in a one sided deal, with the community not being able to properly weigh the terms and conditions of the proposed venture. In many cases, these realizations set in during implementation which lead to conflicts.

There are avenues with different agencies for lodgment of complaints if investors do not comply with requirements but there is no monitoring of agreements

In cases of complaints, there are various agencies involved depending on the type of land involved and the nature of the complaint. In CLOAs, DAR steps in to look into the complaints, particularly if it involves tenure rights. If the complaints are labor related, then the Department of Labor and Employment is involved. If the complaints concern environmental issues, then DENR takes the lead, and the LGU for other matters. The DTI also has an Investment Settlement Dispute mechanism, however, this does not include agricultural investments since their focus is more industry based. DTI however, has negotiators for trade and investments that can assist LGUs if requested.

Since lodgment of complaints rests with various agencies, the aggrieved party should have knowledge on the agency responsible for its resolution. This set up makes it difficult for those affected to raise their concerns. Moreover, it is not clear from various examples how these are eventually resolved, how long it takes for these concerns to be resolved, and what actions are taken if there is continued disregard for safeguards.

There is also no systematic monitoring of how agreements resulting from these processes are resolved, or complied with by the investors; and what happens if there is no compliance with such agreements.

Module 7 - Forestry

			Score			
FGI-Dim		Topic	A	B	C	D
1	i	Country signature and ratification of international conventions		Yellow		
1	ii	Implementation of incentives to promote climate change mitigation through forestry			Orange	
2	i	Public good aspects of forests recognized by law and protected	Green			
2	ii	Forest management plans and budgets address the main drivers of deforestation and degradation		Yellow		
3	i	Country's commitment to forest certification and chain-of-custody systems to promote sustainable harvesting of timber and non-timber forest products		Yellow		
3	ii	Country's commitment to SMEs as a way to promote competition, income generation and productive rural employment		Yellow		
4	i	Recognition of traditional and indigenous rights to forest resources by law	Green			
4	ii	Sharing of benefits or income from public forests with local communities by law and implemented			Orange	
5	i	Boundaries of the countries forest estate and the classification into various uses and ownership are clearly defined and demarcated			Orange	
5	ii	In rural areas, forest land use plans and changes in these plans are based on public input.		Yellow		
6	i	Country's approach to controlling forest crimes, including illegal logging and corruption		Yellow		
6	ii	Inter and intra agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors		Yellow		

FGI 1 - Commitment to sustainability and climate change mitigation

The country is signatory to almost all the relevant international conventions on forestry, environment, climate change and biodiversity, with fairly good implementation, following its capacities.

The most important of these treaties are as follows:

Convention on International Trade of Endangered Species (CITES)

The country is active in the implementation of CITES. A national legislation in support of illegal wildlife trade was issued in the form of RA 9147 – Wildlife Resources Conservation and Protection Act in 2001. DENR Administrative Order 2007-01 issued the National List of Philippine Plants and their categories. RA 9147 and its IRR allow the collection of plants in the list only for scientific and propagation purposes, and only by accredited individuals, business, research, educational and scientific entities. It considers it unlawful for any person, group or entity to collect and/or trade the species listed therein unless such acts are covered by a permit issued by the DENR.

The Philippines works in close coordination with law enforcement agencies to combat international illegal trade of prohibited wildlife and resources; such as those perpetrated by foreigners on Philippine territory. Celebrated cases such as black corral harvesting and smuggling; and collection of turtles by foreigners for sale in their countries have brought to fore the importance of strengthening patrols and confiscations.

In the recent CoP of CITES in Bangkok Thailand; the Philippines played an active role in the newly formed Ivory Enforcement Task Force together with representatives from China, Kenya, Malaysia, South Africa, Thailand, Uganda, the United Republic of Tanzania and Vietnam to combat illegal ivory trade.

Convention on Biodiversity

The Philippines is one of the first countries to sign the CBD. As early as 1992, it already has a National Integrated Protected Areas System (NIPAS) Law, which provides the legal framework for the establishment and management of protected areas as a key strategy to conserve the country's biodiversity. A total of 240 protected areas covering 4.06 Million hectares of terrestrial ecosystems have been established so far, with 113 reaching proclamations by the President, and about 13 protected areas legislated into law.

The country is active in the international discussions of the CBD, and is seen as one of the frontrunners of the implementation of section 8(j) recognizing indigenous community conserved areas (ICCAs), as a way of achieving the Aichi targets. It submits regular national reports to the CBD, and monitors its performance in achieving international commitments such as the Program of Work on Protected Areas and the Aichi targets. The government is currently updating its National Biodiversity Strategy and Action Plan, following CBD guidelines.

Three main barriers have been identified in the effective conservation of the country's biodiversity. These are: biogeographical representativeness of the Philippine PA system; institutional, systemic and individual capacities, and weak PA financing sustainability. Current programs are underway to squarely address these issues.

Ramsar Convention on Wetlands

Six sites have been designated as wetlands of international importance, with a surface area of 154,409 hectares. These are: (i) Agusan Marsh Wildlife Sanctuary; (ii) Las Pinas – Paranaque Critical Habitat and Ecotourism Area; (iii) Naujan Lake National Park; (iv) Olango Island Wildlife Sanctuary; (v) Puerto Princesa Subterranean River National Park; and (vi) Tubbataha Reefs National Park. Tubbataha Reefs was recently legislated in 2012 as a national park under NIPAS.

The country has been regularly submitting national reports to the Convention since 1999. In its 2012 submission, the Philippines reported that it is updating its 1998 Philippine National Wetland Action Plan; and issued Executive Order 797 in 2009 which adopted the National Action Plan for the Coral Triangle Initiative on Coral Reefs, Fisheries and Food Security. The latter is in support of the multilateral partnership of six countries: Indonesia, Malaysia, Papua New Guinea, Solomon islands, and the Philippines to safeguard the region's marine and coastal biological resources.

The limitations in implementation of Convention agreements include: inventory and mapping of wetlands with focus on inland wetlands to include river basins/watersheds; and nomination of Ramsar sites.

UN Framework Convention on Climate Change

The Philippines legislated Republic Act 9729, otherwise known as the Climate Change Act of 2009 which established the lead policy making body tasked to coordinate, monitor and evaluate its programs and action plans as regards to climate change. It is Chaired by the President. Consistent with the law, the National Framework Strategy for Climate Change was signed on April 28, 2010; and shortly thereafter, the National Climate Change Action Plan (NCCAP) was formulated.

The NCCAP provides for the twin agenda of adaptation and mitigation for 2011 to 2028. Its goal is to build the adaptive capacities of women and men in their communities, increase the resilience of vulnerable sectors and not ecosystem to climate change, and optimize mitigation opportunities towards gender-responsive and rights based sustainable development. It has seven strategic priorities:

- Food security
- Water sufficiency
- Ecosystems and environmental stability
- Human security
- Climate smart industries and services
- Sustainable energy
- Knowledge management and capacity development

Republic Act 10174 created a Peoples' Survival Fund, allocating Php 1 Billion to implement local climate change action plans and make communities more resilient to climate-induced disasters. It will also finance adaptation programs and projects based on the National Strategic Framework on Climate Change. Many other programs are being implemented by the Commission to ensure country's adaptation strategies.

The country is active in international discussions of the UNFCCC, leading the advocacy towards seeking firm commitments from developed countries to reduce their GHG emissions and providing funding.

Cartagena Protocol on Biosafety

The Philippines has a National Biosafety Framework as per Executive Order 514 (E.O. 514) issued on 17 March 2006. Guidelines are in place for risk assessment of agricultural plants and plant products by way of a Department of Agriculture Administrative Order No. 08, series of 2002. The DENR is formulating regulations for genetically modified forest and wildlife resources. Guidelines are also in place for Contained Use of LMOs which is being implemented by the Department of Science and Technology. Guidelines are also in place for the planes release of GMOs and potentially harmful exotic species issued on September 8, 1998.

Overall, the country is committed but it has to strengthen implementation by improving on-site conservation and management of protected and high biodiversity areas in collaboration and partnership with LGUs, communities, and environmental partners. The country has also to invest more resources for improving internal capacity and allocating more resources to highly threatened areas; and in monitoring the overall impacts of these actions in improving biodiversity status.

During the panel discussions, the panel added that the country plays an active role in the international discussions; on many occasions, partnering with other countries with similar interests to press and lobby strongly for key positions on sensitive issues, such as financing

for climate change. In other Conventions such as the CBD, Ramsar and CITES, the country submits regular reports and is able to provide continuity in attendance in various meetings of the parties, including its relevant Technical Working Groups.

The panel recommended though, that there should be consolidated reporting on Philippine compliance and status of country implementation of these international environmental treaties. There should also be a collection of official positions of the Philippines on critical issues, and these should be discussed more widely, and made accessible to the public.

The use of incentives such as PES and REDD+ are still in their infant stage in the Philippines

While there have been many PES pilots, only a few have been successfully implemented in the absence of an enabling policy framework. On REDD+, while there has been a national strategy that has been developed, activities are still focused on grooming the country for an eventual REDD+ implementation. These include forest resource assessment, information and education and capacity building. At most, there are a few pilots of REDD+, but since there is no secure funding window yet for REDD+ under the UNFCCC and there is no firm national policy yet on carbon rights in the Philippines; this funding mechanism is not yet fully in place.

The potential for REDD+ in the Philippines in terms of mitigating climate change by reducing net carbon emission is not large. However, the Philippines has a critical mass of technical expertise that contribute in developing simple, sub-national, and practical approach to establishing RELs and carrying out MRVs at the ecosystem, LGU, and right's holder levels (tenured and domain areas, conservation areas, etc.). The Philippines can build on its extensive background in carrying out forest inventories and assessments of timber, non-timber, fauna, and key socioeconomic variables. This approach, however, should be modified to fit the needs of different resource management units at the sub-national levels. Methodologies for establishing RELs and doing MRVs have yet to be developed, refined, adopted, and scaled up. Local level land use planning now integrates the ecosystem and lands of the public domains in preparing comprehensive land use plans of LGUs.

There is very limited information on the potential costs and benefits of REDD+ in developing countries like the Philippines. In a study by Lasco, et. al., an estimate was made of the range of likely financial benefits of REDD+ implementation in the country under various forest degradation and mitigation scenarios. Findings show that reducing the rate of forest degradation by a modest 5 to 15 % annually while increasing the doubling the rate of reforestation to 1.5 % annually could reduce C emissions by up to about 60 million t C by 2030. These are equivalent to US\$ 97 to 417 million of mean C credits annually at US\$ 5 per ton C. These figures are much higher than the total budget of the government and official development assistance for forestry activities in the country which amounted to US\$ 46 million in 2005 and US\$ 12 million in 2006, respectively. Given these assumptions, the study concluded that REDD+ C credits could be a significant source of financing for forestry projects in developing countries like the Philippines.

REDD+ can contribute to strengthening the climate change resiliency of highly diverse flora and fauna of the country, reduced vulnerabilities of affected communities especially for landslides, flooding, and storms. It can further support social and environmental safeguards in highly diverse areas and in marginalized communities based on gender and equity through local and national mechanisms.

There is currently no policy framework yet which clearly sets the carbon rights. Discussions are still on going on the applicability of the Regalian Doctrine meaning the state ownership of natural resources and forests; as well as the rights of communities and IP communities actually responsible for effective management of forests. There is still no registry to speak of, which makes it difficult at this stage to assess the cost effectiveness and financial benefits from REDD+. Thus, there have been many reported cases of voluntary carbon exchange which are highly questionable, particularly if directly negotiated by communities and third parties.

The potential for PES is still not fully explored, in the absence of an enabling policy. At best, there are a number of pilots implementing PES, but these are directly negotiated and brokered between communities, and some institutional users. Thus, PES is not yet widely used as a source of financing and incentives for sustainable forest management.

It is thus essential that clear policies should be developed on the use of PES as an incentive mechanism for rewarding communities and other institutions to produce environmental services and for those who benefit therefrom to pay for the enjoyment of such services. On the REDD+, clear policy guidance on carbon rights and how the proceeds therefrom should be shared between the state and the forest managers should be in place.

FGI 2 - Recognition of public goods aspects of forests and promoting their sustainable use

Public goods aspects of forests (biodiversity, soil and water conservation, social and cultural values) are recognized by law and protected

The Philippines leads in formulating policies that capture the public goods of ENR assets including the various ecosystems goods and services that they provide. It realizes the existing and potential values of the ENR assets especially for the supply of water for irrigation, energy generation, domestic use, recreation, and other uses. The ENRM approaches, however, marginally link with the sustainable and predictable supply of ENR goods and services. Governance remains to be the issue with different policies, controls, and regulations that guide implementation of different land and natural resources programs. The Philippines Development Plan for 2011-2016 supports the integration of ENR management with the other key sectors at the watershed-ecosystem level through the national convergence initiative (NCI) and climate change-related programs.

Table 10. Public Goods Aspects of Forests Protected by Laws in the Philippines

Public Good	Relevance	Status in Law	Type of Actions and their Effectiveness	Remarks
Biodiversity	High	With enabling laws such as NIPAS, specific laws for some protected areas, Wildlife Act	<p>Actions are being taken to place all priority key biodiversity areas (KBAs) under the NIPAS system and recognize those under ancestral domains as indigenous community conserved areas (ICCAs)</p> <p>There are issues, however, on how to fast track dis-establishment of other PA areas included under the</p>	There is an urgent need to effectively conserve and manage NIPAS areas included in the KBA system, include the remaining highly diverse areas as part of the NIPAS, and dis-establish initial components that no longer qualify for biodiversity conservation.

Public Good	Relevance	Status in Law	Type of Actions and their Effectiveness	Remarks
			<p>initial components of NIPAS but are not included as part of the KBAs (about 60% of areas under the NIPAS). DENR has yet to effectively conserve and manage the NIPAS areas covered by KBAs to ensure that biodiversity is protected and managed.</p> <p>LGUs and communities are marginally involved in biodiversity conservation.</p>	<p>An increasing need to engage the partnership of LGUs, communities, and CSR companies in PA management</p> <p>An increasing need to generate additional revenues from the PAs to help finance conservation and management</p>
Soil	Medium	PD 705; various declarations and reservations for conserving soil and water in watersheds	Soils are mostly conserved or protected from ongoing rehabilitation activities and marginal management of watershed reservations	Soil conservation has become more of the concern of the Department of Agriculture and watershed management of the multi-purpose dams
Water	High	Clean Water Act; Executive and Administrative Order on Watershed-Ecosystem Management; various memo circulars; Biofuel and Renewable Energy Act; communal watersheds in the Local Government Code	<p>The government has taken more serious efforts in trying to focus management of water and watersheds through their recent initiatives.</p> <p>The major challenge now is how the different efforts will complement each other to secure water for on-site and off-site uses and minimize their impacts during flashfloods and landslide during times of natural calamities</p> <p>The gradual shift of planning and implementation towards integrated ecosystem management might help water management become effective</p>	<p>The need to shift individual efforts into more coordinated and complementary actions in watersheds</p> <p>The need for the strong engagement of LGUs and forest management units in management of water and benefit various PES arrangements</p>
Cultural and Religious aspects (such as protection of sacred groves)	High	IPRA Law; NIPAS Law	Serious efforts are being taken now to help the IPs – holders and claimants of domains- to conserve, develop, and manage their forests and forest lands and natural resources sustainably and effectively.	<p>The need for the LGUs, national agencies, and NGOs to collaborate and incentivize management of domains in their respective areas.</p> <p>Areas under domains that overlap with PAs, tenured forest lands, reservations, and other public domains must be</p>

Public Good	Relevance	Status in Law	Type of Actions and their Effectiveness	Remarks
				delineated and resolve accordingly to ensure effective management.
Others (energy, research and education)	Low	Specific legislations; civil reservations for research, energy, and education purposes	Some recipients – universities and colleges, LGUs, military, and others are taking steps to effectively manage their respective areas. Funding, however, remains the problem in protecting, rehabilitation, enforcement and conservation in these sites.	Recipients of these allocated lands for research, extension, energy, and the like must be held accountable and responsible based on their defined authorities and planned actions in these areas.

Addressing the drivers of deforestation and degradation appears are given the same level of priority as other activities in forest development plans and budgets.

The panel identified the various drivers of deforestation and degradation. These are: (i) poverty and landlessness in the lowlands, coupled with increasing population; (ii) increasing demand for forest products with the boom in infrastructure development; (iii) lack of access roads linking forest products to markets. The panel then commented that the current high budget National Greening Program (NGP) is more directed at producing more forests rather than protecting existing forests. Similarly, there is not enough incentives for resource managers to encourage sustainable forest management in light of the suspension of the following: (i) award of resource use permits to holders of community based resource management agreements; (ii) ban on logging in residual natural forests; (iii) con management agreements between DENR and DILG. The latter could have served as an important strategy for placing the country's open access forestlands under the management of LGUs, through a Joint Agreement with DENR.

Some panel members argued that one of the objectives of the NGP is to alleviate poverty through job creation and improving the conditions of degraded watersheds. However, other panel members explained that in the case of NGP partnership with CBFMAs, these are more in the form of contractual agreements to plant open spaces rather than joint venture agreements within existing CBFMA areas. In the same manner, the private sector representative explained that the partnership between the private sector and government under the NGP is more of the same nature as a contractual relation, and is directed at planting open access areas outside of the IFMA areas. Another panel member commented that if the focus is on open access areas, then there is no management group or individuals who can be accountable for management of these new forests.

There is a need to prioritize investments and policy improvements in support and for strengthening self-interested actions on the part of forest management units, LGUs. Given the amount of NGP funds that will support reforestation in the Philippines, the urgent need is to focus investments in priority watershed-ecosystems that support KBAs, ENR-dependent industries, facilities, and economic activities including tourism and in partnership with LGUs and holders of tenure and domain lands. To achieve the NGP outcomes and outputs a major shift to strengthening LGUs, tenure and domains holders are needed especially in establishing forest and high value plantations that are expected to

sustain supply of food, fiber, and ecosystems goods and services. There are also urgent needs for actions that will focus on key drivers of deforestation and degradation in highly threatened areas such as those near urban areas and highly vulnerable watershed-ecosystems. A combination of enforcement, decentralization, livelihood support, and creating other lowland economic magnets will be needed to address the continuing loss of the natural forests and existing forest plantations.

FGI 3 - Supporting private sector to invest sustainably in forest activities

Government supports forest certification and chain of custody systems, but policies are not yet in place

While forest certification is not yet required, there is already a draft policy that is being discussed, including a policy that will put in place chain of custody systems. However, the panel commented that this is not very useful due to the current ban on cutting of wood from the natural forests.

An ITTO study was conducted for two companies to secure certification - Surigao Development Corporation (SUDECOR) and Compostela Valley CBFMA. However, the pilot proved certification has no added value since they were not allowed to transport round wood logs. The continued supply of timber from illegal sources also makes certified wood not profitable.

The absence of clear policies on forest certification and chain of custody systems could potentially affect the competitiveness of the forest industry. The absence of these systems also weakens the ability to monitor the extent to which forest resource managers apply sustainable management systems in their areas. More importantly, there should be a sound enabling environment for forest certification. This includes revisiting current policies which ban cutting in the natural forests; effective control of illegally supplied logs; and favorable policies allowing unimpeded transport of forest certified logs and wood products.

There is commitment to SMEs as a way to promote competition, income generation and productive rural employment; but government could do much better

The following summarizes the situation in the Philippines with respect to support to SMEs:

- In the forestry sector, there is no defined form of support to forest-based SMEs except those enterprises that process export-oriented products.
- There is unpredictable supply of materials because of highly regulated harvesting of forest products in both natural and planted forests.
- Support for improving the value chains (quality control, design, financing, linkaging, etc.) of competitive forest-based goods has not been institutionalized and largely project-driven.
- Shifting to planted raw materials was largely a private sector response towards a highly regulatory environment. Most of plantations, however, have been established in private lands.
- Despite the potential of SME for generating local economic activities, support has been largely in paper rather than alignment and improving government services in this specific forestry sub-sector. Weak tenure rights for tenure holders (CBFMAs and IFMAs) combined with lack of long-term financing for forest plantations and regulatory environment have constrained SMEs (from production, processing, trading, and marketing) in this sector.

- IFMAs and CBFMAs as tenure instruments cannot be used as collateral for forest development loans even with Government Financing Institutions.

A more aggressive program for promoting small and medium enterprises in the forestry sector should be developed to maximize the sectors' contribution to rural employment and increases in incomes. This would require openness to forest investments in productive areas; clearly setting aside areas for protection; setting standards for sustainable harvesting of forest products; technical assistance to SMEs; and creating a financing window that is sensitive to the needs of SMEs. The CBFM program can be expanded to cover these aspects. Other models, such as the Vietnam experience can be examined to develop other options for stimulating investments and sustainable management in forest management.

FGI 4 - Livelihood aspects of local, traditional and indigenous forest-dependent communities

Philippine laws strongly recognize traditional and indigenous rights and guarantee security of access to forest dependent communities.

The Philippines has a very strong policy framework for the recognition of ancestral domains of indigenous peoples, including the right to practice their customary or traditional governance systems in the management of their resources. These are enshrined in the Constitution and embodied in the IPRA.

However, the absolute rights of indigenous peoples in terms of access to natural resources in these areas continue to be challenged. In some cases, DENR has argued that the agency should maintain their regulatory powers with respect to resource such as harvesting, processing, transporting of minor forest products. This issue is currently contentious. A recent move was to issue a Joint DENR NCIP Administrative Order recognizing the traditional resource management systems of IPs; and use these as basis for exemption of IP groups from said regulations. However, the NCIP and IP communities have maintained that this is not necessary since their rights are absolute with respect to resources within their domains.

In some cases, the IPRA provisions have worked against investments in ancestral domain areas. The meticulous FPIC process has impeded the entry of private sector in entering into long-term supply contract from IPs who have been able to access use rights for forest products i.e. rattan harvesting, initial processing and marketing.

For IP communities to benefit fully from the IPRA legislation, PES arrangements that benefit the IPs as holders of domains especially for ENR-dependent facilities such as those for energy generation, irrigation, domestic water and recreation, should be developed.

Rules and mechanisms for benefit sharing with communities are still undeveloped

The LGC of 1991, Forest Charges Law, EPIRA Law (energy), and NIPAS provide mechanism for the communities to benefit from income from the public forests; operational guidelines for this sharing mechanism, re-distribution, and/or re-investment are so unclear, and site-specific with poor governance arrangements resulting to "free riding behaviors", or use of funds for different purposes at the local level.

Under the NIPAS Law, the use of IPAF does not clearly specify its use in support of communities. The work and financial plan for the use of the IPAF will specify the sharing mechanisms between the PAMB/PASU, LGU, and communities.

Mechanisms for charging fees from local water districts, recreation facilities, farmers with irrigated farms that benefit from sound management of watersheds are not in place. This process requires facilitation and entering into social contracts.

The fragmented nature of existing policies for generating and sharing benefits from the use of natural resources including forestry need further refinement, harmonization, localization, and accountability.

In some IP communities, there are agreements between the investor and the community, but these are not based on clear terms of benefit sharing; but more of part of the investors' community relations work. These involve construction of roads, school building and tribal halls. These are not clearly benefit sharing on equal terms in the use of resources. Royalty entitlements are provided under the IPRA; but there are no implementing rules yet on how this can be done with adequate safeguards. What happens is direct negotiations between the IP communities and the investors, with the assistance of NCIP. There are no clear rules regarding such engagement.

It is essential that implementing rules and regulations be developed to provide adequate guidance, safeguards and standards for benefit and income sharing from public forests and protected areas with communities. In the case of IPs, there are clear provisions in the IPRA law on royalties, but the mechanism, and process have not been sufficiently established to guide both parties. In the case of local communities, the CBD provisions ought to be translated into national policies and implementing rules. These mechanisms, if designed well, can provide added incentives for local communities to protect and sustainably manage the resources; and improve their socio economic well-being as well. These could be essential instruments of addressing poverty, employment, and inclusiveness in resource management.

FGI 5 - Forest land use, tenure and land conversion

As discussed under the LSLA module, mapping and demarcation of the country's forest estate is almost complete. What remains are areas under the Autonomous Region of Muslim Mindanao (ARMM). However, there is a need to clearly map the various tenure instruments and other rights and classifications within the public domain, with priority to protected areas.

The FLUP processes which were initially tested under the EcoGov project provided for strong mechanisms for public participation. However, FLUP is only beginning to be recognized as an important component of forest management, and that it needs to be promoted more widely to serve as an instrument for more inclusive and comprehensive planning at the LGU level. It is also essential that FLUPs be more accessible to the public.

LGU FLUPs are important inputs or components of CLUPs in terms of addressing projected changes in current uses of A and D and lands of the public domain and ancestral lands.

In the Philippines, land use planning guidelines are increasingly moving towards integrated management of land, water, and living resources within watershed-ecosystem landscapes and at LGU levels. Tools and processes in carrying and translating this direction will have to be effectively and efficiently developed for the use at the watershed-ecosystem, LGU, and resource management unit levels. This integrated approach to land use management must be fully incorporated and embedded in the current draft of the proposed Land Use Act which might be proposed again in the next session of Congress.

FGI 6 - Controlling illegal logging and other forest crimes

The government partially monitors the extent and types of forest crimes and makes partial and unsystematic efforts to control it.

Monitoring forest crimes has largely been focused on illegal logging, timber poaching, and large scale conversion.

Reports on illegal activities in forests and forest land and on forest crimes are fragmented and generally not available to the public. There are few written reports that are widely distributed. The biggest indicator of forest crimes, however, is not seen immediately as the quality of natural forest stands have increasingly become fragmented especially those that are highly accessible. There is no systematic reporting on conversion of forests and forest lands into other uses.

In terms of illegal logging, DENR has reported that the number of illegal logging hotspots has significantly decreased due to intensified collaboration between the agency, the police and the military. However, the effectiveness of these efforts is being challenged due to reports from the private sector that despite the ban on cutting in natural residual forests, increasing demand from construction boom, and the tightening of efforts against illegal logging; wood prices did not increase significantly.

There is also the issue of supply-demand gap especially with demand for fuelwood, construction timber, and other wood-based products. Estimates of the volume of legal supply open doubts on the “other sources” for meeting the estimates for domestic demand. Monitoring by the private sector reveal that supply from wood imports did not increase as much. Based on calculations of the volume of imports and local supply and domestic demand, there are about 800,000 cu. m. of wood that entered the market from illegal sources. A more systematic analysis of the country’s wood requirements and domestic supply is therefore needed to improve assessment of the extent to which illegal supply enters the market. This would provide a better indication of the effectiveness of efforts against illegal logging.

Campaign against illegal activities should also be coupled with strengthening governance at the local level; such that LGUs and resource management units (tenure and domain holders, PA and watershed managers, reservation holders, etc.) must be held accountable for forest crimes- especially illegal poaching and land conversion, encroachments- in their respective areas of responsibilities. Existing mechanisms, policies, and procedures put heavy burden on DENR field units and military to curb illegal activities and forest crimes in forests and forest lands.

Thus, the panel assessment concluded that while there is good effort overall by the government, it is really difficult to cover all aspects, unless there are strong accountable management units at the local level.

There is strong collaboration between government and other sectors in combatting forest crimes

In the Philippines, there is vibrant collaboration between government, civil society and other sectors to combat forest crimes. This was triggered in the early 90s, when the World Bank supported a huge effort to organize, facilitate, and support the beginnings of multi-sectoral approach to combating forest crimes especially illegal logging and poaching. The

media, LGUs, the military, NGOs, and the church fully supported this effort. Over time, however, support for sustaining grassroots initiatives waned down because limited resources. With DENR, LGUs, and advocates in the forefront, however, this multi-sectoral approach may be strengthened and focus more on monitoring various forest management units, establishing data base for spatial monitoring and evaluation as part of the enforcement process including broadening the coverage to include the other forest crimes.

Within protected areas, multisectoral Protected Area Management Boards (PAMBs) have been institutionalized, with the objective of not only broadening participation in the management of protected areas, but also ensure there is sufficient support in the campaign against illegal and incompatible activities that threaten biodiversity resources.

The Courts have also designated environmental courts, and a number of prosecutors have been trained on environmental legal laws. Recently, the Supreme Court issued the guidelines for Writ of Kalikasan (Environment) which provides for ordinary citizens legal recourse to file actions against government for failing to act on environmental issues and performance of their mandates.

At the community level, the DENR is engaged in continued training and deputation of forest guards, or Environmental Offices, with official powers to implement environmental laws and regulations. In most cases however, their efforts are undermined by “big time” offenders such as political and military figures involved.

Currently, there have been active support from the church, media and environmental groups against illegal logging and other forms of forest crimes; including management of protected areas, and illegal hunting and trade of wildlife. Some efforts have reached the stage of advocating against planned development activities both by government and the private sector; which are deemed incompatible with sustainable forest management and biodiversity conservation in the country’s protected areas.

However, overall, other than the policy-designated multi-sectoral groups and boards such as PAMB, watershed management councils in watershed reservations, and Water Quality Management Councils or Boards, other forms of inter-agency collaboration are simply “project-driven” and based on “coalition of the willing”. With the worsening impacts of erratic weather conditions, inter-sectoral agencies will play a major role especially in aligning land and resources uses within watershed-ecosystem landscape. This direction deserves increased attention and policy support.

4 POLICY ANALYSIS AND POLICY RECOMMENDATIONS

The implementation of LGAF in the Philippines has helped identify areas where there is relatively good governance; and areas where much work is needed to address key weaknesses. These are discussed below.

Legal and institutional framework

Reforms in the land administration system through the reduction of overlaps could have far reaching impacts on the recognition of rights in the urban areas. This should be considered a priority, coupled with actions to address the varying reference points in the land records of the LRA, DENR and the LGU Assessors Offices. The proposals to create a Land Administration Authority (LAA), coupled with the establishment of National Spatial Data Infrastructure (NSDI), are right directions in this regard. While these are long term solutions, short term measures can be developed such as creating avenues for open discussion of administrative resolution of overlaps, and technical solutions to the land records and improving sharing among agencies.

Difficulties in individualization of group tenure, particularly collective CLOAs, have affected LGUs ability to collect appropriate property taxes. On the one hand, this has facilitated linkages or joint venture agreements with investors. It is recommended that existing collective CLOAs be reviewed with a view to facilitating the processes for individualization if the members so desire.

There is a need to accelerate the issuance of CADTs in order to clearly map and register the ancestral domains. It is expected that the most recent DENR-NCIP-DAR-DOJ/LRA Joint Administrative Order should improve the quality of the CADTs issued, but it should also not result in further delays in the registration of CADTs.

Considering the potential impacts and benefits of titling of the remaining A and D lands in the rural areas as well as residential properties, efforts should be made to provide adequate funding to complete these in the short term. The simplified procedures developed under LAMP2, which provides for cost effective implementation and shared responsibilities with LGUs – could be used to conduct massive titling at lower cost. The experience of the REGALA LGUs can also be reviewed to develop improved and cost effective strategies for accelerating titling that provides benefits too for the LGUs in terms of their ability to update tax maps and improve tax collection.

The government should consider giving high priority to the refilling of the LARA Bill⁴³ in the next Congress. This should address the institutional overlaps, and address the systemic weaknesses that plague the delivery of services in the LAM sector. Addressing this issue will impact on titling, ease of registration, and facilitate the formalization rights by informal settlers in the highly urbanized areas.

There is a need to revisit the justifications for the restrictions on land use and ownership, and determine their relevance to current situation. The arguments on relaxing foreign ownership of properties should also be looked into to assess their potential impacts and consider various options for consideration. On the restrictions on Free Patent, this should be weighed too considering their impact on the increasing informality and transfers on

⁴³ During the State of the Nation Address delivered by President Aquino on July 22, 2013; he mentioned his administration's priority to the passage of the LARA Bill.

properties.

Efforts should be made to assess the extent to which land policies consider equity goals, and address gaps if necessary. There is also an urgent need to develop more comprehensive monitoring of progress and impacts of land policies to determine the extent to which they contribute to the envisaged goals of promoting equity and social justice; and their associated effects on land markets, productivity, and economic growth.

The CLUP process should be more inclusive of all lands within the LGU territory – to cover forest lands, protected areas and ancestral domains. The existing efforts of HLURB, in partnership with DENR, should continue to come up with more participatory oriented integrated land use planning processes.

Land use planning, management and taxation

While there are existing laws and systems in place for formalization of urban housing, the process is too complicated, due in large part to the poor and unreliable land records held by agencies. Coupled with weak capacities and understanding of land administration system, informal settlers often fall prey to syndicates who take advantage of the situation. Affordability becomes less of an issue with the support of LGUs in CMPs, which is the most feasible among all available options. A key policy concern though, is the lack of clear mandate in law by municipalities to undertake CMPs. The policy proposal therefore, should clarify the legal provision to authorize municipalities to undertake CMPs to formalize urban residential housing.

In light of the persistent problem associated with the refusal of informal settlers to be relocated from their current dwellings, alternative modes of formalization and tenure types would have to be developed to reduce informality in the housing sector.

The current restrictions on urban land use, ownership, transferability and rent control were largely developed with the aim of protecting the public interest, in practice, these have not been enforced and/or do not achieve their objectives. A revisiting of these restrictions and/or their implementation or enforcement would have to be made with the aim of developing more cost effective means of achieving their intents; or whether these are at all relevant in the current context. More specifically, the rent control law should not establish a cut off mark; parcel sizes should be relaxed; and monitoring of current ownership regulations should be undertaken.

In the forest lands, the huge informality that is taking place has placed a large portion of the forest lands occupied by many settlers and communities. It is time that the 18% slope criterion for classifying forest lands be reviewed to consider areas below 30% slope be categorized as alienable and disposable lands.

Access to land records is made difficult by the fact that the systems in place by the agencies with custody of these, and property references constrain free sharing and cross checking of land records across agencies. National land agencies and LGU Assessor Offices should address the poor records system so that it serves the interest of the public, and meets the need for more speedy acquisition of properties for low cost housing programs. At the core of this issue is the need for an agreement on a common reference system for land records to facilitate validation across agencies; and improve reliability of information held therein.

There is room for improved and meaningful participation of the public in land use planning processes and changes in these plans. This could be one of the indicators for measuring governance index at the LGU level. More importantly, compliance to regular CLUP updating

needs to be improved and monitored. Monitoring of land use change should be tracked as well, to determine the effectiveness of land use zoning and allocation; and use these as basis for formulating or updating land use plans. The DILG and HLURB can assist in this regard by providing appropriate technical assistance, developing capacities, inclusion of relevant LGAF dimensions in monitoring land governance at the LGU level, among others.

The implementation of relevant policies to enable public capture of benefits arising from changes in permitted land use has largely been ignored; thereby resulting in some members of society unduly benefitting from these. At best, such benefits are captured in changes in property tax assessment, but because the LGU schedule of market values is way below the true market values and almost always out of date, this does not materialize. Full implementation of this law will also prevent those with vested interest to unduly influence the location of major public infrastructure projects for their benefit. In a similar way, compensation for expropriated properties or those affected by ROW or other government projects are not compensated fairly. Government should therefore enforce the existing provisions of sections 240-245 of RA 7160 or the Local Government Code, pertaining to special assessment. The BLGF can assist in developing specific guidelines and appropriate training for LGU Assessors on these.

Urban growth is happening in an ad hoc manner in most of the urban centers of the Philippines, signifying a breakdown in urban planning. This creates pressure on the location of government infrastructure development, and service provision for the growing city population. Unplanned development also creates inefficiencies in land use allocation, such that prime properties can be subject to informal settlements and other low value uses. LGUs therefore should be more proactive in urban planning, making sound projections on directions, scope and extent of urban growth so that services and government infrastructure can be projected in advance. More importantly, consistency of plans across LGU boundaries and within provinces and economic regions should be made, through national, regional and provincial land use policies, to better guide local development. This could be achieved with the passage of the National Land Use Act.

There is a large unmet demand for housing in many of the Philippine cities, but these are not being addressed by the current supply of high end condominiums and property development projects. The NHA and HUDCC should encourage LGUs and the private sector to invest more in meeting the housing demands of the lower and middle income sectors of society to effectively reduce informality.

There are huge deviations between what are allowed and what actually exists on the ground in terms of residential plot sizes. Proper zoning and monitoring of subdivisions should be made to ensure adherence to plot size standards. More importantly, the restrictions on plot sizes should be revisited in terms of how it contributes to the objective of urban land reform and providing equal opportunity for all Filipinos to own land

On property valuation and taxation

Property assessment for tax purposes are not based on market prices and valuation rolls are not updated regularly. These lead to very wide disparities between the SMV and actual market values

There is wide discretion in the application of exemptions to payments of property taxes, leading to loss of potential revenues.

A large proportion of property tax payers are not listed on the tax roll. This is due to various reasons: (i) mandated agencies such as DENR and LRA/RoD do not provide updated

information as required; (ii) inadequate efforts by the LGU to update their tax maps; (iii) large portions of untitled properties; (iv) presence of collective CLOAs within the LGU.

Across all LGUs, property tax collections is very low at an average of 61%. The IRA acts as disincentive for improving property tax collection efforts.

The revision of the LGC should take into account amending the basis for computation of IRA allocations so that it does not serve as disincentive for LGUs to exert more effort in collecting RPTs, and regular updating of SMVs based on true market values. In relation to this, the current sharing of proceeds from RPT collections among LGU tiers should be reviewed to provide improved incentives for municipalities to expand their collection drive.

BLGF, together with DILG and the Department of Justice should review the power of LGUs to grant exemptions in real property tax payment; as well as the use of such as incentives for attracting investments in the LGUs;

BLGF to provide better guidance to Treasurers in terms of collection of arrears so as not to undermine taxpayer initiatives to pay current taxes due;

In addition to the professionalization of Assessors, performance of Treasurers should be regularly monitored in terms of implementation of required remedies to collect property taxes;

There should be renewed support to the proposed VRA that include provisions for: (i) mechanisms for certification that the proposed revised property valuations comply with valuation standards prior to their implementation by the LGUs; (ii) strict compliance with regular updating of SMVs; (iii) giving back to the DOF the authority to approve SMVs (from the present system where the local councils are the approving authorities). LGUs will not be allowed to collect the real property tax if the SMV is not updated regularly.

There should be effort to strengthen implementation of existing provisions related to the mandatory requirement for LRA/RoD and other agencies to provide up to date property information to LGUs;

LGUs should improve their capacities to appropriately assess and collect RPTs through the following: (i) technical assistance in the development of market based SMVs; (ii) regular updating of their tax maps and related records; (iii) undertaking of tax compliance studies and development of clear plans for improved collection of property taxes based on the outcomes; and (iv) adoption of integrated computerized systems for property tax assessment and collections, as in the e TRACS⁴⁴; and (v) enhancement of collection practices. This includes being proactive in revenue collection, taking action against delinquent filers and payers, conducting taxpayer registration drives and cleaning taxpayer registries regularly. In this regard, the panel considered the lessons and experiences from the Innovation Support Fund (ISF) component of LAMP2 as well as the ongoing REGALA Project, and strongly recommended a wider roll out of similar projects to improve LGU capacities on property valuation and taxation, among others.

Public provision of land information

Under this module, a number of areas with weak governance were noted. While the LTCP has helped in making transactions more transparent and efficient, a few remaining areas require attention to improve governance:

⁴⁴ Enhanced Tax and Revenue Assessment Systems

- DENR and RoD should start to capture gender data among its records, in keeping with Philippine laws, particularly the Family Code and Women and Development in Nation Building Act;
- DENR to address the widespread practice of informal fees associated with first time titling;
- Measures should be made to address the barriers to registration of transfers and subsequent transactions. Foremost of these is the high rate of capital gains tax, strong information campaign particularly in the rural areas; simplifying procedures, among others. These should ensure that the information and records in the registry are reliable and up to date.

Public land management

Only national infrastructure projects have clear policies for expropriation and compensation using market rates (RA 8974). There is currently no policy to provide compensation for income losses. In most cases, the BIR zonal value is used as basis for valuation despite the fact that there are other standards cited in said law for valuing land.

For other projects, the policies that apply are PD 1533 and EO 1035 which uses the values declared by the owner/administrator or as determined by the Assessor pursuant to the Real Property Tax Code, whichever is lower, as basis for compensation.

There is no national policy yet on resettlement. While DPWH has a Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples Policy (LARRIP); it is not founded on legislation, but an Administrative Order issued by the agency. Hence, it can be questioned by the Commission on Audit anytime. There is a National Resettlement Implementation Plan (NRIP) which was produced in 2003 through WB support. The document needs updating.

Currently, there is no recourse to complain against expropriation akin to a grievance redress system. This is made worse by RA 8975 which prohibits the lower courts to issue temporary restraining orders (TRO), preliminary injunctions, or preliminary mandatory injunctions on national government infrastructure projects.

Existing policies are not fair in the sense that; legitimate owners are only given compensation which is way below market values.

With respect to disposition of government properties, the Public Reclamation Authority (PRA) is responsible for auctioning all government owned properties, particularly those reclaimed. However, the Philippine Ports Authority (PPA) acts as both a regulator and implementer at the same time. The agency does its own reclamation too.

Data on expropriation are not publicly accessible; and scattered among many agencies. There is very little monitoring on the extent of expropriated land, the amount of compensation, promptness of compensation, and use of expropriated land. Relevant expropriation data should therefore be publicly accessible to enable independent monitoring, and improve accountability. Agencies should put up such information in their websites. External Monitoring Agents (EMA) who are independent of Government are engaged by DPWH to do such tasks among others, for WB assisted projects as part of Loan Agreement. However, this is not necessarily so for other projects, particularly those that are locally funded.

There is unfair compensation for expropriation since the basis for valuation are zonal values (in the case of national infrastructure projects) and tax declarations (in the case of LGU and other infrastructure projects); both of which are way below market values. These

amounts will not enable the affected property owner to find replacement property of equal value. Relevant laws should be revised to reflect market values as basis for compensation.

Promptness of payment is also an issue with other and LGU infrastructure projects whereby properties can be possessed even with 15 or 10% payments to owners.

RAPs are only prepared for foreign assisted projects, thereby creating inconsistency in compensation.

There is no clear legislation for compensating income losses of medium to large-scale businesses and agro-industrial enterprises as a result of involuntary resettlement. As a result, almost all property holders affected by expropriation become worse off. There should be a legislation that provides for clear policy framework for compensation of income losses by medium to large-scale business and agro-industrial enterprises following involuntary resettlement.

There is no national resettlement policy that embodies, aside from proper and prompt compensation and entitlements, grievance redress and sustainable livelihood restoration and improvement program. Such grievance redress system should also be accessible and affordable to poor property owners affected by expropriation. These could be embodied in a national resettlements policy.

Agencies dealing with expropriation and resettlement should develop their own resettlement action plans, and these should be applied to all projects, regardless of funding source, type of property and to all who will lose their access and use rights. There should be a parallel capacity development program to enable such agencies to prepare their respective RAPs.

Dispute resolution and conflict management

There are strong mechanisms for dealing with land related disputes at the local or community level that are formally sanctioned. A key concern however, is the capacity at the level of the BJS to carry out these mandates. A comprehensive capacity development program for BJS is essential for them to become familiar with existing laws and policies, as well as ways of handling or mediating land related disputes. This should potentially contribute to speedy resolution of cases and the unclogging of cases in Courts.

The formal process of addressing land related disputes is expensive and slow. It is evident that some reforms in the administration of justice system are warranted to unlock the potential of these properties and minimize the social and economic costs of delays. A more thorough study of the nature of these disputes whereby the ageing of land dispute related cases, the development of databases, and the feasibility of setting up dedicated land courts in areas where disputes are high can be examined.

Large-scale land acquisition

The modest rating, even low in some dimensions, on large scale acquisition of land rights is linked to the following issues: overregulation, overlapping policies and jurisdictions, weak monitoring for compliance, lack of investment incentives, and vulnerability of community organizations. The following recommendations were identified to improve land governance.

- Practices in large scale land acquisition should be governed by acceptable “code of conduct” to ensure certain standards are in place in the provision of information, adherence to community processes and consultations; compliance with safeguards;

fair and equitable benefit sharing; respect for rights and culture; and observance of proper procedures.

- The policies governing the use of land as an asset are still weak; there is a need to ensure there is good investment climate for the use of land. In agricultural lands and CBFMA areas, there is too much regulation of investors mainly emanating from the perception that investors generally have negative motivations. This discourages low profit margins and long gestation investments. Policies need to be developed around providing a level playing field for all investors, while at the same time providing enough safeguards and proper monitoring by government.
- There is a need to address overlapping policies and jurisdictions especially in ancestral domain areas where claims overlap with agricultural lands covered by CARP, with forestlands, with lands designated as special economic zones and even with lands occupied by academic institutions. Many of the disputes are the results of these overlays. One needing urgent attention is the provision in the law that does not require CADTs to be registered with RoD. The panel noted also that considering the large extent of ancestral domains, the direction of investments in large - scale agriculture would be in these areas and should therefore be given appropriate attention. The effectiveness of the recent DA-DAR-DENR-NCIP-LRA/RoD Joint Administrative Order should be reviewed in terms of addressing how there can be resolutions to existing overlaps.
- A good monitoring system for compliance that is independent will reduce or eliminate unfair treatment of farmers and IPs in the process of implementing projects. Similarly, conversion of lands to uses not agreed upon in the contracts or not allowed in the framework can be avoided. Government should also refrain from unhealthy practices like requiring investors to finance compliance monitoring.
- In support of a good monitoring system is the establishment of a mediating mechanism where there is a designated “arbiter” through which communities can lodge complaints in case of abuse by investors. The creation of informal dispute resolution mechanisms would also help facilitate the processes for resolving such complaints more efficiently. Complaints should also cover government staffs that abuse their responsibilities to circumvent laws.
- Providing appropriate incentives in agricultural projects will not only increase investments but also promote best practices in dealing with landholders and communities, and in conserving the natural resources. In ancestral domains, there needs to be systems in place to encourage investments that addresses the socio economic needs of the IP communities, that is fair and equitable, and respects their rights. This should be undertaken in the context of sound ADSDPPs, clearly identifying indigenous community conserved areas so as not to compromise the culture and environmental values of the domains.
- Enhancing capacities of landholders not only in managing their organizations but also in relating with investors cannot be overemphasized. Clear and transparent terms of engagement between the landholders and investors need to be fully understood by the communities and landholders. In many IP areas, it was noticed that those directly negotiating are better performing than those that are supported by government, suggesting high transaction costs. However, this suggests strong capability on the part of communities to negotiate with investors on their own.

Development of community capabilities could be one area where the government can provide support.

Forestry

The Philippines is party to all the most relevant international Conventions affecting forestry, biodiversity conservation and climate change. It is also actively engaged in global discussions on issues of importance to Philippine interests; and is implementing its commitment with these Conventions, within its capacity.

The use of incentives to promote climate change mitigation through forestry - such as PES and REDD+, are still in its infant stage in the Philippines, in the absence of clear policy framework. At best, the use of PES is quite isolated and patchy, while on REDD+, attention is currently focused on improving readiness, capacity development and awareness building.

There are strong policies in place that recognize and protect the public goods aspects of forests. However, the effectiveness of these policies is constrained by limited funding and resources for protected area management; and/or protecting existing forests.

Current plans and budgets are still not fully aligned with addressing the key drivers of deforestation and degradation. This framework can be used to review the composition, scope and location of investments in forestry and protected areas.

The Philippines is still lagging behind in terms of forest certification and chain-of custody systems thereby affecting the competitiveness of its industry. The absence of these systems also weakens the ability to monitor the extent to which forest resource managers apply sustainable management systems in their areas.

There is very little support to the development of small and medium enterprises in the forestry sector; which constrains its potential to generate income, promote rural employment and competition; and in stimulating economic activity in the rural areas.

While there are enabling policies for benefit sharing from public forests and protected areas with communities; the absence of clear and specific guidelines has prohibited many communities to fully enjoy the benefits and get their fair share from the natural wealth. Thus, implementation has been discretionary, without standards and transparent safeguards, and undefined rules for doing so.

Mapping and demarcation of forest boundaries is almost complete. However, most of the tenure, classifications and various uses of the public land (forest lands, protected areas and public A and D); are not clearly defined and demarcated – thereby ownership is widely contested. This stems from poor and inaccurate mapping, and lack of demarcation of most of these lands.

FLUP offers an excellent platform for public participation in forest land use planning, and in making available, all information and interests in the public forests. However, very few LGUs have FLUPs; and this is not yet a mandatory requirement for all.

Efforts in combatting forest crimes have focused mainly on illegal logging. Monitoring encroachment, land use conversions, and other offenses should be given attention too. A more systematic analysis of the country's wood requirements and domestic supply is needed to improve assessment of the extent to which illegal supply enters the market

Suggestions for Reforms

The above key findings and recommendations have pinpointed clear areas for reforms to address weak governance in the lands sector.

Support the passage of the Land Administration Reform Act

The establishment of a single land agency is key to improving land governance. This should address the structural defects of the system through the reduction of horizontal overlaps in the mandates of key agencies that impact on the following:

- Efficiency in service delivery;
- Access to complete and reliable, up to date records;
- Improving confidence in the land related agencies; and
- Reducing opportunities for syndicates, informal payments and other inappropriate practices

In support of these, the government should develop a National Spatial Data Infrastructure (NSDI) that will facilitate exchange and sharing of land related information among agencies, and make these more accessible to the public.

Support the passage of the Property Valuation Reform Act

The proposed Bill should address the systemic issues associated with LGU failure to adopt market based valuation and conduct regular updating of SMVs. This should also impact on poor collection efficiency, and unclear policies on LGU authority to grant exemptions.

The current situation is that low collections from property taxes perpetuates LGU dependence on the IRA while non-adherence to market values affects the determination of just compensation for properties expropriated by LGUs.

The VRA should be coupled with proposals to amend the Local Government Code to address the disincentives offered by the IRA.

Support the passage of the National Land Use Act

The Bill should be able to provide a broader policy framework governing land use allocations, limits to conversion, and expansion of selected uses; thereby ensuring there is balance overall to meet future demands for food security, housing and shelter, industry and commerce, at the same time providing adequate allocations for the protection of forests and national parks to deliver public goods.

Remove/minimize disincentives for registration of land transactions

High transfer taxes, particularly the capital gains tax, perceived bureaucratic processes, low confidence in the registry, all contribute to the non-reliability and not up to date records in the registry.

Coupled with the large number of untitled parcels, these impact on the completeness of the registry, cost of securing accurate records, and the collection of appropriate fees and taxes by government. These also contribute to delays in formalization of housing for informal settlers in the urban areas.

Develop a National Resettlements Policy

This is a clear policy gap that can be given attention in the medium term; as the government increases its investments in infrastructure development to stimulate growth.

This proposal should address the fairness and promptness of compensation, and should apply to all government projects regardless of funding. The policy should also ensure

consistency in implementation across all agencies and LGUs involved in expropriation and/or resettlement in implementation of projects.

Undertake an accelerated titling program

The high proportion of untitled properties constrain the effective functioning of the land market and affects investments in property development. It also exposes the property owners, particularly the poor, to undue risks. Titling also have the added benefit of improving the property tax roll of the LGUs, thereby contribute to increased property tax collections.

In rolling out titling, prioritization can be made. The benefits of tackling urban/residential properties which are easier to adjudicate, where occupants have more complete records, procedures are simpler, and properties are more highly valued; can be considered. The design can also consider streamlined procedures for titling tested under LAMP1 and LAMP2, which could be rolled out in partnership with LGUs, who will stand to benefit most through improved ability to collect property taxes.

Upscale LGU led initiatives in improving land governance

The LAMP Innovation Support Fund and the REGALA model have proven that land governance can be addressed at the local level through LGU initiated projects. These tackle issues of priority importance to the LGUs, and provide sufficient incentives because it provides clear results: (i) improved service delivery; (ii) enhanced LAM interagency cooperation at the national level (where it is difficult to achieve nationally); (iii) increased internally generated revenues; and (iv) improved governance capacities.

Support to upscaling of similar programs beyond the nine LGUs participating could generate a “snow ball” effect on land governance in the country; even if the major reforms identified above are not fully in place.

Develop a comprehensive approach to improving the environment for large scale land acquisition in the country

As the country aims to address food security amid smaller farms, there is a need for more comprehensive approach to these issues.

The response should include greater incentives and more stability of policies on investments in forest lands; more transparent procedures in investments in ancestral domain areas; development of safeguards; monitoring of large scale acquisitions; support to communities.

The recommendations mentioned above can be considered essential elements of a basket of approach to developing more responsive policies and support to enable large scale land acquisition to contribute to food security and stimulate rural employment and economy without endangering the environment, compromising rights, and ensure there is respect for culture and traditions. These investments are also badly needed in these areas, so a more suitable code of ethics and acceptable standards would have to be in place.

Initiate reforms in the Court system

The situation is unacceptable for parties involved in land disputes:

- Cases decided by the Supreme Court in 2012 showed that in more than 90% of the cases it took more than 20 years for cases to be resolved with finality.

- Even cases first filed with the lower court as far back as 1970 were only decided by the Supreme Court in 2012.

The reforms should address the key issues associated with the lengthy and expensive processes for appeal of land dispute rulings. The reforms in the administration and/or disposition of such cases are warranted to unlock the potential of these properties and minimize the social costs of delays.

Provide better incentives to local forest managers to improve sustainable forest management

Crucial to better protection, increased incomes, and to improve the potential of forest lands to stimulate the rural economy, would be to consider the set of recommendations mentioned above.

At the center of such recommendations include greater consistency in policies for resource use; more rational regulation of CBFMAs and wood industry; promoting certification and value chain; and development of benefit sharing mechanisms.

These strategies should be complemented with identifying protection and conservation areas; mapping of all interests in the forest lands and national parks; as well as the financial terms of such concessions.

Tools to support these would include the preparation of inclusive FLUPs, greater access to information; and the adoption of an integrated ecosystems management framework that rationalizes all tenure, activities, rights and plans in watersheds to seek consensus on and achieve agreed objectives.

5 CONCLUSIONS

5.1 Methodological Lessons

The application of the LGAF in the Philippines confirmed the main findings from earlier studies on the situation in the lands sector. Thus, it reinforced the main recommendations, particularly the reform proposals to address the systemic issues nagging the sector. Because it provides a snap shot of an existing situation, it could serve as an important scoping tool to identify key weaknesses and therefore areas requiring priority attention, both in terms of policy; and action programs. In hindsight, this could have been very useful when the Philippines was trying to take stock of the existing situation, and identifying areas for priority support, determining the options; weighing the costs, benefits, and feasibility of each. It serves as a very comprehensive guide for countries to assess their land governance status in a more systematic way. The assessment undertaken in the Philippines in 1998 was therefore not as “complete”, did not explore as much and not undertaken from a governance perspective.

Nonetheless, the added advantage of LGAF is that because of the pre coded statements on the ratings; it provided a standard against which to aim for; that is, to improve governance given the current assessment of the relevant dimension in the country. It would therefore be an important monitoring tool to gauge the progress of actions taken with respect to dimensions with weak governance. The statements associated with the ratings can serve as benchmarks that can specify the indicators for measuring improvements over time. Thus, for example, registration of 50% of individually held rights in the rural areas in five years would be a better defined target rather than aiming for improved security of tenure in the rural areas.

The inclusion of large scale land acquisition, forestry, expropriation, and public land management in the analysis likewise enabled a broader assessment of how land governance impinge on these related issues. Thirdly, the rapid and participatory process involved in the rating of dimensions and analysis; including high level engagement enabled broad ownership of and credibility of the results.

In the Philippines context, the LGAF could be used to monitor progress in the implementation of the Lands Sector Development Framework (LSDF) of 2010 – the agenda developed out of the work of LAMP1 and LAMP2. The LSDF was formulated to identify key policy statement and strategies to achieve a 20-year vision for a modernized land sector, having in mind a detailed long term plan to follow. The LSDF could be broadened to include the additional themes mentioned above; with clearly specified targets to aim for improvement of governance ratings over time. By clearly targeting governance objectives, the LGAF could help propel the LSDF into discussions at the higher level; thereby giving it the attention it deserves.

The LSDF therefore could be updated to incorporate the following:

- Agenda for reforms and actions in expropriations, public land management, large scale land acquisition and forestry;
- Specifying the ratings for relevant dimensions;

- Identifying areas where further information and evidence would be required (as noted in the LGAF assessment), and implementing a plan of action to make these available;
- Determining the objective in terms of improving governance in identified priority areas following the LGAF processes;
- Preparing a plan of action to achieve these objectives by end of 2016.

The action plan should clearly specify the responsible parties, the resources required, and the estimated timetable by which changes are expected to happen to enable improvement in governance ratings.

The "LGAF-ied" LSDF could then be integrated into the updated Philippine Development Plan and progress reviewed by end of 2016.

5.2 Scope for Further Work

In addition to the above, it became clear from the processes that follow up actions could be made on the following:

Preparation of a Mindanao LGAF

The Mindanao case offers a rich ground for further investigation of land issues. It is the second largest major island, currently experiencing conflicts and key development challenges.

- It is home to majority of the country's IPs;
- Some of its key cities (Davao and Cagayan de Oro) are currently experiencing rapid economic growth, yet some regions (ARMM) are lagging behind in terms of poverty index and regional GDP;
- A large portion of the Mindanao island is forest lands and national parks; a number of its provinces serve as the timber corridor of the Philippines, and where illegal logging hotspots are also identified;
- The island's limited agriculture area is fertile ground for large scale land acquisitions, including its forest lands and ancestral domains;
- Key provinces in Mindanao are being developed to supply agricultural products to the rest of the Philippines and for exports.

The Mindanao LGAF would offer an opportunity to assess how the dimensions will play out in the regional context, and provide a better lens for examining the state of governance in such a complex situation. More concretely, it will enable the formulation of appropriate actions and priorities for improving land governance in Mindanao.

Urban LGAF - Metro Manila and its environs

The Metropolitan Manila area, or the National Capital Region (NCR), consists of 16 cities and one municipality. It is the center of government, commerce, and business in the Philippines. With a rapidly growing urban population, the key challenges faced by the expanding metropolis are as follows:

- Uncontrolled urban growth, with infrastructure and other basic services not being able to keep pace with the demands of a rapidly growing population;
- Mounting informality in the urban areas; with many cities not able to formalize housing to the urban poor and informal settlers; thus causing urban decay and contributing to inequity;
- Active reclamation projects along the coastal areas;

- Spillover of developments along the urban fringes of Cavite, Laguna and Bulacan provinces, thus creating pressure on planning and development of secondary and tertiary cities;
- Active land market and property development projects for the higher middle income population, yet with increasing gap in housing for the poor and lower income population;
- Skyrocketing land prices brought about by land banking and speculation by the private sector;
- High income LGUs, with potential for capturing betterment taxes and increased property taxes and fees from improved valuation and taxation practices.

The NCR offers a classic case of how governance impact on the ability to respond adequately to urban issues in the Philippines.

In Depth Assessment of Large Scale Land Acquisition Module

This proposal stems from the lack of time and detailed data to provide the basis for adequate assessment of the module. It is also anticipated that as the redistribution of agricultural lands is completed in the near term as planned by the Aquino administration; the result would be preponderance of small sized farms in the Philippines. With growing population, the demand for improved food security would require either intensification to enhance farm productivity; and/or consolidation of small farms to make better business case for economies of scale and large-scale production. With reduced public investments in agriculture, the private sector is predicted to provide the much needed boost to improve production.

Large scale land acquisition is therefore foreseen to intensify as one of the modes for increasing investments and production in the agriculture and forest industry sectors. The timing is therefore quite appropriate for the Philippines to put in place, the essential elements to ensure there is a level playing field, and there is fair and equitable sharing of benefits therefrom. The recommendations presented herein from the assessment of the dimensions under the LSLA module can be sharpened with such a focused study; as well the formulation of specific actions to address areas with weak governance. Such a study can be tied with a Mindanao LGAF as a priority.

Explore the use of provincial or city/municipal LGAF as incentives for national level investments

A pilot can be undertaken to assess how the LGAF can be used to assess the way by which strong or weak governance impacts on economic performance at the provincial or regional level. The hypotheses being, in provinces where tenure systems are weak; economic growth would be driven simply by the amount of government subsidy or lack of it. LGAF results from each province may point to the obvious – land as a major natural resource could spell local, more equitable economic development with the right incentives. The national government can also use LGAF as a tool to measure the strength of land governance in a given province or jurisdiction; and on the basis thereof, use the results to allocate incentives or rewards for those meeting good governance indicators.

6 ANNEXES

6.1 Country Scorecard for the Philippines

Core set of indicators

			Score			
LGI-Dim	Topic		A	B	C	D
Recognition of Rights						
1	i	Land tenure rights recognition (rural)	■			
1	ii	Land tenure rights recognition (urban)		■		
1	iii	Rural group rights recognition	■			
1	iv	Urban group rights recognition in informal areas	■			
1	v	Opportunities for tenure individualization		■		
Enforcement of Rights						
2	i	Surveying/mapping and registration of claims on communal or indigenous land		■		
2	ii	Registration of individually held land in rural areas			■	
2	iii	Registration of individually held land in urban areas			■	
2	iv	Women's rights are recognized in practice by the formal system (urban/rural)			■	
2	v	Condominium regime that provides for appropriate management of common property	■			
2	vi	Compensation due to land use changes		■		
2	vii	Rural to urban conversion	■			
2	viii	Establishment of national parks/protected areas		■		
Mechanisms for Recognition						
3	i	Use of non-documentary forms of evidence to recognize rights		■		
3	ii	Formal recognition of long-term, unchallenged possession	■			
3	iii	First-time registration on demand is not restricted by inability to pay formal fees				
	iiia	Under Free Patent mode - RA 10023	■			
	iiib	Under the Miscellaneous Sales Patent (MSP) mode		■		
	iiic	Under the judicial titling mode				■
3	iv	First-time registration does not entail significant informal fees ⁴⁵		■	■	
3	v	Formalization of residential housing is feasible and affordable			■	
3	vi	Efficient and transparent process to formally recognize long-term unchallenged possession	■			
Restrictions on Rights						
4	i	Restrictions regarding urban land use, ownership and transferability		■		
4	ii	Restrictions regarding rural land use, ownership and transferability	■			
Clarity of Mandates						
5	i	Separation of institutional roles			■	
5	ii	Institutional overlap			■	
5	iii	Administrative overlap		■		
5	iv	Information sharing		■		
Equity and Non-Discrimination						
6	i	Clear land policy developed in a participatory manner	■			
6	ii	Meaningful incorporation of equity goals			■	

⁴⁵ Rating is between B and C. Amount of informal fees is "not significantly less" than formal fees but generally not equal to the formal fees. **The score given therefore was between B and C.**

			Score			
LGI-Dim		Topic	A	B	C	D
6	iii	Policy for implementation is costed, matched with the benefits and is adequately resourced				
6	iv	Regular and public reports indicating progress in policy implementation				
Transparency of Land Use						
7	i	In urban areas, land use plans and changes to these are based on public input				
7	ii	In rural areas, land use plans and changes to these are based on public input				
7	iii	Public capture of benefits arising from changes in permitted land use				
7	iv	Speed of land use change				
Efficiency of Land Use Planning						
8	i	Process for planned urban development in the largest city				
8	ii	Process for planned urban development in the 4 largest cities (exc. largest)				
8	iii	Ability of urban planning to cope with urban growth				
8	iv	Plot size adherence				
8	v	Use plans for specific land classes (forest, pastures etc.) are in line with use				
Speed and Predictability						
9	i	Applications for building permits for residential dwellings are affordable and processed in a non-discretionary manner.				
9	ii	Time required to obtain a building permit for a residential dwelling				
Transparency of Valuation						
10	i	Clear process of property valuation				
10	ii	Public availability of valuation rolls				
Tax Collection Efficiency						
11	i	Exemptions from property taxes are justified				
11	ii	Property holders liable to pay property tax are listed on the tax roll				
11	iii	Assessed property taxes are collected				
11	iv	Property taxes correspondence to costs of collection (NO DATA)				
Identification of Public Land						
12	i	Public land ownership is justified and implemented at the appropriate level of government				
12	ii	Complete recording of publicly held land				
12	iii	Assignment of management responsibility for public land				
12	iv	Resources available to comply with responsibilities				
12	v	Inventory of public land is accessible to the public				
12	vi	Key information on land concessions is accessible to the public.				
Incidence of Expropriation						
13	i	Transfer of expropriated land to private interests				
13	ii	Speed of use of expropriated land				
Transparency of Procedures						
14	i	Compensation for expropriation of ownership				
14	ii	Compensation for expropriation of all rights				
14	iii	Promptness of compensation				
14	iv	Independent and accessible avenues for appeal against expropriation				
14	v	Appealing expropriation is time-bounded (NO DATA)				
Transparent Processes (NO DATA)						
15	i	Openness of public land transactions				
15	ii	Collection of payments for public leases				

			Score			
LGI-Dim	Topic		A	B	C	D
15	iii	Modalities of lease or sale of public land				
Completeness of Registry						
16	i	Mapping of registry records				
16	ii	Economically relevant private encumbrances				
16	iii	Economically relevant public restrictions or charges				
16	iv	Searchability of the registry (or organization with information on land rights)				
16	v	Accessibility of records in the registry (or organization with information on land rights)				
16	vi	Timely response to a request for access to records in the registry (or organization with information on land rights)				
Reliability of Records						
17	i	Focus on customer satisfaction in the registry				
17	ii	Registry/ cadastre information is up-to-date				
17	iiia	Registry				
17	iiib	Cadastre				
Cost Effective and Sustainable						
18	i	Cost of registering a property transfer				
18	ii	Financial sustainability of the registry				
18	iii	Capital investment				
18	iiia	Registry				
18	iiib	Cadastre				
Transparency						
19	i	Schedule of fees is available publicly				
19	ii	Informal payments discouraged				
Assignment of Responsibility						
20	i	Accessibility of conflict resolution mechanisms				
20	ii	Informal or community based dispute resolution				
20	iii	Forum shopping				
20	iv	Possibility of appeals				
Low Level of Pending Conflicts						
21	i	Conflict resolution in the formal legal system				
21	ii	Speed of conflict resolution in the formal system				
21	iii	Long-standing conflicts (unresolved cases older than 5 year)				

Large Scale Acquisition of Land rights

LSLA	Topic	Score			
		A	B	C	D
1	Most forest land is mapped and rights are registered		Yellow		
2	Conflicts generated by land acquisition and how these are addressed				Red
3	Land use restrictions on rural land parcels can generally be identified.		Yellow		
4	Public institutions in land acquisition operate in a clear and consistent manner.			Orange	
5	Incentives for investors are clear, transparent and consistent.			Orange	
6	Benefit sharing mechanisms for investments in agriculture			Orange	
7	There are direct and transparent negotiations between right holders and investors.		Yellow		
8	Information required from investors to assess projects on public/community land. ⁴⁶	Green			Red
9	Information provided for cases of land acquisition on public/community land.		Yellow		
10	Contractual provisions on benefits and risks sharing regarding acquisition of land			Orange	
11	Duration of procedure to obtain approval for a project		Yellow		
12	Social requirements for large scale investments in agriculture			Orange	
13	Environmental requirements for large scale investments in agriculture		Yellow		
14	Procedures for economically, environmentally, and socially beneficial investments. ⁴⁷				
15	Compliance with safeguards related to investment in agriculture			Orange	
16	Procedures to complain if agricultural investors do not comply with requirements.		Yellow		

Forestry

FGI-Dim	Topic	Score			
		A	B	C	D
1	i		Yellow		
1	ii			Orange	
2	i	Green			
2	ii		Yellow		
3	i		Yellow		
3	ii		Yellow		
4	i	Green			
4	ii			Orange	
5	i			Orange	
5	ii		Yellow		
6	i		Yellow		

⁴⁶ D for LGUs; A for Philippine Agribusiness Development Corporation (PADDC)

⁴⁷ Not applicable. Public and community lands cannot be transferred.

			Score			
FGI-Dim	Topic		A	B	C	D
		corruption				
6	ii	Inter and intra agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors				

6.2 Policy Matrix⁴⁸

⁴⁸ Based on outputs of the Technical Validation Workshop

LAND GOVERNANCE ASSESSMENT FRAMEWORK

POLICY MATRIX⁴⁹

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY ⁵⁰
Legal and Institutional Framework				
There are no reliable data available on the extent of titled and untitled lands both in the urban and rural areas	DENR to complete the cadastral survey for the whole country	Number of municipalities and areas completely surveyed	1	A
		Consolidated maps of surveyed areas for the whole country		
	DENR, DAR, LRA, and NCIP to conduct a thorough inventory and cross-reference land tenure issuances	Inventory and mapping of areas covered with tenurial instruments (all types) to identify gaps and overlaps		
	NSO and LGUs to conduct a census of informal settlers and incorporate into socio-economic statistics for planning and management of CMP and other similar housing initiatives	Census/Inventory of informal settlers		
	DENR and LGUs to complete inventory of occupants of forest lands and protected areas	Inventory of occupants in forest lands and protected areas conducted		

⁴⁹ Output from the Technical Validation Workshop, June 4, 2013 at Dolce Latte Restaurant, Quezon City

⁵⁰ A = requiring strict implementation of existing laws and procedures; B = requiring improvements in existing policies and procedures; C = requiring new policies/legislations

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY ⁵⁰
While there are many modalities by which formalization of urban residential housing can be achieved, all of these are quite expensive on the part of government, and take a long time to complete	Strengthen and fast-track the Community Mortgage Program Encourage LGUs to develop comprehensive shelter plans and to engage in urban housing for the poor and the underprivileged	Proportion of urban informal settlers formalized and/or provided residential housing	1	A
The registry do not support generation of gender disaggregated data on land holdings	The LRA and other LAM agencies to revise processes (procedures, forms and documentations) to provide mechanism that will enable generation of gender disaggregated data on land tenure.	Gender disaggregated data produced and published	1	B
The are many overlaps in policy implementation and institutional mandates which have persisted for a long time and has resulted in long standing disputes, and has led to many problems	The government should prioritize the refilling of LARA Bill in the new Congress	LARA enacted	1	C
Agencies have different land record systems that make access difficult. DENR's records are organized by location and use cadastral lot numbers as reference; RoDs records are organized sequentially using title numbers as reference; while the LGU Assessor's records are organized by barangay and use Parcel Identification Number or Tax Declaration Number as reference	The agencies of the government responsible for maintaining and managing land records should develop a unified data standards so that land records management, particularly storage and retrieval can be harmonized across all agencies, including local government units	Agreed data standards Revised land records management policies	1	B

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY ⁵⁰
CBFMA and other group tenure in the forest lands and protected areas cannot be individualized under existing laws	DENR to investigate feasibility of providing individual tenures in forest lands and protected areas and pursue changes in policies and laws if desirable	Policy paper on individualization of tenure (long-term leases) in forest lands and protected areas Bills filed in Congress and law enacted (if desirable)	2	B
While RA 10023 (Residential Free Patent) provides for inexpensive titling of residential lands, titling of other types of urban lands are still very expensive and difficult	DENR to review the policies for appraisal and revise where appropriate to facilitate titling	Revised administrative orders issued	2	B
Payment of informal fees remains a common practice but the level of significance needs deeper investigation	LAM agencies to facilitate the conduct of a deeper study in informal fees than the one done in LAMP to provide for a more regional data for better assessment LRA, DENR and other LAM agencies to institutionalize mechanism for easier lodgement of complains for undesirable staff behavior	Study conducted and completed Complaints filed, investigated and given appropriate actions	2	B
There is no systematic and meaningful monitoring of progress and impacts of meeting equity goals in land policy	Encourage government to institutionalize policies for regular and meaningful monitoring of progress and impact of land policies into equity goals/objectives	Agency policies issued Equity goals/objectives monitored regularly and meaningfully	2	B

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
While the Philippines have a strong legal framework for land tenure rights recognition, the implementation has been very slow and difficult due to the preponderance of tenure rights and instruments issued by various agencies without a clear reference to a common database	Codification of land laws Streamline process of agencies and improve information sharing using a common database	Land Code passed by Congress Agreements of LAM agencies on unified data standards and data sharing LAM agencies database systems provides mechanism for cross-referencing, linking or integration	3	C
The restriction in transfer and conveyances of Free Patents (Agricultural) is unjustified considering the FP process mainly confirms long held rights through the issuance of titles. Applicants have to qualify with continuous unchallenged possession over a period of 30 years, so the restriction is unnecessary This restriction was already removed for residential lands in RA 10023	The DENR should work for the repeal of this restriction. This is one area to be seriously considered if there is any effort to pass a Land Code	Law passed by Congress repealing the restriction	3	C
Poor implementation of section 108 of RA 8550 which provides DA, in coordination with other government agencies (i.e. NHA) to identify and provide FISHERFOLK SETTLEMENTS near fishing grounds	Identify and provide fisherfolk settlements near fishing grounds Assess fisherfolk land rights	Implementing policy issued Proportion of informal fisherfolks given settlements	3	A
Land Use Planning and Management				
No overarching national policy framework on land use	Congress to enact a National Land use policy	National Land Use Act enacted	1	C

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
Attendance in public in land-use planning may not be representative of the real stakeholders in Land	Develop a policy requiring the real stakeholders particularly the property owners to participate and contribute substantially to the process of land use planning (DILG Memo Circular)	Memo Circular issued by DILG Attendance sheets in public consultation conducted	2	A
LGUs are mostly land poor but do not make an effort to increase their landholdings	NG (DBM, NEDA and DILG) to assist LGUs to embark on land banking for more effective urban land management thru a LGU Land Banking Fund (taken from the sale of NG assets)	LGU Land Banking Fund established Ratio of value of LGU landholding to total value of LGU assets	3	A
Non-implementation of law provisions in special benefit assessments	BLGF to make pilot studies and prescribe specific guidelines on special assessments Institutionalize donation as alternative application of worsement compensation and betterment levy (LGU Ordinance)	Detailed procedural guidelines LGU Ordinance Issued % of ROWs acquired through donations	4	A
No systematic monitoring of land use change	Develop methodologies for monitoring land use change in urban and rural areas: - Assessors Office for A&D - DENR-CENRO for public domain/City ENRO	Systems put in place	4	A
National Government investments strongly influence urban form of LGUs	Enforce LGC provision on mandatory consultation for major NGA investments in local government territories (enforce by OP)	Formal agreements or co-management arrangements Directive from the Office of the President	4	A

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
LGU authority to regulate land is weak without power to regulate ownership, acquisition and disposition of property as well	Study the feasibility of empowering LGUs to regulate ownership, acquisition, disposition and use of land	Study Report Appropriate laws enacted	4	B
Rampant practice of informal subdivision	Study feasibility of devolving to LGUs the power to regulate informal subdivisions to enforce standards on lot size, lot access and open space requirements	Study Reports	4	B
Extensive settlement encroachment in Timberland	Educate people on the meaning and purpose of land classification Revisit the 18% slope basis for delineating Timberland	Improved Compliance Review Report	4	C
Land Valuation and Taxation				
Assessment of most properties is still not based on market prices	Intensive training of assessors in the use of the reformed valuation process; roll-out of PVS and MAG to all LGUs; pursue the passage of VRA bill (medium and long-term solution)	Proficiency of assessors on the correct valuation process	1	A C for VRA
Revision of SMVs is not regularly undertaken as provided in the LGC	DOF/BLGF to strongly direct and assist LGUs in revising their SMVs; pursue the passage of the VRA bill	Proportion of LGUs compliant with regular updating of SMVs	1	A
Collection efficiency for the RPT is about 59% for the whole country	Assist treasurers in developing an efficient revenue collection program based on the regular conduct of a tax compliance study	Improved RPT collection efficiency	2	A
Sanctions for local officials deficient in collecting property taxes are not utilized	Strictly implement the LGC provisions ensuring the efficient collection of property taxes	Number of deficient/erring Treasurers given sanctions	2	A

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
Exemption authority of LGUs “stretched” in practice	DOF/BLGF/DILG/DOJ to review the power of LGUs to grant exemptions and propose amendments to LGC if warranted; as short-term solution, DOF/BLGF to advise and monitor LGUs on the appropriate way of exercising their exemption authority under the LGC	A definitive official position from DOF/BLGF on the LGUs’ grant of property exemptions	2	B
Public access to SMVs is limited	BLGF to collect LGUs’ SMVs and upload in their website	Availability of LGU SMVs at the BLGF website	2	A
Assessors do not vigorously pursue their task of updating the assessment roll	BLGF to require assessors to regularly update their assessment rolls	Updated assessment rolls as revealed in regular monitoring of the BLGF	2	A
Administrative and judicial remedies available under the LGC to collect delinquent property taxes are not maximized	BLGF to conduct intensive training for the treasurers and their staff on the use of administrative and judicial remedies to enforce RPT collection	Number of treasurers/staff trained; number of warrant of levies issued and conduct of public auctions	2	A
Officials/private persons mandated under the LGC to provide information to assessors do not comply	Require all those mandated under the LGC to provide information to the assessors to comply through MOAs or face sanctions	Regular transmission of information to the assessors from those concerned	3	A
LGUs depend too much on IRA at the expense of collecting internal revenues	Review the IRA to minimize its “disincentive” to collect internal taxes; explore the use of collection efficiency as a factor in developing a new IRA formula	Proposed amendments to the IRA formula	3	C
No comprehensive studies on the cost of collecting property taxes	Conduct a study estimating the ratio of the cost of collecting both national and local property taxes to actual collections	Study completed and recommendations identified	3	B

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY ⁵⁰
Dispute Resolution				
While there is an institutionalized community-based alternative dispute resolution accessible to the community, there are some weaknesses particularly in the capacity of the Lupon to handle land related disputes	Build capacity of Lurons in the handling of land related disputes	Capacity program developed Capacity building activities conducted	1	A
It is difficult to determine the extent or magnitude of land related disputes in the court system	The courts to improve inventory and tracking of cases Installation of database system for inventory and tracking of court cases, ideally with capability to segregate and age cases	Inventory of cases Case tracking database developed, installed and operational	2	B
The formal process of addressing land related disputes is expensive and slow. Some reforms in the administration of justice system are warranted to unlock the potential of these properties and minimize the social and economic costs of these delays	Investigate the feasibility of setting up dedicated land related courts in areas where disputes are high and pursue if desirable The government should seriously consider the proposal for the creation of a Land Adjudication Board with quasi-judicial powers to facilitate resolution of land cases	Policy option developed for setting up dedicated land courts Policy option and legislation on the creation of a Land Adjudication Board	3	C

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY ⁵⁰
Public Provision of Land Information				
Agencies have different land record systems that make access difficult. DENR's records are organized by location and use cadastral lot numbers as reference; RoDs records are organized sequentially using title numbers as reference; while the LGU Assessor's records are organized by barangay and use Parcel identification Number or Tax Declaration Number as reference ⁵¹	The agencies of the government responsible for maintaining and managing land records should develop a unified data standards so that land records management, particularly storage and retrieval can be harmonized across all agencies, including local government units	Agreed data standards Revised land records management policies	1	B
While the LRA, RoD and other LAM agencies have published their service standards, there is however, a lack of meaningful monitoring of performance against it	Encourage LAM agencies to actively monitor performance against service standards for continuous process improvement	Reports on monitoring of service standards Policy issuances for process improvements	2	A
Studies undertaken by LAMP2 identified several factors that discourages registration of subsequent transaction, primarily the high cost attributable to payment of transfer taxes, which results in registry not up to date	Review the structure for taxes on real properties with the view of reducing the rates to encourage the registration of subsequent transfers	Policy option for restructuring transfer taxes (relevant provisions of National Internal Revenue Code) Amendment of relevant provisions of the LIRC (if so desired)	3	C

⁵¹ This is already reflected in the policy matrix for legal and institutional framework, repeated only to highlight as a cross-cutting concern.

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
Expropriations				
RAPs are only prepared for foreign assisted projects and other major capital projects (in most cases)	Agencies dealing with expropriation and resettlement should develop their own resettlement guidelines, and these should be applied to all projects, regardless of funding source, type of property and to all who will lose their access and use rights.	RAP Reports for all projects regardless of source of funding, published in websites of implementing agencies	1	A
Promptness of payment for locally funded projects and those implemented by LGUs	Payment of 100% of appraised value instead of just a portion of it (10% for local and 15% for those implemented by LGUs)	Post RAP implementation reports that are accessible through implementing agencies' websites	2	B
Unfair compensation for expropriated property, which are way below market values.	Strict implementation of Section 5 of R.A. 8974 must be done.	Post RAP implementation reports that are accessible through implementing agencies' websites	2	A
Data on expropriation are scattered among various implementing agencies. These data are not publicly available	Agencies should put up expropriation data and updates in their websites.	Status of expropriation cases posted in websites of implementing agencies	3	A
There is very little monitoring done on expropriation cases, except for foreign assisted projects with loan covenants requiring it	External Monitoring Agents (may be a private entity, an NGO/CSO, or an individual) who are independent of Government must be engaged by implementing agency to do such tasks among others, whether project is foreign assisted or not	Reports of EMAs posted in websites of implementing agencies	4	A

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
There is no national resettlement policy that embodies, aside from proper and prompt compensation and entitlements, grievance redress and sustainable livelihood restoration and improvement program.	A national resettlement policy should be formulated to provide for prompt compensation and entitlements, grievance redress and sustainable livelihood restoration and improvement program.	Enactment/passing of law embodying a national resettlement policy that will cover both the formal and informal sectors	1	C
Absence of clear legislation for compensating income losses of medium to large-scale businesses and agro-industrial enterprises	There should be a legislation that provides for clear policy framework for compensation of income losses by medium to large-scale business and agro-industrial enterprises following involuntary resettlement.	Reports on payment for income losses of medium to large scale businesses and agro-industrial enterprises. This may also be posted in websites of implementing agencies	1	C
Basis for property valuation different for national and local infrastructure projects and those implemented by LGUs	Amendment of R.A. 8974 to cover locally implemented projects and those implemented by LGUs	Reports of EMAs posted in websites of implementing agencies	2	C
Large Scale Land Acquisition				
Conflicts resulting from land acquisition	Legislate a national land use plan to ensure that lands and resources are protected and utilized in a manner that will be beneficial and sustainable for all sectors of society	Law enacted by June 6, 2013 Presentation of LGAF before legislators on June 5, 2013 IRR on NLUA formulated and budgeted Implementing and monitoring guidelines	1	C

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY⁵⁰
Need for a clear, transparent and consistent policy on agricultural investments	<p>Adopt CFS VG and other international guidelines on land management (e.g. UNDRIP, CBD)</p> <p>Need for greater understanding of these international agreements among stakeholders</p> <p>Implement existing laws, policies that regulate land and water investments (e.g., FPIC of IPRA)</p>	<p># of clear implementation and monitoring guidelines formulated (e.g. DAR AO on Agri-business Venture Agreements)</p> <p>FPIC (revised) guidelines implemented</p>	1	A
Overlapping mandates of government agencies	<p>The Joint DAR-DENR-LRA-NCIP AO No 01-12 clarifies the respective policies and programs of the agencies and instituted mechanisms to resolve jurisdictional, operational, and policy issues</p> <p>Need for greater consultation with CSOs and basic sectors on this AO</p>	<p># of multi-stakeholders consultations conducted</p> <p># of CSO inputs and recommendations adopted</p> <p># of land conflicts managed or resolved in favor of the small food producers</p>	1	A
LSLA in Mindanao	<p>Conduct further studies on land issues, especially LSLA, in Mindanao</p>	<p># of cases documented (positive and negative)</p> <p># of RTDs conducted to validate findings and review recommendations</p> <p># of policies recommended and adopted</p> <p>Mechanism/s created to monitor and address land conflicts</p>	1	A

POLICY ISSUE	PROPOSED ACTION	MONITORING INDICATOR	RANK	CATEGORY ⁵⁰
Public Land Management and Forestry				
Complete compliant database system for generating, verifying, validating, analyzing and reporting for all international commitments (CITES, UNFCCC, CBD, Ramsar Convention etc.)	Configure existing system for spatial database generation, verification, validation, storage, analyses, retrieval and use to comply with international commitments –DENR and attached agencies, CCC	Consolidated spatial database accessible to all relevant government offices and continuously updated	1	A
Harmonizing and unifying various laws and policies that govern access, use, compliance and management of public goods from forests and their environmental goods and services	<p>Issue a relevant policy for a unified tenure system (i.e. unified Forest Management Agreement)</p> <p>Issue a policy on certification of forest plantations</p> <p>Issue a policy to improve incentives for forest based SMEs</p> <p>Issue guidelines for PES and benefit sharing arrangements between LGUs and communities</p> <p>Issue guidelines on co-management (currently in process)</p> <p>Capacity building support for DENR, LGUs and target management units</p> <p>Issue guidelines for Forest Land Use Plan (FLUP) preparation and demarcation and delineation of zones inside management units</p>	<p>DAO's issued by the DENR</p> <p>RA on Trust Fund for communities (PES) or MOA's for PES between LGUs and local DENR</p> <p>Monitoring system for every forest management unit, using maps and data on land cover from NAMRIA as baseline information</p>	2	B

6.3 References

- ADB/JFPR REGALA. 2011. Tax Compliance Studies for Alaminos, San Carlos, Tayabas cities. (unpublished reports).
- ADB/JFPR REGALA. 2012. Studies on the SMV Revision of the REGALA LGUs (Tayabas City, Alaminos City, Bayawan City and San Carlos City). Unpublished reports.
- Acosta, R. 2000. **Assessment of Forest Plantations in the Philippines**. FAO.
- Alaminos City. LGU Ordinance 2006-11
- Alcazaren, Paulo G. *et. al. Quezon City, the Rise of Asia's City of the Future*. Local Government of Quezon City, 2010
- Anda, Alexander and Marlon M. Atienza. November 2011. Fiscal Gap and Financing Protected Areas in the Philippines. EPSEEA funded study. Draft Report.
- Anzorena, Eduardo Jorge, S.J., **Housing the Poor: The Asian Experience**, 2d ed. (Cebu City: The Asian Coalition on Housing Rights, 1994); *Housing the Poor in the New Millennium* (Cebu City: Pagtambayayong--A Foundation for Mutual Aid, Inc., 2004); "The Community Mortgage Program", Selavip Newsletter (April 2005)
- Ancestral Domain Database Information System (ADDIS) accessed through the NCIP website (<http://addis.ncip.gov.ph/adis/public/default.aspx>), viewed on February 14, 2013
- Ateneo de Manila University. 2012. FAA 118/119. Assessment of Tropical Forest and Biodiversity Conservation in the Philippines. USAID/Manila.
- Balisacan, Arsenio. "Raising Living Standards of the Urban Poor," in **A Strategy to Fight Poverty**. East Asia and Pacific Region: The World Bank Country Operations Division, March 1996.
- Bell, Keith. December, 2012. Land Governance. Powerpoint presentation.
- BLGF. Report on the RPT Collection Performance of LGUs (2010 and 2011); and Status of SMV Updating. (unpublished reports).
- BLGF Report on compliance with DOF-DILG Joint Circular 2010-01. (Unpublished report)
- CLUP Now! Undated. Managing our land resources and securing our future: A Briefer on the National Land Use and Management Act (NLUMA).
- CARP Status of Land Distribution as of December 2011. (http://www.dar.gov.ph/index.php?option=com_content&view=article&id=92&Itemid=161)
- Chemonics International. 2011. External Evaluation of EcoGov 2 Project. USAID, Manila.
- City Ordinance No. 10-26 Revenue Code of San Carlos City, Negros Oriental
- Climate Change Commission. National Climate Change Action Plan: 2011-2028.
- Commonwealth Act 141. **Public Land Act of 1936**. Chan – Robles Virtual Law Library. www.chanrobles.com
- Commonwealth Act 496. **Land Registration Act of 1902**. Chan – Robles Virtual Law Library. www.chanrobles.com
- Commonwealth Act 2259. **Cadastral Act of 1913**. Chan – Robles Virtual Law Library. www.chanrobles.com

Comprehensive Land Use Plan and Zoning Ordinance of Dagupan City, Puerto Princesa City, and Quezon City

Cruz, Ma. Concepcion, et.al. **Population Pressure and Migration: Implications for Upland Development in the Philippines**, Journal of Philippine Development, 1988, Vol. XV, No. 1-b.

DAI. 2012. CBNRM Stock Taking in the Philippines. USAID.

DAR Administrative Order No. 02 series of 2008 – Guidelines Governing Lease of Lands under Agribusiness Venture Arrangements (AVA) in Agrarian Reform Areas and the Determination of Lease Rental Thereof.

DAR Administrative Order No. 9 series of 2006. **Revised Rules and Regulations Governing Agribusiness Venture Arrangements (AVAs) in Agrarian Reform Areas.**

Deinenger, Klaus; Harris Selod and Anthony Burns. 2012. **The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector.** The World Bank.

De la Cruz, Leland Joseph R. 2004. **Social and Institutional Dynamics of Informal Settler Communities.** Philippine Australia LAMP.

De los Reyes, Gil. 2013. Land titling/management and CARP implementation. A power point presentation to Xavier Science Foundation BOT, February 8, 2013.

DENR, 2009. *Assessing Progress Towards 2010 Biodiversity Target: Fourth National Report to the Convention on Biodiversity.* Republic of the Philippines.

DENR. 2013. Draft policy on Forest Certification submitted to Policy Technical Working Group.

DENR Administrative Order No.2007-09. **Systematic Adjudication Administrative Order Manual of Land Disposition.**

DENR DAO No. 16, series of 1992. **Addendum to DAO 42 which provides the regulations and Guidelines Governing the Establishment and Development of Industrial Forest Plantations.** April 20, 1992.

DENR DAO No. 24, Series of 1996. **Socialized Industrial Forest Management Program.**

DENR DAO 99-53, series of 1999. **Regulations Governing the Integrated Forestry Management Agreement.** December 23, 1999.

DENR Administrative Order No. 2000-24. Guidelines for the Implementation of CY 2000 Banner Program – Delineation and Establishment of Permanent Forestland Boundaries. March 09, 2000.

DENR Administrative Order No. 2008-26. Revised Implementing Rules and Regulations of Republic Act No. 7586 or the National Integrated Protected Areas System Act of 1992. December 24, 2008.

DENR-DILG Joint Memorandum Circular 2003-01. Strengthening and Institutionalizing the DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions.

DENR/FASPO. 2011. 2011 Annual Report: DENR Foreign-Assisted Projects. DENR, FASPO.

DENR-NCIP Joint Administrative Order No. 2008-01. Guidelines and Procedures for the Recognition, Documentation, Registration and Confirmation of all Sustainable Traditional and Indigenous Forest Resources Management Systems and Practices (STIFRMSP) of

Indigenous Cultural Communities or Indigenous Peoples in Ancestral Domain/Land. July 8, 2008.

DENR/RBCO. DENR/RBCO's current efforts for the development of master plans for 18 river basins. (unpublished report)

DPWH Land Acquisition Resettlement Rehabilitation & Indigenous Peoples Policy (3rd Ed. 2007)

EcoGov 1 Report. Development Alternatives, Inc. Mindanao forest cover mapping. EcoGov 1 Technical Report.

EcoGov 1. 2004. Audit report of Smartwood on the forest certification of NFEFI CBFMA holder.

EcoGov2 – Development Alternatives, Inc. Guidelines for Sustainable Forest Land Use Planning.

Eleazar, Floradema, 2011. **Assessment of ENR Performance (2005-2010), and DENR Medium Term Expenditure Program (2010-2016)**, DBM-IDF/WB Study.

ENRMP/GEF Project. 2012. Draft policy for the adoption of IEM as a strategy under PDP 2011-2016 and ongoing piloting of IEM framework preparation in watershed-ecosystems. (unpublished report).

ENRMP/GEF Project. 2013. Proceedings of the DENR-LGU-NCIP Workshop on IPRA implementation. (unpublished report).

Executive Order 226. The Omnibus Investments Code of 1987. June 16, 1987.

Executive Order 263. Adopting Community based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation. July 19, 1995.

Executive Order 23. Declaring a Moratorium on the Cutting and Harvesting of Timber in the Natural and Residual Forests and Creating the Anti-Illegal Logging Task Force. February 1, 2011.

Executive Order 1035. Providing the Procedures and Guidelines for the Expeditious Acquisition by the Government of Private Real Properties or Rights Thereon for Infrastructure and other Government Development Projects. June 25, 1985.

Executive Order 209. The Philippine Family Code of the Philippines. July 6, 1987.

Fernando, Edwino S., Leonardo L. Co, Daniel A. Iagunzad, Wiliam SM Gruezon, Julie F. Barcelona, Domingo A. Madulid, Aida B. Lapis, Gregorio I. Texon, Antonio C. Manila and Presciliano M. Zamora. *Threatened Plants of the Philippines. A Preliminary Assessment*. www.pawb.gov.ph/index.php?option=com_docman&task=doc..

FMB Annual Report. 2012. Status of NGP Implementation in power point. NLBI Workshop. Fersal Hotel. 2013.

FMB Annual Report for 2012. Power point presentation during the NLBI Workshop at Fersal Hotel. 2013.

Forest Management Bureau. 2011. Philippine Forestry Statistics

Fuwa, Nobuhiko, 2000. **Politics and Economics of Land Reform in the Philippines: A Survey**. A background paper prepared for a World Bank Study, Dynamism of Rural Sector

Growth: Policy Lessons from East Asian Countries. (<http://www.h.chiba-u.ac.jp/mkt/LANDREF.pdf>)

Garcia, Brian S. January 2013. **Land Tenure Typology, LGAF Philippines Country Study**. World Bank - Land Equity Technology Services, Inc.

GEF. 2008. GEF Country Portfolio Evaluation: The Philippines (1992-2008). Evaluation Report No. 36. GEF, Washington, D.C.

Genzola, Ma. Cecilia M. 2003. **Squatting Syndicates : From the Viewpoint of Informal Settlers**. Philippine-Australia LAMP Research Grants.

GIZ. 2011. Drivers of Deforestation and Degradation.

GIZ. October 2012. **Sustainable Integrated Management and Planning for Local Government Ecosystems (SIMPLE)**.

GIZ. 2012. **Socioeconomic Baseline for the REDD+ Project Sites in Southern Leyte, Philippines**. November 2011.

Greenberg, Lawrence, 1987. **A Case Study of a Successful Anti-Insurgency Operation in the Philippines, 1946-1955**.

(<http://www.history.army.mil/books/coldwar/huk/ch1.htm>). Analysis Branch U.S. Army Center of Military History Washington, D.C., 1987.

Guiang E and F Esguerra. 2008. **Devolved and Decentralized Forest Management in the Philippines: Triggers and Constraints in Investments**. In Lessons from Forest Decentralization: Money, Justice and the Quest for Good Governance in Asia-Pacific. CIFOR, 2008.

Guiang, E. S. and Castillo. 2006. **Assessment of Tenure Holders in Forest Lands**. EcoGov 2 Project Reports.

Hagman, Donald and Dean Misczynski. **Windfalls for Wipeouts: Land Value Capture and Compensation**, (American Society of Planning Officials, 1978).

House Bill 6545: An Act Instituting a National Land Use and Management Policy. Working Draft.

House Bill 3533: National Land Use Act of the Philippines (15th Congress 2013)

Housing and Land Use Regulatory Board Administrative Order No. 2 (May 17, 2004) Schedule of Fees

Joint DAR-DENR-LRA-NCIP Administrative Order 01-12. January 25, 2012.

LAMP2 **Gender Mainstreaming Guidebook**. December 2009.

LAMP 1 and LAMP 2. Tax Compliance and SMV Studies Conducted for Naga, Mandaue, Bayawan, Legazpi (2008-2012); unpublished powerpoint presentations.

LAMP 2. **Study on the Cost and Time to Secure and Issue Free Patent Titles under LAMP2 and DENR-CARP funded Titling Procedures**. June 2010.

LAMP2. **Study on Cost and Time to Issue Titles Under Systematic and Sporadic land Titling Procedures**. Research Grant undertaken by Alicia Balagapo, Gabino P. Petilos, Ph.D., Manuel R. Espina, Ed.D., Malaquias A. Conde, Ph.D., Marcial M. Monge, D.M., Leonardo G. Oñate, Ed. D. Leyte Normal University, August 2008.

LAMP 2. **Study on the Cost and Time to Secure and Issue Free Patent Titles under**

LAMP2 and DENR-CARP funded Titling Procedures, June 2010.

LAMP 2. **OSS Independent Monitor Report**. 2009.

LAMP2. **Study on Registration of Subsequent Land Transactions**. June 2010.

LAMP2. 2007. Land Equity International. **Review of National and Local Land Related Taxes and Fees**.

Lasco. Rodel D., Rizza Karen A. Veridiano, Marie habito and Florencia B. Pulhin. *Reducing Emissions from Deforestation and Forest Degradation in the Philippines: Will it make a Difference in Financing Forest Development?* in Mitig Adap Strategy Global Change. DOI 10.1007/s11027-012-9411-5. 22 July 2012 # Springer Science+Business Media B.V. 2012.

Legazpi City, Albay. DRRMCCA Plans.

Llanto, Gilbert M., Marife M. Ballesteros, and Aniceto C. Orbeta. **"Policy Study on Access to Land Information."** Philippine-Australia Land Administration Project. January 2005.

LMB Consolidated Land Sector Statistical Report as of December 31, 2011. (<http://www.lmb.gov.ph>), viewed February 11, 2013

Lopez, Salvador P. "Quezon City: Cinderella Capital of the Philippines". *Philippine Planning Journal*, Vol. IV, No. 2, April 1973 & Vol. V, Nos. 1 & 2, October 1973 – April 1974, 9-13.

NEDA. 2010. Philippine Development Plan: 2010-2016.

NCIP Administrative Order No. 3, series of 2012. The revised guidelines on free and Prior Informed Consent (FPIC) and related processes of 2012. April 13, 2012.

NCIP 15th Year Anniversary of IPRA Press Kit, October 30, 2012

National Tax Research Center. Revenue Performance of Local Governments CYs 2003-2007 (January 5, 2009). Unpublished report.

NRMP 2 and EcoGov1 Reports on Developing C&I for certifying CBFM holders under the FSC-Smartwood Forest Certification System. (unpublished report)

Official Gazette. *DENR Completes Delineation of Forest Line Boundaries*. Press Release from DENR dated August 23, 2012.

PAWB and Ateneo de Manila University. 2012. **Communities in Nature: State of the Protected Areas Management in the Philippines**.

PAWB-NewCAPP. Proceedings of the Technical Workshop on LGU experiences in FLUP preparation. February 2012. (unpublished report)

Philippine-Australia Land Administration and Management Project (PA-LAMP). 2002. **Land Tenure Study**.

Philippine Australia Land Administration and Management Project. **Institutional Arrangements Policy Study**. July 2002.

Philippine – Australia Land Administration and Management Project. **Land Tenure Study**. 2004

Philippine Constitution of 1987.

Philippines REDD+ Strategy Team (spearheaded by DENR, FMB and CodeREDD Philippines). The Philippine National REDD – plus Strategy.

Philippines. Urban Population. <http://www.indexmundi.com/facts/philippines/urban-population>

Presidential Decree 892. Discontinuance of the Spanish Mortgage System of Registration and of the Use of Spanish Titles as Evidence in Land Registration Proceedings. The LawPhil Project, Philippine Law and Jurisprudence Databank. www.lawphil.net

Presidential Decree 464. Enacting a Real Property Tax Code. June 1, 1974.

Presidential Decree 1812. Amending Presidential Decree No. 464, As Amended, Otherwise Known as the Real Property Tax Code, by Granting Special Authority to the President, to Provide Flexibility in the Real Property Tax System to Meet Economic Exigencies and/or Promote the General Welfare. January 16, 1981.

Presidential Decree 705. Revised Forestry Code. May 19, 1975.

Presidential Decree 1096. Building Code of the Philippines and Implementing Rules and Regulations. 2005 edition.

Presidential Decree 1151. Philippine Environmental Policy. June 6, 1977.

Presidential Decree 1508 (repealed by Republic Act 7160). Establishing a System of Amicably Settling Disputes at the Barangay Level. June 11, 1978.

Presidential Decree 1529. Property Registration Decree, 1978. Chan – Robles Virtual Law Library. www.chanrobles.com

Presidential Decree 1533. Establishing a Uniform Basis for Determining Just Compensation and the Amount of Deposit for Immediate Possession of the Property Involved in Eminent Domain Proceedings. June 11, 1978

Presidential Decree 1586. Establishing an Environmental Impact Statement System, including other environmental management related measures and for other purposes. June 11, 1978.

Ramos, Norman R. “Urban Land Development Trends in the Philippines”. *Philippine Planning Journal*, Vol. XXVII, No. 2, April 1996, 13-26.

Ravanera R. and V. Gorra. Commercial pressures on land in Asia: An overview. International Land Coalition with IFAD and CIRAD. 2011.

Rebullida, Ma. Lourdes, *et. al. Housing the Urban Poor, Policies, Approaches, Issues*. UPCIDS, 1999

Rebullida, Ma. Lourdes. *Local Government Originated CMP*, PBSP, 1998

Republic Act 2000. The Limited Access Highway Act. June 22, 1957.

Republic Act 386. An Act to Ordain and Institute the Civil Code of the Philippines. June 18, 1949.

Republic Act No. 4726. An Act to Define Condominium, Establish Requirements for its Creation and Government of its Incidents. June 18, 1966.

Republic Act 6389. An Act Amending Republic Act 3844, As Amended, Otherwise Known as the Agricultural Land Reform Code, and for Other Purposes. September 10, 1971.

Republic Act 6657. An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for its

Implementation, and for other Purposes. June 10, 1988.
http://www.lawphil.net/statutes/repacts/ra1988/ra_6657_1988.html

Republic Act 7160. An Act Providing for a Local Government Code of 1991.

Republic Act 7192. An Act Promoting the Integration of Women as Full and Equal Partners of Men in Development and Nation Building and for Other Purposes. February 12, 1992.
http://www.coa.gov.ph/gad/downloads/RA_Circular/RA_7192.pdf

Republic Act No. 7279. An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and for other Purposes. March 24, 1992.
<http://www.chanrobles.com/republicactno7279.htm#.USiAf6XBudc>

Republic Act 7586. An Act Providing for the Establishment and Management of National System of National Integrated Protected Areas System, Defining Its Scope and Coverage and for Other Purposes.

Republic Act 7916. An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose the Philippine Economic Zone Authority (PEZA), and for other Purposes. February 24, 1995.

Republic Act No. 9367. An Act to Direct the Use of Biofuels, Establishing for this Purpose the Biofuel Program, Appropriating Funds Therefor, and for Other Purposes. January 12, 2007.

Republic Act 8371. An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes. October 29, 1997.

Republic Act 8424. Tax Reform Act of 1997. An Act Amending the National Internal Revenue Code, as Amended, and for other Purposes.

Republic Act 8974. An Act to Facilitate the Acquisition of Right-of Way, Site or Location for National Government Infrastructure Projects and for Other Purposes. November 7, 2000.

Republic Act 9136. An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes. July 2011.

Republic Act 9341. An Act Establishing Reforms in the Regulation of Rent of Certain Residential Units, Providing the Mechanisms Therefor and for other Purposes

Republic Act 9700. An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of all Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise Known as the Comprehensive Agrarian Reform Law of 1988, as Amended, and Appropriating Funds Therefor. August 7, 2009.

Republic Act 10023. An Act Authorizing the Issuance of Free Patents to Residential Lands. July 27, 2009.

Republic Act 9514. An Act Establishing a Comprehensive Fire Code of the Philippines, Repealing Presidential Decree No. 1185 and for Other Purposes. December 19, 2008.

San Carlos City Ordinance No. 198 series of 1998

Senate Bill No. 3091 (*In substitution of SBN 109, 141, 647, 1369 and 2673*): An Act Instituting a National Land Use Policy. Working draft (as of January 21, 2013).

Serote, Ernesto M. **Financing Local Development through Special Assessments.** *Philippine Planning Journal*, Vol. VIII, No. 2, April 1977, 42-49.

Serote, Ernesto M. **Measuring the Conversion of Lands to Urban Uses in the Philippines: Residential Subdivision Development as Surrogate Data.** *Philippine Planning Journal*, Vol. XIX, Nos. 1 & 2, October 1987 – April 1988, 7-15.

Tesoro, F. and Angeles L. 2010. **Creating space for private sector financing in forestry – removing constraints to investments in the Philippines.** In *Growing Green Assets: Removing constraints to private sector investment in forestry in Asia and the Pacific*. FAO. Bangkok. 2010.

Veneracion, Cynthia C. **Partnerships for Slum Improvement**, IPC-AdMU, 2004

Veneracion, Cynthia C. **Capability Building for Slum Upgrading, Views from Five Communities in Quezon City.** IPC-AdMU, 2008

Xavier Science Foundation. *Facing Goliath: A municipality takes on the race for land in Quezon, Bukidnon.* Lok Niti, Volume 18/1. 2012.

Yap, David Leonides T.; Tarita L. Ledesma; and Myla A. Cruz. 2003. **Four Presidents and the Quest for Land Ownership: Formal and Informal Land Acquisition Processes in Riverside Barangay Santolan, Pasig City.** Philippine-Australia LAMP Research Grants.

Persons Interviewed

Engr. Aurora C. Ciego, City Planning and Dev't Coordinator, CPDO Caloocan City

Mr. Jonathan De la Cruz, Planning Officer III, CPDO Caloocan City

Mr. Rodolfo D. Reyes, Project Dev't Officer, CPDO Manila

Ms. Beatrice Gay D. Fenomeno, Housing and Homesite Regulation Officer II, Urban Settlement Office. Manila.

Engr. Christopher B. Jacinto, Office of Building Official (OBO) and Municipal Engineer, Municipality of Piddig, Ilocos Norte

Engr. Venonie V. Coloma, OBO of the Municipality of San Nicolas, Ilocos Norte

Engr. Marlon Transpadillo, OBO and City Engineer of San Carlos City, Negros Occidental

Engr. Antonio S. Aguilar, OBO and OIC City Engineer of Bayawan City, Negros Oriental

Eng. Francis Pacaigue, OBO and OIC City Engineer of Tayabas City, Quezon

Mr. Pancho Villasis, City Planning and Development Coordinator, Bayawan City, Negros Oriental

Mr. Jonathan P. Badel, SFO4, Bureau of Fire Protection San Carlos City, Negros Occidental

Ms. Prescila Galicia, Zoning Officer, City Planning and Development Office, Legazpi City

Mr. Roderick Ante, Applicant building permit for Residential. Barangay 17, Legazpi City.

Mr. Rodolfo D. Reyes, Project Development Officer V, City Planning and Development Office, Manila

Jerry Pacturan, Undersecretary for Support Services, DAR
Ruel Limbo, Secretariat, TWG, Agribusiness Venture Agreements, DAR
Mariz Agbon, President, Philippine Agricultural Development and Commercial Corporation
Eliza Pabillore, Provincial Director, Department of Trade and Industry, Misamis Oriental
Lourdes Ellen Kionisala, Head, Board of Investments, Cagayan de Oro City
Jose Reyes, Division Chief, Forest Resources Conservation, DENR Region 10
Enrique Tuquib, Forester, Regional CBFM Division, DENR Region 10
Ranoray Love Noro, PAWCZMS, DENR Region 10
Engr. Chona B. Labaon, MPA, Chief of Technical Services Management Division, National Commission on Indigenous Peoples,
Interviews of Register of Deeds and Records Officers of 2 City RoD (Legazpi City, Albay and San Carlos City, Negros Occidental) and 2 Provincial RoD (Ilocos Norte and Negros Oriental)
Interviews with RoD staff, 20 clients from Tacloban City, Legazpi City, Bayawan City, San Carlos City, Laoag City, and Dumaguete City.
Interviews with Local Assessors and Treasurers from Legazpi City, San Carlos City, Bayawan City, and Ilocos Norte.
Tacloban City RTC, Bayawan City RTC, Laoag City RTC, Legazpi City RTC, and San Carlos City RTC.

Websites

Website of the Bureau of Local Government Finance. www.blgf.gov.ph
Website of the Department of Agricultures. www.da.gov.ph
Website of the Department of Agrarian Reform. www.dar.gov.ph
Website of the Department of Environment and Natural Resources. www.denr.gov.ph
Website of the Department of Finance. www.dof.gov.ph
Website of the Forest Management Bureau. www.fmb.gov.ph
Website of the Land Management Bureau. www.lmb.gov.ph
Website of the Land Registration Authority. www.lra.gov.ph
Website of the National Mapping and Resource Information Authority. www.namria.gov.ph
Website of the National Commission on Indigenous Peoples. www.ncip.gov.ph
[Website of the Philippine Senate http://www.senate.gov.ph/](http://www.senate.gov.ph/)
[Website of the Philippine Congress http://www.congress.gov.ph/download/15th/houserules.revised.pdf](http://www.congress.gov.ph/download/15th/houserules.revised.pdf)
1987 Philippine Constitution (<http://www.lawphil.net/consti/cons1987.html>)
Republic Act 6657 (http://www.lawphil.net/statutes/repacts/ra1988/ra_6657_1988.html)
Republic Act 7279 (<http://www.chanrobles.com/republicactno7279.htm#.USiAf6XBudc>)

Republic Act 7192 (http://www.coa.gov.ph/gad/downloads/RA_Circular/RA_7192.pdf)

Republic Act 9710 (<http://pcw.gov.ph/law/republic-act-9710>)

Republic Act 8371 (<http://www.chanrobles.com/republicactno8371.htm#.USiBLKXBudc>)

[http://baseswiki.org/en/Barangay_Justice_System_\(BJS\),_Philippines](http://baseswiki.org/en/Barangay_Justice_System_(BJS),_Philippines)

http://en.wikipedia.org/wiki/Katarungang_Pambarangay

Supreme Court Administrative Circular 14-93;

http://sc.judiciary.gov.ph/rulesofcourt/RULES%20OF%20COURT.htm#rule_4

Supreme Court of the Philippines

(<http://sc.judiciary.gov.ph/court%20issuances/rules/index.php>)

<http://sc.judiciary.gov.ph/decisions.php>

PAKISAMA. www.pakisama.com.