

ISSUE PAPER ON FISHERFOLK SETTLEMENT
Prepared by SIKAT for the NGOs for Fisheries Reform

I. Introduction

In 1976, an environmental planner, writing on urban and regional planning in the context of the marine environment, said that the Philippines, as a tropical archipelago, is faced with a coastal environment that is complex, not just in terms of ecological components and relationships, but also in terms of increasingly intense competition among various uses and users. As with other tropical countries of the Third World, the Philippines is further confronted by the coastal issues common to developed countries, such as conflict between fisheries, tourism and recreation activities, and vulnerabilities to urban and industrial pollution, and also, to a greater degree, overlaid with conditions, characteristics and meanings of poverty and inequities. Conflicting uses of the coastline include fisheries, aquarium fish-gathering, shell gleaning, oil and mineral exploration, sand and stone quarrying, tourism and recreation, sewage disposal area, industrial, agricultural run-off and shipping waste pollution, as well as ports and shipwork area. The coastline and the coastal zone are significant due to:

- Its ecosystems and their role in the food chain,
- Potential as site for sea food and brackish water fish production,
- Area for tourism development and recreation activities
- Coastal real estate development
- Area for land accretion and reclamation
- Potential area for seaweed farming, oyster and pearl culture
- Scientific and wildlife reserves.¹

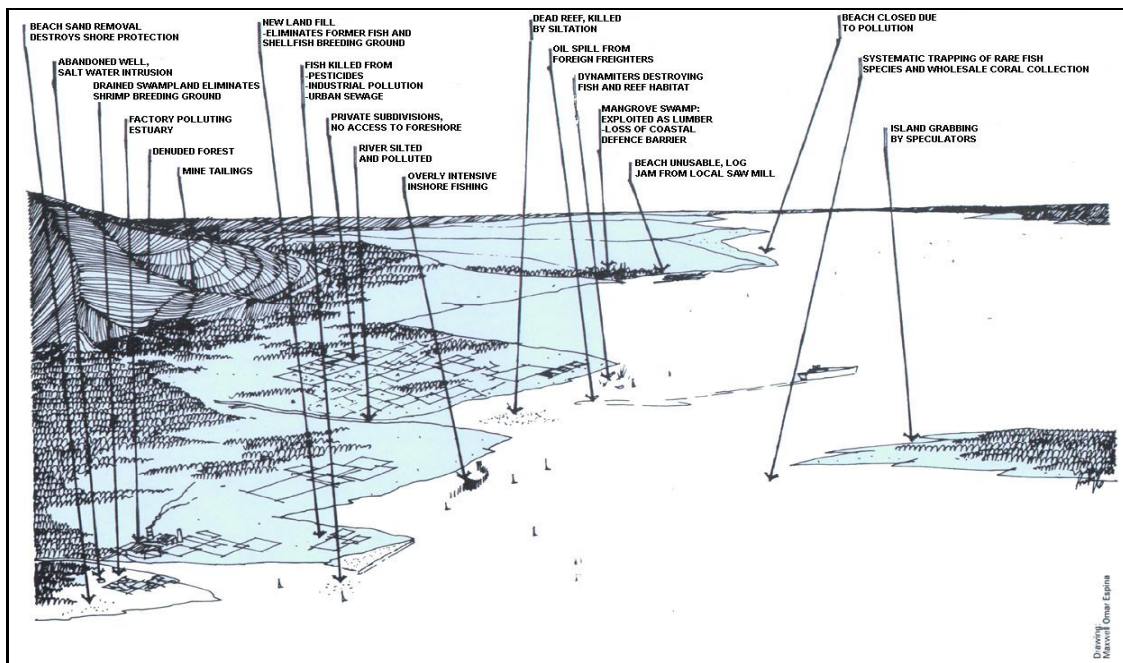
Another planner, writing an article in the same journal, identified and mapped the various problems and issues of the coastal zone, especially in the foreshore area:

- Denuded forests
- Mine tailings
- Lack of access to the foreshore of private subdivisions
- Silted and polluted rivers
- Factories polluting estuaries
- Drained swampland eliminates shrimp breeding grounds
- Abandoned wells due to salt water intrusion
- Beach sand removal destroying shore protection
- Mangrove swamp exploited as lumber causing loss of coastal defense barriers
- New landfills eliminating fish and shellfish breeding ground
- Fish kills from pesticides, industrial pollution, urban sewage
- Beach closed and unusable due to log jams and pollution

¹ Patterson, *The Marine Environment of the Philippines: Some Implications for Urban and Regional Planning*.

- Overly intensive inshore fishing
- Reef destroyed and killed by siltation
- Dynamiters destroying fish and reef habitat
- Oil spill from foreign freighters
- Systemic trapping of rare fish species and whole coral collection
- Island grabbing by speculators.²

Figure 1: Problems and Issues of the Coastal



Source: *Philippine Planning Journal Vol VIII No. 1*

Most of these problems focus on the environmental impact of coastal activities and conflicts arising from multiple uses and users of the coastal zone. At that time, these are the more pronounced issues greatly affecting the state of coastal ecosystems, fishery stock, and the livelihood of the fisherfolk.

However, the past years have shown the emergence of fisherfolk settlement as an issue threatening not just the well-being of fisherfolk communities, but even the sustainability of fisheries development and coastal resource management efforts. For who will manage these programs and initiatives if the fisherfolk are driven away from the coastal areas?

In the regional and national consultations conducted by the NGOs for Fisheries Reform (NFR) in 2003 and 2004 for the review of the Fisheries Code, fisherfolk settlements was among the

² Santiago, Legislation Affecting Foreshore Lands in the Philippines.

primary issues and concerns identified by the municipal fishers. It was considered an important concern such that a thematic group on fisherfolk settlements was formed by NFR to further study the issue and make recommendations, especially in the context of the RA 8550 review.³

In June 2003, practitioners, partners and supporters of Community-Based Coastal Resource Management (CBCRM) gathered together in a CBCRM Festival to celebrate the gains, reflect on the challenges and advance the CBCRM movement. One of the paper presentations mentioned among the trends and challenges for CBCRM the emerging threat of displacement among fisher communities in coastal areas due to tourism, urbanization and other land-based development.⁴

In July 2004, *Sentro para sa Ikaunlad ng Katutubong Agham at Teknolohiya* (SIKAT), together with the NGOs for Fisheries Reform (NFR), sponsored the first Conference on Fisherfolk Settlement to discuss and analyze the issue among municipal fisher leaders, NGO staff and government officials.⁵

The scale and extent of the problem of fisherfolk settlement still has to be determined. But the fact that this is a concern that had been always cropping up in discussions and consultations on fisherfolk issues suggests the magnitude of the problem, in terms of geographic areas involved, number of people affected, effect on people's well-being, and impact on coastal development programs and interventions.

II. Definition and Clarification of Terms

The coastal area/ zone is defined as

*A band of dry land and adjacent ocean space (water and submerged land) in which terrestrial processes and uses directly affect oceanic processes and uses, and vice-versa; its geographic extent may include areas within a landmark limit of one (1) kilometer from the shoreline at high tide to include mangrove swamps, brackish water ponds, nipa swamps, estuarine rivers, sandy beaches and other areas within a seaward limit of 200 meters isobath to include coral reefs, algae flats, sea grass beds and other soft-bottom areas.*⁶

The foreshore land is defined as

*A string of land margining a body of water; the part of a seashore between the low-water line usually at the seaward margin of a low tide terrace and the upper limit of wave wash at high tide usually marked by a beach scarp or berm.*⁷

The salvage/ easement zone is defined as

³ NGOs for Fisheries Reform, Proceedings of the National Consultation on the Review of RA 8550.

⁴ Vera, Balderrama and Cleofe, Accounting for a Decade of CBCRM: Trends, Outcomes and Impacts.

⁵ SIKAT and NFR, Proceedings of the Conference on Fisherfolk Settlement.

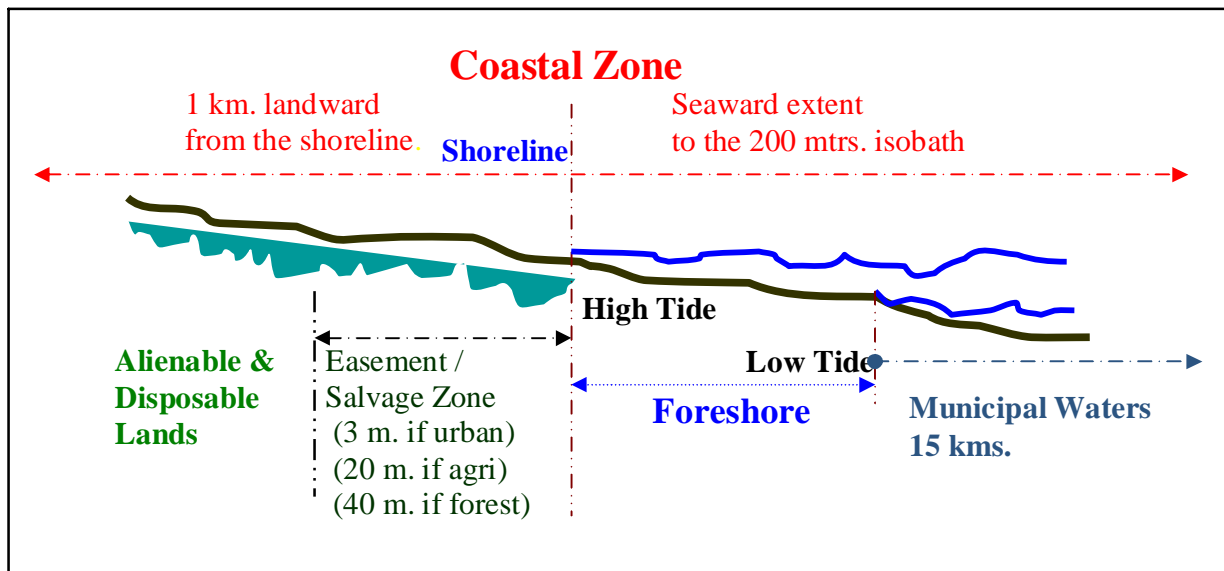
⁶ RA 8550 (The Fisheries Code of 1998), Sec. 4, No. 9.

⁷ RA 8550 (The Fisheries Code of 1998), Sec. 4, No. 46.

The banks of rivers and streams and the shores of the seas, and throughout their entire length and within a zone of three meters in urban areas, twenty meters in agricultural areas, and forty meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage.⁸

⁸ PD 1067, Art. 51.

Figure 2: The Coastal Zone



Adapted from materials from Land Management Bureau

III. Issue of Fisherfolk Settlement

The issue of fisherfolk settlement is a complex and emotional issue for fisherfolk and coastal communities as it threatens almost every aspect of their lives – their livelihood, their possessions, their well-being, their security.

The issue of fisherfolk settlement can be broken down into three main sub-issues:

- Use of the foreshore and salvage/ easement zone,
- Tenurial security of the fisherfolk community, and
- Access to other livelihood options and social services.⁹

A. Use of the Foreshore and the Salvage/ Easement Zone

A major consideration and concern in fisherfolk settlement is access to the foreshore and the salvage/ easement zone as this is the site of many of their daily livelihood activities as fishers. The foreshore and salvage/ easement zone is important to fishers as :

- shelter for his boat and gears,
- access to the sea,
- place for making/ mending boats, nets and gears,
- venue for sorting/ selling/ processing the catch

⁹ Balderrama, BANAAG Bahay at Buhay Primer 1: *Pagtingin sa Paninirahan ng mga Mangingisda*

Thus, any encumbrance on his access and use of the foreshore and salvage/ easement zone would greatly affect his livelihood as a fisher, and therefore, the well-being of his family.

In 1976, a study on foreshore leases in the records of the Bureau of Lands show the following uses of foreshore leases:

- Wharves and piers, including bodegas, warehouses and related structures
- Fishpens
- Drydocking by small fishermen, including the drying of fishnets, fishes etc.
- Log ponds by forest concessionaires
- Resorts and tourist rest houses
- Family vacation houses, such as in Matabungkay, Batangas
- Cocktail lounges and restaurants¹⁰

In the primer made by the DENR, foreshore areas are deemed important:

- As buffer zones enhancing water quality by filtering water run-off, helping maintain water temperature norms and providing sound barrier to/ from outside areas
- As recreational area for camping, swimming, picnic, hiking, wading, recreational fishing and other water-related sports and activities
- As an ecozone providing transition between the marine and terrestrial communities
- As public access area to and from the sea, especially for fishfolks.¹¹

In 2001, Atty. Jay Batongbacal identified the issues and problems in foreshore management as:

- Issues on classification,
- Public access,
- Resource use and extraction,
- Public safety,
- Riparian rights,
- Shoreline management, and
- Regulatory processes.¹²

The DENR primer also identified problems and issues resulting from an inadequately regulated foreshore development as:

- Inadequate setbacks from the water line affecting reefs and seagrass areas,
- Increased pollution and siltation in nearshore waters affecting nearshore habitats and fisheries,
- Erosion of beach sand,
- Squatting and illegal structures in the foreshore area,
- Loss of economic benefits for government, and
- Loss of access to and from the sea for fisherfolk and the general public.¹³

¹⁰ Santiago, Legislation Affecting Foreshore Lands in the Philippines.

¹¹ CMMO, Q&A: Foreshores.

¹² Batongbacal, The Crowded Shoreline.

¹³ CMMO, Q&A: Foreshores

Among the issues and concerns on the use (misuse and abuse) of the foreshore and salvage zone identified by municipal fishers are:

- Complicated and inappropriate laws,
- Unclear jurisdiction of various agencies and institutions,
- Conflicts in the use and among users of the foreshore and salvage zone,
- Illegal titling and improper use of the foreshore and salvage zone,
- Use of the foreshore and salvage zone as settlement area¹⁴

These can be illustrated well by a case study of foreshore use in Bgy. Lonos, Romblon, Romblon, where the foreshore and the salvage/ easement area was used as:

- Docking area for boats
- Sorting/ selling area for fish catch
- Cleaning, drying and mending of boats and gears
- Gleaning area for clams
- Private resort areas
- Public swimming areas
- Reclamation area for sea walls and breakwater for resorts, residences
- Piggery area (2 cases, 1 in Sitio Losod and 1 in Sitio Parayan)
- Marble-cutting plant and disposal area for marble dusts
- Oil/ gasoline transfer area for a local gasoline station/ mini-bulk plant
- Residential area¹⁵

These differing uses have caused conflicts among various sectors/ groups within the barangay such as:

- Conflict on access to the foreshore and the sea especially between resort owners and municipal fishers and other residents/ bathers
- Concern over water pollution especially between the piggery owners, gas station/ mini-bulk plant owner, marble cutters and municipal fishers/ local residents
- Conflict between traditional fishers and illegal fishers sharing common beach docking areas for their boats and gears
- Conflicts of local residents on land ownership, coastal reclamation/ construction activities, and rental/ lease practices¹⁶

Aside from its use for livelihood purposes for municipal fishers, the foreshore and the salvage/ easement zone have increasingly been being used as settlement areas for municipal fishers, migrants and other landless sectors. Although settlement is not allowed in the foreshore and the salvage/ easement zones, being areas of the public domain, they have always attracted settlers not just among landless fishers for its proximity to their livelihood activities, but also

¹⁴ Balderrama, BANAAG Bahay at Buhay Primer 1: *Pagtingin sa Paninirahan ng mga Mangingisda*

¹⁵ Dugan, Foreshore Occupation and Tenurial Security.

¹⁶ Ibid.

among migrants and other informal settlers looking for areas of free access, not just today but also in the past years.

After the World War II, one of the biggest and most “famous” settlement area that developed gradually in Manila was in its foreshore, the Tondo Foreshore Area. It was that big that Congress issued Republic Acts 1597 (in 1956) and 2439 (in 1959) to address the subdivision and titling of the area, but even with the two national laws, the issue of titling and ownership had never been fully addressed. By the 1970’s, it was acknowledged as the biggest informal settlement in the South East Asia. It was that significant that then President Marcos issued Presidential Decree 570 establishing the Tondo Foreshore Urban Renewal Project for a comprehensive and integrated upgrading of the site and the services there.¹⁷

In a case study on Pagapas Bay, conflicts on the foreshore were noted since the 1980’s, especially in the municipality of Calatagan, Batangas due to conflicting land claims resulting to demolition of coastal communities, as well as illegal cutting of mangroves and the quarrying of coral and sand.¹⁸

In another case study, the land accretion created by deposits from the Mt. Pinatubo eruption and the dredging activities in Cawag River formed and extended a small islet at the mouth of the river in Bgy. Cawag, Subic, Zambales. This area became the resettlement area of municipal fishers and other residents who were all evictees from other areas in the barangay. Thus the foreshore became a gathering area of evictees from different areas and communities, as well as other migrants.¹⁹

However, there are other factors against the use of the foreshore and the salvage/ easement zone for residence or settlement. Two of the more significant are the issues of public safety and environmental impact.

Public safety is a concern because the coastal zone is very vulnerable to natural disasters. Areas such as unstable alluvial lands and land reclamation areas are very vulnerable to seismic activities. The area is also very open to tidal waves and tsunami. It is also affected by coastal soil erosion and siltation due to littoral drift and storm surges. The coastal area, especially estuarine and alluvial plains, is also affected by varying severities of flooding²⁰

Moreover, the coastal zone plays an important role in the environment, being the connecting space between the marine and terrestrial ecosystems, and thus, also very fragile, being directly affected both by marine and terrestrial factors. Coastal settlements have great environmental

¹⁷ Lantoria, The Tondo Foreshore Urban Development Project.

¹⁸ Melgar and Rodriguez, The Formation of Coastal Resource Management Council for the CBCRM Program of Pagapas Bay.

¹⁹ Bernarte, Sapao: Ang Anyo ng Huling Baraha?

²⁰ Patterson, The Marine Environment of the Philippines: Some Implications for Urban and Regional Planning.

impact in the coastal zone, in terms of destruction of mangroves, reclamation activities, and water pollution due to improper waste and sewage disposal.

So fisherfolk settlements should take into account access to the foreshore and the salvage/ easement zones for these are important to the livelihood and well-being of the fisherfolk and yet should also at the very least discourage, if not totally prohibit, settlement in these areas for legal, safety and environmental reasons.

B. Tenurial Security of Fisherfolk Communities

Most, if not all, of the fisherfolk families residing in the foreshore and the salvage/ easement zones just settled into the land they are now occupying, given the open access nature of public domain, with minimal or no document securing their residence. However, they are not the only ones facing the threat of displacement and relocation. Even those who are settling in coastal lands beyond the salvage/ easement zones are also facing these threats. Many of them had been residing in their communities for years, others for decades, some for generations, without any threat to the security of tenure. Some are even paying taxes for their land. But there had been many cases of private claimants able to secure title over coastal lands where fishers had been occupying for years and decades.

In two case studies, municipal fishers had already been settling continually and peacefully in their community for about fifty years (in the case of Bgy. Felmida Diaz, Cabangan, Zambales) and seventy years (in the case of Bgy. Uacon, Candelaria, Zambales) when they learned that private individuals were able to get land titles over their land.²¹

Among the factors that threaten the tenurial security of municipal fishers in their coastal settlements are:

- Private land claims over public areas where fishers have settled and lived in,
- Private land claims over foreshore land and salvage/ easement zones,
- Selling of municipal fishers of their lands or rights for their land to private investors and resort/ real estate developers,
- Establishment of resorts and other tourism facilities,
- Coastal real estate development (vacation houses, retirement villages, beach-front residential areas),
- Port development and other public coastal infrastructure, and
- Entry of factories, industrial estates, export processing zones and other industrial facilities²²

In 2003, Sentro para sa Ikauunlad ng Katutubong Agham at Teknolohiya (SIKAT) published the output of a participatory research project involving fisher leaders of Zambales researching on community issues affecting them. One of the issues is the threat of displacement among fisherfolk communities. Three case studies were made on threatened communities. Two of them involved private claimants and the other involved the municipal government. All three cases show how these fisherfolk communities were threatened with displacement, how they analyzed the issues, and how they responded to the threats.²³

²¹ Rodriguez, Calderon and Ebuenga, *Paglaot na Walang Katiyakan , Pati rin ba Paninirahan.*

²² Balderrama, BANAAG Bahay at Buhay Primer 1: *Pagtingin sa Paninirahan ng mga Mangingisda.*

²³ Rodriguez, Calderon and Ebuenga, *Paglaot na Walang Katiyakan , Pati rin ba Paninirahan*

In 2005, a case study on Mahaba Island, Bgy. San Juan, Hinatuan, Surigao del Sur was presented in the Mindanao Fisherfolk Forum on how a fisher community was able to block off efforts of a private claimant to lay claim on an island for fishpond establishment and resort development.²⁴

In the case of fishers belonging to indigenous communities, the case of how the Tagbanuas were able to assert their Ancestral Domain claim not just on their lands but also their waters will always be an important study. Their Ancestral Domain title not just assured their tenurial security, but also affirmed their right to assert their resource utilization practices and systems.²⁵

Other factors affecting the tenurial rights and security of municipal fishers in their coastal settlements are:

- Problems in land classification
 - Complicated laws on land classification
 - Unclear jurisdiction of various agencies and institutions
 - Differing systems of land classification of various agencies and institutions
 - Unclear concepts and systems for fisherfolk settlement
 - Cases of mis-classification
- Problems in land titling
 - Complicated laws on land titling
 - Unclear jurisdiction of various agencies and institutions
 - Differing systems, processes of land measurement, mapping, valuation and titling of various agencies and institutions
 - Cases of anomalies and corruption in land titling
- Problems in land use planning
 - Conflicts on differing land uses among stakeholders,
 - Environmental degradation due to lack of enforcement of environmental laws and standards,
 - Lack of appropriate knowledge and skills for coastal area management, especially for local governments,
 - Lack of genuine participation of municipal fishers and other sectors in the process of land use planning,
 - Lack of resources (especially funds) for implementing and monitoring the Comprehensive Land Use Plan (CLUP),
 - Unclear jurisdiction of the municipal waters, foreshore areas and coastal zone, and
 - Need to integrate land use planning with the making of the Annual Investment Plan.²⁶

In the Conference on Fisherfolk Settlement, among the issues and concerns tackled by resource speakers were land classification, land titling and land use planning.

²⁴ Gades, Mahaba Presentation on Fisherfolk Settlements

²⁵ Dalabajan, The Healing of a Tagbanua Homeland

²⁶ Balderrama, BANAAG Bahay at Buhay Primer 1: *Pagtingin sa Paninirahan ng mga Mangingisda*

Issues and concerns on land classification identified by Dir. Virgilio Basa of NAMRIA include:

- Lack of awareness and understanding of the land classification laws and system,
- Lack of coordination between local government units and national agencies,
- Cases of mis-classifications, and
- Lack of resources and personnel for comprehensive land classification and evaluation.²⁷

Issues and concerns on land titling and administration identified by Engr. Danilo Antonio of the PA-LAMP include:

- Multiple land administration agencies,
- Multiple land laws and regulations,
- Multiple land titling process,
- Multiple certificates of land title,
- Multiple standards for survey and mapping,
- Multiple agencies undertaking evaluation,
- Multiple taxes on land transactions, and all these leading to
- Multiple opportunities for graft and corruption.²⁸

Issues and concerns on land use planning identified by Ms. Cristina dela Cruz of HLURB include:

- Low level of institutional capability for coastal area management, especially at the local level
- Absence of detailed coastal plan in the Land Use Plan
- Issue of genuine participation of coastal settlers/ fisherfolks (Limited involvement of resource users in resource planning and development)
- Lack of mechanisms to limit “free” access nature of some resources
- Unclear delineation of roles/ responsibilities regarding management of municipal waters (LGU/ National)
- Absence of markers to depict the 15 kilometer municipal water territory
- Connection between CLUP and Annual Investment Plan (AIP) is most of the time missing, rendering the CLUP inutile²⁹

In many cases also, the Comprehensive Land Use Plans and Zoning Ordinances of coastal municipalities and cities work against the municipal fishers. In many areas, coastal lands had been homogenously labeled as tourism or industrial zones, affecting land claims of fisherfolk communities.

²⁷ SIKAT and NFR, Proceedings of the Conference on Fisherfolk Settlement.

²⁸ LAMP, LAMP and the Proposed Land Administration Reform in the Philippines.

²⁹ Dela Cruz, Overview of the Comprehensive Land Use Planning.

In cases of displacement and relocation of municipal fishers, the following issues and concerns were identified by the municipal fishers:

- The offered relocation sites were mostly far from the sea which is the source of their livelihood,
- There were limited/ no consultation among the affected families in planning the relocation/ resettlement process,
- There were problems in the process of selecting beneficiaries,
- There were limited/no compensation for destroyed properties and limited/ no assistance in rebuilding their houses,
- There were limited/ no social services, transportation/ communication facilities and public utilities in the relocation sites, and
- There were limited health, education and social services, as well as livelihood and employment opportunities.³⁰

Because of this situation in many relocation sites of evictees from coastal areas, many fishers opt to just for other vacant areas in the foreshore and salvage/ easement zones to settle in.

The problem of tenurial security and foreshore occupation would not be fully addressed unless the fisherfolk settlements are near the sea/ fishing area, and secure against other claims and restrictions. Therefore they should be in titled alienable and disposable lands beyond the salvage/ easement area within the coastal zone.

C. *Access to Other Livelihood Opportunities and Social Services*

Another issue connected with fisherfolk settlement is access to other livelihood opportunities and social services. These are concrete concerns for communities threatened with displacement and offered with relocation sites. But these are also issues for fisherfolk communities, especially in remote coastal areas and small islands.

Among the issues and concerns on access to livelihood opportunities (other than fisheries) and social services for fisherfolk communities identified by the municipal fishers are:

- Limited/ no access to schools and other places/ systems for education and learning
- Limited/ no access to hospitals, infirmaries, clinics and other sources of health services,
- Lack of good roads and other infrastructures/ facilities for transportation and communication, and
- Lack of proper public utilities and services such as electricity and water.³¹

In case study of Barili, Cebu, among the main problems identified during a coastal resources/ systems appraisal in 1994 was inadequate provision of social services, especially in terms of water supply and health services. Among the interventions done is the development of self-

³⁰ Balderrama, BANAAG Bahay at Buhay Primer 1: *Pagtingin sa Paninirahan ng mga Mangingisda*

³¹ Ibid.

help initiatives for spring development and rainfall collection, as well as linking for better health services.³²

In dealing with the problems of lack of social services to coastal communities, SIKAT with its community partners have developed a component for Pro-Active Social Services involving addressing health and education needs, dealing with disaster, addressing other community needs through information-sharing and linking for greater access to public services and the development of pro-active measures and community-based mechanisms.³³

IV. Policy Studies on Use of the Foreshore and Salvage/ Easement Zone and Fisherfolk Tenurial Security

In October 1976, Dr. Asteya Santiago of the UP Institute of Environmental Planning wrote an article in the Philippine Planning Journal on the laws affecting foreshore lands in the Philippines. The article discussed the laws affecting foreshore lands, the problems and issues on foreshore management and recommendations of reforms in legislation.³⁴

In June 1998, Atty. Gerthie Mayo-Anda of the Environmental Legal Assistance Center (ELAC) presented a paper on policy considerations for foreshore rights of small fishers in the Conference on Integrated Management of the Coastal Fringe. The paper discussed the laws on foreshore use, presented case studies, identified issues, and recommended policy considerations and action agenda for foreshore tenurial security for small fishers.³⁵

In 2001, Atty. Jay Batongbacal of the Philippine Center for Marine Affairs wrote the policy paper, "The Crowded Shoreline: A Review of the Philippines' Foreshore and Shore Land Management Policies" (CRMP Document No. 48-CRM/2001), for the Coastal Resource Management Project of the Department of Environment and Natural Resources (DENR), Tetra Tech Em, Inc and the US Agency for International Development. The paper presented issues and problems in foreshore management, reviewed existing legislation and policies, compared the policies with those of other countries, analyzed the issues, and made policy recommendations.³⁶

In 2001 also, CRMP, together with DENR, DA-BFAR and DILG, produced the Philippine Coastal Management Guidebook Series. Volume 2 of the series tackled the Legal and Jurisdictional Framework for Coastal Management. The volume traced the evolution of current legislation

³² Gutierrez et al, The Sustainable Coastal Area Development Program in Barili, Cebu.

³³ Balderrama, Developing Sustainable BCRM among the Fisherfolk of Cabangan, Zambales.

³⁴ Santiago, Legislation Affecting Foreshore Lands in the Philippines.

³⁵ Mayo-Anda, Policy Considerations for Foreshore Rights of Small Fishers.

³⁶ Batongbacal, The Crowded Shoreline.

and policies, discussed relevant laws and international agreements, linked coastal management with local governance, and presented related issues and concerns.³⁷

The Philippine-Australia Land Administration and Management project (PA-LAMP) conducted a policy study on Philippine land laws and regulations. The final output, "Land Laws and Regulations Policy Study" came out last July 2002, including related position and issue papers.³⁸

In 2004, the Philippine-Australia Land Administration and Management Project (PA-LAMP) also gave small grants for two for researches relevant to the project. Two of these researches focused on foreshore land management. Alfredo Bernarte Jr. of SIKAT made the research paper, "Surveying the Foreshore: A Scoping Study on Foreshore Lands" focusing on three aspects: legislation, management and utilization.³⁹ Chito Dugan, also of SIKAT, made the other paper, "Foreshore Occupation and Tenurial Security" focusing on three case studies of foreshore occupation.⁴⁰

³⁷ DENR, DA-BFAR, DILG and CRMP, Legal and Jurisdictional Framework for Coastal Management.

³⁸ PA-LAMP, Land Laws and Regulations Policy Study.

³⁹ Bernarte, Surveying the Foreshore.

⁴⁰ Dugan, Foreshore Occupation and Tenurial Security.

V. Legislation and Policies Affecting the Use of Foreshore and Salvage/ Easement Zone

A. Legislation on the Foreshore and Salvage/ Easement Zone

*1. Spanish Law of Waters of 1866*⁴¹

The Spanish Law of Waters was enacted by Spanish Royal Decree in 1866 and has since been amended and superseded several times in Spain. And yet some parts of it are still in effect in the Philippines. Among the basic rules contained in the law remaining in force today are:

- Lands adjacent to the sea or the foreshore are subject to easements of salvage and coast police (Art. 8);
- Such easements do not hinder the owners of such properties from growing crops and planting trees (Art. 11);
- The use of the foreshore is a public right, and any person may make use of the resources therein (Art. 17);
- Any such rights exercised over the foreshore or its resources may be revoked or rescinded in the interest of common public good (Art. 21); and
- The construction of permanent structure in the foreshore or adjacent property is subject to state regulation (Art. 22).

Easement of salvage refers to the right of the public to use the specified area for salvage and storage of remnants and goods from shipwrecks, as well as docking and shelter for fishing boats in times of bad weather. This area advances or recedes with the sea and is always adjacent to the foreshore.

Easement of coast police refers to the responsibility of property owners to make available a right of way, not exceeding six (6) meters, across the property (even if fenced) and adjacent to the coastline. This ensures public access across the coastal zone.

*2. The Public Land Act of 1936*⁴²

Commonwealth Act 141 (Public Land Act) was enacted in 1936 and is the law governing the management and use of lands of the public domain, which include the foreshore and salvage/ easement zones. Despite several amendments and modifications of the Public Land Act, the provisions specifically dealing with the foreshore areas have barely been changed.

Under the Act, foreshore lands may be deemed disposable (Sec. 59) and opened to disposition or concession under Title III, Chapter VIII of the law (Sec. 58). However, the only mode of disposition allowed is through lease with the State retaining title and ownership. The foreshore

⁴¹ This section was taken mainly from Batongbacal, The Crowded Shoreline.

⁴² This section was taken mainly from Batongbacal, The Crowded Shoreline.

may be alienated, encumbered or disposed of by the State only through a legislative act (Sec. 61).

The area that may be leased to any qualified private person or corporation is only up to one hundred and forty-four (144) hectares, but this does not apply to grants, donations or transfers made to local governments or any branch or subdivision of Government if such is necessary for a public purpose (Sec. 60). The leasing of the foreshore is subject to public bidding procedures prescribed by Sec. 67.

Foreshore leases are subject to the following mandatory conditions (Sec. 64):

- The rental shall not be less than three per centum (3%) of the appraised or reappraised value of the land plus one per centum (1%) of the appraised or reappraised value of the improvements, except for lands reclaimed by the Government which shall not be less than four per centum (4%) of the appraised or reappraised value of the land plus two per centum (2%) of the appraised or reappraised value of the improvements;
- The land rented and the improvements thereon shall be reappraised every ten years if the term of the lease is in excess of that period;
- The term of the lease shall not be more than twenty-five (25) years, although renewable for another twenty-five (25) years (in relation to Art. 38);
- The lessee shall construct permanent improvements appropriate for the purpose for which the lease is granted, shall commence the construction thereof within six (6) months from the date of the award of the right to lease the land, and shall complete the said construction within eighteen (18) months from said date;
- At the expiration of the lease or of any extension of the same, all improvements made by the lessee, his heirs, executors, administrators, successors, or assigns shall become the property of the Government;
- The regulation of all rates and fees charged to the public; and the annual submission to the Government for approval of all tariffs of such rates and fees;
- The continuance of the easements of the coast police and other easements reserved by existing law or by any laws hereafter enacted;
- Subjection to all easements and other rights acquired by the owners of lands bordering upon the foreshore or marshy land.

All improvements are subject to the regulation of the government (Sec. 66), with the function now lodged in the Department of Public Works and Highways.

However, even without a lease, the government may grant temporary use of the foreshore to any qualified person upon payment of a reasonable charge, which permission is revocable at any time should public interest require it (Sec. 68). No disposition of any public land (whether by lease or sale) shall be granted if such will injuriously affect the use of the adjacent land, waters, or the foreshore; nor will such disposition vest in the grantee any valuable rights that may be detrimental to the public interest (Sec. 109).

3. *The Civil Code*⁴³

Republic Act 386 (The Civil Code) was enacted in 1949 and contains, among others, significant rules on property and its uses. In this law, the banks and shores of the sea are classified as property of the public dominion (Art. 420), meaning they cannot be alienated or leased or otherwise be subject matter of contracts.⁴⁴ It also stated that when longer intended for public use, such property become part of the patrimonial property of the State (Art. 422), changing the character of the property to one subject of disposition by the State and appropriation by private persons through modes permitted by law. Property of the public dominion is deemed no longer intended for public use when they are declared to be alienable and disposable.

4. *The Water Code*⁴⁵

Presidential Decree 1067 (Water Code) provides:

the shores of the sea and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floodgate, fishing and salvage. No person shall be allowed to stay in this zone longer than necessary for recreation, navigation, floodgate, fishing or salvage or to build structures of any kind (Art. 51).

This provision has often been used to eject artisanal fishers who are considered “squatters” from the foreshore and easement zone. Thus the foreshore areas have been dominated by commercial and business interests such as coastal tourism, industrial estates, fishpond development, infrastructure and quarrying projects.

5. *The Revised Forestry Code of 1975*⁴⁶

Presidential Decree 705 was passed in May 19, 1975 and was known as the Revised Forestry Code because it revised Presidential Decree 389 (The Forestry Reform Code of 1974).

Two provisions contained in Sec. 16 (reserving areas needed for forest purposes that need not have eighteen percent (18%) or more in slope) deals with the foreshore:

Paragraph 7. Twenty (20) meter strips of land along the edge of the normal high waterline of rivers and streams with channels of at least five (5) meters wide;

Paragraph 8. Strips of mangroves or swamplands at least twenty (20) meters wide, along shorelines facing oceans, lakes and other bodies of water and strips of land at least twenty (20) meters wide facing lakes.

⁴³ This section was taken mainly from Batongbacal, *The Crowded Shoreline*.

⁴⁴ Batongbacal quoting Tolentino, A. *Commentaries and Jurisprudence on the Civil Code Vol. 2* (1987 ed.)

⁴⁵ This section was taken mainly from Mayo-Anda, *Policy Considerations for Foreshore Rights of Small Fishers*

⁴⁶ This section was taken mainly from Bernarte, *Surveying the Foreshore*

6. The Fisheries Code of 1998⁴⁷

Republic Act 8550 (Fisheries Code) was enacted in February 1998 and has a provision for foreshore use, saying:

Sec. 45. Disposition of Public Lands for Fishery Purposes. – *Public lands such as tidal swamps, mangroves, marshes, foreshore lands and ponds suitable for fishery operations shall not be disposed or alienated. Upon effectivity of this Code, FLA may be issued for public lands that may be declared available for fishpond development primarily to qualified fisherfolk cooperatives/ associations: Provided, however, That upon the expiration of existing FLAs the current lessees shall be given priority and be entitled to an extension of twenty-five (25) years in the utilization of their respective leased areas. Thereafter, such FLAs shall be granted to any Filipino citizen with preference, primarily to qualified fisherfolk cooperatives/ associations as well as small and medium enterprises as defined under Republic Act No. 8289; Provided, further, That the Department shall declare as reservation, portions of available public lands certified as suitable for fishpond purposes for fish sanctuary, conservation, and ecological purposes; Provided, finally, That two (2q) years after the approval of this Act, no fish pen or fish cages or fish traps shall be allowed in lakes.*

This provision lays down the general rule that beginning 1998, public lands such as those listed above cannot anymore be disposed of or alienated, in any form. But the section seems to be have exempted fishpond development through FLAs of qualified fisherfolk cooperatives/ associations. It may be argued that this provision have impliedly repealed the provisions of the Public Land Act on foreshore lease agreements. With the fishpond lease agreements governed by Sec. 45 to 56 of the code, all other forms of disposition in favor of private persons, and all purposes other than for fishponds, are impliedly no longer permitted. As for government use, there are only two permitted uses under this code: first, as reservations for fish sanctuary, conservation and ecological purposes (Sec. 45), and second, as mangrove cultivation areas to strengthen the habitat and spawning grounds of fish (Sec. 81). Both uses are under the supervision of Department of Agriculture.

B. Legislation on Land Reclamation⁴⁸

Republic Act 1899, enacted in 1957, authorized municipalities and cities to undertake and carry out reclamation of their bordering foreshore areas and establish docking and harbor facilities (Sec. 1). However, this was revoked in 1973 by Presidential Decree 3-A, whose Sec. 1 states:

The provisions of any law to the contrary notwithstanding, the reclamation of areas under water, whether foreshore or inland, shall be limited to the National Government or any person authorized by it under a proper contract.

⁴⁷ This section was taken mainly from Batongbacal, The Crowded Shoreline

⁴⁸ This section was taken mainly from Batongbacal, The Crowded Shoreline.

All reclamations made in violation of this provision shall be forfeited to the State without need of judicial action.

Contracts for reclamation still legally existing or whose validity has been accepted by the National government shall be taken over by the National Government on the basis of quantum meruit, for proper prosecution of the project involved by administration.

In 1977, Presidential Decree 1084 created the Public Estates Authority to handle the reclamation of lands. Other government agencies and corporations have from time to time been authorized to undertake reclamation work under special laws or issuances, such as the Bases Conversion Development Authority (through RA 7227 in 1992) and Philippine Ports Authority (through EO 405 in 1997).

C. Administrative Issuances

Some of significant Land Orders/ Circulars and DENR Administrative Orders are: ⁴⁹

| <i>Issuance</i> | <i>Date</i> | <i>Subject</i> |
|--|--------------|---|
| Land Administrative Orders 8 – 3, 7 -1 | Apr 30, 1936 | Rules and regulations governing the issuance of temporary permits of occupation and use of non-mineral, non-timber public lands and of lands and other real properties of the Commonwealth of the Philippines |
| Lands General Circular 36 | Feb 7, 1978 | Supreme Court doctrines on Foreshore Lease Application as enunciated in Santolan vs. Executive Secretary, Dec 23, 1977. |
| Lands General Circular 43 | Apr 17, 1978 | Additional guidelines in the inventory and sketching of foreshore areas |
| Lands General Circular 51 | Nov 21, 1978 | Additional condition in lease contracts involving foreshore areas |
| DENR Admin. Order 29 | May 24, 1991 | Guidelines in the Inventory and Sketching of Foreshore Areas |
| DENR Administrative Order 98 – 20 | May 20, 1998 | Revised Rules and Regulations on the Conduct of Appraisal of Public Lands and other Patrimonial Properties of the Government |
| DENR Administrative Order 99 – 14 | May 5, 1999 | Providing for the Redefinition of Functions and Realignment of Administrative Units in the Regional and Field Offices |
| Memorandum from DENR | Jun 8, 1999 | Rules and regularions governing the management of government lands covered by subsisting leases and |

⁴⁹ These orders and issuances were culled from a longer listing made by CMMO, Q&A: Foreshores.

| | | |
|-------------------------------------|--------------|--|
| Secretary | | the management and disposition of lands covered by expired leases and of existing improvements thereon |
| DENR Administrative Order 99 – 21 | Jun 11, 1999 | Superceding DAO No. 97-05 and Prescribing the Revised Guidelines in the Implementation of the Pertinent Provisions of RA 1273, PDs 705 and 1067 |
| DENR Administrative Order 99 – 34 | Aug 10, 1999 | Rules and Regulations Governing the Administration, Management and Development of Foreshore Areas, Marshy Lands and other Lands Bordering Bodies of Water |
| DENR Admin. Order 1998 - 20 | | DENR Manual of Approvals |
| <i>Issuance</i> | <i>Date</i> | <i>Subject</i> |
| DENR Administrative Order 2000 - 83 | Nov 13, 2000 | Guidelines for the Management and Development of Small Islands including its Coastal Areas |
| DENR Administrative Order 2002 - 08 | Feb 20, 2002 | Strengthening the Coastal Environment Program (CEP) through the establishment of the Coastal and Marine Management Office (CMMO) as the National Coordinating Office for all coastal and marine environmental activities |

Atty. Batongbacal cited as significant two of these issuances. The first was the Memorandum from the DENR Secretary dated June 8, 1999 addressed to all Regional Executive Directors of DENR. It provides for the procedure for monitoring the lease contracts and affirms that the lands occupied under the Lease Contract can never be the subject of acquisition by free patent or homestead, and that upon expiration of the contract, the government shall take possession and administer the lands and improvement thereon. The second was Lands General Circular 36. It affirmed the preferential right of the riparian or littoral owners to the disposition of the foreshore areas adjacent to his property. He also mentioned as significant a third issuance, Lands General Circular No. 81. it refers to the special case of tourist zones and marine reserves, and the processing of applications for disposition of lands within such zones. It provides that if a parcel of land is within a declared tourist zone, such a declaration does not operate to change the classification of land or withdraw it from reservation from disposition under the Public Land Act.⁵⁰

Alfredo Bernarte emphasized the importance of public access to the sea when he discussed Lands General Circular 51 which added another provision, THIRTHEENTH-A in the Foreshore Lease Contact. This provision says:

It shall be the obligation of the lessee to guarantee and provide the general public free access to, and full use and enjoyment of, the beach and nearby coastal water, either in pursuit of the inhabitants' lawful occupation or their recreational needs. For this purpose, the lessee shall establish and provide a road right-of-way of suitable size, which in no case

⁵⁰ Batongbacal, The Crowded Shoreline.

*shall be less than three(3) meters in width, and location that will permit the public access to the beach area and sea waters without paying any toll. Failure or refusal to comply with this condition shall be valid ground for rejection of application or revocation of the lease award or contract.*⁵¹

More recent related DENR Administrative Orders⁵² are:

| <i>Issuance</i> | <i>Date</i> | <i>Subject</i> |
|-------------------------------------|--------------|--|
| DENR Administrative Order 2004 -18 | Jun 22, 2004 | Implementing Rules and Regulations of Executive Order No. 289 dated February 24, 2004 on the Management and Disposition of Foreshore Areas along the Manila Bay towards Cavite and Bataan. |
| <i>Issuance</i> | <i>Date</i> | <i>Subject</i> |
| DENR Administrative Order 2004 – 24 | Aug 24, 2004 | Revised Rules and Regulations Governing the Administration and Management of Foreshore Lands |
| DENR Administrative Order 2005 – 12 | Jul 22, 2005 | Creation of a Foreshore Areas Management Unit (FAMU) in the CENR and Regional Offices and in the Lands Management Bureau (LMB) |
| DENR Administrative Order 2005 – 24 | Nov 17, 2005 | Guidelines on the Grant of Coastal Area Special Use Agreement |
| DENR Administrative Order 2006 – 01 | Jan 16, 2006 | Revoking Sec 15 Par. 1 of DAO 2004-24 Re: The Revised Rules and Regulations Governing the Administration and Management of Foreshore Lands |

Among these issuances, the most controversial is DAO 2005-24. It is seen by many as an effort to commercialize the coastal areas and might cause further environmental damage to the coastal zone. It had resulted in the cancellation of many Community-Based Mangrove Forest Management Agreements, even for thriving mangrove reforestation projects. Among those opposing it are fisher organizations, NGOs, researchers/ academe and other conservationists.

VI. Legislation and Policies Affecting Fisherfolk Tenurial Security

A. Legislation on Fisherfolk Settlements

1. Fisheries Code of 1998

The only concrete reference to fisherfolk settlements in Philippine laws is in the Republic Act 8550 (the Fisheries Code of 1998) which says:

⁵¹ Bernarte, Surveying the Foreshore.

⁵² Taken from the DENR Website: www.denr.gov.ph

Sec. 108. Fisherfolk Settlement Areas. - *The Department shall establish and create fisherfolk settlement areas in coordination with concerned agencies of the government, where certain areas of the public domain, specially near the fishing grounds, shall be reserved for the settlement of the municipal fisherfolk. Nothing in this section shall be construed to vest ownership of any resettlement area to a municipal fisherfolk for whom said areas may have been reserved for or had been actually granted to.*⁵³

2. Philippine Agenda 21

The Philippine Agenda 21 in its chapter on the Coastal and Marine Ecosystem mentioned among its Strategy/ Action Agenda in addressing Policy and Legal Issues:

*1.3. Preparation of Comprehensive Coastal Zone Management Plan at the national, regional and local levels with genuine participation of communities (delineating areas for household, residential and business) in all phases of planning, implementation, monitoring and evaluation.*⁵⁴

B. Legislation and Policies on Land Classification

1. Philippine Constitution

Relevant sections of the Philippine Constitution of 1987 includes:

Sec 3. Article XII: *Lands of the public domain are classified into agricultural, forest or timber, mineral lands and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be intended. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead or grant.*⁵⁵

2. The Public Land Act of 1936⁵⁶

Commonwealth Act 141 (Public Land Act) classified lands of the public domain (in Sec. 6) as:

- Alienable and Disposable land,
- Timber land, or
- Mineral land.

Alienable and disposable lands were further classified (in Sec. 9) as:

⁵³ RA 8550 (The Fisheries Code of 1998), Sec 108.

⁵⁴ PCSDD, Philippine Agenda 21: A National Agenda for Sustainable Development

⁵⁵ Philippine Constitution of 1987, Sec 3 Art. XII.

⁵⁶ This section was taken mainly from PA-LAMP, Land Laws and Regulations Policy Study.

- Agricultural land,
- Residential, commercial industrial or for similar productive purposes,
- Educational, charitable or other similar purposes, or
- Reservations for townsites and for public or quasi-public purposes.

3. *The Revised Forestry Code of 1975*⁵⁷

Presidential Decree 705 (Revised Forestry Code of 1975) defines forest lands through the 18% slope rule. The Code prohibited the classification as alienable and disposable lands of the public domain with more than 18% slope, with a few legislated or declared exceptions.

C. *Legislation and Policies on Land Disposition and Registration*

1. *The Public Land Act of 1936*⁵⁸

Commonwealth Act 141 (Public Land Act) also prescribed ways how lands of the public domain can be disposed of through:

a. *Agricultural Lands*

- Homestead patent (Chapter IV)
- Sales patent (Chapter V)
- Lease contract (Chapter VI)
- Confirmation of imperfect or incomplete titles
 - Administrative proceedings (Chapter VII)
 - Judicial proceedings (Chapter VIII)

b. *Sale or Lease of Residential, Commercial, Industrial or Similar Land*(Chapter IX)

c. *Sale or Lease of Educational, Charitable or Similar Land* (Chapter X)

Homestead patent is a form of holding have become largely obsolete and inappropriate. The process is tedious and cumbersome, and the conditions attaching to the holding are deemed strict and restrictive.

The following lands can be acquired through sales or lease:

- Agricultural lands,
- Residential, commercial or industrial purposes or other similar purposes,
- Educational or charitable purposes or other similar purposes

⁵⁷ Ibid.

⁵⁸ Ibid.

In cases of both sales and lease, there are requirements and conditions that must be satisfied. In case of sales however, a sale patent will be given to the applicants.

There are two possible ways of perfecting or completing land titles: administrative and judicial proceedings. Administrative proceedings are handled through the Land Management Bureau of the Department of Environment and Natural Resources (DENR). Judicial proceedings are however handled through the Land Registration Authority of the Department of Justice.

2. Other Laws Related to Land Disposition⁵⁹

Other form of land disposition is through agrarian reform and ancestral domain claims. The basic law currently being implemented for agrarian reform is Republic Act 6657 (Comprehensive Agrarian Reform Law) enacted in 1988 and Republic Act 7905 which strengthened agrarian reform implementation. On the other hand, the basic law for ancestral domain claims is Republic Act 8371 (Indigenous People's Rights Act) enacted in 1997.

3. Other Laws Related to Land Registration⁶⁰

There are two current systems for land registration: the Torrens system and the registration system for unregistered land. The main laws related to land registration are the cadastral Act No 2259 (1913), Presidential Decree 892 (Discontinuing the Spanish Mortgage System) and Presidential Decree 1529 (Property Registration Decree of 1978).

D. Legislation and Policies on Land Use Planning

1. Local Government Code⁶¹

Republic Act 7160 (the Local Government Code of 1991) greatly affected the system of governance in the country by trying to implement the constitutionally-enshrined principles of government decentralization and democratization. Its influence on coastal management and fisherfolk settlements revolves around key features of political autonomy and decentralization, and resource generation and mobilization. Among its responsibilities are the following key functions in terms of land use planning and management:

- To adopt a comprehensive land use plan,
- To reclassify land, if needed,
- To enacted integrated zoning ordinances in consonance with approved comprehensive land use plan, and
- To conduct cadastral, special and isolated surveys

⁵⁹ Ibid.

⁶⁰ Ibid

⁶¹ Taken from DENR et al, PCMGs 2: Legal and Jurisdictional Framework for Coastal Management

2. Executive Order 648⁶²

President Ferdinand Marcos issued EO 648 on February 7, 1981 reorganizing the Human Settlement Regulatory Commission (HSRC) as a quasi-judicial body and set its duties, powers and responsibilities, including land use planning and regulation. In 1986, the HSRC was later renamed the Housing and Land Use Regulatory Board (HLURB).

3. Executive Order 72, series of 1993⁶³

President Fidel Ramos issued EO 72 on March 25, 1993 to provide the framework for the preparation and implementation of such CLUPs. EO 72 also devolved the powers of the HLURB to review and approve comprehensive land use plans of component cities and municipalities to the sangguniang panlalawigan, necessitating the creation of Provincial Land Use Committees, as well as Regional Land Use Committees for those of provinces, highly urbanized cities and independent component cities.

4. Philippine Agenda 21⁶⁴

President Fidel Ramos, through Memorandum Orders 288 (dated July 5, 1995) and 399 (dated September 26, 1996) directed the formulation and after the formulation, the operationalization of Philippine Agenda 21 as a framework, guide and workplan for integrating Sustainable Development in national policy and government operations. It enjoins stakeholders to work together through the plan to address sectoral problems, environmental and biodiversity concerns as well as socio-economic and political processes.

VII. Policies on Social Services

Government efforts for delivery of social services to poor communities are always tied up with national strategies and policies for poverty alleviation and enhancement of human development. Major government undertakings include:

- Medium-Term Philippine Development Program (1986-1991) of the Aquino Administration: Included in the major development goals are the eradication of poverty and improvement in quality of life. Poverty incidence targets were set for the first time. An important undertaking towards achievement of these goals was the *Tulong sa Tao* program which was launched in 1987 through Executive Order No. 158, aimed at reducing poverty through creation of employment opportunities for “low income municipalities”. According to project reports, about 183,500 jobs were created and living conditions of 111,000 beneficiaries were improved, while more than 1,500 NGOs were involved in the process.

⁶² Taken from HLURB Website: www.hlurb.gov.ph

⁶³ Taken from PhilSSA, SHP Vol 1: Land use and Acquisition

⁶⁴ Taken from the DENR Website: www.denr.gov.ph

- Medium-Term Philippine Development Program (1992-1997) of the Ramos Administration: Among the development goals were improved quality of live and enhanced international competitiveness. The concept of minimum basic needs was promoted in setting poverty incidence targets. This was implemented with the Social Reform Agenda (SRA) emphasizing poverty alleviation and countryside development. Focus was on addressing needs of disadvantaged sectors and the 20 poorest provinces.
- Medium-Term Philippine Development Program (1999-2004) of the Estrada Administration: Part of the vision of this plan are sustainable development and growth with social equity. Priority areas were identified and regional poverty targets were included in formulating national poverty incidence targets. Estrada also launched the *Erap para sa Mahirap* program, identifying 100 poor families per LGU as program beneficiaries.
- Medium-Term Philippine Development Program (2001-2004/ 2004-2010) of the Arroyo Administration: In the first Arroyo MTPDP, poverty alleviation was to be achieved through growth, governance, agriculture modernization and human development. Problems of vulnerable sectors were added. In her second MTPDP, the five main parts of this plan are (1) economic growth and job creation, (2) energy, (3) social justice and basic needs, (4) education and youth opportunity, and (5) anti-corruption and good governance. Specified target for poverty reduction was set. Arroyo launched in 2001 the *Kapit-Bisig Laban sa Kahirapan* (KALAHI) under the National Anti-Poverty Council. NAPC has a three-fold task of coordinating poverty reduction programs, institutionalizing participation of the “basic sectors” in social reform and poverty alleviation, and promoting micro-finance programs and institutions.⁶⁵

These strategies and programs were implemented nationally and some of their beneficiaries may have come from the fisherfolk sector and coastal communities. However, there were no fisherfolk-specific strategies and interventions in terms of enhancing access to social services.

VIII. Effects of the Issue of Fisherfolk Settlement on Poverty Alleviation, Sustainable Agriculture and Global Competitiveness

The issue of fisherfolk settlement can affect negatively efforts on poverty alleviation, sustainable agriculture and global competitiveness as the issue threatens the livelihood activities, resource management initiatives, and human asset-building of the affected fishers as well as their families, organizations and community.

Without tenurial security for the use of foreshore and the savage/ easement zone, as well as for the settlement of their family and community, the threat of displacement and relocation affects the normal course of the daily livelihood activities of the threatened families and community. This affects family income and their food security.

⁶⁵ Schelzig, Karin, Poverty in the Philippines: Income, Assets and Access.

With the threat of displacement and relocation, addressing the threat becomes an urgent need, making people de-prioritize other activities and concerns such as livelihood projects, organization development, and resource management and protection work.

The threat of displacement and relocation also affects relationships within organizations and communities. If the claimants are all from the community, competing claims and interests within the community threatens inter-personal/ household relationships and community dynamics. Even if the threat is external, differences in strategies and responses can affect organizations and community relationships.

The threat also becomes a distraction, sometimes even a disincentive, from household and community asset build-up in all aspects: financial, human, social, financial and physical. Financial and physical assets get destroyed or lost in cases of demolitions, especially if it is involuntary and at times, violent. Resettlement often affects the education of children, and also participation in trainings and other non-formal education venues. Participation in resource management, especially area-based and site-focused initiatives, are definitely affected by relocation. Relationships in the families, organizations and community are definitely affected by the threat and the eventual dislocations.

IX. Policy Concerns, Options and Recommendations for Fisherfolk Settlements

Discussions on the concerns, options and recommendations for fisherfolk settlements will center on the three main fisherfolk settlement concerns on:

- Ensuring access to foreshore and the salvage/ easement zones,
- Enhancing tenurial security for coastal settlements of municipal fishers, and
- Improving access to basic social services for fisherfolk communities.

a. Cross-cutting Concerns

1. There is a need for a comprehensive and integrated framework for land and water use planning, particularly for the coastal zone to guide legislation, management approaches, and monitoring and control systems, and utilization practices of the foreshore, the salvage/ easement zone and the coastal zone. Current approaches and strategies for the management of the foreshore and the coastal zone is geared towards production, utilization and commercialization. These must be balanced with proper conservation and management approaches and interventions.
2. There is a need for a greater understanding of the specific situation, needs and interests of fisherfolk communities, especially those in far-flung coastal areas and small islands to guide the planning and implementation of programs, interventions and activities that would address their particular needs and concerns.

b. Ensuring Access to Foreshore and the Salvage/ Easement Zones

3. There is a need to consolidate policies and provision on the utilization, development and management of foreshore areas and the coastal zone to make them simple, coherent and consistent.
 - a. The foreshore and the salvage/ easement zone are lands of the public domain. They shall not be alienated or disposed of.
 - b. There should be appropriate rules and regulations to ensure public safety and shoreline protection.
 - c. Equal and equitable public access to and from the foreshore and adjacent lands, as well as across the shore, must be assured through the monitoring and enforcement of easements of right-of-way.
 - d. There must effective management and regulation of structures in the foreshore and in the salvage/ easement zone.
 - e. Undeveloped coastal frontages must be conserved on account of their aesthetic appeal, natural protective characteristics, ecological benefits, public utility, recreational use and livelihood opportunities.
 - f. In planning for the management and utilization of the foreshore and salvage/ easement areas, appropriate resource rent must be imposed and enforced for the benefit of the State and to support monitoring and management activities.
 - g. There must be a clear a clear, rational and appropriate delineation of roles and responsibilities among the government agencies, local government units and co-management bodies for effective management.
4. There is a need to give preferential rights to small/ municipal fishers in the utilization, development and management of the foreshore areas and the coastal zone.
5. There is need for a comprehensive inventory of foreshore areas and salvage/ easement zones. Data that should be gathered can include geophysical description, existing claims and uses/ users (legitimate and otherwise), existing legal and illegal structures, nature of adjacent lands, resources in the area, and community profile. These can be basis for an effective land use planning and zoning system.
6. The framework and guidelines for the proper utilization and management of the foreshore area and coastal zone must be integrated in the local development plan, land use plan, coastal development plan, and annual investment plan
7. There is a need to review and monitor existing holders and applicants of Foreshore Lease Contracts and their implementation of their proposed utilization plan. Compliance with the existing provisions of their FLC must be guaranteed such as the provision of right-of-way and public access to the beach areas.

c. Enhancing Tenurial Security of Coastal Resettlements

8. There is need to develop appropriate implementing rules and regulation, as well as an action plan to implement the fisherfolk settlement provision of the Fisheries Code (RA 8550). This should include participatory and transparent site selection process and criteria, inter-agency coordination and institutional arrangement, financing plan/ fund sourcing, model/ piloting plan, as well as sustainability and replication plans.
9. There is a need for a comprehensive inventory of alienable and disposable lands of the public domain near/ in the coastal zone. This will guide the LGU in their land use planning, fisherfolk settlement area selection, zoning scheme and local housing and settlement initiatives for landless fisherfolk.
10. Prioritize municipal/ small fisherfolk in the disposition of alienable and disposable lands of the public domain near/ in the coastal zone.
11. Fisherfolk settlement areas must be integrated in land use planning, fisherfolk settlement area selection, zoning scheme and local housing and settlement initiatives for landless fisherfolk
12. There is need to review land policies, especially on land classification, disposition and registration in order to make them simple, understandable and accessible for municipal/ small fisherfolk, so as to give opportunities to enhance their tenurial security and to complete their imperfect/ incomplete titles.
13. Model and pilot appropriate and innovative fisherfolk settlement approaches, strategies and interventions.
14. Fisherfolk families and communities that are threatened or displaced should be resettled near/in the coastal zone.

c. Improving Access to Social Services

15. Far-flung coastal communities and small islands should be prioritized in the delivery of basic services, such as health and education services, water systems, power supply and others.
16. Support further studies of coastal disaster risks and community vulnerabilities for enhanced community- based disaster risk management strategies and plan.
17. Strengthen community participation in the planning, implementation and evaluation of delivery systems for social services to ensure effectiveness, appropriateness and timeliness.

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