

## COUNTRY REPORT: PHILIPPINES

### Defending the Coasts: A Continuing Challenge

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#### Introduction

Coastal areas have crucial ecological, social, cultural and economic significance for the people and species inhabiting the planet. They host diverse natural habitats that nurture various life forms and activities, protect communities from hazards, aside from offering immense historical, aesthetic and recreational value to the broader community. Increasing population growth,<sup>1</sup> unplanned and unregulated economic pursuits (such as land reclamation) and pollution, have proven detrimental in ensuring the ecological integrity of many coastal areas.

The coastal and marine areas in the Philippines deserve special concern. Due to its rich biodiversity, the Philippines is recognized as one of the world's 18-megadiversity countries which cumulatively contain 75 per cent of its biodiversity.<sup>2</sup> The Philippines, together with five other countries,<sup>3</sup> form the globally recognized coral triangle.

A study published in 2001 provides a glimpse of the problems besetting the country's coastline, which include: rapid population growth; widespread poverty; declining fisheries productivity; increasing environmental damage; increasing pollution from land-based activities; and the impacts of climate change on coral reef ecosystems and the fisheries they support.<sup>4</sup>

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<sup>1</sup> The *Philippine Development Plan* (2011-2016) acknowledges that '60 percent of the total Philippine population live in the coastal zones and depend on these coastal resources for livelihoods'.

<sup>2</sup> Coral Triangle Initiative On Coral Reefs, Fisheries And Food Security, Republic of the Philippines *National Plan Of Action* (CIT RNOP) (available at [http://www.coraltriangleinitiative.org/sites/default/files/resources/Philippines%20NPOA\\_Final.pdf](http://www.coraltriangleinitiative.org/sites/default/files/resources/Philippines%20NPOA_Final.pdf)).

<sup>3</sup> The six Coral Triangle countries are the Philippines, Indonesia, Malaysia, Papua New Guinea, the Solomon Islands and Timor-Leste.

<sup>4</sup> *Managing Philippine Coasts and Seas, Understanding the Challenge, Philippine Coastal Management Guidebook Series No. 1: Coastal Management Orientation and Overview* (2001) (available at [http://www.oneocean.org/flash/the\\_philippine\\_seas.html](http://www.oneocean.org/flash/the_philippine_seas.html)).

The former President Gloria Arroyo issued *Executive Order* No. 533, which adopts integrated coastal management (ICM) as the national management policy framework to promote the sustainable development of the country's coastal and marine environments and resources. It seeks to bolster the already abundant national policies aimed at protecting the environment. Unfortunately, ICM has not been integrated into the policies, programs and projects of Government, except for a few produced by local government units<sup>5</sup> (LGU).

President Aquino's current administration has adopted the *Philippine Development Plan 2011-2016* (the Plan),<sup>6</sup> which devotes a chapter to Conservation, Protection and Rehabilitation of the Environment and Natural Resources. A portion of the Plan states as follows:

'The Philippines has one of the world's longest coastlines, a total of 36,289 kilometers... Located within the Coral Triangle, at the center of high marine diversity, the country's vast, rich and diverse coastal and marine resources are composed of coral reefs, sea grass beds, mangrove and beach forests, fisheries, invertebrates, seaweeds, marine mammals and many others. About 60 percent of the total Philippine population live in the coastal zones and depend on these coastal resources for livelihoods.

Some unsustainable human activities, however, cause great stress to coastal and marine resources. Coastal development and climate change impacts such as sea-level rise and increasing sea-surface temperature add to the stress on these resources. Sedimentation in coastal areas due to unsustainable land use in upland areas continues to threaten coastal ecosystems. The productivity of the country's coral reefs, mangrove forests, sea grass, and algal beds and fisheries is declining at an alarming rate. Of the 27,000 sq. km. of coral reef, over 70 percent are of poor or fair quality and only five percent are in excellent condition. The Philippine reefs may already be in a steady state of decline from 5 percent to 3 percent to less than 1 percent (Nanola et. al., 2004). The country's coral reefs are considered to be one of the highly threatened reef areas in the world.'

In this era of growing climatic challenges, certain constituents in the country, especially the fisher folk and their families, stand to be most affected by storm surges, extreme weather disturbances and sea level rise. The Philippines is considered the third most disaster prone

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<sup>5</sup> These are political and geographical units in the Philippines. As of 30 June 2010, local government units consist of 80 provinces, 122 cities, 1512 municipalities and 42,025 barangays. See further: <http://www.dilg.gov.ph>.

<sup>6</sup> Available at <http://devplan.neda.gov.ph/>.

in the world,<sup>7</sup> and according to the *Global Climate Risk Index (2013)*, the fourth most vulnerable to the impacts of climate change.

Climate change has serious repercussions for Philippines' biodiversity. Aside from providing essential goods and services, mangroves, corals and sea grass absorb and thus sequester carbon, filter polluting substances and serve as natural barriers to storm surges. The *World Disaster Report (2012)* expressed the view that 'the Philippines could spare up to 20 million of its people - about a fifth of its total population - from natural disasters by improving the protection of its coral reefs, a primary line of defense against coastal hazards, including tsunamis'.<sup>8</sup>

If the Philippines' coast is openly acknowledged as essential in protecting the life, livelihood and environmental rights of the citizens, why is defending it a constant challenge? What reforms have its institutions and President Aquino administration initiated to mainstream ICM and marine protection? What steps have stakeholders taken to slow down or stop its alarming decline?

This Country Report discusses and evaluates the latest developments taken by the National Government in addressing the various coastal challenges and the response of key institutions, such as the courts and the dynamic civil society movement, in parrying the continuing attacks on the coast. It recommends courses of action for stakeholders from all sectors to take ownership of the grave responsibility to protect the country's threatened coastal and marine ecosystems.

### **Legal Framework for Coastal Protection**

The Philippines adhere to the Regalian Doctrine where the State is vested the ownership and control of natural resources.<sup>9</sup> The exercise of its powers is however limited by the rights granted to the citizens and stakeholders, and the State's unequivocal responsibility to protect them. The *Constitution (1987)* provides a very strong framework for protecting the environment and its people, including its highly vulnerable sectors such as the fisher folk who are most dependent on the Earth's life support system for the quality of their lives and

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<sup>7</sup> Philippine Daily Inquirer, 'Philippines is 3rd Most Disaster-Prone Country, New Study Shows' (available at <http://globalnation.inquirer.net/52858/philippines-is-3rd-most-disaster-prone-country-new-study-shows>).

<sup>8</sup> Ibid.

<sup>9</sup> *Constitution*, article XII, section 2.

livelihoods. It contains provisions guaranteeing their right to life, health and a 'healthful and balanced ecology in accord with the rhythm and harmony of nature'.<sup>10</sup> These rights are coupled with the crucial right for the constituents to effectively participate in decision-making processes and access information, backed up by the state policy of full disclosure of information. A social justice provision accords the subsistence fisher folk preferential rights to access traditional fishing grounds, as reiterated by the *Fisheries Code*.<sup>11</sup> Other national laws and policies of relevance to the coast include: *National Integrated Protected Areas System (NIPAS) Act*;<sup>12</sup> *Wildlife Resources Conservation and Protection Act*;<sup>13</sup> *Executive Order No. 797* (which adopts the *Coral Triangle Initiative (CT) National Plan of Action*); and *Executive Order No. 533*. The Philippines has also ratified various multi-lateral environmental agreements.<sup>14</sup>

The legislative and judicial branches of government have, respectively, crafted laws and handed down rulings giving life to the new environmental rights paradigm. The Supreme Court has generally upheld environmental rights in numerous cases. In the exercise of its rule-making power, it issued the *Rules of Procedure for Environmental Cases* in 2010, the first of their kind in the world. The Rules have given rise to the filing of numerous citizen suits to protect the environment, including the case of *Boracay Foundation v. Province of Aklan*<sup>15</sup> where the Supreme Court stopped a 40-hectare reclamation project of the Province of Aklan, which could have defaced the popular Boracay Island.

The Legislature has enacted laws to protect ecosystems, and for the people and institutions to respond effectively to the dangers of climate change, disasters and continuing environmental degradation. It has also exercised its oversight functions and conducted investigations with a view to introducing legislation to improve implementation of the environmental laws by government agencies.<sup>16</sup>

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<sup>10</sup> *Constitution*, article II, section 16.

<sup>11</sup> Republic Act No. 8550.

<sup>12</sup> Republic Act No. 7586.

<sup>13</sup> Republic Act No. 9147.

<sup>14</sup> These include: *Rio Declaration on Environment and Development*; *Convention for Biological Diversity*; *Convention on the Conservation of Migratory Species of Wildlife Animals*; *Ramsar Convention*; *United Nations Convention on the Law of the Sea*; *Convention on International Trade in Endangered Species of Wild Fauna and Flora*; *ASEAN Agreement for the Protection of Biodiversity*; *Coral Triangle Initiative Declaration*; and the *United Nations Framework Convention on Climate Change*.

<sup>15</sup> G.R. No. 196870, 26 June 2012.

<sup>16</sup> Among recent initiatives is the on-going investigation by the House of Representatives' Natural Resources Committee on the reclamation projects and the implementation of the *Solid Waste Management Law*.

However, government agencies tasked with administering these laws have difficulty in performing their functions, specifically in implementing laws and harmonizing state policies on ecological integrity and sustainable development. The implementation of well-crafted environmental laws is weak and a grave cause of concern. Budgetary allocations for the environment sector are miniscule. The establishment of environmental and natural offices (ENRO) within LGUs is not mandatory. Environmental compliance certificates (ECC) are perceived to be too easily issued by the Department of Environment and Natural Resources<sup>17</sup> (DENR) even without participation by the affected stakeholders or based on ancient environmental impact statement submitted by development proponents. Worse still, unsustainable, largely unplanned but erstwhile 'favorite' coastal development projects such as reclamation, given presidential blessings by the previous administration, are allowed to continue to wreck havoc on the marine ecosystems, despite the clear constitutional and statutory edict of responsibility for the environment and the people. However, significant gains have been achieved in the arena of accountable and transparent governance and diminution of patronage politics, which previously contribute significantly to the lackadaisical enforcement of environmental laws.

### **Recent Policy Developments Impacting on the Management and Protection of Coastal and Marine Resources**

#### *A New Form of Governance*

In seeking to adhere to the principles behind President Aquino's *Social Contract with the Filipino People*,<sup>18</sup> significant strides had been made by the new President to make National Government more transparent, accountable and participatory. Agency websites now contain public documents that were previously deemed confidential. The DENR has implemented anti-corruption measures to stamp out incidents such as delivering confiscated logs to the Department of Education to be made into school desks. Moreover, the employment of environmental officials and employees involved in illegal logging has been discontinued.<sup>19</sup> Windows of opportunity for genuine engagement between the public sector and civil society have never been opened wider, with agencies entering into memorandum of agreement with non-government organizations for partnership on government projects.

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<sup>17</sup> See further: <http://www.denr.gov.ph>.

<sup>18</sup> See further: <http://www.gov.ph/about/gov/exec/bsaiii/platform-of-government/>.

<sup>19</sup> See further: <http://www.abscbnnews.com/nation/regions/06/30/12/31-denr-officials-sacked-over-illegal-logging>.

*Environment Protection Policies*

Recent administrative notices include Executive Order (EO) No. 79,<sup>20</sup> the Aquino administration's *Responsible Mining Policy*. Under EO 79, the Government committed not to allow mining in certain areas<sup>21</sup> including the prohibited sites under the *Mining Law*,<sup>22</sup> protected areas covered by the *National Integrated Protected Areas System (NIPAS)* under Republic Act No. 7586, and other laws which expressly excluded certain areas from mining applications.<sup>23</sup> The Government likewise committed to ensure that environmental standards for mining 'shall be fully and strictly enforced, and appropriate sanctions meted out against violators'.<sup>24</sup> Acting on studies which showed that revenues from mining were not as substantial as expected, a moratorium on new mining agreements was undertaken pending the passage of a law that rationalizes 'existing revenue sharing schemes and mechanisms'.<sup>25</sup>

EO 79 is doubly significant as, for the first time, a ban is imposed on the use of mercury in small-scale mining,<sup>26</sup> a recognition that mercury is toxic and harmful to the health of citizens and ecosystems. The International POPs Elimination Network (IPEN) views mercury as:

'a toxic substance of global concern that causes significant harm to human health, wildlife and ecosystems. When mercury is released into the environment, it travels with air currents and then falls back to earth, sometimes nearby the original source and sometimes far away. Mercury can drain from soils to streams, rivers, lakes and oceans and it can also be transported by ocean currents and migratory species.'<sup>27</sup>

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<sup>20</sup> Available at: <http://www.gov.ph/2012/07/06/executive-order-no-79-s-2012/>.

<sup>21</sup> E.O. No. 79, section 1.

<sup>22</sup> Republic Act No. 7942, section 19.

<sup>23</sup> These include: 'c) Prime agricultural lands, in addition to lands covered by RA No. 6657, or the *Comprehensive Agrarian Reform Law* of 1988, as amended, including plantations and areas devoted to valuable crops, and strategic agriculture and fisheries development zones and fish refuge and sanctuaries declared as such by the Secretary of the Department of Agriculture; d) Tourism development areas, as identified in the *National Tourism Development Plan*; and e) Other critical areas, island ecosystems, and impact areas of mining as determined by current and existing mapping technologies, that the DENR may hereafter identify pursuant to existing laws, rules, and regulations, such as, but not limited to, the NIPAS Act.'

<sup>24</sup> E.O. No. 79, section 2.

<sup>25</sup> E.O. No. 79, section 4.

<sup>26</sup> E.O. 79, section 11 (e).

<sup>27</sup> IPEN *Views on a Global Mercury Treaty* (available at [http://www.ipen.org/ipenweb/work/mercury/mercury\\_treaty\\_report\\_r5.pdf](http://www.ipen.org/ipenweb/work/mercury/mercury_treaty_report_r5.pdf)).

## New Laws

### Responsible Parenthood and Reproductive Health Act (2012)<sup>28</sup>

The President signed the Act into law in December 2012, after over a decade of procrastination, division and bitter conflict that pitted the influential Catholic Church against the President and supporters of the Bill. The country is said to have the highest birth rate in Asia 'with the United Nations estimating that half of the country's 3.4 million pregnancies each year are unplanned'.<sup>29</sup> The Act is recognition of the need to minimize the impacts of a fast growing population on the vanishing and threatened resources in a disaster-prone country, through education and mainstreaming rights to health care services.

### Amendments to the Climate Change Act<sup>30</sup>

In August 2012, the President signed these amendments to the *Climate Change Act* into law. The amendments harmonize laws and policies related to climate change and disaster risk reduction and management. It gives broader powers to the Philippine Climate Change Commission (Commission). To prioritize the allocation and availability of funds for the implementation of climate-related plans and programs, the amendments create mechanisms governing the use of the People's Survival Fund. This is a special fund in the National Treasury with an annual appropriation of one Billion Pesos. These funds are to be used for the financing of adaptation programs and projects based on the *National Strategic Framework*, and in compliance with the country's undertaking under the *ASEAN Agreement on Disaster Management and Emergency Response*.<sup>31</sup>

### Sin Tax Law<sup>32</sup>

This law came into effect in January 2013 and introduces higher taxes for tobacco products and alcoholic beverages. The country has 'the highest incidence of smoking in the region,

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<sup>28</sup> Republic Act No. 10354.

<sup>29</sup> See further: <http://newsinfo.inquirer.net/331669/philippines-seeks-unity-after-birth-control-law-signed>.

<sup>30</sup> Republic Act No. 10174, which amended Republic Act No. 7924.

<sup>31</sup> Available at: <http://www.asean.org/news/item/asean-agreement-on-disaster-management-and-emergency-response-vientiane-26-july-2005-2>.

<sup>32</sup> Republic Act No.10351.

with tobacco-related diseases costing the country P177 billion (\$4.3 billion) last year'.<sup>33</sup> The proceeds are set aside for health care programs. This law is noteworthy as cigarettes stubs, aside from health impairment issues, cause danger to marine resources, being mistaken as food by marine mammals; and are highly toxic.<sup>34</sup>

### **Policy and Legislative Setbacks**

Despite claiming inclusive and sustainable growth as a strategy in its *Philippine Development Plan*, the Aquino administration continues down the former administration's unsustainable path to development in two areas.

#### *Fossil Fuel Dependency*

Despite the introduction of the *Renewable Energy Act*,<sup>35</sup> the Department of Energy plans to build twenty-three coal-fired power plants, the biggest energy build in the country's history. These power plants are to be built near the coast, even in protected seascapes. Von Hernandez, Executive Director of Greenpeace Southeast Asia, has stated that:

'Solutions are available to reduce our dependence on polluting, dirty and deadly coal energy. The government must prioritize and support green investments which will help put the country on a low-carbon growth pathway, instead of pursuing investments which are harmful to society, peace and order, and the environment. This way, further human and societal damage, as well as ecological degradation and devastating climate change impacts, can be avoided.'<sup>36</sup>

#### *Nationwide Land Reclamation Projects*

The Philippine Reclamation Authority has approved the *National Reclamation Plan*<sup>37</sup> for projects that will further destroy 38,000 hectares of critical coastal habitat and heavily impact

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<sup>33</sup> See further: <http://www.rappler.com/business/18928-higher-booze,-cigarette-prices-as-sin-tax-law-takes-effect>.

<sup>34</sup> K. Register, *Cigarette Butts as Litter-Toxic as Well as Ugly* (2013) (available at <http://www.longwood.edu/cleanva/ciglitterarticle.htm>).

<sup>35</sup> Republic Act No. 9513.

<sup>36</sup> See further: <http://www.greenpeace.org/seasia/ph/press/releases/Nationwide-opposition-launched-against-coal-fired-power-plants/>.

<sup>37</sup> See further: <http://reclamationforwhom.files.wordpress.com/2012/09/provincial-city-distribution-of-nrp-projects.pdf>.

the subsistence fisher folk. This event triggered the mobilization of the fisher folk sector, scientists, professionals, churches and other groups to vigorously oppose the Plan.

A Network for the Integrity of Coastal Habitats and People's Resilience (the Network) was formed at the People's Summit on the Impacts of Reclamation held in October 2012.<sup>38</sup> It was launched out of concern that the 'resulting biomass loss will have immediate and severe ecological and socio-economic impacts, such as coastal community and fisher folk displacement and the destruction of ecosystems'.<sup>39</sup> Participants called for a ten-year moratorium on reclamation projects pending a comprehensive, transparent and consultation-based review of the Philippine's outdated national policies on reclamation projects.<sup>40</sup>

Stakeholders have filed a petition for a writ of kalikasan with the Court of Appeals to stop a proposed reclamation project, which will impact the 175-hectare mangrove and marine habitat at the Las Piñas-Parañaque Critical Habitat and Ecotourism Area (LPPCHEA) and cause unprecedented flooding in the area. It has been noted that:

'Past experiences on land reclamation projects have proven to be disadvantageous to fishing communities and their environment. The Pamalakaya fisher folk federation recalled that land reclamation paved the way for the demolition of fishing communities along Manila Bay and the destruction of rich mangrove areas during the time of former Presidents Ferdinand Marcos.'<sup>41</sup>

In Congress, the House of Representatives Committee on Natural Resources tackled various House Resolutions (HRs) on the impacts of reclamation. The Committee recommended the revocation of the ECC issued by the DENR for reclamation projects in Las Pinas and Paranaque.

In Cebu, stakeholders filed administrative and criminal cases against national and local officials, including the provincial governor and the municipal mayor of Cordova, for undertaking an illegal reclamation project which will destroy one of the biggest sea grass

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<sup>38</sup> Materials from the Summit are available at <http://reclamationforwhom.wordpress.com/presentations-and-summit-materials/>.

<sup>39</sup> Resolution approved by Summit Participants (available at <http://reclamationforwhom.wordpress.com/presentations-and-summit-materials/>).

<sup>40</sup> See further: <http://www.remate.ph/2012/11/govt-reclamation-projects-will-kill-philippine-coasts-marine-biodiversity/>.

<sup>41</sup> See further: <http://reclamationforwhom.wordpress.com/the-summit/>.

areas in Central Visayas and abundant corals and mangroves ecosystems.<sup>42</sup> DENR officials were likewise included as respondents due to: the irregular issuance of the ECC without the required public consultation;<sup>43</sup> and consideration of the severe impacts on the rich mangroves, corals and seagrass ecosystems upon which fisherfolk and their families and communities rely for their sustenance.

## Conclusion and Recommendations

Civil society continues to play a very active role on holding the Philippine Government to account in the environmental context. This has been evidenced in the past year by the first ever People's Summit seeking to oppose the *National Reclamation Plan* and the nationwide opposition launched against the Government's decision to build several new coal-fired power plants in the coastal environment in flagrant disregard of the domestic renewable energy legislation.

Crisis leads to opportunities. The vigorous engagement of civil society in opposing unsustainable projects undertaken by Government needs to be sustained. Time is of the essence. Who knows? The collective voices of the people in relentlessly pushing for the protection of the environment and defending the severely threatened coasts may prove to be the impetus to make Government more accountable and responsive to the compelling needs of the people, its 'vast, rich and diverse coastal and marine resources'<sup>44</sup> and the planet.

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<sup>42</sup> See further: <http://newsinfo.inquirer.net/159109/cordova-reclamation-sends-gwen-6-officials-to-ombud>.

<sup>43</sup> The *Local Government Code*, R.A. 7160, provides that: 'Duty of National Government Agencies in the Maintenance of Ecological Balance - It shall be the duty of every national agency or government-owned or -controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof' (section 26). Section 27 further states that: 'Prior Consultations Required - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained...'

<sup>44</sup> *Philippine Development Plan* (supra note 6).