

# Philippine Coastal/Ocean Law and Policy: Sliding back to “business as usual”?

Jay Batongbacal and Rodolfo Ferdinand N. Quicho, Jr.  
Director, Institute for Maritime Affairs & Law of the Sea  
Country Programme Manager, GEF-Small Grants Programme Philippines



# Overview

- ◆ Key coastal/ocean use sectors: significant developments
  - ◆ Fisheries
  - ◆ Shipping
  - ◆ Marine environmental protection
  - ◆ Petroleum exploration & development
  - ◆ Seafaring
  - ◆ High seas fishing
- ◆ Administrative Reforms
- ◆ Observations/Conclusions

# Key Coastal/Ocean Use Sectors in the Philippines

- ◆ Coastal
  - ◆ Coastal fisheries
  - ◆ Shipping
  - ◆ Petroleum exploration & development
  - ◆ Marine environmental protection
- ◆ Ocean
  - ◆ Seafaring
  - ◆ High seas fishing

# Coastal Fisheries

- ◆ Fisheries contribution to PH economy, 2013
  - ◆ GDP: 1.9% (at constant 2000 prices)
  - ◆ Employment: 1.6 M + (last census 2002)
    - ◆ Municipal fishers: 1.37 M
    - ◆ Commercial fishers: 16,497
    - ◆ Aquaculture: 226,195

# Coastal Fisheries

## ◆ Production, 2013

- ◆ Total volume: 4.7 M MT, dropped ) 0.2% from 2008, 3.28% from previous year
  - ◆ Overall stagnation and decline based on official figures; less than 1% growth annually
- ◆ Differential production trends per sector
  - ◆ Municipal: --1.28%
  - ◆ Commercial: +2.43%
  - ◆ Aquaculture: +6.63%

# Coastal Fisheries

- ◆ Differential value contribution trends per sector
  - ◆ Aquaculture sector - highest at 38%
  - ◆ Municipal sector – 33%
  - ◆ Commercial sector – lowest at 29%

# Coastal Fisheries

- ◆ Significant developments
  - ◆ Establishment of regular “closed seasons” for major fisheries areas in the South
  - ◆ Continued dissemination of coastal management good practices among local government units
  - ◆ Increasing popularity of coastal tourism



# Coastal Fisheries

- ◆ Decline in municipal fishing production, coupled with increased production in commercial fishing sector
  - ◆ Clear indicators of over-fishing, impacting on artisanal fishers sector
  - ◆ Growth in commercial fisheries production, a rush to the bottom?
- ◆ Increasing incidence of “fish-kills” in coastal, riverine, and lake areas since 2010; becoming characterized as “seasonal”
- ◆ Coastal resort residential development projects



# Notes

- ◆ Despite decline in near-shore catches, gov't continues to pursue expanding fisheries production through combination of closed seasons and promotion of aquaculture
- ◆ Impact of over-fishing and decline to first affects/intensifies against smaller, artisanal sector that comprise much larger population
  - ◆ Fisheries production overall being “re-allocated between sectors
  - ◆ Problem of distributive justice: government efforts benefit primarily the better-off commercial/aquaculture operators
- ◆ Local fisheries declines will be source of sharp social tensions in near future

# Notes

- ◆ Fish-kills indicative of declining coastal environment conditions
  - ◆ Frequency of occasional and seasonal stresses exceeding breaking points
  - ◆ Possible causes: pollution, over-exploitation (in case of aquaculture areas), eutrophication,

# Marine Environmental Protection

- ◆ Philippines is leading country in establishment of marine protected areas (MPAs), from simple “fish sanctuaries” designated by local governments in coastal waters to offshore MPAs like Tubbataha Reef Natural Park
  - ◆ 240 nationally-designated protected landscapes and seascapes as of 2012, 28 of which are seascapes & marine reserves, and many of which are coastal- or island-based
  - ◆ More than 1,620 locally-designated marine protected areas as of 2012

# Marine Environmental Protection

- ◆ No new NIPAS site designated since 2011
  - ◆ Processes for original sites; no new major national MPA since Tubbataha Reef Natural Park Act in 2009
  - ◆ Opposition to new NIPAS designations becoming apparent on land
- ◆ Local MPA management still requires much improvement, monitoring
  - ◆ Lack of consistency in implementation, capacity issues

# Notes

- ◆ 2013 Tubbataha Reef Grounding Incidents expose serious capacity challenges
  - ◆ Two successive groundings on Tubbataha Reef Natural Park in early 2013
  - ◆ Highlighted lack of long-range, offshore, rapid response capability for salvage, spills, etc.

# Notes

- ◆ Much interest in marine environmental protection, tied to two local interests
  - ◆ Tourism potential; possible alternative economic source
  - ◆ Fisheries sustainability; effects of decline
- ◆ National MPA establishment hampered by extended process; non-designation of additional sites consistent with administration's lack of priority for environment since 2010

# Shipping

- ◆ Shipping sector naturally important for the archipelago
  - ◆ Domestic fleet numbered 22,034 (totalling 2.78M GRT) as of Dec 2014
  - ◆ Overseas fleet in decline, only 116 (totalling 2.71M GRT) PH ships engaged in overseas trade
- ◆ Enactment of Philippine Coast Guard Act in 2010 intended to enhance domestic ship safety and environment protection



# Shipping

- ◆ Ship safety still a serious challenge
  - ◆ Marine casualties still occur, especially with smaller vessels of traditional design (e.g., M/B Kim Nirvana capsizing, July 2015)
  - ◆ Large carriers not immune, despite improvement in standards (e.g., collision and sinking of M/V St. Thomas Aquinas, August 2013)

# Notes

- ◆ Although maritime safety improved, persistence of problems identifiable in small- and medium-scale operators of traditional vessels plying inter-island routes
- ◆ Comparatively fewer modern companies in domestic scene
  - ◆ major players since the 1970s merged/bought out (e.g., Aboitiz sold its interests to Negros Navigation, which was bought by 2GO)
  - ◆ Shipping business not attractive for investors; low profit margins, stringent equity requirements as public utilities
  - ◆ Cabotage laws keep shipping in hands of Filipinos, but investments in shipping limited

# Petroleum Exploration & Development

- ◆ Philippines is a net energy importer, despite significant indigenous energy production
- ◆ Total energy generation, 2013: 76 Terawatt-hours; mostly generated by fossil fuels, but 11% geothermal and 21% hydropower

# Petroleum Exploration & Development

- ◆ Total primary energy consumption provided by oil (41%), coal (22%)
  - ◆ Total oil consumption 299,000 barrels per day (bbl/day), compared with production of only 26,000 bbl/day
  - ◆ Total coal consumption about 20M short tons, almost half of which is produced domestically; single source (Semirara)
  - ◆ Total natural gas production 99 billion cubic feet, all of which is consumed domestically, single platform (Malampaya) providing 30% of national power needs

# Petroleum Exploration & Development

- ◆ Offshore and inshore areas offered for petroleum exploration by Department of Energy in 2012 and 2015
  - ◆ PECR 4 resulted in award of 3 contracts, after 11 bids received for 15 contract areas offered
  - ◆ PECR 5 ongoing: only 3 bids received for 3 of 11 contract areas offered
- ◆ Since enactment of Renewable Energy Act 2008, a few coastal/ocean-based RE projects awarded
  - ◆ 8 ocean energy projects (total 31MW) on-site feasibility studies ongoing

# Notes

- ◆ SCS disputes completely halt all offshore petroleum exploration west of Palawan
  - ◆ Government declared “force majeure” on all service contracts in Western Palawan region
  - ◆ Western Palawan region lone most promising area for petroleum
- ◆ Slow pace of exploration due to continuing bureaucratic quagmire: national/local government permits/fees and other requirements
- ◆ Tañon Strait Case (Resident Marine Mammals v. Reyes et al) pose additional challenges to offshore petroleum sector

# Seafaring

- ◆ Over 367,166 Filipino seafarers recorded to have been deployed overseas in 2013, employed as officers and crew of foreign vessels
  - ◆ Number of seafarers grew 11.11% since 2009
  - ◆ Does not include seafarers who secured employment through direct-hire (i.e. not through local manning agents)
- ◆ Seafarers sector remitted more than 5.1B USD to the PH in 2014, about 25% of total foreign exchange remittances from overseas workers



# Seafaring

- ◆ European Maritime Safety Agency (EMSA) audits in 2013, 2014 threatened a possible ban on Filipino officers from serving in EU countries due to non-compliance with international standards under the Standards of Training, Certification and Watch-keeping Convention (STCW Convention), particularly requirements for:
  - ◆ quality-control standards for maritime education and training institutions, and
  - ◆ a single and accountable Maritime Administration agency with jurisdiction over seafarers' education/training and practice of profession
    - ◆ Jurisdiction fragmented across multiple agencies such as CHED, DOLE, MARINA, PRC, TESDA

# Seafaring

- ◆ Despite issuance in 2013 of EO 75 requiring inter-agency cooperation and coordination, second EMSA audit in 2013 found little improvement in the essential problems
- ◆ Hurried enactment of RA 10635, spearheaded by newly-elected seafarers' ANGKLA party-list representative, resolved much of the impasse after failure to pass second 2013 audit

# Notes

- ◆ Government intransigence on STCW compliance historically due to agencies' refusal to give up fragmented jurisdictions over seafarers
- ◆ Legislative action carried out with pivotal assistance of seafarers' partylist representative in Congress under pressure of looming ban
  - ◆ RA 10635 established MARINA as Single Maritime Administration, sole agency responsible for STCW compliance

# High Seas Fishing

- ◆ High seas fishing sector, a specialized group within commercial fishers sector
  - ◆ Relatively few high seas fishing companies operating in Western, Central and South Pacific high seas and EEZ of small island coastal states
  - ◆ PH one of the founding members of the Western and Central Pacific Fisheries Commission Convention (WCPFC); also a member of the IOTC and ICCAT
  - ◆ PH controls 625 catcher vessels (about 10% of total) operating in the WCPFC convention area
  - ◆ PH exports tuna/tuna products mostly to Japan, US, and EU

# High Seas Fishing

- ◆ In June 2014, the EC issued a warning against the PH for failing to take adequate measures to address Illegal, Unreported, and Unregulated (IUU) fishing, and threatened a ban on imports of fish/fishery products from PH
- ◆ Hurried amendment of Fisheries Code to address EU requirements enacted through RA 10654 in December 2014
- ◆ Passage of amendments sufficient to avert the trade ban; warning lifted in April 2015

# High Seas Fishing

- ◆ Legislative action on amendments to Fisheries Code prompted by looming ban and 6-month deadline
- ◆ Fisheries Code amendments limited in scope to only those relevant to IUU fishing

# Administrative Reform

- ◆ EO 57 issued in 2011 established the National Coast Watch System and the inter-agency National Coast Watch Council to take charge of PH maritime issues and maritime domain awareness
  - ◆ Originally devised by the PN to address maritime security issues in the Southern Philippines, expansion into NCWS intended to enhance maritime surveillance and law enforcement nationwide
- ◆ NCWS and NCWC non-operational until 2015
  - ◆ National Coast Watch Center inaugurated only in April 2015, with funding from the US



# Administrative Reforms

- ◆ Typhoon Haiyan (Yolanda) exposed serious flaws in disaster-risk response and management system and capabilities
  - ◆ Massive damage from winds, storm-surge with tsunami-like impacts
  - ◆ Civil defense capabilities overwhelmed
  - ◆ Activation of defense arrangements with US provided only logistics response

# Administrative Reforms

- ◆ Internal operational adjustments undertaken after Haiyan failure; resulting in more effective DRMM
  - ◆ Appointment of new Director, former PN Flag Officer in Command
  - ◆ Greater use of science-based management tools: Project NOAH
  - ◆ Attention toward maritime impacts of disasters: oil spill response, salvage

# Notes

- ◆ Government unable to implement EO 57 for several years primarily due to tug-of-war between PN and PCG over jurisdiction, assets, and functions
  - ◆ Although NCWS/NCWC was the brain-child of PN, it was unexpectedly turned over to PCG
  - ◆ Inability to agree on/issue Implementing Rules and Regulations, indicates lack of leadership on part of Executive
- ◆ DRMM reforms prompted by catastrophic failure

# General Observations

- ◆ National PH coastal/ocean management activities post-PEMSEA-SDS
  - ◆ Integrated management and capacity for coordinated management/response still elusive (fisheries decline/reallocation; petroleum exploration, marine environment protection, DRRM)
  - ◆ Lack of priority and leadership on part of Executive led to national policy deadlocks that were not effectively resolved (STCW compliance, NCWS implementation, petroleum exploration)
  - ◆ Crisis-orientation: policy-making in response to threat of international sanctions (RA 10635 for STCW compliance, RA 10654 for IUU)

# General Observations

- ◆ But on the bright side...
  - ◆ Marked increase in public awareness/consciousness about coastal/ocean activities and issues
  - ◆ Trend toward increasing localization of coastal management and marine environmental protection
  - ◆ Higher visibility of ocean use sectors esp. fishing and seafaring
    - ◆ Public policy crises given substantial press coverage

# Conclusion

- ◆ PH after PEMSEA-SDS, still much to do
- ◆ Despite initial efforts, clear danger/proof of slide-back to “business-as-usual” in coastal management: reactive, un-integrated, localized, and short-term
- ◆ National leadership clearly needed; absence of over-all “champion” (instead of sectoral champions) clearly demonstrated