



PMO Sustainable Agriculture Development Component

STATUTORY CONTEXT OF AGROFORESTRY

INTRODUCTION

Agroforestry, as a general strategy to alleviate poverty in the uplands, receives a high level of priority in the government. This is manifested by the many laws promulgated and implemented to promote agroforestry. These laws are in turn anchored on the provisions cited in the Constitution particularly on national economy. A working knowledge of these laws- would enable the facilitators- UDP staff, LGU ATs and other government entities together with the farmer beneficiaries to better appreciate the rationale, concept, objectives and institutions linked to agroforestry projects.

CONSTITUTIONAL BASIS

Under Section 21, Article II of the Constitution, the State is mandated to promote comprehensive rural development and agrarian reform. This clearly implies that all measures must be taken to improve the life of the poor upland population. One of the strategies identified to achieve this is the implementation of agroforestry (programs in the uplands).

This State policy is further strengthened by the three goals of the national economy as provided in Section 1, Article XII of the Constitution. These three goals are: (a) more equitable distribution of opportunities, income and wealth; (b) sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and (c) an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The practice of agroforestry seeks to address these three goals. By opening opportunities to the poor upland farmers to generate more income, agroforestry programs help in establishing social equity in the country. Too, the sustainable character of agroforestry, if properly practiced by the upland population, would increase the supply side in the demand-supply equation of forest goods and services not only today but also for the future generations. Further, by devoting a given upland farm to many compatible uses, the productivity of these upland farms would necessarily expand thereby improving the quality of life of the upland farmers.

RELEVANT FORESTRY LAWS ON AGROFORESTRY

A. Presidential Decree 705 as Amended (Revised Forestry Code of the Philippines)

This law governs the administration, development, use and protection of the country's public forest lands. It defined agroforestry as *sustainable management of land which increases overall production, combines agricultural crops, tree crops and forest plants and/or animals simultaneously or sequentially, and applies management practices which are compatible with the cultural patterns of the local population.*” It also prescribed the adoption of multiple-use forest management as follows:

- 1 - The numerous beneficial uses of forest lands and grazing lands shall be evaluated and weighed before allowing the utilization, exploitation, occupation, or possession thereof, or the conduct of any activity therein; and
2. Only the utilization, exploitation, occupation or possession of any forest land and grazing land, or any activity therein, involving one or more of its resources, which will produce the optimum benefits to the development and progress of the country and the public welfare, without impairment or with the least injury to its resources, shall be allowed.

This law encouraged the establishment of industrial tree plantations, tree farms and agroforestry farms as reforestation strategies, in effect supplementing the reforestation-by-administration approach. As expressed in the law, reforestation is sought to be facilitated by incorporating a business dimension to it, and in the process, motivating the private sector to do tree planting. Some of the material incentives offered by the law are:

- a. Trees and other products raised within agroforestry farms belong to the lessee. He shall have the right to sell, contract, convey or dispose the planted trees and other products in any manner he sees fit, in accordance with existing laws, rules and regulations.
- b. Discounted filing fees, rentals, and forest charges;
- c. Tax exemptions and tax credits;
- d. Free government technical assistance;
- e. Exemption from log export ban; and
- f. Assurance of market for timber produce.

B. Executive Order No. 192 dated June 10, 1987 (DENR Reorganization Act) and Executive Order No. 292 dated July 25, 1987 (Administrative Code of 1987)

These two laws created the Department of Environment and Natural Resources (DENR) which is the primary government agency responsible for the sustainable development of the country's natural resources and ecosystems. Executive Order No. 192 also defined what is sustainable development as a process of change to meet the needs of the people without lessening the potential for meeting their future needs, the needs of other societies, and those of future generations.”

The DENR as an institution developed a lofty vision as follows:

The Philippines, a country of lush forests, clear skies, and waters, and bountiful land. A strong and dynamic nation of empowered people living in dignity, at peace with each other and in harmony with nature

As the primary government agency on the natural resources sector, the DENR was established to promote the well-being of the Filipino people through;

1. Sustainable development of forest resources;
2. Optimal utilization of lands and minerals;
3. Social equity and efficiency in resource use; and
4. Effective environmental management.

And in the implementation of its mandate of ensuring sustainable development, the DENR has the following objectives;

1. Assure the availability and sustainability of the country's natural resources through judicious use and systematic restoration or replacement, whenever possible;
2. Increase the productivity of natural resources in order to meet the demands for the products from forest, mineral, land and water resources of a growing population;
3. Enhance the contribution of natural resources for achieving national economic and social development;
4. Promote equitable access to natural resources by the different sectors of the population; and
5. Conserve specific terrestrial and marine areas representative of the Philippine natural and cultural heritage for present and future generations.

Obviously, since the venue of agroforestry projects would be in the public forest lands, the DENR will be playing a major role in the success of these projects.

C. Republic Act No. 7160 doled October 10, 1991 (Local Government Code of 1991)

While the DENR remains the primary government agency responsible for the sustainable development of natural resources, the imperatives of a more effective and accountable localized governance system necessitated the devolution of specific DENR functions to the local government units. This devolution is prescribed under the Local Government Code of 1991 as follows:

1. To the municipalities- Community-Based Forest Management projects, communal forests, tree parks, solid waste disposal system or environmental management system, conservation of mangroves.
2. To the provinces- enforcement of forestry laws, pollution control laws, small scale mining.
3. To the cities — all those devolved to the municipalities and provinces.

D. Republic Act No. 7586 doted June 1, 1992 (NIPAS Act)

This law established the National Integrated Protected Areas System (NIPAS) which set the classification and administration of all designated protected areas in the country to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain the natural conditions to the greatest extent possible. These protected areas are categorized as:

- strict nature reserve
- natural park
- natural monument
- wildlife sanctuary
- protected landscapes and seascapes
- resource reserve
- natural biotic areas
- other categories established by law, conventions or international agreements which the Philippine Government is a signatory

Since the general policy is to preserve the forest resources inside these protected areas, the immediate concern is how to enable the people inside to survive. This concern is addressed by allowing the upland farmers to engage in income-generating activities in specified areas in the buffer zones of the protected areas. The most commonly practiced income-generating activity is agroforestry taking into consideration the social, economic, and ecological factors availing inside the human populations inside protected areas,

E. Executive Order 263 dated July 19, 1995

This executive issuance mandated the adoption, of Community Based Forest Management (CBFM) as the national strategy for the sustainable development of the country's forestlands. It has the following basic features:

1. Integrated and unified all people-oriented forestry programs.
2. Defined CBFM as organized efforts of DENR to work with communities in and near public forest lands with intent to protect, rehabilitate, conserve and utilize the resources.
3. Objectives at the CBFM are to:
 - (a) *protect and advance the rights of Filipino people to a healthful environment;*
 - (b) *improve their socioeconomic conditions through promotion of social justice, equitable access to and sustainable development of fares to land resources; and*
 - (c) *respect the rights of indigenous people to their ancestral domain.*
4. Advocated the paradigm shift on DENR general approach to sustainable development.
5. Uses three tenurial instruments for CBFM forest lands management, namely:
 - *Certificate of Ancestral Domain Claim/Certificate of Ancestral Land Claim (CADC/CALC)*
 - *Community Based Forest Management Agreement (CBFMA)*
 - *Certificate of Stewardship Contract (CSC)*

6. Defined CBFMA as a production sharing agreement which grants to the participating community the privilege to benefit from the sustainable utilization, management and conservation of forest resources. The production sharing scheme is:
 - People's Organization- 75%;
 - Government 12.5 %; and
 - CBFM Fund 12.5 %, of the net income generated from the CBFM area.

F. Republic Act No. 8371 dated October 29, 1997 (The Indigenous People Rights Act of 1997)

This law is a culmination of more than ten years of legislative work. It seeks to put into motion the Constitutional provision for the State to recognize and promote the rights of the indigenous cultural communities/ indigenous peoples to their ancestral domains and ancestral lands. It defined the following terms;

1. **Ancestral Domains** — all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resource therein, held under a claim of ownership, occupied or possessed since time immemorial.
2. **Ancestral Lands** — land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial.
3. **Free and Prior Informed Consent** — consensus of all members of the ICCs/IPs to be determined in accordance with their customary laws and practices, true from any external manipulation, interference and coercion.
4. **ICCs/IPs** - group of people or homogenous societies identified by self-asciption and ascription by others, who have continuously lived as organized community on communally bounded and defined territory.
5. **Time Immemorial** - period when as far back as memory can go, certain ICCs/IPs are known to have occupied, possessed and utilized a defined territory devolved to them.

This law also articulated some indigenous concepts relating to land. The concept of ancestral lands/domains covers not only the physical environment but the total environment including the spiritual and cultural bonds to the areas. There is also a concept of land ownership different from what lowlanders have. The indigenous concept of ownership holds that ancestral domains are community property which belongs to all generations. It covers sustainable traditional resource rights.

There are numerous specific rights recognized by the law on ICCs/IPs. These include;

1. **Rights to Ancestral Domains.** These are all-encompassing set of rights of the ICCs/IPs. The law enumerated the components of these rights as follows;
 - Right of Ownership
 - Right to Develop Lands and Natural Resources
 - Right to Stay in the Territories
 - Right in Case of Displacement
 - Right to Regulate Entry of Migrants
 - Right to Safe and Clean Air and Water
 - Right to Claim Parts of Reservations
 - Right to Resolve Conflicts

2. Rights to Ancestral Lands. The components of these rights are;

- Right to transfer land/property
- Right to redemption

3. Rights to Self-Governance and Empowerment. This set of rights accepts the uniqueness of governance system being applied by the indigenous peoples. Included in these rights are the following components;

- Right to self-governance and self-determination
- Right to use their own commonly accepted justice systems Right to participate in decision-making
- Right to determine and decide priorities for development

On top of it all, the indigenous peoples enjoy superior rights on the natural resources within ancestral domains. The law provides that ICCs/IPs shall have priority rights in the harvesting, extraction, and development or exploitation of any natural resources within the ancestral domains.

The law, however, explicitly enumerated three principal responsibilities of the ICCs/IPs. These are:

- (a) *to maintain ecological balance;*
- (b) *to restore denuded areas; and*
- (c) *to observe laws.*

Obviously, these responsibilities are time-honored practices of the indigenous peoples which is the reason why their indigenous forest conservation practices are accepted as very appropriate.

The government agency tasked to implement this law is the National Commission on Indigenous Cultural Communities/Indigenous People (NCIP). It is the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the right and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as the right thereto.

G. DENR Administrative Order No. 96-29 dated October 10, 1996 (Rules and Regulations for the Implementation of EO 263)

This administrative issuance implements the national strategy for the sustainable development of the country's forest lands -- the CBFM Program. The program covers; (a) all areas classified as forestlands including allowable zones within protected areas, subject to prior vested rights; and (b) ICCs/IPs whose claims to ancestral domains/ lands have been recognized through CADCs or CALCs may participate through the preparation of their Ancestral Domain Management Plans (ADMPs).

The qualified participants are the local communities represented by their POs whose members shall be:

- Filipino citizens; and,
- Actually tilling portions of the area to be awarded, traditionally using the resource for all or substantial portion of their livelihood, or actually residing within or adjacent to the areas to be awarded.

The program offers incentives to people's organizations (POs) which will participate in the program. These incentives hopefully will motivate more POs to join;

1. Usufructuary rights. The POs are entitled to occupy, possess, utilize and develop the forestlands and its resources within the designated CBFMA areas and claim ownership of introduced improvements.
2. The POs have the authority to allocate to members and enforce rights to use and sustainably manage forestlands resources within the CBFMA area.
3. POs are exempted from paying rent for use of the CBFMA area. They are also exempted from paying forest charges on timber and non-timber products harvested from plantations
4. Participating POs have the right to be properly informed of and consulted on all government projects to be implemented in the areas. A PO's consent shall also be secured by the DENR prior to the granting and/or renewal of contracts, leases and permits for the extraction and utilization of natural resources within the area, provided that an equitable sharing agreement shall be reached with the PO.
5. Participating POs will be given preferential access by the DENR to all available assistance in the development and implementation of the Community Resources Management Framework (CRMF), Resources Utilization Plan (RUP), and Annual Work Plan (AWP).
6. The POs are entitled to receive all income and proceeds from the sustainable utilization of forest resources within the CBFMA area.
7. Participating POs are also authorized to enter into agreement or contracts with private or government entities for the development of the whole or portions of the CBFMA area, provided that public bidding and transparent contracting procedures are followed.

To ensure the sustainability of the CBFM project, the POs are required to:

- a. Participate in site identification, selection and boundary delineation;
- b. Designate areas according to their sustainable use and, in accordance with their native customs, traditions, and practices, allocate and enforce natural resource rights in accordance with national laws, rules and regulations;

- c. Prepare and implement CRMFs, RUPs and AWP for the area;
 - d. Develop and implement equitable benefit-sharing arrangements among its members;
 - e. Protect, rehabilitate and conserve the natural resources in the CBFMA area and assist government in the protection of adjacent forest lands;
 - f. Develop and enforce policies pertaining to the rights and responsibilities of PG members and the accountability of the PO leaders;
8. Develop equitable mechanisms for addressing conflicts, including rules, regulations and sanctions regarding forest use and protection;
 9. Be transparent and promote participatory management and consensus building; and
 10. Pay forest charges, other than those on timber and non-timber products harvested from CBFMA plantations as well as fees and other taxes required by the government

The issue of security of tenure of the upland farmers is formally settled through the issuance of three kinds of tenurial instruments, namely:

- a. **CBFMA** - a production agreement between the DENR and POs, good for 25 years renewable for another 25 years which provide tenurial security and incentives to the PO members.
- b. **CSC** - a contract between the DENR and upland farmer good for 25 years renewable for another 25 years, awarded to individuals or families actually occupying or tilling portions of forest lands pursuant to LOI 1 260, to be issued only within established CBFM project areas.
- c. **CADC-CBFMA and CALC-CBFMA** - for ICCs and POs who opt to enter into a CBFMA over the portions of the ancestral domains or ancestral lands.

SUMMARY

Agroforestry, as practiced in the Philippines, enjoys generous statutory basis. One important reason is that the country's natural resources, including the forest lands of the public domain, are State-owned. Being such, the State exercises supervision and control over the development of these forest lands which is manifested through the issuance of various policies for implementation. Another valid reason is the potential of agroforestry in enabling the government attain its three goals of the national economy, especially its flagship program of alleviating poverty among the poor Filipinos.

REFERENCES

1. DENR Administrative Order No. 96-29 dated October 10, 1996 (Rules and Regulations for the Implementation of EQ 263)
2. Executive Order No. 192 dated June 10, 1987 (Reorganization Act of the DENR)
3. Executive Order No. 292 dated July 25, 1987 (Administrative Code of 1987)
4. Executive Order No. 263 dated July 19, 1995 (Adopted CBFM as national strategy for sustainable development of the country's forestlands)
5. Presidential Decree No. 705 dated May 19, 1975 as amended (Revised Forestry Code of the Philippines)
6. Republic Act No. 7160 dated October 10, 1991 (Local Government Code of 1991)
7. Republic Act No. 7586 dated June 1, 1992 (NIPAS Act)
8. Republic Act No. 8371 dated October 29, 1997 (IPRA Law)
9. The 1987 Philippine Constitution