

Agrarian reform and rural development in a post-CARPER scenario: From the perspective of civil society

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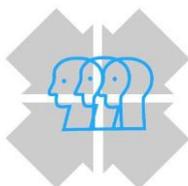
Kaisahan tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan (KAISAHAN)

The People's Campaign for Agrarian Reform Network, Inc. (AR Now!)



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About the document

This position paper was developed under the National Engagement Strategy (NES) of the International Land Coalition (ILC) in the Philippines. The NES is the Coalition's framework in working with land issues and serves as a national plan for engaging farmer groups, civil societies and other stakeholders in advancing land rights across all sectors in the society. The Coalition members (ANGOC, CARRD, JJCICSI, KAISAHAN and AR Now!) went through a series of workshops and discussions to identify issues and challenges on agrarian reform and rural development and to provide recommendations to the Government and other stakeholders on related policy directions and actions. This culminated in the conduct of a round table discussion with agrarian reform and rural development experts from the Government and private sector. The discussion was also attended by other coalition partners, civil society organizations, farmer paralegals and representatives of ARB cooperatives.

This paper will thus serve as basis for developing a CSO-led draft policy on agrarian reform and rural development, which will be submitted to the new administration after the 2016 election period. It is important to note, however, that the paper only covers issues that directly affect the sector of agrarian reform beneficiaries and smallholder farmers.

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Acronyms and abbreviations

A&D	Alienable and disposable
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
APCP	Agricultural Production Credit Program
APPC	Asia Pacific Policy Center
AR Now!	The People's Campaign for Agrarian Reform Network
ARB	Agrarian reform beneficiary
ARBO	Agrarian reform beneficiary organization
ARC	Agrarian reform community
ARMM	Autonomous Region of Muslim Mindanao
AVA	Agribusiness venture arrangement
BARC	Barangay Agrarian Reform Council
CADT	Certificate of Ancestral Domain Title
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension with Reforms
CARRD	Center for Agrarian Reform and Rural Development
CFS	Committee on World Food Security
CLOA	Certificate of Land Ownership Award
CPAR	Congress for a People's Agrarian Reform
CSO	Civil society organization
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian reform Adjudication Board
DENR	Department of Environment and Natural Resources
EO	Executive Order
FAO	Food and Agriculture Organization of the United Nations
HB	House Bill
ILC	International Land Coalition
IP	Indigenous people
JAO	Joint Administrative Order
JJCICSI	John J. Carroll Institute on Church and Social Issues
KAISAHAN	Kaisahan tungo sa Kaunlarang ng Kanayunan at Repormang Pansakahan
LAD	Land acquisition and distribution
LBP	Land Bank of the Philippines
LBRMO	Legislative Budget Research and Monitoring Office
LGU	Local Government Unit
LMS-DENR	Land Management Service of the Department of Environment and Natural Resources
LRA	Land Registration Authority
MDG	Millennium Development Goal
NCIP	National Commission on Indigenous Peoples
NES	National Engagement Strategy
NLUA	National Land Use Act
NOC	Notice of Coverage
NSCB	National Statistics Coordinating Board
OLT	Operation Land Transfer
PAFID	Philippine Association for Intercultural Development
PARC	Presidential Agrarian Reform Council
PBD	Program Beneficiaries' Development
RA	Republic Act
VGGT	Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security



Comprehensive Agrarian Reform Program (CARP)

Under Republic Act (RA) 9700, the Government was tasked to complete all land acquisition and distribution targets for agrarian reform by 30 June 2014. However, there remains more than 600 000 hectares of agricultural land undistributed and a number of agrarian related cases are still pending in various judicial and quasi-judicial courts. There is also a need to ensure that agrarian reform beneficiaries (ARBs) will continue to till their land productively, by providing them with access to appropriate and timely support services such as credit, infrastructure and extension activities. This paper is therefore crafted in an effort to push for more sustainable reforms in a post-RA 9700 scenario.

Land is the main driver of economic development in the rural areas. As an economic resource – access, ownership and control over land is a fundamental right of all men and women. With proper State interventions to secure property rights, smallholder farmers – including women, indigenous peoples and children-headed households, will have the opportunity to achieve food security and overcome poverty. Thus, rural development rests on the State's capacity to redistribute its resources to the marginalized, and provide viable opportunities by which these resources can be sustained.

As stated, 30 June 2014 marked the Government's deadline to issue Notices of Coverage (NOCs) in all agrarian reform areas in the country. The deadline, however, does not indicate the end of agrarian reform implementation. This is expounded by the Department of Justice Opinion 59 and 60 of 2013: "The 30 June 2014 deadline indicated in RA 9700 is merely directory and not mandatory, as it simply emphasized the importance and urgency of the implementation of the Comprehensive Agrarian Reform Program (CARP), ideally within the time frame provided." Furthermore, Article XIII of the 1987 Constitution guarantees just distribution of agricultural land,¹ support to agriculture,² and resettlement of farmers and farm workers in the State's agricultural estates.³ This only means that the deadline of the centrepiece legislation only signifies an opportunity for the State to address the challenges in the past years, identify good practices and formulate measures, under which the gains of the agrarian reform programme can be protected and multiplied.

This paper works on the assumption that sustainable rural development rests on smallholders' access, ownership and control of productive resources. It is on this assumption that by distributing agricultural lands to landless farmers, farm workers and tenants; and providing them with appropriate and sufficient support services to address their economic viability, inclusive development in the agriculture sector will be achieved. Hence, it must be emphasized that the foundation of a sound rural development framework is based – first and foremost to the completion of land distribution targets and security of tenure of smallholders.

¹ Section 4

² Section 5

³ Section 6



Agrarian Reform Accomplishments

CARP is a banner program of the Corason Aquino administration after the 1986 EDSA uprising. It was an articulation of an earlier promise made by the then campaigning Corason Aquino to make land reform a governance centrepiece of a new republic. At this time, at least 56 percent of households were dependent on agriculture⁴ – a significant percentage of which were landless sugarcane farm workers employed in *haciendas* all over the country. Because the Marcos administration's Operation Land Transfer (OLT) only distributed tenanted rice and corn lands, many haciendas and plantation farms went untouched and undivided during the Marcos era.

In 1988, the Comprehensive Agrarian Reform Law (CARL) or RA 6657 was passed, amidst protests from the landlord-dominated members of the House of Representatives. Given the immense pressure from the landlord bloc and peasants' groups, the CARL was deemed as a compromise legislative measure for land redistribution. Thus, while a landmark legislation would have secured land access to a reasonable portion of landless farmers' population, the implementation of the law was riddled with gaps and challenges – some of which were because of the law's "compromise provisions."

The passage of CARP was also heavily influenced by farmers and peasant groups pushing for a more encompassing agrarian reform program in the country. In 1987, 15 national federations of peasant movements and 15 non-government organizations organized the Congress for a People's Agrarian Reform (CPAR). CPAR is the most comprehensive campaign platform for agrarian reform to-date.

In 1998, the Congress enacted RA 8532, which strengthened CARP implementation and provided an additional PHP 50 billion for the program. On 2009, CARL was again amended by RA 9700, popularly known as Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) to complete land acquisition and distribution (LAD) targets by 30 June 2014 and intensify provision of support services to ARBs. CARPER also included other landmark provisions that were not included in RA 6657.

From 1987 to 2013, DAR was able to distribute more than 8.2 million hectares of land to more than 5.4 million ARBs nationwide.⁵ This includes more than 3.7 million hectares of land distributed by the Department of Environment and Natural Resources (DENR) to more than 2.4 million ARBs. Of the DAR distributed lands, more than 2.1 million hectares were collectively-titled. This has been reduced to more than 800 000 ha to-date. The individualization of collective CLOAs is deemed as necessary to "stabilize" land rights of farmer-beneficiaries.

Under CARP, DENR is tasked to distribute public alienable and disposable (A&D) lands. This translates to 89.93 percent accomplishment rate of the Government for both public and private agricultural lands based on original CARP scope. This, however, leaves 694 784 hectares of land undistributed as of December 2014.⁶

⁴ Lanfer, V.V.A. (2006), *The Philippine Agrarian Reform and their Impact to Rural Households*

⁵ Legislative Budget Research and Monitoring Office (LBRMO) (2014), *25 Years of CARP*, at [https://www.senate.gov.ph/publications/LBRMO%20July%202014%20-%2025%20YEARS_CARP\(final\)%20PDF.pdf](https://www.senate.gov.ph/publications/LBRMO%20July%202014%20-%2025%20YEARS_CARP(final)%20PDF.pdf)

⁶ LAD statistics based on report of DAR Secretary Virgilio de los Reyes on the status and prospects of Philippine Agrarian Reform, 9 September 2015



In a round table discussion with civil society organizations on the prospects of agrarian reform and rural development, DAR Secretary Virgilio de los Reyes reported that under the Program Beneficiaries' Development (PBD) component of CARP, DAR has reportedly launched 2,202 agrarian reform communities (ARCs), covering more than 1.4 million ARBs nationwide. These ARCs belong to 1,287 municipalities and 9,672 barangays. In terms of organizations supported, DAR reportedly assisted 6 601 ARB organizations through agri-enterprise development, production credit and agricultural insurance. In addition, DAR has said to have released agricultural production credit support (APCP) amounting to more than 900 million pesos, which benefited 335 ARB organizations (ARBOs) covering 15,367 ARBs. DAR has likewise successfully piloted an operational consolidation of small farms into sugarcane block farms. This led to at most 40 percent increase in cane yield and improved incomes for participating ARBOs.

Accomplishments under the Aquino Administration

According to Secretary Virgilio de los Reyes, DAR worked on a more realistic and systems-based framework for accomplishing its LAD targets by: (1) reviewing and updating of claim folders⁷; (2) improving and regular updating of LAD database; and (3) setting up of a web-based system to allow DAR field offices to provide information to the regional and central office of DAR on the status of landholdings more efficiently. De los Reyes further noted that DAR has improved coordination with the Land Management Service of the Department of Environment and Natural Resources (LMS-DENR), Land Bank of the Philippines (LBP) and Land Registration Authority (LRA) to address land management problems related to the acquisition and distribution of agricultural lands. In the area of support services provision, DAR has adopted a "more focused and integrated approach,"⁸ through strengthening farmers' organizations (by providing equipment grants and professional services, including agri-extension and business development services); improving access to credit and agricultural insurance for ARB organizations; and providing rural infrastructure to complement promotion of smallholder production. Other reported initiatives included validation and analysis of past DAR accomplishments and addressing residual tasks and other second generation issues that have sprung from past LAD efforts.

DAR also claims to distribute the 4,200-hectare Hacienda Luisita to qualified farm workers. Because Hacienda Luisita was owned by the President's family and had largely escaped distribution in the past administrations, the acquisition and distribution of the Hacienda was perceived as a milestone for Philippine agrarian reform. The Aquino administration also claims to have resolved controversial agrarian cases like the Teves property and Hacienda Bacan in 2011 and Polo Plantation in 2012.

In spite of these reported achievements, there are still a lot of issues and challenges that must be addressed. There is a need to define ways forward for the completion of the LAD component of agrarian reform, particularly in the context of securing property rights among ARBs. Emphasis should also be made for lands already distributed, but which needs support on pending agrarian cases in judicial and quasi-judicial courts and continuous timely and appropriate support services.

⁷ Claim folders contain pertinent documents in relation to a landholding's coverage under CARP. This includes (but is not limited to) notice of coverage, landholding profile and valuation summary.

⁸ Based on report of DAR Secretary Virgilio de los Reyes on the status and prospects of Philippine Agrarian Reform, 9 September 2015



Issues, challenges and considerations

ISSUE NO. 1: CARP areas that have not been issued with NOCs before 30 June 2014

The government stopped the issuance of NOCs on 30 June 2014. According to DAR data, as of April 2015, there are 15,588 landholdings, covering more than 166,000 hectares that have not been issued with NOC (see Table 1). This does not cover the reported 697,784 hectares⁹ left for acquisition and distribution and does not include lands without NOCs but with pending petitions for coverage and other CARP implementation related cases.

Table 1. Number of CARPable landholdings and area (in hectares) that have not been issued with NOC¹⁰

Region	Number of landholdings	Area covered (in hectares)
CAR	29	317.842
Region I	78	177.794
Region II	329	2,615.652
Region III	436	6,029.909
Region IV-A	432	4,613.235
Region IV-B	41	379.136
Region V	1,634	14,698.008
Region VI	8,478	101,196.915
Region VII	413	4,083.732
Region VIII	268	1,830.771
Region IX	167	2,358.486
Region X	1,620	14,309.257
Region XI	148	2,539.944
Region XII	661	6,217.555
Caraga	854	4,925.401
Total	15,588	166,293.637

PROPOSED WAY FORWARD: Pass House Bill (HB) 4296

To address these gaps, HB 4296, "An act mandating the completion of the LAD component of CARP pursuant to RA 6657, otherwise known as the Comprehensive Agrarian Reform Law, as amended" was pending in the House of Representatives. HB 4296 seeks to amend section 30 of RA 9700 to continue providing NOCs to CARPable areas, after 30 June 2014. Nonetheless, the proposed bill continues to uphold that "any case and/or proceeding involving the implementation of the provisions of RA 6657 as amended, which may remain pending on 30 June 2014 shall be

⁹ Based on report of DAR Secretary Virgilio de los Reyes on *The status and prospects of Philippine agrarian reform*, 9 September 2015

¹⁰ DAR (2015), *LHS without NOC as of April*, Consolidated from <http://www.dar.gov.ph/landholdings-without-noc-as-of-april-2015?start=15060>



allowed to proceed to its finality and be executed even beyond such date." The proposed amendment therefore ensures that all CARP-eligible lands will be processed and distributed to farmer-beneficiaries.

The proposed amendment also includes the coverage of public lands under CARP even after 30 June 2014, namely: "(a) lands classified as alienable and disposable, which are suitable for agriculture but are not in the CARP coverage as of 30 June 2014; (b) lands declared as alienable and disposable, which are suitable for agriculture after 30 June 2014; and (c) government lands that are reserved for military or educational purposes but which are no longer actually, directly, and exclusively used and found to be necessary for their intended purposes in relation to Executive Order (EO) 448 and EO 407."¹¹ While President Benigno Aquino III certified the bill as "urgent," on 26 May 2014 and has been passed in the Senate;¹² the bill remains "stuck in the House Committee on Rules" of the House of Representatives.

ISSUE NO. 2: Landowner resistance

Landowners tend to stall the process of CARP coverage to prevent ARBs from physically occupying the land. This is especially true for areas covered under Compulsory Acquisition. Landowners often refuse land valuation, file cases against DAR personnel and/or farmers and resort to legal (or at certain times extralegal) measures to prevent complete CARP coverage. According to the Senate's LBRMO, most of the remaining CARP lands for distribution are reportedly consisting of big private agricultural landholdings, "which are more difficult to distribute because of strong resistance from landowners."¹³ As a result, farmers suffer from lost income opportunities when they fail to physically occupy their land and as they shoulder the cost of judicial and quasi-judicial proceedings that often drag for years.

PROPOSED WAYS FORWARD:

- 1. Clarify legal measures that land owners often use to circumvent the provisions of CARP:** This includes emphasizing that DAR has the primary jurisdiction over all matters involving the implementation of agrarian reform¹⁴ and that no court in the Philippines shall have the jurisdiction to issue any restraining order or writ of preliminary injunction against the Presidential Agrarian Reform Council (PARC) in any case involving the application, implementation, enforcement or interpretation of the agrarian reform law.¹⁵
- 2. Emphasize that DAR has the sole authority to reclassify or convert the land and its disposition¹⁶:** Some landowners attempt to convert their land into other uses to exempt their landholding from CARP. Often, this is made by invoking the right of local government units (LGUs) under the Local Government Code (RA 7160) to reclassify agricultural lands. It must be emphasized that under Section 20 of RA 7160, this authority does not apply to agricultural lands covered by CARP.

¹¹ Sec 3, House Bill 426

¹² Ranada, P, 2014, *Aquino to Congress: Extend Agrarian Reform Deadline*, at <http://www.rappler.com/nation/60318-aquino-senate-house-extend-agrarian-reform-deadline>

¹³ Legislative Budget Research and Monitoring Office (LBRMO) (2014), *25 Years of CARP*, at [https://www.senate.gov.ph/publications/LBRMO%20July%202014%20-%202025%20YEARS%20CARP\(final\)%20PDF.pdf](https://www.senate.gov.ph/publications/LBRMO%20July%202014%20-%202025%20YEARS%20CARP(final)%20PDF.pdf)

¹⁴ Section 50, RA 6657

¹⁵ Section 55, RA 6657

¹⁶ Section 65, RA 9700



- 3. Support and maintain grassroots initiatives in conflict resolution:** Providing support to paralegal formation and development through alternative modes of conflict resolution can fast track and improve current mediation practices. There is also a need to provide recognition on the role of paralegals in representing ARBs in quasi-judicial proceedings. This can be achieved by capacitating farmer-paralegals and the Barangay Agrarian Reform Council (BARC) in various aspects of mediation and dispute resolution.

ISSUE NO. 3: Conflicting claims resulting from informal land transfers, policy gaps, disaggregated landholdings by a single landowner, and conflicting land use

Conflicting claims is a result of gaps between existing laws in the country. In a discussion paper on Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security (VGGT) and national policies on governance of land tenure, Quizon and Pagsanghan highlighted how sectoral and landscape approaches to the governance of tenure lead to fragmentation and conflict of policies, overlapping boundaries and functional overlaps among agencies.¹⁷ This is worsened by conflicting provisions in land ownership (i.e., in cases of inheritance where Civil Code provisions differ from the provisions of CARP and CARPER).

Landowners also manage to circumvent the law through asserting retention limits for each parcel of land that they own. CARPER provides for a retention limit of five hectares for landholdings covered by the agrarian reform program. In addition, the law also allows each direct descendant of a landowner (but who must be physically tilling the land) to own three hectares of land as a form of inheritance. However, in the absence of a sound database on land ownership in the country, landowners may disaggregate their landholding, reflect them as separate properties and obtain more retention areas than the prescribed five-hectare limit.

Some landowners also subdivide their landholding to several dummy or heirs to decrease the size of land that can be covered by CARP.

Poor coordination between Government agencies also resulted in conflicts between sectors with reasonable claims over the land. According to the Philippine Association for Intercultural Development (PAFID), ancestral domains in several localities in the Philippines were also covered by CARP, which then resulted in conflicting land claims between indigenous groups and local farmers. There is also an overlap in the areas identified by Presidential Proclamation 2282 and the areas identified as Ancestral Domain. This is even worsened by approval of economic concessions, mining licenses and infrastructure projects that undermine the traditional occupation of indigenous communities.¹⁸ In a participatory mapping project spearheaded by PAFID, approved mine tenements virtually overlay ancestral domains; and farms were developed in sacred indigenous peoples' (IP) grounds. According to PAFID, these are because of outdated data sources, lack of access, equity and participation of key sectors in local land use planning and poor quality and range of data available for mapping activities.¹⁹

Conflicting claims were also caused by inadequate and inappropriate provision of support services, which often force ARBs to resort to informal transfers of parcels of land awarded to them. Arguments for economies of scale

¹⁷ Quizon, A. & Pagsanghan, J. (2014), *Review of Selected Land Laws and Governance of Tenure in the Philippines*, Accessed at http://enrdph.org/wp-content/uploads/2014/06/VGGT-and-Phil-Laws_Draft-7.pdf

¹⁸ Feiring, B. (2013), *Indigenous peoples' rights to lands, territories and resources*

¹⁹ Based on report of PAFID Executive Director Dave de Vera on *Ways forward to address conflicting land claims in the Philippines*, 9 September 2015



often blame small-scale farming for the reduced efficiencies of farms. However, several studies have already pointed out that difficulties in the transition from large-scale to small-scale and more equitable ownership are due to inadequate policy measures that would integrate smallholders into markets and strengthen rural off-farm employment.

While there were undoubtedly good intentions in the devolution of agricultural services to LGUs, political realities in the country often result to arbitrary decisions in providing agricultural support. Patronage politics cause inequitable distribution of resources and parochial interests were oftentimes prioritized over the actual needs of the communities. Hence, while some communities have more farm to market roads than they need, some still do not have the necessary infrastructure to support livelihood activities in the community and household levels.

PROPOSED WAYS FORWARD:

- 1. Make provision of support services needs-based and locality-specific:** Farmers and farm workers are among the poorest, most food insecure and vulnerable segment of the rural population. Strategies in support services must therefore be focused on integrating smallholders to mainstream and niche markets and must be based on local needs and conditions. There is also a need to work towards a more equitable distribution of productive resources, provision of access to capital and employment opportunities for off-farm and other value-adding activities. In developing locality-specific interventions, it is important to improve capacities of government extension workers and institutionalize farm system assessment, monitoring and evaluation in local government offices. A review of DA's devolved functions may also be necessary so that objective and equitable measures for providing agricultural support to local communities are in place.
- 2. Repeal Joint Administrative Order (JAO) 1, series of 2012:** JAO 1, series of 2012 was supposed to be a strategy for "clarifying, restating and interfacing the respective jurisdictions, policies, programs and projects of DAR, DENR, LRA and the National Commission on Indigenous Peoples (NCIP) in order to address jurisdictional and operational issues between and among the agencies." The JAO was originally envisaged to allow agencies to work together to resolve conflicting claims between tenure instruments and systems.

However, the JAO only created bottlenecks in the implementation of land laws. The JAO suspended the issuance of Certificate of Land Ownership Awards (CLOA), Certificate of Ancestral Domain Title (CADT) by NCIP, processing/ issuance of patents by DENR and registration of titles by LRA over identified contentious areas.²⁰ Because there is no clear framework on how the different tenure rights can be protected in cases of conflicting claims, the suspension drags on.

It is therefore imperative for the Government to repeal the JAO and focused on the development of long-term solutions to address the issues.

- 3. Pass the National Land Use Act (NLUA):** A legislation that merely extends the implementation of the existing agrarian reform program will not address the challenges posed by conflicting land claims. The passage of NLUA will be instrumental in creating a national framework plan for land use and address the improper use of

²⁰ Sec. 21, JAO 1, Series of 2012



land resources and poor land management. The NLUA will also provide a centralized paradigm for classifying land and will unify sectoral approaches to tenure rights.

- 4. Engage stakeholders involved in cross-sectoral land issues:** There is a need for extensive consultations among Civil Society Organizations, LGUs, national agencies and line agencies to plan for ways to address cross-sectoral land issues. Integrating these concerns will provide for a good starting framework for the founding of new institution/s.
- 5. Adhere to the Bathurst Declaration²¹:** The Bathurst Declaration contains an action agenda from developed and developing countries, the World Banks and the United Nations. Adherence to the Declaration would mean that the Government will adopt user-driven land administration systems; inexpensive and locally-accessible dispute resolution mechanisms (for conflicting land claims); modern information technology to capacitate the public in engaging with land administration processes; and multi-stakeholder monitoring systems to look at quality of access to land and information.

ISSUE NO. 4: Distorted accomplishment reports on LAD

The reported accomplishment rate of the Government tends to be overestimated, since the information is based on the number of CLOA generated over a given period. Because there are still a number of steps that have to be completed after the generation of CLOA (such as the installation of ARBs so they can physically occupy the land), the accomplishment reports do not accurately depict the LAD situation in the country. In addition, there is also a lack of monitoring system that can ensure accuracy of land reform targets. A study conducted by PAFID on land surveys for purposes of CLOA generation showed that coordinates do not always match with the actual location of the land awarded to ARBs. This has resulted in conflicting claims and inaccurate documentation of geographic locations of agrarian reform lands. This is also true in IP lands.

The absence of this monitoring system also poses a question on the validity of the data and targets of agrarian reform. In cases where CLOA recipients have not been installed, the report of these accomplishments is overestimated. Poor land records because of inaccurate mapping and land survey result to overlapping land titles and multiple entries or registrations. According to a study of the USAID, these inconsistencies allowed easier conversion of lands to housing, commercial and industrial purposes.²²

PROPOSED WAYS FORWARD

- 1. Develop a comprehensive land database:** A comprehensive land database can help address problems on missing titles, subdivide collective CLOAs and other second generation conflicts arising from multiple claims, and provide a sound information system on the actual targets and accomplishments under CARP and in the implementation of other land laws.

²¹ The declaration is a product of the joint United Nations and International Federation of Surveyors Bathurst Workshop on Land Tenure and Cadastral Infrastructures for Sustainable Development held at New South Wales, Australia on 18-22 October 1999. Copy of the declaration can be accessed at <http://www.fig.net/resources/publications/figpub/pub21/figpub21.asp>

²² USAID (2011), *Philippines: property rights and resource governance*



2. **Pass HB 4375:** HB 4375 seeks to “create an independent commission with legal powers of subpoena and of contempt... to review the actual accomplishments of CARP/CARPER and to investigate circumventions and violations of the law and cause these lands to be compulsorily acquired and distributed to qualified beneficiaries.” The creation of an agrarian reform commission will address issues on distorted targets and will identify potential measures on how challenges in agrarian reform implementation can be addressed.

ISSUE NO. 5: Agrarian conflicts and second generation issues brought by the issuance of collective CLOA

In an effort to fast track the distribution of lands, collective CLOAs were issued in the past administrations, which only resulted in second generation issues of inheritance, subdivision and boundary disputes. As of March 2013, DAR still has to parcelize 1 213 441 hectares of collective CLOA-issued landholdings.²³ Collective CLOAs have been a source of many squabbles with ARB organizations and the non-payment of land amortization due to unclear equity rights.

Agrarian conflicts also tend to distort the implementation of land acquisition and distribution. In a study commissioned by CARRD in 2011, farmers who are not physically tilling the land awarded to them suffer from loss of income opportunity and have worse economic conditions than farmer-tenants. Conflicts also tend to provide poor security for ARBs and prevent them from planning for long-term prospects for their landholdings. According to the Department of Agrarian Reform Adjudication Board (DARAB), number of pending agrarian cases for year 2012 alone covers a magnitude of 266 000 hectares or 122 000 ARBs.

PROPOSED WAYS FORWARD:

1. **Support and maintain grassroots initiatives in conflict resolution:** Providing support to paralegal formation and development through alternative modes of conflict resolution can fast track and improve current mediation practices. There is also a need to provide recognition on the role of paralegals in representing ARBs in quasi-judicial proceedings. This can be achieved by capacitating farmer-paralegals and the BARC in various aspects of mediation and dispute resolution.
2. **Address procedural and structural gaps in the individualization of collective CLOAs:** Delays in subdividing collective CLOAs may be caused by gaps in policies (at the national level) and implementation thereof in local CARP implementing agencies. There is therefore a need for further study to identify these gaps and their causes and seek for measures to address them.

²³CARRD (2014), *Exploring institutional arrangements in a post-CARPER scenario*.



ISSUE NO. 6: Questions on succession to ARB lands and Agribusiness Venture Agreements (AVAs)

According to former Presidential Assistant for Food Security and Agricultural Modernization Francis Pangilinan, 57 years is the average age of Filipino farmers. This is a result of the youth's waning interest to engage in farming because of perceived hardships and of the presence of other "better" opportunities. Data from the National Statistics Coordinating Board (NSCB) shows that farmers and fisher folks remain among the most marginalized segments of population. This information only supports the notion on the economic difficulties associated with farming. The absence of second-liner successors of farm lands therefore poses a threat – not only to smallholder property rights, but to the nation's agriculture and food security in general.

AVAs could have supported business development of ARB farms and provided the younger generation with more attractive prospects on agricultural production if properly carried out. AVAs allow ARBs to enter into agribusiness arrangements like leasebacks, growership and contract growing, often with large-scale businesses. In some instances, this meant that the smallholders virtually lose control over their lands. The purpose of LAD then becomes defeated as the arrangement brings back the unfair landowner-tenant relationships, with the smallholders often on the losing end.

While some experts argue that under the principle of economies of scale, dividing the land into small parcels (i.e., half-hectare of land) is sometimes not enough for a family of six, it is more important to note that leaseback arrangements defeat the purpose of empowering farming households to improve their economic viability and take full control over their productive resources. ARBs were not able to negotiate on equal footing with the investors and make informed decisions regarding their properties. Despite provision of AO 9 series of 2006 mandating DAR's jurisdiction over AVAs, DAR claims that there is no government agency looking into the policy framework on smallholder AVAs.

According to DAR Secretary De los Reyes, the issues in AVAs are largely attributed to the Government's inadequate capacity to regulate these ventures and agreements. Studies conducted by DAR showed mixed results in smallholder AVAs. According to DAR, AVAs tend to work in areas where ARB cooperatives received technical, legal, organizational and credit support from the Government.

PROPOSED WAYS FORWARD:

- 1. Increase public investments in agriculture, focused on a unified agricultural policy for smallholder farmers** and ensure that these are optimally allocated and utilized. The Food and Agriculture Organization of the United Nations (FAO) stressed that countries with bigger investments in agriculture have greater chances of halving the proportion of hungry people and meeting the first Millennium Development Goal (MDG). By increasing investments in agriculture, farmers will also no longer be forced to resort to unfair leaseback arrangements and will be more motivated to make informed decisions about their livelihood.
- 2. Combine investments in agricultural productivity** with approaches that will enable farmers find their niche in the value-chain. Farmers need to be equipped – not only with business development skills, but with the



information that they can use in deciding where they would want to start their ventures. It is important to emphasize that support services must be appropriate with local conditions, demand-driven, and needs-based.

- 3. Develop AVA guidelines that are anchored on the principles for responsible investment in agriculture and food systems**, as stipulated by the Committee on World Food Security (CFS). These principles provide a framework for identifying what constitutes responsible investment in agriculture and food systems that contribute to food security and nutrition.²⁴ Under Principle 5, the CFS identified Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security and stated that, “responsible investment in agriculture and food systems respects legitimate tenure rights to land, fisheries and forests as well as existing and potential water uses.” Investments in agriculture – whether through public or private measures must uphold tenure rights and promote “fair and equitable sharing of benefits arising from the utilization, including commercial, of genetic resources for food and agriculture, on mutually agreed terms...”²⁵

ISSUE NO. 7: Other challenges in the provision of support services: inadequate infrastructure, limited access to financing opportunities, social protection measures and gaps in agri-extension and market linkaging

In terms of support services, a study of the Asia Pacific Policy Center (APPC) mentioned that ARBs “used more four-wheeled tractors, chemical fertilizers, chemical pest controls, certified seeds and crop rotations than non-ARBs.” It was also noted that ARBs with access to appropriate support services have better chances of getting out of poverty. This was also supported by a study of World Bank in 2007, which reveals that coconut farmers with access to credit “resulted in a 47 percent increase in copra yield.” In 2004, a study by the Japan Bank for International Cooperation (JBIC) pointed an “increase in agricultural productivity of about 55 -64 percent and higher mean marketable surplus for rice” among beneficiaries of Agrarian Reform Infrastructure Support Project (ARISP). ARISP areas have improved irrigation systems, access to high -yield crops and modern technology.

The study however emphasized that ARISP was only able to provide basic infrastructure facilities, and considerable gaps still need to be filled to meet rural development objectives. Gaps that were identified include “agricultural technology and extension services, accessible and affordable capital, and marketing support for beneficiaries.”

In addition, highly inadequate rural farm-to-market roads, irrigation and post-harvest facilities remain a challenge in supporting an internationally competitive agriculture sector. In the Autonomous Region of Muslim Mindanao (ARMM) for instance (which DAR does not cover), only 8 percent of agricultural lands are irrigated, barely 2 percent of the total allocated budget for farm to market roads went to the region and 109 municipalities still do not have access to banks or non-stock savings and loan associations. This is in spite of the fact that ARMM has one of the biggest CARP lands out of the total CARP areas in the country. This situation also applies to a few regions in Visayas and Mindanao.

²⁴ Committee on World Food Security (2014), *Principles for Responsible Investment in Agriculture and Food Systems*, Accessed at <http://www.fao.org/cfs/cfs-home/resaginv/en/>

²⁵ Ibid.,



Limited access to financing opportunities through formal lending institutions such as banks, which lend at affordable interest rates, also prevent ARBs from investing on their land. Because of this, farmers tend to rely more on traders and moneylenders, who charge exorbitant interest rates.

In the past, credit programs proved to be unsustainable due to low repayment rates and high transaction costs. Smallholder farmers are likewise unable to access financing support from government financing institutions because of stringent banking requirements. According to Bangko Sentral ng Pilipinas, more than 600 municipalities in the country (except in the National Capital Region) do not have access to banks. The bulk of non-stock savings and loan associations are only found in NCR, with Region IV-A coming to a far second, with only 9.74 percent share of the total registered non-stock savings and loan associations.

Furthermore, credit programs and other financing opportunities do not cover insurances that would have protected farmers from unforeseen shocks such as disasters and family emergencies. In a disaster-prone country like the Philippines, these “shocks” force farmers to sell or leaseback their lands – often at very disadvantageous terms for them, in order make both ends meet for the households. According to the Philippine Rice Research Institute, only 4.1 million farmers were insured up to 2014. This accounts for only 11.19 percent for rice producing farmers, 5.08 percent for corn, and less than 1 percent for other high value crops. Low insurance coverage means limited social protection and increased vulnerability to the worst impacts of disasters.

It must also be noted that in the past, the budget of the agriculture sector is focused on the achievement of the country’s rice self-sufficiency, often to the detriment of non-rice farming smallholder areas. This has resulted in limitations on providing credit and other financial services to both major and alternative crop producers. The limited access to agricultural financing is likewise attributed to banks’ hesitation to expose themselves to risks in providing agricultural loans. While the Agri-Agra Law (RA 10000) would have ensured that banks would allocate 25 percent of their total loanable funds to agriculture and 10 percent of its benefits to ARBs as required, the risks involved motivate banks to prefer sanctions and penalties (alternative compliance) over providing loan access to smallholders.

PROPOSED WAYS FORWARD:

1. **Reform the agricultural bureaucracy and budget** toward greater depoliticization, elimination of overlaps, increase support to competitiveness and scaling up of local industry, and stronger roles for local governments in program and project design²⁶
2. **Increase investments on research and development** to identify ways and good practice options for a climate-resilient and globally competitive smallholder agriculture
3. **Build capacities of primary people’s organizations and agricultural cooperatives** in processing, storage, marketing and finance.
4. **Enforce stricter compliance measures for Agri Agra Law** to make banks’ loan allocations for agriculture in general and ARBs in particular mandatory.

²⁶Ibid.,



5. Provide more flexible insurance and other social protection measures to provide farming households with better coping capacities in the event of disasters.

Addressing the above issues and defining the future directions for agrarian reform opens an opportunity to fully address rural development and the new challenges brought by climate change, globalization and free trade, exploring new strategies and addressing the gaps identified in the past. In the exercise of charting a strategic course for rural development, it is necessary to ensure that all landholdings covered by CARP are distributed, conflicting land claims are addressed, and effective mechanisms to resolve pending agrarian related cases in various judicial and quasi-judicial courts are developed. Support to smallholder agriculture is also a necessary and important consideration, as it has a snowball effect to the income of rural households, their consumption patterns for food and other agricultural (and non-agricultural) products, and ultimately on the achievement of food security and poverty alleviation goals.

Bridging the transition period

The civil society recognizes that transition takes time. While there is an urgent call to the passage of key legislations outlined in this paper and in the setting up of mechanisms that will ensure that CARP gains are protected and gaps are bridged, these recommendations all depend on how the Government will prioritize the issues identified during the period of transition. It is at this crucial period that the civil society recommends the following:

1. Convene the Presidential Agrarian Reform Council (PARC). PARC is the highest policy-making body of DAR and is responsible for overseeing strategic directions of agrarian reform implementation. There is a need to convene the PARC to coordinate the implementation of agrarian reform and ensure that there is comprehensive inter-agency cooperation for the resolution of agrarian conflicts.
2. Secure continuous funding for DAR and its mandate to distribute the remaining landholdings covered by CARP prior to the June 2014 deadline, resolve cases filed and provide support services to ARBs and their organizations.
3. Push for a more concrete convergence agenda among rural development agencies, outlining specific roles and responsibilities, budgetary support and following a framework that supports development of all key sectors in the rural areas.
4. Organize stakeholder consultations to continuously gather feedback and information on the desired institutional changes in the long-term.

