



# In Search of Common Ground

Forging Land Partnerships  
in the Philippines



Asian NGO Coalition for  
Agrarian Reform and Rural  
Development

*In Search of Common Ground*

**Forging Land Partnerships  
in the Philippines**

## CITATION

ANGOC and ILC. 2007. IN SEARCH OF COMMON GROUND: FORGING LAND PARTNERSHIPS IN THE PHILIPPINES. Asian NGO Coalition for Agrarian Reform and Rural Development and International Land Coalition.

The contents of this publication may be freely reproduced, translated and disseminated provided there is due acknowledgment and citation of the publishers.

The printing of this publication was made possible through the support of ILC. The views and information provided in this publication do not necessarily reflect the views or policies of ILC.

Published 2007

Printed in the Philippines

ISBN

Editing and Layout: Teresa L. Debuque

Cover Art: Troy Lim Dilidili

# Contents

Foreword .....	vi
Glossary of Selected Terms .....	vii
Executive Summary .....	10
Promoting Access to Land through Partnership .....	13
Don Carlos, Bukidnon .....	22
Bongabong, Oriental Mindoro .....	29
Legal Roundtable Discussion .....	35
National Consultation .....	38
Policy Dialogue .....	45
Annex A	
A Review of LAND Partnerships in the Philippines .....	51
Annex B	
Draft Memorandum Order .....	80

## Foreword

Perhaps no other sector of Philippine society is as dependent on land as the country's indigenous peoples and small landless farmers. For these two groups, secure access to land is indispensable not just to a dependable livelihood but to their identity and self-image: a farmer cannot call himself that without land to till; an indigenous community defines itself by association with the land that had been handed to them by their forefathers.

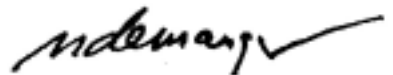
Land is life for these two sectors. It comes as no surprise then that so much death has resulted from efforts to secure it. More tragically, the struggle to gain possession of land has made mortal adversaries of these two sectors, when their shared history of dispossession should have made them allies and comrades to each other.

This publication is a record of the efforts of the past three years to reconcile farmers and indigenous peoples by finding some common ground between them. It also tries to capture the experience in building partnerships among the government, groups supporting both farmers and indigenous peoples, and other agencies in order to address inconsistencies in the country's laws and programs in regard to land and asset reform.

We are indebted to the Philippine Association for Inter-cultural Development (PAFID) and the People's Campaign for Agrarian Reform Network (AR Now!)-our NGO partners in the Land Partnership Project--for sharing our successes and frustrations; the International Land Coalition (ILC), for its support and encouragement in pursuing the land partnership process in the Philippines; the Foundation for Philippine Environment (FPE) and Foundation for a Sustainable Society, Inc. (FSSI), for believing in the process; and ANGOB Chairperson Fr. Francis Lucas and ANGOB Board member Antonio Quizon, for their unfailing guidance.

We acknowledge the work done by the Production Team: Teresa L. Debuque, for the editing and layout of this publication; Troy Lim Dilidili, for the cover art; and the ANGOB staff for their work at various stages of publication: Maricel Almojuela-Tolentino, Ma. Teresa Agarrado, Catherine Ordon, Joseph Onesa, Cecille Trinidad, and Teresito Elumba.

We hope that the lessons documented in this publication could help inform similar efforts and promote continued partnership building among farmers, indigenous groups, and organizations committed to the task of securing land for these two sectors.



NATHANIEL DON E. MARQUEZ  
ANGOC Executive Director

# Glossary of Selected Terms

AD .....	Ancestral Domain
ADSDPP .....	Ancestral Domain Sustainable Development Protection Plan
AFP .....	Armed Forces of the Philippines
ANGOC .....	Asian NGO Coalition for Agrarian Reform and Rural Development
AR .....	Agrarian Reform
ARB .....	Agrarian Reform Beneficiary
AR Now! .....	People’s Campaign for Agrarian Reform Network
BARC .....	Barangay Agrarian Reform Committee
BFI .....	Bukidnon Farms, Inc.
CADC .....	Certificate of Ancestral Domain Claim
CADT .....	Certificate of Ancestral Domain Title
CARL .....	Comprehensive Agrarian Reform Law
CARP .....	Comprehensive Agrarian Reform Program
CDCP .....	Construction and Development Corporation of the Philippines
CIRDAP .....	Centre for Integrated Rural Development for Asia and the Pacific
CLOA .....	Certificate of Land Ownership Award
COSLAP .....	Commission on the Settlement of Land Problems
CSO .....	Civil Society Organization
DA .....	Department of Agriculture
DAR .....	Department of Agrarian Reform
DAVCO .....	Davao Ventures Corporation
DENR .....	Department of Environment and Natural Resources
DILG .....	Department of Interior and Local Governance
DND .....	Department of National Defense
DOJ .....	Department of Justice
DSWD .....	Department of Social Welfare and Development

E.O.	Executive Order
EP	Emancipation Patent
FPE	Foundation for the Philippine Environment
FPIC	Free Prior and Informed Consent
FSSI	Foundation for a Sustainable Society, Inc.
FTAA	Financial or Technical Assistance Agreement
GO	Government/ government organization
ILC	International Land Coalition
IP	Indigenous People
IPRA	Indigenous People's Rights Act
ISF	Integrated Social Forestry
KPLN	Kapulungan Para sa Lupang Ninuno, Inc.
LAD	Land Acquisition and Distribution
LAMP	Land Administration and Management Project
LAND	Land Alliance for National Development
LARA	Land Administration Reform Act
LDC	Local Development Council
LGC	Local Government Code
LGU	Local Government Unit
LRC-KSK	Legal Rights and Natural Resources Center-Kasama sa Kalikasan
MARO	Municipal Agrarian Reform Officer
MDC	Municipal Development Council
MedNet	Mediators' Network for Sustainable Peace, Inc.
MOA	Memorandum of Agreement
MTPDP	Medium-Term Philippine Development Plan
NAGTIMMA	Nagkahiusang Tingog sa mga Maguumang Manobo sa Mulita Association
NAKAMATA	Nagkahiusang Tingog sa mga Manobo ng Talaandig
NAPC	National Anti Poverty Commission

NCIP .....	National Commission on Indigenous Peoples
NEDA .....	National Economic Development Authority
NGO .....	Non-government Organization
NIPAS .....	National Integrated Protected Areas System
NLUA .....	National Land Use Act
PACBRMA .....	Protected Area Community-Based Resource Management Agreement
PAFID .....	Philippine Association for Inter-cultural Development
PAL .....	Private Agricultural Lands
PAMB .....	Protected Areas Management Bureau
PARC .....	Presidential Agrarian Reform Committee
PARCCOM .....	Provincial Agrarian Reform Coordinating Committee
PARO .....	Provincial Agrarian Reform Officer
PCSD .....	Philippine Council for Sustainable Development
PO .....	People's Organization
PP .....	Presidential Proclamation
RA .....	Republic Act
SALIGAN .....	Sentro ng Alternatibong Lingap Panlial
SHBI .....	Sadik Habanan Buhid, Inc.
SLBNFA .....	San Luis Bukidnon Native Farmers Association
TRO .....	Temporary Restraining Order
TWG .....	Technical Working Group
UDHA .....	Urban Development and Housing Act
UPAL .....	Untitled Private Agricultural Land
WSSD .....	World Summit on Sustainable Development



## IN SEARCH OF COMMON GROUND

## Project Partners



### **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)**

6A Malumanay St. U.P. Village, Diliman 1103 Quezon City, Philippines  
Tel.: (63-2)4337653-54 Fax: (63-2)9217498  
Email: [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) URL: [www.angoc.ngo.ph](http://www.angoc.ngo.ph)

ANGOC is a regional association of 21 national and regional networks of non-government organizations (NGOs) from 11 Asian countries actively engaged in food security, agrarian reform, sustainable agriculture and rural development activities. Its member-networks have an effective reach of some 3,000 NGOs throughout the region. ANGOC was founded in Bangkok in February 1979, following a two-year series of village and national-level consultations in 10 Asian countries leading to the World Conference on Agrarian Reform and Rural Development (WCARRD, Rome, 1979). ANGOC seeks to address the key issues related to agrarian reform, sustainable agriculture and rural development in the region.



### **INTERNATIONAL LAND COALITION**

[www.landcoalition.org](http://www.landcoalition.org)

The International Land Coalition is a global alliance of intergovernmental, governmental and civil-society organizations. The Land Coalition works together with the rural poor to increase their secure access to natural resources, especially land, and enable them to participate directly in policy and decision-making processes that affect their livelihoods at local, national, regional and international levels.



### **PAFID**

Philippine Association for Inter-Cultural Development, Inc.  
71 Malakas St. U.P. Village, Diliman 1103, Quezon City, Philippines  
Tel.: (63-2) Fax: (63-2)  
Email: [pafid@zpdee.net](mailto:pafid@zpdee.net) URL: [www.iapad.org/pafid](http://www.iapad.org/pafid)

PAFID today is an institution with over 140 members and a staff of 32 engaged in the development of indigenous social organizations, ancestral domain management, community-based natural resources management planning, community mapping, agro-forestry, technical services, policy advocacy and others.

### **AR NOW!**

The People's Campaign for Agrarian Reform Network  
c/o PhilDHARRA 59 C. Salvador St., Loyola Heights, Quezon City, Philippines  
Telefax: (63-2)4266740 Email: [arnow.inc@gmail.com](mailto:arnow.inc@gmail.com)



AR NOW! is a national coalition of 15 civil-society organizations involved in agrarian reform advocacy in The Philippines. It was established in 1997 as a response to the need to distribute private agricultural lands under the government's Comprehensive Agrarian Reform Programme (CARP) which was passed in 1988. Many agrarian reform advocates looked at the poor performance of land distribution and saw the imperative of pursuing agrarian reform beyond the first 10 years of CARP implementation. Consensus formed around the urgency for a national campaign that would seek to revive agrarian reform and rural development in the national agenda.

## Executive Summary

The project “Pursuing Land Partnerships in the Philippines: Finding Common Ground to Address Land Conflicts between Farmers and Indigenous Peoples” was implemented in the Philippines by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) from 2002 to 2006.

The project started with the conduct of a study to assess past and present mechanisms that have been formed by key stakeholders in the country in support of land related reforms and policies. Among its other findings, this “Land Study” concluded that overlaps in land related laws have led to conflict between the land claims of the country’s agrarian reform beneficiaries (ARBs) and those of indigenous peoples (IPs). Thus, ANGOC, together with its two Philippine based NGO partners, namely, the Philippine Association for Inter-Cultural Development (PAFID) and the People’s Campaign for Agrarian Reform Network (AR Now!), decided to focus on the problem of conflicting land claims between these two sectors. Two areas in the Philippines were chosen as pilot sites for the project: the Don Carlos Estate in Bukidnon, Mindanao, where a land dispute between ARBs and an indigenous community of Manobos has resulted in the death of at least nine people; and the ancestral domains of the Buhid Mangyans in Oriental Mindoro, where the indigenous group (the Buhid Mangyans) is protesting the Department of Agrarian Reform (DAR)’s plans to cover their lands in favor of non-Mangyan farmer settlers.

The project partners held consultations with both ARB and IP groups in the two sites to determine the cause of the conflict in each case and to get the two sectors to tackle their respective concerns in a peaceful manner. Following these consultations, a National Consultation was organized on 7-8 August 2006 by the project partners to get ARB and IP representatives to jointly propose measures to forestall, manage, and resolve conflicts between their two sectors.

The National Consultation also paved the way for the drafting and ratification by representatives of the two sectors of a joint declaration between the farmers and IP groups where they called for the establishment of mechanisms that could facilitate dialogue towards the peaceful resolution of land conflicts; renewed efforts to promote understanding and consciousness of customary laws, human rights, and the rights of farmers and indigenous peoples as stated in the agrarian reform law and the Indigenous People’s Rights Act; and formal coordination between the National Anti-Poverty Council (NAPC) IP and Farmer Councils in order to promote the orderly resolution of land conflicts.

The declaration issued the following demands to the DAR, the National Commission on Indigenous Peoples (NCIP), the Department of Environment and Natural Resources (DENR), local government units and to the country’s lawmakers:

- ▶ Improve the implementation of the indigenous people’s rights act and the agrarian reform law through a number of concrete measures:
  - ▷ a clear interpretation of land related laws;

- ▷ better coordination among the DAR, DENR, NCIP and local government units;
- ▷ consultations between farmer beneficiaries and indigenous groups;
- ▷ orderly listing of beneficiaries of land distribution programs; and
- ▷ clear delineation of the area coverage of the agrarian reform program and indigenous land claims.

The declaration also demanded that all land related laws that are in conflict with each other be harmonized through an executive order or by the passage of a National Land Use Act (NLUA).

A Roundtable Discussion held on 23 June 2006 was organized to examine the DAR's legal basis for putting ancestral domain lands under coverage of the Comprehensive Agrarian Reform Program (CARP). As a result of the discussion, the following options were proposed at the roundtable discussion:

- ▶ File a case before the Supreme Court in order to clarify the interpretation of the laws; however the case may put implementation of both CARP and IPRA on hold (status quo) for at least three years.
- ▶ Temporary Restraining Orders (TROs) can be filed in specific cases.
- ▶ Administrative cases can be filed against erring DAR officials.
- ▶ The DAR may be asked to clarify its position on Presidential Proclamation (PP) 2282.

The Policy Dialogue held on 31 August 2006 was participated in by top government officials, among them DAR Secretary Nasser Pangandaman, NAPC Lead Convenor Datu Zamzamin Ampatuan, Director Joyce del Rosario of the NAPC Basic Sector Unit, National Commission on Indigenous Peoples (NCIP) Commissioner Lagtum Pasag, and Commission on the Settlement of Land Problems (COSLAP) Associate Commissioner Lawyer Lina General. IP and ARB leaders presented their Joint Declaration, and reiterated their respective groups' recommendations to the concerned agencies.

DAR Secretary Nasser Pangandaman reiterated only what DAR officials said at the Bukidnon consultation: that the land titles that had been issued in Don Carlos are considered valid and that no ancestral domain claim would prosper in that area.

Secretary Pangandaman likewise stood pat on the DAR's position that lands over which there are prior claims (such as that represented by a land title) are exempt from coverage of the Indigenous Peoples Rights Act (IPRA).

Meanwhile, Mindoro Agrarian Reform Program Technical (ARPT) Officer Ophelia Radovan insisted that no land titles have been issued for lands within the Buhid ancestral lands, contrary to Mangyan claims.

## **12 IN SEARCH OF COMMON GROUND**

Despite making little progress in the way of resolving the conflict in the two areas, the participants at the Policy Dialogue reached consensus on the need for an inter-agency mechanism to lead the dispute settlement process. The NAPC, which represents the basic sectors, including IPs and farmers, was the unanimous choice to take on this role.

After the policy dialogue, a Memorandum Order reactivating Task Force 63 (an inter-agency mechanism established in 2003 to respond to conflicts encountered by farmers and IPs) was drafted for approval by President Arroyo. The Task Force would have the following functions:

- ▶ Conduct fact-finding missions to emergency situations or conflict areas and take appropriate action;
- ▶ Implement Special Temporary Measures to respond to emergency situations;
- ▶ Facilitate the harmonization of overlapping laws, policies and programs; and
- ▶ Serve as a venue for inter-agency dialogue.

As of June 2007, the Memorandum Order has been submitted to the Office of the President for signing.

## Promoting Access to Land through Partnership

The project “Pursuing Land Partnerships in the Philippines: Finding Common Ground to Address Land Conflicts between Farmers and Indigenous Peoples,” which was implemented by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) from 2002 to 2006, is one of four country level multistakeholder mechanisms (the others being in Indonesia, South Africa, and Guatemala) that emerged following the launch in 2002 of the Land Alliances for National Development (LAND) Partnership.

The LAND Partnership, an initiative of the International Land Coalition (ILC), aims to facilitate the implementation of Agenda 21, a comprehensive blueprint of action to be taken globally, nationally and locally by organizations of the UN, governments, and major groups in pursuit of sustainable development. In particular, Chapter 14 (Item 14.17) of Agenda 21 promotes the equitable access of rural people to land and other resources on which their livelihood depends. Depending on the nature of the need that is being addressed and on the preferences of the stakeholders, LAND partnerships can take the form of alliances, fora, joint commissions, or joint field programs, whose aim is to discuss, negotiate, and implement policies, programs and service delivery systems that would enhance the rural poor’s access to land.

In early 2003, the ILC started talks with ANGOC about the prospects for establishing such mechanisms in the Philippines. The Philippines’ Department of Agrarian Reform (DAR) was invited, and agreed to jointly convene the initiative with ANGOC. ANGOC also consulted with other institutions such as Non-government organizations (NGOs), farmers organizations and government agencies that would want to collaborate on land related issues. Following these initial discussions, it was decided to conduct a study that would assess past and present mechanisms that have been formed by key stakeholders in the country in support of land related reforms and policies. The “Land Study” would also determine how such mechanisms could be improved, and in what ways, and if forming an entirely new mechanism would be the better option.

A Land Partnership Protocol for the Philippines was signed in Rome, Italy on November 7, 2003 by the ILC, ANGOC and the DAR. This agreement assigned lead roles to the DAR (on behalf of the Philippine Government) and to ANGOC (as representative to civil society

## 14 IN SEARCH OF COMMON GROUND

organizations [CSOs]) in the implementation of the Land Study and of other activities in connection with the Land Partnership in the Philippines.

### The Land Study

The Land Study, also referred to as “A Review of Land Partnerships in the Philippines”, had three parts. Part 1 summarizes the provisions of three social and land related reforms in the country since the enactment of the 1987 Constitution. These are the

Comprehensive Agrarian Reform Law (CARL), or Republic Act 6657, passed in 1987; the Indigenous People’s Rights Act (IPRA), or Republic Act 8371, passed in 1997; and the Urban Development and Housing Act (UDHA), or Republic Act 7279, passed in 1992. The Study goes on to assess progress in the implementation of these laws, which has been rather dismal, and to describe the general policy environment which has contributed to their poor showing. The Study points out a number of factors which have given rise to land related conflicts and disputes. The first of these is the confusion about what constitutes “common” or state land. The confusion has its roots in a legal precept called the Regalian Doctrine which has underlain property laws since the Spanish administration of the country. The Regalian Doctrine held that at the time of conquest, all lands and other natural resources in the conquered territories automatically become the property of the King of Spain. With this single proclamation, entire native communities, including the indigenous groups, were disenfranchised. When the republican system was later introduced, the State replaced the Spanish King as owner, and all land was declared as public land. The American occupation government did little to break up the land monopolies created under Spanish rule. Instead the Philippine Bill of 1902 upheld the Spanish system of cadastral laws. Private land ownership was also further strengthened through the introduction of the Torrens Title system under the 1902 Land Registration



Act. Subsequent land laws in the country, as expressed in the 1935, 1973 and 1987 Constitutions, are all based on the doctrine of the State as the primary landowner.

**Sec. 12. That all the property and rights which may have been acquired in the Philippine Islands by the United States... are hereby placed under the control of the Government of said Islands...**

Section 12, Philippine Bill of 1902

Recent attempts by indigenous groups to reclaim their ancestral domains—especially since the passage of the IPRA—have given rise to conflicts between this sector and the government, particularly where

**“All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.”**

From the 1987 Philippine Constitution

the latter awards ancestral domain areas to logging and mining concessionaires, or where it reclassifies the lands for other uses, including redistribution under agrarian reform.

The other factors cited in the Study include a poor land administration system, as evidenced by overlapping and fragmented responsibilities among no less than 19 land agencies; conflicting and/or outdated land administration laws; poor management of land records resulting in their loss, destruction, or alteration; incomplete cadastral information or mismatch between information held by different agencies.

Part 2 identifies three major types of government-CSO mechanisms that have been established to deal with land related concerns. These are:

- ▶ Existing mechanisms created by virtue of Republic Acts, Special Orders and Joint Memorandum Circulars involving the cooperation of various national government agencies and civil society groups;
- ▶ Ad hoc Technical Working Groups (TWGs), Task Forces and Quick Reaction Units/ Teams to augment and support existing mechanisms related to project implementation and policy formulation; and
- ▶ Partnerships and collaborations among government, civil society groups and the private sector, often through direct donor support, bilateral programs and foreign assisted projects.

Table 1 on the next page presents the Study’s assessment of these government-CSO mechanisms.

Part 3 starts by proposing five thematic areas for establishing/strengthening land partnerships, as follows:

1. Regular mechanisms that monitor and ensure the inclusion of access to land, especially Agrarian Reform, in the national development agenda/programs;



## 16 IN SEARCH OF COMMON GROUND

2. Implementation and/or completion of existing land focused reform programs, such as CARP, IPRA and UDHA;
3. Inter-sectoral discussions and negotiations to resolve inter-policy conflicts and to harmonize overlapping institutional mandates under different land related legislation;
4. Pro-active policy discussions towards new land legislation;
5. Broad based policy discussions, consensus building and joint advocacy vis-à-vis pending bills and policies that threaten to reverse the gains of land related reforms.

This section goes on to recommend that future mechanisms must grapple with such issues as:

- ▶ Should such mechanisms aim for a common, multistakeholder agenda?
- ▶ Is a formal mechanism preferable to a loose consultative arrangement?
- ▶ Should the convenors of such mechanisms utilize existing structures?
- ▶ At what level should the mechanisms be established?

The section ends by presenting a number options on how such land partnership mechanisms could be structured: (1) as an umbrella organization; (2) as Special Thematic Fora; (3) as legislative campaigns; and (4) through field implementation within sectors.

*(For the text of the Land Partnership Study, please see Annex A)*

Following the publication of the Study, convenors of the LAND project in the Philippines decided to focus on a specific sub-theme to get the project going: how to address overlaps in the areas covered by CARP and IPRA, and to address conflicts between Agrarian Reform Beneficiaries (ARBs) and indigenous peoples (IPs). The convenors noted that of the existing mechanisms cited in the Study, none specifically addresses these conflicts nor ensures the participation of CSOs in the process. Having thus decided to focus on this sub-theme, the project was assigned the following objectives:

- ▶ Convene inter-sectoral and multi-stakeholder discussions on the issue of overlapping land claims at the national and field levels; and
- ▶ Agree on policies and mechanisms for the resolution of land conflicts, especially between farmers and IPs.

In terms of activities, the project would conduct the following: local consultations in the conflict areas; a national consultation among IPs and farmers; a policy dialogue with government agencies.

ANGOC partnered with two Philippine based NGOs, namely: the Philippine Association for Inter-Cultural Development (PAFID), as support group to the IP sector, and the People's

Table 1. Assessment of Government-CSO Mechanisms for Land Related Concerns

THEMES	ASSESSMENT/MAIN COMMENTS
<p>1. Overall focus</p>	<ul style="list-style-type: none"> <li>▶ Majority of the mechanisms have a highly sectoral focus (e.g., farmers/agrarian reform, indigenous peoples, etc.)</li> <li>▶ On the other hand, there are few GO-CSO mechanisms that deal with cross-sectoral land issues such as land conversion; or bring together different sectors to dialogue</li> <li>▶ Mechanisms that discuss cross-sectoral land issues are mainly limited to government agencies. These include the DAR-NCIP Composite Policy Review &amp; Formulation Group, the TWG on the Harmonization of IPRA, etc. These deal mainly with harmonizing policies, administrative procedures and agency responsibilities. Civil society is not involved.</li> <li>▶ Three of the GO-CSO mechanisms, namely the Philippine Council for Sustainable Development (PCSD), NAPC and Land Administration and Management Project (LAMP)--are constituted by representatives from different sectors, as they deal with cross-cutting and related themes--sustainable development/environment, poverty eradication, and land administration, respectively. It is noted that NAPC and LAMP relate with the same "basic sector" constituencies.</li> <li>▶ However, while the compositions of these bodies are multisectoral, discussion on access to land still tend to remain largely sectoral (e.g., PCSD discussed access to land per ecosystem--e.g., lowland/agriculture, urban ecosystem, uplands and IPs, etc.)</li> <li>▶ A major concern has been how to translate resolutions/action agendas formulated at the national level to the local level, as these are seldom adopted by local government units unless funding or additional resources are made available (e.g., efforts by PCSD to "localize Agenda 21", or to develop local sustainable development plans.) local government units (LGUs) prefer to do "investment plans"--in order to capture external resources or to generate local revenues.</li> </ul>
<p>2. Structure/ Composition</p>	<ul style="list-style-type: none"> <li>▶ GO-initiated mechanisms tend to be dominated by government agencies.</li> <li>▶ In all GO-CSO joint mechanisms, there have been few representatives from the private sector.</li> <li>▶ Sometimes, there is confusion in distinguishing between NGOs and the private sector (e.g., business foundations).</li> </ul>

THEMES	ASSESSMENT/MAIN COMMENTS
2. Structure/ Composition	<ul style="list-style-type: none"> <li>▶ CSO representatives, mostly from the NGO/PO sector, either voluntarily became involved, were selected by the sector itself, or even appointed by government (in the case of GO-initiated mechanisms).</li> </ul>
	<ul style="list-style-type: none"> <li>▶ CSOs often demand a process of self-selection of their own representatives. However, representation from CSOs is often difficult to determine/select due to the lack of established processes. Constituencies are often the basis for selecting representatives.</li> </ul>
	<ul style="list-style-type: none"> <li>▶ Previous assessments on joint GO-NGO Mechanisms say that more effective mechanisms often come in the form of special projects, task forces and NGO/PO-led (or “demand-side” initiatives).</li> </ul>
	<ul style="list-style-type: none"> <li>▶ Continuity of the mechanism is often vulnerable to changes in government (change in administrations and assigned staff/personnel).</li> </ul>
	<ul style="list-style-type: none"> <li>▶ Difficulty to convene mechanisms when high officials are involved due to hectic schedules and changes in delegated representatives.</li> </ul>
	<ul style="list-style-type: none"> <li>▶ Successful mechanisms highly dependent on facilitation--i.e., the capacity of particular individuals or groups in a “secretariat” or “liaison” role--whether from CSOs or government.</li> </ul>
	<ul style="list-style-type: none"> <li>▶ “National” mechanisms tend to be too “Manila-centered”.</li> </ul>
3. Function/ Mandate	<ul style="list-style-type: none"> <li>▶ On the reasons for establishment of joint mechanisms               <ul style="list-style-type: none"> <li>▶ Mechanisms are usually backed up by some legal mandate (i.e., law, MOA, Executive Order, Special Order);</li> <li>▶ On the other hand, mechanisms which are CSO/Basic Sector-led are usually born out of a process/campaign/advocacy;</li> <li>▶ A third type of mechanism are those that have been established in line with a foreign assisted project.</li> </ul> </li> </ul>
4. Accomplishments	<ul style="list-style-type: none"> <li>▶ Stated positive outcomes:               <ul style="list-style-type: none"> <li>▶ Political negotiations, whether or not a compromise is reached;</li> <li>▶ Better understanding of policy impacts and implications, from different and even conflicting local perspectives and interests;</li> <li>▶ Transfer/exchange/sharing of knowledge, experiences and resources between government and CSOs;</li> <li>▶ On occasion, resolution of concrete, problematic cases;</li> <li>▶ Public constituency for pursuing reforms.</li> </ul> </li> </ul>

THEMES	ASSESSMENT/MAIN COMMENTS
4. Accomplishments	<ul style="list-style-type: none"> <li>▶ Common issues:                             <ul style="list-style-type: none"> <li>▷ Accomplishments and continuity highly depend on political will of incumbent government officials;</li> <li>▷ Turfing/overlapping roles of government agencies on some functions delay accomplishments;</li> <li>▷ Changes in representatives may impede continuity of the processes/programs;</li> <li>▷ Questions arise as to whether local constituencies are adequately informed of national level discussions and agreements.</li> </ul> </li> </ul>
5. Funding/Resources	<ul style="list-style-type: none"> <li>▶ Government-infused resources are often necessary to sustain mechanisms.</li> <li>▶ Externally driven donor-led mechanisms are often not sustained beyond the project cycle.</li> <li>▶ CSOs tend to be seen more as “equal partners” when they are able to raise their own resources (e.g., as co-convenors, co-sponsors, or ability to maintain their own counterpart secretariats).</li> </ul>
6. Partnership	<ul style="list-style-type: none"> <li>▶ Common stance taken by partners is one of “critical collaboration”; partnerships are forged among independent, autonomous entities and groups.</li> <li>▶ Generally, joint GO-CSO mechanisms arrive at decisions by consensus. “Agree to disagree” is the path often taken when no clear decision is reached.</li> <li>▶ Internal dynamics and differences exist among CSOs; hence, CSOs often have to reach consensus first among themselves before engaging in discussions and negotiations with other parties.</li> <li>▶ On accountability: unclear whether there are clear and adequate feedback mechanisms to the basic sectors concerned.</li> </ul>

## 20 IN SEARCH OF COMMON GROUND

Campaign for Agrarian Reform Network (AR Now!), as support group to the farmers sector. Funding support for the project was provided by the International Land Coalition (ILC), the Foundation for the Philippine Environment (FPE) and the Foundation for a Sustainable Society, Inc. (FSSI).

From December 2005 to January 2006 meetings were held among ANGOC and its partners to decide which areas the project would cover and to agree on what the project should deliver. ANGOC likewise met with concerned agencies to orient them on the initiative.

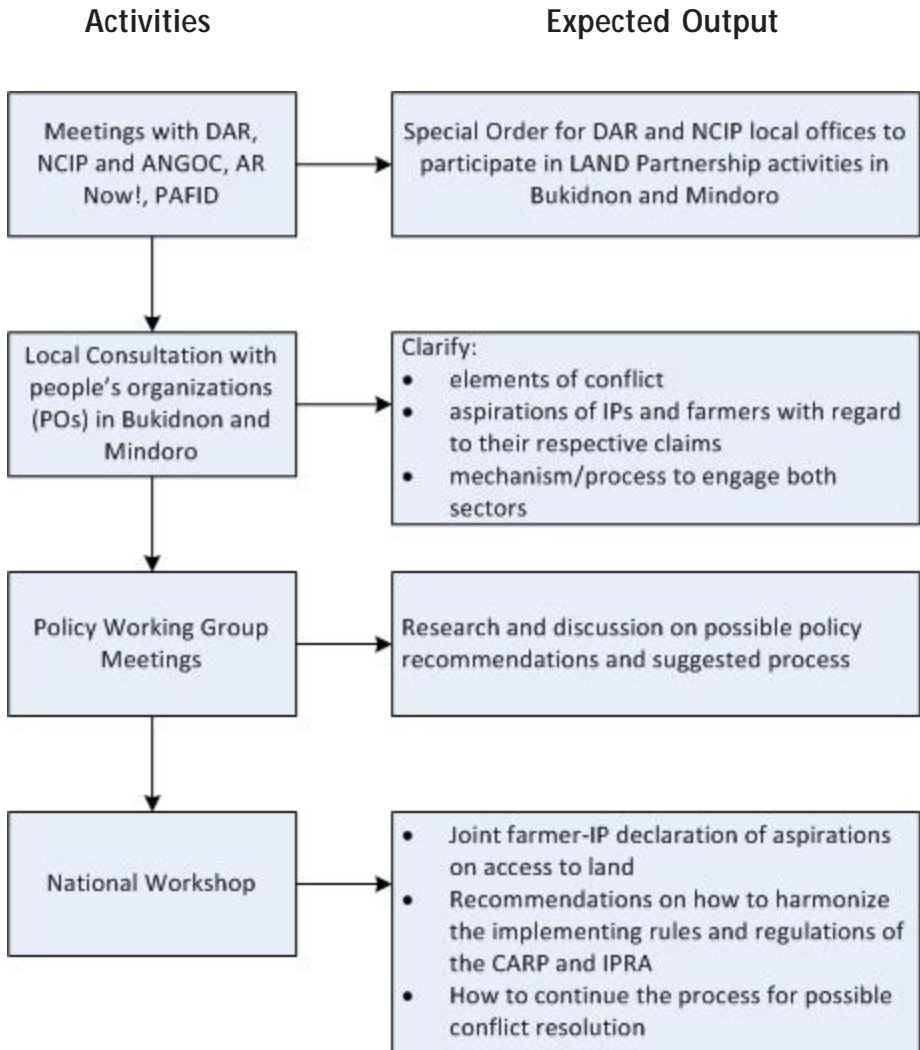
The two areas that were chosen were the Don Carlos Estate in Bukidnon, Mindanao, and the ancestral domains of the Buhid Mangyans in Bongabong, Oriental Mindoro.

Based on initial assessments by the project partners of the situation in the two areas, it was decided that the project would try to create a venue where the conflicting sectors could come to understand the basis of the other group's land claims and aspirations. Rather than aspiring to test proposed dispute settlement mechanisms, the project settled for the more modest objective of drawing out lessons from the experience that could inform the task either of strengthening existing mechanisms or designing one from scratch.

The framework on the next page shows the stages in the process that was undertaken:



Two pilot sites of the Philippines' Land Partnership



## Don Carlos, Bukidnon



Children of Barangay San Luis, Don Carlos, Bukidnon

The Don Carlos Estate, the biggest private land in the province of Bukidnon, is located in a town which goes by the same name. Consisting of about 4,086 hectares of flat to rolling terrain, the estate used to be known as the Bukidnon Farms, Inc. (BFI), owned by Eduardo “Danding” Cojuangco, a crony of former President Ferdinand Marcos.

The area used to be planted to various crops, such as coconuts, cacao and rice. At one time, there was also a tree plantation in the area. Following the coup that deposed Marcos in 1986, the BFI was sequestered by the government of Corazon Aquino. In 1988, some 2,697 hectares of the BFI property were ordered for distribution to qualified agrarian reform beneficiaries (ARBs). The area, since renamed as Don Carlos Estate, has been given over to the cultivation of sugar.

Three sets of ARBs were identified by the Provincial Agrarian Reform Office. First priority was to be given to BFI farmworkers at the time of the sequestration. Three hectares were allocated to each one. Second priority ARBs, which would be entitled to one hectare each, were landless residents of the barangay where the land reform area is located. Other landless residents from the municipality were classified as third priority.



A Manobo couple in Don Carlos

When the estate was awarded to the ARBs, the indigenous group called the

Manobos raised their objections. The Manobos claimed that the BFI property had originally been part of their ancestral domains. They related that before the Second World War, a number of wealthy Filipinos persuaded them to lend huge areas of their ancestral domains for pasture purposes. The ranchers promised to pay for the use of the lands and to return them to the Manobos at an agreed time. Following the war, the ranchlands changed hands and the promise to the Manobos was forgotten. They have been trying to recover their lands ever since. Each time, however, they were hounded by hired goons and later by the local police.

The Construction and Development Corporation of the Philippines (CDCP), then headed by Antonio Cuenca, another Marcos crony, which took over the ranchlands during martial law, employed local mercenaries headed by the infamous *Kumander Toothpick* to persecute not just the Moros but also the native inhabitants in the area.

Cojuangco, who bought the property in 1983, employed "a private army of about 80 persons armed with armalite rifles and a 30-caliber machinegun"<sup>1</sup>. Cojuangco's hegemony was marked by the burning of IP homes, although some families were allowed to remain at the fringes of the estate.



Relocation site of the Manobo community in the Don Carlos Estate

Two organizations of Manobos have taken up the IPs' claim: the San Luis Bukidnon Native Farmers Association (SLBNFA)

headed by Datu Marcial Tahuyan and the *Nagkahiusang Tingog sa mga Mag-uumang Manobo sa Mulita Association* (NAGTIMMMA). Both have a total membership of more than 300 families. These groups are part of an indigenous peoples' coalition of 10 organizations called *Nagkahiusang Tingog sa mga Manobo ug Talaandig* (Nakamata), which was organized in December 1999 as a response to the increasing marginalization of tribe members in south-central Bukidnon caused by the expansion of sugar plantations.

Nevertheless, on 17 May 1995, and over the vigorous objections of the Manobos, Certificates of Land Ownership Award, or CLOAs, were awarded to 2,450 ARBs. The government tried to appease the indigenous community by giving them a little less than five hectares in a part of the estate which had been converted into a dumpsite. Unidentified

<sup>1</sup> Lozano, Joey R.B., "Rule of the Gun in Sugarland," *Philippine Daily Inquirer*, November 14, 2001.





Members of the Manobo community conducting a survey of their ancestral land

Casualties of the October 13, 2001 ambush of the Manobos



members of one of the ARB groups resented even this small concession and proceeded to harass the indigenous community.

On 13 October 2001, two Manobo leaders were killed in an early morning ambush along a trail within the sugar cane plantation. This was followed five days later by the burning of what Mayor Felix Manzano described as “shanties”. The so-called shanties in fact comprised an entire village of Manobos, who had been forced to make do with less than five hectares of land in the estate grounds.

On 27 September 2001, or two weeks before the ambush, the residence of Datu Marcial Tahuyan, chairman of two lumad organizations spearheading the Manobos’ claim was strafed, leaving a woman and a young girl wounded. The woman’s husband, Ananias Tahuyan, was one of the two ambush fatalities.

Soon after the ambush, President Gloria Arroyo established an inter-agency body called Task Force 63 to respond to the conflict in Don Carlos and to similar emergencies elsewhere. The task force was composed of representatives from the DAR, DENR, NCIP, NAPC, and the Department of National Defense (DND). However, the Manobos were disappointed that the DAR was made the lead agency of the Task Force in the Southern Philippines. The DAR was determined to push through with the awarding of CLOAs in Don Carlos to the detriment of the IPs’ claims. Task Force 63 operated for only a year, leaving the contending groups in stalemate.

### **Bukidnon Consultation—Between a Rock and a Hard Place**

On 24-25 February 2007 ANGOC and its local partners held the first of two local consultations in Bukidnon, Mindanao. The consultation was conducted in three separate sessions: the first, among local officials of the DAR, the NCIP, and other concerned agencies,

(e.g., NGOs, the church, alternative law groups); the second, among representatives of the Manobo community involved in the Don Carlos case; and the third, among representatives of the ARB groups.

### **DAR Unmoved**

Julio Celestiano Jr., the Provincial Agrarian Reform Officer (PARO) for Bukidnon, made it clear early on in the meeting that he was not there to negotiate. “I cannot cancel any CLOAs,” he said. “The processing [of the CLOAs] is presumed to be correct, proper, and legal, unless a court declares otherwise.”

Together with other DAR officials present, PARO Celestiano presented three major arguments in support of the agency’s position. One, the DAR and the Comprehensive Agrarian Reform Law (CARL) does not distinguish between IP and non-IP groups in selecting ARBs. Hence, the Don Carlos ARBs that had been selected have just as much right as any group, particularly the IPs, to benefit from the government’s land distribution program.

Section 22 of CARL (“Qualified Beneficiaries”) provides as much. It declares that “a basic qualification of a beneficiary shall be his willingness, aptitude and ability to cultivate and make land as productive as possible.” It also says that “[t]he lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay,” but that in the absence of such, landless residents of the municipality would be considered.

The second argument put forward by the DAR imputed blame on the Manobos for their failure to participate in the beneficiary screening process despite ample notice from the DAR. The DAR officials speculated that either the Manobos did not recognize the CARP, or they simply did not want to pay the land amortization.

The last argument was really a proposal to find an alternative relocation site for the Manobos. The DAR claimed that there were other areas in Mindanao that were available for distribution.



Bukidnon Provincial Agrarian Reform Officer  
Julio Celestiano Jr.

Lawyer Arlene “Kaka” Bag-ao of BALAOD Mindanaw argued that the DAR’s failure to make the distinction between IPs and non-IPs was a major part of the problem. She said that the fact that there are IP claimants to the estate should have alerted the agency that the land could be part of the IP’s ancestral domain and thus is exempted from CARL. Section 9 of this law provides that:

“The right of [indigenous cultural communities] to their ancestral lands shall be protected to ensure their economic, social and cultural well-being. In line with the other principles



Arlene "Kaka" Bag-ao of BALAOD Mindanaw, speaking at the Bukidnon consultation

of self-determination and autonomy, the systems of land ownership, land use, and the modes of settling land disputes of all these communities must be recognized and respected.

Any provision of law to the contrary notwithstanding, the Provincial Agrarian Reform Committee (PARC) may suspend the implementation of this Act with respect to ancestral lands for the purpose of identifying and delineating such lands..."

This same distinction, had the DAR bothered to make it, would explain the IP's refusal to participate in the screening process. The Manobos did not see why they had to qualify as beneficiaries when the land had always been theirs. They refused to acknowledge that the land was being distributed to them; all they needed from the government was formal recognition of their historical claim to it, as the IPRA provides, and which the NCIP had failed to secure on their behalf.

Finally, with regard to the proposal to find another home for the Manobos, Ma. Sherline Samo of the NCIP reminded the DAR officials that no such option exists. She explained that the coverage of pending claims for ancestral domain already exceeds the land area of Mindanao. Furthermore, she pointed to a particular trait of IPs which compels them to return to their "land of origin". "Even if we were to bring the [Manobos] to the moon," she added, "and even if were to give them all the facilities, they would still try to go back to Don Carlos."

### **Manobos Make a Stand**

The second part of the Bukidnon Consultation consisted of getting the views of Manobo leaders on the following questions:

1. What are the causes of the conflict over land between IPs and farmers?
2. What is the basis for the Manobos' claim?
3. What steps must be taken to resolve this land conflict?



Leaders of the Manobo community at the Bukidnon consultation

The Manobos had varying opinions on the origins of the land conflict, among which are as follows:

- ▶ The diminution of the *datus*' authority to decide on matters concerning land;
- ▶ The growing number of migrant farmers (whom the Manobos refer to by the generic name "Bisaya");
- ▶ The Manobos' lack of awareness of land distribution policies/laws; and
- ▶ Fraud perpetrated by the "Bisaya" to trick the Manobos into signing away their land rights.

With regard to the basis for their land claim, the Manobo leaders cited their long-standing occupation of the land; their cultural traditions, practices and beliefs; their oral history which attests to their group's ownership of the land; their ability to identify particular land features or community landmarks; and land features, such as mountains or rivers, which have been named after their members or which mark particular members' birth, death, or other important event.

The IP leaders made the following recommendations to facilitate the resolution of the present conflict:

- ▶ Effective implementation of the IPRA, including dissemination of information on its provisions;
- ▶ Compliance with Certificate of Ancestral Domain Title (CADT) requirements made easier;
- ▶ Clear manifestation of support from the NCIP for CADT processing;
- ▶ Cancellation of resource use instruments in IP areas;
- ▶ Issuance of a moratorium on the sale/reclassification of ancestral lands by the LGU;
- ▶ Cancellation of CLOAs issued for ancestral domain areas, and relocation of ARBs to whom the CLOAs have been awarded;
- ▶ A Memorandum of Agreement stating that IP areas are beyond the jurisdiction of the DAR and the DENR;
- ▶ Holding of a conference among the NCIP, DAR, DENR, LGUs, and IP organizations to tackle land disputes between the two sectors; and
- ▶ Drafting of a National Land Use Policy.

### ARBs Dig in their Heels

The farmer leaders/representatives were primarily concerned about the confusion created by the DAR when it drew up different ARB lists. (Former BFI workers were on the “first priority” list and would get three hectares each. “Second priority” ARBs, selected from landless residents of the barangay, were to get a hectare each. “Third priority” ARBs were landless residents of the wider municipality.)



PAFID Executive Director Dave de Vera (left) facilitating the dialogue with the Manobo leaders

When asked about what they thought had caused the conflict with the IPs, the ARBs were one in saying that the Manobos’ claim had no leg to stand on. They related that before the CARP’s coverage of the estate, the IP community was not around; they turned up only after the processing of the CLOAs had started. They also thought that the IPs missed their chance to be considered as beneficiaries when they failed to take part in the screening process.

Nonetheless, an ARB leader, Franklin Laval, of Makabayan-Bukidnon, expressed the desire to find a solution to the conflict “before we all vanish from our lands”.

ANGOC Program Officer Maricel Almojuela-Tolentino explained that the law could not provide a clear solution to the problem. AR Now! Coordinator Ernesto Lim Jr. attributed the present predicament to the failure to correctly delineate which lands are available for distribution under the CARP and which are subject to ancestral domain claims, and to the lack of proper screening of ARBs. He likewise cautioned that private commercial interests might use the current conflict to gain control of the estate.



ANGOC Executive Director Nathaniel Don Marquez speaking at the Bukidnon consultation

ANGOC Executive Director Nathaniel Don Marquez called for sobriety among the two sectors, and enjoined them to desist from fighting each other since they both aspire for a peaceful life.

## Bongabong, Oriental Mindoro



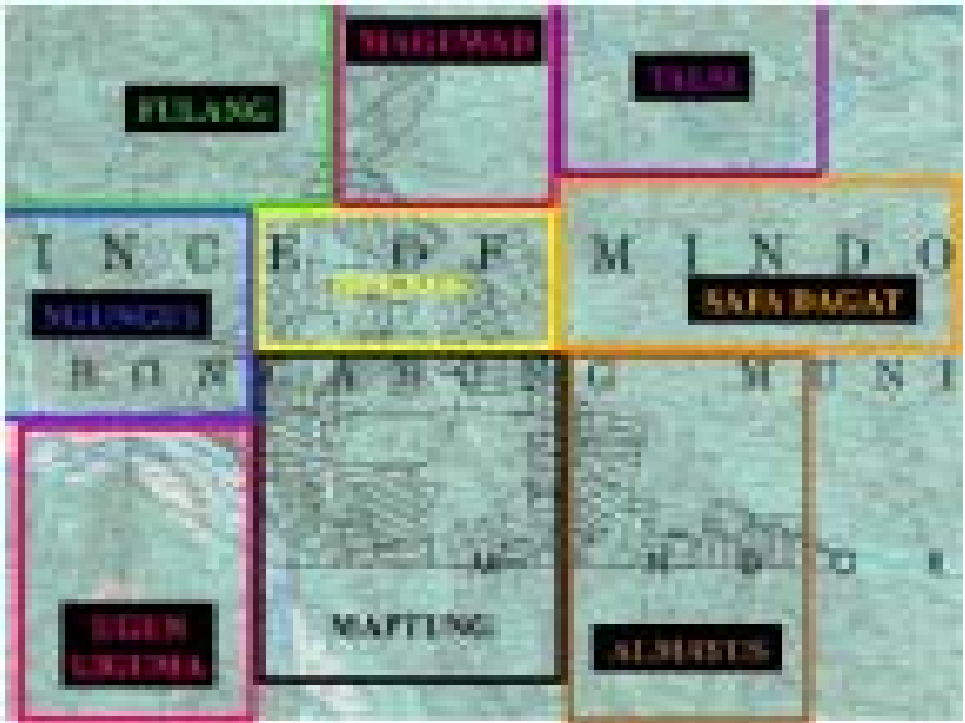
Members of the Buhid Mangyan community

The ancestral domains of the Buhid Mangyans, which are located in the municipality of Bongabong in Oriental Mindoro, consist of nine Buhid communities, namely, Fulang, Maguwad, Talsi, Ngungus, Bukbuk, Sefa Dagat, Ugun Liguma, Maptung, and Ulmayus, whose combined area covers some 94,000 hectares.

On 5 June 1998, the Buhid Mangyans were issued Certificate of Ancestral Domain Claim (CADC) (Region IV)-130 by the DENR covering all of the 94,000 hectares. While the Mangyans were waiting for their ancestral domain title, or CADT, the DAR, on separate dates in the year 2004, conducted a survey in the area (including 1,500 hectares located inside the Buhid CADC) for eventual coverage under the CARP. The bulk of the area proposed to be covered is government land that had been reclassified for resettlement and agricultural purposes, by virtue of Presidential Proclamation (PP) 2282 issued in 1983 by then President Marcos; the Buhid land that was unwittingly, or wittingly, included comprised the overlap between the area covered by CADC 130 and by PP2282.

The ARBs identified by the DAR were migrants who had settled in the area years ago. These were supposedly promised three hectares each.

According to the Buhid Mangyans, before the entry of the DAR into the area, they and the migrants had co-existed peacefully. The latter had farms of their own, which, though found in Mangyan land, had been accommodated by the IP community. Following the DAR survey, the farmers reportedly had an unfortunate change of heart. The farmers, it is said, had boasted that once they received their CLOAs, the Mangyans would have to leave the area which they had shared so amicably in the past.



Nine communities of Buhid Mangyans covered by the Buhid CADC

Moreover, a number of them had allegedly burned down huge forested areas that the Mangyans had been protecting as part of a reforestation program of the DENR. The Mangyans explained that, with the forests gone, it would be easier for the DAR to justify its coverage of the area under CARP.

Immediately following the DAR survey, the Buhid Mangyans sent petition letters to the provincial offices of the DAR, NCIP and DENR offices, and to the Mayor of Bongabong, to put a stop to the processing the CLOAs. They also brought the matter to the attention of then President Corazon Aquino, the Secretaries of the DAR and DENR, as well as a number of prominent lawmakers. The IP's claim was spearheaded by two organizations—the *Sadik Habanan Buhid, Inc.* (SHBI), a people's organization composed of Buhid Mangyans, and *Kapulungan para sa Lupaing Ninuno, Inc.* (KPLN), a federation of IP groups in Oriental and Occidental Mindoro.

Towards the end of 2005, the Commission on the Settlement of Land Problems (COSLAP), an agency under the Department of Justice, issued an order directing the Mindoro Provincial Agrarian Reform Officer (PARO) and Municipal Agrarian Reform Officer (MARO) to observe the status quo in the disputed area. That is, all land acquisition and distribution (LAD) activities would thereby be suspended, as would the processing of the Buhid CADT, until the DAR and NCIP have issued a joint memorandum on the implementation of the CARL and IPRA in the area in question.



Forested areas alleged to have been burned down by identified ARBS in Buhid lands



Notwithstanding the status quo order, the Mangyans received word that 900 CLOAs, each covering three hectares, have already been processed by the local DAR office, and that 300 of these have already been distributed.

### **The Mindoro Consultation—Heading Off Conflict**

The Mindoro Consultation was held on 26-27 April 2006.

Representatives from two provincial farmers' federations—KAISA-MO and SALAKMMA—participated in the consultation. The IP representatives consisted of 42 Buhid Mangyan leaders from the affected communities, as well as five leaders from other non-Mangyan tribes such as the Bangon, Iraya, Alangan, Hanunuo and Tadyawan. Five representatives from the DAR, specifically the Regional Office, the Legal Division, Support Services and Operations Offices, were also present.

The meeting of the government representatives yielded no consensus, except on the need to come up with a mutually acceptable interpretation of a provision of the IPRA on which the DAR has justified its coverage of the disputed land. Section 56 of the IPRA (“Existing Property Rights Regimes”) states that “[p]roperty rights within the ancestral domains already existing and/or vested upon effectivity of [the IPRA], shall be recognized and





Petitions filed by the Buhid Mangyans to protest the DAR's entry into their ancestral lands

respected". In the present case, this provision has been interpreted by the DAR to mean that, since the reclassification of the disputed area had preceded the passage of the IPRA in 1997, therefore the land reclassified thus can no longer be subject to an ancestral domain claim.

Meanwhile, the IP groups' session began with the IPs listing the ways in which non-IPs have generally gained access to the Mangyans' ancestral lands, particularly those of the Buhid. These are as follows:

- ▶ Encroachment;
- ▶ Non-IP migrants settling on IP lands and proceeding to cultivate a larger area, often without the permission of their IP hosts, or inviting relatives to settle in the area with them, thus expanding their territory;
- ▶ Fraud and deceit. Non-IPs offer loans to IPs, which the latter invariably default on, and the transaction ends with the non-IP gaining ownership of the IP's land. Non-IPs have also been reported to trick IPs into signing documents, which turn out to be a contract to sell the IP's land to the non-IP.
- ▶ Non-IPs seeking permission to put up structures on IP land, like a sari-sari store. When the business grows, the non-IP claims ownership of the land on which the structure is built. At other times, non-IPs hire Mangyans to plant trees on Mangyan land. The grown trees take up so much space, leaving the Mangyans limited room for cultivation.
- ▶ Areas left behind (and deforested) by Timber License holders are taken over by non-IPs. Unfortunately, these areas are part of Mangyan domains.
- ▶ Tree plantations being set up on Mangyan land, resulting in the displacement of the IPs.
- ▶ The DAR encouraging non-IPs to

Participants at the Mindoro consultation



settle on Mangyan land, with the non-IPs threatening the IPs into submission.

The IPs cited the following as proof of their claim:

- ▶ De facto ownership, by virtue of continued occupation of the land;
- ▶ Mangyan settlements, including burial grounds;



*Stefano di Gessa of ILC, Kiko Fisher, a volunteer for the Buhid Mangyans, and other NGOs at the consultation*

- ▶ Land features, including creeks, rivers, rocks and mountains, with Mangyan names; and

- ▶ The Buhid CADC which includes a list of Buhid/Bangon families with actual claims.

The IPs presented the following recommendations to resolve the conflict in the area:

- ▶ Speedy issuance of the Buhid CADT;
- ▶ Greater transparency, particularly on the status of the processing of the CLOAs, including the names of the beneficiaries;
- ▶ Moratorium on the issuance of CLOAs to non-IPs who are already residing in Mangyan land, especially in areas that are subject to CADC applications (although non-IP residents would be allowed to stay on Mangyan land, but not to expand their territory); and
- ▶ Clarification of the conditions under which non-IPs may remain on Mangyan land, and the inclusion of such in the ADSPP.

When asked if they would accept a CLOA in lieu of their CADT, the IPs expressed their preference for the latter, which they said provides for rights not included in the former.

The farmer groups represented in the consultation are not involved in the land dispute with the Buhid Mangyans, but provided the farmers' perspective on the issue nonetheless. A farmer representative related the case of land reclassification in Barangay Metolza, Paitan, Naujan, wherein farmers, including him and his group were removed from an area they had been occupying since 1957 to give way to the Naujan Lake National Park or Paitan reservation. PAFID Executive Director Dave de Vera affirmed that cases like this have been happening all over the country, chiefly because 90 per cent of the reservations declared by the government were not based on a ground survey. Farmers thus affected may apply for a Protected Area Community-Based Resource Management Agreement



A Mangyan leader (left) and a farmer leader (below), speaking at the Mindoro consultation

(PACBRMA), a tenurial instrument awarded to occupants of reservations and national parks as provided for in the National Integrated Protected Areas System (NIPAS).



Another farmer declared that many land disputes can be attributed to a failure of the DAR, adding that the selection of CARP beneficiaries is almost always skewed in favor of the well-connected, particularly to the Barangay Agrarian Reform Committees (BARCs).

Some of the farmer leaders reassured the IPs that they do not blame the IPs for the problem, but rather the DAR and the DENR. The shortcomings of these agencies affect not just the IPs, but farmers as well.

Noe Baracheta, representing KAISA-MO, an ARB group, expressed the farmers' desire to form an alliance with the IPs, "such that your problems become our problems, and vice-versa". He enjoined the ANGOC and its partners to continue to act as intercessor between the conflicting groups, and to help them bring the issue to the attention of the national agencies concerned.

## Legal Roundtable Discussion



Ancestral Domains or CARPable Lands?

A roundtable discussion was organized on 23 June 2006 by AR Now!, one of ANGOC’s partners in the Project, to examine the legal bases for the Department of Agrarian Reform (DAR)’s coverage of ancestral domains (ADs) under the Comprehensive Agrarian Reform Program (CARP), and to prepare to deal with the implications, in case the DAR proves able to legally enforce its actions on this matter.

The DAR’s foremost argument for giving out, or refusing to cancel, Certificates of Land Ownership Award (CLOAs) for properties that are being claimed by indigenous groups is to be found in the Indigenous Peoples Rights Act (IPRA) itself.

Section 56 of the IPRA provides that land rights granted before the IPRA became law in 1997 are exempt from AD claims. Therefore, as the DAR officials have argued, where CLOAs had been awarded for lands that may or may not be known at the time of issuance of the land titles to be part of some indigenous community’s ancestral domains but were then not yet covered by a Certificate of Ancestral Domain Title (CADT), the CLOAs would constitute an “existing or vested” right which could not be overturned, except by a legal proceeding. The DAR used this interpretation of Section 56 when it stood its ground on the validity of CLOAs it had issued for the Don Carlos estate land.

**SEC. 56. Existing Property Rights Regimes.** - Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

--Indigenous Peoples Rights Act

PROCLAMATION NO. 2282

RECLASSIFYING CERTAIN PORTIONS OF THE PUBLIC DOMAIN AS AGRICULTURAL LAND AND DECLARING THE SAME ALIENABLE AND DISPOSABLE FOR AGRICULTURAL AND RESETTLEMENT PURPOSES OF THE KILUSANG KABUHAYAN AT KAUNLARAN LAND RESOURCE MANAGEMENT PROGRAM OF THE KILUSANG KABUHAYAN AT KAUNLARAN OF THE MINISTRY OF HUMAN SETTLEMENTS

This controversial provision of the IPRA has also been invoked in other cases, as follows:

- ▶ Public domain lands covering some 1.5 million hectares that had been reclassified as agricultural land by virtue of Presidential Proclamation (PP) 2282. This law was passed by former President Ferdinand Marcos in 1983, or 14 years before the IPRA became law.
- ▶ “Lands suitable for agriculture”, even though found within reservations, that are put under the DAR’s jurisdiction by virtue of Executive Order 407 (then amended by Executive Order 448).
- ▶ Portions of the Bongabong-Mansalay Forest Reserve that were declared open to disposition by virtue of Presidential Proclamation (PP) 2073 of 1982.

Unfortunately, many if not all of such so-called public domain lands are part of some indigenous group’s ADs, although they are not formally recognized as such.

In any case, a number of legal groups disagree with this reading of Section 56. The Legal Rights and Natural Resources Center (LRC), for instance, argues that no vested rights could be said to have preceded the IPs’ rights to their ADs, which have existed from time immemorial.

Other fundamental counter-arguments may be found in Article XIII, Section 6 of the Philippine Constitution, which states that:

*“The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, **subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands.**”*

The Comprehensive Agrarian Reform Law (CARL) also contains a similar exemption in Section 2 (Declaration of Principles and Policies):

*“The State shall apply the principles of agrarian reform or stewardship, whenever applicable, in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain, under lease or concession, suitable to agriculture, **subject to prior rights, homestead rights of small settlers and the rights of indigenous communities to their ancestral lands.**”*

Nonetheless, the DAR insisted that unless a Court declares previously titled lands as part of CADCs/CADTs, they can still cover the land as part of CARP.

As a result of the discussion, the following options were proposed at the roundtable discussion:

- ▶ File a case before the Supreme Court in order to clarify the interpretation of the laws; however the case may put implementation of both CARP and IPRA on hold (status quo) for at least three years.
- ▶ Temporary Restraining Orders (TROs) can be filed in specific cases.
- ▶ Administrative cases can be filed against erring DAR officials.
- ▶ The DAR may be asked to clarify its position on Presidential Proclamation 2282.

The outputs of this roundtable discussion were presented and discussed at the National Consultation held on 7-8 August 2006.

**“The State shall apply the principles of agrarian reform or stewardship,...subject to prior rights,...and the rights of indigenous communities to their ancestral lands.”**

**--Comprehensive Agrarian Reform Law**

## National Consultation



The National Consultation held in Marikina City, Metro Manila

The National Consultation of Indigenous Peoples and Farmers was conducted by ANGOC, PAFID and AR Now! on 7-8 August 2006. Some 70 participants, composed of IP and farmer representatives, NGO, government and donor representatives, participated in the consultation. The Mediators' Network for Sustainable Peace, Inc. documented the

proceedings and helped coordinate with the NAPC Basic Sectors in regard to their participation in the consultation

The first part of the consultation consisted of presentations from the NAPC, NCIP, and DENR; a review of the findings of the Land Partnership Study; sharing of past struggles of IPs and farmers concerning their land claims; a clarification by the Legal Rights and Natural Resources Center (LRC) of relevant provisions of the CARL and IPRA and of overlaps between these laws.

NAPC Basic Sectors Director Joyce del Rosario talked about the role of the NAPC in convening the various basic sectors to maximize people's participation, particularly in support of land related programs and projects of the government.

Speaking on behalf of NCIP Commissioner Lagtum Pasag, Myrna Caoagas provided an update on the status of CADC and CADT applications in the country. Of 181 CADCs that have been issued by the DENR, 26 have been converted into CADTs, and the rest are awaiting conversion. A total of 46 CADTs have been distributed to 206,388 ancestral domain claimants for an area of about 891,000 hectares. Ms. Caoagas also presented



Manobo Datu Marcial Tahuyan shares their tribe's struggles and ancestral claims over the Don Carlos estate in Bukidnon

two cases where the NCIP had been able to assist in the resolution of land disputes between farmers and IPs: the case of Hacienda Madrigal in Rizal, Kalinga, and that concerning 400 hectares of Buhid Mangyan lands covered by CADC 130.

Joey Austria, Chief of the Indigenous Community Affairs Division, Special Concerns Office of the DENR, reported on the status of the agency's land distribution operations (i.e., issuance of Free and Homestead Patents for public agricultural lands). The DENR

complements the DAR's land distribution program: the DAR is mandated to move 4.29 million hectares (54% of the total), while the DENR is tasked to move 3.7 million hectares (46%). As of June 2006, the DENR has been able to meet 78% of its target, having moved three million hectares (1.65 million hectares of alienable and disposable lands, and 1.34 million hectares covered by the Integrated Social Forestry/Community Based Forest Management Program).

Mr. Austria said that to avert disputes arising from DENR's land distribution operations, it is necessary to pass a law that provides for a clearer delineation of forest lands. Ambiguous interpretation of the law has led to land conflicts between IPs and farmers, he added.

The sharing of local struggles was provided by both farmer and IP representatives. Datu Marcial Tahuyan and Mercedita Tahuyan related the incidents of harassment suffered by the Bukidnon Manobos; ARB leader Franklin Labial of Makabayan-Bukidnon and Rogelio Sacote, of the Actual Tillers Association, also from Don Carlos, took the DAR to task for its improper screening of beneficiaries in Don Carlos; Renato Penas, representing the Sumilao, Mapalad farmers, told of his group's near success in securing their land rights as ARBs and the gains they have made despite the DAR's inadequate intervention in the case; Gil Layag and Inggid Yayauma testified to the unwarranted intrusion of the DAR into the ancestral domains of the Buhid Mangyans.

Lawyer Ria Muhi of the LRC summarized the various provisions in the Philippine Constitution which seek to protect the rights of IPs to their ancestral domains. She also pointed out that the CARL itself (particularly Section 9) exempts ancestral lands from coverage of the CARP, while the IPRA provides for clear remedies (Section 62 and 63) should conflicting claims arise. She disagreed with the DAR's interpretation of Section 56 of the IPRA, arguing that there are no *prior* vested rights that could invalidate an IP group's AD claim since IPs have owned their lands since time immemorial.



## 40 IN SEARCH OF COMMON GROUND

Farmer leader Oscar “Ka Oca” Castillo and Gilbert Hoggang, of KASAPI, a national federation of IP groups, recounted their respective sectors’ recent experience in trying to secure their land rights. Ka Oca acknowledged that the CARL has flaws, and stressed the need for coalition building on various fronts, namely, advocacy for laws and policies favoring small and landless farmers, and better implementation of laws and programs. Mr. Hoggang meanwhile urged CSOs to continue assisting IP groups to secure their rights as provided for in the IPRA. He noted that the law has yet to be fully implemented, and would likely be undermined by the Mining Act of 1995.

### Workshop Discussion

#### Workshop I

Workshop I called on the participants to propose measures to forestall conflicts (“Prevention”); to manage existing conflicts (“Conflict Management”); and to resolve conflicts (“Resolution”). These measures could take the form of relational/cultural change, policies or laws, structures or mechanisms, or processes to be undertaken. (See Table 2 on page 42 for the results of Workshop 1)

#### Workshop II

Workshop II consisted of identification by the two groups of steps that need to be taken immediately. Their combined outputs are as follows:

- ▶ Awareness raising and wider information dissemination on customary laws, human rights, and entitlements provided for in CARL and IPRA;
- ▶ Establishment of dispute settlement mechanisms;
- ▶ Strengthening of the two sectors’ leadership, organization and structures;
- ▶ Formal coordination between the IP and Farmers Council of the NAPC;
- ▶ Harmonization of policies for the implementation of CARL, IPRA, NIPAS and other land related laws;
- ▶ Documentation of the conflict, including the history, and the intervention by both sectors and the government;
- ▶ Appointment of an IP party-list representative in Congress; and



IP workshop group

- ▶ Memorandum of Understanding recognizing the rights of IPs to their ancestral domains while allowing farmers to remain in (but not lay claim to) IP land.

### **Joint Declaration**

The National Consultation provided for the drafting and ratification by representatives of the two sectors of a joint declaration between the farmers and IP groups where they called for the establishment of mechanisms that could facilitate dialogue towards the peaceful resolution of land conflicts; renewed efforts to promote understanding and consciousness of customary laws, human rights, and the rights of farmers and indigenous peoples as stated in the agrarian reform law and the indigenous people's rights act; and formal coordination between the NAPC IP and Farmers Councils in order to promote the orderly resolution of land conflicts.

The declaration issued the following demands to the DAR, NCIP, the DENR, local government units and to the country's lawmakers:

- ▶ Improve the implementation of the indigenous people's rights act and the agrarian reform law through a number of concrete measures:
  - ▷ a clear interpretation of land related laws;
  - ▷ better coordination among the DAR, DENR, NCIP and local government units;
  - ▷ consultations between farmer beneficiaries and indigenous groups;
  - ▷ orderly listing of beneficiaries of land distribution programs; and
  - ▷ clear delineation of the area coverage of the agrarian reform program and indigenous land claims.

The declaration also demanded that all land related laws that are in conflict with each other be harmonized through an executive order or by the passage of a National Land Use Act.

The two sectors also approved a draft resolution calling on the Philippine Government to fast-track the adoption of the UN Declaration of the Rights of Indigenous Peoples which was ratified on 27 July 2006 in Geneva, Switzerland.

The participants also identified immediate steps to be taken, such as communicating with the NAPC, which was considered to be the best arbiter of land conflicts between the two groups; advocacy for legal measures that could clarify existing land laws; and documentation of conflict cases.

Table 2. Results of Workshop 1

	RELATIONS/CULTURE	POLICY/LEGAL REMEDY	STRUCTURE	PROCESS
<b>Prevention</b>				
➔ IPs	<ul style="list-style-type: none"> <li>▶ Awareness of land administration among IPs and non-IPs</li> <li>▶ Mediation between IPs and ARBs by concerned agencies</li> <li>▶ Consultation with IPs prior to the implementation of programs that concern them</li> <li>▶ Respect for IP culture, human rights, prior rights to land</li> <li>▶ Creation of a task force to address land conflicts</li> <li>▶ Assistance from the Philippine National Police (PNP)/Department of Interior and Local Governance (DILG) and Armed Forces of the Philippines (AFP), some of whose personnel have been implicated in land disputes</li> </ul>	<ul style="list-style-type: none"> <li>▶ Harmonization of laws (IPRA, CARP, NIPAS, Mining Code, Wildlife Act, etc.)</li> <li>▶ Resolution of policy overlaps</li> <li>▶ Better integration of land related laws</li> <li>▶ Memorandum of Understanding between IPs and farmers</li> </ul>	<ul style="list-style-type: none"> <li>▶ Strengthening of existing tribal structures</li> <li>▶ Strengthening of the tribal council in each barangay</li> <li>▶ Establishment of a consultative council at the barangay to municipal levels</li> <li>▶ Strengthening of tribal leaders to enable them to speak as one</li> <li>▶ Creation of an IP paralegal team for all ethno regions</li> </ul>	<ul style="list-style-type: none"> <li>▶ Establishment of a NAPC monitoring and evaluation system</li> <li>▶ Regular consultation/dialogue between the NAPC-IP Council and the NAPC consultative body</li> <li>▶ Broad information dissemination on IPRA and CARL at the sitio, barangay, municipal and provincial levels</li> <li>▶ Sustained campaign by line agencies to inform the public of their programs</li> <li>▶ Regular forum at all levels among IPs and farmers</li> <li>▶ Joint workshops on land laws and issues</li> <li>▶ Awareness raising among IPs and farmers on their respective land rights</li> </ul>

	RELATIONS/CULTURE	POLICY/LEGAL REMEDY	STRUCTURE	PROCESS
<b>Prevention</b>				
➤ Farmers	<ul style="list-style-type: none"> <li>▸ Respect for the rights and culture of tribes</li> <li>▸ Willingness of the two sectors to work towards a win-win solution to the conflict</li> </ul>	<ul style="list-style-type: none"> <li>▸ A comprehensive land use plan</li> <li>▸ Passage of a national land use act</li> </ul>	<ul style="list-style-type: none"> <li>▸ Barangay level orientation on the relevant laws</li> <li>▸ Intersectoral forum on land conflicts/claims in conflict areas</li> </ul>	<ul style="list-style-type: none"> <li>▸ Coordination among the relevant line agencies</li> </ul>
<b>Conflict Management</b>				
➤ IPs	<ul style="list-style-type: none"> <li>▸ Cancellation of CLOAs issued to non-IPs for ancestral lands</li> <li>▸ Memorandum of Understanding between migrant settlers and the NCIP on the terms on which the migrants would be allowed to stay on IP lands</li> <li>▸ Respect for the culture, beliefs, and way of life of IPs within their ancestral domains</li> </ul>	<ul style="list-style-type: none"> <li>▸ Creation of a local Ancestral Domain Coordinating Council composed of the IP group, LGU, DENR, DAR, NCIP, Department of Agriculture (DA)</li> <li>▸ Recognition of NGOs supporting IPs and farmers by line agencies</li> <li>▸ Appointment of an IP representative to the Barangay Development Council</li> <li>▸ Review and strengthening of basic laws</li> </ul>	<ul style="list-style-type: none"> <li>▸ Appointment of an IP representative to the Barangay Development Council</li> <li>▸ Implementation of the Local Government Code provision for basic sector representation in the BDC, MDC, PDC, as well as in Local Special Bodies</li> <li>▸ Creation of an Arbitration Board composed of law experts on IPRA and CARL, IP leaders and farmer leaders</li> </ul>	<ul style="list-style-type: none"> <li>▸ Basic sector representation at all levels of government, and in the executive and legislative branches of government</li> <li>▸ Clarification and information dissemination on customary laws and land laws</li> <li>▸ Application of traditional/customary conflict resolution mechanisms</li> <li>▸ Continuing dialogue and coordination among the implementing agencies</li> </ul>

	RELATIONS/CULTURE	POLICY/LEGAL REMEDY	STRUCTURE	PROCESS
<b>Conflict Management</b>				
<ul style="list-style-type: none"> <li>➤ IPs</li> </ul>		<ul style="list-style-type: none"> <li>▸ Intervention by the NAPC between the DAR and NCIP in the resolution of land conflicts</li> </ul>	<ul style="list-style-type: none"> <li>▸ Formation of a multi-stakeholder task force at all levels composed of the LGU, NGOs, IP leaders, the church, government agencies, POs, etc.</li> </ul>	<ul style="list-style-type: none"> <li>▸ Intervention by the government and CSOs in IP-farmer conflicts, upon the invitation of these sectors</li> </ul>
<b>Resolution</b>				
<ul style="list-style-type: none"> <li>➤ IPs</li> </ul>	<ul style="list-style-type: none"> <li>▸ Farmers abiding by the tribal justice system</li> </ul>	<ul style="list-style-type: none"> <li>▸ Recognition of alternative dispute settlement systems</li> <li>▸ Greater accountability from government employees</li> </ul>		<ul style="list-style-type: none"> <li>▸ An IP party-list representative in Congress</li> <li>▸ Speedy response by the President and line agencies to issues put forward by the NAPC</li> <li>▸ Turnover to NCIP of all CBCs, CADCs for conversion to CADTs</li> <li>▸ Third-party mediation between IPs and farmers</li> </ul>

## Policy Dialogue



DAR Secretary Nasser Pangandaman (fourth from left), presiding over the Policy Dialogue; ANGOC Chairperson Fr. Francis Lucas (third from left), NACP Convenor Zamzamin Ampatuan (second from left)

The “Policy Dialogue on Finding Common Ground for Land Partnerships between Indigenous Peoples and Farmers” was convened by ANGOC, PAFID and AR Now! on 31 August 2006. Top government officials participated in the dialogue, among them DAR Secretary Nasser Pangandaman, National Anti-Poverty Commission (NAPC) Lead Convenor Datu Zamzamin Ampatuan,

Director Joyce del Rosario of the NAPC Basic Sector Unit, NCIP Commissioner Lagtum Pasag, and COSLAP Associate Commissioner Lawyer Lina General. IP and ARB group representatives from Don Carlos and Bongabong, Oriental Mindoro also came out in full force, as did representatives from NGOs and other support groups, such as the LRC, Sentro ng Alternatibong Lingap Panligal (SALIGAN, an alternative law group), TEBTEBBA (Baguio City), and Mediators Network for Sustainable Peace, Inc. (MedNet).

The dialogue started with the presentation of the Joint Declaration of Indigenous Peoples and Farmers, ratified at the August 6-7 National Consultation. NAPC Sectoral Representatives Artiso Mandawa (for the Indigenous Peoples Sector) and Romy Rubion (for the Farmers Sector) read the document to the group assembled there.

This was followed by a brief account of the events that led up to the current conflict in Bukidnon and Bongabong, and thereafter by a presentation of the respective groups’ recommendations to the concerned agencies.

Specifically, the ARBs in Don Carlos requested, among others, that:

## 46 IN SEARCH OF COMMON GROUND

- ▶ No more CLOAs be issued in Don Carlos;
- ▶ A new screening of beneficiaries be conducted to ensure that the actual tillers are prioritized;
- ▶ The CARL (Section 22) be observed in identifying beneficiaries;
- ▶ The leaseback arrangement (agreed between an ARB group and a private corporation-DAVCO-soon after the issuance of the CLOAs) be cancelled; and
- ▶ Plans to put up a subdivision in the estate be scrapped.

The Manobos asked that:

- ▶ The processing of their CADT would continue;
- ▶ The NCIP would work towards the cancellation of the CLOAs within the Manobos' CADC area; and
- ▶ The DAR would support the Manobos' CADC application.

On the other hand, the Buhid Mangyans put forward the following requests:

- ▶ Support for the NCIP's processing of the Buhid CADT;
- ▶ Grant of autonomy to the Buhid Mangyans to decide on the management, distribution and use of their ancestral lands;
- ▶ Moratorium on the issuance and awarding of CLOAs in the Buhid CADC; and
- ▶ Better coordination between the DAR and the NCIP.



Participants at the Policy Dialogue

### **Government's Response: Unavailing Status Quo**

#### **On Don Carlos**

DAR Secretary Nasser Pangandaman reiterated only what Bukidnon PARO Celestiano had said at the Bukidnon consultation in February 2006: that the CLOAs that had been issued

in Don Carlos are considered valid and that no ancestral domain claim would prosper in that area. Furthermore, the two DAR officials merely repeated the arguments put forward earlier, i.e., that the DAR makes no distinction between IPs and non-IPs in screening ARBs; that the IP claimants either did not take the CARP seriously, or did not want to pay land amortization, and this is reflected in their non-participation in the ARB screening process.



ANGOC Chair Fr. Francis Lucas (above left) facilitating the Dialogue

Secretary Pangandaman likewise stood pat on the DAR's interpretation of Section 56 of the IPRA, which states that lands over which there are prior claims (such as that represented by a CLOA) are exempt from coverage of the IPRA.

He also insisted that it is the NCIP's responsibility to coordinate with the DENR in delineating ancestral domains. PARO Celestiano followed up by saying that there is already a Joint Memorandum Circular issued by the DAR and the NCIP on the areas to be covered by the respective agencies.

### **On Bongabong**

Speaking on behalf of the DAR, Director Martha Salcedo offered the following responses to specific requests made of the government in the Joint IP-Farmer Declaration:

- ▶ All titled lands are automatically under the jurisdiction of the DAR and can not be subjected to ancestral domain claims. Should a situation merit the cancellation of a CLOA, she said, the same can only be done by court order. Otherwise, the DAR's hands are tied.
- ▶ Overlapping policies on land are being addressed through legislation, particularly through a National Land Use Act (NLUA), which has already been submitted to the Congress.
- ▶ The DAR and the NCIP have already drafted a joint memorandum circular on the establishment of a database. The NCIP has reportedly not yet acted on this.
- ▶ The DAR is already at work on launching an information campaign among its personnel to raise awareness on CARP and IPRA.

Mindoro ARPT Ophelia Radovan insisted that no CLOAs have been issued for lands within the Buhid CADC, contrary to Mangyan claims. The Mangyan representatives acknowledged that they have no proof that CLOAs have already gone out, but requested the DAR to make a categorical denial anyway, since such rumors are stirring up trouble between the Mangyans and the farmers. COSLAP Assistant Commissioner Lina General



## 48 IN SEARCH OF COMMON GROUND

affirmed that a status quo order had been issued by her agency in the disputed area in 2005.

AR Now! Coordinator Ernesto Lim Jr. pursued the matter further, inquiring if CLOAs have been processed, if not released. In response, Ms. Radovan stated that the COSLAP order has been observed by the DAR and that “no CLOAs have been released”. This was greeted by applause among the group.

Luz Mendoza, representing the DENR’s Indigenous Communities Affairs Division, informed the group that a joint DENR-NCIP memorandum circular, providing a common interpretation of “existing prior rights”, is already in the works.

The prospects for the passage of a NLUA, however, are still uncertain. Lawyer Rudy Gabasan, of SALIGAN, reported that the bill continues to languish in both Houses of Congress.



Ophelia Radovan of DAR Mindoro (top, extreme right); PARO Salustiano of DAR Bukidnon (top, second from left); Dir.Bueno of DAR National Office; Datu Marcial Tahuyan (above, extreme right); Yaum Sumbad of the Buhid Mangyans (above, second from left); Lawyer Ria Muhi of LRC (above, extreme left)



NAPP Lead Convenor Zamzamin Ampatuan (second from left)

### The Way Forward

The group reached consensus on the need for an inter-agency mechanism to lead the dispute settlement process. The NAPP, which represents the basic sectors, including IPs and farmers, was the unanimous choice to take on this role.

Soon after the policy dialogue, a memorandum order reactivating, strengthening and expanding Task Force 63 was drafted for approval by President Arroyo. The Task Force would have the following functions:

activating, strengthening and expanding Task Force 63 was drafted for approval by President Arroyo. The Task Force would have the following functions:

- ▶ Conduct fact-finding missions to emergency situations or conflict areas and take appropriate action;
- ▶ Implement Special Temporary Measures to respond to emergency situations;
- ▶ Facilitate the harmonization of overlapping laws, policies and programs; and
- ▶ Serve as a venue for inter-agency dialogue.

The Memorandum Order has been submitted to the Office of the President as of June 2007. (See Annex B for the text of this Memorandum Order.)

### Insights from the Project\*

ANGOC and its CSO project partners derived the following insights from the experiences and views of the IPs, farmers, government officials and NGOs who participated in the local and national consultations convened:

**1. Appreciating cultural differences.** The need for common understanding between indigenous peoples and farmers over their claims to land is crucial for a peaceful and lasting solution to land conflicts. There are cultural differences on how land ownership is viewed by each sector which may not be easy to accept. Collective analysis is needed among organized farmers and IP groups, NGOs, the DAR and the NCIP of their issues and

---

\*Derived from a revision of the Land Partnership Study retitled "Land Partnerships: The challenges to developing inclusive land policies and reforms in the Philippines" and presented at the 26th Executive Committee Meeting of the Centre on Integrated Rural Development for Asia and the Pacific (CIRDAP) last May 30, 2007, Manila, Philippines.

corresponding solutions they might work on together to prevent or resolve further land conflicts.

**2. Need for local dialogue.** Creating a local mechanism or venue for the IP and farmers sector to discuss their issues is a vital first step. However, this does not resolve the conflict per se. But it helps prevent cases of violence. Resolution will still depend on how the agencies and the sectors work together and agree on acceptable terms.

**3. Need to create awareness within the bureaucracy.** There is need for cross-agency awareness raising, education and appreciation especially of the property rights for indigenous people in the bureaucracy given the cultural nuances on land ownership or stewardship that IPs have that is different from other private land ownership schemes.

**4. The pressure of accomplishment by numbers.** A notion arose that DAR may be covering ancestral domains over the more difficult Private Agricultural Lands (PALs) which are among the original CARP targets. These are vast tracts of hectareage usually owned by powerful and even political families and comprise the most contentious lands for distribution under CARP. Agrarian reform NGO and PO groups fear that should the DAR mainstream the implementation of Proclamation 2282, the Department may abandon the distribution of the more difficult Private Agricultural Lands owned by the landed elite and the Untitled Private Agricultural Lands (UPALs) in favor of these ancestral domains.

**5. Strengthen IP negotiation capacity.** The power or capacity of IP groups to negotiate for their land rights is only as strong as the agency enforcing the law and advocating for better policies or resources. NCIP receives a meager budget which is not enough to expedite the processing of CADCs. It also has difficulty in securing the cooperation of other government agencies or branches to protect ancestral domains.

**6. Need for a Land Use policy.** The passage of a National Land Use Policy is integral in resolving present and future land conflicts between multistakeholders. Government must have a national framework to analyze the usage of land and other common property resources and ensure that the rights of marginalized sectors depending on these resources are respected.

**7. Need to continue land reforms and address second generation issues.** Finally, these land reform programs are prerequisites to equitable development. Past assessments show these have contributed to alleviating poverty and improved peace and order in the countryside. However, second generation questions have arisen, such as overlapping property regimes, land reconsolidation, etc., some of which cannot be resolved by mere administration. Some issues involve basic policy questions. These need to be addressed at (a) policy level, where sectors are engaged to discuss policy options and arrive at agreements, and (b) local or community level, where venues for dialogue are created to address open conflicts that have erupted.

## ANNEX A

**A Review of LAND Partnerships in the Philippines\***

by Antonio Quizon, Meynardo Mendoza and Gregorio Quitangon

**I. INTRODUCTION****A. Background and working context of the Study****Objectives of this study**

1. This study examines the feasibility, challenges, and potentials for establishing land partnerships in the Philippines. It has three overall objectives:

- i. To provide an overview of the policy context, as well as a general status of the partnership mechanisms formed by key stakeholders in support of land-related reforms and policies (CARP and others) vis-à-vis programs, projects and policy advocacy (e.g., by government, NGOs/POs, donors, and the private sector);
- ii. To provide a brief assessment about the working context, issues and accomplishments of these mechanisms, their factors for success and insights gained from their experiences; and
- iii. To assess how these mechanisms can be improved or whether there is a need for a new mechanism(s), i.e., the feasibility of a land partnership in the Philippines.

**Meaning of “land partnerships”**

2. The term “*land partnerships*” was coined by the International Land Coalition (ILC) to refer to a wide range of mechanisms for collaboration between state, civil society, and bilateral and international stakeholders to address issues of “access to land”. Depending on the particular need addressed, and based on negotiations among different stakeholders and interest groups, such partnerships may take on different forms – i.e., alliances, forums, joint commissions, or joint field programs. Land partnerships are multistakeholder mechanisms established for the purpose of debating, negotiating and/or implementing a range of policy, program and service delivery systems in order to “break through” the constraints impeding improvement in the resource rights of poor rural households.

---

\* A Discussion Paper prepared for a project of the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), the Department of Agrarian Reform (DAR) and the International Land Coalition (ILC), Quezon City, Philippines, July 2004. This paper was prepared by Antonio Quizon, Meynardo Mendoza and Gregorio Quitangon with the assistance of Maricel Almojuela-Tolentino. Paper commissioned by the Asian NGO Coalition (ANGOC). Views expressed are those of the authors and do not necessarily reflect those of the Department of Agrarian Reform (DAR).

### The origins and context of this initiative

3. The global programme on land partnerships (i.e., *Land Alliances for National Development*) was initially launched by the International Land Coalition/ILC (formerly, the Popular Coalition to Eradicate Hunger and Poverty)<sup>1</sup> during the 2002 World Summit on Sustainable Development (WSSD) held in Johannesburg, South Africa, where participating governments had affirmed the importance of secure access to land under the Plan of Implementation for Agenda 21.

This global programme was initiated by the ILC in order to strengthen the implementation of Agenda 21 through country-level partnerships for land. The stated aim is to “nurture arenas, fora, events, committees and land alliances or other mechanisms at country level, where diverse vested interests in land can find a common basis for progress”.<sup>2</sup> It is noted that while stated commitments to the resource rights of the poor is not new, this programme itself reflects a growing global consensus on the cross-cutting contribution of resource rights towards eradicating poverty, achieving food security, resolving conflicts and implementing sustainable practices for natural resource management.

### What has been done so far

4. At the 2002 WSSD conference, the Philippine government, as represented by the Philippine Council for Sustainable Development (PCSD)<sup>3</sup>, initially expressed its desire to endorse the Land Partnerships as one of its selected “type II” partnerships.<sup>4</sup> The PCSD also noted then that access to land remains critical for both its social justice aspect as well as for peace and development.

5. In 2003, follow-up discussions were then held between ILC-Rome and its regional partner, ANGOC, towards initiating “land partnership” discussions in the Philippines. ANGOC involved the Department of Agrarian Reform (DAR) which agreed to act as co-convenor of this initiative. ANGOC also consulted various institutions that might be willing to collaborate on land-related issues – NGOs, farmer organizations, and government agencies. The various stakeholders agreed to a proposal for a “mapping” study, noting that the last thing the project should do was to create another bureaucracy, and to reinvent the wheel.

---

<sup>1</sup> The International Land Coalition, with headquarters in Rome, initially grew out of an international conference convened in Brussels in 1995 by the International Fund for Agricultural Development (IFAD). Currently, it is a global alliance of inter-governmental and civil society organizations working on issues of access to land and resources. It was formerly known as the Popular Coalition to Combat Hunger and Poverty.

<sup>2</sup> International Land Coalition, *LAND Programme Description and Guidelines for Establishing Land Partnerships*, 2003.

<sup>3</sup> The Philippine Council for Sustainable Development (PCSD) was established in July 1992 through Executive Order 15, to ensure implementation of the country's commitments to sustainable development principles in UNCED. The PCSD structure has an NGO-PO counterpart with a multi-sectoral representation, and operates through a National Secretariat based in NEDA. In 1996, PCSD formulated *Philippine Agenda 21*, an action agenda for advancing the goals of sustainable development.

<sup>4</sup> Based on diplomatic protocol, “Type “II” partnerships to people to people exchanges, in contrast to type “I,” which is official or government to government.

6. To further crystallize the concept of Land Partnerships and the outline for this mapping study, a series of roundtable discussions and separate meetings with government agencies, donors, NGOs and farmer organizations were held in conjunction with the ILC country mission to the Philippines on 20-25 October 2003. The roundtable discussions enabled DAR, ILC and ANGO to present the first step of the Land Partnership with this Land Study. The participants agreed to pursue the study to ascertain the problems that need to be acted on with the agrarian reform program. The discussion also called upon ILC to expand Land Partnership to the donor community and perhaps open up the existing Donor Forum on Agrarian Reform to civil society and other government agencies aside from the DAR. The civil society groups expressed the need for the study to be broader than agrarian reform policies and examine legal frameworks, environment and conservation issues, indigenous peoples, among others. The need to institutionalize Land Partnership to ensure sustainability even with the changes in leadership was highlighted.<sup>5</sup>

7. On 7 November 2003, the LAND Partnership Protocol was signed between DAR, ILC and ANGO in Rome that formalized the agreement and identified lead roles for DAR (for government agencies) and ANGO (for CSOs) in encouraging participation in the Land Study and subsequent activities for LAND Partnership in the Philippines.<sup>6</sup>

### How this study will be used

8. This study is jointly coordinated by the Asian NGO Coalition (ANGO) with the International Land Coalition and the Department of Agrarian Reform. It has been intentionally written as a discussion paper with the purpose of providing input at a National Multi-Stakeholder Workshop to be convened on 16th July 2004. The National Workshop aims to determine "if and how the LAND Partnership can be a mechanism for dialogue and negotiations to further the Philippine agenda on access to land".

### Scope and limitations

9. The main focus of this study is on the major partnership *mechanisms* and working arrangements that have been established or have been in operation between government and CSOs on land-related issues since 1992. The country's land policies are presented here only to provide an overview of the broader policy environment in which such GO-CSO mechanisms have taken place. As such, the study does not intend to provide a comprehensive account nor an assessment of the specific provisions or content of such land policies and programs in the Philippines. Finally, a major limitation is that this paper does not cover the fisherfolk sector with its related subjects of inland and coastal waters, mangroves, coastal lands and marine resources.

### Methodology and sources

10. The study is purposive, intended more as a practical guide and tool for discussion among stakeholders. The study relied mainly on secondary materials as well as key

---

<sup>5</sup> LAND Partnerships Progress Report, January 2003-May 2004, International Land Coalition, p.18.

<sup>6</sup> Contract signed between DAR Secretary Roberto Pagdanganan, ILC Coordinator Bruce Moore and ANGO Executive Director Nathaniel Don Marquez, November 7, 2003, Rome, Italy.

informant interviews conducted between April-May 2004. Where possible, assessments of the GO-CSO mechanisms presented here have been based on views of different stakeholders as culled from interviews and secondary sources. A draft was discussed at a Round-Table Discussion Workshop conducted on 13 July 2004, and participants' feedback has been incorporated into this paper.

### **How this paper is organized**

11. This paper is presented in three major sections. Part 1 provides an overview of Philippine policies and programs on access to land. Part 2 presents a review of joint GO-CSO mechanisms (past and present) that were established to address land-related policy and implementation issues. Part 3 initiates a discussion of future options for establishing new (or to strengthen existing) "land partnership" mechanisms in the Philippines.

## **B. The policy context of "access to land"**

### **The meaning of "access to land"**

12. The issue of "access to land" in the Philippines is particularly compelling; our colonial history has been marked by over a hundred uprisings, many of them peasant-led and rooted in agrarian discontent. Until today, several active insurgencies persist, fueled in large measure by land and territorial issues – the hunger for land and resource access, tenurial security, and even quests for territorial rights, autonomy and nationhood.

13. In the Philippines, the poor heavily depend on access to land for their livelihood and welfare. About three-fourths of the poor make a living from agriculture and fisheries. The urban poor, who account for 25% of the total poor population, are also dependent on land, as housing provides them access to the urban economy. For many poor urban families, the house also serves as base for income-generating activities (e.g., vending, services, processing of recyclable materials.)

14. The "access to land" issue holds diverse meanings to different sectors of society. To most poor Filipino families, access to land, whether to a farm or a homelot, brings access to a source of livelihood, an increased sense of security, an increased level of resilience, or the opportunity to break out of one's poverty. For indigenous people (IP) communities, the right to land carries the right to self-determination, cultural integrity and autonomy.

At higher levels of community and society, the need to improve access to land has been cited as a necessary step to reduce unemployment and poverty, reduce tensions and conflicts over resources, increase productivity to ensure the nation's food security, improve sustainable management of lands, and improve overall peace for greater economic and political stability.

### **Brief overview of the policy context on private land ownership**

15. Private land ownership was first introduced under the Regalian doctrine during the Spanish colonial period, and this became the basis for all land laws in the country as

expressed in the 1935, 1973 and the 1987 Constitutions. The Regalian doctrine stipulated that all lands of the public domain and other natural resources belonged to the King of Spain, and thus, when the republican system was later introduced, the State became the rightful heir. Traditional systems of communal ownership were broken up and not accorded legal recognition; thus, natives were disenfranchised. The later American occupation period did little to break up the land monopolies created under Spanish colonization; instead, the Philippine Bill of 1902 upheld the Spanish system of cadastral laws; private land ownership was also further strengthened through the introduction of the Torrens Title system under the 1902 Land Registration Act.

### Early land-related reforms

16. Earlier policy efforts to broaden access to *public* land consisted mainly of opening up new areas for application of land patents, reforms in land titling and administration systems, and the introduction of systems for recognizing occupancy rights. The Homestead Act of the 1960s encouraged the creation of new settlements in Mindanao, by providing 24 hectares to migrant families. In terms of *private* agriculture lands, land reform policy was introduced as early as 1963 through the Agricultural Tenancy Act, which sought to improve tenancy systems in agriculture. Two decades later, in 1972, a policy of compulsory land acquisition and redistribution, limited to all rice and corn lands nationwide, was introduced by then President Marcos through Presidential Decree 27, for the “emancipation of tenants from their bondage to the soil.”

However, many saw this as more of as a counter-insurgency measure intended to quell agrarian unrest in heavily tenanted areas, rather than as a sincere effort at instituting broader access to land. Large plantations remained untouched; and corporate farming was even encouraged in rice, for up to 500 hectares. Under Martial Law, poor communities were displaced as lands were taken over by government corporations, large-scale development projects and logging & mining concessions; squatting was decreed as a criminal act under Presidential Decree 772.

### Social and land-related reforms under the 1987 Constitution

17. The People’s Power Revolution that ousted the Marcos regime in February 1986, and restored democratic processes in government signaled a period of widespread reforms. The 1987 Philippine Constitution was heavily reform-oriented, nationalistic and detailed in emphasizing human and social rights, and the limitations of State powers.

18. General provisions related to social justice and participation provide for, i.e.:

- a. Filipino rights to ownership and control of the country’s resources and industries.
- b. Social justice and human rights (in addition to the Bill of Rights) to safeguard the rights of marginalized sectors – farmers, fisherfolk, indigenous peoples, urban poor.
- c. Social justice in all phases of national development (Art. 2, Sec. 10); a comprehensive rural development and agrarian reform as well as the rights of indigenous cultural



communities. (Art.2, Sec.21 and 22)

- d. The right of all people to human dignity; reduce social economic and political inequalities and remove cultural inequities by equitably diffusing wealth and political power for the common good. (Art. 13, Sec.1)
  - e. The right of the people and their organizations to participation at all levels of social, political, and economic decision-making; the State is required to facilitate adequate consultation mechanisms. (Art. 13, Sec.15)
19. The 1987 Constitution also had specific provisions on access to land, among them:
- a. Non-ownership by aliens/foreigners (Art. 12, Sec. 11<sup>7</sup>) of public utilities, which should be at least 60% Filipino-owned.
  - b. Alienable lands of public domain can only be leased by private corporations or associations for not more than 25 years, and not exceeding 1,000 hectares (Art. 12, Sec. 3). Filipino citizens may lease not more than 500 hectares, or acquire not more than 12 hectares by purchase, homestead, or grant. (Art. 12, Sec. 3)
  - c. Agrarian Reform: The State shall undertake just distribution of all agricultural lands to landless farmers and farmworkers based on their rights over the lands they till. Retention limits are to be set by Congress and subject to just compensation.

Farmers and landowners should participate in the planning, organization, and management of the program. The principles of agrarian reform are to be applied in natural resources and lands of public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands. (Art. 13, Sec. 4-6)

- d. Protection of the rights of subsistence fishermen to the preferential use of both inland and offshore communal marine and fishing resources. (Art. 13, Sec. 7)
- e. A continuing program on Urban Land Reform and Housing (Art. 13, Sec. 9) between the state and the private sector which will make available and affordable, decent housing and basic services to under-privileged and homeless citizens.

Urban or rural poor dwellers should not be evicted nor their dwellings demolished illegally without adequate consultation with communities where they are to be relocated.

---

<sup>7</sup> Only Philippine citizens, corporations or associations organized under Philippine laws are granted with franchise, certificate, or any other form of authorization for the operation of a public utility. These should not be exclusive in character or for a longer period of 50 years.

- f. Protection of Indigenous People's Rights (Art.12, Sec.5) to their ancestral lands and use of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.
- g. Conservation Areas may be acquired, developed, held, or leased based on the requirements of conservation, ecology, and development, as well as agrarian reform. (Art. 12, Sec. 3). Congress also determines the specific limits of forest lands and national parks. (Art. 12, Sec. 4)

### Subsequent legislations on land-related reforms

20. In addressing the social justice provisions mandated under the 1987 Constitution, three major Congressional legislations were instituted on land-related reforms, each with a strong sectoral bias and focus. These were:

21. **Comprehensive Agrarian Reform Law (CARL)**. Republic Act 6657, passed in 1987, aims to redistribute 10.3 million hectares of agricultural land and integrated social forestry areas (ISF) to 3.9 million landless tenant farmers and farmworkers over an initial 10-year period (1987-1997). It provides for different tenurial instruments based on land classification: tenurial security for forestry areas, and tenancy reforms and land redistribution for private and alienable lands. Land redistribution is complemented by the delivery of support services such as extension, credit, infrastructure facilities and assistance in livelihood projects. The law imposes a five-hectare retention limit for the landowner and provides three hectares for each heir who is actually tilling the land. It exempts from distribution ancestral lands inhabited by indigenous cultural communities, lands with a slope above 18 degrees, reserved lands like national parks, forest reserves, fish sanctuaries and watersheds, lands for national defense and education and experimental farms, churches and mosques, cemeteries, etc. Overall, the Comprehensive Agrarian Reform Program (CARP) is managed by the Department of Agrarian Reform, while the Department of Environment and Natural Resources (DENR) takes the lead role in providing tenurial security in forestlands, under the Integrated Social Forestry (ISF) program of CARP. As of March 2004, about 76% of the total physical target has been reported as accomplished by both agencies. However, the program began the more difficult part of reforming *private* lands (60% accomplishment in physical target) only in 1997. The timetable for completion of CARP has been extended to 2008.

22. **Indigenous People's Rights Act (IPRA)**. Passed in 1997, R.A. 8371 or the Indigenous Peoples Rights Act (IPRA) seeks to recognize, promote and protect the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs). These include the right to ancestral domain and lands, self-governance, and the right to cultural integrity. In a reversal of the Regalian doctrine, IPRA recognizes the *prior rights*, including the *preconquest* rights of indigenous peoples, thus superseding other land and resource rights.

ICCs/IPs comprise an estimated 13% of the population (10 million people). It is projected that between 5 million to 7 million hectares will be covered under ancestral domain titles or claims.

23. Under the principle of self-determination, ICCs/IPs shall formulate their own sustainable development and management plans (ADSDPs) for the land and natural resources within their ancestral domains based on their indigenous knowledge systems and practices.

Contracts, licenses, concessions, leases and permits within the ancestral domains shall not be renewed or allowed without the Free and Prior Informed Consent (FPIC) of the IP community – i.e., “consensus of all members of the IPs/ICCs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference or coercion.” (Chap 2, Sec.3g, IPRA)

**24. Urban Development and Housing Act (UDHA).** Passed in 1992, Republic Act.7279 aims to address the housing shortage of the country,<sup>8</sup> laying down the groundwork for a comprehensive and continuing urban development and housing program by prioritizing the provision of decent shelter to the poorest of the poor; providing the framework for the development and use of urban lands; encouraging people and community involvements and initiatives in urban development and shelter construction; improving and maximizing LGU participation especially in socialized housing; and, tap private sector resources for socialized housing.

25. The law entitles squatters to due process before eviction and demolition can be undertaken. Resettlement and relocation can be carried out only under a court order and only when preliminary conditions, i.e. relocation site, fair compensation to the squatters, availability of basic public utilities at the relocation site, etc. have been satisfied. The UDHA specifically tasks local government units (LGUs) for the implementation of its provisions. Among these are:

- ▶ Prepare a comprehensive land use plan (Sec. 6, 39);
- ▶ Inventory all lands (Sec. 7);
- ▶ Identify lands for socialized housing and resettlement (Sec. 8);
- ▶ List all qualified socialized housing beneficiaries (Sec. 17);
- ▶ Provide facilities and basic social services in resettlement and socialized housing projects (Sec. 21); and
- ▶ Provide opportunities for housing beneficiaries to participate in decision making processes.

26. Ten years after the UDHA implementation was devolved to the LGUs in 1993, the results appear far from satisfactory. Many LGUs foot-dragged on its implementation as UDHA collided with another social reform legislation, the Local Government Code (LGC). In contrast to UDHA that requires LGUs to implement its provisions under the law, the 1991 LGC empowers the LGUs to determine and enforce its rules on the issue of land

<sup>8</sup> The Philippines has one of the highest annual rates of urban growth among developing countries – averaging 5.1% from 1960-1995. The estimated housing shortage from 1993 to 1998 was placed at 3.72 million housing units.

access. Under the LGC, the LGUs were given the prerogative and power to reclassify lands to other uses. Many LGUs soon converted prime agricultural lands into other uses such as (top and mid level) residential and commercial as the taxes generated from these proved to be a far more stable source for LGUs. (See section below)

### Decentralization context in land administration

27. **The Local Government Code (LGC, 1991) (R.A. 7160)** empowered local government units and promoted people's participation in all stages of local development work – from planning, implementation, monitoring and evaluation. The Local Government Code included specific provisions – i.e., *Section 2 (a)* "LGUs are encouraged to be self reliant and to continue exercising the powers and discharge the duties and functions as are necessary, appropriate, or incidental to efficient and effective provision of basic services and facilities; and *Section 17 (a)* "Empathically, the responsibility to develop low cost housing and mass dwelling projects were given to provinces and cities.

28. While the creation of Local Housing Boards was particularly mentioned in a later reform legislation, the Comprehensive and Integrated Shelter Finance Act (CISFA, or R.A. 7835), its legal foundations rests on Title 6, Sec. 107, 108 and 109 of the LGC. It pertains to the Nature, Composition and Functions of the Local Development Councils, respectively. A function/power given to LGUs under this Act is that of land conversion.

Section 20 of the LGC states that through an ordinance passed by the Sanggunian, a city or municipality may reclassify agricultural lands when: (1) the land ceases to be economically feasible; and (2) where the land shall have greater economic value.

Other legislations with major impact on access to "commons" by the poor:

29. **The National Integrated Protected Areas System (NIPAS, 1992)** provides for the use and enjoyment of protected areas consistent with the principles of biological diversity and sustainable development. The NIPAS provides for the establishment and management of protected areas as a key strategy for conservation of the country's biodiversity. This legislation introduced the concept of local participation in protected area management at a time when the common practice of most governments in the Asian region was a strict protection zone (conservationist) policy. The NIPAS Act enabled local communities to take part in deciding on how best to manage the forests that has been the source of their livelihood.<sup>9</sup>

30. **Philippine Mining Act (1995)**. R.A. 7942, or the Mining Act states that, "all mineral resources in public or private lands, including timber or forestlands... shall be open to mineral agreements or financial or technical assistance agreement applications." Due to this provision, critics contend that the law has virtually opened up the entire country to mining operations. The law declares areas covered by existing mining claims or that are deemed ecologically crucial as closed to mining operations, such as old growth forests, watershed forest reserves, mangrove and mossy forests, national parks, bird sanctuaries and marine reserves, among others. But upon the consent of the government

<sup>9</sup> Working with People section, [www.haribon.org.ph](http://www.haribon.org.ph)

or other concerned parties, areas barred from mining operations can still be mined. These areas include military reservations, areas covered by small-scale mining and ancestral lands.

The Mining Act allows three major kinds of mining rights that would govern access to mineral resources and for which an interested investor may apply. These are the Exploration Permit (EP), the mineral agreement and the Financial or Technical Assistance Agreement (FTAA).<sup>10</sup>

### **Impact of land reform policies**

31. Impact studies have so far been completed only for the Comprehensive Agrarian Reform Program (CARP), as the other land reform programs (i.e., IPRA, UDHA) are still relatively new.

32. The Agrarian Reform Program (CARP) seems to have been successful in promoting social equity through the transfer of lands to landless or tiller farmers. Studies show that distributional reform has had a positive impact on yield, specifically of rice, and impact has been highest where technical change, e.g., adoption of HYVs, has occurred. Recent studies have also shown that agrarian reform has had a positive impact on poverty alleviation. In particular, there has been a decline in the incidence of poverty among agrarian reform households from 47.6% in 1990 to 45.2% in 2000. In contrast, the proportion of non-AR beneficiaries has increased from 55.1% in 1990 to 56.4% in 2000.<sup>11</sup>

33. Land tenure security has also improved reforestation and environmental protection in forest lands. In 1988, the government under the Integrated Social Forestry (ISF) programme shifted to a policy of contract reforestation in lieu of issuance of licenses to cut down timber. Massive contract reforestation efforts undertaken between 1989 and 1993 revealed a significant improvement in survival rate (76%) in contrast to the 26% rate of government reforestation efforts. In 1995, government also shifted from government-managed forestry to community-led forest management. About 4.9 million hectares of forest lands have been under community management since 1998 compared to only 32,000 hectares in 1982.<sup>12</sup> The longer tenure given to local communities has provided an incentive towards conservation and sustainable management of the remaining forests. The effectiveness of such efforts is likely to improve with the issuance of certificates on ancestral domain claim (CADC) areas.

34. CARP implementation, however, has been slower than originally targeted. Factors that have contributed to the slow redistribution, especially of *private* lands include:<sup>13</sup>

- ▶ Cumbersome and slow land valuation;

---

<sup>10</sup> Cruz, 1999.

<sup>11</sup> G.M. Llanto and M.M. Ballesteros, "Land issues in poverty reduction strategies and the development agenda: the Philippines." Philippine Institute of Development Studies. Land Reform, 2003/3, special edition. pp 208-209.

<sup>12</sup> Ibid, p 214.

<sup>13</sup> Ibid, pp 209-210.

- ▶ Bureaucratic documentation and difficulty of coordinating land reform activities; an estimated 250 thousand hectares are “problematic lands” (without proper documentation, with ownership conflicts, or conflicts over the actual area covered by land reform);
- ▶ Counterclaims by landowners with the DAR Adjudication Board, and failure to install agrarian reform beneficiaries because of unsettled claims or bureaucratic inertia;
- ▶ Land conversions, and unclear regulations on land conversion issues;
- ▶ Opposition of local governments (LGUs) to land acquisition and redistribution. The bias of some LGUs for land conversion for either of two purposes: (a) to evade coverage of lands under agrarian reform; and/or (b) to generate larger tax revenues from lands devoted to non-agricultural uses.

### Conflicts and disputes in land policy issues

35. **Land categories.** Currently, there are three major categories of land in the Philippines: (i) protected areas, (ii) alienable and disposable land, and (iii) privately owned land. Of the total Philippine land area of 30 million hectares, approximately 16 million are forest lands or protected areas, while 14 million hectares are alienable and disposable, of which about two-thirds (64.8%) are titled or privately-owned. The rest of alienable and disposable lands are “public lands” presently owned by the state for public use, which can be alienated if current use is no longer appropriate.

36. **State lands and resources.** Lands with slopes above 18 degrees are classified as forestlands. However, the actual delineation of forestlands remains unclear. Moreover, the land categories do not reflect actual land use. Protected areas, for instance are designated as “common property,” i.e. owned by the state, but private individuals and groups through arrangements such as leasehold can enjoy usufruct rights. The Indigenous People’s Rights Act (IPRA) which recognizes, protects and promotes ancestral domain rights has also raised some property rights issues, for instance, with regards to mines and minerals. The Philippine Constitution under the principle of *Jura Regalia* (Regalian Doctrine) provides that all natural resources, particularly minerals, are owned by the state. On the other hand, under IPRA, ancestral domains include minerallands. Some sectors have interpreted the indigenous people’s rights as superior over other rights, e.g., concession rights granted by the government. Meanwhile, there have been overlapping areas (e.g. in the CARAGA Region) between ancestral domain claims and actual mining and timber concession areas granted by the government.

37. There have been overlaps in land related reforms as well. In some areas, tenurial rights have been granted to upland dwellers under the Integrated Social Forestry (ISF) program, or land certificates (CLOAs) given to lowland farmers under CARP – covering

---

<sup>14</sup> In fact, CADCs include even ancestral waters, as in the case of the Calamien waters of the Tagbanwa community in Coron, Palawan.

lands under pending ancestral domain claims. While Philippine laws clearly indicate that indigenous people's rights as superior over other rights, land access questions do arise, such as how to treat equally poor non-IP settlers within CADC or CADT lands.

Furthermore, there is need to educate programme implementers away from the common notion that ancestral domains are limited only to the uplands and forestlands.<sup>14</sup>

**38. Questions of land use.** A major weakness of Philippine land policy is the failure to clearly identify society's preferences regarding land use. Hence, significant problems often arise in the use and allocation of land, e.g., the continuing tension behind the conversion of agrarian reform lands to non-agricultural uses. Moreover, various laws have been enacted for the classification or re-classification of lands, such as for tourism development (RA 7357; RA 7668), for economic zones (RA 7916), or with provisions that define the utilization of mangroves (RA 8850, or the Fisheries Code). Land laws need to be reviewed for consistency and social acceptability. Meanwhile, the need to legislate a Land Use Act has been endorsed by civil society groups as early as 1996 under *Agenda 21* of the Philippine Council for Sustainable Development (PCSD), yet a draft bill has been languishing in Congress. Moreover, while local governments have been given major responsibility for land use planning, only 10% of municipalities had updated town plans as of 2001.

**39. Questions of land administration.** Land administration, including the information system, is poor, and has been a major cause of fraudulent land titling. The Land Administration and Management Project (LAMP) under the DENR has identified several major issues in the land administration system in the Philippines, including:

- ▶ Overlapping and fragmented responsibilities among 19 land agencies;
- ▶ Conflicting and/or outdated land administration laws, which often go through the courts;
- ▶ Poor management of land records (some incomplete, destroyed or altered);
- ▶ Incomplete cadastral information; non-matching cadastral maps held by different agencies

**40. CSO concerns over emerging shifts in land policies.** Meanwhile, from interviews conducted, CSOs have expressed concern over an emerging policy shift towards more market-oriented land reforms. Two major concerns cited were the "Farmland as Collateral Bill" now pending in Congress, and proposals to amend the 1987 Constitution, particularly the current restrictions concerning foreign ownership of land.

41. Meanwhile, there has been wide appreciation of the importance of the ongoing Land Administration and Management Project (LAMP). The continuing success of this longterm project will depend on continued political support from successive administrations and the public. Currently, the seven basic sectors represented at the National Anti-Poverty Commission (NAPC) are engaged in LAMP consultations. Similar to LAMP, land administration projects have been initiated by the World Bank and other donors in

several Asian countries (e.g., Indonesia, Cambodia). However, as CSOs have pointed out, good land administration may indeed ensure the efficiency of the land titling system, but land administration is *not* land reform itself. The Medium-Term Philippine Development Plan (2001-2004) highlights the need for better access and secure land tenure for the poor, as a major strategy towards poverty reduction, and at the same time notes the need for more efficient land-use management for sustainable economic growth. The MTPDP recognizes the need to simultaneously address four land-critical issues: (a) expand access and secure tenure; (b) promote sustainable management; (c) accelerate infrastructure development; and (d) improve land administration and management.

### **The overall policy environment for participation**

42. After the EDSA People Power of 1986, NGOs and POs actively engaged government in pushing for basic social reforms, especially towards institutionalizing mechanisms for popular participation. The Philippine Constitution of 1987 is perhaps the only Constitution in the world that makes an explicit reference to NGOs. Article 2, Section 3, asserts that the "State shall encourage NGOs, community-based or sectoral organizations that promote the welfare of the nation."

43. It was NEDA Board Resolution No. 2, Series of 1989 that initially defined the overall policy framework for GO-NGO relations, following a series of NEDA-NGO consultations at local and national level. The Resolution specifically stipulates that GO-NGO coordinating mechanisms at various levels of government will be set-up, and the respective government departments/line agencies/units will be given the authority to collaborate and negotiate with the NGOs. The Social Development Committee (SDC) of the NEDA Board will take the oversight function for GO-NGO relations at national level.

NGOs also should be informed of and consulted on all major policy and program decisions, accreditation policies and proposed legislative programs/agenda that concern them.<sup>15</sup>

44. Recognizing that land reform issues are likely to be volatile and problematic, the various reform policies after 1987 contained specific provisions for the establishment of consultative and monitoring mechanisms involving civil society at national, provincial and community level.

## **II. JOINT GO-CSO MECHANISMS ON LAND-RELATED POLICY AND IMPLEMENTATION ISSUES**

### **Description of mechanisms**

45. There is a growing awareness and recognition that access to land and productive resources can break the vicious cycle of poverty, and that improved security of tenure can reduce the rate of environmental destruction. The reasons for improving access to land are compelling since this would break land monopoly, reduce poverty and unemployment, resolve conflict over resources and ensure the nation's food security.

---

<sup>15</sup> Antonio Quizon, "Study of NGOs in the Philippines," ADB, 1997, p.27.



## **64** IN SEARCH OF COMMON GROUND

Providing the poor access to land will create better opportunities for underprivileged households in improving their livelihoods and acquiring assets to reduce their vulnerability. This would however require enabling laws and policies, programs, financing by the government and highly-effective implementation mechanisms.

46. To resolve 'access to land' problems and issues, institutional partnerships are forged at different levels and in different stages of program development. Institutional partnership refers to the interaction of various sectors, agencies, or groups to achieve a particular task, objective, goal or vision while maintaining their own institutional autonomy.

Institutional partnerships are developed depending on the degree of urgency to respond to a particular need, level of trust, organizational culture, target clientele/area, or commonality of mandate. Vision, resources, expertise and systems are shared to create a greater and meaningful impact on a certain sector, a community and the nation as a whole.

47. Three major types of GO-CSO mechanisms are presented here:

- a. Existing mechanisms by virtue of Republic Acts, Special Orders and Joint Memorandum Circulars involving the cooperation of various national government agencies and civil society groups;
- b. Ad hoc Technical Working Groups, Task Forces and Quick Reaction Units/Teams to augment and support existing mechanisms related to project implementation and policy formulation; and
- c. Partnerships and collaborations among government, civil society groups and the private sector, often through direct donor support, bilateral programs and foreign assisted projects.

48. The study identifies some of the key mechanisms that tackle issues on access to land by basic sectors such as the farmers/farmworkers, urban poor and indigenous peoples. These mechanisms involve at least two parties – government agencies and civil society organizations (CSOs). Some mechanisms engage donors indirectly through their funding support.

49. Twenty-four (24) joint GO-CSO mechanisms that deal with issues on the implementation of agrarian reform, indigenous peoples rights, urban poor housing, land administration, conservation and protection of natural resources were scanned. These mechanisms are then classified under six major areas on access to land including CARP (existing mechanisms and special concerns), IPRA, UDHA, Land Administration, Environment and Natural Resources (ENR), and CSO-led initiatives.

50. These mechanisms are categorized into seven main thematic blocks, as shown on Table 1 on page 60:

*Table 1. Seven Thematic Concerns of GO-CSO Mechanisms*

1	Philippine Council on Sustainable Development (PCSD)
2	National Anti-Poverty Commission
3	Comprehensive Agrarian Reform Program (CARP) <ul style="list-style-type: none"> <li>▸ Existing -- PARC, PARCCOM, BARC</li> <li>▸ Task Forces/Special Concerns: <ul style="list-style-type: none"> <li>▸ High Impact Priority Cases (formerly SCAT)</li> <li>▸ DAR-NGO-PO- LTI Working Group</li> <li>▸ CARP-Special Legal and Operations Team (SLOT)</li> <li>▸ Peasants Forum and Farmer's Advisory Council</li> <li>▸ The CAD ARCs Projects</li> <li>▸ Task Force Sugarlands</li> </ul> </li> </ul>
4	Indigenous People's Right Act (IPRA) <ul style="list-style-type: none"> <li>▸ Task Force 63 replaced by STRAT-QRU <ul style="list-style-type: none"> <li>▸ Bukidnon TF G3</li> <li>▸ TF 63 Secretariat</li> </ul> </li> <li>▸ TWG on the Harmonization of Law</li> <li>▸ DAR-NCIP Composite and Policy Review and Formulation Group</li> <li>▸ TWG on ARCDP2</li> </ul>
5	Urban Poor Development Housing (UDHA) <ul style="list-style-type: none"> <li>▸ Local Housing Board</li> <li>▸ Philippine Urban Forum</li> </ul>
6	▸ Land Administration Management Program (LAMP) <ul style="list-style-type: none"> <li>▸ Task Force-Lara</li> </ul>
7	Environment and Natural Resources <ul style="list-style-type: none"> <li>▸ Protected Area Management Board (PAMB)</li> </ul>

Table 2. Assessment of Government-CSO Mechanisms for Land Related Concerns

THEMES	ASSESSMENT/MAIN COMMENTS
<p>1. Overall focus</p>	<ul style="list-style-type: none"> <li>▶ Majority of the mechanisms have a highly sectoral focus (e.g., farmers/agrarian reform, indigenous peoples, etc.)</li> <li>▶ On the other hand, there are few GO-CSO mechanisms that deal with cross-sectoral land issues such as land conversion; or bring together different sectors to dialogue</li> <li>▶ Mechanisms that discuss cross-sectoral land issues are mainly limited to government agencies. These include the DAR-NCIP Composite Policy Review &amp; Formulation Group, the TWG on the Harmonization of IPRA, etc. These deal mainly with harmonizing policies, administrative procedures and agency responsibilities. Civil society is not involved.</li> <li>▶ Three of the GO-CSO mechanisms, namely PCSD, NAPC and LAMP--are constituted by representatives from different sectors, as they deal with cross-cutting and related themes--sustainable development/environment, poverty eradication, and land administration, respectively. It is noted that NAPC and LAMP relate with the same "basic sector" constituencies.</li> <li>▶ However, while the compositions of these bodies are multisectoral, discussion on access to land still tend to remain largely sectoral (e.g., PCSD discussed access to land per ecosystem--e.g., lowland/agriculture, urban ecosystem, uplands and IPs, etc.)</li> <li>▶ A major concern has been how to translate resolutions/action agendas formulated at the national level to the local level, as these are seldom adopted by local government units unless funding or additional resources are made available (e.g., efforts by PCSD to "localize Agenda 21", or to develop local sustainable development plans.) LGUs prefer to do "investment plans"--in order to capture external resources or to generate local revenues.</li> </ul>
<p>2. Structure/Composition</p>	<ul style="list-style-type: none"> <li>▶ GO-initiated mechanisms tend to be dominated by government agencies.</li> <li>▶ In all GO-CSO joint mechanisms, there have been few representatives from the private sector.</li> <li>▶ Sometimes, there is confusion in distinguishing between NGOs and the private sector (e.g., business foundations).</li> <li>▶ CSO representatives, mostly from the NGO/PO sector, either voluntarily became involved, were selected b y the sector itself,</li> </ul>

THEMES	ASSESSMENT/MAIN COMMENTS
2. Structure/Composition	<p>or even appointed by government (in the case of GO-initiated mechanisms).</p> <ul style="list-style-type: none"> <li>▶ CSOs often demand a process of self-selection of their own representatives. However, representation from CSOs is often difficult to determine/select due to the lack of established processes. Constituencies are often the basis for selecting representatives.</li> <li>▶ Previous assessments on joint GO-NGO Mechanisms say that more effective mechanisms often come in the form of special projects, task forces and NGO/PO-led (or “demand-side” initiatives).</li> <li>▶ Continuity of the mechanism is often vulnerable to changes in government (change in administrations and assigned staff/personnel).</li> <li>▶ Difficulty to convene mechanisms when high officials are involved due to hectic schedules and changes in delegated representatives.</li> <li>▶ Successful mechanisms highly dependent on facilitation--i.e., the capacity of particular individuals or groups in a “secretariat” or “liaison” role--whether from a CSO or government.</li> <li>▶ “National” mechanisms tend to be too “Manila-centered”.</li> </ul>
3. Function/Mandate	<ul style="list-style-type: none"> <li>▶ On the reasons for establishment of joint mechanisms                             <ul style="list-style-type: none"> <li>▷ Mechanisms are usually backed up by some legal mandate (i.e., law, MOA, Executive Order, Special Order);</li> <li>▷ On the other hand, mechanisms which are CSO/Basic Sector-led are usually born out of a process/campaign/advocacy;</li> <li>▷ A third type of mechanism are those that have been established in line with a foreign assisted project.</li> </ul> </li> </ul>
4. Accomplishments	<ul style="list-style-type: none"> <li>▶ Stated positive outcomes:                             <ul style="list-style-type: none"> <li>▷ Political negotiations, whether or not a compromise is reached;</li> <li>▷ Better understanding of policy impacts and implications, from different and even conflicting local perspectives and interests;</li> <li>▷ Transfer/exchange/sharing of knowledge, experiences and resources between government and CSOs;</li> <li>▷ On occasion, resolution of concrete, problematic cases;</li> <li>▷ Public constituency for pursuing reforms.</li> </ul> </li> </ul>

THEMES	ASSESSMENT/MAIN COMMENTS
4. Accomplishments	<ul style="list-style-type: none"> <li>▶ Common issues:               <ul style="list-style-type: none"> <li>▷ Accomplishments and continuity highly depend on political will of incumbent government officials;</li> <li>▷ Turfing/overlapping roles of government agencies on some functions delay accomplishments;</li> <li>▷ Changes in representatives may impede continuity of the processes/programs;</li> <li>▷ Questions arise as to whether local constituencies are adequately informed of national level discussions and agreements.</li> </ul> </li> </ul>
5. Funding/Resources	<ul style="list-style-type: none"> <li>▶ Government-infused resources are often necessary to sustain mechanisms.</li> <li>▶ Externally driven donor-led mechanisms are often not sustained beyond the project cycle.</li> <li>▶ CSOs tend to be seen more as “equal partners” when they are able to raise their own resources (e.g., as co-convenors, co-sponsors, or ability to maintain their own counterpart secretariats).</li> </ul>
6. Partnership	<ul style="list-style-type: none"> <li>▶ Common stance taken by partners is one of “critical collaboration”; partnerships are forged among independent, autonomous entities and groups.</li> <li>▶ Generally, joint GO-CSO mechanisms arrive at decisions by consensus. “Agree to disagree” is the path often taken when no clear decision is reached.</li> <li>▶ Internal dynamics and differences exist among CSOs; hence, CSOs often have to reach consensus first among themselves before engaging in discussions and negotiations with other parties.</li> <li>▶ On accountability: unclear whether there are clear and adequate feedback mechanisms to the basic sectors concerned.</li> </ul>

### III. OPTIONS FOR ESTABLISHING LAND PARTNERSHIPS

#### A. On Possible Themes

52. **Is there a common platform for a land partnership?** From key informant interviews and the roundtable discussion held on 13 July, the following points were highlighted:

- ▶ *Land reform is a continuing “political act”*, thus, the implementation of existing land-related reform policies needs constant public pressure, monitoring, and the support of an organized constituency. Government priorities tend to change with each successive administration; reform agendas and programs must therefore compete with other programs and priorities, including for continued funding and policy support. Moreover, there is need for constant vigilance against efforts to thwart such reforms. The common perception is that support for the redistributive aspects of land reforms has been gradually diminishing over the years.
- ▶ Secondly, as land is a highly contentious and complex issue, there is need for mechanisms that allow *constant problem-solving, dialogue and negotiations* between CSOs and government. There is wide scope to expand field implementation, innovation, complementation, feedback and learning among partners in dealing with issues.
- ▶ Thirdly, as there are conflicting land policies, overlapping institutional responsibilities, and an overall poor state of land records and land administration, there is need for more public discussion and *negotiation among the different sectors*. Currently, inter-sectoral discussions are largely confined among government agencies, which bring up two main concerns among CSOs: (a) that on-ground realities are much more complex than just reconciling interpretations of existing policies or establishing new administrative procedures or protocols; (b) that while inter-agency discussions might improve government efficiency, civil society needs to be involved to ensure that the fundamental questions of land access, tenurial security and land redistribution are addressed.
- ▶ Finally, there is need to facilitate broad social consensus, so that *society’s preferences regarding land use* can be pro-actively and clearly identified, based on consistency and social acceptability, and based on an overall framework of equity, welfare and sustainability.

53. Table 3 attempts to identify the critical areas and issues on access to land, and the existing mechanisms that address them. **Five general themes** are identified.

These are also possible themes for strengthening or establishing partnership mechanism(s):

Table 3. Possible Themes for Establishing Land Partnerships

GENERAL THEMATIC AREAS	SUB-THEMES	KEY ISSUES TO ADDRESS	WHAT EXISTING INSTITUTIONAL GO-CSO JOINT MECHANISMS ADDRESS THESE ISSUES?
<b>1. Regular mechanisms that monitor and ensure the inclusion of access to land, especially Agrarian Reform, in the national development agenda/programs</b>			
<b>Agrarian Reform</b>	Addressing CARP program components	CARP budget (congressional allocations, recovery of ill-gotten wealth, debt swaps)	
		Access to land, particularly Agrarian Reform, are often least prioritized in the country's development agenda. In President Arroyo's 10-point agenda, there was no specific mention of agrarian reform or the protection of indigenous rights although housing was included.	NAPC, PCSD
<b>2. Implementation and/or completion of existing land-focused reform programs--CARP, IPRA and UDHA</b>			
<b>2.1 CARP implementation</b>	Addressing policy bottlenecks in CARP implementation	<ul style="list-style-type: none"> <li>▸ Problematic land cases (land conversion, landowner resistance, etc.)</li> <li>▸ Policy issues and gaps (UPALs<sup>16</sup>, land valuation, etc.)</li> </ul>	<p>PARC, PARCCOM, BARC Ad hoc DAR task forces have been created to respond to specific agrarian cases.</p> <p>No regular policy forum. Policy issues are discussed during occasional forums.</p>

GENERAL THEMATIC AREAS	SUB-THEMES	KEY ISSUES TO ADDRESS	WHAT EXISTING INSTITUTIONAL GO-CSO JOINT MECHANISMS ADDRESS THESE ISSUES?
	GO-CSO complementation of efforts at field level	<ul style="list-style-type: none"> <li>▸ Delivery of support services to AR beneficiaries</li> <li>▸ Capacity building, staff training and retooling</li> </ul>	Mainly project-based complementation at municipal and provincial levels, especially within those projects funded by ODA, and sometimes under sub-contracting arrangements with NGOs and POs Mainly within NCIP
<b>2.2 IPRA implementation</b>	Negotiation, formulation of implementing guidelines for IPRA	<ul style="list-style-type: none"> <li>▸ Formulation of local ancestral domain plans (ADSPs)</li> <li>▸ Pilot approaches</li> </ul>	
	Complementation of efforts at field-level	<ul style="list-style-type: none"> <li>▸ Delivery of support services</li> </ul>	
<b>2.2 Housing and finance</b>	<ul style="list-style-type: none"> <li>▸ Houses as habitat and not collateral in the land market</li> <li>▸ Livability must factor in other “commons” such as water, air, other physical arrangement attributes</li> <li>▸ Secure tenure</li> </ul>	<ul style="list-style-type: none"> <li>▸ Affordable financing</li> <li>▸ Innovative approaches to secure tenure like long term leases</li> </ul>	Land and housing issues are always brought up in shelter related consultative mechanisms like the Housing Summit but these are temporary. What is needed is a permanent joint mechanism.



GENERAL THEMATIC AREAS	SUB-THEMES	KEY ISSUES TO ADDRESS	WHAT EXISTING INSTITUTIONAL GO-CSO JOINT MECHANISMS ADDRESS THESE ISSUES?
<b>3. Inter-sectoral discussions and negotiations to resolve inter-policy conflicts and to harmonize overlapping institutional mandates under different land-related legislations</b>			
<b>3.1 CARP vs. LGC</b>	Addressing overlaps in land use classification and management	<ul style="list-style-type: none"> <li>▸ Land conversions using LGU powers to avoid coverage under CARP</li> <li>▸ Premature urbanization (i.e., “cityhood”) and conversion of agricultural lands to other uses in order to widen the local tax base</li> </ul>	None
<b>3.2 CARP vs. IPRA</b>	Addressing overlapping areas covered by CARP and IPRA	<ul style="list-style-type: none"> <li>▸ Overlapping land claims between agrarian reform beneficiaries and IPs, and between ISF farmers and IPs</li> <li>▸ Vague delineation of public and private domain, including alienable and disposable lands</li> </ul>	DAR/DENR-NCIP policy discussions conducted to harmonize implementation of CARP and IPRA, but no clear participation of CSOs in such process.
<b>3.3 CARP vs. UDHA</b>	Addressing the need for affordable lands for housing purposes for the urban poor	<ul style="list-style-type: none"> <li>▸ Need to convert raw agricultural lands to provide cheap, affordable housing for the urban poor</li> <li>▸ At the same time, need to ensure that conversion of agricultural lands is not done by landowners just to evade coverage under CARP</li> </ul>	Several consultative mechanisms involving GOS, NGOs and the private sector exist (e.g., Housing Summit, Philippine Urban Forum), but the agricultural/agrarian reform sector has not been represented.

GENERAL THEMATIC AREAS	SUB-THEMES	KEY ISSUES TO ADDRESS	WHAT EXISTING INSTITUTIONAL GO-CSO JOINT MECHANISMS ADDRESS THESE ISSUES?
3.4 IPRA vs. UDHA	Addressing policy conflicts and land management overlaps	<ul style="list-style-type: none"> <li>▶ Overlapping land claims between IPs and mining and timber concessions</li> <li>▶ Entry and tenurial status of non-IP migrants in ancestral domain lands</li> <li>▶ Need for harmonization between ancestral domain plans (ADSDPPs) and ENR policies on conservation and resource management</li> <li>▶ Others</li> </ul>	None
<b>4. Pro-active policy discussions towards new legislations</b>			
<b>4.1 Comprehensive land use policy</b>	Addressing overlapping claims among different sectors; promoting equitable and sustainable land use	<ul style="list-style-type: none"> <li>▶ Need to ensure continuing asset reforms and land access for poor sectors</li> <li>▶ Need to harmonize conflicts and overlaps among different land legislations</li> </ul>	Congressional hearings have been conducted at the initiative of sponsoring legislators. However, no GO-CSO institutional mechanisms have been established to forge broader public consensus on the issues.
<b>4.2 Land administration reform</b>	Addressing the reform of land administration system in terms of administrative institutions, laws, taxes and fees, and land valuation	<ul style="list-style-type: none"> <li>▶ Ensuring transparency, efficiency, responsiveness &amp; accountability of services</li> </ul>	Consultations were conducted on the Land Administration Reform Act (LARA) Bill with basic sectors in 2003, through the National Anti-Poverty Commission (NAPC). Separate consensus building

GENERAL THEMATIC AREAS	SUB-THEMES	KEY ISSUES TO ADDRESS	WHAT EXISTING INSTITUTIONAL GO-CSO JOINT MECHANISMS ADDRESS THESE ISSUES?
4.2 Land administration reform		<ul style="list-style-type: none"> <li>▸ Removing political intervention in land administration (e.g., land valuation, land records)</li> </ul>	<p>process being undertaken with the private sector. Congressional hearings also conducted at the initiative of legislators. Ongoing discussions under the DENR Land Management Project (LAMP)</p>
<p><b>5. Broad-based policy discussions, consensus-building and joint advocacy vis-a-vis pending bills and policies that threaten to reverse the gains of land-related reforms</b></p>			
5.1 Planned and pending amendments to existing reform legislations	<p>Protecting the gains made under existing land-related reform policies in the 1987 Constitution, in view of efforts by certain sectors to amend the Charter. (Charter change)</p>	<p>Need to anticipate &amp; to address possible efforts at Constitutional amendments, including:</p> <ul style="list-style-type: none"> <li>▸ Possible reversals of land-related reform provisions;</li> <li>▸ Possible removal of existing restrictions over foreign ownership of lands, natural resources and utilities</li> </ul>	<p>The proposal towards Charter change – i.e., whether to proceed, how it is to be instituted, and which sections are to be reviewed and amended – are still currently under public discussion &amp; debate. Hence, no GO-CSO mechanisms have yet been established.</p>

## B. On Institutional Mechanisms for Partnership

54. Institutional land partnerships would have to involve the interaction of various sectors, agencies, or groups to achieve a particular task, objective, goal or vision while maintaining their own respective institutional autonomy. The process of negotiating land partnerships, however, requires courage and innovation, since in many situations, the systemic obstacles, the complex transaction processes and opposing self-interests are firmly entrenched. Moreover, the process of establishing negotiating mechanisms to resolve land-related issues requires sensitive facilitation, as it involves diverse public and private interests, and oftentimes, competing claims between powerful vested interests and hitherto weaker institutions of the poor.

### Levels of Partnership

55. Partnerships may be categorized under different levels as follows:<sup>17</sup>

- a. Consultative Partnership – Exists among institutions hoping to establish new relations with other organizations for information exchange or dialogue.
- b. Coordinative Partnership – Efforts are exerted to avoid duplication of activities and synchronize separate institutional initiatives for greater efficiency and effectiveness in field operations. Interagency committees could be an example.
- c. Complementary Partnership – Although stakeholders have separate initiatives, they are all guided by a common program framework characterized by purposive efforts to support each other.
- d. Collaborative Partnership – Institutions agree to work together, sharing a common vision, establishing common objectives and plans of action on a program level.

Mechanisms are institutionalized so as to facilitate delivery of services to their target communities.

- e. Critical (i.e., Crucial/ Decisive) Partnership – This may be the highest form and level of partnership where institutions consider one another as indispensable partners in pursuing broad development goals and visions. Sectors work together on a more strategic long-term arrangement on various aspects of the socioeconomic and political life of the community. NGOs are given access to government resources and are also given the chance to participate in the policy formulation and decision-making process.

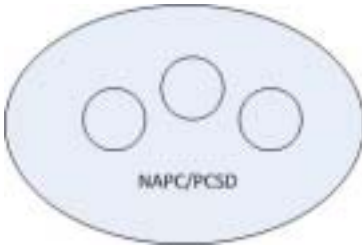
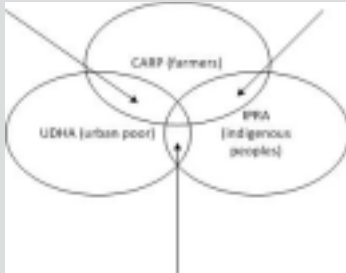
### Structuring partnership mechanisms (for discussion):

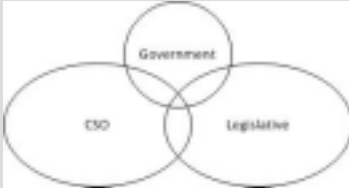
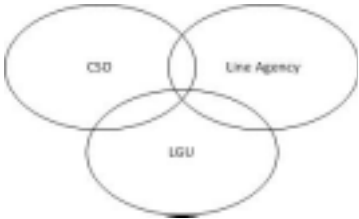
56. Any future mechanism dealing with the cross-sectoral issue of access to land would need to consider the following questions:

<sup>17</sup> ANGOC, "GO/NGO/PO Levels of Partnership Development Framework," Project Formulation for People's Participation in Rural Development Activities Workshop Report, November 1990, p.11.

- ▶ **A common, multi-stakeholder agenda?** Currently, sectors affected by issues of land access tend to work for their own interests and seldom collaboratively, except for common campaigns. From the review of mechanisms, inter-sectoral discussions have been focused on two themes: poverty eradication (NAPC) and sustainable development (PCSD); such mechanisms also tend to be more strategic and policy-oriented, with both GO and CSOs acting as co-convenors. Former DAR Secretary Ernesto Garilao says that there is potential for effective multi-stakeholder mechanisms, provided, (a) stakeholders are autonomous, (b) there is recognition of differences, (c) there is a capacity to constructive engagement through dialogues and negotiations; and (d) there is a commitment of every stakeholder to do collaborative work from sharing of experiences and expertise, pooling of limited resources and technology transfer to empower the grassroots communities.
- ▶ **A formal mechanism, or a loose consultative arrangement?** *Loose-consultative* forms of partnership usually succeed since they have specific, time-bound goals and member institutions retain their autonomy. These are usually created for the resolution of pressing issues threatening the sector's interests, and are dissolve afterwards, as is usually done by CSOs. They are flexible in membership and strategies although consensus is still a key element. *Formal mechanisms*, on the other hand, are created by or pursuant to a law and have institutional resources. Hence, these are usually better recognized as legitimate or credible. However, they are also seen as dependent on the agency that created them. But with the proper representation and facilitation, formal mechanisms could be more effective in influencing various government agencies and branches to act on agreements.
- ▶ **Work on existing structures?** From interviews and roundtable discussions, the emerging consensus seems to be, to work with, and to improve on, the *existing* mechanisms – perhaps through task forces, inter-sectoral forums, liaison/ coordinating bodies or lead agencies.
- ▶ **At what level?** Policy-directed forums are best established at national level. National-level policy discussions are said to operate best if participants are informed through case studies or documentation of field-based pilot initiatives and issues. Meanwhile, partnerships for field implementation are best established at the level of a province or a cluster of municipalities. Resolving specific land issues such as disputes in agrarianreform should also be tackled more on the local than at the national level.

57. **Possible options for next steps.** At the Roundtable Discussion held on 13 July, the researchers were requested to prepared and present concrete ideas on “next steps” for a land partnership. As a later addition to this discussion paper, Table 4 on the next page provides some options on how such land partnership mechanism(s) could potentially be structured.

MECHANISM	FRAMEWORK	DESCRIPTION
<p>1.Coordination/ Umbrella</p>		<p>Key examples of this type are NAPC and PCSD, which bring together a wide range of sectors and broad constituencies under common themes/shared agendas of “poverty eradication” and “sustainable development”, respectively. Such multi-sectoral structure is best for formulating/negotiating policies and programs, and for monitoring progress and issues in national programs.</p> <p>A land partnership could be established as a special thematic group within an existing mechanism such as PCSD or NAPC – initially ad hoc, with the possibility later of having a more institutionalized presence with a facilitating/ monitoring role.</p>
<p>2. Special Thematic Forums</p>		<p>This arrangement takes cognizance of the fact that the existing mechanisms are still structured along sectoral representations and thematic interests. There is expressed interest, yet still limited knowledge and appreciation of cross-sectoral land issues. Specific institutions could be assigned to organize forums on specific themes or topics. Initially, the issue of “Land Conversion” has been identified as one important topic, which could involve CSOs from both the agrarian reform/agriculture sector and the urban sector, along with local government (LGU) representatives.</p>

MECHANISM	FRAMEWORK	DESCRIPTION
		<p>Discussions would be better informed with specific case studies and documentation of local initiatives. Further follow-up actions could be undertaken.</p> <p>A small ad hoc committee, based on GO-CSO “counterparting arrangements,” could be organized to coordinate the process.</p>
<p>3. Legislative Campaigns</p>	 <p>A Venn diagram with three overlapping circles. The top circle is labeled 'Government', the bottom-left circle is labeled 'CSO', and the bottom-right circle is labeled 'Legislative'. All three circles overlap in a central region.</p>	<p>CSOs naturally take the lead role in such campaigns, and the selection of a facilitating agency or committee will depend on the specific legislation being addressed. Existing forums could be enlarged and made more inclusive – e.g., NAPC discussions on the LARA bill, and follow-up of PCSD on the bill for a Comprehensive Land Use Act. In the agrarian reform sector, a major legislation is the pending “Farmland as Collateral” bill, which, to agrarian reform advocates appears as a threat to the reform program itself. Discussions and negotiations could be established with selected legislators under a Joint Forum.</p>
<p>4. Field Implementation within Sectors</p>	 <p>A Venn diagram with three overlapping circles. The top-left circle is labeled 'CSO', the top-right circle is labeled 'Line Agency', and the bottom circle is labeled 'LGU'. All three circles overlap in a central region.</p>	<p>This involves working on a more local area-based approach, based on tripartite working arrangements among CSOs, line agency and LGU. Task forces and pilot-testing initiatives could be undertaken to address particular bottlenecks in current land-related reform programs. Under IPRA, some local initiatives are</p>

MECHANISM	FRAMEWORK	DESCRIPTION
		<p>underway for harmonizing local LGU land-use and development plans with the ancestral domain plans of IP communities covered by CADCs or CADTs. Still, other field approaches may have potential for scaling-up, thus, a further need for forums among field implementing agencies and practitioners.</p>



ANNEX B

MALACAÑANG  
MANILA

MEMORANDUM ORDER NO. \_\_\_\_\_

REACTIVATING, STRENGTHENING AND EXPANDING THE SPECIAL TASK FORCE CREATED BY MEMORANDUM ORDER NO. 63, SERIES OF 2002, TO ADDRESS EMERGENCY SITUATIONS ADVERSELY AFFECTING THE INDIGENOUS PEOPLES AND/OR FARMERS SECTORS

**WHEREAS**, pursuant to Article XII, Section 5 of the Constitution of the Philippines, the State, subject to the provisions of the Constitution and national development policies and programs, is mandated to protect the rights of indigenous peoples/indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being;

**WHEREAS**, the Indigenous Peoples Rights Act of 1997 (Republic Act No. 8371) created the National Commission on Indigenous Peoples (NCIP) to serve as the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the indigenous peoples and the recognition of their ancestral domains as well as their rights thereto;

**WHEREAS**, the Constitution and the Comprehensive Agrarian Reform Law mandates the protection and promotion of the farmers and accordingly requires DAR and DA to zealously deliver the services needed to address the rights, concerns and interests of the Farmers;

**WHEREAS**, pending the reorganization of the NCIP in accordance with Administrative Order Number 26 dated January 11, 2002, Memorandum Order No. 63, dated June 04, 2002 created a Special Task Force as a necessary mechanism to address emergency situations affecting the indigenous peoples, requiring immediate action and remedial measures by the Government or such situations deemed by the President to be in need of an urgent response;

**WHEREAS**, in June 2003, the Special Task Force turned over its functions to NCIP;

**WHEREAS**, there is a need for convergence among government agencies to undertake quick response actions and/or special temporary measures to address the increasing number of emergency situations and reported cases of human rights violations against the sectors which pose serious threats to peace and order, hinder poverty alleviation and deter development;

**WHEREAS**, at the 18<sup>th</sup> NACP En Banc Meeting on October 18, 2006, it was agreed that Task Force 63 shall be reactivated, strengthened and expanded to address the foregoing emergency situations affecting IPs and farmers;

**NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO**, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

**SECTION 1.** The Special Task Force to address the emergency situations affecting the indigenous peoples as created under Memorandum Orders Nos. 63 and 63-A, S. of 2002 is hereby re-activated, strengthened and expanded to include the concerns of the farmers sector.

**SECTION 2.** Emergency situations shall refer to situations where indigenous peoples and/or farmers are:

- a. Actually experiencing violations of their human rights and who need quick response to prevent further loss of human lives and/or irreparable damage;
- b. Facing imminent conflict situations where joint action and/or collaboration of government agencies is necessary to prevent possible loss of human lives and/or irreparable damage; and,
- c. In situations where the intervention of various government agencies is necessary to facilitate recognition of rights and/or accelerate delivery of basic services.
- d. In addressing emergency situations for cases involving Farmers sector, and in identifying where limited resources be put to its best use, a masterplan should be done by the Department of Agriculture (DA).

**SECTION 3.** Composition.

The Special Task Force shall be chaired by the President of the Republic of the Philippines and the Lead Convenor of NAPC as Vice Chair. The members shall include: the Secretaries of DOJ, DILG, DAR, DENR, DA, DSWD, Chairperson, National Commission on Indigenous Peoples (NCIP), the heads of League of the Provinces of the Philippines (LPP), League of Cities of the Philippines (LCP), and League of Municipalities of the Philippines (LMP), NAPC IP Sectoral Representative, and NAPC Farmers Sectoral Representative.

The Special Task Force may call upon non-government organization (NGO) representatives involved with the IP and Farmers sectors to participate in the deliberations as needed.

The National Anti-Poverty Commission (NAPC) shall be the Secretariat of the Special Task Force.

**SECTION 4.** Powers and Functions

**4.1.** Conduct fact-finding missions to emergency situations/conflict areas and take appropriate action/s and/or issue necessary instructions to and mobilize concerned agencies in the enforcement of the action;

## **82** IN SEARCH OF COMMON GROUND

- 4.2. Adopt appropriate Special Temporary Measures to respond to emergency situations;
- 4.3. Coordinate and collaborate with the existing joint TWGs, in facilitating harmonization of various laws, policies and programs;
- 4.4. Serve as a venue for inter-agency dialogue and convergence in recognizing, promoting and protecting the rights, interests and welfare of the IP and Farmers sectors, giving due regard to the powers and mandates of the agencies concerned and with strict observance that the same shall not at any cost be diminished; and
- 4.5. Call upon any agency of the government, including the LGUs for such assistance as may be necessary in the performance of its tasks.

### SECTION 5. Funding.

An initial budget of one million Pesos (1,000,000.00) shall be appropriated from the available funds of the Office of the President to fund the operations of the Special Task Force. The Office of the President shall provide for the additional funds based on the work plan to be prepared by the Secretariat of the Special Task Force.

Expenses of the Special Task Force members in the performance of their functions shall be charged to their respective agencies.

### SECTION 6. Reporting.

The Secretariat shall submit periodic reports to the President on the status of actions and measures undertaken to address the emergency situations.

### SECTION 7. Term.

The Special Task Force shall exist for a period of one (1) year from the date of effectivity of this Memorandum Order.

### SECTION 8. Effectivity.

This Memorandum Order shall take effect immediately upon approval and publication requirement for such order.

City of Manila, \_\_ January 2007

**GLORIA MACAPAGAL-ARROYO**

By the President:

EDUARDO ERMITA  
Executive Secretary



# Project Partners



## **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)**

6A Malumanay St. U.P. Village, Diliman 1103 Quezon City, Philippines  
Tel.: (63-2)4337653-54 Fax: (63-2)9217498  
Email: [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) URL: [www.angoc.ngo.ph](http://www.angoc.ngo.ph)

ANGOC is a regional association of 21 national and regional networks of non-government organizations (NGOs) from 11 Asian countries actively engaged in food security, agrarian reform, sustainable agriculture and rural development activities. Its member-networks have an effective reach of some 3,000 NGOs throughout the region. ANGOC was founded in Bangkok in February 1979, following a two-year series of village and national-level consultations in 10 Asian countries leading to the World Conference on Agrarian Reform and Rural Development (WCARRD, Rome, 1979). ANGOC seeks to address the key issues related to agrarian reform, sustainable agriculture and rural development in the region.



## **INTERNATIONAL LAND COALITION**

[www.landcoalition.org](http://www.landcoalition.org)

The International Land Coalition is a global alliance of intergovernmental, governmental and civil-society organizations. The Land Coalition works together with the rural poor to increase their secure access to natural resources, especially land, and enable them to participate directly in policy and decision-making processes that affect their livelihoods at local, national, regional and international levels.



## **PAFID**

Philippine Association for Inter-Cultural Development, Inc.  
71 Malakas St. U.P. Village, Diliman 1103, Quezon City, Philippines  
Tel.: (63-2) Fax: (63-2)  
Email: [pafid@zpdee.net](mailto:pafid@zpdee.net) URL: [www.iapad.org/pafid](http://www.iapad.org/pafid)

PAFID today is an institution with over 140 members and a staff of 32 engaged in the development of indigenous social organizations, ancestral domain management, community-based natural resources management planning, community mapping, agro-forestry, technical services, policy advocacy and others.



## **AR NOW!**

The People's Campaign for Agrarian Reform Network  
c/o PhilDHERRA 59 C. Salvador St., Loyola Heights, Quezon City, Philippines  
Telefax: (63-2)4266740 Email: [arnow.inc@gmail.com](mailto:arnow.inc@gmail.com)

AR NOW! is a national coalition of 15 civil-society organizations involved in agrarian reform advocacy in The Philippines. It was established in 1997 as a response to the need to distribute private agricultural lands under the government's Comprehensive Agrarian Reform Programme (CARP) which was passed in 1988. Many agrarian reform advocates looked at the poor performance of land distribution and saw the imperative of pursuing agrarian reform beyond the first 10 years of CARP implementation. Consensus formed around the urgency for a national campaign that would seek to revive agrarian reform and rural development in the national agenda.