



**Waiting in Vain?
The Plight of Landless Filipino Farmers
without the Notices of Coverage Bill**



Supported by
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The “Joint Action for Land Rights” is a project jointly implemented by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), Balay Alternative Legal Advocates for Development in Mindanaw, Inc. (BALAOD Mindanaw), Solidarity Towards Agrarian Reform and Rural Development (Kaisahan), and People In Need (PIN). JALR contributes to the work of civil society organizations, including human rights organizations, working with vulnerable and socially excluded groups with particular focus on supporting the empowerment of farmers and indigenous peoples to claim their

rights, including protecting the rights of human rights defenders. The project is supported by the European Union’s European Instrument for Democracy and Human Rights (EU-EIDHR).



Founded in 1979, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) is a regional association of national and regional networks of non-government organizations (NGOs) in Asia actively engaged in promoting food security, agrarian reform, sustainable agriculture, participatory governance, and rural development.

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Acronyms

ARBs	agrarian reform beneficiaries
ARC	agrarian reform community
AMT	<i>Aguman Ding Malding Tagapalobra</i>
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
APPC	Asia-Pacific Policy Center
BARC	Barangay Agrarian Reform Council
CA	compulsory acquisition
CAFGU	Citizen Armed Force Geographical Unit
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program with Extension and Reforms
DENR	Department of Environment and Natural Resources
DAR	Department of Agrarian Reform
HOR CAR	House of Representatives Committee on Agrarian Reform
Hukbalahap	<i>Hukbong Bayan Laban sa Hapon</i>
JALR	Joint Action for Land Rights
Kaisahan	<i>Kaisahan tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan (Solidarity Towards Rural Development and Agrarian Reform)</i>
KRA	key result area
LAD	land acquisition and distribution
LH	landholding
MARO	Municipal Agrarian Reform Officer
NIR	Negros Island Region
NOC	Notice of Coverage
NPA	New People's Army
PAL	private agricultural land
PARC	Presidential Agrarian Reform Council
PARO	Provincial Agrarian Reform Officer
PD	Presidential Decree
RA	Republic Act
ROD	Registry of Deeds



Waiting in Vain?

The Plight of Landless Farmers without the Notices of Coverage Bill

Introduction

Waiting has been the game for *Ka* Romeo Baclas Jr., a farmworker and an identified prospective agrarian reform beneficiary (ARB) under the agrarian reform program from Alangilan, Bacolod City. *Ka* Romeo waits for the day that the land he had been working on for almost the whole of his life will be awarded to him under the country's agrarian reform program. The land he has been tilling as a farmworker was covered initially under the Comprehensive Agrarian Reform Program (CARP), and later under the amended version of the law, the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER). But *Ka* Romeo is not alone, at least one more million landless tenants and farmworkers continue to wait for the promise of agrarian reform, though they may now be waiting in vain.

On 30 June 2014, the mandate of the Department of Agrarian Reform (DAR), the country's primary agency for the implementation of agrarian reform, to issue notices of coverage (NOCs) under the CARPER allegedly expired. An NOC "is a letter informing a landowner that his/her land is covered by CARP, and is subject to acquisition and distribution to beneficiaries. It likewise informs the landowner of his/her rights under the law, including the right to retain five hectares" (Official Gazette, 2014). This has been done by the government in two ways, mostly through a registered letter to the official address of the landowner/landowners based on the information on the land title registration in the Registry of Deeds (ROD) Office or based on the initial survey of landholdings that should have been carried out by the municipal agrarian reform officer (MARO) of the DAR, with the help of the *barangay* captain or the Barangay Agrarian Reform Council (BARC) chairperson in the identified area. A substituted notice in the form of a publication of the NOCs in two newspapers of nationwide circulation has



also been allowed under CARPER when landowners cannot be found in the address known to the DAR. The substituted notice was included in CARPER to counter the evasion tactic employed by some landowners during CARP's implementation of refusing to accept the NOC/registered letter and later challenging the validity of the NOC on the grounds that there was no personal service or formal service to them.

In *Ka Romeo's* case, the NOC for the land he has been tilling has been declared erroneous or defective and was cancelled – as the original NOC only listed the names of two landowners indicated in the original land title in the ROD. Unfortunately, the land itself has been subdivided and other titles have been subsequently issued in the names of the relatives of the landowner in an obvious attempt to evade land redistribution – a fact that was only discovered after the landowners contested the validity of the NOC issued by the DAR. The failure to rectify the errors in the original NOC immediately before the deadline for issuing NOCs expired in 2014 has now become the main issue at hand in *Ka Romeo's* case.

The problem has further been compounded by a misinterpretation of the law by some landowners whose lands have not yet been distributed under CARPER. These landowners are now insisting that the agrarian reform

program already expired last 30 June 2014; hence, no lands should be covered under the program anymore and DAR should stop the distribution of lands to ARBs. CARPER mandates concerned agrarian reform agencies to finish distributing lands to the beneficiaries up to the very last hectare, a mandate which is rooted in the Constitution. Other components of the agrarian reform program shall still be implemented until completion especially the coverage and distribution of lands already covered and issued with NOCs.

Since the only mandate that expired in June 2014 was on the issuance of NOCs for those landholdings that should be covered under the agrarian reform, *Ka Romeo's* case should not be part of this problem. But since the NOC on the land he is tilling has been declared erroneous, the administrative remedy taken by the local DAR officials was to cancel the erroneous NOC, and issue a new one. Herein lies the problem which has given rise to the questions on how erroneous or defective NOCs should be treated hereon: *Does the prohibition in issuing new NOCs under CARPER include issuing NOCs that correct previously issued but erroneous or defective NOCs? Should the NOCs replacing the erroneous ones issued in the first place be considered new NOCs?*

Another pressing issue that must be resolved is how to proceed with agrarian reform for those lands without NOCs given that the mandate of the DAR has expired.¹ Should these lands be already exempted from agrarian reform coverage just because the government was not able to issue the NOCs in time to complete land distribution under CARPER? Should landless tenants and farmworkers be made to wait much longer because of the government's inability to complete agrarian reform within the prescribed period?

This paper discusses the current agrarian reform situation, with a special focus on the Negros Island Region (NIR). It discusses the implications of the absence of a legal mandate for the DAR to issue new NOCs and its implications to land distribution in general and especially in Negros. The paper also examines current initiatives at the executive and legislative fronts to address the problem and the forces that may hinder or propel these initiatives forward. Finally, the paper provides possible courses of

¹ Last 30 June 2014, the mandate of DAR to issue NOCs for lands intended for distribution under the CARP expired under CARPER or Republic Act 9700.

actions to move forward and avert the injustice that will be perpetrated among landless tenants and farm workers should the implementation of agrarian reform be stopped despite this mandate being anchored on a constitutional directive.

Agrarian Reform: An Important and Difficult, Unfinished Agenda

The importance of agrarian reform in economic development and ensuring social justice cannot be overstated. In Asia, the huge leap in growth and development achieved by Japan, Korea, Taiwan, and of late China, have been based on a sound policy of agricultural development rooted in agrarian reform and the promotion of intensive family farming, a manufacturing sector that exercised export discipline, and a financial sector that served the development goals of these countries. The dismantling of feudalistic relations in these countries helped the difficult transition to democracy in Japan, Korea, and Taiwan and addressed massive poverty and inequality prevalent before in these countries especially in the rural areas (Studwell, 2013 as cited in Monsod, 2017). China also implemented agrarian reform allowing small ownership for its peasants but promoted State-led large scale farming at the same time.

What was common in these countries was the effort to address deep-seated structural problems that have caused poverty and inequality in their respective countries where agrarian reform played a major role. Poverty and inequality were effectively addressed by dismantling the monopoly of the ruling elite over control of and access to vast tracts of productive lands. At the same time, the peasants were also encouraged to be part of the process of change. The success of land reform in Japan was also due to the strength of local farmers' cooperatives established and encouraged by the State (Wurfel, 1989).

In the Philippines, the clamor to recognize the rights of peasants over the lands they have been tilling has existed as early as the Spanish era. The introduction of the concept of State and private ownership led to massive dispossession of peasants that sparked violent revolts quashed by the colonial government. A resistance that never really ended, but which continued to grow and evolve and in certain times became more organized forcing government to respond, albeit only with programs that “emphasized

resettlement and repression rather than redistribution” (Abinales, 2000 as cited in Franco and Borras, 2005). This is evident in Quezon’s social justice program in the 1930s and Magsaysay’s agrarian reform in the 1950s both of which responded to growing agrarian unrest by the *Sakdalistas* and the *Aguman ding Malding Tagapalobra* (AMT)² from the 1920s to the 1930s and the Hukbalahap (*Hukbong Bayan Laban sa Hapon*)³ which later evolved into *Hukbong Mapagpalaya ng Bayan*⁴) from the 1940s to the 1950s. In the 1960s, as a response to demand for land which was becoming more organized, then President Diosdado Macapagal introduced the Agricultural Land Reform Act abolishing sharecropping and institutionalizing leasehold arrangements. The Act also introduced a bill of rights for agricultural workers that recognized the right of agricultural workers to organize and to receive minimum wage. Thereafter, then President Ferdinand Marcos’ Presidential Decree 27 was enacted as a response to the growing threat of peasant unrest as many landless peasants joined or supported the armed struggle waged by the communist group’s armed unit, the New People’s Army (NPA) against the government.

It was not surprising therefore that attempts to push forward a genuine and comprehensive agrarian reform program after the People Power Revolution in 1986 met massive opposition from the landowning class from the start. For the longest time, the power and influence of landowners had been rooted and derived from their ownership of, access to, and control of vast tracts of productive lands. The passage of a watered-down and loophole-ridden agrarian reform law, the Comprehensive Agrarian Reform Law (CARL) or Republic Act No. 6657 (RA 6657) became the basis for CARP, was the direct result of the efforts of the landowner bloc in Congress to bar a truly progressive agrarian reform law. Such was the fate of what should have been an otherwise progressive and comprehensive agrarian reform law that former Representative Bonifacio Gillego, one of the principal authors and staunchest advocate for this comprehensive law, withdrew his authorship of the bill along with other co-authors.

² The *Sakdalistas* and the AMT were two groups which advocated for drastic reduction of taxes on the poor and for radical land reform.

³ Translates into: People’s Army Against the Japanese

⁴ Translates into: People’s Liberation Army

Hobbled from the start by its own limitations, CARP has been labeled by critics and landowners, and in some instances even by landless tenants and farm workers, as a failure. For critics and landowners, ARBs failed to contribute to economic growth as envisioned under the program. They even went as far as saying that CARP has created in own class of “landed poor” (Fabella, 2014). Prospective ARBs also decry the too slow implementation of the program which has aided many landowners in evading land distribution through legal and illegal means. But what has been downplayed in all the criticisms were the lack of presidential commitment to the program often resulting to perennial lack of budget, and the failure of the DAR bureaucracy to fast-track the program’s implementation. Add to this, the landed elite’s dogged opposition to the program reflected through inadequate budget and legislative proposals meant to further decimate the program at the national level and at the ground level, outright harassment and intimidation of tenants or farm workers and even local DAR implementers.

But despite all the loopholes and the criticisms against the agrarian reform program, it cannot be denied that agrarian reform helped address poverty among landless farmers and empower former landless tenants and farm workers. Various studies done over the years have shown how agrarian reform, when implemented properly, had changed the lives of former landless tenants and farm workers. Reyes (2002), Balisacan et. al. (2007) are just some of the studies which have proved the positive impacts of agrarian reform. In Balisacan’s Asia-Pacific Policy Center (APPC) study, poverty incidence in agrarian reform communities (ARCs) or *barangays* decreased by 16 percentage points between 1990 and 2000. Contrary to claims that agrarian reform has resulted to decreased productivity, the same study has shown increased average yield across all crops (*palay*, sugar, coconut, and corn) that are even higher than national averages. The Annual Poverty Indicators Survey for 1998, 2004, and 2011 show that “there is a greater increase in average per capita income at 12.3 percent and a deeper reduction in poverty at 21 percent, among CARP households as compared to non-CARP landowning households and the general population. The ARBs themselves proclaim that they are better off and that the quality of their lives and their families’ improved with agrarian reform (Habito, 2008).

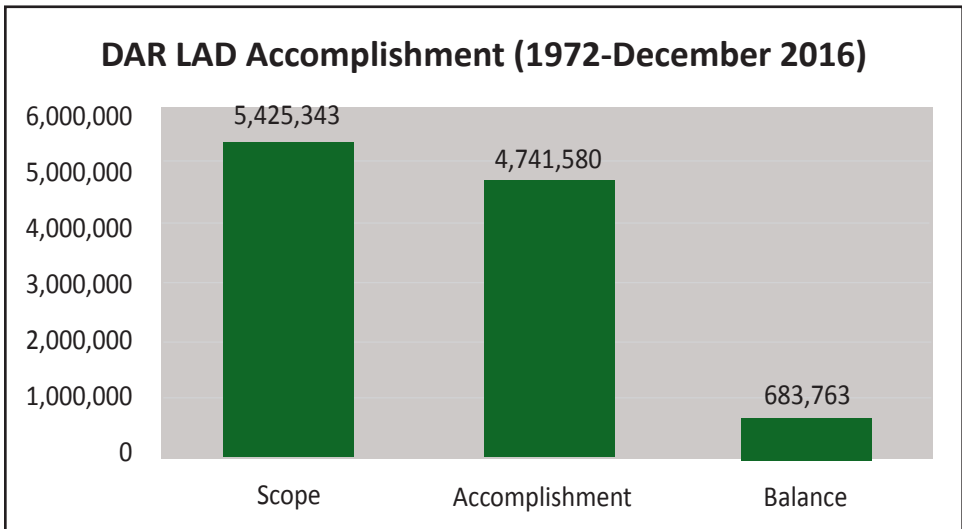
It is imperative therefore that the implementation of agrarian reform continue to provide prospective ARBs like *Ka Romeo* the same chance

that has been given to other landless tenants and farm workers who have been awarded lands under CARP and were provided the requisite support services that is part and parcel of a “genuine” agrarian reform program.

What Needs to be Done: The Current Status of Agrarian Reform Implementation

DAR data culled from the CARP briefer released in July 2017 reported that around 602,306 hectares still need to be distributed after December 2016 from its overall target of 4,823,037 hectares (DAR, 2017). This figure does not include around 81,457 hectares which has been labeled as “non-CARP”⁵ portion in the report which effectively remove these lands from the ambit of CARPER. If these portion will not be deducted from CARP’s target, then DAR still needs to distribute around 683,763 hectares of private agricultural lands (see Figure 1). There is an overwhelming need to validate whether these “non-CARP” lands should be removed from CARP’s coverage especially given that this is a significant number at more than 81,000 hectares. But the validation should cover all the lands that will be declared as “non-CARP” areas since there is a notation in the 2017 CARP

Figure 1. DAR Accomplishment (1972 - December 2016) in hectares



Source: CARP Briefer and Statistical Handbook (DAR, 2017)

⁵ Non-CARP portion was defined in the CARP Briefer as “portion of the landholdings covered under the LAD process but were found to be non-CARPable i.e. road network, easement, LOs retention.”

Briefer that the report only reflects figures reported from July 2009 until end-December 2016. It is highly possible therefore that more lands have been declared non-CARP areas and had not been covered by the program. It must be noted that this is not the first time that DAR reduced its land acquisition and distribution (LAD) target by deducting lands which were declared to be non-CARPable. The original target of CARP was reduced twice, from 10.1 million in 1988 to 9.1 million and to the current target of 8.1 million hectares in 1992. Any reduction of the target at this point means further denying landless tenants and farm workers the chance of having their own lands as promised by CARP.

The accomplishment accounts for 89 percent of the overall target of DAR and does not include the part being administered by the Department of Environment and Natural Resources (DENR) covering public lands. Broken down, 2,625,547 hectares or 55 percent of this accomplishment were private agricultural lands (PAL), while 45 percent or 2,116,033 hectares were non-PAL lands. While compulsory acquisition (CA) should have been the dominant mode of acquiring lands as early as 1992, DAR's accomplishment would show that of this 55 percent, only 8 percent or 369,580 hectares were covered under CA. Most were covered under voluntary land transfer (VLT) at 18 percent or 835,862 hectares. Unfortunately, there are a lot of anomalies uncovered in VLT transactions that makes the reported accomplishment under VLT questionable (Borras, 2002).⁶

Based on the DAR report, at least 2.8 million ARBs benefited from the distribution. However, not all of these reported beneficiaries are already tilling the lands awarded to them. Especially in highly contested landholdings in Negros, in Leyte, especially in Kananga and Ormoc City, in Mindanao, and in some problematic areas in Luzon like Bondoc Peninsula in Quezon, DAR needs to install farm workers before they can till their awarded lands. In some cases, despite the coverage under CARP, landowners hire their own security guards to prevent ARBs from tilling lands awarded to them and this necessitated in some installation cases the assistance of the military in ensuring that the ARBs will be allowed to

⁶ Borras (2002) reported that most land distribution that occurred under the voluntary land transfer (VLT) program are transfers to children and relatives of landlords. He called VLT transactions as "faked land transfers" since there is no real transfer or redistribution that takes place, yet the transfers are recorded as accomplishments by DAR officials.

till the lands awarded to them. Unfortunately, once the military personnel leave, the ARBs are left vulnerable to the harassment of the landowner's security guards or at times, even the local police. This was prevalent in

many provinces with remaining LAD backlogs. Hence, DAR included in its Key Results Areas (KRAs) the installation of ARBs. They even created special multi-stakeholder task forces (e.g., Task Force Sugarlands and Task Force Bagasse) in the provinces of Negros Occidental and Leyte whose tasks are to identify landholdings where ARB installation needs to be carried out and to ensure that the rightful owners, the ARBs, have peaceful possession of their land. DAR has included the results of their efforts to install ARBs in their awarded lands in its official report. Based on the CARP Report, from 2008 to December 2016, DAR installed 44,692 beneficiaries all over the country with 16,697 beneficiaries or 37 percent coming from the NIR.

But a more problematic issue for DAR is the expiration of their mandate to issue new NOCs. In a Congressional hearing last October 2016 for a proposed bill extending the DAR's mandate to distribute lands, DAR reported that at least 206,000 hectares of its remaining balance are yet to be issued with NOCs. Using the more conservative DAR estimate of 602,306 hectares that still needs to be distributed, 206,000 hectares is equivalent to 34 percent or one-third of the overall remaining target for distribution under CARPER. This is a significant number and will adversely affect a lot of prospective ARBs waiting for their promised lands under CARPER especially if the prospective ARBs who will be affected by lands declared as non-CARP areas will be added to the count.

Why Negros is Agrarian Reform's Last Frontier?

Negros Island Region is the "last frontier" for agrarian reform in the country and this is not surprising at all. The NIR is after all the territory of the "Negros oligarchy," a local oligarchy that became one of the "most potent political force in [Philippine] national politics until the early 1970s" and who despite being weakened during the Marcos Martial Law years and by the dramatic downturn of sugar prices and loss of preferential sugar quota, survived and "re-established their power under democratic auspices," as author Peter Kreuzer (2011) puts it. Kreuzer's study which focused on how the Negros oligarchs held and maintained their economic, social, and political power

dominating appointive and elective positions at the local and national levels, and how they used this power to defend their core interests, whether through legal or violent means. The biggest bloc which opposed CARP and was responsible for watering it down the most was the sugar landowner's bloc in Congress led by former Representative Hortensia Stark in Congress in 1988. Their fierce and united opposition against CARP or any agrarian reform program for that matter is understandable especially when viewed against the fact that their economic, social, and political powers were mainly based on their control and ownership of sugar haciendas.

But Negros was not always the bastion of landlords. Based on historical accounts, Negros started as a sparsely populated frontier area where landless migrant farmers cleared forest lands to establish homesteads and eke out a living alongside *Negrense* smallholders. The expansion of agricultural lands resulted to the creation of hundreds of new and smaller plantations out of areas that were primary and secondary jungle at first. Unfortunately, historical accounts also show how most of these homesteaders and even these *Negrense* smallholders would later lose their lands to new *hacenderos* and would be absorbed in the *hacienda* labor force (Larkin, 1993).

But between 1845 and 1918, the *hacienda* system evolved in the province as evidenced by the tremendous growth of population and annual sugar production in the province. A few factors accordingly contributed to the building of the *hacienda* system. Among them was the advent of the Augustinian Recollect friars who exercised religious control of the province by establishing missions, then parishes, and by taking control of parishes vacated by the old native secular priests. This coincided with the appointment as governor of Manuel Valdivieso Morquecho (1849-55) who focused on encouraging the economic development of Negros. Morquecho began formally delineating new town centers and *barrios* that later became municipalities. Amidst these new and small plantations, permanent towns rose, built upon earlier settlements or upon missions established by Recollect priests.

But though the original *haciendas* of Negros were already there in the 1840s and the 1850s, pioneered by settlers like Agustin Montilla, Yves Germain Gaston, and Eusebio de Luzuriaga, Negros did not begin to attract large

numbers of new *hacenderos* until the late 1850s. The following factors contributed to the rise of the *hacienda* society in Negros:

- arrival of the Recollect priests and the desire of then Governor Morquecho to develop Negros leading to the establishment of new towns and opening of ports and increased trade; and,
- decline of the indigenous textile industry, a business mostly controlled by Chinese *mestizos* from Iloilo and Panay, due to the influx of imported and cheaper British cottons prompted these Chinese *mestizos* to search for new arenas of economic activity; and, aware of a growing market for Philippine sugar abroad saw Negros as a good investment alternative.

Most of these Chinese *mestizos* used their capital in buying up vast tracts of agricultural lands. McCoy (1994) explained that “towards the end of the 19th century, the bulk of Negros sugarlands had been partitioned into large plantations owned by *mestizo* families like Teodoro Benedicto with 10,000 hectares, Ysidro dela Rama with 1,525 hectares, Lucio Lacson with 10,678 hectares, Teodoro Yulo with 2,525 hectares and the Lopezes (Basilio and sons Claudio and Eugenio) that owned more than 3,000 hectares.” He noted as “striking” the fact that 18 out of the 22 *gobernadorcillos* were in the Negros Occidental’s land list in 1897. But the *hacienda* system did not encourage tenants. What was encouraged was a mix of permanent and temporary workers, some of which were the original homesteaders who were absorbed in the *hacienda* labor force once they lost their lands.

But there was an attempt to implement land reform during the Spanish era in Negros which succeeded but which was under threat when Lopez-Gonzaga (1988) wrote of it. According to Lopez-Gonzaga, the earliest attempt to provide lands to landless Negros farmers was by a Recollect priest named Fr. Andres Ferero during the Spanish era. Fr. Ferero, noting the poverty of his parishioners, requested the Spanish colonial government to provide land for agricultural production in Pontevedra, Negros Occidental.

The Spanish colonial government assigned more than 1,000 hectares to him in the northeastern part of Pontevedra and the friar established this as the *Legua Communal*. The *Legua Communal* served as the common agricultural area and was later apportioned to his parishioners. The parishioners were made tenants of the land, paying the Church which took on the role of the landowner, in cash or crops. The *Legua Communal* covered

five municipalities including Gomez, Burgos, Mabini, Rizal, and Buenavista and there were still individual tenants who had acquired a long-term lease right that have been passed from generation to generation. Gonzaga's article noted that the Church was replaced by the municipal government as the landlord and that this has resulted to changes in the ownership of the *Legua* lands in the process.

The original size of the *Legua* has been reduced to 716 hectares only since not all of the lands were included in the 1917 cadastral survey for the *Legua* property. Then, 700 hectares were excluded by virtue of the Presidential Act 2874 or the Public Land enacted in 1925 allowing homestead patents and were later acquired by three families, including the powerful Uriarte family. The lands of the Uriarte's were later acquired by Roberto Benedicto, a known-Marcos crony and sugar haciennero, whose lands were later sequestered by the Aquino government. But as of Gonzaga's writing in 1988, only 567.39 hectares have remained in the hands of the heirs of the original tenants and was in danger of being grabbed from them. The municipal government, which has taken on the role of landlord, had passed a resolution allowing a committee headed by the Mayor to negotiate the sale of the *Legua* lands with Land Bank of the Philippines (LBP) and other banking institutions which was supposed to be repurchased by the individual occupant-lessees through assisted-amortization. This though was a historical first and was never repeated under the Spanish nor American colonial governments especially with the rise of sugarcane production in the early 19th century which led to land concentration and the assimilation of landless peasants in the *hacienda* labor force.

What CARP/CARPER Needs to Deliver in Negros

The fierce resistance of landowners against agrarian reform continued to be manifested in different forms after the law was passed. Aside from diluting the law in Congress through proposed legislative measures, resistance against CARP and later, CARPER, opposition took different forms ranging from legal maneuvers and obstacles hurled by sugar landowners against aspiring ARBs and the government; to illegal tactics that included illegal land conversions, fraud, coercion, and harassment. In some cases, the implementation of agrarian reform in Negros, ended in violent confrontations between the landowners or the landowners' security forces

and the farm workers often resulting to the killings of ARB leaders pushing for the coverage of certain *haciendas*. In the 1980s, sugar plantations have been found to be openly funding “special Citizen Armed Force Geographical Units (CAFGUs)” which were also used to harass farmworkers especially those calling for agrarian reform in their respective *haciendas* (Wurfel, 1991). Fierce resistance against the program even necessitated the coordination with military forces, especially in cases where local police have been siding with the landowners to install beneficiaries in agrarian reform lands.

The success in repelling agrarian reform implementation compared to other provinces is probably the reason why Negros earned another moniker: that of being the last bastion of landlordism in the country.

However slow and problematic, there were also some gains in struggling against landlordism in the province. Most of these were achieved through the unceasing efforts of peoples’ organizations and non-government organizations, sometimes in coordination with the Church and agrarian reform advocates to pressure the government to continue land distribution in Negros and to ensure that agrarian reform lands do not remain under the control of its former landowners.

As of June 2017, the DAR Regional Office estimated that they have distributed 314,354 hectares to 235,205 ARBs. The accomplishment represents 73 percent of the overall target of 432,358 hectares for the entire region. DAR pegged the remaining net workable balance at 89,794 hectares which will benefit some 71,837 prospective ARBs in Negros province (see Table 1).

The remaining 89,794 hectares are already net of the problematic/deductible non-CARP lands as defined by DAR in its CARP Briefer. If these non-CARP areas are to be included, the remaining balance would be 118,003 hectares (see Table 2). This means that some 28,209 hectares from 9,591 landholdings will be removed from CARP. But this also means that some landless tenants or farmworker will not be awarded lands if the lands they are tilling or working on were part of those already removed from the target.

Table 1. DAR NIR LAD Accomplishment (1972 to June 2017)⁴

PROVINCE	LAD Scope 1972 to present	Lands Distributed 1972-June 2017 (per title)	Accomplishment	No. of ARBs	Net Workable Balance as of 30 June 2017	No. of Landholdings	No. of ARBs
	No. of Hectares	No. of Hectares			No. of Hectares		(Potential ARBs)
Negros ⁵	126,290	71,614	56%	51,005	40,600	3,290	40,600
Negros Occ./ South ⁶	169,286	114,649	68%	72,022	42,509	3,664	28,340
Negros Or.	136,782	128,091	94%	111,178	6,685	593	2,897
REGIONAL TOTAL	432,358	314,354	73%	235,205	89,794	7,547	71,837

Source: NIR CARP Situationer (DAR NIR, 2017)

But there remains a pressing need to validate and check the data being reported by DAR. In this case, a closer examination of the accomplishment report provided by the DAR Region would show that when compared to that of December 2016 LAD accomplishment, the June 2017 LAD accomplishment already decreased by almost 20,000 hectares (see Table 3).

The number of problematic/deductible landholdings have increased probably accounting for the smaller LAD target by June 2017. From 21,862 hectares in December 2016, the number of problematic/deductible lands has increased to 28,209 hectares (see Table 4).

The NOC Dilemma

It is unfortunate that the Aquino administration did not take advantage of the strong amendments incorporated in CARPER that addressed some of the loopholes of CARP. Though this is hardly surprising given that President Aquino has his own familial landed interests to protect. But the DAR bureaucracy could have done a better job to ensure that the program

⁷ Culled from the powerpoint presentation of DAR Regional Office during the Conference on Agrarian Reform organized jointly by DAR, ANGO and Kaisahan (31 July 2017; Sta. Fe Resort, Bacolod City, Negros Occidental).

⁸ *ibid.*

⁹ *ibid.*

Table 2. LAD BALANCE SEGREGATED INTO WORKABLE AND PROBLEMATIC (as of June 2017)⁷

REGION/ PROVINCE	WORKABLE		PROBLEMATIC/ DEDUCTIBLE		TOTAL	
	No. of HHs	No. of Hectares	No. of HHs	No. of Hectares	No. of HHs	No. of Hectares
TOTAL - NIR	7,547	89,794	2,044	28,209	9,591	118,003
Neg. Occ./ North	3,290	40,600	937	14,076	4,227	54,676
Neg. Occ./ South	3,664	42,509	958	12,127	4,622	54,636
Negros Oriental	593	6,685	149	2,006	742	8,691

Source: NIR CARP Situationer (DAR NIR, 2017)

will be completed as envisioned by those who lobbied and pushed for the passage of CARPER. DAR could have concentrated its efforts in ensuring that all the targeted landholdings under the program had been issued NOCs at the very least. Especially since Section 30 of RA 9700 or CARPER provides that:

“Section 30. Issuance of Notices of Coverage. Acceptance of voluntary offers to sell and resolution of cases and/or proceedings - The DAR shall continue to issue notices of coverage and accept voluntary offers to sell by landowners of agricultural lands covered by Republic Act No. 6657, as amended. Such issuance of Notice of Coverage or acceptance of voluntary offer to sell starts the proceedings in the implementation of the provisions of Republic Act No. 6657, as amended.

Any case and/or proceeding as initiated by the issuance of Notice of Coverage or acceptance of voluntary offer to sell, shall be allowed to proceed to its finality.”

CARPER provided for the continuance of the agrarian reform program by mandating under Section 30 that as long as NOCs were issued on or before 30 June 2014, land distribution to beneficiaries shall continue until its completion. This means that even after CARPER’s deadline to issue NOCs on 30 June 2014, DAR and other CARPER implementing agencies should

¹⁰ *Ibid.*

Table 3. DAR NIR LAD Accomplishment (1972 to December 2016)⁸

PROVINCE	LAD Scope 1972 to present	Lands Distributed 1972-Dec. 2016 (per title)	Accomplishment	No. of ARBs	Net Workable Balance as of 16 Dec. 2016	No. of Landholdings	No. of ARBs
	No. of Hectares	No. of Hectares			No. of Hectares		(Potential ARBs)
Negros Occ. 1	126,290	70,666	56%	51.147	41,767	3,420	27,884
Negros Occ. 2	189,443	133,757	71%	72,549	43,559	3,746	29,039
Negros Or.	136,782	126,892	92%	175,358	8,708	806	1,002
REGIONAL TOTAL	452,515	331,315	73%	298,054	94,034	7,972	57,885

Source: NIR CARP Situationer (DAR NIR, 2017)

Table 4. LAD BALANCE SEGREGATED INTO WORKABLE AND PROBLEMATIC (as of December 2016)⁹

REGION/ PROVINCE	WORKABLE		PROBLEMATIC/ DEDUCTIBLE		TOTAL	
	No. of HHs	No. of Hectares	No. of HHs	No. of Hectares	No. of HHs	No. of Hectares
TOTAL - NIR	7,972	94,034	1,434	21,862	9,406	115,896
Neg. Occ./ North	3,420	41,767	822	13,107	4,242	54,874
Neg. Occ./ South	3,746	43,559	588	8,475	4,334	52,034
Negros Oriental	806	8,708	24	280	830	8,988

Source: NIR CARP Situationer (DAR NIR, 2017)

finish distributing lands to the beneficiaries up to the very last hectare and to continue providing the needed support services not limited to credit, infrastructure, technical, and extension services. This should have been a firm assurance already for potential ARBs that the process of agrarian reform will continue (e.g., beneficiary identification, survey, generation, and registration of land titles to beneficiaries) and that they will be provided the justice denied them for so long.

¹¹ Culled from the powerpoint presentation of DAR Regional Office during the Conference on Agrarian Reform organized jointly by DAR, ANGO and Kaisahan (31 July 2017; Sta. Fe Resort, Bacolod City, Negros Occidental).

¹² *ibid.*

But the DAR failed to complete the issuance of all the NOCs as mandated under CARPER from 2009 to 2014 and it also failed to correct erroneous or defective NOCs before the 30 June 2014 deadline. In the October 2016 hearing of the House of Representatives, DAR reported that magnitude of lands for issuance of NOCs was 413,801 hectares in 49,645 landholdings. Though DAR was able to issue NOCs to 42,964 landholdings covering 344,698 hectares of agricultural lands, 69,103 hectares in 6,681 landholdings still need NOCs since the NOCs issued before the 30 June 2014 deadline were defective or erroneous.¹⁰

As it stands, this has created two dilemmas that penalizes the potential ARBs. First, how would DAR now initiate the distribution of lands without NOCs given that the DAR is legally barred from issuing NOCs? Second, how would the DAR proceed with the distribution of lands covered by defective and erroneous NOCs? The DAR should issue new NOCs to replace the erroneous and defective ones. But since the DAR is barred from issuing new NOCs, how would the DAR now replace the defective NOCs? Should corrected NOCs be considered as new NOCs?

The NOC dilemma is especially prevalent in Negros given the strong resistance of Negros landowners against CARP. It is not surprising that there are landholdings which until now have not been issued with NOCs. As per DAR report, in July 2017, there are 1,365 landholdings covering 13,767.9375 hectares which have not been covered (see Table 5). This is 15 percent of the current target of the DAR though it is not clear whether such landholdings have been included in the reported target of the DAR by June 2017. What is clear at this point is the hesitance of the DAR to cover these landholdings given the expiration of their mandate to issue NOCs in June 2014.

Another alarming data were those of the landholdings with defective NOCs. Based on the DAR's report, at least 28,773.554 hectares covering 1,604 landholdings have defective NOCs (see Table 6).

¹³ Validation by DAR showed that in some cases there were errors or discrepancies in the technical descriptions of the published NOCs. The discrepancies vary from the title numbers, location of the property and name of the registered landowners. Among the reasons cited by DAR for this problem were old titles transferred to smaller landholdings and named after heirs or corporations. Some NOCs were also not properly served to landowners prior to publication and some MAROs had no official documentation of the landowners' refusal to accept NOCs before publication.

Table 5. Landholdings without /for Issuance of NOCs (as of July 2017)

CITY/MUNICIPALITY	LANDHOLDINGS	AREA (Hectares)
BACOLOD CITY	6	73.66
CADIZ CITY	309	2,832.36
CALATRAVA	152	1,169.21
DON SALVADOR BENEDICTO	20	162.29
EB MAGALONA	39	438.34
ESCALANTE CITY	190	1,654.24
MANAPLA	22	291.61
MURCIA	53	1,051.14
SAGAY CITY	268	2,420.35
SAN CARLOS CITY	122	1,047.84
SILAY CITY	51	926.19
TALISAY CITY	64	669.42
TOBOSO	51	432.18
VICTORIAS CITY	18	599.08
GRAND TOTAL	1,365	13,767.94

Source: NIR CARP Situationer (DAR NIR, 2017)

Like those lands without NOCs, it is not clear whether these landholdings are part of the working target of the DAR.

As reported by affected prospective ARBs in Negros during a joint consultation in July 2017, several methods to evade agrarian reform can be blamed for the defective or erroneous NOCs. The very slow implementation of agrarian reform has provided landowners in Negros and in other areas of the country, several tactics to ward off the CARP. One is subdividing their original lands covered by the CARP and having these titled into smaller parcels under the name of their heirs. Hence, even if an NOC has already been issued for the original title, it can easily be contested by the new owners of the smaller parcels of land since the owner stated in the NOC is different from the owners now stated in the title. This strategy is commonly referred to as ‘chop-chop’ titles. DAR classifies these NOC as erroneous or defective resulting to the cancellation of the said NOC. But DAR should not even classify these NOCs as erroneous especially since the subdivision is a patent circumvention of the law.

Table 6. Landholdings with Defective NOCs/Area Covered (as of July 2017)

ERROR SPECIFICATION	NO. OF LHs	AREA
Typographical Error on Title, Lot No., Area, Municipality, Location	149	5,009.05
Issued to only one of two or more co-owners	189	4,182.78
Incomplete name of LO (ex. Jose Alvarez in NOC, Jose Angelo Alvarez in source document)	22	270.21
Issued to entirely different name as what appears in source document	73	1,828.24
Issued in the name of “heirs of the LO” but title is in the name of the LO who is now deceased	7	92.38
Completely different Lot No. or survey No. (ex. Lot No. 502, instead of Lot No. 545)	30	651.02
Different location (municipality or <i>barangay</i>) stated, not due to change in name of the location	570	7,189.88
Incomplete location. (ex. name of <i>barangay</i> and city/municipality were omitted, or only the name of the province was specified in the NOC.)	186	2,422.82
NOC issued to the transferee but not to the original owner as of 15 June 1988	88	1,238.55
NOC issued to the original owner but no copy was furnished to the transferees (Transfers were effective after 15 June 1988 but prior to 30 September 2011, which is the date of effectivity of A.O 8, Series of 2011.)	290	5,888.62
GRAND TOTAL	1,604	28,773.55

Source: NIR CARP Situationer (DAR NIR, 2017)

Like the ‘chop-chop’ title strategy, selling an agrarian reform covered land to a third party has been done to evade agrarian reform. When the DAR issues the NOC to the registered landowner, not knowing the lands has already been sold to a third person, such NOC will be classified as erroneously issued NOC. But a Supreme Court decision in the case of Department of Agrarian Reform v. Robles clarifies that while the sale between the original landowner and third party is binding, DAR should not be blamed for the errors in the NOCs, given that it is unaware the property has been sold in the first place, to wit:

“Given that the notices of coverage were issued to the wrong persons, the heirs of the former owner instead of respondents who are the present owners of the subject properties, the DAR can hardly be faulted for such mistake. It bears emphasis that while the heir executed the corresponding deeds of absolute sale in favor of respondents as early as April 17, 1997, it was only on May 3, 2005 that said deeds were registered in the names of respondents. Meantime, in view of the death of Eduardo on October 28, 2000, the DAR had no choice but to send the Notices of Coverage dated September 8, 2004 and November 23, 2004 to his heirs, Julieta and Nenita, respectively. While said deeds of sale are binding between the said heirs of Eduardo and respondents, the DAR could not have been aware thereof for lack of registration which is the operative act that binds or affects the land insofar as third persons are concerned. Thus, the DAR cannot be blamed for erroneously issuing such notices to the said heirs because it merely relied on available public records at the Register of Deeds, showing that the original landowner of the said properties is the late Eduardo.”[Department of Agrarian Reform v. Robles, G.R. No. 190482, (9 December 2015).]

Engaging the Legislative: The Fate of the NOC Bill in Congress

Farmers’ organizations working with non-government organizations and agrarian reform advocates have tried to address the problem even before the 30 June 2014 deadline lapsed. One of the campaign initiatives on the NOC bill is the **“Joint Action for Land Rights (JALR)”** Project. This initiative has adopted a two-pronged approach, both engaging the DAR to ensure that NOCs will be issued for all coverable lands and lobbying in the 16th Congress the House Bill No. 4296 which is a law that will extend the mandate of DAR to issue NOCs for two years.

Unfortunately, the DAR was unable to issue all the needed NOCs and the proposed measure did not flourish in Congress as well.

At present, the fight to address NOC issues will be mainly waged at the legislative front. DAR needs a law that will provide it the legal mandate to issue NOCs and cover and distribute these lands to prospective ARBs.



House Bill (HB) 114 and HB 3051, have been filed by Representatives Teddy Brawner Baguilat, Kaka Bag-ao, Gabriel Bordado, and Tomasito Villarín who are known progressive legislators. To the credit the House of Representatives Committee on Agrarian Reform (HOR CAR) chaired by Congressman Rene Relampagos, perhaps understanding the collective frustration of potential ARBs, the HOR CAR has initiated hearings for the two proposed measures addressing the NOC dilemmas. Both bills will provide the DAR the authority to issue NOCs to the remaining agricultural lands for the coverage under CARP/CARPER within two more years as well as reiterating the continued provision of support services to prospective ARBs, agrarian justice delivery, and ensuring that other operational requirements for the completion of the program will be provided continuing fund allocation beyond the completion of the LAD component of the program. After the hearings, the HOR CAR headed by Committee Secretary Rita Macabulos was mandated to head a Technical Working Group to work on and provide a substitute bill incorporating the comments and suggestions given during the hearings. Committee Secretary Macabulos, in an interview, confirmed that they were able to craft a substitute bill which is now pending at the Committee and will be deliberated upon again by the Committee for endorsement to Second Reading at the Plenary Level of Congress.

The NOC bills already have counterpart legislations in Senate. These bills were filed by Senators Riza Hontiveros and Gregorio Honasan III. Unfortunately, there has been no hearing so far at the Senate on the proposed bills. The moves at the HOR to pass the NOC bill would hopefully also give the impetus to the Senate.

NOC Engagement at the Executive Level

The JALR Project has also engaged the DAR for the possibility of jointly pushing Congress to pass the NOC bill and to explore possibilities for the defective and erroneous NOCs. The support of DAR for the bill during the legislative hearing was unfortunate at first given that they endorsed instead the passage of a new law instead of the NOC bill. But the DAR later reversed its position and expressed support to the NOC bill instead. Kaisahan and ANGO have also engaged local DAR officials in Negros and other areas on how to resolve land distribution in specific cases with defective and erroneous NOCs.

Ways Forward

The Constitution clearly mandates the implementation of agrarian reform. To quote:

“Article 13, Section 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farm workers who are landless, to own directly or collectively the lands they till or, in the case of other farm workers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.”



As the basic law of the land where all other laws are supposed to emanate, the NOC dilemma ideally should not be a dilemma at all. With the Constitutional mandate, the government should be implementing agrarian reform especially since agrarian reform is mainly rooted in social justice and economic empowerment for the landless.

However, since DAR has lost its mandate to issue NOCs last 30 June 2014, the DAR may not extend the issuance of an original NOC outright. Only the passage of a new law may address the extension for the issuance of new NOCs. So the first NOC dilemma can only be resolved once the NOC bill is passed by Congress.

Unfortunately, legislating another law to continue the mandate of agrarian reform will not be a walk in the park. There is a need to continue pushing for the NOC bills at both Houses of Congress and consolidating support for it in the national and local levels. Obvious interests, those of the landed and those who have consistently opposed CARP should be called out to expose their obvious biases to ensure a fair fight for the NOC bills at both Houses.



Erroneous or defective NOCs, on the other hand, have remained a grey area. The DAR did not issue any issuance defining what erroneous or defective NOCs are. Without this definition, the law has been left to the interpretation of the local agrarian reform officers to decide on which NOCs are erroneous or defective. When the NOC is declared as erroneous or defective, the regular practice had been to issue another NOC correcting the errors or defects of the previously issued NOC.

With the expiration of the DAR mandate to issue NOCs last 30 June 2014, the confusion now lies on whether DAR can still issue NOCs to replace defective or erroneous ones. Is a “corrected NOC” a “new NOC?” This confusion has been quickly used by landowners whose lands have not been distributed to assert that NOCs served to them are erroneous or defective NOCs.

Since there is no clear definition on what erroneous or defective NOCs are, nor has there been a set process on how to replace such, there is an opportunity to engage the DAR and to resolve the issues of erroneous or defective NOCs in favor of the landless potential beneficiaries.

Section 49 Republic Act No. 6657, as amended by Republic Act No. 9700, provides that, “The [Presidential Agrarian Reform Council] PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act. Said rules shall take effect ten (10) days after publication in two (2) national newspapers of general circulation.”

This provision sets the rule-making power of PARC and DAR giving them the mandate to issue rules and regulations to guide the implementation of CARP. As an administrative agency, DAR may therefore define and issue rules and regulations that will clarify grey and unclear areas like the issue of defective or erroneous NOCs. The only limitation of DAR rule-making powers is that it cannot issue rules that will be in excess of the law it is based on. The rules it will issue must not override, but must be in harmony with, the law it seeks to apply and implement.¹¹

So while DAR may not extend the issuance of NOCs for landholdings without NOCs, it may define the scope and meaning of erroneous or defective NOCs. This will finally settle the grey area for those landholdings covered by erroneous or defective NOCs. DAR should be engaged and convinced to issue an administrative order which will define erroneous or defective NOCs and prescribe the process for correcting such. It should be clarified in the administrative order that, technically, no new NOCs are being issued, only replacement or corrected NOCs to rectify the errors or defects of the previously issued ones.

DAR can also probably assess whether it can adopt the process adopted in correcting birth certificates. If DAR is indeed barred from issuing a new NOC that corrects a previously issued one, the defective or erroneous NOCs can be annotated to include the correct details for the landholdings covered by a particular NOC.

As envisioned under the Constitution, agrarian reform is seen as the tool to promote social justice and to move the nation toward sound rural development and industrialization through the establishment of owner-cultivatorship of economic-size farms as the basis of Philippine agriculture.

¹¹ Grego v. Commission on Elections, G.R. No. 125955, 19 June 1997, 274 SCRA 481, 498, citing Commissioner of Internal Revenue v. Court of Appeals, 240 SCRA 368 (1995).

Unfortunately, this has not yet completely been achieved. The law has been riddled with loopholes that excluded a lot of landholdings under its purview. The agrarian reform program also floundered under the assault of landowners' intent on evading the program and the inability of the government to fully implement the program.

Peasants or landless farmers and farmworkers were to be given the highest consideration in the implementation of the agrarian reform law. But many of them especially farmworkers in big *haciendas* and plantations are still awaiting the promised deliverance under the CARP. In Negros alone, DAR estimates that there are 28,773.554 hectares with defective or erroneous NOCs and 13767.9375 hectares without NOCs. This brings to a total some 42,541.4915 hectares which will be completely excluded from CARP coverage in Negros. But just how many potential ARBs will be disenfranchised because of the failure of DAR to address the NOC problem remains unclear. Given the already long wait of landless farmers and farmworkers like *Ka Romeo* to receive the lands they have been tilling for generations, the mere possibility of ending the program with still a huge balance for distribution is unacceptable. The present government needs to step up and finally deliver on this Constitutional mandate: that of completing the land redistribution and providing sufficient support services to ARBs. Otherwise, *Ka Romeo* and other landless Filipinos like him are truly, only waiting in vain. ■

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

Founded in 1979, ANGOC is a regional association of national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance, and rural development. ANGOC network members and partners work in 14 Asian countries with an effective reach of some 3,000 NGOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy debates with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs). ANGOC is the convener of the Land Watch Asia (LWA) campaign. ANGOC is also a member of the International Land Coalition (ILC), the Global Forum on Agricultural Research (GFAR) and the Global Land Tool Network (GLTN).

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Balay Alternative Legal Advocates for Development in Mindanaw, Inc. (BALAOD Mindanaw)

BALAOD Mindanaw is a non-stock, non-profit legal resource institution providing capacity-building and legal services to its partner communities on resource tenure and other justice issues primarily in Mindanao. It was formally established and registered with the Securities and Exchange Commission (SEC) on 11 August 2000 through the efforts of a small group of individuals, lawyers, paralegals and community organizers.

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Kaisahan Tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan [Solidarity Towards Agrarian Reform and Rural Development, Inc. (Kaisahan)]

Kaisahan is a social development organization promoting a sustainable and humane society through the empowerment of marginalized groups in rural areas, especially among farmers and farmworkers, to undertake their own development, participate fully in democratic processes and demand their rightful share in the stewardship of the land and the fruits of their labor.

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People In Need (PIN)

The People in Need (PIN) organization was established in 1992 by a group of Czech war correspondents who were no longer satisfied with merely relaying information about ongoing conflicts and began sending out aid. It gradually became established as a professional humanitarian organization striving to provide aid in troubled regions and support adherence to human rights around the world. Throughout the 25 years of its existence, PIN has become one of the biggest non-profit organizations in Central Europe. In addition to humanitarian aid and human rights, it now also targets education and helps people living in social exclusion. PIN is part of the Alliance2015, a strategic network of seven European non-governmental organizations engaged in humanitarian aid and development projects. This collaboration increases effectivity both in working in the target countries and in campaigns aimed at influencing the attitudes of politicians and the general public in Europe.

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Delegation of the European Union to the Philippines

The EU Delegation to the Philippines is one of 140 diplomatic missions that represent the EU across the globe. It aims to strengthen EU-Philippines relations in particular through promoting strong economic and trade ties, developing EU-Philippines dialogue through the recently-signed Partnership and Cooperation Agreement, supporting the Government in its peace efforts in Mindanao, and working with the Philippines' Administration to reach the UN Millennium Development Goals.

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Prepared for the Joint Action for Land Rights Project jointly implemented by ANGOC, BALAOD Mindanaw, Kaisahan and PIN, this policy review discusses the implications of the absence of a legal mandate for the DAR to issue new NOCs and its implications to land distribution in general and especially in Negros. The paper also examines current initiatives at the executive and legislative fronts to address the problem and the forces that may hinder or propel these initiatives forward, and provides possible courses of actions to move forward with agrarian reform in the Philippines.

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