State of Land and Resource Tenure Reform in the Philippines 2018

ANGOC

NES Promoting people centered land governance PHILIPPINES

NFR

PAFID Philippine Association for Intercultural Development, Inc.

AR Now!

Founded in 1979, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in promoting food sovereignty, land rights and agrarian reform, sustainable agriculture, participatory governance, and rural development. ANGOC member networks and partners work in 9 Asian countries with an effective reach of some 3,000 CSOs 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).

The complexity of Asian realities and diversity of CSOs highlight the need for a development leadership to service the poor of Asia—providing a forum for articulation of their needs and aspirations and expressing Asian values and perspectives.

33 Mapagsangguni Street
Sikatuna Village, Diliman
1101 Quezon City, Philippines
P.O. Box 3107, QCCPO 1101, Quezon City, Philippines
Tel: +63-2 351 0581 Fax: +63-2 351 0011
Email: angoc@angoc.org
Website: www.angoc.org

The People's Campaign for Agrarian Reform Network, Inc. (AR Now!) is an advocacy and campaign center for the promotion of agrarian reform and sustainable development. AR Now!'s mission is to engage government to seriously implement agrarian reform by waging nationally coordinated campaigns for pro-agrarian reform and sustainable rural development (ARRD) policies and programs, and to bring back ARRD as a national agenda and development imperative. Its vision is to achieve peasant empowerment, agrarian and aquatic reform and rural development, sustainable agriculture/fisheries and food security, gender sensitivity and equality of men and women, and appropriate and adequate support services.

38-B Mapagsangguni Street
Sikatuna Village, Diliman
1101 Quezon City, Philippines
Tel: +63-2 433 0760, +63-2 921 5436
Email: arnow.inc@gmail.com

The Philippine Association for Intercultural Development (PAFID) is a social development organization which has been assisting Philippine indigenous communities to secure or recover traditional lands and waters since 1967. It forms institutional partnerships with indigenous communities to secure legal ownership over ancestral domains and to shape government policy over indigenous peoples' issues. PAFID envisions indigenous communities as responsible stewards of their resources.

71 Malakas Street
Diliman, Quezon City, Philippines
Tel: +63-2 927 4580
Fax: +63-2 435 5406
Email: pafid@skybroadband.com.ph/pafid@yahoo.com
Website: http://www.pafid.org.ph/

The NGOs for Fisheries Reform (NFR) is a national coalition of non-government organizations formed initially to provide technical support for national fisherfolk federations and coalitions in their lobbying efforts for the passage of a meaningful fisheries code. It has since strived to go beyond this initial unity by sharing experiences in both theoretical and practical work in the fisheries sector and by actively exploring alternative venues for its advocacy work. NFR has been instrumental in the passage of the 1998 Fisheries Code (Republic Act 8550), the issuance of the Department Administrative Order No. 17 (DAO 17) mandating the delineation of municipal waters, and the guideline on Fishpond Lease Agreement-Cancellation through Fisheries Administrative Order 197-1. NFR is also taking initiatives in pushing for the formulation of guidelines to implement Section 108 of RA 8550 on fisherfolk settlements; and for the development of women-managed areas, where the roles and responsibilities of women fisherfolks in coastal resources management are recognized.

59-C Salvador Street
Varsity Hills Subdivision, Loyola Heights, Quezon City, Philippines
Tel.: +63-2 927 0122
E-mail: ngos4fisheries@yahoo.com

Recognizing the need to address land issues in a focused, coherent and coordinated manner, the National Engagement Strategy (NES) was initiated by members of the International Land Coalition (ILC) in the Philippines. ILC has been a development partner of Philippine CSOs engaged in promoting asset reform and pointing out the deficiencies of policies in current land and resource rights. ILC NES in the Philippines synergizes the efforts of the members with other stakeholders such as government and international organizations in building on previous efforts to increase and strengthen access to and control of land and other natural resources in rural sectors.

33 Mapagsangguni Street
Sikatuna Village, Diliman
1101 Quezon City, Philippines
Tel: +63-2 351 0581 Fax: +63-2 351 0011
Website: ilc-nes.ph

State of Land and Resource Tenure Reform in the Philippines 2018

Antonio Quizon, ANGOC
Anthony Marzan, AR Now!
Dave de Vera, PAFID
Marita Rodriguez, NFR

State of Land and Resource Tenure Reform in the Philippines 2018

ISBN: 978-971-8632-48-2

Edited by: Antonio Quizon, Marianne Jane Naungayan, Nathaniel Don Marquez and Ma. Cristina Dumlao

Written by: Antonio Quizon, Dave de Vera, Anthony Marzan, and Marita Rodriguez

Production team: Nathaniel Don Marquez, Marianne Jane Naungayan, Denise Hyacinth Joy Musni, Timothy Salomon, Joseph Onesa, Lennie Rose Cahusay

Layout and design: Gerard Jerome Dumlao

Cover photo credits: Center for Agrarian Reform and Rural Development (CARRD), Dave de Vera, NGOs for Fisheries Reform (NFR), and XU-DevCom/XSF.

Citation:

Quizon, A., Marzan, A., de Vera, D., and Rodriguez, M. (2018). State of Land and Resource Tenure Reform in the Philippines. Quezon City: Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Published by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) with support from the International Land Coalition (ILC) through the Natonal Engagement Strategy (NES), European Partnership for Development (EPD), and We Effect. The views expressed in this publication are those of the authors and do not necessarily reflect the views of ILC, EPD, and We Effect.

NES are multi-stakeholder processes set in motion by the International Land Coalition (ILC) to promote people-centered land governance, by influencing the formulation and implementation of land policies and programs. NES processes and their platforms are led by national actors, including non-ILC members, and are linked to regional and global processes of the ILC. For more information: http://www.landcoalition.org/en/national-engagement-strategies.

Contents

Acknowledgements

The following agencies and organizations contributed to the discussion and refinement of the contents of this study:

On agrarian reform and smallholder agriculture

Peoples' organizations
- Damayan ng Magsasaka ng Batangas (DAMMBA)
- Davao Oriental Farmers and Farmworkers Alliance (DOFFA)
- Hacienda Bendito Agrarian Reform Agrarian Reform Beneficiaries Association (HABENARBA)
- Hacienda Montecarba Farmers
- Farmers of Sagay, Negros Occidental
- Nagkakaisang Mamamayan sa Kanlurang Batangas Multi-Purpose Cooperative (NAGKASAMA-MPC)
- Ormoc-Kananga Leyte Farmers Federation (ORKALEFF)
- Pambansang Katipunan ng mga Samahan sa Kanayunan (PKSK)
- Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA)
- Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK)
- San Jose Valing Agrarian Reform Beneficiaries Association (SANVARBA)

Civil society organizations
- Campaign for Land Use Policy Now (CLUP Now!)
- Center for Agrarian Reform and Rural Development (CARRD)
- Citizen's Action Party
- Focus on the Global South (FOCUS)
- John J. Carol Institute of Church and Social Issues (JJCICSI)
- Kaisahan tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan (Kaisahan)
- Legal Rights and Natural Resource Center (LRC-KsK)
- People's Campaign for Agrarian Reform Network (AR Now!)
- Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA)
- Policy and Legislative Advisory Group (PALAG)
- Task Force Mapalad (TFM)
- Xavier Science Foundation, Inc. (XSF)

Media
- Catholic Media Network (CMN)

Intergovernmental organization
- Global Land Tool Network (GLTN)
- International Organization for Migration (IOM)

Government agencies
- Commission on Human Rights (CHR)
- Department of Agrarian Reform (DAR)
- Department of Environment and Natural Resources - Land Management Bureau (DENR-LMB)
- Land Bank of the Philippines (LBP)

On ancestral domains and indigenous peoples

Peoples' organizations
- Asosasyon ng Tribong Sibuyan Mangyan Tagabukid (ATSMT)
- Dulangan Manobo of Lebak, Sultan Kudarat
- Federation of Trento Manobo Tribal Communities (FETREMTCO)
- KK Kamahunaan
- Kolo-Ka-Koloy
- Lacil Indigenous Community Association (LICA)
- PAHADAG, Inc.
- Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA)
- Sadik Habanan Buhid - Mindoro
- Scope Unbound - Rizal
- Tadyawan

Civil society organizations
- Alyansa Tigil Mina (ATM)
- Bukluran ng mga Katutubo Para sa Pangangalaga ng Kalikasan (BUKLURAN KASAPI)
- Non-Timber Forest Products (NTFP)
- Philippine Association for Intercultural Development (PAFID)
- Philippine ICCA Consortium
- TEBTEBBA Foundation
- Ugnayan Pang-Aghamtao Inc. (UGAT)
- Xavier Science Foundation, Inc. (XSF)

Media
- Catholic Media Network (CMN)

Intergovernmental organization
- Global Land Tool Network (GLTN)

Government agencies
- Commission on Human Rights (CHR)
- Department of Environment and Natural Resources (DENR)

- DENR-Land Management Bureau (DENR-LMB)
- Indigenous People's Mandatory Representative (IPMR) of Mindoro
- National Commission on Indigenous Peoples (NCIP)

On fisherfolk rights to land and water resources

Peoples' organizations
- Anak Balayan
- LARAS
- Libjo Bantay Dagat Association
- MAGSAMA Federation
- Mondragon Antamanon Lugar Sunod nga Henerasyon Upod Gugma Ig-unding (MALASUGI) Fisherfolk Organization
- Nagkaisang Mangingisda sa Hinatuan (NAMAHIN)
- Pambansang Katipunan ng mga Samahan sa Kanayunan (PKSK)
- Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA)
- Pinag-isang Samahan ng Mangingisda sa Casiguran
- Samahan ng Maliliit na Mangingisda ng Sibulan
- Samahan ng Maliliit na Mangingisda sa Calatagan (SAMMACA)

Civil society organizations
- Center for Empowerment and Resource Development, Inc. (CERD)
- Haribon Foundation for the Conservation of Natural Resources, Inc. (Haribon)
- NGOs for Fisheries Reform (NFR)
- Plan International
- Rare Philippines
- Xavier Science Foundation, Inc. (XSF)

Media
- Catholic Media Network (CMN)

Intergovernmental organization
- Global Land Tool Network (GLTN)

Government agencies
- Bureau of Fisheries and Aquatic Resources (BFAR)
- Commission on Human Rights (CHR)
- Department of Environment and Natural Resources - Forest Management Bureau (DENR-FMB)
- DENR-Land Management Bureau (DENR-LMB)

ANGOC is grateful for the support for this study provided by the International Land Coalition (ILC), European Partnership for Democracy (EPD) through its INSPIRED+ project, and We Effect.

Tables and figures

Acronyms and Terms Used

A&D	alienable and disposable (lands)
ADSDPP	Ancestral Domain Sustainable Development and Protection Plan
AFP	Armed Forces of the Philippines
AJD	Agrarian Justice Delivery
ALA	Agrarian Legal Assistance
ALI	Agrarian Law Implementation (cases)
AO	administrative order
ARB	agrarian reform beneficiary
ARBO	agrarian reform beneficiary organization
ARC	agrarian reform community
ARCC	agrarian reform community cluster
ARMM	Autonomous Region in Muslim Mindanao
AVA	agribusiness venture arrangement
BFAR	Bureau of Fisheries and Aquatic Resources
CA	compulsory acquisition
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CAR	Cordillera Administrative Region
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension with Reform
CBFM	community-based forest management
CBFMA	Community-Based Forest Management Agreement
CLOA	Certificate of Land Ownership Award
CLT	Certificate of Land Transfer
CPAR	Congress for a People's Agrarian Reform
CSC	Certificate of Stewardship Contract
CSO	civil society organization
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DENR	Department of Environment and Natural Resources

DOLE	Department of Labor and Employment
DOJ	Department of Justice
NDRRMC	National Disaster Risk Reduction and Management Council
E-NIPAS	Expanded National Integrated Protected Areas System
EO	executive order
EP	Emancipation Patent
FAO	Food and Agriculture Organization of the United Nations
FLA	Fishpond Lease Agreement
FMA	Fishery Management Area
FPIC	free, prior and informed consent
IPs	indigenous peoples
IPRA	Indigenous Peoples' Rights Act of 1997
ISF	Integrated Social Forestry
KKK	Kilusang Kabuhayan sa Kaunlaran (program)
km	kilometer
LAD	Land Acquisition and Distribution
LBP	Land Bank of the Philippines
LGU	local government unit
LRA	Land Registration Authority
NAMRIA	National Mapping and Resource Information Authority
NEDA	National Economic and Development Authority
NCIP	National Commission on Indigenous Peoples
NGP	National Greening Program
NLUA	National Land Use Act
NOC	Notice of Coverage
Non-A&D	non-alienable and disposable (land)
OLT	Operation Land Transfer
PACBARMA	Protected Area Community-Based Resource Management Agreement
PAL	private agricultural land
PARC	Presidential Agrarian Reform Council
PBD	Program Beneficiaries Development
PD	presidential decree
PhP	Philippine Peso
PFC	Philippine Fisheries Code
PNP	Philippine National Police
RA	republic act
UDHA	Urban Development and Housing Act of 1992
VLT	Voluntary Land Transfer (program)

Foreword

2018 marks a special year in terms of commemorating key landmark reform legislations in the Philippines: 30 years of the Comprehensive Agrarian Reform Law (CARL), 21 years of the Indigenous Peoples Rights Act (IPRA), and 20 years of the Philippines Fisheries Code (PFC).

These land and resource tenure reforms were instituted in response to the clamor by different sectors – farmers and farmworkers, indigenous cultural communities, and small fisherfolk.

Twenty to 30 years signal the passing of a generation. Thus, questions are now raised on how well government has implemented these reforms and social justice programs. Moreover, there are uncertainties as to how responsive these State policies have been to the realities faced by sectors of the rural poor.

It is in this context that ANGOC, in partnership with AR Now! (Peoples Campaign for Agrarian Reform), PAFID (Philippine Association for Intercultural Development) and NFR (NGOs for Fisheries Reform), coordinated the process of formulating the "State of Land and Resource Tenure Reform in the Philippines: 2018". This report specifically aims to:

- assess the extent of implementation of asset reform laws, in particular the Comprehensive Agrarian Reform Program (CARP), Indigenous Peoples Rights Act (IPRA) and Philippines Fisheries Code (PFC);
- identify emerging issues in their implementation; and,
- recommend measures or reforms to effectively implement such reform programs.

Fittingly, this report comes 10 years after PhilDHRRA (Philippine Partnership for the Development of Human Resources in Rural Areas) first published the *2008 Philippine Asset Report Card* – a performance review of asset reform implementation from the perspective of beneficiaries, using a multi-stage sampling design.

This 2018 status report took on a simpler, participatory approach. The formulation process of this study involved a series of focus group discussions

with farmers, indigenous peoples, fisherfolk and civil society organizations held from 20-22 June 2018.

The revised sectoral papers were then presented and discussed in another series of roundtable discussions as well as sectoral dialogues held on 17-20 July 2018 between the representatives of people's organizations and officials from concerned government agencies.

To provide a complete picture of the agrarian reform situation, this publication also includes as a separate chapter – an updated version of the earlier 2017 study on "Agrarian Reform in Public Lands" – written by Michele Esplana and Antonio Quizon.

Finally, an integrated assessment study of all four sectoral papers was discussed and validated at a national consultation among people's organization representatives (farmers, indigenous peoples, and fisherfolk) and their support groups of CSOs, held on 5 September 2018.

This report highlights the achievements, bottlenecks and emerging challenges faced in implementing CARL, IPRA and PFC. It is a collective product of 73 organizations that shared data, analyzed information and collectively formulated recommendations towards the overall goal of strengthening land and resource tenure rights for the rural poor.

ANGOC, together with the People's Campaign for Agrarian Reform (AR Now!), Philippine Association for Intercultural Development (PAFID) and NGOs for Fisheries Reform (NFR), organized the series of focus group and roundtable discussions as well as policy dialogues, which contributed to the writing of this report.

This 2018 report is published by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) together with the National Engagement Strategy (NES) platform in Philippines. Through NES-Philippines, CSO members of the International Land Coalition (ILC) have been working towards a common agenda in the Philippines in pushing reforms and enhancing the capacities of the basic sectors to advocate for their rights to land and natural resources.

This initiative is the product of a team effort. Overall writer and editor Antonio Quizon of ANGOC prepared the review framework and consolidated the various papers. Anthony Marzan of AR Now!, David de Vera of PAFID and Marita

Rodriquez of NFR prepared the sectoral papers on agrarian reform, indigenous peoples' ancestral domains and fisheries reform, respectively.

ANGOC acknowledges the support of the International Land Coalition (ILC), European Partnership for Democracy (EPD) and We Effect for the various workshops and the printing of this publication. Special thanks to all participating organizations as well as to the editorial and production teams for their valuable contributions.

Nathaniel Don E. Marquez
Executive Director, ANGOC

1.0 | Introduction

The 1986 People Power Revolution that ousted a dictatorship and restored democratic processes signalled a period of tenure reforms.

The 1987 Philippine Constitution was seen as reform-oriented, nationalistic and detailed in emphasizing human and social rights, and the limitations of State powers. It declared that "property bears a social function" (Art. XI, Sec. 6) and therefore the right to own land and other property also bears the obligation to use it according to norms that are generally agreed upon, and beneficial to society.

The 1990s thus saw the enactment of landmark asset reform legislation in the Philippines – the Urban Development and Housing Act (UDHA) of 1992, the Indigenous Peoples Rights Act (IPRA) of 1997, and the Fisheries Code of 1998. The Community-Based Forest Management (CBFM) Program was instituted in 1995 through Executive Order 263.

Agrarian reform, which had been legislated on piecemeal basis since the 1950s, culminated in the passage of the Comprehensive Agrarian Reform Law (CARL) of 1988.

All these land and resource reforms were the fruits of the collective struggle by different sectors – the urban poor, farmers and farmworkers, indigenous cultural communities, and fisherfolk.

Land and resource tenure reforms are founded on the fact that a major cause of poverty is the unequal distribution of natural resources and productive assets. Thus, poverty reduction is not just a matter of providing social safety nets or jobs, but of changing unequal relations in tenure rights and property ownership. Land and resource tenure reforms manifest a rights-based approach to poverty reduction.

In recent years, questions have been raised on how well the government has implemented these land and resource tenure reform and social justice programs. Moreover, there are uncertainties as to how responsive these State policies have been to the realities faced by the poor sectors.

Thus, there is a need to assess the state of land and resource tenure reforms in the Philippines.

This 2018, CARL marks its 30th year, while IPRA (Indigenous Peoples Rights Act) and the PFC (Philippines Fisheries Code) commemorate their 21st and 20th year, respectively.

With the sole exception of the agrarian reform program, there are no comprehensive assessments on the implementation of the other asset reform programs. Meanwhile, new issues have arisen in public discourse that will have future implications on land and resource tenure reform – i.e., the shift to a federal system of government, along with the proposed rewriting of the 1987 Philippine Constitution, a Bangsamoro Basic Law, and policy responses to environmental degradation and climate change that may impact on tenure rights.

This 2018 assessment of the "State of Land and Resource Tenure Reform in the Philippines" provides a performance review of the implementation of reforms, from the perspective of civil society and the basic sectors of farmers, indigenous peoples, rural women and municipal fisherfolk.

Overview of the Study

Objectives. The study is aimed at assessing the state of public reform on land rights in the Philippines. Specifically, it seeks to:

1. Show the extent of implementation of land and resource tenure reform laws on private and public agricultural lands, ancestral domains, and municipal waters;
2. Provide an assessment of the implementation of the Comprehensive Agrarian Reform Program (CARP), Indigenous Peoples Rights Act (IPRA), and the Philippine Fisheries Code (PFC);
3. Discuss the emerging issues in relation to the implementation of such laws; and,
4. Recommend measures for the effective implementation of land and resource tenure reform programs.

Methodology. This paper is based mainly on secondary sources. These include official government reports and data – mainly from the Department of Agrarian Reform (DAR), Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), Department of Environment and Natural Resources (DENR), National Commission on Indigenous Peoples (NCIP), Land Bank of the Philippines

(LBP) and the Philippine Statistical Authority (PSA). The paper also draws insights from case studies and researches done by civil society organizations and research institutions.

Three sectoral studies, which were condensed and included as separate chapters in this paper, i.e. – Agrarian Reform in Private Agricultural Lands, Recognition of Indigenous Peoples' Lands and Tenure Reform in Fisheries and Aquatic Resources – were written by Anthony Marzan, Dave de Vera and Marita Rodriguez, respectively.

The drafts of these three papers were each discussed during one-day focus group discussions held on 20-22 June 2018, involving some 45 representatives of farmers, indigenous peoples, and fisherfolk, and CSOs working with these sectors. The revised sectoral papers were then presented and discussed in another series of policy discussions held on 17-20 July 2018 between the people's organization representatives and officials from concerned government agencies. The main recommendations emerging from these series of discussions are reflected in this paper.

Also included here as a separate chapter is an updated version of a 2017 study on "Status of Tenure Reform in Public Lands under CARP" – written by Michele Esplana and Antonio Quizon.

An integrated assessment study of all four sectoral papers was then discussed at a national consultation among people's organization representatives (farmers, indigenous peoples, and fisherfolk) and their support groups of CSOs, held on 5 September 2018.

In sum, a total of 73 organizations were engaged in the entire process leading to the finalization of this publication.

Scope and limitations. *Coverage is limited to land and resource tenure reforms in rural areas, where livelihoods are highly dependent on land and natural resources.* Thus, the Urban Development and Housing Act (UDHA) is not included in this study.

This assessment study focuses on tracking the implementation of reforms, and not on the impacts of land and resource tenure reform programs. The determination of impacts – at individual, household and community level – lie outside the scope of this study. Rather, this paper describes the extent and quality of accomplishments of each program, based on implementation benchmarks.

The target scope and coverage of such reforms are difficult to assess, given the non-existence or unreliability of available data. While the coverage of agrarian reform has been routinely reported, accomplishment targets have been moving each year, due mainly to the poor state of land records in the country. The last major DAR survey was done in 2009. Since then the accomplishment target for the land transfer program has been readjusted annually.

DAR also has no target scope for the leasehold program – whether in the number of tenants, the number of farms, or the total hectarage of farms under tenancy. In the case of ancestral domains, there is no data on the actual number of indigenous communities and their domains that can potentially be recognized under IPRA. By definition, the identification of indigenous people is based on self-ascription, while IPRA recognizes the principle of self-delineation in the mapping out of ancestral domains.

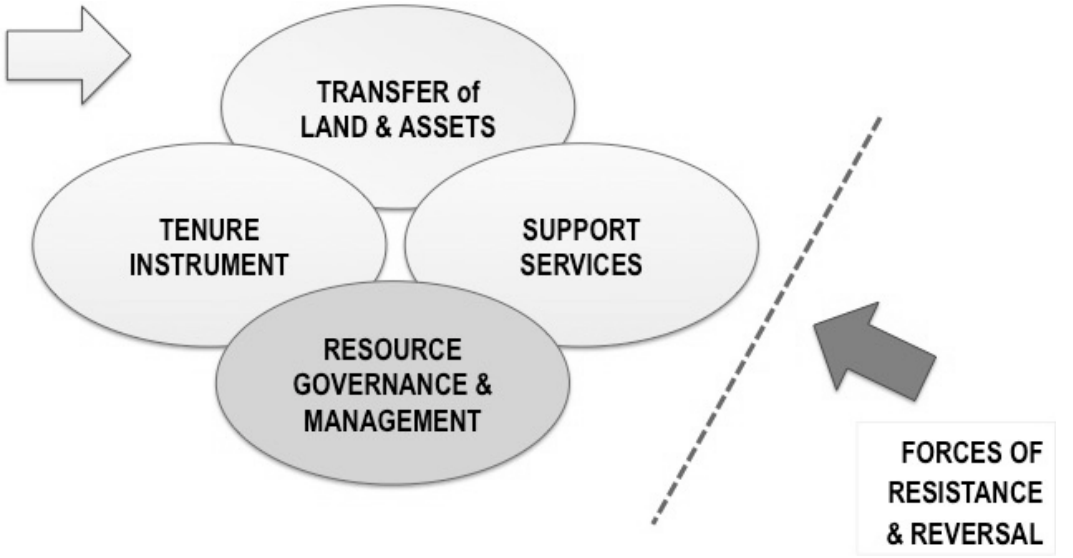
Understanding asset reform

Asset reform involves "redistributing resource endowments to designated marginalized sectors through a process that awards a tenurial instrument to target beneficiaries that provides them ownership or security of tenure over the subject asset. This is accompanied by support services designed to enable beneficiaries to make the most productive use of the distributed asset. Further, … (there are) resource management and resource governance mechanisms to provide the necessary enabling environment" (PhilDHRRA, 2008).

Using the above definition, asset reform in the Philippines is seen to involve four elements: (1) the transfer of a resource (land and waters); (2) a tenure instrument; (3) support services; and (4) a resource governance and resource management system. And because asset reform involves the redistribution and the devolution of control over resources, there are forces that seek to obstruct and/or reverse asset reforms (Figure 1).

Transfer of a resource usually involves the determination of two factors. First is the delineation of land and resources, which may be defined in terms of individual farm plots, collective agricultural areas, community forest use areas, municipal waters or ancestral domains. While delineation often involves defining the boundaries of surface rights (in hectares), it may also include measuring the depth of waters or assigning subterranean (e.g. mining) rights. While delineation is usually done by the State, under the Indigenous Peoples Rights Act (IPRA) ancestral domains are identified based on the principle of self-delineation.

Figure 1. Asset reform framework.



Second is the identification of the rights holders (or "beneficiaries") based on eligibilities and entitlements as defined or recognized by law. The Comprehensive Agrarian Reform Program (CARP), for instance, is based on the principle of land to the tiller (i.e., tillership rights). The Philippine Fisheries Code assigns rights over municipal waters based on resource use (i.e., user rights). Under the IPRA, indigenous people are identified and recognized based on the principle of self-ascription and identification, together with other factors such as territory and community, history and culture.

Asset reform also involves an actual transfer of rights over the delineated territory to the identified rights holders. This involves not only the awarding of a legal tenure instrument (as described below) but also the de facto possession and exercise of rights of the "beneficiary" over the resource. Unfortunately, there are documented cases where farmers are awarded land certificates, yet they are prevented from entering or cultivating their awarded lands.

Tenure instrument. The "rules of tenure define how property rights to land are to be allocated within societies… Land tenure systems determine who can use what resources for how long, and under what conditions" (FAO, 2002).

In the case of State-led asset reforms, a tenure instrument refers to a legal or statutory document or a registry that allocates rights and recognition to people, groups or communities with respect to land and natural resources. It assigns tenure rights either to an individual or to a collective (cooperative, association

or community). It defines the bundle of rights as well as the responsibilities of the rights holder, in the form of ownership, leasehold rights (with a fee), user and management rights, or extraction permits. The tenure instrument also defines the duration of these rights – e.g., in perpetuity (for private property), 25-year leases (for Community-Based Forest Management/CBFM Agreements) or annually (as in the case of Municipal Fishery Registries) (Table 1).

Support services. Asset reform programs are usually accompanied by government support services designed to help the "beneficiaries" make the most productive use of the redistributed assets. These may come in the provision of infrastructure, facilities, credit and capital, extension services, livelihood support, as well as broader community services in health and nutrition, education and welfare. While there is emphasis on the delivery of services, of equal importance

Table 1. Tenure instruments issued under Philippine asset reforms.

Tenure instrument	Issuing authority	Description	Period of tenure	Bundle of Rights						
				Enter/ Access	Harvest	Use/ Plant	Exclude others	Inherit rights	Lease/ rent out	Assign/ sell
CLT	DAR	Individual transfer certificate	––	✓	✓	✓	✓	✓		
CLOA	DAR	Individual/ collective transfer certificate	––	✓	✓	✓	✓	✓		
Leasehold contract	Private	Private contract	Usually 1-5 years	✓	✓	✓	✓	✓		
Land Title or TCT	LRA	Title	Perpetuity	✓	✓	✓	✓	✓	✓	✓
Land patent	DENR	Original title	Perpetuity	✓	✓	✓	✓	✓	✓	✓
CBFM Agreement	DENR	Collective land lease	25 years, renewable for +25 yrs	✓	✓	✓	✓	✓		
Municipal fishers registry	LGU	Permit to harvest/ fish	One year, renewed annually	✓	✓					
CADC	NCIP	Domain Claim	––	✓	✓	✓	✓	✓		
CADT	NCIP	Collective/ Native Title	Perpetuity	✓	✓	✓	✓	✓	✓	
CALT	NCIP	Individual Title	Perpetuity	✓	✓	✓	✓	✓	✓	

are the receiving mechanisms; thus, asset reform programs also often support the formation and strengthening of people's organizations (POs).

Resource governance and resource management system. Asset reform can shift power relations between people, communities and institutions, especially in the governance and management of land and resources. According to FAO (2007), land/resource governance refers to "the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed." As such, resource governance involves three key factors: (1) a set of rules, processes and structures that define the ways by which property rights are defined, exchanged and transformed; (2) public oversight over resource use, management and enforcement; and, (3) systems of dispute resolution and conflict management.

Thus, one important factor included in asset reforms is the effective representation and participation of "beneficiaries" in decision-making bodies and processes. These may include representation in specific bodies – e.g., the Fisheries and Aquatic Resources Management Councils (FARMCs) created under the PFC. These may also include participation in the formulation of local plans – e.g., Comprehensive Land Use Plans of municipal governments, or the formulation of Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs) by indigenous peoples.

Selected indicators

Table 2 provides a list of selected indicators in the performance review of asset reform policies and programs.

Table 2. Selected indicators for performance review of asset reforms.

Variables	Indicators per sector			
	Private lands	**Public lands**	**Ancestral Domains**	**Municipal Waters**
Transfer of resources	▪ Area (ha) and percent of lands distributed ▪ No. of men and women ARBs ▪ No. of men and women ARBs not installed	▪ Area (ha) & no. of public agri lands awarded under new patents	▪ No. and area of CADTs issued ▪ No. and area of CADTs registered by LRA ▪ Number of indigenous peoples who are CADT holders	▪ No. and percent of coastal municipalities with completed delineation of municipal waters

Transfer of resources	▪ No. of ARBs (still) in possession of land ▪ No. of collective CLOAs subdivided ▪ No. and percent of all tenants with leasehold contracts ▪ Percent of formal tenure holders who are women ▪ No. and percent of amortizing ARBs with accounts past due	▪ No. of men and women awarded with land patents ▪ Area (ha) & no. of ISF/CBFM areas No. of men and women beneficiaries with ISF/ CBFM agreements ▪ CBFMAs renewed		▪ No. of fisherfolk organizations; men/ women in municipal registries ▪ No., area (ha) and percent of FLAs, MLAs, MASCs issued to fisherfolk organizations ▪ No. and percent of fisherfolk settlements granted with legal tenure
Tenure instruments	▪ NOCs, CLOAs/EPs, TCTs, leasehold contracts	▪ Free patents, homestead patent, ISF/CSCs, CBFM Agreements	▪ CADCs, CADTs, registered CADTs	▪ Municipal registries, FLAs, MASCs, public land leases
Support services	▪ No. and percent of men/women ARBs with access to support services ▪ Types and scale of support services delivered/ received	▪ Area (ha) of public A&D land surveyed and delineated under CBFM ▪ Support services received by AR beneficiaries in public lands	▪ Resources allocated to promote the recognition and protection of rights of IPs/ICCs	▪ Number of registered men and women fisherfolk; fisherfolk organizations ▪ Men and women fisherfolks with access to support services
Governance ***Conflicts and disputes resolution***	▪ No. of agrarian/land cases filed by type ▪ No. of men and women ARBs & communities affected (displaced, harassed, injured, killed) ▪ No. of cases mediated/ adjudicated/resolved ▪ Areas affected	▪ Areas affected by overlapping claims and tenure arrangements	▪ Indigenous communities and areas (ha) threatened/ affected by land conflicts	▪ Fisherfolk communities affected by illegal fishing and intrusion to municipal waters
Participation in land and resource governance	▪ Farmer representation in decision-making mechanisms	▪ Communities in compliance with CBFM agreements	▪ ADSDPPs formulated ▪ ADSDPPs incorporated in local development plans ▪ ICCs practicing self- or traditional governance over ancestral domains	▪ Coastal municipalities with functioning FARMCs ▪ Municipalities with fishery management plans

Cited references:

Esplana, M. and Quizon, A. (2017). *Status of Tenure Reform in Public Lands under the Comprehensive Agrarian Reform Program*. Asian NGO Coalition for Agrarian Reform and Rural Development. [Unpublished].

Food and Agriculture Organization (FAO). (2002). *Land tenure and rural development*. FAO Land Tenure Studies 3. Rome: FAO.

FAO. (2003). *Multilingual Thesaurus on Land Tenure*. Rome: Food and Agriculture Organization.

FAO. (2007). *Good governance in land tenure and administration*. FAO Land Studies 8. Rome: FAO.

PhilDHRRA. (2008). *Philippine Asset Reform Report Card*. Quezon City: Philippine Partnership for the Development of Human Resources in Rural Areas.

2.0 Summary of findings and recommendations

Table 3 shows the overall accomplishments in asset reform by sector/program, in relation to their total target or potential scope. The table shows that accomplishments under each reform program are highly uneven. Using officially reported data, the levels of accomplishments appear to be high for CARP in private lands and public lands, high for IPRA in ancestral domains, and poor for implementation of tenure reforms under the PFC. However, the data need further review.

The data on accomplishments only shows part of the picture. For one, the total target scope for each asset reform program has been difficult to determine, i.e.:

- The target coverage of CARP in private lands has been readjusted several times over the past 30 years, due to the unreliability of land records. The original targets set in 1988 were based mainly on estimates, and then officially revised by the Presidential Agrarian Reform Council (PARC) in 1994 and 2006. Another field validation of the remaining private lands under CARP was done in 2009, and since then, DAR's targets have been readjusted annually to show the balance for Land Acquisition and Distribution (LAD), rather than the "total scope."
- For public lands, pre-existing DENR programs – i.e., the issuance of land patents and the Integrated Social Forestry (ISF) Program, which later evolved into CBFM – were included under CARP in 1988. And as the study shows (Section 4), the program targets set by DENR and PARC in 1994 and 2006 appear too low.
- For IPRA, the law recognizes the principle of self-delineation, and as such there are no fixed targets in terms of the area to be covered by ancestral domains. There is no census data, only estimates, on the population of indigenous peoples.
- For the PFC, an intermediate scoping target used here is the completed delineation of municipal waters. However, this is merely the first step towards establishing preferential fishing rights for municipal fishers. Meanwhile, there are still no implementing rules and regulations for the provision of fisherfolk settlements under Section 108.

Table 3. Accomplishments in asset reform by sector vs total scope, as of 2017-2018.

Program/Indicator	Unit used	Accomplished (a)	Total scope (b)	Accomplishment as percent of total scope (a/b) x 100
CARP in private lands (DAR)				
○ Lands redistributed as percentage of total CARP target scope	Area (ha)	4,790,234	5,351,365	90%
○ Lands redistributed as percentage of total "CARP-able" lands	Area (ha)	4,790,234	6.3 million (est) [1]	76%
○ Percentage of tenanted agricultural lands under formal leasehold contracts	Area (ha)	1.8 million	*No data available*	*n.a.*
CARP in public lands (DENR)				
○ A&D lands awarded/ issued under patents, as percentage of CARP program targets	Area (ha)	2,538,219	2,502,000	101.4%
○ Non-A&D lands covered under ISF/ CBFM agreements, as percentage of CARP program targets	Area (ha)	1,335,999	1,269,411	105.2%
○ Non-A&D lands under ISF/CBFM agreements, as percentage of all classified forests under tenure	Area (ha)	1,615,598 *(2017)*	3,007,453 *(2017)* [2]	53.7%
Ancestral domains (NCIP)				
○ Percentage of ancestral lands and waters covered by CADTs	Area (ha)	5,413,773 *(2018)*	*no data available*	*n.a.*
○ No. of indigenous peoples in CADT-awarded areas, as percentage of total IP population	No of persons (men & women)	1,206,026	*no data available*	*n.a.*
Municipal waters (LGUs/BFAR)				
○ Percentage of coastal LGUs with completed delineation of municipal waters	No. of LGUs	67	928 coastal municipalities	7.2%
○ Percentage of municipal fishing households benefiting from the establishment of fisherfolk settlements	No. of households	0	1.93 million municipal fishers	0%

Source: The table data on accomplishments and program scopes are drawn from Chapters 3, 4, 5, and 6, unless otherwise indicated.

Notes:

(1) "CARP-able" lands include the balance of undistributed lands, plus lands that should have been covered by CARP, but for which no Notice of Coverage (NOC) has yet been issued.

(2) "Classified forests under tenure" refers to all forest resource utilization areas under different types of tenure arrangements (licenses, leases, permits, etc) as listed in the *2016 Philippine Forestry Statistics.* As such, it does not include mining areas, tenured areas (e.g. PACBARMA) within protected areas, ancestral domains (CADC/CADT areas) and others.

Moreover, the quality of reforms needs to be reviewed. Although many of the rural poor have received land certificates or titles, a large proportion are still unable to enjoy the full benefits of property rights or security of tenure.

Overall, the country's land administration system has been marked by: (a) a poor system of land records and registries; (b) the absence of a single-mapping system; (c) multiple agencies that issue land titles, leases and permits; and, (d) numerous land laws that often result in conflicting tenure systems and overlapping agency jurisdictions. The most basic information regarding physical attributes of landholdings and their tenure are often incomplete and unreliable, and there are fraudulent titles and overlapping land claims.

Tenure reforms under CARP

The combined scope of achievement under CARP in both privately-owned and public lands appears significant and compares favorably with agrarian reforms in other Asian countries (Table 4).

Table 4. Comparative coverage of agrarian reforms in selected Asian countries.

Country/ Region	Arable Area Redistributed *(in hectares)*	As % of all Arable Land	Number of Beneficiaries *(Households)*	As % of all Rural Households
Japan	2,000,000	80.0	4,300,000	60.9
South Korea	577,000	65.0	1,646,000	76.0
Taiwan	278,307	48.0	432,000	62.5
China	64,000,000	50.0	210,000,000	80.0
Vietnam	11,000,000	90.0	---	75.0
All India	9,850,000	5.4	12,400,000	5.3
- West Bengal	1,040,000	14.9	2,540,000	34.0
Philippines	**7,328,453** [a/]	**58.9** [b/]	**5,250,822** [c/]	**42.3** [d/]

Data for other Asian countries are from Alden-Wily, et. al. (2008), as drawn from several sources.

Notes:
(a) Total area of private and public A&D lands distributed under CARP as covered by EPs/CLOAs and land patents.
(b) Computed based on data from FAOSTAT, using 2014 estimates of the total agricultural area in the Philippines.
(c) Number of beneficiary-households under CARP awarded with ownership tenure instruments (EPs/CLOAs and land patents).
(d) Computed based on a total of 12.4M rural households in the Philippines, using data from the 2015 Household Census.

However, the Philippines took 30 years to achieve 90 percent completion of private lands, compared to full completion in China, Japan, South Korea, and Taiwan in just three to five years. A major difference in context is that, unlike in East Asian countries, agrarian reform in the Philippines had to be implemented under a democratic and liberal market setting. Thus, the administrative and legal processes under CARP have been bureaucratic and tedious, while landowner compensation has been hampered by disputes over coverage and land valuation.

CARP in private agricultural lands

Agrarian reform in the Philippines remains unfinished business. While official data show 90 percent completion, the balance of 561,131 hectares consist of the most difficult lands where landlord resistance is high. Agrarian disputes have increased dramatically since 2009. Some 92.8 percent of the remaining lands due for coverage are large private lands, of which 70.2 percent are under compulsory acquisition. Given recent LAD accomplishments of 30,000 hectares per year, it will require another 19 years to complete CARP, unless more decisive measures are taken.

Moreover, there are over 200,000 hectares in private landholdings which are deemed "CARP-able", but for which Notices of Coverage (NOCs) have not yet been issued. Given the elapsed deadline of 20 June 2014 to commence all LAD activities, the full completion of CARP may require a new legislation or legal challenge to RA 9700.

Even with the decreasing LAD balance, there has been an upsurge in the number of agrarian cases since 2009. The unfinished business of CARP goes beyond the completion of the balance coverage, as substantial numbers of agrarian reform beneficiaries are still unable to enjoy the full benefits of property rights or security of tenure. They include:

- Some 1.4 million agrarian reform beneficiaries (ARBs) whose awarded lands remain under collective Certificate of Land Ownership Awards (CLOAs) (and are due for subdivision) as of December 2017; many of them are unable to enjoy their full "bundle of rights" as they await the parcelization of the land;
- ARBs who have entered into disadvantageous agribusiness venture agreements (AVAs) and lease-out arrangements, with piling debts and loss of control over their lands;
- ARBs who have been awarded their CLOAs have not yet been installed on their lands;
- ARBs whose lands are under existing agrarian conflict or legal dispute;

- ARBs with competing land claims with other sectors, because of overlapping land rights under existing land laws;
- ARBs who have informally pawned their lands out of poverty and indebtedness; and,
- Leaseholders and share tenants who are still without legal contracts, as DAR's work on leasehold has lacked an effective mechanism for monitoring and implementation.

Also, the data show that rural women still lack equal rights to own, manage and control land, as women constitute only 29.5 percent of the listed beneficiaries, 13.8 percent of Emancipation Patent (EP) holders, and 32.8 percent of all CLOA holders.

Several impact and evaluation studies conducted by DAR and independent research groups have shown that land reform has resulted in modest improvements in the productivity, incomes and assets of ARBs. Studies also show that ARBs tend to have better perceptions of their economic and social conditions, and to have more optimism about their future, compared to non-ARBs. Yet while CARP has contributed to poverty reduction, the improvements have not been bold enough to bring significant numbers of the rural poor out of poverty (as cited in Quizon, 2017).

An overall issue has been the lack of timely and responsive support services, including agriculture extension, for small farmers. While the levels of production in "reformed" lands have risen for staples such as rice and corn, the yields remain only slightly higher than that of the national average, yet still below their true potential when compared to productivity levels in other Southeast Asian countries. Yield levels among ARBs for other crops (e.g. coconut and sugar) are lower than the national average. These may show the overall poor status of agricultural extension in the country.

CARP in public lands

Based on PARC data, the implementation of CARP in public lands has exceeded its target scope – i.e., in the issuance of land patents to tillers (101.4 percent) and in the granting of ISF/CBFM 25-year lease agreements to forest dwellers and users (105.2 percent). Both were ongoing programs under DENR, even prior to the enactment of the CARP law in 1988. The targets for the ISF/CBFM under CARP were reportedly completed as early as CY 2000.

The issuance of land patents to tillers is based on vested rights (i.e., 30 years occupation of the land) where lands from the public domain are distributed (no land valuation or amortization). No support services have reportedly been provided to beneficiaries of land patents, because according to the DENR, these lands become private property once they are transferred.

Meanwhile, no program-wide impact studies have been done on CARP in public lands, as most of the impact studies on CARP have focused solely on the work of DAR.

Upon review, the CARP targets for public lands appear to have been set too low, and there is greater scope for further improving tenure security in public lands. The final forest line has not yet been fully delineated, and vast tracts of public lands remain unclassified. But in the absence of a CARP program framework in public lands, there is a danger that tenure reforms for the estimated 22 million forest dwellers might be overlooked by the bureaucracy.

While CARP in public lands is now considered "completed", questions arise on the future tenure of forest dwellers and users. Since 2013, there has been a moratorium on the issuance of new tenure instruments in forests, leaving about half of the 500 thousand ISF/CSC holders without legal tenure, and many forest areas under open access. Also, many of the CBFM Agreements have expired after their 25-year leases and have not been renewed. And without tenure rights, there is little incentive for people to preserve and sustainably manage land, forests and biodiversity.

With the passage of the Expanded National Integrated Protected Areas System (E-NIPAS) Law in 2018, a moratorium has also been declared on the issuance and renewal of tenure instruments (as well as concessions, licenses, permits, etc.) within the protected areas, until the management plan for each protected area is put into effect.

The government wants to close all "open access" areas in forest lands by 2020. While this objective is driven by the need to protect, conserve and sustainably manage the country's forests, the question is whether equal importance will be given to improving the tenure security and livelihood of forest dwellers.

Ancestral domains of indigenous people under IPRA

After 21 years of IPRA, some 5.4 million hectares, constituting 18 percent of the total land area of the Philippines, is now recognized as ancestral domains owned by indigenous peoples. Few other countries in the world can make a similar claim. Some 221 Certificate of Ancestral Domain Titles (CADTs) have been approved as of 2018. Moreover, given other pending ancestral domain claims (CADCs) and ongoing applications for CADTs, it is estimated that around 7.5 to 8 million hectares, or a quarter of the country's land area, could eventually be recognized as ancestral lands belonging to indigenous people.

However, it remains debatable if the issued titles (CADTs) have enabled indigenous communities to assert their rights, as the existence of CADTs does not seem to be respected. In many instances, CADT holders have been constrained from exercising and enforcing their traditional governance. LGUs continue to ignore ADSDPPs in their local development planning. CADT areas continue to be contested by powerful interests on-site, as well as by the entry of investments (mining and plantations), adversarial land claims, and the continued incursion of migrants. Some land conflicts have led to violence in which the rural poor, especially indigenous people, have sustained injuries, deaths and damages to their homes and livelihoods. CADT areas also overlap significantly with other tenure regimes, notably national parks and protected areas.

Also, different government agencies have continued to issue titles and tenure instruments within CADT and CADC areas. In 2012, four government agencies (DAR, DENR, NCIP and LRA) issued Joint Administrative Order (JAO) 1, series of 2012 that established the mechanisms to prevent and resolve conflicts over overlapping claims. Yet, land conflicts persisted, as the DAR and DENR did not stop processing titles and leases within CADC/CADT areas.

Meanwhile, out of the 221 approved CADTs, only 50 are registered with the Land Registration Authority (LRA). For the processing of new titles, the NCIP needs to acquire Certificates of Non-Overlap from DAR, DENR and LRA before they may be able to register the remaining CADTs. This may be next to impossible, as all CADCs and CADTs have overlapping claims. Different indigenous peoples' groups have thus demanded the revocation of JAO 1-2012.

Today, indigenous people face new policy issues and threats: (1) the planned 300 new eco-zones by the Philippine Economic Zone Authority, which are likely

to overlap with ancestral domains; (2) the felt impacts of climate change, as the majority of IP domains are in high-risk areas; and, (3) the removal of the quasi-judicial powers of the NCIP for resolving IP vs non-IP conflicts, based on a recent case ruling by the Supreme Court.

The Fisheries Code and tenure rights of municipal fishers

There has been very poor implementation of the Fisheries Code, particularly those provisions that give priority access to small fisherfolk over municipal waters and foreshores. Even 20 years after the passage of the Code, only 67 (or 7.2 percent) of the 928 coastal municipalities and cities throughout the Philippines have fully completed the delineation of their municipal waters.[1] Delineation is merely the first step in order to demarcate the areas where municipal fishers have preferential rights, to designate fishery management areas, and to be able to prosecute violations such as intrusion and illegal fishing by commercial fishing vessels in municipal waters.

While the National Mapping and Resource Information Authority (NAMRIA) – an agency under the DENR – has completed the technical details for all municipal waters, local governments have refused to enact the required local ordinance that established the boundaries of municipal waters, due to territorial disputes with neighboring municipalities. Also, commercial fisheries are often controlled by politicians linked with local government units (LGUs), and they oppose delineation. It remains unclear how territorial disputes between LGUs are to be resolved.

The tenure instrument for municipal fishers is a municipal registry which is reviewed annually. Accreditation is done by the local development council, where recognition is often politically-motivated. Women tend not to be registered, as fishing is often seen as men's work, despite the crucial roles that women play in fishery activities.

Fisherfolk organizations are supposed to be given priority in the issuance of Fishpond Lease Agreements (FLAs), Aquasilviculture Stewardship Contracts (ASCs), and even CBFM agreements over mangroves, yet these have not

[1] Of the country's total 928 coastal municipalities, 305 LGUs have delineated their municipal waters with certified maps. And of these 305 LGUs, only 67 have passed the required local ordinances to complete the delineation process.

been followed. Foreshore Lease Agreements (FLAs) continue to be issued to corporations and private businesses, and not to fisherfolk communities. Agencies and LGUs also have conflicting priorities in the allocation and use coastal and aquatic resources – i.e., on conservation versus production.

Section 108 of the Code mandates the creation of fisherfolk settlement areas near fishing grounds, yet there are still no implementing rules and regulations, leaving many existing fisherfolk settlements in public domain areas without security of tenure, and under the constant threat of eviction. After the onslaught of super-typhoon Yolanda in 2013 which demolished entire fishing villages, foreshore areas have since been considered "danger zones;" and in many areas, fisherfolk were transferred outside the designated 40-meter "no build" zones along the coastlines. In some cases, fisherfolk were relocated to areas away from their sources of livelihood.

Many tenure provisions under the Fisheries Code have not been implemented. Thus, commercial fishers continue to intrude into municipal waters, mangrove areas are destroyed, and illegal fishing practices continue – including incursions into marine protected areas, and fishing during the Fishery Management Areas (FMA) off-season. Fisherfolk have thus been recruited to participate in law enforcement through the Bantay-Dagat and Bantay-Laot programs. And while these have shown limited success, these programs have also exposed fisherfolk to more physical danger and legal cases.

Summary of recommendations

On agrarian reform in private/alienable and disposable (A&D) lands

For DAR to speed up the LAD process through the following:

- Prioritize the completion of LAD in private agricultural lands which constitute 93 percent of the remaining LAD balance as of 2018;
- Implement the immediate installation of all ARBs, and conduct new orientations for the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) on their role in LAD implementation;
- Strictly implement the LAD process by following the prescribed timeline for completion of each step;
- Revoke policies that cause further delays to CARP implementation;
- Review DAR AO 9-2011 and AO 6-2017; and,

- In cases where landowners physically prevent DAR and LBP personnel from conducting field investigations and surveys, DAR should coordinate with the PNP.

Address the DAR's lack of mandate to issue new Notices of Coverage (NOCs). Section 30 of RA 9700 set a deadline of 30 June 2014 to commence LAD proceedings on all private agricultural lands to be covered by CARP. However, DAR failed to issue Notices of Coverage (NOCs) for thousands of landholdings covering more than 100,000 hectares. The issuance of new NOCs by DAR will require new legislation by Congress.

DAR should implement the leasehold program as a priority under CARP, because tenants without leasehold contracts are vulnerable to eviction. As a start, DAR should clean up its in-house data on leasehold and come up with a comprehensive database of all the target landholdings for leasehold operations.

Implement women's equal rights to land ownership and ensure that specific steps are undertaken to identify rural women as beneficiaries, and recognize them as rightful owners or co-owners of awarded lands independent from their male relatives or of their civil status. Also, ensure women's equal access to all support services and extension. Equal land rights for women should be emphasized in the orientation of all DAR staff.

Monitor, address and prosecute violations of CARP. DAR should:

- Put an end to illegal land use conversions;
- Eradicate the practice of chop-chop titles wherein landowners illegally subdivide the land and transfer the titles to their children, relatives and dummy corporations in order to avoid coverage by CARP. These transfers are enlisted with the Registry of Deeds (ROD), without prior clearance by DAR, as required by law;
- Comprehensively monitor agribusiness venture agreements (AVAs) entered into by ARBs and their organizations; and stop the proliferation of unfair and unregistered AVAs especially lease agreements; and,
- Annotate the Notice of Coverage into land titles under LAD, as a pre-emptive measure against the landholding from being illegally converted, sold, or subdivided.

Improve legal support for agrarian reform beneficiaries and for DAR personnel. The measures include: (a) the establishment of a legal fund in support of ARBs; (b) revision of DAR's formation program for paralegals; (c) increase of legal fund for DAR personnel who may be charged with cases in line with implementing their

work; (d) conduct of orientations on CARP for judges in lower courts; and, (e) provision of social protection (i.e. livelihood programs) for farmworkers who lose their jobs due to their participations in agrarian reform activities.

Review the agrarian reform community (ARC) approach, towards establishing more effective mechanisms in the national and local levels to strategically plan and coordinate the delivery of services to ARBs. Implement the mandates for support services under RA 9700 and the Magna Carta of Women (MCW) such as the provision of socialized credit to existing ARBs, start-up capital for new ARBs, allocation of five (5) percent of agency budgets for gender and development activities, and ensuring equal access to support services for women ARBs.

Enact into law the National Land Use Act (NLUA) to rationalize land use, and protect agricultural lands and prime arable lands against continued conversion.

On agrarian reform in public domain lands

Conduct a program-wide impact assessment of the implementation of CARP in public lands focused on tenure security, welfare, and livelihoods of beneficiaries and forest dwellers. Assess the CBFM organizations in terms of their internal governance, capacity and effectiveness, as well as the effectiveness of the group-approach such as CBFM in ensuring the flow of benefits to the household level.

For DENR to complete the inventory of all forest-dwellers, along with their tenure status. Also, conduct an inventory of all remaining lands in the public domain (outside of ancestral domains and claims) that are suitable for agriculture and can be redistributed under agrarian reform.

Address the issue of future tenure security for ISF/CBFMA holders whose 25-year leases have expired and have not been renewed.

For government and civil society to ensure the participation of organizational representatives of non-IP forest dwellers in decision-making bodies, as well as in dialogues, fora, and discussions.

On indigenous people's rights under IPRA

Revoke the Joint Administrative Order (JAO) 1 of 2012 among DAR, DENR and NCIP. From the IP perspective, the JAO has not been able to prevent land conflicts and issues of overlapping rights arising from the continued issuance of titles and tenure instruments by different government agencies. Instead, since 2012,

the JAO has caused serious delays in the processing of ancestral domain titles, leading to further encroachment of other property claimants into ancestral domains. Moreover, conflict management and resolution mechanisms on the ground have been absent or else ineffective.

Meanwhile, the *DAR should also cancel all CLOAs that have been issued within ancestral domains.* For newly-transferred farmers under CARP, they should be relocated and awarded with lands outside the ancestral domain. For long-standing non-IP settlers, they should (as precondition for staying on the land): (a) agree not to expand their currently cultivated areas and coverage; (b) recognize the native title and rights of the indigenous cultural community (ICC) over the land; and, (c) negotiate with the IPs/ICC for usufruct rights in accordance with the ADSDPP. The DAR should assist non-IP settlers in this negotiation process.

Ensure adequate representation of indigenous peoples in the drafting of the Implementing Rules and Regulations (IRR) of the new E-NIPAS Act of 2018. Some 92 percent of existing national parks overlap with CADTs, yet the management of National Integrated Protected Areas System (NIPAS) areas within ancestral domains remains unclear. The new E-NIPAS law recognizes the role of IPs in the governance of protected areas. As such, this provides an opportunity for government and indigenous people to discuss the specific mechanisms (through the IRR) regarding the management of national parks or E-NIPAS areas.

For Congress to legislate the Indigenous Community Conserved Areas (ICCA) Bill (HB115) into law, to provide for a system of recognition, registration, and promotion of ICCAs for biodiversity conservation and protection of the country's key biodiversity areas. Some 75 percent of the 128 identified key biodiversity areas of the Philippines lie within the traditional lands of indigenous peoples. As such, an ICCA law will serve to strengthen both IPRA and the NIPAS Act (as amended by E-NIPAS, or RA 11038).

Finally, stop mining and other destructive forms of natural resources exploration, development, and utilization within ancestral domains.

On fisherfolk tenure rights under the Fisheries Code

For LGUs to complete and finalize the delineation of all municipal waters. While the delineation of municipal waters remains a main task and legal mandate of LGUs, other government agencies need to push this process, e.g.:

- For NAMRIA and DA-BFAR to issue guidelines on the delineation of municipal waters (MW), including those with offshore islands;
- For BFAR to allot budgets for the delineation of MW without offshore islands;
- For BFAR to provide maps showing commercial waters, as this will outline the outside boundaries of municipal waters; and,
- For the Department of Interior and Local Government (DILG) to include municipal water delineation as a requirement for the seal of good governance.

Strictly enforce a ban on commercial fishing within the 15-kilometer limit of municipal waters. Instead of allowing commercial fishing in municipal waters (beyond 10-kilometer from shore, as may be provided by a local ordinance), upgrade the support services to small fisherfolk to increase their productivity.

Implement Section 108 of the Philippine Fisheries Code on the creation of fisherfolk settlements. Formulate the implementing rules and regulations for the establishment of fisherfolk settlements, with the active participation of the fisherfolk sector.

Ensure the free access and right-of-way of fisherfolk to coastal areas and municipal waters. Also, turn over fish landing centers to fisherfolk organizations.

Provide budget support and benefits to fisherfolk to enable their participation in local resource governance mechanisms, such as Fishery and Resource Management Councils (FARMCs) and Bantay-Dagat patrols. Provide legal support and protection for fisherfolk in cases of harassment, threats, violence and legal cases brought against fisherfolk in the course of performing their duties.

For BFAR and DENR to give priority to small fisherfolk organizations in the awarding of fishpond and mangrove leases (FLAs, ASCs), CBFM agreements and tenure over mangrove forests, and in reforestation contracts under the National Greening Program – for mangrove areas and coastal forests.

Ensure and protect equal rights for women fisherfolk through municipal registries, membership and participation in fisherfolk organizations, representation in FARMCs and all decision-making bodies, and access to support services.

The overall potential impact of asset reforms

In the past 30 years, the combined area covered by asset reforms has been significant.

Asset reforms in the Philippines have brought about the transfer of ownership rights covering a total area of 12.74 million hectares (including ancestral waters). This is equivalent to 42.5 percent of the land area of the entire country. This is supposed to have directly benefitted an estimated 5.5 million poor rural households, equivalent to 23.9 percent of all current households, based on the 2015 Census of Population.

Moreover, non-redistributive tenure reforms have reportedly been implemented on a considerable scale, improving land tenure security for 1.2 million tenant families in 1.8 million hectares of private agricultural lands, and for 338 thousand families in public forest lands.

Yet as the studies show, the quality of implementation of asset reforms has been questionable at best, and uneven across the different sectors. Under CARP, many ARBs are still unable to enjoy the full benefits of property rights or security of tenure despite being issued their EPs and CLOAs. Support services to small farmers have been inadequate and irregular, and many large private lands under compulsory acquisition remain undistributed. Meanwhile, there has been no serious implementation of the leasehold program in the past three decades. And in the issuance of patents over public A&D lands, recipients received little or no additional support services for lands they had previously tilled for 30 years or more.

Under IPRA, several IP/ICCs have been given legal recognition of their collective rights to ancestral domains through the issuance of CADCs/CADTs, and yet for many IP communities, little has changed in terms of their actual exercise of traditional rights to land. Different government agencies continue to issue titles, leases, and other tenure instruments within CADCs/CADTs, while government projects, private investments, migrants and other groups continue to intrude into ancestral domain lands.

Meanwhile, little has changed for small municipal fisherfolk in terms of fishing rights and tenure reforms. Large commercial fishing continues to intrude into municipal waters, and municipal fishers continue to lose out to private businesses and political interests in the allocation of rights to foreshore and coastal areas.

In the Philippines, poverty remains predominantly rural. While the incidence of poverty is 25 percent for the country, it is much higher among rural inhabitants (36 percent) compared to urban residents (13 percent). Today, over half of the Philippines' 100 million people live in rural areas, and over a third of rural people are in poverty. Most of the poorest rural households depend on farming and fishing for their livelihoods. The data show that unemployment, illiteracy, and poverty are generally higher among indigenous peoples and those living in upland and coastal areas.

Asset reform continues to play a central role in addressing rural poverty. However, as the studies here suggest, asset reforms should go beyond the issuance of titles and tenure instruments. There is need for the enforcement of land rights, an enabling environment and support services to help poor rural households make their lands productive and profitable, basic social services, and systems of land and resource governance where the voices of poor sectors are heard and addressed. ■

Cited references

Alden-Wily, L., Devendra C., and Sharma, S. (2008). *Land Reform in Nepal: Where is it coming from and where is it going?* Paper prepared for DFID-Nepal. Kathmandu: Published by the authors.

Quizon, A. (2017). *A Program Assessment of Agrarian Reform (CARP) Implementation, 1988-2016*. [Manuscript, unpublished].

Rice farmers in Iloilo, Philippines.
Photo by the Center for Agrarian Reform and Rural Development (CARRD).

3.0 Agrarian reform in private agricultural lands

The people-led revolution that overthrew the Marcos dictatorship signalled a period of reforms. Newly-installed President Corazon Aquino declared agrarian reform as a centerpiece program of her administration. However, in January 1987, 13 farmers were killed and 51 others injured when anti-riot police open-fired on unarmed protesters demanding agrarian reform. In July 1987, President Aquino issued Executive Orders 131 and 229 which instituted CARP.

Following the ratification of the 1987 Philippine Constitution, the Congress for People's Agrarian Reform (CPAR) composed of 12 national peasant federations, campaigned for the passage of a genuine agrarian reform law, the People's Agrarian Reform Code (PARCODE). After intense lobbying in Congress, the Comprehensive Agrarian Reform Law (RA 6657) was enacted in 1988, as a compromised version of PARCODE.

Comprehensive Agrarian Reform Program. RA 6657 mandates the acquisition and distribution of all public and private agricultural lands and the provision of support services to agrarian reform beneficiaries. The law sets a 5-hectare ownership ceiling of agricultural land; landowners may retain five hectares, plus three hectares to each qualified beneficiary (i.e., children). It provides just compensation to landowners and prohibits the transfer of CARP-awarded lands except through hereditary succession. It exempts and excludes certain types of landholdings from agrarian reform coverage, and sets a timeline of 10 years to complete LAD. It protects the tenure of the tenant farmers by adopting the leasehold system and gives tenant farmers the same benefits as that of agrarian reform beneficiaries.

In 1998, Congress passed RA 8532 that provided an additional 10 years and funds to complete CARP's LAD phase. Yet in 2008, LAD remained incomplete. Thus, agrarian reform advocates launched a massive campaign for the passage of the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER). In June 2009, during the last session days before Congress adjourned, the CARPER law or RA 9700 was passed.

RA 9700 was designed to fast-track LAD implementation. It instituted several reforms:

- Removal of Voluntary Land Transfer (VLT) and the Stock Distribution Option (SDO) as modes of land acquisition and distribution;
- Conferring the indefeasibility under the Torrens title system of land titles (i.e., CLOAs and EPs) issued under CARP;
- Making it easier for ARBs to cope with their amortization payments, by moving back the start of amortizations to one year after their possession of the land;
- Limiting the role of the Registry of Deeds (ROD) to ministerial duties in the registration of titles issued under CARP;
- Prohibition on the conversion of irrigated and irrigable lands; and,
- Increased penalties for violators of CARP.

RA 9700 also instituted program-wide changes:

- Appropriation of at least PhP 150 billion for CARP, with 40 percent of the DAR budget allocated to support services, with equal support services for men and women ARBs, and provision of start-up capital to new ARBs and socialized credit to existing ARBs;
- Granting DAR with exclusive jurisdiction over all agrarian cases, and prohibiting lower courts from issuing temporary restraining orders or injunctions on CARP implementation;
- Transferring jurisdiction over all cancellation cases from DARAB to the DAR Secretary;
- Creation of a Congressional oversight mechanism to monitor CARP implementation; and,
- Setting a deadline of 30 June 2014 to commence LAD proceedings on all private lands covered under CARP.

However, some provisions in RA 9700 seem to undermine the principle of "land to the tiller." One is the order of priority for qualified farmer beneficiaries, which is tricky. It states that DAR shall prioritize the award of lands among tenants and regular farmworkers, and only after these beneficiaries have been allocated three hectares each shall the remaining portion of the landholding, if any, be distributed to other qualified beneficiaries. In many cases, this provision is likely to result in the disenfranchisement of non-regular farmworkers. Second is the requirement for a landowner's attestation to the list of qualified farmer beneficiaries. This enables the landowner to influence the selection of farmer beneficiaries, to the exclusion of qualified farmworkers not loyal to him or her.

Status of CARP implementation

As the lead agency, DAR is responsible for three interrelated components: (i) Land Acquisition and Development (LAD), (ii) Agrarian Justice Delivery (AJD), and (iii) Support Services for Program Beneficiaries Development (PBD).

On Land Acquisition and Distribution (LAD)

Table 5 shows that DAR has distributed 90 percent of its LAD working scope after 30 years of CARP. As of 1 January 2018, however, the LAD balance is 561,131 hectares, of which, 520,674 hectares (93 percent) are private agricultural lands. Of these private lands, 70 percent are under compulsory acquisition (Table 5). Adding the landholdings without NOCs and those with pending cases, the actual LAD balance should be around 760,000 ha.[2]

Table 5. LAD accomplishment by target scope and mode of acquisition, as of 31 December 2017.

Land Type/ Mode of Acquisition	Total Working Scope* (in ha)	Total Area Accomplished as of 31 Dec 2017 (in ha)	Accomplished as percent of Working Scope	Remaining Balance as of 01 Jan 2018 (in ha)
Private Agricultural Lands (PAL)	**3,173,465**	**2,652,791**	**84%**	**520,674**
Operation Land Transfer (OLT)	616,553	596,213	97%	20,340
Gov't Financial Institutions (GFI) lands**	184,919	172,329	93%	12,589
Compulsory Acquisition (CA)	749,884	384,366	51%	365,519
Voluntary Offer to Sell (VOS)	753,685	656,199	87%	97,485
Voluntary Land Transfer (VLT)	868,425	843,683	97%	24,742
Non-Private Agricultural Lands (Non-PAL)	**2,177,900**	**2,137,443**	**98%**	**40,457**
Settlements	831,402	816,021	98%	15,381
Landed Estates	91,776	83,543	91%	8,233
Government-owned lands (GOL)/ KKK lands	1,254,722	1,237,879	99%	16,843
National/Total	**5,351,365**	**4,790,234**	**90%**	**561,131**

Source: DAR Bureau of Land Tenure Improvement, 2018.

[2] DAR Presentation for Organizational Briefing at the Senate Committee on Agrarian Reform, 24 August 2016.

Officially, the largest remaining balances are in the Bicol, Eastern Visayas, Western Visayas and ARMM regions (Table 6). In Western Visayas, 80 percent of the LAD balance is in the province of Negros Occidental and consists mainly of large private plantations. In Eastern Visayas, 80 percent of the LAD balance are private lands in the province of Leyte.

Table 6. Number of agrarian reform beneficiaries and cumulative LAD accomplishments, 1972-2017

Region	Cumulative LAD Accomplishment 1972 to Dec 2017 (in ha)	Cumulative Number of Agrarian Reform Beneficiaries 1972 to Dec 2017	Average Land Size per Beneficiary (in ha)	Remaining Balance as of 01 Jan 2018 (in ha)
NATIONAL	**4,790,234**	**2,835,743**	**1.6892**	**561,131**
CAR	102,496	81,569	1.2566	2,365
I – Ilocos Region	143,510	119,370	1.2022	1,232
II – Cagayan Valley	366,914	212,064	1.7302	43,367
III – Central Luzon	431,537	284,179	1.5185	13,134
IV-A – CALABARZON	189,957	124,229	1.5291	19,289
IV-B – MIMAROPA	180,414	130,753	1.3798	3,196
V – Bicol Region	325,373	195,292	1.6661	78,558
VI – Western Visayas	412,243	317,908	1.2967	134,621
VII – Central Visayas	184,350	147,637	1.2487	12,268
VIII – Eastern Visayas	433,747	196,689	2.2052	58,411
IX – Zamboanga Peninsula	228,874	131,271	1.7435	7,015
X – Northern Mindanao	361,563	218,565	1.6543	18,599
XI – Davao Region	248,828	180,382	1.3795	8,817
XII – Central Mindanao	687,490	289,173	2.3774	33,740
XIII – CARAGA	271,343	136,101	1.9937	15,417
ARMM	221,595	70,561	3.1405	111,100

Source: DAR Bureau of Land Tenure Improvement, 2018.

In recent years, however, the need to fast track LAD seems to have been overlooked. DAR accomplished only 27 percent of its LAD target in 2016, and 82 percent of its LAD target in 2017. Under its rationalization plan, the DAR had reassigned more field staff to provinces with high LAD backlogs, but the results remain far from what was desired.

The reasons for DAR's implementation delays in recent years include:

- The overly cautious attitude of DAR implementers for fear that landowners will file cases against them if they proceed with CARP

coverage, and with no DAR lawyers to represent them. This impedes the LAD process for private agricultural lands.

- DAR's lack of capability and resources to conduct simultaneous surveys and field investigations, partly due to the lack of in-house survey teams.
- Continuing landowner resistance even after the issuance of EP/CLOAs to the ARBs. In Eastern and Western Visayas, many former landowners are still in possession and control of lands already awarded to farmers. DAR's lack of interest to run after violators encourages more circumvention and resistance to the program.
- Frequent changes in DAR leadership (three Secretaries in 2016-2018), along with conflicting issuances and changing priorities under each new administration.
- Administrative Order 7, Series of 2011 slowed down LAD implementation on landholdings with pending cases as it constrained DAR from completing the LAD process if a case questioning CARP coverage of a landholding is not yet denied by the Office of the President. This issuance was amended twice, and finally revoked – under three successive DAR Secretaries.

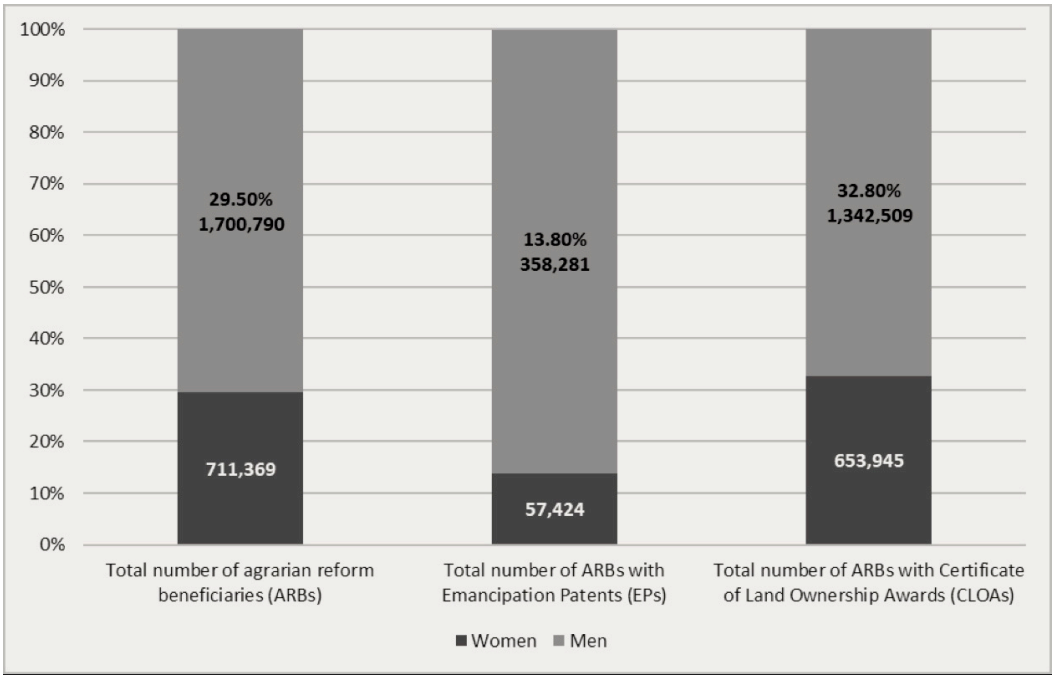
Status of the leasehold program. RA 3844 enacted in 1963 was the first non-redistributive agrarian reform program which sought to protect the rights of tenant farmers. It ensures tenant rights to a homelot, and outlaws share tenancy in favor of leasehold arrangements. According to DAR, the leasehold program benefits over 1.2M tenants in 1.8M hectares of agricultural land. The 2016 and 2017 DAR accomplishment reports also indicate that DAR exceeded its leasehold targets. However, there are indications that the leasehold program has been generally neglected by the DAR over the past few decades:

- DAR has no comprehensive database of all the target landholdings for leasehold operations from which to compare and validate the accomplishments. The data available only show cumulative accomplishments since 1987 (including contracts that have been renewed), rather than the total number of beneficiaries and total area of farms currently under leasehold.
- Under the existing policies, leaseholders are considered agrarian reform beneficiaries with equal benefits to those ARBs awarded with land, yet no data are available on the support services given by the government to leaseholders.

- Tenants under the leasehold system have rights of pre-emption and redemption[3] in the event that their landowners want to sell the land. According to the Land Bank, a tenant can seek financial support from the bank through the DAR, to buy out their cultivated land, but this process is not well-known to tenants or to DAR field staff.
- Meanwhile it is well-known and documented that share tenancy remains widespread despite being outlawed, even among those with existing leasehold contracts.[4]

Women's rights to land. DAR data reveal that, of the total 2.4 million agrarian reform beneficiaries as of 2015, only 29.5 percent are women. Moreover, women account for only 13.8 percent of all ARBs with Emancipation Patents (EPs), and only 32.8 percent of all ARBs with CLOAs (Figure 2).

Figure 2. Distribution of agrarian reform beneficiaries by sex, as of December 2015.



Source: Philippine Statistics Authority (PSA). (2016). Women and Men in the Philippines: 2016 Statistical Handbook.

Presidential Decree 27 which instituted Operation Land Transfer (OLT) in 1972 had no specific provisions on women's equal rights to land, and this partly accounts for the very low proportion of women with Emancipation Patents.

[3] Right of pre-emption is the preferential right of the tenant to purchase the land in case the landholder decides to sell the land. The right of redemption is the right of the tenant to re-purchase the land that he is tilling that was already sold to other parties.

[4] Examples of such cases are cited in: Lim, Ernesto, Jr. (2016). *Land and water rights issues in Yolanda-hit areas: Learnings from Eastern Samar and Leyte."* AR Now! and Kaisahan policy paper.

Later, RA 6657 or the CARP Law of 1988 stated that "all qualified women members of the agricultural labor force must be guaranteed and assured equal right to ownership of the land, equal shares of the farm's produce, and representation in advisory or appropriate decision-making bodies" (Section 40-5). However, this provision had no implementing rules and regulations until the mid-1990s.

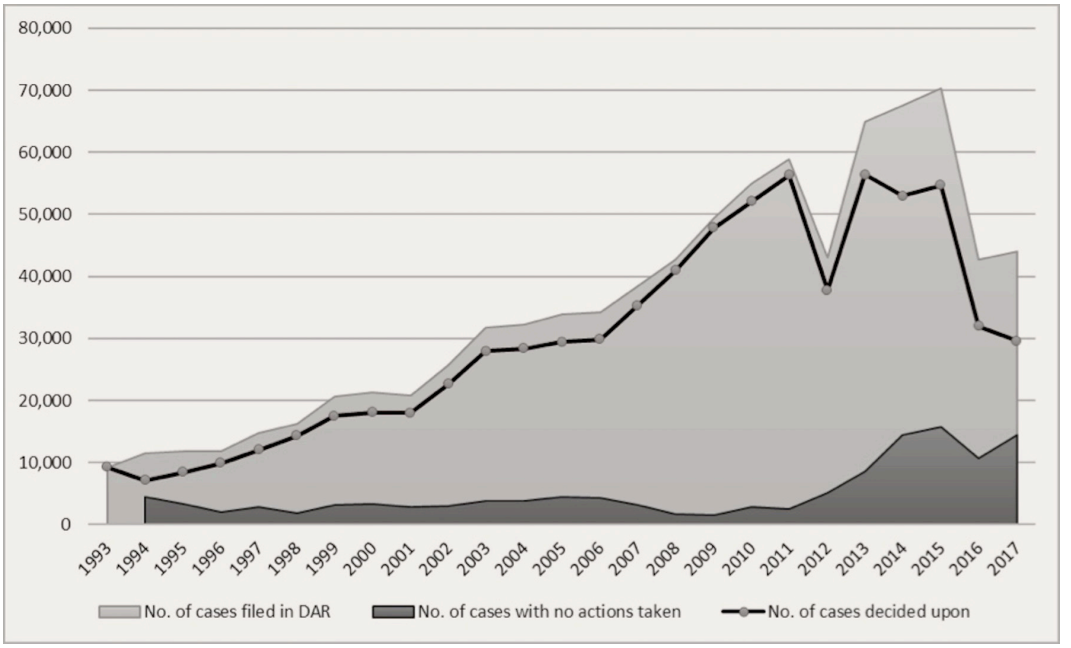
DAR Circular 18/1996 mandated the issuance of EPs and CLOAs in the names of both spouses as co-owners. It was only through RA 9700, however, that an expressed provision in the law recognized women's right to own and control land "independent of their male relatives and of their civil status." The law also mandated the provision of "equal support services for women."

For 2010 to 2015, the data show a slight improvement – women constituted 38.6 percent of all ARBs issued with CLOAs during this six-year period. However, this underlines the continuing need for more decisive action to ensure equal land rights for women.

On Agrarian Justice Delivery (AJD)

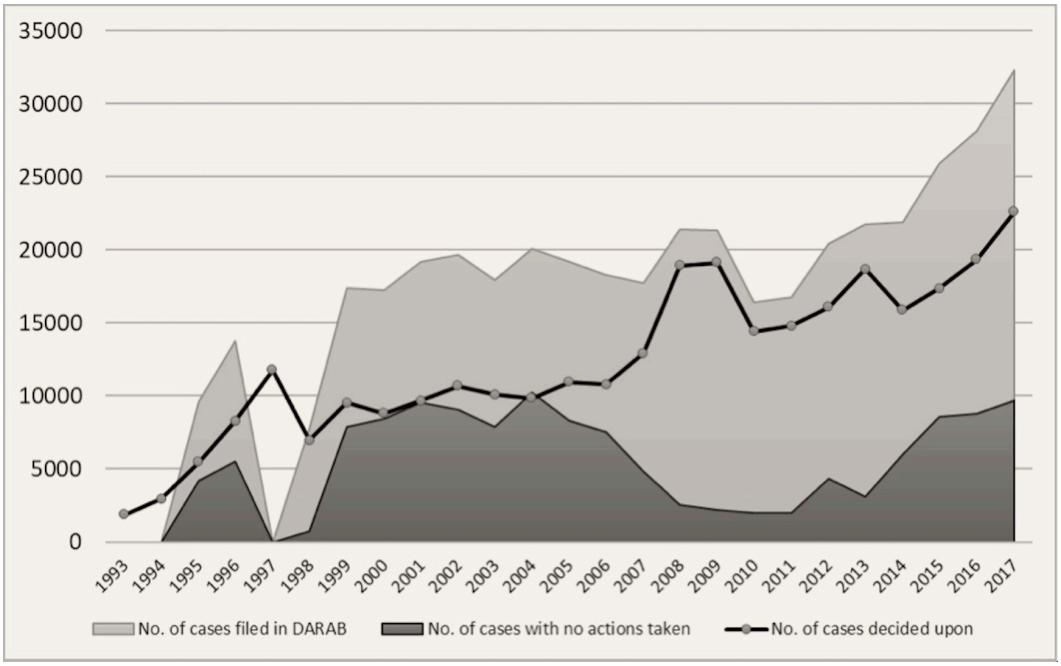
Agrarian reform is a social justice program founded on the rights of landless farmers and farmworkers to own directly or collectively the lands they till.

Figure 3. Agrarian Law Implementation (ALI) cases addressed through DAR administrative decision, 1993-2017.



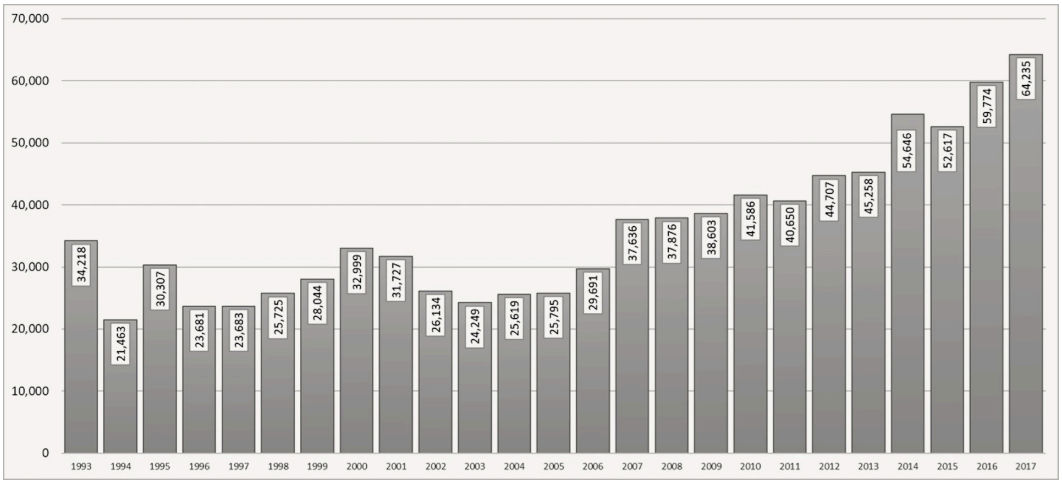
Source: DAR Legal Affairs Office June 2018

Figure 4. Agrarian cases submitted to the DAR Adjudication Board (DARAB) for quasi-judicial decision, 1993-2017.



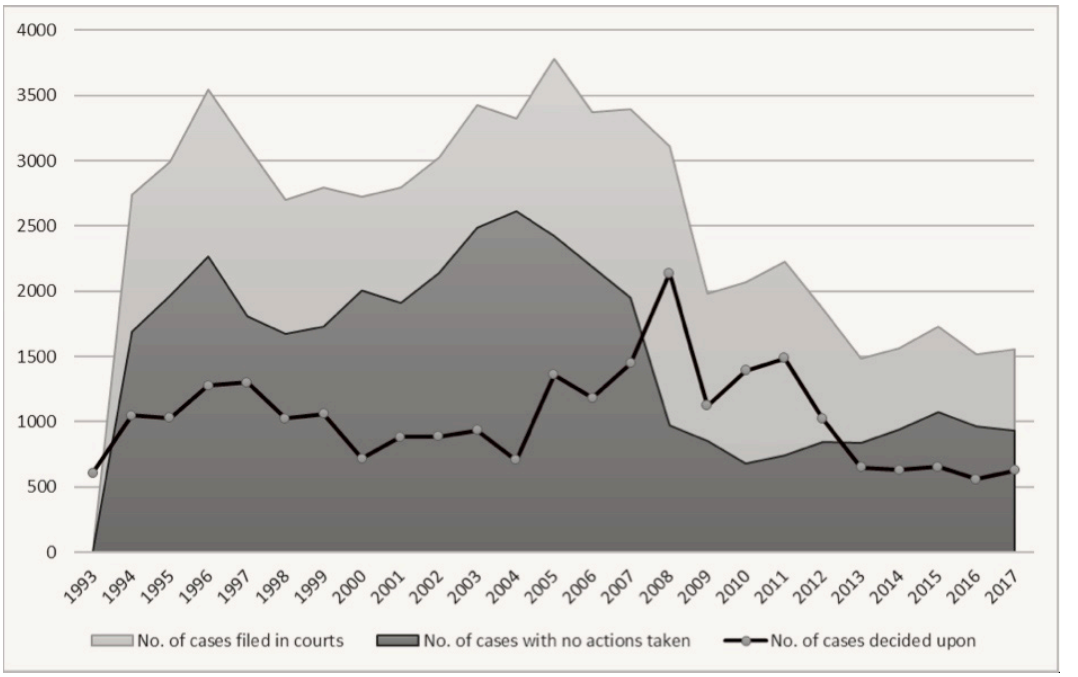
Source: DAR Legal Affairs Office June 2018

Figure 5. Agrarian cases addressed through DAR mediation, 1993-2017.



Source: DAR Legal Affairs Office June 2018

Figure 6. Agrarian cases submitted to the courts for judicial resolution, 1993-2017.



Source: DAR Legal Affairs Office June 2018

The implementation of the program has been contentious and problematic, especially in acquiring private agricultural lands. Figures 3, 4 and 5 above show the annual volume and disposition of agrarian dispute cases.

A high volume of agrarian-related cases remains after 30 years of CARP implementation. There has been a dramatic increase in the number of Agrarian Law Implementation (ALI) cases, DARAB cases, and Mediation cases recorded after RA 9700 was passed in 2009. On the other hand, there has been a rapid decline in the volume of agrarian cases filed with judicial courts, due to RA 9700 that granted DAR the exclusive jurisdiction over all agrarian cases.

There is renewed resistance among landowners who resort to filing legal cases to stop CARP coverage of their lands. But while the DAR legal office recorded a high accomplishment rate in the number of cases resolved, how these cases have been decided cannot be determined from existing data. Until recently, there was no systematic tracking of cases, such that disputes may reoccur on the same property, or past cases may be reopened. Accomplishments refer to the number of decisions and actions taken on cases, rather than whether the specific land disputes had been permanently resolved.

In practice, the DAR provides legal advice but not lawyers to defend farmers or DAR officials in court cases. There is a legal fund which DAR personnel can avail of for legal defense, but some say that this is insufficient. The situation is worse for farmers and workers, as they cannot afford the legal costs. Meanwhile, the legal staff in local DAR offices seem inadequate for coping with the growing number of cases, especially in provinces with high LAD balances and strong landowner resistance.

On support services for Program Beneficiaries Development (PBD)

Agrarian reform beneficiaries consist of former tenants, farmworkers, seasonal workers and landless. Most are poor and in debt, and thus need external support to make their lands productive and profitable. Table 7 shows the summary accomplishments in PBD in the past 30 years of CARP.

Based on DAR data, only 53 percent of existing ARBs had access to a package of support services (credit, farm to market road, post-harvest facilities, access to market, extension services, equipment). These ARBs are part of the 2,216 Agrarian Reform Communities (ARCs) or the Agrarian Reform Community Cluster (ARCC) areas. Most of support services were financed through loans and grants under foreign-assisted projects implemented by DAR.

Some ARBs were able to avail themselves of specific support services like credit, extension services, farm inputs, post-harvest facilities, irrigation from DAR and implementing agencies, but not the whole package and on consistent basis. The problem is the overall lack of mechanisms at the national and local levels for the effective delivery of support services to ARBs and small farmers.

As the Department of Agriculture (DA) is a devolved agency, the work of agriculture extension has been transferred to LGUs who often lack the needed budget and personnel for the task.

Moreover, most of the support service windows of the government can be availed of only by ARB organizations (ARBOs) but not by individual ARBs. RA 9700 attempted to address the lack of support services to individual ARBs by mandating the provision of initial capital to new ARBs, but this was not implemented.

Today there are socialized credit programs for ARBs – i.e., the Agrarian Production Credit Program (APCP), the Sikat-Saka of Land Bank and the Accessible and

Table 7. Summary of PBD accomplishments in agricultural support services, 1987-2017.

Support services	Accomplishments
Agrarian Reform Communities (ARCs)	Total number of ARCs launched: **2,216** No of ARBs in ARC areas: **1,526,633** Total number of ARC Barangays: **9,724** Total number of ARC Municipalities: **1,288**
Credit	Total credit for agri production and livelihood projects: **PhP 12.454 Billion** Total ARBOs receiving credit: **11,511** Total projects supported: **361,042**[5] Total ARBs benefited: **1,474,113**[6] Number of ARBOs that have become microfinance providers: **1,172** *Average credit availed per assisted ARB Organization: **PhP 1.664 Million** *Average credit availed per assisted AR Beneficiary: **PhP 13,243**
Irrigation systems	Total area irrigated: **285,370 hectares** Total number of irrigation systems: **1,576**
Pre- and post-harvest facilities	Total number of projects: **730** Total number of pre- and post-harvest facilities: **3,705**
Multi-purpose pavements	Total number of multi-purpose pavements: **412** Total area covered by multi-purpose pavements: **129,211 square meters**
Farm-to-market roads	Total number of kilometers: **23,435 kilometers** Total number of farm-to-market roads: **9,589**
Bridges	Total number of bridges: **498** Total linear kilometers: **18,866**
Community-based social services	Total number of potable water systems: **5,281** No. of HH: **83,941** Total number of power supply projects: **955** No. of HH: **31,901** Total number of classrooms: **1,747** No. of HH: **65,045** Total number of health center buildings: **628**[7] No. of HH: **75,147**

Source: DAR-LRSD, 2018.

Sustainable Lending (ASL) program for small farmers. But the APCP and ASL cannot be availed of directly by individual ARBs but only through agri-based organizations and cooperatives, while the Sikat-Saka can be availed of only by individual palay (rice) farmers in irrigated lands.

Support services for women. On the equal access of women ARBs to support services, the government in 2016-2017 appropriated only PhP 4 million per year for support services to rural women. This is not compliant with provisions of

[5] As of December 2015
[6] Total number of ARBs with either agri-credit or micro-finance assistance/services
[7] Lower by 19 buildings on the reported accomplishment in 2015 (647)

existing laws that require agencies to allocate at least five (5) percent of their general appropriations for gender and development (GAD) activities.[8]

Agribusiness venture agreements (AVAs). Due to the overall lack of public investments in agriculture and the difficulty in accessing government's support services, some ARBs were forced to engage in agribusiness ventures with the private sector. DAR was not able to monitor AVAs and thus, unfair and unregistered AVAs proliferated, especially lease-out and leaseback agreements. In DAR records, there are 433 registered and approved agri-business venture arrangements and most of these involve ARBs leasing out their awarded lands. There are many cases where landowners offer to lease back the lands by offering cash advances, even before the land is formally turned over to the ARBs.

Payment of land amortizations

Table 8 shows the amount paid in landowners' compensation as of June 2018. A total land valuation of PhP74.26 billion was paid to landowners, an amount

Table 8. Landowners' compensation as of 30 June 2018.

Program Type	Land Value Paid to LO	Regular Subsidy	Increase due to Revaluation/ Court Decisions	Land Value to be amortized by ARBs
	(a)	(b)	(c)	[d=(a-b-c)]
PD 27/ EO 228	3,292.99	0.00	292.68	3,000.31
RA 6657	54,474.05	1,977.59	2,585.74	49,910.72
RA 9700	16,491.65	6,561.03	46.97	9,883.65
Total	**PhP 74,258.69**	**PhP 8,538.62**	**PhP 2,925.39**	**PhP 62,794.68**

Source: Agrarian Services Group, Land Bank of the Philippines, 2018.

which includes PhP8.54 billion in statutory State subsidy and the PhP2.93 billion increase in land valuation as a result of just compensation cases. Note that under the law, the gap between the "just compensation" amount paid to the landowner and the "affordable" price paid by the beneficiary is subsidized by the government. Also, not all CARP lands are compensable, as some types of land (government-owned lands) are distributed without payment (free).

Table 9 shows that PhP62.79 billion is the total amount of amortization to be paid by 926,042 ARBs for awarded private agricultural lands covering 1.58 million hectares. Seventy percent (PhP43.72 billion) of the amount to be collected to ARBs are not yet due for payment because its current status is "Not Classified as

[8] RA9710, Sec. 36, par. A, DAR A.O. 1, series of 2011, sec. 5-G

Table 9. Land amortization collections from ARBs, as of 30 June 2018.

Particulars	Amount (Billion PhP)	Area (000 ha)	No. of ARBs
1. For amortization by ARBs (LPEX)	62.79	1.581	926,042
2. Not Classified as Agrarian Reform Receivables	43.72	0.810	421,817
3. Classified as Agrarian Reform Receivables	19.07	0.771	504,225
a. Amount Due & Collectible	9.71		
b. Not Yet Due	9.36		
4. Payments			
a. Fully-paid	5.06	0.368	254,437
b. Partially paid	0.87	0.201	118,916
c. Not Yet Due	0.26		
Total payment	**6.19**		
Collection Rate	**62%**		

Source: Agrarian Services Group, Land Bank of the Philippines, 2018.

Agrarian Reform Receivables." These are mostly landholdings with collective CLOAs and/or without Land Distribution and Information Sheets (LDIS). The subdivision of collective CLOAs and preparation of LDIS are tasks of DAR.

The remaining 30 percent (PhP19.07 billion) is classified as "Agrarian Reform Receivables (ARR)" – meaning the ARBs have a land amortization schedule and now obligated to pay land amortization. It consists of PhP9.71 billion as "amount due and collectible (ADC)" and PhP9.36 billion as "not yet due accounts."

The total amortization already paid by the ARBs is PhP6.19 billion, and the unpaid amortization amounts to PhP3.7 billion. The collection rate on land amortization is a low 62 percent with an increase of 32.62 percent from January to June 2018 compared to the same period in 2017.

Implementation issues in CARP

Issues in land redistribution and tenure reforms

LAD accomplishment remains far from complete after 30 years. If there are no major changes, and with an average of 30,000 hectares in annual accomplishments, the government will need 19 more years to complete LAD on the remaining 561,131 hectares, and 25 years if those CARP-able lands without

NOCs and with pending agrarian cases are included. Key implementation issues in recent years include:

Landowner resistance. Landowner resistance comes in the form of legal cases, threats, intimidation, physical violence and killings. But this resistance also comes in other forms:

- *Chop-chop* titles. DAR has the sole authority over all transactions (transfer, conveyance, conversion) involving agricultural land. However, large landowners employ different strategies to avoid CARP coverage, including the illegal subdivision and transfer of land titles to children, relatives, and dummy corporations. To avoid CARP coverage, they divide the land into smaller plots (5 hectares and below) and register these with the Registry of Deeds (ROD), without DAR clearance.
- Legal cases are filed by landowners, including exemption and exclusion cases to avoid CARP coverage. The earlier policy (AO 7 of 2011) prevented DAR from completing the LAD process over landholdings with pending cases. To address the major loopholes of AO 7, it was repealed with the issuance of the AO 5 in August 2017. However, certain provisions of AO 5 of 2017 were suspended through the enactment of AO 6 of 2017 in December 2017.
- Landowners prevent DAR and LBP from conducting field investigations and surveys. There is also a lack of survey teams in provinces with high LAD balance to do perimeter surveys.
- Landowners prevent ARBs from gaining access, control and possession of their awarded land. Some ARBs who were awarded land 20 years ago have not yet been able to enter and cultivate their land.[9] Moreover, some landowners continue to collect rent from their former tenants.
- Conflict between ARB factions due to divided loyalties. Conflicts also arise between farmer beneficiaries and loyal supporters of the landowners, especially in large haciendas and plantations.

The overly-cautious attitude of DAR implementers. Many of the DAR officials involved in the LAD process are nearing retirement age. They fear that landowners will file cases against them and the DAR will not provide them with legal assistance. Should they have a pending case, it will be difficult for them to claim their retirement benefits.

Erroneous Farmer Beneficiary (FB) identification. The new process of identifying farmer beneficiaries involves the submission of pertinent documents to establish

[9] A case in point is the Nemecio Tan Estate in Pilar, Capiz. See: Serafica, Raisa (2017). Farmer killed by Gunmen in Capiz Land Dispute Picket. In *Rappler*, 14 February 2017.

their eligibility, and a certification from the landowner recognizing that they are farmworkers on his/her land. Thus, many qualified farmworkers have been disenfranchised as farmer-beneficiaries.

Problematic surveys. Due to poor land survey work by the government, there were instances where the CARP survey teams could not locate some of the coordinates indicated in the land titles. While these can be corrected, they could affect adjacent properties and would require more time and resources to complete the survey.

DAR policy issuances slow down LAD process. Unfavorable policy issuances and the change in policy with each newly-appointed Secretary slowed down the LAD process in recent years, confusing local implementers, while others seem to use it as an excuse to delay the LAD process.

DAR's inability to issue new NOCs. RA 9700 set a deadline of 30 June 2014 to commence LAD proceedings on all private agricultural lands to be covered by CARP. However, DAR failed to issue Notices of Coverage (NOCs) for thousands of landholdings covering more than 206,000 hectares[10]. Moreover, DAR has classified some NOCs they issued as "erroneous[11]" for varying reasons, and has removed these from its LAD targets. Thus, the task of LAD cannot be completed without a new law or executive order to address the inability of DAR to issue new NOCs.

Inequitable access to land by landless women farmers. Despite existing laws (RA 9700 and RA 9710 or the Magna Carta of Women) and administrative issuances, data show that rural women still lack equal rights to own, manage and control land, as shown by the low proportion of women among EP and CLOA holders. There is still a lack of awareness on women's land rights under the agrarian reform program.

Lack of support service programs for farmworkers terminated by their landowners due to CARP participation. Many farmworkers, especially in plantations of sugarcane, pineapple, banana and other crops were fired/evicted by their employers/landowners when they enlisted in the agrarian reform program. These farmworkers have no other source of livelihood and find it difficult to find new work in other farms. They also receive little or no livelihood support from government.

[10] DAR Presentation for Organizational Briefing in the Senate Committee on Agrarian Reform, 24 August 2016.
[11] Erroneous NOC means NOC that is inaccurate or contains typographical or clerical or substantial error.

Lack of support for the leasehold program. While the data show that DAR exceeded its annual leasehold targets in recent years, this program needs to be reviewed. DAR still has no comprehensive database of all the target landholdings for leasehold operations. There are indications that the leasehold program has not been given its due priority, as share tenancy remains widespread despite being outlawed in 1963. Leasehold should be an important component of the agrarian reform program.

Issues in the delivery of agrarian justice

Slow disposition of cases. Farmworkers cannot sustain their legal battles due to the expensive and very slow disposition of agrarian reform cases. Judicial courts often take years to decide a case with finality and without assurance that the case will be decided in favor of the farmers.

Limited legal assistance to ARBs and to DAR officials performing their mandate. It is difficult to find lawyers in rural areas who are willing to represent the farmworkers in judicial and quasi-judicial bodies, especially if the case is pro-bono. Most of the lawyers in those areas with high LAD balance are either not familiar with agrarian reform, from landed families, or already representing the landowners. Meanwhile, the legal staff in the local DAR offices are not enough to cater to the demand for legal assistance, especially in the provinces with high LAD balances and with a history of strong landowner resistance.

Issues in providing support services to ARBs

A comprehensive, effective and efficient delivery of support services to agrarian reform beneficiaries will help CARP awarded lands become more productive, diverse, and economically feasible. This will also encourage ARB families to sustain and farm the land and will prevent illegal sale, conveyance and leasing of CARP lands. Here are some of the emerging issues on PBD:

Insufficient and inefficient support services for ARBs. The PBD component of CARP remains underfunded, and the DAR is not taking into consideration in their budget preparations the existing appropriations provisions of RA 9700 and the mandatory 5 percent for GAD (RA 9710). RA 9700 mandates the government to provide socialized credit to existing ARBs and initial capital to new ARBs, but this provision was not fully implemented. The delivery of support services is

insufficient as well. CARP implementing agencies have various programs that the ARBs can access, but the problem is the lack of mechanisms at the national and local levels to strategically plan and coordinate the delivery of support services. These agencies have different requirements, priorities and application processes. DA is likewise mandated to provide support services to farmers, yet the department does not prioritize ARBs. Much of its functions are devolved to the LGUs, where the process of selecting beneficiaries and providing support services can be highly-politicized and dispensed as "political favors."

Small percentage of organized ARBs. According to the DAR data (1993 to June 2016), there are 5,586 ARB organizations (ARBOs), of which 4,767 ARBOs are in the ARC areas and 819 are in non-ARC areas. ARBOs within ARCs have a total of 793,282 members, but only 37 percent or 296,301 members are actual agrarian reform beneficiaries.[12] Given that there are over 2.8 million ARBs as of 2018, the data show that only a small fraction of ARBs are organized, despite the efforts of DAR and CSOs. Establishing farmers' organizations is very important in pursuing their land rights claims and in accessing support services, as individual ARBs have very limited options.

Unfair and unjust AVAs. Due to the lack of public investment in agriculture, many ARBs were forced to enter into AVAs with the private sector. Many agreements have unfair commodity pricing, inequitable lease rentals, and unconscionable periods which in many cases exceed the life span of the farmers. Arrangements were also entered into by ARBs through coercion, misinformation, deceit, fraud, and threats from other parties involved. These unfair agreements are largely due to the ARBs' lack of capacity to fully understand, analyze and negotiate the terms and conditions of AVAs on equal footing with investors.

Lack of climate resilient support services programs. As an agricultural country, two-thirds of the Philippine population are directly and indirectly exposed to the impacts of climate change events. Small farmers and ARBs are highly vulnerable to severe weather events (typhoons and droughts), as well as to changes in weather patterns, temperature, water supply that threaten farmers' productivity, livelihoods and security of homes. The damage to the farmers' crops runs to the billions of pesos annually but most ARBs have no access to crop insurance and other programs to mitigate the effects of climate change.

[12] DAR Presentation for Organizational Briefing on Senate Committee on Agrarian Reform, 24 August 2016. Data based on ITeMA Monitoring results.

Second generation issues

Indefeasibility of EP/CLOA not recognized by DAR.[13] There is an increase in CLOA cancellation cases as documented by groups assisting the ARBs. The groups observed that cancellation cases are prevalent with ARBs pursuing their immediate installation. Most of these ARBs received their CLOAs 20 years ago. The landowners filed cancellation cases on the basis of their claim for retention and/or exemption from CARP coverage. Inclusion/exclusion cases were also filed by farmworkers loyal to the landowners who already waived their rights to become CARP beneficiaries when they decided not to participate in the LAD process.

There are also cancellation cases to Distributed but Not Yet Paid (DNYP) lands. Farmers cannot pay their amortization as the paperwork are not properly filed and documented.

Pawning and selling of CARP awarded lands. Many ARBs are forced to avail themselves of production loans from loan sharks at exorbitant interest rates, or pawn or sell their awarded land illegally to pay their debts in cases of disaster or a family emergency.

Subdivision of collective CLOAs. As a strategy to fast-track the LAD process, DAR issued collective CLOAs to cover 2.2 million hectares of agricultural land, and 76 percent of these landholdings were awarded to ARBs who were not actually engaged in collective farming. This has affected farmers' individual property rights and has discouraged farmers from making long-term improvements on the land (Casidsid-Abelinde, 2017). As of December 2017, DAR has a working balance of 1.4 million hectares due for subdivision among individual ARBs.

Based on data of the Land Bank of the Philippines, one of the major reasons for the low collection rate of land amortization is that many land titles distributed to ARBs were collective CLOAs, thus individual amortizations could not be computed.

Ageing farmer population. The average Filipino farmers is 57 years old, and rural populations are ageing, as the youth are discouraged from seeking work in agriculture. Moreover, the existing policy on ARB qualifications is against

[13] Under Section 9 of RA 9700 (CARPER law), the "indefeasibility" of EPs and CLOAs means that the land titles (EP/CLOA) issued to ARBs under CARPER can no longer be questioned or cancelled after one year from its registration.

younger farmers. RA 6657 states that a landless tiller should be at least 15 years old as of 15 June 1988 to qualify as an agrarian reform beneficiary.

Cross-cutting issues

***Rampant illegal land use conversion*.** DAR data on approved land conversions show that 168,041 hectares of agricultural lands were converted and/or exempted from CARP coverage.[14] However, this does not show the real picture, as there are thousands of undocumented and illegally converted irrigated and irrigable agricultural lands, and the DAR has not been prosecuting violators.

Corrupt and inept DAR officials. There were instances when a group of farmers, mostly unorganized, are seeking assistance from DAR for their concerns; but instead of providing assistance, the DAR officials encouraged them to negotiate with their landowners. In some cases, DAR facilitated the lease and/or leaseback arrangements between the ARBs and investors.

Overlapping land claims. Sector-specific land laws like the CARP Law (RA 6657), IPRA (RA 8371), and the UDHA (RA 7279) – implemented by different government agencies may sometimes overlap, resulting in conflicts over land rights among different sectors of the rural poor. For instance, CLOAs have been issued within ancestral domains, and urban settlements expand to areas still classified as agricultural land. In the absence of a national policy on land use, and with multiple agencies issuing land titles and assigning land rights, there is often confusion and conflict among the basic sectors. The government has tried to harmonize various land laws through dialogues and joint agency mechanisms, but has so far failed.

Governance and coordination. There are several governance mechanisms that are required to have farmer representatives, i.e., the Presidential Agrarian Reform Council (PARC), the National Anti-Poverty Commission (NAPC), and the Land Bank of the Philippines (LBP). The roles of these bodies are mostly on policy formulation and recommendations. It is at the Barangay Agrarian Reform Councils (BARC) where farmers have a direct role in the agrarian reform implementation.

In the past, the DAR and CSOs also formed joint coordination mechanisms – such as an open-door policy and joint task forces. But none of these mechanisms were sustained as they were co-terminus with each DAR administration.

[14] Nationwide converted and exempted/excluded landholdings from 1988 to November 2017. Data from the DAR Bureau of Agrarian Legal Assistance.

Recommendations

- **PARC to formulate a new policy giving DAR a fresh mandate to issue new NOCs, and lobby for the passage of an NOC bill.** The PARC has the power to formulate and implement policies and regulations necessary to implement each component of the CARP. It is within their ambit to give the DAR a fresh mandate to issue new NOCs and the power to correct its "erroneous" NOC issuances to complete land acquisition and distribution. At the same time, the government should work with agrarian reform stakeholders and with Congress for the enactment of a new law that will give DAR a fresh mandate to cover agricultural lands not in the DAR database and or agricultural lands without NOC, and to revive the Congressional Oversight Committee on Agrarian Reform (COCAR).[15]

- **Amend/revoke DAR policies that cause delays to CARP implementation.** One policy that needs to be amended or revoked is DAR AO 7, series of 2011 as amended, so that LAD proceedings can continue until ARBs are installed on the awarded land, even if there are pending cases.

- **DAR to install all displaced ARBs and immediately provide initial capital for farm production**. The DAR should immediately install all displaced ARBs on their awarded lands, and provide them security and protection, with the help of the Philippine National Police (PNP) and other agencies.

- **DAR to prosecute CARP violators.** The DAR should start prosecuting CARP violators to show that the government is serious in fulfilling its mandate. Prohibited acts and omissions under Section 73 of RA 6657 as amended include willful prevention and obstruction of CARP implementation, illegal land use conversion to avoid CARP coverage, illegal sale, transfer, conveyance of CARP awarded lands, and the unjustified and malicious act by responsible officers of the government.

- **DAR to address the problem of CLOAs issued within IP lands.** There are cases where DAR issued CLOAs to farmers and migrant-tillers within ancestral domains, despite the prohibition under the existing CARP law. This has caused land conflicts between farmers and indigenous communities. To resolve this issue, DAR should facilitate a negotiated solution between the parties (IPs and ARBs) wherein the farmers should recognize and respect the prior rights of the IP community over their ancestral domain, while the IPs provide tenure security to the ARBs. The ARBs should agree to the cancellation of

[15] According to the DAR, President Duterte has ordered the development of agrarian reform program phase two (2). The DAR was tasked to craft the bill that allows DAR to issue new NOCs.

their CLOAs, but in return, the IPs allow the ARBs to continue tilling the land under usufruct rights, similar to a leasehold arrangement.

- **DAR should seriously implement the leasehold program as an integral component of agrarian reform.** To do this, DAR should: (1) Establish a credible database of all tenanted agricultural lands; (2) Allocate larger budgets to deliver leasehold targets; (3) Execute new leasehold agreements; (4) Open up support services facilities for leaseholders and tenants; (5) Form local monitoring teams; (6) Set up tenant/leasehold assistance desks in DAR municipal offices; (7) Develop IEC materials that the tenants can easily understand; (8) Work with local PO federations or NGOs in organizing the tenants; and, (9) Inform the tenants that they can seek DAR and LBP assistance to exercise their right of pre-emption and redemption. DAR should also review and consider amending the DAR-DoF Joint Memorandum Circular No.1, Series of 1995 that requires the registration of all leasehold contracts with the municipal/city treasurer and the collection of real property taxes. Sources indicate that one reason why most leasehold contracts are not registered with the LGUs is due to the unpaid real property taxes by the landowners.

- **Increase DAR's capability to conduct surveys.** To hasten LAD implementation, DAR should add in-house survey teams and survey equipment to complement the existing survey teams. DAR should explore other methods (e.g. drones), especially in problematic landholdings, to reduce direct confrontation with belligerent landowners and their goons.

- **Institutionalize local and national mechanisms to coordinate LAD and support services delivery.** The government should institutionalize government-CSO mechanisms at the local and national levels to coordinate LAD-related activities and the effective delivery of support services to ARBs. There should be a one-stop shop for all agrarian reform-related engagements – e.g., land surveys, social preparation of ARBs, ARB installation, CLOA registration, and access to support services. The PARC should also review the ARC strategy with the goal of establishing a more effective and inclusive community-based support services delivery program.

- **Introduce livelihood programs for terminated farmworkers due to CARP participation.** There are cases where landowners terminate farmworkers once they are identified as beneficiaries of CARP. Since the LAD process can take one to three years, these farmworkers find themselves unable to provide even the basic needs for their families. Many are discouraged, and some even decide to abandon their land rights claims to be able to return as

farmworkers. In some cases, farmworkers are forced to enter into leaseback arrangements with their landowner, even before getting their land, in exchange for a cash advance. To avoid these from happening, DAR with other CARP implementing agencies should assist farmworkers with livelihood programs as they await their CARP-awarded lands. Their families could also be covered under the conditional cash transfer program of the Department of Social Welfare and Development (DSWD).

- **Implement the support services provisions of RA 6657 as amended, and introduce non-traditional credit programs for ARBs (socialized credit, capitalization of ARBs).** The law allocates 40 percent of all agrarian reform appropriations for support services, of which 30 percent shall be used for agricultural credit facilities – i.e., socialized credit for existing ARBs, and start-up capital for new ARBs. With over 400,000 new potential ARBs, the provision of a start-up capital may also prevent new ARBs from being forced into unfair agribusiness agreements such as leasebacks. The government should also explore non-traditional approaches to credit, such as the early provision of production loans to ARBs at the moment of land transfer. The cost of loan repayment can then be added to the annual amortization.

- **Amend the existing policy governing AVAs.** While private investments address a need, regulation is necessary in order to protect the weaker party to the contract and to ensure that welfare-enhancing outcomes are obtained, to have meaningful impacts on rural poverty reduction. The new policies on AVA should protect ARBs and should regulate or prohibit business arrangements that have unfair commodity pricing, inequitable lease rentals, and unconscionable periods which exceed the life span of the farmers. Already, the current influx of both local and foreign investments has exposed ARBs to indebtedness, and the threat of displacement and loss of control, ownership and possession over their lands.

- **Establish a legal assistance fund for farmers.** Most of the remaining LAD balance consists of private agricultural lands under compulsory acquisition, where agrarian disputes are likely to arise. Thus, the DAR should create an agrarian justice fund for farmworkers/ARBs and include this in the DAR provincial budget to make it more accessible to farmers. The DAR should also re-launch its paralegal support program established in 2004 to address the lack of lawyers. ■

Cited references:

Casidsid-Abelinde, Joe-Anna Marie. (2017). *Subdividing Collective Certificates of Land Ownership Awards*. Quezon City: Center for Agrarian Reform and Rural Development (CARRD).

Department of Agrarian Reform – Bureau of Land Tenure Improvement (DAR-BLTI). (2018). *LAD Accomplishment by Target Scope and Mode of Acquisition, as of 31 Dec 2017 and Number of Agrarian Reform Beneficiaries and Cumulative LAD Accomplishments, 1972-2017*. [Data File]. Quezon City: DAR-BLTI.

DAR Legal Affairs Office. (2018). 1988-2017 *Collective CLOA Accomplishment and number of Agrarian Reform Beneficiaries*. [Data File]. Quezon City: DAR Legal Affairs Office.

Lim, E. Jr. (2016). *Land and water rights issues in Yolanda-hit areas: Learnings from Eastern Samar and Leyte*. [AR Now! and Kaisahan policy paper].

Lorayes, A. (2018). *LBP-CARP Performance as of June 30, 2018*. [Notes presented at the national workshop held at UP Hotel, Quezon City on 7 August 2018].

Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA). (2008). *Philippine Asset Reform Report Card*. Quezon City: PhilDHRRA.

Philippine Statistics Authority (PSA). (2016). *Women and Men in the Philippines: 2016 Statistical Handbook*. Quezon City: Philippine Statistics Authority.

Serafica, R. (2017). Farmer killed by Gunmen in Capiz Land Dispute Picket. In *Rappler*, 14 February 2017. Retrieved from https://www.rappler.com/move-ph/161352-farmer-dies-land-reform-dispute-capiz.

Vegetable farming in Miarayon, Talakag, Bukidnon.
Photo by Xu-DevCom/XSF.

4.0 Agrarian reform in public lands

The Philippines covers a land area of approximately 30 million hectares, classified into two major categories: *alienable and disposable lands* (A&D), and *forestlands* (non-A&D) that is also referred to as the public domain. A&D lands cover 14.2 million hectares and may be issued titles and used for residential, agricultural, commercial and other uses. The remaining 15.8 million hectares are forestland (non-A&D) which are deemed belonging to the State or community and cannot be alienated unless provided for by law.[16]

Forest dwellers. An estimated 20-30 percent of the population live in classified forestlands, and depend on forests, farmland and fishing waters for their homes, food and livelihoods. They include indigenous peoples, many of whom are without security of tenure. Although there is no comprehensive census of forest dwellers, an estimated 17-22 million people who depend on forests have no legal tenure rights (Fortenbacher and Alave, 2014).

Poverty prevails among communities in these areas. Studies show that upland settlers have an average household size of 4.7 people, and earn between PhP23 and PhP52 per person, which is below the World Bank-defined poverty line of US$1.25 a day. Deforestation (estimated at an annual rate of about 100,000 hectares in 2014) further contributes to the marginalization of forest dwellers (Fortenbacher and Alave, 2014).

With continued economic and demographic growth, there has been increasing competition for land and natural resources. This leads to unsustainable use, loss and depletion of forest, soil, biological diversity and water resources. Furthermore, climate change and natural disasters further exacerbate these pressures.

[16] In the Philippine context, the term "forestland" refers to all property owned (or claimed) by the State based on the official system of land classification. It is a legal and tenurial status, not a botanical description, as in reality much "forestland" may not contain forests or trees. However, lands classified as *forest use* (aka "forests") consist of 6.8 million hectares, with 6.1 M hectares in non-A&D lands, and 0.7M hectares in classified A&D lands. Data from *DENR. 2016 Philippine Forestry Statistics*.

Tenure over forestlands can mean sustenance for the poor as well as protection of natural resources. It is in this context that CARP included public lands in agrarian and tenure reform. This section briefly describes DENR's accomplishments on tenure reform and identifies some emerging issues and gaps in the implementation of tenure reform in public lands under CARP.

Evolution of tenure reform in forestlands. During Spanish colonization, the control and management of the land and natural resources were placed under State ownership. The 1894 Maura Act made it an imperative for all undocumented property rights to be transferred to the State. The US colonial government used the same notion by promoting the Regalian Doctrine. Without documented land titles, many Filipinos ended up losing their rights to land either to the State or to the elites. Among the most affected were indigenous peoples.

State ownership of all lands in the public domain was further strengthened by the 1935 and 1973 Constitutions. Commonwealth Act 141, or the Public Land Act of 1936, established the systems of classification, administration, and distribution of public lands by the State. Upland dwellers in public lands were considered squatters, and *kaingin* or shifting cultivation were blamed for forest destruction which was estimated at a rate of 200,000 hectares per year by the 1960s (Makil 1982 as cited by Pulhin, et. al, 2008).

The Forestry Reform Code of the Philippines in 1972 was among the first mechanisms to rehabilitate forests with the participation of local communities. However, the law did not provide land tenure security, and merely involved forest dwellers as cheap labor for reforestation.

The Integrated Social Forestry (ISF) Program was formed in 1982 granting local communities the right to access and cultivate upland areas, and to secure tenure for 25 years. As a program approach, the ISF sought to address ecological stability and enhance socio-economic conditions of forest occupants and communities in open and deforested upland areas, and mangrove areas.

The Letter of Instruction (LOI) 1260 of 1982 recognized the "concept of man's new role of stewardship over our natural resources" as enshrined under the 1973 Constitution;" the law provided for *kaingineros* and other forest occupants in identified *kaingin* settlements to be included under ISF, through 25-year stewardship contracts.

Although the objectives of social forestry included alleviation from poverty of forest dwellers and forest rehabilitation, its true intentions were questioned

because of its limited coverage. The total area under ISF in 1986 was only 446,156 hectares, compared to 159 timber licenses that covered a total area of 5.85 million hectares (Pulhin, et. al, 2008).

Meanwhile, there were initial efforts at tenure reform in public lands. In 1974, Presidential Decree (PD) 410 declared ancestral lands occupied and cultivated by national cultural minorities as alienable and disposable. It provided for the issuance of Land Occupancy Certificates to members of national cultural minorities, to cover family-sized farm lots not exceeding five hectares each. PD 410 was the first policy that recognized indigenous peoples' rights to public lands and forests; however, it did not provide for *collective* rights nor recognize their rights to ancestral domains.

In 1983, Proclamation No. 2282 reclassified 1.5 million hectares of the public domain in 64 provinces as A&D lands for agricultural and resettlement purposes under the government's *Kilusang Kabuhayan sa Kaunlaran* (KKK) program. However, many of the proclaimed KKK lands overlapped with ancestral domains – later triggering land conflicts between migrant-settlers and indigenous communities.

It was after the Marcos regime that tenure policies involving public lands became anchored on social justice and equity. Following the 1987 Constitution, Executive Order (EO) 192 emphasized the principle of "equitable access" in the management of the country's natural resources. EO 229 then defined the mechanisms to implement the agrarian reform program. It provided for the distribution of "lands of the public domain suitable to agriculture" subject to the "*prior* rights, homestead rights of small settlers and rights of indigenous communities to their ancestral domains.

RA 6657 (Comprehensive Agrarian Reform Law) mandated the redistribution of both private *and public* agricultural lands to landless farmers and farmworkers. Section 2 of RA 6657 further provided for "the principle of *distribution* or *stewardship*, wherever applicable, in the disposition or utilization of lands of the public domain" (emphasis supplied).

Although CARP included parts of the public lands for distribution, it was not enough to address environmental degradation in the State-held forestlands. To address this insufficiency, the earlier ISF programs and recognition of ancestral domains were integrated into the CBFM Program that was instituted in 1995 through EO 263.

The CBFM program mandates DENR in coordination with local government units and the DILG to grant participating communities with access to forestland resources under long term tenurial agreements, provided they employ environment-friendly, ecologically-sustainable, and labor-intensive harvesting methods.

CARP in public lands

Tenure reform in public lands. For CARP implementation, DENR covers all *public* lands devoted to, or suitable for agriculture. The CARP Law states that ancestral lands being inhabited by indigenous cultural communities are protected and reserved for their use, and therefore would not fall under redistribution.

Exempted from CARP are lands with a slope of more than 18 percent, and reserved lands such as national parks, forest reserves, fish sanctuaries and watersheds. Also exempted are lands used in the national/public interest such as for national defense and education and experimental farms, church and mosque sites, cemeteries and the like.

In addition to the disposition of public agricultural lands, the DENR is also mandated to undertake two other tasks: (1) support for the land acquisition and distribution by conducting surveys of public A&D lands and the verification and approval of surveys for the DAR; and, (2) provision of technical and operational support to the program (e.g., PO strengthening, agro-forestry support, income generating projects, forest area development and management, infrastructure support, and marketing information).

There are two modalities for the distribution of land under DENR:

First, public A&D lands suitable for agriculture are distributed to farmer beneficiaries through the processing and issuance of free patents and homestead patents. A *free patent* is a mode of acquiring a parcel of public A&D land suitable for agricultural purposes through the "administrative confirmation of imperfect and incomplete title," while *homestead patent* is a mode of acquiring public A&D lands for agricultural purposes "conditioned upon actual cultivation and residence."[17] The qualifications for applying for free and homestead patents are enumerated in Table 10.

[17] Other types of patents issued by DENR to dispose of public lands are Miscellaneous Sales, for disposing public A&D lands for residential purposes and Sales Patents, for disposing public A&D lands at public auction through sealed bidding.

Table 10. Qualifications for free and homestead patent applicants.

Qualifications	Free Patent	Homestead patent
Age	No age requirement *Note:* If the applicant is a minor, he should be duly represented by his natural parents or legal guardian and has been occupying and cultivating the area applied for either by himself or his predecessors-in-interest	At least 18 years, or head of family *Note:* A married woman can apply (as per DENR Administrative Order 2002-13)
Citizenship	Natural-born citizen of the Philippines	Citizen of the Philippines
Maximum area of landholding	Under the Public Land Act (CA 141) of 1936: 24 hectares Under RA 9176 (Free Patent Law) of 2002: 12 hectares	Under 1973 Constitution: 24 hectares Under 1987 Constitution: 12 hectares *Note:* Under DENR Memorandum Circular 22 dated 20 November 1989, the titling limit was reduced to 5 hectares in line with the RA 6657, or the 1988 Comprehensive Agrarian Reform Law
Occupation of the land	Must have occupied and cultivated the land for at least 30 years	Must have resided for at least one year within, or adjacent to the municipality where the land is located
Cultivation of the land	Land must be fully cultivated	At least 1/5 of the land has been cultivated within six months from the date of approval of application

Source: DENR Land Management Bureau (DENR-LMB)

Second, non-A&D lands suitable for agro-forestry are awarded by means of 25-year stewardship agreements – through the issuance of Certificates of Stewardship Contract (CSCs) to individual families, and CBFMAs to organizations and local communities. These tenure agreements are renewable for another 25 years.

CBFM aims to provide security of tenure to forest communities in using and developing forestland and resources for 25 years. CBFM areas are lands classified as forest lands including allowable zones within the protected areas not covered by prior vested rights.

DENR in partnership with the LGU is: a) responsible for identifying potential CBFM sites; b) planning forest land uses with communities; c) endorsing and issuing CBFMAs; d) organizing and preparing CBFM communities for their CBFMAs; e) provide technical assistance and skills training for CBFM communities; and, f) monitor progress and environmental impact of CBFM activities. As for the people's organizations (POs), their roles involving CBFM communities include: a) joining DENR and LGU in making a forest land use plan and preparing a Community Resources Management Framework (CRMF) including the mission and objectives of POs; b) represent the interest of their forest communities; and, c) protect and maintain forest land entrusted to their stewardship.

Accomplishments of CARP in public lands. Table 11 shows the overall accomplishment of CARP in public lands.

Table 11. Overall DENR-CARP status of land distribution, July 1987 to December 2015.

Activity	Revised Target Scope, 2006 (ha)	Accomplishment July 1987 to Dec 2015 (ha)	Accomplishment as % of Target Scope	No. of Beneficiary-HHs
Public A&D lands	2,502,000	2,538,219	101.4	2,415,079*
ISF/CBFM areas	1,269,411	1,335,999**	105.2	338,381
TOTAL	3,771,411	3,874,218	102.7	2,753,460

Source: DENR, 2015

* This figure refers to the number of free patents issued, which is also used here to account for the number of beneficiary-households under the distribution of public A&D lands under CARP.

**ISF/CBFM targets were completed in CY 2000.

Issuance of land patents. From July 1987 to December 2015, a total of 2,415,079 land patents covering 2,538,222 hectares of public agricultural A&D lands were issued by DENR, with an *average* of 1.05 hectares granted to each beneficiary-family. This represents a 101 percent accomplishment of the scope of 2.5 million hectares.

The high accomplishment rates reflect the given nature of the program. The distribution of A&D lands is based on *vested* rights (i.e., 30 years of continuous residency and cultivation in the case of free patents), there is no landlord resistance or agrarian disputes as in private lands, and land is generally awarded for free (no land valuation). Under CARP, beneficiaries were also exempted from the payment of fees in the issuance of titles and patents. On the other hand, the bottlenecks cited in implementation are mainly administrative – i.e., delays in undertaking land surveys, slow reconstitution of land records, and sluggish resolution of land conflicts among competing claimants.

Issuance of ISF/CBFM arrangements. Under ISF/CBFM agreements, families and communities in forestlands are granted usufruct rights to a maximum of seven (7) hectares per family for 25 years, renewable for another 25 years, in exchange for forest protection and sustainable use. From 1983-1998, the beneficiaries of ISF were granted individual Certificates of Stewardship Contract (CSCs) per family. But with the program shift towards CBFM in 1998, groups and communities were awarded CBFM Agreements which granted them *collective* tenure rights. This group tenure approach greatly facilitated the expansion of the program.

For forestlands, DENR reported that the ISF/CBFM program *under CARP* was officially completed as early as December 2000. The ISF/CBFM program achieved 105 percent of the revised 1994 target scope. Table 12 shows that some 338,381 beneficiary-families had reportedly issued stewardship contracts (leases or usufruct rights) to 1,335,999 hectares of agro-forestry area for an average of 3.9 hectares per household.

Table 12 below shows the breakdown of respective accomplishments in terms of ISF and CBFM. It also shows that the reported DENR-CARP accomplishments include 293,365 hectares that were covered even *prior to the institution of CARP.* These are areas covered from 1983-1986 through the issuance of Certificates of Community Forest Stewardship (CCFS) and CSC. It should be noted that the ISF program was instituted as early as 1982.

Table 12. Summary DENR-CARP accomplishments in ISF/CBFM, 1988-2000.

REGION	Prior to RA 6657		RA 6657				GRAND TOTAL	
	CCFS/CSC (1983-1986)		ISF/CSC (1987-1998)		CBFMA (1998-2000)			
	No.	Area (ha)	No.	Area (ha)	No.	Area (ha)	No.	Area (ha)
CAR			12,949	27,485	24	8,700	12,973	36,185
I			14,621	17,716	40	6,607	14,661	24,323
II			30,807	67,818	17	30,047	30,824	97,865
III			21,454	25,796	39	6,059	21,493	31,855
IV			34,553	81,086	41	28,670	34,594	109,756
V			16,299	33,699	33	20,910	16,332	54,609
VI			17,822	43,851	53	23,999	17,875	67,850
VII			23,499	31,301	33	10,288	23,532	41,589
VIII			18,626	36,076	33	45,256	18,659	81,332
IX			46,274	92,687	67	20,959	46,341	113,646
X			37,424	84,423	70	18,813	37,494	103,236
XI			41,668	119,226	25	20,067	41,693	139,293
XII			17,790	54,959	25	34,579	17,815	89,538
XIII			4,495	10,027	27	41,528	4,522	51,555
TOTAL	**0**	**293,364.71**	**338,281**	**726,152**	**527**	**316,483**	**338,808**	**1,336,000**

DENR (2016a). Physical accomplishment report (1983-2000): CSC/CBFMA issuances.

It should be noted that, even after the *official completion* of the ISF/CBFM program *under CARP* in CY 2000, the CBFM program continued under the DENR. As of 2016, a total of 1,884 CBFMAs had been issued to 1,884 people's organizations (POs) throughout the country, covering a tenured area of 1,615,518 hectares.

These POs collectively have 191,356 registered members – 124,306 males and 67,050 females (DENR, 2016b).

This also means that around 280,000 hectares under CBFMAs lie beyond the scope of CARP or have not been included in reporting for CARP. Thus, while CARP sets a ceiling of five hectares per family under ISF/CBFM leasehold, the average size of CBFM awards per member as computed from the latest 2016 data is 8.4 hectares.

Assessment

It should be noted that the legal instruments for DENR's tenure-related programs pre-existed CARP in 1988. The Public Land Act of 1936 (CA 141) provided for the administrative distribution of A&D lands, while the ISF Program on forestlands was instituted in 1982. The inclusion of these programs under CARP made them a national priority, with a stronger focus on equitable distribution, tenure rights and security for the poor. CARP provided for program budgets, accomplishment targets and monitoring systems, and inter-agency coordination under the Presidential Agrarian Reform Council (PARC).

Lack of impact studies. To date, there has been no program-wide impact assessment of DENR-CARP work and accomplishments. Existing assessments of the CBFM program often focus on environmental impact and resource management, rather than on tenure security, welfare and livelihoods of forest dwellers. Several case studies on CBFM implementation cite that the lack of support services to the farmer-beneficiaries of public lands as one of its most common problems.

Low CARP targets? There are reasons to believe that DENR's CARP targets were set too low, and that there is much greater scope for further improving tenure security in public lands. *One:* The ISF/CBFM targets were reportedly completed as early as CY 2000. *Two:* Vast tracts of public land (755,000 hectares) remain unclassified, based on the 2016 Philippine Forestry Statistics, and the delineation of forestlands is still incomplete. *Three:* The DENR programs – on the issuance of land patents, and on CBFM – have continued long after "CARP completion" in 2000. However, the focus of these programs may have shifted. And in the absence of a CARP program framework in public lands, there is a danger of tenure reforms being ignored by the bureaucracy.

***Issuance of land patents – land to the claimant*?** Based on DENR's reported CARP accomplishments, some 2,753,460 families have directly benefitted from the redistribution of public lands (through patents and leaseholds) between July 1987 and December 2015. However, the quality of DENR's work has not been assessed. For DENR employees, the underlying principle in titling may not be *land to the tiller* but land to the *claimant*, even if he/she is neither a resident in the area or an actual tiller. With the reported completion of DENR's work under CARP, DENR is likely to return to its administrative role of processing claims and applications, with less concerns for equity considerations. Under RA 9176, the filing of land patent applications is extended to CY 2020.

***Need to assess household-level impacts of group tenure arrangements, such as CBFM*.** Under CBFM, agreements are forged with POs and there is the danger that the privileges and benefits are captured by the leaders or local elite especially in the absence of regular monitoring. Furthermore, many of the current 1,884 POs with CBFMAs were created solely for the scheme. According to a 2016 GIZ study, "… many (POs) do not have leadership and management capabilities and disintegrate after some time. Some POs provide benefits only to the leaders and include only part (20 to 30 percent) of the community."

***Moratorium on new tenure agreements on forestland*.** The 2013 DENR moratorium on the renewal or issuance of tenure agreements on forestland has left many forest dwelling households and communities without legal tenure. Half of the approximately 500,000 individual CSCs have expired, although the DENR reportedly plans to renew them through group tenure arrangements under CBFM. Meanwhile, for CBFMA holders, there is an approaching need to apply for renewal of their 25-year leases, as CARP was instituted in 1988. Who decides which CBFM areas would continue? What happens to those whose CBFM agreements have ended?

***Overlapping tenure instruments and management schemes*.** On average, a CBFMA covers 858 hectares and 102 families. As such, CBFMAs cover relatively smaller parcels within larger tenure and management regimes, which include ancestral domains, national parks and protected areas, mineral lands, timber and forest concessions, and lands managed through local governments. Moreover, CBFMAs and CSCs are just two among the many tenure instruments that DENR issues over forestlands and other public lands. In many instances, there are overlapping tenure instruments and management schemes, and these affect especially indigenous peoples, as when CBFMAs are issued to settlers within areas under ancestral domain claims. On occasion, resource-use conflicts contribute

to weak compliance, a deadlock of socioeconomic activities, and eruptions of violence.

The fact that CBFMAs continue to be issued within ancestral domains of indigenous peoples seem to indicate that the CBFMA is seen more as a resource management measure than as a tenure instrument. For instance, DENR AO No. 96-29 provides for the issuance of CADC-CBFMAs on lands under ancestral domain claim and CALC-CBFMAs on lands under ancestral land claim, provided they opt to participate.[18] Oftentimes, indigenous communities are required to have permits, or CBFMAs, in order to utilize the resources within their own ancestral domains that are already under CADT.

Recommendations

- **Conduct a program-wide impact assessment of the implementation of CARP in public lands.** There is need to study and review whether and to what extent individual families under group tenure systems such as CBFM are able to exercise and enjoy their full rights of tenure. Under CBFM, agreements are forged with POs, communities and even local governments. There is always the danger that privileges and benefits are captured by the leaders or local elite, especially in the absence of regular monitoring. Thus a key question for study is whether the improved tenure actually leads to improvements in family livelihoods.
- **DENR to complete the inventory of all forest-dwellers, along with their tenure status.** Also, conduct an inventory of all remaining lands in the public domain (outside of ancestral domains and claims) that are suitable for agriculture and can be redistributed under agrarian reform.
- **Address the issue of future tenure security for ISF/CBFMA holders** whose 25-year leases have expired and have not been renewed. Who decides which CBFM areas would continue? What would happen to those whose agreements are ended, particularly in relation to the tenure security and livelihoods of forest dwellers? What compensation would be given to them?
- **For government and civil society to ensure the participation of organizational representatives on non-IP forest dwellers** in decision-making bodies, as well as in dialogues, fora, and discussions. ■

[18] DENR AO 96-29 is entitled "Rules and Regulations for the Implementation of Executive Order 263, otherwise known as the Community-Based Forest Management Strategy (CBFMS)."

Cited references:

Department of Environment and Natural Resources (DENR). (2015). *DENR-CARP Status of Land Distribution Public A and D Lands (Agricultural)*. [Data Set]. Quezon City: DENR

DENR. (2016a). *Physical accomplishment report (1983-2000): CSC/CBFMA issuances.* [Data set].

DENR. (2016b). *2016 Philippine Forestry Statistics.* Retrieved from https://drive.google.com/file/d/0B1G5mTNoDPOFSTgzVEJicm5OV2s/view.

Esplana, M. and Quizon, A. (2017). *Status of Tenure Reform in Public Lands under the Comprehensive Agrarian Reform Program*. Asian NGO Coalition. March 2017. Manuscript.

Fortenbacher, D., & Alave, K. (2014). *Upland Agriculture in the Philippines.* Manila Philippines: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

Pulhin, J.M., Dizon, J. T., Cruz, R. O., Gevaña, D. T., and Dahal, G. R. (2008). *Tenure reforms on Philippine forest lands: Assessment of socio-economic and environmental impacts.* Los Baños, Laguna: College of Forestry and Natural Resources, University of the Philippines Los Baños (CFNR-UPLB).

Manobo children getting ready for a harvest ritual.
Photo by Dave de Vera

5.0 Recognition of indigenous peoples' ancestral domains

Indigenous peoples in the Philippines. The vast majority of the estimated 12-15 million indigenous peoples (IPs) in the Philippines reside in the uplands with the remaining biodiverse ecosystems which they claim as part of their ancestral domains. Out of the 128 initially identified key biodiversity areas, 96 sites or 75 percent are within the traditional territories of IPs. Most indigenous communities, however, do not have legal recognition over their traditional lands, thus limiting their ability to freely conduct their livelihood activities and exercise their traditional resource management.

This diversity is also reflected in the country's people, consisting of various ethnic groups. There are an estimated 171 languages in the Philippines, of which 168 are living languages and three are extinct. (Grimes, ed., 1992) The numbers also represent the different cultural entities that speak these languages. Successive colonization divided the Philippine population into those who acquired power from colonization and those who lost power because they avoided colonization. The "indigenous peoples" were thus separated from the rest of the population to form a minority.

The NCIP estimates the population of indigenous peoples in the Philippines at between 12 and 15 million distributed into approximately 110 different ethno-linguistic groups or "cultural communities."

Relationship of indigenous peoples to land. Most indigenous Filipinos still live on or near their ancestral lands, which provide them with their livelihoods and help them define their identity. Indigenous peoples still adhere to the traditional view of communal ownership in regard to most of their resources, which include not only the small patches of land that serve as individual farm lots, but also the forest resources found within their ancestral domains. What essentially distinguishes the indigenous

peoples from the rest of the population is their concept of land as granted and entrusted by one Creator for everyone to harness, cultivate, sustain, and live on. This concept is distinct because it adheres to the spirit of collectivism and rejects the notion of land as private property.

The more traditional communities tend to allocate more land for communal use, devoted to controlled activities, i.e. sacred areas, conservation areas, etc. The less traditional the community becomes, individual land ownership increases, and zones designated for communal use decreases. Individual ownership gives a wider latitude to allow investments to enter and even initiate land use conversion. Hence, the demand by indigenous cultural communities (ICCs) is for the recognition of communal ownership, as individualizing ownership of the domain will lead to fragmentation of the community.[19]

Historical overview of indigenous peoples' land issues and the advent of tenurial reforms

Customary tenure. Prior to Spanish colonization, early Filipinos already had fairly developed indigenous property laws and customs for more than 20,000 years (Lynch, 1982). Customary tenure systems were often based on traditional norms and defined oral agreements, and many of these land systems continue to this day.

Commonwealth laws. During the American colonial government, Commonwealth Act 141 was enacted in 1936. It provided for the classification of public lands into "alienable and disposable" lands, "timber" lands, and "mineral" lands. The latter two types of lands are subject to alienation by the State but only through lease. Concerning ancestral lands, Section 44 of the same law (Chapter VII on Free Patents) as amended in 1964 by RA 3872, provided for members of national cultural minorities to be granted free patents over land, whether disposable or not, on condition that they have "continuously occupied and cultivated, either by himself or through his predecessors-in-interest, a tract or tracts of land, whether disposable or not since July 4, 1955." However, little is known if any "cultural minority" actually benefitted from this provision.

Commonwealth Act 141 also had provisions that governed the reservations for the settlement of tribal peoples. A Bureau of Non-Christian Tribes (BNCT) was

[19] Report of IP leaders, Workshop on Land Ownership, UP University Hotel, 17 May 2017.

established to oversee the resolution of the land issues raised by the "savages" or the non-Christian population. The BNCT took the lead in determining areas suitable for establishing non-Christian reservations whose extents were usually smaller in area than the actual ancestral domains of the indigenous community and did not include the hunting grounds and other communally owned and managed areas of the indigenous community. Little is known or documented regarding the participation of the indigenous communities in the establishment of reservations.

The advent of tenure reforms. Following the Second World War, the rising demand for resources exacted its toll on the Philippines as large-scale logging increased in order to meet the demand for timber in Japan and the United States of America. This had a devastating impact on indigenous communities who were dependent on forest resources. The Philippines lost some 9.8 million hectares of its forests from 1934 to 1988. (Liu, et. al., 1993) Roads opened by logging concessions led to the entry of migrants into the ancestral domains of indigenous communities. And as logging and encroachment reached alarming levels, indigenous communities began to agitate for land tenure reform.

Ikalahan Memorandum of Agreement No. 01 (1974). The Ikalahan communities of Imugan, Unib, Baracbac and Malico were the pioneers in the struggle to gain legal recognition and land tenure security over their ancestral lands in the Philippines. In 1974, they successfully negotiated for Memorandum of Agreement (MOA) No. 01, which legally recognized them as the stewards and managers of some 16,500 hectares of forested land. Ikalahan communities gained exclusive access to the area, although primary governance was still exercised by the government. Provisions in the MOA included the recognition of traditional land allocation, and decriminalization of the harvesting of forest resources for as long as these are for internal and individual use. This landmark agreement ushered in a new paradigm shift in defining policy for the traditional rights of indigenous peoples in public domains. The agreement had a term limit of 25 years, renewable at the option of both parties.

Integrated Forestry Program or LOI 1248. The government later began to acknowledge the role of local people in the management and protection of forestlands and resources. Letter of Instruction 1260 issued in 1982 by then President Marcos, created the ISFP. The ISFP granted stewardship agreements to qualified individuals and communities allowing them to continue occupation (access rights) and cultivation of upland areas (use and management rights), which in turn required them to protect and reforest the area. The program provided security of tenure for a period of 25 years, renewable for another 25

years, through a CSC for individuals or CCFS for indigenous communities. At least 34 indigenous communities opted to participate in the ISFP to secure a CCFS. This program appealed to many indigenous communities as it acknowledged a measure of their traditional and customary tenure practices.

However, the CCFS applied only to areas defined as part of the forest zone, and its coverage was defined through negotiations with the DENR. It covered individual and communally owned and managed areas but was limited to areas that had no other existing tenurial instrument; protected areas and parks were exempted from coverage. Resource utilization was limited to actual local use and local consumption, and harvestable resources were strictly regulated by the DENR.

DENR Administrative Order 02 – Recognition of ancestral lands and domains. In compliance with the 1987 Constitutional provision on the recognition of ancestral domains, the DENR issued AO No. 2, Series of 1993. The order stipulates the rules and regulations for the identification, delineation and recognition of ancestral land and domain claims. Provincial Special Task Forces on Ancestral Domains (PSTFAD) were created to initiate the process of verifying and processing the ancestral domain claims of indigenous communities. CADCs were issued to claims filed by indigenous communities and verified in a process of validation facilitated by the PSTFAD.

As a tenure instrument, a CADC is a "recognition certificate" issued in the names of the nominated IP representatives who hold the CADC in trust in behalf of the community. It has no fixed term and can include and cover all areas that the applicant community can prove to be part of their ancestral lands or domains since time immemorial, including inland and offshore bodies of water. And unlike earlier land tenure arrangements, the CADC recognizes the traditional leadership structure of the indigenous community to exercise governance. However, rules and policies especially on resource utilization are still subject to the "legal framework" of national laws.

The Indigenous Peoples' Rights Act of 1997. Due to the continuous and sustained lobbying efforts and advocacy of indigenous peoples' organizations and their support groups, the landmark IPRA was enacted in 1997 to recognize, protect and promote the rights of indigenous peoples. Provisions include:

Recognition of ownership rights. IPRA goes beyond the past contract-based resource management agreements between the State and the community, and recognizes the "ownership" of the indigenous communities over their traditional

territories which include land, bodies of water and all other natural resources therein.

IPRA provides for a process of titling of lands through the issuance of CADTs. The law gave jurisdiction of all ancestral domain claims to the NCIP, including those previously awarded by the DENR and all future claims that shall be filed.

The basis for filing new claims include the submission of a valid perimeter map, evidence and proof, and the accomplishment of an Ancestral Domain Sustainable Development and Protection Plan (ADSDPP). All existing ancestral domain claims previously recognized through the issuance of claims (CADCs) are required to pass through a process of affirmation for titling.

CADTs (and CALTs) are ownership tenurial instruments issued and awarded to an applicant community or clan. The effectivity of these tenurial instruments has no term limits and representatives chosen by the community act as holders of the CADT in trust in behalf of the concerned indigenous community.

Coverage of ancestral domains. The definition of ancestral domains covers forests, pastures, residential and agricultural lands, hunting grounds, worship and burial areas, and includes lands no longer occupied exclusively by indigenous cultural communities, but to which they had traditional access, particularly the home ranges of indigenous cultural communities who are still nomadic or shifting cultivators. (IPRA, Chapter 3, Section 3-a)

Principle of self-delineation. IPRA provides for indigenous communities to document and delineate their own ancestral domain claims, and to formulate their own sustainable development and management plans (ADSDPPs), based on their indigenous knowledge systems and practices. Very strict rules of survey and delineation are prescribed by IPRA. Survey grade accuracy is required in the delineation of CADT claims, and surveys should be undertaken only by a licensed geodetic engineer.

A claim for ancestral domain may include terrestrial, coastal and aquatic resources, and airspace – depending on the ability of the applicant-community to generate the required body of evidence and proof. Access is limited to the certified members of the indigenous community or clan who are listed in an official survey, which is part of the documentation of the claim. Migrants or non-IPs may be included if they are recognized and given limited rights as community members through the land tenure and allocation policies as defined in the respective ADSDPPs.

Rights to traditional governance. IPRA respects the community's right to traditionally manage, control, use, protect and develop their ancestral domains, but subject to "consistency" with national laws. The allowable resource utilization includes the right to enjoy the benefits of resources subject to existing national laws on natural resource use and exploitation. The appropriate traditional leadership structure of the indigenous community exercises governance over the CADT. However, the local rules and policies are subject to the "legal framework" of existing national laws. Access and utilization of all natural resources within the coverage of the CADT will require FPIC from the concerned indigenous community.

Implementation of IPRA and its outcomes

Early years. In its first three years of existence, the NCIP was not able to issue a single CADT; rather, it certified community consent for dozens of mining applications, an act which it had no legal power to effect under the IPRA. Initial findings of the Office of the President's Performance Audit reveal that the NCIP was ill-equipped, the staff poorly trained and lacking field experience or appropriate cultural sensitivity to handle land conflicts and issues of resource access affecting indigenous communities.

The Arroyo administration, through the NCIP, committed to fully implement the IPRA and promised to issue at least 100 domain titles by mid-2002. However, the annual budgetary allocations for the NCIP and its ancestral domain management activities remained at a paltry average of 0.07 percent of the national budget. Moreover, the situation did not improve, as the trend in budgetary allocation for Government services towards ancestral domain titling and community resources management continued to decrease. (IFAD, 2001)

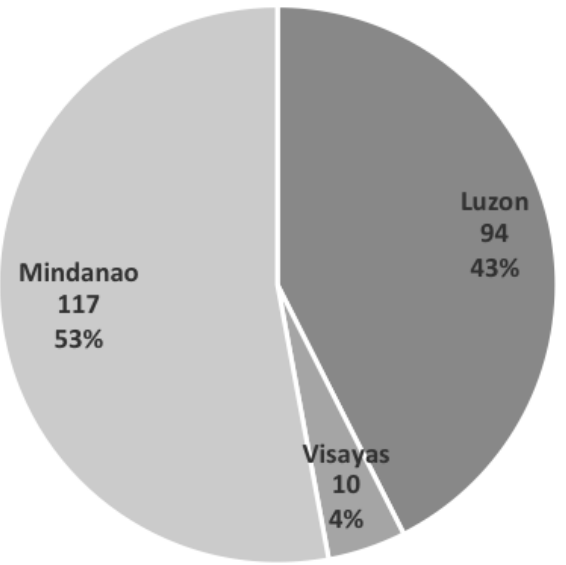
IPRA after 20 years. As of 2018, a total of 221 CADTs have been approved, covering a total area of 5,413,773 hectares of ancestral lands and waters. Some 1,206,026 individuals have directly benefitted from the tenurial security afforded by the approval of the CADTs.

Some 53 percent, or more than half (117) of the CADTs approved are in Mindanao, while 94 CADTs (43 percent) are in Luzon and 10 CADTs (5 percent) are in the Visayas.

Distribution of Direct Beneficiaries. The bulk of the indigenous peoples who directly benefitted from the approval of the CADTs came from Mindanao where a total of 687,448 IPs comprising 55 percent of the total.

Issuance of CADTs. From 2002 to 2010, 156 CADTs were approved. In these eight years, an average of 19.5 CADTs were approved per year. This figure dropped drastically in the next seven years to 9.2 CADTs/year, from 2011 to 2018, when only 65 titles were approved.

Figure 7. Approved CADTs in Luzon, Visayas, and Mindanao.



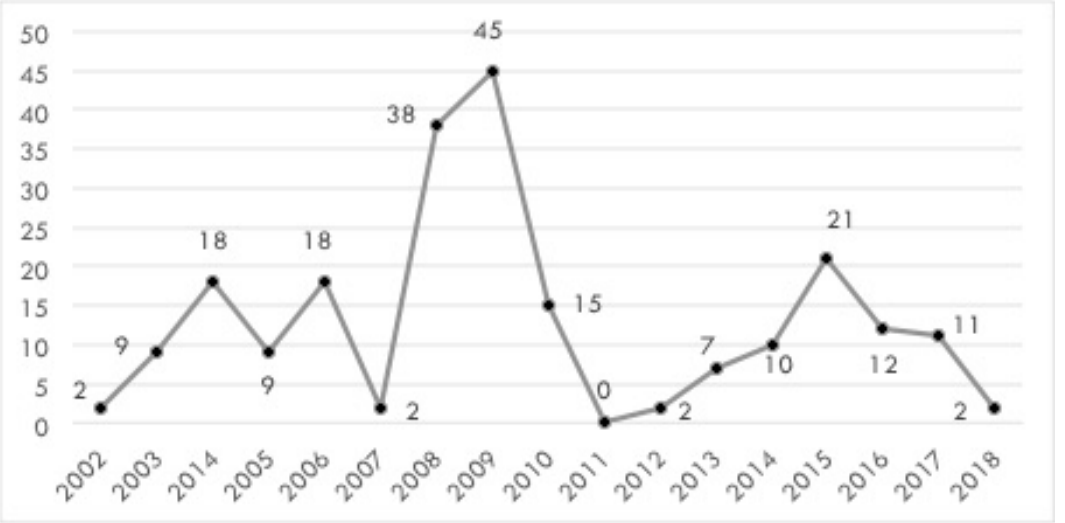
Source: NCIP, 2018

Reasons for decline. Several reasons can be cited for the noticeable drop in the approval of CADTs starting in 2011: *One:* In 2011, the NCIP initiated the drafting of the NCIP Administrative Order 4 of 2012, or the Revised Omnibus Rules on Survey and Delineation – in order to improve the efficiency of the survey and delineation process, increase safeguards against fraudulent claims and ensure the legality and acceptability of NCIP surveys. But during the review and drafting process, all CADT applications were held in abeyance.[20] *Two:* The delayed processing of CADT applications due to the non-compliance of NCIP personnel to the regular processes and the approved Work and Financial Plans (WFP) of the CADT applications. In the COA Audit Review of NCIP performance for 2011, the COA stated, that "the process of CADT application was not in consonance with the approved WFP, this resulted in the delayed processing of CADT application which deprived the IPs of their rights provided for in Sec. 7, of the IPRA" (COA, 2011).

Targets, accomplishments and delays. The approval rate of CADTs has been commendable at 80 percent of annual target over the past four years (no data was available for 2014). This may be attributed to several factors, including: increase in funding, and increased personnel skills and familiarity with the rules and processes of CADT applications. However, while the NCIP reported that it exceeded its CADT target for 2016 with a 109 percent accomplishment rate, the

[20] Interview with Commissioner C. Calzadao, 19 June 2018, UP University Hotel

Figure 8. Issuance of Certificates of Ancestral Domain Titles (CADTs), 2002-2018.



Source: Commission on Audit, Executive Summary: COA NCIP Annual Audit Reports, various years.

COA Audit Team noted in its report, "the CADT processing was very slow and was in violation of the prescribed rules under the Omnibus rules on delineation. The duration of the CADT applications ranged from 1 year and 7 months to 15 years relative to its approval resulting into delay in securing the right of ownership over their AD (ancestral domain)" (COA, 2016).

In 2017, although the NCIP reported that it fully accomplished its targets, the COA once again noted in its Report that "the delayed implementation of the delineation of the Ancestral Domain Title as provided for in the NCIP AO 4, Series of 2012 or Revised Omnibus Rules on Survey and Delineation of Ancestral Domains, deprived the protection of rights on the possession and ownership of their ancestral domains" (COA, 2017).

Policy issues affecting the issuance of CADTs

Table 13. NCIP targets and accomplishments on CADTs approved, 2013-2017.

Year	Number of CADTs Approved		Completed CADTs as % of Target
	Target	Completed	
2013	12	7	58
2015	29	21	72
2016	11	12	109
2017	11	11	100
Total	**63**	**51**	**80**

Source: Commission on Audit, Executive Summary: COA NCIP Annual Audit Reports, various years.

Effect of JAO No. 01 of 2012. In 2011, a Joint Task Force was established among the DAR, DENR, NCIP and the LRA. The main objective was to resolve overlaps in jurisdictional and policy mandates among the respective government organizations.

In January 2012, JAO 01-2012 was issued, establishing the mechanisms to prevent and resolve the contentious areas and issues at the national and field levels. The LRA is the agency overseeing the ROD, the government office that administers the Torrens system of registration of real estate ownership in the country and judicially confirms and records all land titles in government archives.

The purpose of the JAO is to facilitate and coordinate the process of registration of the Ancestral Domain/Land titles issued by NCIP with the other titling agencies: DENR-LMB, DAR and DOJ-LRA – to avoid the overlap of titles under the registration regime and to comply with section 56 of IPRA to respect prior, existing rights within ancestral domains.

The main concern of the JAO is to prescribe a process for the preparation of the map projection to identify titled lands, which might overlap with CADT/CALTs. This information is only available and under the technical jurisdiction of the DENR-LMB. The JAO covers all land, tenurial and utilization instruments that are issued by the DAR, DENR and the NCIP and the registration thereof by the LRA.

However, the implementation of JAO 1-2012 has been marred by government inertia, ambiguity of who takes the lead and the limited capacity of frontline implementors of the respective agencies to perform their expected duties as outlined.

The guidelines set forth in the JAO for the preparation of map projections was a main objective to streamline the process of CADT/CALT registrations. However, rather than facilitate the preparation of map projections, the JAO has resulted in a bureaucratic gridlock that has impeded the registration of ancestral domains by withholding the necessary information from the NCIP and thereby blocking the registration process with the LRA.

The net effect of the JAO has been injurious to the rights of IP communities. The JAO has created a regime which frustrates the registration of CADT/CALTs with the local ROD rather than facilitates it. It is worth noting that since the approval of JAO 1-2012, no CADT/CALTs throughout the country has been registered under it.

The JAO has resulted in the further marginalization of indigenous peoples. The IPs still are struggling to come up with strategies to resolve these agency-jurisdiction contested areas, realize the registration of their CADT and finally have the CADT awarded. This should not be the case if the JAO was functional. Rather, the affected IPs should be able to devote their energy and time to positive activities – i.e., improving their management over their CADT, developing their ancestral domain and livelihoods, and addressing existing threats of encroachment of illegal logging in forested areas and illegal cattle pastures in grasslands.

The non-registration of CADTs has fostered a negative attitude among local governments and national agencies to question ancestral domain rights. The never-ending prolonging of the registration and awarding of the CADT has undermined the indigenous people's rights to ancestral domain. It has encouraged the other groups and government agencies to disregard or selectively respect the rights of the IPs to their CADT area.

Out of the 221 approved CADTs to date, only 50 have so far been registered under LRA.

Uncertainty in ARMM. Since NCIP's inception in 1998, a representative of the Central Mindanao Ethnographic Region has been appointed to the NCIP. The jurisdiction of this commissioner includes several provinces and a city of the Autonomous Region of Muslim Mindanao (ARMM). However, no CADT application from the ARMM has been processed and approved by the NCIP. This is mainly due to the uncertainty and potential conflict of jurisdiction between the NCIP and the ARMM Government. As a result, thousands of indigenous Teduray, Lambangian and Manobo communities have not been able to secure CADTs over their ancestral domains. It is only in the past two years that the NCIP has taken the initiative to support the CADT claim of the Teduray-Lambangian ancestral domain claimants in South Upi, Maguindanao.

Emerging policy issues and threats

Expansion of Special Economic Zones. Special Economic Zones or ecozones consist of selected areas in the country that are transformed into highly developed agro-industrial, tourist/recreational, commercial, banking, investment, and financial centers, and where highly trained workers and efficient services will be made available to commercial enterprises.

The first ecozones in the country were established in ancestral domains. As in the case of the Mining Act, new and more powerful governance structures and planning modalities were put in place, which supplanted the existing traditional leadership structures and resource management arrangements of the affected indigenous communities. Moreover, these new ecozones did not recognize the rights and ownership of the IPs of their ancestral domains.

The Philippine Export Zone Authority (PEZA) has declared that it will pursue the establishment of at least 300 new ecozones Philippines. These ecozones will have an area ranging from 1,000 hectares up to 4,000 hectares. A cursory review of the proposed sites of ecozones shows the potential impact these will have on the land tenure of indigenous peoples.

Climate change impacts on ancestral domains. The ancestral domains of the indigenous peoples are in places marked by extreme physical and ecological conditions, covering areas from mountain ridges to reefs. Most of these areas are in high-risk zones with ecosystems that are highly sensitive to the slightest changes in climate. Over the past decade, indigenous communities have noticed extreme changes in the weather patterns that have affected their livelihoods. Traditional indicators for the start of the planting seasons have gone into disarray. The prolonged droughts and sometimes very early rains coupled with extreme typhoons have had a serious impact on the lives of many indigenous communities in the country.

Expansion of investments and mining. The bulk of the last remaining forests, natural resources and environmentally critical areas, which provide essential ecosystem services such as watersheds, are within ancestral domains. These resource-rich areas are often targeted for exploitation by investors. The staggering number of mining applications in ancestral domains attests to this fact. The emergent trend of large-scale agricultural investments in Palawan and Central Mindanao also threaten the tenurial security, access and control of indigenous communities over their ancestral domains. While some indigenous communities may have the wherewithal to engage big business, an overwhelming majority of communities do not have the capacity to actively challenge and engage those who have interest over their lands.

2015 Supreme Court decision. The 2015 Supreme Court (SC) decision on the Aberasturi vs. Unduran et.al. case could have a profound impact on the implementation of IPRA. The SC decision has effectively clipped the ability of the

NCIP to assert its quasi-judicial authority in the resolution of conflicts involving indigenous peoples and non-indigenous opponents. Citing their experiences, many IPs do not see a level playing field in the Regular Courts.

Conclusion

Some 18 percent of the total land area of the Philippines are now covered by CADTs and are considered legally owned and governed by indigenous peoples. This is by far the most commendable accomplishment of IPRA in the past 20 years. No other country in the world can lay claim to a similar accomplishment. This was achieved with very limited resources and deserves commendation.

While CADTs have been issued, many ICCs still face the problem of confronting migrants and other powerful interest groups who are in-situ or aim to utilize their ancestral domains. In many instances, the CADT holders are not able to exercise and enforce their traditional governance over their ancestral domains thus rendering the CADT as a worthless piece of paper. The IPRA is one of the most progressive asset reform laws enacted. It challenges the Regalian Doctrine, which is the bedrock of land jurisprudence in the country.

However, the NCIP's ability to deliver the promise of IPRA has been severely hampered by other policy issuances and/or agreements that clearly dilute the authority that has already been vested in the NCIP by IPRA. The case of JAO 01 and its impact on the titling process clearly illustrates this point.

However, a lot of work needs to be done to further streamline the process of the survey and delineation of ancestral domains. The current delineation process is expensive, long and tedious, focuses more on the technical acceptability of spatial data, and most often leaves very little participation to the affected communities, and rarely accommodates critical spatial information from the perspective of the local people.

For IPs, land rights are associated with territory and de facto rights to traditional self-governance that go beyond private property and legal titles. The ultimate measure of land rights is self-governance.

Recommendations

- **The NCIP should have the political will to assert the authority granted it by the IPRA.** It should not give up its authority merely based on ensuring

harmony with other government agencies. The IPRA is a special law and rightfully challenges the status quo in order to correct the centuries of injustice suffered by the IPs. The NCIP should take the lead in challenging the national legal system. The very basis of the IPRA is the Native Title, which in itself is already a strong message that IPRA does not recognize the Regalian Doctrine.

- **This study supports and reiterates the recommendations of the COA Audit team, which in its report in 2017 recommended that the NCIP:** (a) revisit the omnibus rules on the recognition and titling of ancestral domains/land on the process flow of delineation; (b) formulate policies to expedite the compliance of the concerned provincial offices to the delayed implementation on the delineation and recognition of ancestral domain/ land titles; and, (c) the submission of the necessary reports so as not to further delay the issuance of a CADT. (COA, 2017)

- **In this regard, equal effort and resources should be allocated to the strengthening of the capacities of communities to active and effectively engage other stakeholders.** This shall enable the communities to effectively enforce their traditional governance over their ancestral lands and domains. ■

Cited references:

Commission on Audit (COA). *Executive Summary*. COA NCIP Annual Audit Report Executive Summary. For various years, 2002-2017. Retrieved from: https://www.coa.gov.ph/phocadownloadpap/userupload/annual_audit_report/NGAs/2011/National-Government-Sector/Office-of-the-pres/NCIP.

Department of Environment and Natural Resources (DENR). (1992). *DENR Administrative Order 2, Series of 1993*. Metro Manila: DENR, Republic of the Philippines.

Grimes, B. F. ed. (1992). "The Philippines" in *Ethnologue: Languages of the World, 12th ed.* Dallas, Texas: Summer Institute of Linguistics. p. 61.

International Fund for Agricultural Development (IFAD). (2001). *Rural Poverty Report 2001: The Challenge of Ending Rural Poverty.* Rome: IFAD.

Liu, D. S., Iverson, L. R., and Brown, S. (1993). "Rates and Patterns of Deforestation in the Philippines: Application of Geographic Information System Analysis." In *Forest Ecology and Management*, 57: 1-16. Amsterdam: Elsevier Science Publishers.

Lynch, Jr. O. J. (1982). "Native Title, Private Right and Tribal Land: An Introductory Survey." In *Philippine Law Journal*, pp. 268-306.

National Commission on Indigenous Peoples (NCIP). (2018). *Distribution of approved CADTs Nationwide*. Quezon City: NCIP. [Data set].

Republic of the Philippines. (1992). *Republic Act No. 8371: Indigenous People's Rights Act*. Metro Manila: Congress of the Philippines.

A young fisher in Marihatag, Surigao del Sur.
Photo by NFR

6.0 Tenure reform in fisheries and aquatic resources

Fisheries is an important industry and a source of livelihood in the Philippines. The country has 2,200,000 square kilometers of territorial waters including its Exclusive Economic Zone (EEZ), and a coastline length of 36,289 kilometers. Territorial waters consist of 266,000 square kilometers of coastal area, and 1,934,000 square kilometers of oceanic area. The coral reef area (within 10-20 fathoms where reef fisheries occur) covers some 27,000 square kilometers. Inland waters where small-scale fishers are also located, include swamplands, lakes, rivers and reservoirs that cover a combined area of 5,460 square kilometers (or 546,000 hectares). In 2015, the country ranked 9th among the top fish producing countries in the world, and 11th in aquaculture production (BFAR, 2015).

The Fisheries Profile of 2015 published by the Bureau of Fisheries and Aquatic Resources (BFAR) shows that municipal fisheries account for 26 percent of total fish production. Municipal fisheries refer to fishing activities in municipal waters (inland waters or within 15-kilometer from the coasts) that use fishing vessels of three gross tons or less, or fishing not requiring the use of fishing vessels (Fisheries Code, Sections 52-53). Meanwhile, aquaculture and commercial fisheries accounted for 51 percent and 23 percent, respectively, of total fish production. Overall, the fishing industry accounts for some 1.3 percent of the country's GDP.

The 2002 Census for Fisheries showed that the municipal fisheries sector accounted for 85 percent of all fishing operators nationwide. The rest (15 percent) are employed in the commercial and aquaculture sectors. The latest figures from the Fisheries Registration System of BFAR meanwhile show that there are some 1.93 million registered municipal fishers and some 202,000 registered boats as of April 2018.

Municipal fisherfolk are distributed fairly evenly across all regions of the country, based on their respective fishery resources and populations, except for inland regions (CAR and NCR). Among all regions, the ARMM

has the highest fisherfolk population (253,000) which accounts for 13 percent of the total.

However, as a sector, small or municipal fisherfolk rank among the poorest of the poor, where 34.3 percent live below the poverty line – a figure close to the poverty incidence among farmers at 34.0 percent. This was much higher than the country's poverty incidence of 21.6 percent for 2015. Fisherfolk and farmers consistently registered as the two sectors with the highest poverty incidence in 2006, 2009 and 2012 (PSA, 2017).

Fisherfolk issues and the need for tenure reforms. As early as the 1980s, there were reports that fishery resources and fish catch were being depleted due to continued environmental degradation of the coastal system. Coral reefs, mangroves and seagrasses were all degraded, contributing to low fish catch for fishers. The causes included destructive fishing practices, siltation from upland areas, poor agricultural practices and inappropriate land use activities in coastal watersheds (Ferrer, et. al., 1996).

Fisherfolk communities continued to be marginalized as shown by low incomes and limited capital for improving fishing gears, venturing into fisheries-related livelihoods other than catching; markets controlled by few middlemen which affected prices of the produce; limited access to basic services; lack of tenurial instruments that would protect settlements of coastal dwellers; malnutrition and lack of health facilities; and, violence and discrimination against women (non-valuation of productive work or contribution to fishing or farming, multiple burden, lack of opportunities for development).

Enforcement of fishery laws and policies has been weak resulting in intrusion of commercial fishing vessels inside the municipal waters; poaching in marine protected areas; rampant use of illegal fishing gears and practices such as dynamite and poisonous/noxious substances; continued conversion of mangrove forest into fishpond areas; and, illegal wildlife trade.

Environmental degradation and related issues further plague the sector. These problems include among others: conversion of coastal habitats for tourism and development-related facilities; siltation due to soil erosion; overfishing; and, destructive fishing practices.

In 1994, several CSOs and fisherfolk organizations initiated the crafting of a new Fisheries Code to address issues such as overfishing, lack of tenurial security, and resource degradation due to illegal and destructive fishing.

Philippine Fisheries Code

The Philippine Fisheries Code (RA 8550) was passed in 1998, after years of lobbying by civil society organizations working with the fisheries sector. The Code sets food security as the overriding consideration in the utilization, management, conservation and protection of the fishery resources.

Among the Code's multiple objectives are: (1) conservation, protection and sustained management of fishery and aquatic resources; (2) poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk; and, (3) improved productivity in the industry through aquaculture, optimal utilization of offshore and deep-sea resources, and upgrading of post-harvest technology.

Fishery tenure reforms. In terms of instituting tenure reforms, the Fisheries Code has certain provisions that need to be highlighted:

- *Local governance over municipal waters.* LGUs are given jurisdiction over municipal waters as defined by the Code. LGUs in consultation with the Fisheries and Aquatic Resource Management Councils (FARMCs) are given responsibility for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters. FARMCs are to be formed by fisherfolk organizations and NGOs in the locality and assisted by the LGUs and other government entities. In the case of bays and lakes which straddle several municipalities and cities, the LGUs which share or border such resources may group themselves and coordinate with each other to achieve the objectives of integrated fishery resource management.
- *Preferential access.* The Code limits access to fishery and aquatic resources in the country to Filipino citizens and gives small fisherfolk and their organizations the preferential use of municipal waters. Municipal waters are defined to include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586 (NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also coastal marine waters within 15-kilometer from the shore. Commercial-scale fishing is not allowed in municipal waters, except in special cases where they are given municipal permits, and only in waters over 10 kilometers from the shore with a depth of at least seven fathoms (12.8 meters).
- *Fisherfolk organizations/cooperatives whose members are listed in the registry of municipal fisherfolk, may be granted use of demarcated fishery areas to*

engage in fish capture, mariculture and/or fish farming. Such registry will be updated annually and shall be available for public inspection.

- *Fisherfolk settlements.* Section 108 of the Code mandates the creation of fisherfolk settlement areas, to be located in certain areas of the public domain, near fishery areas.
- *Protection of fishworkers.* Fishworkers in commercial fishing are entitled to the benefits and privileges accorded to other workers under the Labor Code and other laws or social legislation for workers.
- *Support services to municipal fisherfolk***.** BFAR and the LGUs are to provide support to municipal fisherfolk through appropriate technology and research, credit, production and marketing assistance and other services such as training supplementary livelihood.

Civil society review of RA 8550. In anticipation of the possible mandatory review of RA 8550, in 2004 the NGOs for Fisheries Reform (NFR) conducted consultations to critically analyze the contents of the law and to draw up recommendations. Some of these were:[21]

- *On Declaration of Policy:* from "to achieve food security as the overriding consideration…" to *"to ensure the sustainability of the country's fisheries and aquatic resources that will guarantee food security"*
- *On Definition of Fisherfolk:* from "people directly or personally and physically engaged…" to "*men and women directly or personally and physically engaged…"*
- *On Definition of Municipal Waters:* to include the phrase "*where the territory of a municipality includes several islands, the outer most points of such islands shall be used as base points and connected by archipelagic baselines, irrespective of the lengths of such baselines from the main coastline.*"
- *On Section 108 on Fisherfolk Settlement Areas:* The NFR drafted a proposed revision that would require that certain areas of the public domain, specifically near the fishing grounds, be reserved for the settlement of the municipal fisherfolk. But in the absence thereof, that Fisherfolk Settlement areas shall be established on private lands, subject to the payment of just compensation. Preference shall be given primarily to municipal fisherfolk who are members of fisherfolk cooperatives and organizations. Moreover, the NFR recommended that the DENR in consultation with the LGUs shall prepare an inventory of lands in the public domain along coastal areas for fisherfolk settlements. The proposal also sought to protect municipal fisherfolk against eviction and demolition, unless several safeguards were met, including proper resettlement.

[21] Note: NFR proposals are highlighted in italics.

When the mandatory review did not happen on the fifth year of the Fisheries Code, NFR and its partner organizations decided not to actively call for one as the mandatory review could also threaten the favorable provisions of the Code.

Related tenure reform policies. The Fisheries Code of 1998 highlights the principles of decentralized local governance, community-based resource management, and preference for smallholders in granting access and tenure rights to public domain areas on which their livelihoods depend. These are consistent with earlier laws and programs, specifically the Local Government Code of 1991 and Executive Order 263 of 1995 on CBFM.

Executive Order 263 establishes community-based forest management as the national strategy in recognition of indispensable role of local communities in forest protection, rehabilitation, development and management. Participating organized communities are granted access to forestland resources under long-term tenurial agreements (25 years, renewable for another 25 years) using environment-friendly and sustainable harvesting methods as stipulated in a site-specific management plan. Mangroves, as part of forest resources, may also be covered by CBFM agreements that can be availed by organized fisherfolk communities.

BFAR Fisheries Administrative Order 197-1 of 2000 gives preference to fisherfolk organizations as well as micro, small and medium enterprises (MSMEs) in the lease of public lands for fishponds and mangrove-friendly aquaculture through the issuance of FLAs and MASCs. Among the notable terms of the leases are annual rentals to be paid by the lessee to the government, and the required production quotas (in kilograms per hectare). Leases may be cancelled on grounds that include: violation of fishery laws, non-adherence to good aquaculture practices, sub-leasing or development of the area for other purposes, as well as abandonment, and non-development or underutilization of the area.

Republic Act 10654 of 2014 amended the Fishery Code strengthened measures to prevent and deter illegal, unreported and unregulated fishing. It increased the penalties for commercial fishing violators and poachers, and mandated the installation of monitoring, control and surveillance systems on all flagged Philippine fishing vessels.

Status of tenure reforms

Delineation of municipal waters. As the Fisheries Code gave municipal fishers priority access to the municipal waters, the delineation of the municipal waters is imperative to designate the exact areas where municipal fishers have preferential rights, and to establish violations of commercial fishing vessels, i.e. intrusion and illegal fishing in municipal waters.

However, in a meeting with BFAR on 14 August 2018, BFAR reported that of the country's 928 coastal municipalities, only 305 have delineated their municipal waters with certified maps. And of these 305 LGUs, only 67 have issued the required local ordinances thus completing the delineation process.

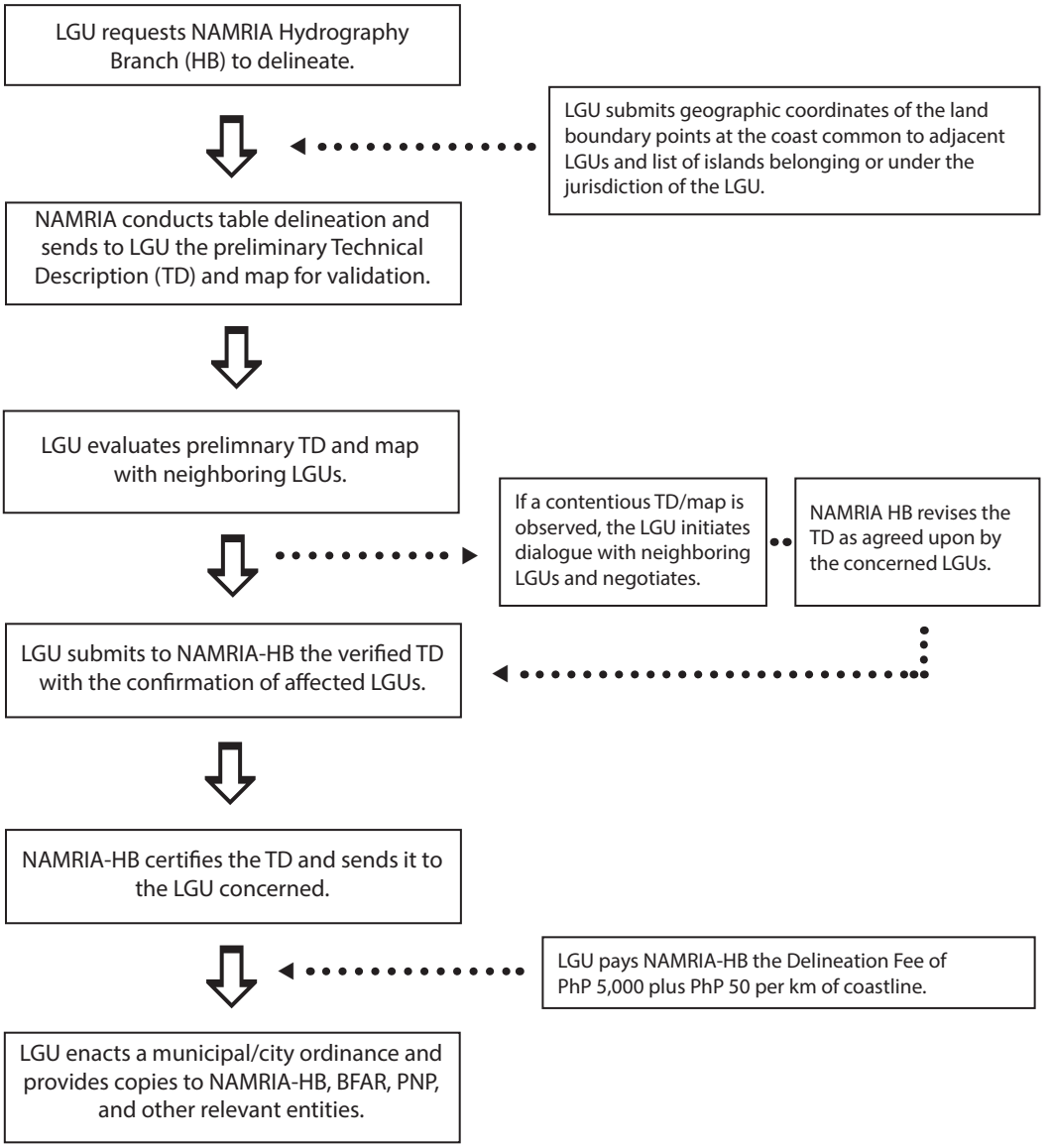
NAMRIA also mentioned in a meeting with legislators at the House of Representatives that as of 15 August 2018, some 263 local governments have not yet applied for municipal water delineation. The common problem encountered in completing the municipal water delineation is the establishment of the reckoning point, which is often contested by adjacent LGUs.

NAMRIA is the country's central mapping agency, depository, and distribution facility for natural resources data, and is the mandated agency under the Fisheries Code to lead in the delimitation and delineation of the municipal waters. However, while NAMRIA has completed the technical description of all coastal municipalities, these are often contested by the LGUs concerned as they are reluctant to concede control over disputed territory.

Thus, only 67 municipalities have completed their municipal water delineation with the enactment of a municipal ordinance, the last step of the process as shown in Figure 9. This last step is essential to firm up the legal basis for the delineation of municipal waters, and is vital for sustainable management, law enforcement, and the granting of preferential rights to municipal fisher within the 15-kilometer zone.

Fisherfolk settlements. While the Fisheries Code (Section 108) mandates the setting up of fisherfolk settlement areas, there are still no clear implementing rules and regulations on how this is to be achieved, in spite of lobbying efforts from fisherfolk organizations. Many fisherfolk settlements are located in foreshores and public lands with no security of tenure, facing the constant risk of eviction.

Figure 9. Flowchart of municipal waters delineation.



Fishery management areas. BFAR is implementing ecosystem approach to fishery management through the setting of FMAs. In FMAs, the important element is inter-LGU cooperation and designation of zones where access and control of fishers are regulated. Hence, FMAs can be implemented even in areas not yet delineated.

Preferential rights in the issuance of public lease agreements. One of the BFAR programs that can help secure the fisherfolks in the coastal areas is the provision of Fishpond Lease Agreements (FLAs). However, of the 403 listed aquaculture farms as of June 2018, only two were issued to fisherfolk organizations.

Meanwhile there were 11 FLAs issued to organizations since 1973 (BFAR, 2018c). Also, there were already six applications for Mangrove Aquasilviculture Contract (MASC) filed by applicants in BFAR, and four of these were in cancelled or expired FLAs. However, in a forum on abandoned fishponds, BFAR stated no MASC has been approved yet as of June 2018.

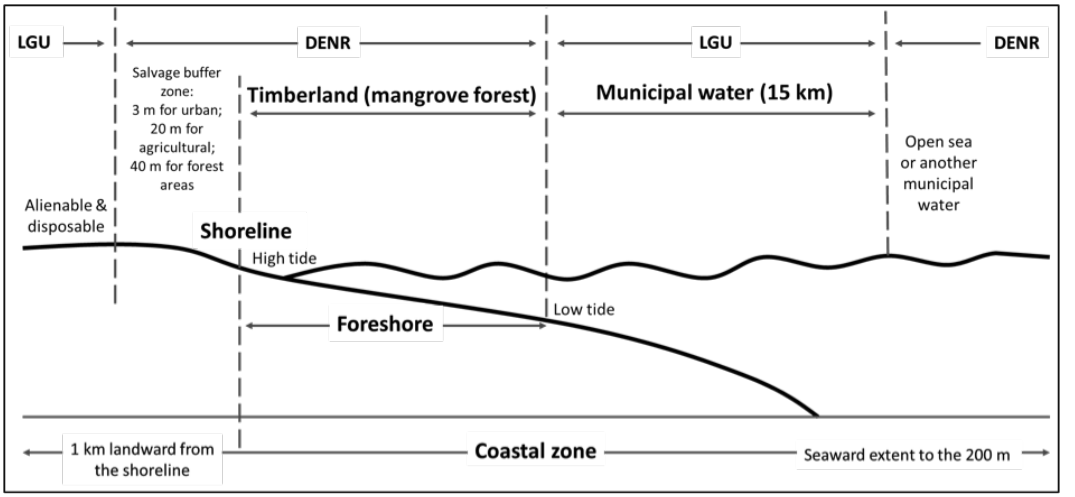
Table 14. Jurisdictions over coastal areas.

Agency	Role	Legal Provision
Department of Environment and Natural Resources (DENR)	Responsible over the survey and management of alienable and disposable public land, issuance of leases and permits, and over matters of forestry, mining and environmental concerns.	Commonwealth Act (CA) 141/ Executive Order (EO) 192
Department of Public Works and Highways (DPWH)	Responsible over cases involving construction and development along foreshore areas.	CA 141, Section 66
Philippine Ports Authority (PPA)	Issues permits regarding construction of piers/ports.	Presidential Decree (PD) 857
Bureau of Fisheries and Aquatic Resources (BFAR)	Issues or cancels Fishpond Lease Agreements.	Philippine Fisheries Code of 1998
Philippine Estates Authority (PEA) – now known as Philippine Reclamation Authority (PRA)	Responsible over activities pertaining to land reclamation.	EOs 525 and 654
Local Government Units (LGUs)	Regulates the construction and building activities and their uses covered by ordinances. Prepares comprehensive land use plans and zoning ordinances.	LGC 57, August 10, 1979 & Republic Act (RA) 7160
Housing and Land Use Regulatory Board (HLURB)	Promulgates zoning and land use standards and guidelines governing land use plans and zoning ordinances of LGUs.	EOs 648 and 72; and RA 7279

Bantay-Dagat ("sea guardian") is a community-based law enforcement program that engages fisherfolk in coastal villages on a volunteer basis to support the detection and enforcement of illegal fishing in coastal waters. Bantay-Dagat is mandated under Sec 158 of the amended Fisheries Code (RA 10654) which enables government officials and employees, barangay officers and members of fisherfolk associations who have undergone training on law enforcement to be designated by BFAR as deputy fish wardens in the enforcement of fishery laws, rules and regulations.

The National Greening Program (NGP). The NGP is a massive forest rehabilitation program of the government established by virtue of Executive Order No. 26

Figure 10. Jurisdiction over coastal zones and municipal waters.



Adapted from DENR-Land Management Bureau

issued by former President Benigno Aquino III in 2011. Implemented under DENR, the program seeks to grow 1.5 billion trees in 1.5 million hectares nationwide in six years (2011 to 2016). Areas eligible for rehabilitation under NGP include mangroves, beach forests and protected areas, where fisherfolk organizations can be contracted for forest rehabilitation. In 2015, through EO 193, the NGP was further expanded to cover the remaining unproductive, denuded and degraded forest land, and extended to 2028. The Master Plan for Forestry Development (2016-2028) seeks to encourage and enhance development of forest plantations, with greater participation from the private sector, government units, and organized communities.

However, instead of helping secure fisherfolk access and management of the coastal areas, the NGP sometimes leads to conflicts among fisherfolk organizations. There are cases where organizations close to DENR personnel tend to be favored with NGP contracts. Some reforestation projects are implemented by organizations from outside the barangays.

Issues and threats on fisherfolk access and tenure

Multiple, overlapping agency jurisdictions. There are several government agencies with jurisdiction over the coastal areas, particularly on foreshore and easement areas (LMB-DENR, 2018).

Thus, the coastal areas where fisherfolk live and work fall under the jurisdiction of different agencies of government.

This situation can be confusing to fisherfolk communities. Hence, fisherfolk communities need to understand the roles of these agencies in order to identify which government agency to approach regarding their concerns.

Overlapping rights over waters in ancestral domains. IPRA mandated the recognition and protection of the rights of indigenous cultural communities (ICCs) and indigenous peoples (IPs) to their ancestral domains, and the preservation and development of their cultures, traditions and institutions.

IPRA defines Ancestral Domains as "all areas generally belonging to ICCs/IPs comprising lands, *inland waters, coastal areas, and natural resources therein*, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors (...)" (emphasis supplied). The Certificate of Ancestral Domain Title (CADT) "refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with the law".

There are cases where the coverage of municipal waters as defined by the Local Government Code (LGC) and the Fisheries Code comes in direct conflict with the IPRA.

In Coron, Palawan the ancestral waters of the Tagbanwa indigenous people overlaps with the municipal waters under the local government of Coron. In 2002, the NCIP issued a CADT to the Tagbanwa people, formally recognizing their rights of possession over their ancestral domains identified and delineated in accordance with the rules of the IPRA.

Upon further review of the claim, the NCIP promulgated Administrative Order 1, series of 2002 that determined with finality the validity of the CADT. This served as a precedent for the recognition of two other CADT claims in Northern Palawan, which included substantial parts of municipal waters. The CADTs of the Tagbanwa communities in *barangays* Tara, Malawig and Buenavista covering at least 75,639 hectares was approved in 2010 but had not yet been awarded as of 2017 (De Vera and Zingapan, 2017).

Maritime disputes in municipal waters. Maritime disputes include the intrusion of commercial fishers in municipal waters. But with the incomplete delineation of municipal waters in many areas, violations become difficult to litigate.

Resource use conflicts also arise among municipal fishers – e.g., hook and line fishers cannot fish in areas where nets and pots had been set up. The LGU has the mandate to intervene in such cases.

Land use conversion of coastal areas, which comes from two sources:

Industries. Coastal areas are prime locations for industries. Moreover, industries provide LGUs with needed revenue through taxes and fees. Thus, LGUs allocate and convert land use in coastal areas for big industries at the expense of small fisherfolk. And without security of tenure over their settlements, fisherfolks are easily displaced and their houses demolished. They also lose their right-of-way to coastlines and denied access to fishing grounds near these establishments.

Tourism. While tourism may provide some form of resource protection, tourism businesses may compete directly with fisherfolk for access to foreshores and coastal waters. At times, foreshores are privatized, and fisherfolk are deprived of docking areas for their small boats. Sometimes, mangroves are cleared to build tourism facilities.

Ecotourism can help prevent fisherfolk displacement by involving them in the management of the tourism areas and by providing them with supplemental livelihoods. However, this will require active intervention and planning with the LGU.

Climate change and natural disasters. Coastal communities are the first to bear the brunt of super typhoons brought about by climate change. Super typhoon Haiyan in 2014 exposed the vulnerability of coastal communities in the light of increasing intensity of typhoons as a result of climate change. Coastal areas affected by the typhoon were practically wiped out, their settlements were declared no dwelling zones, but there were no clear/secured resettlement areas. Tens of thousands of small boats, fishing equipment and supporting facilities were destroyed. Some 146,748 fisherfolk families and 21 of the country's 72 fishing provinces were directly affected by the storm, according to BFAR, and total damage to the fishing sector was about PhP2.1 billion, according to NDRRMC.

The impacts of climate change have become more evident in recent years, especially for coastal communities. There has been increasing frequency of extreme weather events like super typhoons, slow onset events like sea level rise, rising sea surface temperatures and coral bleaching.

Summary of findings

In spite of the Fisheries Code, other laws and programs, municipal fisherfolk continue to experience inequality and conflicts over access to coastal resources.

First and foremost are the conflicting laws and policies, and the overlapping jurisdictions among government agencies. For instance, DA is mandated to ensure production of food and thus, requires coastal resources for the production of food. This sometimes leads to the conversion of mangrove forests into fishponds. The DENR on the other hand, is mandated to protect and manage the country's resources, including the coastal resources such as mangroves, corals and seagrass. Thus, it is supposed to protect the mangrove resources. But while reversion of abandoned fishponds is mandated by law, the DENR is constrained to establish jurisdiction over these areas until these fishponds are formally turned over to DENR.

There is also conflict in the exercise of fisherfolk rights to management of the coastal resources. While the law mandates the formation of FARMCs, their role is merely recommendatory, subject to the approval of the LGU and other policy makers. Members of FARMCs are all volunteers and can be constrained by lack of financial resources in carrying out their duties.

The formation of fish wardens is also mandated by law. But, as narrated by fisherfolk groups, volunteers in *bantay-dagat* and *bantay-laot* are sometimes the ones slapped with court cases, instead of being assisted to help prosecute apprehended violators. Some have been killed in the performance of their duties.

The delineation of the municipal waters was started by NAMRIA even prior to the implementation of the Fisheries Code. However, as of today (or 20 years after the Fisheries Code was legislated), only 67 (7.2 percent) out of the country's 928 coastal municipalities have finalized the delineation of their municipal waters. While FMAs can still be established even without the delineated municipal waters, the delineation of municipal waters is important in order to designate those areas where municipal fishers have priority access.

In spite of Section 108 of the Fisheries Code, there are still no clear guidelines on the establishment of fisherfolk settlement areas. Meanwhile, coastal lands continue to be converted into industrial uses, and public coastal lands continue to be titled, and fisherfolk are hit by stronger typhoons brought about by

climate change. All these factors contribute to the displacement of the coastal communities from their settlement areas and from their source of livelihood.

Recommendations

- **Since there are a number of government agencies that have jurisdiction over the coastal resources, there has to be harmonization of policies and to ensure benefits for the municipal fisherfolk.** The Inter-agency Technical Working Group on fisherfolk settlements, facilitated by the National Anti-Poverty Commission (NAPC), is one initiative that should be supported.
- **The Implementing Rules and Regulations (IRR) on Section 108 (now Section 144) of the Fisheries Code should be immediately formulated.** There should be a policy instrument that secures the tenure of the fisherfolk in their settlement areas.
- **The DA-BFAR and DENR also need to harmonize their policies in the management of foreshore areas.** Support and preference must be given to fisherfolk organizations for them to access programs such as Foreshore and Fishpond Lease Agreements, National Greening Program, etc.
- **The delineation of municipal waters needs to be completed so that all coastal municipalities have defined municipal waters where the small fishers have priority access.** As of August 2018, some 263 municipalities have not yet applied for delineation.
- **For delineating municipal waters of municipalities with offshore islands,** BFAR has created a **technical working group (TWG)** that will formulate the guidelines. This group **should include members from different stakeholders** (including municipal fisherfolk and their support organizations) to ensure that all concerned sectors are involved and consulted.
- **Government should extend full support to the FARMCs and Bantay-Dagat patrols to enable fisherfolk to carry out their mandate to protect and manage the coastal and marine resources.** Funding should be secured not only for allowances and needed equipment, but also for social protection, legal assistance, and others. ■

Cited references:

Bureau of Fisheries and Aquatic Resources (BFAR). (2015). *Philippine Fisheries Profile*. Bureau of Fisheries and Aquatic Resources, Department of Agriculture, Quezon City, Philippines.

BFAR. (2018a). *What is BoatR?* Retrieved from http://bfarcar.da.gov ph/?pageAction=d16b75 da0a35f6d945ea6b2c4335c616.

BFAR. (2018b). *What is FISHR?* Retrieved from http://bfarcar.da.gov. ph/?pageAction=b2bae067117a5855b7d66cc30725c1ca.

BFAR. (2018c). Unified and Enterprise Geospatial Information System. Website: https://www.bfar. da.gov.ph/uegis.jsp?id=25.

De Vera, D. and Zingapan, K. (2017). *The ancestral lands and waters of the Indigenous Tagbanwa Communities of Northern Palawan*. Quezon City: ANGOC and PAFID with support of the Food and Agriculture Organization (FAO).

Department of Agriculture (DA). (2004). *DA Administrative Order No. 1, Series of 2004*. Metro Manila: DA, Republic of the Philippines.

Ferrer, E.M., dela Cruz, L.P., and Domingo, M.A. (1996). *Seeds of Hope*. Quezon City: University of the Philippines, College of Social Work and Community Development (UP-CSWCD) in association with NGO Technical Working Group for Fisheries Reform and Advocacy.

Land Management Bureau of the Department of Environment and Natural Resources (LMB-DENR). (2018). *Lease*. Retrieved from http://lmb.gov.ph/index.php/land-disposition/ foreshore-and-reclaimed/lease.

National Mapping and Resource Information Authority (NAMRIA). (2018). *Services*. Retrieved from http://www.namria.gov.ph/services.aspx#surveying.

National Statistics Office (NSO). (2005). *2002 Census of Fisheries*. Quezon City: NSO.

Philippine Statistics Authority (PSA). (2017). *Farmers, fishermen and children consistently posted the highest poverty incidence among basic sectors – PSA*. Retrieved from https://psa.gov.ph/ content/farmers-fishermen-and-children-consistently-posted-highest-poverty-incidence-among-basic.

Philippines. (1998). *Republic Act No. 8550: The Philippine Fisheries Code of 1998*. Metro Manila: Tenth Congress of the Philippines, Republic of the Philippines.

Rodriguez, M. (2017). *Scoping Paper on the VGSSF and Philippine Policies and Laws on Fisheries*. Quezon City: Asian NGO Coalition.

International Land Coalition (ILC) is a global alliance of intergovernmental, governmental, and civil society organizations working together with the rural poor to increase their secure access to natural resources, especially land.

ILC Global Secretariat:
c/o International Fund for Agricultural Development (IFAD)
Via Paolo di Dono 44
00142 - Rome, Italy
Tel.: +390654592445
Email: info@landcoalition.org

ILC Regional Coordination Unit:
c/o Konsorsium Pembaruan Agraria (KPA)
Komplek Liga Mas, Jl. Pancoran
Indah I No. 1 Block E3
Pancoran, South Jakarta 12760 Indonesia
Tel: +62217984540
Email: asia@landcoalition.info

We Effect is a non-profit organization based in Sweden advancing gender equality, cooperative principles, and the rights-based approach to development. Presently, We Effect is engaged in development cooperation in 25 countries including the Philippines.

Unit 206 Eagle Court Condominium,
#26 Matalino St. Barangay Central
Diliman, Quezon City, Philippines
Email: Jessica.soto@weeffect.org

The European Partnership for Democracy (EPD) is an independent European non-profit organization supporting democracy worldwide. As a network of European civil and political society organizations, EPD advocates for a stronger presence of democracy support on the EU's agenda and facilitates the exchange of knowledge among practitioners. EPD is the first Community of Practice on democracy support operating at the EU level.

Rue Froissart 123-133
B-1040 Bruxelles
Tel.: +32 2 733 2282
Website: www.epd.eu

This publication features land and resource tenure reform assessment studies conducted in four sectors, namely: agrarian reform in private lands, agrarian reform in public lands, ancestral lands, and aquatic resources. In the past 30 years, the combined area covered by land and resource tenure reforms has been significant. Asset reforms in the Philippines have brought about the transfer of ownership rights covering a total area of 12.74 million hectares (approximately 42 percent of the country's land area). However, as the study suggests, there is need for the enforcement of land rights, an enabling environment and support services to help poor rural households make their lands productive, basic social services accessible, and effective systems of governance where the voices of poor sectors are heard and addressed.

EUROPEAN PARTNERSHIP FOR DEMOCRACY
INTERNATIONAL LAND COALITION ASIA
WE EFFECT