



State of Land and Resource Tenure Reform in the Philippines 2023





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 10 Asian countries together with some 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions 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 as well as expression of Asian values and perspectives. Thus, the ANGOC network promotes land and resource rights, smallholder agriculture, and human rights and civic participation, by serving as a platform for Asian CSOs to generate knowledge, share tools, and conduct constructive policy dialogues.

ANGOC is a member of the Global Land Tool Network (GLTN), Global Forum on Agricultural Research and Innovation (GFAIR), Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium, International Land Coalition (ILC), and Fair Finance Asia (FFA).

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The Kaisahan tungo sa Kaunlaran sa Kanayunan at Repormang Pansakahan (Kaisahan) is a social development organization promoting a sustainable and human society through the empowerment of marginalized groups in rural areas, especially among farmers and farm workers, to undertake their own development, participate fully in democratic processes, and demand their rightful share in the stewardship of the land and the fruits of their labor.

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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

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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 for 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.

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Second Edition

**State of Land and
Resource Tenure Reform
in the Philippines
2023**

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Acronyms

ADSDPP	Ancestral Domain Sustainable Development and Protection Plan
AFFORD-ARBs	Accessible Funds for Delivery to Agrarian Reform Beneficiaries
AFME	Agriculture and Fisheries Machinery and Equipment Loan
AJD	Agrarian Justice Delivery
ALA	Agrarian Legal Assistance
ALI	Agrarian Law Implementation (cases)
ANYO	Agri-Negosyo Program
AO	administrative order
APCP	Agrarian Production Credit Program
ARB	agrarian reform beneficiary
ARISE	Assistance to Restore and Install Sustainable Enterprises for ARBS and Small Farm Holders
ARBO	agrarian reform beneficiary organization
ARBDSPP	Agrarian Reform Beneficiaries Development and Sustainable Program
ARC	agrarian reform community
ARCC	agrarian reform community cluster
AVA	agribusiness venture arrangement
BARRM	Bangsamoro Autonomous Region in Muslim Mindanao
BESSAFE	Basic Essential Social Services Access Facilitation and Enhancement
BFAR	Bureau of Fisheries and Aquatic Resources
CA	Commission on Appointments
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CALT	Certificate of Ancestral Land Title
CAR	Cordillera Administrative Region

CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension with Reform
CBFM	Community Based Forest Management
CCLOA	Collective Certificate of Land Ownership Award
CDO	cease-and-desist order
CHRP	Commission of Human Rights of the Philippines
CLEA	Capital Loan Easy Access
CLOA	Certificate of Land Ownership Award
CLT	Certificate of Land Transfer
CNFIDP	Comprehensive National Fishery Industry Development Plan
CSO	civil society organization
DA	Department of Agriculture
DA-PCIC	DA-Philippine Crop Insurance Corporation
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DoFAR	Department of Fisheries and Aquatic Resources
EAFM	Ecosystem Approach to Fisheries Management
ECDTS	electronic catch documentation and traceability system
EDES	Enterprise Development and Economic Support
ENIPAS	Expanded National Integrated Protected Areas System
EO	executive order
EP	Emancipation Patent
FAO	Food and Agriculture Organization of the United Nations
FAO	Fisheries Administrative Order
FELIS	Fishing Vessel E-licensing System
FishR	Municipal Fisherfolk Registration System

FLA	Fishpond Lease Agreement
FMA	Fishery Management Area
FPIC	free, prior, and informed consent
HLURB	Housing and Land Use Regulatory Board
I-FIT	Fishing Index and Threat Assessment Tool
IPs	indigenous peoples
IPMP	Indigenous Peoples Master Plan
IPMR	Indigenous People's Mandatory Representative
IPO	Indigenous people's organization
IPRA	Indigenous Peoples Rights Act of 1997
ISF	Integrated Social Forestry
IUU	illegal, unreported, and unregulated (fishing)
JAO	Joint Administrative Order
KAYA	Kapital Access for Young Agripreneur
KKK	Kilusang Kabuhayan sa Kaunlaran (program)
LAD	Land Acquisition and Distribution
LBP	Land Bank of the Philippines
LGU	local government unit
LRA	Land Registration Authority
MARPO	Municipal Agrarian Reform Program Officer
MASCs	Mangrove Aquasilviculture Contracts
MBs	Management Bodies
MOV	Memorandum of Valuation
MSMEs	micro, small, and medium enterprises
NAMRIA	National Mapping and Resource Information Authority
NAPC	National Anti-Poverty Commission
NEDA	National Economic and Development Authority

NFARMC	National Fisheries and Aquatic Resources Management Council
NCIP	National Commission on Indigenous Peoples
NLUA	National Land Use Act
NOC	Notice of Coverage
OECM	Other Effective Area-based Conservation Mechanism
OLT	Operation Land Transfer
PACBARMA	Protected Area Community-Based Resource Management Agreement
PAL	private agricultural land
PAMB	Protected Area Management Board
PAMP	Protected Area Management Plan
PARC	Presidential Agrarian Reform Council
PIDS	Philippine Institute of Development Studies
PBD	Program Beneficiaries Development
PD	presidential decree
PhP	Philippine Peso
PFC	Philippine Fisheries Code
PNP	Philippine National Police
PSA	Philippine Statistics Authority
RA	Republic Act
ROD	Registry of Deeds
SDO	Stock Distribution Option
SPLIT	Support to Parcelization of Land for Individual Titling
SSO	Support Services Office
TRO	temporary restraining order
VLT	Voluntary Land Transfer (program)
VMMS	vessel monitoring mechanisms

Foreword

LAND and resource tenure reforms have long been instituted in the Philippines, resulting from the lobbying and advocacies of farmers, fisherfolk, indigenous peoples and civil society organizations (CSOs). These tenure reform measures manifest a rights-based approach to poverty reduction and social equity.

In 2018, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) facilitated the preparation of the “2018 State of Land and Resource Tenure Reform in the Philippines.” The report assessed the extent of implementation of asset reform laws and programs, in particular the Comprehensive Agrarian Reform Program (CARP), Indigenous Peoples Rights Act (IPRA) and the Philippines Fisheries Code (PFC).

With the COVID-19 pandemic bringing the country almost to a standstill in 2020 to 21, there was limited opportunity for CSOs and the basic sectors to collectively review the progress of these reforms. And while the 2022 National Elections provided an impetus for the basic sectors and CSOs to formulate their land and resource reform agendas, there was little opportunity for them to share their collective views and assessments.

In 2023, the CARL marked its 35th year, while the IPRA and the PFC reached their 26th and 25th years, respectively. Thus, ANGOC, in partnership with Kaisahan (Kaisahan Tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan), PAFID (Philippine Association for Intercultural Development) and NFR (NGOs for Fisheries Reform), prepared this 2023 Report.

This 2023 publication provides a follow-up performance review of the implementation of asset reforms from the perspective of civil society and basic sectors of farmers, indigenous peoples, rural women, and small fisherfolk. It

seeks to: (1) assess the state of implementation of CARP, IPRA and PFC; (2) discuss issues and gaps in the implementation of these reform programs; and, (3) recommend areas to further strengthen tenure security of the rural poor.

This study benefitted from the insights and feedback from three sectoral focus group discussions held in Iloilo City, Bacolod City and Cagayan de Oro City in July to August 2023, with 66 representatives of farmers, indigenous peoples, fisherfolk and civil society organizations. The final draft was then discussed in a national workshop with 54 basic sector representatives and CSOs held in Quezon City on 6 May 2024.

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ANGOC is grateful for the support provided by the Global Land Tool Network (GLTN), United Nations Human Settlements Programme (UN-Habitat), Swedish International Development Agency (SIDA), and We Effect for the various workshops and the printing of this publication.

Finally, there is need to continually assess the status of legal reforms and the situation of the basic sectors in light of emerging opportunities and challenges.

Nathaniel Don E. Marquez
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Introduction

IN its 2018 Poverty Assessment Report,¹ the World Bank characterized poverty in the Philippines as primarily rural, where poverty incidence is almost three times higher than in urban areas. About two-thirds of poor households rely heavily on agriculture and fishery activities for their livelihoods. In 2021, the highest poverty incidence among sectors occurred among fisherfolk (30.6%), farmers (30.0%), and residents in rural areas (25.7%), compared to 18.1 percent for the country as a whole.²

Though it is recognized that rural poverty has numerous underlying causes, the lack of access to and control over land and resources, as well as tenure insecurity, continue to contribute significantly to this issue. Land is a valuable asset and a source of livelihood for many. Ownership or access to land is crucial for food production, income generation and employment, shelter and security. Additionally, land often carries cultural and social significance, representing heritage, community, identity and a way of life for rural communities.

Land and resource tenure reforms have long been instituted in the country, manifesting a rights-based approach to poverty reduction and social equity. In 2023, the Comprehensive Agrarian Reform Law (CARL) marked its 35th year, while the Indigenous Peoples Rights Act (IPRA) and the Philippine Fisheries Code reached their 26th and 25th years, respectively.

However, despite the progress made in land and resource tenure reforms, much work still needs to be accomplished. In 2018, ANGO published the State of Land and Resource Tenure Reform in the Philippines, in partnership with the

¹ World Bank (2018). Making Growth Work for the Poor: A Poverty Assessment for the Philippines. Washington, D.C.: World Bank Group

² PSA (2024). "Fisherfolks and Farmers Remain to Have the Highest Poverty Incidences Among the Basic Sectors in 2021." <https://psa.gov.ph/statistics/poverty/node/1684041626>

Peoples Campaign for Agrarian Reform (AR Now!), Philippine Association for Intercultural Development (PAFID), and NGOs for Fisheries Reform (NFR).³ As noted in the report, there is need for better enforcement of land rights, an enabling environment and support services to help poor rural households make their lands productive, basic social services, and systems of governance where the voices of poor sectors are heard and addressed.

If not properly addressed, the continuing landlessness, insecurity of tenure, and growing competition over land can lead to land and resource conflict which can result in cases of violence and violations of human rights. In a separate 2023 study, ANGOC documented a total of 211 ongoing cases of land conflict in the Philippines; these cases cover approximately 749,844.50 hectares and affect some 81,848 households.⁴

This publication is a follow-up assessment report for 2023. It provides a performance review of the implementation of asset reforms from the perspective of civil society and basic sectors of farmers, indigenous peoples, rural women, and small fisherfolk. It seeks to:

- assess the state of implementation of asset reform laws and programs, in particular the Comprehensive Agrarian Reform Program (CARP), Indigenous Peoples Rights Act (IPRA) and the Philippines Fisheries Code;
- discuss issues and gaps in the implementation of these reform programs; and,
- recommend areas to further strengthen tenure security of the rural poor.

However, this study does not cover agrarian reform in public domain lands as mandated under CARP, as this will require a separate review. This component of CARP was deemed “completed” by the Department of Environment and Natural Resources (DENR) back in 2000, yet the earlier targets may have been set too

³ This 2018 report is available at: <https://angoc.org/portal/state-of-land-and-resource-tenure-portal-asian-ngo-coalition/>

⁴ See 2023 Philippine Land and Resource Conflict Monitoring Report at <https://angoc.org/portal/>

low, and most of the 25-year leases issued under Integrated Social Forestry (ISF) and CBFM (Community Based Forest Management) agreements are currently under review and renewal.

Moreover, this study focuses on the state of implementation and completion of the three asset reform programs, but does not evaluate the broader impact of such programs. With the sole exception of CARP, there have been no comprehensive impact assessments of the other asset reform programs.

Examining what “tenure security” means. In various consultations, the basic sectors have come to an understanding of what constitutes genuine tenure security. To them, land (and resource) tenure is fully secure only when these basic features are present:⁵

- (a) *Formal and legal tenure*, represented by a tenure instrument or documented right that the State will dutifully recognize and protect (e.g., Certificate of Land Ownership Award/CLOA, Certificate of Ancestral Domain Title/CADT, rights to municipal waters, etc.);
- (b) *De facto possession and control* of the land or resource – e.g., agrarian reform beneficiaries have actual possession of their awarded lands; indigenous communities exercise control and traditional governance over their domains, and fisherfolk have unimpeded access and use of municipal waters.
- (c) *Absence of perceived threats to tenure security*, with no fear of being arbitrarily evicted or dispossessed of the land, or excluded from accessing water bodies and resources. These threats include: overlapping claims and contested rights, pending agrarian cases, land grabs, threats of land conversion, land reclamation in traditional fishing areas, or changes in land allocation and use without prior knowledge and consent.

⁵ Pagsanghan, J., Quizon, A., Marquez, N. D., Musni, D. H. J., and Naungayan, M. J. (2022). *Dimensions of Land Tenure Security from the Perspective of Basic Sectors and CSOs in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

- (d) *Access to sufficient support services, public facilities and markets* that are needed to make productive and profitable use of the lands, water and resources.
- (e) *Effective representation and participation* in decision-making bodies and processes, especially in those that relate to the allocation, use and management of the land or resource.
- (f) *Equal recognition and protection of rights of women* – i.e., as equal rights holders over titles, leases, contracts, permits and licenses; with equal rights to inheritance and access within households; recognition of women as farmers and fisherfolk themselves; and, equal rights to representation and membership in bodies of sectoral interest.

Hence, this study examines land and resource tenure reforms using the above parameters. It is noted that many of these features are already enshrined in the respective tenure reform laws and programs.

Overview of the Asset Reform Laws/Programs

The following summarizes the key features of the main land and resource tenure reform laws on private and public agricultural lands, ancestral domains, and municipal waters, respectively.

Comprehensive Agrarian Reform Program (CARP)

Objectives

- Implements the directive of the Philippine Constitution to implement an agrarian reform program based on farmers owning the lands they till
- RA 6657 is based on the principles of social justice as well as improving overall economic growth and efficiency of the rural sector
- Aims to improve the lives of the landless farmers and farm workers by providing them access and ownership of agricultural lands, access to support services, and agrarian justice delivery

Key provisions

- Authorizes the acquisition and distribution of all public and private agricultural lands, as well as the provision of support services and agrarian justice to agrarian reform beneficiaries (ARBs)
- Awards a maximum of three hectares to qualified ARBs
- Provides for a landowner's retention ceiling of five hectares of agricultural lands and three hectares each to children who qualify as preferred beneficiaries
- Mandates the payment of just compensation to landowners and prohibits the transfer of CARP-awarded lands except through hereditary succession
- Prohibits the conversion of irrigated lands

Mode of implementation

- The Department of Agrarian Reform (DAR) undertakes the following: (1) authorizes the acquisition and distribution of all public and private agricultural lands, as well as the provision of support services and agrarian justice to ARBs, (2) conducts land surveys, identifies qualified ARBs, generates and distributes CLOA titles, (3) addresses agrarian disputes through administrative action, and (4) adjudicates agrarian cases.

Tenure instruments

- Provides for different tenurial instruments based on land classification: tenurial security for forestry areas, and tenancy reforms and land redistribution for private and alienable lands
- Land redistribution is completed by the provision of support services such as extension, credit, livelihood support, among others.

Indigenous Peoples Rights Act (IPRA)

Objectives

- Seeks to advance the directive of the Philippine Constitution to protect the rights of IPs to preserve and develop their cultures and institutions
- Recognizes the rights of indigenous peoples over their ancestral domains

- Provides for a process of titling of lands through the issuance of Certificate of Ancestral Domain Title (CADT) and Certificate of Ancestral Land Title (CALT)

Key provisions

- Recognizes the rights of IPs over their ancestral domains (ADs) and provides for a process of titling of lands
- ADs are all areas generally belonging to indigenous cultural communities/ indigenous peoples (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, communally or individually.
- Empowers the IPs to formulate an Ancestral Domains Sustainable Development and Protection Plan (ADSDPP), which provides them with a legal framework for their “traditional use” policies and presents the details of the allowable and non-negotiable activities on their ADs. It likewise contains the priority projects and programs identified by the IP community after consultations following customs and tradition.

Mode of implementation

- The National Commission on Indigenous Peoples (NCIP) is responsible for: (1) identification, delineation and recognition of ancestral lands/domains, based on self-delineation by the ICCs/IPs; (2) oversight of the management of ancestral lands/domains in accordance with a master plan (i.e., ADSDPP) formulated by the ICCs/IPs; and, (3) with the free and prior informed consent (FPIC) of the ICCs/IPs concerned, issues the certification precondition prior to the grant of any license, lease, or permit for the exploitation of natural resources affecting the interests of ICCs/IPs or their ancestral domains.

Tenure instruments

- CADTs and CALTs are ownership tenurial instruments issued and awarded to an applicant community or clan. These tenurial instruments have no term limits.
- Representatives chosen by the community act as holders of the CADT in trust in behalf of the concerned indigenous community.

Philippines Fisheries Code

Objectives

- Founded on the mandate of the Philippine Constitution to protect the rights of subsistence fisherfolk to communal fishing resources
- Establishes food security as the overriding consideration in the utilization, management, conservation, and protection of fishery resources
- Among the Code's 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.

Key provisions

- Limits access to fishery and aquatic resources in the country to Filipino citizens, and provides small fisherfolk and their organizations with preferential use of municipal waters
- Municipal waters include not only bodies of water within the municipality which are not included within the protected areas as defined under RA 7586 (National Integrated Protected Areas System law), public forest, timber lands, forest reserves or fishery reserves, but also coastal marine waters within 15 kilometers from the shore.
- Forbids commercial-scale fishing in municipal waters, except in special cases where municipal permits are issued, and only in waters over 10.1 kilometers from the shore with a depth of at least seven fathoms (12.8 meters)
- Mandates the creation of fisherfolk settlement areas, to be located in certain areas of the public domain, near fishery areas

Mode of implementation

- Local government units (LGUs) manage and issue fishing rights over municipal waters.
- The Bureau of Fisheries and Aquatic Resources (BFAR) assists in the implementation of the Fishery Code, including the delineation of municipal waters.

- The National Mapping and Resource Information Authority (NAMRIA) prepares the technical details of all municipal waters. LGUs are supposed to enact municipal ordinances establishing the boundaries of their municipal waters in order to complete the delineation areas.

Tenure instruments

- Delineating the boundaries of a municipality's 15-kilometer waters is essential for sustainable management of fishery resources and granting the preferential rights of municipal fishers within such zone.
- Duly registered fisherfolk organizations/cooperatives shall have preference in the grant of fishery rights by the LGUs.
- The LGUs shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, and for monitoring fishing.

Summary of Findings and Recommendations

Status of Implementation

Comprehensive Agrarian Reform Program (CARP)

AFTER more than three decades of CARP implementation, completion of the Land Acquisition and Distribution (LAD) has not been achieved. The slow-paced implementation has limited the program's potential impact and has given rise to greater challenges in program completion. Bottlenecks in CARP implementation are attributed to budgetary constraints, political factors, and the technical capacities of implementing agencies. There are also legal disputes relating to coverage and land valuation, landowners' resistance, and harassment.

From 1988 to 2022, the DAR has distributed 4,845,105 hectares out of a total of 5,463,827 hectares covered under the program. This includes 2,610,592 hectares of private agricultural land distributed, out of a total of 3,173,465 hectares targeted. Thus, there are still thousands of potential agrarian reform beneficiaries (ARBs) who are landless and at the precipice of poverty.

As a general rule, R.A. 6657 (CARP) as amended by R.A. 9700 (Comprehensive Agrarian Reform Program Extension with Reform/CARPER) provides that titles to be awarded to ARBs should be in the form of individual titles. ARBs may opt for collective ownership pursuant to conditions allowed under the law. Collective Certificate of Land Ownership Awards (CCLOAs) were predominantly awarded to ARBs during the early years of CARP implementation as a means to fast track the LAD and the award of titles to ARBs. In the course of the LAD implementation however, parcelization of CCLOAs suffered delays or worse, were not processed to become individual titles.

In November 2020, the DAR launched its Support to Parcelization of Lands for Individual Titling (SPLIT) project. The SPLIT is a 4- year project (2020 to 2024) funded by the World Bank targeting a total area of 1,368,883 hectares of agricultural land covered by collective CLOAs and seeks to benefit 1,140,735 ARBs. It is being implemented in 78 provinces in 15 regions across the country. This project aims to expedite the subdivision of collective titles issued to ARBs and address the roadblocks to their full exercise of ownership over their awarded lands.

RA 3844 (Agricultural Land Reform Code) provided for the protection of the rights of tenant farmers by ensuring their right to a home lot, and outlawing share tenancy in favor of leasehold arrangements. DAR accomplishment reports showed that the agency exceeded its leasehold targets with 1.2 million tenant farmers in 1.8 million hectares. However, circumstances still indicate that the leasehold program has been neglected by the DAR. Pressing issues surrounding the program are the lack of comprehensive data on leasehold target landholdings and yearly accomplishments, lack of data on support services accessed by the tenant farmers, and unavailed pre-emption and redemption rights of tenants that they, and sometimes, even DAR field personnel are unaware of.

Based on the DAR's Support Services Roadmap (2021 to 2024), 1.7M ARBs or 60 percent of the 2.9M ARBs need access to various support services such as capacity building, pre- and post-harvest infrastructure, financial assistance through grants, subsidies, and loans, and access to market. Provision of support services to ARBs is through organizations, but there are only 6,293 existing ARB organizations (ARBOs) in the DAR database. A large number of ARBs are not part of organizations; therefore, their access to the support that they need is limited.

The implementation of CARP has been contentious and problematic, especially with regards to acquiring private agricultural lands. A high volume of agrarian-related cases remains after 35 years of CARP implementation. There has been a dramatic increase in the number of Agrarian Law Implementation (ALI) and

Department of Agrarian Reform Adjudication Board (DARAB) cases recorded after RA 9700 was passed in 2009.

Indigenous Peoples Rights Act (IPRA)

As of 31 March 2022, twenty-five years after the enactment of IPRA, 16 percent of the total land area of the Philippines is now covered by Certificates of Ancestral Domain Titles (CADTs) and Certificates of Ancestral Land Titles (CALTs), and are considered legally owned and governed by IPs.¹ This is comprised of 257 CADTs covering a total area of 5,971,345 hectares, benefiting 1,363,342 IP right holders, and 250 CALTs covering 17,148 hectares benefitting 1,319,176 individual rightsholders. At least 13.4 percent or 805,897 hectares of the CADTs cover ancestral waters. There was a dramatic increase in the approval of CADTs during the term of former President Rodrigo Duterte. From 2019 to 2022, thirty-six CADTs were approved by the NCIP, a major improvement over the low numbers which were accomplished in the past decade.

Currently, 205 CADT application covering at least 3,719,176 hectares, are in various stages of the validation process. A further 486 ancestral domains (ADs) have been identified, covering an area of 3,756,151 hectares. These identified ADs have yet to undergo the formal CADT application process. The National Commission on Indigenous Peoples (NCIP) estimates that ancestral domains and lands cover at least 45 percent of the total land area of the country.²

As of 2022, only 56 CADTs covering 1,556,973 hectares have been registered with the Land Registration Authority (LRA). This represents a miniscule percentage of the total number of CADTs approved and awarded by the NCIP. An additional 186 CADTs are awaiting registration while 15 CADTs have been officially transmitted by the NCIP to the LRA. On the other hand, of the 250 approved CALTs, only 154 have been registered with the LRA. With the withdrawal of the NCIP from the Joint Administrative Order (JAO) 1 of 2012, the

¹ This does not include ancestral waters covered under CADTs.

² PowerPoint presentation, NCIP-ADO, 31 March 2022.

fate of the CADTs awaiting registration and future application is uncertain to say the least.

Philippines Fisheries Code

The Fisheries Code requires LGUs to delineate their municipal waters and issue the corresponding local ordinances as the initial steps towards allocating preferential use of these waters to municipal fisherfolk. According to the National Mapping and Resource Information Authority (NAMRIA), of the 930 total coastal LGUs, 310 have delineated municipal waters with certified maps. Of these, only 79 have local ordinances. All 930 LGUs have already asked for delineation of their municipal waters but the finalization of maps is always stalled due to boundary conflicts and disputes.

Issues Related to Implementation of Tenure Reforms

CARP

Land distribution not completed. The completion of LAD remains one of the major issues confronting the agrarian reform program. In the meantime, the distribution of lands with notices of coverage (NOCs,) mostly private agricultural lands, continue to proceed at a snail's pace.

The inability of DAR to issue NOCs has retarded CARP's completion significantly. DAR failed to issue NOCs for thousands of landholdings covering more than 206,000 hectares.³ Moreover, the agency has classified some of their issued NOCs as "erroneous"⁴ for varying reasons, and has removed these from its LAD targets.

³ DAR Presentation for Organizational Briefing in the Senate Committee on Agrarian Reform, 24 August 2016, cited in 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).

⁴ Erroneous NOC means the NOC that is inaccurate or contains typographical or clerical or substantial error.

Table 1. Status of asset reform by sector vs total scope, as of 2018 to 2022.

Program/Indicator	Unit used	Accomplished (a)	Total scope (b)	Accomplishment as percent of total scope (a/b) x 100
CARP in private lands (DAR)				
o Lands redistributed as percentage of total CARP target scope	Area (ha)	4,845,105 (2022)	5,463,827 (2022)	89%
o Percentage of tenanted agricultural lands under formal leasehold contracts	Area (ha)	1.8 million [a]	no data available	n.a.
Ancestral domains/ancestral lands (NCIP)				
o Ancestral lands covered by CADTs	Area (ha)	5,971,345 (2022)	no data available	n.a.
o Ancestral waters covered by CADTs	Area (ha)	805,897 (2022)	no data available	n.a.
o Ancestral lands covered by CALTs	Area (ha)	17,148,2051 (2022)	no data available	n.a.
o No. of indigenous peoples in CADT-awarded areas, as percentage of total IP population	No of persons (men and women)	1,363,342 (2022)	no data available	n.a.
o No. of indigenous peoples in CALT-awarded areas, as percentage of total IP population	No of persons (men and women)	1,319,176 (2022)	no data available	n.a.
Municipal waters (LGUs/BFAR)				
o Percentage of coastal LGUs with completed delineation of municipal waters	No. of LGUs	79 [b]	930 coastal municipalities	8.5%
o Percentage of municipal fishing households benefiting from the establishment of fisherfolk settlements	No. of households	0	1.93 million municipal fishers	0%

[a] Cumulative figure of the area covered under registered leasehold contracts, over the years.

[b] Number of LGUs with the municipal ordinances required to complete the process of municipal waters delineation.

“Problematic” landholdings delisted from target. There are landholdings with valid NOCs that were removed from the list of LAD targets because DAR classified these as “problematic.” The process of delisting is arbitrary, without farmers knowing that the lands they were claiming were delisted, and there are no clear parameters on what DAR considers “problematic landholdings.” Based on farmers’ group observations, DAR delists landholdings with incomplete documentation, strong landowner resistance, those with “erroneous” NOCs, and those with pending cases, among others.

Inadequate support services/initial capital/socialized credit for farmers. One of the main issues raised by farmers and agrarian reform advocates since the enactment of CARPER is inadequate provision of support services to ARBs. ARBs lack capitalization for cultivating their awarded lands. Many of them face constraints in gathering resources (cash, farm inputs, implements, and machineries) to sustain their farming activities.

Based on 2018 data, only 53 percent of existing ARBs had access to a package of support services while remaining ARBs have availed only of specific support services. The problem lies in the mechanisms to access support services from national to local level. With the devolution of powers of the Department of Agriculture’s (DA) agriculture service delivery to LGUs, very limited funds were allocated to agriculture extension.

Limited access to markets for farmers. In addition to the productivity issues, ARBs are facing challenges in pricing and linking with markets for their agricultural products. These problems are exacerbated by the influx of foreign products in local markets, which compete with those of local farmers.

Unfair and unjust private investment contracts in agriculture. With funds to support the ARBs being either inadequate or inaccessible, farmers are vulnerable to unfair and unjust agribusiness ventures proposed by the private sector. Sometimes, ARBs are deceived – they accept the anomalous terms of these ventures because these were not written in a language they understand.

Investors that engage in unfair agribusiness practices are also more accessible to ARBs than the government. They employ local agents, sometimes DAR officials, to convince the ARBs to enter into these agreements.

Lack of climate smart support services. 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 and water supply that threaten productivity, livelihoods, and security of homes. The damages to the farmers' crops are in the billions of pesos annually, but most ARBs have limited or no access to crop insurance and other programs to mitigate the effects of climate change.

Inadequate data on status of land cases. There is renewed resistance among landowners, who resort to filing 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 were decided cannot be determined from existing data. Until recently, there was no systematic tracking of cases. 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 on whether the specific land disputes were permanently resolved.

Non-recognition of farmers as stakeholders in agrarian cases. There are reported cases of farmers who are not aware that the lands they are claiming under CARP are the subject of protests or applications for land use conversion. The DAR officials concerned are aware that there are qualified farmer beneficiaries that will be affected by these protests or conversion applications but they do not inform the farmers, nor ask them to comment on the petitions.

Failure to file cases against those resisting CARP. One of the major issues why LAD of private agricultural lands is not yet complete after 33 years is the inaction of DAR against individuals and/or groups who are delaying and evading CARP implementation and preventing DAR from performing its tasks.

Constant change in DAR leadership/Incompetent DAR officials. The quick turnover of local DAR officials, particularly the Municipal Agrarian Reform Program Officers (MARPOs) has impacted the LAD process. This has resulted in the lack of proper turnover of tasks, cases, and documents which results in further delays, as the new officials need time to study the pending cases. Also, many of the new officials are not familiar with the LAD process, and some are in connivance with the landowners.

IPRA

IP Governance over ancestral domains largely ignored. Despite the issuance of CADT/CALTs, the ability of the IPs to use and assert their rights over ADs remains very limited. The recognition of their traditional governance is largely ceremonial and not institutionalized among the LGUs and government agencies. 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 IPs, have sustained injuries, deaths and damages to their homes and livelihoods. CADT areas also overlap significantly with other tenure regimes, notable national parks and protected areas.

Formulating ASDPPs continues to be a challenge. Unfortunately, the formulation of ancestral domain sustainable development and protection plans (ADSDPPs) has been beset with many problems. Many IP communities decry the time-consuming process and prohibitive cost involved. As of 2021, only 182 of the 257 CADT holders have fully formulated their ADSDPPs. The formulation and implementation of the ADDPPs have not taken off due to challenges in securing funding. There is no dedicated programmatic fund available from the government to support the activities identified in the ADSDPPs. Whenever funding is available, it is mostly fragmented and limited to supporting specific activities that fall within the priorities of the donor.

There are existing policies that provide for the adoption and harmonization of IP governance over their ADs. RA 11038 (Expanded National Integrated Protected Areas System/ENIPAS) law recognizes the management regimes being implemented by LGUs, local communities, and IPs.⁵ Further, the ENIPAS prescribes a process for the harmonization of the Protected Area Management Plan (PAMP) with the ADSDPP.⁶ The Housing and Land Use Regulatory Board (HLURB) and the NCIP have collaborated to produce the operations manual for the harmonization of ADSDPPs and CLUPs. Volume 2 of the *Guide to Comprehensive Land Use Plan* of the HLURB stipulates the process for the interface between the CLUP and the ancestral domains and plans of ICC/IP communities.

There is no available data on the number of ADSDPPs adopted by LGUs or harmonized with other sectoral plans. The ENIPAS is still in the process of operationalization, while there is little information on the roll-out and piloting of the HLURB-ADSDPP interface. Hence, the adoption of ADSDPPs and its harmonization with other sectoral plans cannot be determined.

IPMR provision not fully implemented and utilized. Section 16 of IPRA provides for the right of IPs/ICCs to participate at all levels of decision-making that may have impact on their lives and communities. It provides for mandatory representation of IPs/ICCs in local legislative councils and other policy-making bodies. The NCIP guidelines, initially issued in 2009 and revised in 2018 and 2020,⁷ state that IP representation will be mandatory in areas where a CADT is existing within a given LGU. The indigenous peoples' mandatory representatives (IPMR) shall be selected from the qualified IP rights holders of the domain.

However, some LGUs are resistant to IP representation. The selection of IPMRs is often politicized, with local executives circumventing an open and fair selection processes. Also, many IP groups lack the resources to undergo IPMR

⁵ Section 2, RA 11038

⁶ Section 9, RA 11038

⁷ NCIP Administrative Order No. 03, Series of 2018 and NCIP En Banc Resolution No. 08-008-2020, Series of 2020.

selection, and the capacity to develop their legislative agenda with local councils without needed support.

If properly implemented, the IPMR provision could help advance the legislative agenda of IPs, including the integration of ADSDPPs in LGU plans, and improved the access of IPs to projects and services of LGUs and national agencies.

Fisheries Code

Guidelines for delineation for LGUs with offshore islands still not issued. 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, 19 years after the issuance of Department of Agriculture Administrative Order (DAO) No. 1, the “Guidelines for Delineating/Delimiting Municipal Waters for Municipalities and Cities *Without* Offshore Islands,” similar guidelines for delineating municipal waters for local governments *with* offshore islands have still not been issued. This is due to disagreements regarding the reckoning point, that is, the point where the measurement of the 15-kilometer boundary will start. The Bureau of Fisheries and Aquatic Resources (BFAR) and the commercial fishing sector are claiming that the “general coastline” referred to in the law means “coastline of the mainland municipality/city”, otherwise known as the “mainland principle.” On the other hand, the municipal fishing sector are claiming it should start “from the farthest island occupied by the said municipality.” This is known as the “archipelagic principle.”

According to the National Mapping and Resource Information Authority (NAMRIA), of the 930 total coastal LGUs, 310 have delineated municipal waters with certified maps. Of these, only 79 have local ordinances. All 930 LGUs have already asked for delineation of their municipal waters but the finalization is always stalled due to boundary conflicts and disputes.

Municipal waters will be larger if the archipelagic principle is utilized. This pushes areas for commercial fisheries farther from the shore, and therefore this is the reason that commercial fishers are opposing this principle.

No guidelines on fisherfolk settlements. While the Fisheries Code 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 and even the National Anti-Poverty Commission-Artisanal Fisherfolk Sectoral Council. The dwelling places of the fisherfolks are usually located in foreshores and public lands with no security of tenure, hence they face the constant risk of eviction.

Many LGUs unable to maintain fisherfolk registries. The Fisheries Code underscores the importance of registration of fisherfolk in order to be granted the preferential use of municipal waters. For this purpose, the BFAR developed the Fisherfolk Registration System. However, the consolidation and updating of the data at the LGU and BFAR levels has been problematic. Many LGUs do not have the personnel and infrastructure to maintain fisherfolk registries.

State of Women's Land/Resource Rights

In the eyes of Philippine law, men and women enjoy equal rights to land and natural resources. Table 2 table summarizes these rights.

While equal protection for rural women may seem adequate in law, the reality is that the sector continues to face an uphill battle for recognition of their rights. To begin with, there is inadequate data on women and asset reform, making it difficult to fully understand their situation and craft appropriate policies. While the government does produce some sex-aggregated data, most of it is with regards to agriculture and agrarian reform, and much less in the IP and fisherfolk sectors. The NCIP, for instance, does not produce readily-processed gender-disaggregated data for IPs.⁸ With regards to fisherfolk, BFAR supposedly

⁸ Panganiban, I. and Roque, E. (2014). *Women's Land Rights in the Philippines: A Scoping Study*. Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA), p 12

Table 2. National Laws on Women, Access to Land and Natural Resources⁹

Women in Development and Nation Building Act, or RA 7192	Women shall have equal access to all government and private sector programs granting agricultural credit, loans and non-material resources and shall enjoy equal treatment in agrarian reform and land resettlement programs (<i>Section 5, No. 2</i>).
Magna Carta of Women, or RA 9710	Recognizing that the economic, political, and sociocultural realities affect women’s current condition, the State affirms the role of women in nation building and ensures the substantive equality of women and men (<i>Chapter I, Section 2</i>).
Indigenous Peoples Rights Act of 1997, or RA 8371	ICC/IP women shall enjoy equal rights and opportunities with men, as regards the social, economic, political, and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition (<i>Chapter V, Section 26</i>).
Comprehensive Agrarian Reform Program Extension with Reforms, or RA 9700	The State shall recognize and enforce, consistent with existing laws, the rights of rural women to own and control land, taking into consideration the substantive equality between men and women as qualified beneficiaries, to receive a just share of the fruits thereof, and to be represented in advisory or appropriate decision-making bodies. These rights shall be independent of their male relatives and of their civil status (<i>Chapter I, Section 2</i>).
Fisheries Code of 1998, or RA8550	To provide support to the fishery sector, primarily to the municipal fisherfolk including women and youth sectors, through appropriate technology and research, adequate financial, production, construction of post-harvest facilities, marketing assistance, and other services (<i>Chapter I, Section 2</i>).

has data on women holders of fishpond lease agreements, but the data is not updated.¹⁰

Cultural factors also hold back the empowerment of women in the rural sector. In agriculture, there is still a prevailing attitude that views only men as farmers,

⁹ Pagsanghan, J., Alvarez, K.B., Demaisip, M.C.A., De Vera, D.B., and Rodriguez, M. (2021). *Getting A Fuller Picture: 2020 CSO Report on SDG Target 1.4 – Philippines*. ANGO, LWA, AR Now!, NFR, PAFID, and ILC. [Paper prepared with the assistance of Marquez, N.D. and Musni, D.H.J.]

¹⁰ Panganiban, I. and Roque, E. (2014). *Women’s Land Rights in the Philippines: A Scoping Study*. Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA).

and women as part of “household labor.”¹¹ In the IP communities, men are usually the head of the tribes and therefore lead in the decision-making processes, particularly in the use of the land. Among the fisherfolk, women are considered “malas” or unlucky when it comes to actual fishing, and are being relegated to other fishing-related activities such as mending the fishing nets and marketing.¹²

With regards to women and agrarian reform, last available data is still the DAR 2015 data which shows that only 29.5 percent of the 2.4 million ARBs are women. Moreover, women compose only 13.8 percent of ARBs with Emancipation Patents (EP) and 32.8 percent women ARBs with CCLOA.¹³

With regards to support services, these are usually provided through farmers organizations, and there are very few farmers organizations headed by women. Thus, the extent to which women farmers benefit from support services is unclear, and most likely, limited.

It is clear that much more should be done to enhance the equal access of women to land and natural resources. This includes more intensive and extensive consultations with the sector regarding their needs and demands. In September 2021, ANGOC conducted a workshop among the basic rural sectors regarding their ideas and proposed indicators on what constitutes tenure security.¹⁴

For rural women, tenure security means equal status given to women and men, whether married or not in the awarding of tenurial rights, and recognition of the

¹¹ Pagsanghan, J., Quizon, A., Marquez, N. D., Musni, D. H. J., and Naungayan, M. J. (2022). *Dimensions of Land Tenure Security from the Perspective of Basic Sectors and CSOs in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

¹² Ibid.

¹³ Marzan, A. (2023). *Agrarian Reform in Private Agricultural Lands 2023*. In ANGOC (Ed.). (2024). *2023 State of Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

¹⁴ Pagsanghan, J., Quizon, A., Marquez, N. D., Musni, D. H. J., and Naungayan, M. J. (2022). *Dimensions of Land Tenure Security from the Perspective of Basic Sectors and CSOs in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

tenure rights of women not just as tillers and fishers themselves, but also as providers of labor in various points of the farming and fishing process. It also means recognition as leaders and members in organizations, and equal treatment of women farmers/fishers by government functionaries.¹⁵

For this sector, indicators would be: (a) percentage of women ARBs with EPs and CLOAs, (b) percentage of women among holders of different tenure instruments issued by the government [titles, leases, permits, licenses], (c) percentage of women farmers who are members/officers of farmers organizations, (d) percentage of women fishers who are members/officers of fisherfolk organizations, and (e) percentage of women fishers who are registered.¹⁶

These ideas and indicators on access to land and resources, if actualized into State policy, are a good starting point to address the long-standing biases and disadvantages faced by women in the countryside.

Emerging Issues and Threats in Tenure Reforms

Cross-Cutting: Policy and Jurisdictional Overlaps. Reforms in land governance in the Philippines have taken on a sectoral approach that has resulted in policy and jurisdictional overlaps among agencies mandated to implement the laws. Boundaries delineation, overlaps of titles and resolution of tenure disputes, among others, have become a major concern among the NCIP, DAR, and DENR. To address these concerns, these agencies, together with the Land Registration Authority (LRA), issued Joint Administrative Order (JAO) #01 in 2012.

This JAO traces its existence from the establishment of a Joint Task Force among the DAR, DENR, NCIP, and LRA in 2011. The main objective was to resolve overlaps in jurisdictional and policy mandates among the concerned government agencies. An agreement was reached among these agencies and

¹⁵ Pagsanghan, J., Quizon, A., Marquez, N. D., Musni, D. H. J., and Naungayan, M. J. (2022). *Dimensions of Land Tenure Security from the Perspective of Basic Sectors and CSOs in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

¹⁶ Ibid.

JAO 01-2012 was signed and operationalized. The said order: (1) defines the jurisdiction and policy mandates of DAR, DENR, and NCIP, (2) identifies the conflicts and issues that developed upon the enactment of IPRA, and (3) establishes the mechanisms to prevent and resolve the contentious areas and issues at the national and field levels. On the other hand, the LRA, the agency mandated to implement and protect the Torrens system of land titling and registration in the country, issues decrees of registration pursuant to final judgment of the courts in land registration proceedings and causes the issuance by a registrar of deeds the corresponding certificate of title.

However, the implementation of the JAO 10-2012 has been marred by government inertia, ambiguity of who takes the lead, and the limited capacity of frontline implementors of the JAO to perform their duties. Also, the question of the validity of the JAO in view of the NCIP's mandate in IPRA has continued to cause policy and jurisdictional conflicts. Thus, rather than facilitate the registration of CADTs, the JAO has resulted in bureaucratic gridlock that has impeded ancestral domain registration and blocked the registration process with the LRA. In November 2019, NCIP pulled out from this administrative agreement.

Fisheries Code: Proposed Revision of RA 10654. Several provisions of RA 8550 as amended by RA 10654 favoring the municipal fisherfolks are yet to be implemented and yet the law might be subjected to amendments again. While the proposed revisions have yet to be filed in Congress, they threaten the preferential rights of the municipal fishers over the municipal waters. The major amendment proposals concern Section 18, which reads as follows:

SEC. 18. Users of Municipal Waters. – All fishery activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk. The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within the ten point one (10.1) to fifteen (15) kilometer

area from the shoreline in municipal waters as defined herein, provided, that all the following are met: (a) no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency; (b) fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the Department; (c) prior consultation, through public hearing, with the M/CFARMC has been conducted; and, (d) the applicant vessel as well as the shipowner, employer, captain and crew have been certified by the appropriate agency as not having violated this Code, environmental laws and related laws. In no case shall the authorization or permit mentioned above be granted for fishing in bays as determined by the Department to be in an environmentally critical condition and during closed season as provided for in Section 9 of this Code.

The following table summarizes the proposed amendments:

Table 3. Proposed Revisions to Section 18 of the Fisheries Code of the Philippines

Current Provision	Proposed Provision	Comment
<p>“...The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within the ten-point one (10.1) to fifteen (15) kilometer area from the shoreline in municipal waters as defined herein, provided, that all the following are met:</p>	<p>“...The municipal or city government, however, shall, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate in municipal waters as defined herein...”</p>	<p>1. Change of “may” to “shall” indicates that LGUs will no longer have the option to NOT allow commercial fishing in the 10.1-15-kilometer municipal waters. With granting access of commercial fishers in municipal waters becoming obligatory, this is a way of decreasing the fishing ground available for municipal fishers. This will undermine the “preferential rights” granted to the subsistence fisherfolk as indicated in the</p>

Current Provision	Proposed Provision	Comment
<p>a. no commercial fishing in municipal waters with depth of 20 fathoms (36.5 meters) or less as certified by the appropriate agency; ..."</p>		<p>1987 Constitution and in the national laws.</p> <p>2. The proposal to delete the phrase "<i>within the ten-point one (10.1) to fifteen (15) kilometer area from the shoreline</i>" will allow commercial fishing even within the 10-kilometer municipal waters. This will intensify the competition between the municipal and commercial fishing subsectors to the disadvantage of the former.</p> <p>3. The proposal is to do away with distance and to focus on depth as basis for allowing commercial fishing in municipal waters. But bathymetric maps, especially on the Eastern seaboard show that 20 fathoms can be as near as 1 kilometer from the shore. This means from the previous 10.1 to 15 kilometers from the shore, commercial fishers will be allowed to fish even as near as 1 kilometer from the shore, and will virtually eliminate any preferential option for municipal/ subsistence fisherfolk.</p>

Increasing displacement from land reclamation projects. In a 2021 report, the Commission on Human Rights (CHR) highlighted that land reclamation in coastal areas is a pervasive issue that harms small-scale fishermen by limiting their access to water resources and often displacing coastal communities. This aggressive coastal development damages coastal areas, fish habitats, and

fisheries.¹⁷ Moreover, there is the issue of quarrying for materials used in landfills. Yet reclamation projects often overlook these risks and undervalue research on their impacts, especially on fishing communities.

According to the Philippine Reclamation Authority (PRA), there are 187 approved and proposed reclamation projects nationwide.¹⁸ Manila Bay alone has 22 projects, covering 5,000 to 6,000 hectares,¹⁹ which have all been placed under official review in 2023. Additionally, the PRA itself acknowledged the presence of many illegal and unauthorized reclamation projects, some led by local governments.

Emerging opportunities

New Agrarian Emancipation Act (NAEA). RA 11953, entitled “An Act Emancipating Agrarian Reform Beneficiaries from Financial Burden by Condoning All Principal Loans, Unpaid Amortization and Interests and Exempting Payment of Estate Tax on Agricultural Lands Awarded under the Comprehensive Agrarian Reform Program” or the “New Agrarian Emancipation Act” was enacted by President Ferdinand Marcos, Jr., on 7 July 2023.

RA 11953 is a watered-down version of the more progressive emancipation bill advocated by the agrarian reform and rural development (ARRD) groups. The ARRD groups supported free land distribution to present and future ARBs, but RA 11953 limits the scope to ARBs awarded land titles upon the effectivity of the law. In effect, the ARBs who have not received their land will still have to pay for land amortization. The proposed provision on comprehensive support services for ARBs and direct support to ARBs who already paid their land amortization in full, was not included in the law. The condonation of unpaid real property taxes of ARBs was also advocated by ARRD groups, albeit unsuccessfully.

¹⁷ CHR (2021). *A Monitoring Report: The Human Rights Situation of Artisanal Fisherfolks*. Quezon City: Commission on Human Rights. Adopted thru Resolution CHR (V) No. POL2022-010

¹⁸ Gozum, Iya (2023). “DENR to review reclamation projects nationwide.” *Rappler*, 06 October 2023.

¹⁹ CNN (2023). “Reclamation projects loom in Manila Bay, what does this mean for the natural harbor?”

But even if RA 11953 is not ideal, the ARBs can still benefit from the law. According to DAR data, it will result in the condonation of unpaid land amortizations of more than 600,000 ARBs including the amortizations of those under the questionable Voluntary Land Transfer scheme. It mandates the condonation of all individual loans of ARBs, including penalties and surcharges, secured under CARP or from other agrarian reform laws or programs, provided that the indebtedness is with the government.

Other Effective Area-Based Conservation Mechanisms (OECMs). An OECM is a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in-situ conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values (Convention on Biological Diversity, 2018).

Identification of OECMs offers a significant opportunity to increase recognition and support for de facto effective long-term conservation that is taking place outside currently designated protected areas under a range of governance and management regimes, implemented by a diverse set of actors, including by indigenous peoples and local communities, the private sector, and government agencies.

For non-IP farming communities still awaiting completion of the LAD process, it may be possible to introduce another layer of protection to prevent land use conversion attempts by working on the declaration of their lands as locally conserved areas. There is an opportunity for land rights groups to influence the policy on OECMs as the DENR is conducting a nationwide consultation on the draft administrative order on the identification and recognition of OECMs.

Supreme Court ruling on the right of IPs to utilize forest resources. In 2007, members of the Iraya Mangyan Community in Oriental Mindoro faced charges under PD 705 for cutting down a *dita* tree without a permit from the DENR. They argued they needed it to construct a community toilet, invoking their indigenous people's right, which constitute a part of their right to cultural integrity, and

ancestral domain. Despite their defense, they were convicted by the Regional Trial Court and later by the Court of Appeals.

The Iraya Mangyan appealed to the Supreme Court (SC), emphasizing their ancestral rights. In 2021, the SC acquitted them, recognizing their customary right to harvest forest products for communal use within their ancestral domains. The High Court declared that: “Cultural identity of indigenous peoples are long inseparable from the environment that surrounds it.” The SC's ruling underscored that indigenous peoples view resources in their ancestral lands as communal. This differs from the legal framework applied to non-indigenous peoples which would be tantamount to force upon them a belief system to which they do not subscribe.²⁰

Though the DENR has yet to respond, adjustments of existing forest policies may be necessary to align with the SC's decision regarding indigenous peoples.

Assessment: Ways Forward

The following are the key reform actions that the basic sectors are calling for at this time:

Farmers/ARBs

Prioritize LAD completion of private agricultural lands. President Marcos, Jr.'s administration needs to complete the distribution of 609,722 hectares, 92 percent of which are private agricultural lands, to fulfill the Constitutional mandate to redistribute all agricultural lands to landless farmers.

DAR to immediately install all displaced ARBs and provide initial capital for farm production. The DAR should immediately install all displaced ARBs on their awarded lands, and provide them security and protection, as well as initial capital to jumpstart cultivation.

²⁰ Decision, DIOSDADO SAMA y HINUPAS, BANDY MASANGLAY y ACEVEDA EN BANC [G.R. No. 224469, 05 January 2021], Supreme Court of the Philippines, Lazaro-Javier, J.

Ensure women's land rights are recognized and protected. Introduce gender-based key result areas to ensure that there are funded programs that promote women's land rights, and that regular monitoring and reporting of accomplishments are conducted.

DAR to seriously implement the leasehold program as an integral component of agrarian reform. Actions to include: (1) Establishing a credible database of all tenanted agricultural lands; (2) Allocating larger budgets to deliver leasehold targets; (3) Executing new leasehold agreements; (4) Providing support services facilities for leaseholders and tenants; (5) Forming local monitoring teams; and (6) Setting-up tenant/leasehold assistance desks in DAR municipal offices.

Full implementation of the support services provisions of RA 6657 as amended. Support services should be comprehensive, need-based, climate-smart and gender-responsive. The law allocates 40 percent of all agrarian reform appropriations for support services, of which 30 percent shall should be used for agricultural credit facilities – i.e., socialized credit for existing ARBs, and start-up capital for new ARBs. At the same time, there is a need to introduce concrete programs/incentives to encourage the rural youth to engage in agriculture.

DAR to prosecute CARP violators. The DAR should start prosecuting CARP violators to show that the government is serious in fulfilling its mandate.

DAR to ensure that the legal rights of farmers and ARBs are recognized and respected. DAR must ensure that the farmers and/or ARBs are informed about any petition that may deprive them of their land tenure including CARP exemption/exclusion, cancellation of EPs/CLOAs, land use conversion, among others.

Indigenous Peoples

Resolve JAO 1 of 2012. In order to resolve the policy and jurisdictional overlaps among DAR, DENR, NCIP, and LRA, it is imperative that the problems with the said JAO are resolved. For this to happen, the NCIP should resume conversations

with the other concerned agencies. Disengagement only leads to further delays, while IPs, farmers, and other stakeholders are left to deal with uncertainty and even conflict.

Pursue land registration of CADTs/CADCs. One of the major reasons why CADTs/CADCs are ignored by some government agencies, LGUs, and commercial interests, is because many of these CADTs/CADCs are not registered with the LRA. Thus, the registration of all CADTs/CADCs with the LRA must be pursued, which requires that NCIP strengthen its coordination with the LRA.

Support for ADSDPPs. NCIP and other government agencies to support the formulation process of ADSDPPs and to provide financing for their implementation.

Small/Municipal Fisherfolk

A 10-point Philippine Blue Agenda for Sustainable Fisheries was developed by municipal fisherfolk partners of NGOs for Fisheries Reform (NFR) and Pangngisda Natin Gawing Tama (PaNaGAT). The bases of the agenda included the review of the Comprehensive National Fishery Industry Development Plan (CNFIDP) and island-wide consultations with fisherfolks (Luzon, Visayas and Mindanao). The agenda outlines the call of affected communities in ensuring that their rights, livelihood and environment are protected.

The agenda is as follows:

- *Define the tenurial status of municipal waters. Delineate municipal waters using archipelagic principle.*
- *Provide social protection to fishers which includes insurance especially for fish wardens, housing, legal, services, cash transfer, health care.*
- *Strengthen fisherfolk management of the coastal and marine resources through the establishment of municipal fishery officers, building capacities of FARMCs and fish wardens, as well as approval of the bill on the Department of Fisheries and Aquatic Resources (DoFAR).*

- *Strengthen monitoring, control, and surveillance mechanisms in the fisheries. This includes the implementation of catch documentation and traceability system (CDTS) and vessel monitoring mechanisms (VMMs).*
- *Strengthen women and youth involvement in fisheries management through the establishment of women managed areas, inclusion in the fisherfolk registry, provide equitable, and just compensation for their work.*
- *Strengthen economic and sustainable finance mechanisms for the fishers.*
- *Strengthen climate and disaster resilience of coastal and island communities.*
- *Respond to the effects of COVID-19 pandemic in the fisheries.*
- *Protect fishers from displacement brought about by destructive coastal development.*
- *Address the problem of marine pollution.*

In addition, DA-BFAR should approve the guidelines for the delineation of municipal waters of municipalities and cities with offshore islands using the archipelagic principle. This is to help establish the boundaries of the 15-kilometer municipal waters.

DA-BFAR, in coordination with the appropriate government agencies, should implement Section 108 of the Fisheries Code through the establishment of fisherfolk settlement areas. This is to help ensure their access to their fishing grounds.

Concluding Statement

In key areas of asset reform, there have been some positive developments over the past several years. For instance, the rapid progress in the issuance of CADTs/ CADCs should be celebrated, and the enforcement of laws on illegal fishing have been reasonably successful.

However, significant concerns remain. The low productivity of lands subjected to agrarian reform, possible anti-fisherfolk amendments to the Fisheries Code, and the difficulties of enforcing IP governance over ancestral domains cast long shadows over the countryside. There is a need to continually assess the situation of each sector in the light of emerging opportunities and challenges. ■

References

- ANGOC. (2023). 2023 State of Land and Resource Tenure Reform and Emerging Challenges to Increase Tenure Security for the Rural Poor: Farmers Sectoral Consultation. East View Hotel Carlos Hilado Circumferential Road Cor Esperanzam Diola Street, Bacolod City, 28 July 2023. [Activity Report].
- ANGOC. (2023). 2023 State of Land and Resource Tenure Reform and Emerging Challenges to Increase Tenure Security for the Rural Poor: Fisheries Sectoral Consultation. Smallville 21 Hotel Smallville Complex, G.T. Glicerio Pison Ave., Mandurriao, Iloilo City, 26 July 2023. [Activity Report].
- ANGOC. (2023). 2023 State of Land and Resource Tenure Reform and Emerging Challenges to Increase Tenure Security for the Rural Poor: Indigenous Peoples Sectoral Consultation. Mallberry Suites Limketkai Hotel, FMJ3+PJC, Osmena St, Cagayan De Oro, 9000 Misamis Oriental, 3-4 August 2023. [Activity Report].
- DA-BFAR (2022). *Philippine IUU Fishing Assessment Report 2021*. Published June 2022.
- De Vera, D. (2023). Rights and Governance of Indigenous Peoples Lands (2023). In ANGOC (Ed.). (2024). *2023 State of Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).
- Decision, DIOSDADO SAMA y HINUPAS, BANDY MASANGLAY y ACEVEDA EN BANC [G.R. No. 224469, January 05, 2021], Supreme Court of the Philippines, Lazaro-Javier, J.
- Domingo, S. N. and Manejar, A. J. A. (2020). Review of Indigenous Peoples Policy and Institutional Grounding. *PIDS Discussion Paper Series No. 2020-20*. Philippine Institute for Development Studies (PIDS). <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2020.pdf>
- Marzan, A. (2023). Agrarian Reform in Private Agricultural Lands 2023. In ANGOC (Ed.). (2024). *2023 State of Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).
- NGOs for Fisheries Reform (NFR). *10-Point Philippine Blue Agenda for Sustainable Fisheries*. NFR. 2023.
- Pagsanghan, J., Quizon, A., Marquez, N. D., Musni, D. H. J., and Naungayan, M. J. (2022). *Dimensions of Land Tenure Security from the Perspective of Basic Sectors and CSOs in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).
- Panganiban, I. and Roque, E. (2014). *Women's Land Rights in the Philippines: A Scoping Study*. Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRRA).

Philippine Statistical Authority (2024). *Fisherfolks and Farmers Remain to Have the Highest Poverty Incidences Among the Basic Sectors in 2021*. <https://psa.gov.ph/statistics/poverty/node/1684041626>

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).

Rodriguez, M. (2023). *Tenure Reform in Fisheries and Aquatic Resources (2023)*. In ANGOC (Ed.). (2024). *2023 State of Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). In ANGOC (Ed.). (2024). *2023 State of Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Sandoval, G., Naungayan, M.J., and Marquez, N.D. (2024). *The flip side of the same coin: 2023 Philippine Land and Resource Conflict Monitoring Report*. ANGOC, We Effect, and GLTN of the UN Habitat.

World Bank. (2018). *Making Growth Work for the Poor: A Poverty Assessment for the Philippines*. World Bank Group

Citation

Pagsanghan, J. and Quizon, A. (2023). *2023 State of Resource Tenure Reform in the Philippines: Summary of Findings and Recommendations*. In Marzan, A., Quizon, A., Rodriguez, M., and de Vera, D. (2023). *State of Land and Resource Tenure Reform in the Philippines 2023*. Quezon City: Asian NGO Coalition for Agrarian Reform and Rural and Development (ANGOC).

Agrarian reform in private agricultural lands

Introduction

SMALLHOLDER farmers are among the poorest basic sectors in the Philippines. About 34.3 percent of farmers are living below the per capita income of USD 33 per month. On the average, smallholder farmers consist of five members and are located in rural areas where farming is the main source of livelihood.

The 2012 Philippine Statistics Authority (PSA) Census of Agriculture reported that there are about 5.56 million farms/holdings¹ covering 7.19 million hectares owned by smallholder farmers. They own an average farm size of 1.29 hectares and a maximum of three hectares of agricultural lands.² However, many who are qualified agrarian reform beneficiaries (ARBs) are still landless and facing land tenure insecurity. Poverty incidence of smallholder farmers is attributed to limited access to productive resources, particularly land, despite existing agrarian reform laws and policies (CARRD, 2017).

The Comprehensive Agrarian Reform Program (CARP)

The 1987 Philippine Constitution, Article XIII Section 4, mandates the distribution of all agricultural land to farmworkers who are landless, subject to reasonable retention limits that respect the rights of small landowners. In 10 June 1988, President Corazon C. Aquino signed into law Republic Act (RA) No. 6657 or the Comprehensive Agrarian Reform Law (CARL). RA 6657 was based on the

¹ A farm/holding is any piece of land used wholly or partly for any agricultural production involved in raising crops, livestock, poultry, and other agricultural activities under single management, and operated as one technical unit by one person alone or with others, regardless of title, legal form, size or location (PSA, 2012 Report).

² Agrarian Reform Beneficiaries may own maximum of three hectares based on Philippine agrarian reform laws.

principles of social justice as well as improving overall economic growth and efficiency of the rural sector. The law aims to improve the lives of the landless farmers and farm workers by providing them access and ownership of agricultural lands, access to support services, and agrarian justice delivery.

The law mandates the Department of Agrarian Reform (DAR) to implement the Comprehensive Agrarian Reform Program (CARP). It authorizes the acquisition and distribution of all public and private agricultural lands, as well as the provision of support services and agrarian justice to ARBs. If qualified, the ARBs are awarded with a maximum of three hectares.

RA 6657 also provides for a landowner's retention ceiling of five hectares of agricultural lands and three hectares each to his/her children who qualify as preferred beneficiaries. In addition, CARP mandates the payment of just compensation to landowners and prohibits the transfer of CARP-awarded lands except through hereditary succession.

In 2009, RA 9700 or the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) was enacted. RA 9700 instituted several reforms (Quizon, et al., 2018):

- Removing of Voluntary Land Transfer (VLT) and Stock Distribution Option (SDO) as modes of land acquisition;
- Conferring indefeasibility status to land titles (i.e., Certificates of Land Ownership Award or CLOAs, and Emancipation Patents or EPs) issued under agrarian laws;
- Making it easier for ARBs to comply with their amortization payments, by moving back the commencement 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;
- Prohibiting the conversion of irrigated and irrigable lands;
- Increasing penalties for violators of CARP;

- Appropriating at least P150 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 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 the DAR Adjudication Board (DARAB) to the DAR Secretary;
- Creating 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.

Objectives and Methodologies

This sectoral paper provides a status of the agrarian reform implementation in private agricultural lands from July 2016 to June 2022. Specifically, this study: (a) provides updates on the status of accomplishment of CARP as of end of 2022; (b) discusses challenges affecting tenure security of the farmers; and, c) identify courses of action to strengthen the implementation of CARP/CARPER.

This paper involves a review of literature on the analysis of relevant laws, policies and programs that impact on agrarian reform implementation. Inputs from representatives and leaders of farmer and civil society organizations working on agrarian reform and land rights issues were gathered³ and integrated into this paper.

In term of limitation, there is a lack of sex disaggregated data on agrarian reform beneficiaries, and other data on support service delivery and agrarian justice delivery.

³ A focus group discussion with farmers and agrarian advocates was conducted in Bacolod City last 28 July 2023.

Status of CARP Implementation and Related Issues under the Duterte Administration

On Land Acquisition and Distribution (LAD)

Section 4 of RA 6657 enumerates the scope and the lands that covered by the CARP. The succeeding provisions also discuss the retention and ownership ceiling for agricultural lands, and the prioritization of lands for distribution. After more than three decades of CARP implementation, completion of the LAD has not been achieved. The slow-paced implementation has limited the program's potential impact and has given rise to greater challenges in program completion. Bottlenecks in CARP implementation are attributed to budgetary constraints, political factors, and the technical capacities of implementing agencies (Balisacan, 2007). There are also legal disputes relating to coverage and land valuation, landowners' resistance, and harassment. More than 600,000 hectares of private agricultural lands are still undistributed, leaving thousands of potential agrarian reform beneficiaries landless and at the precipice of poverty.⁴

The largest remaining LAD balances are in the Bicol, Eastern Visayas, Western Visayas, and ARMM regions. In Western Visayas, 80 percent of the LAD balance consist mainly of large private plantations in the province of Negros Occidental. In Eastern Visayas, 80 percent of the LAD balance are private lands in the province of Leyte.

Table 1. Land Distribution from 2016 to 2022

Year	2016	2017	2018	2019	2020	2021	2022	Total
Accomplishment (in hectares)	22,735	28,403	28,501	23,534	14,318	10,308	7,165	134,964
No. of ARBs	23,965	34,572	25,613	20,621	14,529	9,077	7,729	136,106

⁴ From the DAR's position paper and presentation on January 2021 to the Committee on Agrarian Reform of the House of Representatives during the hearing of HB 999 (An Act Creating the National Land Reform Authority, Defining its Powers and Functions, and for Other Purposes).

Table 2. Land Distribution Accomplishment by Administration, in hectares (Ballesteros et al., 2017)

Administration	Accomplishment (in hectares)	Private Agricultural Land (PAL)
Corazon Aquino (1987 to 1992)	907,083	544,338
Fidel Ramos (1992 to 1998)	1,671,244	839,600
J. Estrada/G. Arroyo (1998 to 2004)	631,146	437,385
G. Arroyo (2004 to 2010)	658,027	384,340
B. Aquino III (2010 to 2016)	851,641	404,929
R. Duterte (2016 to 2022)	134,964	No available data
Accomplishment (1988 to 2022)	4,854,105	2,610,592
Total CARP Scope	5,463,827	3,173,465 ⁵
Balance	609,722	562,873

The Duterte administration did not use its political will and capital to complete the distribution of the remaining private agricultural lands. Most of the remaining balance are private agricultural lands whose landowners have resisted CARP coverage for more than three decades. The total land distribution accomplishment of the DAR from 2016 to 2022 was only 134,964 hectares (PSA, 2019) or an average of 22,494 hectares per year, benefitting 136,106 agrarian reform beneficiaries.

Compared with the achievement of the previous administrations, the Duterte administration grossly underperformed, having the lowest land distribution accomplishment in CARP implementation history. The highest accomplishment was during the administration of former President Fidel Ramos, although this was also during his presidency when the DAR started the distribution of

⁵ DAR Bureau of Land Tenure Improvement Data 2017

Table 3. Status of the leasehold program

Year	2016	2017	2018	2019	2020	2021	2022	Total
Accomplishment (in hectares)	15,398	17,728	17,086	12,760	12,382	14,669	14,056	104,079
No. of ARBs	No Data	No Data	8,959	6,724	6,816	8,257	7,486	136,106

collective CLOAs (CCLOAs) instead of individual titles. The DAR distributed 1,671,244 hectares to landless farmers during the Ramos period. Before Duterte, the lowest accomplishment was during the Estrada/Arroyo presidency with 631,146 hectares. With 88.8 percent of LAD accomplished (4,854,015 hectares of the total land scope of 5,463,827 hectares distributed from 1988 to 2022), Ferdinand Marcos, Jr.'s administration still needs to complete the distribution of 609,722 hectares,⁶ 92 percent of which are private agricultural lands. It is important to note that the LAD balance as of June 2022 is higher than the balance in 2016. If the Marcos Jr. administration targets LAD completion until 2028, it needs to distribute 101,620 hectares per year.

Table 4. Status of Women ARBs

Data Set	Women		Men		Total
	Number	% Share	Number	% Share	Number
Total Number of ARBs	711,369	29.5	1,700,790	70.5	2,412,159
Total Number of ARBs with Emancipation Patent	57,424	13.8	358,281	86.2	415,705
Total No. of ARBs with CLOA	653,945	32.8	1,342,509	67.2	1,996,454

⁶ Land acquisition and distribution scope under CARP is always changing due to various policy issuances, court decisions, etc. That explains the bigger LAD balance as of 2022 compared to 2016 LAD balance.

Status of the Leasehold Program. RA 3844⁷ provided for the protection of the rights of tenant farmers by ensuring their right to a home lot, and outlawing share tenancy in favor of leasehold arrangements. DAR accomplishment reports showed that the agency exceeded its leasehold targets with 1.2 million tenant farmers in 1.8 million hectares (DAR, 2017). Despite this, circumstances still indicate that the leasehold program has been neglected by the DAR (DAR, 2017). Pressing issues surrounding the program are the lack of comprehensive data on leasehold target landholdings and yearly accomplishments, lack of data on support services accessed by the tenant farmers, and unavailed pre-emption and redemption rights⁸ of tenants that they, and sometimes, even DAR field personnel are unaware of. From 2016 to 2022, the DAR reported facilitating leasehold contracts of more than 55,000 tenants covering 104,108.23 hectares.⁹ The report did not state if the leasehold accomplishments are new or merely renewals of existing leasehold agreements. A majority of the leasehold agreements are not registered with the local government units (LGUs) which existing policy on leasehold requires.

Status of women's land rights. The last available information is still the DAR 2015 data which reveals that only 29.5 percent of the 2.4 million ARBs are women. Moreover, women compose only 13.8 percent of ARBs with EPs and 32.8 percent of ARBs with CLOAs.

On Program Beneficiaries Development (PBD)

Support Services provided by the DAR. To uplift the economic status of the farmers, land distribution should be coupled with support services that will enable the ARBs to at least begin to improve their agricultural production. With sufficient social infrastructure and capacities, the ARBs will be more able to

⁷ R.A. 3844 or the Agricultural Land Reform Code is the primary law on tenancy and leasehold.

⁸ 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.

⁹ DAR Annual Physical Report of Operations 2016 to 2022

defend themselves from vested interests.¹⁰ With tenurial security, the ARBs are also more prepared, confident and empowered to venture into investments and enterprises whether as individuals or members of an organization or a cooperative.

Under its PBD thrust, the DAR has various programs extending support to ARBs. The Agrarian Reform Beneficiaries Development and Sustainable Program (ARBDSP) provides for a comprehensive mechanism to assist ARBs. It has four components:¹¹ (1) Social Infrastructure Building [SIB]; (2) Climate Resilient Farms [CRF]; (3) Enterprise Development and Economic Support [EDES]; and, (4) Basic Essential Social Services Access Facilitation and Enhancement [BESSAFE]. The ARBDSP program aims to achieve enhanced productivity for ARBs; increased investments for agrarian based enterprises; strengthened ARB organizations (ARBOs) that are managing competitive and profitable agriculture-based enterprises; and, increased incomes for ARBs and their families with sustained tenurial security over their awarded lands.¹²

To implement its 2021 to 2024 Support Services Office (SSO) Road Map, the DAR is focusing on ARBO organizing and development. It targets to conduct and accomplish the following by 2024:¹³ (1) to organize 1,000 new ARBOs particularly those in newly distributed lands, estimated to be around 12 to 15 ARBOs for every province; (2) to organize potential ARBs prior to the issuance of their CLOAs; and, (3) to federate ARBOs and mobilize collective support for enterprise development, marketing, capacity development, and common advocacies among others.

¹⁰ Id.

¹¹ DAR's SSO 2021 to 2024 Strategic Road Map presented during the ARDKPP UNDF-PAP4FF Online Launching held on 21 July 2021.

¹² Id.

¹³ Id.

Status of ARBs, ARBOs, and ARCs.¹⁴ Based on the DAR's 2021 to 2024 SSO Roadmap, 1.7M ARBs or 60 percent of the 2.9 million ARBs need access to various support services such as capacity building, pre- and post-harvest infrastructure, financial assistance through grants, subsidies, and loans, and access to market. Provision of support services to ARBs is through organization but there are only 6,293 existing ARBOs in the DAR database. Large number of ARBs are not part of organizations, thus limiting their access to the support that they need.

One of the key strategies of DAR to provide comprehensive support services to ARBs is the establishment of Agrarian Reform Communities (ARCs). As of 2021, there are 2,234 ARCs but only 805 ARCs have been able to receive assistance from the DAR. According to DAR, this is because of the limited budget allotted to DAR for support services delivery.

For 2021 to 2024, DAR targets to provide support services to 1,732,456 ARBs. Establishment of 2,985 new ARBOs with estimated membership of 212,926 ARBs is also part of the roadmap target. For ARC, the roadmap targets the provision of comprehensive support services to the remaining 1,429 ARCs who did not receive comprehensive support services in the past.

Other Existing Programs and Mechanisms.¹⁵ The DAR in coordination with other government agencies have existing programs on agricultural production, credit assistance, and insurance. These include: DAR's Agrarian Production Credit Program (APCP), Accessible Funds for Delivery to ARBs (AFFORD), Assistance to Restore and Install Sustainable Enterprises for ARBS and Small Farm Holders (ARISE); DA's Capital Loan Easy Access (CLEA), Agri-Negosyo Program (ANYO), Kapital Access for Young Agripreneur (KAYA), Agriculture and Fisheries Machinery and Equipment Loan (AFME); and, the Crop Insurance Program

¹⁴ Powerpoint presentation of DAR's SSO 2021 to 2024 Strategic Road Map, reported during the ARDKPP UNDFP-PAP4FF Online Launching held on 21 July 2021.

¹⁵ Culled from DAR's PowerPoint presentation on their updates and responses to ILC-NES' comments and concerns on the SPLIT project during an online dialogue held on 29 June 2021.

Table 5. Agrarian Justice Delivery Accomplishment from 2016 to 2022

Year	ALI Caseload	ALI Accomplishment	DARAB Caseload	DARAB Accomplishment
2016	42,723	31,966	28,149	19,355
2017	44,013	29,623	32,312	22,606
2018	No Data	No Data	No Data	No Data
2019	41,131	37,434	28,394	26,784
2020	31,947	31,840	22,759	22,340
2021	36,052	34,040	23,433	22,859
2022	17,110	16,298	23,318	22,949
Total	212,976	181,201	158,365	136,893
Percent (%)	100	85	100	86.5

implemented by the DAR and DA-Philippine Crop Insurance Corporation (DA-PCIC).

The DAR also implements its PBD lawyering program aimed at providing capacity building to ARBs and ARBOs related to contract negotiation, business coaching, managing credit, and other skills and information needed to effectively engage in agricultural businesses and investment activities.

Status of Agribusiness venture agreements (AVAs). In DAR records, there are 433 registered and approved AVAs, and most of these involve ARBs leasing out their awarded lands. Several ARBs were forced to engage in agribusiness ventures with the private sector due to lack of public investments in agriculture and the difficulty in accessing government’s support services. Reports also indicated former landowners offer to lease back lands prior to formal turnover

¹⁶ Based on the focus group discussion with farmers and agrarian reform advocates conducted on 28 July 2023 in Bacolod City.

of CLOA to ARBs.¹⁶ Thus, it is imperative to make AVA policies more protective of ARBs.

On Agrarian Justice Delivery (AJD)

The implementation of CARP has been contentious and problematic, especially with regards to acquiring private agricultural lands. 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. ALI cases are cases filed in relation to the implementation of CARP, especially regarding the land acquisition and distribution process, such as protests relating to coverage, exemption, inclusion, exclusion, disqualification of potential FBs, retention, land use conversion, among others. The Department of Agrarian Reform Adjudication Board (DARAB) has original and exclusive jurisdiction of the determination of just compensation, ejection of tenants, fixing of lease rentals, annulment of lease contracts, pre-emption and redemption, boundary disputes, collection of amortization and foreclosure, agrarian disputes, among others.

Under the Duterte administration (2016 to 2022), the DAR reported 181,201 cases or 85 percent of ALI cases as resolved. DARAB reported 136,893 cases or 86.5 percent of their caseload resolved.¹⁷

The role of the DAR in delivering agrarian justice is not merely quasi-judicial. The agency is mandated to file complaints against individuals or groups who are delaying, evading, or unjustly resisting CARP, but there is no reported case or information about DAR filing complaints against CARP violators.

¹⁷ DAR Report, 2016 to 2022

Issues and Challenges

On Land Acquisition and Distribution (LAD)

LAD Completion. The completion of LAD remains one of the major issues confronting the agrarian reform program. In the meantime, the distribution of lands with NOCs, mostly private agricultural lands, continue to proceed at a snail's pace. The slowest pace was during the term of former President Rodrigo Duterte. The period started on a high note, with the appointment of a progressive DAR Secretary Rafael Mariano. Sec. Mariano issued a progressive policy - DAR Administrative Order No. 5, series of 2017 - that was supposed to fast-track the acquisition and distribution process. Unfortunately, Sec. Mariano's term was cut short when the powerful Commission on Appointments (CA) rejected his appointment. Mariano's successor immediately suspended AO 5 and replaced it with AO 6, series of 2017 that further delayed the completion of LAD.

The Non-issuance of NOCs, and Erroneous NOCs. For private agricultural lands, the issuance of the NOC initiates the LAD process. It informs the landowners that his/her landholding is covered under CARP. Upon receiving the NOC, landowners are apprised of remedies available to them such as protesting the coverage, nominating their preferred beneficiaries and/or exercising their retention rights. Only after the issuance of the NOC will other steps of the LAD process be allowed to proceed.

The inability of DAR to issue NOCs has retarded CARP's completion significantly. DAR failed to issue NOCs for thousands of landholdings covering more than 206,000 hectares (DAR, 2016, as cited in Quizon, et al., 2018). Moreover, the agency has classified some of their issued NOCs as "erroneous"¹⁸ for varying reasons, and has removed these from its LAD targets. In many cases, erroneously issued NOCs require re-issuance of NOC and this cannot be done given the DAR's legal opinion that Sec. 30 of RA 9700 limits its authority to cover

¹⁸ Erroneous NOC means NOC that is inaccurate or contains typographical or clerical or substantial error.

lands without valid NOC or to cover lands not subject of a pending case as of 30 June 2014.

There were attempts by DAR to address these issues through new policy issuances. However, these provide remedies only to landholdings with pending cases but not covered by NOCs, and to some NOCs classified by DAR as “erroneous” that are the subject of technical issues.

“Problematic” landholdings delisted from the LAD target. There are landholdings with valid NOCs that were removed from the list of LAD targets because DAR classified these as “problematic.” The process of delisting is arbitrary, without farmers knowing that the lands they were claiming were delisted, and there are no clear parameters on what DAR considers “problematic landholdings.” Based on farmers’ group observations, DAR delists landholdings with incomplete documentation, strong landowner resistance, those with “erroneous” NOCs, and those with pending cases, among others.

Constant change in DAR leadership and incompetent DAR officials. The quick turnover of local DAR officials, particularly the Municipal Agrarian Reform Program Officers (MARPOs) has impacted the LAD process. This has resulted in the lack of proper turnover of tasks, cases, and documents which results in further delays, as the new officials need time to study the pending cases. Also, many of the new officials are not familiar with the LAD process, and some are in connivance with the landowners.

The constant change in DAR leadership has confused field implementors because of variances in policy issuances. There were instances where local DAR officials refused to implement certain policies due to lack of clarity. There were also instances where DAR officials did not implement policies, especially those that are favorable to farmers because they feared the landowners.

Inequitable access to land by landless women farmers. Despite existing laws (RA 9700 and RA 9710 or the Magna Carta for Women) and administrative issuances, data shows that rural women still lack equal rights to own, manage

and control land. This is 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.

On Program Beneficiaries Development¹⁹

Lack of adequate and necessary support to ARBs. One of the main issues raised by farmers and agrarian reform advocates since the enactment of CARPER is inadequate provision of support services to ARBs. ARBs lack capitalization for cultivating their awarded lands. Many of them face constraints in gathering resources (cash, farm input, implements, and machineries) to sustain their farming activities.

Based on 2018 data, only 53 percent of existing ARBs had access to a package of support services while remaining ARBs have availed only of specific support services. The problem lies in the mechanisms to access support services from national to local level. With the devolution of powers of the Department of Agriculture's (DA) service delivery to Local Government Units (LGUs), very limited funds were allocated to agriculture extension.

ARBs with limited access to market. In addition to the productivity issues, ARBs are facing challenges in pricing and linking with markets for their agricultural products. These problems are exacerbated by the influx of foreign products in local markets, which compete with those of local farmers.

Inadequate provision of initial capital and socialized credit to ARBs. RA 9700 mandates the provision of initial capitalization to new ARBs and socialized credit to existing farmer owners of CARP-awarded lands. These reforms are stipulated in Sections 35 to 38 of R.A. 6657 as amended. The support services component however, remains underfunded despite its institutionalization in the law. ARBs with minimal to no support services from the government are exposed to vulnerabilities that threaten their hold over their lands. Comprehensive,

¹⁹ Based on the focus group discussion with farmers and agrarian reform advocates conducted on 28 July 2023 in Bacolod City.

effective, and efficient delivery of support services to ARBs will make 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 these lands.

Unfair and unjust private investment in agriculture. With funds to support the ARBs being either inadequate or inaccessible, the former are forced to engage in unfair and unjust agribusiness ventures with the private sector. Many ARBs were deceived to accept the terms of AVAs because these were not written in a language they understand. Investors engage in unfair agribusiness models are also more accessible to ARBs than the government. They employ local agents, sometimes DAR officials, to convince the ARBs to enter into lease agreements.

Lack of climate-smart 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, and water supply that threaten productivity, livelihoods, and security of homes. The damages to the farmers' crops are in the billions of pesos annually, but most ARBs have no access to crop insurance and other programs to mitigate the effects of climate change.

On Agrarian Justice Delivery

There is renewed resistance among landowners, who resort to filing 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 were decided cannot be determined from existing data. Accomplishments refer to the number of decisions and actions taken on cases, rather than on whether the specific land disputes were permanently resolved. However, disputes may reoccur on the same property, or past cases may be reopened.

Non-recognition of farmer's legal standing. There are reported cases of farmers who are not aware that the lands they are claiming under CARP are the subject

of protests or applications for land use conversion. The DAR officials concerned are aware that there are qualified farmer beneficiaries that will be affected by these protests or conversion applications but they do not inform the farmers, nor ask them to comment on the petitions.

DAR's failure to file complaints against individuals/groups resisting CARP implementation. One of the major issues why LAD of private agricultural lands is not yet complete after more than three decades is the inaction of DAR against individuals and/or groups who are delaying and evading CARP implementation and preventing DAR from performing its tasks.

Cases filed protesting CARP coverage to derail the LAD process. Numerous cases questioning CARP coverage such as but not limited to exemption, exclusion, land use conversion, were filed by the landowners since the issuance of DAR Administrative Order No. 7, series of 2012 which limits the LAD process to issuance of Memorandum of Valuation (MOV) if a landholding is subject of a protest questioning CARP coverage. Many of these cases were filed beyond the prescriptive period and are meant to derail and delay CARP coverage. Landowners did not immediately question the process when they were notified when they received the NOC that their land will be covered under CARP. AO 7 is a self-limiting policy and contrary to Sec. 20 of RA 9700 which states that only the Supreme Court can stop CARP implementation.

Limited legal assistance to ARBs and to DAR officials performing their mandate. In practice, 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 costs of litigation. Meanwhile the legal staff in local DAR offices appear unable to cope with the growing caseload, especially in provinces with high LAD balances and strong landowner resistance.

Other cross-cutting issues

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

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

Rampant illegal land use conversion. DAR data on approved land conversion shows that 168,041 hectares of agricultural lands were converted and/or exempted from CARP coverage.²⁰ However, this does not reveal the whole picture, as there are thousands of undocumented and illegally converted irrigated and irrigable agricultural lands, and DAR has not been prosecuting violators.

Overlapping land claims. Sector-specific land laws like the CARP Law (RA 6657), the Indigenous Peoples Rights Act (RA8371), and the Urban Development and Housing Act (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. Government has tried to harmonize various land laws through dialogues and joint agency mechanisms, but has so far failed.

²⁰ Nationwide converted and exempted/excluded landholdings from 1988 to November 2017. Data from the DAR Bureau of Agrarian Legal Assistance.

Emerging Opportunities?

New Agrarian Emancipation Act (NAEA). RA 11953 “An Act Emancipating Agrarian Reform Beneficiaries from Financial Burden by Condoning All Principal Loans, Unpaid Amortization and Interests and Exempting Payment of Estate Tax on Agricultural Lands Awarded under the Comprehensive Agrarian Reform Program” or the “New Agrarian Emancipation Act” was enacted by President Ferdinand Marcos, Jr., in 7 July 2023.

RA 11953 is a watered-down version of the more progressive emancipation bill advocated by the agrarian reform and rural development (ARRD) groups. The ARRD groups supported free land distribution to present and future ARBs, but RA 11953 limits the scope to ARBs awarded land titles upon the effectivity of the law. In effect, the ARBs who have not received their land will still have to pay for land amortization. The proposed provision on comprehensive support services for ARBs and direct support to ARBs who already paid their land amortization in full, was not included in the law. The condonation of unpaid real property taxes of ARBs was also advocated by ARRD groups, unsuccessfully.

But even if RA 11953 is not ideal, the ARBs can still benefit from the law. According to DAR data, it will result in the condonation of unpaid land amortizations of more than 600,000 ARBs including the amortizations of those under the questionable Voluntary Land Transfer scheme. It mandates the condonation of all individual loans of ARBs, including penalties and surcharges, secured under CARP or from other agrarian reform laws or programs, provided that the indebtedness is with the government.

DAR Memorandum Circular (MC) 226. Section 55 of RA 6657, as amended, expressly states that “Except for the Supreme Court (SC), no court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the PARC, the DAR, or any of its duly authorized or designated agencies in any case, dispute or controversy arising from, necessary

to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform.”

To operationalize Section 55, former DAR Secretary Rafael “Paeng” Mariano issued Administrative Order 5, series of 2017. Under AO 5, any pending petition or protest of coverage, exemption, or exclusion shall not stop the completion of the LAD process up to successful ARB installation, unless otherwise suspended by the Secretary through a cease and desist order (CDO) or status quo order or by the Supreme Court thru temporary restraining order (TRO) or preliminary injunction.

But in September 2017, the powerful Commission on Appointments rejected the appointment of then DAR Secretary Mariano. Subsequently, OIC Secretary Rose Bistoyong issued Administrative Order 2, series of 2018 suspending the implementation of AO 5. In 2020, DAR issued AO 2 that limits the LAD process up to the issuance of land title to the Republic of the Philippines for landholdings with pending cases.

Farmers and agrarian reform groups pushed for the re-instatement of AO 5, series of 2017 and for DAR to uphold Section 55 of RA 6657, as amended.

To address the clamor of the farmers, the DAR issued Memorandum Circular 226, series of 2023 or Continuation of LAD or Completion of LAD Process Notwithstanding the Presence of ANY Protest/Pending Action.

However, MC 226 that may still cause further delay in LAD completion especially if the DAR Secretary is not pro-farmer. Giving the Secretary the discretion to suspend the LAD process thru a CDO or Status Quo Order is another case of DAR limiting its own power and authority to fulfill its mandate of LAD completion.

However, MC 226 states that in all instances, only the SC, upon the issuance of a TRO, can suspend the LAD process pending the final resolution of the case regardless of the stage in the appellate procedure.

Support to Parcelization of Land for Individual Titling (SPLIT). As a general rule, R.A. 6657 as amended by R.A. 9700 provides that titles to be awarded to ARBs should be in the form of individual titles.²¹ ARBs may opt for collective ownership pursuant to conditions allowed under the law.

CCLOAs were predominantly awarded to ARBs in the mid-1990s (Delos Reyes, et al., 2016) during the early years of CARP implementation. The issuance of CCLOAs, thought as an interim measure prior to award of individual titles, became a means to fast track the LAD and the award of titles to ARBs.²² In the course of the LAD implementation however, parcelization of CCLOAs suffered delays or worse, were not processed to become individual titles. These were primarily due to two reasons:²³ (1) the issuance of CCLOAs was already reported by DAR as an accomplishment, leaving little incentive for its field offices to process individual CLOAs; and, (2) lack of funding for surveying land and subdividing CCLOAs to individual titles.

In March 2019, the DAR issued AO 2 Series of 2019 or the Guidelines and Procedure on the Parcelization of Landholdings with CCLOAs. Through subdivision and issuance of individual titles, the DAR endeavors to stabilize and secure the ownership, control, and hold of the farmers over their lands.²⁴

In November 2020, the DAR launched its Support to Parcelization of Lands for Individual Titling (SPLIT) project (Mayuga, 2020). The SPLIT is a four-year project (2020 to 2024) funded by the World Bank targeting a total area of 1,368,883 hectares of agricultural land covered by collective CLOAs and seeks to benefit

²¹ Section 25 of RA 6657 as amended by RA 9700.

²² *Id.*

²³ *Id.*

²⁴ DAR AO 2 series of 2019.

1,140,735 ARBs (Mayuga, 2020). It will be implemented in 78 provinces in 15 regions across the country (Mayuga, 2020). This project aims to expedite the subdivision of collective titles issued to ARBs and address the roadblocks to their full exercise of ownership over their awarded lands.

The parcelization and issuance of collective CLOAs will address one of the long-time roadblocks encountered by ARBs who are willing and able to pay amortization but cannot do so because their lands are covered under collective ownership. With individual titles, the DAR will be able to identify the specific area allotted to each ARB. In turn the Land Bank of the Philippines (LBP) will have sufficient basis to compute the amortization schedules of the CLOA holders and consequently, the ARBs will be able to comply their obligations as landowners. Obtaining individual CLOAs will also pave the way for agricultural investments.²⁵ Farmer-owners will be able to maximize their greatest asset – their land – in financing, expanding, and increasing their production. They may use their lands as collateral for loans to avail of credit and financing support from the government and other financing institutions.²⁶ After the required 10-year holding period of CARP-awarded lands and full payment of amortization,²⁷ CLOA holders, if they choose to do so, may sell, lease or convey possession and/or ownership of their awarded lands to others individuals or entities.²⁸

Nonetheless, ARBs under CCLOAs should have the choice to refuse coverage under the SPLIT project. Meanwhile, efforts should be made to organize ARBs involved in the SPLIT project, to encourage collective farming and marketing, and to enable them to access support services.

²⁵ Paragraph 11 of World Bank's Project Information Document on the SPLIT; HYPERLINK "https://ewdata.rightsindevelopment.org/files/documents/99/WB-P172399_ZjQ4FQ9.pdf"WB-P172399_ZjQ4FQ9.pdf (rightsindevelopment.org); accessed on 4 August 2021.

²⁶ Id.

²⁷ Section 27 of RA 6657 as amended by RA 9700

²⁸ Paragraph 11 of World Bank's Project Information Document on the SPLIT; HYPERLINK "https://ewdata.rightsindevelopment.org/files/documents/99/WB-P172399_ZjQ4FQ9.pdf"WB-P172399_ZjQ4FQ9.pdf (rightsindevelopment.org); accessed on 4 August 2021.PP

Other Effective Area-Based Conservation Mechanisms (OECMs) to protect local farming communities. OECM is defined as a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in-situ²⁹ conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values (Convention on Biological Diversity, 2018).

Identification of OECMs offers a significant opportunity to increase recognition and support for de facto effective long-term conservation that is taking place outside currently designated protected areas under a range of governance and management regimes, implemented by a diverse set of actors, including by indigenous peoples and local communities, the private sector, and government agencies (IUCN, n.d.).

Non-IP farming communities who are still awaiting completion of the LAD process can introduce another layer of protection to prevent land use conversion attempts by working on the declaration of the land as locally conserved areas. There is an opportunity for land rights groups to influence the policy on OECMs as the Department of Environment and Natural Resources is conducting a nationwide consultation on the draft administrative order on the identification and recognition of OECMs.

Recommendations³⁰

On Land Acquisition and Distribution

Prioritize LAD completion of private agricultural lands. President Marcos, Jr.'s administration needs to complete the distribution of 609,722 hectares,³¹ 92

²⁹ The conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

³⁰ Based on the focus group discussion with farmers and agrarian reform advocates conducted on 28 July 2023 in Bacolod City.

³¹ LAD scope under CARP is always changing due to various policy issuances, court decisions, etc. This explains the bigger LAD balance as of 2022 compared to 2016 LAD balance.

percent of which are private agricultural lands, to fulfill the constitutional mandate to distribute all agricultural lands to landless farmers. The DAR must have the financial resources and personnel to distribute 112,000 hectares of private agricultural lands annually to be able to cover the remaining private agricultural lands by the end of the current administration.

DAR to stop issuing policies that will further delay CARP Implementation. The DAR continually issues policies that restrict their own work and further delays the completion of LAD. Examples of these are the DAR Administrative Order No. 7, series of 2011 which limits the LAD process for landholdings with pending case to MOV and Administrative Order No. 2, series of 2020 which limits the process up to issuance of Republic of the Philippines title if there is a pending protest.

DAR to immediately install all displaced ARBs and 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. Since these ARBs were displaced and therefore have limited income, the provision of initial capital to jumpstart farm productivity is a must.

Ensure women's land rights are recognized and protected by increasing local DAR's awareness on the equal rights of women farmers under CARP and to introduce gender-based key result areas to ensure that there are funded programs that promote women's land rights and regular monitoring and reporting of accomplishments are conducted.

DAR to seriously implement the leasehold program as an integral component of agrarian reform. 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 preemption and redemption.

On Program Beneficiaries Development

Support services should be comprehensive, need-based, and climate-smart.

Support services to ARBs should aim for economic empowerment of ARBs through increased farm productivity, market access, and income. This can only happen if the government provides a comprehensive package of support services that is appropriate to needs of ARBs. Support services must be climate-smart as agricultural practices can have significant impacts on biodiversity. By implementing sustainable agricultural practices, farmers can conserve biodiversity by preserving and restoring natural habitats, protecting native species, and avoiding the use of harmful chemicals that can harm ecosystems. At the same time, there is a need to introduce concrete programs/incentives to encourage the rural youth to engage in farming.

Full implementation of the support services provisions of RA 6657 as amended including the provision of gender-responsive support services. The law allocates 40 percent of all agrarian reform appropriations for support services, of which 30 percent shall should be used for agricultural credit facilities – i.e., socialized credit for existing ARBs, and start-up capital for new ARBs. For new ARBs, the provision of a start-up capital will prevent them from resorting to unfair agribusiness agreements such as leases and 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.

For women ARBs, DAR should religiously implement AO No. 9, series of 2011 or the Guidelines governing gender equality in the implementation of agrarian reform, laws and mainstreaming gender and development in the DAR.

On Agrarian Justice Delivery

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 ensure that the legal standing of farmers and ARBs is recognized and respected. DAR must ensure that the farmers and/or ARBs are informed about any petition that may deprive them of their land tenure including CARP exemption/exclusion, cancellation of EPs/CLOAs, land use conversion, and cases of inclusion, exclusion or disqualification as CARP beneficiary. DAR must consider the farmers/ARBs as party to these cases especially if the petitioners do not include them. ■

References

- Agricultural Land Reform Code. Republic Act 3844 (1963). https://lawphil.net/statutes/repacts/ra1963/ra_3844_1963.html
- Ballesteros, M. M., Ancheta, J., and Ramos, T. (2017). *The Comprehensive Agrarian Reform Program after 30 Years. Accomplishment and Forward Options*. Philippine Institute for Development Studies (PIDS). <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1734.pdf>
- Balisacan A. (2007). *Agrarian Reform and Poverty Reduction in the Philippines*. Policy Dialogue on Agrarian Reform Issues in Rural Development and Poverty Alleviation Traders Hotel, Manila 30 May 2007. [Conference presentation].
- Center for Agrarian Reform and Rural Development (CARRD). (2017). *Subdividing collective Certificates of Land Ownership Awards: A strategy paper*. CARRD.
- Comprehensive Agrarian Reform Law. Republic Act No. 6657 (1988). <https://www.officialgazette.gov.ph/1988/06/10/republic-act-no-6657/>
- Comprehensive Agrarian Reform Program Extension with Reforms. Republic Act 9700 (2009). https://lawphil.net/statutes/repacts/ra2009/ra_9700_2009.html
- Delos Reyes, V., Librojo, R., and Capacio, J. L. (2016). *Offering Guideposts for Reform Efforts: Lessons from the Agrarian Reform Program in the Philippines*. 2016 World Bank Conference on Land And Poverty." The World Bank – Washington DC, March 14-18, 2016. [Conference Paper].

- Department of Agrarian Reform (DAR). (2016). *DAR Quarterly Physical Report of Operation as of December 2016*. <https://media.dar.gov.ph/source/2021/06/08/2016-agency-performance-report-physical-report-of-operation.pdf>
- Department of Agrarian Reform (DAR). (2017). *DAR Quarterly Physical Report of Operation as of December 2017*. <https://media.dar.gov.ph/source/2021/06/08/2017-agency-performance-report-physical-report-of-operation.pdf>
- Department of Agrarian Reform (DAR). (2018). *DAR Quarterly Physical Report of Operation as of December 2018*. <https://media.dar.gov.ph/source/2021/06/08/2018-agency-performance-report-physical-report-of-operation.pdf>
- Department of Agrarian Reform (DAR). (2019). *DAR Quarterly Physical Report of Operation as of December 2019*. <https://media.dar.gov.ph/source/2020/03/06/2019-qpro-full-bar1-final-as-of-jan-30-2020-for-pdf-gina.pdf>
- Department of Agrarian Reform (DAR). (2020). *DAR Quarterly Physical Report of Operation as of December 2020*. <https://media.dar.gov.ph/source/2021/02/19/qpro2020-rotated.pdf>
- Department of Agrarian Reform (DAR). (2021). *DAR Quarterly Physical Report of Operation as of December 2021*. <https://media.dar.gov.ph/source/2022/02/17/qpro-all-indicators-jan-dec-2021-for-ts.pdf>
- Department of Agrarian Reform (DAR). (2022). *DAR Quarterly Physical Report of Operation as of December 2022*. <https://media.dar.gov.ph/source/2023/03/21/3-qpro-4q-2022-all-indicators-final-revised-feb-16-2023.pdf>
- Department of Agrarian Reform (DAR). (2023). *Administrative Orders* <https://www.dar.gov.ph/issuances/administrative-orders>
- IUCN. (n.d.). *IUCN WCPA Other Effective Area-based Conservation Measures Specialist Group*. <https://www.iucn.org/our-union/commissions/group/iucn-wcpa-other-effective-area-based-conservation-measures-specialist>
- Mayuga, J. L. (2020, November 19). DAR launches P24.6-billion WB-funded project to divide collective CLOAs under CARP. In *Business Mirror*. <https://businessmirror.com.ph/2020/11/19/dar-launches-p24-6-billion-wb-funded-project-to-divide-collective-cloas-under-carp/?fbclid=IwAR00ThcgJK4CwrsUc7s5vucnevVwCjLXNZI7dVPjTOMip-G-u734Was6qbk>
- Philippine Statistics Authority (PSA). (2012) *Special Report – Highlights of the 2012 Census of Agriculture (2012 CA)* <https://psa.gov.ph/content/special-report-highlights-2012-census-agriculture-2012-ca>
- Philippine Statistics Authority (PSA). (2019). *Agricultural Indicators System (AIS): Redistribution of Land*. https://psa.gov.ph/system/files/main-publication/ais_redistributionofland_2019.pdf
- Quizon A., Marzan, A., de Vera, D., and Rodriguez, M. (2018). *State of Land and Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).
- World Bank (WB). (2019). Project Information Document (PID) – Support to Parcelization of Lands for Individual Titling (SPLIT) Project (P172399) (P172399). <https://documents1.worldbank.org/curated/en/290561573806790923/pdf/Concept-Project-Information-Document-PID-Support-to-Parcelization-of-Lands-for-Individual-Titling-SPLIT-Project-P172399-P172399.pdf>

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Rights and governance of indigenous peoples' lands

Introduction

THE Indigenous Peoples (IPs) sector is one of the most vulnerable sectors in the country when it comes to land governance. The continuing marginalization of the IPs have resulted in a high incidence of poverty among the IP communities. A 2012 study conducted by the Philippine Institute of Development Studies (PIDS) reported that those living in the uplands and engaged in forestry activities have the highest incidence of poverty of all sectors in the country (68 percent). A majority of these upland dwellers are IPs (Reyes, et al., 2012). Thus, a major advocacy among IPs is their claim for self-determination — to practice their own system of governance including that of governing their ancestral domains.

The IP population in the country is estimated at 12 to 15 million. The National Commission on Indigenous Peoples (NCIP) estimates that ancestral lands and ancestral domain cover at least 45 percent of the total land area of the country, and comprise forests, pastures, residential and agricultural lands, hunting grounds, and worship and burial areas.¹ These resources have significant contributions to biodiversity, resource conservation, and environmental protection. It is estimated that 75 percent (96 of 128) of Key Biodiversity Areas (KBAs) are within the traditional territories of ICCs/IPs (Tebtebba Foundation Indigenous People's International Centre Policy Research and Education, 2008). While nearly 80 percent of all officially recognized ancestral lands/domains and indigenous territories are located within critical watersheds and protected areas

¹ "Status Report, AD & AL Universe in the Philippines (As of 31 March 2022)", NCIP-Ancestral Domain Office, PowerPoint presentation, Slide 2, 31 March 2022

in the Philippines.² These figures clearly show the correlation of nature conservation with the recognition and respect of the traditional governance of ICCs/IPs.

After a long struggle and changes in policy landscapes, a landmark legislation was enacted in 1997 titled *Indigenous Peoples Rights Act* (RA 8371 or IPRA). IPRA recognizes the rights of indigenous peoples over their ancestral domains³ and provided for a process of titling of lands through the issuance of Certificate of Ancestral Domain Title (CADT) and Certificate of Ancestral Land Title (CALT). CADTs and CALTs are ownership tenurial instruments issued and awarded to an applicant community or clan. These tenurial instruments have no term limits. Representatives chosen by the community act as holders of the CADT in trust in behalf of the concerned indigenous community. Aside from securing an ownership title, the IPRA respects the community's right to traditionally manage, control, use, protect, and develop their ancestral domain. Ancestral Domains (ADs) are areas that generally belong to ICCs/IPs, which are held under a claim of ownership, communally or individually since time immemorial and continuously to the present. Ancestral lands may contain forests, pasture, residential areas, agricultural lands, hunting grounds, burial grounds, worship areas, bodies of water, and mineral and other natural resources.

Status of IPRA implementation

As of 31 March 2022, twenty-five years after the enactment of IPRA, 20 percent of the total land area of the Philippines is now covered by CADTs and CALTs, and are considered legally owned and governed by IPs. This is comprised of 257 CADTs covering a total area of 5,971,344.78 hectares, benefiting 1,363,342 IP right holders, and 250 CALTs covering 17,148.21 hectares benefitting 1,319,176 individual rightsholders. At least 13.4 percent or 805,896.70 hectares of the

² Parks in the 21st Century Philippines: Recognition of ICCAs as a Key Pillar of BD Conservation, Usec. Annaliza Teh, Presentation at the GEF Assembly Side Event, May 2014

³ "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, communally or individually" (IPRA, Chapter II, Sec. 3.b.).

CADTs cover ancestral waters. Currently, 205 CADT application covering at least 3,719,176 hectares, are in the various stages of the validation process. A further

Table 1. Approved CADTs in the Philippines⁴

Region	No. of Approved CADTs	Total Area (Hectares)
Luzon	104	2,699,818.08
CAR	26	402,810.04
Region 1	9	60,401.51
Region 2	14	1,052,506.89
Region 3	19	188,028.75
Region 4-A	4	208,840.12
Region 4-B	22	741,523.27
Region 5	10	45,707.50
Visayas	11	58,562.32
Region 6	9	50,574.07
Region 7	2	7,988.25
Mindanao	142	3,212,964.38
Region 9	13	192,331.41
Region 10	29	354,578.89
Region 11	33	1,134,240.43
Region 12	35	678,291.95
Region 13	32	853,521.70
Total	257	5,971,344.78

486 Ancestral Domains have been identified, covering an area of 3,756,151 hectares. These identified Ancestral Domains have yet to undergo the formal CADT application process. The NCIP estimates that ADs cover at least 45 percent (13,560,91 hectares) of the total land area of the country.⁵

Processing of CADT applications

From 2011 to 2018, issuance of CADTs slowed down, with only 65 titles approved. This mainly due to the bureaucratic gridlock brought about by the JAO 01-2012 that has impeded the processing of ancestral domain applications and registration of approved CADTs. Other factors that affected the titling process include institutional policy changes such as the revision of the Omnibus Rules on Delineation and Recognition of Ancestral Domains and Lands, and the perennial problem of limited funding for the delineation of ADs.

However, there has been a dramatic increase in the approval of CADTs

⁴ PowerPoint presentation, NCIP-ADO, 31 March 2022

⁵ Ibid.

Table 2. Approved CALTs in the Philippines⁶

Region	No. of Approved CADTs	Total Area (Hectares)
Luzon	220	2,033.24
CAR	220	2,033.24
Region 1	0	0
Region 2	0	0
Region 3	0	0
Region 4-A	0	0
Region 4-B	0	0
Region 5	0	0
Visayas	0	0
Region 6	0	0
Region 7	0	0
Mindanao	30	15,114.97
Region 9	0	0
Region 10	6	2,156.94
Region 11	2	661.51
Region 12	22	12,296.52
Region 13	0	0
Total	250	17,148.21

from 2019 to 2022, where thirty-six CADTs were approved by the NCIP — a major improvement over the low level of achievement from 2011 to 2018. Considering the challenges that the NCIP faced along with its limited resources, the progress of AD titling is commendable. In the past 25 years, this is the most significant accomplishment in the implementation of IPRA. While there is still a lot of room for improvement, no other country in the world can lay claim to a similar accomplishment in addressing the land tenure security of IPs.

Policy and jurisdictional overlaps

Joint Administrative Order 1 of 2012

Reforms in land governance in the Philippines have taken on a sectoral approach that has resulted in policy and jurisdictional overlaps among agencies mandated to implement the laws. Boundaries delineation, overlaps of titles, and resolution of tenure disputes, among others, have become a major concern among the NCIP, DAR, and DENR. To address these concerns,

⁶ PowerPoint presentation, NCIP-ADO, 31 March 2022

these agencies, together with the Land Registration Authority (LRA), issued Joint Administrative Order (JAO) 01 in 2012.

This JAO traces its existence from the establishment of a Joint Task Force among the DAR, DENR, NCIP and LRA in 2011. The main objective was to resolve overlaps in jurisdictional and policy mandates among the concerned government agencies. On 25 January 2012, an agreement was reached among these agencies and JAO 01-2012 was signed and operationalized. This order: (1) defines the jurisdiction and policy mandates of DAR, DENR, and NCIP, (2) identifies the conflicts and issues that developed upon the enactment of IPRA, and (3) establishes the mechanisms to prevent and resolve the contentious areas and issues at the national and field levels. On the other hand, the LRA, the agency mandated to implement and protect the Torrens system of land titling and registration in the country, issues decrees of registration pursuant to final judgment of the courts in land registration proceedings and causes the issuance by a registrar of deeds the corresponding certificate of title.

This JAO also prescribes a process for the preparation of the map projection to identify titled lands, which might overlap with CADT/CALTs. This information is in the custody and under the technical jurisdiction of the Land Management Bureau of the DENR (DENR-LMB). JAO 1-2012 covers all land, tenurial and utilization instruments issued by the DAR, DENR, and the NCIP, and the registration thereof by the LRA.

However, the implementation of the JAO has been marred by government inertia, ambiguity of who takes the lead, and the limited capacity of frontline implementors of the JAO to perform their duties. Also, the question of the validity of the JAO in view of the NCIP's mandate in IPRA has continued to cause policy and jurisdictional conflicts (DENR-LMB, 2019). Thus, rather than facilitate the issuance of CADTs, the JAO has resulted in bureaucratic gridlock that has impeded ancestral domain registration and blocked the registration process with the LRA. In November 2019, NCIP pulled out from this administrative agreement. In its 2017 National Inquiry on the Rights of Indigenous Peoples, the Philippines Commission on Human Rights (CHRP) noted that JAO 01-2012 constitutes a

Table 3. CADT applications in-process vs. ancestral domains identified⁷

Region	No. of In-process ADs	Total Area (Hectares)	No. of Identified ADs	Total Area (Hectares)
Luzon	89	1,894,298	250	1,572,429
CAR	26	566,348	74	552,802
Region 1	8	100,121	29	147,254
Region 2	7	49,537	35	396,469
Region 3	12	305,741	23	126,588
Region 4-A	3	55,729	6	1,004
Region 4-B	29	791,155	75	319,303
Region 5	4	25,667	8	29,009
Visayas	12	82,788	62	268,600
Region 6	8	72,676	49	226,900
Region 7	4	10,112	13	41,700
Mindanao	104	1,742,090	174	1,915,122
Region 9	24	269,289	46	439,654
Region 10	54	421,032	92	533,729
Region 11	7	529,508	2	126
Region 12	12	372,800	18	751,786
Region 13	7	149,461	16	189,827
Total	205	3,719,176	486	3,756,151

⁷ PowerPoint presentation, NCIP-ADO, 31 March 2022

violation of IP rights to be awarded CADTs that set the metes and bounds of their domains and allow them to assert rights within those boundaries against those operating to deny them the exercise of priority rights in developing said domains. Furthermore, the CHRP stated that the said JAO has undermined the NCIP's power to award titles as mandated by the IPRA. Other government agencies continue to process other tenurial instruments such as the Industrial Forest Management Agreements (IFMAs) issued by the DENR, or the CLOA of the DAR. While government agencies "reconcile" their competing mandates, the registration of CADT is held in abeyance indefinitely under the JAO 1 Series of 2012 (CHRP, 2017).

A decade after the signing of JAO 01-2012, only 56 CADTs have been registered with the LRA, covering 1,556,972.8364 hectares. This represents a miniscule percentage of the total number of CADTs approved and awarded by the NCIP. An additional 186 CADTs are awaiting registration while 15 CADTs have been officially transmitted by the NCIP to the LRA.

On the other hand, of the 250 approved CALTs, only 154 have been registered with the LRA. With the withdrawal of the NCIP from JAO 01-2012, the fate of the CADTs awaiting registration and future application is uncertain to say the least.

Overlapping tenurial instruments

Jurisdictional overlaps also continue to cause problems between the implementation of the Comprehensive Agrarian Reform Law (CARL) and the titling process of IPRA. An initial inventory undertaken by the DAR in 2021 of CLOAs within ADs show that there are potentially 32,685 CLOAs that are within ADs that already have CADTs, or are in the application process for titling. These areas that have been commonly awarded to both farmer-beneficiaries and IP communities can trigger conflicts if not properly addressed and resolved. Similarly, 62 protected areas overlap with 92 CADTs, affecting a total of 1,227,158.9699 hectares of ancestral domains.⁸ While the Expanded National

⁸ Cross reference of World Database of Protected Areas (WDPO) 2020, LandMark, 2019 and NCIP List of CADTs, 2018. (BUKLURAN and PAFID 2018)

Table 4. Status of Registration of Approved CADTs⁹

Region	Registered CADTs		Transmitted for Registration		For Registration	
	Number	Area (hectares)	Number	Area (hectares)	Number	Area (hectares)
CAR	7	96,630.16	1	26,578.70	18	279,601.20
Region 1	1	6,339.42	1	5,484.11	7	48,577.98
Region 2	5	411,274.19	0	0	9	641,232.71
Region 3	6	51,460.70	1	18,660.05	12	117,908.00
Region 4-A	4	208,840.12	0	0	0	0
Region 4-B	7	279,033.25	1	7,718.84	14	454,771.19
Region 5	3	6,399.89	0	0	7	39,307.60
Region 6	3	8,177.68	4	39,639.11	2	2,757.27
Region 7	1	3,981.25	0	0	1	4,007.00
Region 9	4	35,506.21	2	56,092.35	7	100,732.85
Region 10	5	151,201.99	1	466.74	23	202,910.16
Region 11	9	381,936.99	1	40,733.38	23	701,570.05
Region 12	2	77,777.78	1	15,941.40	32	584,572.77
Region 13	3	47,253.33	2	15,940.82	27	790,327.55
Total	60	1,765,812.96	15	227,255.50	182	3,968,276.33

Integrated Protected Areas (ENIPAS) Law provides safeguards for the recognition of IP Governance in ADs within protected areas, IP communities have raised concerns against the law and the validity of some provisions of its Implementing Rules and Regulation (IRR). In particular, the requirement for a CADT or a CALT in Sec. 13 of the IRR,¹⁰ which is not a prerequisite for the recognition of IP Governance in the ENIPAS.¹¹ This disenfranchises the right to exercise the

⁹ PowerPoint Presentation "Status Report" NCIP-Ancestral Domain Office, 31 March 2022

¹⁰ "... the Ancestral Territories covered by CADT and CALT that share common areas with protected areas, shall be recognized and respected." Section 13.1, IRR, ENIPAS

¹¹ "The territories and areas occupied and conserved for by Indigenous Peoples and Communities, shall be recognized, respected, developed, and promoted", Sec. 13, ENIPAS

traditional governance of IPs over their territories. Furthermore, the absence of the NCIP in the Protected Areas Management Board (PAMB) has also been assailed by the IP communities.

The NCIP Commission En Banc has since conducted a series of discussions with the DENR-BMB. The Commission has articulated its reservations regarding several provisions of the IRR that run counter to the IPRA. However, the DENR

Table 5. Status of Registration of Approved CALTs¹²

Region	Registered CALTs		Transmitted for Registration		For Registration	
	Number	Area (hectares)	Number	Area (hectares)	Number	Area (hectares)
CAR	142	1,133.72	12	237.56	66	661.96
Region 1	0	0	0	0	0	0
Region 2	0	0	0	0	0	0
Region 3	0	0	0	0	0	0
Region 4-A	0	0	0	0	0	0
Region 4-B	0	0	0	0	0	0
Region 5	0	0	0	0	0	0
Region 6	0	0	0	0	0	0
Region 7	0	0	0	0	0	0
Region 9	0	0	0	0	0	0
Region 10	1	944.53	3	902.47	2	309.95
Region 11	0	0	1	659.99	1	1.52
Region 12	11	5,590.71	9	4,618.51	2	2,087.29
Region 13	0	0	0	0	0	0
Total	154	7,668.96	25	6,418.53	71	3,060.72

¹² PowerPoint Presentation “Status Report” NCIP-Ancestral Domain Office, 31 March 2022

has continued with its roll-out of the ENIPAS without the necessary amendments to the provisions of the IRR that have been identified as in conflict with IPRA and constituting a violation of the rights of IPs.

The breakdown of the total area wherein CLOAs have been issued within ancestral domains, is presented in table below.

Table 6. CLOAs Issued Within Ancestral Domains (DAR, 2022)

Region	Number of CLOAs	Area (hectare)	Total Number of CLOAs w/in AD/AL, Ongoing	Area (hectare)
CAR	4,839	40,927.49	1,543	5,379.84
Region 1	10,646	45,791.46	1,581	7,344.39
Region 2	6,498	86,410.33	729	21,445.04
Region 3	4,927	35,058.83	1,330	12,212.84
Region 4-A	5,032	28,404.43	327	2,287.85
Region 4-B	7,633	37,896.76	1,912	15,223.13
Region 5	11,316	101,553.23	444	3,982.74
Region 6	14,815	183,308.83	817	10,254.38
Region 7	3,802	51,307.78	0	0
Region 8	16,852	207,813.29	0	0
Region 9	8,612	108,614.31	5,042	76,299.43
Region 10	12,589	101,368.11	4,814	39,718.36
Region 11	9,343	98,982.42	7,332	79,203.71
Region 12	13,592	147,918.03	4,708	44,888.73
Region 13	7,942	104,130.02	2,106	34,218.78
Total	138,438	1,379,485.32	32,685	352,459.22

The breakdown of the total area where CADTs and ancestral domains overlap with protected areas is presented in the table below.

**Table. 7 Overlaps Between Protected Areas and CADTs/
Ancestral Domains**¹³

Geographic Region	Number of CADTs Overlapping with PAs	Number of PAs with Overlaps with Ancestral Domains	Total Overlap Area (hectares)
Luzon	42	32	838,250.32
Island Groups	18	9	165,406.38
Mindanao	39	21	223,502.27
Total	99	62	1,227,158.97

IP governance, access, and control over their AD

Governance, access, and control of ancestral domains

Beyond the delays in the issuance of issuance of CADT/CALCs, the ability of the IPs to use and assert their rights over ADs remains very limited. The recognition of their traditional governance is largely ceremonial and not institutionalized among the LGUs and government agencies. The IPRA empowers the IPs to formulate an Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) based on their traditional and indigenous knowledge systems and processes. Crafted based on the development framework, vision, and mission of the concerned community, the ADSDPP is a spatial plan and a participatory tool for local development. The plan seeks to empower IPs to improve the general well-being of their communities within a five-year period. It defines the various uses of land and zoning policies of the ADs as prescribed by the ICCs/IPs. It likewise contains the priority projects and programs identified by the IP community after consultations following customs and traditions.

¹³ Cross-referenced data, WDPA and CADT Map, WRI

It must be emphasized that the ADSDPP is a critical tool for IP communities to engage proponents of development projects as well as other governance structures and interest groups. The ADSDPP provides the IPs with a legal framework for their “traditional use” policies and presents the details of the allowable and non-negotiable activities their AD.

Unfortunately, the formulation of ADSDPPs has been beset with many problems. Many IP communities decry the time-consuming process and prohibitive cost involved. As of 2021, only 182 of the 257 CADT holders have fully formulated their ADSDPPs. Implementation of the ADDPPs has not taken off due to challenges in securing funding. There is no dedicated fund available to support the activities identified in the ADSDPPs. Whenever funding is available, it is mostly fragmented and limited to supporting specific activities that fall within the priorities of the donor.

To ensure efficiency and shorten the time it takes to formulate an ADSDPP, the NCIP initiated the revision of the review and refinement of the existing ADSDPP Guidelines of 2004. In 2018, the NCIP issued Administrative Order No. 01, series of 2018 to address inefficiencies in the formulation of these area plans. Some of the notable amendments include adjustments in the process, definition of coverage, and installation of a mechanism where the ADSDPP facilitates the FPIC (free, prior and informed consent) process. Further, the new guidelines shall include the legislative agenda of the Indigenous People’s Mandatory Representative (IPMR) and the latter’s advocacy plans for the passage of ordinances geared towards the protection of the environment and the implementation of the development plans and programs identified in the ADSDPP.

Funding for implementation of ADSDPPs

Among the national government agencies (NGAs), the Department of Agriculture (DA) has provided funding support for community development initiatives to several ADs over the past two years through the Kabuhayan at Kaunlaran ng Kababayang Katutubo, also known as the DA-4K Program. The program aims to

develop these areas by establishing sustainable agricultural enterprises. The objective is to increase the income of the IPs in ways that are aligned with their customs, traditions, values, beliefs, and interests. As of 2021, two hundred four (204) Indigenous Peoples Organizations (IPOs) representing one hundred thirty-six (136) ADs have been supported by the DA-4K Program. A total of PhP250 million has been extended to support the various development initiatives in ADs nationwide.

As of 2021, there are 182 completed ADSDPPs. However, beyond the direct assistance provided through the DK4 Program, there is very limited funding to implement the formulated ADSDPPs. Resources are often mobilized by NGOs through small grants that include livelihood projects within the context of conservation of the biodiversity in ADs. Funding from LGUs has yet to be fully realized, and is often limited to the provision of monetary and material counterparts in the implementation of community social infrastructure projects.¹⁴

Adoption of ADSDPPs in Local Development Plans

There are existing policies that provide for the adoption and harmonization of IP governance over their ADs. RA 11038 or the ENIPAS recognizes the management regimes being implemented by local government units (LGUs), local communities and IPs.¹⁵ Further, the ENIPAS prescribes a process for the harmonization of the Protected Area Management Plan (PAMP) with the ADSDPP.¹⁶ In 2014, the Housing and Land Use Regulatory Board (HLURB) and the NCIP have collaborated to produce the operations manual for the harmonization of ADSDPPs and Comprehensive Land Use Plans (CLUPs). Volume 2 of the Guide to Comprehensive Land Use Plan of the HLURB stipulates the process for the interface between the CLUP and the ancestral domains and plans of ICC/IP communities. However, there is little information on the roll-out and piloting of the HLURB-ADSDPP interface.

¹⁴ Letter of support from the Municipal Government of Kayapa indicating their counterpart in the Potable Water Systems of Barangay Mapayag, 2020

¹⁵ Section 2, RA 11038

¹⁶ Section 9, RA 11038

To date, there is no available data on the number of ADSDPPs that have been fully adopted by LGUs through local legislation, or harmonized with other sectoral plans such as the CLUPs, Forest Land Use Plan (FLUP), and the PAMP.

Utilization of forest resources

In March 2007, members of the Iraya Mangyan Community in Oriental Mindoro were charged with violating the Revised Forestry Code (PD 705) after they cut down a *dita* tree without a license or permit issued by the proper authority. The Iraya-Mangyans claimed that they cut the tree for the construction of the community toilet. They also invoked their IP right to harvest *dita* tree logs, which constitute part of their right to cultural integrity, ancestral domain, and ancestral lands. However, they were convicted by the RTC Branch 39 in Calapan, Oriental Mindoro, which ruled that cutting the *dita* tree without a corresponding permit from the DENR or any competent authority violated the PD 705. The same ruling was later affirmed by the Court of Appeals.

The Iraya Mangyan appealed their conviction with the Supreme Court (SC), arguing that the felled *dita* tree was planted in their ancestral domain, over which they exercise communal authority. The SC upheld the community's right to cut and gather forest products within ancestral domains. In its ruling, the high court declared that "cultural identity of indigenous peoples are long inseparable from the environment that surrounds it ... and since Mangyans perceive all the resources found in their ancestral domain to be communal, to hold petitioners to the same standards for adjudging a violation of PD 705 as non-indigenous peoples would be to force upon them a belief system to which they do not subscribe."¹⁷

FPIC concerns

As of December 2019, the NCIP had issued a total of 407 Certificates of Precondition (CP). Such issuance attests to the granting of FPIC by the concerned

¹⁷ Decision, DIOSDADO SAMA y HINUPAS, BANDY MASANGLAY y ACEVEDA EN BANC [G.R. No. 224469, January 05, 2021], Supreme Court of the Philippines, Lazaro-Javier, J.

ICCs/IPs after appropriate compliance with the requirements. Among the investments awarded by CPs include mining, renewable energy, agroforestry, exercise of priority rights, transmission line, research/processing, and industrial gravel/sand.

Concerns have been raised by communities regarding investments by outsiders in ADs. Amidst overlapping claims and limited implementation of FPIC processes, these investments have resulted in conflicts.

In its 2017 National Inquiry, the Commission of Human Rights of the Philippines (CHRP) stated that the FPIC requirement has been uniformly violated by both State and non-State duty bearers. IP communities continue to raise the improper implementation of or non-compliance with the FPIC as a major issue in asserting their rights over ADs. The conflict between the Dumagat and Remontado CADT holders in Rizal and Quezon provinces and the proposed MWSS-Kaliwa Dam project illustrate this problem. While the FPIC has been granted to the proponent and a MOA has been signed with the community, other members of the Dumagat community continue to oppose the project claiming improper implementation of the FPIC process.¹⁸ Based on the data from its Provincial and Regional consultations, the NCIP discovered that many IP community members knew very little about the FPIC process. This is further exacerbated by the non-recognition of the FPIC process by some government agencies.

NCIP's response in addressing concerns

Titling of ADs/lands

In its five-year masterplan, the NCIP plans to expedite the processing and approval of CADT applications as well as the registration of these with the LRA. The NCIP intends to facilitate the approval of 34 CADTs annually, resulting in 170 AD claims approved at the end of five years.¹⁹

¹⁸ "Indigenous peoples seek to overturn Kaliwa Dam deal", Statement of Marcelino S. Tena, president of the Samahan ng mga Katutubong Agta-Dumagat-Remontado sa Pagtatanggol at Binabaka and Lupang Ninuno (SAGUIBIN-LN), Business World, 23 February 2021

¹⁹ Indigenous Peoples Master Plan, NCIP, 2019

Adoption of ADSDPPs and IP governance

The NCIP initiated the revision of the review and refinement of the existing ADSDPP Guidelines of 2004. In 2018, the NCIP issued Administrative Order No. 01, series of 2018 to address inefficiencies in the formulation of ADSDPPs. Some of the notable amendments include adjustments in the process, definition, and of coverage of ADSDPPs, and installation of a mechanism where the ADSDPP facilitates the FPIC process. Further, the new guidelines shall include the legislative agenda of the IPMR and the latter's advocacy plans for the passage of ordinances geared towards the protection of the environment and the implementation of the development plans and programs identified in the ADSDPP.

In its four-year Indigenous Peoples Master Plan (IPMP) for 2020 to 2024, the NCIP has laid out the following targets: 89 ADSDPPs will be adopted by the LGUs in the Cordillera Administrative Region, 20 ADSDPPs are integrated in the CLUP/CDPs in Region X, and 146 new ADSDPPs are formulated and completed. Further, funding for 10 percent of identified ADSDPP projects will be secured for its implementation.

FPIC

To address gaps and inefficiencies in the process, the NCIP is reviewing the FPIC Guidelines. Also, an FPIC Review Guide is being developed in order to ensure the proper understanding and awareness of the FPIC process of those in the communities and other stakeholders of the FPIC process. This shall ensure that the basic elements of FPIC are complied with in all instances. All MOAs entered into by IPs with NGAs, LGUs, academe, non-profit institutions, and private companies will be reviewed, monitored and evaluated to ensure compliance to all the legal requirements of the FPIC.

Recommendations

- *Resolve JAO 1 of 2012.* In order to resolve the policy and jurisdictional overlaps among DAR, DENR, NCIP, and LRA, it is imperative that the problems with the said JAO are resolved. For this to happen, the NCIP should resume conversations with the other concerned agencies. Disengagement only leads to further delays, while IPs, farmers, and other stakeholders are left to deal with uncertainty and even conflict.
- *Pursue land registration of CADTs/CADCs.* One of the major reasons why CADTs/CADCs are ignored by some government agencies, LGUs, and commercial interests, is because many of these CADTs/CADCs are not registered with the LRA. Thus, the registration of all CADTs/ CADCs with the LRA must be pursued, which requires that NCIP strengthen its coordination with the LRA.
- *NCIP and other government agencies to support the formulation process of ADSDPPs and to provide financing their implementation.* ■

References

- CHR. (2017). *2017 National Inquiry on the Human Rights Situation of the Indigenous Peoples.* Philippine Commission on Human Rights. <https://elibrary.chr.gov.ph/cgi-bin/koha/opac-retrieve-file.pl?id= b67b2475893e925975f2ecdcbbdde1c2e>
- DA. (2018). *Department of Agriculture, Report on Kabuhayan at Kaunlaran ng Kababayang Katutubo also known as the DA-4K Program.* Department of Agriculture (DA), Philippines.
- DENR-LMB. (2019). *When Claims, mandates and Jurisdictions Overlap: Review of JAO-01-2012.* Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. https://faspselib.denr.gov.ph/sites/default/files/Publication%20Files/Review%20of%20JAO_Study.pdf
- Reyes, C., Tabuga, A., Asis, R., Blesila, M., and Datu, G. (2012). *Poverty and Agriculture in the Philippines: Trends in Income Poverty and Distribution.* Philippine Institute for Development Studies (PIDS). <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1209.pdf>
- Tebtebba Foundation Indigenous People's International Centre Policy Research and Education. (2008). *Philippine Indigenous Peoples and Protected Areas: Review of Policy and Implementation.* <https://www.forestpeoples.org/sites/fpp/files/publication/2010/04/wccphilippinespareviewwwkgdftaug08eng.pdf>

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Citation

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Tenure reform in fisheries and aquatic resources

Overview

THE Philippines 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 to 20 fathoms where reef fisheries occur) covers some 27,000 square kilometers. The shelf area (which is characterized by a depth of 200 meters), meanwhile, covers 184,600 square kilometers. Inland waters where small-scale fishers are also located, include swamplands, lakes, rivers and reservoirs plus freshwater and brackish water fishponds cover a combined area of 749,386 hectares. In 2019, the country ranked 8th among the top fish producing countries in the world, and 11th in aquaculture production (BFAR, 2021).

Based on the Bureau of Fisheries and Aquatic Resources (BFAR) Fisheries Profile of 2021, total fisheries production reached 4.25 million metric tons (MT), equivalent to PhP 302.44 billion. Growth in production volume dropped by 3.46 percent from the 2020 production of 4.40 million MT. The value of production at current prices grew by 10.59 percent from the previous value of production at PhP 273.49 billion. Table 1 shows the breakdown of the total fisheries production for 2021.

Municipal capture fisheries posted a 2.69 percent increase in volume of production against the total in 2020, while aquaculture and commercial fisheries exhibited declines of 3.30 percent and 10.78 percent, respectively as compared to 2020.

Based on 2021 Municipal Fisherfolk Registration System (FishR) data, 2.19 million municipal fisherfolk were registered in various fishing activities (e.g., gleaning, aquaculture, fish processing, vending, and other fisheries-related activities). Half (50.03 percent) of the registered fishers were involved in capture

fishing while gleaning and aquaculture activities accounted for 11.59 percent and 11.28 percent of the total number, respectively. Meanwhile, fish processing, vending, and other fisheries-related activities provided jobs to 189,562 municipal fisherfolk. There were 923 commercial fishing vessel operators based on Fishing Vessel E-licensing System (FeLiS) (BFAR, 2021).

As of 2021, fisherfolk continue to be among the poorest of the poor with a poverty incidence of 30.6 percent,² way above the Philippine poverty incidence of 18.1 percent (PSA, 2021). Of all the regions, the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) recorded the highest poverty incidence among fisherfolk at 43.9 percent (see Table 2).

Table 1. Total Fisheries Production (2021)

Type	Production (MT)	Percentage (%)
Municipal	1.13	26.59
Aquaculture	2.25	52.94
Commercial ¹	0.87	20.47
Total	4.25	100.00

Sectoral reform programs

Among the major laws and policies of the Philippines with regards to fisherfolk are the following:

Republic Act 8550 – The Fisheries Code of 1998

The Philippine Fisheries Code was passed in 1998, after years of lobbying by civil society organizations working with the fisheries sector. The Code establishes

¹ Deep sea fishing beyond the 15-kilometer limit from the shore

² Based on the preliminary result of 2021 Family Income and Expenditure Survey (FIES)

food security as the overriding consideration in the utilization, management, conservation, and protection of fishery resources. Among the Code's 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.

When seen as a tenure reform instrument, certain provisions of the Fisheries Code need to be highlighted.

Local governance over municipal waters. Local government units (LGUs) are given jurisdiction over municipal waters as defined by the Code. LGUs in consultation with the Fisheries and Aquatic Resource Management Councils (FARMCs) shall be responsible for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters.

Preferential access. The Code limits access to fishery and aquatic resources in the country to Filipino citizens, and provides small fisherfolk and their organizations with 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 (National Integrated Protected Areas System) law, public forest, timber lands, forest reserves or fishery reserves, but also coastal marine waters within 15 kilometers 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 10.1 kilometers from the shore with a depth of at least seven fathoms (12.8 meters).

Fisherfolk settlements. Section 108 of the Code mandated the creation of fisherfolk settlement areas, to be located in certain areas of the public domain, near fishery areas.

Table 2. Poverty incidence among fisherfolks (PSA 2021^p)

Region	Estimate (%)
PHILIPPINES ^{1 2}	30.6
NCR ^a	*
CAR ^{a b c}	*
Region 1	*
Region 2 ^a	*
Region 3	23.0
Region 4-A	14.7
MIMAROPA ²	22.2
Region 5 ¹	28.0
Region 6	22.6
Region 7 ^{1 2}	39.8
Region 8 ¹	31.5
Region 9	43.0
Region 10 ¹	26.1
Region 11 ¹	21.9
Region 12 excluding Cotabato City ²	37.8
CARAGA ^{1 2}	39.2
BARMM including Cotabato City ^{2 d}	43.9

Notes on Table 2:

Fisherfolks refer to employed individuals 15 years old and over whose primary occupation is fishing. These include occupations under Skilled Agricultural, Forestry and Fishery Works and Elementary Occupations in the 2012 Philippine Standard Occupational Classification (PSOC).

* - Coefficient of variation of regional poverty incidence among fisherfolks is greater than 20 percent.

p - This is based on the preliminary results of the 2021 Family Income and Expenditure Survey (FIES).

1/ significant change; The increase or decrease in the poverty incidence among fisherfolks between 2015 and 2018 is significant at 10 percent level of significance ($\alpha = 0.10$).

2/ significant change; The increase or decrease in the poverty incidence among fisherfolks between 2018 and 2021 is significant at 10 percent level of significance ($\alpha = 0.10$).

a/ Caution in utilizing the estimate for these regions must be observed due to its very small sample size (<50) in 2015.

b/ Caution in utilizing the estimate for these regions must be observed due to its very small sample size (<50) in 2018.

c/ Caution in utilizing the estimate for these regions must be observed due to its very small sample size (<50) in 2021.

d/ BARMM estimates exclude the 63 barangays from different municipalities of the Province of Cotabato.

Executive Order 263, series of 1995

This Executive Order (EO) establishes community-based forest management as the national strategy in recognition of the 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 community-

based forestry management (CBFM) agreements involving organized fisherfolk communities.

BFAR Fisheries Administrative Order 197-1, series of 2000

This Fisheries Administrative Order (FAO) 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 Fishpond Lease Agreements (FLAs) and Mangrove Aquasilviculture Contracts (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

RA 10654 of 2014 amended RA 8550. The amendment strengthened measures to deter illegal, unreported and unregulated (IUU) 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 (Quizón et al., 2018).

BFAR Fisheries Administrative Order 263, series of 2019

This FAO established 12 Fishery Management Areas (FMAs) across the country. It also aims to provide a science-based, participatory, and transparent governance framework and mechanism to sustainably manage fisheries in the FMA areas, consistent with the principles of the ecosystem approach to fisheries management (EAFM) anchored on food security and supplementary livelihood for poverty alleviation. This is consistent with the objectives of RA 10654.

Each FMA will have their respective Management Bodies (MBs) and Scientific Advisory Groups. The FMA-MBs are to be composed of the following: concerned LGUs, the BFAR regional office, other national government agencies, NGOs involved with the fisherfolk, and representatives from the following sectors: municipal fishing, commercial fishing, aquaculture, processors/traders/ market organizations, academe, and indigenous people (where appropriate).

Status of implementation and related issues

The Fisheries Code gave municipal fishers priority access to municipal waters. Given this, 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, 19 years after the issuance of Department of Agriculture Administrative Order No. 1, the “Guidelines for Delineating/ Delimiting Municipal Waters for Municipalities and Cities *Without* Offshore Islands” similar guidelines for delineating municipal waters for local governments *with* offshore islands have still not been issued. This is due to disagreements regarding the reckoning point, that is, the point where the

Figure 1. Illustration of determining the municipal waters using the mainland principle.

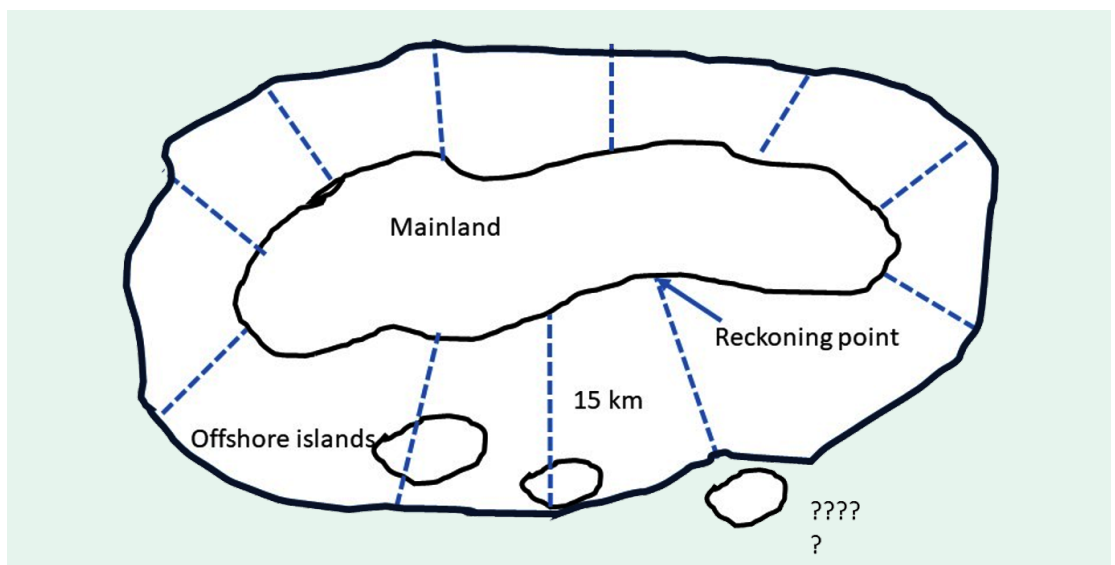
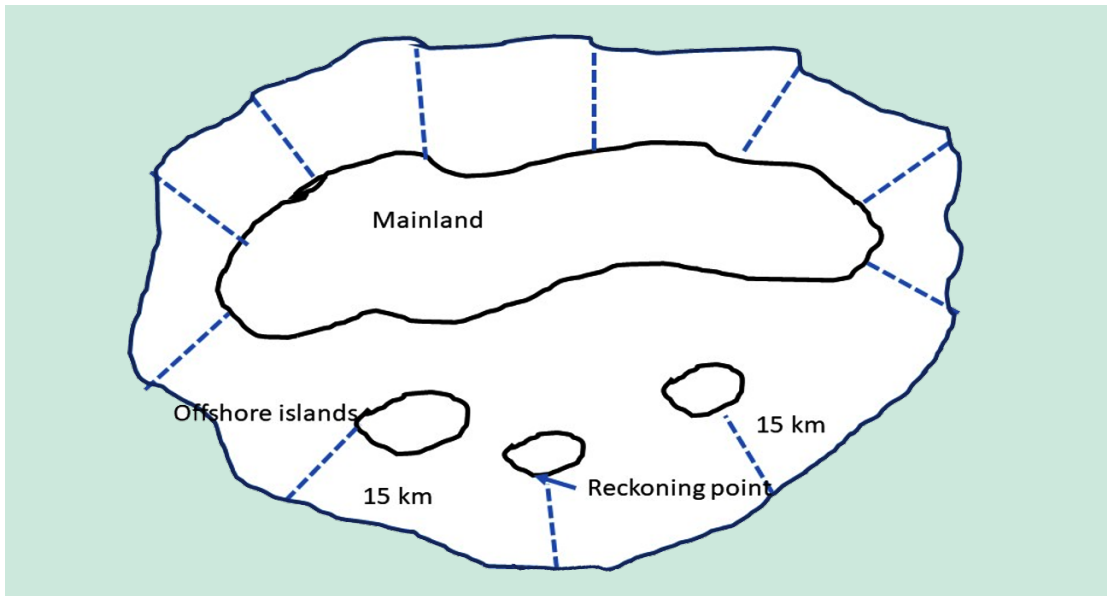


Figure 2. Illustration of determining the municipal waters using the archipelagic principle.



measurement of the 15-kilometer boundary will start. BFAR and the commercial fishing sector are claiming that the “general coastline” referred to in the law means “coastline of the mainland municipality/city” otherwise known as the “mainland principle.” On the other hand, the municipal fishing sector are claiming it should start “from the farthest island occupied by the said municipality.” This is known as the “archipelagic principle.”

Based on latest available data from the National Mapping and Resource Information Authority (NAMRIA), of the 930 total coastal LGUs, 310 have delineated municipal waters with certified maps. Of these, only 79 have local ordinances. All 930 LGUs have already asked for delineation of their municipal waters but the finalization is always stalled due to boundary conflicts and disputes.

It can be seen from the above illustrations that municipal waters will be bigger if the archipelagic principle is utilized. This makes areas for commercial fishers farther from the shore, and therefore, this is the reason they are opposing this principle.

While the guidelines for delineation have yet to be issued, BFAR Fisheries Administrative Order (FAO) 263, s. 2019 was approved, establishing 12 Fishery Management Areas (FMAs) across the country. 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. Meanwhile, delineation of municipal waters of municipalities with offshore islands remain unsettled.

Table 3. FMA, Area, Regional Composition and Lead BFAR Regional Office (DA-BFAR, 2019)

Fisheries Management Area	Area (Hectares)	Regional Composition	Designated Lead
1	50,534,500	2, 3, 4A, 5	Region 2
2	30,009,800	8, 13, 11	Region 11
3	16,665,900	12, BARMM, 9	Region 12
4	15,207,600	9, BARMM, 6, 7	Region 9
5	48,541,700	4B, 6	Region 4-B
6	29,393,000	1, 3, 4A, 4B, NCR	Region 3
7	1,669,900	4A, 5, 8	Region 5
8	1,409,000	8, 13	Region 8
9	2,822,800	7, 8, 9, 10, 13	Region 10
10	1,526,500	7, 8	Region 7
11	2,038,600	5, 6, 7	Region 6
12	3,667,400	4A, 4B, 5, 6	Region 4-A

The objective of BFAR FAO 263, s. 2019, is to establish FMAs and provide a science-based, participatory and transparent governance framework and mechanism to sustainably manage fisheries in such areas, consistent with the principles of Ecosystem Approach to Fisheries Management (EAFM) anchored on food security, and supplementary livelihood for poverty alleviation consistent with the objectives of the Amended Fisheries Code (DA-BFAR, 2019). FMA Management Bodies are to be organized for each FMA.

Access of the municipal fisherfolks to the fishing grounds is another important element of preferential access to the municipal waters. However, 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 and even the National Anti-Poverty Commission-Artisanal Fisherfolk Sectoral Council. The dwelling places of the fisherfolks are usually located in foreshores and public lands with no security of tenure, hence they face the constant risk of eviction.

As of 2021 the number of municipal fisherfolk was 2,190,438. the breakdow is shown on Table 4.

Meanwhile the breakdown of the number of fisherfolks by gender and region are shown on Table 5.

The fishing privilege in municipal waters is mandated by Section 17 of the Fisheries Code, which states that:

Table 4. Number of municipal fisherfolk as of 2021 by fishing sector (BFAR, 2022)

Sector	No. of Registered Fisherfolk	Percent (%)
Capture Fishing	1,095,774	50.03
Gleaning	253,825	11.59
Aquaculture	247,164	11.28
Fish Vending	147,038	6.71
Fish Processing	42,524	1.94
Others	404,113	18.45
Total	2,190,438	100.00

“The duly registered fisherfolk organizations/cooperatives shall have preference in the grant of fishery rights by the Municipal/City Council pursuant to Section 149 of the Local Government Code xxxxx”

In addition, Section 19 states that:

“The LGU shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and/or other related purposes; Provided, That the FARMC shall submit to the LGU the list of priorities for its consideration. xxxx”

The above sections underscore the importance of registration to be granted preferential use of municipal waters. For this purpose, the BFAR implemented the Fisherfolk Registration System (FishR) but the consolidation and updating of the data at the LGU and BFAR levels has been problematic. The rural LGUs in particular do not have the human resources and infrastructure to maintain fisherfolk registries.

On illegal fishing and intrusion of commercial fishers in municipal waters

From 2020 to 2021, the BFAR, together with the United States Agency for International Development (USAID) and various partners in the field, conducted a series of assessment workshops on IUU fishing in Philippine waters. A Philippine IUU Fishing Index and Threat Assessment Tool (I-FIT) was used to assess how big of a threat IUU fishing posed to a given area (prevalence) during the previous year, why it was occurring (vulnerability), and what was done to address it (response). In total, 54 workshops were conducted involving 777 participants from 160 municipalities and cities in nine of the twelve FMAs in the country. Scoring was based on I-FIT’s standardized indicators and a 1-4 (good-to-bad) rating scale. Participants scored their LGU on each indicator, and the scores were averaged to form the LGU’s score for that indicator. Thereafter, the

Table 5. Number of municipal fisherfolk, by gender and region (FAO et.al, 2022)

Region	Male	Female	Total
NCR	10,396	2,831	13,227
CAR	31,321	14,726	46,047
Region 1	88,174	29,920	118,094
Region 2	94,730	32,822	127,552
Region 3	104,515	35,367	139,882
Region 4-A	119,426	45,259	164,685
Region 4-B	120,930	65,475	186,405
Region 5	152,524	57,761	210,285
Region 6	131,457	76,445	207,902
Region 7	104,136	46,351	150,487
Region 8	131,883	35,576	167,459
Region 9	60,308	34,997	95,305
Region 10	56,475	33,936	90,411
Region 11	46,085	21,218	67,303
Region 12	58,590	23,856	82,446
CARAGA	52,676	22,377	75,053
BARMM	160,268	87,627	247,895
Total	1,523,894	666,544	2,190,438

indicator scores were combined into a composite IUU fishing index score representing the risk of IUU fishing in a given area.

The scores derived from I-FIT fall mostly within the 2.00 to 3.00 range of the scale, with the national IUU fishing index, prevalence, vulnerability, and response scores averaging 2.58, 2.51, 2.53, and 2.76, respectively. The results indicate an overall moderate risk of IUU fishing. This is borne out by participant observation

indicating that, in about half of the assessed LGUs, enforcement was fairly strong, and that there was a decrease in IUU fishing between the year in review and the year before. The prevalence and vulnerability scores are very close (2.51 and 2.53, respectively), indicating that the prevalence of IUU fishing in a given area is associated with that area’s vulnerability (attracting factors) to IUU fishing (DA-BFAR, 2022b).

As of 31 December 2022, there are a total of 923 commercial fishing vessel operators in the country (see Table 6).

On participation in land and resource governance

Section 69 of the Fisheries Code mandates the creation of Fisheries and Aquatic Resource Management Councils (FARMCs) from the national to the municipal/city level. At the local level, the Municipal/City FARMCs (M/CFAMRCs) are composed of three representatives from the LGU, one representative each from the NGO and private sectors, one representative from the DA, and 11 fisherfolk representatives. Of the 11 fisherfolk, seven are municipal fisherfolks, three are commercial fishers and one fish worker; a representative from youth and women fisherfolk sector is

Table 6. Commercial fishing vessel operators in the Philippines as of 31 December 2022 (DA-BFAR, 2022a)

Region	No. of Operators
NCR	203
CAR	0
Region 1	65
Region 2	55
Region 3	75
Region 4-A	87
Region 4-B	44
Region 5	63
Region 6	34
Region 7	20
Region 8	55
Region 9	56
Region 10	14
Region 11	14
Region 12	123
CARAGA	15
BARMM ³	no data
Total	923

³ No data was indicated in the BFAR data

included. In terms of number therefore, municipal fisherfolks have adequate representation.

Table 7 details the number of FARMCs formed per region (FAO et al., 2022).

FARMC representatives lament that FARMCs are only recommendatory bodies, which limits their capacity to engage in fisheries management. One illustration of this was the approval of DA in 2021 to import 60,000 metric tons of small pelagic fish in January 2022, despite the objections of 13 out of 15 National FARMC (NFARMC) members.

The NFARMC is comprised of the Agriculture Undersecretary, an Interior and Local Government Undersecretary, five members from the fisherfolk sector, five members from the commercial, aquaculture and fish processing sector, two experts from the academe and one from a nongovernment organization (NGO) involved in fisheries. During the January 2022 deliberations, 13 industry representatives were united in rejecting the proposal of the DA to allow another round of importation for the first quarter of 2022. The two remaining members, who are from the government, supported the importation proposal. The NFARMC pointed out that there was still unused volume from the importation program approved in the last quarter of the previous year. Despite this, the DA proceeded with approving the importation, citing that the national FARMC is just “recommendatory” (Arcalas, 2022).

Table 7. Total FARMCs formed, per region (FAO et al, 2022)

Region	No. of FARMCs
CAR	61
Region 1	93
Region 2	48
Region 3	57
Region 4-A	95
Region 4-B	71
Region 5	87
Region 6	84
Region 7	131
Region 8	120
Region 9	49
Region 10	47
Region 11	30
Region 12	48
CARAGA	73
Total	1,094

In a July 2023 Fisheries Sectoral Consultation, it was noted that on paper, agriculture and fisheries are devolved by virtue of the Local Government Code (LGC) and the Fisheries Code, hence the municipal waters are under the jurisdiction of the LGUs. However, FARMCs lack support from LGUs and BFAR. Aside from the municipal/city FARMCs, there is also supposed to be a Municipal Fisheries Office in each coastal municipality. However, not all LGUs have the resources and capacities to establish said office as well as provide support to the FARMCs.

Also, Section 79 of the Fisheries Code states that a separate fund for the NFARMC, IFARMCs, and M/CFARMCs shall be established and administered by the DA-BFAR from the regular annual budgetary appropriations. However, due to the limited budget of BFAR, no support to municipal FARMCs is being extended.

Meanwhile, with the establishment of the twelve FMAs in the country, FMA Management Bodies (MBs) are to be established as well as stated in BFAR FAO 263, s. 2019. One seat per sector (for sectors such as municipal fishing, commercial fishing, aquaculture, processing, among others), is allotted in the FMA-MB. The FMA-MBs may opt to increase the number of representatives per sector but the sector will only have one vote each. To ensure that the concerns of the sector are well articulated in the FMA-MB, the representative needs to conduct extensive consultations, which would require resources.

On giving 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 Fishpond Lease Agreements (FLAs) and Mangrove Aquasilviculture Stewardship Contracts (MASCs)

Philippine mangroves have been depleted due to overexploitation by coastal dwellers, and conversion to agriculture, salt ponds, industry, and settlements. Aquaculture, however, has been identified as the major cause of the decline. Over the last few years, awareness about the importance of mangroves to the

environment and economy has grown. Abandoned fishponds are now being rehabilitated with urgency to increase mangrove areas in the country, while protecting remaining forests.

BFAR’s FAO 197-1 lays out the revised rules and regulations governing the lease of public lands for fishpond and mangrove-friendly aquaculture. However, the cancellation of abandoned, unutilized and undeveloped (AUU) fishponds, as well as the granting of MASCs have been very slow. Based on the 2022 Report on the Status of Artisanal Fisheries in the Philippines, the following is the total area covered by applications for Aquasilviculture Stewardship Contracts (Table 8):

Emerging threats and opportunities for achieving/strengthening tenure security

Revision of RA 10654

As discussed above, several provisions of RA 8550 as amended by RA 10654 favoring the municipal fisherfolks have yet to be implemented.

Despite this, the law is about to be subjected to amendments yet again this 2023, and the proposed revisions threaten the preferential rights of the municipal fishers over municipal waters.

Table 8. Applications for Aquasilviculture Stewardship Contracts by region, province, and area covered (FAO et al, 2022)

Region	Province	Area covered (hectares)
Region 2	Cagayan	3.49
Region 4-A	Quezon	15.89
Region 4-B	Marinduque	7.38
Region 5	Masbate	10.00
Region 6	Aklan	3.73
Region 7	Bohol	8.70
Region 9	Zamboanga del Sur	6.56
	Zamboanga City	9.99

Table 9 shows the proposed revisions to Section 18, “Users of Municipal Waters” as discussed during the consultation conducted by BFAR in May 2023. These

proposals would further erase the preferential rights of the municipal fishers over the municipal waters and further worsen their economic situation.

Table 9. Proposed revisions to RA 8550 Amended by RA 10654, Section 18, “Users of Municipal Waters”

Section	Proposed revision	Implications/Threats to tenure security
<p>SEC. 18. Users of Municipal Waters. – All fishery activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk. The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within the ten point one (10.1) to fifteen (15) kilometer area from the shoreline in municipal waters as defined herein, provided, that all the following are met: (a) no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency; (b) fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the Department; (c) prior consultation, through public hearing, with the M/CFARMC has been conducted; and (d) The applicant vessel as well as the shipowner, employer, captain and crew have been</p>	<p>Section 18, Users of municipal waters - xxx The municipal or city government, however, may shall, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate xxx</p> <p>SEC. 18. Users of Municipal Waters. – xxx The municipal or city government, however, shall, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate in municipal waters as defined herein, provided, that all the following are met: a. no commercial fishing in municipal waters with depth of 20 fathoms (36.5 meters) or less as certified by the appropriate agency; xxx</p>	<ul style="list-style-type: none"> • Change of “may” to “shall” indicates that LGUs will no longer have the option to NOT allow commercial fishing in the 10.1 to 15-kilometer municipal waters. If granting access to commercial fishers in municipal waters becomes obligatory, this in effect decreases the fishing ground available for municipal fishers. It will undermine the “preferential rights” granted to the subsistence fisherfolk as indicated in the 1987 Constitution and in the national laws. • The proposal is to delete the word “within the ten-point one (10.1) to fifteen (15) kilometer area from the shoreline” will allow commercial fishing even within the one kilometer municipal waters. This is ill-advised since it will intensify the competition between the municipal and commercial fishing subsectors to the disadvantage of the former.

<p>certified by the appropriate agency as not having violated this Code, environmental laws and related laws. Xxx</p>		<ul style="list-style-type: none"> • The proposal is to do away with the distance and focus on the depth as bases for allowing commercial fishing in municipal waters. But bathymetric maps, especially on the Eastern seaboard reveal that 20 fathoms can be as near as one kilometer from the shore. This means from the previous 10.1 to 15 kilometers from the shore, commercial fishers will be allowed to fish even as near as one kilometer from the shore, eliminating all preferential rights for subsistence fisherfolk.
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On the delineation of municipal waters of municipalities and cities with offshore islands, it was also reiterated by BFAR that the “general coastline” mentioned in the law refers to the coastline of the mainland municipality/city. This means the guidelines that will eventually be approved would still adhere to mainland principle, rather than archipelagic principle.

When the revision of RA 10654 was mentioned by President Ferdinand Marcos Jr. in his July 2023 State of the Nation Address (SONA), BFAR was approached by Congress to submit proposals. BFAR conducted another online consultation on 1 August 2023. The participants called for an assessment of the implementation of RA 100654 as this would determine if the problem is the law itself or just the implementation of the law.

BFAR heeded the call for an assessment and in partnership with the Fish Right Program, conducted a 2-day assessment in late August 2023. Based on the

reports of BFAR, it was obvious that the constraints in achieving the objectives of the law was poor implementation due to lack of financial and human resources. Sadly though, the agency insisted on its recommendation to amend the law, contrary to the views of the marginalized fisherfolks that the problem lies in implementation and that there is no need to amend the law at this time.

Land reclamation

Reclamation is a deliberate process of converting foreshore land, submerged areas or bodies of water into land by filling or other means using dredge fill and other suitable materials for specific purposes. There are two types of land reclamation. One involves a change from an area's natural state, while the other is restoration of an area to a more natural state. The first one can refer to creating dry land from an area covered by water - such as a sea, lake, or swamp. The second can refer to bringing the land-damaged from natural or human causes - back into use for growing trees or agricultural crops (PRA, n.d.).

The first type of land reclamation is a major threat to the municipal fisherfolk's access to coastal and marine resources. As stated by two fisherfolk leaders,⁴ land reclamation involves privatization of their fishing ground. Fisherfolk lose access to the fishing ground which is their primary source of livelihood. This also forces them to fish further away from the shore, causing an increase in fishing expenses and a decrease in income. It is also a violation of their fundamental rights over the coastal and marine resources. Land reclamation also leads to displacement from their homes, which are usually located in the coastal areas.

Land reclamation also destroys the natural resources and is thus a violation of environmental management policy. It destroys fish habitat like mangroves, corals and seagrass. Reclamation can lead to depletion of fish stock and therefore it is a food security threat as well. It also disrupts natural waterways causing flooding. Finally, land reclamation destroys not just the coastal and

⁴ Based on interview with PANGISDA-Pilipinas and Pambansang Katipunan ng Samahang Kanayunan conducted on 3 August 2023

marine resources but also the upland resources, because the land fillings usually come from the mountain areas.

Threat to Participation in Land and Resource Governance

The establishment of Management Bodies in FMAs further limits the role of municipal fishers in coastal and marine resource management. The Management Bodies have only one representative per sector and given the size of the FMAs there is no clear mechanism to ensure that the representative brings in the consolidated concerns of the sector at the FMA level. The feedback loop from the FMA-MB to the M/C/IFARMCs is also not clear.

Considering that the municipal waters remain under the jurisdiction of the LGUs, there is also no clear mechanism to ensure the policies agreed upon at the FMA level are translated into laws and ordinances at the LGU level. This concern is not covered by the FAO 263.

Assessment: Ways Forward

Priority areas

In 2021, a 10-point Philippine Blue Agenda for Sustainable Fisheries was developed by municipal fisherfolk partners of NGOs for Fisheries Reform (NFR) and Pangangisda Natin Gawing Tama (PaNaGAT). The agenda was based on a review of the Comprehensive National Fishery Industry Development Plan (CNFIDP) and a nationwide consultation with fisherfolks. It calls on government and other stakeholders to undertake specific actions to protect the rights, livelihood and environment of affected communities.

The agenda contains the peoples' alternatives in response to the Philippine government's Blue Economy policy, a model of economic development that supposedly focuses on the sustainable management and use of natural and other resources in the maritime sector. However, the basic sectors' experience

with government's grand economic plans is that these do not always uphold the rights of the people. More often than not, these favor the rich and the big investors at the expense of the marginalized sectors and the natural resources that serve as the backbone of the latter's livelihood. Thus, despite programs such as the CNFIDP, small-scale fisherfolks continue to experience low fish catch and low income due to degraded coastal and marine resources, weak implementation of fishery laws and a limited number of policymakers and leaders advocating the interests of small-scale fisherfolks.

The 10-point Philippine Blue Agenda for Sustainable Fisheries is as follows:

1. Define the tenurial status of municipal waters. Delineate municipal waters using archipelagic principle.
2. Provide social protection to fishers, which includes insurance especially for fish wardens, housing, legal, services, cash transfer, and health care.
3. Strengthen fisherfolk management of the coastal and marine resources through the establishment of municipal fishery officers, building capacities of FARMCs and fish wardens, as well as approval of the bill on the Department of Fisheries and Aquatic Resources (DoFAR).
4. Strengthen monitoring, control, and surveillance mechanisms in the fisheries. This includes the implementation of electronic catch documentation and traceability system (ECDTS) and vessel monitoring mechanisms (VMMs).
5. Strengthen women and youth involvement in fisheries management through the establishment of women-managed areas, inclusion in the fisherfolk registry, and provide equitable and just compensation for their work.
6. Strengthen economic and sustainable finance mechanisms for the fishers.
7. Strengthen climate and disaster resilience of coastal and island communities.
8. Respond to the effects of COVID-19.
9. Protect fishers from displacement brought about by destructive coastal development.
10. Address the problem of marine pollution.

Recommendations

The municipal fisherfolk organizations and partner CSOs have submitted to BFAR the following recommendations regarding the proposal to amend RA 10654 that threatens their preferential rights over the municipal waters:

- *Conduct consultations in every region with representatives from the fisheries and aquaculture industry on the status and implementation of the Fisheries Code in the country.* In this way, affected subsectors will have the chance to decide whether amendments are in fact needed.
- *The government should also include in the consultations the representatives from the academe, scientific community, and the Science Advisory Groups of the Fisheries Management Areas (FMAs).* In this way, the assessment on the implementation of RA 10654 will be supported by appropriate data.
- *Use the result of the consultations as basis to decide whether RA 10654 amendments are timely and appropriate.*
- *Ensure that the rights stated in the Constitution, such as the preferential rights of subsistence fishers to use the coastal resources, are protected.*

In addition, DA-BFAR should approve the guidelines for the delineation of municipal waters of municipalities and cities with offshore islands using the archipelagic principle. This is to help establish the boundaries of the 15-kilometer municipal waters.

DA-BFAR, in coordination with the appropriate government agencies, should implement Section 108 of the Fisheries Code through the establishment of fisherfolk settlement areas. This is to help ensure their access to their fishing grounds. ■

References

- Arcalas, J. Y. (2022). DA's move to import fish stirs more questions. In *Business Mirror*. <https://businessmirror.com.ph/2022/01/24/das-move-to-import-fish-stirs-more-questions/>
- DA-BFAR. (2019). Toolkit on Rolling-out Fisheries Management Area Implementing FAO No. 263 s. 2019. Department of Agriculture – Bureau of Fisheries and Aquatic Resources (DA-BFAR).
- DA-BFAR. (2022a). *Philippine Fisheries Profile 2021*. DA-BFAR.

- DA-BFAR. (2022b). *Philippine IUU Fishing Assessment Report 2021*. DA-BFAR.
- FAO, DA-BFAR, and RARE. (2022). *Report on the Status of Artisanal Fisheries in the Philippines*. Food and Agriculture Organization (FAO), Department of Agriculture – Bureau of Fisheries and Aquatic Resources (DA-BFAR), and RARE.
- PRA. (n.d.). *What is reclamation*. Philippine Reclamation Authority (PRA). <https://www.pea.gov.ph/faq-menu/what-if-reclamation>
- PSA. (2021). *Official Poverty Statistics of the Philippines: Preliminary 2021 Full Year*. Philippine Statistics Authority (PSA).
- Quizon, A., Marzan, A., de Vera, D., and Rodriguez, M. (2018). *State of Land and Resource Tenure Reform in the Philippines*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

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In addition, two fisherfolk leaders also provided inputs in a separate interview last 3 August 2023 particularly on the issue of reclamation:

Ruperto Aleroza, Pambansang Katipunan ng Samahang Kanayunan (PKSK) and Vice-Chair for Basic Sectors as leader of Artisanal Fisherfolk Sector of the National Anti-Poverty Commission (NAPC)

Pablo Rosales, President of Pangisda-Pilipinas

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The **Global Land Tool Network (GLTN)** is an alliance of global, regional, and national partners contributing to poverty alleviation and the Sustainable Development Goals through increased access to land and tenure security for all. The Network's partnership of organizations is drawn from the rural and urban civil society, international research and training institutions, bilateral and multilateral organizations, and international professional bodies. GLTN takes a more holistic approach on land issues and improves on global land coordination through development, dissemination and implementation of pro-poor and gender responsive land tools. These tools and approaches contribute to land reform, good land governance, inclusive land administration, sustainable land management, and functional land sector coordination.



The **United Nations Human Settlements Programme (UN-Habitat)** helps the urban poor by transforming cities into safer, healthier, greener places with better opportunities where everyone can live in dignity. UN-Habitat works with organizations at every level, including all spheres of government, civil society, and the private sector to help build, manage, plan, and finance sustainable urban development. UN-Habitat envisions cities without slums that are liveable places for all, which do not pollute the environment or deplete natural resources.



We Effect is a non-profit organization based in Sweden advancing gender-equality, cooperative principles, and the rights-based approach to development.

Land and resource tenure reforms have long been instituted in the Philippines, manifesting a rights-based approach to poverty reduction and social equity. In 2023, the Comprehensive Agrarian Reform Law (CARL) marked its 35th year, while the Indigenous Peoples Rights Act (IPRA) and the Philippine Fisheries Code reached their 26th and 25th years, respectively.



This publication seeks to assess the state of implementation of these asset reform laws and programs from the perspective of civil society and basic sectors of farmers, indigenous peoples, rural women, and small fisherfolk.



It discusses achievements, issues, and gaps in the implementation of these reform programs; and recommends areas to further strengthen tenure security of the rural poor.

