

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.”

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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*. ANGOC, 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. ■

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