

Agrarian reform and the difficult road to peace in the Philippine countryside

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■ Executive summary

Agrarian reform and conflict in the rural areas of the Philippines are closely intertwined. The weak government implementation of the Comprehensive Agrarian Reform Program, inherent loopholes in the law, strong landowner resistance, weak farmers' organisations, and the continuing espousal by the New People's Army of its own agrarian revolution combine to make the government's agrarian reform programme only partially successful in breaking up land monopolies. This is why poverty is still pronounced in many rural areas. The rise of an agrarian reform movement has significantly contributed to the partial success of the government's agrarian reform programme. But the government has not been able to tap the full potential of this movement to push for faster and more meaningful agrarian reform.

The agrarian reform dynamics between pro- and anti-agrarian reform actors create social tensions that often lead to violence, of which land-rights claimants are often the victims. This is exacerbated and in many ways encouraged by the government's failure to fulfil its obligation to protect the basic human rights of land-rights claimants. This report outlines the pace and direction of agrarian reform in the Philippines and its role in fighting poverty and promoting peace in rural areas. It emphasises the importance of reform-oriented peasant movements and more effective government implementation to the success of agrarian reform. The report also asserts the need for the government and the armed left to respect human rights and international humanitarian law in promoting the full participation of land-rights claimants in shaping and crafting public policy around land rights.

The causes of rural inequality, poverty and conflict

The Philippine agricultural sector is characterised by unequal and highly skewed landownership. When the Spanish colonialists introduced the *encomienda* and *hacienda* system, control over vast tracts of land fell into the hands of a very small landowning class, dispossessing a mass of peasants of the land that they and their ancestors had been tilling for generations. With this process of dispossession colonial rule resulted in the peasantry experiencing poverty, exploitation and oppression. Inequalities in landownership resulted in armed agrarian unrest and saw the birth of rural social movements that demanded the breaking of the land monopoly. At various times in the country's history various land reform laws were passed purportedly to promote agrarian justice by reforming a land property rights regime that favours only the few.

From the 1950s onward the land reform laws that were implemented, such as the Agricultural Tenancy Reform Act and the Agricultural Leasehold Act, among others, tended to be mere concessions to tenants and were insufficient to bring about fundamental changes in the structure of land ownership. These policies did not transfer ownership to peasants and merely focused on regulating production relations between landowners and tenants. In 1972 Presidential Decree no. 27 under former president Ferdinand Marcos offered a limited land redistribution window by covering only rice and corn lands. It was implemented mainly in Central Luzon, a hotbed of peasant insurgency and the birthplace of the New People's Army (NPA) (Borras et al., 2009: 5; Reyes, 2002: 8ff.)

After Marcos was ousted through the People Power revolution in 1986, organised farmers and their supporters

demanded the immediate passage of a law on agrarian reform. A broad alliance called the Congress for a People's Agrarian Reform proposed what was called the People's Agrarian Reform Code in an attempt to pressure the new government of President Corazon Aquino to implement agrarian reform. On January 22nd 1987 the Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines), then the largest peasant movement in the country, organised a huge march of peasants to demand the immediate implementation of genuine agrarian reform. The marchers clashed with the police, leading to the infamous "Mendiola Massacre", which caused the death of 13 farmers and injuries to more than a hundred protesters (see Gavilan, 2015). In response to the sustained pressure from various peasant groups Congress finally enacted the Comprehensive Agrarian Reform Program (CARP) in 1988. CARP was supposed to be the watershed in the Philippine peasants' struggle for land (Franco, 2008: 995) and demands for social justice from below. Twenty-seven years later, however, demands for agrarian reform continue.

Why land reform?

More than half of the Philippine population lives in rural areas. Forty per cent of land is attributed to the agricultural sector, employing about one-third of all Filipinos. This sector, however, contributes only 11.3% of GDP (World Bank, n.d.). Yet for a long time vast tracts of the country's best agricultural lands had been in the hands of a very few landowners. This contributed directly to widespread poverty in rural areas. A comprehensive land reform programme was deemed necessary to address rural poverty, with landless farmers and tenants among the most affected groups (ADB, 2009: 3).

Agrarian reform is important to rural democratisation and the land-dependent rural poor's enjoyment of basic human rights. Philippine society is shaped by a land-based power structure and regional rural elites' control of vast tracts of land serves as their ticket to elective office. They are able to perpetuate themselves in power through patron-client relationships. Tenants and ordinary people living on *haciendas* are normally beholden to *hacienda* owners through strict social regulation. Most often, these *hacienda*-bounded rural citizens are unable to exercise their basic rights to association and to vote. These regional elites undermine traditional and indigenous concepts of land-ownership and restrict poor peoples' political ability to claim land rights (Franco, 2008: 994). The 1988 land reform law was therefore a crucial measure to break up these undemocratic structures by targeting the redistribution of land to landless farmers, farmworkers and tenants.

Secure tenure rights to and control of land also mean access to the fundamental human rights to livelihood and food. Thus, agrarian reform also emphasises land ownership as a human right as enshrined in international treaties and policies, such as the UN Declaration on Human Rights and the International Covenant on Economic, Social and

Cultural Rights, to which the Philippines is a state party (see FIAN Philippines, 2006). The Philippines itself enshrined the right of farmers to own the land they till in the 1987 Philippine constitution, enunciating that the right to land is integral to the attainment of equity and social justice in Philippine society.

Likewise, secure land tenure reduces the vulnerability of disaster survivors. Typhoon Haiyan (locally known as Yolanda) exposed the vulnerabilities of farmers without secure land tenure when some international humanitarian agencies refused to provide humanitarian aid to farmers and informal settlers who were unable to show secure land property rights. The right to humanitarian assistance therefore requires that the land-dependent rural poor have secure land property rights.

Comprehensive Agrarian Reform Programme

Agrarian reform was considered an essential component of the post-Marcos rural democratisation process. And the passage of CARP – in theory at least – took the initial step toward such a democratisation process. In general the programme mandated the distribution of all agricultural lands to landless farmers, farmworkers or tenants under the land-to-the-tiller principle of the 1987 constitution. CARP set a five-hectare landowner retention limit with an additional three hectares for every legitimate heir as preferred beneficiaries. The goal is clear: to promote equity and social justice.

Yet CARP is neither clearly revolutionary, because it does not call for the expropriation of private land without compensating landlords or transferring land to farmers without charge, nor is it conservative, since it does not merely target resettlements, but large, private landholdings. CARP is thus a liberal type of land reform that constitutes a compromise between progressive reform advocates and reform opponents where state-led mechanisms such as compulsory acquisition coexist with market-oriented options such as voluntary land transfer (VLT) options (Borras & Franco, 2005: 336ff.).

There is no question, however, that CARP is more progressive than earlier land reform programmes. Its scope is comprehensive, covering private and public lands regardless of crops (unlike under Presidential Decree no. 27's focus on only rice and corn) or tenure arrangement. Millions of hectares of previously excluded lands that were planted with coconut, sugarcane, rubber, banana, pineapple and others were covered under CARP. The government, through the Department of Agrarian Reform (DAR) and Department of Environment and Natural Resources (DENR), initially aimed to distribute 10.2 million hectares of private and public land to 4-5 million tenants, landless farmers, farmworkers and occupants of public land. This was adjusted to 8.1 million hectares and eventually to 7.9 million. The initial target of 10.2 million hectares was

based on a nationwide list of landowners called the *Lista Saka* (List of Farms), which was based on government tax records. Subsequent adjustments were based on the so-called CARP Scope Validation,¹ which supposedly entailed ground-level initiatives to further validate the scope of the agrarian reform programme. To what extent these validations defined actual areas to be subjected to agrarian reform is unclear. But the reduction from the original target was significant and the DAR continues to entertain “new lands” for coverage, which means that the issue of how much land is to be covered under agrarian reform remains uncertain 27 years after CARP took effect.

The Land Bank of the Philippines determines the value of the land using various factors that include level of productivity, fair market value, the market value of adjacent lots and tax assessments, among others. Once the price is established, the landowner is paid by the Land Bank. A portion of the settlement is paid in government bonds, while the rest is paid in cash. A 30-year amortisation period allows less burdensome payments for farmer beneficiaries and gives them plenty of time to fully develop the land. In cases where the value of the land is beyond farmers’ capacity to pay, the law provides an “affordability clause”, which bases the payment on the productivity of the awarded land (i.e. 2.5% of the gross harvest in the first two years, 5% in the next three years and 10% in the remaining 25 years). Until today it is unclear if the affordability clause was actually put into practice in the amortisation process.

Support services are an integral component of CARP and a right of all farmer beneficiaries. This is to ensure that the beneficiaries will be able to make the land productive through access to technology, credit and market services. In cases of land disputes, farmers should also be provided with legal support to defend their land rights.

In a compromise programme, however, landowning members of Congress had a significant influence on the law, creating several loopholes that allowed landowners to evade, delay or derail land redistribution. These loopholes were reflected in anti-peasant and pro-landowner provisions such as the stock distribution option (SDO) and leaseback agreements, VLT, the exclusion of fishponds and prawn farms, and the exemption of reclassified land (land that was reclassified before CARP took effect in 1988) and areas utilised for livestock production. Reclassified land is land that is specifically declared either by presidential proclamation or local government units ordinance to be reserved or used for residential, commercial and industrial purposes, among others. The programme also suffers from vague procedures for the identification of beneficiaries² on

commercial and corporate farms, the prioritisation of the distribution of public land over private landholdings, and unclear guidelines for land use conversions³ (Cruz & Manahan, 2014: 934; Tadem, 2015: 2).

In particular the SDO, leaseback agreements and VLT were major constraints to land redistribution. The SDO is an option for corporate land to distribute stocks to farmworkers instead of land.⁴ Of 13 SDO cases, Hacienda Luisita, one of the largest and most controversial landholdings, which was previously owned by the Cojuangcos, who are family of President Benigno Aquino III, is a prime example of the circumvention of land redistribution under CARP (see FIAN International, n.d.). The VLT option was a much-favoured way to evade land redistribution. It allowed landowners to transfer land directly to “dummy” beneficiaries, which ensured that the previous landowners maintained control over the land.

Despite its many loopholes, CARP paved the way for farmers’ land-rights claims. But with the various loopholes and weak programme implementation it became necessary that claimants should be organised and capable of opposing and resisting the anti-reform initiatives of actors opposed to CARP. As will be discussed below, there are cases where farmers were successful in thwarting these anti-reform initiatives.

The DAR is the main agency tasked with redistributing private lands, while the DENR is tasked with distributing public lands. The political will of the officials and employees of these agencies has directly influenced the pace of agrarian reform over the 27 years of programme implementation, and some administrations have performed better than others.

CARP Extension with Reforms

“CARP remains an orphan program because it is lacking state support, resources, and plain good faith” (Bello, 2008: 3)

Because the Philippine government was only able to distribute 57% of the targeted land throughout CARP’s original mandated period of ten years, the programme was extended in 1998 for another ten years. The major reasons cited for the delayed implementation of CARP were budget constraints on the costs of land acquisition and distribution, including landowner compensation (Bello, 2008: 2), lack of an accurate land registration system, and extensive corruption in the DAR (Cruz & Manahan, 2014: 937). In addition, other major reasons could have significantly

1 Undertaken in 1993 under DAR secretary Ernesto D. Garilao.

2 To be identified as a beneficiary a claimant needs to be a landless farmer. This category includes agricultural lessees, tenants, and regular, seasonal and other farmworkers. But there are further conditions; e.g. to be qualified as a farmer-beneficiary, a person needs to be at least 15 years old, a Philippine citizen, willing and able to till the land, and resident of the *barangay* (village) where the landholding is located.

3 The requirements for land-use conversions are very stringent. For instance, applications cannot be accepted more than 60 days after the issuance of notices of coverage. The farmers are obliged to pay for the land and not transfer it within ten years. The land should be used for agricultural purposes, of course, since it is classified as such.

4 The free stocks supposedly give the farmers dividends and profit shares, a seat on the board of the corporation, and the promise that they will continue to work on the land.

slowed down the progress of land redistribution, including: (1) the slow resolution of legal disputes arising from landowners' protests or applications for exemption or exclusion, which normally take more than a decade to resolve; (2) the lack of petitions from strong farmers' organisations in many *haciendas* that are tightly controlled by landowners; and (3) quite simply, the lack of a sense of urgency in government in terms of redistributing land.

While land redistribution brought about significant changes (various studies showed decreases of poverty among agrarian reform beneficiaries), the benefits to the peasantry were limited to those benefitting from land redistribution, while the degree of success depended on many factors, including the quality of support services received by farmers. In this sense, CARP was neither truly successful nor a total failure, since the government was not able to fully cover and distribute targeted land nor provide the support services needed to increase farmers' productivity and income (Cruz & Manahan, 2014: 938).

The passage of the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) Act on August 7th 2009 gave CARP five more years to be completed. This period was deemed sufficient to complete the land acquisition and distribution programme under CARPER. However, if land distribution is not completed within this extension period, section 30 of Rights Act no. 9700 provides for the continuation of the land redistribution process only with respect to landholdings already issued with notices of coverage (NOCs) or landholdings with pending petitions or legal cases or claims. Landholdings without NOCs or pending legal claims after June 30th 2014 will remain in limbo, unless a bill to extend the DAR's authority to issue NOCs is passed. The expiry of the issuance of NOCs does not affect the continuity of the land distribution process for landholdings with NOCs, including the delivery of support services and legal support for potential agrarian reform beneficiaries.⁵ The elimination of the SDO and VLT option, the recognition of women as agrarian reform beneficiaries, the prioritisation of the distribution of large landholdings (from 25 hectares upwards), the lack of feasibility of certificate of landownership awards (CLOAs) and the provision of a PHP 150 billion budget (approximately \$3.2 billion), of which 40% should be allocated to the provision of support services, are the most significant changes under CARPER (Manahan, 2013: 10; see Manahan, 2009).

Incumbent president Benigno Aquino III committed to complete the land distribution process under CARPER. With less than a year left in office, however, it is impossible for him to fulfil such a promise. The remaining balance of potential land distribution includes: (1) lands that are still being processed; (2) lands that have yet to be issued with an NOC after the DAR's authority to issue NOCs expired on June 30th 2014; and (3) public lands, including untitled

privately claimed agricultural lands. Farmers and advocates have been campaigning for the extension of the DAR's authority to issue NOCs to ensure the coverage and distribution of the remaining balance of private lands. The balance of public lands, on the other hand, needs to be carefully investigated: many of these so-called public lands are in grey areas, because many public lands are subject to private claims and are under private control. Due to the absence of reliable documentation the actual area that should be subject to agrarian reform also remains unclear. Currently, the DAR is still left with the job of distributing approximately one million hectares of the most difficult and contentious landholdings (Tadem, 2015: 3). This being the case, the most realistic scenario that farmers can hope for is the redistribution of lands that have been issued with NOCs and are being processed. With the DAR's very weak performance, however, many of these lands will remain undistributed during President Aquino's term.

Contradictions, loopholes and weaknesses of CARP/CARPER

"[L]and is freedom from poverty: owning a piece of land, earning from it, sending their children to school and putting a roof over their heads through the fruits of the land will finally allow them to live a life of dignity and pride" (Manahan, 2013: 13)

It is clear from official data that agrarian reform is far from complete and is beset by major weaknesses. Towards the end of the Aquino administration in 2016 land redistribution is expected to be in total paralysis. In fact, CARP's performance under the present administration is one of the poorest in the country's agrarian reform history. While there is some truth to the contention that most of the remaining balance of land redistribution is extremely contentious, the administration has clearly lacked the will to redistribute those lands without legal impediments, such as Hacienda Matias in San Francisco, Quezon, among others. The government also made DAR employees feel insecure and uninspired by offering them early retirement, which was interpreted by employees to be consistent with an unofficial plan to phase out the programme. Moreover, the DAR created layers of legal-procedural requirements that instead of speeding up the process, created confusion as to how to fulfil these requirements. Even when it was targeting actual redistribution, the current administration seemed to be unable to establish achievable targets, aiming instead for high targets while consistently recording around a 50% shortfall in performance. According to the DAR's reports on its activities, from 2010 to 2013 the Aquino administration distributed only 107,813.48 hectares each year on average, which is far below the Ramos administration's redistribution of 316,678 hectares per year (1992-98) and the Corazon Aquino administration's 141,420 hectares (1986-92) (Cruz & Manahan, 2014: 963).

⁵ Meanwhile, the extension for the issuance of NOCs under CARPER has not been introduced. The programme has reached a state of limbo. Civil society organisations submitted a so-called "one-liner bill" to extend the issuing of NOCs, but it has not been passed into law. It is also important to note that only 20% of all beneficiaries received some kind of support services.

Accuracy of data

A major obstacle to completing land distribution is the absence of accurate data on the current status of land distribution by the DAR and DENR. It has been proved that the DAR's monitoring system is inconsistent and flawed, making the data unreliable. Moreover, the DAR seems to present a better picture of its achievements than the actual situation (Tadem, 2015: 3). The DAR's data indicates that the official land acquisition and distribution balance as of January 2014 remained at 790,671 hectares, covering a total of 80,867 landholdings, of which 26,571 landholdings (206,536 hectares) have no NOCs.⁶ DENR data, on the other hand, has been neither validated nor investigated. Moreover, weak coordination between the responsible authorities and an overlapping of jurisdiction due to the varying classifications under different laws resulted in duplicate reporting or, in other cases, wrongly declared land (Bello, 2009: 46).

At their face value government statistics are problematic, because they contain serious anomalies that need to be dealt with. One example is the inclusion of reports of farmers who are supposed to be beneficiaries of land distribution, but do not yet hold their CLOAs. This issue affects more than 12,000 farmers in the province of Leyte alone. Another problem is the continuing inclusion of ghost land distribution processes in the Autonomous Region of Muslim Mindanao, even though this anomaly was unearthed a decade ago. The titles of private landholdings that had been cancelled and transferred to the government are already reflected as finalised land distributions, even when CLOAs have yet to be awarded and farmers have yet to occupy such lands. It is also unclear how the government will proceed with the redistribution of the so-called untitled privately claimed agricultural lands (UPALs) with an area of 77,000 hectares, because these areas are supposed to be public lands. The DAR has removed UPALs from its list of targets. These issues are fuelling demands to audit the actual status and achievements of CARP/CARPER.

Violence against land-rights claimants

Violence and strong resistance by landlords continue to accompany the peasants' struggle for land in the Philippines. Harassment and intimidation by hired guards, privately paid thugs or paramilitary forces; the filing of criminal cases; and forcible evictions are common forms of violence used by landlords, real estate and mining companies, and agribusiness operators against the rural poor (Borras & Franco, 2007: 69ff.) The state also commits violence against peasants through its police, military and courts, as often occurs when the state pursues or supports land investments via real estate development, mining or commercial plantation projects (Borras & Franco, 2007:

69ff.). Land-rights claimants who are not killed by anti-reform forces have had to endure immeasurable suffering. And this situation thrives because of the government's incapacity to fulfil its obligation to protect all the country's citizens.

Reversals and land conversion

Even reformed lands are not spared from reversals of the redistribution process. Many landholdings have reverted to former landowner through anti-reform judicial decisions. A recent case involved more than 600 hectares in the town of Sariaya, in Quezon. If these reversals continue, at least 2,000 hectares of reformed land and around 1,500 farmers will be affected in Sariaya alone. The number of land conversions have intensified even in landholdings that have already been earmarked for distribution. It is claimed that these lands are inappropriate for agricultural use and should instead be developed for purposes like real estate development, tourism, mining, or special economic zones by foreign and domestic land speculators. Prominent examples include the cases of Casiguran in Aurora, Sumalo in Bataan and Sicogon Island in Iloilo. Aggressive developers are displacing farming communities and using up productive land (Tadem, 2015: 3).

Provision of support services

The programme also suffers from acute inadequacies in the delivery of support services. As of December 2013 only 44% of all agrarian reform beneficiaries had access to support services packages, of which 27% were agrarian reform communities that are mainly funded by foreign aid (Cruz & Manahan, 2014: 968; Tadem, 2015: 4ff.) In several cases the inability to deliver timely and adequate support services has prevented agrarian reform beneficiaries from becoming economically viable small farmer-producers (Cruz & Manahan, 2014: 969). In Hacienda Luisita at least 90% of more than 6,000 farmer beneficiaries were forced to informally lease their lands under unjust terms to *ariendadors* (informal lessees) due to the government's failure to provide timely and comprehensive support services after the nullification of the SDO and the eventual land distribution in 2014 (see Ranada, 2014). Others take loans from loan sharks and traders that charge high interest rates (Tadem, 2015: 5). This lack of support services speeds up the reconsolidation of reformed lands into the hands of a few new landowners. Most of these new landowners are the traders or loan sharks themselves who take the land as a form of payment for the loans incurred by farmers. One example is the 540-hectare Superior Agro Industries, in Barangay Pagsangahan, San Francisco, Quezon, where a *barangay* official said that at least 200 hectares of reformed land had been taken over by the local copra (coconut meat) trader after farmers incurred huge debts.

⁶ The DAR only highlighted the land that had been distributed, but did not show what happened to this land after the beneficiaries received their land titles. For instance, in Hacienda Luisita 95% of the distributed land is now in the hands of so-called "*ariendadors*", i.e. middlemen/-women that the farmers had to lease their land to through informal contracts because they had no means to make their land productive due to the lack of or delayed provision of government support services.

Ghost “achievements” and a conservative, legalistic bureaucracy

Serious doubt regarding the actual achievements of CARP and CARPER is bolstered by “ghost” cases. In the province of Leyte, for example, RIGHTS, an NGO working for the rehabilitation of Yolanda survivors, discovered that at least 12,055 CLOAs affecting 14,000-plus beneficiaries covering 36,685 hectares were not yet distributed, although they were reflected as part of the official list of DAR achievements in 2008, in which the province of Leyte was regarded as one of the best performing provinces in terms of land distribution.

Many advocates and farmers’ organisations, however, assert that the main problem attributed to CARPER’s poor performance, even though CARPER was supposed to be a stronger version of CARP, has been the conservative and “safety-first” approach adopted by the bureaucracy, particularly current DAR secretary Virgilio de los Reyes. The unofficially declared policy for resolving or handling agrarian issues is to make sure that the DAR and its officials will not commit mistakes in the process of CARP implementation to protect themselves from being sued during and after their terms in office. The result is the tendency to over-analyse the situation, which creates layers of administrative procedures that slow the work of the bureaucracy. A relatively good law can only go so far in the hands of a conservative and legalistic bureaucracy, and will lose the momentum needed to push reform in the countryside.

Beyond CARPER

The dismal record of agrarian reform under the Aquino administration brings to the fore the continuing gap between theory and practice of post-Marcos governments’ commitments to promote equity and social justice in the countryside. The less-than-complete and less-than-ideal state of CARP/CARPER implementation is giving rise to continuing demands for agrarian reform and criticism even from supporters of CARP and CARPER.

In June 2014 around 1,000 participants from various groups, including workers’ organisations, church alliances, academics and advocates, organised a People’s Agrarian Reform Congress (PARC). This congress called for a new, more radical, irreversible agrarian reform programme that would truly promote equity and social justice. The weaknesses demonstrated by CARP and CARPER over the last two decades (such as the very slow and cumbersome process of implementation and the reversals, exemptions and conversions even of prime food production areas, as well as the failure to protect the basic human rights of land rights claimants), could give this proposal a fresh impetus. This is the reason why some peasant groups are starting to distance themselves from CARP and CARPER and are no

longer pushing for another extension. PARC proposed a new agrarian reform programme that takes the “land-to-the-tiller” principle seriously and will include all cultivated and agriculturally productive lands that are exempted from the current programmes. It also proposed a proper delivery of support services for all beneficiaries in order to develop small-farmer-based agriculture.

Genuine Agrarian Reform Bill

The debate about CARP/CARPER versus “genuine agrarian reform” had been ongoing even before CARP took effect in 1988. The proposed Genuine Agrarian Reform Bill (GARB) was filed in the previous (14th) Congress as House Bill no. 3059 and was refiled as House Bill no. 252 in the current Congress. This attempt by the national democratic movement to turn the demand for genuine agrarian reform into law through a legislative initiative is laudable. The bill, however, is confronting serious legal challenges because it proposes an agrarian reform framework that would extend the limits of legal boundaries. Many of its proposals, while radically pro-farmer, are deemed to be unconstitutional. These include the following:

- the inclusion/distribution of timberland and mineral lands that are in reality cultivated;
- the inclusion/distribution of livestock areas;
- the confiscation of sullied landholdings;⁷
- the issuing of notice of the cancellation of transnational corporations’ business permits and the taking of these corporations under state control from the date when the GARB is enacted; and
- the vesting of the DAR with primary jurisdiction over the determination of just compensation.

As pointed out in a DAR opinion – one among many on the matter – timberlands or mineral lands are non-alienable state domains. As such, these lands cannot be disposed of or titled for private ownership without violating the constitution. Similarly, commercial livestock areas are deemed non-agricultural in nature and are not covered by the agrarian reform programme. The exemption of livestock areas is reinforced by Supreme Court decisions that affirmed that livestock areas lie outside CARP’s ambit (such as the Sutton case in Masbate and the Uy case in the Bondoc Peninsula).

The confiscation of sullied landholdings, on the other hand is considered to be in violation of the constitutionally guaranteed right to due process. Moreover, while the DAR initially determines just compensation, the ultimate decision on such compensation rests with the regular courts and this proposal cannot pass without impinging on the provisions of the constitution.

It is understandable that the proponents of the GARB included the proposal to include forest lands and mineral

⁷ Defined by the bill as “(a) those landholdings acquired by their owners through fraud, deception, intimidation or the use of force or violence; and (b) those whose landowners maintain private armed groups which are known to have been involved in extra-judicial killings and abduction of farmers”.

lands under agrarian reform. This is because many such lands are actually devoted to agricultural production and have existing social and production relations, where farmers are subjected to oppression and exploitation by claimant landowners. In forest areas at least an alternative policy exists: the government's Community-Based Forest Management Programme (CBFMP) allows forest inhabitants 25 years of tenure renewable for another 25 years.

Many commercial livestock areas, on the other hand, are normally located in coconut-growing areas. In many cases the main source of income in these areas come from agricultural activity (the cultivation of coconut trees) and not livestock raising. Because of this, coconut-growing areas that are simultaneously devoted to livestock production also normally have share tenancy relations between landowners and tenants.⁸ At the very least, therefore, this share tenancy should be changed to a leasehold system as the minimum right of tillers in such areas. But CARP does not even allow the reform of the share tenancy system to a leasehold system in commercial livestock areas due to the "commercial" nature of the land. In some cases farmers are totally divested of their rights, are ejected and are placed in far more difficult situations, because their attempts to change share tenancy through CARP result in court decisions affirming the exemption of livestock areas from CARP coverage.

The GARB is currently pending in the House Committee on Agrarian Reform. The possibility of the bill being submitted to Congress for deliberation is remote due to the serious legal-constitutional concerns about the bill's major proposals. And except for the six lawmakers from the left-progressive party-list Makabayan bloc, the bill is not receiving the support it needs for it to pass into law.

"Agrarian revolution"

"Agrarian revolution" is the programme of the revolutionary underground movement represented by the Communist Party of the Philippines (CPP), the National Democratic Front (NDF) and the New People's Army (NPA) – know collectively as the CNN – which promised to change the structure of landlessness and oppression in the countryside. For the CNN the revolution should be achieved through the so-called "national democratic revolution", sometimes referred to as the "people's democratic revolution", a two-step revolution that would involve first removing the feudal, imperialist and bureaucratic-capitalistic characteristics of society and then initiating a socialist revolution. In this context the principal struggle is armed, guided by the Maoist dictum "wave by wave, surround the cities from the countryside". A key element of this strategy is the agrarian revolution, a

programme that aims to mobilise landless peasants in support of the revolution.

The "minimum" programme of the agrarian revolution promises rent reductions and the abolition of usury, while the "maximum" programme advocates the outright confiscation and free distribution of land. Central to the CNN's "agrarian revolution" is the participation of peasants, which should form the main force of the "national democratic revolution". Land rent reduction is aimed at reversing the system of share tenancy in favour of peasants in tenancy areas. Called "*tersyong bliklad*" (reversed sharing), under the agrarian revolutionary programme two-thirds of the share of agricultural production would go to tenants and one-third to landlords. On the other hand, the free distribution component of the agrarian revolution is supposed to take place after the revolutionary victory.

Like the government's agrarian reform programme, the revolutionary programme has not performed according to its promise of liberating the peasants from feudal exploitation, even in areas where the CNN is strong.

The case of the remote poor district of the Bondoc Peninsula in Quezon province in southern Luzon illustrates how the government's programme and the CNN's agrarian revolution contended to obtain the support of landless peasants. As will be shown, an autonomous movement of reform-oriented peasants in the area played a key role in the profound changes that occurred in the agrarian structures in the area. The rights-based autonomous reform movement challenged both the government and the armed movement by demanding respect for peasants' human rights and rights under international humanitarian law.

According to farmers' accounts, the area evolved in the 1980s as one of the NPA's strongholds. Promising feudal liberation, the agrarian revolution initially became a powerful tool in organising the peasantry around the armed struggle. The situation of the Bondoc Peninsula in the 1980s was ripe for such a programme: it was marked by a highly skewed system of land ownership where 44% of the area's most productive land was owned by only 1.1 % of the population,⁹ while tenants were condemned to poverty, receiving only 30-40%, and in some instances only 20%, of the gross produce.

In the Bondoc Peninsula the minimum programme of the agrarian revolution would supposedly take the form of "*tersyong baliklad*", which prior to the CARP period would have had a profound impact on tenants' lives. But it was clear that the agrarian revolution was not making any

⁸ "Share tenancy exists whenever two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid of labor available from members of his immediate farm household, and the produce thereof to be divided between the landholder and the tenant in proportion to their respective contributions" (Philippines, 1954: part 1).

⁹ A 1989 study of the poverty situation in the Bondoc Peninsula was undertaken by development experts from the Asian Institute of Management to inform the design of the Bondoc Development Programme, a bilateral development cooperation between the government of the Philippines and Germany. The study revealed that one of the major causes of rural poverty in the region was the widespread landlessness of farmers due to the concentration of land ownership in a very few hands.

substantial progress in addressing feudal exploitation in the area. Towards the end of the 1990s share tenancy persisted, which was a sign of the NPA's failure to implement its programme. Tensions began to show when tenants started to assert their autonomy on how to address feudal exploitation by forming their own independent organisations and seriously engaging with the government's agrarian reform programme. This assertion was inspired by the promise of reform under the government's CARP, as well as by the failure of the armed movement to take peasants' demand for change in the agrarian situation more seriously.

In early 1995 farmers in Barangay Cambuga,¹⁰ Mulanay, Bondoc Peninsula, in Quezon province asked for the NPA's support to renegotiate with the landowner for an improvement of the sharing system in a 201-hectare property which at that time was shared 80% to 20% in favour of the landowner. The NPA promised to help, but failed to attend on the date appointed for the dialogue. Without the armed movement to back up the peasants the dialogue turned into a "one-sided tongue lashing" as the landowner condemned the tenants for making such a demand.

Feeling deeply insulted and betrayed, the farmers have taken a more independent path since then in resolving the exploitative share tenancy system. They approached government agencies involved in agrarian reform implementation and were surprised to learn that share tenancy was no longer allowed under the CARP. The DAR, however, revealed that it could not distribute the land because it was in a timber/forest zone and therefore it could not be alienated or titled. This information pushed the tenants to stop giving the share payment to the landowner. A little later the NPA approached them and convinced them to continue paying the landowner's share, claiming that it was not yet time for such an initiative. The tenants stood their ground, however, and asked the armed movement to respect their decision. They also campaigned for the implementation of the CBFMP to secure their tenure over the disputed land. The CBFMP was implemented in 1997.

In another case, two tenants in Sitio Libas,¹¹ Barangay San Vicente, San Narciso, Quezon, were accused of *estafa*, a criminal offence or fraud, for allegedly not paying the landlord's share in 1996. Despite their denial, the tenants were arrested and jailed and had to sell their *carabaos* to raise the amount needed for bail. Once out of prison, one of the jailed farmers, who claimed to be an NPA courier, helped to organise the tenants and led the petition for the land to be covered under CARP. Later, the tenants discovered that the land was untitled and concluded that it was publicly owned. This prompted them to stop giving the share payment to the landlord claimants, who were the most powerful political family in the locality. After this, the NPA met twice with the tenants' leader to convince them to

continue paying the landowner's share, asserting that the armed movement would implement real agrarian reform at the proper time. The tenants refused this request. Then the NPA started to harass the farmers' leader, accusing him of various "crimes against the revolution", including being a member of the state military's intelligence network. The leader and his family have not lived in the area for almost a decade after surviving an NPA attempt on his life in early 2004.

In another case a group of tenants in Hacienda Villa Reyes, the largest *hacienda* in the Bondoc Peninsula, also petitioned for the distribution of the lands they tilled. The initial petition in 2001 grew and expanded to 13 subvillages in 2003. Over time and after holding sustained dialogues with government agencies, the petitioners discovered that portions of the *hacienda* were in areas classified as timber/forest areas, i.e. lands that cannot be alienated or privatised, and were thus not covered by agrarian reform. It therefore dawned on the farmers that the landlord's claim of private ownership was bogus, or at least seriously questionable. This encouraged some 300 tenants to stop share payments to the claimant. As in the other areas, the NPA dissuaded the farmers from continuing their non-payment of the land owner's share. But once again the farmers refused to obey the armed movement.

The farmers were perplexed by the NPA's attitude and could only surmise that it had formed an "unholy alliance" with the landowners in order to stop the advance of the government's agrarian reform programme. The landowners' anti-reform resistance was primarily motivated by a possible break-up of their *haciendas* in favour of small farmers. As former farmer-supporters of the armed movement revealed, the landowners were paying the NPA revolutionary tax, which is an imposition that is normally levied in areas considered to be the armed movement's territory. The NPA needed the financial and logistical support that the landowners provided to advance the cause of its armed struggle. The NPA was also motivated by the belief that any advance of the government's agrarian reform would hamper the growth of the peasant-based revolution. Things took a turn for the worse when the landowners and the armed movement started to use violence to stifle the tenants' dissent.

These violent dynamics have had deadly consequences for the farmers. Between 1998 and 2013 six leaders of the Bondoc Peninsula's land rights claimants were killed: four were killed by armed thugs linked to landlords and two were killed by the NPA, with one leader barely escaping an attempt on his life. Many farmers also faced physical injury and displacement, and more than 200 farmers were jailed when landlords started to criminalise the peasants' reform initiatives.

¹⁰ A *barangay* is the smallest political and administrative division in the Philippines, equivalent to a village.

¹¹ A *sitio* is a territorial enclave that forms part of a *barangay*.

Nevertheless, the combined anti-reform resistance of the landowners and the NPA failed to dampen the tenants' reform initiatives. In pursuing their land rights the farmers were ably assisted by community organisers who worked with an NGO whose programmes were designed to improve farmers' land tenure rights. These organisers help to increase the momentum of the government's agrarian reform programme by raising tenants' awareness of their legal rights, assisting in establishing tenants' organisations and facilitating discussions with the relevant government agencies. Initial but very significant reform successes also proved crucial in further swaying tenants' support for the government's agrarian reform programme. This was highlighted by the dramatic reinstatement of 55 forcibly evicted tenant families in Barangay Catulin, Buenavista, Quezon province in September 1999 through a government inter-agency task force led by the DAR together with the Armed Forces of the Philippine, the Philippine National Police and other government agencies.

The most recent of these reform successes was the reinstatement of the agrarian reform beneficiaries of Hacienda Matias on July 2nd 2015. This is by far the most impressive showcase of CARP/CARPER under President Aquino. A steel gate and concrete wall that symbolised the landowners' control over the land in Hacienda Matias were dismantled and removed during the DAR's operation to reinstate farmers and pave the way for the initial group of farmer beneficiaries to fully exercise their right to land. Two hundred policemen and around 60 military personnel were mobilised for the project and showed that the full force of the law, which had been weak and inadequate for some time, was needed to achieve successful agrarian reform in an area with known strong anti-reform resistance. This is a formula that could have made CARP/CARPER more effective, if only the government had learned from the experience of the Barangay Catulin farmers in 1999. But even the Matias reinstatement was largely a result of relentless social pressure in terms of which the farmers had to set up camp in front of the DAR in Manila for over two months to push it to reinstate them and decisively address the landowner's recalcitrance by using the full force of the law.

Tenant farmers in the Bondoc Peninsula have been claiming their right to land under the law since the mid-1990s, which is reflective of a continuing strategic shift in peasant strategies to confront poverty and exclusion. Yet the case of the Bondoc Peninsula may be an exception. The success of the reform initiative in the peninsula was a product of: (1) a relatively strong mass movement that was capable of exerting sustained social pressure to make the law a malleable tool for social change, and (2) the presence of NGOs working to organise tenants, and legal advocates, which initiated a serious national and international campaign in support of the demands of the farmers and for respect for human rights and international humanitarian law. Unfortunately, these factors may not be present in other areas of the country.

Conclusion and recommendations

Land is a scarce natural resource. For the land-dependent rural poor land is a basic requirement for a dignified existence. In the Philippines, this has been a major demand of the rural poor, a demand that has historical, moral, legal and political bases. This demand, unfortunately, remains largely unfulfilled. Thus, a rural insurgency is continuing to grow as a result of this unkept promise. Agrarian reform, therefore, remains relevant to peacebuilding in the Philippines.

In the decades prior to CARP the armed left was able to mobilise landless rural poor around the so-called "agrarian revolution", which was the main option available to the rural poor due to the absence of a viable government agrarian programme. But post-Marcos changes in the policy environment brought about new political opportunities for the rural poor to confront their poverty and exploitation. The NPA failed to adjust to this changing reality, especially when CARP and landless peasant reform initiatives started to gain ground. Instead, it attempted to thwart the government's reform programme, resulting in many instances of abuse of the human rights of land-rights claimants. This antagonism is primarily driven by the belief that any inroads by state-led agrarian reform legitimises the state, which in turn weakens peasant support for the armed movement. Part of this antagonism had to do with the NPA's ability to claim effective territorial control, which entails the solid support of actors or groups, including landlords, in such territory. For landlords and businesses this support translates into the payment of revolutionary taxes. The emergence of autonomous reform movements threatened this territorial control and undermined the underground movement's agrarian revolution programme. And when social tensions between reform-oriented movements and landowners arose, the NPA mediated to assert its authority as a regulating mechanism and to ensure that peasants did not pursue their land-rights claims under the government's agrarian reform programme. However, this directly benefits the landowners' aim to keep their *haciendas* intact. Violence becomes the last recourse of both the NPA and landowners when reform-oriented initiatives spin out of control.

This attitude towards agrarian reform lends credence to the presumption that in many isolated rural areas where the NPA still has an effective presence the implementation of the government's agrarian reform programme will be even weaker, especially without powerful reform-oriented land-rights claimants. It would be worthwhile, therefore, to ask the government to what extent agrarian reform has penetrated large *haciendas* in isolated areas of Masbate, Camarines Sur, Albay, Negros Oriental, Negros Occidental, and many of the provinces of Mindanao, among others. In Masbate, for example, almost 50% of land acquisition and distribution comprises voluntary land transfers, where dummies are suspected to have been used as beneficiaries

so that the government can claim that land distribution has taken place even as landowners retain effective control of the land.

It is clear that the government's agrarian reform programme is delinked from its peacebuilding efforts. Even in conflict sites like the Bondoc Peninsula there is no clear indication that agrarian reform is being implemented with a sense of urgency to assist farmers embroiled in land conflicts, despite the presence of such programmes as PAMANA, which defines agrarian reform, among others, as a foundation of peacebuilding. In government agencies like the DAR and DENR there is hardly any literature and plans that link peace and agrarian reform. In some cases where CARP/CARPER have been successful, such success was the result of the determined and unrelenting social pressure of land-rights claimants such as those in Hacienda Matias.

In the Bondoc Peninsula a recent \$2.4 million peacebuilding project¹² undertaken by the International Labour Organisation with support from the Japanese government and the UN Trust Fund for Human Security ironically did not include support for resolving land conflicts because this was considered to be "too political". The farmers were left to pursue their land-rights claims on their own and were fortunate to have NGO allies that assisted them, however limited this assistance sometimes was, in their struggle for land rights. That the agrarian reform successes in the Bondoc Peninsula affected peace and promoted peaceful communities is largely an afterthought – not a conscious effort by the government.

This is despite the fact that many of the reported violations of the Comprehensive Agreement for the Respect of Human Rights and International Humanitarian Law (CARHRIHL) between the government and the CNN were land-related abuses and/or violations. In fact, the first two cases that were filed at the Joint Monitoring Committee (JMC)¹³ in 2004 were by land-rights claimants from the Bondoc Peninsula, because these claims involved acts that were violations of the CARHRIHL even while criminal cases were also being filed at the regular courts. Land-rights claimants hoped that such submissions would prod the government to give them protection from harassment. They also hoped that the government would speed up the resolution of their agrarian claims in light of its supposed peace efforts.

While some of the witnesses in these cases were for a time covered by the government's Witness Protection Pro-

gramme, the resolution of agrarian reform issues that triggered the conflict dragged on, taking more than ten years to be resolved. The same is true in the cases of the reported killings of peasant leaders in Masbate in 2007 and 2008, where the land issues that triggered the conflicts remain unresolved to this day. This kind of treatment reduces government action to a counterinsurgency response instead of a peacebuilding response that addresses the root cause of the problem.

What can be done at this point? Unfortunately, this question is not easy to answer. As a part of the substantive issues in the peace talks, the agrarian reform agenda can easily make or break these talks due to the radically different agrarian reform approaches of the underground movement and the Philippine government. As the actor in power, however, the burden of showing that the current agrarian reform programme works falls squarely on the government. It is precisely the less-than-ideal state of the government's agrarian reform initiative that gives legitimacy to the continuing demand of the CNN for genuine agrarian reform. But is it still possible for the government to strengthen the implementation of CARP/CARPER,¹⁴ a programme that has obviously lost momentum and its former supporters.

The future of CARPER itself is unclear. The government's legislative efforts to pass a law to extend the mandate of the DAR to issue NOCs is in limbo, especially as elections have become the priority of members of Congress. It is also more difficult to expect the measure to pass after the 2016 elections without any visible momentum from pro-reform movements in the country. The attitude of the next government will determine whether agrarian reform will still occupy an important part of the government's agenda after the 2016 elections. None of the presidential candidates so far has outlined a clear agenda for the continuity of agrarian reform as a priority agenda for the landless rural poor or as part of the peace effort of the future government they wish to head.

Moving forward

Notwithstanding the current government inertia, CARP/CARPER offers significant opening for independent initiatives around the transformation of conflict in provinces that are considered as agrarian hotspots. These independent initiatives should build from the inroads of CARP's land distribution activities and should demonstrate and/or showcase agrarian reform as an important measure in promoting peace and development in the countryside.

12 The Inter-Agency Programme to Nurture Peace, Security and Decent Work through Local Development in Conflict Areas of the Philippines (Bondoc Peninsula) was implemented from 2010 to 2013 to: (1) expand livelihood assets and increase the productivity of communities through the provision of decent work and livelihood opportunities for vulnerable groups in the Bondoc Peninsula; and (2) to improve the coordination and cooperation of local government units, civil society organisations, the private sector and community organisations to achieve local socioeconomic development and peacebuilding.

13 This mechanism was supposed to be used by the government and the CNN parties to submit complaints regarding human rights violations. In the two cases that were submitted by land-rights claimants from the Bondoc Peninsula the government never issued a statement in support of the complainants. Over the years the JMC served more as a propaganda platform where each party used JMC statistics to accuse the other of violating human rights and international humanitarian law.

14 CARPER, with its positive provisions, still offers the most realistic option for peasants, given the balance of forces in society. But a precondition for its success is the involvement of an implementing agency with the political will and the necessary sense of urgency to implement the law.

This may take the form of comprehensive post-land distribution productivity and enterprise development programmes in selected agrarian hotspots that could include Hacienda Luisita, the Bondoc Peninsula, areas in the Bicol region, Negros Island, the Leyte-Samar area and parts of Mindanao.

Support should be given for the holding of a national dialogue before and after the 2016 elections to insert the question of agrarian reform into the election discussions and to push the newly elected government to more meaningfully implement agrarian reform. This dialogue should include pushing for the extension of the power of the government to issue NOCs and the need for an audit of CARP/CARPER. The dialogue should also include discussions around the need for faster and fairer implementation of the Indigenous Peoples' Rights Act.

A civil-society-led independent audit of CARP/CARPER's status should be supported as part of the effort to determine the current status of farmers and the agrarian reform programme. Priority geographic areas for such an audit should be the various agrarian hotspots so that remedial measures can be recommended to improve the policy and implementation of agrarian reform.

Support should also be given to programmes that would promote dialogue to resolve land-based conflicts in selected areas. In these dialogues a multistakeholder approach could be adopted to encourage a range of actors to be involved in the resolution of the various issues. This should include rights holders and rights bearers.

As to the peace talks, a national-level, strong and respected third-party peace mediator should be established to influence the government and the CNN to sit down and thrash out possible initial steps toward peace talks. This group should include influential personalities and church leaders, and civil society groups working for human rights, land rights and international humanitarian law, among others. Such a group should also contribute to the drawing up of an agenda that is key to peace talks, including the issue of agrarian reform.

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