

# **The Unfinished Business of Social Justice: Agrarian Reform Victories under CARPER and the Challenges Ahead**



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## Introduction

An estimated 1 billion people subsist on less than a dollar a day around the world. While rapid urbanization has tended to give the face to such a massive and widespread poverty, the vast majority of the poor remain in rural areas, where it can be argued that the problem, in fact, traces its roots.

In the Philippines, a slight majority of people still live and make their living in rural areas (51.9%, NSCB 2006). With a population easily exceeding 80 million by now from 76.5 million in 2000 (Census 2000), combined with a high population density rate (237 people/sq.km as of 1994), puts pressure on the country's land base.

In a paper undertaken by the Department of Agrarian Reform entitled: Partnerships for Social Justice, Rural Growth and Sustainable Development (March 2006), the department stated:

“Against a backdrop of modest economic growth, poverty incidence in the Philippines remains relatively high at 33%, with 3 out of 4 poor Filipinos (about 73%) residing in rural areas. Poverty level in rural areas is much higher at 48% against 18% in urban areas. The task of combating poverty and inequity thus draws immediate attention to the rural population, which depends on agriculture for income and livelihood. The poorest of the rural population are the landless rural workers, small farmers, fisher folk, and indigenous group in rice, corn, coconut and sugarcane crop production.”<sup>1</sup>

The government has recognized that central to addressing poverty is improving productivity and reducing rural poverty. The urgency lies in established fact that the rural poor, in the absence of opportunities in the countryside, flock to the urban centers for jobs, where modest growth are not sufficient to absorb the growing numbers in the workforce.

Increasing urbanization however does not diminish the agricultural character of the Philippine economy but only highlights the very failure of agricultural policies. Declines in agricultural productivity and contributions to gross domestic product do not point towards an industrializing economy, but an agricultural sector in crisis.

Agriculture's importance looms larger when it comes to employment, with nearly two-fifths (i.e. 37 percent) of jobs currently coming from the sector. Presently, over half of the population remains dependent on agriculture for work, tilling rice paddies, in cornfields, cutting sugarcanes to provide for their families.

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<sup>1</sup> Department of Agrarian Reform, Partnerships for Social Justice, Rural Growth and Sustainable Development, March 2006

While investments have been put into dispersing economic development away from urban centers into peri-urban and rural areas, this has not gone to the roots of the problem.

While export processing zones, and later on, business processes outsourcing have provided jobs to thousands of Filipinos in the services sector, the pace of jobs generation has not kept up with the expansion of the workforce. Additionally the vulnerability of such jobs to the fluctuations of the global market demands reveal the need to go back to the basics of sound economic development -- laying a solid foundation for self-reliant growth that can only be realized by stemming the problem from where it originates – the vast rural areas of the country.

Further, such strategies merely provide higher incomes to a small, select market of the workforce. But experts have pointed out before that *“it is not the inequality in income distribution per se that is systematically related with growth, but rather the inequality in the distribution of physical assets, particularly land”*.

Access to land is the single most important prerequisite for improving economic conditions among the rural poor. Concentration of resources, particularly land, leads to concentration of power and produces decisions that reflect narrow interests, of those who wield power, against the interest towards the common good.

The inequitable distribution and concentration of lands in the hands of a few ensures that the rural poor, specifically, farmers and farm workers, are denied the economic and political empowerment necessary to turn them into active participants in development, and not just beneficiaries of a trickle-down growth.

There is recognition on the part of the Philippine government that inequitable land ownership and a comprehensive redistribution of land ownership in a poor agrarian society is key to local economic development. A global study concluded that for every 10% increase in agricultural productivity translates into between 6-12% reduction in the number of people living below the poverty line.<sup>3</sup>

Further, the severe inequalities fostered by landlessness go beyond the question of assets and incomes. Rural poverty lay to waste a huge amount of human capital, as farmers and farm workers are unable to reach their full potential for development. The Philippines has proven susceptible to social conflict and instability brought about by this inequity between the few who control most of the land, and the many, who work on them.

Agrarian reform, however, goes beyond the physical act of distributing land to once landless beneficiaries. Agrarian reform embraces the whole gamut of policies and

<sup>2</sup> Christian Monsod presentation for Makati Business Club January 16, 2009

<sup>3</sup> 2006 Budget Analysis, Congressional Planning and Budgeting Office

practices that not only ensures land is redistributed, but that ample support is provided to ensure that farmers truly enjoy the fruits of their labor and be able to lift themselves out of economic poverty.

### **Landlessness: A historical burden**

Landlessness is an historical baggage birthed by centuries of oppression and injustice. In Spanish colonial times, the Spanish government put all lands in the Philippines as part of the public domain. Lands were concentrated among those who proved loyal to the Spanish government. When the Americans occupied the Philippines in 1898 American colonizers expanded agricultural production but perpetuated the Spanish-era hacienda system.

“The Americans introduced the Torrens system of land ownership in 1902, which nullified all traditional ownership practices; set the ceilings for lands to be acquired at 16 hectares for individuals and 1024 hectares for private corporations. They passed the Public Lands Act in 1903, which promoted settlements by issuing titles for 16-hectare homesteads to settlers. Under the Friar Lands Act of 1904, some 60,000 tenants were given preference to buy the lands at cost, but since the tenants could not afford the price, most of the lands went to new property owners, American firms, and businesspersons. This aggravated the peasant's poverty and insecurity.”

Agrarian unrest broke out in the 1930s, with the Sakdalistas who were protesting against the widespread inequality brought about by the landlessness in the rural areas.

In the post-Japanese occupation period, landlessness became an inherited social problem for which the prescription was a bevy of land reform programs with limited impacts. Administrations that followed beginning the 1940s pursued political stability and sustained economic growth without comprehensively and aggressively addressing tenurial rights of farmers and instead relied on elite control of lands to pursue wider distribution of benefits of agrarian progress and food production.

However, during President Ramon Magsaysay's administration a more vigorous resettlement program to break the backbone of the peasant-based, communist-led Huk rebellion was pursued. Magsaysay opened up vast areas to distribute 24-hectare homesteads to former rebels and landless farmers. But since the resettlement areas intruded into the ancestral lands, they became a source of resentment for the indigenous peoples, especially the Muslim communities. This problem soon erupted into violent conflicts that continue to this day.

The administration of President Diosdado Macapagal enacted Republic Act 3844, or the Land Reform Code of 1963. The law officially abolished share tenancy and

instituted a leasehold system in which tenants would eventually own the land they tilled through amortization. However, the program did not gain momentum as Macapagal was defeated in the 1965 elections.

President Ferdinand Marcos issued Presidential Decree (PD) No. 2 in 1972, declaring the whole country a land reform area and PD No. 27 instituting the distribution of rice and corn lands to actual tillers through operation land transfer (OLT). Beneficiaries of land transfer were issued titles called emancipation patents (EPs).

Marcos' land reform achieved limited gains primarily because of the lack of support services and the burdensome process of obtaining land. But most importantly, Marcos' land program was used as a political tool against the landed elites who opposed him. Other factors that may have contributed to reduced performance were the limited coverage (only rice and corn lands) and the high retention limit (7 hectares). Eventually only 20 percent of rice and corn land, or 10 percent of total farm land, was covered by the program, and in 1985, thirteen years after Marcos's proclamation, 75 percent of the expected beneficiaries had not become owner-cultivators.<sup>4</sup>

## Enter CARP

The failure of these programs is argued to be partly responsible for the direct share of agriculture in the GDP falling below one-third during the 60s, and by 1981, the sector's share had decreased to only 23 percent. In 2006, the share of agriculture to GDP has fallen to 17%.<sup>5</sup> *"The poor performance of the Philippine agricultural sector in recent decades traces not so much to weaknesses in the production sector itself, but to failures and shortcomings in the policy and institutional environment within which the sector operates. This environment has been shaped by price intervention policies (including trade policies), insufficient public expenditure allocations, and institutional and governance weaknesses in the sector."*<sup>6</sup>

When former President Cory Aquino took office, her administration made agrarian reform one of the early priorities. The 1987 Constitution itself made it clear under Article XIII, Sec. 1 that the state shall give priority to measures that, among others, equitably distribute wealth and power for the common good.

<sup>4</sup> Nobuhiko Fuwa. Politics and Economics of Land Reform in the Philippines: a survey. background paper prepared for a World Bank Study, Dynamism of Rural Sector Growth: Policy Lessons from East Asian Countries. May, 2000.

<sup>5</sup> 2006 Budget Analysis, Congressional Planning and Budgeting Office

<sup>6</sup> Cielito F. Habito and Roehlano M. Briones. Philippine Agriculture over the Years: Performance, Policies and Pitfalls. Paper presented at the conference entitled "Policies to Strengthen Productivity in the Philippines," sponsored by the Asia-Europe Meeting (ASEM) Trust Fund,

The enabling law for CARL is Republic Act No. 6657 which came into effect in June 1988. Implementation of the program was originally set for 10 years (till 1998) but extended for another 10 years up to 2008 by Republic Act No. 8532. More than 80 percent of cultivated land and almost 65 percent of agricultural households were to be included in a phased process that would consider the type of land and size of holding.

When the measure was being debated in the legislature, the interests of lawmakers deriving from landed business elites and other sectors that would be affected by the dispossession of lands and its redistribution to landless peasants came to the fore. Traditional politicians and elites with direct and indirect connections to power and wealth from control of lands watered down the measure such that the end product, Republic Act 6657 or the Comprehensive Agrarian Reform Program, turned out to be not so comprehensive after all. Exemptions were made to large commercial farms, lands that were converted to other uses, and worse of all, provisions were made for non-redistributive methods such as leaseback arrangements and stock distribution options. It was a testament to the longevity of the same traditional interests that were able to e-assert not just a presence but an influence that was so palpable after the EDSA revolution.

Still CARP was a departure from previous agrarian reform programs in that 1. all agricultural lands are covered, 2. it includes a program of support for program beneficiaries, 3. retention limits for landowners were reduced to five hectares, 4. provides provisions for landowner compensation and 5. beneficiaries are to pay back the land through amortization to the government/Land Bank of the Philippines.

Under CARP, all landless farm workers were eligible to be considered as beneficiaries, provided they were landless and willing to farm the lands. The goal for CARP was to cover 8.06 million ha under its land acquisition and distribution program. The Department of Agrarian Reform (DAR), which was set up by the Marcos regime under a separate piece of legislation as the lead agency for land reform, was deemed as the agency to implement CARP. The Department of Environment and Natural Resources (DENR) was placed in charge of the land acquisition and distribution for public alienable and disposable lands, as well as forested lands.

Delays occurred because of the considerable resistance by landowners, lack of coordination among concerned agencies (including DENR, DAR, LGUs, and courts), and the legal challenges and hurdles posed by landlords. With the implementation of the program still incomplete in 1998, CARP was extended by 10 years to June 2008.

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Asian Institute of Management Policy Center, Foreign Investment Advisory Service, Philippines Institute of Development Studies and the World Bank, held in Makati City, June 27, 2005.

By June 1992, only 475 thousand hectares of private lands, but 1.217 million hectares of public lands had been distributed. Of these private lands distributed, 75 percent (or 355 thousand hectares) merely involved the continuation of Marcos' land reform in rice and corn lands, while the rest comprised voluntarily offered lands and government-sequestered estates.

Under Aquino, P17 billion was spent on CARP implementation, of which only P3.129 billion (or 18.37 percent) went to land acquisition and distribution, while P8.6 billion (or 50.53 percent) went to support services.

The Ramos administration that followed focused on the less contentious components of CARP, though it was under the latter that the more contentious private estates were increasingly confronted with compulsory acquisition (CA). But even then, 127,000 hectares of the reported 4.619 million hectare accomplishment as of the end of 1997 actually involved CA. The rest were rice and corn lands under reform since 1972, government-sequestered lands, and lands acquired and distributed via VOS and VLT.

In 1993, it was also under Ramos that the government adopted the agrarian reform community (ARC) development strategy as an approach to effectively achieve the objectives of agrarian reform and poverty reduction. With this strategy, it embarked on a massive resource mobilization to address the growing demand for basic infrastructure and support services of the farmers in the rural areas. This area-focused approach called for the concentration of efforts in land distribution as well as support services delivery in selected areas to fast-track the improvement of farm productivity and develop the capability of farmers to become efficient agricultural producers and entrepreneurs.

The Estrada administration was no different from the two previous governments. In its short-lived duration, agrarian reform was not prioritized even as the administration was swallowed by charges of corruption, cronyism and impunity such that whatever gains were made in agrarian reform were either too modest or largely ignored.

Under the current administration of Gloria Macapagal Arroyo, agrarian reform was even more problematic. The Department of Agrarian Reform (DAR) has had five different secretaries over a period of five years—Hernani Braganza, Roberto Pagdanganan, Jose Mari Ponce, Rene Villa, and Nasser Pangandaman. This becomes problematic for direction-setting as too much time has been spent on adjusting the bureaucracy to the newly installed political appointee, reorienting the department to the personal direction and thrusts of the new secretary etc. To those outside looking in, the constant shuffling of top leadership makes the department look like a prize position being given away at times.



Further, in Arroyo's 2004 bid for the presidency the P544 million Marcos wealth recoveries for CARP was reportedly misused in the presidential elections. In some cases, close relatives such as the presidential husband has been alleged to impede the distribution of CARPable lands to farmer beneficiaries in Negros Occidental. In separate occasions both the husband and the brother in law have been implicated in the harassment and intimidation of landless peasants who are struggling for the coverage and distribution of haciendas purportedly owned by the Arroyos.

By the time it ended in 2008, the program boasted of having distributed close to 6 million of 8.1 million hectares targeted for distribution. Most land redistributed, however, were public lands. The main target of the program had been about 1.5 million hectares of private lands, and of these only 17 per cent had been transferred to tenants by 2008.

In a study conducted by the PHILDHRRRA, the Asset Reform Report Card showed that government's asset reform programs including CARP have been woefully inadequate to address the root cause of poverty, and that these programs, which includes agrarian reform, were found wanting. Implementation had been slow, "participation and management mechanisms in the four asset reform programs have been inadequate, and support services for the four asset reform programs have been highly deficient."

Compounding these problems are "various persistent threats of [program] reversal" that "persist and continue to undermine the success of asset reform in the country," the PhilDHRRA said.

"Overall, one is led to conclude that the asset reform track record in the country remains poor. Substantial improvements need to be undertaken to fully achieve their objectives and promote a truly broad-based growth and development of the Philippine economy," the PhilDHRRA said.

### **CARPER calls mount**

With at least about 1 million hectares left for distribution by 2008, the need for an extension of the law that provides for continued budgetary support to CARP began to swell.

Advocates of agrarian reform contended that what was going to end was not the program itself, but merely the funding that was provided under RA 6657 and 8532. Agrarian reform, in itself is not yet finished. It was argued by advocates of agrarian reform that consistent with a previous DOJ opinion on the matter, that agrarian reform should continue for as long as there are lands that are scheduled for distribution. However, without funding, it is obvious that the CARP, particularly the LAD component, cannot be implemented. (citation needed)



Experts have further argued that given the history of its implementation, allowing the program to lapse without a legislation extending its funding would mean that the “more productive lands and “areas with the greatest redistributive effects and where agrarian unrest is most pronounced” will not be distributed. (GTZ Study) Like Negros Occidental and some 12 other provinces where the problem of non-coverage is concentrated.”

Like-minded farmers' groups, federations, support NGOs, academics, experts and advocates began to work on a bill that would take the opportunity not only to simply extend the CARL, but to build on the lessons learned in 20 years of CARP implementation and introduce a measure that would cut down on the loopholes that have impeded its implementation.

Under the broad coalition Reform CARP Movement (RCM), farmers groups including PAKISAMA and its allies, affiliates and supporters called for the enactment of a bill sponsored by Akbayan rep. Risa Hontiveros, House Bill 1257. Deemed the most progressive of all bills on CARP filed in the 14th Congress, Rep. Hontiveros' bill was the product of consultations with farmers that included PAKISAMA.

The Hontiveros bill, unlike other proposals sought to: “extend CARP for 7 years with an allocation of 3.8% of the national budget starting 2008 or no less than P38 billion ... provided that 70% of the yearly appropriation shall be allocated to land acquisition, distribution and compensation”.

The Hontiveros bill also sought to impose stricter rules on retention limit (amending Section 6 of CARL) by proposing that only landowner tilling his/her own land shall be given land no greater than 5 hectares and that his/her children are entitled to 3 hectares each provided, among others, that they actually till the land, though they shall not be held as preferred beneficiaries if the land is tenanted. In other words, a zero retention limit if the landowner or his/her heirs are no longer engaged in actual land cultivation.

The Hontiveros bill also added as fund source “10% of the annual gross income of PAGCOR and PCSO” on top of the usual sources of CARP funding from Asset Privatization Fund, ill-gotten wealth, disposition of government properties in foreign countries, incomes and collections for agrarian reform operations of CARP implementation agencies, and foreign aid sources.” Diversifying the source of funding not only ensures continued support for the program but also recognizes the limited time frame under which it has to be continued and finished.

On institutional arrangement, the Hontiveros bill recognizes the need to re-organize DAR in anticipation of the termination of agrarian reform program. Thus, it provides an inter-agency committee composed of Department of Budget and Management (DBM), Civil Service Commission (CSC) and DAR, to formulate a reorganization

plan for DAR, subject to approval of PARC. In the reorganization, the bill seeks to ensure that the process will lead to the completion of LAD, the strengthening of AJD, and an increase in the support services to the ARBs. It further provides that the reorganization should be completed within a six-month period.

It is only the Akbayan bill that has extensive provisions on strengthening AJD mechanisms. Among others, it proposes to:

- (a) strengthen the DARAB with the inclusion of senior DAR officials in the Board;
- (b) vest DAR with exclusive jurisdiction over all matters involving agrarian reform implementation, including the power to “summon witnesses, administer oath, take testimonies, require submission of reports, ..., and issue subpoena to enforce its writs through sheriffs or duly deputized officers”;
- (c) empower ARBs to file cases before the courts concerning their individual or collective rights under the CARP and providing that their usufruct rights over the land shall not be diminished even pending the awarding of CLOAs;
- (d) hold DAR responsible for assigning legal counsels to represent litigant farmer, farm worker or tenant in court;
- (e) provide that only DAR should have sole jurisdiction on cases related to CARP implementation;
- (f) disallow regular courts to take cognizance of cases filed by landowners against ARBs related to CARP implementation prior to the resolution of whether such cases are of tenancy relations, agrarian disputes, or within the application of the agrarian laws by DARAB or in other cases, the PARAD; and
- (g) stop the regular courts from issuing restraining order or writ of preliminary injunction against PARC, DAR, or any other agencies tasked to implement CARL.

On June 1, 2009 the Senate passed SB 2666 or its version of the CARPER bill. Twelve out of 14 senators present voted in favor of the measure that among others provided:

To cover:

- \* All private agricultural lands of landowners with aggregate landholdings in excess of 50 ha, which have already been subjected to a notice of coverage (NOC) issued on or before Dec. 10, 2008, in so far as the excess hectareage is concerned;
- \* Rice and corn lands under Presidential Decree No. 27;
- \* All idle or abandoned lands.
- \* All private lands voluntarily offered by the owners for agrarian reform.
- \* All foreclosed lands by government financial institutions and all lands acquired by the Presidential Commission on Good Government.
- \* All other lands owned by the government devoted to or suitable to agriculture.

Phase 2 involves lands 24 ha up to 50 of all alienable and disposable public agricultural lands, agroforest, pasture and agricultural leases already cultivated and planted to crops.

Phase 3 involves all other private agricultural lands commencing with large landholdings and proceeding to medium and small landholdings under several schedules.

The Department of Agrarian Reform should “complete the first two phases by Dec. 31, 2010, while the third phase will be implemented from Jan. 1, 2011 to Dec. 31, 2012 (10 to 24 ha); and from Jan. 1, 2013 to June 30, 2014 (up to 10 ha). Land acquisition and distribution shall be completed by June 30, 2014 on a province-to-province basis”.

On June 3, 2009 HB 4077, the consolidated version of the House bills on CARP which includes the RCM and Hontiveros bill was passed by the House of Representatives. The bicameral conference committee from both chamber of Congress met to thresh out the differences between the two bills and came out with a consolidated version which was then ratified by both Senate and the House. “Although each version has its strengths and weaknesses, the Bicameral Committee Conference (BICAM) came out to be the best of both versions. Generally, the BICAM version of CARPER is better than the Senate or the House version and closely approximates the Civil Society CARPER proposal. Definitely, the BICAM version comes as a strengthened CARP to face to the challenge of fierce landlord resistance and bureaucratic inefficiencies.”

While the law was signed by President Arroyo on Aug. 7, 2009, it was deemed effective retroactively on July 1, 2009.

Despite this victory, CARPER contains one “menacing provision” as Akbayan Rep. Walden Bello calls it, which is the attestation requirement, which landowners have to sign in identifying eligible farmer beneficiaries. This was an attempt by pro-landlord and anti-reform elements within the legislature to defeat the purpose of the bill and impede the extension of CARP.

### **CARPER's provisions build on CARL**

Among the most salient provisions of CARPER are:

- \* A 5-year extension of the land acquisition and distribution component of CARP and a P150 billion increase in the budget for LAD to distribute more than one million hectares of agricultural land, most of which privately owned.
- \* the strengthening of the rights of women farmers, especially the recognition of their rights as agrarian reform beneficiaries.
- \* the strengthening of the land ownership of CARP beneficiaries versus illegal cancellation

- \* the strengthening of the DAR Adjudication Board as the only institution mandated to resolve agrarian disputes, thus preventing landlords from using trial courts to harass farmer-beneficiaries.
- \* the removal of other land distribution schemes such as stock distribution option
- \* the recognition of the legal personality of farmer-beneficiaries.

## **Land Acquisition and Distribution**

Primacy of Compulsory Acquisition and Voluntary Offer to Sell as mode of land acquisition and distribution: Under Republic Act 9700, after June 30, 2009, no more applications for voluntary land transfer will be accepted by the Department of Agrarian reform (DAR). This provision under the old CARP Law allowed landowners to skirt distribution of land to legitimate farmer beneficiaries by installing farmers loyal to them.

Thankfully, the CARPER law mandates that the award of the land must be completed within 180 days from the date of registration of title in the name of the Republic of the Philippines. Such period is shorter than that of CARL. Another reform that can help shorten the period for installation is the inclusion of the standing crop in the computation of the just compensation for the land. This is the learning from the Hacienda Malaga Case where the only reason for the delay in installation is the standing crop. From experience, delay in installation causes violence and insecurity to the farmers.

Lands to be covered: Under CARP, the scope for land distribution had been eroded from time to time. From the original 10.3 million hectares in 1988, the scope was cut down by 21.76 percent to 8.1 million hectares in 1995. The revisions resulted from executive issuances, administrative orders, Supreme Court rulings, and amendments to the law.

This gives rise to the persistent issue of just how much lands are still to be distributed. Confusion often arises over the actual number of lands that must still be distributed under CARP. The DAR usually deducts from the original land distribution target its excess accomplishments from non-private agricultural lands and the non-Land Bank of the Philippines-compensable lands. According to the Philippine Institute for Development Studies (PIDS), this practice is deceiving and distorts the actual balance or remaining hectares, which must still be covered under the program. In a study PIDS cited the actual balance for private agricultural lands 1.16 million hectares in 2006, but the overall balance of DAR was only pegged at 464,239 hectares after deducting the excess accomplishments coming from the other categories.

With the passage of CARPER the consensus is that a little over 1 million of hectares of land across all categories remain to be distributed. The largest amount is

concentrated in Region 5 (154,575 has.) followed closely by ARMM and Region XIII with 138,239 has and 110,286 has, respectively to be distributed.

By province the 15 provinces with the largest tracts of land to be distributed are:

1.	Maguindanao	77,688
2.	Negros Occidental	69,316
3.	North Cotabato	56,715
4.	Leyte	56,189
5.	Masbate	53,717
6.	Camarines sur	50,289
7.	Shariff Kabunsuan	35,663
8.	Negros Oriental	33,872
9.	Isabela	31,328
10.	Lanao del Norte	26,665
11.	Albay	26,442
12.	Sarangani	26,117
13.	South Cotabato	22,597
14.	Sultan Kudarat	21,362
15.	Iloilo	19,751

But acquisition remains dependent on the timely completion of land acquisition, cadastral surveys, requisite inspection and verifications, and issuance of secure and appropriate land titles. This will require improved working and coordination among DAR, DENR, LGUs, and courts, among others, to reduce delays and challenges to the process and to complete land acquisition and distribution.

Land use conversions -- both legal and illegal -- have also preempted and undermined effective CARP implementation. On the legal front, only 875 (out of a total of 1,027) applications for conversion involving 12,541 hectares of land were approved during the period July 1992 to September 1997. Legal conversions were concentrated in regions most affected by urban sprawl, such as Regions 3, 4, 6, 10 and 11. On the illegal front, the amount of land and number of regions affected is significantly greater, with independent sources placing them as high as a few hundreds of thousands of hectares nationwide.

The CARPER law strengthens the ban on any conversion of irrigated and irrigable lands and mandates the National Irrigation Administration to identify these. Moreover, it also legislates the resolution of the "Sumilao farmers case" that the non-implementation or violation of the conversion plan will result to automatic coverage of the subject by CARP. Some questions, however remain. The CARPER IRR should make it explicit what would happen if DAR rejection of requests/applications for land conversions are overturned at the Office of the President, for example. The 5-year period to develop lands exempted from coverage should also be explicit in the IRR.

Non-redistributive schemes: CARPER has done away with so-called “non-redistributive” scheme such as “stock distribution option” and “leaseback” arrangement because control of land has proven to redound to landowners. However, there remain several challenges in legislative attempt outside of CARPER. PAKISAMA must guard against legislation that defeats the victories won under RA 9700. The continued absence of a National Land Use Plan, moves to allow foreign ownership of land under a charter change initiative, promotion of export crops and other crops for purposes other than food security, continued liberalization of agricultural imports, etc. are continuing and recurring concerns that PAKISAMA must continuously watch out for and appropriately respond to.

### **Budgetary Allocations and Beneficiary Development**

A total of P150 billion was allocated for CARPER over the next five years. PAKISAMA must guard against the malversation, diversion and other forms of misuses of these funds.

With the budget allotted for LAD out of the way the funds earmarked for support services should support the development of rural infrastructure such as irrigation systems, roads, electric lines to farming villages, and water supply and sewer systems. This provides the poor with better access to infrastructure and services, and raises farm income. For example, irrigation facilities boost agricultural productivity and new rural roads provide opportunities for the poor to access markets previously beyond their reach, thereby helping to raise their income level.

Making Credit More available: In a study, David (2003) observed that a large proportion of public expenditure in agriculture through the years has been into grain trading, provision of seeds and planting materials, animals, agro-processing factories, tubewell irrigation, credit, and so on. According to him, “these procurements have been fraught with overpricing, underutilization, poor quality, and late delivery especially of seeds and planting materials.”

Agricultural support policies should therefore specialize in expanding credit access, post-harvest facilities, marketing, and credit subsidies. Funds should also be allotted for subsidies to support the initial capitalization for agricultural production upon awarding of EP or CLOA for new beneficiaries, and subsidized credit scheme for existing ARBs.

Access to credit can also be facilitated by individualizing collective CLOAs covering about 1 million hectares. The IRR on making credit facilities available for farmers under CARPER should also include incentives on organizing among ARBs. The caveat however lies in addressing the fact that credit programs in the past have



proved unsustainable due to low repayment rates and high transaction costs.

Studies have shown that ARBs with firm titles vs. non-ARBs yield greater benefits from investments made in ARBs covered by ARCs. Based on CARP Impact Assessment Studies, it was discovered that ARBs are more inclined and motivated to develop the lands awarded them compared to those who are not beneficiaries of agrarian reform.

Also, the incomes of beneficiaries can be increased by working on improving their non-farm incomes. Mainstreaming beneficiaries into the programs of support service agencies and LGUs can help to provide greater sustainability to income improvements.

Local governments and Land Use Plan: CARPER also brings to fore the need for PAKISAMA's member organizations to engage local government units on two issues: crafting of their land use plans and ensuring people's participation in LGU decision-making especially in designing policies and programs that will redound to the benefit of farmer beneficiaries. The absence of a national land use plan does not have to hinder LGUs from crafting their CLUPs. This provides a safeguard for farmers from conversions and the loss of PALs to non-agricultural uses.

Until now, CARP as a program remains vulnerable because of the lack of a clear, appropriate and effective national land and water use policy that gives priority to local communities basic, long-term food needs and preferences. Such a policy could be used by potential and actual farmer-beneficiaries to back up and defend their claims to land, at times still too weak to be effective under CARP.

In terms of support for beneficiaries, no special fund was given to LGUs for communal irrigation systems. Instead, the Internal Revenue Allotment (IRA) was increased to provide additional resources for devolved responsibilities. Since the IRA is a catch-all transfer to LGUs, any allocation for communal irrigation will have to depend on local investment decisions. Which means that at the local level, farmers' organizations have no choice but to engage frontline government units such as the barangay, the municipio etc.

The economies of scale represented by ARCs should be sustained. As of 30 June 2005, the Government has launched a total of 1,719 ARCs, covering about 932,929 farmer-beneficiaries in about 2.3 million hectares of cultivated lands, 1.7 million hectares of which have already been distributed. Development interventions in these ARCs are focused in five major areas: physical infrastructure, community and institutional development, agricultural productivity and rural enterprise, basic social services, and land tenure improvement. Developing these ARCs will ultimately depend on engagements at the local level because mainstreaming the beneficiaries into the local development process is the surest way to ensure their viability, while support continues to come in from the national level.

LGUs should be capacitated in providing support services to the ARBs. In tandem with the capacity-building training program, a pool of fund from the ARF should be established to fund proposals coming from LGUs to undertake projects intended to assist ARBs. LGUs can contract the services of CSOs or private business organizations in the provision or implementation of the projects for the ARBs.

Engaging the DAR and COCAR: PAKISAMA must engage DAR and other AR-related agencies in ensuring that programs targeting ARBs reach the intended communities. PAKISAMA must remain vigilant in ensuring that DAR sticks to its schedules on LAD, specifically on coverage, installation of beneficiaries, and resolution of land valuation, and the dispensation of its jurisdiction over agrarian related cases.

### **Agrarian Justice Delivery**

CARPER provides that all adjudication cases related to agrarian reform shall now be under the jurisdiction of the DAR adjudication Board. This is a huge step forward in the delivery of agrarian justice. In the past, landowners used and abused the recourses available under regular courts to delay the implementation of agrarian reform. Cases that ended up in regular courts not only impeded the implementation of agrarian reform, but in a lot of cases ended up in favor of landlords to the detriment of beneficiary farmers who usually do not have available recourses to legal defense and are unfamiliar with rules of court and the judicial process in general.

Under the finalized DARAB rules promulgated by the DAR in compliance with CARPER, one stumbling block will be at the point of assumption of jurisdiction. The DARAB at the provincial and regional levels cannot take cognizance of a case without a certification of the farmer beneficiary coming from the barangay agrarian reform committee under the barangay LGU. The good news however, is that for cases involving valuation, the performance of the duties of an official of the DAR and its local bureaucracy, or if the case is directly referred by the DAR Secretary to the BARC or if there is no BARC functioning in the barangay the adjudication board can go ahead with assuming jurisdiction over such cases.

Moreover the prescription for periods such as for filing documentary evidences, appeals, reconsideration and other similar actions under a case filed with an adjudication board are defined throughout the DARAB rules that allow wiggle room for farmer beneficiaries to respond with enough time, provided they are provided with competent legal counsel.

However, centralizing the authority over cancelled CLOAs to the DAR Secretary has its advantages and disadvantages. The same is true for AR-related cases such as criminal cases filed by landowners against farmers, which will now be certified by

DAR whether they stem from AR issues or not. Under Section 1 of Rule XXIV, “all cases or proceedings involving the cancellation of EPs, CLOAs and other titles issued under any agrarian reform program which are registered with the Registry of Deeds and which remain pending before the Board or Adjudicator, as of June 30, 2009, shall be referred to the Secretary of the DAR “. While it may speed up the resolution of these cases, having an anti-peasant Secretary holding office will surely end up in farmers losing their cases.

Another positive feature of CARPER is that since the DARAB, PARAD and RARAD assume jurisdiction over AR-related cases the next step for appealing cases unfavorable to farmers now go directly to the Court of Appeals, thereby eliminating the tedious process of regular courts where old cases against farmers used to languish.

Section 2 of Rule XVII also protects the rights of the farmer to continue reaping the benefits of the land awarded to him, stating “In cases where the tenurial status of a person is at issue, the Board or its Adjudicator shall not issue any order restraining or enjoining the actual tiller from cultivating the land, or harvesting the standing crops nor issue an order impounding the harvest, if any, without providing him with at least fifty percent (50%) of the net harvest.”

On the other hand, the DAR bureaucracy is in need of reforms. This may not necessarily translate into streamlining but the sources of reported collusions and corruption in the department should be seriously addressed. The DAR bureaucracy down to the PAROs and MAROs should be looked into, and where there are complaints over the performance of DAR agents, the DAR should take the opportunity provided by CARPER to clean up its ranks. This is the necessary first step in fast-tracking solutions to AJD and LAD cases.

At the same time the PARC should expand its policy direction and oversight functions. The PARC should be empowered further to draw up master plans for the provision of various support services to the agricultural sector, with particular emphasis on the ARBs, which can serve as the basis for budgetary request by various rural development agencies, not just DAR, for such support services.

### **Concluding Remarks**

As concluded by the studies made in the year 2000 to assess the overall impact of CARP, “agrarian reform can only do so much and best efforts would yield results only as good as the economic, agricultural, and rural development strategies as well as general conditions (weather, population pressures, world prices of agricultural products) confronting the rural areas. Our agricultural and rural sector will have to become competitive in this period of increased trade and globalization.” (citation needed)

However, historically, the country has failed to provide adequate quantity and quality of investments in several key areas. Irrigation investments have declined from the 1980s through the early 1990s. And yet as Monsod claims, with irrigation, the probability of being non-poor increases by 24% while with credit support, probability of being non-poor increases by 15% among beneficiaries. Similarly, investments in rural roads and ports have plummeted, significantly raising costs of rural access. Research & development (R&D) is badly underfunded, resulting in research intensity ratios far lower than those in other countries.

The experiences of newly-industrializing countries (NICs) in the region show us that increasing yield per hectare of land and per unit of agricultural labor is a mere first step in the process of developing the countryside. Downstream and upstream industries for various agricultural crops should be established for greater value added and job-generation capacity.

In short, CARPER by in and of itself does not assure that farmers will be able to lift themselves out of poverty. CARPER forms part of addressing the questions of fulfilling social justice provisions that the 1987 constitution mandates. But beyond the CARPER, the challenge is bigger than land acquisition, distribution and provision of beneficiary support.

An integrated and concrete rural development strategy with accompanying institutional and legal framework is needed to correct an historical injustice with long standing roots in the structures and culture perpetrated by centuries of unequal relationships and abuse between foreign occupiers, landed elites against the poor peasantry.

Land reform is not only a technocratic or economic problem, but a political economy problem whose resolution is a central part of the whole development process. And in the end one must not lose sight of the fact that agrarian reform is not only about land distribution, but ultimately about raising quality of life and spurring industrialization. CARP paved the way to pursue social justice for farmers and landless tenants and farm workers. CARPER, if abetted by other policy reforms, can now open the door to the logical, successful conclusion of this long standing injustice.