

INSTIGATING LOCAL GOVERNMENT PARTICIPATION IN AGRARIAN REFORM

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Introduction

There is a common perception that the government's Comprehensive Agrarian Reform Program (CARP) proclaimed in 1988 was a compromise public policy built on the actual balance between societal forces and the state during the period. Whereas the 1986-1987 period was a "revolutionary" setting that could have provided a strong societal pressure on the state to implement a more radical agrarian reform program, the captivity of the Philippine state by the elites brought forth a compromise policy (Putzel, 1992). On a similar note, CARP was perceived as an evidence of the "blocked" transition to democracy (Lara and Morales, 1990).

Twelve years into its implementation, the Department of Agrarian Reform (DAR) and the Department of Environment and Natural Resources (DENR) accomplished the redistribution of 4.84 million hectares of both private and public lands roughly representing 47 percent of the country's total farm land and 60 percent of the total CARP scope (Borras, 2000). According to the DAR, the program benefited about 2.1 million rural poor households representing 41 percent of the total farming population.

At best, the CARP accomplishment has been modest despite the erosion of what Putzel calls the "revolutionary" setting. This modest accomplishment has become the source of contention and mixed perceptions. One the one hand, the pessimism of some sectors of society that CARP would be completed under the Estrada administration; on the other, the consistent rejection by anti-reform forces within society and the state and Maoist forces.

There are constraints in the current phase of CARP. For one, agrarian reform no longer seems to occupy principal attention by government compared to 1988 when the Comprehensive Agrarian Reform Law (RA 6657) was promulgated. Then, the peasant movement, backed by the potency of the communist insurgency, posed a grave threat to the State. To quell peasant unrest, the State was pressured to respond with reforms in land ownership through the proclamation of CARP.

As the Estrada administration is no longer faced with the same level of threat from leftist insurgents, anti-reform forces within the state and society are riding on the government's neoliberal track to derail CARP. Apparently, there is less urgency on the part of the national government and local government units to combine efforts in order to complete

the mandate of the CARP simply because of the absence of a grave armed threat as in the mid-80s and lack of government resources to fund land acquisition. Landowners, land speculators and big business are either maximizing loopholes of the Comprehensive Agrarian Reform Law or banking on the prospect of outliving the mandate of CARP itself.

The current economic crisis brought about by the negative impact of the political conflict in Mindanao, the recurrence of natural disasters caused by El Nino and La Nina and the lingering effects of the 1997 Asian currency crisis bear down on the capacity of the current administration to back up redistribution targets with sufficient resources. The overall external environment provides a rationale to highlight the play of market forces in rural development and downplay the need to complete agrarian reform.

The urgency is imposed on the DAR which is currently fending off accusations of anemic performance from the social democrats; an urgency self-imposed by President Estrada who committed to the completion of CARP by 2004 apparently without consideration of the fact that the Morales administration of the DAR is faced with the most contentious phase of agrarian reform. For the whole of 1999, the DAR redistributed only 131,907 hectares (77%) of the year's 171,535-hectare target. While the 2000 target is doubled amounting to 340,642 hectares, Congress slashed the DAR's budget of PhP 1.2 billion (for land acquisition and development) by 50 percent.

Indeed, the current DAR administration is in a bind - huge targets with little resources – probably a thankless environment for any DAR administration compared to what Borras argues as the “scandalous” and “anemic” performance of the Aquino administration from June 1987 to June 1992 which ate up more than one third of the total CARP budget (PhP 17 B out of PhP 50 B) distributing only 848,518 hectares (Borras, 1998; page 11).

In the CARP, the DAR administers the redistribution of 4.3 million hectares (54% of the revised CARP scope) of which 2.5 million had been redistributed by 1996. The DAR scope consists mainly of private agricultural lands (compensable) and non-private agricultural lands (mostly non-compensable). Land redistribution in the last decade focused on easy targets, mostly non-compensable lands, at a slow acquisition rate of 285,000 hectares per year. The bulk of unfinished business is the compulsory acquisition of compensable private agricultural lands, the most contentious phase of CARP at a time when the agrarian reform budget is less than the total estimated costs for the completion of the program and landlord contestation against the expropriatory nature of CARP is strong. Moreover, the DAR is faced with the problem of proving the viability of redistributed lands, an imperative that demands appropriate budget allocation and human-resource capability for support services.

CARP as a state-managed program becomes problematic when resistance comes from within the state itself – either from the legislature which allots the budget to cover acquisition and development costs, or from local authorities who provide institutional backing to barriers put up by landowners. Both are formidable challenges for the current

DAR administration outside of which other modalities of implementation or avenues of support have yet to be explored and tested.

New interventions like the MAGKASAKA Program with a menu of options like joint ventures, lease back or build-operate-transfer schemes; or the Community-Managed Agrarian Reform Program (CMARP) with a grant component for productive investments, are some initiatives designed to instigate private sector participation in CARP laden with certain compromises to allow the play of market forces while securing beneficiary ownership of redistributed land. Still, the compromises offered may not be attractive to market players evidenced either by lukewarm attention to the modality suggested by the DAR or outright rejection of the Cojuangco “corporative” model which demands the transfer of land ownership to the joint venture entity.

One other potential avenue is convincing the foreign donor community to break the skew in favor of support services and going into support for land acquisition. Although signals have been sent and rationales are persuasive, as yet none of the donors engaged in agrarian reform in the Philippines has broken the ranks of those who collectively insist that ODA should not go into land acquisition.

Certainly, it is high time for the DAR has to muster its financial, technical and human resources and thicken institutional links with other government agencies, local authorities, civil society groups, international development agencies and the foreign donor community. Put in the proper spatial context, the most contentious phase of the CARP is currently waged in terrains where farmers are demanding full redistribution of CARP lands and development of redistributed lands. Most land transfer processes are problematic in areas where local authorities are overflexing their muscles to assert autonomy and generate local revenues with the intent of bypassing land redistribution. In this context, it would be erroneous to disregard the significance of LGUs in any agrarian reform (and rural development) strategies.

The DAR-LGU Nexus

The current DAR-LGU nexus is built on weak foundations although there is a strategic potential for convergence and cooperation especially when combined with the harnessing of resources of other government agencies and pressure from civil society and international development agencies. It is important to look at the relationship in the context of inner-state relations, a relationship between two disaggregated units of state - between autonomous units of state and one un-devolved unit of state.

The complexity in the relationship rests not only the structural framework of CARP and local autonomy but also in the disjunctural relations between and among individual liberals and conservatives. As Putzel argues in his book *Captive Land*, “...the economic structure and pattern of landownership were not the “inevitable” consequence of colonialism and elite domination.... they were the result of specific historical processes

and political choices of both Filipino and US policy makers.”¹ Although the fulfillment of mandates are backstopped by legal-institutional parameters that are designed to structure processes into legally-feasible and socially-acceptable outcomes, the same processes can be either be hastened or blocked by the behavior and actions of individual actors.

Certainly, there are many areas of common interest and cooperation in rural areas where templates of convergence specific to certain rural area characteristics can be established. Such an exploration is important in view of the contentious and litigious processes involved in the current thrusts of DAR and the need to give serious attention to program beneficiary development. It is but common knowledge that anti-reform forces have methodically sought institutional support from LGUs (and its power under Section 20 of the Local Government Code) in their opposition to CARP.

Collective action by state actors is certainly an easy path under authoritarian or less democratic regimes and a complex one under the Estrada administration when the neoliberal core adorned with a reform agenda (e.g. anti-poverty, agrarian reform) is set in motion under adverse conditions, namely, the economic crisis, political conflict in Mindanao, huge budget deficits and cronyism.

The behavior of state actors on the agrarian reform agenda is also inhibited by anti-reform initiatives within the state, including resistance by local authorities who are allied with big landowners and big interests in agriculture and land. There is no doubt that the Estrada administration can impose the iron hand of the state using its military instrument against rebel calls for autonomy or secession in Muslim parts of Mindanao. But the political iron hand cannot be easily imposed on other lower units of state where actors are either traditionally aligned with, if not, the very same landed elites backing up the political survival of the administration. At best, the Estrada administration can merely use budget alignments, cuts or delays as means to exact loyalty.

There is a basic weakness in the relationship between the DAR and local authorities, a weakness that inhibits joint or collective action by the DAR and the LGUs. But as Putnam argues, failure to engage in collective action does not necessarily signal ignorance or irrationality (Putnam, 1993; page 163). In the language of game theory, they may be caught in a *prisoner's dilemma*² and the only way to facilitate cooperation is for them to engage in repeated games (Putnam, page 166).

The weakness of the DAR-LGU relationship is influenced by several constraints:

One, the institutional constraint borne by the relationship of the DAR being an undeveloped government agency and the LGU being empowered to exercise autonomy.

¹ Putzel, James, *CAPTIVE LAND: The politics of agrarian reform in the Philippines*. (London: CIIR, 1992), p. xxi.

² “In the prisoner's dilemma, a pair of accomplices is held incommunicado, and each is told that if he alone implicates his partner, he will escape scotfree, but if he remains silent, while his partner confesses, he will be punished especially severely. If both remained silent, both would be let off lightly, but unable to coordinate their stories, each is better off squealing, *no matter what the other does* (Putnam, 1993: p. 164).

The DAR mandate does not include the authority and power to obligate the LGUs to cooperate. The LGUs, on the other hand, can either choose to contravene CARP as exemplified by the concerted actions of the landowner and the municipal LGU of Sumilao and provincial LGU of Bukidnon in the controversial Sumilao case where not even the political act of the President of the Republic³ could convince the LGU to retreat; or, all out support at the risk of dividing and/or ultimately losing the loyalty and support of local elites.

Two, the DAR mandate (to complete CARP) may not have the benefit of a homogenous support by the State, including all its disaggregated units. Perceivably, the unpacked State portrays disjointed approaches to rural development and conflicting attitudes towards the remaining phase of the CARP. It is not surprising to observe LGUs on the side of resistant landowners who are their traditional sources of support and who are perceived as stronger magnets for investments than CARP lands and agrarian reform beneficiaries;

Three, the combined resistance of LGUs and landowners that pose a formidable defense of old property rights, the strength of which can potentially outlast the mandate of the DAR or the term of CARP.

Although the DAR and LGU mandates are not woven into a single fabric of convergence, neither one is totally a threat to the other. In fact, both mandates contain common strategic and mutually-beneficial interests. Moreover, both are designed to allow access and participation by civil society players who can exert pressure on either or both sides. NGOs and POs, for example, are allied to the rural citizenry who are DAR clients (as ARBs and potential ARBs) and LGU clients (as voters and potential voters as well as beneficiaries of government services).

Cooperation between the two can only be made easier by repeated engagements instead of purely independent and un-coordinated actions at the ground level. This means interfacing each other's needs and interests, resources and capabilities, and duties and obligations with clear indicators of benefits for success and penalties for defections.

The CARP's ultimate objective of raising productivity and incomes and developing rural areas are the very same goals of LGUs. The latter has to recognize that agrarian reform is a *sine qua non* that contributes to a more meaningful rural development provided that a favorable development environment and requisite elements (such as extension services, access to credit, etc.) are in place. The LGU's exercise of local autonomy should reinforce the push for asset reforms whereby ARBs and potential ARBs will have better chances of playing their roles as active players in local governance.

³ With reference to President Ramos' "win-win" formula in May 1998 granting 100 hectares to MAPALAD farmer-claimants and 44 hectares to the landowner. In August 1999, the Supreme Court handed its final decision denying MAPALAD the right to claim the 144-hectare Quisumbing property.

⁴ Putzel, James, *CAPTIVE LAND: The politics of agrarian reform in the Philippines*. (London: CIIR, 1992), p. xxi.

Landmarks of Autonomy

Local landlord interests are embedded in the historical struggle of local governments for autonomy. It is for this reason that notions of autonomy suggested by a succession of laws related to decentralization since the 60's (RA2264 of 1959, RA 5185 of 1967 otherwise known as the Decentralization Law, Article II of the 1973 Constitution) are no more than formal expressions of a national goal but did not find meaningful expression in practice.

The embeddedness of local landlord interests in the autonomy goal inherently prevents the attainment of meaningful autonomy because barriers to equitable distribution of land effectively allocate local political power in favor of the landed elites. In the China experience, monopoly of land and denial of equitable distribution threw the mass of the peasantry to the anti-state armed mode of action influenced by MaoZedong's adage that, in the absence of any other means or resources, "power grows from the barrel of the gun."

During Spanish rule, Philippine local landed elites could not assert full powers due to the vertical impositions of the central government and the horizontal pressure from the clergy. There was no legal avenue for other social forces except to take up arms. During the American colonial administration, the institution of electoral politics and institution of the party system in electoral politics instigated local elites to convert their land base into political power. Landlords then had independent basis of power and could play in electoral politics using their own resources (Wolters, 1984; 187).

Local autonomy has been a national goal since the turn of the century although it was only in 1959 that the first local autonomy act was proclaimed through RA 5185 otherwise known as "An Act Amending the Law Governing Local Governments and Increasing their Autonomy and Reorganizing Local Governments." Philippine colonial, pre-war and post-war histories have a common governance denominator – the tradition of centralism.

This is not to say, however, that local autonomous institutions did not exist. In fact, pre-colonial institutions like tribal hierarchies and *barangay* units functioned as effective governance units until they were dis-empowered by a succession of colonial administrations. There is no stronger evidence to this than the primordial claims of Islamized ethnic communities in Mindanao, for example, the *Tausugs* of Sulo, Tawi-Tawi and Basilan, who still maintain the politico-religious structures established by the Sultanate of Sulo in the 13th Century; or the political agenda of the Moro Islamic Liberation Front (MILF) and the Moro National Liberation Front (MNLF), inherently based on autonomous governance anchored on the historical claim that Moro independence predates the establishment of the Philippine state.

Although Marcos began the process of de-concentration by the creation of regional administrative units of state, there was no actual transference of power to local government units.⁵ The Marcosian push for regionalization in 1972 was but an administrative distribution of central authority where the regions were but alter-egos of national line agencies. It was only after the overthrow of the Marcos dictatorship when the assertion for local autonomy was enriched by the convergence of interests between State reformists and the potency of revolutionary social forces acting against the State. Thus, the 1991 Local Government Code emphasized not only the transfer of power to local government units (more than just the distribution of power to regional administrative units) but also the broadening of governance parameters by giving access to civil society players in local governance.

Unlike Italy, where the regional governments are trapped between powerful national and local forces (Putnam, 1993; 38-39), there is but one unstable regional government existing in the Philippines - the Autonomous Region of Muslim Mindanao (ARMM).⁶ Thus, the Philippine government mainly has but two poles of power – the local and the national, each dependent on the other.

The framework of the 1991 Local Government Code rests not only on the vertical nexus between the national government and the local government units but also the horizontal nexus between local governments and the traditionally-marginalized sectors of civil society. From the LGU perspective, the incentive structure ranges from the tactical to the strategic, depending on the orientation of local officials. Some will put higher stakes in relating with the national government, for longevity in power-cum-access to national resources. This crop of politicians would treat LGUs and POs as nuisance and would put up barriers to access, if not, allow access only to preferred NGOs and POs. Others would welcome meaningful participation on the basis holistic development principles. They, however, are perceived to be few and far-between.

The Role of Local Authorities in Agrarian Reform

The significance of local government units (LGUs) as a factor in land reform emerged after the enactment of the Local Government Code (1991). The subsequent devolution of functions of line agencies (such as the agriculture and health departments) with direct significance to rural development have emphasized the increasing role of LGUs in local area development. The Department of Agriculture (DA), for example, plays a vital role in the land reform program implemented by the DAR and its devolution to the LGU brings forward the importance of the DAR dealing with the LGU.

⁵ The 1972 Integrated Reorganization Plan (IRP) divided the country into eleven (11) administrative regions and effected the creation of regional offices of national government agencies.

⁶ The Autonomous Region of Muslim Mindanao (ARMM) whose status shall have been modified in 1999 by virtue of political changes anticipated by the MNLF-GRP Jakarta Agreement of 1996. The future of the ARMM is uncertain due contestations on the modality of its expansion in view of the postponement of the ARMM elections and the apparent rejection of most provinces and cities claimed by the MNLF as potential part of the autonomous region.

Local government units have never been direct participants in CARP. At best, they have been pulled into minor partnership in ARC-directed ARC projects where local government counterpart is needed in project implementation. At worse, they stand on the side of anti-reformists on the argument that CARP has created uncertainties in land ownership, distorted land markets, reduced LGU territory (by the granting of CADCs) and, as a common result, reduced the revenue-earning capacity of the LGU.

Any government strategy for reform needs coherence especially when such strategy involves reforms or correctives to old ways of doing things. With reference to land reform, there is a need to develop a culture of reform among the dis-aggregated units of State given the fact that the government is not run by a monolithic party and that local branches of government have their own interests, loyalties and alliances. More importantly, there is a need for convergence of efforts and resources directed towards a common goal. But this is only realized when appropriate institutions or instruments (of convergence) are created whereby actors (e.g. organizations, like LGUs or cooperatives, and individuals, like landowners, investors) find incentives to participate.

In the last ten years of CARP, agrarian reform processes were either single-handedly instigated by the DAR and DENR and pushed by the pressure of the NGO and PO communities. At best, LGUs did not put up barriers to asset reform; at worse, they provided institutional support to landowner resistance. In recent years, some LGUs were involved in agrarian reform support projects or agriculture projects implemented by the Department of Agrarian Reform (DAR) or the Department of Agriculture (DA) with funding from foreign donor agencies or governments. Their participation, however, is driven mainly by the legal-institutional requirement for LGU counterpart funding in foreign assisted projects.

Historically, the power of local authorities rested on large landownership. Concentrations of land were effected since the Spanish colonial administration through the American colonial period and the succeeding post-colonial and post-war administrations. Landholding as a base for political power was typified by the political growth of local elites during the introduction of electoral politics and formation of political parties during the American colonial administration.

Although post-war politics saw the emergence of new politicians whose base were not necessarily big landholdings, landlord power was still significant until the 70s as can be inferred from the below-fifty percent property tax collection in 1971 (Wolters, 1984; 189). This transition is aptly described by the communist left as the conversion of traditional landlords into bourgeois-compradors who consolidated their stakes by linking up with Western capital and reinforcing their positions in politics. The communist left also refers to the conversion of political power into economic wealth typified by one of the Philippine left's classic enemy - the bureaucrat-capitalists.

Many LGUs are still susceptible to narrow interests of clientelist politicians who give priority to their longevity in office than the development of their territory. Hence, the tendency to focus on tactical financial gains than long-term development objectives and

people participation in local governance. This is exacerbated by weak governance where civil society is unable to exert pressure on the LGU, either due to barriers put up by the latter or to lack of appropriate engagements by NGOs, POs and the private sector.

Opportunities and Loopholes in Decentralization and Devolution

Current issues on decentralization refer to the landmark 1991 legislation, RA 7160, otherwise known as the Local Government Code (LGC), enacted pursuant to Section 3, Article X of the 1987 Constitution and Section 25, Article II of the same constitution which states that the “State shall ensure the autonomy of local governments.”

Devolution and decentralization entails transference of powers to 77 provinces, 65 cities, 1,542 municipalities and 41,926 barangays scattered in 12 regional units and 5 special regions (namely: Caraga, National Capital Region, Cordillera Administrative Region and the Autonomous Region of Muslim Mindanao). In the political-electoral framework, the power of the national government rests on the political mood of local government units. In the functional-governance framework, the power and capacity of local government rests on the allocation of resources based on the dictates of the national government.

The key words in local autonomy, as envisioned by the code, is the devolution of functions of national government agencies and the decentralization of power. The latter involves not only those within the purview of government structure but also the participation of groups outside of government (mainly NGOs, POs and the private sector). However, much is still to be desired in terms of civil society participation in local governance. Although more than 16,000 NGOs and POs have been accredited by local development councils as of September 1993⁸ there is still a real lack of meaningful participation by civil society in local governance. Best practices, so far, refer only to politically-safe and socially-uncontested areas of cooperation in environment protection and protection of marine resources (Brillantes, 1997; 125).

The 1993-1998 Master Plan for the Sustained Implementation of the Local Government Code of 1991⁹ lays down three (3) phases of action: a) Phase I (1992-1993) – the transition phase involving the transfer of personnel and corresponding assets; b) Phase II (1994-1996) – the institutionalization of adjustments by national line agencies and LGUs; and, c) Phase III (1997 -) – the stabilization phase, on the assumption that LGUs shall have developed capacities to manage their own affairs and that the national government would continue to provide support and technical assistance.

⁷ The Local Government Code provides that NGO/PO constitute at least 25% of local development councils and other special bodies; that there shall be sectoral representation (women, workers and a third sector) in local legislative bodies or sanggunians; that there shall be LGU preferential treatment for local cooperatives; mandatory consultation of PO and NGO sectors by the national government prior to the implementation of development projects.

⁸ According to the Bureau of Local Government Development.

⁹ Adopted in 1994.

To date, the following functions have been devolved to LGUs:¹⁰

- **Health** - field health, hospital services, tertiary services;
- **Social Services** – social welfare;
- **Environment** - community-based forest management (CBFM);
- **Agriculture** - agri-extension and on-site research;
- **Public Works** - works covered by local funds;
- **Education** – school building program;
- **Tourism** - facilities, promotion, development;
- **Telecommunications and Housing** – for provinces and cities.

The Local Government Code also provides for the devolution of regulatory powers in land reclassification, environmental laws, inspection of food products and quarantine, the National Building Code, tricycle operations, processing and approval of subdivision plans, cockpits and cockfights.¹¹

Although Phase I of the master plan provides for the transfer of personnel and assets, the transition has been constrained by the ability of LGUs to absorb devolved personnel and shoulder administrative and operational costs. Resistance to devolution was expressed by personnel of the Department of Health although this was suppressed by President Ramos' 1995 veto of a bill re-nationalizing health workers.¹² The re-nationalization issue resurfaced during the 1998 election campaign. As of 1993, 45,945 personnel of the DOH have been devolved to LGUs.

While welcoming the devolution process in general, in some cases LGU's rejected the devolution of personnel. Of 17,823 regular employees of the DA for transfer to LGUs, 131 were rejected either due to lack of funds or exercise of political muscle by LGU officials. They consisted of 33 Provincial Agriculture Officers, 21 Municipal Agriculture Officers, 32 agriculture technicians and 45 technical and administrative staff.¹³

The LGU is a body politic representing a political subdivision of the national government and a corporate entity representing the inhabitants of its territory.¹⁶ As a corporate entity, it exercises the following powers:¹⁷

¹⁰ Excerpted from Alex Brillantes Jr., "Local Governments in a Democratizing Polity: Trends and Prospects," in, Miranda, F. (ed). *DEMOCRATIZATION: Philippine Perspectives*. (Quezon City: UP Diliman Press, 1997), p. 85.

¹¹ *Ibid.*,

¹² "Synopsis of Findings, Eighth Rapid Field Appraisal of Decentralization," Governance and Local Democracy Project, Associates in Rural Development Inc., December 18, 1990.

¹³ Brillantes, op. cit., p. 89.

¹⁴ The 1972 Integrated Reorganization Plan (IRP) divided the country into eleven (11) administrative regions and effected the creation of regional offices of national government agencies.

¹⁵ The Autonomous Region of Muslim Mindanao (ARRM) whose status shall have been modified in 1999 by virtue of political changes anticipated by the MNLF-GRP Jakarta Agreement of 1996. The future of the ARMM is uncertain due contestations on the modality of its expansion in view of the postponement of the ARMM elections and the apparent rejection of most provinces and cities claimed by the MNLF as potential part of the autonomous region.

¹⁶ Local Government Code, Book I, Chapter 2, Section 15.

¹⁷ *Ibid.*, Section 22.

- To sue and be sued;
- To acquire and convey real or personal property;
- To enter into contracts (with prior authorization by the Sangguniang Bayan);
- To exercise such other powers as are granted to corporations, subject to the limitations provided in the Code and other laws;
- Full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises, subject to the limitations of the Code and other applicable laws;
- To negotiate and secure grants (by authority of the Sangguniang Bayan) in support of basic services or facilities (items enumerated under Sec. 17¹⁸) without the necessity of securing clearance from any department, agency, or office of the national government (except those with national security implications); and,
- Avail of credit lines from government and private banks and lending institutions; (including short, medium and long-term loans and advances against security of real estate or other acceptable assets) although depository banks of LGUs are restricted to government financial institutions (DOF rules).

The LGU's corporate powers are intended to strengthen its capacity that, in the long term, the delivery of basic services shall be based on its ability to be self-reliant. Thus, as part of the devolution and decentralization process, LGUs are empowered to create sources of revenue and levy taxes. The LGC provides for a broader taxation power of the LGU on top of commitments by the national government to provide the LGU with the following: a) specific share from the national wealth - e.g. charges imposed on mining, forestry and fishery operations and, b) increasing share from national taxes (Internal Revenue Allotment). From a previous low of 11 percent, IRA contributions to LGU income currently represent an average of 40 percent. Some impoverished LGUs are generally dependent of the IRA, the latter representing up to 80 percent of their income. Increasing revenues of growth centers (mainly cities), on the other hand, tend to reduce LGU dependence on the IRA.

One of the fundamental principles guiding the LGU authority to raise revenues and levy taxes is the evolution of a progressive system of taxation (Book II, Title I, Chapter I, Section 130, R.A. 7160). The national government, however, reserves taxation powers on major sources of revenue including taxes on estates or transfer of their ownership. LGUs do not have incentives in designing a progressive taxation system for real property: **firstly**, sale, transfer or other disposition of real property under R.A. 6657 (Comprehensive Agrarian Reform Law) are exempt from taxes; **secondly**, only provincial LGUs are allowed to have a share of taxes imposed on transfer of real property and only at a rate of no more than 50 percent of 1 percent of the total consideration involved (Book II, Chapter II, Section 136, R.A. 7160).

The devolution process offers opportunities as well as risks. On the opportunity side, it enhances decentralization (of powers) and allow easier access to public goods. On the

¹⁸ Section 17 (Book I, Chapter 2) delineates functions and responsibilities of different levels of local government units (barangay, municipality, province and city) in the provision of basic services and facilities.

risk side, the quality of services will be constrained by competence, human resource capability and lack of financial resources.

The Need to Thicken Civil Society in Rural Areas

A cursory review of land transfer processes, even in less contentious areas, involved several modes of interface between the DAR and civil society groups. During the Garilao administration, tripartism was highlighted, exemplified by PhilDHRRRA's TriPARRD Program supported by the DAR and foreign donor agencies between 1989 and 1998. The tripartite strategy focused on the interface between the DAR, NGO and PO.

The strategy was employed mainly on easy targets and is believed to have directly influenced the transfer 9,000 hectares of land to farmer-beneficiaries. Despite huge financial backing by foreign donor agencies, however, the strategy left huge gaps in terms of ensuring the viability of redistributed lands and influencing changes in local power structures.

Also during the same period but with less financial backing, PEACE Foundation unleashed its *Bibingka* strategy (Borras, 1998) to move more than 200,000 hectares of land. The PEACE experience shows that strong civil society participation raises the cost of landlord resistance and lowers the costs of tenant and farm worker participation in collective action for land reform.

Until 1998, civil society participation in politics was merely limited to non-parliamentary and extra-parliamentary venues. The institution of the party-list system in the 1998 elections allowed greater access to civil society groups in national legislation. However, civil society participation in local governance remains weak. Although the legal infrastructure is in place, indicated by the mandatory participation of NGOs and POs in local special bodies,¹⁹ both LGUs and NGOs/POs have yet to exercise meaningful engagements and achieve desirable results.

At the root of this weakness is the fact that growth of civil society in the Philippines is skewed in favor of urban areas; a skew brought about by the very nature of poverty that disenfranchises the mass of the Philippine citizenry in rural areas and magnetizes civic and entrepreneurial minded people to the urban areas. It is also borne by the fact that historically it has been very costly for political activists to operate in rural areas. During the Marcos regime, for example, even non-political civic actions could be branded as political and a threat to the state thus instigating civil society groups to seek shelter in urban-based institutions.

¹⁹ The Local Government Code provides that NGO/PO constitute at least 25% of local development councils and other special bodies; that there shall be sectoral representation (women, workers and a third sector) in local legislative bodies or sanggunians; that there shall be LGU preferential treatment for local cooperatives; mandatory consultation of PO and NGO sectors by the national government prior to the implementation of development projects.

The result is lopsided mediations by urban-based civil society groups on behalf of farmer-claimants; and, local authorities, on behalf of landowners and business entities. There remains a need to thicken civil society in rural areas. Such thickening, however, is dependent on the very issue of reforms in property rights and access to basic services such as education and health - the attainment of which enable civil consciousness to propagate.

Inner State Dynamics

There is more evidence pointing to LGU and private sector antipathy to agrarian reform than the reverse. Although political elites in rural areas welcome the de-concentration of power, they are conservative in the vision of de-concentration and redistribution of land assets. Consistently, landowners and the business and financial sectors argue against CARP citing agrarian reform as a causal factor in the decline of agriculture, decrease in investments in rural areas and insulation of large chunks of agricultural lands from land markets. No less than the World Bank has argued on the need to instigate market forces in the agrarian reform process citing transferability of land as a pre-requisite environment for investments in agriculture and rural areas.²⁰

The potency of LGUs to put up barriers to agrarian reform is typified by the 9-year battle for the 144-hectare Quisumbing property in Sumilao (Quitoriano, 1999). In the landmark case, the DAR fought on the side of MAPALAD farmer-claimants to acquire the Quisumbing property. The LGU, on the other hand, fought on the side of the landowner, successfully shifting the terrain of battle from the CARP to the autonomy and decentralization framework of the Local Government Code. At the end of the protracted battle, the Supreme Court ruled in favor of the LGU and the landowner.

The Sumilao case is a test case of the potency of Section 20 of the LGC (RA 7160) which empowers the LGU to re-classify lands under its jurisdiction. Although LGU powers under Section 20 of the LGC has the purview of RA 6657 (CARL), there are legal-institutional and individual nuances that can swing outcomes for or against agrarian reform. According to Section 20, the LGU has the power to reclassify lands through an ordinance passed by the *Sanggunian* (local legislative body) under the following conditions:

1. Land ceases to be economically feasible and sound for agricultural purposes (to be determined by DA)

²⁰ Draft Report for Discussion, "TREE CROPS FOR RURAL DEVELOPMENT: ISSUES AND STRATEGY OPTIONS," a report based on the findings of a World Bank mission in October 1998. The report contains recommendations that require legislation and Constitutional review and amendments. Legislative recommendations include: a) review of CARL (RA 6657), recommending immediate transferability of land after full payment; b) use of market-based instruments in the acquisition of lands less than 24 hectares; and, c) allow new investors without land to acquire land. Recommended Constitutional amendments include: a) review of the 40% equity limits on land related investments; b) review of the 25 & 25 year leases on public lands, and; c) review of regulations concerning the conversion of public lands to Alienable and Disposable (A&D) lands as these restrictions are inhibiting tree crop development.

2. Land shall have substantially greater economic value for residential, commercial and industrial purposes (determined by SB)
3. Reclassification limited to: 15% for highly urbanized and independent component cities; 10% for component cities and 1st to 3rd class municipalities; 5% for 4th to 6th class municipalities; and that,
4. The reclassification shall not affect lands distributed under RA 6657 (conversion governed by Section 65 of RA 6657).

The conditions set by Section 20 nominally protects CARP lands already distributed (Item 4) but does not protect all other CARP lands. Section 20 can be used by LGUs arbitrarily in the absence of comprehensive land use plans. In the case of Sumilao, for example, the municipal zoning plan was tailored to legitimize the reclassification of the Quisumbing and exclude it from CARP coverage. Besides, the exercise of the power needs only the determination of the DA (a devolved unit under the LGU) and the Sanggunian, the legislative partner of the local chief executive. In rural areas, chief executives and Sanggunians are known to be more accommodating to each other than "checking and balancing" each other in terms of policy making and planning.

Spatial limitations according to income class can also be bypassed through the utilization of vertical links with the Office of the President which can authorize the LGU (upon recommendation of the NEDA) to reclassify lands in excess of the limits set. If not, LGUs can avail of the provisions of RA 7916 by applying for ECOZONE status which, when approved by the President, becomes an autonomous center for agro-industry, commerce and trade, tourism, investment and finance with minimum government intervention. Presently, there are around forty (40) ECOZONES all over the country even as others may be proclaimed by the President upon identification by Regional Development Councils and recommendation by the Philippine Economic Zone Authority (PEZA). A clear example is the CALABARZON ecozone where agrarian reform processes are largely swept aside by local authorities interfacing with private capital (domestic and foreign).

The actual and potential areas of conflict are identifiable: **firstly**, the legal framework pertaining to Section 20 of the LGC; **secondly**, the traditional institutional support of LGUs and individual links of local authorities to landowners and private business and their goal to assert autonomy with the elite-based anchor of revenues and resources. Local authorities in Bukidnon, for example, are wary of the "non-bankability" of ARBs and "non-taxability" of CARP lands and CARP-initiated farmers' cooperatives.²¹ In Valencia, Negros Oriental, local officials mention payment of "taxes" and "bills" as the first responsibility of citizens, otherwise, "the municipality will not be able to expand and render basic services to the people (Cristobal, 1997; p. 263)."

²¹ Author's interviews with provincial and municipal officials of Bukidnon.

The DAR, therefore, has to find the missing link and bridge the seeming gap between the LGU goal of autonomy and revenue generation to that of the agrarian reform process. The DAR has to convince local authorities that democratization in land ownership does not mean revenue losses in rural areas. Put in its proper context, agrarian reform should not be perceived as a barriers to rural development. On the contrary, it establishes the very conditions to create effective demand in rural areas and develop local markets by which rural areas can proceed with their own development process.

Strategic Options

A number of strategic options can be taken in order to instigate LGU participation in agrarian reform:

1. Resource Empowerment

Central government insensitivity to local needs in terms of basic services and maintenance and protection of public goods may have been corrected by devolution and decentralization, but such a corrective will only have meaning if LGUs are equipped with sufficient disposable income, have easy access to national line agencies which control resources for public services, significant share of ODA (loans and grants) or power to administer land taxes and earmark tax revenues for local infrastructure and local government services. LGUs are still dependent on the national government, not only in terms of income but also in the quality of services. It is not uncommon to observe decreasing levels of competence and quality of services corresponding to their low levels of income.

▪ Increasing Taxation Powers of the LGU

One of the fundamental principles guiding the LGU authority to raise revenues and levy taxes is the evolution of a progressive system of taxation (Book II, Title I, Chapter I, Section 130, R.A. 7160).

In terms of revenues from real property ownership (or transfer thereof), there is very little incentive for provincial LGUs to participate unless such transfer is geared towards converting lands for industrial or commercial purposes that generate capital inflows to the territory. Under current arrangements where taxes go to the central government and the amount of taxes is based on tax declarations where values are generally below real market values, revenue generation is dependent on enforcement by tax collectors and capturing of real land values.

Assignment of land tax administration and earmarking revenues for local infrastructure and government services to local authorities have earned success in the United States due to increased local visibility of benefits financed with the tax revenue and the

corresponding incentive to comply with tax payments (Binswanger, Deininger and Feder, 1995; page 2725). The huge administrative costs refer to the generation of an information system that indicates ownership of land, size, value, productive capacity and cost of outputs and inputs – the range of information that has yet to be put in place.

A progressive land tax is being advocated to discourage land speculation and induce large landowners to sell out or use their landholdings more intensively (Hayami, Quisumbing & Adriano, 1991). However, it is likely to be associated with higher administrative costs and protracted litigation especially when landowners resort to dummy divisions of landholdings and lobbying for exemptions (Binswanger, Deininger and Feder, 1995; page 2724).

Progressive taxation per se may not substitute for direct redistribution of land under CARP but its institution coupled with resource empowerment in favor of local authorities may create more incentives for LGUs to cooperate more effectively in CARP. This means enhancing the taxation powers of the LGU and amending the provisions of the Local Government Code.

▪ **Improving LGU Access to ODA**

Until 1998, LGU access to foreign ODA (loans and grants) remains insignificantly low. In ODA loans, LGU access is currently limited to one percent while the rest goes to national line agencies (47%), government-owned corporations (49%) and the private sector (3%) (NEDA, 1998). Even agriculture and agrarian reform get less than 4 percent share of total ODA (NEDA, 1998). On the average, foreign donors finance 60-70 percent of costs for foreign-assisted projects while the national government shoulders 30-40 percent of the balance.

The LGU drive towards increasing capacity tends to orient LGU planning towards more revenue-earning potentials like real estate development, tourism and commerce. Both the national government and local governments tend to offer more incentives to investments in non-agricultural activities than those geared towards agriculture and rural development. Perceivably, needs related to agrarian reform, agriculture and rural development are passed on to national line agencies like the DAR and DA and foreign donor agencies.

2. Interfacing DAR-LGU Initiatives

Interfacing is necessary to avoid exclusionary pitfalls characterized by fortress mentalities of local authorities. These mentalities are typified by stereotype characterizations of LGUs as “pro-landlords” and “pro-business” and the DAR, NGOs and POs as “pro-farmers” and “pro-poor”. When self-interests of the various players are not addressed, exclusions come into play paving the way for protracted contentions.

The CARP has a need for urgency given the limitations already mentioned. What is important is to sharpen mediation processes by highlighting not only mandates and self-interests of contending players but, more importantly, common developmental interests.

There are also numerous (actual and potential) areas of convergence and cooperation:

One, integration of DAR plans for ARCs and other CARP areas into the development plans to municipal and provincial development plans. This entails functional coordination between DAR offices and the MPDOs and PPDOs of municipal and provincial governments, respectively. On a more participatory approach, integrative processes can be more participatory to include ARC-level NGOs and POs in functional multi-partite arrangements. Functional coordination and integration of ARC development plans to municipal and provincial development plans can prevent intense clashes of legal weaponry between the LGC and CARL or between the DAR and the LGU. It has to be noted that the spirit of the LGC also obliges the LGU to prepare comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for future use of land resources. It should be, likewise, an obligation of the DAR and its partner organizations (NGOs and POs) to synergize agrarian reform plans with the overall development plan of the municipality or province.

Two, creating venues for constructive engagements and interactions between ARB organizations and local government units and jointly shaping the nature and direction of agrarian reform and rural development process. A study conducted by Adrian Cristobal Jr. in the municipality of Valencia, Negros Oriental, reveals that the *pulong-pulong* (meetings) is an “effective venue for information dissemination, dialogue and ventilation of issues and grievances between the government and its citizens.”²² ARC-level organizations maintained by the DAR and local NGOs should be allowed to participate in local development councils as part of the mandated 25% allotted to NGOs and POs.

Three, the LGU has much to contribute to the PBD component of the CARP. Devolved functions in agriculture, health, social welfare, public works and education respond to the development needs of agrarian reform beneficiaries. Integrative instruments can be devised so that services provided by devolved units will be more accessible to ARBs.

Four, cleansing and systematizing information. Assymetries in information create barriers to the reform program. The DAR and the LGU should be able to share requisite and updated information for the redistribution process to gain momentum. In the municipality of Buenavista (Bondoc Peninsula) for example, farmers’ groups and the municipal LGU, on demand by the former, agreed to publish a list of information such

²² Crisobal, A. Jr., “How Local Government in Negros Oriental Views Democracy and Citizenship,” in Diokno, M.S. (ed.). *Democracy & Citizenship in Filipino Political Culture*. (Quezon City: Third World Studies Center, 1997) p. 269.

as available lands, farmer-claimants, assessed values, etc. In contrast, in the municipality of Impasug-ong (Bukidnon), the LGU, DAR and farmers' groups have not reached common ground on the agrarian reform issue. The DAR and Land Bank negotiates land prices at a low rate of PhP 27,000 per hectare while the LGUs push for investment generation jacks-up land prices to PhP 150,000 per hectare. While there is a big demand by farmer-claimants, effective demand is being presented by the private sector who offer tempting options – for landowners to hold on to their lands and for ARBs to sell their CLOAs illegally.

The convergence of agrarian reform and governance and/or the synergistic partnership between the DAR and the LGU does not demand the creation of supra-bodies or addition of bureaucracies. Rather, it demands a unifying process within the State: at the level of policy, to arrive at a common agenda for agrarian reform and rural development; at the field level, to maximize available sources and synergize them through functional integrative instruments.

3. Redefining Roles

The DAR and its partner NGOs and POs must recognize the role of local authorities in agrarian reform and agrarian reform strategies should include the LGU factor as one assumption and component element. On the other hand, both the DAR and the LGUs should recognize that the participation of civil society groups in the agrarian reform and rural development processes is an important corrective element in undoing inequities in land ownership and lack of democratization.

4. Spatial Rationalization of Agrarian Reform Areas

The current territorial definition of ARCs is not sensitive to the political/territorial subdivision of municipalities and barangays. The territorial bounds of ARCs should be synchronized with the political/territorial subdivision of municipalities and barangays to be sensitive to the political nuances in the allocation of resources especially in cases where the DAR or NGOs are backed up with foreign donor funds and where management structures of projects are heavily skewed in favor of the DAR or NGOs.

Such a rationalization helps improve the visibility of local authorities in agrarian reform areas or in the activities of agrarian reform beneficiaries. Moreover, it prevents segmentation of service delivery or exclusions due to turfing.

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