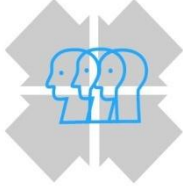


EXPLORING THE NEXT STEPS OF AGRARIAN REFORM IMPLEMENTATION IN THE PHILIPPINES

An Evaluation of CARP and CARPER



Center for Agrarian Reform and Rural Development
April 2014



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ACRONYMS AND ABBREVIATIONS

A&D	Alienable and Disposable
AJD	Agrarian Justice Delivery
ALDA	Area Level Development Assessment
AO	Administrative Order
APCP	Agrarian Production Credit Program
APPC	Asia Pacific Policy Center
ARB	Agrarian Reform Beneficiary
ARBO	Agrarian Reform Beneficiary Organization
ARC	Agrarian Reform Community
ARF	Agrarian Reform Fund
ARISP	Agrarian Reform Infrastructure Support Project
ARMM	Autonomous Region in Muslim Mindanao
ARR	Agrarian Reform Receivables
BARC	Barangay Agrarian Reform Council
CA	Compulsory Acquisition
CADT	Certificate of Ancestral Domain Title
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program with Extension and Reforms
CARRD	Center for Agrarian Reform and Rural Development
CLOA	Certificate of Land Ownership Award
COA	Commission on Audit
CPAR	Congress for a People's Agrarian Reform
CSO	Civil Society Organization
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DOJ	Department of Justice
DOLE	Department of Labor and Employment
DTI	Department of Trade and Industry
EP	Emancipation Patent
FGD	Focus-Group Discussion
FOO	Field Operations Office
HDI	Human Development Index
IPRA	Indigenous Peoples Reform Act
JBIC	Japan Bank for International Cooperation
LAD	Land Acquisition and Distribution
LAMP	Land Administration and Management Project
LAO	Legal Affairs Office
LARA	Land Administration and Reform Act
LBP	Land Bank of the Philippines
LGU	Local Government Unit
LRA	Land Registration Authority

LTI	Land Tenure Improvement
MARO	Municipal Agrarian Reform Officer
NCIP	National Commission of Indigenous Peoples
NEDA	National Economic Development Authority
NIA	National Irrigation Administration
NLUA	National Land Use Act
NOC	Notice of Coverage
PBD	Program Beneficiaries Development
PLS	Public Land Survey
RA	Republic Act
ROD	Register of Deeds
Sec	Secretary
SEPO	Senate Economic Planning Office
SMITDP	Small and Medium Industrial Technology Transfer Development Program
SSO	Support Services Office
TCT	Transfer Certificate of Titles
UDHA	Urban Development and Housing Act
USec	Undersecretary
VLT	Voluntary Land Transfer
VOS	Voluntary Offer to Sell
VRDL	Virgilio R. Delos Reyes

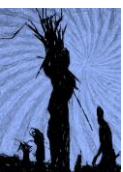


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1. RATIONALE

Comprehensive Agrarian Reform Program (CARP) is the flagship program of the Philippine government for agrarian reform and one of its strategies for poverty alleviation. Its mandate started with the passage of Republic Act (R.A.) 6657, also known as Comprehensive Agrarian Reform Law (CARL) in 1988, and continued with the passage of R.A. 9700, also known as Comprehensive Agrarian Reform Program with Extension and Reforms (CARPER) in 2008. Both laws mandated the Department of Agrarian Reform (DAR) to implement acquisition and distribution of landholdings to farmer-beneficiaries, provide appropriate support services, and oversee delivery of agrarian justice. As of December 2013, DAR was able to distribute 4,597,445¹ hectares of land and transformed around 2,697,927² farm workers and share tenants into agrarian reform beneficiaries (ARBs).

These gains represent around 85 percent of the country's gross distributable lands as of December 2013; which means that there remains a total of 790,671 hectares³ of land left to be distributed. According to DAR Secretary Virgilio de los Reyes, most of these backlogs represent the most problematic landholdings in the country and are covered under the Compulsory Acquisition (CA) scheme of CARPER;⁴ and while he is optimistic that all Land Acquisition and Distribution (LAD) backlogs will be completed by 2016, the government is yet to issue a pronouncement on how it plans to sustain the gains of CARP and CARPER, protect the rights of Certificate of Land Ownership Award (CLOA)-holders, and resolve pending agrarian conflicts and related issues.

This research therefore seeks to explore next steps for agrarian reform implementation in the country, during the anticipated transition period (2014-2016)⁵ and as a continuing program.⁶ In doing so, it is therefore necessary to evaluate how CARP and CARPER have been implemented for the past 25 years so as to come up with viable recommendations for the future implementation of agrarian reform.

Critiques of CARP and CARPER pointed out several major loopholes and setbacks in program implementation; and most of these have not been addressed in the past years. Among these issues are overlapping claims in land ownership, problematic distribution of lands in conflict-prone localities, inadequate support services, and agrarian cases that have

¹ Based on the presentation of Sec. Gil de los Reyes to the Committee on Agrarian Reform on February 2014

² Based on the presentation of Sec. Gil de los Reyes to the Committee on Agrarian Reform on February 2014

³ Based on the presentation of Sec. Gil de los Reyes to the Committee on Agrarian Reform on February 2014

⁴ DAR (2013), "Report on Land Acquisition and Distribution Aspect of Agrarian Reform, January 2013," *Official Gazette*, Accessed 19 August 2013 from <http://www.gov.ph/2013/02/04/for-the-record-report-on-the-state-of-agrarian-reform-january-2013/>

⁵ RA 9700 mandates the completion of all LAD targets by 30 June 2014. Given the magnitude of LAD backlogs, DAR is endeavoring to complete its LAD targets by 2016.

⁶ The 1987 Constitution upholds the implementation of a comprehensive agrarian reform program in the country through its guarantees for distribution of all agricultural lands and support to farmers and farm workers

lasted for years. A 2011 study of the Center for Agrarian Reform and Rural Development (CARRD) concluded that displaced ARBs due to agrarian conflicts are burdened with case-related expenditures and suffer from lost income opportunities, placing them at economic conditions worse than their previous status as share tenants and/or farm workers. This proves that a flawed agrarian reform program would not be effective in meeting its aim to address poverty in the countryside. Yet, evidences tend to indicate that where all CARP components are working, ARBs are afforded with the opportunity to venture into profitable agriculture-related enterprises, make informed decisions about their livelihood, and improve their economic conditions.

When Funding Expires

The primary mechanism in implementing the Philippines' agrarian reform program is set to conclude in less than a year. After a five-year extension in 2008, funding for agrarian reform will come to an end on 30 June 2014. Nonetheless, Article XIII of the 1987 Constitution guarantees just distribution of agricultural land⁷, support to agriculture⁸, and resettlement of farmers and farm workers in the State's agricultural estates⁹. These provisions imply that the State is mandated to implement an agrarian reform program even beyond year 2014.

Hence, there is a need to evaluate how the government will implement agrarian reform in view of the pending program funding termination. There is also a need to look at the challenges encountered in the implementation of the program in the past years, identify best practices, and formulate measures, under which the gains of the agrarian reform program will be protected, and ensure that appropriate support will remain for farmers and farm workers in the countryside. An enabling mechanism is likewise necessary to ensure that all landholdings covered by CARP will be distributed, conflicting land claims avoided, and agrarian cases pending in various judicial and quasi-judicial courts resolved. This enabling mechanism, in order to be sustainable, is the organization of responsive rural development institutions with parallel and complementing functions.

To potentially identify institutional arrangements for rural development agencies, Administrative Order (AO) 34 was issued by President Benigno Aquino III on 22 November 2012 to "create an interagency committee on institutional arrangements for land management and rural development."¹⁰ The AO tasked the Director-General of the National Economic Development Authority (NEDA) to chair the inter-agency committee comprising of

⁷ Art. XIII, Sec. 4 of the 1987 Constitution

⁸ Art. XIII, Sec. 5 of the 1987 Constitution

⁹ Art. XIII, Sec. 6 of the 1987 Constitution

¹⁰ Aquino, B. (2012), "Administrative Order No. 34: Creating an Inter-Agency Committee on Institutional Arrangements for Land Management and Rural Development," *Official Gazette*, Accessed 19 December 2013 from <http://www.gov.ph/2012/11/22/administrative-order-no-34-s-2012/>



Secretaries from DAR, Department of Agriculture (DA), Department of Environment and Natural Resources (DENR), Department of Justice (DOJ), Department of Budget and Management (DBM) and Land Registration Authority (LRA) Administrator. The committee was assigned with four functions: "(1) conduct a study on the continuity of land administration and management as well as provision of support services for the agriculture and fisheries sector; (2) formulate appropriate executive issuances or legislative measures for the required institutional arrangements based on the findings of the study; (3) engage services of consultants and/or consulting firms to conduct the study and other related studies; and (4) conduct information sharing and exchange with the end view of achieving consensus among all stakeholders and arriving at a well-studied and unified plan to implement the necessary institutional arrangements, with due consideration to the welfare of affected employees."¹¹ However, it must be remembered that the foundation of new institutions is a long-term goal for the State. There is still a need to identify what mechanisms will work while these changes take place and what legal framework will be adopted to support the work and accomplishments during and after the transition period.

As these institutional arrangements will shape the long-term future for agrarian reform in the country, and in an effort to ensure that the government takes appropriate measures in planning for post-2014 agrarian reform, an exploration of available options in agrarian reform and rural development is being undertaken by this research. This research likewise evaluates these options based on existing studies and evaluations done by government and non-government agencies. It also takes into consideration, opinions of various agrarian reform and rural development stakeholders, especially organizations of ARBs in the country, in identifying long-term mechanisms that will meet the goals of CARP after 2014 and in evaluating the performance of CARP implementing agencies in the past years.

Specifically, the research aims to provide recommendations on the next steps, legal framework, and institutional arrangements that will best protect the gains of CARP and CARPER and address issues on tenurial improvement, land management and administration, support services delivery, and agrarian justice.

The research recognizes that the long-haul targets for agrarian reform will transform the landscape of rural development agencies in the country. This study therefore presupposes that an extension of CARPER funding is necessary to bridge transition between existing and new institutions for agrarian reform.

¹¹ Ibid.,



2. METHODOLOGY

The research employs the following methodology:

Levels	Area of Study	Methodology	Data Source
Macro	1. Evaluation of CARP and CARPER (Challenges, Issues, Accomplishments and Impact to Poverty Alleviation and Social Justice)		
	- Land Acquisition and Distribution	Review and analysis of secondary data Interview	DAR Reports FOO USec J. Gragheda Existing literature
	- Program Beneficiaries Development	Review and analysis of secondary data Interview	DAR Reports SSO USec J. Pacturan Existing literature
	- Agrarian Justice Delivery	Review and analysis of secondary data Interview	DAR Reports LAO USec A. Parungao Existing literature
	2. Evaluation of CARP and CARPER (Performance of CARP Implementing Agencies)		
	- Performance of CARP Implementing Agencies in terms of project completion	Review and analysis of secondary data Review of COA reports	COA website
	- Performance of CARP Implementing Agencies in terms of Fund Use	Review and analysis of secondary data Review of COA reports	COA website
	3. Exploration of Stakeholders' opinion on CARPER transition		
	- Policy Framework Options	Review and analysis of secondary data Consultation	Existing literature CSOs
	- Other Key Legislations	Review and analysis of secondary data Consultation	Existing literature CSOs
	4. Exploration of transition period for CARP		
	- Proposed institutional arrangements	Review and analysis of secondary data	Existing literature VRDL's report
	- Agrarian reform in the transition period	Review and analysis of secondary data Consultation	Existing literature CSOs



Levels	Area of Study	Methodology	Data Source
	- Agrarian reform after LAD	Review and analysis of secondary data Consultation	Existing literature CSOs
Micro	1. Evaluation of LAD ¹² (Processes and Challenges)		
	- Appraisal of LAD processes	FGD with ARBO (ARC and non-ARC)	Capiz ARBOs in ARC and non-ARC
	- Assessment of DAR's performance in LAD	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	- Assessment of impact of land ownership to household poverty situation	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	2. Evaluation of PBD and AJD		
	- Appraisal of PBD and AJD processes	FGD with ARBO (ARC and non-ARC)	Capiz ARBOs in ARC and non-ARC
	- Assessment of DAR's performance in PBD and AJD	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	- Assessment of impact of access to support services to household poverty situation	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	- Assessment of impact of swift delivery of agrarian justice to household poverty situation	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	3. Evaluation of CARP and CARPER (Impact to Social Justice and Poverty Alleviation) ¹³		
	- Assessment of impact of CARP and CARPER to household poverty situation	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	- Assessment of impact of CARP and CARPER to achievement of social justice	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC
	4. Exploration of Stakeholders' opinion on CARPER transition		
- Favorable institutional arrangement/ set of implementers for LAD, AJD and PBD	Guided Interview with ARBs from ARC and non-ARC	Capiz ARBs in ARC and non-ARC	

3. RESEARCH FINDINGS

3.1. Background of CARP and CARPER

This section aims to look at previous studies outlining the challenges, issues, accomplishments and impact to poverty alleviation and social justice of CARP and CARPER in (1) land acquisition and distribution; (2) program beneficiaries' development; and (3)

¹² LAD will be evaluated based on the provisions of RA 6657, since respondents are LAD beneficiaries under CARP.

¹³ Indicators for assessing impact to poverty alleviation and social justice are based on Sustainable Governance Indicators for 2011, Accessed 19 April 2014 from http://www.sgi-network.org/pdf/SGII_Social_Justice_OECD.pdf



agrarian justice delivery. A separate section for land administration and management is included, owing to its perceived contribution to the successes and failures of CARP and CARPER implementation. Previous accounts in CARP and CARPER implementation are necessary to process learning and recommendations for the post-2014 and post-2016 phase of agrarian reform implementation.

This study follows Adriano's¹⁴ suggestion to be mindful of the reasons why an agrarian reform program is necessary in the Philippine context. Hence, a brief theoretical and historical background of CARP and CARPER is presented in the following section to level-off understanding about the dynamics of agrarian reform implementation in the country.

3.1.1. Theoretical Framework of Agrarian Reform

Agrarian reform and land reform is often used interchangeably to depict conversion of unfair tenurial structures in agricultural land. Dekker¹⁵ defines land reform as "any fundamental alteration of land tenure, usually understood as redistribution of tenure rights from one group to others without land, too little land to make a living, or with insecure access to land;" while agrarian reform is understood as "a planned state measure that aims at changing an agrarian structure." Agrarian reform takes on a broader meaning than land reform. Agrarian reform is not just focused on land redistribution, but on changing prevailing agrarian structures resulting from unfair access to land. In the Philippine context, this includes breaking down of lands into small parcels, resolving agrarian-related cases, and providing support services to farmers and farm workers. Support services may include credit assistance, access to infrastructure, and provision of agricultural inputs and trainings that will help farmers and farm workers gain leverage at competitive markets.

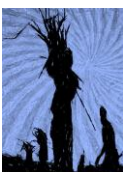
CARP rests on providing secure property rights to farmers.¹⁶ While providing farmers with full ownership of the land that they till will enable them to capture all of its benefits, this also exposes them to economic risks. Like most agrarian reform programs all over the world, CARP is thus focused on land redistribution, but not on land redistribution alone.

Anchored in providing farmers with secure property rights is the pursuit of promoting peace and order in the countryside. Lanfer noted that pacification has been the

¹⁴ Adriano, F. (2008) CARP Institutional Assessment in a Post-2008 Scenario: Toward a New Rural Development Architecture, Discussion Paper Series No. 2008-06, Accessed 11 August 2013 from <http://dirp4.pids.gov.ph/ris/dps/pidsdps0806.pdf>

¹⁵ Lanfer, VVA (2006), The Philippine Agrarian Reforms and Their Impact to Rural Households, Accessed 19 July 2013 from <http://www.bondoc-solidarity.de/Arbeitrevised.pdf>

¹⁶ Ballesteros, M. & Cortez, F. (2008), CARP Institutional Assessment in a Post-2008 Scenario: Implications for Land Administration and Management, Discussion Paper Series No. 2008-07, Accessed 10 August 2013 from http://www.eaber.org/sites/default/files/documents/PIDS_Ballesteros_2008_02.pdf



basic motive of many land tenure programs and laws in the Philippines.¹⁷ Available evidences tend to indicate that the passage of CARP and CARPER were motivated by peasant movements relentlessly campaigning for a genuine agrarian reform program in the country.

Apart from property rights and peace and order, alleviation of rural poverty and pursuit of social justice are also considered motives for the implementation of an agrarian reform program in the country. A study by Habito, cited by the Senate Economic Planning Office in 2008 estimated that agrarian reform beneficiaries (ARBs) have more agricultural investments per hectare compared with non-ARBs.¹⁸ The SEPO study also noted increased investments in human capital: children of ARBs were found to stay 60-83 percent longer in school compared to children of non-ARBs.¹⁹ If support services will adequately be provided, agrarian reform is likewise argued to bring about productivity by promoting small-scale farming,²⁰ and maximizing the use of land.

These theoretical foundations of agrarian reform are necessary benchmarks in evaluating what steps would best advance the welfare of farmers and farm workers in the country, and address the motives that have been discussed in this section. Based on this theoretical framework, the scenario for a post-CARPER institutional arrangement should cover the following:

- (1) providing farmers with secure property rights;
- (2) providing farmer with appropriate support services;
- (3) affording swift delivery of agrarian justice;
- (4) promoting peace and order in the countryside;
- (5) alleviating rural poverty and advancing social justice

¹⁷ Lanfer, op. cit.

¹⁸ Senate Economic Planning Office (2008), Broadening and Reinforcing the Benefits of Land Reform in the Philippines, Accessed 11 August 2013 from <http://www.senate.gov.ph/publications/PB%202008-04%20-%20Broadening%20and%20Reinforcing%20the%20Benefits%20of.pdf>

¹⁹ Ibid.,

²⁰ Lanfer, op. cit.,



3.1.2. Historical Background of CARP and CARPER

Implementing an agrarian reform program has two fundamental objectives:²¹

- (1) To promote a more equitable distribution of land;
- (2) To foster greater farm productivity

The objectives rest on the assumptions that land is the main driver of economic development in rural areas, and greater farm productivity can be achieved by dividing lands into manageable parcels and allowing small farmer-beneficiaries to support themselves. These two objectives are believed to be fundamental pre-requisites for rural development.

In the Philippines, an agrarian reform program is also necessary to address countryside insurgency. According to Guerrero²² and CARRD²³ armed struggle is closely linked to the campaign of farmer-peasants against the unfair agrarian relations between landlords and peasants since the Spanish colonial era. As a matter of fact, the Communist Party of the Philippines includes the necessity for a confiscatory type of agrarian reform²⁴ in its revolutionary agenda. An agrarian reform measure is therefore necessary to prevent peasant farmers from joining the insurgents, and to encourage members of the armed struggle to give up the fight for a relatively fair chance to own a parcel of agricultural land. The reallocation of resources as tangible as land is one proof of the government's commitment to uphold social justice and equality.

The Comprehensive Agrarian Reform Program (CARP) is a banner program of the Aquino administration after the 1986 EDSA uprising. It is an articulation of an earlier promise made by the then campaigning Corazon Aquino to make land reform a governance centerpiece. At this time, at least 56 percent of households were dependent on agriculture²⁵ -- a significant percentage of which were landless sugarcane farm workers employed in *haciendas* all over the country. Because the Marcos administration's Operation Land Transfer touched rice and corn lands, these haciendas went untouched and undivided after the Marcos era.

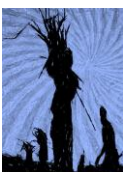
²¹ Deininger, et.al. (2000); Hayami, et.al. (1990), Balisacan (1993); and DAR (2007) as cited by Adriano (2008)

²² Guerrero (1969) as cited by Adriano (2008)

²³ Center for Agrarian Reform and Rural Development (2011), "Kasaysayan ng Repormang Agraryo," Repormang Agraryo at Kaunlarang Pangkanayunan: Manwal ng Paralegal, 2nd ed. Ed. J. Casidsid and A. Garcia, CARRD: Quezon City

²⁴ Adriano, op. cit.,

²⁵ Lanfer, VVA (2006), The Philippine Agrarian Reforms and Their Impact to Rural Households, Accessed 19 July 2013 from <http://www.bondoc-solidarity.de/Arbeitrevised.pdf>



In 1988, the Comprehensive Agrarian Reform Law (CARL) was passed with a total implementing fund of PhP 50 billion. Its passage did not occur without protests from the landlord-dominated House of Representatives. The Senate, on the other hand, comprised of urban-based businessmen, pushed for a more far-reaching land reform law. With these conflicting issues, the CARL is therefore deemed as a compromise legislative measure for land redistribution.

The passage of CARP was heavily influenced by farmers and peasant groups pushing for a genuine agrarian reform program in the country. In 1987, 15 national federations of peasant movements and 15 non-government organizations joined forces to organize the Congress for a People's Agrarian Reform (CPAR). CPAR is the most comprehensive campaign for agrarian reform to-date.²⁶

In 1998, CARP was extended for another 10 years for its failure to meet its targets on land acquisition and distribution. In 2008, it was once again extended for another five years, albeit with a new law that inserts major reforms in the program implementation. The law mandates completion of LAD by 30 June 2014; but as of December 2013, balance for Land Acquisition and Distribution (LAD) remains at 790,671 hectares.²⁷ According to the DAR, it will accomplish its net LAD balance²⁸ of 522,405 hectares by the end of President Benigno Aquino III's term on 2016.²⁹ As of the writing of this paper, there is no indication that the government will push for a new legislation that will support its constitutional mandate on agrarian reform.

3.2. Program Accomplishments, Issues and Concerns

3.2.1. Land Acquisition and Distribution

SEPO³⁰ cited a 2007 survey of the Asia Pacific Policy Center (APPC) on the tenurial improvement of farmers under the CARP from 1990-2006. The study noted that there has been a significant increase in the number of farmers who were able to own the land that they cultivate during the said period. Aside from this, "number of non-cultivators and share tenants were almost halved in 2006 from 1990."

²⁶ CARRD (2011), op. cit.,

²⁷ Based on the presentation of Sec. Gil de los Reyes in the Committee on Agrarian Reform on February 2014

²⁸ According to DAR, the Net LAD Balance is the actual distributable land out of the 879,526 hectare-total LAD balance. The Net LAD balance is what remains after "non-CARPABLE" portions of lands (roads, easements, and creeks), landowner retention areas, and problematic landholdings have been subtracted from the total LAD balance.

²⁹ DAR, op. cit.,

³⁰ SEPO, op. cit.,



Under CARP, DAR was able to distribute 3,841,549 hectares³¹ of agricultural land. Aside from private agricultural lands, Certificate of Land Ownership Awards (CLOA) were also issued to farmers tilling on government-owned lands, settlements and landed estates. Of private agricultural lands, almost 55% were acquired through voluntary offer to sell (VOS)³² and voluntary land transfer (VLT).³³ Only 3% of private agricultural lands were accomplished using compulsory acquisition (CA)³⁴ mode.

Under CARPER, DAR was able to distribute 405, 187 hectares of land to 210,586 ARBs as of December 2012.³⁵ Considering these data, the number of ARBs from 2009-2012 have grown by more than 53 percent, accounting for a total of 607,443 ARBs from 1987-2012.

DAR Sec. Virgilio de los Reyes reported the following accounting of LAD balance from 01 January 2013 to 31 December 2013:³⁶

	Landholdings	CARP Area ³⁷	Non CARP Area ³⁸	Total Area
LAD BALANCE BEGINNING JAN 2013	92,913	770,592	98,589	869,181
Adjustment in Area (+ increase)	249	7,878	6,809	14,687
Adjustment in Area (- decrease)	(473)	(11,855)	(6,202)	(18,057)
Deductibles	(9,415) ³⁹	(55,639)	(11,298)	(66,937)
Deducted	(1,028) ⁴⁰	(7,047)	(1,119)	(8,166)
Additional Landholdings	5,806	113,790	9,367	123,156

³¹ Ibid.,

³² According to DAR Administrative Order No. 03-89, a landowner may offer to sell his (sic) agricultural land to the government for redistribution under the VOS scheme. If the land is found to be suitable for agricultural production, the government shall purchase the land through procedures for determining land compensation under Sec. 17 & 18 of RA 6657.

³³ Under section 20 of RA 6657, landowners may directly and voluntarily transfer ownership of land to farmer-beneficiaries. Under the VLT, farmer-beneficiaries will have the obligation to undertake direct payments in cash or in-kind, depending on the mutual decisions of both parties. Under RA 9700, DAR no longer recognizes VLT as a mode of acquiring agricultural land.

³⁴ CA is a direct method of expropriating land, which takes place even in the face of landlord opposition.

³⁵ Department of Agrarian Reform (2013), "Land Tenure Improvement," Department of Agrarian Reform Official Website, Accessed 20 August 2013 from <http://www.dar.gov.ph/major-final-outputs-mfos/lti>

³⁶ Based on the presentation of Sec. Gil de los Reyes in the Committee on Agrarian Reform on February 2014

³⁷ CARP Areas are those awarded to farmer-beneficiaries through the issuance of EP/ CLOA

³⁸ Non-CARP areas are those portion of covered landholdings that have been surveyed but are excluded from coverage. This includes rivers, roads, lots, easements, etc.,

³⁹ Deductible landholdings are potentially exempted landholdings identified by the DARPO and pending approval by the LAD-TRC

⁴⁰ Deducted landholdings are exempt from coverage and have been duly approved by the LAD Technical Review Committee (TRC)



	Landholdings	CARP Area ³⁷	Non CARP Area ³⁸	Total Area
Total LAD Accomplishment	(7,185)	(110,039)	(13,154)	(123,193)
LAD BALANCE ENDING 31 DEC 2013	80,867	707,679	82,993	790,671

The above data seek to justify why accomplishments of the DAR in terms of land tenure improvement cannot be obtained simply by subtracting the ending balance of a specific year from its beginning balance due to ongoing inclusions, adjustments, and deductible land areas (provision for roads, irrigation and other common facilities).

In spite of these reported accomplishments, critiques have viewed that the primary method of acquisition used by the Department negates the essence of land reform. A study by the World Bank pointed that "CARP has contributed most to poverty reduction in those areas where compulsory acquisition has advanced most."⁴¹ However, in highly-problematic landholdings and higher productivity areas where the benefits of CARP would have been maximized, compulsory acquisition is deemed ineffective as a mode of land acquisition. This can also be said true in the case of CARPER. As of January 2013, 61 percent of landholdings that are yet to be distributed by DAR are subject under the compulsory acquisition scheme of agrarian reform. Despite these, Sec. de los Reyes reported that accomplishments of DAR under CA is highest in 8 years.

3.2.2. Program Beneficiaries Development

In terms of support services, the APPC study⁴² mentioned that ARBs "used more four-wheeled tractors, chemical fertilizers, chemical pest controls, certified seeds and crop rotations than non-ARBs." A country paper on agrarian reform and rural development presented by former DAR Secretary Nasser Pangandaman likewise noted that ARBs with access to appropriate support services have better chances of getting out of poverty.⁴³ This was also supported by a study of World Bank in 2007, which reveals that coconut farmers with access to credit "resulted in a 47-percent increase in copra yield."⁴⁴ In 2004, a study by the Japan Bank for International Cooperation (JBIC) pointed an "increase in agricultural productivity of about 55-64 percent and higher mean marketable surplus for rice"⁴⁵ among beneficiaries of Agrarian Reform Infrastructure Support Project (ARISP). ARISP areas have

⁴¹ Ibid.,

⁴² As cited by SEPO (2008)

⁴³ DAR (2006), Philippine Agrarian Reform: Partnerships for Social Justice, Rural Growth and Sustainable Development: Country Paper on Agrarian Reform and Rural Development in the Philippines, Country paper presented by Sec. Nasser Pangandaman in the International Conference on Agrarian Reform and Rural Development (ICARRD), Porto Alegre, Brazil on 07-10 March 2006, Accessed 20 August 2013 from www.icarrd.org

⁴⁴ As cited by SEPO, op. cit.,

⁴⁵ As cited by SEPO, op. cit.,



improved irrigation systems, access to high-yield crops and modern technology. The study however emphasized that ARISP was only able to provide basic infrastructure facilities, and considerable gaps still need to be filled to meet rural development objectives. Gaps that were identified include "agricultural technology and extension services, accessible and affordable capital, and marketing support for beneficiaries."⁴⁶

Statistical evidences likewise indicate agrarian reform's positive contribution to the overall human development index (HDI)⁴⁷ of localities. A comparative survey of HDI among provinces with highest LAD backlogs and lowest LAD backlogs is featured to show that provinces in Region VI fare poorer in HDI than provinces in Region III. According to DAR, Region III has the highest LAD accomplishment (with 91 per cent of total accomplishment), while Region VI has the lowest (41 per cent), as of December 2012. Data from 1997-2009 revealed HDI discrepancies of at least 0.097 between Region III and Region VI. Provinces in Region III likewise fared better in terms of life expectancy, education and income. Poverty incidence is also significantly higher in provinces in Region VI than in Region III. Poverty incidence in Region VI is likewise higher than the national average (19.7 per cent).⁴⁸ Negros Occidental, the province with the largest LAD backlog in Region VI and in the country, registered a poverty incidence rate of 24.9 per cent and a magnitude of 164,827 poor families in 2012. This already comprises more than 45 per cent of the poor population in the entire Region VI and almost 4 per cent of the poor population in the country.

Regions		MAGNITUDE OF POOR FAMILIES (2012)	POVERTY INCIDENCE (2012)	HDI ⁴⁹		LIFE EXPECTANCY INDEX (2009) ⁵⁰	EDUCATION INDEX (2009) ⁵¹	INCOME INDEX (2009) ⁵²
				1997	2009			
WITH HIGH LAD ACCOMPLISHMENT		240,079	10.1	0.605	↑0.620	0.796	0.875	0.346
R-III	Aurora	12,789	27.1	0.537	0.630	0.798	0.885	0.354
	Bataan	7,116	4.5	0.662	0.698	0.795	0.900	0.476
	Bulacan	38,103	5.4	0.657	0.699	0.864	0.884	0.446
	Nueva Ecija	91,168	19.6	0.539	0.511	0.791	0.840	0.201
	Pampanga	28,483	5.4	0.650	0.634	0.840	0.871	0.348

⁴⁶ As cited by SEPO, op. cit.,

⁴⁷ HDI is adopted as a single statistic for determining social and economic development

⁴⁸ NSCB (2013), *Poverty Statistics*, Accessed 14 April 2014 from <http://www.nscb.gov.ph/poverty/default.asp>

⁴⁹ Accessed from www.nscb.gov.ph

⁵⁰ Ibid.,

⁵¹ Ibid.,

⁵² Ibid.,



Regions	MAGNITUDE OF POOR FAMILIES (2012)	POVERTY INCIDENCE (2012)	HDI ⁴⁹		LIFE EXPECTANCY INDEX (2009) ⁵⁰	EDUCATION INDEX (2009) ⁵¹	INCOME INDEX (2009) ⁵²
Tarlac	40,174	13.5	0.561	0.573	0.781	0.840	0.287
Zambales	22,246	12.1	0.629	0.600	0.764	0.909	0.312
WITH LOW LAD ACCOMPLISHMENT	365,040	22.8	0.505	↑0.523	0.764	0.835	0.228
R-VI							
Aklan	25,204	20.4	0.515	0.460	0.742	0.887	0.148
Antique	28,598	23.6	0.495	0.493	0.711	0.808	0.209
Capiz	37,143	22.3	0.483	0.522	0.715	0.800	0.249
Guimaras	6,345	16.9	0.459	0.512	0.778	0.809	0.213
Iloilo	102,924	20.8	0.570	0.619	0.829	0.906	0.315
Negros Occidental	164,827	24.9	0.511	0.537	0.814	0.805	0.236

Comparative Survey of Poverty Situations and HDI in Region VI and Region III

Nonetheless, a study of World Bank in 2009 mentioned that while CARP had a positive impact on poverty and growth, "available empirical evidence shows that the impact on poverty has been quite modest."⁵³ According to the study, this is due to insufficient investments made to support service delivery to new agrarian reform beneficiaries. Under CARP, support services are provided by using the Agrarian Reform Community (ARC) approach.⁵⁴ While the ARC approach is deemed effective in enabling ARBs in ARC areas to improve their economic well-being, it has resulted to an under-targeting of poor; since a huge percentage of poor farmers and farm workers are found in non-ARC areas. Sec. de los Reyes reported that 44 percent of ARBs are found in non-ARC areas and are in need of support services from the government.⁵⁵ This covers a magnitude of 1.166 million ARBs nationwide.

Out of the total reported number of ARBs in ARC and non-ARC areas, 52 per cent are classified as poor.⁵⁶ According to Sec. de los Reyes, ARBs may reap the economic benefits of their ownership and overcome economies of scale if they have increased bargaining power. As the WB study pointed out, productivity tends to decrease due to economies of scale:

⁵³ The World Bank Group, (2009) *Technical Working Paper: Land Reform, Rural Development, and Poverty in the Philippines: Revisiting the Agenda*, Accessed 11 August 2013 from http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2009/07/21/000334955_20090721030353/Rendered/PDF/495030ESW0WHITIFinalReportIFULLTEXT.pdf

⁵⁴ Ibid.,

⁵⁵ Presentation to Committee on Agrarian Reform last February 2014

⁵⁶ Presentation to Committee on Agrarian Reform last February 2014



"Although potentially favoring a redistribution of income, land distribution in the sugarcane sector will hardly lead to an increase in productivity given the existence of economies of size in production (albeit mild) and of coordination costs at the mill-level. Both lack of managerial experience and limited access to input and output markets diminish the chances of ARBs in the plantation... In sugarlands, the protectionist policies and regulations of the sugar industry constitute an important factor that negatively affects the pace of CARP implementation."⁵⁷

The challenge of economies of scale is exacerbated by the ASEAN Free Trade Agreement (AFTA). When AFTA takes effect on 2015, tariff rates will be reduced and prices of imported agricultural commodities such as rice and sugar will decline. With these, local farmers would bear the brunt of competition. Providing adequate and responsive support services will therefore play a major role in ensuring that local products can and will be able to remain competitive in mainstream and niche markets.

A study of APPC in 2007 revealed that "there was an increased pawning, mortgaging and leasing out, and informal transfer of agricultural land among ARBs."⁵⁸ One of the reasons is the lack of access to credit facilities. Banks' stringent loan policies and requirements prevent ARBOs from accessing formal credit. Loanable value for agricultural land is also limited to only 50 percent of its actual value, as compared to 80 percent in non-agricultural lands.⁵⁹ ARBs often resort to informal lending schemes and loan sharks, which put ARBs at high economic risks. As they fail to make continued and long-term investments to their land due to absence of capital and necessary skills, informal transfers of lands through leaseback arrangements and selling of land titles continue to be prevalent.⁶⁰

DAR has attempted to address these challenges through the introduction of Agrarian Reform Community Connectivity and Economic Support Services (ARCESS) in 2011. ARCESS seeks to strengthen ARB organizations (ARBOs) and address problems of economies of scale through the provision of agri-extension and agri-technology services, business development services, and common service facilities or farm equipment, and deployment of community-based enterprise organizers:

"ARCESS builds the organization of the ARBs, to the extent by which it can access inputs, credit and marketing support for and on behalf of the individual farmers. Organizations such as cooperatives facilitate the exertion of group bargaining power, thereby empowering smallholder farmers in the competition for public and institutional resources. ARCESS supports smallholder farmers by organizing them into productive partners for rural development. By consolidating the production,

⁵⁷ WB, op. cit.,

⁵⁸ As cited by SEPO, op. cit.,

⁵⁹ Ibid.,

⁶⁰ Ibid.,



processing and marketing efforts of ARBs through their organization, they will be able to achieve increased bargaining power, enter into equitable marketing agreements, and overcome the barriers presupposed by the economies of scale.”⁶¹

The project also links ARBOs to credit access through the Agrarian Production Credit Program (APCP) and to rural infrastructure through foreign-assisted projects. As of now, ARCESS supports 488 subprojects all over the country. As of December 2012, DAR has provided technical assistance in organization building, leadership and enterprise development, farm technologies, and product development and marketing to 3.24 million ARBs⁶² nationwide. From 2009-2012, 6,499 ARB organizations⁶³ have been assisted under the PBD component of CARP.

However, ARCESS is still in its pilot phase. It is too early to conclude whether the project did address major gaps in land tenure improvement and support services delivery in agrarian reform areas in the country. The project is also beset with problems in the implementation. These problems include delays in the deployment of service providers in the field, cases of farm equipment and farm implement mismatch – both to actual farming conditions and to needs, and issues on the competitiveness of professional service providers.

3.2.3. Agrarian Justice Delivery

In terms of agrarian justice, DAR has posted significant accomplishments in the resolution of cases at the time of CARP in 2005-2009. A study of the Center for Agrarian Reform and Rural Development⁶⁴ reported that DAR has an average accomplishment rate of 62 percent from 2005-2007. In the meantime, DAR registered an impressive 145 percent accomplishment of cases in 2009. In spite of these, DAR was beset with a number of agrarian conflicts that span for more than 10 years and deprive farmers of the right to physically occupy the land.⁶⁵ CARRD’s AJD study likewise revealed the following issues:

- a. Accomplishments were overstated because reporting is done on per activity rather than on per case resolution basis.

⁶¹ DAR (2013), Agrarian Reform Community Connectivity and Economic Support Services, Frequently-Asked Questions, Accessed 30 August 2013 from www.dar.gov.ph

⁶² DAR (2013), “Highlights of PBD Accomplishments as of December 2012,” Department of Agrarian Reform, Accessed 01 November 2013 from www.dar.gov.ph

⁶³ Ibid.,

⁶⁴ CARRD (2011), Rationalizing Public Expenditures in Agrarian Justice Delivery, Accessed 20 August 2013 from www.carrd.org.ph

⁶⁵ Ibid.,



- b. Cost parameters allotted for judicial and quasi-judicial procedures are not responsive to actual case expenditures. This has resulted to undertargeting of cases to be resolved and distortion of actual case accomplishments.
- c. In cases of agrarian related conflicts, farmers suffer from lost income opportunities and are often being forced to shoulder the expenses of case proceedings.
- d. Farmers who are deprived to physically occupy the land awarded to them are economically worse off than farmers in a tenancy arrangement. According to CARRD's study, farmers who cannot work on their lands often seek for employment as agricultural laborers in other areas, for a meager income of less than PhP 100/ day.

Adriano also mentioned that CARP accomplishments were overstated because "(1) some beneficiaries are the relatives or dummies of landowners; (2) some beneficiaries have abandoned or are unable to take possession of awarded lands; (3) some previously issued EPs/CLOA have been recalled and cancelled."⁶⁶ This overstatement undermine the extent of agrarian-related conflicts in the countryside.

CARP's relative failure to integrate land distribution efforts to support services, and to the achievement of agrarian justice resulted to even worse poverty in the countryside. According to a study on agrarian justice delivery done by CARRD in 2011, alleviation of rural poverty under CARP rests on actual, physical occupation of the land and access to available support services mechanisms offered by both private and public sectors.⁶⁷ ARBs with no access to support services, and who have suffered from the slow resolution of agrarian cases experienced loss of income opportunities. The study pointed that total foregone income of ARBs is directly related to the period of land dispute resolution. In a year of dispute involving sugarcane as the main crop, an ARB's foregone income can amount to as much as PhP 62,265.26 per hectare.⁶⁸ In Negros, these problems resulted to illegal selling of awarded lands and a return to unfair tenancy arrangements prior to CARP implementation.⁶⁹ This has been an alarming concern for years, especially in areas where agriculture is perceived as a major pathway out of poverty.

⁶⁶ Adriano (2008), op. cit.,

⁶⁷ CARRD (2013), op. cit.,

⁶⁸ CARRD (2013), op. cit.,

⁶⁹ WB, op. cit.,



3.3. Role of Land Administration and Management

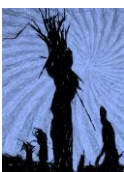
3.3.1. Definition of Land Administration and Management

Land administration is defined as "the process of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies."⁷⁰ According to Burns, et. al., a land administration system includes the following aspects:

- "management of public land;
- recording and registration of private rights in land;
- recording, registration and publicizing of the grants or transfers of those rights in land through, for example, sale, gift, encumbrance, subdivision, consolidation and so on;
- management of the fiscal aspects related to rights in land, including land tax, historical sales data, valuation for a range of purposes, including assessment of fees and taxes, and compensation for state acquisition of private rights in land, and so forth; and
- control of the use of land, including land-use zoning and support for the development application/ approval process"⁷¹

⁷⁰ Dealca, R.(2009), Initiatives to Improve Land Administration System in the Philippines, paper presented at the 7th Regional Conference, Spatial Data Serving People at Hanoi, Vietnam, Accessed 02 January 2013 at http://www.fig.net/pub/vietnam/ppt/ts03d/ts03d_dealca_ppt_3652.pdf

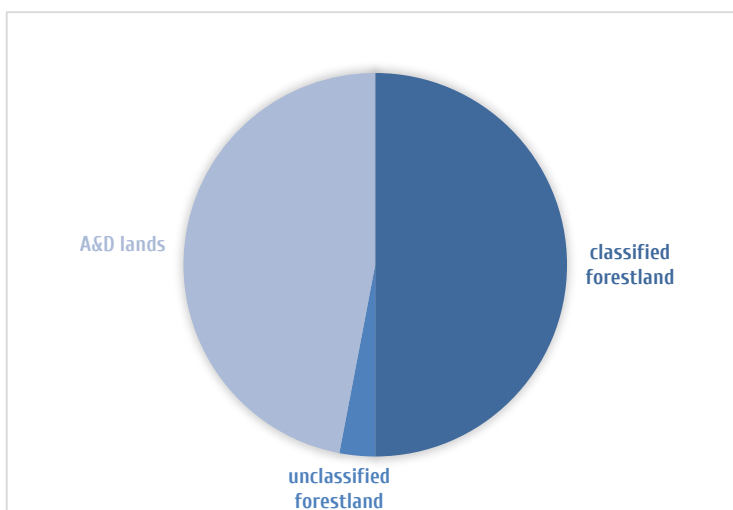
⁷¹ Burns, T. et. al., (2007) Land Administration Reform: Indicators of Success, Future Challenges, Accessed 01 January 2013 from http://www.unece.org/fileadmin/DAM/hlm/prgm/cph/experts/kyrgyzstan/documents/Land.Admin.Reform.Final_Draft_May2007.pdf



In the Philippines, land administration is focused at “[land] mapping and survey, land classification, original titling, transfers of title, land information and records, land taxation and valuation,”⁷² and includes private and public lands.

3.3.2. Land Classification

According to the most recent data from the Department of Environment and Natural Resources (DENR), the country's total land area is legally classified⁷³ as alienable and disposable and forestland.⁷⁴ Out of the total land area (30 million hectares), 15.05 million hectares are classified forestlands; 0.755 million hectares are unclassified forestlands and 14.19 million hectares are alienable and disposable lands.⁷⁵ Of these alienable and disposable lands, 67.8 percent or 9.63 million hectares are already titled.⁷⁶ The Land Management Bureau (LMB), which is under DENR, is tasked with the “survey, management, and disposition of A&D lands, including government lands not placed under the jurisdiction of any government agency.”⁷⁷



1 Distribution of land area according to classification

3.3.3. Issues and Concerns on Land Administration and Management

According to Dealca, et. al., the state of land administration in the Philippines may be characterized by⁷⁸:

⁷² Dealca, R. op. cit.,

⁷³ This is based on the concept of Regalian Doctrine. The Regalian Doctrine “dictates that all lands that have not been acquired from the government, either by purchase or by grant, belong to the State as part of the inalienable public domain” (Republic v. Estono, G.R. No. 157306, 25 November 2005, 476 SCRA 265; Zarate v. Director of Lands, supra.)

⁷⁴ DENR (2014), *Land Resources*, Accessed 01 January 2013 from <http://www.denr.gov.ph/index.php/component/content/article/55...>

⁷⁵ Ibid.,

⁷⁶ Ibid.,

⁷⁷ Ibid.,

⁷⁸ Dealca, R. op. cit.,



3.3.3.1. Multiple Land Agencies

There are a total of 19 government agencies involved in land administration and management.⁷⁹ Main agencies include⁸⁰:

Agency	Function
Department of Agrarian Reform	Lead agency for CARP: <ul style="list-style-type: none"> - Land surveys - Land coverage - Beneficiaries identification - Processing of compensations - Registration of lands - Issuance of certificate of ownership
Department of Environment and Natural Resources	CARP Implementing Agency: <ul style="list-style-type: none"> - Land survey - Land coverage - Beneficiaries identification
Department of Agriculture	CARP Implementing Agency: <ul style="list-style-type: none"> - Delivery of support services
Housing and Urban Development Coordinating Council (HUDCC)	- Policy-making body and coordinating agency on urban development
Housing and Land Use Regulatory Board (HLURB)	- Review of development plans - Zoning - Settling land use conflicts
Land Management Bureau (LMB)-DENR	- Recommendation of policies/ programs for the administration of alienable and disposable lands
Land Registration Authority (LRA)	- Issuing of patents and certificates of title - Registration of land transaction documents
Registry of Deeds (ROD)	- Attached agency of LRA in every city and province
National Commission on Indigenous Peoples (NCIP)	- Provision of assistance to indigenous groups in securing title to their lands

⁷⁹ USAID (2011), *Philippines: Property Rights and Resource Governance*, Accessed 01 January 2013 from http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Philippines/files/HLP%20AoR/Country_Profile_Land_Tenure_Philippines_2011_EN.pdf

⁸⁰ Ibid.,



Agency	Function
	- Approval of any proposed disposal, utilization, management or appropriation of ancestral lands
Local Government Units	- Development of land use and development plans and zoning ordinances
National Mapping and Resource Information Authority (NAMRIA)	- Survey and mapping of land and water resources
Judicial Courts	- Providing decisions on issues arising from the Agricultural Land Reform Code and other related laws and regulations
Bureau of Internal Revenues (BIR)	- Provision of valuation methods based on taxation law
Bureau of Local Government Finance- Department of Finance (BLGF-DoF)	- Consultative services and technical assistance to the local government on real property assessment

Note that with the distribution of functions, agencies have limited capacities to undertake comprehensive land administration and management.

According to the 2002 Institutional Arrangement Policy Study of the DENR-LAMP, these implementing agencies overlap in various mandates and functions. These include: "(1) classification of A&D lands; (2) undertaking of land surveys for titling purposes; (3) approval of subdivision surveys for titling purposes; award of original private rights in A&D lands; (4) maintenance of cadastral maps; (5) compilation of land maps and information; and (6) land valuation and related mapping for taxation purposes."⁸¹

3.3.3.2. Multiple Land Laws

The 1987 Constitution provides the general framework for land administration in the country. In the public domain, lands are classified into agricultural, forest or timber, mineral lands or national parks. Of this classification, only public agricultural lands may be alienable.⁸² The Constitution likewise contains provision for a comprehensive land

⁸¹ DENR-LAMP (2002), *Institutional Arrangements Policy Study*, Accessed 04 January 2014 from http://www.fig.net/pub/vietnam/papers/ts03d/ts03d_dealca_3652.pdf

⁸² Alienable and disposable land "refers to those lands of the public domain which have been the subject of the present system of classification and declared as not needed for forest purposes." (www.nscb.gov.ph/ru12/DEFINE/DEF-ENV.HTM)



reform;⁸³ customary rights of indigenous people to their ancestral domain;⁸⁴ grant to natural-born citizens, who have lost their right to acquire private lands⁸⁵; and creation of autonomous region in selected provinces in Mindanao and administrative region in the Cordilleras.⁸⁶

There are two major land reform laws in the country.⁸⁷ These are the Comprehensive Agrarian Reform Law (CARL), which was amended and extended by virtue of R.A. 9700 or Comprehensive Agrarian Reform Program with Extension and Reforms (CARPER) and the 1992 Urban Development and Housing Act (UDHA). CARPER is focused on improving tenurial arrangements in public and private agricultural lands, regardless of crops, and on providing support services to its program beneficiaries. On the other hand, UDHA serves as the main framework for urban land reform and housing for informal settlers.

Aside from these, the 1987 Constitution also provides for the protection of the Indigenous People's in their right to land. The Indigenous People's Right Act (IPRA) upholds customary property rights of indigenous peoples to their ancestral lands. This law likewise prevents the government from granting license and concessions covering ancestral lands and domains without the indigenous peoples' free and prior informed consent.⁸⁸ On the other hand, the 1989 Organic Act for the Autonomous Region in Muslim Mindanao (ARMM) "provides for self-governance in Mindanao within the framework of national sovereignty."⁸⁹ Other laws relative to land administration is the Civil Code (for property/ inheritance settlement); Family Code (for marital property rights) and other land titling laws, which include:

- **Land Registration Act of 1903.**⁹⁰ Passed during the American Occupation, this law required registration and titling of all lands occupied by private individuals and corporations under the Torrens system.⁹¹ The Torrens system is a system of land registration, which provides the government with the mandate to keep the master

⁸³ Article II, Sec. 21; Article XII Sec. 4-6, 8-10 of the 1987 Constitution

⁸⁴ Article II, Sec. 22; Article XII Sec. 5 of the 1987 Constitution

⁸⁵ Article XII, Sec. 8 of the 1987 Constitution

⁸⁶ Article X, Sec. 15-20 of the 1987 Constitution

⁸⁷ USAID op. cit.,

⁸⁸ Chapter II, Sec. 3 of the Indigenous Peoples Rights Act (IPRA) defines free and prior informed consent as "consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community."

⁸⁹ USAID, op. cit.,

⁹⁰ According to LRA website, while the law was enacted in 1902, the system only actually took effect on 01 February 1903.

⁹¹ ---- (2005), "Competing Claims over Land is One of the Root Cause and Trigger of Conflict in Mindanao," Internal Displacement Monitoring Centre, Accessed 04 January 2014 from [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/658548A8400046B8C12572820035EA38?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/658548A8400046B8C12572820035EA38?OpenDocument)



record of all land and their owners.⁹² A recent ruling from the Philippines Court of Appeals uphold the three attributes of a Torrens title: "(1) a Torrens title is the best evidence of ownership over registered land and, unless annulled in an appropriate proceeding, the title is conclusive in the issue of ownership; (2) a Torrens title is incontrovertible and indefeasible upon expiration of 1 year from the date of the entry of the decree of registration; and (3) a Torrens title is not subject to collateral attack."⁹³

- **Cadastral Law Act of 1913.** Cadastral Act 2259 "provided the mechanism for the compulsory registration of all landholdings covered by the cadastral survey,⁹⁴ similarly through Torrens land titling system. A cadaster is a map or survey, which shows the extent, value and ownership of land.⁹⁵ This map is primarily used for taxation and valuation purposes.
- **Public Land Act of 1936.** Also known as Commonwealth Act No. 141, the Public Land Act is the "general law governing the classification, delimitation, survey and disposition of alienable lands of the public domain."⁹⁶ The systematic titling of alienable and disposable lands is vested on the DENR.
- **Property Registration Decree of 1978.** Presidential Decree No. 1529, also known as Property Registration Degree of 1978 created the Land Registration Commission charged to: "(1) extend speedy and effective assistance to the Department of Agrarian Reform, the Land Bank, and other agencies in the implementation of the land reform program of the government; (2) extend assistance to courts in ordinary and cadastral land registration proceedings; and (3) be the central repository of records relative to original registration of lands titled under the Torrens system, including subdivision and consolidation plans of titled lands."⁹⁷ P.D. 1529 has likewise mandated the establishment of at least one Register of Deeds for each province and one for each city.⁹⁸

⁹² ---- (n.d.), "Torrens Land Registration System Legal Definition," *Duhaime Legal Dictionary*, Accessed 04 January 2014 from <http://www.duhaime.org/LegalDictionary/T/TorrensLandRegistrationSystem.aspx>

⁹³ Supreme Court (2011), "G.R. No. 163551, Sampaco v. Lantud," *Jurisprudence*, Accessed 04 January 2014 from <http://sc.judiciary.gov.ph/jurisprudence/2011/july2011/163551.htm>

⁹⁴ Zuniga (2003), *Philippines: Cadastral Template-Country Data*, Accessed 04 January 2014 from <http://www.fig.net/cadastraltemplate/countrydata/ph.htm>

⁹⁵ ----- (n.d.) "Definition of cadastral in the English Language," *Oxford Online Dictionary*, Accessed 04 January 2014 from www.oxford.org

⁹⁶ Honasan, G. III (n.d.) *SB No. 1931: An Act Reforming the Administrative Titling Process by Amending Certain Provisions of Commonwealth Act No. 141 otherwise known as "The Public Land Act," as amended*, Accessed 04 January 2014 from <http://www.senate.gov.ph/lisdata/65415785!.pdf>

⁹⁷ ---- (1978), *Presidential Decree No. 1529, Chapter 2*, Accessed 04 January 2014 from http://www.lawphil.net/statutes/presdecs/pd1978/pd_1529_1978.html

⁹⁸ *Ibid.*,



3.3.3.3. Overlapping Land Use Regulations/ Boundaries and Inconsistency between Zoning/ Land Use Regulations and Actual Practice

Lack of a comprehensive database for ascertaining land use also leads to overlapping claims and inconsistencies between land use classifications and actual use of land.

Example of overlaps and inconsistencies follow:⁹⁹

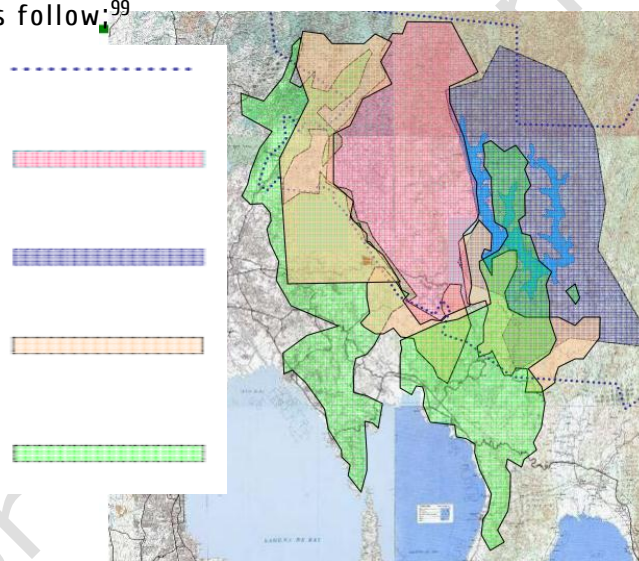
PROC 1636: National Park, Wildlife Sanctuary and Game Preserve Reservations in Tanay Area

EO 33 MARIKINA WATERSHED
Declaring specific areas as part of Marikina Watershed Reserve

PROC 573: KALIWA WATERSHED
Declaring specific areas as part of Kaliwa Watershed

PROC 1637: LUNSOD SILANGAN
Designating areas in Antipolo, San Mateo and Rodriguez Areas as part of Lungsod Silangan Townsite Reservation

DENR Land Classification:
ALIENABLE & DISPOSABLE



3.3.3.4. Multiple Land Titling Processes

The Philippines is the only country among South East Asian Nations that adopts two land titling processes: judicial and administrative. The judicial process is applicable for a property with no existing title; while the administrative process is applicable for transfer of ownerships as in the case of applying for a patent or a public land title.¹⁰⁰ This, however, contribute to "tenure insecurity and high transaction costs in securing, registering and transferring property rights."¹⁰¹ According to a study made by USAID, applying for original titles takes between 6 months to several weeks; while registration of subsequent transactions ranges between several weeks to a few months. There are also instances where competing claims occur due to conflicting decisions determined by administrative and judicial processes.¹⁰²

⁹⁹ Corpuz, A. (2009), *Acquisition of Property in the Philippines: Problems, Issues and Possible Solutions*, Accessed 03 February 2014 from <http://www.fnf.org.ph/downloadables/Freedom-&-Property.pdf>

¹⁰⁰ ---- (2013), "LRA's Five Easy Steps to Land Titling," *Philippine Star*, Accessed 04 January 2014 from <http://www.philstar.com/science-and-technology/2013/02/28/913862/lras-5-easy-steps-land-titling>

¹⁰¹ USAID, op. cit.,

¹⁰² Dealca, op. cit.,



3.3.3.5. Multiple Forms of Ownership Rights in Land

There are various instruments and terms used to provide evidence for land ownership. Public perceptions tend to rank these instruments subjectively. CLOAs, patents, original and transfer certificate of titles, and CADTs are only a few forms of ownership rights.

3.3.3.6. Multiple Standards for Land Valuation and Multiple Agencies Undertaking Valuation

Because there are a number of laws that govern the administration of lands, there is no accepted one standard on the process of buying, selling, renting and mortgaging of lands. Lands acquired through public grants and/or the country's agrarian reform program such as certificate of land ownership awards, emancipation patents and other land patents contain specific restrictions on transfers and mortgage.¹⁰³ Oftentimes, failure in the integration of reform systems on land (particularly on the integration of LAD, PBD and AJD) result to informal transfers of lands or leaseback arrangements, which have then resulted to informal markets and undocumented transfers. Aside from these, various government agencies adopt different (and oftentimes) conflicting bases of land valuation. These bases include "market valuation by zone or area for taxation purposes (which can vary between national and local authorities), and valuation according to use for land conversion or development purposes."¹⁰⁴ Aside from these, zonal valuation systems, which are commonly used by provinces, are outdated.¹⁰⁵ Outdated zonal valuation systems result to undervaluation of properties being assessed.

For CARP alone, four different formulas are being employed to determine the value of the land:¹⁰⁶

- $LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$ where value is determined by adding 60 percent of the Capitalized Net Income (CNI) to 30 percent of Comparable Sales (CS) and 10 percent of the Market Value (MV);
- $LV = (CS \times 0.9) + (MV \times 0.1)$ where CS is used as substitute for CNI and 90 percent of the CS is added to 10 percent of the MV;
- $LV = (CNI \times 0.9) + (MV \times 0.1)$ where CNI is replaced by CS; and
- $LV = MV \times 2$ where land value is equivalent to twice the market value.

¹⁰³ USAID, op. cit.,

¹⁰⁴ Ibid.,

¹⁰⁵ Ibid.,

¹⁰⁶ DAR (2013), FAQs on Landowners' Just Compensation, Accessed 03 February 2014 from www.dar.gov.ph



3.3.3.7. Multiple Taxes on Land Ownership/ Transfer

Both the national government and local governments provide taxation mechanisms for real properties such as lands. The Local Government Code of 1991 provides local governments with fiscal autonomy to vary their tax rates and assessment levels. This, however, results to more red tape and further inefficiencies in securing land ownership/ transfer.

Tax assessment levels are likewise differentiated according to land use.¹⁰⁷

Land Use	Assessment Levels
Residential	20 percent
Agricultural	40 percent
Commercial, Industrial & Mineral	50 percent
Timberland	20 percent
Special Classes: cultural, scientific	15 percent
Hospital and water districts	10 percent

This differentiation tends to "distort decisions on resource allocations."¹⁰⁸ Whether legally permissible or not, tax assessment levels provide incentive (rather than disincentive) to farmland owners who would convert their land into residential subdivisions.

"The assessment levels for improvements are also differentiated based on land use and market value. For example, residential houses with a market value of USD3,500 are exempt. Residential buildings with market value of \$194,000 and above are taxed on 60 per cent of market value. Similar buildings are taxed at 80 percent of market value if they are used for commercial or industrial purposes."¹⁰⁹

3.3.3.8. Implications of Issues on Land Administration to CARP Implementation

According to Ballesteros and Cortez, some failures of the government's agrarian reform program can be attributed to weak land policy and poor land administration.¹¹⁰ This is reflected in the poor targeting of areas to be covered by CARP, conflicts in ownership, coverage and valuation, and conflicting land claims.¹¹¹

¹⁰⁷ Guevara, M. (2003), *Real Property Taxation in the Philippines*, Accessed 03 February 2014 from <http://www1.worldbank.org/publicsector/decentralization/June2003Seminar/Philippines.pdf>

¹⁰⁸ Ibid.,

¹⁰⁹ Guevara, M., op. cit.,

¹¹⁰ Ballesteros & Cortez, op. cit.,

¹¹¹ WB op. cit.,



The study likewise pointed that because the agrarian reform law prohibits the conveyance and transfer of lands through market transactions, informal transfers and unperfected titles have become a perennial problem in agrarian reform lands. These factors have led to increased documentation problems and weakened property rights in the rural lands.¹¹² Informal land markets and informal transfers likewise resulted to the contestability of CLOAs and EPs, despite provision in the CARPER law on the indefeasibility of the CLOA as a land title. At present, DAR has no existing system that monitors informal transfers of land titles.

Lanfer also mentioned that "lack of reliable and clear databases on land property distribution on the Philippines"¹¹³ contribute to the shortcomings of CARP and to the questionable validity of reported data. Lanfer's study noted that land redistribution accomplishments tend to be overestimated, especially in cases where CLOA recipients still have to be installed on the lands awarded to them.¹¹⁴ Poor land records brought by inaccurate mapping and wrong land surveys result to overlapping land titles and multiple registrations.¹¹⁵ These inconsistencies likewise allowed easier conversion of agricultural lands to housing, commercial and industrial purposes.¹¹⁶

Evidence of these inconsistencies may be found in the accounting of land resources according to classification:

¹¹² Ballesteros & Cortez, op. cit.,

¹¹³ Lanfer, op. cit.,

¹¹⁴ Lanfer, op. cit.,

¹¹⁵ ANGO (2012), "Better Land Administration System No Solution to Agrarian Reform says Land Watch Campaign," Land Watch Asia, Accessed 04 January 2014 from <http://landwatchasia.wordpress.com/2012/08/28/better-land-administration-system-no-solution-to-agrarian-reform-says-land-watch-asia-campaign/#more-447>

¹¹⁶ USAID, op. cit.,



LAND CLASSIFICATION IN THE PHILIPPINES

	1. TOTAL LAND AREA ¹¹⁷	2.1. CARP AREAS UNDER DAR (HA) ¹¹⁸	2.2. CARP AREAS UNDER DENR (HA)	3.1. UNCLASSIFIED ¹¹⁹	3.2. ESTABLISHED FOR RESIDENTIAL PURPOSES	3.3. ESTABLISHED TIMBERLAND	3.4. NATIONAL PARKS GRBS/WA	3.5. MILITARY AND NAVAL RESERVATION	3.6. CIVIL RESERVATION	3.7. FISH POND	4. CADTS APPROVED ¹²⁰	CADT APPLICATIONS	5. CERTIFIED A&D ¹²¹	6. MINING AREAS ¹²²
LUZON	14,143,251.00	1,752,945.00		231,976.00	1,929,489.00	3,992,000.00	1,133,851.00	117,908.00	55,999.00	30,487.00	284,870.09	494,973.95	6,651,541.00	
NCR	63,600.00			14,740.00		237.00	59.00			332.00			48,232.00	
CAR	1,829,368.00	77,856.00		8,548.00	804,795.00	666,219.00	6,907.00	554.00			72,298.88	273,573.53	342,345.00	
I	1,284,019.00	140,340.00		30,271.00	226,846.00	201,164.00	12,999.00	288.00	923.00	606.00	6,339.42	52,117.42	810,922.00	
II	2,687,517.00	300,055.00		45,105.00	209,288.00	1,423,482.00	26,388.00	412.00	8,931.00	1,089.00	139,691.62		972,822.00	
III	2,147,036.00	405,290.00		27,268.00	250,902.00	493,882.00	36,970.00	112,819.00	804.00	19,742.00	16,857.29	7,283.00	1,204,649.00	
IV-A	1,622,861.00	204,818.00		21,032.00	98,825.00	424,751.00	20,832.00	3,688.00	28.00	1,757.00		111,000.00	1,051,948.00	

¹¹⁷ 1. NSCB (2006), STATUS OF LAND CLASSIFICATION BY REGION AND BY PROVINCE, ACCESSED 02 FEBRUARY 2014 AT http://www.nscb.gov.ph/secstat/d_natres.asp

¹¹⁸ 2. SEPO (2006), THE PHILIPPINE AGRARIAN REFORM AT A GLANCE, ACCESSED 02 FEBRUARY 2014 AT <http://www.senate.gov.ph/publications/AG%202006-08%20-%20The%20Philippine%20Agrarian%20Reform.pdf>

¹¹⁹ 3. DENR (2011), 2011 PHILIPPINE FORESTRY STATISTICS, ACCESSED 02 FEBRUARY 2014 FROM <http://forestry.denr.gov.ph/2011PFS.pdf>

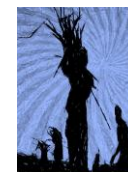
¹²⁰ 4. BASED ON LATEST DATA FROM NCIP: NCIP (2004) 2004 ACCOMPLISHMENT REPORT, ACCESSED 02 FEBRUARY 2014 FROM www.ncip.gov.ph

¹²¹ 5. DENR, op. cit.,

¹²² 6. CECP (2011), ENVIRONMENTAL NGO SLAMS NOYNOY'S 'DEATH SENTENCE' FOR PHILIPPINE FORESTS, ACCESSED 05 FEBRUARY 2014 FROM <http://www.cecphils.org/NGO-slam-PNoy-death-sentence-forests>

LAND CLASSIFICATION IN THE PHILIPPINES

	1. TOTAL LAND AREA ¹¹⁷	2.1. CARP AREAS UNDER DAR (HA) ¹¹⁸	2.2. CARP AREAS UNDER DENR (HA)	3.1. UNCLASSIFIED ¹¹⁹	3.2. ESTABLISHED FOR RESIDENTIAL PURPOSES	3.3. ESTABLISHED TIMBERLAND	3.4. NATIONAL PARKS GRBS/WA	3.5. MILITARY AND NAVAL RESERVATION	3.6. CIVIL RESERVATION	3.7. FISH POND	4. CADTS APPROVED ¹²⁰	CADT APPLICATIONS	5. CERTIFIED A&D ¹²¹	6. MINING AREAS ¹²²
IV-B	2,745,601.00	170,817.00		55,139.00	268,894.00	369,269.00	1,004,420.00	147.00	45,250.00	3,919.00	43,305.53	51,000.00	998,563.00	
V	1,763,249.00	453,769.00		29,873.00	69,939.00	412,996.00	25,276.00		63.00	3,042.00	6,377.34		1,222,060.00	
VISAYAS	5,654,557.00	1,111,995.00		108,930.00	236,471.00	1,823,473.00	42,667.00	180.00	1,211.00	28,973.00	5,730.15	317.00	3,407,102.00	
VI	2,022,311.00	559,688.00		1,520.00	135,344.00	419,171.00	23,505.00		235.00	24,558.00	5,730.15		1,417,978.00	
VII	1,489,077.00	166,802.00		65,638.00	49,619.00	390,151.00	15,054.00	4.00	114.00	4,328.00		317.00	964,169.00	
VIII	2,143,169.00	385,505.00		41,772.00	51,508.00	1,014,151.00	4,108.00	176.00	862.00	87.00			1,024,955.00	
MINDANAO	10,202,192.00	1,563,417.00		414,103.00	1,167,186.00	4,240,547.00	164,479.00	8,042.00	108,736.00	26,067.00	313,542.93	435,854.39	4,754,034.00	
IX	1,599,734.00	158,469.00		26,663.00	424,924.00	370,288.00	2,607.00	46.00	2,611.00	10,135.00	32,841.52	171,811.39	762,460.00	



LAND CLASSIFICATION IN THE PHILIPPINES

	1. TOTAL LAND AREA ¹¹⁷	2.1. CARP AREAS UNDER DAR (HA) ¹¹⁸	2.2. CARP AREAS UNDER DENR (HA)	3.1. UNCLASSIFIED ¹¹⁹	3.2. ESTABLISHED FOR RESIDENTIAL PURPOSES	3.3. ESTABLISHED TIMBERLAND	3.4. NATIONAL PARKS GRBS/WA	3.5. MILITARY AND NAVAL RESERVATION	3.6. CIVIL RESERVATION	3.7. FISH POND	4. CADTS APPROVED ¹²⁰	CADT APPLICATIONS	5. CERTIFIED A&D ¹²¹	6. MINING AREAS ¹²²
X	1,405,599.00	269,799.00		52,602.00	85,140.00	687,444.00	53,319.00	7,996.00	3.00	10,630.00	115,025.68	11,000.00	817,669.00	
XI	2,714,059.00	202,279.00		14,376.00	111,595.00	1,040,220.00	53,643.00		8,880.00	836.00	142,033.54		737,633.00	
XII	1,437,274.00	431,035.00		218,000.00	129,146.00	684,780.00	20,552.00		91,036.00	886.00	11,830.58		730,546.00	
CARAGA	1,884,697.00	200,262.00		7,789.00	392,022.00	992,131.00	2,415.00		6,206.00	2,237.00	11,811.62	253,043.00	544,897.00	
ARMM	1,160,829.00	301,573.00		94,673.00	24,359.00	465,684.00	31,943.00			1,343.00			1,160,829.00	
GRAND TOTAL	30,000,000.00	4,428,357.00	3,771,411.00	755,009.00	3,333,146.00	10,056,020.00	1,340,997.00	126,130.00	165,946.00	85,527.00	604,143.17	931,145.34	14,812,677.00	1,140,136.00¹²³

¹²³ This covers large scale mining concessions as of March 2011



DENR Administrative Order No. 15, Series of 1995¹²⁴ provide definitions of these land classifications. The AO likewise presupposes that each land classification is not a sub-classification of another, which means that data must not be duplicated in each class. This study likewise employed a single, specific year to ensure data consistency, except for CARP lands (which were already determined by CARP scope validation in 1995) and for CADT lands. While dubbed as a moving target by DAR Sec. Virgilio delos Reyes, the original CARP scope remains the main basis for LAD accounting at present, which means that assumptions can still be made on the basis of the data presented. In terms of CADT areas, the study made use of 2003-2004 data, which is the most recent published data from the NCIP, and is more or less fixed. For mining areas, the study adopted the total land covered by large scale mining concessions, and do not include data from small-scale mining concessions, which are currently not available. All other land classifications were determined using figures published in the year 2011.

Based on this accounting, land overlaps cover 3,350,876.51 hectares, which accounts for almost 10 percent of the total land area in the country. Note that conservative estimates were used to determine these overlaps. This only means that the magnitude of conflicting claims in land and overlaps in land classification, may be larger than what is presented in this research.

There are also gaps between coverage difficulties, the long process of securing land titles (whether through administrative or judicial means), and DAR's mandate to acquire and distribute lands within a relatively shorter time duration. In an effort to bridge these gaps, DAR came up with issuance of collective CLOAs, which only then resulted to second generation cases, such as inheritance, subdivision, and boundary disputes, among others. As of March 2013, 1,213,441 hectares of collective CLOA-issued landholdings are yet to be subdivided.¹²⁵

Problems in land management also result to distorted LAD implementation. According to the Department of Agrarian Reform Adjudication Board (DARAB), number of pending cases for year 2012 alone covers 266,000 hectares or 122,000 ARBs. This already covers more than 65 percent of reported accomplishments under CARPER.

Other implications of weak land management systems in the implementation of CARP include:

- **Delays in decision-making.** Because of segmented information between land management agencies, implementers often need to seek validated opinions to avoid potential conflicts. One example of this is the request for legal opinion pertaining to the Basilisa-Cadecor Properties at Bansud, Oriental Mindoro. The request was made to validate whether expropriation of the landholdings where coverage is

¹²⁴ Revised General Guidelines in the Implementation of the Sub-Classification of Forestlands and other Inalienable Lands of the Public Domain

¹²⁵ Data sourced from Department of Agrarian Reform Planning Office

already on-going still feasible; whether expropriation of landholdings is tantamount to circumvention of the CARL; and whether the municipality is capable of developing a huge tract of land.¹²⁶ Note that while CARL provides DAR with the jurisdiction to approve or disapprove land use conversion, the Local Government Code of 1991 empowers cities and municipalities to reclassify agricultural lands on non-agricultural uses.¹²⁷

- **Monopoly of information in identifying targeted landholdings and in conducting investigations on exemption.** While the Barangay Agrarian Reform Council (BARC) may assist the Municipal Agrarian Reform Officer (MARO) in identifying landholdings to be covered and in conducting investigations on exemption¹²⁸, the MARO may (in the event that tenants refuse coverage or the landowner poses too much resistance) opt to not include the landholding in his list of targets and nobody would notice the difference.¹²⁹
- **Delay in processing survey returns.** In a memorandum circular issued in 2008, DAR notes, "land survey is one of the critical components of LTI processes under CARP. As such, the level of accomplishment on LTI, particularly on LAD depends largely on the effectiveness of the implementation and completion of survey project activities, which in turn is affected by the quality of the landholdings subjected to survey activities." Thus, any delay in the conduct and processing of survey returns affect the timing of LAD completion. An interview with Regional Director Alexis Arsenal of DAR Region VIII revealed that there are not enough survey contractors to meet the demand for land mapping and survey.¹³⁰ Aside from this, survey contractors oftentimes cannot comply with the stringent requirements and standards of DENR, which approves the survey. Some geodetic engineer contractors also have difficulties complying with the government procurement law.¹³¹
- **Inconsistent projections of land parcels between LRA and DENR.** Because the LRA and DENR use different data sets in projecting land parcels (technical description by

¹²⁶ Arlanza, R. (2004), "DAR Opinion No. 14-04: Reiteration of Request for Legal Opinion re: Basilica-Cadecor Properties at Bansud Oriental, Mindoro," DAR Legal Information System, Accessed 04 January 2014 from http://www.lis.dar.gov.ph/home/document_view/171

¹²⁷ ---- (1993), EO 124: Establishing Priorities and Procedures in Evaluating Areas Proposed for Land Conversion in Regional Agri-Industrial Centers / Regional Industrial Centers, Tourism Development Areas and Sites for Socialized Housing, Accessed 05 February 2014 from http://hlurb.gov.ph/wp-content/uploads/laws-issuances/mandates/EO_124.pdf

¹²⁸ DAR (n.d.), "Handbook for CARP Implementors," DAR Legal Information System, Accessed 04 January 2014 from http://www.lis.dar.gov.ph/home/document_view/9268

¹²⁹ Based on CARRD's experience in Batangas

¹³⁰ Soria, J. (2010), "Lack of Survey Contractors Delays CARP," Leyte-Samar Daily Express, Accessed 04 January 2014 from <http://leytesamardaily.net/2010/11/lack-of-survey-contractors-delays-carp/>

¹³¹ Ibid.,



LRA and lot computation by DENR), two different and inconsistent base maps are often created. LRA would not register CLOAs and patents when the coordinates overlap with previously projected surveys.

- **Overlapping jurisdictions in public agricultural lands and untitled public agricultural lands (UPAL).** This results to conflicting land claims and other forms of tenurial conflicts.¹³² DOJ Opinion No. 176, s. 1992 allows DAR to cover UPAL in excess of the 5-hectare retention limit even if said land is unregistered or untitled. This runs counter to the Public Land Act, which provide DENR with the jurisdiction to dispose agricultural lands of the public domain.
- **Second generation cases resulting from collective CLOAs.** In an effort to fast track CARP implementation in the past years prior to the passage of CARPER, DAR issued collective CLOAs to ARBs. This, however resulted to conflicting claims, boundary disputes, and problems in the payment of land amortizations. A story documented by CARRD in Bgy. Cubay, San Enrique, Iloilo reported that farmers have been waiting for 15 years for the collective CLOAs to be subdivided.¹³³ "There are some ARBs who have been reportedly selling their parcel of land to other non-beneficiaries. The original tillers of the land have already been into several boundary disputes with the new tillers, especially since they feel that the possession of collective CLOA means *collective ownership*. They were also facing problems in terms of amortization payments, because there are farmers who refuse to pay the annual land amortization to the Land Bank of the Philippines (LBP)."¹³⁴ As of 31 March 2013, DAR has a total balance of 1,213,441 hectares of collective CLOAs that need to be subdivided.¹³⁵
- **Land Valuation Problems.** Landowners tend to reject land valuation and opt for judicial processes to determine compensation. This is because government agencies apply different standards on property valuation.

3.4. Performance of Other CARP Implementing Agencies

This section consolidates assessments in the performance of CARP Implementing Agencies (CARP-CIA).

¹³² DOJ (2002), *Land Laws and Regulations Policy Study*, Accessed 4 January 2014 from www.academia.edu

¹³³ CARRD (2011), *Trudging the Path to Emancipation*, Accessed 04 January 2014 from www.carrd.org.ph

¹³⁴ Ibid.,

¹³⁵ DAR Field Operations Office



3.4.1. Department of Agrarian Reform (Audit Results)

The Department of Agrarian Reform is tasked as the lead agency to oversee the acquisition and distribution of agricultural lands in the country. It is led by 1 Secretary, 5 Undersecretaries, and 4 Assistant Secretaries. As of December 2012, the department has 6,005 employees deployed in the Central office and 15 regional and 79 provincial offices.¹³⁶

In 2011, DAR was able to accomplish the following:¹³⁷

	Target	Accomplishment	Unit	%
1. Land Acquisition and Distribution				
1.1. Land Survey	200,000	100,071	hectares	50
1.2. Processing of CFs for LOs Compensation		2,200	CFs	
1.3. Status of processing of land distribution	200,000	120,284	hectares	60
a. CARPable				
a.1. private agri lands		48,985	hectares	
a.2. non-private agri lands		62,904	hectares	
a.3. no. of ARBs		62,262	ARBs	
b. non-CARPable				
		8,395	hectares	
2. Leasehold Operation				
2.1. Area placed under leasehold	16,422	14,880	hectares	90
2.2. no. of ARBs	8,875	7,488	ARBs	84
3. Other LTI Services				
3.1. Redocumentation of distributed but not yet paid/documented lands	38,826	11,095	hectares	29
3.2. Subdivision of collective CLOA	195,435	34,656	hectares	18
3.3. Redocumentation of collective CLOA	133,904	44,544	hectares	33
3.4. Installation of Uninstalled ARBs				
3.4.1. No. of ARBs	3,540	3,033	ARBs	86
3.4.2. No. of Hectares	4,214	4,046	hectares	96
1. Adjudication of agrarian cases				
	21,848	19,006	cases	87
2. Agrarian Legal Assistance				
2.1. Judicial/ court	1,486	1,488	cases	100
2.2. Quasi-judicial	11,542	14,787	cases	128
2.3. Agrarian Law Implementation (ALI)	46,394	56,338	cases	121
2.4. Mediation/ conciliation	30,774	40,650	cases	132

¹³⁶ COA (2012), *Annual Audit Report for Department of Agrarian Reform*, Accessed 14 April 2014 from <http://www.coa.gov.ph/index.php/national-government-agencies/2012/category/104-department-of-agrarian-reform>

¹³⁷ COA (2011), *Annual Audit Report for Department of Agrarian Reform*, Accessed 14 April 2014 from <http://www.coa.gov.ph/index.php/national-government-agencies/2011/category/104-department-of-agrarian-reform>



	Target	Accomplishment	Unit	%
1. Development of ARCs				
a. no. of ARCs	57	36	ARCs	63
b. no. of ARBs	84,988	29,553	ARBs	35
2. Gender Responsive Training				
a. no. of ARBs	218,855	147,765	ARBs	68
b. ARB membership in organization				
c. no. of organization		6,430		
d. no. of members	76,253	46,563	ARBs	61
3. Sustainable Agribusiness and Rural Enterprise Development (SARED)				
a. Development of lands into agribusiness				
a.1. no. of business plans prepared	134	387		289
a.2. no. of hectares	86,530	44,913	hectares	52
b. Development of gender-responsive agri and non-agri enterprises				
b.1. no. of products and services developed	265	571		215
b.2. no. of products launched in commercial markets	146	291		199
c. Marketing Assistance Program				
c.1. no. of contracts facilitated w/ agribusiness firms/ buyers	769	1,053		137
c.2. no. of organizations involved	426	528		124

2 Performance of DAR CY 2011

Based on the above matrix, DAR accomplished only half of its targets for land survey and processing of claim folders, while it registered dismal performance in the redocumentation and subdivision of lands with collective CLOA. According to the COA report the low performance rate in subdividing collective CLOAs may be attributed to "(a) management's failure to adopt an effective implementation strategy; and (b) problematic CLOAs (CLOA-holders no longer have actual possession of the land)."¹³⁸ Problems in redocumentation lead to lag in the payment of annual amortization rate to LBP.

This is true in the case of ARBs in Goce, Sto. Nino and Carmencita at President Roxas, Capiz. Sto. Nino and Carmencita are ARC areas while Goce is a non-ARC area. All three communities hold collective CLOAs that span for at most 10 years. According to the ARBs, they have been communicating this concern to the DAR Provincial Office for several years, but still to no avail. DAR allegedly has no budget to conduct subdivision survey, according

¹³⁸ COA (2011), "Observations and Recommendations," *Annual Audit Report for Department of Agrarian Reform*, Accessed 15 April 2014 from <http://www.coa.gov.ph/index.php/national-government-agencies/2011/category/104-department-of-agrarian-reform>



to the ARBs. However, according to a staff at the LTI survey division of DAR-Capiz, their division always manages to reach their targets, and at certain times surpass them. She, however, noted that survey lags in areas where there are pending petitions for inclusion/exclusion, or where there are questions on the actual ownership of the land. In the case of the three communities, ARBs are not aware of any petition filed to question their ownership of the land. They said that if the situation worsens and DAR fails to re-document the landholdings in a few years, they will not be able to pay annual amortization properly, which in turn, will potentially impact their tenure security.

Other findings in past COA reports include:

- (1) DAR granted more than 3 hectares of land to more than 1,000 beneficiaries in 2008. This covers 4,092.47 hectares.
- (2) Failure of QUEDANCOR, DTI and LBP to monitor loans granted to FBs and to follow strictly the guidelines for implementation of the program resulted to non-recovery of the government's investment program.
- (3) Audit results for DAR have been adverse for the past 5 years.

3.4.2. Department of Environment and Natural Resources

3.4.2.1. Interventions

The DENR provide the following interventions for CARP:¹³⁹

- (1) Land Distribution: patent processing and issuance
- (2) Support to LAD: land survey of public A&D lands, inspection, verification and approval of surveys for DAR survey projects
- (3) PBD (CBFM-CARP): agroforestry developments and livelihood projects

¹³⁹ DENR (2014), DENR-CARP, Accessed 17 April, 2014 from <http://www.denr.gov.ph/about-us/history/898.html>



3.4.2.2. Accomplishments

DENR-CARP registered the following accomplishments as of 31 December 2011:¹⁴⁰

STATUS OF DENR-CARP LAND DISTRIBUTION
July 1987 to December 31, 2011



LAND TYPE	SCOPE	ACCOMP.	BALANCE
Public A & D Lands	2.5 M. Ha	2.2 M Ha	0.310M Ha
ISF/CBFM Areas	1.2 M.Ha	1.3 M Ha	
TOTAL	3.7M Ha	3.5 M Ha	0.310M Ha

³Excerpt from www.denr.gov.ph

Latest available record of DENR accomplishments under CARP follows:

1. Land Management	Target	Accomplishment
Inspection, verification and approval of survey	115,000	99,188
2. Public Land Survey (PLS)	98,814	98,882
3. Land Disposition		
Patent, Processing and Issuance	113,418	113,042

4DENR-CARP Accomplishments CY 2011

While the DENR reported high accomplishment rates in public land survey, field visits by COA revealed several landholdings that are yet to undergo PLS. According to the DENR targets that were stated in the report are those that have no pending protests or conflicts. Conflicting land claims and protests that result from these delay the conduct of PLS.¹⁴¹ Note that the PLS is important because it "enhances security of tenure and hastens boundary

¹⁴⁰ Ibid.,

¹⁴¹ According to DENR, PLS covers both residential and agricultural land conducted by a licensed geodetic engineer. The survey will establish permanent boundary of lot of individual beneficiaries.



conflicts and development of records for geographic spatial framework.¹⁴² A CLOA or patent may not be generated without the conduct of PLS.

Other reasons cited by the COA report is lack of manpower and field personnel to conduct the PLS. Mobility of survey personnel is likewise a problem because some main roads are "NPA-infested."¹⁴³ The COA report also noted that the absence of software to fast track the preparation of complete survey returns affect the performance of DENR in terms of conducting land surveys.

3.4.3. Land Registration Authority

	Target		Accomplishment	
	No. of Titles	Area	No. of Titles	Area
Emancipation Patent	3,561	4,011	3,131	3,678
CLOA	44,791	129,632	42,386	125,480
Free Patent Registration	73,054		73,054	
Free Patent Distribution	85,000		74,808	

5LRA-CARP Accomplishments CY 2011

The LRA is responsible for the registration of CARP titles. It is "duty-bound to ensure that no disposition or alienation of agricultural lands under the CARP can be made unless properly authorized by law."¹⁴⁴

Except for unliquidated funds, the COA reports did not bring in specific findings in the processes of LRA in terms of CARP implementation. However, a COA report in 2006 mentioned that Registers of Deeds (RoD) are more efficient at distribution of deeds than the LRA. According to the report, the LRA spent PhP 3.958 million to distribute 22,751 patents while Registers of Deeds were able to distribute 97,765 patents at a cost of PhP 1.495 million.¹⁴⁵ This means that the unit cost of distribution of one title under the LRA is at PhP 173.97 while the unit cost of distribution of one title under the RoDs only amounts to PhP 15.29.

3.4.4. Department of Trade and Industry

	Targets	Accomplishment
ARC Assisted	597	696
Investments Generated	699,426,181.91	738,866,225.00
Sales Generated	970,316,904.90	1,158,124,074.00

¹⁴² DENR (2014), "Land Management Services," Department of Environment and Natural Resources-CARAGA, Accessed 15 April 2014 from <http://caraga.denr.gov.ph/index.php/technical-services/land-management-service>

¹⁴³ New People's Army (NPA) is the military wing of the Communist Party of the Philippines.

¹⁴⁴ DAR (n.d.) CARP Implementing Agencies, Accessed 14 April 2014 from <http://darormindoro.com/carp-agencies.html>

¹⁴⁵ COA (2006), Utilization of the Forfeited Swiss Deposits for the Implementation of the Comprehensive Agrarian Reform Program (CARP), Accessed 14 April 2014 from http://www.coa.gov.ph/phocadownloadpap/userupload/GWSP/other-reports/Comprehensive-Agrarian-Reform-Program/CARP-SPA2006-01_ES.pdf



	Targets	Accomplishment
Employment Generated	40,410	44,277
Entrepreneurs Developed	1,237	1,608
MSMEs Established	743	781
MSMEs Maintained	2,016	1,510
Non-ARC Assisted	147	237
FBS Served		
Productivity Improvement	7,346	4,160
Entrepreneurial	12,952	13,852
Skills	10,075	14,205
Technology Mission	1,189	1,518
Trainings and Seminars		
Productivity Improvement	321	215
Entrepreneurial	687	722
Skills	603	612
Technology Mission	116	101
Project Feasibility Studies	552	555
No. of Selling Missions	47	28
Market Linkages	1,751	2,569
No. of Trade Fairs	385	621
No. of Promo Collateral	294	383
No. of Product Development Activities	346	459

6CARP-DTI Accomplishments CY 2011

Under the CARP, DTI is mandated to establish the Small and Medium Industrial Technology Transfer Development Program (SMITDP) for CARP farmer-beneficiaries and landowners. A COA report in 2011 outlined standing loan receivables of DTI from beneficiaries from 1991 to 1998 amounting to PHP 16.07 million. Under its program for CARP beneficiaries, DTI has been providing common service facilities (CSF) to ARB organizations engaged in micro, small or medium agro-industrial projects.¹⁴⁶ The initial recommendation from the management of DTI is to pull out all unpaid CSF items. As it was not effectively carried out,¹⁴⁷ the Program Manager of DTI-CARP issued a memorandum announcing that the CSF represents loans with no interest.

¹⁴⁶ COA (2011), "Observations and Recommendations," *Annual Audit Report for Department of Agrarian Reform*, Accessed 15 April 2014 from <http://www.coa.gov.ph/index.php/national-government-agencies/2011/category/104-department-of-agrarian-reform>

¹⁴⁷ Ibid.,



3.4.5. Department of Labor and Employment

Skills Training	55	workshops
	1,664	FBs
	23	on-going livelihood support projects
	12	livelihood projects

7CARP-DOLE CY 2011

According to the COA report, the participation of DOLE aims to develop ARB organizations into viable and self-reliant organizations.¹⁴⁸ DOLE likewise contributes by training and organizing farmworkers in plantations as they become ARBs. According to the DOLE website, the SRO-CARP project has covered 36 areas nationwide from 1989-2014. No significant finding was made by COA in the performance of DOLE. However, it reported instances of excess authorized allotment for travelling, training, and expenses for logistics.

3.4.6. National Irrigation Administration

Engineering Activities		
On-Going Activities (January 1999-December 2008)		
	Target	Accomplishment
Total No. of Projects	327	327
Total Area	90,719	76,533
Total No. of FBs	62,999	53,462
Institutional Development Program		
IA Strengthening	11,335	11,335
IA Development Training	2,015	520
Staff Development Training	630	418

8CARP-NIA CY 2011

The NIA receives annual support from CARP budget for the construction, rehabilitation, and maintenance of communal irrigation pumps for ARBs. NIA also provides access roads to irrigation canals.

¹⁴⁸ Ibid.,



3.4.7. Land Bank of the Philippines

The LBP functions as the financial intermediary of landowners and ARBs. It "pays the landowners the value of their land, collects land amortization from beneficiaries, and provides credit facilities and other technical assistance to both the landowners and farmer-beneficiaries."¹⁴⁹ According to the COA report the LBP makes use of the Agrarian Reform Fund (ARF)¹⁵⁰ to finance the payment of landowner's compensation in the forms of cash payment, redemption of bonds and interest payment on bonds.¹⁵¹ The LBP also sourced credit facilities to farmers' organizations, cooperatives and rural banks from the ARF until 1996. The ARF was also used by the LBP to purchase fixed assets from 1987-1992.¹⁵²

The COA reports noted the inability of LBP to collect its agrarian reform receivables (ARR) in the past years. As per COA's assessment, most ARRs are deemed uncollectible due to the problematic nature of landholdings and geographic inaccessibility. COA likewise noted that valuation reserves provided on the ARR is grossly inadequate to cover problematic accounts. Note that income from ARR is deposited to the National Treasury and becomes part of the General Fund.¹⁵³

3.4.8. Summing up

The following are the major points that came up from the COA reports:

CARP-IA	Major Audit Findings
Department of Agrarian Reform	<ul style="list-style-type: none"> - low performance rate in subdividing collective CLOAs - granting of lands beyond the size prescribed by the law - failure to monitor loans granted to FBs and to follow strictly the guidelines for implementation of the program resulted to non-recovery of the government's investment program
Department of Environment and Natural Resources	<ul style="list-style-type: none"> - low accomplishment rates in PLS due to conflicting land claims and protests, limited mobility of survey personnel and peace and order situations

¹⁴⁹ Ibid.,

¹⁵⁰ The ARF is a special fund created by virtue of Proclamation No. 131 in 1987. The sources of fund were: (a) proceeds from the Asset Privatization Trust; (b) sale of ill-gotten wealth; (c) and other sources that the government deems appropriate.

¹⁵¹ Ibid.,

¹⁵² Ibid.,

¹⁵³ DBM (2012), *GAA: Department of Agrarian Reform*, Accessed 16 April 2014 from <http://www.dbm.gov.ph/wp-content/uploads/GAA/GAA2012/DAR/DAR.pdf>



Land Registration Authority	<ul style="list-style-type: none"> - inefficient distribution of patents - gross disparities between cost of distribution in LRA and RoDs
Department of Trade and Industry	<ul style="list-style-type: none"> - problematic loan repayments
Department of Labor and Employment	<ul style="list-style-type: none"> - unauthorized and excessive spending for trainings and training materials
National Irrigation Administration	<ul style="list-style-type: none"> - no significant COA finding
Land Bank of the Philippines	<ul style="list-style-type: none"> - inability collect ARRs

3.5. Micro Impact of CARP and CARPER

An interview and focus-group discussion was conducted among ARB-members of PROARBMPC to assess the impact of CARP to their livelihoods. ARBs from ARC and Non-ARC areas were considered to determine whether there are significant differences in the socio-economic situation of ARBs in ARC and non-ARC areas. Note that these areas are contiguous and are planted with sugarcane and coconut. Both ARC and non-ARC areas were awarded with collective CLOA in 1994 upon the onset of Task Force Sugarlands. Both areas have been partners of CARRD through PROARBMPC since 1994.

ARBs from the ARC area noted no significant difference in their living condition compared to ARBs from the non-ARC area. However, they mentioned that their lives have improved after CARP. As farm workers, they used to earn daily wages to make both ends meet. At present, ARBs from ARC and non-ARC areas earn an average of PhP 50,000-PhP 75,000 a year from their produce. They were able to send their children to school and hire other laborers to help them in the field.

However, both sets of ARBs mentioned that they have not received any form of support service assistance from DAR or LGUs. Both sets of ARBs also identified relatives and friends to be the primary (and only) source of credit or financial assistance during lean periods. Both sets of ARBs likewise mentioned that their income in their land is not enough to support the family's needs. Both sets of ARBs are working as farm workers in other landholdings, where they earn PhP 100 a day.

Both sets of ARBs have minimal access to health care facilities. Only one out of the ten ARBs interviewed have access to free health care through PhilHealth. Likewise, only one out of 10 ARBs have family members, who managed to reach college.



According to the ARC Level Development Assessment Report (ALDA)¹⁵⁴ of DAR in 2012, ARBOs in the Sto. Nino-Carmencita ARC fare well in terms of level of development and organizational maturity. Sto. Nino-Carmencita ARC got a 5 rating in terms of level of development. ARCs with a rating of 5 are deemed to have the maximum level of development in terms of the following key result areas: (1) land tenure improvement; (2) organizational maturity; (3) economic and physical infrastructure support services; (4) farm productivity and income; (5) basic social services; and (6) gender and development.

Note that the ALDA rating does not coincide with the present level of development viewed by the ARBO. ARBs from Sto. Nino-Carmencita still have problems in the re-documentation of their landholding; economic and physical infrastructure and support services have not been felt by ARBs, particularly after the onset of typhoon Haiyan; and access to basic social services remain dismal.

In addition, being ARBs did not help respondents in increasing the resilience of their farm from natural calamities. All ARBs suffered from immense loss in their livelihood after typhoon Haiyan. As of the time the interview was conducted, both sets of ARBs have not received any assistance from DAR or any government agency to help their recover from their loss.

3.6. Proposed Next Steps

The identification of issues and concerns on the implementation of CARP and CARPER in the past years contribute to determining viability of changes during the transition period for CARP. To complete the picture, this section outlines proposed transition and institutional arrangements of various stakeholders during CARPER transition.

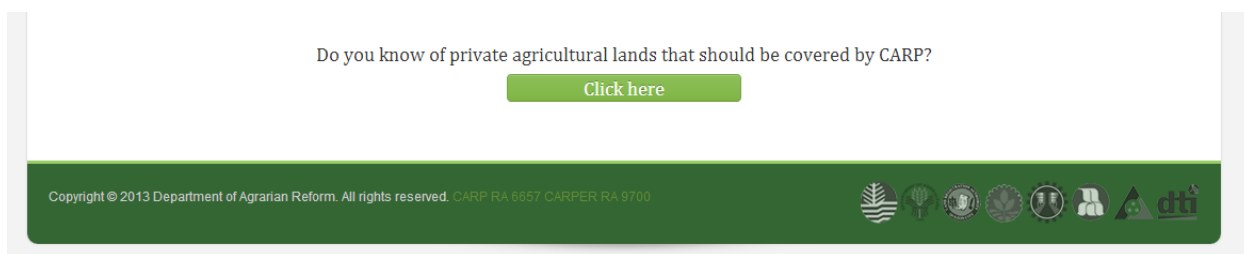
3.6.1. Policy Framework Options

3.6.1.1. Amendment to some provisions of CARPER

House Bill 426, "An Act Mandating the Completion of the LAD Component of the Comprehensive Agrarian Reform Program pursuant to Republic Act 6657, otherwise known as the Comprehensive Agrarian Reform Law, as amended" was filed by Rep. Cresente C. Paez and Rep. Teddy Baguilat to the House of Representatives. The bill aims to amend Section 30 of RA 9700 to include issuance of notice of coverage and resolution of cases/proceedings. In the original provision, the law only states that "any case and/or proceeding involving the implementation of the provisions of RA 6657, as amended, which may remain pending on 30 June 2014 shall be allowed to proceed to its finality and be executed even

¹⁵⁴ ALDA is an assessment tool adopted by DAR to measure ARCs' level of development using key indicators





9A screenshot of DAR's announcement in its website

beyond such date."¹⁵⁵ The proposed bill changes the date from 30 June 2014 to 30 June 2015 and included a specific provision for the issuance of Notice of Coverage.

From January to February 2014, DAR has already issued Notice of Coverage covering 1,189 landholdings in the country.¹⁵⁶ At present, DAR is still seeking for information on new landholdings that may be covered with CARP and served with NOCs. The Department likewise expressed that it will not be able to issue all NOCs on or before 30 June 2014. This amendment therefore seeks to ensure that DAR will be able to cover all CARPable landholdings in the country. All landholdings with NOC will automatically go through LAD processes even after 2014 or 2016.¹⁵⁷

The proposed amendment is likewise explicit in the coverage of public lands under CARP even after 30 June 2015. This includes: "(a) lands classified as alienable and disposable, which are suitable for agriculture but are not in the CARP coverage as of 30 June 2015; (b) lands declared as alienable and disposable, which are suitable for agriculture after 30 June 2015; and (c) government lands that are reserved for military or educational purposes but which are no longer actually, directly, and exclusively used and found to be necessary for their intended purposes in relation to EO 448 and EO 407."¹⁵⁸ Note that as of 2011, unclassified lands are still comprised of 75,009 hectares.

Sec. 21 of RA 9700 is also amended to remove the mandated completion date of CARP. The proposed provision explicitly states that funding for CARP shall continue until complete acquisition and distribution of all agricultural lands.

¹⁵⁵ ____ (2009) "Section 30: Resolution of Case," Republic Act 9700, An Act Strengthening the Comprehensive Agrarian Reform Program, extending the acquisition and distribution of all agricultural lands, instituting necessary reforms, amending for the purpose certain provisions of RA 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, as amended, and appropriating funds therefor. Accessed 14 April 2014 from http://www.lawphil.net/statutes/repacts/ra2009/ra_9700_2009.html

¹⁵⁶ Manual count of published Notice of Coverage in the DAR Website

¹⁵⁷ PIA (2012), Land Distribution for Landless Farmers to Continue-DAR, Accessed 14 April 2014 from <http://news.pia.gov.ph/index.php?article=221391486048>

¹⁵⁸ Sec. 3, House Bill 4296



3.6.1.2. Status Quo: Five-Year Extension of CARPER

House Bill 3305 or "An Act further strengthening the Comprehensive Agrarian Reform Program (CARP) by further extending the acquisition and distribution of all agricultural lands, further amending for the purpose sections 7 and 63 of RA 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, as amended, and appropriating funds therefor" was filed by Rep. Rufus Rodriguez and Rep. Maximo Rodriguez Jr. is also pending at the House of Representatives. The proposed bill amends the mandate for completion of land from 30 June 2014 to 30 June 2019. The proposed bill presupposes that all agricultural lands will be distributed by year 2019. All other mechanisms will be retained.

3.6.1.3. Passage of Genuine Agrarian Reform Bill

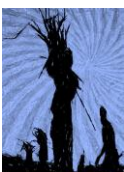
House Bill 374, more popularly known as the Genuine Agrarian Reform Bill (GARB) was filed Rep. Rafael Mariano to the House of Representatives. GARB was an alternative bill to CARPER in 2008. The bill "seeks to enable the State to confront the fundamental problem of our society, break up monopoly and foreign control of our lands, and implement free land distribution that will render social justice to millions of landless farmers."¹⁵⁹ The bill covers all agricultural lands, with no exemption or exclusion through nationalization of all lands. According to Ibon Foundation, the basic features of the bill are: "1) swift and decisive redistribution of all agricultural lands including those controlled by foreign agribusiness corporations, to all landless farmers and farmworkers, and Filipinos willing to till the land; 2) free land redistribution and only minimal compensation to landowners; 3) providing ARBs capital and input support with minimal interest payments and payable after a minimum period of five years to give farmers sufficient time to develop and improve their productivity."¹⁶⁰

3.6.2. Transition Period for Agrarian Reform: Recommendations

Of the three policy framework options, HB 426 closely responds to the situations outlined by the study. An agrarian reform law that does not adhere to a set of deadlines will allow implementers to reorganize its institutions and insert key reforms. However, it must be noted that HB 426 will not solely respond to the loopholes of CARP. The need to address problems in conflicting land claims and overlapping land boundaries call for a stronger set of implementing institutions and passage of other key legislations such as the National Land Use Act (NLUA) and the Land Administration and Reform Act (LARA).

¹⁵⁹ Mariano (n.d.), Salient Points of HB 374 or Genuine Agrarian Reform Bill (GARB), Accessed 14 April 2014 from <http://www.asianpeasant.org/sites/default/files/SALIENT%20POINTS%20OF%20HB%20375%20OR%20GENUINE%20AGRARIAN%20REFORM%20BILL.pdf>

¹⁶⁰ Ibon Foundation (2014), IBON Foundation Position on House Bill No. 3305 introduced by Representative Rufus B. Rodriguez and Representative Maximo B. Rodriguez, Jr.



It must also be further noted that the LARA should be connected with and follow the principles of NLUA. By integrating land administration systems and coming up with responsive mechanisms to ensure that all people, particularly the marginalized have secure property rights, most problems in land tenure will be addressed.

While the present administration has committed for the completion of land acquisition and distribution (LAD) until 2016, there is a need to ensure that funding for agrarian reform implementation will not be terminated by 2014. This is to ensure that agrarian reform implementation will continue while transition to arrangements will take place.

The need for rationalized sets of rural development agencies is founded on the belief that problems and challenges in agrarian reform implementation will not be addressed without inserting key reforms on the policies and mandates of key institutions involved. Recent findings of this study also supports the need to push for long-term reforms and to sidestep band-aid measures that, while address problems at the outset, will not really provide a sustainable mechanism for attending to land related issues. It must be noted that as efforts are being undertaken to ensure completion of LAD; there must also be efforts that would institutionalize interventions for the benefit of ARBs and farmers in general after the LAD is completed.

The study likewise recommends for the following processes will be undertaken during the transition period:

- **Engaging stakeholders involved in cross-sectoral land issues.** There is a need for extensive consultations among CSOs, local government units, national agencies and line agencies to pre-plan for ways to address cross-sectoral land issues. Integrating these concerns will provide for a good starting framework for the founding of new institution/s.
- **Passage of key legislations.** Apart from passing of legislations that will provide fresh mandates to new rural development agencies, there is a need to pass the National Land Use Act (NLUA) and the Land Administration Reform Act (LARA). A land use policy will provide the framework for management and utilization of land resources, while the LARA will provide for the enabling mechanism to ensure that reforms are carried out. In the course of lobbying for these legislations, stakeholders from the private and public sectors need to ensure that the provisions of LARA will support the key provisions of NLUA.



- **Rationalization of concerned government agencies.** While the DBM prescribes for a 10-month period for rationalization¹⁶¹ in accordance with EO 366, there is a need to extend the planning period to anticipate reorganization of agencies after the transition period.
- **Review of existing mandates.** Rural development agencies must work together to review their existing mandates, identify gaps and overlaps and formulate transitory steps to address them. CSOs and other stakeholders may also be involved in the review process.
- **Review and evaluation of Local Government Code.** Experiences of farmer-paralegals and farmer-groups in dealing with local government units show that political culture (patronage politics) and competence of LGUs in implementing development projects hinder grassroots initiative. In a focus-group discussion conducted by CARRD on January 2014, farmers and farmer-paralegals expressed disinclination to possibly devolve support services to LGUs.
- **Planning to provide interventions for the landless poor.** As mentioned, the implementation of CARP led to the creation of a new layer of landless poor. ARBs who were able to improve their economic status have managed to hire farmworkers to do the most difficult aspects of farming, waged at piecemeal basis. This new layer of poverty is yet to be addressed by any poverty alleviation effort on the part of the government.

3.6.3. Transition to Reorganized Rural Development Agencies

3.6.3.1. Land Acquisition and Distribution

Stakeholders from civil society organizations¹⁶² and key officials from DAR¹⁶³ agree that the establishment of a single agency to oversee land acquisition and distribution, resolve conflicts and perform other land administration functions would best advance the gains of CARPER and reform loopholes in the country's land administration system. In this institutional arrangement, the new agency must initiate the development of a comprehensive database of landholdings in the country, integrate planning for land classification, title issuances, and records management. According to a report of Sec. delos Reyes, this single agency may be the **Department of Land Reform and Management (DLRM)**

¹⁶¹ --- (2004), EO 366: Government Rationalization Program, Accessed 05 February 2014 from www.dbm.gov.ph/wp-content/OPCCB/new_search/govt.ppt

¹⁶² Based on the survey questionnaire forwarded to members of AR Now! (See Annex 1)

¹⁶³ Personal communication with FOO USec Joe Gagheda and LAO USec Tony Parungao



Farmer-paralegals also agree that with the nature of remaining lands to be distributed, there is already a need to refine and redefine strategies for LAD. The establishment of a comprehensive land database would have addressed problems on missing titles – a major roadblock in advancing steps in the acquisition and distribution of private, and even public agricultural lands.

The development of a comprehensive database will also help in the subdivision of collective CLOAs, and eventually in addressing second-generation problems and conflicts. Farmer-paralegals likewise expressed concern about cases where after the issuance of notice of coverage, retention areas for landowners were arbitrarily replaced, thereby affecting some ARBs farming the land. Other concerns likewise include identified CARP areas that already have existing Transfer Certificates of Title (TCT) for a different landowner in the Registry of Deeds.

3.6.3.2. Program Beneficiaries Development

There are a number of suggestions for possible institutional arrangements in PBD. These are:

- (1) **Devolution of PBD functions to local government units.** According to DAR Undersecretary for Support Services Jerry Pacturan, needs and conditions will be more adequately addressed if the services are devolved to LGUs.¹⁶⁴ This supports the presupposition that LGUs possess more intimate knowledge about local conditions than a centralized agency. Support services, in order to be efficient and effective, need to be tailor-fitted to the needs and conditions of farming communities.
- (2) **Creation of a bureau within the DA to oversee delivery of support services to ARCs.** Since the DA carries the primary mandate of promoting agricultural productivity, transferring of PBD functions from DAR to DA would be a logical step. This proposal is being considered under AO 34 in that, "... the delivery of support services, agrarian reform beneficiary development, and the smooth transfer of the mandate of DAR to DA are continuing concerns of the government to ensure that the gains of land distribution under CARP are sustained."
- (3) **Reorganization of DA to meet support service delivery in the municipal level.** This suggestion adheres that the provision of support services will not be effective if they are subjected to the whims and patronage politics of local government officials. Hence, DA will only be able to deliver support services

¹⁶⁴ Personal communication, November 2013



effectively, if support services are renationalized. This suggestion also promotes local presence of the national DA up to the municipal level.

- (4) **Making use of BARC in support services delivery.** While the BARC has played a major role in the LTI component of CARP, no effort has been made to extend its role in the provision of support services. This suggestion promotes using the BARC as the main conduit and implementer of support services to ARB communities. An agency (which may be a re-nationalized DA) in the municipal level will take the shoulder the task of monitoring implementation under this scheme.

The main beneficiaries of the program ranked credit as their main support service requirement. Agricultural extension services, on the other hand, ranked as the least priority. Farmers note that starting as a new ARB is difficult since they do not have the means to tide them over the lean seasons, as well as the capital to start anew. Farmers also note the stringent requirements of the Land Bank of the Philippines in securing loans prevent them from accessing much needed capital, thereby forcing them to look at other informal lending facilities.

Farmers, particularly those who are in the sugarcane areas also fear of the implications of AFTA implementation. According to them, if the price of sugar will drop to less than PHP 1,000 per bag, they will not be able to recover expenses from agricultural inputs. Absence of support services that will subsidize, if not allow farmers to access inputs at lower costs will be to the detriment of the local sugar industry sector.

These concerns must therefore be taken into account in the planning for institutions for support services. It must also be noted that based on the focus group discussion conducted with ARBs from President Roxas, Capiz, the farmers will support reorganization of whatever nature if it proves to be responsive to the needs of the farmers in their locality. While they strongly oppose the devolution of support services to local government units, they support whatever institutional change may be necessary to improve the delivery of support services to ARBs.

3.6.3.3. Agrarian Justice Delivery

In terms of AJD, the DAR and farmer-paralegals agree that AJD must not be separated from LTI and LAD functions. DAR Undersecretary Antonio Parungao and interviewed farmer-paralegals also noted the importance of compulsory arbitration in the speedy resolution of cases at the community or MARO level. Compulsory arbitration is deemed effective in areas where there is landlord resistance and where land acquisition scheme is under compulsory acquisition.



Farmer-paralegals have recommended for the retaining of quasi-judicial case resolutions, and avoiding (except on extreme circumstances) court proceedings to avoid lagging of cases.

One of the good practices in AJD is the continuous involvement of CSOs in the identification and assessment of agrarian cases. Where necessary, CSOs must be tapped to assess conditions and recommend for ways in which case resolutions must be resolved.

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