

CARPER Diem: A Socio-Legal Analysis of the State of the Comprehensive Agrarian Reform Program in the Aquino Administration

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I. INTRODUCTION

Five years after the celebrated passage of Republic Act (R.A.) No. 9700,¹ or the Comprehensive Agrarian Reform Program Extension with Reforms

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(CARPER Act), the Philippines' Comprehensive Agrarian Reform Program (CARP) is once more in a difficult state. Hampered by the underperformance of the Department of Agrarian Reform (DAR) in the fulfillment of its land redistribution and support services mandates, and buffeted by waves of reported land-grabs and human rights transgressions, the integrity of the constitutionally-ordained land redistribution effort continues to be threatened with severe setbacks, if not possible reversal. It is hardly the first time that the future of the nationwide agrarian reform program has been confronted with considerable uncertainty — indeed, the approval of the CARPER Act itself can be seen as an outcome of an especially tumultuous phase in the CARP's history. Yet given that the extension and reform of the CARP in 2009 has previously been hailed by numerous farmers groups, civil society organizations, and social justice proponents as a “triumph of the Filipino peasantry,”² the present set of circumstances afflicting the national agrarian reform effort comes as an especially troubling development, deserving of thorough analysis and reflection.

In this context, this Note provides a socio-legal examination of the present state of the CARP and the challenges the program has faced throughout the administration of President Benigno Simeon C. Aquino III. Drawing from both state-society relations and contentious politics perspectives, the Authors argue that despite the considerable gains in reform achieved through the ratification of the CARPER Act, various factors in the social embedding and implementation of its mandates have precluded the full progressive potential of the law from being reached. As the reality remains that the CARPER Act is not self-implementing, the Authors find that: (a)

the Focus-Philippines' political economy book, *State of Fragmentation: The Philippines in Transition*, released in 2014.

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1. An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of all Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise Known as the Comprehensive Agrarian Reform Law of 1988, as Amended, and Appropriating Funds Therefor, Republic Act No. 9700 (2009) [hereinafter CARPER Act].
2. See generally ERNESTO LIM, JR., ET AL., *CARPER: THE TRIUMPH OF THE FILIPINO PEASANTRY* (2008).

the lack of political drive of the government's chief executive for land reform concerns; (b) the indecision and irresoluteness of the DAR's top leadership; (c) the agency's shift towards insulation from agrarian social movements and away from collaborative state-society interactions; (d) the immobilization of the DAR bureaucracy on account of post-2014 agency transition plans; (e) the technical bottlenecks in the execution of agrarian reform procedures; (f) the realignment and sustained high levels of rural elite resistance to agrarian reform implementation; and (g) the challenges in organizing among farmers' organizations and agrarian social movements, have each significantly contributed to the predicament that the CARP presently finds itself in. All these factors, the Authors contend, have contributed to narrowed opportunities for land reform in the present administration.

Yet critical in the consideration of these diverse elements is an appreciation of agrarian reform as a *political*, not simply legal, endeavor of transforming class relations in the Philippine rural political economy.³ It is only to be expected that considerable political opposition to land reform continues to exist. For this reason, the Authors contend that the political will deficit of the executive branch for the full implementation of the CARP, as well as the DAR's moves to distance itself from its "natural" constituency of farmers' groups and social movements, have been crucial determinants of the agrarian reform's uninspiring record throughout the Aquino administration. This lack of an effective, cohesive, and focused political coalition for land reform proves even more worrisome in light of two emergent threats to the CARP that the Authors here point out — the lapsing of CARPER's 30 June 2014 deadline, and the heightened occurrence of land-grabbing and CARP reversals. As the Authors will try to show, albeit briefly, the foibles of land reform today may be deepening a broader crisis of the Filipino peasantry — and at stake may no longer simply be the completion of the country's longest-running public program, but the survival of smallholder farming as a viable means of livelihood among the Philippines' most destitute populations.

The Authors will elaborate upon these arguments in the next four Sections. In Part II, this Note will probe into a comparative analysis of the context and features of the CARPER Act with regard to the law it extended and reformed — R.A. No. 6657, or the Comprehensive Agrarian Reform Law (CARL) of 1988.⁴ In Part III, it will assess the performance of the

3. WALDEN F. BELLO, ET AL., *THE ANTI-DEVELOPMENT STATE: THE POLITICAL ECONOMY OF PERMANENT CRISIS IN THE PHILIPPINES* 79 & 82-83 (2004) [hereinafter BELLO, ANTI-DEVELOPMENT].

4. An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for its

CARP in the Aquino administration and advance an analysis of the factors that contributed to the troubled performance of the CARP in the past four years. Part IV, meanwhile, provides an examination of nascent developments which pose deep and serious challenges to the achievements of the CARP. Finally, this Article concludes with Part V.

II. FROM CARP TO CARPER

In 1988, the year of the CARL's passage, the Philippines was a country best described as in transition. With former President Maria Corazon C. Aquino's ascent to the presidency through the EDSA Revolution in 1986 and the adoption of the new Constitution in February 1987,⁵ a new civic culture was made manifest as most Filipinos clamored for more stringent protection of human rights as well as the strengthened promotion of social and economic justice.⁶ Amidst the new political climate, prospects for progressive social change appeared better than at any other time in decades — with the cause of agrarian reform enjoying majority support amongst the population.⁷ Indeed, a nationwide public opinion poll released in March 1987 by the Ateneo Social Weather Stations found that two-thirds of those surveyed would support a substantive, if not radical, land reform program enacted by presidential decree.⁸

Yet despite the historic opportunity to reform one of the most inequitable rural sectors in Southeast Asia, then-President Corazon Aquino instead chose to defer the drafting of an agrarian reform law to a legislature mainly composed and controlled by propertied elites.⁹ The ultimate result was a notoriously “orphaned” program — a product of protracted political confrontation between oligarchic lawmakers and non-oligarchic social forces

Implementation, and for Other Purposes [Comprehensive Agrarian Reform Law of 1988], Republic Act No. 6657 (1988).

5. Milestones after EDSA 1: Events that shaped the Philippines and the world, *available at* <http://www.abs-cbnnews.com/-depth/02/24/11/Post-EDSA-I-milestones-2> (last accessed Dec. 31, 2014).
6. PATRICIO N. ABINALES & DONNA J. AMOROSO, STATE AND SOCIETY IN THE PHILIPPINES 237 (2005).
7. Henedina Razon-Abad, Politics of Coalition Building for Democratic Reform: A Philippine Experience *available at* <http://www.culturalsurvival.org/print/3597> (last accessed Dec. 31, 2014).
8. David Wurfel, Land Reform: Contexts, Accomplishments, and Prospects under Marcos and Aquino, *available at* <http://davidwurfel.ca/philippines/land-reform-contexts-accomplishments-and-prospects-under-marcos-and-aquino> (last accessed Dec. 31, 2014).
9. Amando Doronila, *The Middle-Classness of Agrarian Reform*, MANILA CHRONICLE, June 4, 1988, at 8.

supporting land reform.¹⁰ As narrated in one account of the embattled process behind the CARL's passage —

The great debate in Congress produced nothing but witty soundbytes from supposedly pro-poor, pro-development, [and] pro-Filipino statesmen. Save for a handful of pro-reform congressmen who surprisingly took an uncompromising stand on the swift and meaningful delivery of agrarian-reform benefits, the overwhelming majority of Congress remained allied to the landowning class.

With sustained and growing pressure from Congress for a People's Agrarian Reform (CPAR), legislators were put to an early test as to how to deal with agrarian reform. Debate accompanied every proposed provision — from landowner retention limits, the speed of implementation, and landowner compensation, to the scope and 'comprehensiveness' of CARP. At the House Committee on Agrarian Reform hearings, landowning representatives put a fight to deprive CARP of its bite. But in an effort to stall attempts of landowning congressmen to draft a weak agrarian reform law, two members of the House of Representatives hastily came up with a draft bill that substantially mirrored what the CPAR was battling for. Key features of this draft included a quick implementation schedule of five years and a landowner retention limit of no more than the two hectares of land already being cultivated by the landowner. This outraged landowners in Congress who then worked double time on their own draft proposal. They called for a retention limit of [20] hectares and the exemption of crops like sugar, coconuts, pineapples, and bananas. In effect, their proposal called for exempting their own major landholdings.¹¹

Tensions between these parties came to a head in the consolidated House Bill (H.B.) No. 400,¹² which contained critical concessions limiting the scope of reform — such as an increase in landowner retention from five hectares to seven, as well as a provision on the retention of three hectares of land for every legitimate heir of the landowner.¹³ Even worse, as would become evident in succeeding years, insertions in the final version of H.B. No. 400 furnished landowners with various loopholes to evade the substantive redistribution of landholdings, such as voluntary land transfer, corporate stock sharing mechanisms, deferment schemes on new commercial farms, vague procedures for identifying agrarian reform beneficiaries in commercial and corporate farms, profit-sharing and large land lease schemes, as well as unclear guidelines on land use conversions.¹⁴ The existence of such loopholes simply confirmed contentions that the proposed legislation

10. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 33.

11. *Id.* at 37-38.

12. H.B. No. 400, 8th Cong., 1st Reg. Sess. (1987).

13. LOURDES SAULO-ADRIANO, A GENERAL ASSESSMENT OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM 13 (1991).

14. *Id.* at 22.

inherently privileged: (a) corporate and commercial agribusinesses; (b) elites with large land assets; and to a lesser degree, (c) sections of the rural middle class — all these at the expense of peasant lessors, share tenants, and most especially, landless rural workers.¹⁵

Such provisions, inconsistent with the rigors of a legitimate agrarian reform program, caused H.B. No. 400's original sponsors to withdraw their support on the bases of these insertions being "morally unacceptable and incompatible with the democratic and libertarian ideals."¹⁶ On the side of peasant movements, the enfeeblement of H.B. No. 400 likewise catalyzed massive national protests on 22 April 1988, bringing together some 20,000 farmers from around Luzon to Manila.¹⁷ Various stakeholders of the broad pro-farmer coalition, which included key political allies, church leaders, social-democratic groups, as well as organizations affiliated with the national democratic front, all warned of intensified armed struggle by the peasantry in the event of passage of a pro-landlord bill.¹⁸

Still, when H.B. No. 400, along with the less-controversial Senate Bill (S.B.) No. 249, was finally signed into law as the CARL by President Corazon Aquino on 10 June 1988, it nonetheless remained steeped in contradictions. In addition to the concessions mentioned earlier, other provisions in the law further enabled landowners to legally challenge CARP implementation on matters ranging from land valuation, to target beneficiaries, the manner of acquisition, and the actual distribution of lands — in effect setting the stage for tremendous delays in the delivery of asset reforms and agrarian justice to the Filipino peasantry.¹⁹ Set to be implemented over a period of 10 years, the CARP was mandated to include the redistribution of all agricultural lands regardless of tenure and crops; administer support services to land reform beneficiaries; and establish an adjudication body that would have sole responsibility over all agrarian disputes.²⁰

Not surprisingly, the final legislation elicited dismay and revulsion from majority of those aiming to ratify a genuine and even revolutionary agrarian reform program. Representative Bonifacio H. Gillego, then-chairman of the House Committee on Agrarian Reform, had earlier declared that the watering-down of the bill "only confirmed the worst fears of our people,

15. *Id.* at 26.

16. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 38 (citing CATHERINE V. VALENZUELA, THE AQUINO AGRARIAN REFORM PROGRAM: A TWO-YEAR ASSESSMENT 4 (1990)).

17. Wurfel, *supra* note 8.

18. *Id.*

19. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 40.

20. *Id.* at 38-39.

that we are a bastion of conservatism at a time when radical reforms are needed.”²¹ Even stronger and more outraged in tone were the sentiments of the national-democratic Kilusang Mambubukid ng Pilipinas —

From where the farmers stand: the CARP Law is but a mockery of our aspiration for genuine agrarian reform ... CARP is the protection of the interests and privileges of the landlord class and the multinationals ... The much flaunted ‘centerpiece’ of the US-Aquino regime boils down to nothing more than a hoax. Now that the US-Aquino regime has killed the Filipino farmers’ hope for land and a better life, we are left with no other choice than to rely on ourselves and strength of our unity in attaining this aspiration.²²

There is no question that proposals of pro-farmers prior to the ratification of CARL were grounded on principles of social justice and economic equity,²³ and agrarian reform was widely considered essential for any genuine response to the threat of peasant unrest.²⁴ Yet due to dilutions and compromises in its enabling law, the protracted resistance of propertied interests, and the lack of decisive commitment on the part of the government for land reform, the CARP has been consigned to execution at an irresolute pace, experiencing near-countless pitfalls throughout its implementation.²⁵ The early days of CARP implementation under President Corazon Aquino suffered from numerous controversies — above all of which is the anomaly-ridden “distribution” of her family’s six thousand hectare Hacienda Luisita via stock distribution instead of actual land transfer.²⁶ Hardly helping the questionable reputation of her administration’s DAR were the discovery of scams such as the 1,888-hectare Garcitorena case, in which agency officials conspired with landed elites in abusing the program’s “voluntary offer to sell” mechanism to overprice the valuation of lands.²⁷

During former President Fidel V. Ramos’ administration, the DAR, under the leadership of Secretary Ernesto D. Garilao, pioneered the so-called “*bibingka* strategy,” premised on demand-driven reform with the participation of the farmers and non-governmental organizations (NGOs).²⁸ The DAR, as a result of strengthened stakeholder collaboration and highly-effective management, arrived at arguably its best performance record in

21. *Id.* at 38.

22. Wurfel, *supra* note 8.

23. *See* PHIL. CONST. art. XIII.

24. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 42-43.

25. *Id.*

26. *Id.*

27. *Id.* at 42.

28. *Id.* at 46.

post-EDSA history. It managed to distribute 57% of the program's then-targeted 8.1-million hectare balance,²⁹ even while overseeing marked improvements in the resolution of agrarian justice cases, and launching the now-benchmarked "agrarian reform communities" approach to beneficiary development.³⁰ Moreover, a 10-year augmentation of the CARP's budget was secured in 1998 through the passage of R.A. No. 8532.³¹ Yet, even under the Ramos presidency, the CARP also suffered from issues of multiple titling of lands, bloated statistics, and the dramatic escalation in land conversions throughout Central Luzon, Southern Tagalog, and Iloilo as a result of the government's "Philippines 2000" program.³²

Against great expectations for the CARP at the beginning of former President Joseph E. Estrada's administration, however, the DAR's operations were stalled by budget constraints, lack of an accurate land registration system, and rampant accounts of corruption within the DAR.³³ Instead of the aspired completion of land redistribution, land conversions and loophole-rich mechanisms of land transfer continued to proliferate, such as "joint venture agreements" and "market-assisted land reform."³⁴

Finally, despite the replacement of President Estrada by former President Gloria M. Macapagal-Arroyo in 2001, the CARP's performance saw no serious improvement in the new Arroyo government. Confronted with chronic budget shortages, and helmed by secretaries with either numerous conflicts-of-interest or a dearth of qualifications, CARP implementation played second fiddle to other priorities of the government — most especially the Arroyo regime's political survival after 2005.³⁵ Throughout the latter part of the nine-year Arroyo presidency, extrajudicial killings of farmer-activists escalated to alarming levels while CARP itself was threatened with premature termination with the expiration of its land acquisition component until the passage of the CARPER Act in August 2009.³⁶

29. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 33.

30. *Id.*

31. An Act Strengthening Further the Comprehensive Agrarian Reform Program (CARP), by Providing Augmentation Fund Therefor, Amending for the Purpose Section 63 of Republic Act No. 6657, Otherwise Known as "The CARP Law of 1988," Republic Act No. 8532 (1998) [hereinafter CARL Augmentation].

32. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 46 & 49.

33. *Id.* at 52-56.

34. *Id.*

35. WALDEN F. BELLO, ET AL., STATE OF FRAGMENTATION: THE PHILIPPINES IN TRANSITION 110 (2014) [hereinafter BELLO, STATE OF FRAGMENTATION].

36. *Id.*

For these reasons, the history of the CARP has often been painted as a history of disappointments, failures, and frustrations. Yet it is equally crucial to note that despite its inbuilt limitations, CARP nonetheless brought about significant changes in the Philippine countryside. For instance, from an average farm size of 3.59 hectares in the 1960s, the size of farms throughout the countryside was progressively brought down to 2.01 hectares in 2002 and to 1.4 hectares in 2010, respectively.³⁷ In a similar vein, numerous studies have confirmed that the effective implementation of agrarian reform has resulted in a reduction of poverty among agrarian reform beneficiaries (ARBs).³⁸ Indeed, as one 2002 analysis by the Philippine Institute for Development Studies found, real per capita income among ARBs relative to non-ARBs increased by 12.2% on average from 1990 to 2000.³⁹ ARBs, according to the same study, were similarly found enjoying better access to safe water and sanitation, in addition to having higher educational attainment.⁴⁰

Hence, while it is certainly true that the CARP was far from a success, neither is it accurate to maintain that it was an abject failure. The reality is that in spite of the compromises that have hounded it, the implementation of the CARP has brought about tangible, albeit quite limited, benefits to the peasantry. Indeed, in 2001, agrarian reform expert Saturnino M. Borras, Jr. wrote that “[t]he Philippines provides a useful case study because it is among the few countries today where redistributive land reform is being implemented with a significant degree of success ... [w]hile confounding the pessimists, CARP’s achievements nonetheless fell far short of the original optimistic claims of the state.”⁴¹

Naturally, this gives rise to the question of how much more gains can be secured for the farming classes with reforms to the CARP’s legal framework — and here it should be pointed out that many such reforms have actually been achieved with the passage of the CARPER Act in 2009, following a long campaign by various farmers’ groups and their allies from 2007 onwards.

37. *Id.* at 114.

38. Celia M. Reyes, Impact of Agrarian Reform on Poverty (A Discussion Paper for the Philippine Institute for Development Studies published in a limited number of copies), available at <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan005112.pdf> (last accessed Dec. 31, 2014).

39. *Id.*

40. *Id.*

41. Saturnino M. Borras, Jr., *State-Society Relations in Land Reform Implementation in the Philippines*, 32 DEV. & CHANGE 545, 546 (2001) [hereinafter Borras, Jr., *State-Society Relations*].

What are these reforms in the CARPER Act, and how have they reshaped the contours of CARP? The Authors' response to this question is what follows.

A. R.A. No. 9700: The Comprehensive Agrarian Reform Program Extension with Reforms (CARPER)

Despite the problems and issues plaguing the program, numerous figures felt that the CARP was not beyond salvation.⁴² Part of this sentiment, as already said, can be traced to tangible gains achieved in the program's implementation, especially during the Ramos administration.⁴³ On the other hand, there remained the enshrinement of the CARP within Articles XII and XIII of the Constitution⁴⁴ — the driving motivations of the CARP in ending the Philippine countryside's inequitable past were contained within the cornerstones of the new Republic. Indeed, as expressed by a number of advocates and supporters of the CARP —

Agrarian reform is the expression of a constitutional directive to provide restitution for the Filipinos whose families have lived and labored for generations under feudalism. It is not just a poverty-alleviation program, it aims to abolish feudalism by creating a class of independent smallholders. Despite the long history of land conflicts in the country and the enactment of the CARP, the national government and modern democratic institutions have as yet been unable (and, in most cases, unwilling) to resolve the fundamental issues of equitable and sustained access to land.⁴⁵

Yet as the end of the CARP drew near, many land reform advocates and independent organizations were compelled to mobilize for the extension of the CARL.⁴⁶ In 2006, the DAR unveiled a study with the German Technical Cooperation, charting four different possible futures for the country's agrarian reform program, one of which involved the government's discontinuation of land distribution and to focus instead on support service delivery.⁴⁷ This was, of course, alarming for the many advocates and agrarian

42. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 79.

43. *Id.*

44. PHIL. CONST. arts. XII & XIII.

45. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 79.

46. See Annie Ruth Sabangan, CARP fails to end farmers' woes in rural RP, available at <http://www.gmanetwork.com/news/story/100310/news/special-reports/carp-fails-to-end-farmers-woes-in-rural-rp> (last accessed Dec. 31, 2014) & Sun Star Bacolod, Carp extension bill certified as urgent, available at <http://www.sunstar.com.ph/bacolod/local-news/2014/06/12/carp-extension-bill-certified-urgent-347878> (last accessed Dec. 31, 2014).

47. Carmina B. Flores-Obanil, *Bringing Filipino agrarian reform back to life?: Notes on the passage of the CARPER law*, in LAND STRUGGLES: LRAN BRIEFING PAPER SERIES 2 (2010).

reform groups that had campaigned relentlessly to ensure the effective implementation of the program up to that time. As a result, many civil society organizations and agrarian reform movements launched campaigns and pressed for the passage of an extension law.⁴⁸ It was not easy to achieve this in the beginning, with so many groups having their own platforms and points of interest. However, despite the differences,

[m]any strategies and tactics relating to policy and public advocacy were employed by the campaigners during the four year CARPER campaign. At certain times, several smaller campaigns were being waged simultaneously at the national and the local level to complement the national campaign and to emphasize the support of local organizations to the campaign.

The first hurdle was to [mobilize] the various [civil society organizations (CSOs)] into a coherent campaign movement. In the Philippines[,] however, given the [colorful] history and dynamics of CSOs, it is no easy feat even to get these groups together in one room to discuss their common concern. More often than not, these CSOs tend to coalesce only with the other organizations with which they are comfortable or which at least share the same positions that they have on certain issues. Many [NGOs] and [people's organizations (POs)], even if they are broadly aligned, do not view the CARP or approach its implementation in exactly the same way. Thus the sustained attendance of many of these POs and NGOs at the first and subsequent meetings / consultations which produced the initial draft of the CARPER bill was in itself a major accomplishment.⁴⁹

Their next step, following the cobbling together of a campaign coalition, was to lobby for the passage of a new law in Congress amending the CARL. Many advocates sought to find sponsors, both in the Senate and in the House of Representatives.⁵⁰ This proved difficult, given the fact that many members of Congress were large landowners themselves. Despite this,

[a] pool of advocates within the ranks of the [Reform CARP Movement (RCM)] led the legislative campaign, establishing working relations with both the Committee and the staff of the Committee Chairman at both Houses (House of Representatives and Senate), making it easier both to monitor the movement of the [CARPER] bill and to respond to issues being raised by other legislators about [that] bill.⁵¹

Things did not always go so smoothly, however, as Congress failed to meet its first deadline in June 2008.⁵² A sit-down strike by the reform advocates before then-Speaker Prospero C. Nograles turned things around,

48. *Id.* at 3.

49. *Id.*

50. *Id.* at 4.

51. *Id.* at 5.

52. *Id.*

with Nograles himself passing a resolution, adding another six months for the passage of the CARPER bill.⁵³ However, one of the biggest setbacks experienced by the RCM and other advocates was when Congress failed to meet its second deadline on the passage of the CARPER bill.⁵⁴ Worse, “insult was added to injury when a Joint Resolution was passed suspending the government’s powers of compulsory acquisition, which effectively stopped the implementation of agrarian reform from January to June 2009.”⁵⁵

Despite all this, the continued and heightened application of public pressure by CSOs, farmers’ organizations, and critical allies — such as sympathizers in the academe, the media, and the Catholic Church — eventually resulted in the CARPER Act’s passage in 2009, with a five-year extension and numerous amendments to the original program seeking to make implementation more effective and efficient.⁵⁶ It was also only close towards the passage of the CARPER Bill that both the DAR and then-President Arroyo came on board with the possibility of an extension program.⁵⁷ This was a tough and much-needed call for the advocates, for the Executive Department’s support would prove to be crucial in the actual execution and implementation of the program.

The gains of the CARPER Act can be found in the many positive mechanisms made possible through the passage of the extension law. As mentioned earlier, the extension of the program allowed for more lands to be distributed, with the CARPER Act providing for a budget of ₱150,000,000 to be taken from the Agrarian Reform Fund and other possible sources.⁵⁸ The Authors posit that the extension and increased budget

53. Flores-Obanil, *supra* note 47, at 5.

54. *Id.*

55. *Id.*

56. *See generally* CARPER Act.

57. Flores-Obanil, *supra* note 47, at 4.

58. CARPER Act, § 21. This section provides —

Section 21. Section 63 of Republic Act No. 6657, as amended, is hereby further amended to read as follows:

‘SEC. 63. *Funding Source.* - The amount needed to further implement the CARP as provided in this Act, until [30 June] 2014, upon expiration of funding under Republic Act No. 8532 and other pertinent laws, shall be funded from the Agrarian Reform Fund and other funding sources in the amount of at least one hundred fifty billion pesos (₱150,000,000,000.00).

Additional amounts are hereby authorized to be appropriated as and when needed to augment the Agrarian Reform Fund in order to fully implement the provisions of this Act during the [five]-year extension period.

provided greater means for the stakeholders and the State elements to coordinate with each other regarding certain factors or situations. However, to the Authors, issues with implementation or execution are often best addressed from a political or policy-focused standpoint.

Sources of funding or appropriations shall include the following:

- (a) Proceeds of the sales of the Privatization and Management Office (PMO);
- (b) All receipts from assets recovered and from sales of ill-gotten wealth recovered through the PCGG excluding the amount appropriated for compensation to victims of human rights violations under the applicable law;
- (c) Proceeds of the disposition and development of the properties of the Government in foreign countries, for the specific purposes of financing production credits, infrastructure[,] and other support services required by this Act;
- (d) All income [and] collections of whatever form and nature arising from the agrarian reform operations, projects[,] and programs of the DAR and other CARP implementing agencies;
- (e) Portion of amounts accruing to the Philippines from all sources of official foreign aid grants and concessional financing from all countries, to be used for the specific purposes of financing productions, credits, infrastructures, and other support services required by this Act;
- (f) Yearly appropriations of no less than five billion pesos [] from the General Appropriations Act;
- (g) Gratuitous financial assistance from legitimate sources; and
- (h) Other government funds not otherwise appropriated.

All funds appropriated to implement the provisions of this Act shall be considered continuing appropriations during the period of its implementation: *Provided*, That if the need arises, specific amounts for bond redemptions, interest payments[,] and other existing obligations arising from the implementation of the program shall be included in the annual General Appropriations Act: *Provided, further*, That all just compensation payments to landowners, including execution of judgments therefore, shall only be sourced from the Agrarian Reform Fund: *Provided, however*, That just compensation payments that cannot be covered within the approved annual budget of the program shall be chargeable against the debt service program of the national government, or any unprogrammed item in the General Appropriations Act: *Provided, finally*, That after the completion of the land acquisition and distribution component of the CARP, the yearly appropriation shall be allocated fully to support services, agrarian justice delivery[,] and operational requirements of the DAR and the other CARP implementing agencies.'

Id.

I. Instruments of Land Distribution

One of the strongest and most progressive changes made by the CARPER Act involved the removal of the voluntary land transfer option.⁵⁹ This effectively removed the possibility that landowners could transfer ownership of the land to the farmers through the stock distribution option.⁶⁰ This mechanism, an animal of the CARP, allowed corporate landowners to transfer stocks comprising an equivalent of the farmers' ownership of the lands, while still retaining control over the lands.⁶¹ In essence, the farmers only get a paper title, but not control of the lands.⁶² This clearly contravened the intention of the program, and its removal through the CARPER Act comprises a victory for land reform advocates.

Also, Section 32 of the CARPER Act repealed Section 53 of R.A. No. 3844,⁶³ which provided for judicial expropriation as a means for implementation of land reform in the country.⁶⁴ While this used to be a method for the acquisition of private agricultural land, it remained hobbled by inefficiencies and protracted, tedious procedures. There is no question that the shift from judicial expropriation to administrative distribution allows for a more speedy and efficient reform process. While certain disputes are still cognizable by the courts,⁶⁵ it is the DAR which ultimately handles the process of land acquisition and distribution to beneficiaries under the CARPER Act.⁶⁶ The mobilization of such allows the CARPER Act to become less of a slave to the struggling dockets in courts around the country.⁶⁷

The CARPER Act also unequivocally declared that the only options for distribution to be carried out during the extension were those of "Voluntary

59. CARPER Act, § 12.

60. See Comprehensive Agrarian Reform Law of 1988, §§ 20 & 31.

61. *Id.* § 31.

62. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 54.

63. An Act to Ordain the Agricultural Land Reform Code and to Institute Land Reforms in the Philippines, Including the Abolition of Tenancy and the Channeling of Capital Into Industry, Provide for the Necessary Implementing Agencies, Appropriate Funds Therefor and for Other Purposes [AGRICULTURAL LAND REFORM CODE], Republic Act No. 3844, Chapter III, art. I, § 53 (1963).

64. See AGRICULTURAL LAND REFORM CODE, Chapter III, art. II.

65. See CARPER Act, §§ 18-20. See also Comprehensive Agrarian Reform Law of 1988, § 57.

66. CARPER Act, §§ 18-20.

67. Antonio T. Carpio, Judicial reform too important to fail, *available at* <http://www.rappler.com/thought-leaders/7856-judicial-reform-too-important-to-fail> (last accessed Dec. 31, 2014).

Offer to Sell and Compulsory Acquisition” for private agricultural lands.⁶⁸ This is clearly more beneficial to the farmers, for the first option ensures that the landowner will only offer “terms and conditions [that] shall not be less favorable to the transferee than those of the government’s standing offer to purchase from the landowner and to resell to the beneficiaries.”⁶⁹ The second is also beneficial to farmers because it does not give the landowner any choice in the matter at hand, thereby giving full priority to the benefit that farmers are supposed to receive pursuant to the program’s mandate.

2. Support Services

One of the policies and principles of CARPER was to “recognize the right of farmers, farmworkers[,] and landowners, as well as cooperatives and other independent farmers’ organizations, to participate in the planning, organization, and management of the program; and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing[,] and other support services.”⁷⁰ Furthermore, “the DAR shall encourage the agrarian reform beneficiaries to form or join farmers’ cooperatives for purposes of affiliating with existing cooperative banks in their respective provinces or localities, as well as forming blocs of agrarian reform beneficiaries, corporations, and partnerships and joining other farmers’ collective organizations, including irrigators’ associations[.]”⁷¹

Even more significant, however, is the heightened share of the program’s budget allocated to the delivery of such support services. Indeed, Section 13 of the CARPER Act revised Section 36 of the CARL by hiking the percentage of the CARP budget dedicated to support services from at least 25% to 40%.⁷² Moreover, this same section of the CARPER Act provided for the enhancement of the highly-successful Agrarian Reform Communities (ARC) beneficiary development strategy of DAR; it expressly stipulated the integration of the land distribution activities of the program with its support services component, even while simultaneously extending the supply of ARC-style comprehensive support services packages to agrarian reform beneficiaries outside of official ARC-declared areas.⁷³ Both of these clauses stand as vital measures to ensure that DAR will be able to furnish the production assistance necessary to transform program beneficiaries into full-fledged farmer-entrepreneurs — lifted from the immediate

68. CARPER Act, § 5.

69. Comprehensive Agrarian Reform Law of 1988, § 20.

70. CARPER Act, § 1.

71. *Id.* § 10.

72. *Id.* § 13.

73. *Id.*

impediments of rural poverty, and therefore empowered to contribute to the attainment of national food security.⁷⁴ Further strengthening the CARPER Act's redoubled focus on support services are additional provisions on socialized credit and gender equity, which will also be discussed shortly.

3. Land Use Conversion

Land conversion categorically allows the conversion of certain tracts of agricultural land, found to be “economically feasible and sound for agricultural purposes, or [when] the locality has become urbanized[,] and the land will have a greater economic value for residential, commercial[,] or industrial purposes.”⁷⁵ However, a new prohibition against conversion of irrigable and irrigated lands⁷⁶ ensures that said lands serve their proper purpose under both the Constitution and law, also thereby guaranteeing tenure security for farmers who are targeted to benefit from the program.

4. Indefeasibility of Titles

The CARPER Act also recognized the indefeasibility or imprescriptibility of emancipation patents “after one [] year from its registration with the Office of the Registry of Deeds, subject to the conditions, limitations, and qualifications of this [a]ct, the property registration decree, and other pertinent laws.”⁷⁷ This warrants the safety of the beneficiaries' title, amending the previous rule in CARL.⁷⁸

Moreover, “[i]dentified and qualified [ARBs] ... shall have usufructuary rights over the awarded land as soon as the DAR takes possession of such land, and such right shall not be diminished even pending the awarding of the emancipation patent or the certificate of land ownership award.”⁷⁹ This signifies an assurance that farmer-beneficiaries can hold on to their land and utilize it, pending the issuance of a paper title over the land. An indefeasible emancipation tenant vests rights of ownership pending the actual issuance of a title, and this empowers farmer-beneficiaries to employ acts of ownership over the land granted to them under the patent.

5. Creation of Congressional Oversight Committee

74. Walden Bello, *Agrarian Reform and the Urban Illusion*, PHIL. DAILY INQ., Jan. 11, 2013, available at <http://opinion.inquirer.net/44679/agrarian-reform-and-the-urban-illusion> (last accessed Dec. 31, 2014).

75. CARPER Act, § 22.

76. *Id.*

77. *Id.* § 9.

78. See Comprehensive Agrarian Reform Law of 1988, § 24.

79. CARPER Act, § 9.

Section 26 of the CARPER Act, meanwhile, creates a Congressional Oversight Committee on Agrarian Reform⁸⁰ (COCAR) tasked with the duty of overseeing and ensuring the correct and timely implementation of the CARPER Act. Among its powers and functions include the capacity to:

- (1) “[p]rescribe and adopt guidelines which shall govern its work;”⁸¹
- (2) “[s]ecure from the DAR or the [Land Bank of the Philippines] information on the amount of just compensation determined to be paid or which has been paid to any landowner;”⁸²
- (3) “[o]versee and monitor, in such a manner as it may deem necessary, the actual implementation of the program and projects by the DAR;”⁸³
- (4) “[s]ummon by subpoena any public or private citizen to testify before it, or require by *subpoena duces tecum* to produce before it such records, reports, or other documents as may be necessary in the performance of its functions;” [and]⁸⁴
- (5) “[a]pprove the budget for the work of the Committee and all disbursements therefrom, including compensation of all personnel[.]”⁸⁵

The COCAR, among other functions, was also tasked with the duty to submit a periodic report to the Speaker of the House of Representatives and to the President of the Senate of the Philippines.⁸⁶

6. Implementation of the Principle of Actual and Physical Possession

The CARPER Act also provides that “[t]he rights and responsibilities of the beneficiaries shall commence from their receipt of a duly registered emancipation patent or certificate of land ownership award [(CLOA)] and their actual physical possession of the awarded land.”⁸⁷ This allowed beneficiaries to occupy and take control of the awarded land prior to the issuance of CLOA or certificate of registration. It is common knowledge that the wheels of bureaucracy make the issuance of such documents time-

80. *Id.* § 26.

81. *Id.* § 27 (a).

82. *Id.* § 27 (d).

83. *Id.* § 27 (f).

84. *Id.* § 27 (g).

85. CARPER Act, § 27 (i).

86. *Id.* § 28.

87. *Id.* § 9.

consuming, and to compel beneficiaries to wait for the due execution of such documents would be to hamper the purpose of the program.⁸⁸

7. Immunity from TRO/Injunction

The CARPER Act also further bolstered the strength of the program when it provided that any injunction or temporary restraining order, except those from the Supreme Court, can no longer be issued against CARP-related government agencies, such as the DAR or the Presidential Agrarian Reform Council (PARC), with regard to disputes or issues decided by such offices.⁸⁹ This is significant because past experience showed that many landowners took advantage of this mechanism in order to stall the distribution of the land and the subsequent transfer of its ownership to the farmer-beneficiaries.⁹⁰ The CARPER Act's elimination of such abuse strengthened the program, paving the way for a more efficient and effective land reform program completion within five years.⁹¹

8. Prioritization of Larger Landholdings

Moreover, the CARPER Act emphasized the prioritization of certain agricultural lands over others. Section 5 of said law amended Section 7 of the original CARL, and indicated the different phases with the corresponding types and sizes of land it covered.⁹² Phase One specified that

[d]uring the [five]-year extension period hereafter all remaining lands above [50] hectares shall be covered for purposes of agrarian reform upon the effectivity of this Act. All private agricultural lands of landowners with aggregate landholdings in excess of [50] hectares which have already been subjected to a notice of coverage issued on or before [10 December 2008]; rice and corn lands under Presidential Decree No. 27; all idle or abandoned lands; [and] all private lands voluntarily offered by the owners for agrarian reform[.]⁹³

This categorically identified that the larger landholdings were to be distributed first, and that the other two phases — Phase Two and Phase Three — would cover smaller land areas.⁹⁴ All this effectively laid down the rule that the larger landholdings had to go first, in line with the State policy

88. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 53.

89. CARPER Act, § 20.

90. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 53.

91. CARPER Act, §§ 5, 21, & 30.

92. *Id.* § 5.

93. *Id.*

94. *Id.*

on agrarian reform and equal wealth distribution.⁹⁵ This meant that those who had more should no longer be protected by their power or influence, as the law itself mandated that their lands should be distributed first.

9. Gender-Specific Provisions

The CARPER Act also recognized the equal right of women to become farmer-beneficiaries.⁹⁶ Consequently, the CARP must now also provide equal support services for female farmer-beneficiaries.⁹⁷ This means that the needs and well-being of women-beneficiaries shall be taken into account in order to integrate such into the general requirements of farmer-beneficiaries.⁹⁸ The amendment also sought to

ensure that rural women will be able to participate in all community activities. To this effect, rural women are entitled to self-organization in order to obtain equal access to economic opportunities and to have access to agricultural credit and loans, marketing facilities and technology, [] other support services, and equal treatment in land reform and resettlement schemes.⁹⁹

Further, a women's desk was required to be created, as a means for women to seek help or voice out issues or grievances with regard to the program and its means of execution.¹⁰⁰ All these are in pursuit of the state policy that "rural women shall be given the opportunity to participate in the development planning and implementation"¹⁰¹ of the CARP.

10. Furnishing of Socialized Credit

The CARPER Act likewise states that different support services shall be given to beneficiaries, regardless of sex, and this includes a liberalized access to certain types of credit programs.¹⁰² These socialized credit terms allows beneficiaries access to credit with equitable terms and conditions.¹⁰³ Said credit shall be used for the purchase, maintenance, and use of agricultural facilities necessary for the business of farming.¹⁰⁴ This provision clearly

95. *Id.* § 1. *See also* PHIL. CONST. art. XII, § 1; art. XIII, §§ 4-8; & art. XVIII, § 22.

96. CARPER Act, §§ 1, 2, 5, & 15.

97. *Id.* § 15.

98. *Id.* §§ 14-15.

99. *Id.* § 15.

100. *Id.*

101. *Id.* § 5.

102. CARPER Act, § 14.

103. *Id.*

104. *Id.*

empowers farmer-beneficiaries and provides them with a means to inject much-needed capital to ensure long-term sustainability of the industry.

11. Heavier Penal Provisions

The CARPER Act also expanded the penal provisions previously appearing in the CARL.¹⁰⁵ Commission of any of the prohibited acts¹⁰⁶ today is

105. Comprehensive Agrarian Reform Law of 1988, §§ 73 & 74.

106. CARPER Act, § 24. This Section provides —

Section 24. Section 73 of Republic Act No. 6657, as amended, is hereby further amended to read as follows:

‘SEC. 73. Prohibited Acts and Omissions. — The following are prohibited:

(a) The ownership or possession, for the purpose of circumventing the provisions of this Act, of agricultural lands in excess of the total retention limits or award ceilings by any person, natural or juridical, except those under collective ownership by farmer-beneficiaries;

(b) The forcible entry or illegal detainer by persons who are not qualified beneficiaries under this Act to avail themselves of the rights and benefits of the Agrarian Reform Program:

(c) Any conversion by any landowner of his/her agricultural land into any non-agricultural use with intent to avoid the application of this Act to his/her landholdings and to dispossess his/her bonafide tenant farmers;

(d) The malicious and willful prevention or obstruction by any person, association[,] or entity of the implementation of the CARP;

(e) The sale, transfer, conveyance[,] or change of the nature of lands outside of urban centers and city limits either in whole or in part after the effectivity of this Act, except after final completion of the appropriate conversion under Section 65 of Republic Act No. 6657, as amended. The date of the registration of the deed of conveyance in the Register of Deeds with respect to titled lands and the date of the issuance of the tax declaration to the transferee of the property with respect to unregistered lands, as the case may be, shall be conclusive for the purpose of this Act;

(f) The sale, transfer[,] or conveyance by a beneficiary of the right to use or any other usufructuary right over the land he/she acquired by virtue of being a beneficiary, in order to circumvent the provisions of this Act;

(g) The unjustified, willful, and malicious act by a responsible officer or officers of the government through the following:

(1) The denial of notice and/or reply to landowners;

(2) The deprivation of retention rights;

(3) The undue or inordinate delay in the preparation of claim folders;
or

punishable by an increased penalty of up to 12 years of imprisonment, with a fine of up to ₱1,000,000.00.¹⁰⁷ Both maximum penalties were set in place for the commission of acts that were prejudicial to the farmer-beneficiaries' welfare, such as the undue conversion of lands to avoid being placed under the program, the sale or conveyance of lands outside of urban centers of city limits in contravention of the program, and the malicious and willful prevention of the distribution of land and implementation of the program.¹⁰⁸ The stricter provisions and the higher penalties conveyed a clear message to the public and all stakeholders involved that the CARPER Act was serious — the State meant business, and all impediments to the successful execution of the program were to be eliminated.

This is because when the CARPER Act was passed, the CARL had already been in force for about 20 years and yet the CARP remained fraught with inconsistencies and scandals.¹⁰⁹ Nonetheless, reports have shown that some sectors believe that the CARPER Act may be a bigger failure than CARL — Rafael V. Mariano, at the time a representative of the Anakpawis

(4) Any undue delay, refusal[,] or failure in the payment of just compensation;

(h) The undue delay or unjustified failure of the DAR, the LBP, the PARC, the PARCCOM, and any concerned government agency or any government official or employee to submit the required report, data[,] and/or other official document involving the implementation of the provisions of this Act, as required by the parties or the government, including the House of Representatives and the Senate of the Philippines as well as their respective committees, and the congressional oversight committee created herein;

(i) The undue delay in the compliance with the obligation to certify or attest and/or falsification of the certification or attestation as required under Section 7 of Republic Act No. 6657, as amended; and

(j) Any other culpable neglect or willful violations of the provisions of this Act.

In the case of government officials and employees, a conviction under this Act is without prejudice to any civil case and/or appropriate administrative proceedings under civil service law, rules and regulations. Any person convicted under this Act shall not be entitled to any benefit provided for in any agrarian reform law or program.'

Id.

107. *Id.* § 25.

108. *Id.* § 24.

109. Flores-Obanil, *supra* note 47, at 5. See MARY ANN B. MANAHAN, THE STATE OF AGRARIAN REFORM UNDER PRESIDENT BENIGNO AQUINO III'S GOVERNMENT: BEYOND THE NUMBERS: A STRUGGLE FOR SOCIAL JUSTICE AND INCLUSIVE RURAL DEVELOPMENT 10 & 21 (2013) [hereinafter THE STATE OF AGRARIAN REFORM UNDER AQUINO].

Party-List and Kilusang Magbubukid ng Pilipinas Chairman, stated that “[a] Congress that represents the class interest of landlords and big local and foreign corporations can, unsurprisingly, railroad an ultimately anti-farmer legislation like the CARP extension bill.”¹¹⁰

These negative criticisms, even if hyperbolic, are not completely unfounded — for it is true that limitations do exist in the gains that the CARPER Act was able to achieve. As has been widely recognized, even by pro-CARPER Act advocates, a number of pro-landlord provisions were successfully inserted within said law.¹¹¹

12. Landowner Attestation Requirement

One such limitation lies in the fact that a landowner attestation is required for private agricultural lands to be distributed to farmers.¹¹² Under the CARPER Act, “only farmers (tenants or lessees) and regular farmworkers actually tilling the lands, as certified under oath by the Barangay Agrarian Reform Council (BARC) and attested under oath by the landowners, are the qualified beneficiaries[.]”¹¹³ This opens the door to abuse, as the attestation requirement provides landowners with a mechanism to influence the land distribution process in a manner prejudicial to their interests instead of actually-existing farmer-tenants and workers — establishing a bargaining power imbalance which is contrary to the social justice aims of the program.

13. Neglect of Seasonal Workers

Moreover, under Section 22 of the CARL¹¹⁴ — which the CARPER Act did not amend — the order of priority for qualified beneficiaries is stated, with seasonal workers falling behind the following: 1) agricultural lessees and share tenants; and 2) regular farmworkers.¹¹⁵ For this reason, there remains a neglect of the concerns of seasonal workers, which is deplorable given that such workers are as important to the agricultural sector and their livelihoods just as much part of the agrarian reform program as the other peasant classes

110. Ronalyn V. Olea, *Why CARPER is worse than CARP*, available at <http://bulatlat.com/main/2009/06/14/why-carper-is-worse-than-carp/> (last accessed Dec. 31, 2014).

111. *CARPer, right and wrong*, PHIL. DAILY INQ., Aug. 10, 2009, available at <http://opinion.inquirer.net/inquireropinion/editorial/view/20090810-219494/CARPer-right-and-wrong> (last accessed Dec. 31, 2014).

112. CARPER Act, § 5.

113. *Id.*

114. Comprehensive Agrarian Reform Law of 1988, § 22.

115. *Id.* See also CARPER Act, § 8.

are.¹¹⁶ As such, this indirectly excludes an entire section of the rural poor from the fruits and benefits of agrarian reform.

Despite this, however, many stood behind the program, arguing that even if shortcomings were present, one important fact remains — the CARPER Act allowed the dreams of many to continue and heightened the possibility of those dreams being turned into reality.¹¹⁷ While these problems were not fully remedied by the CARPER Act, the extension and reforms gave the government a greater means to address the issues and reach the targets laid down by law. Indeed, an editorial released by the Philippine Daily Inquirer¹¹⁸ the day after the CARPER Act's passage deserves attention for its balanced assessment of the merits and constraints of the law —

Is the enactment of the law extending the Comprehensive Agrarian Reform Program, the CARP[ER Act], [or] CARP Extension with Reforms, a death sentence for the country's millions of farmers? That's what the militant left thinks. Anakpawis party-list Rep. Rafael Mariano reflected that point of view with the forceful statement he issued after President Gloria Macapagal-Arroyo signed [the CARPER Act] into law last Friday. We think, however, that Mariano and other vocal critics are only half-right and therefore entirely wrong in opposing the reform measure.

No agrarian reform law in the past has given landlords such power to identify farmer-beneficiaries, Mariano pointed out. He's right, up to a point. There are, indeed, pro-landlord provisions in the new law. Aside from the attestation requirement for prospective beneficiaries, such provisions as those concerning just compensation favor landowners.

But in our view, none of these provisions are law-killers. The new law incorporates several reforms which bode well for the extension of the program.

It remains an imperfect law, like all other laws passed by any legislature, in any part of the world. But [the CARPER Act] contains enough new reform measures, and backs the principle of compulsory land acquisition with more money for agrarian reform on a per-year basis than CARP has ever seen, that it seems only reasonable for all citizens to give it a real, fighting chance.¹¹⁹

116. See Peter Hurst, *Agricultural Workers and Their Contributions to Sustainable Agriculture and Rural Development* (A Publication Written for the International Labor Office and the Food and Agriculture Organization) available at http://www.fao-ilo.org/fileadmin/user_upload/fao_ilo/pdf/engl_agriculture_C4163.pdf (last accessed Dec. 31, 2014).

117. Flores-Obanil, *supra* note 47, at 5.

118. *CARPer, right and wrong*, *supra* note 111.

119. *Id.*

Representative Walden F. Bello, a noted authority on agrarian reform and one of the authors of the CARPER Act, succinctly characterized the gains of CARPER by stating that the law is “powerful” even if the bureaucracy is “ineffective.”¹²⁰ Bello underscored the reality that the CARPER Act was a victory for rural social movements and social justice advocates in itself, having laid down powerful mechanisms as already identified here.¹²¹ The CARPER Act took the big steps, taking also the country further towards the attainment of rural justice than many critics would like to admit, and supported the evolving notion that land reform could thereby be continued in the future.¹²²

Instead, as will be argued in the following Section, the various problems that plagued the program afterwards were actually found to be due to its execution and implementation, and not due to the formulation of the law.

Indicated below is a table summarizing the changes and amendments in certain provisions of the CARL, as found in the CARPER Act.

Features of CARPER reforms	Section/Basis in CARPER (Republic Act 9700)	Amended Sections/Basis in original CARL (Republic Act 6657)	Details/Analysis by Authors
Removal of the voluntary land transfer (VLT) option after 30 June 2009 ¹²³	Section 5 of CARPER	Section 20. <i>Voluntary Land Transfer:</i> Landowners of agricultural lands subject to acquisition under this Act may enter into a voluntary arrangement for direct transfer of their lands to	Removed the possibility that landowners could transfer ownership of the land to the farmers through the VLT arrangements. The VLT was a mode used by landowners to evade the program, usually either through choosing his/her own set of farmer-beneficiaries (dummy beneficiaries) and later on

120. Walden F. Bello, *Agrarian reform: Powerful law, ineffectual bureaucracy*, PHIL. DAILY INQ., June 10, 2014, available at <http://opinion.inquirer.net/75458/agrarian-reform-powerful-law-ineffectual-bureaucracy> (last accessed Dec. 31, 2014) [hereinafter Bello, *Ineffectual Bureaucracy*].

121. *Id.*

122. *Id.*

123. CARPER Act, § 5.

		qualified beneficiaries	reconsolidating the lands or choosing the piece or parcel of lands to be voluntarily transferred or subjected to the program.
Prioritization of large agricultural lands exceeding 50 hectares and 24-50 hectares over others.	Section 5 of the CARPER Act	Section 7. Priorities. Phase Two for private agricultural lands in excess of 50 hectares and Phase Three for all private agricultural lands commencing with large landholdings and proceeding to medium and small landholdings.	Under Section 5 of the CARPER Act, which amends the Sec. 7 of RA 6657, it was made clear that “[d]uring the five[-]year extension period hereafter all remaining lands above 50 hectares shall be covered for purposes of agrarian reform upon the effectivity of this Act. All private agricultural lands of landowners with aggregate landholdings in excess of 50 hectares which have already been subjected to a notice of coverage issued on or before December 10, 2008; rice and corn lands under Presidential Decree No. 27; all idle or abandoned lands; all private lands voluntarily offered by the owners for agrarian reform[.]” This clarified that larger landholdings were to be distributed first for Phase One and Two. Phase Three would cover smaller land areas.
“ <i>Voluntary Offer to Sell</i> and <i>Compulsory</i> ”	Section 5	Section 8, 11 and 21 for compulsory	The first option aims to reduce landlord resistance by offering

<p><i>Acquisition</i>” as the only modes of distribution for private agricultural lands.</p>		<p>acquisition.</p> <p>Section 2 and 19 for voluntary offer to sell.</p>	<p>landlords incentives: an increase in the cash portion of the landowners’ compensation by 5 percent with a corresponding decrease in the bonds portion.¹²⁴ VOS is a scheme whereby the landowners sell the land to the state, which operates in the context of expropriation, meaning if the landlord refuses to sell via VOS, their lands can still be acquired by the state. Compulsory acquisition, on the other hand, is about enforcing the state’s police power and power of eminent of domain, which means that the government can acquire the lands with or without the cooperation of the landowners. The CA and VOS, under certain conditions, can be argued as the most expropriatory and redistributive forms of land acquisition.¹²⁵ This provision also removes the stock distribution option or SDO as a</p>
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124. Saturnino M. Borras, Jr., et al., *Land, poverty and state-society interaction in the Philippines*, in LAND, POVERTY AND LIVELIHOODS IN AN ERA OF GLOBALIZATION: PERSPECTIVES FROM DEVELOPING AND TRANSITION COUNTRIES 124 (Saturnino M. Borras Jr., et al., eds., 2007).

125. *Id.*

			non-redistributive scheme under Section 31 of the original CARL.
Automatic CARP coverage of lands targeted for failed land use conversion projects.	Section 22	Section 65	This amends Section 65 of the original CARL, which allows for “the reclassification or conversion of agricultural lands when it ceases to be economically feasible and sound for agricultural purposes or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes” after the lapse of five years from awarding the land. Learning from the iconic Sumilao land case, CARPER provides for the automatic coverage of lands targeted for conversion if the conversion plan has not been implemented 5 years after application for land use conversion. This is beneficial for farmers who have been disenfranchised from the program due to illegal and legal land use conversion practices.
Provide integrated support services for new and existing ARBs.	Section 1 and 14	Section 37	The provision mandates an allocation of 40 percent of the budget or equivalent to PhP 60 billion for integrated

			<p>support services; 30 percent of this shall go the fund for seeds and start-up capital or as subsidy for agricultural production of new agrarian reform beneficiaries, and socialized credit facilities for existing ARBs and leaseholders. This is beneficial to new and existing ARBs in their transitioning from farmworkers/tenants to new farmer-owners and managers.</p>
<p>Inclusion of gender-specific and gender-sensitive provisions.</p>	<p>Sections 1, 2, 5, and 15</p>	<p>Not found in CARL</p>	<p>Pushed by rural women advocates, CARPER is the first piece of legislation that has recognized rural women as agrarian reform beneficiaries, which means equal access to land and ownership as their male counterparts. CARPER also provides equal support services for female farmer-beneficiaries. This means that the needs and well-being of women-beneficiaries shall be taken into account in order to integrate such into the general requirements of farmer-beneficiaries. Further, a women's desk was required to be created, as a means for women to seek help or voice out issues or</p>

			grievances with regard to the program and its means of execution.
Prohibition on land use conversion of irrigable and irrigated lands	Section 22	Section 65	Ensures that such lands remain in their original classification for their intended utilization under the program. Land conversion has been used to directly subvert the acquisition and distribution centerpiece of CARP and to dispossess the farmers of lands already awarded to them. The provision also intends to promote food security and protect government investments in irrigation facilities.
Recognition of the indefeasibility of titles and patents	Section 9	Section 24	This signifies an assurance that farmer-beneficiaries can hold on to their land and utilize it, pending the issuance of a paper title over the land. An indefeasible land title and patent vests rights of ownership pending the actual issuance of a title, and this empowers farmer-beneficiaries to employ acts of ownership over the land granted to them under the patent. Under CARPER, only one year is given to the landowners to contest the titles. The failure to do so within the allowed period means

			that the landowner has waived his or her right. This addresses the problems of cancellations of CLOAs and EPs even when they have been awarded to the beneficiaries.
Creation of the Congressional Oversight Committee on Agrarian Reform (COCAR)	Sections 26-28	Not found in CARL	The COCAR was tasked with the duty to oversee the implementation of CARP and also to make annual reports on the progress and status of lands falling under CARP to be submitted to Speaker of the House and President of the Senate.
Implementation of the Principle of Actual and Physical Possession of the Land	Section 9	Not found in CARL	This allowed beneficiaries to occupy and take control of the awarded land prior to the issuance of CLOA or certificate of registration. It is common knowledge that the wheels of the bureaucracy make the issuance of such documents time-consuming, and to compel beneficiaries to wait for the due execution of such documents would be to hamper the purpose of the program.
Immunity from Temporary Restraining	Section 20	See Section 55	This is significant because past experience showed that many

Order /Injunction (except for the Supreme Court)			landowners took advantage of this mechanism in order to stall the distribution of the land and the subsequent transfer of its ownership to the farmer-beneficiaries.
Furnishing of Socialized Credit and Initial Capitalization	Section 14	Not found in CARL	These socialized credit terms allows beneficiaries access to credit with equitable terms and conditions. Said credit shall be used for the purchase, maintenance, and use of agricultural facilities necessary for the business of farming. Initial capitalization, on the other hand, is a direct subsidy to new farmer beneficiaries in recognition of their economic vulnerability as they transition from farmworker-tenant to new owners/farm managers. This provision clearly empowers farmer-beneficiaries and provides them with a means to inject much-needed capital to ensure long-term sustainability of the industry.
Heavier Penal	Section 24-	Section 73 and	Commission of any of the prohibited acts ¹²⁶ is

126. CARPER Act, § 24. In the case of government officials and employees, a conviction under this Act is without prejudice to any civil case and/or appropriate administrative proceedings under civil service law, rules and

Provisions	25	74	punishable by an increased penalty of up to 12 years imprisonment, with a fine of up to one million pesos. Both maximum penalties were set in place for the commission of acts that were prejudicial to the farmer-beneficiaries' welfare, such as the undue conversion of lands to avoid being placed under the program, the sale or conveyance of lands outside of urban centers of city limits in contravention of the program, and the malicious and willful prevention of the distribution of land and implementation of the program.
Inclusion of access to justice of farmer-beneficiaries.	Section 18-20	Section 50 and 55	There are three main reforms included in CARPER: (a) institute a referral system which would expedite the decriminalization of agrarian reform-related criminal cases filed against tenants; (b) uphold the legal standing and personality of agrarian reform beneficiaries, so that the courts cannot dismiss any land cases because

regulations. Any person convicted under this Act shall not be entitled to any benefit provided for in any agrarian reform law or program.' *Id.*

			the farmers' do not have 'legal standing' and (c) uphold the DAR's exclusive jurisdiction over agrarian reform-related cases. These provisions are meant to protect the <i>a priori</i> rights of farmers/peasants to the land.
Access to information on landowner compensation payments.	Section 29	Not found in CARL	Landowner compensation payments deemed as public information.
Additional funding for the extension period .	Section 21	Section 63	Guaranteed the continuing budget appropriation of ₱150,000,000 for the period of extension to be sourced from the Agrarian Reform Fund and other funding sources.

III. ASSESSING THE STATE OF CARP IN THE AQUINO ADMINISTRATION

Despite the new lease on life afforded to CARP and numerous reforms introduced by the passage of the CARPER Act, the program in 2014 remains nowhere near completion.¹²⁷ The full completion of CARPER requires that agricultural lands targeted for redistribution be placed in the effective control of the farmers,¹²⁸ wherein they are physically in possession of their lands, with integrated support services provided for them to make their lands economically-viable and productive.¹²⁹ Yet even with regard to land titles alone, land distribution has nonetheless languished under the present administration's DAR secretary, Virgilio R. de los Reyes.¹³⁰

127. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 31-32.

128. See CARPER Act, § 5.

129. CARPER Act § 14.

130. See generally Bello, *Ineffectual Bureaucracy*, *supra* note 120.

According to the DAR's accomplishment reports, from 2010 to 2013, the second Aquino administration has one of the lowest performance rates in the history of CARP.¹³¹ It attained only a 110,619.50-hectare annual land distribution rate¹³² — far below the Ramos government's 316,673 hectares,¹³³ and Corazon Aquino's 141,420 hectares.¹³⁴ Similarly, while the current government's performance remains better than the Estrada presidency's dismal 89,163 hectares,¹³⁵ it is still much lower than Arroyo's 119,301-hectare annual rate.¹³⁶

Found below is a comparative table of CARP performance per administration:¹³⁷

Share of Land Distribution	CARP Accomplishment/ Land distribution (in hectares)	Share of Land Distribution Output (in percent)	Years of Presidency	Annual Land Distribution (in hectares)
Corazon Aquino	848,518	19.42	6	141,419.67
Fidel Ramos	1,900,035	43.50	6	316,672.50
Joseph Estrada	222,907	5.10	2.5	89,162.80
Gloria Macapagal-Arroyo	954,408	21.85	8 ¹³⁸	119,301
Benigno Aquino III	442,478	10.13	4	110,619.50

131. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 20-21.

132. Philippine Statistics Authority, Agricultural Indicator System (AIS): Redistribution of Land [Report No. 2014-07], 4.

133. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 21.

134. *Id.*

135. *Id.*

136. *Id.*

137. See THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 21.

138. *Id.* From 2001-2008, "Gloria Macapagal-Arroyo distributed lands[.] During the last two years of her presidency, land distribution was halted due to the uncertainty of the future of CARP[.] and the extension debates in Congress." *Id.*

Total	4,368,346	100	24.5	178,299.84
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A. Falling Behind in Land Redistribution

Under Secretary de los Reyes, the present DAR has been marked by chronic underperformance and an inability to meet annual distribution targets.¹³⁹ This was manifested by a significant portion of unused budget — about ₱80 billion — for the implementation of the program. Based on updated figures on land distribution from the DAR and the Philippine Statistical Authority, for the period June 2010 to December 2013, the Aquino administration was only able to release a total of 442,478 hectares to farmers.¹⁴⁰ It is hardly surprising, then, that according to the DAR, the official land distribution or land acquisition and distribution (LAD) balance as of 1 January 2014 remained at 790,671 hectares,¹⁴¹ covering a total of 80,867 landholdings¹⁴² — of which 26,571 landholdings (206,536 hectares) had no Notices of Coverage (NOCs).¹⁴³ If current accomplishment rates of the DAR will be sustained, it could possibly take an additional 8.3 years to complete the land acquisition and distribution component of CARP alone.

Some features of the official LAD balance as of January 2014 deserve further consideration. For one, private landholdings now comprise the bulk of remaining lands to be distributed;¹⁴⁴ indeed, “470,274 hectares of lands or 60[%] of the total land distribution balance” must be distributed under compulsory acquisition.¹⁴⁵ Moreover, of the total LAD balance, most of the remaining private landholdings to be distributed, 38% or 245,114 hectares are landholdings 24 hectares and above in size and compensable by the Land Bank of the Philippines.¹⁴⁶ In terms of crops, “coconut, rice[,] and sugar-

139. Focus on the Global South, Biggest Landless Farmers’ Caucus Calls for Completion of Agrarian Reform in Philippines *available at* <http://focusweb.org/content/biggest-landless-farmers-caucus-calls-completion-agrarian-reform-philippines> (last accessed Dec. 31, 2014).

140. Philippine Statistics Authority, Agricultural Indicator System (AIS): Redistribution of Land [Report No. 2014-07], 4.

141. Mary Ann Manahan, *Narrative of Land: The Current State of Agrarian Reform in the Philippines*, IMPACT, Apr. 2014, at 6 [hereinafter Manahan, *Narrative of Land*].

142. *Id.*

143. *Id.* The issuance of an NOC only initiates the land distribution process for private agricultural lands under compulsory acquisition, which has been established as the main mode of acquisition under CARPER. *Id.*

144. *Id.*

145. *Id.*

146. Virgilio delos Reyes, Secretary, Department of Agrarian Reform, DAR Roadmap 2014, Power Point Presentation to the National Anti-Poverty

cane lands comprise more than two-thirds of lands that still need to be distributed.”¹⁴⁷ Furthermore, “based on [the] DAR’s figures, as of 1 January 2013, there are 262,524 hectares of coconut lands, 178,690 hectares of rice lands, and 145,802 hectares planted with sugarcane that are up for distribution.”¹⁴⁸

However, such official figures are best not taken at face-value. For one, while [the] DAR has consistently reported nationally-aggregated data, it has failed in giving further details to these reports,¹⁴⁹ such as how much lands need to be distributed at sub-national levels, where these landholdings are exactly located, and the status of the land disputes being handled by the agency. This has brought about significant data validation problems for independent observers, rural advocates, and farmers’ organizations. Furthermore, it is also worth noting that the LAD balances of DAR throughout the implementation of CARP have been subjected by the DAR to highly-disputed deductions of around one million hectares under the Ramos-Garilao administration in 1998,¹⁵⁰ and several hundred thousand more during the present government.¹⁵¹ Yet another 826,947-hectare of land were distributed through the Voluntary Land Transfer/Direct Payment Scheme (VLT/DPS) “accounts for 18[%] of the total land distribution accomplishment from 1972 [to] 2013.”¹⁵² As earlier mentioned, the VLT mechanism has often been documented as circumventing effective land reform — with landlords often remaining in control over distributed lands by means of special agreements with supposed farmer-beneficiaries.¹⁵³ If all these lands are considered, together with DAR’s lackluster accomplishment

Commission (Feb. 3, 2014). See also THE STATE OF AGRARIAN REFORM UNDER AQUINO.

147. Manahan, *Narrative of Land*, *supra* note 141, at 6.

148. *Id.*

149. Focus on the Global South, New Data on CARP/ER Distribution Accomplishments Highly Questionable, available at <http://focusweb.org/content/new-data-carper-distribution-accomplishments-highly-questionable> (last accessed Dec. 31, 2014) [hereinafter Focus on the Global South, New Data on CARP/ER].

150. *Id.*

151. Virgilio Delos Reyes, Secretary of Agrarian Reform, Power Point Report to the House of Representatives Committee on Agrarian Reform Hearing, entitled Agrarian Reform: The Way Forward (Feb. 5, 2014).

152. Focus on the Global South, New Data on CARP/ER, *supra* note 149.

153. *Id.* See also Borrás, Jr., *State-Society Relations*, *supra* note 41, at 551-52.

rates, the remaining balance for land distribution expands to about one million hectares in total.¹⁵⁴

Just as significantly, the accomplishment reports of the DAR remain doubtful especially in light of conflicting figures from the Land Registration Authority (LRA).¹⁵⁵ There remains a visible difference in the achievement rates claimed by the DAR and the actual figure of 253,935.37 hectares registered with land titles in the LRA.¹⁵⁶ The figures reveal a remarkable deficit of hectares from the actual official accomplishments in land distribution of the current Aquino administration.¹⁵⁷ Found below is the comparative table of the data from the DAR and the LRA from 2010 to 2013.¹⁵⁸

Year	Claimed Annual Distribution (DAR) ¹⁵⁹	Actual Distribution (LRA) ¹⁶⁰
2010-2011	104,879	87,868.91
2011-2012	111,889	90,725.97
2012-2013	100,149	75,340.49
TOTAL	316,917	253,935.37

B. The Continuing Challenge of Public Land

Secretary de los Reyes has maintained that one of the main reasons underlying the current DAR's subpar record is that the past CARP accomplishments have largely involved public lands, while private landholdings remaining on DAR's LAD balance are considerably harder to distribute.¹⁶¹ By this logic, the most pressing concern of CARP at present thus revolves around the distribution of private agricultural lands.¹⁶² Yet on the contrary, there remain various reasons supporting the view that agrarian reform in public (and forest) lands remains a challenging component of a

154. This is an estimate of the Authors and farmer leaders from the Save Agrarian Reform Alliance.

155. Focus on the Global South, New Data on CARP/ER, *supra* note 149.

156. *Id.*

157. *Id.*

158. *Id.*

159. 8 PHILIPPINE STATISTICS AUTHORITY, REDISTRIBUTION OF LAND 4 (2014 ed.).

160. See Land Registration Authority, LRA-CARP Annual Report of EP/CLOA 2010-2013. See Focus on the Global South, New Data on CARP/ER, *supra* note 149.

161. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 21.

162. *Id.*

successful reform program.¹⁶³ Indeed, “many lands formally classified as timberlands are actually crop-cultivated lands, where share tenancy arrangements between the landed elites and farmers/peasants exist and proliferate.”¹⁶⁴

The Department of Environment and Natural Resources (DENR) is the main agency tasked to distribute two types of public lands — the agricultural public alienable and disposable (A&D) lands, as well as the community-based and -managed forest areas (CBFM), which are actually cultivated as farmlands.¹⁶⁵ A third type of public land which was recently transferred from the DAR to the DENR under joint Department Administrative Order no. 3, series of 2014 is that of untitled private agricultural lands.¹⁶⁶ At the beginning of January 2010, based on DENR data, the remaining balance for public lands under CARPER was 497,461 hectares;¹⁶⁷ by end of December 2013, it was reported that 73% of the balance has already been distributed (362,604 hectares) to 444,720 farmer beneficiaries.¹⁶⁸

But even if one acknowledges that, in general, the balance for public lands has been reduced, DENR still confronts immense challenges concerning public land distribution, including: (a) overlapping titles between private and public lands, and problems of delineations;¹⁶⁹ (b) reform reversals due to land reclassifications¹⁷⁰ (e.g. land reclassification of coconut areas in Sariaya, Quezon by the local government);¹⁷¹ (c) de-prioritization of CBFM lands;¹⁷² (d) competing claims over contested public forest lands due to

163. *Id.*

164. *Id.*

165. *Id.* at 17.

166. Department of Agrarian Reform & Department of Environment and Natural Resources, Guidelines in the Disposition of Untitled Privately-Claimed Agricultural Lands, Joint DAR-DENR Administrative Order No. 3, Series of 2014 [Joint DAR-DENR A.O. No. 3, s. 2014] (Mar. 26, 2014).

167. See generally Legislative Budget Research and Monitoring Office, Budget Facts and Figures (A Report from the Official Quarterly Publication of the LBRMO) available at [https://www.senate.gov.ph/publications/LBRMO%20July%202014%20-%202025%20YEARS_CARP\(final\)%20PDF.pdf](https://www.senate.gov.ph/publications/LBRMO%20July%202014%20-%202025%20YEARS_CARP(final)%20PDF.pdf) (last accessed Dec. 31, 2014).

168. *Id.*

169. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 9.

170. *Id.*

171. Delfin T. Mallari, Jr., *Palace rulings reverse land reform*, PHIL. DAILY INQ., July 26, 2013, available at <http://newsinfo.inquirer.net/453317/palace-rulings-reverse-land-reform> (last accessed Dec. 31, 2014).

172. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 9.

conflicting policies and laws governing these lands;¹⁷³ and (e) contentious untitled private agricultural lands.¹⁷⁴

C. *Limited Support Services*

Finally, land distribution will remain ineffective without the delivery of integrated support services allowing existing and new farmer-owners to transition from being tenants/leaseholders to farmer-managers.¹⁷⁵ Indeed, under the CARPER Act, a budget of ₱ 60 billion¹⁷⁶ was earmarked for such support services such as farm implements, access to socialized credit, initial capitalization, and trainings for farmers.¹⁷⁷ These services, moreover, were to be women-friendly — one product of the CARPER Act's gender provisions.¹⁷⁸

However, as of 2014, support services have yet to be extended to most agrarian reform beneficiaries. According to DAR, from 1972 to 2013, out of the 5.2 million farmers given land through the national land reform program, only 56% were accorded support services under the Agrarian Reform Communities (ARC) program of DAR.¹⁷⁹ In other words, 44% of all agrarian reform beneficiaries who are outside of ARCs under the DAR's scope remain without access to integrated support services packages, as of December 2013.¹⁸⁰ Similarly, the CARPER's directive to furnish access to socialized credit and initial capitalization in the form of cash or farm implements to new and existing ARBs¹⁸¹ has yet to be fully realized by the DAR; the Land Bank-DAR socialized credit facility,¹⁸² the Agrarian

173. *Id.*

174. *Id.*

175. See N.J.C. Morales, CARP support services yielded minimal gains – economists, available at <http://www.gmanetwork.com/news/story/117532/news/nation/carp-support-services-yielded-minimal-gains-economists> (last accessed Dec. 31, 2014).

176. See Norman Bordadora, *Land reform fund depends on farm purchases*, PHIL. DAILY INQ., June 7, 2012, available at <http://newsinfo.inquirer.net/213813/land-reform-fund-depends-on-farm-purchases> (last accessed Dec. 31, 2014).

177. CARPER Act, § 13. See also, Manahan, *Narrative of Land*, *supra* note 141, at 6.

178. CARPER Act, § 5, 14, & 15. See also Manahan, *Narrative of Land*, *supra* note 141, at 6.

179. See generally Morales, *supra* note 175.

180. Delos Reyes, *supra* note 146.

181. Department of Agrarian Reform, Implementing Rules and Regulations on the Provision of Agricultural Support to and Liberalization of Access to Credit by Agrarian Reform Beneficiaries under Republic Act No. 9700, Administrative Order No. 3, Series of 2010 [DAR A.O. No. 3, s. 2010] (July 2, 2010).

182. *Id.*

Production Credit Program,¹⁸³ provides loans to farmers at a final pass-on rate of 15% — a level higher than market rates.¹⁸⁴

This inability to ensure that new and existing agrarian reform beneficiaries receive timely and adequate support services poses serious threats to the sustainability of its claimed land distribution accomplishments. In Hacienda Luisita, for instance, an alleged 80% to 90% of DAR's claimed farmworker-beneficiaries have been compelled to informally lease their lands due to the agency's failure to deliver timely and relevant support services.¹⁸⁵ Instead of DAR, on-the-ground reports reveal that other Luisita farmworkers-beneficiaries belonging to the local farmer organization Farmworkers for Agrarian Reform Movement (FARM) have been forced to rely upon self-help initiatives, as well as on the social action arm of the Catholic Bishops Conference of the Philippines, the National Secretariat for Social Action, for access to irrigation facilities, seeds, and fertilizers.¹⁸⁶ Similarly, in Bondoc Peninsula — another high-profile agrarian reform case celebrated by DAR — numerous farmers have reportedly abandoned their lands due to DAR's sluggishness in delivering support services and processing their legal titles.¹⁸⁷

For the period of 2013–2016, the Aquino administration must provide support services to an additional 633,395 potential agrarian reform beneficiaries (408,342 for DAR; and 225,053 for DENR).¹⁸⁸ On the side of the DAR, the main program for achieving this is an expanded ARC program or Agrarian Reform Community Connectivity and Economic Support Services (ARCESS), which is a “strategic intervention to retain the awarded lands of [ARBs] through increased production and engagement

183. See Land Bank of the Philippines, Agrarian Production Credit Program, *available at* <https://www.landbank.com/APCP> (last accessed Dec. 31, 2014).

184. Department of Agrarian Reform, Credit and Micro-Finance Programs *available at* <http://www.dar.gov.ph/component/content/article/25-portals/314-credit-and-micro-finance-programs> (last accessed Dec. 31, 2014).

185. See Pia Ranada, Lack of support for farmers drives abusive ‘aryendo’ system, *available at* <http://www.rappler.com/nation/60272-lack-support-services-aryendo-system-hacienda-luisita> (last accessed Dec. 31, 2014).

186. See *generally* CBCP News, Hacienda Luisita farmers: ‘Help us resist reversal of agrarian reform’, *available at* <http://www.cbcnews.com/cbcnews/?p=34750> (last accessed Dec. 31, 2014).

187. Delfin T. Mallari, Jr., *Farmers abandoning Bondoc Peninsula, says group*, PHIL. DAILY INQ., Mar. 12, 2014, *available at* <http://newsinfo.inquirer.net/584555/farmers-abandoning-bondoc-peninsula-says-group> (last accessed Dec. 31, 2014).

188. Delos Reyes, *supra* note 146.

in agri-based and related enterprises.”¹⁸⁹ Yet, even as assessed by the Authors, the ultimate challenge remains how to go beyond the scope of ARCs where a significant share of ARBs is located.

D. A Fragmented Coalition for Agrarian Reform

What accounts for the dismal record of agrarian reform throughout the Aquino administration? Despite President Aquino III’s promise in his 2012 State of the Nation Address (SONA) that farmers “will have land,”¹⁹⁰ the Authors note that government activities throughout his presidency, as a whole, have relegated agrarian reform-related concerns to a non-priority status. More specifically, DAR operations in the present administration have been faced by allegations of secrecy,¹⁹¹ increased opposition by landed and commercial interests, an ineffective bureaucracy paralyzed by uncertainty over the program’s future,¹⁹² a top leadership whose indecisive, legally-conservative, and technicality-oriented approach to reform has served to further deprive the entire program of political will, all in addition to a significant deterioration in positive interactions between DAR officials and pro-reform movements and organizations (as will be shown in the latter parts of this Note). These, the Authors argue, have been critically-important factors which help explain the substandard performance of Aquino administration’s DAR.

Here, it is crucial to consider the central role played by collaborative state-society coalitions in periods where significant progress in land reform has been made. Indeed, as noted by Borras, key to the CARP’s relative success in the Ramos administration was the “*bibingka* strategy” of reform-oriented “modernized” bureaucrats of promoting the autonomy and capacity of CARP implementation mechanisms of the government, even while working intensively with independent peasant organizations and pro-farmer NGOs through means such as the establishment of interfacing mechanisms, cooperation on strategic campaigns, and cultivation of myriad informal

189. Department of Agrarian Reform, Agrarian Reform Community Connectivity and Economic Support Services (ARCESS), available at <http://www.dar.gov.ph/mfos/program-beneficiaries-development/289-arcess1> (last accessed Dec. 31, 2014).

190. Norman Bordadora, *Aquino to farmers: You will have land*, PHIL. DAILY INQ., June 15, 2012, available at <http://newsinfo.inquirer.net/212713/aquino-to-farmers-you-will-have-land> (last accessed Dec. 31, 2014).

191. See Focus on the Global South, *Farmers to DAR: Stop keeping the country in the dark, show us the data on land distribution!*, available at <http://focusweb.org/content/farmers-dar-stop-keeping-country-dark-show-us-data-land-distribution> (last accessed Dec. 31, 2014).

192. Bello, *Ineffectual Bureaucracy*, *supra* note 120.

relationships.¹⁹³ By building up spaces within the governmental apparatus with strengthened autonomy from the influence of propertied elites as well as higher capacity to implement key asset reforms, reformists like then-Secretary Garilao were able to secure effective alliances with rural social movements that, since the CARP's passage in 1988, had also become more open to direct engagement with government, and politically and legally adept at pressing forward their claims to land.¹⁹⁴ By combining forces of both independent pressures and mobilizations from below by rural movements,¹⁹⁵ as well as managed state endeavors from above by programmatic bureaucrats,¹⁹⁶ such positive interactions have catalyzed significant political opportunities for pro-agrarian reform forces to strengthen their collective bargaining power in relation to landed elites and other anti-CARP social groups.¹⁹⁷ In this sense, what the successes of these synergistic state-society coalitions demonstrate is that the outcomes of land reform policy implementation are not solely determined by structural-institutional factors (e.g. the domination of Congress and Local Government Units by landlord politicians), or the operations of government functionaries; rather they are strongly conditioned by the dynamics and political strategies of an entire range of state and society actors both supporting — or opposing — the agrarian reform execution process.¹⁹⁸

This is not to say that tensions between differing goals, agenda, and orientations among state and society forces have not existed, nor that such state-society coalitions in themselves are sufficient for successful land redistribution. But when the realization of public policies like the CARP remains such a highly contested and conflict-ridden process, there can be no doubt that the realization of mandated reforms will necessitate the backing of a political constituency effective enough to overcome or neutralize a deep-seated opposition to their implementation.¹⁹⁹ As the CARP's record indicates, only in rare cases are Philippine state reformists or social movements alone powerful enough in themselves to secure the successful implementation of the national agrarian reform effort.²⁰⁰ For Borras, this fact is further highlighted by the reality that “in regions where landlord resistance

193. Borras, Jr., *State-Society Relations*, *supra* note 41, at 562-63 & 571.

194. *Id.* at 557.

195. *Id.* at 567-68.

196. *Id.* at 568-69.

197. *Id.* at 569-70.

198. *Id.* at 571.

199. Borras, Jr., *State-Society Relations*, *supra* note 41, at 567 & 569.

200. *Id.*

is strong and pro-reform state-society interaction weak, land reform performance is particularly low.”²⁰¹

In light of the above, the present configuration of pro-reform state and society forces in the Aquino administration appears to have failed to live up to the vibrant state-society coalitions that were realized under the Ramos DAR.²⁰² Instead of deeply synergistic ties between peasant movements and government officials, state-society relations have thinned dramatically, with the DAR becoming far less accessible to farmer organizations, while farmer movements have increasingly taken on a fragmented and at times antagonistic character. In place of political effectiveness, the leadership of the DAR has adopted an approach to CARP implementation prioritizing a rigid adherence to legal prescriptions and the technicalities of “due process.”

I. A Legalistic Leadership

First, the non-priority and legalistic implementation approach accorded to it by the present administration is problematic. Against the pronouncement of President Aquino III during his third SONA that he will complete the CARP before the end of his term,²⁰³ the completion of the CARP has featured nowhere in the areas where he has exercised some degree of personal involvement.²⁰⁴ This is especially disappointing given that farmers and other rural populations remain the poorest sector in the country, having failed to benefit significantly from recent spells of economic growth.²⁰⁵ Instead, President Aquino has wholly delegated the fulfillment of his SONA promises on CARP to the present DAR Secretary Delos Reyes, whom he has retained amidst strong calls for his resignation by farmers’ organizations,

201. *Id.* at 563.

202. *See* THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 20.

203. *See* Benigno S. Aquino III, President of the Republic of the Philippines, Third State of the Nation Address at the Session Hall of the House of Representatives, Batasan Pambansa Complex (July 23, 2012) (transcript available at <http://www.gov.ph/2012/07/23/english-translation-benigno-s-aquino-iii-third-state-of-the-nation-address-july-23-2012/> (last accessed Dec. 31, 2014).

204. The President has yet to convene the Presidential Agrarian Reform Council which is the highest policy making body for agrarian reform. *See* Akbayan Party-list, Agrarian reform in Aquino's midterm year: Dim, slow and unsatisfactory, available at <https://akbayan.org.ph/news/12-press-releases/330-agrarian-reform-in-aquino-s-midterm-year-dim-slow-and-unsatisfactory> (last accessed Dec. 31, 2014).

205. Marc Jayson Cayabyab, Agriculture: The decline of the poor man's sector available at <http://www.gmanetwork.com/news/story/306370/economy/agricultureandmining/agriculture-the-decline-of-the-poor-man-s-sector> (last accessed Dec. 31, 2014).

rural advocacy groups, Catholic bishops, progressive lawyers, academicians, DAR employee associations, and administration allies.²⁰⁶

Delos Reyes' legal background and overemphasis on due process have proven to be among the greatest impediments for the land-distribution efforts of many farmers' organizations.²⁰⁷ His legal conservatism and inclination towards technicality are best exemplified by the Administrative Order (A.O.) No. 7, Series of 2011.²⁰⁸ Delos Reyes lauds A.O. No. 7 as a key measure for "streamlining" and "simplifying" the LAD process.²⁰⁹ Yet at the same time, A.O. No. 7 has been strongly condemned by farmers' organizations such as the Rural Poor Institute for Land and Human Rights Services, Inc. or RIGHTS-Network, the Quezon Agrarian Reform and Rural Development, and the peasant-led umbrella group Save Agrarian Reform Alliance (SARA), on the basis that the "net effect of certain provisions has paralyzed rather than fast track the implementation of agrarian reform in landholdings affected by protests and/or exclusion and exemption cases, in particular."²¹⁰

Specifically, Section 28 and 29 of A.O. No. 7²¹¹ have been held by such groups as detrimental to the welfare of the farmers since they incentivize

206. Roices Naguit, *Because PNoy Trusts Them | DBM's Abad, DAR's Delos Reyes to remain in Cabinet, says Palace*, available at <http://www.interaksyon.com/article/94076/because-pnoy-trusts-them--dbms-abad-dars-delos-reyes-to-remain-in-cabinet-says-palace> (last accessed Dec. 31, 2014); Genalyn Kabling, *Aquino keeps Abad, Delos Reyes*, MANILA BULL., Aug. 27, 2014, available at <http://www.mb.com.ph/aquino-keeps-abad-delos-reyes/> (last accessed Dec. 31, 2014); & DJ Yap, *Stop deceiving public, protesting farmers tell DAR chief*, PHIL. DAILY INQ., Dec. 22, 2012, available at <http://newsinfo.inquirer.net/328117/stop-deceiving-public-protesting-farmers-tell-dar-chief> (last accessed Dec. 31, 2014).

207. See Leila B. Salaverria, *DAR chief: We're doing our best*, PHIL. DAILY INQ., Aug. 28, 2014, available at <http://newsinfo.inquirer.net/633392/dar-chief-were-doing-our-best> (last accessed Dec. 31, 2014).

208. Department of Agrarian Reform, Revised Rules and Procedures Governing the Acquisition and Distribution of Private Agricultural Lands Under Republic Act No. 6657, As Amended, Administrative Order No. 07, Series of 2011 [DAR A.O. No. 7, s. 2011] (Sep. 30, 2011).

209. Department of Agrarian Reform, Secretary Virgilio R. De Los Reyes available at <http://www.dar.gov.ph/past-leaders/365-secretary-virgilio-r-de-los-reyes> (last accessed Dec. 31, 2014).

210. Katarungan & Quezon Association for Rural Development and Democratization Services, Inc., *Agrarian Reform Paralysis Under the Fiction of "Due Process" (A Short Paper Analyzing the Efficacy and Faults of DAR A.O. Nos. 7 & 9, series of 2011)* (On file with the Authors).

211. DAR A.O. No. 7, s. 2011, §§ 28 & 29. These Sections provide —

recalcitrant land owners to circumvent and even hold hostage the land distribution process by the mere filing of “Protests against CARP Coverage and/or Petitions for Exemption/Exclusion.”²¹² Furthermore, these provisions are contrary to the intent of the original CARL, which provides in certain provisions (i.e. Sections 55 and 68 of the CARL, as amended)²¹³

Section 28. Period to File an Application/Petition for Exemption/Exclusion. The Application/Petition for Exemption or Exclusion from CARP coverage may be filed together with the above-mentioned Manifestation. If it is not filed jointly, the landowner can file it, together with the documents required by the rules on exemption or exclusion, within [] 60 days from receipt of the NOC. Non-submission thereof within this reglementary period shall be construed as a waiver or abandonment of his/her/its right to file said Petition for Exemption or Exclusion from CARP coverage with respect to the landholding covered.

For landholdings under VOS, the LO is deemed to have waived his/her/its right to file such a Petition for Exemption or Exclusion from CARP coverage upon DAR's acceptance of his/her/its offer.

Section 29. Petition for Protest of Coverage and/or Petition for Exemption or Exclusion Not Bar to Continue LAD Process. Despite the pendency of a protest against coverage or a petition for exemption or exclusion, the land acquisition process shall nevertheless continue until the issuance of the Memorandum of Valuation (MOV) with the attached Land Valuation Worksheet (LVW) by the LBP, unless otherwise suspended sooner through a Cease and Desist Order (CDO) by the RD or the Secretary.

Notwithstanding a Petition for [*certiorari*] filed with the courts, the PARO shall issue and serve the Notice of Land Valuation and Aquisition (NLVA) and proceed with the rest of the land acquisition and distribution process thereafter as soon as the protest against coverage or petition for exemption or exclusion has been denied by the RD, or if appealed, by the Secretary, or if further appealed, by the President of the Republic of the Philippines, unless otherwise ordered suspended by the Supreme Court.

The submission of the Manifestation for Exemption or Exclusion alone, without the Application/Petition, shall not affect the land acquisition process as provided in the A.O., nor give ground for the issuance of a CDO by the RD or the Secretary.

Id.

212. *Id.* § 29.

213. Comprehensive Agrarian Reform Law of 1988, §§ 55 & 68. These Sections state —

Section 55. No Restraining Order or Preliminary Injunction. — No court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the PARC or any of its duly authorized or designated agencies in any case, dispute[,] or

against possible delays in land distribution, even to the point of prohibiting courts of law (except the Supreme Court) from issuing injunctions, restraining orders, and prohibitions or *mandamus* against the Presidential Agrarian Reform Council — the highest policy making body of the program.²¹⁴

In this sense, A.O. No. 7 compromises prospective farmer-beneficiaries' interests in the name of "due process" as the suspension of the land reform implementation process pending the resolution of the protest or exemption/exclusion cases by the Office of the President.²¹⁵ It would effectively enable landowners to capitalize on the already protracted process of agrarian reform and justice. It allows a landowner to file an exemption case within 60 days after the issuance of a Notice of Coverage (NOC),²¹⁶ which prolongs the case disposition; moreover, it also disallows the transfer of land titles to the Republic of the Philippines for land cases which are pending due to landowner protests or applications for exclusion and exemption of the landholdings.²¹⁷ There are reasons to expect that all of these will negatively impact the distribution of targeted large landholdings.

An illustrative example is that of the 1,716 hectares of land in Hacienda Matias in Bondoc, Peninsula.²¹⁸ The landholding was included in the 2011 the LAD target of the DAR but because there was no final master-list of beneficiaries, it was removed as a target for 2012.²¹⁹ In 2004, a NOC was already issued to the landowners — the first in the 29-step land distribution

controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform.

Section 68. Immunity of Government Agencies from Undue Interference. — No injunction, restraining order, prohibition[,] or [*mandamus*] shall be issued by the lower courts against the Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the Department of Environment and Natural Resources (DENR), and the Department of Justice (DOJ) in their implementation of the program.

Id.

214. *Id.* § 55.

215. DAR A.O. No. 7, s. 2011, § 29.

216. *Id.* § 28.

217. This is without the existence of a finalized master-list of beneficiaries on 1 July 2009.

218. FIAN International, HACIENDA MATIAS: A denial of the farmers' right to adequate food, available at <http://www.fian.org/library/multimedia/hacienda-matias-timeline/> (last accessed Dec. 31, 2014).

219. See Delfin T. Mallari, Jr., *Hacienda farmers still pray for land*, PHIL. DAILY. INQ., July 7, 2014, available at <http://newsinfo.inquirer.net/620629/hacienda-farmers-still-pray-for-land> (last accessed Dec. 31, 2014).

process.²²⁰ But from the time of this NOC issuance, the landowners — the Matias family — embarked on a series of legal maneuvers to circumvent CARP coverage.²²¹ Ensuing events included a protest to the conduct of surveys (even as this was denied by the Office of the President), and the filing of a Protest to the Implementation of Provisional Lease Rental (later on dismissed by the DAR Adjudication Board).²²² Finally, in 2010, the landowners filed another Application for Exemption/Exclusion, which is currently pending and being used to yet again delay CARP coverage.²²³ In this context, A.O. No. 7 also provided additional reasons to exempt Hacienda Matias from the 2012 target for land distribution.²²⁴

The Hacienda Matias case provides that despite adhering to “due process,” rigid adherence to the legal procedures outlined in A.O. No. 7 can actually serve to embolden landowners to delay and stifle agrarian reform efforts. Worse, it should be realized that delays in the process of distribution can result in catastrophic costs for prospective farmer-beneficiaries of CAPRER. Indeed, in the Matias landholding, amidst delays in land distribution, landowners have deployed both goons and insurgent forces to intimidate and harass farmers, and even DAR field implementers.²²⁵ In this manner, illegal tactics were used by landowners alongside legal tactics in a concerted effort to circumvent CARP, undermine rural development efforts, and create more rural injustices and unrest. Within such a context of contention, if not violence, adherence to the technicalities of “due process,” as Delos Reyes and other top leaders of DAR have emphasized, can thus impair efforts by both state and society forces to successfully implement agrarian reform.

2. The Paralysis of the DAR Bureaucracy

Second among the problems is the paralysis and “chilling” effect of the DAR bureaucracy. To be sure, it is no secret that much uncertainty still exists as to

220. FIAN International, *supra* note 218.

221. *Id.*

222. *Id.*

223. FIAN International, Philippines: Right to adequate food of 500 farmers threatened, *available at* <http://www.fian.org/get-involved/take-action/urgent-actions/urgent-action-philippines-hacienda-matias/> (last accessed Dec. 31, 2014).

224. Interview by Mary Ann Manahan with Danilo Carranza, Secretary General of Katarungan, and Maribel Luzara, president of Kilusang Magbubukid ng Bondoc Peninsula, in the Farmers’ Camp in front of the Department of Agrarian Reform, Elliptical Road, Quezon City (Mar. 3, 2014).

225. See Delfin T. Mallari, Jr., *Quezon land recipients bare threats*, PHIL. DAILY INQ., Dec. 22, 2014, *available at* <http://newsinfo.inquirer.net/658506/quezon-land-recipients-bare-threats> (last accessed Dec. 31, 2014).

what will happen to the DAR as a government agency after the end of President Aquino's term in 2016. It was clearly mentioned in the 2012 General Appropriations Act, for instance, that the agency will eventually undergo a "transition plan"²²⁶ and stream-line some of its functions to other executive departments.²²⁷ Already, options are being internally discussed by government on how the DAR will look like, post-2016.

Given the legally-mandated 30 June 2014 LAD deadline, the government has been attempting to introduce institutional changes through A.O. No. 34, which creates an inter-agency committee for "study[ing] and crafting of reorganization and rationalization plans to effect institutional arrangements and transition [for post-CARP scenario by 30 June 2014]."²²⁸ In turn, this high level committee's main mandate is to "facilitate the implementation of reforms in the institutional arrangements for land distribution, management, and delivery of support services to farmers and fisherfolk as a means of enhancing the development efforts of government for the rural sector."²²⁹ The Chairperson of the Committee is the Director-General of National Economic and Development Authority, with the secretaries of the DAR, the DA, the DENR, the Department of Justice, the Department of Budget and Management, and the LRA as members.²³⁰

More specifically, A.O. 34 aims to streamline the efforts of the national government agencies involved in rural development and delivery of support services to "speed up development of the Philippine rural sector and to review their functions with the end view of simplifying protocols and procedure to optimize use of government resources[.]"²³¹ As such, the support services component of the DAR has been envisioned to be transferred to the DA and other CARP implementing agencies. This means that the DAR staffing will eventually be scaled down to much smaller levels and its organizational structure rationalized or streamlined.

Yet rather than addressing uncertainty among the bureaucracy's ranks about the program's future, it turns out the looming transition plan has

226. See generally Philippine Daily Inquirer, 'Transition plan' to junk, not finish, agrarian reform, PHIL. DAILY INQ., Nov. 13, 2012, available at <http://opinion.inquirer.net/40722/transition-plan-to-junk-not-finish-agrarian-reform> (last accessed Dec. 31, 2014).

227. See Office of the President, Creating an Inter-Agency Committee on Institutional Arrangements for Land Management and Rural Development, Administrative Order No. 34, Series of 2012 [O.P. A.O. No. 34, s. 2012] (Nov. 22, 2012).

228. O.P. A.O. No. 34, s. 2012, § 2 ¶ 4.

229. *Id.* § 1, ¶ 2.

230. *Id.* § 2.

231. *Id.* whereas cl., ¶ 2.

instead been increasingly crippling the activities of DAR's bureaucracy. As highlighted by Bangkok-based development research organization Focus on the Global South, as well as the SARA in a 2013 report —

There is collective alarm that [A.O.] 34 will only confuse and further delay agrarian reform because [A.O.] 34 seeks a new structure that departs from the mandate of asset reform program as it plans to farm out the key pillars of CARP, i.e. land tenure, direct support service, and agrarian justice delivery, to other CARP-implementing agencies.²³²

Such claims are not unfounded as talks about DAR's closing shop have sent waves of uncertainty among the rank and file, and officials of the agency. In spite of the remaining LAD backlog, the perception among numerous DAR employees that the completion of the program will cause them to forfeit their present jobs has slowed down LAD implementation even further. Furthermore, there are reports from organized farmers' groups and the union inside DAR — the DAR Employees Association (DAREA) — that such prospects are triggering operational paralysis among DAR's local officials, with many municipal agrarian reform officers refusing to move the land cases due to the uncertain future of their jobs. Unsurprisingly, DAREA has been publicly vocal in opposing moves to streamline the employees' ranks, having submitted its position papers to Congress.²³³ In addition, it is striking that due to their discontent with the top leadership of DAR, 78 out of 93 local chapters and all 17 central office chapters of DAREA had, by January 2013, joined farmers' demands for Secretary Delos Reyes' resignation.²³⁴

Beyond widespread confusion about DAR's upcoming transition plan, there were two other major developments that have underlain the near-paralysis of the bureaucracy and non-implementation of the CARP, especially with regard to field operations. One was the impact of the government-wide rationalization program which, starting in September 2013, has retrenched some 12,000 personnel.²³⁵ According to DAREA, it

232. See Focus on the Global South and Save Agrarian Reform Alliance, 2013 Report (2013).

233. Interview by Mary Ann Manahan with Nanette Pascual, President, Department of Agrarian Reform Employees Association, in the Focus on the Global South Office, Quezon City (Oct. 12, 2013).

234. See Catholic Bishops' Conference of the Philippines-National Secretariat for Social Action-Justice and Peace (CBCP-NASSA), There is a crisis in DAR governance, available at <http://www.interaksyon.com/assets/documents/doc2113/footnote1-2.pdf> (last accessed Dec. 31, 2014).

235. See Department of Agrarian Reform, New Opportunities Through the DAR Rationalization, available at <http://www.dar.gov.ph/announcement/161-new-opportunities-through-the-dar-rationalization-plan> (last accessed Dec. 31, 2014).

resulted in massive demoralization among DAR personnel.²³⁶ To be sure, the rationalization effort remains a long overdue plan of the government since the Arroyo administration²³⁷ — yet its ill-timed implementation has coincided with the critical period of land distribution under CARP/ER less than a year before the 30 June 2014 deadline. Another was the “chilling” effect of the 30 June 2014 deadline itself. Despite public statements issued by DAR Secretary Delos Reyes that CARP did not “expire” on the said date, the reality on the ground shared by DAREA has been quite different.

3. The Weakening of State-Society Interactions

Finally, even while uncertainty over the CARP’s very future now looms large under the Aquino administration, the same state-society linkages that have been central to the CARP’s earlier successes have significantly deteriorated — reinforcing a fractionalization and weakening of the political efficacy of the overall agrarian reform constituency.²³⁸ There have been two sides to this process.

On one hand, compared to the Ramos administration, a significant share of pro-reform forces, such as SARA, Task Force Mapalad, the CBCP, and other key land reform advocacy groups, have all expressed loss of confidence and trust in the leadership of Secretary Delos Reyes.²³⁹ Furthermore, in numerous cases narrated by these farmers’ groups, corruption and ineffectiveness have hounded the bureaucracy — with both national and local DAR officials colluding with landowners and real estate developers in order to evade the implementation program.²⁴⁰ Not surprisingly, a far more conflicting relationship between DAR and such peasant movements has gradually come into play since the appointment of Delos Reyes, as evidenced by escalating anti-secretary rhetoric since 2012. Various farmers’ groups, with the support of their social allies, have since staged indefinite protest camps outside the DAR to demonstrate their discontent over Delos Reyes’ continued leadership and numerous DAR officials’ dismal performance in implementing agrarian reform, failure to resolve land cases in

236. Interview with Nanette Pascual, *supra* note 233.

237. See Office of the President, Directing a Strategic Review of the Operations and Organizations of the Executive Branch and Providing Options and Incentives for Government Employees who may be Affected by the Rationalization of the Functions and Agencies of the Executive Branch, Executive Order No. 366 [E.O. No. 366] (Oct. 4, 2004).

238. See generally Jonathan De Santos, Inequality persists as Aquino fails to push CARP, advocates say, *available at* <http://verafiles.org/inequality-persists-as-aquino-fails-to-push-carp-advocates-say/> (last accessed Dec. 31, 2014).

239. *Id.*

240. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 31, 42, & 53-54.

a swift and effective manner, and low regard for farmers' concerns.²⁴¹ Also, a letter written in 24 January 2013 by 85 members of the CBCP for President Aquino provides —

There is a crisis in DAR governance. Farmers and advocates have not been remiss in engaging DAR in trying to address the problems. In the past year, there were 20 municipal-level dialogues, in 15 municipalities, 8 [provincial-level] dialogues, and 6 [national-level] meetings, as well as dialogues with Secretary de los Reyes, the latest held last [21 December] 2012 at CBCP-NASSA. With only [one and a half] years to go on CARPER, the [farmer-beneficiaries] are getting desperate that the present DAR leadership cannot do the job. Essentially, the issues raised by the farmers were already raised in the [14 June] 2012 meeting with the President, about which nothing much has been done[.]²⁴²

Though difficult to empirically verify, it is significant that in nationwide consultations conducted by Focus on the Global South and SARA in 2012 with farmer communities representing over 200 cases spanning 112,206.686 hectares of land, it was repeatedly emphasized by farmer-leaders that the current functionaries of DAR appear to regard themselves as above other sectors — peoples' organizations especially.²⁴³ The current heads of DAR, in particular, do not seem to appreciate the past record of positive state-society interactions with farmers and social movements, having espoused, in the view of various peasant and civil society advocates, a “*DAR-can-do-it-all*” attitude.²⁴⁴

To be sure, specific interventions can be cited where the DAR has engaged to some degree of selective collaboration with certain farmers groups and civil society organizations. For example, in February 2013, Secretary Delos Reyes signed a covenant with the National Anti-Poverty Commission's Farmers and Landless Rural Workers' Council in order to “fast-track” the implementation of the CARPER Act over 40 provinces and some 25 farmers' federations.²⁴⁵ Unfortunately, according to Trinidad Domingo, one of the farmer-leaders who signed the covenant, the

241. See generally Sun.Star Pampanga, Farmers hit DAR's 'empty promises', SunStar, Aug. 25, 2014, available at <http://www.sunstar.com.ph/pampanga/local-news/2014/08/24/farmers-hit-dars-empty-promises-361573> (last accessed Dec. 31, 2014) & Jimmy Domingo, Filipino farmers hold protest outside DAR office, available at http://www.mindanaoexaminer.com/news.php?news_id=20101014084217 (last accessed Dec. 31, 2014).

242. See CBCP-NASSA, *supra* note 234.

243. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 31.

244. *Id.*

245. Jeannette I. Andrade, *Antipoverty group, DAR ink agreement*, PHIL. DAILY INQ., Feb. 5, 2013, available at <http://newsinfo.inquirer.net/352729/antipoverty-group-dar-ink-agreement> (last accessed Dec. 31, 2014).

agreement does not seem to have produced much result,²⁴⁶ particularly because of the DAR's aforementioned penchant for legal technicalities and procedure over effective political responses to concerns and strategic efforts raised by farmers.

Indeed, on balance, the overall approach taken by the DAR towards rural social movements has been marked by a tendency for DAR leaders to deal with peasant groups on more strictly legal-technical and politically-neutral terms — with high officials occasionally attempting to resolve the anticipated interests of peasants and landlords on a legal level. As earlier discussed, this approach of the present leadership does not seem to grapple with the possibility that — in a context of unequal resources, capabilities, and influence — compelling peasant movements to shoehorn their efforts into rigidly-legal procedures and frameworks risks disadvantaging them in their political contentions for land against propertied elites. In so doing, rather than realizing itself as the most steadfast champion of small farmers, the DAR has instead distanced itself from those who should be its firmest coalition partners — the farmers' movements, their allied civil society organizations, and other agrarian reform champions in the government and the society.

These are the some of the most important realities that show the state of agrarian reform implementation in the Philippines five years after the CARPER Act was passed. They speak of a dismal record for land reform under the Aquino administration, with the political effectiveness of pro-reform forces impaired and fragmented. What remains direly needed from the DAR is to create positive state-society interactions to ensure the meaningful and direct participation of pro-reform forces in the speedy and effective implementation of CARP. To do so will require nothing less than a change in the orientation of the DAR leadership, the morale and level of dynamism of the bureaucracy, and the quality of linkages between state officials and rural social movements. As will be shown in the next Section, achieving these have become all the more important, given the emerging threats to land reform that are now coming to prominence.

IV. EMERGING THREATS AGAINST CARP

Beyond the aforementioned problems involved in the implementation of the CARPER Act, the past few years have also seen the emergence of several threats to the CARP that, to be dealt with effectively, will necessitate further legislative action as well as greater demonstration of political will by key executive departments of government. While many of these challenges are hardly new to the Philippine countryside, the heightened breadth and intensity with which they have been taking place affirms the need for a

246. Interview with Trinidad Domingo, Spokesperson, Save Agrarian Reform Alliance, in Diliman, Quezon City, Philippines (Sep. 30, 2014).

firmer policy response to ensure the integrity of the CARP's cumulative accomplishments. This Note will focus on what is believed to be two of the most urgent — though by no means the only — growing threats to the achievement of effective and substantive land reform in the Philippines: (1) the CARPER Act's elapsed deadline for land distribution; and (2) the rise in contention-ridden land acquisitions, or "land-grabs."

A. CARPER's Land Distribution Deadline

Perhaps the most immediate danger that now afflicts CARP is the deadline of its LAD component. Though granting the agrarian reform program a new lease on life, among other major reforms, the CARPER Act had also laid down a concrete timetable for the completion of its LAD balance — which was to be ended by 30 June 2014.²⁴⁷ As expressed in Section 5 of the CARPER Act — "The DAR, in coordination with the PARC shall plan and program the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands from the effectivity of this Act until [30 June 2014]."²⁴⁸

The CARPER Act divides the implementation of LAD into three separate phases, with each phase prioritizing the acquisition and distribution of different-sized landholdings.²⁴⁹ The schedule of these phases and the types of lands focused on by them are presented in Table 4.1.

What is worth noting here is the primacy given to the distribution of large private agricultural landholdings: the phasing provided by the CARPER Act prescribes that the largest private landholdings — lands with more than 50 hectares, and those between 24 and 50 hectares NOCs as of 10 December 2008 — are to be redistributed first before 30 June 2012.²⁵⁰ This is to be followed by redistribution of landholdings with smaller sizes — those lands between 24 to 50 hectares without NOC as of 10 December 2008, and those between 10 to 24 hectares — before 30 June 2013.²⁵¹ Lastly, lands that exceed the retention limit of three hectares up to 10 hectares shall be redistributed before 30 June 2014.²⁵²

Table 4.1 Schedule of Land Distribution of CARP under the CARPER Act²⁵³

247. See CARPER Act, § 5.

248. CARPER Act, § 5.

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. *Id.*

Phase	Deadline	Lands Prioritized
One	30 June 2012	(i) All large private landholdings in excess of [50] hectares with notices of coverage issued on or before 10 December 2008, (ii) Rice and corn lands still up for redistribution under Presidential Decree No. 27, (iii) Idle and abandoned lands, (iv) Private lands voluntarily offered by their owners for agrarian reform, (v) Lands foreclosed by government financial institutions, (vi) Lands acquired by the Presidential Commission on Good Government, (vii) Other government-owned lands devoted to or suitable for agriculture
Two	30 June 2012	(i) All private agricultural lands between [24] and [50] hectares in size with notices of coverage issued on or before 10 December 2008, (ii) alienable and disposable agricultural lands (iii) arable public lands agricultural lands under agro-forest, pasture and agricultural leases already cultivated and planted to crops in accordance with Section 6, Article XIII of the Constitution (iv) public agricultural lands to be opened for new development and resettlement
	30 June 2013	(i) All remaining private agricultural lands of landowners with aggregate landholdings in excess of [24] hectares, regardless as to whether these have been subjected to notices of coverage or not
Three	30 June 2013	(i) All lands of landowners with aggregate landholdings above [10] hectares up to [24] hectares
	30 June 2014	(i) All lands of landowners with aggregate landholdings from the retention limit up to [10] hectares

All these phases' deadlines have now passed, yet as already emphasized, the CARP still stands far from completion. Only days before the 30 June 2014 deadline, the DAR publicly reported that around 41,500 hectares of land — spanning some 4,665 landholdings — had yet to be issued NOCs, while 500,000 hectares of land had yet to be granted to farmer-beneficiaries through CLOAs.²⁵⁴ While it has been repeatedly expressed by the DAR and various policymakers that the passage of this deadline will not translate into a

254. Pia Ranada, Agrarian reform deadline: 41,500 hectares not yet covered, *available at* <http://www.rappler.com/nation/61934-carper-deadline-june-30-backlog> (last accessed Dec. 31, 2014) [hereinafter Ranada on CARPER Backlog].

blanket suspension of the DAR's LAD activities,²⁵⁵ it is nonetheless undeniable that the event harbors significant material consequences both for the DAR and its farmer constituencies.

The immediate repercussions of the 30 June 2014 deadline of CARPER can be encapsulated in two ways: (1) in terms of the *financing* of its LAD component; and (2) also in terms of the same component's *effectivity*.

Firstly, with regard to financing, the LAD deadline signals the expiration of the national budget's automatic appropriations for land distribution.²⁵⁶ In other words, following the 30 June deadline, the financial requirements for continued LAD implementation ceases to have legal basis in the CARPER Act. This much is clear from Section 21 of the CARPER Act, which states that "after the completion of the land acquisition and distribution component of the CARP, the yearly appropriations shall be allocated fully to support services, agrarian justice delivery[,] and operational requirements of the DAR and other CARP implementing agencies."²⁵⁷ Earlier in the same section, this period for LAD's completion was expressly pegged by the law as "until [30 June 2014]."²⁵⁸

In this respect, the present situation of the CARP substantially mirrors that which was experienced in 1998, when the program's original 10-year funding was confronted with its first deadline.²⁵⁹ At that time, the problem of the deadline was only surmounted through the passage of R.A. No. 8532, approved by then-President Ramos on 23 February 1998. Of particular importance to this piece of legislation is the fact that it was not conceived as an "extension" of the original CARP law — the CARL — but rather as an "augmentation" of it, since the two-page R.A. No. 8532 merely provided for the appropriation of additional funds of up to ₱50 billion for the program's implementation until 2008.²⁶⁰ Thus, while financial support for the program may no longer have been guaranteed for CARL, the agrarian reform program itself was by no means viewed to have "expired" per se.

255. Pia Ranada, DAR: CARPER extension not needed, *available at* <http://www.rappler.com/nation/52325-agrarian-reform-extension-not-needed> (last accessed Dec. 31, 2014) [hereinafter Ranada on CARPER Extension].

256. CARPER Act, §§ 5, 21, & 30.

257. *Id.* § 21.

258. *Id.*

259. Nathaniel Don E. Marquez et al., *Struggles in Implementing Agrarian Reform in the Philippines (A Paper Written for the Asian NGO Coalition for Agrarian Reform and Rural Development) 2* *available at* <http://www.landcoalition.org/sites/default/files/legacy/legacypdf/angoc/ch2/ch2p05.pdf?q=pdf/angoc/ch2/c2p05.pdf> (last accessed Dec. 31, 2014).

260. CARL Augmentation, § 1.

Indeed, the view that the CARP's LAD component could lose effectivity, regardless of any unfinished distribution balance, is a more recent development, which garnered force only by the time the program experienced its second deadline in June 2008.

Secondly, apropos the CARPER Act's effectivity, the current consensus prevailing amongst legislators and the DAR officials holds that the 30 June 2014 deadline should not result in the complete loss of effectivity for the program's LAD component.²⁶¹ While precedents for this view have surfaced during past CARP deadlines in 1998 and 2008,²⁶² the DAR's present reasoning behind this position, expressed in various position papers submitted to Congress, ultimately stems from its interpretation of the CARPER Act's Section 30. This section of the CARPER Act mandates that any agrarian reform case or proceeding still pending as of 30 June 2014 "shall be allowed to proceed to its finality and be executed even beyond such date."²⁶³ Here, the DAR's central assertion, which has been given persuasive support by Department of Justice Opinion No. 59, Series of 2013,²⁶⁴ is that the "proceedings" encompassed by this section also include landholdings in which the land redistribution process has already been set in motion through the issuance of an NOC.²⁶⁵ Avers the DAR —

The importance of this provision and the scope of its applicability can be culled from the transcript of the Bicameral Conference Committee of the Disagreeing Provisions of [H.B. No.] 4077 and [S.B. No.] 2066 Re: CARP Extension of the Committee on Agrarian Reform on 09 June 2009 that considered the said law. In the aforementioned transcript, it was clarified and agreed upon by the members of the committee that the scope of Section 30 includes not only pending administrative or quasi-judicial, *but also proceedings involving the coverage of landholdings that had not yet completed as of 30 June 2014*. The inclusion was made in order to make Section 30 more encompassing. Clearly, therefore, it was underscored that pending cases with the DAR, as well as the implementation of proceedings for the acquisition and distribution not yet completed as of 30 June 2014, shall continue until they are all finally disposed of and fully executed.²⁶⁶

261. Ranada on CARPER Extension, *supra* note 255.

262. For instance, in 1997, the CARP was affirmed by the DOJ as a "continuing program" that will not formally end until its "original scope and mandate" has been completed. Department of Justice, DOJ Opinion No. 009, Series of 1997 [DOJ Opinion No. 009] (Feb. 14, 1997).

263. CARPER Act, § 30.

264. DOJ Opinion No. 59 (2013).

265. *Id.*

266. Department of Agrarian Reform, Position Paper to Congressional Oversight Committee on Agrarian Reform, Mar. 3, 2014, at 3 (on file with Authors) (citing Transcript of the Bicameral Conference Committee Meeting, June 9,

Also bolstering this same position for continuing LAD on NOC-covered private agricultural lands has been the successful inclusion of a provision regarding the matter in R.A. No. 10633, or the General Appropriations Act for 2014.²⁶⁷ The final proviso of the Special Provision number 2 in Section 1 (4) (A) of that General Appropriations Act expressly states that —

[A]ll lands which have been issued notices of coverage but with pending cases and/or proceedings as of [30 June 2014] shall continue to be processed until issuance of duly registered land ownership award to the individual agrarian reform beneficiaries in accordance with Section 30 of the CARPER Act and Item IV (A.1) of DAR A.O. No. 2, Series of 2009, as amended.²⁶⁸

Similarly, it is likewise worth noting that since the issuance of an NOC is not required by the DAR to begin land redistribution activities in (a) government-owned lands; (b) foreclosed lands of government financial

2009) [hereinafter DAR Position Paper]. The quoted transcript is reproduced below —

Rep. Lagman: Just a clarification.

Chairperson Honasan: Congressman Lagman.

Rep. Lagman: What is meant by ‘any case’? Does it mean that there is a judicial or quasi-judicial proceeding?

Chairperson. Honasan: That is correct, Congressman Lagman.

Rep. Lagman: How about ‘pending and to be completed implementation of the program on coverage’? This is not a case but a proceeding before DAR. Will this not be continued even after

Chairperson Honasan: Can we hear from the DAR?

Mr. Quijano: I believe, Your Honor, that the case as mentioned here are actual administrative or quasi-judicial cases pending with the department which are still with them even after [30 June] 2014 or after the expiration of the [five]-year extension period.

Rep. Lagman: Can we make it even more encompassing by providing any case and/or proceeding involving the implementation of the provisions of [CARL] to include pending action on coverage, not completed by [30 June] 2014?

So I would propose an amendment on line 5, page 40, reading: ‘Any case and/or proceeding.’

Chairperson Honasan: Any objection? Hearing none, the amendment is approved.

Id.

267. An Act Appropriating Funds for the Operation of the Government of the Republic of the Philippines From January One to December Thirty-One, Two Thousand and Fourteen, and for Other Purposes, Republic Act No. 10633 (2013).

268. *Id.* § 1 (4) (A).

institutions; and (c) private agricultural lands under Voluntary Offer to Sell (VOS) and Operation Land Transfer (Presidential Decree No. 27) schemes, the DAR has also maintained that LAD activities in these types of CARP-covered lands can proceed without any loss in effectivity after the 30 June 2014 deadline.²⁶⁹

If one concurs with this interpretation of Section 30 of the CARPER Act, then what the deadline will primarily impact instead is the implementation of land distribution on *private* agricultural lands *that have not yet been covered with NOC* as of 30 June 2014. Not much information is publicly available at present on the precise breakdown of these remaining landholdings, though the DAR statements since 30 June 2014 attest that most of the remaining lands without NOCs are small coconut and sugar lands in Regions VI, VIII, and the Autonomous Region of Muslim Mindanao.²⁷⁰

More certain, however, is the agreement among various pro-CARPER stakeholders that the passage of a new law enabling the DAR to continue issuing NOC past 30 June 2014 on private agricultural lands remains necessary.²⁷¹ This much has been recognized by the DAR itself, which has appealed in its position papers for the ratification of a “one-liner amendment” to the CARPER Act providing for the extension of the period to issue and serve NOCs.²⁷² Interestingly, the DAR has also maintained that such an amendment should not be construed as an extension of the program per se, but only of its period to issue NOCs;²⁷³ in support of which, the DAR appeals that

[t]he failure to recognize not only the difference between these two proposals, but also the rationale behind the DAR’s and the DOJ’s understanding of Section 30 of [the CARPER Act], will place the DAR and the program back to the situation in early 2009, when the DAR was unable to acquire and distribute land until CARPER was eventually passed.²⁷⁴

269. Ranada on CARPER Extension, *supra* note 255.

270. Pia Ranada, Senate passes bill to extend CARPER deadline, *available at* <http://www.rappler.com/nation/69389-senate-passes-carper-amendment> (last accessed Dec. 31, 2014).

271. Pia Ranada, Aquino to Congress: Extend agrarian reform deadline, *available at* <http://www.rappler.com/nation/60318-aquino-senate-house-extend-agrarian-reform-deadline> (last accessed Dec. 31, 2014) [hereinafter Ranada on Urgent Extension Bills].

272. *Id.*

273. DAR Position Paper, *supra* note 266, at 6.

274. *Id.*

Regardless of whether the passage of such an amendment effectively constitutes an extension of the CARP or not, the lapsing of the LAD 30 June 2014 deadline has resulted in the filing of several proposals in Congress concerning the future of the CARP. In the House of Representatives, for instance, Rep. Rufus B. Rodriguez as well as his brother Rep. Maximo B. Rodriguez, Jr. have filed H.B. No. 3305,²⁷⁵ which seeks to extend the CARP until 2019; while left-wing critics of the CARP have lodged their own “Genuine Agrarian Reform Bill” pushing for, most notably, the free distribution of lands.²⁷⁶ But perhaps the most significant legislative development has been the filing of H.B. No. 4296 by Reps. Crescente C. Paez and Teddy B. Baguilat,²⁷⁷ and S.B. No. 2278 by Sen. Gregorio B. Honasan²⁷⁸ — both of which are proposals to extend the DAR’s powers to issue NOCs until 30 June 2016, *and* which, more importantly, have been certified as urgent by President Aquino III last 26 May 2014 and 11 June 2014, respectively.²⁷⁹ As of this writing, the Senate version of these so-called “CARP Completion” bills was approved on third reading on 17 September 2014, while the House version has already gotten past the committee level.²⁸⁰

Despite the certification of urgency by President Aquino III, however, the passage of H.B. No. 4296 is still not guaranteed at the present time, given that staunch opposition by the two blocs of Visayan landowners and left-wing party-lists has already prevented the approval of the bill prior to the 30 June 2014 deadline.²⁸¹

But even if such CARP Completion bills are signed into law, it is essential to bear in mind what has already been argued in this Note — that the problems plaguing the difficulties of the CARPER Act’s implementation ultimately are *political*, and not *legal-technical* in nature. It is worth reiterating that the facts of the DAR’s LAD balance remaining uncompleted as of the 30 June 2014 deadline owes not simply to the formulation of the CARPER Act in itself, but rather to how the mandates and frameworks of that law have been socially-embedded and put into practice by the CARP’s implementers and various stakeholders since 2010. Unless these same social and political factors that have hobbled CARP implementation are addressed,

275. H.B. No. 3305, 16th Cong., 1st Reg. Sess. (2013).

276. H.B. No. 252, 16th Cong., 1st Reg. Sess. (2013).

277. H.B. No. 4296, 16th Cong., 1st Reg. Sess. (2013).

278. S.B. No. 2278, 16th Cong., 1st Reg. Sess. (2013).

279. Ranada on Urgent Extension Bills, *supra* note 271.

280. Ruth Abbey Gita, Senate passes bill extending CARP, *available at* <http://www.sunstar.com.ph/manila/local-news/2014/09/17/senate-passes-bill-extending-carp-366044> (last accessed Dec. 31, 2014).

281. Ranada on CARPER Backlog, *supra* note 254.

there remain ample reasons to expect that the program will once again arrive at the same impasse by 30 June 2016 or at a later date.

Here again, both the lack of political drive manifested by the DAR's leadership as well as the erosion of positive state-society interactions between the DAR and other pro-reform forces, have been widely acknowledged by farmer-constituencies, civil society advocates, church leaders, and legislators alike to have been among the most important reasons for the DAR's inability to complete LAD before the deadline. On numerous occasions, the DAR officials have laid blame on "technical problems" such as double land-titles, missing titles, and land titles destroyed by typhoons, among other reasons, for the backlog in its issuance of NOCs.²⁸² Nonetheless, though it may be true that certain technical bottlenecks may have delayed issuance of some NOCs, various observers have emphasized that the DAR has already had the instruments needed in order to ensure the program's completion prior to 30 June 2014. One co-author of the CARPER Act, Rep. Bello, has maintained that the formal legal tools afforded by the CARPER Act may be even more powerful than those made available to vaunted agrarian reform programs in South Korea, Taiwan, and Japan.²⁸³ On this same point, some remarks shared by Rep. Baguilat — the present chair of the House Committee on Agrarian Reform — in a public interview shortly after the 30 June 2014 deadline are worth quoting at length —

Facing cases on land issues — I think it's something that's supposed to be accepted whenever you work with DAR, and therefore we shouldn't be afraid to confront these cases. Anyway, you have the mandate of the law. You have the Constitution which says that all private agricultural lands have to be distributed. It's clear in [the] CARPER [Act] which lands are exempted or those which are not. It's really just a matter of exercising your political will despite all the opposition from big-time landlords. You should use the full force of the bureaucracy to ensure that the program gets going, particularly land acquisition and distribution.

I think that DAR hasn't been that aggressive in fulfilling its mandate. That's why there's a perception that the leadership of DAR hasn't been that effective. Even among their allies. Even among those who supported [the] CARPER [Act], the agrarian reform advocates who pushed for the extension of CARP. Right now they're saying there's something that's wrong with the law, and I keep on telling them [that] perhaps it's not the law that's ineffective, perhaps it's how you implement it. That's the problem.

I'm not saying the legalities are not important. [The DAR leadership] talk about technicalities, and I do agree. But at the end of the day, it's whether

282. Pia Ranada, Land reform advocates to DAR: Stick to 2014 deadline, *available at* <http://www.rappler.com/nation/51833-dar-carper-2014-deadline> (last accessed Dec. 31, 2014) [hereinafter Ranada on Land reform advocates].

283. Bello, *Ineffectual Bureaucracy*, *supra* note 120.

you are able to issue the mandate or the circular that have the bureaucracy working towards the implementation of agrarian reform. And as for the cases, then you have the lawyers to take care of that. You're the secretary. You're the government. You have the police power to confiscate actually if you want to.²⁸⁴

More testimonies from key personalities like Rep. Baguilat can adduced, and numerous anecdotes confirming the lack of resolute action on behalf of the DAR can be cited, but the trend that they illustrate is clear: in themselves, the technical issues cited by the DAR's leadership fail to provide ample explanation of the DAR's inability to meet the NOC deadline set to it by law, as even various accounts of the DAR's undertakings close to the 30 June 2014 deadline find the department as demonstrating "no sense of urgency to complete the agrarian reform program."²⁸⁵

This lack of political will proves especially worrisome, of course, given that much actual redistribution still has to take place in what the DAR itself has recognized to be some of the most "difficult, tedious, and contentious" private agricultural landholdings.²⁸⁶ It also gives cause for concern in light of complaints from various farmers' groups that there are still numerous alienable and disposable agricultural lands across the country which are not yet included under the CARP's LAD balance. The farmer-coalition Task Force *Mapalad* (TFM) found in a June 2014 survey, for example, that there are still 8,525 landholdings amounting to 65,138 hectares in 22 provinces which are not yet covered by the CARP.²⁸⁷ On 28 June 2014, yet another farmers' group, the Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK), filed petitions to the DAR to cover another 80,000 hectares of lands nationwide which were purportedly not yet accounted for.²⁸⁸ Just as

284. Pia Ranada, DAR chief too meek to implement agrarian reform?, *available at* <http://www.rappler.com/nation/62876-dar-chief-agrarian-reform-implementation> (last accessed Dec. 31, 2014).

285. Less than a month before CARPER Law ends, farmers will march to Palace, urge PNoy to fulfill promise, *available at* <http://www.interaksyon.com/article/88203/less-than-a-month-before-carper-law-ends-farmers-will-march-to-palace-urge-pnoy-to-fulfill-promise> (last accessed Dec. 31, 2014).

286. Official Gazette, For the Record: Report on the State of Agrarian Reform, January 2013, *available at* <http://www.gov.ph/2013/02/04/for-the-record-report-on-the-state-of-agrarian-reform-january-2013/> (last accessed Dec. 31, 2014).

287. Task Force Mapalad, As precious time runs out, farmers urge House to pass bill extending CARP, *available at* <http://taskforcemapalad.org/press-statements/as-precious-time-runs-out-farmers-urge-house-to-pass-bill-extending-carp> (last accessed Dec. 31, 2014).

288. Tonette Orejas & Vincent Cabreza, *Women farmers lay claim to 80,000 ha for CARE*, PHIL. DAILY INQ., June 28, 2014, *available at* <http://newsinfo.inquirer.net>.

pressing is the necessity of revisiting the redistribution of various agricultural lands through anomaly-ridden mechanisms, such as VLTs and Joint Venture Agreements, between 1988 and 2014.²⁸⁹ By the estimates of the Catholic church-convened *Sulong* CARPER coalition, as much as *one million hectares of land* over the past two decades have been subject to these duplicitous modes of “land reform,” which now require an independent audit and effective redistribution.²⁹⁰

Partly to allay such concerns, Section 3 of the original version of H.B. No. 4296 sought to supply the DAR with powers to include alienable and disposable lands suitable for agriculture, but not yet within CARP coverage, under its LAD balance.²⁹¹ The DAR’s response to this original proposal, however, is telling of its leadership’s penchant for legal conservatism at the expense of addressing the legitimate concerns raised by various farmers’ groups. In an Agrarian Reform Committee hearing on 14 May 2014, the DAR Undersecretary for Legal Affairs surprisingly expressed strong reservations at the forwarded provision, on the ground that the proposed Section 3 purportedly resulted in a redefinition of what lands can be classified as “agricultural,” in fear of the repercussions such a change in definition would have on the standing coverage of the CARP.²⁹² In effect, the manifestation resulted in the said section’s deletion from H.B. No. 4296, which may be tackled perhaps in a future bill instead.

While this development may seem to be technically sound, it still fails to resolve the issues raised by groups such as TFM, PKKK, and *Sulong*

net/614990/women-farmers-lay-claim-to-80000-ha-for-carp (last accessed Dec. 31, 2014).

289. CBCP News, Bishops, farmers urge government to extend CARPER, *available at* <http://www.cbcnews.com/cbcnews/?p=30182> (last accessed Dec. 31, 2014).

290. *Id.*

291. H.B. No. 4296, § 3. The kinds of lands proposed for CARP coverage under the deleted Section 3 of the original H.B. No. 4296 include:

- (1) Lands classified as alienable and disposable, which are suitable for agriculture but are not in the CARP coverage as of [30 June] 2015;
- (2) Lands declared as alienable and disposable, which are suitable for agriculture after [30 June] 2015; and
- (3) 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 [E.O. No.] 448 and [E.O. No.] 407.

Id.

292. House of Representatives Committee Affairs Department, Committee Daily Bulletin, Issue No. 111, at 1-2, 16th Cong., 1st Reg. Sess. (May 14, 2013).

CARPER regarding land distribution in agricultural lands outside of the DAR's official LAD balance. Ironically, in so doing, the DAR has adopted the same position that some supporters of the CARP extension adopted in 2008 — a “mere extension” of the agrarian reform status quo without reforms, hewing to the path of least controversy and resistance.²⁹³ Against the initial expectations of these “mere extension” proponents, the eventual passage of the CARPER Act firmly demonstrated how much more was actually attainable in 2009, with the application of considerable political pressure from the grassroots and allies of farmers' organizations.

In this case, as with the current effort to enact a new law extending the DAR's period to issue NOCs, the ultimate problem has lain less with legal and technical impediments to the implementation of the CARP than the political indecisiveness and lack of urgency of authorities in the fulfillment of their constitutional mandate for agrarian reform. Without a thorough-going shift in these priorities of the DAR's leadership and its interactions with its farmer-constituencies movements and their allies, it is most probable that the passage of a CARPER Completion Law will only defer this problem of deadlines to a future point in time.

B. The Problem of Land-Grabbing and the Reversal of CARP

The challenges of the DAR's LAD deadline and the sluggishness of its leadership, however, are only part of an emerging crisis that the national land reform effort presently faces. Perhaps even more worrisome is the continued stalling, and at times, ongoing reversal of the past gains of the CARP — through increasing incidents of land-grabbing, illegal land use conversions, human rights violations against agrarian reform beneficiaries, and judicial retaliation by anti-land reform forces.

Various signs suggest that a broad counter-offensive against agrarian reform — driven by national economic elites, large landlords, and government-linked land brokers — may now be taking shape. For one, between 2012 and 2013, there was a 4.6% increase in the number of cases filed at the DAR Adjudication Board — at a time when the CARP was finally proceeding to distribute lands in many of the remaining bastions of landlordism such as in Western Visayas and Mindanao.²⁹⁴ The same obdurateness with which propertied elites and their associates are resisting the implementation of land reform is luridly demonstrated by persistent

293. Aison Garcia & Marlon Manuel, *On Reform and Extend Agrarian Reform* (An Unpublished Position Paper by the Peasant Unit of SALIGAN) 2-3, available at <http://www.saligan.org/docs/Position%20on%20CARP%20Extension%20with%20Reforms.pdf> (last accessed Dec. 31, 2014).

294. Walden F. Bello, *Waterloo for Agrarian Reform?*, PHIL. DAILY INQ., Sep. 17, 2013, available at <http://opinion.inquirer.net/61327/waterloo-for-agrarian-reform-2> (last accessed Dec. 31, 2014).

assassinations of farmer-leaders and rural activists since the start of the Aquino administration.²⁹⁵ Indeed, in the past two years, a pattern of “rising incidence of extra-judicial killings and landlord and corporate impunity” across the countryside has been recognized and condemned by various local human rights, environmental and rural advocacy groups, international watchdogs and civil society organizations,²⁹⁶ bishops of the Catholic Church,²⁹⁷ as well as the Philippine Commission on Human Rights, particularly with regard to mining-related killings.²⁹⁸

But perhaps the most widespread manifestation of this shift against land reform, however, lies in how various rural communities across the country are reportedly being dispossessed from lands that they have documented living on for decades, if not generations. Certainly, the phenomenon of land-grabbing is usually understood to involve the illegitimate seizure of lands occupied by rural smallholders, such as farmers, fisherfolk, and indigenous peoples, leading to their expulsion from those lands.²⁹⁹ In this regard, various groups in the Philippines have often opposed reported land-grabs on the basis of numerous asset reform laws such as the CARPER Act, the Indigenous Peoples’ Rights Act,³⁰⁰ the Fisheries Code,³⁰¹ and the Urban

295. Vince M. Estrada & Ennah A. Tolentino, *Afarm calls for government action on land reform*, available at <http://www.theguardian.com/1112/main/2014/06/afarm-calls-for-government-action-on-land-reform> (last accessed Dec. 31, 2014). Examples of assassinated farmer-leaders include Melon Barcia of Hacienda Dolores in Pampanga, Lisa Tulid of Bondoc Peninsula in Quezon, Dexter Condez of Boracay Island, and more than a dozen others. *Id.*

296. Focus on the Global South, et al., *Justice for Ka Melon and his family! Stop the attack on peasants and peasant leaders!*, available at <http://focusweb.org/content/justice-ka-melon-and-his-family-stop-attack-peasants-and-peasant-leaders> (last accessed Dec. 31, 2014).

297. Philip C. Tubeza, *Revamp DAR, 78 bishops urge Aquino*, PHIL. DAILY INQ., Feb. 2, 2013, available at <http://newsinfo.inquirer.net/351161/revamp-dar-78-bishops-urge-aquino> (last accessed Dec. 31, 2014).

298. Voltaire Tupaz, *Are environmental activists targeted for killing?*, available at <http://www.rappler.com/move-ph/15226-are-environmental-activists-targeted-for-killing> (last accessed Dec. 31, 2014).

299. TRANSNATIONAL INSTITUTE, *THE GLOBAL LAND GRAB: A PRIMER* 4 (2013).

300. An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous People, Creating a National Commission of Indigenous People, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes, Republic Act No. 8371 (1997).

301. An Act Providing for the Development, Management and Conservation of The Fisheries and Aquatic Resources, Integrating All Laws Pertinent Thereto, and for Other Purposes, [The Indigenous Peoples’ Rights Act of 1997] Republic Act No. 8550 (1998).

Development and Housing Act³⁰² among others. Illegitimate land acquisitions, it has usually been assumed, can be distinguished by their violations of such tenurial laws and the entitlements they safeguard for smallholders.³⁰³

Yet as argued by experts from the Hague-based Transnational Institute for Policy Studies (TNI) and the International Institute for Social Studies (ISS), these legal conceptions of the land-grab phenomenon still cannot completely account for the entire spectrum of land deals often deemed illegitimate by affected local communities across the world.³⁰⁴ Indeed, due to potential conflicts among laws as well as the customary nature of land tenure arrangements among numerous rural communities, cases can and do arise where touted land-grabs can be “perfectly legal,” yet still fail to be legitimate for those impacted.³⁰⁵ More than a legal understanding of land-grabs, these experts argue, a *political-economy* framing allows a more nuanced understanding of the dynamics of land-grabbing — defined as the “capturing of control of land and other associated resources like water, minerals[,] or forests in order to control the benefits of their use.”³⁰⁶ Land-grabbing is, in other words, essentially *control-grabbing* over land and land-related resources; it is an inherently *political* act, since it revolves around the *power* to decide how land resources will be used both in the present and the future, as well as who will benefit from their use.³⁰⁷ A land-grab, by this definition, can be transparent, need not involve the outright displacement of smallholders from their land or the divestment of their legal property titles — yet still be a land-grab so long as the benefits resulting from it will be grossly inequitable and exclusionary for those affected.³⁰⁸

In the Philippines, disputes where land-grabbing has been alleged have oftentimes entailed human rights abuses, as is made clear in the selected cases included in Table 4.2. In the Sicogon case in Iloilo, to name just one, farmers and fisherfolk have reported being abused and physically harassed by the private security personnel employed by the Sicogon Island Development Corporation — which have prevented them from returning to their homes

302. An Act Amending Section 12 of Republic Act No. 7279, Otherwise Known as the Urban Development and Housing Act of 1992, and for Other Purposes, Republic Act No. 9397 (2007).

303. TRANSNATIONAL INSTITUTE, *supra* note 299, at 6.

304. *Id.*

305. *Id.* at 8.

306. *Id.* at 3.

307. *Id.* at 3–4.

308. *Id.*

in the aftermath of Supertyphoon Haiyan last November 2013.³⁰⁹ As found by TNI and ISS experts in their worldwide survey of land-grabs, if such residents are displaced from their land without being employed once a land-grab has been executed, what often follows in reported cases is a failure of investors and elites to make good on their commitments to communities on issues such as the payment of damages, resettlement in improved conditions, and fair compensation for their lands.³¹⁰ But even among large-scale land acquisitions where the labor of prior inhabitants is absorbed, there are frequently negative reports among smallholders-turned-workers about the decency of work, the quality of working conditions, and the integrity of contracts entered into with investors.³¹¹ Among such deals where lands are leased from the original residents, complaints are also normally heard about the alarmingly low rents that are paid to smallholders by investors.³¹²

Table 4.2. Profiles of Selected Large-scale Land Cases³¹³

CASE	SIZE AND LOCATION	AGENTS INVOLVED	RATIONALE	ALLEGED COMMUNITY IMPACTS
APECO (Aurora Pacific Economic Zone and Freeport Authority)	12,923-hectares / Casiguran, Aurora province	Angara political dynasty; APECO administration ; investors	Creation of Freeport / Special Economic Zone	Harassment and intimidation, illegal land conversions, loss of land tenure security, environmental

309. Pia Ranada, Haiyan-displaced families ‘forced’ to occupy forests, *available at* <http://www.rappler.com/nation/55319-haiyan-displaced-families-forced-occupy-forests> (last accessed Dec. 31, 2014).

310. TRANSNATIONAL INSTITUTE, *supra* note 299, at 3-4.

311. *Id.*

312. *Id.* at 15-16.

313. See Bea Cupin, Casiguran locals march for their land, *available at* <http://www.rappler.com/move-ph/16941-casiguran-locals-march-for-their-land> (last accessed Dec. 31, 2014); Nestor P. Burgos, Jr., *Benefits of coal unclear in Semirara*, PHIL. DAILY INQ., July 26, 2014, *available at* <http://newsinfo.inquirer.net/623469/benefits-of-coal-unclear-in-semirara> (last accessed Dec. 31, 2014); Theresa S. Samaniego, *Ayala community to soon rise in Porac*, PHIL. DAILY INQ., Oct. 13, 2014, *available at* <http://business.inquirer.net/180202/ayala-community-to-soon-rise-in-porac> (last accessed Dec. 31, 2014); Liza Reyes, *Banking on tourism*, *available at* <http://www.abs-cbnnews.com/-depth/03/23/12/banking-tourism> (last accessed Dec. 31, 2014); & Kiersnerr Gerwin Tacadena, *After Yolanda comes Ayala: Typhoon victims displaced by tourism project*, *available at* <http://verafiles.org/after-yolanda-comes-ayala-typhoon-victims-displaced-by-tourism-project/> (last accessed Dec. 31, 2014).

				degradation
CALUYA	UP TO 3,095 hectares / Caluya Island, Antique	Semirara Mining Corp.; Javier family; local government officials	Tourism development and expansion of coal mining	Eviction from homes, demolitions, environmental degradation, loss of fishing grounds, harassment and detainment of residents
HACIENDA DOLORES	1,125-hectares / Porac, Pampanga	Ayala land; Leonio Land; FL Properties and Management Corporation	Establishment of Alviera, a large-scale mixed-use community and business district	Eviction from homes, demolitions, harassment and intimidation, killings
HAMILO COAST / PICO DE LORO	UP TO 8,650-hectares / Nasugbu, Batangas	SM Land Inc.; Manila Southcoast Development Corporation; Fil-Estate	Coastal tourism zone, residential community and environmental reserve	Harassment and intimidation, loss of land tenure security, illegal land conversions
LUMINA HOMES	12.47 hectares / Plaridel, Bulacan	Lumina Homes of Vista Land; Villar family	Establishment of residential subdivision	Illegal land conversions; flooding of farmlands
SIDECO (Sicogon Island Development Corporation)	809 hectares / Sicogon Island, Iloilo	Ayala land; Sarroza family; SIDECO administration	Establishment of Sicogon Island Resort Complex	Eviction from homes, harassment and intimidation, loss of land tenure security

Alarmingly, in a highly cited 2010 World Bank report,³¹⁴ the Philippines was identified as the second top destination country in the Asia-Pacific for

314. Klaus Deininger, Large scale land acquisitions: What is happening and what can we do? (A Presentation of the World Bank at the Land, Investment, and Development event by the Food and Agriculture Organization, Swiss Agency for Development and Cooperation, and the International Fund for Agricultural Development on Jan. 24, 2010), available at <http://www.donorplatform.org/>

large-scale land acquisitions by foreign governments and transnational agribusinesses often affiliated by international observers with the phenomenon of “global land-grabbing,”³¹⁵ with the Philippine government earmarking 3.1 million hectares of lands for such investments by multinational companies and foreign governments.³¹⁶ Yet even as the worst-case scenario for such “global land-grabs” has not materialized in the Philippines, reports of land-grabbing in the country have escalated over the past six years in other guises. These other primary forms of alleged land-grabbing involve the acquisition and transformation of land for: (1) real estate development; (2) tourism; (3) special economic zones; (4) mining; (5) dams; and (6) industrial agriculture purposes.³¹⁷ To be sure, land-grabbing may by no means be a new phenomenon in the Philippines, but what is distinctive about this latest wave of dispossessions is that a much greater share of them are being driven by the anticipated commercial returns of *large-scale land-use change* of agricultural and forest lands.³¹⁸

First, the momentum for real estate, tourism, and special economic zone-related land-grabbing owes both to: (a) longstanding tendencies among land-based elites to evade CARP implementation through land-use conversions — a strategy which has been well-documented since the 1990s³¹⁹ — as well as to (b) intensified commercial pressures among land developers to cash-in on the latest Philippine property market boom, which has been ongoing since 2010.³²⁰ From that year onwards, key economic sectors associated with the property boom, most especially in real estate, construction and financial intermediation, have outstripped the Philippines’ national growth rates, reflecting highly-intensified economic activity in these sectors.³²¹ Indeed, according to Philippine Statistical Authority data,³²² while

cobalt/user-item/363-r-adrian/7-land-governance/1282-large-scale-land-acquisition-what-is-happening-and-what-can-we-do (last accessed Dec. 31, 2014).

315. Saturnino M. Borrás, Jr., et al., *Towards a better understanding of global land grabbing: an editorial introduction*, 38 J. PEASANT STUD. 209 (2011).

316. Deininger, *supra* note 314. See also KLAUSE DEININGER, ET AL., RISING INTEREST IN GLOBAL FARMLAND: CAN IT YIELD SUSTAINABLE AND EQUITABLE BENEFITS? (2010).

317. DEININGER, ET AL., *supra* note 316, at xxxi-xxxiv.

318. *Id.*

319. Philip F. Kelly, *Urbanization and the politics of land in the Manila region*, 590 ANNALS AM. ACAD. POL. & SOC. SCI. 170 (2003).

320. Vanessa Ko, What is driving the Philippines’ surprisingly strong growth?, available at <http://edition.cnn.com/2012/07/12/world/asia/philippines-surprise-surge/> (last accessed Dec. 31, 2014).

321. *Id.*

322. Philippine Statistics Authority, Economic Accounts, available at http://www.nscb.gov.ph/secstat/d_accounts.asp (last accessed Dec. 31, 2014).

the country's gross domestic product expanded by an already-impressive 21.9% between the second quarters of 2011 and 2014, those of real estate, construction and financial intermediation grew even further by 27.4%, 33.5% and by 24.9%, respectively.³²³ By contrast, the agriculture sector only grew by a paltry 4.9%.³²⁴

With such heightened economic growth has come the prospect of accumulating far greater wealth by transforming agricultural lands in the peri-urban expanse surrounding major metropolitan areas, as well as other tourism-worthy areas — which is why gigantic real estate firms, such as Ayala Land, SM Land, and Vista Land are increasingly acquiring lands in the countryside for conversion into other commercial purposes.³²⁵ Among the most prominent cases involved in such disputed land ventures are the establishment of the 12,923-hectare Aurora Pacific Economic Zone and Freeport Authority in Casiguran, Aurora;³²⁶ the tourism redevelopments of the 1,160-hectare Sicogon Island in Iloilo by the Sicogon Island Development Corporation and Ayala Land;³²⁷ the conversion of the 8,650-hectare *Hacienda Looc* in Nasugbu, Batangas by SM Land into its flagship *Hamilo Coast* project;³²⁸ and the transformation of 1,125 hectares of *Hacienda Dolores* in Porac, Pampanga into a large-scale mixed-use community and business district, called “Alviera,” by Ayala Land.³²⁹

Second, though the issuance of E.O. No. 79 in 2012 by President Aquino has expanded areas closed to mining applications³³⁰ and precipitated a slowdown in large-scale mining activity,³³¹ mining projects throughout the country, as well as mega-dam initiatives, continue to pose threats to

323. *Id.*

324. *Id.*

325. Carranza, et al., *Standing on Contentious Grounds: Land Grabbing, Philippine Style* (A Working Article part of the Land Struggles III: LRAN Briefing Series) 3, available at <http://focusweb.org/sites/www.focusweb.org/files/Standing%20on%20Contentious%20Grounds%20by%20Manahan%20Cruz%20and%20Carranza%20-%20Land%20Struggles%20III.pdf> (last accessed Dec. 31, 2014).

326. Cupin, *supra* note 313.

327. Tacadena, *supra* note 313.

328. Reyes, *supra* note 313.

329. Samaniego, *supra* note 313.

330. Catherine N. Pillas, *MGB wants review of ‘no-go zones,’* BUS. MIRROR, Aug. 25, 2014, available at <http://www.abs-cbnnews.com/business/08/24/14/mgb-wants-review-no-go-zones> (last accessed Dec. 31, 2014).

331. Erik dela Cruz, *Philippine mining at policy crossroads as investment sputters,* available at <http://in.reuters.com/article/2012/09/23/philippines-mining-idINL3E8KH1L620120923> (last accessed Dec. 31, 2014).

numerous farming and indigenous communities' control over their lands.³³² Oftentimes, such mining and dam ventures may conflict with the tenure security of smallholders through their conversion of agricultural lands already long-resided upon by farmers³³³ — or, in the case of indigenous peoples, their acquisition of ancestral domains without first securing such communities' free, prior, and informed consent.³³⁴ Such is the case, for example, in present land disputes concerning the Semirara Mining Corporation's plans to expand coal mining operations in Caluya Island, Antique, which has resulted in the bulldozing and conversion of rice lands cultivated by smallholders.³³⁵

But even beyond those households occupying the exact lands at stake, however, such mega-projects are likely to endanger the land tenure integrity of entire communities existing downstream immediate project sites, through their extensive negative effects on the overall rural environment. Some of the most notable cases here include the 9,605-hectare Tampakan Mine Project in South Cotabato province, which full implementation could undermine the irrigation systems of around 13,000 hectares of farmlands;³³⁶ as well as the ₱11.2 billion Jalaur Mega-Dam along the Jalaur river in Iloilo, which could lead to the dislocation of up to 17,000 indigenous people from the *Tumandok* tribe.³³⁷

Third, given the decades-long stagnation of the agricultural sector in the Philippines, influential business groups along with certain government agencies are seeking to reverse the past gains of land reform in order to firmly establish industrial, plantation-based agribusiness in the countryside at the expense of smallholder farming.³³⁸ While much of this agro-industrial thrust involves the cultivation of cash-crops such as biofuels and other export crops, recent years have also seen the rapid expansion of oil palm plantations,

332. See Marina Wetzlmaier, *Cultural Impacts of Mining in Indigenous Peoples' Ancestral Domains in the Philippines*, 5 AUSTRIAN J. S.E. ASIAN STUD. 335 (2012).

333. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 271.

334. *Id.* at 228.

335. Pia Ranada, Farmers barricading rice fields in Semirara arrested, *available at* <http://www.rappler.com/nation/51866-farmers-arrested-semirara> (last accessed Dec. 31, 2014).

336. Kristine L. Alave, *Farmers decry loss of water to mine*, PHIL. DAILY INQ., May 28, 2012, *available at* <http://newsinfo.inquirer.net/201693/farmers-decry-loss-of-water-to-mine> (last accessed Dec. 31, 2014).

337. Philippine News Agency, 3 indigenous people testify in CA vs Jalaur dam construction in Iloilo, *available at* <http://www.interaksyon.com/article/89115/3-indigenous-people-testify-in-ca-vs-jalaur-dam-construction-in-iloilo> (last accessed Dec. 31, 2014).

338. BELLO, ANTI-DEVELOPMENT, *supra* note 3, at 53-54.

especially in Mindanao and Palawan.³³⁹ Indeed, just last 26 May 2014, DENR Secretary Ramon Jesus P. Paje, Jr. proposed the earmarking of eight million hectares of land across the Philippines for oil palm plantations operated by both national and international agribusiness firms.³⁴⁰ The proposal is particularly disconcerting, given that the Philippines has only 30 million hectares of total land resources available.³⁴¹

Just as worrisome has been the government's continuation of its floundering biofuels program, despite separate calls for its review. In May 2012, the Department of Energy (DOE) publicly announced that it would be revisiting the national biofuels program mandated by R.A. No. 9367, or the Biofuels Act of 2006,³⁴² after the government failed to meet initial targets.³⁴³ This stance was contradicted, however, by the DOE's own Philippine Energy Plan for 2012 to 2030,³⁴⁴ which expressly eyed increasing all biofuels blends in transport fuels to 20 percent by 2025.³⁴⁵ For the country to meet these commitments will mean the realignment of vast tracts of agricultural lands towards biofuels production; indeed, according to DA and DENR data, some 165,390 hectares of agricultural lands have already been officially matched for biofuels investments across the country as of 2011.³⁴⁶

339. Rainforest Rescue, Our ancestral land is worth more than palm oil, *available at* <https://www.rainforest-rescue.org/mailalert/915/our-ancestral-land-is-worth-more-than-palm-oil> (last accessed Dec. 31, 2014).

340. Bobby Lagsa & Rafael Antonio, *8M ha eyed for oil palm plantations*, PHIL. DAILY INQ., May 26, 2014, *available at* <http://newsinfo.inquirer.net/605424/8m-ha-eyed-for-oil-palm-plantations> (last accessed Dec. 31, 2014).

341. Department of Environment and National Resources, Forest Situationer, *available at* <http://www.denr.gov.ph/index.php/component/content/article/10.html> (last accessed Dec. 31, 2014).

342. An Act to Direct the Use of Biofuels, Establishing for This Purpose the Biofuel Program, Appropriating Funds Therefor, and for Other Purposes [Biofuels Act of 2006], Republic Act No. 9367 (2007).

343. Neil Jerome C. Morales, *DOE seeks review of biofuels program*, PHIL. STAR, May 14, 2012, *available at* <http://www.philstar.com/business/806371/doe-seeks-review-biofuels-program> (last accessed Dec. 31, 2014).

344. DEPARTMENT OF ENERGY, PHILIPPINE ENERGY PLAN 2012-2030 (2012).

345. Department of Energy, Philippine Energy Plan 2012-2030: Executive Summary (An Unpublished Briefer to the DEPARTMENT OF ENERGY, *supra* note 344) 10, *available at* https://www.doe.gov.ph/doe_files/pdf/01_Energy_Situationer/2012-2030-PEP-Executive-Summary_revised.pdf (last accessed Dec. 31, 2014). As of 2014, only biodiesel has been blended at only two percent with diesel fuel, and bioethanol at 10% with gasoline. *Id.*

346. Saturnino M. Borrás, Jr., et al., The fundamentally flawed marginal lands narrative: insights from the Philippines (A Paper Presented in the International

Although the 2008 Joint Administrative Order providing concrete guidelines for the Biofuels Act of 2006 maintains that the areas to undergo transformation for biofuels production are to be mainly “idle lands”³⁴⁷ without formal titles; yet in truth, very little rural land left in the Philippines (except perhaps for deep rainforest) remains “idle” and “unpopulated”³⁴⁸ — even if these ground realities are embodied more in customary rather than state mechanisms.³⁴⁹ As previous case studies on biofuels investments and similar land deals have demonstrated, most “idle” lands matched for biofuels production are, in reality, areas planted by smallholders for rice and other crops, some of them even with irrigation facilities.³⁵⁰

All things considered, even while there is no unified database of the exact amount of lands which are now being subjected to land-grabbing, there are enough indicators that its impact on agrarian reform and Philippine agriculture is substantial. At least with regard to acquisitions by property developers, tourism firms, and special economic zones, DAR data on applications for land conversions across the country as of 2013 (see Table 4.3) provides some interesting patterns worth considering.

Table 4.3. Master Data of Applications for Land Conversions Around the Philippines, as of December 2013³⁵¹

<i>Region/Province</i>	<i>Approved (Ha)</i>	<i>Disapproved (Ha)</i>	<i>Total (Ha)</i>
CAR	153.47	64.39	217.86
CARAGA	154.99	153.51	308.50
Region I	1,626.67	0.03	1626.70
Region II	197.78	0.00	197.78
Region III	7,998.33	1,205.55	9,203.88
<i>Bataan</i>	2,063.04	315.08	
<i>Bulacan</i>	1,033.55	145.24	

Conference on Global Land Grabbing on April 2011) 7-8, available at <http://204128.temp-dns.com/index.php/publications/search-publications/global-land-grab/conference-papers-2/1332-the-fundamentallyflawed-marginal-lands-narrative-insights-from-the-philippines/file> (last accessed Dec. 31, 2014).

347. Department of Energy, Guidelines Governing The Biofuel Feedstocks Production, and Biofuels and Biofuel Blends Production, Distribution and Sale Under Republic Act No. 9367, Joint Administrative Order No. 2008-1, Series of 2008, 20 (Oct. 8, 2008).

348. Carranza, et al., *supra* note 325, at 6.

349. *Id.*

350. *Id.*

351. BELLO, STATE OF FRAGMENTATION, *supra* note 35, at 44 & 46. This list includes only provinces with applications for land conversions amounting to above 500 hectares cited individually. *Id.*

<i>Pampanga</i>	3,282.08	322.22	
<i>Tarlac</i>	1,146.82	189.86	
Region IV-A	11,619.31	2,592.18	14,211.49
<i>Batangas</i>	3,707.73	523.13	
<i>Cavite</i>	4,359.65	1,043.13	
<i>Laguna</i>	2,332.51	962.53	
<i>Quezon</i>	820.54	41.09	
Region IV-B	198.73	146.31	345.04
Region V	2,000.65	244.79	2,454.3
<i>Albay</i>	465.17	50.68	
<i>Camarines Sur</i>	942.50	131.32	
Region VI	2,765.01	586.47	3,351.48
<i>Iloilo</i>	1,098.74	58.81	
<i>Negros Occidental</i>	1,011.10	382.87	
Region VII	952.43	518.63	1,471.06
<i>Cebu</i>	779.54	259.00	
Region VIII	508.8797	423.81	932.69
Region IX	74.03	3.30	77.33
Region X	2,139.80	165.10	2,304.90
<i>Misamis Oriental</i>	1,574.94	48.28	
Region XI	4,074.44	976.95	5,051.39
<i>Davao City</i>	1,201.25	2.48	
<i>Davao del Norte</i>	2,099.66	762.90	
<i>Davao del Sur</i>	587.86	38.58	
Region XII	1,374.00	173.59	1,547.59
<i>General Santos City</i>	616.06	163.99	
<i>South Cotabato</i>	565.03	4.61	
Total	35,952.38	7,256.86	43,209.24

First, it is important to note that the areas in the country where applications for land conversions are highest, as of December 2013, are Region III (Central Luzon), at 9,203.88 hectares; and Region IV (Southern Luzon), at 14,211.49 hectares — and in these two regions is also where the suburban expansion around Metro Manila in the form of industrial and special economic zones, residential communities, commercial hubs, and resorts has been most pronounced since the 1990s.³⁵² It is hardly surprising that four provinces in these regions — Cavite, Batangas, Pampanga, and Laguna — are those with the highest amount of approved land conversions in the country throughout this period.³⁵³

352. *Id.*

353. *Id.*

Second, conversion application levels are also markedly higher than the average in other highly-urbanized areas such as: (a) Davao del Norte, Davao del Sur, and Davao City in Region XI (the location of Metro Davao); (b) Cebu (Metro Cebu); (c) Misamis Oriental (Metro Cagayan de Oro); (d) Iloilo (the Metro Iloilo–Guimaras urban belt); (e) South Cotabato (General Santos City); and (f) Pangasinan province — which was already one of the most urbanized provinces by 2000.³⁵⁴

Third, the continuing efforts to evade the CARP in strongholds of landlordism via land conversion remains evident, with the two provinces with the highest LAD backlogs — Negros Occidental and Camarines Sur³⁵⁵ — also experiencing high levels of applications for land conversions. This may have also been a result of the presence of large urban areas in these provinces, i.e., Metro Bacolod and Metro Naga, respectively.

The present growth spell of the Philippine economy has recently been predicted by the International Monetary Fund to last until 2019, and it is likely that the rising commercial pressures behind these large-scale land acquisitions and conversions will not significantly decline in the foreseeable future.³⁵⁶ What can then be done to ensure that past CARP gains and smallholders' land rights will be protected? For one, given that most of the agricultural lands being acquired involve some degree of land-use change, the passage of the long-delayed National Land Use Act (NLUA) remains of critical importance. Aimed at centralizing and strengthening the management of land areas within the Philippines, NLUA bills now pending in Congress propose, among other measures, the protection of prime agricultural areas — as recognized by a National Physical Framework Plan,³⁵⁷ and other regional, provincial, and municipal land use plans — from conversion and reclassification into non-agricultural use.³⁵⁸ By setting aside such lands for

354. Philippine Statistics Authority, Philippines: Urban Population was Registered at 48.0 Percent, *available at* <http://webo.psa.gov.ph/content/philippines-urban-population-was-registered-480-percent> (last accessed Dec. 31, 2014).

355. THE STATE OF AGRARIAN REFORM UNDER AQUINO, *supra* note 109, at 12–13.

356. See Karl Lester M. Yao, Philippine Economy Expanding Like It's 1950s on Consumption Boom, *available at* <http://www.businessweek.com/news/2014-11-26/philippine-economy-expanding-like-it-s-1950s-on-consumption-boom> (last accessed Dec. 31, 2014).

357. Angela Casauay, Aquino certifies National Land Use Act as urgent, *available at* <http://www.rappler.com/nation/20929-aquino-certifies-national-land-use-act-as-urgent> (last accessed Dec. 31, 2014). This national plan is to be developed and implemented by a multi-stakeholder National Land Use Policy Council, with the participation of all sectors. *Id.*

358. See generally House of Representatives, House Bills/Resolutions Referred to the Committee: Land Use, *available at* <http://www.congress.gov.ph/committees/search.php?id=E515&pg=bills> (Dec. 31, 2014).

continued agricultural production, the NLUA bill, if passed into law, promises to better promote national food security, while protecting smallholders' lands from unwarranted commercial conversions.³⁵⁹ Although in the 15th Congress, President Aquino certified NLUA bill as urgent,³⁶⁰ he has yet to do so as of writing in the 16th Congress.

But even while the NLUA bill's fate in the 16th Congress still hangs in the balance, it should be noted that other legal safeguards exist against the threats of large-scale land conversions. As earlier mentioned, Section 22 of the CARPER Act expressly provides that "*irrigated and irrigable lands, shall not be subject to conversion[.]*"³⁶¹ Yet according to various farmers federations, such as the SARA, DAR has remained sluggish, and at times non-responsive, to community appeals to stop unauthorized and illegal conversions of lands in Bulacan, Aurora, Quezon, Tarlac, Antique, Aklan, and parts of Mindanao.³⁶² In fact, in a 5 February 2014 Congressional hearing of the Committee on Agrarian Reform, Secretary Delos Reyes reportedly stated that he did not view landlord resistance as a major problem in land reform implementation.³⁶³ For the most part, it appears that just as indecisiveness and a lack of urgency seems to have hounded DAR LAD execution activities, so too is the agency's lack of political will allowing landowners and land-based elites to continue transgressing Section 22 of the CARPER Act. As with LAD, the critical problem here owes less to gaps in the legal frameworks of the CARPER Act in itself, than to the political ineffectiveness of the current DAR in the fulfillment of its mandates.

In the end, the faltering of DAR under President Aquino amidst a nascent counteroffensive against CARP suggests rising possibilities for land reform in reverse — the redistribution of land away from the tillers and towards land and property-based elites. With traditional agricultural households continuing to be mired in poverty, and increasing pressures among property developers and the like to acquire lands for more commercial use, farmers across the country may now be increasingly losing the lands entitled to them by CARP en masse. As the Aquino administration continues to offer only limited level of support for smallholders to deal with

359. Gemma Rita R. Marin, *The NLUA benefits All (A Policy Brief on the Proposed National Land Use Act (NLUA))* 5, available at <http://www.kaisahan.com.ph/wp-content/uploads/2014/06/The-NLUA-Benefits-ALL1.pdf> (last accessed Dec. 31, 2014).

360. Aurea Calica, *P-Noy certifies proposed National Land Use Act as urgent*, PHIL. STAR, Feb. 3, 2013 available at <http://www.philstar.com/headlines/2013/02/03/904240/p-noy-certifies-proposed-national-land-use-act-urgent> (last accessed Dec. 31, 2014).

361. CARPER Act, § 22 (emphasis supplied).

362. Ranada on Land reform advocates, *supra* note 282.

363. *Id.*

these competing interests and pressures, the very survival of farming as a way of life among the Philippines' most marginalized may be increasingly jeopardized.

V. CONCLUSION

The future of CARP appears grim — substantial headway towards the completion of the Philippine agrarian reform program has yet to take place, five years after it was extended and reformed by the CARPER Act. This fact has been firmly borne out by how the CARP record of the Aquino government's DAR has remained at dismal and depressing levels. That reality, as we have maintained, has been the outgrowth of a weaker and more fissured land reform constituency — itself a result of the appointment of an indecisive and technicality-oriented DAR leadership, an immobilized state bureaucracy, reduced collaborative interactions between state and pro-reform social forces, as well as heightened divisions among various blocs of the land reform movement.

These impediments to the consolidation of a politically-effective constituency for the CARPER Act implementation prove increasingly worrisome in light of the lapsed deadline for CARPER's LAD component, but most especially in relation to an emergent anti-reform counteroffensive now being driven by the Philippines' new land-based rentier class, rural elites, local government officials, and coteries of paid lawyers, media pitchmen, and private security forces. Unless such trends in the dynamics of CARP implementation are averted, it is possible that a large-scale reversal — instead of the completion — of CARP could materialize as the rural justice “legacy” of the present Aquino administration.

In undertaking this socio-legal analysis of CARP, we have stressed the political reality of Philippine agrarian reform implementation — its enmeshment within a field of contestation by different social forces with differing interests and levels of bargaining power. This is by no means a novel point, having been emphasized by observers and advocates since even before CARP's inception in 1988. Indeed, as expressed more recently by agrarian scholar Jennifer Franco in a 2012 book on the politics of Philippine land reform, “[s]tate laws do not implement themselves, but are implemented by real people who are themselves embedded in and influenced by social structures and power relations.”³⁶⁴ Against the legal-technical approach to agrarian reform espoused by the heads of DAR, such a view requires seeing the establishment of effective legal frameworks such as the CARPER Act as a *necessary*, but not *sufficient*, component of effective agrarian reform implementation. At stake should not only be the execution of formal mandates along defined legal-institutional criteria, but their

364. JENNIFER C. FRANCO, *BOUND BY LAW: FILIPINO-RURAL POOR AND THE SEARCH FOR JUSTICE IN A PLURAL-LEGAL LANDSCAPE*, xiv (2011).

political effectiveness, especially against protracted opposition by land-based elites — both within the official legal arena and beyond it. It is unfortunate that this entire dimension of successful CARP practice has been largely ignored by DAR.

The immediate challenge confronting Philippine land reform is for DAR to undertake measures that will once again enable effective state-society interactions to come into place across the broader agrarian reform constituency, even while accelerating the effective implementation of CARP. This will undoubtedly require a number of institutional changes (e.g. repealing A.O. 7) and no small amount of reorientation of DAR's leadership and bureaucracy to promote more collaborative, stakeholder-directed, and politically-sensitive forms of implementation. The adoption of confidence-building mechanisms providing for heightened transparency and accountability in DAR will likewise be a crucial endeavor (e.g. promoting greater public access to information, and stakeholder monitoring on key aspects of implementations like the disaggregated lists of targeted landholdings for distribution). Last but not least, there is no question that a stronger push from above by President Aquino for the program will make a decisive difference in ensuring that the promised gains of CARP will be substantively achieved and protected from reversal by the end of his term.

At several times since the beginning of the Aquino administration, various pro-CARPER Act farmers' and civil society groups have shown that they remain open to positively and substantively collaborating with DAR, as well as setting aside their internal differences for the overall cohesion and strength of the agrarian reform movement.³⁶⁵ The urgent questions now are: can the DAR's leadership undertake the needed changes to do likewise? Will President Aquino himself catalyze the political will for reform so necessary for leaving a lasting legacy of peace and social justice across the Philippine countryside?

365. See, e.g., Focus on the Global South, Peoples' Agrarian Reform Conference Planned in the Philippines, available at <http://focusweb.org/content/peoples-agrarian-reform-conference-planned-philippines> (last accessed Dec. 31, 2014). The Peoples' Agrarian Reform Congress — the broadest gathering of peasant groups in 27 years — on 6 June 2014 at the University of the Philippines focuses on the discussion of a possible unification of 15 distinct farmers' federations to push for the continuation and completion of CARP. *Id.*