

Controversies in the left on the land reform issue (part III)

Tuesday 8 July 2008, by [BORRAS Saturnino "Jun" M. Jr.](#), [Focus on the Philippines](#), [MANAHAN Mary Ann](#), [TADEM Eduardo C.](#) (Date first published: 5 July 2008).

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Foreign aid and CARP extension

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OPPONENTS OF EXTENDING THE COMPREHENSIVE Agrarian Reform Program (CARP) insist that we suspend land redistribution and focus assistance on the farmer households that have received land under the program. We argue that it is not a question of land redistribution versus support. The challenge is how to effectively assist land reform beneficiaries while completing land redistribution.

Significant on paper

The government must not abandon land distribution at this time. On paper, CARP's land redistribution is significant. The Department of Agrarian Reform (DAR) claims that CARP has redistributed nearly 6 million hectares of land and changed tenancy relations in another 1 million hectares, benefiting about 3 million poor farmer households.

Aside from actual distribution being likely lower than what DAR claims, the fact is 1.4 million hectares of private agricultural lands remain to be distributed. Without CARP extension, no funding will be allocated and land redistribution, which is at the heart of land reform, is killed.

Neither should providing support be abandoned. Land redistribution will come to naught if the economic viability of redistributed farms is not promoted.

Development assistance

Addressing land redistribution and support requires substantial funding. Completing the unfinished redistribution component alone will require P160 billion. On top of this, P66 billion more is needed for continued support services. Given the precarious fiscal position of the government and the low priority given to land reform, the extension of CARP funding beyond this year is a contested issue indeed.

In the past, the lack of funding commitment from national government increased reliance on official development assistance (ODA). Agrarian-related ODA to the Philippines has substantially increased since the early 1990s. While this can partly be explained by the global trend to support these kinds of asset-reform programs, reform-minded agrarian reform secretaries have also played a role.

Downside

Under Ernesto Garilao, DAR was able to gain the trust and confidence of foreign donors. Since 1995, DAR has generated P57.8 billion for 56 projects in ODA loans and grants. This is significant considering that the total budget for CARP from 1988 to 2007 was P130 billion or P6.5 billion annually. Interestingly, despite CARP's uncertain future, 28 projects worth P31.5 billion are still in the pipeline.

While sustaining CARP, heavy reliance on ODA has its downside. For one, it contributes to the debt accumulation of the government. Of the total investment requirement for foreign-assisted projects, the ODA loan-grant mix is highly skewed in favor of loans.

Counterpart

The share of loans is 61 percent, while that of grants is only 10.6 percent. The remaining 28.4 percent is funded through Philippine counterparts, in cash or in kind, from the national government agencies, local government units and agrarian reform beneficiaries' organizations or cooperatives. For 2008, DAR is responsible for as much as P21 billion of the country's external debt.

For another, ODA has strings attached to it that may not be the best approach to CARP effectiveness. In terms of sectoral allocation, since 1995, 60 percent (4,091 subprojects worth P18.4 billion) went to infrastructure development such as farm-to-market roads, irrigation systems, post-harvest facilities, potable water systems and solar dryers.

Social dimension

While infrastructure-related and enterprise-building projects are urgently necessary in agrarian reform communities (ARCs), they can also cause problems. This happens when such projects are undertaken without regard for the social and political dimensions of agrarian reform such as organizing and capacity-building for land reform petitioners and rights advocacy groups.

Community and institutional development support, agricultural productivity and rural enterprise development, basic social services, gender and development, and land tenure improvement have taken a back seat.

Only 262,638 land reform beneficiaries were organized in formal associations and 91,919 land-reform-beneficiary leaders were provided with training activities on organizational development, agricultural productivity and others.

Turning a blind eye

This represents only 40 percent and 1 percent, respectively, of total land reform beneficiaries reached by ODA. This is a lackluster record when compared with the physical infrastructure component.

Ownership of projects is another key problem in ODA. While donor countries acknowledge the importance of ownership of projects, they, however, turn a blind eye to demands to provide funds directly for land acquisition and distribution. The reason behind this is the perception that land markets would be distorted if ODA funds are channeled to landowners' compensation.

On the other hand, when donor countries express interest in land distribution such as in the case of the World Bank's Market Assisted Land Reform (MALR), their framework can even undermine the potential redistributive impact of land distribution. The MALR operates in a "willing buyer-willing

seller” framework, which encourages land transfer through the market.

A local version, the World Bank-funded Community-Managed Agrarian Reform and Poverty Reduction Project (CMARPRP) was found to be marked by highly questionable land transactions (with relatives of landowners ending up as beneficiaries), inappropriate projects and interventions by landlords and speculators.

Contested impact

There is also the German Technical Cooperation (GTZ), which proposes to focus only on support services, abandoning physical land distribution as indicated in its 2006 Post-2008 CARP Scenarios study.

The extent of ODA’s impact on the agrarian reform process is contested. DAR reports that, as of 2008, ODA infrastructure projects have reached half a million beneficiaries. DAR also claims that 329,160 jobs were generated, with 60 percent coming from road construction. Thus, most of the jobs were of short-term nature and therefore no sustainable employment opportunities were generated by ODA funds.

DAR recently evaluated four of its foreign-assisted projects covering 280 ARCs. It said that poverty incidence in the project sites declined by about 3 percent to 7 percent and that the average annual household incomes increased from 44 percent to 49 percent, based on 2005 data.

Inadequacies

These findings are welcome but not significant enough given the average national annual household income at 2006 prices of P172,000.

As the main mechanism for DAR’s extension of support services, ARCs suffer from glaring inadequacies. The majority of ARCs have, in fact, not received any DAR assistance at all. There are 1,959 ARCs nationwide covering 995,114 beneficiaries, or only 32 percent of total CARP beneficiaries. Of these, only 1,078 ARCs (79 percent) are beneficiaries of ODA projects covering 655,437 beneficiaries. Of those that received ODA funds, most have pending land disputes; thus support went to landowners. Two-thirds of beneficiaries (2 million of 3 million) remain outside the ARCs.

Assessing the impact of ODA in land reform vis-à-vis the avowed objectives is more difficult. Usually, the main objective of projects is to “alleviate rural poverty and agricultural stagnation.” It will be next to impossible to isolate the direct contribution of the ODA-funded projects since many of them have focused interventions in specialized communities, i.e., ARCs, and do not deal with regional socioeconomic planning.

Power and bargaining

The significant impact and value of ODA for agrarian reform lie in the realm of politics. Throughout all its stages, ODA involves a political process of negotiations at different levels—between donors and recipient countries, between recipient countries and implementing agencies, and between implementors and end users. It is about power and bargaining, i.e. those in power can influence where the money goes and who gets the money.

To the extent that CARP has been a “milking cow” for ODA projects and a source of political patronage, antireform forces, especially in Congress, opportunistically cater to ARCs and inadvertently become de facto land reform allies. Legislators can pressure DAR to include their

provinces or districts in the list of ARC targets. In fact, the debates in Congress repeatedly referred to the importance of ARCs. In the lower house, House Bill No. 4077, includes the provision for the creation of a “minimum of 3 ARCs ... per year ... in each legislative district with a predominantly agricultural production.” In effect, ODA helped to shield CARP against antireform forces within government.

Addressing contradictions

The problems arising from relying on ODA point to two things with respect to addressing CARP funding.

First, we all need to take an active role in shifting the thrust of ODA to make it more responsive to Philippine agrarian reform objectives. For instance, for ARCs to truly work, security of tenure is needed and this means seriously undergoing the highly political and controversial, yet necessary component of agrarian reform, i.e. land acquisition and distribution.

Second, the government must seriously rationalize its policy of passing on to the ODA donor community the responsibility of CARP funding. The tendency to pass funding responsibility to the ODA community highlights the low priority given by government to CARP, despite its policy pronouncements. This is confounded by macroeconomic policies that tend to defeat and undermine the gains expected from agrarian reform.

For instance, land reform beneficiaries lacking support services and who are still socially and economically weak are unable to compete in an environment of liberalized entry of agricultural produce. Instead of targeting land reform beneficiaries, DAR has prioritized the agribusiness sector. The task of transforming land reform beneficiaries into a competitive sector has been left to DAR, with its technically challenged personnel and limited funds.

Urgent and necessary

In the end, the major hurdle for CARP’s extension is the low priority accorded to land reform by the Arroyo administration. Its CARP performance is the worst since 1988 with a mere 13.86 percent share of land reform output compared with the Ramos administration’s 52.34 percent and the Aquino administration’s 22.51 percent. The Arroyo administration’s performance was only slightly better than the Estrada administration’s 9.24 percent share but former President Joseph Estrada had only 2.5 years compared with President Macapagal-Arroyo’s seven.

In conclusion, ODA funds for land reform have been significant, but far from adequate and in many instances, even inappropriate. The key need, therefore, is to highlight the government’s obligation in completing land distribution, ensuring the economic viability and political empowerment of land reform beneficiaries, and ushering in a lasting era of rural social justice. This is not an “either or” issue. Within the above context, the extension of CARP is both urgent and necessary.

** First published in the Philippine Daily Inquirer 5 July 2008.*

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NOT BUSINESS AS USUAL: Focus Philippines' Position Paper on CARP Extension

June 2008

The House of Representatives now debates in plenary House Bill 4077, titled "AN ACT SUSTAINING THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AND APPROPRIATING FUNDS THEREFOR". The bill represents the outcome of the committee hearings and deliberations on a number of CARP extension bills, an urgent measure considering the expiry this year of a previous extension.

For farmers groups another extension of CARP is non-negotiable. As a key social justice mechanism committed by the 1987 Constitution, the CARP has yet to fulfill its promise. Article XII, Section 4 of the Constitution provides that "the State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof." In 2002, for instance, the National Statistics Office surveys show that 348,297 household members that were engaged in agricultural activity were working in landholdings not their own. This indicates a considerable number of landless farmers that have yet to own directly or collectively the lands they till. Part of the reason for this has been the inability of the Department of Agrarian Reform (DAR) to distribute land already identified for CARP, as well as the failure to precisely identify the landless farmers for land distribution targeting. Thus, the proposal of House Bill 4077 to extend the acquisition and distribution of land, and the identification of sources of funds for such purpose, is a welcome development. Is five years enough?

The extension needed for land acquisition and distribution depends on a definite determination of the number of intended beneficiaries, the land that is up for acquisition and distribution, the resources available for land transfer, and the historical record of the pace by which land transfer was undertaken.

DAR claims that 1.9 million hectares of land (out of the 5.1 million hectares revised scope) are still left for coverage under its land acquisition and distribution mandate. Of this, about 600,000 hectares were approved for exemption, exclusion, retention, conversion, or otherwise still exemptible or convertible, leaving a balance of 1.3 million hectares. DAR also estimates that it would be able to distribute a total of 260,000 hectares for 2007-2008, placing the estimated balance at about 1 million hectares starting 2009. Most of the remaining landholdings are contentious private agricultural lands located in Western Visayas, Bicol, Eastern Visayas, Central Mindanao, and ARMM. Given the past distribution average of 1.74 hectare per beneficiary, the 1 million hectares for distribution can benefit 575,000 farmers if completed.

Unfortunately, based on the historical performance of DAR, five years will not be enough to move the remaining balance, particularly the private agricultural lands. For instance, the average accomplishment for the Arroyo administration is only 94,555 hectares per year. To complete land acquisition and distribution within the next five years, the bill needs specify a minimum annual target of at least 200,000 hectares to be distributed to 150,000 beneficiaries. There is also a need to

prioritize provinces where the balance for acquisition and distribution is high, such as Negros Occidental, Leyte, Negros Oriental, Maguindanao, and North Cotabato, as well as particular large landholdings such as Hacienda Luisita as well as those owned by Yulo, Roxas, Floirendo and Benedicto families.

In terms of resources, the bill appropriates at least PhP100 billion for the extension period, of which at least PhP5 billion per year will come from the national budget. While significant compared to appropriation in the last 19 years of about PhP130 billion, it remains insufficient to meet the estimated acquisition and distribution cost of about P160 billion. We note that that the bill devotes only 30% of all appropriations for agrarian reform to land acquisition and distribution, with the other 40% mandated to be allocated to support services, and the remaining 30% to agricultural credit facilities. Thus, Congress and the implementing agencies must be able to come up with firm estimates on the different funding sources.

Only by addressing these concerns can we determine a realistic extension period. As it is, we are afraid that acquisition and distribution will not be concluded within the 5 years specified in the bill.

Addressing in law the identification and selection of beneficiaries

The identification and selection process of agrarian reform beneficiaries needs to be improved to ensure that the landless farmers are identified and the voiceless farmers are given equal treatment. There are numerous cases in which landowners are able to circumvent the program by identifying their own set of loyal beneficiaries (such as Hacienda Velez-Malaga in La Castellana, Negros Occidental), even if the beneficiaries are not the actual-tenant tillers. There are also beneficiary disputes between settlers and landless residents (such as in the Araneta land in San Jose Del Monte City, Bulacan). Regular, seasonal, and other farmworkers are also not identified as beneficiaries, even as the law qualifies them. The overlapping of beneficiaries under the agrarian reform law and the Free Patent Law must also be looked into. The extension law should thus mandate the improvement of the identification process, such as clarifying the identification process as well as the bodies responsible therefor, and adopting “best practices” and clear identification rules. The DAR must be obliged to complete a list of identified qualified beneficiaries, and to disclose such list to the public.

The substitute bill’s recognition of rural women’s right to own and control land (Sec. 5) is a welcome development. We hope that this will be maintained in the final extension bill.

Removal of non- redistributive schemes

We reiterate our long-standing position that the non-redistributive schemes under CARP, such as stock distribution option (SDO) and leaseback arrangements, undermine the right of landless farmers and regular farmworkers to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof.

The Presidential Agrarian Reform Council (PARC) cites a body of evidence in support of its finding that the corporate arrangement failed to benefit the ARBs. Pursuant to its finding, the PARC issued an order revoking the SDO in Hacienda Luisita last year, and is also reviewing 13 more SDOs due to non-compliance by big landowners to the required benefit package for beneficiaries.

The German Technical Cooperation (GTZ) 2006 study on land acquisition and distribution had similar findings, and called for a review of the SDO. The study revealed that ARBs are dissatisfied with the option because the corporate landowners failed to provide a number of the expected benefits due to them.

Another non-redistributive scheme is leaseback. In this scheme, a cooperative of worker-beneficiaries or individuals turn over the control of their land through a lease contract to a multinational or agribusiness corporation or former landowners in exchange for lease rental. The CARP lands subjected to proposed and approved leaseback and other alternative venture arrangements (AVAs) are estimated to be at 25,556.6 hectares, based on a study of Dr. Rene Ofreneo in 2000. Another study conducted by UP Los Banos reveals that 90-92% of redistributed lands in the municipalities they surveyed are engaged in leaseback or other forms of production and contract growing arrangements with multinational agribusiness companies.

Various case studies of landholdings under leaseback arrangements in Mindanao reveal that such schemes have circumvented CARP. For one, leaseback becomes a precondition to the redistribution of the land, i.e. the landowner will only allow coverage under CARP if the potential beneficiaries enter into an AVA with them. In all the cases, farmer beneficiaries lost access and control over their lands.

To address these problems, we propose the prohibition of non-redistribute schemes of agrarian reform where control over acquired land is channeled back to big landowners. These schemes are disempowering and disadvantageous to the farmer beneficiaries of the program.

Stopping land use conversion of irrigated and irrigable agricultural lands

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, such as what happened in the Sumilao and Calatagan cases. The current rice and food crisis also highlight the urgency of banning land use conversion of irrigated and irrigable lands.

As of 2007, DAR has approved the conversion of more than 48 thousand hectares of agricultural lands mainly for residential use and mixed uses. However, these figures are only for formal conversions. Civil society groups claim that more than 200,000 hectares of irrigated and irrigable farmlands, mostly in Central Luzon and Southern Tagalog, have been illegally converted to non-agricultural uses.

Huge public funds have been allocated for irrigated farmlands. For instance, the National Irrigation Authority spends an average of PhP9 billion per year for the country's irrigation systems. Conversion puts such investment to waste. While the moratorium on land conversion issued by DAR Secretary Nasser Pangandaman is laudable, its implementation will not be sustained until the law is amended. Sec. 65 of RA 6657 allows conversion of land after the lapse of five years from its award, when the land ceases to be economically feasible and sound for agricultural purposes or the locality has become urbanized and the land will have greater economic value for residential, commercial or industrial purposes.

House Bill 1257 offers amendments that should be included in the substitute bill. These include: (a) allowing conversion only after a lapse of 30 years from awarding the land to the ARBs; (b) irrigated and irrigable lands, regardless of funding committed for irrigation, shall not be subject to conversion, notwithstanding its classification; and (c) failure to implement the conversion plan within five years from the approval of such plan, shall cause the converted land to automatically be under the coverage of CARP.

Dispute resolution and agrarian justice

Many farmer organizations and non-governmental organizations have called for the streamlining, speeding up, and recognition of farmers standing, in the adjudication process. Farmers note the

agrarian-related harassment cases filed against them in local courts, as well as their lack of legal standing before judicial courts. We commend the bill for addressing these in Sec. 7, by providing a mechanism for the exclusive exercise of DAR jurisdiction over agrarian disputes, as well as by conferring legal standing to identified beneficiaries and to their associations before DAR and the courts.

Beyond land redistribution

While land redistribution is the key element of the social justice directive of the Constitution, the same Constitution also makes sure that this is done consistent with development objectives. Article II, Section 1 makes it a state policy to promote comprehensive rural development and agrarian reform. Article XII, Section 1 states in part that the state shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets.

It is in this area of fostering development that the CARP is also perceived to have failed. The agrarian sector continues to suffer from low levels of investment, technology and productivity. The result is the continuing low income for farmers, accounting for the high levels of poverty in the sector.

In a discussion paper dated March 2003, Prof. Raul Fabella of the UP School of Economics zeroed in on Section 27 as one of the key culprits for CARP's failure. Section 27 prohibits beneficiaries from selling, transferring or conveying awarded land except through hereditary succession, or to the government, or to the LBP, or to other qualified beneficiaries for a period of ten years. The result, according to Fabella, is the outlawing and destruction of the legal rural land market, and in its wake the formal rural credit market. Such markets, he adds, have gone underground resulting in very high transactions cost and bankruptcy to farmers.

We emphasize that the restriction on transfer of awarded lands within the stated period is necessary to support the Constitutional social justice intent of securing for landless farmers the ownership of the land they till. The CARP would necessarily be a failure if farmer beneficiaries, given their production and market vulnerabilities, are allowed to immediately turn around and sell their land. A direct transfer of money to them, instead of land, would have been a more efficient mechanism for the same result.

To be sure, the market for credit can be expected to fail. But precisely for this reason we cannot insist on finding the solution in the market; instead, state intervention is necessary.

Thus, we welcome the bill's section on liberalized terms on agricultural credit facilities. The bill provides that 30% of all appropriations for agrarian reform shall be immediately set aside and made available as agriculture credit, and that one-third of the appropriation shall be specifically allocated for subsidies to support the initial capitalization for agricultural production upon the awarding of an emancipation patent or CLOA to a new beneficiary, and subsidized credit facilities in the case of existing beneficiaries.

The other necessary component for the success of CARP's development objective is the provision of support services. Given the low starting levels for technology and productivity, as well as difficulties in marketing and distribution, the lack of support services sets CARP up for failure. More so was such failure inevitable with the government's program, supported by the economists, to remove the protection of agriculture through trade liberalization, and for government to withdraw subsidies to the sector. Indeed, one of the main problems mentioned by many farmer beneficiaries for resorting

to the underground land market is the lack of adequate support services to make their lands productive. We therefore welcome the provision in the bill providing for increasing the definite share of support services from 25 percent to 40 percent in the appropriation.

The DAR's major strategy for support services is the Agrarian Reform Communities (ARCs). Launched in 1993, the ARCs is a strategy for concentrating the limited funds for support services to a cluster of areas benefiting a threshold number of farmer beneficiaries as well as non-farmer beneficiaries. The DAR under former secretary Ernesto Garilao, through the ARC strategy, proved that agrarian reform actually works, especially when adequate, sustained, and systematic support services are delivered to the ARBs.

Based on DAR's 2007 accomplishment report, there are 1,959 ARCs/Special ARCs confirmed nationwide covering 995,114 beneficiaries (not including leasehold areas), which is only 32% of the total ARBs. The substitute bill provides that a "minimum of 3 ARCs be established by DAR, per year in coordination with the LGUs, NGOs, and peoples' organizations in each legislative district with a predominantly agricultural production". This is another positive provision. We caution, though, that many formally declared ARCs have substantial unresolved land disputes. Care must be taken that the support goes to farmer beneficiaries and not to landowners. We also suggest that Congress provides a more detailed provision in the ARC strategy with the view to bringing more awarded lands into the ARC scheme. DAR reports that there are still 2.03 million of the total 3.1 million beneficiaries who are outside the ARCs, and therefore marginalized in the provision of support services.

Finally, it is high time, after the failure of government's unilateral and deep trade liberalization program, to overhaul such policies and make it consistent with the social justice and development objectives of CARP.

DAR needs to step up

The five-year extension period should not be "business as usual" for DAR and other CARP implementing agencies. While substantive measures can be secured through a new CARP extension law, the effective, equitable, and efficient implementation of CARP is equally if not more important.

One critical requirement is for DAR to be transparent and accountable. Doing research on CARP issues has been very difficult with the lack of access to information in DAR's custody. For instance, DAR has been very restrictive on information on land conversion applications and approvals. Access to information that will allow the effective monitoring of key aspects of implementation, such as the budget and expenditures for land acquisition and distribution as well as for support services and credit facilities, the identification of target beneficiaries, and the status of disputes, must be ensured. Access to information will also hopefully provide a counterweight to corruption within DAR.

To build trust in DAR's capacity to make agrarian reform succeed during the extension period, DAR must start confidence building measures that have been long overdue. In the adjudication of cases, it must show immediate result in land acquisition and distribution flashpoints and languishing high impact cases, such as the Hacienda Luisita, Cojuangco and Floirendo cases. Resolving these cases, in favor of the beneficiaries would serve as litmus test on DAR's commitment to finish land acquisition and distribution.

To complete land acquisition and distribution, DAR and DENR should issue the notice of coverage to all remaining landholdings to start the coverage process. While DAR claims that they have issued notice of coverage to all their remaining balance, a recent survey of land tenure improvement cases reveals that the department has been slow in implementation, particularly on the process of

coverage. These cases involve 42,651 hectares of private agricultural lands that have yet to be distributed to 11,315 organized farmer beneficiaries. The cases involve CARP coverage problems (60%), installation cases (20%), agrarian law implementation cases on conversion, exemption, and inclusion/exclusion, (15%), and the remaining 5% are other CARP implementation issues such as subdivision and relocation. If the rules on coverage will be strictly followed, DAR only needs sixty (60) days to complete the process of coverage. Most of these cases started the coverage process since 2004.

DAR needs to strictly enforce the existing guidelines against selling/mortgaging of awarded lands by farmer beneficiaries. This practice not only undermines the purpose of the law of social justice and equity but also is unfair for the landowners who voluntarily gave up their lands to fulfill the Constitution's mandate. Under the law, the beneficiary who willfully violates the provision prohibiting him/her from sale, transfer or conveyance of the right to use over the land acquired, shall be punished by imprisonment of not less than one month to not more than three years or a fine of not less than fifteen thousand pesos. This penalty provision has to be enforced during the extension period, and a comprehensive accounting of the extent of sale and mortgaging of awarded lands by beneficiaries should be instituted.

Political and economic will

For CARP to finally see its completion, the program needs not only government's political but also its economic will. A program laden with only lip service and bogged down by contradictory economic policy is doomed to fail in fulfilling the social justice and development mandate of the Constitution.

The extension period of CARP is a narrow window of opportunity for the country. All sides must endeavor to make it work this time.

*Focus on the Global South-Philippines Programme (Focus) is a non-governmental organization advocating for the accelerated and effective implementation of agrarian reform in the country. Focus is a member of the Reform CARP Movement (RCM), a broad coalition of NGOs and peoples' organizations advocating for the extension and reform of CARP.

** From Focus on the Global South website. The full version of this position paper will come out in the maiden issue of Focus on the Philippines (FoP) Policy Review (forthcoming). For more information, please contact, Mary Ann Manahan at mbmanahan.focusweb.org or +639062983206.*