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With CARP What More Can We Do, How Far Can We Go?

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LET'S BEGIN WITH SOME ASSUMPTIONS.

One, we is you and me, us who believe that no Filipino family now living (not counting the dead nor the yet to be born) should be landless from the outset except by choice or own folly.

Two, the scope of land reform should have been total, meaning all of 30 million hectares. That's beyond CARP and should be a matter for new land reform. Reference to scope is made here to stress the point that prices of CARPable lands are affected by land prices in general. If every Filipino family got a piece of land there would be little room for land speculation. A square meter of land may cost a fortune if many want it so badly.

Three, revolutionary land reform, here defined simply as no landlord compensation and free distribution to tillers, which CARP is not, would better be left to the revolutionary. Which Erap is not. None of his predecessors was, ever,

except perhaps Marcos who did change the Constitution and used his power to force reform in rice and corn lands. Revolutionaries who see no use for government and the law can go ahead with their land confiscation agenda. Who knows if this may trigger faster CARP completion.

Long shot advocacy

If revolutionaries think they still find any value for legislation they will have to press harder and create a broad public demand for a new law or for major amendments to existing land laws.

Advocacy may consider changes in, say, the following directions:

— modification of the basic law to declare a clean slate in land ownership every 50 - year cycle (as in some biblical injunction) with the idea that the starting point is possession by every living Filipino family of a tradeable land title over a piece of land anywhere in the country and that from hereon it's all market play (people buy, sell, lose, gain, monopolize, become landless, etc.) and every player is responsible for his/her decision;

— a cap on how much each family can have at the start, say, 100 square meters in city and 3-5 hectares in the countryside; minimal tax for lands within the cap and progressive, heavy taxation above it in anticipation of future buy-outs/sell-outs leading to the return of monopoly-landlessness scenarios;

— imposition of heavy penalties on lands left idle or land use that harms the environment;

— removal from public office of violating civil servants and appropriate punitive action against all other violators.

Rocks down the road

To start off with where land distribution is at. Taking existing data at face value (beware of poor data quality), only 4.3 million hectares or 53 per cent of the revised target of 8.2 million hectares or about 41 per cent of the original target of 10.3 million hectares had been transferred to the agrarian reform beneficiaries by end 1996. This is a cumulative



figure that includes numbers from previous land reforms, especially Marcos' PD 27 which focused solely on rice and corn lands.

As past CARP's transfers involved mostly public lands or lands where government exercised some control, the current agrarian regime is left with mostly private agricultural lands (PALs). This is the legacy of moratorium and deliberate postponement strategy of past regimes.

Figures for PALs in the current scope vary between 1.5 and 3 million hectares of mostly coconut, sugar and other commercial croplands. CARP was able to transfer only 6 per cent of PALs over time. The remaining 94 per cent are probably the most expensive agricultural lands because these are likely to be in the alluvial plains and therefore more productive. As well, these lands are closer to urban/market centers and growth corridors and benefitted by better infrastructures, among other plusses that factor into land pricing.

In these areas it would be difficult to find landowners who will part with their lands at a bargain and tenant-farmers who can afford a costly buy-out. The mode of acquisition, voluntary offer to sell (VOS) or compulsory acquisition, matters little. Whichever the landlord will have to be compensated at fair market value anyway. The size and mode of payment is the big headache. Barring further complications in negotiating their values, present estimates put acquisition and distribution costs at 58.8 billion pesos which can go much higher.

CARL says if farmers want land titled to their name they must pay for it. The law also says that landlords must be compensated at fair market value but the cost to the farmers should also be affordable. What a deep bind CARL has pushed us into! Who then pays the price difference? All the taxpayers, of course. More, the subsidy from society covers not only land acquisition and distribution costs but also the development and support costs for all agrarian reform program beneficiaries. Like, you and me pay for every World Bank or ADB project loan for agrarian reform.

Tenant-farmers cannot be a landowner until they have paid to the last peso. Until then their entitlement is mortgaged to the financier who meanwhile becomes proxy owner, who in this case is usually the government. Land donation from government is not straightforward ownership and comes under levied use rights arrangement, e.g., Certificate of Stewardship Contract (CSC). And these are subject to property rights limitations as market instrument although these use rights in fact happen to be informally traded regardless.



It is very important to find out how many of the beneficiaries of past land transfers are actually owners now and not merely deemed as such. And it is also just as important to evaluate the impact of the billions of pesos dedicated to program beneficiaries development. The taxpayers' money spent for this purpose is a social subsidy to enable the farmer-beneficiaries to increase productivity and income so that they can finance their land amortizations as well as contribute to economic growth.

Politics of financing agrarian justice

By providing for landlord compensation at fair market value CARL has imposed on all of us an enormous financial burden to correct a historical and social injustice. Whenever we demand from government to budget for this we are also imposing a financing responsibility on ourselves. If we ask government to implement the compulsory acquisition provision of the law it implies we are willing to pay the landowners with taxpayers' money.

We know most of the intended CARP beneficiaries (excluding the landlords) got nothing to pay and need huge financial support and time to build their own capacity to pay.

Government mediation is a moral responsibility but subject to politics. Meaning, any taxpaying Juan or Maria has a right to complain why his/her tax money should be used to buy out any landlord. This makes the matter of budget for landlord compensation more a political, and less a legal one. We have to educate and hope to convince every tax payer that it makes sense and that it is in his/her own interest to budget for agrarian justice.

What if government has no money? No budget for compensation means no compulsory acquisition. Hence, status quo in private agricultural lands. That leaves the would-be farmer owner high and dry. By law government is not obligated to pay for the tenant-farmer in the sense that the tenant-farmer cannot sue government for not allocating money for land acquisition. Paying for the tenant-farmer is a 'voluntary' favor from government, from all of society.

With insufficient tax revenue or other sources of income there is no recourse for government but to borrow locally (from the banks, from OCW remittances, through borrowing from landlords to compensate the same landlords as in part- bond payment scheme, etc.). Or to borrow internationally, as in the form of ODA or private commercial



loans. All of these borrowings are secured by sovereign guarantee. In other words, by taxes paid by you and me. If only we could borrow from Citi against the Ateneo property! Or against Hacienda Luisita, against Church estates that were able to escape land reform and just taxation.

Therefore tenant-farmers can only appeal to Erap, to the Catholic Church and the super-rich, to society at large for a social subsidy/grant while they are still raising their own capacity to pay. And their appeal must be heart-melting enough to elicit the desired response, for example, senators and representatives dedicating enough budget for land transfer or Cardinal Sin guaranteeing the cost of transfer. Or forceful enough to be heard as in leveraging your voice with broad public sympathy, if not outright revolutionary action and threat of civil war.

CARP is now touching the privately owned lands whose cost of acquisition run to billions of pesos. The Erap administration started with nothing in its coffers, in fact with a negative balance even. The foreign aid community sees no point in using donor money (also taxpayers money from citizens of donor countries) to compensate the landlords. In their view such use of scarce resources is unproductive and inflationary and so their money would rather be used for other productive purposes.

World Bank's market-assisted approach is based in part on this rationale. It's got little or nothing at all to do with being pro-landlord, as the knee-jerk reaction to any market or corporate label would tend to suggest. And though market-friendliness is current Bank mantra the WB mandate is reduction of poverty which puts it on the side of the landless and poor farmers in principle at least. Whether its policy and action in agrarian reform square fully with that rhetoric is another story.

Of course WB (ditto for ADB, et al.) may choose to lend money to buy peace and stability. Today that seems to be a marginal option. The revolutionaries are miles away from the gates of Malacañang or even from the landlord's doorsteps, as it were. In any case such use of public money is a judgement that must take into account the whole society, not just a part of it which the landless peasants are, even as they are assumed to be many and needing justice most.

No option without contradiction

Money, where it will come from and where to put it, is central to the problem of much-delayed CARP implementation. On paper there is



more than enough, that is, if a dedicated fund could be put up from a composite of coco levy, PCGG recovery of stolen wealth, sales of public assets, gambling money, amortizations of transferred lands, land use charges, etc.). Without resorting to borrowing all the landlords covered in the current acquisition target (PALs above 5 hectares) could be compensated at one-go. Probably there will be more left for support services.

The reality is there's not enough on hand and the sources being eyed are not easy to come by. But even if there's enough money there's no stopping the debate where to use it. Should it be used for landlord buy-out at all? Should our precious money be dedicated instead to other equalizing programs, e.g. beneficiary development, basic infrastructure, etc. These are not easy choices.

It may be argued that we cannot put a price tag on agrarian justice. The dignity that comes with ownership and deciding the use and mode of running of one's own farm cannot be valued in material terms. So, would it have been better if all previous DAR budgets were put in one basket—land acquisition and distribution (LAD)—instead of sinking most of it in program beneficiaries development (PBD) which never led to any significant landlord buy-out anyway, as some preliminary studies and anecdotal accounts would suggest.

But why can't we just leave the present landownership structure be if the cost of landlord compensation will only negatively feed back on all of us in the end? Why don't we just concentrate on creating all kinds of disincentives for ownership of land beyond a certain justifiable limit, say, through heavy progressive taxation? Let us make them who want to own land to their heart's desire pay the price for their greed.

In more practical terms, the cost of land is more or less equivalent to its rental. This can be compensated by an equivalent subsidy. This then can be added to the aggregate financing support for farmer-tenants in order to improve their capacity to buy out their landlords. Meanwhile, they can wait out the voluntary yielding of landlords as disincentives (heavy taxation, withdrawal of direct and hidden subsidies, etc.) prove too much to bear in a state-assisted battle of attrition for agrarian justice.

Taxation can compensate for default on compulsory acquisition or what landlords describe as 'confiscatory' character of CARP. We know little about how much revenues had been forgone for being remiss on this one. Rentals on retained land should be treated as regular taxable



incomes. Landholdings above the retention limit must be taxed progressively. Heavy penalties should be imposed on lands left idle when they could be made productive.

Always a hot stuff for public debate, taxation should be handled judiciously. It cuts in several ways and sends multiple signals. It can drive investments farther away from agriculture than they already are. If carefully applied and targeted taxation, as suggested here can be a positive leverage for correcting the skewed land distribution. Land monopoly should be punished while agricultural investment and productivity efforts may be rewarded with tax breaks.

We need to know who and where the landowners are. Landlord listing and land registration are outstanding concerns. We need to know who owns every square meter of CARPable land. Focusing efforts on this challenge will bring many benefits. In the first place, taxation will not work if government itself does not know who and what to tax. The names of landowners should be posted in local community centers and strategic public places. Transparency and access to such a data base will facilitate community participation in land reform.

Needless to rub in, there are many issues and concerns calling for urgent attention. This paper has no intention to cover them all. Enough to say that it tries to put in another perspective to the debate and hope that it was able to touch on issues that matter to our common advocacy for land justice.



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