

Constitutional Reform and the Agrarian Reform Agenda¹

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I. Introduction

This paper was commissioned with the primary objective of determining if a constitutional reform agenda (a set of amendments to the 1987 Philippine Constitution) vis-à-vis the agrarian reform agenda can be developed in the light of an impending charter change initiative by the Macapagal-Arroyo administration.

To be able to frame such a constitutional reform agenda, the author had to go through the development of the agrarian reform agenda/provisions in the different constitutions of the country. From the 1899 Constitution to the 1987 (present) Constitution of the Republic of the Philippines.

The author also had to enumerate and describe the different agrarian laws that were enacted during the “reign” of each constitution to determine how the agrarian provisions in each constitution were translated into actual laws of the land. However, listings were limited to legislative enactments and did not include laws resulting from judicial interpretations on said laws.

An analysis of the agrarian related provisions in the 1987 Constitution vis-à-vis their “translation” in Republic Act No. 6657 or the Comprehensive Agrarian Reform Law (CARL) was also done to determine which constitutional provisions had positive or negative impacts on the agrarian reform agenda as a result of the implementation of its corresponding provisions in the CARL. In doing so, we are to determine the positive (which should be maintained) and problematic (which should be either deleted or amended) agrarian related constitutional provisions.

This would lead us to the formulation of an initial agrarian reform constitutional reform agenda.

However, such an initial agenda was placed within the context of the current sectoral position/s on constitutional reform or charter change and the prevailing socio-political conditions.

A set of amendments to the 1987 Constitution was initially drafted and was subjected to discussion and approval of the sector (i.e. peasant groups and agrarian reform advocates).

After subjecting said initial proposed amendments to the 1987 Philippine Constitution to a round table discussion, a final set of conclusions and proposals were formulated.

The process of writing this paper has provided the author with key insights not only on the Philippine constitutions but also on the different issues that have plagued the implementation of CARL/P in the last 19 years.

¹ Commissioned by and drafted for the Caucus for Development NGOs (CODE-NGO)

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With funding for CARP expected to end in 2008 (unless a law extending and replenishing CARP funds is passed) such insights will prove to be very important in charting the course towards the attainment of the elusive “genuine agrarian reform” agenda.

II. Development of the Agrarian Reform Agenda in the 1899, 1935, 1973 and 1987 Philippine Constitutions

A survey of the 1899, 1935, 1973 and 1987 Philippine Constitutions shows a progressive development of the agrarian reform agenda. From almost no agrarian agenda in the 1899 Constitution to the declaration of the critical role of agrarian reform in the nation’s industrialization, the concept of and agenda for agrarian reform has progressively developed from one Constitution to the other.

Matrix No. 1 lists and places side-by-side the agrarian related provisions of the said constitutions to show the said changes and progression of agrarian concepts and actual provisions throughout the different Philippine Constitutions.

1899 Constitution

After the Philippine Revolutionary Government declared independence from Spain 1899, a congress was held in Malolos, Bulacan to draw up a constitution.

The 1899 Philippine Constitution was the first republican constitution in Asia. It contained provisions on basic civil rights, separation of church and state, and called for the creation of an Assembly of Representatives. It also called for a Presidential form of government with the president elected for a term of four (4) years.

However, the said constitution was really never implemented as the Philippine-American war erupted the same year when Spain officially ceded the Philippines to the United States of America under the Treaty of Paris. The said war ended with the capture of Emilio Aguinaldo in March 23, 1901 and the establishment of the US Colonial Government under Governor General William Howard Taft.

Thus, it must be noted that the agrarian related laws listed under the 1899 Constitution in Matrix No. 2 must be considered as the “output” of the US Colonial Government, and probably be more related to the 1935 Philippine Constitution.

The concept of an agrarian reform agenda under the 1899 Philippine Constitution was not yet present in the said constitution.

The closest concept of asset reform or redistribution of wealth under the 1899 Philippine Constitution would be the provision calling of the restoration of “all the estates, edifices, and other property possessed by the religious corporations” to the Philippine State.

It is just odd that the constitution of a revolutionary government founded on the struggles and revolutionary movement of the peasantry would not contain anything about an agrarian agenda.

It should also be noted that Bernas in his book, *The 1987 Constitution of the Republic of the Philippines: A Commentary*, does not refer to nor mention the 1899 Constitution.

1935 Constitution

Written in 1934, the 1935 Constitution was approved by the Commonwealth of the Philippines (1935-1946) and later used by the Third Republic of the Philippines (1946-1972).

The original 1935 Constitution provided for a unicameral Congress but was amended in 1940 to provide for a bicameral Congress composed of a Senate and a House of Representatives. Said amendment also provided for the creation of an independent electoral commission. The 1935 Constitution also limited the President to a four-year term with a maximum of two consecutive terms in office.

Provisions in the 1935 Constitution that most resembles an agrarian agenda would only be Sections 2 and 3. Section 2 basically limited the size of public agricultural lands that may be acquired, leased or held by private corporations or associations and individuals (see Matix No. 1). While Section 3 authorized Congress to “determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold.”

Basically, the 1935 Constitution merely set the limits by which entities may acquire private and public agricultural lands. Agrarian concepts, such as equitable redistribution of lands, were still missing in the 1935 Constitution.

1973 Constitution

The 1973 Constitution was promulgated after Marcos’ declaration of martial law. It introduced a parliamentary form of government with legislative power vested in a National Assembly whose members were elected for six-year terms. The President was elected as the symbolic head of state from the Members of the National Assembly for a six-year term and could be re-elected for an unlimited number of terms. Executive power was exercised by the Prime Minister who was also elected from the Members of the National Assembly. The Prime Minister was the head of government and Commander-in-Chief of the armed forces. The 1973 Constitution was amended in 1976 to allow the incumbent President to hold the position of Prime Minister and to exercise legislative powers as well.

In terms of the agrarian agenda, it is quite ironic that it would be the constitution under the dictatorship of former President Ferdinand Marcos which would explicitly indicate an agrarian reform agenda under a social justice framework.

Section 6 of the said constitution declared that “the State shall promote social justice to ensure the dignity, welfare, and security of all the people” and that “the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits.”

The 1973 Constitution, under Section 12, also declared that “the State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil.”

With such “motherhood” and, relatively, general declarations, Marcos was able to implement a confiscatory agrarian reform program (i.e. PD 27), although at a limited scale.

Confiscatory in the sense that compulsory acquisition were strictly enforced with land compensation at the minimum.

At a limited scale, in the sense that from 1972 to 1986 only 67,124 hectares were acquired and distributed under PD 27 (at the start of the implementation of the CARP, the Department of Agrarian Reform’s scope for PD 27 lands stood at 579,520 hectares).

Even if fully implemented, PD 27 would have only covered 7.9% of the total private agricultural lands, at the time, and just 14.3% of total areas devoted to rice and corn. To be benefited under PD 27, at the time, would have only been 4.4% of the total work force in agriculture and 6.6% of the total tenants and farmworks in agriculture. (PESANTech 1997)

There have also been general observations that PD 27 was mainly implemented on the lands of Marcos’ political enemies.

The 1973 Constitution also introduced, under Section 11, the recognition/consideration of “the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.”

1987 Constitution

Following the EDSA People Power Revolution in 1986 which ousted President Marcos from office, President Corazon Aquino issued Proclamation No.3 which called for the appointment of a Commission that would draft a “New Constitution.”

The 1986 Constitutional Commission convened on June 1, 1986 and completed its work on October 15, 1986. A plebiscite, held on February 2, 1987, overwhelmingly ratified the new Constitution.

The 1987 Constitution has the most developed concepts on social justice and agrarian reform among all of the Philippine constitutions.

Below are the key concepts and provisions introduced and established by the 1987 Constitution.

Agrarian Reform as Foundation for Industrialization

What could be considered as the most “revolutionary” agrarian concept introduced in the 1987 Constitution would be Section 1 of Article XII: National Economy and Patrimony which declared 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.”

For the first time, the key role that agrarian reform has played in the economic development was recognized and declared as the “blue print” for the nation’s industrialization. No longer was

agrarian reform just a “social justice” agenda for the peasantry but an economic development agenda whose success or failure will have implications on the whole nation.

Scope

Article XIII, Section 4 of the 1987 Constitution also declared that the agrarian reform program to be implemented by the State shall “undertake the just distribution of all agricultural lands.” A vast improvement from previous agrarian reform programs which only covered rice and corn lands.

Farmworkers as Agrarian Reform Beneficiaries

Also for the first time, the 1987 Constitution under Article XIII, Section 4 recognized farmworkers as beneficiaries under agrarian reform. Previous Constitutions and agrarian reform laws only recognized the tenant-farmer as beneficiaries of agrarian reform programs.

Support services delivery

The 1987 Constitution also explicitly declared that the State shall “provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services” to beneficiaries of the agrarian reform program to be implemented.

Reasonable retention limits & just compensation

However, progressive as the provisions above may be, the 1987 Constitution did set some limits on the agrarian reform program that was to be implemented. And these were, basically, in the provisions declaring that there shall be “reasonable retention limit” for landowners and the “payment of just compensation” for lands acquired.

Voluntary land sharing

A provision on providing “incentives for voluntary land sharing” schemes was also introduced by Commissioner Rosario Braid. The concept for such voluntary lands sharing schemes is quite unclear and undeveloped in the 1987 Constitution. However, record of the 1987 ConCom deliberations indicate that Commissioner Braid was referring to “efforts like what is happening in Negros in terms of voluntary land sharing” which are non-adversarial or non-confrontational approaches. It seems that the concept here for “voluntary land sharing” is a non-redistributive one which Commissioner Bernas has commented that in “no way should voluntary land sharing be allowed to become a mode of circumventing agrarian reform.”

Incentives for landowners to invest in industrialization

Article XIII, Section 8 of the 1987 Constitution called for providing landowners incentives “to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises.” It also declared that “financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice.”

Said provision was another component of the role of agrarian reform in the economic “blue print” that the Constitution has set. Agrarian reform was to be a measure to “encourage” landowners

(economic elites of the country) to shift from agriculture to industry to set off the “industrial revolution” in the country.

However, incentives set under the Constitution and under RA 6657 proved to be inadequate as most landowners opted to resist and even circumvent the implementation of CARP.

Protection of rights of indigenous peoples

Another significant improvement in the 1987 Constitution is the provisions on the rights of indigenous peoples to their ancestral domains. Under the 1973 Constitution, the State would only “consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.”

In the 1987 Constitution, the State extends protection to “the rights of indigenous cultural communities to their ancestral lands” and recognizes “the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domain.” For the first time, the concept of recognizing the rights of IPs to their ancestral lands were introduced. Such concepts were later further expounded and substantiated under the Indigenous Peoples Rights Act (IPRA).

Protection of the rights of fisherfolks

The 1987 Constitution also declared that “the State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of local marine and fishing resources, both inland and offshore.” Such a protection even extends “to offshore fishing grounds of subsistence fishermen against foreign intrusion.”

However, the Constitution declared that fishworkers were only eligible to only “receive a just share from their labor in the utilization of marine and fishing resources.”

**Matrix No. 1:
Comparison of Key Agrarian Reform Provisions in the
1899, 1935, 1973 and 1987 Philippine Constitutions**

1899 Constitution
Additional Article
All the estates, edifices, and other property possessed by the religious corporations in these islands shall be deemed restored to the Philippine State as of May 24, 1898 when the Dictatorial Government has been constituted in Cavite.

1935 Constitution	1973 Constitution	1987 Constitution
	ARTICLE II	ARTICLE II

1935 Constitution	1973 Constitution	1987 Constitution
	<p align="center">Declaration of Principles and State Policies</p> <p><u>Section 6. The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits.</u></p>	<p align="center">Declaration of Principles and State Policies</p> <p><u>Section 10. The state shall promote social justice in all phases of national development.</u></p> <p><u>Section 21. The State shall promote comprehensive rural development and agrarian reform.</u></p> <p>(see also Art.13, Sec. 1 below)</p>
		<p align="center">ARTICLE XII: National Economy and Patrimony</p> <p>Section 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key raising the quality of life for all, especially the underprivileged.</p> <p>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. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.</p> <p>In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum</p>

1935 Constitution	1973 Constitution	1987 Constitution
		<p>opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.</p>
<p>Section 2. No private corporation or association may acquire, lease, or hold public agricultural lands in excess of one thousand and twenty four hectares,</p> <p>nor may any <u>individual</u> acquire such lands by <u>purchase</u> in excess of <u>one hundred and forty four hectares</u>, or by <u>lease</u> in excess of <u>one thousand and twenty four hectares</u>, or by <u>homestead</u> in excess of <u>twenty-four hectares</u>.</p> <p>Lands adapted to grazing, not exceeding two thousand hectares, may be <i>leased</i> to an individual, private</p>	<p><u>Section 11. The National Assembly taking into account conservation, ecological, and developmental requirements of the natural resources shall determine by law the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation or association, and the conditions therefor.</u></p> <p>No private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in area;</p> <p>nor may any <u>citizen</u> hold such lands by <u>lease</u> in excess of <u>five hundred hectares</u> or acquire by <u>purchase</u> or <u>homestead</u> in excess of <u>twenty-four hectares</u>.</p> <p>No private corporation or association may hold by lease, concession, license, or permit timber or forest lands and other timber or forest</p>	<p>Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area.</p> <p><u>Citizens</u> of the Philippines may <u>lease</u> not more than <u>five hundred hectares</u>, or <u>acquire</u> not more than <u>twelve hectares</u> thereof <u>by purchase, homestead, or grant</u>.</p> <p>Taking into account the requirements of conservation, ecology, and development, and subject to the requirements of agrarian reform, the Congress shall determine, by law, the size of lands of the public domain</p>

1935 Constitution	1973 Constitution	1987 Constitution
<i>corporation, or association.</i>	<i>resources</i> in excess of <i>one hundred thousand hectares</i> ; <u>however, such area may be increased by the National Assembly upon recommendation of the National Economic and Development Authority.</u>	which may be acquired, developed, held, or leased and the conditions therefor.
Section 3. The Congress may determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold, subject to rights existing prior to the enactment of such law.	Section 12. The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this constitution.	(see provisions on <i>Agrarian and Natural Resources Reform</i> under Article XIII below)
	<p style="text-align: center;">ARTICLE XV General Provisions</p> <p>Section 11. The State shall consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.</p>	<p>Section 5. The State, subject to the provisions of this constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.</p> <p><u>The Congress may provide for the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domain.</u></p>
		<p style="text-align: center;">ARTICLE XIII: Social Justice and Human Rights</p> <p>Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the</p>

1935 Constitution	1973 Constitution	1987 Constitution
		<p>right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.</p> <p style="text-align: center;">Agrarian and Natural Resources Reform</p> <p>Section 4. The Sate 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. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the rights of small landowners. The State shall further provide incentives for voluntary land-sharing.</p> <p>Section 5. The State shall 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.</p>

1935 Constitution	1973 Constitution	1987 Constitution
		<p>Section 6. The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands. The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law.</p> <p>Section 7. The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of local marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.</p> <p>Section 8. The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises. Financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice.</p>

III. Agrarian Reform Provisions in the Philippine Constitutions and Their Translation Into Laws

Matrix No. 2 below lists all the laws enacted by the Philippine government under each Philippine Constitution.

An analysis of the features of all said agrarian laws indicates two major agrarian trends: (1) the erosion of share tenancy relationships between landowners and farmers to the development of the leasehold concept; (2) the evolution of the agrarian agenda from mere setting of landownership limits to redistributive and compulsory acquisition agrarian reform approaches; and, subsequently, (3) the continued lowering of the retention limits.

Under the Rice Tenancy Act/Act No. 4054 of 1933, the 50-50 sharing system between the landlord and the tenant was legalized. By 1954, by virtue of the Agricultural Tenancy Act/RA 1199 the sharing system was lowered to 30-70.

Then in 1963, the Land Reform Code/RA 3844 replaced the sharing system with leasehold system and set fixed rents at 25% of normal production less production expenses.

Under the current CARL/RA 6657, all lands not yet subjected to CARP and lands within the retention areas shall be under the leasehold arrangement.

In 1955, under the Land Reform Act/RA 1400 limited retention area to 300 hectares for individually-owned haciendas and 600 hectares for corporate-owned haciendas.

Under the Land Reform Code/RA 3844, the retention limit was lowered to 75 hectares in 1963. By 1971, retention limit was further lowered from 75 hectares to 24 hectares by virtue of RA 6389/Amendment to RA 3844.

In 1972, under PD 27, the retention area was again lowered from 24 to 7 hectares. Under the current CARL/RA 6657, retention limit has been set at 5 hectares (plus 3 hectares per heir).

Matrix No. 2:

Philippines Constitutions and Subsequent Agrarian Reform Laws

Constitution/ARRD Features	Agrarian Reform Laws /Main Features
1899 Constitution (Malolos)	
<ul style="list-style-type: none"> ○ Restored all the estates, edifices, and other property possessed by the religious corporations to the Philippine State 	<p>Philippine Bill (1902) [US Colonial Gov't]</p> <ul style="list-style-type: none"> ▪ Limited private ownership of land to 16 hectares ▪ Limited corporate ownership of land up to 1,024 hectares ▪ Allowed Americans to take control of vast tracks of lands in the Philippines
	<p>Land Registration Act (1902) [US Colonial Gov't]</p> <ul style="list-style-type: none"> ▪ Required people to acquire Torrens titles for their

Constitution/ARRD Features	Agrarian Reform Laws /Main Features
	lands
	<p>Friar Lands Act (1903) [US Colonial Gov't]</p> <ul style="list-style-type: none"> ▪ US government acquired 166,000 hectares of friar lands for \$ 7 million ▪ Said lands were sold back to 60,000 tenants at cost plus interest
	<p>Public Lands Act (1903) [US Colonial Gov't]</p> <ul style="list-style-type: none"> ▪ Established a homestead program awarding 16 hectares of uncultivated/undeveloped public lands for each applicant
	<p>Rice Tenancy Act/Act No. 4054 (1933)</p> <ul style="list-style-type: none"> ▪ Legalized the 50-50 sharing system between the landlord and the tenant ▪ Limited loan interests to tenants to only 10%
	<p>Expropriation of Landed Estates (1933)</p> <ul style="list-style-type: none"> ▪ Government acquired haciendas for re-sale or lease to tenants
	<p>Sugar Tenancy Act/Act No. 4113 (1934)</p> <ul style="list-style-type: none"> ▪ Regulated the relationship between the landowners and tenants in sugar lands
1935 Constitution (Commonwealth)	
<ul style="list-style-type: none"> ○ Declared that “the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits” 	<p>Agricultural Tenancy Act/RA 1199 (1954)</p> <ul style="list-style-type: none"> ▪ Lowered to 30-70 the sharing system in favor of the tenant
<ul style="list-style-type: none"> ○ Tasked Congress to enact a law determining the size of private agricultural land which individuals, corporations, or associations may acquire and hold 	<p>Land Reform Act/RA 1400 (1955)</p> <ul style="list-style-type: none"> ▪ Government to acquire haciendas with tenants ▪ Limited retention area for landowners to 300 hectares and 600 hectares for corporations ▪ Required that majority of the tenants in the hacienda apply for coverage under the program
	<p>Land Reform Code/RA 3844 (1963)</p> <ul style="list-style-type: none"> ▪ Replaced sharing system with leasehold system ▪ Set fixed rents at 25% of normal production less production expenses ▪ Retention limit was lowered to 75 hectares

Constitution/ARRD Features	Agrarian Reform Laws /Main Features
	<ul style="list-style-type: none"> ▪ Lands acquired and distributed were payable for 25 years with 6% interest per annum
	<p>RA 6389/Amendment to RA 3844 (1971)</p> <ul style="list-style-type: none"> ▪ Leasehold arrangements were to automatically replace all sharing arrangements ▪ Further lowered retention limits from 75 hectares to 24 hectares ▪ But still just covered rice and corn lands ▪ Created the Department of Agrarian Reform (DAR)
1973 Constitution (Marcos)	
<ul style="list-style-type: none"> ○ Explicitly declared the formulation and implementation by the State of an agrarian reform program 	<p>PD 27 (1972)</p> <ul style="list-style-type: none"> ▪ Declared all rice and corn lands with tenants as covered by the new agrarian reform law ▪ Further lowered the retention area from 24 to 7 hectares
	<p>PD 1066 (1976)</p> <ul style="list-style-type: none"> ▪ Exempted sugar lands that have been planted to rice and corn and other crops
	<p>PD 1942</p> <ul style="list-style-type: none"> ▪ Exempted lands that were planted to rice and corn after enactment of PD 27
1987 Constitution (Present)	
<ul style="list-style-type: none"> ○ Declared that “the goals of the national economy are a more equitable distribution of opportunities, income, and wealth” ○ Declared that “the State shall promote industrialization and full employment based on sound agricultural development and agrarian reform” ○ Declared that “Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by 	<p>CARL/RA 6657 (1988)</p> <ul style="list-style-type: none"> ▪ Covered all agricultural lands except agricultural lands used for livestock, swine and poultry raising on or before July 15, 1988 ▪ Also provided for support services delivery for distributed lands ▪ Set the retention limit to 5 hectares ▪ Covered all lands not yet subjected to CARP and lands within the retention areas under the leasehold arrangement ▪ Set a 10-year period for the implementation of CARP
	<p>RA 7881/Amending CARL (1995)</p> <ul style="list-style-type: none"> ▪ Exempted fishponds & prawn farms from the coverage of CARL
	<p>RA 7905/Amending CARL</p>

Constitution/ARRD Features	Agrarian Reform Laws /Main Features
<p>equitably diffusing wealth and political power for the common good” and that “the State shall regulate the acquisition, ownership, use, and disposition of property and its increments”</p> <ul style="list-style-type: none"> ○ Recognized regular farmworkers as beneficiaries ○ Recognized “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” CARP ○ Established “reasonable retention limits” based on the rights of small landowners ○ Established that there shall be “just compensation” for acquired lands ○ Introduced the concept of “voluntary land sharing” ○ Declared that CARP “shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services” ○ Covered under “the principles of agrarian reform or stewardship... the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture” ○ Recognized the rights of indigenous communities to their ancestral lands ○ Declared to “protect the rights of subsistence fishermen, especially of local 	<ul style="list-style-type: none"> ▪ Authorized the PARCCOM to “process applications for lease back arrangements, joint-venture agreements and other schemes that will optimize the operating size for agricultural production and also promote both security of tenure and security of income to farmer beneficiaries.” <hr/> <p>RA 8532 (1998)/Amending CARL</p> <ul style="list-style-type: none"> ▪ Extended funding support for CARP for another 10 years and allocated another P50 billion to the Agrarian Reform Fund

Constitution/ARRD Features	Agrarian Reform Laws /Main Features
<p>communities, to the preferential use of local marine and fishing resources, both inland and offshore” and such “protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion”</p> <ul style="list-style-type: none"> o Provided that “fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources” o Declared that “the State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises” 	

IV. The 1987 Philippine Constitution: Implications on the Agrarian Reform Agenda

As a whole, the 1987 Constitution is the longest and most detailed constitution in the world. Some of these provisions of the 1987 Constitution were a reaction to governmental abuses under the Marcos regime. (Bernas 2003) Thus “safety net” provisions were added to ensure that “dictatorships” and such abuses would not be repeated.

As a whole, the 1987 Constitution is the longest and most detailed constitution in the world. Some of these provisions of the 1987 Constitution were a reaction to governmental abuses under the Marcos regime. (Bernas 2003) Thus “safety net” provisions were added to ensure that “dictatorships” and such abuses would not be repeated.

The same could be said of the agrarian reform related provisions of the 1987 Constitution.

Although the 1987 Constitution expanded the agrarian reform agenda, with the declaration of all private agricultural lands (and not only rice and corn lands) being within the scope of agrarian reform, inclusion of “regular farmworkers” as among the beneficiaries of the agrarian reform, inclusion of support services delivery as integral part of agrarian reform, and declaring agrarian reform as to be the foundation for the nation’s industrialization, it also set the limit by which the State under this constitution would undertake agrarian reform.

The 1987 Constitution, with its provisions stating that there should be “reasonable retention limits” and that “just compensation” should be paid for lands acquired, have, in effect, declared that the agrarian reform to be pursued by the State will be under a “democratic” framework rather than a “confiscatory” one, which has been the framework under most successful agrarian reform initiatives were undertaken.

The agrarian reform agenda set in the 1987 Constitution is a major improvement on the other agrarian reform agenda in previous constitution but just short of what most radical and militant peasant groups have historically considered as “genuine” agrarian reform – one that is based on the confiscatory “land-to-the-tiller” principle wherein there shall be no retention limit and lands will be acquired and distributed for free.

In effect, peasant groups who have been advocating for a new, “genuine” and more radical agrarian reform law (which is basically the call for zero retention limit and zero compensation) will have to first amend the constitution and, hopefully, have the political power and influence to remove the said provisions barring the realization of a confiscatory agrarian reform law/program or insert more radical agrarian provisions.

**Matrix No. 3:
Assessment of the AR Provisions of 1987 Constitution vis-à-vis the CARL Provisions**

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
<p style="text-align: center;">Article XIII: Agrarian and Natural Resources Reform</p>			
<p>Section 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless,</p>	<p>Chapter VII, Sec. 22 – Listed who may be considered as beneficiaries under CARP including regular, seasonal and other farmworkers</p>	<p>- Section 04 of the Constitution recognized the right of farmworkers to be beneficiaries under the agrarian reform program</p>	

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
		<ul style="list-style-type: none"> - Past AR laws did not recognize the right of farmworkers as beneficiaries 	
<p>to own directly or collectively the lands they till</p>	<p>Chapter VII, Sec. 25 – Provided beneficiaries the option for collective ownership through co-ownership, their cooperative or collective organization Chapter VII, Sec. 29 – Provided that farms owned of operated by corporations shall, as a general rule, be distributed directly to the “individual worker-beneficiary.” However, “in case it is not economically feasible to divide the land,” it should then be owned collectively by the worker-beneficiaries through their cooperative or association.</p>	<ul style="list-style-type: none"> - Prevents selling of awarded lands by individual ARBs/coop members within the 10-year prohibition period - Best arrangement for acquired and distributed plantations 	<ul style="list-style-type: none"> - Collective CLOAs were issued even though the make-up of the area warranted the issuance of individual CLOAs. This was usually done to enable local DAR officials to meet LAD targets. (It was much faster to process one collective CLOA covering hundreds or thousands of hectares than hundreds of individual CLOAs.) - DAR’s limited budget for parceliary surveys prevented ARBs from determing the exact size and location of the land awarded to them. This further resulted in difficulties in determining the preparation of amortization schedules
<p>or, in the case of other farmworkers, to receive a just share of the fruits thereof.</p>	<p>Chapter VII, Sec. 22 – Listed who may be considered as beneficiaries under CARP Chapter III, Sec. 12 – Provides for the</p>	<ul style="list-style-type: none"> - This provision provides for the implementation of leasehold arrangements 	

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
	determination of lease rentals for farmers in retention areas and lands not yet covered by CARP	for farmers and farmworkers who are within the retention areas and on lands not yet acquired under CARP	
To this end, the State shall encourage and undertake the just distribution of all agricultural lands,	Chapter II, Sec. 4 – Placed under the coverage of CARL, “regardless of tenurial arrangement and commodity produced, all public and private agricultural land...including other lands of the public domain suitable for agriculture.”	- A milestone provision as it placed ALL agricultural lands, irregardless of what crops it is used to grow, under agrarian reform whereas before AR only covered rice and corn lands	
subject to such priorities	Chapter II, Sec. 7 – Set the priorities for land acquisition and distribution within a 10-year period (with three phases) of implementation of the program		- Was not really followed as after almost 20 years of CARP implementation there are still rice and corn lands under PD 27 that have remained undistributed. Rice and corn lands, according to the priorities set, should have been completely acquired and distributed within Phase 1 or first four (4) years of the program
And reasonable retention limits as	Chapter II, Sec. 6 – Set the retention limit at five (5)	- An improvement	- Effectively blocked the possibility of an

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
the Congress may prescribe, taking into account ecological, developmental, or equity considerations,	hectares with each child of the landowner being awarded three (3) hectares	from the seven-hectare retention limit under PD 27	agrarian reform program with a zero (0) retention limit under this constitutional regime
and subject to the payment of just compensation . In determining retention limits, the State shall respect the rights of small landowners .	Chapter VI, Sec.17-21 – Set “the current value of the land, its nature, actual use and income, the sworn value by the owner, the tax declarations, and the assessment made by the government assessors” as bases for determining just compensation or cost of acquisition of the land	- DAR/LBP valuation are relatively lower than “market value”	<ul style="list-style-type: none"> - DAR/LBP valuation are higher than valuation under PD 27 - Also effectively blocked the possibility for a confiscatory/zero compensation agrarian reform program under this constitutional regime - Sec. 18 of CARL also provided the regular courts with the authority for the final determination of just compensation for the land - This has led to CARP lands being valued at “market value.” In one case, the court set the valuation of a commercial farm at 1.2 million pesos per hectare
The State shall further provide incentives for voluntary land-sharing .	Chapter 6, Sec. 19-21 – Provided for the arrangements under the Voluntary Offer for Sale (VOS) and Voluntary Land Transfer (VLT) schemes. Under the former, landowners who voluntarily	- The VOS and VLT schemes, were not actually the exact translation of the “land-sharing”	<ul style="list-style-type: none"> - VOS and VLT schemes, however, are being abused by LOs to evade or delay the implementation of CARP on their lands - To delay coverage of

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
	<p>offer their lands for CARP coverage are entitled to an additional 5% cash payment. Under the latter, LOs are provided with the option to directly transfer their lands to qualified beneficiaries</p>	<p>scheme provided under the 1987 Constitution. Commissioner Rosario Braid was referring to the voluntary land sharing scheme being initiated by LOs in Negros at that time.</p>	<p>their lands, LOs already under Compulsory Acquisition apply to be covered under VOS and then question before the courts the valuation of the land.</p> <ul style="list-style-type: none"> - Under the VLT scheme, there have been reports of VLT contracts not being followed and share tenancy arrangements still being implemented and LOs undertaking VLT arrangements with relatives or tenants loyal to them. Allowing the arrangement mentioned to be executed (Borras 2005)
<p>Section 5. The State shall 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,</p>	<p>Chapter XI, Sec. 41 – Included three (3) LOs, representing Luzon, Visayas and Mindanao, in the composition of the Presidential Agrarian Reform Council (PARC), which is the highest policy making body for the CARP.</p> <p>Section 44 – Provided for two (2) representatives from the landowners in the Provincial Agrarian Reform Coordination Committees (PARCOMM)</p>	<ul style="list-style-type: none"> - LO representatives are outnumbered by farmer representatives in the PARC 2 to 1 - LO representatives in the PARCOMM are only limited to one while all farmers groups in the province can be represented 	<ul style="list-style-type: none"> - LO representatives have obviously used the said positions to influence the DAR in delaying and limiting the implementation of the program - With the urgent task at hand being the fast tracking of CARP implementation the appointment, the appointment of LO representatives in the PARC and PARCOMM does

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
		with one representative each	not help
<p>and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services.</p>	<p>Chapter IX, Sec. 35-37 – Created the Support Services Office which was to provide the following support services to ARBs and LOs:</p> <ol style="list-style-type: none"> 1. irrigation facilities 2. infrastructure and public works projects 3. government subsidies of irrigation facilities 4. rice support & guarantee 5. credit, like concessional & collateral free loans 6. financial assistance to small- and medium-scale industries in agrarian areas 7. assigning sufficient numbers of agricultural extension workers 8. research & development 9. development of coop. management skills 10. ID of ready markets & trainings on marketing 11. Funding of support services programs & proj. 	<ul style="list-style-type: none"> - Another milestone provision as agrarian reform was not only limited to land transfer but also included support service delivery 	<ul style="list-style-type: none"> - However, with the initial budget allocated for CARP under RA 6657 being only P50 billion and with the ratio for the allocation of the said budget set at 75-25 in favor LAD activities (sec. 36), the budget available for support services delivery was only some P12.5 billion or P1.25 billion per year within the first ten year period of CARP implementation - A very small amount if compared to the budget requirement for the Agriculture and Fisheries Modernization Act of 1997 which allocated some P17 billion per year for seven (7) years - Such lack of support services resulted in only 4.51% of ARBs being covered under an ARC and only 27% of total ARBs receiving “quality” support services (Lim 2006) - Said support services delivery projects were more of the

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
			<p>infrastructure type. Budget support for basic support services such as credit for production loans were insignificant</p>
<p>Section 6. The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands.</p>	<p>Chapter 2, Sec. 4 Chapter 10, Sec. 40</p> <p>Chapter 2, Sec. 6</p> <p>Chapter 2, Sec. 9</p>	<ul style="list-style-type: none"> - Included public agricultural lands under the scope and coverage of CARP - Gave clear protection to beneficiaries of homestead rights and the rights of IPs to their ancestral lands 	<ul style="list-style-type: none"> - However, the DAR has been processing the coverage of ancestral domains under CARP which clearly violates the provisions of the constitution and of RA 6657
<p>The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law.</p>	<p>Chapter II, Sec. 4 – Identified “all other lands owned by the Government devoted to or suitable for agriculture” as coverable by CARL</p>		<ul style="list-style-type: none"> - After 19 years of CARP implementation, the DAR has only acquired and distributed 160,986 hectares of agricultural lands owned by government

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
			financial institutions (GFIs). Still short by some 68,810 hectares of its working scope of 229,796 hectares for GFI lands
<p>Section 7. The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of local marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing</p>	<p>Chapter 10, Sec. 40 – Provided small fisherfolk, including seaweed farmers with greater access to the utilization of water resources</p>	<ul style="list-style-type: none"> - The said provision in the constitution, again, was a major development as rights of fisherfolks to water resources were recognized - It also provided for the delivery of support services for the sector and for the conservation of water/marine resources 	<ul style="list-style-type: none"> - However, it also set the limit on the extent of such rights to water/marine resources to mere access and only to the “ just share from their labor in the utilization of marine and fishing resources” - Direct ownership to such resources were not provided - Clearly, the CARL did not substantially address the said provisions in the constitution regarding fisheries reform - However, a separate Fisheries Code has been enacted

1987 Constitution Provisions	Related CARL Provisions	Pros	Cons
resources.			
<p>Section 8. The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises. Financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice.</p>	<p>Chapter IX, Sec. 38 – Provides landowners with the following services:</p> <ol style="list-style-type: none"> 1. investment info., financial & counseling assistance 2. conversion of bonds paid to them for their lands into stocks issued by the national government, the Central Bank & other gov't instis. 3. marketing of bonds 4. other services to utilize the proceeds of the sale of such lands for rural industrialization 	<ul style="list-style-type: none"> - Another landmark provision as the role of agrarian reform in fueling agro-industrialization in the country is enacted into law - Giving incentives to LOs to shift from agriculture to industry should have lessened LO resistance to CARP 	<ul style="list-style-type: none"> - However, incentives provided under CARL were far short of the “Marshall Plan” provided to the former landlords of Japan when the US government implemented land reform in the said country - Did not provide enough incentive to encourage LOs to shift to industry - Did not lessen LO resistance to CARP

V. The ARRD Community’s Position on Charter Change

The general position among peasant and ARRD groups regarding charter change initiatives by the Macapagal-Arroyo administration has been a resounding a “no to cha-cha.” However, this position has been mainly due to the “hello Garci” controversy and the recent anti-reform attitude of the Macapagal-Arroyo administration.

However, prior to the “hello Garci” controversy, there seemed to have been a split among civil society groups on the issue of amending the constitution or constitutional reform.

Prior to the “hello Garci” controversy, there were civil society groups, who were mainly those pushing for federalism were open to amending the constitution as long as it was done through a Constitution Convention (ConCon), wherein delegates to the Constitutional Convention were to be elected by district, and not thorough a Constitutional Assembly (Con-Ass) wherein the Congress would be convened into a Constitutional Assembly.

This was in spite of the knowledge that the previous attempts to amend the constitution (i.e. ConCord by the Estrada administration) already proposed the opening up of the economy, including allowing foreign ownership of private agricultural lands, and the high probability that deletion of

key “social justice” provisions, such as those on agrarian reform, would be proposed. The justification has been that the expected benefits to be gained from the change in the political systems to a federal state will out weight the risk of losing some provisions on national patrimony and social justice.

Thus, there are groups that are against “cha-cha” under the Macapagal-Arroyo administration (i.e. “no to GMA’s Cha-Cha”) but are open to “constitutional reform” after the term of President Macapagal-Arroyo (i.e. “Cha-Cha after GMA”).

On the other hand, several peasant and ARRD groups have been consistently opposed to amending the constitution even before the “hello Garci” controversy and as early as the attempt to amend the constitution during President Ramos’ time.

This has been mainly due to the assessment that anti-agrarian reform forces will always take advantage of such opportunities to further dilute the social justice and agrarian reform provisions of the constitution. And such opposition intensified with the emergence of the proposal to allow foreign ownership of private agricultural lands which was seen as detrimental to the implementation of the existing agrarian reform program (i.e CARP). (please see Matrix No. 4)

**Matrix No. 4:
Matrix of Positions of AR Groups on Charter Change**

Organization	Position on Amending the Constitution	Position on Mode of Amending	Position/Critique/Proposed Amendments
AR Now!	No to GMA’s Cha-Cha	n.a.	<ul style="list-style-type: none"> - No need to amend constitution as development blue print provided by Constitution has not yet been truly implemented - Motives for amending the Constitution are viewed as self-serving (i.e. to extend or even remove term limits of incumbent government officials) - Proposed changes in the economic provisions of the Constitution, allowing full foreign ownership of private lands in particular, are deemed detrimental to the peasant sector and the AR agenda - Allowing full foreign ownership of private lands will result in greater demands for land and, subsequently, raise prices of lands. This, in turn, will make AR harder to implement as more funds will be required to acquire lands for CARP and landowner resistance will further intensify as the value of their lands increase.

Organization	Position on Amending the Constitution	Position on Mode of Amending	Position/Critique/Proposed Amendments
			<ul style="list-style-type: none"> - The proposal to remove protectionist economic provisions in the Constitution is also based on the flawed premise that the more we liberalize the better for the economy as more investors will invest in our country. However, studies indicate that foreign investors now look more on the market potential of a country rather than investment incentives as basis for decisions on where to invest. - The Philippines is not attracting investments because most of its people are poor which can be linked to the State's failure to fully and effectively implement agrarian reform and other asset reforms.
AKBAYAN Citizen's Action Party	No to Cha-Cha = No to GMA	n.a.	<ul style="list-style-type: none"> - Cha-cha will remove protection of local industries - Allowing foreign ownership of private lands will result in more land conversions, increase in land prices, and more difficult implementation of agrarian reform. - Cha-cha is pro-elitist politics as political power will be more concentrated in the hands of members of the proposed Parliament - And with the Head of State being elected by and among members of Parliament, the masses will have lesser participation in governance. - Having a uni-cameral Parliament will lessen mechanisms for "checks and balances".
One Voice	Opposed to charter change but pushing for "real changes"/reforms	If necessary, Constitutional Convention after the 2007 elections	<ul style="list-style-type: none"> - Proposed a 5-step process through the following: <ol style="list-style-type: none"> 1. Discontinuance of the present "people's initiative"; 2. A social reform program now; 3. Elections in 2007 as scheduled, as an indirect referendum, and electoral reform now; 4. If necessary, a constitutional convention (not a "con-ass) after the 2007 elections, and

Organization	Position on Amending the Constitution	Position on Mode of Amending	Position/Critique/Proposed Amendments
			5. A collective effort to rebuild the trustworthiness of our democratic institutions.
Kilos AR – AR Now! Forum on the “ConCom Report on National Patrimony & Economic Reform: A Forum on its Implication to Agrarian Reform	“There is no need for charter change”	n.a.	<ul style="list-style-type: none"> - The synthesis on the views raised by participants (mostly Kilos AR member organizations) had the following points: <ol style="list-style-type: none"> 1. There is no need for charter change, it is a self-serving scheme for PGMA; 2. The 1987 Constitution and the Local Government Code encourages federalism and this has to be maximized; 3. The social justice provisions of the 1987 Constitution must be defended; 4. Reject the proposals drafted by the ConCom and effectively lobby against it;
Alternative Law Groups, Inc. (coalition of 17 legal resource NGOs)	- against the “charter change being pushed by the Macapagal-Arroyo administration and its machinators”	n.a.	<ul style="list-style-type: none"> - ALG opposed charter change on the following grounds: <ul style="list-style-type: none"> - The 1987 Constitution can neither be revised nor amended through a people’s initiative - People’s initiative is a fake initiative initiated by a fake President who wants to stay in power - GMA’s cha-cha would make her an impeachment-proof President; - Cha-cha would be a return to dictatorship, not a shift to a parliamentary form of government
Centro Saka, Inc. (CSI)	No explicit position but critical of charter change	n.a.	<ul style="list-style-type: none"> - Does not see charter change initiatives by the Macapagal-Arroyo administration as means of institutionalizing structural reforms - Instead, it sees the incumbent president and her supporters as the ones who will mainly gain from the proposed ConCom amendments to the charter - It is also critical of the proposed amendments that would open up the nation’s patrimony and economic

Organization	Position on Amending the Constitution	Position on Mode of Amending	Position/Critique/Proposed Amendments
			resources to foreigners

VI. Pushing the Agrarian Reform Agenda Through Constitutional Reform Under the Current Political Conditions

As the discussions above have shown, there seems to be two (2) major amendments to the 1987 Philippine Constitution that will have to be introduced if the “agrarian agenda” of the major peasant groups included the serious push for a more “radical” (i.e. zero retention, zero compensation) or confiscatory agrarian reform law.

Under such an agrarian agenda, the following amendments to the Constitution could be proposed:

**Article 13:
Social Justice and Human Rights**

Agrarian and Natural Resources Reform

Section 4. 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 OWN, CONTROL AND POSSESS the lands they till or[, in the case of other farmworkers,] to receive a just share of the fruits thereof]. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities [and reasonable retention limits] as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and [subject to the payment of just compensation. In determining retention limits, the State shall respect] the rights of small landowners. [The State shall further provide incentives for voluntary land-sharing.]

Section 5. The State shall 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] AGRARIAN REFORM BENEFICIARIES through appropriate technology and research, and adequate financial, production, marketing, and other support services.

Section 6. The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of

small settlers, and the rights of indigenous communities to their ancestral lands. The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law.

Section 7. The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of local marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.

Section 8. The State shall [provide incentives to] IMPLEMENT, WITH SUFFICIENT FUNDING AND FISCAL INCENTIVES, AN INVESTMENT PROGRAM TO ENCOURAGE landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises. Financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice.

HOWEVER, the participants to the round table discussion to which the initial draft of this paper and the above-proposed amendments to the 1987 Philippine Constitution were presented unanimously agreed that the enactment of a zero-retention limit and zero-compensation agrarian reform law/program was not within their (agrarian) agenda.

Everyone was in agreement that being under a “democratic setting” any agrarian reform program will have to involve the payment of “just compensation” for lands acquired under agrarian reform and that the rights of small land owners (which was the basis of the 5-hectare retention limit set under the CARL) will have to be respected. On the issue of lands under the retention limits (5 hectares and below), the group recognized that the leasehold provisions under CARL was sufficient to address the rights of tenants or leasehold ARBs.

Under such circumstances, the group unanimously agreed that there was no pressing need to introduce any substantial amendments to the 1987 Philippine Constitution to advance any “unfulfilled” agrarian agenda.

On the other hand, the group recognized that major amendments to CARL still needs to be introduced to address major weaknesses/loopholes of the law and also implementation problems concerning CARP to further “maximize” or push to the limit the “opportunities” and the framework already provided by the 1987 Philippine Constitution.

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