



Agrarian reform and democracy: Lessons from the Philippine experience

Lanzona, Leonardo

Ateneo de Manila University

28 June 2019

Online at <https://mpra.ub.uni-muenchen.de/99166/>
MPRA Paper No. 99166, posted 21 Mar 2020 10:57 UTC

Agrarian Reform and Democracy: Lessons from the Philippine Experience

Millennial Asia

I-27

© 2019 Association of
Asia ScholarsReprints and permissions:
in.sagepub.com/journals-permissions-india
DOI: 10.1177/0976399619879866
journals.sagepub.com/home/mla**Leonardo A. Lanzona, Jr.¹**

Abstract

Throughout the country's history, agrarian reform in the Philippines has long been a combative issue and one that is often preceded by some form of instability and violence. Used mainly as a tool to garner grassroots support, agrarian reforms were formally institutionalized by setting up regulations on land size and contracts. Despite efforts to integrate the reforms to the markets, including the clustering of small hectares (ha) of land into large corporate estates, the benefits of the Agrarian Reform Program remained elusive under conservative demarcations set by regulations, including the definition of property rights, transformation or maintenance of state structures and the contract limitations to be formed at the production level. Land continues to be redistributed favorably to former landowner elites. This study finds that inequality in land ownership persists as the institutions set de facto political power to the elites. Under this condition, the equitable redistribution of land is an impossibility.

The Philippine Agrarian Reform Programs have been hampered by high transaction costs and inadequate credible commitments, thus resulting in the erosion of market forces and elite capture of institutions. Based on agency theory, the existing regulation-based programme, which relies on the state's power to expropriate, should give away to a more demand-driven, community-led Agrarian Reform Program that gives the parties more space to negotiate and bargain about the final allocation of the land. This involves the promulgation of relational contracts and the creation of more democratic institutions.

Keywords

Market-led agrarian reform, democracy, transaction costs, agency theory, Philippines

¹ Department of Economics, Ateneo de Manila University, Philipines.

Corresponding author:

Leonardo A. Lanzona, Jr, Department of Economics, Ateneo de Manila University, Quezon City, 1108 Metro Manila, Philipines.
E-mail: llanzona@ateneo.edu

I. Introduction

Agrarian reform in the Philippines has a long history marked by instability and violence. Following the People Power Revolution in 1986, the Comprehensive Agrarian Reform Law (CARL), was passed amidst much expectation for change and democracy. For the past and present administrations, spanning the country's life, this programme has been the centrepiece for poverty reduction and development. Despite its importance, the impact of the programme remains elusive (Balisacan, 1993; Hayami, Quisumbing, & Adriano, 1990). While there seemed to be evidence that the programme has produced some benefits to specific households, the gain to society as a whole has not been resolved (Reyes, 2002; Ballesteros & Bresciani, 2008).

The debate on agrarian reform originally revolves around two main themes. First, the relationship of tenure reform to overall productivity has been asserted and eventually challenged (see Adamopolous & Restuccia, 2019). Over several decades, the demand for tenure reform has changed or altered dramatically towards agrarian reform, which, as defined here, not only points to the change in the relationship between landowners and tenants but also its role in productivity. Hence, agrarian reform refers not only to a redistribution of land, which had led to smaller farms but also the provision of infrastructure, services and agricultural development. Unlike land reform which refers to a narrower redistribution of land, usually to a limited group of beneficiaries, such as the tillers, agrarian reform has a broader set of objectives, affecting the whole country. While the two concepts overlap and are often seen to be interchangeable, these are essentially different and can be conflicting.

Second, attempts have been made to categorize different types of agrarian and land reforms, usually according to their wider political and economic intents. The nature of the government enacting reforms and the extent of land redistributed are deemed to be significant in addressing the programme outcomes. Thus, revolutionary, conservative and liberal land reforms may be differentiated (Putzel, 1992). These categories are demarcated by the policy about several variables, including the form of property rights, transformation or maintenance of state structures and the process through which agrarian reform is achieved. For instance, 'revolutionary' reforms have often followed political uprisings that change state regimes. The state might expropriate a large amount of agricultural land, redistribute it in collectives and plan for agrarian reform within a wider purpose of social change. A 'conservative' reform, conversely, leaves the basic social and political framework intact and usually redistributes less land. Land tends to be purchased by the state and redistributed to a particular group of cultivators for farming on a family or household basis. A liberal perspective looks at land redistribution as a means of eliminating land monopolies, advocating the role of a strong state to expropriate land and to create the necessary conditions to enhance productivity and improve equity.

Nevertheless, regardless of the political perspectives, the changes in the law and the institutions can also be explained in terms of the transaction costs that originate from the governance of such laws. Demsetz (1969) and Alchian and Demsetz (1973) develop a simpler principle that can be paraphrased as follows:

Property rights and institutions, in general, will evolve to minimize the excess burden. This is equivalent to saying that the set of institutions which maximizes the differences between benefits and costs will evolve. In the end, the succeeding institutional mechanism reflects how different parties can allocate resources that will be mutually beneficial.

Under this framework, the shift from tenure reform to agrarian reform can be seen in terms of the transition from natural states to open access states (North, Wallis, & Weingast 2009) or the shift from a dictatorship to a democratic system. The intention of the shift is to enforce change in the system of laws and institutions that can guarantee greater productivity and lower inequality. Within this process is the importance of creating a democratic system that allows a wider and more inclusive participation of the majority (Acemoglu & Robinson, 2006). In which case, the solution to increasing the de facto political power of the majority is to enhance democratic institutions that limit the power of the rentiers and the elite to capture the institutions (Assiotis & Sylwester, 2014; De la Croix & Delavallade, 2011).¹

The objective is to trace how the Philippine Agrarian Reform Program had evolved from land reform to agrarian reform. It is argued that the evolution of the law and the development of the institutions come from the need to address the inefficiencies emerging from the economic and social environment. However, the level of transaction costs and the lack of credible commitments have produced outcomes that are far from those envisioned in the programme. Furthermore, because the law contradicted market forces, the law had become a constraint to development. Unless institutions become more democratic and more market-led, social programmes such as agrarian reform will only be stifled by elite interests.

This article is organized as follows: Section II considers a review of the literature, looking into the reasons why land and agrarian reform were deemed necessary for economic development. Section III highlights the main outcomes of the agrarian and land reforms in the Philippines. Section IV discusses the historical evolution of agrarian reform in the Philippines. Section V provides the lessons learnt in terms of the theory and the empirical. Section VI provides a summary and policy directions.

II. Towards Understanding the Impact of Agrarian Reform

The Agrarian Reform Program has been justified for two main reasons. The first is to introduce greater efficiency in agricultural production in terms of land size. This is based on the notion that smaller-sized farms (due to the agrarian reform) are more productive than larger-sized farms. A common argument to support this notion is that family labour has greater productivity than hired labour in smaller farms (Berry & Cline, 1979; Carter, 1984; Cornia, 1985; Banerjee, 2000). Furthermore, the elimination of the shared tenancy arrangement, which is part of the whole reform, programme is also considered as a critical ingredient in the attainment of greater productivity.

However, as agency theory argues (see Otsuka, Chuma , & Hayami, 1992; Huffman & Just, 2004), this view does not take into account the risks that are associated with agrarian economies. The theory indicates that contracts can be devised that can make tenancy arrangements and varied forms of labour engagements efficient (Banerjee, 2000). Hence, previous studies that claim that smaller farm sizes lead to efficiency due to agrarian reform may have failed to take into account several key factors that can affect the contracts (such as supervision costs, technological innovations, organizational arrangements, land quality and production risks). While these studies seem to suggest that benefits had been obtained by farmers, it is not clear whether these can be attributed to the reforms made on the land market. In light of agency theory, the lack of appreciation of the forms of incentives that resulted from the change can make such results difficult to interpret. What is not clear is whether larger-sized farms are better than smaller-sized farms that can organizationally be scaled up. In terms of exploiting scale economies, there seems to be no difference between these arrangements in terms of the resulting productivity.

Another justification for agrarian reform is to see it as a redistributive policy. Besley and Burgess (2000) showed empirically that land redistribution can benefit the farmers by removing the intermediaries, such as landlords and lenders, and increasing their claims on the returns of the land. Furthermore, by reducing the number of workers in a locality (turning them into employers), wages can increase. In the process, land reform reduces poverty in the area. In effect, the political economy view of the importance of land reform as a redistributive tool has empirical support (see, e.g., Vollrath & Erickson, 2007; Deininger & Squire, 1998). In the Philippines, high and persistent levels of inequality (incomes and assets), which dampen the positive impacts of economic expansion, have been considered as one of the main causes of poverty (Asian Development Bank [ADB], 2009).

However, any form of redistribution should be accompanied by a set of laws and implementing modes of governance to restore efficiency once the socially acceptable distribution has been determined. Based on new institutional economics (Williamson, 2000), which emphasizes contract enforcement as an element of efficiency, Figure 1 shows how institutions and laws lead to efficient social outcomes as countries transition from tenurial to agrarian reforms.

In this scheme, two key factors are important: The reduction of transaction costs and the presence of credible commitments. The former refers to the administrative costs of implementing the programme. The latter is related to the development of contract-enforcing and coercion-constraining institutions (Greif, 2005). The former defines the property rights of individuals according to the law and structures the limits that individuals can credibly commit. The latter, on the other hand, constrains authorities from using coercion from abusing the property rights of others. These two institutions allow markets to produce efficient social outcomes.

Because of the presence of transaction costs and absence of credible commitments, the state is weakened and institutions were captured by the elite. Moreover, these two factors prevented the institutions from evolving to a more efficient status. The political system matters since political power is needed to reform these institutions. In dictatorships, it may be easy to define and distribute rights since a single authority exists. Under this system, Pigouvian regulations may

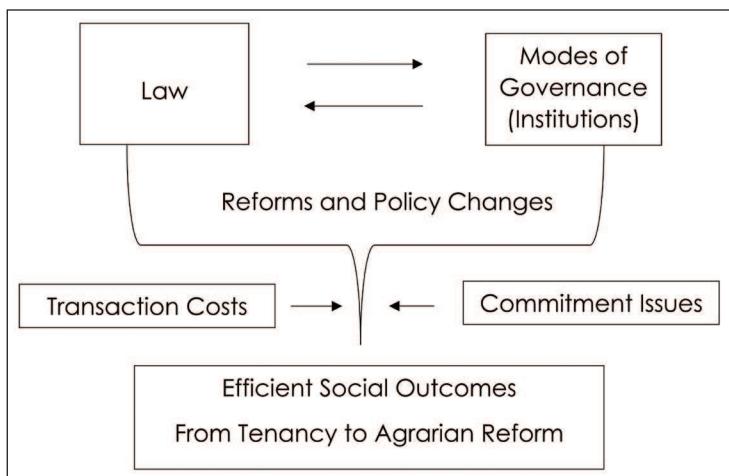


Figure 1. Basic Framework

Source: The author.

be enough in bringing about efficiency. In a weak democracy, these regulations move against market forces and prevent parties engaged in transactions to determine the proper contractual arrangements that will lead to more efficient production. Under the existing regulations, the state from enforcing reforms that will greater power to the majority. Hence, while the law may provide farmworkers de jure political power, the current institutional framework may run contrary to credible commitments and provide landowners or the political elite de facto political power (Acemoglu & Robinson, 2006). Under this system, more democratic institutions are crucial in strengthening the de jure political power of the majority.

More importantly, the solution calls for the distribution of rights through a system of bargaining where parties engage in a given transaction can negotiate freely and settle for a socially optimal solution (Coase, 1960). This system will require a strong legal system that enforces the contracts. But more importantly, the right environment should first be in place so that the elite will be willing to bargain and offer settlements that result in greater efficiency (North et. al., 2009). By creating more democratic institutions, the farmworkers not only have de jure power but also the opportunities to possess de facto political power.

III. Main Outcomes of the Agrarian Reform Programs

The specifics of this agrarian transformation in the Philippines are well known: Increasing agrarian distress for farmers with small- and marginal-sized holdings has caused declining returns and rising costs, and the resultant reduced surpluses. Lack of alternative remunerative employment opportunities has reduced the economy's capacity to generate sustainable livelihoods. The current pattern of highly specialized agriculture has also generated a high degree of environmental

stress through the use of high levels of chemical fertilizers, pesticides and groundwater resources.

The redistributive outcome of agrarian conditions then should be seen through the decrease in inequality measured in terms of land Gini and then eventually a decrease in overall income inequality of the country through the income Gini.² Figure 2 shows three estimated Gini coefficients. These are as follows:

Panel A: Land Gini—measured in terms of the number of farm holdings to the total area of the farm.

Panel B: Income Gini—measured in terms of the average household incomes to the number of households.

Panel C: School Gini—measured in terms of the average years of schooling to individuals aged 15 years and above.

Several points can be seen in Figure 1. First, although land Gini is slightly increasing, income Gini (Panel B) is relatively stable³ and in certain years even present signs of declining.⁴ This suggests that the overall view that land is the most central factor in distributing incomes is overrated. This also implies that much remains to be done if redistribution of land is seen as the main objective of the programme.

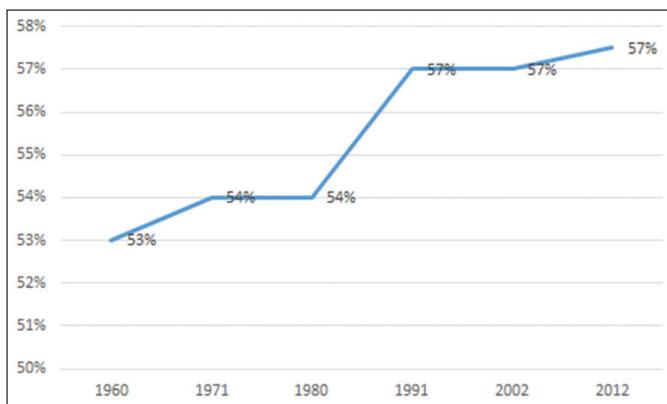
Second, the declining income Gini from 1997 to 2009 seems to follow the same pattern of the school Gini (Panel C). Schooling or human capital may then be a more potent way of dealing with the distribution, relative to land distribution, suggesting that human capital may be underrated. In much of the debate on agrarian reform, the quality of human agents or the farmers themselves are not often seen, as part of the discussion naturally is focused on the land. This seems ironic since the productivity of land is ultimately based on the quality of people or human capital of agents who are cultivating the land.

Third, while the declines in school Gini are associated with similar declines in income Gini, the latter remains relatively high. This implies that any significant decline in inequality should still be based on property redistribution, particularly land reform. However, land reform may not be sufficient since land by itself, no matter how fertile it is, will still require other inputs, especially human capital, to be more productive than its natural state. In that case, these factors must be combined to bring about some meaningful change in distribution.

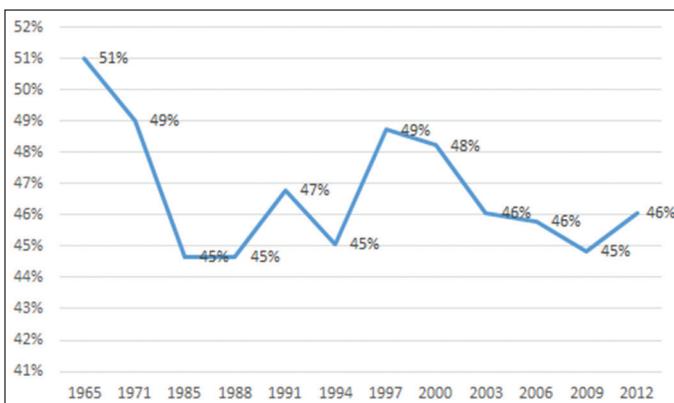
The fact that land distribution remains unequal is puzzling. From 1972 to December 2015, 4.718 million hectares (ha) have been distributed to 2,783,143 million agrarian reform beneficiaries (ARBs) who have received their certificates of land ownership (CLOAs).⁵ On average, this amounts to 1.69 ha per beneficiary. According to the 2012 Census of Agriculture, the country has 7.109 million ha of agricultural land, an average of 1.29 ha per farm. This means that the Department of Agrarian Reform (DAR) has distributed around 66 per cent of the total land presumably devoted to agriculture, with each beneficiary having more land than the average farmer. Despite this effort, however, the land Gini has increased over the same time.

Moreover, based on the DAR records, the agrarian reform programme is on the verge of completion. Table 1 shows the land acquisition and distribution (LAD)

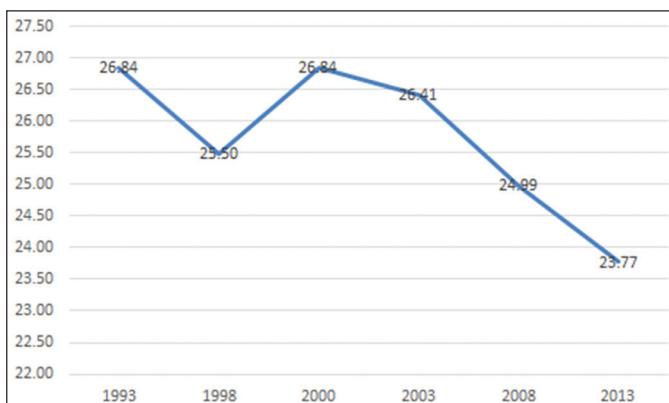
Panel A: Land Gini



Panel B: Income Gini



Panel C: School Gini

**Figure 2.** Land, Income and School Gini Coefficients, Selected Years

Source: Panel A was adapted from APPC (2007). The 2012 figures are the author's computation from PSA, Census of Agriculture and Fishery. Panel B was from the Philippine Statistical Authority and panel C was from the World Bank.

Table 1. LAD Accomplishment by Target Scope and Mode of Acquisition, as of 31 December 2015

Land Type/Mode of Acquisition	Total Working Scope* (in ha)	Total Area Accomplished as of 31 Dec 2015 (in ha)	Accomplished as a Percentage of Working Scope	Remaining Balance as of 01 Jan 2016 (in ha)
Private Agricultural Lands (PAL)	3,184,041	2,608,769	81.9	575,272
Operation Land Transfer (OLT)	616,301	594,175	96.4	22,126
Gov't Financial Institutions (GFI) lands**	185,019	171,391	92.6	13,628
Compulsory acquisition (CA)	767,359	357,089	46.5	410,270
Voluntary offer to sell (VOS)	752,987	650,544	86.4	102,443
Voluntary land transfer (VLT)	862,375	835,570	96.9	26,805
Non-Private Agricultural Lands (Non-PAL)	2,155,889	2,110,076	97.9	45,813
Settlements	827,772	812,227	98.1	15,545
Landed Estates	88,079	81,498	92.5	6,581
Government-owned lands (GOL)/KKK lands	1,240,038	1,216,351	98.1	23,687
National/ Total	5,339,930	4,718,845	88.4	621,085

Source: Quizon (2019).

Notes: *The total target scope has been computed here as a sum of available DAR data for accomplishment as of the end of 2015 plus balance as of the start of 2016. ** GFI lands include those covered under EO 407 series of 1990 and EO 448 series of 1990.

accomplished by the DAR to their target scope. Note that as a whole, only 11.6 per cent of the working scope has not been distributed. The mode of acquisition that has not been completed can be found in private lands that are defined for compulsory acquisition (CA) with an accomplishment rate of only 46.5 per cent. To some extent, because these lands constitute mostly the major landed estates, the inability of the government to expropriate lands actively under CA explains why land distribution remains inequitable.

Figure 3 shows the total percentage of land distributed by mode of distribution. The following points are noteworthy. First, most of the land distribution, amounting to 44.7 per cent, are public lands or non-private agricultural land. Second, a significant percentage of the distributed lands are government-owned lands, including the ones assigned by the martial law administration of Ferdinand Marcos to its programme called Kilusan Kabuhayan para sa Kaunlaran (KKK), which amounted to 26 per cent of the lands distributed. This practice of distributing public lands was initiated during the Ramos administration in an attempt to increase the number of accomplishments. Third, another significant proportion was voluntary in nature. These are the voluntary land transfer (VLT) and voluntary offer to sell (VOS), which comprised 18 per cent and 14 per cent of the total distributed lands, respectively. In effect, only a minor proportion of the distributed land is compulsory in nature. These modes are CA and operation land transfer (OLT), which comprise 7 per cent and 12 per cent of the total distributed land, respectively. Landed estates only contributed 2 per cent of the distributed land.

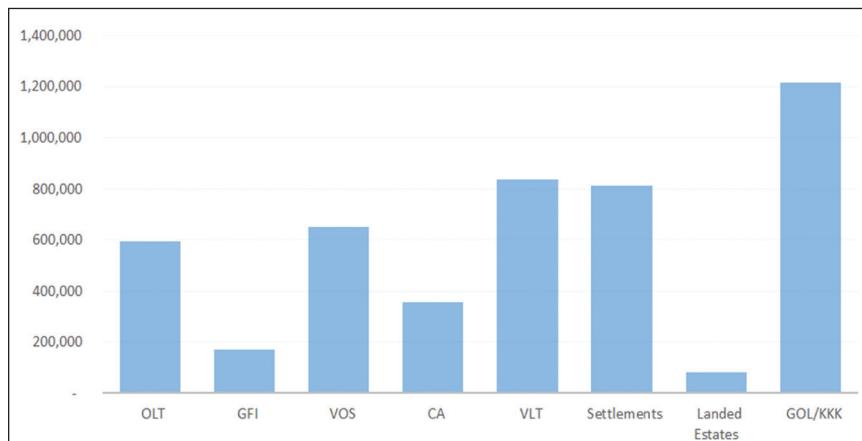


Figure 3. Hectares of DAR Distributed Land by Mode of Distribution, 1972–2016

Source: Quizon (2017).

Notes: The distributed lands can be defined into two. The first is Land Bank (LBP)-compensable which include VOS, Voluntary Offer to Sell; CA Compulsory Acquisition; OLT Operation Land Transfer of Rice and Corn farms; and GFI, Lands foreclosed by Government Financial Institutions. The second is the LBP-non-compensable lands such as VLT, Voluntary Transfer; GOL/KKK, Government-owned lands and Kilusan Kabuhayan sa Kaunlaran program (KKK); SE (Government settlements); and Les, Landed Estates.

Table 2. Land Size, Land–Labour Ratio, and Land Distribution, Selected Years

Year	Average Farm Size (ha)	Land-Labour Ratio	Percentage of Farms		Percentage of Area	
			Above 10 ha	Above 25 ha	Above 10 ha	Above 25 ha
1960	3.6	1.34	5.5	0.5	38.3	15.4
1971	3.5	1.16	4.8	0.6	33.8	17.1
1980	2.8	1.08	3.5	n.a.	26	n.a.
1991	2.2	0.88	2.3	0.3	23.5	10.6
2002	2	0.69	1.8	0.2	19.4	8.1
2012	1.3	0.68	1.6	0.18	17.1	8.0

Source: Adapted from APPC (2007). The 2012 figures are the author's computation from PSA, Census of Agriculture and Fishery.

Another way of viewing the outcome of agrarian reform is to consider Table 2, which considers the top owners of land and the percentage of the area they own. Note that in 1960, the top 5.5 per cent of the farms (i.e., owning more than 10 ha) possessed 38.3 per cent of the land area, but between 2002 and 2012, the share of the same landowners to total farms which declined by more than half the percentage (58 per cent), the total percentage of these farms to the total land area had not declined as much (38 per cent), suggesting greater inequality. At the same time, land to labour ratio had declined, indicating less accessibility to land for many farm workers. Because of this, as land became more scarce, the value of land owned in larger proportions by rich individuals had increased.

Thus, while the main objective of the Agrarian Reform Program is the aggressive distribution of public land and the widespread use of voluntary sales and offers at the lower farm size levels, the distribution of land to farm holdings with larger farm sizes has increased, a situation that the programme intended to correct. This suggests that agrarian reform remains a serious concern today as it was in the Spanish and American periods. As a matter of policy then, the agrarian reform should be continued but in a different form.

IV. The Evolution of the Law and the Institutions

The historical development of the Agrarian Reform Program of the Philippines has undergone dramatic changes in the post-independence era. It has transformed agriculture from traditional to technologically modern and from modern to highly capital- and resource-intensive sector. However, the agricultural sector in Philippines continues to have low productivity relative to developing countries, as measured in terms of the value of total output per worker. Relative to the labour productivity in other sectors, the agricultural sector continues to be the lowest. Not only has the agricultural sector contributed minimally to the food security of the country, but poverty has also remained.

The issue of agrarian reform became controversial from the Commonwealth period to the Marcos administration (Poblador, 2019). During this period, the

unequal distribution of land led to social injustice. The Regalian Doctrine (based on the Declaration of Alexander, 1493), enshrines an arbitrary, mythical and unjust usurpation of sovereignty and customary property rights. This document still undergirds the Philippine state in spite of the 2000 Philippine Supreme Court decision reaffirming the doctrine of native title (Lynch, 2011). Furthermore, in 1591, religious institutions allowed to own lands. In 1680, the Laws of the Indies has implemented the encomienda system, a process by which large tracts of land were entrusted to local nobles, through the law enacted by Philip II, on 11 June 1594. It was used to acquire ownership of large expanses of land, many of which continue to be owned by affluent families. Furthermore, due to non-documentation of communal property rights, religious orders (e.g., Jesuits in 1603, Dominicans/Augustinians in 1740–1745) and local elites (including Chinese mestizo) expand their landholdings through usurpation. This resulted in the emergence of a commercial export economy, which, in turn, increased the concentration of land ownership among the local elites as well as friar orders. Portions of these hacienda estates were leased to *inquilinos* (fixed-rate tenants) who, in turn, sub-lease to *kasamas* (sharecroppers).

The Maura Law of 1894 reverted all undocumented lands to the state. This provided a legal foundation for the Regalian Doctrine, which was, in turn, used by the US colonial regime to deny ancestral property rights (Lynch, 2011). Under this system, prominent families acquire landholdings through usury, which becomes widespread. Absentee ownership became common. While landowners comprised mostly of religious orders and *caciques* (with a growing number of mestizos, other agrarian structures, however, emerged. In particular, the plantation owners employed Negroes as day labourers in place of tenants by the 1880s.

When the Americans came, a series of laws were formulated in an attempt to redistribute lands to a larger proportion of the population. However, homesteading failed due to landlord manipulation, unsystematic surveying, tough standards for productivity, lack of infrastructure and credit. Unlike landowners, tenant farmers were unable to get legal support due to illiteracy and high costs of the transaction.

With the establishment of the Philippine Commonwealth in 1935, various reforms such as the Rice Share Tenancy Act (RA 1199) established the farmer's rights to the land, and the creation of the National Land Settlement Administration (NLSA) opened resettlement projects in Cotabato and Isabela. The year 1935 then officially saw the beginning of the land distribution laws created by its government. But these did not change the distribution of land significantly due to various implementation problems and series of rebellions in the farms that were not related to the agrarian laws.

The early postwar period further ushered in a series of reforms intended mainly for social justice, intending to redistribute land. In 1952, the Hardie Report (named after Robert S. Hardie) recommended the abolition of share tenancy, focusing on family-sized farms as the basis of the rural economy in response to the Huk situation. Magsaysay, in turn, passed two landmark bills:

- Agricultural Tenancy Act of 1954 (RA No. 1199)—to facilitate the transformation of tenants into leaseholders.

- Land Reform Act of 1955 (RA 1400)—provided the expropriation of large estates and distribution to tenants.

However, these reforms were not followed through effectively. Congress provided a measly sum for the Agricultural Tenancy Act and exempted sugar tenants. Congress waters down the Land Reform Code by setting retention limits to 300 (contiguous) ha. As a result, less than 20,000 ha were distributed to tillers. More importantly, the administration of Garcia began the programme of industrialization and along with Recto denounced the Hardie Report as an American ploy to keep the Philippines backward.

Amid claims of feudalism, President Diosdado Macapagal introduced a series of reforms designed for land reform. In particular, the Agricultural Land Reform Code of 1963 (R.A. No. 3844) was passed. This law consisted of two stages: (a) convert share tenants to leaseholders and (b) convert leaseholders to owner-cultivators. The ultimate goal was the ‘ownership-cultivatorship of family-based farms’. Support systems were also formed to support this programme. The National Land Reform Council (NLRC), in particular, was created to coordinate various agencies involved in the programme, and Land Reform Project Administration (LRPA) was tasked to oversee implementation. The Land Bank was conceived to purchase landed estates and provide assistance to tenants. All of these efforts were focused on rice and corn lands since coconut, sugar and abaca lands exempted from the programme—with a 75 ha retention limit.

Despite all of these grand designs, the implementation remained wanting. Landlords pressured the government to focus on productivity. To avoid land reform, these landlords converted the land and decided to cultivate the land themselves. Moreover, Congress passed only ₱1 million for the programme, even though ₱1.5 billion was budgeted. Land Bank, in turn, was not formally established. As a result of all these implementation problems, not a single square meter was appropriated by 1965.

Leading up to Marcos, registration and tenancy reform resettlement were the mechanisms by which the state sought to alter inherited property rights regimes. However, the national government acceded to the demands of the local elites since it was dependent on their resources for nation-building.

The experience of agrarian reform implementation under Presidential Decree 27 (PD 27) during the Marcos period was unique for two reasons (Mendoza, 2019). First, agrarian reform before and after the Marcos era was implemented under conditions of market economy and democratic rule where interest groups are stronger and can exert more pressure to the state. In effect, Marcos with dictatorial powers could have effectively established land rights across the country. Second, agrarian reform during the Marcos era was not only a social justice or reform measure but also a part of an overall economic strategy that was crafted by technocrats and not politicians nor by peasants. Unlike previous administrations, the Marcos period faced market-led pressures from the powerful landlord bloc, making the government less dependent on the elite. Agrarian reform was pursued to offer full ownership to tenants and tillers. However, this was implemented under the rubric of the Green Revolution, one of the three pillars of the Marcos economic

strategy, along with export-oriented industries (EOI) and borrowing to finance public infrastructure. It was during this period where the issue of productivity became a concern, and land reform was expected to be one of the inputs for growth.

Because of the extraordinary powers of the dictatorship, many farmer groups supported the Marcos programmes, particularly the Federation of Free Farmers whose leadership viewed the central value of establishing property rights to the farmers and peasants, who, by this time, had forged a political settlement with the Marcos regime. Agrarian reform was accomplished by increased agricultural output because of new technologies. Moreover, because the programme was limited to rice and corn, land productivity was not an issue as the asset specificity of landowners was not a factor. Landowners here were mostly absentee landowners.

Ironically, however, the design of PD 27 undermined the Marcos programme itself for various reasons. First, since the law covered only tenanted rice and corn, PD 27 left out the greater number of peasants in areas devoted to other crops as well as those with different labour relations such as agricultural or rural workers. Second, the noble intent of creating cooperatives through the Samahang Nayon unwittingly placed additional burden, if not onerous conditions, before farmers could acquire emancipation patents (EPs) or Certificates of Land Transfer (CLTs). Moreover, the new rice technologies that were introduced made farming dependent on foreign-made fertilizers, which were under the control of multinational corporations, making inputs beyond the reach of most peasants in rice production. Furthermore, since technocrats were in charge of land transfer, peasants had to undergo the tedious and gruelling process required by the normal banking system.

With the end of the dictatorship and the ascendancy of Corazon Aquino to the presidency, agrarian reform became the centrepiece programme for poverty alleviation. Marin, Ramos, and Yacub (2019) discuss the key highlights of the Comprehensive Agrarian Reform Program (CARP) whose coverage included not only rice but other crops as well. The CARP (RA 6657) was actually a by-product of the series of advocacies that began during the Marcos period. The grassroots-level movements, such as the Congress for People's Agrarian Reform heightened the demand for CARP. In the post-Martial Law period, the Constitutional Commission of 1986 provided the basic guiding principles for an idealized agrarian reform. After this time, Aquino's Cabinet included the Inter-Agency Task Force on Agrarian Reform, and the Cabinet Action Committee and EO 229 stated the mechanisms to implement CARP.

Nevertheless, the Cory Aquino government was not stable enough to implement a social justice programme for a targeted class of farmers. Apart from increasing the administrative costs, having an ambitious programme constrained market forces and thus compelled the elite to circumvent the law. These circumventions can be due to the following. First, the programme involved not only laws relating to agrarian reform but all forms of laws that relate to the land. This could involve a complex system of regulations and ordinances that can cause several legal and efficiency (or land use) problems. This could create many loopholes in the law, hence, resulting in controversies ranging from land valuation (e.g., Garchitorena scandal case) to land conversion (e.g., Marubeni case). Second, having a

comprehensive programme also implied that the implementation would not be confined to the DAR, but required the coordination of various government agencies that had to do with economic, environmental and agricultural concerns. As more organizations were involved, such as the National Development Corporation and the Department of Agriculture, more loopholes could be created. Third, there could be a complex system of implementation since different regions and crops each had different agrarian structures. In particular, support services would have to be as varied as the number of crops, regions and organizations. Farmer groups in various places (e.g., Sumilao/Mapalad and Calatagan) could then express various levels of dissatisfaction.

The fundamental reason for these circumventions may be traced to two factors (Quizon, 2019). First, the long, delayed legislation on national land use (as anchor legislation for national development) was considered as a major constraint. Philippine laws lack an integrated approach to the governance of tenure, making land administration complicated. Unlike some Asian countries that have a comprehensive and consolidated Land Law Code, the Philippines has numerous legislation that defines the different policy, legal and organizational frameworks related to tenure and governance of land, forests and fisheries. Second, while new laws and amendments are passed by Congress, the old laws are not repealed. Sections of old laws are merely superseded, replaced or amended, in part, by the new laws, and this system allows the old laws to retain their residual validity.

These transaction costs resulted in a complex system of legal jurisprudence that only lawyers could navigate. The country has taken on a highly sectoral or landscape approach to land/natural resource policy, tenure reforms and land administration. There is CARP covering public alienable and disposable (A&D) lands and private agricultural lands, the Fisheries Code covering municipal waters and Indigenous People's Rights Act (IPRA) for ancestral domains. Besides, there are the Mining Act, National Integrated Protected Area Systems (NIPAS) Act, Forestry Code, Agriculture and Fisheries Modernization Act (AFMA) and others. The lack of synchronization of policy has resulted in a complex and fragmented landscape of laws. Sectoral approaches to land policy lead to overlapping jurisdictions and functional overlaps among agencies. For example, the revised Forestry Code of 1975 stipulates that all lands above 18 degrees slope automatically belong to the state and classified as forest lands. Also, ancestral domains overlap with national parks and protected areas. Ancestral land rights are further eroded by mining and land concessions, and by agrarian reform titles and forestry stewardship agreements.

These costs imposed significant stress on the capacity of the implementing institution, causing the failure to meet its deadline and thus the need for a new law called CARPER or Comprehensive Agrarian Reform Program Extension with Reforms. For its part, the DAR had to go over voluminous land records and land surveys to verify claims and conduct their land surveys. Given the poor condition, if not the absence, of such documents, this process created delay.

Consequently, inefficiencies from the previous administrations will have to be covered and resolved by the succeeding administrations, thereby creating even greater delays. To make for time, DAR, had to create new forms of land ownership

distributions, such as the Collective Certificate of Ownership, which is a certificate of property rights for the community, not to individual farmers. This created more problems of distribution as no single owner was identified. Furthermore, as the programme is delayed, there is the issue of demography as the beneficiaries will now be much older and perhaps unlikely to work on the land.

Nevertheless, an important development of the Philippine agrarian experience was the evolution of the agrarian reform communities (ARC) approach. In 1993, a review of DAR's strategy for support services showed that (a) the sectoral approach to support services by different agencies tended to disperse critical resources and yielded very little impact; (b) the intended radiation effects of agrarian reform projects were not evident in many projects due to inadequate social preparation and lack of technical competence of DAR implementers; and (c) the lack of resources for support services without clear prioritization has lessened its development impact to CARP areas (Balisacan, Edillon, Briones, Abad-Santos, & Piza, 2007).

In the succeeding years, DAR launched the ARC approach for Program Beneficiaries Development. By identifying barangays or clusters of barangays with the highest concentration of ARBs and distributed lands, resources could be pooled where they were needed most (Limbo, 2018). The ARC was also seen as a way to fast-track the improvement of farm productivity and social infrastructure building—by facilitating the convergence of programmes and services of different agencies (e.g., infrastructure facilities, irrigation, power, agricultural extension, credit) for selected communities).

A recent study by Philippine Center for Economic Development [PCED] (2016) showed that being a beneficiary and residing in an ARC were associated with higher per capita incomes. On the assumption that outlays for land distribution would be recoverable, it was observed that incremental benefits of the ARC strategy outweighed its costs and, moreover, that the ARC strategy was more cost-effective for improving per capita incomes over time than the Department of Agriculture programmes.

Because of the emergence of ARCs as viable operations, many investment companies negotiated only with the leaders, bypassing governance procedures of the cooperatives. Additionally, some cooperative officers were suspected of colluding with the investor in the negotiation of venture contracts. In other instances, officers of the cooperative had entered into contracts without consulting the membership. Many lacked the technical skills and capacities required by entrepreneurship. However, agrarian reform lands with existing agribusiness venture agreements (AVAs) were not part of the priority areas of all FAPs. To address these issues, an Administrative Order (AO) No 9, in 2006, was passed to mandate DAR to review and approve all AVA contracts.

As Borras, Carranza, and Franco (2007) pointed, these ARC and AVA programmes are ultimately attempts at aligning the programme to market forces. Because increasing returns to land are crucial to agricultural development, the land sales and rental markets can be counteracting the principles of agrarian reform, with emphasis on removing existing 'land size ceiling laws' and transforming land reform certificates into negotiable financial instruments ('collateral').

The main problem is that these recent government interventions not only dislocated the production process but also the organizational structure of the rural economy (Goño, 2019). With the current systems of regulations and controls, the elite has found new ways of maintaining their control. Unless the government can establish the institutions that can minimize these transaction costs, the farmers may engage in various formal or informal arrangements with other farmers (including the previous landowners) that may be inefficient. Hence, even if support services are available, there is no guarantee that the emerging contracts will be beneficial to the CARP beneficiaries.

Contractual arrangements with ARBs can be seen as mechanisms that allow different parties to adapt to the property rights restrictions posed by agrarian reform. In the course of implementing the current reform, its intended beneficiaries found themselves in a position in which they were likely to be disadvantaged in hold-up situations occasioned by these new arrangements. In a situation of inequality and heavy regulation, contracts as products of interaction between fundamentally opposed interests may, instead, be more heavily protective of one party and detrimental to the other. These are due to two types of transaction costs, asset specificity on the part of the asset owner and opportunism due to lack of transparency and regulation. Asset specificity limits the options of the farmer beneficiaries to engage in and own their production activities, while opportunism leads to coercion.

The reality is that many commercial farms are characterized by specific assets because of (a) temporal specificity and coordination and (b) co-specialized assets (Goño, 2019). Before agrarian reform, lease agreements with big landowners of both private and public lands mimicked vertical integration,⁶ assuming farm production risks to ensure quality, volume and throughput. After land redistribution, the parties have changed, but the drive to manage risks by simulating vertical integration remains a challenge.

In the absence of any organizational support, ARBs can only engage in various forms of contracts. These may include (a) informal arrangements such as Prenda (Lease) and Arriendo (Rent); (b) Stock Distribution; (c) Joint Ventures; (d) Long-term Lease Contracts; and (e) Contract Growing Agreements. The decision as to which contract will be chosen will be based on reputation and trust, barriers to entry and attitudes towards risks between the parties involved. However, given the present law which restricts the land sizes and the tenurial arrangements, the wrong contracts can be chosen.

Another type of transaction cost is the lack of transparency arising from the presence of pre-contractual opportunism. For instance, effects of the deferment period on the selection of ARBs can lead to problems and irregularities concerning resigned workers, retired workers, retrenchment, death of potential ARB, polarization and infighting among potential ARBs and the non-governmental organizations (NGOs)/labour unions that support them. On the private farms, several landowners did not avail of the deferment period (e.g., Aquino's Luisita and the Javellana Davao Abaca Plantation Corporation (DAPCO), which was leased to the Dole Stanfilco (Banana) division. Other Openings for Pre-Contractual Opportunism include fencing

in or denial of entry into ringed periphery (Nestfarms, Inc.; Dole in Compostela) or offer of large one-time cash, hiring a prominent member to convince others.

The post-contractual transaction costs referred to hold-up practices of other parties as they transacted with ARBs. In the case of Prenda and Arriendo, the contract became eventually an effective transfer of ownership. In the case Stock Distribution Schemes, inclusion as ARB can become the company's prerogative, in terms of the manner of distribution of stock shares, the referendum to approve the scheme can be affected by their other considerations such as whether their share depends on the length of service, the debt of gratitude towards landowners can affect the referendum, etc., and eventual land distribution. In the case of joint transfers, ARBs were unable to opt out of the venture due to strict laws or unclear rules on idle lands and may be unable to deal effectively with their partners. In the case of lease contracts, lease rates were lower because of the market power (or monopsony) of large firms. Finally, in the contract growing arrangements, in the early rounds of negotiations, ARBs lacked information on expected profits and became locked into long-term agreements with unfair prices. Divisions arose regarding how to exit or renegotiate contracts. In some cases, cooperatives broke apart, and the DAR had to partition the CLOA among irreconcilable groups.

V. Lessons from the Historical Analysis

The above section looked at the issue of agrarian reforms from two main angles: the evolution of the law, which was seen as responding to the needs of society, particularly in terms of minimizing possible social dislocations and the development of the institutions, which have been noted as being organized to favor the elite groups. The latter view indicates the movement over time of the provisions and policies in favor of the landowner. Two points are significant. First, as far as the provisions of the law are concerned, the political rights of the farmers, as opposed to the landowner, were protected and even expanded. Compared to the time of Marcos, tillers have now a greater chance of owning the land. In the same way, the policies on the payment of beneficiaries and support services have been made to bias the interest of the farmers. A particular form of innovation during the Ramos period was the use of the ARC approach, which considered not just the needs of the individual farmer but also the community as a whole, and examined how communities can work together to achieve greater production.

Second, despite the enormous power given by the law to the farmers, there seems to be greater leeway given to the landowners offered by the institutions in terms of area cover and compliance. The following points are noteworthy:

- The area of coverage was estimated to be 10.3 million ha for CARP, significantly higher than 1 million ha coverage under the PD 27. However, the coverage was down to 8.1 million ha under Ramos' time, 7.8 million ha under Estrada and 5.4 million ha under Benigno Aquino.

- Under the authoritarian rule, appropriation of the land was the only option, but under CARP, various options to attract landowners to comply with the programme has been set up: VOS, VLT and stock options
- Under the CARP, the LAD process was much more detailed and comprehensive than the PD 27. However, over time, particularly during the Ramos and Arroyo administrations, various rules and regulations that allowed exemptions and negotiations have been provided.
- While corporate farming was allowed during the Marcos period, clearer rules and more comprehensive regulations were later established to allow more corporate ventures in AVAs.
- During the Marcos period, land conversions were not rampant as the coverage was limited to rice and corn. Land conversions were not regulated. With the greater coverage, there was still no clear regulations on land conversion. It was only later during the second Aquino administration towards the end of the programme that guidelines for land conversion were established.

In effect, while the law and support policies, including compensation for land, have given de jure political power to the farmers, the institutions conferred on the elite de facto political power. In the process, much of the intent of the law remains to be satisfied. In various ways, the DAR implemented several measures to depict a wide distribution of land, but this did not affect the distribution of land.

Three main factors explain this chain of events. First, the reins of powers in government can be characterized as a circulation of the elite. Described by Anderson (1988) as a *cacique* democracy, the history of the country was initially dominated by a tribal royalty, known as *caciques*, that helped the Spanish control the country. As a prize, they retained their positions under the Spanish rule. In turn, families who originated among the Chinese mestizos who bloomed economically under the Spanish colonial regime became the new *cacique* and consolidated their wealth with political power under the Americans. With the setting up of Congress, these powers can maintain their power even as they compete with each other. As in a Cournot–Nash equilibrium, lands will be distributed among themselves with each one ensuring a stable amount of profits. Each one working to benefit one's own interests, which do not benefit society as a whole.

When the Dictator Marcos came into power, he sought to demolish the power of these elites, which he referred to as oligarchs. Beginning with attempts to open family corporations by forcing them to sell shares, he promulgated a relatively successful Agrarian Reform Program, which was supported by the introduction of high-yielding rice varieties. However, eventually, he too formed his elite: those who favor his hold over power and diminishing the power of those who are against him. These new elites took over most of the property that was owned by the previous elite.

As Anderson (1988) indicated, Cory Aquino's ascendancy to the presidency, while removing the elite class created by Marcos, only restored the old elite and their control over their lands. Aquino can be seen as a restorationist as she rebuilt

the elite-dominated democratic structure that Marcos weakened during his dictatorship. Along with their return to power, these elite groups were able to reclaim back their land and other property.

The second main feature of Philippine society comes naturally from the first. This pertains to the fragile state and institutions that have made it difficult for the state to create efficient public goods that will be accessible to everyone (Hutchcroft & Rocamora, 2003). Cacique democracy, as early as the 1960s, resulted in uncontrolled corruption and parasitic plundering of public as well as private resources.

Because the caciques controlled the reins of power, the state depended on them to maintain stability. When Congress finally opened in the late summer of 1987, it proclaimed itself committed to land reform and appointed ‘outsiders’ to the chairmanships of the Senate and House committees in charge of agrarian affairs. However, because the state needed the elite to maintain stability, even those Philippine political units which have had the strongest commitment to democracy, such as Cory Aquino, have given little attention to the necessary institutions and laws. She made no effort to institutionalize democracy and seemed not to understand the consequences of the control of political patrons. She seemed content in simply restoring the pre-1972 political system.

In the process, the elite was able to capture the institutions and resources that implemented agrarian reform. Despite its original intent to restore democracy and to implement comprehensive agrarian reform, the democratic government failed to commit credibly to the programme, the third element of our historical analysis. In a non-democracy, only a subset of the people, an elite, has political rights. Everything else being equal, the group that is in power chooses policies that maximize its utilities. However, elites typically live in fear of being replaced by different social groups or by other individuals within the same group.

According to Acemoglu and Robinson (2006), in a non-democracy, the elites have de jure political power and, assuming no checks on their power, determine the policies that maximize their interests (e.g., low land taxes and no land redistribution to the poor or middle classes). However, dictatorship can be challenged by the vast majority of citizens (for instance, through revolution, the poor). Unfortunately, the political power of the majority was transitory as the elite can circumvent the law. As in the case of the People Power revolution, the majority initially obtained de facto power but eventually lost it again to the elite. In any case, the elites prevented such a revolutionary situation by making (empty) promises through the passage of CARP, which reflected, indeed, pro-majority policies.

After the People Power Revolution, the transition to democracy did not take place because the elites controlling the current political system did not want to create political mechanisms that forced them to give up their lands or transfer greater political and economic power to the citizens. The democratic transition will not occur unless there is a threat of revolution (implying that citizens need to be organized, otherwise the transition is delayed indefinitely). The strength and nature of civil society organizations would be important to the creation and

consolidation of democracy. What is needed is a change in the concept of Agrarian Reform that would emphasize credible commitments.

Credible commitment occurs if *de jure* political law determines who can take which actions and when. In a democracy, policies are determined by majority voting, which means that the citizens can get what they want regardless of the power vested in the elite. When democracy is created, objective institutions will give citizens *de jure* political power, which serves as a commitment to more pro-majority policies, even if they currently do not have *de facto* power. The main difference between policies and institutions is the latter's durability and the ability of institutions to influence the allocation of political power in the future. Policies are much easier to reverse than institutions are more durable.

This transition towards greater democracy is equivalent to the transition from natural order to open-access order. The natural state is the situation that describes the survival of the fittest where the elite will naturally exploit, given their power. An open-access order presumes that the control of the political system is open to entry by any group and contested through prescribed, and typically formal, constitutional means (North et al., 2009).

To accomplish this transition, two obstacles need to be overcome. First, the transition begins in the natural (weak) state and must, therefore, be consistent with natural state logic. Hence, there must be conditions acceptable to the elite yet simultaneously place elites in a situation where it is in their interest to move towards more impersonal intra-elite arrangements or work towards greater competition rather than being more collusive. For instance, within the class of the elites, promotion should be based on merit rather than the identity of the person. Despite the possible inequity in wealth, each person should be treated equally as citizens of the country, and exemplary behavior, and not one's position or family, should be given due consideration.

The second obstacle is translating and expanding these intra-elite impersonal arrangements into the larger share of society. In other words, why would elites ever choose to give up their position in society and allow non-elites into full participation? Framing the question in this way can be problematic, but it carries the necessity for the elites to give something up even if it is not clear that elites will ever do that.

Thus, it is necessary to first secure the rights of the elites. By curtailing these rights, market processes are constrained, thereby resulting in the circumvention of the law. Creating credible protection for elite rights at least holds the promise of expanding output or a growing economy. For instance, if growth is improving in various sectors, securing elite rights to form social organizations directly produces more developed economies and polities. In a situation of economic progress, the elites will not only create greater open access to political and economic organizations for themselves but also have spill-over incentives to expand access along several different margins into the non-elite population. Furthermore, securing the rights of the elites will force them to follow the rule of law, which presumably protects the *de jure* power of the non-elite. What provides democracy greater stability is the rule of law as both are mutually reinforcing (Rigobon & Rodrik, 2005).

After securing the rights of the elite, a market-led agrarian reform (MLAR), as opposed to the traditional expropriation approach, would be the appropriate policy in completing the final stages of the current Agrarian Reform Program (Deininger & Binswanger, 2001). Commitments can only be credible if this does not contradict market forces. As an alternative to the state-led approaches, MLAR can be seen as a mechanism that will allow the transition from natural order to an open-access order that allows the majority to access resources and obtain de facto political power. Instead of minimizing the role of the state, MLAR succeeds only in the presence of a strong state. Under an open-access order, all citizens have the right to form organizations and access key social protection services to enhance the internal and external relationships of their organizations to individuals and other organizations. By creating the impersonal institutions that will eliminate land monopolies and other forms of market power, the state agencies such as DAR will initiate the means for MLAR to be effective. That is, the DAR must ensure that MLAR should first and foremost be a community-led program, or one that the elite cannot capture.

Conceptually, a community-led reform embraces not only the textbook ‘willing seller-willing buyer’ model but also offers a range of variations that include a liberalized share tenancy–land rental market approach, doing away with existing land-size ceiling laws, and instead pushing for the formalization–privatization of ‘non-private’ lands and various combinations of these policies, sequentially or simultaneously, including land taxes. Consistent with agency theory, regulations should give way to more efficient contractual arrangements, and allow communities through contracts, to maximize jointly the assets of parties concerned and to determine the final distribution and optimal land sizes (Huffman & Just, 2004).

The argument is that, given the asset specificity of the previous landowner, transferring land rights to the farmworker will leave the land unproductive. In this case, vertical integration is often seen as a solution (Williamson, 1985). However, integration involves organizational costs, which can be too prohibitive to the farmworkers, as landowners behave opportunistically.⁷ In which case, given long-term (or repeated) relationships, each party even without the need for vertical integration can form relational contracts with one another. Since there is no formal structure within the transaction, anyone can terminate this contract if the other party shirks from their commitments (Kvaløy, 2007).

Relational contracts within firms also help circumvent difficulties in formal contracting (i.e., contracting enforced by a third party, such as a court). For example, a formal contract must be specified *ex ante* in terms that can be verified *ex post* by the third party, whereas a relational contract can be based on market outcomes that are observed by only the contracting parties *ex post*, and also on outcomes that are prohibitively costly to specify *ex ante*. A relational contract thus allows the parties to utilize their detailed knowledge of their specific situation and to adapt to new information as it becomes available (Baker, Gibbons, & Murphy, 2002). For the same reasons, relational contracts cannot be enforced by a third party or any regulation and so must be self-enforcing: The value of the future relationship must be sufficiently large that neither party wishes to renege.

By encouraging relational contracts, the government can support the de facto power of the majority who presumably already have de jure power. However, organizational forces and social movements will be necessary in creating the needed push towards the open-access social order (North et al., 2009). Which, in turn, results in the formation of impersonal (i.e., non-personality-based) contractual arrangements that are intended to reduce violence and encourage social cohesion. Without setting any regulation, a strong government can guarantee that these wide-ranging contracts will be enforced, ensuring this to be market preserving and accessible to everyone.

In contrast, the traditional expropriation approach can be seen as autocratic in nature (see Albertus, 2015). As in the case of Marcos, authoritarian regimes, especially in Latin America, used agrarian reform as a means of obtaining support from the peasant groups. As noted by Gregorio (2019), the autocratic regimes, in Japan, as well as that of the US colonization of Japan after the Second World War, and, similarly, during the Japanese domination in Korea and Taiwan, created conditions that generated investments and resources. Part of these conditions was its expropriation provision, along with its careful preparation of cadastral surveys and titling mechanisms. For these Asian countries, however, the land reform programmes lasted only during the autocratic regimes.

For the other land reforms, such as in Latin America and the Philippines, this model failed mainly because they did not encourage relational contracts and negated the market forces, given the associated restrictions in land transactions. Moreover, as these governments tried to make them successful, the beneficiaries become more and more dependent on government support for their production requirements (Albertus, Diaz-Cayeros, Magaloni, & Weingast, 2016). In the same way, in the Philippines, state intervention in the form of support services and organizational assistance became the permanent fixtures of the Agrarian Reform Program, even as market forces have generally been eroded by the programme regulations.

VI. Summary and Policy Directions

The current agrarian reform has not resulted in a more equitable land and, in the process, income distribution. Despite substantial changes in both the law and the institutions and the establishment of property rights to the poor farmworkers, the elite have somehow maintained their control over the ownership of these assets. The study attributes this to the large transaction costs incurred in implementing the programme and the state's lack of credible commitment.

A total overhaul of the Agrarian Reform Program is then called for. An appropriate approach is to revise the current agrarian reform by offering the remaining qualified landless farmers a grant or a subsidized loan to buy land. A fully compensated land reform must be in place, with the state paying for a substantial part of the compensation. The approach is market oriented because it is demand driven, as farmers are now given a choice between owning land or

using the subsidy for other household needs, such as education or health. Instead of the government deciding who will benefit from the reform, the potential beneficiaries themselves decide whether they want to go through the various bureaucratic processes that they would need to before they get the land. Even if the transaction fails, the farmer keeps the subsidy, which he can use for some other investment. This solves the hold-up problem since the decision to buy the land remains with the farmer.

Nevertheless, to increase the de jure power of the non-elite majority, the government must create an environment where the landowner and farmworkers can negotiate and bargain for each other's rights.⁸ In this market setting, the landowner should be indifferent between owning the land and selling it because adequate compensation is guaranteed. One way of doing this is by enforcing and strengthening the rule of law by improving the justice system. For instance, before the bargaining, any form of circumvention (such as land conversions) should be made illegal. This means that the courts will have to be more efficient in deciding the various legal contentions regarding land transfers and conversion.

Five steps are crucial in creating this environment for the rule of law. First, the government must accelerate the administrative and systematic adjudication of property rights beginning in areas of high agricultural potential. This involves surveying the areas and determining in a transparent and participatory way who owns the plot, and immediately issuing a patent, thereby expediting the completion of the cadastral surveys and in the medium term, gradually scaling it up by expanding to other areas, including urban land. In other words, one starts by reducing transaction costs and encouraging the rule of law by clarifying property rights.

Second, complementary reforms in land administration should improve the security of property rights and make land markets more flexible and responsive, that is, the streamlining of titling and registration and a review of the Land Titling Computerization Project contract.

Third, over the medium term, the state can enact a Land Administration Reform Act. This reform can address overlapping rights claims (i.e., agrarian, forestry, mining, ancestral domain, watershed, local government code, etc.). In the short term, the government can conduct a comprehensive assessment to determine the magnitude of rights uncertainties. Over the long term, harmonize or unify the various legal framework for land use and management to reduce overlaps.

Fourth, a progressive land tax should be enforced (Bannerjee, 2000). The cost to the large owner should be raised so that the other smaller farms can be more competitive. Without progressivity in taxes, and thus without incidental costs to the landowner, the elite will find it attractive to get back his land even if it has already been distributed to the poor.

Finally, historical evidence shows that the undesirable outcomes in land distribution have remained despite the implementation of a long-standing Agrarian Reform Program. The fact that land has been even more concentrated on a few landholdings suggests that the removal of land monopolies should be a high priority. Indeed, the plethora of land market interventions have greatly

reduced opportunities for the poor to own and secure land. In turn, the country inherited an inefficient landownership distribution that is not conducive either to efficiency and investment or to equity and that has often been at the root of violence and protracted social struggle. The analysis thus argues for the end of the current regulation-based programme and for the establishment of impersonal relational contracts that will preserve markets and allow the farmworkers and landowners more options in deciding how to achieve their individual goals.

Admittedly, additional research is needed to determine whether these types of programmes and subsequent contracts can affect land access, investment, productivity and social indicators such as violence. The results of that research not only will allow policymakers to make changes as individual programmes further evolve but also will provide direct policies for a country that is struggling to make land policies more effective.

Declaration of Conflicting Interests

This research received funding from the National Historical Commission of the Philippines and the Ateneo de Manila University School of Social Sciences.

Funding

The author received no financial support for the research, authorship and/or publication of this article.

Notes

1. The study recognizes the importance of social agrarian movements and assumes that these are crucial to social change. However, the focus of the study will be in terms of how legal and institutional factors have responded to these movements, especially in the way that the ruling elite have been able to circumvent the law by capturing the institutions assigned to implement it.
2. The Gini coefficient is often used to measure income inequality. Here, 0 corresponds to perfect income equality (i.e., every household has the same income) and 1 corresponds to perfect income inequality (i.e., one household has all the income, while everyone else has zero income). The Gini coefficient can also be used to measure wealth inequality. This use requires that no one has a negative net wealth.
3. While the figures seem stable, the trend is more significant since the assumption is that the level of inequality is even at the beginning undesirable. Any increase whether slight or not further moves the country away from this desirable situation.
4. It can be seen that during the time of Marcos, inequality has to some extent been reduced because corporations were ordered to start selling their shares to the public. Companies were no longer owned only by a single family and their friends but also by those who were willing to become shareholders by purchasing stocks. This period, however, was marked by corruption and cronyism (Mendoza, 2019), and resulting reduced inequality would only be felt in the next few years.
5. By definition, CLOAs are not negotiable land titles but simply a certification of property rights.
6. In transaction cost economics, the more specific the asset, the more vertical integration becomes efficient (see Williamson, 1985). However, because of significant transaction

- costs, surveys (e.g., Carter & Hodgson, 2006) have suggested that the relation between specificity and integration may not be as straightforward as suggested in transaction cost theory—that is, higher levels of asset specificity need not always lead to vertical integration.
7. The possibility of hostage (on the part of the service provider or worker) and hold up (on the part of the owner of the asset) problems can exist within an integrated system since the structure creates the parties to renege on their individual responsibilities, as these parties are formally contracted to one another (Grossman & Hart, 1986).
 8. Apart from the substantial costs, MLAR has neither explicit targets or the kind of land distribution that will be eventually achieved nor a fixed timescale. Substantial institutional reforms are thus required to reduce expected bargaining costs of a (successful) conventional land reform.

References

- Acemoglu, D., & Robinson, J. A. (2006). *Economic origins of dictatorship and democracy*. New York, NY: Cambridge University Press.
- Adamopoulos, T., & Restuccia, D. (2019). *Land reform and productivity: A quantitative analysis with micro data*. NBER Working Paper No. 25780. National Bureau of Economic Research, Cambridge, MA.
- Albertus, M. (2015). Explaining patterns of redistribution under autocracy: The case of Peru's revolution from above. *Latin American Research Review*, 50(2), 107–134.
- Albertus, M., Diaz-Cayeros, A., Magaloni, B., & Weingast, B. (2016). Authoritarian survival and poverty traps: Land reform in Mexico. *World Development*, 77(1), 154–170.
- Alchian, A. A., & Demsetz, H. (1973). The property right paradigm. *The Journal of Economic History*, 33(01), 16–27.
- Anderson, B. (1988). Cacique democracy in the Philippines: Origins and dreams. *New Left Review*, 169, 3–33.
- Asian Development Bank (ADB). (2009). *Poverty in the Philippines: Causes, constraints, and opportunities*. Mandaluyong, Philippines: Asian Development Bank.
- Assiotis, A., & Sylwester, K. (2014). Do the effects of corruption upon growth differ between democracies and autocracies? *Review of Development Economics*, 18(3), 581–594.
- Baker, G., Gibbons, R., & Murphy, K. J. (2002). Relational contracts and the theory of the firm. *The Quarterly Journal of Economics*, 117(1), 39–84.
- Balisacan, A. (1993). Agricultural growth, landlessness, off-farm employment, and rural poverty in the Philippines. *Economic Development and Cultural Change*, 41(3), 533–562.
- Balisacan, A., Edillon, R., Briones, R., Abad-Santos, C. O., & Piza, S. (2007). *Study on the impact of CARP on poverty reduction and prospects for long-term growth*. Quezon City, Philippines: Department of Agrarian Reform.
- Ballesteros, M., & Bresciani, F. (2008). Land rental market activity in Agrarian reform areas: Evidence from the Philippines. PIDS Discussion Paper Series, No. 2008-26, Philippine Institute for Development Studies (PIDS), Makati City, Philippines.
- Banerjee, A. V. (2000). Prospects and strategies for land reform. In B. Pleskovic & J. Stiglitz (Eds.), *Annual bank conference on development economics* (pp. 253–284). Washington, DC: World Bank.
- Berry, R. A., & Cline, W. R. (1979). *Agrarian structure and productivity in developing countries: A study prepared for the international labour office within the framework of the world employment programme*. Baltimore, MD: Johns Hopkins University Press.

- Besley, T., & R. Burgess. (2000). Land Reform, Poverty Reduction, and Growth: Evidence from India. *The Quarterly Journal of Economics*, 115(2), 389–430.
- Borras, S. M. Jr., Carranza, D., & Franco, J. C. (2007). Anti-poverty or anti-poor? The world bank's market-led agrarian reform experiment in the Philippines. *ThirdWorld Quarterly*, 28(8), 1557–1576.
- Carter, M. (1984). Identification of the inverse relationship between farm size and productivity: An empirical analysis of peasant agricultural production. *Oxford Economic Papers*, 36(1), 131–145.
- Carter, R., & Hodgson, G. M. (2006). The impact of empirical tests of transaction cost economics on the debate on the nature of the firm. *Strategic Management Journal*, 27(5), 461–476.
- Coase, R. (1960). The problem of social cost. *Journal of Law and Economics*, 3(1), 1–44.
- Cornia, G. (1985). Farm size, land yields, and the agricultural production function: An analysis for fifteen developing countries. *World Development*, 13(4), 513–534.
- Deininger, K., & Binswanger, H. (2001). The evolution of the world bank's land policy. In A. de Janvry, J.-P. Platteau, G. Gordillo, & E. Sadoulet (Eds.), *Access to land, rural poverty, and public action* (pp. 406–440). Oxford, UK: Oxford University Press.
- Deininger, K., & Squire, L. (1998). New ways of looking at old issues, inequality, and growth. *Journal of Development Economics*, 57(2), 259–287.
- De la Croix, D., & Delavallade, C. (2011). Democracy, rule of law, corruption incentives, and growth. *Journal of Public Economic Theory*, 13(2), 155–187.
- Demsetz, H. (1969). Information and efficiency: Another viewpoint. *The Journal of Law and Economics*, 12(1), 1–22.
- Huffman, W., & Just, R. (2004). Implications of agency theory for optimal land tenure contracts. *Economic Development and Cultural Change*, 52(3), 617–642.
- Hutchcroft, P. D., & Rocamora, J. (2003). Strong demands and weak institutions: The origins and evolution of the democratic deficit in the Philippines. *Journal of East Asian Studies*, 3(2), 259–292.
- Goño, C. C. (2019). *Agribusiness contracts after property rights reforms*. Manila, Philippines: National Historical Commission of the Philippines.
- Greif, A. (2005). Commitment, coercion markets: The nature and dynamics of institutions supporting exchange. In C. Menard & M. Shirley (Eds.), *Handbook of new institutional economics* (pp. 727–786). New York, NY: Springer.
- Gregorio, S. P. (2019). *Robust property rights institutions as indispensable prerequisites to successful land reform: The case of East Asia Vis-à-vis the Philippines*. Manila, Philippines: National Historical Commission of the Philippines.
- Grossman, D., & O. Hart. (1986). The Costs and Benefits of Ownership: A Theory of Vertical and Lateral Integration. *Journal of Political Economy*, 94(4), 691–719.
- Hayami, Y., Quisumbing, Ma. A., & Adriano, L. (1990). Toward an alternative land reform paradigm: A Philippine perspective. Quezon City: Ateneo de Manila University Press.
- Kvaløy, O. (2007). Asset specificity and vertical integration. *The Scandinavian Journal of Economics*, 109(3), 551–572.
- Limbo, R. (2019). Agribusiness Venture Arrangements (AVAs) in Agrarian Reform Areas in the Philippines: Identifying Alternative Schemes (Policy Papers No. 2019-10-24). Taiipeh, Taiwan: Food and Fertilizer Technology Center.
- Lynch, O. J. (2011). *Colonial legacies in a fragile Republic: Philippine land law and state formation with emphasis on the early U.S. regime (1898–1913)*. Quezon City: University of the Philippine College of Law.

- Marin, G. R. R., Ramos, M. A. M., & Yacub, Fr. C. A. (2019). Agrarian reform under a democracy (CARL to CARPER). Manila, Philippines: National Historical Commission of the Philippines.
- Mendoza, M., P. (2019). Land reform in a modernizing, authoritarian regime. Manila, Philippines: National Historical Commission of the Philippines.
- North, D., Wallis, J. J., & Weingast, B. R. (2009). *Violence and social orders: A conceptual framework for interpreting recorded human history*. New York, NY: Cambridge University Press.
- Otsuka, K., Chuma, H., & Hayami, Y. (1992). Land and labor contracts in agricultural economics: Theories and facts. *Journal of Economic Literature*, 30(4), 1965–2018.
- Philippine Center for Economic Development (PCED). (2016). *Does owning land through agrarian reform or residing in an ARC barangay matter to welfare? An impact assessment of the non-monetary and monetary welfare effects of Agrarian Reform, 1990 to 2010*. Quezon City, Philippines: Department of Agrarian Reform.
- Poblador, K. F. K. (2019). *Colonial origins of landlord-tenant relations*. Manila, Philippines: National Historical Commission of the Philippines.
- Putzel, J. (1992). *Captive land: Politics of agrarian reform in the Philippines*. London, UK: CIIR.
- Quizon, A. (2019). *From aquino to aquino: A program assessment of agrarian reform implementation 1988–2015*. Manila, Philippines: National Historical Commission of the Philippines.
- Reyes, C. (2002). Impact of agrarian reform on poverty. PIDS Discussion Paper Series, No. 2002-02, Philippine Institute for Development Studies (PIDS), Makati City.
- Rigobon, R., & Rodrik, D. (2005). Rule of law, democracy, openness, and income: Estimating the interrelationships. *Economics of Transition and Institutional Change*, 13(3), 533–564.
- Vollrath, D., & Erickson, L. (2007). Land distribution and financial system development. IMF Working Paper WP/07/83. International Monetary Fund, Washington, DC.
- Williamson, O. (1985). *The economic institutions of capitalism*. New York, NY: Free Press.
- . (2000). The new institutional economics: Take stock, looking ahead. *Journal of Economic Literature*, 38(3), 595–613.