

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **4375**



Introduced by
Rep. Kaka J. Bag-ao and Rep. Maria Leonor Gerona-Robredo

EXPLANATORY NOTE

Social justice is the heart of our Constitution. And agrarian reform is about social justice – to correct centuries of injustice, oppression and neglect of poor landless farmers in accordance with the broader concept of social justice under the new Constitution compared with the 1935 and 1973 Constitutions.¹

The context of social justice is the mass poverty and gross inequalities of wealth, income and political power that continue to persist in our country. We are the only country in our part of the world that still has mass poverty, with the highest inequalities.

To carry out social justice, the Constitution, among other provisions, mandates the just distribution of all agricultural lands, subject only to such priorities and reasonable retention limits as Congress may prescribe and to the payment of just compensation (Article XIII, Sec. 1). Land to the poor farmer is both a social and economic asset.

Indeed, credible empirical studies² show that CARP has resulted in significant improvements in the welfare of agrarian reform beneficiaries (ARB) located in agricultural reform communities (ARC), with increased farmer household income and expenditures and decreased likelihood of being poor. For example, poverty incidence decreased in ARCs from 40% to 25% between 1990-2000, greater than those in non-ARC barangays and there is a higher proportion of better housing, and higher educational attainment of household members aged 6-24 years old. Moreover, owning land improves the odds of being non-

¹ Article XIII, Section 1 speaks of the right to human dignity, reduce social, economic and political inequalities and remove cultural inequities by equitably diffusing wealth and political power for the common good and, among others, Section 16 which speaks of the right to effective and reasonable participation at all levels of social, political and economic decision-making. This compares with the limited socio-economic approach in the 1973 and 1935 Constitutions.

² Asia-Pacific Policy Center, 2007, World Bank, 2008, German Technical Cooperation Study, 2006, Habito/PhilDHRRA, 2007, and others.

poor 1.76-2.6 times than of being poor and results in higher investments of ARBs with firm titles.

Moreover, estimates of the Annual Poverty Indicators Survey (APIS) series, which is able to identify households who acquired agricultural lands through CARP, shows that between 1998 and 2011, there is a greater increase in average per capita income among CARP households as compared with land-owning non-CARP households and the general population (12.3% versus -4.6% and .54% respectively). There is also a greater reduction in poverty incidence among CARP households (21% versus 6.3% and 14.8%) respectively.³

There are peace dividends as well "xxx the higher the proportion of land redistributed under the agrarian reform program relative to the potential land reform area, the lower the likelihood of conflict" (Philippine Human Development Report, 2005).

Finally, two conclusions emerge from the Habito Report Card (2007) on the four asset reform programs:⁴ (a) asset reform results have been positive and deserve to be intensified and implemented more efficiently. The best evidence is that the bulk of beneficiaries positively indicated attaining better lives with asset reform with 81% of farmer beneficiaries in agrarian reform, the highest among the programs. But the Report emphasizes that over-all, the asset reform track record remains poor and that effective asset reform ultimately hinges on good governance and political will.

It is important to note that improvements in welfare might have been greater had there had been more ARCs and more than 55% of the ARBs covered. Moreover, the most productive lands have not yet been distributed and there is evidence that suggest massive circumvention of the program.

Agrarian reform also makes good economic sense. Studies show that sustained high economic growth is essential, albeit insufficient, condition for poverty reduction and that inequality in assets, particularly land, is systematically related to lower growth.

All the more reason why the government must go the last full mile in implementing agrarian reform.

The Land Acquisition and Distribution phase of the Comprehensive Agrarian Reform Program (CARP-1998) and the Comprehensive Agrarian Reform Program with Reforms (CARPER-2009) expires on June 30, 2014, except that lands that have already been issued Notices of Coverage as of that date will continue to be processed until distributed (Section 30, RA 9700).

³ See Table in Monsod, T and Piza, S "Conjecture vs. Evidence: a reiteration", posted March 29, 2014 (<http://www.econ.upd.edu.ph/perse/?p=3728>).

⁴ RA 6657 (CARP), RA 7279 (Urban Development and Housing Act of 1992), RA 8371 (Indigenous People's Rights Act of 1997), RA 8550, Philippines Fisheries Code of 1998).

By that date, the Department of Agrarian Reform estimates that about 500,000 hectares out of the LAD balance of about 1,200,000 hectares as of June 2009 still have to be distributed. In addition to the June 2009 LAD balance, about 1,200,000 – 2,700,000⁵ hectares of land claimed as having been distributed are suspect to having circumvented or avoided the law and/or were not really distributed nor transferred to the control of farmer beneficiaries. These lands if left undistributed would constitute a mockery of the constitutional provision on agrarian reform and would reward the very people who have violated and defied the law.

It is, therefore, necessary for this purpose to create an independent Commission with legal powers of subpoena and of contempt, and with the cooperation of other relevant government agencies, to review the actual accomplishments of CARP/CARPER and to investigate circumventions and violations of the law and cause these lands to be compulsorily acquired and distributed to qualified beneficiaries.

In view of all the foregoing, the purpose of this bill is to address or correct the shortcomings in the program, complete the distribution of all agricultural lands as mandated by the Constitution and provide the platform for a truly successful agrarian reform that will help bring about the radical social change that history tells us must happen if national solidarity, lasting peace and real economic development are to be achieved.

The approval of this bill is urgently sought.


Rep. Kaka J. Bag-ao


Rep. Maria Leonor Gerona-Robredo

⁵ The total VLT as of December 2013 amounts to 825,427 hectares against the original target of 288,492. The additional 536,955 hectares are suspect as being circumventions of CARP (plus whatever of the original figures were similarly flawed). The estimated hectareage under long-term leaseback agreements in 2003 was about 650,000, representing land that is not under the control of farmers, most of them with very low lease rates. Without counting the VOS some of which are also suspect,,, the VLT beyond the original target and leased back lands of about 1,186,955 hectares represent land that are not effectively under the real ownership and control of farmer beneficiaries. In addition, about 1,300,000 hectares out of the total of about 2,300,000 hectares under collective CLOAs, categorized as "distributed" land are held in co-ownership and not by registered cooperatives and are not controlled by the individual farmer beneficiaries. In fact, pilot studies of Bukidnon and Isabela show that the implied average landholdings of beneficiaries with collective CLOAs are 11-12 hectares each, or way above the 3-hectare maximum giving rise to the possibility that the collective CLOAs merely disguise excessive retention and unqualified beneficiaries. Until these collective CLOAs are actually changed to individual CLOAs with full ownership rights, a concept central to agrarian reform, they cannot be considered as "distributed". The excess VLTs of at least 536,955 hectares, the leaseback land of about 650,000 hectares and about 1,300,000 hectares under collective CLOAs do not really fulfill the social reform objective of agrarian reform. Deducting those lands from the claimed "accomplishment" of 4.6 million hectares distributed by the DAR leaves only about 2,000,000 hectares that are under the real ownership and control of the beneficiaries.

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1 Be it enacted by the Senate and the House of Representatives of the Philippines
2 in Congress Assembled:
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5 **AN ACT CREATING THE AGRARIAN REFORM COMMISSION TO**
6 **INVESTIGATE CIRCUMVENTIONS AND VIOLATIONS OF REPUBLIC ACT**
7 **6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN**
8 **REFORM LAW OF 1988, AS AMENDED, REPUBLIC ACT 9700, AND**
9 **OTHER AGRARIAN LAWS, AND APPROPRIATING FUNDS THEREFOR.**
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12 SECTION 1. *Title.* – This Act shall be known as the "*Agrarian Reform*
13 *Commission.*"
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16 SECTION 2. *Policy.* – The agrarian reform program is founded on the right of
17 farmers and regular farmworkers, who are landless, to own directly or collectively
18 the lands they till or, in the case of other farmworkers, to receive a just share of
19 the fruits thereof. To this end, the State shall encourage and undertake the just
20 distribution of all agricultural lands, subject to the priorities and retention limits
21 set forth under Republic Act 6657, otherwise known as the Comprehensive
22 Agrarian Reform Law, as amended, and Republic Act 9700, taking into account
23 ecological, developmental, and equity considerations, and subject to the payment
24 of just compensation. The State shall respect the right of small landowners, and
25 shall provide incentive for voluntary land-sharing.
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27 The acquisition and distribution of all agricultural lands under Republic Act 6657,
28 as amended, shall be successfully completed to its finality in accordance with the
29 mandate under the 1987 Constitution.
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31 It is therefore imperative to create an independent commission to review the
32 actual accomplishments of the agrarian reform program and to investigate

33 circumventions and violations of the law and cause these lands to be
34 compulsorily acquired and distributed to qualified beneficiaries.

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37 SECTION 3. *Agrarian Reform Commission.* – There is hereby created the Agrarian
38 Reform Commission (ARC) composed of a Chairman and four (4) members of
39 impeccable integrity, probity and independence, with an established reputation
40 as being knowledgeable about the agrarian reform program, at least two of
41 whom, including the Chairman, must be members of the Philippine Bar and
42 engaged in the practice of law for at least 10 years. The members of the
43 Commission shall have the rank and privileges equivalent to chairpersons of the
44 Constitutional Commissions.

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46 The President of the Republic of the Philippines shall appoint the best qualified
47 from a short list of ten (10) chosen by a screening committee within thirty (30)
48 days from the deadline set by such committee for the submission of nominees by
49 individuals or stakeholder groups. The Screening Committee shall be composed
50 of the following:

- 51 (1) the Chair of the Civil Service Commission;
- 52 (2) the Secretary of Justice;
- 53 (3) the Ombudsman;
- 54 (4) the Chair of the Commission on Audit; and
- 55 (5) the Co-Chairs of the COCAR.

56 The Screening Committee shall be *functus officio* upon submission of the short
57 list to the President.

58 The Agrarian Reform Commission shall function as a collegial body and shall
59 formulate its own rules and regulations. Unless, otherwise extended by the
60 Congress, the term of the Commission shall be for a period of two (2) years from
61 the assumption to office of its Chair and Members.

62 An amount of Ten Million Pesos (Php 10,000,000.00) per year is hereby
63 appropriated in order to fund the operations of the Agrarian Reform Commission.

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65 SECTION 4. *Powers of the Agrarian Reform Commission.* — The Commission
66 shall have the following powers and functions:

- 67 a. Investigate the circumstances and avoidance in the implementation of
68 Republic Act 6657 as amended by Republic Act 9700 otherwise known as
69 the Comprehensive Agrarian Reform Act particularly on the coverage and
70 distribution of lands under the program and other applicable laws for the
71 purpose of prosecuting public officials and private persons, and to put
72 such lands under the coverage of the program and/or to correct the
73 modalities that deprive the farmer beneficiaries of full ownership or
74 stewardship rights on, and control of, the land;

- 75 b. Recommend to the Department of Justice, the Ombudsman and other
76 prosecutorial authorities for possible filing of appropriate cases against
77 persons found by the Commission to have violated any agrarian reform
78 laws;
- 79 c. Invite or subpoena persons, witnesses and take their testimonies, and for
80 that purpose, administer oaths or affirmations. This includes the power to
81 cite a person in contempt;
- 82 d. Require any agency, official or employee of the Executive Branch,
83 including government-owned or controlled corporations, to produce
84 documents, books, records and other papers;
- 85 e. Upon proper request, obtain from the courts, including the Sandiganbayan
86 and the Office of the Court Administrator, information or documents in
87 respect to agrarian cases filed;
- 88 f. Promulgate rules and regulations and rules of procedure; and,
- 89 g. Exercise such other acts incident to or appropriate and necessary in
90 connection with the Commission's objectives.

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93 SECTION 5. The Secretariat. – The Commission shall organize a secretariat which
94 shall serve as the technical and administrative support of the Commission. The
95 staffing, pattern and compensation schedule of the secretariat shall be
96 determined by the Commission in accordance with existing laws, rules and
97 regulations.

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99 The term of the Secretariat shall be co-terminus with the Commission.

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102 SECTION 6. *Repealing Clause.* – All other laws, decrees, executive orders,
103 issuances, rules and regulations, or part thereof inconsistent with this Act are
104 hereby likewise repealed or amended accordingly.

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107 SECTION 7. *Separability Clause.* – If, for any reason, any section or provisions
108 of this Act is declared unconstitutional or invalid, the other sections or provisions
109 not affected thereby shall remain in full force and effect.

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112 SECTION 8. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days
113 upon publication in at least two (2) newspapers of general circulation.

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115 Approved.