



## Comprehensive Agrarian Reform Law (RA No. 6657): A Scrutiny on its Effectiveness and Lapses

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**Abstract:** *This study aimed at exploring the salient features of the RA No. 6657 in a political and economic context. The law is considered to break the land owner's power by giving the agricultural lands to qualified landless farmers. Furthermore, the increase of farmer's personal autonomy is expected to raise the agricultural productivity, facilitation of industrialization and strengthen the food security of the country. The 32-year old law gained popularity in the Philippine Agrarian Reform. However, there are still glitches in the law that still need to be resolved and fixed. If it is truly meant to distribute the agricultural lands to the qualified land tillers so be it.*

**Key Words:** *agrarian reform, agricultural land, farmers, land owners.*

### 1. INTRODUCTION:

The Comprehensive Agrarian Reform Law (CARL) is recognized as the bastion of social justice. It has been reiterated in the catena of cases decided by the Supreme Court of the Philippines that the law, itself serves as a mechanism to redistribute the agricultural lands to the landless farmers and to liberate those who are oppressed and underprivileged from the hands of selfish landowners. It was in 486 B.C., the earliest attempt at an agrarian law, when the ancient tribe in Italy entered into a peace treaty, whereby they decided to cede two-thirds of the lands that they occupied to the Roman Republic. Thus, the term agrarian originated from a Latin term "ager" which literally means land. In the old Roman civilization, these lands pertained to "ager publicus" or public lands that were devoted to agriculture, including those that were meant for common pasture.

Agrarian reform law has been defined in various perspective by various authors and organizations in the world. Cousin (n.d.) mentioned that agrarian reform emphasizes a broader set of issues on economics and politics and the interactions between them. Accordingly, agrarian reform concerns the class character of the interactions of the production and distribution of agricultural activities, its related enterprises, and how these are connected to a broader class structure. The United Nations Thesaurus defines agrarian reform as agricultural economy and politics, with well-established impact on rural sociology, public administration, educational institutions, and others. In 2003, World Bank report stated that to ensure the feasibility and effectiveness of agrarian law, it must aim at alleviating poverty and establishing a favorable environment for the development of productive small farmers. Jacobs (2010) viewed agrarian reform as a revolutionary political concept and not a reformist idea. She added that political rationale of agrarian reform is to end the landlord power. Furthermore, she cited that the economic rationale of agrarian reform are as follows: (a). raise agricultural productivity; (b). strengthen food security and to lessen poverty for rural households; and (c) facilitate industrialization by feeding the majority. Barraclough (2016) posited that agrarian reform implies a modification in power relations favorable to those who are physically working in the agricultural lands at the expense of those who traditionally accumulate wealth taken from it. Thus, enriches the personal autonomy of the small farmers. A prominent Filipino author, Ungos (2016) emphasized the context of agrarian reform under the purview of Republic Act No. 6657 as the redistribution of agricultural lands that will transform it into economic-sized farms, to be owned by the farmers themselves, to uplift their socio-economic status.

Republic Act 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) was enacted into a law in 1988 to cover all private and public agricultural lands. This was believed to be a call that will promote social justice, reduce poverty in the country and increase food security (Guradian, 2003). The law is meant to follow the principle of land to the tillers, from which farmers are given opportunities for a dignified quality of life. For more than three decades, the law has faced several controversies, issues, concerns, and questions pertaining to constitutionality.



## 2. OVERVIEW OF THE AGRARIAN REFORM LAWS:

History revealed that agrarian reform can be traced with Greeks and the Romans in the 600 and 200 BCE, respectively. In the ancient Athens, lands were held in perpetuity by the tribes and individual holdings were periodically allocated pursuant to the size of the family and fertility of the soil. As time passed by, population has significantly increased which resulted to the expansion of trade, and growth of financial economy. The lands used for agriculture were used by the peasants to secure loans while the debtors continued to cultivate their lands as sixth partner "hektemor". The system of paying the loans of the ancient peasants occurred from which the farmers or land tillers delivered five-sixths of their produce to the creditor and the retained the rest for themselves. When Solon was elected in 594 BCE, his aimed at destroying the horoi or mortgage stones by passing a law known as seisachtheia. The reform of Solon was extensive but only happened at a short duration. The farmers who mortgaged their lands were freed but no alternative sources of financial support was provided and creditors were not given compensation. Thus, dissatisfaction rose and instability persisted.

Tiberius and Gaius Gracchus between 133 and 121 BCE implemented Roman reforms. Tiberius passed lex agraria which gained popular support against the resistance of the noble men. Lex agraria is a modified version of ager publicus, which had been usurped and concentrated in the hands of the rich family. Lex agraria set landholding restrictions, with an allowance for male children. The law was not enforced accordingly due to the death of Tiberius. So when Gaius was elected after a decade, he revived the land reform. With his ambition to capture greater extent of lands, he was killed. As a consequence, the reform was reversed and acquisition of public lands was legalized. In the Philippines, the history of agrarian reform can be traced before the Spaniards came to the Philippines. Ancient Filipinos lived in barangays, ruled by their chieftains or datos. The existence of social classes in the society practically allowed everyone to have access to the fruits of the soil. When the Spaniards came and introduced the encomienda system, it generated abuses by the landowners. Furthermore, the native Filipinos who once cultivated the lands freely became share tenants.

When the Americans ruled in the Philippines, significant legislations were enacted. These include the Philippine Bill of 1902, Land Registration Act of 1902 (Act No. 496), Public Land Act of 1903 and Tenancy Act of 1933. Essentially, the Torrens system, which Americans instituted did not resolve problems completely. When the Japanese forces seized the country in 1942, the peasants and workers organizations took up arms and strength to fight the abuses of the Japanese government. The Hukbo ng Bayan Laban sa Hapon (HUKBALAHAP) identified themselves as anti-Japanese group.

After the Philippine liberation, the issues and social impact of land tenure remain unresolved. These became in certain areas, which sometime resulted to the death of the farmers and other farm workers who fought for their rights as tillers of the agricultural lands.

During the presidency of Manuel A. Roxas, he enacted Republic Act No 34 and Republic Act No 55. RA No. 34 established the 70-30 percent sharing arrangements and regulated the share tenancy contracts. RA No.55 provided effective safeguards against arbitrary ejectments of the tenants in the landholdings.

Ramon Magsaysay abolished the Land Settlement Development Corporation (LASEDECO) which was established by the former president Quirino. He replaced LASEDECO with the National Resettlement and rehabilitation Administration (NARRA) aimed at winning back the rebels by providing them home lots and farmlands in Palawan and Mindanao. Republic Act No. 1199 also known as the Agricultural Tenancy of 1954 which regulated the relationship between land owners and farmer-tenants. Under this law, a Court of Agrarian Relations was created. President Magsaysay signed Republic Act No. 1400 (Land Reform Act of 1955) into a law, which established the Land Tenure Administration (LTA), an agency which was responsible for the acquisition and distribution of large tenanted rice and corn lands. Furthermore, it was during his presidency when Agricultural Credit Cooperative Financing Administration provide small farmers and share tenants a loan with low interest rates of 6 to 8%, under the strength of Republic Act No. 821. His successor Carlos Garcia continued the programs of the late president.

One of the most important contributions of President Diosdado Macapagal in the agrarian reform was the enactment of Republic Act No. 3844 on August 8, 1963. This law abolished the share tenancy and institutionalized the leasehold. The 75-hectare retention limit was set in this law. Furthermore, the redemption for tenant farmers and invested rights of pre-emption was provided in the law. RA No. 3844 was hailed as a mechanism that emancipated the Filipino farmers from the tenancy.

Five days after the proclamation of the Martial Law on September 21, 1972, President Marcos proclaimed he entire Philippines as a land reform area. Simultaneously, he enacted laws such as: RA No. 6839, RA No. 6390, PD No. 2, s. 1972, and PD No. 27, 1972. Under RA No. 6389 (Code of Agrarian Reform) and RA No. 6390, two additional agencies such as Department of Agrarian Reform and Agrarian Reform Special Account Fund were created. On the other hand, PD No. 2, s. 1972 declared the entire country under land reform program and enjoined all agencies



of the government to cooperate and help the Department of Agrarian. Under PD No. 27, the land reform coverage was restricted to tenanted rice lands and corn lands. Likewise, the retention limit was set to 7-hectares.

Republic Act No. 6657 or the Comprehensive Agrarian reform Law was enacted into a law on June 10, 1988 by former President Corazon Aquino. It was the sixth agrarian reform law in the country since 1933. The implementation of the program followed two mechanisms: land tenure improvement (LTI) and program beneficiary's development (PBD). Land Tenure Improvement (LTI) involves land acquisition and distribution. It also includes the processes of land survey, identification of qualified farmer-beneficiaries in certain areas, processing of claim folders for landowner's compensation, land valuation and compensation, registration of land and issuance of the Certificate of Land Ownership (CLOA) to selected farmer-beneficiaries. In contrast, Program Beneficiary's Development (PBD) provides the establishment of agrarian reform communities (ARC) where beneficiaries are given support services and other assistance.

Under the administration of President Ramos, laws such as RA No. 7881, RA No. 7905, RA No. 8435, RA No. 8532 and EO No. 363, 1997 were enacted. Specifically, RA No. 7881 exempted the fish ponds and prawns from CARP coverage. The Agriculture and Fisheries Modernization Act or RA No. 9435 plugged the valid loopholes in the conversion of land use. RA No. 8532, set an additional 50-billion pesos for the extended 10-year implementation of CARP.

In 2009, Republic Act No. 9700 amended Sections 2, 3, 4, 6, 7, 16, 17, 22, 24, 25, 26, 27, 36, 37, 38, 41, 50, 55, 65, 68, 73, and 74 of the RA No. 6657. Furthermore, creation of Congressional Oversight committee on Agrarian Reform (COCAR) is created to oversee and monitor the implementation of RA No. 9700.

### **3. SALIENT FEATURES OF RA NO. 6657:**

Land is not a commodity but an essential component for the realization of many human rights (OHCHR, 2015). In the international legal framework, the international right to land is not explicitly mentioned. Thus, the international laws are silent on how human rights of the peasants and farmers are protected in terms of right to land. Until in 2007, when the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples right to the lands, territories and resources which they traditionally owned, occupied and possessed. Another land right that was invoked in the international legal framework is the right of women, under CEDAW, to equal treatment in land and agrarian reform.

In the Philippines, the law that provides protection to the rights of the farmers and other beneficiaries are detailed in RA No. 6657. The salient features of the law are as follows:

#### **3.1. Applicability of CARL:**

The Comprehensive Agrarian Reform Law applies only in agricultural lands. It does not cover the lands that are classified as mineral, forest, residential, industrial, or commercial. Contrary to PD No. 27, the CARL is not only limited to private and public corn lands and rice lands but those lands that are devoted to agricultural activities. The term agriculture or agricultural activities refer to the cultivation of the soil, planting of crops, growing of fruit trees, including the harvesting of such farm products, and other farm activities and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical.<sup>2</sup> As a matter of fact, the Court held in the case of Luz Farms v. Secretary of DAR, the lands devoted to poultry, raising of livestock and swine within the term agriculture is unconstitutional on the basis that no land is tilled and no crop is harvested.

#### **3.2. Exercise of Retention Right:**

The main thrust of retention right is to reduce the effects of the compulsory land acquisition by taking into consideration, both the rights of the landowners and the tenants. The landowner is constitutionally given a right of retention at any time before he receives the notice of coverage from the DAR. Furthermore, he can retain a compact and contiguous land, provided it will not exceed five hectares.

Also, the children of the landowner may be awarded a land to the extent of three hectares for each child, provided that he is at least 15 years of age, actually tilling the land, or directly managing the farm.

#### **3.3. Exclusion of Coverage:**

As provided in Section 10 of RA No. 6657, lands used for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves, prawn farms and fishponds, national defence, school sites, and campuses, including experimental farm stations operated by the public or private schools for educational purposes, seeds, seedling research and pilot production research and others are exempt from the coverage of CARL. In cases of Republic v. CA, the Court held that land classification embodied in the tax declaration is inconclusive. The Court ratiocinated that tax declaration is not the sole proof of land classification.



In *Natalia Realty, Inc. v. DAR*, the Court held that lands classified as non-agricultural before the RA No. 6657 took effect is not covered by CARP. The exemption will take effect provided that one valid reclassification of the land from agricultural to non-agricultural was done by a duly authorized government agency before June 15, 1988.

### 3.4. Land Acquisition:

Land acquisition is viewed as the special police power of expropriation vested upon by the law to the Department of Agrarian Reform. Land acquisition shall be strictly construed that the Notice of Coverage was properly served to the landowner. Otherwise, it constitutes a violation to his constitutional right to due process of law. *In the acquisition of land, DAR sends the notice to acquire the land to the land owners and offer to pay the value. Within 30 days from the receipt, his administrator or representative shall inform the DAR of his acceptance or refusal.*

If the land owner accepts the offer of the DAR, the Land Bank of the Philippines shall pay the land owners within 30 days after he executes a deed of transfer in favor of the Government and surrenders the Certificate of Title and other documents. In the event, the land owner rejects the offer, DAR conducts summary administrative proceedings to determine the just compensation. The parties involved must submit evidence within 15 days to determine the just compensation of the land.

DAR shall take immediate possession of the land and request the Register of Deeds to issue the Transfer Certificate of Title (TCT) in the name of the Republic. The land would be redistributed to the qualified farmer-beneficiaries. In case of disagreement, the Court of proper jurisdiction shall determine the just compensation.

### 3.5. Just Compensation:

Just compensation is the full and fair equivalent of the property taken from its owner by the expropriator (in this case- the Government). Just compensation under CARP can be determined by the cost of acquisition of the land; value of the standing crop; current value of like properties; nature of the land; income of the land; sworn valuation of the owner; tax declarations; assessment made by government assessors; 70% of the zonal value of the BIR; socio and economic benefits contributed by the farmers and farmworkers and by the Government to the property; and non-payment of taxes or loans secured from any government financing institution.

### 3.6. Voluntary Land Transfer:

Voluntary land transfer is the negotiation between the landowner and the beneficiaries. The Voluntary land transfer must be resolved within a year otherwise, the government shall acquire the agricultural land through compulsory land acquisition.

Under RA No. 9700, voluntary land transfer shall take effect until June 30, 2009. Otherwise, the land shall be subject to compulsory land acquisition.

### 3.7. Distribution Limit:

Section 23 of the CARL provides that the maximum area that can be owned by the qualified beneficiary shall be no more than 3 hectares. Hence, if he owns two hectares, he is only entitled for one hectare.

If the hectareage is insufficient to meet the required 3 hectares, then the landholding shall be divided equally.

In order to determine the size of the land for distribution, the type of the crop, type of soil, weather patterns and other pertinent factors critical for the success of the farmer- beneficiaries shall be considered.

## 4. LAPSES AND DISCREPANCIES OF CARL:

After more than three decades of existence, CARL or RA No. 6657 still faces controversies, lapses, and inconsistencies in its implementation. Among those are enumerated as follows:

### 4.1. Impossibility of equitable redistribution of land:

In the report of the Philippine Statistics Authority (2018), it was revealed that at the onset of the Operation Land Transfer in 1972, the government targeted the distribution of 5.164 million hectares of agricultural lands to landless farmers and farmer workers. This was modified in January 2017, the target area for distribution was increased to 5.425 million hectares. Overall, the land distributed to landless farmers from 1972 to 2017 reached only 4.77 million hectares or 87.92% of the modified target for distribution. In the study of Lanzona (2019), he found out that agricultural lands continue to be distributed in favor of the elite land owners. Guardian (2003) posited that strong opposition of the landowners is one of the reasons for the impossible implementation of the program.



#### 4.2. Criticism by civil society:

The civil society claiming to be the representatives of the people often criticized the lapses of the implementation of the CARP. Take for instance, in the case of Hacienda Luisita v. PARC, HLI assailed various provisions of the CARL, including the jurisdiction of the PARC, which nullified the stock distribution scheme of the HLI. The farmer-beneficiaries are guiled by the HLI. This event was criticized by the civilians and caused the death of some farmer-beneficiaries who fought for their rights during the administration of President Benigno Aquino, Jr.

#### 4.3. Cynicism by the legislators:

Unfortunately, the law seem to contain some lapses that were not determined by the legislators. When the law was implemented, there was strong objection from the people who affected by the CARP coverage. There were instances that the constitutionality of the law was assailed multiple times before the High Tribunal. The law was supplemented by Executive Orders and succeeding laws during the time of President Ramos and President Arroyo. These acts only prove that the law was not completely ironed and molded in the hands of the legislators.

#### 4.4. Financial and material resources were wasted:

The ten-year implementation of the and overage of the entire country to an agrarian reform has wasted sufficient funds and other resources of the Government. After more than three decades of extended CARP, the Government has spent a lot to implement the program and yet the target agricultural land for distribution is still unaccomplished up until this time. Is it the law that is faulty or the law is being used to get money from the government for the political interest of some officials?

#### 5. CONCLUSION:

From the salient features and criticisms of CARL (RA No. 6657), the following can be culled out:

- There is selective justice in the implementation of CARL (RA No. 6657);
- Congressional Oversight committee on Agrarian Reform (COCAR) must be utilized to reinvestigate and re-study the effectiveness of the CARL for the past three decades.
- Filipinos must be vigilant and observant in the implementation of the CARP.

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