

**IDS Working Paper 244**

**Making property rights accessible: social movements and  
legal innovation in the Philippines**

**Jennifer C. Franco**

June 2005

INSTITUTE OF DEVELOPMENT STUDIES  
Brighton, Sussex BN1 9RE  
ENGLAND

Jennifer C. Franco is a Research Fellow at the Institute for Popular Democracy (IPD), Philippines.

Making property rights accessible: social movements and legal innovation in the Philippines  
Jennifer C. Franco  
IDS Working Paper 244

First published by the Institute of Development Studies in June 2005  
© Institute of Development Studies 2005  
ISBN 1 85864 870 X

A catalogue record for this publication is available from the British Library.

All rights reserved. Reproduction, copy, transmission, or translation of any part of this publication may be made only under the following conditions:

- with the prior permission of the publisher; or
- with a licence from the Copyright Licensing Agency Ltd., 90 Tottenham Court Road, London W1P 9HE, UK, or from another national licensing agency; or
- under the terms set out below.

This publication is copyright, but may be reproduced by any method without fee for teaching or non-profit purposes, but not for resale. Formal permission is required for all such uses, but normally will be granted immediately. For copying in any other circumstances, or for re-use in other publications, or for translation or adaptation, prior written permission must be obtained from the publisher, and a fee may be payable.

Available from:  
Communications Unit  
Institute of Development Studies  
at the University of Sussex  
Brighton BN1 9RE, UK.  
Tel: +44 (0)1273 678269  
Fax: +44 (0)1273 621202  
Email: [bookshop@ids.ac.uk](mailto:bookshop@ids.ac.uk)  
[www.ids.ac.uk/ids/bookshop](http://www.ids.ac.uk/ids/bookshop)

Printed by XPS Limited, Brighton UK  
IDS is a charitable company limited by guarantee and registered in England (No. 877338).

## **Summary**

Today, many rural poor Filipinos are using state law to try to claim land rights. In spite of the availability of a much heftier set of specialised legal resources than ever before, however, claiming legal land rights remains extremely difficult. Pro-market scholars cite difficult legal problems as a reason to turn away from state-led land reform and toward a market-assisted land reform (MALR) model. Yet, as this paper shows, a closer look at actual dynamics around land reform in the Philippines suggests that political-legal problems associated with implementation of the 1988 agrarian reform law can be overcome under certain conditions. It is argued that rural poor claimants must have access to a support structure for political-legal mobilisation, particularly “rights-advocacy organisation”, and they must adopt an integrated political-legal strategy, in order to effectively push existing constitutional-judicial openings and institutional reforms in favour of land redistribution. An integrated political-legal strategy is one that is capable of activating state agrarian reform law, exploiting independent state actors’ pro-reform initiatives, and resisting the legal and extra-legal manoeuvres of anti-reform elites.



## Contents

Summary	iii
List of tables	v
Preface	vii
Acronyms	ix
<b>1 Introduction</b>	<b>1</b>
<b>2 Framework and national setting</b>	<b>3</b>
2.1 Contending orders on the rural periphery	5
2.1.1 <i>Cacique law</i>	6
2.1.2 <i>State law</i>	8
2.1.3 <i>Rural movement field</i>	15
<b>3 Case studies in land rights pacesetting</b>	<b>20</b>
3.1 Case 1: SAMACA, municipality of Buenavista – Quezon Province	24
3.1.1 <i>Background</i>	24
3.1.2 <i>The conflict and its political-legal trajectory</i>	27
3.2 Case 2: MSMSL, municipality of San Narciso – Quezon Province	32
3.2.1 <i>Background</i>	34
3.2.2 <i>The conflict and its political-legal trajectory</i>	34
3.3 Case 3: WEARBAI, municipality of Carmen – Davao del Norte Province	39
3.3.1 <i>Background</i>	42
3.3.2 <i>The conflict and its political-legal trajectory, Part 1</i>	43
3.3.3 <i>The conflict and its political-legal trajectory, Part 2</i>	47
<b>4 Comparative lessons</b>	<b>63</b>
4.1 Variable opportunity for reform over time and space	63
4.2 To try or not to try	64
4.3 Making property rights accessible	66
<b>5 Conclusions and implications</b>	<b>68</b>
<b>References</b>	<b>70</b>

## Tables

Table 2.1	Nature and handling of agrarian disputes	10
Table 2.2	Number of agrarian cases resolved per year, 1988–2000	14
Table 2.3	Age of pending DARAB cases, as of December 1997	14
Table 3.1	Comparative profile, Quezon II (Quezon Province) and Davao del Norte Province	22



## **Preface**

This paper is part of a larger three year research project entitled ‘When the Poor Make Law: Comparison from Brazil and the Philippines’, which explores how the poor in Brazil and the Philippines use and make law in their ongoing struggles to achieve varied justices. Details about the project can be found at [www.makinglaw.org](http://www.makinglaw.org). The paper would not have been possible without the diligent and dedicated research assistance of Danilo Carranza, Danilo Bernal, Nestor Tapia, Valerio Clamonte, Gema Escobido, and Wendy Ludovico, to whom I am truly grateful. I would also like to thank Saturnino Borrás Jr., Danilo Carranza, Peter Houtzager, Benedict Kerkvliet, Peter Newell and Rosanne Rutten for encouraging and helpful comments and suggestions on earlier drafts. Any errors are my own.





## Acronyms

ALI	Agrarian Law Implementation
AO	Administrative Order
APLA	All Peasant Leaders Alliance
ARB	Agrarian Reform Beneficiary
BDP	Bondoc Development Project
CA	Compulsory Acquisition
CAR	Court of Agrarian Relations
CARP	Comprehensive Agrarian Reform Program
CENRO	Community Environment and Natural Resources Office
CLOA	Certificate of Land Ownership Award
CPAR	Congress for a People's Agrarian Reform
CPP	Communist Party of the Philippines
DAR	Department of Agrarian Reform
DARAB	DAR Adjudication Board
DENR	Department of Environment and Natural Resources
DOJ	Department of Justice
EP	Emancipation Patent
FGD	focus group discussion
KMBP	Kilusang Magbubukid ng Bondoc Peninsula
KMP	Kilusang Magbubukid ng Pilipinas
LBP	Land Bank of the Philippines
MALR	Market Assisted Land Reform
MARO	Municipal Agrarian Reform Officer
MCTC	Municipal Circuit Trial Court
MFDC	Mindanao Farmworkers Development Center
MSK	basic Christian community
MSMSL	Malayang Samahan ng mga Magsasaka sa Sitio Libas
MTC	Municipal Trial Court
NLRC	National Labor Relations Commission
NPA	New People's Army
PAO	office of the public attorney
PARAD	Provincial Agrarian Reform Adjudicator
PARCODE	People's Agrarian Reform Code
PARO	Provincial Agrarian Reform Officer
PARRDS	Partnership for Agrarian Reform and Rural Development Services
PBGEA	Pilipino Banana Growers and Exporters Association

PD 27	Presidential Decree 27
PEACE	Philippine Ecumenical Action for Community Empowerment
PESANTEch	Paralegal Education, Skills Advancement and Networking Technology Project
RA 6657	Republic Act 6657 (Comprehensive Agrarian Reform Law)
RA 6938	Republic Act 6938 (Cooperative Code of the Philippines)
RA 7881	Republic Act 7881 (An Act Amending Certain Provisions of RA 6657)
RARAD	Regional Agrarian Reform Adjudicator
RD	Regional Director
ROD	Registry of Deeds
RTC	Regional Trial Court
SAC	Special Agrarian Court
SAMACA	Samahan ng mga Magsasaka sa Catulin
SENTRA	<i>Sentro Para sa Tunay na Repormang Agraryo</i>
TADECO	Tagum Agricultural Development Corporation
VLT/DPS	Voluntary Land Transfer/ Direct Payment Scheme
VOS	Voluntary Offer to Sell
UFEARBAI	United Floirendo Employees Agrarian Reform Beneficiaries Association Inc.
UNORKA	Pambansang Ugnayan ng Nagsasariling Lokal na mga Samahang Mamamayan sa Kanayunan
WADECOR	Worldwide Agricultural Development Corporation
WEARBAI	WADECOR Employees Agrarian Reform Beneficiaries Association Inc.

## 1 Introduction

Twenty years ago, rural Filipinos were noted for their aversion to using state law, and a preference instead for using “private justice” to settle disputes. In a 1981–82 study, G. Sidney Silliman showed how now-defunct Philippine agrarian courts acted to reinforce, rather than undermine, existing power relations between landowners and tenants. His analysis flowed from the proposition that while the establishment of agrarian courts in the 1950s marked a ‘substantial penetration of the legal authority of the national government into rural areas of the country’, their meaning and significance in reality was something quite different (Silliman 1981–82: 89). The discussion highlighted factors that prevented peasants from mobilising court resources effectively, including “procedural chicanery” (manipulation of procedure by judges), the limited aims of peasant litigants (defense of subsistence rather than land rights), a “cultural gap” between lawyers and peasant clients, and strong in-court and out-of-court pressures on peasant litigants to make out-of-court settlements. Supporting Kit Machado’s 1979 findings, Silliman found that even when agrarian courts were mobilised, the outcome was often “amicable settlement” anyway, suggesting that they served more as leverage in out-of-court negotiations than as an “instrument for social change”.<sup>1</sup> It is not surprising then that past land reform laws did not result in redistribution of a significant quantity of land to impoverished peasants, leaving 83 per cent of all farm land in the hands of just 5 per cent of Filipino families by the early 1990s, according to the government’s own data (Putzel 1992).

Today, by contrast, many rural poor are using state law to claim land rights, or at least trying.<sup>2</sup> Under current agrarian reform law, nearly six million hectares of land has been redistributed to more than two million peasant households since 1988, representing nearly half of the total agricultural lands and two-fifths of the total agricultural households in the country (Borras 2004: 10). While state law has not been ‘a significant instrument for social change’ in the past, given these numbers, this can no longer be said today.

What accounts for the change? The legal architecture that determines rural poor people’s legal land rights is vastly different from what it was in the early 1980s. Constitutional and juridical changes have greatly expanded tenants’ and farmworkers’ legal rights to own the land they till. The wider scope of state law means that more rural poor people are now recognised as potential legal owners of a specific piece of land. Furthermore, the task of interpreting those rights has been largely removed from judicial authorities

---

<sup>1</sup> Silliman found that “[G]oing to the law is often a political tactic designed to acquire resources of power to influence an opponent in an arena outside the judicial structure’ (p 99), in combination with other factors, such as patron-client relations, family connections, bribery, and physical force.

<sup>2</sup> In a paper presented during the First Alternative Law Conference, held at the College of Law at the University of the Philippines-Diliman in November 1999, a prominent agrarian reform lawyers group begins by suggesting that potential agrarian reform beneficiaries have become reluctant to bring their land claim cases to court because of “use and abuse of legal processes”, and then goes on to examine a series of cases which show how such “use and abuse” has repeatedly undermined bona fide land rights claims. The present discussion takes off from a different starting point: given the flaws and abuses of the legal system when it comes to making land rights claims, are there still groups that succeed in overcoming the obstacles and if so, how do they do it?

and given to executive authorities. A large administrative bureaucracy exists to convert potential property rights into actual rights, by identifying landholdings and beneficiaries, awarding titles and, at times, “installing” beneficiaries on awarded land.

In spite of a much heftier set of specialised legal resources at their disposal than ever before, claiming land rights through state law nonetheless remains a difficult proposition for most. Despite the passage of a new agrarian reform law in 1988, inequality in land ownership and control remains a major problem today, with wealth in land still a key source of political and economic power, and the rural poor comprising almost two-thirds of the country’s poor (World Bank 2000). Today, almost 15 years after its promulgation, it is mainly the most politically contentious landholdings – both private lands and public lands imbued with private elite interests – that remain to be covered by the agrarian reform law: the very ones that most need to be reformed in order to truly reverse the widespread social and political exclusion still gripping the Philippine countryside. Ironically, for all their anti-poverty concerns, pro-market scholars cite the difficult legal problems involved as a reason to now turn away from state-led land reform and embrace instead a market-assisted land reform (MALR) model.<sup>3</sup> In the Philippine context, often without in-depth examination of specific cases, pro-market scholars tend to simply assume that such problems cannot be overcome. But a closer look at actual dynamics around land reform in the Philippines suggests that, although difficult indeed, political-legal problems associated with implementation of the 1988 law can in fact be overcome. The challenge is to identify under which conditions this can occur.

The paper makes four basic, interrelated points. First, national constitutional-judicial changes created unprecedented opportunities for landless rural poor Filipinos to claim ownership rights on land they tilled as tenants and farmworkers even in the most politically contentious landholdings. Second, while institutional reforms expanded landless rural poor people’s access to that part of the state most directly responsible for implementing the new land reform legislation, the Department of Agrarian Reform (DAR), other institutional access routes that indirectly affected the struggle for land reform, including the local courts, remained closed to social change pressures much like in Rosenberg’s (1991) description of the “constrained court”. Third, whether or not (and when) rural poor claimants in hostile situations took steps to try to claim the new legal land rights was contingent, as Epp (1998) suggests, upon having access to a support structure for political-legal mobilisation, in this case, particularly a “rights-advocacy organisation” with the interpretive resources to determine the political-legal possibilities of using the new law to claim land rights.

The fourth is that whether or not the use of agrarian reform law led to any gains in this struggle for agrarian reform depended on the particular nature of their political-legal strategy. Specifically, the paper argues that a proactive, integrated political-legal strategy was crucial in (i) *activating* and sustaining a “full and meaningful” interpretation of agrarian reform law implementation, (ii) *exploiting* independent initiatives

---

<sup>3</sup> See Deininger (1999). But see also Franco (1999a) and Reyes (1999) for background on World Bank attempts to halt CARP and implement MALR in the Philippines. For general discussion on this issue, see among others Ghimire (2001b), Griffin *et al.* (2002), Bernstein (2002), Kay (2004), Baranyi, Deere and Morales (2004), and Borras (2005).

of state actors, and (iii) *resisting* legal and extra-legal anti-reform initiatives of state and societal elites. Building on Epp's assertion that sustained official attention to individual rights grows mainly out of pressure from below (rather than leadership from above), the discussion here shows the importance of mobilising *different kinds* of pressure from below over the course of struggles to claim legal land rights. This is because of the particular nature of the institutional obstacles to a land-to-the-tiller type of "rights revolution" in the Philippine countryside.

This paper examines political-legal dynamics around three different land conflicts and their resolution through state agrarian reform law. It draws on data gathered in two regions using a combination of methods, including: (i) one-on-one interviews with local peasant leaders, activists, organisers and lawyers (ii) focus group discussions with local peasant associations seeking land reform (iii) legal and organisational documents and (iv) participant-observation in peasant paralegal training sessions, dialogues, and direct actions. The three cases help to shed light on some of the political-legal reasons behind why mobilising state law to claim land rights is difficult, and at the same time, show how the difficulties were overcome in specific instances.

The paper begins with a brief discussion of the analytic framework used, followed by an overview of the different regulatory orders and institutional obstacles that are most relevant to actual land conflicts in the 1990s in the Philippines. It then turns to the case studies, beginning with two cases from Bondoc Peninsula in Quezon Province, Luzon, before moving on to one case from Davao del Norte Province in southern Mindanao. A comparative analysis of the findings is then offered, followed by a discussion about the implications of the findings and analysis for those interested in supporting efforts among the landless rural poor to counter social exclusion by mobilising state law.

## **2 Framework and national setting**

Hunt (1993: 242) observes that 'a legal-right is a rights-claim or an institutional-right that has secured legal recognition that involves a capacity to mobilise public resources for its assertion or defense'. Legal recognition of rights-claims is itself the outcome of struggle. Indeed, in the Philippines over time, state law has acquired and then retained central importance as both object and context in rural poor people's struggles for land reform.<sup>4</sup> In the 1980s, state law was the object of national struggles of socially excluded groups and their allies seeking to gain universal and authoritative recognition of a certain category of rural poor people's land rights-claims, specifically tenants and farmworkers, in the form of constitutional provisions and national legislation. But the resulting state agrarian reform law in the late 1980s remained an object of contention, generating new more localised struggles to claim these new constitutional-judicial rights, or 'to ensure that "rights in law" become "rights in reality"' as Ben Cousins (1997: 60) has put it with reference to a similar challenge in post-apartheid South Africa.

---

<sup>4</sup> See Steinmo, Thelen and Longstreth (1992) on institutions as both objects and contexts, which structure relations between and among actors, empowering or disempowering them and encouraging or discouraging action.

Many Philippine land conflicts today involve legitimate rural poor claimants mobilising to fine-tune (e.g. “tighten” or “loosen”, “bend” or “stretch”) or otherwise correct or fix the resulting constitutional-judicial rights in practice when either technical-legal gaps, built-in legal loopholes, or outright attempts to violate or manipulate the law by those in favor of the status quo are revealed in the process of implementation. As a context of popular struggle, state law has shaped the actions of claimants seeking land reform (often in unexpected ways) by defining their power resources and influencing their choice of political strategy. State law can empower and disempower, encourage and constrain different claimants and their actions by according or withholding legal legitimacy. It can empower those at the grass-roots who may be isolated and immobilised by overbearing local authoritarian networks, by bringing them into contact with potential pro-reform allies within the state bureaucracy at higher levels. This contact in turn can provide opportunities to invoke a “higher authority” and accord legitimacy and protection in instances where they face either a despotic private adversary or hostile public authority especially at lower levels of the polity, or some combination of both. More generally, state agrarian reform law matters because it offers an authoritative remedy to the widespread social exclusion that has long characterised the Philippine countryside.

The Philippines has indeed long suffered one of the most skewed distributions of landownership in Asia, a legacy of colonial rule and the cumulative failure of past governments to democratically respond to organised demands for land reform. Historically, as in Latin America, state response to demands for land reform from below in the Philippines has tended to rely on combinations of resettlement, repression and promises of reform, rather than actual redistribution (Kerkvliet 1977; Wurfel 1988; Lara and Morales 1990; Putzel 1992; Fox 1993a; Riedinger 1995). But repeated failure to respond with redistribution has contributed to perennial social movement demands for land reform – ‘Promises unkept keep movements alive’ as Ronald Herring (2003) has put it. Part of the failure can be traced to the legal system, specifically to local judges who are either closely connected to landowners or landowners themselves, and handling landlord-tenant conflicts (Putzel 1992: 146, 162). Similar to Herring’s 1983 findings in South Asia, past cycles of peasant mobilisation around agrarian reform in the Philippines contributed to a “ratcheting up” of peasant demands over time (Franco *et al.* 2001). Perhaps Samuel Huntington was right when he observed that ‘A basic incompatibility exists between parliaments and land reform’ (1968: 388). But the Marcos dictatorship (1972–1986) and its dismal performance in carrying out its own land reform programme known as Presidential Decree (PD) 27 showed that centralisation of political power was no guarantee for achieving redistributive social justice either. By the time of the first ‘People Power’ uprising that ousted Marcos in 1986; the country’s agrarian problem was still unresolved, if not significantly worse.<sup>5</sup>

Popular demand for redistribution of large landholdings that had accumulated during the Marcos dictatorship helped to push redistributive land reform to the top of the national agenda in the immediate post-dictatorship period and to keep it there despite systematic elite efforts to suppress it.<sup>6</sup> National

---

<sup>5</sup> For assessments of the Marcos land reform, see Kerkvliet (1979) and Wurfel (1983).

<sup>6</sup> For more background on the 1970s and 1980s period of rural social movement building, see Franco (1994) and Franco (2001a and 2001b).

lawmaking in a more open and competitive post-authoritarian elite democracy led to the passage of a new agrarian reform law and programme, in 1988 that is neither purely “voluntary-nonredistributive” nor purely “expropriative-redistributive” in character.<sup>7</sup> But the Republic Act (RA) 6657, or the Comprehensive Agrarian Reform Law, does mandate coverage of all private and public farmland, regardless of tenurial arrangements or productivity conditions, making it ‘more progressive than any other post-1980 liberal land reform law’ internationally.<sup>8</sup> Just as it was created in such conditions, the 1988 law, as Saturnino Borras (2004) observes, is being implemented ‘within the structural and institutional constraints of . . . the very setting that it aims to change’. State agrarian reform law implementation is an inherently highly contentious political process because it contains numerous progressive promises and provisions, while those who have power under the existing setting refuse to give it up even if legally compelled to do so. Making the progressive elements of state agrarian reform law societally authoritative has thus been neither automatic nor easy precisely because its meaning and purpose has remained contested.

### ***2.1 Contending orders on the rural periphery***

Agrarian conflicts that arise in landholdings in the countryside are part of the ongoing process of authoritative lawmaking in the country’s rural periphery. Making law is not a uniform process spread evenly across national territories, but rather one that varies over time and space. What kind of law is authoritative in a given space and time is contingent upon the ‘interactions between actors in society and the state over the setting, interpreting, and complying with authoritative rules’ (Houtzager and Franco 2003). To the extent that the interactions vary, so does societally authoritative law. In the Philippine countryside there are several kinds of regulatory orders, shaping human relations in and around, and in relationship to, land. Beyond official pronouncements, state agrarian law coexists and competes in society with landholding-based cacique law on the one hand and community-based customary law on the other. The rise of underground revolutionary movements has, at times, generated attempts to introduce “agrarian revolution” as an alternative to state land reform. Hence several kinds of fields of law compete for standing in land conflicts.

Rural social change in the form of redistribution of wealth and power in land, mandated by state law, is just one possible outcome of a three-way battle between the state, regional authoritarian land-based elites, and autonomous peasant movements for control of the political-legal process around agrarian lawmaking and its outcomes. In examining how these actors operate and interact in this battle, we can also begin to understand how rural poor people’s legal land rights might still be claimed.

Here, we draw on Pierre Bourdieu’s (1987) notion of “fields of action” to illuminate different individual actors and groups of actors, embedded in field-specific institutions and forms of stratification, and how they negotiate relations with each other in different arenas of activity where different kinds of agents and forms of power operate. Their unique combination of bases of power, institutions, and forms

---

<sup>7</sup> For background on CARP policymaking processes, see Lara (1986), Lara and Morales (1990), Putzel (1992), and Riedinger (1995).

<sup>8</sup> See Borras (2004).

of stratification ‘give fields a particular logic and coherence of their own, and therefore a degree of autonomy from each other’, which helps explain why ‘actors who are highly successful in one field may fail in another, or why institutions that look similar can contribute to very different outcomes in different contexts’ (Houtzager and Franco 2003). Seen from below, the most immediately available alternative social-regulatory order is that of customary law at the village level, where a variety of informal, face-to-face dispute processing practices are widely used.<sup>9</sup> The basic mediation, arbitration, and adjudication practices variously described in sixteenth and seventeenth-century colonial documents and synthesised by William Henry Scott (1982) have survived quite well in contemporary rural society (Houtzager and Franco 2004).<sup>10</sup> Grass-roots relations and customary dispute processing have the potential to complicate class-based agrarian conflicts (Hirtz 1998). But because it involves relatively equal social relations at the grass-roots, village-based customary law has demonstrated little political relevance when it comes to actually resolving class-based, agrarian conflicts between big landowners and peasants (tenants and farmworkers), and so is not considered further here.<sup>11</sup> Instead, the three main contenders in the battle to control this process have been representatives of the broadly distinct fields of cacique hacienda law, state agrarian law, and (albeit fragmented) movement law. Each of these fields is discussed in more detail below.

### 2.1.1 Cacique law

After customary law, the next most frequently available field of law in rural areas affected by extreme inequality in land ownership, is that of hacienda or plantation based cacique law. There is a basic consensus in the literature on Philippine politics that deeply entrenched, land-based regional elites, backed up by extensive patronage networks, local private armies, and national political elite allies, pose a serious problem for any national reform project.<sup>12</sup> This problem left a deep imprint on the post-Marcos democratisation process, despite its initial promise. The national political transition away from centralised authoritarian rule and to a more competitive electoral regime in 1986 was an important step forward, but it failed to eliminate the many localised authoritarian regimes blanketing the countryside (Franco 2001a: 5–11). The survival of local authoritarian elites or caciques in many parts of the archipelago after 1986, was evident during the first post-Marcos congressional elections in 1987, which led to a landlord-dominated national legislature. Even though in the Philippines today, officially guaranteed citizens’ rights include an

---

<sup>9</sup> Rural villagers engage in direct negotiation, unofficial and informal mediation (*areglo*), and sometimes retaliation (*ganti*), all of which have roots in the pre-colonial period, when a village head (*datu*) backed by village elders, a ‘judge or judges acceptable to both litigants’, or even ‘an old man whose reputation for wisdom attracts disputants to his authority’ handled disputes that arose in the community (Scott 1982: 130–4).

<sup>10</sup> For instance, the payment of monetary compensation for murder that was characteristic of the customary legal order then persists today, along with practices involving a kind of partially sanctioned violent individual retaliation (*ganti*) and kin feud (*away pamilya*) (See Houtzager and Franco 2004, and also Hirtz 1998).

<sup>11</sup> This conclusion is drawn from an analysis of focus group discussion data gathered for this study. A total of 42, five-hour long, village-level focus group discussions were conducted in four municipalities in two regions (Bondoc Peninsula – Quezon Province, and Davao del Norte province). While customary law sometimes figured in the processing of land or land use disputes among actual villagers, not one case was reported where this field became operative in a land or even land use dispute between a villager and a large (absentee) landowner. See Houtzager and Franco (2004).

<sup>12</sup> For background, see Anderson (1988), Kerkvliet (1990), Doronila (1992), Sidel (1999), Abinales (2000).



impressive range of civil and political, as well as social, cultural and economic rights and freedoms, millions of rural poor Filipino tenants and farmworkers remain locked in the grip of local authoritarian bosses, who use a wide range of coercive clientelist practices to maintain social-political control. In this situation, their effective access to the full complement of rights and freedoms due them under the post-Marcos Constitution, and embodied in various national laws, remains highly constrained, if not blocked altogether.

Tenants and farmworkers living under the shadow of cacique law often say that they know more about it than they do about state law.<sup>13</sup> This is unsurprising given the field's reliance on what Jonathan Fox (1994) calls "authoritarian clientelism" to ensure social control.<sup>14</sup> Hacienda or plantation based cacique law is a private system of social regulation that usually operates through (i) large landowners and his/her representatives such as farm managers, supervisors and overseers, and private armies or "blue guards" and (ii) "captive" local public authorities. The latter refers to any village and municipal official whose actions reinforce rather than resist a landlord's self-interested will, including judges, public attorneys and police. By definition, cacique law requires privatised control of large amounts of contiguous or near-contiguous land and the people who live and work in and around them. Cacique landholdings can encompass an entire village (*barangay*) or several villages at once. In many instances, the physical boundaries of privately owned plantations or privately controlled haciendas match or engulf official *barangay* administrative boundaries. Where private and public boundaries overlap at the village level, there is a strong tendency for private (cacique) authority to overshadow or outweigh public (state) authority, especially in remote areas beyond the range of higher-level government offices, independent media, or public interest civil society groups. By virtue of landlord control of local political office its effects can be felt beyond the hacienda or plantation gates as well. But since it ultimately rests on narrow landlord self-interest and, by nature, any field's limits are 'always at stake' (Bourdieu and Wacquant 1992: 100), cacique law does not necessarily insinuate itself into all aspects of everyday life among the rural poor. Its social-regulatory "ambition" is neither seamlessly ubiquitous nor automatically absolute, whether inside the hacienda gate or beyond. Instead its spread is uneven over time and across spaces, marked much like the state by political weak spots (in "Swiss cheese" fashion) even if the overall institutional integrity of the field remains firm.<sup>15</sup>

The frequency of out-of-court settlement of agrarian disputes illustrates just how powerfully cacique hacienda law casts its shadow over interactions within the state law field. "Amicable settlements", as they are commonly referred to, are a veil for the extension of cacique law influence into juridical proceedings traditionally. Although "amicable settlement" is admired as a culturally appropriate and efficient form of

---

<sup>13</sup> This came out in the numerous focus group discussions (FGDs) conducted in both Bondoc Peninsula and Davao del Norte.

<sup>14</sup> The term "clientelism" in general refers to a relationship usually associated with rural society based on the exchange of political rights for social benefits. Specifically authoritarian clientelism, according to Fox, refers to situations where 'imbalanced bargaining relations require the enduring political subordination of clients and are reinforced by the threat of coercion' (1994: 153).

<sup>15</sup> For the notion of the state as a "Swiss cheese" see Rubin (1990).

dispensing justice in some kinds of disputes, the outcomes in specifically agrarian disputes often end up merely ratifying gross power imbalances between parties to a conflict.<sup>16</sup> The Philippines has a long history of “amicable settlement” of agrarian disputes that have indeed done just that rather than contributed to any significant social change (Silliman 1981–82; Machado 1979). When the parties to a conflict are a wealthy landowner on the one hand and an impoverished tenant farmer or farmworker on the other, the latter’s inherent disadvantage worsens in direct proportion to the degree of overlap between the former’s authority and local government authority. The rural periphery is littered with so-called amicable settlements where landlords used coercion to persuade peasants to give up legal claim to and physical possession of land in exchange for a one-time payment of “disturbance compensation”. In the Philippine commercial farm context, this kind of settlement can be seen in farmworkers’ so-called “voluntary” separation or retirement from employment, which is often anything but that. In either situation, settlements frequently signal a premature, unjust and unnecessary forfeiture of land rights by potential tenant and farmworker claimants.

### *2.1.2 State law*

Relatively less immediately present or accessible than cacique hacienda law, but ultimately of more central importance for rural poor claimants of land rights is state law, embodied in the ensemble of national official institutions, agents, and legal instruments that are particular to a given national territory. As it pertains to the regulation of agrarian relations in the Philippines, this field has become fragmented over time, with agents and their instruments of power dispersed across a combination of administrative, quasi-judicial, and judicial sub-arenas. There are both “cultural” and “bureaucratic” reasons behind this fragmentation, according to one Philippine legal scholar: there has traditionally been a strong preference within the legal profession for specialisation on the one hand, and a tendency to deal with the perennial problem of case overload in the regular courts by creating special courts on the other.<sup>17</sup>

The historical origins of this fragmented field can be traced to institutions established under American colonial tutelage, largely modeled after the US adversarial legal system, with certain elements held over from the Spanish colonial period (1521–1898) (Forbes 1945: 140–6).<sup>18</sup> Structurally, the 1901 Judiciary Law enacted by the Second Philippine Commission during the American colonial regime (1898–1935) created and vested independent judicial power in a Supreme Court, Court of First Instance and Justice of the Peace. Courts of First Instance (with at least one judge each) were established in every

---

<sup>16</sup> A similar argument is made by Jan Kees van Donge with respect to processing of land disputes in Malawi, where, he found that ‘it is in the process of adjudication that the vulnerable need to find protection’ (1999: 65).

<sup>17</sup> Interview, Atty. Marvic Leonen, Executive Director of the Legal Rights and Natural Resources Center Inc. (LRC-KSK) and past Convener of the Alternative Law Groups Network, 22 August 2002, Quezon City.

<sup>18</sup> Under the Spanish Governor General Miguel Lopez de Legaspi, four oidores or justices were established, with the fiscal as the highest tribunal in the Philippines and which also exercised administrative functions (Royal Order of 14 August 1569). In 1583 the Royal Audiencia, a collegial body based in Manila, was established as the final dispenser of justice in the colony. Between 1815 and 1886 the Royal Audiencia’s functions and structures were modified to create civil and criminal, as well as different territorial branches, and to make its decisions subject to appeal to the Spanish Supreme Court in Madrid. When Manila fell to the Americans in 1898 military courts initially displaced the Royal Audiencia, which was subsequently revived but soon abolished altogether.

province, while a group of “judges-at-large” (later renamed “auxiliary judges”) was created to assist in handling docket overloads.<sup>19</sup> Courts of Justice of the Peace were reestablished in every municipality to handle lesser civil and criminal cases, and “[j]ustices of the peace and other minor officials, as well as employees of the judiciary, from the beginning of civil administration were with rare exception Filipinos” (*ibid.*: 146).<sup>20</sup> The office of sheriff was introduced to serve notices, maintain order in the court, and execute court orders. Procedurally, the Americans revised the existing (Spanish) code of criminal procedure and adopted an entirely new code of civil procedure.<sup>21</sup> Substantively, the Spanish era civil and penal codes, based on the Code Napoleon, were “admired” and largely retained by the Americans. In terms of the language of the courts, Spanish was initially retained, but English was added and then gradually made the sole language of the courts. Finally, under the Americans, according to Forbes (who was Governor-General of the Philippines from 1909 to 1913), ‘the adjudication of titles to real estate soon became and continues to be a most important function of the courts’ (*ibid.*: 146).

Alterations to this basic structure began to be made in the 1930s, partly in response to rising unrest among the landless and near-landless rural poor. Special courts were set up to handle specifically agrarian and labour disputes and, presumably, to serve as a safety valve to prevent these new social pressures from building up too high. The Court of Industrial Relations was thus established as part of the Commonwealth-era Social Justice programme of President Manuel Quezon in 1939 (Crippen 1946).<sup>22</sup> Later in 1955 the Court of Agrarian Relations (CAR) was created just as a major peasant rebellion in Central Luzon peaked (Kerkvliet 1977: 240). The CAR was given original exclusive jurisdiction in ‘all questions, matters, controversies or disputes arising from the relationship of persons in the cultivation and use of agricultural lands’, but had ‘concurrent’ jurisdiction with the Court of First Instance ‘over cases involving landlord and tenant’ (Feliciano 1996: 34). Less than a decade later in 1963, a new Agricultural Land Reform Code established the Department of Agrarian Reform (DAR) and created new administrative procedures to handle “issues arising” under it, even as the agrarian courts continued to operate (*ibid.*: 35). The latter was reorganised in June 1976 in part in order to streamline procedures, resulting in clearer lines of jurisdiction being drawn between it and the National Labor Relations Commission (NLRC) and the DAR, but not necessarily between it and the regular civil and criminal courts (Teh 2001). By the early 1980s other specialised courts had come into existence as well, including the NLRC, while the CAR, by then organised into 16 regional districts with two or more branches each, had a ‘notable presence in the rural sector’ (Silliman 1981–82).

---

<sup>19</sup> Judges of first instance were appointed by the Governor-General, with advice and consent from the Philippine Senate, and could be removed from office either for ‘serious misconduct or inefficiency’ by the Governor-General upon the recommendation of the Supreme Court. Initially the judges of first instance were mainly Americans, but Filipino judges were gradually made the majority, increasing from just half of all first instance judges in 1912 to 96 per cent by 1926 (Forbes 1945: 146).

<sup>20</sup> They were first established by the Spaniards in 1885 (Forbes 1945: 146).

<sup>21</sup> Forbes (1945: 140–3) describes the existing procedural codes as containing certain ‘harsh and oppressive’ as well as ‘antiquated, corrupt, and inefficient’ features, and goes on to delineate some of the reforms or revisions that were made.

<sup>22</sup> This special court was launched alongside targeted social programmes and legislation and the creation of a Tenancy Law Enforcement Office under the Department of Justice.

**Table 2.1 Nature and handling of agrarian disputes**

<p style="text-align: center;"><b>Application Cases</b></p> <p style="text-align: center;"><b>Jurisdiction: DAR Adjudication Board (DARAB)</b> (New Rules of Procedure 1997)</p>	<p style="text-align: center;"><b>Implementation Cases (ALI)</b></p> <p style="text-align: center;"><b>Jurisdiction: DAR</b> (DAR AO 6, s. 2000)</p>
<ul style="list-style-type: none"> <li>* The rights and obligations of persons, whether natural or juridical, engaged in the management, cultivation and use of all agricultural lands covered by the CARP and other agrarian laws;</li> <li>* The valuation of land and the preliminary determination and payment of just compensation, fixing and collection of lease rentals, disturbance compensation, amortisation payments, and similar disputes concerning the functions of the Land Bank of the Philippines (LBP);</li> <li>* The annulment or cancellation of lease contracts or deeds of sale or their amendment involving lands under the administration and disposition of the DAR or LBP;</li> <li>* Those cases arising from or connected with membership or representation in compact farms, farmers' cooperative and other registered farmers' association or organisations related to land covered by the CARP and other agrarian laws;</li> <li>* Those involving the sale, alienation, mortgage, foreclosure, pre-emption and redemption of agricultural lands under the coverage of the CARP or other agrarian laws;</li> <li>* Those involving the issuance, correction, and cancellation of Certificate of Land Ownership Award (CLOA) and Emancipation Patent (EP) which are registered with the Land Registration Authority;</li> <li>* Those cases previously falling under the original and exclusive jurisdiction of the defunct Court of Agrarian Relations (CAR) under Section 12 of PD 946, except sub-paragraph (q) thereof and P.D. No. 815. It is understood that said cases, complaints or petitions were filed with the DARAB after August 29, 1987;</li> <li>* Such other agrarian cases disputes, matters or concerns referred to it by the Secretary.</li> </ul>	<ul style="list-style-type: none"> <li>* Classification and identification of landholdings for coverage under the CARP, including protests or opposition thereto and petitions for lifting of coverage;</li> <li>* Identification, qualification or disqualification of potential farmer-beneficiaries;</li> <li>* Subdivision surveys of land under CARP;</li> <li>* Issuance, recall or cancellation of Certificates of Land Transfer and CARP Beneficiary Certificates in cases under purview of PD 816, including the issuance, recall or cancellation of EPs or CLOAs not yet registered with the Register of Deeds;</li> <li>* Exercise of right of retention by landowner;</li> <li>* Applications for exemption: under Sec.10 of RA6657 as implemented by DAR AO 13, s. 1990; pursuant to DOJ Opinion No.44, s. 1990, as implemented by DAR AO 6, s. 1994; under DAR AO 9, s. 1993; and under Sec.1 of RA 7881, as implemented by DAR AO 3, s. 1995;</li> <li>* Issuance of certificates of exemption for lands subject to VOS and CA under DAR MC 34, s. 1997;</li> <li>* Applications for conversion of agricultural lands to residential, commercial, industrial or other non-agricultural uses including protest or opposition thereto;</li> <li>* Right of agrarian reform beneficiaries to homelots;</li> <li>* Disposition of excess area of the farmer-beneficiary's landholdings;</li> <li>* Transfer, surrender or abandonment by the farmer-beneficiary of his farmholding and its disposition;</li> <li>* Increase of awarded area by the farmer-beneficiary;</li> <li>* Conflict of claims in landed estates and settlement;</li> <li>* Such other matters not mentioned above but strictly involving the administrative implementation of RA6657 and other agrarian laws, rules and regulations as determined by the Secretary.</li> </ul>

Source: Teh (2001).

The regular judicial system also grew more complex. The 1980 Judiciary Reorganisation Act created the Intermediate Appellate Court (renamed the Court of Appeals in 1986) and reorganised and renamed the two levels of trial courts (Bacungan and Tadiar 1988). With another reorganisation act three years later, the Courts of First Instance, Circuit Criminal Courts, Juvenile Domestic Relations Courts, and CAR were all

merged to become the Regional Trial Courts (RTCs).<sup>23</sup> Although various other special courts continued to exist, RTCs thus acquired exclusive original jurisdiction ‘[i]n all civil actions and special proceedings falling within the exclusive original jurisdiction of . . . the Courts of Agrarian Relations’ (*ibid.*: 171). They were also given jurisdiction ‘[i]n all civil actions which involve title to, possession of, real property, or any interest therein, except actions for forcible entry into and unlawful holders of lands or buildings’ (*ibid.*). Certain regional trial courts could also be designated by the Supreme Court to handle exclusively certain kinds of cases (including agrarian cases) ‘in the interests of a speedy and efficient administration of justice’ (*ibid.*). For their part, new Municipal Trial Courts’ (MTCs) and Municipal Circuit Trial Courts’ (MCTCs) exclusive original jurisdiction covered criminal cases of a lesser value, as well as cases of forcible entry and unlawful detainer ‘provided that when, in such cases, the defendant airs the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession’ (*ibid.*: 172).

With judicial reorganisation in the early 1980s, regularised lower courts thus gained the power and authority to hear, try and decide all manner of agrarian and agrarian related cases, as criminal, civil and special proceedings. But this apparent re-consolidation of judicial control over agrarian conflicts would be reversed, at least in theory, after the national regime change in 1986. While the 1983 Judiciary Reorganisation Act had incorporated the CAR into the newly created RTCs and vested the former’s jurisdiction in the latter, new legislation and litigation regarding agrarian reform changed all that beginning in 1987. ‘[W]ith the enactment of Executive Order 229 [in July 1987, as a prelude to Republic Act 6657], Regional Trial Courts were divested of their general jurisdiction to try agrarian reform matters. The said jurisdiction is now vested in the Department of Agrarian Reform (Quismundo vs Court of Appeals, 201 SCRA 610)’ (Teh 2001), including the DAR Adjudication Board (DARAB). This should have settled the matter of jurisdiction over agrarian related disputes.<sup>24</sup> But even as late as July 2002 Supreme Court Chief Justice Hilario Davide issued a circular reminding trial court judges ‘of the need for a careful and judicious application of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988’ (Supreme Court Administrative Circular No. 29-2002), suggesting the problem is not the structure per se, ‘but who controls it’ as one informant observed.<sup>25</sup>

In practice, jurisdictional lines in relation to agrarian reform and agrarian reform-related disputes remain unsettled even today, leaving it up to better-equipped litigants and individual judges to determine where – and how – a case will be processed. An underlying source of institutional discontinuity and legal

---

<sup>23</sup> Just to get an idea of volume of cases involved at the time, of 450,000 cases pending in July 1981, 275,707 were lodged in municipal and city courts, 145,228 in Courts of First Instance and Circuit Criminal Courts, 12,726 in the Court of Appeals, 8,188 in the Court of Agrarian Relations, 7,464 in the Juvenile Domestic Relations Court, 4,189 in the Supreme Court, 1,958 in the Sandiganbayan, and 480 in the Court of Tax Appeals (Bacungan and Tadiar 1988: 174–5).

<sup>24</sup> This is the position of numerous agrarian reform legal experts who were interviewed separately for this study, including a University of the Philippines law professor and Executive Director of the Legal Rights and Natural Resources Center (Atty. Marvic Leonen, 11 October 2001); a former Executive Director of the DARAB (Atty. Anna Teh, 10 October 2001), and two permanent members of the DARAB (Hon. Lorenz Reyes and Hon. Augustino Quijano, 11 October 2001).

<sup>25</sup> Interview, Atty. Marvic Leonen, 11 October 2001, Quezon City.

tension is the co-existence of two contending bases of legal interpretation, the 1950 Civil Code on the one hand, and the 1987 Constitution and 1988 Agrarian Reform Law on the other, produced at different historical times and under different social-political circumstances. The 1950 Civil Code takes evidence of title (e.g. absolute deed of sale, tax records, etc.) as the legal basis for land ownership, whereas the 1988 agrarian reform law takes personal cultivatorship as the legal basis for land ownership.<sup>26</sup> And while the 1987 Constitution defines property in terms of its social function, there is no such concept of land under the Civil Code.<sup>27</sup> Rural poor claimants seeking land reform are obliged to mobilise state law administratively through the DAR or the quasi-judicial DARAB structure. But forum-shopping landowners often try to activate the more conservative Civil Code by mobilising the trial courts to defend their claim to property threatened with redistribution and to harass peasant claimants, either by filing dubious criminal charges aimed at weakening their resolve and eating away at scarce financial resources, or by launching a kind of legal blitz intended to confound and overwhelm.<sup>28</sup> In mobilising the regular courts, landowners have a better chance of influencing the outcomes of legal proceedings, since judges are often landowners themselves (and thus more sympathetic to a fellow landowner than an “upstart” tenant or farmworker) or they are part of the extensive elite patronage networks that play a role in judicial appointments to begin with.<sup>29</sup>

Still, while there have been plenty of opportunities for agrarian disputes to either fall through the cracks in this fragmented field or become “stalled in court”, official agrarian dispute processing today is much more tightly regulated and centralised in Department of Agrarian Reform (DAR) administrative and quasi-judicial machinery than in the past. Certain kinds of agrarian cases are to be processed in certain venues, as delineated in Table 2.2. Although jurisdictional conflicts (DAR versus DARAB) also arise here, this is due more to the failure of personnel to follow existing guidelines, rather than the lack of guidelines.<sup>30</sup>

The handling of Agrarian Law Implementation (ALI) cases (see Table 2.1) begins at the lowest levels of the department – that is, with the Municipal Agrarian Reform Officer (MARO) and the Provincial Agrarian Reform Officer (PARO), who are directly involved in investigation of cases. But the power to rule begins only at the level of the Regional Director (RD). Decisions made by regional directors can be appealed to the Office of the Secretary (or the Undersecretary for Field Operations and Support Services on behalf of the Secretary), and then the Office of the President. In turn, decisions made at the Office of

---

<sup>26</sup> Interview, Atty. Marvic Leonen, 11 October 2001, Quezon City.

<sup>27</sup> Interview, Atty. Mabel Arias, a prominent agrarian reform lawyer, 11 October 2001, Quezon City.

<sup>28</sup> The legal tactics of landlords were raised by several of the legal experts interviewed for this study: Atty. Marvic Leonen, Atty. Anna Teh, and Atty. Mabel Arias.

<sup>29</sup> One informant recalled being consulted once by a Court of Appeals judge, who was a landowner trying to figure out how best to eject a tenant from his property. According to another informant (a member of the elite corps of regional trial court judges in Metro Manila who wished to remain anonymous), many of the judicial reforms that were undertaken early in the post-Marcos period were “cosmetic” in nature, and utterly failed to rid the judiciary of corrupt judges. Evidence of this, according to this same informant, could be seen in the fact that additional reforms introduced later – particularly official attempts to strengthen mediation as an alternative to litigation – have not received much support from sitting judges, who see it as cutting into their rent-seeking opportunities.

<sup>30</sup> Interview, Atty. Anna Teh, former Executive Director of DARAB, 10 October 2002, Quezon City.

the President may be appealed at the Court of Appeals and the Supreme Court. In all instances, aggrieved parties may file a motion for reconsideration, but only one such motion is allowed per level before an appeal must be filed at the next level (should the aggrieved party wish to pursue the case further). It is relevant to note that ALI cases tend to take longer to resolve than do cases that go through the department's quasi-judicial adjudication system, for a number of reasons, including the scarcity of lawyers, lack of any timeframe for field personnel to conduct investigation, ocular inspection, interviews and data gathering, and lack of any time frame 'for a particular office to within the Department to act on certain matters affecting the program' (DAR 1996: 8).<sup>31</sup> It may also be the case that technical-organisational problems in the management of ALI cases has contributed to inefficient processing, since it was only in 1995 that official rules were established to guide DAR personnel department-wide in the docketing of cases.<sup>32</sup> ALI cases appear to be far more numerous than quasi-judicial agrarian cases, although it is difficult to know with any great certainty, since the official data available on ALI cases itself is considered unreliable.<sup>33</sup>

For their part, quasi-judicial cases (see Table 2.1) enter the system at the provincial level, through the office of the Provincial Agrarian Reform Adjudicator (PARAD). PARAD decisions can be appealed, either at the next level up in the system, which is the office of the Regional Agrarian Reform Adjudicator (RARAD), or directly at the national-level Department of Agrarian Reform Adjudication Board (DARAB). DARAB decisions can be appealed at the Court of Appeals. If the case is taken to the Court of Appeals and decided against, the petitioner can either file a motion for reconsideration or he or she may appeal a Court of Appeals decision directly to the Supreme Court. Land valuation and just compensation cases receive somewhat special treatment. They start either at the PARAD, RARAD or DARAB (depending on the land value involved) in the quasi-judicial system, but can then be appealed at the Special Agrarian Court (SAC), which is essentially a special session of the RTC with a regular trial court judge presiding. Data from the June 1998 Transition Report of then outgoing DAR Secretary Ernesto Garilao (see Tables 2.2 and 2.3) reveals just how much the 1988 law and the department's quasi-judicial machinery alone had become a site of substantial legal activity since the law's inception, and particularly since the start of the Garilao DAR Administration in 1992. The report reveals that the DARAB improved its case resolution rate over time. Out of the 15,302 cases filed with the DARAB between 1988 and 1992, a total of 8,184 (or 53 per cent) were resolved. By contrast, 112,054 out of 117,487 cases filed (or 95 per cent) were resolved from July 1992 to the end of 1997.

---

<sup>31</sup> According to a landmark 1996 study conducted by the Institute of Judicial Administration at the University of the Philippines Law Center for the Department of Agrarian Reform, 'On the average, ALI cases are resolved within a period of 2,433 days (6 years, 8 months), while DARAB cases get resolved in 442 days (1 year, 2 months, 17 days)' (DAR 1996: 7).

<sup>32</sup> See DAR Memorandum Circular, No 5, Series of 1995, issued on 13 April 1995.

<sup>33</sup> The problem has more to do with double and triple entries in reports coming from provincial and regional levels into the central office of the DAR. On the larger number of ALI cases (versus DARAB cases) see the 1999 DAR Performance Report (p 14) and the CARP 2000 Annual Report (p 12).

**Table 2.2 Number of agrarian cases resolved per year, 1988–2000**

Year	Agrarian cases resolved <sup>34</sup>	Per cent of total
1988	67	0.04
1989	1,107	1
1990	683	0.4
1991	3,981	2
1992	4,692	3
1993	8,872	5
1994	11,248	6
1995	25,949	14
1996	31,816	18
1997	31,823	18
1998	15,260	8
1999	23,832	13
2000	20,578	11
<b>Total</b>	<b>179,980</b>	

**Table 2.3 Age of pending DARAB cases, as of December 1997**

	Central office	All regions
Less than 1 year	511	8,171
Over 1 year	710	1,941
Over 2 years	484	179
Over 3 years	177	13
Over 4 years	33	12
Over 5 years	11	9

It is not clear how many of the resolved cases went in favour of landless rural poor claimants, and how many went in favour of the landowners. Meanwhile, despite the dramatic improvement in the case resolution rate during the period 1992–1998, Secretary Garilao complained at that time that ‘Appealed cases at the Central Office level remain a problem. By law, the DAR Adjudication Board has only three full-time members. Even at 300 cases per member per year, the DAR can only resolve 900 appeal cases’ (Garilao 1998: 26). For this reason the secretary had asked for an amendment to RA 6657 to expand the number of DARAB permanent members to nine, but to date the bill is still pending in the national legislature. Other glitches in the DARAB system include the (as yet) unsystematic dissemination of DARAB rulings, the low autonomy of PARAD judges (provincial adjudicators) *vis-à-vis* landowners and

<sup>34</sup> The data for the years 1988–1997 (Garilao 1998) and then 1998 and 1999 (DAR 1999) and 2000 (DAR 2000) comes from different sources which, along with the fact that 1998 was a presidential-administrative transition year, may account for the rather sudden drop in number of cases in 1998.



problems in the recruitment of qualified and competent adjudicators at the provincial level.<sup>35</sup> But it should be noted that both the DAR administrative machinery and the DARAB quasi-judicial machinery have been characterised by (i) their relatively slow processing of cases and (ii) difficulties in enforcing their decisions especially against landowners in more contentious cases. With respect to the latter problem, it is DAR field personnel or DARAB sheriffs, both unarmed, who are directly responsible for enforcing decisions, although there is a standing agreement between the DAR and the Armed Forces of the Philippines and National Police for support in enforcing decisions. In reality, the existence of such an agreement does not automatically translate into appropriate action, since local power relations often intervene to prevent this from happening. As many DAR and DARAB officials have learned, social pressure from below plays an important role in the speeding up of case processing, and even in ensuring the enforcement of decisions in favour of rural poor claimants.

### *2.1.3 Rural movement field*

Philippine official state policy, as expressed in the 1987 Constitution, the 1988 agrarian reform law and other legal codes, is to promote, encourage and support what are called “people’s organisations”. The DAR in particular has taken constitutional directives in this regard quite seriously, especially under the Garilao administration (1992–1998), as can be seen in Administrative Order (A.O.) No. 7 (Series of 1995), issued in July 1995, which directed all CARP implementing agencies to ‘take the initiative in reorienting their personnel towards ensuring a smooth and fruitful relationship with said organisations’ and then went on to specify how this was to be done.<sup>36</sup> But like its state counterpart, the post-dictatorship rural social movement field in the Philippines has a long, fragmented history. The tendency toward fragmentation in the rural movement field is not only due to changing movement alignments in relation to political-electoral cycles, but also because of basic differences in choice of political strategy among the different key players.

Prior to the passage of the 1988 law, an important national coalition called the Congress for a People’s Agrarian Reform (CPAR) had temporarily brought together several different peasant organisations backed by allied political movements, rural development NGOs, academics, and church activists, in a rare effort to increase the political impact of the landless rural poor sector in the national legislative debate on agrarian reform at that time (Villanueva 1997; Putzel 1998). Formed in May 1987, but too late to influence elections for the first post-dictatorship national legislature, the coalition focused on articulating and popularising the principles of what members called “genuine land reform”, embodied in its founding document, ‘The People’s Declaration of Agrarian Reform’ (Villanueva 1997: 84). When the new legislature convened, CPAR activists worked both inside and outside trying to influence the lawmaking process, and were sorely disappointed when the new land reform law was enacted in June

---

<sup>35</sup> Separate interviews with: Atty. Anna Teh, former DARAB Executive Director (10 October 2001), and Hon. Lorenz Reyes and Hon Augustino Quijano, DARAB permanent members (11 October 2001).

<sup>36</sup> See DAR Administrative Order No.7 (Series of 1995) in Book Three (1994–1996) of DAR Administrative Issuances and Pertinent Memorandum Circulars, p 279–80.

1988. They immediately rejected it in favour of the coalition's own more radical proposal called the People's Agrarian Reform Code or PARCODE, and then launched an innovative but ill-fated campaign to recall the new law using an untested constitutional provision that allowed voters to petition for legislative action (Putzel 1998: 95–6). But the initiative failed to take-off – partly because of technical-legal problems, but mostly because coalition members had already started to move in competing directions on the ground, betraying an equally weak commitment to the PARCODE campaign by all sides. In reality, the legislative struggle had exacerbated pre-existing political divisions within the coalition, that intensified after the law came into being, eventually leading to its collapse around the 1992 presidential election, during which time member organisations were unable to unite electorally, supporting different candidates instead (Franco 2004).

As Borras (1998) notes, the first four years of implementation of the 1988 law seemed to validate CPAR's rejection of it. He explains that this period gave rise to '... public scandals involving anomalous real estate deals, widespread land reform evasions by landlords, several changes of DAR leadership, nonparticipation of major peasant organisations in program implementation, as well as a steady stream of landlord-sponsored legislative initiatives intended to further dilute CARP' (Borras 1998: 45). Very little actual redistribution of private lands through the more social justice-oriented, expropriative compulsory acquisition mode occurred, and what little progress was made came only very slowly. To the surprise of many agrarian reform activists and advocates, the pace and direction of the reform began to change, however, after the 1992 elections brought Fidel Ramos, a former top-level military official in the Marcos dictatorship, to the presidency. One of the chief reasons why was who he brought in to head the DAR. One of the first steps the new president took was to appoint a man named Ernesto Garilao, the head of one of the country's largest mainstream rural development NGOs, to head the agrarian reform bureaucracy. The new DAR secretary, in turn, immediately persuaded President Ramos to back down from his original campaign promise to increase the retention limit under CARP from 5 to 50 hectares. Next, he 'brought several respected NGO activists into the DAR and gave them key positions, and then proceeded to launch a "cleanup" operation inside the bureaucracy' (*ibid.* 48). Equally important, '[h]is other major step was to seek informal consultations immediately with members of the NGO community, to the surprise of many of them. He later instituted both formal and informal consultative groups involving various autonomous peasant organisations and NGOs' (*ibid.* 48–9).

Meanwhile, shaped by competing ideologies and historical experiences since before the dictatorship, and pulled in competing directions while coming to grips with the new regime and the new agrarian reform law, three different tendencies with their own distinct perspectives on state law and its uses began to emerge prior to CPAR's demise in 1993. These tendencies continue to operate today. One embraces a strictly society-centered political framework, while the other two occupy contending poles within a more interactive state-society political framework, which they broadly share. A more detailed description of these three different tendencies within the rural social movement field follows.

On the society-centered side of the field stands the militant “national-democratic” revolution political pole – the militant Peasant Movement of the Philippines (*Kilusang Magbubukid ng Pilipinas* or KMP), a “tip-of-the-iceberg” type of “open-legal” organisation heavily influenced by an underground network of clandestine revolutionary groups led by the Maoist Communist Party of the Philippines (CPP) and its military arm, the New Peoples’ Army (NPA) (Rocamora 1994; Putzel 1995; Rutten 2000; Weekley 2001; Abinales 2001; Caouette 2004). For its part, the underground rebel (clandestine-illegal) movement purports to have its own programme for regulating agrarian relations, which it calls “agrarian revolution”, with a minimum application in the form of “*tersiyong baliklad*” (or the reversal of the traditional 2/3:1/3 sharing arrangement between landowner and tenant) or a maximum application in the form of uncompensated expropriation and free distribution of land to landless peasants. In reality, it is not clear to what extent either of these components was ever implemented, whether before or after the dictatorship period, especially in light of the guerrillas’ policy in some regions to forge “unholy alliances” with rural land elites in exchange for money, arms, and food. What is clear is this bloc’s strident opposition to state agrarian reform law. When the new agrarian reform law was passed in mid-1988, this bloc denounced it as “anti-peasant, pro-landlord” and intensified its ongoing extralegal land occupation campaign in those parts of the countryside where it was then strongest. This marked KMP’s return to the dictatorship-era “expose and oppose” mode of “open-legal” action. KMP’s unverified claim is that it successfully occupied between 75,000 and 100,000 hectares between 1986 and 1990 (KMP 1992). But most of this was later rolled back due to the whole movement’s unpreparedness for the heavy militarisation and violent state retribution in the form of a “low intensity” counterinsurgency war (Kerkvliet 1993; Putzel 1995; Franco 2001b). Nonetheless, since then, this pole has categorically refused to endorse, much less push for land reform, and indeed in places where autonomous “open-legal” peasant movements seeking land reform have emerged in response to the new opportunities to claim legal land rights, the underground rebel movement often tries to undermine them.

It is these relatively autonomous peasant movements then that occupy the other side of the rural social movement field, the interactive state-society side, which can be further subdivided into two distinct poles of attraction. One pole revolves around a group that emerged out of the 1987–1988 legislative struggle and sought to “explore areas of collaboration or coordination” among nongovernmental organisations, peasant organisations, donor agencies, and the government, in the implementation of the 1988 law and its programme CARP.<sup>37</sup> Its originators called this new approach “tripartite” because it aimed to form ‘*harmonious* and productive working relationships’ (my emphasis) between these different parties as an integral part of the quest for agrarian reform implementation.<sup>38</sup> Pilot testing the idea began soon after RA 6657 came into being specifically in places ‘where there are voluntary offers to sell (VOS) and in

---

<sup>37</sup> Ledesma (1988): ‘Workshop Report of the Tripartite Dialogue on Agrarian Reform’, Foreword.

<sup>38</sup> PHILDHRRRA, 1997, ‘Making agrarian reform work: securing the gains in land tenure improvement,’ *TriPARRD Series 1*, prepared for PHILDHRRRA by the Center for Community Services, xiii. See also Liamzon (1996).

occupied lands'.<sup>39</sup> VOS is a mode of land acquisition that was 'devised to reduce landlord resistance to reform' by increasing by 5 per cent the cash portion of the compensation to landlords (with a corresponding 5 per cent decrease in the bonds portion) (Borras 2005: 100). By 1996 the programme had spread to four provinces, and eventually 'was able to move close to two thousand hectares of which 59 per cent were covered by the VOS scheme' (Quitoriano 2000: 16). But it also showed signs of losing steam mainly out of frustration with the effects of increasing landowner resistance and what it perceived as decreasing state "political will" to implement the law on the pace and direction of actual programme implementation. Much of this frustration has been focused on the judicial branch, particularly the Supreme Court for a string of anti-reform decisions, including the highly publicised Mapalad case (see Gatmaytan 1994 and 2000), and the lower courts for knowingly accepting civil and criminal cases filed against peasant claimants by resistant landowners intended to harass and undermine their legal land rights claims (see Arias 1998; and Ocampo 2000). By 1999, the rights-advocacy group PESANTEch (Paralegal Education, Skills Advancement and Networking Technology Project) was arguing that it was specifically in the legal system that peasant land rights claims were getting "stalled" – 'In particular, it is noted that cases filed by or against farmers/ farmworkers pose a major obstacle to government's agrarian reform program's swift and just implementation. Worse, the use or abuse of legal processes threatens, if not altogether undermines the gains already achieved under the program' (PESANTEch 2000: 131; see also Ghimire 2001a).

A third pole likewise emerged with the passage of the 1988 law, as a "strain" within the larger national-democratic political movement (e.g. the same national movement that had given birth to the KMP) that saw the law as an opportunity to experiment with a new approach. This early experimentalist strain within the national-democratic movement hypothesised the need for social movements to "maximise the positive provisions" of the 1988 law, using a state-society interactive approach that explicitly sought to mobilise state law on behalf of peasants' land rights claims. One important institutional product of this "new thinking" within the radical left was the establishment of the legal NGO called the Center for Genuine Agrarian Reform (*Sentro Para sa Tunay na Repormang Agraryo* or SENTRA) in the late 1980s.<sup>40</sup> Its first Executive Director, Atty. Marvic Leonen, went on to become the leader of the 1990s alternative law movement. But while this particular attempt to institutionalise the new thinking faltered on the shoals of an ideological debate and subsequent organisational split within the national-democratic movement, the new thinking itself survived in work that continued of other organisations,

---

<sup>39</sup> Ledesma (1988): 13.

<sup>40</sup> Compared to other legal NGOs involved in agrarian reform rights advocacy at that time, according to one of its original staffers, 'SENTRA was a more militant rights-based legal support group with ND tradition that supported militant claim-making initiatives of then chapters of KMP, although . . . the dominant frame of such initiatives was the expose and oppose (state-centered approach. This is the reason why, initially, SENTRA focused on the more controversial cases (e.g. Poultry case, Hacienda Luisita Case, Langkaan in Dasmariñas, Mindanao State University, test cases on PD 27 implementation, etc.)' (Personal communication, former SENTRA staff who wishes to remain anonymous, 4 June 2004). See Borras (1998) for background on the cases mentioned.

particularly a community-organising NGO called PEACE (Philippine Ecumenical Action for Community Empowerment) Foundation, which developed and popularised an approach that later came to be referred to as the “bibingka strategy” in land reform.<sup>41</sup>

The hypothesis of PEACE organisers, who had once been aligned with the underground movement during the dictatorship but then split away in 1992–93, was that ‘land reform can be implemented in politically hostile settings when a “positive interaction” occurs between pro-reform mobilisations “from below” and pro-reform initiatives “from above”, and where the landlord fails to match such a pro-reform alliance’ (Borras 1998: 6). What made this third tendency unique *vis-à-vis* the other two was (i) its focus on land reform in the most contentious landholdings and politically hostile settings (ii) its understanding of the ‘*inherent* potential for conflict in the relations between objectively allied state reformists and societal actors’ (underscoring added) as Borras (*ibid.*: 20) has put it and (iii) its belief in the critical role of collective political-legal action in breaking down the barriers to land reform put up by anti-reform forces. PEACE organisers, in conjunction with local, landholding-based peasant organisations, helped facilitate the legal redistribution of 196,873.21 hectares of land between 1992 and 1998, plus another 11, 082.307 hectares from 1998 to 2000, for a total of 207,955.517 hectares of land and an estimated 69,560 beneficiary households (or close to half a million landless rural poor people).<sup>42</sup>

This third strain of agrarian reform rights advocacy and action gained greater national prominence much later, with the birth in 1994 of a new coalition called the Partnership for Agrarian Reform and Rural Development Services (PARRDS), which sought to steer a course inbetween these two other main contending poles of action, which it provocatively dubbed “outright opposition” on the one hand and “uncritical collaboration” on the other.<sup>43</sup> The different peasant organisations, rural development agencies, and community organising groups that formally launched this tendency in 1994 sought to develop a stance that was critical of the law at the same time that it maximised its possibilities, ‘including principled partnership with reform elements in government’.<sup>44</sup> Behind this pole’s distinctive combination of focus, understanding, and belief lies a view of state law as ‘a social phenomenon malleable to conscious efforts to achieve social change’ (Leonen 2000), as opposed to either a fixed object immutable to political-legal action, or an inherently “anti-peasant, pro-landlord” given.

The next section examines rural poor claimants’ political-legal mobilisation in three land conflicts where the third type of approach in the rural social movement field was operative. The discussion will try to show how national constitutional-judicial changes created unprecedented opportunities for landless rural poor Filipinos to claim ownership rights on land they tilled as tenants and farmworkers even in the most contentious landholdings, even though, as far as legal land rights is concerned, the overall legacy of post-dictatorship state institutional reforms was an uneven, national-local mixture of “reactive” and “activist” state agency (Damaska 1986) and “dynamic” and “constrained” courts (Rosenberg 1991).

---

<sup>41</sup> See Borras (1998) and also Franco (2001b).

<sup>42</sup> See Franco (2001b) for a breakdown of this figure by landholding and municipality.

<sup>43</sup> PARRDS Strategy and Program for ARRD, July 1994. See also Franco (1999b).

<sup>44</sup> PARRDS Board Meeting Minutes, 30 March 1994.

Whether or not rural poor people in hostile situations took steps to try to claim their legal land rights depended on having access to an effective rights-advocacy organisation. An effective rights-advocacy organisation is one that is capable of performing several crucial functions. It must reach into areas under the influence of cacique hacienda law and help to expand an alternative “rights consciousness”. It must facilitate the birth of alternative collective identities geared toward resisting the hegemonic power of cacique law and initiating political-legal engagement with the state. And it must also help to mobilise the material support needed to sustain a long political-legal struggle and to facilitate connections with potential allies within the state and society beyond the local level. Finally, whether the effort to use state agrarian reform law resulted in actual gains depended on having a proactive, integrated political-legal strategy capable of (i) activating and sustaining agrarian reform law implementation (ii) exploiting independent initiatives of state actors and (iii) resisting legal and extra-legal anti-reform initiatives of state and societal elites.

### **3 Case studies in land rights pacesetting**

The two regions where the land conflict cases presented below are located have a number of important similarities and differences (see Table 3.1). They share similar social histories as former land frontiers, though Davao’s was of greater national significance.<sup>45</sup> Both regions were sparsely populated at the start of the last century, but under American colonial rule Davao del Norte experienced much higher population growth rates than Bondoc Peninsula, a trend that continued into the 1980s. Today, Bondoc on the whole is more sparsely populated and less developed economically largely due to over-dependence on coconut, a high volume–low value crop grown for oil used in both domestic and foreign consumption.<sup>46</sup> Davao Norte’s more diverse economy is based on some high volume–low value crops (coconut and rice), but especially low volume–high value export crops (banana), which has given it an edge in basic infrastructure development. An extensive electricity and road network was built to get Cavendish bananas from distant fields in vast plantations to wharves for loading onto ships for export to Japan.<sup>47</sup> In both places, the closer one is to the centre of town the more likely one is to find paved roads, and vice versa. Both areas have remote interior villages that lack adequate road and electricity access. On average, though, it is harder to move around more parts of Bondoc, where main roads are corridors of dust in the dry season and mud in the rainy season. Though less than 300 kilometres south of the national capital, it can take at least 14 hours to get to the national capital where key government central offices are located from either San Narciso or Buenavista, because of poor road conditions and rundown public transport. It takes at least

---

<sup>45</sup> See Abinales (2000) for an excellent background analysis of the social-political history of Davao in the context of state formation.

<sup>46</sup> See Boyce (1992) and de la Rosa (1994) for background on the political economy of the coconut sector.

<sup>47</sup> But access to such is not evenly spread. Villages outside commercial farms escape the glare of cacique law, but suffer from comprehensive state neglect. Many do not have electricity or paved roads, though they are but 30 minutes from downtown Panabo.

<sup>50</sup> See Manapat (1991) for background on the Floirendos and their rise to regional power during the dictatorship.

4–8 hours on rough roads to get to the region’s main political-commercial hub in Gumaca, located at the entrance to the peninsula from the mainland. Travel costs in terms of time, money, and physical discomfort can be higher depending on where in Buenavista or San Narciso one originates. By contrast, the adjacent municipalities of Panabo and Carmen straddle a well-maintained highway connecting Mindanao’s main commercial centre and international port (Davao City) with the capital of Davao del Norte province (Tagum City). Each is typically anywhere from one to four hours away via public transportation on a combination of rough roads and paved highways, depending on mode of transportation and point of origin within either municipality.

The two regions share a dubious distinction as bailiwicks of an entrenched regional elite whose control over vast quantities of hacienda and plantation land and people has translated into extensive social regulatory power. In Bondoc Peninsula, the two land conflicts studied here are found in the linguistically diverse municipalities of Buenavista and San Narciso, respectively. Together, these two relatively new frontier towns form the peninsula’s geographic centre and bailiwick of the powerful Reyes and Uy families. The area fell under a localised authoritarian-clientelist regime in the 1970s, when Reyes and Uy clan members captured top local government offices under the Marcos dictatorship. A similar situation likewise overshadows mainly Cebuano-speaking Davao del Norte as well, where the case study comes from Carmen, a relatively older frontier municipality located at the heart of a localised authoritarian-clientelist regime controlled by the Floirendo family. The Floirendos also rose to power on the Marcos dictatorship’s coat-tails in the 1970s, enabling them to establish and consolidate their own political and economic enclave there.<sup>50</sup> In both regions, historically, caciques as a process has involved a persistent effort by local aspiring elites not only to expand their wealth in land, but also to impose a system of privatised social ordering on populations living within their landholdings using authoritarian-clientele practices that undermine (rather than reinforce) much of state law.

By contrast, the two regions vary substantially with respect to the presence of the underground communist insurgency. In the 1980s during the Marcos dictatorship both regions saw the rise of the Maoist-inspired underground movement with its own brand of social regulation. After Marcos’s fall in 1986, the guerrilla movement field kept a relatively more sustained presence in Bondoc Peninsula and San Narciso’s upland interiors in particular, than in any of the Davao del Norte towns. In San Narciso, a relatively sustained guerrilla presence obtained in half of the *barangay* where fieldwork was conducted. But this presence was far from being a clearly defined set of “specific and irreducible” objective relations regulating behaviour in society at large (Bourdieu and Wacquant 1992: 97). But perhaps because of its outlawed and fluid status, the underground communist movement lacks transparency, even at the village

level when it is most visibly at work. A dubious opaque quality is perhaps its most remarkable feature in both regions historically, but in San Narciso in particular this has permitted overlap with the cacique field in trying (however unsuccessfully) to keep “disloyal” (pro-agrarian reform) peasants in line.<sup>51</sup>

**Table 3.1 Comparative profile, Quezon II (Quezon Province) and Davao del Norte Province**

	<b>Quezon II</b>	<b>Davao del Norte</b>
Farming system	Mostly large haciendas, with some small owner-cultivator	Mostly large commercial farms, with some small owner-cultivator
Type of peasant	Mostly tenants and seasonal farmworkers	Mostly plantation farmworkers
Type of crops	Mostly coconut, with rice and corn	Mostly banana for export, with rice and coconut
Distance to urban centers and input/output markets	Mostly far, with poor road conditions	Mostly near, with good road conditions
District-level political competition	Medium-high (Urban vs Rural elite)	Medium-low (Intra-Banana elite)
Government agency presence	Medium-low	Medium-high
Court presence	Low	High
External NGO presence	Medium-low	Medium-high
Legal aid groups	Low	Medium
Militarisation	Medium	Medium
Type of militarisation	State, private, rebel	State, private

With respect to state law, one finds a relatively more dense infrastructure available in Davao del Norte than in Bondoc, and this field, in turn, is much denser in Panabo than Carmen. Apart from the usual agents and accoutrements of municipal government such as the mayor’s office and local police unit, Panabo (which acquired city status in 2000) hosts numerous state law agencies. These include a municipal trial court and two regional trial court branches covering five municipalities, a public attorney’s office and fiscal’s office, all of which are housed in a large, stand-alone Hall of Justice in a busy town centre. Carmen comes next in terms of state law field density, with its close proximity to the regional trial court in Panabo and as the seat of a municipal circuit trial court shared with two other neighbouring towns. This dense legal infrastructure tends to serve a more urban poor than rural poor clientele.<sup>52</sup> Local judges are consulted by potential complainants about their legal rights, while the public attorney’s office handles a wide array of cases ranging from family problems, labour problems, land and rural property disputes,

<sup>51</sup> The use of term “disloyal” is inspired by O’Brien (1996), who uses it to refer to elites in China who refuse to abide by or honor official state policies and promises, and have thus become a target of a new kind of peasant mobilisation he calls “rightful resistance”. The term is used here to refer to the mirror image – peasants who refuse to abide by or honor private elite or cacique law and build rights claims around state law instead.

<sup>52</sup> Houtzager interviews with Carmen Chief of Police Calvin Barcena (27 March 2003), Panabo City mayor Rey Gavina (27 March 2003), Panabo City legal officer Albert Bulseco (27 March 2003), Panabo PAO lawyer Imelda Lopez-Eulagio (28 March 2003), and Carmen mayor Jesus Gaviola (30 March 2003).



commercial problems, and a variety of petty crimes. When residents experience labour conflicts such as unfair labour practices or illegal termination, they have the option of taking their case to the nearest office of the National Labor Relations Commission (NLRC) in Davao City, where they may initiate formal arbitration proceedings by filing a complaint. Similarly, provincial agrarian reform officials and the provincial agrarian reform adjudicator are based in Tagum City, while their regional counterparts are located in Davao City. This fairly dense web of state law agencies has coexisted uneasily with the surrounding cacique field historically. While some local agrarian reform officials have reportedly been victimised by violent harassment from big landowners, others have reportedly connived with the latter to prevent proper implementation of the national agrarian reform programme.<sup>53</sup> The most common agrarian reform related legal issues here have to do with (i) farmworker-beneficiary identification and selection (ii) production and profit shares (iii) landholding exemption and land use conversion and (iv) related labour and criminal cases. Problems in agrarian reform law implementation include (i) the limited availability to peasant-claimants of lawyers competent in agrarian reform law (most work for landowners and their companies) (ii) low levels of legal literacy among peasant-claimants (iii) and unclear legal rules on the installation of agrarian reform beneficiaries.<sup>54</sup>

By contrast, Bondoc Peninsula on the whole lies on the far-flung, outer reaches of existing regional state law infrastructure. Regional and provincial state law offices and institutions – including two regional trial court branches, the fiscal’s office and the public attorney’s office, and the provincial agrarian reform office and provincial agrarian reform adjudicator – all are located in distant Gumaca. The regional agrarian reform office and regional agrarian reform adjudicator are located in Manila and the nearest National Labor Relations Commission office is in San Pablo City, Laguna some ten hours away. Bondoc’s nine municipal level courts are serviced by a single judge who must divide time among them every month due to perennially unfilled bench vacancies, bearing poor road conditions and long distances between courtrooms. Buenavista and San Narciso, connected by an unpaved road, share a municipal circuit trial court located in a small room inside the San Narciso town hall, just upstairs from the mayor’s office. As in Davao del Norte, potential complainants in Bondoc Peninsula may seek out local judges for advice about legal rights, but they are far less accessible than in Davao. Here, the most common agrarian reform related legal issues have to do with (i) tenancy (ii) leasehold and (iii) conflicts over DAR versus Department of Environment and Natural Resources (DENR) jurisdiction due to the high volume of conflicts in public lands.<sup>55</sup>

---

<sup>53</sup> The administrative region to which Davao del Norte province belongs, Region 11, is one of the places where a provincial adjudicator (PARAD) left office due to a high level of harassment by landowners resistant to agrarian reform (Interview, Hon. Lorenz Reyes and Hon. Augustino Quijano, 11 October 2001, Quezon City).

<sup>54</sup> Interview, Atty. Manuel Quibod, prominent agrarian and labour rights lawyer based at Ateneo University’s Labor Rights Center in Davao City, 29 July 2001, Davao City.

<sup>55</sup> Separate interviews with Atty. Mabel Arias (11 October 2001, Quezon City) and Atty. Ana Dolor, a senior DAR provincial legal officer in Quezon Province (October 2001, Gumaca, Quezon).

### **3.1 Case 1: SAMACA, municipality of Buenavista – Quezon Province**

This case involves an agrarian dispute between a prominent member of the regional land-based authoritarian elite and 45 tenant households in a 174-hectare property located in Barangay Catulin in the municipality of Buenavista, Bondoc Peninsula. It marked the first hard-won success in this part of the peninsula for peasants petitioning for compulsory acquisition of land under the CARP, and the first time that land owned or controlled by the powerful Reyes family was physically redistributed to tenant petitioners. The SAMACA tenants' successful struggle is thus a landmark case, one that was widely celebrated and eventually inspired many other tenants in the district, previously discouraged or skeptical, to launch their own petitions for land under the state agrarian reform law. The case is a clear illustration of how state law empowers or disempowers, encourages or constrains contending land claimants by according or withholding legal legitimacy. It also shows how the mobilisation of different kinds of pressure from below is necessary to keep rural poor people's struggles to claim legal land rights on track and to convert them into victories. The main legal issue raised was whether or not the land was agricultural and thus covered by RA 6657. The legal-political dynamics of the case revolved around the two sides' competing efforts to win official recognition for their respective claims, however dubious it might have been – as was the case, as will be seen, of the landowner's claim that his estate was an untenanted cattle ranch and reforestation area.

Apart from mobilising extra-legally, both sides used petitions to register their respective claims before administrative and quasi-judicial authorities and imprint them on the proceedings. In the case of the tenants, petitioning was done proactively, to try to steer official proceedings and state intervention from below. The tenants' legal petitions were filed collectively by SAMACA (*Samahan ng mga Magsasaka sa Catulin* or Farmers' Association in Catulin), a landholding-based peasant organisation they had formed prior to an earlier failed attempt to initiate land reform proceedings in the estate. This earlier experience had taught the tenants that local agrarian reform officials could not be relied on to uphold the law, so they would have to involve higher levels from the start. Their first petition was thus filed before national officials to initiate compulsory acquisition proceedings. A second petition was later filed before provincial officials to force the state to take action in defense of the peasant-claimants against landowner harassment. Once the national administrative and provincial quasi-judicial machinery had been activated, the group used direct action to speed-up proceedings and resist or enforce particular rulings. They also mobilised allies and the media to assert their legal rights claims in public and increase their political influence at times when extra pressure was needed. The problem of enforcement of DAR legal rulings eventually became an issue in this case, which in turn led to an important institutional innovation in the form of a high-level liaison officer established between the DAR leadership and the state armed forces. This reform thus lay the ground for a full consummation of the DAR's decision in favour of the peasant claimants.

#### **3.1.1 Background**

The contested landholding used to be part of a much larger tract of privately owned land originally titled to a family during the late Spanish colonial period. The original tract was subsequently subdivided, and its

ownership changed hands several times. In the 1950s and 1960s, the Mayon Realty Corporation, the owner at the time, installed tenants on the portion in Catulin. The land was planted with coconut and a sharing arrangement of 60–40 in favour of the landowner was established, with the tenants shouldering the bulk of production expenses. In 1984, Mayon Realty sold the property to Domingo Reyes, Sr., the town’s appointed mayor during the Marcos dictatorship.<sup>56</sup> The original tenants remained on the property, but the sharing was changed to a more oppressive 70–30 ratio (*tersyo* or “one-third”) in favour of the landowner.<sup>57</sup> At the time, legal regulation of tenancy contracts remained limited to rice and corn lands, and thus did not reach the property. Prior to 1988, existing state agrarian reform law (Marcos’s Presidential Decree 27) likewise did not support tenants making land rights claims in lands devoted to coconut, since it covered only rice and corn lands, and the tenants never thought seriously about owning the land anyway.<sup>58</sup> Although the underground revolutionary movement had established a presence in the municipality for a time between 1982 and 1987, the guerrillas reportedly never attempted to implement any part of the Communist Party’s programme of “agrarian revolution”, whether in its minimum form of *tersyong baliklad* (literally, *tersyo* reversed) or its maximum form of free land redistribution. In Catulin, there was some discussion of the rebels’ *tersyong baliklad* programme, but nothing ever came of it.<sup>59</sup> So the status quo prevailed even after the promulgation of the RA 6657 in 1988 and then well into the 1990s. To cope with the oppressive sharing scheme, the tenants furtively practiced everyday forms of resistance (*palusol*), mainly under-declaration of the harvest – in effect, trying to unilaterally claim subsistence rights, individually and in secret.<sup>60</sup>

In 1994, a technician from the Philippine Coconut Authority tasked with organising coconut farmers for a fertiliser dispersal project went to their area and happened to tell them about RA 6657. He encouraged them to inquire at the local DAR office, which the inspired tenants did, but to no avail. The municipal agrarian reform officer told them that the landowner was a “heavy opponent” (*mabigat na kalaban*) and “big fish” (*malaking isda*) and that contesting him for ownership of the land under CARP would be too difficult – in effect, trying to exclude the property from the official scope of the program by fiat. But he also advised the tenants that in order to defeat such an opponent they would have to organise themselves first.<sup>61</sup> Later, a technician from the Department of Agriculture also came through, and helped them to organise a village-level organisation, which they called SAMACA, a requirement to avail of department programmes. But despite several attempts by the tenants to push the issue and open up an institutional access route for claiming land under RA 6657, the way remained closed for another two

---

<sup>56</sup> Franco (1998b).

<sup>57</sup> Background information on the case has culled from separate interviews with a former vice-mayor of Buenavista, SAMACA leader Edgar Lopez, and PEACE documents.

<sup>58</sup> Interview, Provincial Agrarian Reform Officer for Quezon II Alex Cruz, September 1998, Gumaca, Quezon Province.

<sup>59</sup> Interview, SAMACA leader Edgar ‘Ka Eddie’ Lopez, October 2001, Quezon City.

<sup>60</sup> Interview, SAMACA leader Edgar ‘Ka Eddie’ Lopez, October 2001, Quezon City.

<sup>61</sup> Interview, SAMACA leader Edgar ‘Ka Eddie’ Lopez, October 2001, Quezon City.

years.<sup>62</sup> Around this time, the landowner, who had apparently been tipped off by the municipal agrarian reform officer, coerced each of the tenants into signing a blank piece of paper, the purpose of which would remain hidden for the time being.<sup>63</sup>

By 1996, the tenants were ready for a second attempt to bring state agrarian reform law to the property. What had changed was the arrival at that time of community organisers from the national non-governmental organisation called PEACE Foundation. PEACE had been hired by the Bondoc Development Project (BDP), a joint Philippine-German government regional integrated development project, to organise tenants in Buenavista and the neighbouring municipality of San Narciso precisely for agrarian reform claim making. Organisers from another NGO previously hired for this particular “key result area” of the project had refused to enter either of the two municipalities for fear of violent retribution from big landlords such as Reyes. They had thus preferred to work instead in areas relatively free from despotic landlordism, thus delaying the programme’s progress for some time.<sup>64</sup> By contrast, PEACE organisers specialised in such settings, having worked in similarly hostile areas elsewhere in the archipelago since the late 1980s. A key element of the group’s community organising approach was what it called “pacesetting”, a strategy where the community organiser deliberately targets the most difficult cases within a particular region first, in order to set the momentum for an entire land reform campaign.<sup>65</sup> By 1996, PEACE was well into using its innovative “bibingka” strategy in agrarian reform wherever it could. First contact between the PEACE organisers and SAMACA leaders came during a paralegal training on agrarian reform sponsored by the BDP in early 1996. Subsequent brainstorming sessions between the two groups led to an intensive, semi-clandestine agrarian reform rights education drive to prepare all 45 tenant households (and 56 individual beneficiaries) inside the property for land rights claim making.<sup>66</sup> Here, the local Catholic Church, led by the bishop, played a critical role in lowering the start-up costs of mobilisation by providing institutional cover for organising and public legitimisation of their unprecedented struggle for land against the town’s most powerful landlord family.<sup>67</sup> The next piece of the tenants’ claim-making machinery at the local level fell into place in mid-1996 with the formation of a municipal-level peasant organisation, the Buenavista Bondoc Peninsula Farmers’ Alliance, out of four landholding-based organisations of tenants poised to claim land rights under RA 6657.

---

<sup>62</sup> See Fox (1993b) for the concept of institutional access routes.

<sup>63</sup> Interview, SAMACA leader Edgar ‘Ka Eddie’ Lopez, October 2001, Quezon City.

<sup>64</sup> Interview, Edwin Pancho, former BDP Agrarian Reform Subject Matter Specialist, April 2002, Quezon City.

<sup>65</sup> Interview, Edwin Pancho, former BDP Agrarian Reform Subject Matter Specialist, April 2002, Quezon City.

<sup>66</sup> This unprecedented rights education activity took place inside the well-guarded estate over a period of several weeks. To avoid detection by the landowner’s roving army of “goons”, the team of two PEACE community organisers and seven SAMACA leaders simply piggy-backed discussions of tenants’ rights under RA 6657 on the community’s weekly Catholic mass at the barangay chapel. All but four of the tenant households belonged to the ‘basic Christian community’ (MSK) organised region-wide by the Catholic Church, and one of the SAMACA leaders was also an MSK leader. In between Sunday masses, the SAMACA leaders monitored the developing discussion within the larger tenant community, stepping in to deepen the discussion with those already convinced, while offering additional processing for those still too afraid, until eventually all the families agreed to participate in a SAMACA-based campaign to claim their land rights.

<sup>67</sup> Interview, PEACE Community Organiser, Santiago Corpuz, April 2002.

### *3.1.2 The conflict and its political-legal trajectory*

In August 1996, the 45 tenant households in the 174-hectare property, through SAMACA, submitted their petition and presented their case for land reform to the government during a dialogue with the national head of the Department of Agrarian Reform, Secretary Ernesto Garilao. In the dialogue, the tenants were able to discuss tactics with the top government officials and DAR field personnel. It came to light that the MARO had falsely reported that there were no claimants in the property, a claim that SAMACA's petition clearly belied, and giving SAMACA solid grounds for demanding that the MARO be replaced, which he was. In response to the group's petition, the secretary, himself a former rural development NGO worker and admirer of PEACE's agrarian reform organising work, ordered the immediate start of compulsory acquisition proceedings.<sup>68</sup> He sent his undersecretary for field operations to tour the area, in hopes of sending a clear signal to the landowner and communicating to the larger community that the DAR was resolved to redistribute the property. Yet even high-level directives did not translate directly into results. Indirect landowner resistance through the official Registry of Deeds (ROD) caused delays in the administrative proceedings, since the official notice of coverage could not be served without proof of ownership in the form of a title, and the title for the property was initially reported as "lost". The title was eventually "found" only after pressure was placed on the ROD by a top-level DAR task force, permitting the notice of coverage to be issued in late 1997.

In the meantime, to be sure, the underlying conflict had not stood still with the start of administrative proceedings. Even before the notice of coverage could be issued and while the title was still "lost", the landowner had begun taking dubious steps inside the property to alter its appearance. He sought to make it look like an untenanted cattle ranch and tree reforestation project area, in hopes of eventually evading agrarian reform coverage. The dialogue with DAR Secretary Garilao, along with his ordering of compulsory acquisition proceedings, had renewed the tenants' confidence that the force of state law was on their side. They had thus been emboldened to plant food crops on the contested land, in defiance of hacienda law. But as the technical proceedings plodded slowly along, the landowner gained new momentum by taking the initiative on the ground. In July 1997, armed men began constructing a new barbed-wire perimeter fence around the entire property and workers were brought in to plant mahogany tree seedlings – a crude attempt to project the land as forested and non-agricultural and so outside the legal bounds of expropriation. Then, more than a hundred cattle and a dozen horses were released inside the fenced-off property a few months later, destroying the subsistence food crops that the tenants had been cultivating. These moves clearly revealed intent to bend the law, since not just land, but also land use is highly regulated under Philippine law. For a property to be eligible for exemption as a cattle ranch, for example, it would have had to have already acquired the legal status as such (with proper documentation)

---

<sup>68</sup> Interview, SAMACA leader Edgar 'Ka Eddie' Lopez, October 2001, Quezon City.

before the effectivity of RA 6657 in 1988.<sup>69</sup> It would also have had to be maintained with a 1-to-1 cattle to hectare ratio at all times since then.<sup>70</sup> To succeed in this ruse, the landowner would have to either change the existing law or recruit government field agents to lie on his behalf.

Meanwhile, with well-armed men from the landowner's private army visiting the tenants every morning, some reluctantly began retreating to safer ground among family or friends in neighbouring villages or the town centre.<sup>71</sup> Growing tensions inside the property came to a head after SAMACA filed a formal complaint against the landowner at the provincial DAR office and the office of the provincial agrarian reform adjudicator (PARAD), asking for government intervention in the matter. In their petition, they detailed the various acts of harassment by the landowner and argued that these constituted violations of their rights as tenants (rather than as prospective beneficiaries of agrarian reform). The barbed wire fencing made ingress and egress unduly difficult for them, while the cattle and mahogany planting impinged on their planting secondary crops.<sup>72</sup> The move to petition the state was both reactive and proactive. It was a reactive use of law in the sense that it was made in response to actions already undertaken by the landowner against them. But the filing of the petition was also a proactive juridical move on SAMACA's part, intended to force the government to intervene in defense of tenants' rights against an erring landowner. Their petition was thus a calculated attempt to force agents of state law to become more deeply involved in the conflict on the side of the tenants and, hopefully, shift the balance of power in their favour. But the legal-political impact of this tactic at first appeared to be mixed at best, and possibly even detrimental to their cause.

Initially, the adjudicator did issue a temporary restraining order against the landowner, instructing him to remove the animals, thus appearing to undermine the latter's claim. During the hearings, though, the landowner managed to juridically register his claim to the land and keep it alive for the time being by testifying that the land had been an untenanted cattle ranch since 1994, in an effort to counter the tenants' claims that he had violated their tenancy rights. He presented as evidence the blank papers the tenants had previously been made to sign, where they allegedly agreed not to plant secondary crops anymore since the land was being converted to pasture. But in so doing he inexplicably put himself on thin ice legally, since the cut-off year for being eligible for exemption from agrarian reform coverage was 1988, not 1994 – a technical-legal miscalculation that would cost him dearly in the long run. Still, in the short run, the meeting in court apparently had emboldened him considerably, for he proceeded to defy the PARAD order and instead brought an additional 100 hired farmworkers, escorted by armed security guards, into the property. This he did with impunity since the local police, evidently loyal to the landowner, simply refused to enforce the PARAD court order. Then in December 1997, armed men aided by animals and bulldozers forcibly ejected the remaining eight tenant families, destroying their food crops, bulldozing their homes,

---

<sup>69</sup> Interview, former DARAB Executive Director Attorney Anna Teh, October 2001, Quezon City.

<sup>70</sup> See DAR Administrative Order No.9, Series of 1993, 'Rules and Regulations Governing the Exclusion of Agricultural Lands Used for Livestock, Poultry and Swine Raising from the Coverage of the Comprehensive Agrarian Reform Program (CARP)'.

<sup>71</sup> Interview, SAMACA leader Edgar 'Ka Eddie' Lopez, October 2001, Quezon City.

<sup>72</sup> QUARDDS Case Brief on the 174-Hectare Domingo Reyes Property, undated.

and threatening to parade them hog-tied through the town centre if they resisted. Again, the local police stood aside. Meanwhile, without an armed force of their own, municipal and provincial agrarian reform officials were powerless to defend the victims, even if they had wanted to at that point.

With his unrestrained extra-legal offensive, however, the landowner had placed himself (wittingly or unwittingly) beyond the pale of the law on one critical legal issue, which in a roundabout way, would end up working against him. It was well established under existing state law that tenants could not be evicted without due process and court authorisation.<sup>73</sup> To legally eject the tenants, the landowner would have had to file a case for “ejectment” before DAR adjudicators and be able to show an exemption clearance from the DAR as basis for the exclusion of the property from agrarian reform coverage and for the filing of the ejectment case. This he could not do, not yet at least. Otherwise, without such, the tenants had the right to be maintained in peaceful possession of the property.<sup>74</sup> In effect, the landowner had put the cart before the horse juridically, when he forcibly ejected the eight tenant families in the absence of a court order. Politically, the offensive had exposed more “disloyal” agents of state law – this time, the local police and, a few months later, the provincial adjudicator. In March 1998, the PARAD issued a decision in favour of the landowner, based on an ocular inspection ‘made by the PARAD himself that attested to three arguments presented by the landowner: one, that the land is devoted to livestock (cattle) raising; two, that the land is above 18- degrees slope; and, three, that the land is untenanted’.<sup>75</sup>

Meanwhile, in the wake of their ejectment from the contested property, the tenants had initiated extra-legal actions both at the national level and local level, intended to push the state agrarian reform administrative machinery to speed-up the still ongoing compulsory acquisition proceedings. They were helped along in this by the increased organisation of peasants in Bondoc Peninsula and expansion of the Buenavista network of peasant associations. Key was the formation of an inter-municipal federation called the Peasant Movement of Bondoc Peninsula (*Kilusang Magbubukid ng Bondoc Peninsula* or KMBP) composed of landholding-based peasant organisations whose landholdings had previously been left out of official agrarian reform coverage by local officials. Both SAMACA and its municipal network joined the new regional formation, boosting their political clout. KMBP vigorously took up the case of SAMACA’s struggle for land in Catulin as a test case for the organisation and its strategy of militant constructive engagement with the law, launching a camp-out at the DAR central office in January 1998 to focus attention on the case. The action got material and moral support from some members of Congress and national, Manila-based NGO allies.

When the PARAD issued its flawed ruling, the tenants, now supported by a denser network of allies locally and nationally, intensified their social pressure locally (with an unprecedented “people’s march” in the Buenavista town centre as a show of popular force), provincially (with demonstrations outside the

---

<sup>73</sup> The principle that ‘the security of tenure of tenants once established is supreme and he cannot be ejected from his landholding without authority from the Court for causes provided by law’ is supported by numerous legislative acts and executive decrees, including RA 1158, RA 3844, and PD 27, and upheld by RA 6657.

<sup>74</sup> Interview, former DARAB Executive Director Attorney Anna Teh, October 2001, Quezon City.

<sup>75</sup> Interview, PEACE Community Organizer Danilo Carranza, May 2003, Quezon City.

PARAD office and dialogues with the governor), and nationally (with a meeting with national officials of the Philippine National Police to complain against the local police). At the same time, they filed an appeal with the national DAR Adjudication Board (DARAB) and continued to dialogue with different levels of DAR officials. The combined forms of pressure and resistance worked in the short term to speed up the technical acquisition process with the resulting activation of the Land Bank for the land valuation and the Department of Environment and Natural Resources (DENR) for the land survey. In the longer term, it worked to discredit the landowner's ongoing attempt to subvert the law via the PARAD. In a desperate last attempt to avert reform, the landowner had filed a new petition at the DARAB for exclusion of the property, this time presenting highly dubious official certification from the municipal Department of Agriculture office that the land was used for cattle ranching, and an equally dubious permit from the DENR's district level Community Environment and Natural Resources Office (CENRO) showing that it was a mahogany reforestation area.

Responding to the pressure from below, the DARAB ruled unequivocally in favour of the tenants in June 1998, denying the landowner's petition for exclusion and reversing the provincial adjudicator's earlier decision. In setting aside the earlier erroneous PARAD decision, the DARAB (1) declared the plaintiffs-appellants 'as bona fide tenants of the subject landholding and entitled to peaceful possession thereof'; (2) declared the land as covered by the CARP; (3) ordered the defendants-appellees 'to remove all the cattle from the subject landholding to avoid destruction of crafts and properties of Plaintiffs-Appellants'; and prohibited the 'Defendant-Appellees and their armed men from entering the premises in question and molesting the people occupying the same'.<sup>76</sup> The landowner's appeal was later dismissed by the Third Division of the Court of Appeals in July 1998 on a technicality, 'for failure to comply with the requirements of the rules on non-forum shopping', and a subsequent motion for reconsideration was denied in August 1998, on the basis of a previous Supreme Court ruling that 'subsequent compliance . . . will not warrant a reconsideration of the order of dismissal unless it is shown that non-compliance was due to compelling reasons'.<sup>77</sup>

At this point, on the strength of the DARAB ruling, the tenants attempted to re-occupy a portion of the property and plant food crops, but were driven off again by the landowner's men. In retaliation, the landowner closed down the provincial road, which happened to run through the Catulin property and connected the town to neighbouring municipalities. With the failure to re-occupy the land, it became clear that the tenants had won their case administratively and quasi-judicially, but not on the ground, at least not yet. Indeed, the tenants were still not able to physically occupy the land because of the high potential of violent resistance from the landowner, who still controlled the local police and had his own security force as well. The pressing issue now became how to complete implementation of the law by re-installing the tenants inside the property as official agrarian reform beneficiaries (their new status having been

---

<sup>76</sup> DARAB Decision dated 25 June 1998.

<sup>77</sup> Court of Appeals Third Division, Resolution, 27 August 1998. The previous Supreme Court ruling referred to in the resolution is *Teehankee, Jr. v. Hon. Madayag and the People of the Philippines*, G.R. No. 102717 En Banc Resolution, 12 December 1991.



confirmed by the DARAB ruling). To SAMACA and its allies, the answer was obvious, if unconventional: the fullest force of the law would have to be used to fully consummate the ruling in practice. This meant that the DAR would not implement the decision on its own, but that other state agencies would participate as well, particularly the armed forces.

Responding to renewed social pressure, due in part to recent national elections and in part to an explosion of CARP-related land conflicts region-wide, the incoming national DAR leadership under former rebel leader Horacio Morales created an Inter-Agency Task Force composed of top-level officials from the DAR and DENR, the Armed Forces and National Police, the Department of Social Welfare and Development and the Commission on Human Rights, as well as members of Congress. Its task was to deal with “flashpoint” cases where the threat of violence was most imminent. This was something that KMBP and PEACE had been pushing for. Intensive media exposure also added to growing momentum in favour of consummating the implementation of agrarian reform in Catulin, particularly a series of brief but critical investigative pieces shown on primetime television about the land problem in Bondoc that highlighted the Catulin farmers’ struggle against the Reyes family. The new task force immediately took up the specific case of the Catulin peasants, and proceeded to work out a plan for re-installation of SAMACA inside the property.

On September 1998, the Inter-Agency Task Force, led by the new DAR undersecretary for field operations, and backed by several units of the Philippine military and provincial police, and accompanied by a full complement of journalists and media photographers, arrived by helicopter in Catulin. They intended to escort the new peasant-landowners back onto the awarded land. It was a landmark event, involving a major coordinated military-police operation using an army truck, two army armed personnel carriers and several helicopters. Starting at the elementary school grounds where the helicopters had landed, the new DAR undersecretary and his entourage proceeded through the town to a crowded municipal meeting hall, where newly elected local government officials and the SAMACA farmers and their supporters welcomed them. A short programme followed where the re-installation plan was reviewed, before the whole gathering, led by SAMACA, boarded trucks and proceeded to the main gate of the contested 174-hectare property. There, the tension became palpable. Would Reyes try to resist? It would be easy enough to lure the former tenants deep inside with a false sense of security, and then attack once the national government presence and media glare faded away. Indeed, the task force, in consultation with SAMACA, had already worked out a plan to avert such a possibility, which thus provided for the establishment of a temporary military encampment inside the property that would be staffed by fresh military units from outside the region. But still, anything could happen. Upon reaching the main gate, the large procession was met by the former landowner’s chief overseer and right-hand man in Buenavista, who made a vain attempt to prevent the peasants from re-entering. A long, tense delay ensued, which gave the large military escort time to take up positions along the dirt road leading deep into the interior of the property. Then the moment finally came to consummate the tenants’ struggle for the land, and as the

barangay captain of Catulin, a SAMACA leader, called their names one by one, each of the 56 new owners went forward, carrying young tree seedlings for planting – symbols of a promising new life borne out of rightful struggle.<sup>78</sup>

### **3.2 Case 2: MSMSL, municipality of San Narciso – Quezon Province**

The SAMACA victory marked a major “pacesetting” breakthrough that had important spillover mobilising effects on tenant communities across the region, including in the neighbouring municipality of San Narciso. There, however, rising demands for land reform were met almost immediately with violent responses from landowners. The second case involves what would turn out to be an especially violent conflict between another prominent member of Bondoc’s regional landed elite, referred to here as the “landholder”, and 35 tenant households, over a 130-hectare landholding located in Sitio Libas, Barangay San Vicente, a remote upland village in the municipality of San Narciso. More than in the SAMACA case, the MSMSL tenants’ struggle for land shows how state law can shape pressure from below in unexpected ways – in this case, by providing a legitimate framework for a collective boycott of share payments, which served to eventually expose the dubious nature of their elite opponent’s landownership claim. The case also demonstrates, however, just how vulnerable to non-state authoritarian repression, peasant petitioners can become when they try to press their legal land rights claims. This suggests that where the entrenched power of local authoritarian elites is fundamentally challenged, an integrated political-legal strategy alone may not always be enough, and that timely and decisive state intervention to defend peasant petitioners’ right to claim property rights may also be required.

The main legal issues that arose in the case were first, land ownership, and second, land classification. Regarding the land ownership issue, apart from petitioning for agrarian reform in the property, the tenants directly challenged the ownership claim of the landholder, which was manifested in his demand that the peasants make share payments. Interestingly, even the relevant state actors did not know whether the landholder legally owned the property or not – revealing the extent of dominance of cacique law over state law when the peasant-claimants began to demand land reform.<sup>79</sup> Regarding legal classification, at issue was whether the contested property was officially classified as (i) inalienable public land such as public forest or timberland zone (ii) alienable and disposable public land that simply has not yet been titled but may be, or (iii) private land with proper evidences of ownership. The answer to this question would determine which set of agrarian reform legal rules and procedures under the 1988 law would apply, and relatedly, whether or not the landholder or elite claimant to the land would be eligible to claim and receive “just compensation” from the government for land redistributed.<sup>80</sup> But the issue did not arise until well

---

<sup>78</sup> This is my own account of the reinstallation. The military detachment that had been set up inside the property remained in place for about a year, before being dismantled and the troops withdrawn without incident. Five years later, in early 2003, peace still prevailed inside the property and a new farm-to-market road was being built with support from the municipal government.

<sup>79</sup> This point was made by Danilo Carranza, one of the PEACE organisers who helped to open up the Bondoc Peninsula in the late 1990s and later became a research assistant for this project.

<sup>80</sup> Interview, Atty. Mabel Arias, legal consultant on the case, 11 October 2001, Quezon City.

into the 1990s, after two of the tenants were jailed on criminal estafa charges. Another legal issue that arose was whether or not a tenant who fails to deliver share payment to the landholder could be said to have committed the crime of estafa. The usual legal argument against applying estafa in such cases assumes that the landholder's claim of ownership is legally valid. But legally valid land ownership could not be assumed here, and the realisation of this by the tenants gave birth to a remarkably integrated political-legal tactical innovation that enabled them to gain a major legal foothold in the struggle for the land.

The putative landowner in Sitio Libas certainly behaved as such: he had been collecting share payments from the tenants for years. Yet proof of ownership in the form of a title could not be found when the tenants began to investigate. Without a title, a landholder's claim to the land remained faulty, which in turn called into question the existence of tenancy relations. Uncovering the landholding's true status, when the landowner preferred to keep it hidden, turned out to be of strategic importance to their struggle for the land. The tenants thus devised a collective share payment boycott to goad the landholder into filing qualified theft or estafa charges against them. To argue the case in court, the landholder would have to show proof of his ownership of the property. If he could produce a title, then state agrarian reform law would become operational in the same manner as it had in Catulin, regardless of the outcome of any criminal case. If the landholder could not produce a title, then in all likelihood the struggle was over public land that he controlled illegitimately, ruling out both a successful criminal case and a chance to try to resist reform in a manner similar to what had been done in the Catulin case. The property could still be subjected to state reform, although through whichever mode appropriate under the land classification that applied. If the conflict turned out to be over alienable and disposable public land, the peasant-claimants would contest the landholders' claim through their own application for title. If it turned out to be over inalienable public land, then they could apply to become holders through the Community Based Forest Management Program. In either case, the force of state law was on their side, even if other crucial elements were not.

In fact, unlike in Catulin, the rural poor claimants in this case were embedded in a much more intensive set of authoritarian relations, marked by a more settled presence of the underground guerrilla movement, alongside the landholder's private armed force. Once provoked, these two groups, reportedly in alliance with each other, would seek to prevent the Sitio Libas tenants from claiming the land through state law and then to punish them when they did so, eventually undermining their physical control of the land even as their legal claim gained strength. At the same time, the potentially countervailing state military and local police presence was (and still is) strongly counterinsurgency-oriented and highly suspicious of any autonomous social movement and nongovernmental organisation activity. They soon proved to be of little help in guaranteeing the tenants' effective access to basic human rights against the predations of either the guerrillas or the landholder's goons. In the absence of central state effort to safeguard human rights, the Sitio Libas tenant-petitioners suffered violent retaliatory attacks resulting in tragic losses of life and physical dislocation, revealing the need for an even more comprehensive and integrated effort to gain central state recognition in order to mobilise the fullest force of state law in defense of those rights.

### *3.2.1 Background*

The tenants, mainly from the neighbouring island of Masbate, were first recruited to the area beginning in the early 1970s by an overseer of the Uy family, who, along with the Domingo Reyeses, were leading members of a rising local authoritarian elite. There were no contracts involved in recruiting tenants, only the promise of a steady livelihood. When they arrived the area appeared to be abandoned pastureland with barbed wire fencing, which the new tenants cleared and planted with coconut. A sharing arrangement of 60–40 in favour of the man, who claimed to be the owner, was established, with the tenants shouldering the bulk of production costs. Like their counterparts in Catulin, most tenants in Sitio Libas practiced everyday forms of resistance, mainly in the form of under-reporting the harvest, in order to survive the harsh conditions, even though overseers constantly threatened them with criminal charges or expulsion if they did.<sup>81</sup> Later, the underground guerrilla movement seeped into the area and New People's Army cadres began organising the tenants into a clandestine, revolutionary peasant association, with vague promises of free land after victory.

Sometime in 1996, the landholder offered part of his extensive holdings in the area for redistribution through the voluntary-offer-to-sell (VOS) mode provided for in the 1988 agrarian reform law. It was then that the tenants in Sitio Libas first heard about the government agrarian reform programme, since they were made to fill out required forms even though they did not become beneficiaries of the sale. Under the circumstances, they did not learn much about the law, seeing only what the landholder needed them to know for the sake of the VOS transaction. The portion of the property that they occupied remained untouched, with the same sharing system intact. During this time, PEACE organisers arrived in San Narciso and slowly began to build contact with tenants in different parts of the municipality, gradually revealing a very different perspective on the government agrarian reform programme than either the landlord or the rebels had provided. But because of their relatively greater political-geographic isolation and remoteness – the contested property lies at about a strenuous three-hour hike along interior rough road and jungle footpaths from the nearest provincial road – and combined with the greater presence in the area of underground guerrillas, not to mention the landlord's private army, an especially hostile political climate prevailed in Sitio Libas well into the 1990s, effectively sealing it off from alternative sources of information.<sup>82</sup> The difficult political climate, in turn, contributed to a lag in making contact between the PEACE organisers and Sitio Libas tenants, compared to the relatively quicker process that was by then already unfolding in Catulin.

### *3.2.2 The conflict and its political-legal trajectory*

The Sitio Libas tenants' struggle for the land and contact with PEACE organisers took off only after the landholder filed criminal charges of estafa against two of their colleagues, a father and son, in June 1997. The two were arrested and jailed for allegedly stealing two sacks of copra (smoked dried coconut meat).

---

<sup>81</sup> FGD, Sitio Libas Tenants, San Juan, San Narciso, 14 February 2002.

<sup>82</sup> The hostile political situation in San Narciso in the 1990s is discussed in Franco (1998a).

Under Article 315 (1b) of the Revised Penal Code, estafa (or swindling) refers to ‘misappropriating or converting, to the prejudice of another, money, goods, or other personal property received by the offender in trust, or on commission, or for administration, or under any obligation involving the duty to make delivery of, or return, the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property’. Despite its ‘utter lack of legal or moral basis’ in this and other similar cases, the practice of charging peasants with the crime of estafa is believed to have grown in the 1990s.<sup>83</sup> As activist agrarian lawyers argue, the validity of the charge is automatically limited by the operation of leasehold law on all tenanted lands. Under leasehold law, ‘the pertinent liability of the tenant to the landholder is a mere monetary civil obligation to pay lease rentals’ and failure to do so is not in the nature of ‘conversion or misappropriation of such money or goods received’, which is the essence of estafa.<sup>84</sup> Charging tenants with estafa thus constitutes a ‘crooked legal maneuver’ indeed by elite landholders resisting redistribution under the government agrarian reform programme.<sup>85</sup> It could thus be considered even more legally and morally “crooked” (not to mention untenable) in cases, such as the present one, where the landholder does not legally own the land and is simply pretending to own it in order to collect share payments from impoverished peasants.

But in June 1997, when estafa charges were filed against the two tenants, they were not yet aware of the pertinent legal requirements for such charges to hold water, much less the underlying possibility that the landholder did not even possess a proper land title.<sup>86</sup> They did not personally know any private lawyers who might have helped them out of their immediate predicament, nor were they familiar with the office of the public attorney (PAO), whose job it is to take up indigent cases. And so they instead reached out to the local guerrillas for assistance; after all, the rebels had once mentioned providing free lawyers to peasants in trouble with the law. The rebels’ response, however, was disappointing, reportedly limited to a mere promise to discuss the matter with them after the two men were released from jail.<sup>87</sup> Without immediate access to a lawyer who could explain and assess the charges, the two men ended up staying in jail for 59 days. The municipal judge, who early on had informally advised them that the charges were in fact weak, eventually reduced their bail and released them. In the meantime, some of the tenants in Sitio Libas had stopped harvesting in their assigned tillages, out of fear that they would be next to suffer the hardships of being thrown in jail. The PEACE organisers learned about the incident during a visit to another barangay located below San Vicente along the main provincial road. Another Sitio Libas tenant, who happened to be a close relative of the two men, had met the new arrivals at some point and subsequently arranged for a meeting. The two groups eventually met and discussed the situation, and the tenants accepted an invitation to join a BDP-sponsored dialogue between other peasant land claimants in

---

<sup>83</sup> The nongovernmental organisation PESANTech reported in 1998 a growing number of its paralegals and members of partner peasant organisations ‘being invariably charged with the commission of said crime’ (Arias 1998: 1).

<sup>84</sup> Arias (1998: 3).

<sup>85</sup> Arias (1998: 1).

<sup>86</sup> FGD, MSMSL Leaders, San Juan, San Narciso, 14 February 2002.

<sup>87</sup> FGD, MSMSL Leaders, San Juan, San Narciso, 14 February 2002.

neighbouring landholdings and municipalities and provincial and national DAR officials. There they met a BDP lawyer who volunteered to take the estafa case. After several hearings, the case was indeed dismissed on 17 January 1998 by the municipal judge, on the grounds that there was not sufficient evidence to prove that the accused had committed estafa.<sup>88</sup>

In the meantime, after joining a succession of similar dialogues, some of the Sitio Libas tenants, led by one of those who had been arrested, began to think seriously of staking a legal claim to the land. They also began to realise that their lack of an “open-legal” organisation and political orientation – as opposed to the clandestine, underground organisation and orientation being provided by the guerrillas – was a problem. Clandestine anti-state organisations by definition do not engage the state to gain access to legal rights under state law, which they now determined that they needed to do. So with the help of PEACE organisers, they formed a new organisation called the Free Association of Farmers in Sitio Libas (*Malayang Samahan ng mga Magsasaka sa Sitio Libas* or MSMSL) to be their main vehicle in a state-law oriented struggle for the land. In October 1997, MSMSL submitted their petition for agrarian reform coverage of the property to the provincial agrarian reform office (PARO). In taking this step, the tenants clearly signaled their dissociation from “hacienda law” on the one hand and “guerrilla law” on the other. They soon learned however that plotting their own course was not acceptable and would not be tolerated by either local authority. At the same time, ironically, because MSMSL was neither a government-initiated nor sponsored organisation, the group now came under suspicion by the local police and military of being anti-government rebels.

Unfortunately for the tenant-petitioners, once begun, implementation of the agrarian reform programme moved very slowly, mainly because of difficulties immediately encountered in locating a title, which few believed existed anyway. To be sure, whether or not there was already a title was of no consequence for the validity of the tenants’ land rights claims; state-sponsored redistribution of the land to them could proceed with or without a title. But the lack of a title still had to be verified in order to determine which set of administrative rules and procedures would apply, and this, in turn, required doing extensive research that involved physically locating and then analysing numerous official land classification and land registration documents from various government agencies and offices. Unwilling to rely on DAR alone, the tenants got directly involved by interviewing local DENR officials and conducting archival research at the DENR’s regional land management office, the office of the Tax Assessor, and the Land Registration Authority. It was they who eventually discovered that the property fell within a zone of alienable and disposable public land, and moreover, found no evidence that a homestead patent had ever been issued for it, throwing new doubt on the legality of the landholder’s ownership claim, while strengthening theirs even more.<sup>89</sup>

Then in June 1998, the landholder struck. A rising MSMSL leader, Edwin Vender, was brutally murdered in broad daylight by a group of men led by the landholder’s overseer, after the latter accused

---

<sup>88</sup> FGD, MSMSL Leaders, San Juan, San Narciso, 14 February 2002.

<sup>89</sup> FGD, MSMSL Leaders, San Juan, San Narciso, 14 February 2002.

him of withholding his share payment.<sup>90</sup> The victim's family filed murder charges against the perpetrators, and witnesses were initially placed in a witness protection programme in preparation for a trial. But the case stalled after several months, mainly because of lack of effort by local police to serve the arrest warrants.<sup>91</sup> As a result, the killers remained free to roam the area and maintain a threatening presence in and around the contested property and within the region.<sup>92</sup> To be sure, Vender's grisly murder sent a chilling shock wave in and well beyond Sitio Libas, reaching throughout the growing regional network of KMBP-federated peasant organisations and into other national nongovernmental organisations sympathetic to real struggles for land against despotic landlords. The same television news show that spotlighted the Catulin struggle in Buenavista, also produced a segment about increasing violence against agrarian reform advocates in San Narciso, featuring Vender's case, that was televised nationally.<sup>93</sup> Instead of retreating, the angry tenants, emboldened by growing evidence that the property was public land and in consultation with the PEACE organisers, decided to retaliate by launching a collective share payment boycott.<sup>94</sup>

The tenants' daring move caught the landholder in an impossible legal trap, from which there was ultimately no exit, with strategic implications for the underlying land struggle. He could again file dubious and ultimately untenable criminal charges and be required to show proof of ownership, which could then be used by the tenants to facilitate coverage of the property as private land, regardless of the outcome of a criminal case. Or, he could avoid pressing legal charges and accept the loss of share payments, which would undermine his legal claim of ownership as well, and at the risk of being held accountable for any further violence or loss of life, unleash an iron fist to defend his claim. In the end, the landholder chose the latter option, apparently calculating that he could get away with murder, as indeed he and his men had been doing since Vender's death. Frustrated in defending his interests in the legal arena using crooked means, the landholder again unleashed violence to try to undermine the tenant-petitioners. In March 2000, men armed with bolos and guns attacked another MSMSL leader in his home. The victim, Reymundo Tejeno, was the same man who had first met the PEACE organisers and introduced them to the rest of the Sitio Libas tenants back in late 1997. This time, however, the victim managed to defend himself and survive his injuries, for which he had to be hospitalised. While in hospital, he narrowly escaped a second attempt on his life, saved only by an alert hospital guard and relatives who chased the would-be assailants away.

---

<sup>90</sup> PEACE Statement on Edwin Veder Murder, 'Rising Tension in San Narciso Claims New Victim', dated June 1998.

<sup>91</sup> Personal communication, PEACE community organiser to the author, March 2000.

<sup>92</sup> This writer once spotted one of the men witnesses say killed Edwin Vender during a field visit to San Narciso in September 1999; he was lounging outside a sari-sari store along the main road leading to the town centre, apparently unconcerned about being arrested.

<sup>93</sup> Howie Severino of the television news show *The Probe Team* investigated Vender's murder as well as the murder a few months before of an opposition candidate for mayor, retired military colonel and former vice-mayor Felecito Medenilla. Medenilla had openly allied his electoral campaign with the rising peasant movement for agrarian reform in San Narciso, and was gunned down by masked men during a campaign sortie just weeks before the May 1998 elections.

<sup>94</sup> FGD, MSMSL Leaders, San Juan, San Narciso, 14 February 2002.

During the initial attack, however, Tejeno had fired his gun in self-defense, shooting and killing one of the assailants. This fact dramatically altered the course of life for Tejeno, who was subsequently dragged into a major political-legal quagmire after the dead man's widow decided to press for a sizeable monetary compensation.<sup>95</sup> Tejeno balked over the high amount demanded in informal talks – after all, the dead man had attacked him first and he had been left to pay virtually the same amount in hospital charges. Undeterred, the widow took her case to the rebels, while also filing murder charges against him in state court. Tejeno was thus forced to defend himself against murder charges in two competing systems of law simultaneously. In both arenas, he would argue that it was the dead man who attacked first and that he had shot him in self-defense. But the “case” was never really about just the March 2000 incident alone; it was about broader authority and social control. In early 2001, Tejeno was arrested by the communist rebels, hog-tied with wire, and forced to argue his case before a makeshift “court” deep in the countryside.<sup>96</sup> He was released after a few days' incarceration, apparently cleared of the charges by the rebel judges. Afterwards, however, local guerrillas began paying regular visits to his house, demanding he pay “revolutionary taxes”, which he resisted. A bright spot briefly appeared on the horizon when in early 2002, the murder case against him was provisionally dismissed at the regional trial court, ironically, on the grounds of lack of interest shown by the other party.<sup>97</sup> But just one year later, Tejeno was again attacked by a group of well-armed men just outside his house along the main road, and this time did not survive. His assailants identified themselves as members of the rebel New People's Army (NPA) and ominously justified the killing as punishment for alleged counterinsurgency activities (which his family and fellow MSMSL members vehemently denied).<sup>98</sup> In fact, as this suggests, he had been summarily executed by the rebels.

Tejeno's murder marked the start of an intensive guerrilla campaign aimed at undermining MSMSL's (and others in Uy-claimed landholdings elsewhere in San Vicente who followed suit) rightful access to the land that they had painstakingly constructed using an innovative combination of direct action and administrative mobilisation of state law.<sup>99</sup> Since then, two more tenant leaders have been killed. Peasant claimants in Sitio Libas, as well as neighbouring holdings (also claimed by the Uy family), have suffered such persistent threats and harassment by members of the New People's Army, and members of the landholder's private goon squad, that leaders have been forced into hiding and most families have pulled out of the area temporarily.<sup>100</sup> The ongoing administrative implementation of the agrarian reform law, meanwhile, remains problematic in the Sitio Libas case, mainly because poor government record-keeping

---

<sup>95</sup> Interview, Reymundo Tejeno, San Juan, San Narciso, 14 February 2002.

<sup>96</sup> The author learned about the incident directly from Tejeno himself, who fled to Manila after being released by the rebels (Interview, PEACE Foundation Office, Cubao, Quezon City, February 2001).

<sup>97</sup> Interview, Reymundo Tejeno, San Juan, San Narciso, 14 February 2002.

<sup>98</sup> PEACE, 'Salaysay ni Minda Tejeno, Maybahay ni Teteng Tejeno na Pinatay ng NPA noong Pebrero 4, 2003', dated 3 April 2003.

<sup>99</sup> FGD between Uy tenants and FIAN Fact Finding Mission II, Sitio Culisan, Barangay San Juan, San Narciso, 15 August 2001.

<sup>100</sup> See 'Living Dangerously in San Vicente: A Fact Finding Mission Report on Agrarian Reform and Human Rights Situation in Barangay San Vicente, San Narciso, Bondoc Peninsula', prepared by the Task Force Bondoc Peninsula, 30 September 2003.



in the past resulted in overlapping survey applications, discovered only now, including one made by the landholder. An official survey and verification process revealed that an approved survey plan in the name of Samuel Uy overlaps with another existing survey application. While neither application should impinge on the tenants' right to the land, these overlapping claims must still be verified before free patents can be issued in favour of the tenants.<sup>101</sup> However, the bigger difficulty for MSMSL and its allies will surely be how to mobilise the enforcement side of state law, against both hacienda law and guerrilla law, in order to effectively re-install the beneficiaries on the property once it has been officially awarded to them on paper.

### **3.3 Case 3: WEARBAI, municipality of Carmen – Davao del Norte Province**

Unlike the previous two cases, this case is a good illustration of the “legal blitz” tactic deployed by some landowners against peasant claimants, in combination with authoritarian coercion. The case involves an unusually complicated agrarian dispute between a prominent member of the regional land-based authoritarian elite in the province of Davao del Norte in the southern Philippines, and a segment of retrenched and active farmworkers in a 1,024-hectare commercial banana farm. The plantation in question is the Worldwide Agricultural Development Corporation (WADECOR), located in Barangay Minda in Carmen, Davao del Norte. The plantation and the barangay boundaries overlap perfectly, reinforcing the landowner's social-political control over the population living or working inside. In 1998 a segment of retrenched and active farmworkers joined together to form the WADECOR Employees Agrarian Reform Beneficiaries Association Incorporated (WEARBAI) for making their land rights claim in WADECOR under RA 6657. Three intertwined legal issues arose in the case.

One issue had to do with farmworkers' basic civil rights, including the right to freedom of association. It is closely related to the question of how the benefits of redistribution would be organised and administered. Should the beneficiaries of agrarian reform in commercial farms be allowed to divide the land into individually owned holdings and to decide for themselves how to use their respective parcels? The corporate banana elite and many government officials share a deep bias against “splitting” (subdividing) commercial farmland for redistribution to individual title-holders. The commercial banana farm sector, geared toward producing large quantities of raw fruit for export, is among the most technically “modernized” and lucrative sectors of Philippine agriculture. Commercial farms are owned by elite families (or groups of families) organised into growing and marketing corporations and either operated by these elite family corporations directly or leased to multinational corporations for operation via contract farming arrangements. The different families and firms belong to a powerful industry organisation of foreign and domestic banana growers and exporters, called the Pilipino Banana Growers and Exporters Association (PBGEA), which operates both monopolistic and monopsonistic control over the industry. This is a politically powerful group that has successfully lobbied for the installation of three

---

<sup>101</sup> Interview, PEACE CO, May 2004.

of its own as Secretary of the Department of Agriculture (DA) since 1986.<sup>102</sup> The inordinate political influence of the banana elite is also seen in the ten-year deferment they were accorded under the 1988 agrarian reform law (RA 6657, Chapter 2, Section 11).

Most owners took advantage of the deferment option, justified as the time that ought to be given to land/company owners to “recover” their investments and also as the time needed by the government to “prepare” farmworkers for ownership. In reality, in collusion with central state authorities and local government officials, elite owners used the deferment to lay the ground for a massive ruse – one that would be even more lucrative for them than the traditional set-up. Instead of becoming individual small holding owner-cultivators when the deferment period expired, the farmworker-beneficiaries – the new owners – would lease the undivided land back to the former owners as is, cheaply and in perpetuity, and then return to work for them as farmworkers. Nothing of substance would change or be redistributed. But this, in turn, required gaining iron control over the farmworkers so they could be herded into controlled cooperatives headed by pro-management leaders who would effect the necessary legal requirements. In practice, this meant trampling on the workers’ basic rights and freedoms, including labour rights and freedom of association, in order to deprive them ultimately of their legal land rights.

Wave upon wave of summary retrenchments took place between 1988 and 1998 as owners purged uncooperative workers – calling into question their future status as agrarian reform beneficiaries – and replaced them with docile new hires.<sup>103</sup> The retrenched workers’ status *vis-à-vis* the government agrarian reform programme was rendered uncertain at this point because official rules and guidelines on how agrarian reform would be implemented in deferred commercial farms once the deferment period ended did not yet exist. Many of the most critical issues surrounding the reform programme got resolved only much later, in the process of the struggle over its implementation in WADECOR. Meanwhile, voluntarily “reformed” plantations gave birth to new management-controlled agrarian reform beneficiary cooperatives whose leaders traded away their members’ futures by agreeing to collective ownership of the land (rather than individual splitting and titling) and onerous growers’ contracts or leaseback arrangements good for virtually a farmworker’s remaining lifetime.<sup>104</sup> To be sure, these calculating and highly irregular moves were facilitated by all manner of coercion, including physical harassment by gun-toting security guards and systematic harassment in the workplace, that some of the workers would later try to seek official recognition of (unsuccessfully) as “unfair labour practices”. It was this growing pattern of what

---

<sup>102</sup> These three were: Senen Bacani of Dole-Philippines (DA Secretary under Corazon Cojuangco Aquino); Roberto Sebastian of Marsman (under Fidel Ramos); and Luis Lorenzo Jr. of the Lorenzo conglomerate (under Gloria Macapagal-Arroyo).

<sup>103</sup> FGD Barangay Minda, Carmen, 29 June 2002; FGD New Visayas, Panabo, 2 June 2002; FGD Manay, Panabo, 30 August 2002; FGD Lower Panaga, Panabo, 1 September 2002; FGD Tibungol, Panabo, 14 September 2002; FGD Magsaysay, Carmen, 28 September 2002. Also Cabanit (2001), ‘An Open Letter Concerning the Comprehensive Agrarian Reform Program (CARP) Implementation in Commercial Farms’, 24 August.

<sup>104</sup> See Borras (May 2004).

might more appropriately be called landowner-driven “non-agrarian reform” that had begun to take hold in the WADECOR plantation on the eve of the ten-year deferment expiration that a section of farmworkers decided to challenge.

A closely related issue had to do with who had rights to claim the land under RA 6657. In the Philippines generally, this tends to be a contentious issue because there is scarcity of land relative to the number of land-hungry. Under the official agrarian reform programme, “who gets what” is threshed out administratively in what is called beneficiary identification and selection, but it is often more aptly referred to as “inclusion-exclusion”. In commercial farms generally this political-legal process has been especially conflictive. Resistant landowners see it as a chance to retain control over post-land transfer farm operations, by backing employee-beneficiaries loyal to them and undermining the claims of those who are not. But at the start of the WADECOR conflict, the official criteria for ranking applicants was not yet a settled policy issue *vis-a-vis* deferred commercial farms. Should actively employed workers with a length of service of just one or two years have priority over retrenched workers with a length of service of more than, say, a decade? Should supervisory and managerial employees be given consideration in the identification and selection of beneficiaries? These questions – officially unresolved as late as 1998 – had been politicised by landowner manoeuvring during the ten-year deferment period, while WADECOR was one of the first deferred commercial farms to undergo agrarian reform coverage.<sup>105</sup>

The third issue had to do with legal jurisdiction over agrarian-related disputes. In the WADECOR dispute, three different juridical bodies were drawn into the fray by the two main contending parties. The DAR necessarily became involved in the agrarian law implementation (ALI) proceedings. Apart from mobilising administratively to assert their right to the land under RA 6657, farmworkers who were retrenched after the deferment period mobilised the labour department’s quasi-judicial machinery to try to recast their dismissal as illegal and delegitimise attempts to prevent them from benefiting from any future land redistribution on these grounds. By contrast, the landowner mobilised the judicial system against them, in a calculated bid to physically dislodge WEARBAI members from the property and weaken their position in agrarian reform administrative proceedings politically. WEARBAI fared badly in both the labour tribunal and trial court, mainly because the presiding officials rejected arguments that the instant disputes were by-products of a more fundamental agrarian conflict. The group did relatively well however in the administrative arena, but only after an intense two-phase struggle. The first phase involved mobilising to alter official guidelines for agrarian law implementation in deferred commercial farms in order to ensure inclusion of retrenched farmworkers as legitimate beneficiaries in principle. The second phase involved mobilising to ensure that anti-reform forces opposed to them would not twist or hijack the administrative proceedings and exclude WEARBAI members that way. The next phase – that is, their physical reinstatement on the land awarded to them – is still pending due to continuing landowner resistance, suggesting the need to mobilise the state to apply the “Catulin solution” here as well.

---

<sup>105</sup> Two of the best known examples of this are both in Davao del Norte--the former DAPCO plantation (see Borrás 1998) and the former Hijo plantation (see Franco 1999c, Post-CARP Banana Split Turns Deadly; Franco and Acosta (1999), The Banana War: Part Two; and Feranil (2001).

### 3.3.1 Background

The contested property presumably originated as a large parcel acquired under the 1902 Organic Act, which limited individual acquisitions of new alienable and disposable land to 16 hectares, but allowed corporate acquisitions of up to 1,024 hectares of the same. It eventually ended up in the late 1960s in the hands of a local logging concessioner, who, through coercive methods, managed to achieve what previous owners had failed to do – that is, eject existing native populations from the property and establish a fixed agricultural plantation in its western portion.<sup>106</sup> Farmworkers were recruited and a company called Desidal Fruits was established to operate the farm. In 1966, the entire property was hived off from the barangay of Manay in the municipality of Panabo, and made into its own barangay (Barangay Minda) in the newly created municipality of Carmen, effectively blurring the line between private property and the public domain inside the plantation-barangay. In 1980, the property was sold to Antonio Floirendo Sr., who established WADECOR for ‘banana exporting, citrus production, and fishpond culture’.<sup>107</sup> The plantation was expanded to cover the entire barangay at this time. Six years after acquiring the Minda plantation, the Marcos dictatorship was overthrown, and two years after that the new agrarian reform law was passed into law. In 1994, the operation and management of the Floirendos’ Minda plantation passed from WADECOR to TADECO, another Floirendo company. This was a corporate manoeuvre that the Floirendos later used to try to justify exclusion of several long-time farmworkers who had been retrenched around this time, including Enrico Cabanit, the first chairperson of WEARBAI, and several other WEARBAI board members.

Administrative proceedings began at the (former) WADECOR (or Minda) plantation only in 1998. But this is because the administrative rules and regulations governing agrarian reform in commercial farms are distinct from other parts of the law. Lobbying by commercial farm owners and operators had resulted in the insertion of a special provision in RA 6657, which allowed the redistribution of commercial farms to be deferred for a period of ten years starting in 1988. The concession thus delayed the start of the programme in Mindanao’s commercial farm belt, enabling landowners to take “crooked” steps during the deferment period to avert reform in the future. Like others, the Floirendos exploited this loophole in the law. As the expiration of the deferment period neared, they retrenched the most veteran, independent-minded workers and set up a controlled union organisation in a bid to control who would eventually

---

<sup>106</sup> The logging concessioner was Desiderio F. Dalisay (History of Minda, mimeograph, n.a., n.d.).

<sup>107</sup> History of Minda, mimeograph, n.a., n.d. According to Borrás (May 2004), ‘The biggest landlord in the banana sector in terms of total of owned and controlled lands is the family of Don Antonio Floirendo, owner of the Tagum Agricultural Development Corporation (TADECO) among others, and a former crony of the ousted dictator Ferdinand Marcos. The Floirendos controlled about 8,500 hectares of banana plantations: 3,300 hectares are privately owned, and the 5,200-hectare Davao Penal Colony (DAPECOL) under a long term lease with the Department of Justice (DOJ)’ (16–17). For more background on the Floirendos, see Manapat (1991).

become official agrarian reform beneficiaries and how the law would be implemented.<sup>108</sup> These moves, in turn, meant that he and like-minded owners would have to try to influence the content of the official guidelines for how agrarian law would be implemented in the deferred commercial farms, in order to “fit” the evasive steps that had thus already been taken, setting the stage for a policy battle first.

### *3.3.2 The conflict and its political-legal trajectory, Part 1*

By mid-1997, a critical segment of the retrenched workers believed that the retrenchments were part of a systematic plan to undermine their access to land rights accorded them under RA 6657. By their own calculations, about two-fifths of the region’s banana farm workforce – an estimated 20,000 workers – was retrenched during the 1988–1998 period.<sup>109</sup> With community organisers from a local non-governmental organisation called the Mindanao Farmworkers’ Development Center (MFDC), an affiliate of PEACE Foundation, they began to organise other retrenched workers throughout Davao’s commercial farm belt. They mobilised to inform as many as possible of their right to claim land where they had worked under RA 6657, educate them about the law, and organise those interested in claiming this right. This led to the formation of the United Floirendo Employees Agrarian Reform Beneficiaries Association Incorporated (UFEARBAI) in December 1997–January 1998. The group immediately began petitioning the DAR for the coverage of Floirendo plantations through compulsory acquisition proceedings.<sup>110</sup> The group held its first general assembly in February 1998, a landmark event attended by more than 3,000 (mostly retrenched) farmworkers from the various Floirendo plantations and featuring a dialogue with local and national DAR officials about the impending implementation of the 1988 law in deferred commercial farms.

There, DAR Undersecretary Artemio Adaza urged them to study draft guidelines that were then awaiting final approval and which had reportedly been endorsed by the elite Filipino Banana Growers

---

<sup>108</sup> In 1988, all Floirendo plantation workers were told to sign a paper they were told would signify their interest in agrarian reform and enable them to receive production and profit shares during the ten-year deferment period. The workers did as they were told, many without understanding or believing what it meant, but content to receive the extra income. But soon their troubles began. They began to hear stories (circulated by supervisors and farm managers) that the company was not doing well and suffering financial losses due to inefficient and expensive labour (UFEARBAI Position Paper dated 28 March 1998). With this justification in hand, the Floirendo companies began to retrench workers in their respective plantations, in waves starting as early as 1989. The trend continued throughout the 1990s and became more pronounced as the end of the deferment period drew nearer. Older workers were pressured to retire early (or face transfer to most physically difficult work assignments), younger ones were “tipped” to separate voluntarily (or risk losing separation pay in the event the company went under). Others were transferred to other Floirendo plantations before being let go, and still others were dismissed on spurious charges of company and labour code violations. Independent labour leaders and other such “troublemakers” who had managed to gain a foothold inside the plantations were all purged. Through it all, the principle of “first in, first out” was not followed, and casual workers were hired to replace those who had been forced to leave (Cabanit 2000). The above description of the retrenchment process comes from interviews and testimonials of numerous WADECOR workers who eventually joined WEARBAI (Separate Interviews with WEARBAI leaders Ronnie Amoroso, Virgilio Cabintoy, and Rufina Caang, September 2002, Panabo, Davao del Norte).

<sup>109</sup> See MFDC Accomplishment Report, January 1988–April 1999.

<sup>110</sup> See UFEARBAI letter to Panabo MARO Jaime Claro dated 15 December 1997; UFEARBAI letter to DAR Undersecretary Artemio Adaza dated 9 February 1998; and UFEARBAI letter to multiple national DAR and DARAB officials dated 17 February 1998.

and Exporters Association (PBGEA).<sup>111</sup> They soon discovered that the draft guidelines were skewed against those farmworkers with the longest length of service who had been retrenched or separated from active employment during the deferment period (still in effect at that time).<sup>112</sup> This was the very group UFEARBAI believed ought to benefit first, if RA 6657 was to be a social justice measure. The group wrote letters to agrarian reform officials at all levels of the department, along with the Ombudsman's Office, registering their opposition to the draft guidelines and asserting the principle that separation from employment 'only cuts off the employee-employer relationship but does not waive the right of potential CARP beneficiaries'.<sup>113</sup> Then they proposed an alternative: that priority be given to those with the longest length of service regardless of employment status at the time of the deferment expiration in 1998.

At the same time, UFEARBAI began trying to prime the pump for compulsory acquisition proceedings by applying pressure on the municipal agrarian reform office, which they felt ought to have already gotten moving (but as yet seemed to have done nothing) in preparation for the end of the deferment period, fearing that any delays in implementing the programme would mask anomalous moves against them.<sup>114</sup> They based this view on RA 6657, which states the following: 'Commercial farms . . . shall be subject to immediate compulsory acquisition and distribution ten (10) years from the effectivity of this Act . . . During the ten-year period, the government shall initiate the steps necessary to acquire these lands . . .' (RA 6657, Chapter II, Section 11). Of growing concern for the group were quiet but chilling moves being made by the landowner to contain UFEARBAI's potential influence inside the plantations. For one, its newly elected board of trustees were immediately "blacklisted" and barred from entering Floirendo property, or even passing through using nominally public provincial roads.<sup>115</sup> This put the burden of organising inside the plantations on members who were still actively employed. Meantime, new management-controlled cooperatives were being launched and active workers were coming under pressure to join these and denounce their membership in UFEARBAI. Worse, Floirendo company managers began working with local agrarian reform officials to prepare the plantations for post-reform "leaseback" – a repugnant scheme to evade real redistribution of land and power. In effect, agrarian reform law implementation proceedings were to be the "highway" and the new management-controlled cooperatives were to be the "vehicle" for accomplishing this.

UFEARBAI leaders wrote local DAR officials to protest, expressing 'vehement refusal to join the Management's initiated cooperative adopting the leaseback scheme which they forcibly wanted us to accept', saying it was 'contrary to our inherent right to choose freely and voluntarily the scheme that is beneficial to us'.<sup>116</sup> At the same time, the group began to try to take matters more into their own hands,

---

<sup>111</sup> UFEARBAI letter to DAR Undersecretary Artemio Adaza dated 9 February 1998.

<sup>112</sup> Draft A.O. 'Regarding Acquisition and Distribution of Commercial Farms under Deferment' dated 6 February 1998.

<sup>113</sup> UFEARBAI letter dated 23 March 1998.

<sup>114</sup> See for example, UFEARBAI letter to Panabo MARO Jaime Claro dated 24 March 1998, and subsequent UFEARBAI letter to national DAR Assistant Secretary Clifford Burkley dated 5 May 1998.

<sup>115</sup> TADECO, 'Memo to All TADECO Gate Guards' from Emmanuel Patriarca, HRD Office, dated 9 February 1998.

<sup>116</sup> UFEARBAI letter to Carmen MARO Vivian Agunod dated 20 April 1998.

first by asking for the official DAR list of all potential agrarian reform beneficiaries in all Floirendo farms based on DAR records of all those who had signed the requisite forms for the ten-year deferment back in 1988.<sup>117</sup> But the local DAR offices (municipal and provincial) were dragging their feet when it came to UFEARBAI on the one hand, even though they could be seen participating in the company seminars for workers about leaseback on the other.<sup>118</sup> For example, while the local DAR promised to investigate the group's harassment complaints, the interviews local officials reportedly conducted were confined to workers who were members of the company cooperative; not a single UFEARBAI worker was interviewed.<sup>119</sup> It became increasingly clear to the workers that local DAR officials were actively colluding with the landowners against the workers in order to ensure that the former would not lose control of the land and its operations to the latter. In early April 1998, UFEARBAI learned from the provincial agrarian reform officer (PARO) that coverage of deferred commercial farms was to be "pilot tested" in four plantations – WADECOR, TADECO and Nestfarms (all owned by the Floriendos) and the Marsman plantation of former Department of Agriculture Secretary Roberto Sebastian.<sup>120</sup> By this time, UFEARBAI leaders already knew that these were the very plantations where the local DAR was deeply involved in management-led preparations for leaseback.

Then on the eve of the deferment period's expiration on 10 June 1998, the Floirendos applied for agrarian reform coverage of the Minda plantation through the Voluntary Land Transfer/Direct Payment Scheme (VLT/DPS) mode. Assuming coverage would occur through the more punitive compulsory acquisition mode, WEARBAI leaders were shocked and confused when they found out about it. The response of local DAR officials to follow-up inquiries further confused the matter, but in the process revealed to what extent they were colluding with the landowner. When WEARBAI asked why the notice of coverage (the first step in compulsory acquisition proceedings) had not yet been issued, the PARO simply told them that a 'Notice of Coverage is needless in view of the offer of VLT'.<sup>121</sup> But their confusion is understandable. RA 6657 stated that 'Commercial farms . . . shall be subject to immediate compulsory acquisition and distribution after ten (10) years from the effectivity of this Act' (Chapter 2, Section 11). For its part, A.O. 6 (which was still in effect at this time) reiterates this point, and even strengthens it by saying that 'deferred commercial farms shall be automatically subject to immediate compulsory acquisition and distribution upon the expiration of the ten-year deferment period' (III, A). But A.O. 6 also specifies another option: landowners may voluntarily offer their commercial farm for sale

---

<sup>117</sup> Landowners were required to secure the approval of farmworkers in their plantations in order to avail of the deferment option. In most instances, those farmworkers who signed the required forms were the ones retrenched during the deferment (FGD Barangay Minda, Carmen, 29 June 2002; FGD New Visayas, Panabo, 2 June 2002; FGD Manay, Panabo, 30 August 2002; FGD Lower Panaga, Panabo, 1 September 2002; FGD Tibungol, Panabo, 14 September 2002; FGD Magsaysay, Carmen, 28 September 2002. Also Cabanit (2001), 'An Open Letter Concerning the Comprehensive Agrarian Reform Program (CARP) Implementation in Commercial Farms', 24 August). See Joint UFEARBAI and PEACE letter to PARO Saturnino Sibbaluca requesting the official list of all those who had signed in Floirendo plantations, dated 20 April 1998.

<sup>118</sup> UFEARBAI letter to PARO Saturnino Sibbaluca dated 14 April 1998.

<sup>119</sup> See UFEARBAI letter to Carmen MARO Vivian Agunod dated 1 June 1998.

<sup>120</sup> PARO Saturnino Sibbaluca letter to UFEARBAI Chair Benjamin Isidro dated 4 April 1998.

<sup>121</sup> PARO Sibbaluca letter to UFEARBAI dated 22 July 1998.

to the government during the deferment period. However, commercial farms for which Notices of Coverage and Field Investigation Reports have already been issued by DAR may no longer be voluntarily offered for sale' (III, C). Neither says anything about whether or how the voluntary land transfer/direct payment scheme (VLT/DPS) mode is made operational in the case of commercial farms. Moreover, in reality, the DAR and the landowner were trying to force UFEARBAI to accept a "voluntary land transfer" – in clear contradiction with the law, as far as the workers were concerned. A few days later after hearing from the PARO, WEARBAI learned of the existence of an official notice of coverage for WADECOR (the Minda plantation) dated 16 July 1998. A copy of the document revealed that a "preliminary ocular inspection" had been conducted three weeks earlier on 24 June 1998, resulting in a dramatic reduction of the area to be covered from the full 1,024 hectares (based on an earlier DAR investigation) to just 406,6432 hectares. WEARBAI's subsequent efforts to derail this attempt to remove the bulk of the plantation from redistribution and lock-in the fate of the remainder, and to launch compulsory acquisition proceedings, ran up against a wall of resistance put up by local DAR officials.<sup>122</sup>

Meanwhile, deepening dismay had already flashed into anger with the issuance of DAR Administrative Order No.6 (Series of 1998) in late May 1998 – just weeks before the end of the ten-year deferment period and the start, supposedly, of compulsory acquisition and redistribution proceedings in deferred commercial farms. The order effectively (i) excluded those who had been retrenched regardless of length of service in a given plantation and (ii) endorsed the onerous "leaseback" scheme that had been devised by landowners to retain control of reformed land. In response, UFEARBAI and MFDC, along with organised farmworkers in other non-Floirendo plantations, launched a major three-pronged campaign to force a repeal of the offending order and its replacement with one more favourable to retrenched and seasonal farmworkers.

Intensive discussions were held across the farm belt, which steadily expanded and hardened farmworker opposition and helped "cement" political solidarity between retrenched and active

---

<sup>122</sup> UFEARBAI wrote to PARO Sibbaluca questioning the VLT offer and DAR's acceptance of it, while reminding him of the ongoing harassment by the management of active workers refusing to endorse the leaseback scheme (UFEARBAI letter dated 23 July 1998). Sibbaluca replied a week and a half later, stating that coverage is 'not confiscatory but a process with strict adherence to the principle of due process of law' and telling UFEARBAI, 'Anyway, please determine specific issues and the forum who has jurisdiction over them' (PARO Sibbaluca's letter dated 4 August 1998). In a later exchange with UFEARBAI's newly hired lawyer Attorney Manuel Quibod, Sibbaluca reiterated that the Floirendo plantations 'are not covered by this office under CARP compulsorily, but the landowners are voluntarily offering the farms under the VLT scheme'. The PARO goes on to say 'What is under consideration now is the identification of the lands, the active farmworkers and other matters which would guide this office to decide on the merits of the offer' (PARO Sibbaluca's letter dated 31 August 1998). UFEARBAI then directly petitioned Secretary Morales for the immediate implementation of CARP in deferred commercial farms, especially the Floirendo lands. 'With the expiration of the 10-year deferment period, the Tadeco [sic] management intensified its efforts aimed at subverting RA 6657, through unreasonable applications for exclusion, exemption and land use conversion. These things are being aggravated by all forms of harassment/unfair labour practices inflicted daily into all farm workers who refused membership to the management installed cooperatives in the guise of 'management's prerogative. Due to the above, we are imploring for your timely intervention. The immediate CARP implementation is the sure key to all oppressions we are presently in', the letter states (UFEARBAI Letter to Morales dated 1 October 1998). In the end, local DAR officials succeeded in restricting de facto coverage of WADECOR (at least for the time being) to just one-third of the plantation's total land area.



farmworkers.<sup>123</sup> This aspect of the anti-A.O. 6 campaign was aided greatly by the ongoing struggles of farmworkers at the nearby Dapco and Hijo plantations, which served as “living examples” of the dangers of collective titling and joint venture arrangements negotiated under authoritarian-controlled conditions.<sup>124</sup> Widespread agitation was then channeled into a sustained series of direct actions (lightning pickets and camp-outs carried out in both Davao City and Manila between June and December 1998) intended to publicly expose the anti-reform lobby, express opposition to the new order, and “provide a pro-reform anchor” for allies inside the DAR to mount their own change initiatives.<sup>125</sup> Finally, the farmworkers and their NGO allies persistently lobbied officials in the executive and legislative branches, denouncing A.O. 6 but also putting forward concrete proposals for how agrarian reform should proceed if it is to achieve “social justice”. Their lobbying efforts benefited from the change in government administration that occurred as a result of national elections in May 1998, since the tug-and-pull of electoral politics in civil society had given the farmworkers’ NGO allies an unprecedented degree of access to the newly appointed incoming DAR Secretary Horacio Morales. This access was further enhanced by UFEARBAI’s three-month camp-out in front of the DAR central office during the first months of the new secretary’s term. They used the opportunity to directly petition the secretary to fulfill the original mandate of the law and start immediate implementation of compulsory acquisition proceedings under CARP.<sup>126</sup> Little by little they were able to pressure and persuade the new DAR leadership of the validity of their campaign, until finally their proposals were incorporated into a new policy. Administrative Order No. 9 (Series of 1998) was issued on 25 December 1998 and dramatically redirected the legal framework of agrarian law implementation in deferred commercial farms back in a social justice direction.<sup>127</sup> The big question now was if “real life” would follow.

### *3.3.3 The conflict and its political-legal trajectory, Part 2*

On Sunday 24 January 1999, UFEARBAI held its second general assembly, where WEARBAI and eight other plantation-level organisations were formally launched to take over from UFEARBAI the responsibility of conducting plantation-specific struggles for land reform. The next day, on Monday 25 January 1999, TADECO issued suspension orders and termination notices to 61 farmworkers for failure to report to work the previous day, and several more were similarly terminated over the next few days. All

---

<sup>123</sup> See MFDC Accomplishment Report, January 1988–April 1999: 3.

<sup>124</sup> For discussions of these two cases, see Borrás (1998) for the DAPCO struggle, and Franco (1999c) and Franco and Acosta (1999) and Feranil (2001) for the Hijo struggle.

<sup>125</sup> See MFDC Accomplishment Report, January 1988–April 1999: 4.

<sup>126</sup> UFEARBAI petition letter to DAR Secretary Horacio Morales dated 1 October 1998.

<sup>127</sup> The timing of the issuance of A.O. 9 was not accidental but in fact carefully calibrated, according to MFDC. ‘DAR Secretary Morales, anticipating a surge of protests from multinational companies and plantation owners, deliberately timed the publication in newspapers (new guidelines are required to be published in newspapers, and it would take effect only after ten days of publication) on Christmas Day so that the chances of many people reading the new guidelines are reduced, and the chances of the anti-reform lobby lodging formal protest in courts are also reduced by the many holidays. The following day, Morales went to the United States for a “vacation”, coming back only on 4 January 1999 when the new guidelines were already in effect legally, and the anti-reform protest became “moot and academic” (MFDC Accomplishment Report, January 1988–April 1999: 5).

were WEARBAI members working in the harvesting and packing operations who had attended the UFEARBAI assembly. UFEARBAI immediately protested, invoking RA 6657, among others, to cast that the terminations as illegitimate.<sup>128</sup> While the terminated workers waited in vain for company-controlled workplace grievance machinery to kick in, they again appealed to DAR Secretary Morales to launch immediate compulsory acquisition proceedings in the Minda plantation, saying ‘the excesses done by the Management to us is getting unbearable day to day’.<sup>129</sup> Those WEARBAI workers who escaped the dragnet reported to work as usual only to find the plantation now patrolled by a heavily armed paramilitary group. According to affidavits executed by victims of the harassment which followed, the armed men, led by a member of the barangay council in a neighbouring village, who was known for the grenade “necklace” he always wore, they were harassed and threatened with physical harm in the course of trying to perform their work assignments.<sup>130</sup>

In response, the retrenched and dismissed members of WEARBAI, along with their comrades in UFEARBAI, again pressed local DAR officials for information about the status of CARP implementation proceedings, while making plans to picket the company headquarters, and with the political conditions quickly deteriorating inside, even the actively employed WEARBAI members decided to join.<sup>131</sup> In early March, the group, along with allied farmworkers from other Floirendo plantations, set up a picket outside the Floirendo corporate headquarters building in downtown Davao City. The action gained public attention partly because of where it was located, but especially after local police repeatedly tried, unsuccessfully, to dismantle it. Even DAR Secretary Morales visited the picketers. Under pressure, the company agreed to a dialogue, held a few weeks later at the DAR regional office in Davao City.<sup>132</sup> During the dialogue, the company tried to reframe the conflict as simply a labour dispute – a notion that WEARBAI of course rejected. The company promised to dismantle the paramilitary group and barricades and to reinstate eight of the dismissed workers, but then reneged, sending WEARBAI back to the picket line, which in turn prompted the company to dismiss the remaining active WEARBAI workers.<sup>133</sup> Between mid-April and mid-May, a total of 199 more workers were terminated. Forty-nine of these, who were living in bunkhouses inside the plantation, were told to vacate the premises, on the grounds that

---

<sup>128</sup> UFEARBAI letter to TADECO Personnel Manager Emmanuel Patriarca dated 2 February 1999.

<sup>129</sup> UFEARBAI letter to DAR Secretary Morales dated 15 February 1999.

<sup>130</sup> Separate affidavits by WEARBAI members Virgilio Cabintoy, Francisco Nacion, Alejandro Absin, Eddie Bausing, Hermis Taylaran, Emma Mongado, Marilyn Porton, Rufina Caang, Avelino Nineza, Mario Alalmirano, Romeo Jenisan, Jose Lee Hagnaya, and Nelson Bianzon, executed on different dates between 20 April 1999 (earliest) and 31 May 1999 (latest).

<sup>131</sup> See UFEARBAI letter to PARO Saturnino Sibbaluca dated 1 March 1999, where the group asks for copies of the landowner’s applications for deferment of TADECO, WADECOR, Nestfarms and PAHECO plantations, the official orders of deferment, an updated list of farmworkers submitted by TADECO management, and all applications for exemption, exclusion or land-use conversion in Floirendo landholdings.

<sup>132</sup> In attendance were top officials from TADECO, WEARBAI and UFEARBAI leaders and MFDC organizers, representatives of the local police and local labour department and its conciliation and mediation board, and the mayor of Carmen. A senior official from the DAR regional office presided. See ‘Highlights of the Meeting/Dialogue between TADECO-WADECOR Group and UFEARBAI Members with the DAR, DOLE, LGU, and PNP-XI at the office of the Regional Director of the Department of Agrarian Reform, 18 March 1999’.

<sup>133</sup> UFEARBAI letter to TADECO Manager Sasin dated 25 March 1999, and also UFEARBAI letter to Davao City Mayor Benjamin de Guzman dated 31 March 1999.

housing had been ‘a working privilege/benefit . . . coterminous with . . . employment’, although none of them did.<sup>134</sup> As UFEARBAI continued to assert that the problem at hand was an agrarian conflict (and not a simple labour dispute), their frustration at the local DAR’s apparent refusal to step in on their behalf grew.<sup>135</sup> By mid-April, they shifted their picket across the city from TADECO company headquarters to the regional DAR office.

Meanwhile, at about the same time that the workers had launched the picket, they had also formally submitted their applications to become agrarian reform beneficiaries (ARBs), in line with administrative procedures.<sup>136</sup> Two months later, as the last remaining actively employed WEARBAI workers were being dismissed from their jobs at the plantation, the official “preliminary list” of ARB applicants was submitted by the Beneficiary Screening Committee to the municipal agrarian reform office.<sup>137</sup> The list contained a total of 548 names, including 318 WEARBAI members – despite the fact that landowner loyalists held a majority of the seats on the screening committee.<sup>138</sup> Still, WEARBAI contested the inclusion of more than 30 names of persons they felt should have been disqualified. According to them, some were employed at other Floirendo plantations (not WADECOR/Minda); others did not meet the requirement of having been ‘employed in the commercial farm between 15 June 1988 and 15 June 1998 or upon expiration or termination: Provided that farmworkers who have worked the longest on the land continuously shall be given priority’ (A.O. 9, s.1998, Art.II, Sec.4c); while still others occupied supervisory or managerial positions and thus were disqualified under a previous DAR administrative order (A.O. 2, s.1993) and Section 73 of RA 6657.<sup>139</sup> This latter group in particular, included company managers and supervisors who had been directly involved in harassing the WEARBAI workers prior to their termination, and so their inclusion was an especially bitter pill to swallow.<sup>140</sup>

The company cooperative also contested the preliminary list during the required public hearing in mid-May, reportedly presenting two boxes of evidence against WEARBAI applicants on the list. The

---

<sup>134</sup> TADECO Counsel letter to Danilo Lim dated 19 April 1999.

<sup>135</sup> UFEARBAI letter to DAR Regional Director Rodolfo Inson dated 10 April 1999.

<sup>136</sup> WEARBAI had had great difficulty in this because TADECO repeatedly refused to release employment-related papers that were required to complete the application. Back in November 1998, they had asked for assistance from the Department of Labor and Employment (DOLE) in Davao City in “compelling” the company to release its members’ Clearance Certificates and Certificates of Employment (UFEARBAI letter to DOLE OIC Regional Director Manuel Roldan dated 17 November 1998). The problem was discussed at a dialogue a month later, at which time the company agreed to release the documents upon receipt of a formal written request from WEARBAI, which was sent that same day. Several days later, WEARBAI Chair Enrico Cabanit was invited to a “conciliation conference” on the matter at the DOLE provincial office set for 8 January 1999. The documents were released only sometime after 15 January 1999.

<sup>137</sup> Under A.O. 9 (s.1998) the Beneficiary Screening Committee is responsible for the ‘qualification, identification and selection of agrarian reform beneficiaries for acquired commercial farms’ and is composed of the provincial agrarian reform officer, municipal agrarian reform officer, the chair of the provincial agrarian reform consultative committee (PARCCOM), the chair of the barangay agrarian reform committee (BARC), and the barangay captain. The official guidelines do not specify any time frame for the Beneficiary Screening Committee to produce the preliminary list. UFEARBAI grew impatient waiting and fired off more letters to try to pressure for the release of the list, including one to Philippine President Joseph Estrada on 2 April 1999.

<sup>138</sup> According to DAR records (DAR Regional Office Order of 15 November 1999), the barangay captain of Minda, Danilo Pantastico, was also the TADECO Division Manager in charge of WADECOR (Minda plantation). Flawed elections had placed the BARC under Floirendo loyalist control as well.

<sup>139</sup> WEARBAI letter to Carmen MARO dated 10 May 1999.

<sup>140</sup> WEARBAI letter to DAR Secretary Horacio Morales dated 10 May 1999.

hearing, presided over by the PARO, lasted just 30 minutes and appears to have focused on data-gathering (rather than decision making) about individual names already on the list. Not required to take any decisions during the public hearing, the committee is given 15 days from then to generate an “updated” preliminary list taking into consideration evidence presented during the hearing.<sup>141</sup> Another 116 names were indeed added as a result of the hearing. But then in the third week of July – more than two months after the hearing – the company cooperative’s chair, a notorious farm overseer, suddenly petitioned for the inclusion of an additional 184 support services personnel. This new move was a clear procedural violation under A.O. 9 (which gave 15 days for the updated list to be generated). WEARBAI learned of it only after the fact, when the final updated list was released a few days later, and was found to have included the 184 support service personnel petitioned for just days earlier, but excluded the 318 WEARBAI members plus several others whose names had been there back in May. WEARBAI filed a formal protest (through newly retained counsel from the Legal Aid Office of Ateneo University in Davao City). They questioned the inclusion of 233 names of individuals with questionable qualifications under pertinent administrative orders, and protested the exclusion of the 334 WEARBAI + names on the grounds that they had not be given due process, stressing the overall principle stated in A.O. 9 (s.1998) that ‘farmworkers who have worked the longest on the land continuously shall be given first priority’.<sup>142</sup>

A month later, at about the same time that the DAR regional office should have issued its ruling in the dispute over the July 1999 ARB list (but did not), the company suddenly filed a civil suit for “ejectment” against the 49 WEARBAI families still living inside the plantation bunkhouses. According to the complaint prepared by the Floirendos’ corporate legal team, the bunkhouses were company property occupied by ‘plaintiff’s employees qualified to be recipients of housing privileges’. Prior to their termination, the 49 families had been ‘among those given the privilege’. But their termination for cause, the company argued, ‘ended the right of the defendants to hold possession of the subject properties to provide present and actual workers of plaintiff to benefit the same, the way defendants were, prior to their termination’ (Complaint, Civil Case No. 113). When the workers refused to vacate the premises despite formal demands to do so made by the company in early July, the company filed the suit to evict them and collect back rent. On 27 August 1999, the judge at the 5<sup>th</sup> Municipal Circuit Trial Court (MCTC) in Carmen found the complaint to be ‘sufficient in form and substance’ and ordered the defendants to appear in court a week later.<sup>143</sup>

At this point, WEARBAI seemed close to being overtaken by events and overwhelmed by all the different technical-legal strands emerging – and each taking on lives of their own – in the course of their struggle for the land. In fact, after the mass dismissals a few months earlier, and after subsequent mandatory mediation efforts had failed, the dismissed workers had filed labour cases at the National

---

<sup>141</sup> A.O. 9, s.1998, Art. II, Sec.6c.

<sup>142</sup> Protest and Motion for Reconsideration, filed y Complainants-Protestants WEARBAI and the 334 Farmworkers and Members of WEARBAI Who Were Excluded in the Updated List of the Screening Committee, In the Matter of the Selection of Agrarian Reform Beneficiaries for the Area Covered by WADECOR, dated 26 July 1999.

<sup>143</sup> Order to Appear in Civil Case No.113, dated 27 August 1999.

Labor Relations Commission (NLRC), in different batches on different dates.<sup>144</sup> But the matter seems to have been pushed to the back burner, as urgent developments arose with the DAR proceedings and later with the filing of a civil suit against the 49 families. In an attempt to recover lost ground in the labour dispute and make it more manageable technically, the WEARBAI counsel submitted a motion to the National Labor Relations Commission on 28 September asking permission to consolidate the five different labour cases that had been filed earlier, and asking for an extension until 20 October to file a consolidated position paper. In the motion, he explained that the deadline to file the five different position papers was about to expire in some cases and had already expired in others.<sup>145</sup> But the requested extended deadline came and went, and the WEARBAI counsel never received a response from the labour tribunal. The matter was again left hanging for the time being.

Then on 15 November 1999, the DAR regional director released his decision in the dispute over the ARB list, temporarily shifting attention away from the other cases.<sup>146</sup> He was woefully late in doing so, since administrative rules stipulated that inclusion-exclusion disputes over the updated preliminary list must be resolved in a maximum of 38 days. But if DAR officials were concerned about violating the rules, they did not show it, and WEARBAI's attention ended up getting absorbed by the content of the ruling. The ruling attempted to whitewash local DAR officials' actions, while delivering a potential "divide-and-rule" blow to WEARBAI. The order confirmed the inclusion of the 233 names that had been protested by WEARBAI on various grounds. But then it re-included 243 names on the WEARBAI petition (including 193 out of the 199 workers dismissed in 1999, pending the outcome of their labour case at the NLRC), while confirming the exclusion of the remaining 90 names (mainly workers who had been retrenched during the deferment period, including WEARBAI Chair Enrico Cabanit). In short, among the WEARBAI applicants, those who had been active up until 1999 were now conditionally included on the official list, while those who had previously been retrenched remained excluded.

The original WEARBAI petitioners (including the 199 workers who had been conditionally included) appealed the DAR regional office decision.<sup>147</sup> But still the regional DAR's divide and rule tactics might have eventually made a dent had the 199 dismissed workers not subsequently lost their case at the NLRC regional branch in Davao City. After the workers were dismissed and subsequent mediation efforts failed, they had filed labour cases at the NLRC, in different batches and on different dates.<sup>148</sup> But their (and

---

<sup>144</sup> The different cases and the dates they were originally filed areas follows – (1) Virgilio Cabintoy, *et al.* (RAB Case No.XI-04-00467-99) on 26 April 1999 (2) Rodrigo Asumbrado and 47 others (RAB-XI-05-00520-99) on 6 May 1999 (3) Romeo O. Berreros (RAB-XI-05-00534-99) on 11 May 1999 (4) Imelda Patayan (RAB-XI-05-00581-99) on 24 May 1999 and (5) Romero Grejaldo and 130 others (RAB-XI-06-00612-99) on 2 June 1999.

<sup>145</sup> Motion to Consolidate Cases and For Extension to File Position Paper, filed at NLRC Regional Arbitration Branch No. XI, Davao City, prepared by Atty. Manuel Quibod, submitted 28 September 1999.

<sup>146</sup> DAR Regional Office No. XI, Order, Case of WEARBAI and 334 Excluded Farmworkers as Compliants/ Protestants vs Carmelita Alepo *et al.* as Respondents, with WADECOR Employees Multipurpose Cooperative thru its Chairman Arturo Sajol as Intervenor, dated 15 November 1999.

<sup>147</sup> Appeal Memorandum, filed by WEARBAI and the 334 Excluded Farmworkers, dated 26 December 1999.

<sup>148</sup> The different cases and the dates they were originally filed areas follows – (1) Virgilio Cabintoy, *et al.* (RAB Case No.XI-04-00467-99) on 26 April 1999 (2) Rodrigo Asumbrado and 47 others (RAB-XI-05-00520-99) on 6 May 1999 (3) Romeo O. Berreros (RAB-XI-05-00534-99) on 11 May 1999 (4) Imelda Patayan (RAB-XI-05-00581-99) on 24 May 1999 and (5) Romero Grejaldo and 130 others (RAB-XI-06-00612-99) on 2 June 1999.

their lawyers’) attention was then diverted to other matters, with the release of the final list of agrarian reform beneficiaries (from which they were excluded) and then with the filing of the civil ejectment suit (against them). In the meantime, the deadline for filing position papers had already passed for some of the labour cases and was rapidly approaching in the others. In an attempt to bring the situation under control, WEARBAI’s lawyer submitted a motion to the National Labor Relations Commission in late September 1999 asking permission to consolidate the five different cases and for an extension to file a consolidated position paper until 20 October 1999. But the requested new deadline came and went without a response from the labour tribunal, and the matter was left hanging once more, as the lawyer turned to other matters. Three months later in later December, some WEARBAI members were surprised to hear from local agrarian reform officials that an unfavourable decision had already been rendered by the NLRC in their labour case, placing the workers’ status as agrarian reform beneficiaries in jeopardy. This was a devastating blow that also shook the disputants’ confidence in their lawyer, since the labour arbiter’s decision to dismiss the case appeared to be traceable to a mere technicality.

Dated 3 December 1999, the NLRC decision begins with the statement that the complainants ‘failed to file a position paper up to now, hence cases will be decided based on available records’ – implying that the company’s view of events would be adopted, since only the company had filed a position paper.<sup>149</sup> Thus the NLRC arbiters found the “indisputable facts” in the case to be that:

- (1) On 22 January 1999 the workers were told to report to work on that Sunday to harvest fresh bananas, since a cutting order had been received from Del Monte.
- (2) 63 of the complainants did not report on the said day, and the quota of 4,500 boxes was not achieved.
- (3) The next day the company directed the workers to explain why they had been absent without permission.
- (4) On 2 February the complainants responded that they should be treated as owners of the land and partners of TADECO – meaning, that issuance of the notice to explain showed lack of good faith, that as landowners they cannot be dismissed and ejected, that 24 January was a Sunday and day of rest and under law they are not required to work, and finally, that under DAR AO 9 the company’s prerogatives can no longer be enforced without their consent.
- (5) On 1 March the complainants began a picket and as a result the company suffered another shortfall that day, and:
- (6) The complainants were placed under preventive suspension the next day and then dismissed in batches on different dates, after a DAR-sponsored dialogue on 17 March and an NCMB mediation session on March 20 failed to resolve the dispute.

Without hearing WEARBAI’s side of the story, the labour arbiter found for the respondents (TADECO), saying the charge of unfair labour practice was not supported by any substantial evidence – ‘Except for

---

<sup>149</sup> Decision, NLRC Regional Arbitration Branch No. XI, Davao City, dated 3 December 1999.

bare allegations, there is nothing on record that would lead to the conclusion that respondents had interfered in their right to self-organisation'. The arbiter called the company's dismissal of the workers 'an act of self-preservation', since '[t]he remaining workforce would be demoralised if the complainants would not be penalised considering the gravity of their Offenses. Many would follow suit if the actors and players in the orchestra to sabotage the operation of the company would not be booted out'. The decision went on to say that the complainants had been 'bent to destroying the operation of the company. This can be gleaned from the explanation they submitted to respondents'. As proof, it pointed to the content of the streamers that had been displayed at the picket – including one that read 'We Want Government Law, Not Floirendo Law' (Ang batas gobyerno ang gusto among hindi batas Floirendo). Ironically, the arbiter admonished that while 'it is [the workers] constitutional right to express their sentiments . . . this right must be exercised in an appropriate manner'.<sup>150</sup> He went on to say that whatever may have been the justification behind the violations was 'immaterial' since an infraction of company rules was still committed, and so, in the end found 'the offense of the complainants to be serious and has [sic] a far reaching effect if not check [sic] and stop [sic] immediately, [sic] whatever maybe their rights under the CARP law, the same should not be used to sabotage the operation of a business venture like Tadeco [sic]. While they are still employees of Tadeco [sic] they should follow its lawful order. If they do not want to follow them [sic], then they have no business to remain under its employ'.<sup>151</sup>

The NLRC ruling was clearly a vigorous defense of TADECO's actions and a blistering critique of WEARBAI's. Further, the labour arbiter had capitalised on one procedural error (supposedly committed by the WEARBAI counsel) and then turned around and committed what the WEARBAI attorney felt was another by not conveying the decision right away to the losing party in interest. Although the decision had been rendered on 3 December 1999, the WEARBAI attorney's office was officially informed of the NLRC decision only on 3 January 2000 – a full month after the date of the decision itself.<sup>152</sup> In the interim, it had reached local agrarian reform officials first – they even were the ones who supplied a copy of the decision at that time to WEARBAI, suggesting to some that someone at the NLRC had leaked the decision to the winning party and then held it back from WEARBAI intentionally, in order to throw WEARBAI and its lawyer off balance, and perhaps drive a wedge between the two. Indeed, the WEARBAI lawyer came under fire from at least some of the members of WEARBAI, who began to doubt his integrity. After holding an emergency meeting with the lawyer, where they discussed the ruling

---

<sup>150</sup> The decision quoted some of the streamers, including – '*Batas gobyerno ang among gusto hindi batas Floirendo*' (We want the government law not the Floirendo law) and '*Cong. Floirendo Magaling Lang sa Porma, Sero sa Gawa*' (Congressman Floirendo Good in Form, Zero in Works), and then opined that 'It is their right to raise a protest of any wrongdoing in relation to their work. But they have no right to utter obscene language without running afoul to existing jurisprudence. In the case of *Asian Resign & Mfg. Corp. vs Deputy Minister of Labor*, 142 SCRA 79, the Supreme Court uphold the validity of the dismissal of an employee who hurled insulting or obscene language against a superior.'

<sup>151</sup> Republic of the Philippines, Department of Labor and Employment, National Labor Relations Commission, Regional Arbitration Branch No.XI, Davao City, Decision, NLRC Case No. RAB-XI-04-00467-99, RAB-XI-05-00520-99, RAB-XI-05-00534-99, RAB-XI-06-00612-99, 14.

<sup>152</sup> Notice of Judgement/Decision, NLRC Regional Arbitration Branch No.XI, Davao City, Cabintoy *et al.* vs TADECO, dated 3 January 2000.

and its implications for the agrarian case, the dismissed workers appealed the NLRC decision before the next level of the labour tribunal.<sup>153</sup> In the appeal, the WEARBAI Counsel, his own credibility at stake, took the Davao arbiter to task on the procedural issue:

The consolidation [of the originally five cases] was never conveyed and informed to counsel through an appropriate order as required by the Rules of Procedure of the NLRC. Counsel sent some complainants to the NLRC-RAB-XI to get counsel's official copy and found out that while the Decision was released as of 3 December 1999, the covering Notice of the Decision was only dated 3 January 2000. What happened to the Decision from 3 December 1999 to 3 January 2000? How come no decision was served during the period? How come the Decision had already reached the MARO ahead which is not a party to the labour case? In other words, a copy of the Decision was leaked from the Office of the Labor Arbiter and said Decision was kept away from the knowledge of the complainants. Said Decision was used by respondents and a copy given to the MARO-DAR so as to defeat and thwart upon the rights of complainants as lawful agrarian reform beneficiaries. The leakage was a denial of complainants' right to justice and fair play. What is dangerous in this incident is that the MARO-DAR will be misled and will use said Decision to disqualify complainants even if the labor case has not yet become final and executory.

(Complainants' Appeal Memorandum, dated 5 January 2000)

He went to argue that 'exercise of management prerogatives is not absolute but subject to limitations imposed by law' and that the terminations had been done 'maliciously, without cause and without due process' in order to 'paralyze the rights of the workers in the ongoing selection and qualification process before the DAR'.

WEARBAI tried to expose the connection between TADECO's actions and the underlying agrarian conflict in their pleadings in the ejectment case as well. In a pre-trial brief, they argued that the municipal trial court (MCTC) had no jurisdiction in the case, since the disputed area was the subject of compulsory acquisition proceedings by the DAR.<sup>154</sup> Jurisdiction should thus be with DARAB, they argued, since the dispute was in the nature of an agrarian dispute. 'The ejectment suit is intended to harass defendants because of labour case for illegal dismissal they filed and this suit being used to deprive them of benefits of CARP, hence suit is anti-labour and anti-CARP.' In this light, they added, the plaintiff was violating the rights of defendants as owners of the disputed property since they had already been named as agrarian reform beneficiaries in the DAR Regional Office Order of 15 November 1999. But this line of argument was rejected by the trial court judge in late February 2000, in a ruling that rested on the position that '[t]he only issue in an ejectment case (forcible entry and detainer cases) is the physical possession of real

---

<sup>153</sup> WEARBAI letter to Attorney Manuel Quibod dated 3 January 2000, asking for a meeting to discuss the NLRC decision and its implications for the agrarian case.

<sup>154</sup> Defendants' Pre-Trial Brief (Civil Case No. 113), prepared by Atty. Manuel Quibod, dated 3 December 1999.



property – possession de facto not possession *de jure* (Reyes vs Sta. Maria, 91 SCRA 164).<sup>155</sup> Title is never in issue but only prior physical possession'. The court had thus decided to rule strictly on the basis of the existing Civil Code's understanding of the issue of possession.<sup>156</sup> As a result, other critical circumstances surrounding and pertaining to the case were disregarded.<sup>157</sup> With respect to the agrarian case, the judge emphasised that even if the workers had been named as ARBs, they were 'not yet awardees' and as such, '[t]heir claim therefore of ownership over subject property is misplaced as the only issue in ejectment cases is who is entitled to the physical or material possession of the property involved, independent of any claim of ownership'. With regard to the matter of jurisdiction, the judge said simply that the claim that this was an agrarian dispute was "untenable", and in effect made it a non-issue by saying that the 1997 Rules of Civil Procedure (as amended) 'confers upon the MTC, exclusive original jurisdiction over cases of forcible entry and unlawful detainer cases (Sec.1, Rule 70)'. And so, without further consideration, the court ruled in favour of the company.

WEARBAI had effectively been stymied juridically, for now. But with the right of appeal in all three cases, the legal setback set the stage for a re-evaluation of the situation, leading to a period of intensified direct political action – something the landowner apparently wanted to avoid. The landowner apparently wished to avoid bringing the conflict back out into the realm of public opinion, preferring to keep the workers' hands tied up in litigation and drawing out the legal proceedings as long as possible, and so it took another two months for the legal requirements for actual ejectment to be set in place. Though unclear just when the company filed its motion for immediate execution of the court decision, it was not until late March that the court issued a writ directing the sheriff 'to cause the execution of aforesaid judgement; to have defendants vacate disputed property and peacefully restore possession to plaintiff; and to collect from defendants following amounts (listed). To levy the goods and chattels of defendants . . . and to make the sale thereof . . . in case sufficient personal property cannot be found whereof to satisfy

---

<sup>155</sup> The ruling (Decision, Civil Case No. 113 for Ejectment) was issued on 23 February 2000 by the 5<sup>th</sup> MCTC in Carmen.

<sup>156</sup> 'The subject matter thereof is merely the material possession or possession de facto over a real property. Ownership or the right of possession as an attribute of ownership is not to be determined (Ganadin vs Ramos *et al.*, 99 SCRA 613). Undoubtedly the plaintiff here is in possession of the property before the defendants came and lived thereat for free during the duration of their employment. After employment was severed by plaintiff, defendants became deforciant occupants. As such, defendants cannot controvert plaintiff's title. It is well settled rule that a tenant cannot, in an action involving possession of the leased premises, controvert the title of his landlord. Nor can a tenant set up any inconsistent right to change the relation existing between himself and his landlord, without first delivering up to the landlord the premises acquired by virtue of the agreement between themselves. In an action for unlawful detainer, the question of possession is primordial while the issue of ownership should be raised by the affected party in an appropriate action for a certificate of title cannot be subject to collateral attack (Spouses Feji vs Court of Appeals, G.R. No.107 951, 30 June 1994). The contention of defendants that they cannot be ejected as they are only suspended employees of plaintiff is not sustainable'.

<sup>157</sup> With respect to the labour dispute, the judge thus said that '... Even assuming *ex argumenti gratis* that reinstatement will be awarded to defendants, still in numerous cases, the parties are allowed to finally break up because of the already strained relationship. To allow therefore defendants to stay in premises pending final decision of said labour case will greatly prejudice right of plaintiff to preference of possession as well as its proprietary interest over the disputed property'.

amount of said judgement'.<sup>158</sup> Then the sheriff took the rest of March, all of April, and the first few days of May before trying to eject them. Indeed, two separate notices were issued by the sheriff's office demanding that the workers vacate the bunkhouses – the first time within seven days, and the second within 72 hours.<sup>159</sup> In neither instance was the deadline for compliance followed, suggesting that the Floirendos wanted to avoid a public scandal.

For their part, the 49 families had been convinced of their right to remain and were determined not to leave, despite the court order.

When we were still living there, before we were ejected, we approached [our lawyer], and he told us not to leave, not to worry, because that area where you live is a barangay. So we told [TADECO security] that we won't leave, that if you will ask us to vacate, we will not leave here. They told us that we would be ejected. They said it is better that you leave. 'You no longer work here, you don't have work any more, what are you doing here.' I said we will not leave because we were not paid, and since we were not paid, then, now that we were dismissed from work, where shall we live outside when we were not paid? [Our lawyer] said we were not supposed to leave here because this is a barangay, if this is not a barangay why is it that there is a barangay captain? They will go with that kind of talk.<sup>160</sup>

These may have been comforting thoughts as long as the company made no concrete moves to physically remove them. If the inclusion-exclusion case went in their favour, then their physical occupation of the bunkhouse would be strengthened. Regional DAR officials had promised that the official revised list would be released in March 2000. But then weeks went by and nothing happened. In the wake of the second sheriff's notice, it became clear that the time was near when they could no longer just remain, but would be forced to either leave voluntarily or to resist.

Hoping to buy time, and in a last-ditch effort to pressure the DAR to release the new list before the 49 families could be ejected, UFEARBAI and WEARBAI renewed their picket outside the regional DAR office. One hundred workers set up camp, 'demanding the release of the official list of ARBs for the areas covered in Wadecor, Tadeco [sic], Marsman, and Checkered Farms plantations'.<sup>161</sup> Previous promises that the list would be released in March had evaporated as March came and went. The DAR regional office

---

<sup>158</sup> In its Order in the Civil Case No.113, dated 27 March 2000, the municipal court noted that the Defendants had filed an opposition to the motion for execution and a notice of appeal, and that had perfected an appeal, but failed to deposit the proper bond in order to stay the execution pending appeal. Consequently, the judge found for the plaintiff and granted TADECO's motion for immediate execution, and also granted the forty-nine families' appeal and ordered the records of case be transmitted to the Regional Trial court of Panabo. The writ of execution was also dated 27 March 2000.

<sup>159</sup> In the first Sheriff's Notice to Vacate (Civil Case No.113), dated 10 April 2000, the workers were directed to vacate the premises voluntarily within seven days. 'Failure to comply will constrain sheriff to forcibly eject/oust including personal property with assistance of PNP and Philippine Army'. The document was signed by Henry B. Barceros, Sheriff IV, RTC Br.34, Panabo (for the Provincial Sheriff). In the second Sheriff's Second Notice to Vacate, dated 24 April 2000, Sheriff Barceros wrote, 'For humanitarian considerations [the] undersigned would like to give LAST CHANCE to voluntarily vacate within 72 hours'.

<sup>160</sup> FGD Ejected WEARBAI Families, Carmen Public Market, 29 June 2002.

<sup>161</sup> Mindanao Times, Banana Workers Picket DAR Office, 5 May 2000.

tried to redirect the pressure, claiming that the ‘draft orders covering the said plantations’ were still hung up at the central office in Manila. But the group held their ground. According to one newspaper, “The protesters stressed the importance of the final list, saying it proved the rights of ARBs. Enrico Cabanit, UFEARBAI vice-president cited the experience of the 49 families of retrenched workers but legitimate ARBs living inside the Wadecor bunkhouse who have been given their second notice of eviction by the company to make way for newly hired workers. “With the release of the final list, the ARBs and their families now have a claim over the land and could offer to purchase the improvements and structures including the bunkhouse””.<sup>162</sup>

Pressure from both sides in the agrarian conflict, along with an apparent inability to resolve competing interpretations of the law, had made the release of a final list of ARBs in the WADECOR case apparently extremely difficult for the DAR, leading to paralysis. But the situation continued to evolve on the ground, as the civil suit for ejectment worked its way toward resolution. That the legal resolution involved ejecting the 49 families from their homes, in some cases for the past 20 years, presented a new uncertainty. Would the families agree to leave voluntarily, or would they have to be forcibly removed from the premises? It seems highly unlikely that the Floirendos would have chosen to make the ejectment a big public scene if they could have avoided doing so (though they clearly would not have avoided carrying out the ejectment itself). But the launch of a UFEARBAI picket in Davao City before the ejectment could happen put the local media on notice of the brewing confrontation, trumped this option, ruling out the possibility of a quiet ejectment outside the public spotlight. And while it helped to force the Floirendos hand, it infuriated the regional DAR officials, who now found themselves in the uncomfortable position of having to decisively side with one or the other of the parties in the conflict, in public. Almost immediately after the picket began, DAR Regional Director Rodolfo Inson brought in the local police, who arrested and briefly detained 15 of the picketers.<sup>163</sup>

Then on the afternoon of 4 May, a more than 500-strong regional police force supported by “bystanders” armed with rattan sticks, converged on the occupied bunkhouses to eject the 49 families. The group had earlier discussed what to do when the moment came, with their leaders pressing for them not to fight back in order to prevent another case from being filed against them. But when the moment came, some still resisted, especially those who had been living there longest, as far back as the 1970s. Those who resisted were attacked with tear gas inside the bunkhouses and then pulled out by the police.<sup>164</sup> The ejected families retreated to the barangay gym, still unwilling to leave the plantation, and managed to

---

<sup>162</sup> Mindanao Times, Banana Workers Picket DAR Office, 5 May 2000.

<sup>163</sup> Sunstar Davao, Police Arrest 15 Protesting ARBs, 5 May 2000.

<sup>164</sup> The description of what happened is from a discussion with some of the families who were ejected as well as various newspaper accounts. ‘In our minds during that time, this [place] was already ours. We said we will not leave. Even if they will ask us to, we will never leave. We were not paid and we were not the ones who said we no longer want to work. They are the ones who relieved us from work. We will never leave. But when the time came that we were sheriffed, we were forced to leave. This is because there had been more than a busload of people who had truncheons, including people from the management side. There were also many police who attacked us. Those who stood their ground, were grabbed. There were even those who collapsed’ (FGD Ejected WEARBAI Families, Carmen Municipal Public Market, 29 June 2002).

hang on there for a time. They received assistance from sympathetic villagers and other WEARBAI members living along the outside perimeter of the property who sympathised with their cause, and secretly sneaked food and medicines inside to the families. But with a blockade having been imposed on the area and the management's strict monitoring, this effort became too difficult, and they were eventually forced to abandon their makeshift camp.<sup>165</sup> They left the plantation altogether four days later, took their belongings to the Carmen Public Market, and then went to the DAR regional office to join the UFEARBAI picket already underway.<sup>166</sup>

The addition of the ejected families to the UFEARBAI picket outside the regional DAR office helped draw public attention to the case, their presence symbolising the failure of government to guarantee the rights of ordinary rural poor people in the face of elite resistance to the agrarian reform law. Now the group demanded not only the release of the final list of agrarian reform beneficiaries, but also reinstatement of the ejected families to the bunkhouses. DAR regional officials tried to divert blame to the national office, insisting that the relevant papers were 'pending before the office of DAR Usec Conrado Navarro' and that the regional office had already asked the latter to 'speed-up the release of the decision'.<sup>167</sup> Dissatisfied with this response, and believing that only more pressure would bring results, the picketers padlocked the DAR gates closed on 9 May 2000, preventing movement in or out.<sup>168</sup> The next day Davao City police dispersed the group and the ejected families moved to a nearby gym, and then eventually settled in the Carmen Municipal Public Market.<sup>169</sup> Two days later, DAR Undersecretary Conrado Navarro issued the much-anticipated order. It (a) affirmed the inclusion of the 22 managers and supervisors, (b) affirmed the inclusion of the 50 retrenched workers, and (c) affirmed the inclusion of the 184 support services, 30 citrus farm workers, and 18 Nestfarm workers. In addition, he directed that the applications of the 104 workers 'who had voluntarily resigned and been terminated for cause and had initially been excluded on the grounds that they had not filed cases for illegal dismissal in a timely fashion' be processed and included on the list of ARBs if found to qualify. But the new order now suspended the inclusion of the 193 dismissed employees 'pending the final disposition of the cases filed questioning their dismissal'.<sup>170</sup> For an increasingly embittered WEARBAI leadership, it was a "disgusting" turn of events, since the 193 workers had been dismissed a full nine months after the end of the deferment period.<sup>171</sup>

---

<sup>165</sup> Details were gathered from a UFEARBAI letter to Congresswoman Loretta Rosales dated 25 May 2000. According to AFRIM [one of the nongovernmental organisations assisting the families], 'Electrical and water supplies were cut. Their meager food supply was also fast depleting. People were getting hungry and children were getting sick. Those who wanted to help, including the DSWD were unable to deliver food and other necessities to the evicted families because they were not allowed entry into the compound of Wadecor' (quoted from *Mindanao Daily Mirror*, Evicted ARBs Picket DAR Office, 9 May 2000).

<sup>166</sup> Dump trucks had been provided by the Mayor of Carmen to gather the 49 families and what belongings they could take with them.

<sup>167</sup> *Mindanao Daily Mirror*, 100 Farm Workers Picket DAR Office, 10 May 2000.

<sup>168</sup> *Mindanao Times News*, DAR Office 'Padlocked' by Disappointed ARBs, 10 May 2000.

<sup>169</sup> UFEARBAI letter to Congresswoman Loretta Rosales dated 25 May 2000.

<sup>170</sup> DAR, Office of the Undersecretary for Field Operations and Support Services, Order, 11 May 2000.

<sup>171</sup> UFEARBAI letter to Congresswoman Loretta Rosales dated 25 May 2000.

With both the labour and the ejectment cases under appeal, the main battleground shifted to the DAR central office in Manila, where, in addition to mobilising allies in Congress to launch an official inquiry (having lost faith in the executive branch), WEARBAI filed a motion for consideration.<sup>172</sup> In the motion, the workers tried to reopen the issue of the amount of land under coverage in the WADECOR area, referring to a previous DAR report as proof that the amount of land that should be subjected to the present coverage proceedings was the entire 1,024 hectares. They continued to argue against the inclusion of the 30 citrus farm and 18 Nestfarm workers, and for the unconditional inclusion of the 193 dismissed workers, but they now revised their demand with regard to inclusion of the 22 managerial/supervisory employees and also with regard to the inclusion of the 184 support service employees. The company cooperative, in turn, filed its own motion for consideration in the case. They continued to argue against the inclusion of the 50 retrenched, 193 dismissed, and 104 resigned or retired workers. Partly, the different filings reveal a tug-of-war over A.O. 9, particular with respect to the status of retrenched, dismissed, and retired or resigned workers, and whether they could be included conditionally (pending the outcome of previously filed labour cases) or unconditionally (regardless of having filed or not and of winning a labour case or not). Partly, they involved, especially on WEARBAI's part, holding up inconsistencies in previous DAR rulings that had had the effect of excluding workers they felt ought to be included if the law had been applied consistently. As a tug-of-war in the agrarian case was going on, the NLRC 5<sup>th</sup> Division rendered its decision in the appealed labour case in late July. The appeal was dismissed on lack of merit of all the arguments that had been made, from the jurisdiction question, to the due process issue, to the more substantive issues related to the circumstances of the dismissals. In mid-August, WEARBAI filed a motion for reconsideration before the labour tribunal. But by now, it was clear that their success in the agrarian case would have to be built on convincing the DAR of the rightness of including all those workers who had been retrenched, retired and resigned, and dismissed – unconditionally, regardless of what happened in the labour case. This assessment of their situation was reflected in a subsequent filing made at the DAR as follow-up to their motion for reconsideration.<sup>173</sup>

The situation may have seemed close to hopeless at this point. Yet the shift in the site of struggle to the national level also brought a fortuitous shift in the balance of power between the WEARBAI farmworkers and the landowner. The change in balance of power was due in part to the birth of a new national peasant coalition called UNORKA in June 2000, and due in part to a national political crisis arising more broadly over the continuing legitimacy of the government under President Estrada. On 10 June 2000, the 12th anniversary of CARP, representatives of local peasant organisations from different regions across the country came together to formally launch the National Coordination of Autonomous Local Rural People's Organisations (*Pambansang Ugnayan ng Nagsasariling Lokal na mga Samahang Mamamayan sa Kanayunan* or UNORKA). Among the founding members were UFEARBAI and WEARBAI. The new

---

<sup>172</sup> See UFEARBAI letter to Congresswoman Loretta Rosales dated 25 May 2000. WEARBAI filed its motion on 29 May 2000.

<sup>173</sup> Appellants' Additional Evidence to their Motion for Reconsideration, filed by WEARBAI, Re: Identification of ARBs in WADECOR Area, 5 September 2000.

movement's immediate goal was active pursuit of land reform using the bibingka strategy. At the founding, newly elected UNORKA national leaders presented DAR Secretary Morales with a catalogue of UNORKA-related land reform cases still pending at the department, and the secretary promised to act on them within a month. But he failed to do so, sparking a debate within UNORKA and its allied organisations PARRDS and PEACE over how to proceed. Agreeing that one problem was the prominent role that NGO leaders close to the Morales team had been playing in facilitating and mediating the case follow-up, the group decided to try a new tack.

Through PARRDS, UNORKA and PEACE initiated holding an 'All Peasant Leader Assembly' (APLA) to establish an alternative vehicle for pressuring the secretary to increase the fire "from above" on those members of the bureaucracy responsible for delays. In September, the assembly proceeded on a calculation that a deepening executive crisis afforded an opening for making strides in consummating the reform in big landholdings that had been held hostage to landlord influence under the current and past administrations. As a result, APLA leaders requested a meeting with top DAR officials, led by the secretary himself, by which time specific cases were to be resolved and presented. In preparation for the meeting, the APLA with PARRDS set about consolidating their list of all pending cases, and identifying those requiring a response from the department in order to move forward in the implementation process. Joint workshops with assigned DAR employees from the relevant department divisions were held to properly document the cases in order to speed up the processing. A list of nearly 500 pending cases was compiled, including, for UNORKA's part, 200 cases that had been compiled jointly with DAR employees and another 230 that the organisation had compiled on its own.<sup>174</sup> After that, it was up to the DAR to take the appropriate action. One of the most prominent of the UNORKA cases was none other than the WADECOR/ WEARBAI case.

In mid-October 2000, the long-anticipated meeting with the secretary went badly. Morales, who was in a meeting with the president, failed to appear, sending several assistants instead, who tried – unsuccessfully – to appease the peasant leaders, irritated by the DAR chief's absence, explaining it as a simple scheduling mishap. But the leaders dismissed the explanation and refused to leave the meeting hall. Though unprepared to do so, they ended up sleeping there overnight, partly as an act of defiance and partly in case the secretary ever did show up. When he arrived at the meeting hall the next morning, the peasants quickly surrounded him, maneuvering him and his aides to the back where there was no exit, in effect, taking him hostage. But the DAR chief and his aides were clearly still unprepared for the task at hand. Even more irritated but adamant, the peasants refused to let the secretary leave until he pledged in writing that all the cases would be resolved and presented to the group by DAR officials on 17 November. Days later, the DAR national office issued a new decision in the WADECOR case. The new decision, like the one it replaced, gave some concessions to WEARBAI in the sense of now ordering that the re-inclusion of those retrenched workers who had previously been excluded and the re-inclusion of the 193

---

<sup>174</sup> The compilation process is tedious and very involved technically. Among other steps, it requires specifying exactly where a given case is in the formal implementation process and why it had become "stuck" there.

workers who had been dismissed after the deferment ended. But it then effectively emptied these of any social justice meaning by making the farmworkers' re-inclusion contingent upon becoming members of the company-backed cooperative. Given everything that had transpired since the end of the deferment period, and given the fact that the company cooperative's leadership was in the hands of TADECO loyalist farm managers and supervisors and was firmly committed to the landowner's leaseback scheme, the order was ridiculous and met with derision. WEARBAI and UNORKA and their allies were shocked and outraged. Not only did the decision constitute an egregious violation of the workers' rights to freedom of association, it constituted a final betrayal of land reform as social justice by committing the WEARBAI workers to a life of "involuntary servitude" (as they later put it in an appeal).

By November 2000, the heat had been turned up on the Estrada government with a series of mass protests by a growing segment of civil society now openly opposed to his government and calling for him and his cabinet to resign. It was in this charged political climate that the endgame between UNORKA and the Morales DAR began in earnest. The two sides met again at another meeting that had been scheduled as a result of the October "hostage-taking" incident where the DAR chief failed to deliver on a promise to resolve nearly 500 pending land reform cases. The 17 November meeting was attended by some 200 local peasant leaders, community organisers, and policy advocates on the civil society side, and by the secretary, his undersecretary for field operations, several assistant secretaries, numerous regional directors, and sundry national office employees on the state side. UNORKA read aloud a statement demanding a full accounting of the cases and promising to hold the department leadership accountable for its actions. But apart from some 54 cases that had been resolved, the vast majority had not moved. Worse, the peasant leaders felt they were being given the runaround during the meeting to prevent discussion of the most urgent cases, including the WADECOR case, where the undersecretary had decided in favour of the Floirendos. The decision had unjustly disqualified 154 farmworker families and at the same time that it unfairly bound those judged as qualified to the soon-to-be former landowner via an onerous 60-year growers' contract with no exit option.

When the WADECOR case was finally forced onto the table for discussion at the 17 November meeting, the situation quickly escalated after DAR national officials insisted on defending the decision. An extremely heated exchange that threatened to dissolve into violence led instead to a walkout by the angry and disgusted UNORKA (and WEARBAI) representatives and other groups. All seemed to be on the verge of being lost. But with the pro-Estrada side beginning to unravel in the face of swelling public protest, the 17 November meeting proved to be the final turning point in WEARBAI's struggle by suddenly giving those inside the DAR central office who were close to the secretary, but critical of the way things were going, new room for manoeuvre. The pro-Estrada camp was steadily haemorrhaging, as former allies, including the Floirendos, jumped ship and declared their support for Vice-President Gloria Macapagal-Arroyo, and most of the top level DAR appointees were preoccupied with these larger dynamics, leaving behind senior staff who sympathised with the farmworkers. The confrontation during the 17 November meeting had also given them moral ground to argue for a reversal of the assailed WADECOR decision. So while UNORKA continued to turn up the heat "from below" with rallies

outside the DAR central office that began demanding the resignation of top DAR officials, their allies inside worked to bring about a reversal of the decision, quietly advising UNORKA and WEARBAI on how to proceed.

Days after the highly contentious meeting where UNORKA had dared to walk out, UNORKA and WEARBAI submitted a joint formal request to Secretary Morales that the decision be recalled immediately on the grounds that it violated the essence of the agrarian reform law, and that completely new negotiations be opened reviewing the terms of CARP implementation in the WADECOR plantation, specifically ‘crucial issues such as the inclusion-exclusion question among farmworker-(potential) beneficiaries, freedom of different farmworker groups to choose whatever post-LTI development path they want other than leaseback, and other related topics’.<sup>175</sup> At the same time, a top level DAR order was issued in response to WEARBAI’s charge that the October decision violated their constitutional right to freedom of association, saying ‘In view of the overriding importance of the issue, touching upon as it does a right granted by the Constitution . . . this Office resolves to act on the notice of appeal, without necessarily giving due course thereto’, partially reopening the decision-making process, enabling WEARBAI to restate its case fully and directly to the beleaguered secretary.<sup>176</sup> In the end, just days before President Estrada was ousted, along with his remaining loyalists in the Cabinet, a new decision was issued by soon-to-be-ousted DAR Secretary Morales, unconditionally including both the retrenched and the dismissed WEARBAI workers as agrarian reform beneficiaries and directing the subject property to be split two ways between WEARBAI and the company-backed cooperative, with one-third of it going to the WEARBAI members for individual splitting.<sup>177</sup> The outgoing secretary’s “midnight decision” was “affirmed in toto” and WEARBAI’s motion for execution was granted five months later by the new DAR Secretary Hernani Braganza, despite protestations by the landowner. In particular, the latter decision said that ‘The condition of membership in [the company backed cooperative] as imposed by the October 20 Order was found to be contrary to the provisions of Section 4 of RA 6938 (Cooperative Code of the Philippines), which provides membership in a cooperative to be voluntary’.<sup>178</sup> After extreme difficulty the WEARBAI farmworkers finally won their hard-fought struggle to rework and interpret the law based on their own ideas of what was right, although, like MSMSL in Sitio Libas the next phase in the overall battle remains to be fought – that is, the battle to gain control of the land awarded.

---

<sup>175</sup> UNORKA Letter to DAR Secretary Horacio Morales dated 22 November 2000, signed by WEARBAI Chairperson Enrico Cabanti and UNORKA General Secretary Vangie Mendoza.

<sup>176</sup> DAR Order Re: Identification of ARBs in WEARBAI vs Ajero and WEMCO, dated 22 November 2000 and signed by DAR Secretary Horacio Morales.

<sup>177</sup> DAR Order dated 18 January 2001, signed by DAR Secretary Horacio Morales.

<sup>178</sup> DAR Order in Administrative Case No. A-999-11-053-01, WEARBAI vs Carmelito Ajero *et al.* And WEMPCO, Re: Selection of ARBs for the Area Formerly Owned by WADECOR, signed by DAR Secretary Hernani Braganza, dated 18 June 2001.



## 4 Comparative lessons

### 4.1 Variable opportunity for reform over time and space

National constitutional-judicial changes created unprecedented opportunities for landless rural poor Filipinos to claim ownership rights on land they tilled as either tenants or farmworkers, even in the most politically contentious landholdings. The three cases examined here were each especially difficult ones in the context of pace and direction of agrarian reform law implementation in their respective regions and land or landholding type category. The Catulin property was the first landholding owned and controlled by the Reyes family in Bondoc Peninsula to be subjected to redistribution under RA 6657, and it started only in 1996 – eight years after the law had been in existence. The Sitio Libas property may or may not have been the first Uy family landholding in Bondoc Peninsula to be subjected to redistribution under RA 6657 (there were others that began to be covered at about the same time, if not a bit earlier). But it was a path-breaking case in the way that it broke through the inertia that had previously gripped socially excluded communities in Uy family controlled holdings in the public land zone in the area. The WADECOR property was the first landholding owned and controlled by the Floirendo family in Davao del Norte to be subjected to redistribution under RA 6657, and the first deferred commercial farm to be subjected after the expiration of the ten-year deferment period in the late 1990s. But even after all the initial delays in state agrarian reform law coming to the respective areas, the route to claiming their rights was by no means smooth or certain to lead to “success” in the sense of interpreting and enforcing the law in their favour. This is because a new set of obstacles cropped up that were internal to political-legal processes surrounding the official implementation process.

Limited state institutional reforms in the 1980s (creating DARAB) and in the 1990s (creating state-society interaction mechanisms under Garilao) had expanded access to the DAR by landless rural poor land rights claimants. However, the reforms and their effects were only unevenly institutionalised. With a new DAR leadership in place by the early 1990s at the national level, and subsequent shift within the bilateral Philippine-German government development project in the peninsula toward more emphasis on agrarian reform, a new opportunity arose for the Catulin tenants to try again to activate the state agrarian reform law *vis-à-vis* the Reyes property. But with the local authoritarian enclave where the Catulin property was located still intact and well entrenched, institutional reforms by themselves proved to be no guarantee that landless poor people’s rights would be protected. Both the MARO and the PARAD displayed signs of being influenced by cacique hacienda law, and thus unable – at least initially – to mobilise on behalf of the tenants’ rightful claims. Something else, namely, increased social pressure from below combined with the independent initiatives of state agents at higher levels, would be needed to eventually expose and then eliminate the barriers to the law being used to effect social change, that were put up by these offices initially.

But state institutional reforms – particularly those aimed at centralising control over processing of agrarian reform disputes in the hands of the DAR – were spread unevenly not only over time, but also

across lower levels of the state apparatus – that is, reaching some areas, but leaving intact many others that would also continue to play a role in the processing of agrarian reform disputes at the local level. The Municipal Circuit Trial Court (MCTC) judge in San Narciso in Bondoc Peninsula eventually dismissed for lack of merit criminal estafa charges that had been filed against two of the Uy tenants in Sitio Libas by the landowner – sending a signal to the latter that such a manoeuvre would not prosper in his court, which then deterred the landowner from taking the same course of action later, in response to the tenants’ share boycott campaign.

By contrast, the MCTC judge in Carmen in Davao del Norte simply refused to seriously entertain the argument put forward by the WEARBAI lawyer in the civil ejectment case filed by the landowner against the 49 former farmworkers, that consideration should be given to the fact that the dispute was rooted in an agrarian conflict between the farmworkers and the landowner. In the latter case, the local judge, biased against those seeking to alter the status quo anyway (he dismissed the argument that the workers were agrarian reform beneficiaries (ARBs) by saying that they technically were not yet awardees), was constrained to act in a way that disfavoured the farmworkers (and a social justice interpretation of agrarian reform) by gaps between the civil code and the agrarian reform code, which allowed him to use the law on forcible entry/unlawful detainer disputes to disregard other pertinent facts in the case. His ruling against the farmworkers, in effect, signaled that the national agrarian reform law was of little consequence in his jurisdiction. More egregious, however, were the proceedings with regard to the labour case for illegal dismissal filed by the farmworkers, who had been fired by the landowner after the ten-year deferment period ended, against the landowner. Here, the farmworkers found themselves caught between the slow and crooked process of agrarian reform law implementation on the one hand, and “procedural chicanery” by the labour tribunal on the other, with its refusal to consider the side of the farmworkers in its deliberations and its initial withholding of the ruling from the farmworkers while leaking it to local DAR officials who were in cahoots with the landowner.

#### *4.2 To try or not to try*

In all three cases, rural poor claimants knew they were suffering exploitation by their landowners (or who they thought were bona fide landowners, as in the Sitio Libas case) and the company (in the case of WADECOR), and they knew that they were caught in a world that was beyond the reach of state law (even if they were ignorant of key aspects of that law), long before they ever took steps to change the situation by claiming land rights. In all three cases, the tenants and farmworkers held steady by simply “swallowing” their suffering in silence, and perhaps furtively practicing everyday forms of resistance to cope with their situation, although this kind of response was much more apparent among the tenants (e.g. under-reporting the harvest) than it was among the farmworkers (e.g. stealing other plantation products like fish or grapefruit). But also aware of their longer-term predicament, the potential claimants attempted alternative organising in the years prior to launching into a land rights campaign, although this meant different things in the different cases. Alternative organising meant underground communist rebel organising in Sitio Libas and to a much lesser extent in Catulin, and independent labour union organising

in WADECOR. But for different reasons, none of these earlier initiatives to change the status quo prospered as such, although they ultimately may have contributed some new insights into their situation and into what it might take to break out of their social and political exclusion. In Catulin, the underground rebel movement was apparently not particularly interested in the area geographically (seeing it mainly as on the way to somewhere else). In Sitio Libas, the tenants lost interest in the underground organisation that had been initiated by the rebels, after realising that it was not going to enable them to effectively engage state law (whether in the context of a court case, or in the context of claiming legal land rights). And in the WADECOR plantation, independent labour leaders were often the first to face retrenchment, or worse.

It took an encounter with a rights-advocacy organisation willing and capable of interpreting state agrarian reform law as a potential resource for socially excluded groups in even the most politically hostile landholdings, for the respective groups of tenants and farmworkers to move beyond social inertia and individualised everyday forms of resistance, and to turn toward claiming land rights using state law. The Catulin tenants, of course, had had the prior experience of attempting to inquire about the law at the local MARO's office and being discouraged by the MARO himself. The experience taught them a valuable lesson that was useful in later strategising over how to mobilise the state in favour of their land rights claims. Then the tenants in both Catulin and Sitio Libas had effectively been excluded from earlier agrarian reform organising efforts sponsored by the official bilateral programme, the Bondoc Development Project (BDP), because of assessments by the organisers that it was too dangerous to try to demand land redistribution in either Reyes or Uy landholdings. Likewise, no alternative organising for specifically agrarian reform had ever reached into the WADECOR plantation before either, partly because of a previous emphasis on union organising on the theme of labour rights (as opposed to agrarian rights), but mostly because of the overwhelming strength of local cacique law and its chilling effect on any alternative organising at all inside the Floirendo plantations. As a result, it was through encounters with community organisers from PEACE (and PEACE affiliate MFDC in Davao), with its "pacesetting" approach to community organising and "bibingka" approach to land reform struggle, that the tenants and farmworkers in all three cases first really learned about the state agrarian reform law, what it might mean for them, if they decided to try to claim land rights using it, in terms of both a highly contentious political-legal struggle and its possible outcomes. In all three cases, rights-based demands for land reform took flight only after the respective communities of tenants and farmworkers gained effective access to a rights-advocacy organisation that was willing and capable of:

- (i) reaching into areas under the influence of cacique hacienda law,
- (ii) working to expand an alternative "rights consciousness" inside "captive lands",
- (iii) facilitating the birth of alternative rural collective identities geared toward resisting the hegemonic power of cacique law and initiating political-legal engagement with the state,
- (iv) assisting in mobilising the material support needed to sustain a long political-legal struggle for land reform, and:
- (v) facilitating connections with potential allies within the state and in society beyond the local level.

The provision of direct logistical support by right advocacy groups may have mattered a great deal, but in these three cases, it was the provision of information, analysis and ideas that mattered perhaps even more to breaking through the social inertia effects associated with cacique law. The provision of ideational and interpretive resources were crucial in organising and actually getting landless rural poor people's movements off the ground and, equally important, getting them moving in the direction of trying to mobilise state agrarian reform law to claim land rights in these three cases.

### **4.3 Making property rights accessible**

Yet whether the effort to use state agrarian reform law resulted in actual gains depended on having not just any kind of political-legal strategy, but a truly integrated one. This is because despotic landowners are, as von Benda-Beckmann *et al.* (1989) might put it, "Janus-faced" political-legal actors, who mobilise not just cacique law, but also state law to defend their interests. The latter is often mobilised tactically to harass peasant opponents, and to undermine the latter's claims from being effectively and properly heard, registered, and even processed by state officials. In all three cases, tightly integrated collective legal and political action was thus important for both activating and sustaining the struggle for land reform. In the case of the Catulin tenants, when the landowner began to take evasive manoeuvres inside the contested property after the tenants had petitioned for CARP coverage, including increasing harassment of the petitioners by his private army, the tenants responded by taking advantage of existing legislation on tenancy rights and using this to challenge state authority (in the form of the PARAD) to react against violations of their legal rights as tenants in order to strengthen their capacity to stay put inside the property. When the landowner then tried and succeeded in capturing the loyalty of the PARAD, the tenants responded by appealing the latter's ruling, and then also mobilising a higher DAR authority both against the "disloyal" adjudicator (as they had earlier against the MARO) and in favour of speeding up ongoing compulsory acquisition proceedings, by increasing social pressure from below. In the case of Sitio Libas, the process involved invoking through collective action (share boycott) an *implied* (and previously suppressed) legal right – that is, the right to be free from paying shares, whether in the presence or absence of a tenancy relationship.

This legally clever, but politically risky move served two purposes simultaneously: it offered them some immediate economic relief, while enabling them to determine whether or not the elite landholder had legal right to the land, which was important information for the proper processing of their agrarian reform claims. In both cases, the tenants reached outside of the immediate area of legal land rights provisions to other parts of state law, in both cases tenancy law, and used collective action to reinforce their legal land rights claims. In Davao, the WEARBAI farmworkers first had to mobilise against existing law on agrarian reform implementation in deferred commercial farms (e.g. DAR Administrative Order No. 6) and then to push the state to extend legal land rights to long-time workers who had been retrenched during the deferment period. They essentially had to push the state to construct their legal rights from scratch, because of a gap in the law (regarding how agrarian reform would be implemented in deferred commercial farms) that had been transformed through elite intervention into a legal impediment

to retrenched workers claiming land rights. They then had to keep mobilising social pressure from below in order to ensure that their rights would be given consideration throughout the state agrarian reform law implementation process. In short, mobilisation of collective action and pressure outside the halls of state (and even within) was crucial to enabling landless rural poor claimants to stay in the legal game that was unfolding in order to make it right for them. Taken together, the experience of the Catulin and Sitio Libas tenants, as well as the WEARBAI farmworkers, shows that while a rights-based, collective *legal* strategy is important (critical in fact) for landless rural poor people trying to claim land rights, *alone*, it is clearly not enough in the Philippine historical-institutional context, where what Jonathan Fox (1994) calls “local authoritarian enclaves” – or what we refer to here as entrenched strongholds of cacique law – continue to hold sway.

Further, the tenor of this integrated legal-extralegal mobilisation from below in all three cases, actually varied over time, depending on the nature of the obstacle encountered at a given moment. In many instances, it necessarily involved encouraging and latching onto independent initiatives – that is, initiatives independent of landowner influence, but not necessarily social pressure from below – of state actors involved either directly or indirectly in the state agrarian reform law implementation process, *whether or not* these initiatives could be considered truly sympathetic to the aims of the petitioners. This was a basic element of the bibingka strategy, and so detecting and using state actors’ independent initiatives was certainly an important factor in all three cases, although taken together, it ultimately mattered less than social pressure from below. The Catulin case was by far the best illustration of the three of the important role that independent initiatives by state actors can play and how this might work under constrained political conditions on the ground. There, state actors’ independent initiatives grew mainly out of the “friendly” interactions of the tenants and DAR and DARAB officials at the top, which were aimed jointly finding ways to circumvent and then dislodge resistance by lower-level DAR and DARAB officials under the influence of the landowner. In the Sitio Libas case, state actors’ independent initiatives were much less of a factor than direct action and social pressures from below, although the dismissal of the original estafa charges by the local trial court judge was an important event in the case, in terms of absolving the tenants of any legal wrongdoing and for sending a message to landed elites that such charges would only go so far.

Independent initiatives by state actors at any level of the system were clearly a much more problematic factor in the WEARBAI case. Apart from the useful tip from a DAR undersecretary at the very beginning of their struggle (regarding the content of draft guidelines for CARP implementation in deferred commercial farms) and the truly crucial actions by members of the DAR secretary’s staff at the very end of their legal struggle (which led to the issue of the more favourable January 2001 “midnight order”), it is difficult to find any state actions that could be classified as “independent initiatives” in favour of the farmworkers’ land rights claims. Most of the time, state action across the board (administrative, quasi-judicial, judicial) and from the bottom to the top (local to national), was more an expression of rejection of and resistance to the farmworkers’ legal land rights claims, in combination with an equally discouraging tactic of “giving with one hand, while taking with the other” (as was the case with both local and national DAR officials’ handling of the inclusion-exclusion issue). This suggests that the Floirendos

were (and are) a much more powerful and influential opponent than the Reyeses and Uys, although, clearly, the strength of the latter two, particularly their coercive power, should not be underestimated. Indeed, while Reyes lost the Catulin property in toto, the Floirendos (and WEARBAI) ended up essentially with a compromise outcome in just the portion that was subjected to coverage thus far, with neither side getting what they wanted completely, but neither losing completely either.

Finally, in all three cases, because landlord and other anti-reform resistance to redistribution of property in favour of the rightful landless rural poor petitioners both in and out of the halls of state, was so strong, the petitioners' strategy came to include what might be called a more direct resistance mode of mobilisation. In all three cases, there are certain points in the petitioners' respective struggles where a more militant and forceful mode of collective action became or appears to have become necessary. In Catulin, this was true after the PARAD rendered his flawed decision in favour of the landowner, and then again after all the legal hurdles were finally cleared and the peasant petitioners were awarded the land but could not re-occupy it because of the real possibility of violent retribution by the now former owner. A more militant show of force by the petitioners and their allies in the wake of the PARAD decision was necessary to keep the coverage proceedings on track and to prevent other state actors from wavering. The subsequent joint state-society reinstallation process was even more obviously necessary, especially in light of the tragic unfolding of events in Sitio Libas in the wake of the Sitio Libas tenants' brilliant and daring political-legal manoeuvre (share boycott campaign). What is still needed there is the mobilisation of an even greater amount of intense social pressure from below in order to, ironically, push the central state to enforce its own laws and defend and protect the peasants' legal rights to land and life, against both cacique law agents and underground communist guerrilla law agents intent on violating both rights. This is likewise the case with respect to the WADECOR plantation, where winning the legal right to the land has not automatically led to "feeling" it on the ground. But this should come as no surprise to observers in this case, where the rightful petitioners clearly had to really fight every step of the way, using pickets and rallies, padlocking and walkouts, just to stay in the legal game in the almost complete absence of supportive or independent initiatives by state actors on their behalf.

## **5 Conclusions and implications**

This paper has tried to show that the deployment of a well-integrated political-legal strategy is both relevant and necessary for those seeking to claim land rights in the Philippines. Though certainly not limitless opportunities, national constitutional-juridical changes in the late 1980s nonetheless created unprecedented opportunities for landless rural poor Filipinos to claim ownership rights on land they tilled as tenants and farmworkers – even in the most difficult and politically contentious landholdings. Limited institutional reforms expanded landless rural poor people's access to that part of the state most responsible for implementing the new land reform legislation, the Department of Agrarian Reform (DAR). However, other state institutional access routes for reform have remained closed to social change pressures, however "rightful" such pressures are.

Whether or not, and when, rightful landless rural poor claimants in these politically hostile situations actually took the step to try to claim the new legal land rights was contingent upon gaining access to, first and foremost, a “rights-advocacy organisation” with the political and interpretive resources to reach these closed-off communities and detect and convey the political-legal possibilities of and obstacles to using the new state agrarian reform law to claim land rights. But whether or not using state agrarian reform law resulted in gaining ground, depended on the particular nature of their political-legal strategy. In all three cases, a proactive and tightly integrated political-legal strategy was shown to be crucial in (i) *activating* and sustaining a “full and meaningful” interpretation of agrarian reform law implementation, (ii) *exploiting* independent initiatives of state actors, and (iii) *resisting* legal and extra-legal anti-reform initiatives of state and societal elites. This combination of using state law to resist “disloyal” elites by exploiting the independent initiatives of state elites resonates with Kevin O’Brien’s (1996) notion of “rightful resistance”. Indeed, together, the three cases studies suggest that an essentially legal-rights-based social movement strategy is necessary because of the particular nature of the opportunities and obstacles that present themselves when trying to use state agrarian reform law in those parts of the countryside which most need reform, but are least likely to “get it” as a result of independent initiatives by state actors alone. However, the paper also shows that by virtue of persistence of and innovations by legal-rights-based rural social movement efforts to claim land rights, state-led land reform more generally remains a relevant and feasible way to address the extremely difficult problem of persistent rural social exclusion.

Those interested in contributing to the eradication of this problem, at least in the Philippines but possibly elsewhere where similar historical-institutional conditions prevail, would do well to support these kinds of initiatives – that is, those that confront, rather than back away from, the political-legal obstacles in both society and the state, using the kind of legal-rights-based social movement strategy outlined above. More generally, this means cultivating greater tolerance and appreciation of, albeit in a calculated way, higher levels of social conflict expressed through political-legal mechanisms. It also means putting more public resources into supporting a more determined and sustained kind of integrated state intervention on behalf of specific well-organised landless rural poor social movement groups, around their legal land rights claims.

## References

- n.a., n.d, 'History of Minda', mimeo, n.p.
- Abinales, P.N., 2001, *Fellow Traveler: Essays on Filipino Communism*, Quezon City: University of the Philippines Press
- 2000, *Making Mindanao: Cotabato and Davao in the Formation of the Philippine Nation-State*, Quezon City: Ateneo de Manila University Press
- Anderson, B., 1988, 'Cacique democracy in the Philippines: origins and dreams', *New Left Review* 169
- Arias, Attorney M.I., 1998, 'The legal rationale for an agricultural tenant's non-culpability for Estafa in instances of default in the payment of lease rental or delivery of the landlord's share', *Occasional Paper* published by KAISAHAN tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan, Quezon City: KAISAHAN
- Bacungan, F.M. and Tadiar, A., 1988, 'The Judiciary' in R. De Guzman and M. Reforma (eds), *Government and Politics in the Philippines*, Oxford: Oxford University Press
- Baranyi, S., Deere, C.D. and Morales, M., 2004, *Scoping Study on Land Policy Research in Latin America*, Ottawa: The North-South Institute; International Development Research Centre (IDRC)
- Benda-Beckmann, F. von, Eldijk, Ab van, Spiertz, J. and Huber, F., 1989, 'Interfaces and Janus-Faces: A Critical Appraisal of the Interface Approach in Development Sociology from a Socio-Legal Studies Perspective', in N. Long (ed.), *Encounters at the Interface: A Perspective on Social Discontinuities in Rural Development*, Wageningen: Wageningen Agricultural University
- Bernstein, H., 2002, 'Land reform: taking a long(er) view', *Journal of Agrarian Change*, Vol 2 No 4: 433–63
- Borras Jr., S.M., 2005, 'Can redistributive reform be achieved via market-based voluntary land transfer schemes? Evidence and lessons from the Philippines', *Journal of Development Studies*, Vol 41 No 1: 90–134
- .2004, 'Rethinking redistributive land reform: struggles for land and power in the Philippines', PhD dissertation, The Hague: Institute of Social Studies
- .1998, *The Bitingka Strategy in Land Reform Implementation: Autonomous Peasant Movements and State Reformists in the Philippines*, Quezon City: Institute for Popular Democracy
- Bourdieu, P., 1987, 'The force of law: toward a sociology of the juridical field, translated by Richard Terdiman', *Hastings Law Journal* 38: 814–53
- Bourdieu, P. and Wacquant, L., 1992, *An Invitation to Reflexive Sociology*, Chicago: University of Chicago Press
- Boyce, J., 1992, 'Of coconuts and kings: the political economy of an export crop', *Development and Change*, Vol 23 No 4: 1–25
- Cabanit, E., 2000, 'Open letter concerning the Comprehensive Agrarian Reform Program (CARP) implementation in commercial farms', unpublished document, UFEARBAI, 24 August
- Caouette, D., 2004, 'Persevering revolutionaries: armed struggle in the 21<sup>st</sup> century, exploring the revolution of the communist party of the Philippines', PhD Dissertation, Cornell University



- Cousins, B., 1997, 'How do rights become real? Formal and informal institutions in South Africa's land reform', *IDS Bulletin*, Vol 28 No 6, Brighton: Institute of Development Studies
- Crippen, H., 1946, 'Philippine agrarian unrest: historical backgrounds', *Science and Society*, Vol 10 No 4
- Damaska, M.R., 1986, *The Faces of Justice and State Authority: A Comparative Approach to the Legal Process*, New Haven CT: Yale University Press
- DAR, 2000, *CARP Annual Report CY 2000*, Quezon City: DAR
- 1999, *1999 Performance Report*, Quezon City: DAR
- 1996, 'Study of the capability of the administrative and quasi-judicial machinery in the speedy disposition of agrarian cases', report submitted to the Department of Agrarian Reform by the Institute of Judicial Administration, University of the Philippines Law Center, Diliman, Quezon City
- De la Rosa, R. Jr., 1994, *CAP and the European Market for Coconut Oil and Copra Meal*, Davao: AFRIM
- Deininger, K., 1999, 'Making negotiated land reform work: initial experience from Colombia, Brazil and South Africa', *World Development*, Vol 27 No 4
- Doronila, A., 1992, *The State, Economic Transformation, and Political Change in the Philippines, 1946–1972*, Singapore: Oxford University Press
- Epp, C.R., 1998, *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective*, Chicago IL: University of Chicago Press
- Feliciano, M.S., 1996, 'Agrarian reform in the Philippines. In study of the capability of the administrative and quasi-judicial machinery in the speedy disposition of agrarian cases', report submitted to the Department of Agrarian Reform by the Institute of Judicial Administration, University of the Philippines Law Center, Diliman, Quezon City
- Feranil, S., 2001, 'The politics of agrarian reform in Philippine commercial banana plantations: the case of Hijo Plantations in Davao', MA Thesis, The Hague: Institute of Social Studies
- Forbes, W.C., 1945, *The Philippine Islands*, Revised Edition, Cambridge: Harvard University Press
- Fox, J., 1994, 'The difficult transition from clientelism to citizenship: lessons from Mexico', *World Politics*, Vol 46 No 2: 151–84, 15 January
- 1993a, 'Latin America: agrarian reform and rural democratisation', paper prepared for the International Conference on Agrarian Reform, Convention Center, Philippine Rural Reconstruction Movement, San Leonardo, Nueva Ecija, Philippines, 28 January–2 February 1991
- 1993b, *The Politics of Food in Mexico: State Power and Social Mobilisation*, Ithaca NY: Cornell University Press
- Franco, J., 2004, 'The Philippines: Fractious Civil Society and Competing Visions of Democracy', in M. Alagappa (ed.), *Civil Society and Political Change in Asia: Expanding and Contracting Democratic Space*, Stanford: Stanford University Press
- 2001a, *Elections and Democratisation in the Philippines*, New York NY: Routledge
- 2001b, 'Building alternatives, harvesting change: PEACE Network and the institutionalisation of Bibingka Strategy', Quezon City: PEACE Foundation

- 1999a, 'Market-assisted land reform in the Philippines: round two – where have all the critics gone?', *Conjuncture*, Vol 11 No 2, Quezon City: Institute for Popular Democracy (online version: www.ipd.org.ph: accessed data)
- 1999b, 'Between uncritical collaboration and outright opposition: an evaluative report on the partnership for agrarian reform and rural development services, PARRDS', *IPD Occasional Papers* 12, Quezon City: Institute for Popular Democracy
- 1999c, 'Post-CARP banana split turns deadly: what went wrong at Hijo Plantation', *Conjuncture*, Vol 11 No 3, Quezon City: Institute for Popular Democracy
- 1998a, 'Challenging the dinosaurs: local elections and political change in San Narciso', *Conjuncture*, Vol 10 No 2, June, Quezon City: Institute for Popular Democracy
- 1998b, 'Between honesty and hope on the agrarian front: wrestling with warlords in Bondoc Peninsula', *Conjuncture*, Vol 10 No 4, December, Quezon City: Institute for Popular Democracy
- 1994, 'Philippine electoral politics and the peasant-based civic movement in the 1980s', *Rural Development Studies*, Vol 10 No 2, Quezon City: Philippine Peasant Institute
- Franco, J. and Acosta, N., 1999, 'Banana war: part two, conclusion', *Conjuncture*, Vol 11 No 10, Quezon City: Institute for Popular Democracy
- Franco, J., Saturnino Jr., B., Bobis, B., Carranza, D. and Escobido, G., 2001, 'Philippine country paper', draft paper prepared for the IDS Making Law Study Project
- Garilao, E., 1998, *The Ramos Legacy in Aquino Reform: A Transition Report*, Quezon City: DAR
- Gatmaytan, D.B., 2000, 'Discretionary justice: the story and folly of Fortich v. Corona', *KAISAHAN Occasional Paper*, Quezon City: KAISAHAN, June
- 1994, 'Reversal of fortune: The Supreme Court on agrarian reform', *KAISAHAN Occasional Paper* 94-01, Quezon City: KAISAHAN, February
- Ghimire, K., 2001a, 'Peasants' Pursuit of Outside Alliances and Legal Support in the Process of Land Reform', in K. Ghimire (ed.), *Land Reform and Peasant Livelihoods*, London: ITDG
- 2001b, *Land Reform and Peasant Livelihoods*, London: ITDG
- Griffin, K., Khan, A.R. and Ickowitz, A., 2002, 'Poverty and distribution of land', *Journal of Agrarian Change*, Vol 2 No 3: 279–330
- Herring, R., 2003, 'Beyond the Impossibility Theorem of Agrarian Reform', in P. Houtzager and M. Moore (eds), *Changing Paths: International Development and the New Politics of Inclusion*, Ann Arbor MI: University of Michigan Press
- 1983, *Land to the Tiller: The Political Economy of Agrarian Reform in South Asia*, New Haven CT: Yale University Press
- Hirtz, F., 1998, 'The discourse that produces silence: farmers' ambivalence towards land reform in the Philippines', *Development and Change*, Vol 29 No 2
- Houtzager, P. and Franco, J., 2004, 'More justice for the poor? Experiments in judicial reform in Brazil and the Philippines', Draft Working Paper, prepared for IDS Making Law Study Project, Brighton: Institute of Development Studies

- 2003, 'When the poor make law: comparisons across Brazil and the Philippines', *Research Note, Law, Democracy, and Development Programme*, Brighton: Institute of Development Studies
- Hunt, A., 1993, *Explorations in Law and Society: Toward a Constitutive Theory of Law*, New York NY: Routledge
- Huntington, S.P., 1968, *Political Order in Changing Societies*, New Haven: Yale University Press
- Kay, C., 2004, 'Rural Livelihoods and Peasant Futures', in R. Gwynne and C. Kay (eds), *Latin America Transformed: Globalisation and Modernity*, London: Arnold (second edition)
- Kerkvliet, B., 1993, 'Claiming the land: take-overs by villagers in the Philippines with comparisons to Indonesia, Peru, Portugal, and Russia', *Journal of Peasant Studies*, Vol 20 No 3
- 1990, *Everyday Politics in the Philippines: Class and Status Relations in a Central Luzon Village*, Berkeley, CA: University of California Press
- 1979, 'Land Reform: Emancipation or Counterinsurgency?', in D.A. Rosenberg (ed.), *Marcos and Martial Law in the Philippines*, Berkeley CA: University of California Press
- 1977, *The Huk Rebellion: A Study of Peasant Revolt in the Philippines*, Berkeley CA: University of California Press
- KMP, 1992, *Proceedings of the KMP's Strategic Assessment and Planning*, conducted by the National Council on 27–31 January 1992, Tagaytay City, internal document
- Lara, F., 1986, 'Land reform in the proposed constitution: landmarks and loopholes', *Agricultural Policy Studies* 1, Quezon City: Philippine Peasant Institute
- Lara, F. and Morales, H., 1990, 'The Peasant Movement and the Challenge of Rural Democratisation in the Philippines', in J. Fox (ed.), *The Challenge of Rural Democratisation: Perspectives From Latin America and the Philippines*, London: Frank Cass
- Ledesma, A.J., 1988, 'Foreword', Workshop Report of the Tripartite Dialogue on Agrarian Reform, mimeo
- Leonen, M., 2000, 'Foreword', in M. Leonen (ed.), *Lawyering for the Public Interest*, Proceedings of the First Alternative Law Conference, Diliman Quezon City: Malcolm Theater, College of Law, University of the Philippines, 8–12 November 1999
- Liamzon, C., 1996, 'Agrarian reform: a continuing imperative or an anachronism?', *Development in Practice*, Vol 6 No 4
- Machado, K., 1979, 'Politics and dispute processing in the rural Philippines', *Pacific Affairs* 52
- Manapat, R., 1991, *Some Are Smarter Than Others*, New York NY: Alethia Publishing
- MFDC, *Accomplishment Report January 1988–April 1999*, internal document, Davao: Mindanao Farmworkers' Development Center
- O'Brien, K., 1996, 'Rightful resistance', *World Politics* 49: 31–55, October
- Ocampo, D.I.B., 2000, 'Stealing from myself: the plight of farmers charged with theft or qualified theft', *KAISAHAN Occasional Paper*, Quezon City: KAISAHAN, August
- PARRDS, 1994a, *Board Meeting Minutes, March 30*, internal document, Manila
- 1994b, *Strategy and Program for ARRD, July*, internal document, Manila

- PESANTEch, 2000, 'Stalled in Court: A Forum on Farmers' Legal Struggles', in M. Leonen (ed.) *Lawyering for the Public Interest*, Proceedings of the First Alternative Law Conference, Diliman Quezon City: Malcolm Theater, College of Law, University of the Philippines, 8–12 November 1999
- PHILDHRRA, 1997, 'Making agrarian reform work: securing gains in land tenure improvement', *TriPARRD Series* No.1, Prepared for PHILDHRRA by Center for Community Services, Quezon City
- Putzel, J., 1998, 'Non-governmental Organisations and Rural Poverty', in G. Silliman and L. Noble (eds), *Organising for Democracy: NGOs, Civil Society, and the Philippine State*, Quezon City: Ateneo de Manila University Press
- 1995, 'Managing the "main force": the communist party and the peasantry in the Philippines', *Journal of Peasant Studies*, Vol 22 No 4
- 1992, *A Captive Land: The Politics of Agrarian Reform in the Philippines*, Quezon City: Ateneo de Manila University Press
- QUARDDS, n.d., *Case Brief of 174-Hectare Property of Domingo Reyes*, internal document, Quezon City: PEACE Foundation
- Quitoriano, E., 2000, 'Agrarian struggles and institutional change: the MAPALAD struggle for land', Quezon City: Management and Organisation for Development and Empowerment (MODE)
- Reyes, R., 1999, 'Market-assisted land reform: an indecent proposal', [www.philsol.nl](http://www.philsol.nl), (accessed data)
- Riedinger, J., 1995, *Agrarian Reform in the Philippines: Democratic Transitions and Redistributive Reform*, Stanford: Stanford University Press
- Rocamora, J., 1994, *Breaking Through: The Struggle Within the Communist Party of the Philippines*, Manila: Avril
- Rosenberg, G.N., 1991, *The Hollow Hope: Can Courts Bring About Social Change?*, Chicago IL: University of Chicago Press
- Rubin, J., 1990, 'Popular Mobilisation and the Myth of State Corporatism', in J. Foweraker and A. Craig (eds), *Popular Movements and Political Change in Mexico*, Boulder CO: Lynn Rienner
- Rutten, R., 2000, 'High-cost activism and the worker household: interests, commitment, and the costs of revolutionary activism in a Philippine plantation region', *Theory and Society*, Vol 29 No 2
- Scott, W.H., 1982, *Cracks in the Parchment Curtain and Other Essays in Philippine History*, Quezon City: New Day Publishers
- Sidel, J., 1999, *Capital, Coercion and Crime: Bossism in the Philippines*, Stanford: Stanford University Press
- Silliman, G.S., 1981–82, 'Dispute processing by the Philippine Agrarian Court', *Law and Society Review*, Vol 16 No 1
- Steinmo, S., Thelen, K. and Longstreth, F., 1992, *Structuring Politics: Historical Institutionalism in Comparative Analysis*, Cambridge: Cambridge University Press
- Task Force Bondoc Peninsula, 2003, *Living Dangerously in San Vicente: A Fact Finding Mission Report on Agrarian Reform and Human Rights Situation in Barangay San Vicente, San Narciso*, 30 September
- Teh, A., 2001, 'Legal map on agrarian cases', unpublished document, commissioned by Law, Democracy and Development Programme, Brighton: Institute of Development Studies

- Van Donge, J.K., 1999, 'Law and order as a development issue: land conflicts and the creation of social order in Southern Malawi', *Journal of Development Studies*, Vol 36 No 2: 48–70, December
- Villanueva, P., 1997, 'The Influence of the Congress for a People's Agrarian Reform (CPAR) on the Legislative Process', in M.A. Wui and M.G.S. Lopez (eds), *State-Civil Society Relations in Policy-Making: Philippine Democracy Agenda*, Quezon City: Third World Studies Center
- Weekley, K., 2001, *The Communist Party of the Philippines, 1968–1993: A Story of its Theory and Practice*, Quezon City: University of the Philippines
- World Bank, 2000, *World Bank Development Report, 2000/1: Attacking Poverty*, Oxford: Oxford University Press
- Wurfel, D., 1988, *Filipino Politics: Development and Decay*, Quezon City: Ateneo de Manila University Press
- 1983, 'The Development of Post-War Philippine Land Reform: Politic and Sociological Explanation', in A. Ledesma *et al.* (eds), *Second View from the Paddy*, Quezon City: Institute of Philippine Culture, Ateneo de Manila University