

APPENDIX 1: THE IMPACT OF LEGAL EMPOWERMENT ACTIVITIES ON AGRARIAN REFORM IMPLEMENTATION IN THE PHILIPPINES

I. Introduction

1. This paper presents the results of a study on the impact of legal empowerment activities on the implementation of agrarian reform in two provinces in southern Philippines. The study was undertaken as a supplement to the seven-country Legal Empowerment Study conducted under Asian Development Bank Regional Technical Assistance 5856.

2. Legal empowerment, or the use of law to increase disadvantaged populations' control over their lives, differs from the more general notion of empowerment in that it involves the explicit or implicit use of the law (for example, through training, counseling, or litigation) or relates to public decision-making processes that have a specific legal dimension (for example, equipping citizens or communities with the skills and confidence to appear before an administrative tribunal or to inform local policy development.) It frequently combines such activities with initiatives that are not inherently law-oriented, such as community organizing or livelihood development. While they typically include education, most advanced legal empowerment initiatives aim to do more than simply teach people about law. They provide the disadvantaged with opportunities to apply their knowledge through actions intended to advance their legal rights, improve their quality of life, or increase their participation in public decision making.

3. The basic analytical strategy for this study was to compare areas in which nongovernmental organizations (NGOs) were conducting legal empowerment strategies with comparable places where no such work was conducted. This paper reviews the law on land reform and the related legal empowerment work of NGOs, then analyzes three kinds of data collected in the study. These are: (i) judgmental data based on the independent observations and impressions of agrarian reform officials; (ii) quantitative data from a survey conducted in four communities (two with legal empowerment activities and two without); and (iii) the results of focus group discussions in those four communities.

II. Background on Agrarian Reform in the Philippines

4. Agrarian reform has long been an issue in Philippine politics, and is generally considered central to poverty reduction. In 1972 President Ferdinand Marcos issued martial law *Presidential Decree (PD) 27*, which introduced land reform strictly for lands devoted to rice and corn production. In 1988, during the administration of President Corazon Aquino, Congress passed *Republic Act 6657*, known as the Comprehensive Agrarian Reform Program (CARP). This expanded the scope of land reform to all agricultural lands, and included the landless as potential beneficiaries.

5. The Department of Agrarian Reform (DAR) has primary responsibility for the implementation of the land reform laws. A complex procedural apparatus has been developed for their administration. In addition, the Department of Environment and Natural Resources (DENR) has responsibilities under various initiatives to award ownership rights to the ancestral lands of indigenous peoples. It is important to note that agrarian reform was not one of the services devolved to local governments under the 1991 *Local Government Code*. Accordingly, references to local agrarian reform officials are to employees of the DAR, not to employees of local governments.

6. A recent study commissioned by the World Bank noted that the agrarian reform program in the Philippines has improved the lives of farmer-beneficiaries and their families. It also noted that agrarian reform beneficiaries tend to invest more in their children's education, making their children better educated than those of non-beneficiaries. The study, *Redistribution, Investment and Human Capital Accumulation: The Case of Agrarian Reform in the Philippines*,¹ assessed the impact on farmers' lives of agrarian reform during the past 30 years, including that of the Comprehensive Agrarian Reform Program (CARP) passed in 1988.

7. The World Bank study supports the theoretical abstract that, at the household level, redistribution of productive assets can enhance opportunity and overall growth. Results indicate that land reform resulted in higher investment in physical capital, a greater increase in the inter-generational transmission of human capital, and greater household welfare and productivity. The study also notes that households that benefited from the 1972 land reform increased their rice yields by between 565 to 537 kilograms per annum over those of non-beneficiaries, and that "increase in profit is positive and significant at [a level of] 10 percent." Accordingly, these findings suggest that in the Philippines, land reform policies need to be assessed in terms of their broader implications for overall equity and the process of rural development.

8. In November 1999, Paralegal Education Skills Advancement and Networking Technology (PESANTEch), a consortium comprising the NGOs Saligan, Kaisahan, and Balay Mindanaw, produced a paper entitled *Stalled: The Legal Struggles of Farmers for Agrarian Reform*. The paper was presented at the First Public Interest Law Conference held at the University of the Philippines College of Law. It pointed out that the Comprehensive Agrarian Reform Program is an important strategy for the elimination of poverty in the Philippines. The paper also showed how the legal system has failed in its duty to administer agrarian justice and presented issues and problems that affect the implementation of the program.

9. Some of the issues raised by the study include: (a) misuse of the legal system by landowners and some policymakers; (b) lack of knowledge and understanding of agrarian laws by farmer-beneficiaries and the regular courts; (c) an unfriendly policy environment and practices in agrarian law, as indicated by conservative court rulings on agrarian justice and further exemptions granted by Congress; and (d) lack of political will on the part of those responsible for the implementation of land reform programs. It further concluded that the Department of Agrarian Reform, as the lead implementing agency, has inherent bureaucratic weaknesses.

III. NGO Legal Empowerment Activities

10. When the Comprehensive Agrarian Reform Program was passed in 1988, skeptical NGOs felt they had two options: either dismiss the law outright, which would please and benefit the land-owning elite; or embrace it with no illusions concerning its prospective success. When some NGOs chose the latter option, they faced many challenges. An enabling environment for agrarian reform required a number of elements. These include: (i) an organized constituency to demand that the law be faithfully implemented; (ii) a critical and no-nonsense approach on the part of the Department of Agrarian Reform to effectively pursue the implementation of land reform; (iii) implementation of a comprehensive, capacity-building program among CARP's

¹ Deininger, K., F. Lara, Jr., M. Maertens, and A. Quisumbing, "Agrarian Reform in the Philippines: Past Impact and Future Challenges" (Washington, D.C., The World Bank, mimeo, 2000) as cited in *Philippines Growth with Equity: The Remaining Agenda* (The World Bank: Washington, D.C., 2000).

beneficiaries; and (iv) a national-level campaign and advocacy to secure public support for agrarian reform.

11. PESANTEch was established in 1993 by Kaisahan and Saligan, two NGOs based in Metro Manila. They were later joined by the Balay Mindanaw Foundation, Inc. PESANTEch was established to provide farmer-beneficiaries with the basic legal skills and knowledge necessary to utilize the law and the legal system to advance their land rights.

12. In five years, PESANTEch has trained more than 1,000 farmer-paralegals and advocates covering 22 project areas and 27 partner NGOs. It has 10 lawyers on retainer, as well as 600 active farmer-paralegals in the 22 project areas in which it works.

13. In the present policy environment, this effort cannot be sustained purely on the basis of the role of farmer-paralegals, as originally conceived. A broader strategy is required. As conceived by PESANTEch, this strategy includes: (i) working closely with locally-based, like-minded NGOs and peoples' organizations involved in community organizing for resource tenure improvement; (ii) engaging with the Department of Agrarian Reform and working with state reformists within the bureaucracy; (iii) networking with different coalitions in agrarian reform and rural development; and 4) building the capacity of farmer-paralegals who work with peoples' organizations that are involved in improving land rights and which have recently begun to play a role in promoting public participation in governance.

14. At the community level, PESANTEch trains farmer-paralegals, assisting in the transfer of and/or long-term lease of at least 100,000 hectares of CARP-administered lands. It conducts an average of 24 legal clinics per annum, involving approximately 960 farmers and paralegals. To date, it has conducted approximately 120 clinics and engaged approximately 5,000 farmer beneficiaries. At least two provincial-level project areas have established associations of farmer-paralegals to sustain their efforts, as well as to serve as support groups for people's organizations that pursue cases in the courts and before the provincial adjudicator. At least 50 farmer-paralegals have appeared as counsels for farmers in hearings of DAR provincial adjudication boards and in DARAB.

IV. Project Description

15. This paper reports the results of a comparative study of areas where there has been intensive paralegal systems development versus those where there has been none.

16. The value of securing legal title to land is vitally important to farmers, as those who hold title are likely to be more productive than those who have no legal documents to confirm their ownership of the land. The purpose of the study was: (i) to examine the advantages of having paralegal systems; and (ii) to assess whether paralegal systems development has a direct impact in increasing productivity.

17. The areas selected for the study were Agusan del Sur and Bukidnon, both of which are in the southern island of Mindanao. The two provinces have experienced a high level of redistribution of both public and private lands. Both provinces have favorable agro-climatic environments, which support a number of crops, including rice and corn.

18. Three types of data were reviewed in the study:

- (a) Independent assessment by local officials of the Department of Agrarian Reform of which barangays in their municipalities were the most and least successful in the implementation of the Comprehensive Agrarian Reform Program;
- (b) A survey of approximately 100 respondents in each of four barangays: two that had legal empowerment activities and two that did not. All four barangays are agricultural, are close to main roads, and have access to electricity.
- (c) Results from focus group discussions in these four barangays, in which participants were invited to discuss and make recommendations on an illustrative case involving the violation of farmers' rights under agrarian reform.

V. Assessments by DAR Officials

19. The study was designed to compare agrarian reform accomplishments in areas with and without legal empowerment interventions. In preparing to implement the study, an inconsistency was discovered between official government data collection procedures and the organizing strategy of agrarian reform advocates. While PESANTEch takes as its organizational unit the "community"—typically defined as a barangay (village)—DAR does not collect and maintain official data at the barangay (village) level. Instead, agrarian reform accomplishments are reported by the municipality, the next higher politico-administrative unit.

20. As an alternative course, the opinions of local officials of the Department of Agrarian Reform were solicited to serve as proxy indicators. In all municipalities in the two provinces where PEASANTEch conducts activities, Municipal Agrarian Reform Officers were asked to name which barangays were most and least successful in implementing agrarian reform. (The topic of legal empowerment was not mentioned to these officials, to avoid contaminating the results.) The results are presented in Table 1, which should be read as follows:

- Of the 16 barangays in the municipality of Baungon, five have legal empowerment programs. The DAR officer named a legal empowerment barangay as the most successful, while the least successful was a barangay without any legal empowerment activity.
- Another example is the municipality of Manalo Fortich, in which legal empowerment activities are conducted in two of the 22 barangays. Neither the most nor the least successful barangays cited by DAR officials were ones in which legal empowerment activities have been conducted.
- The only municipality where a barangay with legal empowerment activity was cited as least successful was Trento, where 6 of the 16 barangays had legal empowerment activities.

21. The results of this qualitative survey are clear: legal empowerment activities are associated with the assessment of Department of Agrarian Reform officials that implementation of agrarian reform is successful in a particular community. When asked to cite the reasons for their judgement, the DAR officials noted the connection unprompted by any mention of legal empowerment activities or the benefits that flow from them. The reasons cited for success included an awareness of rights on the part of farmers. Reasons cited for lack of success included a lack of education or lack of knowledge on the part of farmers.

Table 1: DAR Assessment of Barangays with Most and Least Agrarian Reform Success

BUKIDNON

<i>Municipality</i>	<i>Number of Barangays</i>	<i>Number of Barangays with LE Programs</i>	<i>DAR Assessment</i>	
			<i>Most Success</i>	<i>Least Success</i>
BAUNGON	16	5	LE	
MARAMAG	20	5	LE	
MALAY-BALAY	46	3		
MANOLO FORTICH	22	2	LE	
SUMILAO	10	4	LE	
IMPASUGONG	13	3	LE	
VALENCIA	31	3	LE	
QUEZON	31	4	LE	

AGUSAN DEL SUR

<i>Municipality</i>	<i>Number of Barangays</i>	<i>Number of Barangays with LE Programs</i>	<i>DAR Assessment</i>	
			<i>Most Success</i>	<i>Least Success</i>
STA JOSEFA	11	10	LE	
BUNAWAN	10	2	LE	
TRENTO	16	6	LE	LE

VI. Survey Results

22. As noted, quantitative surveys of approximately 100 respondents each were conducted in two barangays with legal empowerment activities and two barangays without. The quantitative analysis demonstrates the impact of such activities.

23. Table 2 indicates that respondents in barangays with legal empowerment activities stand in a different relationship to the land. There are fewer tenants, and more squatters, showing a higher level of informal acquisition of land.

24. In addition, Table 2 indicates that overall levels of ownership are roughly equal in the two areas, while Table 3 shows that in areas with legal empowerment activity, land is much more likely to have been acquired through agrarian reform (35 percent versus 3 percent). In areas without legal empowerment activities, land is typically purchased or inherited. The effect shown in Table 3 is not confined to those areas that have been directly involved in NGO-sponsored legal empowerment activities, but rather is shared with the entire communities under study.

Table 2: Relationship to Land

WHAT KIND OF CULTIVATOR ARE YOU?		With Legal Empowerment	Without Legal Empowerment
Not a Farmer		6%	-
Tenant		6%	20%
Farm Worker		4%	11%
Squatter		17%	3%
Renter		2%	4%
Owner		60%	50%
Part Owner		5%	13%
<i>Total</i>	%	100%	101%*
	Count	212	188

*Total does not add to 100 due to rounding error

Table 3: Land Acquired Through Land Reform

HOW LAND ACQUIRED		With Legal Empowerment	Without Legal Empowerment
Agrarian Reform		35%	3%
Bought		18%	33%
Inherit/Given		27%	44%
Efforts of DAR/DENR or NGO/Farmers Group		20%	20%
	Total	100%	100%
	Count	114	86

25. Table 4 is confined to respondents from barangays with legal empowerment activities, grouping them according to how involved they are in those activities. Ordinary residents are most numerous, followed by those who have had legal empowerment training. The third group comprises those who are trained to serve as paralegals. The results indicate that the method of acquiring the land is broadly similar for all three groups, and that ordinary residents are as likely to have obtained their land through agrarian reform as those with more exposure to legal empowerment activities. Table 4 also illustrates the theory behind community-based paralegals, who can act for other members of the community.

Table 4: Land Acquired Through Exposure to Legal Empowerment, in Areas With Legal Empowerment

HOW LAND ACQUIRED		Ordinary Residents	Legal empowerment Training	Paralegals
Agrarian Reform		32%	43%	33%
Bought		20%	-	25%
Inherit/Given		29%	21%	33%
Efforts of DAR/DENR or NGO/Farmers Group		19%	36%	8%
	Total	<i>100%</i>	<i>100%</i>	<i>99%</i>
	Count	90	14	12

26. In general, the survey results showed higher productivity in areas with legal empowerment, along with higher income, more disposable income, and farm investment. The level of savings was approximately the same in either case. Survey data on income in a general-purpose questionnaire (as opposed to specialized family income and expenditure survey) may not be of a very high quality. Thus, a proxy indicator of household welfare—housing quality—is presented in Table 5. Rural residents prefer galvanized iron roofs for their houses. This is often the first investment a rural household makes when it acquires some surplus savings. This data indicates “harder” evidence of higher welfare in barangays with legal empowerment activities, even though they are agriculturally and geographically similar to barangays without legal empowerment activities.

Table 5: Quality of Housing

ROOF		With Legal Empowerment	No Legal Empowerment
Galvanized Iron	%	88.7%	76.6%
Grass	%	11.3%	23.4%
<i>Total</i>	%	<i>100.0%</i>	<i>100.0%</i>
	Count	212	188

VII. Focus Group Discussions

27. The final data gathering technique involved focus group discussions in the four barangays where surveys were undertaken. These discussions were held several months after the original survey fieldwork. Roughly 20 persons in each barangay were included in the discussion groups. An illustrative agrarian dispute case was presented and participants were asked to analyze and recommend responses to the case, with no help from facilitators. Researchers documented the responses of the participants, as well as their behavior, in order to evaluate the level of understanding of the issues posed in the case, the skills of participants at arriving at proposed solutions, and general level of knowledge. The responses in the two barangays with legal empowerment activities were then compared with those in the two barangays without legal empowerment.

28. In both sets of barangays, participants were attentive to the case problem, and receptive to the exercise in which they were invited to engage. Participants in both the program and control barangays were able to associate the problems, issues, and concerns in the case presentations with their own experiences. Both groups expressed a need to organize to counteract land rights violations. The groups both expressed an understanding of the local power relations that place poor residents at a disadvantage. The groups differed, however, in their knowledge of the nature of the rights violation presented in the illustrative case, the remedial steps that might be taken, and level of confidence in the proposed solutions.

29. Participants from barangays that had legal empowerment activities were very specific in identifying the violations committed in the case, citing relevant laws. Those from the control barangays, on the other hand, were more likely to attribute the violations to misunderstandings between parties. They were also more likely to express concern about the impact that pursuing a legal rights remedy might have on community relations

30. As evidence of their problem-solving skills, participants from communities with legal empowerment activities were able to articulate the necessary steps to be followed to resolve the issue. In the areas without legal empowerment, participants tended to rely on outside assistance rather than seek independent solutions to the problem. They frequently suggested that assistance be requested from government agencies identified on a list provided to them, with little grasp of what specific help those agencies could provide. In contrast, participants from areas with legal empowerment showed a high degree of knowledge of applicable laws, as well as the specific government agencies that could best respond to the situation.

VII. Summary

31. This research study applied the principle of “triangulation,” through which the same question is approached through a combination of different methods. The same conclusion was reached in assessing the qualitative opinions of agrarian reform officials, quantitative results from a sample survey, and observations of focus group discussions: legal empowerment has a positive impact on agrarian reform activity, and contributes to the welfare of residents in areas with legal empowerment programs. The findings support the proposition that legal empowerment helps to reduce poverty, increase citizen welfare, and enhance citizen participation in governance.