

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

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. 2267

HOUSE OF REPRESENTATIVES	
<b>RECEIVED</b>	
DATE:	01 AUG 2016
TIME:	6:45 PM
BY:	[Signature]
REGISTRATION UNIT BILLS AND INDEX SERVICE	

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Introduced by REP. KAKA BAG-AO

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### EXPLANATORY NOTE

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

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

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

Indeed, credible empirical studies<sup>2</sup> show that CARP has resulted in significant improvements in the welfare of agrarian reform beneficiaries (ARB) located in agricultural reform communities (ARC), with increased farmer household income and expenditures and decreased likelihood of being poor. For example, poverty incidence decreased in ARCs from 40% to 25% between 1990-2000, greater than those in non-ARC barangays and there is a higher proportion of better housing, and higher educational attainment of household members aged 6-24 years old.

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

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

Moreover, owning land improves the odds of being non-poor 1.76-2.6 times than of being poor and results in higher investments of ARBs with firm titles.

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

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

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

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

Agrarian reform also makes good economic sense. Studies show that sustained high economic growth is essential, albeit insufficient, condition for poverty reduction and that inequality in assets, particularly land, is systematically related to lower growth—all the more reason why the government must go the last full mile in implementing agrarian reform.

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

By that date, the Department of Agrarian Reform estimates that about 500,000 hectares out of the LAD balance of about 1,200,000 hectares as of June 2009 still have to be distributed. In addition to the June 2009 LAD balance, at least 500,000 hectares of VLT plus leasedback lands

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

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

and lands under collective CLOAs<sup>5</sup> claimed as having been distributed are suspect to having circumvented or avoided the law and/or were not really distributed nor transferred to the control of farmer beneficiaries. These lands if left undistributed would constitute a mockery of the constitutional provision on agrarian reform and would reward the very people who have violated and defied the law.

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

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

The approval of this bill is urgently sought.

  
**REP. KAKA BAG-AO**  
Lone District, Dinagat Islands

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<sup>5</sup> The total VLT as of December 2013 amounts to 825,427 hectares against the original target of 288,492. The additional 536,955 hectares are suspect as being circumventions of CARP (plus whatever of the original figures were similarly flawed). Out of the total of about 4.6 million hectares distributed as of December 2013, about 650,000 hectares was estimated in 2003 by the DAR as under long-term leaseback agreements. These lands represent lands that are not under the control of farmers, most of them with very low lease rates. There are also about 1,300,000 hectares that are under collective CLOAs which should have been issued individual CLOAs during the 2009-2014 extended period for LAD. These are categorized as "distributed" land but are held in co-ownership and not by registered cooperatives and are not controlled by the individual farmer beneficiaries. In fact, pilot studies of Bukidnon and Isabela show that the implied average landholdings of beneficiaries with collective CLOAs are 11-12 hectares each, or way above the 3-hectare maximum giving rise to the possibility that the collective CLOAs merely disguise excessive retention or unqualified beneficiaries. Until these collective CLOAs are actually changed to individual CLOAs with full ownership rights, a concept central to agrarian reform, they cannot be considered as "distributed". The excess VLTs of at least 536,955 hectares, the leasedbacked land of about 650,000 hectares and about 1,300,000 hectares under collective CLOAs do not really fulfill the social reform objective of agrarian reform. It should be noted, however, that these numbers cannot be added up since the leasedbacked lands and lands under collective CLOAs are already part of the distribution modalities, such as VOS, VLT, CA.

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**SEVENTEENTH CONGRESS**  
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**House Bill No. 2267**

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**Introduced by REP. KAKA BAG-AO**

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**AN ACT**  
**CREATING THE AGRARIAN REFORM COMMISSION TO INVESTIGATE CIRCUMVENTIONS AND VIOLATIONS OF REPUBLIC ACT 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, REPUBLIC ACT 9700, AND OTHER AGRARIAN LAWS, AND APPROPRIATING FUNDS THEREFOR.**

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress Assembled:*

**SECTION 1. *Short Title.*** – This law shall be known as the "*Agrarian Reform Commission Act.*"

**SEC 2. *Declaration of Policy.*** – The agrarian reform program is founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits of the lands. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to the priorities and retention limits set forth under Republic Act 6657, otherwise known as the Comprehensive Agrarian Reform Law, as amended, and Republic Act 9700, taking into account ecological, developmental, and equity considerations, and subject to the payment of just compensation. The State shall respect the right of small landowners and shall provide incentive for voluntary land-sharing.

The acquisition and distribution of all agricultural lands under Republic Act 6657, as amended, shall be successfully completed to its finality in accordance with the mandate under the Constitution.

It is therefore imperative to create an independent commission to review the actual accomplishments of the agrarian reform program and to investigate circumventions and violations of the law and cause these lands to be compulsorily acquired and distributed to qualified beneficiaries. The State shall provide appropriate incentives to landowners who will comply with the recommendations of the Commission.

**SEC 3. Creation of Agrarian Reform Commission.** – There is hereby created the Agrarian Reform Commission (ARC) composed of a Chairperson and four (4) members of impeccable integrity, probity and independence, with an established reputation as being knowledgeable about the agrarian reform program, at least two (2) of whom, including the Chairperson, must be members of the Philippine Bar and engaged in the practice of law for at least ten (10) years. The Chairperson and the members of the Commission shall have the rank and privileges equivalent to the rank of a Secretary and Undersecretary, respectively.

For this purpose, there shall be a Screening Committee composed of the following:

- (1) Chairman of the Civil Service Commission;
- (2) Secretary of Justice;
- (3) Ombudsman;
- (4) Chairman of the Commission on Audit; and
- (5) Co-Chairpersons of the Congressional Oversight Committee on Agrarian Reform (COCAR);

who, acting in their *ex-officio* capacity, shall proffer to the President of the Republic of the Philippines a short list of ten (10) recommendees to the ARC, within (30) days from the deadline set by the Committee for the submission of nominees by individuals or stakeholders.

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

The President shall appoint the commissioners within thirty (30) days from receipt of the short list from the Screening Committee.

The Agrarian Reform Commission shall function as a collegial body and shall formulate its own rules and regulations. The term of the Commission shall be for a period of three (3) years from the assumption to office of its Chairperson and Members, and it shall complete its functions within the same period.

The Agrarian Reform Commission shall be an independent and autonomous body. It shall be attached to the Office of the President.

The amount necessary for the operational requirements of the Commission shall be charged to the Presidential Contingency Fund. Thereafter, the amount necessary for its operationalization shall be included in the General Appropriations Act.

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

- a. Investigate the circumventions and avoidance in the implementation of Republic Act 6657 as amended by Republic Act 9700, otherwise known as the Comprehensive Agrarian Reform law particularly on the coverage and distribution of lands under the program and other applicable laws for the purpose of prosecuting public officials and private persons, and to put such lands under the coverage of the program by the Comprehensive Agrarian Reform Program (CARP) implementing agencies and/or recommend measures to correct the modalities that deprive the farmer beneficiaries of full ownership or stewardship rights on, and control of, the land. This includes circumventions and violations on delivery of support services and agrarian justice;
- b. Recommend to Presidential Agrarian Reform Council the appropriate incentives for landowners who will comply with the orders of the Commission or recommend to the Department of Justice (DOJ), the Ombudsman and other prosecutorial authorities for possible filing of appropriate cases against persons found by the Commission to have violated any agrarian reform law and refused to have their land undergo CARP processes;
- c. Submit the results of its investigation to the Office of the President, the PARC, Department of Agrarian Reform, the COCAR, the DOJ and other CARP implementing agencies for appropriate action;
- d. Invite or subpoena persons and witnesses, take their testimonies, administer oaths or affirmations, and cite persons in contempt;
- e. Require any agency, official or employee of the Executive Branch, including government-owned or controlled corporations, to produce documents, books, records and other papers;
- f. Require the Philippine National Police and other law enforcement agencies to provide security and assistance to the ARC during its investigation when circumstances so require;
- g. Upon proper request, obtain from the courts, including the Sandiganbayan and the Office of the Court Administrator, information or documents in respect to agrarian cases filed;
- h. Promulgate its rules of procedure and other rules and regulations; and,
- i. Exercise such other acts incident to, appropriate, as necessary in the attainment of the objectives of the ARC.



**SEC 5. *The Secretariat.*** – The Agrarian Reform Commission shall organize a secretariat which shall serve as its technical and administrative support arm. The staffing, pattern and compensation schedule of the secretariat shall be determined by the Commission in accordance with Civil Service laws, policies of the Department of Budget and Management (DBM), as well as other existing laws, rules and regulations.

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

**SEC 6. *Appropriations.*** – The amount necessary for the operational requirements of the ARC shall be charged to the Presidential Contingency Fund. Thereafter, the amount necessary for its operationalization shall be included in the General Appropriations Act.

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

**SEC 8. *Repealing Clause.*** – All other laws, decrees, executive orders, issuances, rules and regulations, or part thereof inconsistent with this Act are hereby likewise repealed or amended accordingly.

**SEC 9. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper.

*Approved,*