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# **Peasants' Pursuit of Outside Alliances in the Process of Land Reform: A Discussion of Legal Assistance Programmes in Bangladesh and the Philippines**

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Krishna B. Ghimire

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## ◆ Summary/Résumé/Resumen

### *Summary*

In order to secure access to land and improve its productivity, peasant groups need external support. Their ability to establish solid alliances with NGOs, church groups, trade unions, political parties, development agencies and others is key to ensuring that their land and related livelihood demands are heard by landlords and authorities. External organizations can provide peasant groups with key information and resources that they would otherwise lack access to, as well as broaden the space in which they can operate to mobilize support for their causes.

In this configuration of potential external allies are lawyers and other legal representatives. In fact, one of the most tenuous and overlooked alliances in the process of land reform is that between peasant organizations and their legal representatives. Land reform is clearly a political issue, but it is also a legal one. The formulation and, more importantly, the implementation of effective land reform legislation is a vital step in improving the livelihoods of the rural poor.

From this perspective, this paper examines the search for legal support by peasants in their efforts to secure land and tenurial rights. The role of lawyers and legal aid groups as possible allies (and potential enemies) for peasants is critically examined, and their will and capacity to help peasants are assessed.

In order to determine what role lawyers can, or could, play the nature of what exactly constitutes a peasant's legal needs is initially discussed. Experiences have shown that even when progressive land reform legislation exists on paper, it may remain mute on the ground. This is often due to the political and legal clout powerful landowners and business interests possess in developing countries, allowing them to manipulate the system in their favour through legal loopholes and other means.

Given this situation, this paper highlights the myriad of important roles legal aid can play—from informing peasants of their basic rights, to holding governments and the legal system accountable for areas where land reform legislation has not been implemented in favour of the rural poor. Lawyers can also help peasants in the often long, costly and arduous process of taking cases of wrongdoing by landowners and other more powerful individuals and groups to court. The very nature of their profession and their detailed knowledge of legislation regarding property rights, land and tenurial clauses and international human rights declarations means that lawyers can play a most valuable role in ensuring not only that peasants get what they are legally due, but also in monitoring the legal system so that accountability and transparency are respected.

But this paper points out that, in reality, lawyers and legal aid services rarely fulfil this role. It argues that although the ability of lawyers to act as allies for peasants is context specific, on the whole the availability of efficient legal aid in rural areas remains weak. To try and counter this trend, non-governmental organizations (NGOs) and peasant groups are increasingly including the provision of legal aid, legal awareness and training programmes in their activities. Examples are given of a few such initiatives, but evidence shows that this process is often hampered by a lack of resources (especially financial) as well as by a very limited pool of skilled persons who are willing to work in rural areas to promote peasant legal needs.

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These issues are indeed complex and multi-layered. To elucidate, case studies from the Bangladesh and the Philippines are discussed, showing that despite land legislation and jurisdiction favouring sharecroppers, smallholders, women and other groups, other more powerful actors are able to retain their stronghold. In the cases from Bangladesh, even though legal provisions exist in favour of the distribution of government *khas* land to landless peasants, very little is actually given to them. A few NGOs and other groups are getting involved in mediating land disputes. Legal assistance has been essential in preventing unjust eviction of peasants, as well as in fighting off false charges issued against them.

In the Philippines, the roots and complications of the Carruf and Mapalad cases are analysed. They not only present a very complex legal struggle between peasant beneficiaries and the legal system, but also depict internal fighting between various government agencies and business interests. In both cases, farmer beneficiaries were given legal land titles under the Comprehensive Agrarian Reform Programme, but they faced continuous legal and physical harassment due to the embedded interests of business and political élites in the area. But the Mapalad case is also an encouraging example of the large degree of social mobilization and support a peasant group can achieve even when confronted by powerful political and business opponents.

In the concluding section it is argued that, in general, securing outside alliances is crucial in conflict mediation, identifying land for redistribution, rallying media, political and public support for peasant causes, and other areas. More specifically, the provision of legal aid and the support of lawyers increases the chances that peasant organizations will achieve their objectives. In reality, however, opportunities for such alliances remain limited, and justice is often far from being the blind, objective arbitrator it is theoretically meant to be. It is argued that for changes to occur in favour of the rural poor, networks between peasants and other support groups need to be strengthened, and legal aid services made more available in rural areas. Furthermore, popular mobilization by the concerned population groups themselves is particularly crucial if social actions related to land rights are to be more effective.

Krishna Ghimire is a Project Leader at UNRISD.

## *Résumé*

Les groupes paysans ont besoin de l'aide extérieure afin d'assurer un accès à la terre et augmenter sa productivité. La capacité de ces groupes d'établir des liens solides avec les ONGs, les groupes de paroisse, les syndicats, les partis politiques, les agences de développement, ainsi que les autres acteurs concernés, est essentielle pour s'assurer que leurs demandes concernant leurs terres et leurs moyens de subsistance sont entendus par les grands propriétaires terriens et les autorités. Ces organisations externes peuvent apporter aux organisations paysannes des informations et des ressources importantes auxquelles elles n'auraient pas accès, leur permettant d'élargir l'espace dans lequel les paysans peuvent agir et ainsi mobiliser le soutien nécessaire à leurs causes.

Dans cette configuration d'alliés externes potentiels, figurent les avocats et d'autres représentants de la loi. En fait, une des alliances la plus mince et négligée du processus de réforme agraire est celle entre les organisations paysannes et les

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représentants légaux. Cette dernière n'est pas seulement une question politique, c'est aussi un point légal. La formulation, et plus important, la mise en place d'une législation efficace sur la réforme agraire est un pas vital pour améliorer les moyens de subsistance de la population rurale pauvre.

En prenant ce qui a été dit auparavant comme idée centrale, ce document étudie la recherche d'appuis légaux par les paysans dans leurs efforts de s'assurer leurs droits fonciers et de propriétés. Dans cette optique, le rôle des avocats et des groupes d'aide en matière de droit est analysé de façon critique en considérant leur capacité d'agir comme alliés possibles (ou ennemis potentiels), et en évaluant aussi leur volonté et leur habilité à aider les paysans.

La nature des besoins légaux des paysans est élaborée en premier lieu pour mieux saisir quels rôles les avocats peuvent ou pourraient jouer. Les expériences ont démontrées que même si une législation progressive sur la réforme agraire existe sur le papier, elle reste non exprimée sur le terrain. Cela est souvent dû à la couverture politique et légale que les intérêts de puissants propriétaires terriens et entreprises possèdent dans les pays en développement, leur permettant de manipuler le système en leur faveur par des astuces légales ou par d'autres moyens.

En partant de cette situation, ce document met en lumière la multitude des importants rôles que l'assistance légale peut jouer, comme prendre des initiatives pour informer les paysans sur leurs droits fondamentaux ou rendre les gouvernements et le système légal responsable des régions où la législation sur la réforme agraire n'a pas été appliquée en faveur des paysans pauvres. Les avocats peuvent aussi aider les paysans dans les longues démarches coûteuses et ardues qu'ils doivent faire pour mener des cas d'injustice fait par les propriétaires terriens et d'autres individus plus puissants devant un tribunal. La nature même de leur profession, et leur connaissance détaillée de la législation relative aux droits de propriété, les clauses foncières, ainsi que sur les déclarations internationales des droits de l'homme, font que les avocats ont la possibilité de jouer un rôle déterminant en s'assurant que les paysans obtiennent non seulement ce qui leur est légalement dû, mais aussi contrôler que les concepts de responsabilité et de transparence soient bien respectés dans le système légal.

Comme le montre cette étude, les avocats comme les services d'aide légale ne remplissent que rarement ce rôle. Elle démontre que bien que les capacités des avocats d'agir comme alliés des paysans dépend grandement du contexte, l'existence d'une aide légale efficace reste dans son ensemble faible dans les zones rurales. Pour essayer de contrer cette tendance, les ONGs et d'autres groupements paysans sont en train d'inclure progressivement l'octroi d'assistance légale, la prise de conscience du droit et des programmes de formation dans leurs activités. Pour le moment, peu d'exemples peuvent être fournis sur ces initiatives, mais l'évidence montre que ce processus est souvent gêné par le manque de ressources, spécialement financières, aussi bien que par le nombre limité de personnes compétentes qui ont la volonté de travailler dans le monde rural pour subvenir aux besoins légaux des paysans.

Les problèmes que nous venons d'évoquer sont en effet complexes et multi-dimensionnels. Pour mieux appréhender ces faits, des études de cas sur le Bangladesh et les Philippines ont été présentées et montrent que malgré une

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législation et une juridiction favorisant les métayers, les petits propriétaires, les femmes et d'autres groupes, d'autres acteurs plus puissants arrivent à sauvegarder leur position de pouvoir. Dans les cas provenant du Bangladesh, bien que des dispositions légales existent en faveur de la distribution des terres appartenant au gouvernement (*khas land*) aux paysans sans terres, ils en ont obtenu très peu jusqu'à maintenant. Un petit nombre d'ONG et d'autres groupes se voient impliqués dans la médiation des disputes concernant des problèmes fonciers. L'assistance légale a été essentielle pour éviter d'injustes expulsions de paysans, aussi bien que dans la lutte contre des fausses charges relevées contre eux.

Aux Philippines, deux cas, CARUFF et MAPALAD, sont analysés, de leurs origines aux complications qu'ils ont rencontrées. Elles présentent une lutte très complexe au niveau légal qui implique non seulement les paysans bénéficiaires et le système légal, mais dépeint aussi des querelles internes entre différentes agences gouvernementales et des intérêts ayant trait aux affaires. Dans les deux cas, les paysans bénéficiaires avaient obtenu des titres de propriété sous le "Comprehensive Agrarian Reform Programme" mis en place par le gouvernement, mais à cause d'intérêts prononcés du milieu des affaires et des élites politiques dans les zones concernées, ces paysans ont été victimes de harcèlements physiques et légaux continuels. Cependant, le cas du MAPALAD est un exemple encourageant du large niveau de mobilisation sociale et de soutien qu'un groupe paysan peut développer même quand il est confronté à de puissants opposants comme des politiciens et hommes d'affaires.

Dans la conclusion, il est démontré qu'en général, s'assurer des alliés externes est crucial dans la médiation du conflit, l'identification des terres à distribuer, le contact avec les médias, la mobilisation de l'appui politique et public pour la cause paysanne entre autres. Plus spécifiquement, l'octroi d'une assistance légale et le soutien des avocats augmentent les chances des organisations paysannes de réaliser leurs objectifs. En réalité cependant, les occasions d'alliances semblables restent très limitées, et la justice est loin de se présenter comme l'arbitre neutre et objectif qu'elle est sensée être théoriquement. Pour que des changements aient lieu en faveur des paysans pauvres, il faut que les réseaux entre les paysans et les groupes capables de les soutenir soient renforcés et les services d'aide légale plus disponibles dans le monde rural. Par dessus tout, la mobilisation populaire par les groupes de population concernés est particulièrement cruciale pour que des actions sociales liées aux droits fonciers soient plus efficaces.

Krishna Ghimire est Chef de projet à l'UNRISD.

### ***Resumen***

Para poder asegurar el acceso a la tierra y mejorar su productividad, las organizaciones campesinas necesitan apoyo externo. Su habilidad para establecer alianzas sólidas con ONGs, grupos de la Iglesia, sindicatos, partidos políticos, agencias para el desarrollo y otros actores pertinentes es clave para asegurar que sus tierras y las demandas relacionadas con sus fuentes de ingreso sean escuchadas por los terratenientes y las autoridades. Las organizaciones externas pueden proveer a las agrupaciones campesinas con información clave y otros recursos a los cuales no podrían acceder de otra manera, además de ampliar el espacio en el cual operan para movilizar apoyo para su causa.

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Dentro de esta configuración de potenciales aliados externos, hallamos a los abogados y a otros representantes legales. De hecho, la más tenue y obviada de las alianzas en el proceso de reforma agraria es aquella entre las agrupaciones campesinas y los representantes legales. La reforma agraria es, claramente, una cuestión política, pero también una cuestión legal. La formulación y, más importante aún, la implementación de una legislación efectiva en materia de reforma agraria es un paso vital para el mejoramiento de las condiciones de vida del campesinado pobre.

A la luz de estas consideraciones centrales para este estudio, examinamos la búsqueda de apoyo legal de los campesinos en sus esfuerzos para asegurar sus derechos a la tenencia de la tierra. El rol de los abogados y grupos de asistencia legal tanto como posibles aliados como enemigos potenciales de los campesinos es críticamente analizado, así como también su determinación y capacidad de ayuda.

A fin de determinar cuál es el rol que los abogados pueden o podrían desempeñar, comenzamos con una discusión sobre la naturaleza exacta de las necesidades legales de los campesinos. La experiencia ha demostrado que aún cuando existe legislación progresiva en materia de reforma agraria, en la realidad, ésta no es implementada. Frecuentemente, esto sucede gracias al inmenso poder político y legal que los grandes propietarios poseen en los países en desarrollo, permitiéndoles manipular el sistema en su favor a través de trampas e inconsistencias legales y otros medios.

Este estudio resalta la miríada de importantes roles que la ayuda legal puede desempeñar: desde informar a los campesinos de sus derechos básicos, hasta el señalar a los gobiernos y al sistema legal aquellas áreas en las cuales la legislación sobre reforma agraria no ha sido todavía implementada en favor de los pobres de las zonas rurales. Los abogados también pueden ayudar a los campesinos en el usualmente largo y costoso proceso de llevar a juicio a propietarios y a otros individuos con mayor poder. La misma naturaleza de su profesión y el detallado conocimiento que poseen en cuanto a la legislación concerniente a derechos de propiedad, cláusulas sobre la tenencia de tierras, y declaraciones internacionales sobre los derechos humanos, nos indican el valioso papel que los abogados pueden llegar a tener para asegurar que los campesinos reciban aquello a lo que por ley tienen derecho y, además, monitorear el proceso legal para que conceptos de responsabilidad y transparencia sean respetados.

Este estudio señala la rareza con la cual abogados y servicios de asistencia legal desempeñan este rol en la realidad. Aunque la habilidad de los abogados para actuar como aliados de los campesinos es específica de un determinado contexto, visto en su totalidad, la disponibilidad de eficiente ayuda legal en zonas rurales es todavía débil. Para contrarrestar esta tendencia, ONGs y otros grupos de campesinos están incluyendo progresivamente la provisión de asistencia legal, conocimiento de las legislaciones pertinentes y programas de capacitación como parte de sus actividades. Aunque es posible presentar ejemplos de estas pocas iniciativas, la evidencia muestra que este proceso es muchas veces inhibido por la falta de recursos, especialmente financieros, así como también por la limitada cantidad de personas calificadas que desean trabajar en las áreas rurales para promover las necesidades legales de los campesinos.

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Las cuestiones arriba mencionadas forman, sin duda, un conjunto de complejas dimensiones interrelacionadas. Para elucidar esta situación, son analizados estudios de caso en Bangladesh y Filipinas a fin de demostrar que, a pesar de la existencia de legislación y jurisdicción sobre la tierra favoreciendo a los aparceros, pequeños propietarios, mujeres y otros grupos, actores más poderosos han logrado mantener su fortaleza contra los derechos de esos grupos. En los casos de Bangladesh, aunque existen provisiones legales en favor de la distribución de *khas* gubernamentales de tierra a campesinos sin tierra, muy poco se les ha dado efectivamente. Algunas pocas ONGs y otros grupos se han involucrado en la mediación por las disputas sobre la tierra. La asistencia legal ha sido esencial en prevenir la evicción injusta de los campesinos de sus tierras, y les ha permitido defenderse de los cargos falsos de que fueran acusados.

En las Filipinas se analizan los casos de CARUFF y MAPALAD, sus orígenes y problemáticas. Estos casos reflejan una lucha legal muy compleja no sólo entre los campesinos beneficiarios y el sistema legal, sino también a nivel de luchas internas entre las diferentes agencias gubernamentales y los grupos comerciales. En ambos casos, a los agricultores beneficiarios les fueron otorgados títulos de propiedad legales bajo el Programa de Reforma Agraria Integrado, pero debido a los intereses de las élites políticas y económicas en las respectivas áreas, tuvieron que soportar constantes molestias legales y físicas. De todos modos, MAPALAD es un ejemplo alentador del alto grado de movilización y apoyo social que un grupo de campesinos puede despertar aún cuando debe confrontarse con poderosos oponentes políticos y económicos.

En la sección final, afirmamos que, en general, es esencial asegurar alianzas externas para: la crucial mediación en conflictos; la identificación de tierras para redistribución; concientización de la prensa; la obtención de apoyo político y público, etc. Más específicamente, la provisión de ayuda legal y el apoyo de los abogados incrementa las posibilidades de las organizaciones de campesinos de lograr sus objetivos. En realidad, las oportunidades para tales alianzas todavía son limitadas, y la justicia está frecuentemente lejos de ser el árbitro ciego y objetivo que teóricamente debería ser. Se considera que, para que verdaderos cambios ocurran en favor de la población rural pobre, se deben fortalecer las redes entre los campesinos y otros grupos de apoyo y, al mismo tiempo, procurar que los servicios de ayuda legal estén más al alcance de la mano. Si se desea que las acciones sociales relacionadas con los derechos sobre la tierra sean más efectivas, es crucial la movilización popular de los sectores de la población afectados.

Krishna Ghimire es Jefe de Proyecto en UNRISD.

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## ◆ Abbreviations

ALRD	Association for Land Reform and Development (Bangladesh)
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
AR Now	People's Campaign for Agrarian Reform
ASK	Ain O Shalish Kendra (Bangladesh)
BHREC	Bangladesh Human Rights Enforcement Committee
BHRC	Bangladesh Human Rights Commission
BLAST	Bangladesh Legal Aid and Services Trust
CARP	Comprehensive Agrarian Reform Programme (Philippines)
Carruf	Carpio-Rufino Agricultural Corporation
CART	Malay Mindanao Foundation and Center for Alternative Rural Technology (Philippines)
CCHRB	Coordinating Council of Human Rights of Bangladesh
CJP	Commission for Justice and Peace
CLOA	Certificate of Land Ownership Award (Philippines)
DAR	Department of Agrarian Reform (Philippines)
DARAB	Department of Agrarian Reform Adjudication Board (Philippines)
DENR	Department of Environment and Natural Resources (Philippines)
ECOSOC	United Nations Economic and Social Council
GO	governmental organization
GSS	Gonoshahajjo Sangstha (Bangladesh)
IBP	Integrated Bar of the Philippines
ICJ	International Commission of Jurists
IFAD	International Fund for Agricultural Development
LAD	Land Acquisition and Distribution (Philippines)
LBP	Land Bank of the Philippines
LRC	Legal Resources Centre (South Africa)
LRF	Legal Resource Foundation (Zimbabwe)
NGO	non-governmental organization
PAKISAMA	Pambansang Kilusan ng Mga Samahang Magsasaka
PALAMBU	Panaghiusa sa Lalawigang Maguuma sa Bukidnon
PhilDHRA	Philippine Partnership for Development of Human Resources in Rural Areas
PO	people's organization
PPI	Philippine Peasant Institute
SALAG	Structural Alternative Legal Assistance for Grassroots (Philippines)
SALIGAN	Sentro ng Alternatibong Lingap Panlegal
Sentra	Sentro Para Sa Tunay Na Repormang Agraryo (Philippines)
TriPARRD	Tripartite Partnership for Agrarian Reform and Rural Development (Philippines)



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# I. INTRODUCTION\*

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## ◆ Peasants' Need for External Support

Experience has shown that poor, weak rural social groups, such as small farmers, tenants and agricultural workers, require external support if their attempts to access productive land, secure formal titles and improve productivity through subsidized credits, use of appropriate technologies, markets and other facilities are to have any hopes of success. Examples of such alliances and actions by rural groups and stronger outsiders are not lacking, but many are spontaneous and rather short-lived.

On the whole, as Scott writes:

In the Third World it is rare for peasants to risk an outright confrontation with the authorities over taxes, cropping patterns, development policies, or onerous new laws; instead they are likely to nibble away at such policies by non-compliance, foot dragging, deception. In place of a land invasion, they prefer piecemeal squatting; in place of open mutiny, they prefer desertion; in place of attacks on public or private grain stores, they prefer pilfering. When such stratagems are abandoned in favor of more quixotic action, it is usually a sign of great desperation (1985:xvi).

Well co-ordinated, assertive and long-term direct action is thus seldom likely by those who are entirely occupied with the daily struggle for survival. In fact, peasants and other poorer rural groups may intentionally wish to avoid open confrontation with authorities and domineering landowners for fear of further repression. On the other hand, trustworthy external allies and assistance combined with growing consciousness and organization have strengthened peasant mobilization and action (cf. Huizer, 1980:1-5).

Reliable external allies and support are crucial if the livelihood interests of marginalized rural populations are to receive the attention of authorities and powerful landowners. Progressive administrators, technicians and politicians can help peasants mobilize around land issues. Genuine international solidarity and financial and technical assistance programmes are important as well. National and local farmers' associations, co-operatives and some development NGOs, academic centres, political parties, trade unions, and religious and professional organizations that interact with peasants and other rural groups on a sustained basis can assist peasants and the land-aspiring rural poor in the following five crucial areas.

First, these types of organizations can play an important role in mobilizing peasants and the rural poor. In many cases, marginalized groups may not be aware of land reform issues, including their rights, what they might gain from land reform and the actions that would be necessary to achieve their goals. Outsiders may assist by organizing self-help groups, literacy campaigns, leadership and training programmes, internal political mobilization, co-ordination of actions, networking and dissemination of useful information. They may also be able to

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influence the way land reform issues are portrayed in the mass media, lobby political parties, local governments and the bureaucracy, and organize the rural poor for direct electoral participation aimed at wider land reform and tenurial security. They may assist with organization of direct action campaigns, such as squatting on private or public land, removal of crops by tenants/sharecroppers from landowners' fields, pressuring officials and landowners for lower land rents or crop sharing, etc. Finally, these organizations may encourage debate and imaginative project planning concerning wider resource use options, comprehensive redistribution/restitution of cultivated land, flexible access to and use of common property resources, and security of tenure for indigenous peoples, women, pastoralists and fisherfolk.

Second, organizations and individuals concerned with social causes may work to acquire tenurial security and improved working conditions for marginalized rural groups. They can help identify available land and acquire formal title. They may be able to mobilize peasants and other sympathetic groups to oppose evictions of tenants and landless labourers by landowners. In some cases, they may mediate between landlords and tenants in disputes (e.g. written/customarily binding and longer lease contracts, lower rents or crop sharing, more equitable sharing of input costs). They may also make arrangements with authorities to take official steps to improve access to common property resources, and lease or rent terms.

Third, rural societies undergoing profound transformation are marked by a great deal of tension. Sympathetic outsiders may mediate internal conflicts of interest within the peasantry, as well as between peasants and other rural social groups and outside forces. Settlement of contentions between different rural groups — such as squatters and earlier tenants, small farmers and pastoralists, residents and migrants, small farmers and agricultural labourers, households selected and rejected for land redistribution — is complex but crucial. So is the prevention of conflicts across tenurial classes. Grassroots organizations and influential progressive individuals could help to resolve conflicts involving access to common property resources and expropriation of indigenous peoples' customary land rights. They could also provide assistance to peasants and other weaker rural social groups by assisting them in the development of skills for long-term crisis management.

The fourth key area where outsiders can be of assistance is in the identification of cases where the human rights of peasants have been violated. Such violations may include arbitrary evictions, injuries, or destruction of their crops, animals and houses. In addition to monitoring cases where peasants' basic human rights have been infringed upon, human rights activists, lawyers and legal aid services can defend individuals or groups in legal circles, or refer cases to a competent authority or independent human rights organization.

Fifth, providing marginalized rural groups with extension services — credits and loan guarantees, appropriate inputs and other services, as well as markets for outputs — in conjunction with land reform is as crucial as providing them with land in the first place. Outside forces can play an important role in organizing land reform beneficiaries into co-operatives, user groups, informal production bodies, etc. Their assistance is also likely to be vital in establishing land committees or other organizations for land improvement, erosion control, watershed protection schemes and sustainable agricultural practices. Monitoring of the living and

working conditions of the beneficiaries is equally important, especially to verify that they hold onto their land, their production potential is fully exploited, and they do not become indebted.

## ◆ Peasants' Legal Needs

The land question is essentially political. In most developing countries, those who possess most of the cultivated, fertile land hold most of the political power as well. Moreover, government policies concerning the use and management of uncultivated land and access to other common property resources frequently reflect the interests of dominant social groups. Powerful landowners can thus avoid, delay or make land redistribution measures ineffective through legal loopholes or outright manipulation of legal and political systems. They tend to have influential allies in high places, at times even outside the country. They may skilfully employ reasoning that conforms to the approaches, methods and interests of multinational companies, banks and most bilateral and multilateral agencies. Their arguments may include the higher potential productivity of larger farms and their capacity to generate foreign exchange through cultivation of cash crops, or the need to retain large, consolidated land areas for the development of agro-processing zones, for example. Indeed, such explanations also provide the national landed classes and agro-industries a convenient alibi for their continued hold over large tracts of land or, in some cases, for new claims over subsidized public lands even after land reform measures have been introduced. Clearly, land reform legislation alone can do little to change the existing power structure and wider political, economic processes. It can help, however — especially when there is strong popular mobilization at the local level combined with a supportive national and international environment.

In recent years, some attempts have been made to portray agrarian reform and access to land as fundamental human rights (see for example, **HUNGRY For What is Right**). But land rights have been marginalized in the human rights discourse, where they are eclipsed by cases of torture and lack of general civil and political rights.<sup>1</sup> In many cases, however, human rights violations are linked to the absence of land rights in rural areas (see, for example, Plant, 1993). Peasants are victims of human rights violations especially when they try to reclaim or validate their land rights through actions such as squatting, claiming property or crops, or bringing to public attention cases of government mismanagement and corruption, exploitation by landowners, displacement by cash crop plantations and so forth. These actions make them targets of physical and legal harassment, and sometimes

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<sup>1</sup> In 1997, the United Nations Economic and Social Council (ECOSOC) Commission on Human Rights convened a Sub-Commission on the Prevention of Discrimination and Protection of Minorities. An Expert Seminar held in Geneva in June 1997 discussed forced evictions and emphasized the obligation of the state to provide security of tenure, as well as protection, in cases of unjust forced eviction, with “special consideration given to the rights of indigenous peoples, children and women and other vulnerable groups” (E/CN.4/Sub.2/1997/7). The landless, tenants and agricultural labourers were not mentioned.

Gross violations of peasants' human rights (death, imprisonment, police and landowner harassment, unfair labour conditions, etc.) tend to go unnoticed by many human rights advocacy groups. Amnesty International, for example, advocates human rights protection but rarely, if ever, mentions violations of the land rights of the rural poor in developing countries and the food and livelihood insecurity that may result.

imprisonment. Human rights activists, lawyers and other concerned actors can help increase peasants' awareness of their rights and defend them when their rights are violated. Peasants' legal needs are vast, but due to their other pressing needs they may not consider their legal requirements priorities at all times. Nevertheless, if legal assistance is available to peasants during times of land conflict, potential hardship may be avoided.

Land and legal issues are thus intimately related. For example, activities linked to access to land; its use, possession and ownership; the sharing of its produce/rents; and land transactions and sales must adhere to legal principles if they are to be fair and take place smoothly. These legal principles may be customary or modern, and in reality they have tended to be a mixture of both.

Wide differences exist among countries in legal codes, traditions and social structures. Peasants' legal needs seem to be substantial in most contexts. In the context of land reform, the type of legal assistance sought and expertise available, as well as legal education and training, and the financial and technical inputs required for action, may differ significantly from country to country.

Legal aid is important at all stages of land reform — from identification of land that might be made available, to negotiation, to acquisition. Direct actions by peasants such as land invasion often provoke retaliation from landowners for which marginalized groups need legal support. Legal protection is especially crucial in actions against eviction of tenants or exploitation of agricultural labourers by their employers. Disagreements between the landowners and tenants on rents, taxes and other obligations may result in the landowner taking the case to the police, local administration or court. Tenants and labourers need legal advice and support if their interests are to be effectively defended. Conflicts between landowners and tenants could be prevented or better handled if conscientious lawyers set up locally agreed-upon mechanisms of arbitration or dispute resolution. This might make it unnecessary for poorer peasants to go to higher courts, and result in saving money and time.

One major problem in this context is that peasants are generally unaware of many legal aspects of land issues — in part because land laws tend to be complicated and may change frequently. When peasants are ill-informed about land laws, reform measures, their rights and what they stand to gain from reform, misunderstandings are likely and disputes may occur. Raising peasants' legal awareness is crucial during the land redistribution process and during the post-land reform period. For example, they must be made aware of their legal obligation to repay loans obtained to purchase land or agricultural inputs. Indebted peasants, who may have used their land as collateral for a loan, must also be made aware of their own legitimate rights and of the possible legal manoeuvres of their adversaries. They must know how to protect their land from unscrupulous land speculators, moneylenders and merchants if they are to preserve any gains obtained through land reform.

In addition to human rights and legal organizations, development NGOs, peasant organizations and other progressive civic associations, the state may also provide legal support to peasants. The state promulgates new land laws, seeks to implement them effectively and judge conflicts, and in doing so it may aim to reflect the interests of marginalized groups. In order to provide legal assistance to

the land-aspiring rural poor, the state can mobilize the resources necessary to create new legal institutions, recruit lawyers and paralegals, organize training programmes, disseminate information and promote community-level legal education. In Bangladesh and the Philippines, for example, as will be seen below, the effectiveness of legal support services and systems at the local level has depended upon a solid country-wide legal framework, whether or not the state attached importance to initiating assistance measures and programmes.

## ◆ Are Lawyers Reliable Allies?

Various social groups and individuals may support peasant actions if perceived that they have been victims of social injustice. For example, local students may participate in peasants' protest rallies or land invasion activities. There may be some solidarity from urban and rural trade unions, although the former tend to be distant and the latter tend to be active where there is favourable political space and agricultural modernization has resulted in a class of agricultural labourers. Farmers' associations and co-operatives may also support peasant movements when their own interests are directly affected, but many of them may be controlled by rich farmers and local elites. Political parties may also support peasants' movements on a long-term basis, but in some cases peasants may simply be considered as "vote banks", or local authorities and landowners may repress peasant movements when the latter seek alliances with underground political parties. Rich or middle class farmers may form alliances with peasants when they perceive a common interest, such as reduced land taxes or higher crop prices. Their interests are likely to diverge, however, over peasant demands for greater access to land or tenurial security. Professional groups or individuals, such as development NGOs, teachers, human rights activists, lawyers and extension specialists, may have few interests in common with peasant groups, although some may be truly concerned about social inequality and improving peasants' welfare.

Lawyers, as an occupational or economic category, are not usually a socially oriented voluntary group (as community development workers, priests or teachers, might be, for example.) Most lawyers have few contacts with ordinary peasants and agricultural labourers, who are unlikely to be considered promising clients. It is usually peasants who need lawyers; lawyers seldom need peasants!

Most lawyers provide their advice and assistance on the basis of a negotiated fee, seeking maximum remuneration that peasants would frequently be unable to provide. Peasants may avoid seeking legal advice for this reason. Peasants may also be victims of deceitful lawyers who claim money, labour or produce from peasants but provide little in return. Some lawyers, allies of rich and powerful groups opposed to peasant issues, can be one of the worst enemies of peasants when they defend the interests of landlords, moneylenders, merchants and agribusiness. The majority of lawyers in developing countries provide their services and assistance to those groups which are able to compensate them generously. This may not be surprising, as the majority of lawyers tend to come from the elite classes.

But lawyers can be fine allies when they are supportive of peasants' interests and aspirations, or when their own interests coincide with those of peasants. Certain lawyers and legal associations may build rural constituencies to acquire national or foreign recognition of their work or to attract outside funding. Recent graduates

from law colleges and universities may find it difficult to get jobs in urban areas and may therefore begin their careers in rural areas. For lawyers who have political ambitions, peasants may be reliable supporters. And lawyers harassed by repressive regimes because of their origins or beliefs may find that alliances with peasants and rural workers aid their own self-protection. Of course, under repressive regimes, lawyers may distance themselves from rebellious peasants and workers for fear of persecution. Unfortunately, this means that legal assistance may not be available for peasants and rural workers when they need it the most.

Whether or not peasants and rural workers can count lawyers among their allies depends upon specific socio-economic and political contexts. It is difficult to establish a typology of situations or outcomes. Rural conflicts and the mechanisms for their resolution vary depending on place and time. Likewise, the type and quantity of legal aid required also varies. Generalizations about legal needs across countries and poor rural social groups is scarcely helpful if specific policy measures are to be formulated.

## ◆ Lawyers' Ability to Assist Peasants

Lawyers can play a crucial role in ensuring that peasants receive legal information and that laws granting them specific rights and resources are enforced in their favour. Due to high rates of rural illiteracy and difficulty in accessing information, legal expertise is generally absent in rural areas — especially when it comes to the interpretation and application of modern land laws. Indeed, some specialists have argued that legal activities should not be the exclusive prerogative of lawyers and judges as many of the public policies, legislation and legal cases directly affect the ordinary people and groups. Furthermore, they emphasize that laws should not aim only to defend the interests of the poor or the disadvantaged, but rather to eliminate the structural causes that underlie their condition (Soliman, 1987:46–47).

During the late 1980s, the International Commission of Jurists (ICJ), an international association of independent lawyers, held a series of seminars in South Asia, South-East Asia and Latin America, focusing on the role of lawyers and legal services for the poor in rural areas. These seminars assessed rural legal services and encouraged debate and reflection on the role of lawyers in rural development. The term “legal services” was preferred to legal aid, as it “encompasses training of paralegals, the production of simplified legal materials and information dissemination, counselling, mediation and negotiation” (ICJ, 1997:15).

All seminars pointed to the poor provision of legal services in rural areas. In Peru and Colombia, for example, government legal services are concentrated in urban areas, making it difficult for the rural poor to access them. A second problem, confronted by indigenous peoples (often a significant proportion of rural populations) who have lost customary lands, was a feeling of alienation as a result of linguistic and cultural differences. This often leads to their marginalization in the few legal aid programmes that do exist (see García-Sayan, 1987). The South and South-East Asian seminars brought out the social and geographical distance separating most lawyers from peasant issues, which may lead them to be viewed with suspicion rather than as potential allies in defending local interests. In all regions, however, the importance of having peasant organizations, NGOs, church groups and other local organizations incorporate legal services into their agendas was highlighted.

Many popularly oriented NGOs and local voluntary organizations are getting involved in “legal literacy” and awareness-raising campaigns, which use simple techniques such as translating laws into local languages, publishing information pamphlets and using theatre and rural radio programmes to disseminate information on land rights and legal assistance to the rural population. For example, the Association of Female Jurists in Cameroon discusses women’s land rights on both radio and television. The AJAC/Z (Youth Association of the Ziguinchor Region in Senegal) translates laws and relevant documents from French into local languages and disseminates this information via seminars and workshops. The Society for Participatory Research in Asia (based in India) transcribes relevant land laws into accessible languages for rural legal activists and leaders. Casa Campesina in Peru holds radio and television discussions on legal aspects of agrarian questions.<sup>2</sup>

Given the high cost of professional legal services, the training and use of paralegals has grown in recent years. For many NGOs this has been a way to avoid costly outside professional help yet still provide marginalized rural groups with some legal assistance. Paralegals are generally local actors (community leaders, social workers, teachers, law students, development workers, etc.) who receive training and education on legal questions and act as assistants to lawyers in locating evidence and other information that might be necessary to defend their case. They may also conduct research on certain cases and provide referrals to lawyers where necessary. Furthermore, they often play a wider social role, mediating conflictual situations, mobilizing communities and assisting in the establishment of people’s organizations (Ravindran, 1988:7). Their role in society can potentially encompass far more than a lawyer’s, and because they come from local areas they are often deemed more credible than outsiders. Because they may be more aware of customary law and can thus use it where applicable, their approach may be more flexible.

Lawyers may play a central role in training paralegals, however, as may social workers, academics (sociologists, psychologists, etc.) and others (ICJ, 1997). Paralegals are often hired by local organizations or are requested to assist on a voluntary basis, although the latter appears to be rare.

The fact that pay is less, and rewards in terms of other material and social gains fewer, may dissuade lawyers from providing legal services to the rural poor. Dias, in his discussion of obstacles facing “law as a resource for the poor” in South-East Asia, points to the desire by lawyers to monopolize information and knowledge on legal matters (1987:27–42). In other words, they may fear losing their professional hegemony of knowledge about land legislation. According to this specialist, rural communities and individuals require lawyers to impart a degree of information and skills.

However, lawyers do sometimes get involved in local legal service programmes. A noteworthy case is the Legal Resource Foundation (LRF) in Zimbabwe, a non-profit organization whose board of trustees includes a former Chief Justice, a Supreme Court Judge, as well as other prominent lawyers (Coltart, 1993). The

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<sup>2</sup> The above examples are based on responses to an UNRISD/IFAD questionnaire on land reform conducted in 1997.

foundation's lawyers actively train paralegals, provide legal advice, carry out research and litigate in public interest cases through Legal Project Centres set up in rural areas. In order to overcome resistance by lawyers who might perceive the group's activities as potential competition, the LRF formulates and implements its programmes in close collaboration with the Law Society of Zimbabwe (Cottart, 1993).

Similarly, the Legal Resources Centre (LRC) is one of eight legal institutions in South Africa helping the urban and rural poor in land restitution cases. It represents poor black communities in land conflicts, contending land claims in protected areas and the provision of formal titles. It also provides legal education and training on subjects including acquisition of land, subsidies for land purchase and loan repayment (LRC, 1995). But demands for legal services are much greater than LRC and other organizations are able to offer (personal communication with a lawyer working for LRC, October 1997); significant conflicts over land-related issues and land reform persist in the country.

In the Philippines, Structural Alternative Legal Assistance for Grassroots (SALAG), was formed as a "socio-legal action group" (Valera et al., 1987:54) aimed at providing an expanded legal assistance programme to the marginalized sectors of Philippine society (Valera et al., 1987:56). SALAG works to empower local rural populations to be active participants in the legal process, rather than simple clients dependent on lawyers. The group provides legal assistance and non-formal legal education; networks with other NGOs, people's organizations (POs) and government organizations (GOs); and organizes an apprenticeship programme to sensitize law students to rural issues (Valera et al., 1987).

Although there are examples of lawyers and legal institutions working to protect peasant rights, enforce laws that support the claims of the rural poor — to land, agricultural extension services or other resources — and prevent the "appropriation" of law by those with more political, social and economic clout, many such attempts are not wholly effective. The individuals and institutions so inclined usually lack human and financial resources and are thus able to cover only a small number of cases. Some may have promising beginnings but fail as a result of diminishing capacity — although most of the time this is due to factors beyond their control (lack of funding, for example) rather than absence of will. Also, their energies may be diluted through pressures to include activities more solicited by donor agencies. Some of these issues are considered in the following discussion.

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## II. COMPARATIVE PERSPECTIVES FROM BANGLADESH AND THE PHILIPPINES

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The first part of this section provides a general picture of land reform experiences in the two countries. The importance of legal aid in the context of land reform will be examined, as will the roles of lawyers and legal institutions in promoting the interests of peasants and rural workers. The second part assesses some ongoing land reform processes, and looks in particular at peasants' aspirations for land and the extent to which legal aid has been made available at the local level. This review is based in large part on information collected by the author during field



observations, unstructured interviews with peasants and NGO workers, and a review of “gray” literature.

## ◆ General Overview of Agrarian Reforms and the Importance of Legal Aid

### *Bangladesh*

The high level of landlessness or near-landlessness and rural social deprivation are quite closely related in Bangladesh. Nearly half of all rural households are considered landless, and out of a total of 14 million agricultural households, 11 million possess no more than 0.05 acres (0.02 hectares) (Uddin and Akhter, 1997:72). Since the 1950s, the state has formulated land reform laws with a view to providing “land to the tillers” and improving the living conditions of the rural poor. At the same time, however, national elites have lacked the political commitment required to implement legislation and promote land reform. This is primarily because both state institutions and local power structures have tended to be strongholds of landlords (cf. Mannan, 1990:398–99). Until the beginning of the 1980s, land reform measures were limited to the fixing of a land ceiling at around 33 acres (13.4 hectares) per household and attempts to acquire the excess land for eventual distribution to the landless (Saha, 1997). In a country where landlessness is so widespread and the average land holdings are unusually small, the land ceiling for the landlord has remained remarkably high. Moreover, attempts to appropriate land beyond the ceiling from landlords have been slow and largely ineffective.

Over the years, although some land was redistributed to small peasants (mainly *khas* land — i.e., land under government jurisdiction), rural agricultural co-operatives established, and more advanced technology provided (mostly high-yielding varieties of seed), the wider structural issues of inequalities in landholdings, the large number of landless and questions of who was actually accessing, controlling and benefiting from new technologies remained unaddressed (Sobhan, 1993; IFAD, 1992; Januzzi and Peach, 1994).

In 1984, in a populist move by the Ershad regime, a new Land Reforms Ordinance was promulgated. The ordinance set a new land ceiling at 20 acres (8.1 hectares) per family, and stipulated that the *baragadar* (sharecropper) had the right to cultivate five acres of land. This was to be explicit in a legally binding contract between the landowner and the *baragadar*, thus doing away with the tradition of oral contracts, which proved to be increasingly precarious. The contract set up the terms and conditions of cultivation and was valid for five years, and could be renewed if the conditions were satisfactorily met by the sharecropper (Saha, 1997; Jannuzi and Peach, 1994). Furthermore, the ordinance included a clause giving the sharecropper the option of purchasing the land. It obliged the landowner to give notice of intent to sell, and the sharecropper had a period of 15 days to make an offer. With the provision of rural credit facilities, it was hoped that tenants would be able to secure loans and gain title to land in this way.

This ordinance has remained virtually unimplemented. Clauses guaranteeing security of tenure have been timid in their formulation. On the question of the legally binding contract aimed to guarantee security of tenure for the sharecropper,

a significant number of escape clauses can be used by landowners to their own advantage. Those pointing most eloquently to tenurial insecurity state that land can be repossessed if the landowner believes that “it is not being ‘personally cultivated’ by the *bargadar*”. Furthermore, the owner can “simply decide to take back the land ‘for personal cultivation’” (Jannuzi and Peach, 1994:43–44). The vagueness of the terms could lead not only to land repossession, but potentially to eviction of sharecroppers. Land purchase by a sharecropper may also be circumvented by landowners who sell or give land to their relatives (Jannuzi and Peach, 1994).

Unlike rural elites who have easy access to credit (and are also the biggest defaulters on loans, as their social clout often saves them from repaying), the rural poor have extremely limited access to institutional credit facilities (Saha, 1997; Jannuzi and Peach, 1994). They must borrow money from landowners and moneylenders who charge high rates of interest. A cycle of indebtedness and loss of land may ensue, in which the end result may be rising rural unemployment and poverty.

The local power structure is thus stacked against the rural poor in Bangladesh. Landowners pull not only political, social and economic weight, but also legal weight. They know, or are able to hire specialists who know, all possible loopholes in the existing legislation in order to prevent tenants, sharecroppers and poorer farmers from accessing land. And they may not hesitate to use phoney charges, produce false land ownership documents claiming title to land or exert their influence over the local land administration, lawyers and police.

NGOs and grassroots organizations working to fight rural poverty commonly encounter the power of landlords, and in some cases they help peasants and other marginalized rural groups file suits against landlords. But due to the lack of effective, low-cost rural legal services, the cost of taking landowners to court are enormous for NGOs, even if the ruling were in favour of the rural poor (ALRD, 1993). The legal system may also be prone to corruption. Even though the law states that tenants and sharecroppers can appeal in writing in cases where wrongdoing has occurred, this is an extremely weak form of legal recourse given the high rates of rural illiteracy, limited financial resources, and the probability of waiting months before any action is taken. Even where recourse is possible, most peasants refrain from using it given the traditional social authority of landowners, and fear of reprisal.

Despite land-related disputes and rural violence arising mainly from the appropriation of *khas* land by local landowners, the government of Bangladesh has done little to set up rural legal services (Jansen, 1990; ALRD, 1993; Westergaard, 1994). In recent years, NGOs and POs have attempted to fill part of this gap. A number of rural organizations include legal issues in their overall activities. The case of Nijera Kori will be discussed in greater detail in the following section, but Bangladesh Legal Aid and Services Trust (BLAST), Gonoshahajjo Sangstha (GSS) and the Association for Land Reform and Development (ALRD) also provide valuable legal assistance to rural populations.

BLAST, one of Bangladesh’s largest voluntary legal aid organizations, provides legal assistance for the marginalized population. In 1996, it covered some 11 districts and had two law clinics in Dhaka. It employed 390 lawyers and handled

1,037 cases. It also held training courses for lawyers and worked quite closely with other NGOs by providing legal aid and assistance to their beneficiaries and customers (BLAST, 1996 and 1997).

The GSS provides legal assistance in disputes arising from violence against women, false charges to intimidate the poor, and the rights of peasants to *khas* land (Westergaard, 1994:16). It covers 25 per cent of legal costs, administrative and financial services for members and non-members. GSS also provides legal education involving marriage, divorce and inheritance laws; land disputes concerning hereditary rights are especially numerous in Bangladesh.

ALRD, an organization concerned with the co-ordination of NGO activities on land reform, also includes a legal aid programme as part of its activities. The organization recognizes the importance of legal awareness raising and services in a context where over 80 per cent of rural litigation has to do with land disputes, especially false titles (Rahman, 1995: 32). But its capacity to handle the legal cases by itself is limited: in October 1997, ALRD had only one legal facilitator (personal observation). Nevertheless, through its contacts with other NGOs and government agencies, it has the ability to mobilize legal assistance when it is critically needed.

The majority of the legal aid available in rural Bangladesh has gone to defend cases of repression of women, maltreatment of children, gross violation of human rights, and support to tribal and ethnic minorities. For organizations like BLAST, GSS and others — such as the Bangladesh Human Rights Enforcement Committee (BHREC), Bangladesh Human Rights Commission (BHRC), Ain O Shalish Kendra (ASK), Coordinating Council of Human Rights of Bangladesh (CCHRB) and Commission for Justice and Peace (CJP) — land disputes represent a small part of their overall activities and involve “exceptional cases”. For example, out of the 1,037 cases handled by BLAST in 1996, only 25 were land cases (BLAST, 1997:18). Furthermore, as most of these organizations are based in Dhaka or in the principal provincial towns, much of the legal aid tends to be limited to urban areas.

In sum, therefore, only meagre legal aid is available to peasants and other marginalized rural groups seeking access to land or better livelihood possibilities. Even when the government of Bangladesh has attempted to impose land ceilings and fairer rent policies, landlords have found legal loopholes that enable them to maintain their holdings, or have done so through patron-client relationships, including alliances with officials, political elites, and even some parts of the peasantry (Khan, 1989:91–128). In this situation, legal assistance is crucial to ensure that *khas* land is distributed to the rural poor, inform local populations of their legal rights and defend peasants in land disputes. Lawyers and paralegals can also help by obtaining land surveys and documents from relevant land administration bodies and mobilizing village support for particular cases (Jansen 1990:233).

### *The Philippines*

Land distribution has been a thorny issue in the Philippines ever since independence in 1946. By the mid-1990s, the country had witnessed 11 agrarian reform programmes, each promising to be more progressive and true to the “land

to the tiller” ideal (Sentra, 1997). What has been lacking is successful implementation.

In recent years, issues of access to land combined with improvement in livelihood conditions have gained in importance due to several factors. First, 56 per cent of the population is rural, with one half living below the poverty line, and accounting for two thirds of the country's poor. Second, extremely biased landholding patterns persist — 3.4 per cent of farms are larger than 10 hectares but control one third of prime agricultural land, while almost two thirds of all farms, which cover 30 per cent of total area, are less than 3 hectares (ANGOC, 1997). Traditional landowning families have managed to retain power in the countryside through a network of patron-client relations and political alliances. Third, more than half of the total agricultural population in the late 1980s was landless labourers (Riedinger, 1990). Fourth, several large foreign and national corporations occupy the most fertile land, and their position is protected by the liberal free-market policies of the government.

Presidential Decree 27, the land reform programme promulgated under the martial law regime of Ferdinand Marcos in 1973, was limited to land growing rice and corn. However, as this left untouched the export-oriented sector of cash crops, it did nothing to transform power structures in the countryside. The whole issue of landless labourers was also ignored. Other programmes, involving the conversion of sharecropping tenancies to leaseholds, and government acquisition and redistribution of private estate land to peasant beneficiaries, also yielded dismal results. Approximately 5 per cent of the country's cultivable land was redistributed to less than 8 per cent of the total landless population (Riedinger, 1990). Nevertheless, this period witnessed remarkable peasant mobilization, the formation of local rural organizations and widespread protests. Thus, when Corazon Aquino came to power in 1986 under a democratic banner, the situation was one of severe agrarian unrest with large discrepancies in landholdings despite land reform policies. Her administration placed agrarian reform at the centre of the political agenda by launching the Comprehensive Agrarian Reform Programme (CARP).

CARP started out with the goal of redistributing 8.1 million hectares of private and public lands among 4–5 million rural households (ANGOC, 1998). It was considered a progressive agrarian reform because it covered all agricultural lands, including large estates and corporate land (via voluntary or compulsory acquisition) and because of its 10-year deadline (which has now been extended to the year 2004 due to financial and administrative setbacks). The Comprehensive Agrarian Law placed ceilings on land holdings, limited holdings to one farm per person, and placed a 5-hectare limit on landowners (although each heir is allowed an additional 3 hectares) (ANGOC, 1998). Furthermore, policies were put in place to safeguard indigenous lands, provide rural credit and extension services and organize potential beneficiaries into Agrarian Reform Committees. Also, for the first time, the Department of Agrarian Reform (DAR) was endowed with extra-judicial powers to ensure efficient implementation of the programme and provide secure legal land titles to beneficiaries (ANGOC, 1998, Sentra, 1997; **Farm: News and Views**, May-June 1997).

CARP's extensive coverage and use of a variety of tenurial arrangements (renting, lease holdings, communal holdings) seemed, in theory, to be the necessary ingredient for success. But it has been criticized by NGOs and peasant groups for a

number of reasons. One main critique is that agrarian reform was used as a campaign tool to gain power, but once elections were won, dedication to actually implementing the programme waned (Riedinger, 1990). Peasant organizations are also critical of the fact that despite provisions for distribution of private lands, the bulk of lands were taken from government-owned public properties, leaving the holdings of large landowners virtually intact. Out of the 2.6 million hectares distributed between 1987 and 1996, only 15 per cent (a mere 640,000 hectares) were private agricultural lands (**Farm: News and Views**, May-June 1997:2). The fact that 5.7 million hectares of agricultural land that could have been included for distribution in CARP were excluded from the very start, and by September 1996, out of the total 2,221,254 hectares of private land included in CARP, only 583,413 hectares had actually been distributed, speaks for itself and points to the continuing influence of landowners on agrarian policy making (Sentra, 1997:16). The government has side-stepped the fact that it is precisely on these private lands where levels of conflict are most intense, and the stakes are higher for both landowners and tenant farmers.

Complications and setbacks have also been pointed out in the poor provision of extension services and rural credit facilities to the beneficiaries (actual, as well as potential ones). It appears that, like in other developing countries, the bulk of government funding has gone into paying compensation to landowners (who often claim that what is offered is not sufficient, and use this as grounds to repossess the land). In its plan for the 1999–2004 phase, DAR estimates that the majority of its funding for Land Acquisition and Distribution (LAD) will go to paying compensation to landowners (45,754 million pesos out of 52,853 million pesos), whereas the total budget for Program Beneficiaries Development is 35,984 million pesos (DAR, 1997a). The government has pointed to the lack of donor support in supplementing its budget (ANGOC, 1997; Riedinger, 1990). It asserts that although international aid agencies pushed for non-conflictual, voluntary-based transfers, they refused to fund any government land acquisition activity due to its “political” nature (ANGOC, 1997).

Peasants, NGOs and legal aid groups have denounced the continuous harassment of beneficiaries by landowners, who have used legal loopholes and resorted to outright violence, often with the aid of para-military forces, to evict tenants. Other miscarriages of justice have involved the issuing of false claims, slowing down or cancelling the issuance of legal land titles, multiple titling of the same plot, and the rapid and sometimes illegal conversions of agricultural lands to industrial or commercial plots (**Farm: News and Views**, May-June 1997; Sentra, 1997; ANGOC, 1997, 1998; DAR, 1997b). Certificate of Land Ownership Awards (CLOAs) are frequently not handed over to beneficiaries as promised (**Farm: News and Views**, May-June 1997). Land titles may be awarded to people who are not qualified beneficiaries. For example, there have been cases where land titles were apparently given to people who were not residents of the area, as well as to those who were not peasant farmers (**Farm: News and Views**, May-June 1997:5).

In other cases, CLOAs given to farmers have been annulled by DAR on the grounds that legal errors were made. It is estimated that 67,442 hectares affecting some 25,062 farmer beneficiaries have been confiscated in this way (Sentra, 1997:24). Other excuses for land repossession include neglect, or the exemption of land from CARP due to loopholes under Presidential Decree 27. Such misuse of

the legal system seems fairly widespread and clearly undermines the steps taken by CARP.

In a country with a tradition of feudal relations, where the power of rich landowners and multinational corporations is entrenched, various means are used to hold onto land. They may avoid distributing their land, give the least productive land to beneficiaries, or purchase and “stockpile” prime land, to push up land prices (Sentra, 1997). The use of productive agricultural land for speculative urban or industrial recreational projects, with the backing of local governments, is also a problem. Furthermore, the government has been eager to promote export-oriented crops and indeed for the latest phase of CARP (1999–2004) has invited international agri-businesses to invest in peasants’ Agrarian Reform Committees, without considering the long-term impacts on local food security, the environment or social relations (DAR, 1997b).

Despite CARP’s many problems, however, it has (for the first time) created a space for collaboration between NGOs, POs and GOs. Civil society groups have used this tripartite relationship to involve themselves actively in agrarian policy dialogues at all levels. A concrete manifestation is the Tripartite Partnership for Agrarian Reform and Rural Development (TriPARRD) launched by the Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA). TriPARRD began in three provinces in 1989, and currently operates nationwide, comprising 57 POs and 15 NGOs, as well as government agencies involved in agrarian reform — the DAR, the Department of Environment and Natural Resources (DENR) and the Land Bank of the Philippines (LBP). TriPARRD is mainly concerned with three main areas of CARP: improving land tenure, building and strengthening social infrastructure, and developing productivity systems (PhilDHRRA, 1997). Although a paralegal component is part of TriPARRD’s agenda, it has not yet been implemented.

One major government action in support of peasants and rural workers’ interests has been the creation of courts at the provincial and central levels to adjudicate agrarian reform matters. Decisions of these agrarian courts cannot be challenged in other courts. As such, landlords’ ability to bring cases to higher courts (which would be too costly and time-consuming for peasants) is limited. Agrarian courts are also charged with determining “just compensation to landowners” (DAR, undated:40). An official estimate suggests that, since 1989, agrarian courts have handled over 500,000 cases (DAR, 1997b:6). However, landowners may seek to take peasants to trial in regular courts as opposed to the agrarian judicial bodies, under allegations that they are “squatters”, resisted eviction orders or did not pay share rent (Sentra, 1997:28–29), because the regular courts are more prone to the influence of landowners and their allies.

All legal needs of peasants associated with land issues cannot be met by the agrarian courts, however. They take a small number of cases involving landowner-tenant disputes related to land distribution; for other land controversies, peasants must seek legal advice from independent lawyers (or other NGO-provided legal services) and follow standard legal procedures in other courts.

Besides the government’s agrarian courts, NGOs and peasant groups also continue to lobby for more active and central roles, providing policy alternatives and suggestions to reduce loopholes. Given the ambitious agenda CARP has set for

itself, such groups argue that more measures, including greater involvement of civil society groups, are required to stem the use of illegal land conversions, the cancellation of land certificates, and the appropriation of various laws by landowners to suit their own purposes (see **Farm: News and Views**, May-June 1997).

Over the years, a number of NGOs, farmers' groups and legal organizations have provided legal assistance to peasants and rural workers during various conflicts with landowners and employers. SALAG has provided not only legal assistance, but also some long-term awareness building and training programmes on land questions. Similar work is undertaken by KAISAHAN and Legal Resources Centre. Local and provincial groups also provide legal assistance to peasants; one such group is the Malay Mindanao Foundation and Center for Alternative Rural Technology (CART) in Mindanao. Several rural development NGO groups like Sentra, the Philippines Peasant Institute, ANGOC and others also provide legal counselling, advice and support.

But organizations with an exclusive mandate to provide legal assistance to the rural landless and poor in relation to land reform are few. Most of the NGOs and other organizations providing legal aid are unable to meet existing demand. As in Bangladesh, they often take the simplest cases requiring limited personnel and financial resources. They are thus eager to take cases involving family disputes, inheritance issues and property claims, which can be handled in local courts. Moreover, these cases do not create direct conflicts with powerful local landowners and elites — which is especially important if local groups and NGOs are to be able to function. National and more determined groups may be able to provide legal assistance in a more defiant manner, although many of them tend to be based in Manila. Some of these aspects will be elaborated below in two local cases in Mindanao.

## ◆ Case Studies

### *Nijera Kori's work with the Char Bajja and Char Majid communities: Cases from Bangladesh*

*Nijera Kori* is one of many non-governmental development organizations in Bangladesh, but its strong participatory approach and activism have given it increasing prominence in recent years. The organization was founded in 1977 to assist famine-affected destitute urban women. Although women remain the focus of *Nijera Kori's* programme activities, since the 1980s the organization has been working in rural areas to help men and women, landless and marginal farmers, fisherfolk, artisans and petty traders. Over the years, it has emphasized the need to change the unequal nature of the rural power structure and resource distribution, arguing that "the cause of poverty in Bangladesh is not paucity of resources or overpopulation, rather unequal distribution of wealth" (*Nijera Kori*, 1997a:1). It further argues that the unequal distribution of resources has led to "divisions amongst the people and has exacerbated the problems related to social injustice, dowry, discrimination, oppression of women, exploitation, unjust possession of public resources by power cliques and corruption" (*Nijera Kori*, 1997b:1). It views popular mobilization and conscientization as essential to changing the situation in favour of the rural poor and deprived social groups such as women.

In Bengali, "*Nijera Kori*" means "we do it ourselves". As such, the organization encourages self-help, autonomy and awareness-building activities, and motivates the rural poor to form collective groups to resist social injustice, as well as seek to improve their livelihoods

The projects of *Nijera Kori* are spread across the country, with the exception of the north and north-east. In June 1997, they covered some 1,016 villages (*Nijera Kori*, 1997b:3). By June 1997, some 6,561 self-help groups were created, bringing together 146,394 core members of whom just over 50 per cent were women (*Nijera Kori*, 1997b:3). Group meetings, training and workshops permit people to exchange views, discuss specific events, devise plans and develop professional and leadership skills. In order to make group members financially self-reliant, or at least make recourse to fraudulent moneylenders unnecessary, it urges people to develop savings habits and contribute to various savings schemes that can make money available during emergencies. Group members are also encouraged to invest in pisciculture, agriculture, livestock rearing, small cottage industries and petty trading. A great number of *Nijera Kori's* activities, however, concern political mobilization and collective action against social exploitation, repression of women and access to local resources, especially *khas* land.

*Nijera Kori* considers title to *khas* land by the landless an integral part of poverty alleviation in rural areas. In theory, *khas* land, should be more accessible to the poor than privately held land, especially in view of the government's policy of distributing these areas to the landless. In practice, however, powerful individuals tend to grab any land that becomes available, which provokes conflict. Part of the problem is that it is often difficult to establish whether land is *khas* land or not; also, powerful individuals can enlist the help of officials to produce false ownership documents. Indeed, even in cases where possession is recognized, powerful people can evict the landless with the help of local police and thugs. To



discourage the landless, land grabbers have been known to bring false charges (such as theft) against the landless (Kabir, 1994:72). This makes it difficult for the landless to have access to *khas* land, especially when they are not sufficiently organized and lack wider support.

Nijera Kori has thus sought to organize the landless, and influence public opinion and government departments, as well as provide legal support to its group members. In 1996–1997, it provided legal support to approximately 100 cases, a number of which involved defending its employees, who were often considered the main foe by landlords and elites. Cases involved access to and formal titling of *khas* land, land dispossession for shrimp cultivation, oppression of women and sometimes even deaths related to these issues.

Nijera Kori considers its legal aid highly successful. In most cases, suits brought against peasants and the rural poor have been unfounded, with encouraging verdicts in favour of the landless. By registering legal suits, the poor are becoming aware of the weak points in the administration and local power structure, and group members are acquiring competence in rural arbitration (Nijera Kori, 1997b:16).

Most of the NGOs providing legal assistance in Bangladesh have not been able to cope with the demand, and Nijera Kori is no exception. It does not have a legal division of its own and hiring outside lawyers is costly, particularly when a case must be tried in higher courts. Landlords and corrupt elites usually try to exploit this situation. Nijera Kori generally approaches broad-minded lawyers to handle the cases, where possible at a moderate rate. This is not always feasible, however, as lawyers are in great demand. The organization also seeks legal help from organizations with greater capacity, but others may be reluctant to accept additional cases as they are usually unable to meet even their own needs for legal aid.

*Char Bajja and Char Majid* are two “villages” situated a few kilometres apart at Sundaram Thana in Noakhali district in the Bay of Bengal (see map 1). A considerable amount of “new land” has been deposited in the area in recent decades as soil has washed down from the Himalayan region. In Bengali, *char* means “land rising from water”. In theory, all *char* lands are government (*khas*) land. In practice, however, these lands are subject to individual claims. Conflicts over the possession and use of land may therefore arise between poorer households — for example, between those with land titles and those claiming to have possessed earlier titles; old and new settlers; households selected for entitlement and those rejected; households already settled and those buying the land from the proclaimed owner(s). Many such conflicts are resolved locally (at times with the help of NGOs and locally respected individuals) unless powerful landlords or elites incite one group against the other. Conflicts between poorer households and those with economic, political or judicial power tend to be especially complicated. Given that the price of land is attractive and because of its suitability for shrimp farming (because salt and fresh water are available), powerful landlords, local political elites, land speculators and shrimp cultivators have sought control of land in the area. Increased government and foreign funding for shrimp cultivation and its potential as a foreign exchange earner have also swayed local politicians and administrators in favour of powerful groups (Nijera Kori, 1996). Indeed, they may already belong to the same circle of people.

The land question in these two villages — or, more appropriately, settlements — depicts this process well. Char Bajja was established in the early 1980s when new land appeared on the banks of Mejna river due to soil deposits and the construction of a dike for flood protection. By 1997 some 200 households, mainly flood victims from the area, had settled there, each with 1 acre (0.4 hectares) of land to cultivate. As a result of the growth in shrimp cultivation and related earnings prospects in the late 1980s and early 1990s, powerful landlords, local elites and businessmen also sought possession of this land, first by producing false land “ownership” certificates and subsequently by using legal and then more coercive means. They also attempted to influence government departments in their favour by suggesting that the land in question was not suited for peasant agriculture because of poor-quality soil and its high saline content.

In October 1997, when this author visited Char Bajja, all available land was under the cultivation of paddy, sweet potatoes and several types of vegetables. People acknowledged that the land was not very fertile, but with their care, construction of bunds and use of manure, it had become more productive. In 1996, an average of 50 munds (2,000 kilograms) of paddy per acre were produced. Crop production was combined with limited livestock rearing, fishing and some outside wage employment, especially by young boys. In the settlement, peasants had their own dwelling and thus did not need shelter on their employer’s land.

But over the past four years there have been intense conflicts in the area. In the beginning, landlords and their associates threatened the settlers and sought to divide them. Money was offered to potential collaborators. When it became clear that those manoeuvres were not working, harsher means were used. Local administrators were called upon to undertake police assaults, peasant huts were burned and crops were destroyed. At the same time, lawsuits were brought against the peasants in the local and high courts. During this author’s field visit, three peasants were in jail serving life sentences, convicted in a bogus rape case. Landlords and other elites in Bangladesh have such influence over the judiciary and administrative system (especially at the local level) that abuse of the system is not difficult. Here, they had combined the land dispute case with another (fictive) criminal lawsuit as a way of discouraging peasants.

Without timely legal aid from Nijera Kori, the peasants would probably have been evicted from their land. When the case of rape was brought to local and then high court, and the peasants could not pay for legal assistance, Nijera Kori hired three defence lawyers. Nijera Kori was also able to publicize this case and attract the attention of independent NGOs that provide legal support. One of these, the Dhaka-based Bangladesh counterpart of Amnesty International, dispatched two of its local lawyers to investigate the case. Ironically, and to the great dismay of Nijera Kori and the peasants, these two lawyers recommended that the case be decided in favour of the landlords and local elites, apparently after being offered bribes (personal communication with a Nijera Kori activist). This indicates that many of the lawyers can be bought easily by peasants’ adversaries, especially when they lack compassion for the peasants’ cause.



Many comparable processes were discernible in the case of the second settlement as well. Char Majid was established in 1982, with 235 households and a total cultivated surface of 560 acres (233 hectares). A slightly larger plot per household and higher land productivity explains relatively improved living conditions in this village (bigger and more solid houses, higher school attendance, etc.).

The main problem in this settlement was that, despite having settled and cultivated the land for over 15 years, peasants had not received legal title. Instead, the government (for political reasons) distributed land titles to people who had fought for independence from Pakistan in late 1960s and early 1970s. Some 196 “freedom fighters” were thus given title to the entire area in 1991—1992, apparently without the settlers’ knowledge. According to the peasants, not all of the people who obtained title were freedom fighters. Moreover, some title holders were in commerce or had other professions and had no interest in or previous knowledge of cultivating land. Their main interest was the resale value of the land. And, because of the high demand for land for shrimp cultivation, prices had surged in the area, especially for registered land. This created a strong alliance between the freedom-fighters and shrimp cultivators in the area. Moreover, shrimp cultivators were not in favour of peasant ownership of land, as they were likely to continue to use land for crop production. If it were controlled by the freedom-fighters and could be sub-contracted or bought, the land use could be changed to shrimp cultivation.

In this settlement there have been repeated conflicts during the harvest season, as freedom-fighters hire men to intimidate the peasants and collect harvested produce. However, due to strong peasant solidarity and generally supportive public opinion in the surrounding villages, people continue to reside in the area and manage to keep the bulk of their crops. The help of NGOs, such as Nijera Kori, has proved especially important.

Nijera Kori has brought peasants together in self-help groups and co-operatives to resist the control over their land by freedom-fighters and improve economic conditions. More importantly, it has maintained contacts with the local administrators involved in the case, as well as with influential freedom-fighters, and probably helped avoid direct confrontations between the peasants and freedom-fighters. During this author’s field visit, negotiations were taking place, with Nijera Kori as mediator. One possible compromise was the allotment of 50 per cent of the land to peasant households and 50 per cent to the freedom-fighters, but the peasants were totally opposed to handing over their land to people who they deemed “undeserving”. They also feared that acceptance of this formula would lead to the conversion of additional land to shrimp cultivation. This would make adjacent plots unsuitable for crop production because of potential infiltration of saline polluted water and diseases from shrimp farming. Solutions were far from clear and the tension was high, especially with paddy harvest season near.

### *Carruf and Mapalad: Cases from the Philippines*

Carruf and Mapalad are two of the best-known cases of land conflicts in the Philippines. Both concern the provision of land and land titles to resident tenants and agricultural labourers where this has been fiercely opposed by previous landowners. The latter have repeatedly used professional “security guards” to intimidate the peasants and agricultural labourers. They have sought to exploit all

possible legal loopholes and have brought peasant groups to courts on a variety of criminal charges. The Carruf and Mapalad cases have come to the attention of the regional and national media, government departments and political parties. A number of NGOs working on rural poverty alleviation and land questions have mobilized peasants and provided legal assistance and advice, which have been of crucial importance in Mapalad in particular.

Carruf and Mapalad cases are located in the province of Bukidnon on the island of Mindanao (see map 2) near one of the island's principal highways. Although they are quite integrated with nearby market centres and urban way of living, agricultural activities remain the main source of employment and income in the area. Fertile soil, high rainfall and irrigation possibilities, on the one hand, and abundant rural labour, on the other, have attracted transnationals and agri-business to the area. Cash crops — sugarcane, pineapple and banana — are produced for export, although rice (the main crop), maize (increasingly used as animal feed) and various legumes are also produced for the market (Municipality of Valencia, 1997). Both tenants and wage labourers work on the large estates and land conflicts in both Carruf and Mapalad have grown out of contentions between estate owners and these groups.

The Carpio-Rufino Agricultural Corporation (Carruf), previously a private cash-crop estate belonging to an affiliate of former President Marcos, is located in Barobo, Valencia. The area is planted mainly with sugarcane and some maize, and part of the estate was also used for cattle ranching. The owner lived in Manila and the estate was operated through farm administrators and resident hired labourers, who maintained dwellings and home gardens.

In the late 1970s and early 1980s, Valencia was marked by political agitations and actions against plantation owners, rich farmers and local elites co-operating with the regime. The owner of the Carruf estate abandoned it during the unrest, and the estate's labourers immediately took over the land. They agreed upon division of the land, but maintained earlier land use patterns.

In 1986 DAR placed the estate under compulsory acquisition. Some 148 hectares of the property were to be made available for acquisition by 111 landless households, but screening of beneficiaries and preparation of the CLOAs took 10 years (until February 1997). On behalf of the households, DAR negotiated a loan with the LBP to purchase the land from the owner for 8 million pesos. It also sought to organize the beneficiaries into three production co-operatives, and the implementation of this task was given to a local NGO, CART. The beneficiaries would gain full ownership title in 2007 (after 10 years of provisory entitlement). At the end of 1997, each household paid about 2,000 pesos to the LBP towards the mortgage, which extended over 30 years. This represented about 10–15 per cent of their annual produce (personal communication with peasants).



Delays in obtaining ownership documents and constant harassment from a “security agency” hired by the estate owner to protect his property created an environment of uncertainty for the beneficiaries. There were few incentives to improve the quality of land or crops, and many of the households sought employment in the local market centres (such as Valencia) or as daily agricultural labourers in the surrounding areas. Such wage employment has been scarce, however.

In recent years, land prices have risen sharply in the area and cattle ranching has become an increasingly profitable use of land. The absentee owner thus attempted to recover possession of land, using a variety of means. In the early 1990s, two cases were filed before the Department of Agrarian Reform Adjudication Board (DARAB) in Manila and Malaybalay (the provincial capital), claiming that the CARP beneficiaries were “squatters” and had entered the property unlawfully, and thus that the land certificate given to them should be cancelled (DARAB, 1997). There were also attempts by the landowner to use the local power structure (the mayor of Valencia) in his favour (**The Manila Times**, 18 April 1997). The DARAB decided that the peasants were the rightful owners of the land.

When the legal cases were ruled in favour of the peasants — who were subsequently provided with the ownership certificate — the previous estate-owner took a more confrontational attitude. He hired the Tagabagani security agency. Twenty armed men verbally intimidated the peasants. They fired guns at night to frighten the peasants, and enclosed the cultivated fields with barbed wire to prevent the peasants from harvesting their crops. A truck used by peasants for transporting sugarcane and maize was also seized by the security agents (personal communication).

In another act of intimidation, a 30-hectare plot of sugarcane was burned one night in April 1997. This meant the loss of a year’s work for the affected households. Peasants protested this act both in Manila and in the province, with the support of DAR and NGOs such as CART, Kaunlarang Kanayuan, Balay Mondanao Foundation and Partnership for Agrarian Reform and Rural Development Services. These protests received significant national media coverage. The government was urged to uphold its promise for land reform and provide police protection for the beneficiaries of land reform. The local mayor (who had permitted the private security agents to operate in the area) initiated a dialogue between the two opposing groups (**Sun Star**, 22 April 1997; **The Manila Times**, 23 April 1997).

Ultimately, the peasants were again able to cultivate their land. But when this author visited the area in November 1997, the Tagabagani security guards were still intimidating the farmers. In May 1997, President Ramos ordered the investigation of a case of harassment by the agency, but no report was issued until the end of November 1997. Peasants still lived in uncertainty. Fear of eviction from their plots had receded due to widespread publicity and outside support for their cause. But economic hardship was forcing some households to borrow money, and others were making arrangements to sell their plots to moneylenders as soon as title was granted to them (personal communication with a local development worker).

The Mapalad peasants have endured a similar situation, although the landowner in this case has been even more hostile and has exerted influence over local landholders and elites, as well as government officials in Manila. Tribal origin

(and thus unfavourable socio-political standing) and their overwhelming reliance on daily wage employment for survival have made the position of the Mapalad peasants extremely precarious, but they have been well organized, received extensive public sympathy and attracted a great deal of support from NGOs, professional organizations, the media and DAR.

Mapalad is a multipurpose peasant co-operative for co-ordination of land acquisition and livelihood improvement. The co-operative was established by peasants after they were offered the possibility of acquiring 144 hectares of land in Sumilao, Bukidnon. The land, generally well suited for agriculture and endowed with irrigation facilities, had been leased to Del Monte Philippines by its owner. Before the expiration of the 10-year lease in 1990, DAR included the area in its compulsory acquisition scheme and sought to distribute it to 137 landless agricultural labourers in the area. Most of these workers were employed by the Del Monte estate.

The decision by DAR to expropriate the estate and subsequent moves by the beneficiaries to begin cultivating their parcels in July 1997 were opposed by the landowner in a variety of ways. The landowner applied to DAR to convert the farm into an agro-industrial zone, suggesting that the scheme would create more employment and improve the municipal economy.

At the same time, the landowner hired 50 armed men from the Tagabagani security agency to protect the property. Agents evicted the peasants, burned peasants' huts, seized farm implements and other belongings, and told peasants that land mines had been placed in the area and that fences around plots were electrified. Other local landowners and former employers of the peasants were urged by the estate-owner not to hire workers belonging to the Mapalad group (**Land Conversion Case: Sumalio, Bukidnon**, undated:2). The landowner also filed a case before the Regional Trial Court in Malaybalay seeking to annul title and to obtain 10 million pesos in damages from the peasants.

The Malaybalay court decided in favour of the landlord and the peasants were ordered off the land. Moreover, although DAR rejected the estate owner's application to convert the land into an agro-industrial zone, the governor of Bukidnon, the local mayor and large landowners supported the landowner and encouraged him to appeal to President Ramos. The president reversed DAR's decision and approved the landowner's proposal to convert the farm into an agro-industrial zone (**Mapalad Agrarian Reform Monitor**, January 1998). The peasants were thus totally helpless.

The regional office of DAR, a few paralegal workers and local NGOs had been assisting the peasants in various ways. A Mapalad Task Force was formed by the Mapalad co-operative and several NGOs — PALAMBU-PAKISAMA, Balay Mindanao Foundation, PhilDHRRA-Mindanao — and youth and religious groups. Some larger agrarian NGOs, such as PAKISAMA, AR Now! and PhilDHRRA, gave the Mapalad case national exposure. And several newspapers began reporting on the case, especially the violent eviction carried out by the estate-owner. Farmers' groups and academic institutions, such as the Philippine Peasant Institute (PPI), called on the president to reverse his earlier decision on the Mapalad and several other similar cases in the country (**Farm: News and Views**, September-December 1997; **Mapalad Agrarian Reform Monitor**, January 1998; **The**



**Manila Times**, 8 November 1997; **Land Conversion Case: Sumilao, Bukidnon**, undated).

The Mapalad peasants received legal aid and advice from Balay Mindanao Foundation, SALIGAN and KAISAHAN, who investigated the co-operative's legal standing and possible legal steps to be taken. These lawyers were supported by the Ateneo Law School and the Integrated Bar of the Philippines (IBP). The task force created by the NGOs to review the legal arguments of both sides found overwhelming evidence in favour of the Mapalad peasants and submitted these findings to the office of the president. No concrete reaction was forthcoming (**Land Conversion Case: Sumilao, Bukidnon**, undated:11).

Peasants sought to convince President Ramos and the Regional Trial Court in Malaybalay to revise their decision by initiating a hunger strike in October 1997. Twelve peasants camped out in front of the DAR central office in Manila and seven peasants staged a hunger strike in Cagayan de Oro city in Mindanao. This was the first occasion in the country's history that a hunger strike was used to draw attention to the plight of peasants' struggle for land, and it thus attracted a great deal of radio and television coverage. NGOs and other supporters had helped the peasants prepare for their hunger strike psychologically, and advised them on selection of the location, visibility of the camp and consultations with the media and concerned government departments (**Mapalad Agrarian Reform Monitor**, January 1998). During the 28-day strike, the peasants also received medical check-ups. The hunger strike ended with Ramos's announcement of a compromise solution: 137 peasant households would have the option of purchasing 100 hectares, with the remaining 44 hectares going to the landowner.

The striking peasants returned to Sumilao to a hero's welcome; their action was expected to encourage other groups to organize and mobilize in the face of similar problems elsewhere in the country (**The Manila Times**, 7 November 1997). Although the president's decision seemed to have been accepted by both parties, the peasants were not able to take possession of their property until the beginning of 1998.<sup>3</sup> The proposed compensation of 6 million pesos, rejected by the landowner, was still the object of negotiations, however (**Mapalad Agrarian Reform Monitor**, January 1998). Furthermore, the preparation of land parcels, issuance of new land certificates and guarantee of loans from the LBP still had to be completed before peasants could settle on and begin cultivating their plots. Most of the peasants had used their limited savings during the mobilization and protest; preparing the land and ensuring family subsistence before the first harvest was expected to be difficult (personal communication with the peasants). The DAR regional office and NGOs that had supported the peasants during the land entitlement process did not have the resources to provide further assistance to peasants during the post-entitlement period.

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### III. CONCLUSION

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<sup>3</sup> On 24 April 1998, in an unexpected move, the Supreme Court declared the presidential decision null and void and the future of Mapalad peasants has again been thrown into confusion. This shows the complexity of land reform process in the Philippines, as well as the peasants' need for continued legal and extra-legal support from NGOs, farmers associations and other progressive actors.

Outside alliances and support are crucial to peasants and other marginalized rural groups during the land reform process. Political mobilization, leadership development, organization of land acquisition actions and protests, networking, and influencing the media, political parties and government land policies are important but often beyond the means of peasants without the assistance of more powerful outsiders. Rural groups also benefit from external assistance in the identification of land for redistribution, selection of beneficiaries, acquisition of titles, prevention of eviction of tenants by landowners, improvement in wages for agricultural labourers and negotiation with landowners or government departments. Outside support is similarly critical in resolving land conflicts among the rural poor themselves, as well as across tenurial classes, and in ensuring that the beneficiaries of land reform have access to essential agricultural inputs and support services. In short, the benefits of outside alliance and support are enormous.

In practice, however, landless peasants and other marginalized rural groups can seldom count on the support of outside forces. The landless rely mainly on traditional authorities, religious leaders and elders. A supportive teacher, extension worker or village counsellor can often provide tremendous backing for the peasants' cause, as they tend to have a better knowledge of the functioning of the government bureaucracy and, perhaps land legislation.

The cases from Bangladesh and the Philippines show that legal aid has been critical to the struggle of landless peasants for land. In these two countries, even though legal assistance did not enable the peasants to break the power of landowners, it did help restrain the latter in some cases. Despite the fact that landowning classes were sometimes able to manipulate the legal system to their advantage and were able to pay top price for legal advice, they could not completely ignore the interests of their tenants, the local landless peasants or public opinion. Legal proceedings often went together with complex negotiations with the landless, their representatives or opposing lawyers.

Sufficient land reform legislation exists in both countries; the problem lies in its effective implementation. Lawyers have an important role to play in this regard as well, especially in advocating the interests of the near landless, tenants, agricultural labourers and other marginalized land-seeking rural groups. With their knowledge of national and international legislation and legal covenants, lawyers can work to advocate and sustain an independent judiciary, monitor government policies, signal human rights violations and ensure that land reform legislation is implemented. But it is rare that marginalized groups can retain the services of lawyers, as they are costly and based mainly in urban areas. Furthermore, even among lawyers willing to work for peasants, very few would be fully sensitive to the peasants' cause.

Despite recognition of the usefulness of legal services, provision at the official level has been insufficient in both countries. In the Philippines, the DARAB has protected the interests of a significant number of tenants and landless peasants seeking access to land. This experience is unique and could provide useful lessons for other developing countries promoting land reform. This also demonstrates that state capacity to defend the interests of the landless through regulatory institutions and processes is necessary — in spite of calls by international funding institutions

to curtail state involvement in agricultural and economic planning. Demands on agrarian courts are overwhelming even though they deal exclusively with disputes over land acquisition. Of course, the case studies also revealed the tactics of some landlords, who may concoct “diversionary” cases (such as damage to property, acts of violence or theft) so that cases will be tried in criminal courts over which peasants have little influence. Because of a prolonged history of land disputes in the Philippines, a number of Filipino NGOs have given considerable attention to the agrarian question, especially since the fall of the Marcos regime. However, the legal component has tended to remain weak in their overall activities and demands for legal assistance can scarcely be covered. In Mindanao, for example, NGOs have been able to accept approximately one case out of every 10 (personal communication with a CART paralegal activist).

In Bangladesh, the government’s recent land reform measures have been limited mainly to the distribution of *khas* land to the landless. The government has thus avoided the political risks involved in radical land reform (reduction in the land ceiling, progressive land taxation, greater provision of credit and other institutional production support services to the poorer farmers). The government has also managed to evade direct conflicts with the powerful landed classes, and the influence of the latter over the local administrative and judiciary machinery remains staggering. As a result, even redistribution of *khas* land has been far from smooth. The government of Bangladesh has made no specific provision for agrarian courts that would protect the interests of the landless. Furthermore, few NGOs working in rural areas focus on land reform, and even fewer provide legal services relating to tenurial disputes. Indeed, there is not a single rural development organization in the country with a specific mandate to provide legal assistance to the peasant and landless populations. Nevertheless, the activities of those which have integrated legal assistance into their programme, such as Nijera Kori, have been highly effective.

Ideally, for land reform measures to be more successful, landless groups and peasant organizations should have their own lawyers. Alternatively, a cadre of motivated lawyers should be available to pursue the peasants’ cause. Clearly, more lawyers would not automatically mean that more legal aid would be available to the land-aspiring rural poor, but a legal curriculum more sensitive to agrarian problems, land laws and rural poverty could help increase future lawyer’s awareness of land disputes and perhaps increase their support of land reform measures. Raising the awareness of school teachers, agricultural extension workers, NGO activists and so forth about land laws and reform initiatives could produce a valuable local pool of paralegals, as these actors constantly interact with the landless and marginalized rural population. Efforts to raise rural people’s consciousness through literacy classes, community training programmes and legal education would also have possible results.

Cases in both countries indicated that social mobilization by NGOs, peasant organizations and professional organizations has been more decisive than the supply of legal aid per se. Naturally, this would not have happened if the local populations were not active as well. But it does reveal that social actions surrounding land questions are more effective when the process of mobilizing and empowering the rural poor, as well as the wider public, is combined with the provision of concrete legal tools and support.

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