



# Linking Land Tenure and Use for Shared Prosperity

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## ANALYSIS OF LAND TOOLS IN THE PHILIPPINES USING GENDER EVALUATION CRITERIA (GEC)

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## **Abstract**

Land tools were assessed for their gender-responsiveness using the Gender Evaluation Criteria (GEC) framework developed by the Global Land Tool Network of the UN-HABITAT. The land tools selected were: *Comprehensive Agrarian Reform Law* (CARL of 1988); *Comprehensive Agrarian Reform Program Extension with Reforms* (CARPER of 2009); *Magna Carta of Women* (MCW of 2009); and *Guidelines Governing Gender Equality in the Implementation of Agrarian Reform Laws and Mainstreaming GAD in the Department of Agrarian Reform* (DAO 01, Series of 2011). The methodology used was participatory assessment with Farmers Organization (FO) leaders and NGO/POs of agrarian reform advocates. The land tools were scored on the basis of 6 criteria and sets of indicators –a) Equal participation; b) Capacity development; c) Legal and institutional considerations; d) Social and cultural considerations; e) Economic considerations; and f) Scale, coordination and sustainability. Recommendations were drawn to improve the gender-responsiveness of the land tools and promote women’s equal land rights.

## **Key Words:**

Gender, land tools, land rights, land governance, farmer organization, gender evaluation criteria

## A. INTRODUCTION

### a) Background and Rationale of the Assessment

The project on “*Building Farmers’ Capacities in Applying the GEC in Land Issues through FO-to-FO Cooperation*” has two objectives: 1) to increase awareness of member farmers organizations (FOs) of the Asian Farmers’ Association for Sustainable Rural Development (AFA) on the Gender Evaluation Criteria (GEC); and 2) to apply the GEC criteria in analyzing the priority land issues of Farmer Organizations (FOs) in four countries, namely Myanmar, Nepal, Philippines, Vietnam.

The Gender Evaluation Criteria (GEC) is a set of 22 questions classified into 6 criteria or themes developed by the Global Land Tool Network (GLTN) of the UN HABITAT. GEC may be used to assess the extent to which “land tools” promote and protect gender equality in land rights. “Land tools” can be laws, policies, governance structures, plans, guidelines, operational manuals, training modules, land tenure instruments, land records database, monitoring and evaluation instruments, etc. The premise is that there is gender inequality in land access, land use and tenure security, and the situation is favourable to men or disadvantageous to women.

In the Philippines, there are provisions in the Constitution and national laws and polices that have improved the situation of women and helped shape land tools to promote gender equality in land rights. Land rights are provided for in Article XIII, Sec 4 of the 1987 Philippine Constitution which mandates the government to “undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof.” Article II, Sec 14 of 1987 Constitution recognizes the role of women in nation building and ensures the fundamental equality before the law of women and men.

The *Women in Development and Nation Building Act of 1992* (RA 7192) promotes the integration of women as full and equal partners of men in development and nation building, including in land development and governance, and allocates at least 5% of all agencies and local governments’ funds to GAD related activities and projects. Executive Order 273 Series of 1995 adopted the *Philippine Plan for Gender-Responsive Development 1995-2025* which directs all government agencies and local levels to incorporate GAD concerns in their planning, programming and budgeting processes.

## **b) A Description of Land Tools Used for GEC**

The selected land tools for this research are laws and guidelines that mandate the redistribution of agricultural lands to landless farmers and farmworkers and the protection and promotion of rural women's rights:

- *Comprehensive Agrarian Reform Law / CARL (Republic Act/RA 6657, 1988)*
  - Contains a section on rural women as a special area of concern.
- *Comprehensive Agrarian Reform Program Extension with Reforms / CARPER (RA 9700, 2009)*
  - Promotes the rights of rural women, independent of their male relatives and of their civil status, to own and control land, to receive a just share of fruits of the land and to be represented in advisory or appropriate decision-making bodies.
- *Magna Carta of Women / MCW (RA 9710, 2009)*
  - Declares that equal status be given to women and men in land titling and issuance land instruments, promotes their equal rights to use and manage land, water and other natural resources, and provides for rural women's bundle of legal rights.
- *Guidelines Governing Gender Equality in the Implementation of Agrarian Reform Laws and Mainstreaming Gender and Development (GAD) in the Department of Agrarian Reform (DAR) (DAO 1, Series of 2011)*
  - Mandates GAD mainstreaming in the executing agency of policies on agrarian reform and contains procedures for ensuring the recognition of rights of women as agrarian reform beneficiaries (ARBs).

## **c) Objectives of the Assessment**

The analysis aims to assess the extent to which the selected land tools promote and protect gender equality in land rights. The overall objective is to provide an overview of the GEC to FO and NGO/PO leaders, and conduct a participatory assessment of the land tools for gender-responsiveness.

## **d) Methodology of the Assessment**

The project used the GEC developed by the Global Land Tool Network (GLTN) of the UN-HABITAT as analytical framework and methodology. It was implemented in May 2014. A desk research/documents analysis was done to select the land tools and develop appropriate qualitative indicators use in the gender assessment. Two half-day Focus Group Discussion (FGDs) were organized to discuss the findings of the research and provide an avenue for a participatory assessment of the land tools. The first FGD was hosted by PAKISAMA attended by 10 FO leaders (2 women, 8 men), all members of PAKISAMA's National Executive Committee. The highlights of the desk research were first presented for group

discussion; each participant then given a questionnaire to score the selected land tools based on the 6 GEC criteria and indicators used. The second FGD was a validation workshop hosted by PHILDHRA, a partner NGO of PAKISAMA, attended by 13 NGO/PO participants (9 women, 4 men) who are all advocates of agrarian reform. After presenting an overview of GEC and highlights of the desk research, the participants were divided into two for small group discussions; each group was then given a questionnaire form and asked to score the land tools using the indicators and findings from the research.

It was emphasized to the participants that the scoring be based on the provisions or contents of the land tools, rather than the implementation of the policies. The average scores of the participants of both activities were computed and reported as the GEC scores. The scoring is done as follows:

- 1 – VERY POOR/ no gender responsiveness
- 2 – POOR / little gender responsiveness
- 3 – FAIR / gender responsive but with problems
- 4 – GOOD / good response to gender
- 5 – VERY GOOD / tool equally meets women's and men's needs.

e) **Limitations of the Assessment**

The initial problem encountered was the difficulty in using the GEC questions and framework in its entirety for the country research; instead, appropriate indicators were selected using the GEC criteria and guide questions. Moreover, due to time and budgetary constraints, the gender assessment could not be made more exhaustively, and did not benefit from feedbacking or comments from other stakeholders (e.g. government, UN agencies). For instance, a thorough understanding of the underlying gender concepts in the GEC would probably entail 2 or 3 days. In the project, however, presenting an overview of the GEC had to be done in only one hour, so that more time could be given to the discussion of the research on land tools. Time constraints also hampered more thorough discussions on the research findings. Another challenge encountered was the differences in gender awareness of the participants, and hence also of their appreciation of the gender-responsiveness of the selected land tools.

## B. DISCUSSION OF FINDINGS

### **CRITERION 1: Equal participation of women and men and gender-responsive governance**

This refers to extent women and men were involved in identification of issues to be addressed by land tool, development and implementation of tool; needs and concerns of both women and men considered in design of the tool.<sup>1</sup>

#### **INDICATORS:**

- a) **Women's participation and representation in decision-making bodies.** The land tools have provisions that ensure women's participation and representation in key decision-making bodies, e.g., Presidential Agrarian Reform Council (PARC), Barangay Agrarian Reform Council (BARC):
- *CARL – Chapter X, Sec 40, Special Areas of Concern:*  
“(5) *Rural Women.* — All qualified women members of the agricultural labor force must be guaranteed and assured ... **representation in advisory or appropriate decision-making bodies.**” (emphasis supplied)
  - *CARPER, Sec 17, amending Sec 41 of CARL:* "SEC. 41. The Presidential Agrarian Reform Council. - The Presidential Agrarian Reform Council (PARC) shall be composed of the President of the Philippines as Chairperson, ... Provided, further, That **at least one (1) of them shall come from a duly recognized national organization of rural women** or a national organization of agrarian reform beneficiaries with a substantial number of women members: Provided, finally, That **at least twenty percent (20%) of the members of the PARC shall be women** but in no case shall they be less than two." (emphasis supplied)
  - *DAR AO 01 (2011), Sec 5 -I on “Women's Participation and Representation”:* "DAR shall ensure that **20% of the DAR Committees and BARC membership are women**, and shall further ensure that in no case shall the number of women therein be less than two (2), **If there are not enough women available for these organizations, then special leadership trainings and capacity-building shall be undertaken for women.**" (emphasis supplied)

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<sup>1</sup> The suggested questions are: (1) Does the tool demand and generate political understanding and will to positively implement a gender-balanced approach? (2) Is the decision making process in developing the tool, and within the tool itself, transparent and inclusive for both women and men? (3) Does the tool rely on and provide sex-disaggregated data? (4) Does the tool demand positive results for women from public and private bodies responsible for land management?

- *MCW, Sec 11 (b) – “Development Councils and Planning Bodies”*: “To ensure the participation of women in all levels of development planning and program implementation, **at least forty percent (40%) of membership of all development councils from the regional, provincial, city, municipal, and barangay levels shall be composed of women.**” (emphasis supplied)

b) **Women’s participation in land ownership.** Figures from the DAR Central Office show that out of a total 2.3 million agrarian reform beneficiaries (ARBs) as of end-2012, only 29% are women. This proportion, however, has been increasing from 8% in 1972-1986 during the Marcos administration to 39% under the current administration (President Aquino III). In all the administrations, the proportion of women ARBs has been far from equal with that of men ARBs. (see Fig 1)

#### GENDER ANALYSIS:

Since 1988, the land tools have provided for increasingly greater participation of women in key decision-making bodies in land governance – from no target in CARL (1988), to 20% in CARPER (2009) and to 40% in MCW (2009). Moreover, if not enough women are available for these seats, special leadership and capacity-building trainings for women should be undertaken. This allocation, however, still falls short of equal participation of women and men in governance (50-50). At the very least, CARPER’s 20% benchmark for women’s participation should be amended to harmonize with the 40% already set by the MCW. Moreover, the low participation of women in land ownership – only 29% after 25 years of CARP (1988-2012) – makes it imperative for discriminatory features in existing land tools to be amended to address the gender inequality.

#### FEEDBACK FROM PARTICIPANTS:

One woman FO leader from the FGD gave the land tools “very good” score on equal participation but she cautioned that DAR should partner with women’s organizations. Another woman FO leader also gave high marks as she felt that women were finally given the importance that they long deserved, but it would have been better if there was 50-50% participation of women and men:

- *“Mataas ang score na bigay ko, remarks ko lang continuous monitoring ang DAR partner ang mga women’s sector”* (“I gave high marks on equal participation, but DAR needs to continually monitor this in partnership with the women’s sector.”)
- *“5 ang score ko dahil para sa akin, nabigyan na ng halaga ang mga kababaihan, mas maigi sana 50-50 women at men”* (“I gave a very good score of 5 on equal participation because for me, women have been given importance but it would have been better if there is 50-50% participation.”)

**CRITERION 2: Capacity development, organization and empowerment of women and men to use, access and benefit from the tool**

- This refers to provision of mechanisms to inform and educate both women and men on how to use, access and benefit from the land tool, including allocation of resources.<sup>2</sup>

**INDICATORS:**

a) **Provision of GAD mainstreaming strategy, gender awareness or capacity-building mechanisms, GAD budget.** The MCW (2009) identifies gender mainstreaming as a strategy for implementing the law, while the whole DAO 1 (2011) provides guidelines on DAR's gender mainstreaming strategy:

□ *MCW, Chapter VI (Institutional Mechanisms), Sec 36.* **“Gender mainstreaming as a strategy for implementing the Magna Carta of Women. – All departments, including their attached agencies, offices, bureaus ... shall adopt gender mainstreaming as a strategy to promote women’s human rights and eliminate gender discrimination** in their systems, structures, policies, programs, processes and procedures which shall include ...

(a) **planning, budgeting, monitoring and evaluation for GAD... The development of GAD programs shall proceed from the conduct of a gender audit of the agency ... and a gender analysis** of its policies, programs, services and the situation of its clientele; the generation and review of sex-disaggregated data; and consultations with gender/women’s rights advocates and agency/women clientele... The cost of implementing GAD programs shall be the agency’s ... **GAD budget which shall be at least 5 percent (5%) of the agency’s ... total budget appropriations... The utilization and outcome of the GAD budget shall be annually monitored and evaluated in terms of its success in influencing the gender-responsive implementation of agency programs funded by the remaining 95 percent (95%) budget....**

(b) **Creation and/or strengthening of GAD Focal Points (GFP) ...** The tasks and functions of the members of the GFP shall form part of their regular key result areas and shall be given due consideration in their performance evaluation...” (emphasis supplied)

□ *DAO 1 (2011), Sec 5-D on Gender Awareness Building & Advocacy:* **“DAR must create awareness of and emphasize the fact that the problems on gender inequality are not rooted**

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<sup>2</sup> The suggested questions for this criteria are: (5) Are financial resources explicitly allocated for capacity building of both women and men to benefit from the tool? (6) Is the information clear to, and does it empower, both women and men to utilize the tool and know their rights related to this tool? (7) Does the tool provide mechanisms for assessment (at numerous levels) by female and male stakeholders?



**on people's own personal inadequacies, but are caused by a social system of institutionalized patterns of discrimination and marginalization against women and girls.“**

Sec 5-E on Capacity & Capability-Building (within DAR): GST trainings regularly conducted...

**"purposively incorporate GAD as a cross-cutting concern for all interventions;...“**

Sec 5-G on Fund Allocation and Logistic Support to GAD: **at least 5% of total budget from GAA** should be made available for all "gender-responsive programs, projects and activities, both for DAR personnel and ARBs;... " (emphasis supplied)

b) ***Collection and use of sex-disaggregated data.*** MCW (2009) and DAO (2011) mandate the collection and use of sex-disaggregated data:

- *MCW, Chapter VI (Institutional Mechanisms), Sec 36 (c):* **Generation and Maintenance of GAD Database.** All departments, including their attached agencies... shall develop and maintain a GAD database **containing gender statistics and sex-disaggregated data that have been systematically gathered, regularly updated, and subjected to gender analysis** for planning, programming, and policy formulation.” (emphasis supplied)
  
- *DAO 1 (2011), Sec 5-H on Planning, Monitoring Evaluation System:* “DAR shall develop **gender-sensitive indicators (GSIs)** to provide information on where the men and women in the DAR and ARB organizations are, how they are doing in terms of their condition and position in the household, organization or community, and what the DAR needs to do considering the **practical gender needs and strategic gender interest. All monitoring data pertaining to ARBs and landowners shall be gender-disaggregated.**” (emphasis supplied)

#### GENDER ANALYSIS:

It is clear from the above that existing land tools ensure that the DAR develops a comprehensive gender mainstreaming strategy that: a) emphasizes that gender inequality is caused by institutionalized patterns of discrimination and marginalization against women and girls; b) purposively incorporate GAD as a cross-cutting concern for all interventions; c) build GAD capacity within the agency; d) create or strengthen GAD Focal Points; e) build and maintain a GAD database; f) conduct gender analysis and gender audit; and g) allocate at least 5% of its budget for gender-responsive programs, projects and activities both for DAR personnel and ARBs.

GAD focal points are required to comply with GAD guidelines and submit regular GAD accomplishment reports that has the following format: a) gender issues/GAD mandate; b) cause of the gender issue; c)

GAD objective; d) relevant agency; e) GAD activity; f) output performance indicator and target; g) quarterly accomplishment; h) GAD budget; and i) responsible unit/office.<sup>3</sup>

A quick review of official forms used by DAR personnel, however, shows that most if not all of these forms do not ask the sex of agrarian reform applicants or owners/ claimants/ holders which implies that field staff do not collect gender-disaggregated data as a matter of course. Some examples of forms that do not collect gender-disaggregated data are: CARPER LAD (Land and Distribution) Form No 28 (Preliminary List of Potential ARBs); CARPER LAD Form No 31 (Certified Master List of Qualified ARBs). At a workshop on GEC assessment in 2013, a DAR personnel had observed that the application forms from the DAR Central Office do not ask the sex of the applicant, and hence this information is not included in their database (DOF 2014). The staff also said that they were not aware that CARP has gender-related policies and that they could not provide gender-disaggregated data on their ARBs.

Table 1 shows a sample GAD accomplishment report from a GAD Focal Point in a DAR field office. Among the gender issues identified are: Low level of awareness on GAD for ARB; Lack of ARB access to legal service delivery; Low awareness on VAWC (violence against women and children) law; Insufficient access to basic social services by ARBs; Lack of profile for women ARBs/women organizations. The GAD activities identified to address remedy the situation include: GAD orientation to male and female ARBs; Counseling and mediation; Information dissemination; Profiling of women ARBs.

#### FEEDBACK FROM PARTICIPANTS:

The FGD participants said that they did not perceive any impact of the gender mainstreaming strategy in their communities. For instance, there is no identifiable GAD unit of focal persons in the field. Women's organizations have not been targeted for participation in DAR-organized events. There is no gender impact assessment that involves the community. The participants also observed that the GAD budget appears to be for compliance or for reporting purposes only and "lacked teeth." One participant said that the GAD budget in their community did not go to fund women's activities but to allowances for the 'barangay tanod' or village watchguards. Some participants also felt that the 5% allocation for GAD budget was too small especially at the barangay level, and that this should be increased to at least 10-30%. Another participant said that capacity-building is the most important criterion to ensure that women get information and skills about their rights to land. It is also important to note that the DAR will be

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<sup>3</sup> Interview with Director Erlinda M. Manluctao of the Department of Agrarian Reform (DAR) Public Assistance and Media Relations Service, May 6, 2014, DAR Central Office, Quezon City

conducting a gender audit, and feedback from women and men ARBs and their organizations would help improve its gender mainstreaming strategy.

**CRITERION 3: Legal and institutional considerations in regard to women and men’s access to land**

- This refers to presence of policies, formal mechanisms and guidelines to promote equal legal rights of women and men to land use, land access and land tenure security.<sup>4</sup>

**INDICATORS:**

a) **Equal legal rights of women and men in land ownership.** All the land tools give equal rights to women and men in land ownership.

- *CARL, Chapter X, Sec 40 on Special Areas of Concern:* “**All qualified women members of the agricultural labor force must be guaranteed and assured equal right to ownership of the land....**” (emphasis supplied)
- *CARPER, Sec 1, amending Sec 2 of RA 6657:* “The State shall recognize and enforce, consistent with existing laws, the **rights of rural women to own and control land**, taking into consideration the substantive equality between men and women as qualified beneficiaries,... These rights shall be **independent of their male relatives and of their civil status.**” (emphasis supplied)
- *MCW (Sec 20):* “**1) Equal status shall be given to women and men, whether married or not, in the titling of the land and issuance of stewardship contracts and patents; 2) Equal treatment shall be given to women and men beneficiaries of the agrarian reform program, wherein the vested right of a woman agrarian reform beneficiary is defined by a woman’s relationship to tillage, i.e., her direct and indirect contribution to the development of the land; ... 4) Information and assistance in claiming rights to the land shall be made available to women at all times;**” (emphasis supplied)

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<sup>4</sup> The suggested questions for this criteria are: (8) Is the tool based on the principle of gender equality and does it protect women’s land tenure rights? (9) Does the tool acknowledge conflict of interests and the different gender impacts this may have? (10) Does the tool provide gender-sensitive dispute resolution? (11) Does the tool promote the principle of a bundle of rights? (12) Does the tool provide different tenure options, recognizing a continuum of rights?

MCW's Implementing Rules and Regulations (IRR) – Sec 23 (B-1) on “Right to Resources for Food Production: a. The **DAR shall issue EP and CLOA, to all qualified beneficiaries regardless of sex, civil status, or physical condition.**” (emphasis supplied)

- *DAO 1 (2011), Sec A.1 on Land Entitlements of Women and Men ARBs:* “1) **Both spouses or common law partners who each possess the qualification to be ARBs ... shall have equal rights in the process of identification, screening, and selections of ARBs...** In no case shall exclusion or subordination be made in the screening and selection on account of gender or relationship status.”

b) *Equal rights to legally married and common law spouses.* Administrative guidelines under CARL, CARPER, MCW and DAO 1 (2011) give equal rights to rural women, whether legally married or common law spouses:

- *CARPER, Sec 1, amending Sec 2 of RA 6657:* “The **State shall recognize and enforce, consistent with existing laws, the rights of rural women to own and control land ... independent of their male relatives and of their civil status.**” (emphasis supplied)
- *MCW's Implementing Rules and Regulations (IRR) – Sec 23 (B-1) on “Right to Resources for Food Production:* a....In order to protect the rights of legally married spouses where properties form part of the conjugal partnership of gains or absolute community property, **the names of both shall appear in the EP and CLOA preceded by the word “spouses.”** In unions where parties are **not legally married, the names of both parties shall likewise appear in EP and CLOA** with the conjunctive word “**and**” between their names; ... c. **In no case shall a woman be excluded either in the titling of the land or issuance of stewardship contracts and patents on the account of sex, being married, or being in a union without marriage to an agrarian reform beneficiary; ...**” (emphasis supplied)
- *DAO 1 (2011), Sec A.1:* “3) In order to recognize the rights of farmer spouses, **the names of both shall appear in the EP/CLOA** and shall be preceded by the word “**spouses**”. In the case of a common-law relationship, **the names of both parties shall likewise appear in the EP/CLOA** with the conjunctive word “**and**” between their names ... (same rules apply for collective / co-ownership) ... 10) The award limit for legally married spouses and for common-law partners is 3 hectares. **In case both spouses are individually qualified to be ARBs, each shall accordingly**

**be entitled to a separate award which in no case shall exceed a maximum of 3 hectares.”**  
(emphasis supplied)

[DAO 1 (2011) defines a common law relationship as referring to a man and a woman who are capacitated to marry each other and live exclusively as husband and wife either without benefit of marriage or under a void marriage. DAO 1 (2011) has amended the provision of AO 02 (2009) regarding the registration of CLOA/EP for married and common law spouses (Interview with Dir. Manluctao, 2014).]

c) **Equal legal rights of women and men in land transactions.** CARL guidelines and DAO 1 (2011) require the consent of both spouses/partners in land transactions:

- *Administrative guidelines under CARL* require the consent of both spouses for land sales, mortgages and "all other transactions involving waiver of rights" (FAO, 2002).
- *DAO 1 (2011), Sec A.2:* "... where the award was made during the existence of their marriage or the period of their cohabitation, the **consent of both spouses/partners shall be required** for the validity of the following transactions: a. Sale, transfer, conveyance of lands ... b. Application for land use conversion ... c. Contract of mortgage where the awarded land is used as collateral to secure a loan... d. All other transactions involving a waiver of rights..." (emphasis supplied)

d) **Presence of gender-sensitive alternative dispute resolution mechanism.** The select land tools contain alternative dispute resolution (ADR) mechanisms that are gender-sensitive, e.g. BARC and women's desks from national to municipal levels:

- *CARL, Sec 47: Functions of the BARC* ... the BARC shall have the following functions: (a) **Mediate and conciliate between parties involved in an agrarian dispute ...**

*Sec 53. "Certification of the BARC.* — The DAR shall not take cognizance of any agrarian dispute or controversy unless a certification from the BARC that the **dispute has been submitted to it for mediation and conciliation without any success...**"

- *Rule III of 2009 DARAB Rules of Procedure* **requires a certification from BARC** that the land dispute that has been submitted to it for mediation or conciliation without success or settlement before DARAB or its adjudicators can take cognizance of land dispute.

- *CARPER, Sec 37-A*: “The **DAR shall establish and maintain a women's desk**, ... providing an avenue where women can register their complaints and grievances principally related to their rural activities.”
- *DAO 1 (2011), Sec 5-B on Program Beneficiaries Development*: “**DAR shall establish and maintain a women's desk** ... providing an avenue where women can register their complaints & grievances, from national to municipal level.”

*Sec 5-C on AR Justice Delivery*: equal access/opportunity afforded both spouses/partners in pursuing or defending cause of action ... in cases of mediation/conciliation, **both spouses/partners shall be summoned and shall have the right to attend proceedings.**  
(emphasis supplied)

e) **Legal provision of women’s bundle of rights.** MCW recognizes the human rights of marginalized women farmers, fishers, rural workers, and indigenous peoples as the right to food and resources for food production, among other women’s rights:

- *MCW, Sec 20*: “(a) **Right to Food.** – The State shall guarantee the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, the physical and economic accessibility for everyone to **adequate food that is culturally acceptable and free from unsafe substances and culturally accepted**, and the accurate and substantial information to the availability of food, including the **right to full, accurate, and truthful information about safe and health-giving foods** and how to produce and have regular easy access to them;

(b) **Right to Resources for Food Production.** - The State shall guarantee women a vital role in food production by giving priority to their **rights to land, credit, and infrastructure support, technical training, and technological and marketing assistance... ensure women’s livelihood, including food security:** ... 9) **Women-friendly and sustainable agriculture technology shall be designed** based ... 10) **Access to small farmer-based and controlled seeds production and distribution shall be ensured and protected;** 11) **Indigenous practices of women in seed storage and cultivation shall be recognized, encouraged, and protected...**” (emphasis supplied)

## GENDER ANALYSIS:

The land tools show the progressive improvement in the language of gender equity in land tools. Administrative guidelines adopted by the DAR to implement the CARL's gender equality provisions, i.e. Memo Circular 18 (1996) and DAO 1 (2001), has improved women's position — e.g., no sex discrimination can be made in beneficiary selection, and land titles are to be issued in the name of both spouses (whether legally married or not) "when both spouses are jointly working and cultivating common tillage" (FAO, 2002). Gender equality is further enhanced in the CARPER which declares the "substantive equality between men and women as qualified beneficiaries independent of their male relatives and of their civil status", while MCW recognizes that "the vested right of a woman ARB is defined by a woman's relationship to tillage, i.e. her direct and indirect contribution." On hearing the different provisions, the FGD participants remarked that the spirit or concept of equal access to land was very clear in the land tools but many appeared skeptical whether the laws actually were being implemented at the grassroots.

***Women's legal rights to land.*** The empowerment of rural women who do 70% of farm work is inextricably linked to the right to land, which is the foundation of recognition of women's status as farmers (PCW, 2012). Land titles are important to women. Women should make sure that their name appears as equal co-owner of the land they cultivate, regardless of the nature of their union or relationship with men.

Access to land can help women diversify her household's livelihood system (ANGOC, 2000). Women can use land for e.g., cultivating home gardens, raising poultry or other income-generating activities. Productive assets like land in women's hands make a big difference. For instance, women in poor households are observed to spend most of their earnings on basic household needs (food, etc), while men spend a significant amount of their earnings on personal goods (e.g. alcohol, tobacco). Formal land titles and entitlements would contribute to improving women's access to production credit. Titles would also empower women to assert themselves better with external agencies that provide inputs and extension services. Land also serves as a security asset for mortgage or sale during crises. Land rights would improve women's situation in the family and in the community.

In many cases, it is the lack of awareness and administrative practices that curtail women's access to equal land rights. While the land tools exist, local women are largely unaware of it ("we do not know that we could have our own land in our name"); it is barely in their consciousness to fight for distinct women land entitlement (Bejeno, 2010). A large number of land certificates issued still do not include the name of wife, despite guidelines to include the name of both spouses ANGOC (2000).

It is still automatic for both male and female farmers and many government officials to think that the beneficiary is the household therefore it is conjugal property thus, men and women will equally benefit (Bejeno, 2010). There is no perception (among men or women) that women should have ‘independent’ rights or should be equally regarded in the title. Women do not assert it, although with a caveat that they do not know that the law provides equal land rights for them as women.

Several problems are also encountered in the issuance of land tenurial instruments such as EPs (emancipation patents) or CLOAs (certificate of land ownership award) (DOF, 2014). For instance, applicants who have been long separated from their legal spouses refuse to include the names of their spouses in the EP/CLOA application forms. Some applicants also declare their live-in (or common law) partners rather than their legal spouses in their application forms. According to DAR staff, the DAR Central Office does not have clear guidelines for this problem.

Erroneous interpretation of the land tools also poses a problem (DOF, 2014). Some think it may be more advantageous if the EP/CLOA is issued in the name of only one spouse so as not to lose the possibility for the other spouse to apply for another CLOA when she/ he has fulfilled the qualifications of an ARB. But the land tool is clear – “In case both spouses are individually qualified to be ARBs, each shall accordingly be entitled to a separate award which in no case shall exceed a maximum of 3 hectares.” The separate CLOAs issued to legally married spouses who are both individually qualified are also in the names of both spouses as co-owners.

***Women’s access to agrarian justice.*** In case of agrarian disputes, women’s access to justice is limited by socio-cultural and economic obstacles, e.g. court fees, long and cumbersome processes, geographical distance (as courts are often located in towns and transport costs may be high), language barriers (as many rural women may not speak the official language used in courts) and other factors limit women’s access to courts. These factors may affect women disproportionately due to gender differentiation in language skills, in access to information, resources and contacts, and in time availability (FAO, 2002).

To protect women’s land rights, an important mechanism in existing land tools is the creation of alternative dispute resolution (ADR) processes, including community-based institutions such as the mediation and conciliation function of the BARC. Any agrarian dispute can be elevated to the DAR Adjudication Board (DARAB), and thus incur additional costs, only if the BARC has certified that the case cannot be settled at its level. Another ADR mechanism is establishing women’s desks as a venue for women to register their complaints and grievances “principally related to their rural activities”. There is



no readily available information, however, whether women's desks are indeed being established and maintained from the national to the municipal levels at the DAR; nor is there information about the kinds of complaints or grievances being filed and addressed at the desks.

Conflicts over land can result in high levels of violence against women such as physical assault, rape and murder; thus agrarian reform should address the issue of violence against women in land conflicts (ANGOC, 2000). A 2008 study by a national rural woman's organization showed that violence against rural women prevails in various forms, i.e. rape, incest, domestic abuse such as physical and emotional battering, and that very few of these women victims pursue legal actions (PKKK, 2010). Most of them are still economically dependent on their husbands who are often the perpetrator of the abuse; moreover, engaging in litigation entails expense.

***Women's bundle of rights.*** The Magna Carta of Women, originally filed as the Magna Carta for Rural Women, gives equal status to women and men in land ownership, promotes their equal rights to use and manage land, water and other natural resources, and provides for rural women's bundle of legal rights. These include the right to adequate food that is culturally acceptable and free from unsafe substances and culturally accepted, and the right to resources for food production, such as land, credit, infrastructure support, technical training, and technological and marketing assistance, and farmer-based and controlled seeds.

To ensure food security, women must be empowered through greater access and control over the land (PKKK, 2010). Rural women secure the food in the family through such activities as subsistence gardening and livestock raising. At the national level, they engage in production of primary crops such as rice, corn, coconut, sugar, vegetables. Research from Centro Saka Inc (CSI) indicates that 60% of Filipino rural women exercise sole decision-making in their family households over what food to prepare for the family.

The MCW also provides for the promotion and protection of women's human rights to: housing; decent work; representation and participation; basic social services; health; social protection; information; recognition and preservation of cultural identity and integrity; peace and development; protection from gender-based violence; equal rights in all matters relating to marriage and family relations; etc.

It should be strongly noted that under Philippine property law (Civil Code) and family and succession law (Family Code), men and women have equal property rights. Assets acquired during cohabitation without marriage, i.e., common law or live-in relations, are jointly owned and can be disposed of by one partner

only with the consent of the partner. Succession law is gender neutral, and widows are necessary heirs of the deceased spouse. Family relations within the Muslim community, however, are governed by the Code of Muslim Personal Laws. Muslim wives need the consent of their husband to acquire property during marriage and to use land, and inherit half of the share inherited by men.<sup>5</sup> It should also be noted that discriminatory provisions may not necessarily be contained in agrarian laws or land tools, but in Civil and Personal Laws related to family and property.

#### **CRITERION 4: Social and cultural considerations in regard to women and men's access to land**

- This refers to contributions of land tool to elimination of prejudices and discriminating practices against women in land use, land access and land tenure; enhancement or strengthening of status of women in families, communities and society.<sup>6</sup>

#### **INDICATORS:**

a) **Recognition of women's direct/indirect, paid/unpaid, productive/reproductive contribution to farmwork / land tillage.** CARPER, MCW and DAO 1 (2011) recognize women's direct and indirect work for the farm, including productive and reproductive work at home and in the farm whether paid or unpaid:

- **CARPER, Sec 2 amending Sec 3 of RA 6657 defines rural women as those “engaged directly or indirectly in farming and/or fishing as their source of livelihood, whether paid or unpaid, regular or seasonal, or in food preparation, managing the household, caring for the children, and other similar activities.”**

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<sup>5</sup> Within marriage, the property regime is determined by the marriage settlement; in its absence, the community of property regime is applied, with both spouses jointly administering family property (Family Code, arts. 75 and 96). However, "in case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision" (art. 96). The wife retains exclusive management rights with regard to her exclusive property, without need for her husband's consent (art. 111). Married women may make wills without the consent of their husband, and thereby dispose of their separate property and share of community property (Civil Code, arts. 802 and 803). In case of legal separation, the terms of the dissolution of community property are determined by guilt, not by gender (Family Code, art. 63(2)). In practice, Muslim women have even lesser rights, as the management of family land is under men's control and women have little or no independent land. In: FAO (2002)

<sup>6</sup> The suggested questions for this criteria are: (13) Does the tool take into consideration statutory and customary laws and practices affecting women's land rights? (14) Does the tool demand positive results for women particularly in the context of traditional land structures?

- *MCW, Sec 20 (2)*: “... **the vested right of a woman agrarian reform beneficiary is defined by a woman’s relationship to tillage, i.e., her direct and indirect contribution** to the development of the land;”
- *DAO 1 (2011), Sec 3-13* defines rural women’s work as “(a) **direct tilling/farming**, e.g. land preparation, planting, weeding, fertilizer application, harvesting etc; (b) **reproductive work in the farms**, e.g. food preparation for the farmworkers; (c) **indirect work for the farm**, e.g., accessing of capital and farm equipments, hiring of labor, organizational participation; (d) **reproductive work in the farming households**, i.e. taking care of the children and other household chores and (e) **food subsistence work**, e.g., vegetable and livestock raising; securing water and fuel.” (emphasis supplied)

b) *Provisions that discriminate against women’s access to land.* CARL and CARPER’s provisions on qualified ARBs are discriminatory to women’s access to land:

- *CARL, Sec 22*: “*Qualified Beneficiaries* – The lands covered by the CARP shall be distributed as much as possible to landless residents ... in the following order of priority: (a) **agricultural lessees and share tenants**; (b) **regular farmworkers**; (c) **seasonal farmworkers**; (d) other farmworkers; (e) **actual tillers** or occupants of public lands; (f) collectives or cooperatives of the above beneficiaries; and (g) **others directly working on the land ...**”
- *CARPER, Sec 5*: “... Provided, finally, as mandated by the Constitution, Republic Act No. 6657, as amended, and Republic Act No. 3844, as amended, **only farmers (tenants or lessees) and regular farmworkers actually tilling the lands**, as certified under oath by the BARC and attested under oath by the landowners, **are the qualified beneficiaries ...**” (emphasis supplied)

#### GENDER ANALYSIS:

Reflecting a significant paradigm shift, women’s historically unrecognized and invisible work in the farm and in the farming household, whether direct or indirect, paid or unpaid, is now legally recognized and made more visible in the land tools. From a “special area of concern” under CARL (1988), rural women now have “vested rights through their indirect contribution to the development of the land” under MCW (2009), and their work in the farm and farming household, including food subsistence work, recognized in greater detail in DAO 1 (2011).

Rural women divide their time among farm, household, and family tasks – shouldering the need to provide income, food, and care. A Centro Saka study shows that rural women spend from eight to eleven hours a day in productive and reproductive work—i.e., acquiring capital for farming (usually through credit), carrying out planting activities, marketing the primary crop and backyard produce, and providing for their household’s daily survival needs (PKKK, 2010). In domestic work alone (e.g., preparing farm tools and food for farm laborers; fetching water; gardening; foraging; wood gathering; raising poultry and livestock), they spend from one to six hours daily. During the off-season, rural women spend more time in domestic chores, and in augmenting cash income and ensuring food for their households.

This legal recognition of women’s indirect contribution to farmwork, however, still does not qualify them as ARBs on this basis. Under CARPER, “only farmers (tenants or lessees) and regular farmworkers actually tilling the lands” are qualified beneficiaries, notwithstanding that women (and children) provide unpaid and indirect work to support men’s paid and direct work in the land. Moreover, while permanent farm workers (who are mostly men) rank second in the priority order for beneficiaries – immediately after agricultural lessees and share tenants – seasonal farm workers (mostly women) rank third.

Large plantations tend to hire men rather than women, although women and children may provide unpaid work to support the men’s paid work (ADB, 2013). In one case in 1993 (Rimban, 1999), the land of the Menzi plantation was distributed under CARL to the permanent farm workers. All the beneficiaries were men, with the exception of the plantation nurse; women seasonal workers were excluded (FAO, 2002). Seasonal work for both men and women is characterized by low wages and poor working conditions, but women are made even poorer through unequal access to agrarian land.

In short, it has been said that is not in the spirit (and letter) of the law to include women as beneficiaries, despite their presence and labor contribution in farming (Elvinia, 2011). Due to existing discriminatory provisions, women have long been disadvantaged in the agrarian reform program, as evidenced by women’s low participation rate (29%) in land ownership. The provision in the Magna Carta on Women on women’s vested rights through their indirect contribution to farming appears to remedy this situation. The MCW further provides that existing laws that are discriminatory to women should be reviewed and, when necessary, amended and/or repealed (Chapter IV, Sec 12).

Aside from unequal land laws, other factors that curtail women’s equal rights to land. Customary practices and traditional patriarchal relations in families and communities discriminate against women’s access to land. For instance, it is assumed that the husband as the traditional head of the family gets the first chance to apply for a land patent. Women are often considered the “farmer” or “agricultural holder”

only when there is no male adult in the family (Illo and Dalabajan, 2011). Also, after the death of a (male) farmer, ownership of the land is usually transferred to his eldest son and not to his widow (ANGOC, 2000). Many families still favor sons over daughters and land titles are usually given to male heirs – “*Di raw marunong magsaka ang babae*” (They think women can’t farm) (Bejeno, 2010). The overall disadvantaged position of women (e.g. nutrition, education, access to information) is a major barrier to women’s access to land.

#### **CRITERION 5: Economic considerations in regard to women and men’s access to land**

- This refers to contributions of land tool to increase in women’s access to economic resources e.g. income, credit, land market, land production technologies, and other support services.<sup>7</sup>

#### **INDICATORS:**

a) **Equal support services for rural women.** CARPER is quite clear on providing equal support services for rural women:

- *CARPER, Sec 37-A on Equal Support Services for Rural Women:* “Support services shall be extended equally to women and men agrarian reform beneficiaries. The PARC shall ensure that these support services ... **integrate the specific needs and well-being of women farmer beneficiaries ... rural women are entitled to self-organization** in order to obtain equal access to economic opportunities and to have access to agricultural credit and loans, marketing facilities and technology, and other support services, and equal treatment in land reform and resettlement schemes.” (emphasis supplied)

b) **Establishment and maintenance of women’s desks from national to municipal level.** CARPER and DAO 1 (2011) provide for the establishment of women’s desks at DAR from national to municipal level:

- *CARPER, Sec 37-A:* “... The **DAR shall establish and maintain a women's desk**, which will be primarily responsible for formulating and implementing programs and activities related to the **protection and promotion of women's rights**, as well as providing an avenue where women can register their complaints and grievances principally related to their rural activities.”

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<sup>7</sup> The suggested questions for this criteria are: (15) Does the tool promote innovation in economic models to favor women’s benefit of land? (16) Does the tool integrate other sectors such as agriculture, water and sanitation and does this impact positively for women and men? (17) Does the tool encourage a market that is accessible to women and provides equity for women and men? (18) Does the tool promote economic opportunities for both women and men?

- *DAO 1 (2011), Sec 5-B on Program Beneficiaries Development: “DAR shall establish and maintain a women's desk* primarily responsible for formulating programs and activities related to protection and promotion of women's rights, and providing an avenue where women can register their complaints & grievances, **from national to municipal level.”** (emphasis supplied)

#### GENDER ANALYSIS:

Under CARPER, equal support services should be extended to women and men ARBs, e.g. agricultural credit and loans, marketing facilities and technology, and these services need to integrate the specific needs and well-being of women ARBs. Rural women are also entitled to self-organization to improve their access to economic opportunities. CARPER also mandates the DAR to establish and maintain a women's desk which will be primarily responsible for formulating and implementing programs and activities related to the protection and promotion of women's rights. As well, DAO 1 (2011) provides that women's desks be established from national to municipal level, as a component of the agency's Program Beneficiaries Development.

Women are less likely to be targeted for extension services; many extension service providers still do not recognize women as farmers. Centro Saka research shows that despite their primary role in the family's food security, only 36% of women farmers have access to irrigation, only 29% have access to seeds, 26% to training, 23% to extension services, 21% to fertilizers and seeds subsidy, 20% to pest control management, 20% to calamity assistance, and 14% to financial assistance (PKKK, 2010). If women farmers were given the same level of support as men farmers, it has been estimated that food production of women will likely increase by 25% and total national food production by 1.5 to 3% (Illo and Dalabajan, 2011).

#### FEEDBACK FROM PARTICIPANTS:

The FGD participants confirmed that the CARP lacked the budget for support services to both women and men ARBs. One participant even remarked that if actual implementation of the land tools in their communities were considered, she would give a “very poor” score.

About 3.3 million women (22%) of women's employment in the Philippines is in agriculture. Women's economic opportunities as farmers, however, are constrained by their limited access to land and other inputs; they also do not have equal access to extension services, irrigation, or farm equipment (ADB, 2013).

More than half of the ARBs are poor and only half are organized; 52% of ARB households are below the 2009 poverty threshold, which is P16,841 annual per capita income or P101,046 for a family of 6 (Rivera-Fernandez, 2013). Rural women are more likely able to get some projects and support in collaboration with the local government units when coursed through an organization, rather than when it is individually undertaken, which is why organizing women as a strategy is important (Bejeno, 2010).

Article XIII, Sec 5 of the 1987 Constitution declares that the State shall “provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services” to beneficiaries of the agrarian reform program. In terms of credit access, women’s legal capacity to borrow and obtain loans is explicitly recognized in the *Women in Development and Nation-Building Act*, i.e. women have "equal access to all government and private sector programs granting agricultural credit, loans and non-materials resources". The *Agriculture and Fisheries Modernization Act (AFMA) of 1997* promotes the access to credit for farmers and fishers, "particularly the women involved in the production, processing and trading of agriculture and fisheries products". AFMA also mandates the state to provide farmers and fishers, "particularly women", with "timely, accurate and responsive business information and efficient trading services". Moreover, under the *Social Reform and Poverty Alleviation Act of 1997* provides for government financial institutions to set up "special credit windows" targeting the rural poor and allocate credit to specific groups, including "women in the countryside".

#### **CRITERION 6: Scale, coordination and sustainability to reach more women and men**

- This refers to extent to which a tool can reach a wider set of beneficiaries, and to presence of ways to sustain this impact.<sup>8</sup>

#### **INDICATOR:**

a) **Presence of an implementing agency with nationwide scope.** CARL and CARPER designate the DAR as implementing agency of the CARP:

- *CARL, Sec 7. Priorities.* — “The Department of Agrarian Reform (**DAR**) **in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the acquisition and distribution of all agricultural lands ...**”

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<sup>8</sup> The suggested questions for this criteria are: (19) Can the tool be implemented at city or national level? (20) Can the tool be implemented consistently (rather than ad-hoc)? (21) Is the tool linked with other tools required to protect women and men’s security of tenure? (22) Is there formal engagement between communities and local/national governments?

- *CARPER, Sec 5. “Section 7 of Republic Act No. 6657, as amended, is hereby further amended to read as follows: “SEC. 7. Priorities. — The DAR, in coordination with the Presidential Agrarian Reform Council (PARC) shall **plan and program the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands ... until June 30, 2014.**”*  
(emphasis supplied)

#### GENDER ANALYSIS:

The DAR is the lead implementing agency of CARP and undertakes land tenure improvement (LTI), program beneficiaries development (PBD), and agrarian justice delivery (AJD). The DAR has two major tasks: a) to issue land tenurial instruments (EPs/CLOAs) and b) to provide support services to ARBs in coordination with other government agencies. The DAR has a Central Office and field offices in 15 regions and 79 provinces nationwide, excluding ARMM. However, an immediate threat to the continuity of the agrarian reform program looms ahead with the deadline of CARPER’s land distribution component on June 30, 2014. Aside from this deadline, other risks threaten CARP’s sustainability, e.g. increasing land use conversions of farmlands, corporate land grabbing, intensifying human rights violations and culture of landlord and corporate impunity in the countryside.

#### FEEDBACK FROM PARTICIPANTS:

The FGD participants expressed their intent to demand greater accountability from the DAR vis its mission in redistributing land to the landless. Although the CARP had been extended a large portion of private agricultural land has yet to be covered. On gender issues, they see a wide gap in existing policy and weak implementation on the ground. FGD participants would like to see gender equity targets incorporated into DAR’s Work and Financial Plans, and gender-responsiveness form part of key result areas and performance evaluation, not only in the 5% of the GAD program, but in the 95% of DAR’s core function (LTI, PBD, AJD). Aside from the DAR, the participants would also like to see other key government agencies, e.g. Department of Agriculture (DA) and Department of Environment and Natural Resources (DENR), assessed on gender-responsiveness.

[ANNEX B shows a summary of the GEC criteria and indicators used.]



## D. CONCLUSION

Twenty-five years after an agrarian reform law was enacted in the Philippines in 1988, only 29% of agrarian reform beneficiaries (ARBs) are women. Unequal land laws, customary and discriminatory practices, lack of information, and weak implementation of existing laws and ineffective gender mainstreaming strategies are the main obstacles in promoting and protecting gender equality in land rights.

Table 2 shows the scoring on gender-responsiveness done by FGD participants on the selected land tools. It can be observed that the FO leaders gave higher scores (“Good to Very Good” on the average) than NGOs/POs on all the 6 criteria (“Poor to Good” on the average). Among the FO leaders, women gave consistently higher scores than men on all criteria.

### □ **Criterion 1: Equal participation**

A “Good to Very Good” score by FGD participants shows that over time, land tools have given women greater representation in decision-making bodies in land governance, i.e., from no provision in CARL of 1988, to 20% representation in CARPER of 2009 and to 40% representation in MCW of 2009, although this still falls short of equal (50-50) participation of women and men.

### □ **Criterion 2: Capacity development**

A “Fair to Good” score by FGD participants shows that although land tools have provided for the implementation of a gender mainstreaming strategy, the GAD programs were perceived to lack teeth and financial resources and have had no impact at the grassroots, i.e., among women and men ARBs.

### □ **Criterion 3: Legal and institutional considerations**

A “Fair to Good” score by FGD participants shows that while the land tools have provided equal legal rights to women, whether legally married or common law spouses, and men in e.g., land ownership and land transactions, access to justice, right to food and resources for food production, a general lack of awareness and weak implementation have been the main obstacles for rural women’s full access to these rights.

### □ **Criterion 4: Social and cultural considerations**

A “Poor to Good” score by FGD participants shows that some land tools contain prejudices and discriminating practices against women in land use, land access and land tenure. For instance, although women’s indirect work in the farm and in the farming household is now recognized, only

farmers and regular farmworkers actually tilling the lands are qualified as ARBs. In terms of land distribution, regular farmworkers who are mostly men are prioritized over seasonal farmworkers who are mostly women.

□ **Criterion 5: Economic considerations**

A “Fair to Good” score by FGD participants shows that although land tools provide for equal support services for women and men ARBs and the creation of women’s desks from national to municipal level, the agrarian reform budget for support services is generally perceived as inadequate. Research also showed that women are less likely to be targeted for extension services; many extension service providers still do not recognize women as farmers.

□ **Criterion 6: Scale, coordination and sustainability**

A “Fair to Good” score by FGD participants shows that although there is an implementing agency with nationwide scope to improve land tenure and deliver agrarian justice for both men and women, it is urgent to step up efforts in land distribution as this component would end by end-June 2014.

For comparability, ANNEX C shows a self-assessment in 2013 by the DAR of its gender mainstreaming strategy, in which Criterion 5 and 6 (Economic considerations; Scale, coordination and sustainability) obtained ‘perfect 5’ scores, while Criterion 1, 2, 3, and 4 got scores of 4.75, 4, 3.8 and 4, respectively.

## **E. RECOMMENDATIONS**

### **Criterion 1: Equal participation**

- a) Raise the benchmark for women’s participation in key land governance bodies to at least 40% as provided in MCW.
- b) Issue clearer guidelines such that women’s representation should be based on the strength of their organizations (membership and spread) and not on endorsements by local officials.
- c) Ensure that women’s ARB organizations are consulted on issues such as conversion of farmlands, agro-industrialization, etc.

### **Criterion 2: Capacity development**

- a) Issue a directive to regional and provincial agrarian reform offices to strictly implement DAO 1 (2011), such that:
  - all land transaction forms and tenure instruments collect gender-disaggregated data
  - gender data is collected regularly and maintained into a GAD database, e.g:

- Number, tenurial status, and location of women ARBs
- Level of representation of women in PARC, BARC, etc
- Number of women ABRs benefitting from support services
- research studies are done to establish baseline data on women's role and status both as AR agents and beneficiaries
- regular comparative assessment of the impacts of CARP on women and men is done
- more capacity building is done for both DAR personnel and rural women organizations, especially among women ARBs and leaders
- more appropriate programs and services for rural women are developed based on their specific contexts and needs
- GAD is purposively incorporated as a cross-cutting concern for all interventions
- more than 5% of GAD budget is allocated, especially at the community level
- a gender-responsive planning, monitoring and evaluation system in CARP is institutionalized.
- b) Strengthen women ARB organizations' participation in upcoming DAR gender audit.

**Criterion 3 (Legal and institutional considerations)**

- a) Ensure more information dissemination activities on women's equal legal land rights.
- b) Issue clearer guidelines on issuance of legal titles and registration of rural women as ARBs to prevent erroneous interpretation especially by DAR field personnel.
- c) Agrarian reform advocates should link up with women's rights groups, and vice versa, to strengthen their perspectives and advocacies on the issue of women's access to land.
- d) The Magna Carta of Women which provides for women's bundle of legal rights, including the right to food and to resources for food production, should be the benchmark by which land tools are assessed and harmonized.

**Criterion 4 (Social and cultural considerations)**

- a) Amend existing provisions on "qualified beneficiaries" that do not grant land rights to women as per provision of MCW on women's "vested rights" as defined by "her relationship to tillage, i.e. her direct and indirect contribution to the development of the land", through e.g. their reproductive work in the farm and farming household.
- b) As per MCW, government should "review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three years from the effectivity" of the law.

**Criterion 5 (Economic considerations)**

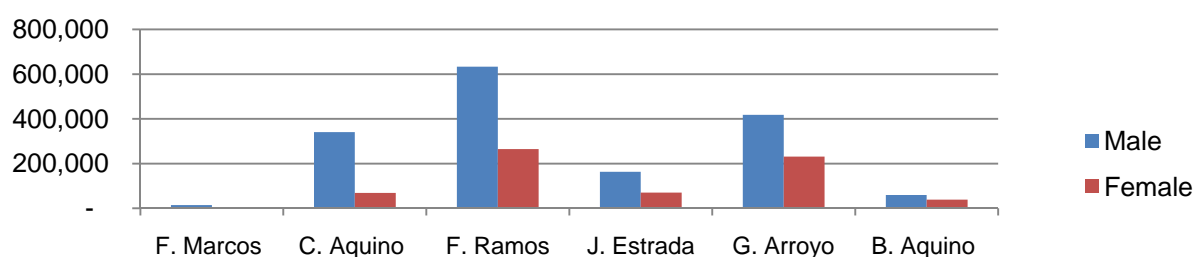
- a) Ensure adequate budget or resources for support services to women ARBs.

- b) Establish women's desks especially at the community level.
- c) Define a Comprehensive Rural Women's Program at the provincial level, apart from the installation of women's desks.

**Criterion 6 (Scale, coordination and sustainability)**

- a) Address immediate threat to the continuity of CARPER's land distribution component which ends on June 30, 2014.
- b) Incorporate gender equity targets into DAR's Work and Financial Plans.
- c) Include gender-responsiveness as a key result area and basis for performance evaluation of DAR personnel.

**Fig 1. Women and men ARBs (1972-2012)**



	(1972- Dec. 1986)	(Jan 1987- June 1992)	(July 1992- June 1998)	(July 1998- Dec 2000)	(Jan 2001 - June 2010)	(July 2010 - Dec. 2012)
Male	14,584 (92%)	340,385 (83%)	633,351 (71%)	163,329 (70%)	418,005 (64%)	59,334 (61%)
Female	1,291 (8%)	68,354 (17%)	264,774 (29%)	70,465 (30%)	230,971 (36%)	38,631 (39%)

[Source: DOF 2014, based on DAR Central Office 2013 data]

**Table 1. Highlights of GAD accomplishment report (from: DAR-Surigao del Sur)**

Gender Issue	Cause of the gender Issue	GAD objective	GAD activity	Indicator
A. Land Tenure Improvement (LTI)	Low level of awareness on GAD for ARB members in ARC organs/coops	To increase level of awareness on GAD	Conducted orientation to male and female ARBs	# orientations # males # females
B. Agrarian Justice Delivery (AJD)	Lack of ARB access to legal service delivery  Low awareness on VAWC law	To provide legal assistance to ARBs  Provide legal assistance on VAWC	Conducted counseling / mediation  Assisted VAWC clients / representation  Conducted mediation on quasi-judicial cases	# of male/female ARBs assisted  # of male/female ARBs represented
C. Program Beneficiaries Development (PBD)	Insufficient access to basic social services by ARBs & ARC HHs  Lack of profile for women ARBs/women orgs	To provide access to health insurance to ARBs in ARCs  To establish database for women ARBs and women orgs	Attendance to barangay general assembly and conducted info dissemination  Facilitate access to health insurance providers/social protection and health care providers  Updating of women's orgs Profiling of women ARBs Rural women profiled	# barangay assembly attended # info dissemination conducted # of male/female ARBs access health services  # orgs profiled # of women ARBs profiled

**Table 2. Scores by FO leaders, NGOs/POs of selected land tools using GEC**

CRITERION	SCORE*		INDICATORS
	(1)	(2)	
1. Equal participation	4.2	4.0	Women's participation and representation in decision-making bodies Women's participation in land ownership
2. Capacity development	4.2	3.4	Provision of GAD mainstreaming strategy, gender awareness or capacity-building mechanisms, GAD budget Collection and use of gender-disaggregated data
3. Legal and institutional considerations	4.5	3.6	Equal legal rights of women and men to land ownership Equal legal rights to legally married and common law spouses Equal legal rights of women and men in land transactions Presence of gender-sensitive alternative dispute resolution mechanism Legal provision of women's bundle of rights
4. Social and cultural considerations	4.0	2.8	Recognition of women's direct/indirect, paid/unpaid, productive/reproductive work and contribution to farmwork / land tillage Provisions that discriminate against women's access to land
5. Economic considerations	4.4	3.7	Equal support services for rural women Establishment and maintenance of women's desks from national to municipal level
6. Scale, coordination and sustainability	4.2	3.2	Presence of an implementing agency with nationwide scope

\*Average: 1 – Very Poor; 5 – Very Good. (1) – PAKISAMA National ExeCom; (2) – NGOs/POs

## ANNEX B. Assessment of Land Tools in Philippines using GEC

CRITERIA / INDICATORS	SCORE (1 = Very Poor; 5 = Very Good)
<b>CRITERION 1: Equal participation of women and men in gender-responsive governance</b>	<b>(PUT SCORE HERE)</b>
<b>INDICATOR 1-a: Women's participation and representation in decision-making bodies</b>	
CARL, Chapter X, Section 40, Special Areas of Concern: "(5) Rural Women. — All qualified women members of the agricultural labor force must be guaranteed and assured ... <b>representation in advisory or appropriate decision-making bodies.</b> "	
CARPER, Sec 17, amending Sec 41 of CARL: "SEC. 41. The <b>Presidential Agrarian Reform Council</b> . - The Presidential Agrarian Reform Council (PARC) shall be composed of the President of the Philippines as Chairperson, ... Provided, further, That <b>at least one (1) of them shall come from a duly recognized national organization of rural women or a national organization of agrarian reform beneficiaries with a substantial number of women members:</b> Provided, finally, That <b>at least twenty percent (20%) of the members of the PARC shall be women</b> but in no case shall they be less than two."	
DAO 1 (2011), Sec 5 -I on Women's Participation and Representation: "DAR shall ensure that <b>20% of the DAR Committees and BARC membership are women</b> , and shall further ensure that in no case shall the number of women therein be less than two (2), <b>if there are not enough women available for these organizations, then special leadership trainings and capacity-building shall be undertaken for women.</b> "	
MCW, Sec 11 (b) – Development Councils and Planning Bodies: "To ensure the participation of women in all levels of development planning and program implementation, <b>at least forty percent (40%) of membership of all development councils from the regional, provincial, city, municipal, and barangay levels shall be composed of women.</b> "	
<b>INDICATOR 1-b: Women's participation in land ownership</b>	
Out of a total 2.3 million ARBs as of end-2012, <b>only 29% are women</b> . This proportion, however, has been increasing from 8% in 1972-1986 during the Marcos administration to 39% under the current administration (President Aquino III).	
<b>CRITERION 2: Capacity development, organization and empowerment of women and men to use, access and benefit from the tool</b>	<b>(PUT SCORE HERE)</b>
<b>INDICATOR 2-a: Provision of GAD mainstreaming strategy, gender awareness or capacity-building mechanisms, GAD budget</b>	
MCW, Chapter VI (Institutional Mechanisms), Sec 36. " <b>Gender mainstreaming as a strategy</b> for implementing the Magna Carta of Women. – <b>All departments, including their attached agencies, offices, bureaus ... shall adopt gender mainstreaming as a strategy to promote women's human rights and eliminate gender discrimination</b> in their systems, structures, policies, programs, processes and procedures which shall include ... (a) <b>planning, budgeting, monitoring and evaluation for GAD... The development of GAD programs shall proceed from the conduct of a gender audit of the agency ... and a gender analysis</b> of its policies, programs, services and the situation of its clientele; the generation and review of sex-disaggregated data; and consultations with gender/women's rights advocates and agency/women clientele... The cost of implementing GAD programs shall be the agency's ... <b>GAD budget which shall be at least 5 percent (5%) of the agency's ... total budget appropriations...</b> The utilization and outcome of the GAD budget shall be annually monitored and <b>evaluated in terms of its success in influencing the gender-responsive implementation of agency programs funded by the remaining 95 percent (95%) budget....</b> (b) <b>Creation and/or strengthening of GAD Focal Points (GFP)...</b> The tasks and functions of the members of the GFP shall form part of their regular key result areas and shall be given due consideration in their performance evaluation..."	

<p>DAO 1 (2011), Sec 5-D on Gender Awareness Building &amp; Advocacy: "DAR must create awareness of and emphasize the fact that the problems on gender inequality are not rooted on people's own personal inadequacies, but are caused by a social system of institutionalized patterns of discrimination and marginalization against women and girls.";</p> <p>Sec 5-E on Capacity &amp; Capability-Building (within DAR): GST trainings regularly conducted... "purposely incorporate GAD as a cross-cutting concern for all interventions";</p> <p>Sec 5-G on Fund Allocation and Logistic Support to GAD: at least 5% of total budget from GAA should be made available for all "gender-responsive programs, projects and activities, both for DAR personnel and ARBs."</p>	
<p><b>INDICATOR 2-b: Collection and use of gender-disaggregated data</b></p>	
<p>MCW, Chapter VI (Institutional Mechanisms), Sec 36 (c): <b>Generation and Maintenance of GAD Database.</b> All departments, including their attached agencies... shall develop and maintain a GAD database <b>containing gender statistics and sex-disaggregated data that have been systematically gathered, regularly updated, and subjected to gender analysis</b> for planning, programming, and policy formulation."</p>	
<p>DAO 1 (2011), Sec 5-H on Planning, Monitoring Evaluation System: "DAR shall develop <b>gender-sensitive indicators (GSIs) to provide information on where the men and women in the DAR and ARB organizations are, how they are doing in terms of their condition and position in the household, organization or community, and what the DAR needs to do considering the practical gender needs and strategic gender interest. All monitoring data pertaining to ARBs and landowners shall be gender-disaggregated.</b>"</p>	
<p><b>CRITERION 3: Legal and institutional considerations in regard to women and men's access to land</b></p>	<p><b>(PUT SCORE HERE)</b></p>
<p><b>INDICATOR 3-a: Equal legal rights of women and men in land ownership</b></p>	
<p>CARL, Chapter X, Sec 40, Special Areas of Concern - "(5) Rural Women. — All qualified women members of the agricultural labor force must be <b>guaranteed and assured equal right to ownership of the land, ...</b>"</p>	
<p>CARPER, Sec 1, amending Sec 2 of RA 6657: "The State shall recognize and enforce, consistent with existing laws, the <b>rights of rural women to own and control land</b>, taking into consideration the <b>substantive equality between men and women as qualified beneficiaries, ... These rights shall be independent of their male relatives and of their civil status.</b>"</p>	
<p>MCW, Sec 20: "(1) <b>Equal status shall be given to women and men, whether married or not, in the titling of the land and issuance of stewardship contracts and patents;</b></p> <p>(2) <b>Equal treatment shall be given to women and men beneficiaries of the agrarian reform program, wherein the vested right of a woman agrarian reform beneficiary is defined by a woman's relationship to tillage, i.e., her direct and indirect contribution to the development of the land; ... "4) Information and assistance in claiming rights to the land shall be made available to women at all times;</b>"</p> <p>MCW's Implementing Rules and Regulations (IRR) – Sec 23 (B-1) on "Right to Resources for Food Production: a. The <b>DAR shall issue EP and CLOA, to all qualified beneficiaries regardless of sex, civil status, or physical condition.</b>"</p>	
<p>DAO 1 (2011), Sec A.1 on Land Entitlements of Women and Men ARBs: "<b>1) Both spouses or common law partners who each possess the qualification to be ARBs ... shall have equal rights in the process of identification, screening, and selections of ARBs... In no case shall exclusion or subordination be made in the screening and selection on account of gender or relationship status.</b>"</p>	
<p><b>INDICATOR 3-b: Equal legal rights to legally married and common law spouses</b></p>	
<p>CARPER, Sec 1, amending Sec 2 of RA 6657: "The <b>State shall recognize and enforce, consistent with existing laws, the rights of rural women to own and control land ... independent of their male relatives and of their civil status.</b>"</p>	
<p>MCW's Implementing Rules and Regulations (IRR) – Sec 23 (B-1) on "Right to Resources for Food Production: a. ... In order to protect the rights of legally married spouses where properties form part of the conjugal partnership of gains or absolute community property, <b>the names of both shall appear in the EP and CLOA preceded by the word "spouses."</b> In unions where parties are not legally married, the names of both</p>	



<p>parties shall likewise appear in EP and CLOA with the conjunctive word “and” between their names; ...</p> <p>c. In no case shall a woman be excluded either in the titling of the land or issuance of stewardship contracts and patents on the account of sex, being married, or being in a union without marriage to an agrarian reform beneficiary; ...”</p>
<p>DAO 1 (2011), Sec A.1: “3) In order to recognize the rights of farmer spouses, the names of both shall appear in the EP/CLOA and shall be preceded by the word “spouses”. In the case of a common-law relationship, the names of both parties shall likewise appear in the EP/CLOA with the conjunctive word “and” between their names ... (same rules apply for collective / co-ownership) ... 10) The award limit for legally married spouses and for common-law partners is 3 hectares. In case both spouses are individually qualified to be ARBs, each shall accordingly be entitled to a separate award which in no case shall exceed a maximum of 3 hectares.”</p>
<p><b>INDICATOR 3-c: Equal legal rights of women and men in land transactions</b></p>
<p>Administrative guidelines of CARL require the consent of both spouses for land sales, mortgages and “all other transactions involving waiver of rights.</p>
<p>DAO 1 (2011), Sec A.2: “... where the award was made during the existence of their marriage or the period of their cohabitation, the <b>consent of both spouses/partners shall be required</b> for the validity of the following transactions: a. Sale, transfer, conveyance of lands ... b. Application for land use conversion... c. Contract of mortgage where the awarded land is used as collateral to secure a loan...d. All other transactions involving a waiver of rights...”</p>
<p><b>INDICATOR 3-d: Presence of gender-sensitive alternative dispute resolution mechanism</b></p>
<p>CARL, Sec 47: Functions of the BARC ... the BARC shall have the following functions: (a) <b>Mediate and conciliate between parties involved in an agrarian dispute ...”</b></p> <p>Sec 53. “Certification of the BARC. — The DAR shall not take cognizance of any agrarian dispute or controversy unless <b>a certification from the BARC that the dispute has been submitted to it for mediation and conciliation without any success...</b>”</p>
<p>Rule III of 2009 DARAB Rules of Procedure <b>requires a certification from BARC</b> that the land dispute that has been submitted to it for mediation or conciliation without success or settlement before DARAB or its adjudicators can take cognizance of land dispute.</p>
<p>CARPER, Sec 37-A: “The <b>DAR shall establish and maintain a women's desk, ... providing an avenue where women can register their complaints and grievances principally related to their rural activities.</b>”</p>
<p>DAO 1 (2011), Sec 5-B on Program Beneficiaries Development: “<b>DAR shall establish and maintain a women's desk ... providing an avenue where women can register their complaints &amp; grievances, from national to municipal level.</b>”</p> <p>Sec 5-C on AR Justice Delivery: equal access/opportunity afforded both spouses/partners in pursuing or defending cause of action ... in cases of mediation/conciliation, <b>both spouses/partners shall be summoned and shall have the right to attend proceedings.</b></p>
<p><b>INDICATOR 3-e: Legal provision of women’s bundle of rights</b></p>
<p>MCW, Sec 20: “(a) <b>Right to Food.</b> – The State shall guarantee the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, the physical and economic accessibility for everyone to <b>adequate food that is culturally acceptable and free from unsafe substances and culturally accepted,</b> and the accurate and substantial information to the availability of food, including the <b>right to full, accurate, and truthful information about safe and health-giving foods</b> and how to produce and have regular easy access to them;</p> <p>(b) <b>Right to Resources for Food Production.</b> - The State shall guarantee women a vital role in food production by giving priority to their <b>rights to land, credit, and infrastructure support, technical training, and technological and marketing assistance... ensure women’s livelihood, including food security:</b> ...</p> <p>g) <b>Women-friendly and sustainable agriculture technology shall be designed based ... 10) Access to small farmer-based and controlled seeds production and distribution shall be ensured and protected; 11) Indigenous practices of women in seed storage and cultivation shall be recognized, encouraged, and protected...</b>”</p>

<b>CRITERION 4: Social and cultural considerations in regard to women and men's access to land</b>	<b>(PUT SCORE HERE)</b>
<b>INDICATOR 4-a: Recognition of women's direct/indirect, paid/unpaid, productive/reproductive work and contribution to farmwork / land tillage</b>	
CARPER, Sec 2 amending Sec 3 of RA 6657 on definition of rural women: "(1) Rural women refer to women who are <b>engaged directly or indirectly in farming and/or fishing as their source of livelihood</b> , whether <b>paid or unpaid, regular or seasonal, or in food preparation, managing the household, caring for the children, and other similar activities.</b> "	
MCW, Sec 20 (2): "... the <b>vested right of a woman agrarian reform beneficiary is defined by a woman's relationship to tillage, i.e., her direct and indirect contribution</b> to the development of the land;"	
DAO 1 (2011), Sec 3-13 on definition of "rural women's work" – "(a) <b>direct tilling/farming</b> , e.g. land preparation, planting, weeding, fertilizer application, harvesting etc; (b) <b>reproductive work in the farms</b> , e.g. food preparation for the farmworkers; (c) <b>indirect work for the farm</b> , e.g, accessing of capital and farm equipments, hiring of labor, organizational participation; (d) <b>reproductive work in the farming households</b> , i.e. taking care of the children and other household chores and (e) <b>food subsistence work</b> , e.g., vegetable and livestock raising; securing water and fuel."	
<b>INDICATOR 4-b: Provisions that discriminate against women's access to land</b>	
CARL, Sec 22 on " <b>Qualified Beneficiaries</b> ": "The lands covered by the CARP shall be distributed as much as possible to landless residents ... in the following order of priority: (a) <b>agricultural lessees and share tenants; (b) regular farmworkers; (c) seasonal farmworkers; (d) other farmworkers; (e) actual tillers or occupants of public lands; (f) collectives or cooperatives of the above beneficiaries; and (g) others directly working on the land. ...</b> "	
CARPER, Sec 5 on qualified beneficiaries: "... Provided, finally, as mandated by the Constitution, Republic Act No. 6657, as amended, and Republic Act No. 3844, as amended, <b>only farmers (tenants or lessees) and regular farmworkers actually tilling the lands</b> , as certified under oath by the Barangay Agrarian Reform Council (BARC) and attested under oath by the landowners, <b>are the qualified beneficiaries...</b> "	
<b>CRITERION 5: Economic considerations in regard to women and men's access to land</b>	<b>(PUT SCORE HERE)</b>
<b>INDICATOR 5-a: Equal support services for rural women</b>	
CARPER , Sec 37-A. <b>Equal Support Services for Rural Women</b> : "Support services shall be extended equally to women and men agrarian reform beneficiaries. The PARC shall ensure that these support services... <b>integrate the specific needs and well-being of women farmer beneficiaries... rural women are entitled to self-organization</b> in order to obtain equal access to economic opportunities and to have access to agricultural credit and loans, marketing facilities and technology, and other support services, and equal treatment in land reform and resettlement schemes.	
<b>INDICATOR 5-b: Establishment and maintenance of women's desks from national to municipal level</b>	
CARPER , Sec 37-A. .... "The <b>DAR shall establish and maintain a women's desk, which will be primarily responsible for formulating and implementing programs and activities related to the protection and promotion of women's rights...</b> "	
DAO 1 (2011), Sec 5-B on Program Beneficiaries Development: " <b>DAR shall establish and maintain a women's desk ... from national to municipal level.</b> "	
<b>CRITERION 6: Scale, coordination and sustainability to reach more women and men</b>	<b>(PUT SCORE HERE)</b>
<b>INDICATOR 6-a: Presence of an implementing agency with nationwide scope</b>	
CARL, Sec 7. Priorities. — " <b>DAR in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the acquisition and distribution of all agricultural lands ...</b> "	
CARPER, Sec 5. "Section 7 of Republic Act No. 6657, as amended, is hereby further amended to read as follows: " <b>SEC. 7. Priorities. — The DAR, in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands ... until June 30, 2014.</b> "	

### ANNEX C. Self-assessment by the DAR of the CARP using Gender Evaluation Criteria (GEC)

CRITERIA	SCORE	RATIONALE / ACTION POINTS
1. Equal participation of women & men	4.75	Guidelines established for ensuring equal opportunity of women and men to participate and benefit from CARP, but need for comparative assessment of impact of CARP on women and men, and develop a tool that will fully capture sex-disaggregated data on participation and benefits from CARP
2. Capacity development	4	Presence of budget for development of capabilities of CARP managers and implementers in GAD mainstreaming, and clear policies and guidelines in ensuring equality of opportunity of women and men to participate and benefit from CARP, but need to strengthen efforts to disseminate information to farmers and their spouses on CARP and on the equality of land rights of women and men
3. Legal & institutional considerations	3.8	Though CARP promotes equality of rights, women and men in communities are yet to know their rights and responsibilities under CARP
4. Social & cultural considerations	4	Presence of budget for development of capabilities of CARP managers and implementers in GAD mainstreaming, and clear policies and guidelines in ensuring equality of opportunity of women and men to participate and benefit from CARP, but need to: a) develop capabilities of field personnel on GAD by conducting Gender-based Effectiveness Skills Training (GBEST); and b) issue a directive to regional and provincial agrarian reform offices to strictly implement DAO 1 (2011)
5. Economic considerations	5	Guidelines established for Program Beneficiaries Development (PBD) and CARP is implemented consistently nationwide
6. Scale, coordination and sustainability	5	Guidelines have been established for Program Beneficiaries Development (PBD) and CARP is implemented consistently nationwide, but need for sustained mainstreaming of gender in the implementation of CARP to create greater impact on the lives of men and women

Source: DOF, 2014

- **Criterion 5 (economic considerations) and Criterion 6 (scale, coordination and sustainability):** have “perfect 5” scores because guidelines have been established for Program Beneficiaries Development (PBD) and CARP is implemented consistently nationwide, but there is need for sustained mainstreaming of gender in the implementation of CARP to create greater impact on the lives of men and women.
- **Criterion 1 (equal participation):** rating is “almost perfect” at 4.75 because of presence of guidelines for ensuring equal opportunity of women and men to participate and benefit from CARP, but there is a need for comparative assessment of the impact of CARP on women and men, and develop a tool that will fully capture sex-disaggregated data on participation and benefits from CARP.
- **Criterion 2 (capacity development) and Criterion 4 (social and cultural consideration):** are rated 4 each because of the presence of budget for the development of capabilities of CARP managers and implementers in GAD mainstreaming, and clear policies and guidelines in ensuring equality of opportunity of women and men to participate and benefit from CARP, but need to strengthen efforts to disseminate information to farmers and their spouses on CARP and on the equality of land rights of women and men. However, there is a need to: a) develop capabilities of field personnel on GAD by conducting Gender-based Effectiveness Skills Training (GBEST); and b) issue a directive to regional and provincial agrarian reform offices to strictly implement DAO 1, series of 2011.
- **Criterion 3 (legal and institutional considerations):** is rated 3.8 because although CARP promotes equality of rights, women and men in communities are yet to know their rights and responsibilities under CARP.

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