

Chapter III

On the Wings of the People Power Revolution: Cases of Intervention of Disadvantaged Groups in the Eighth Congress

This chapter and the next two will discuss cases of intervention of disadvantaged groups in the parliamentary processes of the Philippines since the restoration of the bicameral Congress in 1987. Each case will present circumstances surrounding the legislative consideration of the bill, its main thrusts, specifically, the stand taken by disadvantaged groups; the strategies they have used to advance their advocacy; the strategies of opposing forces; and the outcome of their intervention.

This Chapter will be concerned with four sets of bills introduced during the Eighth Congress when the People Power Revolution was still fresh in everyone's minds. Leaders and members of disadvantaged groups and many members of Congress had walked side by side in the parliament of the streets during the last days of the Marcos regime. The reinstatement of a real parliament after an overwhelming approval of the Constitution augured well for the continuation of the alliance. Groups that had been ignored or neglected before felt that now they had a chance to taste real democracy. What follows below is the chronicle of the efforts of four such groups – peasants and landless tenants, the urban poor, fisherfolks and indigenous peoples.

The Comprehensive Agrarian Reform Law (CARL, Rep. Act No. 6657)¹

When Ferdinand Marcos was ousted from power, hopes rose among the poor that a democratic government will be able to deliver on the failed “centerpiece of the New Society,” agrarian reform. Lobbying for a comprehensive redistributive agrarian reform program began in the Constitutional Commission of 1986-1987. When that failed, and a February 1987 demonstration of peasants ended with the death of nineteen protesters in the so-called Mendiola Massacre, advocates asked President Corazon C. Aquino to issue an executive order on agrarian reform prior to the re-opening of Congress. She was the lone legislator under the provisions of the Freedom Constitution set up by the Revolutionary Government and was thought to be more responsive than the Congress to be elected under the Constitution of 1987. However, President Aquino opted to issue Executive Order 229 in July 1987, which deferred all major decisions on reform to the first post-Marcos Congress that would convene in the following week. It also provided a ninety-day deadline for congressional action on agrarian reform.

The Eighth Congress² was convened amidst military rumblings which, among other things, warned against “Communist” programs like agrarian reform. This stayed Aquino's hand in supporting her liberal allies, if she indeed had any such inclinations.

¹ This section is primarily based on Putzel (1992, 1998), Third World Studies Center (1994), and Villanueva (1998).

² The Sessions of the Philippine Congress resumed the count from the pre-Martial Law period when 1970-1973 was the Seventh Congress. The Eighth was, in effect, a transition congress and covered five years,

Main thrusts. Agrarian reform is a contentious issue and clear lines of division mark even its definition and rationale. To peasants and their allies, it is redistribution of land, following the land-to-the-tiller principle. They see it primarily as a social justice and equity measure, a means of substantiating democracy for the greater majority of the population, a sine qua non for upliftment of the rural poor and for the country's social development. Moreover, agrarian reform answers the insurgency problem, and is thus a primary instrument for peace in the countryside. A bill following these lines would cover all agricultural lands, exclude non-land transfer options, put the right of the tiller to own land above any retention right of the landowner, and provide for the participation of small farmers and erstwhile tenants in policy making and program implementation.

To their antagonists, agrarian reform is not the answer to the country's problems. Land is already too scarce to be distributed without reducing productivity. Moreover, small size of farmlands will be aggravated because farmers lack technical competence and are dependent on their landlords. Agrarian reform violates the right to private property and aggravates rural insurgency as it foments landlord-peasant conflicts (TWSC 1994). They would consent to agrarian reform only if it includes "all other arrangements alternative to the physical redistribution of lands such as production or profit-sharing, labor administration, and the distribution of shares of stock, which will allow beneficiaries to receive a just share of the fruits of the land they work," options that were included as part of the definition of agrarian reform in the resulting Comprehensive Agrarian Reform Law. That concept of "comprehensive agrarian reform" is perhaps best expressed by Rep. Hortensia Starke "who personally owned sugar and rubber plantations in Negros and Mindanao" (Putzel 1998: 265):

'Agrarian'...refers to anything that has to do with agriculture, and as you know agriculture also refers not only to land, but also to the labor that works on the land and to the machinery... and to all the other inputs ... that go into production... So it is not necessarily referring to privately owned lands... As for 'reform,' when it refers to the farmer, it means to improve his economic status, while 'comprehensive' refers not only or necessarily to all lands, but 'to all components: marketing, organization, infrastructure, irrigation and credit facilities'" (Quoted in Putzel 1992: 265).

Strategies. The campaign for comprehensive agrarian reform was led by the Congress for a People's Agrarian Reform (CPAR), created in May 1987 by over 200 people representing 70 people's organizations of national farmers and fisherfolks, and non-governmental organizations, including church and business groups. CPAR united "peasant organizations and NGOs from across the center and left political and ideological spectrum, and was the broadest coalition yet to be formed in the Philippines" (Putzel 1998: 90). Decision making was based on a consensus of a national consultative council of 13 peasant federations, supported by a working committee of NGOs, academic institutions and the social action units of the Roman Catholic and Protestant churches.

1987-1992. Thereafter, each Congress would only have a duration of three years, e.g., the Ninth was from 1992-1995.

CPAR prepared “The People’s Declaration of Agrarian Reform” to be incorporated in President Aquino’s executive order. When that failed, CPAR turned to Congress.

CPAR had a full-time secretariat contributed by its component NGOs to provide support for the Council, prepare for its mass actions in the streets and activities towards maintaining unity of the disparate groups within the coalition, and make the technical work for Congress itself. Coming out of a church-based Rural Congress, CPAR was not dominated by NGOs and POs influenced by the Communist Party, but managed to attract and keep organizations and leaders who were national democratic sympathizers. This made unity-building an important aspect of CPAR’s work, and it established an informal political caucus that regularly met to keep the diverse forces together (Putzel 1998: 95).

CPAR proceeded on a two-track strategy: the mass movement track, and the legislative track (Villanueva 1997). Mass actions consisted of the rallies, demonstrations and pickets that were the stuff of the “parliament of the streets” during Martial Law. In addition, CPAR had innovative techniques. When Congress opened, it established a “tent city” behind the legislative buildings to make the presence of the farmers and fisherfolks felt throughout the parliamentary deliberations. Under the tent, various exhibits, workshops and discussions were held to disseminate information about agrarian reform. It also had an Agrarian Reform Express consisting of peasants and their supporters moving from Northern and Southeastern Luzon and converging in Manila in April 1998.

In the House, the head of the Agrarian Reform Committee was a former military man who was forced into exile during Martial Law for his anti-dictatorship posture. He supported the peasant groups throughout the congressional deliberations. The first pro-peasant bill was sponsored by one of only two congressmen from the left-leaning *Partido ng Bayan* (People’s Party), embodying “almost to the letter,” the CPAR bill (Putzel 1992: 263). Landowners in Congress introduced their own bill, with high retention limits, exemption of export crops from agrarian reform, payment at market value, and non-land-transfer options. Another liberal congressman acted to give the Chair authority to consolidate all bills into one. This was House Bill 400, based on the CPAR Bill but with a compromise retention limit (higher than the peasants’ demand, lower than the landlords’), and stock options pending final land transfer. HB 400 was the basis of the congressional debate. This was made possible by the Chair of the House Committee on Agrarian Reform and other allies in the House, who have been street parliamentarians themselves. Three members of CPAR’s Working Committee joined the Technical Group of the House Committee.

The House debates produced amendment after amendment, such that 14 of the original 22 sponsors of HB 400 withdrew their support for the bill. Sponsorship passed to a landowner-congressman and the original supporters ended up voting against the bill. What remained of HB 400 was approved on April 21, 1988. The Third World Studies Center (1994) found that the voting patterns on HB 400 as amended showed that party affiliations did not account for the votes. However, most of the 47 who voted “no” were supporters of the original version (called the “progressive bloc” by TWSC). Meanwhile, most of those who voted “yes” supported the original pro-landlord bill.

Consideration was simultaneously going on in the Senate. The Upper House did not have to worry about local conservative constituencies but had liberal versus conservative debates anyway. Former Secretary of Agrarian Reform (Heherson Alvarez) introduced the conservative bill, while Sen. Agapito Aquino, the brother of Ninoy Aquino, pushed for the CPAR-favored bill. Public hearings were held throughout the country, with both sides represented, in August and September 1987. While the conservative view was the basic bill, certain amendments were introduced by the liberal group, making it more pro-landless than the House version. It passed on April 28, a week after the House passed theirs. There were no negative votes, but opponents of redistributive reform abstained. The Conference Committee met in May and produced the further compromise that became Rep. Act No. 6657. In Putzel's judgment (1992: 271, 272):

Many legislators themselves painted the law as a 'tolerable compromise' between the interests of the landless, represented most closely in the Senate bill, and the interests of the landowners, which dominated the House version. Others argued that the Senate represented a more urban and industrially based section of the ruling class, and was biased in favor of plantations operated by the TNCs and a new breed of corporate and commercial local farm-owners, while the House represented local plantation owners.

...

What was most striking about the Senate–House confrontation and the legislative process as a whole was the emergent alliance between both chambers around an essentially conservative approach to reform.

Putzel (1998: 103) analyzed incisively the internal factors accounting for the failure of CPAR, as quoted below:

- The full potential of NGOs can be met only by establishing them as genuinely autonomous organizations. CPAR appeared to work until the alliance grew to a point where it began to encroach on the exclusive terrain of POs and the political organizations behind them, particularly in securing access to foreign funds.
- The lack of a culture of accountability within the NGO sector was also evident in alliance building. Those that served on the CPAR secretariat, who made enormous personal sacrifices to keep the coalition going for so many years, nevertheless did not relinquish their own organizational connections, at times acting as spokespersons for CPAR and at times speaking in the name of their own NGO alliances. This created suspicion among member organizations, which is destructive to any delicately balanced coalition.

However Putzel also recognized that further strengthening of the peasant groups would probably not give them more and to expect more from the Eighth Congress would be unrealistic (Putzel 1992: 272).

In their external alliances, the disadvantaged groups also had problems. An NGO leader thought this might have been due to the lack of determined advocates of agrarian reform in the urban areas. Another felt that the groups were not as forceful as they could have been in insisting on their demands. This could also have resulted from the fact that not all the groups actually believed that they could actually get something from government. Instead, they saw their involvement as largely a means to oppose it, just like old times (Putzel 1992: 272).

Opposing Forces. CPAR was not the only group with a draft bill. HB 941 presented the landlords' side and was supported by a majority in the House Committee on Agrarian Reform. Thus, while its Chair used HB 400 as the working draft, the rest of the Committee managed to have parts of HB 941 inserted into that draft.

The pro-landlord bill was supported by other organizations that may also be classified as people's organizations, except that they represent the richer, rather than the poorer, people. They are mostly landowners and groups outside Luzon. COLOR, the Council of Landowners for Orderly Reform, argued that "taking property was outright injustice" (Putzel 1992: 263). COLOR was joined in hearings by the National Federation of Sugar Planters, and the Council of Agricultural Producers of the Philippines (CAPP). The conservatives met the peasant force with equally impressive numbers in their conventions, CAPP with a thousand delegates in March 1988 while the National Federation of Sugar Planters (NFSP) had 800. TWSC (1994) lists as "the conservative bloc" the Land's Utmost Producers Association, the Fruit Growers Foundation of Davao, the Western Visayas Federation of Fish Farmers, the Panay Landowners' Alliance for Democratic Reform and Democratic Alliance for a Truly Unified Panay, the Movement for Better Mindanao, the South Cotabato Farmers Association, the Samar-Leyte Landowners' Association, and the Concerned Citizens of Mindanao. Even some government officials from DAR, past and present, surprisingly lined up with the landlords.

Moreover, the forces against the CPAR draft did not need much help from outside lobbies since their constituency was well-represented in Congress itself. Several outspoken representatives came from the landed class. Landlords and economic elites dominated the Congress in the 1980s and still do so now.³

Despite what the disadvantaged groups see as a victory for the landowners, landowners themselves remain unhappy with CARL. There is no end to the number of bills in Congress seeking to suspend agrarian reform for one reason or another. For instance, Datinguino and Olarte (2001b) state that 27 representatives, all landowners, have filed a bill seeking its suspension in Mindanao.

³ "Of the 200 members elected, 129 were members of traditional clans, while another 38 were related to them...When the 204 representatives 141 registered ownership of agricultural and residential land valued at P293.7 million...However, even these figures almost certainly underestimated holdings since they did not reflect the amount of land owned by corporations in which these families had a major stake" (Putzel 1998: 260). Putzel clarifies that data do not distinguish between ownership of agricultural and urban land. (The 204 members of the Lower House mentioned in the second sentence included sectoral representatives appointed by President Aquino.)

Results. Despite all its efforts, what became the Comprehensive Agrarian Reform Law contains many provisions CPAR did not want and it rejected the law. It then sponsored a multi-sectoral conference with 600 participants from peasant, worker, student and other organizations nationwide. The conference adopted “The People’s Agrarian Reform Code” (PARCODE) and aimed it to be the first people’s initiative for legislative action. However, that campaign did not succeed either for many reasons, both internal to CPAR and external problems⁴. CPAR declared itself inactive in 1992.

The Urban Development and Housing Act (UDHA, Rep. Act No. 7227)⁵

The urban poor face a constant threat of eviction and summary resettlement to newly opened-up sites with no livelihood opportunities. Thus community organizing developed from the 1960s onward so that they could meet their adversaries with unity and effectiveness. Honculada (1985) mentioned that 40 seminars were made in preparation for the first convention of the Zone One Tondo Temporary Organization (ZOTTO, which later dropped “Temporary” and became ZOTO), which brought together 725 delegates from 53 organizations, representing 20,000 members. During Martial Law, Marcos promulgated Presidential Decree No. 772 which made squatting a criminal offense, combining demolitions with harsh repression, although, from time to time, he gave concessions. As in agrarian reform, the People Power Revolution gave fresh hope for change, especially since the Constitution of 1987, in Article XIII (Social Justice and Human Rights) included the following provisions:

Sec. 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing, which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas....

Sec. 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner.

Main Thrusts. The bill was supposed to provide the enabling legislation for the constitutional provisions quoted above. The demands of some of the urban poor were radical – including retention limits on urban land, progressive taxation on urban land, and a moratorium on demolitions. The moderate view was for socialized housing and consultation on demolition and relocation. UDHA is actually not urban land reform but is a law regulating demolition and relocation of illegal settlers. It also provides a mandate for all local governments to provide land for socialized housing. It also provided for a moratorium on demolition for three years, to give the local governments time to list qualified beneficiaries, inventory available land, and provide for relocation.

Strategies. The campaign for an urban land reform law occurred in the wake of the failure of the disadvantaged groups to get the agrarian reform law they wanted and amid the continuing fear of their urban counterparts about demolitions. People’s

⁴ For extended discussions of these, see the original sources of this case.

⁵ This section is primarily based on Carroll (1998) and Karaos, Gatpatan and Hotz (1995).

organizations in the urban areas united under the National Congress of Urban Poor Organizations (NACUPO) as soon as President Aquino took power. However, urban land reform was secondary to more immediate demands to stop demolitions and amortization payments to the National Housing Authority and to create the Presidential Commission for the Urban Poor (PCUP). NGOs like the Institute on Church and Social Issues (ICSI), the Foundation for Development Alternatives and the Bishop-Businessmen's Conference⁶ took up the broader concept of urban land reform. In addition to these church-related organizations, organizations with social democratic tendencies joined together into BIGKISAN and also advocated urban land reform.

It may be said that the Roman Catholic Church played a key role in the UDHA's passage. The key proponent of urban land reform in the Constitutional Commission was the executive secretary of the Bishop-Businessmen's Conference (BBC), an organization of Catholic bishops, business executives, academics and other sectors. BBC had played a key role in the middle-class opposition to Marcos and some of its members were recruited into the cabinet of President Aquino. BBC initiated a campaign to implement this constitutional provision with conferences with NGOs, people's organizations of the urban poor (UPOs) and government agencies beginning in March 1987. The main conference in September 1987 was co-sponsored with PCUP and produced a BBC-PCUP draft bill. This bill was the subject of regional consultations to elicit reactions from the urban poor and the private sector in cities other than Metro Manila. A four-day meeting was held in November 1987 with four objectives: "(1) to review the urban poor positions... previously articulated in the context of NACUPO; (2) to review existing ULR legislation; (3) to gain an understanding of the meaning of urban land reform and its elements; (4) to assess the proposed BBC-PCUP draft bill; and (5) to come up with a draft ULR proposal and an action plan for lobbying" (Karaos, Gapatan and Hotz 1995: 23). With sessions on lobbying and the legislative process, the Betania⁷ consultation showed a much more conscious strategy for legislative lobbying than had occurred under CPAR.

Betania formed a committee to draft the bill and forge the ULR lobby and strategy. From this emerged a new coalition of UPOs, launched in June 1988 called *Pambansang Kilusan ng mga Samahang Maralita para sa Panlungsod na Reporma sa Lupa* (National Urban Poor Movement for Urban Land Reform, with the acronym PAKSA-LUPA, this time meaning: The subject is land). PAKSA-LUPA linked with other organizations such as the Urban Poor Forum, then the broadest network of NGOs and POs on urban poverty. However, lobbying for the bill was not a priority of everyone, and portions of the Forum and the *Kongreso ng Maralita ng Lunsod* (KPML, Urban Poor Congress) turned either to community organizing or to another bill, the Magna Carta for

⁶ Especially its Urban Land Reform and Housing Committee. It is telling that this committee changed its name from the Committee on Relocation and Resettlement in March 1987 (Karaos, Gatpatan and Hotz 1995: 21).

⁷ The locale of the meeting, attended by representatives of 28 alliances of UPOs from 12 cities and municipalities of Metro Manila, was the Betania Retreat House, hence the name "Betania consultation." (Karaos, Gatpatan and Hotz 1995: 23-24)

the Urban Poor. Thus, despite the agreements in Betania, only FDA, ICSI, BBC and PAKSA-LUPA continued to espouse the Betania Bill.

BBC played a crucial role in the public hearings, as it sponsored consultations throughout the country that the Senate and House Committees on Housing piggy-backed on. It also got two forms of support from President Aquino. She formed an Ad Hoc Working Group on the ULR draft bill which transmitted an Administration bill to Congress in January 1989. She also appointed two sectoral representatives of the urban poor to Congress, including Hernani Panganiban, a PAKSA-LUPA leader, and Rey Magno Teves, in May 1990. They were confirmed in September 1990.

In December 1989, the coup attempts “consolidated support of the NGO and PO community for President Aquino – a point noted by the President” (Carroll 1998: 127). However, they did not stop a brutal demolition in Bagong Silangan, Quezon City in September 1990. The latter made Jaime Cardinal Sin, a hero of the People Power Revolution, become vocal in his support of urban land reform, with the media reporting both his strong statement of support and the cruel events that forced it. It was under this pressure that the House worked on what later became the UDHA.

Learning from the CPAR debacle, the fight for urban land reform was less in the streets and more within the halls of Congress. This was quite a change for the urban poor who had taken to the streets even during Martial Law and were quite adept at large-scale mobilizations. During this legislative engagement, nevertheless, two groups managed to get land for organized urban dwellers in the National Government Center and Fort Bonifacio, through direct access to President Aquino. In addition, ULR had a rally with some 5,000 urban poor people and church leaders in February 1991. Dubbed *Tipan ng Bayan* (Covenant with the People), it was joined by the two sectoral representatives and Congresswoman Consuelo Puyat-Reyes, chair of the Committee on Urban Planning and Development.

Representative Reyes then created an ad hoc committee to complete a legislative draft. The resulting House Bill 34310 consolidated nineteen (19) House bills, two House resolutions and one administration bill. Representatives of BBC, various government agencies, development NGOs and urban poor groups then met at the ICSI to study it. Finding “gross weaknesses” in the draft, the group decided to propose changes on the floor of the House, over the PCUP’s objections (which included, among others, that they might get worse provisions than before). Marathon meetings in March 1991 established the Urban Land Reform Task Force (ULR-TF). Its secretariat was composed of development NGO workers and staff members of the urban poor representatives in Congress. ICSI served as the nerve and communications center; Caritas Manila, the social action center of the metropolis’ archdiocese, had a network of urban poor groups that also played a key role in congressional lobbying. Various NGO workers volunteered to the secretariat.

On April 17, 1991, the Task Force’s draft was finished. Urban poor leaders and representatives then went daily to Congress from April 22, the day of the resumption of

Congress to attend the sessions in the gallery, to meet with individual legislators and to draft further amendments. Consultations with PO leaders occurred simultaneously. Cardinal Sin informally intervened to have the bill calendared. On June 4, 1991, the bill was presented on first reading to the floor of Congress. What follows is Carroll's account (1998: 128):

With some two thousand urban poor in the galleries – the first time every that those galleries had been filled – and more waiting outside, the bill was presented on the floor with no less than twelve congresspersons making sponsorship speeches. Two days later the bill was passed on second reading by the House, with all of the House members as cosponsors. The urban poor in the gallery erupted in thunderous applause, some of them breaking down in tears.

HB 34310 was approved on third reading on August 15, 1991, the same day the counterpart bill in the Senate, SB 234, nominally sponsored by Senator Jose Lina, Jr. was reported out of his office. The Senate was then deliberating on the expulsion of US military bases and the Local Government Code. In any case, urban land reform may be of secondary interest to people elected on a national ticket. To convince senators of its importance and urgency, ULR-TF convened 17 mass mobilizations, an overnight vigil, and letters and telephone barrages from distant provinces. Task Force members also worked with individual senators and their staffs. Women's organizations also joined in the campaign since housing is supposed to be "basically a woman's issue" (Karaos, Gapatan and Hotz 1995: 38).

The legislative staff at the Senate and the House assisted greatly in the campaign at various points of the process, including calendaring, floor deliberations, even the orderly admission of people into the gallery. They also maintained constant contact with ULR-TF and other allies.

With the help of BBC, compromises were worked out with the main opponent of the bill, the Chamber of Real Estate Builders' Associations. Still, UDHA passed in record time. On December 9, 1991, it passed the Senate with 20 affirmative votes, no negatives, and no abstentions. "Non-negotiables" like the progressive tax on urban land were dropped so that the bill would pass. The ULR-TF then worked on amendments which attempted to harmonize the House and Senate versions. These were generally approved by the conference committee on February 3, 1992.

Opposing Forces. As mentioned above, CREBA worked out a compromise with BBC assistance. Their opposition centered mainly on the effects of socialized housing on market prices. They also feared that just demolition would encourage squatting. As it was, socialized housing did not become part of the bill. There were also creative compromises in that they allowed provisions on the demolition process to stand as long as the incentives they wanted got incorporated into the bill. This may be why the congresspersons with real estate interests acceded to the bill.

Results. Signed on March 24, 1992, UDHA was the last piece of social legislation of President Aquino's administration.

The Fisheries Code (Rep. Act No. 8550): Part I⁸

The Philippines has a coastline of 17,640 kilometers, one of the longest in the world. The Philippine waters are seven times the size of its land area, and make the country among the largest fish producers of the world. However, water resources are very unequally distributed, with large commercial vessels and sprawling fishpens controlled by a few, while most of the six million fisherfolks live in abject poverty, at or below the poverty line.

A law itself perpetuated this poverty and inequality. Presidential Decree No. 704, the Fisheries Decree of 1975, granted to the highest qualified bidder the exclusive privilege to construct and operate fish corrals and oyster and culture beds. When it declared fisheries as a preferred area of investment, vast hectares of mangroves were converted to fishponds for prawn exportation. Moreover, illegal fishing methods of the poor like dynamite fishing and fishing with electricity were heavily penalized, while the wealthy could get away with their similarly illegal modes, like the use of trawl, *sudsud* and *galadgad*, deemed more destructive to corrals and fish, with much lighter penalties.

Again, the People Power Revolution gave hope to the poor groups that the unequal situation could be rectified. Two bills were presented to the Eighth Congress - a Fisheries Reform Bill that came out of the Fishery Committee (Fish Com) of CPAR,⁹ and a bill called the Fishery Code of the Philippines (Senate Bill No. 1354). SB 1354 was supported by the Department of Agriculture and had come out of the consultations of *Bigkis Lakas*, a fisherfolk network in Luzon. Recognizing that two different bills could sow dissension among their ranks, a working group of representatives from both sides was created and produced what they called a Unity Bill. The bill was ratified in a so-called Unity Congress of fisherfolks' organization in January 1990. Although representatives of Bigkis-Lakas withdrew from participation before the Congress, as reported by NACFAR (1997: 72):

the good turn-out of participants from various parts of the country encouraged the congress' steering committee to rule that the ratification of the Unity Bill, dubbed the Comprehensive Fisheries Reform Code of 1990 or the Fish Code, is final and binding.

That Congress also created the lobbying arm for the Fish Code, the Nationwide Coalition of Fisherfolks for Aquatic Reforms (NACFAR). NACFAR is composed of the eight biggest fisherfolk federations, with a constituency of almost 600,000 people.

⁸ Part I of the Fisheries Code is based primarily on NACFAR (1996).

⁹ Fish Com was composed of eight organizations under the *Kapatiran ng Malayang Maliliit na Mangangisda ng Pilipinas* (KAMMMPI, Fraternity of Free Small Fisherfolks of the Philippines) and the *Pambansang Lakas ng Kilusang Mamamalakaya sa Pilipinas* (National Force of the Fishers' Movement in the Philippines, known as Pamalakaya-Pilipinas).

Main Thrusts. As agrarian reform calls for land to the tiller, so the Fish Code seeks to give the marginal and subsistence fishers a fair and just share in the management, control and use of the country's aquatic resources. It had the following features:

- Philosophy of sustainable fisheries through proper management, conservation and protection by both people and government
- Preferential use of municipal fishing grounds to subsistence fisherfolks
- Increased scope of municipal fishery from seven to fifteen kilometers from the shoreline
- Reservation of the exclusive right for the enjoyment, use and protection of the fishery resources only for natural-born Filipinos
- Limited access to fishery and aquatic resources to fisherfolk and legitimate fishery operators, following criteria of productivity, ecological soundness, and sustainable growth
- Popular and equitable participation of male and female genders in all levels of decision making
- Full benefits of the labor laws to fishworkers
- Establishment of community-based Resource Management Councils (RMCs) composed of representatives from the fisherfolks, NGOs and the government
- Prohibition of the conversion of mangroves into fishponds, and the immediate conservation of mangroves
- Creation of a Fishery Loan and Guarantee Fund to finance the development of ancillary industries
- Creation of the Municipal Fisheries Grant Fund to finance municipal development projects (NACFAR 1997: 73-74).

Strategies. The first order of business was to stop the Senate from continuing to consider SB 1354 and to support the Fish Code instead. In a meeting with Senate President Jovito Salonga and the three senators most identified with the Bigkis-Lakas draft, NACFAR managed to get the Fish Code into the Senate's agenda and it was scheduled for first reading. However, the process for SB 1354 continued. NACFAR went to the extent of "gatecrash(ing) a public hearing on SB 1354" (NACFAR 1997: 74). However, its knowledge of the issues persuaded Senator Agapito Aquino, its proponent, to postpone the approval of SB 1354, and consider certain provisions from the Fish Code, especially the establishment of RMCs. Its lobby with other senators also failed to stop the bill, squeezing from them only the promise that they would amend it with the Fish Code's provisions in mind.

NACFAR then turned to the Lower House. It selected as a sponsor a ranking personality – Representative Gregorio Andolana, a human rights activist and vice chair of the Committee on Revision of Laws (CRL), which was then handling the fisheries bills. However, the House had also introduced a rival measure supported by the Department of Agriculture, known as the Acosta bill. At the same time, NACFAR had to battle both its lack of experience and the prospects of disunity in the ranks of the fisherfolks sector.

To strengthen its internal capacity, NACFAR transformed itself from a “ragtag group” (NACFAR 1997: 74) to a formal lobby with eight experienced fisherfolk leaders and four secretariat workers contributed by NGOs serving the fisheries sector. It got SALAG, a legal NGO assisting fisherfolk, to provide a crash course on lobbying. Volunteers from members’ federations also joined their efforts.

It then proceeded to lobby on several fronts. It showed its mass support through a rally attended by more than a thousand fisherfolks and their sympathizers that marched to the Senate. The demonstration attracted media coverage and made their issues well known to the public. Further popularization occurred with its Mass-Based Education Campaign (MBEC) in Luzon. However, lack of funds did not permit the expansion of the campaign to Visayas and Mindanao, which legislators supporting large-scale commercial fishing represented. Later, local members sent letters to Congress and media. They also had a Fishery Express on October 22, 1991. However, while it succeeded as mass action, it was not able to present issues adequately and did not manage to get converts among the legislators.

NACFAR also tried to network with other NGOs. Their goal was to get non-fishing organizations to incorporate fishery issues into their own programs. However, this did not work well either.

NACFAR also lobbied in Malacanang, although somewhat by accident. A sympathetic congressional staffer told them about President Aquino’s impending certification of the Acosta bill. The NACFAR team managed to stop the Acosta bill’s certification but was not able to get the President to substitute their bill instead. Nevertheless, the Malacanang meeting managed to get NACFAR and Bigkis-Lakas together again. The two tried to work with the DA to hammer out a compromise code, but that attempt failed.

NACFAR then sought to implement a three-year plan. It was able to initiate the creation of a Fisherfolk Agenda for Peace and Development. It piloted its concept of the Resource Management Council in Pacasao, a municipality in Camarines Sur. The officials of Pacasao endorsed the RMC concept. However, although the idea was piloted in other areas, success at the local level could not convince the national legislators to put the RMC into the fisheries bill they were considering.

In the House, NACFAR got a break with the appointment of one of their leaders, Arturo Olegario, as sectoral representative of the fisherfolk. Olegario, with only year left before the election of regular party-list representatives, tried to bring NACFAR and Bigkis-Lakas together. They agreed on five amendments to the House’s version of the Code. Certain representatives agreed to amend the proposed code to include the 15-kilometer municipal fishing area and the creation of RMCs. Later, they again went to Malacanang and got President Aquino to refer them to the DA, the Bureau of Fisheries and Aquatic Resources, the Department of Environment and Natural Resources and the

Presidential Management Staff. As a result, the protection of the mangrove was incorporated into the administration's proposal.

Following the success of UDHA, NACFAR sought the assistance of Cardinal Sin to include their key demands. However, the House passed a Fisheries Code without the 15-kilometer fishing area and the RMCs. Those provisions were included again by Senator Aquino in the bicameral conference committee meetings. However, at the last minute, the question of a quorum was raised in the bicam meeting, and the Eighth Congress adjourned without a fisheries code.

Opposing Forces. NACFAR'S fish code was hampered by a rival bill that was sponsored by no less than the administration. Despite efforts at Malacanang and the executive departments, NACFAR did not succeed in substituting this with its unity bill.

Like the CPAR, the opponents of NACFAR were firmly entrenched in Congress. Amendments to incorporate the 15-kilometer line and the RMCs, minimal demands when seen from the perspective of the total vision of the fisherfolks' groups, could not get past the opposition of what was called the Visayas bloc that was also allied with commercial fishing interests.

Results. NACFAR's intervention in Congress was not a total failure. Its demand for the 15-kilometer municipal fishing area was actually legislated, not in a Fish Code but in the Local Government Code. The LGCode was authored by Sen. Pimentel who incorporated it into his bill after being convinced by the arguments of NACFAR.

Other gains are not in the legislative arena. The appointment of Olegario as a party-list representative, though short-lived, is a sign of NACFAR's growing recognition and influence in government circles. Then, too, its local initiatives have been upheld. For instance, DA issued Fishery Administrative Order No. 175 which mandates a closed season in Manila Bay, part of NACFAR's campaign to Save Manila Bay. In addition are the piloting of RMCs in several municipalities. Besides, while the RMCs have not been legislated, DENR has launched an Environmental Monitoring Training for fisherfolks in which trainees become deputized as environmental officers to implement environmental law and apprehend pollutants.

NACFAR (1997: 80) itself cites as "the biggest gain" as its "self-confidence" and "political maturity." It also realizes that it was not able to use its links with the church leadership in an effective and systematic way. Moreover, it also had "no definite plan to harness the media" (NACFAR 1997: 84) which when their news came out, were generally supportive of NACFAR's efforts. Still, it recognizes the limitations of its power:

It can only go as far as the vested interests of politicians would allow. And that really, is not too far.

...

The absence now of a pro-fisherfolk law is also a clear indictment of these same politicians who used every available weapon to subvert the interest of the marginalized fisherfolk (NACFAR 1997: 84).

A Fisheries Code is now in the books, but it would not be legislated until the Tenth Congress. The journey of that bill – and a more mature NACFAR – will be discussed in the next Chapter.

The Indigenous Peoples Rights Act (IPRA, Rep. Act No. 8371): Part I¹⁰

Indigenous peoples account for sixteen to eighteen percent of the Philippine population, occupying hilly areas and forests in which their communities have lived for centuries. However, these areas have become smaller through the centuries, as lowland population growth, mining, logging and agriculture have pushed them further and further into the interior. Spanish colonization of the Philippine Islands introduced the Regalian Doctrine where all lands belong to the Crown (or its successor, the Philippine State) unless private persons acquire a title. Communal ownership and ancestral domains were ignored, resulting in loss of land, desecration of burial grounds and other sacred sites, and virtual decimation of the *katutubos* (indigenous people¹¹). The state had sought to assimilate them through such devices as the Commission on National Integration during the early Independence period. Despite these, the IPs have managed to maintain their culture and sense of community and have resisted lowland domination. Even Marcos had to recognize them when he was forced to stop the construction of Chico Dam in the 1970s; the first communal lease to public forests occurred under Martial Law.

Main Thrusts. The Regalian Doctrine is stated in Article XII, Section 2 of the post-EDSA Constitution, as follows:

All lands of the public domain, waters, minerals, coal, petroleum, and other minerals, oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated.

This would seem to limit the rights of indigenous peoples. However, other sections recognize their demands and rights. Article XII, Section 5 provides that:

The State, **subject to the provisions of this Constitution and national development policies and programs**, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.

¹⁰ This is based primarily on Bennagen (2000), ESDC Research Team (1997), First Peoples (2006), Perrot-Maitre and Ellsworth 2006, and documents from Congress gathered specifically for this study.

¹¹ “IPs” is now the politically correct term to refer to them.

The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

Moreover, Article XIII, Section 6 provides that:

The State shall apply the principles of agrarian reform or stewardship, **whenever applicable in accordance with law**, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and **the rights of indigenous communities to their ancestral lands** (emphasis supplied).

Besides, the people of the Cordilleras were the only ones, aside from the Muslims, to have a constitutional provision for an autonomous region (Art. X, Sec. 15).

All these, however, require Acts of Congress, as the emphasized passages show. It is thus necessary to enact a law that would secure the rights of indigenous peoples.

Strategies. At least eight bills and resolutions on ancestral domain were introduced in the Eighth Congress in 1987. President Aquino certified as an administration bill HB 24913, principally authored by the then Chair of the Committee on National Cultural Communities (CNCC), William F. Claver.¹² A series of public hearings was conducted in at least six cities/provinces; ocular inspections in problem areas were made in six provinces. The hearings resulted in a consolidation of these bills, which “for lack of time,” was not acted upon (CNCC no date: 1-2).

As the ESDC Research Team (1997: 15) states, the movement of indigenous peoples “is still young compared to other sectoral and political movements...with most of the indigenous communities... still unorganized or unpoliticized.” However, that fact would give the movement the distinction of, in effect, having placed a new and important issue into the public agenda. The first national organization of IPs was the *Kalipunan ng mga Katutubong Mamamayan ng Pilipinas* (KAMP, Federation of Indigenous Peoples of the Philippines) having been formed only in the 1980s. Like many other disadvantaged groups, unity does not mark the sector. KAMP distrusts the only other national formation, the Tribal Communities Association of the Philippines (TRICAP), for its supposed government control and influence. Other IP organizations dot the country but they are localized with no national voice (ESDC Research Team 1997: 15-16).

The first consultations for the bill in the Eighth Congress were sponsored by the *Ugnayang Pang-Agham-Tao* (UGAT, the professional association of anthropologists), one of whose stalwarts was a member of the 1986 Constitutional Commission and was instrumental in the provisions on IP in that document. The main strategies at that time

¹² This may account for the fact that the bill passed during the Tenth Congress, when Claver was no longer a congressman, is sometimes called the Claver bill in some circles. See for instance First Peoples (undated).

consisted of written outputs, signature campaigns, research, and participation in congressional consultations and hearings. Only the Gaston Z. Ortigas (GZO) Peace Institute lobbied legislators personally for the inclusion of the bill in their agenda. Direct lobbying consisted largely of mobilizations during public hearings. Even at that, Congressman Claver complained that he did not feel nor notice NGO-PO participation except for one day when a delegation from his native Cordillera came to a consultation (ESDC Research Team 1997: 21).

ESDC observes that participation was minimal. They attributed this to the following internal factors:

- the low priority the organizations in the IP movement gave to policy advocacy; lack of coordination outside the Cordillera-based groups;
- the urgency of needs in the field;
- the difficulty of sustaining mobilizations by people based in the hinterlands, including personnel and fund limitations;
- their lack of familiarity with the bill itself, and with the process of passing it into law; and
- their disagreement on certain aspects of the bill itself.

Opposing Forces. The lobby also suffered because of the unfamiliarity of its issue to the general public, and the strength of logging, mining, agribusiness and multinational interests. Given these, HB 33881 was not calendared until towards the end of the Eighth Congress. Therefore the IPs could not regroup on time to save their bill when an objection was raised by a congressman identified with these business interests (ESDC Research Team 1997: 22-23).

Results. In the Ninth Congress, Cong. Gregorio Andolana of North Cotabato¹³ with two others filed HB 595 creating a Commission on Indigenous Cultural Communities and Ancestral Domain. Upon House approval, it was transmitted to the Senate. However, it was opposed by the Chair of the Senate Committee on National Cultural Communities because it would entail funding from government. According to the Fact Sheet emanating from the House, “her opposition spelled the death of the bill at the Senate committee level” (CNCC no date: 2)

Like the Fisheries Code, then, the bill of the indigenous peoples had to await the Social Reform Agenda that became the framework of the Tenth Congress.

Summing Up: Disadvantaged Groups after the People Power Revolution

Everyone hailed the post-Marcos government for widening the democratic space. It certainly kindled hopes that disadvantaged groups would at least have the protection and support of the laws of the land. However, such hopes were not fulfilled. Despite a flurry of bills coming from street parliamentarians – both NGOs and people’s

¹³ Congressman Andolana came from the People’s Party, identified with the left. He was a human rights lawyer and was well-known to NGOs and POs. North Cotabato has many indigenous communities.

organizations, Congress did not transform most of them into law. In the case of the Comprehensive Agrarian Reform Law, the legislative mill so altered key provisions that its original sponsors rejected it. Only the Urban Development and Housing Act was deemed acceptable, and that was because the disadvantaged groups accepted a much narrower scope of their original demand for urban land reform. In the case of the proposals for a Fisheries Code and an Indigenous Peoples Rights Act, the efforts of their proponents failed practically only in the last moment. Nevertheless, the seeds have been planted. Two of the laws to be discussed in the next Chapter have their beginnings in the Eighth Congress, originally borne, like the two others discussed here, on the wings of the People Power Revolution.