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## LAND TENURE IN THE PHILIPPINES

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THE LAND tenure system of the Philippines is distinctive in its origins from that of neighboring Asian countries. Viewed in a broad problem setting, however, the issues are much the same. Most of the peasant population of the Far East have long been beset by three basic tenure problems: insecurity of occupancy, excessive rents, and usury.<sup>1</sup>

From these basic problems stems a chain of corollary features that lead, and have led, to revolution. Most important of these is the essential denial of participation, as a free constituent, in the economic, social, and political affairs of the society to which the individual is attached. A shorthand description, greatly oversimplified, is feudalism. Its hateful counterpart is colonialism. Between these extremes and that of a competitive brand of mass subjugation—Communism—the conflict with democratic methodology is joined in a massive contest of appeal to a restive agrarian people. In policy formulation, the most urgent objectives are maintenance of peace and order and the achievement of political stability. Nothing of a lasting character can be accomplished in the absence of either. The recent history of land tenure in the Philippines is cast in this framework.

In 1951, the Communist-led Hukbalahap movement in the Philippines came perilously close to gaining control of the government. Since then, a combination of “all-out friendship, all-out force” has prevailed, and the Philippine nation stands alone among Asian countries as one that repulsed a direct threat of Communist control without serious infringement of personal or property rights. The heart of this successful operation is the Magsaysay program of “land for the landless.” As a prominent Manila newspaper recently stated editorially, “The crux of *all* the issues is land reform.”<sup>2</sup>

Time will not permit a full development of the background of present land tenure problems in the Philippines, and I shall mention only a few central facts for reference. The existing pattern of tenure is the product of three eras of history. The first, or pre-Spanish period ending in the sixteenth century, is perhaps significant only for its *Barangay*, or tribal or-

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\* The author served as Land Tenure Advisor, International Cooperation Administration, in the Philippines, from September 1954 through August 1955. The views expressed herein are his own and do not necessarily reflect those of either of the above agencies.

<sup>1</sup> These problems are discussed in more detail, by countries, in a paper by the author entitled “Comparative Notes on East Asian Land Tenure Systems,” USOM International Cooperation Administration, Manila, July 1955.

<sup>2</sup> *Manila Daily Bulletin*, October 22, 1955.

ganization, which elevated the family relationship to a position of honor that survives to this day.<sup>3</sup>

The era of Spanish domination overlay more than three centuries and resulted in the introduction of several remarkably durable features that affect the present tenure of the land. Foremost of these was a well-defined private property right in the form of the *encomienda* system, a Spanish colonial version of the feudal economy of medieval Europe.<sup>4</sup> Under the Spaniards, large grants of land were dispensed to the favored few who, in turn, exacted tribute, or rent, from the peasant occupants. Among the later beneficiaries of Crown land were various church orders that eventually came to practice abuses so oppressive as to provoke open revolt among the tenants.

American rule comprised the third era. It brought a sense of order and equity that is today epitomized in frequent public references to "social justice." The United States introduced a concept of the public domain that is now making possible an orderly settlement of government lands, brought to bear the expropriation principle that is now a part of Philippine constitutional law, and initiated efforts to stabilize landlord-tenant relations. But the guiding policy was one of building toward ultimate native self-rule, and the United States consistently avoided a full-scale attack upon the ancient agrarian institutional structure.

For years the *taos* (peasants) voiced their protests against the harsh land tenure system. These protests often erupted into localized violence. It was not until World War II, however, that Filipino tenants acquired sufficient arms and the leadership to threaten overthrow of the government. The setting, up-dated to the beginning of effective reforms under the Magsaysay administration, may be summarized as follows:<sup>5</sup>

Three-fourths of the total population of 22 million persons are farm people.<sup>6</sup> About half the 2.3 million farms are operated by tenants, and more than two-thirds of the farms in all categories of tenure are less than 3 hectares in size. Nearly half the rice farms are operated by tenants. Tenancy rates on other farms on which the principal crops are coconuts, corn, abaca, tobacco and sugar cane range downward from 18 to one percent.

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<sup>3</sup> Karl J. Pelzer, *Pioneer Settlement in the Asiatic Tropics*, American Geographical Society, New York, 1945, Chap. IV.

<sup>4</sup> *Ibid.*

<sup>5</sup> Data are based on figures from the 1948 Census of the Philippines, modified in some instances by revised estimates as of 1955. See "The ATC Report for 1955," the first annual report to the President made by the Agricultural Tenancy Commission, October 1955.

<sup>6</sup> Net annual increase in population in the Philippines is in excess of 2 percent. At this rate, the population will total approximately 55 million by the year 2,000.

There are both extreme fragmentation and extreme concentration of landholdings. A recent survey shows that only 221 landholdings exceed 1,000 hectares in size, but almost 14,000 holdings of 50 hectares or more total 2.4 million hectares, or about 42 percent of all the farmland in the country.<sup>7</sup> Some of the most acute problems of tenure are identified with these large holdings, especially in the ricelands of central Luzon.

Philippine tenants suffer from inefficient production methods and a low income status. Yields of rough rice average less than 30 cavans per hectare, or scarcely a third that of Japanese rice growers. It is estimated that the national average for family farm earnings does not exceed 800 pesos annually (\$400 at the legal exchange rate).<sup>8</sup> Manifestly more explosive than absolute levels of income and efficiency, however, are such matters as security of occupancy, rental rates, and interest charges on production and subsistence credit. Among the thousands of landlord-tenant disputes that arise each year, about a fourth involve ejection of the tenant and an almost equal proportion concern crop sharing.<sup>9</sup> Usury, with interest rates ranging from something like 50 to 400 percent, is a constant drain on the already inadequate income of tenants.<sup>10</sup> Money lending is a source of revenue to many landowners that almost equals the rental share. The significant function of this kind of credit, however, has been as a device for keeping tenants in debt and, as with the threat of ejection, perennially subject to the will of the dominant class of landowners.

The "land for the landless" program in the Philippines attacks these problems across a broad front. It is keyed to a basic goal of converting the maximum practicable number of farm tenants into owner cultivators, but it embraces certain auxiliary activities that are deemed essential to an

<sup>7</sup> Arturo P. Sorongon, "A Special Study of Landed Estates in the Philippines," USOM International Cooperation Administration publication, August 1955. These figures probably are conservative: See Part IV, "Appraisal of the Reliability of the Data," p. 11 ff.

<sup>8</sup> Based on data contained in "An Economic and Social Survey of Rural Households in Central Luzon," USOM Foreign Operations Administration and Philippine Council for United States Aid, by Generoso F. Rivera and Robert T. McMillan, June 1954.

<sup>9</sup> *Op. cit.*, "The ATC Report," Appendix H (a).

<sup>10</sup> "Average" interest rates charged tenants are hard to compute because of the variety of money-lending practices. Three common systems are known as *takipan*, under which the borrower repays 2 cavans (97 pounds each) of palay (rough rice) for each cavan borrowed, *talindia* (3 for 2), and *terciahan* (4 for 3). Actual interest rates are much higher than those suggested by these ratios, however, because most loans are made as the new harvest approaches and usually cover a period of only 3 to 6 months on each loan. Discounting on cash loans is widely practiced. Conversions are often made from money to rice at the time the loan is made, when the price of rice is high, and reconverted from rice to money after the harvest when the price customarily drops, thus increasing interest charges very substantially. Frequently, loans are made in the form of rough rice and repaid in higher priced polished rice. See Robert S. Hardie, "Philippine Land Tenure Reform—Analysis and Recommendations," STEM, Mutual Security Agency, Manila, 1952, Appendix C.

effective, integrated program of land reform. The objectives of the Philippine program are as follows:<sup>11</sup>

1. To reduce the area of large landholdings and at the same time, through the family farm principle,<sup>12</sup> to reduce the number of holdings of uneconomically small size.

2. To resettle tenants from heavily populated areas on vacant public lands in other areas.

3. To provide an adequate production credit system for small farmers.

4. To lower rental rates, provide security of tenure, and otherwise place landlord-tenant relations on a tolerable basis.

5. To achieve security of land titles.

6. To reform the property tax structure.

A brief review of the progress made toward each of these objectives will describe the present status of land reform in the Philippines.

### *Land Redistribution*

The constitution of the Philippines provides that "Congress may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals."<sup>13</sup> Congressional authorization has been extended in a number of laws, some dealing with specific parcels of land and others conveying a general grant of power to the President to carry out expropriation proceedings.<sup>14</sup> The chief stumbling block in the way of a large-scale expropriation program has been lack of funds. "Just compensation" has been defined by the courts essentially as market value, usually a high figure in relation to productive value, and the requirement laid down that except in cases of voluntary sale the landowner must be reimbursed in cash at the time of the purchase.<sup>15</sup>

In an effort to overcome this obstacle, President Magsaysay last year submitted a new law known as the Land Reform Act of 1955, to the Con-

<sup>11</sup> See President Magsaysay's State of the Nation Messages, 1954 and 1955.

<sup>12</sup> "Family-size farm units—shall mean such area of farm land as will permit the efficient use of the labor resources of the farm family, taking into account the addition of such supplementary labor as may be necessary either for seasonal peak loads or during the developmental and transitional stages of the family itself:" Land Reform Act of 1955.

<sup>13</sup> Art. XIII, Sec. 4.

<sup>14</sup> Until 1955, two of the most significant laws were Commonwealth Act 539 and Republic Act 1000.

<sup>15</sup> The extent of the expropriation power is treated in numerous cases; e.g., *Guido vs. Rural Progress Administration and Republic of the Philippines vs. Cirilo P. Baylisis et al.* Among the leading cases involving a definition of "just compensation" are *Manila Railroad Company vs. Velasquez*, 32 Phil. 286, and *Tarlac vs. Besa*, 55 Phil. 423.

gress that called for the use of "land certificates" in payment for expropriated lands. It passed in a special session after undergoing amendments that curtailed rather than enhanced the President's powers.<sup>16</sup>

Nevertheless, President Magsaysay has appointed officials of the Land Tenure Administration, which was established by the law, and has named 10 estates for early purchase. Meanwhile, he has begun a public campaign to have the law amended in the next session of Congress in order to make it more workable. This procedure follows a familiar pattern of step-by-step assault by Magsaysay upon his political opposition. It is safe to predict that the Philippines has a land redistribution program in the making. Some of its features are worth noting.

1. Unlike land-transfer schemes in many other countries, the purchase of large landholdings in the Philippines probably will not contain an element of confiscation. Constitutional law holds a lofty place in the Philippine system of values.

2. Reconstitution of farm unit size, in the interest of more efficient production, has received official recognition in the law and in the policy. Tenants who are displaced in the process will be relocated in government resettlement projects.

3. Ricelands in central Luzon are the priority target in the plan. They are not noted for outstanding yields or competent management. It is contemplated that economies of scale generally will be observed in the administration of the program.

4. A considerable volume of capital in land investment may be released in the process and forced into badly needed industrial development.

### *Resettlement*

It is estimated that approximately 4 million hectares of arable public land remain open for settlement in the Philippines.<sup>17</sup> Before 1954 the movement of farmers to free public land lacked effective organization. With the creation of the National Resettlement and Rehabilitation Administration (known as NARRA), a systematic plan for moving settlers and furnishing them with transition support and facilities was undertaken.

Under NARRA administration, 20 resettlement projects with an aggregate area of 586,000 hectares are now in active operation. In fiscal year 1955, more than 8,000 families were moved to newly opened land where

<sup>16</sup> For example, in placing a minimum size of 300 hectares on private holdings that may be expropriated and 600 hectares on corporate-owned holdings, except in instances of "justified agrarian strife."

<sup>17</sup> "Country Review of the Philippines," a paper presented at the FAO Center on Land Problems in Asia and the Far East, by Eligio J. Tavanlar and Deogracias E. Lerma. December 1954.

they received title to tracts from 6 to 10 hectares in size (as compared with a national average of 2.2 hectares). Three-fourths of these families came from such heavily populated rural areas as central Luzon. The goal for the current year is 12,000 families, and the long-range goal is 153,000 families.<sup>18</sup>

This major population redeployment is being accomplished at an average cost of 1,200 pesos (\$600) per family. This includes transportation, salaries of settlement officials, housing, simple tools, and subsistence items while the new settler is clearing his land and making a first crop. This whole sum is an advance to the settler; it is to be repaid in 10 annual installments after the third year. The program is coordinated with road-building plans and health, education, and welfare services furnished by other agencies.

### *Credit*

The principal credit agency is the Agricultural Cooperative Credit Finance Administration (ACCFA). A multipurpose organization, the ACCFA has as its primary task the servicing of the credit needs of small tenant farmers. Its success may be measured by the fact that the ACCFA program now embraces 319 local credit cooperatives with a membership—predominantly tenants—of 188,000 and loans for production and subsistence purposes exceeding 37 million pesos annually. Its repayment record is about 90 percent, and many local cooperatives boast of a 100 percent record.<sup>19</sup>

Concentrating its activities originally in the troublesome areas of central Luzon, the ACCFA is gradually extending its services throughout the country. Training of personnel is one of the main factors that inhibits expansion, but this is regarded only as a temporary deterrent. The range of services is likewise expanding. It now includes educational work in farming methods for members, distribution of fertilizer, cooperative use of portable irrigation pumps, and even low cost retail outlets for household goods.

The credit program is furnishing loan funds to tenants at a fraction of the rates charged by private moneylenders. Its main role in land reform, however, is that of eliminating landlord credit as a device for maintaining control over the economic life of tenants. In giving tenants an opportunity to participate in decision making, the ACCFA is having an incalculable effect on the building of a democratic citizenry.

<sup>18</sup> National Resettlement and Rehabilitation Administration, "Annual Report of NARRA, Fiscal Year 1954-1955" (to the President of the Philippines), August 1955, and later information.

<sup>19</sup> Agricultural Cooperative Credit Finance Administration, "ACCFA, 1954-55 Annual Report" (to the President of the Philippines), January, 1956.

*Landlord-Tenant Relations*

In August 1954, the Philippines enacted into law Republic Act 1199, which is generally regarded as the most comprehensive landlord-tenant regulatory measure in the world. Known as the "Magna Charta" for Philippine tenants, the law contains these major provisions:

1. It increases the tenant's share of the produce.
2. It covers all crops instead of rice alone as in previous legislation.
3. It grants tenants greater management prerogatives and the right to shift from a share arrangement to a leasehold tenancy (cash or standing rent).
4. It provides what amounts virtually to life tenure for all tenants, subject only to narrowly circumscribed landlord rights to evict for "just cause."
5. For the first time, it establishes criminal penalties for violations.
6. It limits interest charges to 8 percent.

The Agricultural Tenancy Commission (ATC) was created in October 1954 to implement the nonjudicial aspects of the law; that is, information, mediation, and research. In 9 months' operation with a small nucleus staff, the ATC distributed 150,000 information leaflets on the new law, 40,000 copies of the law itself, and 11,000 improved lease forms.<sup>20</sup> The agency conducted 214 information rallies in the provinces, which were attended by approximately 75,000 people and reached millions of other persons through press and radio releases. It rendered nearly 1,200 written and oral opinions on the construction of the law and resolved tenancy disputes, without court action, in cases that involved a total of 44,000 tenants. A start was made toward developing a research program to furnish guidance for future amendments and refinements of the law.

ATC officials estimate that full implementation of the tenancy law will result in the transfer of about 27 million pesos annually from landowners to tenants on ricelands alone.<sup>21</sup> In addition to raising the level of living of thousands of farm families, it is believed that this redistribution of income will strengthen the demand for domestically produced goods, while at the same time it lowers demand for some high cost import items, and that it will have a salutary effect on the growth of Philippine industry.

The work of the Commission has been expanded about fourfold this year. In its educational drive alone, the ATC plans to distribute 5½ million pieces of information literature prepared in English and the 6 principal dialects.

Another far-reaching step was taken in the tenancy field in the sum-

<sup>20</sup> *Op. cit.*, "ATC Report."

<sup>21</sup> *Op. cit.*, "ATC Report," Appendix J.



mer of 1955 when a Court of Agrarian Relations was created.<sup>22</sup> The previous court facility had been struggling with an annual docket of some 2,500 landlord-tenant cases. In some instances, settlements were delayed several years while hostility between the disputants continued to grow. The new agrarian court will be staffed by 8 associate judges assigned to the provinces and one executive judge sitting in Manila who will have exclusive jurisdiction in landlord-tenant cases and concurrent jurisdiction with the regular courts in farm employer-employee and usury cases.

This court is unique in that the judges will function on a mobile basis, being authorized to hear cases in the municipality or barrio (village) in which the subject matter landholding is located. Delays in rendering decisions will be discouraged by a provision calling for suspension of the salary of judges who fail to act on a case within prescribed time limits. Except for the right of direct appeal to the Supreme Court, decisions of the Court of Agrarian Relations will be final. Thus, the objective will be not merely to bring justice directly to the people, but to bring it swiftly.

#### *Security of Land Titles*

A policy that favored owner cultivatorship would have little meaning if land surveys and titles were clouded. Following a history of "niggling technical doubts" about the validity of official land records, the present administration in the Philippines has placed strong emphasis on improving the system of cadastral surveys, the issuance of land patents, and registration of titles.

A complete modernization program in the Bureau of Lands was carried out in 1954 and 1955. As a result, the volume of land patents issued was increased from 3,400 patents covering 40,000 hectares in 1952 to 50,000 patents covering 450,000 hectares in 1955.<sup>23</sup> A Land Registration Commission was created in 1954. Using the Torrens system, it is keeping pace with the Bureau of Lands in registration of titles. The goal for this year is 60,000 registered titles.

#### *Property Taxes*

Reformation of the property tax structure is the only one of the 6 objectives of the Philippine land reform program toward which little progress has been made. It poses a tremendous problem. Although land is by far the most important resource of the nation, it provides a relatively small part of all government revenues. The maximum nominal rate is set at one percent of the assessed value. Assessments for farm land aver-

<sup>22</sup> Republic Act 1267.

<sup>23</sup> Bureau of Lands, Department of Agriculture and Natural Resources, Republic of the Philippines, "Progress Report—Modernization and Mechanization," February 1955.

age only 51 percent of market value and vary widely from one province to another. Finally, only 54 percent of the taxes owed on farm property are actually collected. In 1951 the cumulative delinquency for farm land was 117 percent of the annual taxes due on this type of property.<sup>24</sup>

Plans are being drafted for revision of the entire property tax mechanism, and it is expected that tax legislation of some kind will be introduced in the 1956 session of Congress. To be adequate, such legislation probably will need to reinforce national control over property tax policies, strengthen foreclosure procedures, give provincial and municipal governmental units greater incentives in the form of a share of tax revenues, and raise the standards and salaries of local tax officials. Considerable interest is currently shown in the possibilities of a graduated land surtax as a further discouragement of concentration of landholdings.

### *Interrelationships*

Land reform policy in underdeveloped countries is sometimes defined in the narrow context of land redistribution. Elevation of tenants to the status of ownership by transferring a relatively few land titles to many tillers of the soil has certain advantages. For one thing, it is a comparatively simple technique for providing security of occupancy. For another, it is less costly than a more diversified program of adjustment. It requires a smaller outlay for mass educational work, training of technicians, and supplementary programming of various types.

However, this single-shot corrective has serious disadvantages. Usually, massive land-transfer operations involve at least partial confiscation which works an injustice on certain groups in society and generally lowers respect for private property rights. Such a program may fail to provide for the development of the managerial capacities of farmers who are accustomed to supervision. It tends to slight such vital complementary factors as credit, taxes, and title certification. Its ultimate effect may be to hamper rather than to facilitate the flow of resources to their most productive uses.

The great power of the land reform program in the Philippines lies in its versatility and flexibility. The combined effect of the 6 components of the program is a fundamental union of purpose. Each of the activities described above reacts upon and strengthens the others. Large holdings are to be bought and resold in smaller parcels, but purchase prices are high because of a small tax burden, high rents, and large returns from usurious lending practices. Therefore, land values are to be depressed by raising taxes and improving collections, by lowering rents, and by pro-

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<sup>24</sup> Melville A. Monk and O. J. McDiarmid, "Taxation of Real Property in the Philippines," USOM Foreign Operations Administration, Manila, November 1953.

viding low cost credit through government sponsored cooperatives. Settlement of public land is to be accelerated in the very process of expropriating large holdings. At the same time, it will achieve a more economical average scale of operation in both areas. Tenants once were discouraged from joining a credit cooperative by threats of eviction; but protection against unwarranted eviction is now assured by the tenancy law. The ambition to become a farmer owner through resettlement or purchase of a part of an expropriated estate is stimulated by a system of valid land titles, by the availability of production credit at reasonable rates, and by the prospect of an equitable tax program.

In his struggle to emerge from a feudalistic tradition and centuries of colonial rule, the Philippine tenant is now offered genuine economic alternatives for the first time. The land reform program fashioned for him is the most complete and best integrated in the world today. Despite the striking accomplishments already recorded, much of it is still on the drawing boards. To convert these plans into action will call for all the energies, talents, and integrity that can be brought to bear in this young republic.