

AGRICULTURAL TENANCY REFORMS

An Appraisal of Major Policies and their Implementation

GUILLERMO S. SANTOS *

I. CRITIQUE OF POLICY CONSIDERATIONS AND APPRAISAL OF ENFORCEMENT AND IMPLEMENTATION PROGRAMS

Agricultural Tenancy Reform Measures. The Agricultural Tenancy Act of 1954¹ and the Court of Agrarian Relations Act of 1955² are the major, complementary legislation designed to effect socio-economic and related reforms in landlord-tenant relations. The first embodies the experience of nearly three decades in the regulation of an extensive, prevalent tenure practice—agricultural tenancy—in the country. The second was designed mainly to insure the just, prompt and inexpensive enforcement of agricultural tenancy reforms, through the creation of a quasi-judicial tribunal—exempt from the formalism and technicalities of ordinary court proceedings—and accessible, through its various regional districts and branches, to the far-flung, rural elements of the country. Both are part of the overall land, agrarian reform efforts.

From the enactment of the Agricultural Tenancy Act in 1954, it has been the subject of extensive and intensive, countrywide enforcement and implementation through the Court of Agrarian Relations (CAR), the Agricultural Tenancy Commission (ATC), under the Departments of Justice and Agriculture and Natural Resources, and lately, the Tenancy Mediation Commission (TMC). A social justice measure and a declared instrument of agrarian, specifically, tenancy reform, it was, upon enactment, hailed enthusiastically by tenant elements as the "Magna Charta of the Tenantry." As vehemently, it was denounced by landholders as "an ill-considered piece of legislation aimed at unduly benefiting the tenantry at the expense of the landowners." The controversy over the measure has since abated; it has, however, not quite ceased.

The Court of Agrarian Relations Act was, to some extent, also controversial; it was to fail of passage in the 1955 regular session of the Fourth Congress. Executive prodding on Congress was re-

* LLB (UP); DCL (UST); Formerly Chairman, Agricultural Tenancy Commission; Member, Land Tenure Committee & Land Reform Council; Executive Judge, Court of Agrarian Relations.

¹ Rep. Act No. 1199; as amended by Rep. Act No. 2263.

² Rep. Act No. 1267; amended by Rep. Act No. 1409.

quired for the creation of the Court to investigate, decide and settle landholder-tenant disputes. The pressing need for effective reforms in the agrarian sector, however, and the insistence of the U.S. aid agencies on tenure reforms as part of a wider land reform program, designed for the uplift of the rural sector of the country, helped insure support for the approval of the Court measure.

Tenancy Reform; Land and Agrarian Reforms—Distinguished. At this juncture—and to keep this paper's perspective—it is necessary to define the specific sphere of application of tenancy reform measures. Tenancy reform legislation and/or action program is aimed at specific defects in the country's tenure structure—the landlord-tenant relations. For agricultural tenancy is only one aspect of land reform. The latter has to do with the broader measures instituted—in their mild form, to insure a more egalitarian proprietorship and/or utilization of the land resources, and in more radical form, to hasten revision of the power-structure of rural, agricultural communities. Tenancy reforms are, still more, a limited aspect of agrarian reform, which includes the totality of approaches calculated to improve the overall conditions in the agricultural sector of the economy.³ Tenancy problems are, however—in the context of our tenure patterns and agrarian setting—easily one of the most urgent and demanding of just and lasting solution.

Purposes of Critique and Appraisal. The purposes of this critique and appraisal of our tenancy reform program are, first, to assess the effects of the reform legislation on tenancy, and appraise the efficacy of enforcement measures; and second, to offer suggestions for their improvement. The success- and failure-elements in the specific field of landholder-tenant relations or agricultural tenancy and the enforcement program will be primarily considered. To be considered also, however, are the related and concurrent land and/or agrarian reform measures—insofar as these have direct bearing on the program of tenancy improvement in the country.

The assessment of the success- and failure-elements of any reform measure requires value judgments of the most subjective kind. Since these measures were intended for long-range goals—the time-lapse from their enactments is not sufficient to afford definitive conclusions, valid for final assessments of policy goals. The extensive and intensive enforcement and implementation of Rep. Act No. 1199, as amended by Rep. Act No. 2263, and Rep. Act No. 1267, as amended by Rep. Act No. 1409, however, during the period of over five years since the measures took effect, provide sufficient bases for

³ International Labor Organization (ILO), Geneva, 1957, Report III, Asian Regional Conference (New Delhi), Nov. 1957, "Basic Concepts," pp. 3-4.

tentative judgments as to the effects of the legislation on tenancy relations and the efficacy of the enforcement technique. While fundamental reforms geared to long-range objectives involve years or generations to attain, success- and failure-elements in the substantive and procedural aspects of the law may be determined and assessed in relation to the ultimate objectives. Again, existential conditions at the time or immediately prior to the enactment of the measures and contemporaneous situations will in most instances exhibit sufficient variance or may yield enough clues to perceptible difference, to justify assessments of the merits of the reform and the enforcement programs.

Periodic Appraisal of Policy Orientation. Leadership-thinking determines policy orientation on major reform efforts. The presidential election just passed presented a synthesis of views of the candidates on the programs of tenancy improvement and the approaches thereto. The platforms of the Nacionalista and Liberal parties reflect leadership-thinking and party-commitments on projected solutions to the problems and/or their endorsement or disapproval of existential measures.

The leadership of the two parties are in agreement that tenancy is still a major concern. Incidentally, the Nacionalista Party under President Magsaysay made tenancy and land reforms major issues in the 1953 election; and in the 1957 and 1959 elections, these issues were pressed under President Garcia in milder forms. Both also seem to be agreed that it still calls for sustained, if not greater, efforts at solution. While neither party considered it a major issue in the last contest for public support viz-a-viz Graft and Corruption, Filipino First, Command Responsibility, Decontrol, the Rice Crisis, etc., both seem to accept that the Agricultural Tenancy Act is, in its present form, adequate. But, while there seems to be concurrence of view that the present laws and the means of their implementation and enforcement should be continued, there is a difference in the emphasis that should be laid on the approaches to the solution of tenancy problems. The Nacionalista Party advocates accelerated solution of the tenancy problem through the land resettlement and the land transfer programs—the first effected through the NARRA and the second through the LTA. In a veto message on H.B. No. 5481, enlarging the Tenancy Mediation Commission (TMC) and appropriating funds therefor, former President Garcia declared that the tenancy problem is rapidly disappearing because of the government's policy of buying landed estates to be subdivided among tenants and the public land distribution system.⁴ Vice-

⁴ September 2, 1961.

President Emmanuel Pelaez, the most vocal advocate of tenancy reforms in the Liberal Party and principal author of tenancy legislation during his term in the Senate, took vigorous exception, contending that resettlement and land transfer alone and, as executed by the Nacionalistas, could not solve the tenancy problems. In addition to the determined implementation of the present tenancy law, Vice-President Pelaez advocated a policy of attraction to landholders to transfer their investments from land to industry, through incentives towards capital transfer. The Liberal Party included in their platform for socio-economic reforms the strengthening of the CIR and the CAR and the promotion of effective mediation and/or arbitration of disputes in the field of landholder-tenant relations.⁵

Per the platforms and issues in the 1961 Presidential election, the leadership of both parties have reiterated approval of tenancy reforms and generally endorsed the techniques of their enforcement and implementation. They differ in the emphasis on approaches to further reform: the Nacionalistas through land transfer and redistribution; the Liberals through these; in addition, strengthened enforcement by the CAR through adjudication, mediation and arbitration of tenancy disputes; and measures to enlist the support of the agrarian sector in the promotion of the country's agro-industrial efforts.

Periodic Appraisal and the Subject of Reform Program. But the need for periodic appraisal is even more pressing from the standpoint of landholders and tenants—the subjects of tenancy reform program. For the soundness and weaknesses of the reform legislation and the efficacy of the enforcement measures are their interests vitally—the landholders in terms of substantial rentier wealth in land, and the tenantry in terms of means of livelihood—they are most concerned with their revisions/improvement. To them the policy considerations of the Agricultural Tenancy Act should be periodically re-examined, to determine where its strength and weaknesses lie; it is also necessary to appraise the enforcement programs to determine where the same may be improved to insure achievement of the objectives of the law, with the least violence on their rights and interests. As long as the major defects and weaknesses of agricultural tenancy—existing at the time of enactment of the reform measures—are still extant and affect adversely rural conditions or present increased agricultural production, or discourage the trend to industrialization—further revisions of existing reform measures are necessary, if these vexing problems will be solved in their and the national interest.

⁵ See the *Philippine Free Press*, October 28, 1961, p. 87.

II. TENANCY CONDITIONS IMMEDIATELY PRECEDING OR CONTEMPORANEOUS WITH THE ENACTMENT OF REFORM LEGISLATION

Agrarian Unrest in 1950. There are ample, conclusive evidence that the agrarian posture in 1950 posed a very serious threat to the country. The peasantry, who had rallied to the communist-inspired movement, had translated what had for nearly 30 years been sporadic agitations for reforms into violent attempts at national seizure of power. That the communist-led HMB armed struggles were based in and around the Central Luzon provinces of Pampanga, Nueva Ecija, Tarlac, Pangasinan and Bulacan, some parts of Southern Luzon and the Bicol regions, and in one or two provinces in the Visayas, Panay Island and Negros; was not without relevant considerations. For these represent the high-tenancy concentration areas, where political and social unrests had been endemic and had inspired radical movements in earlier periods and as far back as the Spanish regime.

The Tenantry-Statistical Profile. In an earlier work⁶ and placing reliance on bare census data and some studies on the agrarian situation, we took occasion to project the conditions that led to agrarian violence and the role played by the tenantry. We pointed to the main defect of our agrarian structure—the high proportion of tenancy in our country. As a national average, 30.3% of all farms are tenant-operated, the rest are divided among owner-operators, part-owners, and farm managers. Of the 850,000 to one (1) million tenants 57.7% are share tenants; 16.8% part-owner tenants, 1.8% are cash-tenants and 23.7% are unclassified. On the national average, therefore, of only five persons per family, some five (5) millions depend on tenancy for their livelihood, which, as a rule, is sub-marginal. We pointed out that the adverse impact of tenancy on the social and economic development and political stability of the country transcends these statistical discordancies. Tenancy has tended to increase—from 18% in 1903 through 35% in 1933, and 37% in 1948, and is now estimated to be between 48% to 57% of the total farm population. To an economy mainly agricultural in orientation and a demography mainly rural in distribution, the increase has adverse effects on agricultural production and is chiefly contributory to rural poverty and agrarian discontent. That aside from its tendency to increase, tenancy has been grossly and unevenly distributed. The uneven distribution resulted in critically small farms way below economic-size units and has thus resulted in below-subsistence farming among the tenantry in over-populated areas. Te-

⁶ Land Reform: The Agricultural Tenancy Act of 1954, see XX *The Lawyer's Journal*, No. 11, Nov. 30, 1955, p. 521.

nancy distribution in high tenancy frequency areas, in which peasant discontent and agrarian uprisings are endemic, range from 50.08% to 87.99% in the Central Luzon, some Southern Luzon provinces, and Negros Occidental and Leyte in the Visayas.

Characteristic of Tenancy Relations. The feudal practices in tenancy relations, the dominant position of the landlords, the onerous obligations of the tenants, the iniquitous sharing bases between them, and the other incidents of their relationship, e.g. the usurious interests rates for loans and advances, extra rental exactions, etc., were determined first under the primitive conditions of pre-historic Philippines and later, under the Spanish regime, and were characterized by the exploitative practices fostered by the colonial status of our people. Tenancy encouraged absenteeism, which burdened the tenant with the profit to be earned by landlord and *inquilino*. This gave rise to abuses. It discouraged sound relations based on mutual understanding, since it was not between equals but between a landlord and his farm worker. At the turn of the century, after the American occupation, the social usefulness of this feudal system began to fall completely apart. The high percentage of tenants to total agricultural population, the greater number of share tenants among the tenant population, the rural poverty induced by un-economic tenant holdings, and the feudalistic background of their relationship, easily made the tenantry a focal point of agrarian unrest.⁷

Philippine Land Tenure—Problems and Implications. Our land tenure problems, the causes of agrarian unrest, the implications of the problems on the nation's social, economic and political life have, also, earlier been studied and analyzed. Whatever the political implications and controversial import of the "Hardie Report" of 1952, it was the first objective analysis and a thinking in depth of our tenure, specially tenancy difficulties. We find no reason to disagree with factual data utilized as bases for the analysis; and, we concur, in principle, with the conclusions drawn from the facts.

a. *"Philippine Land Tenure Problems.* In the Philippines, agriculture furnishes a livelihood to nearly three-fourths of the population and accounts for about three fifths of the national income. The industry is plagued, however, by a pernicious land tenure system which thwarts all efforts for technological improvement in agriculture. Chronic poverty and unrest among tenants have culminated in open and violent rebellion which the Communists are exploiting to the full. That tenants seek to become owners of the land they cultivate is *prima facie* evidence against their adherence to, or their

⁷ "Basic Causes of Agrarian Unrest," *Report and Recommendations*, Advisory Committee on Large Estate Problem (1951), p. 7; Peasant War in the Philippines, 1946 (Document) see XXII *Philippine Social Sciences and Humanities Review*, 1958, UP, pp. 373, et. seq.

understanding of, the basic principles of communism. This knowledge affords little comfort, however, for the fact remains that misery and unrest among tenants is being used to advance the goal of communism in Asia. The problem is not a postwar phenomenon; it has been developing for years, deeply rooted in feudal customs.

b. *"Causes for Agrarian Unrest.* The causes of rural poverty and consequent unrest are not far to seek.

(1) The smallness of farms acts to limit potential gross income. As a national average, the tillable land area per farm is 3 hectares. Farms containing less than 2 hectares of tillable land, constituting more than $\frac{1}{2}$ the total farms, occupy less than $\frac{1}{5}$ the tillable land area.

(2) Tenant frequency is high, averaging about 35% for the nation as a whole and soaring to more than 70% in those areas where unrest is greatest.

(3) Farm rentals are oppressive. Most tenants pay 50% of the gross product (after planting and harvesting costs) as rent.

(4) Net family income derived from farm operations are woefully inadequate for a decent standard of living. Farm family income from outside sources is insignificant.

(5) Interest paid by tenants on borrowed money is grossly onerous. Annual rates of 100% are common and rates of 200% and even higher are not unusual. The majority of small farmers borrow regularly from year to year.

(6) A lack of adequate and economic storage, marketing and buying facilities forces farmers to sell in a low price market and buy in a high.

(7) Guarantees against ruinous prices are non-existent.

(8) The development of institutions conducive to the growth and strengthening of democratic tendencies has long been neglected in the rural areas.

(9) Other factors bearing on rural economic instability include minimum wages, taxation, and inheritance.

c. *"Implications of the Problem.* The land tenure system affects every phase of the nation's social, economic, and political life. Its correction is a matter of vital importance to numerous interests other than those of tenant-farmers alone.

(1) Political stability: open and violent rebellion, rooted in and fed by tenant discontent threatens the very existence of the Republic.

(2) Agricultural production: generally speaking, in the Philippines, concentration of land ownership is inimical to maximum

production. Abilities and incentives for efficient management tend to decrease as the size of holdings increase; tenants grow indignant of the marginal effort when half the gains derived thereby accrue to the interests of others.

(3) Industry: development suffers so long as rentier wealth lies dormant in land and is thus denied to the needs of industrial investment.

(4) Fiscal management: tax burdens mount with increasing costs for maintaining law and order while initiation of fiscal policies vital to the entire economy must be held in abeyance for want of funds.

(5) Morale: And then there are the effects of misery and unrest and violence on the individual citizen—his family—his church—which history will for many years continue to measure.”⁸

Enforcement Program of Tenancy Reform Measures. The enforcement measures of the then extant tenancy reform measures—notably the Rice Share Tenancy and the Sugar Tenancy Contracts Acts of 1933, as amended—were generally concluded to be inadequate. The Bell Mission Report of 1950⁹ stressed that—“The strained relationship between the landlords and their tenants and the low economic condition generally of the tillers of the soil compose one of the main factors retarding the recovery of agricultural production. While some laws have been passed to relieve the tenant’s plight they have not worked out as expected. The land problem remains the same or worse than four years ago and the dissident trouble has spread to wider areas The Philippine farmer is between two grindstones. On top is the landlord, who often exacts an unjust share of the crop in spite of ineffective legal restrictions to the contrary. Beneath is the deplorably low productivity of the land he works. The farmer cannot see any avenue of escape. He has no credit except at usurer’s rates. There is no counsel to whom he can turn with confidence . . . There are some exceptions where rather good relations exist between landlord and tenant, particularly when the landlord takes an interest in improving his land and in the welfare of his tenants . . . But the exceptions are too few and far between, and public opinion is very likely to transient response to the more widespread dissident activities, which would probably quickly fade away if law and order could be restored . . . The law now, on the books, providing for a 70-30 per cent division of the crop between the tenant and the landlord should be enforced after it is amended to make it more workable.”¹⁰

⁸ Philippine Land Tenure Reform, MSA, US, 1952, pp. v-vii.

⁹ The Bell Mission Report of 1950, pp. 63 et seq.

¹⁰ See Wurfel, David O. M., *Government Agrarian Policy in the Philippines* (1950), p. 218 et seq.; Starnes, Frances I., *Magsaysay and the Philippines Peasantry* (1961), p. 19.

III. TENANCY PROBLEMS AND POSSIBLE SOLUTIONS; IMPROVING AGRICULTURAL TENANCY

Tenancy Problems, Worldwide Concern. Agricultural tenancy is a worldwide practice. For, as a tenure form, it is inseparable with private property in land. It is a predominant practice in underdeveloped countries; exists in one form or another in progressive ones—except in the Communist spheres of influence. Since, of the world's 2½ billion people, some 3/5 or 1,400 million depend upon agriculture for their livelihood, while some 600 million live and toil on someone else's land, agricultural tenancy is of worldwide concern. It has, therefore, become a field of study of the United Nations, through the Food and Agricultural Organization (FAO)¹¹ and International Labor Organization (ILO),¹² and has been included in the agenda of international conference i.e. on Land Tenure and Family Farm Policy.

Agricultural tenancy has been associated with human exploitation, low cultivation standards, lack of opportunity. In some areas, where semi-feudal economic, social and political controls still linger, it is regarded as a serious obstacle to economic progress and associated agrarian reforms. When the landlord has too much power—due to competition for land, credit monopoly or outright intimidation—there may be an arbitrary transfer of income to the disadvantage of the tenant, and there will be no proper incentive to production. Under such conditions poverty ensues, tenants may come to be considered as an inferior social class, and many abuses appear—abuses which the modern democratic world seeks to eradicate.¹³

Complicated and diverse as are the problems that agricultural tenancy presents, especially in underdeveloped countries, measures for tenancy improvement may be studied on scientific bases. Experiences of different countries with common aspirations—e.g. improvement of living conditions, economic development, political stability, social reforms; and, with identical or similar institutions—i.e. private property in land, freedom of action within the framework of legal limitations and recognized institutions—may, with perceptive efforts, be utilized to solve the defects and problems inherent in agricultural tenancy. For while institutional reforms may arise through the play of free enterprise—*laissez faire*—this has been found by common experience to be inadequate. Public action through

¹¹ E.g. UN, *Land Reform: Defects in Agrarian Structure as Obstacles to Economic Development* (New York) 1951; UN *Progress in Land Reform* (New York) 1954. FAO, *Improving Agricultural Tenancy* (Rome) 1957.

¹² E.g. ILO Report III—*Conditions of Life and Work of Share-Croppers, Tenant Farmers and Similar Categories of Semi-Independent and Independent Workers in Agriculture*, Geneva, 1957.

¹³ UN, FAO, John F. Timmons, *Improving Agricultural Tenancy*, Rome, 1957; See also, *Farm Tenancy*, Report of the President's [(US) Roosevelt, F.D.] Committee, 1937.

law—social justice—has, therefore, by general experience also been found to be essential. Law thus becomes an instrument of social engineering—to define the specific goals of reform and provide for their enforcement/implementation.

Tenancy Problems—Philippine Conditions and Approaches. The first thing, however, is to recognize the problems that agricultural tenancy pose to our efforts at political stability, social improvement and economic progress. In the context of Philippine conditions—(1) the high percentage of tenants in the farm population, (2) the fragmentation of tenanted farms in high-tenancy frequency areas, e.g. Central Luzon, parts of Northern and Southern Luzon and the Bicol regions, and portions of the Visayas, (3) institutional defects in the relations, e.g. lack of proper definition of the rights and obligations of the parties, (4) the iniquity in the sharing bases and/or the rental rates, (5) insecurity in the tenant's tenure, (6) oppressive exactions and/or usurious interest rates, (7) lack of alternative opportunities, (8) subsistence farming with crude equipments and antiquated practices, (9) inadequacy of credit and marketing facilities, (10) population explosion, etc. serve to further depress already sub-marginal conditions.¹⁴

In view of the variety, scope and intricacy of the problems associated with agricultural tenancy in the Philippines, multiple reform approaches had been availed of. At the turn of the century the American administration in the Philippines resorted to the purchase of the Friar landed estates and the opening of unsettled lands through homesteading. Improvements in agricultural practices were also sought. Under the Commonwealth regime, President Quezon stressed the social justice approach to improve the agrarian situation, pressed for land purchase and resale to tenants, and extended incentives for homesteading in Mindanao. He and, later, President Roxas, showed great concern over the tenancy situation and the plight of the tenancy. During the so-called Magsaysay era of land reform, the extant measures were energized and integrated to stress not only land resettlement through organized efforts (NARRA; EDCOR) the land purchase and resale program (LTA), but also credit and marketing facilities (ACCFA), agricultural extension services (BAE), land titles (Bur L), public improvements, e.g. irrigation systems, feeder roads, and, finally, community development. Community improvement by the private sector, e.g. the Philippine

¹⁴ See Rivera & McMillan, *An Economic and Social Survey of Rural Households in Central Luzon*, PHILCUSA & USOM, 1954; Oppenfeld, et al., *Farm Management, Land Use and Tenancy in the Philippines*, College of Agriculture, U.P., Los Baños, 1957.

Rural Reconstruction Movement (PRRM) and the Federation of Free Farmers (FFF) were also initiated.¹⁵

In the Philippines, reform action programs to solve agricultural tenancy problems and difficulties may be set in two categories. In the first are the cases where tenancy difficulties and problems are compounded by other factors, e.g. high incidence of tenancy and, therefore, uneconomic-size holdings; acutely deteriorated agrarian conditions induced by sub-marginal levels of living in the over-population areas; lack of adequate marketing and credit facilities, sub-standard cultivation equipments and methods, etc. These are true in high-tenancy frequency areas where tenancy percentage to total farm population reaches to 75% or over of the total farm workers and, where discontent and/or unrest is endemic. The other is where the tenancy problem is not aggravated with the problems mentioned above. In the former case, the solution must include the other agrarian and land reform measures—resettlement and/or land transfer, extension of credit and marketing facilities, etc. In the second, correction of tenancy difficulties will serve to improve conditions of the tenantry, with the minimum of assist from other remedial programs.

Improved Agricultural Tenancy. It is not the objective of our tenancy improvement measures to eradicate tenancy, or execute a program of land transfer on the scale effected in Ireland, Denmark and Mexico¹⁶ earlier, or in Japan¹⁷ and Taiwan¹⁸ recently. For agricultural tenancy is not *per se* an undesirable socio-economic institution. Properly regulated it provides a path to remedial measures, by which to correct defects in the agrarian structures, which are obstacles to economic development. Improved tenancy conditions can offer security, fair returns, assurance of future returns for present investments, improved levels of living and the social and political independence of individuals, prerequisite to first class citizenship—the experiences of Great Britain and Mid-western United States. Finally, tenancy injects an element of flexibility into the tenure system. An owner-occupant when necessity arises—e.g. illness or old age—can lease part of his land to be worked by tenants. Tenancy may even provide means for young men with willingness to work, but without money and family help, to become established in farm-

¹⁵ See Dr. Velmonte, Jose, *Farm Ownership & Tenancy in the Philippines*; LAND TENURE. *Proceedings of the International Conference on Land Tenure and Related Problems in World Agriculture* held at Madison, Wisconsin, 1951, pp. 180 et seq.; Dr. Motheral, Joe R., formerly Land Tenure Consultant, ATC, *Comparative Notes on P.I. and Other Asian Land Tenure Systems*, ATC Report 1955, pp. 121 et seq.

¹⁶ See UN, *Land Reform*, op. cit., supra.

¹⁷ See Hewes, Laurence I., Jr., *Japan, Land and Men*, 1955; Dore, R.P., *Land Reform in Japan*, 1959.

¹⁸ See Tang, Hui-Sun, *Land Reform in Free China*, 1954.

ing and eventually to rise to owner occupancy as the result of their labor, farm skill and thrift.¹⁹

Measures for Tenancy Improvement. Approaches towards institutional reforms in agricultural tenancy seek changes and reforms calculated to place relationship upon equitable and productive bases. These improvements invariably include the following—(1) delineation of the rights and responsibilities of the parties to the relations; (2) extension of security of tenure in the use and occupancy of land; (3) the determination of fair and equitable share bases and/or rental payments; (4) encouraging adoption of proven farm practices and intensive cultivation; (5) prohibition or curtailment of extra-rental payments and/or unjust exactions; (6) discouraging landholder absenteeism and tenant sub-letting of the holding; (7) developing tenants' managerial abilities and capital accumulation; (8) provisions for landholders' and tenants' equities in the event of the termination of the relations; (9) encouragement of the reduction of the terms of the relations into written agreements; (10) provisions for the settlement, arbitration and/or determination of disputes/differences/cases and others.

In recent years, governments in both the more advanced and the underdeveloped nations have shown great interest in improving conditions of tenancy. In the United Kingdom, the Agricultural Holdings Act of 1948 is detailed about tenant rights, giving greater security to tenants. A French law passed in 1946 guarantees the tenant the right to renew his leases even against the will of the landlord, and provides compensation if he leaves. In Brazil, the Civil Code provides that the term of the lease must cover the harvesting of the first crop. In Japan, the law of October 1946 provides security for tenants and sets maximum levels of rent. In Taiwan, rents are limited and minimum conditions of tenancy prescribed by legislation. In India, the Bombay Tenancy and Agricultural Lands Act of 1948 provides comprehensive minimum standards for tenancy contracts. Other Indian states, including Hyderabad, Surashtra, and West Bengal, have passed tenancy legislation.²⁰

IV. PHILIPPINE TENANCY REFORM—OBJECTIVES

A. Institutional Reforms

Immediate Objectives of the Agricultural Tenancy Act. Since the adverse impact of agricultural tenancy in the Philippines affects the political, social and economic life of the country, the objectives

¹⁹ UN, FAO, Timmons, John F., *Improving Agricultural Tenancy*, op. cit.; Ackerman, Joseph & Harris, Marshall, *Family Farm Policy*, 1946, pp. 421 et seq.

²⁰ FAO, UN, *Improving Agricultural Tenancy*, op. cit., p. 5; *Family Farm Policy*, op. cit., pp. 425 et seq.

of reform measures are directed towards these areas. But, while the political scientist sees agricultural tenancy as a threat to the established order; while the sociologist looks upon it as a serious deterrent to social improvement; and, while the economist deplors its shortcomings as impediments to economic development and agricultural production—the policy-makers must integrate these, as they formulate policies for tenancy reforms and the measures for their implementation and/or enforcement.

The Supreme Court has held that agricultural tenancy reform measures, along with labor and social welfare laws, are remedial legislation promulgated pursuant to the constitutional injunction to regulate tenancy relations, and promote social justice; and in the exercise of the police power of the state to effect the common weal.²¹ This broad statement of the objective of agricultural tenancy reform measures, however, merely stresses the power of the state to effect the reform. Congress, therefore, spelled out the objectives for tenancy reform, in great detail thus—(1) to place tenancy relations between landholders and tenants upon the principle of social justice; (2) to afford adequate protection to the rights of both tenants and landholders; (3) to insure an equitable division of the produce and income derived from the land; (4) to provide tenant-farmers with incentives to greater and more efficient agricultural production; (5) to bolster their economic position; and (6) to encourage their participation in the development of peaceful, vigorous and democratic rural communities.²²

Because the basic weaknesses of agricultural tenancy spring from the lack of adequate definition of the rights and duties of the parties, the law defines the rights and obligations of the parties in great detail.²³ The iniquities in the sharing bases and/or the rental rate, are sought to be corrected through the provisions on sharing and rental rates.²⁴ Because tenant under-production has been a factor in our failure to achieve self-sufficiency in staple crops—palay and corn²⁵—incentives to increased production by tenant-farmers include security of tenure,²⁶ the equitable sharing bases and/or rental rate,

²¹ *Vda. de Ongsiako v. Gamboa, et al.*, G.R. No. L-1867, April 18, 1950, *CAR Journal*, March 1956; *Primero v. Court of Agrarian Relations, et al.*, G.R. No. L-10594, May 29, 1957, *CAR Journal*, June 1957.

²² Sec. 2, Rep. Act No. 1199, as amended.

²³ Secs. 3-5, 22-27, 36, 37, 38, 43 & 44, *id.*; *David v. Judge Jose M. Santos, et al.*, G.R. No. L-13712, Sept. 30, 1959; *Pagdanganan v. CAR*, G.R. No. L-13858, May 31, 1960; *Atayde v. Judge de Guzman, et al.*, G.R. No. L-12592, March 31, 1959; 55 O.G. 13, p. 2234; *Jose, et al. v. Tinio Vda. de Gabaldon*, *CAR Cases Nos. 19-37*, NE, Feb. 14, 1959 per Judge Jose R. Caba-tuando: *id.*

²⁴ Secs. 32-35, 41, Share—See *Arcadio v. Pedro*, *CAR Case No. 57*—Bul. '56, Dec. 15, 1956 per Executive Judge G. S. Santos, *CAR Journal*, Dec. 1956; *Somera v. Jumaquio*, *CAR Case No. 30*, Bul. '56, Feb. 28, 1957, per Executive Judge G. S. Santos; Sec. 46, Leasehold—*Pangan v. Maingat*, *CAR Case No. 238*, Bul. '58, March 25, 1960, per Executive Judge G. S. Santos; *id.*

²⁵ See Manila JAYCEES, *Economic Affairs*, *Daily Mirror*, Dec. 6, 1961.

²⁶ Secs. 49 & 50, *Tapang v. Robles & CIR*, 72 Phil. 79, *Noble et al. v. Fatagani, et als.*, *CAR Case No. 54*, Iloilo, Feb. 14, 1956, Per Executive Judge G. S. Santos; *id.*

and production incentives.²⁷ The definition of the rights and responsibilities of the tenantry affords incentives to production; prevents exploitation of the tenantry and precludes extra-rental exactions. Reduction to written terms of tenancy contracts is encouraged.²⁸ The economic position of the tenantry is improved, first, through the equitable sharing bases and/or rental rate,²⁹ the security in their tenure, plus the concomitant reforms, i.e., extension of credit and marketing facilities, agricultural extension services, access to fertilizer needs and public improvements, e.g., irrigation systems and feeder roads, etc. Landholder absenteeism³⁰ and tenant sub-letting³¹ are discouraged. Interests rates and the manner and time of debt payments are regulated.³² Improvements in the living standards of tenant-farmers encourage their active participation in the responsibilities of community life. Formation of tenants' union and organizations are exempted from interference by landholders.³³ Community development projects enable the tenantry to play active roles in community activities. All the foregoing help reduce the tenantry's susceptibility to communist infiltration or persuasion. These are the direct and immediate results of the implementation of specific provisions of the Agricultural Tenancy Act.

Long-range Effects of Tenancy Reform. Over and beyond these, however, certain long-range effects are envisioned by the measure.

(1) *Income Redistribution.* The first of these is income redistribution—a socio-economic objective calculated to increase equality of status and opportunity among individual members of the agrarian sector. The correction of the sharing bases from the traditional pattern, i.e., 50-50 into the proper proportions laid down by the law results in income redistribution. For, if, as the law finds, the sharing bases are inequitable because disproportionate to the relative values of the contributions to the production, the tenantry stand to receive more than their present shares, by the difference between their present and their proper shares. While individually, this may mean only some odd cavans of palay or a greater share in the coconut, corn, tobacco, sugar cane, and other produce, col-

²⁷ Secs. 5(1) & (r), 25(2), 30, 46(a), etc., *id.*

²⁸ Secs. 11, 12 & 13, *id.*; See *Cano, et al. v. Judge Cabangon, et al.*, G.R. No. L-12764, Dec. 23, 1959; *Ongsiako, et al. v. Judge Cabatuando, et al.*, G. R. No. L-10738, March 19, 1959.

²⁹ Report, Los Baños, Leasehold Tenancy, *Manila Times*, Dec. 2, 1961.

³⁰ Sec. 8, *id.*; *Pangan v. Estrada, Gutierrez, Intervenor, CAR Case No. 13 (Laguna)* '57, March 31, 1953, per Judge Jose R. Cabatuando.

³¹ Secs. 3-5, 24(2) & (3), *id.*; *Buencamino v. Judge Reyes, et al.*, G.R. No. L-11951, Nov. 29, 1958, 56 O.G. No. 4, p. 742.

³² Secs. 15, 16, 17, 18 & 48, *id.*; *Yusay v. Alojado, et al.*, G.R. No. L-14881 & 15001-7, April 30, 1960; *Mateo v. Duran & CAR, et al.*, G.R. No. L-14314, Feb. 23, 1961; *Maniego v. Castelo*, G.R. No. L-9855, April 29, 1957; 54 O.G. No. 1, p. 60, Jan. 25, 1958.

³³ Sec. 27(5), *id.*; *Gallego, et al. v. Kapisanan Timbulan Manggagawa*, G.R. No. L-1868, March 17, 1949.

lectively it amounts to a considerable sum. By the latest CAR figures some 2½ million pesos worth of crop-shares have been redistributed to the tenantry. This is a rough estimate and does not take the effect of other reform agencies into account. The figures will be considerably more if the tenantry are in a position to elect the sharing bases and/or the leasehold system. Income redistribution of this kind is likely to produce healthy effects upon the rural economy and relieves in some measure, poverty and sub-marginal conditions among the farm-workers.

(2) *Capital Investment.* Another consists in the redirecting of capital investment incentives from rentier wealth in land to industries—an indispensable requirement at this stage of our economic development. For as the country shifts gradually but surely from a purely agricultural to an agro-industrial complex, the need for adequate capital for industrialization is at its highest. It is obvious that in the agricultural economy fostered by both the colonial regimes, Spanish and American, the landholders, big and small, were the ones mainly responsible for production of staple—palay, sugar cane and corn—and export—abaca, sugar cane, coconut, tobacco—crops. With the need for the shift towards industrial development, the landholder elite must respond to the call for required capital investments in industries. Short of their vigorous response to this challenge, the Philippines will be in critical need of capital to initiate and/or continue required industrial efforts. The Agricultural Tenancy Act indirectly—thru its provisions on security of the tenants' tenure, revised share bases and/or rental rates—assists in creating the incentive for this transfer of investments to industry. As it is, many landholders have sold their holdings as they realize the restrictive implication of tenancy on their capital returns. A manifestation of this is the conversion of a number of agricultural holdings into homesites to accommodate population pressures on urban centers, and industrial sites—notwithstanding insistence by the tenantry to security of tenure under restrictive ejection provisions of the law.³⁴ Revision of policies on investment incentives and taxation will lend further impetus to this needed trend in capital investments.³⁵

(3) *Share to Leasehold System.* Still another significant direction of reform unique to Philippine tenancy reform approach, is the planned shift of tenancy practices from share to leasehold.³⁶ Of the

³⁴ *Mellitona Estate, Inc. v. De Guzman, et al.*, G.R. No. L-11912, April 30, 1959; *Guevarra v. Manotok Realty, Inc.*, CAR Case No. 97—Rizal '60, Decision, July 18, 1961 per Executive Judge Guillermo S. Santos.

³⁵ See UN, FAO, *Land Reform—Defects in Agrarian Structure as Obstacles to Economic Development*, New York, 1951; Macaspac, Isidro S., *Land Reform Aspects of the Agricultural Development Program*, National Economic Council (1961), p. 9.

³⁶ Sec. 14, Rep. Act No. 1199, as amended. Congressional Record (Senate), Third Congress, First Session, May 19, 1954, Vol. I, No. 76, pp. 1349-1357 and July 28, 1954, Vol. I, No. 8, p. 106.

two systems—share and leasehold—tenure specialists consider the latter as more preferable. The share system is characterized for production, where responsibilities for decisions rest on both. The leasehold system on the other hand invites managerial capacities and skills on the part of the tenant-lessee and thus gives greater incentives to increased production through assumption of the major risks by the tenant. Several tenants have sought the change of system. This trend is expected to hasten as credit facilities through ACCFA and the Rural Banks become available to the tenantry. The constitutionality of the provision having been raised before the Court of Agrarian Relations and the Supreme Court, however, the change must await determination of this issue.³⁷

(4) *Owner-Cultivatorship*. Then there is the encouragements of owner-cultivatorship. Several thousand small landholders have become interested in personal cultivation since the approval of the Act in 1954. But for restrictive provisions on farm mechanization of sizeable holding (100 hectares or over), probably more will apply for permission to mechanize.³⁸ From 1954 to date, the CAR has docketed less than a dozen cases for farm mechanization. This indicates that policy concern for security of the tenant's tenure in view of acute unemployment and population explosion in tenancy concentration areas have been upheld. The trend to partial mechanization without tenant ejectment has also been set through NARRA and/or LTA. To give further impetus to owner-cultivatorship, the CAR concurred in the proposal of the Code Commission to grant pre-emption and redemption rights to tenants, whose holdings are sold to third parties.³⁹ Liberal credit policies will, however, be needed to assist the tenantry to purchase their holdings in these ways.

(5) *Democratic Rural Communities*. Finally, the Act seeks the tenantry's participation in the development of democratic, rural communities. Of timely relevance to this long-range effect are the voting patterns in the national elections just concluded. Under present conditions, the electoral franchise is the most direct citizen-participation in the democratic processes. The free exercise of the privilege by the rural population and the tenantry is an index of their faith in and adherence to democratic ideals and institutions.

President Macapagal won the last election on a variety of issues; but notable was his appeal to and the response of the rural voters.

³⁷ *Juliano v. CAR et al.* G.R. No. L-17627; *Manalili, et al. v. Ilusorio, et al.*, CAR Case No. 511—Bulacan '60, and other cases.

³⁸ Sec. 50(a), Rep. Act No. 1199, as amended; Interview with Mr. Victor de los Reyes, grantee of permission to mechanize 600 hectares in Paz Ongsiako, Inc. v. Adolfo, et al., CAR Case No. 668—NE '57. Decision, March 25, 1959 per Judge Jose R. Cabatuando.

³⁹ *Antiporta v. Reyes*, CAR Case No. 353—Laguna, SC '60, Nov. 4, 1961. *Cruz v. Pangan*, CAR Case No. 368—Bulacan '59, *Pangan v. Tiongson*, CAR Case No. 371—Bulacan '59, Jan. 5, 1962, all per Executive Judge Guillermo S. Santos.

In the case of Vice-President Pelaez, his decisive lead of 200,000 over his two rivals, Sen. Puyat and Representative Osmeña, in Central Luzon may be due to the fact that he made "agricultural tenancy reforms" and "rural autonomy" as campaign issues—since the voting population in Central Luzon, a high tenancy-frequency area, may be conservatively placed at 5 to 7 tenants for every 10 voters. Vice-President Pelaez' lead in Central Luzon may, therefore, be ascribed to endorsement by the tenantry. And since his margin of victory is only equal to his lead in Central Luzon, it is obvious that the Central Luzon votes were decisive of the vice-presidential race. While active and free participation of the tenantry in the last election was no doubt made possible by several factors, it would not be entirely wrong to credit this partly to tenancy reform—the Central Luzon voters' principal concern.

B. Procedural Reforms

History of Tenancy Law Enforcement. An inseparable requirement of successful reform is the machinery for the enforcement/implementation of the remedial measures. For reforms which institute innovations—radical or mild—in the institutional set-up is bound to be resisted and/or the very subjects of reform may not be in a position to implement the changes desired by the legislation. Reform legislation, therefore, without the proper means of enforcement and implementation are worse than useless. This is especially true among our tenantry. Difficult to organize—unlike their counterparts in industry—they have had weak bargaining positions; ignorant, and in instances, desperately poor, they had been the easy prey of irresponsible, self-seeking leaders, not a few among whom were radically inclined, and worse, communists.

Originally, the enforcement program for tenancy reform measures failed to take the problems of the tenancy into account. Tenancy cases were filed in 1929 with the ordinary courts. In no time, it was found that the ordinary judicial processes were too cumbersome, expensive and slow. The Tenancy Law Enforcement Office (TLEO), a purely administrative agency, was then provided for in 1958. This, however, labored under a handicap; it did not have the power to enforce its decisions.⁴⁰ The TLEO was in 1950 placed under the Court of Industrial Relations (CIR). The pre-occupation of the CIR with labor (industrial) cases, however, resulted in delayed action on some 30,000 tenancy cases/disputes filed during the periods 1939-41 and 1946-55. The inequality in the social and financial positions between the tenants and landholders and the lack of means

⁴⁰Lerma, Deogracias E. (formerly, Chief, TLEO Department of Justice) *The Evolution of Agrarian Laws in the Philippines* (Thesis) 1948.

of the former to file actions with the CIR—which had its seats in urban centers—were serious hindrances to the tenantry in their efforts to seek redress for their grievances. These were the compelling considerations why the Court of Agrarian Relations (CAR) an administrative tribunal like the CIR with quasi-judicial powers, was constituted to enforce all tenancy laws with jurisdiction to “consider, investigate, decide, settle all questions, matters, controversies or disputes in tenancy.”⁴¹ The CAR was created after efforts at implementation of tenancy reform measures thru the ordinary courts, then by a purely administrative agency—the TLEO, and still later by the CIR—proved inadequate.⁴²

Court of Agrarian Relations. Organized in nine (9) Regional Districts, and as many Branches, it hears cases in the site of disputes.⁴³ Limited in the number of days required for the promulgation of decisions/orders;⁴⁴ exempt from technical rules of evidence;⁴⁵ empowered to adjudicate issues brought in the course of proceedings, as long as evidence are adduced and the parties afforded a chance to traverse the issues;⁴⁶ provided direct appeals to the Supreme Court for review of decisions on questions of law, and findings of fact when the decision is not supported by substantial evidence;⁴⁷ and authorized, through its Rules of Procedure, to adopt ways and means for expeditious settlements of disputes thru pre-litigation and pre-trial proceedings⁴⁸—the CAR insures prompt and inexpensive proceedings, aimed towards the expeditious settlement and determination of cases and disputes.⁴⁹ It places major reliance upon pre-litigation and pre-trial proceedings, under its broad judicial grant of powers to enhance the settlement of disputes/cases and prevent deterioration of relationship.⁵⁰ In addition, interlocutory orders calculated to stabilize the *status quo*, pending actual litigations in the matter of ejectments and provisional liquidation of crops, prevent disputes from making a turn for the worse.⁵¹

Other Tenancy Reform Agencies. Mention should be made of the other agencies for tenancy reform, namely, the Agricultural Ten-

⁴¹ Secs. 1 & 7, Rep. Act No. 1267, as amended by Rep. Act No. 1409. (1) *Scoty's Dept. Store et al. v. Micaller*, G.R. No. L-3116, Aug. 25, 1956, CAR Journal, Sept. 1956; (2) *Reves Vda. de Arejola v. Cam. Sur Reg. Agri. School, et al.*, G.R. No. L-15753, Dec. 29, 1960; (3) *Santos v. CIR, et al.*, G.R. No. L-17196, Dec. 28, 1961.

⁴² See Santos, G.S., *The Law on Agricultural Tenancy in the Philippines*, 1957, pp. 162, et seq.

⁴³ Sec. 6, Rep. Act No. 1267, as amended by Rep. Act No. 1409.

⁴⁴ Sec. 5, *id.*

⁴⁵ Sec. 10, *id.*

⁴⁶ Sec. 11, *id.*

⁴⁷ Sec. 13, *id.*; *Tria, et al. v. Zabaña, et al.*, G.R. No. L-14397, Dec. 28, 1961.

⁴⁸ Sec. 10, *id.*

⁴⁹ See CAR Manual on Procedure in Pre-Litigation Proceedings (Mediation and Arbitration) 1958; Comments: *Administrative Procedure—Pre-Litigation Proceedings in the Court of Agrarian Relations*, XXXV Philippine Law Journal, U.P. College of Law, Nov. 1960, pp. 1707 et seq.

⁵⁰ Rule 8, Rules of the CAR.

⁵¹ Rule 10, *id.*

ancy Commission (ATC) and the Tenancy Mediation Commission (TMC). The former is in charge of the information drive to bring the law to the consciousness of the landholders and tenants all over the country. It also conducts the necessary research studies and surveys to determine the equity and utility of its provisions. Finally, the ATC conducts investigations of applications for mechanization of farms and issues certifications to this effect. The TMC mediates disputes that are brought to its attention before the filing of formal proceedings with the CAR, and extends free counselling services to indigent tenants.

V. EXISTENTIAL CONDITIONS IN AGRICULTURAL TENANCY

In General. Today, some seven (7) years after the enactment of the tenancy measures, the goals of reform—*viz.*: (1) institutional improvements in landholder-tenant relations, (2) promotion of equitable sharing bases and/or fair rental rates, (3) protection of the rights of both parties, (4) securing the tenants' tenure and improvement of their socio-economic position, (5) grant of incentives to agricultural production, and (6) promotion of the tenantry's participation in the development of rural communities—still remain to be finally achieved.

The extensive and intensive enforcement and implementation of the Act during the period have produced results which can be considered success-elements toward the achievement of the reform objectives. Thus it is generally conceded that existential conditions *viz-a-viz* the tenancy situation in 1950 show marked improvement in the peace and order posture in high-tenancy frequency areas of the country. Even the recent outbursts of alleged communist-inspired violence in Central Luzon after the election just concluded, have not affected the normalcy of conditions materially. These satisfactory conditions of peace and order in the tenancy concentration areas is undoubtedly the effect of the land reform and rural development programs inaugurated by the late President Magsaysay and is, therefore, partly attributable to tenancy reform measures.

No survey/study has been made of the existential tenancy conditions as effected by the reform measures and their implementation by the tenancy-reform action agencies. The most noteworthy survey/study on tenancy, both in scope and depth, was that undertaken by Oppenfeld, Sta. Iglesia, et al,—of the Faculty, and Volunteer Students, of the College of Agriculture of Los Baños in 1957.⁵² The im-

⁵² Horst & Judith Von Oppenfeld, J. C. Sta. Iglesia & P. R. Sandoval, *Farm Management, Land Use & Tenancy in the Philippines* (1957).

pact of the reform measures, therefore, can only be assessed through the activities of these agencies.

Agencies of Primary Responsibility—CAR, ATC, TMC. The Court of Agrarian Relations docketed some 24,000 cases during the period 1956-1961. An average of 3,600 cases were filed, while an average of 3,040 cases were settled/decided per calendar/fiscal year. It took an average of 4 months and 4 days to decide/settle disputes/cases as against 3 years and 2 months under the TLEO-CIR set-up. It heard 88% of the cases in the site of the disputes; 12% at the seats of the Regional Districts/Branches. The proportion of tenant-to-landholder-instituted cases is 80% to 20% of total cases filed; that of de-parte to de-oficio handled cases—90% to 10%. By placing proper stress and reliance on pre-litigation and/or pre-trial proceedings, cases have been determined at the least expense and/or inconvenience to the parties. Illegal ejectments have been forestalled; provisional liquidations have insured the tenants' undisputed shares of crops when they need these.

Finally, the CAR contributed to the jurisprudential developments in agricultural tenancy through its various decisions clarifying and interpreting the provisions of the tenancy act.⁵³ Some of these, having been affirmed by the Supreme Court, are now authoritative jurisprudence;⁵⁴ others had been adopted in the amendatory legislation⁵⁵ as improved features of the Agricultural Tenancy Act.⁵⁶

⁵³ Annual Reports of the Executive Judge, FY 1955-56, 1956-57, 1957-58, 1958-59, 1959-60, 1960-61.

⁵⁴ Affirmed by the Supreme Court in *Melitona Estate, Inc. v. De Guzman, et al.*, G.R. No. L-11912, April 30, 1959—(1) Santos v. De Guzman, CAR Case No. 4—Rizal '56, June 12, 1956—I CAR Reports 293; (2) De Guzman v. Melitona Estate, Inc., CAR Case No. 10—Rizal '56, Dec. 15, 1956—I CAR Reports 602—both per Executive Judge Guillermo S. Santos; (3) Fernando v. Simbulan, CAR Case No. 52—Bulacan, June 21, 1956, per Judge Jose R. Cabatuando.

Affirmed by the Supreme Court in *Joya v. Pareja*, G.R. No. L-13258, Nov. 28, 1959—(1) Pareja v. Joya & Tahimic, Joya, interveror, CAR Case No. 6—Cavite '56, Nov. 9, 1957 per Executive Judge Guillermo S. Santos—II CAR Journal (Dec. 1957), p. 305.

⁵⁵ Rep. Act No. 2263. Approved June 19, 1959. See Santos, G. S., *The Law on Agricultural Tenancy in the Philippines* (Supplement) 1959.

⁵⁶ Adopted in Sec. 9, Rep. Act No. 1199, as amended: (1) Musca v. Briones, CAR Case No. 12—Quezon, June 22, 1956, per Judge Jose M. Santos; (2) Villanueva v. Reyes, CAR Case No. 45—Bulacan, May 6, 1957, per Executive Judge Guillermo S. Santos; (3) Pareja v. Joya & Tahimic, *supra*; (4) Panlasique v. Buencamino, CAR Case No. 194—Nueva Ecija '56, Oct. 17, 1976, per Judge Pastor L. de Guzman; (5) Legarda, *et al.* v. Digdigan, CAR Case No. 161—Iloilo, Feb. 13, 1956, per Judge Tomas P. Panganiban—I CAR Journal (March, 1956), p. 29; (6) Gayona, *et al.* v. Vda. de Varela & Pallorina v. Vda. de Varela, CAR Cases Nos. 648-672—Neg. Occ. '53, Oct. 1, 1958, per Judge Jose M. Santos—III CAR Journal (Dec. 1958), p. 255.

Adopted in Sec. 22(2) Rep. Act No. 1199, as amended: (1) Sison v. Farin, CAR Case No. 44—Cavite '56, May 20, 1957, per Executive Judge Guillermo S. Santos; (2) Tagatac, *et al.* v. Moreno, CAR Case No. 870—Nueva Ecija '58, Oct. 20, 1958, per Judge Jose R. Cabatuando.

Adopted in Secs. 25(1) & 32, RA 1199, as amended—(1) Jumaquio, *et al.* v. Somera, CAR Case No. 30—Bulacan '56, Feb. 28, 1957, per Executive Judge Guillermo S. Santos.

Adopted in Sec. 25(1), Rep. Act No. 1199, as amended—(1) Dizon v. Canlas, *et al.* (CIR) Case No. 110—Pampanga, June 5, 1956, per Executive Judge Guillermo S. Santos.

Adopted in Secs. 25(2), 28, 31 and 50(e), Rep. Act No. 1199, as amended—(1) Arcadio v. Pedro, CAR Case No. 57—Bulacan '56, Dec. 15, 1956 per Executive Judge Guillermo S. Santos—I CAR Reports 591.

Adopted in Secs. 25(2) & 50(e), Rep. Act No. 1199, as amended—(1) Mayandoc v. Andres, CAR Case No. 224—Pangasinan '56, May 8, 1957, per Judge Tomas P. Panganiban—II CAR Journal (June, 1957), p. 129.

Adopted in Sec. 32, Rep. Act No. 1199, as amended: (1) Moster, *et al.* v. Katigbak & De Castro, *et al.* v. Katigbak, CAR Cases Nos. 156 & 158—Batangas '57, June 11, 1958 per Judge Jose R. Cabatuando—III CAR Journal (June, 1958), p. 118; (2) Villanueva v. Ellorencio, CAR Case No. 5—Nueva Vizcaya '56, Aug. 7, 1957, per Judge Tomas P. Panganiban, fixing rate at 5% of gross harvest; (3) Magdangal v. Yap, CAR Case No. 500—NE '57, Feb. 12, 1958, per Judge

CAR action on cases have been statistically collated as follows:

1. Cases involving correction of sharing system	4,297
2. Cases involving change of system—share to leasehold .	500
3. Tenants illegally ejected/maintained	3,839
4. Tenants illegally ejected/reinstated	2,232
5. Tenants ejected (mechanization; personal cultivation; just cause)	2,501
6. Tenants who voluntarily surrendered landholdings on different grounds, e.g. conversion to subdivision, in- dustrial site; personal cultivation; change of occu- pation, etc.	3,710
7. Cases involving improved farm practices	425
8. Cases involving tenancy contracts	6,000
9. Mechanization cases—	
a. Decided (affecting 206 tenant-families)	5
b. Pending (affecting 534 tenant-families)	17
10. Parties serviced by the Court—	
a. Landholders	40,564
b. Tenants	171,469
11. Estimated value of crops redistributed	P2,479,876.09
12. Estimated value of crops involved in litigations	P6,500,000.00 ⁵⁷

The ATC from organization to date had effectively brought the law, through various media of information, to the awareness of the remotest rural communities all over the country. There is, of course, no way of determining the exact percentage, much less number of the tenantry reached by this campaign effectively; however up to 50% is a fairly good estimate; or even more. It has processed forty-two (42) applications for certifications to mechanize farm operations involving 7,159.1 hectares and affecting 2,206 tenant-families. It has conducted research studies/surveys to determine the current price of work animals and farm implements and to determine what constitutes the tenant's labor in the production of coconut, corn, tobacco, and sugar as bases for equitable division of these crops.⁵⁸ The TMC has effected mediation services in 3,730 disputes involving palay, corn, coconut, sugar, tobacco, abaca, vegetables, etc., on ejectment, crop-sharing, rental, interest rates, tenancy contract, change of system, improvements, and provided tenancy counselling in 702 cases.⁵⁹ Because mediatory activities were undertaken by the ATC and TMC since organization of the former in 1955, the disputes handled by the two agencies, on the average of 3,000 per year, would run to a substantial 18,000 tenancy disputes to the

Jose M. Santos, fixing reaping fees at 10% of gross harvest; (4) *Marcos, et al v. Tinio, et al.*, CAR Case No. 16666—NE '59, May 27, 1959, per Judge Jose M. Santos, fixing reaping fee at 5 cavan per cavan reaped, or 8% to 9% of gross harvest.

⁵⁷ CAR Annual Report, FY 1960-61.

⁵⁸ ATC Annual Report (Com. Miguel T. Valera), FY 1959-60.

⁵⁹ TMC Annual Report (Com. Fernando A. Santiago), FY 1960-61.

present, to a period of six (6) years.⁶⁰ These agencies also contribute to the formulation of amendatory legislation to tenancy laws.

Land Reform Agencies—ACCFA, LTA, NARRA, EDCOR, BAE.

An assessment of the existential conditions in agricultural tenancy should include the effects of the activities of related land reform agencies, i.e. the ACCFA, NARRA, the LTA, the BAE—which have substantial bearing on the tenantry and the reform objectives.

The ACCFA—with authorized capital stock of ₱29,662,200.06, ₱567,149.00 of which is paid up—has released (through its 523 FACOMAS with Farmer Membership of 302,249 in 51 provinces, 1,752 municipalities, 12,786 barrios), loans for production, farm improvement, commodity, facility and merchandizing in the amount of ₱188,246,170.73.⁶¹ The agency has, therefore, extended credit facilities and marketing assistance to several thousand tenant-families all over the country. Credit facilities not only exempt the tenantry from obtaining loans at usurious rates of interest—it also enables them to effect improvement in their sharing system and/or improve their farm equipment or use farming aids—fertilizer, insecticides, better seeds, etc.

The NARRA and EDCOR resettlement programs are credited with having resettled 24,486 tenant-families in NARRA's sixteen (16) active resettlement projects with a total area of 306,385 hectares,⁶² and 1,049 families in five (5) EDCOR resettlement areas, respectively. The LTA has effected the purchase of and is in the process of perfecting the sale of 37 *haciendas* with an aggregate area of more than 15,000 hectares, and involving 25,000 tenant-families.⁶³ The conversion of the tenantry or landless farm workers to landowner-operator by the LTA, NARRA and EDCOR has very far-reaching effects. Since ownership is commonly accepted as the most direct route to improvement of living standards, the step has huge socio-economic significance. Organized settlement through the NARRA and EDCOR relieves population pressure on tenancy concentration areas; retards fragmentation of holdings; places unproductive areas into productive uses and leads to development of communities where there were none before.

The BAE has extended agricultural improvement services to several thousand tenant-farmers all over the country. It has made

⁶⁰ Cf. Kahita, Masaru, *Land Reform in Japan* (1959). In Japan 45,488 tenancy cases out of 82,205 tenancy disputes were brought to court from 1917 to 1945, the year previous to the Land Reform. In the Philippines, from 1938 to date we have had a total of 70,000 tenancy cases [CAR 24,000 (1956-61); 30,000 TLEO-CAR (1938-41); (1945-55); 18,000 ATC-TMC (1955-60) less 2,305 transferred from the CIR to CAR in 1956 or 69,695 tenancy cases/disputes, to be exact].

⁶¹ ACCFA Annual Report, FY 1959-60, 1960, Administrator Vicente A. Araneta, Jan. 15, 1961.

⁶² NARRA Annual Report, General Manager Bruno Aparri 1960-61; EDCOR Annual Report, Major Octavio Alzona, FY 1960-61.

⁶³ LTA Annual Report, Chairman Manuel Castañeda, FY 1960-61.

noteworthy contributions to the improvement of backward practices among farmers which will revolutionize their crude methods for increased production.

Other Agencies/Activities. Aside from the foregoing, other agencies engaged in, or activities bearing on rural development and/or improvement have had direct and/or indirect impact on the tenantry. Any improvement in the rural community is bound to affect the tenants' living standards—health, through the Rural Health Units, education, through the Barrio and Community Schools, roads, irrigation facilities, rural electrification or home industries, land titles, etc. The PACD and activities by the private sector, notably the Federation of Free Farmers (FFF) in tenancy counselling, PRRM, CARE, World Neighbors, extend far-reaching benefits to the tenantry, which facilitate achievement of reform objectives.

VI. OBSERVATIONS AND RECOMMENDATIONS

Historical Perspectives. Tenancy in its historical setting in the Philippines is the product of the peculiar socio-political scheme during the pre-Spanish *barangay* days, through the Spanish colonial regime, and, finally, the American Administration—when the problems it now poses were first recognized.

Private property in land having been institutionalized throughout these periods, tenancy as a tenure form became prevalent as a mode of agricultural production and means of peasant livelihood. Exploitation of the agricultural working class in the Spanish times was aggravated by the *encomienda* system; *caciquism* with its concomitant evils flourished and became a major motivation for the political and social unrest which culminated in the Philippine Revolution. While the early American administrators recognized the land problem, and the purchase of the friar estates—where agrarian discontent were endemic—was early set as a goal for tenure reform, the agricultural character of the economy and the free trade arrangement aggravated the agrarian problems. Tenancy incidence rose as the population increased. Agrarian unrest set in, as the peasantry, with their heightened expectations, sought for reforms in feudal practices. Measures of tenancy reforms were enacted in 1933—the Rice Shares Tenancy and the Sugar Tenancy Contracts Acts.

The Commonwealth Constitution—framed at the time when agrarian elements in Latin America and elsewhere were toppling governments—expressly recognized the agrarian problem, enjoined that landowner-tenant relations be regulated and that social justice be promoted by the State. President Quezon before World War II

gave substantial meaning to the social justice concept, as the agrarian elements became a threat to established order. After the liberation and the Independence, President Roxas was forced to recognize the magnitude of the movement for agrarian reforms, now better organized, more radical under Communist leadership—and the 70-30 law was passed.

Implementation of tenancy reform measures, however, were designedly inadequate, since political power was, at the period, almost the monopoly of the landlords and/or vested interests. By 1950, the Communist threat all over the world was widespread. In Asia, Communism, to the underfed and ignorant masses, represented the wave of the future. The peasantry in the Philippines desperate for reforms joined in this movement. Happily, rural uplift, land and tenancy reforms became accepted as effective answers to the Communist threat. President Magsaysay instituted vigorous, multiple approaches to agrarian unrest. Land to the landless projects, broader credit base, marketing facilities, agricultural extension, rural improvements were instituted.

Tenancy Reform Objectives. The aspirations of the tenantry the world over—from Venezuela through Iran and South Vietnam and the Philippines—are essentially the same: freedom from poverty, recognition as an equal partner in the tenancy relations; and, eventually, to own the piece of land, he and his family and their ancestors have worked and tilled for generations.

In the Philippines and most underdeveloped countries with predominantly agricultural economies, rural poverty is invariably linked, if not equated with, land tenure difficulties. The improvement of the conditions of the workers of the land—a considerable number of whom are tenants—is essential for political stability, social improvement and economic progress. President Macapagal's inaugural pledge: "... efforts to increase the productivity of the farmer and the laborer (tenants), to teach the common man scientific methods to lighten his burdens, to give land to the landless and in time to place within his means, the essential commodities for a decent living," is basically sound. Redeemed, it will contribute materially to self-sufficiency in palay and corn, one of the reasons for his party's victory in the last elections, and effect desirable reforms in landholder-tenant relations.

The new administration inherits problems in relation to agrarian unrest and rural poverty which have been improved to some extent by the multi-pronged and energized reform programs launched during the Magsaysay era of land reform. Agrarian unrest is not today as prevalent as it was in the 1950's; rural conditions have

improved somewhat. Although rural poverty is still prevalent and is to date a serious obstacle to economic growth, it has ceased to be a positive threat to political stability and normalcy in peace and order conditions.

Land Reform and Rural Improvements Projects. These programs, as a rough quantitative estimate, could have benefited in the sense intended, not more than 10%-20% of the agricultural, rural population. Their basic concepts are sound, however, and—except where graft or corrupt practices are found in their administrations—should be continued.

LTA and NARRA must operate, as an absolute requirement within high tenancy concentration areas only. Since these programs entail huge outlay of funds, it would be a criminal waste of public funds, if these do not contribute to sound tenure reforms. A better and more economical land transfer and/or distribution scheme is the grant of pre-emption and redemption rights to *bona-fide* tenants—originally proposed by the Code Commission in the Social Justice Code, and borne out by the experience of the Court of Agrarian Relations. This will implement President Macapagal's pledge to assist the landless peasantry to own the means of livelihood, by the most direct route, more feasible of control and less susceptible to administrative manipulations.

The ACCFA thru the FACOMAS should extend more credit and milling/marketing facilities to farmers and tenants, to increase production of staples, and assist the latter to elect sharing bases and/or leasehold system. Credit facilities offered by the Rural and Agricultural Development Banks should be liberalized, stepped up. The price support of ₱10.00 per cavan is absolutely necessary, particularly to the tenantry who are forced to sell in a low price market and to buy at higher one.

The Bureau of Agricultural Extension must reach not only well-to-do farmers but the submarginal ones mostly the tenantry, who deserve their attention most. As long as 30-50% of palay and corn and slightly less proportions of other crops e.g. coconuts, sugar, tobacco, are produced by the tenantry, no program of self-sufficiency in staples and increased production in other crops will succeed—unless the tenantry's production is also increased.

Community improvement projects such as the PACD should be intensified; home auxiliary industries should be promoted and developed; public improvements e.g. feeder roads, irrigation systems should receive higher priorities, in tenancy concentration areas, where population pressures are heaviest and rural poverty most acute.

The Tenancy Reform Measures. The following are, in appreciable degrees, the principal success-elements in the implementation of tenancy reform measures:

(1) The provisions of the tenancy reform measures have been brought to the awareness of landholders and tenants in nearly all parts of the country, through the activities of the ATC;

(2) The tenants' security of tenure has been strengthened;

(3) Sharing bases have been made more equitable in accordance with the provisions of the law, especially in palay farms which account for 50% to 70% of tenant farmers in the country;

(4) The leasehold system has been made more attractive, encouraging more tenants to elect this system;

(5) Owner-cultivatorship among small landholders has been encouraged;

(6) Proven, scientific farming practices among the tenantry have been promoted through encouragement in the use of certified seeds, fertilizers, pest, weed and disease control measures;

(7) Extra-rental exactions and/or usurious interest rates on loans from landholders have been discouraged;

(8) The rights and obligations of the parties have been delineated in palay holdings, and to some degree in other crops;

(9) Landholder absenteeism and tenant sub-letting of holdings have been discouraged;

(10) Tenancy contracts, in written forms, have been encouraged;

(11) Increased production incentives have been extended through security of tenure and fair share bases on principal and/or auxiliary crops; and

(12) The tenantry have been afforded access to courts and settlement/decision period on tenancy disputes/cases have been reduced from 3 years to 4 months, as a national average. The tenantry and the landholders have availed of the prompt and inexpensive proceedings of the CAR, in increasing numbers—1509 (FY 1958-58) to 2766 (FY 1956-57) to 3313 (FY 1957-58) to 3915 (FY 1958-59) to 4030 (FY 1959-60) and 4931 (FY 1960-61).

Among the failure-elements, with suggested courses of actions, are the following:—

(1) Efforts/responsibilities of tenancy reform action agencies—CAR, ATC, TMC—should be orchestrated/coordinated to eliminate overlapping of functions and duplication of activities. The CAR should be exclusively responsible for settlement, adjudication of tenancy cases/disputes. The TMC should be converted to tenancy counselling office, with branches in the provinces, and concentrate its

efforts at tenancy counselling, since only 10 to 15% of tenancy cases filed with the CAR are handled by *de officio* counsel. The ATC should consider closing information drive as this activity reaches saturation point, veer next to promotion of written contracts; and undertake research/survey studies to formulate legislation affecting (1) sugar, (2) coconut, (3) corn, (4) tobacco and (5) abaca crops to enable the tenants in these crops to avail of the equitable sharing bases and the definition of rights now available to palay holdings.

(2) Amend the restrictive provisions on farm mechanization. While it is true that farm mechanization serves to compound the problems of unemployment and under-employment among the tenantry ejected from their holdings, the provisions of the law on mechanization should be reexamined with the end in view of enabling landholders to mechanize their farms. Farm mechanization wherever feasible should be encouraged, for eventually Philippines farming must turn to mechanized equipments, locally produced where feasible. Automation is now common in most progressive countries; we are not even on the threshold of farm mechanization.

(3) Proper crop-sharing and/or rental rate in other crops, e.g. corn, sugar cane, coconut, tobacco, citrus, etc. should be provided to ensure equity in tenancy relations in these crops.

(4) The rights of the parties as to equities in the event of the conversion of the use of holdings into other agricultural—e.g. fish-ponds, grazing, salt-beds, etc. and/or non-agricultural were e.g. home-site subdivision, industrial sites, should be provided for.

(5) To date the 50-50 sharing bases—in palay and major crops e.g. coconut, sugar, sometimes corn, *tumanal* and perennial crops—is still predominantly observed, and the proportion of tenants on leasehold to those on share is nil. While this is due in some measure to resistance to change on the part of landholders, the inability on the part of the tenantry to elect the 70-30 sharing ratio due to lack of credit and marketing facilities is the principal cause of this failure in our reform program. The law, therefore, must insure fair sharing ratios and/or rental rates; and credit facilities should be made available to the tenantry in time and in sufficient amounts as their needs arise.

(6) Tax policies on landed wealth should be revised and incentives to investment in industries should be extended, to minimize speculative investments on land and further encourage capital shift from rentier wealth in land to industrial enterprises.