

AGENCY FOR INTERNATIONAL DEVELOPMENT WASHINGTON, D. C. 20523 BIBLIOGRAPHIC INPUT SHEET	FOR AID USE ONLY
---	-------------------------

1. SUBJECT CLASSIFICATION	A. PRIMARY Social Science
	B. SECONDARY Land Tenure

2. TITLE AND SUBTITLE
The Philippine experience with land reform since 1972, an overview

3. AUTHOR(S)
Medina, J. C.

4. DOCUMENT DATE 1975	5. NUMBER OF PAGES 22p.	6. ARC NUMBER ARC RP301.35.M491
--------------------------	----------------------------	------------------------------------

7. REFERENCE ORGANIZATION NAME AND ADDRESS
The Asia Society - SEADAG, 505 Park Avenue,
New York, N. Y. 10022

8. SUPPLEMENTARY NOTES (*Sponsoring Organization, Publisher, Availability*)

(In SEADAG papers on problems of development in Southeast Asia, 75-3)

9. ABSTRACT

A description and explanation of the significant features and experiences of the Philippine Agrarian Reform Program begun in 1972. Included are: 1) the forced transfer of all tenanted rice and corn lands to tenant farmers; 2) landowners' retention rights; 3) types of landowner compensation; 4) popular participation in land valuation; 5) the limited title to land transferred; 6) cooperative-land transfer tie-up; 7) expanded quasi-judicial powers of the Department of Agrarian Reform (DAR); 8) the new role of the DAR's field personnel; and 9) the integrated approach to agrarian reform.

10. CONTROL NUMBER PN-AAB-421	11. PRICE OF DOCUMENT
----------------------------------	-----------------------

12. DESCRIPTORS	13. PROJECT NUMBER
	14. CONTRACT NUMBER AID/ea-C-1077
	15. TYPE OF DOCUMENT

RP
301.35—
M491

SEADAG PAPERS

ON PROBLEMS OF
DEVELOPMENT IN SOUTHEAST ASIA

*THE PHILIPPINE EXPERIENCE
WITH LAND REFORM SINCE 1972:
AN OVERVIEW*

Jose C. Medina, Jr.

SOUTHEAST ASIA DEVELOPMENT ADVISORY GROUP



The Asia Society — SEADAG
505 Park Avenue
New York, N.Y. 10022



75-3

THE PHILIPPINE EXPERIENCE

WITH LAND REFORM SINCE 1972: AN OVERVIEW

*Jose C. Medina, Jr.
Department of Agrarian Reform
Republic of the Philippines*

This paper was originally presented by Mr. Medina at the Rural Development Panel seminar on "Land Reform in the Philippines," held at the Pines Hotel, Baguio, Philippines, from April 24 through April 26, 1975.

The views and conclusions of the paper are exclusively those of the author. The paper may not be quoted or reproduced without the author's express permission.

INTRODUCTION

The purpose of this paper is to describe and explain the more significant features and experiences of the Philippine Agrarian Reform Program inaugurated by Presidential Decree No. 27 on October 21, 1972. Agrarian reform in various forms and degrees has been carried out in the Philippines since the Spanish regime. However, this paper will not focus on the historical background of the present program but on those features of it which the author regards as unique in comparison with the program previously implemented by the government.

For purposes of this discussion the following program features have been identified:¹

1. forced transfer of all tenanted rice and corn lands to tenant farmers;
2. retention rights of landowners;
3. modes of landowners' compensation;
4. peoples' participation in land valuation;
5. limited title to the land transferred;
6. cooperative-land transfer tie-up;
7. expanded Department of Agrarian Reform (DAR) quasi-judicial powers;
8. new role of DAR field personnel; and
9. integrated approach to agrarian reform.

The problems encountered in the implementation of each of these features will be discussed.

-
1. In identifying these features the following criteria were used: (1) they did not generally exist before October 21, 1972, or if they did exist, received very limited application; (2) they tended to facilitate the achievement of program objectives; and (3) they further "revolutionized" the program in the sense that they became more prominent than before.

*FORCED TRANSFER OF ALL TENANTED RICE
AND CORN LANDS TO TENANT FARMERS*

On August 8, 1963, when the Agricultural Land Reform Code was signed into law, it became the policy of the state to establish owner-cultivatorship and the economic family size farm as the basis of Philippine agriculture, and as a consequence to divert landlord capital from agriculture to industrial development.

Under the Land Reform Code, however, the government did not proceed immediately to convert tenant farmers into owner-operators but decided to adopt a "gradual" process of tenurial transition from sharecrop tenancy to leasehold tenancy, then to amortizing ownership, and finally to owner-cultivatorship. From 1963 to 1972, the government was preoccupied with the conversion of sharecroppers into lessees. There were, of course, sporadic purchases by the Land Bank of private agricultural lands for resale to the lessees. During this period, 133,420 sharecrop tenants were converted into lessees, or an average of 14,825 tenants converted per year. From 1972 to the present, 125,735 sharecroppers were converted, or an average of 64,812 conversions per year. With regard to the conversion of leaseholders to amortizing owners, only 29,995 farmers were converted between 1966 and 1972. Under P.D. No. 27, 194,392 tenant farmers were issued Certificates of Land Transfer from 1972 to the present, a 648 percent increase over the cumulative performance before 1972.

The accelerating element in the conversion of tenant farmers into owner-operators under P.D. No. 27 is the following provision:

The tenant farmer, whether in land classified as landed estate or not, shall be deemed owner of a portion constituting a family size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated.

The decree is very clear insofar as its intent to accelerate the establishment of owner-cultivatorship and the economic family size farm as the basis of Philippine agriculture because the tenurial status prescribed is ownership. It no longer reiterates the intermediate stage of leasehold, for amortizing ownership is forthright directed. Also, the economic family size farm is specified -- five hectares for nonirrigated and three hectares for irrigated lands.

Under P.D. No. 27, the principle underlying land ownership transfer was the conversion of lease rents to amortization payments. When R.A. No. 3844 was amended by R.A. No. 6389, there were two instances where the lease rents were to be credited as amortization -- when the landholding is expropriated by the government, and when it is the subject of the exercise of redemption. The reason behind this amendment was to remove the means available to landowners for delaying expropriation proceedings

and selling tenanted lands to third parties. Expropriation proceedings are long and tedious and the farmers usually suffer. Crediting the lease rent as amortization upon the start of expropriation discourages the landowner from delaying the proceedings because, after all, the payment for the land is already made operative.

Under P.D. No. 27, this conversion of lease rents into amortization payments became the main strategy for ownership transfer. This was further reinforced by the mandate that the tenant farmers were deemed owners of the land they were tilling as of October 21, 1972.

The statement of policy is one thing, however, practice another. Insofar as the policy is concerned, it is clear that the tenant farmers shall be deemed owners. But what is the meaning of "deemed owner?" This is a new term in land reform vocabulary and it can also be considered a new land tenure status, just like leasehold. In the proposed rules and regulations for the implementation of P.D. No. 27, the DAR defined "deemed owner" as "being considered, regarded, acknowledged, recognized and held for all intents and purposes to be the true, real, legal, and exclusive repository of the power to receive or obtain all the benefits from a thing except those prohibited or restricted by law or by the rights of others."

If the above definition is employed, many problems now affecting tenant farmers as a result of the implementation of the decree can be resolved. The definition represents a positive approach since it presumes every tenant to be a deemed owner. Later events, however, have tended to reverse this presumption. It now appears that tenants must first prove that they are bonafide tenants before they can be recognized as deemed owners. And unfortunately, the landowners continue to have a say in the determination of the tenancy status of farmers. There can be logic in this if all landowners know who their tenants are. But the fact remains that more than ninety percent of landowners are absentees. They rely heavily on their caretakers, the *katiwala*, who are a kind of a middleman in the tenancy system.

Therefore, the issue which arises insofar as land transfer is concerned is whether landowners' recognition of farmers' tenancy status is necessary before a tenant will be considered deemed owner by the government. As of now, it appears that landowners can stop the government from carrying out land reform by merely refusing to recognize farmers as their tenants. And this is possible because most tenancy arrangements are not backed by documents and even lease contracts are generally made orally.

In the Ilocos region a peculiar problem exists relating to the tenancy status of the *kasugpon*. The latter are tillers of the soil but are not considered tenants. Usually they are out of school or unemployed relatives of a landowning family who are allowed to work the land as a

gesture of accommodation. The extended family system is still a common phenomenon in the rural areas of the Philippines particularly in the Ilocos region. The *kasugpon's* tenancy relation, in the legal sense of the term, is not well defined, creating a problem that has thus far eluded solution. If the *kasugpon* are recognized as tenants within the context of existing laws, they will be entitled to own the land they are working. But by custom and family tradition they cannot lay claim to the property. To recognize them as tenants and qualify them to acquire the land under P.D. No. 27 might rupture the prevailing family solidarity in the rural areas. Besides, landholdings in the Ilocos region are generally small. They are not measured in hectares but in square meters. Among the Ilocanos, land is next to God; no matter how small, it is a priceless commodity. Under this value system, the Ilocano small landowner will keep his landholding by all means. He will only part with it "over his dead body."

RETENTION RIGHTS OF THE LANDOWNERS

The other side of the recognition of tenants as deemed owners is the right granted to landowners which states:

In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it.

This provision has generated a lot of reaction from landowners and has been interpreted in several ways. Hardly had the ink dried on the decree when landowners immediately sent their tenants notices of ejectment on grounds that they themselves would "now cultivate" their landholdings. The phrase ". . . or will now cultivate it" was taken by landowners to mean a revival of the previously abolished right to cultivate personally the landholding.

Within a few weeks after the promulgation of the decree, notices for personal cultivation and ejectment of tenant farmers reached overwhelming proportions. When this was brought to the attention of the President, an instruction was immediately issued that in no case would tenant ejectment be allowed merely because landowners would "now cultivate" the property as provided for in the decree. This was known as the "status quo" order. DAR in Memorandum Circular No. 2-A, series of 1973, clarified the meaning of status quo and prescribed specific guidelines to prevent the ejectment of tenants. In part, the Circular states:

Status quo shall mean maintaining the leasehold arrangement existing as of October 21, 1972 and in addition, the following guidelines shall be observed:

1. No tenant farmer shall be ejected or removed from his farmholdings pending the promulgation of the Rules and Regulations; no new ejectment cases shall be accepted by the Court of Agrarian Relations on lands within the purview of Presidential Decree No. 27.

2. All pending ejectment cases in courts, between tenant farmers and landowners shall be held in abeyance upon petition of any party-litigant.

3. As of October 21, 1972, tenant farmers are deemed owners of the land they till, subject to the provisions of the rules and regulations to be hereafter promulgated. Meantime, the leasehold system shall be provisionally maintained. The tenant farmer shall continue to pay to the landowner the lease rentals for the time being, which, subject to the rules and regulations aforementioned may be later credited as amortization payments. In the event of any disagreement between the landowner and the tenant farmer as to the amount of rental to be paid, the Department of Agrarian Reform through the Regional Director concerned shall provisionally fix the same, taking as guide the applicable provisions of Section 34 of the Code of Agrarian Reforms and Presidential Decree No. 2 declaring the whole country as land reform areas, Presidential Decree No. 27 emancipating the tenant farmers from the bondage of tenancy, Letters of Instructions Nos. 45, 46, and 54, Memorandum of the President dated November 25, 1972. However, should any of the parties disagree with the provisional rental, he may take the matter to the Court of Agrarian Relations for adjudication.

4. No action shall be done to undermine or subvert the intent and provisions of the Presidential Decrees, Letters of Instructions, Memoranda, and Directives, such as the following and/or similar acts:

(a) Division or subdivision of tenanted lands after October 21, 1972 except in cases where:

(1) the names of co-heirs or co-owners are stated in the Certificate of title;

(2) there is a written partition agreement executed by the parties prior to October 21, 1972, in accordance with the formalities of law;

(3) that division of the estate is pending in court whether testate or intestate proceedings, at the time of the promulgation of Presidential Decree No. 27.

(b) Change of crops from *palay* and/or corn to other crops like sugarcane, coconut, tobacco, etc., by the landowners, or by the tenant farmers.

(c) Harrassment of tenant farmer by landowner through the filing of cases like trespassing, qualified theft, estafa, recovery of possession, malicious mischief, grave threats, coercion, etc. Extreme caution shall be exercised by the official concerned in dealing with such cases.

(d) Physical acts of dispossession like bulldozing of farms, demolition and/or burning of houses, illegal cutting of irrigation systems, manhandling, mauling, coercion, intimidation or duress, with the end in view of driving away the tenants from their farmholdings.

(e) No tenant farmer shall enlarge his tillage as of October 21, 1972.

(f) No person shall enter any untenanted rice and/or corn land in order to establish tenancy relationship without the consent of the landowner.

(g) Mortgaging tenanted land to a person, group of persons, associations, corporations, and/or financial institutions after October 21, 1972.

(h) Transfer of ownership after October 21, 1972 except to the actual tenant farmer tiller. If transferred to him, the cost should be that prescribed by Presidential Decree No. 27.

Whenever necessary, after exhausting all remedies within your authority, you shall seek the assistance of the Provincial Commander concerned to enforce the directives contained in this Memorandum Circular.

It will be noted that DAR officials in the field are enjoined to exert all efforts to carry out the provisions of the Circular and only after exhausting all remedies within their power are they to seek the help of the military, the Provincial Commander.

Despite the DAR guidelines on status quo and non-ejectment, landowners continued to apply all available legal means to retain ownership of their properties. These countermoves were expected and understandable. The most common strategy adopted has been to parcel out land to heirs or other successors-in-interest in order to reduce the size of their holdings subject to transfer. The retention limit has been progressively reduced from one-hundred hectares to fifty, twenty-four, etc. Landowners may retain seven hectares if they till it themselves. Hence, there was

hope that land transfer would stop at least seven hectares, preferably at twenty-four. Landowners lost no time in subdividing their properties and thus remove them from program coverage. If these machinations continue, they could nullify the intent of P.D. No. 27. To prevent this, the Department of Justice, on August 22, 1973, issued Circular No. 31 to all Registers of Deeds and Branch Registers of Deeds. In part the circular directs:

NOW THEREFORE, in order to avoid registration of deeds where the interest of the transferor or encumbrancer in the land involved is in doubt and to protect the rights of the tenant farmers under Presidential Decree No. 27, you are hereby enjoined, pending the promulgation of the above rules and regulations and as a prerequisite to registration, to require the registrant of a voluntary deed or instrument purporting to a subdivision, mortgage, sale or any other mode of encumbrance or conveyance of private agricultural land or any portion thereof, to present an affidavit to the effect that the land involved is not tenanted, or if tenanted, the same is not primarily devoted to the production of rice and/or corn as of 21 October 1972 and on or about the date of registration. If only a portion of the land is primarily devoted to the production of rice and/or corn, and such area so devoted is tenanted, no such deed or instrument shall be registered unless accompanied by an affidavit stating the area (size) of the portion which is tenanted and primarily devoted to rice and/or corn, and stating that the deed or instrument covers only the untenanted portion or that which is not primarily devoted to the production of rice and/or corn; further, you shall also require such stipulation to be incorporated in the deed or instrument, and to be annotated in the certificate of title.

Finally, in all cases, you shall cause a copy of the registered deed or instrument, together with the affidavit, to be furnished the Department of Agrarian Reform Regional Office where the land is located.

The present confusion over the interpretation of the landowners' retention rights could have been prevented had the position taken by DAR as early as 1972 been implemented -- namely, that the right of retention meant the option granted to a landowner to retain ownership of a portion of his land not exceeding seven hectares, if he was cultivating such area as of October 21, 1972 and would continue to cultivate it after such date. This position, however, has not been legitimized, and thus far a common and definite interpretation of the landowners' retention right has not been formulated.

LANDOWNERS COMPENSATION

With regard to landowners' compensation, the decree provides:

The total cost of the land, including interest at the rate of six (6) per centum per annum, shall be paid by the tenant in fifteen (15) years of fifteen (15) equal annual amortization.

Under this mode of payment, the lease rents are credited as amortization and after fifteen years of continuous payment the land becomes the property of the tenant farmer. The reason for this provision was to relieve the government of having to provide money to pay for the land to be transferred to tenants under the Agrarian Reform Code. Under the amended Code, the Land Bank has to pay the landowner twenty percent cash and the balance in twenty-five year bonds that earn six percent tax-free interest payable every six months. The amortization period for tenant farmers was also twenty-five years at six percent per annum.

The immediate reaction of landowners to the mode of payment under P.D. No. 27 was negative. They objected that they were being "fried in their own lard" and lost no time in bringing their resentment to the attention of the President. Landowners clamoured for more attractive modes of payment. Being a compassionate person, the President listened to their complaints and at once directed on November 25, 1972 the Secretary of Agrarian Reform and the Secretary of Finance to encourage landowners to sell or exchange their lands under the following arrangements:

1. exchange for government lands, whether virgin or otherwise;
2. exchange for government stocks in government-owned or controlled corporations, or private corporations where the government has holdings;
3. sell for cash with the arrangement that the government shall extend them priority in the purchase of government lands or government stocks;
4. government to offer in lieu of payment by the tenants, annuities with guarantees against inflation, and/or medical insurance or pensions of any class or nature; and
5. government to help in every way possible, including credit financing.

In the meantime, the President constituted a committee headed by the Secretary of Finance to develop more attractive and acceptable modes of payments for the lands to be transferred under P.D. No. 27 and also to

generate the needed funds for agrarian reform.

As a result of the committee's efforts, P.D. No. 85 was promulgated creating the Agrarian Reform Fund to finance and/or guarantee the payment of farmlots acquired under P.D. No. 27 and extend agricultural credit support and the corresponding guarantee coverage to achieve a high level of production in land reform areas.

The decree also provided for the following alternative modes of payment to landowners:

1. cash payment, subject to availability of funds, for small landholdings;
2. exchange arrangement for government stocks in government-owned or controlled corporations or private corporations where the government has holdings;
3. payment through the establishment of annuities or pensions with guarantee against inflation and/or medical insurance;
4. full guaranty on the payment of the fifteen equal annual amortizations to be made by the tenant farmers; and
5. such other modes of settlement as may be adopted by the Agrarian Reform Fund Commission.

In the same decree, the reorganization of the Land Bank of the Philippines was authorized in order to make it more responsive to the new and expanding demands of agrarian reform. On the basis of this authorization, P.D. No. 251 was issued restructuring the Land Bank to meet the implementation requirements of the agrarian reform program.

New modes of payment were formulated again in P.D. No. 251. As amplified by the Land Bank, they are as follows:

- a. Cash payment of ten percent and balance in twenty-five year tax-free six percent Land Bank bonds.

For the value of the land, previously determined as necessary and suitable for acquisition and redistribution to agricultural lessee/tenants, a landowner may be paid ten percent cash and the balance in Land Bank bonds.

Land Bank bonds are certificates of indebtedness, negotiable and fully guaranteed by the government of the Republic of the Philippines. They earn six percent interest per annum payable every May 20 and November 20 of each year and may be redeemed at the option of the Bank at or before maturity, which is twenty-five years.

These bonds are exempt from payment of taxes both as to principal and interest. The bonds are further secured by the assets of the Bank and in addition are guaranteed by the Special Guarantee Fund. The issuance of bonds is approved by the President of the Republic. The amount of bonds outstanding at any one time shall not exceed ten times the Bank's paid-up capital and surplus.

The Land Bank bonds may be used as:

- (1) Payment for agricultural lands and other real properties purchased from the government;
- (2) Payment for the purchase of shares of stock or assets of government owned or controlled corporations;
- (3) Surety and bail bonds for the provisional release of accused persons or performance bonds in all cases where the government may require or accept real property as bonds;
- (4) Security for loans applied with government financing institutions;
- (5) Payment for reparations goods;
- (6) Collateral, in accordance with established banking practices and procedures to government institutions, to enable holders of such bonds to make use of them in investment in productive enterprises; and
- (7) Payment to extinguish obligations or indebtedness owing government institutions or entities (as well as private institutions upon arrangement or negotiation) in lieu of land formerly securing said indebtedness at the time of acquisition by the Land Bank.

The Land Bank is also engaged in a continuing effort to identify industrial projects which it can develop possibly in joint venture with bondholders or for eventual turnover to bondholders in exchange for their bondholdings.

- b. Payment of thirty percent in preferred shares of stock and the balance in twenty-five year tax-free six percent Land Bank bonds.

Under this mode of settlement, the landowner is paid in stocks and bonds in the proportion mentioned but will not be paid in cash. The bonds, which represent seventy percent of the payment, shall be of the same class as previously described. The thirty percent preferred shares of stock will be evidence of equity ownership

in the Bank entitled to participate in the earnings of the Bank. Said shares will be assured a minimum six percent rate of dividend earnings, which means that the rate may be higher depending upon the profitability of the Bank. In addition to the full participation in the earnings of the Bank, the shareholders shall have a limited right to participate in the management of the Bank, but they may not bring derivatives suits against the Bank.

The shares of stock are fully transferable and upon liquidation of the Bank, redemption of such shares shall be given priority and shall be guaranteed at par value. The value of preferred shares of stock shall be at par ₱10,000 per share for the initial issue; for subsequent issue, at "net asset value" of the Bank divided by the number of preferred shares then outstanding. The shares are thus protected against inflation because of their growth capacity, i.e., their value will rise with the growth of the Bank's net worth arising from its operations. The stocks, like the bonds, can be sold for cash just like any other asset and they may be accepted as collateral for loans. Capital gains derived from sale or transfer of such shares and all income derived therefrom shall be fully tax exempt.

c. Full guarantee on the payment of fifteen (15) equal annual amortizations to be made by the tenant farmers.

This mode of settlement is applied to P.D. No. 27 which provides for the transfer to the tenants of the ownership of the lands they till. Under the decree, the total cost of the land including interest at the rate of six percent per annum shall be paid by the tenants to the landowners in fifteen years of fifteen equal annual amortizations. Under this mode of payment, the Land Bank guarantees payment of said amortizations.

Presidential Decree No. 27, however, requires that the tenant farmer shall be a member of a cooperative which shall initially answer for the default of the tenant farmer. The Bank's guaranty, therefore, is subordinate to that of the cooperative.

d. Payment through the establishment of annuities or pensions with insurance.

This mode of settlement is designed to satisfy small landowners who are affected by Presidential Decree No. 27 and who presently are not tilling the land. Whenever a landowner who is not more than sixty years of age and whose aggregate landholdings do not exceed twenty-four hectares elects the annuity with insurance plan, the Land Bank shall remit to the landowner (holder of annuity-insurance certificate) a yearly annuity in an amount to be determined by the Land Bank in accordance with actuarial adjustment factors until his death but not beyond fifteen years from the date of issue of the annuity-

insurance certificate and the face amount of his insurance equivalent of the total cost of his landholdings at the end of the fifteenth year.

If the holder dies any time during the fifteen year period, his heirs or legal representatives shall be entitled to receive the face amount of the insurance. However, if the holder dies within the first five years from the date of issue of his annuity-insurance certificate, his heirs or legal representatives shall be entitled to receive, in addition to the face amount of the insurance, annuity payments up to the fifth year. Annuity payments shall be discontinued in the event the holder dies after the fifth year.

Judicial persons are ineligible to elect his plan.

- e. Exchange arrangement for government stocks in government-owned or controlled corporations or private corporations where the government has holdings.

This mode of settlement is to provide the landowners with a ready vehicle to transfer their investments in lands to capital investment in shares of stocks of government owned or controlled corporations, or private corporations where the government has holdings. One of the main thrusts of land reform, that of channelling landlord capital into industry, is given substance in this mode of settlement. Eventually, the landowner will have participation in industrial ventures and consequently develop a new orientation to industry.

- f. Such other modes of settlement as may be further adopted by the Board of Directors and approved by the President of the Philippines.

This provision gives the Bank further leeway in entertaining other modes of settlement. This is a new provision which fills the void in the old law wherein the Bank is circumscribed by limited modes of payment, making it inflexible to other arrangements beneficial to the Bank, the tenants, and landowners. However, any new mode of settlement decided upon by the Board must be approved by the President of the Republic.

In addition to the above modes of payment and in order to further encourage landowners to transfer their lands to their tenants, they were earlier granted specific privileges under P.D. No. 57 exempting them from capital gains tax on the proceeds of the amortizations paid them by the tenant purchaser and likewise from the income tax due on the accruing interests paid as an addition to the total cost of the land.

Of the six modes of payment offered by the Land Bank, the first -- ten percent cash and the balance in twenty-five year tax-free six percent

Land Bank bonds -- is the most attractive to landowners. As of March 31, 1975, 97.9 percent of all landowners paid by the Bank opted for the first mode. There are several reasons why they did so: first, they receive the full value of cost of the land and must no longer wait for the fifteen year amortization; second, they can borrow against the bonds up to eighty percent of their face value, thus actually increasing the cash portion up to eighty-two percent; third, the bonds' uses have been expanded and at the moment the Land Bank bonds are in demand; and fourth, under this mode the landowner tenant relationship is immediately cut, thus landowners are also "emancipated" from their tenants.

PEOPLES' PARTICIPATION IN LAND VALUATION

With regard to determining the land value to be paid by the tenant farmer, the decree provides:

For the purpose of determining the cost of land to be transferred to the tenant farmer pursuant to this Decree, the value of the land shall be equivalent to two and one-half times the average harvest of three normal crop years immediately preceding the promulgation of this Decree.

The central issue in the determination of land value is "average harvest of three normal crop years." For the purpose of determining production, DAR identified four land categories -- (1) corn land; (2) upland rice; (3) lowland rice unirrigated; and (4) lowland rice irrigated.

To ensure the reliability and acceptability of the production data on past harvests prior to October 21, 1972 as gathered by DAR field personnel, these data are submitted to the Barrio Committee on Land Production (BCLP) for decision. The BCLP is composed of the barrio captain; one representative of the Samahang Nasyon; four representatives of the tenant farmers; two representatives of owner-cultivators; two representatives of absentee landowners; and one DAR representative.

The BCLP is the body at the farmers' level that determines the gross production of three normal crop years immediately preceding October 21, 1972, on the landholding in the barrio for every land category. On the basis of the gross production it determines the average gross production per hectare in each land category.

The production data as determined by the BCLP is posted in the most conspicuous places in the barrio and in the municipal hall where the barrio is located for a period of thirty days. Any interested party who does not agree with the production data as posted can file a protest in writing with the BCLP within ten days from the last day of posting of such

production data. A landowner dissatisfied with the action by the BCLP on his protest can still appeal to the Regional Director and to the Secretary of Agrarian Reform whose decision shall be final. If no protest or appeal is filed within the prescribed period, the production data establishing the BCLP is considered final.

The issues that engendered much debate with regard to the determination of land values were: (a) what is the average harvest; (b) what is a normal crop year; and (c) should auxiliary crops be included in the valuation? The debates concerning average harvest occurred because of the lack of reliable records of past harvests that are credible and acceptable to both tenants and landowners. Tenants usually do not keep records of harvest. Landowners, on the other hand, may have kept records but just the same they have doubts about the accuracy of the shares or land rents delivered to them by their tenants. They may not have objected strongly to what tenants had previously paid as rents because there was no threat of losing their lands. But under P.D. No. 27, the lands shall be transferred to the tenants in which case the records of harvest are to be used not for determining land rents but land values. This is an entirely different matter.

The DAR, taking a compassionate position and realizing the futility of making landowners and tenants agree on what the past harvests were, allowed landowners and tenants to negotiate and agree on the price of the land in money terms and, after having agreed, convert the value into *palay* using the government support price as a factor. In many instances, this procedure has lessened the debates over the size of past harvests and likewise softened the growing tensions between landowners and tenants.

In the event that the landowner and the tenants can agree on the land value the BCLP will no longer be involved. But if no agreement is reached then the BCLP comes into the picture and the procedures prescribed by the DAR are applied. As of March 31, 1975, more than 1,900 BCLPs have been organized by DAR.

The volume of harvests in a barrio for any given year is a matter of public knowledge. This is so because harvesting is a community affair. People, whether farmers or not, can participate in harvesting and each gets a share for the job. So at harvest time people usually can tell whether the crop is good or not. On the basis of the "harvest time experience" of the people, it is not difficult indeed for the BCLP to determine the average harvest.

LIMITED TITLE TO THE LAND TRANSFERRED

P.D. No. 27 has set some limitations on the transferability of lands

acquired under the decree. It provides that:

Title to land acquired pursuant to this Decree or the Land Reform Program of the Government shall not be transferable except by hereditary succession or to the Government in accordance with the provisions of the Decree, the Code of Agrarian Reforms and other existing laws and regulations.

This limitation will have the following consequences: (1) it will stop further fragmentation of land by subdividing it further among heirs; (2) it will prevent nontillers from holding land; (3) it will stop the commercialization of land; and (4) it will ensure maximum land utilization.

The fragmentation of land will be prevented because only one heir who is capable of tilling and/or working the land personally shall be allowed to inherit the property. This is a unique feature since it may start a continuing outflow of excess labor now prevailing in the agricultural sector. The other heirs being aware of this limitation will be compelled to look for alternative jobs or careers outside of farming. Those that have no desire to work the land will have to find opportunities elsewhere. As a further consequence, only persons who will really work the land and make it productive will be able to hold land.

Commercialization of land will stop. Since land transferred under the decree cannot be sold because it must revert to the government if there is no heir apparent, speculation on land and land hoarding will be minimized. In the past, people with money were able to buy land for speculative purposes. They would not improve, cultivate, or develop the land but simply allow population pressure to increase its value before selling out for tremendous profits. This pernicious practice contributed nothing to society in terms of products to satisfy human needs. Under P.D. No. 27 it will be minimized because of the limitation on titles.

Finally, since land will be in the hands of people who will really work it, one can see increasing utilization of land not only for the benefit of the user but also for the entire society.

COOPERATIVE DEVELOPMENT AND LAND TRANSFER TIE-UP

Cooperative development was made an integral part of agrarian reform under P.D. No. 27. The decree provides that:

No title to the land owned by the tenant farmers under this Decree shall be actually issued to a tenant farmer unless and until the tenant farmer has become a full-fledged member of a duly organized farmers' cooperative.

The cooperatives were also given specific responsibilities insofar as the land amortization payments were concerned. The decree provides that:

In case of default, the amortization due shall be paid by the farmers' cooperative in which the defaulting tenant farmer is a member, with the cooperative having a right of recourse against him.

Membership in a cooperative was made a precondition to becoming a landowner under P.D. No. 27. In a sense the "voluntary" feature that has long characterized cooperatives as a business organization was abolished under P.D. No. 27. It was made mandatory that before a farmer can be given the final title to his land he must be a member in good standing of a cooperative. This requirement merely translates the will of the government to realize one of the policies enunciated in the Code of Agrarian Reform which is, "To achieve a dignified existence for the small farmers free from institutional restraints and practices."

The economic domination exercised by business middlemen over the tillers of the soil is one of the most pernicious institutional restraints on the latter's economic and social growth. The small tenant farmers find themselves practically helpless against the economic power and financial strength of the middlemen. The key to the small farmers' survival is cooperation, but their collective strength cannot be concentrated and harnessed if cooperative organizations are left to proceed on the principle of voluntary entry and participation. An element of compulsion is necessary. This was achieved under P.D. No. 27 when membership in a cooperative was made a precondition to land ownership.

Under the present program, the cooperative will provide the members various economic services. But there are no doles. The services emanate from the contributions of the members themselves. And the very recent experience of the Department of Local Government and Community Development (DLGCD) shows that the farmers, properly motivated and organized, can generate tremendous capital, which spells economic power.

As of January, 1975, the DLGCD had organized 16,455 Samahang Nayan (precooperative barrio associations) with a membership of 720,583. These associations have already generated some ₱26.3 million, of which ₱9.3 million came from the membership fees and annual dues; ₱8.7 million represent contributions to the barrio savings funds; and ₱8.3 million contributions to the barrio guarantee fund.

The barrio savings fund is intended to buy equities in existing rural banks or put up capitalization of farmers' cooperative banks. The cooperatives have been allowed by law to create their own rural banks to serve the credit needs of the members. The barrio guarantee fund will be used to guarantee the defaulted land amortizations of farmers for lands

transferred to them under P.D. No. 27.

EXPANDED DAR QUASI-JUDICIAL POWERS

Antagonisms between landowners and tenants have prevailed in the rural areas from the time tenancy as a form of land tenure came into existence. But never have such conflicts become more intense and open as when P.D. No. 27 was issued. Before the decree, landowners had attempted in several ways to dispossess their tenants. Most of these attempts were merely forms of harrassment to compel tenants to come to terms with landowners on the amount of lease rents to be paid. The threat of ejection was used to get higher land rents. But after P.D. No. 27, such threats increased not only in frequency but also in intensity. Landowners used them not to get better terms from tenants but to retain the land itself. All possible means to eject the tenants are employed. But the established rule is that dispossession can only be effected by a court order. In other words, due process through the Court of Agrarian Relations is required.

Under the system of "due process" tenants can be placed in a disadvantageous position. Any suit filed against a tenant farmer will work to his disadvantage even if the case is eventually decided in his favor. There are several reasons for this: first, the tenant has very little time to allocate to going to court; secondly, he has little money to spend, and even if he gets free legal services from DAR he has to pay for his transportation to court; and third, during the pendency of the case, he can be drained emotionally and physically. He cannot, therefore, work effectively on the farm.

When P.D. No. 27 was issued, many forms of harrassment appeared. Most of these found their way to the courts. Once a case is filed it must be given due course, whether or not there is really a case. Moreover, it cannot be denied that landowners, in general, have closer rapport with government officials including those in the courts. There is always a cloud of doubt in the minds of the tenant farmers that they are getting a fair hearing. The landowners, knowing their advantage of access to the courts, have used this avenue to further realize their desire to eject tenants.

Attempts at ejection have grown to such scandalous proportions that President Marcos was constrained to issue a Memorandum on November 25, 1972 providing among other things, that no tenant will be ejected or removed. On October 22, 1973, the President issued P.D. No. 316 prohibiting the ejection of tenant tillers from their landholdings pending the promulgation of the Rules and Regulations implementing P.D. No. 27.

The significant provisions of the decree are:

SECTION 1. No tenant farmer in agricultural lands primarily devoted to rice and corn shall be ejected or removed from his farmholding until such time as the respective rights of the tenant farmer and the landowner shall have been determined in accordance with the rules and regulations implementing Presidential Decree No. 27.

SECTION 2. Unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, no judge of the Court of Agrarian Relations, Court of First Instance, municipal or city court, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harrass or remove a tenant of an agricultural land primarily devoted to rice and corn, and if any such cases are filed, these cases shall first be referred to the Secretary of Agrarian Reform or his authorized representatives in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform finds that the case is a proper case for the Court or judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy.

Under P.D. No. 316, the DAR was practically given the power to review all agrarian cases filed with the Court of Agrarian Relations, Court of First Instance, and/or Municipal and City Courts if such cases involve questions of possession; where there is allegation of tenancy relationship or actual cultivation and use of the land; where there appears to be a tenancy relationship between the contending parties or the controversy arises from agrarian relations; and where the property involved is planted in rice and/or corn.

In all of the above instances the judges, fiscals, and hearing officers are obliged first to refer the case to DAR for certification that it is a triable case. The referral may be done *motu-proprio* or upon petition by the party concerned.

After P.D. No. 316 was issued harrassment of tenants decreased. This decree was later reinforced by P.D. No. 583 issued on November 16, 1974, prescribing penalties for the unlawful ejectment, exclusion, removal, or ouster of tenant farmers from their farmholdings. This decree covered judges of the Courts of Agrarian Relations, Courts of First Instance, City or Municipal Courts, Fiscal, other investigating officers, and the members of the Armed Forces of the Philippines. The penalties range from prison correctional to perpetual, absolute disqualification to hold any government office.

NEW ROLE OF DAR FIELD PERSONNEL

The implementation of agrarian reform has evolved new functions for DAR field personnel. The bulk of the latter consist of Farm Management Technologists, Home Management Technologists, and Rural Youth Technologists. This group of personnel are really the agricultural extension force of DAR because their functions as originally conceived are the same as those of the Bureau of Agricultural Extension of the Department of Agriculture.

Their original functions were therefore oriented toward farm management, home management, and rural youth development. But as they performed their functions farmers brought to their attention land tenure problems. In due time, DAR field personnel were inundated with land tenure problems landowner-tenant disputes, settlement of leasehold rentals, explaining to landowners and tenants their rights and obligations under the Code of Agrarian Reforms, organizing farmers into *seldas*, joint liability groups, compact farms, and so on. Today, only around fifteen to eighteen percent of DAR field personnel's total time is devoted to agricultural extension work. They are truly preoccupied with agrarian reform extension work. Specifically, DAR field personnel perform the following roles:

1. Educator

a. teaching agrarian reform beneficiaries the need, purpose, and nature of the program and the importance of rural institutions;

b. educating tenant tillers, landowners, and settler families as to their rights and obligations under the agrarian reform program;

c. for DAR settlements and landed estates, acting as Farm Management Technicians to educate farmers therein on the proper utilization and combination of production factors including land, family labor, and material resources, and the choice of crop and livestock enterprises to bring about maximum and continuous economic returns;

d. persuading farmers with fragmented holdings to carry out consolidation of their lands on a voluntary basis; preferably, exchanging lands by mutual agreement;

e. encouraging farmers to adopt compulsory savings.

2. Mediator

f. identifying actual tenants and tillers as well as landowners, gathering data on crop production as a basis for lease rental fixing and determining land values;

g. undertaking the fixing of lease rentals and the resolution of questions and conflicts arising from same;

h. maintaining a detailed record of land ownership and tenancy, lands under irrigation, the nature and extent of crops grown, and other land utilization statistics;

3. Organizer

i. stimulating cooperative awareness and interest among farmers and assisting them in forming or joining farmers' associations, joint liability groups, compact farms, and cooperatives;

4. Facilitator

j. undertaking the screening of potential settlers and the initial processing of applications for lots in DAR settlement projects;

k. informing other government agencies of farmer's needs and problems outside of DAR's immediate jurisdiction;

l. locating private or public lands lying uncultivated and instituting proper measures to bring them under cultivation;

m. providing assistance on problems relating to land affairs, land consolidation, and land valuation;

n. identifying areas in public domain that have high potential for resettlement purposes;

o. performing such other functions that may be assigned from time to time by competent authority.

In view of this evolution of new functions, the DAR has forwarded to the President for approval and signature a decree converting the Bureau of Farm Management into the Bureau of Land Tenure Improvement. The latter will be responsible for providing staff services for the development of policies, plans, and programs, and standard operating procedures for land-tiller-landowner identification, tenurial security and leasehold arrangement, land transactions leading to the transfer of landownership to tenant farmers including related records, land valuation, and landowners' compensation.

Although a new set of functions has evolved and is actually being carried out by DAR field personnel, they will always be suspect of duplicating functions of the Department of Agriculture because the clientele is the same -- the farmer.

INTEGRATED APPROACH FOR AGRARIAN REFORM

The main thrust of agrarian reform is land tenure improvement. This involves the conversion of farmers' land tenure status from share-cropping to owner-operator. Past experience has shown that merely to transfer the ownership of land to the tenant farmer without providing the supportive services does not improve his economic position. Today, agrarian reform in the Philippines is carried out by an integrated approach wherein land tenure improvement is complemented by a package of support services and/or programs which include legal assistance, cooperative development, farmer education, irrigation, farm-to-market roads, electrification, land consolidation, financing, and agricultural development.

To coordinate these support services, an Agrarian Reform Coordinating Council was created by the President composed of the Secretary of Agrarian Reform as chairman and as members -- the Secretaries of National Defense; Finance; Justice; Agriculture; Natural Resources; Public Works, Transport and Communications; Local Government and Community Development; and Public Highways.

The integrated approach denotes that agrarian reform is the cornerstone of the new society; it is not only the sole responsibility of one Department but of the entire Republic.