

# *LTC Paper*

LAND TENURE ISSUES IN AGRICULTURAL  
DEVELOPMENT PROJECTS IN LATIN AMERICA

by

Thomas Schweigert



**LAND  
TENURE  
CENTER**

An Institute for Research and Education  
on Social Structure, Rural Institutions,  
Resource Use and Development

Land Tenure Center  
1300 University Avenue  
University of Wisconsin-Madison  
Madison, Wisconsin 53706

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All views, interpretations, recommendations, and conclusions expressed in this publication are those of the author and not necessarily those of the supporting or cooperating organizations.

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## CONTENTS

	<u>Page</u>
Introduction	1
Why Land and Land Tenure Matter	2
What Is Land Tenure?	5
A Historical Overview	7
 The Agricultural Enterprise and Land Tenure	 13
Economic Theory of Land Tenure	13
Tenancy: Labor Rent	14
Tenancy: Sharecropping	14
Tenancy: Fixed Rent In-Kind	16
Tenancy: Fixed Money Rent	18
Tenancy: Owner-Operatorship	18
Summary	20
Common Property	20
 The Agricultural Enterprise and Project Design	 27
The Nature of the Agricultural Enterprise	27
Campesino Access to Land	28
Labor Market Involvement	46
Involvement in Input and Output Markets	47
 Land Tenure from a Legal Perspective	 51
Introduction	51
Registration and Titling	52
Land Tenure from a Legal Perspective: Latin America	56
Agrarian Law in Latin America	58
 References	 67



## INTRODUCTION

Typical examples of agricultural development projects sponsored by the U.S. Agency for International Development (USAID) are recent efforts in Belize to "diversify agriculture through the production of cocoa, vegetable oils and possibly fresh vegetables, and to increase agricultural production for domestic and export markets" and to "assist small farmers in making the transition from shifting, mixed-crop cultivation to commercially oriented farming."

Successful implementation of agricultural development projects such as these involves a host of factors: Are there crop varieties suited to soil and climate conditions? Do climate and soil conditions warrant "commercially oriented" farming? What quantities of other inputs--such as water, fertilizer, and pesticides--are required, are they available locally, and how can producers finance their acquisition? Are machine services required and how are they to be provided? Are there established marketing channels to dispose of the output? How risky is the market in terms of price fluctuations or of being able to sell at all?

With all these very real concerns, one of the most fundamental project-design questions is too often overlooked: Is the land-tenure situation of producers compatible with their participation in the project and with the realization of project goals? If the answer to that question is "no," then land tenure does indeed matter, and raising this question during project design can often help avoid serious problems farther down the road. For example, in the early 1970s, a major international donor agency established a multimillion dollar soil-conservation project in rural Jamaica. The project hired labor and machine services to build terraces for hillside farmers. Soon after the terraces were finished, it was discovered that because no one would maintain the terraces, they began to deteriorate. Unfortunately, the project's planners failed to recognize the importance of Jamaican land-tenure patterns. Had the planners studied the local traditions, they would have concluded that since the majority of the hillside farmers in the project area rented lands on a cash basis for short periods, a special set of incentives would be needed to ensure proper maintenance of the terraces.

This is not to suggest that land tenure should be viewed only negatively or as a potential obstacle. Rather, land tenure is part of the environment and, as such, is something that not only might be adaptable but to which the project might have to be adjusted. In extreme cases, land-tenure problems are just as insurmountable as lack of adequate transportation or predictable water supplies.

Before going on to describe the wide variety of land-tenure patterns and the probable effects that land tenure has on agricultural development, some words are in order as to why land tenure is being discussed rather than, say, "tractor tenure," "livestock tenure," or "job tenure."

### Why Land and Land Tenure Matter

In most developing countries, agriculture is the major economic activity by many criteria, but especially in terms of the percent of labor force employed. In Latin America as a whole, about half the labor force is directly employed in agriculture. At the same time, the portion of total gross domestic product (GDP) accounted for by agriculture is only about 20 percent. This reflects the low productivity of labor in agriculture relative to its productivity in other sectors, particularly manufacturing. Labor is less productive in agriculture because it has less capital and manufactured inputs with which to work, both mechanical (farm implements) and biological/chemical (improved varieties, fertilizers). The gap between the percent of GDP contributed by agriculture and the percent of the labor force employed in agriculture also reflects the fact that alongside well-capitalized commercial farms in Latin America are large numbers of small farms, geared toward merely providing subsistence whose production is not well reflected in GDP statistics, and countless landless laborers who generally lack permanent, year-round employment. Figure 1 shows, for selected Latin American countries and the United States, the percent of the labor force in agriculture and the percent of gross domestic product accounted for by agriculture.

Along with labor, the most important input in agriculture in Latin America is land. Land is also a limiting factor in production in most countries in that newly available land could be put to use with existing underemployed agricultural labor to produce additional output. For most of the rural population in Latin America, access to land is problematic. To begin with, cultivable, accessible land is relatively scarce. But this scarcity is then exacerbated by the concentrated ownership, structural rigidities, and market imperfections in land-sale and rental markets. Often there is simply not an active land market, at least in units small enough to be accessible to the typical small farmer. This situation forces many producers either into land-rental arrangements which lack the security provided by landownership or into the ranks of the landless and land poor competing for agricultural work which offers even less security. Insert 1 describes one such case in Guatemala where land tenure, far from a purely academic concern, has been a burning political issue often leading to divisiveness and social strife. Figure 2 shows the concentration of landholding in Latin America.

This situation in Latin America contrasts with that in the more developed economies such as the United States where the labor force in agriculture can be outnumbered by the unemployed. The agricultural labor force in countries like the U.S. is also highly productive due to the capital-intensive nature of production, with its heavy reliance on labor-saving machinery and yield-increasing inputs. As for land, while landownership may have emotional connotations for the individual, its social significance is limited. Land is bought and sold much like any other commodity. The major constraint on expanding production is often the lack of an adequate output market--reflected in the periodic "farm problem"--to the point that productive land is idled in response to either government programs or the prospect of an insufficient return. Along with the market for ownership is a rental market for land. But those who rent in land often tend to be the more highly capitalized farmers seeking to spread their capital equipment over additional land units. Ironically, in the United

# 1. Labor Rent, Share Rent, and Migratory Labor: A Guatemalan Coffee Estate

The estate contains 450 hectares of which 150 are in coffee, 50 in pasture and ten in sugarcane, the remainder being in forest. The landowner has a business as a coffee exporter in Guatemala City, and is also partner in a much larger coffee and cattle estate elsewhere. In consequence he spends only a few days per year on the estate. His steward, however, goes to the capital every four weeks to settle problems of the estate and enjoys responsibility and independence. He is to be found in the estate office mornings and evenings and for the rest of the day he rides all over the farm on horseback.

The estate employs forty labourers all the year round, who at first sight appear to be service-tenants since they have provision grounds. But considering their size (approx. 450 square meters) and the fact that they are granted only after two years of work with the estate, their importance is more in providing an additional reward encouraging stability than in substituting cash wages. The labourers live with their families in huts belonging to the estate. The daily wage paid is Quetzal 0.65 [\$0.65 in U.S. dollars in the 1960s], but some jobs go by piece rates. The labourer receives only about three-quarters of his wage in cash, the remainder being deducted in respect of rations and other perquisites received.

During the coffee harvest, the labour force is doubled by the employment of a few of the casual labourers who have settled in the vicinity and a larger number of migrant labourers from the mountains, driven to supplement the incomes they obtain from their minute smallholdings. These are accommodated in crowded sheds.

The immediate supervisors of the labourers are known as caporales while the different lines of productive labour fall under foremen, responsible directly to the steward.

The tropical lowland estates are described by the ICAD report as "speculative", and their owner-entrepreneurs look for profits by being able to react nimbly to fluctuations in international prices. They are able to play this game because they can rely upon flexible supplies of both land and labour. Of the total croplands they hold, only 44% is in commercial crops, and reserve lands are put down to sown pasture on the contract system, and used for raising and fattening cattle at a fairly low technological level. Labour for sowing pasture is obtained by offering the growing land-hungry population small parcels of land (1-2 hectares) on verbal contract share-and-service tenure for one or two harvests, which are paid in a proportion of the corn crop, and the terminal sowing of pastures, so that at the end of the period of renting they are at the disposal of the estate for cattle. Labour for the commercial crops is mainly seasonal, and the same migrants who harvest coffee on the mountain slopes above pass on to the tropical estates which need them immediately after the coffee harvest is finished.

SOURCE: Andrew Pearse, The Latin American Peasant (London: Frank Cass, 1975), p. 94.



Figure 1

Agricultural Labor and GDP in Selected Latin American Countries

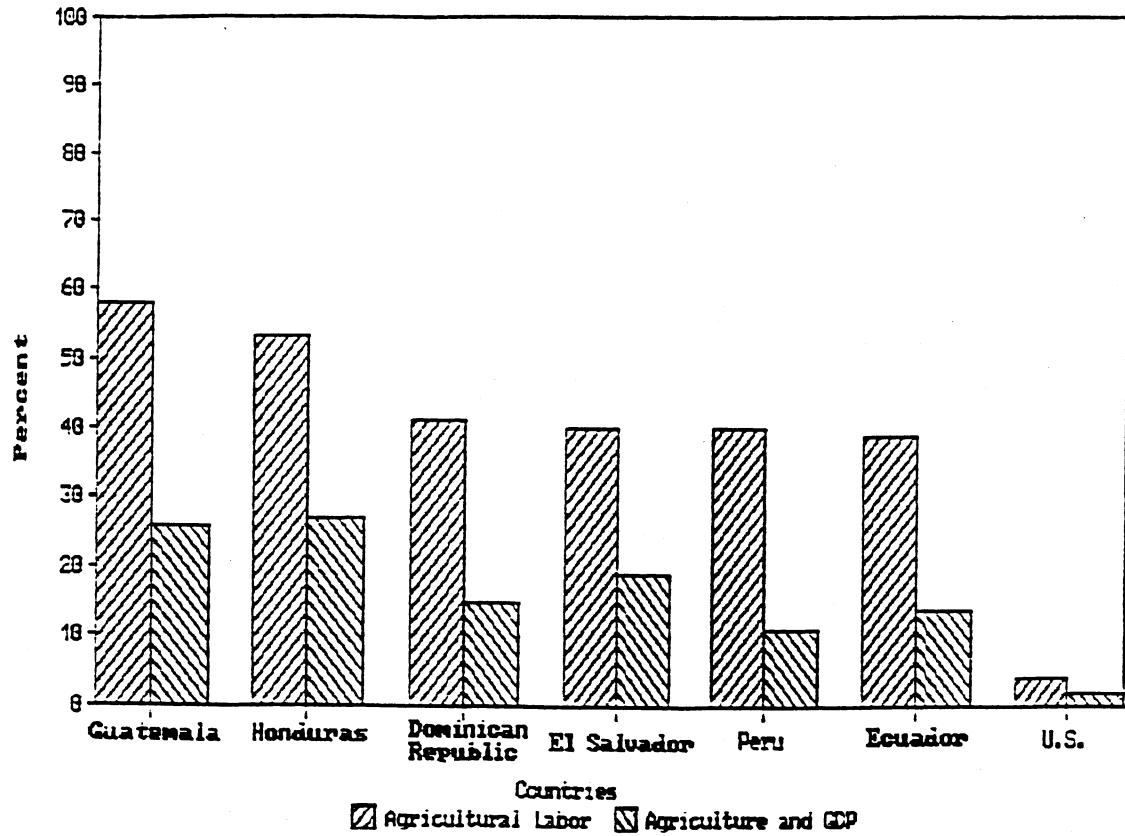
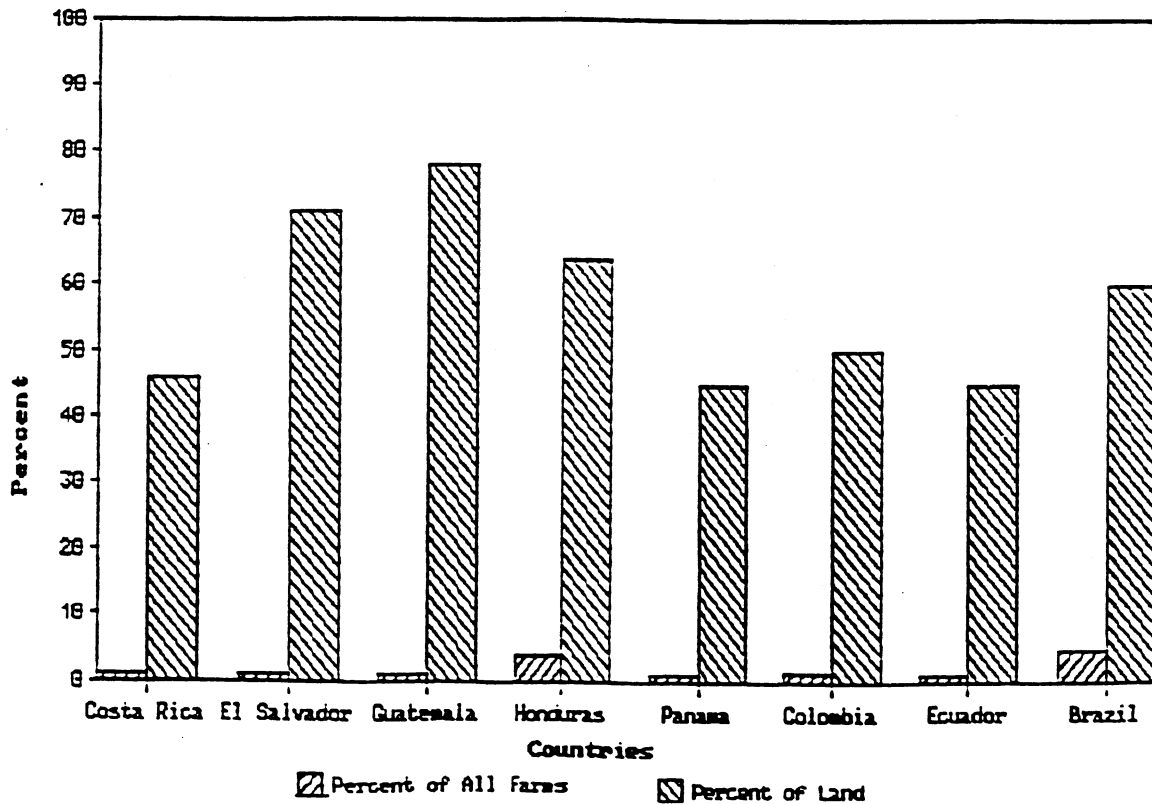


Figure 2

Land and Farm Distribution in Selected Latin American Countries in the 1970s



States, government assistance to agriculture often arises out of overproduction and overcapitalization in the agricultural sector.

Most agricultural development projects in Latin America, on the other hand, are aimed at increasing output, productivity, employment, and incomes among poor farmers through the introduction of new technologies, crops, and inputs. Land tenure enters the picture in two ways. First, depending on their tenure situation, agricultural producers will have differing incentives and capacities for participating in a project that introduces a new technology, practice, crop, or input. Second, in cases where development projects succeed in increasing output, increases in farm income and land values can result. Who benefits from these income gains depends on the tenure situation. Efficiency and equity, then, are both tied in with tenure.

Development projects, by their very nature, target those in the agricultural sector with small holdings and, it is hoped, those who lack land altogether. Examples of such projects are small farmer credit programs and recent USAID projects in Guatemala to stimulate a land market in units small enough to be accessible to those with little or no land. The following discussion of land tenure will focus on the situation of that target group of smallholders and the landless. Since in Spanish-speaking Latin America these people are generally referred to as campesinos, we will also use that term. To understand the campesino's situation, of course, will often require seeing it in a larger social context since campesinos comprise not simply an isolated, subsistence sector. Small farms generally market some part of their output, while smallholders and the landless serve as a source of labor for the commercial, large farm sector.

In Latin America, then, land matters because access to land and employment opportunities on the land are critical concerns of over half the economically active population. We will argue that the land-tenure system, in an all-inclusive sense of property rights, land distribution, rural social relations, and attendant uncertainties and changes over time, significantly affects and is affected by agricultural development. Hence, the land-tenure dimension must be appreciated by policymakers, planners, and project managers if agricultural development projects are to be successful. For fundamental economic reasons, as well as for their political overtones, project managers should address land and the land-tenure dimension in project design. But what, then, is "land tenure"?

### What Is Land Tenure?

Agricultural land tenure connotes different things to different people. Consider the following definitions:

- 1) "the customary and codified rights which individuals have to land and the behaviour characteristics which directly result from these rights" (Spiegel 1941, p. 21);
- 2) "the differential distribution of ownership and usufruct rights to land and water among persons and groups in a society" (Barraclough 1973, p. 13);

- 3) "the legal and traditional relations between persons, groups and classes that regulate the rights to the use of land, transfer thereof, and enjoyment of its products, and the duties that go with those rights. In brief . . . a reflection of the power relations between persons and groups in the use of land" (Barracclough 1973, p. xvii);
- 4) "the pattern of landownership and the contractual and customary relationships between landlords and tenants" (World Bank 1972, p. 28);
- 5) "the rules accepted by a group of the ways in which land is held, used, transferred and transmitted" (Noronha and Tethem 1983, p. 56).

When one hears land tenure spoken of in Latin American countries, what is often being referred to is the unequal distribution of agricultural land among the population, the nature of which was illustrated in Figure 2. For some, this distributional aspect is considered the essence of land tenure, as illustrated in definition 2. For others, however, land tenure has to do with property rights and their influence on behavior, while the distribution of land is a separate issue altogether, a view clearly expressed in definition number 1. Our feeling is that, particularly in Latin America, a practical definition of land tenure must encompass both aspects, property rights as well as property distribution.

In fact, if distribution were not an issue, the very concept of property rights would be unnecessary. That an individual has an exclusive right as regards a piece of physical property is meaningful only in the situation where, as a result, all other individuals then do not have that right over that piece of property. As has been said before, on Robinson Crusoe's island there is no need for property rights.

As noted in some of the definitions, the main rights we speak of regarding land include those to enjoy the use of and income from land as well as to transfer land through inheritance, sale, or rental. The exercise of this last right creates the landlord/tenant relationship, an important enough element of tenure that definition 4 mentions it explicitly. In Latin America, though, there are more ways to have access to land than by owning it or renting it as an individual. In this century governments have created group ownership of land in the form of collectives and production cooperatives, while there continue to exist communal land holding systems that have evolved over the centuries. The "rules accepted by a group" mentioned in definition 5 refers to the latter situation. Often these rules are customary or traditional and may conflict with formal, written law.

One criticism of these definitions is that the use of terms such as "customary," "codified," "legal and traditional relations," and "patterns" suggests a static situation. In countries experiencing rapid population growth, migration pressures, urban and industrial expansion, and the introduction of new agricultural technology, land tenure is best understood as a dynamic system in which change is sometimes evolutionary, though at other times abrupt. It is

also misleading to think that, even in the absence of socioeconomic pressures, the land-tenure system of a society is either static or unambiguous. In fact, in many cases people occupy land without benefit of clear legal title or customary group sanction, and their tenure is insecure, that is, there is uncertainty as to how long their occupation of land may last or how it could be challenged. An obvious example is that of a squatter, on public or private land. In Honduras, before the land titling project began in 1984, over one half of all farmers had no legal documents verifying ownership to their parcels. Other examples of tenure insecurity are indigenous communities, such as those in Ecuador and Guatemala, whose claim to land, though predating the sovereign state within which they reside, may not be recognized, or the large landowner whose holding may be expropriable depending on the interpretation of land-reform legislation.

### A Historical Overview

This section provides an overview of agricultural enterprises and land-tenure forms in Latin America. The classic agricultural enterprise and land-tenure form is, of course, the hacienda. This institution goes back to the conquest. When the conquistadores, or conquerors, subjugated peoples, their first aim was to plunder accumulated wealth, of which there was plenty, particularly among the Inca and Aztec. This one-time appropriation, however, had to give way to a more systematic, organized form of exploitation. While mining with the use of forced labor was a major activity, it was a royal monopoly. Individual conquistadores, however, were granted lands by the Crown which they could use to accumulate wealth in other ways. Land by itself was of little value to these men, whose cultural background imparted a disdain for manual labor. The indigenous population was a source of labor, though, and it was originally appropriated through enslavement. As conquest, enslavement, and the ravages of new diseases decimated the indigenous populations, the Spanish Crown attempted to ameliorate the situation and prohibited enslavement, instituting the system of encomienda, which was to safeguard the Indians. A group in a specific region would be entrusted (encomendado) by the Crown to an encomendero, a Spaniard who had the duty to instruct them in the faith, but also had the right to receive tribute from them in return for his protection. In practice, the encomienda became the basis for virtual serfdom. Using land granted by the Crown, or "idle land" appropriated from the dwindling and concentrated indigenous population, and the labor of Indians, often granted in encomienda, the Spanish settlers developed the hacienda system. The resident laborers on these large estates can be likened to tenants paying rent in the form of labor services. On individual plots allotted to them within the hacienda, they grow food for their own subsistence. At the same time, they provide labor to the hacendado, or landlord, in the form of either personal service in his household and grounds or agricultural work in his fields and pastures.

The system is known by different names in different places: inquilinaje in Chile, huasipungo in Ecuador, colonato in Peru, Guatemala, and elsewhere. The tenant who pays a labor rent is known, respectively, as an inquilino, huasipunguero, or colono. The traditional hacienda in Bolivia is described in Insert 2. Attempts at land reform, peasant unionization, and tenancy regulation have in some places eliminated the traditional hacienda; in

## 2. Traditional Andean Highland Hacienda: Prerevolutionary Bolivia

Lands to which a campesino had access fall into at least three categories in almost all altiplano haciendas: the houseplot or sayana, scattered plots called aynokas which follow a common rotational pattern, and wastelands usually used for sheepraising.

The Sayana. In almost all haciendas, each peon had a plot of land around his house, ranging in size from a few hundred square meters to a few dozen hectares, to which he and his family had exclusive access at all times and where he could plant whatever he pleased and pasture his livestock. This was usually inherited from his father, and not even the patrón dared challenge his right to it except in grave cases of misconduct, such as consistent refusal to work for the patrón, theft, or murder. Since the patrón was virtually omnipotent there were occasional exceptions to this rule. For instance, on one small island visited, the patrón had felt that he had too many colonos and forced some of them to leave, giving them only food to eat on their way. Usually, colonos could be moved to other plots only if they had just recently settled on the hacienda or if they did not have the status of the full colono. In one case, however, new owners (foreigners with little knowledge of the habits of the colonos) had changed all campesino plots to another site.

The sayana may consist of a single plot, but it is often fragmented because of inheritance patterns, additional land given to the colonos by their patrón, and so forth. Sayanas are absent in some puna haciendas where houses and llama corrals are surrounded by common pastures.

Aynokas. Another basic type of campesino holding is the aynokas, sections of land on which a rotational pattern of crop cultivation prevails. Each campesino, like the landlord, had one or more plots (kallpas) in as many sections of land as the succession of different crops and the fallowing period demanded—as many as nine, depending on the quality and amount of land the hacienda possessed. In contrast to the sayana where pasture rights are private, aynokas are usually used as common pasture when lying fallow. This pattern differs from that of some comunidades where the aynoka is divided into individual parcels of pasture land when lying fallow. Such parcels usually are prolongations of the sayanas into adjacent aynokas and do not coincide with the division of the aynokas while they are under cultivation. Aynokas are absent in only a few haciendas near La Paz; in other regions they frequently account for all the arable land.

Wastelands. Uncultivated hillsides or other wastelands were used as common pasture land both by the campesinos and by the patrón.

Holdings of the landlords were often classified in much the same way as those of the campesinos. The hacienda usually had lands similar to the sayanas, often near the hacienda buildings. These lands, called jachojja, were usually the best on the hacienda and were cultivated continuously, with manure as fertilizer. The hacienda also had its own aynoka parcels, cultivated in the local rotational pattern.

Throughout the plateau, and on many lakeshore haciendas, grazing lands were extensive. These lands, the ahijaderos, differed from common wastelands in that they were of superior quality and could just as well have served for cultivation. They were used exclusively for animals belonging to the patrón and his shepherd. Where stockbreeding was important, the ahijadero was sometimes divided into various sectors, each with its enclosures where sheep of similar age were kept. In spite of frequent fines, the campesinos often did use the ahijadero clandestinely, unless it was encircled by an adobe wall.

**SOURCE:** Hans C. Buechler, "Land Tenure and Use," in Land Reform and Social Revolution in Bolivia, ed. Dwight B. Heath, Charles J. Erasmus, and Hans C. Buechler (New York: Frederick A. Praeger, 1969), pp. 176-85.

others, limited its frequency; and in still others, failed or been overturned. Efficiency and innovation are not the strong points of the labor-rent system, and in many places the hacienda, in its traditional form, has been in the process of transition to a more modern, capitalist form of enterprise. This is described for the case of coffee estates in El Salvador in Insert 4. Nonetheless, the concentration of landholdings in relatively few hands that resulted from the colonial experience continues to be a feature of the land-tenure situation in much of Latin America.

In addition to the traditional hacienda, with its system of labor rent, other forms of tenancy such as sharecropping and cash rent can be found in Latin America as well. In Spanish, sharecropping is referred to as aparcería, mediería, medianía, or ir a medias ("to go 50-50"), and the sharecropper, as an aparcero, mediero, or mediante. Another type of sharecropping in Latin America, described in Insert 7, involves turning virgin land over to someone who clears and plants it and who is compensated, for example, by being able to keep the first crop. This type of tenant is referred to in some countries as a mejorero or yanacóna. Another variation is for the landlord to renew already cultivated lands by allowing the tenant to plant a crop such as corn which he can keep entirely or in part and, after the harvest, plant a permanent crop, such as pasture, for the landlord. Fixed rent in cash is referred to as arrendamiento, and the tenant as an arrendatario or arrendante. An individual who occupies land as a squatter is referred to as an ocupante or ocupante precario or precarista or invasore. A day laborer or wage worker in agriculture is referred to as a peón, and there are various words to distinguish permanent workers from seasonal, temporary workers. Usage of a single term can vary from one place or time to another, and there are differences in nuance. The same basic arrangement can also be known by different terms from one place to another. The seasonal or temporary work force in agriculture is drawn from the landless as well from those with small, inadequate holdings, the minifundistas, whose holdings are referred to as minifundios, as distinct from the latifundio or large estates.

In areas with substantial indigenous populations which maintain some cultural continuity with their pre-Columbian past, such as in Guatemala and the Andean highlands, traditional land-tenure arrangements can be found. In parts of the highlands of Peru, the comunidad indígena, or indigenous community, is the entity in which ownership of land ultimately rests. Individual comuneros, by virtue of residence, usually through birth, have a claim to land for personal use. Some lands are also used as common property resources, particularly pastureland and lower quality lands which are periodically left fallow. Insert 3 describes the situation in Peru.

Countries that have experienced agrarian reform or colonization programs contain reform sectors within the overall agricultural sector. These reform-sector enterprises can be individual parcels, production cooperatives, or state farms. Having been created by state intervention, they are often subject, directly or indirectly, to state management or control and receive services and inputs from other state enterprises. Inserts 14, 10, and 9 discuss several such cases.

### 3. Peruvian Indigenous Communities

In the peasant communities two types of land may be distinguished: cultivable and natural pasture. Whereas pasture land can be used for only one purpose (livestock production), cultivable land can have alternative uses: it can be planted to crops, it can be used to cultivate pastures, or it can be left uncultivated. If it is uncultivated it can still serve as natural pasture. In this sense, uncultivated land does not imply idle land; it means that land leaves the agricultural process and enters into livestock production.

Pasture land is always communal property and is collectively utilized. Each family has free access to it and derives economic benefit in proportion to the family's holding of livestock. The tenure system of arable land varies from community to community; in some there is overall private ownership, and each family uses the land according to its own interest; whereas in others, part of the arable land is used under a system of collective rotation. This is the case for the low quality, marginal land that must be left uncultivated after two or three years of cultivation. If the families' individual plots are not protected with fences, the areas for cultivation must be decided collectively so as to keep animals off that area. The utilization of marginal lands for crop and livestock production requires a collective rotation of land. The land where rotation is done collectively is called *laymi* and is divided into several areas for the annual rotation. Needless to say, once the area of cultivation is decided, the decision as to what to produce and how to produce is made by each family individually. A family's plots are generally distributed across the different ecological levels to which the community has access; however, there are often several plots even within a given ecological level belonging to the same family.

This fragmentation can be explained in part by the desire of producers to avoid erosion, when the land is sloped. But the existence of fragmentation on flat land shows that there are also demographic and economic factors involved. Families acquire land upon their formation via inter-generational transfer, and these new families must produce a range of products. The need of a "vertical control of ecology" by each family implies a process of land fragmentation in the inter-generational transfer. Although this need would seem to reflect a strategy aiming at a certain degree of family self-sufficiency, such a hypothesis does not take into account the wide variations in microclimates, even within the same ecological level, which create variations in yields as a result of frost, hail and floods. Thus the spread of parcels would seem to reflect also a form of risk-adverse economic behavior, which would certainly be consistent with the low level of the producers' incomes.

**SOURCE:** Adolfo Figueroa, Capitalist Development and the Peasant Economy in Peru (Cambridge: Cambridge University Press, 1984), pp. 14-15.

#### 4. Evolution of the Traditional Hacienda: The Salvadoran Coffee Estate

El Salvador's agricultural landscape is dominated by large haciendas of coffee, sugar cane and cotton which cover the most fertile land of the central volcanic ridge and the flat plains running along the coast . . . . These estates, which vary greatly in size and level of technological sophistication, are generally run in an autocratic fashion by a patrono who employs a permanent body of managerial and service personnel along with a sizable number of agricultural workers called colonos. Colonos live within the boundaries of the estates with their families, performing the bulk of the agricultural labor, in exchange for wages and services offered by the patrono. Until recently they were remunerated for their work with small plots of land on which they could plant subsistence crops, and other miscellaneous benefits the patrono would offer. This system, however, has been modified in recent years and cash payment for colono services has largely supplanted the more traditional types of transactions. . . .

##### Coffee

Coffee is found stretching across the higher reaches of El Salvador's central volcanic chain, with the most extensive cultivation in the western departments of San Salvador, Santa Ana, Sonsonate and La Libertad. . . .

Despite its decline in relative importance, coffee is still the major agricultural crop in El Salvador. In 1969, 14,439 coffee farms were recorded, with an average size of 3.8 has. per farm. This latter figure, however, does not take into account the extremely unequal distribution of land among coffee farmers. Over 50% of El Salvador's coffee is produced on farms of over 100 has., and a mere 90 producers individually sell 5,000 quintales and above annually. At the other end, close to 10,000 of the country's 14,439 coffee growers produce 25 quintales or less. . . .

Farms of less than two or three has. cannot adequately support a family of 6 people; and throughout the coffee regions of El Salvador many of these farms harbor two or even three families. As the population grows, the small farms are becoming even more fractioned. Most of these people are forced into the seasonal labor market to supplement their incomes, and they commonly rent small plots nearby to plant basic grains, wherever land is available (land for coffee production itself is only rarely rented; what spare land that remains in coffee areas is usually unsuitable for coffee, and is thus extremely marginal). The labor employed on these small farms is usually familial; only occasionally, when the family is unable for one or another reason to provide the needed labor inputs, neighbors in a more precarious economic predicament are hired.

Coffee farms of medium size—20 to 100 has.—are generally worked with paid labor, and usually have a small number of colonos living on the property to guard the crop and to carry out year-round tasks. Extra help at harvest time is picked up from nearby small farmers and landless laborers. The owners of these farms only rarely live on the property, preferring to reside in nearby cities, and in some cases, in San Salvador. Parts of these farms which are not apt for coffee may be rented to local people for the cultivation of basic grains.



The largest haciendas, some of which stretch across several mountain tops, are invariably owned by absentee landlords, many of whom spend a good deal of their time abroad. (This fact made it relatively easy for ISTA [the agrarian reform agency] to take over many large farms without difficulty. Had more of them been in El Salvador, they may have put up more active resistance.) The largest coffee haciendas—some of which also grow sugar cane in the lower sections of the farm, and have pasture for cattle—cover a diverse range with regard to physical and social conditions. Some are equipped with modern, sophisticated coffee processing plants (beneficios), an efficient management system of upward of 100 employees, and relatively adequate living quarters for the colonos. Others are semi-medieval, with ancient, rundown machinery, inadequate management personnel, and deplorable facilities for the colonos. Where the patrono spends a good portion of his time on the hacienda, usually on weekends and during the harvesting season, his living quarters (called the casco) are often opulent and well maintained. Many coffee haciendas, however, are only infrequently visited by the patrono and his family, and his interest in the estate is limited to the products he extracts. Kept in minimal working conditions, the physical installations receive poor maintenance and are often semi-antiques. The colonos, who are always kept some distance from the patrono's reach, are of little concern as long as they behave themselves and get along with their work.

Although there have been attempts to eliminate the system of colonaje (or colonia), and the number of colonos has been substantially reduced over the last 15 years, they are still very much in evidence throughout the coffee regions. One change, already mentioned above, has been that they are now paid wages, for the most part, rather than food and certain fringe benefits.

Throughout the coffee regions, with the large and medium size estates dominating the landscape, there are increasing numbers of micro-minifundistas and landless people. Many of these people were former colonos who have been dismissed from the estates; many are the result of run-away population growth and the consequent fragmentation of already small farms. The central highlands comprise the most densely populated region of El Salvador, and with the lack of good land in other sections of the country, they are often forced to stay where they are, adding to the demographic crunch each year. Lining the roads skirting the large estates are colonies of desplazados (displaced people, families without land) living in sub-human conditions and without hope. These people, who are lucky to gain occasional permission to rent land on the adjacent haciendas, depend almost entirely on seasonal labor which leaves them without more than occasional scraps during a large part of the year.

SOURCE: Mac Chapin, "Social Analysis: A Few Comments on Land Tenure and the Course of Agrarian Reform in El Salvador," El Salvador Project Paper (Agrarian Reform Organization, n.d.), Annex II.A, pp. 1-5.

## THE AGRICULTURAL ENTERPRISE AND LAND TENURE

### Economic Theory of Land Tenure

Economic analysis views agricultural production as the application of inputs (land, labor, capital, and management) to produce output. When these inputs and outputs are traded in markets, they have prices, and the outcome can be described in monetary terms as profit, that is, revenue from sale of output minus costs of all inputs. The conventionally held goal of the entrepreneur or enterprise is to maximize this profit. Because costs are incurred before yields and output prices are known, agricultural production has the added element of a significant amount of risk.

In a hypothetical pure market economy, with a market for everything, the entrepreneur could borrow funds in the credit market, hire labor, rent (or buy) land and machinery, purchase seed, fertilizer, and the like, hire a manager, and, depending on attitude toward risk, hedge or insure the maturing crop. After the harvest is sold and loans repaid, any remaining money is profit (possibly negative).

While rarely does production actually does occur in such a capitalistic fashion, even in the most developed of market economies, the point is that all these markets (for land, labor, machinery, credit, and so forth) really do exist. Land is just another asset in such an economy, and its owners have no special economic power, nor do they comprise a distinct social class. The decision to be a landowner or a tenant hinges on factors such as prices, interest rates, the amount of debt one can undertake, and attitude toward risk. Land tenure has limited economic and social significance in this pure market economy.

In the agrarian economies of Latin America, however, where some or all of the markets mentioned above do not exist at all or function imperfectly, the land-tenure system has much more significance. When land is concentrated in the hands of a relative few, as is typical in Latin America, those privileged with land can extract rent in exchange for access to land, with the form that such rent takes being influenced by the stage of development. The very nature of society then depends on how land is distributed. In addition there are forms of tenure other than individual private property. Some of these such as production cooperatives are relatively new, while communal tenure systems that date back centuries continue to exist.

Agricultural development projects in Latin America, such as natural resource projects, irrigation projects, crop-diversification projects, and credit projects, will invariably encounter a wide range of tenure types. A crucial aspect of project design is to identify the types of land-tenure relations found in the prospective project region. With respect to tenancy, these include: (1) labor rent, (2) share rent, (3) fixed rent in-kind, (4) fixed money rent, and (5) owner-operatorship, where we include owner-operatorship both for comparison and because in some cases tenancy can evolve into ownership. Systems other than individual private property are communal tenure, sometimes with individual use but also with common use, and collective property. All of these

tenure situations differ in terms of incentives for effort and investment, capacity for entrepreneurship, bearing of risks, and distribution of output.

### Tenancy: Labor Rent

If land is scarce in an economy and its ownership restricted, and if there is no competitive, long-term credit market, there will be no market for land sales except for those prospective buyers with sufficient wealth. If there is limited urban and industrial development, and, hence, little in the way of monetized economic relations, landlords will likely extract rent from agricultural producers in the form of labor services. The tenant receives an individual plot of land, typically adequate only for subsistence, in exchange for performing labor on the landlord's fields. This system tends to be inefficient. There are no positive incentives for the tenants when they work the landlord's fields. Tenants also have no personal incentive for land improvements or conservation, that is, for undertaking investments. The only incentive for innovation lies with the landlords. If they are not particularly entrepreneurial, which can be the case if they are absentee, the system stagnates.

The traditional Latin American hacienda is a classic example of labor rent. Insert 1 provides an example, from Guatemala, of a coffee estate with some forty resident laborers who receive a land parcel as well as some cash wages. This case is doubly interesting because, during coffee harvest when labor demand peaks, seasonal migrant workers, who are themselves smallholders or landless, are also used. Insert 2 describes the situation in Bolivia, prior to the agrarian reform of the early 1950s, where the ways in which tenants gained access to land in exchange for labor and other services provided to the landlords determined the shape of rural society. The system of labor rent tends to disappear, often to be replaced by wage labor, as commerce, urbanization, nonagricultural production, and markets develop. Insert 4 describes this process in El Salvador.

### Tenancy: Sharecropping

Sharecropping is a rental arrangement in which the tenant works the landlord's land and turns over a predetermined share or portion of the harvest to the landlord. A major reason for the appearance of sharecropping is the uneven distribution of land, but this is not the only factor. The output on sharecropped land is often destined for the market, or why else would the landlord want to take physical possession of a part of it. Thus, some degree of commercialization is needed for the emergence of sharecropping on large holdings.

Because the sharecropper, typically being landless, usually lacks access to credit markets, the landlord often provides not only land but also the intermediate inputs and capital items that the sharecropper lacks or would be unable to procure for lack of credit. The landlord may also take a direct role in managing or supervising production. The need for this has to do with the incentives facing the sharecropper. For the sharecropper, additional effort that generates additional output is rewarded with, for example, only half of

### 5. Land Rental: The Salvadoran Arrendatario

One of the most striking features of El Salvador's agrarian landscape is the extraordinary number of farmers who work on rented land. It is estimated that more than 50% of small farmers rent land each year to plant basic grains . . . .

Rental agreements are generally made verbally between renter and land owner a month or two before the planting season; payment for land use rights, whether in cash, promise of part of the harvest (called censo), or some other form, is only rarely legalized with a written receipt. Some rural people make cooperative agreements with neighbors, taking part of the harvest in return for their labor; others exchange services or goods for land use rights. It is also common for farmers to "borrow" land from relatives. Some small renters use land belonging to neighbors with plots of no more than 2 manzanas [1 manzana = 0.7 hectare]; some rent on medium-sized estates; and others rent land on the large haciendas.

Virtually all the land farmed by small arrendatarios [renters] is of marginal agricultural value. It is generally land which is unsuited for commercial farm tractors. Throughout El Salvador during May of each year steep slopes of as much as 60 to 70 degrees can be observed with irregular patches burned clear of vegetation in preparation for planting. On only a limited number of small farm plots planted with basic grains are plows employed to prepare the ground, and these are generally owned rather than rented. Rented land is very seldom planted with permanent crops such as coffee, because of the tenuous nature of the rental agreement.

The marginal quality of most rented farm land makes for a situation in which a system of rotation is predominant. Plots are first cleared of their scant vegetation in April, and when the vegetation has dried sufficiently it is burned. With the first May rains, the initial crops are planted; after these begin to germinate, other crops are added and the field is periodically weeded. Harvesting takes place from late July through September, at which time the field is abandoned. In some of the richer agricultural land of El Salvador, where thick volcanic soils predominate and the topography is not too hilly, crops are planted more or less continuously, year after year on the same plot. But in many areas—such as the bulk of the country to the North—this practice is impossible, and the land must be left fallow for a minimum of one or two years. (According to older informants, fallow periods used to be longer, of at least four or five years; population pressure has cut this period drastically in recent time over large areas of El Salvador, and the general result has been increasing erosion and falling productivity.) In any case, it is apparent that few renters farm the same plot two years in succession. . . .

Small arrendatarios generally make up the poorest and most severely disadvantaged group among El Salvador's rural population. They suffered most acutely from mal- and undernutrition, receive virtually no basic services (such as potable water and electricity), and have severely limited access to school facilities. With regard to the latter variable, it was recently found that in the Region Oriental close to 95% of the renters were functionally illiterate . . . .

**SOURCE:** Mac Chapin, "Social Analysis: A Few Comments on Land Tenure and the Course of Agrarian Reform in El Salvador," El Salvador Project Paper (Agrarian Reform Organization, n.d.), Annex II.A, pp. 11-15.

that additional output if the share is 50-50. Sharecroppers, left to their own decision making, may thus stop short of putting in the effort that they would if they received the entire crop. As a result, output may be lower than if the tenant owned the land. To prevent this inefficiency, and to maximize the return from the land, the landlord would have to actively intervene. On the other hand, when the landlord supplies all the purchased inputs such as fertilizer but receives only half of the output, the landlord lacks incentives to apply these inputs to the extent that the tenant would like. In this case, the tenant would have to make demands on the landlord to get output up to its efficient level. In general, when one party bears all the costs of providing a variable input in a sharecrop arrangement, there is the chance of an incentive problem leading to inefficiency. The locus of entrepreneurship in sharecropping is thus not clear-cut. In some cases, the landlord can be a mere rentier while the tenant manages the enterprise; in other cases, the landlord can be actively involved in decision making, with the tenant being little more than a laborer; or the tenant and landlord may share in decision making and management, with interests that don't necessarily coincide.

A dynamic inefficiency may occur as well. In undertaking land improvements or conservation, the sharecropper receives at best only part of the additional output resulting from these efforts, and none if the lease is not renewed. The sharecropper thus has limited personal incentive to improve or maintain the quality of the land.

As for risk, since the harvest is shared in fixed proportions, in a sense so is the risk. For the tenant, already at a subsistence level of living in many cases, the reduction in risk achieved by this arrangement is an important positive factor in the sharecrop contract compared with the other types of tenancy discussed below.

Sharecropping as an arrangement between large landowners and those with little or no land of their own is probably more common in Asia than in Latin America, though it does exist there. In Latin America sharecropping arrangements can also be found among people of roughly the same social strata. Insert 5 describes sharecrop arrangements among campesinos in El Salvador where production is more subsistence oriented. Insert 8 gives an example of sharecropping in Ecuador in which commercial, family sized farms use sharecrop arrangements among themselves to provide flexibility and to diversify risk. Finally, Insert 1 describes a common form of sharecrop-like arrangement in Latin America in which the tenant gets the use of the land for a specified time but must first clear it to make it productive. After the term of the lease expires, the tenant then leaves the improved land in pasture or some type of permanent crop for the benefit of the landlord.

#### Tenancy: Fixed Rent In-Kind

Under fixed rent in-kind, the tenant turns over a predetermined amount rather than a relative share of the harvest. This creates different incentives and risks for the tenant. All output above what is needed to pay the rent goes to the tenant. With a long-term lease, any additional output resulting from land improvements goes to the tenant as well. The tenant thus has the incentive to invest, innovate, and optimize production. The fact that the tenant

## 6. Fixed Rent Tenancy In-Kind: Ecuadoran Precarismo

As in similar systems of land tenure elsewhere, rice precarismo<sup>1</sup> provided the landlord with excellent returns on his land despite a lack of investment in improved agricultural methods. Labour was plentiful, and its employment within a "peasant mode of production" enabled the landlord to benefit from the tenant's entrepreneurial efforts as well as the longer hours he spent in the field. Within the production process it was the tenant who took most of the risks, not the landlord, and the tenant's identification with the enterprise made supervision unnecessary. Rice precarismo also provided the landlord with control of the commercialization process, by monopolizing the available market outlets for the product. As the owners of ricemills, landlords were able to appropriate a significant part of the agricultural production of the zone.

The form of precarismo practiced in the rice zone bears little relationship to so-called, "feudal" forms of tenure elsewhere in Latin America. Rice precarismo had been introduced within the lifetime of most tenants, to meet the needs of absentee landlords who were unwilling to shoulder the risks of rice production with a paucity of capital. Although the payment of rent in kind was an important part of the system which these landlords introduced, it was by no means as onerous for the tenant as his dependence on the market which the landlord controlled. The absence of proper irrigation techniques and of chemical herbicides provided a brake on the production possibilities offered under precarismo. Nevertheless, the enormous profits earned by landlords and mill-owners were regarded as an impediment to an increased marketable surplus, at reduced prices. It was a desire to rectify this situation, rather than concern for the exploitation of the tenant, which eventually persuaded the Ecuadorian government to abolish rice precarismo.

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<sup>1</sup> The term "precarismo" means, literally, "precarious tenancy." Rice precarismo is not a sharecropping system. The rent paid by the tenant was a fixed amount, rather than a "share." It was also much less than under classic "sharecropping" conditions. A more correct description would be "leasehold tenancy in which the rent is paid in kind." The landlord shared none of the risks of production and was rarely resident on the estate. The tenant was a fully fledged entrepreneur and owned the meagre equipment that was employed in production.

**SOURCE:** Michael R. Redclift, Agrarian Reform and Peasant Organization on the Ecuadoran Coast (London: University of London, Athlone Press, 1978), pp. 70-71.

must pay the same rent regardless of the outcome, though, means an increase in the risk borne by the tenant. The system of fixed rent in-kind, while a theoretical possibility, is encountered infrequently in practice. However, in Ecuador, as described in Insert 6, rice was grown in some areas under a form of fixed rent in-kind called precarismo (a term with quite different meanings in other countries). In this particular case, tenants lacked access to credit and marketing channels, and landlords acted as moneylenders and merchants as well. Landlords provided credit, for which they were able to charge high interest rates, and had a monopoly over buying the tenants' output because they were typically rice millers as well as landowners.

#### Tenancy: Fixed Money Rent

Under fixed money rent, the tenant pays the landlord a predetermined amount of money. The existence of fixed money rent implies a high degree of monetization of the economy. If the tenant is going to pay rent in money, the output is likely to be a cash crop. Typically under money rent, the tenant will meet other obligations, such as for seed, fertilizer, and so on, with cash. This implies access to credit. Thus, most markets, except possibly a land sale market, must exist and be accessible to the tenant. With a secure, long-term lease, fixed money rents, and access to credit, the tenant can become an entrepreneur and even an employer. The positive incentives to optimize production currently and to invest and innovate for the longer term exist since the return goes to the tenant, at least until the lease expires. As entrepreneur, the risk falls on the tenant as well. While cash rent tends to be associated with cash crops, as in the case of the Ecuadoran cacao estate described in Insert 7, small-scale cash renting occurs in subsistence agriculture as well. In El Salvador, as described in Insert 5, very small plots of marginal quality land are rented out by smallholders themselves for fixed money rents to still poorer tenants who have no access to credit and who cultivate subsistence crops on the land.

#### Tenancy: Owner-Operatorship

If markets have developed to the point where tenants have access to credit, a sale market for land which is not limited to those with wealth can evolve. The tenant can, with long-term credit, become a landowner. The incentives to the producer under individual ownership increase still further. Now, any land improvements or investments can be reflected in the value of the property and realized as capital gains upon sale. The risk, including the risk of bankruptcy, falls squarely on the owner. Many owner-operators in Latin America nonetheless operate on the verge of subsistence because of the small size of their holdings. These so-called minifundistas, such as the Guatemalan highland peasant described in Insert 8.5, must have recourse to wage labor or other rented lands to survive. The Ecuadoran cacao estate described in Insert 7, though, gives a good example of the possibility of an evolution from share tenant, to money-rent tenant, to owner-operator.

### 7. From Tenant to Owner-Entrepreneur: An Ecuadorian Estate

A further interesting case of the emergence of entrepreneurship from the tenants of a multifarm estate occurs in the ICAD (1965) report on Ecuador in which a cocoa producing enterprise is faced with the prospect of the destruction of its trees by disease (monilla and witch's broom) if unable to raise the technological level of production, particularly in respect of prophylaxis.

The labour system used is that of contract-planting, common enough throughout Latin America and the Caribbean for the purpose of clearing the land, planting and cultivating a permanent crop until it reaches bearing age (and therefore income producing) with the minimum of capital investment. This is the method which has been generally used by proprietors who wished to have as their main crop coffee, cocoa or coconuts which take several years to bear. It is also used for clearing land and planting pasture and is a form of short-term service tenure. However, the present case is significantly different from that described from Brazil, where the tenant in return for his clearing and planting was compensated by rights to make charcoal and to plant provisions only. In the Ecuadorian case, the tenant was allowed to plant market crops in addition to provision, and received payment for the bearing trees on delivery.

An effective response to the attack on the cacao trees by the diseases mentioned would have meant integrating the whole planted area under a single management in place of the patchy and unequal multi-management exercised by the contract planters, and the undertaking of cultivation and the necessary sanitary measures on a large scale. This would have meant a complete and costly re-organization of productive relations, and might have been attempted by the proprietor if the critical moment of decision had not coincided with a rapid decline in the market price of cacao. So the proprietor (a bank) took the alternative step of relinquishing the entrepreneurial function of cacao producer and turning the contract planters into cash renters and entrepreneurs of the failing crop. This policy led to a movement by the tenants (as they had now become) in favour of their proprietorship of the lots they worked, and in effect the bank decided to parcel out and sell the whole estate to the 286 tenants, each of whom held an average of 13 hectares.

The division of the land proceeded, but before it was completed a new position crystallized and took body amongst the tenant-purchasers. Why should they pay a commercial price for land whose value was mainly due to their own labour during the preceding 30 years? Why pay a proprietor who hardly even visited the estate, simply enjoying the proceeds of the sale of cacao, in whose production he had not even invested? The struggle that ensued became a cause *célèbre* in which the peasants were reasonably successful in the bargain they finally made with the bank.

SOURCE: Andrew Pearse, The Latin American Peasant (London: Frank Cass, 1975), p. 92.



## Summary

From a comparative perspective, these systems are often ranked in terms of efficiency, which is believed to increase as one moves away from labor rent and toward owner operator family farms (or modern large farms using wage labor). Regions that still display labor tenants or sharecropping are considered "backwards" compared to those where owner operators or wage laborers are more in evidence. Often these systems coexist, however, with labor tenants, sharecroppers, cash rent tenants, family sized owner operators, and capitalist farms in the same country. Some explanations for this diversity are market segmentation, individual differences, and tenure ladders. With segmented markets, there is no free movement of individuals from one tenure category to another. Often, because of ascribed characteristics such as racial, cultural, linguistic, or regional differences, individuals find themselves restricted in their opportunities. People differ on a more intrinsic, individual level as well. Some may be more inclined toward wage labor or share tenancy while others, more entrepreneurial and risk taking, prefer cash renting and aspire to owner operatorship. Diversity can thus represent the outcomes of decisions taken by individuals with differing capacities and preferences.

Finally, the concept of a "tenure ladder" refers to evolution within the lifetime of the individual. Starting off, someone may have little more than the capacity for labor but, with the acquisition of some skills, may want to work on their own account. Initially, sharecropping may be the best option, for an individual with little experience may be unable to obtain credit in the market while a landlord may be willing to provide both credit and supervision. After gaining experience, the individual can try more risky--and potentially more rewarding--forms of tenancy, eventually even becoming an owner. Insert 7 finds some evidence for this in Ecuador.

## Common Property

Traditional-usufruct refers here to those traditional systems where land belongs to a group, and individuals have access to land on the basis of their membership in the group. While this is sometimes referred to as common property, we prefer to speak of traditional usufruct, since the term "common property" is often used in the economic literature to refer specifically to situations where there is unrestricted access to a property resource. Common property, in this sense, can lead to poor resource use. Individuals perceive the use of a common property resource to be costless to them, leading to overuse and resource degradation. The typical prescription given by economists for solving such problems is to encourage individual private-property rights. In the situations in Latin America, where groups and not individuals are by custom the owners of land, common property in this sense is not significant. Rather, land is typically divided into individual plots and allocated among families. In some cases, the allocation is long term, and usufruct rights to a specific plot can pass between generations, while in others land is periodically re-allocated among families. While less common, it is possible for land to be worked communally. Common property in the sense mentioned does occur on what is usually marginal land suitable only for grazing. This land is not marginal because it has been used as common property, however, but is common property

## 8. Commercial Sharecropping in Ecuador

Occasionally people in Carchi refer to a model of the life cycle in which a young man begins by renting land in as a sharecropper, and then gradually builds up the capital needed to buy land which, in middle age, he can more or less work on his own. As he grows old so he is increasingly likely to rent land out to sharecroppers. It sounds idyllically Chayanovian and fits well with the analyses of sharecropping by Robertson mentioned in the Introduction. It is also, in a sense, supported by our data: table 5 shows that, among owners of land (who are the only ones qualified to be in our sample) the propensity to rent land out is greatest among those aged 60 and over and those under 40 tend predominantly to rent land in. If we take into account that the landless are excluded from this sample, and that 14 out of 57 people involved in sharecropping in our study stated that their sharecropping partner was landless, then we could add on a notional number of landless young people renting land in at the top of the table, who find themselves at the beginning of the ideal cycle.

Even so it would be wrong to draw from these data any conclusion stronger than that some people do follow this ideal cycle. To support a stronger conclusion, our data would have to support two corollaries of the ideal cycle. These are (a) that larger owners tend to lease out and smaller ones tend to lease in, and (b) that older people tend to own more land than younger ones. Unfortunately neither corollary is supported. What emerges then, is an indication that although some people may follow the ideal cycle, many others either fall by the wayside or start in a much more advantageous position than the ideal would lead us to believe.

The young men who start out renting land in do not go empty-handed to potential partners. Since these are cost-sharing contracts they must have some means of paying their share of the costs. Perhaps they will find a partner who agrees to advance all costs against a settlement at the time of harvest (a futures contract in effect), but even in this case they will need to have the means to reimburse the partner if their share of the product turns out to be worth less than their share of the costs. So a young man needs a backer, and inevitably this often means his father or mother, directly or indirectly. Even more often, it means that he is sharecropping with his father or mother on their land.

So even if the sharecropping system does enable the young landless to embark on a road to landownership, it does not in the least follow that it will help the children of people who have been landless all their lives to reach a higher social status and greater wealth than their parents. This does not invalidate our more general thesis: the claim that sharecropping plays a role in the rise of the capitalized family farm does not, it should be recalled, imply that it helps to bring about a redistribution of income, land, wealth or any other desirable good. . . .

In both areas cultivation occurred mostly between 3000 and 3500 metres above sea level. The 'story' one was told in Huaca was that quite a lot of people had substantially increased their wealth by cultivating potatoes since fertilizers were first introduced in the 1950s, but that nowadays there was not much money to be made in the crop. There had always been price risks, but to these were now added the risk of losing a crop or obtaining very low yields on account of diseases, frost, drought, and the spiralling costs of pesticides and fertilizer used in ever-increasing quantities

at ever-increasing prices. Between mid-1980 and mid-1981 the price of fertilizer rose from some \$350 per 100 lb. to over \$500, while the general price level rose only some 13%. (\$ signifies Ecuadorian sucres.) Despite its decline, the potato retained a dominant position in Huaca, and whereas those who had already accumulated some capital could comfortably switch all or most of their activity to milk production, those who still had to accumulate capital found it hard to resist a crop in which yields and returns (prices and pests permitting) far outstripped anything that could be made in other crops. Potatoes were an obsession, a temptation and a gamble, as well as the main ingredient in three meals per day.

In 1980, the rule of thumb used by the producers was that it cost \$40,000 to plant, cultivate, harvest and transport to market one hectare of potatoes. At the exchange rate prevailing for most of 1980-81 (\$27 to the U.S. dollar) this was US\$1,481. The cost of fertilizer, again as a rule of thumb, would be, in 1980, US\$260 per hectare while the cost of seed, if purchased, would fluctuate, like the price of the product. The price per quintal of 100 lb. of top-grade potatoes during the year from August 1980 to August 1981 fluctuated between extremes of \$150 and \$400. Wage labour accounted for roughly one third of costs, according to our pilot surveys. Yields were extremely vulnerable to the weather (frost and drought) and to blight and rust. They were considered low in comparison with the 1960s and early 1970s.

These figures give an idea of the costs and risks involved in potato production, and form an essential background to our account of sharecropping. More or less obliged by circumstances to juggle with wild price and yield fluctuations and uncertainties, producers manage a portfolio and spread risks, and in this sharecropping plays a central role by enabling them to diversity both price risk—in time—and climatic risk—in space. In order to cope with extreme price volatility producers seek to sow several times during the year, and if this stretches their resources in time, labour, land or managerial capacity they look for a sharecropping partner. Similarly, although it is considered best from the point of view of capital investment to concentrate one's landholding in space, the risks of frost and rainfall variation compel a diversification in the location of the crops, and one can achieve this by sharecropping on someone else's land.

**SOURCE:** David Lehmann, "Sharecropping and the Capitalist Transition in Agriculture: Some Evidence from the Highlands of Ecuador," Journal of Development Economics (1986).

### 8.5. A Guatemalan Highland Smallholder

The municipality, located in a valley some 2,000 meters above sea level, is surrounded by mountains. A paved road, connected with the Pan American highway, passes near-by, but it apparently does not serve the village of San Andres. Almost all its 1,600 inhabitants depend directly or indirectly on agriculture; approximately one-third of the family heads have no plot and work as agricultural laborers on the lands of other campesinos (there are no large estates in this area). The workers, together with many others with little land, go down to the large coffee plantations on the Pacific slope to help with the harvest to supplement their income. In the main they grow subsistence food crops, which are consumed locally. Ramón Coj Choch, the subject of this case study, is a typical minifundista, who lives with his wife and four children. Ramón owns only one hectare of land; he inherited it from his father, who in turn had three hectares and three heirs. Like all of their neighbors, Ramón has a deed for his land, but the land is divided into two small plots: one on the mountain-side, the other near the top. The second is particularly difficult to work because of the rocky slope.

The family's needs require him to cultivate both plots intensively year after year. Like everyone else, he plants corn, and usually raises some 5 or 6 cuerdas of wheat on the level land. His corn yield has fallen in the last years from 88 to 55 pounds per cuerda, due to a prolonged drought the year before and to soil exhaustion from single-crop planting.

Although he is not self-sufficient in corn, he continues to grow wheat, because the price is attractive: the mill pays him Q.5.80 [\$5.80 U.S. dollars in the 1960s] per hundred pounds. The sale of this grain is an important source of cash income. The corn produced on the rest of his tiny plot, which is inter-planted with beans, cannot fill the needs of his family since Ramón is forced to sell one-third of his harvest for lack of storage space. Corn is the most important element of his family's daily diet. During two months of the year, they usually have to buy corn in the market, when the price rises to Q. 3 and sometimes to Q. 5 per hundred pounds [\$3 to \$5 in the 1960s]. Beans and cucumbers, mixed in with the maize, are grown for home consumption. Other crops, apart from garden vegetables, are not produced in the highlands, and a second corn crop would not be possible because of the cold climate and a prolonged dry period.

The work on the plots, because of their size, only keeps Ramón busy during certain seasons of the year. He devotes a great deal of time to the preparation of practice which was introduced in this zone by extension agents during the Arbenz government, but he needs no more than 120 days to look after crops. After his harvest, in November, he goes down to the Pacific slope area, some 50 kilometers to the south, where he works

as a peon on the coffee harvest. For some three months he goes from one estate to another, beginning with the lowest, where the berries ripen earlier, finishing in January or February in the highest and coolest zones of the Vertiente. Instead of taking the estate truck which comes to pick up workers in the neighboring villages, he prefers to go on foot. He thus avoids the cost of transportation which would be deducted from his weekly pay. During this period his wife stays with the children, looking after the property. Their few animals-five chickens and a pig-serve a very important purpose: not for consumption, but as a source of savings. The eggs are sold in the market and the animals are only sacrificed for fiestas or emergencies.

During slack periods Ramón goes up to the mountains in the mornings to cut pine wood on the communal lands. The sale of lumber also brings him a few quetzales.

All these activities together provide him with a gross income of some Q.400 [\$400 U.S. dollars in the 1960s) per year, half of which comes from the sale of agricultural products. Expenses during the year adapt themselves automatically to the money available.

Apart from all this, Ramón is involved in many other unremunerative activities. He helps a neighbor with his terraces; and he has recently given his brother a hand in repairing his house. He also has the duty, as does everyone else in the village, of devoting one or two days a week to the community. This year he helps the mayor; he is now "major" (a kind of policeman), running errands and taking messages in the municipality. He knows already that next year he will be "fiscal," the assistant to the visiting priest; he will have to look after the church and be responsible for the cleaning and the keys. In this way he participates in the hierarchical system of civil and religious tasks. These services completely regulate public life, and at the same time link the people of the community with the church and their belief in the supernatural.

Ramón has no plans for the future. He hopes that God will permit him to continue as today, living like his neighbors. He is skeptical about the official programs because he believes that the authorities are not concerned about the Indians and therefore, he prefers to look after his own interests himself.

**SOURCE:** Solon Barraclough, Agrarian Structure in Latin America (Lexington, Mass.: Lexington Books, 1973), pp. 240-42.

because of its marginal nature. Even in this case, the group controls the extent to which any one individual can use the resource.

Rather than the "common property" problem of resource overutilization, systems of traditional usufruct are more likely to create problems of access to credit and, possibly, incentive problems for individual investment. Private and public financial institutions which lend to farmers often prefer as collateral for their loans the land which the borrower cultivates. In the case of usufruct, however, a member of the group may farm individually but on land which belongs, in the final analysis, to the community. The typical credit arrangement does not work in this case.



## THE AGRICULTURAL ENTERPRISE AND PROJECT DESIGN

### The Nature of the Agricultural Enterprise

The agricultural enterprise is the fundamental building block of any system of agricultural production. Such enterprises run the gamut from the subsistence-oriented peasant family farm, to small farms geared to production for the local market, to medium-sized farms and production cooperatives, to large commercial farms employing wage labor and producing for both domestic and foreign markets, to plantations owned by multinational corporations producing exclusively for a foreign market. The common thread, in all cases, is that decisions are made and implemented at the enterprise level as to what will be produced and how.

Too often these decisions within the enterprise are viewed by project designers as involving a purely technical relationship between inputs and outputs, ignoring the numerous social, institutional, and human dimensions which may significantly complicate that relationship. One important social factor described above is that different individuals often provide different inputs for a given enterprise. A landlord may provide land; a sharecropper, the labor input; and a bank or private moneylender, working capital to finance purchase of seed, fertilizer, and so on. Or the land itself may not be individual private property but the property of a collective or a traditional community. Rather than being a technical relationship between the amounts of various factors of production and the resulting level of output, the production process from the participant's point of view in these types of cases may involve complex social relations or be enmeshed in a special legal or institutional framework. Land tenure, the system of property rights and the distribution of property, is a major aspect. What follows is a discussion of the tenure-related complications to the simple "land plus labor plus capital yields output" equation of conventional economic analysis as it relates to project design. Since the campesino is the target group of most agricultural development projects, the discussion will be further focused on the campesino's situation as a major decision maker within the types of enterprises typically encountered in projects.

The campesino can be found engaging in production in a number of quite different types of agricultural enterprise. This is virtually always, however, in the context of what has been referred to by Boserup as male farming systems (Boserup 1970, p. 15). This differs from the situation in Africa and parts of Asia, where women may perform many, even the bulk, of the tasks in agriculture. African women, for instance, even though married, can be responsible for raising their own and their children's food. Furthermore, agricultural production in these other settings, even when carried out on an individual rather than a group basis, often occurs within the larger social setting of an extended family, village, lineage, or tribe. These institutions control access to land and in other ways condition individual behavior to a greater extent than is typically found in Latin America.

In at least nominally Catholic Latin America, the nuclear peasant family is the norm, with a typically "Western" sexual division of labor, in which males tend to do the agricultural work on the family's own land as well as wage



labor and work on rented land, while females perform domestic tasks, including the obvious food preparation and child rearing activities as well as such tasks as crafts, care of animals, cultivation of a house plot, and so forth. Women's contributions to cash earnings of the family arise from engaging in cottage industry or providing services such as washing or sewing from the home. In some regions, market women may also be heavily involved in trade of locally produced food and crafts.

Rather than attempting a general definition or description of the campesino, the diversity will be emphasized by discussing how the campesino's situation can vary along three dimensions: access to land, involvement in the labor market, and involvement in the input and output markets.

### Campesino Access to Land

For the campesino, by definition, livelihood depends on agriculture and, hence, access to land is of utmost importance. The ways in which access is gained in Latin America are more varied than simply owning or renting, however. The following six categories will be discussed: ownership, traditional usufruct, tenancy, membership in a production cooperative, squatting, and landlessness.

**Ownership.** Ownership refers to the situation where land is occupied by an individual producer, or family, who holds a title or other de facto claim to receive the benefits from the land, to mortgage or pledge the land as collateral, and to be able to transfer the land through inheritance or sale. It also involves duties such as liability for taxes and adherence to laws concerning land use.

Ownership of agricultural land by the individual who supplies the bulk of the labor to make it produce--and who thereby earns an adequate living--is not nearly as common in Latin America as in the United States, though there are "family farms" where enough land is controlled to absorb the family's labor and provide at least for survival. These family farms, though, show great diversity. Production may be purely for subsistence with diversified crops such as corn, beans, rice, potatoes, or other tubers, and some animals, perhaps a pig, cow, sheep, or some chickens or turkeys. In this situation, manufactured inputs may be limited to hand-held implements such as an ax or machete. Purchased consumption items may not go much beyond salt, sugar and oil, kerosene and matches, and some clothing.

Other farms are geared largely toward production of such cash crops as coffee, vegetables, or fruit. Consumption will largely come out of net cash proceeds, and production credit may be required to finance the necessary manufactured inputs. Such farms fulfill goals of increasing export earnings or urban food supplies more than subsistence-oriented farms. Currently, many development projects are aimed at transforming subsistence farms into commercial family farms by providing credit, technical assistance, irrigation, and the like. Success depends, among other factors, on the land-tenure situation.

If campesinos own their land outright, with clear title, their successful participation in a project can require little more than making opportunities

such as credit or new technology available to them, provided the size of their holding is adequate. The problem, however, is that often sufficient land resources are not owned or the land is rented or merely being occupied without title, as described in Inserts 5 and 7. In these cases, either land reform, programs to stimulate land purchases by campesinos, or land titling may be needed before commercial family farms can be possible. The exact size, or range of sizes, of holding required for commercial farming is a technical question, the answer to which varies depending on soil, climate, technology and the types of crops to be grown. Project goals enter the equation as well; there is the question of whether or not the enterprise should rely primarily on family labor or be of a size that it becomes an employer of other campesinos. Determining just what this appropriate size is is crucial to the success of the project. Since it depends on both technology and socioeconomic factors, agronomists and agricultural economists together can provide an answer.

In cases where land reform or colonization has already settled people on individual holdings, though they might be described as owners, they often lack certain basic rights typically associated with ownership, particularly those to rent or sell the land and in some cases even to pass it on to heirs. There may also be restrictions on the hiring of paid labor to work on the land. These controls are often based on a concern for preventing concentration of landholding, as poor campesinos, who might be tempted by the promise of cash, sell out to wealthy individuals, recreating the pattern that was supposed to have been broken in the first place. Or there may be a concern about creating a new class of relatively rich peasants who live off the labor of those who did not benefit from reform. While such prohibitions can be criticized for their paternalism, they are more often pointed to as an obstacle to efficient production. Land is often the preferred form of collateral for the agricultural lender. However, when land cannot be sold or transferred, it cannot serve as collateral for a loan. Thus, private lenders shun these potential borrowers. Other criticisms are that the incentives for improvements are diminished by removing the possibility of realizing the fruits of these investments as capital gains upon sale and that structural rigidities are created by denying families the ability to make adjustments to changes in the composition of the family's labor, land, and capital endowments through renting out land or hiring in labor. Insert 9 discusses an agrarian reform project in the Dominican Republic in which the beneficiaries were subject to such restrictions. Development projects in countries with agrarian reform or colonization sectors--in general, public agricultural sectors--often involve campesinos who occupy land under such conditions. In such cases project designers must determine to what extent these campesinos are not private owners in the usual sense, and how this will affect their response to new opportunities. Also project designers will have to take into account the bureaucratic environment when various local government agencies continue to have contact with these campesinos, providing such things as technical assistance, credit and the direct provisioning of inputs and marketing of output.

Traditional Usufruct. Traditional usufruct refers here only to the situation where individuals have access to land by virtue of membership, typically through birth, in a group to which the land ultimately belongs. (Other writers have used the term "usufruct" more broadly to describe situations that come under the heading of tenancy here.) Examples of traditional usufruct are the

## 9. Restrictions on Property Rights in the Dominican Reform Sector

### Land Tenure

In 1973 when the agrarian reform in this asentamiento was carried out, the procedures for distributing land were as follows. A particular piece of land, identified on a map of the project, was assigned to a particular individual. This assignment was recorded on a "provisional title," a single-page document given to each beneficiary. On the provisional title was noted the number of the parcel, the name of the project, and the name of the parcelero, the number of the parcel corresponding to a numbered parcel on the map of the asentamiento. . . .

The provisional title, the single-page document handed out to each beneficiary, is thus the only written record that the parcelero has access to, and on the reverse side are stamped sections of two laws that define the conditions under which the parcelero may hold the land. The first set of articles, Articles 1, 2, 5, and 6 of Law No. 145 of 1975, states that no one may buy, rent, or otherwise acquire any land which has been distributed by the agrarian reform. These articles are a clarification of those in Chapter VI of Law 5879, which state that the parcelero cannot abandon the land and that the parcel is his while he works it. This principle is clearly understood. We asked one parcelero if the parcel was really his, and he replied that it was . . . as long as he planted crops on it. Should he abandon or otherwise alienate the land, IAD [the agrarian reform agency] can revoke his use right.

Title is provisional not only in that the holder must cultivate the land, but also in that his right of use can be transmitted to another only under specific arrangements. The beneficiary's wife can inherit the use right should he die, as can his children, but it cannot legally be divided among them (Articles 42 and 43 of Law 5879). Should the parcelero decide to leave the parcel, he can negotiate the sale of the improvements he has made, but the procedures for estimating the value of such improvements are not too clearly defined on this point. The final transaction must be approved by IAD, and the new "owner" must be issued a provisional title. Presumably the sale price of the improvements alone would be substantially less than the price on the open market for the land and improvements, although in practice the price of parcel improvements might include the value of having access to the land as well as the improvements themselves; such transactions could yield prices close to those for privately held titled land. (We were not informed of sales in the project to date, although some parcels have been transferred from their original holders to other beneficiaries.) Also, there are apparently some individuals in the asentamiento who farm fields for which there are no titles. At the time the original settlement was made, some land was not assigned. The parceleros have agreed among themselves to give the use of this land to specific, otherwise landless individuals, who hold it without provisional title and without official sanction from the IAD.

Provisional title, for those who have it, provides a usufruct right to the parcelero, the right to cultivate a particular piece of land. It also can, under certain circumstances, provide access to state-controlled resources other than land. One such resource is credit. With a provisional title the agrarian reform beneficiary can secure production credit, and at times long-term investment credit, from the Banco Agrícola. The title certifies the parcelero as a reform beneficiary whose production debts are guaranteed by IAD; a guarantee could mean that IAD will repay the loan if the parcelero could not do so. Such repayment by IAD is not common, but the principle is that it might do so. The local bank manager could always deny a parcelero further loans if he believed they would not be repaid, yet the repeated access of indebted beneficiaries

to credit indicates that the provisional title can continually help to open doors at the Agricultural Bank, but not at private banks.

The provisional title also makes the titleholder a beneficiary of the agrarian reform in other ways. He has the right at least to expect the state to provide him with housing, water, schools, roads, clinics, etc. (Of course, whether or not he gets such services is another question, but the basic agrarian reform statutes [Law 5879] explicitly give IAD the responsibility for providing such services.) Relatively impressive governmental investments in housing, foods, water, school, and other infrastructure on asentamientos, and in Puesto Grande in particular, give support to the notion that the provisional title provides a "services-demand right" as well as a land use right to the agrarian reform beneficiary.

Article No. 38 of Law 5879, which is also stamped on the title, discusses the conditional sale of parcels to beneficiaries, allowing at some point in the future the beneficiary to acquire full property rights. This transaction has not yet occurred, but its possibility clearly implies: (1) that the state retains substantial interests in the land at present, and (2) that those state interests are transferable to the individual holder should he continue to work the land adequately and should the state develop procedures for this transfer—which it has not done to date. This possibility of the state transferring to the beneficiary something like the legal ownership of land held by those in the rest of the country's private land sector is an incentive for the parcelero to work the parcel and prove his commitment to it. The possibility of a future transfer, conditioned on satisfying the state's changing bureaucracies and requirements, however, is also an irritation to the parcelero, since he remains dependent on the state and party politics for keeping his parcel.

The tentative nature of rights to land may be one factor obliging the parcelero to plant crops which produce immediately and not to make long-term investments in the land such as those required for tree crops like coffee and fruit. Insecure, partial property rights often seem to discourage the kind of investments which poorer lands require. Furthermore, the lack of criteria in the reform legislation for determining what is "acceptable use" of the distributed land has not permitted IAD to insist on investments in soil conservation, nor even on tree crops as a condition for future acquisition of property rights. As the Puesto Grande asentamiento administrator mentioned, when the lands were originally distributed a golden opportunity was lost to define the "acceptable use" of the land to include soil conservation practices and tree crops where appropriate.

The limited nature of property rights as they now stand is apparently well understood by the parceleros. Only a few have attempted to rent or sell their parcel outside of the regulations governing these transactions. In the few instances which have occurred, community pressures have led to a return to the original situation or to a transfer of the parcel to someone else. There are enough people in the community who have insufficient or no land or who themselves have been frustrated in renting or selling their parcels that, should a parcelero attempt to alienate his parcel, IAD is informed and the parcelero is pressured to resume working his parcel or to pass the parcel to another person.

**SOURCE:** David Stanfield, Ana Teresa Gutiérrez de San Martín, and David Perez, Puesto Grande: A Case Study of Agrarian Reform on Marginal Lands in the Dominican Republic, LTC Research Paper no. 84 (Madison: Land Tenure Center, University of Wisconsin, May 1985), pp. 10-15.

Mexican ejido and the Andean comunidad described in Inserts 10 and 3, respectively. While in their current form they are largely products of the Mexican revolution and the colonial period, respectively, both are often portrayed as containing some pre-Columbian elements of communal land tenure. The individual or family has a right to use communal land by virtue of membership in the group in which ownership is vested. Land in individual plots may be periodically reassigned to different individuals in some cases while, in others, use rights to specific plots may be passed between generations. Typically, some land, generally of poorer quality, will be common property, used for grazing, gathering firewood, and the like. Individual plots may also temporarily become common property for grazing after harvest. Individuals are often restricted in the use they may make of land allotted in usufruct. Noncultivation may cause the land to revert and be reallocated. Renting of land, either to outsiders or to other members, may be prohibited. Traditional communal postharvest grazing rights on individual plots may be at odds with individuals' attempts at changing cropping patterns. Finally, it is often argued that long-term land improvements or investments in the land may not be undertaken because individuals lack the security of ownership and that individuals will not be able to pledge land as collateral, closing off some sources of credit. In countries such as Mexico and Peru, where traditional usufruct is significant, it can become a highly charged political issue, with one side using the above arguments to claim that it is a hindrance to development and should be replaced by individual ownership and the other side arguing that the institution is a precious cultural heritage that should be maintained and perhaps even serve as a model--or at least as an inspiration--for a more communitarian economic system.

Development projects that involve groups that practice communal tenure with individual usufruct can be successful but may require special considerations. First of all, communal tenure need not be in conflict with individual tenure security over a specific plot of land. The only right the individual may lack is that of disposing of the land by handing it over to someone outside the community from which usufruct was granted. Other than that, the individual may benefit indefinitely from any improvements by continuing to work the land and may even pass the benefit on to heirs. The extent of individual tenure security should be investigated in such cases. If it appears to be in doubt, the project could encounter difficulties. Individuals may lack the incentive to invest their resources when the return is uncertain. By creating the possibility of increased incomes, there is also created the temptation for individuals to gain as much as possible for themselves, which, if individual land rights are not clear cut at the outset, leads to internal conflict and a breakdown in group solidarity. If, in trying to avoid these problems, the project designers emphasize the need for individual tenure security, they could be accused by domestic critics of trying inappropriately to impose private property relations where they had not existed before. Finally, if the project is successful where none of these problems occurred, it still may raise some individuals' incomes more than others' and thus increase inequality within the group. While perhaps unavoidable, this could be a target of criticism.

There can be advantages to undertaking development projects in traditional usufruct settings. Where there are strong institutions of mutual help and sharing, much infrastructure investment, such as road building or construction,

## 10. The Mexican Ejido

Ejidos, both cooperative and parcelized, have certain common characteristics. The land in both is owned by the group as a whole, not by individuals. This is not a foreign idea to the Mexicans. The Aztecs had the same law. The group and its members have a "use title" to the land. They can not sell, lease, rent, mortgage, or alienate the land in any way. Nonuse for two years is the only method by which one may lose title. The plot or the membership in the cooperative ejido reverts to the group if a family moves away or dies. Aztec and early Spanish legal usage contained the same provisions. . . .

### Organization of the Cooperative Ejido

The members in general assemblies elect an administrative committee of three members and three alternates as the executive body of the ejido. From among the members one is chosen to be the executive officer in certain matters.

Supervising the work of the administrative committee and of the individual members in their appointed tasks is an elected vigilance committee. It is particularly charged with seeing that the land is used in the best possible manner, and that ejido investments (such as in machinery, mules, and goods for the cooperative store) are well made. Its president, acting jointly with the executive officer of the administrative committee, signs the legal papers of the society. . . .

General assemblies also elect a work-chief, or foreman, and his assistants. They also elect a warehouseman, a herdsman, a manager for the cooperative store, if one exists, and other important officers in charge of community undertakings. The key man is the work-chief. Each week he meets with the administrative committee, the vigilance committee, and a representative of the Banco Ejidal to map out the work program. He makes a detailed distribution of work to each member, keeping track of what is assigned and what is accomplished. Each member carries a work card, which at the end of the week shows what he has done and to what weekly compensation he is entitled. . . .

### Parcelized Ejidos

The administrative machinery of the parcelized ejidos is less complex. The principal committee is called the Comisariado Ejidal. It is composed of the same number of persons and elected in the same manner as the administrative committee in the collective credit societies. A vigilance committee of three members and three alternates is also elected and serves the same general functions as in the other type.

Parcels are laid out by the agrarian authorities and are assigned by drawing of lots among the ejidatarios. The lots are then worked as a family plot and are handed down to the heir of the ejidatario. The holder has a "use title."

**SOURCE:** Clarence Senior, Land Reform and Democracy (Gainesville: University of Florida Press, 1958), pp. 94-99.

can be accomplished by the group as a communal project, something which could be very difficult to achieve in a community of independent smallholding peasants.

Insert 19 provides an example of use and inheritance patterns of land held in traditional usufruct in an indigenous community in Peru. The complexity of this case illustrates the need for careful study, perhaps involving specialists such as anthropologists, if project designers are to have a true understanding of the situation as seen by the campesinos.

Land Rental Markets. For campesinos who do not own land or are not members of a communal group that owns land, access to land may be gained by tenancy or renting. Development projects that involve campesinos who are tenants raise special considerations. If the tenant does not have a secure, long-term lease, a number of problems arise since, in this case, tenants may lack the incentives to invest their labor or other resources in land improvements which become the property of the landowner. Thus, they may be extremely reluctant to cooperate in a development project.

If tenants are compelled under threat of eviction to cooperate and the project succeeds in increasing production, landlords capture the benefits. Any land improvements or investments that increase land productivity might also cause the landlord to evict the tenants and engage directly in production. In either case, project designers can be criticized for aiding landowners in their exploitation of campesinos. Direct compensation paid to tenants for their efforts may be required either to get the project implemented in the first place or to avoid criticisms, even though this step would be unnecessary if the tenant farmers were themselves the owners. Alternatively, project designers can attempt to get the mutual cooperation of owners and tenants in the project and work out a lease agreement that divides the benefits of the project and thus overcomes these criticisms.

In determining the extent of tenure security of tenants, the project designers should be aware of the formal law concerning tenancy and the actual practices in the region of the project. If what is spelled out in the law differs from what happens on the ground, a number of problems arise.

In many Latin American countries, the same concerns that led to land reform attempts also brought about pro-tenant legislation. In some countries, where tenancy was viewed negatively, it was simply prohibited. Such legislation may have little impact on the way things actually work, however, and traditional practices may go on even though at odds with the law. The law, for instance, may appear to make it very difficult for a landlord to evict a tenant; in reality, the tenant might realistically fear for his life if he tries to have the law enforced.

Project designers may find that landlord-tenant relations do not conform to the formal law in an area where a project is proposed. To expect that they should change is likely to be unrealistic. Raising such issues may only serve to create controversy and conflict locally and seriously jeopardize the project. Going along with the situation on the ground, however, may make headlines back in the capital: "Foreign Aid Illegally Exploits Peasants." In cases such

as this, tenure complications alone may rule out undertaking the project, even though other aspects are favorable. Insert 20 describes the situation in Venezuela where legislation has virtually eliminated tenancy as a legal form of tenure. Insert 7 describes the ambiguous status of many tenants in Latin America and the conflicts that can emerge between tenant and landlord.

Production Cooperatives. Production cooperatives are another means of access to land. These have usually emerged under government sponsorship. Some land reforms made laborers into owner-members of collective enterprises that had formerly been highly commercialized farms. The Peruvian coastal sugar plantations are a prime example. In other cases, land reforms turned land over not to individuals but to organized groups. Production cooperatives can even be found in countries which never experienced a permanent land reform. In Guatemala, for example, some coffee plantations expropriated from German nationals during World War II were turned over to campesinos to be run as production cooperatives.

Where they exist, production cooperatives generate controversy. Their critics portray them as inefficient and wasteful, which sometimes is true. Being ideally a worker-managed enterprise, the true production cooperative presents its membership with what is likely to be an unfamiliar contradiction. Members are, at one and the same time, workers and owner-managers. Labor discipline and financial management can suffer if the "workers" continue to resist exploitation by the "owners" (now themselves). Insert 11 describes a production cooperative in El Salvador where, when queried, 60 percent of members responded that they were owners while 40 percent felt that they continued to be mere wage workers.

Also, nothing may have replaced old, coercive mechanisms of labor discipline, resulting in widespread shirking--the so-called "free rider" problem. If there is no guarantee that everyone works up to standard, some likely will not, and then most will ask, "Well, why should I?" There are also problems when members fail to see, or do not believe, that they are really owners. When production credit provides funds to pay members for daily work as it is performed, they may see this simply as a wage, requiring no further obligation on their part. In fact, for the cooperative, their enterprise, there is still the debt that must be discharged out of what was produced. If the work done amounted to just putting in time, however, results will be poor, with not enough proceeds to repay the loan and growing indebtedness. Where members also have small individual plots, credit-financed collective projects can suffer as members tend more to their own plots, even to the point of diverting cooperative resources such as fertilizer. Insert 12 describes such problems in a production cooperative in Panama.

Given these real problems in managing production cooperatives, along with an undeniable desire on the part of campesinos for a piece of land of their own, there is a tendency for cooperatives to break up into individual parcels, as described in Insert 13 for a case in the Dominican Republic. While critics view this as natural and even desirable, the results are not necessarily an improvement just because individual initiative has been unleashed.

The economic arguments in favor of production cooperatives hinge on the idea of economies of scale. It is cheaper, for instance, to provide credit to



# 11. Reform Sector Enterprise: A Salvadoran Hacienda Turned Production Cooperative

At the time of the intervention there were 32 colonos and their families living on the farm. The farm had a total of 577 hectares. The former owner hired additional workers so that sixty persons worked year round on the farm before intervention. After the co-op started managing the farm, they decided to increase their rice production which required more manpower. They, in turn, decided to allow more members into the cooperative to provide that additional labor. They presently have 102 members and are planning to raise the membership total of 120. The Board must approve any new member who presents his candidacy. The criteria for selection are that the candidate must have no known vices and be a good worker.

New houses (very humble ones, for sure) have been built to accommodate the additional members, many of them along the entry road. Of the present membership, 75 with their families (an estimated total of 401 persons) are living on the farm. Other members live nearby, some in a neighboring small town (cantón).

The major crops raised on this farm are sugar cane, the predominant crop, corn, beans and rice. Each member has been given one-third of a hectare for his personal garden (milpa) on which he can grow corn and beans. The corn and beans provide the bulk of his family's sustenance. The members estimate that their garden areas are ample enough to yield a year's supply of corn for a family with six children. . . .

The Board expressed satisfaction with the way the ISTA [the agrarian reform agency] technician works with them under the co-management arrangement. They stated that the technician gives them options when trying to reach a decision, and does not try to force them. They summed up the co-management relationship by saying "it is a sort of 50-50 relationship where (they) talk over any decisions to be made." They estimated they will be able to manage themselves in three years, based on the fact they have already learned a lot. For example, they have learned to plan work and set up the payroll so they can receive money from the bank to pay members. . . .

The Board of Directors stated that 60 percent of the membership reportedly felt like owners of the farm; the other 40 percent felt like they were just workers receiving salaries. The leadership tries to overcome this lack of confidence by having meetings every Wednesday for the entire membership. At these meetings, ideas are presented on cooperativism and marketing. One person noted that the members are often so tired from their toils, that education is difficult. Also, 40 percent of the adults are illiterate. To relieve this problem, a Ministry of Education literacy program has been initiated. The adults attending were described as enthusiastic. They estimated they will be able to learn to read and write at a minimal level after just four months of instruction (of about two hours of classes per day).

The cooperative receives its financing from the Banco Hipotecario. The cooperative paid off its production loans from 1980/81. The credit plan is developed with the ten directors meeting with the ISTA technician and the bank's agent to discuss the financing needs of the farm for the coming year. Basically, they plan what crops and how much of each crop they will raise.

The bank's agent visits the farm every week. The directors meet weekly to prepare the payroll for presentation to the agent in order that he approve the loan disbursement.

One member was caught misusing money belonging to the cooperative. He was disciplined publicly, but not deprived of membership. . . .

What was different about the way the cooperative was run as compared to the hacienda operation? The members replied that, first and foremost, there was a participation by all in the cooperative's activities.

Second, they said they treat each other better (and the study team assumed their mutual treatment was better than that of the former owner). Third, they try to take into consideration their members' abilities. In other words, if a member is old, he is given a less physically demanding task. Their overall outlook is that they want to better themselves economically.

This cooperative had profits for 1980/81. With their profits they purchased a pickup, a corn sheller and a corn grinder. This co-op was also the only one visited which distributed profits among its members. Each member received Q300 (U.S.\$120) in corn.

The cooperative's accounting was up-to-date and the study team determined it to be using sound practices. One member has the task of recording all transactions in a journal. The journal is picked up by a San Salvadoran accounting firm, and monthly statements are prepared and forwarded to the cooperative within 15 days. This cooperative was the only one visited which had completed formulating an ISTA-approved set of statutes.

The cooperative had affiliated itself with a confederation of intervened haciendas so that it could get information and ideas from other co-op operations. It said it did not really know anything about the peasant organizations, and had not been approached by them.

Many problems remain to be solved by the cooperative. The improvement of old housing and construction of new houses was a major concern. Health care was a problem with the nearest clinic 6 miles away. The co-op members travel on foot or by bus on the main road. The co-op had financed its members' health care, advancing them money for the visit and medicine which was deducted from the payroll. Education for children seemed less than fully satisfactory. Not all children were going to school. The parents lamented that each student had to pay 36 cents per day to ride the bus to school and that was a considerable financial burden for them. There was no violence either on or near this farm.

SOURCE: "Present Status: Hacienda Copapayo, a Short Case History," Appendix B, in Agrarian Reform in El Salvador, by Checchi and Company, presented to U.S. Agency for International Development, San Salvador, El Salvador, under Indefinite Quantity Contract no. AID/SOD/POD-C-0399 (Washington: Checchi and Company, December 1981).

a single group rather than to numerous individuals. Lower costs of inputs and better terms in marketing output can also be available to the group. Finally, some activities such as sugarcane, bananas, and other typical plantation crops may really require a minimum scale, usually beyond the capacity of an individual campesino, to be feasible or profitable.

To the extent these arguments are valid, the breakup of production cooperatives into individual parcels can lead to a return to subsistence-oriented activities, as individual campesinos find that they lack access to credit, machinery services, or marketing channels. Insert 17 discusses the case of a production cooperative in the Dominican Republic, where the realization of the advantages of group effort led campesinos voluntarily to form a production cooperative; Insert 12 describes a production cooperative in Panama where the breakup into individual parcels lead to a reversion to subsistence farming.

In countries such as El Salvador, Panama, Honduras, and the Dominican Republic, where governments have encouraged production cooperatives, agricultural development projects often involve this tenure form. In dealing with production cooperatives, the project designers will typically be involved with more than one group. From within the cooperative membership, there will be an elected--or appointed or self-appointed--leadership. As much or more decision making power and management may be exercised by government extension agents and lending officials. These different individuals and agencies do not always see eye to eye on either fundamental principles or specific details. Within the cooperative membership itself, some may favor larger individual subsistence plots or even dividing up all the land between individuals while others may be committed to collective projects. Government technical assistance personnel similarly can be divided in their enthusiasm for collective versus individual work. One agency may favor cooperatives while another does not; the agricultural development ministry, for example, may support the idea of production cooperatives while the agricultural bank might prefer lending to private individuals or corporations. Designing successful projects may require, first and foremost, a feeling for such bureaucratic subtleties as well as for whether or not members have the attitudes or the management structures to guarantee honest, efficient performance.

When a project is being considered that involves production cooperatives where the past record raises questions about future success, the project designers, in conjunction with cooperative leadership and relevant government agencies, may, as part of the project, try to improve cooperative functioning. This could take the form of "consciousness raising," trying to make the members appreciate the relationship between enterprise prosperity and their individual fates. It could also take the form of building into the project some management structures. There is the risk that this might be perceived as having been imposed by the government and the aid agency through their financial leverage, even to the point of being accused that they have simply taken over from the previous owners, with the so-called members in fact continuing to be peons. Or project designers, with some local support, might argue for more reliance on the incentives provided by individual cultivation. This is also likely to create controversy, with the aid agency accused of promoting its own ideology in defiance of official domestic policy.

## 12. An Unsuccessful Panamanian Asentamiento

Asentamiento H began with 33 settler families in 1971. All but five have deserted, probably to escape the mountain of debt the asentamiento has accumulated to date. Nine families left in 1983. They were strongly opposed to paying their outstanding BDA [Agricultural Development Bank] debt from the sales of calves. Instead they proposed that half the proceeds go to the bank and half directly to members. This did not set well with the BDA, its loan officer vetoed the idea and the nine left.

The most recent break was probably precipitated when the BDA refused to approve a rice loan for 1984 because of past defaults and accumulated delinquency. This meant that the membership had neither advances nor rice this year. In order to make ends meet, the asentamiento entered into a contract with a neighboring farmer to pasture his cattle on the asentamiento's land in return for half of the first 50 calves to be born. This appears to have been the only money-making decision taken by the group during the year.

The members who "left" still have the use of their one-hectare parcels for rice, yuca and flame, and still live in the houses they occupied before they renounced their membership. Some ex-members say that if the loan is ever renewed, they will return. But the problem is circular; without at least a dozen members, the asentamiento does not have persona jurídica and is ineligible for credit.

Since there is no way to pay members, the five remaining ones agreed to work two unpaid days on the asentamiento (aportaciones) in order to keep the fences in order and the pasture free of the most noxious of weeds.

**SOURCE:** Thomas Schweigert, Randy Stringer, Jean Sussman, and William C. Thiesenhusen, "The State of the Agrarian Reform Asentamiento in Panama," submitted to The Management Analysis Center, Buenos Aires, Argentina (Madison: Land Tenure Center, September 1984), pp. 9-10.

If individual cooperatives or specific projects on cooperatives have had poor results, it is important to understand why in order to design successful future projects. Problems may be internal. Members may lack the education, skills, experience, or motivation to make such an enterprise succeed. Dissension may result from political, ethnic, religious, or personal differences and conflicts, making cooperation difficult. There may be a split between those who want to work collectively and others who would prefer individual plots. On the other hand, problems may be largely external. Poor weather and "bad luck" may be largely to blame. Poor technical advice may have involved the cooperative in a project that was bound to fail. Credit, inputs, machinery services, and marketing may have been untimely or of poor quality. And there are the manifold combinations. Inserts 12 and 14 describe two Panamanian production cooperatives which, though created at the same time and as part of the same program, had quite different results.

Squatting. One major alternative exists for those campesinos who neither own nor rent land or who belong neither to a group with communal land nor to a production cooperative, and that is to find land that no one seems to be currently using and to occupy it--that is, to squat on it. The land so occupied may be government land, privately owned land, or of ambiguous status.

While all Latin American countries have some mechanism for establishing ownership, such as a public registry of title, the accuracy and completeness of such records as exist may be poor, and the system may not guarantee that every square meter of national territory has one, and only one, owner and be able to identify who it is. Thus, squatting--occupation without title and tenure insecurity--is a widespread phenomenon in Latin America. Squatters on public and privately owned land may desire nothing more than to occupy idle land until such time as the owner has some use for it. With no pretensions to ownership and an uncertain time horizon, such individuals are unlikely to undertake much in the way of land improvements and may even use the land in a destructive way. Where laws permit, though, individuals may occupy land with the goal of eventually gaining ownership. In many countries, continual, permanent occupation of land for a specified number of years theoretically confers on the occupier a claim to ownership even against the competing claim of a titleholder. Problems of gaining land in this way are that occupation may invite expulsion, possibly violent, by someone with a competing claim. Also, limited financial resources, lack of education, and cultural factors may inhibit the individual occupier from making a successful claim through the courts. Insert 15 gives an example from Ecuador.

In many countries there is the phenomenon of "land invasions," in which organized groups occupy land. They may have identified land which falls under the heading of expropriable according to national land or agrarian reform legislation and are petitioning for expropriation, or they may simply be hoping for politically motivated government intervention on their behalf. In some cases, though, the landowner, rather than being at odds with the invaders, may have even planned it to benefit from the compensation paid for expropriated land. Insert 16 describes a "land invasion" in Costa Rica.

Many individuals who neither invaded nor squatted on government or privately owned land nonetheless occupy land without a registered title or to

### 13. Parcelization in a Dominican Collective

Unfortunately, scant effort was spent either listening to what campesinos wanted or convincing them of the wisdom of the group farming idea. The plan was merely imposed as a "good thing." So this ideology has fallen on hard times in YSURA. After several years of experience and, contrary to the wishes of IAD, collectives, little-by-little at first and now much faster, have developed into predominately individual farms. Some individuals have tended to continue collective farming because the agrarian bank (BAGRICOLA) states that it will not lend to collectives which completely disintegrate into parcels, and they feel that they will earn the ire of IAD also. For 25 of YSURA's "collective" fincas on which records are kept centrally (about one-third of the distributed area in the project), 13.5 percent of the collectively distributed land is still in collectives while 86.5 percent has been divided into individual properties (see Table II-6). Some beneficiaries in settlements which still have some collective property told us it would be broken down into individual farms next year. On asentamientos which had been divided we found a perplexing inequality in the size of the resulting farms. It appears that in the process of subdivision an almost frontier mentality prevails as the economically strongest beneficiary grabs off for himself the largest portion of the heretofore collective area he can manage to take.

The reasons given by interviewees for division were:

- (1) We get the same percentage of the net income if we work hard or if we don't work at all.
- (2) We see that some crops are planted and cultivated on time and others not. When we control planting and weeding, we do it right.
- (3) We never see the bookkeeping; we know neither costs of production nor total production. The check we got at the end of the year was always much lower than we expected, and the income we received was much inferior to what we earn now.
- (4) We can't keep our family working because there is no place allowed for them to be paid wages.
- (5) We can't pass unencumbered land on to our children after our death.

The complaints thus seemed to be directed not against the collective as such, but against the way the rules were designed and the seemingly arbitrary and rigid, almost capricious, manner in which they were carried out.

**SOURCE:** Pablo Rodríguez, Leo Colón, Juan Ogando, Randy Stringer, and William C. Thiesenhusen, "Agrarian Reform in the Dominican Republic: The Case of YSURA," in Institutional and Land Constraints to Irrigated Agriculture in the Azua Plains of the Dominican Republic, by Randy Stringer, William C. Thiesenhusen, Patricia Ballard, and Wayne Kussow, LIC Research Paper no. 87 (Madison: Land Tenure Center, University of Wisconsin, July 1985), p. 18.

which they lack the documents that the legal system recognizes as establishing ownership, a situation described as tenure insecurity. Numerous problems are created by tenure insecurity. Individuals may refrain from fully investing in their land for fear they may lose their investment by being thrown off the land. Land transactions and hence a land market are hampered, since selling what one cannot prove to own may be difficult. Such land cannot easily serve as loan collateral for similar reasons. At a national level, such land is not easily taxable by the government. For these reasons, land titling projects that reduce insecurity have been seen as a way of fostering development on a number of fronts simultaneously. Insert 18 discusses land titling projects in a number of different contexts.

Development projects that involve squatters or individuals occupying land to which no one has clear, legal title can encounter numerous difficulties, yet they have high priority and are being attempted. The exact nature of the situation should be investigated at the outset of such projects. Are individuals squatting on government land or land to which another private individual may have a valid claim? If public land is involved, it may be possible for individuals to gain title as owners if local laws permit. Laws or bureaucratic whims may not be favorable, however, and occupation may continue to be illegal or of questionable legality and tenure, thus, insecure.

When individuals are squatting on private land, a number of problems can arise. In investigating the issue, all concerned parties may come to know the facts of the situation. This could lead to an eviction of squatters or an attempt by squatters to exercise a claim to ownership through adverse possession. The project designers could be implicated in charges of trying to steal land from its rightful owners, on the one hand, or of having poor squatters thrown off the land of rich landowners, on the other. While the project could go ahead after evictions or after squatters were granted title as against the previous titleholder, there is the question of whether subsequent social and economic benefits outweigh the political costs likely to be raised by the aid agency's involvement in such controversial land issues.

When individuals occupy land that for whatever reason has never been titled but to which there are no competing claims, there may be few real problems. Their occupation may have satisfied requirements for establishing ownership, and it is possible that a relatively simple legal procedure can result in title. One element of the project may then be surveying and title registration. If there is a long history of peaceful, uninterrupted occupation of land in the area despite lack of formal legal ownership, it may be unnecessary to go through the efforts of introducing title registration and possibly creating problems where none existed before.

There is a problem which can arise when individuals occupy land without title that should be of particular concern to project designers, though. An irrigation project provides an example. If it succeeds technically, the productive capacity of the land will increase, as will, in a market economy, its value. If current occupants lack title and, in addition, are poor, uneducated campesinos, they may not be the ones to benefit, however. Local elites may be able to appropriate the land--and the benefits--in a variety of ways due to their political power. Thus, while the project may succeed technically, it could backfire completely if project goals focused on the original occupants.

#### 14. A Successful Panamanian Asentamiento

Asentamiento "M" has eight collectively farmed hectares divided into two hectare vegetable plots. Throughout the year the group is always harvesting one plot and preparing the next for seeding in orderly fashion (while two are in the process of maturing). Members have learned that when they farm in this manner they won't run into peak labor problems so severe that they have to hire non-members and that they can manage the harvest and the marketing of the produce without incurring large losses. One of the difficulties the group had with an earlier vegetable project was that it tried to market produce at the same time that everybody had large and equally perishable quantities of the same commodity. The two hectares always give them some produce but usually not so much that they cannot handily market it, though occasionally they still bring back their truck still laden with products after an unsuccessful day.

The members from "M" have enough irrigation so they can grow watermelons during the dry part of the year. . . .

Their 96-cow milking herd gives them very modest returns. Monday through Saturday they sell all of the milk, but on Sunday the milk is distributed to each member in equal portions.

The asentamiento apparently has few problems with free riders that so often plague institutions of this nature. It has designed an innovative reward structure of which one purpose is to interest the children of member families in the farm. Incentives are formulated to reward members who work well through potential "overtime rights" and their children through extra jobs.

In addition to their common property, each member has a 1.5 hectare plot on which he can grow what every Panamanian campesino considers basic to survival: yuca, plantains and corn (on others rice, flame, otoi and beans may be added). These, according to the by-laws of the asentamiento, are only to be tended weekends and after normal working hours.

**SOURCE:** Thomas Schweigert, Randy Stringer, Jean Sussman, and William C. Thiesenhusen, "The State of the Agrarian Reform Asentamiento in Panama," submitted to The Management Analysis Center, Buenos Aires, Argentina (Madison: Land Tenure Center, September 1984), pp. 7-8.



### 15. Occupation Without Benefit of Title: Squatting in Ecuador

In order to complete our analysis of the fundamental characteristics of the land tenure institutions of the Coast, it is necessary to include the case of the spontaneous colonizers and small peasants with scant means, especially those located in the new areas also found in the eastern part of the country. A significant number of peasant families with no legal rights to the land they exploit form a part of this ambiguous type of tenure group. Such groups find themselves in this situation because, although they actually own government lands, they have never initiated claim procedures due to ignorance of the legal requirements or for lack of economic means; or because they own land with non-valid deeds such as those resulting from the so-called "squatter's rights" which are not recognized legally.

This problem is even more acute in those sectors which have more spontaneous colonizers and which are mostly new agricultural frontiers that have been habilitated or are in the process of habilitation as a result of road development. The lack of organization in the policy of colonization as regards the sale and transfer of government lands as well as the legalization of plots with defective deeds has been the cause of many land tenure litigations.

Indeed, the slow and troublesome procedure used by the former Office of Public Lands of the Ministry of Development and then by the Department of Lands of the National Colonization Institute demands great efforts and sacrifices from the campesinos with scant means who must travel to the capital and wait impatiently for the completion of the lengthy transactions involved in the sale of the plot of land. For this reason, many genuine campesinos who make up the true spontaneous colonization are prevented from gaining access to a piece of land which would be cultivated by them, and, on the other hand, those who are in a position to carry through the transaction often do so purely for reasons of speculation and land monopolization.

**SOURCE:** Solon Barraclough, Agrarian Structure in Latin America (Lexington, Mass.: Lexington Books, 1973), pp. 222.

## 16. Squatting and Land Invasion in Costa Rica

Los Piños, the fictitious name I will use for the farm where this squatting movement occurred, was once owned by a multinational foreign consortium. Original plans for the owners had included the development of a highly profitable agricultural operation, but because of mismanagement, a lack of capital, and waning interest on the part of the owners, the project never got off the ground. A small part of the farm was planted and was being worked by a contingent of peones, but the major operation consisted of small-scale lumbering. Since Los Piños is located in a remote area, rarely, if ever did government inspectors from the Ministry of Labor make an inspection of conditions on the farm. As a consequence, the legal minimum wage was never paid, and housing facilities were far below standard.

As the years passed, conditions on the farm began to deteriorate. The most serious problem for the workers developed when the foreman stopped paying them on a regular basis. A few weeks would pass and partial payment would be made. Then a few more weeks without pay, and another payment. Since this occurred during the nonharvest time of year, the workers could not find work elsewhere and had to accept the situation.

Finally an entire month passed without pay. A group of four workers decided that they had no choice but to head up into the mountains, the uncultivated part of the farm, and plant some corn and beans in order to prevent starvation. They did not do this openly but continued to work on Los Piños, living off the unsteady wages paid there and in the afternoons and weekends, with the help of family labor, working the land they squatted on. When the first crops came in, other workers who had originally resisted the idea of squatting came to realize that it was the only solution to their plight.

At this point, Benito, a person who had been involved in squatting incidents before, was sought out for advice. He told them that the only way to succeed was to operate in groups of ten to twenty and to mark off their plots in a contiguous area so as to avoid isolation. They followed his advice, but by now the number of squatters had risen to close to fifty and it was no longer possible for them to work undetected; the foreman soon discovered their plots. He immediately called in the police, who went to the squatters and told them that they had better stop work or their crops would be set afire and they would be arrested. The squatters, frightened by the threats, again sought the advice of Benito. He suggested that instead of abandoning their plots, they raise the stakes of the conflict by moving their families onto the plots and constructing small shacks for them to live in. This tactic was designed to make it more difficult for the police to move in on the squatters, for now there would be women and children involved.

SOURCE: Mitchell A. Seligson, Peasants of Costa Rica (Madison: University of Wisconsin Press, 1980), p. 111.

Landlessness. Finally, there are those who have no access to land, the landless. Historically in Latin America, the rural economy was geared to subsistence. The traditional hacienda, even when producing for the market, strove for self-sufficiency. Likewise, individual campesinos strove to meet subsistence needs by having access to some land on which to grow food. While in some cases this might take the form of an independent smallholding, it might as well have been a plot of land provided in traditional usufruct by a communal landholding group or an individual plot on an estate given in exchange for labor services. In one form or another, though, the bulk of the rural population had access to land for subsistence food needs. For a number of reasons, this is no longer the case, as the number of landless campesinos is significant and growing. An obvious factor is that high population growth rates in recent decades have put increasing pressure on more or less fixed land resources. But the rural social structure has been breaking up for other reasons as well. The traditional hacienda, once home to many campesinos, is on the decline not just because of land reform. Evicting resident laborers and moving toward more commercial farming practices that involve use of wage labor or even mechanization not only has the defensive purpose of making large holdings less likely targets of land reform, it can also prove highly profitable to the owners. Thus, there is a growing "proletarianization" in rural Latin America, as many who in the past would have had at least a subsistence plot are now totally dependent for their livelihood on wages. Insert 4 describes this process on coffee estates in El Salvador.

#### Labor Market Involvement

The nature and extent of labor market participation of a campesino is clearly related to the individual's access to land. For the landless, for example, survival depends on participation in the labor market. And just as there are a number of ways to gain access to land, there are a variety of ways to participate in the labor market.

For the resident laborer on an estate as well as for the member of a production cooperative, access to land and involvement in the labor market tend to be two sides of the same coin, since access to land simultaneously means a commitment of labor. The resident laborer receives access to a plot of land in exchange for providing labor services, in effect being paid in use rights to land. Typically, there will also be some cash payment of wages as well as other rights and duties of tenant and landlord. It is a package deal, though. For a production cooperative member, access to land means the right to work on the collectively held land in exchange for what often virtually amounts to a wage, with a share in any profits at year-end, often in proportion to time worked. This link between access to land and labor commitment can break down when individual plots are allowed along with collective land. Now, individuals will have some discretion over working on their individual plots or working for the collective, though some minimum work on collective projects may be required to maintain membership in good standing.

Those with access to land as owners, squatters, tenants, or in usufruct will typically have to make a separate decision as to involvement in the labor market. Those with large enough holdings may, at least at certain times of the year, employ other campesinos who are either landless or whose own holding is not adequate to absorb their labor and provide subsistence.

Many individuals or families who have access to land nonetheless lack adequate land to absorb their labor fully and provide at least a subsistence level of living. Those who occupy these minifundia must find alternative sources of income. One option is self-employment as craft producers, traders, or artisans. Lacking that, there remains the labor market. The bulk of employment opportunities available to the minifundistas are in agriculture often on the large estates, the latifundia, which tend to coexist symbiotically with the minifundia, or on plantations. Much work is often seasonal, such as harvesting cotton, sugarcane, coffee or fruit, or involves land preparation prior to planting. While wage work may be locally available, in some places there is a clear migratory pattern. In countries with distinct highland and coastal climates, such as Peru and Guatemala, highland smallholding campesinos may work their own plots for a time and then move on to the lower valleys and coastal regions to find harvest work, leaving what work remains on the plot for other family members.

As population growth and inheritance patterns have tended to decrease plot sizes, the self-sufficiency of smallholders has decreased. Along with the growing numbers of landless, this has meant that the supply of labor is such that agricultural wages in much of Latin America have stagnated and, in some cases, even declined in real terms. Rural development projects, aside from those directly concerned with health and education, aim to improve the well-being of the rural poor indirectly through increasing production. Export diversification projects, land purchase projects, and attempts to improve land rental and land sales markets aim to put land into the hands of the landless or land poor. Project designers had best be aware that these projects, though falling far short of land reform, can often be controversial since, by providing alternative sources of income to campesinos, they tend to reduce the downward pressure on agricultural wages--or at least that might be the conclusion drawn by the owners of large holdings who are also employers. And, to them, taking away their sources of cheap labor may be as threatening as taking away their land. Thus, even though projects may invoke concepts of incentives, competitive markets, individual initiative, private enterprise, and the like, and steer clear of promoting land reforms, producer cooperatives, and rural labor unions, local, private sector agricultural interests can be potential, and influential, opponents. Inserts 1, 4, 8.5, and 16 describe the nature of the labor market facing the Latin American campesino.

### Involvement in Input and Output Markets

For the campesinos with access to land, there is the question of whether to grow traditional food crops purely for household consumption or with the intention of selling some part of the harvest for cash or to grow a cash crop, perhaps to the exclusion of basic food. On the input side, there is the question of using either traditional techniques or high yielding seed varieties, fertilizer and pesticides, irrigation and machinery (or their counterparts in animal husbandry). Development projects often have as twin goals encouraging the use of purchased inputs to raise yields and increasing marketed output, be it of rice and beans for domestic urban consumers or tomatoes for export. The fact that governments have had to be involved in these efforts suggests that private initiative alone has been inadequate. Why has this been so? It has been argued that ignorance is one cause, knowledge being neither freely and effortlessly obtained nor capable of being manufactured and sold for profit,

as matches or salt. Government education and extension, along with any private extension, are necessary, therefore, particularly in the early stages of project implementation, if new crops or techniques are to take hold. Development of private marketing channels is also inhibited by the lack of public and private infrastructure. Inadequate storage and transportation can make subsistence-oriented activities the only real option. In this case, strategic public investments may be needed before individuals can profitably adopt alternatives. Tenure, however, can also inhibit campesinos' involvement in market opportunities. Two important problems are diseconomies of scale and obstacles to credit.

As noted above, in Latin America many holdings--and, in some countries, the majority--are minifundio units. The landholders involved typically cannot afford to own a truck and therefore may not on their own be able to purchase inputs or deliver output. Private input supply firms and produce buyers may, likewise, not find it profitable to make a large number of small deliveries or purchases. Lenders typically find it more profitable to make one large loan to a good risk than to make a thousand small loans to different borrowers. Small size, then, can preclude individual participation in some markets. One solution has been to encourage marketing, service, input, and credit cooperatives which effectively pool a large number of small individuals into one substantial entity that buys and sells. The many small, internal transactions are still costly, but the cooperative may be able to absorb these costs by relying on voluntary labor by members, subsidies, or savings made possible by large volume discounts and the profits from more sophisticated marketing. Another option has been the state enterprise. Government-run input supply, machine service, and marketing firms have been established in many places, particularly where an agrarian reform or colonization sector has been created. And agricultural lending is often carried out largely in the public sector.

In attempting to increase the use of modern inputs and marketed output in the small farm sector, the project designers are basically trying to increase the campesinos' involvement with either private markets, cooperatives, state enterprises, or some combination thereof. If more than one source of inputs or marketing services is available, determining which are likely to be most suitable, and then successfully incorporating them in the project is the obvious prescription. Unfortunately there may be no good alternatives, in which case the project will have to include a component that creates an input provision or output marketing link. Insert 17 describes a case in the Dominican Republic where campesinos voluntarily formed a cooperative to improve their access to markets.

There are obstacles to credit caused by tenure in addition to private lenders' reluctance to deal with small borrowers. Campesinos are often unable to satisfy lenders' requirements for collateral because they cannot pledge their land. They may be tenants or sharecroppers, with their only source of credit likely being their landlord. They may be squatters or holders in traditional usufruct and hence not owners, or their de facto ownership may not be guaranteed because of inadequacies in the land titling system and hence may appear uncertain and risky. Finally, if the landholders are agrarian reform or colonization beneficiaries, the land may be theirs to do anything with but alienate or, hence, use as collateral. And, without credit, significant use

## 17. A Dominican Production Cooperative

Research has suggested that the high costs of borrowing discourage small producers from using formal credit programs . . . . Borrowing costs are defined as the real net costs incurred when obtaining and implementing a loan. These costs consist of three components: transaction costs, the nominal interest rate, and the change in purchasing power of money. For the parceleros the latter two components are unaffected by group lending. However, transactions costs, which include implicit and explicit costs, can obviously be lowered. The explicit costs are the non-interest charges such as the necessary documentation, legal fees, and administrative costs imposed by the Banco Agrícola. In addition, transportation expenses and meals are included in the out-of-pocket, explicit cash costs. Implicit costs are the time and opportunity costs involved in visiting the bank's office and in compiling the required documents. For a single farmer, these implicit costs can result in a substantial loss of work time. The producers of AC-14 recognized that they would reduce the explicit and implicit costs of obtaining loans by applying as a group. This became one of the more convincing arguments in favor of the formation of SAC [a cooperative].

The ability to lower transaction costs through collective action was easily transferable to the purchasing of agro-chemical inputs. Once the Banco Agrícola had approved the loan, the association would be able to approach pesticide and fertilizer distributors with the orders of 63 farmers needing inputs for 4,338 tareas, thus receiving more prompt attention than only one farmer buying inputs for 75 tareas. Again, as the case with credit, not only could the inputs be obtained at a cheaper price, but also only one or two persons were needed to negotiate the deal.

A third aspect of the production process which had frustrated the parceleros as individual producers was access to tractor and combine services. The Rincón Valley is replete with numerous rice producers, both large and small. During the planting and harvesting seasons, the machines needed for land preparation and plowing and for the recollection of the rice crop are limited. The small growers of AC-14 had considerable troubles when trying to arrange for these services. Moreover, when they were able to acquire a tractor for plowing, all too often it would be too late in the season, increasing the risk of a bad crop. By forming an association, the parceleros were able to obtain a loan to buy a tractor, solving many of the problems outlined above. In fact, by June 1983, SAC had purchased three tractors to provide needed services to its members.

In general, the advantages of economies of scale, reduction in transaction costs, and access to resources, especially tractor services, were the major economic reasons named by the interviewed parceleros for forming SAC. . . .

**SOURCE:** Randy Stringer, Innovations in Group Farming: The Case of Sergio Abaigil Cabrera in the Dominican Republic, ITC Research Paper no. 82 (Madison: University of Wisconsin, November 1986), pp. 10-11.

of purchased inputs is unlikely. In cases such as this, there may be no alternative to a direct credit component of the project and/or cooperation with an existing government lending institution, perhaps one with a history of inefficiency and corruption.

In summary, the campesino, the individual directly involved in agricultural production and on whom the success of the project ultimately rests, is not part of a homogeneous group. In designing a project which, if undertaken, comes down to working with campesinos, project designers must identify the situation that the participants find themselves in with respect to the three areas outlined above: land, labor, and the input and output markets. (1) Do the campesinos have access to land already or are they currently landless? If they have access to land, how much (and what quality) and on what terms? Are they owners with individual title, land-reform or colonization beneficiaries, holders in usufruct, cash-rent tenants with secure, long-term leases, tenants who receive a plot in exchange for labor services, or short-term tenants whose payment is to leave the land ready for the landlord? Are they sharecroppers, squatters, or production-cooperative members? (2) In addition to work on their own land, do they also participate in the rural labor market? Are they currently available for work on year-round projects or do they migrate part of the year to work for wages? Will the project possibly turn them into employers of other campesinos, and what are the ramifications of this? (3) Finally, have they been engaged primarily in traditional subsistence activities or have they had some experience in using credit and purchased inputs and in marketing some of their production?

## LAND TENURE FROM A LEGAL PERSPECTIVE

### Introduction

Land and the interrelations among people with respect to land occupy a paramount role in most societies. While in the modern market economy, land is sometimes described as just another commodity, or asset, it has features that distinguish it from all others. For one, the total value of land overwhelms that of any other asset category, particularly in agrarian economies. Each unit of land is also unique, at least by virtue of location, but often for a number of other reasons as well. Unlike any other asset, land is immovable and, in the sense of physical space, indestructible and everlasting. Land is a highly prized asset, and one for which individuals and peoples can form attachments that transcend rational, economic calculation. The significance of land is borne out by the fact that in even the most laissez faire system, the state retains the right to intervene in the question of land. This takes the form of land and inheritance taxes, zoning, land use controls, legislating who can and cannot own land, and culminating in the power to take land, albeit with monetary compensation.

A fundamental task of the legal system is determining and guaranteeing who holds what rights to land. This can range from the situation where the constitution proclaims the state as owner of all land to a system where individual, private property rights are to be upheld. Where private property rights are guaranteed, just what they are can vary from one place to another. In Mexico, for instance, the constitution proclaims the nation to be the original owner of the land and water and all the resources that lie beneath the soil. Individuals still "own" land, however, although, technically, at the will of the state. Since landownership by foreigners is restricted, these owners are not free to sell "their" land to whomever they please. Still other land is held by the ejidos, whose members enjoy only usufruct, or use, rights to the land and who are legally prohibited from renting or selling it.

The case of Mexico illustrates the idea that there are in reality various rights, a "bundle of rights" as it were, attached to any particular piece of land. These rights can include: (1) the right to exclusive use and occupation of land and to all income and production from it, (2) the right to alienate through gift or sale, (3) the right to pass ownership on to heirs, (4) the right to mortgage or hypothecate, that is, to pledge as collateral for a loan without yielding possession, (5) the right to grant exclusive possession to another as in a lease agreement or tenancy contract. Ownership of a piece of land, then, amounts to the ability to exercise the rights attached to it.

In some places, the State has removed some rights from the typical bundle of rights listed above. Common examples are where mineral rights belong to the State, and where tenancy in agriculture is prohibited. It is also common for the owner to hand over some rights to others voluntarily. Under tenancy, the tenant now has the right to the use of and the production from the land. In exercising rights to land, the individual with the right has to comply with existing laws that can severely limit the extent of the rights. Zoning laws restrict use, and legislation may set a minimum term or maximum rental for a



lease, as well as give the incumbent tenant some rights as to lease renewal and protection from eviction. Tenants may also be granted ownership over improvements and investments made by them and have the right to receive compensation from the owner upon termination of the lease. The owner must also pay the required taxes or risk losing the land. In some cases, such as with progressive land taxes or taxes on idle land, these are designed virtually to force certain behavior by owners or else their sale of the land to new, more desirable owners. In summary, ownership of land amounts to the ability to exercise property rights, but what these rights are is not absolute and invariant. The State may have reserved for itself certain rights or excluded them from the bundle of rights. Also, the owner may have turned over some rights to others as in the case of tenancy.

### Registration and Titling

Transferring ownership of land can be problematic precisely because ownership is not so much a relationship between an individual and a thing as it is a bundle of rights specifying who can do what with the land. Not all rights necessarily reside with the current owner and therefore cannot be passed on to the new one. Unbeknownst to the prospective buyer, there may be a lien on the property because of a mortgage entered into by the seller; there may be a tenant on the property with a lease guaranteeing secure occupation for a number of years; the mineral rights may be owned by a third party; or the land may be slated to lie at the bottom of a public reservoir when a flood-control project is completed. Since land is immovable, the owner cannot possess it in the same way as an antique or a stock certificate, where mere possession may be a satisfactory guarantee of ownership to a buyer. Land may be occupied by someone other than the legal owner, and the former individual could use the fact of occupation to defraud by "selling" the land. To facilitate dealing in land by removing these uncertainties and complications, systems of public registration of deeds and registration of title have been enacted.

Registration of deeds is a system in which documents affecting the transfer of land are copied or abstracted and maintained in a public register. Such a registered deed takes priority over an unregistered deed and, if the law provides, may be the only type of deed admitted in court as evidence of title. A deed, however, even if duly registered, is not proof of title. It is a document that records an isolated transaction. The fact of its being registered does not guarantee that the parties were legally entitled to carry out the transaction or that there are no other parties with an interest in the land who are yet unnamed in the deed. In the United States, title, to be proved, has to be traced back to the original grant by the individual state. Private companies, using the public registry of deeds, investigate the history of transactions involving a parcel and will and, if the evidence warrants, insure title, in effect being willing to bet that the seller can be proved to be the legally recognized owner.

Distinct from this is the system of registration of title, or title by registration. In a complete system of title registration, each parcel in a jurisdiction will be identified in a list of all the parcels, called a cadastral survey. The cadastral survey maintained by the government may be used as

a fiscal device for administering property taxes as well as for other purposes, though it will mainly be used as the basis for a system of registration of title. For each identified parcel, a public registry will be maintained in which the owner's name is inscribed, along with any interests in the land held by others, such as a mortgage holder, long-term tenant, or neighbor who enjoys an easement, or any restrictions on the owner's rights. Title, or proof of ownership, comes precisely from having one's name inscribed in the registry. A certificate of title may be issued, but, even where it is, it is usually the official entry in the registry which confers title. A legally recognized transfer is one in which the new owner's name replaces that of the former owner in the registry.

In the United States, it is precisely such a system that is used in proving and transferring ownership of motor vehicles. Compulsory registration of vehicles is accomplished by the need to have a license plate. Upon registration, a certificate of title is issued identifying the vehicle, through description and serial number, and the owner, as well as providing information on any liens on the vehicle. There is no need for this title to include details of previous transfers and former owners. The ability of a title-registry system to make transfers easier, cheaper, and more secure than with a system of registry of deeds is apparent to anyone who has purchased both a used car and a used house in the United States. Insert 18 discusses land-titling projects in a development context.

### Titling and Tenure Insecurity

There are two basic ways governments can assist private landowners in proving title to their land, thus making their possession secure and facilitating dealing in land. These are registry of deeds and registry of title. In virtually all cases, though, the registry is not complete, that is, there is land which has not been surveyed, adjudicated, and titled as provided for under the land laws. In some cases this land may be considered public land and there may be legal provisions for squatters on such land to acquire ownership rights, as noted above in the discussion on prescription. In other cases, the land may have been peacefully occupied for long periods by individuals who consider themselves owners, and may have changed lands, with proper documents verifying the transaction. It may only be the remoteness of the region that has prevented the land from coming on the registry, which could be done without any real complications. In still other cases, the situation may be more chaotic. There may be conflicting claims to land. Individuals may have occupied and abandoned land which was then taken up by others. Someone may have bought land in good faith from an individual who did not have the legal right to sell it. An individual may have documentation that is evidence of ownership to land which is nonetheless occupied by squatters who may thereby have a valid claim. Land may be occupied by a group which practices traditional, communal tenure where individuals have use rights to the land which is felt to belong to the community.

In all these cases, tenure can be considered insecure, since the individual, or group, lacks the one thing that establishes title, that is, having their name and parcel inscribed in the registry. The number of individuals in this situation in Latin America is significant, and their problem is not simply

## 18. Land Titling Projects

The first type of titling program, "collective agrarian reforms," is more of a licensing program to give access to lands being distributed to certain people as part of a group and not as individuals. A title in such instances recognizes the right of an individual to be a member of a group farm, often a cooperative, which is the entity to which the land is assigned. The Dominican post-1973 land reform collectives distributed titles to the beneficiaries of the reform, but as members of collectives without specifying ownership of any particular piece of land in the settlement projects. The state had acquired the land from private, individual owners as partial payment for irrigation infrastructure on previously privately held lands.

A second type of land titling project involves transferring public lands to private individuals. Often those projects are known as colonization or homesteading projects. A primary example is the settlement of large parts of the United States through the Homestead Act of 1862, by which individual parcels of land of 160 acres were temporarily assigned to individuals who, for a small transfer fee and after actually working the land for five years, received fee-simple title. Between 1868 and 1923, 1,346,163 homestead titles were issued for 213,067,600 acres. In this titling program, the rights being extinguished were nominally those of the U.S. government which had acquired vast amounts of land from other sovereign states (the rights of native Indians to these lands had been previously or concurrently "extinguished"). Other examples include colonization projects in Colombia and Ecuador.

In many cases of colonization the supposition of the land being empty or without any private claims is often incorrect, although legally valid. People use public lands with or without permits or rental arrangements, so that a colonization-titling effort which brings new settlers into an area often becomes engaged in extinguishing de facto claims which derive from customary or communal systems not recognized by the state sponsoring the titling program. Conflicts, delays, and complications will usually arise under such conditions.

The third type of titling program is the land registration or cadastral survey type. In such programs a procedure is specified for resolving competing claims to parcels of land and to create a registry of land parcels including the names of the titleholders, the size and location of the land parcels, and any other claims to the land which might exist (mortgages, liens, etc.). Such programs usually extinguish traditional, communal or intrafamily claims to land, especially in areas where communal and family tenure forms are important as in some areas of the Caribbean and the Andes. Such programs do not necessarily have to result in only private, individual titles but a variety of factors tend to push them in such a direction, including their primary purposes which are often to raise land-based tax revenues and/or to simplify antiquated land property systems and registries to facilitate private dealings in land.

The fourth and fifth types of titling program involve both the state acquisition of formerly private lands and their titling as collective enterprises, either state-managed farms as in Nicaragua or more worker-managed ones as in Salvador's agrarian reform, Phase I. In these two programs an individual certificate of title is typically not issued, but rather one has an implied right to work and to have other noncash rights (housing, garden plot, etc.) in the collective. The individuals who desire to become members of the enterprise are evaluated and permitted to become part of a set of reform beneficiaries who work on the reform enterprises on a permanent basis. In the Salvadoran case even part-time workers are given some tenure in the sense of being assured of at least some work during the year on the cooperatives.

In the sixth type of titling program, the possessors or users of an area of privately owned land receive some sort of title to that area, and thereby receive some legal recognition of their individual holdings. The land-to-the-tiller program now being implemented in Salvador and the anti-huasipungero reform tried in the 1960s in Ecuador are examples of this type of titling effort. The rights being extinguished are, in these cases, those of the large landowners who had previously ceded use rights to individuals in exchange for cash rent, a share in the production, or labor to be performed by the land user for the hacendado. This type of titling program reflects the Lockean argument that property is created when people mix their labor (in the classical view, the only "natural" form of property) with nature's gift of land. The rented parcels, through the work of the renter over a period of time, become the "property" of the renter, although the legal recognition of such rights emerges only under special conditions.

Squatter rights can be legalized in most countries under laws of adverse possession. Such modifications of property rights depend expressly on the squatter having avoided the payment of rent, thereby demonstrating the invalidity of property rights of the person who at one time might have had an ownership claim to the land on which he is squatting. Land registration projects can help apply laws of adverse possession by providing local court and boundary settlement procedures cheaply enough for the squatter to avail himself of the existing laws.

**SOURCE:** J. David Stanfield, "Rural Land Titling Programs in Latin American Countries," in Proceedings of the International Workshop on Land Tenure Administration, Salvador, Brazil, August 20-24, 1984, vol. 1 (Brasília: National Institute for Land Settlement and Agrarian Reform, 1984), p. 210.

one of legalism or formality. Without title, they could be forced from the land by someone with a competing claim. The winner could be the one with the better attorney, and not necessarily the better claim. Without title, the individual cannot easily exercise some of the rights of ownership, particularly those to pledge the land as security for a loan and to sell the land. This reduces the ability and incentives to make the best use of land.

Governments, sometimes with the assistance of development assistance agencies, have attempted to improve this situation with systematic titling programs, rather than just allow land to come on to the registry in piecemeal fashion at the initiative of individuals. While the long-term benefits of tenure security are undeniable, the short term costs of titling can be large, particularly when the situation on the ground is chaotic with conflicting claims. In this case, compulsory titling ups the ante creating an all or nothing situation that can increase conflict and violence. Domestic support for such an effort may be lacking, particularly among large landowners whose social position provides them enough security and who may question why the government needs a list of who owns what land. Finally, there may be differences of opinion as to what the goal of land titling is. Is it to create a system of universal absolute ownership or freehold, or is it merely to record and register which groups and individuals hold which rights to which land, which can include communal tenures, freeholds, land held without rights to alienate, collective farms, and so forth?

#### Land Tenure from a Legal Perspective: Latin America

In the West, there are two major legal systems, common law and civil law. The common law system developed in England and was introduced throughout the world under the British Empire, being found in such disparate locations as the United States, Australia, Hong Kong, and Jamaica. Distinctive features of common law systems include stare decisis, the principle that a judge's decision sets a precedent for future decision and is thus a source of law, and trial by jury. The civil law system has its origins in Roman law and its revival in the Middle Ages. It developed in continental Europe, from which it was spread by European colonizers, notably the Iberians. Thus, the Spanish- and Portuguese-speaking countries of the Americas have civil law systems. The hallmarks of civil law systems are legal codes, intended as systematic and harmonious sets of general principles as well as specific rules. Trial is without a jury, and evidence, including testimony of witnesses, is usually reduced to written documents for presentation to the judge, whose decision should reflect the law embodied in the codes.

While Latin American societies are usually characterized as underdeveloped or developing, their legal system has been described as overdeveloped, with too many, and conflicting, laws and regulations, too much government bureaucracy, and too many people educated in law to the detriment of other areas. A dialectic relation between legal

overdevelopment and socioeconomic underdevelopment is even drawn. And, ironically, laws are often more honored in the breach than in the observance, a phenomenon with a long history in Latin America. In the colonial period, for example, Spain had a legal trade monopoly with the colonies which proved economically stifling. "Free trade" was resorted to in the colonies, though legally it amounted to smuggling.

Karst and Rosenn (1975, p. 57) have identified four factors to explain the disparity between formal law and actual practice in Latin America: idealism, paternalism, legalism, and formalism. Latin American law has been heavily influenced by Roman law and its codes, which itself had become increasingly abstract and idealized. The medieval Iberian jurists who revived Roman law were most impressed with its detached, idealized aspects and set about constructing a harmonious and universal system of ethical guides for conduct by reasoning deductively from abstract moral principles.

Paternalism has its origins in the patrimonial monarchy of Spain in which the administration and the military were purely personal instruments of the ruler. The reflection of this on the local level is the patrón system, in which a local elite figure looks after the interests of socially subordinate employees, debtors, or tenants in return for their allegiance. For the lower classes, legal relations are thus personalized and particularized. In a more modern guise, benefits are often bestowed paternalistically by the government on certain groups which are then prevented from making their own choices as to how to use these gifts, as in the case of land reforms where beneficiaries are highly regulated in the use of "their" land.

Legalism refers to the desire to see all social relations regulated by comprehensive legislation to the point of trying to preregulate all possible future occurrences with detailed, comprehensive legislation or decrees. There is also faith that any social or economic ill can be cured by legal prescription, without sufficient concern as to whether society is willing or able to implement the new law.

Formalism, or the exaggerated concern with legal formalities, abounds in Latin America. Groups and individuals must seek legal permission and official documents for personal and business transactions, with numerous notarized and stamped copies, requiring procedures that can become time-consuming, expensive, and sometimes bewildering. The uneducated, illiterate, and poor who lack social and financial resources are thus often excluded from participating in the formal legal system, with the result that their residences, occupations, and personal family relations lack the legal sanction that is so honored. Another aspect of formalism is the tendency in Latin America for reformist or progressive social legislation to be enacted, with its supporters able to claim a moral victory but with actual enforcement stalled or limited at the administrative level. Land-reform legislation and labor legislation exist formally in many Latin American countries, yet their actual impact is minimal, more or less by design.

### Agrarian Law in Latin America

In civil law countries, major sources of law are the constitution and the various codes, including the civil code, the commercial code, and the criminal code. In most Latin American countries, the civil codes adopted after independence in the nineteenth century tended to be based directly or indirectly on the French civil code, or Napoleonic Code of 1804. The civil code contains rules governing property, contracts, domestic relations, inheritance, and torts and tends to reflect the individualistic and rationalist values of the Enlightenment and French Revolution, with emphasis placed on freedom of contract, sanctity of private property, and the family as the basic social unit--in short, the ideals of nineteenth-century European bourgeois liberalism.

One of the uses to which liberal thought and legal structures were put in nineteenth-century Latin America was to strip the Roman Catholic Church, often the biggest single landholder, of its landholdings and transfer them to private individuals. The emphasis on private property, however, made no provision for recognition of the tenure systems of the indigenous peoples who, despite centuries of colonial domination, continued to maintain distinct traditions, particularly in parts of the Andean region, Mexico, and Central America. As described earlier, many communities, or villages, continued to recognize communal tenure, in which the community's arable land would be allocated in plots to individual families for their use. The community "owned" the land; individuals, by virtue of membership in the community, had usufruct or use rights to land. Pasture, forest, and water might be considered as common resources. Insert 19 describes traditional property relations in a Peruvian community.

While probably not the intent of liberal constitutions, codes, and legislation, the effect of their recognition of only individual private property was often the encroachment on indigenous lands and their incorporation into private haciendas, plantations or other large holdings. The concentration of land in private hands from the dispossession of the Church and the encroachment on village lands was probably nowhere greater, and certainly nowhere more explosive, than in Mexico. One of the major themes of the Mexican Revolution of 1910-17 was the struggle for the restitution of village lands that the campesinos felt had been unfairly usurped. These concerns were addressed in the Constitution of 1917, which asserted original, national ownership of all land and water, with the nation having "the right to transmit title thereof to private persons, thereby constituting private property" (Article 27). This laid the legal basis for redistributive land reform. Subsequently, an agrarian code was enacted, setting out in detail general principles and specific details for the agricultural sector. This included rules for the establishment and operation of the ejidos, regulations for the private property farm sector, provisions for expropriation, laws concerning irrigation, credit, cooperatives, and the like. Special agrarian courts were also established to administer this agrarian code.

While Mexico did not export its revolution, it did influence other Latin American countries to move away from the liberal treatment of property typical of the civil codes. This was done with the adoption of new constitutions or constitutional amendments or through legislation. One innovation was the widespread adoption of the notion that property has a social function. In common

law systems, the state can take property by eminent domain, and there is the maxim that one should use one's property so as not to injure that of another. Under the social function doctrine, however, the property owner has an obligation not just to refrain from injuring the property of others but to use his own property so as to promote the public good. Failure to do this can be grounds for expropriation.

The Venezuelan Agrarian Reform Law of 1960 contains the following example:

Such expropriation shall be applied primarily to such land as fails to fulfill its social function, in the following order of priorities.

- 1) uncultivated properties, and, in particular, those of the greatest area;
- 2) properties exploited indirectly through tenants, sharecroppers, settlers and occupiers; and,
- 3) properties not under cultivation during the five years immediately prior to the initiation of expropriation proceedings (Chapter 2, Section 3).

The law also states that "private ownership" of land fulfills its social function when it combines all the following essential elements:

- 1) the efficient exploitation and profitable use of the land;
- 2) personal operation and management of, and financial responsibility for, the agricultural enterprise by the landowner;
- 3) compliance with provisions governing conservation of renewable natural resources;
- 4) compliance with legal provisions governing paid labor, other labor relations questions, and other farm contracts;
- 5) registration of the rural property in the Office of the National Register of Lands and Water (Ch. 2, Sect. 1).

The Venezuelan law has features common to similar legislation in many Latin American countries. Such law takes a dim view of "indirect exploitation," that is, farms managed by someone other than the owner or farmed by tenants or sharecroppers. While the law does not prohibit these arrangements, it certainly discourages them by making them grounds for expropriation. In some countries, certain types of tenancy have been prohibited. In others, tenancy contract legislation has sought to improve the terms for tenants by such means as a minimum term for the lease with renewal at the will of the tenant, ceilings on rental rates, tenant ownership of improvements, and mechanisms for transforming the tenant into an owner. Note also in the Venezuelan law that "compliance with legal provisions governing paid labor and other labor relations questions" is necessary for the social function to be fulfilled.



### 19. Inheritance and Land Use Patterns in a Peruvian Comunidad

There are two means of acquiring property in Matapuquio. Property is a matter of a claim by residence and of inheritance within the wasifamilia. Rights by claim related to laymi land and rights by inheritance relate to maize fields.

Any individual residing within the boundaries of Matapuquio has a right to plant on laymi land . . . . There is no apparent shortage of such land, and it is simply claimed by the work one puts into it. Laymi land is dry, non-irrigatable land, either lying in the high puna where potatoes are planted or in the qichwa zone where marginal land is planted in wheat or barley. The land in the qichwa zone is usually stony and situated on the high wayu flanks. Wheat and barley do not play a major role in the diet of Matapuqueños. These are non-traditional crops, and as such are not highly valued in village agriculture. . . .

Without a maize field a family is thought not to be able to sustain itself. While one may have enough food as such in the form of potatoes, beans, grains, etc., a man who cannot supply his family with maize will usually choose to migrate from the community. The resident population is thus limited to the number of maize fields available, a number which is always too low. Maize fields are scarce, because such fields need periodic irrigation and water is also a scarce commodity for all, except in the rainy season.

Maize fields are crucial in other respects as well. Sponsoring a fiesta or recruiting a work party is impossible without an ample supply of chicha or maize beer. In some instances a fiesta may be held, and only tragu and sugar-cane chicha are served. Preferably however, these should only be served as additions to generous supplies of maize chicha. In any case beverages such as tragu must be purchased (one bottle of tragu costing the equal of one day's wage) and therefore representing a heavy expenditure for anyone giving a fiesta. Some foods such as mote . . . are also an integral part of any fiesta as well as everyday meals. Serving mote also requires ample stores of maize, so that those without maize fields simply cannot sponsor a fiesta. In this way maize fields are crucial to attaining status and prestige. They

also affect residence patterns and married life in Matapuquio. The amount of maize land held by an individual influences his position in the community to such an extent that it may decide whether he will be recruited to an ayllu or whether he will be the one to recruit.

Inheritance patterns of maize fields seem to vary widely in the Andes. Parallel inheritance has been reported by Isbell (op. cit.), and while this pattern might also have been the system of the Incas (Zuidema 1964), it does not exist in Matapuquio today.

As a general rule, property in whatever form is owned by Matapuqueño individuals and not groups. Some individuals pool their resources in usufruct but never in ownership. Thus a husband and wife's properties are never brought under common ownership, and the children of these will inherit individually from their parents. If the couple, for example, have seven children and each parent has three plots the children may, regardless of sex, inherit one or more of these plots or none of them at all. The parcelling out of the inheritance is totally up to the parent involved.

Inheritance is mainly partitioned on two occasions; at a child's marriage (as an advancement) and at the parent's death. Early in the child's life he/she knows what plot will be his/hers, these being promised by the parents to the particular child. A young boy may well refer to his field, though he may not become an owner as such for a very long time. . . .

SOURCE: Harold Skar, The Warm Valley People (Oslo: Universitetsforlaget, 1982), pp. 184-89.

This suggests that "labor problems" on an efficient capitalist farm could constitute grounds for expropriation.

What effects have such laws had? While the Venezuelan law did have some significant positive results, in other cases such laws may have been meant as window-dressing to please aid donors in an era when reform was the current concern or to placate domestic reform-minded groups with the implicit understanding that the financial and human resources for enforcing the law would not be forthcoming. When the laws have been taken seriously, however, they have often had somewhat unintended consequences. In attempting to legislate power to a group that typically lacked power, the laws gave incentives to landowners simply to evict tenants peremptorily and move toward a more capitalist wage system or to mechanize, often to the detriment of the tenants and workers who were supposed to be helped. For an assessment of the impact of the Venezuelan agrarian reform, see Insert 20.

Another feature of the Venezuelan law is that uncultivated land and land occupied by "settlers and occupiers" (that is, squatters) does not fulfill its social function and therefore can be expropriated. The law suggests this could happen as well when there is not "efficient exploitation and profitable use of the land."

Provisions such as these in many Latin American countries have led to land invasions in which campesinos occupy land that, by virtue of poor or non-existent use, is legally expropriable. They may then petition the government to expropriate the land under the law and pass it on to them. An example from Costa Rica is described in Insert 16.

The existence of this legal possibility is one thing; its realization another. Enforcement will depend largely on politics. The thought imposed by the mere existence of such laws may bring idle land into use, which is a positive result if the land is productive, but it can also make owners less tolerant of squatters and can thus lead to reduced access to land for many.

A less radical approach sometimes taken to the problem of idle or underutilized land is through taxes. A land tax creates an additional cost to holding land and may induce better use of the land or its sale to someone who will. Where tax revenue is not a major goal, the emphasis being to get idle land into use, idle-land taxes have been enacted, as in Guatemala. Given the notorious laxity of tax collection in Latin America, many land taxes have more of a formal than a real existence.

A less radical alternative to expropriation in the case of squatters is provided for in the law of many Latin American countries by a principle with a long history in both common and civil law. In common law, positive prescription or limitation, which is known in civil law by the Latin usucapio (Spanish, usucapión), provides that uninterrupted possession for a specified length of time extinguishes the title of the registered owner in favor of the occupant. The rationale for allowing adverse possession (occupation of land inconsistent with the right of the owner), if carried on sufficiently long, to confer title is similar to that involved in common law marriage and the statute of limitations for prosecuting a crime.

## 20. Outcome of the Venezuelan Agrarian Reform

That Venezuela's agrarian reform has not fulfilled the quantitative expectations of its designers in terms of land, families, and funds expended, does not necessarily mean that certain of its objectives have not been fulfilled or partly fulfilled.

The latifundia system has been replaced. Even if certain agricultural properties of recent origin have been criticized for being neo-latifundia—such as those of the King Ranch with 230,000 hectares—most agricultural households are now operated by resident owners engaged in commercial agriculture. The various forms of sharecropping and tenancy existing before the reform have been largely eliminated. It is probable that campesinos together produce more for the nation's markets (by weight and value) now than before the reform. It is also true that some progressive individuals among campesino beneficiaries have had the opportunity to become small or medium commercial farmers—either as individuals or in campesino economic organizations.

On the other hand, of the campesino families eligible for benefits under the Agrarian Reform Law, most who remain in the countryside are very poor, subsistence-oriented minifundistas. Growth in national agricultural production has not occurred as envisaged in the Law, by way of a just system of property, tenure, and land utilization ensuring adequate provision of credit and technical assistance. Among the 150,000 or so beneficiary families, a large number have not been able to exercise most or all of the 40 rights of beneficiaries identifiable in the Agrarian Reform Law and its amendments, among them the right to a property title and the right to a holding of sufficient size to be economically viable.

Growth in national agricultural production, albeit unable to match domestic demand, has been achieved by small numbers of medium and large commercial farmers. Capital-intensive and land- and labor-extensive, these subsectors constitute a capitalist agriculture which stands in striking contrast to much of campesino agriculture, whether included within the reform or not. The agrarian reform has been instrumental, intentionally or otherwise, in the rise of this capitalist agriculture. Exceptions have been noted in this paper, but some generalized supporting statements are possible. Capitalist agriculture has enjoyed the benefits of law and order in the countryside as well as massive, public infrastructural investments. Many of the nation's credit and technical assistance resources have been diverted into capitalist agriculture, allowing it to dominate animal production and several categories of crop production because these activities were not encouraged among agrarian reform beneficiaries. The reform probably served to provide an adequate supply of cheap, temporary wage-labor to capitalist agriculture and permitted as well the unhindered although illegal use of certain agrarian reform lands.

**SOURCE:** Paul Cox, "Venezuela's Agrarian Reform at Mid-1977," LTC Research Paper no. 71, mimeograph (Madison: Land Tenure Center, University of Wisconsin, February 1978) pp. 54-56.

In Costa Rica, for example, the Agrarian Code provides that precaristas (squatters, or those whose possession is "precarious") can be registered as the owners of land inscribed in the name of another in the public registry after ten years of peaceful, public, uninterrupted occupation during which the land was in production for their own or family subsistence, with their only costs being the surveying, adjudication, and titling of the parcel. For an occupation of less than ten years, the Institute of Agrarian Development can intervene to arrange a land sale by mutual agreement of the owner and the squatter. Failing this, the institute can undertake expropriation, with compensation, and pass the land to the squatter.

The context in which the law of prescription is used in Latin American countries differs greatly from that in other nations. In the United States, for example, the law may deal primarily with cases where boundaries defined by actual occupation do not coincide with surveyed boundaries entered in some legal document. If occupation lasts long enough, by prescription, it is those boundaries that become legally recognized. There will likely have been no conscious attempt at "land grabbing." In Latin America, however, the fact is that landownership is highly concentrated in a relatively few hands. Ownership may be absentee and cultivation may be indirect through tenancy or sharecropping. Arable land may be used extensively by being left in natural pasture or even left idle. At the same time, many rural poor have access to little or no land.

Because of these fundamental social realities, squatting and conflicts over the occupation of land are widespread in many areas. In some cases, notably the northern frontier regions of Brazil, violence and bloodshed are not uncommon as landowners have attempted to maintain their lands by evicting squatters before their occupation can establish rights to the land.

In countries which have either experienced agrarian reform by turning farms over to tenants and sharecroppers or expropriating and distributing idle or underutilized land or established government-financed land settlements, there may exist a legally distinct reform or colonization sector. The classic example, as mentioned above, is Mexico's ejido sector, which is given separate treatment in the agrarian code and functions on a different basis than the private farm sector. When land has been redistributed in individual parcels, it is typical for the government to remove some of the sticks from the bundle of rights that pertains to ownership. Since indirect exploitation was often seen as the evil justifying redistribution, the new owners are prohibited from turning around and renting out their land. Land concentration was another evil, so the new owners are not allowed to alienate their land, thus preventing the rich and powerful from gradually reacquiring their estates.

Land is not always directly allotted in individual parcels. The Mexican ejido is a juridical person, not unlike a corporation, in whom ownership is vested. This ownership is restricted, however, since sale or rental is prohibited. Individual members of the ejido, the ejidatarios, receive personal use plots, which can be neither sold nor rented. Nonuse of a plot causes reversion and reallocation. Use rights can be passed to heirs.

Land can be designated as forming a production cooperative or a collective farm. In some cases, these can amount to state enterprises with a

government-appointed manager and a work force that amounts to wage laborers. In other cases, though, they approach true cooperatives where members collectively own the land they work. The land is not theirs to sell or rent, however, and even division into individual parcels may be technically illegal, though tolerated. Some provision will frequently be made for individual subsistence plots, though the bulk of the land is worked collectively.



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