Agrarian Reform in Venezuela
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Where the results of nominalism would bring about particularly unjust, socially undesirable, or absurd results, the legislature often enacted rules which work as exceptions, or quasi exceptions, to the principle of nominalism.

When inflation, during the intervals between assessment and collection, threatens to decrease the purchasing power of the funds collected as taxes, the governments can (and do) resort to such devices as tying the tax payable to a price index (as Hungary did in creating the tax-pengö) or (in case of less extreme inflation) collect taxes by an accelerated method (e.g. pay-as-you-go in the United States).

Monetary nominalism in taxation acts as a hidden lever which automatically influences the economic cycles. Strong arguments can be brought up against the desirability of a hidden device, but some economists welcome it. It is the present writer's opinion that the "hidden" operation of the regulatory device should be brought out into the open.

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AGRARIAN REFORM IN VENEZUELA

A pressing need in nearly all Latin-American countries, as in other underdeveloped areas, is agrarian reform[1] on sound lines to increase production and enhance human dignity. The movement was initiated in Mexico half a century ago but has there met with only moderate success. Attempts in Guatemala,[2] under communist influence, and in Bolivia[3] have been disastrous. Cuba's agrarian reform law, even more influenced by communism, like other acts of the ruling dictatorship, evinces a total disregard for the rule of law and bids fair to be even more calamitous. Peru and Colombia have programs under study by Agrarian Reform Commissions and throughout Latin America, there is a ferment of popular agitation that must be satisfied if there is to be any hope of political stability.

Venezuela has come along with its Agrarian Reform Law of March 5, 1960,[4] a detailed statute of 209 articles, on generally sound lines. According to official pronouncements, "the rule of law prevails" and "the violent seizure of land will not be tolerated," in contrast to the Guatemalan, Bolivian, and Cuban precedents.[5] The Agrarian Statute of 1949, under which little progress had been made, is repealed (art. 209).

The basic premise of the law is that property is a social function (arts. 2, 3,

[1] It has been suggested that, in order to avoid the communist connotation with which the term Agrarian Reform has become tainted, it would be better to call it Agrarian Rehabilitation (Report of the Committee on Land Utilization. U.S. Inter-American Council Inc., N. Y. Sept. 1960). Land Resettlement has also been suggested.

[2] See this Journal, Stern, "Guatemalan Agrarian Reform Law," 2:235 (1953).

[3] See this Journal, De Galindez: "Bolivia: Decree-Law, 3464 on Agrarian Reform," 3:251 (1954).

[4] Gaceta Oficial No. 611, Ex. March 19, 1960; 9 Revista del Ministerio de Justicia, No. 3, April–May 1960, 51–124.

[5] Report, *supra*, n. 1, p. 2.

19–23). This concept, derived from Duguit's theory, has been widely adopted in Latin-American constitutions[6] and legislation. Under this Venezuelan statute, land that is not fully and adequately serving its social function is subject to condemnation (expropriation) for distribution to small farmers. Public lands as well as privately owned lands fall within the scope of the law (arts. 3, 10, 18).

Property to be deemed to serve its social function must be efficiently cultivated under direct management of its owner (except in certain cases for justified cause), complying with the laws as to conservation of natural resources and the labor laws (art. 19). Idle lands and those cultivated by sharecroppers, tenant farmers, and other non-owners, come under the ban of the law, and, if not expropriated, are to be subject to higher, discriminatory taxes (art. 20).

Many of the provisions of the law are merely programmatic and require further regulation and implementation, e.g. incentives for efficient utilization (art. 23); education, schools, roads, warehousing facilities (arts. 78–80); rural credit (arts. 109–118); marketing facilities (arts. 128–132); housing (arts. 133–136); irrigation and drainage (arts. 180–184). It is one of the merits of the law, however, that it recognizes that distribution of parcels of land in itself, without these necessary complements, is futile to accomplish worthwhile results.

Lands which are presently serving a social purpose are not, in general, subject to expropriation nor are holdings of first class land not in excess of 150 hectares. The exempt area in inferior lands (inferior as to quality, location, etc.) may be as much as 5000 hectares.[7] An additional 15% may be reserved when indispensable for the proper exploitation of a farm (arts. 26–30). If no amicable adjustment with the owner is obtained, condemnation proceedings in court have to be instituted, an appeal lying to the Supreme Court (*Corte Federal*) (arts. 35–40). Specific criteria are laid down for valuation of expropriated land (art. 25).

Allotments of land may be made either to individuals or co-operative groups. To a needy beneficiary, they may be made free of charge, but in general it is contemplated they will be purchased, the price being the cost to the National Agrarian Institute, with payments extending from 20 to 30 years, but in no event shall the yearly amortization exceed 5% of the gross sales of produce of the farm (arts. 57–67). Discounts from the cost price, depending on the size of the beneficiary's family, are ordered (art. 65). Leases or deeds can be made only with the consent of the Institute, and a transfer can be made only to one qualified under the law to receive its benefits (art. 74). Allotments can be revoked for cause but upon payment for improvements (arts. 83, 84). Allotted parcels are exempt from attachment or execution

[6] E.g. expressly in Bolivia 1945, art. 17; Brazil 1946, art. 147; Colombia 1886, as amended, art. 30; Costa Rica 1917, as amended, art. 29; Cuba 1940, art. 87; Ecuador 1946, art. 183; Guatemala 1945, art. 90; Haiti 1946, art. 17; Mexico 1917, art. 27; Nicaragua 1939, arts. 65 *seq.*; Panama 1946, art. 45; Paraguay 1940, art. 21; Peru 1933, art. 34; Venezuela 1947, art. 65.

[7] For this, and other purposes, lands are classified into seven classes, by a detailed formula of points (art. 198).

except for debts due to the Institute (art. 85). Resettlement, when necessary, is to be provided (arts. 88, 89).

The procedure for allotments is prescribed in Chapter 2 (arts. 93–101). Homesteads with the usual exemptions from levy of attachment are provided for (arts. 102–108). Rural credit, secured by real estate or chattel mortgage, is contemplated (arts. 109–118). Interest on small farm loans may not exceed 3% per annum (art. 112). Such a rate, far below what the money will cost, may strain the Government economy and be inflationary. Title IV (arts. 119–127) deals with the conservation and development of renewable natural resources. The State will guarantee minimum prices for farm produce (art. 131).

The law, in addition to substantial amendments to the present law (arts. 180–189), includes regulations as to the appropriation and use of waters (arts. 41–51, 90–92). Associations of users of waters (*sociedades de usuarios*) are contemplated (arts. 50, 51).

Substantial reforms are also introduced in the law of "agricultural" contracts and leases of rural lands (Title VII, arts. 140–153). The Government may arbitrate in conflicts harmful to the community. Tenants are given an option to purchase. Certain provisions in contracts are declared void: *inter alia,* those obligating a tenant to sell produce to the owner, receive supplies from him or use his machinery; to pay rental in advance or in produce or labor. Prohibition of payment in produce, often beneficial to a tenant, is unwise; control of abuse is preferable to prohibition. The landlord is obligated to pay for betterments made by the tenant. Tenants cannot be evicted, actually or constructively, without the authorization of the Agrarian Institute. Is the impairment of the classical concept of property rights being carried too far?

Title IX (arts. 154–171) deals with the organization, officers, powers, and property of the National Agrarian Institute and the National Cadastral Office. Payment for expropriated or otherwise acquired land is to be made partly in cash (up to 100,000 bolivars—$30,000), chiefly in bonds. The bonds, depending on the grounds for expropriation, may be either 3%—twenty-year bonds (Class A); or 4%—fifteen-year bonds (Class B). In exceptional cases, Class C ten-year bonds may be issued bearing interest at the prevailing rate in the money market. Class C bonds are issued also for the general financial needs of the Institute. Matured interest coupons are receivable in payment of taxes. The bonds are not transferable, but may be used as security for loans (arts. 172–178). No sufficient reason for non-negotiability is apparent. It would seem better to maintain a stable market through government agencies, perhaps in co-operation with international banks.

Aliens enjoy the same rights and are subject to the same obligations as citizens, except that their membership in co-operatives (*Centros Agrarios*) may not exceed 30% (arts. 8, 82). Since deferred payments are provided for, in low interest bonds, it is questionable whether the law meets the international requirement of prompt, adequate, and effective compensation. Venezuelan bonds are selling at a discount. Should this precedent be followed in other countries where the discount on government obligations is heavy, virtual confiscation would result. Obviously, if land reform is to be under-

taken on a scale large enough to be worthwhile and public lands are not available, a poor country cannot pay cash for expropriated land, but would it not be feasible, once a fair valuation has been reached, to pay the owner an increased amount in bonds gauged upon their realistic, fair value?

Vast powers are vested in the National Agrarian Institute. Whether the law will prove successful to accomplish its beneficent aims, will depend on wise, efficient, and equitable administration. Latin-American countries engaging in land programs would be well advised to seek the co-operation of the I.C.A., the Organization of American States, or international banks. Having on the staff of the administering agencies personnel appointed by international bodies would tend to assure the confidence of citizens and foreigners alike in the impartiality and freedom from political and personal influence of the administrators of the reform.

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THE ROLE AND ACTIVITY OF ARBITRATION COMMISSIONS IN A COMMUNIST ECONOMY: THE HUNGARIAN EXPERIENCE

Arbitration of disputes between Communist firms was introduced first in the Soviet Union. As early as 1922 arbitration commissions were handling civil cases; the present system of state arbitration was developed in 1931.[1] It is characteristic that the introduction of state arbitration coincides in time with the final establishment of the system of commercial contracts. The decree of the Soviet Government of March 20, 1931, introduced the general duty to conclude contracts and at the same time ordered the organization of state arbitration. The joint resolution of the Central Executive Committee and of the Council of the People's Commissars of the Soviet Union "concerning the State Arbitration Commission" was dated on May 3, 1931,[2] and it is still the legal basis for the activity of the arbitration commissions.

In the countries which came under Soviet domination after World War II, the organization of arbitration agencies began concurrently with the development of their Communist economic systems. While in the Soviet Union the relatively brief and incomplete Decree of 1931 is still in effect, arbitration in the East European countries has been undergoing continuous evolution. In Hungary, the first arbitration commissions appeared in 1948. In 1951, the rather comprehensive legal material regulating the function, organization, and proceedings of arbitration commissions was codified. At present in Hungary the activity of arbitration commissions is determined by Decree No. 51/1955 (Aug. 19) M.T. concerning "arbitration commissions and arbitration proceedings" (hereafter called: Decree).

Although considerable difference in several matters of detail is not infrequent in different Soviet type countries, the task and the basic structure

[1] See Donde, Freidman and Chirkov, Khozîaistvennyi dogovor i ego rol' v snabzhenii narodnogo khozîaistva SSSR (The economic contract and its role in the supply of national economy of USSR (1953) 205.

[2] Sobranie Zakonov SSSR (Collection of Laws of the Soviet Union) (1931) No. 26.