
PART V
PHILIPPINE GOVERNMENT AND POLITICS

**The Court of Agrarian
Relations and
Social Change**

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Adjudicating structures are normally conceived in terms of their functions in maintaining order, i.e., the regulation of society or the preservation of the status quo. But these adjudicative structures, especially the courts, may also be viewed in terms of their relationship to social change.

Courts may serve a counter-insurgency function by channeling tension arising from societal dislocation. The higher courts, in particular, may legitimize political alterations by swearing in elected officials or proclaiming the constitutionality of policies and governmental actions. Or they may function to apply general principles to new social situations.

Finally, courts may enforce alternate legal norms for the restructuring of traditional social patterns.

It is largely with the latter function that this paper is concerned. The intent is to advance several propositions regarding the limits and possibilities of courts as instruments of social change.

These propositions are derived from research on the Philippine Court of Agrarian Relations—selected because it is a specialized court that apply an alternate set of norms to the traditional relationship between landholder and cultivator.

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Limits

It is important to start with the recognition that a court is an "instrument of justice in a society inequitably . . . structured,"¹ and it is inevitable that inequalities in the rest of the social system will be reflected in such an adjudicative institution. Thus, part of the first limitation on the Court of Agrarian Relations, its scope, is the very definition of the court's legal purpose. The legislation establishing the court is "the enforcement of all laws, and regulations governing the relation of capital and labor . . .".² In other words, the principal function of the CAR is not to eliminate the relationship between landholder and cultivator but to regulate it and, therefore, any social change enforced by the court will be, by definition, incremental in nature. Furthermore, the history of the agrarian court has included several major reductions in the legal definition of its jurisdiction. Due to the creation of the National Labor Relations Commission, disputes involving agricultural workers have been removed from the purview of the CAR.

More recently, the Department of Agrarian Reform has caused the exclusion of most disputes involving rice and corn tenants from the jurisdiction of the CAR. The current decree governing the Court of Agrarian Relations provides that "matters involving the administrative implementation of the transfer of the land to the tenant farmer . . . shall be exclusively cognizable by the Secretary of Agrarian Reform."³

This legal limitation on the scope of the CAR is compounded by the lack of prosecutor's office to channel disputes to the institution. In the past, the functional equivalents of the fiscal's office were private farmer organizations and legal assistance agencies, such as the Office of the Agrarian Counsel (OTAC) and the Bureau of Agrarian Legal Assistance (BALA), which mobilized the court to process requests for leasehold conversion or purchase of landed estates. Nationally, 1972 is the peak year of this functional relationship with a total volume before the CAR of 11,356 cases. But, by 1975, the volume of litigation had declined to a total of 4,283 cases: the consequence of the displacement of private farmer organizations by the Bureau of Agrarian Legal Assistance and the

¹Hollnsteiner, Mary R. "Workshop on Access," (Unpublished paper delivered in Manila, 1976).

²Republic Act 1267, Section I (June 14, 1955).

³Republic of the Philippines, Office of the President, Presidential Decree 946, Section 12 (June 12, 1976).

restrictions of martial law, and by the mediation of the Department of Agrarian Reform in disputes involving rice and corn tenants.

A second limitation suggested by the research is that the dominant pattern with regard to the outcome of litigation is more in accordance with a variable-sum rather than a zero-sum game:⁴

Every zero-sum game represents a pattern of unmixed and unrelieved conflict. In a two-person game of this type, whatever one player wins, the other loses. Whatever is good for one, necessarily is bad for his adversary; and anything that is in any way good for one's adversary inevitably must be to the same extent bad for oneself.

In contrast to this pattern of conflict, CAR litigation tends more often to follow a variable-sum contest in that the parties "not only win something competitively from one another, but also collectively stand to gain or lose something from an additional player."⁵ This type of competition is one in which the contestants try to win from one another. But they are also "games of coordination" in that "these players will also jointly gain or lose according to their ability to coordinate their moves in accordance with their common interests against 'nature' . . ."⁶ This variable-sum game is reflected in the fact that 60% of the cases sampled are resolved by a compromise agreement, by the fact that no plaintiff ever won all that was requested, and the fact that requests for actual, moral and exemplary damages, generally overstated, are always compromised. Even with regard to tenurial issues,⁷ only about one-fifth were resolved totally in favor of the plaintiff.

Another illustration is that the appeal of a CAR decision is often one more act in the bargaining process as about 40 percent of the appeals are dismissed due to abandonment, motions to withdraw or failure to file the brief.

A further example is that in decisions by the judges, there is an inverse relationship between the extent of winning on tenurial issues and winning on requests for damages. In other words, the more the plaintiff gains on one dimension, the less is won on the other dimension.

⁴Deutsch, Karl W. *The Analysis of International Relations* (Englewood Cliffs, N.J.: Prentice Hall, 1968), p. 115.

⁵*Ibid.*

⁶*Ibid.*

⁷Refers to requests for action which relate to changes in the basic tenurial relationship between landholder and cultivator: reinstatement, ejectment; leasehold conversion, etc.

The consequence of this variable-sum pattern is that the court does not fully apply the legal norms designed to alter the relationship between landholder and cultivator. Instead of specifying leasehold with a fixed rental based upon the previous harvests, the CAR will often order conversion to leasehold with a share of 25 percent and rentals to be fixed after three succeeding harvests. Or the CAR will order an ejected cultivator reinstated to the coconut land under the legal minimum sharing of one-third to the tenant. These examples demonstrate that the court frequently is only enforcing a portion of even the incremental changes specified by the agrarian reform legislation.

A third limitation revealed by the case histories is that litigation normally requires an average of eleven months with two of the branches requiring as much as thirteen and fourteen months to process the typical dispute. This time period is inordinate, given that most of the CAR litigation is not technically complex, and considering the two prime factors which consume the time: postponement by the attorneys and the spacing of hearings. The lawyers will often ask for a rescheduling of court sessions for unrelated reasons such as conflict with the docket of other courts. Last minute "urgent" motions for postponement, to allow the lawyer to charge for an additional court appearance, are common and it is clear that many private attorneys place their clients second to almost all personal business.

The CAR judge must share part of the responsibility as they are frequently too passive, and leniently grant delays for most any reason. As a consequence, that innovative portion of Presidential Decree 946 stipulating continuous hearings until the case is terminated will be very difficult to put into effect.⁸ Hearings before the three CAR courts are in fact seldom continuous, normally being set one month or more apart. This pattern is exacerbated if the judge is on detail to several courts and almost all CAR judges bear that burden as only about 40 percent of the judgeships are presently filled.

A final, but substantial, restriction on the role of the agrarian courts is that, structurally and procedurally, it is often too formal and too alien. The normal procedure is for the judge to preside physically above the other participants, the vocabulary, such as "your honor", the "defendant", "estoppel", etc., is stylized, and the barong tagalog is the standard uniform for lawyers. This formality prevents

⁸Presidential Decree 946, Section 17.

the CAR from fulfilling its image of a mobile court with the flexibility to hear disputes under the coconut trees and leaves the cultivator sitting deferentially at the back of the court room, hat in hand, rather than being an active participant.

The formal structure and procedures of the CAR are part of a westernized culture more or less alien to the Philippine peasantry: communication through the English language, which is so even when all the participants speak the local language; latinized legal concepts; and insistence on written records reflect this alien dimension. Obviously, these are part of the Philippine heritage, but perhaps they should not be utilized for those sectors of society which are least westernized as this formal and alien dimension serves to exclude the peasant while being relatively comfortable to the landholder.

While the cultural base of the Court of Agrarian Relations, its scope, the time consumed by litigation and the variable sum nature of the outcome, are limitations on the enforcement of legal norms for restructuring society, the litigation of the courts in this study contains three behavioral patterns in which the social change dimension is emphasized. The restrictions discussed above are more typical, but the deviations about to be discussed are perhaps more important because they are instructive of a desirable role.

Possibilities

The cultural nexus of the traditional landholder/cultivator relationship is status-oriented, with the position of subordinate or superordinate defining an array of economic, political or social interactions. As a society undergoes the process of development, the status orientation will often no longer completely meet the needs of the members of the social system. The response to this deficiency is varied, but the litigation in the Court of Agrarian Relations demonstrates that a part of the peasantry is utilizing this Adjudicative structure for coping with the transformation.

One pattern is that the tenant-farmer comes to court to regulate a tenurial relationship in which the landholder has been changed due to sale of the land, mortgage or civil lease. The new landholder does not feel bound by the status-oriented ties between the former landholder and tenant and thus alters the relationship. This is reflected in the fact that one of the issues with the highest frequency of occurrence in the Court of Agrarian Relations is that of reinstatement in which the tenant, whose legal right to security of

tenure has been violated, requests that he be returned to the cultivation of the land.

Another illustration of this role of the Court of Agrarian Relations is found in the fact that the court is most effective in enforcing the conversion of share tenancy to agricultural leasehold. On the average, 79 percent of the complaints filed for enforcement of this norm were basically granted. Again, what is striking is that the peasantry is utilizing this institution to alter formerly status-oriented relationships to interactions governed by a contract.

A second change of role revealed by the research is that the Court of Agrarian Relations can maximize the principle that "those who have less in life should have more in law" by assuming an activist position in the interpretation of the jurisdiction of the court. These are, for example, disputes being brought before the Court of Agrarian Relations under that section of Presidential Decree 946 which states that the CAR has "original and exclusive jurisdiction over: . . . Cases involving the rights and obligations of persons in the cultivation and use of agricultural land . . ." ⁹

The interpretation of such a provision can be very narrow or the court can assert its responsibility for assuring the rights of those involved. In one dispute, in which the Department of Agrarian Reform previously found that no tenancy or agricultural leasehold relation exists between the litigants, the CAR judge still proceeded with the case on the grounds that the court is not bound by the preliminary findings of the DAR and that: ¹⁰

. . . the courts of Agrarian Relations are now vested with competence to decide all cases involving the cultivation and use of agricultural lands regardless of whether or not the rights and obligations involved therein arise from agrarian relations with the sole exception of those arising from employee—employer relations.

Another illustration of this activist posture is a case filed for the return of the homelot of several alleged tenants and damages for the destruction of their houses by the Philippine Army and the Presidential Assistant on Housing Rehabilitation Agency. The respondents asked for the dismissal of the case on the grounds that the plaintiff were mere squatters, had been properly removed under certification from the national authority and that the CAR had no jurisdiction because the issue did not arise from tenurial relationship.

⁹Presidential Decree 946, Section 12.

¹⁰Balansag, *et al.* vs. Villanueva, Court of Agrarian Relations, Dumaguete City (No. 307, Neg. Or. 1974).

¹¹There is insufficient data to calculate the percentage for the other two types.

A third change-related dimension of the CAR is that the most desirable procedure for the resolution of conflicts in the courts studied is that of amicable settlement by the judge. Such resolutions are normally achieved at the first session and therefore the time involved and the cost of attorneys are greatly reduced. Because agreement is reached through active participation by the parties in a language known to both, amicable settlements by the judges are usually appealed to, and the additional twenty months normally required for a decision in an appealed case is avoided.

Not only is an amicable settlement by the judge more rapid; it also produces a reasonable outcome for the plaintiff. Furthermore, this type of settlement avoids the more formal and less familiar processes of a full-fledged trial. In fact, it is the most rational strategy of the plaintiff for maximizing the results

Thus, with the above-given limitations and role possibilities, what relationship can be drawn between the Court of Agrarian Relations and social change?

It is suggested that the CAR is unlikely to be an active instrument for the fundamental transformation of the rural sector. The pattern of compromise, the limited jurisdiction, and the lack of a mobilization agent will provide major obstacles to such a role.

Yet the use of an amicable settlement procedure and an activist stance by the judges will allow the CAR to play an important role in the incremental alteration of the rural society and will provide the cultivator with an effective institution for processing disputes arising from the dislocations of the developmental process.