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LAND-TO-THE-TILLER IN SOUTH VIETNAM: THE TABLES TURN

/ Roy L. Prosterman

While it is obvious that the middle of the war is not the best place to start such reforms, it must be realized that in Vietnam the choice no longer exists, for the reforms are as essential to success as ammunition for howitzers—in fact, more so, because the failures of land reform create an almost hopeless vicious circle. With only 25% of the non-urban population under effective government control, the large mass of landless peasants stands to lose a great deal the day Saigon re-establishes control over the countryside and thus restores the old tenant-landlord relationship, as invariably happened in the past whenever government troops reoccupied a given area.

—Bernard Fall¹

The basic reason land reform was not pursued was that U.S. officials did not believe that land-based grievances were important.

* * *

The Americans offered the peasant a constitution; the Viet Cong offered him his land and with it the right to survive.

—Robert L. Sansom²

This is the happiest day of my life.

—Nguyen Van Thieu³

The Land-to-the-Tiller bill was signed by President Thieu on March 26, 1970, at Can Tho in the Mekong Delta, on a specially-declared national holiday and amidst a three-month barrage of publicity that has left even the lowliest peasant knowing that land reform is coming. Applauded in this country by an enormous cross-section of press and on Capitol Hill—the *Washington Evening Star* editorially called it “the best news to come out of Vietnam since the end of the Japanese occupation,”⁴ and the *New York Times* editorially characterized it as “probably the most ambitious and progressive non-Communist land reform of the 20th Century,”⁵ while powerful bipartisan

¹*Foreign Affairs*, October 1966, p. 5.

²*The Economics of Insurgency*, (Cambridge: M.I.T. Press, 1970), pp. 229, 234. Sanson is now on Henry Kissinger's staff.

³Upon signing the Land-to-the-Tiller bill at Can Tho, March 26, 1970. Quoted in the *Baltimore Sun*, March 27, 1970.

⁴March 25, 1970.

⁵April 9, 1970.

groups introduced legislation in both houses of Congress to provide \$200 million in special, earmarked U.S. supporting assistance⁶—the Land-to-the-Tiller bill clearly is a measure of massive importance. It has enormous bearing on how, and how fast, the Vietnam conflict is resolved, both because it can shift the peasants toward support for the Saigon side of the conflict, and because it can, in consequence, supply new negotiating leverage in Paris. What the *New York Times* said in a 1968 editorial about the land reform that was ultimately to be adopted still holds true:

“Virtually overnight, South Vietnam’s landless peasants would be given a stake to defend in their society. The Vietcong would be deprived of a gut issue. No military victory or political achievement would be more likely to move Hanoi toward the peace table than evidence of a substantial shift in peasant loyalty.⁷”

That the land problem is near the root of the Vietnamese conflict—as it was, for example, in China and in Cuba—has long been clear to most careful and scholarly observers; it is a point on which there has been close agreement among Bernard Fall,⁸ Joseph Buttinger,⁹ Douglas Pike,¹⁰ and many, many others.

The facts as to peasant tenure are set forth in detail in other articles in this issue. Suffice it to say that Vietnam remains a predominantly agrarian country (still 60%) in which the largest occupational group consists of families dependent on tenant farming. During the critical period of the conflict’s development in the early 1960’s, as shown in the 1960-1961 Agricultural Census of South Vietnam,¹¹ only 257,000 out of 1,175,000—23% of the Me-

⁶H. R. 17117 came in at the end of April with the co-sponsorship of John E. Moss, Dem. Calif. (Chairman of the Foreign Operations subcommittee of the Government Operations Committee); Ogden Reid, Rep. N.Y. (ranking Republican on East subcommittee); William Broomfield, Rep. Mich. (ranking Republican on Far East subcommittee of the Foreign Affairs Committee); John Monagan, Dem. Conn.; Frank Horton, Rep. N.Y.; Torbert Macdonald, Dem. Mass.; Morris K. Udall, Dem. Ariz.; Clement J. Zablocki Dem. Wis. (former chairman of the Far East subcommittee and second-ranking Democrat on the Foreign Affairs Committee); Bradford Morse, Rep. Mass.; Gilbert Gude, Rep. Md.; and William T. Murphy, Dem. Ill. (Chairman of the Far East subcommittee). This constituted one of the most powerful bipartisan groups to bring in new foreign-aid legislation at any time in the past decade.

In early May, a parallel measure was introduced in the Senate (Amend. No. 621 to H.R. 15628), again with a powerful bipartisan coalition of sponsors: on the Democratic side, Edmund Muskie, Warren G. Magnuson, Henry Jackson, Mike Gravel, Harrison Williams, Ernest F. Hollings, Howard Canon and Clinton P. Anderson; on the Republican side, Hugh Scott, Charles Percy, Robert Packwood and James Pearson.

⁷March 31, 1968.

⁸B. Fall, *op. cit.*

⁹*Vietnam: A Dragon Embattled*, (New York: Frederick A. Praeger, 1967).

¹⁰*Viet Cong*, (Cambridge: M.I.T. Press, 1966). Despite his reputation as one emphasizing administrative and organizational elements of the insurgency, Pike describes the Viet Cong “indoctrination system” as “based on vested interest in land” (p. 286) and consistently makes clear his view of the fundamental role played by the communist promises of land in the development of the insurgency. See, e.g., pp. 60, 63, 276-77.

¹¹The Census materials are reproduced in Appendix D to Stanford Research Institute, *Interim Report, Land tenure in Vietnam: A Data Compilation*, prepared for U.S. Agency for International Development; Menlo Park, 1967. See particularly Table 3 of the Census.

kong Delta's farming families owned all the land they worked. Their average holding was four and one-half acres. Another 334,000 families (28.5% of the total) tilled six acres, four of which were rented, while 521,000 families (roughly 44%) farmed an average of three and one-half acres of land that was *totally* rented. Thus, in the Delta, more than seven farming families out of 10 were substantially dependent on tenant farming. The Stanford Research Institute fieldwork in 1967 confirmed the continuing predominance of tenant farming.¹² In its percentage of landlessness, the Mekong Delta thus qualified as one of the five worst areas of the world—along with Java, northeastern Brazil, West Bengal and the contiguous parts of India, and the Huk country of Central Luzon—and equalled or exceeded pre-revolutionary China, Russia and Cuba.

As the S.R.I. fieldwork confirmed in detail, to be a tenant in the Mekong Delta meant:¹³ To pay an average of 34% of the crop in rent to a landlord who supplied no inputs or support of any description; to exist on the land as a tenant at will or on a year-to-year basis; to bear the predominant risk of a crop failure, with the rent still due; to have virtually no disposable surplus once the landlord got through;¹⁴ and also meant to name land ownership, to the Vietnamese conducting the S.R.I. field interviews, *five times as frequently as physical security*¹⁵ as a thing of crucial concern.

The tenants' situation has been no better in the Central Lowlands. As the 1960-1961 Agricultural Census showed, the typical family—403,000 out of

¹²See the discussion in Dr. William Bredo's paper in this issue.

¹³See *ibid.*

¹⁴South Vietnamese calculations made for S.R.I. indicated that once the rents go much above one-fifth of the crop on a typical three and one-half acre Delta plot (the average for the 44% of families that the 1960-61 Agricultural Census showed to be living wholly on rented land) the land does not produce enough rice to keep the average household at recommended minimum sustenance levels. On the average, two and one-half acres (one hectare) of South Vietnamese riceland produce 2.1 metric tons (2,100 kilograms) of paddy rice, which yields about 1,365 kilograms of milled rice. Nourishment of an individual is considered to require 200-250 kilograms of rice, or their caloric equivalent, per year. This adds up to 1,200-1,500 kilograms for the average six-person Vietnamese household (actually 6.6 persons, so the calculation is conservative). Hence, the average three and one-half acre, tenanted tract in the Mekong Delta, with an average yield of about 1,900 kilograms of milled rice, may yield less than the average tenant-family's minimum needs at a rent figure starting at 400/1,900ths or 21%, of the crop. For the basis of these calculations, see *Interim Report, op. cit.* Volume I: Narrative Report, pp. IV-49, IV-50. (The typical Central Lowlands mixed-tenure holding averaged only two acres, one-half of which was rented.) In further confirmation of the virtual non-existence of a surplus on the part of the tenant farmers, the 1967 S.R.I. fieldwork showed that three-quarters of responding tenant farmers had *no* rice whatsoever left over to sell in 1966, seven-eighths had *no* other products such as fruit or vegetables left over to sell, and two-thirds had *no* animal products such as fish, poultry or eggs left over to sell (of all tenant farmer families, seven out of ten regarded their total money income as inadequate—under one percent characterized it as good or plentiful). These responses are shown in Stanford Research Institute, *Land Reform in Vietnam Working Papers*, Volume IV, Part 2, Appendix, Menlo Park, 1968, at pp. C-90 to C-95.

¹⁵The interviews were conducted in "secure" areas in only a relative sense. One-third of all respondents said there had been fighting in the village in 1966 (*Working Papers*, Volume IV, Part 2, Appendix, *op. cit.*, pp. C-148-152. One quarter said it was not safe

695,000—lived on a two-acre farm, one acre of which was rented. About 74,000 families held rented land only, their average holding being one and one-tenth acres. Rents on the tenanted or share-cropped portion of lands in the Central Lowlands generally are 50% of the gross crop, although here the actual crop is the measure more often than an estimate made in advance. Security of tenure, however, is as non-existent as it is in the Delta.

All the above data, however, relates to “tenancy” as it has existed in areas under South Vietnamese government control. In areas where the Vietcong were in control, they offered land reform as their central substantive program.¹⁶

The program has deep roots. By the time the Geneva Conference was convened in 1954, the Vietminh ruled 60 to 90% of what is now South Vietnam. Their support by the rural population had accounted in substantial part for the crucial advantage that had enabled them to overcome the superior arms and manpower of the French. In their struggle, they had built their broad base of support on the strong foundation of anticolonial nationalism, and they had added to this (even more concretely than the Algerian rebels were to do a few years later) the attraction of land-tenure reform for the mass of the peasantry.

Beginning in 1945, in areas that they controlled, the Vietminh had enforced strict limitations on rent and interest rates. Lands held by the French, communal lands, and the land of “traitors” were confiscated and given to the poorer peasants. Beginning in 1953, the Vietminh undertook the second, more sweeping phase of their land reform program, under a classification system similar to that which had been employed by the Communist Chinese (“landlord,” “rich peasant,” “middle peasant,” “poor peasant” and “agricultural worker”). In its first stage of implementation this system was aimed at taking land from the first two groups and giving it to the last two. Wherever it was applied, the program utterly transformed the village social structure.

The sad history of the post-1954 years can only be briefly sketched here. The North Vietnamese moved to a stage featuring bloody village “trials” of the landlords and—very broadly defined—“rich peasants” (100,000 died, according to the best estimates), and then to collectivization. President Ngo Dinh Diem missed the chance to carry out a competitive democratic land reform, on models such as those of Mexico, Japan, Taiwan, Bolivia or South Korea (all of which had inaugurated sweeping land reforms before 1954). Instead, he adopted a law that was blatantly impossible to administer, at-

for a stranger to stay in their hamlet at nighttime; two-fifths of those professing any knowledge said there were hamlet officials who left to sleep elsewhere; nearly half of those professing any knowledge said the Viet Cong had visited the village in the past year; and over half of those professing any opinion thought the security situation during the following year would remain unchanged, or even deteriorate.

¹⁶For descriptions, see Sansom, *op. cit.*, and *Working Papers, op. cit.*, see also Buttinger, *op. cit.*, and Pike, *op. cit.*

tempting to control the details of the landlord-tenant relationship—actually serving as a convenient camouflage for *restoring* the landlord-tenant relationship for hundreds of thousands of families in formerly Vietminh-controlled areas who had thought the land was now theirs—together with an extremely mild law providing for the acquisition and distribution of large holdings.¹⁷ The latter allowed retention of 100 hectares (247 acres; and this was eventually raised to 115 hectares in most cases) which was at least 30 times greater than the “retention limits” in the successful Asian land reform programs of Japan, South Korea and Taiwan. The acquisition program also suffered from multiple administrative defects.¹⁸ Diem’s program ground to a final halt in 1961, with benefits for only one out of ten tenant families. Provincial and local officials were allowed to retain and rent out the best of the acquired lands.

This left two great groups identifying the Communists with land reform and Saigon with the interests of the landed oligarchy: as many as one million peasants who remained under Vietminh control even in Diem’s heyday, and who continued to live under the economic and social transformations wrought by “first stage” (*i.e.*, precollectivization) Communist land reform; the great mass of tenant farmers who returned to Diem’s control, who not only gained no benefits from Diem’s unworkable laws, but actually found the government *reestablishing* a relationship that the Vietminh had already sundered. Under the circumstances, it seemed not only logical but virtually inevitable that at the end of the 1950’s the Vietcong should become the active successors of the Vietminh, building popular support throughout the countryside with the promise of the maintenance and extension of the Vietminh land reforms.

Saigon’s response, from 1961 onward, not only totally omitted any competitive land reform measures, but from late 1965 onward actually involved the elaboration of decrees which justified the ultimate, very common “pacification” process by which the American innocents, having “secured” a village and moved on, were followed by the landlords riding in on the jeeps with “ARVN” (the South Vietnamese Army) to reassert control over their former lands.¹⁹ Not surprisingly, but very tragically indeed, many Americans have died at the hands of enraged peasants who have associated them with “pacification” in this, its completed, sense.

The course of this war leads to a pretty fair suspicion that there have been some rather grotesque errors committed along the way, and, unfortunately, the role played by many of those in AID (and its predecessor agency) and

¹⁷See *Working Papers*, *op. cit.*, Volume I, Part 1, pp. 23-62.

¹⁸See *Ibid.*, pp. 41-44. One example: Regulations ultimately gave landlords over two years in which to prove “preordination” transfers to others that brought their holdings below the point where the law took hold; transfers to relatives and strawmen were common; and the author has met Vietnamese who openly admit that they still “own” over 2,000 acres.

¹⁹See, for example, Bernard Fall’s characterization of this situation, *op. cit.*

the State Department on the land-reform issue was—until early in 1969—one of weakness, vacillation and desperate self-justification.²⁰

Starting with clear marching orders from President Eisenhower and those at the top in 1954 that made support for land reform a matter of high priority, working-level officials allowed themselves to be backed off step by step from a workable program by the clear signs of hostility emanating from major segments of the ruling elite. During 1960-1965, the United States Mission obligingly failed to have present in Vietnam even one full-time official dealing with the land reform problem, and a plethora of rationalizations sprang up about the need to rely on the landlord class for political stability. In the case of some officials, all these rationalizations stubbornly failed to give way even when the house of cards collapsed in the early 1960's and the preeminent role of the peasants in supporting the rebellion became clear.

That land reform is even more fundamentally a political than an economic strategy has been well understood by the Communists (although they have always ended by defeating peasant expectations with collectivization, and collectivization has uniformly been a disaster). "Peace, Land, Bread" said Lenin, and acted to make land reform one of his two top priorities in the first week of the October Revolution;²¹ and "The countryside, and the countryside alone, can provide the revolutionary bases from which the revolutionaries can go forward to final victory," said Lin Piao.²²

It is deeply rooted peasant support which has given the Vietnamese conflict the very strong "insurrection" or "civil war" flavor which it still retains, despite the highly publicized infusions of manpower from the North which began in 1965. The measures of this peasant support are not hard to find. In March 1968, *The New York Times* noted that the Vietcong had over long periods been able to recruit 7,000 men a month, with a 1967 low-point of 3,500 men a month.²³ Lieutenant Colonel William Corson, former head of the Marine's Combined Action Platoons (CAP) program, writing in the summer of 1968, noted that some three-fifths of these Vietcong recruits could be regarded as volunteers or "soft-sell" enlistees. The common appeal

²⁰Detailed criticisms of the Mission's failures will be found in House Committee on Government Operations, *Land Reform in Vietnam*, 90th Congress, 2d Session, March 5, 1968; and in Sansom, *op. cit.* See also Richard Critchfield, "Freeman Hits U.S. Envoys, Vietnam Land Reform Urged," *Washington Evening Star*, March 16, 1969. High-ranking officials of the Johnson administration have indicated to me that President Johnson had a strong "gut" feeling that land reform was essential to progress in the Vietnam conflict, but was consistently blocked and frustrated by lower-echelon officials.

²¹See E. H. Carr, *The Bolshevik Revolution*, (London: Macmillan & Co., 1952, Vol. 2, pp. 30-31, 34-35, Pelican ed. 1966). The other top priority was to end Russia's involvement in the war.

²²*Long Live the Victory of People's War!* 48 (1965). Or, if one prefers the original, Mao Tse-tung said: "The first part of our struggle was a peasant revolt. The aim was to free the farmer from his overlord; to win not freedom of speech, voting or assembly, but the freedom to survive." (Quoted by Andre Malraux, in *Anti-Memoirs*, New York: Holt, Rinehart and Winston, 1968), p. 360.

²³"Westmoreland Saw Big '68 Gain," March 21, 1968, p. 1 at p. 11.

in wide areas where Vietcong land reform was in effect was "the movement has given you land, give us your son."²⁴ *Newsweek*, on January 1, 1968, reported that 378,000 men were bearing arms against the United States and South Vietnamese forces, of whom only one-sixth were North Vietnamese.²⁵ *The New York Times*, on March 19, 1968 offered the most detailed official estimates ever made public on all five categories of enemy strength, in which the North Vietnamese were said to play an even smaller role:²⁶

TABLE 1
ENEMY STRENGTH—MARCH 1968

	<i>National Intelligence Estimate</i>	<i>C.I.A. Estimate</i>
(1) Main force units	118,000	160,000
	54,000 N. Viet.	80,000 N. Viet.
	64,000 Vietcong	80,000 Vietcong
(2) Village guerilla platoons and squads	70,000-90,000	100,000-120,000
(3) "Irregular" or self-defense militia	150,000	100,000
(4) Administrative and logistic apparatus	35,000-40,000	75,000-80,000
(5) Political cadres	75,000-85,000	80,000-120,000

Estimates made during my 1969 visit were that the North Vietnamese "main force" component was up to perhaps 70% of those units; but on the local level southerners were still functioning in large numbers. The vitally important category of southern "cadres" or "V.C.I." (Vietcong infrastructure) had been somewhat depleted by the Communists' chosen tactics during *Tet*, but since then had hardly been touched. These V.C.I. do the recruiting, arrange the reconnaissance, obtain the porters and, by establishing supply and ammunition depots at intervals of about a day's march, prepare the way for main force actions—a *sine qua non* of these actions, since the main force units cannot carry with them the supplies and ammunition needed for their attacks. Moreover, despite well-reported "battles," it was doggedly, tragically true that over one-half of American casualties were the result of such essentially local guerrilla activities as the planting of mines and booby traps (and the mute silence of the villagers as they watched Americans walk into them).

The one bright spot in the picture was that fresh Vietcong recruitment had fallen by late 1969 to about 3,500 men a month, apparently through a combination of the loss of senior cadres at *Tet*, the spread of knowledge that

²⁴William R. Corson, *The Betrayal*, (New York: W. W. Norton & Co., 1968) p. 141.

²⁵"How Goes the War?", *Newsweek*, January 1, 1969, p. 17, at pp. 20, 26.

²⁶Neil Sheehan, "U.S. Undervalued Enemy's Strength Before Offensive," *New York Times*, March 19, 1968, p. 1.

main force units have been using southern recruits as the "first wave," and the first important stirrings of land reform under Nguyen Van Thieu, including an already important effort to prevent landlords from returning to reclaim their lands in "pacified" villages.

The bizarre reality, of course, is that while the Communists have successfully billed themselves in Vietnam (and elsewhere) as "land reformers," genuine democratic land reform does not take a back seat to Communist land reforms by any means. Quite the contrary: the collectivization which has been the universal "second stage" of Communist land reform promises that have led to successful revolutions has been an economic disaster, and vastly distasteful to the peasantry, while the half-dozen major non-communist land reforms of this century²⁷ have led to large increases in agricultural production and have furnished a bulwark of political stability—including assistance in defeating attempts to start guerrilla movements in Bolivia and South Korea by depriving the would-be revolutionaries of their "gut" issue.

The first signs of real movement towards a competitive program came from the South Vietnamese rather than from the U.S. Mission.²⁸ President

²⁷In Mexico, Japan, South Korea, Taiwan, Bolivia and Iran, in that chronological order, perhaps soon to be followed by Peru.

²⁸In an article largely completed before my first fieldwork trip to Vietnam, and published just afterwards in November 1967, I expressed a series of recommendations with respect to the chief operating principles that would have to be embodied in any genuinely viable and sweeping land reform legislation for South Vietnam. ("Land Reform in South Vietnam: A Proposal for Turning the Tables on the Viet Cong," *Cornell Law Review*, November, 1967, p. 26. My initial fieldwork was as land law consultant to the A.I.D.-sponsored Stanford Research Institute study of land tenure in South Vietnam, a study described in the article by Dr. William Bredo in this issue. Subsequently, I returned under private auspices for my third trip in August-September 1969.)

The Recommendations:

(1) Instead of the 100 hectares allowed to be retained by landlords under the abortive Diem land-reform program (see *Working Papers, op. cit.*, Vol. I, Part 1, pp. 23-62.) one should have an extremely low retention limit, or, "Indeed, one might be inclined to permit retention of owner-cultivated land only. That is, any land presently tenant-occupied would be outside the retention limit and available for land reform. This would have the advantage of great administrative simplicity, which might be a crucial feature." (*Cornell* article, p. 33, emphasis in original. By the time the article was published, my further work on prototype legislation for USAID Land Affairs Office in Saigon had convinced me that only a "zero retention-limit" program would work. The prototype program is described in Frederick Taylor, "Vietnam Land Reform May Get Moving After Years of Delay," *Wall Street Journal*, June 14, 1968, p. 1.)

(2) The program should be universal, covering "peasants who have been given their lands by the Viet Cong or have become *de facto* owners (i.e., have stopped paying their rent), as well as those in government controlled areas."

(3) "Since many peasants already regard the land as having become theirs, it does not seem feasible to condition the grant on their making payments, at least not in the case of those peasants to whom the Viet Cong have given the land. And if they do not have to pay, it would be very unwise to insist upon payment from those peasants who have remained subject to government control.

(4) "Landlords should be paid full value for land taken" in order to disarm or minimize their political opposition to such a program and there should be strong U.S. support for the financing, which would come to a minutely fractional cost of the war.

(5) Land should go to "the tillers of the soil," a point later made more explicit in the formulation of a prototype program, as the principle that "the tenant, or the squatter,

Thieu, speaking to a gathering of provincial land-affairs officials at the National Agrarian Reform Congress on January 18, 1968, just before the *Tet* offensive, stated that

In the Social Reconstruction mission, Land Reform as is natural has to be placed on the top line. . . . Nevertheless, we must bravely acknowledge that, until now the results obtained are lowest in consideration of its goal and its requirements.²⁹

Over the following months, the *Tet* offensive, the Johnson announcement of a bombing halt, the start of talks in Paris and the presidential campaign of Minnesota Senator Eugene McCarthy all supplied additional shocks to the Vietnamese, and major elements of a land reform program began to take shape.

First of all, distribution of the choice lands taken by Diem but never distributed began in earnest. Procedures were simplified with the help of A.I.D. land reform advisers so that village-level committees could approve the applications made by the present cultivators and hand out deeds in under a week. A tremendous boost was given the program when President Thieu decreed at the start of July, 1969, that henceforth the distribution would be free and that former recipients would be freed from their payment obligations.³⁰ The distribution over the two years sharply accelerated:

TABLE 11
LAND DISTRIBUTION, 1968-1969³¹

January-June, 1968	20,000 acres distributed
July-December, 1968	40,000 " "
January-August, 1969	90,000 " "
September-December, 1969	90,000 " "

In 1969, approximately 50,000 families received these government-owned lands.

would be confirmed on the land he presently occupies, without need for any administrative capability for shifting or resettling families, or for measuring amounts of land." (*Wall Street Journal*, June 14, 1968, quoting the author.)

These five principles—a nation-wide, free distribution of tenanted land to the present tillers, with landlords giving up all of their tenanted land and being paid fair value for it—had constituted a program which was contrary to most of the thinking of the leading figures in our Mission in 1967, who were unwilling to push for major land reform and regarded it as low in their list of priorities. The detailed process by which the South Vietnamese Executive Branch itself came to accept these principles and adopt the Land-to-the-Tiller program is described by Elizabeth Pond in "Viet Land Reform Gathers Speed," *The Christian Science Monitor*, June 18, 1969.

²⁹This is taken from A.I.D. translation of the speech. Much of the text is reproduced in *Land Reform in Vietnam*, op. cit.

³⁰See Circular No. 108-TT, translated in *USAID/Vietnam, Agricultural Production Memo No. 8*, July 17, 1969.

³¹Source: Mission data of September 1969, supplemented by subsequent figures received by A.I.D. Washington. See MacDonald Salter's article in this issue.

Second, a temporary end, at least, was brought to "negative land reforms." In September, 1968, Thieu declared that the processes by which landlords evicted occupants and collected rents in newly "secured" areas would be ended. Very likely, he had the forthcoming "accelerated pacification" drive in mind: if the process of planting the flag, at least in daytime, in additional villages, was to be accompanied by the customary inflow of returning landlords, the results for Saigon would be politically—and perhaps militarily—disastrous. This declaration was followed by three administrative actions:³²

1. An order issued in November, 1968, that prohibited officials or soldiers in newly secured villages from reinstalling landlords or helping to collect rents;

2. A circular of February, 1969, that extended the prohibition to the private landlords themselves and made it effective until February, 1970.

3. A circular issued in April, that made the earlier prohibitions country-wide, apparently in anticipation that landlords in more secure areas might try to evict tenants and resume personal occupation in contemplation of further land reform measures.

My 1969 observations persuaded me that the countrywide occupancy "freeze" was being widely adhered to. It had been well publicized; it involved a highly visible action if it were violated; and in areas where the various local-force units ("Popular Forces," "Regional Forces," and "Popular Self Defense Forces") have now received over 500,000 rifles, the South Vietnamese Army (ARVN) can no longer trample on peasants' legal rights with impunity. The rent "freeze" (supposedly at a zero level in newly secured areas, while at pre-existing levels elsewhere), however, involved more clandestine violations, and appeared to be only spottily effective.

Third, there was an almost disastrous decision in February 1969 to design the biggest, final part of the program—involving transfer of some, most, or all of the 2.5-3 million acres of privately owned lands that are farmed by tenants—as a "voluntary" purchase program.³³ This would have merely encouraged "voluntary" landlord transfers for two to three years (the Vietnamese government would have paid willing landlords in cash and bonds, and tenants would have repaid the GVN) and later would have made transfers mandatory only as to lands held in excess of some new retention limit, probably 15 or 30 hectares: that is, only to the extent that the administrators could determine (with the land records for three out of eight villages totally destroyed) that a landlord held more than 15, or perhaps 30, hectares, and could determine by how much his holdings exceeded that limit. For-

³²See Charles Mohr, "Troops Can't Help Collect Rents," *Seattle Post-Intelligencer*, November 27, 1968, p. 6 (*New York Times* dispatch); Circular No. 033 TT, in *USAID/Vietnam, Agricultural Production Memo No. 1*, March 6, 1969; Circular No. 069 TT, in *USAID/Vietnam, Agricultural Production Memo No. 5*, May 8, 1969.

³³See Felix Belair, Jr., "Saigon to Get Aid for Land Reform," *New York Times*, February 16, 1969, p. 1.

tunately, President Thieu took a personal hand, which resulted in the scrapping of the "voluntary" plan, the sacking of the land reform minister, the drafting of the finished version of the sweeping "Land-to-the-Tiller" bill embodying all of the principles of the 1967 prototype, and its presentation, in early July, to the lower house.³⁴ It is this bill which, after eight months of travail, became law in nearly its original form on March 26, 1970. Under it, the regime of tenant farming, affecting perhaps as many as a million families, would be ended in a drastically simplified and rapid way. It is worth examining the provisions of this sweeping piece of social legislation in some detail.³⁵

Articles 1 and 2 establish the operating principles, including an initial recognition of the priority, as beneficiaries, of "those people actually cultivating"; the intent to affect, without any limitation by way of retained acreage, "lands which are not directly cultivated by landowners"; the resolution to "eliminate tenancy" which, like the actual-cultivator and zero-retention principles, underlines the universal application of the program to both secure and insecure areas; the principle of "distribution free of charge" and that of "fair compensation" to landlords; and the inclusion of "communal ricelands" further underlining the universality of the distribution.

Article 3 confirms that not only "riceland" but also "secondary cropland" will be affected. The exclusions in *Article 5* make it clear that this means substantially all land not used for industrial crops or orchards. Again, *Article 3* underlines that both public and private lands are affected.

Article 4 takes care of some of the administrative problems experienced under the Diem law, notably by requiring that a transfer to be given effect must be *registered* (not just dated in the parties' own documentation) "prior to the promulgation date of this law." This becomes most important in conjunction with the exclusion from the law, in *Article 5*, of up to 5 hectares per family of "ancestral worship land." While there is some ambiguity, the intent of the drafters was pretty clearly to exclude from consideration any "ancestral worship" land not *registered as such* prior to March 26, 1970. Otherwise, a vast administrative snarl would open up as landlords pushed fraudulent claims for exemption of five hectares. (Faced with such a snarl under the 15 hectare "ancestor worship" lands exemption in Diem's Ordinance 57, which did not require a previously *registered* claim, the administrators ultimately decided that *all* claims would be allowed across-the-board, effectively increasing the 100 hectare retention limit to 115 hectares.³⁶

The other significant exemptions of *Article 5* are lands "presently directly cultivated by landowners" (and under the occupancy-freeze decree, there should have been no change in who "presently" cultivates since April

³⁴See "Viet land reform gathers speed," *supra* note 29.

³⁵The complete text is included in Mr. MacDonald Salter's article in this issue.

³⁶See *Working Papers, op. cit.*, Volume I, Part 1, pp. 42-43.

1969³⁷), up to a maximum of 15 hectares, and religious-organization-owned lands, a minor concession economically but a major one in Thieu's effort to get the Vietnamese senate to approve the bill.

Article 6 sets the principle that changes in use will not suffice to invoke the Article 5 exemptions.

Articles 7 through 11 establish the principles of landlord compensation, basic provision to be for compensation at 2½ times the annual paddy yield, paid 20% in cash and 80% in bonds maturing over eight years and bearing 10% interest. (In the legislative process the bonds were deprived of an inflation-proofing feature, but given a higher interest rate.) Bonds are transferable, but will probably be sharply discounted at least until significant U.S. funding support has been voted.

Article 12 introduces 3-hectare and 1-hectare limits on the amounts of land that can be received by families in the Delta and Central Lowlands, respectively. This is a reduction from 5 and 3 hectare limits in Thieu's original bill, and would pose a massive administrative problem if literally enforced (since administrators would then have to measure, and change the size and shape, of many presently-occupied tracts). But the miserable state of the cadastral records allows indulging the present presumption—in the absence of a new, uniform and thorough cadastral survey, which must come years in the future, if at all—that *all* tracts are in fact less than the limits: To use such a simplifying presumption is well within the parameters for administering Vietnamese land laws, and use of the presumption or something like it is essential to the overriding purpose of the legislation. It appears that something close to this will in fact be done.

Article 13 underlines that the "present tiller" is number one in order of priority. There may be occasional departures from this at village level, but any departures that were sure to happen probably happened as soon as a given village was administratively reoccupied by daylight, and the guidelines from Saigon should be firm on the legislative standard. (Incidentally, it is the general consensus that there are very few soldiers who have been totally separated from their former lands. Most already occupy land through proxies in the immediate family, so that someone already is on the land to make their claim under the "present tiller" category.)

Article 14 cuts off all taxes on the recipients, including property tax during the first year. The purpose of this was to give the new owners the simplest possible message: you don't pay anything to anybody.

Article 15 tracks other nations' land-reform laws in providing for direct cultivation and a ban on transfer (for 15 years) by the new owners. *Article 16* confirms existing decrees in ending payment on former French and Ordinance 57 lands.

³⁷*Ibid.*

Articles 17 through 20 set a credible scale of penalties, including fines up to 200,000 piastres for landlords' efforts to interfere with implementation, and a special penalty of expropriation wholly without compensation for any landlord who makes a false claim of self-cultivation to attempt to invoke Article 5.

Article 21 provides broad power to regulate implementation by decree, and *Article 22* cancels all contrary provisions of law.

Considering the pressures against a viable bill which came from many quarters in the legislature (including both landlord-related interests and politicians who feared the program would give too broad a base of popular support to President Thieu), the result is a remarkable tribute to Thieu's persistence and to the strength of his recognition of just how important this program can be to the survival of a non-communist Vietnamese government.

Detailed provisions for the administration of the bill had already been drafted in the fall of 1969, and have been extensively pre-tested in the distribution of government-owned lands, which has now reached a pace of 10,000 hectares a month although involving only one-fifth or one-sixth the number of villages that will be active in administering the new bill. The USAID Land Affairs office in Saigon in late fall 1969 was envisioning a period of under one year for the total administration of the new program,³⁸ which would mean that the bulk of tenants will become owners before the next main harvest starts in December 1970. Thus the full impact of land-ownership could be brought home to the peasantry before the last American combat troops leave Vietnam.³⁹

In the event that even these highly simplified administrative procedures do not operate rapidly enough, the act—through leaving *all* procedures up to President Thieu—leaves open a further potent possibility: Thieu can *decree* across-the-board preliminary distribution before the next harvest for purposes of ending *all* rents.⁴⁰ Peasants would get the simple message of “no more rents” with wide publicity before the 1970-71 harvest. Monitoring teams could conduct random samples at village level to check on compliance, and landlords would be pushed to cooperate in the fastest possible administration of the program in order to get their compensation. (I have, in any event, recommended a crash-revival of the field survey portion of the SRI

³⁸USAID/Saigon, *Draft List of Tasks for PERT*, August 12, 1969.

³⁹Or, of course, the communists may recognize this and become more flexible at Paris before irreversible damage is done to their political base throughout the countryside. Cyrus Vance suggested in the fall of 1969 that the offer to hold back on implementation of the land reform in historically Vietcong-controlled areas could become a powerful bargaining lever, once the Land-to-the-Tiller bill was passed. See the interview with Vance in Robert Kleiman, “The Vance Plan for a Vietnam Cease-Fire,” *New York Times Magazine*, September 21, 1969, p. 30, at p. 98.

⁴⁰Except those on ancestor-worship land, which the landlord could collect, either (i) from the tenant, but at his peril if he could not later make out a registered claim to such land, or (ii) better—because the easiest thing would be to end *all* rent collection from the tenants—to tell the holder of ancestor-worship-land that he could collect his rent, but only from the administrators, upon proving his claim.

study, to get either a monthly or a quarterly feedback from now on as to the progress of the land distribution.)⁴¹

President Nixon wisely expressed strong support for land reform in the June 1969 Midway communique,⁴² and all the preliminary indications are that the most important single piece of the program of "Vietnamization" to become effective so far has quietly gone into operation.

For the first time, Saigon is striking at the roots of Viet Cong rural support: at the single most fundamental issue that, over the years, has motivated large numbers of peasants to support the Viet Cong in manifold ways, and many more to be at best apathetic towards Saigon. The cumulative experience of this century lends strong hope that President Thieu's massive land reform program, forcefully implemented, can bring about a spectrum shift in peasant political allegiances towards Saigon. Militarily, it can improve the flow of intelligence, and can motivate the rank-and-file peasant recruits of ARVN and the local-force units by giving them a real stake in their society. The threat of this series of grass-roots impacts can become a powerful new lever for bringing about political settlement in Paris; and failing such a settlement, Land-to-the-Tiller gives the most concrete hope yet furnished that "Vietnamization" will prove to be a viable policy.

⁴¹Interviews would be conducted at a rate somewhere between 250-500 a month, with the key questions concerned with whether the interviewee had benefitted from Land-to-the-Tiller; its economic and psychological impact in the village; and probing whether there had been any administrative hang-ups.

⁴²See text in *New York Times*, June 10, 1969.