

The National Agricultural
Law Center



University of Arkansas School of Law
NatAgLaw@uark.edu • (479) 575-7646

An Agricultural Law Research Article

Agrarian Reform as a Means to Economic Social Development in Peru

Originally published in IOWA LAW REVIEW
50 IOWA L. REV. 526 (1965)

www.NationalAgLawCenter.org

NOTES

AGRARIAN REFORM AS A MEANS TO ECONOMIC AND SOCIAL DEVELOPMENT IN PERU*

Land reform is widely discussed today. Both the underdeveloped countries and the more advanced nations which bid to aid them in their progress have generally recognized that most programs for improving the standard of living in underdeveloped nations ought to include some means of increasing the food supply and improving the plight of agricultural workers, who often compose a majority of the population in such countries.¹ This Note will deal with the land-reform bill passed by the Peruvian legislature in May, 1964,² as a means of increasing food production and improving the living conditions of the Peruvian agricultural laborers. To discuss the new law properly it will be necessary to establish some basic concepts. A working concept of the term "land reform" must be set down. The role of the United States in land-reform programs in Latin American countries should also be explained briefly. Furthermore, the reader must be acquainted with some unique geographical and sociological aspects of Peru. These preliminary observations should represent the major problems the drafters had to consider in drafting the land-reform law and, as such, are essential to an appreciation of the impact which the new bill will eventually have. After establishing the background suggested, a context will have been created in which an analysis and criticism of the Peruvian Agrarian Reform Law can be carried out.³ At the same time, little comparison will be attempted

* Recognition must be made of the debt the author owes to Professors Samuel M. Fahr, Marshall D. Harris, and John C. O'Byrne of the Iowa Law School Faculty and to Professors Herbert Howell and John Timmons of the Department of Economics of Iowa State University, Ames, Iowa. All of these educators have worked in the field of land reform in underdeveloped countries, with special emphasis on Peru. They were extremely generous in answering demands on their time, counsel, and private libraries while this Note was in preparation.

¹ It should be realized at the outset, however, that land reform is a matter of equal importance in developed as well as underdeveloped countries. See O'BYRNE, HARL & HARRIS, *AGRARIAN PLANNING AND LAND REFORM* 14-20 (1961). See generally Mann, *Trends in the Use of Public Controls Affecting Agricultural Landownership in Europe and Great Britain*, 50 *IOWA L. REV.* 458 (1965).

² Law of Agrarian Reform, No. 15037, May 21, 1964 (Peru) [hereinafter cited as *Agrarian Reform Law*].

³ It is fitting that such criticism is undertaken by a legal journal. The legal profession, in cooperation with larger numbers of agronomists and economists, is playing a necessary role in the evolution of economic development generally and land reform in particular. Professor O'Byrne has written, "In the final analysis, the fundamental task . . . is the construction of institutions that will achieve agrarian reform and economic development. Institutions rely upon legal

with specific land-reform programs of other countries. As will be pointed out, Peru is a unique nation. The general principles which govern the area of agricultural economics and agrarian reform are valid only as they are specifically applied by planners with a genuine appreciation of special problems,⁴ in this case those of Peru. This analysis will be conducted in that spirit.

I. THE PROBLEM

A. *The Concept of Land Reform*

The bulk of the world's population is engaged in agricultural pursuits, surprising though that fact may be to citizens of modern-day industrial America. By most estimates, about fifty-five per cent of the earth's people labor on the land.⁵ Moreover, this figure is largely due to extremely high percentages of agricultural population in the underdeveloped countries.⁶ These same underdeveloped countries are presently attempting to improve their cultural and economic standards in an effort to equal those of the most modern nations.⁷ By necessity, the first consideration of such emergent nations is the need to build strong foundations upon which to foot their advances, to insure that forward strides will be permanent strides. The underdeveloped nations do not suffer from minor poverty blights which can

structures and are implemented by legal processes." O'Byrne, *Economic Development Through Agrarian Reform in Peru* pt. III, at 9, Oct. 1963 (unpublished report in Iowa Law School Library). See also Hannah & Krausz, *The Role of Law in the Development of Land Resources*, in *MODERN LAND POLICY* 325 (1960); Harris, *Facilitating Agrarian Reform Through the Integration of Law and Economics*, in *AGRARIAN REFORM AND ECONOMIC GROWTH IN DEVELOPING COUNTRIES* 41 (1962); O'Byrne, *Law Is a Fact*, in *LAND TENURE RESEARCH WORKSHOP* 34 (1956).

⁴ See, e.g., JACOBY, *INTER-RELATIONSHIP BETWEEN AGRARIAN REFORM AND AGRICULTURAL DEVELOPMENT* 30-31, 63 (1953); POBLETE TRONCOSO, *LA REFORMA AGRARIA EN AMERICA LATINA* 10-11 (1961); Colm & Geiger, *Country Programming as a Guide to Development*, in *DEVELOPMENT OF THE EMERGING COUNTRIES* 45 (1962).

⁵ See 16 U.N. FOOD AND AGRICULTURAL ORGANIZATION, *PRODUCTION YEARBOOK* 18 (1962).

⁶ See *id.* at 16-18.

⁷ See TINBERGEN, *SHAPING THE WORLD ECONOMY* 6 (1962). One authority has noted six "contributing factors to this increased general concern in economic growth," including:

- (1) Decline of colonialism . . .
- (2) Consumption imitation fanned by increased literacy and mass communication . . .
- (3) Economists, who previously avoided trying to deal with the complex problems of economic growth, have witnessed a redirection of economic research toward matters of economic growth.
- (4) Human altruism is a factor in the more widespread interest in the alleviation of poverty and a humanistic concern of trying to understand why some should live perpetually on the brink of starvation.
- (5) The United Nations with its many international agencies has focused world attention upon economic development. . . .
- (6) The Christian Church has been a factor, perhaps unnoticed by many economists. . . . Milk, *Agrarian Reform and Economic Progress in Latin America* 3-4 (1959) (unpublished thesis in Iowa State University Library).

quickly be cured through liberal application of funds and microtechnology.⁸ In most cases, their problems date back centuries and permeate the entire state organism.⁹ The knowledge, research, and technology of the Nuclear Age can greatly speed the progress such countries make. The problem, in its proper perspective, is to construct solid programs which will carry underdeveloped countries through centuries of western technological progress in decades or even years.¹⁰

Such ambitious aims cannot ignore a full consideration of the manner in which a country's most basic physical asset—its arable land—is utilized. Such consideration is rendered more urgent by the fact that in the majority of underdeveloped countries land tenure, or the legal manner in which land is held and by whom, is snarled in systems which breed inefficient production and squalid conditions for the rural laborer. In such countries land tenure tends to either or both of two extremes. Postage-stamp plots called *minifundia* may yield no more than a subsistence living to the ignorant families whose extravagant efforts and pains are wasted in traditional inefficient farming methods. The other common system is *latifundia*, in which massive land areas are often held by an absentee landlord class and rented at exorbitant rates to tenant farmers. These farmers usually employ the same outmoded methods as their brothers on *minifundia* and live in a state of virtual serfdom.¹¹ Either system breeds lamentable social and economic consequences. The United Nations committee on land reform has summarized the Latin American situation on *minifundia* and *latifundia* thus: "The main feature of the agrarian structure is the high degree of inequality in land ownership and the

⁸ See Galbraith, *A Positive Approach to Economic Aid*, 39 FOREIGN AFFAIRS 445-46 (1961).

⁹ This is the major reason that programs to aid the developing nations must be perceived in a different light than the Marshall Plan, which enabled a modern industrial Europe to regain its economic stability after World War II. That plan can be compared with the Alliance for Progress in this way:

The Marshall Plan made possible the restoration of an already advanced industrial system, where attitudes, techniques, and other aspects of competence were freely available, and the capacity to modernize and take advantage of large scale help was great. The European countries knew what had to be done and how to do it. The Alliance for Progress faces a situation in which few countries are approaching even the "take-off" stage in economic development; in which the lack of educated and technically trained people is enormous; in which experience with an industrial society and its social and political problems is limited; and in which serious obstacles of a social and economic and political nature stand in the way of the development of that kind of modern society envisioned in the Act of Bogotá and the Punta del Este declarations. Dreier, *Introduction*, in THE ALLIANCE FOR PROGRESS: PROBLEMS AND PERSPECTIVES at xvi-vii (Dreier ed. 1962) [hereinafter cited as AFP PROBLEMS].

¹⁰ See generally Gittinger, *Economic Development Through Agrarian Reform* 235-50 (1955) (unpublished thesis in Iowa State University Library).

¹¹ The terms "*minifundia*" and "*latifundia*" are general ones which may cover several different forms of landholding. For a discussion of more specific examples see FERNANDEZ Y FERNANDEZ, *ECONOMIA AGRICOLA Y REFORMA AGRARIA* 105-11 (1962); Carroll, *The Land Reform Issue in Latin America*, in LATIN AMERICAN ISSUES 163-70 (Hirschman ed. 1961).

main feature of the system of land utilization is wastage of land."¹² These factors, coupled with the historical tendency of farm laborers to take matters into their own hands when the results of inequalities in land ownership become unbearable, add to the current foment over land reform.¹³

Many underdeveloped countries are turning to land-reform programs to solve the problems of inequitable systems of land tenure.¹⁴ The term "land reform," or "agrarian reform,"¹⁵ is an ambiguous one covering a number of more or less interrelated solutions to the problem of outdated, inefficient systems of land tenure. Most authorities concerned with the problem have come to realize that an effective land-reform program must be far more comprehensive than mere land-tenure reform.¹⁶ Land reform is but one of several tremendously complex, interdependent remedies for a single manifestation of the crippling ill of underdevelopment. Other measures fostering economic development must go hand in hand with land reform or the latter will fail to be effective in the sector at which it is specifically aimed—the agrarian sector. This interdependence of remedies has been a lesson learned painfully in many of the emerging nations but is one which is clearly conceived now.¹⁷ As one Latin American has stated,

Agrarian reform ought to be an inseparable part of an agricultural policy which furthers the advance of that aspect of economic activity in harmony with overall economic development. Agrarian reform likewise pursues social and political ends congruent with economic goals, such as the cultural elevation of the peasants, their liberation from all vestiges of feudalism, their well-being, their group solidarity, and their participation in public life through the mechanism of democracy.¹⁸

¹² U.N. DEP'T OF ECONOMIC AFFAIRS, PROGRESS IN LAND REFORM 37 (U.N. Pub. Sales No.1954.II.B.3).

¹³ See Parsons, *Land Reform and Agricultural Development*, in LAND TENURE 17 (Parsons, Penn & Raup ed. 1956) [hereinafter cited as LAND TENURE].

¹⁴ See generally U.N. DEP'T OF ECONOMIC AND SOCIAL AFFAIRS, PROGRESS IN LAND REFORM (U.N. Pub. Sales No.:63.IV.2).

¹⁵ For purposes of this Note the terms "land reform" and "agrarian reform" should be considered synonymous.

¹⁶ An early experiment in land reform in Mexico has, over time, taught this lesson after suffering setbacks due to noncomprehensive programs. See SENIOR, LAND REFORM AND DEMOCRACY 211-12 (1958); Time, Aug. 30, 1963, p. 28. A similar experience resulted in Cuba in 1937 when land was distributed to farmers without economic support to help them adjust to farm ownership and management. See Rodriguez-Cabrera, *Land Tenure and Land Distribution in Cuba*, in LAND TENURE 323, 325.

¹⁷ *Ibid.*

¹⁸ FERNANDEZ Y FERNANDEZ, *op. cit. supra* note 11, at 135.

A fuller understanding of what land reform properly entails can probably be best gained by an exposition of its objectives. One study has listed twenty:

1. Substantial and general modification of the land holding system in force at present.
2. Suppression of the *latifundia* and restructuring the *minifundia*.
3. Surrender of the land to those who work it, so as to realize the "social function of the land" and distributive justice.
4. Creation of *economic units of production*, favoring cooperative systems or other forms of agricultural associations, to facilitate the solution of the problems of production, conservation and commercialization.

Further, it must be realized that even the most carefully administered comprehensive approach to land reform does not guarantee ease of execution.¹⁹ Edmundo Flores, a Latin American who took advanced training in agricultural economics in the United States, has said, "My idea of land reform is that it is deep surgery. I don't mean the blood-

5. Creation of adequate credit systems, with special facilities for the medium proprietors and cooperatives, with long term, low interest loan programs.

6. Implantation of modern production techniques, especially introduction of adequate mechanization.

7. Utilization of fertilizers, fungicides, herbicides and other methods of intensifying and defending production.

8. An adequate system of marketing and fair prices.

9. Construction of irrigation systems and adequate drainage.

10. More readily available means of communication and transportation to facilitate putting produce on consumers' markets at opportune times.

11. Necessary elements of preserving produce and handling it to render it conveniently within the reach of consumers when they need it—things like silos, refrigeration plants, drying machinery, warehouses, etc.

12. The other works of internal structure which should complement every policy of agricultural development.

13. Creation of adequate institutional mechanisms, by the state, which will properly oversee, without interference and with proper coordination, the application of the plan of Agrarian Reform.

14. A long term plan or program of reform, with accelerated steps of practical accomplishment and definite goals.

15. Aid in the preparation of the human element which is going to work the land, as much in aspects of elementary as professional and technical instruction, to obtain a useful collaboration; it is the responsibility of the extension service to carry this out.

16. Preparation of the community to lend its support to the realization of the reform, which will definitely benefit the community, and to permit the realization of the "social function of the land."

17. The diversification of production to avoid the risk of monocultivation and monoproduction.

18. Due consideration of social problems that are found in relation to the life of the *campesino*; social assistance and other factors necessary to the progress of the rural community.

19. A policy to stimulate colonization, but not conducted solely by the state.

20. An adequate financial system to pay for the necessary expropriations and investments. POBLETE TRONCOSO, *op. cit. supra* note 4, at 16-17 (1961).

¹⁹ Land reform can be carried out through either of two processes—revolution or evolution. See JACOBY, *op. cit. supra* note 4, at 28-29, 41; O'BYRNE, HARL & HARRIS, *op. cit. supra* note 1, at 6-7. The obvious opposing examples are the Russian Revolution and the more gradual evolution of the United States' land system. The land-reform programs in progress today in Latin America are, with the exception of Cuba's, evolutionary in nature. This may be due in some measure to the agitation of certain minority groups who wish to achieve reform through revolution and thus put pressure on the existing governments to instigate evolutionary land-reform programs rather than risking loss of control. See HIRSCHMAN, *JOURNEYS TOWARD PROGRESS* 260-64 (1963).

The United Nations has pledged itself to foster evolutionary land reform. See *YEARBOOK OF THE UNITED NATIONS* 1962, at 267 (U.N. Pub. Sales No.:63.I.1). The signatories of the Charter of Punta del Este have made an even stronger commitment to evolutionary processes in their reforms. See *CHARTER OF PUNTA DEL ESTE* tit. I, art. 6.

shed or violence, but I mean that you are going to shift the whole basis of society, and this is a painful, overwhelming operation."²⁰

B. *The Role of the United States in Latin American Development*

The Peruvian land reform, as all Latin American land-reform programs in their earlier stages, has a much greater chance of more rapid success if it can rely on financial and technical aid from other countries.²¹ In most Latin American countries, including Peru, the requisite aid has often come, and probably must continue to come, almost entirely from the United States.²² The basis for the dependence of Latin American nations on United States money and knowledge to implement their agrarian advance was established when the members of the Organization of American States, with the exception of Cuba, committed themselves to the Alliance for Progress outlined in the Charter of Punta del Este.²³ There are two basic, probably equally determinative, reasons for the United States' entry into such a pact: (1) a genuine humanistic concern over the social inequalities inherent in the underdeveloped condition of the Latin American countries²⁴ and (2) the need for a positive program to fight the increasing communistic sympathies of Latin American politicians and intellectuals, heightened by the presence of the Cuban Communist regime.²⁵

²⁰ Flores *et al.*, *Land Reform in Bolivia*, in *THE PROGRESS OF LAND REFORM IN BOLIVIA* (Wisconsin Land Tenure Center Discussion Paper No. 2, 1963).

²¹ See TINBERGEN, *op. cit. supra* note 7, at 19-39.

²² See Note, *The Chilean Land Reform: A Laboratory for Alliance-For-Progress Techniques*, 73 *YALE L.J.* 310, 316 & n.45 (1963). For a breakdown by country of the various amounts of United States economic aid channeled into Latin America, see *Time*, Sept. 27, 1963, p. 16.

²³ For a comprehensive survey of United States Latin American policy prior to the Alliance for Progress, see Eisenhower, *The Alliance for Progress: Historic Roots*, in *AFP PROBLEMS* 1.

²⁴ President Kennedy perhaps best expressed the altruistic reasons for the commitment of the United States to a full-scale offensive program of aid for Latin American development when he said:

For too long, poverty and inequality and tyranny were accepted as the common lot of man.

Today people everywhere are demanding—and are rightly demanding—a decency of life and opportunity for themselves and their children.

This new attitude has produced an immense surge of hope throughout the entire Western Hemisphere.

Our common purpose today is to harness these new aspirations and these new tools in a great inter-American effort—an effort to lift all the peoples of the Americas, including the people of my own country of the United States, into a new era of economic progress and social justice. Remarks at the Protocolary Session of the Council of the Organization of American States, April 14, 1961, in *PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES: JOHN F. KENNEDY 1961*, § 122, at 277 (1962).

²⁵ At least one Latin American has been frank enough to publicly recognize the more mundane aspects of the Alliance for Progress:

We Latin Americans consider this new Alliance to be realistic as a defensive move of the United States government. This is all we expect. This is all we ask for. Ever since Bolivar's time we have known that the well being of the Americas is indivisible. If the United States enters the fight with a view to the protection of her own freedoms, with an eye on

The Alliance for Progress was not expected to accomplish the major portion of its impact quickly, or even within the three years that have passed since its inception.²⁶ The Charter of Punta del Este specifically contemplates a long-range program—no less than a decade of meaningful growth.²⁷ Still there is an aura of urgency surrounding the program as a whole and its progress toward tangible achievement.²⁸ By entering into such a commitment the United States has arguably placed all its aspirations upon the ability of Latin American governments to achieve evolutionary development with sufficient rapidity. The Communists, at the same time, will be agitating to turn the Latin American countries to their developmental methods and aid, for it is a recognized fact that the Communists and the free world are “competing doctors” vying for the right to minister to the emerging nations.²⁹

II. THE SITUATION

A. *The Country*

In very large measure the character of Peru is determined by its geographical personality. The country lies just below the equator on the northwestern side of the South American continent. It covers territory of about 500,000 square miles or roughly one-seventh the size of the continental United States, ranking fourth in size among the twenty Latin American nations. Its coast line extends for 1,400 miles along the Pacific. The geographic and climatic extremes within the boundaries of Peru stagger the imagination. The climate varies from that of desert to alpine meadow to tropical rain forest. Altitudes range from sea level to 20,000 feet and above. There are two extraordinary natural features of the country which play a part in its physical character—the chilly waters of the Humboldt Current, which create a teeming fishery off Peru's coast but prevent all rainfall in the same area,³⁰ and the towering blockade of the Andes Mountain range, which divides

the long-range interests of her own commercial growth, in the spirit of an investment and not of an expense, we are satisfied. We know that the sower is not the man who wastes his seeds in feeding the wild birds. Figueres, *The Alliance and Political Goals*, in AFP PROBLEMS 66, 70-71.

²⁶ This statement represents a long view apparently held by the more perceptive statesmen and diplomats working in the area. See Prebisch, *Economic Aspects of the Alliance*, in AFP PROBLEMS 24, 62-63; Rusk, *The Alliance in the Context of World Affairs*, in AFP PROBLEMS 100, 115-17. But see Alba, *The Alliance for Progress Is Dead*, New Republic, Sept. 5, 1964, p. 17.

²⁷ CHARTER OF PUNTA DEL ESTE tit. I (objectives of the Alliance for Progress).

²⁸ See Moscoso, *Social Change and the Alliance*, in AFP PROBLEMS 89, 101.

²⁹ The Dutch economist Tinbergen wrote:

As is now generally understood, the Western and Communist systems are in a competitive position vis-à-vis the developing countries. It is in the interest of the latter that objective judges make as precise an appraisal as possible of the relative merits of each. . . . [T]he appraisal by developing countries is different than that by developed countries, for the latter attach a much higher value to freedom as such. The weight given an increase in production, on the other hand, will be greater in developing countries than in developed countries, because of the lower level of consumption. TINBERGEN, *op. cit. supra* note 7, at 36-37.

³⁰ See OWENS, PERU 5-6, 144-45 (1963) [hereinafter cited as OWENS].

the coast from access to the interior. Because of the Andes, Peru is generally said to have three different geographical regions: the coastal desert (*costa*), the Andean highlands (*sierra*), and the rain forest of the upper Amazon basin (*selva*).³¹ The *costa* represents only thirteen per cent of the territory in Peru but nurtures twenty-seven per cent of the population and most of the nation's large cities.³² The *selva*, on the other hand, encompasses about sixty per cent of the land but only about eight per cent of the people.³³

The agricultural productivity of land in all three zones is retarded by natural handicaps, even though all three contain soil which would be satisfactorily arable under normal circumstances.³⁴ The *costa* receives no rainfall, and the fertility of its sands can be tapped only where sufficient water for irrigation can be found, usually on or near one of the fifty rivers which cut through the desert from the mountains to the sea.³⁵ In the interior, seasonal rainfall occurs on the eastern slopes of the Andes, but these are the slopes furthest from the coast, and transportation systems through the mountains, where they exist at all, are of very poor quality,³⁶ leaving commercial agriculture without farm-to-market roads in most cases.³⁷ The lack of penetrating transportation systems has hampered the spread of technology and the opening of new lands in the interior. An estimated 100 million hectares of potential agricultural land are untouched in Peru's *sierra* and *selva* regions.³⁸

The geographical barriers between the *costa* and the interior sectors have bred a difference between the peoples who populate the two

³¹ See graphic depictions in BELAUNDE TERRY, *LA CONQUISTA DEL PERU POR LOS PERUANOS* 28-29 (1959).

³² OWENS 1.

³³ *Id.* at 5.

³⁴ COMITE INTERAMERICANO DE DESARROLLO AGRICOLA, *INVENTARIO DE LA INFORMACION BASICA PARA LA PROGRAMACION DEL DESARROLLO AGRICOLA EN LA AMERICA LATINA: PERU* 20 (1963) [hereinafter cited as *INVENTARIO*] (only 6% of territory in Peru has no farm potential). Although about 2,500,000 hectares (one hectare equals 2.47 acres) are now farmed in Peru, one expert believes that a total of 103,700,000 additional hectares could be utilized for production. I ROEL, *LA ECONOMICA AGRARIA PERUANA* 20, 29 (1961) [hereinafter cited as *ROEL*].

³⁵ OWENS 2; Weaver, *The Five Worlds of Peru*, 125 *NATIONAL GEOGRAPHIC* 213, 242-43 (1964).

³⁶ See OWENS 114-25; Weaver, *supra* note 35, at 226, 232.

³⁷ The salutary effect that a farm-to-market road may have on the agriculture of an area has been demonstrated in Peru. For example, when an asphalt-surfaced road was built to Tarma, a rural town seventy miles northeast of Lima, the country quickly became a source of fresh fruits and vegetables for the capital city. Additionally, with the opening of this road, "land values are said to have risen 15 or 20% and perhaps more." OWENS 114.

For an account of the completion of a more recent road deeper into the interior, see *Andean Air Mail & Peruvian Times*, Aug. 7, 1964, p. 1, col. 1. It is also noteworthy that Belaunde, the architect who was elected president in 1963, emphasized the necessity of roads to bring civilization to the Peruvian interior in his plan of action published in 1959. See BELAUNDE TERRY, *op. cit. supra* note 31, at 20-33.

³⁸ I ROEL 20, 29. Apparently only about 2,000,000 hectares are presently cultivated in the two zones. *Id.* at 30-31.

areas, and it now goes deeper than the mere environmental differences which first gave rise to the dichotomy. The coastal zone has maintained contact with the modern elements of the world through its seaports.³⁹ Today it is farmed with a high degree of efficiency where water for irrigation is available. Modern science and technology are utilized in the production of money crops.⁴⁰ The growing industries of Peru and the rising standard of living which accompanies them are located, for the most part, within the narrow confines of the *costa*.⁴¹ In this area a middle class, something historically absent in Peru, is even coming into evidence.⁴²

It is behind Peru's narrow coastal strip that the country's most serious economic and social problems begin. Packed into the tortuous slopes and heights of the Andes is almost sixty per cent of the country's population. Over eighty per cent of this figure consists of Indians, most of whom cannot speak Spanish, but who cling instead to their native dialects.⁴³ It is this Indian mass, clearly at the bottom of the Peruvian social scale, which forms the great drag weight on Peruvian agriculture.⁴⁴ "The Indian problems of Peru are not absolutely iden-

³⁹ This has been true since the days of the Spanish *hacendados* of the seventeenth and eighteenth centuries, when Lima was the home of the landed oligarchy and prided itself on the opulence and fashion of its social life. See OWENS 34-35; Weaver, *supra* note 35, at 214-20.

⁴⁰ See I ROEL 24, 31-61. For example, one-half of the coastal lands are well fertilized, but none of the *sierra* or *selva* lands are well fertilized. In addition, 82% of the tractors in Peru are utilized on coastal farms. *Ibid.*

⁴¹ OWENS 156-63; Holmberg, *Changing Community Attitudes and Values in Peru: A Case Study in Guided Change*, in SOCIAL CHANGE IN LATIN AMERICA TODAY 63, 66-67, 70-71 (1960).

⁴² See U.S. BUREAU OF LABOR STATISTICS, DEP'T OF LABOR, REP'T NO. 262, LABOR IN PERU 12 (1964); Weaver, *supra* note 35, at 222.

⁴³ INVENTARIO 2.

⁴⁴ See Holmberg, *supra* note 41, at 67-68. Holmberg divides the Indians by vocation, as follows "[R]oughly one million live as landless *peones* on *haciendas*, one million as small but independent farmers in indigenous communities, and one million detached from the land as workers in mines and *mestizo* villages or as migrant laborers and servants." *Id.* at 69. The living conditions of the highland Indians are strikingly revealed in two analyses of individual communities. See CASTILLO, CASTILLO & REVILLA, ACCOPATA: THE RELUCTANT RECIPIENT OF TECHNOLOGICAL CHANGE (Cornell University Peru Project, Socio-Economic Development of Andean Communities [hereinafter cited as Cornell Peru Project], Rep't No. 2, 1963); CASTILLO, CASTILLO & REVILLA, CARCAS: THE FORGOTTEN COMMUNITY (Cornell Peru Project, Rep't No. 1, 1963).

The break in social classes is clearly shown in the distribution of land ownership in Peru. In the *costa* about 2% of landowners hold about 76% of the land; in the *sierra*, where the proportion should be reduced because of the many Indian villages with communally held land, about 5½% of the landowners own about 70%; and in the unsettled *selva* about 2% of the owners control about 91% of the land. On the other end of the scale in the *sierra*, for example, about 82½% of the owners hold only about 17½% of the land. See COMISION PARA LA REFORMA AGRARIA Y LA VIVIENDA, *Investigacion Sobre Distribucion y Tenencia de la Tierra Agricola*, in LA REFORMA AGRARIA EN EL PERU documentos I, at 9, 13-17 (undated). Such figures clearly indicate the character of Peru's social structure: an inordin-

tical with the agrarian problems of the nation, but the area of common ground probably comprises the greater portion of both sets of problems.⁴⁵ In the first place, the *sierra* Indian segment composes most of the rural population, yet makes a distinctly minor commercial contribution.⁴⁶ Farming methods have actually degenerated since the days of the Incas four centuries ago.⁴⁷ Production inefficiency has bred a subsistence economy in the interior, with most of the produce being consumed where it is grown.⁴⁸

Today, under the burden of the outdated farming methods of the Indians, agricultural production is not increasing as fast as the population is growing.⁴⁹ A burgeoning Indian population literally means there is not enough land under cultivation in the *sierra* to support its present population, barring an immediate change in existing methods of production.⁵⁰ There is a growing stream of migration to the *costa*, but the *costa* has neither the expansion rate nor the potential to absorb a continuing influx of generally unskilled laborers.⁵¹ The other solution might lie in a migration to colonize the untapped expanse of the *selva*, but the difference in climates requires a physiological adjustment which may be hard to make, and the costs of instigating such a program, which the Indian could not undertake on his own, are prohibitive.⁵² There is a further factor militating against rapid betterment of the Indian's situation. The Indian himself is often the most obstinate reactionary force resisting changes in his own squalid situation. The Peruvian sociologist Mario Vasquez has analyzed the enigma thus:

The attachment of the Indian to [his traditional way of life] . . . can be explained as a form of social and economic security. From his rural

ately large lower class and an upper class disproportionately small in numbers but eminently powerful in economic control.

⁴⁵ FORD, MAN AND LAND IN PERU 103 (1955) [hereinafter cited as FORD].

⁴⁶ See CASTILLO, CASTILLO & REVILLA, CARCAS: THE FORGOTTEN COMMUNITY 21-22 (Cornell Peru Project, Rep't No. 1, 1963); FORD 106-07; INVENTARIO 20; Metraux, *La Estructura Social y Economica de las Comunidades Indias de la Region Andina*, in LA REFORMA AGRARIA EN EL PERU documentos II, at 35, 46-47 (undated).

⁴⁷ U.N. FOOD AND AGRICULTURE ORGANIZATION & THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, REPORT ON THE AGRICULTURAL DEVELOPMENT OF PERU pt. II, at 5, 18 (1959) [hereinafter cited as AGRICULTURAL DEVELOPMENT OF PERU]. See OWENS 90; Metraux, *supra* note 46, at 39.

⁴⁸ See note 46 *supra* and accompanying text.

⁴⁹ Peru's population is growing at 2.9% per year, while its food production is growing at 2.3% per year. 16 U.N. FOOD AND AGRICULTURAL ORGANIZATION, PRODUCTION YEARBOOK 149 (1962). Today the average inhabitant of the *sierra* consumes 1,600 calories per day, while the average inhabitant of Lima and vicinity has an intake of 2,800 calories. INVENTARIO 3. The daily caloric intake in developed countries averages 3,050. *Agriculture in Latin America: Problems and Prospects*, VIII U.N. Economic Bulletin for Latin America, No. 2, Oct. 1963, pp. 147, 159.

⁵⁰ See AGRICULTURAL DEVELOPMENT OF PERU pt. II, at 19; FORD 69-70.

⁵¹ RAY, SOUTH WIND RED 3 (1962); Holmberg, *supra* note 41, at 76; Metraux, *supra* note 46, at 17, 49-50.

⁵² See OWENS 96. Despite the apparent difficulties, colonization was one of the major programs Belaunde discussed in his book presenting the platform of his Democratic Action party. See BELAUNDE TERRY, *op. cit. supra* note 31, at 97-106.

childhood, the *campesino* is not prepared to look for alternatives other than the traditional to solve his daily economic problems. Agriculture is for him not an occupation but rather a way of life which binds him to the soil—a soil for which he feels an intense personal devotion and with which he identifies himself.⁵³

Centuries of social and economic subjugation have resulted in an Indian population which copes with arduous geographical conditions to scratch out a subsistence living. But in learning to cope successfully with his mean lot in life the Indian has degenerated as a human being.⁵⁴ Cut off from most of the modern influences by a lack of means of communication and his own illiteracy,⁵⁵ and with his living standard falling as demographic pressures build, the Indian is left to his own devices. "It is usual for the urban Peruvian to shrug his shoulders and feel that the Indians have always managed to live in the Sierra and will continue to manage somehow."⁵⁶ But this unconcern has bred two Peruvian worlds, centuries apart in culture. As one authority, in a classic understatement, wrote, "The lives of the Peruvian coastal dweller and the highland Indian have almost nothing in common."⁵⁷ The problems of the *sierra* are manifest—a hidebound, uneducated, inefficient, crowded, agrarian Indian population with no place to go until massive programs can be mobilized to bring improvements in technology and transportation, open new lands to cultivation by the Indians, and break down the reactionary outlook of the Indians themselves. Many observers are cautiously optimistic that the traditional barriers are falling as modern civilization does push into the *sierra* and *selva*, but the downward trend has not yet been reversed.⁵⁸ The agricultural situation has become particularly acute now that the other sectors of the Peruvian economy and culture are moving forward.⁵⁹ Tragically, the delinquency of the agrarian sector's development could conceivably act as a millstone about the neck of the country, dragging down development in all other sectors.⁶⁰

⁵³ VASQUEZ, HACIENDA, PEONAJE Y SERVIDUMBRE EN LOS ANDES PERUANOS 39-40 (Monografías Andinas No. 1, 1961). See also CASTILLO, CASTILLO & REVILLA, ACCOPATA: THE RELUCTANT RECIPIENT OF TECHNOLOGICAL CHANGE (Cornell Peru Project, Rep't No. 2, 1963).

⁵⁴ One indication of this is the "widespread Indian custom of chewing coca leaves." The leaves, which release cocaine when chewed along with lime, apparently serve as a hunger depressant and sometimes habit-forming narcotic. "Whatever may be its physical effects, the use of coca imposes a great economic burden upon the Indian population, costing more than a million dollars annually." FORD 109. "Coca is commonly part of a field worker's pay." OWENS 92.

⁵⁵ Since the majority of Indians do not speak anything but their native unwritten languages, most of them are illiterate. See note 43 *supra* and accompanying text.

⁵⁶ OWENS 97.

⁵⁷ *Id.* at 90-91.

⁵⁸ See FORD 149-51; OWENS 97-98; Metraux, *supra* note 46, at 52-56.

⁵⁹ See generally U.N. ECONOMIC COMM'N FOR LATIN AMERICA, ANALYSIS AND PROJECTIONS OF ECONOMIC DEVELOPMENT: VI THE INDUSTRIAL DEVELOPMENT OF PERU (U.N. Pub. Sales No.: 59.II.G.2).

⁶⁰ See AGRICULTURAL DEVELOPMENT OF PERU pt. I, at 1-3; Holmberg, *supra* note 41, at 71.

B. Agrarian Reform and Peruvian Politics

"Only a few years ago the very phrase ['agrarian reform'] was anathema among Peru's ruling families."⁶¹ The instigation of a land-reform program in the face of such influential opposition has been the work of almost a decade. The first step was taken in 1956 by then President Manuel Prado, who created the *Comision Para la Reforma Agraria y la Vivienda* to make a full study of the situation in Peru's agricultural sector and draft a comprehensive land-reform bill on the basis of its findings.⁶² The committee members, some of the most capable men in Peruvian government,⁶³ were aware of the task which faced them. They acknowledged in their "exposition of motives" that:

It should be noted that for the first time in Peru's history the Government in office is instigating planning concerning the problem of land reform. . . . Save in short periods of re-established democracy and full enforcement of constitutional guarantees, agrarian reform has heretofore constituted practically a tabu, identifying itself with the extreme left or with communism. The logical and lamentable result of this situation was disavowment and confusion regarding what agrarian reform signified, not only among the common citizens, but in sectors which played major roles

⁶¹ Delmas, *Peru's New Politics: The Hit-or-Miss Approach*, Reporter, Oct. 24, 1963, pp. 35, 36.

Although Peru's constitution purports to establish a republican government in the image of the United States, the country's ruling class and the military have traditionally practiced a pragmatic review of the popular election results with an eye to their own interests. As a consequence, the character of Peruvian democracy might well appear to invest the electorate, or about one-fifth of the country's people, with free choice of government so long as their choice does not depart too much from the course viewed by the economic and military oligarchy as most desirable. See *Andean Air Mail & Peruvian Times*, Dec. 20, 1963, p. 1, col. 1 (2,095,312 registered voters and 1,814,568 ballots in 1963 presidential election in population of over 10,000,000). In 1962 the selection of the left-wing, APRA party's candidate appeared certain when none of the candidates for president received the necessary one-third of the votes cast, throwing the final choice to the APRA-dominated legislature. With his defeat imminent, Dr. Fernando Belaunde Terry of the *Accion Popular* party alleged fraud and enlisted the support of the military, which installed a junta to succeed the outgoing president for a year. Free elections were held again in 1963 when Belaunde was elected, but the APRA also won a majority of seats in the legislature in that election. U.S. BUREAU OF LABOR STATISTICS, DEP'T OF LABOR, REP'T No. 262, LABOR IN PERU 11 (1964).

The class feeling against APRA, even though many of that party's traditional programs for advancing the lower classes are now generally accepted, was epitomized by the remark of a middle-class resident of Lima following the election: "APRA is still not quite respectable—it's too Indian." Delmas, *supra* at 36.

For an insight into the politics of Peru and other Latin American countries, see generally NEEDLER, *LATIN AMERICAN POLITICS IN PERSPECTIVE* (1963).

⁶² See COMISION PARA LA REFORMA AGRARIA Y LA VIVIENDA, *Introduccion*, in *LA REFORMA AGRARIA EN EL PERU* 19, 22 (1960).

⁶³ O'Byrne, *Economic Development Through Agrarian Reform in Peru* pt. III, at 10, Oct. 1963 (unpublished report in Iowa Law School Library).

in shaping public opinion,⁶⁴ and even in those directly concerned with agrarian problems. . . .

The restoration of democratic forms of government, with the blessing of the ascendent political regime, also marks the commencing of a changing attitude towards the problem of agrarian reform. . . . Nevertheless, quite obviously, there does not yet exist a clear national conscience about the nature of agrarian reform, the methods for carrying it out and the true effects it will have on the future of the country. But the exercise of civil liberties and the mature policies already noted permit hope that in a short time the formation of such a conscience can be guaranteed.⁶⁵

After four years of consultation and investigation the committee submitted a report of its findings and a draft agrarian-reform bill to the Peruvian legislature. Despite the exhaustive efforts of the committee and the obvious good faith of its attempt, the bill was tied up in debate for the next two years and never was held up for a vote. There were probably two reasons for its difficulties. The traditional feeling against land reform, noted by the committee above, was still very much a vital factor.⁶⁶ Further, in spite of the bill's careful preparation, it drew substantial criticism for not having gone far enough.⁶⁷

The impending election of the Aprista Party candidate Haya de la Torre in 1962 and the subsequent military coup may have had a marked effect on the course of Peruvian land reform. It is wholly possible that the Apristas, with their leader at the head of the government and a controlling majority in both legislative houses, would have passed an agrarian-reform law, a measure they had been advocating for over thirty years.⁶⁸ The interim military junta also proved itself to be a vigorous champion of land reform. Even further, since the junta governed by law decree rather than legislative mandate, its policies were translated into immediate action. In November of 1962 the military

⁶⁴ In light of the *Comision's* word, it is interesting to note the emphasis placed on publicizing developmental works at Punta del Este. See O.A.S. INTER-AMERICAN EcoSOC COUNCIL OFF. REC., Special Meeting at the Ministerial Level Punta del Este 55-56 (OEA/Ser. M./X.1) (1961).

⁶⁵ COMISION PARA LA REFORMA AGRARIA Y LA VIVIENDA, *supra* note 62, at 20.

⁶⁶ A possible indication of this feeling may be drawn from the fact that at the very time the Agrarian Reform Bill of 1960 was being debated there were, in the Peruvian statutes, numerous provisions by which the same measures proposed in the bill could have been carried out. O'Byrne commented, "The sad fact is that while the reform bill is argued, existing law is not enforced or used. The absence of action suggests study not only of law but of the attitudes and institutions that deter its implementation and enforcement." O'Byrne, *op. cit. supra* note 63, at 3. For a discussion of provisions under which land reform could have been carried out prior to the enactment of the new reform law see *id.* at 22-25. For the reaction of the Sociedad Agraria, "the powerful landlords' club," after Belaunde's proposed agrarian reform bill was presented in 1963, see Delmas, *supra* note 61, at 36-37.

⁶⁷ O'Byrne stated, after extended analysis, "The proposed law is not an economic development law; it is socially oriented, responsive to pressures of social unrest, not guided by visions of economic progress. It is not sufficiently concerned with marketing apparatus, roads, improved credit structure, cooperative organization and agricultural labor." O'Byrne, *op. cit. supra* note 63, at 4. Also see II ROEL 107-10, 132-35.

⁶⁸ FORD 122-23.

leaders laid down Decree-Law Number 14238, which instructed the Peruvian legislature:

Agrarian Reform should be designed to encourage the economic and social development of the Nation. . . .

Agrarian reform legislation shall be devised for compliance with the following objectives:

- a. To establish authentic agrarian social justice.
- b. To make land and means of production progressively available to the farming class.
- c. To raise the standard of living of farm workers.
- d. To raise the national food standards.

These objectives shall be achieved by the application of the regulations established by the Law⁶⁹

In February, 1963, little other progress having been made toward agrarian reform, another decree-law was handed down establishing the *Instituto de Reforma Agraria y Colonizacion* (IRAC). It was to "have under its charge the execution of Agrarian Reform, according to the basis indicated under Decree-Law Number 14238."⁷⁰ A final long step toward the realization of land-reform measures was taken in April, 1963, when another decree-law⁷¹ created a land-reform program for the Convencion Valley in southern Peru, which was broader in its perspective than the proposed bill of 1960 had been. Where the proposed law had for the most part not dealt with the large private landholders, the decree-law of April included most private lands among those susceptible to "parcellization" by the IRAC.⁷² The provisions of the law showed evidence of hasty draftsmanship, containing only thirty-eight articles and leaving many of the particulars to IRAC under broad articles.⁷³

Belaunde, the University of Texas-educated architect who had been elected president, sent an agrarian-reform bill to the legislature two weeks after assuming office.⁷⁴ Whether the actions of the junta in decreeing the beginnings of agrarian reform had paved the way for its final passage in the form it assumed must remain a moot question. Certainly it would appear to be a natural progression from the failure of the Prado commission's bill in 1960, 1961, and 1962, to the preliminary, rather sketchy mandates of the junta, to the more comprehensive bill which passed the legislature in May, 1964. Not only were reform bills being enacted throughout this period in more and more concrete form, but their substance was changing in tenor as well. Whereas the 1960

⁶⁹ Decree Law No. 14238 of Nov. 1962, base 1-2 (Peru).

⁷⁰ Decree Law No. 14389 of Feb. 1963, art. 1 (Peru).

⁷¹ Decree Law No. 14444 of April 1963 (Peru).

⁷² Compare II ROEL 32-33 ("[The proposed law], in effect, modifies nothing, not even all the *Haciendas* which extend for thousands of hectares."), with Decree Law No. 14444 of April 1963, ch. I, art. 2 (Peru) ("affects all rustic property . . . whatever their legal status may be").

⁷³ "This project . . . must first be approved by the Institute, who will see to it that it follows a satisfactory technical and social line . . ." Decree Law No. 14444 of April 1963, art. 19 (Peru). After a troublesome beginning, in which peasants who did not receive land invaded the plots parceled out to other farmers, the Convencion Valley reform is again moving forward. See *National Observer*, Sept. 14, 1964, p. 12, cols. 4-5.

⁷⁴ See Delmas, *supra* note 61, at 36.

proposal had equivocated in several areas to avoid offending special interests,⁷⁵ Belaunde's proposed bill was called "the most radical program short of revolution yet to be presented in the hemisphere."⁷⁶ Belaunde's proposal did not pass through the legislature totally intact, of course,⁷⁷ but the bill he did sign into law is not conservative in its thrust.

It is almost overwhelming in its attempt to change the rural tenure patterns, economy, society, and technology. So much is contemplated that the objectives will compete, at the very least, for the scarce means of bringing them about. At worst, the sweeping changes may cause conflict and confusion as modern ideas are imposed by fiat on an old and conservative society.⁷⁸

III. PERU'S 1964 LAND REFORM LAW—A CRITIQUE

The most pressing problem that the new land-reform bill must face is, of course, the situation in the *sierra*.⁷⁹ The law proposes a program of land redistribution to replace extant inequitable holdings with family-sized farm units (*unidad agricola familia*), each capable of supporting one rural family. The law defines the family-sized farm unit as:

[T]he amount of land which, when worked directly by the farmer and members of his family under conditions of reasonable efficiency, conforms to the following conditions:

A) Absorbs all the work force of the family and does not require extra labor save in predetermined seasons of the agricultural year and in proportion not exceeding a quarter of the annual labor capacity of the family.

B) Provides the farmer with a net income sufficient to sustain his family at an adequate level, complete his obligations in the purchase of his parcel, and accumulate a certain margin of savings. . . .⁸⁰

The task of defining the size plot that constitutes a family-sized unit in any given locale and for any given family falls on the Institute of

⁷⁵ See note 67 *supra*.

⁷⁶ Delmas, *supra* note 61, at 36.

⁷⁷ See National Observer, Sept. 14, 1964, p. 12, col. 4.

As amended, the Agrarian Reform Law enacted in 1964 is similar to the proposed bill of 1960 in many particulars. The family-sized farm unit is a concept central to both. Compare COMISION PARA LA REFORMA AGRARIA Y LA VIVIENDA, *Proyecto de LEY DE LA Reforma Agraria*, in LA REFORMA AGRARIA EN EL PERU 119, 181-84 [hereinafter cited as *Proyecto*], with Agrarian Reform Law art. 96. The Indian population would have had to adapt to modern legal institutions under either bill. Compare *Proyecto* 200-08, with Agrarian Reform Law arts. 100, 104. Colonization was emphasized in both. Compare *Proyecto* 178-89, with Agrarian Reform Law art. 93. Similar methods of withholding portions of private land from expropriation would have been established by either one. Compare *Proyecto* 134-37, with Agrarian Reform Law arts. 29-30. Intricate bureaucratic processes were a characteristic of both. Compare *Proyecto* 138-42, 148-51, with Agrarian Reform Law arts. 62-74, 91-108, 166-80, 215-36. The one significant change written into the law of 1964 is in the area dealing with finances. Compare *Proyecto* 137-38, 153-54, 185-86, with Agrarian Reform Law arts. 216-36.

⁷⁸ PATCH, THE PERUVIAN AGRARIAN REFORM BILL 1 (XI West Coast South America Series No. 3, 1964).

⁷⁹ See notes 43-57 *supra* and accompanying text.

⁸⁰ Agrarian Reform Law art. 96.

Agrarian Reform, the primary implementing agency created by the bill.⁸¹ Once definition has been accomplished, the Institute must also carry out the redistribution within the limits of a provision which states that *campesinos* have absolute priority to the land that they worked before expropriation and redistribution.⁸² This priority system may appear tractable in theory, but the theory is predicated on the existence of enough land to go around. In the *sierra* there is simply not enough land for all the families to settle on a family-sized plot.⁸³ This fact is glossed over by the law, which declares that "when there exists excessive parcellization of the agricultural units and when the

⁸¹ Agrarian Reform Law art. 92. The Institute is created by the broad provisions of article 191, which say no more than that there shall be such an institute, formally called Instituto de Reforma y Promocion Agraria (IRPA), within the Ministry of Agriculture and defined by regulations to be drawn up corresponding to the law. It is provided that IRPA shall be governed by the National Agrarian Council (Consejo Nacional Agrario or CNA), whose membership is fully defined. It includes the following members:

Minister of Agriculture presiding;
Two Delegates from the Ministry of Agriculture, one acting as Vice-President;

One delegate from each one of the following institutions:

Ministry of Labor and Indian Affairs, Agricultural Development Bank of Peru, Agrarian Reform Finance Corporation, National Office of Cooperative Development.

Included on the Council, besides, are a Delegate from the Farmers' Societies, a Delegate from the Stockmen's Associations, a Delegate from the Confederation of Workers of Peru (CTP) and one from the National Federation of *Campesinos* (FENCAP).

Part of the Council is formed by, with voice but without vote, a Delegate from the Senate, a Delegate from the Chamber of Deputies, the Director of Agrarian Research and Promotion Service, and the Director of the National Office of Agrarian Reform, acting as Secretary. Agrarian Reform Law art. 195.

This catholic governing body is to have under its direction two "organisms": ONRA and SIPA, both of which in turn have several subsidiary organs. See Agrarian Reform Law arts. 194, 198-206. There is also provision for a consultative group, *Consejo Tecnico de Reforma y Promocion Agraria*, see Agrarian Reform Law art. 207, and an autonomous agency to administer the financial aspects of land reform, the *Corporacion Financiera de la Reforma Agraria*. See Agrarian Reform Law arts. 215-22. For a lengthier discussion of the bureaucracy established by the new law, see *The New Agrarian Reform Law of Peru*, Memorandum From Prof. Fred L. Mann to Dr. J. T. Scott, May 23, 1964, at 9-13, on file with the *Iowa Law Review* (also in *Andean Air Mail & Peruvian Times*, May 29, 1964, p. 12, cols. 1-3) [hereinafter cited as Mann, Memorandum].

⁸² Agrarian Reform Law art. 93. However, not all *campesinos* may be considered as recipients for land redistribution. To receive a family-sized farm unit a *campesino* must be:

- A) A Peruvian.
- B) No less than 18 nor more than 60 years of age, unless the petitioner has a son over 17 years old who will work at his side.
- C) Fully capable of farm work.
- D) A farmer or farm laborer.
- E) Neither proprietor nor holder in any other fashion of land equal in size to a family-sized farm unit. Agrarian Reform Law art. 102.

⁸³ See note 52 *supra* and accompanying text.

Institute decides upon their [concentration into larger units] the serfs and renters of small plots who are superfluous will maintain their right of absolute priority in the same zone or in the colonization projects nearest the zone."⁸⁴ The overpopulation which now exists in the *sierra* apparently could only result in a high percentage of superfluous population when the land is redistributed. Such a development would in turn create a necessity for a mass movement off the old *sierra* land onto newly developed land in the same zone or in the *selva*. The *costa* probably cannot be considered for more than a minor role in such migration since it is too near its human saturation point to sustain a further influx of the requisite proportions.⁸⁵ At present the new lands for colonization have not been developed anywhere in Peru.⁸⁶ A great deal of time and *soles*⁸⁷ will have to be spent before they can be made available. Yet, as a superfluous segment is sure to result from any redistribution of the overcrowded *sierra* lands, time and money must be spent at least fast enough to keep pace with the incidence of displaced *campesinos*.⁸⁸

To instigate the carefully coordinated planning and means to carry out such a program looms as a stupendous task. To get an often inscrutable Indian population that has proved reactionary even in the face of minor progressive changes⁸⁹ to comply with wholesale changes in home and environment at the same time that it is being asked to embrace new technology, language, and institutions, would seem to be almost impossible to accomplish within the space of one, or even two, generations. The experiment conducted at Vicos by a team of Cornell University experts has, within the last decade, proved that the myriad problems confronting advancement by the *sierra* Indians can be overcome.⁹⁰ The project began with a nonproductive plantation in the Callejon de Huaylas in the department of Ancash, north of Lima. Today the highland farm is a cooperative Indian community of some 2,150 population on 14,000 hectares of land that have developed from production at the subsistence level into a commercial agricultural venture.⁹¹ The Vicos project is justifiably the basis for optimism but is admittedly unique—the result of a concentrated effort by a group of hand-picked experts. Peru may have neither the money nor the manpower to duplicate the Vicos project even once.

Until the country has the resources to apply the techniques learned at Vicos many times over, only the most gradual progress can be hoped

⁸⁴ Agrarian Reform Law art. 93.

⁸⁵ See note 51 *supra* and accompanying text.

⁸⁶ See I ROEL 26-39.

⁸⁷ The basic unit of Peruvian currency, presently worth about 3.7 cents.

⁸⁸ The task of creating new lands will be complicated by the rising population growth in Peru, which negates some of the gains in cultivated land each year. The Commission of Agrarian Reform estimated that at current rates of population increase 50,000 hectares of new land must be developed for cultivation each year just to maintain the present ratio of one-fifth of a hectare per capita in Peru. COMISION PARA LA REFORMA AGRARIA Y LA VIVIENDA, *op. cit. supra* note 62, at 33.

⁸⁹ See CASTILLO, CASTILLO & REVILLA, ACCOPATA: THE RELUCTANT RECIPIENT OF TECHNOLOGICAL CHANGE (Cornell Peru Project, Rep't No. 2, 1963).

⁹⁰ See Holmberg, *supra* note 41, at 63.

⁹¹ Weaver, *The Five Worlds of Peru*, 125 NATIONAL GEOGRAPHIC 213, 246 (1964).

for in the *sierra*. Though it would appear obvious in light of this consideration that Peruvian land reform cannot be visualized as a magic wand, there may be a quixotic outlook concerning the potential nature of its effect, even among the more responsible elements in Peru. According to Professor O'Byrne,

It is the notion that the agrarian problem must be solved in one fell swoop. Demand for immediate and overnight change in land ownership can be understood as a rallying cry of the political left. But the acceptance of the notion among others disturbs us. The young competent technicians who are violently anti-communist are just as violently anti-oligarchy. Land becomes associated solely with the oligarchy "which must go." When one asks why there is no effort to encourage land distribution in non-inflammatory situations, to do little jobs to gain experience in redistribution, there is little interest in gradual effort, it must be done all at once. This, in effect, comes from responsible technicians who do not presently have the manpower to do the little job and who are not really training themselves or others to do the big one.⁹²

There is another aspect of the Indian problem which looms as a potential trouble area in the implementation of the new agrarian-reform law. In a country where the majority of the Indians cannot speak Spanish or read any language,⁹³ the bill assumes an appreciation and acceptance of modern legal institutions and written documents. Redistribution is to be carried out like a modern-day business transaction:

The public sales will be effected by contract, with certain reserved rights, for the price which will be fixed as a function of the economic sustaining value of the agricultural unit. The sales price will be paid in 20 yearly payments from the date of sale, unless the purchaser prefers to pay in a shorter time. . . .

The Institute will take the necessary steps to contract or organize services of collective life insurance, with premiums paid by the interested party, and the value of which will be used in the case of the death of the purchaser to pay the outstanding debt on the land.⁹⁴

Further, the transfer of the land carries with it certain strict conditions. The purchaser must "work the land directly and personally." He must live with his family on the land or near to it. He may not "sell, encumber, or transfer ownership by any means before completing payment of the purchase price, and even after the completion of payment for a period of ten years from the date of original sale."⁹⁵

This system places obligations on the shoulders of people who are not accustomed to the observance of legal restrictions or the binding nature of legal contracts. Richard Patch observes,

[There is an assumption] that the large mass of the indigenous population of the highlands, speaking Quechua and Aymara, who for 430 years have had unfortunate if not tragic experiences with Spanish and Peruvian legal institutions, can suddenly be brought to participate in these institutions with an understanding and appreciation of contractual obligations, and of the tutelary posture of the government (which admonishes the *campesino* that, although he buys the land under contract, he is not free to sell the land for a period of at least ten years after its purchase). It is assumed that they can be brought to learn the meaning of borrowed

⁹² O'Byrne, *op. cit. supra* note 63, at 92-93.

⁹³ See note 43 *supra* and accompanying text.

⁹⁴ Agrarian Reform Law art. 100.

⁹⁵ All of these conditions are stipulated in the Agrarian Reform Law art. 104.

capital and the payment of interest, the meaning of a debt moratorium and what is sufficient and what is insufficient reason for a moratorium, and to learn of life insurance, to realize that it is a form of savings and agree to make regular payments called premiums which cannot materially benefit an individual in his lifetime.⁹⁶

Aside from the problems of the Indians and the *sierra*, the primary philosophical issue was probably the fate of the existing landowners, including the powerful small percentage of the Peruvian population who own the majority of the land.⁹⁷ The law listed private cultivated lands at the bottom of the priority list for expropriation after abandoned or uncultivated lands, state lands, lands of the Catholic Church, and lands not operated by their owner that are smaller than a family-sized unit.⁹⁸ While all the other lands can be appropriated in their entirety, special consideration is accorded to privately owned cultivated land, varying from one geographical zone to the next. In the *costa* lands in excess of three family-sized units are subject to graduated exemptions. For example, a piece of permanently irrigated coastal land which otherwise qualifies for exemptions will be granted a basic exemption from expropriation of 150 hectares, which must remain unaffected by the land reform. In addition, there is an exemption of seventy per cent of the next 350 hectares possessed, fifty per cent of the next 500 hectares, thirty per cent of the succeeding 500 hectares, and ten per cent of the next 500 hectares. There is no exemption for such land held over 2,000 hectares.⁹⁹ Coastal owners may apply for an additional twenty-per cent exemption on all of their land that will be granted if the farm land in question exceeds "average efficiency"¹⁰⁰

⁹⁶ PATCH, *op. cit. supra* note 78, at 10-11. See also O'Byrne, *op. cit. supra* note 63, at 18-20.

⁹⁷ See note 44 *supra*. Today many of the large private owners are corporations rather than individuals, particularly in the *costa*. See AGRICULTURAL DEVELOPMENT OF PERU pt. 2, at 149.

⁹⁸ Agrarian Reform Law arts. 9-11, 14-16.

⁹⁹ The same exemptions are allowed for double the hectare figures in the case of occasionally irrigated land, triple the hectare figures for dry *costa* land, and fifteen times the hectare figures for natural pasture lands in the *costa*. Agrarian Reform Law arts. 29-30.

¹⁰⁰ Agrarian Reform Law art. 31. The criteria for computing average efficiency are outlined in the Agrarian Reform Law art. 23:

- A) Grade of efficiency of exploitation, which takes into account:
 - 1) Production per unit;
 - 2) Capitalization;
- B) Distribution of income, which takes into account:
 - 3) Direct participation (wages, salaries, allowances) and indirect participation (free facilities, living quarters, schools, community services) of the workers;
 - 4) Taxes paid;
 - 5) Influence of the holding in its zone measured by direct and indirect action in the development of agricultural activities.

Quantitative indices will be calculated for each valley, for different economic classes of land and ecological zones in the *costa*, and for different economic classes of land in each province in the *sierra*.

The application of these difficult standards is not further detailed, but is left to the Institute (IRPA). See Agrarian Reform Law arts. 31, 34.

for similar land in the same area by twenty-five per cent or more.¹⁰¹ In other words, by taking advantage of all the exemptions possible the owner of 2,000 hectares of irrigated land in the *costa* would be able to retain 1,245 hectares, or better than sixty-two per cent, of his land exempt from reform.¹⁰²

In the *sierra* all privately owned lands are subject to a basic exemption which was to be promulgated in late September, 1964.¹⁰³ Exemption above the basic reserve can be obtained by submitting the land to the same criteria of average efficiency as those applied with respect to the *costa*. If an owner's land is operated at thirty per cent or more above the average efficiency in his area he is entitled to four times the normal exemption. The Institute of Agrarian Reform may grant still a further exemption when such special accession is justified and will not adversely affect the needs of the local population or surrounding Indian communities.¹⁰⁴ In the *selva*, where so few private owners have plots at present, the amount of land under direct and efficient cultivation plus double the area held for "forest preserve" and crop rotation may be left unaffected. If *selva* owners have properly cultivated ten per cent or more of their land and have been prevented from cultivating a higher percentage only by involuntary causes, they may apply for an exemption beyond three times that cultivated. In no case may the *selva* owner be left with less than a family-sized unit of land.¹⁰⁵

The provisions governing what proportions of private lands may be taken by the land-reform program might appear to be an attempt at balancing interests of the landowners against those of the landless

¹⁰¹ To qualify for the additional exemption under article 31, any given *costa* holding must be 25% above the average efficiency figure in four of the five indices, including criteria 3) and 5). See note 100 *supra*.

¹⁰² The percentage figure, 62½%, would, of course, apply with equal verity to the maximum retention available to the holder of any other type of *costa* land as well, with the exception of special treatment accorded to the property of "enterprises dedicated to the industrial processing of agricultural products." The owner of such property may "petition the guarantee of its area under industrialized cultivation to the extent which is indispensable for the efficient operation of its installations for industrial processing." Agrarian Reform Law art. 38. What the law appears to give with one hand it may take back with another, however, for farms which process cotton or mill grain, distill alcohol in "rudimentary" fashion, or are otherwise outfitted only for "primary treatment or simple completion of a product," are denied the benefits of this section. Agrarian Reform Law art. 43. Professors Mann and Patch believe the construction of this section, Agrarian Reform Law arts. 38-47, is for the benefit of the sugar plantations. See PATCH, *op. cit. supra* note 78, at 6; Mann, Memorandum 3.

¹⁰³ Agrarian Reform Law art. 32.

¹⁰⁴ Agrarian Reform Law art. 34. The 30%-above-average efficiency required by this article must be compiled in four of the five indices, including foils 2), 3), and 5). See note 100 *supra*.

¹⁰⁵ Agrarian Reform Law arts. 35-36. The lands of the Indian tribes in the *selva*, who live a primitive but free life unlike that of the *sierra* Indians, are to be immune from expropriation up to the "extension required to cover the necessities of their populations." Agrarian Reform Law art. 37.

peasants, but there are more practical considerations. As is evident from their construction, the exemption provisions benefit those private farms which are most efficient. The probable rationale, that it is senseless to break up the most productive lands in a country whose per capita food consumption is below minimum healthful standards already,¹⁰⁶ would appear to be a sound view, even though the exemption provisions prompted one group to condemn the land-reform law as "one more instrument of the country's oligarchy."¹⁰⁷

The process of agrarian reform does not appear to be expedited by the methods established in the new bill. The reform is to be applied in successive areas, designated and defined by supreme decree after the receipt and evaluation of technical reports and recommendations of the Agrarian Reform Institute.¹⁰⁸ Priorities in the order of areas are to be determined on the urgency of the following conditions: (1) demographic pressures and the presence of nonagricultural possibilities for employment, (2) excessive concentration or subdivision of land, (3) existence of feudal labor systems, (4) existence of abandoned or inefficiently worked lands, and (5) wage standards below marginal levels.¹⁰⁹ At present, the statistics on Peru's agrarian situation are for all practical purposes nonexistent.¹¹⁰ To gather the primary data in the rugged interior will be a lengthy task requiring a legion of experts. But even in this most basic requirement Peru faces a problem in a lack of trained experts who can undertake such a job.

After the area for redistribution is chosen and reform procedures are begun, a bureaucratic nightmare may begin. The Institute is made responsible for analyzing the designated area and developing a plan for acquisition of land in it, including a determination of the total area of each property tentatively subject to any degree of expropriation. All landowners who may be affected must be given a copy of this plan, which must also be "posted on the property and in the town office and

¹⁰⁶ See note 49 *supra* and accompanying text.

¹⁰⁷ See PATCH, *op. cit. supra* note 78, at 2. The *Sociedad Nacional Agraria*, the Peruvian landlords' alliance, also showed high feeling against land reform at the time Belaunde presented his proposed bill to the legislature. See Delmas, *supra* note 61, at 36-37.

It is a distinct possibility that redistribution of efficiently worked land may result in gross inefficiency if the workers have been accustomed to relying on the landowner for capital and direction, as the *campesinos* of Peru are. The beginning of an expropriation and redistribution program may also adversely affect the management of large landowners who lose the incentive for high production or improvement when they believe their land will be taken from them in the near future. For a fuller discussion of the possible effects of land reform on farm efficiency, see Carroll, *Appraising the Adequacy of Land Tenure Systems for Agricultural Production*, in LAND TENURE 583; Schickele, *Land Reform and Agricultural Production*, in LAND TENURE 575.

¹⁰⁸ Agrarian Reform Law art. 50.

¹⁰⁹ *Ibid.*

¹¹⁰ See generally INVENTARIO. Though this booklet purports to be an inventory of available information and figures concerning the Peruvian economic sector, it reports only an absence of statistics in such categories as "Utilization of the Soil," *id.* at 20; "Soils," *id.* at 11-12; "Agricultural Production," *id.* at 22; "Agricultural Technical Personnel," *id.* at 36; and others.

published in the official government newspaper, *El Paruano*.¹¹¹ After receipt of the plan the landowners have sixty days to submit a sworn statement listing all the land they own in Peru and maps of their holdings, along with any observations they might wish to make concerning the plan as tendered to them. The Institute is then to modify the original plan on the basis of the landowners' reports, evaluate the land involved, and publish a new plan, including the tentative valuations assigned each estate in the same manner as the original plan. Institute technicians are then to be dispatched to confront individual owners and establish which portions of their land will be susceptible to expropriation under the available exemptions. After this a third revised plan is to be drafted and published as before, pinpointing the sections of land which will be expropriated. Landowners' disagreements with this plan must be appealed to the National Agrarian Council, the governing body of the Institute, which must construct a final revision of the plan after considering all appeals and then submit it to the executive for final approval.¹¹² The procedures for implementing the approved plan,¹¹³ for administering the financial aspects of an agrarian development through reform,¹¹⁴ and for dispensing technical assistance are no less complicated.¹¹⁵ These laborious procedures and the seemingly countless different agencies through which they must be carried out are apparently aimed at safeguarding all interested parties' rights and guaranteeing that the agrarian reform will be carefully conceived and executed in all its facets.¹¹⁶ High as these motives are, they may have resulted in the construction of a bureaucratic maze, which will act as an effective block to any concrete achievement. It would appear that it will take dynamic leadership—at all levels from top to bottom—to carry the program to realization.¹¹⁷

One of the commendable attributes of the Peruvian Agrarian Reform Law is its treatment of the financial sector of the proposed operation. Private owners whose lands are expropriated will receive payment partly in cash and partly in agrarian debt bonds.¹¹⁸ The law established different expropriation payments for different classifications of land in the following fashion:¹¹⁹

¹¹¹ PARCH, *op. cit. supra* note 78, at 7.

¹¹² This involved procedure is outlined in the Agrarian Reform Law arts. 62-74.

¹¹³ See Agrarian Reform Law arts. 91-108.

¹¹⁴ See Agrarian Reform Law arts. 215-36.

¹¹⁵ See Agrarian Reform Law arts. 166-80.

¹¹⁶ See PARCH, *op. cit. supra* note 78, at 8.

¹¹⁷ Professor O'Byrne found a lack of such leadership in Peru as late as 1962. He said, "[A]lthough agrarian problems are much discussed, all political parties endorse land reform, and most people feel that change is inevitable, still there appears to be no stimulus to action, no leadership dedicated to agrarian reform." O'Byrne, *Economic Development Through Agrarian Reform in Peru* pt. III, at 10, Oct. 1963 (unpublished report in Iowa Law School Library).

¹¹⁸ See Agrarian Reform Law art. 233.

¹¹⁹ *Ibid.* The chart is an adaptation from Mann, Memorandum 8.

Class of Land Expropriated	Cash Payment	Bond Payment
Directly exploited land of superior efficiency ¹²⁰	Up to S/200,000 ¹²¹ (\$7,400.00)	Balance in Class A Bonds (18-year term at 6%)
Directly exploited land not of superior efficiency	Up to S/100,000 (\$3,700.00)	Balance in Class B Bonds (20-year term at 5%)
All other lands	Up to S/50,000 (\$1,850.00)	Balance in Class C Bonds (22-year term at 4%)

The Peruvian agrarian debt bonds are drawn under more lenient terms than those often associated with land reform. They are nominative, negotiable, and guaranteed by the assets of the Agrarian Reform Finance Corporation, which will issue them in annual series.¹²² Bondholders can pay taxes with their bonds, purchase land with them, submit them as undeniable security for loans from Peruvian state banks, or they can be given international indorsement or exchanged for bonds with an international guarantee. The bonds are held tax free, and all payments of interest and principal are received tax free.¹²³

Despite their apparent negotiability and their other positive qualities, the bonds will probably be neither a lucrative nor secure arrangement for their holders. Interest rates on normal Peruvian investments seldom fall below ten per cent, and a bonding issue the size of that necessary to finance land reform raises the risk of devaluation of the country's currency through inflation.¹²⁴ Bonding is also unsatisfactory from the viewpoint of the state because, while in effect it means the owners are loaning money to the government for the purchase of their own land, the government has no control over the money after it is paid back. The holders of large amounts of capital often place it outside the Peruvian economy as "flight capital" or foreign investments.¹²⁵

¹²⁰ "Superior efficiency" is measured by the same criteria as average efficiency. See note 100 *supra*. To be classified as of superior efficiency a holding must meet the test of being 25% above average efficiency in four of the five criteria listed under Agrarian Reform Law art. 31.

¹²¹ Expressed in *soles*, the Peruvian currency. Dollar equivalent below.

¹²² Assets of the Corporation include the following:

1. Lands obtained for agrarian reform.
2. Payments made by new land purchasers under the agrarian reform program.
3. Interest on its deposits.
4. At least 3% of the total income to the General Budget of the Republic for 20 years.
5. Product of credit operations, both internal and external. Mann, Memorandum 11 (interpretation of Agrarian Reform Law art. 216).

¹²³ See Agrarian Reform Law arts. 230-36.

¹²⁴ See Galbraith, *The Political and Economic Conditions of Progress*, in PROCEEDINGS OF THE INTERNATIONAL CONFERENCE ON AGRICULTURAL AND COOPERATIVE CREDIT 38, 49 (1952); Johnson, *Financing Land Redistribution*, in PROCEEDINGS OF THE INTERNATIONAL CONFERENCE ON AGRICULTURAL AND COOPERATIVE CREDIT 67, 71-72 (1952).

¹²⁵ MANN & BLASE, *FINANCING AGRARIAN REFORM AND INDUSTRIALIZATION IN PERU* 3 (1963).

Another section of the law has attempted to remedy shortcomings in the bonding method by creating a Special Fund for Industrial Investments under the direction and administration of the Industrial Bank of Peru.¹²⁶ The fund was written into the law to provide an outlet for bondholders who want higher, more secure returns on their bonds, while at the same time theoretically serving the governmental interest in economic development of the nonagrarian sectors. It is established specifically "to finance and promote investment projects presented by agrarian bondholders, as well as [projects introduced by its directors], so long as the projects satisfy the technical and economic criteria of the Industrial Bank, and fall within high-priority investments as determined by the National Planning Institute."¹²⁷ The fund is to be operated much like an American open-end mutual trust fund.¹²⁸ It has assets of its own and is fully authorized to contract loans from international agencies.¹²⁹

Bondholders may draw on the fund to invest in domestic economic development in two ways. Agrarian debt bonds may be exchanged for trust certificates entitling the owner to dividends on the income of the Special Fund.¹³⁰ If the bondholders wish to finance the expansion of a business they already own, they may submit their bonds at nominal value as guarantees for "expansion agreements," whereby the fund will finance the growth of their own business if it meets the approval of the Industrial Bank and the National Planning Institute.¹³¹

¹²⁶ Agrarian Reform Law arts. 223-28.

¹²⁷ Agrarian Reform Law art. 224.

¹²⁸ The theory of the Special Fund's benefits to both private bondholders and the overall development of Peru is more fully treated in MANN & BLASE, *op. cit. supra* note 125; Blase, Mann & Paz, *Fuentes de Financiacion de la Reforma Agraria* May 1964 (unpublished paper read at Seminar on Financing Agrarian Reform, Panama, on file with *Iowa Law Review*).

The governing regulations for the fund were drafted partially with the help of model mutual fund charters from the United States. See Memorandum From Professor Samuel M. Fahr to the *Iowa Law Review*, Sept. 25, 1964.

¹²⁹ The assets of the Special Fund include:

1. Up to 2% of the total income of the General Budget of the Republic for 20 years.
2. Internal and external credit contracted by the Bank for it.
3. The income from the sale of its shares.
4. Interest from loans made by it. Mann, Memorandum 13 (interpretation of Agrarian Reform Law art. 227).

The Special Fund could conceivably represent an indirect means around the United States policy against giving funds to land-purchase programs. See Note, 73 *YALE L.J.* 310, 317 (1963). If the directors of the Special Fund could negotiate aid from the United States they could truthfully do so on the basis that it was for industrial development. The industrial development and ensuing profits would help cover the agrarian debt bonds held by the Special Fund.

¹³⁰ The provisions of the law itself are extremely vague on this point. See note 127 *supra* and accompanying text. A better explanation of the desired result is found in Blase, Mann & Paz, *op. cit. supra* note 128, at 9-10.

¹³¹ Again, the law itself is vague at this section. A full explanation of the operation of the expansion agreement can be found in Blase, Mann & Paz, *op. cit. supra* note 128, at 11-14.

There are other aspects of the Peruvian Agrarian Reform Law which cannot be treated at length in this limited analysis that might give pause to an observer. For example, in contrast to its more complicated procedures, there are places where the drafting is extremely loose. Nowhere are such basic terms as "*costa*," "*sierra*," and "*selva*" defined. Yet, the law cannot operate until their borders are established. Many of the provisions are, in effect, enabling acts which merely create an agency or state policy without doing anything more.¹³² In such cases, *reglamentos*, or governing regulations, must be drafted and passed by the legislature. To date, only one set of *reglamentos* has been drafted.¹³³ Yet the *reglamentos*—both as to their content and as to the rapidity with which they are drafted—may be the best indicia of the administration's vigor in pressing forward to make the law work.

IV. CONCLUSION

There are practical considerations which might give rise to reservations on the part of anyone who attempts to analyze Peru's new Agrarian Reform Law. It cannot be denied that the law is an attempt at a comprehensive solution to a comprehensive problem. Very possibly it is the best legislation that could have been enacted under the circumstances. As pointed out in the beginning of this analysis,¹³⁴ the conflicting forces involved in the question of land reform are tremendously complex. Such forces may in some cases be relatively easy to comprehend—as in the case of American foreign aid and the ambivalent motives of altruism and political self-protection¹³⁵—but are never easy to overcome. On the other hand, even comprehension may be beyond the capacity of a critic studying the enigma of Peru's *sierra* from the dubious vantage point of a United States library.¹³⁶ Despite the presence of these reservations and the recognition of them, there are certain apparently more obvious conclusions which may be drawn concerning the law in question.

The Peruvian Agrarian Reform Law of 1964 may not be the final answer, barring far more vigorous application of its unwieldy provisions than is predictable on the basis of past experience or the present situation.¹³⁷ It is, however, possibly the most progressive agrarian-reform bill presently on the statute books of any Latin American coun-

¹³² The best example of this is the Special Fund discussed *supra*.

¹³³ The only *reglamentos* composed thus far are to apply to the Special Fund if they are accepted by the legislature. See *Reglamentos—Fondo Especial de Inversiones Industriales* (undated) (Copy on file with *Iowa Law Review*).

Other general provisions in the new law appear to be platitudes with nothing but doctrinal significance. See Agrarian Reform Law arts. 166-90. These articles form three of the main titles in the bill and, basically, state that there should be technical, economic, and social assistance to Peruvian farmers, that there should be agricultural cooperatives, and that there should be new towns to "facilitate the communal life of the farmers." While such measures are endorsed, no steps toward establishing means of carrying them out are written into the bill.

¹³⁴ See text accompanying notes 5-20 *supra*.

¹³⁵ See text accompanying notes 21-29 *supra*.

¹³⁶ See notes 43-57 *supra* and accompanying text.

¹³⁷ See note 66 *supra*.

try, a fact of immense importance to the signatories of the Charter of Punta del Este and to the foreign aid programs of the United States in this hemisphere.¹³⁸ It is a step in the right direction, a channeling of momentum into a positive program. It might be classified according to a developmental dialectic evolved by a Latin American to gauge the progress of Latin American countries.¹³⁹ In his four-step process Victor Alba sees first the period during which a problem is largely ignored, followed by the period in which many Latin Americans become wildly interested in the problem and propose utopian schemes for its resolution. The third phase is the translation of the utopian schemes into utopian laws when the people realize the problem and a need to find a solution to it. The final period Alba calls the "reform of the reform . . . an adaptation of the [utopian] principles to fit the reality in order better to change the latter."¹⁴⁰ He believes most Latin American countries are now in the third phase, which would appear to be true of Peru in respect to land reform. If it is true and Peru can later adapt the utopian principles of its new law to fit the realities, the agrarian-reform law analyzed herein may stand as a signal step in the proper direction. It is not a good law for the reasons pointed out. Its fruition, if it comes, would appear to be far in the future and as the result of a painful process of wrenching a large portion of Peru out of the sixteenth century and into the twentieth. It is the responsibility of Peru's agrarian planners, bolstered by the experience of United States technology and aid, to carry out the painful process by continuing, more intense efforts.

¹³⁸ The problems attendant to trying to coerce a country to draft a legitimate reform law are treated in depth in Note, *The Chilean Land Reform: A Laboratory for Alliance-For-Progress Techniques*, 73 *YALE L.J.* 310 (1963).

¹³⁹ See Alba, *The Latin American Style and the New Social Forces*, in *LATIN AMERICAN ISSUES* 43, 47-48 (Hirschman ed. 1961).

¹⁴⁰ *Id.* at 48.