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## ALIEN LAND OWNERSHIP AND AGRICULTURAL DEVELOPMENT ISSUES, PROBLEMS AND THE POLICY FRAMEWORK

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### INTRODUCTION

Discussion on international capital transfers from developed to developing countries, and the involvement of foreign enterprise in the economies of these countries has in recent years attracted the attention of development economists. In addition, in the light of the emergence of many of the former colonies as fully independent countries, the arguments for national economic self-determination have been repeatedly and forcefully stated.

Nevertheless in spite of newly won political independence and perhaps because of it, private investment from richer developed countries to poorer developing countries has not decreased. (We are not here concerned with Government to Government loans and grants, but rather with private capital investments.) The incidence of sizeable foreign capital transfers and investment even among developed countries has been a matter of concern.<sup>1</sup> In an interesting study of the legal aspects of foreign private investment, one researcher points to the hazardous and complex nature of such relationships and offers some guidelines for control by the recipient territories.<sup>2</sup>

### THE CARIBBEAN EXPERIENCE

The Commonwealth Caribbean has been a creature of foreign capital investment, and even political emancipation has not been accompanied by a lessening of dependence on metropolitan private investment and entrepreneurship. There has been little concern within the area with analysing the incidence, impact and ramifications of this phenomenon. The area still conforms to the classical characterization of underdevelopment. Among these characteristics are:

- (1) high dependence on agriculture and primary, including extractive, industries;
- (2) low levels of social infrastructure;

<sup>1</sup>Ray, D. Michael, "Regional Aspects of Foreign Ownership of Manufacturing in Canada", 1967.

<sup>2</sup>Nwogugu, E.I., "The Legal Problems of Foreign Investment in Developing Countries", Manchester Univ. Press, 1965.

- (3) minimal industrial sector;
- (4) absence of an entrepreneurial class;
- (5) low savings.

In historical terms metropolitan colonial policy ensured for these territories a place as areas for exploitation characterized by low investment and maximising of returns in the short run. Within such a permissive framework, foreign private interest engaged in the production crops for the metropolitan market, protected by a variety of imperial preferences.

In pursuance of the principle of the existence of the colonies as a 'hinterland of exploitation', the creation of an infrastructural base for the evolution of a viable economy in the island was never seriously supported.<sup>1</sup> Proper attention to urban development, the maintenance of a balance between urban and rural communities, employment opportunities outside of agriculture, functional road systems, effective power grids and purposeful educational systems were all honoured more in the breach than in the observance.

In recent years and for some territories the emergence of secondary industrial sector based on extractive materials, processing of primary goods, or assembly industries has relieved the reliance of these territories on a plantation system which for the most part continues to be non-local in ownership and orientation. The facts of the case adequately demonstrate that a considerable part of the lands of the area and, certainly, most of the larger estates and many of the smaller viable agricultural units continue in alien control.

Attention, therefore, to the historical evolution of the present estate system, and a preoccupation with the social and political facets of the plantation

<sup>1</sup>Much of these observations are entrenched in the literature on the area. Best and Hein have recently further developed this thesis. See Best, L.A., "Outlines of a Model of Pure Plantation Economy", p. 283-286. *Selected Papers from the Third W.I., Agricultural Economics Conference*, and Hein, P.L. "A Model of an Export-Propelled Economy", p. 327-338, *Selected Papers from the Third W.I. Economics Conference*, U.W.I., St. Augustine, Trinidad.

system neglects the importance of the place of alien land ownership in the agricultural development of these lands and its present and potential contribution to their development.

The background against which the need for a re-appraisal is argued is one in which the following observations seem to be relevant:

- (1) the high rate of population expansion characteristic of these islands;
- (2) the inability of agriculture to absorb labour;
- (3) a startling disproportion between number and size of holdings. For example, in Dominica 79% of the farms are under 5 acres and encompass 12% of the farm land; 19% of farms are between 5 and 50 acres and with 24% of farm land; 2% of farms are over 50 acres covering some 64% of the land;
- (4) the virtual monopoly by large holdings of fertile coastal lowlands and alluvial flats, and the relegation to peasant cultivation of marginal estate lands, inaccessibly high lands and some of the less fertile plains;
- (5) notwithstanding these disabilities it seems to us that peasant agriculture continues to make a contribution to export and local agriculture out of all proportion to its size, resources and tenurial problems;<sup>1</sup>
- (6) agricultural planning and the implementation of a revitalised agricultural policy are confronted by retrenchment on estate lands, inability of estate agriculture to withstand risks and uncertainties either on world commodity markets or local labour markets.

#### THE CASE OF AGRICULTURE

The present paper concentrates on the relationship between alien land ownership and agricultural development. Many of the observations made here may be just as relevant to other sectors. However, there are some basic points of difference, that:

- (1) the land resources of the region constitute the most valuable asset of these territories;
- (2) the attitude to land, and the relationship between man and land transcends pure commercialization;

<sup>1</sup>Here the conclusion reached by Buckmire will offer an interesting insight. See article in this Volume.

- (3) the possibilities for multiple and alternative uses of land currently employed by commercial agriculture require continual justification for such use. Where alternative uses are more profitable financially, or cannot be measured in financial terms, the attractiveness of agriculture is reduced 'pari-passu';
- (4) an invigorated agricultural sector is possible only in concert with the availability of cooperant productive resource inputs. It may be argued that where new enterprises compete with agriculture for these inputs, such competition may disrupt the agricultural system;

#### A DOMINICAN PERSPECTIVE

In referring to the experience of Dominica, one suspects that the comments made may be just as relevant to many other territories in the area. The legal framework encompassing the alienation of land by foreigners is to a considerable extent circumscribed by the Aliens Land Holding Ordinance Ch. 203, amended by Act No. 21 of 1968 and further amended by Act No. 8 of 1969. In effect this Ordinance and subsequent amendments seek to control the purchase and ownership of lands by 'aliens' and 'persons not belonging to Dominica.'

("The expression 'alien' includes a company incorporated in the Colony or in any other part of Her Majesty's dominions if it is under alien control as hereinafter explained and also a corporation incorporated in a foreign country, but shall not include any of the subjects or citizens of a foreign state upon whom there has been conferred by treaty the right to hold land within the Colony.")

("The expression 'a person not belonging to Dominica' means a person who was not born in Dominica and who has not been ordinarily resident in the State continuously for a period of seven years or more:

Provided that the children of the persons born in Dominica whether born in Dominica or not, shall for the purposes of this Ordinance be deemed to belong to Dominica.")

Permission to conclude an agreement to hold lands as an owner or tenant may be granted on application to the Minister responsible for the subject, and if the applicant obtains a licence from him.

It will be noted that the Ordinance stipulates the following information which must be submitted - Section 5, amended by addition of 4A of No. 21 of 1968.

- (a) particulars as to the ownership, location and purchase price to be offered for the land in question;
- (b) the purpose for which the land is to be utilised;
- (c) a plan by a licensed surveyor;
- (d) stamp duty and license fee.

Subsection 3 is of particular significance as it prescribes a recommended procedure in the case of agricultural land.

"Where the land is to be used for purposes connected with agriculture the applicant shall submit with his application such particulars as may be necessary to enable the Minister to ensure that the land will be put to full and efficient use."

Section 5, 4A (3).

Similarly in Section 5, 4A (5).

"The Minister may either grant the application and issue the applicant a license under Section 4 of the Ordinance to hold the land, subject to such terms and conditions as he may consider desirable, or refuse the application and refund any fees paid under subsection (1) (d)."

In summary, the total effect of the Ordinance is:

- (1) to limit control of land by unlicensed aliens and non Dominicans;
- (2) to redefine alien and persons not belonging to Dominica to include persons or companies born in or incorporated in any country outside of Dominica;
- (3) to require that where a licence is granted (and especially in case of lands for agriculture), such persons or companies proceed according to sound practice.

In practice however, a further dimension of control may be exercised by recourse to the granting to the applicant of a permit to reside in the State as a precondition for ownership of land. Criteria for ascertaining the eligibility of the applicant include:

- (1) satisfactory character references;
- (2) the presentation of financial ability to meet the purposes for which the permit is sought;
- (3) a state of good health.

Intending private investors from outside the 'scheduled territories' need to govern their activities with the control set out by the Exchange Control Ordinance Ch. 130. The implied intention of the Ordinance may be gathered from Section 2 (2) of the Ordinance:

"Except with the permission of the Administrator no person resident in the scheduled territories other than an authorised dealer, shall, in the Colony, do any act which involve, in association with or is preparatory to buying or borrowing any gold or foreign currency to any person outside the Colony."

Arising from this piece of legislation, intending investors must seek the approval of government to purchase from and sell currency to dollar areas and, unless explicitly granted permission to operate locally, are effectively restricted from repatriating profits and earnings.

#### The Law and Profits

Emerging from the above is a framework where- by it appears that foreign investment will be welcomed if:

- (a) the applicants assure the authorities of their intention and ability to enter into efficient, satisfactory and conforming use of land;
- (b) such transfers to control of land are permitted, only where native Dominicans (present or potential local owners) are unable to develop the land satisfactorily.

A tentative survey of lands in non-Dominican ownership using the criteria outlined by Ch. 203 and subsequent amendments reveals the following position:

TABLE 1. SIZE AND DISTRIBUTION OF LANDS IN FOREIGN OWNERSHIP: DOMINICA

Size Groups	No. of Farms	Total Acreage
Under 5 acres	11	28
5 - 10 acres	3	26
10 - 50 acres	12	474
50 acres and over	13	5802
Total	39	6330

The above classification relates also to the definitions set out for alien companies or companies under alien control (Ch. 203, 6).

The real implication of the above figures are observable to a great extent in the trends of application that:

- (1) increasingly, there is an interest in purchase of small-size holdings for the construction of residences and subsidiary growing of agricultural products;
- (2) the dispersal of such holdings randomly across the countryside is based on such a criterion as aesthetic appeal rather than on attention to agriculture;
- (3) the emergence of small-size alien holdings often of uneconomic size evidences a minimal attention to purposeful agriculture;
- (4) the tendency for such owners to be seasonal residents undermines any effective attention to purposeful agriculture.
- (5) an emphasis on homesteading;
- (6) only a limited accent on raising of vegetables, fruits, exotic flowers and animals;
- (7) the importance of the rest/retirement factor in land acquisition.

Where applicants have been in the younger age bracket, limited financial resources and knowledge of local farming practices present severe handicaps. The assertion that the rigid control of sale of agricultural lands would limit alien investment in agriculture is questionable. In fact, indications are that while many of the enterprising aliens might have sufficient capital for land purchase, they rely considerably on local financial institutions for working capital.

Further implications for agriculture are significant in that the effect is to remove from production extensive acreages with the following possible effects:

- (a) a denial of these lands to present farmers;
- (b) a question as to whether such remaining parcels constitute economic units;
- (c) a creation of land hunger among adjacent villages which traditionally serviced such lands;
- (d) a diminished investment in the adjacent private lands which have not yet been purchased owing to expectations of capital gains from speculation.

#### An Assessment of the Operation of the Ordinance

No conclusive evidence has ever appeared that non-national proprietorship of land has led to a convincingly higher level of agricultural efficiency. Indeed, in the welfare context the benefits have been questionable. Instances are common of alien estate ownership being the least willing to undertake diversification and further production is predominantly capital rather than labour intensive.

Available records indicate the following characteristics of alien applications:

- (1) a North American or European origin;
- (2) a modal age group of 45-50 years;
- (3) an average size farm holding of 10-15 acres;
- (4) no previous experience in tropical agriculture;
- (5) insufficient capital resources to undertake progressive agriculture;

#### EMERGING TRENDS AND PROBLEMS

At this stage in the operation of the Alien Landholding Ordinance, it is possible to state that in practice, its intentions have not been realised. This is in spite of the added strictures which we have enumerated, and which are at the disposal of the administering authorities. The change in legal status of the class of private investors which before the 1968 amendment might have been considered as having parity with local private investors (being non-alien as well as non-Dominican), has not yet had sufficient time to show its effects. In the context of Carifta to which all the area Commonwealth countries subscribe and, using as a point of departure the possibilities of regionalization of agriculture as well as investments in agriculture, the amendment referred to above calls for re-examination.

A Barbadian entrepreneur wishing to enter agriculture in Dominica to raise produce, optimally for the local and regional market, would be subject to as rigorous examination and structures as a citizen of the United States. The effect of this is to limit regional integration by restricting or barring regional capital transfers.

In the absence of land-use zoning, an alien, after being granted a licence for the specific purpose of agriculture, might in the initial stages of development devote his attention to maintaining existing

cultivation according to the performance clauses of the Ordinance, while at the same time undertaking a major change in land use. The only obvious deterrent to the possibility outlined above is permission required from the Statutory Board, the Central Housing and Planning Authority, should such land be within a one mile fringe along the coast. A more recent control is possible should the lands in question lie in a designated "Water Catchment Area" and should the proposed use be non-conforming. In this case the administering body is also a Statutory Board, the Central Water Authority.

Another possibility lies in the conversion of estate lands to holiday-homes and retirement colonies for aliens. There are advantages in this alternative in that by concentrating such schemes in specified areas, one may minimise the disruption of the spatial organization of agriculture. However, the net effect is the same namely the loss of potential agriculture lands.

The issue of competition between alien and local applicants for land has been the subject of attention. The pivotal issue is the importation into the local economy of land prices related more to the home country of the alien. There are as many market prices for land in Dominica as there are countries, provinces or states from which the buyers come. Actual selling price appears to be related more to the ability of the seller to play off one potential purchaser against another. In its present state, agriculture cannot bid against such offers.

We suggest that fundamentally, the rationale of private investment interest from metropolitan countries has not changed either in intensity, or with respect to the vigor with which it is pursued. Departing metropolitan interests have seldom left viable agricultural units with respect to the crop of the day. When farming operations fail and land is used for real estate development little possibility exists for the return of such land to nationals for use in agriculture.

It is not suggested that there are no benefits in a more liberal administration of the Ordinance. We do suggest, however, that these have been over-rated. There has been little indication that alien ownership has been a proponent of dynamic and progressive agriculture. The allegation that alien ownership might strategically fulfill the role of an agent of change because of its non-attachment to local traditions cannot be easily substantiated. Marshall has said that it is the peasantry of the Caribbean who "were the innovators in the economic life of the community".<sup>1</sup> Alien plantation ownership has not been an agent of modernization to any significant extent. The reason may be found in the initial attrac-

<sup>1</sup>Marshall W.K. Notes on Peasant Development in the West Indies since 1838 in *Selected Paper from the III West Indian Agricultural Economics Conference*, St. Augustine, Trinidad.

tion of the area in terms of its low wage and, until recently, abundant labour supplies in agriculture. Management of alien-owned estates in recent years has been ineffective. Further, new techniques have not been widely disseminated. In Dominica, for example, it has only been in recent years that an apprenticeship training programme has been instituted, centred on the large, including alien, estates.

We have seen that new alien agricultural investors are a problem to local agriculture. Nevertheless, one can suggest that there is one area where serious alien agricultural interest might profitably apply itself. This lies in developing agricultural production of exotic fruits, flowers and animals for the high-priced export markets. This presumes that alien entrants into agriculture should have a general structured knowledge of agriculture since, in initial stages, experimentation will form the major part of farm development activity until desirable quality, sizes and standards have been attained.

#### TOWARDS A POLICY FRAMEWORK

We have ignored the social dimension of the problem of alien land ownership, not because it is an insignificant area for attention, but rather because its significance has already been recognised and already presents a frame of reference. We tend to concur with the assertion that the man who owns the land rules the country. The basic proposition then is that the land should be vested as far as possible in Dominicans. We have suggested that if reciprocal agreements are possible within the Regional economic area, this might validly be extended to include West Indians.

However, where alien ownership of agricultural land has been shown to add to the economic stability of agriculture, in terms of the viability of holdings as full-time employment operations, where the resources and knowledge of the investor are adequate to meet the stated operation, where there is minimal disruption of existing farm holdings, where controls on speculation can be effectively exercised, and where local entrepreneurship is hesitant to come forward into these areas, controlled alien ownership might be permitted.

The question of land prices still remains. As long as the availability of land to the highest bidder continues, the aspirations of progressive native agriculturists will be frustrated and the case for alien sales will be strengthened. We offer three possible choices as bases for action proposals.

- (1) Land-use zoning of agricultural land throughout the State with prescribed land uses within each zone. On the basis of the 'highest and best use' of such lands it might be possible to compute a price range for land, whether for sale to Dominicans or to licensed aliens;