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ON RESOLVING THE PROBLEMS ENTAILED BY THE RENT REDUCTION ACT OF TAIWAN'S LAND REFORM

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I. INTRODUCTION

LAND reform in Taiwan, which began with rent reduction regulations in 1949 and continued with the "land-to-the-tiller" policy in 1953, has been widely acclaimed as a model program.[1] It is not widely known that problems which arose as a result of the reform still linger on after forty years. Specifically, there were still over 62,000 leases regulated under the Rent Reduction Act at the end of 1990 [14, 1991 edition], and the contracting parties of these leases are in essence in a deadlock. The landlords would like to discontinue the leases and reclaim their land, but the tenants refuse to give up the leases, even though for most of the tenants the income from the leased land constitutes only a small proportion of their total household income. Furthermore, while the area covered by these leases accounts for only 3.2 per cent of the total area now under cultivation in Taiwan [14, 1991 edition], the leases exert a negative externality (to be explained below) that reduces their utilization efficiency.

Given this troubling situation, it has been suggested that both the Rent Reduction Act and the Land-to-the-Tiller Act be repealed, and the government has in fact made this a policy goal [20]. It is not yet clear, however, how the conflict of interest between landlords and tenants would be resolved if the act(s) are actually repealed. The aim of the present paper is twofold: first, we want to examine how this deadlock between tenants and landlords has occurred; and second, we would like to propose measures to resolve the conflict between the two parties if the Rent Reduction Act is repealed.

We will proceed as follows. First, we will give a brief description of the scope of the problems in the next section. We will then examine the causes of the present problems in the next two sections. This will be done by analyzing the content of the Rent Reduction Act in Section III. In Section IV, we will try to put the Rent Reduction Act into a sequence of events to gain a historical perspec-

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[1] See, for instance, [8] [13] [10]. Of course the reform has not been judged to be successful by all. See [4] for a different assessment.

tive on the problems. Then, policy recommendations to resolve the problems will be proposed and explained in Section V. Some relevant issues are discussed in Section VI and the final section states our conclusions.

II. THE SCOPE OF THE PROBLEMS

When Taiwan ceased to be a colony of Japan and was returned to the Nationalist government at the end of World War II, agriculture was the major production/employment sector. That is to say, of a population of approximately 6.8 million people, 3.8 million (55.5 per cent) were engaged in agriculture, 2.5 million of whom (65.7 per cent) were either pure tenants or owner-farmers who also cultivated leased land [17] [18, 1952–91 editions]. The Nationalist government, shortly after moving to Taiwan in 1949, determined to carry out land reform out of both economic and political considerations [22]. The rent-reduction policy adotped in 1949 set the stage for the "land-to-the-tiller" policy implemented in 1953. While over 225,000 tenants took this opportunity to purchase leased land from their landlords, approximately 174,000 tenants. This number has declined over the years for various reasons.[2] Table I lists for selected years the number of tenants, number of leases, amount of leased land, the ratio of tenants to total agricultural households, as well as the ratio of leased land to total cultivated area.

A few points should be made about these figures. First, it is clear that the number of tenants dropped significantly in 1953 due to the "land-to-the-tiller" policy, and that the number then continued to decrease from then on. The rate of decline has also decreased over the years. From 1953 to 1977, the number of tenants decreased by an average of 3,481 annually; between 1977 and 1986 the number fell by only 2,562 each year, and between 1986 and 1990 by only 1,430. Second, both Ratio 1 (number of tenants / number of total agricultural households) and Ratio 2 (leased land / total cultivated area) show more or less similar patterns of decline. Third, at the end of 1990, the 62,126 remaining tenants constituted only a small portion of the agricultural population (8.7 per cent), and the 28,818 hectares of leased land also occupied a small part of the total cultivated area (3.2 per cent). To understand the magnitude of the problem, however, these figures should be viewed from a different angle. With an average of 5.8 persons per agricultural household, approximately 360,000 persons (1.8 per cent of Taiwan's total population) belonging to tenant households are affected by the 375-leases.[3] Including the number of people in landlord households, some 3.6 per cent

[2] The major causes for the decline of the number of leases are: (1) the tenant purchased the leased land out right; (2) the landlord retrieved the leased land in some way; (3) the leased land was converted to public facilities; and (4) changes of leased occurred. See [14, 1990 edition].

The significance of these causes has varied over the years. The most important one, however, has always been that the tenant purchased the leased land. Moreover, it should be pointed out that the terms of purchase would have been different if it were not for the accompanying 375-leases (see following footnote).

[3] The term "375-leases" was derived from the Rent Reduction Act, which states that the annual rent under these leases was not to exceed 37.5 per cent of their major annual crops.

TABLE I

TRENDS IN SELECTIVE INDICATORS CONCERNING THE TENANTS UNDER CONSIDERATION

Year	Tenants	Leases	Leased Land (Ha)	Ratio 1 (%)	Ratio 2 (%)
1949	296,043	377,364	256,557	47.7	29.7
1952	302,277	396,002	249,219	44.5	28.4
1953	174,450	216,286	108,757	24.8	12.5
1956	153,937	187,017	92,820	20.6	10.6
1959	143,576	181,790	84,653	18.4	9.6
1962	132,522	157,826	75,544	16.4	8.7
1965	123,247	146,801	70,172	14.5	7.9
1968	106,756	126,988	60,603	12.2	6.7
1971	99,522	116,985	54,136	11.3	6.0
1974	95,034	111,048	50,158	10.8	5.5
1977	90,907	106,056	47,957	10.4	5.2
1980	85,774	99,321	43,762	9.8	4.8
1983	81,235	94,590	41,524	10.0	4.6
1986	67,846	71,126	32,128	8.9	3.6
1989	63,350	65,489	29,433	8.8	3.3
1990	62,126	64,682	28,818	8.7*	3.2

Sources: [17] [18, 1952–91 editions].

Notes: 1. "Tenants" include pure tenants and tenant/owner-farmers.
2. "Agricultural households" include tenants, tenants/owner-farmers, and pure owner-farmers.
3. Ratio 1=number of tenants / total agricultural households; and Ratio 2= leased land / total cultivated area.

* Since the number of agricultural households for 1990 is not yet available, the ratio is calculated using the number from the previous year.

of the total population are affected by the leases. While this still does not constitute a significant part of the total population, considering the negative externality generated by the 375-leases, the magnitude of the problem appears on a much larger scale.

III. THE PROBLEMS EMBODIED IN THE RENT REDUCTION ACT

In this section, we will first examine the articles of the Rent Reduction Act that are pertinent to the problems outlined above, and then propose a hypothesis concerning tenant behavior given these articles. Finally, some data will be presented to validate the hypothesis.

A. *The Present Version of the Rent Reduction Act*

The most recent revision of the act was completed 1983, and allegedly the aim was to make it compatible with the Agriculture Development Act, a measure aiming at strengthening the development of the agricultural sector [16]. The

following is a summary of the articles in the revised Rent Reduction Act concerning the tenant's contractual status [21].

(A) Before the lease is up for renewal, the landlord can discontinue it and reclaim his land if:

(A1) the tenant dies and has no heirs;
(A2) the tenant gives up his cultivation right;
(A3) the tenant owes rent for two years;
(A4) the tenant discontinues cultivation for one year; and
(A5) the leased land is assigned a new land category for nonagricultural use.

(B) When the lease is up for renewal after a normal three-year term, the landlord can discontinue the lease and reclaim the land if the following three conditions are met:

(B1) the landlord can perform the cultivation work himself;
(B2) the landlord's current income cannot cover his own family's normal expenses, or he owns adjoining land so that he can increase the production scale of his own family farm; and
(B3) reclaiming the land will not affect the tenant's livelihood.

(C) If the landlord discontinues the lease and reclaims his land for reasons (A1) to (A4), the landlord does not have to give any compensation to the tenant. In all other cases [i.e., (A5) and (B1)–(B3)], to reclaim his land the landlord has to compensate the tenant with the following items:

(C1) any expenses incurred in improving the fertility of the land;
(C2) the value of the crops to be harvested, if applicable; and
(C3) one-third of the official land value, after the value appreciation tax is paid.

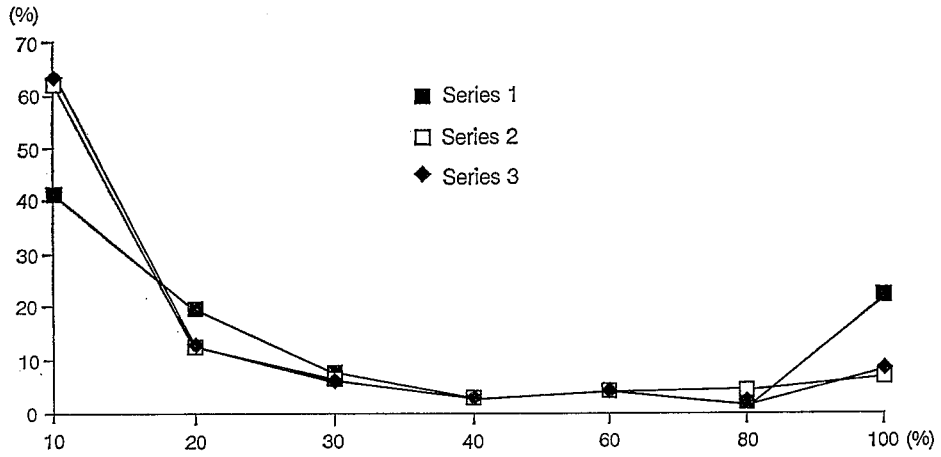
B. *Right-to-Cultivate and Right-to-Compensation*

It is clear that the act essentially assigns two kinds of legal right to the tenant: the right to cultivate the land and, given the occurrence of certain events, the right to compensation. The tenant's right to cultivate is preserved (or protected) by way of setting up the strict (B) restrictions to make it very difficult, if not impossible, for the landlord to discontinue the lease and reclaim his land. I should be noted that to terminate the lease when it is up for renewal, the landlord has to satisfy *all* the (B) requirements. Moreover, whether the requirements are actually fulfilled is not easy to verify, as is clear from the wording of the articles. This further deters the landlord from trying to terminate the lease and reclaim his land.

A delicate but crucial difference between the tenant's right to cultivate and his right to compensation is that the value of these rights are essentially based on two different criteria. While the right to cultivate depends on the value of the major crops, the right to compensation obviously depends on the value of the leased land. These two are not necessarily compatible. In other words, land has many characteristics, and the value of the land is the sum of the values of these characteristics.[4] Over time, the values of the characteristics may evolve and vary.

[4] See the discussions in [11] [19].

Fig. 1. Income from Different Sources as Percentage of Total Tenant Household Income



Source: [12, pp. 56–58].
Notes: 1. Number of tenants surveyed was 290.
2. Values on the horizontal axis are ranges (e.g., 20 refers to 10–20 per cent).
3. Series 1=ratio of income from 375-share leases tenant's total household income; Series 2=ratio of income from leased land to tenant's total household income; and Series 3=ratio of agricultural income to tenant's total household income.

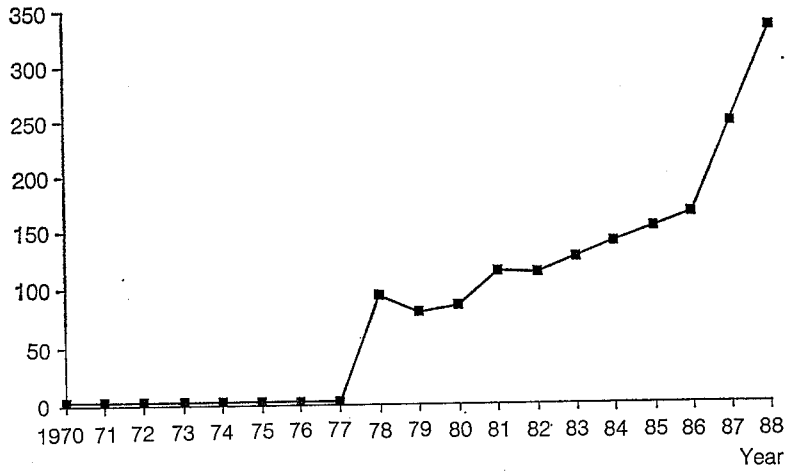
More specifically, when the nonagricultural aspect of a piece of land becomes important (for instance, if it can be converted into a construction site for apartments or commercial buildings) then the value of the land would depend mostly on its nonagricultural characteristics. As such, it follows that the relative significance of the legal rights granted to the tenant may change over time.

In view of this situation, the following hypothesis can be proposed concerning the tenants whose leases are regulated by the Rent Reduction Act: "When the value of land rises continuously, the tenant will utilize his right to cultivate in order to realize his right to compensation."

C. *Some Evidence*

We present two pieces of evidence to support this hypothesis. Figure 1 reflects the importance of income from different sources to tenants who in 1986 held leases regulated by the Rent Reduction Act. The horizontal axis shows the ratio of agricultural income, income from leased land, and of income from 375-leases to the total household income of the tenants surveyed. The vertical axis is the percentage of the sample households belonging to different categories. It is quite clear that for most of the tenants income from any of the three sources amounted

Fig. 2. Ratio of Official Land Prices to the Value of Crops Produced for Sample Holdings



Source: [7].

to only a small portion of their household total income. For example, for approximately 61 per cent and 75 per cent of the surveyed households, agricultural income generated from leased land accounted for less than 20 per cent of total household income. Moreover, over 77 per cent of the sample households received less than 20 per cent of their income from the 375-lease. These figures indicate that for most of the tenants their reason for maintaining the tenancy relationship was not simply to retain a major source of income. We must look for other reasons.

It has been argued above that the value of land comes mainly from its function in two different production processes, agricultural production and nonagricultural production. Therefore, as a result of the urbanization process, the value of the land is likely to derive mostly from its nonagricultural aspect (e.g., being used for construction). Figure 2 illustrates this observation. The horizontal axis is the year; the vertical axis is the ratio of the official land price of sample holdings to the value of crops produced by holdings of equivalent sizes.

The figure shows the dramatic increase in land values over the past ten years. Since the price of rice (the main crop) and agricultural productivity, two factors determining the agricultural value of the land, did not vary significantly during this period, the appreciation that took place in land values came mostly from its potential value for nonagricultural use. Moreover, while we have used the official land price to obtain the ratio, it is worth pointing out that the official land price is different from the market price. The former is for tax purposes and is recorded by the Land Affairs Bureau at the county level; the latter is the actual transaction price determined by the buyer and seller. The difference between the two obviously

depends on the location and the nature of the particular holding, as well as on market conditions. Rough estimates have it that the market price of leased land is generally two to five times greater than the official price, and in some cases may as high as twenty times greater [12, pp. 107–10].[5]

The hypothesis stated above cannot be proved but, given that tenants are rational individuals seeking self-interest, the two figures clearly indicate that the hypothesis is plausible. Before we move to the next section, one additional piece of information may help illustrate the tension between landlord and tenant. Tables II and III have been compiled from three recent surveys about the terms that tenants and landlords each consider acceptable in resolving the problem of property rights to leased land.

The surveys covered only a small proportion of the existing 375-leases, so the numbers therefore may not be representative of the general attitudes of tenants and landlords. The surveys do, however, reflect a consistency in attitudes that warrants attention. Table II indicates that in reclaiming their land, about 20–33 per cent of the surveyed landlords are not willing to give the tenants any compensation at all. On the other hand, a similar but slightly larger percentage (22–42 per cent) of the landlords are willing to give the tenants one-third of the official price to reclaim their land. Table III shows that a significant percentage (25–49 per cent) of the tenants want half of the land in return for agreeing to discontinue their 375-leases, and that 19–30 per cent of the tenants will not return the land on any terms. The tenants' attitudes are somewhat surprising, since the Rent Reduction Act only grants the tenant compensation when certain conditions are met, which is quite different from granting the tenant rights over the leased land. In any case, it is clear from the tables that tension does exist, and there is obviously a gap between the compensation that landlords are willing to offer tenants and that which the tenants are willing to accept.

IV. THE SEQUENCE OF EVENTS AND ITS IMPACT

The probable behavior of tenants given the regulations of the Rent Reduction Act basically represents a cross-section analysis in the sense that the focus was on the current stipulations of the Rent Reduction Act. Tenants' concerns, however, have been shaped by other factors as well. This section will briefly examine these other factors and their impact.

A. *The Sequence of Events*

The relevant historical events surrounding the Rent Reduction Act may be summarized as follows.[6]

[5] The gap between the agricultural value and the commercial value of the leased land also had an adverse effect on the tenant's motivation for cultivation. One survey indicates that a surprising 32.14 per cent of the surveyed tenants left parts of their leased lands uncultivated. To maintain their status as tenants, they simply pay the rents in cash or with purchased grains. See [1].

[6] For a more complete historical account, see [12] [23].

TABLE II

TERMS UNDER WHICH LANDLORDS ARE WILLING TO COMPENSATE TENANTS TO RECLAIM THEIR LAND

(%)

Year	Terms for Reclaiming Land									Sample Size
	No Compensation Offered	Give the Tenant Half of the Leased Land	Give the Tenant Half the Market Price	Give the Tenant Half the Official Land Price	Give the Tenant One-Third of the Leased Land	Give the Tenant One-Third of the Market Price	Give the Tenant One-Third of the Official Land Price	Other	Total	
1981	32.5	9.3	3.4	—	18.0	5.5	26.4	4.8	100	707
1984	33.3	3.9	1.9	1.0	10.0	7.5	22.2	20.1	100	921
1987	19.0	3.6	4.8	8.3	9.5	7.1	41.7	6.0	100	84

Source: [12, p. 91].

TABLE III

TERMS UNDER WHICH TENANTS ARE WILLING TO RELINQUISH LEASED LAND

(%)

Year	Terms to Relinquish										Sample Size
	Receive Half the Leased Land	Receive Half the Market Price	Receive Half the Official Land Price	Receive One-Third of the Leased Land	Receive One-Third of the Market Price	Receive One-Third of the Official Land Price	Do Follow Government Regulations	Will Not Relinquish on Any Terms	Other	Total	
1981	49.3	7.1	0	4.5	3.4	0.7	—	30.3	4.7	100	3,927
1984	25.5	7.1	0.6	1.5	1.3	0.5	35.3	18.8	9.4	100	4,119
1987	38.5	7.1	0	1.6	1.0	5.1	10.5	30.1	6.1	100	296

Source: [12, p. 91].

1. In 1949 a rent reduction policy was implemented in Taiwan Province. The amount of rent was not to exceed 37.5 per cent of major annual crops.
2. In 1951 the Rent Reduction Act was passed to give legality to the 375-lease policy carried out two years before. The tenant was given priority in purchasing leased land when it was offered for sale [15].
3. In 1953 the Land-to-the-Tiller Act was passed along with a public land distribution measure.
4. In 1973 the Agriculture Development Act was revised in the following manner: (i) lease agreements made under this act were not regulated by the Rent Reduction Act; (ii) sharing of expenses, the distribution of revenue and the length of time covered by the lease were to be determined by the contracting parties; and (iii) upon expiration of the lease, the landlord could reclaim his land with no obligation to pay the tenant any compensation [21].
5. In 1977 the Land Ownership Equalization Act was revised to include Article 11 which states, "when land is acquired by the government for public use, the tenant of said land will receive one-third of the purchase price after the value appreciation tax is paid" (translated by the author) [21].
6. In 1983 the Rent Reduction Act was revised to include an article similar to Article 11 of the Land Ownership Equalization Act. In addition, compensation to the tenant was extended to changes in the land category to nonagricultural use (see Section III).

B. *The Impact*

From this background, we can make several observations. First, when the Land-to-the-Tiller Act was implemented in 1953, over 225,000 tenants took the opportunity to purchase their leased land at a very low price (officially set at 2.5 times the value of the annual main crops).[7] Landlords were allowed to keep a certain amount of their land, the exact amount depending on land quality [21]. Tenants who rented their landlords' holdings exceeding those allowed by law thus had the opportunity to purchase it, while those who rented the holdings allowed by law did not. This accounts for the complaint often raised by current tenants that, if they had been cultivating the landlord's holdings exceeding those allowed by law, they would have purchased the leased land a long time ago. Therefore, since it was "not their fault," they tend to feel that somehow they have a certain right to some of their leased land. This feeling is quite widespread among tenants. In addition, because they have been tied to the land for over forty years, tenants feel that, "even if they do not own the land, they certainly have sacrificed a lot on its behalf." Therefore, they feel that they are "entitled" to part of the leased land, or at least feel that their leased land cannot be taken away from them without "reasonable compensation."

The second observation concerns the tenant's right to priority in any purchase of their leased land. Due to the transactions involving holdings with 375-leases that have taken place over the years, customs have developed which have now

[7] Tenants continued to purchased the leased land afterward, but the numbers dropped significantly after 1953. See footnote 2.

become common practice. That is to say, if the land is acquired by the government according to the official price, which is normally much lower than the market price, then both the landlord and the tenant simply feel regret over an unlucky event. The tenant gets approximately one-third of the official price less the value appreciation tax as stipulated by law. If, however, the land is purchased by a nongovernment party, then the landlord has to compensate the tenant with a reasonable amount in order to persuade him to relinquish the right to purchase the land. The amount of compensation varies, but the common practice is for landlords to pay tenants about one-third of the transaction price, after the value appreciation tax is paid. This amount (one-third of the transaction price) can amount to several times the official price of the whole holding, as indicated above.

A third observation concerns the externality created by the Rent Reduction Act. In determining the optimum use of their land, landowners will try to avoid signing a 375-lease agreement. The reason is obvious. They fear that the government will implement another phase of the "land-to-the-tiller" policy, resulting in them losing their land. They also fear that once they sign such an agreement, it would be very difficult, if not impossible, for them to reclaim their land. The compensation that the landlord has to pay the tenant, as stipuated by the Rent Reduction Act and the Land Ownership Equalization Act, also contributes to the reluctance of landowners to lease their land. There are several consequences of this. First, the landowner, when his land is free for leasing, may simply hold it fallow, if he cannot afford to carry out the cultivation himself. Second, the landowner may cultivate the land himself but in a half-hearted, wasteful manner; e.g., grow crops that do not require intensive methods. Third, to avoid possible legal tangles, the landowner becomes less likely to enter into joint cultivation agreements with other landowners. Fourth, "illegal" contracts containing terms in violation of the Rent Reduction Act have begun to appear. Since these contracts are against the law, they are usually made by oral agreement between the landowner and the tenant. As such, these contracts lack legal support and often lead to disputes. While there is no quantitative documentation concerning such a practice, major studies all mention its widespread prevalence.[8]

From a national point of view, 375-lease holdings and non-375-lease holdings are essentially under two different legal frameworks. That which governs the former exerts a negative externality on the utilization of the latter. Recognizing the detrimental effect of the 375-lease, the government in 1973 passed the revised Agriculture Development Act, which allowed landowners to sign new lease agreements without any restrictions on the terms. This, however, did not significantly improve the situation. For landowners, the legal difficulties and the psychological impact resulting from the rent reduction / "land-to-the-tiller" policies seems to be simply too great to be overcome.[9]

[8] See, for example, [23] [12] [1].

[9] Other aspects of the differences between holdings covered by the 375-leases and other areas certainly warrant inquiry. A survey completed in 1978 showed that the cultivation by owner-farmers was more efficient, but not by much. See [9].

V. POLICY RECOMMENDATIONS

Based on the above analysis, we propose two policy measures to resolve the current impasse between landlords and tenants over 375-leases. The first is to help the landlords reclaim his land and to compensate the tenant; the second is to issue a "tenant certificate" to the tenant and let the landlord reclaim his land.

A. *Landlord Reclaims the Land and Tenant Receives Compensation*

Since the landlord is entitled to his land, and the tenant in general does not greatly depend on the income received from his leased holding, returning the land to the landlord is not only consistent with the law, but also economically feasible to both parties. The tenant, however, has to be compensated for giving up his cultivation right. The following specific measures could be implemented.

1. The tenant is offered a certain amount of money and a low-interest loan as compensation. The former amount is paid "as if" one of the conditions under the Rent Reduction Act were met, and therefore a certain percentage of the official price of the land is paid to the tenant, the actual percentage being determined by the government or by the legislative process.
2. The low-interest loan is offered by the government. Its purpose is to make it easier for the tenant to give up his leased holding. The tenant has to pay interest on the loan.
3. The lump-sum payment also takes the form of a loan. The tenant takes the money, but the landlord assumes the responsibility of paying back the loan. The government again finances the loan.
4. With mutual agreement, the landlord and the tenant can continue their contractual relationship, but now under the regulations of the Agriculture Development Act, which allow the contracting parties to determine the terms freely.

The rationale for these measures is clear enough. Since the landlord is the title holder of the land, it is clear that he should be allowed to reclaim his land, regardless of how difficult the present Rent Reduction Act makes it. The tenant's welfare, however, must be protected. It seems reasonable to offer him a lump-sum payment commensurate to the compensation he is entitled to receive as stipulated by the Rent Reduction Act. The government's offer of an additional loan to the tenant in essence increases the size of the cake to be divided, so as to make the offer more acceptable to both parties.

There are several potential problems with these measures. First and foremost, it is difficult to set the proper level of compensation for leased land. One-third of the official land price less the value appreciation tax is not likely to be acceptable to the tenant, because the land is not purchased by the government, but reclaimed by the landlord. Second, since the government has to offer both a loan to the landlord and a loan to the tenant, it has to come up with the funds, and this is not going to be a small amount.[10] Third, the tenant and/or the landlord may have

[10] See [1, p. 155] for an estimate. Their suggestion, however, is that the government offer a loan to enable the tenant to purchase the leased land from the landlord.

problems repaying the loans due to credit constraints. Fourth, the tenant, the landlord, and the government will become contracting parties with regard to the loans, meaning that the relationship will be different from the current one, which involves only the tenant and the landlord. The degree of involvement of the government will be much deeper with a loan arrangement than with the present situation. Whether the government is willing to become involved in such a situation is still an open question. All of these problems may make the government reluctant to adopt this policy.

B. *Issuing a "Tenant Certificate"*

An alternative and more innovative measure is to issue a "tenant certificate" to the tenant granting him certain rights. In return, the tenant gives up his lease and returns the land to the landlord. The following specific measures could be implemented.

1. The government conducts an overall cleanup of the 375-leases still in effect. Current holders must offer relevant documents to prove the legality of their status as tenants and the landlords must do the same.

2. Upon completion of this, the government issues a "tenant certificate" to the legitimate tenant, which confirms the identity of the tenant. In addition, the certificate states: (i) the holder has priority in purchasing the land; (ii) if the holder gives up his priority, he receives a certain percentage of the transaction price (to be explained below) after the value appreciation tax is paid; and (iii) if no transaction occurs after a certain length of time (e.g., thirty years) then the holder may ask the governing agency to auction off the land in order to receive the amount stipulated in (ii).

3. Once the tenant certificate is issued, the tenant gives up his lease and the landlord reclaims the land. If the parties decide to continue their contractual relationship, the new lease is to be regulated under the Agriculture Development Act.

What percentage of the transaction price is to be given to the tenant will be determined by the government or by the legislative process. Since this policy is aimed at solving the conflict between landlords and tenants, this method of determination must be acceptable to the majority of the parties concerned. As such, adopting the commonly accepted practice as the standard seems to be a good idea: namely, the tenant gets one-third of the transaction price after the value appreciation tax is paid.

The rationale for issuing the tenant certificate stems from its practical benefits to both parties. While under the current laws the tenant receives as compensation approximately one-third of the official land price after the tax deduction is made, the tenant certificate stipulates compensation according to the transaction price. As explained above, the difference between the two may be several times greater than the official land price. The advantage of using the transaction price as a standard is that it is consistent with the common practice now in effect: if the land is purchased by the government according to the official land price, the tenant gets one-third of the purchase price net of deductions; or if the land is purchased

by a third party at the market price, then the tenant gets (approximately) one-third of the transaction price net of deductions. Compared with reclamation for compensation policy recommendations, issuing a tenant certificate is more in accordance with what landlords and tenants are actually doing now.

In addition, issuing a tenant certificate is less demanding in terms of government involvement. Compensation is made when the transaction occurs, and since transactions will occur only when potential buyers have the necessary financial resources, the government does not have to provide the funding as in the former policy recommendation.

However, several potential problems still remain with issuing a tenant certificate. First, the landlord may collude with others to set a low transaction price (e.g., sell the land to his close relatives), so that the tenant receives less compensation. To avoid this, the tenant certificate should grant the tenant priority to purchase the land. When the land is up for potential sale, the landlord has to notify the tenant of the price. If the tenant considers the price too low, he will have the opportunity to purchase the land at that price. This right of the tenant certainly might have a deterrent effect on possible transactions (as compared with transactions of other land without the complication of a tenant certificate), but the cost is likely to be much less than the benefit of protection it gives to the tenant.

Second, a tenant certificate market may form to trade this "commodity." This would make the relationship between the landlord and the certificate bearer much too complicated. Therefore, it should be stipulated by law that the transfer of the tenant certificate be limited only to the decendents of the bearer, which is consistent with the current regulation that the tenant's right to renew the contract can be passed on to his heirs.

Third, after reclaiming the land, the landlord may put the land to other uses (e.g., constructing a family residence or converting it into a fishery). In such a case, no transaction would occur and the tenant would never be able to realize his right to compensation. To prevent this from happening, the land for which a tenant certificate is issued should not be allowed to be used for nonagricultural purposes. This would force the landlord to negotiate with his tenant and get the tenant certificate problem resolved before he can put the land to other uses.

Fourth, how tenants and landlords would regard a tenant certificate is difficult to assess. For most of the landlords, getting the land back means that its liquidity increases. At the same time, however, they lose rent income (although this may be merely a nominal amount). On balance, it is conceivable that the majority of the landlords would support such a policy in preference to the present impasse. The case for the tenants is more complex. While the tenant certificate essentially recognizes the tenant's right to a certain portion of the land, as opposed to getting only one-third of the official land price under the current laws, it does not broaden the tenant's rights beyond the boundaries of the present practice. It is true that the tenant would not have to pay any annual rent after the tenant certificate is issued, but it is also true that the tenant would no longer have direct control over the land. A compensation of one-third of the transaction price is an uncertain promise, and when or whether it will be fulfilled is difficult to tell. This may make tenants hesitant about accepting a tenant certificate arrangement.

C. *A Short Summary*

The two policy measures recommended above have both advantages and drawbacks. The first measure can solve the problem within a shorter time period, but it also means much more government involvement. A tenant certificate system would dissolve current leases over time individually, so no general barriers are likely to arise. It is clear, however, that strong support from the legal system is a prerequisite for the tenant certificate measure to work smoothly [6].

In addition, it should be noted that resolving the problems of 375-leases will not only increase the efficiency of the economic activities of the tenants and landlords concerned, but it will also enhance the utilization efficiency of other land. With the extinction of the 375-share lease, landowners will no longer feel concern (or will at least feel less concern) about leasing their land or entering into cooperative cultivation agreements. As such, the efficiency of land utilization overall will increase, though it is difficult to quantify this.[11]

Which of the two policy recommendations is better in terms of feasibility depends on many factors. At present, we can only say that a careful feasibility study is needed to examine the potential advantages and disadvantages of each measure.

VI. DISCUSSION

A. *Other Policy Proposals*

In addition to the two policy recommendations discussed in the above section, other proposals have appeared in the literature. Let us briefly review two of them. The first suggests that the government carries out a second phase of its "land-to-the-tiller" policy to help current tenants purchase their leased holdings [23, pp. 154–55]. The main rationale is that "land-to-the-tiller" is a national policy laid down in the constitution, and therefore should be fully implemented.[12] There are two major difficulties with this proposal. First, land now retained by the landlord is legally protected (under the Land-to-the-Tiller Act), so that taking it away and giving it to the tenant requires a significant revision of the act. In addition, if the policy is to be implemented, it cannot be discriminatory, meaning land covered by leases other than the 375-type (i.e., those regulated by the Agriculture Development Act) would also have to be included. This would amount to a redistribution of property rights on a large scale. Current public sentiment does not seem to support these measures. Second, giving land to the tenant means that the landlord must be compensated. The standard of compensation is difficult to determine. If it is determined according to the market price, then the tenant and the landlord can negotiate it themselves now; but if it is determined according to the official land price, then landlords will understandably fight against the measure,

[11] It is unlikely that if the Rent Reduction Act is actually repealed, land utilization of both land covered by 375-leases and other land will change drastically. Time is needed for the positive impact to be felt.

[12] Article 143 of the Constitution of the Republic of China states that "the state is to help foster owner-cultivator with respect to land distribution" (translated by the author). See [21].

making it a political issue. It is unlikely that the government wants to be involved in such a controversy.

Another proposal for solving the problems stemming from the 375-lease is "to let time be the solution." That is, since the number of leases is decreasing over time, "after some twenty to thirty years, all leases will disappear" [12, pp. 95–98]. The rationale for this proposal is that the regression line (the number of leases as the dependent variable and the year as the explanatory variable) touches the horizontal axis (the year) in twenty-five to thirty years' time. There are two problems with this line of reasoning. The first concerns the methodology. An extrapolation of the regression line implies that the conditions underlying the relationship are assumed to stay constant over time. Since the economic conditions in general, and the parties' conditions in particular, all change over time, it is difficult to justify such a simplistic assumption.

A second argument against the proposal is more subtle. Since the number of the leases does have a decreasing trend, sooner or later (perhaps not after twenty-five to thirty but one hundred years) all the leases will disappear for one reason or another. So we could just let the problem take its own course and fade away "naturally." Well, letting time solve the problem means that the landlord and the tenant are tied to the leased holding during the whole process, with a consequent loss of efficiency. Moreover, 375-leases exert a negative externality on other land, as mentioned above. Therefore, efficiency loss on other land is also incurred during the process. Giving a quantitative estimate of the efficiency loss is beyond the scope of the present paper.[13]

B. *Some Hindsights*

We offer here two observations about what could have (or should have) been done to avoid the problems caused by the 375-lease.

It is generally accepted that the Rent Reduction Act was the first step in Taiwan's postwar land reform, followed by the Land-to-the-Tiller Act [2] [3]. When the Land-to-the-Tiller Act was actually implemented in 1953, it limited the amount of land that a landlord was allowed to keep. As explained above, land exceeding the limit was to be given up by the landlord and purchased by the tenant at the official price (two and half times the value of the annual main crops). Those leases involving the land kept by the landlord were to remain in effect and were to be regulated under the Rent Reduction Act. Accordingly, it is not clear why the Rent Reduction Act was not revised to accomodate the implementation of the Land-to-the-Tiller Act. If the Rent Reduction Act had been revised so that it was applicable for only a limited period (e.g., ten years) then the leases with the artificially low 37.5 per cent rent ceiling would have had disappeared after that time, and new contracts would have had been made by voluntary agreement between landlord and tenant. As such, interference by the government in private contracts would have ceased. Therefore, the government's mistake was that it did not foresee that keeping the Rent Reduction Act in effect would create two kinds of lease agreement: one with the artificially low 37.5 per cent rent ceiling and another with

[13] We can only say that it is very difficult, if not impossible, to estimate the overall efficiency loss now being incurred and that which will accumulate over time.

whatever terms were agreed upon by the landlord and the tenant. The very existence of the first type of contract therefore has exerted a negative externality on the second kind, as explained above.

Even if the Rent Reduction Act had followed the Land-to-the-Tiller Act, a mistake could have been avoided in 1977 when the Land Ownership Equalization Act was revised. Article 11 of the revised version was concerned with compensating the tenant when land is purchased by the government for public use. It stipulated that the tenant was to receive one-third of the official land price net of the value appreciation tax plus some other items of compensation, as explained in Section III. It is not clear why legislators should have used the official land price as the compensation standard. If the standard had been the price of the major crops (e.g., two and half times the value of the major annual crops), then the situation would have been entirely different. With the value of the crops as a standard, the tenant, in determining whether to continue his lease, would be comparing the discounted value of the crops (the value of continuing the relationship) with the compensation (the value of discontinuing the relationship). These two amounts use the same dimension, i.e., both are in terms of the value of the crops. Using the official land price as the reference, however, is quite different. As explained above, when the price of land stems less from its agricultural aspect than its nonagricultural aspect (e.g., for construction use), the tenant would wind up comparing the values of continuing and discontinuing his lease on quite a different basis. It would then be clear that, even when cultivating the land is not profitable economical, the tenant would not give up his lease if the price of the land skyrocketed with urban development. It can only be concluded that, in hindsight, basing the level of compensation on the official land price was not good legislation.

VII. CONCLUSION

Land reforms have always meant changes and interactions involving the nonagricultural as well as agricultural sector.[14] The acclaimed land reforms of Taiwan in the 1950s were no exception. The smooth implementation of the Rent Reduction Act and the Land-to-the-Tiller Act contributed to rapid rural development and supplied funds for industrial growth. This paper analyzes problems which arose as a result of the reform measures. The 375-share lease lingers on, even though the income it generates is no longer economically significant. As a result of inappropriate legislation, tenants holding 375-leases are now merely utilizing their legally protected cultivation rights to realize their right to compensations. The ensuing impasse between landlords and tenants adversely affects not only leased holdings, but other land as well. While it is difficult to give a quantitative estimate, the losses are real and accumulating.

We have offered two measures to resolve the impasse. The feasibility of the measures depends on how the measures are actually carried out as well as on other policies, such as a land nationalization policy that would make the impasse almost meaningless. Whether the government will simply let time erase the 62,000

[14] See the succinct discussion offered in [5].

or so leases now in existence is difficult to predict, but it would be well for students of land reform the world over to remember the lessons learned from Taiwan's experience.

REFERENCES

1. CHANG WEII, et al. *Sanqiwu zudian tudi chuli fangfa zhi yanjiu* [A study on the arrangement for the land of the 375-share leases] (Taipei: Ministry of Interior, 1984).
2. CHEN CHENG. *Ruhe shixian gengzhe you qidian* [How to implement the land-to-the-tiller policy] (Taipei: Cheng-chung Publishing Co., 1954).
3. ————. *Taiwan tudi gaige jiyao* [A chronicle of Taiwan's land reform] (Taipei: Chung-hwa Books, 1961).
4. CHEUNG, S. N. S. *The Theory of Share Tenancy* (Chicago: University of Chicago Press, 1969).
5. DE JANVRY, A. "The Role of Land Reform in Economic Development: Policies and Politics," *American Journal of Agricultural Economics,* Vol. 63, No. 2 (May 1981).
6. DEMSETZ, H. "The Exchange and Enforcement of Property Rights," *Journal of Law and Economics,* Vol. 7 (October 1964).
7. HSIUNG BINGYUANG. "Shilun 'gengdi sanqiwu jianzu tiaoli' shang zhi tudi suoyouquan wenti" [On the property right issue of the Rent Reduction Act], *Jingshe fazhi luncong,* No. 5 (July 1990).
8. HO, S. P. S. *Economic Development in Taiwan: 1860–1970* (New Haven, Conn.: Yale University Press, 1978).
9. HUANG MEIYIN. "Taiwan zigeng yu zudian nongchang jingji xiaolii zhi shizheng fenxi" [An empirical study of the economic efficiency of the leased farms and owner-operated farms], Monograph, Department of Agricultural Economics, National Taiwan University, Taipei, 1980).
10. KOO, A. Y. C. *The Role of Land Reform in Economic Development: A Case Study in Taiwan* (New York: Praeger, 1968).
11. LANCASTER, K. "A New Approach to Consumer Theory," *Journal of Political Economy,* Vol. 74, No. 2 (April 1966).
12. LIN YINYAN. *Xiaochu zudian zhidu zhi yanjiu* [A study on the disolution of tenancy] (Taipei: National Chengchi University, 1987).
13. RANIS, G.; KUO, S. W. Y.; and FEI, J. C. H. *The Taiwan Success Story* (Boulder, Colo.: Westview Press, 1981).
14. Republic of China, Taiwan Provincial Government, Land Department. *Statistical Yearbook of Taiwan Provincial Land Administration, Taiwan* (Taipei).
15. Republic of China, Legislative Yuan. *Diyijue lifayuan huiyi sujilu* [Records of the first meeting of the Legislative Yuan] (Taipei, 1951).
16. ————. *Lifayuan gongbao* [Official report of the Legislative Yuan], Vol. 72 (Taipei, 1984).
17. Republic of China, Ministry of Interior, Department of Statistics. *Statistical Abstract of Interior of the Republic of China, 1990* (Taipei, 1990).
18. Republic of China, Taiwan Provincial Government, Department of Agriculture and Forestry. *Taiwan Agricultural Yearbook* (Taipei).
19. ROSEN, S. "Hedonic Prices and Implicit Markets: Product Differentiation in Peru Competition," *Journal of Political Economy,* Vol. 82, No. 1 (February 1974).
20. "Shelum" [Editorials], *Gongshang shibao,* July 20, 1989.
21. TAO BAICHWAN, et al., eds. *Lufa quanshu* [Book of laws] (Taipei: San-Ming Books, 1988).
22. WANG TZUOZONG. *Women ruhe chuangzaole jingji qiji* [How we created the economic miracle] (Taipei: Times Publishing Co., 1989).
23. YIN JANFU. *Sanqiwu chuzu gengdi yezhu diannong jingji zhuangkuang ji qigengdi shiyong* [A study on the economic status of the landloards/tenants and on the land utilization of the 375-share leases] (Taipei: National Chengchi University, 1982).