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WORKING PAPER N° 257

Legalizing Squatters, Excluding the Poorest:
Urban Land Transfer Programs in the Philippines

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Introduction

The most effective instrument of poverty alleviation is the city itself. In the Philippines like in other developing countries, cities serve as a safety valve for the struggling rural economy. Each year hundred thousands of migrants come to Metro Manila and a few other urban centers to escape from the absolute poverty of the countryside and look for 'greener pastures' as some of them put it. Many fail and either return to the provinces or become part of the growing numbers of homeless pushcart dwellers and street people. Many more, however, manage to get one of the low-paid occupations which the metropolis so amply provides and join the ranks of the so-called urban poor. In the course of the years they adapt to the urban environment and tap more of its resources and opportunities, thereby further alleviating their own poverty.

The fundamental precondition of this process is precarious though: It is access to urban space which means access to the city itself. Earlier resettlement programs have failed because the beneficiaries could not secure their livelihood in remote relocation sites and returned to squatter colonies in Manila. To date, neither the market nor the state have accomplished much in terms of mass housing; more than half of Manila's population is living in illegal settlements on public or private land, among them otherwise respectable persons like policemen and teachers. Squatting has long been seen as detrimental to sound urban development and orderly planning. Under the conditions of skyrocketing land prices and low income levels – which are typical for a globalizing metropolis –, however, alternative solutions do not come easy.

Sustainable programs of urban poverty alleviation have to take the problem of affordable access to land into consideration for several reasons which will be discussed in detail in the following sections of the paper. First, the land issue determines the target group: In the Philippines, the terms 'squatters' and 'urban poor' are used interchangeably, and as I will argue, quite adequately so. Second, it is crucial for reaching the target group: Too many so-called socialized housing projects and slum upgrading measures have exclusively served the middle classes because the land price alone made them unaffordable for the poor. Third, it addresses the self-defined needs of the target group: Most of my respondents say that 'land' is the most pressing problem they are confronted with. Fourth, insecurity of tenure is a major detriment of investments: As squatters are forced to keep their property mobile they are reluctant to put money into productive ventures.

The Philippines' 'Community Mortgage Program' is based on lessons from the past and reacts to the demands of non-government organizations (NGOs) and grassroots groups.

Its emphasis on on-site development and its goal of legalizing existing squatter settlements allow to preserve the tremendous economic value produced through self-help housing efforts. The program, however, is no panacea; apart from problems of implementation and financing, it excludes substantial parts of the population and leads to – or rather, uncovers – divisions and conflicts among the apparently homogenous group of the urban poor. The unintended consequences of land transfer programs will be the subject of the concluding section.

Access to Land as Key Factor of Urban Subsistence

Conventional definitions of the urban poor tend to combine impressionistic descriptions and analytical categories regarding physical, social and economic aspects, resulting in different mixtures. The Philippine newsletter Anawim (3/1987: 4), in a quite typical approach, delineates the group as follows: 'The urban poor have been commonly associated with unemployment, shanties, overcrowding, filth, stink of uncollected garbage, lack or total absence of social services, malnutrition and just about everything that makes life miserable. The urban poor are usually migrants from the provinces who end up as vendors, scavengers, baggage boys, hawkers, laundrywomen, shoeshiners, car-watchers and beggars. For some who are lucky enough to land in regular jobs, they are the low-income industrial and service workers.' Other definitions add the lack of education and skills or a high crime rate as characteristics of the urban poor.

Following these definitions, the urban poor appear to have nothing in common but a lack of money: Some are unemployed or work in the informal sector, but others are factory workers, office clerks or security guards; many have migrated from the provinces, but being born in Manila is certainly no protection from poverty; whereas the 'typical' educational attainment is said to be elementary (Ramos-Jimenez *et al.* 1986: 16; in fact it is rather 'some highschool') there are highschool and even college graduates among the poor; and eventually, high criminality as well as a generally miserable quality of life are assertions based on little empirical evidence. 'In short, the urban poor are heterogeneous, even in any one city' (Nelson 1979: 6); in my work I found evidence that they are heterogeneous and diverse in any one small settlement.

To make the remaining common characteristic, namely low income, the basis of a definition leads to a dead end as well. There are basically two ways to lay down the poverty threshold: The relativist approach defines the poor as the poorest 30% (or one third, one half etc.) of the population, making discussions about how many poor people there are obsolete because this ensues trivially from the definition. The objectivist, more sophisticated approach adds the prices of what is considered as 'basic needs', from food and housing to transportation and education, to an amount that allows a 'decent life'. I need not explain that both methods are absolutely arbitrary and dependent on political, rather than analytical, decisions. In the Philippines, the objectivist approach is used, but rather inconsistently: At times there were 'at least 11 poverty lines or standards established by as many government and private agencies' (Ramos-Jimenez *et al.* 1986: 14).

Arbitrariness, however, is not even the weakest point of a threshold approach. Census-based data on urban poverty have not only been collected by unskilled and underpaid interviewers but are severely distorted in two ways: First, they systematically under-estimate the number of the poor, and second, figures on income recorded in a census are likewise systematically lower than the actual ones. In accordance with my own results, Murphy (1993: 15) points out that certain groups are likely to be excluded from official surveys: 'Interviews showed that many urban families were not included in the official national census of 1990. Regularly, census takers interviewed the owners of squatter houses but not the families renting or sharing the houses with them. Renters and sharers make up about a half of the squatter population.' In my research areas, at least 15% of the residents, most of them poorer than the average, were not registered in the census; the situation was much worse in places with a rapid population growth.

The fact that data on income have to be taken with a grain of salt is familiar to social re-searchers. Evers and Korff (1986; cf. Evers 1981) have shown that even in the cities, subsistence production – that is, productive activities which do not yield a cash income but reduce expenditures – plays an important role for the survival of many households. Moreover, irregular sources of income will not likely be mentioned in formal interviews for one reason or the other, not to mention illegal ones. Korff (1990: 173) has found in an empirical study on a Bangkok slum that 'nearly 20% of the money used in the house-holds was derived through debts, share games, and gambling'.

The urban poor are, consequently, a fluid subject not only of research but as well of practical policies. Although poverty is, of course, widespread and visible in Metro Manila the poor do not form a definable segment or 'sector' that can be used as a unit of analysis or a target group for development measures. According to a discussion paper of the Presidential Commission on the Urban Poor (Nario 1990: 1), inconsistent definitions 'have caused the fragmented formulation and implementation of plans and programs ad-dressed to their needs. This situation has not in any way yielded a long-term impact for the entire urban poor sector, but had produced only stop-gap solutions.'

A viable way out of these problems of conceptualization is the common knowledge that the poor live in certain parts of the city and are hardly found in others. Urban poverty is closely related to physical segregation; while it is not restricted to the enclaves of slums and 'depressed areas' it is heavily concentrated in these places. Although 'squatter' is a legal concept, 'slum dweller' refers to physical characteristics of the place of residence, and 'urban poor' in whatever way to the income of residents, Philippine literature does not discriminate between the three terms but uses them interchangeably. What appears to be a confusion of concepts makes sense at second sight: The crucial dividing line in the city separates those who have legitimate and reasonably secure access to urban land, and those who have not. Evers (1984: 481) emphasizes the importance of access to land:

> A precondition for subsisting in an urban environment is access to the use of urban land to build a house, to put up a hut, or at least to find a temporary space for sleep-ing, eating and defecating. Property rights regulate this access to urban land and

thereby the chance to subsist, or at least to be physically present. From this point of view access to urban land becomes the most basic human need in an urban area.

In face of rapidly increasing land prices in the course of globalization and economic recuperation, the market mechanism has systematically failed to provide for mass housing. Property rights are obviously an insufficient mechanism of regulating access to land in the metropolis. The proliferation of squatting that means the large-scale violation of these rights can no longer be seen as temporary anomaly that will disappear in the course of development. We have to be aware that the role of squatter colonies is fundamental rather than marginal: The metropolitan economy is heavily subsidized by their existence, and cannot function – much less be competitive – without this subsidy. In the context of this workshop, we should also be aware that insecurity of tenure is a major detriment to investments. In my study I found a remarkable 'entrepreneurial spirit' among Manila's squatters, along with considerable financial potential. Being forced to keep their property mobile, however, they hardly invest in productive assets and largely restrict themselves to small-scale trade and transportation.

In the last decades, squatters have become active and relatively successful participants in the struggle for urban land. Despite increasing competition, many colonies have survived for 30 years or more; their persistence as well as the emergence of many new ones offers a challenge to sociology and poses severe problems for politicians and city planners. This was most clearly expressed by Hollnsteiner in her small but formidable work 'The Case of 'The People Versus Mr. Urbano Planner Y Administrador'' (1977: 308):

> Squatting represents the only means available for achieving that anticipated rise in income and social status that marks the central point of the urban dream. Mr. Urbano Planner Y Administrador does not, however, see it that way. His dreams revolve around a beautiful and orderly city with law-abiding people facilitating easy management of public affairs. It is easy to understand, therefore, that the estimated 201,000 squatter families in Metropolitan Manila drive him into a state of anger and frustration. Feeling dutybound to eradicate them from view, he adopts a strategy geared to a form of substitute housing more pleasing to the educated eye. And there lies the crux of the problem.

The Stick and the Carrot: Conventional Responses to the Squatter Problem

At least until 1988, the Philippine government's track record with regard to urban housing problems was marked by complete ignorance, incompetence and neglect. Marcos' notorious PD 772 which is still in force today is a case in point: It declared squatting a criminal offense and people who 'unlawfully encroach on public or private land without the express consent of the landowner' punishable by imprisonment or fine.[2] Hollnsteiner

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[2]   Strangely enough, the first actual convictions on the basis of PD 772 were imposed only in 1987, more than one year after the fall of the Marcos regime. A court fined 28 squatters

(1974) has argued that urban planning in Manila failed precisely because it has ignored, or even worked against, the housing needs of the *masa* [masses] and, thereby, never offered a viable alternative to squatting. The policy of relocating squatters to sites some 30 to 40 km outside the city and placing them in extremely overcrowded bunkhouses, or often even simply dumping them proved to be not only inhumane but ineffective as well. The people who had once been attracted by the chances and opportunities in the metropolis were attracted again.

The stick of PD 772 was combined with the promise of carrots: For the first time, the state went to appreciable expenses in the housing sector (Rüland 1982a: 217). The National Housing Authority (NHA) was founded in 1975 with the explicit goal of serving the housing needs of the poorest 30% of the population. Its performance in the Marcos years, however, was outright pathetic: Between October 1975 and December 1985, a total of 4,054 new housing units, or some 400 per year, was constructed in NHA administered projects in all of the Philippines (NSO 1987: 611). To make things even worse, construction costs were far too high to meet the needs of the target groups. An extreme case was Urban BLISS, the ambitious pet project of Governor Imelda Marcos. Likewise allegedly designed for the poor, the characteristic four-storey tenement blocks came out so expensive that they accommodate mainly some of the regime's vassals and other privileged groups. With a total output of less than 2,500 units and many more squatter houses demolished to make room for them, the BLISS program had no positive impact on the housing situation.

In the late Seventies, the Philippines became the pilot country of the World Bank's new strategies of urban development. In an adoption of Turner's concept of 'housing by people'[3] squatting had been renamed 'self-help housing', and emphasis was laid on (or rather, lip service was paid to) on-site development and slum improvement rather than housing production. The first step was the identification of 415 'blighted areas' in Metro Manila, with a population of 1.6 million; 253 of them were designed 'Areas for Priority Development' (APDs). The second step was the attempt to upgrade the Tondo Foreshoreland and the development of Dagat-dagatan as an in-city relocation site. Because the undertaking proved to be as expensive as the results were unsatisfactory, the third step was back to square one: The bulk of the following 'Sites and Services' programs was done in the resettlement areas outside Metro Manila (NSO 1987: 610f.). The investments trickled straight up the to land developers and the construction industry. To

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1,000 Pesos each claiming that it 'cannot question the wisdom of legis lation' (Intersect 1/3, October 1987: 7).

[3] In an absurd reflection of the common clichés picturing slums as 'quarters of misery', Turners book 'Housing by People' was published in Germany as ' *Verelendung durch Architektur*' ['miserablization' through architecture] (1978).

date, most APDs are as congested and dilapidated as ever; in 1989, only 10% of then 316 were considered as 'completely developed' (Zablan 1990: 8).[4]

While the carrot failed to materialize the stick was used extensively. Imelda Marcos' ideas about a more beautiful and modern Manila did not include widespread slums. Her alleged quotation of Marie Antoinette's saying 'If the poor don't have bread, let them eat cake' and her labeling of squatters as 'plain landgrabbers' (Rüland 1989: 10) became famous in the Philippines. In a beautification campaign of the Potemkin type, shanty towns were hidden from the eyes of foreigners and wealthy Filipinos behind white fences, large billboards or concrete walls. Some of the latter were further beautified by large paintings of palm-trees, parrots and beautiful persons: '*Die Mauern hatten das, was hinter ihnen lag, verbergen sollen; jetzt lösten sogar sie sich in Illusionen auf*' [The walls had been meant to hide what was behind them; now even they dissolved in illusions] (Daus 1987: 153).

Not all slum dwellers were lucky enough to be merely hidden in the attempt to create a presentable metropolis. Large-scale demolitions remained the preferred solution. As the 1974 Miss Universe Pageant was approaching ten thousands of people lost their homes when the areas along the parade route were bulldozed; similar uprootings took place prior to the visit of US President Ford in 1975 and the IMF-World Bank conference in 1976 (Bello *et al.* 1982: 107). The year 1982, eventually, saw the regime's last *tour de force* before it restricted itself to pure self-preservation after the assassination of Ninoy Aquino. In what was called the 'last campaign' against squatting, demolitions were undertaken in several parts of Metro Manila, with the alleged goal to hit 'professional squatters' who 'make a living out of squatting by going from one land to another and selling their land' (quoted in van Naerssen 1989: 210).[5] Not surprisingly, the 'last campaign' resulted in as final a solution as any one before it although it caused the uprooting of another 46,000 families (Rüland 1982b). Instead, it instigated the (re-) emergence of organized resistance against displacement that is the central subject of my work.

Much has been written about the disappointing performance and the broken reform promises of the Aquino administration that had started with a lot of what turned out to be unearned laurels. With regard to the urban poor, neither was PD 772 repealed nor

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[4] That the ultimate failure of conventional strategies to solve the problems of housing the urban poor is not restricted to the Marcos regime or to the Philippines in general is demonstrated by Rondinelli (1990).

[5] It should be noted that there *are* people who make a living out of squatting. New squatter areas are regularly developed by syndicates that bribe officials, provide basic infrastructure (most importantly, a source of water) and eventually organize an inva sion and coordinate the defense of the new settlement in the first critical months. To justify demolitions with the existence of professional squatters has remained popular until today (Karaos 1993), disregarding the logical contradiction that those who have sold the land and moved on are hit by uprooting the buyers.

was the much-sought moratorium on demolitions promulgated. In fact the situation after 1986, 'characterized by evictions and demolitions without the availability of well-prepared relocation sites, does not differ much from the one during Martial Law' (van Naerssen 1989: 215; cf. Murphy 1993: 9f.). Worst of all, economic stagnation and the undiminished influx of migrants led to deteriorating rather than improving conditions of living in the slums.

The shortcomings of the Aquino administration notwithstanding, its achievements should not be underestimated. First of all, the lifting of repressive measures allowed squatter organizations, the mushrooming non-government organizations (NGOs) and allies from church and media to formulate the needs of the urban poor as legitimate interests and lobby for them at all levels of government. Most importantly, government became aware for the first time ever that there is much less a housing shortage than there is a *land* problem. Squatting implies illegal construction but produces houses worth several thousands of pesos each: 'The demolition of shanty towns is a waste of housing stock and property, because squatters frequently make considerable investments in their houses. Moreover, … existing employment opportunities within the cleared areas were also destroyed' (Rüland 1989: 11).

Legalizing the Squatters: The Community Mortgage Program

Given the financial constraints of all national and local government institutions and a backlog of several million houses, it is plain to see that conventional approaches of socialized housing can never replace self-help initiative in accommodating those who are not supplied by the market. Officials and experts meanwhile agree that urban land is the 'essential ingredient' (Murphy 1993: 42). A first result of this awareness was the 'Community Mortgage Program' (CMP) that was passed in 1988 and launched in 1989, offering squatters the opportunity to buy the land they occupy without compulsory, costly upgrading measures and decongestion that would displace 'excess' population.[6] The dissociation from the idea that, by all means, 'infrastructure has to be provided at a level that does not embarrass the government' (Baken and van der Linden 1992: 21f.) – a major detriment to all socialized housing efforts – is a progress in itself.

Let me briefly sketch the technical side of the program. The CMP requires the squatters to be organized as the land titles are transferred to associations rather than individuals. After the residents and the landowners have agreed on a price, the land is paid for through a state credit which is to be repaid over a period of 25 years. NGOs are functional in all stages of the process: They inform the squatters about the legal requirements

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[6] With land acquisition being Stage I, the program provides for two more stages, namely 'site development' (sewerage, road construction etc.) and 'home improve ment/house construction'. So far, however, virtually all loans have been for Stage I, and I presume that land acquisition will remain the crucial and most vo luminous part of the program.

(e.g., official registration of the association), assist them during the negotiations with the owner, offer services like surveying and legal consultations, and serve as 'originators' (guarantors) of the loan.[7]

An advantage of the CMP is its cost-efficiency: As much of the land in question is owned by government and private owners can be compensated in kind through land swapping schemes, a maximum output can be realized on limited fiscal burdens by capitalizing unproductive public property. At the surface, however, the program still falls way short of its proclaimed goal of 'urban land reform'. It is a quite conventional program itself, market-oriented and fully committed to the goal of cost recovery. Despite allegedly aiming at the poorest 30% of the population, there is no subsidy whatsoever; beneficiaries even have to pay interest on the loan. As compulsory expropriations are not provided for, the owner can expect to get the full value of his land. In short: The CMP alone is not suitable to solve the sharpening contradiction of skyrocketing land prices and the low incomes of a large majority of the population. Under market rules, it would at best produce middle class settlements at the urban fringe.

Access to urban land – or the 'right to the city', as Lefebvre (1974) puts it – is, however, not exclusively regulated by the market but subject to political conflict. The existence of potential and actual resistance against displacement is a precondition for any meaningful implementation of the CMP. Urban land is significantly depreciated by squatter occupation as it is not available for the market just like that. The market value of land is fictitious in considerable parts of the city[8]: An owner who wants to use such land profitably or to sell it at a reasonable (or rather exorbitant) price has to establish actual control first. This process is both tedious and costly: A court order against the squatters has to be obtained and, much more troublesome, enforced. As the residents are often capable of organizing themselves and find allies among NGOs, media, church people and local politicians (Berner and Korff 1995), the outcome of an eviction attempt is even less calculable for the landowner. The Urban Development and Housing Act (UDHA) of 1992 has further enhanced the bargaining position of squatter organizations. It states that 'eviction or demolition as a practice shall be discouraged' (Article VII, Sec. 28) and enumerates the situations in which demolitions are still allowable; the mandatory provision of a relocation site adds to the costs of clearing land from squatters.

On the background of this situation, landowners are willing to offer substantial discounts: In the cases I observed, residents paid only about 15-20% of the market price of comparable idle land in the vicinity. The resulting expenses are in most cases considerably lower than the rent for an apartment or house at the same place. The negotiations

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[7] NGO involvement is, however, not a necessary condition. I have documented the case of a squatter association which went through the whole process without any outside assistance. The mastermind of this success was a Philippine Army commander, himself a resident, who had studied law before his military career.

[8] 'Considerable' is, of course, a relative term: Even though far more than half of the metropolitan population are squatters, they occupy less than 10% of Metro Manila's land area.

and conflicts during the implementation of the CMP allow a reconstruction of the power game about the use of urban space in which local associations play a crucial role. The CMP has been quite successful in Manila and other Philippine cities because it offers the chance for a compromise between contradictory logics of action: The owners can sell their land and 'revive' dead capital, albeit at reduced prices, without the incalculable costs and risks of a demolition; the squatters can 'buy security' and preserve their locality from the threat of eradication that has never been calculable for them.

Evicting the Poor: The Divisive Impact of the CMP

The paramount objective of a squatter organization is habitat defense: The permanent threat of eviction is a powerful incentive to organize, a common interest which renders internal differences insignificant. The association's claim to represent all residents is accepted as legitimate even if it is run by a limited number of established and relatively wealthy households. This picture of unity and solidarity is shattered by the CMP: 'Ironically, the ultimate success of one local organization – the legal purchase of the locality land through the Community Mortgage Program – had a deeply disruptive impact on the community. For about one third of the population, mainly the poorer ones, it meant that they had to pay for the land they used to live on for free, and pay more than they could afford' (Berner and Korff 1995: 217).

A loss of integrative capacity is already observable from the start of the negotiation process which imposes a strict formalization on the association and substantial obligations (downpayment, forced savings) on its members. The result is a process of contraction: Whereas the relations among the core of officers and active members are becoming more intensive the margins of nominal members, many of them poor and uneducated, are crumbling away. The more specific the figures of future payments are the more people decide that they cannot accept the necessary cutbacks on consumption or are altogether unable to shoulder the financial burden.

The 'social value' of the land, i.e. the price that residents are able and willing to pay for the right to stay where they are, is not equal to all of them: A family with sufficient income sources in the locality or its vicinity will pay much more than those who commute long ways or have no regular job at all. By agreeing to a selling price acceptable to the landowner, the association willingly or unwillingly excludes a substantial part of the residents. It has to give up its claim to represent the whole local community and becomes the instrument of the faction of beneficiaries – often the majority, always including the wealthiest and most powerful households, but nevertheless a faction.

What starts as a process of internal division – often documented by the founding of counter-associations – is almost inevitably turning into open and violent conflict. After the transfer of property rights, the association has to pay for the land, more precisely: for *all* of the land; the owners are not interested in selling scattered plots, keeping those whose occupants wish to remain squatters. The beneficiaries, thus, not only have to pay

for their own plots but also for those of the non-members; on the other hand, there is plenty of demand for the land in question from within and outside the locality. The result is an intense campaign against the 'squatters', starting with insults and threats and often ending in violence and bloodshed. In a CMP area in Quezon City, for instance, the new landowners put up a signboard displaying Marcos's infamous Presidential Decree 772.

Conclusions

The outcome of the CMP is a de-differentiation within the affected settlements which uncovers the high differentiation of the 'urban poor': While the marginal segments of the population are expelled by their neighbors and forced to move on to find shelter in other squatter settlements, the former slums become middle class areas[9]. This process is not to be interpreted as invasion or gentrification: Many residents, and particularly those who have the capacity to organize, have even before identified themselves as squatters, but not as poor. The 'petty-bourgeois consciousness' of the urban poor that is deplored by many observers (e.g., T. Evers 1985; Goss 1990: 520) is reflecting the fact that many of them *are* petty bourgeois whose only opposition to the system is caused by the lack of affordable housing in the city. Schuurman (1989: 19) reports of similar experiences in Latin America: 'As long as the struggle is taking place the state is viewed as the foe. The moment land titles are granted then the state is supposed to protect this private property.'

An assessment of the CMP and the related legislation has, thus, to be ambivalent: On the one hand, the policy does address the most pressing problem of the urban poor, namely precarious access to the city itself; on the other, it serves mainly a middle-class 'squatter elite' and excludes poorer squatters and renters, not to mention the 'poorest of the poor', the homeless and street people. The alliance of NGOs and local organizations, often labeled 'urban poor movement', has wrung substantial concessions from city planners and private developers. Whether the movement will be weakened by its own success remains to be seen; as many of the most active and vocal organizations become legal landowners, the weak and marginal run the risk of being left in the lurch.

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[9] This change is very visible: No longer forced to keep their property mobile, the new landowners invest heavily in upgrading and extensions of their houses.

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