AN ANALYSIS OF THE LAW GOVERNING THE FIRST STAGE OF LAND REFORM IN IRĀN*

What is known as Land Reform in Irān consists of a series of acts beginning with a bill dated 19.10.1340 (31.12.1961) which was approved by the Cabinet in the absence of Parliament.[1] Although Article 38 of this bill states that the government was bound to obtain the ratification of the two Houses, because it constituted one of the six principles of the referendum taken on Bahman 6th 1341 (January 26th 1963) and attained legal status by this means, it was felt unnecessary to obtain approval for a second time. After the ratification of this bill a series of decrees, numbering twelve by the end of Amordād 1342 (22.8.63), were issued to ease the complications that had risen during the initial stages of execution. One of these was the important Decree No.46912, dated 2.11.41 (22.1.63) and known as the Supplementary Act of the Land Reform Law. This was approved by a Cabinet meeting held on 27.10.41 (17.1.63) and incorporated into the Bahman 6th referendum.

The abnormal and perhaps hasty way in which this Land Reform Law was enacted has meant that there are many vague points in its articles. Thus the Land Reform Council, an institution provided for by the initial act,has been empowered to issue directions to remove any difficulties which arise in the execution of the law and to render interpretation of its provisions more compatible with the legislator's aims.[2] Apart from this institution Article 33 of the law provided for the formation of a Reconciliation Board charged with

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*This report was compiled between the last half of 1963 and the end of 1964.

1. This is an amendment to an earlier law passed by Parliament on 26.2.39 but never enforced. Before the approval of the former law, the Council of Ministers had ratified a decree initiated by the Ministry of Agriculture which gave the Ministry power to purchase whole six-*dāng* villages of landowners who volunteered to sell their property. Although this decree never reached the stage of implementation, during the interval a number of landlords agreed to sell.

2. The Land Reform Council held around one hundred sessions before Amordād 1342 (July-August 1963). Polycopies of its proceedings are available from the Land Reform Organization.

the solution of conflicts that might arise between landlords and tenant farmers. Article 5 of the Cabinet's decree dated 25.7.41 (17.10.62) transferred the functions of this board to local Land Reform officials and charged the local gendarmerie with the task of following their instructions. Article 33 of the Land Reform Law and Article 5 of the amendment state that the instructions issued by the heads of local Land Reform Organization offices and those of the Director of the Land Reform Organization are final and binding and, in some cases, meant for the solution of major legal problems.

However, although such instructions have without any doubt been effective in bringing about reconciliation and in implementing the regulations of the Land Reform, the lack of any right to appeal made it possible for contradictory decisions to be issued on many prohlems. For this reason provisions approved by a special joint committee of the two Houses of Parliament on 3.5.43 (25.9.64) specify that Land Reform officials must attend to the standardization of conflicting decisions. Moreover, Article 42 of these regulations states that: "If a protest is lodged against the verdict of a Land Reform official, a plaintiff may, within twenty days of the date at which his decision has been notified, submit a complaint to the Land Reform Organization of the ostān (province) or shahrestān (township) and these complaints shall be attended to by a commission of three appointed from amongst the officials of the provincial office of the Ministry of Agriculture". Although it may be agreed that the local constitution of the commission dealing with complaints could not solve the difficulties created by conflicting decisions of local Land Reform officials, at the same time we must note that the object of ceding such powers to the local level was to ease the implementation of the law, and that this object may have been defeated had judgments on appeals against such decisions been made at the centre.

It may at first be thought that since in any case the greater part of the first stage of the Land Reform has already been completed, any discussion of the contents of the Land Reform Law would now be of little practicable value. However, this reform has created new legal relations in Irān and what is more, it represents a major attempt to initiate social change by legislative means. For this reason we have felt it appropriate to supplement the many studies of the social and economic effects of Land Reform with a study of the laws and regulations governing the transfer of land ownership. To this end we have made use of the text of the law itself and its supplementary decrees, the opinions of experts of the Ministry of Agriculture and

officials of the Land Reform Organization, as well as studies carried out in different parts of the country by the Agricultural Economics Research Group of the Institute for Economic Research.[3]

The present discussion represents only the initial stage of our study and throws only a general light on the Land Reform Law and so it is possible that important points have been missed out. If this is the case, then the reason is that the subject itself is far too extensive to be dealt with by research whose scope is so limited.

Aims of Land Reform

No mention of the aims of the Land Reform has been made in the text of the law and the later decrees. However, from the statements made by various government authorities we can surmise that their goals were as follows:

1. The economic aim was to raise the level of production and national income through an increase in the purchasing power of the rural population. The majority of Irān's population are rural dwellers and these people, under the old system of production relations, received only a small share of the product of the land and their labours. They were unable to purchase much in the way of consumer goods and were therefore a poor market for the budding industrial community in the urban areas.
2. The social goal was to establish social justice by means of a more equitable distribution of income and the provision of education, housing, and sanitation for the majority of the community. In addition it was felt that a greater degree of social co-operation could be brought about by setting up co-operative societies in the rural areas. The final aim of all this was that 75 per cent of the population should live in such a way as to determine their own destiny and, with the help of appropriate agricultural organizations, participate effectively in the economic life of the country as a whole.
3. The political goal was to attain a greater participation of the community in political activities. The abolition of landownership should mean that the farmers enjoy new independence and that elections cannot be controlled by the formerly powerful landowners.

But, while those responsible for the implementation of Land Reform have

3. See the reports published in *Tahqiqāte Eqteṣādi* Nos. 7&8, March 1964;Nos. 9&10, August 1965; Nos. 11&12, January 1967; Nos. 13&14, January 1968; Nos. 15&16, November 1969.

spoken of social justice, they have always regarded the core aim as that of providing for the progress and welfare of the Irānian community through raising the purchasing power of the rural community. Moreover, Land Reform is not only a quest in itself, but is also a means of creating new possibilities for the implementation of other kinds of development programmes, especially the introduction of new kinds of agricultural techniques.

Institutions for the Execution of the Law

Article 37 of the Land Reform Law states that the Ministries of Agriculture, Justice, and the Interior have the responsibility of enforcing the law and drawing up any new regulations that may be necessary for the approval of the Cabinet. The functions of these institutions are listed below.

The Ministry of Agriculture. The Ministry of Agriculture was given the important task of purchasing and distributing the land as well as agricultural development and technical assistance. To aid it in this work, Article 7 of the law provided for the formation of a Land Reform Council under the chairmanship of the Minister of Agriculture and made up of the Director of the Land Reform Organization and four high-ranking officials of the Ministry.The functions of the Council are to formulate general policy, plan the reform programme, draw up regulations, and supervise the execution of the duties assigned to it by the Land Reform Law. Its decisions are final except in cases in which the approval of the Cabinet is required.

The Land Reform Organization. This was set up by Note 1 of Article 7 of the Land Reform Law and was intended to be the executive arm of the Land Reform Council. The law does not mention any formal connection with the Ministry of Agriculture, but in reality, through the power of the Minister of Agriculture over the Land Reform Council, the Land Reform Organization is under the supervision of the Ministry. Moreover, its director is appointed by order of the Shāhanshāh on the basis of the recommendation of the Minister of Agriculture and his powers are determined by decrees ratified by the Minister. Budget, credits and expenditure are all in the hands of the Land Reform Council. In terms of structure the Land Reform Organization consists of a director and his deputy, administrative, legal and registration sections, a section dealing with complaints and reconciliation, and a section dealing with financial matters and the purchase and distribution of land. Matters of organization, and matters concerning provincial branches and their functions, are in the hands of the Director of the Land Reform Organization who is empowered

to make any changes he wishes in the number and functions of various departments.

The Ministry of Justice. The duties of the Ministry of Justice were set out as follows:

i) Local registration departments were bound to register purchase and distribution operations and draw up the relevant documents. Note 8 of Article 2 of the decree dated 25.7.41 (17.10.62) stipulates that: "Notary publics shall draw up deeds for the transfer of villages and cultivated estates in so far as they are governed by the provisions of the decree and upon the agreement of the Ministry of Agriculture or its representative".

ii) The role of the provincial public prosecutor in the execution of the Land Reform regulations was divided into two parts:

a) According to Note 2 to Article 13, if the landlord died or interfered with the implementation of the law, the public prosecutor should take the necessary measures unless the heir or another legal successor was announced.

b) In cases in which the owner or his legal representative was not prepared to transfer the estates, action was to be taken in accordance with the last part of Article 14 which reads as follows: "The Land Reform Organization will sign the deed of transfer on behalf of the landlord within one week,with the knowledge of the public prosecutor or his representative".

We should note that the use of the term "knowledge" indicates considerable vagueness and it seems that the public prosecutor was given little more than a ceremonial role.

iii) According to Article 37 of the Land Reform Law, the Ministry of Justice, together with the Ministry of Agriculture and the Ministry of the Interior, should draw up regulations which might be considered necessary for the approval of the Cabinet.

Before leaving this question we should note that, although Article 43 of the Land Reform Law states that the chairman of the district court, the local representative of the Ministry of Justice, and the executive branch of the Ministry of Justice, have been given duties in the implementation of the Land Reform programme and Article 33 states that the chairman of the district court or the representative of the Ministry of Justice should be members of the Reconciliation Board, an amended decree dated 25.7.41 (17.10.62)entrusts these functions to local Land Reform officials. Thus, representatives of the Ministry of Justice now have no important local role. The same is true of the executive branch of the Ministry of Justice which, according to the

original wording of Article 33, was charged with the execution of the decisions of the Reconciliation Board.

The Ministry of the Interior. Article 37 of the Land Reform Law assigned the same general role to the Ministry of the Interior as to the Ministries of Agriculture and Justice. Although the scope of powers and duties have not been specified in detail, two instances of responsibility can be recognized:

i) The district governor was originally, according to Article 33 of the Land Reform Law, assigned to the Reconciliation Board, but the amendment to this decree has relieved him of this function.

ii) According to Paragraph 5 of the decree dated 25.7.41 (17.10.62) local gendarmes are bound to carry out the instructions of the head of the local Land Reform organization and the Ministry of the Interior must provide the necessary training for the implementation of this duty.

The Upper Limit of Landholdings and Liable Persons

The law governing the first stage of Land Reform sets the maximum holding of any person, real or legal, at one complete six-*dāng* village or at six separate *dāngs* from various villages. Although the law is unclear as to what the definition of a legal person might be, Paragraph 7 of Article 1 states that: "a household consists of the wife and children supported by the head of the household, and, for the purposes of the provisions of this law, a household is regarded as one person". Thus at the beginning of the implementation of the law, officials did not allow each household to retain more than one six-*dāng* village. The 36th session of the Land Reform Council, dated 27.9.41 (18.12.62) confirmed this procedure by stating that: "the wife and children who are supported by or under the guardianship of the head of the household, are considered to be one legal person".

However, by Khordād 1342 (May-June 1963), the Land Reform Council had decided that this provision was contrary to the rights of women and conflicted with the principle of their financial independence which is embodied in the Iranian Civil Code. Thus on Khordād 16th 1342 (December 7th 1963) the 43rd session of the Land Reform Council met and issued the following statement: "With reference to the relevant articles of the Land Reform Law, and its general tone, women landowners, in the same way as men and irrespective of their position in the household, are entitled to the upper legal limit of

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4. A *dāng* is one-sixth of any piece of real estate.

land". Thus Paragraph 7 of Article 1 of the Land Reform Law was amended. However, by this time land had been purchased under the earlier provisions and some of it had been distributed. So the 44th session of the Land Reform Council, dated 1.4.42 (22.6.63), decided to cancel agreements in cases in which the land had been purchased but not distributed. Two months later the 47th session of the Council dated 3.6.42 (25.8.63) issued a decree which entitled dependent children to own the upper legal limit. So, although at the early stage of Land Reform the definition of a household as a legal person was implemented with respect to landowners, it seems that in the later stage it was mainly concerned with individuals receiving land.

Under the first stage of the Land Reform the position of various classes of landowners can, therefore, be categorized in the following way:

1. The position of those owning several six-*dāng* villages was clarified in Article 2 of the Land Reform Law in the following way: "Landlords owning more than one village have the option of choosing which one they wish to retain. The rest will be distributed according to this law".
2. Those who, in addition to one or several six-*dāng* villages, owned fractions of villages, were allowed to retain six *dāngs* of their holdings, not necessarily in the same village. Note 1 of Article 2 of the Land Reform Law stipulates that: "If scattered holdings are equal to more than six *dāngs*, the owner may choose six *dāngs* of such holdings instead of the upper limit stipulated in the article".

However, since many landlords planned to retain their influence by distributing their holdings among several villages, the Land Reform Council, at its 25th session, stipulated that "Landlords may not break down villages in which they own the entire six *dāngs* in order to ensure the six-*dāng* upper limit of their ownership". But despite this statement, the position was modified at the 39th session of the Council dated 27.12.41 (17.3.63) when the following decision was taken: "At the request of petty landowners, whenever it is deemed advisable by regional organizations, the break-down of six-*dāng* villages can be agreed upon". Two points are worth nothing with respect to this decision; firstly, allusion is made to the term "petty landowner", but it is not customary for those owning more than six *dāngs* to be known as petty landowners, especially in the case of those who own the whole six *dāngs* of a village. It appears that applicants for concessions have introduced themselves as petty landowners and that the members of the Land Reform Council have disregarded this point; secondly, determination of how the modification of

the decision of the 25th session should be interpreted has been entrusted to the heads of the regional Land Reform organizations.

3. For those who have more than six *dāngs* in scattered holdings the law makes the following proviaion in Note 2 to Article 2: "Should a person own more than six *dāngs* in scattered holdings, he may retain for himself a maximum of such holdings."

4. Persons who as the result of a personal endowment *(vagfe khās)*,[5] benefited from the income of farming lands without being their owner, had their position clarified in Note 4 to Article 2 which reads as follows: "As regards estates which were made into private endowments before 14.9.38 (6.12.59), they will remain as private endowments for their beneficiaries within the limits stipulated by this article". Thus, the beneficiaries of private endowments cannot hold more than the legal limit of land.

5. The Cabinet's decree dated 10.12.40 (1.3.62) reads as follows: "In the case of landlords whose holdings are less than the upper legal limit and who personally volunteer to turn their lands over to the government, the Ministry of Agriculture is authorized to purchase and take possession of these lands and to distribute them to farmers in accordance with the amendment to the Land Reform Law".

Although this decree allowed the Ministry of Agriculture, with the owner's consent, to purchase the cultivated estates of those who owned less than six *dāngs*, no mention is made of the situation of the owners of orchards and mechanized agricultural lands. Moreover, the decree implied that owners who held less than the legal upper limit could only avail themselves of the privileges afforded by the Land Reform Law if they sold the whole of their holdings to the government. Since this is would have been contrary to one of the major aims of the first stage of the Land Reform, we would surmise that, in fact the government was empowered to purchase whatever was voluntarily offered for sale, whether it were agricultural land, mechanized land or orchards.

The Definition of a Village. Since the definition of the upper legal limit

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5. By the definition of the civil code a *vaqf* "consists in the surrender of property and the devotion of its profits to some purpose". Two kinds of *vaqf* are recognized: (1) those constituted in the general interest, i.e.charitable *ouqāf*, and (2) those constituted for private purposes, i.e. personal *ouqāf* as, for example, property placed in trust for the settlor's descendents". Definition from A.K.S. Lambton. *Landlord and Peasant in Persia*, Oxford University Press, 1953.

of landholdings is a six-*dāng* village, what the Land Reform Law understands as a village is rather important to our understanding of the import of Land Reform. According to Paragraph 10 of Article 1, a village is "a population centre and a place of residence and work for a number of households engaged in agricultural activity, whose income is mainly secured from agriculture, and which is known as village in the locality".

Land located in places where one of the four criteria mentioned in this paragraph did not hold could, under the terms of the law, be retained. So, in order to prevent abuses arising from loop-holes of this kind, the Land Reform Council, at its 37th session, recognized the following as properties of a village:

i) "In the case of a main registration number which includes numerous residential centres each with its own name, each residental centre and separate name shall be considered a village". This also held true when the land farmed and the residence of the farmer were separate except, in the words of the decree: "if all such farmers are jointly engaged in cultivation in all the lands covered by the main registration number, all the residential centres and lands shall be collectively recognized as a village".

ii) "If a village or several farms are registered under a main number and have one residential centre, they shall be regarded as one village, even when separate registration numbers have been given to the farms, and when there is a single *nasaq*".

iii) "Should the farmers of a farm registered together with its name under a main number live in another village belonging to the same owner and have a joint *nasaq* and fallow system with that same village, the farm in question will be considered part of the same village (i.e. of the village of residence). But if it has a different owner, it will be regarded as part of a village, in proportion to its *nasaq*, even though it may be, from the standpoint of the *nasaq* and fallow system, a subordinate village in which the farmers live."[6]

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6. The 36th session of the High Council for Land Reform stated that: "The utmost care should be taken not to allow owners to include independent farms as part of their selected villages". Farms are considered independent when they have been registered separately and are thought of as separate for tax purposes. The Land Reform Council has stipulated that landowners should apply separately if they wish to mark such property for retention and that the district Land Reform Organization should report the matter in full to the centre and await instructions.

iv) "A single registration number, a residential centre, and a proper name constitute a village".

v) "A main registration number, a proper name, several secondary numbers without a name, and a main residential constitute a village".

vi) "If a person's ownership is confined to plots of land - each belonging to one or to several villages - the area of the plots should be determined in advance and the ratio of each plot to the six *dāngs* of the village calculated. The total ratios of each plot to the village will clarify the extent of the holdings of the person concerned".

Urbanized villages. One of the problems raised by the definition of villages was that of residential centres which had grown into district governorships or municipalities, or which were the seat of other government departments. From the outset, the Land Reform officials did not allow landowners to retain such properties and, at the 38th session of the Land Reform Council held on Bahman 8th 1341 (January 28th 1963), the following statement was made: "Land Reform officials should recommend that owners transfer such villages to the government and choose their legal holdings from other villages". However in response to the protest of the landowners, the Land Reform Council later modified this resolution by stating that:"Should owners refrain from carrying out the recommendations made, there will be no objection to the selection of six *dāngs* from such villages as their legally permissible holding".

The Types of Land Purchased By the Government. In summary the following categories of land have been purchased by the government:

1. Agricultural holdings in excess of the legal limit of private ownership.
2. The agricultural properties of personal endowments.
3. The agricultural properties of owners whose holdings are less than the specified limit but who volunteer to sell their farm lands to the government. It appears that this right of sale is confined to landowners, and that the beneficiaries of personal endowments cannot sell their land voluntarily.[7]

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7. According to Article 6 of the Land Reform Law, unregistered and barren lands are also subject to purchase and distribution. However, the High Council for Land Reform at its 37th session dated 29.10.41 (19.1.63) recommended that, since these lands are not worked by any farmers, and the law provides for the distribution of the land immediately after purchase, such lands can be left for the time being.

Legal Exceptions and Exemptions

Holdings less than the legal limit. During the implementation of the Reform, officials came across villages which were actually no larger than a single farm. For this reason the 43rd session of the Land Reform Council, dated 16.3.42 (6.6.63), proposed that the Ministry of Agriculture request the Council of Ministers to amend Paragraph 10 of Article 1 of the Land Reform Law to provide that a minimum holding of 60 hectares should be regarded as a village. This proposal was approved on Tir 12th 1342 (July 2nd 1963) and, at its 59th session dated 18.9.42 (4.12.63), the Land Reform Council stated that this 60 hectare minimum should include all the cultivable lands of one or more villages (orchards not being excepted).

Cultivated lands inside urban areas. At its 81st session dated 28.12.42 the Land Reform Council ruled that it did not consider cultivated lands within the boundaries of urban areas as eligible for Land Reform and this decision was confirmed by Article 43 of the executive regulations of the addendum to the Land Reform Law dated Amordād 1343 (July-August 1964) and approved by a joint committee of the two Houses of Parliament.

The trouble with this ruling is that the criteria upon which the definition of an urban area is based are a population of over 5,000 and the existence of a municipality. Because there are many large population centres (over 5,000) which have no municipality, a disparity has arisen between the situation of farmers in such localities.

Mechanized Agricultural Lands. According to Paragraph 2 of Article 3, all estates which, at the date of the promulgation of the Land Reform Law, were farmed by mechanical means without the participation of agricultural workers or tenant farmers, are exempt from purchase and distribution.

Two further points can be made with regard to this type of land. Firstly, although there was no clear definition of the term "mechanized estate" in the original law, Article 20 of the law governing the second stage of Land Reform stipulates that mechanized farming is cultivation carried out by hired agricultural workers in which at least ploughing is done by means of machinery. Secondly, according to Article 19 of this law, there is, in principle, no limitation on the amount of such lands that can be owned by any one person.

Orchards and nurseries. According to part 1 of Article 3 of the Land Reform Law, fruit orchards, plantations and nurseries, the land and standing property

(*a'yān*) of which both belonged to the landlord,were to remain in his possession with the usual water rights.[8]

Standing properties belonging to the landlord. Article 31 reads as follows: "With respect to dwellings and buildings such as stables, storehouses etc. which are in the possession of farmers, if the land and standing properties (*'arse* and *a'yān*) belong to the landlord, they shall be transferred to the farmer". The opposite meaning understood from this article is that, if the dwelling place or other relevant buildings were in the possession of the landlord, they should remain in his possession, as an exception to the law.

Temporary exceptions. Villages which were, in principle, subject to the Land Reform Law, but were leased at the time the first Land Reform bill was submitted to Parliament, were exempted from distribution for a maximum period of three years (Article 9).

Prohibition of Transactions

Note 5 of Article 2 of the Land Reform Law prohibits any measures designed to evade its provisions, even by means of donation or endowment of properties subject to the law. Registration departments and notary public offices are bound to follow the rulings of the Land Reform Council which is the authority competent to decide which holdings are subject to Land Reform. This note was included with a view to preventing evasions of the law,so that only transactions concluded with the purpose of evasion are subject to its provisions.

The Purchase of Land

Our exposition has already shown that both complete six-*dāng* villages and six *dāngs* scattered among various villages have been purchased by the government. But the way in which these two kinds of holding are purchased is quite different.

Landlords who held more than six *dāngs* dispersed among several villages were empowered by Note 3 of Article 2 of the Land Reform Law to transfer their surplus land to the farmers of the village concerned before the date at which the Ministry of Agriculture made its declaration regarding the distribution of this type of land in the local district. Otherwise the Ministry

8. According to Paragraph D of Article 1, a fruit orchard is a land on which individuals have planted at least one hundred staves of fruit trees or vines or fifty staves of date palms or olive trees per hectare.

of Agriculture purchased such estates according to the provisions of the bill and distributed them among farmers on the basis of regulations sanctioned by the Cabinet.

Thus, before the government itself began the distribution of land, a number of landlords had already turned their holdings over to the farmers. However, because of the ambiguity of the text of the note which referred to persons receiving lands, landlords had unlimited discretion in this matter; a situation which resulted in the cession of land to one, or only a small proportion of the village farmers, and a great deal of dissatisfaction among the rest. Apparently the expression "farmer or farmers" was not intended to mean that the landlord had some choice in the matter; rather it referred to whether or not there had been one or many farmers working a particular plot of land.

In districts where distribution was to begin in accordance with Article 8 of the Land Reform Law, the matter was to be advertised twice by the Ministry of Agriculture at an interval of ten days, in a widely circulated local newspaper, or by other acceptable means. Within a month after the date of the last advertisement,persons whose holdings exceeded the legal limit were bound to state the condition of their estates from the standpoint of the legal limit allowed in a declaration sheet placed at their disposal by the Ministry of Agriculture, and to submit this along with certified copies of deeds of evidence of their possession to authorities appointed by the Ministry of Agriculture. Any person who did not submit the declaration sheet, or who attempted fraud,was subject, at the discretion of the Land Reform Council, to a fine of 100,000 rials cash. The imposition of this fine was not, however, without complication since the Land Reform Council ordered that regional organizations return complete records of such cases for a final decision. If the landlord was found guilty he was given notice of the judgment and ten days grace during which he had the opportunity of declaring his properties correctly.

In cases in which the declaration sheet was drawn up by the Ministry of the Interior, the landlord was bound, according to the cabinet decree dated 10.12.40 (1.3.62),to select his six *dāngs* within a period of ten days. If he failed to do this, the decision of the Ministry of the Interior was final and action was taken to transfer the property.

On Farvardin 30th 1341 (April 19th 1962) the Cabinet issued an initial decree concerning jointly owned properties in which the share of each owner

is not stated (*amlāk moshā'*).[9] This ruled that the owners of such property should transform it into *amlāk afrāz*,[10] that is they should specify which parts of the property were owned by whom and inform the Land Reform Organization of their agreement within five days of the date on which a public advertisment was posted in the locality or on which they received a written notice to this effect. In cases in which the landowners could not agree on the manner in which the property was to be divided, the decree ruled that it was the task of officials of the Land Reform Organization to draw up a plan of division after which the government's share should be chosen by lot by a commission made up of the local public prosecutor and the local head of the Land Reform Organization or their representatives. Lots were drawn because in most villages the quality of farming land varies. However, this method of division encountered many difficulties so another decree dated Amordād 16th 1341 (August 7th 1962) stated that scattered six-*dāng* properties must be ceded directly to the government.

Fixing the Price of Land

Once instructions for the distribution of land had been issued, it was the duty of the local Agricultural Department to fix the price of cultivable lands subject to the Land Reform. This was done on the basis of the taxes paid on the land and index of land transactions determined for each district by the Ministry of Agriculture.

In order to determine this index, provincial agricultural experts and the heads of the local agricultural departments studied the value of the villages in each district (their distance from urban centres, the amount of water supply, the type of soil, the type of crops grown, the manner of distribution of crops, and the manner of the distribution of ownership shares). Thus, for example, if the constant index determined by experts in a particular district was 150 and the annual farming tax of a particular village in that district 40,000 rials, the price of the village would be 6,000,000 rials.[11]

But landowners were given the right to protest at the price by Article 13 of the Land Reform Law which reads as follows: "The Land Reform Organiza-

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9. *amlāk moshā'* is defined in Article 571 of the Civil Code.
10. *amlāk afrāz* is a jointly owned property in which the rights of each person to one part are specified.
11. The highest index has been fixed at 180 for Miāndoāb and the lowest at 102 for Shahsavār.

decision, after determining the lands to be distributed, shall inform the owners concerned (at the addresses mentioned in the declaration sheet) of its decision and of the price fixed and publish its decision in one of the local newspapers or post it at any other convenient place in the district. If the landowners have any objection to the procedure of distribution or to the price fixed for their land, they may submit their protest to the local agricultural department within a maximum of ten days of the date of ratification."

A commission consisting of the Prime Minister, the Ministers of Agriculture and Finance, and three agricultural experts selected separately for each district by the Cabinet, was established to deal with these complaints. According to Article 13, judgment was to be made in the presence of the plaintiff's representative and a final decision passed by a simple majority of votes. If the plaintiff's representative was not in attendance on the date fixed, the Commission was empowered to examine the matter in his absence. However, since the commission never met, at the 41st session of the Land Reform Council it was decided that a petition should be submitted to the Prime Minister asking him to agree to the formation of a sub-committee representing the original members of the commission whose decision could be submitted to the original commission for ratification. It was also decided that complaints should be attended to in the chronological order in which the notice of intention to implement the Land Reform Law had been posted in each district. This committee never met either, and although it has been felt that the right to protest is of the utmost importance, no institutional provision whereby protests can be dealt with has, in practice, been set up.

With respect to villages for which different tax assessments had been made for the various *dāngs*, it was ruled that their purchase should take place in accordance with the different tax assessments, but that their sale to farmers should be carried out according to the total purchase price. Thus, for example, if a six-*dāng* village was divided into two three-*dāng* properties for which the tax assessment differed, each three *dāngs* were bought on the basis of the final price of the whole village. In the case of villages for which no tax assessment existed, a decree dated 7.7.41 (30.9.62) ruled that the value of such villages should be fixed on the basis of the tax assessment for similar villages nearby.

A Cabinet decree dated 10.12.40 (1.3.62) stated that, after the price had been announced and the ten day interval in which a protest could be made

had passed, the Ministry of Agriculture could transfer property in excess of the legal limit to the government and advise the Land Reform Council of any protest made by the owners. The sum of money involved in the transaction should be the price declared by the Ministry of Agriculture and, in cases in which protests were registered and later accepted by the Land Reform Council, alterations would be made in the installments. According to Article 14 of the Land Reform Law once this procedure had been completed the Land Reform Organization should summon the landowner in writing to transfer the deed to the government and to receive the value of the holding in accordance with the provisions of the law. If the landowner or his legal representative did not take the required action within fifteen days of receiving written notice, the Land Reform Organization was empowered to sign the transfer deed on his behalf with the knowledge of the public prosecutor.

Payment of the Value of Holdings

The price of land purchased by the government is paid in installments through the Agricultural Bank. At first Article 11 of the Land Reform Law ruled that these installments were to be paid over a period of ten years,but the amendment to the act approved by the cabinet on Bahman 2nd 1342 (January 22nd 1964) extended this period to fifteen years (with the exception of transactions which had already been made before the amendment). Payment was made by means of written orders which, until the date at which it is specified that a particular installment is due for payment, bear an interest of six per cent. According to Article 7 of the Bahman 2nd Act, the holders of payment orders can cash them at any authorized bank which, in effect,means that they are negotiable on the free market. Article 14 states that if payment orders are forged, the forger is subject to the same penalties as one who forges bank notes. Interest can be paid before the date at which bonds are negotiable and, in these cases, the amount is determined by the Board of Directors of the Agricultural Bank.

If no request for registration had been made in the case of a village which fell under the provisions of the Land Reform Law, or if, despite such a request, no title deed had been issued, the village could be purchased from its owner and the legal price paid to him provided that the ownership of the village was not in dispute.However, if the identity of the legal owner of such a village was uncertain, the village could be purchased from any one of the claimants who applied for registration but it was stipulated that the

payment orders should be deposited with the cashier of the registration or justice department, to be paid to the legal owner after the title deed had been established in his name.

With respect to petty landowners who are not subject to the provisions of the law, but who volunteer to sell their holdings, the 34th session of the Land Reform Council issued a decision dated 6.9.41 (30.11.62) which stipulated that, in the case of holdings whose price does not exceed 500,000 rials, 60 per cent of the price should be paid in cash at the first installment and the balance in nine annual installments. In the case of holdings valued up to 1,000,000 rials, 30 per cent of the price should be paid in cash at the first installment and the balance in nine equal annual installments. This kind of action was only to be taken in cases in which holdings that could be legally retained were volunteered for sale.

However, these provisions were modified by the 53rd session of the Land Reform Council through a decree dated 20.8.42 (11.11.62) which made the following provisions:

i) If the value of the holdings surrendered by a volunteer landowner be less than 500,000 rials, 95 per cent of the price should be paid in cash at the first installment, and the balance in fourteen annual installments.

ii)In the case of properties exceeding the above limit, 500,000 rials should be paid as a down payment and the balance paid over the next fourteen years.

The provisions for petty landowners who voluntarily sold their land were also modified at a session of the Land Reform Council dated 12.12.42(17.3.64) Here it was stated that petty landowners who had voluntarily sold their land according to the provisions of the 34th session could, if they so wished, transfer any remnants of their holdings to the Land Reform Organization and avail themselves of the concessions approved at the Council'a 53rd session, provided that the total amount received against the first installment of the transaction did not exceed 500,000 rials and that no changes were made in the transfer deed and installment receipts or the directions relating to the first transfer. It also ruled that eligible persons could avail themselves of only one of the concessions granted at the 53rd session of the Council.

Mortgaged Property

Special provisions were made in the Land Reform Law for this kind of property because unless some kind of barrier were created, they would have provided a good way for landlords to avoid the Land Reform.

In the case of holdings mortgaged or transferred with the right of retrieval before 14.9.38 (6.12.59), Paragraph A of Article 12 stipulates that if the debt had not fallen due by the date of the implementation of Land Reform, it would be announced as payable and an appraisal of the situation would be made in the presence of both creditor and debtor. If, by the time the transfer deed was drawn up, the debt had not been paid, it was arranged that the government pay the creditor an assessed sum of money not in excess of the legal price of the village and pay the remainder, if any, to the landlord. If the debt exceeded the price of the village, then the creditor could take action through the usual channels.

In the case of holdings mortgaged or transferred with the right of retrieval after the 14.9.38 (6.12.59), Paragraph B of Article 12 stipulates that the owner is bound to redeem the mortgaged property within a period of six months after the commencement of land distribution. If the landlord does not do this, the government is empowered to pay the creditor up to the assessed price of the holding. If mortgages retrievable before the 14.9.38 (6.12.59) are renewed or prolonged, then they are subject to this latter action.

So far no mention has been made of the case of estates whose owner has died and for which no certificate of inheritance has been issued and the share of each heir has not been determined. According to a decision adopted at the 18th session of the Land Reform Council, so long as the holding had not been divided between the heirs, the land would be treated as *amlāk moshā'* and each heir would have the right to take the legal action outlined for this kind of property. Apparently the reason for adopting this decision was to prevent the heirs from prolonging the legal formalities involved in matters of inheritance and thus delaying the implementation of the Land Reform.

The Distribution of Land Among Farmers

According to Article 15 of the Land Reform Law, holdings that have been purchased in accordance with the provisions of the law were to be distributed immediately amongst eligible persons by the Ministry of Agriculture. The land was sold at the purchase price plus a maximum of 10 per cent interest and the farmer was obliged to pay the price to the Agricultural Bank in equal installments over a period of fifteen years. Installments are usually collected at the harvest season and the first was to be paid by the farmer one

year after the cession of the land.[12]

Article 18 of the Land Reform Law states that: "whatever land is divided and transferred according to this law will be covered by a transfer deed issued in the name of the transferee. The transfer deed will be held by the Ministry of Agriculture as a security for the payment of installments".

The cultivated lands of villages included in the reform were to be distributed among the farmers of the village on the basis of the farming *nasaq*. Dwelling places as well as stables, warehouses etc. which were in the possession of the farmer were also ceded to him in accordance with the provisions of Article 31 and the farmer could apply for the issue of a title deed for such properties in his own name.

Article 16 of the law states that the transfer deed of the land should be issued in the name of the head of the household i.e. he who provides the household's livelihood. The definition of a household included in Paragraph 7 of Article 1 of the Land Reform Law has already been quoted and it is interesting to note that its phrasing implies that the transferee should be the man of the family concerned. The law makes no mention of the right of women villagers to own land although probably it would have been much better if this point had been taken into consideration.

Article 17 of the Land Reform Law states that the lands of the village subject to distribution should be divided into shares on the basis of the existing farming *nasaq* and jointly ceded to the farmers. However, whenever the Land Reform Organization deemed it advisable they had the power to remap the village and cede it in separate lots as long as this was done on the basis of the situation and type of farming, and in proportion to the existing *nasaq*. At the time of writing no steps had been taken to divide land that had been ceded jointly to the farmers.

But according to the fifth condition written into the transfer deeds, the limits fixed or confirmed by the Land Reform Organization serve to demark the legal registered limits which must be observed by the farmer and which he must undertake not to overstep. In the case of scattered *dāngs* transferred to the Land Reform Organization, the 18th session of the Land Reform Council dated 12.3.41 (2.6.62) ruled that because the division of such villages may

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12. Article 28 of the Land Reform Law states that if the farmer fails to pay three of his annual installments then the Ministry of Agriculture has the right to confiscate his land and to sell it to another. The law makes no provisions for the repayment of installments already paid before confiscation.

be a lengthy process, all would be transferred to the Land Reform Organization and made over to the farmers as a common holding. Thus, in the case of villages of which two *dāngs* are to be distributed, the farmers must pay the interest on four *dāngs*. For this reason, Article 1 of Decree No.8818 dated 16.5.41 (2.8.62) ruled that scattered *dāng* properties transferred to the government should be transferred to all the farmers as a common holding, in proportion to the existing *nasaq*, and in accordance with Articles 15 and 16 of the Land Reform Law. After this, action should be taken to divide the farmer's shares as quickly as possible and to stabilize the *nasaq*.

Prohibition of Changes in Nasaq. An important point made in the articles specifying the distribution procedure is that the *nasaq* which forms the basis of distribution, should not be changed after the date of the Reform. This was a quite justifiable procedure since it established the right of one who was farming a particular plot at the date of the Land Reform to buy it from the government. Another provision worth noting is that any farmer may purchase up to twice the maximum fixed area of the lands of the village falling within the terms of the Land Reform. Although this may be good from the point of view of creating economic farming units, still it may, under present conditions, strengthen the hand of well-to-do farmers at the expense of poorer ones.

Persons Entitled to Receive Land

According to Article 16 of the Land Reform Law the following categories are entitled to receive land:

Farmers of the village in question who are engaged in cultivation on the same plot of land and who reside in the village. Paragraph 2 of Article 1 describes a farmer as "one who does not own the land and is directly engaged in farming, either personally or with the help of family members, on land belonging to the landowner, and who gives the landowner a share of his product either in cash or in kind". According to Paragraph 1 of Article 1, farming is the production of crops through farming activities or orchard keeping. The law keeps silent on the subject of those engaged in livestock raising and those who move too and from summer and winter quarters to graze their cattle, but the Land Reform Council has ruled that farmers who, in addition to livestock raising are also engaged in cultivation, are entitled to receive land when they return to their own locality.[13]

13. 37th session of the Land Reform Council dated 17.8.41 (8.11.62).

This ruling puts a new perspective on the initial ruling that the farmer should be a resident of the village in order to be eligible for land since, formally speaking, this type of person is not a resident. A further difficulty with respect to the residence ruling also arose in the case of those who were, at the time of land distribution, performing their military service. This is further exacerbated by the fact that Article 15 of the Land Reform Law states that entitled persons should be given their land immediately. Thus the 37th session of the Land Reform Council held on the 29.10.41 (19.1.63) ruled that draughted men were entitled to land if they were also farmers.[14]

Heirs of farmers of a particular district who died not more than one year before the beginning of the distribution. This group is provided for in Part B, Article 16. Although no mention is made of residence and engagement in farming, these criteria to apply.

Barzegars engaged in farming. Paragraph 4 of Article 1 defines a *barzegar* as one who does not own land or any other factors of production,but who receives a share of the crops against farm work for the landlord or the holder of the *gāvbandi*. Since much of the farming work in many villages is done by the *barzegars* while the *nasaq*-holders act as overseers, to withhold land from the former would be an injustice. Thus, in some districts, for example around Rezāieh this inconsistency has been remedied by Land Reform Organization officials. In villages of this district not subject to reform arrangements have been made for owners to place a plot of land at the disposal of the *barzegars* thus allowing some to hold what is in reality a rotating *nasaq*.[15]

Agricultural workers residing in the district under distribution. Paragraph 5 of Article 1 of the Land Reform Law defines an agricultural worker as one who receives wages in cash or in kind against a specific piece of work on the farm and who does not own land or any other factors involved in farming. In the case of workers employed on a daily basis in pistachio groves,the law makes no provisions and the Land Reform Council has stated that they are not

14. Persons detained or sentenced to imprisonment are among those who were regarded as having been absent from the locality at the time of the Land Reform. However, since such persons may have had rights in the farming *nasaq*, they may have been eligible to benefit. Since the Iranian Civil Code does not describe "withdrawal of financial rights" as a punishment, silence on this matter on the part of the Land Reform Law is subject to criticism.

15. Refer to the report on the Agricultural Problems of East and West Āzarbayjān, *Tahqiqāte Eqtesādi* Nos. 13&14, January 1968.

entitled to benefit from the reform.

Volunteer agricultural workers. These persons are listed in Article 16 of the Land Reform Law as the fifth, and in terms of priority, the last group eligible to receive land. However, the law makes no further mention of them and does not clarify the details of how, and in what situation, they have a right to land. In addition to these, applicants competent to farm may purchase the barren lands of the village from the government (Note 3, Article 3).

But beside formal eligibility, there is a second condition for receiving land. The eligible groups mentioned above have been listed in the numerical order of priority laid down by Article 16 of the Land Reform Law. This condition of priority has, at the time of writing, worked in the interests of the holders of *nasaq* because in very few villages was there any surplus cultivated or fallow land for which this group had no claims.

In addition to the categories of villagers eligible to receive land, there are other classes for which the law makes no provision. The largest of these are the *khoshneshins* who usually make up something like 35 to 40 per cent of the population of the village and who are engaged in a variety of work. Livestock raising, shopkeeping, service occupations and agricultural labour form their main source of income but the unemployed, the sick, the aged and the disabled, are also included in this class. Thus they are a group of people whose economic condition varies quite considerably but, because of their lack of any rights in land, and the high rate of unemployment among them, is usually either unstable or unsatisfactory. With respect to their general position in the Land Reform, the Land Reform Council has ruled that if an agreement has been reached between the farmers and the *khoshneshins* prior to the distribution of land, there is no objection to them drawing up a new *nasaq* system on the basis of traditional arbitration *(kadkhodāmanshi)* and then proceeding to the distribution of the land.[16]

Gāvbandis, that is those who have no share in the farming *nasaq* of the village but who invest their capital in oxen and rent these against a share in the crops for ploughing purposes are also excluded from the Land Reform.

A third condition that must be fulfilled before land can be ceded to the farmer is membership in the local rural co-operative society. These societies were set up by the Land Reform Law primarily to undertake rural development activities, to co-operate with the farmers in matters relating to

16. 11th session of the Land Reform Council dated 11.1.41.

production such as the supply of water, seeds and fertilizers, the dredging of streams and *qanāts*, and insecticide spraying; and in matters relating to consumption such as supplying the villagers with sugar, tea, cloth, etc. Another function of the utmost importance is to extend credit to the farmers in the period before the harvest when their money is at its lowest and their need for capital to process their product and improve their equipment is at its greatest. The society also grants low interest loans to members who have obtained usurious loans elsewhere. Apart from this the society is supposed to administer the joint agricultural affairs of the village which, according to Article 32 of the Land Reform Law, consist of the maintenance of *qanāts*, the supervision of the use of machinery, and plant and animal pest control.

The Note to Article 16 of the Land Reform Law states that land shall be given to farmers who have already joined the co-operative society of their district, and the 18th session of the Land Reform Council dated 13.3.41 (3.6.62) places a restriction on membership by saying that only those who are to receive land under the terms of the Land Reform are eligible to join the co-operative society. Note 1 to Article 19 of the Constitution of the Co-operative Societies stipulates that persons who receive land but who are unable to undertake the production and development duties required of them shall be expelled from the society. Expulsion denotes the incompetence of the person concerned to look after his land and serves as a justification for its confiscation. In this case the Land Reform Law states that action shall be taken in accordance with Article 28; that is the land should be transferred to another person.

In order to set up co-operative societies, the Land Reform Council decided that officials of the Agricultural Bank with the aid of local members of the Land Reform Organization, should call at villages subject to distribution and acquaint the farmers with the advantages of the co-operative system.[17] The amount of capital of the co-operative society is determined by the number of its members, the economic condition of the region, and the requirements of shareholders. The members of the society must contribute to its capital.

17. The 18th session of the Land Reform Council dated 13.3.41 (3.6.62) ruled that co-operatives could be set up in villages not subject to the reform but that eligible villages should have priority. Moreover, co-operative societies formed in landlord's villages would not be given as much capital.

Regulations Governing Water Rights

The Land Reform Law, instead of stipulating any particular new arrangements for the division of the waters of *qanāts*, rivers or wells, has stated that this shall be done on the basis of the traditional common law practice of the locality (Note,1 Article 17). It was arranged that the ownership of the *qanāts* should be made over to the farmers jointly, the rights of each being based on the traditional rights attached to a particular piece of ground. The case of rivers is similar; the respective traditional water rights of each piece of land should be transferred to the farmer.

But the situation is not always so simple. Not only do persons exist who own water resources without owning any cultivated land, but also there are cases in which the water resources of a village subject to reform are owned by persons in a nearby village which is excepted from the Land Reform Law. In some such cases the landlord has either refused to place water resources at the disposal of farmers, or has claimed an inflated price for usage of his water supplies. Thus this question was discussed at the 37th session of the Land Reform Council held on the 29.10.40 (19.1.62) who recommended that *qanāts* of this kind should be purchased by the local co-operative society. Article 34 of the amendment to the Land Reform Law, which was ratified by a special joint committee of the Houses of Parliament,clarifies this matter in the case of orchards by stating that the distribution of water must take place in the same way as was practised before the approval of the statute. If owners of water resources fail to comply with this arrangement,then the Land Reform Organization is empowered to take the necessary measures.However, the owners of water resources do have the right to charge for the use of their water although this must be a locally agreed upon and customary price. Note 1 to the article states that the unit price of water must be determined by mutual agreement at the beginning of each farming year. The law also states that if the owners of such resources refuse to take responsibility for the cleaning and dredging of *qanāts*, the Ministry of Agriculture should take action and cover the costs from water funds.

In the case of wells, action to clarify their legal owners was taken on the basis of tax records and declaration sheets. If the well had been mentioned on the landlord's declaration sheet, both the well and the machinery attached to it were ceded to the farmer, but if it had not been mentioned the well still became the property of the farmer but the landlord had the

right to remove the machinery provided this act caused no damage. Alternatively the government was empowered to purchase the well and its machinery from the landowner and sell it to the farmer.

In some places deep wells were sunk with the object of increasing production or producing a certain type of crop (e.g. tobacco). If villages in which such wells had been sunk were subject to Land Reform, then, according to the decision of the 46th session of the Land Reform Council dated 31.5.42 (27.7.63), if the wells had been drilled after assessment and their water was used for irrigating purchased lands, their value was to be assessed by experts and the price paid to the owner by the government and recovered from the farmers together with the value of the land. It is to be understood from this decision that if the well was not used for the purpose of irrigation, then it would not be purchased. Wells used for drinking water or other community purposes were to be placed at the disposal of the co-operative society.

There have been many instances in which the owner has removed the machinery of wells after the Land Reform, or in which the owners of joint properties *(amlāk moshā')*, part of which have been distributed, have refused to supply farmers with water. A case in point is a village in the Varamin area studied by the Institute for Economic Research of Tehran University in the summer of 1342 (1963).[18] No protests have been made by the Land Reform Organization and no special provisions have been made by the law for these cases. Thus it seems that the landlords have a right to behave in this way.

The Administration of Water Affairs

Depending on the type of village, the way in which the maintenance and distribution of water resources is administered differs considerably.

Distributed Villages. These villages are of two kinds: those entirely distributed to the farmers, and those of which only part has fallen under the terms of the Land Reform Act. The maintenance, improvement, and repair of water resources in the first kind of village is the responsibility of the landlord. However, in the case of villages in which some of the irrigated lands have remained in the hands of private landlords, Note 2 to Article 17 of the Land Reform Law states that the landlords with the largest holdings should act on behalf of all the landlords in accepting responsibility for

18. See the report on the Rural Economic Problems of Khorāsān and the Central Ostān, *Tahqiqāte Eqtesādi* Nos. 15&16, November 1969.

any affairs related to *qanāts*, deep wells, or brooks used for irrigation purposes. The costs of maintenance are to be borne by all those holding land in the village in proportion to the amount of land which is theirs. Initially the task of resolving conflicts arising over payment of such costs was given to the Reconciliation Board, but since this Board was dissolved in 1341 (1962), the officials of the Land Reform Organization were given the right to pass verdicts on such matters.

Undistributed Villages. Paragraph 1 of Article 20 of the Land Reform Law defines the relationship between landlord and farmer in these villages. It states that the duties of the owners consist in the payment of the costs of repairing and maintaining the *qanāts*, including cleaning, redigging, and dredging *qanāts*, wells, and canals joining the main wells to their subsidiaries. The landlord should also take all other necessary action for the maintenance of *qanāts* and deep-wells and pay the cost of river water including the construction and repair of cement conduits, resevoirs and canalization. The landlord is also bound to pay the expenses of motor pump irrigation and to attempt to utilize modern equipment. When a special agreement has been reached between owner and farmer with respect to the payment of the costs of utilizing the pump and its motor, action is to be taken in accordance with the provisions of the note to part A of Article 20.

The water rights of orchard holders in villages subject to the Reform. The Land Reform Organization received many complaints to the effect that the water rights of orchards which remained in the owner's possession had not been clarified in the transfer deeds and that this might later cause differences between owners and farmers and result in damage to or destruction of orchards. The Council therefore ruled that such rights should be secured on the basis of local practice prior to the Reform and should be determined by water flow per hour, by *dāng* or whatever arrangement was customary. In the case of the sale or distribution of holdings, the water rights should be specified in the deeds.

Research Group in Agricultural Economics,
Institute for Economic Research.