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Theorizing Land Ownership in Land Titling

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The Philippine contemporary land ownership and titling system underwent severe reforms through several decades. In 1988, the Comprehensive and Agrarian Reform Law (CARL) was crafted aimed to distribute the country's land base. After two decades, the government launched the land administration and management project (LAMP) to secure land tenure as well as reduce the country's poverty rate. From 1988 to the current date, land reform programs created and disseminated a vast amount of knowledge from implementers that trickles down to the community. This paper aimed to identify and discuss the concept of land and land ownership through land titling and to determine its connotations after three decades of agrarian reform. Data was gathered through in-depth interviews and was analyzed using the Atlas.ti. The results were interpreted within the context of constructivism. Three major paradigms emerged in the process. Land ownership through titling is viewed as security, pride, and propaganda.

Keywords: Land titling, Land ownership, LAM Project, knowledge construction

Just like heaven. Everybody wants a little piece of land, but nobody ever gets to heaven, and nobody gets no land. They have all the time talking about it, but it's just in their head.

[Steinbeck, 1937]

INTRODUCTION

Land ownership symbolizes power. It is thought to create an emancipatory force towards poverty and other forms of oppression, because of the concept that land is seen as wealth (Kuhnen, 1989). Power in the context of land governance is wealth and, vice versa, is often associated with domination, tyranny, and oppression.

Land-related problems have taunted the country for generations. Issues vary from landlessness to land transfer and grabbing, duplication to fake titles, multiple laws and taxes, weak land administration and management, and unfair governance (Dealca, 2009), each one related to land access and tenure security.

The Government responded to these issues through crafting different agrarian reform policies. One of which is the Comprehensive Agrarian Reform Law of 1988 (CARL). This law was crafted to protect the rights of agricultural workers in the country (Comprehensive Agrarian Reform Law, 1988). The Comprehensive Agrarian Reform Program (CARP) was then established to distribute the country's land base. This was followed by the Land Administration Reform Act of 2011 (LARA) so as to support CARP. The law mandate reforms on land administration system in the country. This law gears towards sustainable administration of resources and records, standardization of the titling process, fully decentralized service through One-Stop Shops, and development of increased transparency and accountability across the whole administration process and assures land tenure security to agrarian reform beneficiaries and other clients (Williamson, Enemark, Wallace, & Rajabifard, 2010).

The LARA was developed after the implementation of the Land Administration and Management Project or LAMP. The LAMP is the Governments' first step towards the 15–20-year goal to alleviate poverty and enhance economic growth (Hunter & Hoogsteden, 2010) through tenure security. The project has two phases. Phase 1 aimed to test alternative approaches on land protection, policy, and regulation. Subsequently, Phase 2 has five components: (1) policy development, (2) institutional development and capacity building, (3) tenure security, (4) property valuation and taxation, and (5) project management (Dealca, 2009). Of the five components, component 3 on tenure security focused on the communication and information dissemination of the project. It aims to promote community

participation and awareness on land rights, responsibilities, and the benefits of land titling and improved tenure. It streamlined titling procedures through reforms in surveying, mapping, and adjudication services in partnership with LGUs and other agencies. This component also focused on providing efficient services in land registration and record management through a One-Stop Shop (OSS), an online land database.

More than a decade after its implementation, it would be interesting to know the effects of land tenure security in terms of knowledge development. This paper aimed to explore and discuss the concepts surrounding land ownership through land titling.

THEORETICAL FRAMEWORK

The knowledge we have today has been passed on through generations and has survived the rigid selection of reality. This is the dominant knowledge created by culture and society. In this notion, reality is filtered, manufactured, and modified by the dominant echelon silencing and marginalizing dissimilar perspectives producing domination over knowledge.

This study follows the concept of social construction of knowledge. Constructivism claims that the knowledge we have and reality we believe guide us in our everyday life. Berger and Luckmann (1966) supposed that everyday life presents itself as a reality interpreted by men and is subjectively meaningful to them as a coherent world. Social construction of knowledge originated as an attempt to come to terms with the nature of reality (Andrews, 2012).

Allen (2007) defined social construction as a school of thought which contends that humans create reality through interaction. This reality involved naming of things and concepts and beliefs which basically creates culture within an individual or a community. Meanings in this concept arise from social systems and that we derive knowledge from dominant discourses, which is more often, based on dominant value systems (Philp, Guy, & Lowe, 2007). The idea according to Pearce (2009) is that our social world is fabricated, and we are the beneficiaries or victims of the things we and others have constructed. In this paradigm, epistemology (what do we know?) is thoroughly penetrated by ethics (what we should know?). Hence, the processes of constructing social identity “depend heavily on social, political, and historical factors, as humans rely on current ideologies to

create social identity categories and their meanings” (Allen, 2007).

Social construction is then a viable approach to theorizing land ownership. This paradigm also guides us to delve into the idea that everyone is assigned to an artificial construct and taught how to enact it (Grimes, 2002), as well as how to perceive things and symbols around them. In addition, social construction acknowledges relationships between contexts; hence, it provides means for how rights to land give authority and power to certain individuals. This perspective according to Allen (2007) “encourages us to question taken-for-granted knowledge about the world and, therefore, about ourselves.”

METHODOLOGY

Research design

The study employed a qualitative research design method. Qualitative researches are tools used in understanding and describing the world of human experience (Myers, 2000). Generally, the study sought to answer the following questions: what are the different concepts surrounding land ownership in land titling; and how do landowners construct or create knowledge on land ownership and its related concepts. An in-depth interview involves a comprehensive inquiry and detailed conversation on the participant’s history of land acquisition, the process of ownership, and experiences.

The participants

The participants are LAMP clients, who acquired or are in the process of acquiring their land titles through the project. A total of 21 LAMP participants were interviewed in the study. All of whom are locals of Leyte, Philippines, one of the project’s pilot site. The participants consisted of 13 females and 8 males. They were composed of 11 senior citizens (60 years and above) and middle aged individuals (40–59).

Their lands were registered as (20) agricultural and (3) residential which they mostly inherited (17) from their parents and relatives. Basically, the participants use their land as coconut farms because of the mountainous landscape in the area. Selling “copra” is a major source of livelihood and

income. Other crops planted were sweet potato, banana, fruit trees, upland rice variety, bamboo, mahogany, and other types of hard wood.

Sampling procedure

An exponential nondiscriminative snowball sampling of LAMP participants from the municipality was employed. This type of sampling is usually used for small groups of stakeholders. This case, on the other hand, is different. The LAMP OSS has thousands of clients over the three municipalities in Leyte. Since the study is qualitative and will follow a case study research design, a smaller sample is needed. This type of sampling procedure will allow respondents to recommend or refer other LAMP participants near the area. Once saturation is reached, data collection stops.

The Analysis

The study followed the coding process developed by Corbin and Strauss (1990). The following procedures were employed: open coding, axial coding, selective coding, and the theoretical model. The recorded interviews were transcribed using ExpressScribe which directly stores the texts to Microsoft Notepad.

Analysis or the coding process was done using a Computer Assisted Qualitative Data Analysis Software (CAQDAS) program Atlas.ti. The program was specifically built to support grounded theorizing (Silver, 2006). Atlas.ti enables one to collect large bodies of data, including interview transcriptions, PDFs, Microsoft Word documents, html, pictures, and even audio and video recordings, and conveniently manages the codes from analysis to output (Mungal, 2009). Text and categories were then translated from Filipino-Cebuano to English after the analysis.

RESULTS

Security and land titles

Security features mutual trust, mutual benefit, equality, and coordination (Jinping, 2014). Security of tenure was basically the core concept of the LAM Project. Hence, subjects regard land titles as something that will secure

and assure their rights over the land they own or registered. This concept is apparent in the phrases “kasigurado-an na imu na jud ang yuta” (assurance that the land is yours), “wa nay la-ing mu-ilog og mu-angkon” (no one will try to own), and “ikaw na ang mubarog” (you will be the owner). The participants added that titles have also lessened the threat of land grabbing and ease complicated bank transactions.

[P1] With a (land) title, you have that security that the land is yours. People will also hesitate to take advantage if there is a title. I have this land, a timberland, but was planted with abaca which was cultivated by someone else. Then, there was an officer from the Department of Environment and Natural Resources (DENR) who told him that the land is his because he was the one tilling it. Now, the farmer tried to take the land — that is the problem when you don't have a title.

[P15] The only difference in having a title is the assurance that the land is yours. For those who have money, it's easy for them to take other's land especially if the land doesn't have a title.

Land markets basically exist when and wherever there is exchange to rights of land for agreed amounts of money or services rendered (Mahoney, Dale, & McLaren, 2007). The construct that land titles improved land market can be explained by the following subthemes: (1) easy transactions in selling land, (2) access to bank loans and collaterals, and (3) clarification of boundary disputes.

[P1] It helped a lot in my children's education. If you do not have other source of money, the bank is available if you have a title, you can use it as collateral.

[P2] A title gives you ownership. There are some siblings that are crazy and will question why you are managing part of your parents land. So, I decided to have it titled, after that no one tried to get involved with our land anymore.

[Client P5] It's more trustworthy when you sell land with a land title compared to not having one; the buyer will tell you “there are still a lot of things to process.” We have a lot of problems before when we still don't have a title for our land. If we sell it, they will ask us if we have titles, if there's none, they would back out.

An investment is basically anything, usually a property purchased specifically to generate income (Investing in Property, 2013). One of the participants specifically described land as an investment.

[P21] *Land is investment; it is not currently clear but apparently its value will increase. If you will just take care of the land, especially a coconut farm, every 3 months you can harvest the copra. It really helped in our livelihood. The education we have is from the yield of our coconut farm.*

Though the concept of secured ownership through titles is clear, scripts revealed that the idea or knowledge was unnaturally constructed. There is a disconnection between knowledge and the individual or the participant saying it. This concept is evident in the words “ingon sa/nila” (they said), “matud pa” (according to), “kuno” (it is said), and “pasabot sa” (said by/according to).

[P6] I don't really know the use of a title but according to LAMP, the land will be ours.

[P9] They said that if you have a title, your land will not be easily or merely taken, there is evidence.

[P10] It is said that the purpose of the title is for the land to be ours, that we will surely be the owner of the land.

[P11] It's good to have a title, that's what I heard. So, I also thought it may be good, that's why I tried to have a title. We never tried having a title before; we just followed others who had acquired land titles.

[P14] The title, according to them, that from the program, the land will surely be yours, no one will take it.

[P20] The title, according to LAMP, makes you the total owner of the land. If you don't have title, you are just like declaring to the government. If you have a title, you are surely the owner and you can use it as collateral/loan it to the bank. A declaration only allows you to loan it to other people but not to the bank.

Pride and Legacy

Land owners see land titles as a source of pride. This conception of pride that comes from land titles is lucid in the word “garbo” or “kapasigarbo” (pride

or something to be proud of). The following quotations further explain this notion:

[P4] When you have a land title, you have this pride that the land is really yours, no one can take it. I have something to be proud of to my children, a place where they can live. It's good to have a title because you have something to show, not just words.

[Client P5] There is a huge change when you have a title; there is pride when your land has title.

[P10] We got interested in land title because the name of our father will be transferred to our name.

[P21] You have a land but there is no title. You can boast if you have a title.

Inheritance is defined as a “property that one receives from someone when they die.” Land and a land title are perceived as a legacy and source of pride to some of the respondents. This concept is salient in the word “kabilin” or legacy.

[Client P15] You cannot call me a professional; I'm just a high school graduate. I just thought that it is better if you have a land and land titles because you can give a legacy to your children. That is the most important, to give a legacy.

[P17] Land is important because it is a legacy from our forefathers and a legacy for the person who will inherit it and to the children. We have a small land. The story is, the portion of our mother's land was sold because she got sick. There is nothing else to sell; there is nothing else in mind except that land. It was sold to our relative in my mother's side. The land we (our family) have now is an inheritance from one of her siblings. That is where my siblings live now.

Government Propaganda

Section 2, Article XII of the 1987 Regalian Doctrine and the Constitution of Land Ownership in the Philippines provides that “all lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests, wildlife, flora and fauna, and other

natural resources are owned by the State.”

The concept of government propaganda in land titling and ownership also emerged in the collated data. This perception is couched in the phrases “ila propaganda way bayad” (their propaganda was free titling), “dili ato ang yuta, sa gobyerno” (the land is not ours, it is the governments’). Land titles in this aspect do not mean total ownership; this means that clients only buy or claim the rights to the land but not the land itself (physical ownership), because it still belongs to the State. Furthermore, a communication gap, which resulted to doubt, was created in the delivery of information from implementers to the community. The doubt came from paying taxes. Apparently, tax is symbolized as rent. This means that paying taxes means paying rent to the government. It would appear this way, because the Philippine Regalian Doctrine on the ownership by the State implies that any person claiming ownership of a portion of the public domain must be able to show title from the state according to any of the recognized modes of acquisition of title. A land title provides an individual security of tenure to freely manage and dispose the land during his lifetime. Though a title provides legal rights, all lands still belong to the State. The term “ila” (theirs) which pertains to the government and “dili ato” (not ours) proved that there is limitation to ownership even with land titles.

Another issue encountered is the process of mainstreaming the procedures in the acquisition of land titles. The concept of (land ownership through) land titling as government “propaganda” came from the “free titling” campaign. Several participants paid a hefty amount of money to process their land titles.

[P1] They said there's no fee but during the surveying, I gave P 7, 000 to measure the land and to have a title on one of our lands, but until now there's no result. They only gave us a drawing on a bond paper. They said that would include the title but there is none.

[P6] The person who recruited us said that the land will be ours if it has a title. That's why my question, if there is a title and the land will be ours, will we still be paying tax? And they said that we will be paying tax instead. So, this means that the land is not ours; it is not certainly ours because we are paying taxes, and we are renting it. But the rights will not be taken. Even if there is a title, it is not ours. The land still belongs to the government.

[P12] They said that everything is free, but then again, we spent. We paid taxes now because we never paid taxes for a number of years. We are now slowly paying taxes, it is higher now that the land has a title.

[Client P16] It is said that it is free, but it's not, I paid P 6, 000, it's a hefty amount. That is their propaganda, no payment. They said that there are no fees because it's a program by the government, doing the poor a favor. I don't know what the problem is because we still spend paying for taxes. Land title is important for the government for taxes. Now that there are land titles, taxes are also clear.

DISCUSSION

In vivo coding through Atlas.ti shows that the words “ato/amo” (ours) and “imo” (yours) were used as reference to ownership. The lack of term like “ako” (mine) showed that land ownership in this sense is collective and not individualized. This means that not just a single individual owns the property or the land but the family or group as a whole, even if only a single person is registered as the owner.

Furthermore, as campaigned by the LAMP, ownership through land titles assures and secures an individual's legal rights to the land he tills and owns. Consequently, the concept of legal ownership through titles emerged from the collated data, but further scrutiny revealed another category. The construct of land ownership through land titling is then associated with these two major categories:

- **Legal ownership** — how landowners perceived the outcome of having land titles; and
- **Political ownership** — how landowners indicate and identify power relations to the land they own.

The concept of ownership is broad. Lars Bergström (1999) provided questions concerned with this notion: (1) What is the basis of ownership and (2) under what conditions does someone owns something? In this case, the basis of formal ownership is the acquisition of land titles. A predetermined concept was created by the program; but how did landowners perceive land ownership and titles? What kind of information did they receive and how did they process this information?

THE CONCEPTUALIZED THEORY

Legal Ownership

This category requires justification or validation from the law. Our legal rights according to Garrett (2004) are, roughly, what the law says they are. He added that legal rights gain their force through legislation or decree by a legally authorized institution. Hence, in this category, participants:

1. should be able put into words the rights an individual has over a property or the land he/she owns;
2. they should be able to determine changes in management and disposition of the land he/she owns after having a land title; and
3. be able to verbalize perceived concepts and processes in acquiring legal ownership.

This type of ownership is determined through the availability of titles. Moreover, their knowledge of the law should also be evident. This concept on the other hand showed clients' vulnerability. Though there is personal claim, their knowledge over land ownership through titling is insufficient and needs to be compensated. It has been observed that there is an emphasis of uncertainty. This observation was taken from the terms "ingon sa/nila" (they said), "matud pa" (according to), "kuno" (is said), and "pasabot sa" (said by). Participants were not able to clearly explain the processes and policies related to land ownership or confidently verbalize their claim over the land. Uncertainty contradicts the concept of security.

The acquisition of titles should provide participants adequate knowledge about the policies and processes, the pros and cons, but as observed, the process of communication done by the project is linear. Participants do not have a clear idea of the whole titling procedure or full knowledge of their rights as legal owners of the land. Hence, the concept of legal ownership falls short in only providing titles.

Political Ownership

This category entails an individual to determine power over an owned property. Political ownership (Kline, 2009) is determined through discourses

and verbalization of power relations as perceived by participants. In this category then, participants should be able to:

1. identify and describe dominant roles and prevailing practices in land administration and management;
2. show discourse through verbalization of concepts, perceptions and viewpoints; they should verbalize their claim over the land they own based on experiences and what those experiences mean to them.

Of the 21 participants, only one [P6] was able to scrutinize the process of land titling, identify power relations over the land he owns and made sense of the experiences he encountered in the process of acquisition. He was able to question the kind of ownership he has through the payment of taxes:

That's why my question, if there is a title and the land will be ours, we will not be paying tax anymore? And they said that we will be paying tax instead. So, this means that the land is not ours; it is not certainly ours because we are paying taxes, and we are renting it. But the rights will not be taken. Even if there is a title, it is not ours. The land still belongs to the government.

CONCLUSION AND RECOMMENDATIONS

The study identified three concepts (security, pride, and propaganda) in land ownership through land titling. This was further categorized into two: legal and political ownership. Though the number of respondents is very small or limited, the study gave a partial view (of) and highlighted landowners' experiences and problems encountered in the process of land and land title acquisition. Hence, the study stands as a baseline for future land administration programs in the area. Especially now, that the government is improving its land administration programs after Typhoon Haiyan, where land records are destroyed, making small land owners vulnerable to land grabbing.

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