

involute the principle of national sovereignty and voluntarism. Am I suggesting, then, the irreconcilables of organization and no organization? I am suggesting free spiritual and intellectual co-operation. I am suggesting systematised corporate study of world problems. I am suggesting the specific disposition of specific matters by international agreement. Inter-

nationally, we must crawl before we walk, and walk before we run.

"I say the American people are heart and soul for seeking permanent world peace through steady, methodical, co-operative, non-constricted moral and mental pressure. Any machinery destructive of freedom of decision and action will spoil everything."

spouse may divorce be obtained. The middle ages presented nothing more revolting. But by customary law divorce may be quietly agreed upon between the families concerned. Incompatibility is recognized as a sufficient cause for legal separation. Property settlements are arranged, but imprisonment never thought of.

The probability of divorce is also minimized by native custom respecting marriage. Ninety years ago, Paul de la Gironiere, a French physician who lived twenty years in the islands and developed Jalajala plantation (now degenerating to wilderness once more), described the Tagalog peasant marriage custom which is still quite common:

"When once a young man has informed his father and mother that he has a predilection for a young Indian girl, his parents pay a visit to the young girl's parents upon some fine evening, and after some very

## Observations on Filipino Customary Laws

First Paper: Laws the Tagalog Peasantry of Luzon  
By WALTER ROBS

The extent to which customary law still prevails among the peasantry of the Philippines is interesting and valuable to note. Dr. H. Otley Beyer, the well known ethnologist, estimates that among Ilocanos nine disputes out of ten are settled out of court, by precedents established in customary law and decreed by the elders of the communities where the disputes arise. Many of the native customary laws, by which the people are really governing themselves, are superior to the statutes enacted as the law of the islands. The Dutch, farther south in Malaysia, long ago saw fit to establish courts of customary law, never thinking of imposing upon the peasantry any other. They have recently been compiling these laws, with a view to their codification for more convenient administration. In this task they asked the Philippines to assist by compiling the customary laws of this archipelago. A committee was appointed, only to do nothing, as is the easy habit here; so the Dutch stepped into this field too and actually compiled two volumes of our ancient native laws, many of which are still in force among the people by simple and voluntary practice.

Toward the printing of one of these volumes, the generosity of the senate president caused him to allot a small sum from a fund then at his personal disposal. That seems to have been the extent of official interest in ascertaining anything at all respecting the laws by which the large majority of Philippine people live.

If however the native culture were no longer to be despised, if the customary laws that are wholesome were embodied into a code of legal procedure—such laws, for instance, as preserve the respect of youth for age, and the community authority of venerable persons, and especially such laws as tend to sustain the native concept of the family—nothing at least would be lost. The gain, one is tempted to believe, would be incalculable. For it is more and more apparent, as our mere statutes are working, that every substantial tradition and custom of the people is set at naught—to the detriment of public welfare. Men of maturity, to say nothing of really venerable men, have practically retired from the field of public affairs. Callow youths, cultured in nothing less than in their racial history, have supplanted these elders to no public advantage whatever.

The violence of the change amounts almost to a revolution. The question is, and it is serious: Is the native character of the people sturdy enough to survive this violence without precipitating social chaos; and would the native character of any people be sufficiently sturdy to survive such violent and wholly exotic pressure? It may at least be doubted.

The customary laws often shine behind the statutes in comparison. Divorce laws are an example. The statute is barbaric; the customary law benevolent, considerate and enlightened. Under the statute, a

spouse to obtain divorce must put their mate in prison, by the public testimony of witnesses to the act of adultery, or by the accused's own shameful confession; and only from this disgraced and imprisoned



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ordinary that the mamma of the young man offers a plaster to the mamma of the young lady. Should the future mother-in-law accept, the young lover is admitted, and then his future mother-in-law is sure to go and spend the very same plaster in betel and cocoa wine. During the greater portion of the night, the whole company assembled upon the occasion chews betel, drinks cocoa wine, and discusses upon all other subjects but marriage. The young men never make their appearance till the plaster has been accepted, because in that case they look upon it as being the first and most essential step toward their marriage.

"On the next day the young man pays a visit to the mother, father and other relatives of his affianced bride. There he is received as one of the family; he sleeps there, he lodges there, takes part in all the labors, and most particularly in those labors depending upon the young maid's superintendence. He now undertakes a service or task that lasts, more or less, two, three, or four years, during which time he must look well to himself; for if anything be found out against him, he is discarded, and never more can pretend to the hand of her he would espouse. But it so frequently happens that if the two lovers grow impatient for the celebration of the marriage ceremony—for 'hope deferred maketh the heart sick'—some day or other the girl takes the young man by the hair, and presenting him to the curate of the village, tells him she has just run away with her lover, therefore they must be married. The wedding ceremony, then takes place without the consent of the parents. But were the young man to carry off the young girl, he would be severely punished, and she restored to her family.

"The Indian woman never brings a marriage portion with her. When she takes a husband unto herself she possesses nothing; the young man alone brings the portion, and this is why (at the second ceremony, the *tajin-bojol*, which is made a family and neighborhood festival) the young girl's advocate speaks first. . . . At the ceremony which I honored with my presence the advocate of the young Indian girl thus began:

"A young man and a young girl were joined together in the holy bonds of wedlock; they possessed nothing—nay, they had not even a shelter. For several years the young woman was badly off. At last her misfortunes came to an end, and one day she found herself in a fine large cottage that was her own. She became the mother of a pretty little babe, a girl, and on the day of her confinement there appeared unto her an angel, who said to her:—*Bear in mind thy marriage, and the time of penury thou didst go through. The child that has just been born unto thee will I take under my protection. When she will have grown up and be a fine lass, give her but to him who will build her up a temple, where there will be ten columns, each composed of ten stones. If thou dost not execute these my orders thy daughter will be as miserable as thou hast been thyself.*"

"After this short speech the adverse advocate replied:—

*Once upon a time there lived a queen, whose kingdom lay on the seaside. Amongst the laws of the realm there was one which she followed with the greatest rigor. Every ship arriving at her state harbor could, according to that law, cast anchor but at 100 fathoms deep, and he who violated the said law was put to death without pity or remorse. Now it came to pass one day that a brave captain of a ship was surprised by a dreadful tempest, and after many fruitless endeavors to save his*

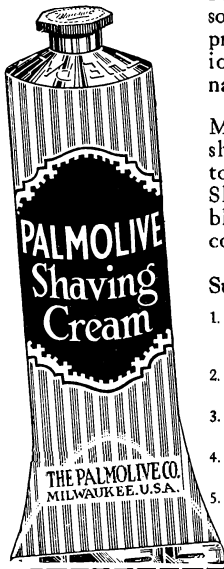


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vessel, he was obliged to put into the queen's harbor, and cast anchor there, although his cable was only 80 fathoms long, for he preferred death on the scaffold to the loss of his ship and crew. The enraged queen commanded him to her audit chamber. He obeyed, and throwing himself at her feet, told her that necessarily alone he could not hope to infringe upon the laws, and that, having but 80 fathoms long, he could not possibly cast out 100, so he besought her most graciously to pardon him.

"And here ended his speech, but the other advocate took it up and thus went on:—The queen, moved to pity by the prayer of the suppliant captain, and his inability to cast his anchor 100 fathoms deep, instantly pardoned him, and well did she deserve.

"On hearing these last words, joy shown upon every countenance, and the musicians began playing on the guitar. The bride and bridegroom, who had been waiting in an adjoining chamber, now made their appearance. The young man took from off his neck his rosary, or string of beads, put it round the young girl's neck, and took back hers in lieu of the one he had given her. The night was spent in dancing and merriment, and the marriage ceremony—just as Christian-like as our own—was arranged to take place in a week."

It is necessary to abbreviate Gironirey. The girl's mother had married poor and thereafter for some years endured unusual hardships. The temple asked for as a portion of the dowry, *bigay-caya*, or marriage gift, was a house; the ten columns composed of ten stones each meant 100 piasters. Silent about the temple in his rejoinder, the young man's advocate thus pledged that the house should be given, and in the allegory of the ship took—these speeches were also put in poetical fashion—he regretted that 100 piasters could not be given but pledged that 80 would be, to which the girl's mother and family agreed.

Such are among the admirable customs of Tagalog peasants of which the law takes no cognizance. The Philippine marriage law is an early military order, honest, well intentioned, but meddling with character, and traditions. Ministers hang out their shingles like straddling lawyers, and bind young people into romantic unions far less likely to be happy and enduring than those in which the native conventions arc observed.

Father San Antonio describes the ancient organization of Tagalog society:

The Filipinos had "their economic, military and political government, those being the branches derived from the trunk of prudence. Even the political government was not so simple among all of them, that they did not have architectonic rule. It was not monarchical for they did not have an absolute king; nor democratic, for those who governed a state or village were not many; but it was an aristocratic one, for there were many magnates among whom the entire government was divided." There were, in the *barangays*, or villages, three classes, nobles, freemen and serfs; and nobility, it seems also, was a rank that might be attained by dint of native virtues or acquisition of wealth—as in our own times Datu Piang, lord of Moro Cotabato, is a halfcaste Chinese sprung from the people, who has made for himself the position he commands.

The Spanish regime sacrificed much, and the American regime has sacrificed most of the assistance the true native aristocrat might render the state, the method in each case being the ignoring of customary law. Under America, indeed, the plebes are elbowing the pretorians quite out of things altogether, a veritable social revolution grips the country everywhere, while the

logical process of evolution is made impossible by the practical working out of unsuitable laws. It is true that the plebes, as yet, are not numerous in office. Neither are the native aristocrats. Men are in office who command the plebes' votes, and speaking generally of them as a group or class, they only have a partial heritage from the country and little sympathy or respect for its native institutions. The aristocrats to a degree, and the serfs or serfs quite completely, are at their mercy.

This condition prevails in face of the fact that proof is incontrovertible that the old communities well knew how to manage their affairs, and that the art is not yet lost. Government could easily be recast here in a way to induce the most respected and virtuous families to serve the state, in a way to enlist the abilities and prestige of the descendants of the old noble families and those who are ennobled by their own characters.

... the government law of wills is... Perhaps... lawyer, are... instrument... under this law time would prove flawless in court. The law is of course quite beyond the use of the peasants, who have their ancient laws that are superior to it; and these laws everyone understands, since they are traditionally fixed.

"As to the children and their succession and inheritance," says Father Colin, "if they are legitimate they inherited equally in the property of their parents. For lack of legitimate children the nearest relatives inherited. If there were illegitimate children, who had for example been had by free woman, they had their share in the inheritance, but not equally with the legitimate children, for the latter received two-thirds and the illegitimate one-third. But if there were no legitimate children then the illegitimate received all the inheritance.

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The children of a slave woman who belonged to the man were given some part of the household effects, according to the will of the legitimate children. In addition the mother became free for the very reason that the master had had a child by her.

"Today the peasants make their wills much in accordance with this ancient law. The law permitted, custom still sanctions, some special gift to favorite children, particularly gifts of personal belongings. "As for legacies, it was sufficient to leave them openly, in writing or entrusted by word of mouth, in the presence of known persons." Here one sees the aristocracy had a civic duty to perform; they were the *known persons* who witnessed wills. It is current custom in the villages for fathers on their deathbeds to bequeath their property by saying it shall be divided as tradition decrees, and where there are an *inasasua* and natural children to be considered, to have these if possible at the bedside council, where, in the presence of known persons, their participation is agreed upon.

To seek to abort such an agreement would disturb the souls of the dead parent or near relative. It is not permitted under customary law, but the statute does not punish for a moral lapse of this sort, as the customary law certainly would. Under the statute a case involving a large property worth P500,000 has been pending in the courts for two years and is only recently decided. The legitimate wife of the owner had died years ago, without issue. He had since that time enjoyed the companionship of an *inasasua*, who bore him children. Upon his death his brothers and sisters laid claim to heirship, and resorted to the courts and highly paid lawyers to exclude the *inasasua* and her children. At last, it seems, the courts ruled against them, but had the well established customary law been followed there would have been no litigation, beyond possibly an informal hearing before the chosen elders. *Known persons* would have witnessed that there was an *inasasua*, whom, together with her children, the man had recognized.

"For God's sake, me and the people of that poor colony do not be so government-ish," Penn once exclaimed to his agent in America. The injunction would apply in the Philippines. It seems almost a demonstration of failure for America to carry on a government so aloof from the people and their understanding, as well as so often contrary to time-proved practices among them. If in desperation they must go into her formal courts, they go there ignorantly and are often pillaged almost openly. In their customary laws, too, there is redress for such breaches of confidence; but they usually dare not invoke the custom when swindled, because it is harsh and the police would be upon them.

Tagalog custom decrees implicit respect for parents and elders and for all superiors. Those to whom this deference is paid likewise have their obligations to those who pay it. No doubt exists that this custom is too rigid for modern times, in which the serf or slave of old time has become the peon, but modification need not take the form of incontinent uprooting and impatient contempt, so that society all but trembles at the violence of the change.

The rational means of modification of harsh practices is to place them in competition with what is better. In the Philippines it is surely evident that statutes and police are not the means: roads, industries, plantations managed with enlightenment, where wages are paid and the whole labor of a man remunerated, are the certain means of displacing feudalism without throwing society as a whole into the vortex of swift revolution. The customary laws

in respect to land tenantry are too severe; they are about the same as they were when serfdom prevailed. Statutes do not change them; schools do not; but if a tenant may say, "Sir, I am going to town to sign up for Mindanao," that surely will give the master pause, for perhaps that family has been on the land longer than the master himself and it is traditional that it remain there.

The variations in tenantry laws are too comprehensive to be reviewed in a paper of this scope. They are most severe in the rice regions, where, happily, due wholly to the stimulus of the greater demand for rice, the tendency is to mitigate their meaner aspects. From a rice crop the seed is returned to the landlord and the remainder then divided equally between landlord and tenant. The tenant is indentured by a debt called *bugnos*, possibly 100 pesos, though perhaps no more than 25 or 50 pesos. This debt never enters into the settlements, save to be regularly recalled as the obligation holding the family upon

the land, to which, if they leave without paying the debt, they may be brought back by aid of the insular constables or the local police. During the period a crop is being planted, the tenant is rationed with rice by the landlord, and this rice he returns at harvest without payment of interest. Other advances of rice, money or credit, which are many during the period the crop is growing, bear heavy interest: *takalawan*, repayment in rice at an agreed price, a fraction of the real market value; *torikuan*, repayment at 50 per cent interest; or *takipan*, repayment at 100 per cent interest, though none of the debt has been running more than a few months at most.

"The owner exercises a power over the tenant that would be hard to define," says Percy A. Hill, the best authority upon tenantry in Nueva Ecija. "He is consulted upon all affairs of ways and means and even marriage, absence from the land, use of animals, extra day or night work. In petty lawsuits the tenant must obtain permission to participate; otherwise he pays

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for loss of time at an enormous rate... He exasperatingly celebrates every fiesta in the calendar, and without careful watching will lose in a month by carelessness the crop it took him six months to produce. Yet he cheerfully submits to working out debts which are sometimes held only by verbal promises, often over a period of years; and once out of debt he usually manages to fall in again before he realizes it. It is to the owners' advantage to secure and keep the tenants in a constant state of debt."

But it is no longer so easy to do so, at least in some sections. Fifteen years ago *takalanon* in southern Nueva Ecija was 75 centenos to one peso per *cavan* of palay, which had to be delivered to the owner's warehouse or even hauled to the marketing point. I am assured that it is now 2.50 pesos a *cavan*, or more than 50 per cent of the actual market value. No statute whatever is responsible for this gain by the peasants, and none could be. Customary laws, however severe, do not perforce inhibit economic progress in the Philippines, nor may statutes set them aside. Intermingling, as they do, moral authority with whatever else they pertain to, they might readily be made the very means of progress. It is the sharp laddies that dabble in statuemaking that throw all the monkey wrenches. These boys are American-made.

How satisfactorily everyone gets along when dealing with the people in accordance with custom. One embroidery factory in Manila always has among its contractors, goods to the value of many thousands of pesos; and the contractors themselves distribute these goods, on which the factory has stamped the design for the embroidery work, to scores of embroiderers. The factory has no formal contracts, it merely makes a memorandum of the goods taken by each contractor; and in the same way the contractors deal with the women work-

ing for them, or with subcontractors. The manager of the factory assures me that the losses do not exceed 25 pesos a year, and of course there are no suits at law. It is a matter of pride, rather a matter of pride of custom, upon the part of all concerned to observe these informal agreements in the most careful manner. No one with whom the factory deals is above the middle class, and the actual workers are of the peasantry.

#### COPRA AND ITS PRODUCTS

By R. K. ZERCHER  
Copra Milling Corporation



Final figures for August show arrivals in Manila to be 407,000 bags of copra. Arrivals for September are reported as 420,000 bags or 34% in excess of the average for the past three years.

The opening price for rescacada copra in September was \$13.00 to \$13.25. The price advanced slightly up to the 10th of the month when a break in the oil market caused a gradual decline to \$12.75 to \$13.00 for rescacada up to the 18th of the month. At this time a sharp break in the oil market caused a sudden drop in prices to as much as \$1.00 per picul lower. The London market opened up at \$27/10/0 P.M.M. and registered a gradual decline during the month and closed \$2/0/0 weaker.

Stocks of copra in Manila are enormous and buying has been curtailed due to warehouses being full. The advance report on

the U. S. Cotton Crop estimates a million more bales than formerly reported as a consequence of which lower prices for copra may be expected.

Closing quotations were:—

London —\$25/12/6 F.M.M.  
San Francisco—5-1/8 nominal  
Manila { —\$10.50 Buen Corrientes  
and  
{ —\$11.75 Rescacada

The flurry in the price of coconut oil which commenced near the end of August continued into September and 9 cent oil was quoted up to the 10th of the month.

Buyers reduced their ideas to 8-3/4 cents and sellers held out for 8-7/8 cents but sales were made at 8-3/4 cents. After the 10th of the month a gradual decline set in and sales were made at 8-1/2 cents and 8-3/8 cents F.O.B. West Coast. A sharp decline on the 19th was registered and buyers ideas were reduced to 8 cents at which no sales were reported. Indications point to weaker market due to large stocks, also an increase in the estimate of the Cotton Crop.

Closing quotations were:—

San Francisco—8 cents F. O. B. tank cars  
London —No quotation  
Manila —37 centavos per kilo

Opening prices for September were 27/5/0 nominal with sellers holding off. Local sales were made at \$48.00 to \$50.00 per metric ton ex warehouse. The market has been very dull during the entire month. Stocks are large both in Hamburg and Manila.

Closing quotations were:—

Hamburg—\$6/12/6  
Manila —\$45.00  
Manila, October 5, 1920.

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