



WORKING POLITICALLY IN PRACTICE SERIES
– CASE STUDY NO. 1 –



AIDING INSTITUTIONAL REFORM IN DEVELOPING COUNTRIES

Lessons from the Philippines
on what works, what doesn't and why

May 2014

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Foreword

For several decades, The Asia Foundation has been implementing development programs through a highly responsive, politically informed, iterative ‘searching’ model of assistance. Variations of this approach have been an important element in the Foundation’s work going back to its founding in 1954. While each program varies, this model is broadly characterized by a heavy emphasis on contextual knowledge and relationships combined with multiple small, nuanced and carefully targeted interventions working closely with local partners. This stands in sharp contrast to the conventional, pre-planned ‘projectized’ approach that has long been the standard in the development industry. A planned approach can work well for certain kinds of development challenges where the problem and the solution are thoroughly understood up front. But in practice, most development takes place in contexts characterized by substantial information deficits, where an adequate understanding of the dynamics underlying the problem and potential paths to a viable solution can only be gained over time through a process of exploration and discovery. This is especially the case where powerful actors who are threatened by reform actively resist change and where their motivations and means to do so are not visible early on. In cases where the problem may seem to be politically intractable, an approach that focuses on building relationships, expanding knowledge of the landscape of interests and influence, and adjusting program strategy and tactics as new information or unexpected opportunities become available, is more likely to yield results.

An important component of this work has been the Asia Foundation’s partnership with DFAT, which includes reflection and analysis aimed at improving development practice over time, and contributing to the vigorous discourse on this kind of programming now taking place within the development community. To help improve the quality and objectivity of this research, the Foundation has turned to the Overseas Development Institute (ODI), one of the preeminent development think tanks in the world.

The Overseas Development Institute has been providing analysis of different approaches to development assistance for more than 50 years. More recently it has linked its analytical work on politically informed and iterative approaches to development assistance to the provision of strategic advice and training to different organizations on how these approaches can be implemented in practice. ODI’s work focuses on the dynamics underpinning sectoral reforms – with a focus on service delivery, justice and security, agriculture, water and transport – in a variety of African and Asian countries.

The Asia Foundation and the Overseas Development Institute are collaborating on a series of case studies examining several examples of iterative, politically-informed Foundation programs that are currently underway or recently completed. The purpose of these case studies is to expand the evidence base for understanding how, when, and under what circumstances this programmatic approach works best. By providing detailed examples of such programs in action, the case studies will also help inform the growing community of practitioners who are interested in replicating and expanding this approach.

The first case study in the series, undertaken with support from both the Australian Department of Foreign Affairs and Trade (DFAT) and the Department for International Development UK (DFID), takes a retrospective look at two recently completed reform initiatives that achieved major institutional change in the Philippines through an approach referred to as development

entrepreneurship. An additional three case studies, with support through the DFAT-TAF Partnership, will examine Foundation program initiatives being implemented in Bangladesh, Mongolia, and a third country to be decided, through an action research approach. These cases, to be conducted over the next 18 months, will trace the key programmatic decisions made over the life of the initiative, identify the ways in which relationships and evolving knowledge informed decision making processes, and assess how this iterative programmatic approach affected achievement of development outcomes. For this purpose, ODI researchers will make periodic field visits to the three ongoing program initiatives. In each case, they will observe and reflect on how program managers go about building critical relationships, deepening their understanding of the political and technical dimensions of the problems, and making programmatic decisions in light of changing conditions and new information.

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Abbreviations

ACERD	Ateneo Center for Economic Research and Development
AER	Action for Economic Reforms
AGILE	Accelerating Growth, Investment, and Liberalization with Equity
ASEAN	Association of Southeast Asian Nations
AusAID	Australian Agency for International Development
BAT	British American Tobacco
CARP	Comprehensive Agrarian Reform Program
CfC	Coalitions for Change
COMPETE	Advancing Philippine Competitiveness
CTB	Chamber of Thrift Banks
DAC	Development Assistance Committee
DAI	Development Alternatives Incorporated
DENR	Department of Environment and Natural Resources
DFAT	Department of Foreign Affairs and Trade (Australia)
DFID	Department for International Development (UK)
EGH	Economic Growth Hubs
EMERGE	Economic Modernization through Efficient Reforms and Governance Enhancement
FEF	Foundation for Economic Freedom
GDP	Gross Domestic Product
IEG	Independent Evaluation Group
LAMP	Land Administration and Management Project
LARA	Land Administration and Reform Act
LINC-EG	Local Implementation of National Competitiveness for Economic Growth
LMB	Land Management Bureau
LRA	Land Registration Authority
NGO	Non-governmental Organisation
NPC	Nationalist People's Coalition
ODI	Overseas Development Institute
OPM	Oxford Policy Management
PDIA	Problem-driven Iterative Adaptation
PFG	Partnership for Growth
PRP	Policy Reform Program
RFP	Residential Free Patent
TAF	The Asia Foundation
UK	United Kingdom
UN	United Nations
US	United States
USAID	US Agency for International Development

Summary

The challenge

There is broad agreement that institutional change is fundamental to development, but it is less clear which institutional challenges can be tackled effectively at which point in a country's development, and how and by whom. Recent contributions have reminded us that successful change is discovered in a problem-solving, iterative and learning-oriented way. However, there is still little understanding of the processes and people that are capable of sustaining this type of approach under typical conditions. If external support is needed, it must be provided in the right way – well grounded in an understanding of the way political and bureaucratic incentives work in a country – which is not easily achieved. The phrase 'thinking and working politically' is increasingly heard in international development agencies, but the evidence base for claims that such an approach can work and be effective remains slim.

Recent economic and social reforms in Philippines supported by TAF provide an unusually rich fund of relevant experience. The paper examines two completed reforms, one concerning the formalisation of residential land rights, the other taxation and public health. As well as outlining the 'external story' of how the reforms were achieved, the paper asks: how was it possible for this to happen on an aid-funded basis, given the difficulties that aid agencies usually have in working in a flexible and adaptive way?

The political economy of Philippines distorts national development and makes progressive reform difficult in particular but not untypical ways. This is an environment in which economic transformation and social progress are possible but call for clever interventions to navigate the rocks and shoals of the informal system. The reforms selected for attention are good examples of that approach, which has been called 'development entrepreneurship'. They yielded palpable, measurable results, and the wider body of experience surrounding them supports 'counterfactual' conjectures and thus rigorous attribution.

Securing property rights

The 2010 enactment of a law on Residential Free Patents (RFPs) resulted in a 1,400 per cent increase in residential land titling in the Philippines, with large immediate and other anticipated benefits for ordinary urban dwellers. This occurred in an unfavourable political context. It compares very favourably with what was achieved by a large bilateral donor and World Bank project operating on a similar set of issues.

An important feature of the external story of the reform is that it was not clear at the outset what the formula for success would be. A team of activists assembled and gently steered by Jaime Faustino of The Asia Foundation discovered a way of formulating the reform objective so as to side-step major opposition, avoid threatening entrenched interests and generate support in unexpected quarters. The group primarily responsible for getting the law passed emerged out of a process in which two sub-groups searched for the best way to make headway on security of land titles, and several avenues were abandoned after an initial exploration. The team that eventually made the breakthrough included a public intellectual with an interest in institutional economics and a land-law specialist formerly in government. They were housed by a non-profit firm, the Foundation for Economic Freedom.

The team worked intensively on the detail of getting the bill sponsored and steered through Congress. This involved a good deal of leveraging of sources of influence, including extended family relations, classmate networks and professional affiliations. Politicians came to support the bill for a variety of reasons, including a conviction that it would be good for social peace, anticipation of new profits in the banking sector and unexpected links to various Congress members' pet projects. Various amendments were made to the draft for tactical reasons. On at least one occasion, actions were taken that had the effect of removing the bill from the purview of one committee and placing it under another. There was coalition building but it mainly involved tacit agreements to spend political capital – exercise influence, call in favours – in support of a particular step in the campaign. This was a guerrilla operation not a war of fixed positions.

It matters that the reform team was its own boss when it came to ways of working. This is very different from the operating style of the typical advocacy NGO or the milestone- and timetable-driven world of donors and contractors. The intermediary role played by TAF served importantly to protect the team from undue donor compliance demands, while also relieving the donor from managing a large number of small grants and contracts.

Since 2011, with the number of patents issued now achieving up to fourteen times the pre-reform level, the main challenge has become that of preventing the rate stagnating at this level. Therefore, the reform team has been working on the idea of local government Land Offices undertaking some of the work. Unfortunately, its attention has been diverted from this by needing to work under contract for USAID on a different issue, the access of new title-holders to bank loans.

The funding that enabled of the team put together by Faustino to act as it did was in the form of two Cooperative Agreements between USAID and The Asia Foundation. The objective of promoting growth and investment through secure, tradeable land titles was shared. What was potentially more problematic for the relationship was the team's way of working in pursuit of the goal. Faustino was in the position of repeatedly needing to report setbacks and possible new avenues of advance. Fortunately, the general climate of opinion in the USAID office was at the time friendly to the idea of pursuing economic reform objectives through intermediaries like TAF, rather than directly with government.

However, this has to be qualified. Despite striking successes scored with the development entrepreneurship model, USAID has not been a consistent practitioner of the arm's length approach to facilitating developmental reform. Its long-term record is one of alternation back and forth between loosely specified Cooperative Agreements and pre-programmed projects, with implementers under contract. At senior levels in USAID there is appreciation of the strengths of the modality of long-term grant support. However, this is in tension with the default position that assignments beyond a certain scale must be contracts subject to competitive tendering.

The Cooperative Agreement modality, as applied in this instance, had several advantages from the point of view of the quality of what was funded. It allowed Faustino to use his networks and considerable person-management skills to locate and empower a group of Philippine reformers with the right personal motivations, knowledge and skills. He was able to concentrate on working with this self-driven group on a basis of mutual trust and respect. It allowed dead-ends, such as the initial investment in local government databases by one sub-team, to serve the purpose of learning about what is likely to work, rather than becoming a 'black mark' on the record of the project.

Accountability was provided through formal and informal channels. The trust and mutual respect established between Faustino and his own TAF superiors on the one hand and the self-motivated reform team on the other was essential to the smooth functioning of this relationship.

Taxes for health

The reform described in this section of the paper centres on congressional approval in 2012 of a law restructuring excise tax on alcohol and tobacco, popularly known as the ‘sin tax reform’. The reform brought to an end a precipitous decline in the value of excise taxes on alcohol and tobacco caused by loopholes in previous legislation. The level of excise taxation and related public spending is one element in an overall pattern of taxation and public provision that has influenced for the worse both the structure of economic growth and the attainability of social equity goals in the Philippines. Sustained by powerful lobby groups and systemic political corruption, this pattern has helped reduce economic performance and limit poverty reduction.

Under the new law, revenues increased year-on-year by 85.6 per cent, yielding fresh revenue of some 51 billion pesos (approximately, US\$ 1.18 billion) in 2013. Close to 80 per cent of this figure is earmarked to health-care subsidies for the poorest Filipinos. Despite strong presidential support, this was achieved very much ‘against the odds’, as indicated by the narrow final vote in the Senate following a very sustained campaign against the law by the tobacco lobby and its allies in Congress.

The legislation was made both technically sound and politically smart through a process involving a network of players within and outside government. This alliance of forces was pitted against similarly heterogeneous reform opponents. There was a multimedia information campaign and some civil society mobilisation of a classic sort, especially around the public health dimensions. But what tipped the balance in the end was the work of a dedicated core of individuals in a couple of organisations, notably one called Action for Economic Reforms (AER).

This core group was able to address the severe coordination problems that normally afflict broad-based campaigns. It was also in a position to make tactical decisions about how to divide the opposition and make alliances, without the need for consensus other than on the reform objective itself. As in the RPF reform, much of the coalition building was tacit. AER, like FEF, was headed by a public intellectual with some history, strong intellectual and political networks and an impressive command of the technical issues.

In contrast with the RPF issue, the alignment of forces was initially extremely polarised. Active steps were needed to fortify the reform coalition and to divide and confuse the opposing camp. They included foregrounding the health benefits, making common cause with the anti-smoking movement and reformist medics; brokering a compromise with politicians linked to the San Miguel beer company; a tacit alliance with British-American Tobacco, a disfavoured new entrant to the Philippine market; concessions to provincial ‘pork barrel’ politics in the tobacco-growing areas; and a clever combination of aggressive and accommodating tactics in Congress. A distinguishing feature of the approach was the greater emphasis given to working *with* as opposed to working *around* the realities of the country’s political system.

This was another learning experience. The problem to be addressed was clear enough, but the political strategy and tactics had to be worked out on the job. What, then, were the features of the funding arrangements and associated controls that permitted AER to work as it did? First, AER was an

established and relatively well-known organisation supported by subscription-paying Fellows. It received funding from several sources, helping it to avoid being over-directed by any one funder. Bloomberg anti-tobacco funding was supplemented by two grants from The Asia Foundation, one under TAF's second Cooperative Agreement with USAID, the other under its Coalitions for Change partnership with AusAID.

As discussed in relation to property rights, the USAID agreement with TAF provided nearly ideal conditions from the point of view of funding that is friendly to a development entrepreneurship approach. It placed resources under the control of the principal advocate of the approach in TAF, Jaime Faustino, enabling him to identify a self-starting group of 'indigenous reformers' with whom to work on an agreed reform topic. His management of the support to AER took a form more akin to 'peer review and challenge' than to conventional project management.

In important respects, the relationships were extremely close, both between the USAID manager and Faustino and between Faustino and AER – making the concept of 'arm's length aid' seem quite inappropriate. Nonetheless, the funding modality was such that neither the donor nor TAF was compelled to monitor outputs on a pre-programmed schedule. The Coalitions for Change set-up was also highly supportive of development entrepreneurship. Under these arrangements, the burdens of reporting and monitoring imposed on the front-line sin tax activists were kept remarkably light, in ways that undoubtedly contributed to their effectiveness. TAF served as a buffer or shock-absorber between the reform team and any control-oriented impulses from inside the ultimate funding body.

Do we really know that these multiple and relatively flexible funding modalities were more enabling of the reform result than a more conventionally contractual arrangement would have been? We do. AER's own experience of working under contract on other reform topics is telling. It has led it to the view that it should avoid as far as possible contracts or grants that include pre-specified outputs.

The huge discrepancy in scale between the impact achieved and the cost of AER's contribution raises the question why a donor agency could rationally not want to devote much of its portfolio to funding modalities that pay off at this rate. The investment risk is in fact minimal. The management approach ensures that errors can be corrected quite quickly. The political risk also tends towards zero if the funding passes through an intermediary organisation that receives its funding from more than one source.

Significance and relevance

These two illustrations of the potential for reform 'against the odds' in highly unequal and poorly governed developing countries suggest the meaning that should be given to the new mantra of 'thinking and working politically'. They underline what really differentiates the reform approach that works. Thinking and working politically is about liberating and harnessing the potential of local reformers to shape and steer processes of change in flexible, politically attuned ways.

These experiences suggest several cardinal rules of effective reformism:

- Avoid as far as possible those kinds of reform that are likely to incur greatest resistance;
- Go for good second-best policy changes;
- Keep it simple and prioritise;
- Do not underestimate the resistance to reforms that are promoted frontally;

- Even if it wants to, the executive branch of government may well not be able to drive through a reform on its own;
- Consider seriously working with the structure of government, even when dysfunctional;
- More generally, work with the interests that people and organisations have;
- Ideas matter;
- Build tacit coalitions in a pragmatic way;
- Above all, do not try to follow a blue-print of the process of reform.

Investigation of the conditions under which donor funding can provide an enabling environment for reform entrepreneurship of this kind suggests the following conclusions:

- The traditional form of donor support – the large pre-programmed reform project – breaks several of the cardinal rules of effective reformism;
- Under typical conditions, competitive tendering of a project implementation contract involves specifying in advance both what you want and how you expect to get it, which is already a mistake;
- Tendering also skews the selection of implementers towards organisations and individuals with impressive technical qualifications, distracting from a proper assessment of the political needs;
- The funding modality must be of a kind to attract people and organisations that are motivated to pursue their own reform agenda and are equipped to do so;
- The team on the ground must be freed from donor default concepts on country ownership, stakeholder inclusion, transparency etc.;
- Partnership funding modalities exist in most official bilateral agencies, and they can and should be used more widely and continuously to support key reforms;
- However, the funder must be consistently willing to ‘let go’ and to resist internal pressures to reassert control;
- Funding the front-line reform team through a respected intermediary organisation can be very helpful.

Readers who accept much of what has been argued to this point may nonetheless harbour some reservations. It has been suggested that development entrepreneurship involves choosing a ‘transactional’ rather than a ‘transformative’ approach. This paper does not agree. Thinking and working politically means, above all, being smart and realistic about institutional reform goals and their sequencing, given the underlying social and economic realities. That means a learning-oriented practice that targets feasible changes with big impacts, on development outcomes in the first place and institutional quality in the longer term.

Another possible objection concerns scale. Pressure to disburse funds in large units is today very widespread in the aid business. This tends to work against the use of grant modalities and against low-cost activities generally. But organisations like TAF reject the idea that their innovative projects are necessarily small-scale, and the experience examined supports this rejection.

Several questions can be raised about the replicability of the experience analysed in this paper. However, the objections do not stand up to examination. The reform challenges in the Philippines are strongly reminiscent of those in other parts of Asia and in Africa. Certainly, reform teams in Philippines can draw on a relatively large pool of educated professionals with a good variety of career experience. However, the contrast in this respect with the larger African countries is only relative. Is

The Asia Foundation such an exceptional organisation that it is unwise to visualise its intermediary function being replicated in other places? This is not supported by the evidence.

Finally, the paper considers the claim that the model is not generalisable because it depends on the exceptional personal qualities of Jaime Faustino and the leaders of the reform teams he helped put together. Those qualities are real but the objection is not valid. Capable and exceptionally motivated individuals who have the skills to manage others in the ways required by the development entrepreneurship model may not be easy to find. But whether you find them or not is partly a function of how you look. The search modality shapes the result. In that sense, the model is highly replicable.

1 The challenge

1.1 Institutions and development

These days, hardly anyone disputes that countries achieve development successes to the extent that they find solutions to the variety of institutional barriers that keep their people poor. This is as much a political and social issue as an economic one, since institutional choices, and the way formal institutions function, are a function of power relations and underlying structures of class and identity. But the grand convergence on this broad-brush retelling of world history (North et al., 2009; Acemoglu and Robinson, 2012) conceals some significant divergences and a set of unresolved questions about crucial matters of detail.

It is not at all clear which institutional change challenges can be successfully confronted at which point in a country's development, and how and by whom. In the terms used by North and his colleagues, what are the routes by which countries characterised by 'limited access orders' acquire the characteristics of 'open access orders'? In the language of Acemoglu and Robinson, what historically have been the sequences through which 'extractive' economic and political structures have begun to give way to more 'inclusive' arrangements?

Following a quarter-century of post-Cold War liberal ascendancy, the multiplicity of routes by which today's economically advanced countries acquired their institutions (Moore, 1966; Skocpol, 1979) is beginning to get renewed attention (Root, 2013). There is fresh recognition that processes of state construction do not necessarily follow Anglo-American norms. Pathways and to some extent end points have differed in response to different starting points and complex changes in global power configurations, and there is little reason for this not to continue. Therefore, expecting countries to emulate institutional 'best practices' or import templates of 'good governance' derived from supposedly universal experience is a bad idea – neither realistic nor grounded in historical experience (Rodrik, 2010; Noman and Stiglitz, 2012; Sundaram and Chowdhury, 2012; Levy, forthcoming).

That importing best practices does not work is increasingly accepted. It is less clear whether anything useful can be said about the alternative – 'good fit' – approach to the design of institutional reforms, although we can certainly do better than start every diagnostic exercise with a blank sheet (Booth and Cammack, 2013; Kelsall, 2013; North et al., 2013). One thing certain is that pathways of change have to be discovered in a problem-solving, iterative and adaptive, or learning-oriented, way. However, neither the older literature (Rondinelli, 1983; Porter et al., 1991) nor recent writing (Andrews et al., 2012; Andrews, 2013) on this theme is sufficiently specific about the sorts of processes and actors that are capable of sustaining this type of approach under the conditions typically prevailing in developing countries.

1.2 Aid and institutional change

Linked to this uncertainty is a big unresolved question about the possible contribution of development donors and concessional lending agencies to discovering and promoting appropriate institutional change. In its day, traditional *ex-ante* aid conditionality did help bring about important stroke-of-the-pen policy reforms in many countries. But it is clearly established that domestic politics invariably trump external pressure when it comes to changing institutions (Mosley et al., 1991; Killick, 1998; van de Walle, 2001). Responding to decades of very uneven success (IEG, 2008; Turner and OPM,

2013), the World Bank no longer pins its hopes on ambitious public sector reforms. It expects to achieve better results by becoming more agile in responding to opportunities generated by changing political incentives, country by country (World Bank, 2012; Manning and McCourt, 2013). Along with some of the leading bilateral donors, the Bank has been encouraging its staff to become cleverer at understanding country realities, so they can recognise both insuperable obstacles and unsuspected opportunities. Staff trainings in ‘applied political economy analysis’ are among the devices introduced in several agencies with a view to encouraging this attitude (Carothers and Gramont, 2013).

There are two underlying assumptions here. One is that successful institutional innovations are almost always nationally or locally led (confirming a finding of Bebbington and McCourt, 2007). The other is that it cannot be assumed the domestic actors will be successful on their own. The historical norm is institutional stagnation, not institutional change; triggers and bright ideas are needed, and most likely some supplementary material resources too. There is therefore, most probably, a role for external support. But it needs to be provided in the right way – not just ‘respecting country ownership’, in the much-abused phraseology of the 2005 Paris Declaration on Aid Effectiveness, but grounded in an understanding of the way political and bureaucratic incentives work in a country and, hence, how particular reform ideas are most likely to take hold and have useful effects. The phrase ‘thinking and working politically’, increasingly heard in the corridors of some international agencies, surely means exactly this.

What is very often also recognised is that donors and concessional lenders face some severe handicaps when it comes to translating better understanding of country context and the commitment to ‘working politically’ into practice. Can they really deliver on what this entails? The writer is increasingly doubtful, and his doubts have been regularly increased and deepened by interacting with some of the brightest and best from a number of bilateral and multilateral agencies in the context of some 23 outings of the Overseas Development Institute (ODI)/Policy Practice training ‘Political Economy Analysis in Action’. Efforts continue to provide documented examples of official aid or concessional lending being deployed in a problem-driven way, with more built-in learning and careful attention to ‘politics’, including bureaucratic politics and the incentives inherent in the aid relationship (Tavakoli et al., 2013; Fritz et al., 2014; Unsworth, 2014). However, most case studies are weak on demonstrating results and, to a lesser extent, on attributing any results to the style of the intervention by reference to a suitable counterfactual.

1.3 Improving the evidence base

Our impression of the documentation collected so far is that results are demonstrable and attributable under two sets of circumstances, or some combination of the two. Either some conjunction of factors has enabled the staff of an agency to break free from the usual constraints on its style of project or programme management; or the agency’s role has been limited to providing funding ‘at arm’s length’ to an organisation that is not itself a donor. It may well be that the best examples include some elements of both sets of conditions. We reflected previously on a limited sample of cases of development facilitation using arm’s length aid (Booth, 2013). The present paper extends that thinking, using what is perhaps a more telling set of examples.

Recent economic and social reforms in Philippines (Asia Foundation, 2011; Fabella et al., 2014) provide an unusually rich fund of experience with which to advance the debate on ‘thinking and working politically’ with aid. The idea of ‘development entrepreneurship’, developed by one of the principal promoters of these reforms (Faustino, 2012), parallels in several respects Grindle’s (2002)

account of sector reforms succeeding ‘against the odds’ in Latin America. One difference is that, in the reforms studied by Grindle, the part donors or concessional lenders played was either unremarkable or not reported. The cases also complement those provided by Andrews (2013) and Andrews et al. (2012) in that they reveal the value of working in a problem-driven, iterative and adaptive (PDIA) way. There is a strong unifying theme across these contributions, which is the importance of complexity and the ability to manage and extract advantage from the resulting uncertainty in processes of institutional change.

The paper examines two particular more or less completed reforms selected from the range of recent experience in the Philippines, one concerned with the formalisation of residential property rights and the other with taxation and public health. Both reforms centre on changes in legislation immediately affecting the functioning of economic institutions but with significant longer-term implications for social relations and politics.

In each case, good descriptions are available on some of the most important features of what was achieved and how. Those publications are the best starting point for those interested in the rich detail of the reform processes and their place in the Philippine national reality. We call this the external story of the reform. This paper provides a summary of the external story, emphasising features of general interest and relevance to a global audience. In addition, the paper explores a question that has received hardly any attention until now. What were the relationships and interactions between the front-line actors who delivered the successful reforms and their supporters in the development assistance community? In particular, how did it come about that the reform teams were able to adopt and maintain a flexible, ‘good fit’, learning-oriented approach despite being funded by official agencies with no less than the usual commitments to work plans and narrative and financial reporting? This is what we term the internal story.

1.4 Case selection

Since the object of the exercise is to develop some general hypotheses about ‘what works, what doesn’t and why’ in aid to institutional reform, a few words are needed on three topics: the main features of the Philippine country context, the guiding principles of the developmental entrepreneurship model pursued in the Philippines and the basis for selecting the two reforms for close study. We refer back to these points when, in conclusion, we consider whether and to what extent the analysed experiences are applicable to donor approaches in other parts of the world, such as South and West Asia and North and sub-Saharan Africa.

The country

The Philippines has been one of the less successful developing countries in Asia. In recent years, the economy has experienced continuous fast aggregate growth on the basis of the sound macro fundamentals established post-1992 under President Fidel Ramos. However, the pattern of growth is markedly different from that which has come to be associated with success stories of development in East and Southeast Asia. Growth is not inclusive, and there has been only modest improvement in terms of poverty indicators. Redistributive agrarian policies were adopted late and have not yielded productivity growth in agriculture, making food expensive in spite of continuing rice subsidies. Real wages in the formal sector are high by regional standards. As a whole, the economy is characterised by a marked dualism and sharp socioeconomic inequalities (Sta. Ana III, 2010; Nye, 2011).

The policies needed to improve the structure of growth and tackle the main sources of enduring poverty in the country are known, at least in broad terms. Given a government committed to broad-based development and the provision of public goods and services, most of the problems would be fixable. Progress has been made in many spheres as a result of progressive economic liberalisation since President Corazon Aquino took over from President Marcos in 1986, but fitfully. The tax base of the state remains narrow, and public investments in physical infrastructure and human capital remain woefully inadequate. The protection enjoyed by the country's 'booty capitalism' (Hutchcroft, 1998) and barriers to entry to formal sector jobs are partly responsible for an exodus of middle-class labour that prevents any flattening of the income distribution. The remittances generated by the estimated 10% of the population that lives abroad have acted as a counter-cyclical growth booster, but they also put upward pressure on the peso, helping make exports uncompetitive. Growth industries in services such as call centres are for the educated middle classes, not the poor.

Underlying the enduring weaknesses in public policy is the pattern of politics. Both national (presidential and congressional) and local politics are highly clientelistic and increasingly money-intensive, and therefore weak on policy design and programme delivery (Sidel, 1999; Kang, 2002; Hutchcroft and Rocamora, 2003; Kasuya, 2009; Faustino and Fabella, 2014). The formal institutions governing the different parts of the state are a shell concealing the decisive role played by social relations and networks underpinned by generally understood but informal rules. Violence is still a prominent feature of politics in the regions. The chapter on the Philippines in the 2013 collection by North and associates (Montinola, 2013) concludes that the country may be further from the threshold between limited and open access orders than it was at independence in 1946.

Features of the political economy of Philippines that make progressive reform difficult include:

- The absence of institutionalised political parties, and the prevalence of 'pork barrel' politics and corruption in relations between politicians and the domestic business sector;
- 'Oligarchic' politics in the regions, where locally dominant families tend to control both executive and legislative positions; and
- A marked presidentialism in terms of the powers of the president to control the nominally independent bicameral Congress, especially the lower house, but a weak executive branch in terms of capacity to deliver policies.

This is an environment in which economic transformation and social progress are possible, but they call for clever interventions based on an ability to navigate successfully the rocks and shoals of the informal political economy. One of the keys to success seems to be to focus on well-selected small changes that have the potential to make a big difference (Nye, 2011). Another is to see the reform challenge as a matter of entrepreneurship. As Faustino and Fabella (2014) argue, the weakness of the Philippines state is predicated on a fragmented and incoherent elite pursuing heterogeneous and inconsistent visions of the future:

'A heterogeneous elite will have diverse and sometimes conflicting interests. These interests are dynamically evolving, and so the convenient political settlement struck among the elites keeps being contested, destabilized, and re-negotiated. The elites can thus be played one against the other in the arena of social and economic policy – especially in those junctures when the political equilibrium is being challenged [...] When timed properly and managed by intelligent political action, it is possible for some inclusive social and economic advocacies to squeak through' (49).

The suggestion is that even an extraordinarily difficult reform environment may be susceptible to what has been dubbed development entrepreneurship (Faustino and Fabella, 2011; Faustino, 2012).

The development entrepreneurship model

The development entrepreneurship model was developed by Faustino and colleagues through a combination of social scientific analysis, creative insight and experience. The model¹ consists of three key components.

The first is the identification of reform options that are both technically sound and politically possible – also referred to as ‘second-best reforms’ or ‘good enough’ change (Grindle, 2007; Rodrik, 2008). Assessing technical soundness includes making judgements about the ability to make an enduring difference to the everyday practice of any of the following: governments, citizens, markets and consumers. In development entrepreneurship, the goal is to make reform the new *status quo*.

The second component focuses on how reforms are identified and introduced. Here, the model draws on the considerable evidence that an iterative, entrepreneurial process works better, is less risky and is more cost effective than the alternatives in solving problems in complex, dynamic environments (Andrews et al., 2012; Schlesinger et al., 2012; Copestake and Williams, 2014).

The third component, the most critical, is a team of local leaders who believe reform is part of their ‘life work’ and take personal responsibility for introducing reform to improve their societies by building formal and informal coalitions (Leftwich and Wheeler, 2011; Algozo, 2013). The model does not celebrate individual leaders in the tradition of the ‘great man’ theory of history. Instead, development entrepreneurship focuses on groups or teams – a small number of people with complementary skills, and committed to a common purpose and approach, who hold themselves mutually accountable. Each team member possesses a willingness to persevere with limited resources, the courage to act in the face of uncertainty and optimism that a brighter future is possible. An assumption underlying the model is that genuine collaboration, essential for getting to the best idea, is impossible when people do not trust one another to speak with candour.

The reforms

The two reforms that have been selected for attention are both good examples of development entrepreneurship in action. They also have two qualities that seem important in seeking to improve the evidence base on what works, what doesn’t and why in aid-supported institutional change. First, they have both yielded a palpable, measurable set of results, with both immediate benefits to Philippine development and ongoing transformative effects in several dimensions. Second, the wider body of experience surrounding the successful reforms is a rich source of evidence to support ‘counterfactual’ conjectures and attribution. That is to say, answers can be given with confidence to such questions as: Could the outcome have been achieved in another way? And was it caused by the intervention described, or by some other set of factors?

In addition, the two cases are different in a way that facilitates the drawing of generic conclusions. The property rights reform was achieved under a president widely considered both corrupt and

¹ See sources just cited, plus McCulloch (2014).

uninterested in reform, Gloria Macapagal-Arroyo (2001-2010). The tax and health reform took place under the current administration of Benigno (Nonoy) Aquino, the son of Corazon Aquino, generally considered a progressive. The contrasts help dispel the possible impression that developmental entrepreneurship is relevant either only to reformist conjunctures or only to situations where governments do not take the lead.

Lastly, it should be said that both reform processes, in their external and their internal dimensions, are the subject of excellent source material. The primary documents have been stored comprehensively and in good order. And the main actors are available for interview, with the events still fresh in their memories. This provides the basis for telling a robust story backed by triangulated evidence and interpretation. As mentioned, the external stories have already been told in some detail and to great effect, making the task much easier than it would otherwise have been (see respectively Chikiamco and Fabella, 2011; Sidel, 2014).

2 Securing property rights

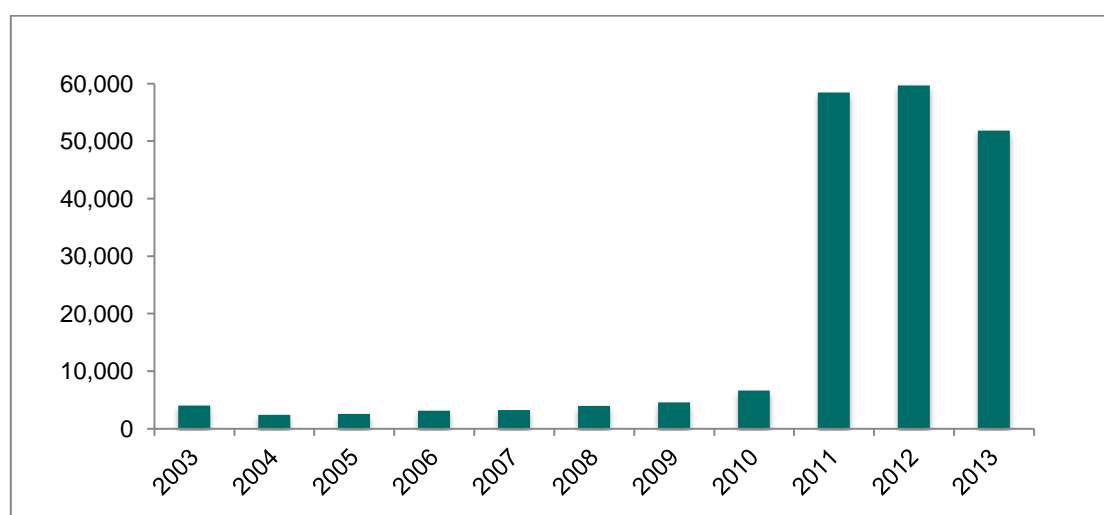
2.1 The reform in overview

The key events to be recounted and analysed here took place between 2005 and the end of 2009 with the formulation and eventual passage through the Philippines Congress of a key piece of legislation on registration of land titles. The process occurred under the presidency of Gloria Macapagal-Arroyo (2001-2010), but was a civil society-led and congressional, not presidential, initiative. It occurred without active presidential support. After the law received its presidential signature in March 2010, work continued on its implementation regulations under the more reform-oriented administration of Benigno Aquino (2010-2016). This section begins with a brief outline of the reform result, its background and some reasons for regarding it as a highly significant piece of evidence on the merits of a development entrepreneurship approach.

The outcome

The reform in question has radically affected the ease with which masses of ordinary Filipinos can obtain secure title to residential land in urban areas. The complexity and cost of obtaining secure title under the former system was a major source of market stagnation and under-investment in residential property in the Philippines and one of the sources of the marked dualism alluded to in Section 1 in characterising Philippine underdevelopment. Insecurity of residential titles is only one part of a wider problem of restricted property rights in the informal sector of the Philippine economy, but the reform – centring on congressional approval of a Residential Free Patent (RFP) Bill in December 2009 and its passage into law in March 2010 – has resulted in a substantial acceleration of residential land titling, as Figure 1 shows.

Figure 1: Residential land titles (Free Patents) issued per year



Source: Department of Environment and Natural Resources.

The figure shows that there has been an up to 1,400% improvement in titling since the passage of the two-page RFP Act in March 2010. The development impacts of this process will of course take some time to reveal themselves. Yet they have multiple dimensions, each with cumulative effects.

These include direct economic effects, as households are encouraged to invest in their properties (with remittances or loans); buy, sell and rent land for residential purposes; and pay taxes on the enhanced values. They also include social and political benefits. Social frictions within families may be reduced as inheritance and subdivision of properties are eased. Poor families will immediately reduce their vulnerability to local oligarchs and political bosses who take advantage of their lack of secure title by threatening to have them evicted if they vote the wrong way. Less certainly and over a longer period, more comprehensive collection of property taxes based on higher land values may lead to better governance based on the theory of tax–accountability linkage.²

Background

To appreciate the potential significance of these changes, it is necessary to understand some aspects of the context relating to both land law and the structure of socioeconomic interests in the Philippines. The historical background is that a great deal of land in the Philippines has been occupied informally under a legal framework dating from the early 1900s, when the country’s population was much smaller than it is today. The big issue of redistributive agrarian reform that was at the top of the national political agenda during and immediately after the Marcos dictatorship (1972-1984) has been resolved, albeit in a highly unsatisfactory way (Putzel, 1992: Ch 10; Bello, 2009: Ch 2; Ledesma, 2010). However, by the end of the 20th century an interlocking set of other land issues had been left pending.

Over the centuries, public land was released to make it alienable and privately disposable. However, many of the occupants of such land did not have titles, meaning the plots were still technically public land. Solutions were available to the rich in the form of an expensive judicial process requiring money, time and influence. While reforms to simplify and cheapen land titling have been on the public agenda for much of the time since the ousting of the Marcos dictatorship in 1986, they had made little headway by the early 2000s.

In the first place, powerful families, still smarting from being forced to subdivide their estates under the 1988 Comprehensive Agrarian Reform Program (CARP), were set against any further concessions to ‘squatters’ – which simplified titling could easily be represented as. This helped make the political environment unwelcoming to any further legislation on land.

No less importantly, significant bureaucratic interests were vested in existing legal procedures. In the executive branch of government, responsibility for land allocation and titling was, and remains, split between a land-mapping agency, the Land Management Bureau (LMB), located in the Department of Environment and Natural Resources (DENR), and the Land Registration Authority (LRA) and Registry of Deeds in the Department of Justice. LMB carries out cadastral surveys and designates public land for private or public occupancy and for productive or residential purposes. LMB creates the first title, called the Original Certificate of Title, whereas the LRA manages the secondary market in titles and creates/cancels Transfer Certificates of Title. This refers to formal titling. LMB has also controlled an administrative procedure for issuing ‘patents’ to land, either through a process of competitive bidding or, for agricultural land only, as a form of low-cost administrative legalisation of

² Arguably, several of these theoretically expected effects could and should be subjected to empirical testing, in the form of some combination of randomised control trials and long-term anthropological research. Understandably, however, potential funders have balked at the idea of spending a great deal of money on impact evaluation when a substantial and measurable intermediate outcome has been achieved at quite modest cost.

occupancy (Chikiamco and Fabella, 2011: 130-131). There was, notoriously, little correspondence between the activities of the two agencies.

A counterfactual

An interesting feature of the RFP story in Philippines is that we have reasonably good evidence on what would have happened in the absence of the entrepreneurial approach to reform – the so-called ‘counterfactual’. Normally, it is difficult to attribute results to causes because we can only speculate what might have happened in the absence of the claimed cause. In this instance, we can do more than speculate.

In 2001, the World Bank, the Australian Agency for International Development (AusAID) and the Philippine government launched the investment phase³ of a Land Administration and Management Project (LAMP) to support the centralisation of all land-related government functions in a single department, eliminate duplication of functions and provide for the simplification of administrative processes for land registration (Williamson, 2007). This ‘first-best’ reform approach was articulated in efforts to get approval of a comprehensive Land Administration and Reform Act (LARA). LAMP’s project design was in theory demand-driven. The government counterparts were both DENR and the LRA. The project document was formally endorsed by the government agencies, which made commitments to provide matching funding – a World Bank and likely AusAID condition. It had a detailed implementation schedule.

In the latter stages of LAMP, its efforts were pursued in parallel with the successful reform that concerns us. However, it ultimately failed to have any significant effects. It had no way of adapting to the road blocks that inevitably arose in the implementation process. After a total of eight years of slow progress, its legislative flagship – a detailed 22-page bill – was fatally stalled in Congress, compromising the whole operation. An executive order by President Arroyo that would have brought the LRA into a new unit under DENR remained a dead letter. LAMP Phase 2 (2006-2010) cost US\$10 million in World Bank and government of Philippines funding and AU\$28 million in bilateral support (Land Equity International, 2010; Llanto et al., 2010). It was wound up prematurely. LAMP thus provides an important negative experience, strongly suggestive of what would have happened in the absence of the RFP initiative.⁴

The successful reform also benefited from the support of an external development agency, in this case the US Agency for International Development (USAID). However, both the method and the project set-up were different. The reform approach was not defined in advance and eventually involved a less ambitious set of objectives, selected with a view to both likely impact and likely political feasibility. Rather than being set up as a project, with donors and government agencies as formal partners, it was funded under a set of grant agreements between USAID and TAF and between the latter and a series of small private non-profit organisations.

³ Phase 1 had been a World Bank Learning and Innovation Lending operation, producing a series of studies over a four-year preparatory period.

⁴ Our judgements about LAMP are based on a combination of interview testimony and close reading of the contractors’ completion report and the Independent Completion Report cited here. The latter seeks to put a more favourable complexion on the matter by emphasising the significant success achieved by the project’s small Component 5, a fund for local government learning on delivery of land administration services.

Questions

This rapid outline of the reform and its results poses several questions and issues for consideration that we pursue in the remainder of the section. First of all, what exactly was it that made the reform succeed, given the unpropitious political economy of land issues in the Philippines? As explained in Section 1, we call this the external story of the reform. This story has been told in some detail in the first of two books produced by TAF on sectoral reform experiences in the Philippines (Chikiamco and Fabella, 2011). Second, how did it come about that the reform team was able to adopt and maintain a politically attuned, ‘good fit’, learning-oriented approach despite being funded by an official donor operating under typical constraints? This, the focus of the ‘internal’ story, has been largely unexplored until now. It holds important lessons for development agencies.

The details and analysis provided in the following pages draw on a set of interviews with key players in different aspects of the RFP reform process and the failed LARA initiative as well as with personnel of TAF and USAID. Key parts of the external and internal stories are also supported by documentary evidence, from publications and confidential project documentation and communications to which we have had access. The interpretations are, however, our own.

2.2 The external story

In reviewing the main actors, relationships and processes that were used to bring about the RFP reform, we build on the account given by Chikiamco and Fabella (2011), skipping some of the detail and elaborating aspects that seem most relevant to an international audience. Aspects particularly worth underlining include the open-ended quality of the process, the nature and role of the different components of the reform team, how they navigated the stakeholder environment and what happened once the big breakthrough had been achieved.

A learning process

An important feature of the external story is that the reform team did not know at the outset what the formula for success would be. Indeed, in important respects, the outcome remained uncertain right up to the end of the legislative process. Aspects of the implementation remain in some doubt even today, although the scale and positive character of the impact are clear enough. The reform was a process of discovery. In particular, three things were discovered.

First, a comprehensive approach covering both residential and agricultural land would incur a great deal of opposition, openly or behind the scenes, as it would be widely (even though wrongly) seen as an intervention in the controversial and emotive issue of redistributive land reform. In contrast, an approach targeting land officially allocated for urban residential purposes would be more likely to prosper. It would not confront a well-organised opposition. In any case, residential titling was probably the top priority. As mentioned above, a procedure for issuing ‘free’ patents (without competitive bidding) already existed for agricultural land. It was imperfect in several respects, but was already being used on a significant scale. It was reckoned that, of the 12 million or so land parcels still untitled, about 70% were residential. Extending a similar procedure to residential property could

therefore be expected to have a massive impact (ACERD, 2007; Chikiamco and Fabella, 2011: 132-133, 137, 142).⁵

Second, this could be implemented without tackling the challenging topic of the structure of government or requiring unrealistic changes in the incentives of staff in particular public agencies. The bundling of titling reform with an ambitious scheme for merging the mapping and registration functions in a new agency in the LAMP objectives had been one of the primary reasons for the extremely slow progress on titling reform between 2000 and 2006. The design had been the work of consultants hired by the donors with ambitions to rationalise the sector once and for all. But the general perception – reinforced by the fact that the consultants were often ex-DENR personnel and the project was housed in DENR – was that this was a DENR project for taking over land registration from the LRA and the Register of Deeds (Department of Justice), a function with which both valued civil service jobs and informal incomes (bribes) were associated. For this reason, it incurred a high degree of active resistance and foot dragging on the part of the civil servants and private sector lawyers who were the key players on the registration side.⁶

The wide scope of the comprehensive free patent bill promoted by LAMP – embracing all land types and seeking to rationalise the structure of government through LARA as well – had upset people in the House of Representatives, making it more difficult than it might have been to make progress on the more limited residential titling reform. The LARA bill was eventually killed off completely in the Senate. It died, as so many donor-sponsored reforms in developing countries do, because it tried to do too much. It pretended that a new formal structure, benefiting in appearance from all the requisite ‘country ownership’, would be capable of overpowering the informal realities of public sector governance. It failed to see the need to work with the grain of those realities, tweaking the formal rules in ways that can interact with the real incentives at work in the system to produce outcomes that may be imperfect but are good for development.

A third discovery by the successful reform team was that it is, after all, possible to alter the configuration of stakeholder interests around the progress of a reform by mobilising the influence of moderately powerful organisations that perceive, albeit vaguely, the reform could be in their interests. This means harnessing some initially unsuspected political motivations and disarming potential opponents with tactical moves that make all the difference but cannot be planned in advance. As in the Latin American experiences documented by Grindle (2002; 2012), sector reforms can happen ‘against the odds’ if measures are taken that harness these less obvious possibilities.

Building a reform team

The discovery of a viable reform approach was the work of a highly motivated and suitably qualified team of reform promoters brought together by Jaime Faustino of TAF. The team was broadly steered by Faustino and facilitated with TAF’s USAID funding over a number of years. However, it remained

⁵ In best practice spirit, LAMP had decided to include agricultural land on the grounds that farmers are a fundamental sector of Philippine society. The result was that, when the LARA bill reached the Senate, prominent senators with links to well-known oligarchic families questioned the wisdom of interfering in agricultural land issues. While senators are not invariably loyal to the landed elite, most are very concerned about their prospects of re-election, and these are not reckoned to be improved by support to ‘controversial’ issues.

⁶ In fact, it was said that the LRA had a whole team with its own budget working to prevent LARA from happening. This type of situation hardly had a place in the official donor thinking of the period, with its rather mechanical commitment to respecting ‘country ownership’ and its desire to rate well in Development Assistance Committee (DAC) peer reviews informed by the Paris Declaration concept of effective aid.

largely self-directed and self-motivated. Crucially, it was composed of individuals of mixed talents and background but a shared commitment to public policy reform in Philippines.

It is important to note that the original team assembled by Faustino was within a year split into two sub-teams. Informally known as the Ateneo and the La Salle groups, reflecting their associations with one or other of the two elite private universities in the Philippines, they explored distinct approaches to the common problem of the incoherence of the land titling regime. Typically, external presentations were made under the aegis of one or other of two university-based research units, at first the Center for Economic Research and Development of the Ateneo de Manila University and later the Institute of Governance at the La Salle University. A technical specialist with insider knowledge was the link person, a member of both the Ateneo and the La Salle sub-teams.

Erwin Tiamson, a lawyer with consultancy interests in land and mining issues, had been brought into government as Executive Director of LMB by Gloria Arroyo's first appointee as Secretary for Environment and Natural Resources. In that capacity, he had served as the government lead in the formulation of LAMP. He had also acquired an interest in and a broad picture of the land rights issue, but became frustrated as, under a new Secretary, he felt he was being marginalised. Around this time, he and colleagues who had been appointed at the same time met Faustino when the latter paid a courtesy visit to LMB at the beginning of the TAF exploration of the property rights issue.

After leaving government, Tiamson served for a while as a consultant to LAMP, but, as his relationship with Faustino and his collaborators developed, he became attracted to the idea of working more as a 'development entrepreneur'. A big LAMP conference in late 2006 drove the lesson home. This was one of those donor-supported jamborees at which all participants raise their hands in agreement but the agreement is entirely nominal. People's real views were expressed in the corridors, out of earshot of donor representatives and expatriate managers from the international consulting firms.

The Ateneo sub-team pursued the idea of creating an integrated digital database of land titles at the level of local government, linking this to the local authorities' interest in more effective collection of property taxes. This had proven feasible in a pilot scheme with the local authorities in the island province and city of Cebu (ACERD, 2008), but the challenge was how to scale it up. A technical solution might have been reached, but the whole idea was hindered by the basic bureaucratic politics. The LRA had its own scheme for digitising its records and therefore discouraged its staff at local government level from participating in any attempts to scale up the Cebu initiative.

While the Ateneo group focused, like LAMP although more modestly, on the lack of integration between the two technical functions, the La Salle sub-team was driven more by an interest in the institutional economics of property rights insecurity. This led it to concentrate on the titling issue.

Between law and economics

The La Salle reformers were inspired by a public intellectual called Calixto Chikiamco. 'Toti' Chikiamco had been honing ideas about reform of economic institutions in the Philippines for the previous 15 years, and engaging with a national audience around these ideas through opinion columns in national newspapers. Although not an academic, he had updated himself on global thinking on the institutional economics of developing countries, initially in connection with the limitations of the

agrarian structure created by the redistributive land reforms enacted since the 1980s.⁷ A member of the nation’s intellectual elite, Chikiamco is also recognised for a respected political trajectory, including early opposition to the Marcos regime. From an upper-class background, he also has an acute sense of the configuration of interests within the elite, including nuances that may be missed by those with weaker social connections.

This background helps explain how TAF-supported land titling reform initially got its foot in the door with government. As recounted by Chikiamco and Fabella, in 2005, Secretary of Social and Economic Planning Romulo Neri came out of a meeting with the owners of the largest rural bank in the country, who had been complaining about the difficulty of lending to landholders who could not show title to their property. Neri recalled Chikiamco’s series of op-eds on property rights and asked him to study a short-cut around this problem. The study (Chikiamco, 2006) was funded under USAID’s umbrella project for economic and governance reform (EMERGE: Economic Modernization through Efficient Reforms and Governance Enhancement).

This study brought Chikiamco into contact with Tiamson and his team in DENR. Tiamson had been interested in property rights from a legal point of view since law school. Now Chikiamco introduced him to the institutional economics of Ronald Coase (1960) and successors like Douglass North (1990). This opened his mind to the thought that current arrangements for land titling in Philippines were not just socially inequitable and politically harmful, but also, because of the ‘transaction costs’ they entail, bad for market development and economic growth.

Into the mix provided by this meeting of minds, Tiamson brought not only a thorough understanding of the legal intricacies affecting both agricultural and residential land, but also a good deal of experience of the functioning of government, including an understanding of motives of bureaucrats and professionals in the different agencies. He remained well networked with former colleagues in DENR and fortunately well regarded, thanks to his earlier role in bringing a valued Australian scholarship programme to the department. From 2009, Chikiamco, Tiamson and a succession of close collaborators and friends came under the umbrella of an existing non-profit think-tank, the Foundation for Economic Freedom (FEF). Over time, the group acquired important skills in presenting arguments in a technically sound but accessible way, with an emphasis on benefits (Chikiamco and Fabella, 2011: 135). Table 1 summarises the main events and dates.

Table 1: An external/internal timeline of property rights reform

Date	Activity
October 2006	USAID–TAF <i>Policy Reform Program (PRP)</i> starts. As discussed in Section 2.3 below, the project (running from October 2006 to September 2008) is the result of an unsolicited proposal from TAF to USAID. The partnership is through a Cooperative Agreement that has elements of a grant but more than normal specificity and approvals. Promoting secure property rights is one of the reform areas.
First and second quarters,	There is only one team at this point – based at the Ateneo Center for Economic Research and Development (ACERD). The records state: ‘This quarter, the team resolved that the project will have two components: (1) legal framework (LARA) and (2) market-based solutions.’

⁷ For example, Chikiamco (1999; 2001b; 2001a; 2002; 2003).

2007

LARA does not look politically feasible, so the team searches for new options, including:

- Introducing title insurance;
- Drafting a new law based on LARA to address the concerns of the opposition while keeping some of the essential provisions;
- Exploring whether a presidential decree mandating the use of spatial identification or graphical representation of the lot is feasible;
- Passing a law to allow a faster administrative as opposed to judicial procedure for the issuance of RFPs.

July
2007

Unable to agree on a strategic goal and approach, the team is split by Faustino into two parts:

1. One team, based at ACERD, looks for a ‘market-based’ solution. The goal is to pilot test a Digital Land Titling Registry in Cebu City. This project proves to be a dead end and is abandoned in October 2008.
2. Another team, based at the La Salle Institute of Governance, is focused on a more ‘institutionalist’ reform. The goal is to introduce legislation on the RFP.

October
2008

USAID-TAF *Policy Reform Project* ends.

The members of the reform team bid on a successor USAID project but lose. In its letter to the contractor the USAID review committee notes ‘The TEC (Technical Evaluation Committee) questions if it is realistic to expect a law on Residential Free Patent early on, as proposed, given the lengthy time and uncertainties involved in the legislative process’.

October
2008 –
September
2009

With no funding, the team and TAF (without La Salle) continues the reform effort.

October
2009

USAID–TAF *Economic Growth Hubs (EGH)* project starts. Property rights is one of seven sectoral reform areas. After approaching two other potential organisational partners, the team is housed at FEF. Chikiamco agrees to be President of FEF.

March
2010

President Arroyo signs the RFP bill into law.

Navigating the stakeholder environment

A question of obvious interest is what obstacles the reform team faced and what exactly they did to overcome these. As recounted by Chikiamco and Fabella (2011), the team made use of a standard ‘stakeholder mapping’ technique. With the essentials of the draft law in mind, they drew an initial picture of the reform environment, placing the main actors or constituencies on a three-dimensional matrix according to 1) their position for or against the measure; 2) their expected level of influence on the process, and 3) their perceived willingness to spend their limited political capital on the reform. Going beyond the standard procedure, they then thought about how some of the players might be induced to become more pro-reform and/or to become more influential on the process, in terms of

their willingness and ability to expend some of their political capital on it. They then went into action to make this happen, attending meetings, making contacts, formulating and reformulating arguments and learning along the way.

The substance of the stakeholder analysis would have been very different if the comprehensive, frontal attack approach of LAMP had been taken. Having removed from the draft the threats to ultra-sensitive agrarian relationships and to civil service jobs and rents in the justice sector, the team had largely neutralised the influential players that might have wanted to block the bill in Congress. Some lawyers would be likely to remain opposed to a measure that had the effect of replacing law with administrative rulings. But the main task was to work on the two main associations of banks offering small-scale loans, to develop the perception that this measure would be good for their business;⁸ to get the League of Municipalities and the Chambers of Commerce on board; and to get DENR itself acting effectively as the main sponsor of the bill in the executive branch of government. In other words, the heavy-weight political economy diagnostics went into the initial definition of the scope of the property rights reform. The rest of the design was largely about tactics for obtaining small but significant shifts in the behaviour of some of the smaller players. This may be more typical of sector reform challenges in other countries than is often supposed.

The short story of the reform is that the stakeholders were induced to move more or less as hoped for. In addition, the team worked tirelessly on the detail of getting the bill steered through the relevant committees, first in the House and then in the Senate. This involved a good deal of leveraging of different sorts of personal relationships and sources of influence, including extended family relations, classmate networks and professional loyalties, both at the elite level – among Congress members and their peers in academia – among fellow legal professionals and among some of the junior advisors of key politicians. Some of this work might be characterised as ‘lobbying’, but it was largely informal and conducted behind the scenes. Only in the culminating stage did members of the team feel impelled to go down from the gallery to the floor of the Senate to have a word in the ear of the nearest friendly senator to avert a scheduling disaster.

What sort of ‘coalition’?

The reform team was very open-minded in seeking support for the legislation. The draft law was modelled on an old law with more limited scope, enabling it to be presented as a largely technical adjustment, even though its implications were far from non-radical. Politicians came to sponsor or otherwise support the bill for all kinds of reasons, including a conviction that it would be good for social peace (reducing intra-family disputes and abuses by local bosses) and anticipation of profits for the banking sector. Some of those who played the leading roles in steering the bill through House and Senate committees were regarded in Philippine advocacy circles as *trapos*, the typical kind of unprincipled patronage politician.⁹ Sometimes, such people were concerned about issues that could be seen as overlapping with the problem of insecure land tenure, as in the case of the congressman who steered the bill rapidly through the House.

Taking advantage of a personal introduction by a family member, Chikiamco established a sense of common purpose with this politician, who had become concerned about some of the local impacts of

⁸ It might be thought that this would be obvious to them, but this was not the case: they were, in effect, ignorant of their own interests. The team’s presentations were dedicated first to developing the understanding of members and then to persuading them to spend political capital on the issue, for example by showing up at critical moments in Congress.

⁹ *Trapo* is both an acronym for ‘traditional politician’ and a Spanish and Filipino word meaning ‘rag’.

uncontrolled logging. This involved, along with further exploitation of business-cum-extended family ties, presenting him with books on the developmental importance of property rights by two famous authors – Bethell (1998) and de Soto (2000). The politician apparently read these on a flight. This was an important step, as he was an influential congressman. He had been Secretary for DENR under a previous administration, and was now Deputy Speaker of the House and a political friend and fraternity brother of the Speaker.

During the hearings on the bill, additional support emerged from groups and individuals who had not been recognised, and had not recognised themselves, as stakeholders in the matter. A representative sponsored by the electrical cooperatives discovered that insecure tenure was an obstacle to electrical connections. A congressman decided that stronger titling would help his pet scheme for titling terraced rice fields. Another unexpected source of support came from senator who had been concerned about public schools lacking secure title to the land they occupied on account of the cumbersome procedures for allocating land to specific purposes and separately to specific agencies. Securing his support required only the insertion of a clause on this particular application of the act.¹⁰

Other tactical amendments to the draft included inserting a size limit on properties eligible for free patents, to avoid the impression that the law was intended to favour big landowners (Chikiamco and Fabella, 2011: 137, 143-144). A clause enabling the issuing of patents by local Land Offices – a radical extension of the basic law that has been pursued since 2010, as mentioned further on – was first inserted and then withdrawn when an unusually alert congressman noticed it and threatened to withdraw his support.

As detailed by Chikiamco and Fabella, the process in Congress involved several favourable or unfavourable surprises, to which the team needed to be alert. It turned out that the Chamber of Thrift Banks (CTB), the less substantial of the two banking associations whose support was sought, was chaired by the owner of one of the largest national radio stations, a key political player in the run-up to the 2010 elections. This gave the CTB's endorsement of the bill unexpected impact on politicians beginning to prepare their 2010 candidacies.

At various points, the progress of the bill interacted for better or worse with turning points in the political careers of key Congress members and with shifts in the leadership of key committees. Clever parliamentary tactics on the part of the reform team and the more supportive politicians played a significant role, including on at least one occasion a decision to remove the bill from the purview of one committee where opposition was to be expected and to place it under another where the road ahead would be smoother. Where necessary, texts were amended to justify the move. In these matters, the team say they were more alert and agile at the end of the process than they were at the beginning.

It was important that, in building a support coalition for the reform, the team was free to discover an approach that worked without being constrained to comply with donor or international non-governmental organisation (NGO) 'good practice' principles. The coalition building was neither open nor transparent. It involved tacit agreements by different groups or individuals to spend political capital – exercise influence, call in favours – in support of a particular step in the campaign. The team

¹⁰ This experience illustrates an interesting limitation of stakeholder analysis as normally practised. Important actors may have definite interests in the sense that they know what their problems are, but they may not have a good sense of what the solutions to those problems are. Putting it differently, the same interests can be served by different ways of making profits, and/or different sorts of political payoff, as the case may be. This is a key lesson on how to make stakeholder matrices into the tool of a more dynamic and practical kind of political economy diagnostic.

did not convene large meetings to thrash out a consensus position. It did not feel obliged to involve representatives of broad sectors of the population for the sake any general commitment to ‘inclusiveness and transparency’. Allies were not expected to share fundamental values, or to agree on every aspect of the issue in hand. A certain amount of wining and dining of potential allies was essential. In this respect, the team’s way of working was not unlike that of the ‘fixers’ who are employed or sponsored in government service by powerful families to help them navigate institutional and political obstacles to what they want to do.

As Chikiamco and Fabella put it, this was a guerrilla operation, not a war of fixed positions. There were long pauses during which not much was happening, calling for patience from the team and a high level of trust from Faustino and others supervising the work on behalf of the funding agency. This is very different from the operating style of the typical advocacy NGO, or the milestone- and timetable-driven style of donors and their contractors.

It matters in this respect that the reform team was its own boss when it came to ways of working. A local NGO or implementing organisation working under contract for a donor would have lost sight of the main objective as it struggled to meet donor expectations and contractual obligations, as well as ‘best practice’ concerns. The pauses would have posed a problem, making it necessary to stage some large event purely for the sake of the donor. The intermediary role played by TAF served importantly to protect the team from donor compliance pressures, while also relieving the donor from managing a large number of small grants and contracts.

Epilogue

The passage of the act at the tail end of the Arroyo presidency was not the end of the reform story. In 2010/11, FEF worked on the production of a policy brief and a popular brochure publicising the benefits of the law (Chikiamco et al., 2010; FEF/DENR Calabarzon Region, 2011). The team worked with DENR staff on drafting the implementation regulations for the law (itself only two pages of text). As Merilee Grindle has emphasised over decades (1980; 2002), implementation is effectively a process in which policies are made or unmade. At least one key clarification to the law was inserted at this stage: that in cases of dual use of land, there would be a presumption in favour of the issuing of a residential patent.

Since 2011, with the number of patents issued now regularly achieving up to 14 times the pre-reform level, the main challenge has become that of preventing the rate stagnating at this level. There is a system of performance-linked bonuses. Officials are suspected of playing the system of performance targets to avoid setting a standard than cannot be so easily reached in later years and to contain pressures on them to do even better. Officials may also be restricting the rate of issue of patents as a means of extracting bribes from applicants.

Since anyway there is a limit to the titling that can be managed by DENR national staff, who also have duties in respect of agricultural land, another post-2009 initiative by the reform team has been to sell to lower tiers of government the idea of local government Land Offices undertaking some of this work under DENR supervision. The deal is that the reform team supplies the idea (by way of a training workshop) and the local government unit deputises some staff or hires supplementary staff on a casual basis to issue RFPs, paying them their regular salary. Local governments are interested in the process for tax reasons, among others (FEF, 2012).

Uptake of the opportunity by the staff is not a problem. Informally, the officers are expected to charge a ‘facilitation’ fee of a few thousand pesos. This is illegal, but the rate is kept down as the ‘fixers’ compete among themselves for clients. It represents excellent value for money for applicants compared with the previous registration process – a case, perhaps, of corruption easing the way to a significantly developmental outcome. The effect is something equivalent to the LARA objective of integrating land-related government functions at the national level, but doing this at the local level where land administration has most relevance and the incentives are more conducive. In less than two years (2011-2012), 110 local Land Offices (out of a possible total of approximately 1,500 cities and municipalities) became involved in this scheme, meaning that, if it works, the potential is very large.

For the reform team, this represents work in progress. It was not continued beyond 2012, although TAF has been seeking to make a study of results in the initial 110 local areas with a view to an extension of the activity. As discussed further on, the attention of the reform team has been somewhat diverted in the past few years by needing to work under contract for USAID on a related issue: the extent to which the new titles have given owners access to bank loans.

2.3 The internal story

In this sub-section, we are breaking new ground. In previously published accounts, it has been usual to downplay the role of TAF and USAID in steering and facilitating the reform. However, this paper is very much concerned with the issue of whether and how official development assistance agencies can use their resources to achieve desired change in the manner described in Section 2.2. In this story, Faustino, TAF and USAID are the key players. We consider how they related to each other and to the reform team, the ups and downs of the relationship over time, how use of funds was managed and monitored and what has happened in the most recent period.

The players and their relationships

The funding that enabled the learning-oriented activity of the team put together by Faustino was in the form of two grants by USAID to TAF: PRP (2006-2008) and EGH (2009-2012). PRP covered reform activities in the fields of maritime transport, power generation, air transport and infrastructure, as well as property rights. EGH covered a somewhat similar set of reform challenges under new headings (Asia Foundation, 2009; 2013). Both projects were based on Cooperative Agreements, described by TAF managers as halfway between a grant and a contract. They were unsolicited but in both cases supported by USAID leadership and the then Secretary of Socioeconomic Planning of the Philippines government. Growing recognition within both TAF and USAID of Faustino’s innovative approach and his ability to turn this into reform results was no doubt a factor.

The objective of making headway on securing land titles was generally shared among the reform team, the intermediate funder – TAF – and the ultimate funder – USAID. What was potentially much more problematic for the relationship was the team’s way of working in pursuit of this goal. As we have seen, from 2007 onwards the team and Faustino arrived at a consensus that the frontal assault approach to which LAMP was committed was headed for defeat, but they did not have a fully fledged alternative option to offer at that stage. Chikiamco’s first study, in 2006, had looked at the feasibility of the second-best option of tweaking the rules on the use of tax declarations in place of titles for the purposes of bank collateral. This proved a dead end. As we have seen, the Ateneo sub-team could not find a way of operationalising their idea about integrating databases. Thus, the RFP proposal arose

only after several other avenues proved unpromising (see references to the first and second quarters of 2007 in Table 1). Faustino was therefore in a position of repeatedly needing to report failures and possible new strategies to the donor.

Several factors operating in the period were favourable to an arm's length funding approach to economic reform work in the Philippines office of USAID. First, in a departure from the norm in USAID, economic reform and democratic governance responsibilities were merged in the mandate of a single department, run by the same people, allowing political economy to come to the fore. Second, the people in question were dissatisfied with the results they had been getting from a technical assistance-cum-capacity-building approach to reform. In this context, and given that USAID was managing large-spend routine support to the health and education sectors, the idea of taking a small risk on a fresh approach to economic reform, in the style of a venture capital investment, was attractive.

Following the passage of the reform into law in 2010, the work of ensuring the implementation regulations and procedures would be consistent with the spirit of the legislation was continued under the EGH agreement until 2012. Since that time, USAID has reverted to using a contracted project approach. However, the fact that it was possible to fund the activity by grant through its most critical period is a vital part of the internal story.

Some credit for this must go to USAID's overall orientation during these years, which happen to correspond exactly to the period of maximum influence on the DAC development agencies of the concept of aid effectiveness articulated in the 2005 Paris Declaration. Although the US signed up to the Paris commitments, along with Japan it followed the less radical of the various interpretations of what they really meant, emphasising that building 'country ownership' of development efforts did not necessarily mean collaborating closely with governments. Although USAID is quite decentralised, and the country office was in a position to take its own decisions about such matters, the general climate of opinion in the office was friendly to the idea of pursuing economic reform objectives through intermediaries like TAF, rather than directly with government. In contrast, the Australians and the World Bank were constrained to work as far as possible in 'partnership' with government counterparts, as they did in the context of LAMP.

Funding an intermediary also made sense because, in the late 1990s and early 2000s, the USAID office in Manila got its fingers badly burned with a previous economic policy reform project, AGILE (Accelerating Growth, Investment, and Liberalization with Equity: 1998-2004). AGILE, which was based on a relatively public form of advocacy for economic reform, ran into controversy. Some of the interest groups opposed to greater competition mobilised against it, accusing USAID of colonial interference in Philippine affairs, and the project had to be formally closed. Although reform work continued under other auspices, the principle was established that any direct programming by USAID in this area would need to be covered by a formal agreement with the government and would be limited to providing technical assistance.

That, of course, would have limited ambitions and likely required a reversion to very formalistic capacity building for trade and competition policy. The grant funding to TAF for economic reform work provided, among other things, a way around this problem. If TAF, and especially the reform teams it was supporting, stirred up controversy, they would be the only visible actors. USAID could plausibly deny any direct responsibility for specific recommendations, as they would have been suggested by local partners with a range of funding sources.

The downside

There is, however, an important qualification to this uplifting story about grant funding for reform facilitation. In reality, USAID was not a consistent practitioner of the arm's length approach to facilitating developmental reform. The long-term record, as staff of the agency admit, is one not of consistency but of alternation back and forth between loosely specified Cooperative Agreements and pre-programmed projects, with implementers under contract.

Thus, at the end of the PRP period in October 2008, a decision was taken in the Manila office of USAID to put out the next phase of support to economic reform, under the title LINC-EG (Local Implementation of National Competitiveness for Economic Growth), to competitive tender through its traditional modality, a contract. This resulted in the award of a contract to a US-based firm, Nathan Associates/DAI (Development Alternatives Incorporated). TAF and its local partners made a bid with another US-based contractor, Chemonics, as the prime contractor, but lost out. Apparently, as noted in Table 1, the view was taken within USAID that, although the TAF-supported reform team was making progress, the property rights objective was unlikely to be achieved ahead of the 2010 elections, a crucial watershed politically. There also appears to have been some nervousness about the plan of working behind the scenes to construct a support coalition for the reform – about which TAF's proposal had been perhaps excessively frank. The decision makers in USAID wanted to revert to mainstream roles. The assumption was, perhaps, that government counterparts would handle the politics after receiving the technical assistance from USAID and its contractor.

If so, the perception was incorrect. For some time, the contractor made little progress in concretising its approach, despite requesting and getting some TAF support. Meanwhile, the La Salle team, now independent of its university base, continued working on the RFP bill on their own responsibility, relying on their own resources and moral support from Faustino and the TAF Country Representative, Dr Steven Rood. In due course, they were supported again by USAID under the EGH grant to TAF. However, this happened only because the USAID Mission Director and the Secretary of Socioeconomic Planning intervened on the basis that it was indefensible that TAF's reform activities no longer enjoyed current funding.

At senior levels in the USAID office there was an appreciation of the benefits of the modality of long-term grant support to a trusted intermediary as compared with the typical results of competitive contracting. This recognition was in tension with the default position in USAID, as in most official development agencies, that assignments beyond a certain scale must be subject to competitive tendering. The legal prescriptions and interest group pressures underpinning this default position are reinforced by the common illusion among middle-range agency staff that tight control over project activities apparently provided by conventional contracting makes them more likely to succeed and less likely to produce embarrassing failures. These are among the more serious obstacles to the reform facilitation model that has been pursued with such success in Philippines.

Management and monitoring

The grant modality, as applied in this instance, had several major advantages from the point of view of the quality of what was funded. It allowed Faustino to use his networks and person management skills to locate and empower a group of Philippine reformers with the right personal motivations, knowledge and skills, freed from the emphasis on paper qualifications and formal track record that

tends to prevail in competitive bidding. It gave Faustino space to concentrate on working with a self-driven group based on mutual trust and respect. It allowed dead ends and ‘mistakes’, such as the initial investment in local government databases by the Ateneo sub-team, to serve the purpose of learning about what is likely to work, rather than becoming a ‘black mark’ on the record of the team.

Accountability for the grants was provided for through formal and informal channels. Formally, annual workplans and quarterly and annual narrative reports were submitted by TAF to USAID, covering all of the agreed areas of reform promotion. These plans and reports used a template proposed by the project manager, Faustino, which foregrounded steps taken towards the realisation of the overall programme objective. The steps were not ‘milestones’ that had been specified in advance. The grant modality did not require a logical framework or even a revisable ‘theory of change’, although the thinking was obviously goal-directed and the discovery of a viable pathway of change was the whole purpose of the work. In addition, under PRP and especially EGH, formal reporting was complemented by one- or two-page ‘success story’ notes, which presented particularly significant steps in an accessible form for onward transmission. There are 13 such notes on file concerning specific steps in the property rights process (including on some, such as the Cebu pilot on local land records, where further action was not taken). Informally, Faustino and the USAID programme officer would allot regular half-day sessions several times a month to exchanging ideas and building nuanced and common understanding of the current issues, challenges, strategies and activities.

For most of the period, USAID managers seem to have been fully satisfied with this style of reporting, recognising that the field of policy reform lends itself to trial and error, that second-best options are hard to assess and that some humility is called for in mapping out lines of advance. Reporting upwards in the framework of USAID’s Annual Cooperative Agreement Work Plan was not so detailed as to require discussion of the whys and wherefores of particular ‘dead ends’ in the pursuit of the basic reform objective.

For its part, the reform team accounted for its time inputs to TAF on TAF-designed time-sheets, and provided details of activities, outputs (draft documents, presentations) and indications of progress or setbacks by e-mail to Faustino and the rest of the team. No detailed workplans were involved. The trust and mutual respect established between Faustino (and his own TAF superiors) on the one hand and the self-motivated reform team¹¹ on the other were no doubt essential to the smooth functioning of this relationship, but all concerned take the view that it is the structured understandings that matter, not the particular personalities.

Epilogue

Unfortunately, the latest chapter of the internal story of property rights reform in Philippines – which presents a generally quite positive image of USAID’s ability to break with knee-jerk donor practices – has another sting in the tail. Currently (2013/14), the FEF team is again working for TAF with USAID funding for economic reform, now under COMPETE (Advancing Philippine Competitiveness; FY2013-2017). However, this is now governed by a contract, not a grant.¹² One consequence is that it is not working on the extension of patent provision by local Land Offices, the measure it believes to

¹¹ The self-motivation was tested during the year (2008/09) in which there was no USAID funding through TAF. The individual team members had other income streams, and the TAF grant never covered more than 50% of the time of Tiamson and his colleagues. But in the dry year, a crucial year in the promotion of the RFP bill, extra voluntary efforts were made, including by Faustino.

¹² TAF tried to discourage USAID from putting out COMPETE to competitive bidding as a contract, but the agency went ahead anyway. TAF submitted a bid and won the contract to avoid being excluded from funding in areas where it believed it could make a difference.

have the greatest potential impact, economically, socially and politically. It is working with the small banks to assist them to promote patent applications to their customers.

The background to this is that USAID staff undertook a growth diagnostics study based on the Hausmann/Rodrik model and identified *weak governance* and *narrow fiscal space* as the two binding constraints to Philippine growth. From that analysis, a US–Philippines *Partnership for Growth (PFG) Joint Country Action Plan* (2011) was agreed to address three interrelated themes: Regulatory Quality; Rule of Law and Anti-corruption; and Fiscal Performance. A set of large contracted projects emerged from these themes, one of which was COMPETE. One component assumed that access to credit was a binding constraint. The USAID office is also strongly influenced by the Hernando de Soto view on the critical links from security of tenure through credit uptake to investment and growth.

In contrast, Chikiamco and the FEF team emphasise the socio-political gains from security of tenure. They point to the relative riskiness of formal bank borrowing for poor households, and the likelihood that most investments by new residential patent holders will be funded by gifts from relatives or by remittances.¹³ The de Soto approach seems nevertheless to have prevailed within USAID. This may be because expansion of bank lending arising from wider titling is seen as an ideal indicator with which to justify programming ‘to the US taxpayer’.¹⁴

The idea that the donor office will get better results by steering reform efforts more firmly – or at least having a mixed portfolio in which some interventions are firmly projectised in this way – is clearly slow to die. The impression given is that in USAID – as in many agencies – there is an ongoing debate between advocates of interventions that contribute to official bilateral relations by appearing to support government programmes in a transparent way (even if they achieve few results) and supporters of more arm’s length approaches that yield good if unpredictable results. Some USAID staff ‘get’ the idea of developmental entrepreneurship and understand its preconditions; others do not, or are simply more comfortable with the normal technical approach. Some ebb and flow of attitudes in the office in Manila was evident during the period we have been considering, and it reflected, among other things, the comings and goings of senior staff members.

The epilogue to the RFP legislation also illustrates the danger that funding agencies, having seen what can be done in achieving significant reforms, convince themselves that they can do it too, sharing more directly in the glory and sitting in the driver’s seat. For all the reasons we have considered, this is likely to be an illusion, but it may be one that is hard to resist. Intermediaries like TAF can and do work hard at giving their funders a sense of partnership and involvement, so the temptation to reassert control by contracting pre-programmed outputs is reduced. But they will not always be successful until the funding agencies themselves put in place more robust mechanisms to prevent backsliding of this kind after spectacular success has been achieved with an innovative approach.

¹³ It is also pointed out that the international evaluation evidence on the de Soto thesis is somewhat inconclusive.

¹⁴ If so, the appeal is more political than technical, since there are the obvious difficulties in operationalising an indicator of the scale of lending, given banking confidentiality.

3 Taxes for health

3.1 The reform in overview

The reform described in this section centres on congressional approval in 2012 of Republic Act 10351, a law restructuring excise tax on alcohol and tobacco, popularly known as the ‘sin tax reform’. The reform brought to an end a precipitous decline in the value of excise taxes on alcohol and tobacco caused by loopholes in previous legislation, the effect of which had been to reduce the street price of a pack of cigarettes to the equivalent of US\$0.05. The level of excise taxation and related public spending is one element in an overall pattern of taxation and public provision that has influenced for the worse both the structure of economic growth and the attainability of social equity goals in the Philippines. Sustained by powerful lobby groups and systemic political corruption, this pattern has helped the Philippines remain one of the less well-performing economies of the Association of Southeast Asian Nations (ASEAN) and one of the least successful in reducing poverty.

Like the property rights legislation examined in Section 2, therefore, the reform in question concerns a central issue in the political economy of development in the Philippines. As with the RFP, ongoing attention to implementation of the basic law is definitely called for, to maximise benefits and deal with anticipated consequences. But a palpable – immediate, measurable and irreversible – effect has already been achieved. In these respects, the two reforms are directly comparable instances of successful development entrepreneurship. As explained in Section 1, they differ in one important regard. The sin tax was a civil society- and executive-initiated reform, brought to fruition under a president with relatively strong progressive credentials.

Figure 2: Excise taxes on alcohol and tobacco (% of GDP)

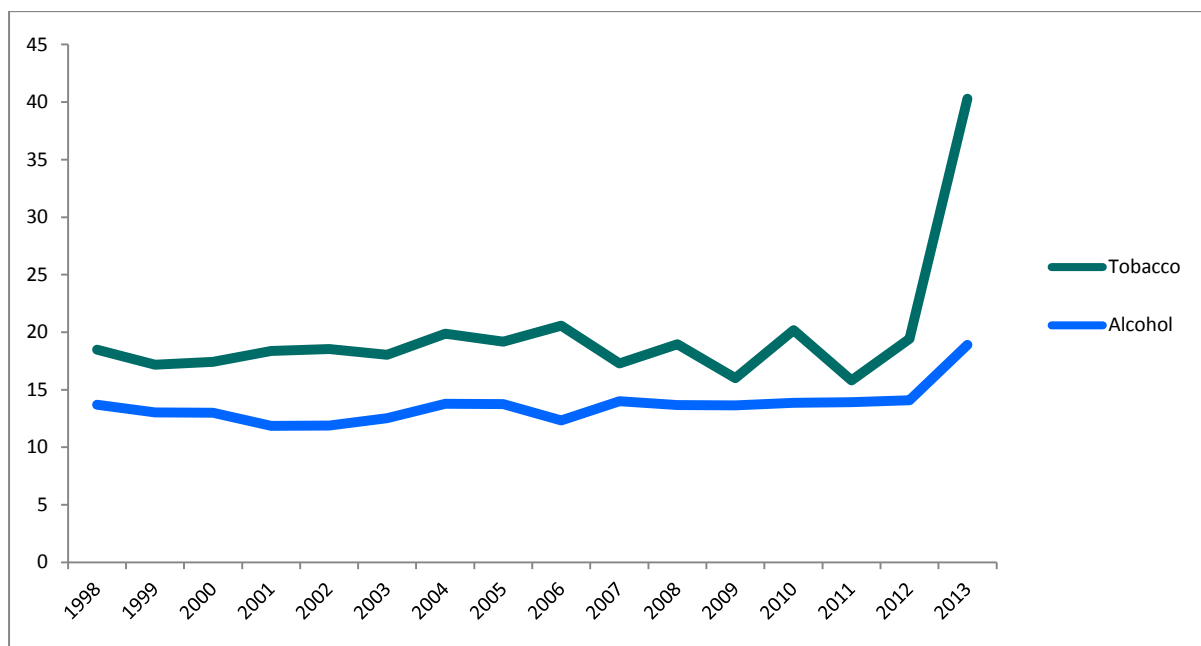


Source: Department of Finance.

The outcome

Figure 2 shows the downward trajectory of excise taxation as a proportion of Philippine gross domestic product (GDP) following the Comprehensive Tax Reform undertaken at the end of the Fidel Ramos presidency in 1997/98. The numbers illustrate the problem, which arose from the failure of the 1998 law to inflation-proof the approved specific taxes. This graph also shows the Department of Finance's original projections based on reform/no reform assumptions. Figure 3 indicates the actual turnaround that has been achieved thanks to the signature of Republic Act 10351. In 2013, government revenues from excise taxes surpassed the original expectations of the Department of Finance by a considerable margin. Revenues increased year-on-year by 85.6%, yielding fresh revenue of some 51 billion pesos (approximately US\$1.18 billion) in 2013. This was achieved despite a significant drop in the volume of cigarettes and alcohol in the national market. The current expectation is that these numbers will be at least maintained in 2014 (*Manila Bulletin* and ABS-CBN News, 20 Mar 2014).

**Figure 3: Excise tax revenue from alcohol and tobacco
(billions of constant 2000 pesos)**



Source: Department of Finance.

For reasons explained by Sidel (2014), excise taxes are generally considered 'good' taxes in terms of their ease of collection and their lack of distorting impacts on the allocation of factors of production in the larger economy. In line with international thinking, a high consumer price for tobacco and alcohol products is anyway desirable as a means of discouraging both over-consumption and the creation of new cycles of addiction. Less obviously, Republic Act 10351 does not just augment the general revenue available to the government, but also addresses deficiencies on the public expenditure side by earmarking excise revenues to specific spending heads, including, notably, subsidisation of the national health insurance (Philhealth) contributions of poor households. Close to 80% of the total incremental revenues from the 2012 sin tax measure (that is, the above-mentioned US\$ 1.18 billion plus per annum) is earmarked in this way to meeting the government's universal health-care objective.

Unlike the earmarking of excise revenues to public health provision under some previous legislation, this provision is not time-limited, and the internal rules and regulations currently awaiting presidential signature include specific mechanisms for preventing the incremental sums from simply displacing other sources of funding. Other aspects of the implementation – notably the arrangements for ensuring Philhealth translates the income received into poor people’s access to care without any substantial leakage or mistargeting – continue to need attention. This could be considered Phase 2 of the sin tax reform. Nevertheless, Phase 1 on its own has achieved a massive redirection of resources in a socially progressive direction.

It achieved this very much ‘against the odds’, as indicated by the fact that, in the final vote in the Senate to ratify the decision of the bicameral conference committee, the bill was approved by only 10 votes to 9, following a very sustained campaign against it by the tobacco lobby and its allies in Congress. As argued by Sidel – a political scientist and long-term observer of Philippine affairs – the immediate political effects probably include an emboldening of reformist elements within the Aquino administration and electoral gains for the president’s nominees for local and congressional posts. More subtly and significantly, the passage of the law is a step in the slow, steady and molecular process of consolidating a relationship between Philippine citizens/voters and their rulers based on tax-based accountabilities rather than particularistic patronage relations:

‘The Sin Tax Reform law affirms an understanding of the Philippine government as responsible for the social welfare of its citizens, underlines the connection between revenue collection and universal provision of public benefits and services, and thus arguably encourages both politicians and voters to adjust their political calculations and choices in accordance with such understandings and expectations. In this sense, the Sin Tax Reform law encapsulates not only tax reform and health reform, but political reform as well’ (Sidel, 2014: 10).

Counterfactual considerations

The most obvious counterfactual question to be tackled in relation to the sin tax issue is whether something similar could not have been achieved without the element of developmental entrepreneurship, given a resolutely reformist president acting within a system that on our own account is quite ‘presidentialist’. Unless we can answer that question convincingly, we cannot attribute the result to the way of working on reform that concerns us.

In this instance, we do not have the convenience of a ‘live’ counterfactual like LAMP proves to be in addressing the attribution problem in connection with property rights. We have therefore to rely on what in the field of comparative politics is called ‘process tracing’. This involves looking for evidence of the effectiveness of different sorts of factors and events within the process of reform itself as well as within comparable previous experiences. Sidel’s paper deals fairly fully with the issue in this manner, so we may limit ourselves to a summary and a few supplementary points.

As detailed by Sidel (2014: 10-12) the considerable influence that patronage powers enable Philippine presidents to exercise over Congress and especially the lower house is a factor favouring progressive legislation when a reform-minded president is in office. However:

- A previous attempt to raise taxes on tobacco and alcohol under the reforming President Fidel Ramos (1992-98) foundered thanks to the strong direct and indirect pressures on Congress exercised by the tobacco lobby.
- This earlier experience in executive-led tax reform – especially the failure to achieve indexation of the new commodity-specific tax rates – was what led to the low tax situation that the 2012 reform aimed to address.
- The 2010 merger of the US-based tobacco conglomerate Philip Morris with the Fortune company of Filipino-Chinese tycoon Lucio Tan gave a single company control of over 90% of the national cigarette market and bolstered what experts consider the single most influential tobacco lobby in Asia.
- In the 2010-2012 period, President Aquino played a central – direct and indirect – role in pushing the sin tax legislation, and in early to mid-2012 used his enhanced leverage over legislators in the run-up to the mid-term congressional elections to maximum effect.
- ‘Key figures with a direct line to Aquino could and did invoke his name as they persuaded legislators to support the Administration’s line’ (Sidel, 2014: 11), and the President intervened personally at several junctures.
- However, the tobacco lobby, in the form of the highly paid legal team of the Philip Morris Fortune Tobacco Corporation and the Northern Alliance of Representatives and Senators from the tobacco-growing provinces in northern Luzon, revealed a capability to influence the perceptions and command the loyalties of Congress members, committee chairs and other key players that was in most respects the equal of presidential power.
- Reflecting the limits of presidential reform leadership in the context of a markedly clientelistic political system, the final version of the sin tax law was passed by just one vote in the Senate, a narrower margin than predicted by observers on the basis of the known intellectual convictions of those eligible to vote.
- Last but not least, the bill that was passed was in several significant respects different from the original draft prepared by the Department of Finance – more radical in its impact on revenue generation and health financing and a good deal cleverer in political design.

The details of how the legislation was made both technically sound and politically smart require us to tell a story about developmental entrepreneurship that includes key actors in the executive branch of government, especially the Departments of Finance and Health, but goes much wider. As in the previous section, we distinguish between an external reform story and an internal one. This enables us to address not just the nature of the iterative process that produced the reform outcome but also the part that external funding was able to play, in spite of the normally binding constraints on the use of aid budgets. On the external story, we are able to lean quite heavily on Sidel’s account, only re-emphasising or updating particular points of generic interest to students of developmental entrepreneurship. The internal story is mostly additional.

3.2 The external story

Who was involved and how?

Sidel sums up the constellation of forces that made up the ‘reform coalition’ on the sin tax issue as follows:

- ‘Reform entrepreneurs’, activists, experts and policy wonks from the world of civil society, NGOs and academia;
- Reform ‘champions’ from within the incumbent administration, lodged in various departments and agencies, and the Office of the President;
- Reform ‘champions’ within Congress, represented in both the House of Representatives and the Senate, and in key committees in both houses;
- Advocacy groups, allied associations, organisations and pressure groups with some kind of mobilisational capacity; and
- Media outlets, ranging from investigative journalists to newspaper reporters and columnists, to social media and internet websites (Sidel, 2014: 13).

This conveys well one aspect of the reform reality behind the sin tax reform – that it involved a heterogeneous network of players within and outside the various branches of government. This alliance of forces worked in collaboration, pitted against a similarly heterogeneous set of reform opponents, in sharp contrast with the picture of reform that still has a place in some NGO and donor thinking, where civil society articulates the ‘demand’ for reform and government actors more or less reluctantly ‘supply’ it. In this respect, the sin tax reform is additional evidence supporting the conclusions of several large pieces of comparative research, that successful reforms often result from a ‘blurring of the boundaries’ between the state and citizens (Bebbington and McCourt, 2007; Future State, 2010; Gaventa and McGee, 2010; Citizenship DRC, 2011). More particularly, it reinforces the case for questioning the empirical basis of the whole demand–supply conceptualisation of how progress happens in developing countries (Booth, 2012; Wild and Harris, 2012; Booth and Cammack, 2013).

However, as the rest of Sidel’s analysis makes clear, what is significant is not just who was involved in promoting the reform but also how they were involved, and who did what. The coalition was indeed broad, and it certainly engaged in persistent public advocacy, including multimedia information campaigns and some civil society mobilisation of a classic sort, especially around the public health dimensions of the reform. But what tipped the balance finally in favour of the reformers was the work of a dedicated core of individuals in a couple of organisations. This group was able to address the severe coordination problems that normally afflict broad-based campaigns, disadvantaging them by comparison with the reform opponents, normally a compact as well as well-resourced group (one of the main reasons why the ‘odds’ are typically stacked against reform). It was also in a position to make tactical decisions about how best to divide the opposition and win friends for the legislation without the need for consensus among the campaign’s supporters or adherence to shared principles other than the reform objective itself. As in the property rights case, much of the coalition building was tacit, not explicit and transparent.

It is important to highlight this aspect because building ‘coalitions for change’ is an attractive idea – as reflected in the naming of the current Australian programme in the Philippines among others. However, coalition building does not by itself distinguish more successful reform campaigns from less successful ones. There is plenty of evidence from the Philippines and elsewhere that, without the element of development entrepreneurship, constructing coalitions can be an expensive dead end.¹⁵

¹⁵ Many NGO campaigns in developing countries, especially those around issues of governance, lack a central ‘conspiracy’. They make maximalist demands, based on the shared values of the movement rather than on tactics for achieving a ‘good enough’ objective, and end up achieving little more than solidarity in a laudable cause.

As in the property rights case, the key role was played by a small team headed by a prominent public intellectual with some history as a leftist activist, strong intellectual and political networks and an impressive command of the technical issues. The individual is named Filomeno S. Santa Ana III, and the team comprises members of a small non-profit company called Action for Economic Reform (AER). ‘Men’ Santa Ana had been in the anti-Marcos underground in the 1970s and was a leader of the Freedom from Debt Coalition after Corazon Aquino came to power in 1986. He got into the field of economic policy reform in the mid-1990s after perceiving a niche activity not adequately covered by the range of existing civil society campaigns. AER is a subscription-based membership organisation with a small salaried staff, including a senior economist (Jo-Ann Latuja) and a public relations specialist.

After interacting with the heterodox economist Joseph Stiglitz, then Chief Economist of the World Bank, Santa Ana became a regular columnist in *Business World*, a national newspaper oriented to the business community. Like FEF (Section 3 above), AER has a broader reform agenda within which it locates specific campaigns. Current concerns other than tax reform include the effects on employment of the current form of minimum wage legislation; the revision of constitutional ceilings on foreign direct investment; exchange rate policy; and flaws in CARP.

AER was the principal development entrepreneurship team behind the eventual passage of the sin tax law. It did much of the early and later analytical work (e.g., Sta. Ana III and Latuja, 2010; AER, 2012), but it also coordinated very closely, mostly behind the scenes, with leading figures in the Department of Finance and associations of the medical profession. It was the main vehicle through which technical analytical work by the World Bank’s country office and international health bodies was brought to the attention of political influentials. A division of labour emerged in which the Bank employed the convening power for which it is particularly equipped and AER did the networking with stakeholders with whom international bodies have no legitimacy. As Sidel describes the situation in 2012:

‘AER played a crucial role, providing a steady stream of expert briefings and background papers, carefully crafted presentations, rigorously reviewed data sets, and informal advice and political intelligence. As the legislative process unfolded, in fits and starts, alternating between drawn-out hearings, backroom horse-trading, and public grandstanding, AER activists remained in situ, unblinkingly focused on the sometimes mind-numbingly arcane details of various versions of the bill and projections of impact on public revenue and health. [They] were simultaneously engaged in round-the-clock intelligence-gathering, counter-intelligence, data analysis and production, tactical operations, team management, internal communications, public relations, and strategic thinking for the coalition as a whole’ (2014: 15).

Shaping the reform to change the balance of forces

Of particular interest in the present paper is the way the AER team with its close allies negotiated the technical content of the sin tax bill to marry it with strategic considerations and political intelligence. The story in this regard is comparable to that of the RFP reform, with the difference that, in this case, the alignment of forces was extremely polarised, with active opposition playing a much larger role and mere risk aversion or immobilism among the politicians relatively less. Active steps to fortify the reform coalition and to divide and confuse the opposing camp were needed and, through a learning process, were eventually found. The following observations draw on and supplement Sidel:

- A strategic orientation adopted early in the campaign, differentiating it from equivalent reform efforts in the 1990s, was to foreground the health benefits of the reform and to make explicit common cause with the anti-smoking movement and with medical professionals interested in the use of public funding to increase equity and efficiency in the Philippine health sector. This broadened the potential support base and helped dispel the impression that the reform was just about increasing state revenues.
- A key step taken at the first stage of the legislative process, in the House of Representatives, was to make a compromise to avoid being opposed by both the tobacco lobby and the main interest groups on the alcohol side. A compromise was brokered with the Nationalist People's Coalition (NPC), the party led by the chairman of the San Miguel beer company, by far the largest producer of alcoholic beverages. In exchange for an agreement to limit excise tax increases on beer, and in particular on its most popular brand, the NPC provided a solid bloc of congressmen supporting the bill on the Ways and Means Committee, on the House floor and in the bicameral conference committee.
- Although it was not in a position to deliver comparable direct support in Congress, the principal global competitor of Philip Morris, British American Tobacco (BAT), became a tacit ally of the campaign. The excise tax legislation approved in 1998 had not only fixed tax levels without reference to inflation but also allowed lower rates to current producers than to new market entrants. BAT, as a new entrant, supported the convergence of rates, albeit at a higher level than in the past, lining up in favour of a level playing field and market competition, and against crony capitalist protectionism.
- Previous legislation had earmarked excise taxes on certain categories of tobacco product to public spending in the local areas growing tobacco. This dimension was deliberately maintained in the new law, to increase the acceptability of the tax increase and deflect the argument that it was anti-farmer. This was done in full recognition of the way earmarked funds of this type are the stuff of provincial 'pork barrel' politics.¹⁶ This technically second-best concession to political reality was mitigated somewhat by specifying that the money be used for investments in welfare and alternative livelihoods for tobacco growers. It was primarily defended on the grounds that the lion's share of the earmarking was for health equity.
- At different stages in the passage of the legislation through Congress, AER and its close allies employed both highly aggressive tactics against key opponents of the bill and a more accommodating stance to encourage wavering individuals to change their position without losing face. The chairs of the Ways and Means Committees in both the House and the Senate were forced to resign during the legislative process. In both cases, they were replaced by administration loyalists who facilitated the passage of the law. Presidential pressure was a major factor in this but in the first case the administration had to be nudged to take action, and in the second it was the terriers of AER and its allies that finished the job. This involved a clever media event involving prominent doctors making public show of the similarity between the senator's position and the propaganda of the Philip Morris Fortune corporation.

¹⁶ Although the earmarking strictly applies to the administrative divisions of the country and not to congressional constituencies, in the 'oligarchic' local politics of the Philippines, congressional and local government positions tend to be shared among members of the same dominant families. The distinction between supplementary funding to local government and congressional 'pork' is therefore merely formal. In late 2013, the Supreme Court – in another connection and under the influence of 'good governance' campaigning – declared it unconstitutional for items in the national budget to be allocated to purposes outside the purview of the executive branch. This will have an influence, for better or worse, on the implementation of the sin tax law. More importantly, if the court ruling had been made a year and a half earlier, it could well have ended the law's chances, since working with the grain of pork barrel politics was an essential factor in getting it approved.

- Later on, the AER approach to tipping the balance in the Senate relied more heavily on the promise that members might gain politically in the next electoral cycle either from being associated with a socially progressive measure or from the distribution of an expanded fund of ‘pork’ in their home areas. Special efforts were made not to antagonise senators who had not yet declared a position, and to get reforms supporters in Congress to approach them personally.

As Sidel emphasises, the sin tax act that eventually made it was different from the one that was visualised at the outset, and probably very different from that which would have resulted from presidential initiative alone (if it had been passed at all). The major difference, we have seen, arises from the clever marriage of technical virtue with political pragmatism. Another arises from individually less striking but collectively significant adjustments to the detail of the approach. This reflects AER’s ability to respond in an agile way to unanticipated events and to exploit effectively the embeddedness of its members in influential networks – both features that we noted in the genesis of the property rights reform.

Serendipity and social networks

The sin tax process, like the property rights reform, was a learning experience. Within the team and among its close allies there was a good deal of expertise in the economics of taxation and health, as well as knowledge of the internal workings of government departments and Congress. The problem to be addressed was clear enough. But the political strategy just described had to be worked out on the job and in light of experience. Tactical responses to unanticipated opportunities and challenges at a more mundane level were also important.

For example, at a critical moment, the team discovered that the Governor of one of the tobacco-growing provinces in northern Luzon was in personal and political debt to another senior politician, an Aquino ally. Working on the corresponding sense of obligation, it proved possible to get the Governor to appear on pro-reform platforms alongside the Head of the Revenue Office and the Secretary of Health. At the same time, at least one of the senior medical advisors to the Department of Health turned out to have a family member occupying an influential post in the local government system. The AER team could and did call on kinship obligations as well as classmate affinities in building the campaign.

Largely unanticipated was the willingness of the San Miguel beer interests to cut a deal with the reformers. Utterly unexpected was the discreet approach to the reform team by lawyers for one small national cigarette maker volunteering the information that the firm considered it could remain profitable at the proposed new prices. This eased the passage of the law by taking away the threat that it would immediately cause the bankruptcy of a local company and layoffs of factory workers. Interestingly, the channel for this informal contact was Men Santa Ana’s classmate network.

Unpredicted challenges included the observation by an unusually well-informed senator that the proposed new tax rates infringed the traditional 60/40% proportionality between tobacco and alcohol. Accordingly, he proposed reducing the targeted tax on a pack of cigarettes from the 30 pesos (US\$0.70) in the current draft of the bill to 22 pesos. The team members were able to concede this while quietly congratulating themselves on a substantial victory, since the 30 peso figure had been inserted with a view to a tough negotiation. The Department of Finance had gone into the process expecting only 14 pesos. AER’s tactics in Congress around these detailed tax rate issues helped make

the impact of the reform, as measured by the leap in excise revenues in 2013, much larger than anyone expected.

All along, the team had to be alert to new objections put into play by the tobacco lobby. One was that higher excise taxes would inevitably result in higher levels of smuggling. Another was that the effect would be to make poorer smokers shift to lower-quality and therefore presumably less healthy brands, such as those produced by the small national firm Mighty. The latter does indeed appear to have happened, with Mighty moving from a 1% to a 20% market share at the new prices. This is expected to be a short-term phenomenon, however. The new tax rates continue to discriminate among price bands for a few years but converge on a single rate in 2016. From that year on, the pro-health incentives for both existing and potential smokers will become more pronounced.

Two reforms compared

The external story of the excise tax reform clearly has many similarities with the property rights experience, but also some interesting differences that illustrate the range of possible applications of the development entrepreneurship idea. Similarities include approaching reform as a learning process, and as a guerrilla operation rather than a war of position. Both experiences highlight the potential role of a small core of more or less full-time activists, with requisite technical knowledge, convening and brokering skills, and high-grade networks, in building and coordinating a broader – but largely tacit – coalition for change.

Apart from the more active involvement of the executive in the sin tax promotion, differences include the relative emphasis given to working *with* as opposed to working *around* the realities of the country's political system. In previous studies of reform processes benefiting from some form of external financial support, notably those collected at the World Bank by Fritz et al. (2014), the role of political intelligence has been chiefly to uncover ways of achieving a worthwhile result by avoiding any direct encounters with important vested interests. The property rights reform was broadly of that type. While the reformers mobilised support from unexpected quarters, the key to their success was side-stepping congressional nervousness about agrarian land rights, and bureaucratic resistance to changes affecting officials' livelihoods, by keeping the reform simple and focused.

In the sin tax case, the reform objective was certainly more narrowly defined than previous initiatives on tax (e.g. 1996/97), but even so the opposition was both very substantial and hard to avoid. Therefore, greater attention was given to dividing it, by buying off some parts of it with specific concessions and making common cause, tacitly, with economic interests that had something to gain as well as something to lose from a new market structure. Politically, the strategy that succeeded not only made optimal use of presidential powers to influence Congress members' behaviour at the approach of mid-term elections, but also harnessed pork-barrel politics to serve the higher purpose of transformative effects in the longer term. The difference underlines that thinking and working politically on developmental reform can mean more than one thing in terms of specific strategies and tactics.

In Section 4, we draw together these and other conclusions from the two reform experiences as a set of principles of effective reformism. But first we must recognise that the sin tax breakthrough raises exactly the same questions as the property rights law about the 'internal' story of the reform. AER did rely on external funding, and the reform would probably have been unsuccessful without it, given the importance attached to having a team of professionals on salary, with a budget for expenses, and not

relying entirely on highly motivated volunteers. What then were the features of the funding arrangements and associated controls that permitted the organisation to work as it did?

3.3 The internal story

The pattern of support

One significant fact is surely that, at the start of the sin tax campaign, AER was an established and relatively well-known organisation supported by subscription-paying Fellows and run by a Management Collective. AER has its own core principles and reform agenda. Importantly, before and during the sin tax campaign it received funding from several different sources, which helped it avoid being over-directed by any one funder.

Over several years, AER has received a modest grant from Christian Aid that covers core staff and basic office overheads. During the campaign, its largest source of financial support was a two-year grant (2010-2011) from New York Mayor Michael Bloomberg's anti-smoking charity Tobacco-free Kids. Bloomberg appears to have been attracted by AER's technical command of the tax field and track record of working with government in the Comprehensive Tax Reform of 1996/97 as well as abortive efforts under Arroyo's presidency in 2004. The grant allowed AER to strengthen its relationship with tobacco-control and health-advocacy organisations and to build up experience in those areas, including by recruiting an economist with a health specialism.

The terms of the grant gave AER a relatively free hand to work out its political strategy. An earlier application for Bloomberg funding had been turned down because it had been too explicit about AER's intention to split the tobacco industry by capitalising on the competition between Phillip Morris and BAT, which may have struck the approval committee as unprincipled. The team did not repeat that mistake in its second, successful proposal. During the campaign, some of the Bloomberg counsellors were unhappy about AER talking to BAT, which the government had asked it to do. However, they were prepared to trust the team so long as they respected the cardinal rule of the tobacco-control movement not to accept funding from the industry.

The Bloomberg funds were supplemented by two grants from TAF, one under the final year of TAF's EGH agreement with USAID, the other under the first year of its Coalitions for Change (CfC) partnership with AusAID. The combined donor support was about US\$150,000 over the two-year period. This funded extra staff and public relations capacity. Aside from increasing AER's freedom to work flexibly on reform aspects not directly linked to tobacco, these grants gave the campaign multiple funding streams, which enabled it to moderate any intentions to micro-manage the operation by any one of the funders. This became important at one point when another Bloomberg partner organisation accused AER of departing from a consensus position in the anti-smoking movement and thereby abrogating the terms of its funding from Tobacco-free Kids.

Management and monitoring

As discussed in relation to the RFP and FEF, the USAID EGH agreement with TAF provided nearly ideal conditions from the point of view of funding that is friendly to a development entrepreneurship approach. It placed resources under the control of the principal advocate of the approach in TAF, Jaime Faustino, enabling him to identify a self-starting group of 'indigenous' reformers with whom to

work in partnership mode on an agreed reform topic. Interestingly, neither EGH nor CfC had sin tax reform in the originally approved set of reform objectives. It was added on TAF's recommendation. Faustino's growing track record of delivering results with his approach may have helped to create the space for this.

Faustino's management of the support to AER took a form more akin to 'peer review and challenge' than to conventional project management. In important respects, the relationships were extremely close, both between the USAID EGH programme manager and Faustino and between Faustino and Santa Ana's team – making the concept of 'arm's length aid' seem quite inappropriate. Nonetheless, the funding modality was such that neither USAID nor TAF was compelled to micro-manage AER's conduct of the campaign or to expect outputs to be delivered on a pre-programmed schedule.

As recorded in Section 2.3, at the end of the EGH programme USAID reverted to funding economic reform efforts through large contracts, with none of the advantages just noted. Fortunately for the excise tax reform, the TAF support to AER was able to be transferred to one of the components of the new AusAID/TAF programme, CfC. The original CfC proposal was for implementing development entrepreneurship on all AusAID programme themes. However, its application is not comprehensive within TAF. Some components currently reflect quite a traditional concept of civil society coalition building. What may be said is that CfC leaves room for the entrepreneurial approach to be adopted if and when a component manager wishes to proceed in that way.

Under the arrangements described, the burdens of reporting and monitoring imposed on the frontline sin tax activists were kept remarkably light, in ways that undoubtedly contributed to their effectiveness. Apart from quarterly financial accounts, AER provides a narrative report twice a year to Christian Aid referring lightly to all its campaigns. Tobacco-free Kids received a twice-yearly progress report focused on topics under its mandate, reports that did double-duty as a means of informing and sustaining the campaign network. The reporting to TAF generally took the form of succinct quarterly narrative and financial reports and a supply of information inputs to Faustino, who drafted quarterly reports to the donor emphasising steps taken, lessons learnt and any correctives applied in pursuing the reform objective. This last aspect exemplifies the important role of the intermediate funder discussed in Section 2, with TAF, and Faustino in particular, serving as a buffer or shock absorber between the reform team and any control-oriented impulses from inside the ultimate funding body. This is the important sense in which the funding is provided at arm's length.

More on counterfactuals

It could be asked whether we really know that these multiple and relatively flexible funding modalities were more enabling of the entrepreneurial approach to reform and thereby to the reform result than a more formal implementation contract would have been. In other words, there is another attribution question to be settled, calling for some sort of counterfactual conjecture.

Some relevant evidence is provided by AER's own experience (which has close parallels with the FEF stories reported earlier) of working under contract on other reform topics. We mention just two. Under USAID's EMERGE project, AER's lead economists were contracted to write a report and organise dissemination events on infrastructure gaps and priorities. This served as a fundraiser for the organisation, making the required activity-level reporting worthwhile, but in the team's assessment it contributed nothing to the reform of the policy regime on infrastructure. The second episode was a subcontract agreed with Nathan Associates, the implementing contractor for USAID's LINC-EG, for

work on ‘binding legal constraints’ to foreign direct investment. The commission was based on the assumption that the constraints were mainly legal, a view AER did not share (AER, 2010). It also specified as a project output the adoption by the Securities and Exchange Commission of a liberal interpretation of the restrictions on foreign direct investment in the Philippine Constitution, with AER’s report on the subject acting as the trigger. In the event, adoption of the required policy stance was achieved without this trigger. As a consequence, AER was scored down for output delivery.

In light of these experiences, AER is committed to avoiding as far as possible contracts or grants that include pre-specified outputs as well as policy change outcomes. The hunger for external funding is such, however, that many other organisations that might have a significant contribution to make to achieving reforms ‘against the odds’ repeatedly sign up to arrangements that shackle them to the funder’s best guess at how progressive change may happen and prevent their discovering fresh avenues that deliver more.

Discussion

A really striking feature of the sin tax reform is the huge discrepancy in scale between the impact achieved – US\$1.18 billion of additional government revenue, the lion’s share of it earmarked to health spending on poor people – and the cost of AER’s contribution: about US\$500,000 in total, barely a quarter of this contributed by the development donors. This of course does not factor in the supervisory and peer support contributions of the TAF lead or the inputs by the US and Australian desk officers, both of which were more intensive than under a conventional contract. However, even allowing for this element, a better example of ‘value for money’ in development assistance is difficult to imagine.

It is hard to see why a donor agency could rationally not want to devote much more of its portfolio to funding modalities that pay off at this rate. The standard objection is about risk. Development ministers and senior managers are said to be risk averse. The more business-oriented among them might be intellectually persuaded by the idea of extending a ‘venture capital’ approach to public policy reform, given the rather general evidence that, in human affairs, ‘success always starts with failure’ (Harford, 2011). They might accept that it makes sense to pursue several avenues on the assumption that one may succeed. But in practice aid bureaucrats are much more risk-averse than investors, and the politicians who stand behind them are acutely sensitive to scandal. That being the case, it is really important to note a couple of features that are shared by the two Philippine experiences we have considered.

One is that the investment risk is minimal. Not only are very small sums involved, but also the management approach ensures errors are corrected quite quickly and money is not poured indefinitely into bottomless pits, neither of which can be said of many donor projects. In this sense, the analogy with venture capital, and the much-quoted rule of thumb that it is worth supporting nine ventures that fail if the tenth succeeds, is not applicable.

Second, the political risk tends towards zero if the funding passes through an intermediary organisation that receives its funding from more than one source, especially if the ultimate recipient – as in the sin tax case – also receives support from multiple sources. At both levels, each organisation has its own independent mission and board. As a result, there is large scope for ‘plausible deniability’. Those who might be accused of meddling in the affairs of the country not only are nationals, but also

have their own organisation and logo, not to speak of reputation and track record. Risk of any kind is a red herring. We return to these topics in Section 4.

4 Meaning and relevance of the Philippine experience

In this section, we draw the discussion together. First, we consider the implications of the external and internal stories of the two Philippine reform experiences, suggesting some principles of successful reformism and some conclusions about what works and what doesn't when aid plays a role in supporting reform. Then we consider some possible objections to the suggested model of aid-funded development entrepreneurship. We conclude by addressing the generalisability of our conclusions to other parts of the developing world.

4.1 Implications of the external reform stories

We have reviewed two excellent illustrations of the potential for reform 'against the odds' in highly unequal and poorly governed developing countries. These experiences suggest the meaning that needs to be given to the new mantra of 'thinking and working politically'. They serve to underline what really differentiates the reform approach that works from the more usual forms of donor reform promotion. Thinking and working politically is about operating with a degree of political intelligence, and in particular liberating and harnessing the potential of local reformers to shape and steer processes of change in politically informed and attuned ways. What differentiates this approach includes several rules of thumb that, in one form or another, have quite a long history in international thinking. However, they tend to get forgotten as new generations of practitioners rediscover and repeat the errors of the past.

Drawing on our discussion in Sections 2.2 and 3.2, it seems possible to adduce the following cardinal rules of effective reformism:

Avoid as far as possible those kinds of reform that are likely to incur greatest resistance. These may not be the most radical measures, in terms of their ability to make a real difference. They may simply be ones that frighten people for no good reason or worry them as unduly complicated, as in the LAMP plan for reorganising the government agencies responsible for land titling.

Go for good second-best policy changes, where 'second-best' refers to political feasibility in the context and 'good' implies a high level of impact, directly or indirectly, on outcomes that matter. The ideal reform outcome will be a self-sustaining change in formal rules exercising a continuing and cumulative influence on further dimensions of development progress, including – in due course – the deeper, more informal, institutional realities. Both the RFP Act and the detailed design of the excise tax restructuring had that quality.

Keep it simple and prioritise. In the best of conditions, politicians and officials often cannot manage more than one innovative suggestion at a time. Yet, typically, design consultants hired by the World Bank or official donors want to be comprehensive and provide laundry lists of desirable reforms.¹⁷ Furthermore, they want to address all the outstanding problems simultaneously, with at least one

¹⁷ In the case of LAMP, their ambitious reform agenda included administrative reforms to 1) streamline bureaucratic processes; 2) transfer technology and build capacity; 3) establish a one-stop shop nationally; and 4) introduce new practices and standards. The legislative agenda included: 1) LARA; 2) a comprehensive Free Patent Amendment; 3) valuation reform; and 4) valuation professionalisation.

project component per issue. This sort of pursuit of perfection is almost always the enemy of the good, even when there are grounds for thinking progressive people are in power.

Do not underestimate the resistance to reforms that are promoted frontally, even (especially) if these are laid out in detail and formally ‘agreed with government’. Governments are not well-coordinated actors that collectively ‘own’ policies just because signatures have been appended to a document. If you assume so, silent opposition or simple foot-dragging in some quarter or other will surely slow you down. In practice, it may be hard to distinguish between passive resistance and simple coordination failure; in either case, frontal assault will be inadvisable.

The LAMP experience as recounted by its then government lead Erwin Tiamson is highly reminiscent of stories this writer has heard from many countries around the world about projects designed in a similar way.¹⁸ Despite all the appropriate approvals for the Project Design Document and its implementation schedule, individual agencies – often represented by individuals other than the original signatories – constantly question the milestones set as triggers for their financial releases. Offices whose involvement is crucial to implementation send a succession of junior staff to key meetings, none of whom are in a position to take the agreed actions. As a result, milestones are not reached and disbursement becomes difficult, requiring the donor to intervene heavily and not always successfully to prevent everything grinding to a halt.

Even when the leadership of the executive branch of government is fully assured, as in the sin tax case, it should not be assumed that it has the political capacity to drive it through on its own. The tactical adjustments and persistent attention to detail required to bring a reform to fruition against strong opposition will normally require the efforts of an independent group of development entrepreneurs.

Consider seriously working *with* the structure of government, if it is dysfunctional. Government officials, policymakers and legislators are rational actors. Their choices and the resulting patterns of behaviour are based on perceived interests, understandings and incentives under current institutional arrangements. They will therefore be hard to change in the short term. Understanding and, where possible, harnessing these behavioural logics is the key to introducing changes with transformative potential.

More generally, work with the interests people and organisations have in the context of the prevailing political or economic system, helping them discover reasons for acting in support of the reform – incentives to perceive their interests in a different way. In the words of blogger and non-profit marketing guru Katya Andresen, whom Jaime Faustino likes to quote, the best approach may be to ‘1. Create a reason for action (not just offer information) that is personally more compelling [...] than the rewards of sticking to the status quo. 2. Make it easier to take action than to do nothing’ (Andresen, 2012).

Ideas matter. Political and economic actors invariably perceive their interests through the prism of particular beliefs, so that working on ideas – smart policy options in a given political context – can be a productive entry point for would-be reformers. Dani Rodrik (2014) has written favourably about models of change where

¹⁸ Most recently in Uganda where, in the context of a training in applied political economy analysis for DFID’s Africa-based advisors, an experienced practitioner raised exactly this scenario as his most challenging issue.

‘outcomes [...] are determined as much by the ideas that elites are presumed to have on feasible strategies as by vested interests themselves. A corollary is that new ideas about policy – or policy entrepreneurship – can exert an independent effect on equilibrium outcomes even in the absence of changes in the configuration of political power’ (190).

Build *tacit* coalitions in a *pragmatic* way. Moving the stakeholder configuration in ways that enable reforms to happen will most likely involve shifting different actors’ orientations or willingness or ability to act in a variety of ways. The sum total of what is achieved in this way may qualify as ‘coalition building’. But since the most realistic prospects do not involve changes in fundamental interests, this should not be visualised as an explicit convergence, based on shared values, openness or transparency. Generally, the ideologies that have grown up in recent decades about the importance of inclusive and open processes of civil society engagement in reform are not well supported by evidence. The two reform successes we have examined were achieved by breaking with those putative principles.

Last but not least, do not try to follow a blueprint of the process of reform. Instead, assume a high level of complexity and uncertainty, and value trial and error. Adopt an adaptive or learning process approach to everything, including how to work with government counterparts. The difference between the less successful and more successful reform approaches considered in this paper is not that the former worked with government and the latter did not. It is that in the first case the counterparts were identified formally in advance and external reform teams were locked into a relationship, regardless of its productivity. In the second, relationships were developed iteratively in the light of experience.

4.2 The implications for aid

In some countries around the world, the issue of how donors can be got to empower local development entrepreneurs and thus operationalise the slogan of ‘thinking and working politically’ is irrelevant. National think-tanks with an activist orientation can find the necessary resources closer to hand and with fewer strings attached. For a good many low- and middle-income countries, however, local reformers do not have much alternative to donor funding; they may also need the prestige and convening power well-known external agencies can provide.

The Philippines is apparently one of these. The private foundation funds available in the country are very limited. Local reformers confess that, while the idea of working for foreign organisations raises some eyebrows, with other interlocutors the work gains legitimacy and respectability from its association with outside bodies, especially TAF, with its continuous presence and strong reputation in the country. In these respects, the Philippine situation appears like that in parts of Latin America and Africa and perhaps different from what happens in those parts of Asia where elite philanthropy has assumed a greater role.

It is really important, therefore, to establish whether and under what conditions donor funding – particularly the official bilateral programming that has concerned us here – can be made to provide an enabling environment for effective reform entrepreneurship. Some conclusions seem to flow quite directly from the experience reviewed in Sections 2.3 and 3.3, the internal story of the two reforms:

First of all, there does seem to be a job to be done on institutional reform in developing countries that governments typically cannot manage on their own. **Yet the traditional form of donor intervention – the large pre-programmed reform project – seems an inferior form of support, because it breaks several of the cardinal rules of successful reformism set out above.** Donors should therefore consider limiting their role to supporting groups or organisations that have shown they can follow these rules, practising some form of development entrepreneurship. There may be more than one way of doing this. However, an option that is well validated by the Philippines experience is providing funding directly or indirectly to organisations that are seeking objectives the donor shares but that are capable of discovering their own reform pathways without heavy steering.

Under typical conditions,¹⁹ competitive tendering of a project implementation contract involves specifying in advance both what you want and how you expect to get it, which is already a mistake. Development work cannot be reduced to ‘painting by numbers’, as Faustino puts it. Although there will often be plenty of completed studies of the technical and even political issues in a given reform area, this does not mean that what to do and how to do it is already known. Detecting a viable reform approach needs to be tackled in a problem-driven, learning-process mode.

Tendering also skews the selection of implementers towards organisations and individuals with impressive technical qualifications. It distracts from a proper assessment of needs in the political dimension – the question of who has the networking capacity and other practical skills as well as the relevant technical knowledge to discover what can usefully be done in a particular field of work.

The project structure or funding modality must be of a kind to **attract individuals and organisations that are motivated to pursue their own reform agenda, and are equipped to do so.**²⁰ That implies selecting or constructing a team on the basis of relevant track record and revealed motivation. It means making judgements over time, after talking candidly and listening intently to people in equal part, exchanging concept papers and debating them, and then encouraging and prompting a team to get on with the job.

The team on the ground must be freed from donor default concepts on country ownership, stakeholder inclusion, transparency etc. One of the most unhelpful aspects of donor-controlled programming arises from the commitment to keeping everything ‘above board’ in a very literal and unrealistic sense.²¹

Accountable grant partnership modalities exist in most official bilateral agencies, and they can and should be used more widely and continuously to support sectoral reform. Even when mission directors or heads of office are keen to support an innovative venture, the donor bureaucracy can prevent its happening, arguing, often spuriously, that the rules do not allow it. Firmer guidelines are needed so the protection sometimes given to innovative ventures does not depend on luck.

To get partnership modalities to work, it is essential to set some parameters and agree a broad objective, but not to specify exactly what is to be done and how. **The funder must be willing to ‘let**

¹⁹ Whether there are conditions in which this is not the case, as suggested by Unsworth (2014), is a topic that should be pursued in further research.

²⁰ And are known in the country as people with their own agenda – not just acting on behalf of a funder.

²¹ This arose in connection with AusAID support to the ultimately failed property rights programme, LAMP. In 2007, AusAID and TAF agreed to implement a complementary coalition-building component. The AusAID contractor of LAMP – perhaps based on a belief in transparency – made a public announcement on the subject. This publicity raised the political risks and would likely have made it quite impossible for a trusted local partner to have done effective coalition building. As a result, TAF withdrew from the proposed activity.

go' and to resist internal pressures to reassert control by introducing new and more mechanical forms of implementation monitoring,²² or to revert to standard contracting modalities. It seems particularly perverse that, in some of the experience reported here, reform teams that had been responsible for a significant reform breakthrough, thanks to working flexibly under a grant, were almost immediately brought back under a control-oriented contract regime, with pre-specified output milestones. These matters should not be determined by the vagaries of which donor staff member is in post and taking the decision. Agencies need rules to protect what their most experienced members recognise as good practice.

Funding the reform team through a respected intermediary organisation – so that the funding is doubly ‘arm’s length’ – **can be very helpful**. An organisation like TAF that is well embedded in the national society can search out and assess potential reform activists in a way that would be very difficult for the typical donor country office. Under the right conditions, the intermediary also provides a buffer, protecting the reform team from unhelpful requests for feedback on what it is doing, while providing the funder with sufficient accountability. Not only can the intermediation limit the potential harm arising from donor meddling, but also the donor is provided with ‘plausible deniability’ if and when it gets flak for allegedly interfering in the affairs of a sovereign country.²³

4.3 Objections to the model

Readers who accept much of what has been argued up to this point may nonetheless harbour some reservations under one or both of two headings. They may feel that the two experiences are individually impressive but not necessarily a general model or highly relevant to donor operations, even in the Philippines. Alternatively, they may be satisfied that this is a good approach in the Philippines but believe it has limited relevance to the rest of the world, either because Philippines is an atypical and anyway a middle-income country, or because TAF is an intermediary organisation without parallels elsewhere, or else because exceptional individuals – with Jaime Faustino in the lead – were responsible for key parts of the reported success.

In this sub-section, we consider two questions about development entrepreneurship as represented by the cases in this paper, one about kinds of ambition and one about scale. In sub-Section 4.4, we take up the question of the international relevance of the Philippines experience.

Regarding levels of ambition, it has been suggested that development entrepreneurship involves choosing a ‘transactional’ (and thus unambitious) rather than a ‘transformative’ (exciting and radical) approach. Is there something in this type of criticism? We do not think so, least of all if transformational implies getting early adoption of putatively universal models of institutional best practice or ‘good governance’.

To repeat what was said at the beginning, recent comparative research has shown incontestably that transferring institutional ‘best practices’ to developing countries is neither necessary for development

²² A widely reported experience with Partnership Programme Agreements involving donors other than those involved in this case is that, having set off with the idea of supporting the recipient’s own programme with flexible funding, donor organisational impulses lead to the imposition of annual monitoring and scoring on the basis of concrete outputs delivered. The people who approve a PPA proposal are often not the people charged with ongoing management. The effect is to make the recipient less innovative, less flexible and thus less strategic.

²³ Within both the intermediary and the larger funding organisations, there probably need to be what Faustino refers to as ‘intrapreneurs’ – people who work *within existing organisations* with the know-how to identify opportunities for development entrepreneurship and to sell these to their superiors. See, for example, Spence (2012).

success nor achievable under typical circumstances. Thinking and working politically means, in the first place, being smart and realistic about institutional reform goals and their sequencing, given the underlying social and economic realities. It must not be a matter of adopting a flexible, learning-oriented approach while continuing to pursue objectives that have been taken uncritically from the repertoire of ‘good governance’. Thinking and working politically implies ‘good fit’ and ‘working with the grain’.

It is true, however, that in many countries we do not know how much can be achieved by harnessing or working around existing political and economic relationships. We know little about achievable adjustments to institutions that are good at producing either improvements in social and economic outcomes or further, cumulative, self-sustaining changes in governance. We surely don’t know how to make these things happen. That being the case, one of the things surely worth trying is what we have documented here: learning-oriented practice that targets feasible transactions that promise big impacts, on development outcomes in the first place and perhaps governance quality in the longer term.

Another possible objection concerns the question of scale. Pressure to disburse funds in large units is today very widespread in the aid business. This tends to work against the use of grant modalities and against low-cost activities generally, suggesting the thought that arm’s length working could only ever account for a small percentage of a donor’s country portfolio. But this objection can be answered, at least in part.

Organisations like TAF reject the idea that their innovative projects are necessarily small-scale. As we saw in the land titling case, there are opportunities for scaling up successes achieved in arm’s length exploratory mode that are not currently being exploited because of the donor’s preference for projects that reflect their preconceptions and in which they can exercise a high degree of control, albeit of a largely illusory kind.

Second, the use of an intermediary like TAF avoids many of the problems associated with supporting many small projects, and this is an advantage that could easily be exploited on a larger scale. If indeed the approach is a very good use of donor money, arguably much better than the funds handed over to regional development banks and UN agencies, there should be much more of it.

4.4 Replicability of the model

The first kind of qualification that could be placed on the international relevance of the property rights and sin tax experiences says that the country context of the Philippines is so special as to rule out any simple replication of the model. As a middle-income country with an institutional inheritance that is certainly distinctive, with its layers of both Spanish and US colonial influence, Philippines might seem another world from, say, low-income Africa.

There is some truth in this. Both in terms of the institutional barriers to equitable and efficient growth and in respect of agrarian structures and politics, the country is more like some middle-income Latin American countries than like sub-Saharan Africa. On the other hand, the fast but non-inclusive economic growth and urbanisation that much of Africa is now experiencing is making the continent converge with those other world regions that have experienced rapid growth on the basis of unequally distributed assets. The structural distortions with which Philippine reformers are concerned are

certainly already apparent in countries like Ghana, Kenya and Nigeria, as well as South Africa. They are not far off in the likes of Mozambique and Tanzania.

As for the political obstacles and opportunities, both the clientelistic yet ineffective presidentialism and the broader elite fragmentation singled out for attention by the literature on the Philippines resonate strongly with themes in the politics of Africa. For example, Kenya's 2010 Constitution has placed a veneer of US-inspired division of powers on top of an informal political reality that, in its combination of pork-barrel clientelism and extreme elite disharmony, has several of the elements of the Philippine political malaise. It only takes a little imagination to visualise how the opportunities exploited in the Philippine variant of developmental entrepreneurship might be found in Kenya.

If, on these grounds, the reform challenges in the Philippines seem hardly unique, what about the ability to produce the right kinds of reform entrepreneurs? For certain, reform initiatives in Philippines can draw on a relatively large pool of educated professionals with a good variety of career experience. The country is endowed with thought leaders like Toti Chikiamco and Men Santa Ana on most national issues. The dominance of the senior civil service by presidential appointees who circulate in and out of office means relatively large numbers of people in the private and non-profit sectors have valuable experience from inside government. In these respects, again, the Philippines is more like parts of Latin America than like the former British or French colonies in Africa, but again the differences are reducing.

Is TAF such an exceptional organisation that it is unwise to visualise other organisations in other places replicating its intermediary function? This is easily dealt with. No one claims that TAF, although it has a long and distinguished track record, has always had the orientation attributed to it in our two case studies. Some in the headquarters in San Francisco are supportive of the approach described in this paper. Even today and within the Manila office, however, views on the subject are mixed, and practices vary quite widely. It's the ideas that matter! It would be open to any other foundation-type organisation or private non-profit entity that feels so inclined to adopt the model, at least on condition that it has built up some degree of recognition and track record in the given country.

Finally, we must consider the claim that the model is not generalisable because it has been established thanks to the exceptional personal qualities of Jaime Faustino and the leaders of the frontline reform teams he and others helped put together. Those qualities are real but the objection is not. Capable and exceptionally motivated individuals who have the skills to manage others in the ways required by the model may not be easy to find. But whether you find them or not is partly a function of how you look; the search modality shapes the result.

As we have seen in this paper, Faustino was attracted and motivated by a project structure that empowered him to build up the reputation and skills that have made him a pioneer in the field. The same institutional conditions were what allowed him to search out others to work with, building up in due course an assessment of who to trust and how to support them. Faustino himself argues that his success is due to a 'partnership eco-system' modality, whereby donor, intermediary and leaders in local organisations communicate and listen, develop a high level of trust and play critical complementary roles. The method within the ecosystem is entirely replicable. The ecosystem itself is very different from the conventional contracting of a consultant or implementing agency, but it ought not to be beyond the capabilities of any well run, results-oriented development funding agency.

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