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Land Policy and Land Reform in Sub-Saharan Africa: Consensus, Confusion and Controversy

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Introduction

Even though land reform is a crucial development issue in many countries, it is often deemed “political”—too sensitive and controversial. This easily leads to inaction and avoidance by Governments and development partners alike. In addition, it does not help that even among those who are essentially in favor of it, there does not exist consensus on the “how to do it” part. This confuses policy makers and the development community at large, providing another excuse for inaction, and avoid the heart of the matter—the actual redistribution of property rights in land.

The paper is in two parts. The first part focuses on property rights in land—it gives a short narrative of some of the key “land tenure” or “land policy” issues and the emerging consensus around them. While these issues do remain politically sensitive, there is a solid consensus emerging on how to deal with them, but only once the confusion surrounding private and common property, and formal and informal rights, is cleared up.

The second part addresses the redistribution of property rights in land from large to small farmers—redistributive land reform. There is a heightened sense of urgency on the need to address land redistribution, especially in the former settler colonies in Southern Africa, but controversy exists on the appropriate implementation mechanisms. A policy framework for redistributive land reform is outlined within which the competing paradigms can actually compete there where it matters: on the ground.

Land Policy

What is “property”? What do we really mean when we say we “own property”, or we “own land” and assert “this is mine”? Whoever has tried to mediate between two children fighting over a toy will immediately know that “property” is not the toy itself. Instead, property is about rights and duties. For instance, you cannot come and take “my toy” or harvest my maize. But if you accept that it is mine, I may allow you to borrow it. So property is a social relation, defining what an individual (or a group) can and cannot do with a certain thing and which needs to be respected by others—think of it as a “bundle” of “my” rights and “your” obligations.

If “land ownership” is a social relation, it immediately follows that making policy recommendations about land ownership is not a technical matter. Land policy and land reform are about social relations, and therefore are invariably about “politics”. To say that land reform is political is a tautology.

To define what property exactly means in a particular context, one needs to ask the “who, what, where, when, and how” questions about it. For instance, who defines property rights? And who enforces them? Defining and enforcing those rights and obligations is up to the community, or, when property rights become more formalized and legislated, the state. How is the property right acquired? Through sale or inheritance, by virtue of being a member of a certain group or community, through first or “good faith” occupation, because certain investments were made, or through land reform? What benefits and income streams are included? How precise are these defined? Where and when can these rights be exercised? What is the time period defined for the

right to undertake a certain activity and reap its rewards, or incur the liability? In other words, what exactly is in the bundle of property rights we are talking about?

The answers to these questions are derived from custom, norms, legal traditions and principles, laws, negotiations, revolutions, etc. The answers, and the social relations, or “politics”, they represent, always differs from place to place and from time to time. Both in the developing and in the developed world.

For instance, there is no universal, technical definition of “ownership”. Sometimes one can “own” a plot of land but one is not allowed to farm on it—only to build a house on it. And in some places one cannot just build any house—it has to be a house of a certain type and a certain color. In other words, there is no universal definition—empirical or normative—of the bundle of rights we loosely refer to as “ownership”. So in Africa, as elsewhere, it is true: nobody “owns” the land—the concept is too vague. There are many ways of defining property rights, none of which has a claim to optimality, because the definition is, firstly, the outcome of a political or social process, and, secondly, the result of a wide range of economic and environmental factors.

However, the earlier consensus among development practitioners was that optimality, including security, of property rights was best guaranteed under a formalized (i.e. documented) and private property regime. And that economic growth and environmental stewardship would be further promoted by making the bundle of rights as large as possible, territorially exclusive, of infinite duration and fully tradable. In the following, a number of reasons are given for the changing consensus on what constitute “optimal” property regimes for development. Consensus has now emerged around the need to be more agnostic about the “optimal” definition of property rights.

Security

Property rights should be defined by the community (or the state), accepted and understood by all, and be able to be enforced. When a community, or the state, is able to enforce what it decides, property rights acquire a very desirable characteristic. They become certain—tenure, the holding of the right, becomes *secure*.

Security matters for investment. A farmer needs to know that if she sows maize, she will own the harvest—this way she will do her best to farm well. And she will logically start thinking about future seasons and invest in maintaining the fertility of the soil. Anything that makes a farmer worry about whether or not she will be able to reap this harvest—this year and all the next years—will make her wonder about investing in her crop and in her field. Conversely, if a property right is insecure, investment will fall. This is why there is consensus that property rights need to be secure.

Sjaastad and Bromley (2000) remind us that we should define “security” as assurance, and not extend its meaning to other dimensions of a particular property right, such as its duration or its “breadth”—the number of different activities captured under the right, i.e. the “size of the bundle”. In other words, a short-term lease, for its duration, is not less secure than a long-term lease. And as long as the period of the lease allows the leaseholder to reap the full benefits of the investment to be made on the land, the lease will be perfectly *incentive compatible*—it is an appropriate property right from this particular investment perspective. Similarly, it is overkill to

suggest that asking for security means asking for the largest possible bundle of property rights. Because to care for the fertility of your maize field, you do not need to own the mining rights as well.

What is the situation in sub-Saharan Africa, where formally codified property rights regimes are still quite rare, and most land can be seen to fall under customary law? Bruce and Migot-Adholla (1993) summarize the research on the security of customary tenure in Africa and conclude that overall the security provided by customary tenure is quite strong. The existing property rights systems do not seem to be in need for a wholesale replacement with new property rights regimes.

Private, common and no property

The distinction between private and common property continues to be an area where there is neither consensus nor controversy, only considerable confusion. Common property is simply the property of a group, or, to put it differently "common property represents private property for the group" (Bromley, 1992, p. 11). A logical extension of common property is *public* property or *state* property. This is in essence common property but with the community now being a much larger community, say a city, or the nation as a whole, formally represented by the state.

The confusion around private and common property stems from prejudices and perceptions. For instance, we associate the concept of private property with individual freedom. Under private property, we imagine, a person can do as she pleases. For instance, we think of private property as a tradable right which can be sold by the individual to anyone, without asking anybody else for permission to do so. And we also associate it with a sign that says "Keep Out. Private Property."—in other words, with a territorial boundary that excludes others. But when we think of common property, we imagine non-tradability, and either very restricted permissible use of the asset, or the tragedy of a complete free for all discussed above.

Why are these associations prejudiced? Because everywhere in the world what one can and cannot do with private property is always regulated, for instance by zoning laws, building restrictions, the obligation by the owner to allow the public access for hiking or fishing, or to allow another individual to establish a mining operation (in the event that mining rights are sold separately from other rights).

And in reality the presumed unfettered sale of private property can also have restrictions. For instance, restrictions on the sale of agricultural land to foreigners exist in many countries in the world, including many states in the United States. These restrictions can range from a total ban on sales to foreigners to the requirement of obtaining a special permission. Or they can mean that foreigners are not allowed to obtain freehold property, only leasehold.

Common property regimes do the same: they either ban the sale of property to outsiders (non-members of the community), or require a special permission from the community. But common property regimes can, and often do, allow the sale of the "shares" to others, just like private property regimes. The only difference then is that in the case of private property one seeks permission from the state, and under common property one asks the community.

To add to the confusion, within a common property rights regime, property rights can be *individual* or *communal*. Simply put, a community can decide to give certain rights to something to an individual *or* to the group. It may allocate a right to produce crops on a particular plot to an individual, but allocate a grazing area to a group—for instance, all families living in the community. And sometimes these individual rights, within a common property regime, can be inheritable, exchangeable, rentable and even saleable. Under a common property regime, individual rights are regulated by the community. And under a private property regime, individual rights are regulated by the state.

So common property does not imply that the entire bundle of rights are only given to the group as a whole, or that the community engages in collective production². Within a common property regime, rights can be assigned to individuals, like in the case of condominium apartments in the United States. The latter system is another good example of highly efficient common property systems in the developed world.

If there is no security at all, one ends up in a situation in which there is no property—a situation of *open access*. Unfortunately, this situation is often wrongly referred to as the “tragedy of the commons” giving the concept of *common property* a bad name. The phrase was coined by Hardin (1968), and should be rephrased as “the tragedy of *res nullius*”—no one’s property. Because the tragedy of the commons is not the tragedy of common property rights, it is the tragedy of open access, which occurs when communities are no longer able to define and enforce the property rules which apply to natural resources. It then becomes a free for all—open access—and everybody has a rational interest in depleting and degrading the resource as much as possible, because if they don’t, somebody else will.

When communities are quite able to define and enforce common property rights and rules, no “tragedy of the commons” need occur, as parts of the Alps in modern Switzerland demonstrate, having been under common property since the Middle Ages (Netting, 1976). And as the incidence of land degradation the world over demonstrates, neither private nor common property regimes can claim to be inherently more environmentally sustainable than the other. Poverty, technology, greed, short-sightedness, and a host of other factors come into play.

Full tradability’s trade-offs

The other idea under the old consensus was that investment incentives would be strongest, and economic efficiency best served, if the property right was private, of infinite duration *and* fully tradable. In this way the productivity of the resource would be maximally exploited, and if a particular owner was unable to extract the maximum profits from it, the property would be sold to someone who would.

In a world of perfect markets, the argument holds. But given information and credit market imperfections, it breaks down. For instance, one of the great advantages of many common

² In fact, whereas many areas in Africa fall under common property regimes, the African experience with group farming or collective production has been an unmitigated failure (e.g. Ujamaa in Tanzania, and numerous cooperative farming experiments elsewhere in Africa). What is often found, though, is a system under which people set aside some time to collectively work a particular field for the traditional head of the group, to be used by him to provide the food or drinks consumed by all during public ceremonies, or to needy households.

property regimes in Africa is a risk insurance, or social safety net, function—community members can claim access to land for farming when necessary. In the absence of a formal social security scheme, this insurance function of common property regimes has reduced the poverty impact of the many external shocks and macroeconomic crises that have hit Africa.

Similarly, in societies that do not have pension schemes, the pivotal role that the elders play in the allocation of individual property rights to land ensures that they have a strong bargaining position vis-à-vis the young adults. The elders use these powers to ensure that the young contribute to their “pension”.

Common property regimes often constitute very important social insurance mechanisms for the old and the poor—we need to be mindful of this when we add up the costs and benefits of moving to private property³. Under conditions where holding land is one of the most important forms of social security, moving towards property regimes under which land can be freely sold can have very negative social, and developmental, consequences. In these cases, better functioning land rental markets can combine the social insurance benefits of holding land for the poor with the production benefits of allowing land to be cultivated by those with the greatest capacity to do so.

Just as it was wrong to vilify common property regimes, it is equally misguided to romanticize them. Common property regimes can provide important insurance functions. But they can also be used to exclude people, especially those who are politically weak, or not “real” members of the community, for instance women, especially widows, and outsiders.

The evolution of property rights regimes to scarce resources

Economic institutions—“the rules of the economic game”—governing property rights emerge to attempt to capture, or internalize, the full income streams from scarce resources (e.g. land, capital, labor). In a world of imperfect information, the emergence of economic institutions is constrained by transactions costs, i.e. the costs of making an economic contract work properly in the face of possible opportunistic behavior by the parties involved. Property rights regimes are economic contracts, and they are constrained by transactions costs—the costs of information gathering, contracting and enforcing of contracts.

In the literature on property rights, there is substantial emphasis on transactions costs to explain why certain property rights regimes exist (e.g. Demsetz, 1967). In particular, the emergence of formalized private property is often directly linked to the value of the resource. The more valuable the resource becomes, the higher the need, and the ability, of a property regime to sustain ever higher transactions costs in terms of the precision and formalization of its definition, the monitoring of its use, and the legal protection necessary to defend it. Conversely, less valuable resources would be unable to sustain property rights regimes with high “maintenance costs” and would therefore not be optimal.

If property rights focus on scarce resources, the first and most obvious question to ask in any given setting, then, is “what is the scarce resource”? Comparing factor scarcity across the

³ Jodha (1992).

continents, one sees that substantial areas of sub-Saharan Africa are basically land abundant and labor scarce, as compared to the land scarcity and high population densities of many parts of Europe and Asia. It stands to reason, then, that many social and economic institutions in Africa, unlike those in Europe or Asia, have evolved to enhance or secure the productivity of the individual, rather than of the land. Compare for instance the African practice of “bride price”, under which the husband’s family “pays” for the reproductive and labor services of the bride, with the Asian practice of the dowry, under which the compensation flows exactly the other way. Another example would be the use of “labor tenancy” by white settlers in Southern Africa under which African peasants—the scarce labor factor—were allowed to reside, farm a plot, and graze cattle on the settler’s land in return for a certain number of days work⁴. In Asia, in contrast, the more common form of tenancy is share cropping, with land as the scarce factor.

This may explain why, in land-abundant Africa, an individual will rarely say that he or she “owns the land”⁵. Instead, the customary law principle will usually be that every adult man and woman has a right to reap what he or she sowed⁶. People have a right to the fruits of their labor: the property right to the productivity of the individual is secured. A farmer sows maize, weeds, and harvests, and she owns the harvest. That property right is very secure. If animals come and graze in a yet-to-be-harvested maize field, their owner will be fined for taking someone’s property. O

wning the fruits of one’s labor is indeed very different from asserting that one owns the land.

Population growth and increased profitability of crop cultivation will obviously affect the balance between land and labor, as illustrated by the following stylized description. First, the generalized right to use land in a particular way, e.g. for cultivation, is derived from the person’s membership of the community. This right is usually inheritable and secure. In situations where land is abundant, and soil fertility is maintained by some form of shifting cultivation, this right will not be tied to a specific parcel of land. But when population growth makes land more scarce, and economic and agronomic conditions permit crop and tree cultivation to intensify, property rights to particular parcels become more permanent and inheritable.

Individualization is driven by the intensification of agriculture caused by population growth and increased market access (Boserup, 1981; Bruce and Migot-Adholla, 1993). Typically, communities start by individualizing permanent residential and garden plots, then allocate individual rights to nearby fertile farming plots, and progressively extend individualization to the remaining areas under community ownership, until only wasteland and land for common infrastructure and facilities is owned by the community (Binswanger and Rosenzweig, 1986; Binswanger and McIntire, 1987). Many common property regimes will allow individual usufruct rights to a specific plot to become more permanent, often as a direct result of investments in the land. In other words, the security of individual property rights is created by the act of investing, rather than the other way around.

⁴ Labor tenancy occurs when labor, especially during seasonal peaks, is scarce, supervision capacity of the land owner is limited, and land owners have abundant land (Lastarria-Cornhiel and Melmed-Sanjak, 1998).

⁵ The “ownership” is often conferred to the original occupants, which may be a different ethnic group than the group which has political control over an area.

⁶ There may be restrictions on who is allowed to sow what in line with the social and political organization of the ethnic group. For instance, sometimes women are only allowed to sow annual crops, not perennial crops. The latter imply longer term usufruct rights, following the principle of owning the fruits of one’s labor.

But agronomic and economic conditions in many part of Africa put severe constraints on intensification. Shallow and infertile soils, high temperatures which decompose organic material quickly, or make fertilizer “burn” the crop, erratic but torrential rainfalls which leach away nutrients fast, and show extreme variability over time and space: the simple agronomic constraints to agricultural intensification can be formidable. And the economic incentives for intensification, given low output and high input prices at the farm gate, are often weak. Many imported “miracle”, yield-increasing agricultural practices fail to take root, simply because of their lack of profitability given the prices for outputs and inputs that farmers face. Under these conditions, subsistence farming or shifting cultivation need not be the result of a lack of knowledge about agricultural innovations. It will simply be the economically rational response to the prices and transactions costs farmers face (Sadoulet and de Janvry, 1995).

Similarly, livestock production systems based on nomadism or transhumance also need not be a demonstration of economic backwardness, but instead a perfectly rational response to economic conditions. In semiarid and arid areas, rainfall variability, and hence the availability of water and fodder, may be so high, that livestock production will be based on a system which allows the herd to move over sometimes great distances. The spatial mobility of pastoral systems—nomadic or transhumance—exploits the economic benefits associated with flexibility—a benefit which can be shown to increase with increased rainfall variability (van den Brink, Bromley and Chavas, 1995).

Pastoralists do not want fences because they know that their potential grazing area given highly variable rainfall would be very large, and probably, given the regularity of serious droughts, the fence could never be large enough. Compare these flexible livestock production systems with fisheries. Surely, no one would seriously argue that the optimal property rights for fisheries consist of erecting fences in the middle of the ocean. Surely, one would prefer to manage the resource through other types of property rights systems, e.g. by restricting the number of fishermen, the type of nets they are allowed to use, the maximum allowable catch, or the time period for catching fish. Fishes in the Atlantic are as “fugitive” as grass in the semi-arid areas of Africa. Weighing the costs and benefits, fisherman and pastoralist would rather have a non-exclusive access to a large area, than exclusive access to a relatively small area.

Hence, on the grazing lands of Africa, property rights regimes emerged that captured the income streams from mobility, not the income streams of irrelevant or inferior production techniques, such as attempts to establish intensively-grazed ranches in areas with extreme rainfall and hence fodder availability. Optimal property rights in land—rights which capture the full income stream of livestock grazing—instead took the form of access rights to land for grazing, which need to be negotiated with other users, e.g. sedentary farmers and other pastoralists. To prevent overgrazing and conflict, these pastoral access rights were not “open access”, but specific rights restricted to a well-defined number of property right holders. It also means that the areas where such property rights applied were not “unused” or “vacant”.

Traditionally, pastoralists and farmers would sit down to discuss how to make sure that both parties could exercise their rights without getting in each other’s way. This type of coordination is often most efficiently achieved under a common property regime. But in some parts of Africa,

supported by the earlier private property consensus, pastoralists have been told to become sedentary farmers, or fences have been erected and new property rights created which obstruct the movements of the pastoralists, essentially depriving them of access rights they traditionally held. And sometimes the resulting tensions have led to violence⁷.

What pastoralists want are property rights that match their activities: access rights and rules to prevent over-use of the resource. And to start with, pastoralists would like their historic economic rights to be respected by the state and farming communities. The new consensus therefore recommends that Governments create the possibility of resolving such potential conflicts and support dialogue so that communities can find ways of deciding together how the bundle of property rights should be allocated and enforced (McCarthy et al., 2000). The idea of taking down existing fences to increase animal production and reduce environmental degradation in semi-arid areas is a promising one, but has so far mainly been applied in game farming.

Titling is not always necessary

During the 1970s and 1980s, there was a consensus on the need to formalize property rights by creating documentary evidence—title deeds. However, the earlier consensus around this issue has changed and become more nuanced. For instance, most policy analysts now no longer simply assume that formalization in a given context would necessarily increase tenure security, first, and lead to collateralized lending, second. The original assumptions have now become questions for empirical research.

Will security be higher if someone has a formal property right—a title deed or a lease, which is issued by the State? This need not be the case, as some title deeds are not worth the paper they are written on, and create more confusion than security (Bruce, Migot-Adholla and Atherton, 1993). Conversely, some property rights which are only informally agreed on and enforced can be very secure, lest one wants to incur bodily harm.

When does land start to function as collateral for lending? Again, introducing title deeds may not lead to collateralized lending. For instance, as discussed above, if land is not really the scarce factor, it will have little value as collateral. And even under common property regimes which have allowed individual property to emerge, there may still be barriers against land sales to outsiders, making foreclosure difficult or impossible.

Successfully funding small-scale farming does not necessarily need a title deeds register and collateralized lending. The emergence of cooperative banking in 19th century Western Europe can serve as an example. When farmers found that banks would not lend to them on an individual basis, farmers' groups—some of which were already organized into trading cooperatives—proposed to be jointly liable for any and all loans of its membership. In addition, financial institutions can also operate efficiently without the use of collateral by carefully evaluating the intrinsic merits of a project proposal or an applicant's repayment record. Think of the way US credit cards are managed, or some of the success stories of micro-finance. So we should not exaggerate the necessity of formalizing property rights to develop credit markets.

⁷ Van den Brink, Bromley and Chavas (1995) coined this problem the “Cain and Abel” problem—the first recorded clash between a pastoralist and a farmer in history.

Formalizing property rights regimes

As markets become more accessible economies develop, population pressure grows and agronomic conditions permit, farmers will e-intensify production and invest intensively in the sustainable exploitation of the natural resources. The value of the resources goes up, and that means often that the potential for competition and conflict grows. Sometimes communities are perfectly capable of handling this and continuing to enforce and adapt the traditional rules that govern property rights, but without needing documentation, administrative courts, etc.

–But sometimes the capacity of the community to manage competition and conflict can decline. Or it can be undermined by intervention by external forces, or even by the state itself. As a result, the ~~But sometimes a~~ community, or the state, may does decide that it is high time that rules become more formalized, documented, and more easily enforced in a court of law⁸. North and Thomas (1977) and De Soto (2001), among others, argued forcefully that it was this process of more carefully defining and formalizing property rights which has been one of the driving forces of economic development in world history.

Policy consensus on property rights in land

This brings us back to the beginning: the definition of property rights is in essence a definition of social relations. At the end of the day, this definition is the business of the community (or the state) and therefore a political process. For instance, a community may have very definite notions about fairness, and this will, and should, profoundly influence the decision about property rights regimes and the distribution of rights within that system.

Let us briefly summarize the policy consensus on property rights in land—land policy. Property rights are rules that govern relations between individuals with respect to land, and they should therefore be defined by the polity—the community or the state—that such individuals belong to. Property rights should be clearly defined, well-understood and accepted by those who have to abide by them, and strictly enforced. Property rights need *not* confer full “ownership” and be private—they can, and should, be private, common or public, depending on the circumstances. Most important for sustainable development is that property rights are secure.

As economic conditions permit, property rights tend to become more individualized and formalized. But the causality does not automatically run the other way: introducing formal and individualized property rights in situations where economic conditions do not make such rights efficient can be a waste of resources. The consensus is that economic conditions and institutions are defined recursively, with causality going both ways.

Finally, to acknowledge that the emergence of property rights regimes is the result of a political or social process, and not just a matter of relative prices and transactions costs, also implies acknowledging that political processes within communities and states are not by definition inclusive, democratic and fair. As the next part of this paper demonstrates, the emergence,

⁸ Examples of development programs to assist communities to register property rights: (i) Cote d'Ivoire, where both individual and communal rights are registered under customary law; (ii) Colombia titles natural resources exclusively to Afro-American and indigenous communities rather than to individuals; and (iii) Mexico gives communities the choice between individual and communal title, with well-defined mechanism which allows to make the transition between both—more than 50 million ha were registered in about 6 years.

change and destruction of particular property rights regimes is often profoundly influenced by these politics—the politics of power relations.

Land Reform

Controversy exists about land reform proper—redistributing property rights from the rich to the poor, from large to small farmers. The roots of this controversy are to be found in ideology, politics, history, economic theory, and various efficiency and implementation arguments—a daunting list. A sample of controversies follows.

First, controversy exists about what one could call the “large versus small farms” or the “farm size-productivity” debate. The World Bank, since the publication of the World Bank’s Land Reform policy paper in 1974, favors supporting small-scale, family farming rather than large-scale or plantation-type farming. —Today, in many countries in the world, direct World Bank support often *only* goes to the small-scale farm sector. This is for three reasons: efficiency, poverty reduction, and equity—not necessarily in that order.

Efficiency of small farmers

Why for **efficiency**? Nearly More than a century of research by agricultural economists all over the world⁹ has produced an un-intuitive stylized fact: small farmers are generally more efficient than large farmers. This often comes as a shock to those of us who equate efficiency with the visible signs of modernized, highly mechanized farms which achieve very high crop yields.

However, the economist’s notion of higher efficiency of small farmers does not equate with higher yields. It does not mean that small farmers have higher yields. Yields are quantities, not values. For example, yields can be raised enormously by applying lots of fertilizers and pesticides, but that does not mean that a profit will be made. In other words, achieving high yields can be very inefficient. And even if achieving high yields is achieved through state subsidies, it is still (socially) inefficient.

The empirically-observed higher efficiency of small-scale farmers implies that they generate more profits (in kind or in cash) for every “dollar” invested (in kind or in cash)¹⁰. This does not mean that small farmers are richer than large farmers. It often simply means that they make relatively more out of the little they have.

Small farmers also do not necessarily operate small farms. Farm size *per se* is not the defining feature of small farmers. This is because farm size varies greatly with soil fertility, rain fall distribution, market development, technology and the opportunity cost of capital and labor in the

⁹ Starting with Chayanov in 1918, when he opposed Stalin’s “factories-in-the-field” strategy. His critique was based on his PhD research (1910) and that of other “neo-populist social agronomists”, which empirically documented the efficiency of peasant family farming (Chayanov, 1966). Stalin quite literally eliminated Chayanov, his work, and millions of peasant farmers.

¹⁰ These findings are well-documented in the research literature. For instance, Rosenzweig and Binswanger (1993) show that small farmers get much higher rate of returns to capital than large farmers. They also show, that despite being more efficient than large farmers, small farmers do not have profit maximizing portfolios, because they face significant risk, and have to use the sale of assets, such as draft animals, to deal with the consequences of risk. If small farmers could have profit maximizing portfolios, their profits would increase by another 25 percent.

economy. For instance, from a profit-perspective, five hundred hectares of semi-arid shrub can be “small” when compared to half a hectare of irrigated roses. Size is not the point.

Small farmers are defined as family farmers. They operate their farm using mainly family labor, and employ capital and machinery that they can comfortably manage on their own. This is the main cause of the superior efficiency of family farms: the owner of the farm lives on the farm, manages the farm herself, and is aided by other family members, who do not need a lot of supervision to work their farm well, because they care about their own property. Of course, if the opportunity cost of labor in the rest of the economy is very low (the so-called reservation wage), calling the efficiency of family labor “superior” is little consolation for what others have called the “self-exploitation of labor”. Again, efficiency and income levels are different concepts, and efficiency can be associated with ruthless exploitation by others or by one’s self.

If farms increase in size (or in capital stock) beyond a size that a family can comfortably manage itself, more and more hired labor is needed. It is the increased cost of supervision of the hired labor—the transactions costs—which is the source of the inefficiency¹¹. ~~The reason for the difficulty is heterogeneity, seasonality, and the resulting asymmetric information problem.~~ Not surprisingly the most successful agricultural systems in the world are in fact dominated by small, that is family, farmers.

Acknowledging that small farmers use their resources—however little they may have—often better than their larger counterparts does not mean that there are no disadvantages of being small. ~~You could use the results of Rosenzweig and Binswanger here: small farmers get much higher rate of returns to capital than large farmers.~~ The main disadvantage of small farmers often lies in their more difficult access to credit, ~~and markets, and information—~~information about markets and new technologies. Larger farmers can usually get access to credit easier and less costly. This will make it easier for them to quickly respond to the market, especially when that market demands agricultural products that need a lot of investment, say horticulture. Another disadvantage of small farmers appears when the market demands that you produce large quantities of standard quality at exactly the right moment. Coordinating such production may be easier to organize on a large farm, even if it means managing large labor forces. This includes some of the “plantation crops” (e.g. bananas, sugar, and tea).

~~We also show, that despite being more efficient than large farmers, they do not have profit maximizing portfolios, because they constantly thrown off by risk, or have to use sale of assets, such as draft animals to deal with the consequences of risk. If they could have profit maximizing portfolios, their rate of profit rate would increase further by about 25 percent.~~

But overall, large estates are usually less efficient than small family farms. They often leave a lot of their land idle. They also usually generate less employment. While they may utilize modern techniques and inputs, and achieve superior yields on the land they actually crop, their overall land use intensity is usually low. And because large farmers are often “well-connected”, they are able to lobby governments for special tax breaks, subsidies and other special distortions. The bias of these distortions is invariably labor-saving, causing the large farms to use more machines that replace labor than they would have, had they not been able to obtain the tax breaks, subsidies and cheap credit. And this can mean that an agricultural economy based on

¹¹ In the literature, the difficulty is defined as caused by heterogeneity, seasonality, and the resulting asymmetric information problem.

large farms becomes socially inefficient. Even as production in the large farm sector rises, its contribution to employment may actually go down, while high unemployment in the overall economy persists or becomes even more severe.

Small farmers are good for equity

~~As we mentioned in the beginning, it is the community which defines property rights—it is in essence a social choice. A community, or a nation, can make that social choice on a number of grounds. History, efficiency, the environment, and many other grounds can mold what a community or a nation thinks is appropriate. And as we know from history, communities can change their views on what is appropriate and fair. Again, most researchers would agree that “outsiders” do not have any business in making that choice. It is the sovereign right of communities and nations.~~

~~When it comes to land, societies usually have pretty strong feelings about how that land should be used and by whom. This is because the overall area of land in a country is fixed, and agriculture is, or could be, an important source of income for many people in developing countries. Notions of fairness, or equity, are often very pronounced and there is often a general feeling that land should be equitably distributed to as many people as possible. A country-side populated by small family farmers tilling the land corresponds in many people’s minds to a system that is fair and equitable.~~

~~But maybe the best indicator of the strong feelings people tend to have around land issues is the fact that when these issues go unresolved, land problems can lead to violence, civil unrest, or even civil war. We all know of the sometimes violent conflicts between pastoralists and farmers in the Sahel, or indigenous and not so indigenous farmers in Cote d’Ivoire. Apart from the tragic loss of life, countries that are plagued by such unresolved land problems can be doomed to protracted periods of economic instability. Just think of the past and current events in Algeria, Colombia, El Salvador, Honduras, Philippines, Brazil, Chiapas (Mexico), Kenya and Zimbabwe. I am not sure I understand the point you are trying to make in this section. You may want to turn it around and focus on the issue that if unattended, unequal land distribution breeds conflict.~~

And I would move this point to after the poverty section Poverty reduction

One of the most compelling reasons to support small farmers comes from the international experience on what it takes to achieve successful rural development—development which reduces poverty. What seems to be the consensus?

There is little doubt in researchers’ minds that the success stories include Taiwan, Indonesia, Malaysia, Thailand and China. And that their agricultural sectors are all predominantly based on owner-operated small-scale family farms¹². When these countries then also made substantial investments in rural infrastructure to help these farmers, and had no or light taxation of agricultural production (including by avoiding over-valued exchange rates), they created the type of high and sustained agricultural growth which substantially reduced rural poverty.

¹² In the cases of Taiwan and China, the smallholder-based agrarian structures were created by land reform—transforming tenants into owners. In the case of Thailand, nineteenth-century legislation had set a four-hectare limit on freely acquirable agricultural land, and constrained the emergence of large estates and the resulting tenancy.

The history of many resettlement programs also demonstrates that once poor people are given good farm land, they can be able to lift themselves out of poverty permanently, even without significant Government support. In Africa, this has been the experience in Kenya and Zimbabwe. Without substantial support services, Zimbabwe's land reform program of the early 1980s was a success. One of the few existing longitudinal household data sets on land reform beneficiaries shows that after about 10 years "land reform beneficiaries cultivate nearly 50 per cent more land than non-beneficiaries, obtain four times as much in crop revenues, own substantially more livestock, and have expenditures that are higher by 50 per cent."¹³ Undoubtedly, providing more support services would have sped up the process of establishing successful small farms.

At the other end of the spectrum, one finds the countries that have been least successful in terms of rural poverty reduction. These include Brazil, Colombia, Guatemala and South Africa. Not surprisingly, these countries are characterized by highly unequal landownership, with substantial public investments in large-scale farming. While these large-scale farms have usually become technically sophisticated, they make an economically inefficient use of labor and lead to rapid out-migration of labor from the agricultural sector into urban or rural slums. In short, by focusing too much on their large-scale farms, these countries created *more* rural (and urban) poverty.

This last para is a bit repetitive

Equity

Recent research into the effects of equity on economic growth point to a significant positive correlation between equity and growth. For instance, the initial phase of China's high and sustained growth spurt was clearly linked to its small farmer-based, equitable agrarian structure. Its peasant sector—after land reform, the abandonment of collective production and liberalization of key agricultural markets—was the key engine of the type of economic growth which dramatically reduced poverty. Recent research¹⁴ is confirming this thesis—that equity is good for growth.

But there is a more important reason to worry about equity: the inherent political and social nature of property rights. History, fairness, efficiency, the environment, and many other factors can mold what a community or a nation thinks is appropriate. And as we know from history, communities can change their views on what is appropriate and fair. But that is the sovereign right of communities and nations.

When it comes to land, societies usually have pretty strong feelings about how that land should be used and by whom. This is because the overall area of land in a country is fixed, and agriculture is, or could be, an important source of income for many people in developing countries. Notions of fairness, or equity, are often very pronounced when it comes to land: there is often a general feeling that land should be equitably distributed to as many people as possible.

¹³ Hoogeveen and Kinsey, 2002, p. 10.

¹⁴ For instance, Deininger and Squire (1998) find that only 2 of the 15 developing countries with a Gini coefficient for land higher than 0.7 managed to grow at more than 2.5 percent per year during 1960-92.

A country-side populated by small family farmers tilling the land corresponds in many people's minds to a system that is fair and equitable.

Land reform, then, often focuses very directly on issues of fairness and equity. And it often takes us back to history, especially when people feel that the way that property rights were established earlier was not fair. A history in which farmers were dispossessed of their land often corresponds in people's minds to a system of unspeakable injustice. These are the feelings of Elspeth, a contemporary South African woman, working for an NGO in South Africa¹⁵ which focuses on the land issue:

“I was born at the foot of anthills that cast suspicion on the silent threat of mountains. I grew up in a mining town in Namaqualand. My parents grew up in so called coloured reserves. Their parents lived on missionary land. These were places with rules that men with see through skin and black holy books defined punitively - blacks will not own land. Here, generation after generation, we lived conditional lives, understanding how profoundly the development of mines and reserves and missionary stations sanctioned our castration from the land and ourselves. So we misplaced ourselves. These places made grown men faceless, weak and angry. They made grown women dependently worn out and left questioning children harshly chastised to silence the accusing presence in the hundred and ten half human trees that covered the hills. I was told that these trees tell the story of the Nama people. Who before the arrival of waist high poles and wire moved between shadows of seasons and open spaces, to honour the needs of the goats, the gods and the land. Namaqualand. The land of the Namaqua's. I say it often. Sometimes being is as simple as knowing the womb is not a place to overstay one's welcome. Sometimes it is as complex as knowing where your umbilical cord was buried, and what that means to be a part of...”

Elspeth is not alone. James Gibson (2001) surveyed 3,700 South Africans and asked them about their perspective on the land issue. He first of all tried to assess how important the issue was compared to other issues. Not surprisingly, 89% of respondents rated unemployment as a very important issue, closely followed by poverty (86%). But 57% judged the land issue to be very important, comparable to racism and discrimination (59%), racial reconciliation (56%), and pollution (55%). Gibson then asked his sample to agree or disagree with the following statement: “Most land in South Africa was taken unfairly by white settlers, and they therefore have no right to the land today.” An astonishing 85% of the black respondents agreed with that statement. And 68% (two thirds) of blacks agree that “land must be returned to black in South Africa, no matter what the consequences are for the current owners and for political stability in the country.”

The best demonstration of the strong feelings people tend to have around land issues is that when these issues go unresolved, land problems are likely to lead to violence, civil unrest, or even civil war. The world over, land-related conflicts include Algeria, Colombia, El Salvador, Honduras, Philippines, Brazil, and Chiapas (Mexico). Apart from the tragic loss of life, countries that are plagued by such unresolved land problems can be doomed to protracted periods of economic instability. In West Africa, think of the recurring and sometimes violent conflicts between

¹⁵ Surplus Peoples' Project (SPP) in the Northern and Western Cape Provinces.

pastoralists and farmers in the Sahel, and the recent clashes between indigenous and not-so-indigenous farmers in Cote d'Ivoire. In other parts of Africa, the establishment of the settler colonies in Kenya, Namibia, South Africa, and Zimbabwe were all accompanied by fierce resistance of the displaced indigenous people.

The legacy of the past of these settler colonies is a very unequal distribution of property rights in land (and water). White settlers appropriated themselves the best pieces of land, for livestock or crop production, and turned the indigenous black peasants into tenants or wage laborers, or simply expelled them.¹⁶ And when mechanization, often subsidized by the state, made it possible, the black tenants and wage laborers were removed at an even higher rate from the land and driven away from their homes into areas designated, with a level of cynicism on par with George Orwell's Big Brother, as "homelands" or "communal areas".

Apart from the fact that the resource base of these areas was of course poor by design, the way property rights were dealt with in these areas also put a break on their development¹⁷. In the Southern Africa countries, "communal areas" or "homelands" are supposedly governed by "traditional" property rights regimes, but in fact subject to a particular colonial interpretation of such regimes. These interpretations have also become quite static, and sometimes lead to the insecurity of property rights. If these regimes had been allowed to evolve based on what communities really wanted, they would probably have slowly evolved towards private property where intensification was possible and towards forms of common property where private property did not make sense, as in very dry areas only suitable for livestock production. Also the homelands were not allowed to produce certain crops and had to market through monopolistic marketing boards, and faced other discrimination described in PDRF

Make the parallels to Central and parts of Latin America where the same processes took place 50 to 100 years earlier and they are still wrestling with the aftermath.

The removal of black peasants from their land was done very systematically. Today, the most fertile lands in Southern Africa are occupied by very large, sprawling farms which are, on average, under-used. And the highest population densities—black population densities—are found in the most infertile rural areas. This is what some call the "rural geography of apartheid", brought about by economic policies favoring the settlers and the forced removal of black people from fertile lands over a period of over a century¹⁸. This inefficient geography imposes tremendous costs on the poor and the economy as a whole. But it is also highly inequitable.

¹⁶ Similarly systematic expropriations, and sometimes outright exterminations, of indigenous people took place in many other parts of the world. North and South America, Australia and Tasmania all suffered the tragic consequences of settler actions often justified under variants of Herbert Spencer's philosophy of "social Darwinism". Many of these countries are wrestling with the aftermath of these human tragedies until today.

¹⁷ Many other brakes were put on development in the homelands. For instance, farmers were not allowed to produce certain crops and had to market through monopolistic marketing boards.

¹⁸ The basic economic idea behind the "settler economy" is the following: capital and good land is owned by the settlers, while the cost of unskilled, indigenous laborers is reduced by restricting their economic alternatives and creating a migrant labor system. Under the migrant labor system, only male adults are allowed to work and reside in the settler areas. The wage paid to the migrant laborer can now be below the amount he would need if his family were living with him, while his "reservation wage" is reduced because of the poor agricultural profitability in the homelands, where his family resides.

And since the legacy of the removal of black people from their land is often still fresh in people's minds, land reform is a highly emotive issue in Southern Africa.

Communities and nations will have to deal with this legacy. They will invariably form opinions about what is fair and equitable. They may simply look at the land issue as one of justice and redressing old wrongs. This is as it should be. People should reflect on the existing property rights and democratically make decisions about their distribution, because ignoring a looming land conflict, history shows, is a very risky economic strategy indeed.

Consensus around a controversial issue: support for land reform

Not ignoring a looming land conflict means confronting the most controversial issue of the land issues highlighted in this paper—redistributive land reform. And even though there is currently a consensus around the need to address the land issue, there is disagreement on how to do it. In Africa, the Zimbabwean “fast track” land reform under which the Government explicitly and publicly decided to set the constitution and the law aside, has done more to highlight the negative effects of a poorly executed program than to underline the possible positive effects of a substantial and speedily-executed land redistribution program.

International experience demonstrates that even though the “land question” is often said to be a priority equity issue, many countries in the world have made remarkably little progress on it. And if you look at history, the land reforms that were done were often done in periods of upheaval and political violence. Some even go so far as to draw the conclusion that you simply cannot have land reform without violence and upheaval. But to make a certain historical pattern into a policy recommendation is not only false logic, it is also dangerous. If a society has the choice between doing land reform with or without violence and economic destruction, surely that society would chose the “without” option.

This then is the challenge. Can land reform be implemented peacefully and successfully? The starting point is to analyze past failures. There are three reasons for the lack of success of “peaceful” land reform: (i) slow and costly processes of expropriation and resettlement; (ii) distorted land markets; and (iii) the influence of anti-land reform lobbies.

Legal expropriation and bureaucratic resettlement

Land redistribution has often been slow and costly because many governments chose to redistribute land through legal processes of expropriation or compulsory acquisition. This legal process is rooted in the legal principle of *eminent domain*: the state's power to take private property for public use, following the payment of just compensation to the owner of that property. In the past forty years, countries such as Colombia and the Philippines accomplished little through this process. And it took Mexico around sixty years to redistribute half of the agricultural area. Only Brazil, and only since 1995, has made a considerable dent in its land problem by expropriating about 20 million ha in seven years.

The legal process of expropriation by its nature is slow and costly. Trying to speed up the legal process of compulsory acquisition by amending the laws, as several countries have done, can make has not made any a discernible difference, but up to a point. The legal process is based ? Has it not accelelrated the land reform process in Brazil on dDue process—a very important

principle of justice—and implies that every farm owner can opt to have his or her day in court. By its very nature, then, the legal process is lengthy and costly, adding to the costs of compensation.

A country which sets aside the principle of legality and due process, would send shockwaves to anybody who would want to invest in such a country, including its own citizens. It leads to disinvestment, devaluation of the currency, and economic contraction. And it would create new wrongs and legal complications which would need to be resolved at a later date, prolonging the uncertainty around the land issue. This is essentially the situation that Zimbabwe finds itself in today.

Usually, a focus on legal expropriation is also followed by very bureaucratic and slow approaches to resettling farmers once the land has been acquired by the Government. All the different aspects of land reform, including those that would be much better implemented in a decentralized and participative manner, are centrally planned and implemented by state bureaucracies. And several ministries have to work closely together, which is often difficult.

Land market distortions

What about letting the market solve the issue? Why would one even need state intervention? If small farmers are so efficient, why does the market then not automatically transfer the land from inefficient to efficient users? Why do small farmers not go onto the land market and outbid large farmers for land? Especially since we have just said that large farmers usually do not even use all of their land?

There are number of reasons why the land market, as it is defined in many countries characterized by very unequal land holdings, fails to do this. The first is the most obvious: the poor do not have money to buy land, and no, or difficult and costly, access to credit. Poor small farmers can usually only expand slowly by year after year re-investing their own profits. If land markets continuously made very small pieces of land available, poor small farmers could self-finance the purchase.

Restrictions on subdividing land. Unfortunately, land markets in the countries that are most in need of land reform usually do not function like that. More often than not, these countries will have explicit legal or policy restrictions against the sub-division of farms into smaller units. The existence of such restrictions should profoundly worry those who believe that large farms are more efficient than small farms. If large farms were more efficient than small farms, why would one need a legal restriction on sub-division?

Where does this restriction on sub-division come from? The official reason given is that farms should not be allowed to decrease in size below the so-called “viable” size. But what is a “viable” size? The first thing to realize is that “viability” is *not* a notion related to production economies of scale. Instead, it is linked to a minimum income target. In former settler colonies, one typically finds that, historically, this “viable” size would be calculated by setting a minimum income target for white farmers. One sets the income target and then calculates how big the farm

should be¹⁹. Efficiency considerations (e.g. economies of scale, employment generation) do not enter the calculations. The viability policy was a social policy, ensuring that white farmers would earn an income that was acceptable to white society.

While “viability” norms could be defended by a settler government on a “white income standards” basis, this social policy objective should have quickly become obsolete at Independence. Unfortunately, many countries have still not removed such sub-division restrictions. The restriction on sub-division now functions as a powerful barrier to racial integration in the commercial farm areas. It makes it difficult for a black farmer—on average poor—to buy into a rich white farm area, because no small sub-divisions are on offer. In other words, a policy with the sole purpose of ensuring white living standards and segregating the races is still in place today without any economic, let alone social, rationale²⁰. And because it restricts the land market, it makes it difficult for small farmers to buy small farms. These land markets are in need of help if a level-playing field for small and large farmers is to be created. The policy reform needed is a relaxation of sub-division rules.

Existing land and other market distortions can drive up the price of land. For instance, agricultural land prices may be very high because investors may value land not just to farm, but also as a hedge against inflation, a tax shelter, or a means by which to gain access to subsidized credit or public infrastructure (e.g. irrigation works). And subsidies in other markets (input and output) will also drive up the land price. These distortions drive up the price of land, because subsidies will be reflected in the land price, and they discriminate against small farmers, because they usually do not have access to the same policy distortions and subsidies that the rich do.

The ***absence of a land tax*** in many countries further raises the attractiveness for the rich of holding land as an asset, but not necessarily to farm it and make full use of it. In South Africa today, large farms are either not taxed at all, or, based on a 1939 law, taxed at a rate which is 100 times less than that which applies to small farms. This extremely regressive tax produces artificial economies of scale, because consolidation leads to a reduction in the tax bill. It also makes the cost of holding on to unused or under-used land very low and raises the attractiveness of agricultural land as a financial asset.

For all these reasons, land prices of large farms often exceed what economists call the present value of farm profits. If the land price exceeds the present agricultural value of the land, small farmers will be unable to outbid the large farmer or repay the loan given to them. And so land

¹⁹ A similar “viability” logic was followed in the pricing of agricultural products. An income target is set, a preferred (i.e. capital-intensive) technology is chosen, and then the State is asked to guarantee the resulting price. That price would then be paid by black consumers, by not allowing cheaper imports in years of low production, and not allowing the domestic market to clear in years of high production, when the arbitrarily declared “surplus” is exported at a state-subsidized loss.

²⁰ A new rationale to prevent sub-division is environmental. The under-use of arable land, or its conversion into private forests, game farms and nature conservancies, is sometimes seen as promoting environmentally sustainable use of natural resources. The same perspective also leads one to oppose a land tax, as this would provide the owner an incentive to make more profitable, which often means more intensive, use of the land. There are solid arguments in favor of conservation or sustainable use of natural resources. But in accepting the current unequal distribution of assets, and income, as a given, the new rationale against sub-division and land tax seems to promote the opulence of large land owners as the best strategy to conserve the environment.

markets will not redistribute land from large to small farmers, and an economic justification now exists for subsidizing land purchases by the poor.

Large farmer lobby

Removing the above land market distortions would improve the role of land markets in the redistribution of land from large to small farmers. But the fact that these distortions continue to persist, demonstrates the considerable political power of large farm lobbies.²¹ Their power is increased even further when within government there is no real consensus on the need to reduce farm sizes. One can hardly find a better demonstration of the strength of the large farm lobby than the fact that neither Zimbabwe nor South Africa relaxed their sub-division rules or imposed a land tax after independence.

Often large land owners represent a powerful political force, at least locally, in terms of being able to influence the votes of their farm workers or tenants²². Large farmer lobbies in Southern Africa are in general opposed to a substantial restructuring and downsizing of the agrarian structure of commercial farm areas. If there were uncertainties about compensation, this position would be quite understandable and rational. Compensation uncertainties present personal financial risk, and influence expectations, immediately reducing overall land prices. However, there are other reasons for the large farmer opposition to land reform: a reluctance to integrate poorer black neighbors into a more racially integrated farm community. Instead of viewing such integrated rural communities as possibly providing more security, parts of the white farming community in Southern Africa views an influx of black families as causing more insecurity, given their experience with farms bordering the former homelands, which are often prone to theft and vandalism.

Political theory and history suggests that these anti-land reform lobbies may only switch strategy when they perceive that a large-scale land reform program is the price they have to pay for peace. Unfortunately, by then the situation may already have deteriorated to such an extent that an “orderly” land reform program will have become impossible.

Policy recommendations for redistributive land reform

If the above analysis of why so many land reform programs have had little success is correct, Governments could start by targeting policy to the above three reasons of concern. An internally consistent land reform strategy should have the following pillars: (i) improving on the processes of land acquisition and resettlement; (ii) boosting the land market forces that could redistribute land from the rich to the poor; and (iii) negotiating effectively with the large farmer lobby. In the remainder, concrete policy suggestions are identified, with a particular emphasis on Southern Africa.

²¹ For a general economic history of how power relations have defined land ownership structures the world over, see Binswanger, Deininger and Feder (1995).

²² But this advantage may also turn against them. The radical nature of Zimbabwe’s Fast Track land reform as illustrated by the Government’s refusal to negotiate a compromise with white farmers, or to take any interest in the fate of the affected farm workers, was often rationalized by senior leaders as the appropriate punishment meted out for supporting the opposition in defeating a popular referendum on a new constitution in 2000.

Land acquisition and resettlement

Compulsory acquisition. Even though the legal process of compulsory land acquisition by the State is inherently slow, the existing legislation can often be improved upon, while safeguarding the constitutional rights of citizens. For instance, in some cases, land owners have not just the right to challenge the level of compensation—which seems eminently fair—but also the possibility of challenging what the State defines as the public interest—which seems excessively conservative. In other cases, land acquisition procedures are so complicated and open to interpretation that it is virtually impossible for the State to acquire significant number of farms within a reasonable period of time. According to legal experts, a lot can be done in many countries to create better legislation which fairly balances these interests of the State and the land owner.

Compulsory acquisition also needs to be able to acquire subdivisions, rather than whole farms. In many cases, the State will not be interested in acquiring the whole farm for redistribution, but just a part of it, leaving the farm owner with the part actually used for residential and productive purposes. This method of acquisition has several advantages. First, it has the advantage of causing the highest possible increase in agricultural production, since no existing production is disturbed while unused land is brought into production by the new small-scale settlers. Second, it saves on acquisition costs, by not acquiring what is probably the most expensive part of the farm, and also the part of the farm least likely to be effectively used by small-scale farmers. And third, acquiring subdivisions would create new farm “neighborhoods” in which the new neighbors may be able to work together and help each other. Such new neighborhoods will have substantial political benefits, in particular if there is a history of antagonism between classes or races.

The case for compulsory acquisition is usually based on a planning argument²³. A good example would be the following. Whereas the homelands or communal areas in Southern Africa may have poor soils, they may have reasonable social infrastructure such as schools and health facilities. And there may be large farms next to these areas which have better soils, but no social infrastructure. Legal acquisition (or state-negotiated) transfer of these large farms can then be a smart way of giving poor farmers better land, while their families can continue to benefit from the infrastructure present in the communal areas.

Mediation and arbitration. Even if better expropriation legislation is in place, it will always be the case that an “out of court” settlement is far easier and cheaper for all parties involved. Governments and large farm owners can anticipate this demand for a negotiated settlement by creating a legal framework which maximizes the opportunities for such out of court settlements at every step of the legal process. And Governments can create various forums, at the national and at the local level to promote negotiated settlements. The mechanisms for such out of court settlements can range from mediation, via non-binding arbitration, to binding arbitration.

²³ Note that the case for compulsory acquisition cannot be based on cost-savings. The international principle governing the compensation issue is that of “fair” compensation, which will invariably also be reflected in national law. In practice, the courts will interpret this to mean a value which reflects the market value, or something close to it. Moreover official value estimates, even when they value land improvements only and not the soil itself, are usually quite generous.

Market-assisted land acquisition. Why not have the land acquisition itself done by the future beneficiaries? If the future settlers can decide themselves what farm to buy, the process could become even simpler and more in tune with what these beneficiaries really want. Some may want a farm close to where they currently live, others may want a farm much closer to an urban center. Some may want a large farm suitable for livestock production, others may want a small plot close to town for irrigated vegetable production. Etcetera.

This approach is often referred to as community-~~initiated~~, driven, land redistribution, or “market-assisted”, land reform. Communities, families, or groups of families, could be given a grant or subsidized loan by the state to buy their own farm. Of course, they may need help in negotiating these purchases, and there are various ways in which to manage this approach. Several countries are using with this approach (e.g. Brazil, South Africa) and there is enough evidence to suggest that it is a promising approach. Governments could add a variant, adapted to local circumstances, of this approach in their “tool kit” and start a “learning by doing” process, flexible enough to be scaled up fast when good results are obtained.

More importantly, perhaps, even if a Government decided to pursue expropriation as its main strategy, it would be prudent to have the alternative of community-driven land redistribution at hand, to give Government and land owners an alternative option to avoid litigation. This is sometimes referred to as the “sandwich” or “stick-and-carrot” approach. An improved policy framework would thus consist of a package of at least three options for land acquisition: expropriation, mediation/arbitration, and community-driven land acquisition.

Resettlement. Whatever the land acquisition method, a lot more can be done to redistribute and resettle it in a faster and less bureaucratic way. Bureaucratic processes can be streamlined, but most importantly decentralized. Centralizing all aspects of land reform into specialized land agencies has usually not been able to speed up the process, as the examples from Mexico, Colombia, Philippines, and Honduras show. Instead, the “one-stop-land-reform-shops” have spawned costly and paternalistic bureaucracies.

Decentralization should imply that the beneficiaries of redistribution should be able to have much more say into the way in which resettlement—their resettlement—is carried out. For instance, once land is acquired, why not give the beneficiaries much more say in how the farm will be planned, what services will be needed, and who should provide these services? Why not give beneficiaries the choice as to who should help them plan the farm, provide access roads, ensure water supply, etc.? Sure, these services can be provided by Government ministries, but there may be private sector providers or NGOs who can deliver these services better and cheaper. Why not allow much more flexibility in how this is done? Why not allow much more community participation and decentralization? Why not allow for much more private sector and NGO involvement? Why not define national standards on how this should be done, but decentralize implementation and supervision to the local level?

Central ministries often resist decentralization on transparency and accountability grounds. It is often felt that the requirement of Ministerial approval (“vertical accountability”) reduces opportunities for collusion and corruption with regards to the selection of beneficiaries and/or the farm price. In practice, Ministerial approval for individual land reform projects always results in

long delays, while it is unclear how the Minister would obtain the necessary information to detect opportunistic behavior at the local level. Decentralization, on the other hand, speeds up decision-making, but could indeed lead to more corruption if the “vertical” accountability is not replaced by more “horizontal” accountability. Such horizontal accountability could be achieved by stakeholder participation (Government and non-Government) in the decision-making process.??

Land market reforms

We have argued that in many countries, land markets as they are currently designed cannot be counted on to redistribute land from the rich to the poor. But that does not mean that land markets should not play a far greater role in land reform than they often do now. In fact, irrespective of what land acquisition and redistribution approach is taken, better performing land markets will make the land reform process work better, faster and cheaper.

From what we have said above, the following land and agricultural policy reforms present themselves: relax sub-division rules, eliminate the incentives for the rich to hold land, and level the playing field in agricultural markets between large and small scale farmers (i.e. reduce the explicit and implicit subsidies in land and other markets that benefit mainly large farmers).

In addition, when beneficiaries are given a grant to purchase land, you need to be very mindful of the type of land market that you need. It will need to be able to supply farms in sizes that match the grant. Otherwise, substantial transactions costs are imposed on the beneficiaries, because they will need to organize themselves and pool their grants to purchase large farms. The land market will need to work in such a way that a supply of “grant-sized” small farms is available, and it should be relatively costless to sub-divide the farm (or that part of the farm that the group has decided should be individualized) after purchase by a group of beneficiaries.

One also needs to be mindful of the price-raising effect that land purchase subsidies will have, if they are being given on a substantial scale. In that case, it becomes even more important to make sure that the market can deliver farms of various sizes (so sub-division rules need to be relaxed), that large farm subsidies are eliminated (remember: they raise the price of land), and that there is a financial incentive for large farmers to sell unused land (a land tax).

Large farmer lobby

Wouldn't it be great if the large farmers would be actively supporting a land reform process? Already, we have pointed to the common sense idea that it would always make sense to create ample opportunities to come to a negotiated or market-assisted transfer of land. Rather than slowing a Government down in its goal to achieve land reform, voluntary transfer of land can speed things up.

Clearly, large farmers will worry about compensation, while Governments may have ideas about whether they should compensate for the farm as a whole, or only for the improvements. Again, these are issues to be debated at a national level in a democratic way. There are many ways of looking at this, and many ways of arriving at a compensation that is fair to both sides. But more damaging than anything will be uncertainty as to the level of compensation or the timing of it. Very simply put, people need to be able to get on with their lives and be able to plan. If they

cannot, not only will their lives be affected, but overall confidence in the economy may be affected. If that happens, investment will fall, and everybody will be paying the price for this type of uncertainty.

Finally, there may be a lobby that is not so much interested in cutting up and sub-dividing large farms, but is more interested in changing the ownership of the large farms. This is the so-called “same car, different driver” or “telephone farmer” lobby. While they may not be opposed to land reform for small farmers *per se*, they would also argue that there be room created for them, too. Clearly, in Southern Africa this group represents a strong “nationalist” sentiment that the commercial farm sector itself should be de-racialized. It would make a lot of political sense to accommodate this group, rather than exclude it. In this way, the land reform process becomes more inclusive and may benefit from a much broader political base. What would become problematic, though, if is this particular group would be able to torpedo the wider land reform agenda, or successfully lobby *for* their installation as “telephone farmers” (absentee landlords) and continued farm and credit subsidies and other discriminatory policy distortions, and lobby *against* the introduction of a land tax and the relaxation of sub-division rules. If the Government’s social objective is to achieve equity and efficiency in farming, such a lobby would be counter-productive.

Conclusion

The first part of the paper focused on property rights in land—what most would describe as “land tenure” or “land policy” issues. A new consensus on analysis and solutions is emerging. There is a much stronger recognition today that property rights are social constructs and not technical attributes of “things”. Property rights should be clearly defined, well-understood and accepted by those who have to abide by them. But secure property rights should *not* be confused with full private “ownership”. Under certain economic conditions, property rights tend to become more individualized and formalized. However, the introduction of private title in situations where such economic conditions do not exist can be a waste of effort. Moreover, the emergence of certain property rights regimes is not just a matter of shifting relative prices and changing transactions costs, but can be profoundly influenced by the political dynamics of power relations.

The second part of the paper looked more closely at these politics, and in particular the controversy that surrounds the redistribution of property rights in land. We concluded that we seem to be reaching consensus around the need to address the issue of highly unequal land distribution with a renewed sense of urgency. But we differ on the solutions. The biggest controversies exist around the target group (small versus large scale farmers) and on the different approaches to land acquisition (compulsory versus market-assisted).

In order not to let the controversy be an excuse for inaction, the paper suggests that we agree to disagree *ex ante* on the optimal approach. Instead, we agree on a policy framework which allows a menu of options to be pursued, the results of which can then be evaluated *ex post*. Rather than debating the pro’s and con’s of each particular approach, we create a policy arena in which the particular models can show their relative performance in competition with each other. Of course, one would need to agree on some rules of the game, so that the performance of each model can be compared. In the short-term, performance would be defined by the “inputs” and “outputs” of

a land reform program: fiscal cost per beneficiary, the speed of the land transfer, the construction of complementary social and agricultural infrastructure, and the establishment of agricultural production. In the medium-term, the performance measures would include the “outcomes”: the impact on poverty reduction, and agricultural and rural development.

Finally, because the jury is still out on the relative merits of the various approaches, agreeing to disagree, while allowing for learning-by-doing, does not just make sense from a technical perspective. It also makes sense from a political perspective. Clearly, the politics of land reform can be such that inaction can be very costly. One can think of worse things than a situation in which the various stakeholders in Government, the private sector, and civil society agree to compete with each other on the ground to demonstrate the success of “their” model.

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