

Land reform, agriculture and poverty reduction

Working Paper for the Renewable Natural Resources and Agriculture Team, DFID Policy Division

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September 2004

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1. What is the issue and why is it important?

Most land-based livelihoods rely on having secure access to land. It is also a precondition for sustainable agriculture, economic growth and poverty reduction. The main reasons underlining the importance of secure land tenure are discussed below.

1.1 Equality and economic growth

There are strong links between inequality of asset distribution and poor macroeconomic performance. This fact suggests that reform of the property system is one of the most important issues we face in our attempts to reduce global poverty. While there are many routes to poverty alleviation, all are subject to distortions induced by inequality, and one of the main components is the skewed distribution of property. Land and immovable property are often the most important elements in an individual family's asset portfolio. Countries with a high Gini index (measure of national income inequality) usually have a grossly unequal distribution of land and property ownership. For example, those with the highest Gini index are Brazil (60.7), Nicaragua (60.3), South Africa (59.3), Colombia (57.1) and Chile (56.7) (World Bank, 2003) – all countries with a legacy of unequal land distribution. The most deprived people are often the rural landless¹, who often survive as seasonal workers on large farms and plantations, returning in the off season to extremely depressed rural settlements, devoid of investment in housing or infrastructure.

1.2 Tenure insecurity

Fertile land is becoming scarcer due to demographic and economic growth and resource depletion, including climate change. Greater competition for land resources, increased mobility and the incorporation of rural areas into market economies through diversification and/or specialisation are placing increasing pressure on governments to introduce policies that give the poor secure access to land.

Agricultural growth and poverty reduction depend significantly on increasing agricultural productivity; this will be particularly true for future progress in sub-Saharan Africa. There is widespread evidence that, whether a tenure system is communal or individual, freehold or leasehold, farmers are more likely to invest in their land – and achieve productivity gains – when they have secure land rights.

An important component of tenure security in market economies is the confidence with which rights transactions can be made. Governments should be encouraged to underwrite security of land tenure – a widely recognised public good – by providing the legal and institutional capacity needed for just, equitable and efficient land administration and, where necessary, intervening in the land market to make reforms related to land distribution.

¹ Although recent research from India finds that those with the smallest land holdings have lower income than the landless (Farrington et al., 2004).

1.3 Governance and institutions

Although developing country government land departments are aware of the need for land reform and for efficient and equitable land administration, their performance is notoriously poor. They face various problems, including:

- weak legal and institutional frameworks;
- over-centralised and inaccessible land registries;
- corruption and arbitrary land acquisition and eviction;
- inadequate arrangements for land dispute resolution;
- the demise of customary systems of common property resource management;
- unsustainable systems of land use; and
- political conflict, civil war and humanitarian disasters (in extreme cases).

Politicians and officials continue to use their discretionary power and influence over land allocation and revocation for political and personal advantage. Landowners and land professionals often have vested interests in perpetuating the status quo. Consequently, they impede the adoption of more simple, accessible and efficient systems for land transfer, land survey and the registration and collection of land information, which would facilitate the development of land markets and the levying of land taxes.

So, which land policies are most likely to support agricultural growth and generate real benefits for the poor? We can draw many lessons from the substantial evidence base on the impacts of land reform in various parts of the world.

2. Current evidence: what do we know?

Land reform entails redistribution of land, remodelling of land rights and improvement of land administration in a manner that 'fits' the requirements of the political system promoting the reform. For the purpose of this working paper, it is helpful to subdivide land reform initiatives into:

- actions involving direct land redistribution for productive use;
- land policy reforms that strengthen tenure security; and
- actions that improve the efficiency of the land market.

2.1 Land redistribution for productive use

'Redistributive' land reform, which can include the restitution of land to the dispossessed, is generally taken to mean the redistribution of property rights in land for the benefit of the landless, poor tenants and farm labourers. Invariably, the motivation for redistributive land reform is political and coincides with a shift in the balance of power between conservative and more radical forces. Throughout history, opportunities for redistributive reform have been associated with specific political moments; for example, at the end of World War II in South East Asia, following the overthrow of President Marcos in 1986 in the Philippines, after the collapse of the Soviet Union in 1989 and with the transition to majority rule in South Africa in 1994. In all these situations new constitutions were adopted with amended principles concerning land and property.

The political stimulus for land redistribution affects the extent to which agricultural systems are transformed, the degree of productivity increase and the extent of economic growth that will benefit the poor. There are a number of possible scenarios, but we can learn most about agriculture and poverty reduction when: a) land redistribution has enabled or coincided with increases in farm output and productivity from which the poor have benefited and b) land redistribution has not resulted in increases in farm output and productivity and/or has not been beneficial for the poor. A third interesting scenario exists when redistribution has indirectly contributed to agriculture and production, for example, when agrarian conflict has been avoided.

When land redistribution benefits the poor

Ownership of land within many large estates in South and South East Asia has been transferred to tenants during the past 60 years and the new systems have all proven to be successful. Redistribution has been limited largely to the transfer of land rights to sharecropping tenants and did not necessarily involve the break up of operational holdings. Reforms have contributed to increases in farm output and productivity and to political stability.

In China, land reform under Chairman Mao took place initially as a result of peasant mobilisation against landlords. This occurred in 1949–1950 when landless labourers and peasants subdivided large landholdings and organised cooperatives. Communes were then established, but during the 1970s, households were assigned individual responsibility for crops and livestock and were allowed to dispose of farm products in excess of the fixed quotas that had to be sold to state marketing organisations. In 1988, the constitution was amended to legalise land use rights and land transfers. The recent reforms have generated farm and non-farm rural employment and eliminated the rural landlessness of the pre-revolutionary era that still afflicts much of Asia, Africa and Latin America today. The reforms have encouraged urbanisation, since peasants leaving the countryside are able to rent out or cash in their property assets.

In Africa, repossession of land occupied by colonial settlers was a central issue in the latter half of the 20th Century. Under the so-called 'one million acre scheme' in Kenya, more than one thousand white-owned farms were transferred to Africans between 1962 and 1966, with Britain underwriting the land values paid in compensation. Originally the plan was to transfer private (i.e. freehold) land to three categories of African farmers: large-scale commercial farmers, small-scale commercial farmers and subsistence smallholders. However, the demand for small-scale commercial farms was less than expected, which led to resettlement of many more smallholders than had been planned. During the 1970s, small-scale African producers greatly expanded their dairy and cash crop production. This took place on redistributed farmland in the former 'White Highlands' to the north of Nairobi, and on private and customary (traditional) land in the former African reserves. The expansion was more a result of the waiving of restrictions and the opening up of markets for small-scale producers, than of land redistribution *per se*. However, productivity by small-scale African farmers on newly acquired high-potential land exceeded that of their European predecessors (and neighbouring commercial farmers) in terms of returns to land and to scarce foreign exchange.

Interestingly, beneficiaries in the large-scale commercial category were less successful. The new owners were expected to acquire the land with government loans, but many defaulted. By the 1980s, the largely absentee large-scale commercial farmers had become a new class of landlords. Unable to farm their newly acquired property, they had rented out their land to landless peasants rather than subject it to invasion by squatters. Although the government-run programme came to an end after 10 years, most of the 10 million hectares of land formerly owned by white settlers has now been transferred to Africans through the land market, the operation of which has been partly fuelled by political patronage.

The Zimbabwe Patriotic Front probably saw the UK-sponsored land redistribution in Kenya as a precedent as they entered the Lancaster House negotiations in 1979. However, the Declaration of Rights in the 'Lancaster House Constitution', which was binding for 10 years, provided for the government to compulsorily acquire only 'under-utilised' land for resettlement, and then against the prompt payment of adequate compensation, exempt from exchange control restrictions. To persuade the Patriotic Front to accept the proposed terms, Lord Carrington made a public offer to commit British aid funds 'within the limits of Britain's financial resources' for land settlement purposes, including funds for land purchase on the basis of the willing-buyer, willing-seller principle. Britain committed £20 million for land resettlement in 1980 with funds being made available on a pound-for-pound (i.e. 50/50) basis, including the cost of land acquisition.

Between 1980 and 1989, 3.3 million hectares were redistributed to 54 000 families (Adams, 2000a). An evaluation of the programme in 1988 by Cusworth and Walker found that it had made impressive strides towards achieving its principal objectives. The evaluation stated that the orderly settlement of so many families in such a relatively short time 'must rank as an impressive achievement for a new regime'. The programme 'undoubtedly achieved its short run political objective of contributing to post war reconstruction and stability'. The majority of families resettled had benefited from increased opportunities for income generation and from the availability of health and education facilities. The evaluation concluded that 'the whole exercise has been a very worthwhile investment from the perspective of the national economy as well as the settlers'. These findings were partly confirmed by the results of long-term research some 15 years later (Kinsey, 1999; Hoogeveen and Kinsey, 2001)².

When land redistribution does not benefit the poor

Evidence suggests that opposition from those who can frustrate the process, particularly landlords, is the main reason for land redistribution failing to increase agricultural productivity and reduce poverty. Reform of landlord tenancies in India (e.g. Kerala State) and the Middle East (e.g. Egypt, Iran and Iraq) followed a similar pattern to that of South Asia but, with the possible exception of Egypt under Nasser, they were less effective due to

² It is important to note how quickly the benefits of land redistribution can be reversed. The failure of UK and Zimbabwe to reach agreement on the refinancing of the land redistribution programme between 1990 and 1999 has had serious ramifications for poverty in Zimbabwe. The price paid by the people of Zimbabwe for the cessation of an orderly land redistribution programme has been huge. Long overdue land redistribution has now occurred in an anarchic and violent manner with immense damage to the economy and indifference to human rights and the rule of law. It has resulted in an unprecedented humanitarian crisis, farm unemployment and widespread poverty.

stiff opposition from influential landowners. Attempts to implement land-for-the-tiller reforms in the Philippines met with mixed results for the same reasons (Putzel, 2000).

In Latin America the concentration of land ownership in relatively few hands stemmed from colonial rule, either from the subjugation of the indigenous population, or from the use of imported slaves on plantations. In the 1960s and 1970s, agrarian reform was adopted in almost every Latin American country, often complemented by labour laws. Some of the reforms abolished sharecropping and share tenancies, pursuing a 'land-for-the-tiller' approach. Redistributive reforms in Bolivia, Chile and Mexico focused on the transformation of semi-feudal estates or *haciendas* (based on bonded labour) into capitalist estates employing wage labour, land-owning family farms and free-peasant farms. As is often the case, landowners had sufficient time to react to the new laws and evicted tenants and dismissed labour. Sceptics have therefore criticised these measures on the grounds that they merely served to modernise labour contracts, rather than redistribute land. In Brazil, Colombia and Guatemala in the 1990s, governments (supported by the World Bank) promoted decentralised 'market-assisted' or 'negotiated' land reform involving subsidies for the purchase of land. The results have been disappointing in terms of the numbers of families and amounts of land involved (El-Ghonemy, 1999). In Colombia, as in South Africa, the transaction costs of these 'market assisted' programmes have also been very high (Deininger, 2003).

Progress in land reform has been slow in the Commonwealth of Independent States (CIS), where individual rights to land had been withdrawn for many decades. Here, there has been much less interest in private land ownership than in the former communist countries of Eastern and Central Europe, where private rights had survived. When the Soviet Union dissolved in 1989, collectivisation had spanned over 50 years. Length of service with the collective or industrial enterprise was often the criterion for decisions on allocation of undemarcated land shares to former employees. Because membership of the former collectives often included entitlement to welfare benefits, employees were unable to break loose, especially without farm support services (credit for machinery, inputs, etc).

In Ukraine, 75% of the former collective farms were still intact in 2000, and salaried employees became shareholders of privatised cooperative farms. This proved less disruptive than restoring land to former owners, but it did not lead to the restructuring of the uneconomic large farm sector. Ten years after the political transition of 1990, the average proportion of land held privately in the CIS had increased from 4 to 22 per cent (Csaki et al., quoted in Deininger, 2003). However, progress with privatisation varied across the CIS (e.g. 7% of land was privatised between 1990 and 2000 in Armenia but 84% in Moldova). In the former communist countries of Central and Eastern Europe (e.g. the Czech Republic, Hungary and Poland), where private property had never been completely eliminated, privatisation was much more rapid: an average of 21 per cent of land was privately owned in 1990 but 78 per cent in 2000 (Csaki et al., quoted in Deininger, 2003).

What have we learned about redistributive land reform?

Cliffe (1999) highlights some of the key lessons illustrated by land redistribution programmes:

- few countries get it right first time and initial approaches and modalities have had to be revised in later operations;
- redistributive land reform is inherently political and will always be contested at the level of implementation and policy formulation;
- when the opportunity arises with a particular political opening, there is a need to 'strike while the iron is hot' and proceed with caution, experimentation and consultation in order to get the approach right; and
- redistributive reform is often implemented on a marginal or token scale and is quietly dropped after a first stage 'lets the steam out of the kettle'³.

There are further lessons that may be particularly pertinent in efforts to reduce poverty through agricultural growth:

- It is important to place the evidence in its geographical and historical context. Care is needed in drawing conclusions for one country (or region) on the basis of experience from another. Land policies have to be sensitive to local historical, cultural and agro-ecological circumstances. Thus, of all redistributive land reforms, those in East Asia (Japan, South Korea and Taiwan) are regarded as the most successful in terms of their comprehensive nature, their creation of a class of independent property-owning peasants and their impact on poverty and landlessness. However, these changes were wrought in exceptional circumstances and opportunities for their application elsewhere are limited (Hayami et al., 1990).
- A cyclical element is often evident in redistributive reform policy. An initially strong political commitment to land redistribution is often followed by caution as the opportunity costs and organisational complexities become apparent. Modification of the initial policy and a switch of emphasis to so-called 'economic' goals, rather than the eradication of landlessness and poverty, may accompany this phase. Governments may then again reaffirm the needs of the landless, but in more modest terms than in the initial phase. However, in many unequal societies, extreme poverty and the threat of rural violence are endemic. It follows that the problems arising from the inequitable distribution of land will not go away and will surely recur. The issue returns to the agenda whenever the balance of political power swings in favour of the rural poor, or when politicians see a need to mobilise rural support to underpin their power base (Adams, 2000a). For the majority of countries, redistributive land reform has been an extremely difficult process to carry through and the cycles contribute little to the stability needed to promote investment and confidence in agriculture.
- It is important to be clear whether land redistribution is about equity and social justice (especially redressing past dispossession) or whether it is about driving agricultural production. These twin goals are not automatically complementary. South Africa is an important contemporary case (see Box 1).
- The cost of inaction can be very high. If the legitimate claims of the rural poor are ignored, the negative consequences of failing to act can be huge. Social mobilisation for land reform can be fuelled and sustained by a deep sense of grievance. Initially, moderate means will be used to present the demands for land reform, but if people meet with intransigence, their demands are likely to become more radical, and farm killings and land invasions may occur (Huizer, 1999).

³ Remark attributed to Jomo Kenyatta by Cliffe, 1990.

- For land reform to have a significant impact on poverty reduction it must be part of a broader process of political, social and economic change, rather than a narrow intervention simply to redistribute land. The pace of land reform cannot reasonably run ahead of advances in other related functions, especially the provision of infrastructure (water, power and communications) and technical support services to small-scale farmers (credit, input supply, marketing, extension and adaptive research). Nor can it run ahead of the capacity of governments to coordinate these functions in an even-handed, transparent and efficient manner. Greater democratisation is often closely linked to the reform of land rights.

BOX 1: Land Reform in Post-Apartheid South Africa

In South Africa, as in Zimbabwe and Namibia, the policy debate has oscillated between those who believe that land reform must focus on the redistribution of productive agricultural land to the poor and those who oppose extensive redistribution and who wish the reform to focus on measures to raise agricultural production and empower the black economy.

In 1994, during the transition to democracy, the objective of increasing agricultural production took second place to the need to redress past injustices. The overarching rationale for official development assistance to the government's land reform programme was the desire to support a peaceful transition to majority rule and avoid conflict over land. The subtext was the provision of land to the poorest segment of the population (Adams, 2000b).

During the Mandela presidency, land redistribution aimed to provide the disadvantaged and the poor with land for residential and productive purposes. The government developed a single, yet flexible, grant mechanism to embrace the wide variety of land needs of applicants. Land redistribution took several forms (e.g. group settlement with some production, group production, commonage schemes, on-farm settlement of farm workers and farm worker equity schemes). Those eligible were helped to purchase land directly from willing sellers, including the state. Additional finance was provided for planning, community facilitation and dispute resolution. People formed groups to purchase farms because land was not available in small grant-sized parcels. By mid-1999, at the end of the Mandela presidency, some 600 000 hectares had been redistributed to about 45 000 households: a mere 0.6 per cent of the total area of arable and natural pastures held by whites at the transition in 1994. In addition to the land redistribution programme, land was restored to those who could show that they had been dispossessed as a result of discriminatory laws or practices under the colonial and apartheid governments. The 'land restitution' programme competed with land redistribution for scarce land reform funds. Soon to be brought to an end, it is of great political importance and of higher government priority than the land redistribution programme.

The land redistribution process was 'demand-led'. It did not involve the prior acquisition of land by the state for subsequent resettlement, as in Kenya and Zimbabwe or, more recently, in neighbouring Namibia. In 1999 a survey concluded that the programme had succeeded in embracing the rural poor and placing productive assets in their hands

(Deininger and May, 2000). Productive agricultural and non-agricultural activities were taking place. Beneficiaries had better access to services than the rural population as a whole. However, poverty levels remained high and the programme had its problems. Application-based land redistribution had high transaction costs. The process resulted in scattered projects, often without regard to people's needs, without infrastructure or provincial or municipal plans to provide it. The small size of the land reform grant encouraged people to form dysfunctional groups in order to raise the sum necessary to meet the cost of farm purchase. Under the first term of the Mbeki Government (1999–2004), changes were made to the land redistribution programme, which aimed to increase the size of the grant for black commercial farmers. Although formidable barriers to entry into the white-dominated commercial agricultural sector remained (these had evolved with strong government support over some 70 years), the scale of redistribution picked up and by the end of the five-year government term, the area of land redistributed increased to 3% of the total held by whites at the transition in 1994.

A review of the policy implications of redistributive land reform in southern Africa (Adams and Howell, 2001) concludes that in the design of instruments for land redistribution (e.g. form of market intervention, conditions of grant provision) it is important to recognise that redressing past injustices and promoting rural development are different policy objectives. Furthermore, it is necessary to differentiate between policy instruments intended to diversify ownership in the agricultural sector towards black commercial farmers and those that provide new opportunities for the rural poor. Market-assisted land reform and expropriation by due legal process have been slow, principally because of inadequate administrative and technical capacity available to governments. The impact of land redistribution on intended beneficiaries has generally been positive, although the numbers benefiting remain small. Unequal racial ownership of land has the potential for creating further agrarian (and wider economic) crises in the region unless addressed by accelerated progress in land redistribution.

2.2 Policy reforms to strengthen security of tenure

Having outlined the limitations of land redistribution programmes, we are driven to ask: what other options are available for policy and legal change that will contribute to tenure security, improve access to land and natural resources and play a part in poverty reduction, on-farm investment and employment creation? The question is especially pertinent in sub-Saharan Africa, where land is central to economic and social development and land-based livelihoods contribute a major share of Gross Domestic Product (GDP). During the 20th Century, most sub-Saharan African countries experienced rapid population growth, slow economic development and widespread environmental degradation. In the process, Africa changed from a continent of land abundance to one of land scarcity. Customary land administration practices have been discarded in many cases, but they have not been replaced with satisfactory statutory arrangements. Unresolved conflicts over land and other natural resources increasingly undermine the capacity of the poor to produce food (Peters, 2002; Berry, 2002; Palmer, 2004). In addition, the poor and vulnerable are rarely able to defend themselves against the strong-arm tactics of powerful land grabbers. Attempts to improve tenure security have been made through two main routes: a) reforms that enable individual titling or registration of land under customary tenure and b) the decentralisation

of land administration and land dispute resolution. Useful lessons can be learned from both processes.

Individual titling under customary tenure

There are several reasons for the continuity of customary land tenure in developing countries. It can be a cost-effective way to ensure tenure security and provides a limited basis for land transactions. Empirical evidence from Ghana, Kenya and Rwanda indicates that traditional tenure systems are flexible and respond to changing economic conditions (e.g. population pressure and commercialisation). Systems evolve from communal to individual rights (or to new configurations of communal and individual rights) when rights holders decide these are more appropriate (Migot-Adholler et al., 1994). Government preoccupation with land titling and registration has obscured opportunities for reform of customary tenure that would strengthen the land rights of local people and ensure their land cannot be taken away or otherwise used without their consent, either by government, 'developers' or other third parties. Despite the benefits, the system also has problems. The two main issues commonly cited are gender inequality and the disincentive to invest.

Gender inequality

In many patrilineal societies, every male head of household is traditionally entitled to land for his homestead, cultivation and grazing. When a man dies, his male children inherit his land. Women, regardless of their marital status or age, can never acquire land or landed property on their own. They have to reside with their parents, husbands or sons. In eastern and southern Africa, the negative impact of customary law on the livelihoods of women and children has been exacerbated by the HIV/AIDS pandemic. Widows can experience severe poverty when their land and property is repossessed by the kin of a deceased spouse (Drimie, 2002; Aliber et al., 2003). There is general agreement among land advocacy and women's rights non-government organisations (NGOs) that women should have equal opportunities to own land and exercise control over its products. NGOs within the sub-region have raised awareness of these issues, but have been less successful in obtaining concrete action in the legislature. Resolving gender inequality in relation to land tenure has major implications for poverty reduction, since women do most of the agricultural work in sub-Saharan Africa and thus hold great potential to increase agricultural productivity.

Disincentive to invest

It is often argued that customary land tenure gives people no incentive to invest in their land and boost agricultural production, thereby acting as a brake on poverty reduction through agricultural growth. As a result, debate during the past 50 years has focused rather narrowly on the merits, or otherwise, of converting customary tenure into so-called 'modern' formal systems through a process of individual titling. The paradigm is based on the assumption that changing tenure *per se*, rather than the agrarian structures and conditions under which production relations operate, should improve the efficiency of land use.

Some 30 years ago, the World Bank's Land Reform Policy Paper (World Bank, 1975) took the position that communal land tenure was a constraint to development and should be replaced by privatisation and formal land titling. It was argued that, because land held under communal tenure could not be bought and sold, and therefore could not be

mortgaged, communal systems impeded the flow of investment capital to agriculture and rural housing. Despite all evidence to the contrary, the notion has persisted in many countries (e.g. DFID–Ghana, 2004), but fortunately not in the World Bank’s more recent policy research.

Individual titling: conclusions

So, what does the evidence show? The shift towards individual titling and registration appears to have done little to overcome gender inequalities in access to land. Since the 1950s, Kenya – more than any other country in the region – has continued to promote individual tenure (Beja and Mango, 2004). This has been achieved through introducing formal land titling in all former African reserves (now known as ‘Trust Lands’) on grounds of economic efficiency. The statutory registration of title has weakened the land rights of tenants (especially women) and has increased intractable disputes over land. The new form of tenure downplayed the status and role of women as the actual users of land. Unmarried women, divorcees and widows have been particularly vulnerable as, under traditional tenure, they maintained at least some user rights. Land registration, designed for a sedentary mode of agriculture, has marginalised many pastoralists, who no longer have access to important land resources during droughts (Mackenzie, 1990; Nthia Njeru, 1991; Williams, 1996). In Kenya and elsewhere, when land administration has been subject to corruption, adjudication and titling of communal land has had a devastating impact on the livelihoods of the poor (Commission of Enquiry, 2002; Brown, 2003). In addition, land transfer arrangements often precipitate conflict, especially when outsiders are involved (Deininger, 2003).

Studies in Kenya, Senegal, Somalia and Uganda (conducted by the Land Tenure Centre in the mid-1990s) failed to reveal a causal relationship between formal registration and investment in land improvements and on-farm productivity (Bruce, 1996). Where a significant relationship was found to exist between enhanced on-farm investment and formal land title, it was not necessarily causally linked; farmers tended to register land parcels that benefited from comparatively high levels of investment. In other words, registration may not stimulate investment, but merely be positively related to it (Platteau, 1996). Long-term observations of land titling in eastern Kenya tend to confirm these findings: ‘The outcomes [of land titling] provide unambiguous support for neither proponents nor opponents of externally promoted privatisation’ (Hunt, 2003).

If customary tenure arrangements are not the cause of investment disincentives, what other explanations are there for low productivity in some areas where such arrangements are in place? Once again, institutions are important. Customary land tenure in sub-Saharan Africa has become the poor relation of the system of individualised private tenure introduced by white settlers. While individual ownership (freehold or leasehold tenure) is protected in law and in practice, customary systems of communal ownership and tenancy frequently suffer from inadequate protection and administrative support. Most of the insecurity associated with customary tenure results from a combination of neglect and design by colonial and post-colonial governments reluctant to introduce reforms that would give legal recognition to the rights of users and occupiers. This deters incoming investment because it is unclear who can give consent to investors to use the land and who should reap the benefits (Claassens, 2000; Adams et al., 2000).

Deininger (2003) concludes that more attention should be paid to the legitimacy of existing institutional arrangements and to resolving governance, conflict and corruption issues. Legal recognition of existing rights and institutions, subject to minimum conditions (e.g. constitutional rights), is more effective than premature attempts to introduce formal registration and titling (as in Kenya's Trust Lands). Legal recognition of customary land rights, subject to determination of eligibility and establishment of rules and mechanisms for conflict resolution can enhance security of tenure. Demarcation of the boundaries of communal land can remove the threat of encroachment by outsiders and encourage the community to introduce its own procedures for assigning rights.

During the past decade, donors have shown an unprecedented concern with land policy reforms in sub-Saharan Africa, but capacity to undertake reform within developing country governments remains limited. Most countries have been engaged – at various levels of detail – in evaluating their land policies and laws, especially regarding the relative status of customary and statutory tenure (Okoth Ogendo, 1998 and 2002). Many reforms have been proposed but the record of implementation has been disappointing. Long delays have surrounded land law harmonisation, institutional change and capacity building efforts. In the struggle for scarce budgetary resources, the land sector has barely featured. The problem is compounded when governments fail to consider, during the drafting phase, the costs of implementing policies and laws and do not introduce more affordable options before laws are promulgated (e.g. in Uganda, see Bosworth, 2003; Hunt, 2004). Experience suggests that capacity and institutional constraints to the implementation of land policy reform are the most dominant. Capacity building should not concentrate only on those whose rights are being strengthened and on officials who are to staff the new decentralised institutions, but also on the staff of the land bureaucracy threatened by the proposed reforms who are in a position to frustrate implementation (McAuslan, 2003).

Despite the many problems, some slow progress is being made. Cotula et al. (2004) list examples of the 'new wave of land tenure reforms' being introduced in sub-Saharan Africa as a result of policy changes. These reforms provide for the registration of customary land rights. Protection under the law is not conditional on registration *per se*. Laws protecting customary rights have been promulgated in Mozambique, Niger, Tanzania and Uganda. They provide the basis for converting customary claims into formal title, and registering them to communities, groups and families. Responsibilities for land titling and registration have been delegated to decentralised structures.

For example, the Mozambique land law of 1997 provides for outside investors to negotiate with the holders of customary rights to obtain leases (e.g. for tourism, ranches, plantations) within the customary area (CTC, 2003). However, such arrangements are not easy for communities to negotiate and tend to be manipulated by politicians and other influential people (Hanlon, 2002; Brown, 2003). South Africa has been wrestling with a similar problem in the former homelands (Kepe et al., 2001). Botswana provides examples of agreement between land boards and commercial wildlife and tourism ventures, but relations between the parties (land boards, communities and concession holders) are often tense (Botswana Ministry of Land and Housing, 2003). In short, there are few examples of mutually successful arrangements that combine rural economic growth with pro-poor objectives.

Decentralising land administration and land dispute resolution

In large parts of sub-Saharan Africa, colonial rule put day-to-day administration of so-called native reserves and/or Crown Land in the hands of customary leaders and statutory trustees (this did not include land allocated to government, settlers or other private purposes). At independence, Crown Land became State Land and the allocation functions of customary leaders were often revoked and subsumed by government structures. However, in the eyes of the local people, neither appointed officials nor elected councillors in remote offices could legitimately assume the powers of hereditary chiefs. Land allocation has therefore become a highly contested issue with a huge gulf between legal principle and local practice. Nevertheless, in a review of 20 African countries, Wily (2003) finds that efforts to revive decentralised land administration (including land dispute resolution) within the broader context of political decentralisation have met with encouraging results, particularly in Francophone countries.

Cotula et al. (2004) review the institutional strengths and weaknesses of three models (i.e. land-specific bodies along Botswana land board lines, elected local government institutions and customary authorities). No single approach was found to be without its problems and, in most cases, central, federal or provincial governments continue to maintain significant control over local bodies. Attempts to decentralise authority over land administration is inevitably frustrated by 'politics'. After eight years in the drafting, the South African National Assembly passed the Communal Land Rights Act of 2004, which provides for land tenure reform in the former homelands. It may now be challenged in the Constitutional Court, for reasons such as the powers over land allocation granted to unelected traditional leaders and the impact on women's land rights.

However, the costs to government of taking no action to resolve problems of local-level land rights management, particularly processes of land and natural resource allocation and dispute resolution, can be very high indeed. For example, although the current conflict in Darfur in western Sudan is now far more complex than inter-tribal disputes over land and grazing rights, that is where the roots of the current conflict between nomadic and sedentary stock-keeper cultivators are located. The critical difference between the period since the 1980s and the 60 years before is that the mechanisms for dealing with tribal disputes – namely the tribal administration and the judiciary – have been neglected. 'Various governments have looked upon the issue as residual: something to be dealt with only when it forces itself on their attention as a result of major clashes' (Morton, 2004). As has happened in neighbouring countries, national politicians have exploited local disputes over land and natural resources for their own political advantage (Klopp, 2002). De Waal (2004) explains how, after Sudan achieved independence in 1956, the positions of sheikhs and nazirs were formally abolished and 'people's councils' were established to do the same job. However, Khartoum never delivered the funds and, by the early 1980s, local government was bankrupt. A succession of local conflicts erupted in Darfur in the wake of the drought and famine of 1984–85. On the whole, the pastoral groups were pitted against the farmers in what has become a bitter struggle for diminishing resources. The government could not intervene effectively, so people armed themselves. Competition over land increased in 1994, when the government tried to bring back the colonial system of administration and allocated territories to chiefs, giving them the authority for land

allocation. This has only 'heaped coals on the fire' and exacerbated the land conflict further (Oxfam, 2004a).

2.3 State facilitation of land markets

Why are land markets important?

Agencies like the World Bank are becoming increasingly interested in the role land markets can play in agricultural growth and poverty reduction. For example, '...facilitating the exchange and distribution of land, whether as an asset or for current services, at low cost, through markets as well as through non-market channels, is central to expediting land access by productive but land-poor producers and, once the economic environment is right, the development of financial markets that rely on the use of land as collateral' (World Bank, 2003).

Land rights (e.g. sales, mortgages, leases and rental agreements) to immovable property change hands in a 'land market', which can be formal or informal depending on the rules of its operation (Place, 2002). In the formal sector, an efficient land market encourages transactions between individuals that are underwritten by the law and by registered private service providers. It is in the interest of good governance that the land market operates efficiently and that the law protects the interests of the parties involved. Market efficiency depends on three conditions: a) that transaction costs are affordable; b) that buyers and sellers are informed of their rights and responsibilities and have adequate information about the nature of the property in question and of the land market in general; and c) that risks and uncertainties are minimised.

An efficient land market should require only minimal day-to-day government intervention. The state can protect rights holders by ensuring that the legal framework is in place, by overseeing the work of registered service providers (i.e. banks, lawyers, surveyors and valuers) and by providing appropriate procedures for resolving disputes. Yet, in many developing countries, individual market transactions (e.g. the sale or leasing of a parcel of land) require complex bureaucratic procedures and official sanction. The land market is state-rule based rather than market-rule based. Too often, decision making is bound, not by codified rules and regulations, but by the discretion of politicians and officials. This opens the door for corruption and rent seeking and drives the poor into the informal market. The rapid increase in the volume of transactions associated with urbanisation renders the direct involvement of officials in sanctioning individual transactions increasingly impracticable.

Reliable and accessible systems of land registration enable rights holders to verify the status of their interests and to contest overlapping and conflicting allocations. When such systems are in operation, landholders are more willing to invest in land improvements and sharecrop, rent or lease their land. With an efficient system of land administration, including arrangements for land dispute resolution, more land is bought and sold, transaction costs are reduced, less land lies idle and the land market grows. The result is an overall increase in productivity. However, a lack of reliable registration records tends to discourage would-be investors and holds up transactions. Uncertainties over the legal

status of land rights usually have to be resolved by time-consuming, case-by-case investigation and agreements may need lengthy negotiations.

What do we know about how land markets work?

While other working papers in this series suggest that the absence of markets presents a challenge to pro-poor agricultural growth, particularly in sub-Saharan Africa, land markets have existed for a long time. Transactions can be either formal or informal, and either permanent or temporary.

Formal versus informal transfers

The great majority of transactions take place informally and are unregulated by statutory law. The number of transactions varies according to location and to socio-cultural, economic and agro-ecological circumstances. Informal tenure arrangements adjust rapidly to market forces. Many different kinds of negotiations and tactical and strategic manoeuvres are used to secure claims to land (Juul and Lund, 2002). In Ethiopia, such transactions are prohibited by law, but people who cannot afford to own land still find ways of renting or sharing with better-off neighbours (Devereux et al., 2004). Indeed, attempts by many governments to regulate land market activity in rapidly growing peri-urban areas are frequently thwarted – even in a country like Botswana, where land transactions on state and tribal land are strongly regulated (Republic of Botswana, 1991).

Permanent transfers

According to Place (2002), thriving land markets exist in East and West Africa and permanent transfers seem to be the most common type of transaction. Perhaps not surprisingly, land markets are strongest in areas where population is dense, commercialisation of agriculture is high and migration is significant. Rental markets (although uncommon in some regions) have been active in West African cocoa farming areas for a long time. In Ghana, migrants receive land on which to establish cocoa, and give one third of the yield back to the original owners as rent. In the 1960s, 95% of the country's cocoa land was cultivated in this way (Deininger, 2003). Many households that participate in purchase and rental markets are both suppliers and demanders of land. This reflects the many values of land and reasons for increasing or reducing land holdings. Land purchases confer strong individual rights to buyers, but the tenure security of migrants (e.g. in West Africa) is less secure and may be challenged by indigenous people.

The equity impacts of permanent land transfer markets can be positive or negative (Place, 2002). For example, Apac in northern Uganda is an area characterised by customary land tenure regimes and by intense conflict. Research in this area revealed that the Land Act of 1998 led to 'distress sales' from the poor to local (always male) elites, who accumulate land for prestige and as a 'hedge' against inflation, and do not invest in agricultural production. Previously, land belonging to the whole family was being individualised, with men increasingly taking control. The consent clauses of the Land Act which theoretically offer some protection to women, are often not enforced (Oxfam, 2004b).

Temporary transfers – rental markets

Deininger reports that land lease or rental is now considered a more important redistribution mechanism than land transfer and thus is one of the most significant land

policy insights gained by the World Bank since 1975 (Deininger, 2004). Land rental was particularly important in the initial phase of the transition in Eastern Europe following the demise of communism in the 1990s, especially when land was restored to former owners and/or when land ownership was still to be clarified. In the CIS, the very rapid privatisation achieved by Moldova between 1990 and 2000 (84% of the former collectives) was due to a rapidly developing leasehold market (Deininger, 2003).

In southern Africa, rental markets are less well developed. This is partly a legacy of colonialism and apartheid which, after 1913 in South Africa, prevented Africans from owning, renting or sharecropping land in 'white' South Africa (Place, 2002). Similar policies were enforced in Zimbabwe (then Rhodesia) and Namibia (then South West Africa). After the transition to majority rule, the development of the rental market in Namibia and South Africa was impeded by the 1970 Subdivision of Agricultural Land Act. This act still stands today and precludes the leasing of a parcel of farmland that is part of a larger farm for more than 10 years without the consent of the Minister of Agriculture.

Farrington et al. (2004) studied the Indian states of Andhra Pradesh and Madhya Pradesh, finding that, despite a ban on land leasing, 12–14% of households either lease or sharecrop land, the latter being associated with high-risk farming areas. The study concludes that the ban should be lifted, since leasing enhances economic efficiency and, probably, equity. Deininger (2003) agrees, arguing that the restriction placed on the functioning of land rental markets in Ethiopia is an obstacle to economic diversification, particularly given the pervasive threat of another land redistribution cycle.

Rental markets have lower transaction costs and are 'a more flexible and versatile means of transferring land from less to more productive producers than sales' (Deininger, 2003). Evidence from East and West Africa suggests that land sales increase inequality, while land rentals tend to promote equality. Leasing land gives the landowner the option of deriving a cash income for the temporary disposal of property without having to part with it permanently. It also allows him/her to participate in the non-farm economy. As a result, temporary land transfers through markets appear to be pro-poor and beneficial for women. They can also help to retain income in the event of shocks arising from ill health (e.g. from AIDS), loss of a breadwinner, etc. The [benefits to the tenant are that he/she can gain access to cultivable land without having to pay upfront in cash or assets, since a share of the crop can be taken as rent.

For small-scale farmers, recourse to the land rental market can generate savings and may be an essential preliminary step to land acquisition. Governments need to activate the land rental market by giving legal protection to the landowner. In the absence of such guarantees, land may lie idle because rights holders are reluctant to enter leasing agreements for fear of losing the land permanently. In Botswana, rental of agricultural land is being encouraged. The 2003 Land Policy Review recommended that standard forms of agreement for leasing of land held under customary grant and common law lease should be developed under the authority of the Tribal Land Act and made available to the public (Botswana Ministry of Land and Housing, 2003). This type of initiative is also being proposed in the CIS countries: 'Disseminating information, providing model lease contracts, and registering longer-term leases will reduce transaction costs and, by increasing

transparency and ensuring outcomes reached are 'fair' for both parties involved, are likely to be beneficial' (Deininger, 2003).

Urbanisation increases demand for land for intensive agriculture, as is apparent from the rate at which vacant parcels of land (including roadside verges and central reservations) are planted/harvested for food and fodder crops. This occurs despite the high risk of theft. The idea of providing allotments for annual lease has often been proposed and then abandoned, simply because every patch of urban land is at a premium for housing. This represents a land management and physical planning issue for town and city councils.

2.4 Concluding comments

Redistributive land reform

Land redistribution dominated the land policy debate in the last decade of the 20th century. In different locations and in different time periods, the political circumstances were different, but the overall objective was the same, namely to bring about a more efficient and equitable distribution of land and the political power emanating from it.

The outcome of the various programmes, market assisted or not, has been less than impressive. The experience of land redistribution has always been complex and convoluted, although less complicated in situations in which land redistribution has not involved agrarian restructuring (e.g. the case of reform of landlord tenancies). Where agrarian restructuring is required (e.g. in the former Soviet Union or in the subdivision of large farms in southern Africa), the process has been slow; confirming what has long been understood by practitioners, namely that wide departures from existing systems of agriculture are rarely immediately feasible: these things take time.

Land tenure reform

During the past decade many countries, particularly those in sub-Saharan Africa, have been engaged in land policy and legal reform. In all cases, the process has taken longer than anticipated to bear fruit, perhaps because of the failure of governments and donors to appreciate at the outset the complex and highly contested nature of land issues in post-colonial states. As in the case of redistributive land reform, inadequate administrative and technical capacity in state land institutions has been a major constraint.

Difficulties have also arisen because of the divergent views of donors and because donors seek to support land policy reforms with lofty aims, thus diverting attention from the most important need for capacity building or the re-engineering of the skills and knowledge of the officials at the centre (McAuslen, 2003). Land policy reform is unlikely to have significant poverty reducing effects unless attention is paid to institutional capacity building, especially:

- building the capacity of decentralised land administration agencies and land dispute bodies through training and provision of a framework of rules and guides to regulate and structure discretionary power;
- building the capacity of citizens through expanding their knowledge about new laws and the opportunities they provide to acquire and safeguard land rights; and
- building the capacity of the government by providing the information needed to develop a coherent, cost-effective and responsive plan to implement land acts.

Land markets

The slow progress of redistributive and land tenure reform has encouraged the exploration of land market transactions. It is particularly important to note that efficient transactions can encourage the transfer of land from less productive to more productive use, in both the agricultural and rural non-farm sectors.

In many countries in the developing world, however, land market transactions remain subject to complex bureaucratic procedures, a heavy hand on the part of the state and a leaning towards permanent transfers rather than flexible temporary transfers. As a result, most transactions take place informally and are not regulated by statutory law.

While the equity impacts of permanent land transfers can be positive or negative, temporary transfers, through rental markets, are becoming an increasingly important redistribution mechanism. Rental markets have lower transaction costs, are more versatile and can help households deal with shocks or stresses without loss of productive assets over the long-term.

3. What we don't know: closing the evidence gap

3.1 Reconciling social justice/equity and agricultural growth

We know that land redistribution programmes have had mixed outcomes. Some of the failures may be due to factors associated with political will and institutional capacity and these have been explored above. However, mixed outcomes from land redistribution may also be due to lack of focus on the transmission mechanisms through which redistribution can lead to poverty reduction. The two main objectives in redistribution (i.e. promoting social justice/equity and agricultural growth) are assumed to be two sides of the same coin, with no trade-offs between them. This can be the case, but is not always so.

Synergy between equity and agricultural growth occurs when equitable security of ownership enhances the scope for investment in land, leading to agricultural growth. It also occurs when equitable growth contributes to a vibrant rural society capable of making its voice heard. This, combined with improved funding from taxation, is likely to strengthen governance issues specifically in relation to land, and possibly more generally.

There may also be potential trade-offs between redistribution and agricultural growth. For example, in remote rural areas, redistribution can increase equity in land assets. However, it may be the case that consolidating land holdings into larger commercial farms and encouraging smallholders to pursue alternative livelihoods (as agricultural labourers or in the non-farm economy) may have greater poverty reduction effects. Evidence from India demonstrates that, in rural Andhra Pradesh and Madhya Pradesh, it is not always the landless that are the poorest. The rural landless often find alternative sources of income, either from agricultural labour (where wages have increased since the Green Revolution) or employment in the rural non-farm economy. In contrast, the poorest members of society

are those with very small landholdings, few capital or productive assets and a lack of access to micro-finance on reasonable terms (Farrington et al., 2004).

Thus, two key questions remain:

1. What are the precise transmission mechanisms by which land reform contributes to poverty reduction (and how far is increasing agricultural productivity part and parcel of the process)?
2. What are the synergies and/or trade-offs between greater equality in land ownership and increasing agricultural growth for poverty reduction?

3.2 Land administration, agricultural growth and poverty reduction

Probably because of the mixed results, redistribution has tended to slip from the agendas of many donors. A more forward thinking strategy is to adopt a more flexible approach to individual land title arrangements. New approaches to land administration emphasise the need for faster transfers of land rights, and this will promote economic growth. While there are clear explanations of how better land markets can contribute to poverty reduction, there is less clarity over how, when and why this might be achieved.

The issue of twin objectives is pertinent to the following outstanding questions:

- What kinds of land transfers can be carried out within land administration for improved growth and poverty outcomes in agriculture?
- How do current land administration arrangements prevent land transfers for positive growth and poverty reduction?
- What sorts of revised approaches to land administration are best, and how can they be designed and implemented?

3.3 Appropriate taxation of land and productive resources

The ways in which land is taxed has implications for poverty reduction through agricultural growth. In theory, if the state taxes the value of land more heavily and productive activity less heavily, the outcome will almost certainly be more efficient land use, increased production and increased demand for labour. This will increase real wages for working people and probably broaden the ownership of land by bringing more land onto the market at a lower price.

Large taxes on land, particularly land transfers, present a barrier for small-scale farmers. A progressive tax on large land holdings is often proposed for the purpose of increasing the availability of parcels of land for smallholders, but international experience indicates that progressive land taxes have never been effective in redistributing land from large-scale to small-scale producers. Economic theory does not give an unambiguous answer to the question of how a progressive land tax would contribute to land reform (Poulton and Kydd, 2000).

Outstanding policy questions include the following:

- What forms of land and production taxes are most likely to encourage increases in agricultural productivity?

- How can land taxation systems be designed so they do not discourage investments by small-scale farmers, and under what circumstances is this appropriate?

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