

**Land Reform and Poverty Alleviation:
Lesotho's experiences during the last two decades**

Qhobela Cyprian Selebalo

**Project Coordinator
Land Management and Administration**

**Presented at the Regional Conference for
Land Reform Poverty Alleviation in Southern Africa**

**Organised by
Southern African Regional Poverty Network
Human Sciences Research Council
Pretoria, South Africa**

4th and 5th June 2001

Abstract

In most East and Southern African countries, land reform has been motivated by the need to redistribute land that was in the hands of European settlers as a means of availing economic resources to the local populations. Lesotho on the other hand did not have European settlers, but the land reform had political influence of the Developed world. The initial focus was to wrest land control from traditional leaders and to introduce new types of tenure such as leasehold; and in recent years the focus is on creating a favourable environment for agricultural development and economic investment. The success of agricultural development and economic investment will alleviate poverty for rural population.

This paper reviews Lesotho's Land Reform processes as a means of poverty alleviation for the rural population during the last two decades. It notes that in politically motivated land reform, the participation and transparency is usually sacrificed, which limits chances of the land reform success; and the fear of European influence in land reform leads to maintenance of counter productive traditional practices. The tentative proposals in the draft white paper on land policy in Lesotho are commended as positive elements in addressing rural poverty where tenure security is ensured, economic investment is facilitated and gender discrimination eliminated.

INTRODUCTION

Land tenure reform is the state intervention to change human-land-human relationship focusing on institutions and procedures on access and control of rights in land; and agrarian reform is the state intervention designed to improved agricultural activities. The discussion addresses the broader land reform concept implying "remodeling of tenure rights and the redistribution of land in directions consistent with the political imperatives underlying the reform." (Adams, 1995). Political imperatives in this case referring to poverty reduction and sustainable utili-

Box 1. Land Resources

Lesotho has four main agro-ecological zones: the lowland on the west, foothills in the middle, Senqu River Valley from the north east to the south west, and the mountains in the east.

The lowlands are found at altitudes between 1,500 and 1,830 m, and make up about 15 percent of the country. Soils are generally derived from sandstone. The lowlands are the most densely populated zone, and are where most of Lesotho's cultivation occurs. Severe land degradation has scarred this part of the country with extensive dongas. High intensity, short duration rainfall, coupled with light sandy soils, poor land use and land husbandry practices are the cause of the extensive erosion.

The foothills rise from 1,830 to 2,130 m and comprise about 8% of the country. Soils are derived from volcanic rock, except in Quthing and Tsoelike (Qacha's Nek) where soils are from sandstone. The Senqu River Valley lies between 1,500 and 2,250 m. Soils are light without much organic matter and, readily eroded.

The mountains comprise about 66 percent of the total land mass. Lesotho's mountains range from 2,130 to 3,480 meters. Thabana Ntlenyana (3,480 m) is the highest peak in the southern African region.

Climatic conditions in Lesotho are temperate. Rainfall in the lowlands averages 735 mm with about 80% of it coming during the warmer growing season from October to March. The eastern mountains have an annual mean precipitation of 680mm. The areas of highest rainfall (1,200 mm) are found in the mountains along the Drakensberg escarpment

The lowlands experience an average annual temperature of about 15° C with the highest mean of 20° C occurring in January. The lowest mean occurs in June of July at 7.4° C. In the mountains, Letseng-laterai has recorded annual average temperature of 5.8° C. Extremes of -20.4° C in June and -1.2° C in January have been experienced. The average frost duration is 177 days.

B. Motsamai (1991)

sation of land resources, (see box 1), where poverty “denotes serious lack of the means for proper existence.” (Random House Dictionary of English Language).

Before independence in 1966 the control of land in Lesotho was vested in the Paramount Chief and ultimately in the office of the High Commissioner. The control was based on the 1903 codification of the customs and traditions of the Basotho nation by the Paramount Chief Lerotholi into the Laws of Lerotholi. The key element of customary tenure being that land belongs to the Basotho nation, cannot be alienated and allottees only have usufruct or land use rights.

Lesotho Independence in 1966 did not introduce drastic changes in this regard, the King (or head of State) now held all land in trust for the Basotho nation and a hierarchy of chiefs, answerable to the King, administered the land with powers of land allocation and revocation of rights over the areas within their jurisdiction.

Significant land reforms were introduced through the enactment of the Land Act 1979, which is the current land legislation, in June 1980. The reform removed the powers of allocation of the traditional authorities and vested them into community-based institutions such as land committees and village development councils, which causes tension between the modern State and the Traditional Authorities.

THE LAND ACT, 1979

The existing land tenure system in Lesotho is based on a dual legal system, that is, the customary law which has evolved from the traditional practices and the common law which was originally imported from the Cape through the General Law Proclamation 2B of 1884, and localised to the currently operating land legislation ‘The Land Act 1979’. In situations where the laws are inconsistent the Act prevails, and this is catered for under section 3.3 of the land legislation.

Land Ownership

The Land Act, 1979 reiterates the constitutional position that land in Lesotho is absolutely and irrevocably vested in the Basotho Nation and no person, other than the Head of State may hold any title to land except as provided by customary law or under the Act. No person other than a citizens of Lesotho who is a Mosotho or a company the majority shareholding of which is held by citizens of Lesotho who are Basotho or a partnership of which the majority of partners are citizens of Lesotho who are Basotho or bodies registered under the Societies Act, 1966 may hold a title, i.e., a lease, to land in Lesotho.

This exclusion of foreigners from land ownership is seen as hampering investment, since few nationals - if any, have enough capital to have the required majority shareholding in investment companies. The scenario has been exuberated by privatising efforts where Lesotho Bank has been privatised; as a result all banks are foreign owned, thus excluded from investing in real property and mortgages.

Grant of Title to Land

In rural areas, the Act provides for a 'grant of title' to be made to a legal person or an individual. This entitles the allottee to use and occupy the land but not to transfer it. A legal person may hold the allocation for an indefinite period but an individual may only obtain a life interest. The Act provides that the life interest will, on the death of the allottee, pass first to the widow and then to the person designated by the deceased allottee, then to the heir nominated by surviving members of the family. An allottee who is using the land for agricultural or residential purposes may on application to the Commissioner of Lands convert his holding of land to a lease. An allocating authority —presently a VDC—may revoke an allocation. The Minister exercises revocation on the grounds of the need to set the land aside for public purposes in the public interest. Compensation on revocation of agricultural land in the public interest was not payable until 1986 amendment, which did not conform to standardised expropriation and compensation procedures.(see box 2)

Box 2 Compulsory Acquisition

The impression has unwittingly been given that there are no clear and certain principles which are applied to the assessment and payments of compensation. This impression is compounded by, first, the fact that as a matter of what is written down in the law, there are indeed no such principles to which anyone can refer and second, the delay in paying compensation which can render what, when assessed, was a reasonable sum, seem to an aggrieved land owner very unreasonable when finally paid. Add finally to this the continued failures of the Land Tribunal to which appeals on matters of compensation lie, to sit to hear such appeals, and it is hardly surprising if there is a feeling abroad that the whole process of land acquisition and compensation is very unfair and dispossessed land owners keep on coming back and like Oliver Twist, ask for more.

McAuslan (1996) page 11

The poverty induced by delays in the payment of compensation is prevalent in many African countries as Kasanga (2000) writes about Ghana "The powers of compulsory acquisition have been fully utilised by various governments since independence. However, the provisions in respect of compensation payments have been largely ignored, and/or inadequately catered for. Evidence from the Land Valuation Board suggests that as at January 1999, outstanding compensation claims from 7 out of 10 regions stand at 540 billion cedis. Some claims date back to the 1970s. The social and economic hardships endured by the victims of expropriation can be inferred."

The grant of a title to land in urban areas is in the form of a lease. Plots in urban areas are advertised and members of the public lodge applications with the Urban Land Committees (ULCs), which determine the applications. ULCs consist of Principal Chiefs as chairman, the Commissioner of Lands or his representative, the District Administrator or Town Clerk and three other persons appointed by the Minister. In certain circumstances applicants may be invited to tender for plots. People claiming a title to land, which has been advertised as available for leasing, have one month to lodge a claim to the land with the Land Tribunal. Such persons are likely to be persons claiming rights to the land under customary law.

Lessees are entitled to exclusive possession and may, subject to the consent of the Minister, undertake normal commercial transactions. A set of statutory conditions for leases other than agricultural leases are set out in the First Schedule to the Act. Lessees, other than citizens of Lesotho who are Basotho, occupying leased land for residential purposes pay such ground rent as the Minister may prescribe. The Minister may also prescribe development charges to be paid by lessees.

The Minister may, where it appears to him to be in the public interest or in the interests of the development of agriculture, declare an area of agricultural land to be a selected agricultural area (SAA). Persons having existing titles to the land are deemed to have received three months notice of termination of their interest from the date of the publication of the selected area notice in the **Gazette**. All existing titles to land in such areas are thereupon extinguished but substitute titles in the form of a lease may be granted or where that is not possible compensation is payable for the deprivation of the existing title. Land in a selected area may be leased to a private developer for development.

The use of SAA to establish state farms has not produced the desired results of poverty reduction as noted by Kasanga (1999) that “Five of such farms are located at Mejametalana, Tsalitlana, Tsakholo, Mokhotlong and Quthing. These state farms apart from being subsidised are said to be producing far below capacity in the midst of land hunger and landlessness. That there is apparent local and private sector hostility to these underutilised state farms appears understandable.” A detailed analysis of the failures of these projects is likely to reveal the need for local participation in project implementation.

The Minister may, after consultation with the Principal Chief having jurisdiction within the area and obtaining the King’s consent, declare (by notice in the Gazette) that land is set aside for a public purpose. Public purposes as defined in the Act include use of land by the government, a local authority or a statutory corporation for communications, infrastructure, utilities, provision of social services such as low income housing, water and land conservation, provision of public offices and other services, and furthering sport, culture and tourism. Persons claiming an interest in the land may claim compensation. In assessing compensation regard is made only to the value of the property as certified by the Government valuer having regard to present and replacement value and any expenses incidental to any necessary change of residence or business.

NEED FOR LAND POLICY

The Land Act 1979 has undergone a number of amendments aimed at adopting the legislation to the economic and social demands of the land resource. However, there is evidence of policy vacuum, and the need for guiding principles embodied in the National Land Policy. Attempts to redress this situation were initiated in 1986 where a Land Policy Review Commission was established culminating in a Land Policy Review Commission's Report of 1987. The Commission findings and recommendations were valid issues, unfortunately there was no political will to implement the Commission proposals.

In justifying comprehensive, participatory land review process facilitated by an independent statutory Commission under the current Land Reform, consultants were engaged to carry out an analysis of prevailing land problems, pertaining to policy, land use and gender issues. The findings in relation to rural setting are listed in box 3.

Kasanga (2000) quotes four minimum criteria for land policy denoted by Zimmermann:

- It should employ democratic rules, rule of law and enforcement, participation and transparency (good governance) to control power and thus avoid land-related corruption, land concentration and land grabbing.
- It should convey a vision of the path desirable for development.

- It should focus on an evolution process of change that supplants social upheaval and revolution.

Box 3 Findings In The Rural Areas

- There is a persistent vicious cycle of growing food crops on marginal and highly erodible soils, adhering to unsustainable grazing patterns, rapid population growth and the degradation of the environment, i.e. the loss of land and gradual deterioration in yield (substantially lower than in neighboring districts of South Africa with similar climatic conditions) resulting in steady decline of crop production etc.
- These land use practices are not only uneconomic and in a way a waste of human and natural resources, but at the same time contribute to the deterioration of the capacity of natural environment for human subsistence; the assumption of relative food security in rural Lesotho is only a (however persistent) myth, since a growing number of households in agriculture is not capable to produce enough food for own consumption or cash income to buy food on the market;
- Consequently many rural households are deriving a substantial part of their livelihood from agricultural activities, as from migrant workers' remittances from mining in South Africa and other wage labor;
- At the same time many Basotho are being retrenched and are coming back to Lesotho to find no jobs; just as many young entrants into the labor market can not find employment in the country;
- Under these conditions subsistence agriculture is no longer a viable option; farmers are not willing to invest in costly farming inputs or time consuming conservation practices or unsuitable plots; instead, they continue their marginal, but destructive farming practices;
- The role of women in rural society has substantially changed: rural household headed by women are common; women play a significant role as economic actors in rural economy, but are hampered by both their legal status and their role in the family and community;
- The current land tenure system contributes substantially to these processes: currently, there is no longer sufficient land produce available, the majority of Basotho have no access to land, and those who have it have uncertain security over it; thus, in spite of its aim to support subsistent agriculture, the rural tenure system is losing its role as a rural safety net and is at the same time constraining the development of intensive commercial agricultural production and alternative sources of income;

D. Betke (1999)

- It should include intensive government-citizen dialogue and dialogue within the civil society.

CURRENT LAND REFORM

The current land reform in Lesotho is being carried out under the auspices of Agricultural Policy and Capacity building Project (APCBP). Land Management and Administration, focussing on land reform issues, is one of the four project components.

Commission Recommendations

In line with the project pre-appraisal recommendations, a Land Policy Review Commission, consisting twelve members from key sectors and chaired by a High Court Judge, was established by gazette of the 28th December 1999. The land review process that entailed inputs from public gatherings, written submissions, interviews and international trips to Germany, Uganda and Malaysia were undertaken in February to September 2000. The Land Policy Review Commission submitted the report of their findings and recommendations to Government on the 29th September 2000. The summaries of land tenure reform proposals are in box 4.

Box 4. Commission's tenure reform proposals (LPRC, Chap. 10)

- all land in Lesotho (vested in the Basotho Nation) should be held by the state through the National Land Council and made available as leases in rural and urban areas and as freehold in specific urban circumstances (industrial and commercial purposes, etc); all agricultural land shall be held in leasehold;
- customary tenure should be abolished as it is not conducive to efficient land management and/or administration, security of tenure and economic development.
- property laws, including the Constitution, should be amended or repealed to the extent that they justify discrimination against women;
- compensation should be paid for land and property acquired for public purposes.

The proposals for the reform of tenure arrangements areas are no doubt consistent with the weight of evidence presented to the Commission. They represent the most important part of the Commission's report. Many of the proposals relating to natural resource management flow from these proposals for tenure reform.

The proposals on eliminating discrimination against women and compensation on land acquisition are relevant proposals for poverty reduction in the rural setting, however, the abolition of customary tenure raises concerns are highlighted in box 5. These are important concerns when considering that "The World Bank classifies 800 million people as absolute poor"; seventy-five percent of them live in rural areas." (GTZ 1991). Box 6 summaries proposals on rural land management, which, similarly, set the foundation for productive land resources within the rural setting thus poverty alleviation. The draft white paper developed concrete proposals from these Land Policy Review Commission recommendations.

Box 5: Customary tenure and rural livelihoods

Neither rigid customary tenure nor individual land ownership can provide a general solution to the land tenure problems of communal areas. Uncodified customary forms of tenure are not inflexible. Where urbanisation and market development have led to increasing land values, systems of land holding are becoming highly individualised. In this situation, tenure reform through the voluntary registration of transactions would be a step beyond customary practice.

HIV/AIDS and the land rights of the poor

There is widespread evidence from other parts of Africa that landlessness very often increases markedly as a result of natural disasters, particularly drought. It could increase as a result of the HIV/AIDS crisis. When people become sick, vital physical and social assets like cattle or tools are depleted or sold off as they or their families draw on their savings to pay for medical care, funerals, or the hire of labour. Once these productive assets are sold, the household's livelihood options become more limited and so they become increasingly vulnerable. In these processes, women are especially vulnerable, both to infection and, as widows, to loss of land rights and destitution following land grabbing by a local élite. The spectre of growing landlessness associated with HIV/AIDS should give serious pause for thought to those who advocate abolishing customary rights.

Customary systems as social capital

Poverty is understood not only in terms of low income and consumption, but also in relation to people's ability to cater for their basic needs and their opportunities for personal and social development. Capital assets, including finance, land, natural resources and social capital, determine their ability to meet those needs. Women, especially single women and those without wider kin-group support, children, and families of retrenched mine workers are the most vulnerable. Membership of kin groups provides essential support to those in extreme poverty. Where financial resources are absent, social capital can provide a number of livelihood opportunities, including customary access to land and natural resources for farm production and opportunities for paid work. Access to land is by a range of customary transactions including land borrowing, sharecropping, pledging and gifts. These arrangements are particularly important for the poor. In a time of economic recession and the retrenchment of miners, secure access to land and natural resources is vital. Hence the importance of governments helping to sustain customary land tenure by measures that clarify rights and benefits.

Lesotho Draft White Paper on Land Policy (2001)

Box 6: LPRC proposals on rural land management (Chap. 10)**Survey and registration**

All holdings should be surveyed and tenure records lodged at village, district and national level; minutes, records, certificates of allocation etc. shall be kept at village level; the system must be computerized; all land must be registered to eliminate disputes; form C certificates shall be abolished and replaced by proper titles which are not retrospective; title shall be subject to land survey.

Land use planning

All land in Lesotho must be classified into separate land-use zones; prime arable areas must be identified and declared as SAA for intensive commercial 'block farming' of cash crops for the benefit of the poor and landless; villagisation must be undertaken to facilitate infrastructure provision and open up more land for production; there should be a moratorium on settlements on prime arable and grazing land.

Arable land use controls

Intensive commercial farming must be introduced throughout Lesotho; a 3 ha limit should be placed on arable holdings outside SAA with a limit of one hectare within SAA; any land that lies fallow for two successive years shall revert to the land allocating authority; holders of fallow land must pay higher annual land fees to discourage fallow land and to encourage share cropping by the poor; those failing to meet production standards shall forfeit their land; improper farming methods must be prohibited; under-utilised state land should be leased to commercial farmers; there must be no grazing in village areas.

Pastoral land management

RMA's and GA's must be established throughout the rangelands; GA's must have the power to exclude livestock of non-members, etc.; each GA must be able to lease its RMA; the Local Government Act must be amended to avoid a clash of jurisdiction between GA's and Local Authorities; there must be progressive taxes on livestock which must be tattooed to prevent theft; grazing fees must be reintroduced.

DRAFT WHITE PAPER PROPOSALS

Based on the aspirations and recommendations of the Land Policy Review Commission's report a draft white paper on land policy was developed as a basis for further consultations and instilling sufficient legitimacy among the majority of stakeholders. The consultations will proceed following adoption of the draft as a consultation document by Cabinet. The draft policy proposals quoted here bear relevance to poverty alleviation particularly in the rural areas.

Reform on Gender Discrimination

Women play a leading role in poverty alleviation through community initiatives and their activities in agriculture especially in Lesotho where men are migrant labourers in South Africa, and in some cases they are heads of households, yet they are discriminated against on access to land resources in their own right. (see box 7).

UNFIG Bathurst Declaration (1999), reaffirms commitment to Habitat agenda that governments remove all possible obstacles that may hamper equitable access to land and ensure that rights of women and men related to land and property are protected under the law, through the following recommendations:

- registration of rights to land for all and the enforcement of these rights;
- the recognition that customary rights that contradict constitutional rights of equality between man and woman are void;
- creating awareness among the officials in the land administration system that women are disadvantaged in a non-acceptable manner and that their situation can be strengthened through registered rights;

Box 7: Gender discrimination

As the Commission points out, Lesotho has a dual legal system, comprising customary law and statutory law. This dual system can lead to uncertainty as to which law should apply in any given circumstance. For example, on the one hand, the Constitution (Section 4) provides that every person, whatever his/her sex or status, is entitled to fundamental human rights and freedoms. On the other hand, the Constitution (Section 18 (4) (d) states that citizens are not protected from discrimination in terms of customary law.

Under customary law, women are treated as minors and therefore cannot be allocated land, inherit it or make decisions about its cultivation, management and use. A widow has the right to use the land of her late husband, but upon her death, the right passes to the first-born son. In that regard, customary law also discriminates against other male siblings.

These inequalities are also reflected in statutory laws that have effect in urban areas. For example, The Deeds Registry Act 1997, empowers the Registrar to refuse to register a deed in respect of immovable property in favour of a married woman whose rights are governed by Basotho law and custom, where such registration would be in conflict with that law.

As the LPRC explains, the Land Act 1979 aimed to consolidate and amend the law relating to land. It provided that title to land in Lesotho shall only be held under customary law or the Act itself. Thus it served to endorse the principle that daughters could not, in law, inherit their father's fields and that where no sons existed such lands should revert to the chieftainship for reallocation on the holder's death. The Land Act of 1979 provided for a widow to remain in occupation during her lifetime. This was amended in 1992 to give her the same rights as a deceased husband except that, in the event of her remarriage, the land would not form part of community property and would pass to the male heir upon her death. Although an improvement, this amendment still discriminates against widows.

Situations in which women are the *de facto* household head and the principal breadwinner are increasingly common in Lesotho. Yet in their daily lives, women are treated as minors by the law. The roles and responsibilities of women are changing rapidly, but the law remains out of touch with reality

- dissemination of information about legal rights and create awareness among the clients of the land administration system about the situation mentioned above;
- gender-sensitive land administration systems. As an example, this means that the system should be able to produce statistics on the distribution of titles to men and women and all parties involved in any co-ownership;
- the legal system which should give both the men and the women equal rights to the property and should include demands on mutual consents of the parties for a transaction of the property to a third party;
- simple and transparent administrative procedures which will allow the involvement of women in land administration processes;
- the specifications for land administration projects which should include a stipulation that the project be designed in a way that will promote women's access to land on equal conditions as men; and
- basic property rights granted by land title deeds registered under women's personal names which constitute a guarantee for women's equal access to secure loan and credit.

In recognition of the preceding recommendations on gender and responsive to the international conventions that Lesotho has ratified, the Draft White Paper presents bold proposals to address discrimination against women in land matters (see box 8).

Customary Land Tenure

Instead of replacing customary tenure, with new foreign tenure, the proposal is to facilitate adaptations which will facilitate co-existence of common law land rights with customary rights and conversion when desired to common law rights. The envisaged rights are summarised in Box 9.

Arable Land Use Control

Box 8 Qualification and capacity to own land

All laws discriminating against women in Lesotho must be repealed forthwith in so far as access to land is concerned. These include all the discriminatory sections in the Deeds Registry Act 1967 more especially Sections 14 and 35 (c) thereof. Women shall be entitled to own land on merit and to register it in their own names just like their male counterparts.

Section 18 (4) (c) of the Constitution of Lesotho must be amended and deleted forthwith to the extent that it justifies the discrimination against women under the guise of customary law.

All laws, whether customary or legislative, preferring male heirs over women in so far as access to land or property is concerned must be repealed or abolished forthwith. These include Sections 7 (5), 7 (6), 11, 12, 13 and 14 of the Laws of Leretholi.

Access to land or land property and inheritance of same shall be based on merit regardless of sex having regard to the question whether the applicant shall make the best productive use of the land applied for.

Upon the death of the holder of title to arable land such land shall revert to the elected allocating authority namely the relevant Land Board proposed in this report for reallocation provided that such allocating authority shall first consider purely on merit as set out above the application of a person appointed by the family as succeeding the deceased holder of the land in question.

Box 9. Land Rights

Land rights may include one or more of the following:

- rights to occupy a homestead, to use land for crops, to make permanent improvements, to graze animals, have access for gathering fuel, fruits, grass, minerals, etc., to bury the dead;
- rights to transact, give, mortgage, rent or lease, sharecrop, bequeath areas of exclusive use;
- rights to exclude others from the above-listed rights, at community and/ or individual levels; and
- linked to the above, rights to enforcement of legal and administrative provisions in order to protect the rights holder.

The Commission recommends intensive commercial farming with farm acreage predefined and revocation for non-productive farms. These recommendations have negative repercussions on poverty alleviation, it would more likely cause greater wealth gap between those who have resources to farm and keep their land and those whose land rights are revoked. Adams considering the trade-offs between more agricultural productivity versus poverty reduction inquires “Should governments (a) large numbers of poor people with small parcels of land, without the minimal assets to develop it or (b) redistribute land in larger parcels to small numbers of farmers and provide access to the required levels of support services? There is a third option, (c) to stand back from land redistribution altogether and encourage large-scale commercial farmers to increase production and export revenue.”

Range Management Areas (RMAs) and Grazing Associations (GAs)

One of the rural sources of livelihood is in stock farming, which unfortunately causes serious land degradation when the process is not properly managed. The range management and grazing associations are some of the concepts that have been tried with varying degrees of success in the some mountain areas. Ivy and Turner (1994) quote Sehlabathebe, (mountain area within Lesotho) grazing association as a successful natural resource management endeavour. Based on this success, the initiatives and proposals are being undertaken as follows:

The Stock Theft Act 2000 is in place and preparations are underway for its implementation. An information system is being developed for the registration and marking of stock. Government supports the reintroduction of grazing fees for all livestock. It is proposed that grazing fees are deposited under the development fund under accounts of individual villages. Where applicable, GAs should collect the grazing fees from their members. GAs should be delegated responsibility for managing their RMAs. The Land Husbandry Act 1969 should be amended (or repealed) to reflect the changed circumstances in the rangelands and to provide legal clarity on the rights and responsibilities of the GAs. Relationships between the GAs and the existing and new institutions still need to be clarified. The Government has to balance the granting of exclusive rights to GAs against maintaining the traditional rights of a larger group to communal grazing. In the case of forestry projects, where the larger group cedes its interest to the smaller group, an undertaking is given that a proportion of the annual benefits will be transferred to the larger group. Whether such an arrangement would be feasible in the case of grazing schemes should be considered.

STRATEGIC OPTIONS

As Carnall stipulates “learning is produced by dilemmas and contradictions, these have to be resolved in the internal and external circumstances at any given time. Personal experience and experimentation, require risk taking, the expression of deeply-held beliefs and it is also helped by recognising the value of people and ideas.”(1995:) This philosophy can be compared to the preceding discussions of land reform where the dilemmas of redistribution are evident in our region; the contradictions of agricultural productivity versus poverty reduction; the risk of transparency and good governance against political gains or strong traditional beliefs; and the need for effective networks, participation and conflict management.

Access to Land

The need for redistribution may not be evident in Lesotho, since the screwed land ownership is still amongst the Basotho. The Lesotho constitution prohibits discrimination in all its forms, however, the Land Act 1979 amendment refers to “Mosotho who is a Mosotho” when addressing qualification to hold land rights. Incremental land tax should be used to discourage land hoarding.

Similarly, on gender discrimination the laws and practices that engender discrimination have to be abolished. However, governments should note that the removal of certain legal clauses will not change cultural and social behaviour, there needs to be a strong sensitisation and training campaigns, especially in the rural areas. It is accepted that women play a major role in agricultural production and upkeep of households, therefore their rights to land resources should be secured.

Land Markets

The concept of treating land as a commodity is foreign to most African traditions, yet the economic environment and globalisation dictates that these beliefs should be reassessed. The reality is that there have been land transactions in various forms under customary tenure, yet formalising these practices brings about the fear of being brought out by strangers in the land. Referring to one such transaction in Lesotho “crop-sharing” Migot-Adholla (1997) states “This is becoming the most common strategy adopted by the majority of Basotho salariat desiring to invest surplus capital in farming ventures on an annual basis. Unlike the traditional arrangement, the party leasing land provides all inputs, including labour and management. The crop is divided equally after the cost of all inputs has been deducted. Because of their short duration and generally low probability of loss of claims over the land by the landholder, such contracts tend to be very informal, rarely involving written agreements, or witnesses outside the family.” Governments should assist in formalising land transactions of this nature for the protection of both parties’ interest.

Participation

Land reform should not be undertaken in isolation by government excluding other stakeholders, but it should be a consultative process with participation of all levels of community, ngos, donor community and local government structures. It should be part and parcel of a broad strategy for poverty alleviation through rural development. The role players need to instil local ownership into the process by taking advisory stance rather than imposing their experiences.

However, it is common for governments to overlook this important requirement of participatory land reform process, therefore it is essential to develop strategies to address the deliberate or accidental oversight on the part of government. This involves creating capacity in CBOs and NGOs through regional and international networks that should avail support in terms of relevant materials, studies and technical support. Global policies of bodies such as IMF and World Bank sometimes do not address poverty alleviation in the countries that they are assisting; the regional networks can therefore assist to determine what is suitable and what is detrimental to the region. This will conform to Ezigbalike et al (1999) opinion that “just like with languages and other customs, people who have to interact for mutual benefit, such as trade, may

learn each other's language to facilitate the transactions, and may spend time to find out about dos and don'ts of the other. We accept differences in language and other aspects of culture. Land tenure is no different. As with most things, we should adopt what is good for us, and at a pace that will not cause social upheavals."

References

- Adams, M. (1995). ODI - Land reform. *Land reform: new seeds on old ground*. Overseas Development Institute. http://www.oneworld.org/odi/land_reform.html. (1 September 1999)
- Adams, M. (2000). ODI—*Breaking Ground: Development Aid for Land Reform*. Overseas Development Institute. London
- Carnall C, (1995). *Managing Change in Organisations*, Prentice Hall International (UK).
- Ezigbalike, I.C. and Q.C. Selebalo (1999). *African Experience of Tenure Reform and Cadastres: A Place in the Global Sun?* Presented at the UN-FIG Conference on Land Tenure and Cadastral Infrastructures for Sustainable Development, Melbourne, Australia
- GTZ. (1991) *Regional Rural Development—RRD at a Glance*, Eschborn
- Ivy D and Turner S (1996). *Successful natural Resource Mangement in Southern Africa—Range Management Areas and Grazing Associations experience at Sehlabathebe, Lesotho*. Gamberg Macmillan, Windhoek
- Kasanga K. (2000). *Critical Perspectives—Land Policy and National Development in Ghana*, Centre for Democracy and Development Ghana
- Kasanga K, Panda H and Betke D (1999). *Land Policy and Land Management in Lesotho Appraisal Report*
- McAuslin P (1996). *Report of the Review of the Law and Practice on the Compulsory Acquisition of Land and Compensation Payable Thereof in Lesotho*
- Migot-Adholla S E (1997) *Pre-appraisal Report—Lesotho Land Policy and Administration*
- UN-FIG (1999). *Workshop on Land Tenure and Cadastral Infrastructures for Sustainable Development Bathurst Australia*