

**THE WORLD BANK'S
POLICY RESEARCH REPORT
'LAND POLICY FOR PRO-POOR DEVELOPMENT'**

A GENDER ANALYSIS

PAPER PREPARED IN RESPONSE TO
THE PUBLICATION OF THE POLICY RESEARCH REPORT AT

[http://Inweb18.worldbank.org/ESSD/essdext.nsf/24DocByUnid/70432684716CDA4785256C87005B99ED/\\$FILE/draft_prr.pdf](http://Inweb18.worldbank.org/ESSD/essdext.nsf/24DocByUnid/70432684716CDA4785256C87005B99ED/$FILE/draft_prr.pdf)

IN ORDER TO FACILITATE AN EMAIL DISCUSSION
TO TAKE PLACE BETWEEN
27 DECEMBER 2002 AND 10 JANUARY 2003

By

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I INTRODUCTION

Following the work of Robin Palmer (Land Policy Adviser, Oxfam) to make available the first draft of the World Bank's Policy Research Report (entitled 'Policy Research Report on Land Institutions and Land Policy') on the Land Rights Resource Bank¹, the author had an opportunity to study that document (hereafter 'the first draft') and in particular to analyse its approach to gender issues. An analysis of that document has now been published as:

Capital, Labour and Land Relations in Africa: A Gender Analysis of the World Bank's 'Policy Research Report on Land Institutions and Land Policy'.
24(1) *Third World Quarterly* 2003, 97-114.

Klaus Deininger has also been requested to make the paper available at:
<http://lnweb18.worldbank.org/ESSD/essdext.nsf/24ByDocName/PRRe-Discussion>

The discussion which follows presents an analysis of the most recent draft of the Policy Research Report (entitled 'Land Policy for Pro-Poor Development'). It is understood that the Report will form the basis on an email discussion to take place between 27 December 2002 and 10 January 2003.² This response is designed to facilitate a discussion of gender aspects of the Report. It seeks to present a gender analysis of the document; to explore whether, and to what extent, it differs from the first draft; and to comment on the recommendations it contains.

II AIMS OF THE RESPONSE

The aim of this response is to develop a gender analysis of the World Bank's most recent draft Policy Research Report ('Land Policy for Pro-Poor Development') by:

- a. assessing whether, and to what extent, the present Policy Research Report addresses the failings of the first draft in relation to gender issues;
- b. exploring the extent to which the Report addresses gender inequality and seeks to improve women's position;
- c. assessing the implications for women, and more widely for gender relations, of the approach to land relations adopted in the Report;
- d. focusing in particular on three issues:
 - i) the Report's promotion of formal rural credit;
 - ii) its assumption of the availability of women's unpaid labour which provides small farms with a productivity advantage over larger ones; and
 - iii) its approach to the issues of titling of land and transferability of land.

¹ See <<http://www.oxfam.org.uk/landrights>>

² It should be pointed out that both the period of time allocated to the email discussion and the dates chosen for it cast severe doubt on the World Bank's process of consultation.

III THE FIRST DRAFT OF THE POLICY RESEARCH REPORT (‘LAND INSTITUTIONS AND LAND POLICY’)

SUMMARY OF THE CRITIQUE

The following is a summary of the author’s analysis of the first draft of the Policy Research Report.

a. The Notion of ‘Non-Contractible Labour’

This section interrogated the notion of ‘non-contractible labour’ which lay at the heart of the Report’s approach to agricultural productivity. It showed that the idea of non-contractibility takes the private sphere of the household and kin groups to be characterised by affective ties of community which give rise to solidarity between individuals. This section drew on the writing of feminist theorists who have revealed that the private sphere is in fact often based on quasi-feudal domination and on coercion rather than freedom. It argued that the idea that women’s household (and therefore agricultural) labour is freely available as an extension of their reproductive labour (under a figurative ‘sexual contract’) needed to be challenged. This section demonstrated that the Report’s approach to non-contractible labour was founded on the assumption that women will demand less (in terms of wages and conditions) than waged labour.³

b. The Household as a Unit of Analysis

This section demonstrated that the Report approached the household as an undifferentiated unit in which the needs and interests of men and women fully coincide. It neglected a considerable and well-established body of literature which has revealed the ways in which the family functions as an ideological and material site of oppression. The availability of women’s unwaged labour within the family is a function of male control over women’s reproductive capacity. This has been the central focus of feminist analyses since the 1960s. This section argued that in taking the household as its basic unit of analysis, the Report conflated the interests of individual members of the household. It failed to address evidence from a range of disciplines such as economics, development studies, anthropology, law and political science which has problematised the household (in developing as well as developed countries) and shown how the interests of its members cannot be assumed to be identical. This failure to disaggregate the individual interests at stake in a household was a major failing of the Report.⁴

c. ‘Motivated Family Labour’

The idea that family labour is more motivated than waged labour and that the household thus enjoys a ‘productivity advantage’ was central to the Report. It was argued in this section that the coercive power of the male head of the household is

³ A Manji “Capital, Labour and Land Relations in Africa: A Gender Analysis of the World Bank’s Policy Research Report on Land Institutions and Land Policy” 24(1) *Third World Quarterly* 2003, p 102-103.

⁴ Op Cit, p 103-104.

elided in the notion of 'motivated labour'. Implementation of the Report thus promised to embed the very patriarchal, feudal gender relations that the World Bank professes elsewhere to be committed to alleviating. The Report's failure to address this issue suggested that the World Bank was prepared to collude in women's oppression. It was argued that poverty alleviation and economic development clearly required, for the Bank, the full disciplinary power of patriarchy and the hidden coercion and often outright violence on which it depends for its authority.⁵

d. The Consequences of Default

This section pointed out that the Report was curiously silent about the consequences for households of defaulting on loans raised using land as collateral. It explored the legal issues relating to the need to protect women's interests in land against institutional lenders. A number of common law jurisdictions have sought to develop, by judicial and legislative means, effective mechanisms by which to protect women's interests in mortgaged property (whether as co-occupants or as holders of equitable or legal interests). The feasibility of these mechanisms in the African context was explored. In particular, it was argued that commercial lenders are in a strong position to resist legal provisions which oblige them respect women's rights when acquiring security for loans.⁶

f. Equity and Poverty Reduction Strategies

This section discussed the Report's attempts to integrate land issues into the Bank's overall poverty reduction strategies. It argued that it is difficult to envisage how the Report's approach to labour (essentially the unwaged labour of women) and to capital (the promotion of rural debt) could be squared with the Bank's poverty reduction strategies. Whilst the redistribution of land to small owner-operators from larger operators may be a laudable aim, it was questionable whether such transfers could be characterised as equity-enhancing if they were founded on the freely available labour of women. The Bank's notion of what is equitable in this context was thus open to contestation.

This section also addressed the Report's promotion of rural credit to encourage 'indivisible investments'. It argued, firstly, that it cannot be taken for granted that individual members of a household will behave as the idealised rational market-actors of the Bank's vision and put available credit to productive use. Secondly, it problematised the idea of the social use value of credit which envisages that households will make indivisible investments in, for example, healthcare and schools. It reviewed the role of the World Bank in the privatisation of public goods (for example, healthcare and education) in the 1980s. It argued that the Report encourages the poorest and most vulnerable to exploit their sole productive asset (i.e. land) to raise the credit by which to pay for these recently privatised public goods. It was argued that the promotion of rural credit to pay for public goods, far from contributing to efforts to reduce poverty, would ensure that it remained a persistent reality.⁷

⁵ Op Cit, p 104-105.

⁶ Op Cit, p 105-107.

⁷ Op Cit, p 107-108.

g. Bringing Women's Rights onto the Agenda

To conclude, the paper argued that it is important for advocates of women's rights to respond to the World Bank's land agenda; it identified two key constituencies from whom critiques of the Report might have been expected. Firstly, those employed to work on gender issues within the World Bank itself and secondly, gender progressive groups in Africa. It argued that from the evidence of the report, the 'women in development' efforts of the 1980s appear singularly to have failed to become embedded in public policy. It showed that the early debates on land reform in Africa were characterised by very little attention to women's land rights and that this trend appeared to be set to continue. It argued that the questions which need to be addressed were no longer of women's rights to land per se. Issues of labour and of capital were now of central importance. It remained to be seen whether and how advocates of women's rights would respond to this new dispensation.⁸

IV THE CURRENT POLICY RESEARCH REPORT ('LAND POLICY FOR PRO-POOR DEVELOPMENT')

ELEMENTS OF A CRITIQUE

a. The Notion of 'Non-Contractible Labour'

The term 'non-contractible labour' does not appear at any point in the Policy Research Report now before us. In this regard, the present Report differs from the first draft promulgated by the World Bank and discussed above. The removal of the term 'non-contractible labour' should not, however, be taken to mean that the idea is no longer at the heart of the Policy Research Report and therefore of the World Bank's land policy.

It is, for example, central to the Report's discussion of labour market imperfections:

"One main reason for imperfections in rural labour markets is the cost of supervision which arises from the fact that, except in very limited circumstances, a wage workers' (*sic*) true effort is not easily observable."⁹

As the Report points out:

"Family members...can be employed without incurring hiring or search costs."¹⁰

"Owner-operated family farms avoid the need to supervise permanent wage workers, implying they enjoy a productivity advantage as compared to large

⁸ Op Cit, p 108-109.

⁹ World Bank Policy Research Report: Land Policy for Pro-Poor Development, p 61.

<[http://Inweb18.worldbank.org/ESSD/essdext.nsf/24DocByUnid/70432684716CDA4785256C87005B99ED/\\$FILE/draft_prr.pdf](http://Inweb18.worldbank.org/ESSD/essdext.nsf/24DocByUnid/70432684716CDA4785256C87005B99ED/$FILE/draft_prr.pdf)>

¹⁰ Op Cit, p 61.

farm units with numerous hired laborers. These attributes underlie the general superiority of family farming over large-scale wage operations.”¹¹

The Report also relates the availability of unpaid women’s labour to capital market imperfections:

“In cases where other markets function reasonably well, optimal farm sizes often do not exceed the scale at which family labor is fully occupied...”¹²

The Report celebrates the “productive superiority of family farms”¹³ and seeks to avoid what it calls “efficiency-reducing wage labor contracts”.¹⁴

In the view of the Report, owner-operated farms are more efficient and productive than those relying on waged labour. Although the Report does not employ the term, it is clear that the notion of non-contractible labour still remains at the heart of agricultural productivity. Such labour is thought to be efficient for three main reasons. First, and most obviously - although the Report avoids making this explicit - such labour is unremunerated. Secondly, it incurs no supervision costs and thirdly, it provides a highly motivated labour force. These factors give small farms a productivity advantage over larger operations which are dependent on waged labour.

The Report’s ongoing assumption about the availability of non-contractible effort is extremely problematic. In promoting the idea of owner-operated farms, the Bank seeks to avoid the use of what it perceives to be expensive, inefficient and inflexible waged labour in agriculture. The employment contract is to be avoided in favour of flexible, willing and unpaid labour, that is, women’s labour. The Report suggests that where agriculture has to adjust to microvariations in weather, family labour is more desirable.¹⁵ In these circumstances waged labour would be inefficient because it would have to be paid and supervised whilst travelling between distant plots and during periods of bad weather. In contrast, non-contractible or women’s labour would provide a flexible and free labour force.

It is clear that the notion of non-contractible effort needs to be interrogated. Central to the notion is the avoidance of an employment contract by which labour is remunerated by a wage. What is important about the labour of women, however, is the reason why such effort is considered to be non-contractible. Drawing on the debates surrounding feminist demands that women should be paid for housework, it is possible to assess the impact on agricultural productivity of women being remunerated for their household and agricultural labour. Labour constitutes the greatest cost on small farms and it is therefore clear that if family labour were to be waged, this would constitute a cost rather than a saving, reducing the productive and competitive advantage of the unit. The entire notion of the productive and competitive advantage of owner-operated farms over those dependent on wage labour is founded on the availability of labour of women which is taken to be free, flexible and willing.

¹¹ Op Cit, p 61.

¹² Op Cit, p 62.

¹³ Op Cit, p 64.

¹⁴ Op Cit, p 70.

¹⁵ Op Cit, p 61.

The Report explicitly presents two poles of labour; on one hand, motivated and non-waged family labour and on the other, inflexible paid labour. The contrast between these two forms of available labour has at its core the idea that women will make fewer demands than waged labour. For the Bank, in terms of both pay and conditions, women are the better deal. They will not demand to be remunerated for their efforts whilst providing willing and motivated labour. Seen in this light, it is clear that the productivity advantages of small farms and the argument that this should be rewarded or harnessed by enabling them to raise credit using their land as collateral is built on the backs of women. The capital raised by the household, whilst not necessarily accruing to women (a fact that is recognised in the current Report and taken up below), is made available on the assumption of the continuing availability of women's labour.

b. The Household as a Unit of Analysis

Unlike its predecessor, the current Policy Research Report clearly acknowledges a well-established theoretical literature as well as empirical research which have shown that the household is not an undifferentiated unit in which the interests of men and women converge.

In discussing the intra-household allocation of rights, for example, the Report notes:

“past research and conceptual work was often based on a unitary model of the household. However, a growing literature highlights that this model is inadequate and that the way in which control over such rights is assigned within the household has far-reaching implications for a wide range of outcomes.”¹⁶

The Report also acknowledges that:

“in a number of circumstance (*sic*), the preferences of women and men in the same household over different types of consumption are not equal.”¹⁷

This echoes a point raised by the author in relation to the promotion of rural credit in the first draft of the Report:

“It cannot be taken for granted that [individual members of the household] will behave as the idealised rational market actors of the Bank's vision and put available credit to productive use. The possibility that having raised a loan, male heads of households might see fit to use the available cash in ways which do not benefit the household needs to be confronted.”¹⁸

It is an important development that the present Report has adopted a more sophisticated notion of the household and of power relations within it.

¹⁶ Op Cit, p 39.

¹⁷ Op Cit, p 39.

¹⁸ A Manji Op Cit, p 107-108.

However, it must be pointed out that the document as a whole has not benefited from this insight. This remains an issue of particular concern.

The Report does not address the implications of this non-unitary model of the household for issues other than control over resources and assets. The availability of women's unwaged effort within the family, on which the Report relies, is founded on the coercive power of household heads over women's labour power. This needs to be recognised if the discussion of intra-household allocation of rights is to amount to more than a mere acknowledgement of academic and empirical findings, and to have an impact on land policy.

Relatedly, the Report does not extend its new-found recognition of feminist and other work on the family sufficiently to question the idea of family farms.¹⁹ To do so would require it to interrogate the basis of "the general superiority of family farming".²⁰

c. 'Motivated Family Labour'

The Orwellian usage 'motivated family labour' which was prevalent in the first draft of the Policy Research Report has been dropped in the current document. This should not however obscure the fact that, like its forbear, this Report is built on the assumption of motivated family labour. It asserts:

"In agricultural production, spatial dispersion of the production process and the vagaries of nature imply a need to constantly adjust (*sic*) to micro-variations of the natural environment. Family members have higher incentives to provide effort than hired labor. They share in farm risk..."²¹

It points out that there is a:

"supervision cost advantage enjoyed by family farmers".²²

The important question - which is not tackled in the Report - is not whether, but rather why, family members are taken to "have higher incentives to provide effort than hired labor"²³. It must be recognised that this may be as a result of their unequal position within the household and the wider community. The Report makes no attempt to propose solutions in this regard. Although this was a major limitation of the first draft of the Policy Research Report, it can at least be said of that document that it did not purport to have as one of its objectives the improvement of gender relations. That is not the case with the current document. Having made the claim that it is concerned with gender issues²⁴, the burden is now on the Bank to address gender equity throughout the Report.

¹⁹ R Palmer "A Guide to and Some Comments on, the World Bank's Policy Research Report: Land Policy for Pro-Poor Growth and Development"

See <<http://lnweb18.worldbank.org/ESSD/essdext.nsf/24ByDocName/PRRe-Discussion>>

²⁰ Op Cit, p 61.

²¹ World Bank Op Cit, p 61.

²² Op Cit, p 62.

²³ Op Cit, p 61.

²⁴ Op Cit, p 39.

Although it purports to have taken on board the important academic and policy literature on the household, the Report continues to expect women both to provide effort and willingly to “share farm risk”.²⁵ The net effect is clearly taken to be a social and economic good: a highly motivated, unpaid and flexible labour force. What must be questioned, however, is whether the burden of this social and economic good should be visited upon women.

d. The Consequences of Default

In the author’s published analysis of the first draft of the Policy Research Report, it was pointed out that that document was “curiously silent about the consequences for households of defaulting on loans raised using land as collateral.”²⁶ It is therefore worthy of note that unlike its forbear, the current Report explicitly mentions the problems entailed in household defaulting on rural loans:

“...at low levels of income and in the absence of other mechanisms for social security, land serves as a social safety net. Foreclosing on the land of households who have defaulted on credit would deprive them of the basic means of livelihood and may not be socially desirable which is essentially the reason for customary systems restricting the marketability of land.”²⁷

Is this to be taken as a sign of progress? It is important to analyse the context within which the risk of foreclosure is recognised in the above passage. In fact, the Report treats this risk as a problem not for the household but for commercial lenders. The emphasis of the Report is on situations which are likely to operate to make it impractical or undesirable for banks to foreclose. The passage is concerned with the disquiet which would be expressed, and the problems of legitimacy which would result, should commercial lenders attempt to foreclose on poor households. The Report’s main concern is that credit markets would be slow to emerge in such an environment.²⁸

That the Report’s primary objective is the promotion of formal credit markets rather than the protection of poor households is confirmed by its position on land mortgage restrictions. Such restrictions are strongly to be discouraged. In relation to the beneficiaries of land reform programmes, for example, the Report states:

“Restrictions on transferability of land through the sales market have frequently been imposed on beneficiaries of land reform or settlers on formerly state-owned land to prevent them from selling or mortgaging their land. Such restrictions could be justified as a temporary measure to prevent beneficiaries of land reform from selling land based on inadequate information or in response to temporary imperfections in product and financial markets. However, even temporary restrictions on land mortgages

²⁵ Op Cit, p 61.

²⁶ A Manji Op Cit, p 105.

²⁷ World Bank Op Cit, p 36.

²⁸ Op Cit, p 36.

could be counterproductive as they would deprive beneficiaries from accessing credit in the establishment phase when it was most needed.”²⁹

It is difficult to square the Report’s advocacy of rural credit with its professed acknowledgement of the risks for households of defaulting on loans.

The Report also provides assurances that its advocacy of land titling is not necessarily linked to the issue of the transferability of land:

“There is often concern that better definition of land rights would necessarily imply higher levels of transferability and thereby create the danger for household to lose their main source of livelihood eg because of distress sales. We have seen that tenure security can be enhanced quite independently from the rights to transfer land; in fact a large number of country examples demonstrate that increasing the security of property rights does not require to make them transferable (*sic*) through sales (or even rental) markets to outsiders.”³⁰

The Report’s assertion that there is no necessary link between titling and transferability is, however, undermined by the evidence of the document as a whole. In almost every context in which titling is discussed, the issue of transferability is also at stake. For example:

“The establishment and enforcement of property rights to land has many public good aspects...facilitation of more abstract representation and impersonal exchange provide (*sic*) a necessary (though by no means sufficient) condition for participation in a modern economy through mechanisms such as mortgaging.”³¹

In spite of the Report’s declaration to the contrary, title and transferability are indeed closely intertwined in the proposed land policy.³²

e. Equity and Poverty Reduction Strategies

²⁹ Op Cit, p 93-94.

³⁰ Op Cit, p 59. Mortgages are not specifically mentioned in this passage but are of course a type of transfer of land. Specifically, they entail a transfer of ownership of property to the lender with the mortgagor staying in possession on the understanding that the asset will be conveyed back to the debtor when the debt has been repaid.

³¹ World Bank Op Cit, p 26.

³² See also Op Cit, p 2: “In all developed economies, mortgages and other sources of credit that depend on land real estate as collateral are a pre-eminent source of credit. This would not be possible without well-defined, secure, and transferable rights to land.”; p 23: “...it is important to note that a critical attribute of ownership is the ability to dispose of the asset in question”; p 24: “The main mechanism for formalization of rights have (*sic*) been land registries and title documents which provide not only protection from challenges to individuals’ rights, but also make it easier to transfer these rights and therefore allow the emergence of secondary financial instruments, such as mortgages...”; p 27: “The establishment of secure property rights ie rights that are defined with sufficient precision and can be enforced at low cost by economic agents, require considerable investment...”; p 28-29: “Formal and well-documented property rights...are required for land transfers in an a-personal setting. The scope to transfer land is associated with the ability to use land as collateral for formal credit which is the basis of mortgage markets.” See also p 31; p 35; p 37; p 38; p 55; p 60.

In its various incarnations, the Policy Research Report has continually professed an interest in poverty reduction. The goal of poverty reduction was an important aspect of the first draft. The current Report goes a step further and incorporates the idea of poverty reduction in its very title: it is designed for “pro-poor development”. Furthermore, we are told that the Report to be published in early 2003 will take the title “Land Policy for Economic Growth and Poverty Reduction”.³³

As the discussion above demonstrates, it must be questioned whether an equitable goal such as poverty reduction can be achieved on the back of women’s unpaid labour and through the promotion of formal rural credit.

In discussing the role of land policy, the Report states that:

“it is important to bear in mind the [three] principles which, within an adequate overall policy framework, land policy should aim to promote. First and foremost, it should help to realize the potential of the private sector who will have to be the main engine of growth and who will greatly benefit from clarity in the assignment of property rights and low transactions costs and all the benefits associated with this. Second, given that land policy has in the past often severely discriminated against the poor, specific actions to empower this group are justified to provide them with equal access to economic opportunities...”³⁴

There is good reason to doubt whether the aims of land policy as set out in this passage are in fact reconcilable. More importantly, it is necessary to challenge the order of priority they are assigned. The demands of a capitalist economy for certainty are explicitly stated to be the first priority of the World Bank. The inadequacy of the consultation process to date has clearly insulated the World Bank from those who would elaborate a very different set of priorities for a land policy.³⁵ For rural inhabitants, security of tenure and a guarantee of their source of livelihood are likely to be the foremost aims of land policy.

f. Bringing Women’s Rights onto the Agenda

A major weakness of the first draft of the Policy Research Report was its failure to tackle the issue of women’s land rights and, more widely, that gender relations. The present Report does in fact contain some discussion of women and land. However, this should not mask the fact that the Report’s fundamental assumptions – which the

³³ Op Cit, p 1.

³⁴ Op Cit, p 141.

³⁵ See, for example, [Open Letter to the World Bank on Land Policy Consultation: An African Appeal](http://www.nlc.co.za/pubs/wbopenletter02.htm), a document signed by a number of South African organisations, including the National Land Committee; Rural Development Services Network; Landless People’s Movement; Transkei Land Service Organisation; and Southern Africa Network on Land. Available at <http://www.nlc.co.za/pubs/wbopenletter02.htm>. The letter reads in part: “The Bank has announced that the process of redefinition [of land policies] will be transparent...and the new policies which emerge from this process are supposed to be ‘defined with the participation of civil society’...We...note the absence and landless and peasant organisations on the list of invited participants [to the World Bank’s regional workshops]. We believe it is impossible to embark on a ‘participatory’ process to define land policies without including the peasants’ perspective.”

discussion above has shown to have remained very much intact – threaten to worsen rather than to ameliorate women’s position.

In contrast to the earlier draft of the Report, the current document demonstrates that the Bank is now alert to the need to tackle issues of gender. As the analysis presented above demonstrates, however, these changes are largely superficial. At present, we find that the Report has retorted to a well-known technique: that which goes under the ghastly name of “add women and stir”. There remains a great deal still to be done.

V CONCLUDING REMARKS

It is hoped that the analysis presented here will provide a starting-point for discussion.

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