

# Breaking Ground: Development Aid for Land Reform

Martin Adams



Overseas Development Institute



ODI Research Study

00020335



Overseas Development Institute

# Breaking Ground: Development Aid for Land Reform

Martin Adams

Overseas Development Institute



# **Breaking Ground: Development Aid for Land Reform**

**Martin Adams**

The cover illustration is reproduced with kind permission of the South African Department of Land Affairs. It shows the then ANC Minister for Land Affairs, Derek Hanekom MP, ploughing the first furrow at Mogopa, after the community had returned to their land in 1996. Hanekom, who spent several years in prison for his principles under the apartheid regime, understood that land reform is a precondition for peace and reconciliation, requiring the total commitment of all South Africans to the redress of the terrible injustices of the colonial and apartheid past.

Martin Adams  
September 2000

A CIP Publication data record for this publication may be obtained from the British Library.

ISBN 0 85003 500 7

© Overseas Development Institute 2000

Published by the Overseas Development Institute  
111 Westminster Bridge Road,  
London SE1 7JD

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publisher.

Printed by Russell Press, Nottingham.

# Contents

Acknowledgements	viii
Acronyms and Abbreviations	ix
<b>1 Introduction</b>	<b>1</b>
The scope of land reform	1
The tenure reform debate	2
Issues relating to redistributive land reform	4
Land restitution	7
'Agrarian reform' and 'land reform'	7
<b>2. Social and economic theory of land reform</b>	<b>8</b>
The economic case for land reform	8
Measures to increase tenure security	8
Redistributive land reform	17
Legal instruments for reform	33
<b>3. Justification for donor support for land reform</b>	<b>36</b>
Issues to be considered	36
Redistributive reform in the Philippines	36
Redistributive reform in Zimbabwe	40
Redistributive reform in South Africa	46
<b>4. Issues arising from the case studies</b>	<b>59</b>
Cyclical policy changes	59
Poverty reduction versus agricultural productivity	61
Budgetary resources for land reform	65
Coordinating support services for land reform farmers	66
Relative priority attached to tenure reform	69
Rights-related issues	72
Environmental issues	79

5.	Appraisal of land reform projects and programmes	85
	Financial and economic appraisal of tenure reform legislation	85
	Financial and economic appraisal of land redistribution projects and programmes	102
	Monitoring the impact of land redistribution	108
6.	Official development assistance to land reform	115
	Background	115
	The scope of donor support to land reform in South Africa	120
	Generic assistance categories	121
	References	126

## Tables

Table 1	The benefits and disadvantages of government-donor-NGO collaboration in agrarian reform in the Philippines	31
Table 2	Estimated LRPP costs	54
Table 3	Contribution of tenure reform to economic development through tenure security	99
Table 4	Estimate of the positive economic impacts of tenure reform	100
Table 5	Household and aggregate economic values of land-based households' livelihoods in communal areas	101
Table 6	Household income levels required to obtain various levels of IRR from the LRPP	107
Table 7	Grants to the South African Department of Land Affairs (1994-9)	122



<b>Boxes</b>	
Box 1	Land rights 2
Box 2	Tenure categories in communal areas 3
Box 3	'Tragedy of the Commons' – background to the debate 10
Box 4	Tenure needs in informal settlements on communal land 12
Box 5	Botswana's customary land tenure system 13
Box 6	Critical tenure-related livelihood questions 15
Box 7	DFID assistance to rural restructuring in transition countries 27
Box 8	NGOs in the implementation of land reform in the Philippines 30
Box 9	RSA Section 25 constitutional clauses relating to expropriation 33
Box 10	New South African land tenure laws 35
Box 11	Objectives of Zimbabwe's Phase 1 Land Reform and Resettlement Programme 41
Box 12	RSA constitutional clauses relating to land reform 47
Box 13	Gender analysis 75
Box 14	Environmental Impact Assessment 79
Box 15	Land tenure in Uganda 86
Box 16	Appraisal criteria, Phase 1 Resettlement Programme, Zimbabwe 103
Box 17	Quality of life survey of South African land reform beneficiaries 111

## Acknowledgements

I am indebted to land reform workers from many countries, on whose knowledge and writing I have been able to draw and whose fellowship I have so much enjoyed over the years.

This paper is based on a document drafted for the Department for International Development (DFID) in September 1999. It has been updated and extended to take account of recent developments and new material.

Neither the Department of Land Affairs nor DFID is in any way responsible for the views I have expressed.

Martin Adams  
DFID Consultant,  
Department of Land Affairs,  
Pretoria,  
SOUTH AFRICA  
mokoro@mokoro.co.uk

## Acronyms and Abbreviations

AGRITEX	Agricultural and Technical Extension Services (Zimbabwe)
ANC	African National Congress (South Africa)
ARC	Agrarian Reform Community (Philippines)
AZT	Anti-retroviral drug
CARL	Comprehensive Agrarian Reform Law (Philippines)
CARP	Comprehensive Agrarian Reform Programme (Philippines)
CBO	Community-based organisation
CPA	Communal Property Association
DAC	Development Assistance Committee (OECD)
DANCED	Danish Co-operation for Environment and Development
Danida	Department of International Development Co-operation (Denmark)
DAR	Department of Agrarian Reform (Philippines)
DFID	Department for International Development (UK)
DFID-SA	Department for International Development – South African office
DLA	Department of Land Affairs (South Africa)
DERUDE	Department of Rural Development (Zimbabwe)
DKK	Danish kroner
ECU	European Unit of Account (now Euro)
EIA	Environmental Impact Assessment
EU	European Union
GBP	British pound
GEAR	Growth, Employment and Redistribution policy (South Africa)
ha	hectares
IPFP	Interim phase framework plan (Zimbabwe)
IRR	Internal Rate of Return
LAPC	Land and Agriculture Policy Centre (South Africa)

*x Breaking Ground: Development Aid for Land Reform*

LRPP	Land Reform Pilot Programme (South Africa)
LRRP	Land Reform and Resettlement Programme (Zimbabwe)
LRSP	Land Reform Support Programme (South Africa)
LRCF	Land Reform Credit Facility (South Africa)
M&E	Monitoring and evaluation
MLRRD	Ministry of Lands, Resettlement and Rural Development
MSMSE	Micro Small and Medium Scale Enterprise Development
NLG	Netherlands guilder
NGO	Non-governmental organisation
ODA	Overseas Development Administration (UK)
oda	Official Development Assistance
R	South African Rand
RDP	Reconstruction and Development Programme (South Africa)
RSA	Republic of South Africa
SDC	Swiss Agency for Development and Cooperation
SDI	Spatial Development Initiative (South Africa)
SWAPO	South West African People's Organisation (Namibia)
TA	Technical assistant
UNDP	United Nations Development Programme

# 1

## Introduction

### The scope of land reform

Land reform is generally accepted to mean the redistribution and/or confirmation of rights in land for the benefit of the poor. These may be tenants, farm workers and other disadvantaged groups whose tenure is legally insecure because they use and occupy land belonging to other persons, including land registered in the name of the state. The potential scope of land reform is very wide. Three principal types of intervention by the state in the operation of the land market have been distinguished.

#### *Legally imposed controls and prohibitions*

These constitute direct intervention by the state in the land market, e.g. nationalisation and collectivisation; restitution and redistribution policies involving expropriation of land (with or without compensation); expropriation of portions of holdings which are above a certain size; expropriation of land parcels which are under-utilised or owned by absentee landlords and/or foreigners; and slow or sporadic redistribution policies which operate through estate duty laws ('death' duties) and land taxes.

#### *Inducements or 'market-assisted' incentives*

These are offered by the state for social and economic reasons and lead to the creation of new property rights or the restructuring of existing proprietary structures, e.g. the privatisation of state farms and collectives; the redistribution of state-owned lands; state expenditure on land reclamation and land development and subsequent redistribution as private property; direct state grants or tax concessions to purchase and/or improve private property; state-sponsored credits channelled through a land bank to individuals or through farmers' cooperatives for land-reform farmers; support to institutions (statutory or non-statutory) to administer the necessary land acquisition and redistribution to land-reform farmers.

### *Land tenure reform*

This refers to a planned change in the terms and conditions on which land is held, used and transacted; e.g. the adjustment of the terms of contracts between landowners and farm worker tenants; the conversion of more informal tenancy into formal property rights; the establishment of boards or committees to organise and supervise the use of common rights and other interests. A fundamental goal of tenure reform is to enhance people's land rights (see Box 1) and thus provide tenure security. This may be necessary in order to avoid the suffering and social instability caused by arbitrary or unfair evictions, landlessness and the breakdown of local arrangements for managing common property resources. Tenure reform may be essential if rights holders are to be allowed to manage their land resources, invest in the land and use it sustainably.

#### **Box 1 Land rights**

For the purposes of this chapter, land rights may include one or more of the following:

- rights to occupy a homestead, to use land for annual and perennial crops, to make permanent improvements, to bury the dead, and to have access for gathering fuel, poles, wild fruit, thatching grass, minerals etc;

- rights to transact, give, mortgage, lease, rent and bequeath areas of exclusive use;

- rights to exclude others from the above-listed rights, at group and/or individual level; and, linked to the above;

- rights to enforcement of legal and administrative provisions in order to protect the rights holder.

Tenure reform can include confirmation of rights in order to verify and secure sound land titles for those who have already a demonstrable claim to the land. The purpose is to replace doubt and contention with positiveness and certainty and so inspire confidence and encourage investment and development. Like redistributive land reform, land tenure reform can be radical or gradual (Adams, 1995).

### **The tenure reform debate**

Much of the current tenure reform debate focuses on the so-called communal areas of Africa (see Box 2), the indigenous areas of Latin America, south-east Asia (e.g. the Philippines) and the Pacific region (e.g. Fiji, Papua New Guinea and the Solomon Islands) (see Acquaye and Crocombe, 1984), where customary communal systems of tenure exist side-by-side with private ownership. The debate over tenure reform has

tended to focus narrowly on the merits, or otherwise, of converting informal traditional systems of communal rights into 'modern' formal systems by a process of land adjudication and individual titling.

### Box 2 Tenure categories in communal areas

Most African landscapes can be divided into two broad categories:

'the holding': land possessed and used relatively exclusively by individuals or households for residential, arable cultivation or some other business activity;

'the commons': land shared by multiple users for grazing and for gathering veld products (fuel, building poles, medicinal plants, etc.) which may be broken down into: **controlled access** – a commons over which a group exercises control, at a minimum having the ability to exclude non-members; possibly also regulating use of the resource by members; and **open access** – which implies an absence of control, such as imagined by proponents of the 'tragedy of the commons'.

NB The 'holding' may also be part of the 'commons' some of the time, notably during the dry-season grazing period after the harvest.

*Source: Adams et al., 1999*

It is now commonly understood that land tenure systems which have evolved in advanced market economies are unlikely to be appropriate for less developed rural areas. It is also widely acknowledged that tenure security, which is essential if land users and occupiers are to invest their labour and capital, depends on society recognising their customary entitlements. This is far more important than any title deed in a distant land registry. However, this recognition of the importance of diverse forms of tenure and the intrinsic merits of customary systems should not mean that there are no benefits to be obtained from tenure reform. It is in the nature of things that land tenure systems, traditional or modern, will be manipulated by the powerful in their own interests and against those of the rural poor. A too narrow view of tenure reform in communal areas, based on past failures, can obscure opportunities for legal reforms which would strengthen the land rights of citizens and ensure that their land cannot be alienated or otherwise used without their consent, either by government, traditional elites, developers or other third parties.

Before tenure reform is contemplated, it is essential to obtain a thorough understanding of the existing system, the scope for reform and its likely impact. Given the inherent complexity of land tenure systems, the limited capacity of the state and the direct and indirect costs of institutional engineering, it is necessary to ask if reform is really necessary for reducing poverty and securing sustainable livelihoods. What kinds of reform are appropriate and how might they be phased?

#### *4 Breaking Ground: Development Aid for Land Reform*

In those cases where it is concluded that reforms are needed, it is also to be expected that change will be opposed by vested interests. The political constraint to reform is likely to remain the dominant one. Politicians and officials persistently seek to manipulate and control people's access to land in order to further party or personal interests. They may tolerate bottom-up participatory processes in other areas, but not in matters that require them to relinquish control (directly or indirectly) over land allocation. Consideration of the prospects for land reform, including tenure reform, should not be divorced from an analysis of the political processes at work and the opportunities for mobilising the support of stakeholders who are otherwise likely to stand in the way of progress.

Capacity building should not concentrate only on those whose rights are being confirmed and officials who are to staff the new institutions but also on those elements of society threatened or cast adrift by the reforms. The financial, organisational and training implications of implementation and enforcement must also be fully researched in advance of enactment. This has not always occurred. There is ample evidence that governments have encountered major difficulties in providing administrative and legal support to rights-based legislation, especially laws designed to protect poor farm workers and their families and restore land to the dispossessed.

#### **Issues relating to redistributive land reform**

Redistributive reform involves taking land from the wealthy to obtain a wider distribution of property and income and a more equitable distribution of power emanating from it. Inevitably, it requires intervention by the state in the land market. Just how extensively the state should intervene has long been the subject of debate by welfare economists. Depending on the degree of intervention, land reform may be evolutionary or revolutionary. Some insist that a slow process of mutual readjustment of property rights is not land reform, which must be a drastic, planned, public intervention to redistribute land. This insistence can be seen as a reaction to western thought and historical tradition in which private property rights are perceived to be sacrosanct. Yet attempts at drastic interventions to redistribute private land, in the face of strong opposition from landed interests, may distract governments from more feasible policies aimed at improving access and security of tenure for small farmers more gradually.

In sub-Saharan Africa, as elsewhere, progress with land reform has been slow, only partly due to the scarcity of funds for land acquisition and/or landowner compensation. Inadequate administrative capacity on the part



of governments is the most fundamental and recurring problem. Over-optimistic predictions of the speed and scope of envisaged reforms inevitably return to haunt the politicians who made them.

There is overwhelming evidence that redistributive land reform is an extremely difficult process to carry through. If land reform measures are to be successfully implemented and contribute to the improvement of the livelihoods of rural people, they must be part of a broad political, social and economic change, rather than a narrow intervention simply to repossess land alienated by European settlers in the short term. The pace of successful land redistribution cannot reasonably run ahead of advances in other related government functions, especially of those for providing infrastructure (water, power, communications) and technical support services to small farmers – credit, input supply, marketing, extension and adaptive research. Nor can it run ahead of the capacity to coordinate and organise these functions.

In recent years, with the encouragement of foreign donors, governments have taken an interest in so-called market-assisted or negotiated land reforms. These involve the allocation of social investment funds to land acquisition, on-farm investment and social infrastructure and implementation by means of decentralised community-based processes. Reforms of this type have been tried in Brazil and Colombia (with World Bank assistance) and to a lesser extent by the South African government (with DFID, Danida and EU assistance). There is, however, growing recognition that the land market will not transfer land to poor farmers without concerted efforts by the state to remove subsidies favouring large-scale producers, and by providing grants for land purchase and credit for working capital. Without such action by government, the prospects of land redistribution are likely to be negligible.

Redistributive reforms also depend on a high level of organisation among rural people and support from local government structures and NGOs, especially those providing legal assistance. Where civil society organisations are not powerful enough to drive land redistribution, substitution by the state invariably results in complicity with local elites and irrelevance for lack of local support (Bernstein, 1998). If local people are poorly organised, land redistribution is unlikely to proceed far.

On the other hand, if the legitimate claims of the rural poor are ignored, the negative consequences of failing to act are huge. Huizer (1999) describes how in some eight countries, including Zimbabwe and the Philippines, social mobilisation for land reform has been fuelled and sustained by a deep sense of grievance. Initially, the means used to present the demands for land reform were generally moderate. After meeting with

intransigence, more radical demands emerged. Direct action, including land invasions, is an expression of this.

If the state taxes land value 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. A progressive tax on large land holdings is often proposed for the purpose of increasing the availability of parcels of land for small farmers, but international experience indicates that progressive land taxes have never yet effectively functioned to redistribute land from large to small producers. Economic theory does not give an unambiguous answer to the question of how a progressive land tax would contribute to land reform.

A recurring issue is whether the purpose of land redistribution should be to provide land for the landless poor or to assist those who can use it profitably and for a productive purpose. In countries where the repossession of alienated land is a burning issue, governments have little choice but to find viable ways of providing land for the landless poor and for entrepreneurs who wish to gain a foothold in commercial farming. Land redistribution programmes should provide scope for a range of products (e.g. commonage for the rural poor to graze their stock; residential sites and allotment gardens for vegetable production for farm workers and peri-urban dwellers; and family holdings for small-scale commercial producers). The evidence suggests that programmes that primarily aim to target 'productive farmers' tend to be captured by an elite whose impact on national economic growth is negligible, if not negative.

A related issue is the appropriate level of infrastructure provision by the state and the degree of project planning needed. There is an inevitable tension between foreign advisers and local implementers over redistribution project planning and approval processes. Predictably, politicians and their many landless constituents will find planning procedures too cumbersome and complain that planning is holding back land redistribution. Understandably, they will be impatient to take down the farm fences and repossess the territory lost by their forefathers. Foreign advisers, on the other hand, will argue that systematic planning and appraisal are essential if resettlement is to achieve its wider social and economic objectives. Ways and means need to be devised to develop a comprehensive strategy. The needs of the landless poor and those of prospective commercial farmers are not necessarily mutually exclusive. Project planning procedures need to be simplified for projects that do not aim to be directly productive.

## Land restitution

Land restitution aims to restore land, or provide other compensation, to people dispossessed by conflict or by what is seen to be unjust expropriation by the state in the past. Restitution programmes have been implemented in several countries of the former Soviet Union (e.g. Estonia) and Eastern Europe (e.g. the Czech Republic, Hungary, Romania and Bulgaria) and in South Africa, where the purpose is to redress the injustices of apartheid and foster national reconciliation and stability.

Land restitution may not necessarily contribute to a redistributive reform. In the former communist bloc, land reform has had a mixture of objectives: economic efficiency and the need to move to a market economy; to raise revenue from state private property; and the restitution of rights to former owners. In South Africa, land restitution has hit serious delays both in establishing the validity of claims and in overcoming the practical difficulties that follow after a right to restitution has been confirmed. Due to the way the process has been implemented, there is a danger that the programme will not serve its higher political goals and will serve merely to fuel past conflicts (du Toit, 2000).

## ‘Agrarian reform’ and ‘land reform’

These terms are often used interchangeably. Agrarian reform, a construct of the Cold War to counter ‘communist’ land reform, usually embraces improvements in both land tenure and agricultural organisation. The broader definition widens the context of land reform policy to emphasise that governments which undertake land reform should not confine their policies only to land redistribution. It is now a cliché of agricultural policy that land reform without reforms in support services (farm credit, cooperatives for farm-input supply and marketing, and extension services) will achieve little in terms of redistributive justice and efficiency.

As a prescription for action, this broader definition is sound, but it can blur the issue and discourage governments from doing anything till they can do everything.

## 2

# Social and economic theory of land reform

### The economic case for land reform

The economic case for land reform is founded on empirical arguments relating to:

- the economic benefits deriving from tenure security;
- the link between equality in the distribution of assets and positive economic growth;
- the advantages of smallholder agriculture from an efficiency standpoint; and
- the desirability of transferring land to more efficient users through land sales and rental markets.

### Measures to increase tenure security

There are strong economic reasons for governments to underwrite tenure security, long recognised as a public good. In the absence of public enforcement, tenure security has to be obtained by socially inefficient (although, perhaps, individually optimal) investment in boundary fences and defensive actions to repel other claimants – as is found in ‘wild west’ situations and overcrowded informal settlements. The nature and strength of property rights profoundly condition economic decision-making because of their effects on people’s expectations of a return on their investments of labour and capital. This is as true in rural settings as in any other sector of the economy.

Whether the frame of reference for the system of land tenure be communal or individual, there is widespread evidence that secure property rights are linked to a higher propensity to invest in tree planting, manuring, soil and water conservation and other ‘permanent’ farm improvements. Such investment need not necessarily depend on formal registered title, but on the rights holders’ confidence that society supports their entitlement to harvest the benefits of their labour and investment. The positive impact of individual incentives on the effort exerted by farm labour was evidenced, for example, by the tremendous increases in output

and productivity associated with the change from collective to individual property rights in China in the '80s (McMillan et al., 1989).

In addition to increasing incentives for investment in farm improvements, secure land rights can increase the readiness of financiers to supply credit and contribute to the emergence of a market for rural financial services. Because of the immobility of land, and provided that it is clearly defined, legally secure and transferable, land rights are an ideal collateral. Secure rights to land increase the incentive to undertake investments, and also reduce the cost of borrowing. In the absence of tenure security, rural financial markets are likely to remain undeveloped.

An important component of tenure security is the confidence with which one can transact one's rights. In pre-capitalist societies, the transaction of property rights may be of limited importance. With population growth, specialisation and the incorporation of rural areas into market economies, the importance of being able to transact property rights increases. So does the potential for distress sales and loss of land-based livelihoods. Market transactions can, however, include leasing and rental arrangements which need not lead to permanent alienation of land rights (Lawry, 1993). Recording of land ownership allows potential purchasers easily to verify the ownership status of land and reduce the costs associated with transactions. Recording need not require accurate land survey and the centralised registration of deeds as in modern economies.

The growth of the property market, made possible by the reduction in transaction costs, has the potential to bring the number of efficiency-enhancing transactions to the optimum and to transfer more land (by sales or rental) from less productive to more productive users. In China, more secure land transfer rights can be shown to be associated with higher allocative efficiency in the economy.

### *Communal versus individual tenure*

Lack of enforceable property rights is often associated with the breakdown of communal tenure systems. While individual freehold tenure is often fully protected in law and in practice, customary or communal systems of ownership and tenancy frequently suffer from inadequate legal protection and administrative support. This has led to the misleading conclusion that individual tenure is inherently superior and more secure than communal systems, which will inevitably collapse into a 'tragedy of the commons' (see Box 3 and page 82) (Cousins, 2000).

In sub-Saharan Africa, a major dividing issue has been the relative merit of customary land tenure systems and those based on western concepts involving the registration of individual ownership. Since the late '50s, Kenya more than any other country has promoted the individualisation of tenure through land titling in the former African reserves, on grounds of economic efficiency. These reforms aimed to transform land into a commodity that could be owned initially by clans, then families and eventually by individuals and could then be sold (alienated) without consultation with the wider group. The 'Swynnerton Report' (Kenya, 1954) sought to create a class of accumulating 'yeoman farmers'. African farmers were to be established on 'economic units' by the consolidation and registration of land as freehold property and by prohibiting the further subdivision of land. Restrictions on African cultivation of cash crops were removed. Farm credit and extension services were made available. Beginning in Central Province, primarily as a response to the Mau Mau insurrection, these measures were applied to all the tribal agricultural areas of Kenya. However, the tenure changes did not give rise to a distinctive class of yeoman farmers, nor did they have the positive impact on production anticipated. The production of high-value cash crops by a wide range of African farmers expanded, not only by the holders of land titles.

### Box 3 'Tragedy of the Commons' – background to the debate

The objection that communal ownership inevitably results in environmental destruction is based on the theory of the 'tragedy of the commons'. This argues that communal land use is doomed to failure because individual farmers will never agree to reduce their own herds and flocks without a guarantee that other stock keepers will do the same. Further, unchecked population growth, together with the maximising strategies of individuals, will inevitably lead to depletion of resources – soils, grazing and wood fuel (Hardin, 1968).

This theory is used to argue against land redistribution to common property institutions on the grounds that groups are unable to enforce rules. Thus, individual producers have no incentive to invest in land improvements because they cannot exclude 'free riders'.

The theory of 'the tragedy of the commons' should not be used as a basis for policy making, nor should it be assumed that the private land option is environmentally preferable. Private ownership in commercial farming areas has not precluded environmental degradation.

The criticisms of communal tenure arrangements are often based on the false assumption that individuals have weak rights to land under communal systems, when in fact rights to residential and farming land can be quite secure, and can approximate most rights associated with individual ownership.



The statutory registration of title weakened the rights of access to land of women and tenants. Registration did not resolve disputes over land rights. It merely changed the rules by which they were prosecuted among men, and between men and women. 'English tenure' downplayed the status and role of women as the actual users of land. Particularly vulnerable were unmarried women, divorcees and widows, who were ensured at least some user rights under traditional tenure systems. Further, the land registration process that was designed for a sedentary mode of agriculture marginalised pastoralists who lost access to key land resources during droughts. (Mackenzie, 1990; Nthia Njeru, 1991; Williams, 1996).

Studies by the Land Tenure Center, principally in the former communal areas of Kenya, but also in Senegal, Somalia and Uganda, have failed to reveal a causal relationship between formal registration of individual rights and investment in land improvements and on farm productivity. It has been concluded that: (a) in view of the generally depressed conditions of agriculture and in the absence of other possibilities for improvement, titling did not have an impact; (b) giving weak titles, constrained by various conditions and prohibitions, did not have the anticipated incentive effects on title holders; (c) much of the demand for titling arose from a wish to prevent the state giving the land to someone else; and (d) even in a vital and market-oriented agriculture such as that of Kenya, other factors (e.g. farm size and market access) overwhelmed the effects of titling (Bruce, 1986).

Platteau (1996) argues that in cases where a significant relationship is found between enhanced on-farm investment and titling this need not mean that they are causally linked. Farmers may tend to register plots that benefit from comparatively high levels of investment. In other words registration may not stimulate investment but merely be positively related to it.

As a result of these and related studies, the World Bank has revised the policy position adopted in its Land Reform Policy Paper (1975), namely that communal systems are a constraint to development and must be replaced by individual tenure. The Bank used to argue 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. Instead of recommending the abandonment of communal tenure systems in favour of subdivision and freehold, the Bank now recognises that communal tenure systems can be a more cost-effective way to increase tenure security and to provide a limited basis for land transactions. Its tenure specialists acknowledge that there has been a tendency in Africa to underestimate the intrinsic importance of customary land tenure systems. Empirical evidence

from Ghana, Rwanda and Kenya indicates that traditional tenure systems are flexible and responsive to changing economic conditions. Where population pressure and commercialisation have increased, these systems have evolved from communal rights to systems of individual rights (Migot-Adholla et al., 1994) or to new configurations of communal and individual rights when rights holders decide that these are more appropriate.

### *The land titling issue in perspective*

This recognition of the merits of communal systems of tenure by governments and donors should not be allowed to downplay the developmental benefits of tenure reform, nor imply that tenure change will inevitably work against the interests of the rural poor. Attempts at reform in Kenya, for example, were based on a narrow view of tenure options, i.e. communal versus individual. The belief that rural people are universally happy with communal systems and that legal confirmation of rights brings no benefit is certainly misplaced. In southern Africa, surveys in informal settlements on communal land challenge this view (see Box 4). So does the work of Hunt (1999) in a recent study of the impact of registration and titling in Eastern Province of Kenya, over a period of twenty years, in an area where some of the earlier research was done on the impact of individualisation (e.g. by Nthia Njeru, 1978).

#### **Box 4 Tenure needs in informal settlements on communal land**

The family members need to be assured that they will not be evicted without compensation; that they can improve their house to protect themselves against weather, thieves, etc; that their children can inherit the property or that they can sell or otherwise transfer it. They may need to borrow money using the property as collateral. They may seek a reduction in property-related disputes and their properties to be serviced with water, electricity and upgraded roads. They need an inexpensive and accessible system of administering their property rights.

The government needs the system to be nationally uniform and sustainable. It needs a basis for implementing local taxation, land use and building control and for the provision of infrastructure. It requires a flexible means of administering property rights (e.g. the ability to accommodate individual and group rights, the rights of the middle class, business and poor people). It needs to deliver land titles to the people in an accessible and user-friendly manner and to allocate land titles that are not perceived as inferior and can be upgraded to full freehold.

*Source: Alberts et al., 1996.*



In seeking to open up the tenure reform debate, Diana Hunt criticises the tendency to generalise on the basis of a limited number of case studies and questions the selective interpretation of the evidence. She states, for example, that politico-economic analysis is used to predict abuse of the land titling process, but rarely to demonstrate how customary tenure systems may also be manipulated by elites. She questions whether the coverage of published evidence justifies the broadly negative tenor of the conclusions, given the range of land use conditions and problems and of land use opportunities that prevail in different parts of the sub-continent. On the basis of her primary survey evidence from Mbeere, Eastern Province, Kenya (a low potential, sparsely populated area), she argues that the effects of titling can be expected to vary according to the compatibility

### **Box 5 Botswana's customary land tenure system**

In 1968, the Tribal Land Act was enacted to improve land administration. It provided for the establishment of representative Land Boards and transferred all the land-related powers of Chiefs to these boards. The functions of the boards include the allocation of land; imposing restrictions on the use of land; authorising change of use and transfer and the resolution of land disputes. Tribal land belongs to the people. Individuals are granted rights to use some parts of the land. It may be held by the Land Boards, or by individuals or groups as customary grants, or under leasehold. The land may also be allocated to the state for public purposes. Although land holders do not 'own' land, they have exclusive rights to their holdings which can be fenced to exclude others. Grazing land and land not yet allocated to anybody is used communally. The Land Boards grant land rights under both customary and common law.

The holders of customary rights for residential and ploughing purposes enjoy a variety of rights which are indefinite, exclusive or inheritable. Those granted customary rights are entitled to a certificate of customary land grant. According to the Act, once these rights are acquired they cannot be cancelled for any unjust cause.

Common law leases for non-customary land use are limited in time and subject to eventual reversion to the community. They can be registered under the Deeds Registry Act and are mortgageable and therefore transferable without the Land Board's consent. Common law leases are granted for 99 years for residential purposes, for 50+50 years for commercial and industrial purposes in villages; and for commercial grazing and ploughing land.

Key changes which have been introduced since 1968 include: the right to exclude other people's animals after harvesting and to fence arable lands; relaxation of the restrictions on land allocation to allow independent allocations of land to all adults; the charging of a price (agreed between seller and buyer) for transfer of developed land; the introduction of common law residential leases for citizens; for foreign investors (50 years); and for commercial grazing (50+50 years); for commercial arable farming (15+15 years).

*Source: Adams et al.(1999)*

of both pre-existing and new land tenure systems with potential innovations in farm technology. The impacts of titling on the distribution of land ownership will depend on the adjudication criteria adopted, the survey and registration procedures and the availability of assistance and related support to local people affected.

In any case, land titling and registration is only one aspect of tenure reform. An analysis of the situation in both South Africa and Uganda, for example, reveals that the challenge of tenure reform is much more complex. It involves the protection of land rights on both private and communal land. In South Africa, since the 1994 transition several tenure laws have been enacted which relate to the terms and conditions under which rights holders can occupy and use private land (see Box 10); so also in Uganda (see Box 15).

In Botswana, indigenous tenure systems have been relatively successfully integrated with a modern and democratic system of land administration. The land tenure policy pursued by Botswana has been one of careful change, responding to particular needs with specific tenure innovations (Dickson, 1990; Mathuba, 1991). In tribal areas, people can acquire statutory rights (e.g. customary land grant, common law lease) to parcels of land, the location and area of which are recorded by the land boards against the name of the rights holder (see Box 5).

### *Customary tenure systems as social capital*

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 is a step beyond customary practice. 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. The sustainable livelihoods framework (Carney, 1998) helps analysis of the strengths of particular systems of land tenure (see Box 6). 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 migrant 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. Alden Wily (2000) argues that the manner in which customary, unregistered rights in land are being regarded in new tenure law represents the most crucial area of change and should yield an African character to property relations in the 21st century which has been determinedly denied throughout the 20th.

#### **Box 6 Critical tenure-related livelihood questions**

Given the inherent complexity of land tenure systems, the limited capacity of the state and the direct and indirect costs of institutional engineering, is reform of land tenure necessary for reducing poverty and securing sustainable livelihoods? What kinds of reform are appropriate? How should tenure reform be phased?

**Political:** how is tenure reform linked to land reform in the wider sense? Do political conditions enhance or constrain the feasibility of tenure reform? How is land tenure administered at national, regional and local levels and how appropriate and effective is it? How are land tenure and land administration linked to local government? Is land ownership distinguished from governance?

**Economic:** how do tenure systems affect agrarian and other sources of production and income? What forms of economic activity take place using common property resources? How does the land tenure system intersect with markets for land, capital, labour, inputs and outputs? Does lack of clarity about land rights discourage investment?

**Social and cultural:** how are rights to land embedded within wider social and cultural relationships? What is the impact of the structure of land rights on gender inequality? Are tenure systems associated with class, racial, ethnic or other forms of inequality? Are rights to land an important source of asset-based security for the poor? What are the indigenous tenure forms and how have they been affected by colonial and post-colonial laws? How do reform policies interact with informal evolutionary processes within tenure systems?

**Legal:** do constitutional and legal frameworks affect tenure? Are there appropriate and legally secure options for rural and urban situations? What is the legal basis of common property arrangements? When and where are titling and registration programmes appropriate? Do group forms of ownership require titling and registration?

*Source:* Based on the work of Ben Cousins (see ODA, 1997)

*Institutional challenges of tenure reform*

Tenure reform changes the terms and conditions on which land is held, used and transacted. Any tenure reform, which is worthy of the name will be challenged by those with vested interests in retaining the status quo; for example, by farm owners who oppose the introduction of procedures which will prevent eviction of farm workers without due notice or good cause. Opposition to tenure reform measures may stem from traditional leaders who are reluctant to abide by constitutional principles or from rent-seeking public officials who seek to control and profit from land allocation.

The opposition of central government officials to the Uganda Land Act, 1998, (see page 85 ) is a case in point. Until the Uganda Constitution came into effect in 1996, most land in the country was public land. Surveyors, valuers, lawyers and physical planners managed the land. The Land Act stripped them of their powers and vested them in District Land Boards – ‘not to be subject to the direction or control of any person or authority’. Those powers of land management, which are inseparable from land ownership, also disappeared from the public domain and became legally vested in millions of peasants and urban dwellers. As Patrick McAuslan (1999) has pointed out, the DFID project to support the implementation of the law paid too little attention to the Land Act as a major exercise in institutional reform. Such exercises generate a whole host of problems, challenges and opposition, which need to be addressed if reform is to have any chance of success. Capacity building must focus not only on those whose land rights are being legally confirmed and officials who are to staff the new institutions, but also on all those elements of existing organisations which are undergoing the change mandated by the new law.

In South Africa, the traditional leaders in the former homelands vigorously oppose tenure reforms in the rural areas, which aim to provide for the transfer of property rights from the state to the *de facto* owners and to devolve land management functions to them. Proposed reforms would vest land in the people, not in institutions such as traditional authorities or municipalities. Failure to clarify the role of traditional leaders in post-apartheid South Africa and to involve them actively in developing the much needed reforms is resulting in long delays in the introduction of the measures needed to bring tenure security and economic development to the poverty-stricken ‘homelands’, which were created by colonialism and the apartheid state (Claassens, 2000 and 2000a).

## Redistributive land reform

### *The link between inequality and negative economic growth*

Economists have long recognised the link between inequality of asset distribution and poor macro-economic performance. Herring (1999) argues that the surest way to poverty reduction in most rural societies is reformation of the property system. Though there are other roads to government action to alleviate poverty, all are subject to distortions induced by inequality, a major component of which is the skewed distribution of property. Land and immovable property are very often the most important elements in an individual family's asset portfolio. Countries with a high Gini index<sup>1</sup> usually have a grossly unequal distribution of land and property ownership. For example, those shown with the highest Gini index in the World Development Report is as follows: Brazil (60.1), Guatemala (59.6), South Africa (58.4), Kenya (57.5), Colombia (57.2), Zimbabwe (56.8) and Chile (56.5) (World Bank, 1998).

In all these countries, redistributive land reform periodically surfaces as a political issue. In Brazil, for example, the poorest 10% of the population have a 0.7% share of income and consumption, while the richest 10% monopolise 51.3%. In South Africa, the equivalent figures are 1.4% and 47.3%. In both countries, the most deprived people are located in rural areas, often surviving 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. Extreme poverty and the threat of rural violence are endemic. So also is the propensity of wealthy landowners to consume goods and services with a high foreign exchange component. Redistributive land reform 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.

### *Relationship between farm size and productivity*

Welfare economists, unperturbed by land redistribution, point out that empirical studies show that family labour is generally more productive

---

1. The Gini index measures the extent to which the distribution of income (or, in some case, consumption expenditures) among individuals or households within an economy deviates from a perfectly equal distribution. A Gini index of zero represents perfect equality.



than that of contracted agricultural workers. This is because of the dispersed nature of many farm operations and the flexibility needed to adjust tasks and effort to match minor variations in the natural environment (e.g. weather, soil fertility, pest outbreaks). The evidence indicates that the ability of owner operators to avoid the high costs, associated with the supervision and management of contracted labour, provides them with a significant advantage over wage operations (Jensen and Meckling, 1976). Further, technological change in agriculture continually lowers the subsistence threshold size of farm holdings while expanding options for small farmers (Conway, 1997).

These advantages of family farms can be countered by scale economies arising from other indivisible factors (e.g. machinery, management know-how or marketing) on large farms. However, contract ploughing and harvesting, for example, can help overcome this indivisibility. Indeed, the number of cases where farm production is characterised by economies of scale is limited to a few plantation crops (e.g. oil palm, sugar and tea) where production is often organised at a scale that corresponds to the optimum size of a processing factory. Even in these cases, the relative efficiency of owner operators has frequently led to the adoption of out-grower arrangements, in which small family farms supply produce to a processing factory which obtains a base flow from a nuclear estate.

Efficiency of small family farms in the utilisation of labour does not necessarily translate into the ability to compete in increasingly dynamic and liberalised markets where ready access to information and capital probably favours larger enterprises (Poulton and Kydd, 2000). Mather (2000), in the context of South Africa, argues that maintaining a competitive edge in global markets, particularly for fruit and other high-value exports, requires large inputs in herbicides, fertilisers and chemical pest control. The high cost of credit and the risks involved in this market constitute enormous barriers to small family farms.

In semi-arid and savannah rangelands, the subdivision of large commercial cattle ranches has not been a success. In the light of experience with pastoral settlement schemes in Africa, neither the subdivision of commercial ranches into family livestock farms, nor group or cooperative ranching are likely to be viable options. The costs of settling families with small herds and flocks on individual farms, with reasonable standards of social and economic infrastructure, are very high and the economic return is almost certainly negative. In addition to the economic consequences of sub-division, there are likely to be far-reaching negative environmental effects. Small herds and flocks are difficult to manage as commercial units on fenced farms in dry areas. In the narrow confines of the family farm, grazing pressure is intense and continuous, to the detriment of the animals,

the pastures and, in some areas, the soils. Both local custom and studies of optimal range use usually point to one simple, low-cost solution, that is to remove fences and extend communal grazing, while working to facilitate operable and democratic means for controlling stock numbers. Alternatives are expensive or unworkable, or both (Adams and Devitt, 1992).

### *The impact of land market imperfections*

If family-sized farms are normally more efficient, why is it that land markets do not more readily transfer land to smaller-scale producers?

Apart from colonial policies, which encouraged the alienation of land and subsidised large farms for white settlers, several factors reduce small farmers' ability to access land through the land market and outweigh the cost advantage of using family labour. Marketed-assisted land reforms aim to ameliorate these imperfections and reduce the high costs associated with direct state intervention in the land market.

In the absence of household savings, the ability of small farmers to acquire land through a mortgage is limited by the fact that mortgaged land cannot be used as collateral for working capital. In the circumstances, income derived from family labour, on or off the farm, must finance household consumption and the purchase of farm inputs as well as mortgage repayments.

Notwithstanding these constraints, the price of land includes a premium, over and above the capitalised value of agricultural profits, on account of the preferential access that land ownership provides to credit markets via its collateral value (Binswanger and Deininger, 1993). Tax relief, allowing large-scale farmers to use agriculture as a tax shelter, and macro-economic instability that encourages the holding of land as a hedge against inflation, also result in an upward pressure on land prices.

Thus the land market will not transfer land to smaller and poorer farmers without the removal of subsidies that favour large-scale producers, the provision of grants for land acquisition and farm credit for working capital for small-scale producers. El-Ghonemy (1999), a distinguished author on the political economy of land reform, has recently written a swingeing critique of *laissez-faire*, neo-liberal policies which argue for a market-based transfer of land property rights with emphasis on resource use efficiency and output growth. He provides empirical evidence to show that the prospects of the landless poor acquiring land through the market are virtually non-existent. Putzel (2000), while welcoming the World Bank's new interest in land reform, observes that its formula for

'negotiated' reform (Deininger, 1999) lacks any attention to the political and institutional dimensions of the market place, which undermine significant redistribution without strategic intervention by the state. Grants are required to provide the equity that the poor do not have. Yet capital grants, made available to land reform farmers to acquire land, can also drive up land prices.

## The importance of rental markets

Given the budgetary constraints facing governments, subsidies are often insufficient to place the rural poor on the first rung of the property-owning ladder. For small farmers, recourse to the land rental market in order to generate sufficient savings may be an essential preliminary step to land acquisition. Government efforts may be needed to activate the land rental market by giving legal protection to the lessee to repossess the family's land if necessary. In the absence of such guarantees, land may lie idle because rights holders are reluctant to lease out the land for fear of not getting it back. The same arguments are used by those in favour of activating the rental market for urban housing and accommodation.

## *Land taxes*

Economists rightly argue that if the state taxes land value (or more precisely, economic rent) more heavily, and productive activity less heavily, the outcome will almost certainly be more efficient use of land, increased production and increased demand for labour. This will increase real wages for working people and probably will also result in broadening the ownership of land.<sup>2</sup>

A land tax on large land holdings is often proposed for the purpose of increasing the availability of small parcels of land for small farmers. However, international experience indicates that progressive land taxes have never yet effectively functioned to redistribute land from large to small producers (Poulton and Kydd, 2000).

Economic theory does not give an unambiguous answer to the question of how a progressive land tax will contribute to redistributive reform. Further, little is known in practice about the level of a land tax needed to stimulate land redistribution. History provides few examples. The best

---

2. For this section, I am indebted to Chuck Metalitz of the Henry George School, Chicago for clarifying several points.



known is a land tax imposed in Chile in 1965 that appeared to be influencing landowners, but which was rapidly overtaken by wider land reforms and political disruption, which made it difficult to draw conclusions about its impact.

A land tax, aimed at increasing the number of smaller transactions in the land market, is unlikely to reduce the financial burden on small farmers. Potential new farmers would find it easier to enter the farming industry, to the extent that their mortgages would be smaller, but would find it more difficult because the tax would also have to be paid by them. This would put them in much the same overall position as before the land tax. Even a progressive land tax would not change the position of the potential small or medium-sized farmer. The per hectare price of land in large holdings would fall, while that of land in small or medium-sized holdings would stay the same. Therefore, the financial position of the potential small farmer who wished to purchase land held currently in a small or medium-sized holding would remain unchanged. If farmers with large holdings wished to sell off small bits of their land, they would sell them off at the pre-tax market price because, as smaller parcels, they would be free of land taxes.

Therefore, the only way in which progressive land taxes could facilitate the entrance of potential small or medium-sized farmers into agriculture would be through control of the land market by the state. The state would have to simultaneously impose the tax, forbid all subdivision except by the state, and claim the right to first option on all land sales at the price which would have been offered to other buyers. Under these circumstances, the farmer with a large holding wishing to sell would not be able to sell off small pieces; the farmer would have to sell the property as a whole to buyers who would keep it so, thereby maintaining the unit price at its low post-tax large-holding level. Then if the state reserved the right to buy, it could buy at the low price and pass on the benefit to the new settlers. This of course presumes that the state would be efficient and non-exploitative. The recent history of land reform in Zimbabwe highlights the dangers of excessive state control over land redistribution.<sup>3</sup>

To the theoretical uncertainty one must add the obvious practical difficulties. Where the main purpose of a land tax is to improve the

---

3. The Zimbabwe government published a draft land tax bill in 1999. In mid 2000, the introduction of a land tax for the purpose of redistributive reform is certainly not a priority. Although both land and funds for redistribution may be lacking, a more conducive policy environment could change the situation. Further, while the present restrictions on land subdivision remain in place, a land tax would only serve to strengthen the control of the state over the land redistribution process.

efficiency with which land is used, it would be necessary to assess the value of different holdings so as to levy an optimum rate of tax on each and avoid over-taxing some relative to others. Where a progressive tax has the prime purpose of redistributive reform, the concern for allocative efficiency may be less important than enforcing payment by large landowners. The need in this latter case would be for a simple tax. However, the cost of collecting and periodically updating information based on even a simple land classification and cadastral information may be prohibitive. Even simplicity will not overcome the problem of artificial land subdivision for the purpose of tax avoidance by large landowners. Without state control, this would be a major challenge to the introduction of a progressive tax for land redistribution purposes.

Where taxes are designed to be genuinely progressive they will inevitably be opposed by landed interests. Opposition can be expected to take various forms – preventing a tax being implemented in the first place or simply evasion and/or subversion. In turn, this would reduce the redistributive impact of the tax and its impact on land use.

### *Farm subdivision controls*

In at least three countries in southern Africa (South Africa, Namibia and Zimbabwe), colonial and apartheid governments placed controls on the subdivision of farms as a means of maintaining farm owners' incomes above a certain minimum level. South Africa has initiated a process to repeal the legislation,<sup>4</sup> but similar laws remain in Zimbabwe and Namibia. The policy has been criticised by those who favour greater reliance on market mechanisms for land redistribution. Limits to farm size and on land subdivision can be criticised on the basis that policies de-limiting allowable farm-size create rigidities that increase the cost of adapting to changing market conditions. Often, small to medium-scale farmers prefer to farm multiple parcels in different locations and with different characteristics to hedge against risks. The notion of setting farm sizes to achieve minimum or maximum returns makes assumptions about fixed price ratios and constant technology, neither of which remain valid for

---

4. During October 1997, the South African Parliament consented to the Subdivision of Land Act Repeal Bill as it was no longer deemed appropriate for government to determine what constituted an appropriate farm size. However, the repeal will only take effect on a date yet to be determined by the President. The delay is occasioned by uncertainty about the effect of the repeal on the conversion of agricultural land to other uses and the need to put in place a law which will regulate planning and development.

very long. Under-used land suitable for redistribution is spread over many farms and acquisition and redistribution of under-used pieces has a positive impact on aggregate production and provides opportunities for resettlement and a mix of farm sizes. For the land market to work more effectively, owners must have greater flexibility to dispose of less intensively used portions of farms. Laws prohibiting subdivision prevent the price of under-used land from falling toward its low-use value, and prevent the realisation of 'low' prices through the land market (Roth, 1994).

### *Financial markets*

It is widely recognised that small farmers fail to find credit and insurance markets user-friendly. Transaction costs are proportionately higher for small loans, which drives up the service fees attached to loans for working capital. These difficulties may be overcome by channelling credit through local retailers, as has been successfully tried with agrarian reform cooperatives in the Philippines and is being attempted in South Africa through the Land Reform Credit Facility funded by the South African Government, EU and Danida.

Financiers are reluctant to provide crop and livestock insurance cover for small farmers. This obliges them to adopt low-input, low-output farm production strategies (e.g. low-value, annual crops rather than high value perennials with deferred benefits). Further, in the absence of liquid assets, new entrants to the land market are often forced to sell off land (or draught animals) in times of domestic crisis and/or natural disaster when land and livestock prices are depressed. Thus land reform can be rapidly followed by land return. In good farming years when prices are high, the chance of recovering these assets may be nil. Safety nets for land reform farmers may be important in preventing land return.

In several countries, land banks have been capitalised with grants of state funds. They aim to provide low-interest and deferred payment mortgages for farm purchase as well as unsecured production credit for clients with no security or formal financial track record. Land banks originated in Scandinavia in the 19th century to assist tenants to buy the land they farmed. In South Africa, the Land Bank was established in 1912 to assist in implementing government agricultural policy and promote white commercial farming. More than 80 years later, it is being radically transformed to support the development of the agricultural economy in the new South Africa and to serve a whole new set of clients – blacks as well

## 24 *Breaking Ground: Development Aid for Land Reform*

as whites, women as well as men. In the Philippines, the Land Bank was established in 1963.

It has had an important role in the implementation of the Comprehensive Agrarian Reform Programme, 1988–98. It carried out valuations of farms which were in excess of the permitted ceiling, compensated land owners, collected mortgage payments from beneficiaries and provided production credit through farmers' cooperatives. *Uganda's 1998 Land Act* provides for the establishment of a Land Fund, probably a forerunner of a fully-fledged land bank.

A dilemma in the era of market reforms is the extent to which land banks should be subsidised and, in turn, subsidise new entrants to the land market. Commercial banks are critical of parastatals offering lower rates than the private banks can afford. At the same time, they have criticised the Land Bank in South Africa for expanding its commercial book (mainly white farmers) instead of lending exclusively to black land-reform farmers – a criticism dismissed by the Land Bank on the grounds that it needed commercial accounts to remain solvent. In South Africa, many 'new mandate stakeholders' have unsuccessfully lobbied for subsidised interest rates. The Land Bank has responded by offering bonuses to their new clients provided they pay back their instalments on time. This can overcome the difficulty of being the institution with the lowest interest rate and therefore the last in the queue to be reimbursed by borrowers. The need of land reform farmers for both long-term and seasonal credit at less than market rates is a problem that remains largely unresolved and is periodically the subject of 'political' intervention.

### *Historical background to redistributive reform*

Although there are undoubtedly social and economic reasons for encouraging small, intensively managed farms, redistributive land reform has rarely been triggered by such arguments. When growing landlessness, chronic indebtedness of peasants, and eviction of tenants threaten political stability and private property, the state has often intervened in varying degrees to redistribute land, sometimes with the tacit agreement of landowners who are prepared to make concessions to avoid land invasions and related insecurity. In northern Europe, in the 18th and 19th centuries, the struggle between the landed aristocracy and the peasants took various paths, some more violent than others. In Denmark there was a gradual and peaceful transition from village bondage to small independent property-owning farmers, which had its roots in the age of enlightenment. Peasants obtained ownership of their tenancies with state funds channelled through

a land bank. Social reforms, particularly in adult education and farmers' cooperatives, were accompanied by an agricultural revolution, stimulated by the collapse of grain prices arising from the flood of cheap cereal imports from the New World. This in turn provoked a conversion from grain to dairy production on small, family farms. Redistributive land reform was part of a broad political, social and economic change, rather than a narrow technical intervention. So it has been with all significant redistributive reforms.

Of all the 20th century land reforms, the 'land-to-the-tiller' programmes in East Asia, following World War II, 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. Opportunities for their application elsewhere are considered to be limited (Hayami et al., 1990). In Japan, land reform was enforced by US occupation forces as a means of breaking the power of large landowners, pillars of the militaristic class, who were entitled to retain parcels of no more than two hectares. Redistributive reform in Korea was carried out under crisis conditions created by alleged communist aggression from the north of the country and in Taiwan, it was imposed by the Nationalist Government, which had just been exiled from mainland China and was therefore alienated from indigenous landowners (Putzel, 2000).

In East Asia, land reform has often entailed the dismembering of landlord estates rather than large farms or plantations. Redistributive reform and the transfer of ownership rights to tenants did not necessarily require the break up of the peasants' operational holdings. Land reforms covering landlord tenancies in the Middle East (e.g. Egypt, Iraq and Iran) and in India (e.g. Kerala State)<sup>5</sup> in the '60s and '70s, followed a similar pattern. However, they were less effective because of stiff opposition from influential landowners. Land ownership confers political power in agrarian systems; reform policy must work through that system of power to overthrow its base. This is an apparent political impossibility (Herring, 1983). More recent attempts to implement 'land-to-the-tiller' reforms following democratic transition in post-Marcos Philippines, and the passage of the Comprehensive Agrarian Reform Law of 1988, have met with mixed results for similar reasons (Putzel, 1992 and 2000).

Although followed by collectivisation, land reform in both Russia and China initially took place as a result of peasant mobilisation against

---

5. Professor Ronald Herring (1999) provides evidence of the impact of radical redistributive reform on poverty reduction in Kerala State, 'a successful social democracy'.



landlords. In China, this occurred in 1949 and 1950 as landless labourers and peasants subdivided large land holdings and organised cooperatives. The commune system followed within a few years and, with the exception of periods such as the Great Leap Forward, fairly high rates of farm output were achieved. In the '70s, households were assigned individual responsibility for crops and livestock and freedom to dispose of farm produce, in excess of the fixed quotas which had to be sold to state marketing organisations. In 1988, the constitution was amended to legalise use rights and land transfers. Notwithstanding the just criticisms of collectivisation, the Chinese land reforms generated farm and non-farm rural employment and eliminated the rural landlessness of the pre-revolutionary era which afflicts much of Asia, Africa and Latin America today.

In the '90s, decollectivisation, deregulation and liberalisation in the former Soviet Union and the socialist economies of Eastern Europe have provided a new dimension to land reform, namely the restructuring of land rights held by non-democratic states (Swinnen et al., 1997) (see Box 7).

Understandably, the main political motivation of land reform in east and southern Africa has been the repossession of land alienated by European settlers. At the same time, land redistribution has been seen as an opportunity to raise the economic and social well-being of the African population. Following *uhuru* in 1963, the government of Kenya planned to transfer freehold land to three categories of African farmers: large-scale commercial farmers, small-scale commercial farmers and peasants. Land acquisition was financed by British loans to the Kenyan government. In turn, the new owners acquired the land with government loans, but many of the larger commercial farmers defaulted. By the '90s, the largely absentee 'commercial' farmers had become a new class of landlords. Unable to farm their property, they had rented out their land to otherwise landless peasants rather than have it invaded. The demand for small-scale commercial farms was less than expected, which led to the resettlement of a much larger numbers of small holders than had been planned. In the '70s, small African producers in Kenya greatly expanded dairy and cash crop production. This took place on redistributed farmland, in the former White Highlands, as well as in the former reserves. The expansion was more a result of the waiving of restrictions on African farmers, and the opening up of markets for small-scale producers, than of land redistribution *per se*.

However, production by African land reform farmers on newly acquired high-potential land exceeded that of their European predecessors (or neighbouring commercial farmers), both in terms of returns to land and to scarce foreign exchange.

In the '80s and '90s, proposals for redistributive land reform in Zimbabwe, Namibia and South Africa grabbed the headlines. In all three countries, the enormous inequality in access to land threatens social, economic and political stability. At Zimbabwe's independence in 1980, a few thousand European farmers held about 40% of the land (15.5 m ha), mostly high-quality agricultural land, while around one million communal area households lived on 16.4 m ha of generally poor-quality land. At

#### **Box 7 DFID assistance to rural restructuring in transition countries**

During 1996–98, DFID funded the International Finance Corporation (IFC) to implement a Land Privatisation Project in Donetsk Oblast, Ukraine. A team of expatriate and local specialists devised, tested and implemented a methodology for the distribution of land and property assets of former collective agricultural enterprises to limited liability companies, partnerships, cooperatives and individual family farms. One of the outputs of the third year of the project was the establishment of a locally staffed and managed institution to support the privatisation of farms in Donetsk Oblast (DFID, 1999).

In 1998, DFID provided financial and technical support for the provision of business management and legal advice and social sector information to rural communities undergoing farm restructuring in the pilot region of Akmola Oblast in Kazakhstan (DFID, 1998).

For the period 1993–9, under the 'Know How Fund' and in co-operation with the IFC, DFID provided technical support for the privatisation of state farms in Russia. The goal of the project was a self-sustaining, spreading, fair, transparent and legally defensible privatisation process. In the oblasts of Nizhny Novgorod, Oryol and Rostov systems and procedures were developed for farm privatisation, training was provided to officials and manuals on land privatisation were produced and sent to all 25,000 state and collective farms in Russia. Support was provided to strengthen a national institution for land privatisation in Moscow as well as institutions at oblast level.

Objectively verifiable indicators:

- that privatisation is legal, fair and understood by those involved and does not create undue uncertainty and dissatisfaction;
- that farm managements change their behaviour in response to market pressure;
- that changes in ownership bring about changes in labour incentives and work behaviour;
- that privatisation provides the basis for transition to a market economy, particularly a market in land and related assets;
- that the transitional cost of privatisation in terms of lost output is not prohibitive;
- that privatised farms change their financial and productive performance over time;
- that privatisation changes household income and consumption.

*Source: DFID, 1997*

Namibia's independence in 1990, Europeans held some 6300 freehold farms covering about 44% of the country. In South Africa, Europeans held some 70% of the agricultural land in 1994. Africans were allocated only 13% of the total land area, which was held in trust by the state. Africans were not permitted to hold title deeds to land. Redistributive land reform in Zimbabwe and South Africa is further discussed in Chapter 3. As indicated in page 62, redistributive reforms in Namibia have not lived up to early expectations

### *Institutional challenges of redistributive land reform*

Inadequate administrative capacity for land reform is a recurring problem. A numerous and widely deployed army of well-trained field staff is essential to inform people of their entitlements and to facilitate the many and complex tasks involved in the legal processes. The numbers of staff involved vary with the type of reform. Even quasi-market measures have high transaction costs. A related requirement is that of adequate land valuation, survey and public land tenure records. Where these do not exist, or have been destroyed, landowners can easily frustrate the process of land acquisition or materially benefit from it through inflated prices. Finally, there is the issue of supporting services to sustain the land reform farmers and ensure that land distribution is not rapidly followed by land return.

Land redistribution may require direct state intervention in the land market through the provision of grants and services for:

- community organising ('community facilitation' in South Africa);
- farm and resettlement planning;
- land purchase (including valuation, negotiation, land transfer);
- re-settlement, including the provision of physical infrastructure;
- post-settlement support services (farm credit and input supply, marketing, extension advice, etc.) to sustain resettled households in the initial years.

For example, in Zimbabwe in the '80s, several central government agencies were directly involved in the selection of the participants for resettlement, the acquisition of the land, the planning of farm layouts, the construction of farm and social infrastructure and the provision of post-settlement support for farm production.



The level of organisational and technical support needed by participants in land redistribution projects greatly depends on the farming system that is to undergo transformation. For example, former share croppers on the landlord estates in the rice bowl of the Philippines, in Luzon, have needed less support than groups taking over rubber plantations on Mindanao, with a view to subdividing them into family farms. Again, in South Africa there is also great variation in the help that land reform farmers need and the costs incurred by government. Where customary groups acquire private livestock farms, adjacent to communal areas, it is a simple matter to remove the fences and extend their tribal commonage. Where participants are resettled on land, the use of which is to be changed (e.g. from ranching to mixed farming), more support may be needed with resettlement, land clearing and initial ploughing, as was the case with many resettlement schemes in Zimbabwe in the '80s.

Again, a major effort is needed to empower those who join a farm equity scheme with the required level of training and information to enable workers effectively to participate as co-owners. A significant amount of time has to be invested in building trust and explaining complex details relating to financial and legal matters, the implications for residential and employment mobility and the assessment of the financial viability of the scheme (Fast, 1999). This is not the type of support that government officials are best able to provide.

When the role of the state is under close scrutiny, it is necessary to ask what its role should be and how it should be played – more as partner and facilitator than as a director. How can it best build on the relative strengths of the market and civil society to bring about redistributive reform? Recent work of World Bank on land reform has focused on this issue. It perceives that governments tend to get too deeply involved in directing the process.

NGOs are very often the 'foot soldiers' of land reform. Pre-transition, they are a force for exposing abuses of human rights and political freedom, which repress agrarian movements. Post-transition, they lose members to the land reform bureaucracy, which reduces the chances of effective local-level participation and thus redistributive reform. Those who stress good governance and transparency and argue for their participation, see a role for NGOs beyond mere deliverers of services to land reform beneficiaries. They seek to involve NGOs and CBOs in the policy dialogue and in decision making (see Box 8).

There is a case for direct donor funding of NGOs to organise communities for land reform. It can nonetheless be controversial. Relations between civil society and state organisations in land reform are invariably tense (see Table 1), more so than in rural development

generally. However, in the absence of the support of civil society organisations and because of its lack of confidence, the state has often taken a larger role. This has been self-defeating, has driven up costs and further weakened civil society. More insidiously, substitution of the state may result in complicity with local elites or irrelevance of land reform measures for lack of local roots. The reluctance of governments in southern Africa to grapple with land rights issues in communal areas and to confront undemocratic traditional leaders is cause for concern.

#### **Box 8 NGOs in the implementation of land reform in the Philippines**

Between 1988 and 1990, the government's implementation of the Comprehensive Agrarian Reform Law of 1988 fell a long way behind the projected targets. At local level, land acquisition and distribution were slowed by inadequate land records, lack of knowledge of who actually owned agricultural lands, and disputes over both land ownership and identification of appropriate beneficiaries. It was realised that any hope of transferring large areas of land falling under the law's jurisdiction would require much more participation by local communities. Thus, many farmers' groups and NGOs concluded that the programme would depend on their own efforts. It was this reasoning which prompted a network of NGOs to undertake the initiative known as TriPARRD (Tripartite Alliance for Agrarian Reform and Rural Development) a tripartite alliance between government NGOs and CBOs. The programme was first tried out in three provinces in January 1990. Two years later, in June 1992, the programme was expanded to two more provinces.

TriPARRD has four main goals:

- to build and strengthen the social infrastructure of the agrarian reform programme;
- to transfer lands to and ensure land security of the agrarian reform farmers through their active participation;
- to develop and optimise the use of land in order to increase the farmers' income;
- to improve the agrarian reform law and its implementing policies and guidelines through lessons extracted from field experience.

*Source: de los Reyes and Jopillo, 1994*

Based on experience in Brazil, Colombia and Guatemala, the World Bank is keen to promote decentralised 'market-assisted' or 'negotiated' land reform.

It is recommending the use of social investment funds for land acquisition, on-farm investment and for social infrastructure and decentralised implementation through community-based processes (Deininger, 1999). This was the route originally charted by the Bank for

redistributive land reform in South Africa in 1994 (World Bank, 1993; Williams, 1996). In the event it has been a difficult one, partly because the rural poor are not well organised and NGOs are under-resourced and lacking in experience of land reform implementation, as opposed to land reform advocacy. Compared with the Philippines, for example, where NGOs and CBOs provide the foot soldiers for land reform, in South Africa they are very thin on the ground.

**Table 1 The benefits and disadvantages of government-donor-NGO collaboration in agrarian reform in the Philippines**

FROM THE GOVERNMENT PERSPECTIVE	
Benefits	Disadvantages
Better delivery of supporting services to rural communities	Government's services shown to be inefficient by comparison
More information available from the grass roots	NGOs mobilisation work promotes political instability
More interaction with rural communities	Demand for government services arising from participatory approaches increases beyond the capacity to meet it; too much focus on politics and not enough on poverty alleviation; NGOs lack competence in socio-economic/livelihood projects;
Enhanced cost effectiveness	NGOs compete with government for donors' funds
More monitoring and control of NGOs	NGOs reluctant to adhere to routine monitoring; unaccountability of NGOs
FROM THE DONOR'S PERSPECTIVE	
Benefits	Disadvantages
Better delivery of supporting services to target group, in contrast to poor performance and high-cost public agencies	NGOs are as reluctant as government to adhere to routine monitoring; unaccountability of NGOs regarding use of funds; NGO involvement complicates disbursement and creates administrative burdens for donor office; difficulty in arbitrating between national NGOs
NGOs seen as a better means of creating general awareness of the need for sustainable development and agro-ecology	Innovativeness of NGOs constrained by service contracts
Stress of NGOs on good governance, democracy and participatory methods.	Donor accused of interfering in domestic politics

FROM THE NGO PERSPECTIVE	
Benefits	Disadvantages
Improved access to government policy formulation	Co-option by government and greater bureaucratic controls
Access to more funds to pay for NGO personnel, training and operational costs	Unreliability of funds routed through government channels; bureaucratic delays; tension between NGOs seeking funding; loss of autonomy and independence; domination by foreign technical assistance staff; loss of credibility among clients and a tendency to maintain existing social and political conditions
NGOs obtain access to more funds for poverty alleviation land reform and rural development	NGOs become implicated in government's scandals, especially from government-initiated NGOs (GRINGOs); cost and profligacy of consultants (local as well as foreign) funded by the donor
Opportunity to improve government services by providing training	Government acquires the NGOs' methods, dilutes and discredits them
Opportunity for scaling up operations	Relegation of NGOs to mere delivery activities to the detriment of the NGOs' wider programmes
<i>Source: based on research by the author</i>	

A World Bank (1999) appraisal report has once again recommended a market-assisted approach to redistributive reform in southern Africa, this time in Zimbabwe. With South Africa's experience in mind, one must ask questions about the capacity of 'communities' to identify farms, negotiate terms with sellers, arrange transfer and prepare project plans. One lesson of market-based land reforms is that the transaction of land should not place the potential beneficiary and the owner in direct negotiations, if the intention is to break the bonds of dependency between the owners of property and the landless poor. This can be accomplished only if the state steps between the previous owners and the beneficiaries and acts on behalf of the latter. The World Bank recommends that beneficiaries should be encouraged to choose who would help them with their plans for purchasing a farm with a government subsidy, but important issues remain unresolved. How would a group of landless rural poor assess the credentials of potential service providers? What arrangements would be made for their appointment? How would they be contracted and by whom? Who would approve payment for services rendered? To what extent would the land redistribution process become seller driven? In South Africa, commercial farmers on the verge of bankruptcy tend to

ventriloquise the process of group formation, project identification, etc. Questions immediately arise about the asking price for farms. Because government funds are used for land acquisition, officials must therefore participate in the negotiation of the purchase price. If officials get involved in these various tasks, is there any significant difference between a market-assisted reform and a government land settlement project? The line is finely drawn. None of these problems is insoluble but assumptions about the cost and pace of delivery need to be evaluated with care.

## **Legal instruments for reform**

Enabling legislation provides the basis for land reforms conducted under the rule of law. The enactment of land reform legislation enables the state

### **Box 9 RSA Section 25 constitutional clauses relating to expropriation**

No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

Property may be expropriated only in terms of law of general application:

- for a public purpose or in the public interest; and
- subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided and approved by a court.

The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to relevant circumstances, including:

- the current use of the property;
- the history of the acquisition and use of the property;
- the market value of the property;
- the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- the purpose of the expropriation.

For the purposes of this section:

- the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and
- property is not limited to land.

*Source:* Chapter 2, Bill of Rights, Act 108 of 1996

to intervene in the land market both to (a) compulsorily acquire property directly for redistribution and/or (b) to make state funds available as grants and/or loans to enable qualifying persons to purchase land.

Property rights of citizens may be safeguarded by the constitution. For example, the Bill of Rights in the South African Constitution sets down the circumstances, terms and conditions under which expropriation for land reform purposes can legally take place (see Box 9). So exacting are the expropriation procedures that the government prefers to make money available for the purchase of land on a willing-seller basis using the *Provision of Land and Assistance Act 126 of 1993*, rather than engage in legally tortuous expropriation proceedings, which in any case require market-related compensation.

Land reform legislation is invariably complex, partly because of the horse trading which takes place in portfolio committees and legislative assemblies prior to land reform bills being passed into law. An example is the *Comprehensive Agrarian Reform Law (CARL), Republic Act (RA) 6657 of 1988* of the Philippines (Putzel, 1992).<sup>6</sup> While not the massive and complete law that many advocated, following the overthrow of the Marcos regime in 1986, CARL extended the coverage of redistributive reform to all agricultural lands, provided for greater participation of farmers and NGOs in policy formulation and implementation and allocated funds for infrastructure and support services.

Under CARL, the basic permitted holding was 5 ha, but each child of a landowner who was over the age of 15 years and actively involved in farming or managing the land, was entitled to 3 ha, up to a maximum of three children (9 ha) per family. The overall retention limit for a family could thus be as high as 14 ha. Although this was very modest compared with the large size of actual land holdings, most of the land involved was very fertile, irrigated land, with the potential for at least two harvests per annum. The Constitution required that landowners received just compensation. The valuation of lands covered under CARL was based on a formula containing three criteria of varying importance: the productive value of the land; the market value as declared in income tax returns; and the value of land as indicated by comparable sales in the locality. The repayment schedule of land reform beneficiaries to the Land Bank was based on 30 annual payments at 6 per cent interest. Allowances could be made to ease the hardship of those who were not able to meet their repayments in the initial years. Thus under CARL, the government provided a double subsidy, first through fixing the interest rate at below

---

6. On 23 February 1998, President Fidel V. Ramos signed into law a bill that extends the Comprehensive Agrarian Reform Program (CARP) by 10 years and augments the Agrarian Reform Fund (ARF), CARP's main funding source.



market rates, and secondly through extending the repayment schedules. Under the 1986 Philippine Constitution, it is laid down that the state shall further provide support through appropriate technology and research, and adequate financial, production, marketing and other support services for former farm labourers and tenant-farmers. Accordingly, CARL provides for the creation of the Office of Support Services under the Department of Agrarian Reform. This topic is discussed further page 39; Laws must be also provide the basis for tenure reform. They are inevitably complex because they involve changing interests in land and the form that those interests should take. Box 10 provides examples of recent tenure laws in South Africa. Work is underway on a more comprehensive tenure reform law, which aims to transfer property rights from the state to the inhabitants of the former homelands. An important lesson arising from South Africa's new land legislation is that the financial, organisational and training implications of implementation and enforcement have not been adequately considered in advance of their enactment (see Chapter 5).

#### **Box 10 New South African land tenure laws**

**The Land Reform (Labour Tenants) Act, 1996:** provides for the purchase of land by labour tenants and the provision of subsidies to this end.

**Interim Protection of Informal Land Rights Act, 1996:** a short-term measure which protects people with informal rights and interests from eviction, until more comprehensive tenure legislation is in place.

**Communal Property Associations (CPA) Act, 1996:** enables groups to acquire, hold and manage private property in full ownership on a basis agreed by members and in terms of a written constitution. CPAs may be required if a group is to take transfer of land purchased with a government grant and where there is a danger of domination by elites. This has led to difficulties where a group, living according to customary laws and practices, forms a CPA. In practice, there is insufficient enforcement of the Act to ensure democratic practices or prevent abuses of power or corruption.

**Extension of Security of Tenure Act, 1997:** gives farm workers and tenants rights of occupation on private land. It lays down the steps that owners and persons in charge of rural or peri-urban land must follow before they can evict people. The Act also regulates the day-to-day relationships between owners and those living on the land. The law, the only one of its kind in a region notorious for exploitation of farm workers, has been controversial with regard to its perceived impact on employment.



## Justification for donor support for land reform

### Issues to be considered

In making the case for donor support to land reform, it is necessary to consider the nature and scope of the reform envisaged and the political and legal circumstances under which the changes are to take place. The distinction between tenure reform and redistributive reform has already been stressed in Chapter 1 and so have the differences between the various types of tenure reform and land redistribution undertaken by governments.

The economic costs and benefits of redistributive reform and their potential impact upon poverty depend on the nature of the agrarian structure being transformed. The dissolution of landlord estates, in the Philippines for example, is a relatively low-cost and low-risk operation, given the presence of strong political will and grass roots organisation. On the other hand, redistributive reform involving land resettlement, as in Zimbabwe, is a complex and risky undertaking. So called market-assisted or negotiated land reforms, as recently attempted in Latin America and South Africa, have received much attention, but reliable information on their cost to governments and their impact on rural poverty is awaited.

In the following three country profiles, the focus is on the case made for donor assistance for land reform and the components proposed for funding. For a comprehensive review of outcomes it is necessary to turn to more detailed reviews of these programmes. Where these are known to be available, the sources are referenced in the text.

### Redistributive reform in the Philippines

This case study is based on the identification and preparation of a land reform support programme for the European Commission in the early '90s (European Commission, 1993, 1994).

#### *Country background*

Agrarian relations in the Philippines are complex, sharing characteristics with both Latin America and Asia. At one end of the spectrum are the *hacienda*-type plantations of multi-national corporations; at the other, the

small peasant tenancies of rice and corn lands, with a variety of land-tenure arrangements in between. In the early '90s, the picture was one of widespread landlessness and poverty. Some 9% of rural families owned 83% of the land. Meanwhile, out of 10 m agricultural workers, 5 m were without land, 2 m were tenants, 1.5 m were owner operators and 1.5 m were cultivators on public land without legal rights (like the occupants of communal areas in Zimbabwe and South Africa).<sup>7</sup> It is difficult to avoid the conclusion that one of the major causes of poverty and underdevelopment in the Philippines is the way in which land is used and controlled.

Many village-level studies conducted in the '70s and '80s revealed a variety of rapidly changing institutional arrangements. The centuries-old feudal relations that had kept millions of peasants in a state of abject poverty and powerlessness were crumbling. The agrarian structure greatly changed with the break up of the large family estates, with the increase in absentee land ownership by middle-class urban dwellers and with the introduction of the new rice production technology.

Land reform had been on the political agenda since the beginning of the 20th century, when the US replaced Spain as the colonial ruler. It had figured prominently in the policy of successive administrations. Yet land reform had never lived up to the expectations of its advocates. It was opposed by conservative interests, on the supposed grounds that it would open the door for Communism. Unlike in Japan, Korea and Taiwan, where land reform was pushed ahead after World War II, in the Philippines the US were reluctant to press for land reform because of their long and close relations with large landowners.

As a result, land reform in the Philippines had been much slower, less radical and less effective. Disillusioned by repeated failures, both national governments and aid agencies had shifted the focus of their support from land reform to integrated rural development and the introduction and improvement of seed-fertiliser technology. However, in the period 1991–2 the pace of land reform unexpectedly accelerated. A number of factors coincided and provided a renewed impetus. These included:

- the ending of the Cold War and the ideological debate about land reform providing support to communist insurgents;

---

7. The granting of land titles to small farmers who are the *de facto* users of public land is ongoing where security of tenure is threatened by arbitrary acquisition of public lands by developers. In the past, traditional users of 'alienable and disposable' land have had their traditional usufructuary rights routinely abrogated by government leasing land to public corporations.

- the emergence of democratic political institutions, an elected government and the peace initiatives taken to bring long years of insurgency to an end;
- the realisation that security of tenure for small farmers stimulates farm investment, agro-industry and economic development;
- and the appointment of a Secretary of Agrarian Reform who had made far-reaching management reforms and forged alliances with NGOs and CBOs, though as Putzel (1998) points out, donor agencies were not always supportive of these.

### *The case for donor support*

Land reform in the Philippines provided a means of moving towards more productive and sustainable agriculture and of reducing poverty among two million rural families living below subsistence level. It was recognised that redistributive reform could not in itself ensure national economic development, but it was seen as a necessary condition for a more secure and a more balanced civil society and for an end to rural insurgency which had been a recurring theme in Filipino history since the '30s (Wurfel, 1991). It was therefore considered important that the pace of orderly land acquisition and distribution be increased and brought to a satisfactory conclusion as soon as possible.

The main economic arguments for the reform of the mono-crop plantations was that employment of labour was highly seasonal and that over-specialisation (e.g. sugar, bananas, pineapples, etc.) limited food production for the domestic market. Plantations, which generally emerged under conditions of lower population density, were increasingly difficult to justify in the face of mounting land scarcity and unemployment. Returns from land under smallholder production systems were considered to be significantly higher. Even where the original plantation crops were retained, contract farming by owner-operators was believed to be equally viable.

In the Philippines, by far the most important category for land reform was the landlord estate on which tenants commonly had no security, except in terms of custom, and could be evicted at will. It was argued that redistributive reform would provide an additional production incentive, greater security of tenure and an increase in production from the abolition of rent for the producer, without the need for change to the operational farm structure. In the period 1945–60, especially at the end of World War II, many landlord estates in Asian countries were transferred to tenants

and, as in Western Europe in the previous century, the new systems proved successful. These reforms have led to increases in farm output and productivity and to systems of land ownership that are politically stable.

To obtain any appreciable increase in production, it was necessary to ensure that the new owners had access to the means of investing more capital through the organised provision of farm credit, through cooperatives for marketing and the purchase of equipment, as well as access to an agricultural advisory service. There is strong evidence that where new owners had received a significant injection of funds and effort to foster co-operatives, major increases in production and income were obtained in a relatively short time.

### *Nature of donor support provided*

The 1995 assistance from the EU to land reform in the Philippines was to an ongoing programme. For several years, the EU had been involved in area-based rural development projects, which were constrained by tenure relations. EU assistance to the Comprehensive Agrarian Reform Programme (CARP) specifically excluded any contribution to land acquisition, a point discussed in Chapter 6. The following expenditure components were listed in the project preparation report:

- **Land transfer:** survey, computing and drawing office equipment, transport and funds for contracting subdivision surveys were provided to facilitate the transfer of 250,000 ha and the granting of individual land titles to farmers. The project aimed to speed up land survey which was holding up land acquisition and transfer of individual farms.
- **Productivity systems development:** infrastructure (farm-to-market roads, potable water, etc.); agricultural inputs for irrigated and rainfed farms; irrigation construction and rehabilitation; hand tractors; draft animals and livestock; post-harvest facilities and trading capital. Donor funds were channelled through the Land Bank, which acted as a wholesaler of credit to farmers' cooperatives.
- **Social infrastructure building and strengthening:** some 50 of the Department's development facilitators, personnel from some 25 locally-based NGOs, as well as a number of farmers' organisations, were funded by the project, in order to ensure that land reform farmers were well organised and informed about the opportunities for economic advancement. Financial assistance was provided for operational costs, for training development workers involved in community organising;

for motor cycles and the training of field agricultural extension staff; personnel and training costs of NGOs and farmers' organisations.

- **Project administration:** the donor funded the necessary facilities for operation of the Project Office and for three sub-offices; the personnel costs of the national NGO contracted to monitor and coordinate local NGOs and farmers' organisations at village level; for technical assistance.

In 1998, the Agrarian Reform Support Project was deemed by the government and the EU to be successful and was extended with further funding for another term. Putzel (2000) points out that in areas where the political leadership allowed the programme to go ahead, there is little doubt that there have been important gains, but overall the so-called 'Comprehensive Agrarian Reform Programme' was only partial in its impact. Implementation was slow, share tenancy has persisted and agricultural workers have not benefited. Unlike land reform in South Korea, for example, the Filipino ruling class has never perceived radical land reform as essential to their survival. Nonetheless, the peasant movement in the countryside has successfully kept the issue alive and in so doing has legitimised the principle of state-led redistributive reform to redress historical injustices. He predicts that it will continue to emerge on the policy agenda for as long as a critical mass of the rural population depend on agriculture.

## Redistributive reform in Zimbabwe

### *Country background*

The UK pledged assistance for Zimbabwe's redistributive reforms during the bilateral negotiations, which led to independence in 1980. A grant of £20m for land resettlement was agreed in 1981, with UK matching funds being made available on a 50/50 basis, including the cost of land acquisition, which amounted to 44% of the total programme costs up to 1988. An additional £24m was granted as budgetary support. Zimbabwe set targets for the resettlement of 162,000 families on 9.0m ha of land. In the period 1980–1989, some 3.3 m ha were redistributed to some 54,000 families. Over 80% of the land had been acquired by 1983–4 on the

willing-buyer willing-seller basis required by the 'Lancaster House' Constitution (ODA, 1996).<sup>8</sup>

An evaluation of the programme in 1988 found that the programme had made impressive strides towards achieving its principal objectives (see Box 11), particularly the short-term political objective of contributing to post-war reconstruction and stability. It was found that the majority of families had benefited considerably through the provision of increased opportunities for income generation and the availability of services such as health and education (Cusworth and Walker, 1988).

In the '90s, only another 20,000 households were resettled from the communal areas on land acquired from commercial farmers. Resettlement slowed down for several reasons. Resettlement schemes for the landless poor were the subject of often baseless yet mounting condemnation. Government had difficulty in raising funds to acquire land for redistribution. Critics asserted that Zimbabwe's Constitution hampered land acquisition. Land prices were considered to be too high. The 1992 Amendment to the Constitution and the 1992 *Land Acquisition Act* aimed to strengthen the government's hand in acquiring land for redistribution from the large-scale commercial farming sector. The Act provides for a number of 'non-market' solutions: e.g. government land valuation

procedures to determine the purchase price, limits on the number of farms owned by an individual, limits on farm size, on absentee landlords and on

**Box 11 Objectives of Zimbabwe's Phase 1 Land Reform and Resettlement Programme**

The main aims of the programme (Government of Zimbabwe, 1980) were to:

- alleviate population pressure in the communal areas;
- extend and improve the base for productive agriculture;
- improve the level of living of the largest and poorest sector;
- provide opportunities for landless and unemployed people;
- bring abandoned or under-utilised land into full production and implement equitable land redistribution;
- to expand or improve the infrastructure of economic production; and
- to achieve national stability and progress in a country that had only recently emerged from war and turmoil.

*Source:* ODA, 1996

8. Zimbabwe's constitution was amended in April 2000 by President Mugabe's government. The 16<sup>th</sup> amendment to the Lancaster House Constitution allows government to acquire land without paying compensation.



foreign ownership and the designation of areas for land acquisition and resettlement.

In the process, Zimbabwe's land redistribution programme moved away from the initial poverty-reduction goals of Phase 1 and towards land redistribution for 'productive' purposes. Government, however, became subject to heavy criticism on the grounds that farms were being compulsorily acquired and allocated to well-off politicians, military personnel and officials and used as patronage to underpin political support. Threatened expropriations heightened apprehension among investors, both domestic and foreign. Mugabe's attempted 'land grab' was commonly viewed as a crude attempt to deflect attention away from growing opposition and often self-inflicted economic problems (Palmer, 1998). In September 1998, following an international conference of donors in Harare, the government agreed to make significant changes (e.g. to take greater steps to ensure transparency and fairness; to test market-assisted and community-initiated approaches) in return for renewed donor support. It tabled a comprehensive draft National Land Policy with the explicit aim of ensuring equitable and socially just access to land, democratising land tenure systems and ensuring security of tenure for all forms of land holdings (Ministry of Lands and Agriculture, 1999).

The international community responded by offering modest and conditional support to Zimbabwe's 'Inception Phase Framework Plan' (IPFP) (Government of Zimbabwe, 1999), which was intended to be the prelude to a larger redistribution programme. DFID responded by assigning yet another mission to examine the case for UK assistance, which recommended a limited programme of support to the IPFP, including funds for land acquisition (Adams et al., 1999a). However, land reform, which for twenty years had been the dominant theme affecting bilateral relations between Zimbabwe and UK, became the focus of attempts by the ruling party to mobilise the support of rural people for a further term. In April 2000, following widespread farm invasions by 'war veterans' and a constitutional amendment allowing for the acquisition of land without compensation, relations deteriorated to the point that western donors suspended their assistance support to the IPFP.

### *The case for donor support*

The stated objectives for the programme, as set out in the IPFP report, emphasised quantitative targets of land to be acquired from the large-scale commercial farming sector and redistributed to beneficiaries. The DFID consultants, in their June 1999 report noted that, although references were



also made to poverty reduction, increased farm production, environment, peace and security, it was the repossession of land alienated by white settlers which was clearly the government's overriding political objective. Whilst that was entirely understandable, given the history of the country, that on its own it would not be sufficient justification for donor support. It was therefore necessary to clarify the other wider social and economic objectives of the programme.

- The **social objectives** were to provide an opportunity for some of the poorest and most disadvantaged people in the country to have improved access to services such as health, education and clean water. By definition, such people would have had limited access to these services in the overcrowded communal areas. In addition, their removal from these areas would have helped to relieve pressure on the existing services and therefore improve access to them for the remaining population. The consultants argued that, *ex ante*, these benefits could be predicted from the longitudinal data collected on welfare indicators among settler and host communities in the communal areas by Kinsey (1999) (see page 108). *Ex post*, they would be verifiable by reference to baseline studies of populations established under the resettlement programme.
- The **main economic objective** was to provide settler households, which had little access to land where they currently lived, an opportunity to improve their incomes through farming on more productive land. If redistributed to small farmers, this land would be utilised more intensively, albeit initially at a lower input to output ratio, thereby adding to national economic development. Again, objective verification would depend on the collection of the required baseline information as part of a monitoring and evaluation component.
- **Without-project situation:** The consultants stated that the above-mentioned social and economic objectives were clear and unambiguous and would be in line with most donor evaluation criteria. However, a number of issues needed to be taken into account in determining whether or not to support the inception phase of the LRRP-2. One was the counterfactual. It was certain that even without donor support, the Zimbabwe government would go ahead with resettlement one way or another. There had been many pronouncements to that effect. Without resources adequately to support the programme, it was unlikely that either the social or economic objectives would be met. The environmental impact would almost certainly be negative. The beneficiaries might not have been drawn from the appropriate target

group and opportunities for abuse of the land allocation process would expand. A key argument, therefore, in favour of supporting the programme was that external influence could be brought to bear to prevent negative impacts and to obtain the fulfilment of the social, economic and environmental objectives listed in the IPFP. The consultants noted that the World Bank had evidently reached a similar conclusion, when they argued that the risks of not releasing the money to Zimbabwe for land reform outweighed the risks of doing so (World Bank, 1999).

- **Alternative use of project funds:** Another issue was whether the best way to achieve the above-mentioned objectives was through land resettlement. The opportunity cost of committing funds to resettlement could be measured in terms of lower service provision in the communal areas, which would to some degree offset the welfare gains from the programme. The consultants argued that it was hard to see that it would be possible to capture the economic benefits from resettlement in a more cost-effective manner. The productive capacity of the communal areas was probably close to the optimum and would require a huge investment to re-plan and rehabilitate. Given the current economic climate, the debt situation and the exchange rate, low capital input, intensive land use had to be economically attractive. If that could be achieved with minimal impact on commercial farm output, as empirical evidence suggested, then resettling households on productive land had to be one of the few economically sound investment opportunities available. Agricultural development itself would not solve all Zimbabwe's development problems, but a lagging agricultural sector would almost certainly impede the development of the other sectors on which future development depended.
- **Support to land purchase:** If the argument for resettlement could be made on both poverty reduction and economic grounds then the issue became one of how best to support the programme. One reason was to assist in ensuring that the programme met its objectives. For that to happen, there needed to be sound and transparent management of all aspects of the programme. The leverage that donors could exert would depend on the type of assistance provided. It was argued that maximum leverage might be exerted through assistance with land purchase. This would ensure the donor of a place at the operational decision-making table and a key role in programme monitoring and policy development. It was unlikely that this could be achieved through support restricted to technical assistance and the provision of infrastructure. It was therefore

suggested that the donor give careful consideration to providing support for land purchase.

### *Nature of donor support proposed*

On the basis of the findings of the mission outlined above, the consultants recommended that the donor give further consideration leading to in-principle approval to supporting the inception phase of the land reform and resettlement programme through providing:

- infrastructure and settler support, particularly in the form of 'starter packs' for new settlers;
- funds for the purchase of land in support of the programme;
- financial resources to establish three independently administered 'funds' to facilitate NGO and private sector involvement in the programme in order to provide community facilitation, technical and commercial services to settler households; and
- technical assistance to help establish the funds and to support the monitoring and evaluation function.

In the event, the team's recommendations were not acted upon. Within a year the political and economic situation in Zimbabwe had markedly deteriorated and the scope for constructive engagement by donors had greatly decreased. Prior to the meeting on 26 April 2000 in London between representatives of the British and Zimbabwean governments, Britain's Foreign Secretary, Robin Cook, said that Britain would insist that land reform was carried out within the rule of law, on the basis of a fair price offered to farmers for their land. Land reform would have to benefit the 'rural poor and not public officials with the right connections'. Cook said that Britain would actively support wider international backing for land reform only if Zimbabwe went ahead with free and fair elections. Following the meeting, Cook reiterated that Britain would not hold further talks with Zimbabwe on land reform until the violence and occupation of white-owned farms finished.<sup>9</sup>

---

9. Source: Reuters correspondents' reports, 26–28 April 2000 posted on [www.news.africa.com](http://www.news.africa.com)

## Redistributive reform in South Africa

During the period of the Mandela government, official development assistance was extended to a variety of land reform measures. The donor-funded programmes and projects in the Department of Land Affairs for the period 1994–9 are summarised in Table 7. The bulk of the resources for the implementation of the land reform programme were provided by the government budget. Official development assistance provided complementary support (Adams, 2000).

### *Country background*

Prior to the dismantling of apartheid legislation at the beginning of the '90s, some 87% of South Africa's land resources were owned by (or reserved for) whites (12.6% of the population). Land for black people was effectively limited to the remaining 13% of land in the former homelands, state-owned land under customary forms of tenure. The land was very often agriculturally marginal due to its location (dry areas, infertile soils), over-cultivation and over-stocking, which arose from insecure tenure, overcrowding and low investment in land improvement. The inequality of land ownership in South Africa mirrored massive inequality in the distribution of income and other assets, as well as access to services. Unemployment was as high as 40% and the poverty rate 53% – three-quarters of the poor lived in the rural areas. The overriding need in 1994 was to unravel the preferential agricultural policy for white commercial farmers and the resulting imbalances that had characterised apartheid, while ensuring that the economy functioned at a level that would generate equitable growth and incomes. While the share of commercial agriculture had been falling and was currently contributing only 5% to GDP and 10% to employment, it had the potential to create employment and raise incomes of the rural population.

Prior to the elections in 1994, the African National Congress set out its proposals for land reform in the 'Reconstruction and Development Programme: a policy framework', (ANC, 1994). It stated that land reform was to be 'the central and driving force of a programme of rural development' (p. 19). Land reform was to redress the injustices of forced removals and the historical denial of access to land. It was to ensure security of tenure for rural dwellers, eliminate overcrowding and to supply residential and productive land to the poorest section of the rural population. Land reform was to raise incomes and productivity and,

through the provision of support services, to build the economy by generating large-scale employment and increase rural incomes.

As anticipated in the 1994 RDP policy framework, government's land reform programme has had three elements, all of which are provided for in the Constitution (see Box 12). Under the Constitution, land reform is a mandate of the national government Department of Land Affairs (DLA) rather than that of the provincial or local sphere, a factor which has had major implications for the place of land reform in rural development, which is a provincial and local government mandate.

### **Land Restitution:**

The purpose of South Africa's Land Restitution Programme is to restore land and provide other remedies to people dispossessed by racially discriminatory legislation and practice. This is to be done in a way that will support the process of reconciliation and development, and with due regard to the over-arching consideration of fairness and justice for individuals, communities and the country as a whole. The government's policy and procedure for land claims are based on the provisions of the Constitution and the *Restitution of Land Rights Act*, 22 of 1994. A restitution claim qualifies for investigation by the Commission on Restitution of Land Rights provided that the claimant was dispossessed of a right in land after 19 June 1913, as a result of racially discriminatory laws or practices, or was not paid just and equitable compensation. By the cut-off date in March 1999, over 60,400 claims by groups and individuals had been lodged.

To ensure that finality is reached in disputed cases, to ensure that only genuine claims receive redress and that restitution or compensation is just and equitable, provision is made in the Act for the establishment of the

### **Box 12 RSA constitutional clauses relating to land reform**

The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

A person or community dispossessed of property after 19 June 1913 as a result of racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

*Source:* Chapter 2: Bill of Rights, Act 108 of 1996



Land Claims Court. In all claims the State is the respondent. However, the state is not an unwilling respondent because restitution is a government programme, guaranteed under the Constitution. Thus, although it acts as respondent on behalf of the state, the Department of Land Affairs also assists the Commission in facilitating the preparation of claims and ensures access to information, assistance and support in reaching just settlements.

Restitution can take the form of the following: restoration of the land from which claimants were dispossessed; provision of alternative land; payment of compensation; alternative relief comprising a combination of the above; or priority access to government housing and land development programmes. The state aims to compensate certain successful claimants where restoration of the land and other remedies are not appropriate. Landowners whose land is expropriated for the purposes of restoring land to successful claimants are compensated in a just and equitable manner.

In 1998, in response to the slow pace of implementation, a ministerial review of restitution was conducted to find ways of resolving claims more quickly, without compromising the integrity of the programme. The whole restitution process, including the institutional arrangements, was the subject of critical analysis and a major re-organisation. Amendments to the Act in 1999 provided for simpler administrative processes for the resolution of cases.

By June 2000, some 4923 claims had been settled. A major outstanding issue is the level of compensation to which restitution claimants should be entitled. The high cost of compensation is in danger of swamping the DLA budget at the cost of other land reform components. The financial implications for the state, of honouring people's constitutional right to the restitution of land or to financial compensation, represents an increasingly hopeless and unmanageable burden which is made all the more difficult to manage by the fact that it has yet to be quantified.

### **Land Tenure Reform:**

Under the Constitution (see Box 12), the government is obliged to develop laws which set out the interests in land which were undermined by discriminatory laws and ensure that such interests in land are legally secure. Tenure reform must address a range of problems arising from settler colonisation and dispossession. Many of the areas referred to as 'communal' were deliberately created to further colonial policies. They served as reservoirs for cheap migratory labour. A factor complicating post-transition attempts to dismantle the apartheid map is the complex and unstructured nature of the legislation governing the communal areas, much of which has yet to be repealed.

Tenure reform has been addressed by enactment of laws which aim to improve tenure security and to accommodate diverse forms of tenure,

including communal tenure. *The Communal Property Associations Act, 28 of 1996*, enables a group of people to acquire, hold and manage property under a written constitution. *The Land Reform (Labour Tenants) Act, 3 of 1996* (LTA) provides for the purchase of land by labour tenants and the provision of a subsidy for that purpose. *The Extension of Security of Tenure Act, 62 of 1997* (ESTA) helps people to obtain stronger rights to the land on which they are living or on land close by. It also lays down certain steps that owners and persons in charge of the land must follow before they can evict people. The resources made available by government for the implementation of these laws have so far been hopelessly inadequate.

*The Interim Protection of Informal Land Rights Act, 31 of 1996* (IPILRA) protects those with insecure tenure, pending longer-term reforms. The proposed Land Rights Bill, covering the rights of people living on nominally owned state land in the former homelands, was to have finalised the programme of tenure reform, set out in the 1997 White Paper on South African Land Policy. However, the measure was overtaken by the elections in mid 1999 and the draft bill was shelved in favour of a measure which will transfer land to 'tribes'.

#### **Land Redistribution:**

Under the Mandela government (1994–9) the land redistribution component of the land reform programme aimed to provide the disadvantaged and the poor with land for residential and productive purposes. A single, yet flexible, grant mechanism was developed 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). Under the powers granted by the *Provision of Land and Assistance Act, 126 of 1993*, the government assisted eligible persons to obtain a grant to a maximum of R16000 to purchase land directly from willing sellers, including the state. Because land was both relatively costly and unavailable in small grant-sized parcels, people wishing to acquire land with government grants had to form themselves into groups to acquire land on a willing-buyer willing-seller basis.

There are two sources of farmland for redistribution for this purpose:

- unallocated state land, some 0.6 m ha outside the former homelands (so-called ex-South African Development Trust land) and some 1.0m ha within the former homelands (once farmed by parastatals);



- private land which can be acquired for redistribution on a willing-buyer willing-seller basis or through expropriation in terms of the Expropriation Act.

In practice, it is the privately held land in South Africa that must provide the bulk of the area for redistribution. The redistribution of the state land, which lies outside the former homelands, is fraught with legal and social problems as much of the land is already used and occupied by rights holders protected under the LTA, ESTA and/or IPILRA laws. Much of this land, which was formerly acquired by the state for the purposes of homeland consolidation, is adjacent to crowded areas of the former homelands, the inhabitants of which have a reasonable expectation that the land will be made available to them. Likewise, the state land, which lies within the former homelands, is the subject of competing claims by traditional leaders and their people, former employees of the parastatals and farmers allocated land on the schemes. Experience has shown that sorting out competing claims is a lengthy process.

In February 2000, the Minister of Agriculture and Land Affairs, Thoko Didiza (2000) announced a number of policy changes relating, among other things, to the government's land redistribution. The aim of the programme is to develop a black commercial farming class in South Africa. Grants of up to 80% would be provided to prospective farmers to purchase small and medium-sized farms. Provincial committees, chaired by provincial departments of agriculture, would be responsible for the assessment of applications and the award of subsidies. This programme, which would also provide some scope for poor households with only modest farming ambitions, is expected to replace the land redistribution programme that was in place until the change of government in mid-1999. The implications of these policy changes are considered by Cousins (2000a).

### *The case for donor support for the Land Reform Pilot Programme*

The Land Reform Pilot Programme (LRPP) was established in late 1994 to devise and test efficient, equitable and widely replicable means of transferring land to the rural poor, and ways of providing them with access to basic needs and more secure livelihoods (DLA, 1995). The pilot land redistribution programme was implemented in nine 'pilot districts', one in each province, by way of agency agreements between the national DLA and the Directors-General of the provinces, each of which designated

a responsible provincial department to implement the programme. The arrangement was necessary because the newly created national Department of Land Affairs had inadequate administrative capacity at provincial level. Each LRPP office dealt with redistribution projects in its district, which involved face-to-face contacts and facilitation with communities and associated NGOs. A provincial Land Reform Steering Committee was chaired by the responsible provincial department, sometimes the responsible provincial minister, with a secretariat provided by that department or by the national DLA's newly established provincial office. Funding for the pilot projects (i.e. for project planning, land acquisition, and settlement) was provided by DLA, via the responsible department. Funding of bulk infrastructure and post-settlement support services was meant to be provided by the budgets of provincial government departments, but the provincial sphere of government was unwilling or unable to provide post-settlement support to land reform farmers.

In 1995, some nine months after the LRPP had been initiated by the South African government with its own resources, a financing proposal was submitted jointly to Danida, EU and ODA to obtain additional funding for the LRPP (DLA, 1995).

The justification for donor assistance to the LRPP was encapsulated in the project logical framework:

- goal: the alleviation of rural poverty and injustices caused by previous apartheid policies;
- purpose: to achieve a participatory, transparent, efficient and equitable means for land redistribution and the delivery of basic infrastructure on a pilot basis, as a model for rural development.

The underlying case for donor support was, of course, more textured. Since 1993, the three donors had been involved in supporting the Land and Agriculture Policy Centre (LAPC), the think tank on these matters for the ANC 'government-in-waiting'. The LAPC had contributed to the drafting of the ANC manifesto, which set out the new ANC land policy (ANC, 1994).

Prior to the official opening of negotiations in 1990, the ANC had stated:

'The redistribution of the land is the absolute imperative of our conditions, the fundamental national demand. It will have to be done, even if it involves some economic cost, in order to continue to mobilise the people whose support has brought the democratic forces to power.' (Slovo, 1986).

Since the mid-50s and the days of the Freedom Charter, the ANC had put nationalisation forward as the mechanism necessary to redress decades of dispossession and destruction of black property and economic rights. Sampson (1999), in his authorised biography of Nelson Mandela, describes how these ideas were not abandoned by the leadership until 1992. Fears of nationalisation had caused widespread concern among white farmers, business people as well as foreign governments. DAC countries were understandably keen to support the search for alternatives to nationalisation and the expropriation of assets. Donors were concerned that the peaceful transition to majority rule would be disrupted unless alternative policies set out in the ANC manifesto were given a try.

From 1990, the World Bank entered into a series of dialogues with prospective policymakers in South Africa concerned with housing and urban issues, education, health, land and agriculture and macro-economic strategy. It took the lead in the early stages of preparing the Rural Restructuring Program for South Africa. In February 1992, the World Bank initiated a report on the agricultural sector. In November, the World Bank and the UNDP organised a workshop in Swaziland on international experience in selected areas of agricultural policy and land reform. The purpose of the workshop was to review experience and to explore implications for South Africa (Christiansen et al., 1993). At the Land Redistribution Options Conference in 1993, the World Bank put forward proposals for market-assisted land redistribution in South Africa (LAPC, 1994).

On coming to power, the new government was quick to reassure landowners that land redistribution would proceed in an orderly manner according to market principles and in line with the 'the property clause' in the Constitution (see Box 9). Donors, particularly UK, were keen to assist the ANC government to deliver on its undertaking. The Department of Land Affairs, which was charged with implementation, emerged through a tortuous restructuring of the old-order bureaucracy, drawing its staff from a number of different tributaries of the former government, including the Office for Regional Development and the Department of Development Aid. Many of its personnel had been instrumental in laying out the apartheid map of the so-called independent states and the self-governing territories. Technical assistance to the new Department was perceived by the donors to be of the utmost importance. On the other hand, the former NGO land reform advocacy group, which had taken charge of policy and implementation, was not over anxious to accept foreign technical assistance. They were confident in their own abilities and had experienced

tense relations with the World Bank's early initiative to influence the land reform process.<sup>10</sup>

### *Nature of donor support provided*

The Land Reform Pilot Programme, financed under the Reconstruction and Development Programme, was established in November 1994 by the Department of Land Affairs. The pilot land redistribution programme was the outcome of studies by South African NGOs, universities and research institutions, both prior to and following the change of government. The initial LRPP project document (DLA, 1994) stated that donor funds would be sought for the programme. In early 1995 a joint appraisal mission was sent to Pretoria by Denmark, UK and the EU, all of which had been assisting the Land and Agriculture Policy Centre. The initiative for a combined donor mission came from the DLA. The purpose was to reduce the administrative burden for the Department in dealing with three separate donors.

The financing proposal drafted by the mission for DLA, requested assistance for the following principal activities over financial years 1996–7 and 1997–8 (DLA, 1995):

- the operation of nine pilot district Land Reform offices;
- the development of implementation procedures for transferring land title to landless people, tenants and farm labourers;
- participatory planning of land settlement and development; and
- the delivery of services and infrastructure.

The planned commencement of donor funding was January 1996 but delays occurred with the signing of individual agreements. Rand 45 m was the sum needed from donors to reach the total of R 315.8m, the amount initially budgeted by DLA for the LRPP, following the commitment of R270.8m by the South African Government (see Table 2). The apportionment of the R45 m among the donors was based on an initial pledge by Denmark of R19.5 m and an equal split of the balance of R25.5m between EU and UK. SA Government funds were to be used for all components; Danish and UK funds for all components except land acquisition; and EU funds for homestead basic needs grants only. Funds

---

10. For an analysis of World Bank land policy advice to the new South Africa, see Williams, 1996.

for the LRPP were initially to be equally divided between provinces and rolled over annually.

To soak up available donor resources in excess of the initially requested input of R45 m, the Department of Land Affairs also secured donor funds for so-called extension areas to the Pilot Districts. These areas were to be identified at a later date, applying lessons learned in the pilot districts. In addition to the above components, the appraisal mission recommended, and the donors and DLA accepted, that an additional R23.35 m be set aside for training, community facilitation, *ad hoc* technical assistance, and communications.

**Table 2** Estimated LRPP costs (R m) (DLA, 1995)

Financial/Project Year	1996	1997	Total
(i) District Management and Facilitation	9.90	8.10	18.00
(ii) Planning Grants	23.60	3.40	27.00
(iii) Land Acquisition Assistance Grant	67.80	24.00	91.80
(iv) Surveys and Land Transfer	9.26	1.00	10.26
(v) Homestead Basic Needs Grant	84.37	84.38	168.75
<b>Total</b>	<b>194.93</b>	<b>120.88</b>	<b>315.81</b>
From donors	22.50	22.50	45.00
From RSA	172.43	98.38	270.81

In 1995, reliance was being placed on non-statutory bodies to implement aspects of the government's land reform programme. The LRPP financing proposal reflected these transitional arrangements. Denmark disbursed R15.13 m directly to the LAPC for the purpose of research, reviews, and M&E. All other assistance provided under the LRPP went through the state treasury. The DLA, in turn, contracted private sector 'administering agencies' to administer those aspects of the programme that involved the contracting of service providers without going through the sometimes very lengthy public service and state expenditure procedures. At the invitation of the DLA, each of the three donors assigned a specialist to advise and assist with programme implementation.

From the outset in 1994–5, donors were keen that resources provided to government for land reform would be transferred to land reform communities, but as with rural development generally ways and means of transferring resources direct to the rural poor proved elusive. It was the intention of the government and the donors that the bulk of funding for the LRPP would take the form of 'homestead basic needs' grants, which



would be made available to communities following the transfer of land to them by government (see Table 2). For a number of reasons, it proved very difficult for the national Department of Land Affairs to develop acceptable financial mechanisms to achieve this transfer of government funds to the local level for post-settlement support. Disbursement procedures had to meet rigorous treasury regulations and it took two years to convert the simple concept of market-assisted land redistribution using government grants for land acquisition and post settlement support into practice. The government administration had never attempted anything quite like it before. It was found necessary first to devise the systems and procedures and then to recruit, train and deploy the required government personnel to help the numerous communities with the process of group formation, planning and land acquisition. Donor funds were therefore used mostly for programme operating costs.

An institutional review of the LRPP (DLA, 1996) found that a considerable amount was achieved by the programme in devising and testing institutional arrangements for land reform, although unevenly across the nine provinces. The LRPP had failed to realise some of the intended diversity in testing approaches to land redistribution and tended to produce relatively standard types of projects. There were considerable delays in the programme as compared with its original targets for transferring land and disbursing funds. It was concluded that the delays in setting up the institutional framework and completing individual projects were to a considerable extent inevitable. The evaluation confirmed that the original time scale for expenditure and land transfers was unrealistic. With land redistribution generally, as with the LRPP, there were too many players. There was a lack of clarity about lines of responsibility. Policy uncertainties in the early months slowed down implementation. Above all, there was a lack of awareness of land reform as a component of rural development. It was perceived too narrowly as a mere process of land transfer. The LRPP was wound up by 1997 having redistributed about 125,000 ha of land to about 8500 households, instead of the 13,500 identified in the logical framework.

Most of the LRPP field staff were absorbed by the new DLA provincial offices. Unspent donor funds were reallocated to a second phase programme of assistance, the Land Reform Support Programme (LRSP), to assist the DLA's national programme of land reform, including land restitution, tenure reform and land redistribution. The purpose of the donor assistance was amended:

'To achieve a participatory, transparent, efficient and sustainable means for land reform by enhancing the capacity of DLA and other relevant institutions to deliver quality land reform at scale.'

This was in accordance with the findings of the mid-term review (DLA, 1997) that the major constraint facing the implementation of land reform was the capacity of the Department of Land Affairs to deliver. Accordingly, resources were switched to the funding of resources for change management/ business process re-engineering in the Department of Land Affairs; longer-term specialist technical support at provincial and national level; independently administered funds for staff and NGO training, community facilitation and *ad hoc* technical assistance. An important initiative under this phase of the programme was the establishment of a joint government and donor-funded land reform credit facility to promote partnerships between beneficiaries and the private sector and provide deferred repayment credit facilities to profitable small and medium-sized projects.

In August 1999, some six months before the scheduled end of the LRSP, the DLA commissioned an external review of the land reform programme and the contribution of the LRSP to it. With regard to the land reform programme as a whole, the team concluded that:

'One of the important contributions the DLA and the Land Reform Programme made in the context of post-apartheid South Africa, is that its policies, legislation and programmes kept the issue of the rural poor alive within the national political discourse. To this extent, the debates it has generated have largely supplanted what had been the role of land-based NGOs (in association with the liberation movements) in promoting these interests in the '80s. This has been critical in a context where rural constituencies are less organised and more marginal than their urban counterparts, more likely to be overlooked and where the pool of NGO advocates has shrunk. It is also critical in the light of the tendency of post-liberation governments to drop land reform a few years into majority rule.' (DLA, 1999)

The review found that, with respect to the national land reform programme as a whole, there had been a significant improvement in the delivery of land redistribution and restitution projects in the period of the LRSP (1998–9). The review concluded that the programme had also been successful in testing different approaches to land reform in different provinces. The review repeated what had become well known criticisms of the programme. For example, it found that application-based land redistribution had high transaction costs. The process had 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 to purchase land in order to raise the sum necessary to meet the asking price for the land.



The review team found that the contribution of the LRSP had been critically important to the land reform programme as a whole:

'It has undoubtedly increased the capacity of the DLA and other relevant institutions to deliver land reform during its life span. However, the challenge will now be to carry forward the lessons learnt and to institutionalise many of the programmes that were established as a result. Whilst mistakes were made and work is still to be done, the legacy of the LRPP/LRSP has been enormous. New systems are in place that DLA will be able to carry forward - financial management, programme and project management, information technology, monitoring and evaluation, training and human resource development, decentralisation and communications.' (DLA, 1999)

Notwithstanding the positive assessment of donor assistance to land reform so far, the overall performance in South Africa over the period 1994-9 provides no room for complacency. Despite the great differences between the political economies of Zimbabwe and South Africa, there are strong reasons for believing that land invasions could take place in South Africa, at some point in the future, provoking government to respond in terms of the property protections enshrined in the Constitution. As in Zimbabwe, land invasions would call attention to the country's failure adequately to tackle deepening rural poverty and would highlight the starkly unequal and racially skewed land ownership.

In the wake of the land-related conflict in neighbouring Zimbabwe, attention has been drawn to the paucity of funds allocated to land reform in South Africa, as a proportion of the total government budget. This tends to obscure the fact that inadequate administrative capacity is a recurring problem in land reform the world over and the principal factor constraining delivery in South Africa. A numerous and widely deployed army of well-trained field staff, with the necessary administrative and legal support, is essential to inform people of their entitlements and to facilitate the many and complex tasks involved in the processes of land redistribution and confirmation of rights. The long drawn out process of establishing and re-engineering the South African Department of Land Affairs diverted officials from attending to the Department's core business. In the period 1994-9, its voted budget as well as official development assistance was consistently under spent. It was not until 1998-9 that the Department managed to spend 80% of its voted funds. By that time, its staff establishment was more or less adequate to spend its allocated budget, but wholly inadequate to support the scale of redistributive reform called for in the RDP manifesto (ANC, 1994).

Between 1994 and early 2000, only about 800,000 ha of land, a mere 0.8% of the country's total area of arable and natural pastures, were redistributed to about 56,000 black households. Until now, very little

progress has been achieved with tenure reform in the former homelands. Despite the new dispensation, farm workers and their families remain vulnerable and are often exploited by employers and landowners. Only a small number of the land restitution claims has been settled.

In the context of South Africa's Northern Province, Lahiff (2000) states that it is too early to say that land reform in South Africa has failed. Rather it has been given little chance to succeed. Government policy, while not without limitations, has created a framework within which substantial reform should be possible. However, there is a severe lack of capacity within the institutions responsible for land reform, leading to massive under-implementation and loss of credibility among intended beneficiaries. Land reform is an extremely difficult process to carry through, requiring both strong political commitment on the part of government and well-developed grassroots organisation. As Bernstein (1998) and Cousins (2000a) have noted, land and agrarian reform seem politically marginal to the concerns of the ANC. Thus far, government and civil society in South Africa have shown themselves to be poorly organised for the purpose.

## Issues arising from the case studies

### Cyclical policy changes

A cyclical element is evident in redistributive reform policy. An initially strong political commitment to land redistribution is often followed by greater caution as the opportunity costs and the organisational complexities become apparent. This may be accompanied by modification of the initial policy and a switch of emphasis to so called economic goals, rather than the eradication of landlessness and poverty. This may again be followed by a reaffirmation of the needs of the landless, but in more modest terms than in the initial phase. This cyclical element is recognisable in both market-induced as well as legally imposed redistributive reforms.

The policy cycle relates to changes in the balance of influence of the landless lobby on the one hand and that of landowners – black and white, citizen and expatriate – on the other. The landed elite tends to obtain ascendancy over the medium to longer term. They lobby government with arguments about the importance of improving food production, of export-revenue earning, of sustaining farm employment and environmental management. This feeds into a debate in the media about the purpose of land reform and whether the focus should be land redistribution for the landless masses or for fewer people ‘who have the potential to contribute to economic growth and national prosperity’ – a recurring theme in the land reform debate.

Debates about land reform everywhere have seen a confrontation between those who believe that land reform must be centred on the redistribution of ownership and control over productive agricultural land and those opposed to extensive redistribution who wish reform to focus on measures to raise agricultural productivity (Putzel, 1992). Interest in the landless masses inevitably picks up before the elections, only to be shelved when the votes of the majority are secured and the practical realities of implementation once again dawn on office holders.

This is not an entirely cynical view. Redistributive reform programmes are often conceived and implemented in good faith by aspiring and newly-elected governments with a mandate to redress the injustices of the past and diffuse potential outbreaks of rural insurgency. For example, the White Paper on South African Land Policy (DLA, 1997a) explicitly states that the purpose of land reform is:

- to redress the injustices of the past;
- to foster national reconciliation and stability;
- to underpin economic growth; and
- to improve household welfare and alleviate poverty.

In South African plans, economic and poverty-alleviation goals were initially given a lower priority than the redress of past injustices and national reconciliation and stability. In mid-1999, following the election of the ANC to a second term, the tide turned in favour of a redistribution policy to black commercial farmers and a land tenure policy, which would win favour with the chiefs in the former homelands.

As in the colonial past, the political dimension to land reform is the over-riding one. In the circumstances, it seems to receive less attention than one would expect. James Putzel (1992), in his trail-blazing study of land reform in the Philippines, underlines the dominance of political issues in his analysis of the multidimensional character of land reform. Putzel's list of political issues include:

- the concentration of property rights that have contributed to growing landlessness among agricultural tenants, workers, marginal farmers, fisherfolk and other rural poor;
- the denial of the traditional but unrecorded rights of indigenous peoples to their ancestral lands;
- monopolies in land, labour and capital markets;
- the unequal distribution of power in the political system between classes groups and clans;
- the problems of finance, bureaucratic inefficiency and corruption in the institutions of the state, stretching from central to local village government;
- competition for authority and resources between state institutions and among factions between them;
- foreign participation in the agricultural economy; and
- the role played by external donors and former colonial powers.

Politicians persistently seek to manipulate and control people's access to land in order to further party and personal interests and to retain political

power. They may tolerate bottom-up participatory processes in other areas, but not in matters that require them to relinquish control (directly or indirectly) over land allocation. Any analysis of the prospects for land reform, including tenure reform, should not be divorced from a study of the political processes at work.

## **Poverty reduction versus agricultural productivity**

Given tight government budgets for land redistribution, there is an obvious trade-off between poverty reduction and increased agricultural productivity. Should government (a) provide 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. While these are clearly policy issues for the national government to decide, donors find it difficult to justify funding any programme that does not impact directly on poverty reduction.

In practice, the choice between redistribution to the landless poor or to well-heeled commercial farmers is not so stark. It need not be a case of either one or the other. It is possible for a land redistribution programme to provide scope for a number of redistribution 'products' (e.g. commonage for the rural poor to graze their stock; residential sites and allotment gardens for vegetable production for farm workers and peri-urban dwellers; and family holdings for small-scale commercial producers). However, the available evidence suggests that land redistribution programmes which aim to target 'productive farmers', rather than the landless poor, tend to be captured by an elite whose impact on national economic growth is negligible, if not negative. Some examples from southern Africa add texture to the debate.

### *Land for the landless poor in South Africa*

The goal of the land redistribution programme in South Africa under Mandela was to contribute to the alleviation of poverty and injustices caused by previous apartheid policies. Yet the redistributive content of the programme was constrained by both the government's capping of the amount it was willing to spend on each beneficiary household, and its willing-seller willing-buyer policy dictated by the Constitution (see Box 9).

On average only two-thirds of a R16,000 (about US\$2600) household grant was actually used to buy land for redistribution to each rural household. The grant had to cover land acquisition costs as well as the cost of any building materials for residence or capital investments necessary to make the land productive. Redistribution did not occur from the 'haves' to the 'have nots', as in the reform programmes in East Asia after the Second World War, but from public revenues spent by the government on beneficiaries in the context of a (very imperfect) market transaction. As a result of the compromises reached over the 'property clause' in negotiations over the South African Constitution, and 'GEAR',<sup>11</sup> the overarching strategy for development in the country, the redistributive component was not prominent in the design of the land reform programme (Department of Land Affairs, 1997). Under Mbeki, much stronger emphasis has been placed on redistribution to blacks with a potential to become successful commercial farmers.

However, to insist that land redistribution has not done enough to provide sustainable rural livelihoods may be to miss the point. There is a tendency for critics of land redistribution to poor people to underestimate the very real benefits of owning a small parcel of land from which one cannot be evicted by a rapacious landlord, and to which one can periodically return while pursuing a diverse livelihood strategy elsewhere. Residential land for the rural poor was initially an important element of the ANC's land reform programme (ANC, 1994).

### *Ranches for successful black farmers in Namibia*

A view that received prominent attention at the National Conference on Land Reform in Windhoek, Namibia in 1991, was that freehold farms should be made available on favourable terms to black farmers. The pressure for this reform came from a number of quarters: from whites keen to recruit rich and politically influential black farmers into their ranks; from black businessmen and government officials who aspired to own farms themselves; and from small farmers in the communal areas who resented the pressure on communal grazing exerted by the large herd owners. One of the first measures to be announced following the conference was the Affirmative Action<sup>12</sup> Loan Scheme, which was administered by the Land and Agricultural Bank. The five-year scheme

---

11. 'Growth, Employment and Redistribution'

12. This is a reference to a so-named constitutional clause, which provides for favoured treatment of groups of people in order to redress the inequities of long years of apartheid rule.



aimed to provide black farmers with access to subsidised 4 per cent loans of between R400,000 and R500,000, repayable over 25 years with a two-year grace period.<sup>13</sup> Such a highly favourable arrangement was no more generous than a similar scheme provided for mostly white farmers up to independence. Nonetheless, it represented a huge subsidy to a small group. In the first nine months, 70 to 80 farms were reported to have changed hands under this scheme.<sup>14</sup>

The stated justification for the scheme was that it would relieve grazing pressure on the communal range to the benefit of the pastures and the remaining small farmers. It should be noted that similar environmental and equity arguments for moving larger livestock owners to fenced farms were advanced as a major justification for the Tribal Grazing Land Policy in Botswana in 1975. The policy had a negative impact on both counts and led to the emergence of iniquitous 'dual grazing rights' under which ranch owners keep their cattle on the communal lands, only to withdraw them to their farms when grazing is exhausted. Applications for affirmative action loans in Namibia tended to be monopolised by businessmen and officials. There is a marked reluctance by owners of the larger herds in the communal areas to move their stock entirely from the communal grazing while they continue to enjoy free grazing, water, drought relief and veterinary services and freedom from income tax (Adams, 1993).

In Zimbabwe in the '90s, land redistribution policy swung in favour of making farms available to wealthy black farmers, many of them absentee or 'suitcase farmers'. By 1999 many of these had reneged on their loans and were facing foreclosure by the banks. In Kenya, many of the farms in the former 'white highlands', which were distributed to influential people in the '60s, had become dense rural settlements within twenty years. Unable to farm themselves or to defend their property against the landless, the new class of landowners had become shack landlords, renting out the land they acquired so cheaply to the rural poor.

### *Land use intensity and productivity in Zimbabwe*

An argument often made in Zimbabwe against reallocating land being farmed under modern, high-output methods to small producers operating at low-output levels is the risk of damaging the overall contribution of agriculture to the economy. Given that agriculture contributes some 15%

---

13. At that time three Rand equalled about one US dollar.

14. *New Era*, Ministry of Information and Broadcasting, 1, 71, 26 November 1992, Windhoek.

of GDP, about 40% of export earnings and employs about 300,000 people, the issue needs to be taken seriously.

Critics of this line of argument argue that land on the large commercial farms is under-utilised. Various attempts have been made to estimate the level of utilisation of commercial land to assess how much of it could be reallocated without interfering with its overall contribution to national agricultural output. Weiner et al. (1985) concluded that the degree of under-utilisation ranged between 20% and 50% depending on location. This was further verified by Roth (1990) and supported by the World Bank (1991) who estimated that as much of 3.5 m has of land, out of an estimated 11.2 m in 1990, could be considered underused in the higher potential areas well suited for resettlement of small holders. Moyo (1995) points to evidence that, despite the loss of nearly 3 m ha of land to resettlement, the cropping area under the large-scale commercial farming (LSCF) sector remained broadly constant between the mid '70s and late '80s. Census data suggests that there is a trend towards a declining acreage of maize and cotton on commercial farms with a greater emphasis on the production of higher-value crops. If this were to continue as the LSCF sector shrank over time, it would add to the economic benefit of land redistribution.

On the issue of absolute production per unit area of land, there is no doubt that highly intensive commercial farming scores best. Generally output per unit area under commercial farming is at least twice that of its alternative use in smallholder agriculture. If the primary requirement is to maximise output then a concentration on commercial production would be desirable. However, this level of output is not achieved without cost. Commercial farming is input intensive and much of this input is in the form of imported equipment and material. Conversely, smallholder production is more labour intensive and makes less use of imported items. On the ratio of gross margin per hectare to variable costs (including tillage costs, fertilisers, chemicals and hired labour) for the production of maize, the estimated value for the resettlement areas is approximately three times higher than in the LSCF sector. This efficiency advantage of resettlement agriculture may be underestimated due to the high opportunity cost of the inputs used by the LSCF sector and the low opportunity cost of the main input of the smallholder sector, namely family labour (ODA, 1996).

What applies to crop production also applies to livestock. The net returns to land under traditional livestock management in Zimbabwe are much higher under commercial ranching (Behnke and Scoones, 1991).

## Budgetary resources for land reform

The financial costs of national land reforms, particularly the costs of land purchase and/or compensation, are rarely systematically estimated in advance, partly because of the claim-based nature of the process. Insufficient account is taken of the complex institutional arrangements that have to be put in place to process and meet claims. In the three examples of redistributive reform described in Chapter 3, foreign donors were glad to obtain a stake in supporting land reform. They were less than enthusiastic about interrogating the assumptions about the costs and benefits of the interventions described. In two of the three cases, the foreign contribution was a small fraction of the total cost of the overall national programme, both of which would have gone ahead, notwithstanding the offer of foreign support.

An important 'purpose-to-goal' assumption (in the logical framework) must be that 'land reform continues to receive adequate political and financial support from government'. However, as the years go by, resources for compensation to landowners and operational overheads are more difficult to source and the opportunity costs of the programme become more apparent. The point is well made by Andries du Toit (2000) when describing the financial dilemma faced by South Africa's land restitution programme after five years.<sup>15</sup>

'South Africa is a poor country: the fiscus is under strain and is likely to become more so; demands on it are many and are likely to increase. And land claimants are not the only deserving cause that we can find. It may be that land claimants are among the only victims of apartheid whose right to specific, legislative redress is constitutionally enshrined but the reality is that there are many other such victims who morally and politically can and will make equally strong claims... Every Rand spent on land claims is a Rand not spent on keeping alive an infant in the intensive care unit in Chris Hani Baragwanath hospital, or on a pregnant women or rape survivors requiring AZT drug treatment, or on textbooks or other resources for rural schooling, or for the provision of potable water, or on the campaign to turn back the tide of HIV infection.' (p. 78)

---

15. The government's budgetary contribution to land reform fell over the five-year period of the first democratic government (1994–9), from a high of R850 m (1996–7) to a low of R490 m (1999–2000), some 0.3% of the government budget.

## Coordinating support services for land reform farmers

Although not without its problems, in particular its authoritarian character, the initial phase of Zimbabwe's land redistribution programme (1980–5) provided an object lesson in the provision of infrastructure and support services to land reform farmers. In 1981, the Ministry of Lands, Resettlement and Rural Development (MLRRD) was established to stimulate the development of the smallholder sector. One of its departments, the Department of Rural Development (DERUDE) had prime responsibility for implementation of the so-called Model A scheme of the land resettlement programme. Once approved by an inter-ministerial committee, the department began scheme implementation through the deployment of its primary development units. These units, consisting of skilled artisans and labourers supported with equipment, were responsible for the physical development of schemes through the construction of fences, feeder roads, administrative buildings, staff housing and schools. Arable and residential plots were demarcated by the Department of Agricultural and Technical Extension Services (AGRITEX). The overall administration of a scheme was the responsibility of the Resettlement Officer who was a DERUDE employee, who continued to supervise the running of schemes into the operating phase.

Personnel of MLRRD and the District Council selected settlers. This involved visiting the communal areas, informing people of the establishment of a scheme and assisting prospective settlers to fill in applications. The final selection was by MLRRD officials in Harare and the decision was communicated to the local government authorities. Instructions were given to chosen settlers to make a preliminary visit to the scheme by a certain date to be allocated plots by the Resettlement Officer. To assist each settler household to survive the first year of settlement, DERUDE undertook to plough a half-hectare plot for each household using its tractors and to provide a pack of inputs to produce a subsistence crop in the first year. Both of these were provided at no cost to the settler (Cusworth and Walker, 1988).

By 1999 the social and economic objectives of the early resettlement programme were no longer being met. Settlers were placed on farms acquired by government without even the most basic infrastructure or support services being provided (Adams et al., 1999).

South Africa and the Philippines have both encountered difficulties in organising funds and coordinating support for land reform farmers. While the Philippines has gone a long way to solving them, South Africa is still searching for a solution.

Under the South African Constitution, land reform is a national competence and comes under the auspices of the national Department of Land Affairs. In each province, there is a provincial director of the national department reporting to the Director General of Land Affairs in Pretoria. On the other hand, the responsibility for agricultural development at the provincial level and below lies with provincial departments of agriculture under the respective provincial directors general who report to the respective executive members for agriculture in the nine provincial cabinets. At the local government level, where there is more commitment to land reform, the resources available to support land reform farmers are non-existent. It has thus proved politically and administratively difficult to obtain a close alignment of the land reform policy and budget of the national Department of Land Affairs and those of the nine provincial departments of Agriculture. Post-settlement support to land reform farmers has been disappointingly weak.

The Department of Agrarian Reform (DAR) in the Philippines is also a national agency. The Secretary of DAR has a seat in the national Cabinet. Under Article 13 of the Philippine Constitution, 'Agrarian and Natural Resources Reform', it is laid down that the state shall, by law, undertake an agrarian reform programme founded on the right of farmers and regular farm workers, who are landless, to own directly or collectively the lands they till. It goes on to instruct that the state shall further provide support through 'appropriate technology and research, and adequate financial, production, marketing and other support services'.<sup>16</sup> Thus, under Chapter IX of *Republic Act 6657*, 'Support Services', the Comprehensive Agrarian Reform Law provides for the creation of the Office of Support Services in the DAR to be headed by an Under Secretary. Responsibility for the planning and supervision of these aspects, within DAR, lies with the Under Secretary for Field Operations and Support Services. S/he advises and assists the Secretary in implementing appropriate policies and in maintaining an effective working relationship with DAR's cooperating agencies, local government units, NGOs and people's organisations. The field extension cadre of the Department of Agriculture has been decentralised to local government level. In each municipality, there is a Municipal Agricultural Officer responsible to the political head of the municipality, the local mayor.

Support services for agrarian reform are not defined in either the constitution or RA 6657. However, they can be taken to include the following: (a) irrigation facilities; (b) infrastructure and public works; (c) concessionary credit facilities and financial assistance to farmers; (d)

---

16. Article 13, Sections 4 and 5



agricultural extension; (e) appropriate technology and (f) marketing assistance.

Before the Comprehensive Agrarian Reform Programme (CARP), the Department of Agrarian Reform had no experience in the general area of rural development. Understandably, difficulties emerged in co-ordinating support services. In 1990, President Corazon Aquino signed and issued an Executive Order, which mandated certain departments and agencies to align their respective programmes and projects with the CARP. It directed the DAR to accelerate development through the provision of economic and social infrastructure and sought to provide the necessary implementing mechanisms for the purpose. The order also specified that DAR should adopt an area-focused operations approach to accelerate CARP, concentrating in Strategic Operating Provinces where the scope for land redistribution was large and the number of potential agrarian reform beneficiaries was high, without prejudice to CARP implementation in the remaining parts of the country. However, programming and budgeting was such that the agencies were simply given budget ceilings and were each then left to determine what, where and when to implement projects. In terms of domestic politics, the strategy was not without its problems.

After five years of poorly coordinated implementation of support services and a scattering of resources without noticeable impact, the need for closer integration of implementation at the local level was recognised. DAR concluded that it was not enough to present agrarian reform simply in terms of social justice and empowerment. It was necessary to be able to point to specific communities in the countryside where this vision was demonstrated in area-based programmes and projects which were economically efficient and sustainable. DAR's strategy was to narrow the arena of battle by working with local officials and local government units, rather than take on national political and economic structures. In 1993, the strategy of focusing development funds and effort on specific agrarian reform communities (ARCs) and the implementation of development by a tripartite partnership of government, NGOs and community-based organisations gained acceptance (see Box 8). This overcame a situation in which funding of sectoral agencies is dissipated over a large area, without demonstrable benefit and with little local consultation or participation in planning or implementation with the communities concerned.

In 1993 a list of priority ARCs, at various stages of development, was drawn up in cooperation with provincial staff and an order of priorities established. Priority was given to potential growth centres where local groups were organised and where partner NGOs were present to facilitate the delivery of support services. The aim was to synchronise land redistribution with the delivery of a range of supporting services. Some



264 ARCs were identified by DAR for support in 1994, one in each congressional district with clearly specified investment requirements. Resources for funding support services for ARCs come from the national Agrarian Reform Fund, which is responsible to the Presidential Agrarian Reform Council for allocating resources between land acquisition and support services and channelling the latter to service providers and the municipalities involved.

The DAR strategy was compatible with changes in local government and the organisation of line ministries. The policy of decentralisation, as laid down in the 1991 Local Government Code, was part of the government's effort to achieve greater involvement of local government and NGOs in decision making at local level. The Code provides for the expansion of powers of the local executives, for local revenue raising and for discretionary authority over a greater share of the Internal Revenue Allotment. In keeping with the Code, executive authority over the staff of former government line agencies (e.g. the Department of Agriculture) was transferred to provincial and municipal authorities. However, this authority was not extended to the field personnel of the DAR, who continued to report to the Secretary of Agrarian Reform in Manila, through the Under Secretary of Field Operations and Support Services.

### **Relative priority attached to tenure reform**

There is often a policy disjunction between governments and civil society on the priority that should be allocated to tenure reform. Tenure insecurity is pervasive over extensive areas of state-owned land ('public land' in the Philippines, Communal Areas in Zimbabwe, and the former 'homelands' in South Africa). Insecurity results from the breakdown of both customary systems and former colonial or apartheid land administration. One might expect that reforms, which improve the security of tenure of holders of informal rights, and which do not require land purchase or land-owner compensation, would be more attractive to governments than they appear to be. Unlike the Philippines, where significant progress has been made with tenure reform on public land, the governments of southern Africa have been loath to tackle the issue. Tenure reform is often seen as a politically difficult and risky undertaking due to vested interests at both national and local level.

In both South Africa and Zimbabwe, there is a noticeable reluctance to get to grips with the complex issues of tenure reform (Adams et al., 1999). Understandably, governments find it politically expedient to focus on land redistribution, especially where a small white majority still retains the bulk

of the productive agricultural land. Political leaders are far removed from the day-to-day problems of tenure insecurity which face poor people in rural areas. Attempts to strengthen the rights of those occupying and using the land brings governments into confrontation with local elites on whom they rely for mobilising political support.

Ironically, local enthusiasm for land tenure reform seems to be much greater than governments assume. For example, on coming to power in 1990, the SWAPO government in Namibia announced its intention of transferring land to the landless majority, but agreed to a constitution in which the property of citizens could not be taken without 'just compensation'. With the support of the opposition, it conducted a national consultation on the land question culminating in a six-day National Conference in Windhoek, in June 1991, opened by the President and chaired by the Prime Minister. Communities from all over Namibia were in attendance. The aim was to achieve the greatest possible consensus on land issues. To the surprise of most observers, tenure reform in the communal areas (rather than redistribution of white-owned farms) tended to dominate the debate at the Conference. Half of the recommendations of the conference relate to land issues in communal areas:

- the need to guarantee land to local people;
- to abolish land allocation fees demanded by chiefs;
- to grant land to women in their own right;
- to establish a system of land administration;
- to control 'illegal fencing' of grazing areas;
- and to move the herds of wealthy farmers to commercial farms.

However, following the National Conference, tenure reform in the communal areas received little attention. Contrary to the recommendations of the meeting regarding the fencing of grazing areas, the Ministry of Agriculture went ahead with a credit scheme to help farmers subdivide the communal land. The purpose was to 'reduce poor environmental management and degradation as farmers discover that their economic life must start and end on their plots'<sup>17</sup>

The *Communal Land Act* was finally introduced to Parliament in February 2000. It provides for the establishment of Land Boards and defines the land allocation powers of chiefs and traditional authorities. The bill was very strongly criticised by civil society, partly because it failed

---

17. *New Era*, 26 November 1992

to resolve the problem of the fencing of common grazing land, which had taken place over the previous ten years. As Werner (1997) observes, the *Communal Land Act* touches on sensitive issues among a large and powerful rural constituency, including traditional leaders, in the relatively densely populated communal areas in the north, which provides the bulk of SWAPO support. As elsewhere, politicians have proved reluctant to relinquish their power over land allocation, a form of political patronage critical at election times for mobilising support for the ruling party.

In recent years, Uganda has made a notable effort (with the assistance of DFID) to grapple with tenure problems inherited from its colonial past. As McAuslan (1999) has pointed out, the programme of DFID assistance was based on the assumption that the Uganda Land Act, 1998 (see page 85) was an important part of the Government of Uganda's strategy for poverty reduction, sustainable rural development and democratic decentralisation. The undertaking accorded with priorities of DFID of 'contributing to sustainable improvements in the livelihoods and living conditions of poor people in Uganda', and to the aim of the natural resources programme of 'sustainable productive opportunities and access to essential resources for the poor'.

Whatever the aims of the project – assisting land tenure reform as a contribution to poverty eradication and sustainable development – it was in practice about institutional capacity building:

- building the capacity of decentralised land administration agencies and land dispute bodies through training and the provision of a framework of rules and guides to regulate and structure discretionary power;
- building the capacity of the citizenry through expanding their knowledge about the new law and the opportunities provided by the laws to acquire and safeguard their right to land;
- and building the capacity of the government by providing information necessary to develop a coherent, cost-effective and responsive plan to implement the *Land Act* in the medium and long term (McAuslan, 1999).

McAuslan notes that the poverty eradication and sustainable development agenda drove the project. Concentration on those lofty aims diverted attention from the most important need for capacity building or the re-engineering of the skills and knowledge of the officials at the centre. The project concentrated on the new institutions of land management at the expense of the old institutions, which had been cast adrift by the Act. While the ultimate justification for DFID support for tenure reform may

be poverty eradication and sustainable land management, the immediate 'impact area' is improved governance and pro-poor economic and social policy reform.

## Rights-related issues

### *Women's land rights*

The gender dimension rarely receives sufficient attention in policy formulation and development programmes. Land tenure reform is no exception. The changes observed in women's tenure rights in the past 30 years in sub-Saharan Africa reflect the marginalisation of women in development policy generally. Traditional land reform literature as well as policy discussions have been typically blind to the gendered nature of property and its consequences. Bina Agarwal (1992, 1994 and 1997) has drawn attention to the inadequately gendered view of property.

The literature which deals with the terms and conditions on which land is held and used shows an almost complete agreement among observers on the direction of change in women's tenure rights: women are losing ground. They are losing out as a result of the process of 'development'. They do so from an already inferior position (Birgegård, 1993). Commercialisation of production, individualisation of tenure systems, even formal titling schemes, have all worked in the same direction – women's tenure rights have been, and are still being, eroded.

In African traditional societies, women's rights are invariably inferior to men's. The basic rule is that whereas men gain rights to land through their lineage or clan, women get access to land only through their husbands. Generally, women have secondary rights. Men are obliged to allocate land to their wives, which the women can use at their discretion. As women are usually responsible for providing food for the household, they tend to use it for this purpose which may prevent them from growing crops for sale (Hilhorst, 2000).

The allocation of land to women for food production is reduced when cash crops are introduced. Furthermore, women's labour is required to help expand the household's cash crop production. Scarcity of land due to the general increase in population pressure in sub-Saharan Africa makes the situation of women even more vulnerable. Male heads of household satisfy their own need for land for cash crops before they allocate land to their wives. Where supporting services are provided to help farmers increase their production and income, these are almost always aimed at men.

As men traditionally are the primary right holders, women cannot inherit land. Attempts to increase women's rights to land by imposing inheritance laws have therefore met with limited success. Unmarried women in patrilineal societies have little access to land and tend to remain dependent on the goodwill of relatives – where the latter are mothers or sisters, such unmarried women can be said to have tertiary rights.

Where titling programmes have been introduced in sub-Saharan Africa, they have accelerated the loss of women's tenure rights. In the process of surveying and registration for formal title, the needs of women are often ignored. Unmarried women, divorcees and widows, who under traditional tenure systems were ensured at least some user rights, are pushed aside. Although women's rights should be safeguarded in formal titling programmes, this may in practice mean little; in the great majority of cases, land is registered in the name of the male household head.

In so far as a formal title to land helps farmers obtain credit, women are excluded; where the title is in the name of the male head women cannot use the land as collateral. Although women often lose out in the process of registration, titling programme can also open up possibilities for women to purchase land in their own right. Sadly, this does not alter the overall conclusion that women's tenure rights are deteriorating.

Recognition of gender-differentiated deprivations can add a political force for redistribution. The feasibility of improving the position of women will greatly vary from place to place and from country to country. It is possible, nonetheless, to set out some guiding principles:<sup>18</sup>

- Adopt a 'gender equity' approach: an 'equality' approach implies that women should be treated more or less the same as men (with men's experiences being the yardstick against which equality is measured). An 'equity' approach recognises that an individual's access to opportunities and control over resources is determined by many factors such as cultural norms, geographic location, social conventions, race, class, education and gender. An equity approach seeks to overcome these barriers to enable individuals to take responsibility for fulfilling their own potential. A commitment to substantive equality recognises that differential treatment of women and men, and of different groups of women may be necessary to ensure equal outcomes in land reform.
- Raise women's awareness of their rights and opportunities: women often experience problems gaining access to information about land

---

18. The proposals are based on a submission to the Land Reform Policy Committee, Department of Land Affairs, 20 March 1997. Hargreaves and Meer (2000) have delivered a swingeing criticism of the ineffective implementation of this policy in the land reform programme in South Africa.



reform opportunities. Due to socially defined sex roles, women are often not aware of the opportunities that exist for them. Male domination of decision-making structures is a contributing factor to women's lack of access to land. Information, that would empower women to make informed choices, does not get through to them when they are not seen as potential users of such information. A gender-sensitive communication strategy is essential for overcoming these biases.

- Adopt gender-sensitive methods: project planning should be viewed as an opportunity for building women's capacity to participate in the actions necessary to satisfy their needs. Gender analysis techniques should be used systematically to examine roles, relations and processes (see Box 13). Power imbalances and differential access to resources need to be examined so as to predict how different members of a community will be affected by land reform and the degree to which women will be able to participate and benefit.
- Socio-economic empowerment of women: because women and men organise their lives in different ways (largely due to their reproductive and productive roles) their priorities are not always the same. Women may require access to land for a variety of purposes including social and economic security, food security and health benefits. Women must have access to land if land reform is to realise its developmental goals. Even then, however, various discriminatory laws and practices may continue to hinder their access to credit for production. It is common practice for financial institutions to require a male mediator before granting a women credit. Where women are allowed to obtain credit, they often do not have any assets to serve as collateral. Efforts need to be extended to changing attitudes in financing institutions and agricultural input. Gender equity in land reform requires an integrated strategy for transforming power relations and removing obstacles to women's participation.
- The collection, compilation, analysis and presentation of gender-disaggregated land reform statistics can play an important role in raising consciousness, promoting change, providing an unbiased basis for policies and measures, and
- monitoring and evaluating their impact. Monitoring systems must be designed for determining whether women are well informed, for getting feedback on how policies and programmes are perceived by women, and for measuring the impact of land reform programmes on women's lives.



NGOs and women's CBOs have a long history of addressing the needs of marginalised members of society. Their role in promoting the active participation of women in land reform and programme monitoring needs to be acknowledged and strengthened.

### Box 13 Gender analysis

**Activity profile:** To enable planners and trainers to identify land needs and to design and target development support (e.g. skills training), the division of labour between women and men should be taken into account.

**Resources profile:** Planners, implementers and community organisers need to understand who has access to what resources (e.g. land, credit, draught animals) and what benefits (e.g. income, food); and the resources necessary for the participation of women and men.

**Constraints profile:** The constraints profile helps planners and implementers to identify factors that will increase women's participation in programmes. It also helps identify the training requirements of planners and implementers in maximising women's participation.

### *Farm-worker tenants and beneficial occupiers*

Because farm workers and their families often live on isolated homesteads, on land owned by others, special attention must be given to their rights. It is necessary to ensure that landowners do not infringe or undermine the basic human rights of workers (e.g. human dignity, freedom and security, protection from servitude and forced labour).

An inevitable cost of redistributing farmland and certain types of state-owned land (e.g. farms held by government financing institutions) is that farm-worker tenants and their families, as well as other beneficial occupiers,<sup>19</sup> should be compensated. Governments and donor agencies need to take note of the DAC Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects, OECD, 1991.

In South Africa, as labour tenants are a specific category of rural dwellers who are particularly vulnerable, the *Land Reform (Labour Tenants) Act (1996)* provides for the protection of their rights and for the acquisition of land for labour tenants. The *Extension of Tenure Security Act (1997)* aims to provide security of tenure for people living on other

---

19. A beneficial occupier is one with prescriptive rights who occupies land, openly, without force and without permission for a period in excess of a certain number of years (e.g. 12 years in UK, 30 years in RSA).

people's land in rural areas. It provides for government actively to promote and support long-term security for vulnerable occupiers, protecting them against unfair eviction, entitling them to compensation equivalent to what they stand to lose by displacement, and regulating the relationship between landowners and occupiers. The *Interim Protection of Informal Land Rights Act* (1996) protects people on certain state-owned land.

Lahiff (2000) on the basis of field experience in Northern Province in South Africa concludes that residents of white-owned commercial farms have been virtually excluded from the protections, which are meant to be available in terms of the country's new land tenure laws. He found that the constitutional and legal rights of farm dwellers were violated daily due to their ignorance of the law and their inability to access legal assistance. The public institutions ranged against farm workers appeared to include the police, the state prosecution service, magistrates, the Legal Aid Board, the Department of Home Affairs and virtually all practising advocates in the province, not to mention white farmers and their extensive support network.

Legislation to protect farm workers and their families is next to worthless unless the capacity is put in place to inform people (landowners, tenants, police, magistrates, court officials, etc.) of their rights and responsibilities, to advise and assist evictees and, if necessary, to provide for their representation in court. Beginning in 1997 in South Africa, the Swiss Agency for Development and Cooperation (SDC) provided funds for the piloting of a number of initiatives, which would assist the Department of Land Affairs to build the capacity to protect the legal rights of farm workers and labour tenants and their families. In the absence of government staff, the establishment and staffing of rural advice centres was undertaken by non-statutory agencies who were made contractually responsible for assisting farm workers and labour tenants facing eviction.

Three years later, the problem of rural legal services remains unresolved. Given the shortage of funds, the problem is how to extend legal services to remote areas. Poor rural people have little or no recourse to the legal system, which is based in distant urban centres. Despite the new dispensation, the rural poor remain vulnerable and are often exploited by employers and landowners. Often illiterate and poorly served by public information services, they are unaware of their rights under the Constitution and other new laws. The few rural legal advisory offices, operated by NGOs, are inadequate for the immense task of providing advice, information and representation in remote areas.

Ghimire (1999), in the context of Bangladesh and the Philippines, explains how one of the most tenuous and overlooked alliances in the process of land reform is that between peasant organisations and their legal representatives. For changes to occur in favour of the rural poor, networks between peasants and other support groups need to be strengthened and legal aid services made more available in rural areas.

### *Land rights of land redistribution beneficiaries*

#### **Individual versus group rights**

The arrangements for the vesting of rights to redistributed land should be a matter of choice for those acquiring it. In the densely inhabited rural areas of South and South East Asia, farmers usually prefer individual rights. For example, widespread opposition greeted attempts by the Department of Agrarian Reform in the Philippines to economise on land survey costs and speed up land redistribution by registering group Certificates of Land Ownership Award, so-called 'mother CLOAs'. People had reason for not wishing to hold land in undivided shares. Group-decision making and joint effort were seen as a major drag on production.

In South Africa, beneficiaries under the land reform programme usually register the land so acquired in the name of a group. Special legal provision is made for land to be transferred to the ownership of groups because of the prevalence of customary tenure that provides for systems of group rights. The White Paper states that: when formal transfer takes place, it must enable the members of such group systems to exercise and protect their land rights effectively through democratic processes. Accordingly, the land will not be vested in chiefs, tribal authorities, trustees or committees, but in the members of the group as co-owners of the property. (DLA, 1997, p.66). It is argued that the department's position is consistent with customary law, in terms of which land does not belong to the chief in his personal capacity, but to members of the tribe.

In all cases where land is redistributed, restored or awarded to groups of beneficiaries, the land must be held in one or other legally recognised form of group ownership if it is to be registered in the Deeds Registry. In practice, this has meant a trust or a Communal Property Association (CPA). The CPA Act (28 of 1996) provides for a legal body through which members may collectively acquire, hold and manage property in terms of a written constitution. The constitution can provide for the holding of individual residential and agricultural sites within the area held by the

CPA, although these individual land rights cannot be registered with the Deeds Registry, only the larger group right.

The CPAs or community trusts established in areas close to the former homelands have met with difficulties where a group, living according to customary laws and practices under a chief, forms a community trust or CPA. It has been concluded that community trusts are unlikely to assure democratic practices and prevent abuses of power or corruption over the long term. The only real recourse aggrieved groups or individuals have is through the legal system, to which most rural residents do not have access in any real sense. Where private land has been acquired by tribal communities under the land redistribution programme and vested in CPAs (often following a long-drawn-out and costly community facilitation and legal process), the end result has been that the land, for all intents and purposes, is vested in a tribe or traditional authority.

### **Family title**

In whose name should individual land rights be registered? Should they be registered in the name of the male head of household, or the joint names of the husband and wife and in the names of dependants as well? The issue of so-called 'family title' is a complex one, for which there is no easy answer, as Uganda has recently found out in the context of its *Land Act* of 1998. The current provision requires the consent of family members (spouse and children) before a land transaction can be legally effected. This has resulted in commercial banks being reluctant to accept property as collateral for home loans.

No single solution is ideal, but probably the most satisfactory compromise is for the rights to redistributed land (or state land allocated to rural people in a process of tenure upgrading) to be held by the family (as self-defined) but registered in the name of a nominee. The nominee would have to be a family member, nominated by the majority of family members, and with a fiduciary responsibility for the family. The nominee should transact the land (through sale, lease, etc.):

- only in the interests of the family;
- only with the approval of the majority of members;
- and only after providing for the interests of any family member(s) whose interests may be adversely affected by the transaction.

### **The content of land rights**

Should the beneficiary (or beneficiaries) enjoy the complete bundle of land rights listed in Box 1, or just the right to occupy and use the land (not to transact or inherit it)? Should the remainder of the bundle of rights

attached to the land parcel be retained by the state? If so, can the state be relied upon to exclude 'free riders'? If land rights are to be limited, what would be the consequences for investment of labour and capital on the part of the registered beneficiary? What will be the impact on tenure security? What will be the impact upon women and children?

In the examples from the Philippines and South Africa, land reform farmers can enjoy the full content of rights associated with private ownership or freehold. In Zimbabwe, however, despite promises by the government to upgrade their rights, settlers have no right independent of the will of the state to use and occupy the land on which they have been settled.

## **Environmental issues**

### *Environmental Impact Assessment*

The basic philosophy of Environmental Impact Assessment (EIA) is that nobody should be made worse off as a result of a development project.<sup>20</sup>

All negative impacts must be mitigated and the cost of this included in the feasibility calculations. 'Environment' includes both the natural and the human components (see Box 14) and their interaction as a result of change resulting from the proposed intervention. Scoping of environmental issues at feasibility stage should be required, with more detailed study of specific issues if it is concluded that they are likely to be problematic.

In Africa, an important issue is likely to be

#### **Box 14 Environmental Impact Assessment**

The natural environment check list: Hydrology (flooding, drainage, ground water abstraction for irrigation and domestic water supply); erosion; sedimentation; freshwater ecology (water quality for domestic and irrigation purposes); soil (fertility, erosion, pollution); ecology (flora, fauna); airborne pollution (dust, noise).

The human environment checklist: Land-based livelihoods: common resource rights (fuel wood, grazing, fodder, fish, wild animals, plants); agriculture; forestry; livestock; fishing; access to paid employment; drinking water. Human health: waterborne diseases (e.g. malaria; bilharzia); drinking water quality; sanitation; diarrhoeal disease; cholera; nutrition; mental health. Access and transport infrastructure. Archaeology and Cultural Sites. External Factors: neighbouring land use and conflicts; downstream constraints and impacts; upstream constraints and impacts.

20. This constitutes a dilemma for redistributive reforms which can often result in losers (as well as winners), e.g. landowners whose assets are confiscated, or residents of up-market suburbs having to 'endure' the poor moving into 'their' area!



management of common property resources and sustainability levels, in cases of subdivision of private land. A significant risk is the spread of informal housing on agricultural land and on unsafe sites. It should be the responsibility of the resettlement agencies to ensure that environmental standards are adhered to and that funds are made available to finance the necessary public works, using labour-intensive methods where the opportunities exist. The capacity of planning and development control authorities to enforce compliance, once land has been occupied, is likely to be limited. Thus, at the outset, when compliance should be essential for drawing down funds, incoming settlers should be involved in the planning and the implementation of the required conservation measures. If the measures are seen by the beneficiaries to be in their interests, they are likely to support them, especially the protection of productive farmland and forests and water catchments from illegal clearing and encroachment. Participatory planning will be needed to ensure that development plans are acceptable to local people. Controls imposed by outsiders are unlikely to be either effective or ecologically sound.

An EIA was conducted of the *Uganda Land Act*, 1998, as part of the DFID-funded Land Act Implementation Study (see page 85). Environmental impacts of the legislation were deemed to be highly variable, depending on tenure types. Short-term negative environmental impacts resulted from uncertainty arising from lack of public knowledge and delays in implementation. The longer-term impacts were found to be broadly neutral to mildly positive (Government of Uganda, 1999b).

### *Planning issues*

Concerns about the negative environmental impacts of redistributive land reform are inevitably voiced by vested interests, as well as by those genuinely concerned about its sustainability. This was the case in South Africa. In response to these concerns, Danish Co-operation for Environment and Development (DANCED) commissioned the Land and Agriculture Policy Centre to carry out a study with the Department of Land Affairs in 1996 (LAPC, 1997). It was found that responsibility for the natural environment in South Africa was spread over different national and provincial departments, each with jurisdictions in terms of various laws. The institutional framework generally frustrated the integration of land use planning and environmental management because of the lack of clarity over roles and responsibilities. In 1997, work commenced in two pilot districts in Mpumalanga and the Free State provinces. The project aims to make environmental planning an integral part of the whole land



reform process. The immediate objectives are to ensure that institutional arrangements, procedures and guidelines for incorporating environmental concerns into land reform and land development are reflected in DLA land policy; and that DLA, local government, NGOs and other service providers have the knowledge and capacity to implement those policies.

*Environmental issues attached to land redistribution in semi-arid areas*

Redistributive reforms leading to increased density of human settlement and intensity of resource use are often controversial. This has to do with the farming systems undergoing transformation, as well as 'received knowledge' about the nature of customary farming practices. Commercial farmers in southern Africa argue that the acquisition of land by settlers will have dire environmental consequences. Traditional land use and land holding practices are said to be unsustainable. They point to the state of the natural environment in the Communal Areas.

Others claim that these fears relating to land redistribution are exaggerated and are played upon by opponents of land reform. They argue that overcrowding and poverty in Communal Areas are the main causes of environmental deterioration. Only by relieving the causes of poverty and overcrowding can environmental degradation be reduced. Environmental degradation produces and is fed by poverty (Blaikie and Brookfield, 1987). Failure to tackle these problems will result in the acceleration of environmental degradation as informal settlements spread.

A central issue in the land reform debate is the tenure system – individual or group rights – to be adopted on redistributed land. There are disadvantages with traditional communal tenure (e.g. the abuse of power by chiefs; discrimination against women; disincentives to innovative farmers). All of these objections are valid and need to be addressed in designing tenure arrangements in which groups acquire or are awarded land. However, the most frequently voiced objection to communal ownership is that it inevitably results in environmental destruction. This assumption needs to be examined.

The most influential theory of land tenure held by policy-makers in Africa today is that of the 'tragedy of the commons', the essence of which was captured in an essay by Hardin (1968). He argued that communal land use is doomed to failure because individual farmers will never agree to reduce their own herds and flocks (in the hope that they can feed them better) without a guarantee that other stock keepers will do the same. He warned that unchecked population growth, together with the maximising

strategies of individuals, would inevitably lead to resource depletion – soils, grazing and wood fuel. His theories have been used to justify privatisation of the grazing resource and/or coercive de-stocking by government decree.

Well-meaning administrators have used Hardin's thesis to argue against land redistribution to poor farmers from the communal areas, on the grounds that traditional user groups are unable to enforce rules and that individuals have no incentive to invest in land improvements because they cannot exclude 'free riders'. They further contend that, because negotiations by buyers have to be conducted with an infinite number of users, the development of a land market is blocked.

Neither of these theoretical arguments has widespread validity in practice. Indeed, a great deal of research into African land tenure systems has demonstrated numerous cases where they do not apply. The 'tragedy of the commons' theory should not be used as a basis for policy making. Nor should it be assumed that the private land option is environmentally preferable. In Kenya, for example, as well in South Africa, some of the most environmentally unsafe informal settlements have grown up on what was intended to be private agricultural land.

For those entering commercial farming, individual tenure may be preferred. Nonetheless, it is important to recognise that there is strong support for the retention of communal tenure among rural people, especially the rural poor. Both options are feasible and a balance needs to be struck between the two. Common property tenure, although under increasing pressure, holds many advantages, economic as well as ecological. Changes and reforms to group-based systems are needed to allow greater individual autonomy in respect of some rights and the sustainable management of common property resources. Land resettlement policies geared to the extension of 'commercially viable farming units' and individual tenure hold out little prospect for the vast majority of small producers and could eventually deprive them of their subsistence.

Cousins (1995) argues that, under common property, the use rights of individuals can be delimited and regulated so that over-exploitation of the resource does not result. He states:

'Such common property arrangements are potentially equitable, economically efficient, ecologically appropriate and sustainable. These are good reasons for either: recognising and supporting existing common property institutions; promoting their re-emergence in a modified form where they have fallen away; or facilitating their development in new contexts such as resettlement programmes.'

This is not to say that problems of resource management cannot arise – indeed they can and do – but it is important to recognise that common property is a viable regime with particular advantages in certain situations.

The ecological and economic arguments for communal tenure are well grounded in scientific research carried out in the last decade. This seriously challenges the prescriptive advice about stocking rates handed down by the agricultural departments. Most livestock owners in Communal Areas find it profitable to hold their livestock populations somewhere short of ecological carrying capacity. However, what constitutes an economically optimal stocking rate varies according to a producer's husbandry practices and management objectives. Part of the alarm of colonial and post-colonial administrators over the 'overstocking' and 'degradation' of communal grazing land arises from the false assumption that economically profitable stocking rates for commercial ranchers are the ones which are biologically sustainable and that pastoralists' stocking rates are not. However, for a variety of reasons, African pastoralists are able to profitably sustain higher stocking rates than commercial beef ranchers (Benkhe and Scoones, 1991).

Animal and plant biomass in the savannah is in a constant state of flux, associated with episodic events (flood, drought, fire, etc.). Grazing systems are in a state of constant disequilibrium. Thus the concept of a single, safe livestock carrying capacity based on classical succession theory, applicable in temperate climates, is not appropriate to the management of savannah grazing systems where there is need to 'track' spatial and temporal fluctuations in feed supply by a flexible response to unpredictable events. African land use and tenure systems recognise this fact.

Most African landscapes can be subdivided into two broad land tenure categories (see Box 2). The twofold classification can be useful in analysing the nature of communal tenure and the possible environmental impact of land reform involving communal tenure arrangements. For environmental conservation reasons, 'open access' conditions should be limited as far as possible. Common property tenure tends to move to open access when pressure on resources arises from population, technological change and decline in the authority of traditional leadership. Under these circumstances the best land tends to be fenced off for their individual use by more powerful members of the group who continue to graze their animals on the commons until the pasture is exhausted, only then retreating to their enclosures. In working with groups which wish to acquire land, Cousins recommends a check list which should be taken into account in the design of common property regimes in land redistribution programmes. He argues that problems of common property management need to be approached with an understanding of the central issues

involved and by making local-level institutional development a prime concern.

Any rural programme that reduces poverty, diversifies income and allows people more control over their lives and their environment should serve to reduce the risk of land degradation. The worst destruction occurs around settlements where people have lost both their assets and the control over their destiny. Redistributive reforms aimed at the alleviation of poverty in communal areas should ameliorate the current levels of environmental destruction associated with the crowding of large numbers of poor people on marginal land. Nonetheless, land redistribution is not without environmental risks. A two-part strategy is needed to minimise any adverse environmental impacts of land resettlement.

- **Tenure reform:** Understanding the link between land tenure arrangements and sustainable land use is of key importance in framing new rules for groups acquiring 'green field' sites. It is necessary to enable communities to acquire, hold and manage property under a written constitution, which will permit an important element of community control and prevent the tragedy of the commons associated with open access.
- **Training and capacity building:** Success has been achieved with this type of work by NGOs in the Philippines, in particular *Productivity Systems Assessment and Planning Methodology* (TriPAARD, 1993). Redistributive land reform in the Philippines has proved to be an effective entry point for agricultural development work. Community development workers need to have skills in facilitating a thorough and systematic process of understanding the community and planning for productive activities. Farmers want to see immediate and tangible results from their involvement in development activities and they want their involvement in the research and planning process to be meaningful, creative and fun. Community facilitators need to be equipped with tools that can respond to these needs.

## Appraisal of land reform projects and programmes

### Financial and economic appraisal of land tenure reform legislation

McAuslan (2000), in a recent review of the issues raised by tenure reforms in Africa, reminds us that alongside any programme of law reform, there must be a plan for implementation of the new law which includes a budget. Lack of attention to the budgetary, social and economic implications of rights-based tenure legislation is emerging as an important issue. South Africa's *Restitution of Land Rights Act, 22 of 1994*, the first law to be passed by the democratically elected government, is a salutary example. The failure to foresee the social complexity and cost of the restitution process threatens to defeat its higher political goals, namely to redress the injustices of apartheid and foster reconciliation and stability. Similarly, budgetary difficulties have been encountered in the implementation of new laws protecting farm occupiers and labour tenants.

This lack of foresight is not confined to South Africa. A recent DFID-funded feasibility study (Government of Uganda, 1999) has confirmed that the implementation of the *Uganda Land Act of 1998* is beyond the current capacity of the government budget and may have various negative consequences. Even if the resources for its implementation could be raised, the costs would outweigh the envisaged economic benefits of the reform, at least in the foreseeable future.

Measuring the wider costs and benefits of tenure reform (as well as the opportunity costs of taking no action) and forecasting the unanticipated effects of proposed measures, are major challenges. Two examples are used to illustrate this point: the Uganda Land Act of 1998 and South Africa's draft Land Rights Bill. The preparation for the implementation of the latter benefited from experience with the Uganda Land Act, in so far as an appraisal of the costs and benefits of the draft bill were carried out in parallel to drafting its scope and content.

### *Appraisal of the Uganda Land Act of 1998*

**Background:** the *Land Reform Decree* of 1975 declared all land in Uganda to be Public Land; made all *mailo* (see Box 15) and other freehold landowners tenants of the state, and effectively worsened the position of



**Box 15 Land tenure in Uganda**

Customary tenure is the dominant system, allowing for individual permanent rights, and communal areas with non-permanent individual rights. Individual permanent holdings predominate in southern, eastern and east-central Uganda. Communal customary tenure is found in northern and eastern Uganda and in the southern rangeland areas. In areas where arable agriculture dominates over grazing, as in Northern Uganda, specific parcels are set aside for communal grazing and other parcels are allocated for homesteads and crops.

*Mailo* tenure resulted from the 1900 Buganda Agreement under which land ownership was divided between the Kabaka of Buganda, other notables and the Protectorate Government. It is confined to Buganda and parts of Bunyoro in south-central and west-central Uganda. *Mailo* is a restricted form of freehold under which registered titles are held by a small number of landlords while the major part of the land is occupied and used by insecure tenants. The system has encouraged proliferation of absentee landlords whose primary concern has been rental income to the detriment of appropriate land management and the interests of their tenants. It is argued that they lack sufficient security to encourage investment and as a result much *mailo* land is idle or under-utilised. In Bunyoro, the issue is particularly sensitive, as the landlords are members of a different cultural tradition to the tenants.

Registered freehold tenure is not widespread in Uganda and is mostly restricted to parts of western and eastern Uganda and Buganda, but is particularly prevalent in Rukungiri District where large numbers of holdings were adjudicated and registered in the '50s.

Two types of leasehold tenure exist: private leases, and official or statutory leases. Leasehold has advantages in that the lessor can attach conditions to leases and has the right to revoke ownership in case of abuse. However, leases are costly and cumbersome to obtain, particularly for smallholders, and conditions, even where attached, have been unevenly enforced. It is believed that the system has tended to contribute to urban decay and corruption.

customary landholders by permitting alienation of their land by the state without consent. Although not accepted by Ugandans, the nationalisation of land created a great deal of uncertainty and tenure insecurity. By the late '80s, problems had arisen from the parallel operation of various land tenure systems and confusion as to their status, especially in urban and densely populated rural areas. Frequent land disputes, large regional disparities in land availability, increasing encroachment and land degradation were also cited as reasons for fundamental reform.

The 1995 Constitution of Uganda included explicit land tenure-related provisions. The most significant of these are:

- vesting of ultimate ownership of land directly in the citizens of Uganda;



- legal recognition of the four tenure systems which existed before the 1975 Decree;
- delegation of land matters to fully autonomous District Land Boards;
- provision for customary owners to acquire certificates of ownership;
- provision for conversion of customary and leasehold tenure to freehold;
- security of occupancy on *mailo*, freehold or leasehold land for lawful or bona fide occupants (tenants).

The Constitution also mandated Parliament to enact a law, by the end of June 1998, regulating the relationship between *mailo* tenants and landlords, and making provision for tenants on registered holdings to acquire a registrable interest in land. From 1995 to 1998 several legal drafts were produced by the Ministry of Lands, initially with very limited public consultation. Earlier drafts of the Bill focused on the desire to provide a basis for the emergence of a functioning land market, but as public interest and participation increased the focus shifted to the need for a more equitable system in which the rights of the poor and vulnerable were protected. With the support of the UK Government in the form of resources for public consultation and technical advice, the final draft of the Bill made significant provision for protection of tenants, communal land holding, women and minors. Following further refinement by Parliament, the *Land Act, 1998* is a major step forward in equitable land tenure reform.

The main features of the 1998 Land Act: the Act vests land in the citizens of Uganda, rather than the state, as before. The Act defines the different types of rights in land that may be held. It decrees that rights of customary ownership and lawful and *bona fide* occupancy shall be recognised, even if not supported by a certificate of title. It decrees that no transfers of land shall take place without the consent of the vendor's spouse and children. It sets out the procedures that must be pursued in order to formalise both customary ownership rights on former public land and rights of occupancy on *mailo* land, through the acquisition of certificates of title. It also specifies the procedures that must be followed in order to transform these rights into freehold tenure. The Act prescribes the process for the resolution of land disputes by lower level courts, created for the purpose. The Act also provides for a Land Fund with a number of compensatory and lending responsibilities. The procedures for the acquisition of land title and the resolution of disputes are not obligatory. Nobody is compelled to acquire a land title, nor to take a land dispute to

the prescribed land court. However, as the law currently stands, all districts are required to establish the administrative and judicial structures specified by the Act.

DFID assistance to implementation: as part of the DFID-funded Land Tenure Reform Interim Project, the Land Act Implementation Study (Government of Uganda, 1999)<sup>21</sup> aimed to:

- study the institutional, financial, and technical needs for implementation;
- assess the social, economic and environmental implications;
- develop a draft plan for implementation over the medium-long term;
- secure broad agreement on the draft plan among stakeholders;
- introduce issues to the donor community and secure broad donor support for the draft plan.

The report proposed a more affordable system of land administration than that initially provided for in the Land Act. It identified an approach to phasing in the registration of customary tenure and a way of establishing the capacity building activities required for effective implementation.

The assessment of the economic implications of the Act (Government of Uganda, 1999a) are the focus here, in particular: (a) the terms of reference for the economic appraisal; (b) the analysis of the assumptions underlying the law; (c) the conceptual framework (d) the summary findings of the appraisal team regarding the likely economic impact of the law; and (e) proposals for monitoring.

### **Terms of reference for the economic appraisal:**

Briefly, the terms of reference were:

- to examine the economic implications of implementing the tenure reform law, in particular the costs and benefits expected to arise at different levels, and for the economy as a whole, in the medium to long term (five to ten years);
- to analyse the likely economic impact of the law in the context of prevailing government policy objectives (e.g. the agricultural

---

21. This draft report summarised the conclusions of the implementation study for consideration at a Stakeholders Workshop which took place in Uganda 18–20 August 1999.

modernisation programme), paying specific attention to the identification of any potential economic benefits that might ensue (e.g. in the land market, on agricultural productivity and on poverty eradication);

- to provide a basis for the evaluation of decisions relating to investment in the implementation of the Land Act and on any subsidisation of services as appropriate.

#### **Assumptions or expectations in relation to equity and development impacts**

There were several key expectations concerning the equity and development impacts of the Act. These included the assumption that:

- the tenure of the mass of small-scale cultivators would become more secure;
- underprivileged and vulnerable groups (women and children) would be protected from irresponsible land sale by husbands unable to ensure the livelihood of dependants from other income sources;
- increased efficiency in land allocation would arise from a more active land market;
- increased investment in the development of land would arise from increased security of tenure; and
- increased investment in the development of land would arise from enhanced access to credit.

The economic appraisal set out to assess the extent to which the above expectations were well-founded, especially with respect to implementation over the short to medium term.

#### **Conceptual framework**

It was perceived that the economic impact of the Land Act would take various forms and take effect at various levels within the economy. Most of the potential beneficial economic impacts were judged to be production, equity- or welfare-related. Real costs would arise from the need to fund implementation in the context of an overall public sector budget constraint. Other unforeseen economic impacts were noted.

A more detailed breakdown of the potential short- to medium-term economic impacts identified by the DFID study were as follows:

- **potential equity impacts:** increased livelihood security for lawful and *bona fide* occupants of *mailo* land and for customary occupants of urban land; enhanced access to formal sector credit for customary landowners and lawful and *bona fide* land occupants, based on the use of certificates of title as collateral; increased livelihood security for spouses and children provided by the 'consent clause'; increased rights in land for women who were usually the main cultivators of land, but who currently had limited rights over the income generated and/or the manner of development of land use;
- **potential production impacts:** increased investment in land development (rural and urban) due to an increased sense of security of possession; increased investment due to increased access to credit; increased efficiency in land use due to market-based land reallocation; an increase in current land use, and acceleration of land development, due to establishment of dispute resolution bodies and procedures which speed up dispute settlement; an increase in land development due to enhanced motivation of women cultivators to take development initiatives;
- **other potential welfare impacts:** enhanced well-being stemming from an enhanced sense of security of possession of land rights following acquisition of title; reduced incidence of disputes in future generations due to certification of land claims by members of the present generation; to the extent that the Act made a contribution to environmental management, this too might impinge on economic opportunities, both in the short to medium term and in the long term;
- **unanticipated and unintended economic impacts:** delays in replacing former institutional structures with new ones (notably in dispute settlement); decline in municipal revenues from urban leasehold premiums and ground rents due to failure to iron out the relationship between the municipalities, which previously controlled urban land allocation and collected all charges on urban land, and the new powers of the District Land Boards in relation to urban land specified in the Act; a slowing down in urban infrastructure development as plot holders claiming ownership sought to block access and/or demand compensation for land as well as buildings; difficulties in enforcing urban zoning; delays in new private sector urban investment due to the need to negotiate with at least two parties and/or uncertainties/disputes regarding the specific powers of different authorities in relation to urban land and/or regarding who owned the land on which the proposed investment would be sited; reluctance of formal sector

institutions to accept land as collateral due to the consent provisions of the Land Act;

- **real resource costs of implementing the Land Act:** the need to forego other public sector expenditure in order to fund implementation, i.e. to fund new physical structures, and/or refurbishment of existing ones, to purchase or lease equipment and materials and to fund the substantial personnel costs all needed to implement the Act.

The main levels at which the economic impacts of the Act were likely to be felt were as follows:

Rural Area	Urban Area
Individual household member	Household
Farm	Business enterprise
Household	Commercial bank
District	Urban authority
Central Government	Central Government
National Economy	National Economy

There was not a one-to-one relationship between levels and types of impact. Instead it was a question of looking for dominant patterns. For example, of the equity impacts identified above, two were expected to be manifested at the individual level (intra-household impacts), but one of these might also generate production impacts. The main levels of impact that were the focus of enquiry were the individual, the farm, the household, the municipality and the district administration.

#### **Summary conclusions of the economic appraisal**

The study concluded that it would be unrealistic to expect the 1998 *Land Act* to generate major economic benefits over the short to medium term, either in the farm or the non-farm sector.

- **Credit:** over the medium term, the Land Act was unlikely to have a significant positive impact on the supply of commercial bank farm credit due to the unwillingness of almost all commercial banks to lend to farmers. With respect to micro-finance institutions, it seemed unlikely that availability of certificates of title would have much impact on the use of land as collateral. The dominant concern of the commercial banks with respect to the Land Act was the adverse impact of the household consent provisions on the value of land as collateral. The main policy recommendation to stem from consultation with the

banks was that the range of dependants offered direct protection by the Act needed to be narrowed.

- **The land market:** in the long run, the opportunity for people to obtain certificates of title might facilitate the development and smooth operation of the land market in both rural and urban Uganda. But in the short to medium term the impacts of the Act on the rural land market were likely to be limited. In principle, certificates of title should give greater confidence to land purchasers, but this would not necessarily occur when transactions were contained within close-knit kin groups, nor would it occur if certificates, and the land register, were not kept up to date. The Act provided no guarantee that updating would occur. Indeed the evidence both from within Uganda and from neighbouring Kenya suggested that systematic updating was unlikely.
- **Tenure security:** the Land Act was also unlikely to have major impacts on farm production through improved tenure security. The available evidence in Uganda did not indicate a clear-cut relationship between tenure security and farm investment. While some longer-term investment in farming had been inhibited on some farms belonging to occupants of *mailo* land, it was not clear whether the problem was widespread. Nor was there evidence of widespread lack of investment in customary tenure areas stemming from uncertainty relating to land rights. Where some evidence of a possible constraint of this nature was identified, there was no reason to suppose that, on its own, the Land Act could be expected to lead to the necessary strengthening of these rights. If it led ultimately to speedier dispute settlement, it might have some positive production impact, but it was unlikely to be large enough to be reflected in the country's agricultural growth rate. One unexpected short-term impact of the Act was it had itself created new uncertainties as to the allocation of rights over some urban and rural land.
- **Unanticipated impacts** included the following: an adverse impact on production and welfare arising from the failure to activate the new dispute settlement procedures; a decline in land-related urban revenues; and some reduction in commercial bank willingness to lend to new borrowers on the basis of residential land as collateral, due to the provisions requiring the consent of family members (spouse as well as children).
- **Spatial variations in impact:** the various costs and benefits identified would not necessarily be evenly distributed. From field visits it was apparent that the incidence of disputes was much higher in some



densely populated districts. In such districts, any impacts felt from the new dispute settlement procedures should consequently be stronger.

- **Quantification of benefits:** it was not possible to weigh the value of costs generated by the Land Act against the benefits. Not only was it impossible to identify and/or predict values for many of the items, but, in addition, there was no basis for weighting the relative importance to Uganda of the different categories of potential cost and benefit. Therefore, it was not possible to make recommendations concerning priorities for implementation of the Land Act based on a systematic calculation of costs and benefits. Nonetheless, some recommendations could be made on the basis of the evidence gathered. The first priority was to confront the main unanticipated costs already generated by the Act, i.e. to activate the dispute settlement procedures laid down in the Act; to reconsider the provisions and scope of the consent provisions, in the light of the concerns raised by the commercial banks; to review the fiscal base of urban authorities in the light of the Act's provisions which would entail a probable permanent decline in revenues from existing land-related sources, but increased land-related expenditures.

#### **Monitoring of impacts**

The study found that it would be important to monitor the Act's impact over time, not just in isolation, but in conjunction with other developments in the economy. With time, the provisions of the Act could cause growing inequality in farmland distribution. If unfettered, such a trend might become detrimental to attainment of the government's poverty alleviation targets. At that stage, further policy reform with respect to the terms on which land was held might become appropriate, e.g. the introduction of a tax on titled land. Other elements of the impact which it would be important to monitor included the extent to which certificates of title and land registers were kept up to date and the efficacy and equity of the new dispute settlement structures. In the longer term, as and when the implementation costs of the Land Act had been fully resourced, it might be appropriate to review the scope for providing legal aid to the poor from the Land Fund in order to prosecute the appeal stages of land disputes.

#### **Some lessons learned from the Uganda experience**

- The passage of Uganda's tenure reform legislation was not preceded by a financial and economic appraisal. The budgetary implications were not the subject of rigorous review. No provision was made in the budget for its implementation. When the Bill became law, the responsible implementing agencies were without the necessary staff and funds to implement it.

- The *Uganda Land Act* covered the whole country in one fell swoop. When the new law was passed, the old order laws and institutions were swept away but no arrangements had been put in place to manage the transition.
- Inadequate attention was paid to the very significant regional differences in land tenure and land use. Examples are intensive smallholder arable production and extensive pastoralism. Such dissimilarities call for different implementation strategies and arrangements; some areas were urgently in need of the land tenure reforms, others were not.
- Other preparations for the passage of the law were either absent or inadequate: training, public information and communication, community facilitation.
- The rush to pass the legislation in time to meet the June 1998 deadline set in the Constitution caused the government to overlook all the necessary preparatory work. Insufficient attention was paid to the Buganda proverb: 'fruit which ripens quickly, rots quickly'.<sup>22</sup>
- As explained in page 16, concentration on capacity building of new institutions of land management was at the expense of the old institutions, which had been cast adrift by the Act. Capacity building must focus not only on those whose land rights are being legally confirmed and officials who are to staff the new institutions, but also on all those elements of existing organisations which are undergoing the change mandated by the Act.

Despite these criticisms, it is important to record that the Implementation Study found that the *Uganda Land Act*, 1998, was a major step forward in equitable land tenure reform. As with all land-related legislation, amendments will be needed to make the law more workable. The amendments proposed by the study do not represent major changes in direction. They aim to provide more flexibility in implementation. This is necessary because of the budgetary constraints and the specific requirements of the different regions of Uganda.

---

22. Quoted in this context by Professor Okoth Ogendo, an authority on African customary land law, Conference on Land Tenure in the Developing World, Cape Town 1998.

### *Appraisal of the South African Land Rights Bill*

A study of the financial and economic implications of the proposed Land Rights Bill was conducted as an adjunct to the drafting process and to provide financial and economic arguments to motivate the case for the draft legislation.

Whereas in Uganda the 'without project' situation was the unamended 1998 *Land Act*, with its high administrative costs and unanticipated impacts, in South Africa the counterfactual was the continuation of the prevailing 'old order' land administration, with all its attendant problems of tenure insecurity. In neither country was it feasible to attach a value to the increased production that might arise from improved tenure security. However, in South Africa, an attempt was made to quantify the annual productive value of land-based livelihoods in the rural areas to which the proposed bill would apply and to relate this value to the incremental operating costs of the proposed tenure reforms. In South Africa, unlike Uganda, the proposed tenure reform applied only to rural areas.

**Background:** the context of tenure reform in the former 'homelands' of South Africa in the overall land reform programme of South Africa is briefly described in page 46. The rationale for the draft law is described by Claassens (2000). About 12.7 m people, 32% of the total population, are concentrated in about 13% of the country. The former homelands have the highest level of poverty. Under apartheid laws, persons deemed 'black' were prevented from retaining and/or acquiring land rights in the former 'white' South Africa. At the same time, land that was provided in the crowded homelands was granted on limited and precarious permits subject to administrative discretion. South Africa's dual system of land rights introduced under colonial and apartheid governments continues to prevail. Laws involving arbitrary racial distinctions have been repealed, but land in the former homelands continues to be registered in the name of the state. This derives from the system of trusteeship, which located the state as both the owner and the administrator of land.

Although most of the former homelands are registered as 'state land', particular groups and tribes have strong underlying rights (e.g. through the purchase of land or through historical occupation), which were not registered in their name because of discriminatory laws. Because these underlying rights may be disregarded by officials, there are long-standing disputes between provincial and local governments and traditional leaders about who owns and therefore controls the land. Traditional leaders complain that local government initiatives undermine pre-existing land rights, while elected councillors complain that tribal leaders block

development so as to ensure that their authority remains intact. In the process, the views of the rural poor are ignored. Occupants are not treated as decision makers on land which they have occupied for decades.

Another factor complicating post-transition attempts to dismantle the apartheid map is the complex and unstructured nature of the legislation governing the former homelands, much of which has yet to be repealed. Remnants of the old Bantu Areas Land Regulations, Proclamation No R188 of 1969 are still in place. The land is administered by different laws and authorities in each of the former homelands. Generally, the systems of administration and record keeping have broken down and threaten a general collapse in rural governance. This collapse includes loss of records, doubts as to which laws apply and the unauthorised issue of permits and other documents. The lack of clarity about the status of tenure inhibits investment, whether by outsiders or those who live in the area. Because of the uncertainty as to who has rights and who can take decisions, both government and private sector projects are stalled or slowed.

All these features lead to the inescapable conclusion that insecurity of tenure in the communal areas is real and widespread. However, it is also true that in many areas people do enjoy day-to-day *de facto* tenure security and do not express great anxiety about their long-term future on the land. Many existing systems, often 'informal' in the sense that they are not recognised by law, work reasonably well. However, evidence from the large number of tenure cases brought before the Department of Land Affairs is that underlying conflicts emerge strongly when development planning begins or investment projects are proposed.

The cost to society of taking no action to resolve this problem is considered to be very high. It was expected that measures in the proposed Land Rights Bill (e.g. the protection of informal land rights; the clarification of tenure rules; decentralisation of land administration and conflict resolution; placing legal control over land rights in the hands of the *de facto* rights holders at local level; and the strengthening of the land rights of women) would have had a positive impact on the economy through security of tenure over land and other natural resources. The law would have provided for the strengthening of customary systems of communal tenure where preferred. Customary arrangements are particularly important for the poor, frequently non-land holders (women, the destitute, retrenched urban workers, in-migrants), who can gain access to land by establishing subsidiary rights through their kinship or social relations with land holders. An important objective of the law was to provide more clarity and legal certainty on the tenure and the ownership of developments (e.g. public amenities, housing, commercial sites and associated developments) on land where there are informal land rights

holders. In mid 1999, the draft bill was shelved by the incoming minister. One year later, the intentions of government on the future of the bill remained unclear. Nonetheless, for the purpose of this chapter, the feasibility study for its implementation is of interest here.

### **Terms of reference for the economic appraisal**

A central aim was to obtain information on the status of the systems of land administration, which were inherited from the apartheid regime, including the associated personnel costs. This was important because it was necessary to provide for transitional arrangements and because it was important to know the extent to which the financial costs of implementation could be defrayed by absorbing and assimilating staff and posts currently administering the outmoded tenure legislation. Briefly, the overall terms of reference were to describe and, where possible, quantify:

- the resources required for implementation in the short term, including the costs of training, community facilitation and communications;
- the financial and staff resources required for implementing the proposed law in the medium to long term, taking into account alternative organisational arrangements;
- the extent to which the land rights of the rural poor would be protected and economic activity would be increased as a result of the legal clarity and certainty which the law aimed to bring to land tenure in the former homelands;
- the implications of the proposed law for improved environmental management of communal property resources and the rule of law;
- proposals for improving the draft bill and other required short-term measures in advance of tabling the bill in Parliament.

The brief for the wider economic and social evaluation required the consultants to:

- evaluate the likely impact of the proposed legal changes on land use and the rule of law in areas where the breakdown in land administration had resulted in societal disintegration and violence and the uncontrolled spread of informal settlements and to specify what environmental benefits, if any, would accrue from the proposed legislation, quantifying where possible with an estimate of the impact over time;



- examine the importance of these measures in terms of the wider economy and the need to provide for sustainable economic and social development in South Africa;
- determine the extent to which the present uncertainty with respect to land rights discourages and/or seriously delays investments which would otherwise generate employment and other economic spin offs in the ex-homelands and to quantify the opportunity costs of not proceeding with the proposed tenure reforms in terms of investment and employment forgone

### *Conceptual model*

The model adopted by the study, and subsequent more detailed studies, is shown in Table 3. It was assumed that the main economic benefits from tenure reform would be derived from:

- the promotion of farm and non-farm production by rural households;
- improving delivery of government housing and infrastructure;
- facilitating investment in private sector investments in rural areas, e.g. Spatial Development Initiatives (SDIs), a programme of initiatives aimed at unlocking the economic development potential of certain strategically important locations in South Africa and neighbouring countries (e.g. the Maputo Development Corridor, the Wild Coast and Lumumbo initiative).

### *Quantification of benefits*

Quantifying the benefits of the proposed tenure reform measures was found to be extremely problematic given the limitations of the available data on the existing value of production in the former homeland areas.<sup>23</sup> Estimating the value of delayed government investment and of stalled SDI projects was more straightforward (see Table 4).

It has been concluded that the estimates in Table 4 seriously underestimated the potential benefits in relation to household production or what may be more appropriately termed 'land-based livelihoods'. Further, the 1998 study did not collect data on rural housing or other government-funded development programmes negatively affected by tenure uncertainties (e.g. public works programmes). The SDIs, by their nature, are concentrated in specific geographical areas. Their benefits

---

23. Until now, the national income and accounts of South Africa have totally disregarded the value of production in the rural areas of the former homelands, (probably 2–3% of GDP). For a detailed analysis see Shackleton et al. (2000).



would not accrue to the majority of the rural population. Numerous stalled private sector investments in tourism, forestry and agriculture on communal land, outside the SDI zones, were not included in the estimates by the consultants.

<b>Table 3 Contribution of tenure reform to economic development through tenure security</b>		
<b>STAKE-HOLDERS</b>	<b>ACTIVITIES AND PROCESSES</b>	<b>BENEFITS</b>
<b>Rural Households</b>	<ul style="list-style-type: none"> <li>• increased production of agricultural goods (marketed and directly consumed)</li> <li>• increased but better managed use of natural resources for:                             <ul style="list-style-type: none"> <li>- household provisioning (food and fuel)</li> <li>- medicinal plants</li> <li>- craft production</li> <li>- building</li> </ul> </li> <li>• local economic development via MSMSE (Micro Small and Medium Scale Enterprise Development)</li> <li>• reduced levels of conflict and greater social stability</li> <li>• greater equity in the distribution of benefits</li> </ul>	<b>Rural Livelihoods</b> <ul style="list-style-type: none"> <li>• more income (monetary and in kind)</li> <li>• reduced vulnerability</li> <li>• improved food security</li> <li>• increased health and well being</li> <li>• more sustainable use of natural resources</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>• provision of infrastructure and services</li> <li>• public works (e.g. Land Care and Working for Water)</li> <li>• development projects (e.g. housing)</li> <li>• grants and subsidies to the rural poor</li> </ul>	<b>Economic Growth and Development</b> <ul style="list-style-type: none"> <li>• increased production and income</li> <li>• increased markets for consumer goods</li> </ul>
<b>Private sector</b>	<ul style="list-style-type: none"> <li>• investment in rural areas:                             <ul style="list-style-type: none"> <li>- spatial development initiatives</li> <li>- ecotourism</li> <li>- forestry</li> <li>- agricultural projects</li> <li>- goods and services for local economic development (e.g. agri-inputs)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• increased linkages between rural and other sectors</li> </ul>

*Source: Adams et al., 1999b*

Table 4 Estimates of the positive economic impacts of tenure reform	
Benefit	Economic impact
Household farm production	R344m per annum
Government investment in development	R400m for current projects
Spatial Development Initiatives	R500m for current projects R40m estimated return per annum
Opportunity costs	Cannot reasonably be quantified

*Source:* DLA, 1998

Land-based livelihoods are composed of:

- cropping (dry-land and irrigated crops, including homestead gardens);
- livestock production (for a variety of products);
- natural resources from the commons (e.g. water, clay, river sand, roots, bulbs, fruits, grass, shrubs, trees, honey, insects, wildlife) are harvested for a range of uses (e.g. as wild foods, fermented beverages, medicines, building materials, craft work materials, fuel, forage, etc.).

All of these forms of production involve both direct use for household sustenance and exchange in local and more distant markets. Some outputs supply small or micro enterprises in rural areas e.g. traders, crafts, building, traditional healing practices. It is estimated that the current per household value of land-based households in the ex homelands is about R5535 (about US\$900) per annum.

The question arises whether rural development efforts in the former homelands, including 'necessary-but-not-sufficient' tenure reform, could lead to a significant enhancement of land-based livelihoods and associated local economic development. Research in Zimbabwe suggests that real improvements in yields, productivity, incomes and human development indices are feasible in communal areas and resettlement schemes when appropriate policies and programmes are put in place (Kinsey, 1999). Such views lend support to the contention that in South Africa an incremental enhancement of land-based livelihoods of the order of 15 to 20% of current values is technically and economically feasible. This would no doubt require the implementation of a range of complementary measures, in addition to tenure reform. Table 5 shows that, in the former homelands,

increases in the aggregate value of these livelihood sources could amount to R2bn (at 15% enhancement) and R2.66bn (at 20% enhancement).

Table 5 Household and aggregate economic values of land-based households' livelihoods in communal areas (with a total population of 2.4m households)				
Component	Current value per household per annum	Current aggregate value per annum	Aggregate value enhanced by 15 %	Aggregate value enhanced by 20 %
1. Cropping	R 1543	R 3.70bn	R 4.26bn	R 4.44bn
2. Livestock	R 1200	R 2.88bn	R 3.31bn	R 3.46bn
3. Natural resource harvesting	R 2792	R 6.70bn	R 7.71bn	R 8.04bn
Total	R 5535	R 13.28bn	R 15.28bn	R 15.94 bn

*Source:* Adams et al., 1999b

### *Overall economic benefits*

The estimates of the potential economic impact of tenure reform discussed above are provisional. They only make sense when seen in their full context – that of a coordinated and well-targeted rural development programme aimed at enhancing rural livelihoods in a sustainable manner. No estimates are available on the impact of tenure reform on a number of the components of the model set out in Table 3 (e.g. local economic development via Micro Small and Medium Scale Enterprise Developments (MSMSEs), or the multiplier effects through the national economy).

Weighing costs and benefits: McIntosh, Xaba and Associates (DLA, 1998) estimate that the incremental operating costs of the proposed land rights legislation would level off at R108m per year once the required personnel had been trained and the administrative systems had been put in place. These are far outweighed by the positive economic impacts shown in Table 4. The estimates given in Table 5 for the value of the potentially positive impacts of tenure reform on land-based livelihoods add force to this argument. The costs of complementary rural development programmes would have to be added to the direct costs of implementing tenure reform for a realistic estimate of total costs to the state and society.

To these considerations must be added the costs of not undertaking tenure reform, as an essential component of comprehensive rural development. This would imply the entrenchment of rural poverty, a further drain on society's resources and the continuing tension and instability resulting from contested rights and claims.

### **Financial and economic appraisal of land redistribution projects and programmes**

In the case of individual projects, provided the main parameters are known (e.g. number of households, infrastructure costs, cropping patterns, crop gross margins, livestock off take, etc.), financial and economic appraisal is straightforward; so is the estimation of farm budgets, the returns to labour and settler income.<sup>24</sup> For example, in the financial and economic appraisal of the EU-funded Land Reform Support Project in the Philippines (page 36), which consisted mainly of production-related support, the economics of the farming systems were well established and the input/output data were readily available. Routine *ex ante* project evaluation techniques, as for a routine agricultural settlement/smallholder irrigation development, were therefore employed.

Whereas the economic and financial evaluation of individual land redistribution projects or resettlement schemes is reasonably straightforward, the appraisal of an overall programme presents a significant number of uncertainties relating to the scale and pace of implementation. This uncertainty is coupled with a noticeable tendency on the part of governments and donors greatly to over-estimate what is feasible in terms of the time and the resources available. The uncertainties are magnified when the proposed reforms go beyond the redistribution and resettlement of productive farmland.

### *The appraisal of the Phase 1 Resettlement Programme, Zimbabwe*

Cusworth and Walker (1988), in their *ex post* evaluation of the Phase 1 Resettlement Programme in Zimbabwe, describe the project appraisal procedures adopted by the UK's Overseas Development Administration (ODA now DFID) (see Box 16).

---

24. Because the cost of land invariably exceeds the discounted value of farm profits, it is normal to discount or exclude land acquisition costs from the economic evaluation.

The programme involved the purchase and redevelopment of large-scale commercial farms by government. The farms were grouped into blocks for administrative convenience and were designated settlement schemes. The majority of schemes were then subdivided into individual family farms for settlers, accommodated in nucleated villages and sharing common grazing land. Infrastructure was included in the plans. This included roads, water supplies, storage depots, schools, clinics and government staff housing. Land development was also undertaken to assist with farm establishment and soil conservation.

No attempt was made to conduct a detailed *ex ante* appraisal of the overall resettlement programme. It was assumed, on the basis of the Kenya experience, that land transfer and resettlement would be of general economic benefit to the nation. Further, it was never envisaged that the entire planning of resettlement could be undertaken at one go. Instead,

#### **Box 16 Appraisal criteria, Phase 1 Resettlement Programme, Zimbabwe**

**Physical resource appraisal:** The soil type, availability of arable land and rainfall together indicated the capability of the area to sustain crop production. The resettlement potential of the scheme was then determined by the following main factors:

- the target income to be derived from a combination of crops and livestock in a varying proportion according to the natural region in which the scheme lay;
- the need for each farmer to sustain a cattle herd big enough to provide the draught power to cultivate the arable plot;
- the requirement that cropping and stocking rates would be consistent with good conservation practices.

These technical considerations were the main determinants of the scheme layout, the number of people that could be settled and the infrastructure requirement for administrative, education and health services.

**The financial appraisal:** A farm modelling process indicated the costs and the potential benefits from the settler households' perspective. The farm models were based on the technical coefficients used by AGRITEX in the commercial farming sector, because there was little information at the time on the technical coefficients for the smallholder sector. The costs of establishing and operating each scheme were derived through the use of unit costs drawn up by Department of Rural Development and agreed with the UK government. A provision of about 30% was made for contingencies.

**The economic appraisal:** The net farm benefits were set against the capital costs of the scheme (including land purchase but excluding welfare infrastructure such as schools and clinics) and the recurrent annual operating costs over 25 years. Market prices were used throughout.

*Source: Cusworth and Walker, 1988*

each of the component schemes was appraised individually. Only those schemes that met the agreed criteria were approved for funding by the UK government.

The evaluation report (Cusworth and Walker, 1988) notes the tension between the ODA advisers and the Zimbabweans over the scheme planning and approval process. Land purchase outpaced the planning and appraisal procedures. The Zimbabwean Government believed that the procedures were too cumbersome and that the UK was holding back the rate of resettlement. The foreign advisers, on the other hand, argued that systematic planning and appraisal were essential if the resettlement programme was to achieve its wider social and economic objectives, rather than be a simple process of land transfer. The UK report states that the real cause of the disparity between the rate of land purchase and development was the limited capacity of the Department of Rural Development (DERUDE) to implement approved schemes at the required pace.

The tension between planners, who press for systematic project planning for sustainable resettlement, and political leaders, who want to accelerate the repossession of land alienated by white settlers, will no doubt continue in the freehold land reposessed with funds raised by taxes on Swazis and from the UK, was simply re-incorporated into land held under customary tenure under the control of the traditional authorities (Levin, 1997; Adams et al., 1999). In South Africa, there is great pressure from traditional leaders for the same.

### *Appraisal of the Land Reform Pilot Programme, South Africa*

The economic appraisal of *South Africa's Land Reform Pilot Programme* (Department of Land Affairs, 1995) provides an example of the difficulty of quantifying the benefits potentially delivered by a land redistribution programme. Its report states (Annex C, Financial and Economic Aspects):

'The LRPP, however, is not primarily about agricultural production. Indeed, agricultural potential did not feature in the list of criteria for pilot district selection.

Rather, the approach to land reform and rural development being piloted by the LRPP is ultimately aimed at redressing the injustices of past apartheid policies, providing basic services to rural communities and alleviating poverty. The LRPP itself represents a first step in this direction, meeting needs in areas where poverty and the pressure for land are most acute, while developing efficient, equitable and sustainable mechanisms for future land redistribution



and rural development. As such, it does not lend itself to cost-benefit analysis or to the calculation of economic rates of return.

The main focus of the LRPP is on the poor, uplifting some of the most disadvantaged members of the rural population. Women are a particular focus of the programme. The assumption is that beneficiaries will be selected as community groups, although this does not preclude individuals or smaller groups from benefiting. Thus while not specifically directed at the creation of a black, small-scale commercial farming class, the LRPP does provide opportunities for those who aspire to farm commercially.

For the poor, access to even relatively small additional parcels of land will represent a significant improvement in their livelihoods. In addition to broader equity arguments in favour of redistribution, major benefits expected to arise from the LRPP include the following:

- **improved household food security:** the vast majority of rural homeland households have too few resources to meet domestic food needs. Increased access to agricultural resources, even for gardening or for low input agriculture, represents a significant opportunity to improve household food security;
- **diversification:** the LRPP will also assist households to diversify their income sources, reducing their vulnerability to shocks and exposure to risk;
- **improved quality of life and security of tenure:** the provision of basic services, particularly water, will represent a major improvement in the quality of life of many. In addition, the LRPP will improve security of tenure, revealed by the LAPC research to be an important aspect of the demand for land;
- **off-farm linkages:** as land is transferred from large to small holdings, there is a substantial net increase in rural livelihoods. This is partly because farming becomes more labour intensive, but also because there is a stronger linkage to labour-intensive rural or small town production of non-farm goods and services. The World Bank, for example, has estimated that for every four rural livelihoods directly created through land redistribution in South Africa, a fifth is created indirectly through such linkages;
- **environmental effects:** although there are concerns that the LRPP will extend the area of communal tenure and increase the risk of environmental damage, the LRPP will also ease the overcrowding and overstocking problem in currently degraded areas. The short term effect is likely to be positive. The longer term effects will depend in part on new legislation being prepared regarding tenure;
- **community empowerment:** the process of community organisation and capacity building that will occur in the process of community identification and project planning will have longer term benefits that go well beyond the LRPP. Experience elsewhere suggests that trained

community leaders become important representatives of the community in other fora as well;

- **social stability:** the consequences of not initiating steps towards land reform are potentially explosive. Land invasions, violence and social unrest are endemic in some areas, particularly in some of the pilot districts. Easing some of the tension around access to land in these more volatile parts of the country would represent a significant benefit to the national economy and society as a whole.

Lessons learnt during implementation, particularly given the diverse approaches that are already emerging between provinces, should have a beneficial impact on programme design in the future. Donor investments in the supporting elements (training and capacity building, M&E, technical support etc.), will be particularly important in improving the chances of success not just of the LRPP, but also of its successor.

Other appraisal indicators, such as the cost per beneficiary, or the cost per redistributed hectare of land, are impossible to determine at this stage as the district and project plans have still to be prepared, and the numbers of beneficiary households etc. are unknown.'

Following the submission of the draft financing proposal, ODA felt that an attempt to quantify economic costs and benefits would be helpful, and in any case were required by ODA's Project Evaluation Committee. Thus the final edition of the Financing Proposal submitted to ODA contained a valiant attempt at a Benefit-Cost Analysis (Annex C, Appendix 1). It commences with an appropriate disclaimer:

'The *ex ante* assessment of the costs and benefits of land redistribution encounters a variety of analytical and methodological problems. Some of these relate specifically to the South African context of land reform. Issues include:

- making production comparisons of large white farms and small black farms, given the virtual absence of the latter in recent history;
- coming up with models which characterise the different agro-ecological zones of South Africa and the heterogeneity among beneficiary households;
- predicting the impact of land redistribution on output prices, e.g. non-tradable horticultural produce destined for urban markets;
- quantifying environmental impacts and attributing benefits to 'quality of life' (e.g. nutritional effects on beneficiary households, diversification of household income and the associated 'risk diffusion benefit' which results);
- measuring the net off-farm effects (i.e. multipliers) of redistribution on industries providing inputs, making use of outputs, and those providing consumer goods.'

Predictably, the results of the quantification exercise (an Internal Rate of Return of 12 to 16%) were positive. No doubt they would have been massaged to produce the desired outcome if they had not been favourable, such was the political pressure to proceed with a land redistribution programme (and the costs of not doing so).

Neither ODA nor the appraisal team was impressed with the above IRR calculation and more information was provided about the economic implications of the programme by calculating the net household income that was required to achieve various target IRR. Table 6 shows what increase in household income in five years would be necessary to achieve rates of return of 0, 5, 10, 15 and 20% on the cost of land acquisition grants and various proportions of other programme costs. There were four scenarios:

- (i) only covers land acquisition and programme administrative costs;
- (ii) as (i) above, plus 25% of the household basic needs grant (for which a 5% annual recurrent cost is also incurred);
- (iii) as (ii) above, plus half the costs of the LRPP, and some allowance for DLA recurrent costs (10% of DLA's – R60m – administration budget in the first year when schemes are established, 1% thereafter);
- (iv) as (iii) above, but with a more rapid achievement on the part of the beneficiaries of the higher incomes expected of them.

The preferred option was scenario (iii), which suggested that a net household income of R2350 (from the land acquired with the LRPP grant) would be required to achieve a 10% return, or R3080 to achieve a 15% return.

**Table 6 Household income levels required to obtain various levels of IRR from the LRPP**

Target IRR	Scenario (i)	Scenario (ii)	Scenario (iii)	Scenario (iv)
0%	690	1010	1160	1130
5%	1080	1490	1700	1650
10%	1550	2070	2350	2260
15%	2080	2720	3080	2930
20%	2630	3400	3830	3620

In retrospect, it is apparent that the LRPP failed to meet its financial targets, mainly due to the failure to predict the time needed to build the organisational capacity to redistribute land and to provide post-settlement support. Donor funds took twice as long to disburse as initially forecast. In any case the assumptions about the rate at which settler incomes would grow was hugely over-optimistic. The topic is further considered in the monitoring survey of South Africa's land reform programme, discussed page 109.

## **Monitoring the impact of land redistribution**

As land reform aims to achieve structural changes (not just greater social equity) its impact on production and livelihoods, social justice and poverty alleviation cannot be measured for some considerable time. People take time to make the most of new resources, especially if they are initially drawn from the poorest segment of society. Kinsey's (1999) survey from several resettlement projects in Zimbabwe covering 17 years is particularly revealing. This shows that the slightly better off settlers began to produce on a scale significantly above farmers residing in Communal Areas quite early on. The poorer beneficiaries eventually enjoyed comparable improvements in their livelihoods – but only after a decade. It is clearly unrealistic to expect a substantial improvement in livelihoods in the short term. This conclusion was underlined by the reviewers of the South African land reform programme (DLA, 1999).

## ***Monitoring Zimbabwe's Phase 1 Resettlement Programme***

With the publication of Kinsey's (1999) classic study of the effect of Zimbabwe's Phase I resettlement programme on the welfare and income of participating households, it is possible to draw some conclusions on the impact of land reform and resettlement on poverty alleviation. Kinsey concludes that any attempts at comprehensive evaluation of the benefits of resettlement in less than a generation is ill advised. The study provides a basis for future appraisal of land reform and resettlement, which will continue to re-emerge as an important political issue for as long as large numbers of Zimbabwe's poor reside in Communal Areas in conditions of poverty and extreme inequality.

The study focuses at the level of the households participating in the Model A variant of the resettlement programme. This is the most common model consisting of family-based arable holdings with access to communal grazing set aside for the settlers' livestock. Kinsey assesses the extent to which the welfare and poverty-reducing aims of the programme (see Box 11) have been met – insofar as can be judged from a 15 year, 400 household panel study in resettlement areas. The data set permits comparison between the settlers and their host community in the Communal Areas.

He concludes that Zimbabwe's Phase 1 resettlement programme resulted in both higher and more equally distributed incomes. Resettled households were found to crop twice the amount of land and earn more than three times the unit revenues of households in the communal areas from whence the settlers came. Values of livestock, crop production, food and non-food expenditure, and holdings of cereal stocks were all higher and more equitably distributed in the resettlement areas than in the neighbouring communal areas. Kinsey provides substantial evidence that genuine poverty reduction through resettlement is possible.

### *Monitoring South Africa's land reform programme<sup>25</sup>*

Monitoring and evaluation provide insights into management and implementation processes, as well as information about the effectiveness of programme targeting and support to land reform communities. South Africa's land reform programme has been the subject of M&E throughout the period 1994–99. Following an initial quality of life survey in 1998 and a further pilot study in early 1999, two integrated survey instruments (a community and a household questionnaire) were developed for repeated application for the next few years (i.e. to 2003 and beyond). They were used in the 1999 *Quality of Life study*, which constitutes the baseline survey, the fieldwork and the analysis of which was done by independent professional agencies.

The impact of South Africa's land reform programme on production and livelihoods, social justice and poverty alleviation cannot be determined for some considerable time. People take time to make the most of new resources, especially if they are initially drawn from the poorest segment of society. Nonetheless, the 1999 baseline survey flagged some important issues for policy makers. An account of the design of the survey, problems encountered, the survey results, the preliminary findings and the related policy implications provide the content of this report.

---

25. Work which was assisted by Danida

### Conceptual framework

The ongoing monitoring and evaluation programme of the land reform programme is based on the following assumptions:

- **food security:** food security is the most important determinant of well-being among the poor and can be enhanced by land reform, directly through the growing of food or cash crops that may either be eaten by the household or traded. Food security may be an indirect outcome of more secure tenure, which may allow the reallocation of resources to obtain food and/or services or improved shelter, which in turn can improve health and the quality of life, and release time for other economically productive activities apart from farming;
- **service provision:** although the mandate of the DLA does not extend to the provision of services (e.g. water and electricity, schools and clinics), these can be considered key determinants of the quality of life. They should therefore be included in the M&E system to determine the relationship between land reform and people's access to services;
- **institutional development:** an important outcome of the land reform programme can be the formation of different types of land management institution. These can be critical, not only for the effective use of the land that is acquired, but also for the ability of communities to mobilise and organise for the delivery of services. Institutional capacity can thus be an outcome of development as well as a mechanism for its facilitation;
- **targeting of the programme:** the land reform programme is primarily intended to benefit poor, landless people. It is important to know how effectively the programme is embracing this group. Wherever possible, data on a control population of non-beneficiaries should be used for comparative purposes.
- **contribution of agriculture:** at a general level land reform is concerned with the regeneration of an agrarian economy. Greater access to income from agriculture is not the sole, nor perhaps the most important outcome of the land reform programme, but the relationship of land reform with agricultural production needs to be better understood.

### Survey design

Practical difficulties were encountered in incorporating all the above topics in a single survey instrument. Apart from the need to consider the concentration span of enumerators and respondents, there are also limits



to the amount of information that could be effectively processed and analysed.

Following an initial *Quality of Life survey* in 1998 and a further pilot study in early 1999, two new integrated survey instruments were developed. These consisted of a household and a community questionnaire. The respondents for the latter were drawn from the land administration body (e.g. the Communal Property Association or the trust holding the land), from project management and office holders in the community. The salient elements of the 1999 *Quality of Life survey* are contained in Box 17.

#### Box 17 Quality of life survey of South African land reform beneficiaries

The household and community questionnaires are designed to obtain information on three themes:

**Project, community and household composition** (i.e. size, structure, demographic characteristics) as a means of comparing the sample with other official statistics and to monitor changes that might arise from land reform. The community questionnaire collected information on the households involved in community projects as well as movements onto and from the project.

**Project and household income, livelihoods and well being** in order to measure longer-term trends in economic and social status and engagement in productive activities; access to services; and security of household land rights and empowerment.

**Project, community and household institutional involvement and expectations** to measure institutional arrangements as well as views on the processes that are followed.

The household questionnaire	minutes	The community questionnaire	minutes
Household roster	15	Food prices	10
Services and facilities	5	Communal projects	10
Food and expenditure	20	Communal agricultural activities	10
Assets, savings and loans	5	Project income and expenditure	0
Land use	10	Loans, grants and subsidies	5
Agricultural production	15	Community organisation	10
Communal projects	10		
Employment, self-employment	5		
Other income sources	5		
Institutions	5		
Satisfaction and expectations	5		
Approximate total duration	100	Approximate total duration	45

Source: DLA, 2000

The survey frame included all beneficiaries of the land reform programme who joined it up until December 1998. The sample of the frame was stratified in such a way that responses from the 1998 beneficiaries could be analysed separately from those of previous years. A total of 101 projects was selected for the 1999 baseline survey. In all, 1145 households were surveyed, providing information on 6264 people. Half of the projects (55%) were less than one year old and embraced 52% of the responding households.

The survey design recognised that changes will take some years to emerge. It is envisaged that in 2000 and 2001, the household questionnaire will be administered to a sample drawn from the beneficiaries of projects that commenced in 1999 and 2000 respectively. The community questionnaire will be administered to all projects to be sampled in those and previous years. In 2002 and, in each year thereafter, both questionnaires will be administered to a sample of new projects as well as to the sample from three years prior.

#### **Tentative findings of the 1999 M&E baseline survey**

The baseline survey indicates that there has been an improvement in both the performance and impact of the land reform programme since the previous annual Quality of Life survey (DLA, 1998a). In the period under review, the rate of delivery has greatly increased. The programme has succeeded in embracing the rural poor and placing productive assets in their hands. Productive agricultural as well as non-agricultural activities are taking place. Beneficiaries have better access to services than the rural population as a whole. However, poverty levels remained high, as does the level of dissatisfaction expressed in some provinces, although, overall 71% of the total sample reported that they were happy with the programme.

The tentative findings of the baseline survey may be summarised under the headings, which were set out in the conceptual framework, above:

- **food security:** for land reform beneficiaries acquiring land up to the end of 1998, the land reform programme did seem to be contributing to greater food security. However, much land remained under-utilised, which is likely to be due to the fact that more than half the projects acquired their land only within the last 10 to 22 months. The most common form of productive use was the grazing of stock, which is consistent with the agro-ecological potential of the greater part of South Africa;
- **service provision:** the survey found that, despite the high levels of unfulfilled expectations, the land reform beneficiaries have access to comparatively higher levels of services, particularly potable water

supplies. Sanitation and electricity standards were marginally better than those available to African rural households, surveyed by Statistics South Africa in the October Household Survey in 1997. Access to road communications is, however, less favourable and so is the standard of shelter. This is consistent with the observation that households take several years to acquire the resources needed to improve their housing;

- **institutional development:** while the survey found that community and committee meetings did occur regularly, only half of the respondents felt that they were adequately informed about the processes. Only one-third were aware of the way in which the land reform grant from government had been utilised for the projects. Almost one-third did not know what type of land holding arrangement and management structure had been adopted. At a broader level, the majority of land reform beneficiaries in all provinces reported that the past year had been peaceful. Between 50% and 65% of households in most of the provinces indicated that there were at least moderate levels of harmony within the community;
- **targeting of the programme:** the baseline survey indicated that the land reform programme had embraced resource-poor, but labour-abundant households with a lower educational standard than the average, but with more productive assets, mainly animals. Almost 78% of land reform beneficiaries were poor (i.e. with a monthly income less than R476.30 per adult equivalent per month), as compared with an overall incidence of poverty of 72% in rural areas generally in 1995. The baseline survey results show clearly that households involved in land reform projects are poorer than the average rural African household. Female-headed households were represented in the same proportion as their overall presence in rural areas, although male-headed households had obtained larger plots on average;
- **contribution of agriculture:** the 1999 baseline survey found that land reform beneficiaries have more agricultural resources than had been anticipated. Some 39% of surveyed households owned livestock. Just less than two-thirds owned agricultural equipment. The data also showed that roughly half the community projects were generating an income, although few were making any profit. Some 80% of land reform beneficiaries had expected to plant crops and to generate an income from agriculture, although only 22% had actually realised the expectation. This is not surprising given that the majority of projects were instituted in the year previous to the baseline survey. In any case, the importance of agricultural production should not be over-stated.

For 90% of land reform beneficiaries, better services and homes were the main expected outcome of land reform.

### Some policy implications

The baseline survey flagged some issues for policy makers:

- projects that have been successful in generating agricultural income were those which were of a modest size and enjoyed strong local participation, which points to the direction of future support for directly productive projects;
- projects that aim to be directly productive constitute a small proportion of the total, but project planning procedures are premised on the assumption that most of them aim to fall into this category. It is advisable to tailor project planning to fit more closely the type of land redistribution project envisaged and to simplify procedures for projects which did not aim to be directly productive;
- it could be useful to understand why some provinces (e.g. Kwa-Zulu Natal) have gone primarily for what must be considered rural settlement projects and other provinces (e.g. Western Cape) have gone for directly productive projects;
- there was need to obtain a better understanding of the cost effectiveness of land redistribution as compared with other government programmes involving transfer payments aimed at poverty alleviation, for example pensions and housing subsidies, and to understand the opportunities for substitution between these programmes;
- ways have to be found of involving the extremely poor *de facto* female-headed households, dependent on migrant workers, who were under-represented among the land reform community;
- the assessment of the institutional arrangements (i.e. legal entities), by which communities take transfer and hold land, should be given more attention.

## Official development assistance to land reform

### Background

In the restructuring which followed World War II, a major objective of donor support to land reform was to break up feudal estates and prevent the advance of communist revolution. Reforms in East Asia (e.g. Japan, Taiwan, South Korea) were comprehensive, creating a class of independent property-owning peasants and alleviating poverty and landlessness. After initial enthusiasm in the post-war period, land reform fell out of favour with donors from the early '70s (Adams, 1995). In Africa, for example, land reform was perceived to have increased state power and patronage in ways that were considered inconsistent with traditional land reform objectives, namely the redistribution and/or confirmation of rights in land for the benefit of the poor. However, in the '90s, decollectivisation and privatisation in the former socialist economies provided a new dimension to land reform. Once the Cold War was over and attitudes to land reform became less polarised, land reform won the support of donors in the Philippines. In South Africa, where the racially skewed ownership of land was under challenge and where market-based measures to achieve land redistribution in favour of blacks were being tried, donors were keen to provide assistance to redistributive land reform.

In the context of post-colonial Africa, the role of donors in land reform has not been without controversy. Colonial associations have continued, with the British involved in Kenya, Zimbabwe, Uganda, Malawi, South Africa, etc., the Belgians in Rwanda and the French in Mali. Relations with the former colonial powers have not always been amicable (Palmer, 2000). In Zimbabwe, controversies over land have dogged relationships between the British and Zimbabwe governments for the last 20 years. Official development assistance in an area so politically contentious as land reform can never be unproblematic. In the eyes of Sam Moyo, the real aim of donors in Southern Africa is to block radical land reform, rather than encourage it (Moyo, forthcoming).

International agencies associated with the United Nations are in a uniquely advantageous position to promote land reform and take on the role of mediator.<sup>26</sup> They are well placed to draw attention to the impact of unjust agrarian structures on the livelihoods of the rural poor. They have

---

26. As offered by the UN for the resolution of the Zimbabwe land crisis in June 2000

the potential to mobilise international resources and other support for states and popular organisations attempting serious land reform. That they have generally not done so is a reflection of the fact that they operate at the will of their member states. International agencies, like bilateral donors, tend to measure their success principally by what recipient governments and funders want. They often fail to insist that they also have an obligation to tailor their assistance to coincide with international conventions concerning human rights and sustainable development (Barracrough, 1999).

### *Recent Developments*

In 1975 the World Bank issued a Land Reform Policy Paper which recommended:

- formal land titling as a precondition for development;
- the abandonment of communal tenure systems in favour of freehold title and sub-division of the commons;
- the promotion of a land market to bring about efficiency-enhancing land transfers;
- support for land redistribution on both efficiency and equity grounds.

In the light of experience, the World Bank is now reported to have revised its guidance (Quan, 2000). In the last ten years, the attitude of other donors to the provision of assistance to land reform, particularly tenure reform, is also said to have also changed significantly.

The World Bank now recognises that:

- communal tenure systems can be a more cost-effective solution than formal individual title, if transparency and local accountability can be assured;
- the circumstances in which individual freehold title is in the interests of the poor are limited, especially where credit is not widely available to the rural poor;
- titling is likely to be biased in favour of the rich and precautions against land-grabbing need to be taken;
- market distortions limit the effectiveness of land markets in enhancing efficiency and equity;



- there can be greater benefits from the development of land rental markets;
- more flexible and decentralised alternatives to private titling or public ownership and state-led land distribution can be developed.

The underlying theme in current Bank policy is that secure, transparent and enforceable property rights are preconditions for investment and economic growth.

The World Bank is reported to be engaged in the promotion of:

- land policy reforms to reflect the new understanding and to eliminate conflicts between dual systems of rights;
- pilot programmes to register and adjudicate customary rights and provide titles on a communal basis;
- piloting of negotiated and market-based programmes for land redistribution for which the Bank recently agreed a Learning and Innovation Loan for Zimbabwe (World Bank, 1999).

The current interest of DFID in land tenure reform and 'land rights' as part of the human rights and governance agenda owes much to its involvement with land reform in South Africa and West Africa in the last five years. Early in 1997, it convened a meeting of its Africa-based advisers in Cape Town, which considered the subject of tenure reform in southern Africa (ODA, 1997). In February 1999, DFID brought together policy makers, researchers and civil society representatives from Africa for a workshop on Land Rights and Sustainable Development in UK (Toulmin and Quan, 2000). Since that date, DFID has become increasingly interested in the provision of assistance to land policy development and tenure reform in Africa as part of its Sustainable Livelihoods programme.

At the World Bank's Rural Week, at the end of March 2000, representatives from eight national and multilateral donor organisations, met to discuss their strategy related to land policy and administration as well as possible next steps and joint actions to implement these strategies. The meeting revealed a high degree of consensus on the central aspects of land policy. These included the objective of establishing a sound legal and institutional framework, improving the functioning of land markets, and helping the poor gain and maintain access to land and other critical assets (World Bank, 2000).

'In particular, all of the agencies agreed on the following:

- Land policies and institutions are a critical determinant for the ability of the poor to accumulate assets, sustainable resource use, agricultural productivity, financing of local government, the development of financial markets, and in many cases a post-conflict reconstruction.
- Without having a good governance structure and a coherent and consistent policy framework, complemented by an institutional environment to implement such a policy, interventions in the area of land policy will not achieve their objectives and can actually do more harm than good.
- As most client countries have largely completed measures of macro-economic adjustment there has been a significant increase in demand for assistance in land policy issues, which have become to be recognised as essential for removing longer-term structural obstacles to development.
- Policy formulation needs to involve civil society at large, with a strong element of capacity building. Experience shows that community-based approaches at the local government level have great potential to demonstrate how even politically very sensitive issues of land access and conflict resolution can be resolved.
- The current openness provides a window of opportunity to deal with deep-rooted structural problems. Missing it could well imply that maldistribution of assets and all the associated problems will, once again, turn into an obstacle to prevent peaceful and inclusive development in many client countries (e.g. South Africa, Nicaragua, Zimbabwe).'

### *Zimbabwe rules*

With the 16th amendment to the Lancaster House Constitution and the re-election of ZANU-PF in July 2000, the 'window of opportunity' to deal with the 'deep-rooted structural problems' in terms of the donors' rules was closed, at least in Zimbabwe. Robin Palmer (2000a) observes that, in the capitulation forced on him by Britain in the Lancaster House negotiations of 1979, Mugabe reluctantly accepted the willing-seller, willing-buyer formula for land reform, trusting that the British would come forward with the funding for land acquisition which they seemed to promise. Subsequently, compromises over property rights were also reached by SWAPO in Namibia in 1990 and by the ANC in South Africa in 1994. As a result, existing property rights were protected in both new constitutions. These settlements effectively legalised more than a century of land grabbing by whites, in the course of which millions of people were uprooted from their ancestral lands, almost always without compensation.

Henceforth, to change the colonial land apportionment maps required the willing consent of the beneficiaries of past expropriation. Land redistribution was not to occur from the 'haves' to the 'have nots' (as in East Asia), but from public revenues to the 'historically disadvantaged', spent in the context of a market transaction in which land prices had risen as a result of the stability accompanying majority rule.

Palmer argues that, in the new states of Southern Africa, the question of land redistribution was never adequately addressed, despite liberation rhetoric about fighting for lost land. There was 'tinkering at the edges', but little more. This was for a variety of reasons, including the constraints mentioned earlier, but also because in Zimbabwe and Namibia significant numbers among the new ruling elite acquired land for themselves in various ways. In South Africa, returning ANC exiles opposed nationalisation and expropriation based on negative experiences from elsewhere (Mozambique, Soviet Union, etc.). For them the negotiated settlement and the 'property clause' inevitably meant 'negotiated' land reform. Further, the attention of politicians was more often occupied with urban concerns, especially as the impact of structural adjustment programmes intensified. Thus the early enthusiasm for land reform soon waned and tended to be revived only when there was an election to be fought, generally against very modest opposition.

In September 1998, Mugabe's government and a number of donors signed up to a new programme of land reform according to the donors' rules. But in February 2000, facing his most serious electoral threat since independence, Mugabe humiliatingly lost a referendum which would have further extended the government's already extensive powers to expropriate farms – with the British being required to pay any compensation offered to dispossessed farmers. This precipitated the farm invasions by the 'war veterans'. In failing to discourage them, Mugabe bypassed the narrow technical arguments, which opponents of land reform in Southern Africa have always had recourse to, namely that land reform was a good thing provided it was done properly.

In June 2000, the South African Minister for Agriculture and Land Affairs announced in parliament that the government aimed to transfer ownership of 15m ha in the next five years and 30% of South Africa's land to blacks over the next 15 to 20 years. At the same time muted statements were made by provincial politicians that land invasions would not be tolerated and that people must wait their turn in the land redistribution queue. However, in South Africa, it should now be clear that there is a basic disjunction between the new land redistribution targets and the financial and administrative resources available for realising them.

In most respects, Namibia faces the same dilemmas as its neighbour to the south.

As Palmer points out, this confronts donors with new and very difficult challenges. Should they simply stick to their post-1980 principles and walk away, or should they try to reflect on history (and their part in it) and on their own past mistakes, and seek imaginative new ways of re-engagement? In the past, DFID has come out strongly in support of the willing-buyer, willing-seller principle. This position was reiterated in the April 2000 meeting in London between representatives of the British and Zimbabwe governments. The UK may, in time, adopt a more flexible approach. South Africa provides a rich opportunity for devising and testing options which are more sensitive of the historical circumstances and the dilemma faced by governments in the region. In any case, development assistance is needed for land reform activities with no immediate bearing on landowner compensation, particularly for the more effective implementation of land rights legislation relating to farm workers and their families.

### **The scope of donor support to land reform in South Africa**

The country background to land reform in South Africa is described in page 46. Donors did not set the agenda for land reform in South Africa. Agreements were based on requests from the government to support the components of the national land reform programme already laid down in the initial policy document of the RDP (1994) and the White Paper on South African Land Policy (DLA, 1997a). The bulk of the resources for the implementation of the land reform programme emanated from the government budget. Official development assistance provided complementary support. The donor-funded programmes and projects in the Department of Land Affairs for the period of the Mandela government, 1994–9, are summarised in Table 7.

Donor funds were used for a range of activities directly related to the delivery of the three principal components of the South African national land reform programme, namely land restitution, redistribution and tenure reform. Funds were applied to research and policy development, the piloting of initiatives and different approaches, in particular for the development of market-assisted land redistribution and tenure reform, particularly in terms of new land rights legislation for people living on freehold farms (farm occupiers and labour tenants). The assistance added value to government's land reform budget by providing complementary assistance for research, mediation and conflict management, community

facilitation and for buying in services to resolve specific technical and legal problems. Disbursement of external funds took place via a number of mechanisms: through the government treasury; by the establishment of trusts to avoid lengthy government procedures; by channelling funds through NGOs and private accountancy and management consultants and engineering firms.

## Generic assistance categories

### *Land purchase and/or compensation to landowners*

The contentious history of land reform has affected what donors are prepared to fund. Neither the European Union nor the World Bank is allowed to fund compensation to landowners. Given the fungibility of aid funds, their unwillingness is not entirely logical. Under an amendment to the US Foreign Assistance Act in 1985, Congress permitted the funding of compensation to landowners provided that the President deemed it in the US national interest. However, the UK government, in an immediately post-colonial situation, has financed land acquisition from white settlers in Kenya, Swaziland and Zimbabwe.

The funding of land acquisition can be a difficult area for purely operational reasons. These relate to difficulties associated with the valuation of farms and the auditing of transactions. Valuation of fixed property is not an exact science, especially where government is entering the market in a major way. There may be few, if any, truly independent valuers. They may be closely linked to landowners, if not landowners themselves. Even a national land bank's valuers may have an interest in 'talking up' land values, if they hold a large portfolio of farm property arising from unpaid mortgages. Comparative market sales, normally the basis for arriving at the market value of a farm, might not provide a good indication of current market value, because the number of such transactions may be too limited in extent or not transparent. These uncertainties can open up opportunities for corruption by officials and make accusations of malpractice and favouritism difficult to refute both by governments and donors.

As explained in page 42, in the case of Zimbabwe, there may be special reasons for recommending assistance with the costs of land acquisition, notwithstanding the operational difficulties.

**Table 7 Grants to the South African Department of Land Affairs (1994–9)**

Source	Total Grant (millions)	Purpose
EU Denmark (Danida) UK-DFID	ECU 11.2 m DKK 52.3 m GBP 5.5 m	<p><b>Land Reform Pilot Programme:</b> to devise and test efficient, equitable and widely replicable means of transferring land to the rural poor and ways of providing them with access to basic needs and livelihoods.</p> <p><b>Land Reform Support Programme:</b> to achieve a participatory, transparent, efficient and sustainable means for land reform by enhancing the capacity of the DLA and other relevant institutions to deliver quality land reform at scale.</p>
Ford Foundation	US\$ 0.9 m	<b>Transformation of DLA:</b> to strengthen the policy and analysis skills of staff to work effectively with rural communities and facilitate linkages with non-governmental organisations with expertise in rural policy and land reform
Netherlands	NLG 6.8 m	<b>Land Restitution Trust:</b> to supplement DLA funds and capacity of the Commission on the Restitution of Land Rights and in particular to support the research and mediation process arising from restitution claims.
Netherlands	NLG 1.5 m	<b>Land Reform Mediation and Conflict Management:</b> to provide dispute prevention resolution capacity to manage land and land related conflict.
Netherlands	NLG 1.0 m	<b>Upgrading of Land Tenure in the Ex-Homeland Towns:</b> to finalise the legal and administrative processes which will enable the transfer of affected urban land to the provinces and the upgrading of land rights of occupiers.
Switzerland	R 6.72 m	<b>Piloting of a Land Facilitation Service:</b> to establish and operate three district-level DLA offices in two provinces where labour tenants and farm occupiers faced eviction and to assist the DLA with the enforcement of new tenure legislation.
Switzerland	R 3.3 m	<b>Tenure Reform Research and Test Cases:</b> to assist DLA with the reform of tenure relations in the rural areas of the ex-homelands and draft new legislation.
Switzerland	R 1.5 m	<b>Tenure Security Project, Kwa-Zulu Natal:</b> to develop interventions that facilitate collaboration between land owners, tenant associations and the public and the private sector to promote stability and economic development within the rural economy.



Switzerland	R 3.35 m	<b>Development of Land Restitution Archives:</b> to locate, collect together, sort and index documentary material, pertinent to the restitution process which was scattered throughout the country in government offices.
Belgium	R 2.0 m	<b>The Land Restitution 'Stake Your Claim Campaign':</b> to inform potential claimants of their right to lodge claims before the cut-off date.
Denmark (DANCED)	DKK 14.8 m	<b>Integration of Environmental Planning into Land Reform:</b> to insure that institutional arrangements, procedures and guidelines for incorporating environmental concerns into land reform are reflected in DLA policy and to build the capacity and knowledge of officials and NGOs in these matters.

### *Post-transfer land settlement and on-farm support*

The non-land components, particularly the costs arising from re-settlement (e.g. housing, water supplies) and farm infrastructure (e.g. farm roads, buildings, drainage, irrigation, land clearing) and the costs of initial production support to land reform farmers (e.g. seed and fertiliser starter-packs) may make up half the total costs of land redistribution. This is the least controversial area for donor assistance. It can also make the difference between land reform and land return; that is the failure of land reform farmers to develop their new farms successfully.

Locating sources of farm credit for land reform farmers is a recurring problem. In the case of the Philippines, donor finance for subsidised inputs and farm credit was channelled through the Land Bank of the Philippines. In Zimbabwe's Phase 1 resettlement programme, funds for post-settlement support were reimbursed to the Treasury, but this route was not recommended for the proposed Phase 2 programme. In South Africa, under the jointly funded Land Reform Support Programme, a 'wholesale' land reform credit facility has been established with an independent administering agency. It makes funds available on concessionary terms to commercial 'retailers' of farm credit, including the parastatal Land Bank of South Africa.

*Extra-governmental assistance for project planning and implementation*

The success of land redistribution involving so-called market-assisted or negotiated land reform may depend on the availability of professional advice and assistance to land reform farmers entering the land market for the first time. Government may also need to tap the skills of professionals to research or review policy issues, draft legislation and regulations, prepare manuals, train staff, etc.

In South Africa, over the last four years the land reform programme has greatly benefited from the Technical Assistance Fund jointly funded by DFID, EU and Danida under the Land Reform Pilot Programme and the Land Reform Support Programme. The TAF was designed to facilitate government access to South African and occasional foreign specialists to strengthen the capacity of the Department of Land Affairs (DLA) to formulate and develop policy, and to implement land reform at project level. Similar funds were established to make available specialist training (i.e. the Training Fund) in a variety of disciplines to staff associated with the implementation of land reform, and to make available community facilitators (i.e. the Community Facilitation Fund) at project level.

The funds are disbursed via three 'administering agencies' (e.g. reputable accountancy and management consultants, NGOs) which have successfully bid for the management contracts. The agencies have established a data base of accredited service providers, enter into contracts with them (at the request of the DLA), disburse funds on receipt of invoices and on satisfactory completion of project milestones, and report to DLA. The system has generally proved successful and administratively functional. It facilitates other donors joining the programme.

The main problem with the arrangement seems to be the tendency of officials, in their urgency to deliver projects, treating the agencies as rubber stamps for the contracting and payment of service providers and as a way of avoiding lengthy tender board procedures. The administering agencies, on the other hand, see themselves as having to meet certain contractual responsibilities, principally those of ensuring that both the government and the land reform community receive value for money. The dynamic tension between the government department and the agencies is not unfruitful.

The out-sourcing of these functions facilitates transparency and accountability and allows the DLA managers to focus on strategic issues and to cut back on administrative staff. The regular reports prepared by the administering agency, with details of expenditure and an assessment of the performance of service providers (based on the written reports of the

DLA officials responsible for supervising the service providers), are a useful independent source of information for the donors.

### *Foreign technical assistance*

Land restitution, land redistribution and tenure reform all seem to be topics where useful policy lessons can be learned from the experience of other countries. Whether or not foreign advice is requested or accepted will depend on local political sensitivities and needs. If long-stay technical assistance is not appropriate, something may be usefully achieved by periodic *ad hoc* visits to confer with government policy makers. Another possibility is to support tours for officials to review the implementation of land reform programmes in other relevant countries. The World Bank has been active in this area, for example, organising visits for Zimbabwean officials to review 'negotiated' reforms in Brazil. The main purpose of the Bank's assistance has been to keep the dialogue going and to persuade governments to consider the range of interventions that may be possible, particularly market-assisted reforms.

The involvement of foreign technical assistants and consultants can be a source of tension in matters as politically sensitive as land policy and the planning and implementation of land reform. As suggested in Table 1, NGOs in the Philippines resent the high financial cost of consultants (local as well as foreign) funded by donors. Zimbabwean politicians are often uneasy about foreign advisers getting too close to decision-making relating to land acquisition and allocation. Nonetheless, DFID has assisted several national land reform policy processes by making available the services of experienced international policy analysts to governments to make inputs into various high-level commissions. The role of foreign legal draughtsmen has also been important but little open to public gaze (Palmer, 2000).

## References

- Acquaye, E. and Crocombe, R. (1984) *Land Tenure and Rural Productivity in the Pacific Islands*. Rome: FAO.
- Adams, M. and Devitt, P. (1992) 'Grappling with Land Reform in Namibia', *Pastoral Development Network*, 32. London: Overseas Development Institute.
- Adams, M. (1993) 'Options for Land Reform in Namibia', *Land Use Policy*, 10, 3, pp 191–6.
- Adams, M. (1995) 'Land Reform; new seeds on old ground', *Natural Resource Perspectives*, 6. London: Overseas Development Institute.
- Adams, M., Sibanda, S. and Turner, S. (1999) 'Land tenure reform and rural livelihoods in southern Africa', *Natural Resource Perspectives*, 39. London: Overseas Development Institute.
- Adams, M., Cusworth, J. and Palmer, R. (1999a) *Zimbabwe Land Reform and Resettlement Programme, Inception Phase (LRRP-2), Identification Report*, for DFID, Harare, 1 June 1999.
- Adams, M., Cousins, B. and Manona, S. (1999b) 'Land Tenure and Economic Development in Rural South Africa: Constraints and Opportunities', *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 111–28. Cape Town: PLAAS and NLC. (Also published as Working Paper 125, December 1999, London: Overseas Development Institute.)
- Adams, M. (2000) 'Official Development Assistance for Land Reform in South Africa 1994–99' (draft report, May 2000), Development Co-operation Review, Department of Finance, Pretoria.
- Agarwal, B. (1992) 'Gender Relations and Food Security: Coping with Seasonality, Drought and Famine in South Asia' in *Unequal Burden: Economic Crisis, Persistent Poverty and Women's Work*, eds. L. Beneria and Feldman, S. pp 181–218. Boulder: Westview Press.
- Agarwal, B. and Narain, S. (1994) *Toward a Green World*. New Delhi: Centre for Science and Environment.
- Agarwal, B. (1997) 'Environmental Action, Gender Equity and Women's Participation', *Development and Change* 28, pp 1–44.
- Alberts, R., Fourie, C., Dahl Højgaard, P., Shitundeni, J., Corbet, A. and Latsky, J. (1996) *Land Management and Local Level Registries*. Ministry of Lands, Resettlement and Rehabilitation, Windhoek.
- Alden Wily, L. (2000) 'Land tenure reform and the balance of power in Eastern and Southern Africa', *Natural Resource Perspectives*, 58. London: Overseas Development Institute.
- ANC (1994) *Reconstruction and Development Programme; A Policy Framework*. Johannesburg: African National Congress.

- Barraclough, S. (1999) 'Land Reform in Developing Countries: The Role of the State and other Actors', *Discussion Paper*, 101. Geneva: United Nations Research Institute for Social Development.
- Benkhe, R.H. and Scoones, I. (1991) *Rethinking Range Ecology: Implications for Rangeland Management in Africa*. London: Commonwealth Secretariat.
- Bernstein, H. (1998) 'Social Change in the South African Countryside? Land and Production, Poverty and Power', *Journal of Peasant Studies*, 24, 5, pp 1–32.
- Binswanger, H.P. and Deininger, K. (1993) 'South African Land Policy; the Legacy of History and Current Options', *World Development*, September, pp1451–75.
- Birgsgård, L-E. (1993) Natural Resource Tenure: A Review of Issues and Experiences with emphasis on sub-Saharan Africa, *Rural Development Series*, 31. Uppsala: Swedish University of Agricultural Sciences.
- Blaikie, P. and Brookfield, H. (1987) (eds.) *Land Degradation and Society*, London: Methuen.
- Bruce, J. (1986) 'Land tenure issues in project design and strategies for agricultural development in sub-Saharan Africa', LTC Paper 128. Land Tenure Center, University of Wisconsin–Madison.
- Bruce, J. (1996) *When should land rights be formalised? Issues in phasing of property system reforms*, Land Tenure Center, University of Wisconsin – Madison.
- Carney, D. (1998) *Sustainable rural livelihoods: What contribution can we make?* Department for International Development, London.
- Christiansen, R.E., Van Rooyen, J. and Cooper, D. (1993) 'Introduction, Experiences with Agricultural Policy: Some Lessons for South Africa', *World Development*, 9, pp1447–50.
- Claassens, A. (2000) 'South African Proposals for Tenure Reform: The Draft Land Rights Bill', *Evolving Land Rights, Policy and Tenure in Africa*, eds. C. Toulmin and J.F. Quan, DFID/IIED/NRI, London.
- Claassens, A. (2000a) 'Land Rights and local decision making processes: proposals for tenure reform', *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp. 129–42. Cape Town: PLAAS and NLC.
- Conway, G. (1997) *The Doubly Green Revolution: Food for All in the 21<sup>st</sup> Century*. New York: Penguin Books.
- Cousins, B. (1995) 'A Role for Common Property Institutions in Land Redistribution Programmes in South Africa', *Gatekeeper Series*, 53. London: International Institute for Environment and Development.
- Cousins, B. (2000) 'Tenure and Common Property Resources in Africa', *Evolving Land Rights, Policy and Tenure in Africa*, eds. C. Toulmin

- and J. F. Quan, DFID/IIED/NRI, London.
- Cousins, B. (2000a) 'Introduction: Does land and agrarian reform have a future and, if so, who will benefit?' *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 1-8. Cape Town: PLAAS and NLC.
- Cusworth, J. and Walker, J. (1988) 'Land Resettlement in Zimbabwe: A Preliminary Evaluation', Evaluation Report EV 434, Evaluation Department, Overseas Development Administration, London.
- Deininger, K. (1999) 'Making Negotiated Land Reform Work: Initial Experience from Colombia, Brazil and South Africa', *World Development*, 27, 4, 651-72.
- de los Reyes, R.P. and. Jopillo, S. M. G. (1994) *Waging Agrarian Reform; NGO Initiative for a Tripartite Program in the Province of Antique*, Institute of Philippine Culture, Ateneo de Manila University, Manila.
- DFID (1997) 'Project Memorandum, Russia Land Privatisation Phase IV', Department for International Development, London.
- DFID (1998) 'Project Memorandum, Kazakhstan Rural Advisory Services Support Project', Department for International Development, London.
- DFID (1999) 'Ukraine: Institutionalising Support for Farm Reorganisation in Donetsk', Project Profile Sheet, Department for International Development, London.
- DLA (1994) Land Reform Pilot Programme, a Project for the Reconstruction and Development Programme in the Department of Land Affairs, October 1994.
- DLA (1995) 'LRPP Support Programme, Financial Proposal to Danida, EU and UK-ODA', Department of Land Affairs, Pretoria.
- DLA (1996) 'Institutional Review of the Land Reform Pilot Programme', Department of Land Affairs, Pretoria.
- DLA (1997) 'Mid-term review of the Land Reform Pilot Programme', Department of Land Affairs in association with DANIDA, The European Commission and UK-DFID, Pretoria.
- DLA (1997a) *White Paper on South African Land Policy*, Pretoria: Department of Land Affairs.
- DLA (1998) 'The Land Rights Bill, Financial, Economic, Training and Organisational Implications', by McIntosh, Xaba and Associates, Department of Land Affairs, Pretoria.
- DLA (1998a) 'Annual Quality of Life Report, October 1998', Directorate: Monitoring and Evaluation, Department of Land Affairs, Pretoria.
- DLA (1999) 'Review of the Land Reform Support Programme' by A. McIntosh, J. Barnard, G. Wellman, A. Vaughan, S. Sejake, L. Cliffe and R. Palmer, November 1999, for the Department of Land Affairs, Pretoria, The European Union, DFID and Danida.



- DLA (2000) 'Monitoring and Evaluating the Quality of Life of Land Reform Beneficiaries: 1998/1999' (Second Draft, March 2000) by J. May, B. Roberts, J. Govender, and P. Gayadeen for the Department of Land Affairs, Pretoria.
- Dickson, W.L. (1990) *Land Tenure and Management in a Developing Country, the Case of Botswana, 1966–1985*, National Institute of Development Research Documentation (NIR), University of Botswana.
- Didiza, T. (2000) *Discussion document on strategic planning by the Minister of Agriculture and Land Affairs*, Workshop held on 11 February, 2000 at the 'Africa Window', Pretoria.
- du Toit, A. (2000) 'The End of Restitution; Getting Real about Land Claims', *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 75–91. Cape Town: PLAAS and NLC.
- El-Ghonemy, M. Riad (1999) 'The Political Economy of Market-Based Land Reform', *Discussion Paper*, 104. Geneva: United Nations Research Institute for Social Development.
- European Commission (1993) 'EC Fact-Finding Mission Report; Agrarian Reform Support Services', Request 5112 (and Project Preparation Report, August 1994), Commission of the European Communities, Brussels.
- Fast, H. (1999) 'The impact of share equity schemes on beneficiaries', *Land info*, 6, 3. Pretoria: Department of Land Affairs.
- Ghimire, K.B. (1999) 'Peasants' Pursuit of Outside Alliances in the Process of Land Reform: A discussion of legal assistance programmes in Bangladesh and the Philippines', *Discussion Paper*, 102. Geneva: United Nations Research Institute for Social Development.
- Government of Uganda (1999) 'Draft Report of the Land Act Implementation Study', Ministry of Water, Lands and Environment, Kampala.
- Government of Uganda (1999a) 'Economic Appraisal' by Diana Hunt and Lawrence Eturu, Annex 1, Draft Report of the Land Act Implementation Study, Ministry of Water, Lands and Environment, Kampala.
- Government of Uganda (1999b) 'Environmental Analysis' by Peter Oates and Justin Ecaat, Annex 4, Draft Report of the Land Act Implementation Study, Ministry of Water, Lands and Environment, Kampala.
- Government of Zimbabwe (1980) 'Resettlement Policies and Procedures', Ministry of Lands, Resettlement and Rural Development, Harare.
- Government of Zimbabwe (1999) 'Inception Phase Framework Plan 1999–2000: An Implementation Plan of the Land Reform and

- Resettlement Programme – Phase 2' (second draft) Technical Committee of the Inter-Ministerial Committee on Resettlement and Rural Development and National Economic Consultative Forum Land Reform Task Force, Harare.
- Hardin, G. (1968) 'The tragedy of the commons', *Science*, 162, pp 1243–8.
- Hargreaves S. and Meer, S. (2000) 'Out of the margins and into the centre: Gender and institutional Change' *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 264–79. Cape Town: PLAAS and NLC.
- Hayami, Y., Quisumbing, M.A.R. and Adriano L.S. (1990) *Towards an Alternative Land Reform Paradigm: A Philippine Perspective*. Manila: Ateneo de Manila University Press.
- Herring, R.J. (1983) *Land to the tiller: The Political Economy of Agrarian Reform in South Asia*. London: Oxford University Press.
- Herring, R.J. (1999) 'Political Conditions for Agrarian reform and Poverty Alleviation', DFID Conference on 2001 World Development Report on Poverty, Birmingham, August 1999.
- Hilhorst, T. (2000) 'Women's Land Rights: Current Developments in sub-Saharan Africa', *Evolving Land Rights, Policy and Tenure in Africa*, eds. C. Toulmin and J. F. Quan, DFID/IIED/NRI, London.
- Huizer, G. (1999) 'Peasant Mobilization for Land Reform: Historical Case Studies and Theoretical Considerations', *Discussion Paper*, 103. Geneva: United Nations Research Institute for Social Development.
- Hunt, D. (1999) 'Tenurial change in Sub Saharan Africa: the titling debate revisited' (unpublished draft).
- Jensen, M.C. and Meckling, W.H. (1976) 'Theory of the firm: managerial behaviour, agency costs and ownership structure', *Journal of Financial Economics* 3, 305–60.
- Kenya Colony and Protectorate (1954) *A Plan to Intensify the Development of African Agriculture in Kenya*, Nairobi.
- Kinsey, B.H. (1999) 'Land Reform, Growth and Equity: Emerging Evidence from Zimbabwe's Resettlement Programme', *Journal of Southern African Studies*, 25, 2, pp 173–96.
- Lahiff, E. (2000) 'The impact of land reform policy in the Northern Province', *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 92–106. Cape Town: PLAAS and NLC.
- LAPC (1994), 'Options for Land Reform and Rural Restructuring', *Land Redistribution Options Conference*, October 1993. Johannesburg: Land and Agriculture Policy Centre.

- LAPC (1997), 'Environment and Land Reform in South Africa', by S.D. Turner, et al., *Policy Paper* 33. Johannesburg: Land and Agriculture Policy Centre.
- Lawry, S. (1993) 'Transactions in cropland held under customary tenure in Lesotho' pp 59–74, in: Thomas J. Bassett and Donald E. Crummy, *Land in African Agrarian Systems*. Madison: University of Wisconsin Press.
- Levin, R. (1997) *When the sleeping grass awakens: Land and power in Swaziland*. Johannesburg: Witwatersrand University Press.
- Mackenzie, F. (1990) 'Gender and Land Rights in Murang'a District, Kenya', *Journal of Peasant Studies*, 17, 4.
- Mather, C. (2000) 'South African agriculture and rural livelihoods in the era of liberalisation', *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 151–62. Cape Town: PLAAS and NLC.
- Mathuba, B.M. (1991) 'Land Boards and Land Tenure in Botswana', National Conference on Land Reform and the Land Question, Windhoek, Namibia.
- McAuslan, P. (1999) 'Future DFID support for land tenure reform [in Uganda]; an issues and options paper', unpublished first draft.
- McAuslan, P. (2000) 'Only the Name of the Country Changes: The Diaspora of "European" Land Law in Commonwealth Africa', *Evolving Land Rights, Policy and Tenure in Africa*, eds. C. Toulmin and J. F. Quan, DFID/IIED/NRI, London.
- McMillan, J., Whalley, J., and Zhu, L. (1989) 'The impact of China's economic reforms on agricultural productivity and growth', *Journal of Political Economy*, 97, 781–807.
- Migot-Adholla, S.E., Place, F. and Olusch-Kosura, W. (1994) 'Security of tenure and land productivity in Kenya', in *Searching for Land Tenure Security in Africa*, eds. J.W. Bruce and S.E. Migot-Adholla. Dubuque, Iowa: Kendall/Hunt.
- Ministry of Lands and Agriculture (1998) 'Draft National Land Policy Framework', Harare, November 1998.
- Moyo, S. (1995) *The Land Question in Zimbabwe*, Harare: Sapes Books.
- Moyo, S. (forthcoming) *The land question and land reform in Southern Africa*.
- Nthia Njeru, E.H. (1978) 'Land Adjudication and Its Implications for the Social Organization of the Mbeere', *Research Paper* 73, Land Tenure Center, University of Wisconsin – Madison.
- Nthia Njeru, E.H. (1991) 'The Socio-economic and Political Dimensions in the Management of Land in Kenya', National Conference on Land Reform and the Land Question, Namibian Economic Policy Research

- Unit, Windhoek, Namibia.
- ODA (1996) 'Report of the ODA Land Appraisal Mission to Zimbabwe', by M. Adams, E. Cassidy, J. Cusworth, M. Lowcock and F. Tempest, British Development Division in Central Africa, Overseas Development Administration, Harare.
- ODA (1997) 'Proceedings of Africa Regional Meeting of ODA's Natural Resources Advisers and Field Managers', Cape Town, January 1997, Natural Resources International Ltd.
- Palmer, R. (1998) 'Mugabe's land grab in regional perspective', Conference on Land Reform in Zimbabwe, March 1998, Centre for African Studies, SOAS, University of London.
- Palmer, R. (2000) 'Land Policy in Africa: Lessons from Recent Policy and Implementation Processes', *Evolving Land Rights, Policy and Tenure in Africa*, eds. C. Toulmin and J. F. Quan, DFID/IIED/NRI, London.
- Palmer, R. (2000a) *Robert Mugabe and the rules of the game*, www.oxfam.org.uk/landrights, July 2000.
- Platteau, J-P. (1996) 'The evolutionary theory of land rights as applied to sub-Saharan Africa: A critical assessment', *Development and Change*, 27, pp 29–86.
- Poulton, C. and Kydd, J. (2000) 'Review of the Operation of and Effectiveness of Land Taxes and their Possible Application in sub-Saharan Africa', Department of Agricultural Economics and Business Management, Wye College, Ashford, Kent.
- Putzel, J. (1992) *A Captive Land: the politics of agrarian reform in the Philippines*. Manila: Ateneo de Manila University Press (also published in London by the Catholic Institute for International Relations).
- Putzel, J. (1998) 'The Business of Aid: Transparency and Accountability in European Union Development Assistance', *Journal of Development Studies*, 34, 3, pp 71–96.
- Putzel, J. (2000) 'Land reforms in Asia: lessons from the past for the 21<sup>st</sup> Century', Working Paper No. 00–04, *LSE Development Studies Institute Working Paper Series*, London School of Economics and Political Science.
- Quan, J. F. (2000) 'Land Tenure, Economic Growth and Poverty in sub-Saharan Africa', *Evolving Land Rights, Policy and Tenure in Africa*, eds. C. Toulmin and J. F. Quan, DFID/IIED/NRI, London.
- Roth, M.J. (1990) 'Analysis of agrarian structure and land use patterns in Zimbabwe', Zimbabwe Agriculture Sector Memorandum, World Bank.
- Roth, M.J. (1994) 'A critique of Zimbabwe's 1992 Land Act', *Zimbabwe's Agricultural Revolution*, eds. M. Rukuni and C. Eicher. Harare: University of Zimbabwe.
- Sampson, A. (1999) *Mandela; the Authorised Biography*, London: Harper

Collins.

- Shackleton, S.E., Shackleton, C.C. and Cousins, B. (2000) 'The economic value of land and natural resources to rural livelihoods: Case studies from South Africa', *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century*, ed. B. Cousins, pp 35–67. Cape Town: PLAAS and NLC.
- Slovo, J. (1986), quoted by M. Mbongwa, 'Nationalisation of the Land', SAERT conference *Towards a New Democratic Order*, Wageningen, November 1989.
- Swinnen, J.F.M. and Buckwell, A. (eds.) (1997) *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. Aldershot: Ashgate Publishers.
- Toulmin, C and Quan, J. F. (eds.) (2000) *Evolving land rights, policy and tenure in Africa*. DFID/IIED/NRI, London.
- TriPAARD (1993) *A Manual on the Estate/Barangay-level Productivity Systems Assessment and Planning (PSAP) Methodology*. Quezon City: PhilDHRA.
- Weiner, D., Moyo, S., Munlow, B and O'Keefe, P. (1985) 'Land use and agricultural productivity in Zimbabwe', *Journal of Modern African Studies*, 23, 2, pp 251–85.
- Werner, W. (1997) 'Land reform in Namibia: the first seven years'. *NEPRU Working Paper* 61, The Namibian Economic Policy Research Unit, Windhoek.
- Williams, G. (1996) 'Setting the Agenda: A Critique of the World Bank's Rural Restructuring Programme for South Africa', *Journal of Southern African Studies*, 22, 1, pp 139–66.
- World Bank (1975) *Land Reform Policy Paper*, World Bank, Washington.
- World Bank (1991) 'Agriculture Sector Memorandum', World Bank, Harare.
- World Bank (1993) 'Options for Land Reform and Rural Restructuring', *Land Redistribution Options Conference*, October 1993, Land and Agriculture Policy Centre, Johannesburg.
- World Bank (1998) *World Development Report 1998/9*, Washington: Oxford University Press.
- World Bank (1999) 'Project appraisal document on a proposed learning and innovation loan (credit) to the Government of Zimbabwe for land reform (inception phase) support project'. March 1999. Agriculture and Rural Development I, AFCO3, Africa Region.
- World Bank (2000), 'Aide Memoire on Donor Collaboration on Land Policy and Land Administration', March 2000.
- Wurfel, D. (1991) *Filipino Politics: Development and Decay*. Ithaca and London: Cornell University Press.







---

ODI Research Study

# Breaking Ground: Development Aid for Land Reform

*Martin Adams*

Land reform is generally accepted to mean the redistribution and/ or confirmation of rights in land for the benefit of the poor. Its potential scope is very wide. So also are the opportunities for assistance. This is being recognised by growing donor interest in supporting a variety of land reform measures. Drawing on experience with official development assistance for land reform over the last ten years, the author examines the broad range of economic, social and political issues that have arisen and the lessons being learned. While some progress has been made, in no case is there cause for complacency. For the majority of countries, land reform is an extremely difficult process to carry through, but for many rural societies it is the surest way to poverty reduction in the longer term.

ISBN 0-85003-500-7



9780850035001

2000 ISBN 0 85003 500 7

Martin Adams, an ODI Research Associate, worked as a soil surveyor and plant ecologist in Sudan and the South Pacific in the 1960s, after which he became involved in the economic, institutional and land tenure aspects of agriculture in the Middle East, the Horn and East Africa. Since 1990, he has concentrated on land reform in Southern Africa and the Philippines. For the last six years he has been a policy adviser in the South African Department of Land Affairs.



Overseas Development Institute

---