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Access to Land and Land Policy Reforms

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This Policy Brief presents the main results obtained in the UNU/WIDER research project, Access to Land and Land Policy Reforms, under the direction of Alain de Janvry, Gustavo Gordillo, Jean-Philippe Platteau and Elisabeth Sadoulet. The objective is to analyse different mechanisms of access to land for the rural poor in an era when redistribution through expropriative land reform is largely inconsistent with the forces of the political economy. The roads of access to land which are explored are intra-family transfers, access through community membership, land sales and rental markets, and government programmes including decollectivization and land-market assisted land reform. The array of instruments is vast, and each can be subjected to specific policy interventions to make them more effective for sustainable poverty reduction.

I. INTRODUCTION

Who should have access to land? What is the optimum definition of property rights and use rights in each particular context? Is government intervention justified to influence who has access to land and under what conditions? These questions remain, in most developing countries, highly contentious. It is indeed the case that land is all too often misallocated among potential users and worked under conditions of property or user rights that create perverse incentives. As a consequence, investments to enhance productivity are postponed, and responses to market incentives are weakened; many poor rural households are unable to gain sufficient (or any) access to land when this could be their best option out of poverty; land remains under-used and often idle side-by-side with unsatisfied demands for access to land; land is frequently abused by current users, jeopardizing sustainability; and violence over land rights and land use is all too frequent. With population growth and increasing market integration for the products of the land, these problems tend to become more acute rather than the reverse. As a result, rising pressures to correct these situations have led many countries to reopen the question of access to land and land policy reforms. While large scale expropriative and redistributive land reforms are generally no longer compatible with current political realities, there exist many alternative forms of property and use rights that offer policy instruments to alter the conditions of access to land and land use. A rich agenda of land policy interventions thus exists to alter who has access to land and under what conditions for the purposes of increasing efficiency, reducing poverty, enhancing sustainability, and achieving political stability.

Historically, the most glamorous path of access to land has been through state-managed coercive land reform. In most situations, however, this is not the dominant way land was accessed by current users and, in the future, this will increasingly be the case. Most of the land in use has been accessed through private transfers, community membership, direct appropriation, and market transactions. There are also new types of state-managed programmes of access to land that do not rely on coercion. For governments and development agents (NGOs, bi-lateral and international development agencies), the rapid decline in opportunities to access land through coercive land reform should thus not be seen as the end of the role of the state and development agents in promoting and altering access to land. The following paths of access to land in formal or informal, and in collective or individualized ownership can, in particular, be explored (Figure 1): (1) Intra-family transfers such as inheritances, *inter-vivo* transfers, and allocation of plots to specific family members; (2) access through community membership and informal land markets; (3) access through land sales markets; and (4) access through specific non-coercive policy interventions such colonization schemes, decollectivization and devolution, and land market-assisted land reform. Access to land in use can also be achieved through land rental markets (informal loans, land rental contracts) originating in any of these forms of land ownership. Each of these paths of access to land has, in turn, implications for the way land is used. Each can also be the object of policy interventions to alter these implications of land use. The focus of this policy brief is to explore each of these paths and analyse how to enhance their roles in helping increase efficiency, reduce poverty, increase equality, enhance sustainability, and achieve political stability.

II. ACCESS TO LAND THROUGH INTRA-FAMILY TRANSFERS

2.1. Inheritance and inter-vivo transfers

Access to land via intra-family transfers is of fundamental importance. Indeed, it is the case that, where land frontiers are closed, large-scale redistributive land reform programmes have not been implemented, and land markets are yet poorly developed, most farmers have gained access to land through intra-family transfers. Even where land markets are well developed and land reform has been extensive, such as in the central region of Nicaragua, access to land through inheritance remains fundamental: in the province of Masaya, 40 per cent of the land has been acquired through inheritance, 35 per cent through the land reform, and 25 per cent through the land market (de Janvry and Sadoulet 2000). Intra-household transfers can be *inter-vivo*, for instance as grants of land to sons when they get married, or *post-mortem* via inheritance. The questions here are: (1) Who gains access to land and who is excluded, and hence what are the poverty and equity implications of these transfers? And (2), under what terms and conditions is the land received, and hence whether or not it will be possible for the new users to cultivate the land efficiently?

In a broad historical survey, Platteau and Baland (Chapter 2) observe that there is a universal tendency for land transfers from parents to children to be done on an egalitarian basis, at least according to what parents state they would prefer to do. This egalitarian vision is, however, far from universal and suffers many exceptions, either because it is in the best interest of the household as a unit of survival not to divide the land; because there are attempts by landlords, the community, or the state to restrict division; because there are exclusionary processes at work within the family that marginalize some family members, particularly under acute land pressure (e.g., in the Highlands of Africa); or because larger land transfers to some tend to be compensated through transfers of other types of assets to the other heirs, or through larger educational expenditures on those who will receive (or have received) less land.

Even if there are no cost advantages from large scale in farm production, ownership of a large estate may be a source of other advantages, creating a logic not to divide land through inheritance. Thus, under a decentralized feudal system where social and political functions are tied to ownership of a land estate, there are powerful incentives for the family as a whole to follow the rule of primogeniture not to dissipate the benefits of these functions. Among non-aristocratic classes, there often exist external constraints to division. Such constraints can be imposed by landlords who prohibit peasants from transmitting the land to more than one descendant in order to make tax collection easier. The community may restrict transmission to more than one heir of the rights of access to common property resources to refrain over-extraction. The state may prohibit inheritance transfers to more than one heir to avoid atomization of the land and a return to explosive rural poverty. This is the case in the Mexican land reform sector, the *ejido*, created as a response to the peasant-led revolution of 1910. In other situations, there exist internal advantages to preserving a large unit which implies limiting inheritance to unigeniture. This happens when there are economies of scale in production. In this case, heirs are better off dividing the proceeds of the farm than dividing the farm itself. When patriarchy is an important source of cohesion of a family clan, land may be transmitted to only one son to ensure reproduction of this status. Finally, there are situations of extreme population pressure on the land (e.g., in Uganda and Rwanda) where the farm has already reached the minimum size needed to sustain the household. If the household has other assets, those who do not inherit the land can be compensated through other transfers like education. When there are no other assets, serious conflicts can occur and the result is highly inequitable by default.

Categories that tend to be excluded from access to land are the weaker household members: girls in general, divorced women who must return to their father's family pending remarriage, illegitimate children, orphans, return migrants, and women who were married without bride price and are prevented by brothers from being given land when they return to their parents' home since their marriage did not generate benefits for the household. Understanding intra-household powerplays toward inheritance is thus fundamental to put into place safety nets for the weaker categories.

In Sub-Saharan Africa, as land markets tend to develop with the individualization of property rights, access to land via inheritance is also altered. Land that has been acquired by parents through the market, instead of having been inherited through lineage relationships, is not subjected to traditional inheritance rules. This new freedom is a source of discretion in transmitting land that can be used to exclude some and favour others. Fathers can transmit freely this land, including to daughters if they choose to do so, and sons who want to set up their own households cannot pressure parents to distribute land early (as they can with lineage land). If land is very scarce, intra-household conflicts may be enhanced by the higher levels of discretion. Fathers can resist demands for land by sons at the time of marriage; and older sons can resist demands by younger brothers for adjustment in *pre-mortem* land distribution. The development of land markets, by redefining traditional patterns of land transfer through inheritance, thus opens new sources of conflict over land.

In general, it is fair to say that not enough is known about what determines access to land through *inter-vivo* and inter-generational transfers. Within the household, land gifts are not uncommon, would it only be to mobilize the labour of landless members instead of having to share food with them post-harvest. Differential inheritances among heirs have been explained by higher levels of pre-mortem transfers to parents by some to secure a higher share of inheritance (Hoddinott 1992). Inheritance laws are frequently discriminatory against women, particularly land acquired via land reform programmes, although significant gains have recently been made in many countries of Latin America in reducing this bias (Deere and León 1997). Land titles, that were traditionally issued in the name of the male household head, are increasingly issued to the couple as joint owners. Not only do inheritance laws need to be carefully reviewed, but much more attention can be given to facilitating equitable land transfers. When the land cannot be divided among heirs, for instance because the plot is too small or there are legal restrictions to division, access to mortgage credit is needed to help the one who inherited the land compensate other siblings to avoid decapitalization of the farm. Decentralization of economic activity, by providing off-farm sources of income, allows greater subdivision of the land and reduces intra-household conflicts and the pressure to exclude siblings. In this context, atomization of landholdings through inheritance may thus be part of an economically rational portfolio strategy for the various heirs, not necessarily a road toward poverty.

2.2. Allocation of land to women in Africa

In most societies, households use land collectively. In a few situations, different family members have access to separate plots of land. This is a specificity that characterizes much of Sub-Saharan Africa compared to the rest of the world. In this case, the household jointly cultivates family plots under the authority of the man, and women (particularly if there is polygamy) additionally cultivate separate plots. Food produced on the family plots is used to feed the family. Income from the food surplus sold and from cash crops produced on the family plots is under the jurisdiction of the man. This income is used to cover the household's major expenses and investment expenditures, as well as the man's needs. Women have control over the product obtained from their own plots. They use it to improve the family diet and to cover the costs of their own needs. Why are there separate plots? This is an interesting puzzle since this separation is not observed in the rest of the world, even where there is polygamy as in Bangladesh and other non-African Muslim countries. In addition, recent observations for Burkina Faso (Udry 1996) indicate that resources such as fertilizer seem to be inefficiently allocated between the family and women plots, suggesting cooperation failure among household members in making the most efficient use of the resources they control. While this inefficiency is small (on average 6 per cent in that particular study), it signals that the household's objective (whatever it is) achieved via separate plots has an efficiency cost. Why are there separate plots and why is allocation eventually inefficient? To a large extent this remains unexplained.

An interpretation advanced by Fafchamps (Chapter 3) is that land is allocated individually to women because there is insufficient guarantees that she will be rewarded for her efforts on the family plot beyond sharing food, which is consumed jointly by all household members. In this case, to mobilize the work effort of women, land is allocated directly to them. Even if inefficiencies follow as fertilizer is allocated in priority to the family plots to cater to family food security, or because the man has greater bargaining power in achieving his own needs beyond food, this is still a superior alternative to a weak labour contribution by women. This situation is particularly prevalent under polygamy as conflicts over distribution of the product obtained on the family plot are difficult to resolve. Clearly, both the reasons why millions of African women cultivate separate plots and why there are eventual inefficiencies in using the household's resources as a consequence of this separation are in need of further research.

III. ACCESS TO LAND VIA COMMUNITY MEMBERSHIP

3.1. Access to land in common property resources

Access to land via membership in communities that have control over resources remains very important. In corporate communities, land is accessed through community membership and is allocated to individual households through the community governance structure (Wolf 1966). In Mexico, 70 per cent of the land in the *ejido* sector is in common property, most particularly lands for grazing and forestry, and extraction from these resources follows community rules (de Janvry, Gordillo and Sadoulet 1997). If user rights are so incomplete that the community cannot exclude others from encroaching on the land, the open-access nature of the resource leads to the well-known tragedy of the commons, with under-provision of services (e.g., for maintenance of irrigation canals or the repair of fences) and over-appropriation of resources (e.g., an excessive number of animals per hectare in herding and over-logging in forestry) leading to exhaustion of the resource.

When entry is limited to a well-defined set of users over a well-delineated set of resources through informal recognition of community rights or through formal community titling, rational management of common property resources (CPR) becomes possible if cooperation among community members can be achieved. Community management of natural resources has assumed renewed importance in the last decade. One reason is that, following structural adjustment, the reduced capacity of the state to directly manage resources (most particularly forests and irrigation systems) has led to widespread devolution of control to local communities, often in co-management arrangements with the state (Arnold, Chapter 6). The impact of devolution on efficiency, welfare, and sustainability in resource use depends on the ability of the community to cooperate, the managerial capacity of the state agency, and coordination between the two. Another reason why community management of CPR has been increasingly scrutinized is that these resources typically include a large share of a nation’s forest and range lands, and hence much of its biodiversity. Concern with sustainability in resource use and with the conservation of biodiversity has implied looking more closely at how land is accessed and used under CPR rules.

There are potential advantages to maintaining resources under common property rather than individualizing access. They include efficiency and equity reasons. Efficiency gains derive from potential economies of scale and non-divisible natural features (e.g., water holes) or investments (e.g., deep tubewells), the possibility of internalizing externalities over a larger geographical unit (e.g., watersheds with joint upstream and downstream interests in controlling soil erosion, and other forms of interlinked interests among individuals in the watershed, see White and Runge 1995), geographical risk spreading when the location of rainfall is erratic (i.e., when there is high variability of yields in any one location and low correlation of yields across locations, see Nugent and Sanchez 1998), high cost of dividing the resource, and high cost of enforcing individual property rights. Equity reasons derive from generally greater access to resources for the poor under CPR than in private regimes, flexible reallocations according to changing life cycle and outside opportunities, the risk that individualization could have strong negative equity effects if there is uncontrolled appropriation (Baland and Platteau 1998), and preservation of community relations which have other benefits such as mutual insurance, information sharing, and political representation.

The risks of holding resources under CPR are, however, well known: they tend to induce individuals not to respect the rules codifying provision of services to the CPR and appropriation of resources from the CPR, and they can lead to inefficient levels of cooperation if cooperation is costly, or if cooperation is achieved only in a subgroup of cooperators while the rest of the community members free-ride on cooperators (Runge 1986; McCarthy, Sadoulet and de Janvry 2000). Failure to cooperate at the optimum level has both short-run efficiency costs (lower profits) and long-run efficiency costs (resource depletion).

This consequently raises the very important issue of identifying the determinants of cooperation leading to rational and efficient CPR management (Ostrom, Chapter 5; Arnold, Chapter 7). Successful community cooperation is demanding as it requires satisfying the following four conditions: (1) positive individual expected gains from cooperation; (2) observability of the others' actions and verifiability of these actions by others; (3) ability to enforce, i.e., to punish individuals who break the rules; and (4) time to learn to cooperate.

Success stories in cooperation show that resource management under this form of tenure can indeed be efficient, sustainable, and equitable. These successes have been used to advocate community titling as opposed to individual privatization of access to land since it allows to preserve the advantages of CPR (Ostrom 1990; Platteau 1992). At the same time, this potential of CPR remains largely unrealized, with many communities failing to cooperate. This is particularly serious where there is extensive devolution of CPR management to communities, leading to highly uneven outcomes across experiences of devolution (Arnold, Chapter 7). With forest departments in Africa typically under-funded and ineffective in protecting illegal encroachment, turning over the management of forest resources to local communities, and assisting them in performing this task efficiently, is high on the policy agenda (Uganda case study by Gombya-Ssembajjwe, Banana and Bahati, Chapter 6). Evident is that insufficient attention has all too often been given to assisting communities in acquiring a clearer idea of the potential gains from cooperation, and in learning to cooperate, frustrating the purposes of devolution. Traditional administrative structures (Ministries of Agriculture, Forest Service) are typically unequipped to perform these tasks. This suggests important opportunities to improve the efficiency of accessing land in CPR by identifying and promoting adoption of best practices for community management.

3.2. Access to land in emerging land markets

Under increasing population pressure, a more mobile population, and growing market integration, access to land via family lineage and community membership tends to give way to individualization of property rights, and to access to land via land sales and land rental markets. This long-term regularity had been identified by Ester Boserup (1965) in the her classical work on historical patterns of agricultural change. Otsuka and Quisumbing (Chapter 4) analyse the details of this transformation in the forest frontier areas of Ghana and Sumatra. They find that, even when property rights remain informal, active land rental and land sales markets can exist. This finding confirms observations made by Katz (1999) in Guatemala and the Procuradoria Agraria (1998) in Mexico where communities with high endowments in social capital are observed to sustain active land markets without formal titling. By contrast, in communities of recent colonization and of more extensive population movements, social capital is insufficient to deter moral hazards in land transactions and informal land markets cannot operate. In this case, formal titling is necessary to provide the legal basis for the recognition of property rights and to sustain the emergence of land markets.

In addition, land sales markets operating in traditional settings need not be regressive. In Ghana, Otsuka and Quisumbing (Chapter 4) find that land purchases serve to compensate for low levels of land received through lineage or community transfers, or carved from the forest when frontiers increasingly close. Hence, population pressure stimulates the emergence of land sales markets, and these markets can serve as equalizers of access to land. This finding is confirmed by Baland *et al.* (1999) in a study of the land market in Uganda: poorer sons with less inherited land from their fathers succeeded in partly compensating for their initial disadvantage by purchasing land. This progressive role of emerging land markets is, however, far from general. In Sumatra, Otsuka and Quisumbing (Chapter 4) found that those who own more paddy land can purchase more land for agroforestry. In Rwanda, André and Platteau (1998) observed that operation of the (illegal) land market led to increasingly unequal land distribution and rapid dispossession of many household members.

The other important result from these studies of emerging land markets in a context of strong community relations is that intensification of land use can, like market transactions, occur without formal property rights. In Africa, trees are frequently planted in land accessed through informal family and community mechanisms as a way of strengthening individual property rights (see also Sjaastad and Bromley 1997). Yields may also be unaffected by tenure: traditional property rights can give a sufficient level of security to users of the land that trees are observed to be equally productive (cocoa in Ghana and cinnamon in Sumatra) as those planted on lands with strongly individualized rights. Braselle, Gaspart and Platteau (1998) similarly found that the traditional village order in Burkina Faso provides enough security of access to land to induce small-scale investments. These results are important because they challenge the traditional wisdom according to which land titling programmes are *sine qua non* to induce investment in agriculture because they offer security of continued access to land and collateral to qualify for formal credit. In some situations, formal titling may in fact worsen the security of access to land and constrain land market transactions: titling may increase transactions costs in the circulation of land, create new sources of conflicts, and not add anything to efficiency in resource use (as, e.g., in Honduras, see Jansen and Roquas 1998). Lessons from these experiences indicate that effective titling programmes should seek active participation of the community in the identification of the limits of individual properties, follow democratic procedures in the recognition of property rights, involve the community in local conflict resolution prior to titling (as was done with the PROCEDE programme in the Mexican *ejido*), and be accompanied by programmes to remove failures on the other markets that determine the competitiveness of beneficiaries, in particular on the credit market so that the newly acquired land titles can serve as collateral in accessing loans.

IV. ACCESS TO LAND THROUGH SALES AND RENTAL MARKETS

As land markets become perfected through better established property rights and lower transactions costs, they will become the main mechanisms through which land is transferred across owners and between owners and users. If all markets worked perfectly, land sales and land rental markets would be equally effective in providing access to land to the rural poor since, as economic theory tells us, asset ownership is, under these conditions, unrelated to use of the assets in production. However, in a context of market failures and missing institutions, land sales markets may not be effective for this purpose. And, even if access to land in ownership is achieved, the continued existence of market failures and missing institutions may jeopardize the competitiveness of beneficiaries, compromising their economic viability. Land rental markets, by contrast, may be more friendly to the poor. And access to land via personalized contracts can serve to mitigate many market failures and institutional gaps, making competitiveness of those who use the land more likely. Via land rental, poor households can eventually progress toward the desirable goal of land ownership along an 'agricultural ladder'. This occurs when the income generated through rental is gradually capitalized into land ownership.

4.1. Land sales markets

There are fundamental structural reasons why formal land sales markets tend not to be 'level playing fields' (Carter and Barham 1996) for the rural poor. As a consequence, they have a hard time in using these markets to access land. In addition, the dynamics of these markets tends to play regressively on small holders, leading to the concentration of land ownership. The main reasons that explain these outcomes are the following.

1. The most fundamental structural feature of the operation of land markets is that, for buyers, land is overpriced for agricultural use because its ownership generates side benefits created by failures in other markets (Binswanger, Deininger and Feder 1995). Hence, even a loan against the full present value of agricultural profits (which determine the maximum ability of a borrower with no additional resources, i.e., a rural poor, to service a mortgage loan) would be insufficient to buy land, since the land price exceeds this amount. The main reasons for the overpricing of land relative to agricultural use are the following. (1) Land serves as a store of wealth against inflation; (2) land serves as a source of self-employment if there are labour markets failures, and a source of food security if there are food market failures; (3) land serves as collateral for credit; (4) land serves as a source of insurance as it can be sold, rented out, or pawned for liquidity, and this role is all the more important when insurance markets do not work; (5) land has speculative value as population pressure and urban demand rise; (6) land serves to access credit subsidies; (7) land offers tax breaks; and (8) land provides political and social capital. The overpricing effect created by these advantages will consequently vary according to the economic and political context of the moment. With structural adjustment and descaling of public subsidies to agriculture, overpricing has in general been reduced, making access to land for the rural poor potentially easier (i.e., cheaper to assist). Yet, overpricing remains a fundamental barrier to access to land for the rural poor through land sales markets.

2. Long-term mortgage loans to buy land are generally not available to the rural poor. Hence, those with no accumulated liquidity are not able to bid on land markets. With restrictive monetary policies in place as part of stabilization

policies, many countries currently have prohibitively high interest rates which have altogether suppressed long-term mortgage credit lines.

3. If long-term credit is available using the land as collateral, fully mortgaged land does not allow access to further loans for working capital. Hence, poor buyers with no additional resources cannot be competitive, unless they achieve competitiveness by reducing consumption (Binswanger and Deininger 1997).

4. Land sales markets tend to be segmented by farm size due to the overpricing of land for small holders (as above) and higher transactions costs for sales across farm sizes than within a class of farm size. As a result, large farmers tend to sell to large farmers, smallholders tend to buy from other smallholders and to sell to large farmers under distress conditions, and buyers of small farms rarely acquire land from large sellers. The result tends to be concentration of the land away from small holders.

5. High transaction costs on land sales markets imply low participation. Transactions costs originate in bureaucratic hurdles, imperfect information, and costly and inaccurate registration of land transfers. Households are also reluctant to part with their land in conditions of risky labour markets and uncertain prospects for the future, especially the future lot of their children. As a result, land sales markets tend to be thin and sluggish.

6. There is a high positive correlation between agricultural profits and land prices. As a result, land prices fall for a particular household precisely when it would like to sell land, and they rise when it would like to buy. The result is to reduce participation to land sales markets by smallholders, limiting participation to distress sales.

Empirical analyses of land sales markets in Chile, Honduras, and Paraguay by Carter and Salgado (Chapter 10) show that these markets act regressively, concentrating the land away from smallholders. Hence, even though poor rural households could enjoy the competitive advantage of cheap family labour, the free operation of land markets in general does not provide them with a mechanism of access to the land. These markets are not ‘level playing fields’ to them. The ‘class competitiveness’ schedule thus reflects many market failures else than their labour advantage. The other failures, largely created by policy distortions, biases in the definition of public goods, and missing institutions for smallholders, are the reasons why land sales markets do not guide land allocation toward the socially most efficient users. The conclusion is thus that, if land market transactions are to replace coercive land reforms in helping the rural poor gain access to land, they will need to be ‘assisted’ by regulatory or benevolent interventions to enhance the competitiveness of the poor on the land market given the multiplicity of other forces that play against them.

4.2. Land rental markets

Land rental markets are unequally active in different parts of the world. In some parts of the world (e.g., Europe, the United States, Northern Mexico), land rentals mainly serve to consolidate ownership units into larger operational units, leading to 'reverse tenancy' (Lastarria-Cornhiel and Melmed-Sanjak 1998). In Europe and the United States, the land rental market is used to correct for the dispersed land ownership pattern that emerged from past mechanisms of land allocation (e.g., land allocated under the Homestead Act in the United States and through egalitarian inheritances according to the Napoleonic civil code in Europe) and to achieve economies of scale in use or simply higher levels of income for the user. In Northern Mexico and other parts of Latin America where intensive farming is practised, reverse tenancy whereby smallholders rent out to commercial farmers is motivated by unequal ability between owner and user to access credit, own machinery, bear risk, and engage in contract farming. In the Mexican land reform sector, where smallholders are particularly exposed to lack of access to credit because of incomplete property rights, entire *ejidos* are eventually rented out to commercial farmers and to agribusiness exporters. In other parts of the world (mainly Asia), land rentals serve to distribute land held in large ownership units over small tenancies, allowing large landlords to capture the benefits of cheap family labour in land use. Land rental markets can thus serve to concentrate or to distribute assess to land. Of interest is to understand why land rental markets may be more friendly to the rural poor than land sales markets in allowing them access to land. The main reasons why this may be the case are the following.

1. There are lower transaction costs in land rental than in land sales markets. This is because rentals can be informal, anchored in face-to-face agreements or in local social capital, with minimal transactions costs. Even if formally registered, land transactions do not require the costly procedures of title verification and registration, and of contracting for mortgage finance.

2. Overpricing of the land relative to its use in production, which blocks entry of the poor as owners, does not carry to rents paid on land rental markets. Rents charged cannot exceed the tenant's ability to pay based on use of the land. Hence, even when land sales markets are seriously distorted, there can exist fluid land rental markets where rents are set according to the value of the land in productive use.

3. Tenant-specific land rental contracts can be designed to mitigate the market failures to which the poor are exposed and to specifically make them benefit from the market failures that play in their favour.

4. Land rental transactions do not require availability of long-term mortgage credit. Neither do they require tying up into the land large amounts of equity capital that can be used as working capital, or to rent land from others.

Empirical support for the greater friendliness of the land rental market for the rural poor, in contexts where formal land markets are well developed, is provided by Carter and Salgado (Chapter 10) with data from Chile, Honduras, and Paraguay. They find that the market failures and institutional gaps (particularly for access to credit and insurance) that affect smallholders are more detrimental to their participation in the land sales market than in the land rental market. In the cases they analysed, land rental markets have helped land-scarce households gain access to land. However, weakness of property rights, either because titles are insecure or because rights are not enforced in case of conflict, is a major factor in reducing supply of land in rental. In Latin America, the atrophy of land rental markets seems to be principally due to this cause (for Nicaragua, see Merlet and Pommier 2000).

The choice of contract is important in allowing the rural poor gain access to land in rental. Fixed rent contracts give full incentives to the tenant, but high risks and liquidity constraints reduce demand for the contract (Hayami and Otsuka 1993). Share contracts have the disadvantage of creating a disincentive to apply the inputs which are fully provided by either the tenant or the landlord, while the product is shared. This disadvantage can, however, be compensated by a number of advantages (Sadoulet, Murgai and de Janvry, Chapter 8) which include liquidity-saving for the tenant, risk-sharing with the landlord, access to inputs for which there are market failures but which either party to the contract could provide, and access to land ownership through an agricultural ladder. However, as agriculture becomes more capital and management intensive, landlords prefer to select tenants from among the non-poor, especially other landlords similar to them who can share in capital costs, leading to 'assortative matching' and reducing the promise of vertical mobility offered by sharecropping to the rural poor (Sharma and Drèze 1996). For smallholders, the rising intensity of agriculture in capital and management leads to increased 'reverse tenancy', where land gravitates away from the rural poor toward those with better access to credit, insurance, machinery, information, and contract farming opportunities (Lastarria-Cornhiel and Melmed-Sanjak 1998). In this case also, opportunities for vertical mobility through sharecropping are reduced.

Land rental markets, both fixed rent and share rent, are extraordinarily active in the more developed countries and in parts of the developing world such as the

Indian subcontinent. Data from Swinnen (1998) indicate that, in 1997, 71 per cent of the land was rented in Belgium, 48 per cent in the Netherlands, and 47 per cent in France. In Pakistan, 44 per cent of the operated area is rented (Sadoulet, Murgai and de Janvry, Chapter 8). In many countries, however, particularly in Latin America, these markets have been suppressed by the weakness of property rights that creates fears for landlords that land will not be returned and by land reform legislation that has often made rentals illegal and given possession rights to tenants. In a few rare cases, such as Operation Barga in West Bengal, comprehensive interventions have improved sharecroppers' rights through tenancy regulation and public support to tenants (Saha and Saha, Chapter 9). In this case, ceilings have been imposed on rents, landlords are not allowed to dismiss tenants who can transfer rental contract to their heirs, and public agencies have attempted to compensate for the services formerly provided by landlords to their tenants to secure the competitiveness of beneficiaries. In much of the rest of the world, and in Latin America, Africa, and the Philippines most of all, restoring the dynamics of land rental markets to help poor rural households gain access to land remains a potentially effective area of intervention in the struggle against rural poverty.

V. ACCESS TO LAND IN OWNERSHIP VIA SPECIAL PROGRAMMES

5.1. Parcelization and titling in Latin America

Many Latin American countries have had extensive programmes of expropriative land reform that gave access to land to the selected beneficiaries. These state-managed redistributive land reforms occurred in two phases. In a first phase, land was expropriated on the basis of maximum farm size or of minimum land-use standards, and organized in reform sectors (Barraclough 1973; de Janvry 1981). The estates expropriated were usually transformed into production cooperatives (e.g., in Chile, Peru, and Nicaragua) or divided into individual farms held in usufruct with centralized management of relations with the outside world (e.g., *ejidos* and *asentamientos* in Mexico and the Dominican Republic). In a second phase, land was parcelized (production cooperatives) and titled (*ejidos* and asentamientos), creating in countries such as Chile, Mexico, Peru, Honduras, El Salvador, and Nicaragua large numbers of independent, small owner-operators. Subsequently, these smallholders were either: (1) largely bankrupted (such as in Chile due to unfavourable market conditions, a high agrarian debt to be paid by beneficiaries to compensate former owners, inability to enter the more profitable production activities due to credit market failures, and high demand for land by commercial farmers and new entrants into agriculture, see Jarvis 1985); (2) became part-time farmers and part-time workers, with an agriculture oriented toward home consumption (as in Peru, following what Carter and Alvarez (1989) called 'disorganized decollectivization'); or (3) became competitive capitalized smallholders (some beneficiaries in Chile and Mexico). However, to this date, only a small minority of the beneficiaries of 60 years of land reform in Latin America have become viable entrepreneurs.

Today, most of these surviving land reform beneficiaries are at a turning point and their future remains highly insecure (de Janvry, Sadoulet and Wolford, Chapter 11). The main tasks left to be completed are: (1) to secure the competitiveness of the remaining beneficiaries through rural development interventions in a context of liberalized markets and increasingly privatized services to agriculture; and (2) to develop new ways of providing access to land for the remaining landless and minifundists, the youth in particular, in a context where state-managed redistributive land reforms are no longer politically feasible. Only in a few countries such as Brazil is expropriative land reform still in progress at a significant scale, with grassroots initiatives (the Landless Movement, MST) pressing for government intervention to ratify expropriation of under-used lands following invasions by potential beneficiaries. This process has often incited violence as a way of securing support of the federal government to implement constitutional law that sets minimum standards of land use, over the power of local courts that defend the rights of private ownership (Wolford, Chapter 12). Continued access to land will thus have to take other forms, particularly different types of assistance to the rural poor in using the land sales and land rental markets for this purpose.

5.2. Decollectivization in Central and Eastern Europe

In the context of transition to socialism in Central and Eastern Europe, land had been massively expropriated from previous owners and organized into collective and state farms. With the end of communist and socialist regimes and transition to market economies in the 1990s, decollectivization and privatization have been systematically pursued. This has opened, on a massive scale, a variety of paths of access to land in ownership following different modalities in different countries (Swinnen, Chapter 14). Collective farm lands, that were in general still legally owned by pre-collectivization owners, were either restituted (Central Europe, Baltic countries), distributed to workers in ownership shares (Ukraine, Russia), or distributed in individual farms (Albania). State farm lands, which had been legally expropriated from previous owners, were sold in the Czech Republic, East Germany, Hungary, Poland, and Slovakia. Individualization of land tenure was the highest in Albania, Armenia, the Baltic countries, and Romania. In general, individualization was most extensively pursued in countries where the productivity of collective farms was the lowest and where the share of agriculture in total employment was the highest. In Albania, for instance, where these two criteria are met, land was distributed as individual family farms that were allocated to former workers of collectives and state farms (Cungu and Swinnen, Chapter 15). In this case, there were no restitutions because there was no possible return to the feudal structure that preceded collectivization, land had been fully expropriated in the transition to socialism, the labour-intensive nature of farming made large farms highly inefficient, and lack of off-farm employment options made it politically necessary to absorb labour in agriculture. In the short run, the incentive effect of self-employment in family farms created strong output gains (like the transition to the individual responsibility system in China). However, high levels of land fragmentation and highly imperfect capital markets now threaten the sustainability of these gains.

Decollectivization in the Czech Republic was the polar opposite (Doucha, Mathijs and Swinnen, Chapter 16). There, most of the land was restituted to former owners and only 24 per cent of the land ended up in individual private farms. The rest was held in large-scale organizations under the form of joint stock companies and production cooperatives. In these farms, 95 per cent of the land is rented from former owners to whom land was restituted. Making the choice of large-scale organizations as opposed to family farming was due to the capital intensity of agriculture, high start-up costs for individual farmers, missing capital markets for individual farmers, and high exit costs for individuals to pull their land and other farm capital endowments out of the large farms that succeeded the collectives.

Access to land through decollectivization thus followed very different paths in different countries. With redefinition of property rights well advanced, the important next steps for these reforms to be successful are: (1) To consolidate the competitiveness of those who obtained access to land via reconstruction of a set of institutions that can service their needs as entrepreneurs, particularly for credit, insurance, technical assistance, and low transactions costs in accessing product and factor markets. In the context of transition economies, many of these institutions needed to support a complete 'market order' are still missing. (2) To get land sales and land rental markets to work efficiently so land can be reallocated, from the way it was assigned by the reforms, to the most efficient users and also consolidated in optimum farm sizes. In particular, former owners to whom lands were restituted may have no taste or talent for farming and may hold quantities of land that are unrelated to current optimum farm sizes. And an aged generation of workers in the former collective and state farms may prefer to opt out of agriculture to the benefit of a younger generation of farmers rather than stay into farming.

5.3. Land market-assisted land reform

With the declining political feasibility of state-led expropriative land reforms and the exhaustion of open frontiers for land colonization, the logical approach to maintaining access to land ownership continuously open for the rural poor is to seek doing this via the land sales market. Since the market, left to itself is, as we have seen, generally hostile to the poor once land becomes scarce and property rights formalized, the state can devise a set of interventions to alter the performance of the land market in favour of the rural poor. This is the land market-assisted land reform approach that has been sponsored by the World Bank in Colombia, Brazil, and South Africa (Deininger, Chapter 13). Many countries are currently looking into the adoption of this approach, and there are active debates as to whether it can indeed work for the rural poor (see for example Grupo Chorlavi 2000).

Following this approach, the coercive nature of land reform and the arbitrary selection of beneficiaries are avoided. Land transactions occur between a willing large-seller and a number of willing small-buyers assisted by the local government and the community. We have seen that the land market fails the poor because there are a number of benefits to ownership that are internalized in the price of the land, as well as a number of costs involved in the transaction, that even a fully mortgaged transfer will not cover. Since the poor have no accumulated savings to cover these costs, a subsidy is needed. This subsidy must cover the overpricing of the land relative to its productive value, plus the set-up costs and the working capital costs for the first year, minus the liquidity that the household can generate on the labour market. The subsidy can be costly. It has been set to equal to 70 per cent of the land price in Colombia. In Brazil, the allotment per household is a US$ 14,000 lump-sum transfer, where the cost of buying land is a loan and the rest is a pure cash transfer that can be applied to the purchase of working capital and to investment expenses. The advantage of a set transfer is that it creates incentives to acquire low-priced, under-used land, and to save the rest of the transfer to invest in improving the land. However, little land has yet been acquired through this mechanism compared to capture of under-used land by organized grassroots movements (Wolford, Chapter 12). In Brazil, both approaches are currently being pursued, and the relative benefits and costs of the two approaches are yet to be fully observed and analysed. In Colombia, the land market-assisted land reform programme has largely been brought to a halt by insecurity in the countryside. In South Africa, the approach has progressed very slowly due to insufficient appropriation of funds.

An innovative component of the land market-assisted approach is the extensive involvement of the local government and the community in organizing the transfer and in assisting the beneficiaries. In Colombia, the municipality must develop a comprehensive and well publicized land reform plan to identify potential sellers of land and potential candidates for acquiring land, leading to an expected match between the two. This information on potential sellers and potential beneficiaries is broadly circulated in the community to reduce corruption and favouritism. Potential beneficiaries are offered training in farm management and assistance in developing land use plans. Land use plans must be approved in public meetings of the municipal council. This allows the screening of candidates on the basis of potential competitiveness, as opposed to the rent seeking and political motives that typically dictated selection of beneficiaries under state-led coercive land reforms. The municipality participates actively in negotiating a just price for acquisition of the land. Rural development assistance is provided in an attempt to mitigate the market failures to which beneficiaries are exposed and to develop institutional support to secure their competitiveness. The private sector is actively involved in implementation. Technical assistance is provided by private service firms and is paid for with vouchers that are part of the subsidy. The commercial banks which made the loans to purchase the land, supervise land use by the beneficiaries and provide technical assistance to avoid defaults as part of their self-interest in seeing loans repaid. The approach is, however, expensive, limiting its applicability. It is, nevertheless, highly innovative and worth monitoring carefully in order to extract lessons from the on-going experiments and to adjust the design of best practices for application in other contexts.

VI. POLICY FRAMEWORK TO MAKE LAND SALES AND RENTAL MARKETS WORK

We have seen that, under conditions of relative land abundance and/or in communities with strong social capital that helps establish a working informal order based on community trust-enforcement mechanisms, land markets can work efficiently and be progressive without formal definition of property rights and without formal registration of transfers. When these conditions do not hold, formalizing the legal definition of property rights and introducing the modern institutions necessary to make land markets work both efficiently and equitably become essential. Deininger and Binswanger (Chapter 17) identify two necessary measures for this purpose:

1. Provide well-defined, transparent, and secure land rights through land registration, land titling (individual, corporate, or communal), and low-cost legal enforcement of property rights. Increasing the security of land titles has the potential of raising the value of the land (and hence the owner's wealth, and the collateral value of land); decreasing risks in sales and contracts;

reducing expenses in the protection of property and the resolution of disputes; and decreasing under-use of the land because of risk of loss and over-use (e.g., deforestation in frontier areas) to show ownership.

2. Introduce a progressive land tax to eliminate rents deriving from the non-agricultural benefits of land ownership that differentially accrue to large farmers and inflate land values. While land taxation has historically been opposed or evaded by landowners, there are now powerful local interests in introducing and enforcing a land tax system. With decentralization, real estate taxes have become the major source of autonomous revenues for municipalities, creating a new political economy in support of land taxes.

There is also a set of measures that needs to be introduced specifically to make land sales markets work:

1. Reduce transaction costs on land markets. This is the role of land-banks to mediate acquisition of land in large farms by small holders; and of land market-assisted land reform programmes to mediate relations between sellers and buyers (Deininger, Chapter 13).

2. Decrease other market failures. This is the role of institutions that mitigate market failures for accessing credit, insurance, and factor and product markets. Without these complementary institutional reforms, land markets can neither be efficient nor equitable (Carter and Salgado, Chapter 10).

3. Make available long-term mortgage credit and subsidies to poor buyers. Even with full credit available, purchasing households need savings as fully mortgage-based land purchases leave no access to loans for working capital. Hence, the poor with no savings are excluded. This is the 'fundamental financing problem of the poor' identified by Binswanger and Deininger (1997) and by Carter and Mesbah (1997). This is the reason why an element of subsidy is needed in support of market-assisted land reforms.

Finally, there are measures that need to be introduced specifically to make land rental markets work (Sadoulet, Murgai and de Janvry, Chapter 8):

1. Introduce low cost, reliable, local land conflict resolution mechanisms. Any contract needs to be taken anticipating that conflicts may arise. Conflict resolution through litigation and the formal courts system is too expensive and arbitrary for the rural poor. For this reason, alternative dispute resolution mechanisms that rely on conciliation or arbitration by local authorities offer attractive substitutes. These services can be provided by NGOs, the church and other moral authorities, and local traditional authorities. In recent years, several international development agencies (the Inter-American Development

Bank, USAID (1999)) have been actively pursuing this alternative approach to conflict resolution, including land disputes.

2. Registration and enforcement of contracts: Contracts should be publicly announced, either informally in the community when there is sufficient social capital, or through formal legal mechanisms. In formalized contracts, a lead time for termination of the contract needs to be specified, and compensations for the residual value of investments done with the agreement of both partners need to be pre-established.

3. Definition of standard contracts to increase the bargaining power of tenants: In a particular context, most contracts could fit under a small number of alternatives. Typical contract forms that capture each of these alternatives can be made available to the contracting parties. This reduces transactions costs and improves the bargaining power of tenants.

4. Eliminate direct interventions on rents (rent control), except briefly under emergency situations or under powerful and comprehensive programmes of government intervention (Saha and Saha, Chapter 9). Except for these situations, interventions on rent have been self-defeating, particularly over the long run. In many countries, legislation introduced in the context of land reform has become obsolete, yet remains as threats on property rights and constraints on the freedom to contract.

5. Facilitate direct access to capital and management advice by the tenant to make as many inputs as possible jointly provisionable by the two parties. This is particularly important to avoid the increasing exclusion of poor potential tenants as the capital and managerial intensity of agriculture rises. To this date, there are basically no credit lines extended to landless potential tenants to cover their costs of entering into farming. Such programmes to favour entry of the youth into farming in European countries deserve attention.

6. There are a number of innovative approaches that can be pursued to help the rural poor gain access to land through rental agreements. One is rent with option to buy. The scheme can have advantages for both landlords and tenants. For the first, it helps to attract tenants who have the incentive to take better care of the property since they may own it later on, find buyers that need time to obtain financing, and lock in the price of the property. For tenants, it gives immediate access to and control over the land without owning it and buys time to secure financing or to accumulate cash towards purchase. In the rent-with-option-to-buy contract, the rent paid includes a premium for the option to buy within a limited period of time at a specific price. Typically, part of the rent paid can be applied to the purchase price.

The other is group rental. This allows smallholders to gain access to a large property which is up for rent and to use the land either collectively or individually. With joint liability over payment of the rent, as in group lending, mutual insurance among members of the group both secures the rent for the landlord and provides protection against loss of access to land for the tenants. These schemes need experimentation to identify best practices for the rural poor.

VII. CONCLUSIONS: AN AGENDA FOR LAND POLICY REFORMS

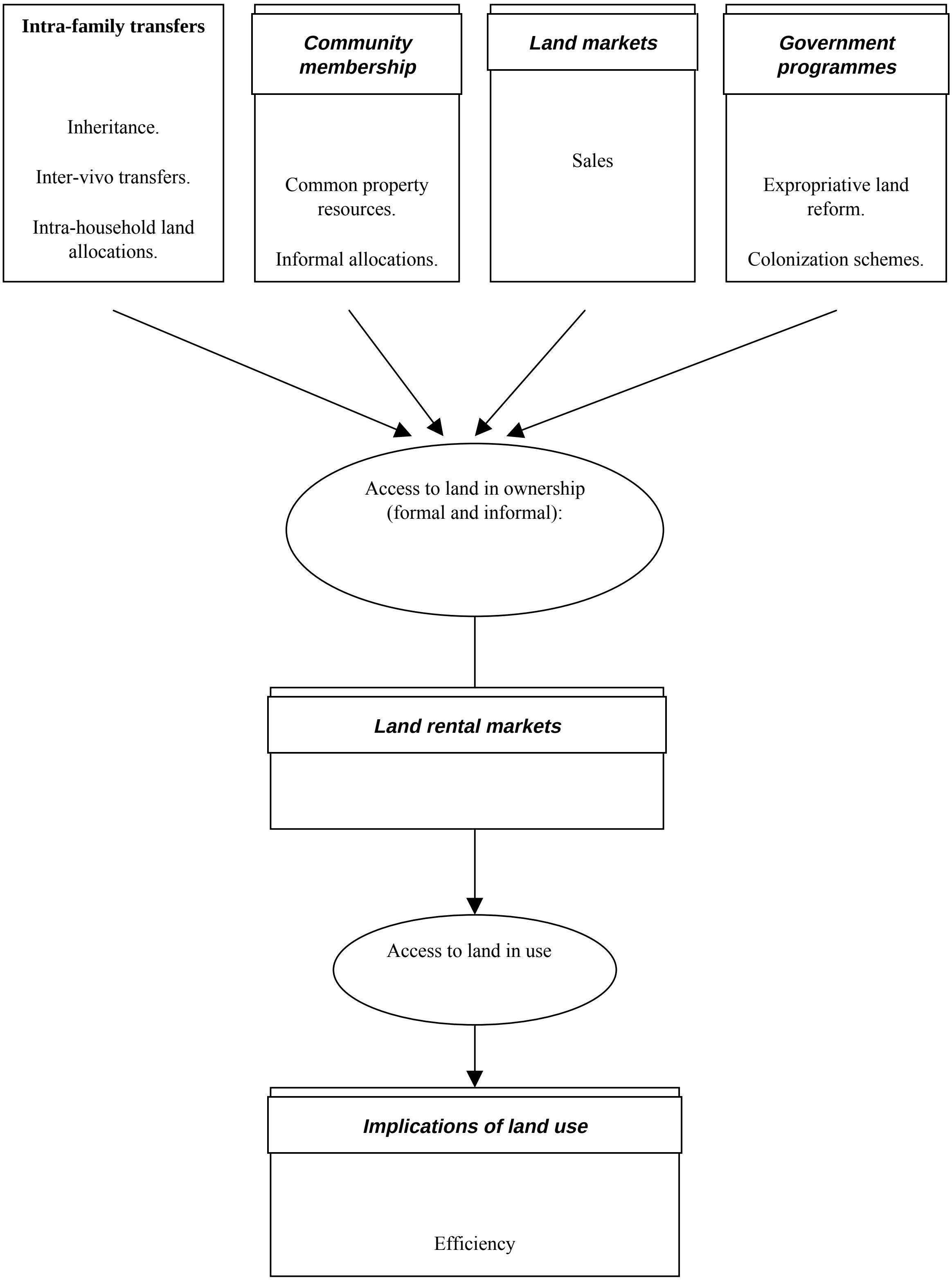
Access to land through coercive land reform programmes was high on the development agenda in the 1950s (particularly in Asia and the Middle East, see Warriner 1969) and in the 1960-70s (particularly in Latin America, see Dorner 1992). These programmes subsequently largely fell off the agenda. This was due neither to lack of demand by the rural poor nor to lack of agreement among development scholars and practitioners on the importance of the issue, but due to the difficulty in managing the political economy of the reforms as conceptualized at the time. In retrospective, these land reform programmes all occurred under political circumstances that constrain their replicability in 'normal' political times.

It may thus seem surprising that, starting in the 1990s, the issue of access to land has returned full force in development debates (see World Bank 2000). Yet, while access to land for the rural poor remains the main concern, the nature of the debate and the instruments proposed to secure access have changed drastically. Ideological debates motivated by the cold war have been replaced by more pragmatic considerations, compatible with the current forces of the political economy and a globalized economic context. The World Bank, for instance (Deininger and Binswanger, Chapter 17), has extensively revised its philosophy in addressing land policy issues, and, through loans and advice, assisted in a set of experiments to formulate and implement new approaches that attempt to promote efficient access to land for the rural poor. The FAO (Platteau 1992) has championed the potential of community titling, as opposed to individual titles, under situations where preserving CPR is important and where communities have sufficiently high levels of social capital and leadership to manage these resources efficiently. The turning point in placing the issue back on the development agenda has been to seek implementation of continuous mechanisms of adjustment in access to land as opposed to one-time and generally dramatic reforms, to place greater reliance on traditional forms of access to land in potentially achieving efficiency and equity as opposed to introducing new forms of tenure such as collectives and state farms, to seek greater use of land markets properly regulated and assisted for the purpose of facilitating access to land for the poor, and to seek compatibility between land policy initiatives and the forces of the political economy. This is opening a new era of land policy reforms which still largely need to be explored. The controversies on the subject reveal that we are still missing good theories of land policy reforms, pilot experiments to identify best practices for each particular settings, and solid empirical studies on many of the questions that are raised.

The chapters in the UNU/WIDER book show that there are many alternative paths of access to land, some totally informal and others rigidly formalized, some spontaneous and others relying on extensive government intervention. The efficiency and equity effects of each of these paths are specific to the context and to the types of rural households concerned. For instance, access to land in individual ownership is not the panacea that simplistic Western views all too often hold. There can exist advantages to accessing land as a common property resource according to the characteristics of the resource, the community, and the institutional and macro contexts. Access to land through rental contracts, share arrangements in particular, can be effective for the poor under conditions of extensive market and institutional failures. Informal land markets can be both efficient in reallocating land across users, and equitable in compensating for low endowments through inheritance or community assignments, if land is sufficiently abundant and/or communities are endowed with enough social capital. Formal land titling is thus not always the first priority, and can be damaging if not properly done. On the other hand, once land becomes scarce and valuable due to population pressure and market integration, and once local social capital is no longer sufficient to guarantee property rights and land trades, formal registration and titling become essential. Experiences with democratic, transparent, and participatory schemes of allocation of titles using modern information technology (e.g., PROCEDE in Mexico) show how this can be done successfully. An important message of the book is consequently that we should be wary of simplistic and universal solutions, seeking instead idiosyncratic approaches and flexibility in arrangements.

The chapters also show that, to be effective, land policy reforms need to be embedded in comprehensive policy and institutional reforms, and complemented by effective rural development interventions in support of the competitiveness of beneficiaries. This is not a new result since Doreen Warriner (1969), in her classical treatise on land reform, had arrived at this same conclusion in the 1960s with her concept of 'integral' reform. What is new is the more thorough, if still incomplete, understanding that we have of the role of market failures and institutional gaps for the competitiveness of beneficiaries, and experience with effective institutional design, for instance in microfinance, local governance, and the mobilization of social capital to remedy these deficiencies.

Figure 1. Paths of Access to Land



Outline of the book

Access to Land, Rural Poverty, and Public Action

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