



Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues

Lorenzo Cotula
Camilla Toulmin
Ced Hesse

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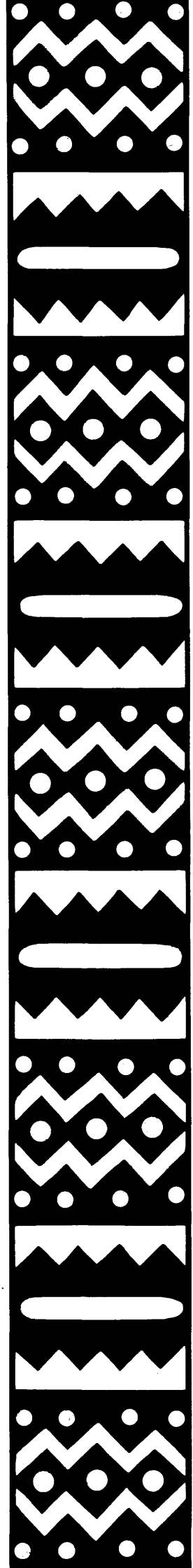




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ABOUT THE AUTHORS

Lorenzo Cotula is a Research Associate of the Drylands Programme at IIED, based in Edinburgh. Prior to joining IIED in 2002, he worked in two Italian non-governmental organisations as well as on several research projects at the Legal Office of the Food and Agriculture Organization (FAO). His work has focused on the link between legal institutions (international, national/statutory and customary) and development processes, covering a wide range of issues (land tenure and access to natural resources, gender, international trade, human rights). Email: lorenzo.cotula@iied.org

Dr Camilla Toulmin became Director of IIED in February 2004. She was previously Director of the Drylands Programme at IIED until 2003, when she became a Senior Fellow. An economist by training, Dr Toulmin has worked mainly in francophone West Africa, on agricultural, pastoral, and tenure issues. She joined IIED in 1987, to set up the Drylands Programme, having formerly worked for ILRI and ODI. She wrote her doctorate on livestock-crop relations in central Mali, focusing particularly on the importance of manure for assuring good yields of millet, and broader issues of household strategies to ensure their longer term security. She was a member of the International Expert Panel supporting the preparation of the Convention to Combat Desertification. Email: camilla.toulmin@iied.org

Ced Hesse became Director of the Drylands Programme at IIED in 2003, having joined the programme as a Research Associate in 1997. Previously he worked for Oxfam in Mali and Burkina Faso on food security and early warning programmes, and was a co-founder of the Arid Lands Information Network (ALIN/RITA) based in Dakar, Senegal. His current work focuses on improving pastoral land tenure security through a number of research and training activities on the following themes: community-based natural resource management and planning, conflict management particularly in pastoral areas, community participation in decentralised governance, reinforcement of pastoral civic society and the gender dimensions of pastoral tenure issues. Email: ced.hesse@iied.org

INTRODUCTION

Throughout sub-Saharan Africa, land is a fundamental issue for economic development, food security and poverty reduction¹. Land is of crucial importance to the economies and societies of the region, contributing a major share of GDP and employment in most countries, and constituting the main livelihood basis for a large portion of the population. In many areas, however, land is becoming increasingly scarce due to a variety of pressures, including demographic growth. These pressures have resulted in increased competition for land between different groups, such as multiple land users (farmers, herders, etc.), urban elites and foreign investors. Moreover, socio-economic change has in many places eroded the customary rules and institutions that have traditionally administered land rights. Tensions in relation to land are particularly acute in Southern Africa due to the extremely inequitable land distribution existing in this sub-region. These tensions have major political implications at national and regional level, as they involve issues like control over scarce valuable resources and the distribution of wealth and power in society.

To respond to these challenges, a large number of African states have adopted over the last decade new policies and laws aimed at restructuring land relations. Land has also featured high in the agendas of donors and development agencies, which have supported to varying degrees reform programmes across Africa. This “new wave” of land legislation has taken place within the broader context of a restructuring of societal relations within African states. Indeed, since the 1990's many African countries have adopted new constitutions inspired to the principles of democratic good governance and of human rights and freedoms. Many such constitutions also enshrine key principles concerning land relations, which are then implemented by legislation (e.g. Uganda, Eritrea, Ethiopia; Alden Wily, 2003). Structural adjustment has spread economic liberalisation and market instruments across Africa, while the role of the state has considerably shrunk as a result of deliberate policy orientations as well as lack of institutional, financial and human capacity. Civil society has become more lively and proactive, albeit to different degrees in different countries, and seeks to play a greater role in land policy design and implementation.

While it is possible to identify some major trends prevailing throughout the continent, the land question in Africa presents great diversity and specificities, as it largely depends on localised historical, geographical, economic, social, political and cultural factors. In Southern Africa, for instance, a legacy of settler colonialism has resulted in a racially skewed land distribution and in overcrowded communal areas affected by tenure insecurity and land degradation. This legacy has created the need for land redistribution, and raised tenure security issues that may differ considerably from those existing in West and East Africa. Similarly, the dramatic impact of the HIV/AIDS epidemic are felt in Southern Africa more than in other sub-regions, and conflict-related land issues are particularly strong in the Great Lakes region and in countries emerging from or affected by longstanding armed conflict (Angola, Sudan).

This study reviews the main features of the new wave of land policy and legislation in sub-Saharan Africa, and identifies emerging issues concerning land tenure in the continent. The study draws lessons from recent experience in the following key areas: tenure security and land tenure reform; land redistribution; decentralised land management and administration; land conflict; protecting the land rights of vulnerable groups; land and rural-urban links; land and broader development policies and programmes. The conclusion identifies some emerging issues requiring particular attention from policy makers and development agencies.

¹ In this study, land rights are broadly defined to include rights of access, use and transfer (rentals, sales, etc.), as well as broader management rights (Ostrom and Schlager, 1992). While the focus is on land *per se*, other related natural resources (forests, pastures, etc.) are touched upon. Mining is outside the scope of this study.

1. TENURE SECURITY AND LAND REFORM

1.1 The search for tenure security in Africa

Since independence, African governments have adopted policies and programmes aimed at increasing land tenure security for farmers, so as to foster agricultural investment and productivity. These policies have often ignored existing customary and local institutions, and disregarded the distributive issues underlying tenure security (“security for whom?”). The materialisation of their hoped for benefits has been generally limited, and their implementation has resulted in loss of secondary rights. Over the last decade, new approaches to improving tenure security have been devised, usually paying more attention to local/customary norms and practices and to protecting all rights and interests in land.

1.2 Gaining access to land in a context of legal pluralism

Land tenure in much of Africa is usually portrayed as either customary/traditional, or state/statutory. Customary land tenure is characterised by its largely unwritten nature, is based on local practices and norms, and is flexible, negotiable and location specific. Its principles stem from rights established through first clearance of land, or conquest. Customary systems are usually managed by a land or village chief, traditional ruler or council of elders. These systems are not static, but continually evolving as a result of diverse factors like cultural interactions, socio-economic change and political processes. In this context, “traditions” are continuously reinvented to back conflicting claims of different social groups (Ranger, 1983; Chanock, 1985).

On the other hand, state systems of land tenure are usually based on written laws and regulations, on acts of centralised or decentralised government agencies and on judicial decisions. The principles underlying such systems derive from citizenship, nation-building, and constitutional rights. Land rights are allocated and confirmed through the issuance of titles or other forms of registration of ownership.

However, in practice the neat distinction between these two models of land tenure is considerably blurred. ‘Customary’ systems have been much changed by a century or more of contact and interference by governments, both colonial and since independence. An extreme example is South Africa, where what is referred to as customary law is a mixture of “tradition” and colonial and apartheid legislation, under which tribal authorities were salaried government officials, subject to the State President. Equally, statutory systems for land management usually operate with considerable possibilities for negotiation. Therefore, African farmers gain access to land through a blend of “customary” and “statutory”, “formal” and “informal”, institutions. A range of customary, statutory and hybrid institutions and regulations having *de jure* or *de facto* authority over land rights co-exist in the same territory, a phenomenon referred to as “legal pluralism”. A lack of clear hierarchy or other form of co-ordination amongst the different structures creates confusion and fosters tenure insecurity. Parties to land disputes invoke different norms to support competing claims, and choose the institutional channel which they feel is most likely to be favourable to their cause (“institutional shopping”). Typically, certain actors prefer one or other system. For example, urban investors prefer to seek formal written backing for their land rights, while local people may feel their rights are best represented through the customary sphere. Migrants and women may feel that the formal statutory system provides a better guarantee of their rights over land than would be possible under customary norms.

1.3 The debate over land titling and registration

For long, the policy response to this situation has been an attempt to eradicate customary systems and replace them with a “modern” system of land tenure. Indeed, it was argued that only “secure” private property could provide adequate incentives for investments in land, and that such tenure security could only be achieved through land titling and registration². The arguments in favour of registering title to land most commonly used are:

² Land registration can take various forms, from a centralised system of land titles, to a village-based register of claims to land. It may merely record all existing rights to land, both statutory and customary, or convert registered rights into freehold. Most registration systems combine a plan or survey map of the land with a written document specifying the name of the rights holder and the nature of the rights held.

- i. Land registration stimulates a more efficient use of the land, because it increases tenure security and removes disincentives to invest in the longer term management and productivity of the land;
- ii. Land registration enables the creation of a land market, allowing land to be transferred from less to more dynamic farmers and consolidated into larger holdings;
- iii. Land registration provides farmers with a title that can be offered as collateral to financial institutions, thereby improving farmers' access to credit and allowing them to invest in land improvements;
- iv. Land registration provides governments with information regarding landholders and size of fields, which can provide the basis for a system of property taxes.

These arguments prompted many post-independence governments in sub-Saharan Africa to adopt programmes to register land rights and to convert customary rights into private ownership (e.g. Kenya). However, in most of sub-Saharan Africa very little land has actually been registered as private property. Moreover, in recent times policy prescriptions concerning land titling and registration have come under challenge. On the one hand, while many customary systems have been eroded by social, economic, political and cultural change, others have proven to be very flexible, dynamic and capable of adapting to suit new circumstances. On the other hand, research findings suggest that the hoped for benefits of registration do not accrue automatically and, in some circumstances, the effects of registration may be the converse of those anticipated. While land registration is often proposed as a means to reduce disputes, the introduction of central registration systems may, at least in the short term, exacerbate disputes and enable land grabbing. Thus, for example, elite groups may seek to assert claims over land which was not theirs under customary law, in the knowledge of impending registration. The mass of people without access to education, information and contacts may find the land they thought was theirs has been registered by someone else. Where there are significant costs to registration, in both cash and time, smallholders are particularly vulnerable to losing their rights over land. Moreover, registration tends to penalise holders of secondary land rights, such as women and herders, as these rights often do not appear in the land register and are thus expropriated. Registration may not be enough to improve farmers' access to credit where high transaction and other costs hinder credit supply in rural areas and where an unpredictable and fluctuating environment makes farmers risk-averse and hence reluctant to apply for loans. Finally, where monetary and other costs for registering land transactions are high, land transfers tend not to be recorded and the register becomes rapidly outdated, thus limiting the potentially positive effects of registration (Shipton, 1988; Atwood, 1990; Migot-Adholla *et al.*, 1994; Lund, 1998 and 2001; Firmin-Sellers & Firmin, 1999; Platteau, 2000). As for incentives to invest, tenure security is largely dependent on the right-holder's own perception. Where farmers consider their rights under customary law as sufficiently secure, registration may not result in higher investments. On the other hand, research has shown that farmers' perceived tenure security might be increased through means simpler than full-fledged registration procedures. For instance, in Cameroon, where land can be registered under the 1974 Land Ordinance, very few non-urban plots have been registered; however, many farmers have initiated the registration procedure and abandoned it after the preliminary boundary demarcation phase. While demarcation per se had no legal value, in the eyes of village communities it did increase tenure security, as it was extremely unlikely that other villagers would contest land rights that had received that form of official recognition (Firmin-Sellers & Sellers, 1999).

Land registration in Kenya

Because of its longstanding land registration programme and of the substantial number of studies documenting its impact, Kenya is a landmark case study for the policy debate on land titling and registration. Under the colonial rule, land dispossessions confined Africans to reserves, where agricultural development was hindered by colonial policies (e.g. prohibition of profitable crops). However, in 1954 the Swynnerton Plan reversed this approach, promoting agricultural commercialisation in the reserves *inter alia* by granting "secure" individual land titles to African farmers. The Plan was implemented with the Native Lands Registration Ordinance 1959, replaced after independence by the Registered Land Act 1963 and the Land Adjudication Act 1968. Land has been registered systematically (i.e. not upon application by landholders) in three phases: adjudication, i.e. ascertainment of existing customary land rights; consolidation, i.e. aggregation of fragmented holdings (with landholders exchanging dispersed for contiguous plots); registration, i.e. recording of titles over consolidated plots and their conversion into freehold (Sorenson, 1967; Coldham, 1978a; Okoth-Ogendo, 1991; McAuslan, 2000).

Overall, available evidence from Kenya does not provide conclusive evidence that registration has increased tenure security and agricultural productivity. In Kisii District (where adjudication started in 1963), tenure disputes before African Courts decreased from 1,181 in 1962 to 246 in 1967, and three quarters of the interviewed farmers declared that registra-

tion had increased their tenure security (Wilson, 1971). However, in other areas, while boundary disputes decreased, new types of disputes emerged, such as challenges of registered titles and disputes over land sales (usually arising from individuals registering and selling family land) (e.g. Coldham, 1978b; Shipton, 1988, on Luoland). Furthermore, the registration process itself generated insecurity, as land disputes (e.g. between first occupants and latecomers) mushroomed in an attempt to grab permanent land titles (Coldham, 1978b; Shipton, 1988). While this insecurity is limited to the duration of the registration process, this process can be very long. Moreover, high costs have discouraged the registration of land transactions (by inheritance or sale), thus making the register rapidly outdated and undermining its ability to secure land rights (Haugerud, 1989; Migot-Adholla and Place, 1998).

Post-independence Kenya had substantial increases in agricultural productivity, especially in the smallholder sector. Agricultural GDP grew at annual rates between 5.4% in 1967-1973 and 4.4% in 1982-1984; this boom has generally been attributed to agricultural policies (adequate crop prices, extension services, etc.), including land tenure reform (Lele and Meyers, 1989). However, in the former reserves, where regression analysis has been used to test the effect of land registration on investment no significant correlation has emerged. For instance, a study by Migot-Adholla *et al.* (1993) in Madzu, Kianjou, Lumakanda and Mweiga found no correlation between registration and investment. Similar results were found in Misii by Wilson (1971).

As for the "collateralisation" effect, Migot-Adholla *et al.* (1993) found limited use of land as collateral, and no significant correlation between land title and use of formal credit, and between title and nature of credit (e.g. duration). Moreover, in Nyanza Province, by 1982 (seven years after the completion of registration) fewer than 3% of registered plots had been used as collateral (Shipton, 1988). In Machakos District, little use is made of credit, and investments have mainly been financed through off-farm incomes (Tiffen *et al.*, 1994). In a village in Murang'a District, Pinckney and Kimuyu (1994) found that only 2 out of 115 households had pending land-secured loans during 1991; many farmers declared they would not use land as collateral because of the risk of foreclosure. Other reasons for the limited use of credit include the reluctance of credit institutions to lend to smallholders and the costs of administering credit in rural areas (Okoth-Ogendo, 1976). Finally, where credit is secured through land, it is often used to finance consumption, children's education and off-farm activities (Haugerud, 1989; Okoth-Ogendo, 1976).

As for land markets, the effects of registration in the former reserves have been limited. In some areas, land markets already existed under customary tenure. After registration, freeholders' reluctance to sell their land (because of its social insurance function), controls on land transfers (by Land Control Boards), and survival of customary norms hindered the development of land markets where they did not exist (Coldham, 1978a; Barrows and Roth, 1990). Pinckney and Kimuyu (1994) found that while substantial land purchases were made outside the former reserves, only 9% of landholdings in a village in Murang'a had been purchased (compared to 8% in a village in nationalising Tanzania). Moreover, many land purchases in Kenya were made by urban elites driven by prestige and speculation purposes, which limited the efficiency-enhancing effects of land markets (Wilson, 1971; Barrows and Roth, 1990).

On the other hand, evidence shows negative repercussions of land registration on the land rights of vulnerable groups. Indeed, although all land rights had to be considered during adjudication, adjudication committees lacked skills and time to do so. Registration was usually made to male household heads, thus increasing their security but undermining women's (unregistered) secondary rights. In Kanyamkago, for instance, only 7% of the plots were registered to women (Shipton, 1988). Widespread non-registration of women's rights is also documented for the Kikuyu (Mackenzie, 1998) and the Maasai (Galaty, 1994). Although some judgements have protected non-registered right-holders by creating trusts (Muguthu v. Muguthu, HCCC No.377/1968), the dominant judicial interpretation is that registration extinguishes all non-registered rights (Obiero v. Opiyo, [1972] EA227; Esiroyo v. Esiroyo, [1973] EA388). However, a few women gained from registration; for instance, widows sometimes registered land in their name, instead of returning it to the dead husband's family under customary law (Shipton, 1988; Cotula, 2002). Moreover, where farmers and pastoralists had seasonal rights over the same plot (with exclusive rights of farmers during the growing season and collective pasture rights after the harvest), title registration tended to benefit farmers and expropriate pastoralists.

More generally, land registration reinforced class and wealth differentiation. Adjudication committee members expected "gifts" from the claimants, which adversely affected poorer claimants unable to afford them (Shipton, 1988). Educated elites, aware of the effects of registration, purchased land before registration and registered it in their names (Haugerud, 1989). In Maasailand, elites appropriated individual ranches through connections and corruption, and control decision-making institutions of group ranches (Galaty, 1992).

Evidence on the distributive effects of land markets in Kenya is mixed. Pinckney and Kimuyu (1994) compared two villages, one in privatising Kenya and the other in nationalising Tanzania, and found that land concentration had not increased in Kenya more than in Tanzania (land distribution Gini coefficients were 0.337 in 1976 and 0.373 in 1991 in the Tanzanian village, and 0.461 and 0.465, respectively, in the Kenyan village). However, the way the study was conducted (a survey of households living in the villages) would leave out families that migrated to town after losing their land. Moreover, in both villages customary law informally remained the dominant form of land tenure; thus, although statutory laws differed, the two villages had similar (informal) tenure systems. Another study from Nyeri District found that in 19 purchases out of 20 the buyer was landless; however, this would reduce landlessness only if sellers were not alienating their only parcel, which could not be controlled from the data. Moreover, evidence from other districts shows a majority of purchases made by households already having other plots (only 36 and 15.3% of purchases in Madzu and Lumakanda respectively gave buyers access to their only parcel) (Migot-Adholla and Place, 1998).

1.4 A new wave of land tenure reforms

As a result of the shift in thinking described above, the new generation of land policies and laws in Africa presents important innovations compared to its predecessors. First, as for protected/registrable rights, explicit efforts have been made to capture all land rights in records. Many recent laws protect customary land rights and provide for or allow their registration (Uganda's Land Act 1998 and subsequent amendments; Mozambique's Land Act 1997; Tanzania's Land Act and Village Land Act 1999; Niger's *Code Rural* 1993; Namibia's Communal Land Reform Act 2002; etc.). Use/lease rights over state-owned land may also be registered (Ethiopia, Mozambique, Namibia). Where customary rights are protected, contrary to the systematic land registration and titling programmes of the past, customary right holders usually may (but are not required to) obtain land titles (Niger, Mozambique and Tanzania). In Mozambique, for instance, customary rights are protected regardless of whether they have been registered or not (Article 13(2) of the Land Act). Similarly, procedures for the conversion of customary rights are usually initiated only upon request by the right holder (e.g. Uganda). Moreover, the different types of land rights protected under legislation (whether statutory or customary) are granted equivalent legal status and protection (Mozambique, Niger, Tanzania, Uganda)³. An implication of this is that land acquisition by the state for a public purpose entails compensation at the same rates for the different forms of land holding, thus reversing the widespread practice of expropriating customary rights with little or no compensation. However, it must also be noted that some African countries have maintained or embraced policies abrogating customary systems, as in Eritrea's Land Proclamation 1994 and Burkina Faso's *Réorganisation Agricole et Foncière* 1984, as amended in 1991 and 1996 (Alden Wily, 2003; FAO, 2002).

Secondly, as for the right holder, titles may be issued not only to individuals but also to families (through joint titling for couples) and groups/communities. For instance, South Africa's Communal Property Associations Act 1996 enables the establishment of associations to own land, and many such associations have been set up, especially to acquire lands under the land restitution and land redistribution programmes. The issuance of land titles to "communities" is provided for by Mozambique's Land Law 1997 (see Box below). Moreover, greater attention tends to be paid to protecting "secondary" rights, such as those of women and pastoralists (see chapter 5 below).

Thirdly, with important exceptions (Mozambique, South Africa, Ghana), in many countries responsibilities for land titling and registration have been transferred to decentralised bodies, like the Land Commissions in Niger, the District Land Boards and local Land Committees in Uganda, and the Communal Land Boards in Namibia. Botswana's longstanding Land Boards have been explicitly or implicitly used as a model (e.g. Namibia). However, implementation of these provisions has been generally extremely slow, mainly due to the lack of human and financial capacity to put in place a large number of decentralised institutions (Niger, Uganda).

Fourthly, although state control over land remains widespread in Africa, as either ownership (Ethiopia, Eritrea, Mozambique, etc.) or trusteeship (Tanzania; Namibia, with regard to communal lands; etc.), the new generation of land laws allows or promotes various forms of land transfers and tends to strengthen the land rights of foreign investors. For instance, under Uganda's Land Act, land certificates may be sold, leased and mortgaged. In the Ethiopian state of Tigray, farmers may lease out their land freely for up to ten years, while in Tanzania landholders may freely sell their rights to other villagers and, with the approval of the Village Council, to non-villagers

³ Although the stated equivalence is sometimes jeopardised by provisions enabling conversion of customary rights into freehold, but not vice versa, as in the case of Uganda (Alden Wily, 2003).

(Alden Wily, 2003). On the other hand, transfer controls by government authorities remain strong for instance in Kenya, where the Land Control Act 1967 requires land transactions to be approved by Land Control Boards, which decide on the basis of economic and social criteria (e.g. prevention of uneconomic sub-division and of landlessness, respectively). In Namibia, leaseholds and customary land rights over communal land may be transferred with the approval of the competent Land Board or customary chief, respectively. As for the attraction of foreign investors, the Land Law of Mozambique provides for a procedure for the state to allocate land to foreign investors. This procedure involves the consultation of the affected local communities, although research findings suggest that this requirement is not always followed⁴. In Namibia foreigners need the authorisation of the government in order to own land (Alden Wily, 2003).

Finally, besides registration of proprietary and use rights, other mechanisms have been experimented to increase the tenure security of African farmers. In South Africa, for instance, the Interim Protection of Informal Land Rights Act 1996 protects farmers in the former homelands from eviction pending more far-reaching legislation; the Extension of Security of Tenure Act 1997 prohibits the eviction of persons occupying land with the consent of the landowner; and the Land Reform (Labour Tenants) Act 1996 protects the land rights of "labour tenants" working on white-owned commercial farms. Reports on the actual impact of these laws are mixed, and anecdotal evidence suggests that they have even encouraged lawful evictions by landowners substituting machinery for labour (Lyne and Darroch, 2003).

Practices to increase land tenure security have also been developed at field level, usually with little recognition by policies and laws. Faced by the high monetary and transaction costs associated with land titling, African farmers have resorted to informal, more accessible means to secure their land rights. For instance, case studies from several Francophone countries (Burkina Faso, Benin, Côte d'Ivoire and Rwanda) reveal processes of "informal formalisation", whereby land transactions are recorded on written documents signed by the parties and by witnesses and validated by local administrative or customary authorities. Although these documentation procedures have usually little or no legal value, they are perceived by farmers as providing greater stability to their land rights. Because of their informal, unregulated nature and of lack of para-legal skills at local level, however, these written documents are often incomplete and unclear as to their full terms and conditions. Granting them clearer legal backing and disseminating contract models outlining the essential clauses may therefore increase their effectiveness (Lavigne Delville, 2002; Toulmin *et al.*, 2002).

Demarcation of community lands in Mozambique

Mozambique's Land Act 1997, while confirming the radical title of the state over land, recognises and protects land use rights acquired through occupation in accordance with customary law or through good faith occupation for more than ten years. These rights are protected regardless of whether a land title documenting them has been issued. "Local communities" (*comunidades locais*) can be collective holders of land rights and can be issued land titles. Such communities are defined very broadly to accommodate a wide range of groups. The internal land management rules and institutions are to be chosen by these groups, and may involve customary systems, newly established community-based systems or combinations of both. This approach is flexible, as it provides a legal framework protecting local/customary norms without "freezing" their content. Implementing these provisions involves a process which includes participatory delimitation and mapping of community lands and negotiations with neighbouring communities regarding the management of shared natural resources. On the basis of these provisions, a large number of communities have been set up, and community lands are being demarcated.

Source: FAO, 2002.

⁴ For instance, in the Zambezia Province, 137 community consultations have been carried out, compared to 1141 land allocations actually made (Alden Wily, 2003).

Community-based registration schemes in Niger

In Niger, the Rural Code 1993 provides for the establishment of Land Commissions (*Commissions Foncières*) responsible for issuing land titles and for regulating and monitoring land use. Implementation of the Code has been extremely slow, and only a limited number of commissions are operational. An interesting experience with implementation comes from Mirriah Department, where 74 Village Land Commissions (*Commissions Foncières de Base*, COFOB) have been established to handle the great demand for registration of land rights which cannot be satisfied at the higher level, due to insufficient capacity to survey, map and establish titles. In each of the villages, a committee has been established with five members (including one woman), who are responsible for receiving requests for registration, making public such requests and, where no contest is forthcoming, inscribing this claim in the village land register. The process seems reasonably simple, very low cost, and accessible to all villagers. Registration at community level ensures the legitimacy of the claim before it can be officially registered. Village committee members are given basic training to ensure they can manage the various tasks involved and can keep up to date the register of land rights, including the various transactions into which people enter – rentals, mortgage, gift, and so on (Lund, 2000b).

1.5 Learning lessons from experience

Available evidence suggests that abrogating functioning customary land tenure systems may create confusion and face important implementation problems. Moreover, converting customary rights into freehold may result in the expropriation of the rights of vulnerable groups such as women and pastoralists. These policies may also increase the number of land disputes, and ultimately foster tenure insecurity. On the other hand, simply legalising customary rights may strengthen inequitable and ineffective rules and procedures, particularly with regard to women's limited rights under most customary systems, and to the unelected and sometimes unrepresentative nature of customary authorities (Alden Wily, 2003).

Given the great variability of customary tenure within the same country, a flexible approach may be appropriate. Moreover, policy choices are not necessarily between customary and statutory law. An "integration" approach would bridge the gap between the two legal orders, by building on customary institutions to establish "hybrid" tenure forms in line with constitutional provisions on democracy, human rights and gender equality. For instance, legislation may give land users a menu of tenure options, including recognition of customary rights, or may flexibly define and regulate the institutions empowered to hold and manage land, so as to allow communities to devise their arrangements on the basis of their specific needs and to retain the elements of customary systems they find useful (e.g. Mozambique). In these cases, adequate information should be provided to users, and flexibility should not undermine clarity. Providing effective dispute settlement procedures and granting legal recognition to "informal formalisation" procedures may be other cost-effective ways to secure land rights.

Land registration may be useful where customary systems have collapsed, where land disputes are widespread, in resettlement for newly settled areas and for taxation purposes. Registration may also be useful in areas of high value land, such as urban and peri-urban areas and irrigated lands, where competition is particularly fierce. Titling upon application, instead of systematic surveys, may reduce costs and increase flexibility.

Finally, land tenure reforms may be manipulated by local elites and foreign investors to gain or increase access to land. Therefore, whatever the institutional option adopted, appropriate guarantees should be established to ensure equitable access to the processes and institutions provided for by legislation.

2. CHANGING LAND DISTRIBUTION: REDISTRIBUTION AND RESTITUTION

2.1 The arguments for land redistribution

In most of sub-Saharan Africa, land concentration is relatively limited, compared to other regions such as Latin America. Important exceptions nonetheless exist, especially in Southern Africa, where a history of colonial settler economy and apartheid has resulted in an extremely inequitable land distribution, mainly along racial lines. In South Africa, for instance, legislation restricted Africans' access to land to state-owned, overcrowded "homelands", where land was administered by authoritarian chiefs integrated in the colonial/apartheid institutional machinery. Besides making land available to white commercial farmers, this land dispossession was instrumental to freeing migrant labour to be employed in white-controlled farms, industries and mines (Legassick and Wolpe, 1976).

This historical legacy has forcefully raised needs and demands for land redistribution. In some cases, tensions have resulted in land occupations and forceful dispossessions of white farmers (Zimbabwe). South Africa, Namibia, and Zimbabwe have adopted programmes to alter the distribution of land through a range of mechanisms (market-assisted land reform mechanisms, expropriation, restitution). On the other hand, outside Southern Africa, where land redistribution programmes were adopted they have been largely completed or halted (Ethiopia, Kenya).

Ongoing land reform programmes are mainly motivated on two grounds:

- i. To achieve more equitable access to land, so as to reduce poverty and landlessness in rural areas;
- ii. To promote rural development by raising agricultural productivity and creating a class of productive small African farmers.

The first argument is linked to broader poverty reduction strategies. However, with a few exceptions (e.g. Malawi), Poverty Reduction Strategy Papers (PRSPs) across Africa fail to adequately link land reform and redistribution to poverty reduction goals (Roth, 2002; see below, section 7). In some countries, the aim of more equitable access to land is entrenched in the Constitution (e.g. Section 25(5) of the South African Constitution).

The second argument is based on evidence from economic research showing that, in the absence of economies of scale, small farms are generally more efficient than large ones due to the different incentive structure generated by self-employed farming and to the high transaction/monitoring costs associated with hired labour (de Janvry *et al.*, 2001). Moreover, research has documented a positive relationship between more equitably distributed land and economic growth (Deininger and Squire, 1998), and the experience of several East Asian countries (South Korea, Taiwan) shows how a reform delivering more equitable land distribution is fundamental to create the basis for sustained economic development.

Tensions between these two arguments (poverty/landlessness reduction and agricultural development) may arise. Indeed, the two arguments may lead to very different types of land reform, particularly with regard to reform beneficiaries (the poorest of the poor vs. viable commercial farmers). In some countries, changes in policy have occurred, shifting emphasis from pro-poor land reforms to redistribution promoting viable commercial farmers (e.g. South Africa).

2.2 Redistribution

Different mechanisms may be used to redistribute land, ranging from market-based negotiation to compulsory acquisition. Compulsory acquisition models themselves may diverge widely depending on the amount and timing of compensation, the nature of the expropriation process, etc., while market-based mechanisms may diverge as to the identity of the buyer (the state or state-subsidised beneficiaries) and to the institutions and processes used.

All Southern African countries have adopted, at different stages and to different degrees, forms of market-assisted land reform, whereby the state or reform beneficiaries with financial support from the state purchase land from right holders at a negotiated price ("willing seller, willing buyer"). In Zimbabwe, the principle of state purchases of

land at market prices was agreed upon at the Independence negotiations with the United Kingdom in 1979, entrenched in the "Lancaster House" Constitution and remained a fundamental element of Zimbabwe's land reform until recent years. This market-based model mainly worked in the early 1980s, when the departure of many white farmers after independence resulted in large numbers of farms being offered for sale. However, the pace of market-assisted redistribution considerably slowed down after the mid-1980s, leading to a policy of compulsory acquisition (see below) and to the ongoing land invasions (Moyo, 2000; Lebert, 2003).

In South Africa, the land redistribution programme started in the 1990's is centred on a variety of market-based tools, such as land purchases by beneficiaries, endowed with a cash grant by the state; share-equity schemes, i.e. company operations in which tradable shares are owned by farm workers, former owners and other investors; and credit facilities to disburse loans for land purchases (Land Reform Credit Facility) (Lyne and Darroch, 2003).

Until 1999, the grant-based programme involved a Land/Settlement Acquisition Grant (SLAG) of R16,000 per beneficiary household. Progress with the implementation of this programme, however, was extremely slow. For instance, a study from KwaZulu Natal (Lyne and Darroch, 2003) found that between 1997 and 2001 the SLAG programme redistributed less and lower-quality land than private cash land purchases by historically disadvantaged groups. However, even the latter type of purchases was limited due to a variety of factors, including legislation restricting the subdivision of farms (Subdivision of Agricultural Land Act 1970). The announced repeal of this legislation has not yet become operational (Lyne and Darroch, 2003).

Moreover, the amount of the SLAG was largely inadequate to purchase land. In many cases, this, together with restrictions on the subdivision of farms, has forced black farmers to pool resources in "communities" in order to be able to purchase whole farms. It is not clear whether communities established for the sole purpose of buying land may be viable in the long run in terms of peaceful and harmonious co-existence. Furthermore, the standardised amount of the subsidy has resulted in disparities, as land prices vary considerably across provinces; therefore, the grant enables land of very different quality and quantity to be purchased (Mngxitama, 1999).

In 2000, a new programme for land redistribution, the Land Redistribution for Agricultural Development (LRAD), was launched. This differs from the SLAG programme in many respects, including higher amounts of grant and a different "profile" of beneficiaries. Indeed, beneficiaries no longer have to be poor in order to qualify for the grant⁵, and may increase the amount of the grant by providing cash contribution funded through equity or loans. This suggests a policy shift away from promoting access to land for subsistence purposes and from reduction in poverty and landlessness towards establishing a class of viable commercial African farmers (Lyne and Darroch, 2003; Hall et al, 2003)⁶. Moreover, redistribution targets have been considerably eased from distributing 30% of agricultural land in five years (as stated in the 1994 Reconstruction and Development Programme) to distributing the same amount of land over fifteen years (Lawrence and Mayson, 2002). By the end of 2002, a total 1,480,835 ha. of land had been transferred through land redistribution, benefiting some 130,000 households (Hall et al, 2003). While the amount of land transferred each year has generally increased, the numbers of beneficiaries per year has decreased, suggesting that households have been able to obtain larger grants and buy larger plots under the LRAD programme (Hall et al, 2003). Factors hindering land redistribution include residual legal restrictions on farm subdivision, constraints on access to land auctions – a major form of land transfer – for land reform beneficiaries, and segmentation of the land market, as land sales tend to happen within the social networks of landowners (Hall et al, 2003).

Overall, while the pace of land redistribution has increased over the past few years, the official targets are far from being met. The South African Land Redistribution Programme raises two main concerns: the existence of adequate institutional and financial capacity to implement the programme and achieve the target set, on the one hand; and the ability of this kind of programme to benefit the poorest of the poor, who are unable to access complementary financial resources to purchase land (Lawrence and Mayson, 2002).

Similarly to South Africa, Namibia's Agricultural (Commercial) Land Reform Act 1995 opted for a largely market-based land redistribution programme, although the model followed differs in many ways from the one adopted

⁵ A maximum income threshold of R1,500 per month applied to the SLAG programme.

⁶ However, some studies show that the requirement of an own contribution by beneficiaries does not necessarily preclude reaching the poor and may be an important element to create a sense of "ownership" among beneficiaries (Deininger and May, 2000).

by South Africa. In Namibia, the state has a right of pre-emption on all sales of commercial farms, and may acquire "under-utilised" and "excessive" lands, with a view to allocating such lands to the landless. In land allocation, priority is given to those "socially, economically or educationally disadvantaged by past discriminatory laws or practices". However, as in South Africa, the pace of implementation has been slow. One of the reasons is the existence of loopholes in legislation. For instance, commercial farmers have resorted to forms of land transfer alternative to sale, so as to avoid the application of the rights of first refusal of the state. Indeed, the number of "donations" to private corporations has soared after the entry into force of the Act (Pohamba, 2002).

Compulsory acquisition has been little used in Southern Africa. In Namibia, for instance, legislative provisions allowing for compulsory land acquisition by the state have been little implemented. Within this context, the notable exception is Zimbabwe. Here, the constitutional provision requiring "prompt" and "adequate" compensation in foreign currency to landowners was amended in 1990. Moreover, the Land Acquisition Act 1992 and its subsequent amendments allow for compulsory land acquisition, while continuing the market-assisted programme. This compulsory acquisition mechanism has been increasingly used after 1997 (Moyo, 2000).

The recent land occupations in Zimbabwe, and ensuing fears of "contagion", have prompted a new thrust in the land redistribution debate in neighbouring countries, particularly with a view to speeding up slow land reform programmes. In South Africa, for instance, the Department of Land Affairs has begun to reflect on the opportunity of using "supply-led" mechanisms to speed up the redistribution programme ⁷.

2.3 Restitution

While in Zimbabwe and Namibia the reform to redress colonial land dispossessions is centred on land redistribution to the landless, in South Africa a specific component of the land reform addresses the thorny issue of colonial and apartheid land dispossessions⁸, by providing for the restitution of land to expropriated right holders. The restitution programme was conceived as an important element for the process of democratic transition and national reconciliation.

The Restitution of Land Rights Act 1994 provides for redress to those dispossessed of their land "as a result of past racially discriminatory laws or practices". Redress is provided through a legal process centred on a Land Claims Court determining upon land claims lodged before a cut-off date (31st December 1998). The process may lead to the restoration of confiscated land, provision of alternative land, payment of compensation or a combination of these.

Implementation of the land restitution component has been slow, although a substantial acceleration has taken place in the last few years. In 1998, the Minister of Land Affairs established a review to evaluate the land restitution process. The review found that the legalistic nature of the court-based procedure created delays. Lack of clarity on the roles of different state institutions and lack of leadership were also identified as major constraints. Some changes to the restitution process and institutions were made following the review and a major awareness-raising campaign was launched to disseminate information on the process (Mngxitama, 1999). Moreover, the pace of restitution accelerated remarkably after President Thabo Mbeki set the target of finalising all land claims by 2005 (Lyne and Darroch, 2003). As at 31 March 2003, more than half the claims (36,489 out of nearly 70,000) had been settled⁹. Moreover, the number of claims settled in a single financial year increased from 34 in 1998/1999 to 3,875 in 1999/2000 and to a remarkable 17,783 in 2001/2002¹⁰. However, most finalised claims relate to urban areas, and a substantial portion of them was settled through compensation rather than through land transfers.

Moreover, questions remain as to the validity of the very "restitution" approach. First, although the Land Act 1913 was the first comprehensive piece of segregationist land legislation, the choice of 1913 as cut-off date is partly arbitrary, as racially discriminatory norms and practices entailing land dispossessions were already underway before the adoption of this Act. Secondly, while land restitution is "progressive" in that it seeks to redress past racial discrimination, it may entrench different forms of inequity. Indeed, as it aims to restore confiscated land rights, it

⁷ The South African Constitution enables land expropriation, provided that certain conditions exist (just and equitable compensation, public purpose/public interest).

⁸ The Land Act 1913 and subsequent legislation restricted Africans' access to land to 13% of the national territory.

⁹ Data available on the website of the Department of Land Affairs.

¹⁰ *Ibidem*.

mainly benefits those groups that held those rights before confiscation. As women rarely held land rights under customary tenure, for instance, land restitution may in practice mainly benefit men. Thirdly, communities benefiting from land restitution are usually viewed as homogenous entities, while field studies have reported tensions as to group membership, domination by local elites and by the urban better off, and gender biases. Finally, while a rights-based approach is fundamental to addressing past injustice and to promoting national reconciliation, it may entail a redistribution of land with no link to poverty eradication, landlessness reduction or development promotion, as these goals may require land allocation to actors different from those who had historically been dispossessed (James, 2000a and 2000b; Mngxitama, 1999; Lyne and Darroch, 2003).

2.4 Learning lessons from experience

Over the past fifty years, successful land redistribution programmes have combined elements of free negotiation, of fiscal incentives (e.g. through land taxation devised to promote land transfers) and of compulsory land acquisition (e.g., Italy, South Korea, Taiwan). In all cases, the existence of an element of compulsion proved crucial for the success of the land reform. While it may be agreed that expropriation-based mechanisms are “bureaucratic”, costly and slow, as argued by some (van den Brink, 2003), the slow progress of some past expropriation-based programmes (e.g. in the Philippines and in many Latin American countries) seems to owe more to lack of a strong political commitment to reform than to institutional hurdles.

On the other hand, land reform in Southern Africa over the last two decades has been pursued largely through market-based mechanisms. Progress with such mechanisms crucially depends upon the willingness of landowners to sell and on the availability and accessibility of adequate financial resources to enable the state to support land purchases. Given the central role attached to landowners' willingness to sell, the land redistributed is often marginal and of low quality¹¹. Moreover, strong capacities are needed to properly implement market-assisted programmes. For instance, where land is first acquired by the state and subsequently transferred to beneficiaries, as in the Namibian model, government agencies need land valuation and other skills to be able to negotiate a fair market price with the “willing seller”. In Namibia, for instance, the prices asked by landowners are often inflated, and the government lacks qualified land valuers to assist in land acquisition (Pohamba, 2002).

At the same time, studies showing that land disadvantaged groups are purchasing land on the market (e.g., for South Africa, Lyne and Darroch, 2003) suggests that an appropriate use of market-based mechanisms may help change the distribution of land. Constraints on the proper operation of these market mechanisms, such as South Africa's legislation restricting the subdivision of farms, should therefore be removed.

These considerations raise the need to monitor progress made with land redistribution and restitution in the region, and, if needed, to redirect policy design and implementation. This involves a comparison not only between market-based and expropriation-based mechanisms, but also between different market-based models. For instance, it would be interesting to determine whether the South African model, whereby land is purchased by individuals or groups rather than by the State, allows for greater control over the land reform process by its beneficiaries compared to Namibia's state-centred “willing seller, willing buyer” model. In evaluating progress made, attention should be paid to the extent to which land reform programmes manage to square the circle of protecting private property, so as to attract investors, while achieving a more equitable land distribution. Probably, rather than choosing a single, “superior” type of institutional arrangement to transfer land from the hands of a few to the hands of many, the challenge may lie in devising a “menu of options” enabling different routes to land acquisition and combining elements of compulsion, incentive and free negotiation (see Roth, 2002). These different elements may be mutually reinforcing. For instance, the existence of a threat of compulsory acquisition may make landowners more “willing” to sell at fair prices to land beneficiaries, thereby making market-based mechanisms more effective and speedy. Finally, besides these “technical” arguments concerning different land redistribution models, the success of a land reform programme ultimately depends upon the existence of a strong political will to change the land distribution of the country, challenging if necessary the strong landed interests resisting this policy.

¹¹ In Zimbabwe, for instance, 70% of land acquired through the market is agro-ecologically marginal and located mainly in the drier areas of the country (Lebert, 2002).

3. DECENTRALISED LAND MANAGEMENT AND ADMINISTRATION

For long, land tenure systems in most African countries were characterised by strong, centralised state control over land management and administration¹². However, the inadequacy of legislative models largely imported from the West and the inability of the state to manage effectively the land resources it claimed entailed that in many areas informal decentralised systems continued to be seen as legitimate by the local population and to be widely applied. In recent years, many African countries have adopted new land laws and policies providing for greater decentralisation in land management and administration, although implementation is proceeding very slowly. It is important to note that in most cases this does not entail a transfer of land ownership, which often remains vested in the state, but rather a devolution of management and administration powers (Alden Wily, 2003).

This process takes place within the broader context of political decentralisation, as a large number of African countries have established local governments. The link between land tenure and decentralisation is particularly strong in Francophone West Africa, where local governments are often vested important land and natural resource management responsibilities (Mali, Senegal). In some cases, inconsistencies and ambiguities may exist between the policies and laws concerning decentralisation and those on land tenure, particularly in countries where the two processes have been driven by different actors and remain largely parallel. In Burkina Faso, for instance, where natural resource management by village-level institutions started in the 1980's and is currently provided for by agrarian legislation (*Réorganisation Agricole et Foncière*, amended in 1996), legislation on decentralisation adopted in 1998 provides for the establishment of new local governments with natural resource management responsibilities. This may create confusion as to the roles of the different institutions (Alden Wily, 2003).

In some federal states, initiatives towards greater decentralisation in land management and administration are also taking place at state level. For instance, in Ethiopia, federal legislation empowers states to administer land autonomously and determine the manner in which to implement this. In this context, the state of Tigray adopted legislation (Land Law 1997) providing for the issue of land certificates by "*tabias*", i.e. the lowest level of local government. Finally, decentralisation in land management and administration matches similar developments in other sectoral natural resource legislation, particularly forestry laws (see for example the "community forests" in Cameroon) (Alden Wily, 2003).

The models and approaches adopted vary greatly, especially in relation to the nature of local-level institutions (elected, administrative or mixed bodies; existing institutions or new structures; etc.), the role granted to customary chiefs (from no role to involvement in land management bodies and to recognition of direct land management responsibilities), and the powers of decentralised institutions in land conflict management (from no role to compulsory conciliation procedures, etc.). Land management and administration responsibilities may be devolved to a variety of different local institutions:

- i. Land-specific bodies, such as Botswana's Land Boards, Uganda's District Land Boards and Sub-County Land Committees, Namibia's Communal Land Boards and Niger's Land Commissions. The composition of such bodies varies considerably from country to country, but members are largely appointed by government institutions. In Botswana, for instance, only five of the twelve members of the Land Boards are elected and subsequently approved by the Minister for Lands, while five other members are appointed by the Minister and two represent other ministries. In Namibia, board members are appointed by the Minister along criteria set out in the legislation to ensure the representation of different land interests.
- ii. Elected local government institutions. In Tanzania, Village Councils, the lowest level of local government directly elected by villagers, are designated as the Land Managers by the Village Land Act 1999, and existing Village Executive Officers, providing administrative and secretarial support to the Village Councils, are responsible for maintaining the Village Land Register. Similarly, in Senegal, lands belonging to the "National Domain" are managed by the *collectivités rurales*, and in Mali, important land management responsibilities are vested in the *communes*. In the Ethiopian state of Tigray, *tabias*, parish-level local government institutions, are responsible for land management and administration.

¹² This section is based on Alden Wily, 2003. For the purposes of this section, "management" refers to the substance of land rights and land use regulations, while "administration" refers to the institutions and processes for the operation of a land tenure system (adjudication, registration, valuation, etc.) (see FAO, 2002).

iii. Customary authorities. In most of rural sub-Saharan Africa, customary chiefs de facto manage land rights even where they are ignored or abrogated by legislation, due to lack of institutional, financial and human capacity in government agencies. In some cases, however, they are specifically endowed with land management responsibilities, as in the case of Ghana, where the custodial role of chiefs is recognised by the constitution (Alden Wily, 2003).

Each of these institutional options presents strengths and weaknesses. Establishing a new set of land institutions has proved costly and slow in Uganda and Niger. Moreover, appointed land bodies tend to be largely accountable upwards to the government institutions appointing and supervising them. Elected local governments are more likely to be accountable to their constituency. On the other hand, vesting land management powers with political bodies may create opportunities for patronage and corruption, as elected officials may allocate land to reward political allies. Vesting responsibilities over land with customary authorities enables to build on institutions that are de facto already performing land-related functions, thereby reducing implementation costs, and that are often regarded as legitimate by the local community. However, customary institutions may also be deeply inequitable, as some groups (e.g. women) are often not represented within them. For these reasons, the roles and powers and customary chiefs are being scrutinised and challenged in many countries. Some countries, while recognising and protecting customary rights, have vested authority over them in non-customary institutions (Botswana, Niger, Tanzania, Uganda). In Namibia, while chiefs are granted the power to allocate and withdraw land rights, their decisions must be validated by the Communal Land Boards. The choice of the type of local land bodies is a highly political one, and heated debates over this may cause delays in policy formulation and implementation. A notable example is the South African debate over the role of customary chiefs in the former homelands and the ensuing delay in the adoption of the Communal Land Rights Bill. Finally, tensions may arise between existing land bodies and newly established structures. Where village-level institutions already manage land, decentralisation processes centred on higher-level local governments, like districts and provinces, may risk resulting in a new centralisation of land management responsibilities at district/provincial level (Burkina Faso, Eritrea) (Alden Wily, 2003; Toulmin and Quan, 2000b).

The powers and functions transferred to local land bodies vary considerably across countries. In some cases, they combine both management and administration, as in the case of Tanzania's Village Land Managers. Similarly, in Namibia, Communal Land Boards are responsible for land management (allocation of leasehold rights and control over land management decisions of the chiefs over customary rights) and administration (maintenance of a land register and issuance of land titles). In Niger and Uganda, land bodies have specific competences to issue land titles (see above, chapter 1). Niger's Land Commissions are also responsible for monitoring effective land occupation and use ("*mise en valeur*"), and some of them have delimited livestock tracks, and grazing and farming areas (Alden Wily, 2003).

In most countries, even where land responsibilities are vested with local bodies, the central government retains considerable control. This control is exercised through a variety of tools. First, key responsibilities may be retained by the central government. In Ghana, for instance, determination of forest and mineral use of lands managed by the chiefs, and control of the revenue thereof, is vested in a central government body. Secondly, the central government may exert considerable influence through its power to appoint and dismiss members of local land bodies. For example, in Botswana the Minister for Lands nominates half the members of each Land Board, approves the nomination of the other members and may dismiss any member. Thirdly, central government institutions may be empowered to direct local bodies. In Tanzania, the Government Commissioner of Lands may issue regulations and directives applicable to one, several or all Village Councils. Finally, decentralised land bodies are largely dependent upon support from the central government in terms of finance as well as technical expertise, which further limits in practice the autonomy of local bodies. In Botswana, the central government provides technical and administrative staff to the Land Boards (Alden Wily, 2003).

On the other hand, outside the domain of policy and legislation, important developments in the direction of more decentralised forms of natural resource management are taking place at field level throughout Africa, usually with the support of development projects and other external facilitators. For instance, "local conventions", i.e. agreements concerning the management of a common property natural resource that are negotiated by all resource users, have been concluded throughout Francophone West Africa (Senegal, Mali, Burkina Faso). These conventions often constitute a response of communities to the inadequacy of the formal legislative framework compared to local interests and needs. Debates over whether and how to legalise these arrangements are underway in several West African countries (see also below, section 5.5).

Overall, decentralisation processes are underway in many African countries. These processes seem to be driven by the past failures of centralised management and administration systems more than by genuine demands from local civil society. Moreover, some questions about decentralisation in land management and administration remain open. It remains to be seen, for instance, whether decentralised structures will be vulnerable to capture by local elites and whether decentralisation may make local land rights more vulnerable to pressures from external investors or wealthier nationals seeking land. Furthermore, decentralised land management and administration pose challenges as to the inclusiveness of land decision-making processes, especially for land users that are not resident in the area covered by local land bodies, such as pastoralists. Indeed, where decentralisation succeeds in delivering more effective forms of land control compared to past, largely unenforceable centralised systems, it may also result in more “effective” forms of exclusion. Finally, although many countries have adopted and implemented, to different degrees, reforms towards greater decentralisation of land management and administration responsibilities, it should not be forgotten that in many other African countries such responsibilities are still strongly concentrated in the hands of the central state (Alden Wily, 2003).

4. LAND AND CONFLICT

Land provides a major source of conflict in rural societies around the world¹³. Feuds between families, neighbours and adjoining communities frequently can be traced back to conflicting claims over inheritance, boundaries and rights. All societies have evolved mechanisms for resolving disputes, with varying sanctions, levels of force, processes involved and principles to guide decision-making.

4.1 Rising conflict: multiple causes

In sub-Saharan Africa, competition over land has increased in frequency and severity in the last decades. The reasons for this are multiple, and essentially linked to the increased scarcity of land caused by demographic pressures and to the higher land values determined by agricultural intensification and commercialisation. Where land has traditionally been the object of multiple rights and uses (farming, herding, etc.), as in most of West Africa, the weakening of the customary institutions that were able in the past to balance these different interests as well as the attempt to renegotiate the arrangements established in the past (sharecropping, land loans, etc.) have fostered tensions. Competition is particularly acute for scarce “strategic” natural resources, such as the few irrigated lands in dryland West Africa and dry season water points and pastures across East and West Africa. In Southern Africa, extremely inequitable land distribution and frustratingly slow land reform programmes have also fostered tensions, culminated in the invasion of many white-owned commercial farms (Zimbabwe). The increased competition for land is also linked to the desire of private investors, whether national or international, to gain access to land for a variety of purposes, ranging from commercial production to speculation to mining. Finally, a major factor underlying land disputes in Africa is linked to the large flows of people seeking land where they can settle and farm. Relations between incomers and the indigenous inhabitants are often tense, with few common social and cultural values shared in common. Uncertainties regarding the rights of different groups are aggravated by the plurality of laws and systems of regulation for control over land. When land starts to become scarce and hence valuable and marketable, such uncertainties generate fears and suspicion between neighbours, and even within families. Government interventions and establishment of agricultural projects and commercial farm enterprises add further elements of instability to land relations.

While high demographic pressure and land shortage are important dimensions of land conflicts, they are not sufficient to explain how and why competition for land flares into violent clashes. As Mathieu et al (1998) note for the case of Kivu, in which tens of thousands of people lost their lives, and many more were made homeless, any understanding of the conflict must set events within a longer-term historical analysis. In this case, the deep causes of conflict were intermingled massive in-migration by different ethnic groups seeking land, the dispossession of increasing numbers of small farmers as a result of land sales by chiefs, uncertainty and confusion over whether migrants were citizens of the Democratic Republic of the Congo (formerly Zaire), and political manipulation by rival parties and personalities (see Box below). In other words, competition over scarce land, together with lack of off-

¹³ Defined very broadly, “conflict” includes a wide range of situations – from disagreement to armed confrontation – where competing interests and claims have caused or threatened a breakdown in ordinary or even peaceful coexistence.

farm opportunities, frustration and lack of hope for the youth, etc., may create a context of instability where other “trigger” factors like political or ethnic manipulation may lead to violent conflict.

Scaling up the degree of conflict even further, over the last decades many African countries have been devastated by protracted wars, whether international or internal (Great Lakes region; Angola; Sudan; Sierra Leone; Côte d'Ivoire; etc.). Armed conflict and land are linked in two major ways. On one hand, as stated above, control over land and related natural resources may constitute a key factor underlying conflict (see e.g. the Democratic Republic of Congo, in the box below; the conflict in Côte d'Ivoire; Rwanda; etc.). On the other hand, besides bringing about death and destruction, armed conflicts have major implications for land tenure systems. First, the chaos generated by wars may weaken the customary or local institutions managing and administering land rights, thereby generating widespread tenure insecurity and creating opportunities for elites to grab land. Secondly, wars leave behind a legacy of landmines preventing productive use of substantial areas of land for many years after the end of the hostilities. Thirdly, armed conflicts create large numbers of refugees and displaced persons, with little or no access to land in their temporary residence. After the end of the armed conflict, competing land claims by returnees and by new occupants may generate further tension and conflict.

Land and conflict in North Kivu

The Masisi zone of north Kivu was lightly populated until the middle of the 20th century, with only 12 p/km² in 1940. Since then, massive levels of in-migration have occurred from Rwanda, strongly encouraged by the colonial powers. By the early 1990s, these Rwandan peoples constituted more than 70% of the local population in the Masisi area. Population density had risen to almost 300 p/km² in smallholder areas, while alongside could be found very large commercial holdings acquired by politicians, traders, and other businessmen who had gained official rights over this land from government. The setting up of such large estates had displaced many peasant farmers. From the 1960s onwards, relations between local people and the large number of incomers were becoming increasingly tense, as expressed in local political rivalry, and increasing deaths during land clashes.

The conflict came to a head in 1993, when young men from the indigenous population, manipulated by local politicians, went on the rampage, causing 10,000-14,000 deaths and more than 200,000 people displaced. Violent disputes in 1994-6 led to a further loss of 70,000 lives and more than 250,000 people forced to flee.

The causes of such appalling clashes are multiple, and include:

- Shrinking land area available per person;
- Dispossession of smallholders by customary chiefs, government officials and urban investors seeking to buy land;
- Uncertainty regarding rights over land, due to the confusion between customary and modern legislation regarding tenure;
- Lack of economic and social development, increased poverty and a sense of desperation amongst the poor and landless, who had nothing further to lose;
- Lack of communication and opportunities to meet and discuss the growing tension;
- Changes in the law regarding which migrants could acquire Zairian nationality, the 1972 law that allowed many long established migrants to become citizens having been overturned by new legislation in 1981-2.

The question of nationality had become of particular significance given the establishment of multiparty political systems, since if migrants were considered citizens and could vote, their superior numbers would enable them to establish control over local and regional politics.

A number of recommendations for handling such conflicts are proposed:

- Support to rural development including off-farm income generating activities, to relieve pressure on land.
- More intensive, yield enhancing measures to help raise harvests and enable smallholders to diversify into new forms of farming, such as fruit trees, fattening of small stock, and vegetable gardening.
- Reforming the large-scale commercial sector, which has taken much land away from smallholders, uses it inefficiently, and generates little or no revenues for re-investment locally.
- Finding ways to bring together the different parties to discuss how to reach a collectively agreed solution.
- Establishing simple and transparent ways of registering rights over land, building on what exists rather than introducing yet more legislation.
- Training of local administrators and commune level personnel to carry out such tasks, with checks and balances provided by local structures, NGOs and other civil society groups.

Source Mathieu et al (1998).

4.2 Dispute resolution mechanisms

Conflicts may be dealt with through a variety of methods. For minor disputes involving, for example, damage to crops by herds, the main protagonists often seek to settle at local level without recourse to state institutions. Indeed, given the often limited accessibility of courts, customary and other local authorities continue to play a key role in dispute settlement throughout sub-Saharan Africa. This capacity for resolving conflicts within community structures is exemplified by the emergence of the *Ay Njanbur* (meaning “the wise ones”) in the Ferlo Region of Senegal. This institution, which is based on custom, has been updated. It is a committee set up to handle a given conflict, at the request of the parties involved. Hence, the members of the committee will vary from one case to another. Each side can nominate two people to represent their interests. Thus, since most conflicts are between farmers and herders, the committee usually comprises two farmers and two herders. The *Njanbur* committee assesses the damage done and suggests the appropriate level of compensation. While this mechanism works well for sorting out crop damage claims, as Traoré notes, it cannot deal with some of the underlying factors which have helped generate such conflicts, namely the increasing encroachment of farmers into grazing lands (Traoré, 2001). Another example of community-level natural resource conflict management is provided by the “peace committees” established in the *cercle* of Nioro, in Mali (see Box below).

Some countries have undertaken steps to improve their land dispute resolution machinery, including: improving the justice system, by making courts more accessible; devolving conciliation powers to local authorities (Mali’s Pastoral Charter), to customary chiefs (Niger’s Rural Code) and to Village Land Councils (Tanzania); and creating special land courts to clear the backlog of cases (e.g. Ghana’s special division of the High Court). Lack of financial and human resources often affects the implementation of these policies (Alden Wily, 2003).

Conflict management in Nioro cercle, northwest Mali.

In the Nioro cercle of Mali, there have been repeated disputes between different herding groups and between farmers and herders. The main causes for these disputes are:

- The uncontrolled colonisation of pastoral lands, particularly major livestock transhumance routes and resting grounds, by dryland farms, so that herders increasingly find their routes barred by fields as they drive their animals to and from wet and dry season pastures.
- The lack of dry season water (and the corresponding access to dry season grazing it allows), due to water scarcity and to the priority granted to agricultural land use over pastoral use.
- Endemic banditry and livestock rustling in the region, facilitated by the easy availability of modern weapons.

Underlying the above problems is the apparent breakdown in communications and feelings of trust between resident and non-resident pastoral groups and their agro-pastoral neighbours. Although the root causes for this are not completely clear, evidence suggests that customary systems of reciprocity which used to exist between farming and non-farming groups are no longer as widespread or efficient as they used to be. Many herding groups have lost their livestock and are no longer able to practice the milk and manure exchanges they used to have with sedentary farmers. The latter are increasingly investing in cattle and managing them themselves rather than confiding them to Fulani herdsmen as they did in the past.

In 1997, these disputes erupted in violent clashes that left over one hundred people dead. In 1998, intercommunity “peace agreements” were concluded, with the support of local MPs, customary leaders and the administration. To monitor compliance with the agreements, a “peace committee” was set up for each of the seven *arrondissement* of the *cercle*. The committees are composed of “the great and the good” from the local communities, including customary authorities, mayors and other prominent figures, so as to represent the different ethnic groups living in the area (Sarakolé, Bambara and Fulani). However, non-resident herders from Mauritania are not represented, while a process to increase women’s representation in the committees is currently underway. From a legal point of view, the committees have no formal status, and operate informally in close cooperation with formal institutions (*communes*, etc.). Their activities include conflict prevention, through awareness-raising and information-disseminating village tours, and conflict resolution (mainly through conciliation). The peace committees have been very effective in restoring peace in the *cercle*. However, some major issues need to be addressed in the longer term, including:

- The clarification of their relationship with the *communes*, recently set up under the decentralisation policy and entrusted with natural resource management responsibilities;

- Their long-term economic sustainability (at the moment, the committees are funded by external donors);
- The clarification of the roles of the different dispute settlement institutions, like the peace committees, the judiciary, the conflict management committees established by the *communes*, etc., in order to avoid situations of uncoordinated legal pluralism.

Source: Hesse 2001.

4.3 Learning lessons from experience

While the complex link between land and conflict is of crucial importance for the livelihoods of the rural poor, it is still little understood by development researchers and practitioners. For instance, a better understanding is needed of the conditions under which competition over scarce land may degenerate into violent clashes or even armed conflict. Similarly, research and analysis are needed on appropriate institutions and mechanisms for conflict prevention and resolution.

The box below highlights findings from a recent survey of conflict management in West Africa. It supports other work (such as proposals stemming from the Kivu study described above) which argues for providing a neutral space for encouraging a collective analysis of conflict and which sees conflict management as part of a broader process of social and economic change (Hendricksen, 1997). Resolution of conflicts must come from within the society itself, and may entail a long-term process.

Key findings from a study of conflict management in West Africa

- Poverty is the core issue fuelling conflicts in relation to natural resource management, and any future strategy for conflict management has to take this into account.
- A lot of innovative conflict management work is being carried out in the region, but little exchange is taking place of information on these experiences between organisations within countries, let alone at a regional level.
- There are many actors involved in conflict management, and chief among them are customary leaders who need to be involved in any future conflict management initiatives.
- Expertise in conflict management exists particularly at local level although this is not necessarily recognised by intermediary level actors (e.g. government employees, project staff).
- Future training proposals need to recognise this existing expertise and focus on ensuring it is part of a broader purpose and strategy – training in itself is not necessarily useful.
- The gender dimensions of conflict management are not being addressed and all new conflict management initiatives must make specific provisions to ensure both men and women from different social and class groups are involved.

Source: IIED/RTC report.

For outside agencies, attention needs to be focused on:

- Making a commitment to long term support of conflict management structures, which goes beyond training of people, to include ensuring they can work effectively in future.
- Addressing the fact that conflicts are political in nature, and will require a political solution.
- Targeting training and education to a variety of levels, to include not only administrative and judicial figures but also local community groups and civil society structures.
- Building on local institutional capacities for handling conflict, within a broader framework provided by government which confers legitimacy and authority on local organisations to reach decisions, so long as they conform to basic principles of law and justice (Hendricksen, 1997).

5. PROTECTING THE LAND RIGHTS OF VULNERABLE GROUPS

5.1 A neglected issue now given greater attention

In the past, land policies and legislation aimed at promoting investment in land, raising agricultural productivity and enabling sustainable land use often had negative consequences for the land rights of some social groups. For instance, land titling and registration programmes often entailed loss of the land use rights of women and pastoralists. In recent years, greater attention has been paid to protecting these rights. Moreover, in many countries the HIV/AIDS epidemic is having a dramatic impact on society in general and on land tenure systems in particular, creating new vulnerable groups requiring the attention of policy makers.

Besides addressing the land rights of "traditional" vulnerable groups (women, pastoralists, migrants, etc.), attention should be paid to understanding the nature of the processes of exclusion themselves, particularly those based on economic, class, status and age factors. Indeed, on the one hand great differentiation exists within "traditional" vulnerable groups (e.g. between women belonging to different classes; between hired herders and large cattle owners; etc.). On the other hand, other social groups may find themselves in a vulnerable position as to their access to land (e.g. children and youths).

5.2 Gender

Gaining access to land

Throughout Africa, women enjoy very limited rights to land.¹⁴ Natural resource legislation tends to be gender neutral or to explicitly prohibit sex or gender discrimination in relation to land. However, legislation is scarcely implemented in rural areas, and customary land tenure is what is usually referred to.

Women's rights under customary systems vary considerably from place to place. Substantial differences exist between patrilineal and matrilineal societies, with women generally having greater land rights under matrilineal systems, as well as between different matrilineal systems and between different patrilineal systems. However, broadly speaking, women usually only have rights derived from those of their husbands or male relatives. Moreover, women face discrimination with respect to the allocation of individual fields. When access to a plot is granted, this may be on land which other male relatives do not want because, for example, it is not very fertile, difficult to work, or not suitable for animal traction.

Women's rights to land are also affected by their position within the household, particularly by their marital status. A married woman may gain access to land if she has her husband's authorisation but is likely to lose this in the event of a breakdown in relations or divorce. Her rights may also change if her husband remarries within a polygamous arrangement or as a result of widowhood. A woman may have to explore alternative means of access to land for cultivation when she cannot obtain land through her husband or other relatives. Women will then try to borrow or rent land, although they might have to ask permission first from their husbands.

Women's rights may also weaken when the resource they were using becomes more valuable due to the commercialisation of agriculture and the introduction of more productive cropping techniques, or following investments, such as in water control for inland valleys or for land along rivers. Women's loss of land rights in the Gambia and Burkina Faso following the establishment of an irrigations system is a well-described example (Dey, 1981; van Koppen, 1998).

The weakness of women's land rights is also reflected in their limited participation in customary land management institutions. In most African societies, chiefly authority is generally ascribed to a patriarchal lineage, and most major decisions are taken by men. While women have ways of bringing views to their attention, they usually do not participate in decision-making. As a result, community decisions are made without explicit reference to women's knowledge or priorities. One important area where the priorities of women as a group may differ from those of the men in their household, relates to the management of common property resources. Women and children are often in charge of harvesting resources from common lands, such as grasses, fuelwood, certain medicines,

¹⁴ This section draws extensively on Hilhorst, 2000, and on Cotula, 2002.

fruits, nuts and berries. Failure to incorporate women's views when making decisions over common land containing such resources may result in portions of such land being reallocated short-sightedly for individual use. On the other hand, as a result of land scarcity and increased land values, women are increasingly keen to try and strengthen their claims over land. Women manoeuvre to make the systems work for them and find ways of avoiding the taboos. All over Africa, one can now find examples of women negotiating rights to land and associated resources (Freudenberg, 1992; Monimart, 1989; Carney, 1995; van den Berg, 1999). Women may enter sharecropping arrangements, as documented for Ghana and Côte d'Ivoire (Amanor, 2001; Koné 2001). The tendency is for women to try to obtain land individually but this may be difficult. Women therefore willingly turn to collective appropriation as a substitute for individual access or to facilitate individual access at a later date (Monimart, 1989). Such collective fields are often promoted as part of projects or by outside agencies.

Working the land

While women's choice of fields is restricted, in general they can decide for themselves how they manage the plot. Nonetheless, they must refrain from actions which may be interpreted as trying to establish a long-term claim to property. Furthermore, if usufruct rights are temporary, there is little scope to benefit from long-term investment strategies to increase productivity. Moreover, women do not have complete liberty to dispose of the produce as they might wish. They are often obliged to contribute part of the harvest to supplement the household's food stocks, particularly in years of poor rainfall. A woman's matrimonial status and age tend to influence the degree of freedom she enjoys in deciding how the products of her labour are used. An older woman has greater independence in deciding on her enterprises and may even be in a position to accumulate a private store of wealth.

Family and inheritance norms

Most customary inheritance laws try to ensure that family and clan lands remain within the control of the lineage. Thus, they commonly seek to prevent alienation of land to third parties. The most common inheritance systems in Africa are patrilineal, whereby succession and inheritance of property are determined through the male line, and normally only sons or other males inherit land from the family estate. Daughters are prevented from inheriting family land. This is explained by the fact that, on marriage, young women go to live in the house of their husband and become part of another family. If her children were allowed to inherit land from her natal family, it is argued that there is a risk that the strong community links with the land would become fragmented and weakened. Islamic law, however, where applicable, recognises a woman's right of inheritance, although her share is usually smaller than that of a male relative.

Some states have sought to improve women's land rights by adopting family and succession laws that abrogate discriminatory customary norms, provide for community of property over family land, grant spouses equal rights in the management of family land, etc. (for instance, Ghana's Intestate Succession Law 1985; Ethiopia's Revised Family Code 2000). However, this legislation is scarcely implemented in rural areas.

Integrating gender in land policy and legislation

For long, the land policies and laws of African states ignored the gender dimension of land relations. This has often resulted in the erosion or expropriation of women's land rights. An example of this is provided by the Kenyan land registration programme started in the 1950's, which largely resulted in land being registered with male household heads and in an erosion of women's customary land rights. In the land policies and laws adopted over the last decade, however, greater attention has been given to women's land rights. While there have been some achievements, overall gains remain limited, despite the energy invested in advocacy and lobby activities, particularly in countries such as Mozambique, Uganda, Tanzanian, Zimbabwe (Mwebaza, pers. comm.; Ovonji Odida, 1999).

For instance, Eritrea's Land Proclamation of 1994 prohibits discrimination in land rights and protects women's land rights in succession, marriage and divorce. In Uganda, the Land Act 1998 declares null and void land adjudication decisions denying women access to land ownership, occupation or use. The Tanzanian Land Act affirms the equality of women's and men's land rights and provides for the presumption of spousal co-ownership of family land. Within the South African land reform programme, specific attention has been paid to gender, in terms of policy (White Paper on Land Policy 1997, Land Reform Gender Policy 1997), legislation and practice. Indeed, available data suggests that women constitute a considerable percentage of land redistribution beneficiaries, although these data do not distinguish between women individual beneficiaries and joint beneficiaries (Walker, 2000).

During the elaboration of land tenure reform programmes, it is important to include women in working committees and to ensure that consultation methods deliberately target women respondents in a way which enables them to contribute their points of view with confidence. This may require sustained advocacy and monitoring to ensure that women's voices are properly heard. In some countries, legislation does provide for women quotas in land bodies, as in the case of the District Land Boards and the Land Committees in Uganda and the Communal Land Boards in Namibia¹⁵. However, it is important to bear in mind questions of the representativity of women's groups. In many instances, women's organisations have been criticised for having an urban bias and being out of step with opinion in the rural areas on whose basis they claim to speak.

In some cases, improvements in women's land rights have taken place through judicial decisions. For instance, in Nigeria, the Court of Appeal invalidated customary norms providing for inheritance by male family members only (*Mojekwu v. Mojekwu*, 1997, 7 NWLR 283) and conditioning inheritance by daughters to their undertaking to remain unmarried (*Mojekwu v. Ejikeme*, 2000, 5 NWLR 402). Similarly, in Tanzania, the High Court invalidated a customary norm preventing women from selling land on the ground that it was contrary to the Tanzanian Constitution and to international human rights treaties (*Ephraim v. Pastory*, 1990). On the other hand, the Supreme Court of Zimbabwe has on several occasions upheld discriminatory customary norms (lastly in *Magaya v. Magaya*, 1998) (Cotula, 2002).

Implementing legal provisions at village level

Although addressing women's rights in statutory law is a crucial step, their translation into actual practice, particularly in rural areas, is quite another matter. Indeed, implementation of women's rights legislation is extremely limited in rural areas across Africa, due to a variety of factors like lack of information about existing laws, women's reluctance to claim their rights as a result of socio-cultural factors, and inaccessibility of the institutions to enforce women's rights. Therefore, measures are needed to raise awareness about women's rights legislation. For instance, given the high levels of illiteracy among rural populations and particularly amongst women, non-written means of communication (radio, workshops, peer group and extension work) using local languages will be required to inform all stakeholders of the changes in legal rights and their implications.

5.3 HIV/AIDS

The HIV/AIDS epidemic is devastating the African continent, especially Southern African countries¹⁶. Besides its tragic death toll, the epidemic is having a major economic impact on the worst affected countries. For example, the HIV/AIDS epidemic affects productivity by contracting available labour force and creates higher costs for health care services. Some writers have described this phenomenon as "new variant famine", suggesting that, in contrast to "conventional" famines mainly affecting children and the elderly, the HIV/AIDS epidemic mostly strikes young, productive adults, and affects coping strategies, thereby increasing the vulnerability of communities to hazards and shocks¹⁷. Within this context, HIV/AIDS also has major impacts on land rights and use. However, the HIV/AIDS epidemic does not seem to be properly taken into account by land policies.

Recent case studies from Kenya, Lesotho and South Africa (Drimie, 2002) document the effects of HIV/AIDS on land use, on land rights, and on land administration systems. As for land use, the main effects relate to loss of labour force caused by the disease. This may entail that households are no longer able to farm their lands at the level required to meet their subsistence needs. For instance, the case study from Lesotho found lower agricultural yields as some land farming activities had to be abandoned or postponed due to labour shortages. In some cases, households are able to cope with increased vulnerability by hiring labour, by renting out land, by entering into sharecropping arrangements or by selling land. Hiring external labour requires resources to pay wages and is therefore limited to the households that can afford it. Renting out land provides families with constant cash flow but is often constrained by underdeveloped or even prohibited land rental markets. Entering into sharecropping arrangements in a situation of vulnerability, such as that caused by a HIV/AIDS-affected "breadwinning" family member, weakens the negotiating power of the family vis-à-vis third parties. Where families are unable to respond to the

¹⁵ Although, in Namibia, no provision is made for women's representation within customary authorities, which are responsible for granting and withdrawing customary land rights (albeit under the control of Land Boards).

¹⁶ This section is based on Drimie, 2002.

¹⁷ See the presentation "Does HIV/AIDS imply a 'new variant famine'?" made by Alex de Waal, reported by Nathaniel Tembo, UN Regional Inter-agency Coordination Support Office (RIACSO), Johannesburg.

Table 1: Countries worst affected by HIV/AIDS

HIV/AIDS estimates in countries with HIV prevalence rates > 4% of adult population, end 1999				
Country	Adult Rate (%)	Adults & Children	Adults (15–49)	Orphans cumulative
1. Botswana	35.80	290,000	280,000	66,000
2. Swaziland	25.25	130,000	120,000	12,000
3. Zimbabwe	25.06	1,500,000	1,400,000	900,000
4. Lesotho	23.57	240,000	240,000	35,000
5. Zambia	19.95	870,000	830,000	650,000
6. South Africa	19.94	4,200,000	4,100,000	420,000
7. Namibia	19.54	160,000	150,000	67,000
8. Malawi	15.96	800,000	760,000	390,000
9. Kenya	13.95	2,100,000	2,000,000	730,000
10. Cen African Rep	13.84	240,000	230,000	99,000
11. Mozambique	13.22	1,200,000	1,100,000	310,000
12. Djibouti	11.75	37,000	35,000	7,200
13. Burundi	11.32	360,000	340,000	230,000
14. Rwanda	11.21	400,000	370,000	270,000
15. Côte d'Ivoire	10.76	760,000	730,000	420,000
16. Ethiopia	10.63	3,000,000	2,900,000	1,200,000
17. Uganda	8.30	820,000	770,000	1,700,000
18. Rep. Tanzania	8.09	1,300,000	1,200,000	1,100,000
19. Cameroon	7.73	540,000	520,000	270,000
20. Burkina Faso	6.44	350,000	330,000	320,000
21. Congo	6.43	86,000	82,000	53,000
22. Togo	5.98	130,000	120,000	95,000
23. Haiti	5.17	210,000	200,000	74,000
24. DRC	5.07	1,100,000	1,100,000	680,000
25. Nigeria	5.06	2,700,000	2,600,000	1,400,000
26. Gabon	4.16	23,000	22,000	8,600
27. Bahamas	4.13	6,900	6,800	970
28. Cambodia	4.04	220,000	210,000	13,000

Source: UNAIDS quoted in *Drimie, 2002*.

situation, land may be left fallow or under-cultivated. Besides negatively affecting agricultural productivity, this may create problems in countries where effective occupancy and use regulations require land forfeiture in case of non- or under-use. For instance, Lesotho's Land Act 1979 provides for land reallocation if the land is not cultivated for two years. This measure, originally conceived on productivity and equity grounds, entails that HIV/AIDS-affected families may lose their land if they are unable to cultivate it. In Lesotho, the case study found that some customary chiefs informally granted special concessions to families stricken by the disease (*Drimie, 2002*).

As for land rights, available evidence shows phenomena of land grabbing by male relatives following the death of a husband/father. Indeed, widows rarely inherit land under customary norms (see above, section 5.2), and they are often deprived of the access to their husband's land if they have no children. On the other hand, orphans may be too young to inherit. Land is therefore vested in trusteeship with uncles and other male relatives, and inherited by children when they become of age. However, there were reports of uncles cheating orphans out of inheritance, sometimes exploiting the stigma attached to HIV/AIDS. Moreover, HIV/AIDS may lead to land loss as a result of distress sales, as poorer households may be forced to sell their land to pay for medical care and funerals. This may enable wealthier elites to acquire new land, with a consequent impact on the equity of the land distribution. However, the South African case study suggests that land sale is seen as a very last resort, as families prefer to divest other assets like livestock first (*Drimie, 2002*).

The impact of HIV/AIDS on land administration structures concerns the ability of these structures to respond to the new needs created by the epidemic (see for instance the decision of some customary chiefs in Lesotho not to re-allocate the under-utilised land of affected families, mentioned above) on the one hand, and the degree to which the very functioning of these structures is affected by the disease on the other. Indeed, as officers in land related institutions are affected by HIV/AIDS, the ability of these institutions to perform their duties may be impaired. However, evidence of the size of this phenomenon is extremely rare, as the stigma associated with HIV/AIDS fosters a culture of silence which prevents obtaining reliable data on HIV/AIDS-related deaths in relevant institutions (Drimie, 2002).

Given the importance of the HIV/AIDS epidemic in many African countries and the major implications this has for land tenure, land policies taking into account the specific needs of HIV/AIDS-affected households must be developed. Measures could include the liberalisation of land rental markets, so as to allow AIDS-affected households to obtain cash by renting out their land, and ensuring the representation of marginalized groups, including those affected by HIV/AIDS, in land administration institutions (Drimie, 2002). Moreover, greater attention should be paid to protecting the land rights of children, and of orphans in particular. Provisions on children's rights included in some recent land laws, such as Tanzania's Village Land Act 1999, provide encouraging signs.

5.4 Migrants

Throughout sub-Saharan Africa, migration constitutes an important source of livelihood.¹⁸ In West Africa, migration is particularly resorted to from landlocked Sahelian countries (Niger, Burkina Faso, Mali) to coastal countries (Ghana, Côte d'Ivoire), where migrants cultivate land as sharecroppers or hired labour. In Southern Africa, migration is mainly directed to urban areas or to supplying labour to white farms, industries and mines. Migration raises important land issues, particularly with regard to migrants' access to land in the area of destination and to their land rights in the area of origin. The latter may be important as fall-back position or to allow returning home in old age.

When land was abundant, migrants were often sought to help populate a village and cultivate land. Customary chiefs wanted more people settled under their control as a source of military, political and economic power. Therefore, customary land tenure systems were often structured so as to cultivate abundant land by controlling a scarce labour force. Migrants usually found a landlord, or patron, who initially lodged them, gave them access to land, and acted as the intermediary between them and the rest of village society. In return, the migrant was expected to provide help in various forms, such as labour services, and would continue to pay respect to the landlord's family with regular gifts. However, these systems are experiencing a breakdown in many parts of Africa. On the one hand, after a generation or more of settlement, many migrants are less willing to maintain such relations of dependence with their patrons, and are seeking to renegotiate their land tenure arrangements. On the other hand, with increasing land scarcity, patrons are unwilling to give up their land claims. Consequently, tensions have become apparent in several parts of Africa where significant numbers of migrant people have settled. Land which migrants think they have 'bought' is considered by indigenous populations as having been on long-term loan or lease, the term of which has reached its end (Fred-Mensah, 1999). Loans of land are transformed into rentals of shorter and shorter duration (Paré, 2001). Rates rise, as do demands for cash payments to avoid eviction (Zongo, 2001).

This context creates a tension between two principles by which land rights can be claimed. The first, embodied in customary law, emphasizes the rights derived from first clearance of land, often involving some spiritual convention with local forces. The second refers to the principle of 'land to the tiller' or '*mise en valeur*', whereby rights are obtained from putting land into use for a certain period of time. In several countries, this principle has been affirmed in government policy and legislation. These two conflicting principles are relied upon by competing groups. Indigenous inhabitants rely on the first principle, by which migrants will never accede to full rights over land and will always depend on their patrons for their secondary land rights, even where they have been farming the land for generations. Migrants, by contrast, refer to the second principle, according to which they should acquire full rights over land having cultivated a plot for a certain length of time.

¹⁸ In this section migration refers to the movement of people within the same country and across African countries. The land tenure dimension of overseas migration - e.g. to Europe or to the US - is outside the scope of this study.

However, this polarised tension between two principles, customary and statutory, is a simplification of a more complex reality. In Côte d'Ivoire, for instance, land legislation adopted in 1998 asserts that non-Ivorians cannot own land. This means that some 30% of the country's population, a considerable proportion of which has lived in the country for generations and has been the backbone of the success of the plantation sector, is excluded from land ownership.

These institutional factors disadvantaging migrants, whether customary or statutory, show how migrants may constitute a vulnerable group in terms of access to land. However, it must also be noted that migrants may also be highly successful and wealthy groups in their country of migration. In some cases, it may be the jealousy aroused by this very success that causes autochthonous groups to challenge migrants' land rights.

Addressing the land rights of migrant groups is of paramount importance for economic development and peaceful co-existence. The recent conflict in Côte d'Ivoire, which involved mass expulsion of migrants from Burkina Faso, has its root causes in issues of citizenship and access to land for the substantial portion of the population constituted by migrants from the landlocked Sahel. Similarly, citizenship and land rights underlie the longstanding conflict in the Great Lakes region (see above, section 4.1 and the box on North Kivu).

Measures that can be adopted to protect migrants' land rights include the repeal of discriminatory land legislation, where this exists, and the legal recognition and protection of contractual arrangements for accessing land (sharecropping, tenancy, formal employment, etc.).

5.5 Pastoralists

Pastoralism constitutes a major source of livelihood in rural areas, especially in dryland Africa. Because a significant proportion of the activities based on rangelands is non-monetarised, it is difficult to capture accurately the contribution of these resources to the livelihoods of the rural poor, and their importance is often underestimated in official statistics. However, livestock constitutes a valuable resource of especial relevance to poor people's livelihoods and provides a wide array of benefits, including food, fibre, fertiliser, cash, draught power and transport, savings and a buffer against crop failure. This applies to "pure" pastoralists (whose mode of production is based on mobility and natural resource exploitation), to agro-pastoralists (combining herding and farming) and to other livestock producers.

In Africa, colonial policy with respect to rangelands was based on their being seen as unoccupied. Thus, rangelands were expropriated for other uses, primarily agriculture and commercial ranching, backed by new concepts of land ownership. In Eastern and Southern Africa, controls on livestock movement and marketing were often imposed to protect the interests of settler farmers, while much pastoral lands was also lost to wildlife reserves and game parks as a result of a strong conservationist lobby. In much of West Africa, given the lack of settlers, rangelands and pastoralists were largely ignored, unless constituting a threat to colonial authority.

Post-independence, governments have engaged more substantively to try and "modernise" the pastoral livestock economy, through technical interventions and property rights reform. Much past and current debate regarding pastoral rangelands continues to make reference to Hardin's seminal article on the "Tragedy of the Commons" of 1968. The premise of Hardin's argument is that by holding land in common, individual herders have no incentive to limit the number of animals they graze on that land, and that without such limits, conditions are set for land degradation and desertification – a prediction which seemed to "come true" in the 1970s and 1980s when severe drought hit many parts of dryland Africa.

Pastoral development policies in the 1970s and 1980s were heavily influenced by these negative perceptions. Customary pastoral land rights have rarely been acknowledged, since for the government there are no clear marks of appropriation, in contrast to land that has been taken into farming. The concept of rational and productive land use (in Francophone West Africa, *mise en valeur*) has been used by government services to justify the expropriation of pastures for other more productive uses (e.g. irrigated farming, commercial ranching).

Moreover, governments and donors have sought to control rangeland degradation through the regulation of livestock numbers. The concept of carrying capacity, largely developed on the basis of North American range science,

provided the scientific basis on which planning and management decisions were made. Herders and the number of livestock they kept had to be controlled, as did their movements. They were encouraged to “modernise”, to settle down and raise fewer animals more intensively. During this period, governments with donor support experimented with State-owned ranches for research and production, and range management projects under systems of private or group tenure.¹⁹ The focus for all these initiatives was on capital investments and infrastructure (fencing, water, roads, markets), stratification of production, intensification through sedentarisation, and herd size control. Few if any of these policies contributed to sustainable rangeland management or improved pastoral livelihoods. They were western-inspired and technologically driven, seeking to control the vagaries of dryland environments rather than adapt to them (see Box below on Senegal).

Moreover, various forms of tenure individualisation, ranging from strengthened individual use rights to leases and to full fledged privatisation, have been pushed by a variety of actors, including international institutions, donors, governments, local and international elites and, in some cases, by youths eager to invest and unwilling to be constrained by customary institutions often dominated by the elderly. However, the experience of the Kenyan group ranches (see Box below) shows that privatisation tends to disproportionately affect the poor, as wealthier and well-connected elites are better placed to take advantage of tenure individualisation. Moreover, individualisation fosters land claims, thereby exacerbating natural resource conflict. Finally, in “non-equilibrium ecosystems” with scarce and erratic rainfalls, herd mobility is a vital strategy for rational herd and pasture management. In these contexts, commons enclosure and Western-style ranches hinder mobility and may be inappropriate and damage the livelihoods of pastoralists.

Controlled grazing schemes in Senegal

In the early 80's, the German GTZ collaborated with the Senegalese Forest and Water Service to create a model to test a new way of managing rangeland and herds around the borehole of Widou Thiengoli in northern Senegal. The model was based on trying to find the right balance between the number of cattle and amount of fodder available. In order to do this, the project privatised what had been common rangeland. The project provided special benefits to those few families who were allowed to use the pasture and water enclosed and protected by barbed wire fencing. But the results of this experiment had numerous negative impacts. In terms of economic benefit for the herders, it was found that the plan to sell off animals soon after weaning was not the most profitable course, and that animals which had gained advantage in good years by being able to remain within the enclosure were at a distinct disadvantage in years of poor rainfall when there was no choice but to leave the controlled rangeland behind. In years of high rainfall, insufficient trampling of forage and soils led to the disappearance of those grasses most sought after by animals. The fact of fencing some families in, and others out, of what had once been a common resource, created social tensions. Those herders who benefited from the project in good years when they could remain within the fenced areas found themselves rejected by others in the bad years when they had no choice but to cut the wire and let their animals venture out onto the common range.

Source: Thébaud et al. 1995.

Group ranches in Kenya

The Group Ranches of Kenya provide a clear illustration of an approach to collective rangeland management which had thought through neither technical nor local institutional and political dimensions of such arrangements. Set up in the 1960s, the aim had been to transform the semi-nomadic, subsistence based pastoral economy of the Maasai into a settled, market-oriented system, based on establishment of ranch areas attributed to collective ownership and management. However, the design of the group ranches failed to take into account traditional livelihood systems and social or ecological boundaries, and ignored the structure and distribution of wealth and power within Maasai society. Strategic behaviour by richer members, and the consolidation of power in the hands of the ranch management committees have together led to further sub-division and privatisation of the land, sales of land to non-Maasai, fencing off of high potential grazing resources by local elites, and marginalisation of poorer and more vulnerable members of Maasai society. By the early 1990s, most group ranches had been dissolved and privatised.

Over the past twenty years, extensive research on common property resource management and the dynamics of dryland ecosystems, coupled with the evident failure of past policies to deliver, has established an alternative

¹⁹ For example, the World Bank-funded Botswana Livestock Development Projects, Kenya Livestock Development Project, Kenya and Burkina Faso Group Ranches, Nigeria Grazing Reserves, Senegal Livestock Development Projects.

basis for the sustainable management of common pool systems.²⁰ Recent work on the dynamics of range ecology has demonstrated the importance of understanding the non-equilibrium character of plant-moisture-grazing relations. It is now widely accepted that rainfall variability is the primary driving force behind fluctuations in pasture productivity in arid and semi-arid areas, with grazing pressure rarely a significant factor, given highly mobile, seasonal patterns of resource use. Opportunistic management, allowing pastoralists rapidly to respond to changing grazing conditions and fodder availability through mobility or the opportunity to off-load or re-stock livestock, is now recognised as a key requirement for the sustainable management of rangelands in dryland areas. Ensuring periodic access by herders to strategic resources such as water, dry season grazing or livestock corridors is fundamental to such a system. In recent years, many Sahelian states have sought to clarify access and tenure rights to rangelands and other pastoral resources within the broader context of decentralisation and the devolution of management rights and responsibilities from the State to local communities.

In terms of policy and legislation, the past decade has seen a promising shift by several African governments to recognise and protect pastoralists' rights of access to natural resources, especially in West Africa. The first attempt in this direction was made by Niger's Rural Code of 1993. Moreover, various 'pastoral' laws have been passed in Guinea (1995), Mauritania (2000), Mali (2001) and Burkina Faso (2002), while Niger has just embarked on a similar process. Although the approaches taken by legislators vary considerably across countries, this legislation offers great potential to redress the mistakes of the past. While previous legislation was traditionally hostile to herd mobility, the new wave of pastoral legislation recognises mobility as the key strategy for pastoral resource management. Under Mali's Pastoral Charter, for instance, herders have a "right" to move with their herds for their production needs. In order to enable mobility, pastoral legislation seeks to protect grazing lands and cattle corridors from agricultural encroachment and to secure herders' access to strategic seasonal resources. The tools used to do so range from the delimitation of pastoral resources to innovative legal concepts like the "*terroir d'attache*" in Niger.²¹ Pastoral laws also enable and regulate multiple and sequential use of resources by different actors (e.g., herders' access to cultivated fields after harvest), and determine the role which pastoral people can play in local conflict management.

While these laws constitute a major step forward, some conceptual and practical problems remain. First, pastoral legislation has been scarcely implemented. For instance, Mali's Pastoral Charter still lacks its implementing regulations, and the institutional structure to implement Niger's Rural Code has only recently been set up. Secondly, although in some cases pastoral legislation is anchored to decentralisation (for instance, in Mali, communes are given responsibility for natural resource management), in most cases governments are unwilling to give up control over land and other natural resources, and tend to adopt a technocratic, centralised approach to the management of rangelands. This in the long term may reduce rather than increase pastoralists' security of tenure and access to key resources (water, dry season pastures). A key problem recurring in most of West African legal systems is the concept of "productive land use" (*mise en valeur*). Although some laws now recognise pastoralism as a legitimate form of land use (Mali, Niger), the concept of "*mise en valeur pastorale*" remains ill-defined, and generally involves investments in infrastructure (wells, fences, etc.) that are not required for agricultural forms of *mise en valeur*.²²

Another problem lies in the broader legal environment within which these laws have been designed. Legislation in the francophone countries of the Sahel is still largely based on the French *Code Civil*, which is a centralised legal system that seeks to define specific laws in great detail rather than devolving these powers. As a legal model it is also geared to protecting private property, rather than flexible, collective property regimes such as customary rangeland management arrangements.

Outside West Africa, "pastoral" legislation as such is very limited²³. However, in some countries norms protecting pastoral rights are embodied in general land legislation. In Tanzania, for instance, the Village Land Act 1999 provides for village lands to be allocated for communal, including pastoral, use and for the issuance of customary land rights for pastoral purposes (Alden Wily, 2003b).

²⁰ Key texts include Behnke, R. & Scoones, I. 1993; Scoones, I. 1995; Shanmugaratnam, N. et al. 1992; Thébaud, B. et al. 1995; Ostrom, E. 1990.

²¹ Under Niger's Rural Code and its implementing regulations, the "*terroir d'attache*" is the area where herders spend most of the year (usually a strategic area, like a *bas-fonds*, a water point, etc.), and over which they have priority use rights. Outsiders may gain access to these resources on the basis of negotiations with the right holders.

²² See, for instance, Niger's Decree 97-006 of 1997.

²³ Although a Pastoral Code is being drafted in Djibouti with FAO support.

Regional integration processes based on free movement of persons and goods also have implications for international transhumance. Besides the "traditional" bilateral or regional transhumance agreements (e.g. in West Africa, the CEBV and the CILSS agreements), international transhumance is increasingly regulated by instruments adopted within the context of regional integration arrangements (for instance, Decision A/DEC.5/10/98 of 1998 adopted by ECOWAS). These instruments usually require a transhumance certificate indicating number and types of animals, vaccinations received and the itinerary planned. However, notwithstanding these norms, cross-border movements are still de facto constrained by administrative practices. In West Africa, for instance, there are reports that access from landlocked countries to coastal states (e.g. Ghana and Benin) is increasingly hindered.

Important innovations have also taken place at field level. Throughout West Africa, for instance, "local conventions" (*conventions locales*) – i.e. community-based agreements concerning the management of shared natural resources, negotiated by all interested natural resource users – have been set up, usually with support from development projects. These conventions are an attempt to overcome the weaknesses of previous approaches to natural resource management focusing on individual villages (e.g. the *gestion de terroirs* approach), which often resulted in the exclusion of groups not resident in the village, particularly transhumant herders (for an example from Burkina Faso, see Box below).

Including all actors and building platforms for negotiation in Burkina Faso

Kishi Beiga is a vast pastoral zone in Oudalan province of northern Burkina Faso, and is home to several ethnic groups living in scattered villages and hamlets. The local population is joined regularly by transhumant herders from neighbouring regions. Environmental degradation in the area and extensive in-migration have largely destroyed the complementarity between agriculture and livestock production, and the two systems now compete for land. The GTZ-supported Burkina Sahel Programme (PSB) was initiated in 1991 to improve natural resource management and people's livelihoods. The project initially followed a participatory, community-based land use planning approach (*gestion des terroirs*), but found it inadequate to deal with the social and ecological complexities of the region. Transhumant pastoralists were not represented, social relations between groups were affecting project outcomes in a way that project staff were unable to understand, and the management of common-pool assets was problematic.

Activities were put 'on hold' for a year while the project approach and methodology were reviewed and a new strategy developed that focused on social groups rather than territorial units. With conflicts and rivalries simmering between almost every ethnic group in Beiga, the challenge was to create a situation in which all stakeholders would not only agree to participate in the consultative process but also to respect each other's rights to voice their needs and feelings. A consultative committee emerged, with representation from multiple villages, hamlets, and other stakeholder groups. It has been instrumental, for example, in resolving disputes over management of water pumps, which had soured relationships between the groups, and has set up a system for resolving disputes over damage to fields. Negotiating skills are the key to greater autonomy for the committee, and the expertise gained through its dealings with technical and financial partners has enabled it to mobilize resources for micro-projects on socio-economic issues and the protection of natural resources. In its first year, the committee drew up a set of rules for the use of resources such as post-harvest grazing, *bouli* (man-made water holes), salt licks, and for the protection of trees and natural water points. So-called 'outpost committees' and representatives from each hamlet are responsible for following up and enforcing regulations.

The new approach acknowledged the local tensions and rivalries and other historic origins. Successive political regimes, local power structures and land tenure policies have shaped social relationships within the region, frequently exacerbating conflicts and rivalries. The willingness of people to confront the underlying historical, social and cultural factors in current resource use and management practices was an important factor contributing to the success of the consultative process. Other factors include finding appropriate entry points for discussion, building partnerships and supporting legitimate local leaders and resource people. The PSB offers an example of good practice in an externally facilitated approach to pastoral land tenure and resource access that tries to deal with social diversity and complexity, typical of the Sahel, through establishing platforms for negotiation and consultation. Future challenges lie in strengthening the fragile cohesion between different groups, and in legally ratifying the consultative committee and management rules it has devised. At the same time, it is recognized that the success of local pilot initiatives remains critically dependent on stability within the wider socio-political environment.

Source: Banzhaf et al. 2000.

6. LAND AND URBAN-RURAL LINKS

In much of sub-Saharan Africa, rural-urban divides are bridged by diversified livelihood strategies. Many rural households crucially depend on urban incomes for their livelihoods. A clear example of this is provided by South Africa, where large numbers of male youths have migrated to towns to take up formal or informal employment; their household members remaining in the rural former homelands largely depend on remittances or state pensions for their livelihoods. This has implications for the nature of land reform programmes, whether redistribution or tenure reform, as this must take into account the livelihood strategies of rural households and whether or not the youths are willing to farm the land (James, 2001).

Another dimension of the urban-rural links concerns land issues in peri-urban areas. In much of Africa, increasing urbanisation is fostering demand for food products in towns, which in turn boosts processes of agricultural intensification and commercialisation in peri-urban areas. Many field studies from peri-urban areas have shown that subsistence food crops, largely cultivated by women, are being replaced by male-dominated food production oriented towards marketing produce in neighbouring towns. In these areas, customary land tenure is becoming increasingly individualised, informal land markets are growing, land values soar and disputes increase (see for instance Mengho, 1999 on Brazzaville, Republic of Congo; Fodouop, 1999, on Cameroon; N'Bessa, 1999, on Cotonou, Benin).

This process of change in land relations in peri-rural areas is further accelerated by urban elites (public officials, businessmen, politicians, etc.) willing to buy land mainly for speculation purposes. As land values rise, farmers may be forced or tempted to sell their land. Where land is still under customary chiefs, these may be tempted to sell off lands for housing and other developments, regardless of the views of those actually farming this land. Further from urban centres, small farmers will face increased pressures from agro-business interests seeking land to satisfy urban demand for food.

Peri-urban lands in particular are situated in the blurred zone between customary and statutory law and this confusion creates opportunities for those who are better connected and informed. The use of peri-urban land is shifting from agriculture to housing and, with increasing values of land in these areas, speculative activities are common. Urban and peri-urban areas are much more influenced by government policy, or its absence, than the countryside.

As a result of these processes, rural groups are most likely to lose control of the land as cities spread. The extent to which this urban encroachment will result in landlessness depends on how far the original occupants are able to gain compensation, with which they might either purchase new land or establish the basis for a different form of livelihood. The record on compensation has not been promising. Customary elites have tended not to pass on a share of the proceeds from land sales to their 'subjects' and governments have frequently neglected to pay out compensation for lands acquired for public purposes. Even where compensation is paid, it may be difficult to acquire new land in the neighbourhood.

Contested land in urban and peri-urban areas of Ghana

In Ghana, three major studies have been carried out on how land is managed and transacted in urban and peri-urban areas of Accra and Kumasi, the two largest urban centres in Ghana (Kasanga et al. 1995; Kasanga 1998; KNRMP various literature 1997-2001). Other work by Kotey (2001) and Abudulai (2001) confirms the impacts of land transactions on those with weak claims to land. There is a very active land market around urban centres transforming agricultural land to roads, housing, commercial and industrial buildings, schools, and clinics, which some see as 'vibrant' and others as 'ill-disciplined and chaotic'. Building often precedes the formal planning process, and it is common to see notices declaring "Stop Work", "If permit not produced by xxx (date) this building will be demolished, by order KMA (Kumasi Metropolitan Authority) (Kasanga 1998). Great tensions arise from the gains and losses made in Ghana's urban areas, as can readily be seen in Ghana's press. Communities and their traditional leaders are taking the government to court over compulsory acquisition for which there has been no compensation, or when the acquired land has subsequently been sold by the state for commercial purposes (Kotey 2001, Larbi 2000). The Land Valuation Board estimated that outstanding compensation claims had reached US\$110 million at the end of 1999.

Villagers argue that their chiefs are selling off village land to 'strangers' – builders and speculators (often civil servants, and other 'urban' elites) without consultation or compensation (Abudulai 2001, Agbenyega et al 2001). Poorer people

(women, widows and young people) claim that their family heads are benefiting from such transactions while they lose their farmlands and hence their livelihoods. Buyers also are at loggerheads with sellers over double-dealing, a common topic for Ghana's television soap operas. 'This is a volatile sector where many would-be house owners and tenants have had their fingers burned. In the absence of any legislative control over estate agencies, a number of self-styled estate agents has emerged, many of whom have succeeded in landing their unsuspecting clients in protracted land disputes and expensive litigation' (CDD, 2000). In many cases, there are protracted land disputes between different clans within peri-urban settlements (Agbenyega et al 2001, Kasanga 1998). In Kumasi, this issue has been seen as so problematic by the new Asantehene, that he has directed that all land and chieftaincy disputes should be removed from the judicial courts and heard by traditional councils. According to Kasanga, this has greatly reduced outstanding cases.

Transparency in planning new housing schemes can reduce much insecurity, and adequate compensation in cash or kind (plots of land) should be paid to 'owners' and 'users' who have to give up their livelihoods. It is important that enough space is allocated to public utilities, parks, playgrounds and peri-urban agriculture; such amenities tend to be neglected or converted into housing plots. In particular, urban and peri-urban farmers are often working under the threat of eviction, which influences their investment decisions.

Many people in urban and peri-urban areas lack secure rights to their plots which hampers investment not only in their houses but also in the provision of public services. Formalisation, however, can be a source of even greater risk if this then leads to eviction. Layout or urban planning schemes are needed and many decentralised local government bodies are setting up such projects, which also generate revenue from the sale of plots and provide a future tax base. Transparency and accountability of management is important to assure equitable access and to reduce the temptation of speculation and corruption. Whatever body (whether government or community based) is given responsibility for planning and allocation of plots, there must at the same time, be adequate checks and balances on its operation due to the enormous potential gains derived from corrupt practice.

7. LAND WITHIN THE BROADER POLICY FRAMEWORK

The land issue cannot be seen in isolation from broader agricultural, economic and institutional policy issues²⁴. Within the legal system, land relations are affected not only by land laws, but also by a variety of other bodies of norms, such as general property law, family and succession law, contract law and environmental law. Moreover, land management issues are strictly linked to broader issues of good governance, as land constitutes a valuable asset that can be used for political patronage and rent-seeking, and as reforms in land management and administration may be linked to broader decentralisation processes (see chapter 3 above). Taxation is also a policy area of great relevance to land. On the one hand, land taxation may provide central and local governments with important revenue, especially as trade liberalisation is reducing government revenues from customs duties. On the other hand, land taxation may constitute an important tool for land policy, as it may create incentives for putting land to productive use and, where land ownership is strongly concentrated, for land sales from large landowners to the land poor.

Furthermore, questions of land ownership, management and rights have significant implications for the type of agricultural development (e.g. promoting agri-business requires registered property rights, while local land rules and institutions may be more effective for small-scale family farms), as well as for the distribution of income and wealth, for the rate of economic growth, and for the incidence of poverty. Conversely, the shape and direction taken by the agricultural sector, the challenges which it faces, the forms of support it gains, and the extent to which it is integrated in the global economy affect incomes and returns from different forms of land use, the value of land, the contests to control this resource, and, ultimately, the very structure of land ownership.

Moreover, within the context of land redistribution, past experience shows that providing the landless with access to land achieves little if this is not accompanied by improved access to credit, extension and markets. This issue should therefore be addressed by the Southern African countries that are implementing land redistribution programmes. For instance, in South Africa these services have traditionally been biased towards white-owned large-scale farms.

²⁴ This section is based on Guèye, Ouédraogo and Toulmin, 2002, and on the draft "EU Land Policy Guidelines" prepared by Camilla Toulmin and Philippe Lavigne Delville with the EU Task Force on Land Tenure, March 2003.

Changing the patterns of land holding and use may also be a crucial element of broader poverty reduction strategies. However, the Poverty Reduction Strategy Papers (PRSPs) developed by many African countries over the last decade rarely identify land reform as a key instrument for poverty reduction (for an overview of land and poverty reduction in West African PRSPs, see Box below).

Land in Poverty Reduction Strategy Papers in West Africa

A total of thirteen interim Poverty Reduction Strategy Papers (PRSP) are available for countries in West and central Africa on the World Bank Website. Improving access to land for the rural poor is discussed in eight of these PRSPs, but only four actually identify priority activities. Benin and the Central African Republic refer to land only in relation to urban poverty, while Cameroon and the Gambia limit the analysis to access to forestry resources. The PRSP for Senegal does not refer at all to access to land or natural resources in relation to poverty alleviation.

For Guinea Bissau, their PRSP proposes to increase access to land for smallholders by implementing the land law as a priority activity for 2001, with FAO's support. Equally, Niger recommends the application of laws and regulations as defined in the Rural Code, as a strategy for enhancing access to land for farmers. Mauritania's PRSP highlights the need to grant titles and the development of a land market, as a spur to raising productivity. One performance indicator of this PRSP is 'the number of regularised land titles in poor districts'. Enforcing the 'land and ownership law' and the consolidation and extension of land reform programme are other priority activities.

Burkina Faso's PRSP dedicates one paragraph to the importance of land for poverty alleviation, and lists a series of possible benefits on production, income and well being for the poor through granting land titles and developing a land market. This PRSP acknowledges that application of the existing legislation (the *Réorganisation Agraire et Foncière, RAF*) is very limited, but does not identify a priority activity regarding 'land'. Guinea's PRSP observes that lack of access to land or secure land tenure, amongst other factors, are bottlenecks for private sector investment in the rural sector and in tourism. For the latter sector, a simplification of procedures for land acquisition is proposed.

Niger and Guinea are the only countries that explicitly discuss women's limited access to land in their PRSPs. Guinea suggests preferential access to land as one possible strategy and the priority activities list the reform of the code governing property and public lands and improving access to land for less-favoured and marginalised groups. Niger has not identified a specific activity to address women's situation.

Enhanced access to forests for the local population is a priority in the PRSPs of Cameroon and the Gambia. The PRSP of Cameroon lists as one of the activities the 'involvement of civil society in forestry management operations' and 'granting of the right of first refusal to neighbouring communities with respect to allocating forestry land'. Gambia identifies the transfer of management of forestry resources to local communities as a priority activity. Burkina Faso, Guinea and Mauritania have included activities to arrive at pastoral codes in their programme of priorities. Guinea Bissau, finally, hopes to publish the fisheries law as part of the PRSP, while Mauritania lists the need for a system of territorial rights for artisanal fisheries. The importance of land tenure in relation to urban poverty is discussed in five PRSPs (Benin, Central African Republic, Chad, Guinea, Mauritania). Chad's PRSP lists a series of measures such as developing urban land, equitable allocation of plots, strengthening and renewal of land tenure law, computerising property deeds and preventing property speculation as issues in relation to urban poverty, and the introduction of a government land policy consistent with traditional usages is selected as one of the priority activities. Mauritania has included the facilitation of access to real property for the urban poor and the need for a cadastre in the list of priority actions.

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Source: Guèye, Ouédraogo and Toulmin, 2002.

There are various possible reasons for this lack of attention to land in PRSPs, some of which relate to the PRSP process itself, some to weaknesses in analysing links between land tenure and questions of productivity, sustainability and equity, and some to an unwillingness to address clear trade-offs between different political objectives and constituencies.

The weaknesses of the current PRSP process are outside the scope of this study, but mainly relate to limited ownership by governments of what are seen as additional conditionalities on accessing debt relief funds, to limited buy-in from Ministries other than Economics and Finance, to essentially sectoral concerns and pressure groups driving government departments, and to a focus on macro-economics rather than on other socio-economic concern.

As for weaknesses in the analysis, the presentation of land issues in policy documents is weak and based on questionable assumptions, which have been widely discounted by social and economic researchers over the past 15 years. These assumptions include that poor people will benefit from the issuance of land titles, despite a series of well-documented studies which shows the contrary tends to be the case. In all PRSP documents, there is strong commitment to market liberalisation and the role of the private sector in generating economic growth by investing in the agricultural sector, though it is usually unclear whether poor farmers are included in the category defined as 'private sector'. Similarly, issuance of land titles is seen as essential for providing collateral to access credit, despite no evidence for this being the case.

Thus, land policies and laws need to be formulated and implemented within the broader context of a coherent and comprehensive policy and institutional environment geared towards agricultural development, food security and poverty reduction.

8. ISSUES TO BE ADDRESSED

This study has analysed some key features of recent land reform programmes in sub-Saharan Africa and some emerging issues concerning land tenure in the continent, and has identified a number of lessons from these features and issues. Such analysis has several implications for policy makers and development agencies. What follows is a brief description of some of these implications.

Adopting land policies and laws for effective, equitable and sustainable land use

While many African countries have already adopted new land policies and laws aimed at providing an enabling framework for effective, equitable and sustainable land use, many others have not yet embarked in such an enterprise. Moreover, in the countries that have started land reform processes, these processes are often incomplete, as adopted legislation may require additional laws or implementing regulations to become fully operational²⁵.

Across Africa, land policies and laws protecting the rights of all land users, devolving land management and administration responsibilities to effective, equitable and participatory decentralised institutions, ensuring an equitable distribution of land, and establishing effective land dispute resolution mechanisms are needed. The existence and perceived legitimacy of many customary/local institutions and norms, and the great diversity of the nature of land relations even within the same country have major implications for land legislators. While clearly affirming the fundamental and inderogable principles of human rights and democratic governance in land management institutions, land legislation should seek to bridge legality and legitimacy and to provide an enabling framework for effective, equitable and sustainable local practices, rather than seeking to impose a standardised and rigid, ultimately unenforceable, body of norms. In so doing, important lessons may be learned from the experience of those countries where the adoption of such policies and laws is already underway. Moreover, as to the formulation process, land laws and policies must be adopted with the meaningful civil society participation in order to effectively address the land question. Finally, the process of reviewing and formulating land policies and laws is an iterative one requiring constant monitoring and rethinking of policy orientations, approaches and tools.

Development agencies should provide support to the formulation of land policies and laws in interested African countries. This may involve a wide range of activities, such as facilitation of national and regional policy debates, support to civil society groups and alliances, capacity building in relevant governmental and non-governmental entities, technical assistance for policy formulation and legal drafting, and so on.

²⁵ For instance, Mali's Pastoral Charter quoted above (see section 5.5) is not yet operational because the implementing decree is still to be issued.

Implementing land legislation and policy

Besides developing appropriate policies and laws, it is crucial to ensure the correct implementation of these instruments in order to be able to intervene in land relations at local level. Indeed, the analysis carried out in this study has shown very serious implementation problems in a variety of policy areas. In some countries, for instance, implementation of land tenure reform has been slow due to lack of human and financial resources constraining the establishment of the new land management bodies provided for by legislation (Niger, Uganda). In Niger, after a decade since the adoption of the Rural Code, very few land titles have actually been issued by the Land Commissions, which means that a backlog of registrable rights is accumulating and that peasants seek alternative validation systems like the ones provided by customary chiefs. In Southern Africa, implementation of land redistribution and restitution programmes has been slow due to the variety of factors examined above (see chapter 2). Moreover, across Africa, while women's rights and gender equality are clearly established in national constitutions and legislation, the reality on the ground is very different, as discriminatory socio-cultural norms and practices are often entrenched within the social fabric. In yet other cases, lack of implementation of land legislation is caused by lack of awareness of these norms, especially in rural areas, and by the economic, geographical and linguistic inaccessibility of state institutions (courts, administrative bodies, etc.).

Therefore, implementation should be regarded as a key concern for land related activities. Measures may include awareness-raising campaigns to disseminate information concerning land policies and laws. This may require creative measures to overcome difficulties like high illiteracy and language barriers, such as information campaigns through rural radios. For instance, an awareness-raising campaign was launched in South Africa in 1998, with a view to disseminating information about the land restitution programme. Within a few months, this led to a considerable increase in the number of land claims lodged, from 25,000 to nearly 70,000 (Mngxitama, 1999).

Constraints on the implementation of land policies and laws also depend upon putting in place effective and efficient land institutions. Where legislation requires the establishment of a large number of new institutions, for instance, implementation may be constrained by lack of human and financial resources to set up these bodies and by problems concerning the perceived legitimacy of such bodies compared to existing customary/local institutions. Building on existing structures, whether customary authorities, community-based institutions, local governments or other bodies, may be less costly and more effective where such institutions are solid and considered as legitimate by the local population. Where customary authorities are relied upon for land related responsibilities, attention should be paid to ensuring their inclusiveness, particularly with regard to groups that are traditionally not represented within them (e.g. women).

Reassessing mechanisms for land redistribution

Where land ownership is highly concentrated, as in Southern Africa, promoting equitable access to land is crucial for social justice, political stability, rural development and peaceful co-existence. This requires speedy and effective implementation of the land reform programmes started in Southern African countries, which are taking far too long. At the same time, it requires a systematic assessment of the appropriateness of the mechanisms used in those programmes, particularly with regard to the ability of the different market-based models to effectively change the land distribution and to benefit the poorest of the poor (see above, chapter 2).

Putting land in a broader picture

Changing and regulating land relations takes more than reforming land laws and policies. It requires a comprehensive development strategy involving legal reform in areas other than land (property, contract, family, and succession law), and concerted policy formulation in all areas relating to agriculture, rural development and food security (access to credit, training and extension; marketing and trade; etc.). Addressing the land question should also be properly integrated into Poverty Reduction Strategy Papers as a fundamental tool for poverty reduction (see above, chapter 7).

Understanding the political dynamics of policy processes

Although in recent years some research has specifically investigated the processes of land policy formulation (e.g. Keeley and Scoones, 2003), understanding of these processes remains limited. Indeed, the attention of research has tended to focus on the "technical" issues concerning land tenure systems, while much less attention has been paid to the processes through which those systems are designed. Research findings and ensuing recommendations are

then submitted to decision-makers, often with the naive assumption that “rational”, “benevolent” policy-makers would put them into practice.

However, land constitutes a major political asset in most African countries. State control over land enables rent-seeking by public officials and political patronage by politicians. The choice of institutional structure through which land rights are to be managed has major implications for the distribution of power within society, and many countries have experienced longstanding tensions between governments and customary structures regarding control over land²⁶. Different land user groups, often having very different social bargaining power (see e.g. the marginalized position of pastoralists vis-à-vis farmers, and of both groups vis-à-vis urban elites, in most African countries), compete for scarce land resources through a variety of channels, including political patronage and allegiance. African governments are often under pressure from foreign investors to establish investor-friendly legal and policy frameworks. International donors and development agencies also influence policy processes in developing countries through conditionalities attached to their financial assistance. As a result of all these forces, decisions concerning the formulation and implementation of land policies and laws are likely to be affected by political considerations more than by research output. Therefore, agencies working on land issues in Africa should seek to understand these political processes and take them into account in their activities.

Strengthening civil society organisations

Civil society groups such as non-governmental and community-based organisations, centres of expertise and peasant associations can play a vital role in debates over the formulation of policies as well as in the dissemination of knowledge and information to support their implementation. An example is provided by the role played by the Land Campaign in Mozambique. Exchange of experience through networks of civil society organisations can also promote the development of effective, equitable and sustainable land policies. Several such networks have been established in sub-Saharan Africa in recent years, such as the LandNet network in East and West Africa (see Box below).

Networking on land issues in Africa: the case of LandNet

LandNet constitutes an interesting experience of networking on land policy issues. It was established following the 1999 Sunningdale workshop (UK) organised by DFID (“Land Rights and Sustainable Development in sub-Saharan Africa”), where African participants expressed the desire to establish an African network of experts on land issues. In 2000, a workshop in Addis Ababa launched LandNet Africa. The aim of the network is “to build an enabling environment for the formulation and implementation of people-centred land policies, laws and structures necessary for the eradication of poverty and the promotion for sustainable livelihoods in Africa”. LandNet Africa is coordinated by OSSREA (Organisation for Social Science Research in Eastern and Southern Africa, based in Ethiopia). At the workshop, it was agreed to proceed by sub-region, so as to establish sub-regional networks for West Africa, East Africa, Horn of Africa and Southern Africa. Since then, LandNet West and East Africa as well as LandNet networks for a range of East and West African countries have been set up. These networks provide fora for discussion, dissemination of information and exchange of experience on land tenure issues in sub-Saharan Africa. Their activities specifically seek to reach and engage with policy makers, so as to provide support to the conceptualisation, design and implementation of land policies.

Strengthening the capacity of civil society organisations to engage in policy debates, and therefore their social bargaining power, is a crucial step to intervene on the land question in Africa, particularly in the light of the considerations about the political dynamics of policy processes outlined in the section above. In many African countries, especially the poorest ones lacking a strong democratic tradition, policy debates are dominated by government officials and economic elites due to substantial gaps in education, information, income and wealth. Addressing this imbalance (through training and other forms of capacity building, through support to civil society groups and alliances, etc.), and finding ways to give real voice to people whose views may not be well formulated and are usually not listened to, are necessary steps to achieve meaningful and equitable participation of all stakeholders in policy debates. This process is bound to take time and to involve commitment and creativity, but is indispensable to design and implement policies that can really bring about change and effective, equitable, participatory and sustainable land tenure systems.

²⁶ Indeed, many governments have removed land management powers from customary chiefs in a deliberate attempt to break their power in rural areas.

Identifying areas for further research

Tackling the key issues identified above requires addressing knowledge gaps at two levels:

- Gaps in available knowledge, which require further research;
- Gaps in the dissemination of knowledge into policy circles.

An example of the latter is the widespread influence still exerted by the “tragedy of the commons” argument in policy debates despite extensive research carried out in the 1990s, which has demonstrated the economic and environmental rationality of pastoral systems in dry areas like the Sahel (see above, section 5.5). This requires efforts to raise awareness, inform and build understanding among policy-makers, development practitioners and civil society. For instance, training modules and radio programmes may be developed, based on research findings.

As for the former, key areas requiring further research include:

- Analysing the implementation and impact of the land policies and laws recently adopted by many African countries, so as to learn lessons for land policy design and implementation in Africa. Within this context, key research questions include: can land registration benefit the rural poor, and if so, under what conditions? What are the advantages and disadvantages of the different models of decentralised land titling and administration? What other mechanisms can be used effectively to increase tenure security for African farmers? What institutions and processes are needed for, and best suited to, proper implementation? What are the advantages and disadvantages of granting powers and responsibilities to statutory or to customary authorities, and what mechanisms can be developed to ensure their inclusiveness as well as effective cooperation between them?
- Reassessing mechanisms for speedy and effective land redistribution benefiting the rural poor. Are market-based mechanisms able to deliver land redistribution and to reach the poorest of the poor? What synergies may be created between market-, taxation- and expropriation-based mechanisms? This analysis may be undertaken not only with regard to Southern Africa, but also to other regions having longstanding experience with land redistribution programmes, particularly Latin America and South and East Asia.
- Increasing understanding of the link between land and conflict. Key research themes include: under what circumstances may competition over land degenerate into conflict? What is the impact of armed conflict on land rights? What mechanisms and institutions may be used effectively to prevent and solve land conflict? How to address the land issues relating to mass displacement (return, resettlement, etc.)?
- Analysing mechanisms to integrate land into broader development strategies. Research questions include: what is the role that land policy plays in poverty reduction, and what tools may be used to ensure coherence between tenure reform and measures proposed by a national Poverty Reduction Strategy? How to achieve coherence between land tenure policies and broader agricultural development strategies? How does decentralised land management fit into broader decentralisation processes? What are the advantages and constraints of specific policy tools like land taxation?
- Studying the political dynamics underlying land policy processes, so as to devise more effective mechanisms to channel research findings into policy debates. Research questions include: who are the different interest groups and stakeholders relating to land, and what “voice” can they raise in policy debates? Who is driving the land policy agenda? What lessons can be learned from recent experience with consultation processes for the drafting of new land legislation (e.g. Mali, Mozambique, etc.)?
- Finally, as many African countries are liberalising their economies and opening up their markets to outside investment, greater understanding is needed of the relationship between these processes and land tenure. How will greater integration into world markets and increased marketability of land transform the nature of property rights and their distribution? Will globalisation of agricultural production generate a systematic bias in favour of certain groups and types of producer? Is there a trade-off between faster agricultural growth and equity, and how might government policy address such a trade-off?

REFERENCES

- Abudulai, S., 2002, Land rights, land use dynamics and policy in peri-urban Tamale in Toulmin, Lavigne Delville and Traoré (eds) *The Dynamics of Resource Tenure in West Africa*. IIED/James Currey/Heinemann, London/Oxford/Portsmouth (N.H).
- ACTN, 2000, "Présentation, structuration, couverture géographique. Secrétariat Association des Chefs Traditionnels du Niger", Niamey.
- Adams, M., 1995, "Land Reform: New Seeds on Old Ground?", *ODI Natural Resource Perspectives*, No. 6, October.
- Adams, M., Cousins, B., and Manona, S., 1999, *Land Tenure and Economic Development in Rural South Africa: Constraints and Opportunities*, London, ODI, Working Paper 125.
- Adomako-Sarfoh, J., 1973, "The effects of the expulsion of migrant workers on Ghana's economy, with particular reference to the cocoa industry".
- Agyenyega, O. Kasanga, K. Longbottom, J. Oppong Nkrumah, K., 2001, The Role of Institutions in Mediating Access to Land in Peri-Urban Kumasi. Phase 2 report of "Further knowledge of livelihoods affected by urban transition, Kumasi, Ghana". University of Birmingham.
- Agyemang, 1996, The leaf gatherers of Kwapanin, Ghana. *Forest Participation Series No. 1*, IIED, London.
- Ainslie, A., 1998, *Wading in: The Realities of Land Tenure Reform in the Communal Areas of the Eastern Cape Province, South Africa*, paper presented at the 7th Conference of the IASCP, June, Vancouver, Canada.
- Alden Wily, L., 2000, "Land Tenure Reform and the Balance of Power in Eastern and Southern Africa", *ODI Natural Resource Perspectives*, No. 58, June.
- Alden Wily, L., 2001, *Making woodland management more democratic: Cases from Eastern and Southern Africa*. Drylands Issue Paper 99, IIED, London.
- Alden Wily, L., 2003, *Governance and Land Relations: A Review of Decentralisation of Land Administration and Management in Africa*, Land Tenure and Resource Access Series, Drylands Programme, IIED, London.
- Alden Wily, L., 2003b, *Community-based Land Tenure Management: Questions and Answers about Tanzania's new Village Land Act, 1999*. Drylands Issue Paper 120, IIED, London.
- Amanor, K. S., 1994, *The New Frontier: farmers' response to land degradation*, Zed Books, London.
- Amanor, K. S., 2001, *Share Contracts in the Oil Palm and Citrus Belt of Ghana*, IIED, London
- Amanor, K.S., 1996, Managing trees in the farming system: the perspective of farmers, Forestry Department, Accra.
- Amanor, K.S., 1999, *Global restructuring and Land Rights in Ghana*. Research report 108. Nordiska Afrikainstitutet.
- Atwood, D.A., 1990, "Land Registration in Africa: The Impact on Agricultural Production", *World Development*, Vol. 18, No. 5, pp. 659-671.
- Augustinus, C., 2003, "Comparative Analysis of Land Administration Systems – Africa Regional Paper".
- Ayee, J., 1996, The measurement of decentralization: the Ghanaian experience. *African Affairs* Vol 95: issue 378 pp31-50
- Bakang J. A. and C. J. Garforth, 1998, "Property Rights and Renewable Natural Resources Degradation in North-Western Ghana" *Journal of International Development* (10): 501-514
- Baland, J.M., and Platteau, J.P., 1996, *Halting Degradation of Natural Resources: Is there a Role for Rural Communities?* Oxford, Clarendon Press, and Rome, FAO.
- Barlow, G.R., and Nieuwoudt, W.L., 1995, "Factors Influencing Soil Conservation Effort and Adoption on Commercial Farms in KwaZulu-Natal", *Agrekon*, Vol. 24, No. 3, pp. 101-108.
- Barlow, G.R., Nieuwoudt, W.L., and Levin, J.B., 1995, "Factors Influencing the Adoption of Soil Conservation Practices on Commercial Farms in KwaZulu-Natal", *Agrekon*, Vol. 34, No. 3, pp. 90-100.
- Banzhaf, M., Drabo, B., and Grell, H., 2000, *From Conflict to Consensus: Towards Joint Management of Natural Resources by Pastoralists and Agro-Pastoralists in the Zone of Kishi Beiga, Burkina Faso*, IIED and SOS Sahel, London, Securing the Commons Series No. 3.
- Barrow, E.G.C., 1996, *The Drylands of Africa – Local Participation in Tree Management*, Nairobi, Initiatives Publishers.
- Barrows, R., and Roth, M., 1990, "Land Tenure and Investment in African Agriculture: Theory and Evidence", *Journal of Modern African Studies*, Vol. 28, No. 2, pp. 265-297.
- Bassett, T.J., 1991, 'Migration et féminisation de l'agriculture dans le Nord de la Côte d'Ivoire', in F. Gendreau et al. (eds), *Les Spectres de Malthus*, EDI, Paris.
- Basseyla, D., 1988, *Regimes fonciers coutumiers et développement agricole et rural en République Populaire du Congo*, in L. Dimomfu (ed), *Problèmes fonciers et politiques agricoles en Afrique centrale*, Kinshasa, CERDAS
- Bates, R., 1981, *Markets and States in Tropical Africa*, Berkeley and Los Angeles, University of California Press.
- Batterbury, SPJ, Warren, A and Waughray, D., 1996, Social and environmental relationships, land use and land degradation in south-western Niger. Final report to the ESRC Global Environmental Change Programme.

- Batterbury, S., Osbahr, H., and Warren, A., 2001, "Soil Erosion in the West African Sahel: A Review and an Application of a "Local Political Ecology" Approach in South West Niger", *Global Environmental Change*, Vol. 11, pp. 79-95.
- Bayart, J.F., 1993, *The State in Africa: The Politics of the Belly*, London and New York, Longman.
- Behnke, R.H., and Scoones, I., 1992, *Rethinking Range Ecology: Implications for Rangeland Management in Africa*, Drylands Issue Paper 33, IIED/ODI, London.
- Behnke R. H., Scoones I., Kerwen C., (ed.), 1993, *Range Ecology at Disequilibrium, New Models of Natural Viability and Pastoral Adaptation in African Savannas*, ODI/IIED/Commonwealth Secretariat, 248 p.
- Benneh, G., 1975, Communal land tenure and the problem of transforming traditional agriculture in Ghana. *Journal of Administration Overseas* xv(1), 26-33.
- Benneh, G., 1996, Toward Sustainable Smallholder Agriculture in Sub-Saharan Africa,
- Benneh, G., Kasanga, K., and Amoyaw, D., 1996, 'Land tenure and women's access to agricultural land: a case study of three selected districts in Ghana', Unpublished paper.
- Bennett, T.W., 1985, *The Application of Customary Law in Southern Africa – The Conflict of Personal Laws*, Cape Town – Wetton – Johannesburg, Juta & Co.
- Bernstein, H., 1990, "Agricultural «Modernisation» and the Era of Structural Adjustment: Observations on Sub-Saharan Africa", *Journal of Peasant Studies*, Vol. 18, No. 1, pp. 3-35.
- Bernstein, H., 1996, "South Africa's Agrarian Question: Extreme and Exceptional?" *Journal of Peasant Studies*, Vol. 23, No. 2/3, pp. 1-52.
- Bernstein, H., 1998, "Social Change in the South African Countryside? Land and Production, Poverty and Power", *Journal of Peasant Studies*, Vol. 25, No. 4, pp. 1-32.
- Bernstein, H., and Woodhouse, P., 2000, *Whose Environments? Whose Livelihoods?*, in P. Woodhouse, H. Bernstein and D. Hulme (eds), *African Enclosures? The Social Dynamics of Wetlands in Drylands*, Oxford, James Currey, pp. 195-214.
- Berry, S., 1988, *Concentration without Privatization? Some Consequences of Changing Patterns of Rural Land Control in Africa*, in R.E. Downs and S.P. Reyna (eds), *Land and Society in Contemporary Africa*, Hanover and London, University Press of New England, pp. 53-75.
- Berry, S., 1993, *No Condition is Permanent – The Social Dynamics of Agrarian Change in Sub-Saharan Africa*, Madison, University of Wisconsin Press.
- Berry, S., 1997, Tomatoes, land and hearsay: Property and history in Asante in the time of structural adjustment. *World Development*, Vol 25, No.8 pp1225-1241
- Besley, Y., 1995, "Property Rights and Investment Incentives: Theory and Evidence from Ghana", *Journal of Political Economy*, Vol. 103(5), 903-937.
- Blowfield, M., 1995, 'Labour strategies among smallholders producing perennial tree crops in Ghana and Indonesia', *NRI Socio-Economic Series*, No. 9. Natural Resources Institute, Chatham
- Bohrer, K., and Hobbs, M., 1996, *Post-Praia progress towards tenure security and decentralization: a review of CILSS-member country legislative reforms*, Land Tenure Center, Madison, Wisconsin.
- Bortel-Doku, E., 2002, Behind the norms: Women's access to land resources in Ghana. Toulmin, Lavigne Delville and Traoré (eds) *The Dynamics of Resource Tenure in West Africa*. IIED/James Currey/Heinemann, London/Oxford/Portsmouth (N.H).
- Boserup, E., 1965, *The Conditions of Agricultural Growth – The Economics of Agrarian Change under Population Pressure*, London, Allen & Unwin.
- Bromley, D., and Cernea, M., 1989, *The Management of Common Property Natural Resources – Some Conceptual and Operational Fallacies*, Washington D.C., World Bank, Discussion Paper No. 57.
- Bruce, J.W., 1988, *A Perspective on Indigenous Land Tenure Systems and Land Concentration*, in R.E. Downs and S.P. Reyna (eds), *Land and Society in Contemporary Africa*, Hanover and London, University Press of New England, pp. 23-52.
- Bruce, J.W., 1993, *Do Indigenous Tenure Systems Constrain Agricultural Development?*, in T.J. Bassett and D.E. Crummey (eds), *Land in African Agrarian Systems*, Madison, University of Wisconsin Press, pp. 35-56.
- Bruce, J.W., and Migot-Adholla, S.E., (eds), 1994, *Searching for Land Tenure Security in Africa*, Kendall/Hunt Publishing Company, Dubuque, Iowa.
- Bruce, J.W., 2000, "African Tenure Models at the Turn of the Century: Individual Property Models and Common Property Models", *Land Reform, Land Settlement and Cooperatives*, Rome: FAO, Vol. 1, pp. 16-27.
- Carter, M., and May, J., 1999, "Poverty, Livelihood and Class in Rural South Africa", *World Development*, Vol. 27, No. 1, pp. 1-20.
- CDD, 2000, Corruption and other constraints on the land market and land administration in Ghana: a preliminary investigation. *CDD Ghana Research Papers* No.4. Center for Democracy and Development, Accra
- Chaléard, J.L., 1994, 'L'essor du vivrier marchand: un contre-moèle aux marges du moèle ivoirien', Paper presented at GIDIS-CI/ORSTOM colloque on *Crise, ajustements*
- Chanock, M., 1985, *Law, Custom and Social Order – The Colonial Experience in Malawi and Zambia*, Cambridge, Cambridge University Press.
- Classens, A., 2000a, *South African Proposals for Tenure Reform: The Draft Land Rights Bill*, in C. Toulmin and J.

- Quan (eds), *Evolving Land Rights, Tenure and Policy in Sub-Saharan Africa*, London, DFID/IIED/NRI, pp. 247-166.
- Classens, A., 2000b, *Land Rights and Local Decision Making Processes: Proposals for Tenure Reform*, in B. Cousins (ed), *At the Crossroads: Land and Agrarian Reform in South Africa into the 21st Century*, Braamfontein, National Land Committee, pp. 129-142.
- Chauveau et al., 1998, "La logique des systèmes coutumiers" in Lavigne Delville, P. (ed) *Quelles politiques foncières pour l'Afrique rurale*. Karthala – Coopération Française, Paris
- Chauveau, J-P. and Léonard, E., 1995, 'Côte d'Ivoire's pioneer fronts: historical and political determinants of the spread of cocoa cultivation', in W. G. Clarence-Smith (ed), *Cocoa Pioneer Fronts since 1800*, Macmillan, London.
- Chauveau, J-P., 1995a, 'Land pressure, farm household life cycles and economic crisis in a cocoa-farming village (Côte d'Ivoire)', in F. Ruf and P.S. Siswoputranto (eds), *Cocoa Cycles: the economics of cocoa supply*, Woodhead Publishing Ltd., Cambridge
- CIRAD/SAR, 1996, *Evaluation de l'opération pilote de Plan Foncier Rural*. World Bank/République de Côte d'Ivoire.
- Cleaver, F., 2002, "Reinventing Institutions: Bricolage and the Social Embeddedness of Natural Resource Management", in T. Benjaminsen and C. Lund, *Securing Land Rights in Africa*, London, Frank Cass, pp. 11-30.
- Cline-Cole, R., 1997, 'Promoting (anti-)social forestry in northern Nigeria?', *Review of African Political Economy*, 74: 515-536.
- Coldham, S., 1978a, "Land Control in Kenya", *Journal of African Law*, Vol. 22, No. 1, pp. 63-77.
- Coldham, S., 1978b, "The Effect of Registration of Title upon Customary Land Rights in Kenya", *Journal of African Law*, Vol. 22, No.2, pp. 91-111.
- Comaroff, J., and Roberts, S., 1981, *Rules and Processes – The Cultural Logic of Dispute in an African Context*, Chicago, University of Chicago Press.
- Cotula, L., 2002, *Gender and Law: Women's Rights in Agriculture*, Rome, FAO, Legislative Study No. 76.
- Cour J-M. 2001, The Sahel in West Africa: countries in transition to a full market economy. *Global Environmental Change* 11 (1) p31-48
- Cour, J-M., 1995, *The challenges of urbanization in countries in settlement transition*, OECD/Club du Sahel, Paris.
- Cousins, B., 1996, "Livestock Production and Common Property Struggles in South Africa's Agrarian Reform", *Journal of Peasant Studies*, Vol. 23, No. 2-3, pp. 166-208.
- Cousins, B., 1997, "How Do Rights Become Real? Formal and Informal Institutions in South Africa's Land Reform", *IDS Bulletin*, Vol. 28, No. 4, pp. 59-68.
- Cousins, B., 2000, *Does Land and Agrarian Reform have a Future and If So, Who Will Benefit?*, in B. Cousins (ed), *At the Crossroads: Land and Agrarian Reform in South Africa into the 21st Century*, Braamfontein, National Land Committee, pp. 1-8.
- Crook R., 1996, "Winning Coalitions and Ethno-regional politics: the failure of the opposition in the 1990 and 1995 elections in Côte d'Ivoire", *African Affairs*, 96 p215-242
- d'Aquino, P., 1998, "Quels choix foncières en zone agropastorale sahélienne? – Le cas du nord du Burkina Faso", *Revue Tiers Monde*, vol. XXXIX, no. 153, 175-188.
- Dagou, P., 1988, *Production et politique agricoles au Tchad*, in L. Dimomfu (ed), *Problèmes foncières et politiques agricoles en Afrique centrale*, Kinshasa, CERDAS
- David, R. (ed), 1995, *Changing Places? Women, resource management and migration in the Sahel*, SOS Sahel UK, London.
- de Brujin, M.E., and van Dijk, H.J.W.M., 1999, "Insecurity and Pastoral Development in the Sahel", *Development and Change*, Vol. 30, pp. 115-139.
- de Janvry, A., Platteau, J.F., Gordillo, G., and Sadoulet, E., 2001, *Access to Land and Land Policy Reforms*, in A. De Janvry, J.F. Platteau, G. Gordillo, and E. Sadoulet (eds), *Access to Land, Rural Poverty, and Public Action*, Oxford, Oxford University Press, pp. 1-26.
- de Leener, P., 1999, Planification locale, développement local, gestion de l'environnement et décentralisation: des plans d'action locaux comme instrument d'apprentissage pour une démocratie local imaginative? Bamako: PNAE/CID.
- De Wit, 2001, *Legality and Legitimacy: A Study on Access to Land, Pasture and Water*, FAO, Rome, June.
- de Zeeuw, F., 1997, "Borrowing of Land, Security of Tenure and Sustainable Land Use in Burkina Faso", *Development and Change*, 28, 583-595.
- Deininger, K., 1999, "Making Negotiated Land Reform Work: Initial Experience from Colombia, Brazil and South Africa", *World Development*, Vol. 24(7), pp. 651-672.
- Deininger, K and Squire, L., 1998, "New ways of looking at old issues: inequality and growth" *Journal of Development Economics* Vol. 57: 259-287
- Deininger, K., and Binswanger, H., 1998, *The Evolution of the World Bank's Land Policy*, Washington D.C., World Bank (re-published in A. de Janvry, J.F. Platteau, G. Gordillo and E. Sadoulet (eds), 2001, *Access to Land, Rural Poverty, and Public Action*, Oxford, Oxford University Press, pp.406-440).
- Deininger, K., and Feder, G., 1998, *Land Institutions and Land Markets*, Washington D.C., World Bank, WPS 2014 (also to be published as a chapter in B. Gardner and G. Rausser (eds), *Handbook of Agricultural Economics*, forthcoming).

- Deininger, K., and May, J., 2000, *Can There Be Growth with Equity? An Initial Assessment of Land Reform in South Africa*, Washington D.C., World Bank, Policy Research Working Paper 2451.
- Dème, Y., 1998, *Natural resource management by local associations in the Kelka region of Mali*. Drylands Issue Paper 74, IIED, London
- Department of Land Affairs (DLA), Republic of South Africa, 1997, *White Paper on South African Land Policy*, Pretoria, Department of Land Affairs.
- Devas, N et al., 2001, *Urban Governance and Poverty: lessons from a study of 10 cities in the south*. IDD, University of Birmingham
- Dey, J., 1981, Gambian women: unequal partners in rice development projects? *Journal of development studies*, 17 (3) 109-122.
- Drimie, S., 2002, *The Impact of HIV/AIDS on Land: Case Studies from Kenya, Lesotho and South Africa*, Synthesis report prepared for the Southern African Regional Office of the Food and Agricultural Organization of the United Nations, FAO, August.
- Edja, H., 2001, *Land rights under pressure: Access to resources in Southern Benin*, IIED, London
- Egbe, E.S., 2000, "The Concept of Community Forestry under Cameroonian Law", *African Journal of International and Comparative Law*, Vol. 12(2), 276-301.
- Ekoko, F., 2000, "Balancing Politics, Economics and Conservation: The Case of the Cameroon Forestry Law Reform", *Development and Change*, 31, 131-154.
- Elbow, K., et al, 1996, *Country profiles of land tenure: West Africa*, Land Tenure Center, Madison, Wisconsin.
- Engberg-Pedersen, L., 1995, *Creating local democratic politics from above: the "Gestion des Terroirs" approach in Burkina Faso*. Drylands Issue Paper 54, IIED, London.
- Falloux, F., and Rochegude, A., 1988, *Land Tenure as a Tool for Rational Resource Management*, in F. Falloux and A. Mukendi (eds), *Desertification Control and Renewable Resource Management in the Sahelian and Sudanian Zones of West Africa*, Washington D.C., World Bank, pp. 10-27.
- FAO, 2002, *Law and sustainable development since Rio: Legal trends in agriculture and natural resource management*, Rome, FAO, Legislative Study No.73.
- Faure, A., 1992, *Private land ownership in rural Burkina Faso*. Drylands Issue Paper 59, IIED, London
- Faure, A., 1998, *Delimitation de terroirs – Bilan synthétique à partir des exemples burkinabe*, in P. Lavigne Delville (ed), *Quelles politiques foncières pour l'Afrique rurale?*, Paris, Karthala, 497-503.
- Feckoua, L.L., 2000, "Colonisation, coopération et conflits – Géopolitique de l'eau en Afrique subsaharienne", *Presence Africaine*, No. 161-162, pp.75-103.
- Feder, G., Onchan, T., Chamlamwong, Y., and Hongladarom, C., 1988, *Land Policies and Farm Productivity in Thailand*, Baltimore (MD), John Hopkins University Press.
- Feder, G., and Nishio, A., 1999, "The Benefits of Land Registration and Titling: Economic and Social Perspectives", *Land Use Policy*, Vol. 15, No. 1, pp. 25-43.
- Firmin-Sellers, K., 1996, *The Transformation of Property Rights in the Gold Coast*, Cambridge University Press, Cambridge.
- Firmin-Sellers, K., and Sellers, P., 1999, "Expected Failures and Unexpected Successes of Land Titling in Africa", *World Development*, Vol. 27(7), 1115-1128.
- Fleuret, A., 1988, *Some Consequences of Tenure and Agrarian Reform in Taita, Kenya*, in R.E. Downs and S.P. Reyna (eds), *Land and Society in Contemporary Africa*, Hanover and London, University Press of New England, pp. 136-158.
- Fodouop, K., 1999, "Demande urbaine et évolution de l'agriculture vivrière et maraîchère dans le sud du Cameroun", *Cahiers d'Outre-Mer*, 52(207), 293-322.
- Francis, P., 1984, "For the use and common benefit of all Nigerians: consequences of the 1978 Land Nationalisation". *Africa* 54(3) p5-28
- Francis, E., 2000, *Making a Living – Changing Livelihoods in Rural Africa*, London and New York, Routledge.
- Fratkin, E., 1994, "Pastoral Land Tenure in Kenya: Maasai, Samburu, Boran, and Rendille Experiences, 1950-1990", *Nomadic Peoples*, Vol. 34-35, pp. 55-68.
- Fred-Mensah, B. K., 1999, "Capturing Ambiguities: Communal Conflict Management Alternative in Ghana" *World Development* Vol. 27 (6): 951-965.
- Freidberg, S., 2001, "Gardening on the edge: the social conditions of unsustainability on an African urban periphery" [Bobo Dioulassou, Burkina Faso]. *Annals of the Association of American Geographers*. Vol 91. No.2
- Freudenberger, M., 1993, *Land Tenure, Local Institutions and Natural Resource Management in Senegal*, Land Tenure Center, Madison, Wisconsin
- Galaty, J.G., 1992, "«The Land is Yours»: Social and Economic Factors in the Privatization, Sub-Division and Sale of Maasai Ranches", *Nomadic Peoples*, Vol. 30, pp. 26-40.
- Galaty, J.G., 1994, "Ha(l)ving Land in Common: The Subdivision of Maasai Group Ranches in Kenya", *Nomadic Peoples*, Vol. 34/35, pp. 109-122.
- Galaty, J.G., 1999, "Grounding Pastoralists: Law, Politics, and Dispossession in East Africa", *Nomadic Peoples*, Vol. 3(NS), Issue 2, pp. 56-71.
- Gassiat-Sanguinet, A., 1993, "Quel avenir pour l'arachide en Haute-Guinée? Les conséquences des interventions sur la production et la commercialisation d'une culture de rente", *Cahiers d'Outre-Mer*, 46(183), 273-295.
- Gavian, S., and Fafchamps, M., 1996, "Land Tenure and Allocative Efficiency in Niger", *American Journal of Agricultural Economics*, Vol. 78, pp. 460-471.

- Giles-Vernick, T., 1999, "Leaving a Person Behind: History, Personhood and Struggles over Forest Resources in the Sangha Basin of Equatorial Africa", *International Journal of African Historical Studies*, 32(2-3), 311-338.
- Gilfillan, D., 2001, *Poverty Alleviation, Economic Advancement and the Need for Tenure Reform in Rural Areas in South Africa*, paper presented at the SARP conference on Land Reform and Poverty Alleviation in Southern Africa, Pretoria, 4-5 June.
- Gluckman, M., 1969, *Property Rights and Status in African Traditional Law*, in M. Gluckman (ed), *Ideas and Procedures in African Customary Law*, Oxford, Oxford University Press, pp. 252 et seq.
- Graham, O., 1988, *Enclosure of the East African Rangelands: recent Trends and Their Impact*, London, ODI, Pastoral Development Network Paper No. 25a.
- Gravier, M., 1996, "Nomadisme et sédentarisation au Tagant (Mauritanie)", *Cahiers d'Outre-Mer*, 49(195), 227-243.
- Gray, L.C., and Kevane, M., 2001, "Evolving Land Rights and Agricultural Intensification in South-western Burkina Faso", *World Development*, 29(4), 573-587.
- Green, J. K., 1987, "Evaluating the impact of consolidation of holdings, individualisation of tenure, and registration of title: lessons from Kenya" *Land Tenure Center Paper 129*, University of Wisconsin Press, Madison.
- Grisoni Niaki, J.-C., 2000, "Dynamiques foncières et immobilières, explosion urbaine à Cotonou (1980-1990)", *Cahiers d'Outre-Mer*, 53(211), 231-252.
- Guyer, J., 1997, *An African Niche Economy: farming to feed Ibadan 1968-88*, Edinburgh University Press, Edinburgh.
- Gyasi, E.A., 1994, 'The adaptability of African communal land tenure to economic opportunity: the example of land acquisition for oil palm farming in Ghana', *Africa*, 64(3): 391-405.
- Habib, A., and Padayachee, V., 2000, "Economic Policy and Power Relations in South Africa's Transition to Democracy", *World Development*, Vol. 28, No. 2, pp. 245-263.
- Hall, R., 1998, "Design for Equity: Linking Policy with Objectives in South Africa's Land Reform", *Review of African Political Economy*, No. 77, pp. 541-462.
- Hall, R., Jacobs, P. and Lahiff, E., 2003, "Evaluating Land and Agrarian Reform in South Africa – Final Report", University of Western Cape, PLAAS, Occasional Paper 10.
- Hammel, R., 2001, *Securing land for herders in Niger*. Drylands Issue Paper 102, IIED, London.
- Hardin, G., 1968, "The Tragedy of the Commons", *Science*, Vol. 162, 13 December, pp. 1243-1248.
- Hart, K., 1982, *The Political Economy of West African Agriculture*, Cambridge University Press, Cambridge.
- Haugerud, A., 1989, "Land Tenure and Agrarian Change in Kenya", *Africa*, Vol. 59, pp. 61-89.
- Hayes, J., Roth, M., & Zepeda, L., 1997, "Tenure Security, Investment and Productivity in Gambian Agriculture: A Generalized Probit Analysis", *American Journal of Agricultural Economics*, 79, 369-382.
- Hazell, P., and Lutz, E., 1998, *Integrating Environmental and Sustainability Concerns into Rural Development Policies*, in E. Lutz (ed), with H. Binswanger, P. Hazell and A. McCalla, *Agriculture and the Environment – Perspectives on Sustainable Rural Development*, Washington D.C., World Bank, pp. 9-21.
- Heyer, J., and Waweru, J., 1976, *The Development of the Small Farm Areas*, in J. Heyer, J. Maitha and W. Senga (eds), *Agricultural Development in Kenya: An Economic Assessment*, Nairobi, Oxford University Press, pp. 187-221.
- Hesse, C and P. Trench, 2000, "Who's managing the commons? Inclusive management for a sustainable future" *Securing the Commons Series no. 1*, SOS Sahel/IIED, London.
- Hesseling, G., and Ba, B.M., 1994, *Land tenure and natural resource management in the Sahel: regional synthesis*, CILSS.
- Hilhorst, T. & Coulibaly, A., 1998, *Elaborating a local convention for managing village woodlands in southern Mali*. Drylands Issue Paper 78, IIED, London.
- Hilhorst, T. 2000, *Women's land Rights: Current Developments in Sub-Saharan Africa*, in *Evolving land rights, policy and tenure in Africa*, Camilla Toulmin and Julian Quan (eds).
- Hill, P., 1963, *The Migrant Cocoa Farmers of Southern Ghana: A study in rural capitalism*, Cambridge University Press, Cambridge.
- Hyden, G., 1983, *No Shortcuts to Progress: African Development Management in Perspective*, Berkeley, University of California Press.
- Iyebi-Mandjeck, O., 1994, "Distribution et commerce de l'eau potable à Maroua (Cameroun)", *Cahiers d'Outre-Mer*, 47(197), 305-327.
- Jacobs, S., 1998, "Past Wrongs and Gender Rights: Issues and Conflicts in South Africa's Land Reform", *European Journal of Development Research*, Vol. 10, No. 2, pp. 70-87.
- James, D., 2000a, "«After Years in the Wilderness»: The Discourse of Land Claims in the New South Africa", *Journal of Peasant Studies*, Vol. 27, No. 3, pp. 142-161.
- James, D., 2000b, "Hill of Thorns: Custom, Knowledge and the Reclaiming of a Lost Land in the New South Africa", *Development and Change*, Vol. 31, pp. 629-649.
- James, D., 2001, "Land for the Landless: Conflicting Images of Rural and Urban in South Africa's Land Reform Programme", *Journal of Contemporary African Studies*, Vol. 19, No. 1, pp. 93-109.
- Johnson, O.E.G., 1972, "Economic Analysis, the Legal Framework and Land Tenure Systems", *Journal of Law and Economics*, Vol. XV, No. 1, pp. 259-276.

- Juul, K., 1999, "Tubes, tenure and turbulence: the effects of drought related migration on tenure systems and resources management in northern Senegal", *PhD Dissertation, International Development Studies, Roskilde University Centre*, March.
- Kasanga, K., 1998, Rapid urbanization, land markets and gender insecurity in peri-urban Kumasi. Institute for Land Management and Development, Kumasi.
- Kasanga, K., 1994, *Land tenure systems and ecological degradation in northern Ghana*. The Royal Institute of Chartered Surveyors, London.
- Kasanga K., King, R., Cochrane, J., Roth, M., 1995, Land markets and legal contradictions in the peri-urban area of Accra: informant interviews and secondary data investigations. *LTC Research Paper No.127*. Land Tenure Center, Wisconsin-Madison.
- Kasanga, K. R. and N. A. Kotey, 2001, *Land Management in Ghana: Building on Tradition and Modernity*, Land Tenure and Resource Access Series, IIED, London.
- Keeley, J and Scoones, I, 2003, "Understanding environmental policy processes. Cases from Africa" Earthscan, London.
- Kepe, T., 2000, *Clearing the Ground in the Spatial Development Initiatives (SDIs): Analysing "Process" on South Africa's Wild Coast*, in B. Cousins (ed), *At the Crossroads: Land and Agrarian Reform in South Africa into the 21st Century*, Braamfontein, National land Committee, pp. 254-263.
- Kerbout, M., 1996, "Conditions et problèmes de mise en valeur dans la moyenne vallée du Senegal – La région de Maghama", *Cahiers d'Outre-Mer*, 49(195), 247-27.
- Kille, G.S., and Lyne, M.C., 1993, "Investment on Freehold and Trust Farms: Theory with Some Evidence from KwaZulu", *Agrekon*, Vol. 32, No. 3, pp. 101-109.
- Kingwill, R., 2000, *The Invisible Farmers in the Eastern Cape*, University of Manchester, Institute for Development Policy and Management, Working Paper 20.
- Kituyi, M., 1998, *Kenya*, in C. Lane (ed), *Custodians of the Commons – Pastoral Land Tenure in East and West Africa*, London, Earthscan, pp. 26-45.
- Koné M., 2001, *Droits délégués d'accès à la terre et aux ressources naturelles dans la centre-ouest de la Côte d'Ivoire : Bodiba et Zahia*. Working Paper GRET, Paris (forthcoming IIED).
- Konrad-Adenauer Foundation, 1996, *Seminar Report on Decentralisation, Land Tenure and Land Administration in Northern Ghana*, Accra.
- Kotey, N.I., 2002, Compulsory acquisition of land in Ghana, the 1992 Constitution :opening new vistas? In Toulmin, Lavigne Delville and Traore (eds) *The Dynamics of Resource Tenure in West Africa*. IIED/James Currey/Heinemann, London/Oxford/Portsmouth (N.H).
- Lahiff, E., 2000, *The Mutale River Valley – An Apartheid Oasis*, in P. Woodhouse, H. Bersntein and D. Hulme (eds), *African Enclosures? The Social Dynamics of Wetlands in Drylands*, Oxford, James Currey, pp. 155-194.
- Lane, C., 1998, *Introduction*, in C. Lane (ed), *Custodians of the Commons – Pastoral Land Tenure in East and West Africa*, London, Earthscan, pp. 1-25.
- Lane, C., (ed), 1997, *Custodians of the Commons: pastoral land tenure in East and West Africa*, Earthscan, London.
- Lane, C., and Moorehead, R., 1995, *New Directions in Rangeland and Resource Tenure and Policy*, in I. Scoones (ed), *Living with Uncertainty – New Directions in Pastoral development in Africa*, London, IT, pp. 116-133.
- Larbi, W., 2000, Land use and the disposal of stool/skin/family lands: problems and solutions. Paper presented at the Institute of Local Government Studies, Accra.
- Lastarria-Cornhiel, S., 1997, "Impact of Privatization on Gender and Property Rights in Africa", *World Development*, Vol. 25, No. 8, pp. 1317-1333.
- Laurence, F., and Mayson, D., 2002, "Can the DLA achieve the targets set in its 2001-2002 Strategic Plan?", National Land Committee, South Africa.
- Lavigne Delville, P., (ed), 1996, *Foncier Rural, Ressources Renouvelables et Développement*, GRET/Ministère de la Coopération, Paris
- Lavigne Delville, P., 1997, *Sahelian Agrarian Systems: Principal Rationales*, in Raynaud, C. (ed), *Societies and Nature in the Sahel*, London and New York, Routledge, pp. 138-158.
- Lavigne Delville, P. (ed), 1998, *Quelles politiques foncières pour l'Afrique rurale*. Karthala – Coopération Française, Paris.
- Lavigne Delville, P., 1999, *Harmonising Formal Law and Customary Land Rights in French-Speaking West Africa*, Drylands Issue Paper 86, IIED, London
- Lavigne Delville, P. and P. Mathieu (eds), 1999, "Formalisation des contrats et des transactions: Repérage des pratiques populaires d'usage de l'écrit dans les transactions foncières en Afrique rurale" *Working Paper GRET*, Paris
- Lavigne Delville, P., 2002, "When Farmers Use Pieces of Paper to Record their Land Transactions in Francophone Rural Africa: Insights into the Dynamics of Institutional Innovation", in T. Benjaminsen and C. Lund, *Securing Land Rights in Africa*, London, Frank Cass, pp. 89-108.
- Lavigne Delville, P., Toulmin, C., Colin, J-P., and Chauveau, J-P., 2002, *Negotiating Access to Land in West Africa: A Synthesis of Findings from Research on Derived Rights to Land*, Land Tenure and Resource Access in West Africa series, IIED, London.
- Leach, M., and Mearns, R., 1996, *Environmental Change and Policy – Challenging Received Wisdom in Africa*, in M. Leach and R. Mearns (eds), *The Lie of the Land –*

- Challenging Received Wisdom on the African Environment*, Oxford, James Currey, pp.1-33.
- Lebert, T., 2003, "An Introduction to Land and Agrarian Reform in Zimbabwe", National Land Committee, South Africa.
- Legassick, M., and Wolpe, H., 1976, "The Bantustans and Capital Accumulation in South Africa", *Review of African Political Economy*, No. 7, pp. 87-107.
- Lele, U., and Meyers, L.R., 1989, *Growth and Structural Change in East Africa – Domestic Policies, Agricultural Performance and World Bank Assistance*, Washington D.C., World Bank, Managing Agricultural Development in Africa (MADIA) Discussion Paper No. 3.
- Lenaola, I., Jenner, H.H., and Wichert, T., 1996, *Land Tenure in Pastoral Lands*, in Calestous Juma and J.B. Ojwang, *In Land We Trust – Environment, Private Property and Constitutional Change*, London, Zed Books, pp. 231-257.
- Le Roy, E., 1995, 'La sécurité foncière dans un contexte africain de marchandisation imparfaite de la terre', in Blanc-Pamard, C., and Cambrézy, L., (eds), *Terre, terroir, territoire: les tensions foncières*, ORSTOM, Paris.
- Le Roy, E., 1996, 'Les orientations des réformes foncières depuis le début des années quatre-vingt dix', in Lavigne Delville, P., (ed), 1996.
- Levin, R., and Mkhabela, S., 1997, *The Chieftaincy, Land Allocation and Democracy*, in R. Levin and D. Weiner (eds), «No More Tears...» – *Struggles for Land in Mpumalanga, South Africa*, Trenton and Asmara, Africa World Press, pp. 153-173.
- Levin, R., and Weiner, D., 1996, "The Politics of Land Reform in South Africa after Apartheid: Perspectives, Problems, Prospects", *Journal of Peasant Studies*, Vol. 23, No. 2—3, pp. 93-119.
- Levin, R., and Weiner, D., 1997, *From Apartheid to development*, in R. Levin and D. Weiner (eds), «No More Tears...» – *Struggles for Land in Mpumalanga, South Africa*, Trenton and Asmara, Africa World Press, pp. 3-25.
- Levin, R., Weiner, D., and Russon, R., 1997, *Class, Gender and the Politics of Rural Land Reform*, in R. Levin and D. Weiner (eds), «No More Tears...» – *Struggles for Land in Mpumalanga, South Africa*, Trenton and Asmara, Africa World Press, pp. 117-135.
- Leys, C., 1971, "Politics in Kenya: The Development of Peasant Society", *British Journal of Political Science*, Vol. 1, pp. 307-337.
- Little, P.D., and Brokensha, D.W., 1987, *Local Institutions, Tenure and Resource Management in East Africa*, in D. Anderson and R. Grove (eds), *Conservation in Africa – People, Policies and Practice*, Cambridge, Cambridge University Press, pp. 193-210.
- Lobho, L.D., 1988, La stratégie et la politique agricole du Zaïre avant l'indépendance, in L. Dimomfu (ed), *Problèmes fonciers et politiques agricoles en Afrique centrale*, Kinshasa, CERDAS.
- Lund, C., 1993, *Waiting for the Rural Code: Perspectives on a Land Reform in Niger*, Drylands Issue Paper 44, IIED, London.
- Lund, C., 1995, *The Quest for Land – The Quest for Power – The multidimensional Character of Tenure Disputes in Niger*, Sahel-Sudan Environmental Research Initiative (SEREIN), Working Paper 9.
- Lund, C., 1997, "Legitimacy, Land and Democracy in Niger", *Review of African Political Economy*, Vol. 24, No. 71, pp. 99-112.
- Lund, C., 1998, *Law, Power and Politics in Niger – Land Struggles and the Rural Code*, Hamburg, LIT Verlag.
- Lund, C., 2000, *African Land Tenure: Questioning Basic Assumptions*, Drylands Issue Paper 100, IIED, London.
- Lund, C., 2000, "Seeking Certainty and Aggravating Ambiguity: on Property, Paper and Authority in Niger" *Institutions and Uncertainty*, IDS, November 6-8, 2000.
- Lund, C., 2000b, Rapport d'évaluation des activités des commissions foncières de base (COFOB) du projet d'application de la législation foncière et de la gestion durable des ressources naturelles, Mirriah, Niger. University of Roskilde, Denmark.
- Lund, C., and Hesseling, G., 1999, *Traditional Chiefs and Modern Land Tenure Law in Niger*, in E.A.B. van Rouveroy van Nieuwaal and R. van Dijk (eds), *African Chieftaincy in a New Socio-Political Landscape*, Hamburg, LIT, pp. 135-154.
- Lyne, M.C., and Darroch, M.A.G., 2003, "Land Redistribution in South Africa: Past Performance and Future Policy", BASIS (Broadening Access and Strengthening Input Market Systems) Collaborative Research Support Program, University of Wisconsin-Madison (www.basis.wisc.edu).
- MacDonald, C., 2000, *Assessing Common Property Institutions in the South African Countryside*, paper presented to the 8th conference of the International Association for the Study of Common Property (IASCP), Bloomington, Indiana USA, May 31 – June 4.
- Mackenzie, F., 1993, "A Piece of Land Never Shrinks": *Reconceptualizing Land Tenure in a Smallholding District, Kenya*, in T.J. Bassett and D.E. Crummey (eds), *Land in African Agrarian Systems*, Madison, University of Wisconsin Press, pp. 194-221.
- Mackenzie, F., 1996, "Conflicting Claims to Custom: Land and Law in Central Province, Kenya, 1912-52", *Journal of African Law*, Vol. 40, No. 1, pp. 62-77.
- Mackenzie, F., 1998, *Land, Ecology and Resistance in Kenya, 1880-1952*, Edinburgh, Edinburgh University Press.
- Mafikiri, T., 1996, "Mouvements de population, accès à la terre et question de la nationalité au Kivu", *Cahiers Africains*, No. 23-24, pp. 180-201.
- Makopi, S., 2000, *Awards to Provide Security of Tenure and Comparable Redress*, in B. Cousins (ed), *At the Crossroads: Land and Agrarian Reform in South Africa*

- into the 21st Century, Braamfontein, National Land Committee, pp. 143-150.
- Mamdani, M., 1996, *Citizen and Subject – Contemporary Africa and the Legacy of Late Colonialism*, Princeton, Princeton University Press.
- Mararo, B., 1997, "Land, Power, and Ethnic Conflict in Masisi (Congo-Kinshasa), 1940s-1994", *International Journal of African Historical Studies*, No. 3, 503-538.
- Mathieu, P., Mugangu Mataboro, S., and Mafikiri Tsongo, A., 1998, "Enjeux fonciers et violences en Afrique: la prevention des conflits en se servant du cas du Nord-Kivu (1940-1994)", in *Land Reform*, Rome, FAO, issue No.2.
- McAuslan, P., 1998, "Making Law Work: Restructuring Land Relations in Africa", *Development and Change*, Vol. 29, pp. 525-552.
- McAuslan, P., 2000, *Only the Name of the Country Changes: The Diaspora of "European" Land Law in Commonwealth Africa*, in C. Toulmin and J.F. Quan (eds), *Evolving Land Rights, Policy and Tenure in Africa*, London, DFID-IIED-NRI, pp. 75-96.
- McIntosh, A., Sibanda, S., Vaughan, A., and Xaba, T., 1996, "Traditional Authorities and Land Reform in South Africa: Lessons from KwaZulu-Natal", *Development Southern Africa*, Vol. 13, No. 3, pp. 339-357.
- Meinzen-Dick, R.S., Brown, L.R., Feldstein, H.S., and Quisumbing, A.R., "Gender, Property Rights, and Natural Resources", *World Development*, Vol. 25, No. 8, pp. 1303-1315.
- Mengho, B.M., 1999, "Les transformations de l'agriculture vivrière le long de la RN2 au nord de Brazzaville (Congo)", *Cahiers d'Outre-Mer*, 52(207), 233-256.
- Merten, M., 2000, "Observers Concerned about New Land Reform Policy", *Daily Mail & Guardian*, 24 February.
- Migot-Adholla, S., Hazell, P., Blarel, B., and Place, F., 1993, *Indigenous Land Rights Systems in Sub-Saharan Africa: A Constraint on Productivity?*, in K. Hoff, A. Braverman and J. Stiglitz (eds), *The Economics of Rural Organization – Theory, Practice, and Policy*, World Bank and Oxford: Oxford University Press, pp. 269-291.
- Migot-Adholla, S. E., Place, F. and Oluoch-Kosura, W., 1994, "Security of tenure and land productivity in Kenya" in J. Bruce and S. E. Migot-Adholla (eds) *Searching for land tenure security in Africa*, Kendall-Hunt, Iowa.
- Migot-Adholla, S., and Place, F., 1998, "The Economic Effects of Land Registration on Smallholder Farms in Kenya: Evidence from Nyeri and Kakamega Districts", *Land Economics*, Vol. 74, No. 1, pp. 360-373.
- Milazi, D., 1998, *Restoring the Land: Environment and Change in a Non-Racial, Democratic South Africa*, in A.G.M. Ahmed and W. Mlay (eds), *Environment and Sustainable Development in Eastern and Southern Africa – Some Critical Issues*, London, Macmillan, pp. 207-230.
- Miller, D.L., and Pope, A., 2000, "South African Land Reform", *Journal of African Law*, Vol. 44, pp. 167-194.
- Mngxitama, A., 1999, *South Africa's Land Reform 1994-1999: A Critical Review*, paper presented at the workshop "Land Tenure Models for 21st Century Africa", African Studies Centre, Leiden, The Netherlands, 8-10 September 1999.
- Moor, G.M., and Nieuwoudt, W.L., 1996, "The Prospects for Improving Institutional Arrangements and Land Use in Southern Africa", *Development Southern Africa*, Vol. 13, No. 1, pp. 67-77.
- Mortimore, M., 1996, 'Evolution of land tenure in the Kano Close-Settled Zone, Nigeria 1903-1993', in Lavigne Delville, P., (ed), 1998.
- Mortimore, M., 1997, *History and Evolution of Land Tenure and Administration in West Africa*, Drylands Issue Paper 71, IIED, London.
- Moyo, S., 2000, *The Interaction of Market and Compulsory Land Acquisition Processes with Social Action in Zimbabwe's Land Reform*, paper presented at the SARIPS of the Sapes Trust Annual Colloquium on "Regional Integration: Past, Present and Future", Harare, 24-27 September.
- Murray, C., 1996, "Land Reform in the Eastern Free State: Policy Dilemmas and Political Conflicts", *Journal of Peasant Studies*, Vol. 23, No. 2—3, pp. 209-244.
- Murton, J., 1999, "Population Growth and Poverty in Machakos District, Kenya", *The Geographical Journal*, Vol. 165, No. 1, pp. 37-46.
- Myers, G.W., 1991, *Land and Power: the impact of the Land Use Act in southwest Nigeria*, LTC Research Paper 108, Land Tenure Center, Madison.
- N'Bessa, B., 1999, "Les exploitations agricoles des citadins en milieu rural: l'exemple beninois", *Cahiers d'Outre-Mer*, 52(207), 275-292.
- Ngaido, T., not dated, *Accounting for "Customary" Land and Institutional Policies: The Example of Niger*, paper published on the FAO web site (www.fao.org).
- Ngambu, N., 1988, *Politiques et problèmes fonciers au Bas-Zaïre*, in L. Dimomfu (ed), *Problèmes fonciers et politiques agricoles en Afrique centrale*, Kinshasa, CERDAS.
- North, D., 1990, *Institutions, Institutional Change and Economic Performance*, Cambridge, Cambridge University Press.
- NRI, 1997, *Kumasi Natural Resource Management Research Project: inception report*, NRI, Chatham.
- Ntsebeza, L., 2000, *Traditional Authorities, Local Government and Land Rights*, in B. Cousins (ed), *At the Crossroads: Land and Agrarian Reform in South Africa into the 21st Century*, Braamfontein, National land Committee, pp. 280-305.

- OECD, 1998, Preparing for the future. A vision of West Africa in the year 2020. Paris: Club du Sahel of OECD.
- Ogolla, B.D., 1996, *Land Tenure and Natural Resource Management*, in C. Juma and J.B. Ojwang (eds), *In Land We Trust – Environment, Private Property and Constitutional Change*, London, Zed Books, pp. 85-116.
- Okoin, J. R. M., 1999, "Côte d'Ivoire's rural land-use plan: an innovative approach towards an appropriate rural land tenure code". Paper presented at the DFID Workshop on Land Rights and Sustainable Development in Sub-Saharan Africa: Lessons and Ways Forward in Land Tenure Policy, Sunningdale, UK, 16-19 Feb.
- Okoth-Ogendo, H.W.O., 1976, *African Land Tenure Reform*, in J. Heyer, J.K. Maitha and W.M. Senga, *Agricultural development in Kenya – An Economic Assessment*, Nairobi, Oxford University Press, pp. 152-186.
- Okoth-Ogendo, H.W.O., 1991, *Tenants of the Crown – Evolution of Agrarian Law and Institutions in Kenya*, Nairobi, Acts Press.
- Olivier de Sardan, J. P., 1984, *Les sociétés songhay-zarma (Niger, Mali), chefs, guerriers, esclaves, paysans*. Karthala, Paris.
- Oludayo, A.G., 1999, "The Convention of Biological Diversity, Access to and Exploitation of Genetic Resources and the Land Tenure System in Nigeria", *African Journal of International and Comparative Law*, 11(1), pp. 86-99.
- Ondiege, P., 1996, *Land Tenure and Soil Conservation*, in C. Juma and J.B. Ojwang, *In Land We Trust – Environment, Private Property and Constitutional Change*, London, Zed Books, pp. 117-142.
- Oomen, B., and van Kessel, I., 1999, "One Chief, One Vote": *The Revival of Traditional Authorities in Post-Apartheid South Africa*, in E.A.B. van Rouveroy van Nieuwaaal and R. van Dijk (eds), *African Chieftaincy in a New Socio-Political Landscape*, Hamburg, LIT, pp. 115-179.
- Ostrom, E., 1990, *Governing the Commons – The Evolution of Institutions for Collective Action*, Cambridge, Cambridge University Press.
- Ostrom, E., and Schlager, E., 1992, "Property-Rights Regimes and Natural Resources: A Conceptual Analysis", *Land Economics*, 68(3), pp. 249-262.
- Ouédraogo, H and Toulmin, C., Tenure rights and sustainable development in West Africa. A regional overview. Paper presented at the DFID Conference on Land tenure, poverty, and sustainable development in sub-Saharan Africa, 17-19 February 1999. Sunningdale, UK
- Painter, T.M., Sumberg, J. and Price, T., 1994, 'Your terroir and my 'action-space': implications of differentiation, mobility and diversification for the *approche terroir* in Sahelian West Africa', *Africa* 64 (4): 447-464.
- Palmer, R., 1998, *From Exclusion to Ownership: The Continuing Transformation of the Role of the Communities in Relation to Two Adjacent Nature Reserves on South Africa's "Wild Coast"*, paper presented at the 7th Conference of the IASCP, June, Vancouver, Canada.
- Paré L., 2001, *Negotiating Rights: Access to Land in the Cotton Zone, Burkina Faso*, Land Tenure and Resource Access Series, IIED, London.
- Pélissier, P., 1995, 'Transition foncière en Afrique Noire: du temps des terroirs au temps des finages', in Blanc-Pamard, C., and Cambrézy, L., (eds), *Terre, terroir, territoire: les tensions foncières*, ORSTOM, Paris.
- Perrier, G.K., 1986, *Limiting Livestock Pressure on Public Rangeland in Niger*, London, ODI, Pastoral Development Network Paper No. 21d.
- Phillips-Howard, K., and Oche, C., 1996, *Local Farming in the Former Transkei, South Africa*, in C. Reij, I. Scoones and C. Toulmin (eds), *Sustaining the Soil – Indigenous Soil and Water Conservation in Africa*, London, Earthscan, pp. 181-190.
- Piessé, J., Von Bach, H.S., Thirtle, C., and Van Zyl, J., 1996, "The Efficiency of Smallholder Agriculture in South Africa", *Journal of International Development*, Vol. 8, No. 1, pp. 125-144.
- Pinkney, T., and Kimuyu, P., 1994, "Land Tenure Reform in East Africa: Good, Bad or Unimportant?", *Journal of African Economies*, Vol. 3, No. 1, pp. 1-28.
- Place, F., Roth, F., and Hazell, P., 1994, *Land Tenure Security and Agricultural Performance in Africa: Overview of the Methodology*, in J. Bruce, and S. Migot-Adholla (eds), *Searching for Land Tenure Security in Africa*, Iowa, Kendall/Hunt Publishing Company.
- Platteau, J.P., 1996, "The Evolutionary Theory of Land Rights as Applied to Sub-Saharan Africa: A Critical Assessment", in *Development and Change*, Vol. 27, pp. 29-86.
- Platteau, J-P., 2000, "Does Africa need land reform?" in C. Toulmin and J. Quan (eds) *Evolving land rights, policy and tenure in Africa*, IIED, London.
- Platteau, J.P., 2000b, *Institutions, Social Norms and Economic Development*, Amsterdam: Harwood.
- Pogucki, R. J. H., 1962, "The Main Principles of Rural Land Tenure" in J. Brian Wells (ed) *Agriculture and Land Use in Ghana*, Oxford University Press, London: 179-191.
- Pohamba, H., 2002, "Namibia Country Paper: A Case Study on Land Issues", Paper presented at the Workshop on Land Issues in Africa and the Middle East, "Integrating Land Issues Into Poverty Reduction Strategies And The Broader Development Agenda", Kampala, Uganda, 29th April – 2nd May 2002.
- Pretorius, D.D., and Kirsten, J.F., 1994, "Testing Rural Households' Perceptions of Different Land Tenure Systems", *Agrekon*, Vol. 33, No. 4, pp. 261-265.
- Quan, J., 2000, *Land Tenure, Economic Growth and Poverty in Sub-Saharan Africa*, in C. Toulmin and J. Quan (eds), *Evolving Land Rights, Tenure and Policy in Sub-Saharan Africa*, London, DFID/IIED/NRI, pp. 31-50.
- Quan, J., 1997, *Recent developments in land policy in Southern Africa: a review for ODA*, Social Sciences Group, NRI, Chatham.

- Ranger, T., 1983, *The Invention of Tradition in Colonial Africa*, in E. Hobsbawm and T. Ranger (eds), *The Invention of Tradition*, Cambridge, Cambridge University Press, pp. 211-262.
- Raynaut, C., 1988, *Aspects of the Problem of Land Concentration in Niger*, in R.E. Downs and S. Reyna (eds), *Land and Society in Contemporary Africa*, Hanover and London, University Press of New England, pp. 221-242.
- Raynaut, C., 1997, *The Transformation of Social Relations and the Management of Natural Resources – 1. The Birth of the Land Question*, in C. Raynaut (ed), *Societies and Nature in the Sahel*, London and New York, Routledge, pp. 235-261.
- Raynaut, C., et al., 1997, *Societies and Nature in the Sahel*, Routledge, London.
- Ribot, J., 1999, "Decentralisation, participation and accountability in Sahelian forestry: legal instruments of political-administrative control" *Africa*, 69(1), p23-65
- Richards, P., 1985, *Indigenous Agricultural Revolution – Ecology and Food Production in West Africa*, London, Hutchinson.
- Robertson, A.C., 1987, *The dynamics of productive relationships: African share contracts in comparative perspective*, Cambridge University Press, Cambridge.
- Rochette, R., 1998, *Pastoralisme et développement au Sahel*, PRASET/Club du Sahel.
- Roth, M., 2002, "Integrating Land Issues and Land Policy with Poverty Reduction and Rural Development in Southern Africa", Paper prepared for the World Bank Regional Workshop on Land Issues in Africa and the Middle East held in Kampala, Uganda, 29th April to 2 May 2002.
- Ruf, F., 1995, *Booms et crises du cacao: les vertiges de l'or brun*, CIRAD/Karthala, Paris.
- Sarris, A., and Shams, H., 1991, *Ghana under structural adjustment: the impact on agriculture and the rural poor*, IFAD/New York University Press, New York.
- Schoonmaker Freudenberger, M. and K., 1993, *Pastoralism in peril: the compression of grazing space in Senegal*, Land Tenure Center, Madison, Wisconsin.
- Schwartz, A., 1997, *Rapport de mission réalisée pour le compte de la fondation Tropenbos dans le Sud-Ouest ivoirien*, ORSTOM, Bondy.
- Scoones, I., 1995, *New Directions in Pastoral Development in Africa*, in I. Scoones (ed), *Living with Uncertainty – New Directions in Pastoral development in Africa*, London, IT, pp. 1-36.
- Scoones, I., Reij, C., and Toulmin, C., 1996, *Sustaining the Soil – Indigenous Soil and Water Conservation in Africa*, in I. Scoones, C. Reij and C. Toulmin (eds), 1996, *Sustaining the Soil – Indigenous Soil and Water Conservation in Africa*, London, Earthscan, pp. 1-27.
- Shackleton, S., Shackleton, C., and Cousins, B., 2000, "Re-valuing the Communal Lands of Southern Africa: New Understandings of Rural Livelihoods", *ODI Natural Resources Perspectives*, No. 62, November.
- Shanmugaratnam, N. et al. 1992, *Resource management and pastoral institution building in the West African Sahel*. World Bank Discussion Paper 175. Africa Technical Department Series, World Bank, Washington.
- Shipton, P., 1988, *The Kenyan Land Tenure Reform: Misunderstandings in the Public Creation of Private Property*, in R.E. Downs and S.P. Reyna (eds), *Land and Society in Contemporary Africa*, Hanover and London, University Press of New England, pp. 91-135.
- Shipton, P and M Goheen, 1992, "Understanding African Land-holding: Power, Wealth and Meaning" *Africa* 62 (3): 307-325
- Shiterek, T. et al., 2001, *Strengthening user-rights over local resources in Wollo, Ethiopia*. Drylands Issue Paper 103, IIED, London
- Sjaastad, E., and Bromley, D., 1997, "Indigenous Land Rights in Sub-Saharan Africa: Appropriation, Security and Investment Demand", *World Development*, Vol. 25, No. 4, pp. 549-562.
- Sola, N. and McCourt, W., 1999, "Using training to promote civil service reform: a Tanzanian local government case study", *Public Administration and Development*, 19, p63-75
- Sorrenson, M.P.K., 1967, *Land Reform in the Kikuyu Country – A Study in Government Policy*, Nairobi, Oxford University Press.
- Southgate, C., and Hulme, D., 2000, *Uncommon Property – The Scramble for Wetland in Southern Kenya*, in P. Woodhouse, H. Bernstein and D. Hulme (eds), *African Enclosures? The Social Dynamics of Wetlands in Drylands*, Oxford, James Currey, pp. 73-118.
- Stamm, V., 2000, *The Rural Land Plan: An innovative approach from Côte d'Ivoire*. Drylands Issue Paper 91, IIED, London.
- Swift, J., 1995, *Dynamic Ecological Systems and the Administration of Pastoral Development*, in I. Scoones (ed), *Living with Uncertainty – New Directions in Pastoral development in Africa*, London, IT, pp. 153-173.
- Swindell, K., and Mamman, A.B., 1990, 'Land expropriation and accumulation in the Sokoto periphery, northwest Nigeria 1976-86', *Africa*, 60(2): 173-187.
- Swynnerton, R.J.M., 1954, *A Plan to Intensify the Development of African Agriculture in Kenya*, Nairobi, Government Printer.
- Tanner, C., 2002, "Law-making in an African Context: The 1997 Mozambican Land Law", *FAO Legal Papers Online*~26, March 2002.
- Tano, F., 2002, *Land Taxes and Charges in Senegal in Toulmin, Lavigne Delville and Traore (eds) The Dynamics of Resource Tenure in West Africa*. IIED/James Currey/Heinemann, London/Oxford/Portsmouth (N.H).
- Tapson, D.R., 1991, *The Overstocking and Offtake Controversy Reexamined for the Case of KwaZulu*, London, ODI, Pastoral Development Network Paper No. 31a.

- Thébaud, B., 1995, *Land Tenure, Environmental Degradation and Desertification in Africa: Some Thoughts Based on the Sahelian Experience*. Drylands Issue Paper 57, IIED, London.
- Thébaud, B. et. al., 1995, *Recognising the effectiveness of traditional pastoral practices: lessons from a controlled grazing experiment in northern Senegal*. Drylands Issue Paper 55, IIED, London.
- Thébaud B., Grell H., Miede S., 1995, *Recognising the Effectiveness of Traditional Pastoral Practices: Lessons from a controlled grazing experiment in Northern Senegal*. Drylands Issue Paper 56, IIED, London.
- Thébaud, B., and Batterbury, S., 2001, "Sahel Pastoralists: Opportunism, Struggle, Conflict and Negotiation. A Case Study from Eastern Niger", *Global Environmental Change*, Vol. 11, pp. 69-78.
- Thomson, D.N., and Lyne, M.C., 1995, "Is Tenure Secure in Communal Areas?: Some Empirical Evidence from KwaZulu-Natal", *Agrekon*, Vol. 34, No. 4, pp. 178-182.
- Thwala, W.D., 2003, "Land And Agrarian Reform in South Africa", National Land Committee, South Africa.
- Tiffen, M., Mortimore, M., and Gichuki, F., 1994, *More People, Less Erosion – Environmental Recovery in Kenya*, Chichester, John Wiley and Sons.
- Toulmin, C., and Ouédraogo, H., 1999, *Tenure Rights and Sustainable Development in West Africa: A Regional Overview*, paper presented at the DFID workshop on Land Tenure, Poverty and Sustainable Development in Sub-Saharan Africa, 17-19 February.
- Toulmin, C., and Quan, J., 2000a, *Evolving Land Rights, Tenure and Policy in Sub-Saharan Africa*, in C. Toulmin and J. Quan (eds), *Evolving Land Rights, Tenure and Policy in Sub-Saharan Africa*, London, DFID/IIED/NRI, pp. 207-228.
- Toulmin, C., and Quan, J., 2000b, *Registering Customary Rights*, in C. Toulmin and J. Quan (eds), *Evolving Land Rights, Tenure and Policy in Sub-Saharan Africa*, London, DFID/IIED/NRI, pp. 1-30.
- Toulmin C., Lavigne Delville P., and Traore S. (eds), 2002, *The Dynamics of Resource Tenure in West Africa*. IIED/James Currey/Heinemann, London/Oxford/Portsmouth (N.H).
- Turner, M.D., 1999, *The Role of Social Networks, Indefinite Boundaries and Political Bargaining in Maintaining the Ecological and Economic Resilience of the Transhumance Systems of Sudan-Sahelian West Africa*, in M. Niamir-Fuller (ed), *Managing Mobility in African Rangelands – The Legitimation of Transhumance*, London, IT, pp. 97-123.
- Vaa, M., 2000, Housing policy after political transition: the case of Bamako. *Environment and Urbanisation*. Vol 11. No 2. IIED, London
- Van den Brink, R., 2003, "Land Policy and Land Reform in Sub-Saharan Africa: Consensus, Confusion and Controversy", Paper presented at the National Land Committee Network Donor Conference, Johannesburg, South Africa, February 12-14.
- van Koppen, Barbara, 1998, "Gendered Water And Land Rights In Construction: Rice Valley Improvement In Burkina Faso", paper presented at the IASCP 1998.
- Vedeld, T., 1992, *Local Institution-Building and Resource Management in the West African Sahel*, London, ODI, Pastoral Development Network Paper No. 33c.
- Weiner, D., Levin, R., and Chimere-Dan, O., 1997, *Understanding the Bantustans through Socio-Economic Surveys*, in R. Levin and D. Weiner (eds), *No More Tears... – Struggles for Land in Mpumalanga, South Africa*, Trenton and Asmara, Africa World Press, pp. 45-71.
- West, H. W., 2000, *On African Land Holding: A Review of Tenurial Change and Land Policies in Anglophone Africa*, The Edward Mellen Press Ltd, Wales.
- Wilson, R.J.A., 1971, "Land Tenure and Economic Development – A Study of the Economic Consequences of Land Registration in Kenya's Smallholder Areas", *Journal of the Statistical and Social Inquiry Society of Ireland*, Vol. XXII, Part. III, pp. 124-151.
- Winter, M., 1997, *Migration in the central sub-region of West Africa: trends, issues, and reflections*, Report prepared for ODA, London.
- Woodhouse, P., Bernstein, H., and Hulme, D., 2000, *Africa's "Wetlands in Drylands" – From Commons to Enclosures?*, in P. Woodhouse, H. Bernstein and D. Hulme (eds), *African Enclosures? The Social Dynamics of Wetlands in Drylands*, Oxford, James Currey, pp.1-28.
- World Bank, 1975, *The Assault on World Poverty – Problems of Rural Development, Education and Health*, Baltimore and London, Johns Hopkins University Press.
- World Bank, 1989, *Sub-Saharan Africa – From Crisis to Sustainable Growth*, Washington D.C., World Bank.
- World Bank, 2000, *Can Africa Claim the 21st Century?*, Washington D.C., World Bank.
- Yacouba, M. (1999) "Niger's experiences in decentralised management of natural resources", Paper presented at the DFID workshop on Land Rights and Sustainable Development in Sub-Saharan Africa: Lessons and Ways Forward in Land Tenure Policy, Sunningdale, UK, 16-19 Feb.
- Zawarteween, M.Z. 1996. *A plot of one's own: Gender relations and irrigated land allocation policies in Burkina Faso*. Research Report 10. Colombo, Sri Lanka: International Irrigation Management Institute.
- Zimmermann, W., 1999, Land tenure and development cooperation. Paper presented at the DFID workshop on Land Rights and Sustainable Development in Sub-Saharan Africa: Lessons and Ways Forward in Land Tenure Policy, Sunningdale, UK, 16-19 February.
- Zongo, M., 2000, *Etude des Groupements Immigrés Burkinabé dans la Région de Oumé (Côte d'Ivoire): Rapports fonciers avec les Groupes Autochtones et les Pouvoirs Publiques Locaux et Organisation en Migration*. Mimeo.

Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues reviews the main features of the new wave of land policy and legislation in sub-Saharan Africa, and identifies emerging issues concerning land tenure in the continent. The study draws lessons from recent experience in the following key areas: tenure security and land tenure reform; land redistribution; decentralised land management and administration; land conflict; protecting the land rights of vulnerable groups; land and rural-urban links; land and broader development policies and programmes. The conclusion identifies some emerging issues requiring particular attention from policy makers and development agencies.

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International Institute for Environment and Development (IIED)
Drylands Programme
3 Endsleigh Street
London WC1H 0DD
United Kingdom
Tel: +44 207 388 2117
Fax: +44 207 388 2826
Email: drylands@iied.org
<http://www.iied.org>