A new property regime in Kyrgyzstan; an investigation into the links between land reform, food security, and economic development

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CHAPTER 3 KYRGYZSTAN

3.1 THE KYRGYZ REPUBLIC

3.1.1 GEOGRAPHY AND DEMOGRAPHY

Kyrgyzstan is an independent Republic, a small land-locked country in Central Asia with a population of 4.8 million, 60 percent of it rural. It borders Kazakhstan, Uzbekistan, Tajikistan, and China's Xinjiang province (See annex A page 173 for a map of Kyrgyzstan). It encompasses 198,500 square kilometers (76,641 sq. mi.) of territory. Administratively, The Kyrgyz Republic has 7 regions (oblasts)\(^2\) and within the oblast rayons (districts), numbering a total of 42. Unlike the neighboring countries, Uzbekistan and Kazakhstan, the Kyrgyz Republic lacks oil resources and heavily depends on natural gas imports from Uzbekistan. Bishkek, the capital of the Kyrgyz Republic, is situated in the North of the country. The Kyrgyz Republic stretches between 69 to 80 degrees East longitude and 39 and 43 North latitude. Most of what is now The Kyrgyz Republic became a so-called autonomous district on October 14, 1924 and a dependent Republic in the Union of Soviet Republics on February 1, 1926. It joined the USSR as a Union Republic on December 5, 1936 and declared itself an independent sovereign state on August 31, 1991.

The Kyrgyz Republic is a mountainous country with high peaks and several mountain ranges. The highest peak in the country is Mount Pobeda at 7,439 meters (24,406 feet). Ninety percent of its territory lies at least 1.000 meters (~ 3,300 feet) above sea level. Only 28 percent of the total territory has an altitude relatively favorable for population and land cultivation, and more than 60 percent of it is rough terrain. The Kyrgyz Republic has an extremely limited resource of useable land, while the harsh continental climate and extreme range of altitudes increase considerably the basic energy costs required to maintain minimum living standards. The entire territory is difficult to cultivate, with unstable yields. Agriculture is possible only in the lower areas of the country in the valleys and generally requires irrigation because of the dry climate. Transport in the country is difficult due to the highly mountainous countryside with the majority of roads in poor condition. The railway infrastructure of the Kyrgyz Republic is very limited, the only passenger line of some importance is between the capital Bishkek eastward to the city of Balykchy at Lake Issyk-Kul, that lake being the main Kyrgyz vacation resort. Westward from Bishkek a railway line connects the capital of the Kyrgyz Republic via the towns of Kara-Balta and Taraz (formerly Djambyl) with the capital of Uzbekistan, Tashkent. The second largest city in the country – Osh - has a railway freight connection with cities in neighboring Uzbekistan. A road trip between Bishkek and Osh takes fifteen to sixteen hours of driving time (a new road is currently under construction and will considerably cut driving time) because of the various mountain passes. Positioned in the heart of the Asian continent, the country's geographical

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1 Both the names Kyrgyzstan and the Kyrgyz Republic are officially used.
2 Until 1999 the Kyrgyz Republic had six oblasts: Chui, Talas, Djalal-Abad, Osh, Naryn, Issyk-Kyll oblasts and a special territory of the capital Bishkek (formerly Frunze). The seventh – and smallest - oblast now being Batken oblast was established in November 1999 after the small-scale war in that area with Islamic fundamentalists infiltrating the Kyrgyz Republic from neighboring Tajikistan and Afghanistan. It reduces the size of the Osh oblast.
location is also rather unfavorable and far removed from shipping lanes. Branches of the great silk route run through The Kyrgyz Republic. There are currently 4,850,700 people permanently living in Kyrgyzstan of whom 35.3% live in urban and 64.7% in rural areas. During the years of newly gained independence, population increased with 50,000 per annum (before independence the annual average growth was 80,000) and almost 90% of this growth comes in the rural population. Kyrgyzstan has become a more mono-ethnic country as shown in the following table:

<table>
<thead>
<tr>
<th>Percentage of the total population</th>
<th>1990</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethnic Kyrgyz</td>
<td>52.4%</td>
<td>64.9%</td>
</tr>
<tr>
<td>Ethnic Russians</td>
<td>21.5%</td>
<td>12.5%</td>
</tr>
<tr>
<td>Ethnic Germans</td>
<td>2.4%</td>
<td>0.4%</td>
</tr>
<tr>
<td>Others (Belorussians, Tatars, Ukraines etc.)</td>
<td>23.7%</td>
<td>22.2%</td>
</tr>
</tbody>
</table>

According to the statistics, the birthrate has decreased from 29.4% to 21.4% over the last ten years. There is a tendency towards smaller families. From the viewpoint of gender there are slightly more women than men (respectively 50.6% and 49.4%).

The Government of the Kyrgyz Republic is open to experimentation and to engaging international expertise in reforming the economy. The Kyrgyz Republic has obtained real economic assistance — more per capita than any state in Central Asia, or even in the CIS. Currently, more than 1,500 NGOs (Non Governmental Organizations) have registered in The Kyrgyz Republic, focusing on social, economic, and humanitarian issues.

A privatization program for the use of real property was started in 1991. The tenure of apartments and dwelling houses was transferred to private individual owners who became private owners of the property. An interesting and confusing feature of privatization of apartments was that the apartments became privately owned, but that the apartment building itself remained property of 'Minkomkhoz' to be managed by the Municipal Property Administration. For land designated for agriculture a different transfer took place. That land (the 'Ugodia') was distributed generally among the rural population by issuing land shares, giving right to exclusive long term or even permanent use. But the 'Ugodia' remained in State ownership.

The introduction of the local currency (the Kyrgyz som) in 1993 has been important in bringing down inflation from the destructive hyperinflation level of 1,259 % in 1992 and 1,210% in 1993 to 450% in 1994 and about 50% in 1995. The October 1998 referendum granted private ownership of land and ensured legal protection for a free press and freedom of expression — another first in the region, as well as in the CIS. The Kyrgyz Republic is the first state in the CIS to enter the World Trade Organization (WTO). Since this event, the Uzbekistan and Kazakstan customs officials have been raising tariff rates.

Borders between Central Asian republics have long been problematic. Tensions exist between the villages on the Kyrgyz and Tajik side of the border regarding the allocation of land and water. Any deterioration in relations between the ethnic Kyrgyz and the ethnic Uzbek populations in southern Kyrgyzstan is a concern - in 1990, riots over irrigated lands erupted between the two groups, resulting in over 200 fatalities.
A weak economy, massive unemployment and poverty (especially in rural areas), and increased crime and corruption are the greatest causes of social instability in the country. A large number of landless villagers have moved to Bishkek and other large cities, such as Osh and Djallal-Abad, contributing to social tension in these spots. The spectacular mountains and beauty of the countryside in The Kyrgyz Republic, however, offers a potential for tourism, but it remains doubtful if the proper infrastructure can be developed to attract foreign tourists in large numbers.

3.1.2 IMPORTANCE OF AGRICULTURE
The Kyrgyz Republic is a prime example of agricultural reform in Central Asia. The most radical reform in The Kyrgyz Republic is the privatization of land, which inevitably leads to complications. The first experience of privatization in the Chui Oblast was accompanied by some conflicts. The land privatization process has been better implemented in the Osh and Djallal-Abad Oblasts, especially in regions with ethnically mixed populations. Rumors of ethnic discrimination (real or imagined) would have provoked conflict. The distribution of land and water are considered the main reasons for potential conflict in the Southern part of the Kyrgyz Republic. There is a general concern that the risk for conflict will increase once private land ownership is fully introduced. Discussions between international, governmental, and non-governmental organizations and farmers have shown that existing laws, rules, and regulations are sometimes confusing and that the farmers do not always understand them.

The Kyrgyz Republic is dominantly an agrarian country. The most important sector in The Kyrgyz Republic is agriculture and agriculture-related industries. During the Soviet period the state and collective farms were ineffective, centrally planned, and heavily subsidized. Since independence (1991), the socioeconomic crisis has had more impact on industry than on agriculture. Kolkhozy and sovkhozy were liquidated without preparation, and in an authoritarian way. Liberalization of agricultural land policy and de-collectivization were accompanied by a decline in agricultural production. The majority of rural people were unable to generate income through agricultural activities. Many of them migrated to cities. Nevertheless, over 60 percent of the population still live in rural areas, and about half of the able-bodied population is engaged in the agricultural sector. The average income in agriculture (about 200 Kyrgyz som ~ 50 US$ monthly) is three times lower than that in industry and construction. It is the lowest among all categories of working people.

Agriculture will remain the engine of growth and the main source of household income in the foreseeable future, particularly in the rural areas where most of the population resides. In 1996 agriculture accounted for 48 percent of the Gross Domestic Product (GDP) and 49 percent of the employment. Agriculture and agro-industry constituted 38 percent of exports and 23 percent of imports. The share of food in the household budget is rising. In 1990 before independence it was around 30 percent and in 1996 this had risen to 57 percent. Agricultural production bottomed out in 1995, but grew over 10 percent in 1996 and 1997. Crop production has increased more than livestock production, which still remains depressed. One of the reasons for this is that livestock can easily be distributed and sold for cash, or used for private consumption in times of reduced food supplies. Another problem

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3 In June 1990 – before land reform and independence – ethnic tensions erupted in Osh oblast, with more than 200 people killed, over the distribution of water in this part of the Ferghana Valley where the majority of the people is Uzbek.
with statistical information on livestock is that distribution among private farmers most likely results in quite some undercounting in statistics.

3.1.3 ECONOMIC TRENDS
After the declaration of independence, the Kyrgyz Republic embarked on a reform program aimed at creating a market economy. Prices were liberated, most capital controls were eliminated and the government introduced a liberal trade regime. The Kyrgyz Republic was the first of the Newly Independent States (NIS) in the region to present the national currency (the Kyrgyz Som) as convertible. This brought progress in establishing macro-economic stability. Although the GDP saw a dramatic decline during the first years of independence, it started to increase in 1995. As in many of the other newly independent States, The Kyrgyz Republic has faced continued financial problems and the national budget has been relying on international donor aid and World Bank financing. In 1998 an enhanced structural adjustment facility agreement with the IMF was reached. Macroeconomic and financial developments in the last years of the nineties have been less than expected.

![Graph showing exchange rate KGS/US $]

This negative trend has been largely due to the Russian crisis resulting amongst others in decreasing imports from Russia of agricultural assets and export to the still dominant Russian market. The development of the rate of exchange between the US dollar and the Kyrgyz som reflects this trend (bearing in mind that the US dollar showed an international appreciation of around 10 percent in the final months of 1999).

An indication for economic development in The Kyrgyz Republic is the development of the number of transactions in real property in the capital Bishkek. However, it should be borne in mind that it is impossible to give the 'normal' or expected level of transactions in a city like Bishkek, because of the relative short time of independence and the existence of a market for real property. The numbers give an indication and not more. To eliminate most of the monthly variations, table 1.3 uses six-month averages expressed per month.

Six months average transactions of real property in Bishkek

<table>
<thead>
<tr>
<th>1998</th>
<th>1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/07 01/08 01/09 01/10 01/11 01/12 01/01 01/02 01/03 01/04 01/05 01/06 01/07 01/08 01/09 01/10 01/11 01/12</td>
<td>1744 1722 1800 1807 1693 1634 1643 1600 1568 1500 1589 1530 1484 1386 1277 1176 991 995</td>
</tr>
</tbody>
</table>
The table is based on data I collected from a source at the Bishkek BTI office. It shows the date and under that the average number of transactions registered at the BTI office (So 1744 under 01/07 – 01 July - being the average number of transactions between 01 April 1999 and 01 October 1999):

The six months average number of transactions in Real property in Bishkek with a population of over 600,000 people, decreases from a level of around 1700 – 1800 in mid 1998 (the first time these data were available in computerized form) to just under a 1000 at the end of 1999.

It is interesting to note here that the average life expectancy in Bishkek is around 60 years. With 600,000 inhabitants in the capital generally living in apartments for which they have a registered right of ownership or use, the number of transactions resulting from inheritances could easily be around 3.000 – 5.000 per year or several hundreds per month at an average. With less than 1.000 transactions monthly around the change of the millenium, this indicates that economic transactions of real property in the capital Bishkek not being for inheritance, mortgage, or first time registration, had almost come to a standstill by the beginning of 2000 (See annex B). At the registration office (the Bishkek BTI), this conclusion has been confirmed by registration officials. I was told that most of the transactions registered, resulted from inheritances, second were first time registrations (citizens having acquired a right to real property and now willing to process the application for registration or now able to pay the fees involved for registration).

Inflation trends in The Kyrgyz Republic have been dramatic in the first years of independence, but are more or less under control by now. The actual rate of inflation in 1998 was less than 20 percent, but showed a dramatic increase in 1999 (one of the most difficult years for the national currency) to almost 40%. But the newspaper “Slovo Kyrgyzstana” published on February 24, 2000, states that one of the key macro-economic objectives of the government and the National Bank of the Kyrgyz Republic is to maintain the rate of inflation in 2000 under 20%.

The migration from rural areas to urban areas in The Kyrgyz Republic is as a whole negative. In 1999 the population of the Kyrgyz Republic increased over 13% compared with 1989. Urban population growth was 4% and the rural population grew with 19%. There is a trend of migration from regional cities to rural areas and to the capital. The increase in the population of Bishkek (including its suburbs) was more than 25% between 1998 and 1999 according to Slovo Kyrgyzstana. The population growth is in particular negatively influenced by migration of ethnic Russians out of the country during 1998 and 1999. There is a general tendency to discriminate against ethnic Russians in employment in newly created institutions and enterprises. However, this does not yet go as far as in neighboring Uzbekistan where all government officials (also the ethnic Russians among them) were obliged to master the Uzbek language by April 1, 2000 in order to keep their jobs.

3.1.4 FOOD AND AGRICULTURAL PRODUCTION
At independence the Kyrgyz Republic inherited a pattern of depending on large food imports from other FSU Republics, mainly wheat and sugar. As the 1999 report on National Food Security Policy [44] describes, the country has successfully met the challenge of achieving basic national food sufficiency in the eight years since independence. In monitoring the food security situation in the Kyrgyz Republic, both wheat production and wheat trade are important indicators, because bread is the basic food commodity. Since independence
wheat production has dropped to about 650,000 tons per year in 1994 and 1995, thereafter wheat production policy resulted in a current production level of 1,250,000 tons per year while imports were reduced to almost nil. In 1990 just before reform, livestock and livestock products accounted for almost 60% of the nations gross value of agricultural products. Cultivated land (winter wheat, barley, maize, winter barley, spring wheat, and non grain crops in the southwest tobacco, cotton, fruits, and vegetables) encompassed an area of around 1,500 million ha (± 3,750 million acres), summer and winter pastures an area of around 9 million ha (± 22.5 million acres). In 1993 the per capita gross domestic product was estimated at an all time low of 680 $US. Since 1990 agricultural production shifted steadily to self-sufficiency. Beginning of economic recovery seemed to start in 1995. Annual inflation was 1,000% in 1993, 450% in 1994 and in 1995 about 50%. Primary agriculture employs about 1/3 of the labor force and accounts also for 1/3 of the GDP. In early 1994 agricultural pricing was liberated, but there was no immediate response. In 1995 the interest rate was about 30% yearly and institutional credit was available, but a severe drought masked any evidence of improved productivity (LTC research paper # 128) [8]. Since 1995 however, the economic recovery stalled. Current reports do not show a significant recovery of the economy. Some statistics need to be examined in detail. For example statistics show that wheat production has grown 164 percent between 1990 and 1997 due to a 185 percent increase in sown area. But average yields have declined 8 percent. An expansion of wheat area replaced other crops such as barley, corn and fodder. Although justifiable during the first years of transition to build up a situation of self-sufficiency with this staple food that is easy to store for longer periods, one can question a continuation of the expansion of wheat production. With a limited land base, the Kyrgyz Republic can not afford to allocate almost half of its total sown area to one crop that is not highly competitive (as compared to crops like potatoes, vegetables, sugar beets, oilseeds, and cotton).

3.1.5 FOOD SECURITY IN KYRGYZSTAN
The report of the National Food Security Policy estimates a national wheat surplus of around 300,000 tons per year after 1998 if agricultural production is normal, but as far as I could find out, that surplus never materialized. Official exports are reported to be 13,000 tons, but there is evidence of (unofficial) export to Tajikistan where wheat prices are considerable higher than in the Kyrgyz Republic and some border trade with Uzbekistan and Kazakhstan. All wheat flour consumed in the country originates from domestically milled grain, which is done partly in former kolkhozy, and partly by a large number of smaller mills. As far as observed in the capital, bread is available daily everywhere at affordable prices (3-6 Kyrgyz som per loaf, or less than around 0.07 – 0.15 US$). The "Times of Central Asia" [88] reports in April 2000 that the forecast grain harvest for 2000 was 1,145 million tons, which spurred the Ministry of Agriculture to take some urgent measures because national food security requires 1,260 million tons of grain for 2000. As for the second basic commodity in the Kyrgyz diet, mutton and beef, there seems to be sufficient quantities available to meet basic nutritional requirements (National Food Security Report 1999). The negative effect of the decline in livestock numbers since independence is somewhat compensated for by advantages. The features of Soviet husbandry of overgrazing and overfeeding (with heavily subsidized grain) represented a challenge to human food security. In that respect the decline in livestock numbers in the Kyrgyz Republic
can be seen as a positive development because it diminishes over exploitation and overgrazing of the nation's pasture lands. Overall the country has become self-sufficient in wheat and wheat flour, and also in meat and meat products. There is a theoretical buffer due to some surplus export to meet possibly less favorable harvests in future years. The biggest risk is the price, which influenced by the free market policy might rise as a result of demand from neighboring Tajikistan to reach a price level above an affordable one for the poorer segment of the Kyrgyz population.

Contrary to the national level, household food security has worsened since independence especially in the lower income households. A demographic trend with high birthrates has recently been slowed down by an increasing mortality rate. Under the Soviet system social benefits were guaranteed to every citizen, regardless of economic or financial cost. Under the rules of a free market economy social benefits are decreasing rapidly resulting in a decrease of industrial production because of lack of demand, also causing widespread unemployment. The rapid fall in living standards created an increasing awareness at the Government level, resulting in a socially oriented policy.

The effects of decreasing household income, and increasing shares for food supply in the household income give insufficient purchasing power for poor families, and thus problems to maintain an adequate food intake.

The country's food security situation is mainly determined by two factors namely the dominant position of agriculture in the macro economic picture and secondly the isolated geographic situation of the country. The latter hinders internal logistics and makes external transport links dependent on neighboring republics. Import and export are very sensitive to variations in energy prices because of its effect on transportation costs. Although the country on a national scale is almost self sufficient (except for sugar imports) in times of failing harvest, importation will be very expensive, requiring high subsidies by the government. However, that would be unaffordable and the country would have to rely on food aid, bearing in it the danger of creating disincentives for local production. The result could be a rapidly developing downward spiral of food security.

Also the current over-emphasis on grain production as the main crop and the subsequent one-sided use of arable land could result in deterioration of land, threatening land resource conservation.

3.1.6 FOOD SECURITY POLICY IN THE KYRGYZ REPUBLIC

During a National Food Security Policy Seminar in Bishkek in July 1999 the policy towards food security was unveiled. The core of the government's policy will be to develop the agricultural potential of the country to ensure that all people have access to adequate food at all times, in all regions and in all households. This policy is based on the four basic principles of food security as they were formulated in Bishkek, i.e.:

- Availability (from domestic production, from stock or from imports)
- Stability (daily food needs must not suffer sudden or important changes)
- Proper use (assurance that food is safe, of acceptable quality and apply to balanced nutritional habits)
- Accessibility (both in physical terms as well as in terms of household acquisition power)

The four principles should apply everywhere at all times. So it is essential for the government to verify that people's food security is assured at three levels of concern: the national, regional and household level.
Four major priority policy elements were selected, on the basis of primary and direct relevance to the four food security principles. These four policy elements are:

- **Agriculture**: Promote an adequate quantity of basic domestic crop and animal production at competitive cost against imports and strongly stimulate the economic growth of the agricultural sector. It should be made the pulling force for the overall development process of the country. Promote production of food commodities for which the country has comparative advantages and other measures in direct support of improving the long-term competitiveness of Kyrgyz agriculture both in domestic and export markets. Land and agrarian reform, crop and livestock production, rural finance, extension services, natural resources management, reform of agro-industries, institutional reform in the Ministry of Agriculture and seed development are key policy issues included in this element.

- **Marketing**: Stimulate internal and external trade in farm produce and processed food items. A key policy issue is to support the overall effort to remove physical barriers (transport infrastructure).

- **Social protection and health care**: Guarantee that all people at all socio-economic levels have access to basic and healthy food. Key policy issues are to support the overall efforts aimed at employment/income generation (industrial restructuring, private sector development etc.)

- **Macro-economy and public finance**: Create and maintain a macro-economic and public finance environment favorable to ensure food security to all citizens.

The seminar report concludes that a structural food security situation in the Kyrgyz Republic is still non-existent: "What exists is a volatile and basic national food security situation with imbalances at regional level, and a high and growing occurrence of food insecurity at household level. The most urgent issue for the Kyrgyz government is to achieve structural food security during the years to come". The government of the Kyrgyz Republic acknowledges that the path toward reaching structural food security is closely interrelated with the overall economic development of the country. In term, the selected priority policy elements can not be isolated and should be seen as part of an integrated and coordinated reform effort. Priority areas include:

- The emergence of commercially viable farms through consolidation of the present fragmented structures created through the process of land reform, next to and above the layer of small-scale subsistence farming (post privatization restructuring)

- Further gradual diversification into products with a longer-term and more sustainable competitive market positioning both on the domestic and export markets.

For the government of the Kyrgyz Republic this policy has been translated into the following policy issues:

**Land and agrarian reform**

Establishment in the long-term of a secure and well-functioning market in land and other immovable assets based on free market principles. Through stimulating the process of farm restructuring, consolidation and development of commercial transactions in the sector will contribute to the overall economic development of the agricultural sector.

The results of the irrigation strategy to be ready by 2000 to be taken into consideration in further land reform developments.
Agricultural marketing
Through stimulating the development of well-performing agricultural commodities markets facilitate agricultural recovery and growth, and raise rural incomes.

Financing private rural enterprises
Through the establishment of a sustainable system of mostly private rural finance increase the efficiency and profitability of the agricultural sector and the living standard of the rural population.

Extension services for crop and livestock production
Through technical support by the Ministry of Agriculture promote farm reform and adaptation of private rural operators to market economy requirements and to extend the knowledge and advice through private agencies.

Management of natural Resources
Set rigid standards to avoid overexploitation of the three basic natural resources, farmland, water and range land for sustainable domestic food production, while optimizing their use in order to maintain food stability during future years. A policy of preservation of the nation's vast natural capital is considered to be a guarantee of a continuously stable National Food Balance.

Agro-industries
To support the development of a competitive private food processing industry in the country: to guarantee food is processed, conditioned and preserved properly to contribute to import substitution and to take in the longer term full advantage of the export potential of the sector.

Institutional reform in the Ministry of Agriculture (and Water Resources; MAWR)
To continue the process of institutional reform in the MAWR in conformity with the Government free market policy.

Seed development
To support the development of available domestic seed industry which will provide farmers with a range of quality seed and develop the possibility of exports. Furthermore, the government will pursue policy issues directed at establishing a sustainable social safety net. Providing a minimum guaranteed income to vulnerable groups, institute balanced nutritional habits among the population and ensure that accessible and available locally produced and imported food commodities are safe, healthy, and in conformity with common international quality standards.

The overall policy of the government is to ensure permanent food security by unifying and coordinating monitoring instruments and study the feasibility of a national food reserve. By consolidating the overall economic reform program a macro-economic environment will be in place to enhance, or maintain food security. Key pillars are the budget and monetary policy, trade and customs policy and fiscal policy.

The national report concludes that the Government's National Food Security Policy is based on the following major strategy components:

- Privatization of property of all means of production, including land;
- Promoting the emergence of a class of true rural proprietors;
- De-monopolization and decentralization
- Development of a demand and offer driven market for means of production, such as investment (including real estate), financial and credit resources, working capital, and labor;
• Updating of the legislative framework to introduce open competition in all spheres of the economy;
• Organizing tax collection so as to ensure sufficient means to the revenue part of the budget in support of the food security policy measures;
• Creating or modernizing and adapting its tools for emergency preparedness

A World Bank report on Strategy for Rural Growth and Poverty Alleviation for the Kyrgyz Republic (WB discussion paper # 394) [58] (p. 1) states; “In addition to creating a policy environment that provides positive incentives to the private sector, a handful of other factors also have important implications for efforts to increase growth and improve the productivity, profitability, and sustainability of agriculture. These relate to the country's highly diverse and less favorable agro-ecological conditions; low rainfall and irrigation-dependent crop agriculture (over 80 percent of arable land is irrigated); water logging; salinity; nutrient-deficiency, and erosion in soils problems; overgrazing and poor management of pasture land (45 percent of the total land area); inadequate number of all-weather roads and lack of efficient transport network; long distances to world markets; and the legacy of the centralized planning, resource allocation, input distribution, and state procurement of agricultural output.”

More than anything else it shows that there is still a long way to go before the population in Kyrgyzstan will be food secure. There are a number of conditions that will determine the possible implementation of the food security policy. The most important ones are favorable harvests for several years, increasing resources for the government to fund the policy, and substantial donor aid.

3.1.7 RURAL LIVING IN THE KYRGYZ REPUBLIC

The Kyrgyz people originally were herders. They used the vast mountainous pastureland as grazing land for their herds; the lower parts of the mountain slopes in the wintertime and the higher parts in the summer, living a nomadic life in their yurts (wooden framed “tents”). Many valleys in the Southern parts of the country are not the dominant domains of the Kyrgyz. This is Uzbek country, people traditionally more inclined to agriculture and horticulture, resulting in some Uzbek enclaves in Southern Kyrgyzstan. Nevertheless the limited number of valleys being Kyrgyz have the highest population density and are intensively used for agriculture and horticulture by Kyrgyz citizens of whom several have an Uzbek heritage (Uzbek is one of the languages in school curricula in the South).

Of the Kyrgyz population about 75 percent is rural (excluding Bishkek) and almost two-thirds of the rural population lives below the poverty line. Poverty allocation is the second most important development challenge (after agricultural improvement) for the nation, and agricultural and rural development must lead the effort (WB paper # 394) [58]. Poverty has increased during the transition period. Poverty is more severe in rural areas in the Southern oblasts. Indicators of declining living standards are the increase in the incidence of malnutrition, particularly among children, the greater difficulty of residents in rural areas in receiving pensions and other social benefits, in part because of the inadequate banking system in rural areas. The Kyrgyz government has recognized the poverty problem and has declared 1998 “the year of rural development and fighting poverty”. It launched the National Program for Poverty Alleviation which seeks to increase employment, improve access to basic social services, improve the targeting of social assistance, and ensure the timely
payment of pensions. The program stated that the development of an efficient agricultural sector is fundamental to the alleviation of rural poverty.

Zvi Lerman notes in “Agricultural Land Ownership in Transitional Economies” (1994 edited by Gene Wunderlich) [49] p. 54 – 57: Socialist agriculture was characterized by large collective and state farms, which were introduced in the Soviet Union mainly in the 1930s and extended to the dependent Republics (like the Kyrgyz Republic). These agricultural production units evolved into core institutions regulating virtually all of rural life, from political and civil order to social services, welfare and retail trade. From the beginning the collective or state farm was more than just a production unit; it also served as local government and social community. The chairs of kolkhozy controlled the budgets for schools, clubs, roads, and similar infrastructure and facilities. Resident permits and internal passports were issued to and held by farm authorities so that until the late 1950s peasants could not leave without the chair’s permission. Farms, not the local communities, designate building lots and household plots on which members can keep livestock and/or grow subsistence crops for their households. The yields of these auxiliary plots tend to be a great deal higher than on former collective and state farms, not only because this land grows higher-value crops and is better tended, but also because the farm management can, if it wishes, permit petty pilfering of inputs from the collective. The situation in the Kyrgyz Republic on most State farms in the post WW II era is similar to the situation in Russia as described by VanAtta in 1994 [95] (p.7). “The chairman controls the lives of his farmers: he chooses whether or not to provide them with transportation to the city when they get sick, he can evict them at will, and he and his subordinate bookkeepers and brigadiers can assign the farmer good-paying or poorly paid jobs or simply cheat him his pay.... the job tends to make even the most democratic managers dictatorial..” (The chairman’s cultural taste also determines the kind of entertainment available on the farm. See: Govorukhin “Prikaz, igrat’ na balalaike!”1988).

3.1.8 RURAL LIVING AFTER INDEPENDENCE

Initially the declaration of independence and the resulting transition period had a marginal influence on rural life in the Kyrgyz Republic. In many rural areas the first years of independence showed some bureaucratic activity reorganizing state and collective farms into new legal entities maintaining the original management structure (mainly ‘cosmetic’ changes) and without much effect for the workers on the farm. On some of the farms certain families were allocated paper land shares theoretically corresponding with individual plots of land. But rarely these paper shares led to actual distribution of specific land parcels. Families continued to work on collective farm lands and did not work their own land. After obtaining their shares, several families together were registered as peasant farms (a legal requirement) but in most cases the entire farm continued business as usual. Peasant farms of this type flouted the legal definition, but little attempt was made to enforce adherence to the law. Later in the transition period owners of land shares could apply for land certificates or in the case of (small) multi-family farming enterprises State Akts, which could be registered with notaries with permission of the local authorities, in local land administration offices. Use rights in urban areas could likewise be converted into ownership rights at the BTI offices – for buildings - or Rayon Architectura offices – for urban land (a confusing situation anyway). But since this registration involved payment of fees and generally a lot of time to be spent while waiting in the office it only occurred sporadically. The process of registration of the land certificates is still going on today in the Kyrgyz Republic. Progress is
slow, mainly because there are no obvious benefits and only costs involved. In rural areas it is not always clear to the people where to register and many peasants rely on the notary deed of registration of the land certificate as sufficient proof of authority for right to land. So unless a transfer of the land is at hand, registration is seldom actively pursued. One could wonder about the low response among the peasants on this challenge. But it is important to realize that the agricultural employee had no responsibilities for management of the farm and that information about the operation of the farm and marketing of its produce is generally out of reach for peasants starting their own farm.

Only a few peasants were brave enough to ask for their own plots of land and they got the opportunity to create a privatized farm, as a result of the distribution of land shares, but this was rare. The allocation of land was mainly from the less productive parts of the collective farm, unless the request came from a person with good ties with the former management.

For agricultural supplies and sales the new farmers still needed the cooperation with the former collective farm for seeds, agricultural tools and to market their harvest. They had to rely heavily on the existing large state and collective farms, because of total lack of support in this respect for private individual farmers. All this did not encourage large scale quitting of the existing farms.

3.1.9 PROPERTY IN KYRGYZSTAN

Before the Kyrgyz Republic became independent in 1991, generally all land and real estate was owned by the State. State institutions took care of registration and inspection of the immovable property and all legal occupants or exclusive users of real property had the obligation to register. It was simply a matter of existence. The registration provided proof of residence and with that document the citizen could obtain an “internal Kyrgyz passport” at the local office of the militia (the police). This passport was proof of citizenship, and a document to be shown at any occasion when requested by police or other authorities. It was one’s proof of existence and residence. In urban areas the local Bureau of Technical Inventory (BTI) had the authority to provide proof of residence and in rural areas Land Engineering offices registered residence and controlled use of agricultural designated land (actually the ‘Ugodia’) and carried out surveying of land plots.

Private land ownership did not exist in communist times. All arable land was state property and most of the mountain pastures were commonly used as grazing lands for the livestock of state and collective farms but also as common pasturage for herds of the population.

In 1991 a privatization law signaled the start of agricultural reform in Kyrgyzstan. Between 1993 and 1999 various laws and decrees initiated private ownership of immovable property. As a result, the Kyrgyz Republic is currently in the process of a massive change of real property tenure. Immovable property units are being transferred from institutions for “public” decision making into private hands to a substantial degree. The moving force behind the global privatization trend as seen in many former communistic countries nowadays is that it is believed that privatization of land management supports the development of dynamic market economies and stimulates economic development.

As the management of land becomes privatized, the institutions of land administration (understood as the processes of recording, maintaining and disseminating data on land ownership, land use, land location, land quality and the value of land) must also change. The creation of private ownership rights to land has been erratic in several of the transition countries. All attempts for a quick and simple solution to the task of establishing private
ownership to land in countries still full of concepts of a centrally planned economy have shown significant problems and misunderstandings. A particular interesting aspect of the transition in Kyrgyzstan is that the initially issued land shares established rights to exclusive use of 'Ugodia' land by private individuals. In November 1998 (after a long period of parliament debates) an amendment on the Constitution changed the land share documents of land use rights into documents showing ownership rights to land.

In 1995 a Land and Real Estate Registration Project was initiated by the president of the Kyrgyz Republic. The latter aims at establishing a "Western" style land registration, to protect the rights to immovable property of individuals in the Kyrgyz Republic. In 1999 when the preparatory phase of the Land and Real Estate Project actually started, 'western style' individual private ownership of rights to land did only exist for a number of months in Kyrgyzstan.

3.2 OWNERSHIP OF RIGHTS TO LAND BEFORE INDEPENDENCE IN KYRGYZIA

3.2.1 OBTAINING USE RIGHTS

People could obtain the exclusive right of use for a specific real property object in Kyrgyzia. This right was not unconditional. The main condition the state put on the use right was an obligation of proper use, to be controlled by government officials. For farmland the main condition is the obligation to use it to its full potential which generally meant use according to recommendations and expectations set forward by government officials. Apartments and other residential structures were in exclusive use and most inhabitants enjoyed an inheritable right of use of them. Land was State owned both in urban and rural areas, and rural people were allocated a house plot to be used as a vegetable garden.

Before independence in 1991, private ownership of real property (whether apartments, other residential structures or land) did exist in Kyrgyzia, as an exception and only marginally. Some residential - single family - homes were owned (as a structure) but the land was only in use.

Most of the existing apartment buildings, multiple housing structures and single family homes were state owned and given in use with a strict regime of control and inventory by government agencies. The latter also applied for agricultural land.

What is now The Kyrgyz Republic was a dependent Republic in the Russian Federation from 1924. Between 1930 and 1990, there were basically four ways to obtain the exclusive use of an apartment or residential property in Kyrgyzia:

- One way was to try to get permission from the local authority office to obtain or buy that right;
- Another was via your employer, who would enlist you as a potential candidate for the exclusive use of urban real property. In due time you would obtain permission to take possession of an available apartment or other real property structure.
- The third way was via a cooperative that collected money from its members and then tried to obtain land and a building permit to erect an apartment building. Any member of the cooperative eligible for an apartment could receive a life long use right, which also became inheritable in a certain sense (see further).

4 Kyrgyzia is the name under which most of the territory of the current Kyrgyz Republic was known in the time it was part of the USSR.
The fourth and hardest way was to obtain permission to build your own home on a piece of land. If successful - as explained before - the structure became yours, but the land remained State property. The problem was not only to obtain permission, but also to collect building materials, so only a limited number of citizens could follow this route to home ownership.

The right to exclusively use land, or a structure on it, or even to own the structure without any other right than that of exclusive use of the land – as long as it suited the government officials – did provide a specific kind of land tenure security. Furthermore, the strict control on proper use exercised by government agencies contributed to the feeling that one received a favor of exclusive use of the real property. At each transfer of the real property BTI inspectors, or if the real property was located in rural areas inspectors of the Land Register of the State Inspectorate on Land Engineering – as the Land Engineering offices were officially named - carried out an inspection on the ground.

3.2.2 'INHERITABLE' USE RIGHTS

The "inheritable use right on real property" consisted of a right of exclusive use of a real property unit by descendents, but not necessarily in the same premises as the deceased. For example, if parents and one or more descendents lived in a rather large apartment and the parents both passed away, the descendent(s) could receive an order to move to a smaller apartment. The condition was that the descendent(s) had to be registered as living in the apartment – and in order to obtain a domestic passport\(^5\) - to benefit of this "inheritable right". Registration was important anyway and was also required by the police. If the former tenant of an apartment died and there were no heirs registered as living in the same apartment, then the apartment would be freed for a new applicant. The same happened if someone living alone in an apartment was convicted and sent to jail for longer than six months. The property and all its contents were simply given in use to others and was confiscated. Relatives of the convicted could also be ordered to move to a smaller apartment in the neighborhood. All land was and always remained state property.

Thus the most common way of using real property can be described by the "inheritable use right". People received an inheritable right of exclusive use to real property. In urban areas this was limited to an apartment or residential structure, while in rural areas it was common to have a residential structure plus next to it a house plot generally used as vegetable garden. All arable ("Ugodia") land was held by a state or collective farm and used according to the indications in the five-year economic planning system of the USSR. Pastureland was state owned but when not in exclusive use by large state and collective farms also available for communal use.

The local authority office of the municipality gave permits for people who then could obtain such an inheritable use right to real property. In urban areas the process to obtain such a right was often initiated by the employer who provided lodgings on a first come, first serve basis. (But "political capital" could assist enormously in being first served). As soon as

\(^5\)This passport should always be carried and shown on demand to officials. It served as a document to proof identity. It is in general not valid for foreign travel. Prior to travel abroad, a citizen has to apply for a special extension to this passport permitting to leave the country for travel outside the (former) USSR.
someone got employed, he or she could sign up for lodging and over time lodging was provided. As mentioned earlier another way to become a legal lifetime user of real property was via a cooperative. The cooperative collected money of its members and after obtaining approval of the responsible authorities started building suitable lodgings for which the members could apply.

Although moving in general was restricted and occurred only occasionally, if this happened, the Archiitectura office of the municipality had to approve the move in order for the people to obtain new living quarters in the new area. Since this was a rather difficult procedure the general practice was that it happened only if there was a possibility to exchange real property. People indeed could exchange real property with people from other regions after approval by the local authority in either regions or towns. So if you wanted to move from Bishkek to Osh and you knew people who wanted to move from Osh to Bishkek, you could apply for permission to exchange your lodgings. Farm workers who wanted to move generally needed permission from the management of the state or collective farm to do so.

3.2.3 PROTECTION AND REGISTRATION OF PROPERTY RIGHTS

Prior to independence, little attention was paid to the question of protection of rights in land and other real property, because land and real property was owned by the State. Information on land and other real property was collected and maintained by a number of different agencies, but the data were primarily used for purposes of planning and control by the State. As mentioned earlier, technical and legal data on residential structures in urban areas were collected and maintained by offices of the Bureau of Technical Inventory (BTI), but also the Architectura offices of local governments maintained a system of data on real property. Building and zoning data on land and real property was collected and used by municipal offices associated with the Ministry of Construction (in urban areas). On several occasions I was assured that during communist times hardly anyone could use a plot of land (or another real property object) without somewhere being registered and recognized as having a certain right to it, except as stated before for grazing of (domestic) livestock on communal pastureland.

In rural areas the use of state owned land (virtually all land) was controlled and organized by the Land Engineering (also called land administration or land management) offices. These offices also carried out surveys of plots to determine the size, the location, and to assess the soil quality. In all areas of The Kyrgyz Republic local authorities maintained and updated – sometimes yearly – the inventory they had of data on real property. This official activity certainly contributed to a perception of tenure security and to the perception of secure property access. Several other agencies and departments all kept data on land for various purposes of state control and planning. A department of the Ministry of Agriculture maintained a land cadastre of agricultural lands (actually not a cadastre as in the Western concept but more an inventory for agricultural planning purposes suitable for the national economic planning see for example [33] p.15 and p. 187).

Like elsewhere in the USSR, Kyrgyzstan had a specific land registration in its rural areas. This land registration confusingly referred to as a ‘cadastre’ contained a vast amount of data

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on the ‘Ugodia’ (all land designated for agriculture). To assist the five-year central planning cycle of the USSR, data were collected at local, district (rayon) and provincial (oblast) level, and submitted to the national level. Not only alphanumeric data but also maps of the state and collective farms were available indicating the areas and also the soil quality of the various land plots. Apart from data on distribution of land and its quality, data were also collected and maintained on climate and topographic details. In several areas of the Soviet Union even data on the agricultural productivity of the farm employees were added to the data set. There was a whole institutional arrangement to provide these data of which offices of Land Engineering formed the core. Scientific research on soil quality sometimes went as far as providing ten different soil classes and within these a subdivision of again ten classes for each main class, resulting in almost one hundred soil qualifications (as I observed in Bulgaria). Map production to keep track of soil classes and farm boundaries provided maps to determine crops and quota to be produced on each farm. Currently these data are still used in Kyrgyzstan to determine proper use of agricultural land, although most of the data are outdated by lack of funds for updating and maintaining the system since the cease of the USSR five year economic planning cycles. But as mentioned before, the offices of Land Engineering are still involved in collecting and maintaining data on land in rural areas in Kyrgyzstan.

3.2.4 REGISTRATION OF USE RIGHTS
Most of the political support for the introduction of a new system for land registration came from the fact that transfers of real property were cumbersome and time consuming. It is a well-known fact in Kyrgyz society that in order to speed up the procedure at each window some extra cash would do the job and this increased the costs of transfers considerably. Some of the most relevant offices and their tasks with respect to real property can be summarized as follows:

Rural sector:
- State institute for Land Resources and Land Management (Kyrgyzgiprozem). This institute is responsible for maintaining an inventory of all land resources in Kyrgyzstan. It compiles an annual inventory of land resources with detailed figures on land holdings of each agricultural user. Every five years, a cadastre is prepared on the basis of the annual reports. During Soviet times with a total of only 500 agricultural users (state and collective farms) this was a reasonable task, with the more than 24,000 users in 1995 and a staff reduction of 75% by lack of funding, the likelihood to continue with this task is small.
- Land Engineering offices at the rayon level. These offices collected data on land use in rural areas on behalf of the rural councils. It takes care of the land administration by providing data to Kyrgyzgiprozem on population figures, area of land in yards and gardens, it carries out surveys of lands and manages and administers the (domestic) passport regime of the rural villages. (These offices are also referred to as Land Management offices after The Committee for Land Reform and Land Management established offices of Land Management Service) The Land Management Service was put in charge of land use, land monitoring, land cadastre, land management organization, topographical and geodetic
mapping, and soils, botany, agrochemical, and other land management research with financing from the budget of the Kyrgyz Republic.

Urban sector:

- **State Committee on Architecture and Construction (Gosstroi)**
  This is the state agency for city and regional planning. It has the responsibility for privatizing apartments and other urban properties. The Architectura offices at the rayon level register urban owners and users of real property and report this information to the local tax offices. It submits data to Kyrgyzgiprozom for compilation of the annual land register.

- **Bureau of Technical Inventory (BTI)**
  BTI collects all data on immovable property, such as location, area, and owner of rights to the property. It maintains an archive for all blueprints, construction plan of houses, apartments, and other immovable property. It is subordinate to the State Committee of Communal Affairs.

This is the cycle in an urban area one had to pass in order to complete a conveyance of real property (i.e. buildings):

1. Start at BTI to obtain approval and authorization of documents that exist on rights to real property

2. Go to Local Administration (includes Land Engineering & Architectura offices) to obtain a valuation of the real property

3. Go to Notariat (part of Ministry of Justice) to prepare deeds of transfer and pay the 7% tax on the value

4. Back to BTI to register the new situation!

In the rural areas a slightly shorter procedure had to be followed, it started at the Land Administration and ended there. Differences between rural and urban areas are mainly in the nature of the property rights. In urban areas it is mostly ownership, in rural areas it is only ownership of dwelling houses, apartments, and house plots. For all other real property areas one needs always permission to convey real property (at the land engineering offices of the local authority). All land designated for agriculture remained state owned until the adaptation of the new Land Code.

The legal base for the Land and Real Estate Registration Project is laid down in the Law on State Registration of Rights to Immoveable Property as adopted by the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic on November 26, 1998. (An English translation was provided by US-AID on December 22, 1998). The preparatory project aimed at land and real estate registration started in 1999 by the World Bank. It focuses on the functions of the in 1998 newly created office (GosRegister) in which the existing offices of Land Management and BTI will be combined. It is clear that this causes tension – with currently still unsolved competence questions – between GosRegister and the Architectura offices which now have a certain responsibility for registration of rights to real property. It is the aim of the new organization within GosRegister, to reduce all the cumbersome stages of
registration of real property and to establish one integrated procedure in one office, where
one starts with the application of a transfer and leaves the same office with the approved
new land title(s). The distribution of data among the government offices involved now
becoming one of the responsibilities of GosRegister.

3.3 LAND AND AGRARIAN REFORM

3.3.1 THE LEGAL FRAMEWORK
Let's now give some attention to land reform also referred to as 'land and agrarian reform' in
the Kyrgyz Republic. As mentioned before, in 1991 a privatization law was implemented.
The situation in the rural areas initially confused observers. There seemed perhaps to be a
hurried response to implement reforms that resulted in an obvious lack of definitions and
careful planning. In article 4 of the Constitution [44] it is clearly stated that although private
ownership is recognized, all land belongs to the State. Would this also imply that only an
inheritable exclusive use right to plots of land is possible? According to the Law on Peasant
Farms of February 1991, land was granted to individuals in either rent or lifetime inheritable
tenure. A 1994 attempt to improve the progress of land reform started with a presidential
decree [44]. Holders of land shares could now pool their shares with others and heads of
households could obtain land use certificates in the form of a 99-year lease. If the farm was
multi-family and registered as a farming enterprise a State Akt was issued. A November
1998 amendment to the Constitution recognized private ownership of land and converted
the land certificates and State Akts into documents of ownership of rights to land.
Before 1991 there were two kinds of real property in urban areas. One was the apartment
and the other was the private (dwelling) house generally government owned, but also
sometimes privately owned (built by the owner with collected materials on state owned
land). The latter could be sold and transferred even in USSR times (not the land!), the use
right of government owned lodgings could normally not, unless permission was obtained
from the local authorities.
After introduction of the privatization law the apartment or single family home one used and
possessed at that moment could become one's own, that is to say with a private individual
ownership right. This transfer from state controlled to privately controlled and managed
property had to be approved by a special local commission. A fee or purchase price had to
be paid to the local authorities, which also was determined by the local commission. For the
'Ugodia' the "initial cost" paid for the right to exclusive use of the land could pose a problem
(25 times the tax rate) for new peasants. As in rural areas, urban area residents could not
always pay the required amount. There were also a number of exceptions to the rule that
one had to "purchase" the premises (for example war veterans, invalids, and heroes of the
revolution were exempted of paying the purchase-money\(^7\)). It also meant that one could be
fortunate if one possessed at that time a large apartment! It was kind of a lucky draw. Of
course there were also some irregularities, especially at the sale of state controlled property
to private organizations or persons. Sometimes the (re) valuation was lower than usual
because of political capital or special relations possessed by perspective buyers.

\(^7\) Article 4 of the Law of December 20, 1991 "On privatization of housing stock in the Republic of
Kyrgyzstan" lists a number of exceptions.
The struggle of the Kyrgyz with the changes during the transition while trying to maintain the agricultural production, has been documented in July 1996 by the Land Tenure Center of the University of Wisconsin (LTC research paper #128) [52]. I will more or less follow that document here.

Research on the evolution of the agrarian structure by LTC showed ambiguities in shifts and definition of land reform concepts and inherent confusion (peasant farm, private farm, cooperative farm and reorganized enterprise). The legislation that underpinned farm restructuring in the Kyrgyz Republic in the first years of transition has been:

- Law on Peasant Farms (2 February 1991)
- Law of the Kyrgyz Republic on Enterprises (6 February 1991)
- Law of Kyrgyz Republic on Land Reform (19 April 1991)

The law on Land Reform of April 1991 [44], envisaged two steps of reform; to provide appropriate legislation and land regulations and the creation of a Land Fund under the local council of people's deputies, for emerging private farmers, lessors, and farm cooperatives. Land tax and land use payment schedules would be developed and boundaries of administrative units would be demarcated (not yet the boundaries of individual parcels!).

The privatization of farmland in Kyrgyzstan was initially dominated by fear of the Government about possible adverse equity effects of land markets. This led to hesitation and inconsistency over legal land rights. Rural committees, rural enterprise managers and farming households became confused to whom who held rights. The introduction of a number of restrictions on land transfers like a five-year moratorium on land transfers, and a maximum amount of land to be held by one family further contributed to the confusion. During the early stages of the reform, land shares (also called land passports or land certificates) were issued to farmers and land users in accordance with the Law on Land Reform. Land Reform was made the responsibility of the Committee on Land Reform and Land Management of the Council of People's Deputies with participation of the appropriate ministries and agencies. The share system is widely used in the former USSR. Under this system state and collective farms issue paper shares of their land and non-land assets to workers and other residents of rural areas, who can pool these shares to form new farming enterprises. The theory is that state and collective farms will be transformed into a variety of smaller-scale, collectively- and individually managed farm units. Decisions regarding the operation of the new farms – from sowing, using fertilizers, size of livestock, obtaining credit, to marketing of farm products – will be made by the workers and members themselves and not by the state. However, as mentioned before, most of the new farm units continued in practice to operate under (part of) the former management with or without explicit involvement of workers or members in decision making.

According to Bloch [8], three phases of land reform can be distinguished. The initial phase or early reform in which introduction of small-scale farms took place (in 1991), a second phase of restructuring unprofitable farms and distribution of their lands occurred (1991 – 1993) and a third phase of restructuring the state and collective farms.

3.3.2 FIRST PHASE OF LAND REFORM (1991)

The law on peasant farms encouraged individuals to petition the local Rayon Council of People's Deputies to set up a peasant farm. The farmland came from areas deemed to be underutilized, or from a collective or state farm marked as unprofitable or of low profitability. There was no ceiling on the amount of land an individual could apply for and a variety of
farms emerged with sizes ranging from less than ten to over hundred hectares. Persons who managed to establish a farm in this stage of the reform were generally well off. They kept access to state supply and marketing channels, low interest on credit and state support system (low) prices for agricultural inputs. Mostly the well-connected people (employees of the farm administration for example) succeeded in establishing such farms.

Under the Law of Peasant Farms (PF) of February 1991 article 2, a peasant farm is an independent farming complex comprised of family members, relatives, and other individuals jointly operating the farming unit. Establishment is voluntary (art 6), ownership restricted to one farm per family and the farm could be inherited by will (art 7) but all other transfers (buying, selling, granting, mortgaging and unauthorized exchange or allotment were strictly prohibited. All members had a right to compensation when leaving the farm, the amount to be determined according to labor and property share assigned to the PF during its organization (art. 8). Terms of compensation had to be established according to mutual agreement but payment terms should be within five years. The PF was taxable by the government, depending on land quality and location at rates determined by law (art.17). Rights of ownership in the PF were to be forfeited in cases of voluntary withdrawal, failure to make necessary land improvements within a designated period, and failure to pay land taxes and other charges on time (art. 20).

The land of a PF came from the lands of former collective (state) farms, with land shares distributed according to labor contributions of farmers during their time at the collective farm. On other state farms land grants were to be assigned on a rental basis, with an option of purchase later, taking into account the farmers income (art. 6). Maximum farm size was to be set by the rayon council of people’s deputies taking into account soil fertility, population, public land reserve, number of members and degree of professional ability of the farmers – all aimed at ensuring maximum livestock and crop efficiency (art 13).

The head of the PF is responsible for all management activities and for production and marketing (art.4). The same article forbids interference by the State except in cases of law infringement. The land must be used for the intended purpose and must achieve minimum productivity (according to the cadastral evaluation) and must be kept environmentally "clean" (art.14). Land allotments were carried out after application by the village. In this stage land was allotted on a competitive basis (later all citizens were made eligible) preference was determined by the length of farm experience, necessary qualifications, and capability to manage the PF. State and collective farms producing above the rayon average were exempted from privatization (as was land for research and scientific use). With consent of the PF people could move over the PF lands, fish, camp and bathe. Labor contracts (stating length of the working day, days off, paid vacation, wage rate, meals, and any other condition that might apply) are obligatory in peasant farms and the peasant farm must pay social security insurance into a state fund. The peasant farm is eligible to obtain agricultural assets and tools, pedigree seeds, utilities, and materials from the state logistical support system. (At state set prices). It all looks convincing, but it should be noted that the reform initially was a debacle, hardly any real progress was made with the reform. Only a few peasant farms emerged during the first phase.

3.3.3 SECOND PHASE OF LAND REFORM (1992 – 1994)
Subsequent laws and regulations to completely liquidate unprofitable state and collective farms gave way to the next phase of reform in Kyrgyzstan. About 60 farms were
restructured and got new organizational forms. Generally it was the manager of the existing farm who decided upon the new organization and an array of types of agricultural enterprises appeared. Under this arrangement, peasant farms, associations of peasant farms, agricultural production cooperatives, and joint stock companies were established. Peasant farms were a continuation of the peasant farms of the first stage of reform but only a few families took their share of land and assets and attempted to farm individually. Associations of peasant farms are voluntary associations of farmers granted land and property shares. It formalized a practice of continuation of the former large-scale farms often with a new name but with the same old structure and management. Sometimes two or three associations were formed on the land of the former large-scale farm. Agricultural production cooperatives are restructured large-scale farms where former farm managers became the "elected" heads of the cooperative and where farm workers carried on with their duties as before. Also here a split of the very large-scale farm into two or three cooperatives was not uncommon. Joint stock companies are closed corporates in which shareholders, defined as the farm residents, now hold the assets of former large-scale collective or state farms and where the management and production structures remained mostly as before. Again on paper the impact of the reform looks impressive. The number of peasant farms on January 1, 1994 was 9,764 and their land measured 3,640,600 ha (land designated for agriculture). But the figure has to be interpreted. Peasant farms and associations of peasant farms were counted together in official statistics.

3.3.4 THIRD PHASE; REVITALIZING AGRICULTURAL RESTRUCTURING (1994 - )
The third land reform phase is based on a series of presidential decrees, government orders and ministerial regulations on land and agrarian reform of 1994 and 1995. The process started with a presidential decree "On measures for enforcement of the land and agrarian reform" of February 22, 1994. Responsibility for the farm restructuring was transferred from the State Property Committee to the Ministry of Agriculture. The Ministry has set up within the Ministry itself a Republican Center for Land and Agrarian Reform (CLAR) with offices at oblast, rayon and local levels. With the exception of certain specific farms (for seed and livestock breeding) all state and collective farms should be replaced with smaller management units using the land and assets of the former large-scale farms. Pasture land remains under state control and 25% of arable land should be put in a National Land Fund. This National Land Fund should use the 25% of land of state and collective farms, to develop agricultural entrepreneurship, and prioritizing farming enterprises. Land that is taken into the fund is used for seed production, experimental farming and to be distributed among new settlers, pensioners and health workers in the community. Remaining land can be leased on a profitable basis in a competitive way. Most of the land for the fund came from insufficiently used lands like land provided to agricultural industries but not utilized within one year, and other land not used within a predetermined time or for which the five-year performance was lower than a norm set by cadastral assessment. Specific inventory programs were carried out to identify these lands. Once the land was in the Land Fund the Council of People's Deputies was to determine appropriate future use of it, whether to continue use by current owners, withhold lands, re-distribute land to new landowners and tenants or introduce conservation programs on degraded lands. Inefficient collective farms, state farms and other agricultural enterprises would be reorganized into agricultural
cooperatives, and (associations of) peasant farms with priorities set by the Cabinet of Ministers. The village, town, settlement or district council of People’s Deputies would issue an ownership document to re-register such lands. A presidential decree of November 3, 1995 created an Agriculture Lands Redistribution Fund with 327,000 ha from the National Land Fund of which in June 2000 almost half was leased to various types of farms. Auctions for sale of land out of the fund resulted in selling of almost 2,500 ha. The rest of the land is used for haymaking, leaving land fallow and for short-term use by individual farmers (obviously without lease agreements). The collection of rents from these lands is sometimes problematic and reveals economic problems in the country. In 1999 less than 80% of the rental payments in the whole country were received (In this period in Talas oblast only 22% of all rental payments for leased land could be collected). The general aim now seems to be to sell as much of the land that currently is still in the redistribution fund.

The Committee for Land Reform and Land Management established offices of Land Management Service (also referred to as offices of Land Engineering, because the staff was largely taken from those offices). These offices provide yearly cadastral documentation, land monitoring, inspections and issuance of “passports” to landowners and tenants. They carry out land monitoring, topographical and geodetic mapping, research on soils, botany, and agro-chemicals, with financing from the budget of the Kyrgyz Republic. Any land improvements, however, were to be carried out at the initiative of landowners and tenants at their own expense.

Initially this third phase of the land reform was a frontal assault on state and collective farms, which had ignored previous restructuring edicts. Implementation came after the planting and harvesting season in the fall of 1994. The February 22 presidential decree in 1994 gives all citizens living on the territory of state and collective farms a right to a share of land and all Kyrgyz citizens could transfer the right of use of real property. One could pool shares of land getting 49 years (a presidential decree of November 3, 1995 extended this to 99 years with preferential right to renewal) of guaranteed tenure with preferential rights to extension. New maximum land holdings for households were set - 20 ha, 25 ha, 30 ha, for intensive agriculture, semi-intensive agriculture, and mountainous pasture lands respectively - and plots must be used for agricultural production according to standards set by government officials. Consolidation of multiple household holdings into larger enterprises is allowed and no maximum size for the new enterprises has been set. A regulation of 4/01/1995 requires re-registration of all economic enterprises with the following definitions:

- Private farm (labor of one household)
- Peasant farm. Presumably two or more families (no definitions given)
- Agricultural cooperative No definition, but sizes between 30 – 100 ha (50 – 150ha pastures)
- Collective farm (kolkhoz) farm size above 100 (150) ha (no further definition given)
- State farm (sovkhоз or gozkhоз) state property. Farm size as for kolkhoz.

Although this regulation was designed to systematize the situation, there still is a lack of definitions, questions and confusion. It causes a problem with statistical information, because of the lack of a clear conversion of farm types before and after this regulation.

The heads of rayons (districts) were charged with developing programs for farm reorganization and setting up rural committees in the rayon. Local taxes on real property could be increased to a maximum of twenty fold the old (nominal) tax, with 50 percent coming to the rayon itself, but in February 1995 this was changed to only 25 percent for the
rayon (and 75 percent to the state budget). "Rural committees" are to be established on every farm to be reorganized, more or less as executive instruments of the rayons. Implementing the reforms still turned out to be difficult and a regulation of January 23, 1995 establishes commissions on land and agrarian reform to help realize the reforms. Each commission, one on every farm, includes the head of the rural committee, representatives of the Ministry of Agriculture, the Kenesh (village head), oblast and rayon representatives, bankers and statistical experts and representatively chosen farmers (but not more than 15 people in total). These commissions look similar to the rural committees, but they are now more an umbrella group of all interests.

A regulation of 22/08/94 made farm reorganization obligatory for all enterprises. Land share certificates can be purchased at the rural committees for 25 times the tax rate and they are to be registered in the local registration of deeds. Farmers should have a notary deed made up by the notary employed in the offices of the local authority where registration also takes place. Transfer of shares is not limited and could be done among the registered owners of shares. In practice purchase of land proved to be difficult. High interests due on loans and mortgages, lack of resources and funds, and a failing banking system severely limits the practical implementation.

Collective and state farms may be:
- Divided into peasant farms (regarding the maximum size per household)
- Reorganized in a joint stock company
- Declared bankrupt, with the property sold by auction to other agricultural producers

Restructuring former collective or state farms must at least encompass accurate measurements and the establishment of legal boundaries. It also must cover a valuation of the assets, taking into account the size of the population, number of farmsteads and work force, future land use possibilities, the way to distribute the shares, with details of the process, valuation of lands and rights of succession and leaving the farm. The restructuring plan is to be voted upon and implemented by the rural committee after approval by the rayon head.

Debts incurred by the collective or state farm before October 1 1994, should be paid out of the property of the reorganized farm, remaining debt was transferred to the newly formed enterprises (recently with a period of repayment of fifteen years).

3.3.5 PROGRESS OF THE REFORM

As a result of the reform, 406 state and collective farms were re-organized. It is reported that at the end of December 1998, the Kyrgyz Republic has 21,226 private farms, 27,169 peasant farms, 348 cooperatives, 331 (new smaller) collective farms, and 45 (old style) state farms. (Source: report of the Center for Land and Agricultural Reform).

According to art.4 of the Constitution of the Kyrgyz Republic, the land, the subsoil, water, air space, fauna, flora are the property of the State. Land may be given in private possession to individual citizens in accordance with the law. Nevertheless the Republic “shall defend the right of its citizens and legal entities to own property”.

The size of the share is determined by the labor contribution on the old farm. When pooled shares comply with the rules for the farm size they can be redeemed for a land certificate (for a one-family farm) or State Akt (for farm enterprises) of land use right to be issued by the rayon administration. The rayon land management office along with the rural committee carries out actual land allocation. Social-cultural units (stores, workshops, garages, oil-
stations etc.) are managed by the rural committee for all shareholders. Rural committees can form agro-industrial enterprises such as veterinary clinics, land reclamation projects etc. MAF can organize joint-stock companies as seed farms, livestock breeding stations, hippodromes, fruit nurseries, educational farms etc. According to the Law on Peasant Farms, land was granted to individuals in either rent or lifetime inheritable tenure. Land shares generally did not refer to a specific parcel of land. Land share definitions and rules for giving out certificates for rights to land are given in provision # 632 of 22 August 1994. With exception of land in the National Land Fund, pastures and populated areas with private plots and forests, all collective farmed land (state and collective farms) should be distributed to eligible interests. Present workers, retired workers, health workers living on the farm, those born on the farm and coming back permanently are eligible for shares. Land shares to be determined by the rural committee and depending on the family size at reorganization approved by the rayon administration. Shares are free of charge. Shareholders have the possibility to pool their shares with family members to form individual single family farms or with others to form larger farm enterprises. Rural committees are responsible for replacing the combined shares by issuing land certificates to household heads or in case of multi family farm enterprises to issue a State Akt in the name of the enterprise. Land Use certificates provide the holders with land use rights for a 99-year lease term. Land use certificates must be registered at the rayon land management offices.

In a June 2000 report to the World Bank the Director-General K. Kadyrkulov of the Ministry of Agriculture and Water Resources, states that of the 1,496,300 ha of agricultural lands (excluding pastureland) 1,081,800 ha have been distributed in the form of land shares among citizens. All land shares have been replaced in the mean time by land certificates in the proper format for registration for more than 510,500 families or 3,481,800 individuals residing in rural areas. This indicates that a family has an average area of arable land of just over 2.1 ha and each individual an average area of about 0.31 ha. The small average size of 2.1 ha implies that several of these families have to farm together in cooperative farms or in new style collective farms. Land share size depends on the amount of land designated for agriculture of the former state or collective farm and on the number or rural residents. In Osh oblast and Djallal-Abad oblast and in particular in the fertile Ferghana valley in the South of Kyrgyzstan with its relatively dense population the smallest areas per individual (0.1 – 0.3 ha) occur. Driving through the valley and talking to farmers there, one could observe that most families had no other choice than cooperative or collective farming to make a living. An interesting feature of that type of farming is that with some crops each family still had their own number of rows of crop pegged out in the fields. While travelling through the valley one could see various families scattered over the fields but each tending their own rows to prepare for a good harvest. In Chui and Issyk-Kul oblasts in the North of the country population density is much lower with less mountainous and more fertile land individual sizes of arable land ranged from 0.75 to 1.0 ha.

3.4 INTRODUCING OWNERSHIP OF RIGHTS FOR ALL LAND
3.4.1 AMENDMENT OF THE CONSTITUTION

An important decision made by the government of the Kyrgyz Republic occurred during the third phase of the land reform. I hesitate to see it as the fourth phase of the land reform, because on the one hand it is a considerable change in property rights, but on the other hand it is not as much of a change in the land reform process to be classified as a sequential new phase. LTC senior researcher Peter Bloch states in an unpublished paper on the situation in Kyrgyzstan (used in a small seminar in Washington DC in April 2000) that it took years of hesitation and debate in Parliament on the issue of private ownership of rights to land designated for agriculture (‘Ugodia’) to determine a final situation. But in October 1998 an amendment on the Constitution [44] was approved by referendum which essentially converted all land use certificates into ownership documents. I will refer to this important change as the fourth phase of the land reform in Kyrgyzstan. With this decision all real property transferred to citizens by land shares, land certificates and State Akts was from now on held in ownership (Some ‘Ugodia’ land was transferred in lease and that remained unchanged as leased land with lease contracts). As far as the situation in Kyrgyzstan is concerned, this finalized for the time being the process of legal adaptation to a new property regime in the country.

3.4.2 THE LAND REGISTRATION PROJECT

References to a new ‘western style’ land registration system in Kyrgyzstan has been mentioned many times in the previous paragraphs and in particular in 1.3, 1.4 and 3.2.4. In November 1998, Kyrgyz Parliament adopted the “Law on State Registration of Rights to Immovable Property”. This law establishes the legal basis and the procedures for a new registration system of rights to land in Kyrgyzstan. The purpose is to provide protection of registered rights to land. It is the registration law envisaged in the Civil Code of the Kyrgyz Republic.

As a consequence of this law, the earlier referred to preparation phase of the Land and Real Estate Registration Project started in June 1999. Local experts on legal matters, on cadastre, on surveying, and on mapping worked together with three expatriate consultants for the development of the procedures and a practical manual for registration. Furthermore, several forms for registration were designed and discussed with staff of GosRegister.

To implement the new system of land registration two regulations on procedures and on local registration offices were prepared. GosRegister staff was trained in Western style registration methods and after approval by GosRegister, training in the process of registration for the staff of the new offices took place. Various visits were paid to sites selected for new offices, to provide advice for refurbishment and to assist in the preparation for opening of new offices. Most of the existing data at the BTI and Land Engineering offices in the area was used after careful examination. Mapping was produced to supply new office staff with a set of alpha-numeric and geographical data on the units to be registered.

Before the end of the preparation phase three new offices were officially opened to serve the public in a new way for land registration. The three new offices operational at the end of the preparation phase were located in Kant, Kara-Suu and Sokuluk.