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

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CHAPTER 4. LAND REFORM IN COUNTRIES IN TRANSITION

4.1 FARMING AND POLITICS

4.1.1 INTRODUCTION

Galbraith [35] (p. 47) states: "For socialists, property was and in some measure remains not only the decisive but the sole source of power, the integument that held and holds the capitalist system together. As long as it remains in private hands no others can possess power. The theory of the Communists may be summed up in the single phrase: Abolition of private property". And on p. 87 he continues: "In nonsocialist doctrine, by contrast, property is so important as a source of power that it cannot wisely be concentrated in the hands of the government....But there remains the question of how extensively the state should intervene to get a wider distribution of property (and associated income) and thus of the power emanating therefrom".

So land reform is a revolutionary step; it passes power, property, and status. It should be realized that land reform in countries in transition is somewhat different from land reforms elsewhere. Land reform in a transition period is often linked with privatization of property, not only of plots of land, but also involving urban real property.

In chapter 3 a picture of Kyrgyzstan has been given. In chapter 5 I will develop my model for rapid assessment of land reform related projects. In this chapter research findings on land reform are reviewed in their relevance for countries in transition and in particular for the situation in Kyrgyzstan. Research on land reform generally focuses on rural areas and that will be the emphasis in a review as this is. Nevertheless as far as relevant, some remarks will be made about the changes for urban dwellers. This overview provides background information and summarizes motives for land reform as currently practiced in countries in transition. It is not always easy to determine the motives behind a land reform project especially for project staff unless the motive is clearly stated in the terms of reference of a project. But then again, does the stated motive cover the actual activities to be carried out on the ground? Are these activities effective in view of long term sustained project benefits? The model in this research is a tool for assessment of effectiveness, but it should be used with relevant background information. Employing it will provide early warning signals of possible non-desired side-effects or of failing supportive measures to reach the project goals.

4.1.2 POLITICS AND AGRICULTURE

The continuous agricultural attention among political leaders is remarkable taking into account that the role of the farming population is decreasing in society. Although the proportion of agricultural labor is increasingly smaller, agriculture is not a marginal issue in political life. In spite of the agriculture's lesser economic contribution to national economies in the industrial era, agriculture has been able to conquer regularly the front pages of newspapers and to get the interest of leading politicians. This is particularly true in the former USSR influenced by Russians leaders who appear to worry more about harvest failures than politicians elsewhere. Perhaps they can not forget the riot in a food line that sparked the February 1917 revolution and the victims of Krushchev's attempt to increase food prices – peaceful demonstrators shot in Novocherkassk in 1962. (See VanAtta [95]
p.2). Domestic agricultural production can be, and in many countries where agriculture is the dominant production factor is the backbone of domestic food security. There also is another effect: rural society has left its mark on culture and mentality, a factor in supporting policies that favor agrarian interests. In dominantly agrarian former Soviet countries not the politicians in the capital, but the managers and the bureaucrats running the state and collective farms were seen as the real rulers of the country. (VanAtta [95] p.7 by quoting Sokolov) states about the chairman (of the farm board): "A dictatorially-inclined chairman – and the job tends to make even the most democratic managers dictatorial - can impose his own punishments and even jail people with little opposition or review. Even now when they have internal (domestic) passports, villagers are formally prevented from moving to major cities by the retention of the residence permit ('propiska') system." Most of these farm managers continue to use their political endowments after independence. In many cases they are the only people able to manage agricultural production, the acquisition of seed, fertilizers and agricultural assets, the marketing of products, and to warrant the continuity of government support.

4.1.3 CENTRALLY PLANNED AGRICULTURAL PRODUCTION
Several decades of central planning in agriculture have left their traces in the concept of farming among the workers on collective farms. In this respect I witnessed an interesting scene in Bulgaria where I worked on an assignment in the Bulgarian land reform project. On a cold November day in 1992 the Minister of Agriculture officially handed out the first land ownership documents to re-adjudicated farmers in the town of Pazardzhik about 20 miles west of Plovdiv. After the ceremony a lunch was served (including lavish servings of Rakija - the national strong drink). After lunch many speakers took the floor and one of the last ones was a representative of the farmers in the region. He addressed the Minister as “Comrade minister”, causing some hilarity, but that was a minor issue compared to the final words of his speech. The last sentence was a question, translated to me as: "..and Comrade minister when are you going to tell what we will have to grow on our fields?"
After a short uncomfortable silence the Minister explained the new situation to the farmer. And during his discourse everyone noticed that the farmer got more and more distressed with his obviously unexpected newly acquired responsibilities. As an expatriate observer I suddenly realized how the concept of land ownership could differ among farmers from different countries. Subsequent discussions with farmers in Bulgaria revealed that most of them had no idea about how to manage a farm. In particular the planning of crops without market information, the purchase of seeds and fertilizers from often still state dominated suppliers, the absence of suitable mechanization and the general lack of market information and an infrastructure that made individual private farming a kind of a gamble. It explains why most farmers in former communist countries feel uncomfortable taking up responsibilities for matters they can not (yet) manage. It also explains the continuation of old structures of farming in which experienced agricultural managers take care of matters knowing the way in the often still present bureaucratic maze of post communist government agencies.

4.1.4 CONDITIONAL PRIVATIZATION
Political concern for the level of agricultural production and fear for speculation with agricultural land has spurred governments to condition the transfer of rights from the state to private owners. In several former communist countries stipulations are set to use the
transferred agricultural land for specific purposes within a certain time after the transfer, or to complete a specific type of building on the land within for example three years after the transfer. (The latter stipulation caused numerous problems in Russia for new owners that were faced with excessive monetary inflation while trying to purchase building materials). Non-compliance with the conditions would normally result in expropriation with some rules about this only recently in place (Land Code; chapter 11, articles 65 - 67), hitting hardest those without political capital. In Kyrgyzstan, the right to land designated for agriculture is conditioned on proper use of the land and this proper use is generally narrowly described, mentioning an amount of specific agricultural products to be grown in compliance with ‘cadstral’ standards.

An often-used limitation is a moratorium on transfers of rights to agricultural land for a number of years. However, this condition severely limits the establishment of a dynamic land market and is as such contradictory to the economic development motive of privatization. Land reform also covers urban areas and they are generally excluded from a moratorium on sales because the land market is expected to start primarily in urban areas. Nevertheless economic theory also wants rural land to reach its highest potential value. The result is that in many former Soviet states the limitation on transfers has been removed again or is drastically reduced in time. Kyrgyzstan currently has a moratorium on sales of arable land for five years after acquiring land under the new regulations, but as mentioned there are signals that this may change in the near future.

Continuous government concern for specific negative developments after privatization in countries in transition has been stressed by many researchers, but little research has focused on the urban population. Most research shows that the effect of privatization – even with conditional privatization – is a growing inequity among the population, with possible dramatic consequences for the ‘losers’ because of absence of the alternative adequate social safety institutions. For urban residents the assumed economic development should bring the benefits of the land reform/privatization process. If the economy does not grow, as is currently the case in Kyrgyzstan, privatization can have negative effects on the living conditions in the urban areas. Observations in cities show a decline of upkeep and maintenance in residential neighborhoods, mainly caused by absence of funds and interest also typical for many as the State managed buildings as well. I pity the children in school buildings with boarded up windows, dilapidated furniture and poor bathrooms. Their daily environment at school does not provide an incentive to “clean up” and with the increased messiness of residential areas as well, one can only worry for the future.

Is there another approach possible? If there is an evolutionary development towards more individualized property rights as described by Platteau [66], then introduction of a limited individualized and more socially oriented property regime must be considered. Such a more evolutionary land reform could give a minimum protection to the ‘losers’ in the process and avoid sudden changes. Especially in most of the transition countries where limited resources constrain the economic development, a more socially focussed property regime can prevent too many people becoming dependent on hardly existing social safety nets. The experience in Kyrgyzstan is that the use rights to land as initially issued did not significantly hamper the land and agrarian reform project. It obviously does not matter too much to farmers whether full ownership or only exclusive longer-term use rights to land are obtained. They felt evidently secure enough to continue agricultural production as usual or even improve it during the initial years after privatization. It is important to realize that those
farmers had 'only' privatized use rights to their land while the State retained the ownership of land designated for agriculture. And so the question arises whether it would have been possible to consider long term, more equitable property regimes instead of the imported 'Western style' commodifying property regime. An interesting theme for specific research in a country about to import new legislation for the implementation of land reform.

4.1.5 LAND REFORM AND LAND TENURE SECURITY
In most Western countries, the Land Registration or the Cadastre is the main base for land tenure security. The offices of the registration and their data provide physical proof of an institutionalized system for the protection of rights to land. Research shows that the population generally has a high degree of trust in such registrations. Besides, several countries have legislation explicitly sanctioning the data as proof of title – the so-called positive system of land registration.

The above system of land registration in Western countries is often referred to as “legal cadastre”. It is aimed to benefit the landowner by protecting his legal interests and facilitating raising of credit using the legal interests as security. This indirectly benefits society by leading to an improved and efficient land market. Other types of cadastres that can be distinguished are the fiscal and multipurpose cadastres. They are largely orientated to the direct benefit of government organizations for the raising of taxes and control of land use and development. In some countries the various types of cadastres are combined in one organization.

In Eastern Europe, particularly during the communist regimes, land cadastres were designed and established as tools for central (agricultural) economic planning. Therefore these land cadastres tend to include a large range of information without consideration of user needs and of the cost of collecting and maintaining such information bases. In several former communist countries, much of the information in the State controlled Cadastre may be incomplete when considered on a countrywide basis and has not been maintained. There is an unfortunate continuing tendency to retain and computerize these centralized, complex information bases even though they are unlikely to be required in a society no longer centrally planned. There is also the danger that the perpetuation of the old command economy cadastres in a multipurpose cadastre will deflect the focus away from the legal protection of rights in land, which needs to remain the main concern for the years to come.

These remarks by Platteau [65] (his chapter 5) about 'cadastral' systems should be warning signs for countries in transition.

In former communist countries local authorities carried out yearly inventories both in urban areas and rural areas to ensure that registered data stays up to date. These state activities to control and actually manage the use of real property during communist times resulted in trust that the inspecting authorities were aware of and implicitly approved the current situation of use of the real property. That made most owners of rights to real property feel pretty secure about their use rights, although the biggest threat to their rights was the State. Due to the fact that the government not only maintained all data on land but could actually expropriate owners of rights to land because of inefficient use, illegal use of the real property, or careless use. The reverse of governmental actions as done after independence is another source of insecurity. It is one thing to reverse most decisions of former governments by questioning the legitimacy of their actions. But at the same time this can be applied also to actions of current governments. The questioning of the legitimacy of past
governmental acquisitions and allocations of land through review and possible reversal leaves present occupants of land with doubt about the security of their claims. Today in Kyrgyzstan, new land claimants sometimes have problems in claiming the adjudicated land or, if they do so forcibly, what will the consequences be over the coming years. Under such conditions, violence might become a serious problem in both rural and urban areas. Recent information about the situation in Kyrgyzstan is not reassuring in this respect. Although cases of violence have not yet been reported, there are an increasing number of disputes over land occurring in the last few months. GosRegister (the new land registration organization in Kyrgyzstan) is currently developing a system of arbitration panels to deal with these disputes. The discrepancies between land shares on paper and the real pieces of land they presumably refer to are a result of the "shrinking of land" to reduce production quota and the fact that the theoretical exercise of distributing land conflicts with the actual possessing and cultivating pattern by the current occupants. There is evidence that in certain areas present occupants of land react angrily to the threat of eviction while claimants (i.e. holders of land shares or certificates) attempt forcibly to reoccupy the land, producing a conflictive situation, which can only jeopardize the long-term investment process required for economic progress in the country. The conclusion is that the recent change of institutional arrangements concerning rights to land in Kyrgyzstan will only marginally contribute to improvement of land tenure security. Real tenure security will only be reached after several years of continuous commitment of the government towards the protection of private rights to real property.

Harold Lemel (1998) [48] (Chapter 3 p. 27 - 49) argues in "Rural Property and Economy in Post-Communist Albania", that the perception of land tenure security is based on four different aspects of institutional arrangements provided; land titling, land registration, maps and boundaries and that ownership documents appeared to contribute very little to people's sense of tenure security in those areas in Albania were pre-collectivization rights had largely been restored. The situation in Kyrgyzstan is different from Albania. It is hardly possible that anyone now alive still has a strong sense of ownership of real property given the long period of Soviet influence under which private ownership of real property was abolished.

4.2 LAND REFORM EXPECTATIONS

4.2.1 MOTIVES FOR LAND REFORM
Max Spoor [78] (p. 1) argues: "Privatization of land and other assets and the restructuring of the previously dominant state farms (sovkhzozy) and collective farms (kolkhozy) has been a focal point in many 'transitional strategies' of countries of Central and Eastern Europe and the FSU. There is broad acceptance about the reasons behind the stagnation of agriculture during the final stages of the Soviet regime". The privatization or land reform took place in various forms of distribution of land. It could be distributed among workers, re-adjudicated to former owners, or by sales of assets and leasing arrangements. The main reasons for land reform are:

- The large farms, although formed to benefit from advantages of scale, suffered from low productivity and were inefficient in the use of resources (particularly capital).
- Free rider behavior was dominant, and income had to be complemented by the produce of household plots with much higher productivity (partly by using subsidized inputs provided by the state or collective farm)
The farms were taxed through the state order system with lower than market prices and this system did not provide a strong incentive for the farm management.

Land reform has been practised the world over. In Africa the motive has been mainly to implement 'western style' land tenure, replacing communal land tenure that does not fit well into western legal concepts. Reasoning is the – proven disputable - assumption that a more western style land tenure would improve land tenure security. In Asia it has been emphasized that small farms may produce higher yields per unit of resources, and in Latin America the distorted distribution of land (the bimodal structure) has been the target of changes by land reform. Generally speaking, research on the link between tenure security and food security has in Africa focused on changes in customary tenure, in Asia on "land to the tiller" programs and in land scarce Latin America, on redistribution of land. It is not always easy to determine the motive behind land reform. An important political motive for land reform has been the fear of insurgencies. Inequities associated with land tenure have been the cause of rebellion of peasants. The French Revolution, the American Civil War (also over slavery), the revolutions in Mexico, Bolivia, Somoza's overthrow and that of Batista in respectively Nicaragua and Cuba, as well as the civil war in El Salvador and the continuing turmoil in the Philippines all have their origin in land tenure systems that favor a small group of wealthy families at the expense of millions of impoverished rural people. Landless peasants have caused most of the great twentieth-century revolutions - those, in particular, of Mexico, Russia, China and Vietnam.

Barriers of communication between the countryside and the city break down, and those between domestic and international information gathering are breaking down. The peasantry has increased possibilities to come in contact with urban intellectuals, with images of other societies, with foreign ideas and ideologies and that all can lead to revolutionary ideas and movements.

Until the mid 80's land reform had been considered one of the tools available to increase land access and improve agriculture. Then the focus shifted from land reform and other interventions toward promotion of land leasing, land titling and land registration to develop land markets or make them more efficient. (Binswanger et al. in a World Bank working paper (1993)) [99]. Shifts in focus by international donors, political motives for international support, and the eagerness of governments to secure funds for national programs have increasingly clouded the real issues of land reform. The motive is even more difficult to determine in the increasing number of programs that only address a part of a land reform program, like a program only for institutional reform, a program to promote individual ownership of real property, or one to stimulate land market development.

4.2.2. THEORETICAL CONSIDERATIONS

Kyrgyzstan is a society dominated by agriculture and livestock breeding, so it is not surprising that agriculture is an important issue in politics in the Kyrgyz Republic. What scenario out of the vast experience with land reform all over the globe is suitable to the Kyrgyz Republic when taking into account the interest of agriculture first and foremost? In an analogy by Peter Domer in "Latin American Land Reforms in Theory and Practice; a retrospective analysis" (1991) [25] (Chapter 2) a comprehensive review of some viewpoints can be given to assess the situation in Kyrgyzstan.
Structuralism

Structuralism is a reaction on rising doubts about the neoclassical economic view of international free trade. Under the existing structure of division of labor, countries on the periphery produced and exported raw materials to countries in the center that specialized in manufacturing goods. As a result, the periphery was always behind in terms of trade and had a chronic slow down in domestic capital accumulation. Gains of free trade were concentrated in the center. Backwash effects might even lead to worsening conditions in the periphery. A similar conclusion has been made by Myrdal [59] in “Asian Drama” (1969) where he describes the situation of South Asian countries and their ‘free’ trade with Western countries (Part Three, chapter 12). “It is generally believed that in the early stages of industrialization in Western Europe the income distribution became more unequal and that only later, with the diffusion of spread effects and rising production, and later as an effect of social legislation, this tendency was reversed. From this point of view, increasing inequality may be thought to be symptomatic of economic growth and dynamism” (p. 571). And earlier he mentioned (p. 567) that “even if the degree of over-all inequality were comparable to that in the Western economies it would have much more adverse consequences in the countries of South Asia since a given degree of inequality wreaks considerably more hardship on the less developed economy”.

Observing these phenomena paved the way for two distinct reactions. A country could choose to import and stimulate substitution industrialization, or it could start a battle with rising food prices on the periphery by land tenure reform to increase domestic agricultural production. During the USSR time, most of the dependent republics in the south like Kyrgyzstan served as an area to produce for markets in Moscow and other cities in the USSR. Chief outputs were mutton, wool, beef, grains, fruits and vegetables, cotton, tobacco, and silk. The break-up of the Soviet Union caused a loss of monetary subsidies from Moscow, a cessation of valuable agricultural imports (concentrate feed, farm machinery, and fertilizers) and a loss of export markets for almost all export products. The land locked situation of Kyrgyzstan makes alternative export hard to realize and import expensive. Substitution of industrialization is not a viable option while the agricultural sector showed all signs of a transfer from commercial agricultural production to self-sufficiency. Kyrgyzstan concentrates on increased domestic agricultural production.

Dependency theory

In dependency theory a dependent relationship exists when a country can only develop as a response to the expansion of dominant countries. The metropolitan centers on the periphery will extract surplus from the hinterland. It is sometimes called internal colonialism. This term describes pretty accurate the situation in the former USSR where most of the countries on the periphery served as supply centers for the cities and population centers in the center of power in the country. In the peripheral countries symptoms of underdevelopment can be observed because of the dependence of the center from where the resources and the agricultural planning came. After breaking free of the center land reform seemed the answer to raise agricultural production and create local incentives for better farming methods. But the well related and relatively well to do agricultural managers of large farms operating in Kyrgyzstan had nothing to gain and a lot to loose by a drastic land reform. The result was a deliberately slow progression of land reform because of lack of action by the managers and obstruction to measures taken by the government to restructure farm enterprises. An
alliance between those farm managers and some of the political elite showed mainly restructuring on paper only.

**Institutionalism**

Institutionalists reformulate development theory by indicating that both growth and equity should occur together. This theory can work (See for example Gunnar Myrdal [60] (p. 50) where he states: “The conclusion I have reached is that inequality and the trend toward rising inequality stand as a complex of inhibitions and obstacles to development and that, consequently, there is an urgent need for reversing the trend and creating greater equality as a condition for speeding up development. Traditionally Western economists for the most part assume, on the contrary, a conflict between economic growth and egalitarian reforms. They take it for granted that a price has to be paid for reforms and that often this price is prohibitive for poor countries”.

Creating greater equality requires the necessity of state intervention in a systematic and enduring way! In several of the former USSR countries it can be observed that state intervention is not working, either by lack of supportive institutes and respected enforcement bodies and/or by lack of resources. Part of the theory is based on the observation that an inverse relation exists between farm size and productivity. Smaller farms produce relatively more than larger farms and thus a change in demand for agricultural supplies and labor will occur among the low-income rural majority as a result of land reform. However there is an important condition, which is not yet fulfilled in Kyrgyzstan; there should be sufficient attention to agricultural innovation. Dorner and Kanel [24] formulate (p. 5 and 7) the condition as follows: “Less developed countries need a labor-intensive, capital-saving approach with heavy reliance on yield-increasing technical innovations in earlier phases of agricultural development, followed by a capital-intensive, labor saving approach only in the later phases......This policy approach both produces the required increases in agricultural production and avoids displacing labor prematurely from agriculture. It is a prescription for agricultural research, for large increases in the use of yield increasing inputs such as fertilizer, improved seeds, insecticides and pesticides, for increases in irrigation facilities, and for extension services, marketing, and credit. It is also a prescription to minimize mechanization, especially when it serves to displace labor”.

Kyrgyzstan evidently wants to follow the agricultural production route. But there are many difficulties. Before the break-up of the USSR much of the indispensable agricultural imports came from Russia and these imports almost stopped after independence. The effect of an expected large overall reduction in farm size did not come about because the necessary tools and institutions to make small-scale farming efficient were not available. There were not sufficient assets for small-scale farming, there hardly was any institutional arrangement to assist farmers with purchases and marketing of produce, and there was a general lack of extension services for training and education in new agricultural techniques.

### 4.2.3 REVITALIZATION OF LAND REFORM

Researchers like El-Ghonemy [37] (p.1), promote a revitalization of land reform programs: “Among the major issues in development policy, malnutrition, poverty, and inequality in the distribution of wealth and opportunities are well known to interested observers. However, it is on the inter-relationship between them and the role of the state in quickly alleviating poverty and inequality not by the market-mechanism, but through land reform that different schools of thought and ideologies conflict. Since 1980, this conflict has been further
intensified to the disadvantage of land reform policy and the rural poor”. Support for land reform also comes from other sides. Increasing concern for the environment is a relatively new incentive for efforts to push land and agrarian reform. Although the link between land tenure change and resource conservation and how they relate is still heavily debated, this nevertheless has fuelled new attention for land tenure change. Increased concern for the environment has strengthened motives for land titling and registration because of the suggestion that security of tenure will enhance the environmentally responsible stewardship of land by farmers, because they are less likely to exploit the land and other supportive resources. Chambers [15] (p.3) argues that “Secure tenure and rights to resources and adequate livelihoods are prerequisites for good husbandry and sustainable management. Moreover, sustainable livelihood security is a precondition for a stable human population in the long term; for only when livelihoods are secure does it become rational for poor people to limit family size. Enabling poor people to gain secure and sustainable livelihoods in resource-poor and forest areas is, thus, the surest protection for the environment. The poor are not the problem they are the solution”.

Showing the rural population of Kyrgyzstan that property rights to land are protected and can be held against claims by others will stimulate the feeling of land tenure security. It is not the institutional arrangement that creates land tenure security; it can only be achieved by a government showing a long and continuous commitment to protection of ownership of private rights to land. When this policy succeeds, most researchers predict – although also doubted by some other researchers - that a better, more efficient and more environmental responsible type of farming can be expected in return.

Thiesenhusen advocates land reform. In his review: “Land Reform lives!” [86], he stresses that the success of land reform depends - inter alia - upon supportive additional measures like non-land inputs, creation of markets, technical assistance, etc. (p. 199/200). He also argues (p. 207/208): “It is quite possible that land reforms in the future will not look much like land reforms of the past; at least their rationales will be different. Rather than pitting landlords against campesinos in traditional agrarian conflict, the two groups have probably reached a stand-off; market-oriented measures with fewer government ‘levers’ will doubtless be employed more in the future than in the past. While the pressures will most assuredly be related to the mitigation of poverty and the creation of jobs, new arguments will be added.”

In many cases the non-spoken aims are at least as important as the mentioned ones. Aims like strengthening capitalism, neutralizing peasant opposition, winning votes, fending off extremist ideologies, providing counter insurgency and fostering social stability needed for a secure investment environment. There is almost general agreement about the fact that gross inequalities in land distribution have been a highly destabilizing force in rural areas, associated with rural rebellion. An effective land tenure program must be crafted in response to the complex factors that define the agrarian structure of each country. No single formula will work for all countries at all times and knowledge of the existing land tenure structure is a sine qua non for any intervention in this area (Lambert, 1997) [45] (p. 3).

Although the hopes and expectations raised by land reform programs were not always realized, no one claims that one would be better off without reform. Lack of commitment, effective political will, and insufficient resources, play a major role in discouraging outcomes. Today there is a greater professional consciousness of the implications of land tenure diversities and the impact of improvement of the land tenure situation on both economic
performance and environmental protection, although mainly focused on rural areas and the rural population. (See also Thiesenhusen [87] and Domer [25] on this).

4.2.4 EXPECTATIONS OF CHANGE TOWARD A MARKET ECONOMY
After the failure of central economic planning to bring about general prosperity development, there is now a strong expectation in former communist countries in Europe that a market economy will bring the long awaited national economic development. This general belief is associated with the perception that all goods and services must be ready and suitable for trade in a market. Markets should evolve, not only for products and services, but also for land and real property. Individualized, clearly distinct, privately owned land plots and real property, with reliable proof of ownership are necessary for the development of a land market. Hernando DeSoto argues that only 25 of the almost 200 countries in the world have a free market economy. The most prosperous countries are among those 25, which have a free market economy. A free market economy is a capitalistic economy. It is the free market that establishes the best value of land by increasing efficient use and stimulating land markets. "To be exchanged in expanded markets, property rights must be 'formalized' - in other words, embodied in universally obtainable, standardized instruments of exchange that are registered in a central system governed by legal rules. This affords holders indisputable proof of ownership, and protection from uncertainty and fraud. To be prosperous, property rights must enter the marketplace in a form adapted to massive and frequent exchange, which facilitates the transfer of resources to their highest-valued use. Modern market economies generate growth because widespread, formal property rights permit massive, low-cost exchange, thus fostering specialization and greater productivity. Without formal property, a modern market economy can not exist. When it comes to land, property rights should be embodied in formalized titles. A piece of land without such a title to specify its ownership at low cost is extremely hard to market. Any trade of this land will require enormous effort to determine the following: Does the seller own the land and have the right to transfer it? What are the boundaries? Will those who enforce property rights accept the new owner as such? What is the effective means to exclude other claimants? If finding the answers is difficult, then there will be no exchange at all, or exchange will be restricted to close circles of trading partners who trust one another." (DeSoto [22] p. 10)

However, easy exchange of property is just one of the conditions to achieve growth of an economy under the rules of free markets. Several other conditions must be met which we will encounter later in this book. One remark can be made already; a registered formalized property right does not equal security of tenure, one of the conditions for improved (agricultural) production.

4.3 LAND REFORM PRACTICE

4.3.1 WHO GETS THE LAND?
At the extreme two basic principles in land reform (and thus of tenure reform) can be distinguished in ex-communist countries, one is re-adjudication of land to former owners or their heirs. Of course, this option is only viable in countries where in Soviet times property was confiscated or where on a large scale individuals ‘voluntarily’ or forced, transferred their ownership rights to land to the State. The other principle is a distribution of land of former state farms and large collective farms among individual farmers, being citizens and/or
former employees of state owned farms. These are the extremes; several countries practice a mixture of both types of land reform. Redistributing land among former owners or their heirs will leave most agricultural workers/non-former owners without a means of existence. Moreover, a number of the heirs of former owners now reside in urban areas with no notion of or experience in farming and with no obvious desire to consider a future life as farmers. It is an important issue, because property rights in land represent a large portion of people's wealth. Redistribution of rights to land is decisive for the future possibilities of many of the citizens. In particular in less developed countries people do not have easy access to banking facilities and other means to acquire funds for investment. The capital they own is in their right to property. For example in the USA over 40% of family assets consist of rights to land and in developing countries this figure can be well over 90%.

4.3.2 AGRICULTURAL LABOR
In Kyrgyzstan agricultural land of the state and large collective farms was re-distributed among farm workers (in a wide sense, they did not have to be employed specifically in agricultural jobs) Most of the farm assets were also distributed while some assets were put up for sale. Also arrangements were established for leasing of agricultural land. In Kyrgyzstan there is no evident strong sense of disapproval for work in agriculture. And although there is no abundance of agricultural employment available, there are no signs of unemployment either. Research on productivity of land and labor in less developed countries has been carried out by Dorner and Kanel (1970) [24], and Barraclough (1990) [2]. Looking at the results of this cross sectional research, almost all research indicates that with slight variations output per unit of land declines systematically with the rise in farm size. There is also consensus among the studies that labor utilization per unit of land is considerably lower in large estates than in small-holdings. Labor input per unit is positively correlated with land use intensity and negatively correlated with farm size. The studies also show that small farms are at least as innovative as large estates in their response to technological change. The only difference was in introducing mechanization, which was clearly higher on large farms. The hypothesis that small farms are more productive than large farms in less developed countries has been most extensively tested by Berry and Cline [6]. Further support can be found in Sen (1981) [73], Carter (1984) [14], Feder [30], and Thiesenhusen and Melmed-Sanjak (1990) [84].

4.3.3 AGRICULTURAL PRODUCTION
When land is relatively abundant to labor power and the country is technologically advanced, there is a high level of per capita productivity due partly to efficient management and partly to the high rate of capital and agricultural knowledge (El-Ghonemy [37] Part 2, Chapter 4). But it seems to be rational to farm with a hoe, hand sickle and buffalo, when credit markets are constrained, land is scarce and labor is abundantly available. It could be easily observed in Bulgaria and Poland after the distribution of the land of state and collective farms. Several private farms were relatively small – on average less than 5 ha – and did not have access to agricultural assets other than the hand tools and the donkey or an occasional horse to pull the chart or a pair of oxen to haul the plow through the field. The available mechanization is too costly to operate, hard to maintain due to lack of spare-parts and generally not suited for small-scale farming while relatively low cost agricultural labor is mostly sufficiently at hand in these countries.
In former communist countries with still existing state and collective farms, it is possible to outline some basic principles and common features in agricultural production methods. Many of these farms specialized in one or a few commodities and have widespread use of technology although some of the assets are old and badly maintained. Considering the proportionally high resources allocated by the State, their performance is below expectations when compared with Western farms. Agricultural production forms the basic protection against food insecurity. Measured by accepted standards, many former communist countries are not yet "food secure", due to the complex economic situation most of these countries faced after the break-up of the USSR, when traditional trade patterns changed, existing markets for products vanished, and imports became difficult to acquire. To stabilize food security domestic growth of certain crops was encouraged. Domestically grown produce contributes highly to national food security. It also supports economic development by increasing income possibilities for the rural population. Thus, from the growing awareness of the inequity in food security a strong renewed emphasis on land tenure and land reform results.

Because of the growing awareness of poverty and the growing gap between haves and have-nots, the latest development is a new focus on the link between improvement of land tenure by land reform and the resulting changes in (rural) income. Agricultural development should be the motor of a developing rural economy. Too little resources are available to get a continuous agricultural development off the ground. The average farmer has little access to credit, has hardly a chance to get extended education in new agro-technology and has no way of applying mechanization for smaller scale farming by the sheer absence of assets and machinery fit for smaller scale farming. There are signs of a persistent and lingering national economic decline, a stagnating real property market both urban and rural, and little development in rural areas of specific support and training for farmers, establishment of market information and widening access to markets for farmers and their products.

4.3.4 THE THREE ELEMENTS IN (AGRICULTURAL) LAND REFORM

When looking at it from the point of agricultural land, land reform programs in newly independent republics of the former Soviet block in Europe and Asia show three different elements within the land reform activities. Firstly there is the structural change of the farming enterprises. The land in use by large state and collective farms is redistributed among individual private farmers (smallholders) or smaller farming enterprises in which several farming families will share the land and will work together. Secondly a legal change has been carried out providing private property rights for individuals and legal entities. A new property regime evolving after independence provides individual and exclusive rights to land. Thirdly a land registration institution is established to register the new rights to land with the aim of providing legal protection and enabling relatively easy conformation of claimed rights to land by an appropriate authority. Thus the three main elements of a land reform are:

- (Re-)Distribution of the land,
- Establishment of a new property regime to formalize the new relationship between land and the holders of rights to land, and
- Registration of those rights, including protection of the rights to land and publicity of the registered data.
As nations vary, the approach and the way of organizing the elements vary. Especially the approach toward the new land tenure regime differs among countries. Most of the new republics in transition in Asia do not have a tradition of widespread ownership of rights to land. After independence, land was distributed among prospective farming households under a land tenure system of exclusive use rights. Providing farming households with use rights to land is a logical continuation of the existing land tenure situation of the Soviet era where household plots were provided to farmers with (exclusive) land use rights for subsistence farming. However, from the very start of the reform the issue of private and individual ownership rights to land was considered and debated among politicians, and like in the case of Kyrgyzstan ownership became the final result of the land reform process. However to establish ownership rights to land, it is necessary to import a new 'Western style' legal system, to translate the legal concept as much as possible in the local language and social context, and to train local legal specialists. Importing Western style property regimes to facilitate rapid development in countries in West and Central Asia with a population not accustomed to and possibly not yet fully understanding such property regimes might cause future disappointment and dissatisfaction. Many farmers have mixed perceptions of land tenure security as described in the social assessment report [82]. The newly acquired ownership rights to land will become subject to several limitations imposed by the state in order to achieve a balance between exploitation and sustainable preservation of valuable natural resources of the country. It is likely that the state when retaking some of the full extent of private ownership of rights to land, will fuel insecurity of tenure in the minds of the new farmers, which in turn will result in hesitation about investments in agricultural land.

4.4 CHINA'S LAND REFORM EXPERIENCE

4.4.1 FROM FOOD PRODUCTION TO ECONOMIC DEVELOPMENT

China has practiced a land reform process that can be characterized as using 're-adjustable land use contracts'. Being ethnically, culturally and geographically close to Kyrgyzstan, one can discuss whether the China example would have succeeded in the Kyrgyz Republic. Originally the reform in China did not deliver. Some even referred to it as a largely man made famine in which tens of millions of people perished. (Frederick Crook [18] p. 59). More recently there is substantial positive progress which stimulated Lin et al. to publish “The China Miracle” (Lin, Cai and Li [50]). Tuan and Ke underline in [91] (p. 16) that in China’s Agricultural Policy the general goal of agricultural and food policy was to develop the country’s economy. Before reform the goal was to produce ample and cheap food for urban residents and to export farm products to earn hard currency for import of technology. According to Lin et al. [50] (p.290) “Economic reform began with the delegation of autonomy and the sharing of profit with micro-management units” (the so-called household responsibility system, later complemented with the town and village enterprises HD). It is their conclusion that (p.295): “China opted for an incremental reform strategy with low costs and risks, but with yields timely returns. In contrast, the Eastern European countries and the former Soviet Union opted for the opposite, which caused tremendous friction and social shock and which up to now has not brought about growth”. The authors propagate non radical or incremental reform (p.276) that “does not center around privatization” so it can “avoid inequality which arises from the re-allocation of the stock of state assets and the
conflicts arising therefrom, making it possible for every group to share in the economic property". In this way the reforms are accepted by all, and become irreversible. China chooses to continue the system of distributing only the right to (exclusively) use of agricultural land in a very special way. In “Land tenure policy in rural China: development and prospects a re-evaluation of the institutional reform of rural land use”, Zhang Hongyu [42] (p. 76 and 77) distinguishes three stages in land reform in China’s recent history. The first major institutional reform involving land tenure occurred in 1952 (the agrarian reform) when land was taken from landlords and put under private ownership of peasants. The result was greater land productivity. The second land reform occurred as the people’s commune movement in 1957, when peasants’ private land ownership was changed into collective ownership. This change to public ownership did not produce a notable rise in land productivity. The third reform, the family contract responsibility system did not change the foundation of collective land ownership, but it restored family based agricultural operations, which turned out to be optimal for the agricultural sector.

4.4.2 FAMILY SIZE DETERMINES FARM SIZE
The basic form of the family contract responsibility system is equal allocation of land according to the number of people or number of able-bodied laborers in the family. Until the Land Management Law of 1998, one of the special characteristics of the Chinese land reform was the continuous linking of the area of land contracted with the household size, during the fifteen year land use contract. The so-called system of re-adjustment changed the area of land contracted even during the contract term. Although with slight variations among the provinces in China in its application the general rule is that a change in the household members results in a change in the amount of land contracted to the household. If a household member dies the area will be decreased – in some provinces with half the amount that was originally given under contract for that member and of a piece of land at the discretion of the farming household – and similarly when a household grows in number, the area will most likely increase. For this purpose the land contracting body had a certain amount of land available. Sometimes large adjustments were implemented during the contract term and farmers received totally different land in return. The land tenure system employed land use contracts re-adjustable in size of the land contracted during the term of the contract. It is interesting to observe that this practice although providing a certain degree of tenure insecurity did not result in a substantial disincentive for farming households. Research [51] (p. 293) shows that agricultural output grew 56% during the 1978 – 1984 period. About 60% of the land in China is distributed under this rule. There are two constraints. Uncertainty about the term of contract and no clear definition about the right of use making it impossible to transfer. In the 80s the term was set at 15 years and in the 90s any extension was for 30 years.

4.4.3 RULE OF LAW VERSUS RULE OF POLICY
Lack of a practiced rule of law for land tenure issues in China is a matter of concern. Bledsoe and Prosterman point out in “Policy, The Rule of Law and Rural Land Reform in China” [7] that in China the rule of policy is often stronger than the rule of law. The relationship between the Chinese Communist Party policy statements and directives and China’s developing legal and statutory infrastructure has not been entirely resolved. The policy has been used (rather than the rule of law) as an implementation mechanism. The
uncertainty about the current land tenure regime among farmers is described by Liu Jianwen in “Utilization of Land and Water Resources in China” in [43] (p. 115). “At present, the core of the land tenure system is based on two inseparable institutional arrangements: (a) The land is owned by the farmers’ collectives; (b) Land is contracted and managed by the individual farmer household. In reality, the collectives as well as the farmer households both have the right to own, use, dispose of and benefit from the land. In addition, the State can buy and use the land on a payable basis or take over the land without any payment according to certain legal regulations and procedures. Therefore, the land is not simply owned by the farmers’ economic collectives as it is stipulated in the policies and regulations, but is co-owned by the State, the collectives and farmers in reality. Needless to say, there are many defects and loopholes in the present land ownership system. They are related to the ambiguous definition of the rights of the State, collective and individual farmer’s household to own the land. To a large extent, this is an operational and design problem in the practical application of the collective land ownership. For example, there is no clear definition on the farmers’ economic collectives, as the owner of the land; there is a lack of legal regulation and institutional guarantee for the collective ownership. Besides the right of contract, the collectives should also exert and ensure the ownership, right of disposal and right of benefit. There is no clear definition of who is eligible to contract the land and there is only a rough definition for the structure of rights, which is far from complete. There are no clear definitions on what role the government should play and how to eliminate the external problems related to land institutional arrangements (such as the co-ordination among the state, collectives and farmers). There is a lack of clear regulation on the formulation, pricing and resource allocation functions of the market for the transfer of right of use of the land, etc.”....“The rural economic reform including land ownership reform is far from being completed. There are still formidable tasks ahead.”

4.4.4 THE RE-ADJUSTABLE LAND RIGHTS POLICY

So far research shows that the Chinese reform delivered. Justin Lin demonstrates together with others in [50] and in [51], that the results are (very) positive. It can be shown that the issuing of ‘re-adjustable’ land use contracts instead of ownership documents at least in China had no noticeable drawbacks on the incentive to farmers for increased agricultural production. In this respect it is interesting to note that in Kyrgyzstan agricultural production after independence also showed a general growth pattern although during the first eight years of independence while land distribution was only in the form of land use rights for a period of 49 years.

Some researchers argue that the real start of China’s land reform program was only very recently at the moment of the adoption of the revised 1998 People’s Republic of China Land Management Law by the Standing Committee of the National People’s Congress on August 29. (See Prosterman et al. [68] p. 1). It is their argument that with this law the nearly 200 million farming households can be provided with land tenure security necessary for long term productivity-enhancing investments in their land. They point in particular to Article 14 of the law restricting the practice of land re-adjustments. This practice of re-adjustment is called by them (p. 1): “The single greatest threat to land tenure security since collectively owned agricultural land was allocated to farm households under the Household Responsibility System”. It should also be noted that Article 14 only prohibits the conduct of large land re-adjustments (the practice to take back all land in the village and reallocate
different land to the households) and limits the conduct of small re-adjustments (to change the size of land allocated to one household) to ‘isolated cases’.

The adoption of the Land Management Law is a step on the way towards a more commodified property regime and it must be expected that the debate on small land readjustments and the calling for implementation of ‘long-term, protected rural land rights’ continues among China’s politicians and farmers. Platteau’s observations in Sub-Saharan Africa of the evolution of land tenure toward individual private land rights obviously also can be observed in China. The future will tell not whether the long term use rights to land in China will be maintained or not, but for how long it will remain a characteristic of China’s land tenure regime.