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

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CHAPTER 8. ACCESS TO LAND

8.1.1 ISSUES CONCERNING ACCESS TO LAND

8.1.1 STEWARDSHIP FOR RESOURCES

Access to land can change as a result of evolutionary changes as well as a result of state intervention. The latter takes effect through changes in institutional arrangements (including legal changes) and is a deliberate action commonly referred to as land reform. In doing so formal and physical 'access to land' will change almost overnight. Also the other form of 'access to land' the perceived one will change but most likely this will take more time (see also 8.2.1).

The psychological effect of rights to land should not be under-estimated. The emotions a farmer feels about farmland are well depicted by Hector de Crevecoeur [16]. In his 1999 book "The Land was Everything; Letters from an American Farmer"; (1999) As a follow-up Victor Davis Hanson [39] engages himself in a renewed attempt to describe the bond of the (American) farmer with the natural world. Maslow assumes that humans find satisfaction in higher levels of the emotional hierarchy, once lower levels are satisfied. When a family grows its own food and produces for their own living, the work they put into the production brings personal rewards higher than the basic emotional level of food and shelter. It takes them to a new level of security and it will give a desire to reach beyond that. Responsible stewardship of land and environment can only be expected if the peasant has been made responsible himself. Responsibility can not be asked from peasants who themselves have no responsibilities. This is an important rationale for land and agrarian reform. Restructuring of agricultural programs must continue because they provide small farmers with a possibility to sustain themselves and their families while making them responsible for their environment. Restructuring of the agriculture presents people living in rural areas a chance to improve their life, decreasing the attraction of cities; it makes small farmers responsible and challenges them to use the land efficiently. A small farmer/landowner will protect the land from over exploitation and overgrazing in his own interest and he will in general pursue more responsible stewardship for the land.

8.1.2 LAND TITLING

The link between improved access to land and economic development is often made. Improved access to land is then related to improved access to credit and evolving real property markets in which land tends to achieve the highest potential economic value. This is also mentioned in the terms of reference for the project in Kyrgyzstan establishing a system of land and real estate registration. After referring to a real property market development that is expected, the terms of reference read: "In order to achieve this, a number of issues have to be resolved. Privatization of land and immovable property; access to credit; a group of professional experts involved in real estate agency, management and administration; appraisal expertise; public awareness and understanding of the principles and practice of private ownership; and support from local authorities. The basis upon which all this works is secure tenure provided by a competent and efficient registration system, and simple, secure procedures for conducting transactions."

The terms of reference for the real property registration project as started in 1999 refer to "privatization of land and real property" a process that at the time these terms of reference were written was almost completed in Kyrgyzstan. Much of the farmland of former state and collective farms in Kyrgyzstan made available for distribution, was privatized by the end of 1999. Three new registration offices were operational (covering only a fraction of the total land area of the Republic) providing a model for more offices to be opened. But the reference made to accessibility of credit and the professional assistance by developing a land market was almost lost in the actual land registration project.

Dubois [27] (1997) questions the usefulness of land titling. There is no indication that a growing awareness of private ownership by land titling will result in economic development and in conservation of resources. It is often assumed that gradually more individualism will lead to more formalization of land rights, giving more security, access to credit, higher prices for land, social peace, economic stability and better management of natural resources. However systematic data to support this assumption is lacking. The World Bank admits that nearly all its titling schemes have achieved poor results. Some authors even prove that in places where swidden agriculture prevails registration may bring more insecurity and inequity (Bruce and Fortman) [9].

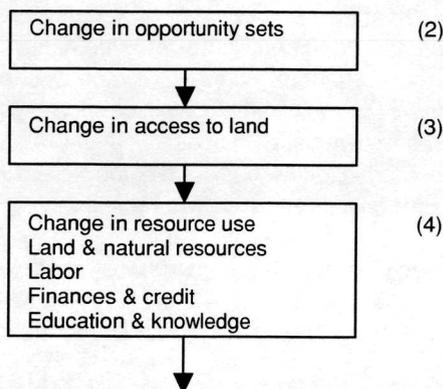
8.1.3 REGISTRATION OF LAND

The timing of the Land And Real Estate Registration Project in Kyrgyzstan is based more on the completion of the legal framework for it than on a real need to start the project in 1999. This misfit in synchronization is almost usual in projects where land reform and land registration comes together. There is a difference in incentive to start such diverse although related projects. International donor organizations do link improved access to land with the establishment of a titling program and land registration. However, there is often a different experience in the recipient country. Many people having acquired their certificates of land ownership postpone registration because of the relatively high costs and the presumed very little benefits of registration as such. The certificates are seen as proof of ownership of rights to land. How will a person growing up under communist rule without even a sense of land ownership, and now rapidly adjusting to new circumstances in a country in transition be able to understand the full meaning of private land ownership? Why register when documents are issued by officially appointed authorities in an official nationwide program? Moreover, the existing registration procedures were confusing and it was often unclear where to register. The conclusion is that the need for a land registration project is contradictory to the lack of interest among the Kyrgyz to register. This situation is not of much concern yet. The real property market in Kyrgyzstan has not really evolved because of the moratorium on transfers of land designated for agriculture. However, because Kyrgyzstan likes to follow an European model where title always matters, land registration and titling are seen as issues requiring attention before the real property market will start to develop. The project for registration could have contributed by carrying out the scheduled public awareness campaigns. However, due to the lack of ministerial approval of the regulations for the opening of the new registration offices by GosRegister, opening ceremonies of new offices had to be held low profile and a scheduled nation wide public awareness campaign was postponed.

For a change in access to land a change in the number of transfers of real property in rural areas, does not seem a good indicator in Kyrgyzstan. It can be assumed that there is little understanding of the benefits of registration yet among the population.

8.2 ASSESSMENT OF CHANGE IN ACCESS TO LAND

8.2.1 INDICATORS FOR CHANGE IN ACCESS TO LAND



The formal component for element (3), 'change in access to land', can be measured relatively easily, although with some limitations in Kyrgyzstan because of the limited knowledge of benefits of registration among the population yet. Another factor is the relative long period of time between the start of the distribution of real property rights and the implementation of a new registration system. Most people do have possession of the distributed property for several years already and there has not (yet) been a large-scale awareness campaign about land registration.

There is a slight difference between the two paradigms. In the food security paradigm, change in access to land will only be of importance as far as rural land is concerned. But when the model is primarily aimed at economic development then land titling and registration in urban areas are important.

In a modern land registration system any distinction between rural and urban real property is strongly discouraged, because of likely changing borders between urban and rural areas in the (near) future. Experience shows that such a distinction severely hampers equity in exercising rights, provides barriers once boundaries between urban and rural areas shift – and they will shift after economic development starts - and hampers applications of governmental guidance on zoning and regulations of land use. Since the government of Kyrgyzstan made the choice for a national unified land registration system the differences in the two paradigms for the element 'change in access to land', will be limited to accents put into the institutional arrangements when applied for the two different goals. Indicators for 'change in access to land' can be observed by:

- changing number of transfers of real property
- changing numbers and terms of land leases and land rents
- a change in use of fertilizers
- demand for improvements of agricultural infrastructure (access roads, irrigation etc.)
- a change in use of real property and the care taken of it.

Statistical data indicating changes in the latter sense are changes of the area of agricultural land, changes in crops, and home improvements (of importance for the prosperity paradigm).

Change in access to land, has two distinctive forms, as mentioned before. One is the formal and physical form, which can be measured by the change in the way people formally hold rights to land and how they gain access. In Soviet times they formally held an inheritable use right, nowadays many Kyrgyzstani have ownership rights to land and can prove this by showing registration documents, land certificates, or State Akts.

But the formal form is just one element. The second form of change in access to land is a perceived one. I started this document with a conviction:

"Institutions, natural resources, technology, and knowledge define the character of a nation's possible production and possible food security, but the perception of opportunities citizens have, determine what is realized."

It is not so much what is formally possible and approved that will shape Kyrgyzstan's future, but the idea citizens have formed about the possibilities and the opportunities they seize. It has more to do with emotional readiness and with presumed acceptable social and customary behavior to seize opportunities, than with any formal documents "proving" rights to land.

8.2.2 SEIZING THE OPPORTUNITY

The opportunity to change access to land has been realized in optimum by those farmers choosing to use their land shares for farming on their own, or in an association of peasant farms. Originally only a few farmers started completely on their own with single-family farms and these were either former managers of state or collective farms, or brave individual former workers on those large farms. The latter category generally got plots of land of lesser soil quality or at the very periphery of the large farms.

In "Landed property in capitalist and socialist countries; the Russian transition" William Thiesenhusen [85], argues that increased job security was included as part of the rural social contract and work on a collective farm came not to be too demanding. In comparison with the long work hours characteristic of farming in many other countries, the Russian rural worker had predetermined hours, and at harvest it became common to mobilize workers (also students and the army) from cities to help out. For those in Russia today, individual farming is beyond the realm of their experience. Not surprisingly the situation in Kyrgyzstan is almost similar. During the summer months Kyrgyz students were supposed to assist with agricultural activities and were sent to summer camps for that purpose. Also teachers were temporary workers on the state and collective farms during the summer vacation.

After independence most farm workers remained agricultural employees like before, and their land shares were just administrative parts of land in the big farm types. Over time these large state and collective farms were forced by the new legislation to reorganize into new farm enterprises. But as mentioned before, the reorganization was mainly cosmetic. Most of the reorganized farms are basically a continuation of the former state and collective farms in a split up form, under new names, smaller in size, but with part of the former management firmly in control. Officially employees on those new farms had to elect the management and had to vote on operations on the farm, de facto it was the old management that made

decisions and continued to run the farm, although now without state directives for the farm operation.

There is not much data available on changing agricultural credit, but an interesting table can be derived from WB data [100] about use of agricultural credit. This table shows use of agricultural credit for several items for the following amounts:

Item (Amounts in million som)	1994	1995	1996	1997(estimate)
Fuel for farm machinery	117.7	117.5	78.9	28.9
Seed	11.5	28.1	35.5	53.8
Fertilizers and chemicals	7.4	27.9	80.2	146.9

Although the data show only the use of credit, the decreasing amount for fuel seems to be the effect of smaller scale farming, and the other data indicate more intensive farming methods on the smaller farms.

8.2.3 LAND MARKET

A land market did not yet evolve. The government reports in 1998 that a land-leasing market is in the process of being established but can only evolve with substantial governmental support. The government has used some of the land out of the National Land Fund to start some experimental land leasing. But this turned out not to be very successful. Only 125,000 ha (a little over 310,000 acres) of agricultural land of the Land Fund is rented or leased out. Paying the rent and lease due for use of the agricultural land is not a real virtue in Kyrgyzstan. The average percentage of rents and leases paid in the whole country in 1999 is about 80%, but the list shows significant differences between the oblasts. The peasants renting or leasing in Talas oblast are definitely the worst payers - an average of only 22% of the total rent due has been paid in 1999 - while those in Chui oblast (around Bishkek) pay on average 90% of their rent on time. Official lease has so far hardly developed as a major instrument to extend the area of agricultural land used by individual farmers, there is however evidence of informal lease. Accounts of lease of agricultural land can be found in the social assessment report [82]. Accounts of informal agreements - often without written contracts - and of feelings of uncertainty can be found throughout that report. They also come up in discussions with peasants and officials in Kyrgyzstan.

In 2000 a substantial area of land of the Fund has been used for experimenting with auctions of agricultural land, this resulted in transfer of 2,250 ha of land for a total of 7,6 million Kyrgyz som.

It should be mentioned here that it is difficult to determine the exact amount of land designated for agriculture in Kyrgyzstan. In an official June 2000 report to the World Bank from Director-General Kadyrkulov of the Ministry of Agriculture and Water Resources, two distinctive numbers can be found. Point 2 of the report refers to 1,496,300 ha of agricultural lands (excluding pasturelands) and point 3 refers to 1,573,700 ha of agricultural lands (excluding pasturelands). Whatever the exact figure, it leaves no question about the fact that Kyrgyz farmers used the opportunity and the increased accessibility of farmland to enlarge the country's area of it.