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# Land Tenure Reforms, Poverty and Natural Resource

## Management: Conceptual Framework

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### **1.1 Introduction**

Land reforms have played a central role in the political economy of many countries in the world and have been subject to massive disagreements between different political interest groups and ideologies. The 20<sup>th</sup> Century included many of the largest social land reform experiments in history such as in the earlier Soviet Union, Eastern Europe, China, Vietnam, and Ethiopia. Many of these reforms have later partly been reversed. In other countries with a colonial history there have been tensions between property rights established during the colonial period and traditional (customary) land rights, and how to adapt these to changing conditions are critical issues. Some countries have had very skewed land distributions rooted in ethnic, colonial, and other historical circumstances and this has created demands for land redistributions to reduce discrimination and poverty and to stimulate economic development.

Several factors have created a new interest in land reforms around the world:

- The Millennium Development Goals sharpened the international focus on poverty reduction and legal empowerment of the poor as seen by the establishment of the Commission for Legal Empowerment of the Poor (CLEP).

- Population growth, population concentration and land degradation have created land scarcity and the emergence of land markets in densely populated countries in Africa and this has created a new interest in land reforms to stimulate more efficient and sustainable land management.
- Excessive regulations of land transactions in some countries in Asia (e.g., India, Nepal and the Philippines) have created both inefficiency of land use and inequity of operational land distribution.
- Economic growth in Asia has led to changes in food habits towards more land-demanding foods (meat and milk), and to growing land and water scarcity.
- Increasing demands for land for food and energy production have spurred a new land race to ensure national food security in countries with increasing food deficits. This has triggered sharp increases in demands for land in relatively land abundant countries where the property rights and other institutional arrangements are not developed to handle these new demands or to protect the land rights of traditional land users and facilitate sustainable investments.
- Deforestation is one of the main causes of climate change and the increasing international concern and support to stop and reverse deforestation have stimulated new thinking on how property rights and land reforms can play a role to reduce deforestation and forest degradation and stimulate tree planting and better forest management.

New Land Reforms have been promoted by international institutions, such as the World Bank and UN organizations, donor countries, new governments and pressure groups within countries. Such reforms have typically aimed at stimulating economic growth by enhancing land use efficiency and investment, reducing poverty and promoting more sustainable land

management. However, many of these reforms have not had the intended effects or there have been disagreements about what the effect of the reforms have been. These problems may be related to both the design of the land tenure reforms and the measurement problems due to poor data to assess their intended and possible unintended effects, given the complexity of the relationships. The latter of the problems is also caused by insufficient attention to the need for careful impact assessments and data collection to facilitate such assessments.

The renewed interest in land reforms has also spurred a new requirement to carefully monitor and measure their impacts. New standards are being established for how to carry out program evaluation not only through rigorous internal validation but also by giving more emphasis to the external validation (Ravallion, 2009). Development economics research has moved in direction of randomized social experiments as a preferred way to identify unbiased estimates of program impacts. So far it has been rather difficult to implement randomized social land tenure reform experiments. New reforms in several countries involve elements of randomized control trials related to the design of reforms and these can provide valuable future lessons. However, for our purpose of evaluating past and recent ongoing reforms we have not been able to draw on such experiments for this book. On the other hand, there may be clever ways to identify natural experiments in relation to land tenure reform programs and these may help to identify impacts when random social experiments are infeasible for various reasons. This book tries to utilize such natural experiments as one source of evidence of the performance of past tenure reforms.

This book aims to identify the impacts and draw lessons from land tenure reforms in a number of countries in Africa and Asia and discuss the internal and external validity of the findings. The nature of the data and the complexity of the issues make it necessary to be cautious about the conclusions and their robustness. Good knowledge of the historical context

and process of implementation of the specific land tenure reforms is essential for careful interpretation of evidence from past reform. In addition the book draws heavily on recent rural household surveys as a basis for assessment of reform impacts. The authors combine historical, process and recent statistical evidence to infer causal implications about impacts of land tenure reforms. Subjective judgment is a necessary part of such analyses like any historical analysis based on limited evidence.

The book focuses on five major land tenure reform issues; a) Land-to-the-tiller reforms (Nepal and India); b) Market-assisted land redistribution reforms (Malawi and South Africa); c) Land tenure security enhancing reforms (Ethiopia, Vietnam and Uganda); d) Forest tenure reforms (China, India, Nepal, Ethiopia and Kenya); and e) The need for new land tenure reforms in Africa with the expanding demand for land.

We present a brief literature review related to these five areas in boxes that also provide the basis for our conceptual framework. We start by providing a discussion and review of literature on why land tenure security is so important for enhancing economic and social development.

## **1.2 Why securing land rights is important**

Development economists have long highlighted the central role of institutions, i.e. socially imposed constraints on human interaction that structure incentives in any exchange, in shaping growth and the distribution of its gains among the population (Greif, 1993; North, 1971). Property rights are social conventions, backed by the enforcement power of the state (at various levels) or the community, allowing individuals or groups to lay “a claim to a benefit or income stream that the state will agree to protect through the assignment of duty to others who may covet, or somehow interfere with, the benefit stream” (Sjaastad and Bromley, 2000).

Since in most contexts, land and associated real estate is one of households' most important assets, societies have, from the earliest days of recorded history, developed customs and laws on how to define land rights and many set up registries to make assignment of rights and their transfer among private parties public (Powelson, 1988). Creation and maintenance of such property rights system is an important public good that reduces the need for land holders to expend resources (e.g. in hiring private armies) to protect their rights. Key avenues through which property rights systems affect economic outcomes are increased investment incentives (or a reduction of the need to spend resources on defensive measures) through reduced risk of land loss and the facilitation of market transactions (Besley and Ghatak, 2010). In light of such long term effects, they will also be of relevance for political power.

*Investment incentives:* Secure property rights affect economic outcomes most immediately by reducing the risk of land loss, increasing investment incentives and reducing the need for individuals to spend resources on protecting their rights. In fact, historically, land rights emerged at the transition from the hunter-gatherer stage when investment in land becomes important (Binswanger *et al.*, 1995). The prospect of being able to enjoy the fruits of their labor encourages owners to make long-term land-related investments and manage land sustainably (Besley, 1995). Positive impacts of land tenure security on investment in rural areas have been documented in China (Jacoby *et al.*, 2002), Thailand (Feder *et al.*, 1988), Latin America (Bandiera, 2007), Eastern Europe (Rozelle and Swinnen, 2004), and Africa (Holden *et al.*, 2009; Fenske, 2011; Goldstein and Udry, 2008).

If there is widespread insecurity of property rights, clarification of such rights through systematic adjudication and registration of land rights can be a cost-effective way to increase tenure security. The magnitude and distribution of the associated benefits will depend on the

reduction in enforcement effort afforded by formal recognition, the increment in security afforded by the intervention (which will depend on the legitimacy and legality of existing arrangements and the level of disputes), and the availability of investment opportunities. Benefits will be higher if the increment in tenure security is large, e.g. if land tenure had been insecure or conflict-ridden before while new arrangements enjoy wide legitimacy, and if payoffs from land-related investment are high.

*Land transfers and financial markets:* Economic development normally involves specialization and a move of part of the labor force out of the agricultural sector. Such movement creates heterogeneity in the population that increases the scope for efficiency-enhancing land transfers. Institutions allowing such transactions at low cost and without those who transfer use rights having to fear that they may lose their land can increase productivity of land use. As land rental allows labor to move from agriculture to non-agriculture without forgoing the benefits, e.g. in terms of a social safety net function, associated with land ownership, in most cases such transfers will be through rental rather than sale. Initially they are likely to involve community members. High transaction cost, which can also arise because rights are unclear or institutional inefficiencies can reduce the number of such transactions or drive them into informality, with potentially negative impacts on long-term economic development (Libecap and Lueck, 2011).

Asymmetric information and risk have long been shown to lead to credit rationing in equilibrium and the use of collateral as one way of reducing such credit rationing (Stiglitz and Weiss, 1981). Its immobility and relative indestructibility make land ideal collateral. However, banks will use it for this purpose on a large scale only if they have access to low-cost means to make reliable inferences on ownership and the absence of other encumbrances for any given plot of land. Such information is normally provided by land registries. If it is

reliable and comprehensive, it can eliminate the need for physical inspection of the land in question or inquiry with neighbors, thus reducing the transaction cost of exchanging land in impersonal markets and creating the preconditions for using it as collateral to secure loans. While this provides the conceptual foundation for credit impacts from land titling or registration, such effects would be expected only if there is already latent and unsatisfied demand for credit (i.e. a portfolio of viable projects), foreclosure is possible, registry information is comprehensive and remains up to date over time, and third parties, such as mortgage lenders, can access reliable registry information at low cost on a routine basis.

Compared to the overwhelming empirical support for investment-impacts, evidence of credit-impacts from land titling, although not entirely missing (Feder *et al.*, 1988), is very limited. They may accrue only to wealthy producers (Carter and Olinto, 2003). In a number of cases where there were expectations for property rights reform to improve credit access (de Soto, 2000), these failed to materialize (Field and Torero, 2006). One reason is that better access to information on land ownership will affect credit supply only if other impediments are absent, i.e., if agents have been credit constrained before and are endowed with sufficient levels of illiquid wealth that can be foreclosed upon at reasonable cost (Besley and Ghatak, 2010). Lack of investment opportunities, risk aversion, and political, social or economic restrictions on land market liquidity that make foreclosure difficult are key reasons the literature identified as underlying causes that contribute to the limited attractiveness of rain-fed agricultural land to lenders.

*Power relations:* The limited overall availability of land implies that, especially in settings where land is the main asset, how access to and use of land is organized becomes highly political (Boone, 2007). While this has long been documented qualitatively (Binswanger *et al.*, 1995), a growing number of studies now provide quantitative evidence of long-term

impacts of land institutions on outcomes such as public good provision and educational attainment in India (Banerjee and Iyer, 2005; Iyer, 2010), human capital formation and democratic development in Central America (Nugent and Robinson, 2010), transparency and governance in Brazil (Naritomi *et al.*, 2009) and financial sector development across US counties (Rajan and Ramcharan, 2011). Land institutions and changes in these thus have sustained impacts on economic outcomes through a large number of channels.

## **1.3 Conceptual framework**

### **1.3.1 Basic models**

Property rights to land, being a social construct, may be seen along a continuum or as a bundle of rights, where the government in most cases plays a role. The rights belong to agents that may be groups or individuals and these rights may be more or less secure, depending on their social recognition, competition, and enforcement. We approach property rights to land from a social welfare perspective where an important question is how land tenure rights should be designed to ensure efficient and sustainable land use by land right holders.

Our starting point is the relationship between tenure (in-)security and the bundle of land rights that land users have. Tenure security refers to the extent of protection and duration of one's land rights. The bundle of land rights is separated in three main categories; use rights, mortgaging rights, and transfer rights. Owners with publicly registered full private property rights have all these three rights categories while in more restricted property regimes one or two of these may be restricted or missing. Each of these rights categories needs further specification and can be embedded in customary law or statutory law. The rights may be allocated to individuals or groups, may be time-limited or go into perpetuity, and may be conditional (implying certain obligations) or unconditional. Mortgaging rights, with which

land can serve as collateral, are also conditional on transfer rights but do not necessarily follow from transfer rights.

While the state has a key role to secure tenure and make information on it publicly available, state action has often also contributed to tenure insecurity or undermined clarity in the assignment of property rights to land. Sources of tenure insecurity can therefore be the state or private sources. The state may limit individual or group property rights and expropriate land for public purposes such as for infrastructure development, urban expansion, conservation of natural resources, or for redistribution to other groups. Unclear laws and overlapping or contradicting laws, unreliable enforcement of laws, violation of laws by government officials due to ignorance or corruption are other reasons for state-related tenure insecurity. Furthermore, interstate conflicts and wars can cause additional state-related tenure insecurity.

Private sources of risk include powerful agents that try to gain access to land claimed by others, neighbors competing over land where there are unclear border demarcations, theft and damage to property, and violation of land rights-related contracts causing multiple types of land conflicts. In relation to land reforms there may be strategic agents that try to take advantage of the law reform in ways that lead to unintended outcomes or in other cases powerful private groups are able to enforce law reforms that are to their own benefit but at the expense of others.

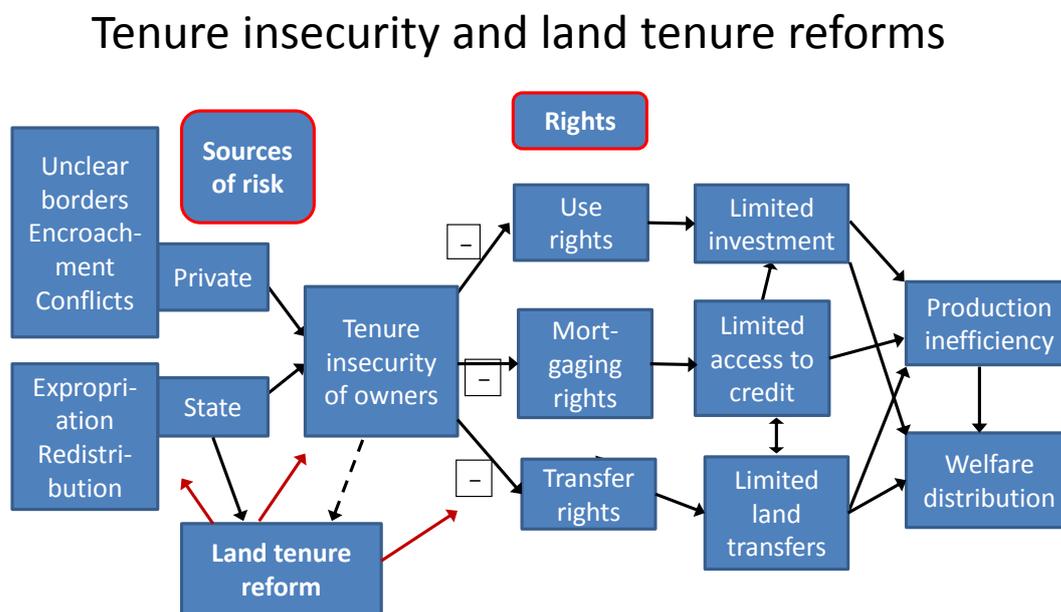
Figure 1.1 illustrates our basic conceptual framework which captures the three categories of land rights and the two main sources of risk that cause tenure insecurity. It also captures the links from tenure insecurity to categories of land rights and further to investment and productivity impacts. We see that tenure insecurity can have negative effects on all the three main categories of land rights (illustrated by the small boxes with negative signs) and can therefore have negative effects on investments and productivity.

We expect that these sources of risk to a varying degree contribute to tenure insecurity and various types of land tenure reforms may address this tenure insecurity directly or indirectly or may in other cases contribute to enhanced tenure insecurity for some groups in a society. Land tenure reforms typically aim to strengthen the rights of some groups or individuals in a society and this may or may not be at the expense of other individuals or groups in the society at that point in time. With increasing competition over land and with unequal land distribution, the strengthening of the rights of some groups or individuals is likely to negatively affect the rights of other groups or individuals and land tenure reforms are not likely to take place until a certain level of land competition and scarcity has been reached such that there is a demand for such a reform (whether democratic or not), taking its expected benefits and costs into consideration.

The issue of demand for land tenure reform vs. its social optimality is complex as illustrated by the following stylized examples. We can think of three cases of inefficient outcomes: a) There is demand from certain broad groups and the reform is perceived as socially optimal but is nevertheless blocked by powerful groups (*Laissez faire* outcome: No reform where it is needed); b) Powerful group implements a reform for its own benefit but that has large negative impacts on others and is not socially optimal (Bad reform where it was not needed). A third case: c) A well-intended land tenure reform that was perceived to be socially optimal yields unwanted and sub-optimal outcomes (Bad reform due to incompetence in design and/or implementation or “elite capture”).

Figure 1.1 shows that land reforms implemented by the state may affect the underlying causes of tenure insecurity as well as tenure insecurity itself and the bundle of land rights and their distribution. It is also possible that tenure insecurity is a reason for the implementation of land reforms as shown by the dotted arrow. However, it is necessary to have more specific information about the nature of each specific land tenure reform type and

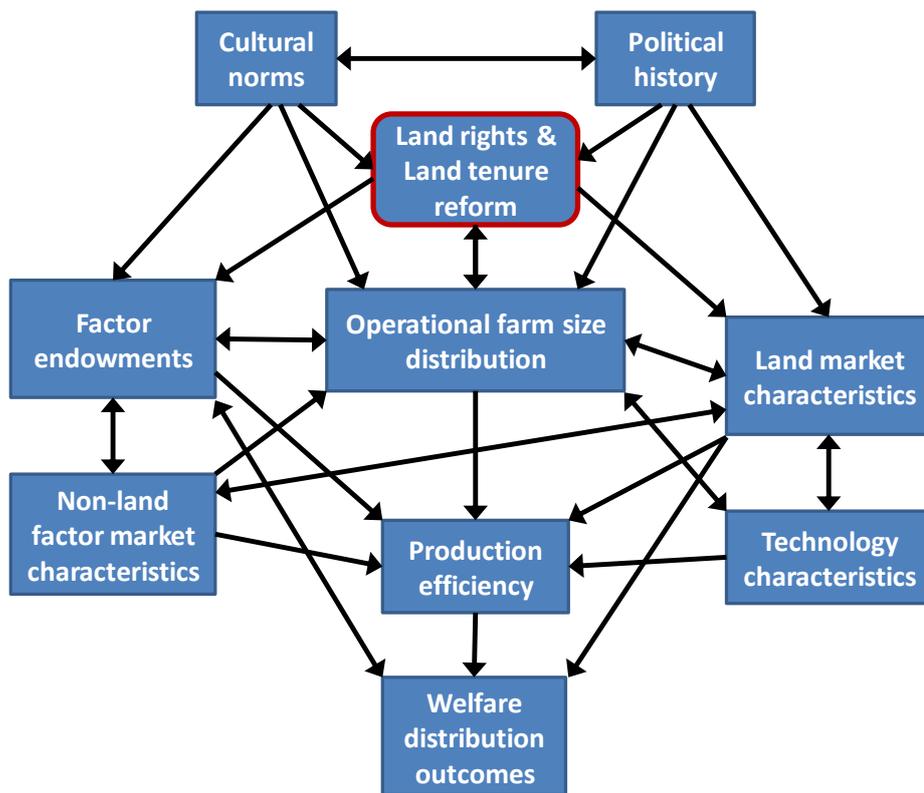
setting within which it has been or is being implemented to identify the more specific causal relationships and possible impacts on a range of outcome measures. We use variants of this simple model to illustrate some of these more specific land reforms with more specific expected outcomes in what follows.



**Figure 1.1** Basic model illustrating the links between land reforms, tenure insecurity, land rights, and production incentives.

We use this simple conceptual model as a starting point for discussing the effects of the various land tenure reforms. First we distinguish between countries with in-egalitarian and egalitarian land distributions. It is particularly in countries with in-egalitarian land distribution that landlessness may be an important cause of poverty and where land redistribution has been identified as a policy instrument to obtain a more just distribution that

also can lead to poverty reduction. However, the tolerance of inequitable land distributions also depends on the non-farm employment opportunities, cultural and political norms and the power structure in the society. Basically, we are interested in the fundamental issue of what the determinants of the actual farm size distribution are and to what extent land tenure reforms and land policies affect this farm size distribution and how this affects the efficiency of utilization of the land resources and the welfare distribution effects of these. This is illustrated graphically in Figure 1.2 which expands from Figure 1.1 by including more detail about the most important inter-relationships between land tenure reforms put in a political and cultural context that determines the extent, or even non-existence, of land markets, the distribution of other endowments and how these interact and create an operational farm size distribution with a related distribution of output and welfare outcomes. The many arrows indicate important dynamic effects that include causal effects as well as trade-offs and synergies which are parts of the dynamic equilibrium. The welfare effects of a land tenure reform therefore depend on the initial distribution of land and non-land resource endowments, its direct production effects on land users, the land access and market participation effects of the reform, and the ability of land users and owners to take advantage of the tenure reform.



**Figure 1.2** Determinants of the farm size distribution with effects on production efficiency and the distribution of welfare.

We see from Figure 1.2 that the political history, factor endowments, and cultural norms (that are inter-related) determine the distribution of land rights including the farm size distribution. Non-land factor market characteristics and the distribution of land and non-land factors of production are important determinants of incentives for redistribution of land through land sales and land rental markets (Holden *et al.*, 2008). In particular, imperfections in non-land factor markets caused by pervasive transaction costs and imperfect information in the production relations are basic determinants of production relations in tropical agriculture (Binswanger and Rosenzweig, 1986). The spatial dispersion of production, the immobility of land, seasonality and covariate risk, moral hazard and fragility of resources and products play important roles. The outcome is pervasive imperfections in markets for land, labor, traction

power, other inputs, credit and insurance. Over time market forces and agricultural technology adoption influence what are operational farm sizes and whether these are optimal farm sizes for enhancement of production efficiency. Land tenure reforms affect land market characteristics that will influence the extent of redistribution of land resources towards more optimal farm sizes from an efficiency point of view. Political forces also affect land tenure reforms and may restrict the extent of land redistribution through the market or through administrative redistribution and this again will have production efficiency as well as welfare distribution implications. Over time there will be complex interactions between the elements in this dynamic equilibrium. The equilibrium may respond to various types of exogenous shocks such as changing world food prices, new technologies, population growth, etc.

### **1.3.2 Specific models**

We will now discuss more specific types of land tenure reforms. It is well known that conventional land titling has not been a success in Africa (Migot-Adholla *et al.*, 1994; Platteau, 1996; Jacoby and Minten, 2007; Benjaminsen *et al.*, 2009), while it was more successful in some Asian countries such as Thailand (Feder *et al.*, 1988). The combination of titling upon demand and high costs of titling tended to favor the wealthy and well-connected and contributed to increased tenure insecurity and alienation of the poor who could not afford land titling. While land titling upon demand is still practiced in many countries, this is not a major focus of this book. We refer to the broad existing literature on the topic and focus on other types of reforms where important knowledge gaps still exist.

Our basic hypothesis is that tenure insecurity is caused by private as well as state actions and this tenure insecurity negatively affects the various types of rights and this again affects investment, production efficiency and welfare in a society. Thus, tenure reforms that have enhanced tenure insecurity (intentionally or unintentionally) of owners of land have

resulted in inefficient land use and have not contributed to substantial poverty reduction. Conversely, tenure reforms that have enhanced tenure security of land owners have enhanced efficiency, investment, sustainability, land transfers and land access for the poor.

We first look at the Land-to-the-tiller reforms, which aim to redistribute land ownership rights from land owners to tenants, in India (Chapter 3) and Nepal (Chapter 2). These reforms were intended to improve the land access and welfare of land-poor households. Our specific hypothesis is that this type of reform has had the unintended effect of enhanced tenure insecurity and this has caused increased Marshallian inefficiency on sharecropped land and has reduced the extent of land renting and has made access to land more difficult for the land-poor. The basic linkages are illustrated in Figure 1.3.

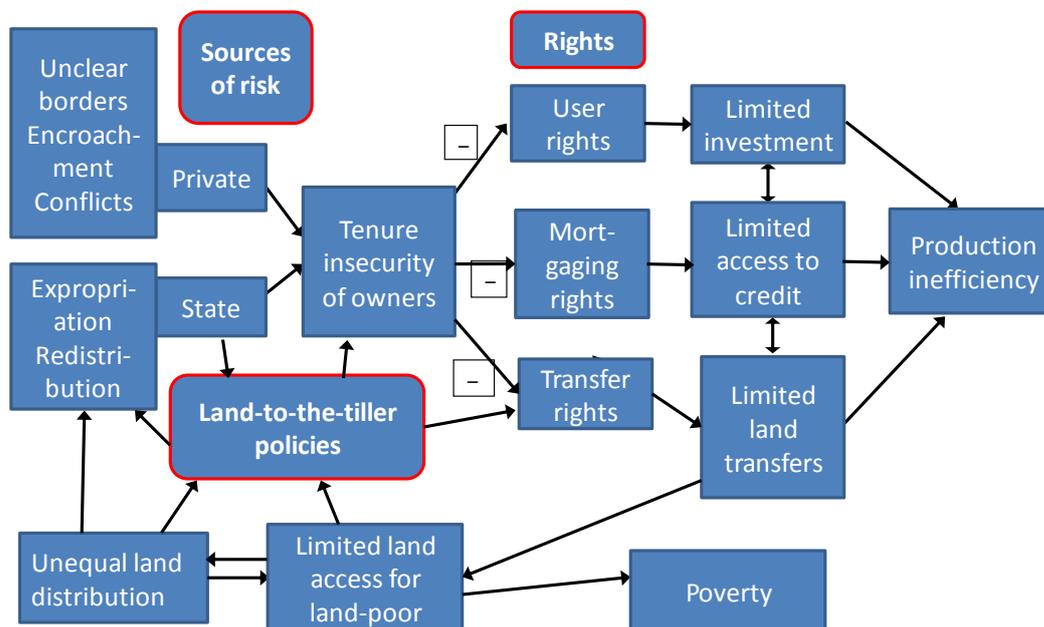
### **Box 1.1: Land-to-the-tiller policies**

Traditionally one of the major policy means to eradicate rural poverty in Asia is land tenure reforms, defined here as land-to-the-tiller and tenancy reform programs. The land-to-the-tiller program, which is nothing but land redistribution program from large landlords owning more than a certain threshold level to their tenants, was enthusiastically implemented in South Asia during the 1950s and 1960s (Khusro, 1973; Warriner, 1969; Ladejinsky, 1977; Herring, 1983) and in the Philippines in the 1970s (Prosterman and Riedinger, 1987; Hayami *et al.*, 1990). Since the land-to-the-tiller program applied to tenant cultivated land, whereas land under “personal cultivation” was in most cases exempted from the land transfer program, incentives were created for landlords to evict tenants to resume personal cultivation with employment of hired labor, so far as compensation for the landlords was lower than the market value of land. According to Bhalla (1976), Dantwala and Shah (1971), and Bardhan (1989), many landlords actually evicted tenants in India. Yet, at the All India level the percentage of farm area under tenancy declined from 20 percent in the pre-reform period of

the mid-1950s to about 12 percent in the mid-1960s, at least partly because of the implementation of the land-to-the-tiller program (Narian and Joshi, 1969). A similar program was also implemented effectively in favorable rice growing areas in the Philippines (Otsuka, 1991). Variants of such tenancy reform often rule out the practice of share tenancy and regulate leasehold rent to a low level or reduce output sharing rate in favor of share tenants as in the case of West Bengal and Sri Lanka.

The major thrust of the reforms was to emancipate tenants from the exploitation of the landed class. No less important were presumptions that share tenancy is inefficient because of the disincentive effect of output sharing on tenants' work effort (i.e., Marshallian inefficiency), and that small farms are more efficient than large farms. Thus, the traditional land reform programs had dual objectives of alleviating rural poverty and improving production efficiency (Lipton, 2009).

The limitation of the land-to-the tiller program, as well as the tenancy reform program, is that it redistributes wealth from the landed class to tenants, but not to landless agricultural laborers who belong to the poorest segment of the poor rural society. Furthermore, in order to "protect" or preserve the status of land reform beneficiaries, they were given usufruct right but not the right to lease or sublease. Under these programs, the agricultural ladder for the landless agricultural laborers to become tenants tends to be closed (Otsuka, 2010). **End of Box 1.1.**



**Figure 1.3** Effects of Land-to-the-tiller policies on tenure insecurity, transfer rights, and access to land for the land-poor.

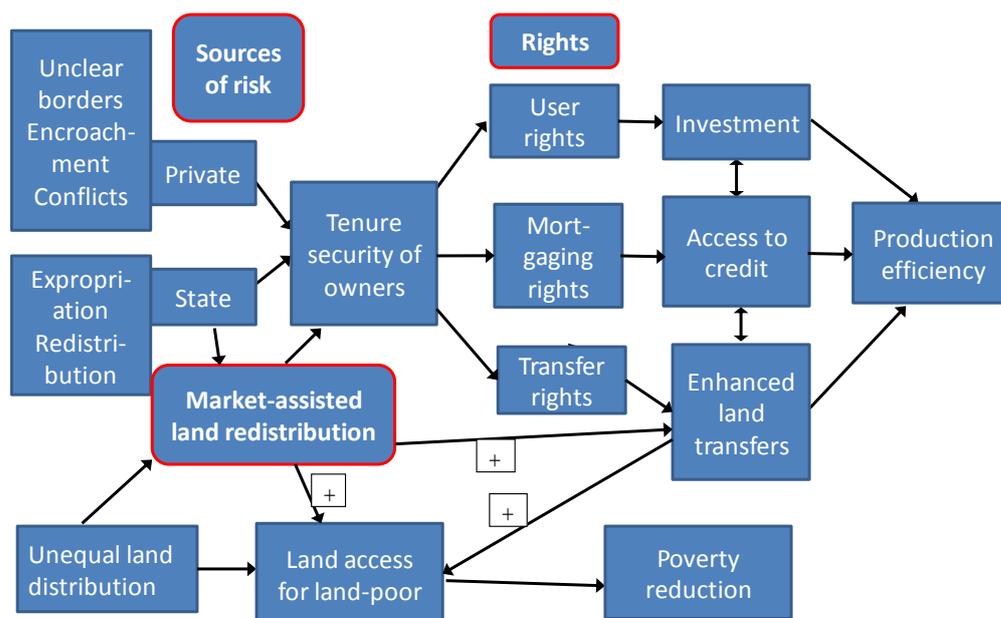
### Box 1.2 Market assisted land redistribution reforms

These reforms aim to modify the distribution of land ownership in settings with very skewed land distributions that are considered unfair and not conducive to broad based economic growth. Market assisted land redistributive reforms have been implemented in the Philippines, Malawi, South Africa, Zimbabwe, Brazil, and Guatemala. The mode of land acquisition in such reforms remains controversial. The principle of “willing seller and willing buyer” was introduced with the aim to reduce the opposition and conflicts related to land redistribution. Land redistribution reforms have not always followed this principle and even when the principle has been followed, this has not prevented conflicts. The choice of appropriate beneficiaries or “willing buyers” in terms of emphasis on ability, motivation,

access rights or need, and, the need for and extent of direct and indirect support to facilitate efficient agricultural production and rural development, are important and politically sensitive issues. They have important implications for the efficiency and equity and consequent poverty reduction impacts of the reforms (Binswanger *et al.*, 2009). Lipton (2009) argues that conventional land redistribution remains an important policy option in cases where massive unemployment exists in combination with highly inequitable land distributions. However, this type of reform has been controversial and not very successful in creating more equitable land distribution due to political opposition, e.g. in South Asian and Latin-American countries (de Janvry and Sadoulet 1989; Gauster and Isakson 2007). The funding of such reforms remains a challenge as well. Recent research findings revealing negative long-term impacts on economic growth of very skewed land distributions have triggered new thinking about a further need of land redistribution in some countries that have not been successful in reducing rural poverty, such as Brazil, Columbia, Guatemala, and South Africa (Deininger 2003; Acemoglu *et al.* 2001; 2002). There have been few rigorous impact studies of market-assisted land redistributive reforms while such studies may hold the potential to resolve some of the controversies regarding the design of the reforms (Binswanger *et al.* 2009). **End of Box 1.2.**

An alternative reform to the Land-to-the-tiller reform to improve access of land-poor households in countries with in-egalitarian land distribution is to allow voluntary transfers, possibly facilitated by a cash grant to eligible beneficiaries, a policy commonly referred to as Market-assisted land redistribution reform. We look at case studies in Malawi (chapter 5) and South Africa (chapter 4) to assess the impacts of this type of reform. We hypothesize that this type of reform has the potential to improve land access for the poor but the reform is sensitive to the design of the reform and context. As long as the land contribution is voluntary and

compensated, it may not be resisted by political elites. It is more likely to be successful if the settlers have access to complementary inputs and social services including farmer skills, credit and market access. We also propose that it is more likely to succeed if the settlers are granted secure individual rather than group tenure rights and farm sizes are tailored to the farming capacity of the settlers. With farm size and land transfer restrictions we expect to observe production inefficiencies and to observe an inverse farm size-productivity relationship, in which land-abundant households cultivate the land less intensively than labor-rich and more land-poor households. We have illustrated the expected impacts in Figure 1.4.



**Figure 1.4 Impacts of Market-assisted land redistribution on land access for the poor**

### Box 1.3 Low-cost land registration and certification

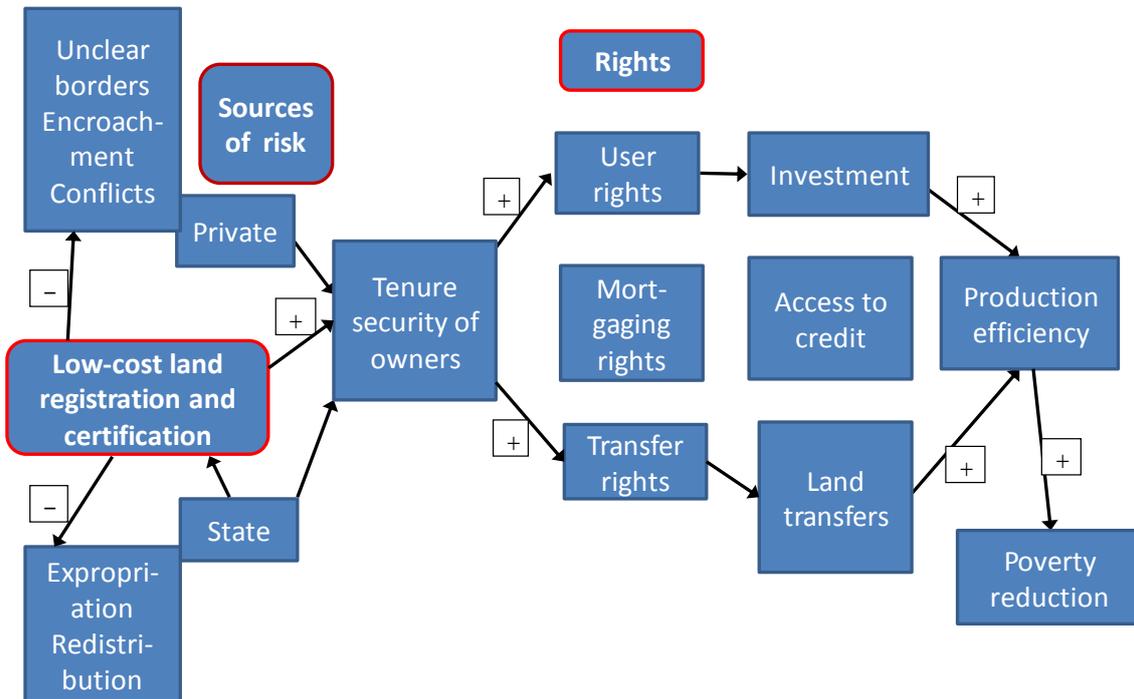
Ethiopia is most famous for the low-cost approach to land registration and certification which involved rapid, broad-based and large-scale, registration and certification of rural land of agricultural households (Deininger *et al.*, 2008; 2011; Holden *et al.*, 2009; 2010; 2011;

Toulmin, 2009). More than 20 million parcels of land were registered within a period of five years at a cost of about 1US\$ per parcel, implying a cost of about 3US\$ per household which can be compared to the cost of 150US\$ per farm in a standard titling upon demand in Madagascar (Deininger *et al.*, 2008; Jacoby and Minten, 2007). The tenure security enhancing effects of the reform have been documented by Holden *et al.* (2011) and Deininger *et al.* (2011) while Holden *et al.* (2010) document a significant reduction in land border disputes after the reform. Significant investment and land productivity effects from the low-cost tenure reform have been documented (Holden *et al.*, 2009; Deininger *et al.*, 2011). Furthermore, land rental activity has increased as landlords (often female-headed households) have become more tenure secure and more willing to rent out their land (Holden *et al.*, 2011; Bezabih *et al.*, 2012).

Vietnam got a new land law in 1993 that provided the basis for land registration and certification. The new law provided for time-limited Land Use Right Certificates that could also be sold, leased, or mortgaged and were renewable. Both mass-issuing and individual issuing of such certificates were common and costs were fairly low. Administrative costs were only 0.64-3.18 US\$ per certificate but the surveying costs could be about 19US\$ per 1000m<sup>2</sup> (Smith *et al.*, 2007). Ravallion and van de Walle (2008) have made a comprehensive assessed the tenure security enhancing low-cost reform in Vietnam **End of Box 1.3.**

The next type of reform we assess focuses on countries that have had radical land redistribution reforms in the past (Ethiopia, Vietnam and China). This reform was successful in achieving an egalitarian land distribution but it also had negative effects in terms of high tenure insecurity, weak individual land rights, limited investment in land, and production inefficiencies. Low-cost land registration and certification was therefore introduced to

strengthen tenure security and enhance individual tenure rights, including use rights and transfer rights. We propose that this reform has been successful in enhancing investment, land productivity and land rental activity and that these effects also have contributed to improved social welfare of the recipients of land certificates. Figure 1.5 illustrates the basic impacts we expect to find for this type of reform. Chapters 6 and 7 assess the reforms in Ethiopia and Vietnam which experienced radical land reforms in the past. We have also included a study in Uganda in Chapter 8 where recent land tenure reforms similarly have strengthened tenure security and transfer rights to land in areas with different initial tenure regimes established during the colonial period. The chapter assesses the functioning of land markets after the recent reform in freehold, *mailo*, leasehold and customary tenure regimes. Chapter 11 on forest tenure reform in China also focuses on the effects of strengthened individual land rights through provision of forestland certificates to individual households on perceptions of tenure security and investments on forestland.



**Figure 1.5 Impacts of low-cost land certification on tenure security, production efficiency and welfare.**

Chapters 2-8 have only looked at land tenure reforms regarding agricultural land. Chapters 9-13 in the book focus on forestland and forest tenure reforms where we have studies in China (Chapter 11), Ethiopia (Chapter 13), India (Chapter 10), Kenya (Chapter 12) and Nepal (Chapter 9).

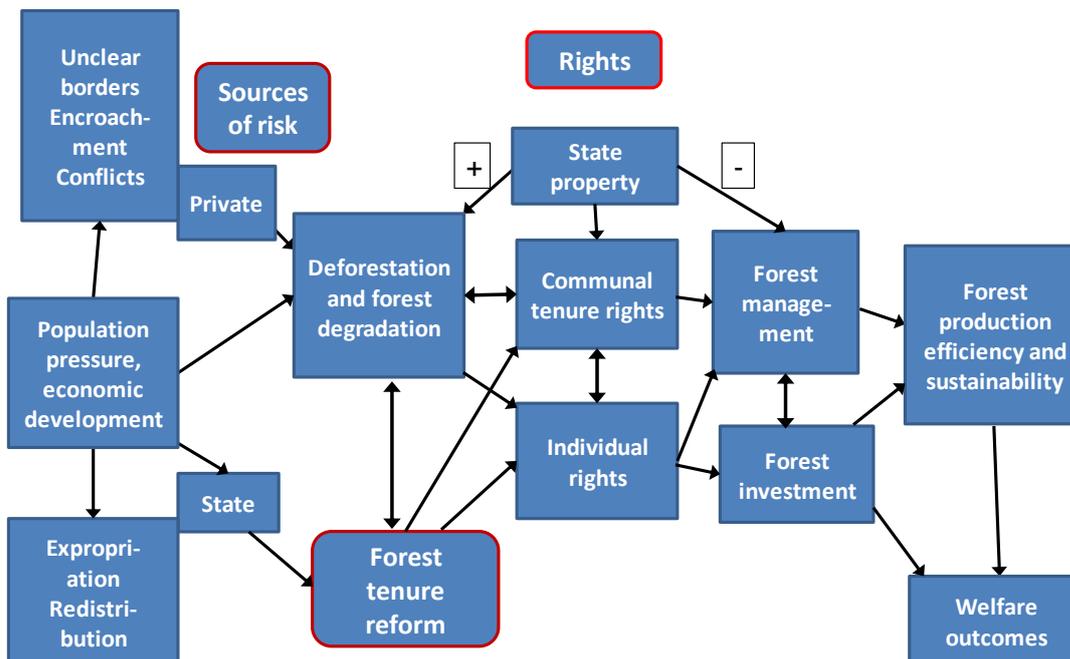
#### **Box 1.4: Forest tenure reforms**

There is little consensus about what is the optimal property rights regime for forestland and how various factors affect the choice of property regime for forestland. There seems to be a consensus, however, that state ownership and management of forest land has failed in many cases and has resulted in *de facto* open access deforestation and forest degradation. Many

countries have therefore started reforms that devolve forestland rights and management to local communities, assuming that local communities have the capacity to implement collective action that leads to better management of such forestland and with positive welfare effects for local people, including the poor (Ostrom, 1990). However, some more recent studies show that there are examples of successes and failures for all broad types of ownership regimes (government property, communal property and private property) (Gibson *et al.*, 2005). Ostrom *et al.* (2007) have argued for moving beyond panaceas referring to a blueprint for a single type of land governance system to handle complex socio-ecological systems. Instead there is a need for deep diagnostic assessments as a basis for design of land tenure reforms. Here could also be potential conflicts between short-term needs of people and the long-term sustainability objectives for forestland as a substantial time may elapse between investments in forest conservation are made and the benefits from it can be derived. This means that both the long-term dimensions and the collective action requirements can be challenging for communal organizations. Their success will depend on a number of characteristics that have been outlined by Ostrom (1990). These include the resource characteristics, the group characteristics, the institutional arrangements, and the external environment. Each of these affects the individual and group incentives which again affect institutional reforms. **End of Box 1.4.**

Some countries have observed problems with communal collective management of forests and have started to further distribute forestland to individual households. We look at China as a case where a transition from community forestry to more individual forestland management has expanded in recent years by providing individual households forestland certificates for 30-70 years for forestland plots.

In India and Nepal the roles of community organizations are assessed in relation to the management of communal forests and where the degree of state involvement and influence is varying. With increasing population pressure local communal forests may no longer be able to supply all the forest products that the local population needs, something which is more likely the more degraded the forests are and the more restrictive the harvesting regimes that have been implemented to rehabilitate such forestlands, are. Such restrictive harvesting regimes (exclusion) are likely to create incentives for private farm tree planting to meet the needs for building materials as well as firewood. We assess the relationships between forestland degradation and access, forestland protection reforms and incentives to plant trees on individual farms in Ethiopia and Kenya. In Kenya the factors associated with participation in Community Forestry Groups and how it affects tree planting on individual farms are explored. In Ethiopia there are also restrictions on tree planting on individual farmland that is intended for food crop production while land certification on household land may have stimulated longer-term investments on the land, including tree investments, but such investment incentives may also be affected by access to community forests that have been protected as area enclosures. The basic relationships investigated in these forestland chapters are illustrated broadly in Figure 1.6.



**Figure 1.6 Forest land rights and forest tenure reforms for enhanced forest protection and utilization**

### **Box 1.5 Large scale land acquisitions (“Land grab”)**

The world first took notice of a renewed trend towards large scale land acquisition and the challenges it poses when, in 2008, evidence of a Korean firm obtaining more than 1 million ha in Madagascar ‘for free’, i.e. with virtually no compensation to local people, were widely circulated in the global press. The resulting controversy contributed to the collapse of the country’s Government and the withdrawal of the investment. Yet, three factors contributed to a surge in demand for land, especially in Africa, namely (i) expectation of continued strong growth of demand for foods and their increased price volatility in agricultural commodities; (ii) increased use of what might traditionally have been considered as ‘marginal’ lands for production of environmental services; and (iii) the fact that many actors in the financial sector

consider land as an asset with very desirable properties in the current macro-economic environment. Even though agricultural investment in developing countries is much needed and there are examples demonstrating that it can help improve access to technology, markets, and finance for smallholders, the sudden nature and enormous magnitude of such demand (Anseeuw *et al.*, 2012) put enormous strains on existing institutional capacity. Even though interest in acquiring land did not always translate into actual deals (Schoneveld, 2011), many of the resulting land transfers are unlikely to ever generate local benefits (Deininger *et al.*, 2011) and some have by now been abandoned. As experts expect commodity prices to remain at higher levels for the foreseeable future, improvements in land governance will be important to create an institutional basis that would allow to deal successfully with such demands. Four critical areas are (i) the recognition of existing rights; (ii) the identification of state land; (iii) the establishment of mechanisms for decentralized land transfers; and (iv) local infrastructure. **End of Box 1.5.**

Even if it has been occupied by local communities for a long time, much land in Africa is legally considered ‘state land’ that can be transferred to investors without first going through a process of ascertaining or compensating existing use rights. Failure to do so has often led to conflict. Recent examples show that, if legal provisions are in place, rights to large areas of land can be adjudicated quickly, cost-effectively, and in a way that includes land use planning, thus identifying areas that could be made available to outsiders.

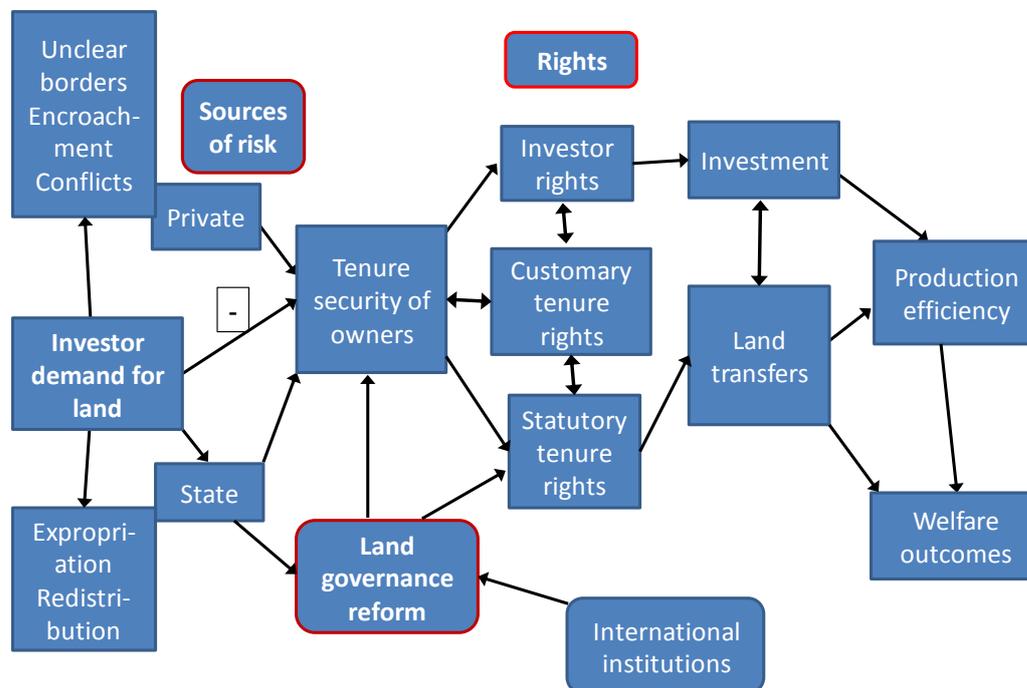
In many countries legal provisions require land intended to be transferred to investors be first expropriated or converted into state land. Acquisition and divestiture of state land are a key area of corruption and bad governance in many countries. Moreover, with such provisions, even communities interested in transferring land to an investor or establishing joint ventures will not be able to do so or benefit from it directly. Legislation that requires

expropriation as a precondition for transfers to investors or gives wide latitude to expropriate for transfer to private interests should thus be amended to give a clear rationale (e.g. in terms of environmental externalities) for declaring areas as state land, follow this up with an inventory that unambiguously demarcates such lands on the ground, and transparent mechanisms for divestiture of land that does not meet these criteria with preference given to actual users.

To provide investment incentives and facilitate movement of land to its best use, it is critical that current and comprehensive information on of property rights is broadly and cost-effectively accessible. This should allow low-cost registration of any transfers among private parties and include relevant contractual details. High levels of fees which, in many instances, act as a strong disincentive to the transfer of land to better uses or users, should be lowered and be replaced with a regime of land taxation (which would provide incentives to bring land into use) or profit taxation with no loopholes.

The fact that demand for land, at least in Africa, has somewhat receded from its peak levels (Arezki *et al.*, 2011) provides an opportunity for governments to undertake reforms in these areas. Countries that have large amounts of land that may be of interest to investors may need to combine these with ways to promote investment in line with the country's comparative advantage and its envisaged long-term development path. Key areas of concern relate to (i) clustering to piggy-back on existing infrastructure and attain synergy from a focused approach to technology and markets; (ii) transparent screening of investment proposals to reduce the risk of irreversible damages being inflicted by deals that were non-viable from a technical point of view; (iii) agile mechanisms for dispute resolution and arbitration to adjust knowledge and institutional arrangements to emerging needs; and (iv) options for investors to signal compliance with standards to attract capital at low cost and set in motion a 'race to the top'.

International organizations have reacted to these new large land acquisitions or “land grab” phenomenon by implementing studies of the phenomenon and offering of training and build-up of national capacity to reform laws and national and local institutions in ways that better can protect local interests. Such reforms have to be tailor-made to each country by building on existing institutions, agro-ecological and market characteristics. We therefore end the book with a discussion of the future land governance challenges. Some of the main issues are illustrated in Figure 1.7. In particular the relationship between statutory law, customary land rights and investor rights have to be clarified, otherwise new investor demand for land can create tenure insecurity and cause alienation of traditional land users unless land governance systems can be established that are able to ensure that their rights are protected and that they are included in the growth process.



**Figure 1.7 New investor demand for land and the need for improved land governance reform**

Our basic proposition is that the new demand for land in countries with weak land rights creates more tenure insecurity, risk of loss of customary land rights for indigenous populations and political instability that increases the risk for investors as well. We suggest that new land tenure reforms are essential to establish sustainable benefits that can lead to broad economic growth in these countries. Failure to implement such reforms can lead to very skewed land rights distributions that are bad for economic development and the scope for poverty reduction in the short, medium and long run.

Super-large farms do not provide economic benefits to society beyond what more medium and small size farms provide. Hasty establishment of such large farms that are not recognized by the local people can easily lead to conflicts between the investors and the local people and lock development into an unwanted development pathway.

The challenges posed not only by the ‘land rush’ examined in Chapter 14, but also by continued urban expansion have led to a recognition of the need for capacity building and improvements in land governance by the international community that has been articulated in a number of policy statements such as the Voluntary Guidelines supported by FAO (Food and Agricultural Organization of the UN, 2012) and the UN Economic Commission for Africa’s Land Policy Initiative and African Union’s Declaration on Land Policies and Challenges in Africa (African Union, 2009). These documents are likely to greatly advance the debate in the sector, especially if they can be translated into broad-based dialogue that results in consensus on priorities and action at country level. We close the book by reviewing the land governance assessment framework (LGAF) (Chapter 15) which has been developed to address this challenge. Experience suggests that, by facilitating dialogue among land sector stakeholders who often fail to communicate with each other, the LGAF can help identify priority policy actions that can feed into the policy dialogue at higher level, including passage of legislation and institutional reform. This can prepare the ground for piloting of innovative

approaches to the various factors underlying tenure insecurity and weak land governance. We end the book by drawing our conclusions in Chapter 16.

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