

Chapter 14

Innovative Land and Resource Policy in an Asian Context: Options and Challenges

MICHAEL KIRK

Professor of Development Economics

Institute for Co-operation in Developing Countries (ICDC)

Department of Economics, Philipps-University of Marburg, Germany

14.1 Introduction

The objective of the paper is to analyse favourable and unfavourable conditions for formulating and implementing innovative land and resource policies in an Asian context. After analysing the major shortcomings of land tenure systems and land policies in conditions of rapid socioeconomic change and reform in Asia at present, 'land tenure' is extended to a broader and more comprehensive concept of resource tenure. The objectives and instruments of a re-focused resource policy focused between locality and global governance are elaborated upon giving specific consideration to the role of the devolution of natural resource management in policy formulation and implementation. As a guiding principle for both in civil society, the principle of subsidiarity is introduced by this paper.

Truly, currently land is losing its importance for growth and employment as one 'classical' factor of production and for the welfare of developing and newly industrialising countries compared to the period at the beginning of the development debate in the 1950s. New factors, such as knowledge, become important. However, in Asian economies, land tenure is still an issue, bringing out new resource conflicts and requiring innovative land and resource policies as well as appropriate instruments for implementing them.

In Asia, two dimensions of change actually matter, and these fuel a re-emerging debate on the future 'social construction of land' (Bromley 1996), i.e., about the appropriate institutional design to get access to land, to use it, and to assign private and social costs and benefits arising from its use to all stakeholders involved.

First of all, evolutionary processes and gradual changes analysed in the Boserupian tradition (Boserup 1965, Binswanger and Rosenzweig 1986) and caused by population growth, changing factor proportions, technical progress, and structural transformation (Tomich et al. 1995, Hayami 1997) that helped 'break the resource constraint' (Hayami 1997,78) play an important role for Asian countries. This change is associated with a diminishing contribution of land-consuming agriculture to GDP, to overall savings, employment, and revenue from foreign trade. This actually being the case, what are the incentives that will secure long-term investment in land (terraces, irrigation, trees) at a socially acceptable rate if 'access to land' is no longer the future demand but rather 'access to income' (Kuhnen 1999, Panayotou 1993)

In many regions, land is gradually being assigned new functions. Because of increasing urbanisation and industrialisation, an ever greater expanse of arable land in peri-urban areas is being transformed into housing areas, industrial sites, and infrastructural projects or being used as an investment for portfolio diversification (GTZ 1998). Such conversion of land triggers off various conflicts. These not only arise between private owners and the state over compensation after expropriation for public purposes or between the local population and in-migrating groups, they also occur between the members of peri-urban communities over the private acquisition and titling of land; a process thus far managed according to autochthonous rules. This is regarded mostly as legalisation of land grabbing by traditional authorities. New values not attributed to land before are acknowledged as its function: recreation and leisure areas for the urban population and for countering the risks of disease and old age.

Secondly, rapidly changing political and economic frameworks have sharpened intensely the perspective of the actual shortcomings of existing land tenure systems in many Asian countries with regard to efficiency, equity, and environmental protection. Former, centrally planned economies in Southeast Asia are undergoing transformation. Structural adjustment and market liberalisation have had an enormous impact on land (and inter-linked credit) markets as well as on their role in terms of competitiveness in the globalisation process. At the international level, legally binding regimes have been established to protect the global commons, biodiversity in particular, to combat desertification or to slow down climate change. All of these changes open up new options for the future and have led to a new value for land and given an added quality to the land and resource policy debate at the turn of the millennium (Kirk 1998, Kuhnen 1999). Potentials for earning rent leading to resource conflicts mainly arise in the course of economic reforms when a new legal and regulatory framework liberalising markets, securing the rule of law, and soliciting

the participation of all stakeholders involved is still incomplete and inconsistent or not yet implemented, giving, for example, way to 'land laundry' in countries like Cambodia or Laos (Kirk 1996).

Both dimensions urgently require innovative land and resource policy concepts. Many Asian countries have started discussing how to enable institutional environments on a national level. Some of the concepts, models, and the policy advice developed so far still lack the necessary coherence and consistency, and most of them are far from being understood, accepted, and implemented at local level. This sort of institutional change is not a smooth one guided by conventional economic theory which predicts change in the direction of Pareto improvements; it is rather one that follows the distributional theory of institutional change which considers the main reason for change to be redistribution of the coercive and bargaining resources of power as a consequence of a radical change in the institutional environment following transformation (Schlüter 2000).

The purpose of the following paper is, therefore, to analyse favourable and unfavourable conditions to formulate and to implement an innovative land and resource policy in an Asian context. It is organised into seven sections: The current introductory section (1) is followed by (2) the problems of land tenure systems and land policies in Asia at present, (3) the need for extending the rather restricted focus on land tenure to a comprehensive concept of resource tenure, (4) the objectives and instruments of a re-focused resource policy concept between locality and global governance, (5) the role of devolution of natural resource management in policy formulation, (6) the contribution of the principle of subsidiarity as a guiding principle for implementation in civil society, and (7) conclusions to be drawn.

14.2 Will Land Tenure Regimes and Land Policies Cope with the Ongoing Rapid Socioeconomic Change in Asia?

As human-land relations have been changing at an increasing rate, land tenure regimes need to be adjusted, either endogenously through the efforts of collective action on the part of users, or exogenously through appropriate land policy instruments of the state. This process of adjustment often lags behind the emergence of new relative factor scarcities and changing institutional environments as a result of globalisation, liberalisation, or new international governance regimes. This causes severe problems with respect to the efficiency of land use or the use of natural resources in a broader sense, equity considerations, social balance, political stability, and the protection of the environment following the UNCED process (GTZ 1998). Ideas about the significance of such lags, their main causes and consequences at different levels, and appropriate forms of policy intervention change over time.

Asia is mostly regarded as an example of the fact that rapid industrialisation and drastic changes in economic structures can become possible mainly as a result of the

successes of agrarian reform¹ programmes in the early phases of economic development (Khanal 1995). The impact of successful agrarian reforms on rural development is even more marked, as well as the increase in purchasing capacity of low-income groups, enlargement of domestic markets, expansion of rural based agri-business activities, and increased employment opportunities.

Strictly egalitarian, redistributive land reforms in Korea or Taiwan resulted in great increases in agricultural production and incomes. Although mainly imposed by authoritarian governments, they can nevertheless be interpreted as first attempts at market-led, though government-guided, land reforms in an Asian context. The state appropriated land above stated ceilings and transferred it to small tenants already occupying the land. It conferred full private ownership on the beneficiaries but forced them to reimburse the government for the costs of land acquisition, although they were assisted with subsidies and favourable terms (Bruce 1998). Through the explicit link with land management reforms and the organisation of support services for the beneficiaries, these redistributive land reforms provided long-lasting incentives for economic growth, promoted equality, and changed old established power relations based on the control over natural resources (Binswanger et al. 1995; Bruce 1998; Kuhnen 1999). They have been an often neglected cornerstone of the success story of some 'Asian tigers'.

The arguments for land reforms lost momentum with the implementation of the first 'Green Revolution' in South and South-East Asia from the 1960s onwards. Together with the remittances of millions of migrants and the dynamics of overall economic development it has contributed to overcome the stagnation in numerous rural Asian areas in the last decades (GTZ 1998). Despite these success stories, land reforms are still a very controversial issue (Deininger and Binswanger 2000). In regions such as India or the Philippines land reform has only been successful to a limited extent and remains a ticking time bomb (Banerjee 2000, Kirk 1998): weak governments were not able to break the resistance of dominant landlords, and/or inadequate land management practices led to production losses, worsened the situation of the poor, and created severe environmental problems (Kuhnen 1999). In countries like the Philippines the need for agrarian reforms with a redistributive component remains (Polestico et al. 1998, Meliczek 1999).

Simultaneously, however, the farm size has further decreased because of population pressure and partitioning of holdings. At present, approximately three-fourths of all Asian farm households no longer have enough land at their disposal to make a living. Already in 1980 the average size of holdings was 1.3 hectares in Bangladesh, 2.0 hectares in India, 1.5 hectares in Sri Lanka, and remained at 4.6 hectares in Pakistan.

¹ Agrarian reforms are measures designed to overcome obstacles hindering economic and social development that are the result of shortcomings in the agrarian structure. Changes in land tenure (reform of land ownership or land reform) as well as changes in land use (land management reform) are elements of these measures (Kirk 1999a).

In Indonesia, 70% of the farms consist of less than one hectare; in West Java, 73% of the farms have areas of less than half a hectare (GTZ 1998). This evolution revives the old debate on the relationship of farm size to productivity (Banerjee 2000, Binswanger et al. 1995, Faruqee and Carey 1997), and this is also important for the justification of redistributive land reforms.

The rule that small farms have greater productivity while physical output and labour investment decreases with increasing farm size is not always true (GTZ 1998, Faruqee and Carey 1997, Kuhnen 1999). If smallholders are forced to use the land intensively because of lack of alternative income sources, then the rule applies. Here, egalitarian, even redistributive, land reform would support increases in productivity and contribute to food security for a growing population. But, the situation is different as soon as the interest in farming wanes as a result of sources of alternative employment leading to out-migration and creating high opportunity costs for land use. The same applies when small farmers in regions with strong technical innovations, such as in irrigated areas, cannot keep pace with the rate and amount of necessary investment and are not able to realise economies of scale adequately either. In this situation, medium-sized farms, which are already well integrated into product and factor markets, have greater productivity (Kuhnen 1996) because they are already realising the benefits from scale effects and specialisation without being faced with the diseconomies of large units mainly caused by high transaction costs in terms of supervision of labour, intensive care activities for livestock, or different tenancy models (Hayami and Otsuka 1993; Binswanger et al. 1995).

After a long theoretical debate, dating back at least to Alfred Marshall, economists have made their peace with the tenancy models that dominate in Asia, in particular with sharecropping (Hayami and Otsuka 1993). They will persist as imperfect but functional arrangements for hundreds of millions of rural people in all parts of the region, as they represent a compromise between work incentives, the costs of supervising labour, and risk-sharing for risk averse farmers (Kuhnen 1999). We still need more answers about the environmental impact and inter-generational efficiency (long-term investment for soil conservation) of factor allocation of these controversial economic transactions which are often based on long-term, relational contracts (Furubotn and Richter 1997, Panayotou 1993).

However, the creation or the re-organisation of functional land markets that allow for permanent transfers does not suffice. Moreover, it is still necessary to look for additional instruments to increase security of tenure for tenancy markets that go beyond traditional self-enforcing mechanisms or coercion in order to enable a smooth temporary transfer of property rights according to the owner's preference (Deininger and Feder 2000). Tenancy markets will rapidly gain in importance in Asia as a result of the declining importance of agriculture and the phasing out of parts of the farming population combined with a strong interest in keeping a hand on the land as an inflation-proof asset. Here, policy-makers are confronted with a knife-edged problem as these innovative instruments, on the one hand, have to follow generalised rules

and regulations and have to be enforceable in court and, on the other hand, have to be embedded in the existing social fabric in rural areas in order to be acceptable to tenants and landlords. While decision-makers in African countries might learn a lot from Asia about future challenges arising from tenancy arrangements, the Asian discussion on communal customary rights and decentralised, local cooperation for land use might also benefit from African experiences (Bruce 1998 and Kirk 1998) (see part 4).

The question of whether to establish registered private land ownership either as an outcome of market-oriented land reforms with a modernised and revised legal framework or on the same lines as the transformation process of former socialist countries remains a controversial one. It is undisputed that the institution of private land ownership gives the strongest and non-attenuated incentives for long-term investment, for resource protection, and that it allows for rural credit and fosters sectoral growth. Yet, this is only true if a number of crucial conditions are fulfilled that are not necessarily present in many Asian countries (GTZ 1998, Kuhnen 1999): at the micro-level a sufficient farm size; a certain attitude towards work, savings, and investment; and sufficient institutional support from the public and private sectors are prerequisites. At the macro-level, effective private property requires differentiated, functioning markets for goods and for land, capital, and labour in order to flourish. It needs a large number of 'outer' institutions such as a highly efficient land registry, private contract law, inheritance law, family law, tax law and so on also, and the establishment of these incurs high transaction costs for society (Kirk 1999a).

If these preconditions cannot be established on parallel terms with private land ownership, this institution cannot come up to the expectations placed on it as a country-wide panacea for optimal land-use patterns, investment, and environmental protection (e.g., Laos, Vietnam) (Kirk 1997; Kuhnen 1999; Tachibana et al. 2000). Transforming economies, like that of Vietnam, maintain the ownership of land formally in the hands of the state and give long-term leasing contracts to users with an option for renewal. These leasing contracts become inheritable and transferable as well, leaving room for different kinds of transactions while also respecting traditional models of land use. Thus, the degree of security of tenure and the planning horizon come close to private land ownership.

"The system, which resembles the historical tradition in many countries, is still rather new, but it should be observed carefully for it might prove to be a model for other countries" (Kuhnen 1999:28).

As already stated, the reduction in farm size and new job alternatives have caused land to acquire a different meaning. While - as Kuhnen (1999) states - a generation ago the cry was 'access to land' at the time of the land-to-the-tiller reforms, today the younger generation wants 'access to income' no matter from where. Remittances of migrant family members have already led to farm land of a poor soil quality being

relinquished. From an environmental point of view, this development, however, could be beneficial for the protection of endangered resources and biodiversity.

With industrialisation, the need for land for non-agricultural purposes is growing rapidly. New and old land uses compete with each other: residential areas, industrial parks, mining and recreational areas, agricultural and forest land, nature reserves, and water-protection areas. It is estimated that about 500,000 ha of land are lost annually to agriculture in developing countries because of urban expansion. New patterns of use are attributed - mostly in an unplanned, uncoordinated way (GTZ 1998). For these 'hot-spots' cost-effective, simple, flexible, and easily accessible systems of land registration and land information systems to support land conversion have to be developed in the near future.

Bringing land tenure into line with land-use planning, especially urban planning, has not taken place yet. The taxation of windfall profits from land speculation in these centres of quick change is insufficient, and the preservation of environmental goods, such as clean water and landscapes for future generations, has long been ignored, for example, in rural Thailand (Panayotou 1993). The overuse of chemicals, the absence of drainage systems to minimise salinity and water logging, the ploughing of slopes unsuitable for arable cultivation, and deforestation are just a few examples of processes that mostly originate in insecure or ill-defined property rights at local or regional levels.

Another important factor is the global environmental changes to which Asia is subject. Examples are the rapid urbanisation and heavy deforestation in South-East Asia. Although these global challenges, which are often determined by local action, are at the centre of the implementation of International Conventions in the course of the UNCED process, the link between locality and globalisation of environmental concerns is still weak. Revised or newly developed land policy can play an important role in strengthening this link and will be a key factor in the development equation of old, new, and infant Asian Tigers in the future.

14.3 From Land Tenure to Resource Tenure: Implications for Poverty Alleviation and Rural Development

Past agricultural and rural development strategies have emphasised irrigated agriculture and 'high potential' rainfed lands in their attempts to increase food production and to stimulate growth (Fan and Hazell 1999,1). While this strategy played an enabling role and has been very successful for the implementation of the 'Green Revolution', less favoured lands have been neglected and still lag behind in their economic development (see also Kuhnen 1999), leading to aggravated poverty and food insecurity as the result of a complex process. As it is estimated that, in China and India, less favoured lands account for about one-third and 40% respectively of total agricultural output and that globally about 500 million poor people live on less favoured lands, active development policy strategies and public investment seem to be justified (Fan and Hazell 1999)

During the last decade this bias was overshadowed by globalisation², which redefines the chances and risks of economic development, going hand in hand with fragmentation within and between societies (Jodha 2000). The benefits of globalisation and market liberalisation are not evenly distributed, as foreign investment concentrates on a few countries, depending on the quality of their technical as well as institutional infrastructure. With regard to natural resources, it is undisputed that secured private property in land, as freehold or long-term tenancy, with a clear planning horizon is a crucial precondition to make countries attractive for investment in exclusive logging rights or rights for water use for example. At the same time, other countries and regions are completely bypassed by the chances offered by globalisation and may become victims of ever-increasing socioeconomic differentiation. There is a danger that poverty will be concentrated in these regions, with especially vulnerable groups at its centre such as the landless rural poor and users of forest margins, rangelands, or other resources mainly held as common property (Kirk 2000a).

What characterises the groups that are strongly affected by the side effects of favouring areas with high potential in particular? Nowadays, and still in future years, they will be dependent on the access to and the use of a mix of key natural resources to make a living. The governance structure of these resources is characterised by a combination of different property rights' regimes, with common property historically at its centre. Many people in rural communities of the HKH region, in South East Asia, or in parts of India do not work exclusively as crop farmers in rainfed or irrigated valleys but rather use many of the natural resources simultaneously on hillsides, in the plains, at the upper and lower ends of a water catchment, and so on, with multiple uses and multiple users involved (Swallow et al. 1997). This mix may be a combination of wells or surface water reservoirs held as freehold for irrigation purposes; of different tenancy arrangements for agricultural land, linked with temporary or permanent rights to use pastures and forest resources (dead wood, fruits, herbs, and so on); and of temporary access options to other resources (such as agricultural by-products) in cases of drought or floods. In peri-urban areas as well, multiple patterns of resource use are on the rise: the combination of construction land with urban agriculture and gardening and private and public water sources for households and industry (GTZ 1998).

Therefore, the focus on tenure has to be a broader one, in particular, for less favoured Asian regions. Rangelands, that form the basis of livelihood for some hundred millions of people in the world, could serve as an example to support the argument. Livestock in the HKH are primarily sustained by vast native rangelands (and forests) managed as common property resources by millions of (agro-) pastoralists who rely on these diverse ecosystems for their subsistence (Bhatia et al. 1998). They cover more territory

² Globalisation can be defined as the increasing integration of national economies into expanding international markets and growing interdependence of the international economy (Todaro 1997:660, Picciotto 1997:363).

than any other ecosystem in the HKH (over 60%). Like other rangeland systems in the world (McCarthy et al. 1999) they are characterised by extensive use patterns and high natural risk and are managed through sophisticated institutional mechanisms for pasture allocation to allow for access options and rotational grazing based on collective action to maintain range productivity and to prevent overgrazing.

These rangelands have to be defined beyond the single resource approach that has guided environmental and ecological research as well as (agro-)pastoral policies in the past (Scoones 1995, Grell and Kirk 1999). Rangelands are part of a larger production system. As such, to understand the implications of rangeland management policies it is important to use a holistic understanding of rangelands as a basic concept that will help to include rangeland users' strategies not only at the local community level but also for resources used regionally. Rangelands, thereby, include all key resources and infrastructures (water, pastures, grazing corridors, and so on) that are so very critical for livestock production, institutions that manage access and use of these resources, rules governing the use of the resource by community and outsiders, and organisations to execute allocation and enforcement (Ngaido and Kirk 1999). Rangeland institutions are always 'nested' within larger structures.

As a consequence of working with 'resource tenure', the broader concept of resource policy should lead our analysis. Resource tenure has to be considered in the context of all (in effect or potentially) economically used natural resources in a particular space. On parallel terms, policies that have land as their focus must be linked more closely to water and forest policies, to policies of rural settlement, to land-use planning, to instruments for urban and peri-urban land management, and so on.

The analysis of the many different property rights that stakeholders have over natural resources permits us to understand the importance of so-called 'secondary rights' which are so important for vulnerable poverty stricken groups such as female-headed households, landless people, or pastoralists (Faruqee and Carey 1997; GTZ 1998; Göler and Jacobsen, 1999). Women, for example, are for the most part exempt from the possibility of having comparable (to the men) permanent and secure rights to land use in autochthonous land-tenure systems or in regulations based on religion (Göler and Jacobsen 1999). Typically, they can only assert secondary rights given to them by men. The same applies to landless people or mobile livestock keepers who depend on temporary access to harvested fields to collect agricultural by-products, collection rights in forests, rights of way and trespassing, and so on (Sakurai et al. 1998, Ngaido and Kirk 1999). Up to now, these complex structures of property rights that have a great impact on strategies for poverty alleviation and environmental protection have been mostly ignored.

Rapid socioeconomic transformation and changing resource use patterns in Asian mountain areas have strongly affected - not only in the HKH region, but also in Vietnam, Laos, and China - the number and composition of livestock and of plant and wildlife species as the material basis for extensive production systems (Bhatia et

al. 1998). Thus, in working with resource tenure as a broad concept that goes beyond single cause-effect analysis and governance structures, one has – to go a step further – to consider additional property rights’ dimensions related to natural resources, for example, biodiversity protection.

A good from nature, like soil used for cropping or grazing, is usually considered to carry only one homogenous property title. However, it is not sufficient to classify such rights, according to the conventional division, only into the right to use, the right to alter, and the right to alienate (Hagedorn et al. 1999). In order to do justice to new functions of natural resources for sustainable development, additional categories of property rights have to be defined separately for numerous ecological properties of the physical piece of nature (like a piece of land). Each of them is related to particular private and social costs and benefits. For each of them, the institutional design can differ: private, collective or state property regimes are imaginable just like the absence of defined property rights that will lead to open access (Ostrom 1990, Bromley 1991).

Going even further, Hagedorn et al. (1999) suggest the term ‘property rights on nature components’ to be appropriate for a more sophisticated theoretical concept for innovative resource policy objectives and instruments that respect the guiding principles of the UNCED process and try to do justice to efficiency, equity, and environment. Bundling the property rights over the manifold components and attributes of a physical piece of nature by giving it to one land user by written law or based on custom usually means that the distribution of rights in society is rather decentralised, in particular if land concentration is low and a unimodal distribution predominates, as in many Asian countries (Hagedorn et al. 1999). In case these rights are divided between farmers as primary users and other specialised agents, like line ministries, this automatically results in a higher degree of centralisation of governance structure. As we know from the long theoretical debate on optimum incentive structures for and transaction costs of (communal) resource management (see for example Baland and Platteau 1996, Meinzen-Dick and Knox 1999) this has far-reaching economic, social, and political consequences. It may affect incentives and participation of land users, strategies for opportunistic behaviour, and lead either to identification, more or less, with the local and regional natural environment.

A well-nourished resource policy is, therefore, essential for national resource management of such a policy are discussed in section 14.4. Further initiatives to shift the responsibility and authority for natural resource management from the state to non-governmental bodies through devolution - together with decentralisation - are of great importance for innovative resource policies (see Section 14.5). The same is true for the identification of appropriate degrees of decentralised versus centralised governance structures with regard to different resources and stakeholders, guided by the principle of subsidiarity (see Section 14.6).

14.4 Objectives and Instruments of a Re-focused Resource Policy between Locality and Global Governance

Many Asian states have reacted, at least in part, to the challenges described and have re-focused or modified parts of their often very narrow and sector-oriented land policies; for example countries like Indonesia or Nepal. Others, e.g., Vietnam, Laos, and Cambodia, are forced to develop new concepts about resources in the transformation process (Khanal 1995; GTZ 1998; Kirk 1996, 2000a).

Taking into account the analysis in Sections 14.2 and 14.3, some major normative elements can be deduced: every resource policy facilitating ongoing sectoral change in Asia that allows a change from control and command to self-determined, decentralised organisation of society and which is rational and transparent to the population has to fulfill particular minimum conditions. It must be based on fundamental guiding principles and has to follow clearly defined, in part universal and in part country and culture-specific, valid objectives (GTZ 1998). These objectives (and possible conflicts between them) have to be made public and transparent; a bundle of non-contradictory policy instruments for land administration and land development should be developed from these objectives.

Some internationally accepted, binding guiding principles of resource policy can be deduced from the Charter of Human Rights, Agenda 21, and the documents from the conferences following Rio 1992 (GTZ 1998, Göler and Jacobsen 1999). Others can be derived from the existing societal structures (a culture-bound meaning of 'democracy', separation of powers), from the applied theory on the economic order (decentralised activities in a market economy, the meaning of property and ownership), and from any written constitution (protection of minorities, equality of all people before the law, social responsibility of property) (Kirk 1999b).

A land policy designed to create trust and stability must fulfill the following criteria:

- imparting visions regarding a desirable path of development,
- tied to existing socioeconomic systems and successful practices to ensure credibility,
- long-term orientation and, in its basic commitments, mostly immunised against the influence of daily politics and the strategic behaviour of politicians and pressure groups,
- focused on an evolutionary process of change, and
- including an intensive dialogue between the government, the private sector, citizens, and the organisations of civil society.

These guiding principles are, of course, controversial for various cultures, religions, or political systems: the rule of law does not necessarily mean equality of all people before the law or equal opportunities for men and women with regard to the access

to land and its use (e.g., in Islamic land law or in autochthonous rural tenure systems in hill regions). In other cases, a countrywide, binding and uniform system of resource tenure based on the monopoly of power held by the state is often incompatible with indigenous regulations governing the access and distribution of land (for Laos, see Kirk 1997).

Three main superordinate objectives of a comprehensive resource policy are (GTZ 1998): 1) efficiency and the promotion of economic development, 2) equality and social justice, and 3) environmental protection and sustainable patterns of land use.

The experiences with agrarian reforms and with the ongoing restructuring of industrial enterprises and collective farms in transforming economies (Swinnen 1997) have helped to identify strategic starting points to attain the formulated objectives. In order to reach the efficiency objective, the following aspects need to be thoroughly considered: agrarian reforms, effective natural resource management at different regional levels, and the setting of a framework of conditions for sustainable rural development can only be brought to a successful end if a uniform legal and regulatory framework has been developed by the state providing equal access to resources and equal opportunities for resource use to all private and legal persons, as well as collectives and the state. This includes a precise distinction between private contract law (civil law) and public law (e.g., restrictions on transfers of real estate) and clearly defined regulations for the liability of private and public actors.

Land markets and markets for tenancy rights do not develop by themselves, their establishment and improvement depend on a wide range of functioning instruments of land administration such as working land registers, land valuation, or land banking systems (Panayotou 1993). Land has to be completely transferable provided that there are no transitory regulations requiring temporary restrictions. The accelerating urbanisation process and tenure regimes in peri-urban areas are hot spots in which the shaping of factor markets through land policy instruments is urgently needed.

A forward-looking land policy has to cushion the effects of structural transformation and sectoral change and has to be prepared for the new functions of land already described (Tomich et al. 1995). This includes the provision of instruments for land development to allow for an active role of the state in land banking, resource use, and regional and urban planning, including the expropriation of land against clearly defined compensation mechanisms in case of justified public interest. All these newly created or re-shaped functions of the state in land/resource policy can only be fulfilled if the financial basis for active land management is secured by fiscal means.

The objective of increasing the equity of land distribution through land policies and of promoting social justice involves very controversial issues. The question of whether the 'social responsibility of (landed) property' should be laid down in the constitution or by legislation, as in Germany, is one case. Having to deal with the conflicting interests between urban and rural, 'modern' and 'traditional', and wealthy and poor groups is inevitable (GTZ 1998).

A comprehensive resource policy has to acknowledge the importance of land as the basis for employment and income generation for the majority of the population in rural areas. It has to analyse the current and future importance of land for social security (old age and illness) and the future role of formerly communal or collective natural resource management (Kirk et al. 2000). All the more, it should consider and recognise the importance of traditional, autochthonous rights as well as secondary rights, including those of ethnic minorities, in a national resource policy and has to formulate a consistent policy. As was common practice in (West-) Germany until the sixties, a land policy devoted to efficiency and equity could (temporarily) regulate and restrict transactions in landed property in strategic sectors of the economy through 'ceilings' for the sale and leasing of land after land reforms and in settlement programmes).

For reasons of political stability and social balance, specific promotional programmes for disadvantaged groups, such as the poor in rural areas and on the outskirts of cities, the landless or women, may be needed; and these could include reforms in land ownership and reforms in land management to increase productivity. Approaches to ensure greater legal security for informal settlements in urban areas gain in strategic importance.

Increasingly, resource policy is also becoming environmental policy (GTZ 1998). A comprehensive code of land use, including the often conflicting agricultural, pastoral, forest, and fishery resource use patterns, is already needed in many countries, but this has only rarely been realised. Land-use planning and land banking aid in the declaration of protected areas, participatory resource protection, and local land-use concepts for common pool resources have to be developed and coordinated successfully.

The conceptual and administrative requirements for implementing policies based on the objectives formulated above are quite extensive and most countries will have a long way to go to accomplish this task. As a starting point, government and stakeholders involved in the reform process could rethink the meaning of property (and property rights) that is at the centre of these concepts. Since its characteristics were considered to be the fundamental difference between market economies and centrally planned economies, historically the great theoretical and ideological debates centred around justification for the existence of property. Property, including land, is a basic element of the economic order. This property must be defined uniformly and universally in legal understanding, not according to different subjects (individual, community, state, or foundation) as in the past in most national legal and regulatory frameworks (Knieper and Kandelhard 1995). Such uniformity should be enshrined in the constitution. Property must be available to all market players, i.e., the state as one involved party in civil society must also have access to it. It can purchase property (it then becoming state property) or privatise existing state property. Therefore, codification of the term property should not be confused with the term privatisation, as repeatedly happens in the current debate on land reforms.

Land markets are the institution allowing permanent or temporary transfer of property rights. In the long term, these transfers can only be brought about and secured in conjunction with other legal bodies such as contract law, family and inheritance law, tax legislation, or legislation on land use (GTZ 1998, Kirk 1999b). Once these have been established, there is no further need for a flood of new laws and regulations as is still the case in many Asian countries (Kirk 1996). If a clear and comprehensive contract law, as part of private law, exists, this should include all kinds of sale, tenancy, and rent contracts. Only then can dynamic land and tenancy markets be encouraged - provided, of course, that a working system of land registration can be established on parallel terms.

Private property will, on the other hand, not lead to the end of *state activities*, as the history of industrialised countries has shown (Bromley 1996). Private property will still require a comprehensive agricultural, structural, environmental, and social policy from the state. This includes restrictions on land transfers that may be contrary to public interest, in particular in phases of transition when factor markets are 'thin' and do not work properly.

Restrictions on private land transactions are still justified in a market economy environment in order to achieve important policy objectives: to support the development of efficient agrarian structures, to facilitate sectoral change, to help land to fulfill its functions as a public good, or to allow for planned growth of urban agglomerations. Several instruments, which may be used alone or in combination, are available to achieve these objectives, e.g., land consolidation and land readjustment as the most comprehensive ones used for the elimination of structural deficiencies with regard to the existing land ownership structure. High transaction costs to establish these institutions and for professional training are inevitable to enable the establishment of a comprehensive legal, organisational, and financial framework to function. These preconditions will not be tackled easily by governments with severe budget constraints and organisational shortcomings.

The outstanding importance of unambiguous interim regulations for rapid implementation of policy reforms has been underestimated. This has already become apparent in the German unification process. Missing interim regulations can easily lead to land speculation, informal land markets, and decreases in production (Kirk 1998).

The UNCED process has allocated a lot of financial resources in order to create a global institutional environment as an international governance architecture on a supra-national level in order to solve global resource tenure problems. This governance is based on a network of international regimes like the Conventions on Climate, Biodiversity, or Desertification. Both, however, cannot be successfully implemented whenever property rights are not assigned at the local, the regional, or the national levels and unless open resource conflicts are resolved or contained and new responsibilities are given to different stakeholders.

In giving power to international organisations the nation state has given up sovereign rights. Additionally, it should have started to devolve its power and decentralise decision-making to the lower levels inside the country. In this context, tenure problems and failed resource policies, in particular, have demonstrated that no kind of minimalist state can be a final option in this process. It has to keep the central function of providing an overall legal and regulatory framework; in assigning, protecting, and enforcing rights to resources; in applying the principle of hierarchy; in cooperating closely with market forces in the private sector; and in facilitating participation from organisations of civil society such as user associations, cooperatives, interest groups, and others (Picciotto 1997).

14.5 Devolution of Natural Resource Management

The bottlenecks in conceptualisation and implementation of resource policies at an overburdened central level lead to the question of whether more decentralisation and devolution of natural resource management could help to set priorities, to reduce failures and delays in implementation, to increase the responsiveness of target groups in rural areas, and to identify the links missing from the process.

In our context, decentralisation is understood as bringing both decision-making authority and responsibility for payment down from the central state level to the lower levels of government (Meinzen-Dick and Knox 1999). Within the government, local bodies are provided with a greater role than was previously the case, because they are presumed to have greater accountability to the local population than the central government; and in this respect local population includes direct land users and other groups living in rural areas. This kind of process goes much further than deconcentration in which decision-making authority is transferred to lower levels of a bureaucracy or government line agency. Deconcentration represents the least fundamental change because authority remains with the same type of institution for which the central government is ultimately still accountable.

Although decentralisation and regionalisation of institutions have been a big task in centralist West European countries in the last decades (e.g., France) and are at the top of the agenda for North-South cooperation, there are strong arguments for being cautious about naïve notions of decentralisation or devolution. Devolution in our case involves the transfer of responsibilities and authority for resource allocation and management from the state to non-governmental bodies, including 'traditional' or newly created 'modern' institutions, the private sector, and other organisations of civil society. Devolution, therefore, denotes a process of correcting the concentration of decision-making, authority, and power over land and complementary resources in the hands of the (central) state (Meinzen-Dick and Knox 1999, Ngaido and Kirk 1999). Hence, devolution will gain in importance not only in parts of South-East Asia but in the HKH region as well.

To entrust the management of those key resources that, in particular in less favoured areas, are of crucial importance for poor groups and which in the past have mostly been governed on a cooperative basis as common or communal property to government administration has proven to be ineffective and expensive (Meinzen-Dick and Knox 1999,29f). As a consequence of financial crises as well as environmental degradation, many governments have started to hand over natural resource management to user groups. Evidence from the devolution and self-governance movement in irrigation (Vermillion 1999), in communal forest and protected area management (Agrawal and Ostrom 1999), and in rangelands (Ngaido and Kirk 1999) has resulted in considerable optimism about turning responsibility over to organised user groups to improve efficiency, equity, and sustainability of the resource base while reducing the financial burden of the state.

However, devolution is a very complex process and not all the objectives can be achieved easily and at once. There are basic requirements for making it successful (Meinzen-Dick and Knox 1999:30).

- Because of the great variability in the resource base, the socioeconomic conditions of users and the performance of historical cooperation, no single blueprint with regard to the appropriate types of organisations, the spatial extension of cooperative management, and so on is available for all situations.
- If the state were to hand over to the management of common pool resources, some form of experienced coordination among users would be necessary to carry out the management tasks efficiently.
- It is by no means assured that such an organisation already exists when devolution comes into action, as many organisations have already disintegrated as a result of long-term, top-down government management practices in a control-and-command system.
- In cases of weak or absent traditions of autochthonous cooperation, a breakdown of collective action institutions, or poor organisational capacities among users and other stakeholders involved, additional institutional development will be necessary from outside on a temporary basis.
- Experience shows this to be the case, in particular when there is already an open access situation or in circumstances of highly inequalitarian land distribution which excludes many of those who strongly depend on natural resources for their livelihood.
- Norms and rules for new institutions can only emerge from those who will have to live by these rules and cannot be imposed from outside.
- Meinzen-Dick and Knox (1999) state that outsiders can assume specific roles, ranging from facilitating analysis of the problem to crafting solutions, providing information, and supplying technical support during the institution building process; in short, they can provide help for self-help from outside. Just as building up technical infrastructure to bring remote areas closer to the centre uses a lot of

resources, building up an institutional infrastructure takes time and is costly.

- The state will go on to play a critical role in enforcing regulations, punishing violations, and settling disputes (see also GTZ 1998). In the concerted action of broader decentralisation and privatisation policies, regional and local governments will have to work together with NGOs and private companies that offer complementary services to users.
- Such a co-management as a first step requires financial autonomy at lower levels as well as understanding of revenue flows and mechanisms of accountability.

Transferring responsibility for governance will only work if, at the same time, property rights are allocated to local groups. This is not only an end in itself; it also offers incentives for collective action and sets "... the stage for more collaborative (as opposed to hierarchical) interaction between user groups and government agencies" (Meinzen-Dick and Knox 1999:31).

As recent research has already been undertaken in the field of communal management of agro-forestry resources accompanied by devolution processes in Nepal (Bhatia et al. 1998, Sakurai et al. 1998, Tachibana et al. 1998, Upadhyaya and Otsuka 1998) or in Vietnam (Tachibana et al. 2000), the chances and problems of devolution will be discussed again taking rangelands as an example (for the following arguments, see Ngaido and Kirk 1999).

Here, the devolution debate (mainly in African and Central Asian countries) has centred on how to (1) to correct environmental and institutional inefficiencies over resource use, (2) promote sustainable management of common rangeland resources, and (3) transform local communities and institutions into stewards of their natural resource base. To achieve these objectives, many states in developing countries have adopted different strategies and instruments to support the devolution process such as land reforms, institutional innovations, and new forms of pastoral organisations. Four approaches have to be analysed critically: 1) legal reforms, 2) building up and strengthening local institutions, 3) providing tenure security, and 4) forging collective action.

Reforms of the legal framework, which, in the past, were used as instruments by the central state to expropriate local communities of their rights over resources, are perceived as a panacea for empowering local communities again and correcting resource misuses. The results have not been conclusive as changing existing laws does not necessarily induce local institutions to take over their re-assigned roles and responsibilities. In some cases, these reforms remained an empty shell, creating an institutional vacuum at lower levels (Kirk 1999a) or cementing a situation of open access as in some of the pastoral areas of Central Asia (Mearns 1996a, b), others are in a deadlock as in Niger (Ngaido 1999), whereas others decided to bring in more participatory elements, e.g., in South Africa or Tanzania (Cousins 1996, Shivji 1996, Rhode et al. 1999).

Approaches to building up and strengthening local institutions have been guided by the assumption that traditional local organisations with their rules and regulations can, in fact, directly take over the role of the state and its management functions. The challenge is whether these institutions would continue to be functional and have the strength to assume these roles. For example, one important component is the improvement of rangeland productivity, which also preserves biodiversity and which may require both labour and financial resources for re-seeding, planting, and protection. Traditionally, local institutions did not conduct such activities in the past and are not yet prepared to do so at present.

It is not argued here that local institutions, in general, are not capable of assuming new responsibilities, but that these additional features of management need to be taken into consideration in the devolution process from the beginning. This is critical because most of the local authorities have been affected negatively in their capacity to mobilise traditional social capital because of the breakdown of most of their social security systems. This social capital has to be reconstructed at high cost from outside. Therefore, for a devolving state and donor agencies the question of the capacity of traditional institutions to forge collective action is not a trivial one. Although many types of pastoral organisation, ranging from cooperatives to associations of user federations, have been created, they are not necessarily successful on their own and in the long run.

The principal fear when creating new institutions is concerned with the opposing logic and operational mechanisms and overlapping claims between traditional institutions and new ones (Kirk 1999a). Conflicts over boundary demarcation, a group's internal regulations to restrict pasture use, and others are known. Therefore, the effectiveness of rangeland institutions does not depend solely on the creation of new organisations and recognition of existing ones, but also on the degree to which customary rights are effective and can be integrated.

Secured property rights are thus complementary to the establishment of new institutions. So far, efforts to grant security of tenure have focused on the community's local resources. One of the challenges is to clearly define these local resources, in particular in the case of rangelands where outside community resources are at least as important because pastoral people use different environmental 'niches' or 'patches' to optimise their production systems. Such niches, however, are not always located in their community territories. The differing dimensions of locality and space are important parameters to be taken into consideration.

The choice of the type of security of tenure to be granted to them depends very much on how the central state perceives the evolution of local institutions. If local organisations have the capacity to manage their land as a group, then providing private property to the group may be an option; in cases where these institutions have already been eroded, individualisation has to be considered as one possible alternative or, on the other hand, the establishment of new agencies to secure tenure for a loose group.

All devolution programmes require some form of collective action, which is defined as action taken by a group in pursuit of the members' perceived shared interests (Meinzen-Dick and Knox 1999). What are the means and mechanisms that the state must provide to promote collective action? Within the scope of this paper it is not possible to go into details of the complex material on collective action (see Ostrom 1990, Meinzen-Dick and Knox 1999, Agrawal and Ostrom 1999), but with regard to rangelands three aspects occupy a central position: 1) the capacity of groups and their institutions to set their own rules for the management of rangeland resources, 2) creating the mechanisms to enforce them, and 3) mobilising labour and financial resources to manage and improve resources.

As a preliminary result, the ongoing devolution process clearly shows that resource policy not only needs vertical coherence to assign rights and responsibilities to different levels but also horizontal coherence as well to assign to different actors at the same level. Here, the principle of subsidiarity, which has originally been a concept of catholic social policy, may serve as a guiding principle when deciding which tasks have to be performed at which level and by which actor in civil society.

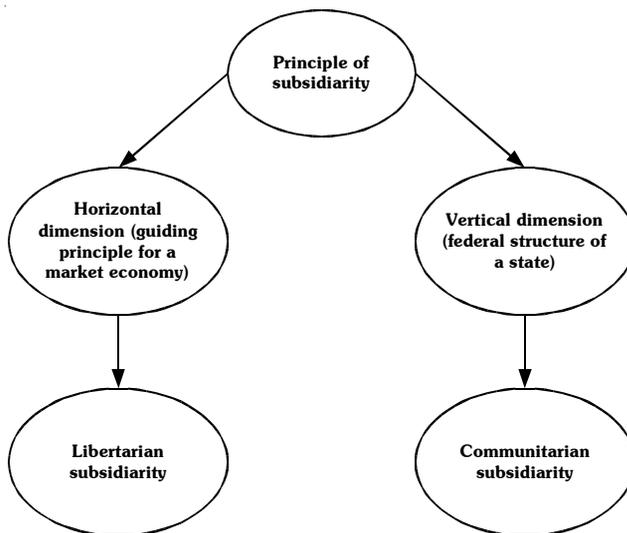
14.6 Subsidiarity as a Guiding Principle in Civil Society

Much has been written about subsidiarity since it has been enshrined in the 'Maastricht Treaty' of the European Union³, and it has become a buzzword for the development policy debate as well. This is mainly because of state failure, on the part of over-centralised governments, to administer natural resources (Panayotou 1993). To put it simply, subsidiarity requires the distribution of power and responsibilities in a multi-level polity to be in favour of lower-level government institutions and, hence, smaller jurisdictions (Vanberg 1997). It requires the allocation of political authority to the lowest institutional level possible, that is, close to the citizens, as the ultimate sovereign (Swift 1995).

In its economic interpretation, the principle of subsidiarity has two dimensions, both of them being equally important for resource tenure development, for land reform, and for land market development: Firstly, the well-known vertical, federal dimension and, secondly, the horizontal one on which market economies are based (Figure 14.1). To acknowledge the horizontal dimension means to give priority to the private performance of economic tasks (either in the private sector or as voluntary cooperation) rather than to government performance, whenever appropriate. This is not only for the sake of efficiency, but also to secure individual freedom. Based on

³ The Treaty for European Unity, commonly referred to as the Maastricht Treaty, states in Article 3b: "In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot sufficiently be achieved by the Member states and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community." (Quoted from Vanberg 1997,253, footnote 2.)

Figure 14.1: Subsidiarity: the libertarian and communitarian outlook



Source: Döring 1997, Vanberg 1997

this liberal thinking, subsidiarity serves as an instrument to repulse state encroachment on the private sphere. It interprets devolution policies in a different way as “rolling back of the boundaries of the state” (Velded 1996) and giving way to shared responsibility in civil society. Therefore, Vanberg (1997) refers to the horizontal dimension as libertarian subsidiarity that secures individual freedom (and in our case of communal resources the freedom of user groups) and to the vertical one as communitarian subsidiarity, concentrating on the protection of decentralised jurisdictions.

Structural adjustment and market liberalisation in many Asian countries, as well as the transformation process in Vietnam, Laos, and Cambodia or, more specifically, any privatisation of property rights and a change from control-and-command systems to decision-making based on market forces, fulfils the horizontal criterion at macro-level. The same applies to the devolution of selected tasks in land reform processes from the state to the private sector, to organisations of civil society, and to public-private partnerships such as those for cadastral services or even the (re-) establishment of land registers.

One can identify two components in the vertical dimension of subsidiarity: a) a principle for institutional structuring (like institutions of the federal state, the division of administrative competencies between state and society to allocate private and public tasks, or the way in which once allocated tasks are performed at different

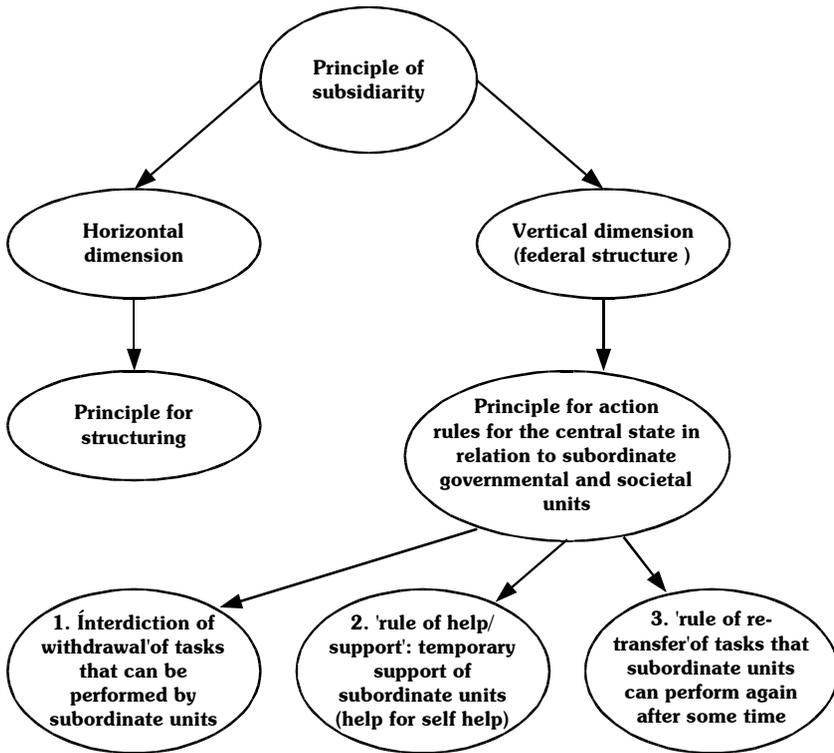
decision-making levels). (This is of less importance for improving tenure systems and resource management, but it is important to improve the performance of the land administration, for example in b) a principle for action that defines rules for the central state in relation to subordinate units in a dynamic sense (Döring 1997).

These dynamic aspects of subsidiarity may help to shape the institutional design in implementation of land policies or land reforms. It helps to clarify a) the necessary steps and sequencing of decentralisation of responsibilities and authorities for different land uses and users, b) the specific range of these responsibilities for differing tasks, c) the temporal characteristics of their allocation, including the important role of learning processes, and d) the role of a central unit, i.e., the state, in establishing the basic rules of the game.

1. The 'interdiction of withdrawal' (by a central state) requires a decision about which land policy instruments have to be administered at national or international levels and which ones at lower levels in case of decentralisation (e.g., the protection of resource rights through informal rules and regulations or codes of civil law, the enforcement through courts at different levels, the question of where to open a land office?) In the case of more far-reaching devolution, it comprehends a decision about the tasks that can be performed by subordinate units of the private sector or by civil society organisations, for example, land consolidation or conflict resolution. Then, a minimum level of state participation has to be well defined.
2. The 'rule of help/support' proposes that the state should provide temporary support to lower jurisdictions but to a different extent for differing activities. Here, the emphasis is laid on 'temporary'. Neither decentralisation nor devolution mean that a state rids itself of responsibility once and for all, but rather that it is expected to support local institutions during a learning process to enable them to perform tasks assigned more efficiently. This means sequencing decentralisation or devolution to determine the rights that can be given to groups of land users and for how long with regard to efficiency, equity issues, and environmental protection. It also implies that the state reserves the right to withdraw the decision-making power and authority from them in case they cannot perform the assigned tasks any longer.
3. The 'rule of re-transfer' which ensures that a central state is ready to hand over power and competence after a period of transition and support to lower levels. At the same time, lower jurisdictions or private sector organisations or user associations are given key responsibilities for those tasks they are then better able to perform. Therefore, a central state is expected to always assess its own performance critically and to be willing to hand over the power that was once assigned to it.

In the context of resource policy, the subsidiarity principle works as a guiding principle to change existing transaction cost structures with regard to different partners and claimants in an emerging civil society (Figure 14.2). These are legal and de facto owners, actual and potential users, third interested parties, or the administration at

Figure 14.2: Subsidiarity as a principle for action



Source: Döring 1997

different levels. It leaves the central state with an active role so that it can deal with resource shortages and introduce a learning process to build up human as well as social capital at lower levels. It could help to concentrate on restructuring the actual institutional environment, including informal regulations at the community level: whether they exist as a relict of collectivism, whether they have survived from feudal times, as with Russian agriculture, or whether they are strong customary rules applied by local users but ignored by central authorities, as in many Asian countries.

14.7 Conclusions

Even in societies in which agriculture is increasingly losing its dominant role, in which economic activities are becoming further diversified, and in which structural transformation dominates, the development of land and resource tenure systems and of resource policy will play an important role in the future. It will be based on redefined objectives and instruments.

Where land and complementary resources lose their importance as a critical factor of production, other functions, such as those of environmental protection, the preservation of biodiversity, or recreation and leisure, gain in importance and have to be tackled by policy-makers.

As long as poverty persists in many Asian countries and poverty groups remain dependent on the access to a mix of natural resources for income generation, much broader, interdisciplinary models and concepts of resource tenure are needed; and the role of such models in coping adequately with risks or in a better understanding of the importance of social capital in cooperative resource management strategies needs to be understood.

Country experiences have revealed that these broader concepts (even when they exist) cannot easily be put into practice, as this not only applies to rangeland devolution but to devolution of other sectors as well. The still practised 'single resource approach' automatically multiplies conflicts within local groups as well as between them and other stakeholders. Land policies that continue to ignore complementary, secondary rights, and temporary access options will not be able to contribute to poverty alleviation in less favoured areas nor to improve their welfare.

Because of the different degrees of complexity with regard to property rights' systems, the actors involved and governance structures in place for water, pasture, or forest management require different paces and intensities of reform implementation. Community-based resource management is different for rangelands than for irrigation schemes or village forests.

Sensitive resource policies can at best reduce the incidence of conflicts, but will never bring them to an end. This is in particular true as sectoral change goes on, accompanied by out-migration, the emergence of absentee ownership, or an increasing demand for food crops from fragile lands. Innovative resource policies, thus, have to go hand in hand with new and improved mechanisms for conflict resolution (GTZ 1998, 1999). Here again, the state has to play an important role in facilitating the establishment of a multi-tier institutional setting for conflict resolution, starting from local traditional or newly created organisations up to courts at the central level that are legitimised by civil society and work efficiently (Ngaido and Kirk 1999).

Country experiences have shown that, in formulating devolution policies, most governments followed the naïve comparison of overburdened, impotent state-dictated range management with an idealised concept of well-functioning local institutions, based on satisfactory collective action and well-defined property rights. Therefore, more effort is needed from all actors involved to start reform processes right at the beginning by clearly and critically assessing the strengths and weaknesses of the institutional setting in place. Following the idea of subsidiarity, a fine-tuned sequencing of policy implementation and instrument mix can be achieved.

Research, on the other hand, in perceiving these reforms as a process of institutional change, has been concentrating mainly on the hypothesis of institutional change increasing efficiency in the Douglas North tradition. The continuing processes in developing and transforming economies clearly have shown that the complementary 'power view' about the distributional effects is important as well.

Reforms are a costly process, and they include redistributed running costs to manage the resources, but transaction costs a lot as well to make devolution of management work from the beginning. There is a strong suspicion that governments are only in favour of devolution and decentralisation of resource management because they can get rid of costly responsibilities and administration. When these cost aspects continue to be left out of the debate between government, interest groups and donors, new conflicts and deadlocks arise.

Asian countries in particular have taken up the challenge of globalisation and have to think further about opening up to international markets. States will no longer be monopolists to their citizens, in particular to investors, in offering public goods (Kerber 1998) such as tenure security, well functioning interlinked land and credit markets as an investment incentive for entrepreneurs, a flexible land administration, or clear concepts on land-use planning, taxation, and fees for transfer. On the contrary, competition will increase and states or regions, as kinds of clubs, will compete with each other offering different parcels of public goods. Competition will serve as a yardstick not only for markets for private goods and services but also for institutional innovation with regard to resource tenure and resource policy. These are only some of the challenges that lie ahead for most Asian countries in the new century.

References

- Agrawal, A. Ostrom E. (1999) 'Collective Action, Property Rights, and Devolution of Forest and Protected Area Management.' Paper prepared for the International Workshop on Collective Action, Property Rights, and Devolution of Natural Resource Management' (IFPRI/ICLARM/DSE). The Philippines: Puerto Azul
- Baland, J.M. and Platteau, J.P. (1996) *Halting Degradation of Natural Resources. Is there a Role for Rural Communities?* Oxford: Clarendon Press
- Banerjee, A. (2000) *Land Reforms: Prospects and Strategies*. <http://wbln0018.worldbank.org/research/...> (27. Jan. 2000)
- Bhatia, A.; Chalise, S.R.; Richard, C. (1998) *Institutional Innovations for Sustainable Management of Common Property Resources in the Hindu Kush-Himalayas*. Paper presented at 'Mountains 2000 and Beyond. Sustainable Development of the Hindu Kush-Himalayan Region', ICIMOD, DSE, June 22-24, 1998 in Wildbad Kreuth, Germany

- Binswanger, H., Rosenzweig, M. (1986) 'Behavioral and Material Determinants of Production Relations in Agriculture'. In *Journal of Development Studies*, Vol. 22, 501-539
- Binswanger, H.; Deininger, K.; Feder, G. (1995) 'Power, Distortions, Revolt and Reform in Agricultural Land Relations'. In Behrman, J. Srinivasan, T. (eds) *Handbook of Development Economics*, Vol. 3, 2659-2772, Amsterdam: Elsevier
- Boserup, E. (1965) *The Conditions of Agricultural Growth*. Chicago: Aldine
- Bromley, D. (1991) *Environment and Economy: Property Rights and Public Policy*. Cambridge Mass: Harvard University Press
- Bromley, D. (1996) 'The Social Construction of Land'. In Hagedorn, K. (ed) *Institutioneller Wandel und Politische Ökonomie von Landwirtschaft und Agrarpolitik, [Institutional Change and Political Economy of Agriculture and Agricultural Policy]* 21-46, Frankfurt a.M., New York: Campus Eds
- Bruce, J. (1998) 'Learning From the Comparative Experience with Agrarian Reform'. In University of Cape Town (ed) *Proceedings of the International Conference on Land Tenure in the Developing World (27-29 January, 1998, Cape Town)*, 39-48, Cape Town: Dep. of Geomatics
- Cousins, B. (1996) *Range Management and Land Reform Policy in Post-apartheid South Africa. Land Reform and Agrarian Change in Southern Africa*, Occasional Paper Series. Bellville, SA: Univ. of the Western Cape)
- Deininger, K. Binswanger, H. (2000) *The Evolution of the World Bank's Land Policy*. [http://wbln0018.worldbank.org/research/...](http://wbln0018.worldbank.org/research/) (Jan, 27, 2000)
- Deininger, K. Feder, G. (2000) *Land Institutions and Land Markets*. [http://wbln0018.worldbank.org/research/...](http://wbln0018.worldbank.org/research/) (Jan 27, 2000)
- Döring, T. (1997) *Subsidiarität und Umweltpolitik in der Europäischen Union, [Subsidiarity and Environmental Policy in the European Union]*, Marburg: Metropolis Ed
- Fan, S., Hazell, P. (1999) *Are Returns to Public Investment lower in Less-Favored Rural Areas? An Empirical Analysis of India*. (IFPRI/EPTD, Discussion Paper, No. 43), Washington, D.C.: IFPRI/EPTD
- Faruqee, R., Carey, K. (1997) *Land Markets in South Asia: What Have We learned?* (internal World Bank discussion paper) [http://wbln0018.worldbank.org/research/...](http://wbln0018.worldbank.org/research/) (Jan 27, 2000)
- Furubotn, E. Richter, R. (1997) *Institutions and Economic Theory*. Ann Arbor: Univ. of Michigan Press

- Göler v.; Ravensburg, N.; Jacobsen, I. (1999) *Gender Responsive Land Tenure Development*. GTZ working paper, Eschborn: GTZ
- Grell, H. Kirk, M. (1999) *The Role of the Donors in Influencing Property Rights over Pastoral Resources in Sub-Saharan Africa*. In McCarthy, N., Swallow, B., Kirk, M., Hazell, P. (eds) *Property Rights, Risk and Livestock Development in Africa*, pp55-85. Washington D.C.: International food Policy Research Institute (IFPRI)
- GTZ (1998) *Land Tenure in Development Cooperation: Guiding Principles* (edited by M. Kirk, U. Löffler, Zimmermann, W.), Wiesbaden: Universum Verl
- Hagedorn, K.; Hintzsche, K.; Peters, U. (1999) 'Institutional Arrangements for Environmental Co-operatives: a Conceptual Framework'. In *Papers of the 64th Seminar of the European Association of Agricultural Economists: Co-operative Strategies to Cope with Agri-Environmental Problems*. Berlin, Oct. 27-29, 1999). Berlin: Humboldt Univ. of Berlin
- Hayami, Y. (1997) *Development Economics*. Oxford: Clarendon Press
- Hayami, Y.; Otsuka, K. (1993) *The Economics of Contract Choice. An Agrarian Perspective*. Oxford: Clarendon Press
- Jodha, N.S.. (2000) *Poverty Alleviation and Sustainable Development in Mountain Areas: Role of Highland - Lowland Links in the Context of Rapid Globalisation*. In Papola T.S. (ed)
- Kerber, W. (1998) 'Erfordern Globalisierung und Standortwettbewerb einen Paradigmenwechsel in der Theorie der Wirtschaftspolitik? [Do Globalisation and Competition of Jurisdictions Require a Change of Paradigma in the Theory of Economic Policy?]' In *Ordo*, Vol. 49, 253-268
- Khanal, D.R. (1995) *Land Tenure System and Agrarian Structure of Nepal*. (FAO report), Rome: FAO-Publ
- Kirk, M. (1996) *Land Tenure Development and Divestiture in Lao PDR*. GTZ-Report. Eschborn: Göttingen
- Kirk, M. (1997) *Recent Land Tenure and Rural Development in Lao PDR*. In FAO (ed), *Rural Development* (International Workshop, Gödöllő, Hungary, 9-13 April 1996), Rome: FAO Publ
- Kirk, M. (1999) 'Land Tenure and Land Management: Lessons Learnt from the Past, Challenges to be Met in the Future'. In *Advances in GeoEcology* Vol. 31, 1485-1491
- Kirk, M. (1999a) *Land Tenure, Technological Change and Resource Use*. Frankfurt a.M.: Peter Lang Eds

- Kirk, M. (1999b) 'The Context for Livestock and Crop-Livestock Development in Africa: The Evolving Role of the State in Influencing Property Rights over Grazing Resources in Sub-Saharan Africa'. In McCarthy, N., Swallow, B., Kirk, M., Hazell, P. (eds) *Property Rights, Risk and Livestock Development in Africa*, pp23-54. Washington D.C.: International food Policy Research Institute (IFPRI)
- Kirk, M. (2000a) *Resource Tenure and Resource Policy: On Global Governance and Subsidiarity*. Proceedings of the 2nd Land Policy Forum, November, 17th at Eschborn, Germany, Eschborn (in print)
- Kirk, M. (2000b) 'Institutional Framework for Functioning Land and Land Lease Markets: on Land Policy Instruments, Subsidiarity and Competition of Jurisdictions'. In *Proceedings of the International Seminar on "Land Ownership, Land Markets and their Influence on the Efficiency of Agricultural Production in Central and Eastern Europe*. (FAO/IAMO), May 9-11, 1999) (in print)
- Kirk, M.; Knerr, B.; Schrieder, G. (2000) *Resource Tenure, Rural Finance and Social Security*. (forthcoming)
- Knieper, R., Kandelhardt, R. (1995) *Die internationale Eigentumsverfassung [The International Constitutional Foundation of Property]*, Eschborn (mimeo)
- Kuhnen, F. (1996) *Land Tenure in Asia*. Hamburg: Dr. Kovac-Ed
- Kuhnen, F. (1999) 'Metamorphosis in Man-Land Relations'. In *International Center for Land Policy Studies and Training (ed), Proceedings of the International Seminar on Land Policy and Economic Development*. Taoyuan, Taiwan, Rep. of China
- McCarthy, N.; Swallow, B.; Kirk, M.; Hazell, P.(eds) (1999) *Property Rights, Risk & Livestock Development in Africa*. (Int. Livestock Research Inst. [ILRI], Int. Food Policy Research Inst. [IFPRI]). Washington, D.C.: IFPRI/ILRI
- Mearns, R. (1996a) 'Community, Collective Action and Common Grazing: The Cast of Post-Socialist Mongolia'. In *Journal of Development Studies*, Vol. 32, 297-339
- Mearns, R. (1996b) *Commons and Collectives: The Lack of Social Capital in Central Asia's Land Reforms*. (IDS, Working Paper No. 40), Brighton: IDS-Publ.
- Meinzen-Dick, R. Knox, A. (1999) *Collective Action, Property Rights, and Devolution of Natural Resource Management: A Conceptual Framework*. Paper prepared for the International Workshop on 'Collective Action, Property Rights, and Devolution of Natural Resource Management', Puerto Azul, The Philippines: IFPRI/ICLARM/DSE)
- Meliczek, H. (1999) 'Issues and Problems Related to Impact Assessment of Agrarian Reform Programmes: The Case of the Philippines'. In GTZ (ed) *Agrarian Reform*

in the Philippines: Administrative Aspects and Impact Assessment, (Proceedings of the Workshop on 'Agrarian Reform Impact Assessment' Cabanatuan City, Nueva Ecija, Philippines, Feb. 15-20, 1998), Eschborn

- Ngaido, T. (1999) 'Is There a Going Back? Attempts to Restore Customary Tenure Institutions in Niger'. In BMZ (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung) (ed) *Land Policy - Tenure Rights in Development Cooperation: Challenges and Opportunities* (BMZ spezial, No. 2), 22-26, Bonn
- Ngaido, T. Kirk, M. (1999) *Collective Action, Property Rights and Devolution of Rangeland Management: Selected Examples from Africa and Asia*. Paper prepared for the International Workshop on 'Collective Action, Property Rights, and Devolution of Natural Resource Management' (IFPRI/ICLARM/DSE), Puerto Azul, The Philippines, June 1999)
- Ostrom, E. (1990) *Governing the Commons*. Cambridge: Cambridge Univ. Press
- Panayotou, T. (1993) *Green Markets: The Economic of Sustainable Development*. San Francisco: ICS Press
- Picciotto, R. (1997) 'Putting Institutional Economics to Work: From Participation to Governance'. In Clague, C. (ed) *Institutions and Economic Development*. 343-367, Baltimore & London: Johns Hopkins Univ. Press
- Polestico, R.V.; Quizon, A.B.; Hildemann, P. (1998) *Agrarian Reform in the Philippines*. (German Agro Action (DWHH) & International Institute of Rural Reconstruction (IIRR), Bonn, Cavite
- Rhode, R.; Hoffman, T.; Coiusins, B. (1999) *Experimenting with the Commons: A Comparative History of the Effects of Land Policy on Pastoralists in Two Former Homelands/reserves, South Africa*. In McCarthy N. et al., 326-350
- Sakurai, T.; Rayamajhi, S.; Pokharel, R.; Otsuka, K. (1998) *Private, Collective, and Centralised Community Management: A Comparative Study of Timber Forest and Plantation Management in Inner Terai of Nepal*. Paper presented at the International Workshop on "Land Tenure and the Management of Land and Trees: Community and Household Studies from Asia and Africa", Tokyo Metr. Univ, IFPRI, Gov. of Japan, Rockefeller Found., Tokyo, Japan, July 1-3, 1998)
- Schlüter, A. (2000) *The Contribution of the Theories of Institutional Change to the Explanation of Property Rights Reform Processes in Agriculture*. In: Kirk, M., et al. (eds)
- Scoones, I. (1995) 'New Directions in Pastoral Development in Africa'. In Scoones, I. (ed) *Living with Uncertainty*. 1-36, London: Intermediate Technology Publ.

- Shivji, I. (1996) 'Land Tenure Problems and Reforms in Tanzania'. In Observatoire Sahara Sahel (OSS) (ed.) *Land Tenure Issues in Natural Resource Management*, 101-118, Paris
- Swallow, B.; Meinzen-Dick, R.; Jackson, L.A.; Williams, T.O., White, T.A. (1997) *Multiple Functions of Common Property Regimes*. (IFPRI/EPTD Workshop Summary Paper, No. 5), Washington, D.C.
- Swift, J. (1995) *Dynamic Ecological Systems and the Administration of Pastoral Development*. In Scoones, I. (ed.), 153-173
- Swinnen, J. (1997) *Political Economy of Agrarian Reform in Central and Eastern Europe*. Aldershot etc.: Ashgate
- Tachibana, T.; Nguyen, T.; Otsuka, K. (2000) 'Management of State Land and Privatisation in Vietnam. In Otsuka, K. Place, F. (eds) *Land Tenure and Natural Resource Management* (forthcoming)
- Tachibana, T.; Pokharel, R.; Rayamajhi, S.; Otsuka, K. (1998) *Dynamics of Common-Property Forest Management in the Hill Region of Nepal*. Paper presented at the International Workshop on Land Tenure and the Management of Land and Trees: Community and Household Studies from Asia and Africa, Tokyo Metropolitan Univ, IFPRI, Gov. of Japan, Rockefeller Found., Tokyo, Japan, July 1-3, 1998)
- Todaro, M. (1997) *Economic Development*, 6th ed. London, New York: Longman
- Tomich, T., Kilby, P.; Johnston, B.F. (1995) *Transforming Agrarian Economies*. Ithaca, London: Cornell Univ. Press
- Upadhyaya, H., Otsuka, K. (1998) *Community Forest Management in the Hill Region of Nepal: Rules and Practice in Firewood Collection*. Paper presented at the International Workshop on "Land Tenure and the Management of Land and Trees: Community and Household Studies from Asia and Africa", Tokyo, Japan, July 1-3, 1998)
- Vanberg, V. (1997) 'Subsidiarity, Responsive Government and Individual Liberty'. In Nörr, K., Oppermann, T. (eds) *Subsidiarität: Idee und Wirklichkeit [Subsidiarity: Vision and Reality]*, 254-269, Tübingen: Mohr & Siebeck
- Velded, T. (1996) 'Enabling Local Institution-Building: Reinventing or Enclosing the Commons in the Sahel'. In Marcussen, H. (ed.) *Improved Natural Resource Management*, 135-189, Roskilde Univ., Occasional Paper No. 17
- Vermillion, D. (1999) *Property Rights and Collective Action in the Devolution of Irrigation System Management*. Paper prepared for the International Workshop on 'Collective Action, Property Rights, and Devolution of Natural Resource Management' (IFPRI/ICLARM/DSE), Puerto Azul, The Philippines, June 1999)

