LAND BASED SOCIAL RELATIONS:
KEY FEATURES OF A PRO-POOR LAND POLICY

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This brief attempts to highlight some key features of pro-poor land policy. The meaning of land, land resources, or land policy is diverse across, and contested within, local and national settings. The diversity of the policy questions required to address land issues is perhaps one of the key reasons why ‘land policy’ is the popular phrase used to refer to all policies that have something to do with land.

DOMINANT LAND POLICY CURRENTS

The contemporary interest in land and land policies in the context of development has been triggered by a combination of factors. One is the few but dramatic mobilizations from below to secure land rights, such as those in Brazil (Rosset, Patel and Courville 2006; Moyo and Yeros 2005; Ghimire 2001a). However, the most important factor is the policy revival in development institutions. The persistence of poverty and inequality, largely rural phenomena, encouraged mainstream economists to problematize access to productive assets by the rural poor.

Perhaps the most important policy position that links land and poverty is the one that is promoted by Hernando de Soto. De Soto (2000) believes that land without clear private individual property rights is dead capital because it cannot be used for financial transactions. Without financial inflow the rural economy will not grow. And the reality is that the majority of land in developing countries does not have clear private individual property titles. In order to transform this sleeping capital into active, financially tradeable instruments, non-private lands should be privately titled.

The World Bank (2003) is generally supportive of the De Soto thesis despite its 2003 land policy report that has pointed out that under certain conditions, communal land rights can also be economically efficient. It can also be recalled that the World Bank was at the forefront of pushing for privatization of land rights in transition economies (Deininger 1995; Ho and Spoor 2006; Sikor 2006a & 2006b). For the economically inefficient private large landholdings that continue to exist, the World Bank has advocated for share tenancy and land rentals as an effective way for farm size (re)allocation and adjustment.

Still pertaining to large private landholdings, but in settings where it is considered more economically efficient to carry out land sales, the World Bank constructed the so-called Market-Led Agrarian Reform (MLAR) policy model, the one that rests on the ‘willing seller-willing buyer’ principle. The policy model inverts the purported key features of state-led land reforms: from expropriation...
tory to voluntary, from statist-centralized to privatized-decentralized, from supply-driven to demand-driven, from giving landowners staggered cash-bonds payment at below market price to providing 100 per cent cash for 100 per cent commercial value of the land to the seller, and so on (Borras 2003; Lahiff, Borras and Kay 2007).

The reality tells us that land policy frameworks are highly differentiated in country and across countries. An example of a national policy that is internally differentiated is the South African land policy which has three distinct but interlinked sub-policies on land reform, tenure reform and restitution. An example of co-existing different, even conflicting, land policies is Brazil where a state-led land reform policy is now being paralleled by a market-led land reform policy (Sauer, 2003; Medeiros, 2007; Pereira, 2007).

Examples of differentiated recent national policies between countries are 1990s land reform in Armenia (Spoor, 2007) as compared to the Uzbekistan land reform (Khan, 2007), the Namibian land policy as compared (van Donge et al, 2007) to the contemporary land liberalization policy in Egypt (Bush, 2007).

**Dominant De-politicized Economic Approach**

Despite the heterogeneity between these recent land policies, they have common features: a) the treatment of land resources or property titles, primarily, if not solely, as scarce factor of economic production; b) the identification of the ‘forces of the free market’ as a key agent that can determine the most economically efficient (re)allocation and use of land resources; c) the stance against the role of the state, assuming that government bureaucracies are inherently corrupt and will always engage in rent-seeking (Binswanger 1996). The flipside of this is the belief that market-transactioned land sales will be transparent and corruption-free (Deininger 1999).

Yet, ironically, another common trait of the mainstream economic perspectives in land is that all require the state to intervene at some point in the land policy making process, mainly to pass laws and policies that set the legal framework for market reforms. When the policy framework for market reform is established, the role of the state is clipped back, or limited to administrative functions to be carried out largely by local government units within a decentralized approach.

Against the backdrop of these pro-market land policy, governance around land policies has emerged to become an important issue. However, the dominant thinking is firmly located within the issues of economically efficient (re)allocation of resources, administrative efficiency (corruption-free) and fiscal prudence (cheap), the latter almost always means cutback in public expenditures.

And so, many land policy campaigns today involve support to one-stop-shop types of land privatization, registration and titling programs in developing countries, commonly labelled as ‘land administration’ and ‘land management’ projects. The general effect of this kind of treatment is to embrace and promote de-politicized administrative functions of the state around land policy questions. When textbook projections do not happen in real life, the sponsors of these market-oriented land policies usually put the blame on administrative and operational problems.

There are more nuanced land governance perspectives among some international (governmental and nongovernmental) development agencies that go beyond the issue of generating as many private land titles in the cheapest and fastest way. These views are, in varying degrees, conscious of the politics that come with land resources. They call for administrative efficiency, transparency, accountability, and pro-poor bias in land policies (FAO 2006; Cotula, Toulmin and Quan 2005; Palmer 2007).

They certainly raise important issues and concerns about land governance. However, there remain some gaps, including what exactly is meant by ‘pro-poor land policy’ as well as to how such policies are actually linked to the broader challenge of democratizing the state and society more generally. It is on this latter type of current progressive land governance thinking that this brief builds.

**Land-Based Social Relations, Not ‘Things’**

The dominant thinking on land policies is problematic on two interlinked grounds.

On the one hand, landed property rights are not ‘things’; they are social relations between people (Tsing, 2002). These social relations are linked to the dynamic process of land-based wealth creation.

On the other hand, governance cannot be reduced to technical administration or ‘management’ of land markets or land policy reforms, and it cannot be confined to the sole issue of land taken in isolation of wealth and political power distribution.

Governance is about political relations between people and the institutions (rules and regulations, both formal and informal) that ‘govern’ them. It is linked to how – and how well – decision making power is aggregated and (re)distributed in a polity over time, and how decisions become authoritative (or not) in society.

For our purposes, governance shapes and is (re)shaped by the ongoing interaction of various diverse groups (and competing interests) in society and the state, in endless contestation to gain effective control of, among other things, land-based wealth. It is contested usually by national state actors, regional political elites, and the rural poor (Fox, 1990). It is from this dynamic political-economic, historical-institutional and multi-level perspective that one should explore the links between ‘pro-poor land policies’ and ‘democratic governance’.

**Property Rights and Land Policies**

It is important to clarify a few interrelated concepts and issues about property rights and land policies. **First**, by ‘ownership and/or control over land resources’ we mean here the effective control over the nature, pace, extent and direction of surplus production, distribution and disposition. This framing will enable us to detect actually existing land-based social relations regardless of what official documents claim, whether
these are in private or public lands. This framing also provides us with a disaggregated view of the various competing social classes and their varying relationships to land.

Second, a land policy neither emerges from nor is carried out in a vacuum. When carried out in the real world, a land policy causes a change in existing land-based social relations. Some changes favour the landed classes, other elites, or the state, while others may favour the poor.

Third, land laws and land policies are not self-interpreting and not self-implementing. It is during the interaction between various, often conflicting, actors within the state and in society that land policies are actually interpreted, activated and implemented (Houtzager and Franco 2003).

Fourth, land-based social relations are varied and diverse from one setting to the next shaped by socio-economic, political, cultural and historical factors.

Fifth, land-based social relations are dynamic and not static. They are not like development projects that can be contained within a time-line. Land-based social relations are ever-changing long after a land titling project or a land reform program has ended.

**Features of a Pro-poor Land Policy**

Given the great diversity of land policies today that claim to be pro-poor, the issue becomes a matter of ‘you know it when you see it’. This is not helpful. We need to specify the meaning of a pro-poor land policy.

A pro-poor land policy is a public policy that categorically aims to protect and advance the land access and property interest of working poor people which, in most agrarian settings, are various types and sections of the landless and land-poor peasants and labourers.

Not all land policies are categorically meant to favour the poor. Not all officially labelled as pro-poor land policies automatically result in pro-poor outcomes. Not all well-intentioned land policies actually benefit the poor. There are unintended and unexpected land policy outcomes, both positive and negative. It is a great imperative then to leave no degree of ambiguity in the discussion of land policies if the objective is to deliver a pro-poor outcome. It is important to specify the key features of a categorically pro-poor land policy.

[i] **Wealth transfers:**

A pro-poor land policy transfers wealth to, or protects, existing land-based wealth. Land-based wealth means land, water and minerals therein, other products linked to it such as crops and forest, as well as the farm surplus created from this land. Access to these resources is an important wealth; it is perhaps the most important resource to the rural poor (Bebbington 1999).

Any pro-poor land policies must involve land-based wealth transfers from the previous entities that control such resources to the working poor people, or the protection of existing land-based wealth of the rural poor. There is no pre-determined answer as to how to identify and quantify land-based wealth transfer or protection. This will differ from one context to another.

For example, in many places in northern and sub-Saharan Africa and the Middle East, land without water does not mean any significant wealth (UNDP Drylands Development Centre and IFAD). Lands without trees are ‘bare hills’, as they are called in Vietnam. In many places, such as Guatemala, land means physical settings for the hotly contested mineral wealth. In still others ‘land’ is tied to a complex institutional maze for narco-syndicates such as in Colombia or Afghanistan.

Or, land may mean the ticket to job access such as in plantation settings where transnational companies employ as workers the owners of the land being leased for direct company operations. In many expanding urban and peri-urban settings, land means having access to employment or varying types of livelihoods in urban- or rural-based enterprises as in China and Angola.

This is especially important because in many developing countries today national governments have passed different land laws over time, many of them contradict each other in theory and practice. This is what Roquas (2002) observed in Honduras which she termed ‘stacked laws’. Land policies that do not specify wealth and wealth creation dynamics in their framework often end up distributing meaningless land documents.

[ii] **Political power transfers:**

A pro-poor land policy transfers (or protects) political power to control land resources to the landless or near-landless rural poor. It is a policy that confronts, and does not back away from political conflicts that are inherently associated with land-based social relations (Putzel, 1992). By political power transfers we mean here the actual transfer of real or effective control over land resources. This means control over the nature, pace, extent and direction of wealth creation from the land, as well as the distribution and disposition of such wealth. It is important to specify the issue of ‘real and effective’ because there are numerous official and legal transactions that occur only on paper, but not in reality.

The voluminous literature on ‘informal land sales and renting out’ attests to this (Banerjee, 1999; Herring 1983). Herring emphasized the importance of looking into this ‘apparent change’ (i.e. the ‘on-paper alterations’) “because it is this data-built facade which goes into planning documents, policy debates, reports of international agencies, and all too many scholarly treatments. The distortions become social facts...” Apparent but not real changes can be coerced, voluntary or manipulated by a variety of actors (Borras, 2007).

This perspective follows the framework on the ‘theory of access’ to land resources developed by Jesse Ribot and Nancy Peluso (2003) where they argued that the concept of ‘bundle of powers’ rather than ‘bundle of rights’ is more useful in understanding current struggles over (land) resources. They (ibid. 153) explain: that “the term ‘access’ is frequently used by property and nature resource analysts without adequate definition... We define access as the ability to derive benefits from things,’ broadening from property’s classical definition as ‘the right to benefit from things.”

Apolitical or de-politicized land policies often end up perpetuating the very structures and institutions that pro-poor land policies profess to change. This is be-
cause the landed classes and other elites can easily manipulate in their favour land policies that are too open to varying interpretations. The rural poor have comparatively less degree of power to influence the same process in their favour.

It is in this context that ‘power transfer’ should mean protecting poor people’s actually existing access (perhaps alongside some redistributive adjustments where necessary) by transferring political power to control land resources from the state to the rural poor (Cousins 2007). The subsequent organization of access may be in the form of individual, group or community; the bottom-line is the effective control by the poor.

[iii] Class-conscious:

A pro-poor land policy is one that is categorically class-conscious, but still recognizes that the interests of landless and near-landless rural poor are plural: landless peasants, rural labourers, indigenous communities, artisan fisherfolk-cum-rural labourers, and so on. By specifying the plurality of classes and groups among the rural poor, a land policy will be aware of the differential impact of a land policy even among the rural poor. By specifying the plurality of the rural poor, we will be able to disaggregate the outcomes of a land policy and see its differentiated impact upon the socially differentiated rural poor.

For example, in the Philippines a 900 hectare Cavendish banana plantation could be redistributed equally to 300 beneficiaries because the maximum award size under the law is 3 hectares. If the regularly employed workers were 300, then the plantation could be divided equally among all the regularly employed workers. But if we include in the count another 300 seasonal and previously retrenched landless workers, then the average distributed farm size would be 1.5 hectares each beneficiary.

This hypothetical example is a common situation in the Philippines today where there is limited supply of lands up for redistribution while there are a great number of land claimants. In the case of commercial plantations in the south of the country, almost always the government and elitist trade unions have actually chosen the exclusionary path: giving the maximum farm size to the least number of farm workers, excluding the poorer seasonal and retrenched landless workers – meaning, the poorest strata of the peasantry (Borras and Franco 2005; De la Rosa 2005; Putzel 1992).

Carrying out a forest land policy reform that attempts to simplify complex realities on the ground to make it legible in the eyes of the state may benefit some of these poor people, but may undermine others (Scott 1998). Making land policies more inclusive is a difficult challenge, whose resolution may lie within resolving the land question to include other reforms such as labour reforms.

[iv] Historical:

A pro-poor land policy is historical in its perspective. This means, the policy should understand the issue of land-based wealth creation, political power transfers and recipients in a historical perspective. This allows for a ‘social justice’ framework to be fully developed. This way, a land policy is able to detect and prevent possible pitfalls that may undermine some sections of the poor, social cohesion in the community, or political stability. Many problems of social conflict and political instability occur when ahistorical land policy is carried out, based solely on the ‘here and now’ calculation.

This is one of the central themes in the recent debates on land reform in Zimbabwe from the 1980s until 1996 (the willing buyer-willing seller period) and during the ‘fast-track’ land reform that began in 1997 – two periods with contested interpretations of the history of land and dispossession in the country (Moyo 2007). Similar contestations about historical interpretations of dispossession underpin the land policy debates and implementations in South Africa and, to some extent, Namibia (Ntsebeza and Hall 2006; Adams 1993 and van Donge et al 2007).

Ahistorical land policies are likely to undermine the legitimate claims of some poor people thus failing to contribute to inclusive development, social cohesion or political stability.

[v] Gender-sensitive:

A pro-poor land policy is one that, in the minimum, does not undermine, and in the maximum, promotes the distinct right of women to land as peasants or rural labourers and as women. In many instances, women have access to land resources distinct to men within their households, such as by being a farm worker, a (part-time) farmer, firewood gatherer and so on. These links to land entitles them to their distinct land rights (Agarwal 1994; Kabeer 1999). They are thus entitled to land as peasants and as women.

Land policies that are gender-blind are likely to undermine women's rights, and by implication - for some types of households in some settings - weaken the capacity of the households to combat poverty. However, it is well-known now that previous land policies, especially land reform policies, excluded women (Deere 1985 in the context of Latin America, Agarwal 1994 in the context of South Asia, Whitehead and Tsikata 2003 in the African context, Razavi 2003 for general overview worldwide). Today, there is an increasing degree of policy advocacy among civil society actors for gender-sensitive land policies.

Recent land policies started to incorporate women into the agenda. Where it has been done, implementation is a major challenge, as in the case of South Africa (Walker 2003). Recent studies have also cautioned us not to romanticize the (re)productive roles of women, not to see allocation of separate land titles to women as always appropriate in all places at all times, and not to assume that joint titling is a ‘magic bullet’ that could deliver women’s empowerment (O’Laughlin 2007; Leach 2007; Ikelihood et al. 2005).

[vi] Ethnic-sensitive:

A pro-poor land policy is one that, in the minimum, does not undermine, and in the maximum, promotes the distinct right of ethnic groups to their territorial claims, often as peasants and as a people. This is especially important in national settings that are ethnically diverse. Previous land policies, especially land reforms, have been generally ethnic-blind. Land policies of colo-
nization or public land resettlements as well as extractive industry policies have, in varying extents, encroached into the indigenous territories of indigenous peoples, undermining the access to and control over land resources and territories by indigenous peoples.

Many of contemporary land-oriented violent conflicts have some degrees of ethnic or indigenous peoples dimension to them, such as those in Bolivia (Assies 2006), Central and Northern Highlands of Vietnam (Si-kor 2006a), Namibia (van Donge et al 2007), Rwanda (Bruce 2007; Pottier 2006; Liversage 2003), Congo (van Acker 2005).

Partly due to the increasing mobilization of indigenous peoples, especially in Latin America (Yashar 2005; Assies, van der Haar and Hoekma 1998), during the past decade or two, there has been an increasing consciousness about indigenous peoples and their land and territorial rights, and land policies are becoming more sensitive to these issues. A land policy that is ethnic-blind is likely to benefit only the dominant and powerful groups and classes in society, and undermine the historical land claims by the weaker ethnic groups. Such a condition does not foster social cohesion and political stability and does not promote human rights.

[vii] Productivity-increasing:

A pro-poor land policy contributes to increasing land and labour productivity. This means, land policy leads to more intensive land and labour use after land policy implementation (Griffin et al, 2002 and special issue of Journal of Agrarian Change edited by Terence J. Byres, 2004). The debate is not limited to land reform. Similar competing views mark the debates in land rental, land market, forest management devolution (Banerjee 1999).

Productivity increases – or declines– after policy implementation are not inherently associated with any particular type of land policy. The conditions of existing agrarian structures and social relations in an agrarian society also play a role in shaping the impact of policy on land and labour productivity.

For example, providing forest lands without other support package to forest dwellers and expecting them to automatically become efficient agro-forestry farmers may be an unrealistic expectation. Thus, large scale public programs that support land and labour productivity, as well as the manner in which land policies are integrated (or not) to national development or industrial strategies do matter (Kay 2002; Aliber et al. 2007).

[viii] Livelihood-enhancing:

A pro-poor land policy contributes to building diverse and sustainable livelihoods. Land policies are usually thought of as something that has to do with agricultural or forestry development. While to a large extent this is correct, greater understanding of the complex of livelihoods of the rural poor appreciates the extent to which farm, on-farm and off-farm sources of livelihood are, to varying extents, mixed from one household to the other, from one country to the next (Scoones 1998; Bebbington 1999; Ellis 2000).

In some cases, land is valued by a household not as a current active farm productive asset, but as a future social safety net. It is therefore important to recall the argument made by Hart (1995) in the context of discussion in South Africa and with insights from Southeast Asia that giving small plots of lands to households to be used for food production and other productive activities should be combined with providing livelihood opportunities in the surrounding areas (Razavi 2003; Bernstein 2002).

This also means avoiding land policies that undermine existing diverse livelihoods in and around the distributed land. For example, formalization or demarcation of forest lands to individual households may secure land access of the recipient families to the said land. The same process may also put an end to previous porous boundaries in the forest spaces where people are free to access various non-timber forest products thereby undermining sources of food or income to other people. This is one problem that hounds many of the formalization, titling and demarcation programs of forest lands in Latin America, Asia and Africa.

The competing interests of access to land, and conflicting notions of land, between sedentary farming households versus nomadic pastoralists that mark many communities in Africa is another reminder that land policies should not benefit one section of the rural poor at the expense of another set of the rural poor. A land policy that is viewed and treated in the narrow perspective of farming alone, is bound to be ineffective in the long run.

In closing the discussion, it is relevant to point out that the ideal situation is when all these eight key features are obtained in a land policy and its implementation.

In the real world, however, it may not always be easy and straightforward to achieve this. Take, for example, where a contested land is limited in quantity and the land claim makers – all legitimate on the bases of the key features – are far more abundant. If forced to choose to include some and exclude others, which feature weighs more: Class-based, ethnicity-based, gender-based, productivity based?

There is no ‘magic bullet’. It is in this context that pro-poor land policies have to be embedded and made sensitive to democratic values of inclusive participation, responsive institutions in order to maximize values of social cohesion, gender empowerment, political stability and peace-building, as well as human rights, embedding landed property rights within existing and historical dynamics of national policy settings.

References


