Unlocking the Economic Potential of Communal Land

14th Annual Symposium

Bank of Namibia

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Unlocking the Economic Potential of Communal Land

Edited by the Research Department

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Preface

The Bank of Namibia held its 14th Annual Symposium at the Safari Hotel and Conference Centre on the 27th of September, 2012, under the theme: "Unlocking the Economic Potential of Communal Land". The theme of the symposium was chosen because of the need for policy discourse and actions on how to make the communal land economically viable. Communal land is central to the livelihood of about half of the population of Namibia. To this effect, the main objective of the symposium was to address the following key questions:

- **What are the challenges inhibiting the economic viability of communal land and how can they be addressed?**
- **Could providing tradable property use or ownership rights, similar to those of commercial land to communal land increase the economic potential of communal land?**
- **What should be the roles of the Government and the private sector in increasing the economic potential of communal land?**
- **What have been the experiences of other developing economies in converting from customary land system into tradable land rights?**

To answer these questions, the symposium brought together various stakeholders from Namibia. In addition, local, regional and international speakers were invited to share their experiences and knowledge on the subject matter. The speakers discussed country case studies from Namibia and around the world and put forward various recommendations aimed at enhancing the economic value of communal land.

Governors' Welcoming Remarks

14th Annual Symposium

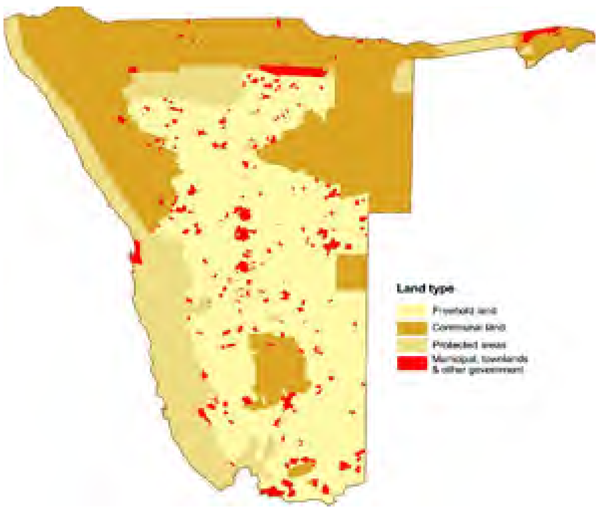
27th September 2012, Safari Hotel and Conference Centre

Theme: Unlocking the economic potential of communal land

Director of Ceremonies
Honourable Alpheus! Naruseb, Minister of Lands and Resettlement
Permanent Secretaries
Renowned international and local speakers
Members of the Media
Ladies and Gentlemen;

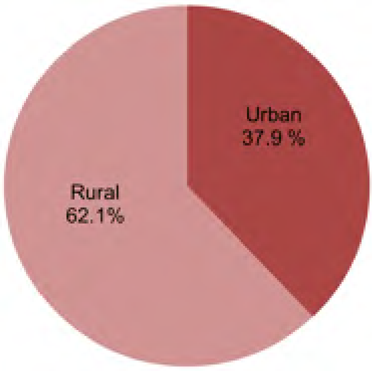
Allow me to join my colleague Leonie, to welcome you to this symposium. The theme of the symposium as you have heard is "Unlocking the Economic Potential of Communal Land". I am sure you are asking yourself this question: why is communal land important? I am going to try and show you in the next couple of minutes that communal land is indeed important! This I will do by using exhibits to convince you of its importance thereof.

Exhibit 1: Namibian Map depicting size of communal land



1. Size of communal land in Namibia: The display below shows a map of Namibia. The yellowish brownish part is communal land and it accounts for 38 percent of Namibia`s land size. This means that more than one third of Namibia is communal land. So, it is indeed sizeable.

Exhibit 2: Urban/rural population distribution



2. More than half of all Namibians live in communal areas: It is estimated that 62 percent of Namibia`s population live in the rural areas, which is a good proxy for communal land. And therefore, a sizeable population lives on communal land. So again, it is indeed important.

Exhibit 3: Sources of income for people living in rural areas

3. People in communal areas derive their incomes from various activities: So what are these activities: As illustrated in the picture above, the most common activities include crop farming, subsistence agriculture and livestock rearing. All these activities are carried out using traditional practices or outdated agricultural methods of production. This entails that these people are vulnerable to drought incidents, and unfortunately that does not help them to increase their production. A good number of them are not able to live only on that income, so they try to find some other sources of income, I will share with you some statistics in this regard in the few moments.

Exhibit 3: Women traders and people receiving Government pension grants

4. Given the limited income capacities in communal areas, people living there are forced to find alternative sources of income to supplement incomes derived from subsistence farming: In the picture, the ladies are selling in one of the towns, hence small scale trading activities is one of the sources of incomes especially for those who are close to towns or at church events where you find a large number of people.

The second picture depicts people waiting to receive their pension. So the Government pension is one of the sources of income in the rural areas or in the communal areas, especially among the elderly. The chart illustrates that pension accounts for half of incomes derived in rural areas while subsistence agriculture constitute about 40 percent, making government pension a very important source of income for people living in rural areas.

Furthermore, a comparison of sources of incomes between rural and urban households reveals that more than half of the people living in urban areas derive their incomes from wages and salaries whilst only less than 30 percent of people in rural areas generate their income from the said sources.

What the above elucidates is that people in the rural areas are not only sustained by agricultural activities. In fact, if they would sorely depend on agricultural activities, they would not be able to make ends meet! Hence the need to find complimentary sources of income such as pension and trading activities.

5. Due to meager sources of income in rural areas, poverty remains rampant: The statistics clearly show that there is a significantly high number of poor people in rural areas compared to those in urban areas. Moreover, there are proportionately more people living in rural areas who are severely poor compared to those living in urban areas (see chart below). To illustrate: The proportion of the population that is classified as poor in the rural areas is standing just slightly above 30 percent, now if you contrast that to the urban centres, the proportion of the population which is poor in urban centers, is below 5 percent!

6. The above begs the following critical questions:

- How do we help these people?
- How do we transform the rural areas?
- Will land have a role to play, in helping them to improve their income levels?
- Can we attract investments into those areas?
- Can we attract those with money to set up enterprises more than agriculture technics to improve productivity in those areas?

I do not have all the answers. But, I am hoping that the discussion here today, led by my colleagues and experts will assist us in this regard! Before I hand over to the experts, allow me to share one or two stories regarding accessing financing for projects in rural areas!

Exhibit 5: Hukusembe River Lodge

The property showed in the picture is a lodge which is about 16 kilometers west of Rundu, alongside the Kavango river, called Hakusembe. It is a very beautiful area. The story I would like to share with you about the lodge is as follows: The first owner who built was a British investor. Unfortunately, he passed on a couple of years ago and the estate was looking for new investors to buy the property. As it so happens, there were Namibian investors who were interested in acquiring the property. They went to their Bank to source funds. “But the Bank Manager asked whether it was not in the communal area. To this they answered in the affirmative and also informed the Bank Manager that that they have leasehold for up to 25 years and could also still get extended. The Bank Manager informed the clients that, but that leasehold is not tradable. Now, what eventually happened is that, they managed to get the money because they have a balance sheet and they had properties in the commercial areas which they could pledge as collateral but not on the basis of the leasehold that they have. So they eventually bought the lodge and it now belongs to the Namibian investors.

Exhibit 6: please insert

The second story involves a lodge called the Damara Mopani Lodge lodge is close to a significant place which has been declared by the United Nations as a UNESCO heritage site. The owners wanted to put up a lodge around that area because, it is located close to a popular place next to the heritage sight. At the time they wanted to build the lodge, the owners approached the Bank for financial support. However, they realized that it was difficult to get financing to set up a lodge there. They settled on buying a farm which is on the border of a communal area and commercial area but on the commercial side because finance was going to be easy and this lodge (if I am not mistaken is probably 10/ 20 kilometers on the east of Khorixhas), is on the commercial side. What the above stories reveal is that tenure security or its absence in rural areas is a major constraint to accessing finances from banks. Given this dire situation ladies and gentlemen, I pose the questions from earlier once again:

- How do we transform the rural areas?
- How do we help to attract investments to the rural areas?
- Does tenure security have a role to play?
- How do we help the communal farmers to use their leaseholds to get finance to buy equipment's, tractors, fertilizers from the commercial/financial institutions?
- If we allow trading of land in communal areas, how are we going to protect the most vulnerable people and ensure that they do not loose their land rights?

Having posed these questions, allow me to thank you, once again for gracing us with your presence as we ponder this important issue of "Unlocking the economic potential in communal areas" so that we can better the lives of our people! I trust the Minister of Land and Resettlement, together with the local and international experts will shed more light to some of questions, I have raised today!

THANK YOU!

Keynote Address By: Hon. Alpheus G. !Naruseb
Minister Of Lands And Resettlement

Bank Of Namibia's 14Th Annual Symposium
"Unlocking The Economic Potential Of Communal Land"
27 September, 2012
Safari Hotel And Conference Centre, Windhoek - Namibia

- Master of Ceremony
- Cabinet Ministers present
- Governor of the Bank of Namibia
- Permanent Secretaries present
- Development Partners present
- Members of the Media
- Ladies and Gentlemen

Introductory Remarks

1. I would like to extend a very warm welcome to all of you. I am privileged and humbled as Minister responsible for Land Affairs in the country to have this opportunity to deliver a keynote address at such an important occasion as this. I take note of the theme of the symposium namely; – **"Unlocking the Potential of Communal Land"** which I am made to understand was chosen because it featured prominently in national debates and policy discourse during the past year.

   First, I would like to give a general brief on the importance of land issues in our continent. Throughout sub-Saharan Africa, land is a fundamental issue for economic development, food security and poverty reduction. Land is of crucial importance to the economics and societies of the region, contributing substantially to the Gross Domestic Product [GDP], employment creation and constituting the main livelihood for over 70% of our land based population. However, land is becoming scarce in many areas due to a lot of pressure and demographic growth. These pressures have resulted in increased competition for land between different multiple land users such as crop farmers, livestock farmers, urban elites, and foreign investors. Moreover, socio-economic change has also eroded the customary norms, rules and institutions of Traditional Authorities that have administered land rights in our communities.

   Land related tensions are acute in our Region due partly to the extremely inequitable land distribution patterns. This inequality has major political, economic and social implications at national and regional level and they involve issues of control over scarce resources and the distribution of wealth and power in our communities.

   To respond to these challenges, a large number of countries including Namibia have adopted over the last decade policies and legislation focused at restructuring land relations. This "new wave" of land legislation has taken place within the broader context of restructuring of societal relations within our communities. Many of our countries have also adopted new Constitutions that have been inspired by the principles of democratic good governance, human rights and freedom. These Constitutions also enshrine key principles on land relations which are articulated through appropriate legislation.

In Southern Africa, a legacy of settler colonialism resulted in a racially skewed land distribution pattern, over- crowded communal areas in some instances that are affected by tenure insecurity and land degradation. This legacy has resulted in the need for land redistribution and raised tenure security issues that are totally different from those existing in West and East Africa. Similarly, the impact of HIV/AIDS epidemic is being experienced more in our Region than other sub-regions, and conflict related land issues are particularly strong in the Great Lakes Region and in countries emerging from long standing armed conflicts like South Sudan among others.

2. It is a fact that the issues surrounding land are not only political as we all know that the liberation of Namibia was among others centered on land. Clearly articulated land policies and legislation are important for social and economic stability and development of a country. Everything we do is carried on the land thus, underlining the importance thereof.

3. Given this understanding and in line with the theme of this symposium, I will in my address focus on the mandate entrusted upon the Ministry of Lands and Resettlement regarding Land Reform and in particular how the Government is addressing issues of tenure in our country with specific reference to the existing policy and legal framework. I will conclude with a brief summary on the experiences on land reform and land tenure issues within Africa and other parts of the world.

- Ladies and Gentlemen

4. Allow me to point out that among the most sensitive and complicated issues that Namibia strives to resolve since independence is the question of land. The circumstances under which land ownership passed from one social group to another or from community to private individuals have complicated matters further. The SWAPO Party's Election Manifesto of 1989 and its Economic Policy stipulates that the new Government led by the SWAPO Party is "committed to land reform in order to redress the imbalance created by the colonial policies of land allocation on a racial basis."

5. Our history in terms of land, records the privatization of what used to be communal land, and the declaration of state land such as parks, mining and forest areas among others, by the pre-independence colonial regime. Today land in this country

is divided into three categories namely; state land (20%), communal land (36%), and freehold commercial areas (44%). These tenure categories evolved mainly from the privatization of communal land into freehold during colonial time and from the proclamation of state land as parks for conservation and mining exploration.

6. From these tenure categories, the skewed nature of land distribution is clear. On attainment of independence the Government introduced and adopted policies to bring about equity in land ownership through the acquisition and redistribution of large scale commercial farms and tenure reforms in communal areas through the establishment and implementation of relevant policies and legislation that I will mention here after.

7. These laws were purposefully put in place by the Namibian Government to bring about a just, equitable and orderly land redistribution programme. In this light, the Government embarked on a programme of nationwide consultation on the land question, which culminated into the National Conference on Land Reform and the Land Question that took place from 25 June to 1 July 1991, and which later led to the formulation and adoption of the following policies and legislationi. National Land Policy, 1998; ii. National Resettlement Policy, 2002;iii. Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995);iv. Communal Land Reform Act, 2002 (Act No. 5 of 2002).

- Ladies and Gentlemen

8. Before I proceed to outline the objectives of the Ministry's current policies and legal framework and how these are being implemented towards unlocking the economic potential of land in communal areas, I should point out that Namibia's land Policy recognizes all citizens' right to freedom of movement, residence and settlement as enshrined in Article 21 (1) and (2) of the Constitution.

National Land Policy, 1998:

a. This Policy was adopted by Government in 1998 as a response to the land question. Its main objective is to address, in the spirit of national reconciliation, constitutionality and nation building, the problem of dispossession, discrimination, and inequitable distribution of land that characterized Namibia's pre-independence era.
b. In keeping with the constitutional principles, this policy provides for a unitary land system in Namibia. Under this unitary system, "all citizens of this country have equal rights, opportunities and security across a range of tenure and management systems". We know that during the colonial regime there was a first and second class system of land tenure which was divided along racial lines.
c. Under the unitary system the Government ensures that communal forms of land tenure are equally recognized and protected by the law and that communal land is administered according to a uniform system. What this means is that, Namibia's

unitary land system accord full and equal security and protection to all legally held land rights, regardless of the form of tenure, the income, gender or race of the rights holder.

d. This National Land Policy therefore aims to achieve the following objectives:
   - Equality before the law with regard to access to land,
   - Ensure that women have the same status as men with regard to all forms of land rights, whether as individuals or as members of a family. Ladies and Gentlemen, this means that women in this country are entitled to land allocation; they can also bequeath and inherit land in their own right. Most importantly I should mention that widows/widowers in terms of this policy are entitled to maintain the land rights they enjoyed while their spouses were alive.
   - Equal access to land and security of tenure,
   - Environmentally sustainable natural resource use, including the use of land.

e. To conclude on this point Ladies and Gentlemen, the National Land Policy recognizes numerous forms of rural land tenure namely;
   - Freehold tenure,
   - Leaseholds,
   - Customary grants of land, and
   - State ownership.

Communal Land Reform Act, 2002 (Act No. 5 of 2002):

a. Since independence in 1991, land allocation and administration in the communal areas has been impeded by the absence of clear and coherent communal land legislation. Providing the Namibian people with access to land has been and still remains one of the top priorities of the Namibian Government.

b. The Communal Land Reform Act, 2002(Act No. 5 of 2002) which follows the guidelines of the National Land Policy as already highlighted was enacted on 1 March 2003 and deals with access to rural land in communal areas. It regulates the allocation of land rights and the establishment of Communal Land Boards (CLBs) in all communal areas of Namibia. This Act clearly states the powers of Traditional Authorities and Communal Land Boards with regard to the allocation of land rights in communal areas.

c. Before, I go any further to talk about the provisions of this Act, and before some of you start to ask as to who owns communal land, allow me this opportunity to point out that, in terms of schedule 5 (1) of the Constitution of this country, all communal land vest in the State, in other words, communal land belongs to the State.

d. Therefore, the Government of the Republic of Namibia through the implementation of the Communal Land Reform Act, 2002(Act No. 5 of 2002), “undertakes to administer this land in trust for the benefit of the traditional communities residing on such land and for the purpose of promoting the economic and social development of the Namibian people”.

e. It is estimated that half of Namibia’s population is rural based and live in communal areas and have a bundle rights assigned to them in perpetuity, and are able to pass on these rights to their descendents.
   - Master of Ceremony
   - Ladies and Gentlemen

Namibia, like most African Governments, at independence took a tentative decision to reform tenure in communal areas so as to foster agricultural investment and productivity. The Ministry of Lands and Resettlement in close collaboration with various development partners have been devising and introducing new approaches to improving tenure security in communal areas, taking special cognizance of the diverse cultural/customary norms and practices in Namibia and simultaneously protecting all rights and interests in land.

1. Communal land rights registration:

1.1 As alluded to earlier the Ministry’s mandate is two fold, that is implementing a land reform programme that involves the redistribution of land and tenure reform in the communal areas with the latter being the subject of our focus today. The main objective of tenure reform in Namibia is to provide secure tenure to communal areas.

1.2 Issues of land tenure are of social, technical, institutional, political and economic importance that need not be ignored. It is therefore imperative that land tenure relationships are well-defined and enforceable in a formal court of law or through customary structures in a community and they should not be poorly defined with ambiguities open to exploitation.

1.3 Tenure reform in the communal areas in Namibia is governed by the Communal Land Reform Act, Act No. 5 of 2002 which as I said earlier, deals with access to land and regulates land rights allocation in communal areas.

1.4 To eliminate tenure insecurity in communal areas, the Ministry of Lands and Resettlement has introduced a project to register land rights in the communal areas. The land rights being registered are customary and leasehold. These land rights may be existing rights or new rights. Existing land rights are those rights that were allocated before the enactment of the Communal Land Reform Act, (Act No. 5 of 2002),, while the new ones are those rights allocated after the law was passed.

1.5 A customary land right is for a natural life of a holder and can be inherited by surviving spouse and in the absence of the surviving spouse; the right is inherited by the children. The period and duration of the leasehold vary according to land use and is transferable as per Section 38 (2) of the Act and can be registered in the Deeds Registry office.

1.6 The Communal Land Registration project was introduced by the Government in March 2003 and is still on-going. Under this project Customary Land Right Holders are required to apply for recognition and registration of their existing Customary Land Rights. The process of registration involves a lot of verification processes such that the Minister of Lands and Resettlement had to extend this period thrice in a Public Notice; the new deadline is now end of February 2014. Application forms for registration are widely available and obtainable from Traditional Authorities, Communal Land Boards Offices, and at all offices of the Ministry of Lands and Resettlement in Namibia.

1.7 The issue of secure tenure is a real concern with most of our stakeholders and it is in cognizance of this that the Ministry has been promoting the registration of communal land rights countrywide. This is a national programme that all communities are urged to support. Although there are challenges with this process the Ministry is working with various partners focusing on the provision of secure tenure through communal land right registration.

1.8 To date over 50,000 land rights have been verified, mapped and registered in the Namibia Communal Land Right Registration System (NCLAS) and Certificates of Registration issued to residents in eleven regions with communal lands, save for Kavango region where some administrative issues are still to be resolved.

1.9 The Namibia Communal Land Right Registration System (NCLAS) is a user-friendly registration system that is developed to store data on communal lands for the whole country in such a manner that it will accommodate future integration with the commercial Deeds Registration System. It stores all land rights and land parcels related data for communal areas in a secure form. It (the Namibia Communal Land Right Registration System) enables the user to produce certificates, reports, indexes and village maps. Besides it can be used to analyze the type of data collected for example the amount of land allocated to women, parcel size, and average hectare for a settled village.

- Master of Ceremony

Allow me at this juncture to point out some of the benefits that are enjoyed and recognised under the Communal Land Reform Act, (Act No. 5 of 2002),, 1.10. Currently two land rights are issued in the communal areas namely the customary land right and the leasehold. The Customary Land Right lasts for the natural life of the holder. It comes to an end only when the occupant dies, or decides to give up (relinquish) the right before his or her death. The customary land right is therefore an occupation in perpetuity; and the holder need not fear eviction or expropriation without just compensation. Registered customary land rights are thus formal and enjoy official recognition and protection and thus are secure.

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1.11. The registration of customary land rights in the communal areas is very important because it:

- gives security to land holders, their spouses, children and/or dependants.
- ensures that a land holder has documentary proof of their right to the land and know
- the boundaries and exact size of the legally allocated land parcel.
- allows each parcel of land to be owned by one person at a time which rules out any
- form of land grabbing.
- It gives an indication to the Communal Land Boards and the Traditional Authority as to
- which land is occupied and which land is available for allocation.
- avails a right for compensation when the parcel or part of it is claimed by the Government
- for public purposes that include building of new roads or expansion of towns.

1.12 The Communal land registration project has brought to an end the contestable practice of oral transfer of land rights and land-related boundary disputes and problems of double allocation of the same piece of land by Traditional Authorities and Land Boards..

1.13 A right of leasehold on the other hand, gives the right to land for a specific activity to be undertaken on the land parcel as described on the conditions of the Lease Agreement. The activity may be agricultural, residential, tourism, commerce or any other use that the Land Boards approve.

1.14 Before the enactment of the Communal Land Reform Act, (Act No. 5 of 2002),, the Ministry of Lands and Resettlement used to issue Permission to Occupy (PTO) certificates. Permission to occupy certificates are legal documents that have been used by the Ministry to regulate business establishments in communal areas. Presently, PTOs are being phased out and existing PTOs are to be converted into Rights of Leasehold, which are more secure and can be used as collateral by holders to acquire loans if the lease is for a period of 10 years or more.

1.15 Furthermore, the Act empowers the Communal Land Boards to grant Rights of Leasehold to any portion of communal land, but this Right of Leasehold may only be granted if the Traditional Authority of the traditional community, in whose area of jurisdiction the land is situated, gives consent. If the land to be leased falls within a Conservancy, the use of the land must be in conformity with the Conservancy's management or utilization plan.

To date over 314 leaseholds for agricultural purposes have been issued in Kavango region and 47 leaseholds issued for tourism enterprises and over a 113 for commerce activities such as the building of supermarkets and Petrol Service stations across communal areas of Namibia.

1.16 After an application of Right of Leasehold is granted, and a Deed of Leasehold is signed, the Communal Land Board Secretary ensures that the Right of Leasehold is registered in the name of the applicant in the prescribed register and the applicant is issued with a Certificate of Leasehold. It is the responsibility of the leaseholder to register the lease in the Deeds Registry Office. The Leasehold thus grants the lessees the opportunity to access financial capital to invest in their properties and this improves their living standard.

FNB Pension Backed Home Loan Scheme.

1.17. At this juncture, I would like to commend the efforts by the First National Bank (FNB) of Namibia for their foresight in developing a new product called Pension Backed Home Loan Scheme, which they are currently implementing. This scheme is important to the Ministry of Lands and Resettlement because it makes use of the Communal Land Right Registration Certificate as a proof of ownership or entitlement to the land. The FNB, initiative is a positive development, because the bank has made a business decision that recognises the use of secure tenure provided through land right registration to provide credit to rural people to build their houses and we applaud them for seeing light where others are still grappling. A person with a descent dwelling to call home is a happy individual and a happy individual is productive.

The Ministry is working tirelessly and in close consultation with all stakeholders in the communal areas to register land in a sustainable way. The land registration project provides farmers with a title that can be offered as collateral to financial institutions, thereby improving farmers' access to credit and allowing them to invest in land improvements. FNB has already grasped the concept through its vision in acknowledging the security of tenure being offered through the Communal Land Right Registration Certificate.

- Master of Ceremony
- Ladies and Gentlemen

Let me conclude by highlighting some experiences from other parts of the world regarding the subject matter.

Lessons from other parts of the world

1.18 Lessons from other countries are not conclusive. The World Bank analysis of land policies in 73 countries between 1960 and 2000 shows that countries with more equitable initial land distribution achieved growth rates two to three times higher than those where land distribution was less equitable. Similarly, Keith Griffin and his colleagues argue that successful land reforms contributed to rapid economic growth. Showing that there is evidence that a more equal distribution of land leads to faster economic growth, and rapid growth increases the livelihood, it is thus evident that a redistributive land reform will help reduce rural and even urban poverty.

1.19 Land reform in China for example, in the late 1970s and early 1980s, is recorded to have contributed to the largest and fastest rate of rural poverty reduction in modern times.

Landlessness is said to occur, for reasons other than insecure tenure because the poor sell their land through "distress sales" (forced sales) in order to survive in times of crises such as famine, sickness or other calamities. Other reasons for selling land may include the need to meet social pressures such as driving expensive cars and to living beyond one's means

1.20 People lost rights to land because existing land tenure rules were ignored. In Namibia, exploitation of unequal power relationships within communities are said to result in some strong members fencing off portions of communal lands for their own exclusive use, thereby denying access by other members of the community to shared grazing lands. This phenomena increase vulnerability, hunger and poverty, it can also lead to conflict and environmental degradation when competing users fight for control over land resources.

1.21 The lesson we are learning from other countries is that land should not only be valued as an economic asset but as an integral part of the cultural and social fabric. Apart from economic value, land is an important factor in the formation of individual and collective identity, and in the day-to-day organization of social, cultural and religious life. It is also an enormous political resource that defines power relations between and among individuals, families and communities. Our reforms should not threaten tenure security but enhance it. Neither should the tenure reform reduce food security and rural livelihood but promote it.

1.22 It is a wonderful thing to unlock the economic assets of communal land but we should be mindful of the consequences that may result from a poorly designed "unlocking of dead capital" of the communal areas, let us have a demand driven process and not an indiscriminatory supply of tradable tenure in the communal areas that may result in destitution of the majority of our people. Already there have been reactions from the public that Government should trade carefully with communal lands; therefore we should not privatize it. Rather increase tradability and ensure access to land as capital good through leasehold rights.

1.23 It is a fact that privatisation of land does not in itself translate into increased investment and productivity benefits over indigenous systems. Many argue that if one of the motives for investment in agriculture is the appropriation of rights, it is then possible that, indigenous tenure may provide incentives that are superior to freehold, and that the efficiency losses associated with communal land tenure have always been exaggerated.

1.24 What one deduces from this argument is the fact that, if the right to cultivate communally or customary owned arable land can be bequeathed/inherited this will in itself increase the incentive of the cultivator to invest. Various studies have revealed that investment is highly correlated with the right to bequest than with the right to sell.

1.25 The Ministry of Lands and Resettlement believes that communal land is a public good that should benefit the less privileged communities residing in communal areas. Therefore, strengthening the existing communal systems is a better strategy towards uplifting our communities politically, economically and socially

Concluding Remarks

1.26 To conclude ladies and gentlemen, despite many challenges, the Namibian Government through the Ministry of Lands and Resettlement is committed to bring tenure security in the communal areas. The Government strongly believes that security of tenure promotes socio-economic development of the people as well as encourages better natural resource management. Our Government is open to informed suggestions, willing to listen and engage its people. If our communities who are earning a livelihood from the communal areas feel that there is need to change the current thinking that is being projected by Government through the Communal land Registration project, and if their experiences in the past 22 years as articulated in the Resolutions of the 1991 Land Conference have changed or requires adjustment, we at the Ministry of Lands and Resettlement are willing to channel their thinking and new informed proposals as long as those suggestions will not impoverish our people and leave them destitute.

Let us continue working closely as a team and as always our doors are open for further engagement. Once again I would like to express my appreciation to the organizers of the Symposium for providing a platform to discuss land issues in our country

An overview of Communal Land Tenure in Namibia: Unlocking its Economic Potential

John Mendelsohn, Louise Shixwameni and Uda Nakamhela
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Abstract

Tenure systems in communal areas of Namibia, which affect some 38% of the country's surface and half its citizens, provide fewer opportunities for economic development than elsewhere. Incentives for investment are limited by several factors, including complex procedures to acquire commercial land rights; land rights not being tradable; most residents not being able to use their land for commercial enterprises; and land rights not being suitable for collateral to generate capital. In addition, commonage land used by local residents has been appropriated to a large extent because 'ownership' of commonages is vested in the state and traditional authorities. This has resulted in the loss of resources which are important to the livelihoods of many of the poorest people in Namibia. Economic opportunities are further constrained by poor soils and climatic conditions for agriculture, limited infrastructure, and inadequate access to banking and other services.

Substantial opportunities for economic development lie in the use of individual property rights as investments and financial instruments if land rights can be traded, sub-divided, assigned and used for commercial enterprises if the owners so wish. The provision of secure tenure over commonage land rights would help safeguard their resources for local residents. The implementation of these and other recommendations will help develop the current customary, subsistence economy into one that allows communal land residents to participate in the economy of the 21st century.

1. Introduction[1]

Namibia has two main land tenure systems: freehold in declared urban areas and so-called commercial farms, and customary tenure on communal land, all of which is rural. Commercial farms were originally reserved for private ownership by white people during the colonial period, while homelands or tribal lands for non-whites were re-designated as communal land at Independence in 1990. Nowadays, about half of Namibians live on communal land and the other half on freehold property, largely in towns.

Land reform has received much attention since 1990, but most of this has been devoted to debate and measures to reallocate land from whites to previously disadvantaged Namibians. Tenure and land reform in communal areas has received little attention, by contrast.

Over the past 22 years, the Government of Namibia has aimed to reduce poverty and increase the production of agricultural and non-agricultural enterprises. Here, the goals have been focused largely on communal land where the potential for increased primary production has been assumed to be promising and where the majority of poor Namibians live. However, two fundamental constraints that stem from communal tenure have hampered progress towards achieving these aims. The first is that communal land rights have minimal economic value or use as financial instruments. Secondly, the absence of rights over commonage land has resulted in the loss of resources for local residents because large areas have been allocated for the use of wealthier people who normally live elsewhere. Much of this loss has occurred because the state and traditional authorities have been able to privatise commonage land at their discretion. The appropriation by wealthy whites of 'native lands' into large farms during the colonial period has been continued, but is nowadays by wealthy non-whites.

All these constraints place residents who depend upon communal land for their livelihoods at a severe disadvantage compared to other Namibians who enjoy tenure that is largely managed in their personal interests and those of the community in which they live. This leaves Namibia with a dual economy, now divided by where people live rather than colour.

Despite these realities, it is noteworthy to recall the noble intentions recorded in Article 16 of the Constitution of the Republic of Namibia which states "All persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and movable property individually or in association with others and to bequeath their property to their heirs or legatees."

This paper reviews circumstances in communal areas, particularly those pertaining to tenure and economic opportunities. Comments are then offered on aspects that constrain investments and the economic and financial values of land rights. Challenges facing commonages are explored, with particular reference to the loss of resources for

[1] This paper draws on parts of a review of communal land tenure prepared by JM Mendelsohn, U Nakamhela, W Werner and BJ Jones in 2011 for the Communal Land Support project of the Millennium Challenge Account.

local residents. Finally, recommendations are made to improve the economic, financial and resource value of communal land in the interests of its residents and the country as a whole.

2. Communal Land and Livelihoods

About 38% of Namibia is designated communal land. Much of the remaining land is allocated for freehold farmland (44%), national parks (17%) and declared urban areas (1%). Some 1.1 million people live in communal areas. This is just over half the total population; whilst the remaining people are in urban areas (42%) and on freehold farms (6%). Matters pertaining to tenure in communal areas thus concern high proportions of Namibia's land and people.

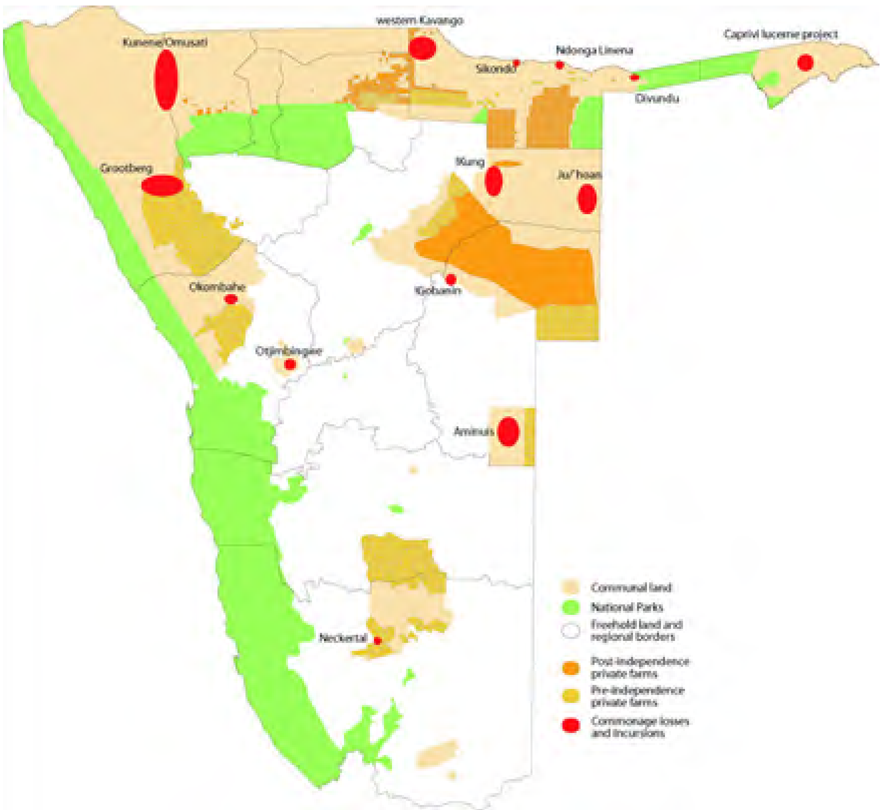

Figure 1. Communal areas in Namibia. Post-independence private farms are those allocated by traditional authorities or privately appropriated, mainly in Kavango, Oshikoto, Otjozondjupa, Omaheke and Omusati, while pre-independence farms were allocated by the then administration or second-tier authorities as the so-called Odendaal, Mangetti, Okamatapati, Rietfontein and

Korridor farms. Places where large areas of commonage have been lost or threatened are described in the text.

Uses of communal land vary as a result of differences in soil fertility, types of vegetation and aridity. Agro-pastoralism is the predominant use of land in the somewhat semi-tropical climates in north-eastern and central northern Namibia. Residences with nearby fields usually have a single, clearly defined property while households with fields further away often have several parcels for crops. In some regions there are also large areas of remaining commonage which are used for grazing, hunting and the harvesting of plant products, including timber, fruit, firewood and thatch. Staple foods are pearl millet, maize and sorghum, while small areas of vegetables are also planted. About half of all families have no livestock or just a few goats and cattle (Mendelsohn 2006).

By contrast, pastoral livestock farming predominates in more arid areas in the west, south and central areas of Namibia. The majority of people live here in small villages, with their livestock foraging in surrounding commonage pastures. Again, most households have small herds or flocks of less than 10 cattle, goats or sheep.

3. Economic Conditions And Options

Although it is widely assumed that residents in communal areas are dependent on farming, this is not usually the case. Various household surveys indicate that income is largely derived from off-farm or non-agricultural activities, such as pensions, business earnings, wages and remittances. Naturally, there is substantial variation between families and many very poor households indeed largely rely on farm and commonage resources. Most other residents, though, live on rural farms but live off non-rural enterprises and jobs.

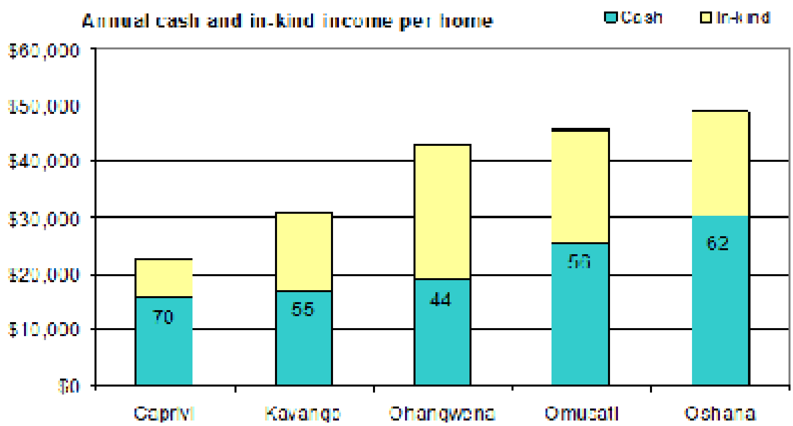

Figure 2. Annual income in cash and in-kind by rural households in northern Namibia measured during the 2009/2010 Namibia Household Income & Expenditure Survey. The percentages are the proportions that cash make up of all expenditure (which is a proxy measure for income) per year.

Dependence on non-farming incomes is largely due to the inherently low productivity of most farm land. Only people with large farms or the resources to provide high-cost inputs such as irrigation, fertilisers and a significant labour-force can produce surpluses which can be sold for cash incomes. The produce of most other farmers is so small that it is only used for domestic consumption, and so their households have to depend on other sources for cash incomes which usually make up more than half of all household income (Figure 2). Furthermore, Namibia's small population and considerable distances to the few sizeable urban markets makes the selling of any farm surplus extremely difficult.

The relative absence of cash incomes in communal areas has a variety of consequences. Foremost is a high level of poverty. For example, results of the 2010 National Income & Expenditure Survey (NHIES) showed that 27% of households in rural areas were classified as poor, compared to 9% in urban areas. For those classified as severely poor, the comparative figures were 14% and 4%, respectively (Namibia Statistics Agency 2012).[2] Average per capita expenditure in rural homes is about three times lower than in urban families.

Another consequence is the very high rate of emigration by people who seek incomes in towns. Urban populations have thus grown much more rapidly than rural populations (Figure 3), and if the current rate of urbanisation continues, about 80% of all Namibians will be living in towns 20 years hence. Much greater attention to urban development will thus be required from now on.

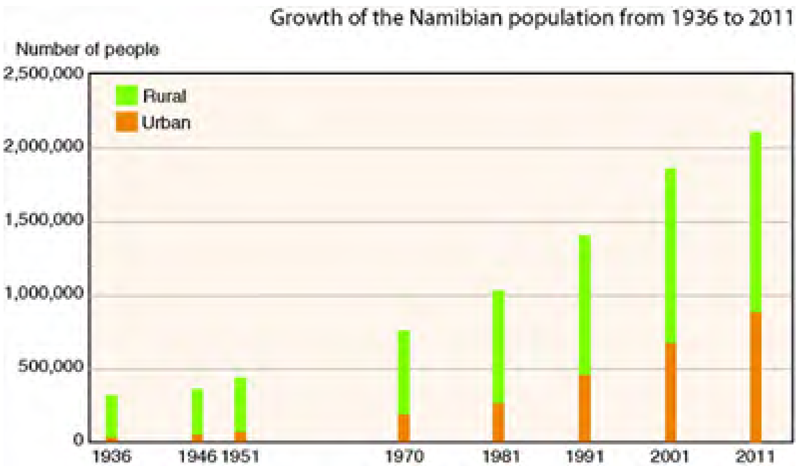

Figure 3. The growth of Namibia's rural and urban population over the past seven decades, as recorded during official population censuses.

[2] *Differences between urban and communal areas are actually much greater because these analyses include rural households on freehold farms where living conditions are considerably better than in communal areas.*

As a consequence of emigration, there are also fewer able-bodied, working-age people (especially men) in many rural areas. This, too, constrains farm and other labour-based production in communal areas.

Such circumstances make the need to find ways in which land rights can improve livelihoods ever more pressing. Residents are dealt a triple-blow: land productivity severely limits income, land rights are not suitable for use as financial instruments and registered customary land rights discourage land uses which can generate cash incomes. These aspects are explored below.

Secure tenure over land and options to use its inherent value provides incentives for land holders to invest time, effort and money in developing and managing their land. Tenure that provides those incentives underpins economic development throughout the world. However, there are four ways in which provisions of the Communal Land Reform Act of 2002 inhibit economic development and the improvement of livelihoods.

Collateral and capital: Customary land rights cannot be registered as legal deeds. As a result, the rights may not be assigned as collateral security, thus prohibiting access to capital secured on land for development. Arguably, 50% of the population can therefore not use their land rights as security to obtain collateral funds, a right and benefit that most of the other half of Namibia takes for granted.[3] This also means that the 38% of the country's land that is communal has no capital value. The land is 'dead capital' (Shiimi 2011).

Tradability: Residents (and others) assume that land rights may not be traded (as a result of Section 42 of the Communal Land Reform Act of 2002) and also because communal land is vested in the state, and Section 17 (2) stipulates that 'No right conferring freehold ownership is capable of being granted by any person in respect of any portion of communal land'. Even though Section 38 actually allows for the transfer of customary land rights and leaseholds, transfers are subject to the permission of traditional authorities. This further impedes and complicates transactions, while also reinforcing perceptions that land rights are owned by these authorities and are therefore not to be traded. The same applies when an occupant dies: his/her land then has to be returned to traditional authorities, even if it is then re-allocated to the heirs.

The prohibition of land rights being tradable is a substantial deterrent to investment; put simply, there is little reason to invest savings or capital in land if there is no prospect of being able to liquidate the investment in the future. (Consider the reaction of urban property owners if a new law prohibited the selling of their assets, even if the owners could retain secure tenure. This would be unthinkable, but the identical condition holds for residents in communal areas).

[3] *To this can be added another 7% of the population who live in informal urban settlements where they, too, do not have land in which to invest and use as collateral security.*

Rights for commercial use: People wishing to invest in formal business enterprises, such as agriculture, tourism and fish production are discouraged by the stringent, lengthy and complex procedures to gain secure tenure for commercial use. Examples are the number of permissions that investors have to negotiate and/or obtain; the variety of formal and informal, private incentive payments that need to be made;[4] and the generally short duration and restrictive terms of leasehold rights. Investors not only find it difficult to abide by these conditions, but banking institutions are reluctant to advance capital for investments under these circumstances. As a logical consequence, it is easier for investors to use their capital elsewhere in Namibia or other countries.[5]

Uses of land are constrained by the type of tenure. Allocations of customary land rights are interpreted as being only for residential and domestic crop production. This is the intention of the provisions of the Communal Land Reform Act of 2002 and its Regulations which stipulate that any land used for commercial activity has to be registered as leasehold. This means that holders of customary land rights, who make up by far the great majority of residents, are deterred from using their land for income-generating enterprises unless, of course, they go through lengthy processes of converting their land rights to leaseholds. Similar obstacles face residents who wish to subdivide their properties, making some parts available for enterprises or even for sale to generate incomes. Customary land rights registered in terms of the Communal Land Reform Act of 2002 are thus designed for a subsistence economy, but most households aspire to livelihoods that are not subsistence in nature, as shown by their substantial off-farm cash incomes (Figure 2).

As a reflection of the disconnection between reality and tenure constraints, many customary land right holders do use their properties for commercial gain, most usually and visibly through small retail shops. Likewise, it is clear that land rights are sold in communal areas to an extent that is widely agreed to be frequent.

4. Rights over Commonage Land and Resources

Commonage provides local residents with a variety of resources, many of which are crucial for their livelihoods, such as grazing, firewood, building materials, fruits, bush meat and water. However, there are no mechanisms for residents to protect land rights over commonage which the state and traditional authorities may privatise at their discretion. With the exception of certain resources in conservancies and community forests, residents are also unable to gain revenue benefits, such as grazing fees, from non-residents who use commonage resources commercially.

[4] For example, the owners of 12 lodges in eastern Kavango each paid N$500 for their leaseholds to the state in 2011 but $22,000 per year (in total N$264,000) to the Chief of the Mbukushu Traditional Authority.

[5] One set of estimates indicate that if tourism establishments could be developed readily in communal areas, about 40,000 new jobs could be created between now and 2022 within communal areas. These would generate incomes of about N$900 million per year, again within communal areas. About N$2,400 million would be spent in these areas on infrastructure and equipment over that period. These figures are in 2011 values and assume an annual growth of 6% in the tourism industry (CJ Brown, personal communication).

A noble policy aim of government is for communal land to be available for free to people wishing to settle there, particularly poorer people who lack the means to live elsewhere. This is clearly spelt out in the Communal Land Reform Act of 2002, where Article 17 (1) states that “Subject to the provisions of this Act, all communal land areas vest in the State in trust for the benefit of the traditional communities residing in those areas and for the purpose of promoting the economic and social development of the people of Namibia, in particular the landless and those with insufficient access to land who are not in formal employment or engaged in non-agriculture business activities.”.

But communal land is also free for people who are not poor, and many wealthy people have used their influence to acquire large farms. The extent of privatisation of communal land into large farms is significant, as shown in Figure 1. Broadly, most farms were acquired in one of three ways:[6] (a) from the South African administration or second tier authorities before independence, (b) through allocation by traditional authorities and (c) by unilateral fencing off of land by private individuals.

Indeed, the privatisation of commonage has been, and continues to be rampant, often fittingly described as a modern land grab. As a consequence, the customary value of commonage being a free-range resource for local residents has been eroded in many areas where communal land no longer provides a safety net for the poor.

Other than according residents places to live, most traditional authorities play an insignificant role in the daily management of communal land, particularly commonage. With very few exceptions, traditional leaders do not manage or control stocking rates or the harvesting of timber, thatch, fish, firewood, wildlife, water or wild fruit, for example (Mendelsohn 2008).

Uncontrolled, open access to commonage means that it is in everyone’s interest to exploit resources as much as possible. If one person does not use the grazing, timber or firewood, another person will. This has two obvious effects: the poor get poorer and environmental degradation accelerates, fittingly described as the Tragedy of the Commons (Hardin 1968). In addition to land grabbing, commonage grazing is also often appropriated by people who live and earn their income from salaries and businesses elsewhere (Mendelsohn 2006). It is these people who own most livestock in communal areas, not local residents. Pastures are also ‘grabbed’ through dual grazing when the owners of large communal and freehold farms move their animals on to commonage until pastures and water sources are depleted. The livestock are then moved back to feed on the pastures that have remained protected within the private enclosures of the farmers.

[6] *(a) This category comprises mainly of the so-called Odendaal, Mangetti, Okamatapati, Rietfontein and Korridor farms. While most of the farms were originally allocated to individuals, the majority are now occupied by several families. (b) Most of the new farms in Kavango and Oshikoto are in this category. (c) The majority of farms in southern Omusati, Otjozondjupa and Omaheke.*

The absence of secure tenure over commonage renders local residents incapable of defending their rights against alliances between influence (from traditional authorities) and wealth (from the non-resident owners of farms and large numbers of livestock). It is in the interests of these influential and wealthy people that management and rights over commonages remain unregulated, and it is due to these influences that no action has been taken against people who appropriated large farms, despite the practice being prohibited by the Communal Land Reform Act of 2002 (Werner 2011). Even state water points and large areas set aside by government for emergency drought relief grazing have been appropriated into private farms. In the face of such spheres of influence, local poor residents hold little sway.

Power imbalances and the lack of defined and enforceable rights over commonages have also led to numerous encroachments by stock owners from one tribal grouping into the grazing grounds of another. Examples are farmers that moved from Gam into the Tsumkwe area, from Omatjette into Okambahe, from western Omusati into eastern Kunene, and from Ohangwena/Oshikoto into Kavango. Other land invasions have occurred or been threatened around Otjinene, Omatako, Otjimbingwe, Aminuis, Divundu and Grootberg (Mendelsohn 2008).[7]

As the formal 'owner' of communal land, the state claims the right to expropriate commonages for economic development projects regardless of existing customary usage rights to such land. This is borne out by the government's guidelines (of 2009) which make provision for compensation for land, buildings and trees that lie within individual properties. But no compensation is available for grazing and other commonage resources that are lost when land is allocated for other purposes by the state. Such losses have occurred or will occur as a result of the establishment of large irrigation schemes at Ndonga Linena, Sikondo, Neckertal Dam and the Caprivi lucerne project,[8] for example, and on about 1.3 million hectares that were privatised into more than 500 large farms with government sanction by traditional authorities in Kavango. Smaller commonage resources have also frequently been lost when senior traditional authorities allocated and leased out land for business enterprises without compensating the local users of the commonage.

Conservancies and community forests are telling exceptions. Here, communities have legal rights over certain resources and therefore obtain incomes (for example from rentals and jobs) when their commonages are used commercially by non-residents for tourism, to harvest game meat and for trophy hunting, for example.

[7] Significantly, many civil wars, including the Darfur war, have started in various countries because rights over community-based land holdings were not firmly in place, allowing one group of people to invade or seize the land of another (Alden Wily 2008, 2010).

[8] Circumstances surrounding the development of this project sum up many of the challenges described in this paper. The project area covers 30,000 hectares. A leasehold agreement with the Ministry of Lands & Resettlement requires the payment of an annual lease fee of N$86,500. A separate lease agreement with the local traditional authority provides for annual lease fees which would amount to about N$504,000 and perhaps considerably more, depending on profits. If this land was in a freehold area, it would probably have a sale value of at least N$15 million, but people now using the 30,000 hectares will receive no compensation for their usage rights, either from the state or traditional authorities About 3,000 cattle now graze the area. With an annual off-take of about 300 head, the cattle owners would have an annual income of about $1.5 million. It is hard to imagine where other grazing will be found for these cattle since the whole of the Caprivi Region is already over-stocked. It is thus possible the revenue and other values of the 3,000 cattle will be lost as well.

5. Reforming Tenure and Land Values

The current system of tenure regulation has created conditions in communal areas that are (a) not conducive to economic development, and (b) cause local residents to lose their commonage resources. The former largely concerns the rights of individuals to use and invest in their properties to create wealth, while the latter focuses on the rights of groups of local residents to the commonage resources they share.

Seemingly, the two issues appear unconnected, the first being about individual and the second about group land rights. However, there are several reasons why solutions to the two challenges need to be implemented in tandem. The first is that measures to increase the value of individual land rights would certainly lead people to rush to claim as much land as possible, especially if the rights become tradable. Land obtained for free, which would comprise of remaining commonage, will then be available for sale at market values, with the potential to generate immediate profits. The loss of commonage would be at the expense of local residents, and so parallel measures to prevent such losses are necessary. This could be achieved by introducing secure group tenure land rights.

Second, new economic benefits would be available to groups of local residents if they had secure tenure over their commonages. This fits with the government's desire to develop the economic value of commonage resources through community-based pasture management, conservancies and community forests. For example, residents would be able to enter into rental agreements with people who wish to use their commonage. This could include farmers seeking temporary or long-term grazing, and companies or individuals intending to establish businesses such as agricultural projects, lodges and shops, or to erect cell phone towers or harvest sand or timber. In the event that commonage land is expropriated and/or allocated to other users by the state, local residents as de facto users would also have a legal basis to seek compensation.

The recommendations offered below to enhance tenure rights and increase the economic value of communal land rest on several principles.

1. The type of tenure should not determine how land is used. Currently, it is accepted that leaseholds are needed for commercial uses while customary land rights can only be used for residences and cropping for domestic consumption. These divisions are unnecessary, cause confusion and limit initiatives when a land holder wishes to use his or her land for a different purpose. In freehold areas, subject to land zoning and other applicable limits in urban areas, land holders are free to use their land as they wish. Residents in communal areas should have the same opportunities.
2. Likewise, individual tenure should allow for the different and changing desires of people to have security but also to potentially use their land as investments and financial instruments. Forcing everyone to continue to abide by a customary system of land governance designed for subsistence and that serves the interests

of senior traditional authorities and their allies is no longer practical. Some people are content simply to have a place and home to call their own, others wish to develop their properties as capital assets which can be later liquidated or inherited by their children, while yet other people want to use their land for commercial gain, for example. Tenure systems should accommodate this variety, foremost by creating options for residents to develop or maintain their properties according to their wishes. These aspirations will alter over the years, and tenure arrangements should accommodate such changes.

3. Rather than being 'owners' of communal land, traditional authorities and the state should act as trustees that actually protect the ownership of land rights by individuals and groups of local residents. This will ensure that the transition from customary to statutory tenure systems occurs smoothly and justly. Ways other than selling or leasing land can be found to compensate for traditional authorities for their valuable functions in maintaining local justice and social order.[9]

Many of these principles are already rooted in existing government policy, especially the Constitution. To repeat Article 16, "All persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and movable property individually or in association with others and to bequeath their property to their heirs or legatees."

The National Land Policy of 1998 builds on Article 16 by stating that 'all citizens have equal rights, opportunities and security across a range of tenure and management systems' and that 'several forms of land rights' will be accorded equal status before the law. It also makes provision for different categories of holders of land rights including 'legally constituted bodies and institutions'. This definition enables groups of communal area residents to become holders of land rights. Such groups include conservancies, community forest management bodies, water point associations and other bodies constituted to serve the interests of communities of residents.

Further, the National Land Tenure Policy (2008) makes provision for residents of villages to demarcate and register their village land and legally constitute themselves as a group which holds rights over land and resources within the village boundary. In addition, Cabinet took the following decisions on 11 April 2006:

- In the medium term, sectoral policies on natural resources management, water, land, forestry and agriculture must be revised to give decision-making and management authority to resource-users at a local level;
- That community-based policies on resource management are expanded beyond wildlife and tourism to incorporate other natural resources like water, land and land-based economic activities;"

These policy provisions clearly indicate that government recognises the need for strengthened economic rights and secure tenure for communities. It is on the basis of that

[9] *For example, levies paid by households and enterprises could be used to compensate all levels of traditional authority (from local headman to the chief). Such payments are already made to many traditional authorities in Namibia.*

recognition and the principles established above, that the following recommendations are offered.

1. Procedures should allow for land holders to transfer, sell, assign and sub-divide land easily. However, measures should be considered to guard against speculation and to protect land owners from unfair price offers. Several potential safeguards are discussed below.
2. Properties in communal areas should be legally registered with deeds and surveyed according to appropriate standards so that they can be used as collateral.[10]
3. Individuals should be allowed to use their customary land rights for commercial uses, or they should be able to easily alter these into leasehold rights.
4. In instances where leaseholds are considered necessary, lease agreements should be concluded which optimise the commercial viability of enterprices, for example by allowing leasehold rights for as long as possible, subject to single initial rental payments and unencumbered by provisions that limit land uses too stringently. This will also increase the potential for leaseholds to be used as security for credit.
5. Rental and other payments associated with trading land rights should not be made to traditional authorities.
6. Where appropriate, the thousands of 'illegal fences' in communal areas should be given legitimacy to encourage their development as small-scale commercial farms which form an intergral part of Namibia's commercial agricultural sector. At the same time, the Ministry of Lands & Resettlement must implement serious measures to stop further fencing.[11]
7. Communities who are de facto users and partially depend on commonages for their livelihoods should have de jure rights to commonage resources (Knight 2010). It is recommended that these de jure rights be provided as soon as possible to protect local residents against further 'land grabbing' especially that which may result from land becoming tradable.
8. Ways should be found to secure and formalise group tenure rights, possibly through the designation and registration of 'local authorities' for communities wishing to register and manage their land rights.[12]

[10] The Ministry of Lands & Resettlement has begun to revise the Deeds Registries Act 47 of 1937 and Land Survey Act 33 of 1993 to allow for the registration of communal land properties as deeds, reduce the costs of conveyancing and use cheaper and quicker ways of surveying properties.

[11] It should be accepted that it is far too costly politically, legally and economically to remove the very large number of properties that are held to be 'illegally fenced' by the Communal Land Reform Act of 2002. The owners of these properties should be encouraged to register them as legal land rights once the properties have been adjudicated by local residents as being acceptable or requiring modifications to their boundaries. Processes and procedures for local adjudications have been developed by the Communal Land Support Project of the Ministry of Lands & Resettlement and Millennium Challenge Account. This forms part of a process for each traditional authority to set threshold land areas and criteria for the assessment of all applications for registration.

[12] The concept of group rights is not new. Land rights have been allocated to communities in dozens of developing countries in South America, south-east Asia and Africa. Likewise, strong support or precedents for group land rights within Namibia are to be found in the National Land Policy (1998), the National Land Tenure Policy (2008), the emergence of village committees to help administer land allocations, in central northern Namibia; the fencing-off by local residents of community areas to protect grazing around many villages in Otjozondjupa and Omaheke; the Cabinet decision (on 11 April 2006) that community-based policies on resource management be expanded to land and land-based economic activities; and the use of declared Settlement Areas as units of local governance and land management (while these are urban zones, the intentions and principles behind their establishment are the same as those recommended here for rural areas).

Reforms to communal tenure are not in everyone's interests, especially those who now wield power to trade and apppropriate land. Poorer people may also suffer if they are unable to acquire land rights or to trade them for fair value. This already happens to a susbtantial degree in urban areas, where shortages of land, high land values and unfair practices are common-place; these problems were addressed in the 2011 Bank of Namibia's Annual Symposium.

The most frequent, indeed adamant objection to allowing the trading of land rights comes from those who believe that residents – especially those who are poor and financially inexperienced – will sell off their land recklessly. There are several weak or paradoxical aspects to this belief, especially in the way it is applied to everyone who lives in communal areas.

First, poor people are generally much more astute and cautious in managing their assets than wealthier observers assert. For example, studies show that people who earn less than US$2 per day use a variety of financial instruments simultaneously to manage cash flows, savings, debtors and creditors. Faced with low and usually intermittent incomes, poor people manage their meagre resources more carefully than many wealthier people (Collins et al. 2011). Second, the very same residents who are supposedly incapable of protecting their land assets in communal areas are freely allowed to trade land once they move and acquire land in urban areas. If there is commitment to protecting poor people, surely policies to do so should be applied everywhere?

Third, land rights are already traded in communal areas to a significant extent. However, buyers and sellers conclude the trades informally, in the absence of any oversight or documentation. Under these circumstances, there is ample opportunity for the exploitation of poor people. The question thus arises: do we continue to turn a blind eye to the reality of land sales and do nothing to protect sellers, or do we allow and legitimise sales and implement measures that are in the interests of the poorest members of society? Put another way, does Namibia wish to see land trading that already happens – and will increase – occur transparently, and does it wish to allow titling systems that promote orderly transactions?

Perhaps it is an unwillingness to develop protective measures which helps support the view that poor people cannot be trusted to trade their land rights fairly. In other words, it is easier to prohibit land sales than implement measures which protect sellers. Similar thinking underlies arguments that the financial costs of surveying and registering property rights are prohibitively high, which is another way of saying that spending so much money is not a priority. Likewise, a reluctance to develop order and controls over land transactions is in the interests of wealthy and influential buyers and traditional authorities who stand to benefit from informal and opaque land markets.

What measures can be taken to protect the poor against unfair sales, to limit social exclusion and to ensure that land rights are available as a social safety net?

Much could be done to improve awareness so that sellers are better equipped to guard against unscrupulous buyers. Likewise, programmes are needed to build awareness against injudicious land allocations by traditional authorities and land grabbing of commonages. This goes together with our previous recommendations to protect commonage land rights. Indeed, the continued availability of commonage is crucial if communal land is to provide a safety net for people unable to acquire land elsewhere. Zoning and effective management of local land use would ensure the continued availability of land for the poor, and at the same time help protect their rights.

Various direct measures could be implemented to increase the chances of land rights being traded fairly. For example, sales may require approval by Communal Land Boards, perhaps after the Boards have valued the properties. In addition, a moratorium on sales for several years after owners first obtain their land rights would guard against hurried, reckless trading. Likewise, sales may only be allowed after the properties have been developed to a certain degree to limit speculative trading. The City of Windhoek has such a provision for ervens which they sell to first-time, low income buyers.

This symposium is concerned with areas of the country that are defined by particular tenure characteristics, which is why this paper has focused almost entirely on the effects communal tenure. The fact that these areas are communal also means that their development was neglected prior to Namibian independence. Although many improvements have since been made, further development of infrastructure, in particular transport, communication and electricity, would also help unlock the economic potential of communal land. The same is true for public and private services, especially banking services which are beyond the reach of many residents in communal areas.

While farmers with pastoral traditions market livestock to a substantial degree in communal areas, those from agro-pastoral backgrounds generally keep livestock as security or capital assets. Hundreds of thousands of cattle and goats therefore have limited productive value because few are sold. Incentives (and disincentives) are required to add these animals to Namibia's livestock production sector. One way of doing this is to provide the owners of large, private farms with secure tenure on condition that the animals are farmed productively. (There is the interesting possibility that farmers may treat their cattle more as productive units than as security if their land rights had capital value.)

New land uses should also be promoted, notably through tourism and wildlife farming which now contribute a high proportion of Namibia's GDP, but mainly only in national parks and on freehold farms. Large areas of communal land have substantial potential for tourism as well as for game meat production and trophy hunting. It would be easier to unlock that potential if tenure arrangements were changed so that investments in these sectors were easier to make.

Professor S. Moyo and Dr W. Werner argued at the 2012 Bank of Namibian Annual Symposium that agrarian reform would do much to improve the economic value of communal land in Namibia, perhaps to an extent that holds greater promise than land tenure reform. While agricultural production can be improved, the scope for achieving substantial increases is limited because of the small properties, and very poor soil, climate and market conditions, as described earlier in this paper. There is also the ironic risk that the promotion of agrarian reform will increase poverty. This would happen if communal land residents are persuaded to continue farming in the vain hope that their livelihoods will improve, rather than taking the common-sense course of seeking sources of cash income. This does not discount the fact that farm production can be increased, but measures to do so need to be implemented with caution and only under circumstances where the probability of improving incomes are high. It is simply wrong, and perhaps harmful to suggest that the majority of rural residents can make a decent living as farmers.

6. Conclusion

Environmental and living conditions for people living in communal areas are challenging, especially for those that lack access to incomes from other sources. Communal tenure arrangements conspire in a number of ways to add further difficulties which limit the economic value of communal land. However, these challenges might be reduced by encouraging changes from the existing customary, subsistence economy to one that allows residents to participate fully in the modern economy. Measures to help such a change could result in:

1. Individual land holders in Namibia having equal options to use their land rights for economic purposes irrespective of where they happen to live. Half of the Namibian population may then be able to participate equally in the modern economy.
2. The many severely poor people living in communal areas having new opportunities to create wealth.
3. Over one-third of Namibia's land being transformed from dead into functional capital.
4. Increased incentives to develop the value of communal land.
5. The rights of local residents to their common-property resources being secured with opportunities available to gain economically from commonages.
6. The thousands of farms now deemed to be illegal becoming legitimate commercial producers.

Other than bringing direct economic benefits to individual residents and investors, reforms to the tenure system in communal areas can be expected to make a major contribution to Namibia's economy (Shiimi 2011).

In summary, the challenge is to create conditions that permit land rights to generate wealth while guarding against the loss of rights for the poor. The greatest opportunities for economic development lie in the use of individual properties as investments and financial instruments, while the protection of commonages will better safeguard the land rights of the poorest residents in communal areas.

Unlocking the Economic Potential of Communal Land: Regional/African Experiences

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Abstract

African experiences in Communal Area land tenure reforms intended to enhance economic growth based on improved agricultural investments and increased farm productivity, and to enhance producer incentives and access to credit, are examined. The land tenure and investment relationship hypothesis is discussed to clarify the principles and logic underlying land titling reforms, and the approaches followed in land titling reforms are outlined. The expected positive impacts of titling on economic and employment growth, improved livelihoods and other social values have never been realised, while the impacts of titling on women's land rights tends to be negative. The feasibility of land titling has been limited by administrative and resource constraints, incessant institutional conflicts, resistance by the affected, inequitable land allocation outcomes, gender inequities and land conflicts.

Except in unusual cases, land titling is not the critical factor required to unlock the economic potential of Communal areas. The core issue in Africa is how to recognize and secure existing land rights, which while distinct from private property, are not simply communally owned. They represent a complex set of existing rights entailing individual family land use rights, community user rights, overlapping and secondary rights. These are governed by changing local and national land administration structures and procedures in a context of ongoing agrarian, social and political change. This suggests that governments should invest their scarce fiscal and managerial resources in other areas than land titling and enhance local land administration capacities.

In this light, the paper examines alternative measures aimed at improving productivity among Communal farmers in Africa. These include increasing their access to land, using alternative sources to finance farm investments and increasing the role of public investments in public goods such as infrastructure, research and extension in promoting agricultural development and productivity. A wider range of investments and agricultural policies involving state agricultural interventions, private market and investment incentives and direct support to small producers have been critical in promoting agricultural growth and development so far, even though the scale of this remains limited. Agricultural inputs subsidies and credit programmes, contract based inputs and credit provision programmes, output insurance programmes, investments into irrigation and agronomic reforms stand out as potential tools for unlocking the economic potential of Communal Areas.

This requires increased budgetary allocations to agricultural and macro-economic policies which direct more private financial resources and credit towards productive

farming, agro processing and related infrastructure. Innovative agrarian reform in the context of reviving the developmental state is the key issue.

1. Introduction

This paper provides a broad survey of some African experiences in promoting Communal Area land tenure reforms with the intention of enhancing economic growth based on improved agricultural investments and increased farm productivity, and improved land tenure security per se in order to improve producer incentives and to facilitate access to credit. The study examines the experiences of the first wave of land tenure reforms from the 1960's to the 1980s, and the new wave of land tenure reforms which were initiated from the 1990s as part of the structural adjustment programmes promoted by International Financial Institutions and the major donors. The paper first conceptualises the land tenure and investment to clarify the principles and logic underlying land titling reforms and provides an overview of the African experiences with tenure individuation in Communal Areas. It then discusses in section 3 the approaches and methods followed in implementing land titling reforms, and highlights the challenges faced. Section four then assesses their (potential) impacts on growth, employment, livelihoods and their social values and finds that most of the expected benefits from land titling were never realised. In light of this finding, the paper then examines a range of alternative policy measures aimed at improving productivity among Communal farmers in Africa. This entails discussing the effects of increasing access to land among Communal Area farmers towards enhancing productivity, an identification of the nature of alternative sources which are used to finance and target improved investments in Communal Areas. Furthermore the paper examines the role of public investments in public goods such as infrastructure, research and extension in promoting agricultural development and productivity in Communal Areas. The paper also assesses the impacts of land titling on women's land rights, especially in section 4.4. The paper concluding section summarises key issues and makes some recommendations.

2. Land Tenure and Investment: A Conceptual Framework

2.1 Conceptual framework

Customary tenure has been considered to be one of the major causes of economic stagnation in Africa's rural areas because it is perceived as lacking clearly defined individual land rights in terms of who owns what kind of land, what land rights they hold and the demarcation of the boundaries because it is assumed that all such land is owned by groups communally. Property rights are considered to be "absent" under customary tenure, and allegedly individual land users face insecurity of tenure. This is said to discourage investments that can boost agricultural production and productivity and is an obstacle to the modernisation of agriculture. In this context neoclassical theories on land tenure and property rights propose the individualisation of customary land tenures as the optimal solution to both tenure security and growth. More specifically, they argue for the conversion of customary tenure to individual freehold through titling programmes.

Ostensibly, freehold tenure registered in titles backed by cadastral records open to public verification is considered to provide superior security of tenure for landholders compared to customary tenure. Furthermore, individualisation of tenure is said to enable efficient transactions on and the tradability of land which customary tenure does not allow for. It is argued that freehold tenure leads to the optimal allocation as a factor of production and/or “commodity”, through the transfer of land from “inefficient” to “efficient” agricultural producers. In this perspective land is solely treated as an “economic” commodity held by persons seeking to optimise financial returns to the neglect of its social, political and cultural roles in the livelihoods of rural people.

The specific benefits hypothesised to arise from tenure conversion include: investments, access to credit, increased productivity and efficient land markets. Individualisation of land tenure through titling is argued to provide security of tenure to landholders (Place, 2009; Feder, 1988) and thus incentives to make medium and long-term investments on the land because they are guaranteed to reap the benefits through certainly in land ownership in the foreseeable future.

The modernisation of agriculture in the former customary lands is said to accompany the privatisation of land tenure as farmers invest in modern techniques such as hybrid seeds, soil conservation practices alongside long-term investments such as tree planting (Jansen and Roquas, 1998). Such investments are not possible under communal tenure also because of the presence of overlapping use rights (Smucker, 1994) which may prevent investors from benefitting from their investments.

The propensity for landholders to invest will be aided by the ability to access credit markets as they can use their land as collateral to borrow finance (Melmed-Sanjak, 1993). Formal titled documents are expected to increase small farmer’s access to credit as they can pledge their land as collateral to financial institutions (Lipton, 2009; Place, 2008; Lastarria-Cornhiel, 2009) and financial institutions require collateral security when advancing loans so that they can foreclose in case of default. Land under customary tenure is not acceptable as collateral as banks cannot foreclose “communally owned” land for credit owed by an individual farmer. This argument has been renewed by De Soto (2008) who argues that poor people in the South remain poor because their assets are “informal” and/or not legally recognised and hence represents “dead capital”. Thus formalising their property can create “generative” capital which they can use to access credit from banks for investment.

The main rationale for titling programmes is thus to promote access to capital to increase investment and agricultural productivity. Increased individuation of land ownership and the presumed security of tenure is specifically expected to increase agricultural productivity through greater investments in labour and capital (Place, 2009; Smucker, 2002) leading to intensive farming and the replacement of extensive farming

practices. Farmers will increase the use of productivity enhancing inputs such as hybrid seeds and inorganic fertilisers, including the reduction of fallow periods in a process aided by increased access to credit markets resulting from land titling.
Agricultural productivity is also expected to increase over time as a result of the stimulation of land markets after land titling (Pinckney and Kimunyu, 1994) as the value of land is assumed to be its agricultural use. Putatively, the efficient and more productive farmers are thus able to buy land from the less efficient farmers to the benefit of both land buyers and sellers and the economy as whole. The transfer of land to efficient farmers presumably raises overall agricultural productivity in the economy. Furthermore, land markets arising from the tradability of communal lands serve the purpose of land redistribution as they increase the supply of land which can be accessed by the landless and land short famers (Lastarria-Cortiel, 2009). Others however argue that land markets can increase land concentration and in turn income inequality as wealthier farmers buy out poor farmers that could create a class of landless farmers, (Smucker, 2002).

2.2 Historical experiences regarding obstacles to Communal Area Investment

Effort to convert customary tenures into freehold tenures is termed the “replacement paradigm” (Karuiki, 2012). In general, the replacement paradigm tends to be based on a misconceptualisation of the actual character of the so called Communal tenure system. For in this system, while access to land is socially embedded and mainly derived from membership of a ‘community’ or group, individual families tend to hold homestead and arable plots in perpetuity and these rights can be transferred on succession and temporary in rentals, share-cropping and other relationships. It is only the grazing areas and woodlands which are held commonly and are governed by community regulations per se. Indeed individual and family investments into assets such as arable fields and permanent tree crops have been and continue to be common throughout the continent. Customary systems did not exclude individual rights, and they entail various types of transfer of rights to land, such as tenancy in the cocoa areas of West Africa (Berry, 1975; Gyasi, 1994; Hill, 1963; Okali, 1983) and elsewhere (see Lawry, 1993 for Lesotho), and other types of transfers including rentals and sales (Allott, 1969; Besteman,1999; Bruce, 1988; Cohen, 1980; Ng’ong’ola, 1996; White,1963).

Indeed, research shows that agricultural intensification and commercial production are not inhibited by customary landholding as much as by broader social and political-economic conditions at local, regional, and international levels (Guyer, 1997; Linares,1992; Netting, 1993).

Failure to rationally define the nature and cause of land underutilization and low agricultural productivity in Communal Areas, and the tendency to undervalue their current social function, has tended to lead policy makers to rush for quick fix tenure reforms (e.g. the conversion of land to freehold systems) and the regulation of land use. This results in the neglect of national economic policy reforms which undermine Communal Area development and productivity growth. Neglect of non-market resources, activities, goods and services in communal areas, which are crucial to sustaining diversified livelihood strategies of rural inhabitants, can be attributed to the limited scope of conventional surveys (Karuiki, 2012). These surveys fail to capture data on own-consumption of agricultural produce and natural resources, as they predominantly focus on marketed goods and cash income. Thus efforts to reduce required cash expenditures are neglected. Moreover, the social dimensions of communal lands and land-based livelihood strategies are not adequately considered.

Furthermore, government support to large scale commercial agriculture throughout colonial and apartheid rule which excluded small-scale producers in communal areas in Zimbabwe, South Africa and Namibia was combined with the poor quality of land that was left for Communal Areas. This led to differential capacities to use land productively and the escalation of environmental degradation due to overcrowding.

There are numerous causes of 'under-farming' in the communal areas (Kariuki, 2012). Rural areas are characterised by insufficient labour to farm as many able-bodied males are absent from rural communities and abilities of female to supplement absent male labour is restricted by domestic responsibilities. Resources to plough the land are constrained by the decreasing oxen herds in Communal lands, which also results in the shortage of shortage of manure to fertilise the land. Small producers also have limited income to purchase inputs because of declining agricultural markets and migrant remittances. The local markets in which small producers sell their outputs are dominated by large scale commercial farmers reducing their opportunities. Service provision by governments in Communal Lands is also limited.

Various case studies provide evidence that where communal producers are provided with sufficient land and support services (including credit, agricultural expertise and technology) and have access to agricultural markets for both inputs and outputs, they are able to surmount the above constraints and are successfully cultivating food for market sales as is currently the case in Malawi. Increased transfer of arable land suitable for crop production and drastically expanded government agricultural support services would go a long toward enhancing the ability of communal area residents to not only meet their basic nutritional needs, but to also overcome constraints to production that exclude them from the agricultural market (Chirwa, 2008).

3. Individualising Tenure in Communal Lands

3.1 Methods of land titling in Communal lands

Land titling programmes entail processes intended to record various individual land rights in different types of registries with data on property rights including boundaries of particular parcels of land combined with the name of a property holder. Through the land title, and institutions responsible for registration, a property holder becomes connected to the state, thus enhancing the scope for taxation. This system putatively prevents the holder of the property rights from being alienated from the particular piece of land by third parties and to enter into land transactions.

Kenya has a long history of converting customary tenure in Africa. Titling entailed first ascertaining individual or group rights and land boundaries under customary tenure to approximate ownership in a legal process called adjudication. Then the individual land rights are demarcated with boundaries and a final adjudication of rights over individual parcels is undertaken. The recording of land claims adjudicated was supported by a law which required state offices to record claims and recognise local customs of overlapping claims to a particular piece of land. Local interpretations of custom and local notions of legitimacy as regards land rights are entailed in the process of introducing permanent boundaries into a tenure system where land-use rights were fluid, often based on negotiating, and sometimes involved overlapping use rights on a single piece of land (Smucker, 2002).

The second stage of titling involved the aggregation of all pieces of land over which each individual or group has rights and the allocation to the individual or group of a single consolidated piece of land which is approximately equivalent to their several units. This was called the consolidation process. The last stage involved the entry of rights shown in the record of existing rights or adjudication register into a state-maintained land register and the issuance of a certificate for ownership, namely the process of registration.

The certificate of ownership in some countries, where land titling programmes have been implemented is accompanied by a survey map indicating the boundaries of the parcel of land to which a person holds the property rights (Cotula et al, 2003). The maps of land holdings are produced by systematic surveys using techniques such as Global Positioning System (GPS).Rather than wholesale systematic surveys on all customary areas, some land titling programmes introduce flexibility by offering residents in these areas to apply for title (Cotula et al, 2003).

3.2 Feasibility of land titling in Communal lands

The feasibility of land titling in communal land tenure areas tends to be shaped by the political consensus and social demand for titling within the communities involved, and degree to which the land adjudication is participatory rather than imposed. The literature suggests that most of the earlier land titling schemes were imposed by colonial authorities and to some extent by post-colonial elites, funded by large donors in the context of aid conditionality. The high costs of land titling have also tended to limit its feasibility.

3.3 Financial requirements for individualisation of land tenure

The high costs of land titling arise mainly from costs of surveying and physical boundary demarcation, and from the costs of ensuring a participatory land adjudication process. Furthermore, the land registers need maintenance based on adequate state allocations and/or charges levied on the title holders, while various other costs from the legal process of conveyancing land transactions. There are cheap mass titling measures which have been tried during the last two decades.

3.4 Institutional framework for individualisation of tenure: state and private sector

Land titling programmes represent the intervention of the state to construct property rights which are considered absent in customary areas, and implementation entails the interaction of state and customary institutions in ascertaining the individual land rights (Smucker, 2002). Land titling programmes can either be centralised (i.e. implemented from the top by the central state) or decentralised to local institutions under the oversight of the central state (ibid).

The common trends over the two last decade or so on land administration activities (including land titling and registration process) are increasingly being transferred to decentralised bodies created by the central state through various legal statutes (Moyo, 2008). Cotula et al, (2003; 2001) highlight efforts at decentralised state managed land titling and registration programmes, leading to the establishment of formal institutions. These include Land Commissions in Niger, the District Land Boards and local Land Committees in Uganda, and the Communal Land Boards in Namibia adopted from Botswana's Land Boards. The composition of such bodies varies considerably from country to country, but members are largely appointed by central government institutions. In Botswana, only five of the twelve members of the Land Boards are elected and subsequently approved by the Minister for Lands, while five other members are appointed by the Minister and two represent other ministries. In Namibia, board members are appointed by the Minister along criteria set out in the legislation to ensure the representation of different land interests. The central state usually provide training for the decentralized institutions on registration of land rights, maintaining and updating village land registers and land market transactions such as markets, mortgage and rights (Ibid).These bodies are normally bound by statutory requirements to deploy local institutions in land adjudications and boundary demarcations, experienced in Kenya (Smucker, 2002).

In some situations, land titles are first legitimated at the village level before they are officially registered through public community registration schemes (Cotula et al, 2003). Another example of decentralized land institutions tasked with managing land rights programmes include Village Land Councils in Tanzania (Cotula et al, 2003, Pedersen, 2012). These are elected local government institutions which are directly elected by villagers and are designated Land Managers by the Village Land Act 1999. They are supported by the Village Executive Officers, who provide administrative and secretarial support to the Village Councils, in maintaining the Village Land Register.
The Central governments determine the powers and functions of the decentralized land titling and registration institutions and these tend to differ across countries (Cotula et al, 2003). In the Namibian case, the Communal Land Boards perform land management (allocation of leasehold rights and control over land management decisions of chiefs over customary rights) and administration functions (maintenance of land register and issuing land titles (Ibid; Communal land Reform Act, 2002). The same applies to Village Land Councils in Tanzania. Land bodies in Niger and Uganda are only mandated to issue land titles (Cotula et al, 2003).

Although, the central states devolve functions of land titling and registration programmes to decentralized institutions, the tendency has been to retain critical responsibilities and exert influence over these institutions in a variety of ways (Cotula et al, 2003). These include the appointment of members to the decentralized institutions, provision of oversight through directions and regulations. Quite critically, local land institutions are reliant on the central state for financial support and technical expertise.

Most African governments that have implemented land titling and registration programmes face manpower challenges, particularly in conducting systematic surveys that accompany the land titles. Although their services are expensive, private sector participation has been sought in customary land tenure conversion to freehold tenure. For instance a study by GTZ (2006), found that Directorate of Surveying and Mapping in the Ministry of Lands, Resettlement and Rehabilitation (MLRR) in Namibia had a vacancy rate of 37.4%. Consequently, most of the land surveying work had to be outsourced to the private sector at a huge cost, as only 15.6% of the governments technical staff were competent to work without supervision.

3.5 Potential challenges in land tenure conversions and their mitigation

Numerous challenges are faced in land titling and registration programmes as shown in the literature. Key challenges range from institutional capacity problems to outright resistance of the programme by communal area residents, the satisfactory demarcation of boundaries and the high costs of titling. Moreover there are many cases where violent land conflicts between various groups (the old/young; insiders/outsiders; ethnic groups; founders/non-founders) emerge. The most notable recent cases are Ivory Coast and Kenya.

a) Institutional capacity

Since land titling programmes involve the creation of new institutions to exist side by side and/or to replace old customary institutions such as traditional or clan leaders, the process can be extremely costly and time consuming as found in Uganda and Niger. This created tensions and conflicts between the old and new land institutions. For instance in the Namibian case, chiefs have retained the power to allocate and withdraw land rights, but with the introduction of Communal Lands Board their decisions are now subject to validation by these statutory bodies (see Communal Land Reform Act 2002; Cotula et al, 2003), leading chiefs to feel undermined by these authorities. The accountability of appointed authorities in decentralised bodies has also been questioned, as the tendency is for political appointees to be accountable to the state institutions that appoint them and supervise them to the neglect of the communal area residents they are supposed to serve (Cotula et al, 2003). Cousins (2009) notes that often these decentralised institutions have vested interests in the land they are supposed to manage and administrate and may serve as institutions of patronage and corruption.

Manpower challenges and shortages of skills have also been a characteristic of land titling and registration programmes. In Kenya, huge backlogs in the administration of titling and registration occurred (Okoth-Ogundo, 1991). In Malawi, around 2006, the land titling programme was reported to be failing to take off ground as a result of limited qualified staff (Holden et al, 2006 cited in Peters, 2009). Lack of capacity in the decentralised land institutions is another challenge. Kariuki (2012) notes that there is extremely limited experience at the village level in maintaining official records in Tanzania, while Pederson (2012) reports that after the withdrawal of technical support to the Village Land Councils in one district in Tanzania, the land titling programme (MKURABITA) collapsed, and no land rights were registered between 2007 and 2011. The Village Land Council is also said to have ceased to exist after the withdrawal of technical support from the NGO that was assisting them. Added to these challenges Cousins (2009) also indicates that the costs of the administrative systems for managing and updating registers can result in the interaction in the registers becoming obsolete.

b) Resistance from Communal Area residents to change

Since land titling programmes tend to be led from the top by the state, implementation faces severe challenges if it is not supported on the ground (Pederson, 2012). Land titling programmes remove the “flexibility and negotiability” characteristics associated with customary tenure systems (Peters, 2004 cited in Cousins, 2009). The boundaries created by individualisation of land tenure may exclude other previous users of a particular piece of land and such users can contest and reject the legitimacy of the exclusion (Ibid). The state and communal area residents might also not share the same understanding of what land titling programmes aim to achieve. Johan (2005) noted that the small farmers and the government in Rwanda had different perspectives on tenure security during the land registration programme with the small farmers wanting “security from land disputes” while the government wanted “security through land registration. The registration fee was however not affordable to small land owners and apparently this “produced widespread anxiety and controversy” among the small land owners fearing losing out their land (ibid).

c) Determination of boundaries

The satisfactory determination of boundaries of the parcels of land to be assigned for individual tenure rights is one of the potentially most contentious issues in land titling programmes, particularly where there are multiple and overlapping rights in areas such as grazing and forests which are normally common pool resources (Cousins, 2009; Smucker, 2004). In Kenya, the criteria outlined in the demarcation of boundaries that considered the history of use and labour, investments on the land presented challenges in their applicability to grazing areas resulting in many disputes between villages and individual households across districts (Smucker, 2004).

Similarly recording land rights on land which is associated with multiple rights to an individual has been problematic. Recording the so called “family lands” in the name of an individual within the family is also a source of conflict and exclusion of other members of the households such as women and children who have claim to the land rights. Disagreements on the appropriate location of boundaries between neighbouring households are also a potential problem. In Kenya contestations over boundary locations were difficult to resolve and stalled progress in the land titling programme (Smucker, 2004).

d) Affordability

The affordability of any fees that small farmers are required to pay to obtain land titles is also a major implementation challenge. Where the fees are considered to be expensive, the process has been shunned by farmers. Furthermore, in the event the land titling programme has been effected, high registration fees may result in many land transactions such as sale not being registered resulting in the land registers becoming outdated (Cotula et al, 2003).

Thus the mitigation of such implementation challenges is best guided by certainty that there is widespread demand for and fair consensus over reforms, that the institutional changes are appropriate to the local political structures, that adequate resources to manage the institutions are available. Moreover, the actual benefits of titling have to be empirically clear to ensure that they outweigh the costs.

4. Potential Impacts of Communal Land Tenure Conversion

4.1 Effects on economic growth: agricultural credit, investment and productivity

Much of the empirical research on land tenure in Africa shows that there is little or no positive relationship between land titling and agricultural investment. The World Bank (2003) concluded the limited benefits of land titling on agricultural investments in Africa that emerged from several empirical studies arose partly from the security provided by customary land tenure. Similar Kenya studies found no correlation between land titling and agricultural investments (Place and Hazell, 1993; Mighot-Adhola et. al. 1993). Pickney and Kimuyu (1994) compared investment levels between one village in Kenya where land titling had been implemented and another village in Tanzania where land was nationalised and found no significant differences in the investment levels in the two villages which concentrated on coffee growing. They note the investments made by farmers in the Tanzanian village are explained by the security of their landholdings under customary tenure. Similarly in Burkina Faso, the relationship between land tenure and agricultural investments was found to be weak (Brasselle et.al. 2002 cited in Chirwa, 2008).

Nonetheless some studies on the impact of land titling on agricultural investments (e.g. Ethiopia, Deininger and Jin 2006) found that individualised land rights had a positive impact on investment and terracing. Increased tree planting in Uganda was also found to be associated with land titles (Deininger et. al., 2006). In Zambia, land titling was found to be positively associated with fixed investments (Smith, 2004). However, it has been argued that the range of such agricultural investments were not entirely motivated by land titling programmes (Smucker 2002) because investments in soil and water conservation techniques are driven by a range of factors that include the slope and the condition of the parcel of land, access to extension advice, access to wage and kin labour, involvement in cash cropping and other dimensions of land tenure not necessarily limited to land titling. Others (Place, 2009) have also argued that although some of the empirical results on the positive relationship between land tenure and investment are statistically significant they "…would hardly qualify as important because of their very low marginal impact" (pp. 1329).

4.1.1 Agricultural productivity

The effect of land titling on agricultural productivity has also not found empirical grounding across most of the African countries that privatised customary tenure systems, as shown by evidence from Uganda (Pender et. al., 2004), Malawi (Place and Otsuka, 2002), and Kenya (Mighot-Adholla, 1998; Haugerud, 1989; Okoth-Ogendo, 1991). In Ethiopia, the total factor productivity was similar across both lands with and without titles (Gavin and Ehui, 1999). In Kenya, increases in agricultural productivity in smallholder sector in the post independence period (after 1967) were generally attributed to the broader agricultural policies (adequate crop prices, extension services, marketing infrastructure) alongside the land tenure reforms (Cotula et. al., 2003; Smucker, 2002; Pickney and Kimuyu, 1994). The use of productivity enhancing inputs such as hybrid seeds was no different on land with and without titles in Ghana, Kenya and Rwanda (Place and Hazell, 1993), and Ethiopia (Yohannes, 2002). In Malawi, Chirwa (2008) concludes that land tenure reforms via land redistribution that are accompanied by complementary investments, and inputs assistance to small farmers are more likely to generate substantial benefits to investments and agricultural productivity.

Access to credit as a result of the availability of collateral to secure loans from financial institutions has also not increased as a result of land titling programmes. Apparently, the empirical evidence shows that even after obtaining land titles small farmers who are willing to borrow money from financial institutions face challenges and/or are not willing to use their land as collateral. In the Kenyan Village studied by Pickney and Kimuyu (1994), only two households out of 115 had outstanding land- secured loans. Most of their respondents feared foreclosure. Similar results were also reported in other districts of Kenya, such as Nyanza where seven years after the completion of the land titling programme, only 3% of the small farmers had used their land to secure loans from the banks (Shipton, 1988 cited in Cotula, et. al., 2003). In fact, off farm incomes from remittances have been found to be the major source of financing amongst small farmers. At any rate, formal and large scale financial institutions perceive small farmers as high risk borrowers, and find lending to them have high transactions costs associated with extending credit scattered farmers seeking small amounts.

Where farmers have managed to access loans using their land, research has shown a new challenge of rural indebtedness emerging. Empirical research in Kenya has shown that land secured loans have often been diverted away from agricultural purposes to finance consumption, children's education and off-farm activities (Okoth-Ogendo, 1976; Haugerud, 1989 cited in Cotula et.al., 2003). This resulted in small farmers failing to service their loans.

Given the evidence that land titling has not been a key source of increased credit and investment, and therefore a key source of increased agricultural productivity, it can be inferred that titling programmes in Africa have not contributed much to the limited growth of employment and industrialisation. On the basis of counterfactual arguements it can even be inferred that high growth and industrialisation rates in China and South East Asia in general have also not been a consequence of titling given that land tenures there are also not formalised freehold tenures.

4.2 Impact on the rural livelihoods and poverty: Land access, food and livestock production

Land titling programmes can also result in negative land use changes, particularly in relation to livestock land use. Grazing lands that were previously accessed to various members of the community and are claimed by individuals during the privatisation process have tended to disadvantage pastoralists and the poor. In Kenya there was a reduction in the grazing lands after the land titling programmes (Smucker, 2004) and in some communities, public grazing lands are reported to have disappeared as people moved in to claim these during the adjudication process (Kariuki, 2012). This in turn resulted in small farmers destocking their livestock as they could not access adequate grazing such that the goat stocks declined significantly in 65% of the households (Smucker 2002). Crop farming became the dominant agricultural activity reducing the farmers coping strategies in the event of crop failures.

Since most studies have found no positive relationship between land titling and agricultural productivity, it is not surprising that food production, for instance in Malawi (Chirwa, 2008) found that the beneficiaries of the land redistribution programme were producing more food (maize) than the land- short non-beneficiaries. However, this was largely attributed to the start up assistance package that beneficiaries received from the government on relocated to their new lands rather than the tenure security of their land. In fact after controlling for the other factors (Chirwa, 2008) found no econometric evidence to suggest that beneficiaries of the land tenure reform were more productive than non beneficiaries in maize production.

In general, the privatisation of land that accompanies land tilting tends to lead to the disenfranchment of some poor small farmers, alongside vulnerable groups such as women. Lands officers responsible for implementing land titling programmes in Kenya were reported to have demanded "gifts" from land claimants which resulted in the exclusion of the poor farmers who could not afford these (Shipton, 1988). This resulted in the emergence of a class of landless people, some of whom migrated to the urban slums. Land registration also has a tendency of entrenching class and wealth differentiation as the unequal land ownership patterns between clans and/or families are formalised through registration process (Peters, 200; Cotula et al, 2003).

4.3 Impacts on the social values of rural people: Land rights, conflicts and markets

Rather than reducing land conflicts in customary areas, land titling programmes have tended to increase their rate of conflict in areas where they have been implemented, mainly as a result of neglecting of overlapping and multiple rights to the use of land (Peters, 2009). In Tharaka District of Kenya, Smucker (2002) notes that land use conflicts were not widespread before the privatisation of land tenure and that local customary institutions were well equipped to resolve them when they occurred. The introduction of the land titling programmes was however associated with high rates of disputes among neighbours over boundary demarcation and ascertaining rights to a particular piece of land. A weak association was found between the possession of land titles and the perceived land rights, and the incidence of land disputes in four districts in Kenya (Place and Mighot-Adholla, 1998 cited in Place, 2009).

Research has also shown that customary tenure systems are resilient even where land titling has been implemented. The individualisation of land tenure in Kenya is reported not to have altered the conceptualisation of land as a collective asset with family or clan title still predominant in the identification of land ownership (Kariuki, 2012). Although land titles offer complete control of the land to the person in whom the title is registered, in practice extended family members continued to access and use land registered in their kin (Pickney and Kimuyu, 1994). In fact it is noted that in districts characterised by land shortages, there are widespread disputes over titled land in the Central Province, resulting in the state to direct the resolution of the conflicts through customary systems rather the legal courts. Moreover, people have continued to use customary rules of access to multiple sites rather than stick to individually registered land parcels and land transactions have proceeded outside the formal registration framework (ibid). Pickney and Kimuyu, (1994) also reported that the indigenous land tenure systems remained more important in the governance of land in the areas which had undergone land titling programmes in Kenya. Place and Mighot-Adholla (1998) found that most of the titles were outdated and the people on the land were not necessarily the ones registered for that parcel of land. In fact Shipton (1988) notes that there was a great distinction between holding title and the actual ownership of the land in Kenya.

Rather than the assumption of the value of land as limited to its economic value through agricultural production, land plays a much broader social, political and cultural function to rural people in Africa (Moyo, 2008). As a result the theoretical predictions that land titling which introduces the tradability of land has not resulted in the stimulation of land markets and the so-called transfers of land to “efficient” farmers. Pickney and Kimuyu, (1994) found that land purchases were not significantly different between a Kenyan village which had undergone land titling and a Tanzanian village operating under customary tenure. Where land purchases have been recorded, they were dominated by urban elites for speculative purposes which implied that land markets did not result in the predicted efficiency enhancing effects (Cotula et al, 2003).

4.4 Effects on women's land rights and tenure conversion in communal lands

The problems women face in their access to and control of land resources in communal lands are well documented since patriarchal systems operating in most African countries mean that most women derive their rights through their relationship with men as wives and daughters (Lasstarria-Cornhiel, 1997; 2009; Manji, 2003; Tsikata and Whitehead, 2003). Land ownership tends to be vested in men (except in matrilineal systems that exist in some countries).Women face loss of land rights in the event of divorce or death of the spouse (Lasstarria-Cornhiel, 2009). Despite their major role as providers of labour services, the products of the land they work is also mainly appropriated by men. In Zimbabwe, less than 10% of the land owners in communal lands are women and even fewer (15%) held title in the freehold tenure regime of large scale commercial farms before the fast track reform from 2000 onwards (Moyo, 2011). In some parts of West Africa, the majority of women were found to derive land rights on a short period basis through rental markets and sharecropping arrangements (Edja, 2001 cited in Lasstarria-Cornhiel, 2009). This inequality of access to and control of land resources explains structural differences in poverty levels between men and women in rural Africa (Peters, 2009; Tsikata and Whitehead, 2003).

Land titling programmes in communal areas tend to entrench the inequalities that exist between men and women. Lasstarria-Cornhiel (2009) argues that "[women] often do not have direct control over resources; they tend to lose their indirect rights when societal changes occur because those who have traditionally controlled resources are able to increase their own rights, often at the expense of those with secondary rights." (pp. 4). Since titling registers family owned land rights (under the control of men) in a particular land parcel to an individual (usually male household heads), male dominance in the ownership of land in the former communal lands is formalised and legally entrenched. Women's secondary rights tend to be neglected in land titling privatisation programmes.

The empirical evidence shows that in the majority of countries that have undergone land titling, land was overwhelmingly registered in the names of male household heads. Cotula et. al. (2007) citing numerous studies in different parts of Kenya provide evidence of this and Shipton (1988) reported that only 7% of the plots in Kanyamkago district where registered in women's names. Non registration was reported to be widespread among the Kikuyu (Mckenzie, 1998) and Masaai (Galaty, 1994). Women were also disenfranchised because the small plots of the land allocated to them by men for independent food production were consolidated with other family lands and registered in the names of males (Cotula et. al, 2007).

While some land titling programmes are designed to be gender neutral by allowing for joint registration of title in the name of both spouses, in practice this is evaded as the patriarchal systems pervades land tenure relations in Africa (ibid). For example in Zimbabwe, the registration of land allocated during the Fast Track Land Reform programme provided for joint registration of land in the names of both spouses but social and cultural norms meant that few women applied for this for fear of undermining their marital relationships (Moyo, 2011).

However, many middle class based women's land lobby organisations in Africa argue in favour of land titling to overcome the inequities of the patriarchal tenure system (Moyo 2008), and more recently for land administration reforms which enhance the role of women in decentralised decision making structures (Shivji et. al., 1998). Thus, much more is required to ensure gender equity in land titling programmes.

5. How do we, then unleash the Potential of Communal Land

In general therefore, the experience in Africa suggests that the benefits expected of land titling, including economic growth, increased agricultural productivity, increased credit supply to farmers, effective land markets, reduced land conflicts and improved livelihoods, have not been realised. Instead a variety of other policy measures have contributed more to agricultural growth and productivity increases. One such policy measure is to increase access to land among farmers in congested Communal Areas. Whilst the customary tenure reforms have been the dominant theme on the policy discourse on economic stagnation in rural Africa, small farmers in former settler colonies such as Kenya, Namibia, South Africa and Zimbabwe (lessened by extensive land redistribution since 2000) face challenges as a result of the inequitable land distribution (see Moyo, 1995; 2008).

Colonial conquest meant that small farmers were alienated from vast tracts of land and were pushed to the margins by the European settlers. Small farmers in these countries are mostly located in areas with the lowest agro-ecological potential characterised by poor soils, low rainfall and low per capita infrastructural investments.

In Zimbabwe, over 50% of the agricultural land was under the control of 4,000 white farmers until 2000, while in South Africa over 80% of the land still remains under the control of white large scale commercial farmers (Moyo, 2008). Inequality in the distribution of land is also problematic in Namibia where 10% of the population (mostly whites) control over 50% of the agricultural land (GTZ, 2006). The average arable landholding for small farmers in communal lands in Zimbabwe is around two hectares in comparison to an excess of 2,000 hectares that were owned by (white) large scale commercial farmers prior to 2000 (Moyo, 1995; 2011). Similarly in South Africa, the average size of land owned by small black farmers in the former Bantustans was 1.3 hectares compared to a whopping 1,570 hectares for large scale white commercial farmers at the end of the apartheid era (Deininger and May, 2000).

Even in non settler Africa, sizeable amounts of prime land and water systems were alienated to create plantations under colonial rule and during the post-colonial era to create state farms and private plantations. Examples include, Malawi, Zambia, Swaziland, Tanzania, Cameroon, Sudan, etc. This meant that although customary tenures were the predominant land tenure regime, large sections of the smaller farmers were crowded into smaller areas of arable and pastoral lands, and population growth led to escalating land shortages. In these situations improving access to land among the poor is a key strategy with the potential to raise production levels.

Improved access to land by land short and/or landless residents of customary tenure can be critical in improving their livelihoods and household welfare, as it tends to expand the area under cultivation by family farmers, raising per capita output. Redistributive land reforms in Malawi accompanied by post settlement support in the form of input assistance packages have for instance allowed previously land short and/or landless to commercialise food production, as access to larger pieces of land has allowed them to crop beyond household food requirements (Chirwa, 2006; 2008). Various studies cited by Chirwa (2008) have also argued that the distribution of land is a key explanatory factor in the adoption of agricultural technologies and poverty levels (see Green and Ng'ong'Ola, 1993; Mukherjee and Benson, 2003; Chirwa, 2005a and 2005b; GOM and World Bank, 2006).

In Zimbabwe, even the pre-2000 land redistribution programme led to substantial agricultural output growth (Moyo, 1995) and productivity and welfare gains (Dekker and Kinsey, 2011) as more family farmers applied their labour and various resources such as wages and remittance incomes to expand production. After the Fast Track Land Reform Programme in Zimbabwe, by 2011, the total cropped area had grown by about 50%, reflecting the high degree of land underutilisation at over 60% among large white farmers on freehold tenured land, and the expansion of the numbers of family famers by over 15% (Moyo, 2012). Land redistribution also led to a substantial expansion of employment through both self-employment and part-time labour services (Chambati, 2012).

Unfortunately in the wake of the world financial, energy and food price crisis since about 2005, various forms of international capital (e.g. hedge funds, agri-businesses, state corporations, green investors and other investors) and domestic capital have sought to acquire large tracts of land towards establishing a new wave of agricultural plantations oriented towards export production (Moyo and Yeros, 2012). The phenomenon "foreign land grabbing" is pervasive in about 20 African countries, including Ethiopia, Sudan, Tanzania, Zambia, Mozambique, the DRC, Congo, Sierra Leone, Mali and Madagascar, and has led to a host of new land conflicts arising from the dispossession of small producers and pastoralists (see Grain 2012). Such dispossession has led to foreign monopolistic controls over vast water resources, biodiversity treasures and fragile ecosystems, disrupting the farming systems of farmers and pastoralists, with the promise of increased employment opportunities and food supplies (ibid). So far, such benefits have not materialised. Yet in other countries redistributive land reforms and state support for small producers to access inputs and credit in collaboration with capital are showing the prospects of investing in small farms within communal tenure areas.

While improving access to land among Communal Areas does promote agriculture investment and productivity growth with important national benefits, such positive effects tend to be a one-off effect, which need to be accompanied by other agricultural policy support measures to deepen productivity over time. This entails policies which promote both state and private sector initiatives directed at enhancing on-farm and off-farm investments towards increasing productivity of small family farmers in redistributed lands and in customary tenure areas.

6. Alternative Sources of Investments in Communal Lands

There are a range of tried and tested alternative sources of financing investments and mechanisms of delivering inputs and credit to farmers in Communal land tenure areas which have emanated from recent deliberate policy shifts by African states seeking to promote production incentives and broader sources of private initiative targeting small producers. Various forms and sources of credit which do not require land as collateral have been tried with the system of contract and out-grower farming playing an increasingly pivotal role in productivity growth. Public agricultural investments and subsidies have increasingly played a critical role in promoting alternative investment systems. While these have not been sufficient to address the full range of the needs of agriculture in Africa, their positive impacts are worthy of consideration in place of an over-emphasis on land tenure or land titling reforms.

6.1 Agricultural credit and lending for Communal lands

A variety of sources and forms of agricultural credit targeting small producers in Communal Areas have been tried and found to be successful in a number of African countries. We highlight a few examples from Zimbabwe and Kenya, and draw out the general lessons from those experiences

6.1.1 Individual credit schemes

As the case in former settler Africa, in Zimbabwe freehold tenure is considered sine quanon of credit supply which is mainly seen as coming from private banks that require land as collateral. Indeed, people had prematurely condemned farming in Zimbabwe alleging that redistribution had led to the creation of "dead capital". In Zimbabwe, since 2004/5 banks have been lending to some farmers on the basis of either collateral securitized by assets other than those tied onto the land lease. These include the use of urban property, farm machinery, motor vehicles and equipment on hire purchase, etc as a basis of collateral. Indigenously owned banks instead have tended to use the perceived "viability" or "bankability" of the farm projects as the main criteria for providing credit, even without collateral in many cases.

Finance houses are reportedly "innovating beyond the individual collateral system" (Tagarira, 2007) to various sub-contracting, group lending 'special purpose vehicles', partnerships and merchant financing schemes. However, certainty that the farmer has the right to hold land, without the threat of eviction, has been an important consideration, including for access to state backed or directed credit (ASPEF, Agribank).

Although such financing has not been sufficient to cover national agricultural credit needs, the experience shows that title on farming land is not the main, let alone only criteria required by banks to lend directly to farmers. Other types of assets can be used to lend. More recently some banks are using cattle as security for their lending to individual farmers. In general, banks have lent substantial amounts to farm contract financiers as intermediaries between them and many small farmers.

6.1.2 Group lending schemes

Group lending schemes are more suitable to Communal Areas than individual lending schemes. The Grameen Bank are is an example of an institution that deploys group lending in rural areas in India. Lending to groups allows micro-finance institutions to reduce their transaction costs, and thereby increase the numbers of small farmers reached. Group lending schemes were fairly successful in Zimbabwe during the 1980's but these were mainly driven by the state's agricultural finance corporation. After adopting the structural adjustment programmes, which liberalised the financial sector and curtailed public subsidies to farming, such lending declined significantly.

6.1.3 Cattle loan schemes

Special lending arrangements for small farmers' livestock development are also a critical avenue for unlocking the economic potential of Communal Areas. For instance, Heifer Project International (HPI) provides gifts of livestock and training to help families improve their nutrition and generate income in sustainable ways. The HPI view animals as "living loans" because in exchange for livestock and training, families agree to give one of their animal's offspring to another family in need. In partnership with ECLOF, Uganda promotes the HPI to expand its reach tremendously enabling farmers get rapid access to the full ownership of the heifer upon repayment of loans. The HPI enhances the identification and transportation of quality heifers and veterinary care.

The main investment risk involved in this livestock lending arrangement is the loss of the heifer due to disease. Consequently farmers are required to purchase comprehensive insurance for their livestock, with about 1% of the loan value going directly to reputable micro insurance companies. Moreover, the loan itself is repaid through the sale of the milk produced by the heifers while the groups also use this income to purchase milk coolers acquired on loans (ECLOF International Annual report 2009).

6.1.4 Hire-purchase schemes for agricultural machinery and equipment

Another source of investment to small farmers is hire-purchasing (see Box 1). Leasing is a traditional medium-term alternative for machinery acquisition, as it reduces the constraint of guarantees and it enables small producers to acquire animal-traction and other equipment which serve as a guarantee. Leasing consists of separating the ownership of an asset from usufruct or user rights with the lending institution remaining the legal owner of the asset until the client has reimbursed in full. The leasing product offered by mutualist network CECAM in Madagascar is an example of this form of financing (Wampfleret al., 2007). The CECAM network acquires the good requested by the members and transfers them to the member or lessee, who rents it on the basis of a down payment of 10% of the asset value of agricultural machinery, and lease or rent payment, at a rate of 2.5% - 3.5% per month. The network owns the asset until the lessee pays the entire value plus interest and fees through contracts ranging from 6 to 36 months. In the event of default, CECAM can repossess the asset without any specific litigation procedure. CECAM uses guarantee such as common rural items, including cattle herds, (French Microfinance Network Rural Finance Commission 2007).

Box 1—Key features of a financial lease contract

- Security: The primary security is the leased equipment. In some cases a small amount of cash or other asset owned by the lessee may be taken as additional security.
- Insurance: The lessor insures leased assets with commercial insurance and includes the cost in the lease price.
- Lease term: Lease terms range from two to five years.
- Lease cost: It includes cost of insurance, operating cost, loss provision, and profit.
- Lease payment schedule: The payment schedule can be monthly, quarterly, half-yearly, or annual.
- Option to purchase: On completion of the lease payments, lessees have the option to purchase the leased assets at a certain percentage of the lease cost.

Source: French Microfinance Network Rural Finance Commission 2007

Studies by the World Bank in 2006 showed that leasing in rural areas was equally profitable as in the urban areas (ibid). Thus, financial leasing in rural areas is viable means for small producers to acquire productive assets and rural enterprises of different sizes benefit from leasing. However, studies on rural leasing shows most of the beneficiaries have been nonfarm enterprises. Furthermore, while rural leasing can be profitable, its initiation requires government and donor support.

Thus, targeted institutional support from the state can be essential to develop the rural leasing sector and leasing organizations require well-trained staff and effective financial and risk management systems. A wide range of private organizations—leasing companies, banks, financial cooperatives, microfinance organizations, and equipment-selling companies—could benefit from state support to establish hire-purchase lending schemes (Kloeppinger-Todd, R., and Sharma, M 2010) targeting Communal Areas.

6.1.5 Micro-finance schemes

Micro-finance institutions are critical in extending banking services to under banked rural areas through the application of innovative instruments. They have however not yet managed to reach out to a broader base of small producers whose livelihoods are characterized by highly seasonal investments, risks, and returns (Peacock et. al., 2004), but successes have also recorded. The success of the new financing initiatives as exemplified by Equity Bank of Kenya (Box 2) which operates along the lines of the Grameen Bank in Bangladesh, in providing banking services to the poor including the smallholders needs to be highlighted (see Box 1).

Box 2: Mobile Banking and Farmers Access: The Case of Equity Bank, Kenya

Having commenced business in 1984, Equity Bank has evolved from a Microfinance Institution to a publicly listed commercial bank. Several partnerships have contributed to the success of this bank: the Financial Deepening Challenge Fund (FDCF) 13 in particular partnered with the Equity Bank to set up a fund of £450,150 (USD 654,000) for a mobile bank's project. Equity Bank is bringing mobile banks to some of the most isolated parts of rural Kenya that have no access to commercial financial institutions. The mobile banks offer banking goods and services to many small businesses and smallholder farmer, providing their customers with the same financial services as in regular branches, including deposits and savings, money transfers, and remittance processing and loans. Such service reduces congestion in the Equity's existing branches and increases the bank's customer reach. Mobile customers pay only an additional small fee for their mobile services relative to the rates for the same transactions at branches. As Equity's mobile banking scheme extended its reach, five more villages and over 100 smallholders and farmers in Kenya's remote Siaya district now have access to banking facilities. The United Nations Development Programme has provided USD 81 million in loans in partnership with the Equity Bank to set up a fund serving women. Equity's loans are based on an evaluation of a business's cash flow, rather than on collateral. Clients can borrow as little as USD 25 and as much as USD 160,000 or more, depending on their past repayment record.

A major new partnership was launched with Equity Bank to provide smallholder farmers and small agricultural enterprises with the needed financing to break out of poverty and build viable businesses. The Alliance for a Green Revolution in Africa (AGRA), the Equity Bank, the International Fund for Agricultural Development (IFAD) and the Kenya Ministry of Agriculture established a loan facility of USD 50 million (3 billion Kenyan shillings) to accelerate access to affordable financing for 2.5 million farmers and 15,000 agricultural value chain members such as rural input shops, fertilizers and seed wholesalers and importers, grain traders, and food processors. This loan facility will operate parallel to a USD 5 million "cash guarantee fund" from AGRA and the International Fund for Agricultural Development, which will reduce part of the risk of lending by the Equity Bank.

Source: AfDB (2010)

6.2 Financing agricultural production in Communal lands through contract

6.2.1 Contract farming models

Contract farming is an arrangement where the farmer produces and supplies a specific agricultural product and the entrepreneur buys it at an agreed price. Contract farming enables farmers to access expensive farming inputs and technologies. Most contracting farming arrangements entail the provision of inputs to the farmer in return for the sale of agricultural output at a pre-determined price. Well-aligned incentives and monitoring system are preconditions for the arrangement to work (SIDA, 2006 cited by AfDB, 2010). Contract farming has been an important feature of agriculture in Southern and Eastern Africa and thus has received more attention from policy makers and donors in an effort to promote rural development and employment creation. Such contract schemes have been widespread throughout the SADC region and include schemes for crops (mainly cash) as well as, livestock, timber and wildlife despite challenges of side marketing.

Contract schemes have been promoted by national governments to ensure food security (Malawi, Zimbabwe etc) and also to earn foreign exchange. Contract farming arrangements fall into one of five general models as shown below:

Box 3 contract farming models

The centralized model. The sponsor purchases crops from farmers for processing, and markets the product. Quotas are distributed at the beginning of each growing season and quality is tightly controlled. Generally associated with tobacco, cotton, sugar cane, bananas, coffee, tea, cocoa and rubber.

Nucleus estate model. The sponsor owns and manages a plantation, usually close to a processing plant, and introduces technology and management techniques to farmers (sometimes called "satellite" growers). Mainly used for tree crops, but has also been applied to dairy production.

Multipartite model. Usually involves statutory bodies and private companies jointly participating with farmers. Common in China, where government departments, township committees and foreign companies have jointly entered into contracts with villages and individual farmers.

Informal model. Individual entrepreneurs or small companies make simple, informal production contracts with farmers on a seasonal basis, particularly for fresh vegetables and tropical fruits. Supermarkets frequently purchase fresh produce through individual developers.

Intermediary model. Formal subcontracting of crop production to intermediaries is common in Southeast Asia. In Thailand, large food processing companies purchase crops from individual "collectors" or farmer committees, who make their own informal arrangements with farmers.

Source: Woodend (2003)

Contract farming and collective action can positively incorporate smallholders in high-value supplies chain that require specialized inputs and sell to markets for specialized outputs, although of critical importance is awareness of and compliance with standards for high-value products and the capacity of small producers to negotiate favourable terms. If well-utilized, stronger linkages of smallholders with supermarket chains and agro-processors are likely to improve marketability and profitability of their products (Woodend, 2003) In this regard, some SADC countries such as Zimbabwe, Malawi, Zambia, South Africa, and Madagascar provide lessons on how smallholder farmers can benefit from the emerging agro-processor and retail networks. Competition among contractors is a key precondition for the system to work, as is the case in Uganda's Nile Breweries Eagle Project (AfDB, 2010).

In Zimbabwe, cotton which is predominantly produced by small farmers in communal land is entirely financed through contract farming (Moyo and Binswanger, 2012). The recovery of the tobacco sector after the Fast Tract Land Reform in Zimbabwe has also been driven by contract farming. Since 2009, over 60% of the tobacco produced in the country was financed through contracts (Moyo, 2011). Prior to the FTLRP, contract farming was predominant in the production and marketing of cotton in communal areas, horticulture, barley and maize seed in the LSCF. In the tobacco sector for instance the number of contractors grew from three in 2003 to 12 in 2010 and included foreign contractors mostly from China (TIMB). At least 13 firms were contracting cotton growing in the 2010/11 season, compared to three to five in the late 1990's. Contract farming is being favoured by farmers as it lessens their burden to mobilise scarce agricultural inputs and finance for farming as they received these from contractors in return for commodity sales. Other commodities such as sugarcane (Hippo Valley Sugar estates), tea, coffee (Tanganda and Ariston Holding) and horticultural produce (Hortico) continue to be produced under various outgrower schemes, benefitting over 16,000 smallholders.

Not surprisingly contract farming became central to the financing of smaller and middle-scale farmers, who joined export production to gain access to inputs and increase their earnings. This shifted pre-2000 agrarian relations from the dominance of private credit relationship between individual farmers and banks, towards bonding them with contracting intermediaries. Before 1986, government had been the major creditor (Moyo 1995). When foreign currency and agricultural markets were re-liberalised, agricultural sub-contractors escalated such pre-financing arrangements. Private bank credit to agriculture increased to over $300 million in 2010 (MoF 2011), but over 60 percent of this went to contractors (USAID 2010).

Even, in South Africa, the increased need by agribusiness and retailers to control quality, volume and food safety and to ensure a consistent supply, have increasingly resorted to contractual arrangements with producers. About 100% of the supply of tobacco, sugarcane, cotton, timber, meat, poultry and eggs is secured by some form of contracting whilst 78.5% of all fruit and vegetables processed are procured through contracting (Sartorius and Kirsten, 2006). However, most black farmers particularly those producing smaller volumes have benefitted less because of the incremental transaction cost. Nonetheless, over 67,500 smallholders are contracted to agribusiness partners to provide some key commodities, despite the many barriers of entry such a well established large scale commercial sector and quality standards (ibid).

In Uganda, through establishment of a contract farming scheme, Nile Breweries and Afro-Kai played a key role in grains marketing, where smallholders were effectively linked to the market, and in enhancing the confidence of the financial institutions to support Uganda's smaller farmers (AfDB, 2010). The farmers also benefits from the extension services through farmer training programs and provision of technical advice on all aspects of crop management and apparently the scheme guarantees stable prices and provides regular and predictable incomes. This has enabled small farmers to send their children to school and buy medical care and food. More than 8,000 farmers from 26 districts are involved in the growing of Epuripur sorghum with harvest in excess of 6,000 metric tonnes per annum, which injects of over USD 2 million each year into the rural economy in Uganda and creates jobs and wealth for Uganda farmers (AfDB, 2010).

6.2.2 Outgrower schemes

Outgrower farming schemes are commonly associated with estate plantations producing crops such as sugar cane, coffee and tea. At times outgrower schemes have and sometimes been used as a means of resettling areas around such plantations. In Eastern and Southern Africa outgrower schemes include the sugar cane schemes in Kenya, Malawi, South Africa, Swaziland and Zimbabwe, horticultural schemes in Kenya, Zambia and Zimbabwe, and tea schemes in Kenya, Malawi and Zimbabwe. These schemes offer best practices and lessons on the integration of smallholder farmers who have lacked finance and had no collateral to access private credit into mainstream agriculture and more lucrative export-oriented enterprises. Again small producers who had limited access to inputs such as improved seeds, fertilizers and pesticides, as well as markets for their produce have increased their productivity. The outgrower schemes provide opportunities for improving their access to inputs, markets, technology and extension, in turn, improving their incomes and livelihoods.

In Malawi, over 190,000 smallholder farmers are involved in contract farming as outgrowers and they supply agro-processors with raw materials key for home industry development and for the export of tobacco, tea, coffee, sugarcane and other commodities (Kumwenda and Madola, 2005).

In Zimbabwe, outgrower schemes have a long history and continue to be practised in both the crop and livestock sectors using a variety of mechanisms (such as verbal agreements, "soft contracts", registrations, memoranda of understanding, actual contracts some entailing input credit or inputs-for-outputs schemes). However, one aspect of the Fast Track Land Reform was to redistribute some of the plantation lands to outgrowers while retaining the core estates under private capital. This has led to a phenomenal expansion of out grower farming.

The Government of Zimbabwe has promoted contract farming through various policies as a way of improving agricultural production including through legislation governing contract arrangements. These were enacted to entice more contractors to bolster production after the land reform programme and to facilitate linkages between smallholder farmers and agribusiness, to increase access by smallholder farmers to scarce inputs. Private contract farming and commodity merchants now dominate agrarian export markets, because of the reduced fiscal capacity of the state in a "dollarized" economic policy framework and the so-called "illiquidity" of the financial sector, ostensibly because of the "absence of investor confidence". China has expanded the financing basis of the agrarian reform to fill the financing gap left by European capital flight, but financial allocations to farming and agro-industry remain inadequate. Lagging behind has been the use of contracts or forms of outgrowing to enhance investments in Communal Areas and smallholder production of beef and dairy products. The beef market is exposed to exploitative buying of beef and limited support through veterinary and feedstock inputs. Dairy contracts, involving the supply of feeds, medicines and milk collection facilities has only begun recently. However, pork and chicken contracting is on the rise among small and medium scale resettled farmers, although it is yet to reach Communal Area farmers at scale.

6.3 Public investments in Communal lands agriculture

The level of government financing of agriculture has been low in recent years, and African and international organisations have blamed the decline of public investment in the agricultural sector (estimated at 5% of budgets), as the source of poor agricultural performance,[14] and called for increases to least 10%.[15] This deliberate state retreat for decades from financing credit, marketing infrastructure and other inputs, subsidies, as well as the diminished support for technology generation, and faith in unregulated 'markets', underlies Africa's failed agrarian transition. The state also retreated from financing other non-agricultural props for agricultural growth, such as rural development, social welfare and other consumption transfers to the poor. Alongside wage repression, the result was income deflation, and the compression of domestic agricultural demand, in a context of declining of public revenues.[16] However, the recent public financing of agriculture by the Malawian, Zambian and Zimbabwean governments have shown that state has a critical role to play in promoting food security. These governments have managed to prop up smallholder food production.

[14] Over the past 2 decades, overall public spending on agriculture fell from 7.5% to 6% of agricultural GDP while expenditure on agricultural research fell from 0.8% in 1981 to 0.3% in 1991.

[15] Some estimated that to meet requirements, Africa would need to invest at least 20% of their budgets to the sector, if this were the true problem.

[16] This arose from reduced taxation rates and diminished collection, underlain by sluggish GDP growth, largely related to a secular decline in the terms of trade for agricultural and mineral commodities; until 2002.

6.3.1 Input support programmes (e.g. Malawi, Zambia, Zimbabwe)

Low intensity input use in African peasant agriculture is consistent with its broader patterns of weak economic growth, and development, epitomized by food insecurity, which underlies the high incidence of poverty (Poulton and Dorward, 2008). Preferential support to large farms and exports led to uneven development reflecting the unequal political power and economic strength of the peasants vis-à-vis large farmers and the corporate capitalist sector, within the bi-modal agrarian structures promoted by neoliberalism.

Agricultural productivity in developing countries is constrained by low and uneven access to farm inputs and machinery, thus most smallholders still depend on labour-intensive ox-drawn traction and hand weeding. In order to encourage greater private sector involvement in smallholder agriculture, since the 2003 drought, the Government of Malawi has supported a number of initiatives (Agriculture input subsidy programme) which includes loan-finance programmes which it underwrote repayment. The private sector role was to supply fertilizer and seed inputs and recover the loan either in cash or in kind. This led to a substantial increase in maize productivity and the realization of national food self-sufficiency, as well as some regional maize exports, despite the fact that sections of the poor continue to face inadequate access to food, and the persistent of malnutrition.

The Malawi experience however implies providing subsidies to commercial fertilizer imports dominated by oligopolic agribusiness, which has indeed deepened the incorporation of peasants into agribusiness monopolies, which control of agricultural inputs. The “success” has however also allowed for the continued growth of export oriented farming among the middle sized farmers and foreign owned estates.

The Government of Malawi’s fertilizer and seed subsidy programme was introduced in 2005 and co-funded by the Department for International Development (DFID). Small producers were able to buy fertilizer at the subsidized price of USD 6.5 per 50 kg bag (less than a third of the USD 27 per kg retail price), and make a saving of USD 2.80 on seed (AfDB, 2010). The government utilised private sector agricultural dealers and state-owned outlets in the distribution of subsidized inputs. The subsidy is attributed to additional 300-400,000 tonnes of maize produced in 2006 and 600-700,000 tonnes in 2007 (AfDB, 2010; see also Chirwa, 2008). In 2008, Malawi had a maize surplus of 500,000 metric tonnes (AfDB, 2010). This growth in maize production attributed to the subsidy programme excludes the impact that better than average rainfall may have had on the maize yield (ibid). The value of the additional production in 2007 is valued at over USD 100 million which outweighs the USD 70 million cost of the seed and fertilizer subsidy (ibid). The government of Zambia has also followed a similar route and maize production surpluses are being recorded including capacity export to neighboring countries such as Zimbabwe.

In Zimbabwe, state re-introduced input subsidies from around 2002 that had been removed during the Economic Structural Adjustment Programme (ESAP) aimed at boosting food and export production. Various state subsidised schemes were initiated between 2002 and 2008 covering basic agricultural inputs (seeds, fertiliser, chemicals); agricultural credit, farm mechanisation and irrigation. The variety of state support schemes intended to support the new and existing farmers, state farms, agro-industries and merchants were loosely coordinated in an evolving agrarian reform programme. These were most run by the RBZ through its quasi-fiscal activities. The resources for state input support scheme were met through entailed expansionary fiscal that entailed excessive printing of money and the opaque use of parallel currency markets under an inflationary environment. Resources were also mobilised under the Look East Policy was escalated from 2005 for some concessional loans for imported inputs and machinery for state support schemes. Farming increasingly depended on GoZ finance and credit, although its capacity to subsidise inputs and outputs marketing was limited. Nonetheless the subsidies played a critical role in the recovery of the agricultural sectors after the land reform programme. The input subsidies (fertilisers, seeds, fuel) during land reform programme enabled the new resettled farmers to fill the void left by the large scale commercial farmers.

The state support schemes were significantly reduced after the re-liberalisation of the economy from 2009 onwards. In particular the medium and large-scale farmers were encouraged to be self reliant in inputs acquisition. Thus, limited state subsidised inputs directed mainly for peasants were retained in late 2009, and this now involved some donors, supplemented by government programmes.

The bi-modal agrarian strategy followed in Malawi however suggests that smallholder production in Communal Areas can be revived through state interventions against the will of the International Financial Institutions conditionalities, when the Executive and a parliamentary coalition are in favour of the peasantry's social reproduction, and effectively challenge key elements of donor aid under a neoliberal regime. Nonetheless in both the Zimbabwe and Malawi cases the retention of the wider neoliberal policy framework limits the prospects for food sovereignty, let alone the advancement of a more articulated and sustainable development model, independent of monopoly capital.

6.3.2 Water/irrigation

Climate change, resulting mostly from global warming, has been among the major causes of reduced agricultural production and productivity in many parts of Africa. Indeed, climate change could limit the size of maize growing areas in the SADC region (Wahenga Brief, 2007), while the region's preparedness for the anticipated effects are limited. In this regard, investment in irrigation can offset the negative effects of climate change. In Africa, only 2% of the arable area is currently under irrigation.

In Malawi, following the huge success already recorded cereal food production, the government plans to further increase the country's food production through an ambitious irrigation project known as the "green belt" along lakes and major rivers that will help farmers harvest crop all year round instead of a single growing season. Donor support towards the program is increasing and its implementation is being refined to make it more targeted and effective (AfDB, 2010). Similarly, Zimbabwe has ambitious irrigation plans but these are under-funded and suffer from poor electricity supplies.

6.3.3 Marketing infrastructure

In Zimbabwe, before the implementation of the structural adjustment and subsequent liberalisation of the economy, the government had managed to establish an extensive infrastructure to support smallholders. The expansion of food grain storage facilities and collection depots by the state (parastatals) marketing board such as Grain Marketing Board, Cotton Marketing Board and others to cover remote Communal Areas buttressed rural agricultural production. Most rural areas social infrastructures such roads linking a well established railway network reduced the transaction costs for both agro-industry and farmers.

Small Communal Area producers who had been marginalised from these markets until 1980 were integrated through parastatals marketing depots. This led to production increases support by improved extension and credit support. These markets still require further investments to fully incentivise communal production.

7. Agricultural Public Goods and Services

7.1 Agricultural Research, Training and Extension

The International Fund for Agricultural Development (IFAD) argues that: "…increasing productivity and scaling up sustainable agriculture requires investment in agricultural science (2011; pp.173). Despite the recognized benefits of public investments in agricultural, research, training and extension in improving agricultural productivity and overall economic growth, these have been neglected by African governments (Meinzen-Dick et. al., 2003) particularly after the adoption of structural adjustment programmes from the 1980s. Developed countries agricultural research accounts for up to 3% of the agricultural GDP compared to an average of 0.7% in some African countries (Salami et. al., 2009). The disintegration of agricultural research and extension services in Africa has constrained agrarian transformation in Africa (ibid), leading to slow increases in productivity compared to other continents. Between 1961 and 2007, crop productivity in East Asia grew at an average of 3.5% in comparison to 2.5% in sub-Saharan Africa (IFAD, 2011).

Expenditure on agricultural research in the annual fiscal budgets in Africa declined from 3.2% in 1996 to 1.5% in 2000 (Salami et. al., 2010). Africa's share in the public investments to agricultural research accounted for only 6% of the US$94 billion invested in the developing world (IFAD, 2011). In Zimbabwe, after independence, the government invested heavily in agricultural research, training extension services for small farmers in Communal lands that were previously marginalized during the colonial period. Alongside other support services (e.g. marketing infrastructural developments, input subsidies, transport etc.), expanded extension services and research into improved crop varieties are attributed to the production booms in maize and cotton experienced in the 1980s (Rukuni and Eicher, 1994).

Extension services in most African countries have virtually collapsed as a result of the sharp reductions to the operational budgets of agricultural ministries (Mkandawire and Soludo, 1997) and the drastic reduction of donor funding for agricultural extension services (IFAD, 2011). The bias of school curricula towards urban employment also meant that agricultural skills transfer to the younger generation in rural areas is limited (ibid). The slow-down in agricultural growth in the 1990s in Kenya is partly attributed to the disintegration of the extension service, alongside other factors (Salami et. al., 2010). Between 1967 and 1984 agricultural extension services were one of the key drivers of the agricultural growth, alongside other agricultural policies such as price and marketing support to small farmers in Kenya (Cotula et. al., 2003). Research in Kenya, Tanzania and Uganda showed that small farmers who received extension advice through Farmer Field Schools had increased their incomes by over 61% (Braun and Duveskog, 2008; Davies et. al., 2010). The adoption of productivity enhancing agricultural technologies improved crop varieties, soil fertility management techniques, pest control and livestock management was found to be significantly higher in participating households than non-participants. Moreover, they were also shown to be very helpful to women and those with low literacy levels.

7.2 Infrastructural investments in Communal lands: Public-private partnerships

Poor road transportation network continues to hamper rural economic growth in Africa, and most small farmers in Communal Areas are poorly serviced by road networks. This constrains the movement of goods and services in these areas, increasing the small farmers' costs of moving their produce to agricultural markets which are mostly in urban areas. While some transport companies service communal areas, small farmers mostly rely on animal drawn scotch to transport produce over long distances (Salami et. al., 2010). Surveys by the World Bank (2007) showed that transport costs account for as much as 60% of the marketing costs for small farmers in Benin, Madagascar and Malawi. The poor road network in rural areas is partly blamed on the 40% post-harvest losses in dry produce incurred small farmers in rural Africa (UNIDO, 2007). The post-harvest losses can rise up to 70% for horticultural producers (Ibid).

Access to electricity is one of the key challenges affecting the take-off of rural business and industrialisation. A survey conducted by the World Bank (2008), found that in Tanzania, access to electricity ranked amongst the top five constraints facing rural business. Overall, 17% of sub-Saharan Africa's population has access to electricity with less than 5% of the rural people have access to this service (Davidson and Sokona, 2002). This impedes the growth of rural industries and the generation of new employment opportunities for rural people, as well as increasing transaction costs for farmers.

Access to information and communication facilities can play a critical role in enhancing agricultural production and productivity in Communal Lands by widening the delivery of agricultural extension services and provision of market information (Salami et. al., 2010). The use of mobile communication through cellular phones and internet have been growing at a faster rate in Africa than anywhere else in the world (IFAD, 2011), and this alongside improved radio services has the potential to broaden the delivery of extension messages and market information in remote areas (Salami et. al., 2010). The "Nokia Life Tools" is an example of a partnership between the Kenya Meteorological Department and Nokia which enables small farmers to receive regular updates on weather changes; farm input and farm produce prices through mobile phones (Ibid). Other initiatives such as the include Kenya Agricultural Commodity Exchange (SMS Sokoni) sends price information via mobile phones to farmers (ibid). Similarly, in Zimbabwe, the association of small farmers (the Zimbabwe Farmers Union) operates a bulk SMS platform which sends information to registered members on a regular basis. Thus various infrastructural and communication initiatives can empower smallholder farmers to make quick and informed decisions that will enhance their productivity, and therefore contribute to unlocking the economic potential of Communal Areas. The major constraint in this context remains the ability of African states to mobilise large scale infrastructural loans at concessional rates. Until recently when new sources of concessional lending from China have been on the rise, the International Financial Institutions had reduced the amount of infrastructural lending to Africa, in a context of the low priority placed on agricultural investments. This gap needs to be reversed by the increased targeting of long term concessional funding to Communal Areas.

8. Conclusions and Policy Recommendations

8.1 Conclusions and Policy Implications

Our conclusion is that except in unusual cases, land titling is not the critical factor which needs to be tackled to unlock the economic potential of Communal tenure land areas. The evidence shows that land titling on its own does not make any significant difference to agricultural investment and productivity growth. Rather, a wider range of investments and agricultural policies involving state agricultural interventions, private market and investment incentives and direct support to small producers have been critical in promoting agricultural growth and development so far, even though the scale of this remains limited.

Furthermore, the evidence shows that the feasibility of land titling has been limited by various administrative and resource constraints, incessant institutional conflicts, resistance by the affected, inequitable land allocation outcomes, gender inequities and land conflicts. This suggests that governments should invest their scarce fiscal and managerial resources in other areas than land titling.

This paper agrees with Migot-Adholla and others (1991: pp173), who conclude that governments, while being ready to intervene to assist in the development of land tenure arrangements, should focus their scarce resources instead on “the real constraints on agricultural productivity” such as the infrastructure deficits, market inefficiency and the scarcity of affordable production technologies (see also Pickney and Kimuyu 1994). By the mid to late 1990s land experts had also accepted that instituting formal individual titles in communal tenure areas was not effective and tended to lack sufficient accountability. Moreover, land titling had little advantage without meeting other economic conditions such as access to capital and credit (Bruce &Mighot-Adholla, 1994; Deininger& Binswanger, 1999). This rethinking led to “new wave” land reform that was supposed to be “decentralized, market-friendly and involve civil society action and consensus” (IFAD 2001, cited in Bernstein, 2004, p. 192).

Thus efforts to promote individual land titling, in order to replace customary tenure with registered forms of private property are no longer seen as an appropriate policy measures by many policy analysts (Sjaastad and Cousins 2009). Instead, the core issue in tenure reform in Africa is how to recognize and secure existing land rights, which while distinct from private property are not simply communally owned, but represent a complex set of existing rights entailing individual family land use rights, community user rights, overlapping and secondary rights governed by changing local and national land administration structures and procedures in a context ongoing of agrarian, social and political change.

So what are the important lessons from international experience? Deininger and Binswanger (1999) deduce from the empirical literature three key principles: the desirability of owner-operated family farms, the need for land markets to transfer land to more productive users, and the pursuit of equitable land distributions to foster agricultural growth. However, the implications of the evidence above for policy clearly shows that land titling has not been the best policy option, since the efficiency concerns regarding land market liberalization were often misguided. Van Den Brink et al., 2006 note that two consensus principles can be drawn from the economics literature: property rights need not always confer full ownership and be individual—they can, and should be, individual, common, or public, depending on the circumstances; and the most important for sustainable development is that property rights are deemed secure (see Place, 2009).

The more recent evidence on agricultural and productivity growth is also pointing towards new and greater forms of state interventions in support of agriculture among small producers holding land under various forms of customary and statutory tenures. Agricultural inputs subsidies and credit programmes, contract based inputs and credit provision programmes, output insurance programmes, agricultural investments into irrigation and agronomic reforms stand out as potential tools for unlocking the economic potential of Communal Areas.

This requires increased budgetary allocations to the agricultural sector, macro-economic policies which direct the case of private financial resources and credit towards productive sectors in agriculture, agro processing and related infrastructure in the context of reviving the developmental state in Africa. The persistent world financial and food price crisis in the wake of growing demand and climate change has evoked greater understandings of "market failure" and led many governments to design new public interventions in support of agricultural investments.

8.2 Recommendations

In light of these conclusions we recommend actions on two fronts: one related to land tenure reforms and the other focused on agrarian reforms which promote a wide range of investment strategies for Communal Areas.

8.2.1 Land Tenure Reforms

The key recommendation on land tenure that follows from this assessment is that the Namibian state should continue to pursue land tenure policy reform measures which clarify the nature of land rights and the land administration system in the communal tenure areas systems. This would address ambiguities in the legal status of Communal Area land rights and to streamline the conflicted institutional arrangements inherited from the colonial era with those created by the land tenure reforms initiated since independence. The specific recommendations are to:

i) promote greater recognition in law of rights under 'customary' tenure systems and enhance the legal protection of such land rights, especially for vulnerable groups. This includes recognition of the secondary and multiple rights to land and resources which are often ignored in current statutory law, and instituting measures to protect such rights from some powerful elite interest groups which are able to use state power for their own ends;

ii) direct land titling activities only towards those localities where the need for titles has been expressed through a veritable consensus mechanism. Such local demands may arise from real changes in the social norms in a locality or where there are real opportunities for increased broad-based supply of credit. This may be in areas where valuable land is subject to competition and dispute such as in urban and peri-urban areas. Titling could also focus on resettlement areas where no established customary system exists and in newly developed irrigation schemes where the use and control of arable lands is being re-arranged;

iii) pursue land registration where the customary tenure system is totally dysfunctional and where land disputes are widespread, as defined by the majority of local actors.

iv) initiate measures to strengthen local decentralised institutions for land administration and land management based on the subsidiarity principle, using strategies that promote the local definition and flexible application of rules. This requires measures to ensure greater transparency and downward accountability (i.e. democratisation), in implementing recommendations (i to iii). This process should be underwritten by central government support and involve fair representation of various actors (women, youth, migrants, etc);

v) institute measures to enhance the capacity of local and national institutions and procedures for conflict mediation, arbitration and negotiation. This requires the clear definition of the roles of both customary and formal state mediation mechanisms and institutions. Alternative measures to monitor and mediate disputes in a pre-emptive manner and which ensure adequate community participation in dispute resolution and land adjudication processes should be explored. This should allow oral evidence to be used in establishing rights and encourage flexible definitions of "local community".

Overall, the land tenure reforms should promote an "integration" process to bridge the conflicts that arise within a plural legal order to enhance institutions which uphold the constitutional provisions on democracy, human rights and gender equality. In all these measures public information on the key land tenure reform parameters ought to be promoted.

8.2.2 Agrarian reforms targeting productivity in Communal Areas

Unlocking the economic potential of Communal Areas can be accomplished by other means than land titling or land administration reforms. To enhance the economic potential of the Communal Areas and Namibia as a whole, the state should develop a comprehensive agrarian reform programme which promotes public and private investments into agriculture, including by redirecting surpluses realised in other sectors to this sector. Greater direct support should be provided to small producers in all the farming areas and land tenure regimes. The following agrarian reform measures are proposed:

i) broaden the land redistribution programme, which remains an "unfinished business" of settler-colonial redress, to reconfigure and decongest some communal areas so as to unlock the productive capacities and potentials of Communal Area residents;

ii) promote agricultural growth, productivity and rural development through various financing, credit and inputs support schemes in order to extend the area under production by many more families whose labour and resources are under-utilised and to improve yields;

iii) develop innovative credit schemes for Communal Areas' livestock productivity growth;

iv) create the scope for investments into irrigation schemes based on long term public investment plans in water and irrigation technology development;

v) rethink various aspects of the macro-economic and trade policies in order to increasingly direct national resources in favour of the small agricultural producers and to protect their inputs and outputs markets. This should be part of a wider food security and employment growth strategy.

vi) At SADC level, negotiate qualitatively new forms of regional economic integration to enhance national agrarian reforms, including by investing in large-scale programmes that develop critical regional value chains (e.g. beef, small stock and other crops).

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Unlocking the Economic Potential of Communal Land

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Abstract

Calls to increase the productivity of communal areas have a long history in Namibia. From the mid-1960s onwards a discourse on modernising communal area economies through the gradual conversion of customary tenure to individual tenure has shaped development thinking and debate in Namibia. Much of this debate was taking place without the benefit of drawing on experiences in Africa and elsewhere with large scale titling programmes and their impact on productivity levels. These have shown that by and large the benefits of land titling programmes have not met the expectations in terms of increased productivity.

This paper has selected a few issues arising from the reviews of experiences elsewhere to show that low productivity in communal areas cannot be reduced to the absence of land title. Different classes of producers are facing different constraints to increased agricultural productivity. With a few exceptions, tenure insecurity does not appear to be a major constraint in agricultural production in the small-scale farming sector. Available evidence suggests that other factors such as access to inputs, extension services and markets are more important issues to the poorer sections. This calls for a more differentiated approach to land titling than current debates suggest. At the same time, a growing class of upwardly mobile entrepreneurs require loans to expand their businesses, be they in agriculture or urban based. In these cases customary tenure is a severe constraint as it does not allow them to offer their land as collateral for credit.

1. Introduction

The communal areas of Namibia comprise 43% of the total area of the country and support approximately 60% of the country's population. Just over 70% of the 66,000 km2 of land which lends itself to dryland crop production falls within the northern and north-eastern communal areas (Brown, 1993: 91). However, unlike many other parts of the continent, small-scale communal farmers are not producing export crops, but cultivate primarily for own consumption. Crop yields are very low on average, 'several times lower than on commercial farms'. This is explained by poor growing conditions and low inputs (Mendelsohn 2006: 38). Consequently, an increasing number of rural households are dependent on additional revenue streams to survive. Despite this, subsistence farming was the main source of income for between 41.3% of households in Oshikoto and 59.6% in Omusati regions. In Caprivi only 24.3% of households stated that subsistence farming was their main source of income. There was a direct correlation between educational levels and the importance of subsistence farming as a source of income, with subsistence farming being most important to those households with no formal education (RoN 2012: 56-57). Of those households whose main source of income is subsistence farming, 31% are classified as poor and of those 14.6% as severely poor (Ibid: 167). Access to land and subsistence farming therefore continues to be an important source of income for large numbers of people, specifically small scale farmers, even though it is only one of several income streams that make up most rural livelihoods.

In the mixed communal farming areas, the Communal Land Reform Act provides for the confirmation and registration of customary land rights to household and arable land. While this is not the same as freehold title or leasehold, customary land rights are mapped and recorded, thus providing formalised security of tenure for households. Little, if any, customary control over access to and utilisation of commonages exists, and those areas are not protected by legislation. Consequently, commonages are largely utilised as an open access resource and open to appropriation by private individuals.

a) History of the 'replacement paradigm'

The great merit of the presentations by Moyo and Chambati and Escobal is that they present in summarised form the experiences of African and one Latin American country with large scale titling programmes, and more specifically, the impact of such programmes on investments in agriculture and productivity levels. These experiences provide policy makers in Namibia with information that will not only help to avoid some of the worst pitfalls of titling programmes, but more importantly develop policies that address the specific economic constraints of different sectors in the communal areas.
The topic of this symposium has a long history in Namibia. Attempts to change customary into individual tenure, referred to as the replacement paradigm by Moyo and Chambati, in order to encourage increased productivity on communal land is part of a wider discourse on modernisation, which in Namibia dates back to the mid

Following Brown (1993: 74) it is assumed that 500 mm of annual precipitation is the minimum required for dryland cropping.

1960's when a first systematic attempt in this regard was made with the appointment of the Odendaal Commission. Although the Commission has become notorious for laying the foundations for South Africa's hated homeland policy, its brief was much wider than the establishment of tribal homelands. It was required to come up with 'recommendations on a comprehensive five year plan for the accelerated development of the various non-white groups of SWA', a process that was conceptualised as the transition from a subsistence economy to a money economy, where 'the traditional systems of supplying their own needs and of self-support was gradually supplanted by a monetary system peculiar to the system of the Whites' (Cited in Werner 2011: 29). It did not make specific recommendations on land tenure reform, but recommended that homeland governments should assume responsibilities for land affairs, and that they should be able to release certain parts of communal land for alienation to individual citizens, subject to the approval of the South African State President.

A new discourse on modernisation shaped colonial thinking on communal land development. Agricultural planning was to become the main mechanism for transforming the subsistence economy into an exchange economy, while farm planning would improve range management. Colonial officials accepted that customary tenure needed to be changed to individual tenure, if the transition from subsistence farming to a more commercial approach was to succeed. Because they feared that ordinary land rights holders would be very critical of the farm planning approach to modernisation, officials recommended that this approach be implemented only in sparsely populated areas (Ibid: 32).

The new modernisation discourse which followed in the wake of the Odendaal Commission resonated with the interests of small but growing black middle class. For this group, the accumulation of wealth on an individual family basis became increasingly important. They availed themselves of the platform created by ethnic legislative assemblies to initiate limited reforms that would further their interests. In former Owamboland, for example, one of the first pieces of legislation that was discussed in the early 1970s was a new law on inheritance which would make it possible for individuals to bequeath their wealth to people of their choice and not according to the matrilineal inheritance system. Not long after this, a Select Committee on Land Tenure and Utilisation was appointed to investigate possible tenure reforms. While the incipient middle class supported moves towards permanent private land ownership, most traditional leaders opposed the idea. Due to the contentiousness of the issue, the Select Committee steered clear of radical proposals in this regard (Ibid: 36-37).

One outcome of this new approach to development was that portions of communal land were surveyed in the Owambo and Kavango Mangetti, Okamatapati and Rietfontein for allocation to individual farmers. While the tenure situation on these surveyed units is unclear, no long term leaseholds let alone title have been registered over these farms. Moreover, anecdotal evidence suggests that the overwhelming majority of surveyed farms is no longer utilised by the individuals they were allocated to in the beginning, but by small groups of people, primarily extended family members. The Owambo Mangetti farms have recently been designated in terms of the Communal Land Reform Act, enabling people to apply for registered rights of leasehold to these farms.

These developments encouraged those who were unable or not interested in obtaining a surveyed farm to fence off land on their own. Large tracts of land were fenced off for private use in the north central regions, Kavango and former Hereroland, but the legality and legitimacy of these enclosures are highly contested. Although this is not the place to discuss the legality of these farms, it must be pointed out that many land parcels have been fenced with the explicit consent of Traditional Authorities. The Ndonga Traditional Authority, for example, has kept a record of all the individuals it authorised to fence off land (Werner, 1998; 2011). None of these units are currently recognised in law. Consequently, owners of fenced land parcels cannot obtain registered title to their land, although long term rights of leasehold are possible. This process appears to be similar to what Escobal describes for Peru, where customary land rights were individualised under pressures of commercialisation and population pressure.

More recently, government has embarked on a programme to develop small-scale commercial farms in communal areas. The model pursued is identical to that in Okamatapati and the Mangettis. Over 600 land parcels of approximately 2,500ha each have been designated and surveyed in Caprivi (81), Kavango (517) and Ohangwena (24). Most of the surveyed units in Kavango have been allocated to individuals. The situation in Caprivi and Ohangwena makes allocation impossible, as most of the surveyed units are occupied and utilised by many more households than the surveyed, individual farms can accommodate. With a financial contribution from the KfW, the MLR is currently providing infrastructure support to people on these surveyed land parcels. Beneficiaries of this project will be able to register long term lease agreements over their land.

It is not known exactly how many parcels of land have been fenced off in communal areas without proper authorisation, but a recent estimate put the total number of surveyed and unsurveyed farms in communal areas that require secure tenure at 1,220 (MLR 2012).

In addition, there is a demand by some small groups of people to enclose commonages for their own private use. The rational for these demands is not necessarily that they want to make investments to farm commercially. Instead their primary motivation is that an enclosed piece of land will make it possible for them to exercise better control over their livestock. This not only means improved protection against predators and stock theft, but also that livestock owners can control herd management and breeding.

This brief discussion suggests that we are dealing with a differentiated population in communal areas with different classes of people having different economic interests and needs. A large number of people are poor while others have risen out of poverty and are upwardly mobile. Unlocking the economic potential of communal areas is likely to have very different meanings to a poor small-scale farmer whose immediate aim in life is to improve the livelihoods of his/her family than to an educated, upwardly mobile entrepreneur who wants to run a business for profit. The interventions required to unlock the economic potential of the assets of these different interest groups and their respective needs should take this differentiation into account. But it is also clear that there is an existing and growing demand for individualised property rights in communal areas that can be traded and turned into capital.

It is important to emphasise that populations in communal areas are heterogeneous in terms of assets, education and skills and market integration. The reason for this is that public discourse on increasing the economic contribution of communal areas recognises only one single solution that is assumed to fit all sections in communal areas, namely titling. This is evident from the invitation to this symposium, which states that new measures are required to survey communal properties and register them in the Deeds Office in order to improve the availability of cash in communal areas. Registered title will enable individual property holders in communal and informal settlements to obtain equal options to use their land rights for economic purposes. These observations echo an argument put forward in an Occasional Paper published by the Bank of Namibia in 2006 (Kaakunga and Ndalikokule, 2006: 1) which stated that due to the 'ownership structure' of customary land, it was never used as collateral for credit, thus adversely affecting the living standards of its inhabitants.

Against this background this discussion paper will not attempt to summarise the two presentations. Instead, it will focus quite arbitrarily on a few issues that seem pertinent in the Namibian context.

2. Experiences with titling programmes

If one were to summarise the overall findings presented in the two papers, it would be to say that land titling programmes have not been the silver bullets for economic development that they were expected to be. Moyo and Chambati (op. cit.: 3) suggest that frequently, titling programmes produced 'quick fix tenure reforms' which consisted of the conversion of customary tenure to freehold title instead of analysing and defining the exact nature and causes of land underutilisation and low agricultural productivity. The benefits that were expected to flow from land titling programmes have not materialised in most countries, leading Escobal to state that titling is at best a necessary but not sufficient condition to activate land markets and improve the livelihoods of rural inhabitants. He continues that is only through other, complementary interventions that the potential of communal land for the benefit of rural people can be unlocked.

Before focusing on a few specific issues, it may be useful to remind ourselves what land titling programmes are expected to achieve. Moyo and Chambati (op. cit.: 2) argue that the 'main rationale for titling programmes is…to promote access to capital to increase investment and agricultural productivity'. Formal title will enable owners to create capital by making assets fungible, divisible and combinable in new businesses (Cousins et al 2005: 1). Being able to offer land as collateral for credit will lead to a replacement of extensive farming practices with more intensive ones, inter alia, by investing in productivity enhancing inputs such as appropriate technology, improved seeds and fertiliser.

2.1 Low productivity and lack of investments

Moyo and Chambati point out that titling programmes have generally assumed that low agricultural productivity is the direct result of customary tenure systems. The argument usually asserts that customary tenure systems are inherently insecure and do not provide for individual rights. Consequently, they inhibit increases in investments and productivity and need to be replaced. Similar assumptions inform much of the debate about titling in the communal areas of Namibia.

The picture that emerges from experiences on the African continent is more complex. Moyo and Chambati found little evidence that formal titling resulted in increased levels of investment. This does not imply that formalised individual land rights did not have a positive impact on investments in some cases (Ibid: 10). However, there are examples in the Namibian context that support Moyo and Chambati's findings that the absence of registered title or registered rights of leasehold did not prevent some people to make substantial investments into developing communal land for agricultural production. A case in point are those individuals who took the initiative to fence off communal land for private use – with or without authorisation – and invested millions of dollars into the siting and development of water sources and fencing without any state support.

To the extent that these farms are less productive than they could be, the constraints inhibiting increased productivity must be sought elsewhere and not solely in the absence of title. Moyo and Chambati (op. cit.: 3) argue that 'agricultural intensification and commercial production are not inhibited by customary landholding as much as by broader social and political-economic conditions at local, regional and international levels'.

This implies that interventions to increase the productivity of communal areas should be preceded by an analysis of the causes of land underutilisation and low productivity among different classes of farmers in communal areas in order to develop integrated interventions which may or may not include titling. Moyo and Chambati (op. cit.: 4) present eight possible factors that may contribute to low productivity. These include insufficient labour, decreasing oxen to plough fields accompanied by a shortage of manure, limited income to purchase inputs, problems of accessing agricultural inputs and neglect of government service provision. Existing research into rural poverty and production - albeit limited in geographical and thematic coverage – appear to support the contention that a number of factors other than freehold title are major contributors to low productivity and poverty in communal areas.

a) Mixed farming areas

The Participatory Poverty Assessments which were carried out in the mid-2000s throw some light on how households in the communal areas defined the problem of poverty and one of its main causes, low agricultural productivity. In several crop growing regions (Cf. for example RoN 2003; 2006a; 2006b) the reasons for low productivity given by participants included climatic conditions, primarily drought, low soil fertility, the inability to get sufficient manure to fertilise the soil and a lack of cash to buy fertiliser, poor infrastructure making the marketing of agricultural and other products difficult. Insufficient access to agricultural implements further decreased productivity, particularly in view of insufficient labour being available for cultivation (Cf. for example RoN 2003; 2006a; 2006b).

Problems in accessing agricultural extension services had a negative impact on the knowledge base of many households. At the time of conducting the poverty assessments, ratios of agricultural extension officers to agricultural households were 1,869 in Oshikoto and 1,819 in Omusati, for example.

More recently a study in support of the development of an agricultural dry land productivity project identified some of the major restrictions on agricultural productivity (Cardno 2010). Amongst others, the study revealed that ‘there was an almost total absence of independent, local fertiliser/seed agro-dealers across the regions’. Shop owners also did not stock fertiliser due to the fact that government distributed it at subsidised prices. This meant that farmers who wanted fertiliser had to travel long distances to access inputs (Ibid: 64).

Another set of constraints related to markets. Cardno (op. cit.: 65) found that although many farmers were aware of modern inputs such as improved seeds and fertiliser, they lacked the knowledge and appropriate technology. In addition, it was a challenge to reach many rural areas due to poor road infrastructure. The fact that orders for inputs will be small and coming from a farming population which is scattered across large areas compounds the problem of supplying inputs. In addition, the Directorate of Engineering and Extension Services in the MAWRD was found to have

neither sufficient staff nor sufficient tools to provide quality extension services to the dry land farmers. The coverage is too low and farmers mentioned that they would indeed require more support in this field. It is clear that if farmers are expected to produce higher yields and intensive production, then they will have to be supported with sufficient extension thrust (Ibid: 68)

b) Individual livestock farming in communal areas

The evidence on the impact of titling discussed by Moyo and Chambati and Escobal focuses exclusively on crop growing areas. The conclusion drawn is that registered title does not appear to be the main determinant of economic productivity and investment. Instead, a comprehensive package of measures is necessary to optimise production.

However, the impact of the individualisation of use rights to commonages for livestock farming, and hence the likely impact of title or long term rights of leasehold on production is an important question.

Unfortunately, an absence of data makes it impossible to say how the individualisation of communal land into fenced farming units has impacted on productivity in the livestock sector. Anecdotal evidence suggests that productivity on farms that were fenced privately without surveyed boundaries and those farms that have been surveyed and allocated to individuals before Independence (surveyed farms in the Owambo and Kavango Mangetti, Okamatapati and Rietfontein) could be increased substantially.

Research carried out in 2006 on some Kavango Mangetti farms found that constraints to improved productivity were not related primarily to tenure insecurity, let alone the absence of registered title (Schuh and Werner 2006: 41-43). Instead, insufficient knowledge about herds and their reproduction rates seemed a major constraint. Using record sheets and supplementary feeds as well as increased health care would lead to much higher calving rates. Similarly, knowledge about the needs of the market was unsatisfactory but necessary to optimise farming revenues. In addition, 'training in record-keeping, market orientation, supplementary feeding and the use of loans is needed particularly to support the financial and economic viability of cattle farming…' The improved farming practices flowing from this would make it possible to use loans 'efficiently since the internal rates of return from the investment would be higher than the rates charged by the bank (Ibid: 42).

c) Communal livestock farming in communal areas

How does the discussion up to this point relate to productivity on commonages which are utilised for extensive livestock farming? It is true to say that they would also benefit from a comprehensive package of support measures as discussed above. But are fenced and titled units of land – whether for individual or group use – likely to have a positive impact on livestock production?

It is not possible to answer this question due a lack of evidence. However, certain sections of the communal farming population regard the exclusive use of commonage land as a pre-condition for improving agricultural output (MLR, 2012). The evidence referred to comes from cattle post owners in Ongandjera who stated that they would welcome the fencing off of grazing areas they were using as small groups of livestock farmers. The reasons for this were not primarily that livestock owners at cattle posts wanted to farm commercially, although this cannot be excluded. Instead, there was a strong conviction that fences not only had the advantage of providing better protection against predators and theft, but would also enable them to improve their control of grazing land, herd management, marketing etc. Arguably, improved control over livestock constitutes a necessary, but not sufficient condition for gradually increasing the economic value of grazing land by facilitating the introduction of management tools to improve the quality of livestock produced and increasing the rate of off-take.

While fenced off farms for small groups of livestock farmers may improve their ability to increase livestock productivity, it remains a moot point whether providing title across the board will increase the productivity of most small-scale livestock farmers. Evidence suggests that increased productivity requires more than the formalisation of land rights. One important issue is that increased productivity of livestock farming in communal areas requires a change in how households define the value of cattle. With regard to small-scale livestock farming, a recent study (Kruger et al 2012) observed that many livestock owners do not regard their cattle as a commercial asset that generates money. Instead, livestock continues to play an important role in the reproduction of social relations by being used for ceremonies like weddings and funerals. The commoditisation of cattle in communal areas, i.e. changing to a situation where cattle have high market value rather than high use value, is not likely to be brought about simply by titling communal land.
Despite these constraints, the same study identifies issues which need to be addressed to improve productivity of the sector. These include that government's extension service is not livestock oriented resulting in inadequate support of farmers; the need to reduce animal mortalities and improved herd management to produce more calves (Ibid: 41). In addition, access to cattle markets in the north central regions is difficult due to sandy terrain, and in some regions farmers suffer heavy losses as a result of having to transport their livestock to quarantine farms. The supply of inputs for livestock farming such as genetic material, feeds, licks and veterinary medicines is limited, while demand is increasing gradually (Ibid: 1-2).

Moyo and Chambati (op. cit.: 11-14) draw attention to situations where land titling programmes have impacted negatively on customary land rights holders. By taking out the flexibility of customary tenure systems, land titling programmes run the risk of entrenching class and wealth differentiation and in several cases have increased land disputes rather than reduced them. One reason for this is that titling programmes generally neglect 'overlapping and multiple rights to the use of land'. Women are also at risk of losing access rights to land once titled, as registration invariably happens in the name of the male head of household.

The individualisation of land rights to commonages poses risks to the poor. Moyo and Chambati (op. cit.: 11-12) review evidence which shows that in some countries the individualisation of grazing areas that were accessed previously by various community members have tended to disadvantage livestock owners. Anecdotal evidence form the north central regions suggests that applications for arable land in some parts is reducing grazing areas. But a more serious threat to the commonages is the continued appropriation of large chunks of land by wealthy and well connected individuals. There is, therefore, a need to recognise in law rights to commonages held under customary tenure and to protect those rights (Ibid: 31). This issue is being addressed in a policy review that was carried out by the Millennium Challenge Account (Mendelsohn et al 21012).

These brief references to experiences in Namibia are not presented as an exhaustive analysis of constraints facing communal farmers. But the PPAs, the Cardno study and Schuh et al support the findings of both presentations that the main constraints keeping productivity low are not primarily and necessarily related to the absence of title to land but rather to a variety of other factors that need to be in place for production to increase. The implication of this for development policy is that the economic potential of mixed farming areas on communal land can be unlocked without necessarily engaging in expensive titling programmes by providing a comprehensive package of measures supporting agricultural production and marketing. Titling on its own is not likely to unlock economic potential, even if it is assumed that people with title will offer their land for collateral to obtain credit. Escobal reminds us that in exploring the most relevant options for unlocking the potential of communal areas, the livelihood strategies of the poor in particular need to be understood.

2.2 Collateral

Much emphasis is placed on the necessity of communal farmers to be able to use their land as collateral, hence the need for titling. That all communal farmers should have the option to obtain a form of tenure that will enable them to offer their land as collateral to obtain credit is not disputed. However, it is a fallacy to believe that title will inevitably lead to an uptake in credit. Proponents of titling programmes assume that land title will not only encourage title holders to apply for credit, but that they will also succeed in obtaining it.

Moyo and Chambati (op. cit.: 11) present evidence that in some countries where people obtained title and were able to offer their land as collateral, they were not willing to do so for fear of foreclosure and subsequent loss of their land. Cousins et al (2005: 4) also argued that the poor generally avoid long-term debt and are averse to forms of borrowing that might lead to a loss of important assets, including land. While it is not possible to speculate on the willingness of the poor to take up credit for lack of data, it is clear that many communal farmers are not familiar with the concept. An evaluation of a rural credit programme in Namibia found that many people who needed credit were not familiar with the concept and did not have the basic skills to manage credit such as developing a budget and do financial planning (Fuller 2005: 20).

Moreover, even if credit is successfully obtained, there is no guarantee that it will be used for productive investments. An earlier evaluation In Namibia found that ‘credit in most subsistence farm cases has been just added to the income flow but not taken as a mean (sic) to invest into farm modernisation and income generation’ (GFA 1999: 15). The productive use of credit presupposes that farmers not only have easy access to farm inputs but also have the required skills to make use of some of the inputs acquired. As was argued above, this does not apply in large parts of the communal areas. Addressing some of the structural causes of low productivity such as poor access to markets and little market information, lack of agricultural research and advisory services and poor infrastructure require solutions at a higher level (Ibid: 25). Credit on its own, therefore, is not a solution to all the constraints faced by communal farmers.

Apart from these considerations, it must be expected that the use of communal land as collateral is not uniformly supported by all traditional authorities in Namibia. Some Traditional Authorities in Kavango, for example, felt that as land was not for sale, beneficiaries should not be allowed to use it as collateral. According to the Mbunza hompa, people are renting land to produce on as a basis for advancement. 'If land is sold nobody will be left with land, so no sale of land is allowed to safeguard land access for future generations. Other assets should be used for collateral' (Kavei et al 2010: 187). It is conceivable, that one of the reasons why Traditional Authorities in Kavango are opposed to the idea of using land as collateral is that this system would signal the end of Traditional Authorities controlling access to land under their jurisdiction.

But opposition to using land as collateral comes from another source, namely the state as the formal legal owner of communal areas. Its policy signals with regard to secure, formal, registered tenure are mixed. On the one hand, there is the strong desire to provide people with tenure long and secure enough to encourage investments and hence to bring them into the mainstream economy, while on the other hand, current lease agreements place severe restrictions on what lessees can do, thus potentially serving as a disincentive for investments.

The state is also not agreeing with the idea that a land market should develop on land it considers to be the owner of. This refers not only to communal land, but also to freehold agricultural land purchased by the state for reallocation under the National Resettlement Programme. However, for formal property to function as capital there must be a market for it to be used as collateral (Cousins et al 2005 : 2). Land must be tradable. This is necessary in order to enable financial institutions to take possession of the land in the event of a borrower defaulting on his/her repayment and to sell it on. It is not clear why the state oppose the development of a land market in communal areas and on resettlement land. It can only be speculated that the reason for this is a perception that the state as formal legal owner of communal land – and resettlement land - should be able to control it.[18] This became clear when the then Minister of Lands and Resettlement and now President of Namibia motivated an amendment of Agricultural Commercial Land Reform Act in the year 2000 to do away with the clause that would have enabled beneficiaries of the National Resettlement Programme to buy their allocated parcels after a certain period. He argued 'that state land, which is acquired for purposes of land reform, should not be for sale'.

But even if government removed all restrictions on a land market in communal as in Peru and most people had title to their land, it is questionable whether a fully fledged land market would develop. Cousins et al (op. cit.: 2) argue that even with formalised rights a land market is not likely to develop 'where home owners value secure occupation over other functions, and localised practices protect poor people's occupation'. The reality

[18] The assumption that the state is indeed the legal owner of communal land is contested by some scholars. See e.g. Harring,1996.

is however, that land in the communal areas and the resettlement sector is being traded illegally. NCCI (2011a: 15; 18) raised this issue when it referred to business people obtaining land by 'extra-legal practices'. These included buying land from customary land holders at market related prices.

Another issue is that title and the resultant ability to use land as collateral is no guarantee for getting a bank loan. Moyo and Chambati (op. cit.: 11) refer to evidence that 'formal and large scale financial institutions perceive small-scale farmers as high risk borrowers, and find lending to them have (sic) high transactions (sic) costs associated with extending credit scattered (sic) farmers seeking small amounts'. There is a minimum threshold below which banks are not likely to lend, whether they hold title deeds or not (Cousins et al 2005:4).

The situation in Namibia is not different. Amongst commercial banks, Cardno (2010: 69-70) found that although Standard Bank of Namibia accepted several alternative forms of security for loans, it considered the small size of farms as a constraint, 'meaning that the bank's efforts compared to the interest earned are not going to be cost-effective and will therefore not be commercially interesting to the bank'. The bank indicated that as the administration of small individual loans was expensive, it preferred to grant loans to co-operatives, who in turn would administer loans of individual members. Even the only micro-financing bank in Namibia, FIDES bank with its head office in Ongwediva, did not offer any agricultural loans 'as they consider this risky'.

An important point that emerges from this discussion is the need to critically review the current financial services industry with a view to introduce reforms that provide small-scale farmers who are currently considered to be too risky with access to credit without making registered land title or alternative collateral a precondition. The feasibility of establishing the agricultural equivalent of the SME bank, which is to open its doors at the end of October 2012, needs to be investigated. Its main aim is reportedly to provide access to finance for businesses owned by previously disadvantaged Namibians who fail to obtain loans from commercial banks due to a lack of collateral (The Namibian 20.9.2012). Since Independence a number of consultancies on rural credit provision and evaluations of the National Agricultural Credit Programme which was administered by Agribank provide a good starting point to develop financial products for small-scale farmers without collateral.

Having said that, it must be pointed out that registered title is also not necessarily a requirement for obtaining credit. Moyo and Chambati (op. cit.: 17f) refer to a number of alternative sources of credit available in African countries that do not require title as collateral. At least one of these is common in Namibia. It involves banks accepting collateral securitised by assets other than land such as property or life insurance. However, this is an option available only to wealthier individuals.

In addition, some banks in Zimbabwe have used the 'perceived "viability" or "bankability" of the farm projects as the main criteria for providing credit, even without collateral in many cases' (Ibid). In exceptional cases Namibian banks are prepared to grant unsecured loans. Applicants with very strong balance sheets may be granted unsecured loans by some banks. Where a balance sheet is not particularly strong, an unsecured loan may be granted for a smaller amount and at a much higher interest rate.

The common practice in Namibia is that banks require collateral as well as an assessment of the applicant's repayment capacity before granting a loan. Through this, financial institutions want to ensure that the repayment capacity of loan applicants exceeds their debt servicing obligations, which include capital and interest (GFA, op. cit.: 25). Repayment capacity is fundamentally dependent on how much money an enterprise generates. A balance sheet and business plan of the applicant are necessary to establish this. Once the size of the loan is determined, the applicant will have to offer some security for the loan. This is required to secure the money borrowed from a bank.

The text box below summarises the requirements of Agribank to qualify for a loan. It should be borne in mind that Agribank, in contrast to commercial banks, is in the business of providing development loans with the financial support of government. Even so, Agribank requires some kind of security or collateral, which need not be freehold title, but can take the form of residential property (a house) or an insurance policy for example. It can also take the form of (leased) land.

Requirements for a commercial loan from Agribank

- Applicants must have a clean credit record.
- Applicants can either be full or part time farmers.
- Applicants should be Namibian citizens.
- Applicants must provide a business plan.
- Agribank offers flexible instalment options, to suit client's financial needs. The available instalment options are: monthly, bi-annual or annual.
- Loans are granted against security of fixed property (mortgage bond) or any other acceptable form of security (fixed deposits, investments and surrendering value of policies). The bank will grant the loan for 80% of the valuation of the security.
- Applicants must provide a quotation from registered supplier/dealer.
- Companies should provide audited financial statements, certificate of registration, shareholders or directors of the company and must have a registered Auditing Firm.

Source: http://www.agribank.com.na/, accessed 18.6.2012

It follows from this brief discussion that the ability to offer land held under full freehold title - or registered lease agreement - as collateral is neither sufficient nor absolutely necessary to obtain credit for agricultural purposes. But alternative forms of security for loans such as property and insurance policies are not available to all farmers and business people in communal areas. It is also not certain that access to credit is likely to be used by all small-scale farmers, nor that once obtained, credit would be used for productive purposes.

There is a demand from entrepreneurs, however, to have access to loans in order to invest in their businesses. For this reason, it is important that farmers and business people leasing land from the state – and this includes beneficiaries of the National Resettlement Programme – should have the option to use their leased land as security, if only because not all of them can be assumed to have alternative collateral and may need short term finance from time to time. Doing so would also fulfil the undertaking provided in the National Land Policy of 1998 to provide people with long term leases 'which are secure, registrable, transferable, inheritable, renewable and mortgageable' and that 'persons, families, groups and communities with forms of land rights other than customary land rights are entitled to use these rights as collateral when applying for credit from lending institutions'.

2.3 Resource requirements of land titling

An aspect about registering various forms of land rights including title deeds is that the process involves large amounts of financial and human resources. This is an aspect that seems to have received little attention in demands for titling and/or registered rights of leasehold locally. Moyo and Chambati (op. cit.: 5-9) dedicated one section of their review to the process of titling. They describe briefly experiences with the methodology of titling, the feasibility of doing so, the financial and human resource requirements and likely challenges.

The first point to draw attention to is the cost of providing title to land. Moyo and Chambati remind us that the high costs of titling arise as a result of the costs involved in surveying and demarcating physical boundaries, participatory land adjudication and conveyancing fees.

The costs of providing full title to land is also considered high in Namibia. Some would ascribe these costs to outdated survey and deeds legislation, which require that any parcel of land that should be registered in the Deeds Office has to be surveyed by a professional land surveyor to accuracy levels prescribed by the Land Survey Act, No. 33 of 1993 (Bayer 2012: 12). The latter and the Deeds Registries Act, No 47 of 1937, do not permit survey diagrams that have been developed on the basis of surveys done with hand held GPS systems, as is customary in the ratification and registration of customary land rights. Apart from the professional costs of land surveyors and conveyancers, government charges fees for statutory operations of registration itself such as examination fees in the Deeds and Surveyor-General's offices (Ibid: 18).

Apart from the high financial costs, Moyo and Chambati also draw attention to many African countries that have faced human resource challenges in implementing large scale titling programmes. It is worth emphasising their point that Namibia is no exception

to this. Successive Annual Reports of the MLR state that the Directorate of Survey and Mapping is not able to perform its tasks due to a severe shortage of experienced and skilled land surveyors (MLR 2008/09; 2009/10). Consequently, private land surveyors have to be engaged on a tender basis at considerable cost. These are mostly located in Windhoek. A recent report estimated that the average costs of surveying and registering a 2,500 ha farm in the north-central and north-eastern communal areas would be N$ 30,000, an amount that increases as transport costs from Windhoek to remote areas increase (MLR 2012: 26). It should be added here that the shortage of professional land surveyors is one of the reasons why land parcels allocated under the National Resettlement Programme cannot be registered, as any registration in the deeds office requires a proper survey diagram.
Another aspect that requires human and financial resources is the management of land registers, both in the Deeds Office and at regional level, where certain leaseholds and customary land rights are recorded. For the state to guarantee tenure security, land registers have to be up to date, i.e. they must reflect all transactions that have taken place with a parcel of land. One aspect of this is that transactions of land must be reported to the relevant institution, i.e. either the Communal Land Board or the Deeds Office in order to update the land registers. While it is likely that transfers of land held under freehold title will be recorded in the Deeds Office, this is not so likely for land transactions that are recorded by Communal Land Boards.

Although this statement is pure conjecture, it should be remembered that the registration of customary land rights did not happen as a result of an articulated demand for formalised land rights, but was imposed by the state. It is therefore conceivable that while most households will be complying with the law and register their customary land rights, many will do so without appreciating the need for and subsequent benefits of this process. Considering that the transaction costs for registering transactions with Communal land Boards are likely to be very high for many land owners who are far away from Land Boards and have difficulties in obtaining transport, many will not make the effort to register land transactions. Where there is no palpable benefit of engaging in these transaction costs, land holders are not likely to inform the relevant land board about land transactions, rendering the registers out of date and hence unreliable.

2.4 Urban areas

Urban areas on communal land are increasingly becoming centres of economic development and value creation. However, discussions about unlocking the economic potential of communal areas are mostly limited to a debate about tenure change in the rural parts of communal areas. Constraints on economic development in urban localities and rural growth points receive little attention outside organised business circles.[19] But a series of public lectures that were hosted by the University of Namibia in August 2012 suggests that interest in urban land issues is gradually picking up. Urban issues also

[19] *This section on issues in urban areas is based on NCCI 2011a and 2011b unless otherwise indicated.*

do not seem to feature in the debates reviewed by Moyo and Chambati and Escobal. The seriousness about land issues in urban areas was highlighted by a 'National Conference on Land for Business', which was organised by the Namibia Chamber of Commerce and Industry in 2011. A discussion paper was commissioned by NCCI for the event (NCCI 2011b). Several issues raised in the paper are echoed in the fourth National Development Plan (NDP4) which identified 'issues with regard to availability, affordability, tenure and delivery' of serviced land as major inhibiting factors for existing and new businesses alike (RoN, 2012a: 36-37). Amongst other strategies to address the issue, NDP4 states that government will expedite its land reform programme in communal areas so that land rights can be used as collateral for business transactions (Ibid: 39-40).

A brief description of local authority areas on communal land is in order to provide some context for the issues raised. Urban areas in Namibia are differentiated according to size and responsibilities. Local authorities with municipal status include Windhoek, Walvis Bay and Tsumeb. They have the most comprehensive mandates in terms of urban administration. There are currently no local authorities with municipal status in communal areas. The next, lower level of local authorities is referred to as towns. There are 17 local authorities in communal areas that have the status of towns. These include, Katima Mulilo, Rundu, Nkurenkuru, Okahao, Ondangwa, Oshakati, Omuthiya and others. The next level is referred to as villages. A total of six local authorities enjoy village status in communal areas, mostly in Karas, Hardap, Omaheke and Kunene Region. The lowest level of local authority is called settlement of which there are close to 40 in communal areas (RoN 2012b). In addition there is a 'mushrooming (of) rural growth points' (NCCI 2012b: 5).

Four main categories of issues have been raised for local authority areas in respect of economic development (Ibid: 10-11):

- Land availability;
- Land affordability;
- Land delivery; and
- Tenure issues.

With regard to land availability, the NCCI study found that potential land for business development is not readily available in proclaimed towns partly because of the slow and cumbersome process of land registration and proclamation. This is attributed to outdated legislation and regulations, something that is currently being addressed by government, with an Urban and Regional Planning Bill having been submitted to Cabinet for consideration (Ibid: 12-13).

Another issue that is contributing to a shortage of land is the fact that townlands in newly proclaimed urban areas are occupied by subsistence farmers who are reluctant to give up their customary land rights in return of compensation (Ibid: 12). In addition, the extension of proclaimed urban areas requires cooperation with traditional authorities to encourage them to make land over which they hold jurisdiction available (Ibid: 14).

Despite the fact that Cabinet approved compensation guidelines in 2008, many families holding customary land rights are reluctant to part with them, having become 'property wise'. Instead of accepting compensation, they sell their land directly to business people, which according to the study, is illegal in proclaimed urban areas. Business people are not able to develop the land as it has been obtained illegally (Ibid: 15; 18).
Forms of tenure security differ for different levels of urban areas. In municipalities, towns and villages, people can obtain full, registered title, while only rights of leasehold can be granted in settlement areas. The Ministry of Regional Local Government, Housing and Rural Development is currently busy to amend existing legislation to provide for full title in settlement areas (pers. communication, P. Genis, MRLGHRD, 21.8.2012).

Human resource constraints in the surveying and provision of services on urban land are slowing down the pace at which freehold title is granted in in towns and villages. A bone of contention is that people who have held rights to land in the form of PTOs before the proclamation of local authority areas have to purchase their land parcels before they can be registered. The reason for this is that like all undeveloped land, existing land parcels have to be surveyed and serviced, a cost which local authorities recover through land sales. The slow conversion of PTOs to registered title in proclaimed urban areas deprives business people from selling their land legally or offering it as collateral to obtain credit for further investment (Ibid: 17).

A particular challenge facing the many businesses in proclaimed urban areas is that they held the land on which they developed small business either under some form of customary tenure or a PTO. While legislation provides for the conversion of these rights into proper title, many such businesses may find that they are operating in areas that have been zoned for other purposes during the formalisation process. Many town planning schemes do not make provision for the former mixed land use. Moreover, many small businesses were conducted from homes, thus blurring the distinction between residential and business occupancy (Ibid: 18).

The question of what type of tenure security to provide to the growing number of small businesses such as cuca shops in small rural growth points remains a big challenge. These areas are not covered by existing local authority and regional council legislation. In some cases people operate their businesses with a PTO. In many other cases traditional authorities provide licenses to operate 'informal businesses' in communal areas. These licenses are granted after scrutinising the business proposals of applicants and the latter having paid a fee. However, this arrangement is not provided for in any legislation (Ibid: 21).

The Communal Land Reform Act provides for the conversion of PTOs and any other portion of communal land to leasehold, provided that Traditional Authority in whose jurisdiction the land falls consents to this. The practicality of granting every little business registered rights of leasehold or full title appears questionable. Amongst other things, the human and financial resources required to do so are not likely to be available. At the same time, To sum up: constraints faced by business people in urban areas appear to be primarily located in the unavailability of affordable, serviced land. In some areas the availability of land is limited on account of the fact that rights to land are held under customary tenure. This may take the form of customary land rights holders refusing to vacate their land in a proclaimed township or that traditional leaders are unwilling to make land under their jurisdiction available to local authorities to expand existing townlands. Where land is available, human resource constraints result in long delays of registering title over urban land.

3. Conclusion

The presentations by Moyo and Chambati and Escobal have presented a number of issues and experiences that suggest strongly that a more differentiated approach to increased productivity in communal areas is required than the simple call for title. Granting title over customary land has not proven to be the silver bullet for economic development and investment that its proponents suggest. There is a great danger that the emphasis on titling and collateral places too much faith in credit as a development tool which may lead to a neglect of other policies and support measures that have a longer lead time but more equitable and broad impact (GFA, 1999: 25).

Moyo and Chambati (op. cit.: 10-11) and Escobal found that in many parts of Africa and Peru increases in productivity in the (smallholder) farming sector ‘were generally attributed to the broader agricultural policies (adequate crop process, extension services, marketing infrastructure) alongside the land tenure reforms’ and that tenure reforms which were accompanied by complementary investments and input assistance were more likely to lead to increased productivity than title alone. This implies that in order to unlock the economic potential in communal areas across all classes of producers, the ‘quick fix’ solution of granting title to all must give way to a’ more nuanced, incremental and integrated development approach’ that will extend infrastructure, services and economic opportunities to rural areas without the necessity of title (Cousins et al 2005: 5).

This in turn suggests that tenure reform should go hand in hand with agrarian reform in order to lead to higher productivity. Agrarian reform refers to ‘a bundle of measures for overcoming the obstacles to economic and social development that are based on the shortcoming in the agrarian structure’. This bundle of measures includes tenure reform but also reform of aspects of land use such as farm size and institutions that support agriculture (Cited in Sibanda 2003: 132). Land and agricultural policy need to be linked ‘in ways that transform the rural economy and create opportunities for the poor to use productive assets in the service of wealth creations’ (Cousins 2006: 1). This is a major challenge in view of the fact that like South Africa, Namibia’s land policy is premised on state intervention, while the emphasis in agricultural policy is on reducing the role of the state to a more facilitating role (Ibid). Increasing productivity in communal areas requires that the state intervenes much more directly in support of agriculture by investing more in research, extension, infrastructure development and labour saving technologies for example (Moyo and Chambati, op. cit.: 28-30). In addition, reforms in the financial sector are needed to provide access to credit by small-scale farmers without collateral. Finally, secure tenure should be provided to all residents in communal areas. Customary land rights should be recognised in law and access to commonages protected. However, formal titling should only happen where demand and 'real opportunities for increased supply of credit exist' (Moyo and Chambati op. cit.: 31).

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Policy Issues Emanating from the 14Th Annual Symposium

1. Introduction

The 14th Annual Symposium of Bank of Namibia took place at the Safari Hotel and Conference Centre on 27 September 2012 under the theme: Unlocking the Economic Potential of Communal Land. The theme of the symposium was chosen because it featured prominently in national debates and policy discourse during the past year. Communal land is central to the livelihood of some estimated 1.1 million Namibians (Mendelsohn, Shixwameni & Nakamhela, 2011:4). It is therefore imperative to ensure that its economic value is maximised, and to do so in a manner that ensures that the majority of Namibians become meaningful participants in the economy. Further, land is seen as a means to minimise the intergenerational transmission of poverty which remains rampant in communal areas.

From the deliberations at the symposium, it emerged that there are various pertinent issues facing residents in communal areas – a) acute poverty in abundant, and significantly more common than in urban areas; b) the majority of the income in rural areas is derived from off-farm or non-agricultural activities, such as pensions, informal trading, wages and remittances; c) access to cash is severely limited; d) there is a notable trend of migration to urban areas; and e) the labour force education levels are generally lower than in urban areas. In light of these issues, the symposium explored the possibility of commercialising communal land as a way to unlock the economic potential of what is currently perceived to be 'dead capital'. Specifically, the symposium aimed to address the following key questions:

- What are the challenges inhibiting the economic viability of communal land and how can they be addressed?
- Could providing tradable property use or ownership rights, similar to those of commercial land to communal land increase the economic potential of communal land?
- What should be the roles of the Government and the private sector in increasing the economic potential of communal land?
- What have been the experiences of other developing economies in converting from customary land system into tradable land rights?

2. Key issues discussed:

2.1 Current tenure system

According to the Communal Land Reform Act of 2002, all communal land belongs to the state in trust for the benefit of the communities residing in those areas and no part of any communal land can be bought or sold by any person. The law, however, made provision for one to acquire customary rights for residential and subsistence farming purposes, and leasehold rights for commercial activities on communal land. The issuance of these rights is undertaken by various traditional authorities on behalf of the state. Several concerns were raised with regard to this land tenure system: a) the criteria used by the traditional authorities to allocate of land is not clearly outlined in the Communal Land Reform Act of 2002, thus there has been incidence of overlapping and double allocation of plots of land; b) the lack of defined and enforceable rights over commonage land has resulted in the loss of resources for local residents due to encroachment from individuals to the detriment of the collective, be if from wealthier individuals residing in urban areas, or stock herders from other communities; and c) poorly recognised formal legal status or recognition of long term leases or ownership, and limited tradability of such, act as a disincentive to investors on communal land and create challenges with regards to using such land as bankable collateral.

2.2 Dead Capital

The symposium expressed concerns that under the current tenure system, existing tenure arrangements are not conducive to economic development for the people residing on communal land. Due to the existing tenure arrangement, communal land rights have minimal economic value or use as financial instruments. This is because customary land rights cannot be registered as title deeds, thus, these rights may not be assigned as collateral security. The main concern here is that without title deeds, occupants of these lands cannot use such properties as collateral to acquire financing from financial institutions. Moreover, much of the communal land is still underdeveloped as investors are reluctant to invest in land that currently has little economic value, or that they do not have formal, legal ownership of.

2.3 Illegal fencing

Presenters at the symposium expressed concerns that a large portion of communal land is illegally fenced. Furthermore, incipient land markets exist in communal land under no regulatory framework. It was highlighted that most illegal fencing and land purchases are undertaken by urban dwellers to the detriment of communal residents whose livelihoods depend on the commonage. The symposium, therefore, called on the government to device mechanisms to address the issue of illegal fencing, as some individuals are believed to have fence beyond the allowable limit of 20 hectares and as a result, threatened grazing for communal land residents.

3. Key policy issues and questions

3.1 Preserve communal land as a safety net

The symposium acknowledged the multifaceted problems facing residents of communal areas. It was, however, emphasised that communal land currently serve as a crucial safety net to which Namibians may fall back when all else fails. Therefore, it was emphasised that all reforms to the communal land tenure system should remain cognisant of this. It was suggested that reform should ensure tradability of land through availing leasehold rights rather than blanket privatisation as the latter is deemed to result in dispossession of the poor. The symposium further underscored that land privatisation does not in itself result in increased wealth for the destitute communal residents, but is rather one of a host of actions that is required for such. Tenure system reform should enhance and not threaten tenure security, food security and rural livelihoods. That is, policy developments should by all means avoid perpetuating the already wide income disparities in the country.

3.2 Promote board-based reform and accelerate rural development

Residents in communal areas are faced with multiple structural constraints to maximising the potential of their land, including inadequate infrastructure, insufficient energy supply, poor education and health services, and lack of access to markets. The root cause of these problems is not exclusively the land tenure system, thus there is no reason to assume that providing land titles will alleviate all problems. The symposium, therefore, stressed the need for a differentiated analysis of the exact nature and causes of land underutilisation and low agricultural productivity in communal areas. Policy interventions geared towards developing a comprehensive agrarian reform programme which promotes public and private investments into agriculture were suggested. Moreover, policy makers were encouraged to address the constraints such as access to market, investment in new technology as well as investment in education and skills
.

3.3 Seek innovative solutions to access credit

Under the current communal land tenure system, people residing on communal land only have customary land rights, which are not tradable and can therefore not use these rights as security to obtain funding from financial institutions. The discussants, however, flagged that the implicit assumption that providing land title will result in increased access to finance, inaccurately assumes access to capital markets, which is not always the case. Presenters also indicated that land titling does not automatically lead to increased uptake of credit because of fear of loss of land, lack of understanding as well as required skills for budgeting and financial management, no guarantee that credit will be used for productive investments, small-scale farmers regarded as high risk by banks, high transaction costs, repayment capacity of applicant and bankability of different projects. Financial institutions were, therefore, urged to devise credit schemes in line with communal land structures and regulations.

3.4 Optional titling

The communal land tenure system currently is not flexible in allowing for tradability options for those who wish to trade their pieces of land. The presentations highlighted that it is necessary to have a differentiated approach that provides entrepreneurs with land rights, the option to obtain tenure that enables them to take up loans for investment purposes. Tenure arrangements should allow for those of different and changing aspirations to have security, but also to use their land to create wealth. The presenters, however, warned that there is inherent information asymmetry which makes land titling and particularly the trading of land, biased in favour of the educated, at the detriment of the destitute communal land dwellers.

3.5 Capacitate the administration

There is need to ensure capacity exists within traditional authorities and chiefdoms who administer the allocation of land in communal area under the current tenure system, to do so equitably and within the realms of the law. The criteria and methods used under the current setting are questionable and results in disputes and conflicts. The role of government as a holder in trust of land needs to be redefined and clarified. The land policy should remain law abiding, ensuring that no illegal sales and fencing of land, as well as other legal transgressions, takes place. Issues of illegal fencing should also be addressed in a fair manner so as to ensure that an equitable distribution of land is achieved. The government should also seek new ways to compensate traditional authorities for their roles as the current arrangement leaves them prone to bribery especially by the wealthy elite.

4. Conclusions

While the issuance of tradable land rights, be they usage or ownership rights, may positively benefit rural communities living in communal areas, it is unlikely that this in itself will derive substantial immediate returns with regards to growth, and poverty reduction. This is to say that currently, while a constraint to improving the livelihoods of those in rural communal areas, land tenure is not the single or largest binding constrain per se. Despite this, as land tenure remains a challenge as well as a highly emotive issue, there is a need to explore various policy options. This said, within all policy developments in this regard, the principles of equity and sustainability should be safe guarded, with a strong focus on improving the livelihoods of the poor and destitute.

Land Titling and Rural Development Challenges: a Latin American Perspective

Javier Escobal

The Bank of Namibia Annual Symposium:
Unlocking the Economic Potential of the Communal Land
September 27th, 2012; Windhoek, Namibia

Outline

Enhancing land markets: the role of titling
International evidence
Land Titling in communal areas of the Peruvian Rural Highlands
Average Effects
Titling as necessary but not sufficient condition: looking at sub-sample (conditioned effects)
Exploring Livelihood strategies in rural communities
Heterogeneity in the way the rural poor connect to markets
Other dimensions that matter for the poor as they connect to the markets to make their livelihoods

- Inequity; Risk, Uncertainty, Vulnerability

Policy options: How can we improve rural livelihoods, improve connection to rural markets?

Enhancing land markets: the role of titling: Literature review

Effect of titling	Country	Method	Result	Authors
Investment	Thailand	OLS	Sign. Pos.	Feder (1988)
Input use	Uganda	OLS	Sign pos.	Roth (1994)
Fixed investment			Not sign.	
Tree planting	Ghana (different villages)	IV	Sign and Not sign.	Besley (1995); Migot-Adholla et al. (1994)
Investment intensity	China*	Max	Sign pos	Carter & Yao
Labour intensity		Likehood	Not Sign	(1999)
Input efficiency	Honduras	Probit	Sign. pos.	Lopez & Romano
Household income		OLS	Sign. Pos	(2000)
Per capita income	Chile	OLS	Sign. pos.	Lopez (2000)
Off-farm income		OLS	Not.sign	
Area planted with trees	Sumatra	Two limit Tobit	Sign. Pos.	Otsuka & Quisumbing (2001)
Fixed investment	Nicaragua	OLS/2SLS	Sign. Pos.	Laiglesia (2003)
Investment	Burkina Faso	2SCML	Not sign.	Brasselle et al. (2002)
Terraces	Peru	2SLS	Not sign	Antle et al. (2003)

Land Titling in communal areas of the Peruvian Rural Highlands

- During the last three decades the legal framework regarding land issues in Peru has radically changed from a strongly regulated process towards a more market-based perspective
- In the early1990s legislation promoted cadaster and titling policies for rural areas as well as lifted most restrictions on land sales, rentals and mortgages. At that moment only 10% of plots had registered titles. From this moment onwards, the definition of private property and the demands for well-defined property rights over the land acquired greater importance.
- In 1992 a in 1992 Public Program was created to construct a rural cadaster system and formalize land titling. The project spent more than 100 million dollars, which makes it one of the largest formalization programs for rural areas in the developing world (IDB, WB)
- The second phase of the Program covered most of the plots located in the an Andean regions of Peru where communal land and individual plots coexist side by side.
- We had a chance to construct a baseline for the project identify a “control” group and evaluate the impact of titling after two years, and then after four years (Zegarra, Escobal, et al, 2009)

Determinants of having a title (Household & Plot Level): Evidence from Peru (Rural Highlands)

	Plot level			Household level	
Individual Characteristics	Coef	Std Err	Individual Characteristics	Coef	Std Err
Area owned (hectares)	0.0062	0.0020 ***	Area owned (hectares)	0.0070	0.0037 **
Age of head (years)	0.0025	0.0015	Age of head (years)	0.0051	0.0030 *
Years of education of head	0.0031	0.0048	Years of education of head	0.0245	0.0096 **
Mother tongue of head is spanish	0.1712	0.0417 ***	Mother tongue of head is spanish	0.3120	0.0875 ***
Family size	-0.0157	0.0089	Family size	-0.0076	0.0163 ***
Time from plot to farmer house	0.0000	0.0006	% of plots with high slope	-0.1585	0.1328
Plot has high slope	0.0001	0.0524	% of plots in med alt area	0.0173	0.1117
Plot is in middle altitude area	0.0335	0.0445	% of plots in high alt area	0.3063	0.1256
Plot is in high altitude area	0.2044	0.0457 ***	Av of percentage of plot with irrigation	0.0621	0.0413
Percentage of plot with irrigation	0.0012	0.0005 **	Average index of erosion in plots	0.1905	0.0634 ***
Index of erosion in plot	0.0058	0.0235	Average index of quality of plots	0.0828	0.0784
Index of quality of plot	0.0608	0.0319	Index of livestock	0.0000	0.0000
Index of livestock	0.0000	0.0000	Head has ID	0.0547	0.1098
Area of the plot	-0.0011	0.0051	Spose has ID	0.2177	0.0975 **
Head has ID	0.1151	0.0542 **			
Spose has ID	0.0193	0.0540			
Group Characteristics			Group Characteristics		
Time from plot to province capital	-0.1569	0.0357 ***	Time from cap dist to prov capital	-0.2489	0.0803 ***
Time from plot to district capital	-0.0012	0.0002 ***	Minimum Time from plot to district capital	-0.0009	0.0004 **
Level of land concentration (district)	7.3992	1.5001 ***	Level of land concentration (district)	10.7690	3.3564 ***
Value of production per hectare (district)	-0.0014	0.0125	Value of production per hectare (district)	-0.0157	0.0232
Value of prod per ha (growth rate)	0.0041	0.0048	Value of prod per ha (growth rate)	0.0105	0.0104
Dummy for Sierra	0.2002	0.0568 ***	Dummy for Sierra	0.3211	0.1003 ***
Number of obs		982	Number of obs		281
LR chi2(20)		174.75	LR chi2(20)		107.08
Prob> chi2		0	Prob> chi2		0
Pseudo R2		0.1284	Pseudo R2		0.277

Source: GRADE CUANTO Final Households Survey

Global Impact of Titling in plots from Communal land: Rural Highlands in Peru

	With Titles	With no Titles		
	Change 2004-2006	Change 2004-2006	Dif in Dif	Sign
Economic Indicators				
Total Household Income (soles)	305.21	171.58	633.63	
Non Agriculture income (soles)	1077.[illegible]	1045.[illegible]	[illegible]	
Wage Income (soles)	376.34	1342.72	466.38	
Non wage non Agriculture Income (soles)	121.87	-442.55	564.41	
Agriculture Income (soles)	272.13	675.41	603.20	
Remmitances (soles)	-222.69	-141.60	-81.09	
Value of Livestock (nuevos soles)	514.40	219.39	655.79	
Input expenditures (soles)	43.74	105.31	61.56	
Net income per plot (soles)	[illegible]	[illegible]	[illegible]	
Rent land (Yes: 1, No: 0)	-0.04	-0.06	0.02	
Offered land for rent (Yes: 1, No: 0)	0.019	0.016	0.003	
Sale of land in the last two years (Yes: 1, No: 0)	0.03	0.00	0.03	*
Received formal credit last two years (Yes: 1, No: 0)	0.01	0.02	0.00	
Credit line the household perceived as available (soles)	1110.40	1046.13	[illegible]	
Household invested in instalations (Yes: 1, No: 0)	0.05	0.02	0.07	
Household invested in instalations in the plot (Yes: 1, No: 0)	[illegible]	[illegible]	0.019	
Amount Invested (soles)	41.06	9.57	32.29	
Household has perennial crops (Yes: 1, No: 0)	[illegible]	[illegible]	[illegible]	***
Invested in perennial crops (Yes: 1, No: 0)	0.040	0.027	0.066	***
Social Indicators				
Women are managing the plot (Yes: 1, No: 0)	[illegible]	0.06	0.04	
Improvements in the dwelling (Yes: 1, No: 0)	-0.04	0.02	-0.05	
Environmental Indicators				
Household invested in conservation practices (Yes: 1, No: 0)	0.0	0.1	0.1	***
Used Organic fertilizer (Yes: 1, No: 0)	0.29	0.01	0.285	***
Used integrated pest management system (Yes: 1, No: 0)	0.05	0.04	0.017	
Rotated crops within the plot (Yes: 1, No: 0)	-0.27	0.22	-0.049	
Number of observations			281 households 1037 plots	

Source: Zegarra & Escobal. [illegible] GRADE-CUANTO

Sub-sample (conditioned) Impacts:
Impacts start to surface in particular contexts

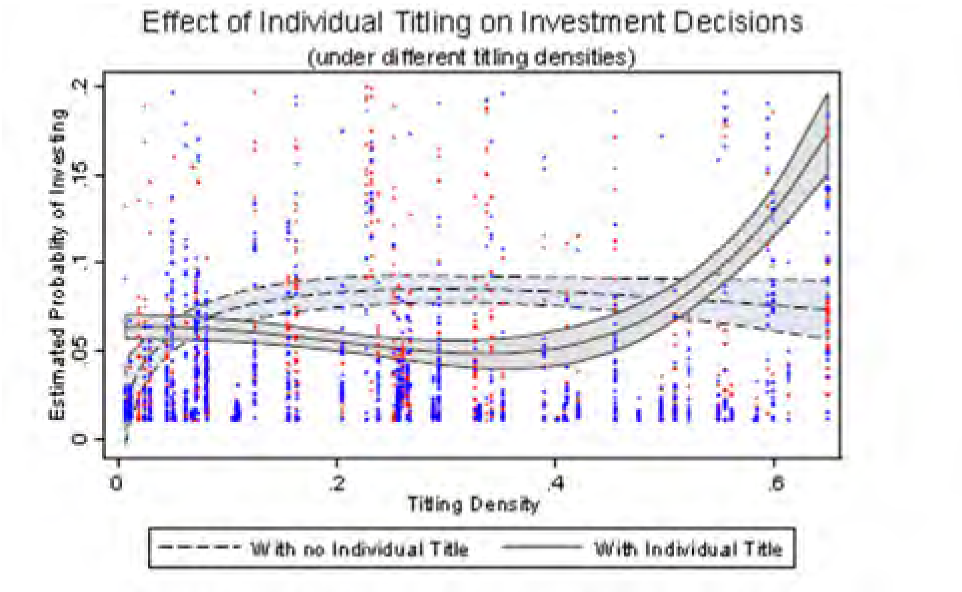
	With titles	With no titles		
	Change 2004-2006	Change 2004-2006	Diff in Diff	Sign
Economic Indicators				
Received formal credit last two years (Yes: 1, No: 0)				
Full Sample	-0.01	0.02	-0.00	
Household head with more than 6 years of education	0.045	-0.069	0.114	
Households with more than 3 has. of land	0.017	0.020	0.000	
Land density increased from low to high	0.000	0.000	0.000	
Household is less than 2 hours from district capital	0.006	0.069	0.076	
Sold land (Yes: 1, No: 0)				
Full Sample	0.03	0.00	0.03	
Household head with more than 6 years of education	-0.023	0.000	-0.023	
Households with more than 3 has. of land	-0.017	-0.003	-0.014	
Land density increased from low to high	-0.019	0.000	-0.019	
Household is less than 2 hours from district capital	-0.041	-0.009	-0.032	
Rent land to others (Yes: 1, No: 0)				
Full Sample	0.019	0.013	0.000	
Household head with more than 6 years of education	0.000	0.016	0.016	
Households with more than 3 has. of land	0.011	0.000	0.012	
Land density increased from low to high	0.017	0.139	0.176	***
Household is less than 2 hours from district capital	0.022	0.022	0.001	
At least 90 % of income was non agriculture income	0.024	0.030	0.054	***
Invested in perennial crops (Yes: 1, No: 0)				
Full Sample	0.040	-0.027	0.066	***
Household head with more than 6 years of education	0.009	0.065	0.024	
Households with more than 3 has. of land	0.011	0.012	0.023	
Land density increased from low to high	0.103	0.033	0.136	***
Household is less than 2 hours from district capital	0.049	0.010	0.059	**

Source: Zegarra & Escobal: ELDVELT, GRADE CUANTO

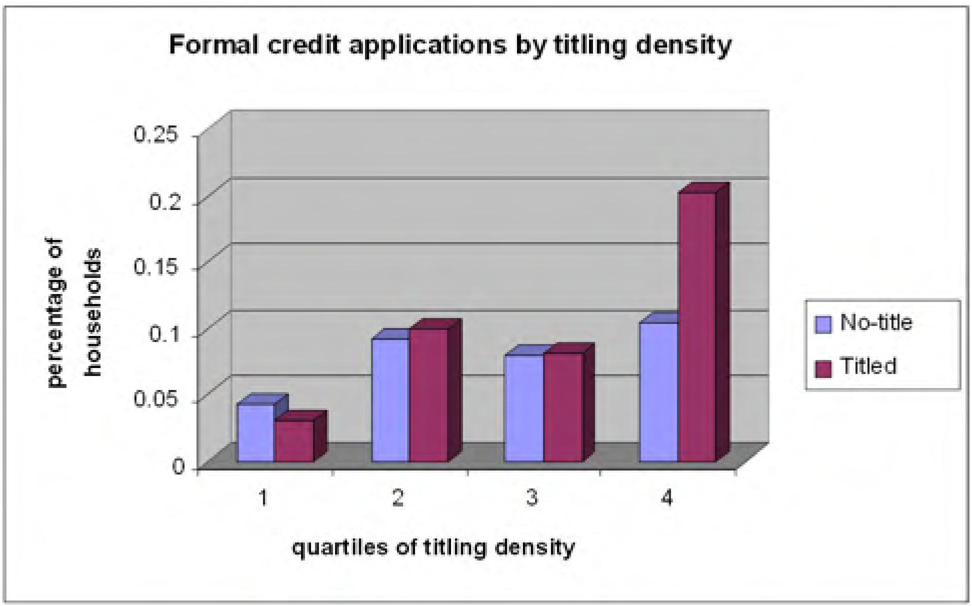
Impact of titling on renting-out land (matching estimation)

Variable	Treated	Controls	Difference	S.E.	T-stat	
Unconditioned impacts						
Land rented out or sharecropped	0.016	0.013	0.002	0.018	0.14	
Land rented out, sharecropped or lent	0.018	-0.029	0.011	0.020	-0.55	
Number of observ ations with common support					939	
For plots in sectors with high density						
Land rented out or sharecropped	0.047	-0.021	0.068	0.037	1.83	**
Land rented out, sharecropped or lent	0.047	-0.01 0	0.057	0.044	1.3	
Number of observ ations with common support					324	

There are factors beyond individual titling that affect investment decisions



Not al titles have the same effect: Where the title is located matters



What does all this means for titling programs or policies aimed at expanding rural land markets?

- Titling is important but, at best, is a necessary not a sufficient condition to activate land markets or improve the livelihoods of rural inhabitants
- There is no "silver bullet". Only through complementary interventions we may unleash the potential of land for improving the wellbeing of the rural poor.
- To understand which are the best complementary interventions a clear assessment of the reasons behind the reasons of, for example, expanding title deeds in rural communities.
  - What is the causal path we expect to operate?
  - What other public infrastructure services are lacking which may prevent unleashing the full positive impact?
  - In which context is this policy been enacted and what needs to be done to improve the connections to markets (input, output, financial or land markets)

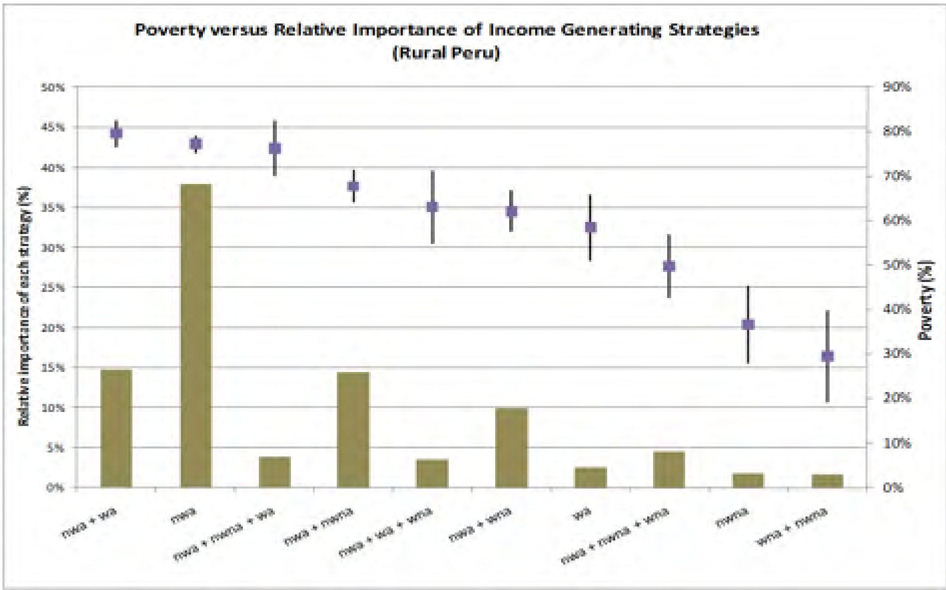
Are indigenous land rights systems a constraint on productivity?

- The evidence in Latin American, in general and in Peru in particular supports the hypothesis that under the pressures of commercialization and population pressure, indigenous land rights systems have evolved from systems of communal control towards individualized rights.
- Communities have a strong demand for individual titles… not because they open the door to the credit but because they facilitate the intergenerational transmission of land.
- Productivity is low not because land right systems are inappropriate but because peasants faced multiple market constraints.

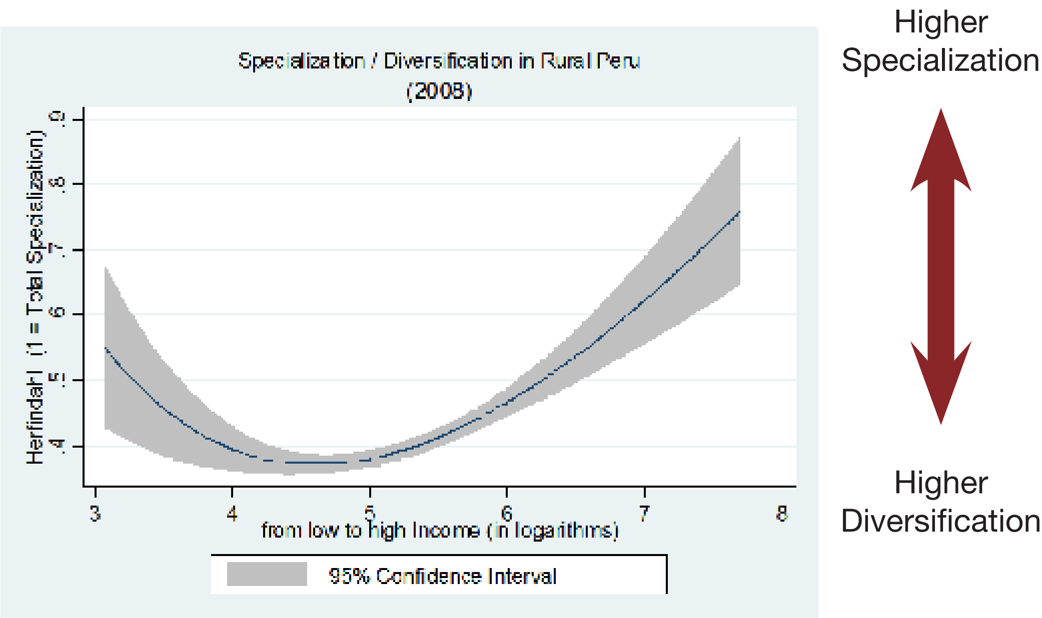
Exploring Livelihood strategies in rural communities

- To explore options to unlock the potential of communal land and reduce rural poverty we need to understand better the livelihood strategies of the rural poor
- Secure rights to land holding is just one aspect of the puzzle
- There is a large heterogeneity in rural livelihood strategies. This heterogeneity can be explained by differences in endowments (private and public; human capital, physical, financial, social capitals) and differences related to the context in which rural households operate (physical and institutional factors)

Those that diversify attain lower poverty rates



Diversification increases just above poverty line ... but then specialization comes into the picture

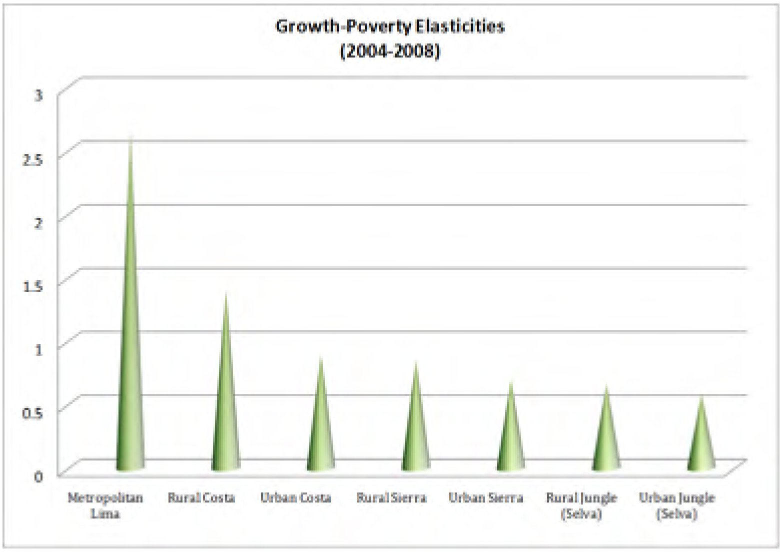


Inhabitants of Rural Communities are Vulnerable: The titling -> investment link is affected by such vulnerability

Peru: 2004-2006	Total	Urban	Rural
Never poor	38,0	47,5	17,8
1 year poor	17,4	18,6	14,8
2 year poor	16,0	14,6	19,0
3 year poor	28,6	19,3	48,4
AT LEAST 1 YEAR POOR	62,0	52,5	82,2

In addition vulnerability, risk and uncertainty is higher for the poor preventing them from taking advantage of new market opportunities that growth may generate

Because of all these factors, response to growth is different across regions (different endowments & institutional settings



In Peru, for example, despite the fact that poverty has go down , most of the reduction happened in urban areas with rural poverty going down at a much lower speed. Growth-Poverty elasticities in rural Peru are low (specially in the remote Andean and Jungle rural regions)

How can we improve the linkages of rural households to markets?

The Obvious

- Improve their capabilities

  Private Assets

  Public Assets
- Reduce the inequity in the access to public good and services

Something a bit less obvious

- Isolated Interventions have lesser impact than those interventions that take advantage of complementarities
- Coping better with uncertainty and vulnerability (which limits their ability to innovate and assume risks)
- Do not return to the design of vertical-planned interventions. Give more space to rural households /producers. This demands the construction of a institutional weave that currently does not exist.

Construction markets from the bottom-up

- Acknowledging Heterogeneity: Who knows what is the best for rural dwellers?

  "Big" Government? / The regional or local Government? NGOs? /rural population

  Is very difficult (if not impossible know with certainty which are the most biding

  restrictions that a rural household/producer faces
- Improve capabilities / Empower people and their communities
- The rural producer needs to build up its capabilities to improve its linkages to markets. o

  Needs the right to choose, given the circumstances he/she faces.

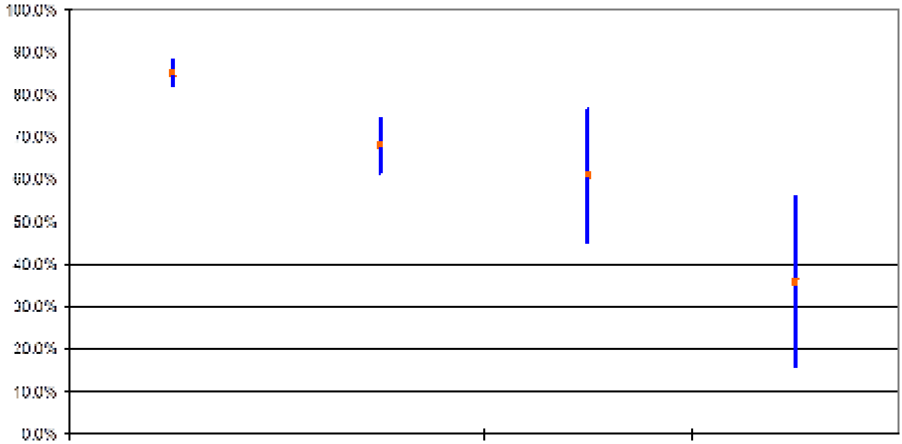
  Needs to learn from its own mistakes...

Complementarity of Interventions

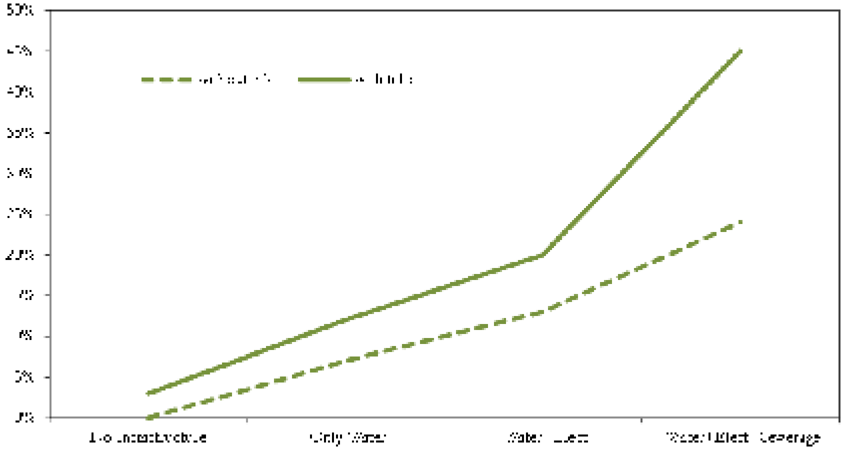
	Simulations		
	Poverty rate	Average pc income	Gini
Without key public services	82.5%	183.58	0.37
Only Water	82.2%	185.97	0.37
Water+ Electricity	74.5%	233.87	0.35
Water+ Elect + Sewerage	69.9%	255.87	0.35
All public services	62.3%	293.70	0.35
	Observed		
ENAHO 2001 IV	73.1%	228.54	0.45

Source: Escobal & Torero (2009)

Complementarity of Interventions: poverty rates according to access to different assets combination(average rates and confidence intervals)



The impact of rural titles icreases substantiallywhen complementary public infrastructure investments occur



Finally… the international context & the Policy Response

- *International Context*

  Rising prices and price volatility

  Uneven price transmission and domestic food price inflation

  Rising chronic food insecurity

  Rising transitory food insecurity: Vulnerable "new poor" with financial crisis

- *Policy Response*

  Need focus not only on chronic poverty but also on vulnerability to price and income shocks for net buyers of food: "new poor" and risks of losses in assets, health & education due to shocks

Some key elements of the new Rural Development Agenda (WDR)

- Support transitions from subsistence farming to market integration
  - Access to assets: land, human capital, managerial skills, gender
  - Community Driven Development (CDD) approach for public goods and productive projects
  - Take advantage of complementarities
- Invest in the productivity and resilience of production for home consumption
  - Used as a transitory social safety net with price and employment volatility (food and financial crises)
- Invest in territorial development and rural skills
  - Design territorial development strategies
  - Provide access to sources of income in the rural non-farm economy for prosperous smallholder farming

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Remarks on The Way Forward

by Ms Lidwina Shapwa,
Permanent Secretary,
Ministry of Lands and Resettlement,
at The 14Th Annual Symposium of the Bank of Namibia
Windhoek, 27 September 2012

Director of Ceremony,

Honourable Minister of Lands and Resettlement, Hon Alpheus !Naruseb;

Governor of the Bank of Namibia, Mr. Ipumbu Shiimi;

Distinguished speakers and Discussants;

Members of the Diplomatic Corps;

Distinguished Development Partners in the Namibian Land Reform Program present here today;

Members of the Media and all Distinguished invited guests;

Ladies and Gentlemen,

It is both an honour and privilege for me to have been asked to deliver the way forward on this very delicate but important subject matter. I cannot stress enough, how important today's discussions were, as they focused on a very crucial issue in our country, which is communal land.

Before wrapping up these fruitful deliberations, I would like to give a concise summary of the key issues raised here today as well as to suggest the way forward. Before I do that however, and with your permission Director of ceremonies, I want to make the following remarks;

1. I have heard before and I continue to hear that residents of communal areas want to use their land as security but are unable to do so.

   The question I always ask is, how does one use a piece of land which is not his, as security?

   It is well known that land in communal belongs to the state. Those staying there are only given customary land rights to stay and use for various purposes. If there is any problem that we need to address, that problem is how do we use customary land rights in order to access credits from financial institutions. It has emerged from statements and discussions here today that, in the case of Namibia, communal land dwellers derive their income from off-farm or non-agricultural activities. That is to say, the productivity of communal farm land is very low. With this in mind, it is critical that we revisit our land and agricultural policies in search for ways to improve agricultural productivity and thus improving the livelihoods of the communal land dwellers.

2. The second issue that I continue to hear is that there are valuable immoveable properties in communal areas that can be used as security by banks and other lending institutions. My question is, why are we not using such properties as security to borrow from banks. Is there any law in this country that prohibits us from doing that, assuming such properties are held under customary land rights? Where is the problem? Does the problem not lie with those who have lending powers? It is very clear that government is doing its best to bring an orderly administration of communal land and ensuring security of tenure by registering the rights in communal areas.

   What is needed is for commercial banks and other lending institutions as well as all stakeholders to find credit modalities suitable for lending to residents of communal areas.

   Ladies and Gentlemen, this symposium has evidently underscored the fact that there is a need to relook at the communal land system in Namibia. On the one hand, the discussions here today indicated that substantial opportunities for economic development can be unearthed through provision of secure tenure over commonage land rights.

   Other speakers have, on the other hand argued that land titling is not the only critical factor which needs to be tackled to unlock the economic potential of communal land. Rather, a broader range of investments and agricultural policies involving state agricultural interventions, private market and investment incentives and direct support to small producers were argued to do instrumental in promoting agricultural growth and development. We as a ministry do take most of the proposed strategies and recommendations emanating from this symposium serious and I would like to highlight the following few by way of a checklist:

   - Promoting agricultural growth, productivity and rural development through various financing, credit and inputs support schemes;
   - The need to continue pursuing land tenure policy reform measures which clarify the nature of land rights and the land administration system in the communal areas;
   - Promoting greater recognition in law of rights under ‘customary’ tenure systems and enhance the legal protection of such land rights, especially for vulnerable groups;
   - Initiating consultations with banking sector and other lending institutions with a view to finding specific but favourable credit schemes for residents of communal areas in order for them to access modern technologies, increase productivity

and better their livelihood

- Increase capacity of the role player in the administration of the communal land
- Creation of the necessary infrastructure in communal areas will lead to increased economic potential of the communal land.

Having said this, ladies and gentlemen, I would want to echo the sentiments of most of our presenters today that, indeed, a more differentiated approach to increased productivity in communal areas is required than simple land titling.
To this effect, land tenure reforms should go hand in hand with agrarian reforms in order to lead to higher agricultural productivity.

In other words, in addition to providing land titles, we also need to improve producer incentives and to facilitate access to credit for producers in communal land. Furthermore, support services such as availing agricultural expertise and technology, ensuring access to agricultural markets for both inputs and outputs, and infrastructural investments will go a long way in enhancing the ability of communal area residents to not only focus exclusively on subsistence farming but to empower them to produce on a commercial basis.

In light of this, it is then evident that unlocking the economic potential of communal land does not fall under the ambit of one institution or ministry neither does it entirely dependent on a certificate of registration of a right but requires collaborative efforts from various stakeholders, to name a few: Ministry of Agriculture, Water and Forestry, Local Authorities, Developmental partners and the Banking sector. Therefore I would like to urge all relevant stakeholders to not only work with the Ministry of Lands and Resettlement, as the custodian of land distribution in the country, but to also increase their efforts so that we can achieve our objective of unlocking the economic potential of communal land. In the end, the key challenge for us, as policy makers is to create conditions that permit land rights to generate wealth while guarding against the loss of rights for the poor. As a way forward, the ministry will seriously consider the recommendations suggested here today for applicability to the Namibian situation and take further necessary steps in that regard.

Director of Ceremonies,
Let me also take this opportunity on behalf of the stakeholders and the organizers of this symposium to thank you all in your respective capacities for taking interest in this forum. Your views and ideas shared with us here today are of paramount value and will seriously be taken into consideration.

Let me quote the popular phrase that says “Rome was not built in one day”. I surely believe that we as a country shall one day find a way to unlock the economic potential of our communal land.

I thank you and God Bless you.