

Land, Food Security and Sustainable Development in Africa

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Table of Contents

List of Tables	iii
List of Figures	iii
List of Charts	iii
List of Boxes	iii
List of Annexes	iii
1.0 Introduction	1
1.1 Objectives and Scope of the Study	1
1.2 Historical Context and Background	2
2.0 Conceptual Framework and Methodological Issues	3
2.1 Land Tenure: Some Basic Concepts	3
2.2 Land Tenure: Food Security Analytical Model	7
3.0 Land Tenure and Livelihoods in Africa	11
3.1 Livelihood Options and Land Tenure	11
3.2 Land Distribution and Ownership Patterns	12
3.3 Land Markets and Sustainable Livelihoods	14
3.4 Land Tenure and Poverty	20
3.5 Land and the HIV/AIDS Pandemic	23
4.0 Land Tenure and Food Security	24
4.1 Land Tenure, Agriculture and Food Security	24
4.2 Land Tenure and Land Use in Africa	27
4.2.1 Agriculture	28
4.2.2 Protected Areas	29
4.2.3 Pastoralism	29
4.2.4 Land-Use Regulations	30
5.0 Tenure and Sustainable Resources Management	32
5.1 Land Tenure, Social Vulnerability/Marginality and Environmental Stress	32
5.2 Good Practice in Sustaining Livelihoods	33
5.3 Land Tenure and Environmental Security	33
5.4 Land Tenure and Natural Resources Conflicts: Poaching, Grabbing and Occupations	34
6.0 Land Tenure and Gender Relations	37
6.1 The Gender Division of Tasks and Responsibilities	38
6.2 Women's Ownership and Tenure of Land	38
6.3 Gendered aspects of Poverty and Marginalisation	39
7.0 Land Policy Making in Africa	40
7.1 Introductory Remarks	40
7.2 Scope and Forms of Land Policies	41
7.2.1 Land Legislation and Administration Policies	41
7.2.2 Customary Landholding Systems, Nationalism and Land Market Policies	41
7.2.3 Land Redistribution Policies	42
7.3 The Making of Land Policies	43
7.4 Comprehensive National Land Policies	44
7.5 Land Policy Implementation Processes	46
7.6 Sub-Regional Land Policy Experiences	48

7.6.1	West Africa.....	48
7.6.2	Southern Africa	50
7.6.3	East and Greater Horn of Africa.....	52
7.6.4	Central Africa	53
7.6.5	North Africa	54
7.7	Limitations of Land Policies and Selection Impacts.....	55
8.0	Conclusions	57
9.0	References	60
10.0	Annexes	72

List of Tables

Table 3-1:	Smallholder Land Distribution in Selected African Countries	22
Table 6-1:	Contribution of African Women to Family Livelihoods	38
Table 7-1:	Main Thematic Issues covered by Land Policies in Africa	47
Table 7-2:	Arable Land in North Africa.....	54

List of Figures

Figure 2-1:	Conventional Conceptual Links between Land and Food	10
Figure 2-2:	Land Tenure and Food Security: The Links	11

List of Charts

Chart 2-1:	Significance of Land for Livelihoods in Africa.....	9
Chart 3-1:	Responses to Effects of HIV/AIDS from Afflicted Families	24
Chart 8-1:	Analytical Model of Land Policy and Food Security in Africa.....	58

List of Boxes

Box 3-1:	Examples of Land Markets in Eastern and West Africa	15
Box 3-2:	Land Sales in Central Côte d'Ivoire.....	18
Box 4-1:	Land for Forest or Sugarcane Production? An Example from Uganda	30
Box 4-2:	Maasai Pastoralists: An Example from Kenya.....	31
Box 5-1:	Settlement in Forest, Game Reserves and National Parks in Uganda.....	36
Box 5-2:	Land Tenure Conflicts in Côte d'Ivoire	37
Box 7-1:	Land and Gender Considerations in Selected Countries.....	46
Box 7-2:	Land Problems in Ghana.....	49
Box 7-3:	Objectives of Malawi's Land Policy.....	51
Box 7-4:	Communal Land Rights Bill of South Africa	52

List of Annexes

Annex Table 10-1:	Prevalence of Poverty in Selected Countries (2001)	72
Annex Table 10-2:	HIV Prevalence Rates at end of December 1999 in Southern Africa.....	72
Annex Table 10-3:	Production Trends in Agriculture in Africa (metric tonnes).....	73
Annex Table 10-4:	Importance of Agriculture to National Economies	74
Annex Table 10-5:	Changes (%) in Quantity of Agricultural Exports between 1990 and 2000	74
Annex Table 10-6:	Agricultural Trade in Africa (US\$1000).....	75
Annex Table 10-7:	Changes in Forests: 1990 and 1995	75

Acronyms

AIDS	-	Acquired Immune Deficiency Syndrome
CA	-	Communal Area
CBO	-	Community Based Organisation
DFID	-	Department for International Development
CPA	-	Communal Property Association
EU	-	European Union
FAO	-	Food and Agriculture Organisation
FAOSTAT	-	Food and Agriculture Organisation Statistics
KSW	-	Kakira Sugar Works
GDP	-	Gross Domestic Product
GSDR	-	Government of Somalia Democratic Republic
Ha	-	hectares
HIV	-	Human Immuno-Deficiency Virus
IIED	-	International Institute for Environment and Development
IFAD	-	International Fund for Agricultural Development.
IMF	-	International Monetary Fund
IUCN	-	International Union for the Conservation of Nature
MNC	-	Multinational Corporation
NGO	-	Non-Governmental Organisation
PA	-	Peasant Associations
PC	-	Producers Cooperative
RLP	-	Rural Land Plan
SA	-	South Africa
SADC	-	Southern African Development Community
SAP	-	Structural Adjustment Programme
SSA	-	Sub-Saharan Africa
SDD	-	Sustainable Development Division
UNDP	-	United Nations Development Programme
UNESCO	-	United Nations Educational Scientific and Cultural Organisation
UNECA	-	United Nations Economic Commission for Africa
UNFP	-	United Nations Environment Programme
USA	-	United States of America
US\$	-	United States Dollar
USAID	-	United States Agency for International Development
TTL	-	Tribal Trust Lands
WB	-	World Bank
WTO	-	World Trade Organisation

1.0 Introduction

1.1 Objectives and Scope of the Study

This paper develops an analytic perspective of the linkages between land tenure, and food security and sustainable development, in an African context. The paper provides the underlying approaches and conceptual premises that not only inform the discourse on land tenure in Africa but also influence policy-making in relation to food security and sustainable rural livelihoods. We begin by identifying these conceptual premises and then demonstrate empirically how the linkage has been historically developed. Finally the paper proposes alternative conceptual tools and approaches to enable us to better understand the linkages between land tenure and sustainable livelihoods.

The paper suggests that land is central in promoting rural livelihoods in Africa because access to land and security of tenure are the main means through which food security and sustainable development can be realised. Land tenure and struggles over land have been growing¹ in the last decade, in a context of growing poverty, landlessness, homelessness and distress in Africa. The last few years have witnessed the increased organisation of politics around land and the literal physical assertion of attempts to gain land rights by some communities. Given that over 70% of the population in Africa is reliant on the rural economy and has livelihoods mainly linked to land and natural resources exploitation, land rights are central to food security and sustainable development.

The persistence of poverty in Africa's slowly changing economic and social environment has renewed debates on the role of land in rural economic development. The poor performance of African agriculture has often been attributed to weak and unresponsive agrarian institutions, and weak land tenure regimes. In the past, the dominant view was that land titling programmes in Africa would enhance security of tenure and promote investment in agriculture, thus leading to increased growth and development. Empirical evidence demonstrates that such land reform programmes failed to develop the smallholder agriculture sector as the assumption that financial resources (local and external) would be mobilised and investments on land made were found to be unjustified. The essence of the argument of this paper is that, although the land question in Africa varies across the sub-regions, there are common tendencies and empirically based data that demonstrate similar linkages between the land tenure relations on one hand, and food security and sustainable livelihoods on the other.

The analytical model developed by Moyo (1999), based upon Shivji et al. (1998), is used to explain the link between land tenure and, food security and sustainable development. The paper also presents other models developed to explain these linkages in order to compare the efficacy of different sets of perspectives on the evolution of land tenure in Africa and its role in politics and development in the historical evolution of land problems. While the notion of tenure security tends to be equated with the individualisation of landholdings, in Africa the existing complex tenure relations suggest that there is no single tenure form that offers absolute security. The coexistence - even association in some cases - of various forms of tenure, including state, communal, customary, and individual rights, suggests the need to develop more complex policy and analytic models. To derive meaningful propositions about the respective merits of different forms of tenure in terms of specified criteria can, in fact, be irrelevant as the detailed literature and case studies presented here show. The paper thus focuses attention on the pertinent concepts of land tenure, food security and sustainable development in Africa and reviews past land reform programmes as a basis for providing experiences and lessons that could be used to develop policy options on the land tenure-food security nexus.

¹ Land conflicts can be violent or non-violent disagreements or confrontations over the ownership of or access to land, or the resource benefits derived from land. Such conflicts take place at various levels: the household, community, nation-state and inter-state. The assumption in this study is that land tenure insecurity leads to increased land conflicts and that such conflicts compromise food production and sustainable livelihoods.

1.2 Historical Context and Background

The history of colonialism in Africa varied among the regions and in relation to colonising polities (Amin, 1972), creating varied land questions. In some countries, settler colonialism was entrenched via massive land alienation and proletarianisation, leading to protracted armed liberation wars. In others, indirect rule led to the promotion of peasant farming for exports without land expropriation, generating multiple export enclaves, which built a differentiating indigenous elite alongside the peasantry. And, in a few countries (Democratic Republic of Congo, Cameroon etc.), the plantation economies of the European merchant capitalists coexisted with peasantries in a bimodal agrarian context.

The legacy of the colonial land policies is the major framework through which sustainable livelihoods at the individual country level have been conditioned. The genesis of the land problem in Africa is a political economic structure established through conquest, mostly by Europeans seeking to extract resources from Africa. However, the diversity of the historical experiences of Africa's colonialism means that land tenure systems vary considerably, albeit with some commonalities. Land scarcity, denial of access to natural resources by landlords and the state through laws which exclude many, and privatisation of land have contributed to human distress and poverty. In some situations (e.g. North Africa), it is access to arable land that is at stake, while in others (West Africa), it is the land administration and decision-making conflicts between the state and local communities and various interest groups (men, women, urbanites, civil servants, youths and poor households) that are problematic (Amanor, 2003). In former settler colonies, the challenge of land redistribution and related land struggles predominate.

The current land tenure complexities have their roots in the administrative and resource rights systems imposed during the colonial period. An understanding of the systems that obtained in the pre-colonial states and the transformation process they went through as a result of colonialism is necessary in order to appreciate the linkages between land tenure and, food security and natural resource management. Colonialism introduced new dimensions to the form of land ownership and title, and land management, as well as to the rights and responsibilities related to land and natural resources. In this context the meanings of food security, security of tenure and sustainable natural resource management were also changed through the processes of marketisation of land and food, and the commodification of natural resources.

Africa was colonised through a combination of military conquest and unjust treaties and agreements (Mamdani, 1996; Berry, 1993). The process of colonisation was driven by the economic imperatives of establishing markets for European goods, exploitation of mineral resources and establishment of European agriculture. A unique feature of colonialism in Africa is that it defined land as a communal and customary possession (Mamdani 1996). Thus, customary tenure related to both personal relations (marriage, succession, movement) and access to productive resources (land). This was further complicated by the fact that colonial 'custom' was not voluntary or socially sanctioned but was enforced by the colonial government using various methods available to the state, including the military option. Thus the concept of 'custom' was designed to tighten the control of the colonial state on the natives, through what Mamdani (1996) calls 'containerisation' of the subject population.

Following conquest, and having first declared the indigenous black population ignorant of any ownership concepts, the colonial state arrogated land to white settlers on the basis of freehold tenure, thereby giving them virtual absolute ownership and the greatest bundle of rights. The displaced population was then settled on the worst lands and governed by administrative discretion, while land rights were held in trust by state bodies justified by a paternalist colonial ideology. Customary laws, as modified by the colonial state, governed relations among the indigenous communities themselves. At the time of independence for most African countries, a dual, unequal and hierarchical system of land tenure

was inherited, with freehold and leasehold land rights being treated as superior to customary land rights (Shivji et al., 1998; Moyo, 1998). It is this dilemma that most land reform initiatives are trying to redress and that continues to manifest itself in today's debate on land tenure security, natural resource management and food security.

2.0 Conceptual Framework and Methodological Issues

2.1 Land Tenure: Some Basic Concepts

Land tenure is a derivative of the concept of natural resource tenure, which in essence refers to the terms and conditions under which natural resources are held and used (Bruce 1986; Moyo, 1995; Shivji et al., 1998). The concept of 'tenure' is a social construct which defines the relationships between individuals and groups of individuals by which rights and obligations with respect to control and use of land are defined. The centrality of land in all dimensions of rural life in the context of Africa means that the analysis of land tenure issues should be broadened from its traditional links with issues such as land-use, agricultural production efficiency, access to credit, conflict management mechanisms, fragmentation of landholdings etc, to include all aspects of power/politics and social position.

European settlers in Africa came with their own laws on land ownership. In Southern Africa for instance these were derived mostly from Roman-Dutch law. The settlers created for themselves the legal regime of ownership that best protected them and gave them the largest bundle of rights possible under the imposed legal regimes. Such was the system of tenure based on freehold and leasehold. 'Freehold' land is considered to provide absolute ownership rights, implying the right to own, control, manage, use and dispose of property. Such land rights, while being held in perpetuity, may however be sequestered through state intervention when land is targeted for expropriation for clearly public interest (e.g. expansion of urban areas, damming of rivers, etc.). Freehold tenure is a traditionally western concept of individual property ownership. In Africa, freehold and leasehold land rights have mostly been identified with large-scale farming and elite land ownership regimes. Land tenurial and racial segregation was reproduced in both rural and urban areas to delineate white from black residential and commercial activities. Given the protection freehold land tenure received from the state and its institutions in terms of the received law, it has tended to be presented as the most secure form of tenure.

'Leasehold' lands are based on the notion of rentals for long periods. Land belonging to one entity - either the state or an individual - is, by contractual agreement, leased to another entity. Such leases can be long or short. In practice, the issuing of 99-year leases is considered to be as secure as a freehold tenure system. The lease agreement is then registered against the title of that land to create real land rights that are enforceable. 'Statutory allocations' were a particular form of state land where such land, by virtue of some statutory provision, was allocated for the use of some legally constituted body. Through the issuing of licences, state land can also be put to private use through contractual arrangements with private individuals or institutions outside the framework of leasehold, subject to the conditions of the lease. In some cases, there is state land which has not been allocated to any individual and or has not been placed under the control and use of a statutory body. This category of land is referred to as 'unalienated' state land.

Contrary to indigenous tradition, Africans living in areas under 'customary systems' or forms of land tenure tended to occupy lands by the permission of the state, which was the ultimate owner or the holder of radical title. Their occupation and use of land was controlled by criminal law and sanctions while they had no legally entrenched rights, in contrast to the state as an owner and those holding land under received law. Among themselves, they were allowed to continue to relate to each other under the customary law that also governed their land relations and tenure but, whenever the state so desired, the permission to occupy and use land could be withdrawn by administrative fiat (including forced

removals) and African lands appropriated without resort to law. Thus customary law tenure was insecure and fragile, and was presented and perceived as such. Within weak and fragile customary land rights there were further inequalities and inequities. Constructed in the shadow of colonial power structures and struggles, the real practices of customary law perverted its supposed original content based on harmonious and fairly homogenous communities. In reality, the 'community' is differentiated along both social and gender lines and reproduces unequal and inequitable access to and use of land, most particularly for women.

The colonial power initiated and nurtured the notion of customary tenure with three key distortions. First was that the notion of community rights became so one-sided that it was not in agreement with the concept of individual rights. Secondly, the definition of customary authorities who would exercise the right to allocate community land for household use mixed up ritual powers with proprietary rights. The third serious distortion was the identification of the community with the tribe, such that all migrants who did not belong to the particular tribe were viewed as strangers and perceived as having no traditional right to access land (Moyo, 1993; Cheater, 1988). This contrived form of customary land tenure was however contrary to practices that prevailed in pre-colonial African societies, where status and wealth accrued to those who could attract dependents or followers. Strangers were welcome and, sooner or later, social relationships developed (e.g. marriage, settlement etc.) and contributed to the prestige and often the labour force of the head of household, kin group or community. As a result, communities were generally multi-ethnic.

The imposed ownership and inheritance rules discriminated against women and weaker ethnic minorities. Furthermore, in most countries, customary lands are essentially state land, managed on behalf of clans and cannot be transferred through the market system. Outside of freehold systems, access to land in Africa varies between men and women and even between married and unmarried women. The discriminatory role of customary tenure along social and gender lines is a direct product of colonial manipulation.

Land rights have increasingly become perceived as being embedded within the broad spectrum of human rights (Moyo, 2001), and are related to the notion of rights to food and to existence which has to be sought in land as the foremost means of social and economic reproduction. In Africa, rural livelihoods are characterised by having a secure place to live, free from threat of eviction, and with access to productive land and natural resources. Customary land tenure systems house the livelihoods framework that supports rural populations. These systems include the possession of land exclusively by individuals or households for residential use, farming or some other business activity within a given community. In addition, they incorporate the 'commons' - land shared by multiple users for grazing and for gathering field and tree products (fuel, construction poles, medicinal plants, fruits, grass etc.) found in controlled and open access areas.

Land policy, as it relates to the above concepts, is thus crucial to sustainable livelihoods and food security as the empirical evidence in this paper will show. Land policy is a process of drafting all aspects of land management, including setting the benchmark for acquisition/disposal of land; the social and legal tenure regimes; the distribution structure and mechanisms; the regulation and forms of land-use, management; the administration systems; and the adjudication of land disputes. Land policy-making is usually led by the state through the pronouncement of specific laws and policy statements, and drafting by technocrats and/or popular assembly in consultation with broader stakeholders. Land policy reviews have recently been conducted in numerous African countries, leading to new land laws and/or the redefinition of the necessary institutional framework under which land policy is administered.

Some land policy tends to be of a more radical nature, termed 'land reform', this being a process of restructuring the distribution of land ownership rights. This includes the acquisition (voluntarily and/or compulsorily) of land from the state or current owners for redistribution to other groups of people who have historically been dispossessed or disadvantaged.² There are several approaches to land reform which include: (i) land redistribution and resettlement through compulsory acquisition or markets; (ii) land nationalisation through vesting control of all land in the state and asserting the power of the state over individuals and traditional leaders; (iii) the introduction of land registration and titling through the issuance of land ownership certificates on demarcated land; (iv) collectivisation of land ownership through the encouragement or compulsory creation of collective cooperatives; and (v) land development through the proclamation of large development projects (conservancies, forest areas, dams etc.), which restructure land use and ownership rights. Thus land tenure reform is one of a range of planned changes in the terms and conditions under which land is held, used and transacted through converting informal rights to formal rights and establishing mechanisms for recognition and management of land and natural resources.

Colonialism in Africa was followed by the creation of 'land markets' of various types. These provide a framework within which land is disposed of between private persons (natural or corporate), without recourse to state bodies, except for purposes of registration and notification of the transactions. Thus transactions in the land market are not absolutely 'free' as the state administrative structures retain intermediary functions through the land registry, land administrative courts and other entities, which proscribe such land transactions. In redistribution programmes, there are different versions of the land market approaches that have been developed. These include: (i) 'willing seller-willing buyer', in which there is no hindrance in land sales; (ii) 'market assisted' land reforms, in which resources are mobilised from the state and donors for land acquisition and settler placement; (iii) 'market led' land reforms, in which the 'open market' determines land transfers; (iv) 'state led' market based approaches, in which the state, as the leading buyer of land on the open market, uses donor finance for both acquisition and settler placement. However, land markets also vary depending on the form of laws underlying the freehold concept (e.g. Roman-Dutch laws as opposed to English common law) and in relation to various land regulatory processes, such as land taxation, land use directives, rules regarding land sizes and environmental management controls.

Access to land and land tenure relations are critical where communities depend on control of land to ensure their food security. 'Food security' is the capacity of households, communities and the state to mobilise sufficient food, through production, acquisition and distribution, on a sustainable basis. Food security thus depends on the land resources available to the household or community and their ability to mobilise resources for the production and/or distribution of food to achieve an active and healthy life. 'Food entitlement' is a concept derived from the entitlement approach developed by Amartya Sen (1981) following the severe Ethiopian drought in the early 1980s. He argued that famine conditions exist not because there is no food, but because the individuals lack adequate income to acquire food. This has subsequently been used to broaden the interpretation of access to land and natural resources. In 1986, the World Bank defined 'food security' as "access by all people at all times to enough food for an active and healthy life". They identified two essential elements of the food security equation as "the availability of food and the ability to acquire it" (World Bank, 1986). Rukuni and Eicher (1987) identify that food availability in Africa is through domestic production, storage and/or trade, while access to food is through home production, the market or food transfers.

² Land reform beneficiaries: the targets of redistributive land reform are usually focused on the poor (low income). However, other middle income categories of beneficiaries also tend to be targeted for access to land, ostensibly to enhance indigenisation, commercial farming and economic development.

‘Livelihoods’ are the way in which households and communities derive food, shelter and clothing to sustain their living. Different dimensions of the livelihood concept have been developed by the UK’s Department for International Development (DFID), mostly from an income mobilisation perspective. Chambers (1988) defined ‘livelihood’ as adequate stocks and flows of food and cash to meet basic needs. Security of livelihood includes access to the means to produce the food or generate the income to meet those needs (Frankenberger, 1995; Chambers, 1995). In this study, access to land and land tenure security are regarded as key to human livelihoods. ‘Sustainable livelihoods’ exist when systems of human livelihood can cope with and recover from stresses and shocks, and maintain or enhance their human capabilities and assets both now and in the future, while not undermining the natural resource base. ‘Livelihood strategies’ are the ways in which assets or resources are used to generate access to food. Maxwell and Wiebe (1998) argue that food security is a subset of livelihood security, the latter being a necessary and often sufficient condition of the former.

Thus systems of livelihoods determine whether households or communities are vulnerable or not. ‘Vulnerability’ is the degree of exposure of a household or community to life threatening conditions (either natural or human made). The resilience of a household or community depends on the structures of control and management that it puts in place to minimise the shocks, predetermined or otherwise. Household vulnerability is highly sensitive to the macroeconomy, the rainfall regime and to the degree of functionality of community institutions. The risk of livelihood failure largely determines the vulnerability component of food security and, in any rural agrarian economy, access to and rights in land and natural resources are central to an analysis of livelihood strategies and livelihood security.

The terms ‘livelihood strategies’ and ‘coping strategies’ have been used in relation to the way in which households and individuals cope with circumstances when they do not have sufficient income or food to meet all their needs. Davies (1993) notes the difference between coping strategies (dealing with short term insufficiency) and adaptive strategies (adjusting to longer term changes in the physical or economic environment through changes in production or income generation). Corbett (1988) emphasises the crisis faced by households and individuals experiencing an eminent shortfall in access to food - the forced choice between current consumption and future access to food. Under circumstances of transitory (usually unpredictable) food insecurity, resources are allocated in such a way as to provide the greatest assurance of surviving the food-insecure period.³ This might involve changes in production strategies, the dispersal of livestock, inter-household reciprocal exchanges, diversification of income sources (including non-farm income), and managing food stocks (rationing consumption). Increased reliance on credit and disposal of assets (including productive assets) is a common strategy under circumstances of severe food insecurity (severe drought or production disruption, severe inflation, or militarised conflict). Destitution often marks the final stage of severe food insecurity.

Key indicators of unsustainable livelihoods include the extensive humanitarian crises relating to food insecurity, the HIV/AIDS pandemic, poverty in general and the environmental insecurity facing numerous communities on the continent. The conventional measurement of ‘poverty’ is derived from income indices such as the ‘poverty datum line’, based upon an income of less than US\$ 1 per day. However, various qualitative measures of deprivation, including social marginalisation and exclusion, and various disadvantages that limit human capabilities to tackle basic livelihood challenges, are also key measures of poverty. Limited access to land and tenure insecurity are directly and causally linked to poverty in Africa. According to the ‘Joburg Memo’ (2002), the politics of poverty eradication is loaded with misconceptions. Popular myths include the suggestion that: (a) the poor cause environmental destruction; (b) economic growth removes poverty; and thus (c) economic growth is the recipe for the elimination of both poverty and environmental degradation. They believed, as we do (Moyo, 2001), that each link in this chain of arguments is flawed, making policies that are based on it counterproductive.

³ Often either the traditional ‘hungry season’ or the periodic, but not severe, drought

Admittedly, poor environmental refugees are often pushed to deforesting and overgrazing land as they seek a livelihood but, in general, they have proven to be careful guardians of resources and ecosystems. Since the poor depend on soil fertility, fish from lakes and estuaries, plants for medicine, branches from forests, and animals for subsistence and cash, they have a very down-to-earth incentive for conserving their resource base.

‘Environmental security’ is the capacity to live harmoniously with nature on a sustainable basis, including the capacity of individuals and groups of people to meet their basic means. Given that 75% of the population in Africa lives and is dependent on the land and agriculture, including access to natural resources for their livelihood, their environmental security has to be sought in land. Resource scarcity leads directly to competition over resources and weakens the management regimes of resources, creating insecurity, tensions and violent conflicts.

Increasingly, social movements and civic organisations struggling for social justice identify development with improving land and resource rights for the poor and powerless. Putting both perspectives into one conceptual shell has tended to lead to confusion on what sustainable development is or should be. Some of the conceptual confusion derives from the vague meaning of the concept of ‘development’. Not surprisingly, the meaning of ‘sustainable’ development also remains elusive. What exactly should be ‘sustained’ has remained elusive. ‘Sustainable development’ has tended to be based upon conserving large areas for nature development through parks, forest, vleis, etc., under public or private control, to the exclusion of the weak. By adding development to sustainability concepts, all sorts of actors, governments, profit and not for profit corporations, indigenous peoples and urban based action groups, are enjoined to participate in resource use and sustainable development. With ‘development-as-growth’ embedded in it, it has been difficult to escape the shadow of the growth ideology in using the term ‘sustainable development’.

2.2 Land Tenure: Food Security Analytical Model

The main analytic model used in this study is the land policy generic model developed by Moyo (1999) based on Shivji et al., (1998). The model is derived from five analytical constructs of land management, namely, land distribution, land utilisation, land tenure, land administration and land adjudication (see chart 2-1). In this model, land tenure is one of the central factors determining food security and sustainable development. Sustainable development and food security in the resource dependent primary economies of Africa emerge in the context of equitable access to and ownership relationships of land, the use of which is adequately incentivised (and regulated). Appropriate land administrative and adjudicatory instruments are crucial to the effective distribution, use and management of tenure relations. Given the powerful coalition of interests, agri-business and so forth, land tenure administration is critical in determining rules of access and use, and systems of monitoring and sanction.

In terms of land distribution, the major problem relates to unequal access to land according to race, gender, class, and ethnic distinctions. In some countries, multinational companies and the state also own large areas of land. The limited land rights for some groups of people have brought into sharp focus the question of access to land, rights and how land transfers take place under both market and customary systems. In general, there is a tendency for land to be unequally distributed, with the population pressure under which customary systems often operate meaning that most groups of people in such systems have limited land rights. In some instances the state, private companies (local and international) and a few individuals hold more land that they are unable to fully utilise. Yet the discussion on food security is largely tabled from the production point of view, where access to good quality land becomes a prerequisite for households to produce food for their own subsistence and for sale. Essentially it is the equity and efficiency aspects of unequal land distribution that underlie concerns with policy on food security and agricultural development.

The second analytical construct relates to land utilisation and how this has been economically and socially constructed. There is a tendency to view small farms as inefficient and large farms as highly efficient in terms of yields per unit of land (Moyo, 1995) especially in settler countries. But such a perception has long since been debunked (Weiner et. al., 1985; Moyo, 1987) and multinational organisations (IMF and World Bank) have come to accept the efficiency of smallholder land use. The main question of analysis is how the regulation of land use is consensual or coercive and whether it is free of discrimination. Land held by groups of individuals under freehold tenure systems and by the state has attracted the least regulation, while customary systems, under which most of the indigenous people in Africa live, attract numerous land-use regulations due to the fact that these are important constituencies for the electoral vote and, therefore, for the control of state power. But farmers operating in large areas under customary tenure also tend to be remote from direct regulation or legislation because the state cannot implement such policies. The colonialists enforced many such regulations with greater vigour than post independence governments have been able to do.

Within the land utilisation construct, land use regulations determine what is to be produced (e.g. cash crops for export versus food crops for local markets) and by who. There is a subtle tendency to view large sized farms as critical for exports and to regard small producers under customary tenure as producers for own consumption and for domestic markets. Except perhaps in West and North Africa (including northeast Africa), most of sub-Saharan Africa, still has large land holdings in the private sector being protected by the state because of their perceived superiority in the production of agricultural produce for exports. But, almost all coffee exports in Kenya, Uganda, Tanzania, Rwanda, and Ethiopia are from smallholders on customary land. The same is true for tea and beans from Kenya. In addition, there are a lot of smallholder cocoa farmers in West Africa and smallholder cotton farmers in West and East Africa. Yet evidence suggests that production for own consumption is critical for food security and the livelihoods of the majority of the people in Africa

The third conceptual issue is how land tenure has been constructed and qualified in most African countries. The main question relates to how secure the tenure systems are and whether there is equity or not. Tenure, as a bundle of rights, determines who owns what resources and why. The way land is transferred, adjudicated and owned is critical for determining the management regimes for both land and natural resources. In this paper we argue that access to more productive land and control of natural resources by the poor offers the most stable form of security for poor households. In this case, livelihood security cannot be achieved without some form of redistribution of land held by wealthy classes (constituted of individuals and multinational companies). The assumption tends to be that enhancing access to land, security of tenure, or sustainability of land resource use will ultimately enhance welfare, including food security.

To counteract the market dominant model, there is a need to decipher the significance of land in Africa for peasant households. In the absence of alternative infrastructure and services provision Moyo (1995) points out that land provides multiple uses (chart 2-2). In this respect, land emerges as the main source of human livelihoods and accessing it becomes a prerequisite for human survival.

The fourth conceptual issue relates to how land is administered. The management regimes of land and natural resources differ due to the nature of the historical experiences. The main issues relate to the accessibility, transparency and accountability of the administrative systems. There has been a tendency towards too much administration, due to the different layers of the state, local authorities and indigenous authority particularly within customary tenure systems. Yet land under freehold is free from administrative interference thus creating *de facto* small governments on land in the hands of a few private individuals. Whilst in some countries there is highly centralised administration, in others there is

poor representation and widely dispersed local institutions adjudicating land issues at the local level. As explained elsewhere in this paper, land administration has direct implications on local level environmental governance. At best, weak land administration systems have been created at the local level and this situation is perpetuated by highly centralised land administration systems, especially for customary lands.

Chart 2-1: Significance of Land for Livelihoods in Africa

Significance of Land	Production	Benefits	Security Type
Storehouse of nature	For reproduction of future generations	Creation of communities who act as the stewards of natural resources	Based on adopted social norms and conventions passed from generation to generation
Agricultural production tool	For subsistence and commercial production	Food and exchange incomes	<ul style="list-style-type: none"> ● Re-investment ● Meet food and livelihoods needs
Receptacle	Direct household utility needs- water, wood-fuel, organic fertiliser, medicine, shade, fruit, housing, game meat etc.	Communities have access to a myriad of natural resources	Communities are guaranteed access to natural resources in their individual right and as a community
Potential investment	<ul style="list-style-type: none"> ● Water development for irrigation ● Tourism development ● Woodlands enterprises ● Trading specific natural resources 	When communities invest in development projects, they guarantee their own livelihoods	<ul style="list-style-type: none"> ● Security is threatened when development ideas are mooted from outside ● Security and collateral
Social territory	Social reproduction of key community activities, norms practiced and customs being upheld	Community cohesion and community social safety nets	Social safety nets
Political territory	<ul style="list-style-type: none"> ● Institutional design for production to take place ● Struggles over control of the means of production 	Community participates in decision-making	Strong and downwardly accountable institutions ensure livelihood security

Source: Adapted from Moyo (1995)

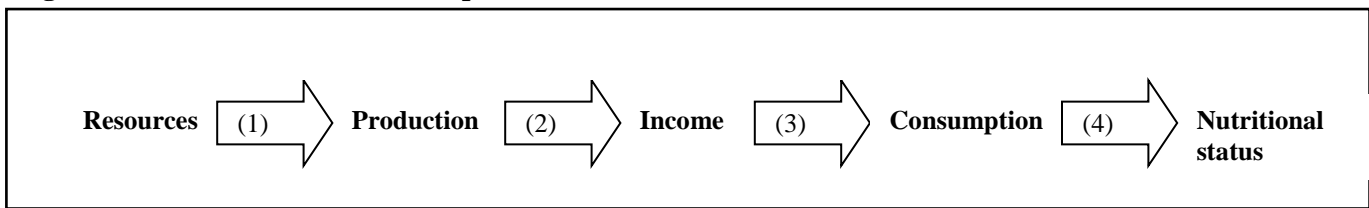
In recent years there have been attempts to re-evaluate the land question and to create a new framework for land administration that fits into contemporary neoliberal frameworks and concerns with decentralisation. This focuses on administrative efficiency and the promotion of civil society participation in development administration. This approach argues that most land policy frameworks in Africa advocate formal statutory land titling as the ideal form of landholding for the promotion of development. In contrast to this, the majority of rural producers gain their land on the basis of customary rights rooted in notions of community and kinship, and through derived rights - a series of informal contractual relations (such as sharecropping) with those who hold primary rights. While the state has a predisposition towards the emergence of formal statutory systems, it lacks the capacity to create a comprehensive system of land administration which would impose control within a formal land tenure regime over the rural areas.

The fifth analytical construct relates to systems of adjudicating land disputes. There are key questions with regard to how to resolve current and past land problems in situations where multiple tenure regimes exist. In most countries, the legal framework has been biased towards the market and the state. The courts remain elitist/western in outlook and are inaccessible to the victims of past practices. There is little representation of indigenous people in cases where land was expropriated. Yet conflicts over land and other natural resources undermine the capacity of communities to produce their own food. Key policy and research questions can then be framed as follows: how do the different typologies of land

conflicts affect local level food security? How do land tenure conflicts affect the state of natural resources? There are many conflicts within the family and at the local level to be solved within the community. Most are best solved informally, where little money is required, so that the poor can at least have access to justice. When conflicts move to formal courts, the poor seem to always lose out.

In our analytical framework we argue that the term ‘land tenure’ needs to be inclusive and to cater for many other aspects of resource based livelihoods and food security. Various scholars (Rukuni and Eicher, 1994; Moyo, 1995; Ondiege, 1996) have presented a range of views on the implications of different tenure regimes for agricultural productivity. Ondiege (1996) argues that the system of land tenure sets the context within which all efforts to raise agricultural output must operate. Land tenure will influence the farming system, social equity and agricultural productivity, and hence overall economic development. In his argument, traditional tenure is viewed as a static limitation on agricultural development as it does not provide adequate tenure security to induce farmers to make the investments that would improve productivity. According to this school, where land is owned communally, everyone has an incentive to use the land to the maximum extent possible but no one has an incentive to maintain and improve that land. In addition, farmers with title to their land have better access to credit, which can enhance their productivity. Where land is scarce and/or technological changes create new investment opportunities, they conclude that provision of property rights in land may enhance productivity.

Figure 2-1: Conventional Conceptual Links between Land and Food



Adopted from Maxwell and Wiebe (1998)

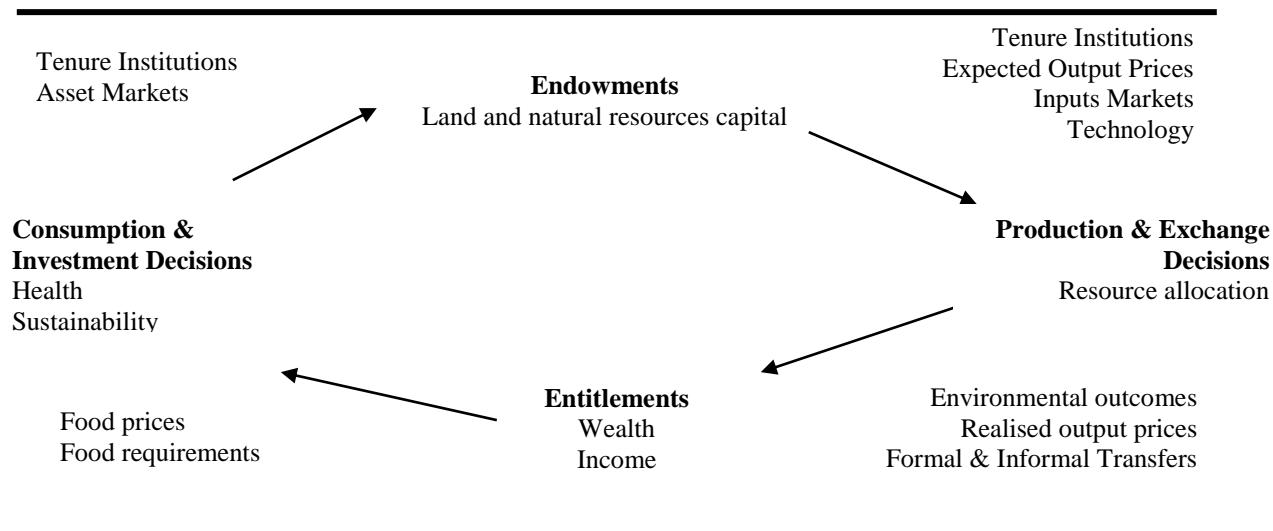
In this paper we agree with Maxwell and Wiebe (1998), who note that the food security and famine literature presents solid evidence of qualitative and quantitative links between land tenure and food security. They argue that a reduction in, or outright loss of, access to land in an agrarian society leads directly to a reduction in income and access to food (Figure 2-1). The most apparent qualitative link that they suggest is that increased security of tenure in productive resources enables more efficient and profitable agricultural production and hence greater access to food via both own production and trade. Secondary links that they mention include access to common property resources for livestock production and non-agricultural livelihoods, fuelwood and other forest products and wild foods.

The Maxwell and Wiebe (1998) analytical model is based on a causal relationship between resources (e.g. land), production, income, consumption and nutritional status. Some of the key questions that are represented in this model are: “how do individuals and households access resources such as land? How do different forms of access to resources, or changes in tenure and property rights, affect opportunities to generate income or access to food...” This model enriches the conceptual framework developed in this study as it adds other dimensions such as incomes and consumption which also manifest themselves in various forms in the different land tenure categories. The framework presented in figure 2-2 illustrates that decisions regarding consumption and investment are a critical determinant of the composition of the household’s endowment of resources in the subsequent cycle, rather than simply representing a point along a linear relationship.

Investment in land or capital assets clearly enhances the ability to generate income in the next period. Consumption is a (sometimes overlooked) form of investment as well, representing investment in the

health of the household's endowment of labour. This is where the notions of sufficiency and sustainability enter the system. A household whose members have secure access to sufficient food is one that can afford to consume enough food for activity and health without drawing unsustainably on its reserves of wealth, thereby maintaining its endowment of both labour and non-labour resources over the longer term (Maxwell and Wiebe, 1998).⁴

Figure 2-2: Land Tenure and Food Security: The Links



Source: Maxwell and Weibe (1998, p. 11)

Tenure institutions directly affect food access at the household level in a primarily agrarian society by governing access to resources and indirectly affecting food security at the regional or national level through overall food availability, and hence food prices (Maxwell and Wiebe, 1998). But the linkages between land tenure and food security go well beyond simple, direct production. Maxwell and Wiebe (1998) argue that: access to resources is an essential determinant of access to food; food security is a function of food availability, access, and utilisation; and access to food encompasses the three important dimensions of sufficiency, sustainability and vulnerability. Based on these arguments, the authors suggest ways in which land tenure and food security are linked to comprise a dynamic system in which decisions about production, marketing, consumption, and investment generate, and are in turn driven by, structural changes over time in the distribution of resources within and among households.

3.0 Land Tenure and Livelihoods in Africa

3.1 Livelihood Options and Land Tenure

There are a variety of livelihood options for smallholders in Africa. The predominant livelihood activity is smallholder semi-subsistence farming, which is practiced by a variety of indigenous people. Most households rely on cash and subsistence incomes from a number of sources that include irrigated and rainfed cultivation, livestock production, tree production, and other miscellaneous activities like honey production. Households also depend on a variety of non-farm livelihoods, such as woodland activities, fisheries, trading, value adding processing, wage incomes, and remittances. The agricultural activities are affected by unfavourable climatic conditions, poor markets and infrastructure services, and

⁴ Members of a household that does not have sustainable access to sufficient food, on the other hand, face a crisis and are forced to choose between consuming sufficient food i.e. maintaining the household's health and thereby its labour endowment, and maintaining its non-labour endowment. A household in such a position might choose to eat today at the expense of destitution tomorrow, or they might choose to risk malnutrition and disease this season in the hopes of surviving through the next season with their assets intact.

unfavourable physical conditions (poor soils, land degradation because of cultivation on sloping land, deforestation). Unequal access to land and insecure land tenure has had the most profound effect on the livelihoods of smallholders.

Most smallholder farms range between 1 and 15 acres under cultivation by family members. The uniform agrarian structure is partially a function of colonial policies which prohibited foreigners from gaining title to land in some parts of the continent, such as West Africa. However, in some countries, such as Zambia and Zimbabwe, colonial policies promoted a dual structure of large and small farms. In Zambia, 400 large mechanised farms produce an estimated 40% of the surplus maize – the staple food – while an estimated 545 000 subsistence farms produce the balance. Zimbabwe is a significant maize exporter in most years but, ironically, the bulk (70%) of Zimbabwe's maize surplus is produced by smallholder farmers while the 4 500 erstwhile large farmers, who controlled approximately half of the land, contributed the rest. At a time when there is political pressure to distribute land to the landless, even this large farmer contribution can be exaggerated. More than half of the idle arable land in the world is in Africa. However the land area in some countries is near maximum population density, given the present agricultural technology and available expertise on soil fertility. Much of the arable land in Africa is not farmed because of natural constraints, such as tsetse flies, which virtually preclude the use of approximately one-third of the continent, including some of the best watered and most fertile land.

In terms of the livelihoods implications of such processes, Watts (1983) and Maxwell and Frankenberger (1992) attempted to rank livelihood strategies in terms of their severity or the order in which people resort to them under increasingly severe circumstances. Under circumstances of extreme food insecurity (i.e. famine), a major concern is often to preserve productive assets in order to facilitate eventual recovery and to maintain future security. Corbett (1988) notes “reduction of current food consumption is undertaken in order to avoid having to dispose of key productive assets or take other actions which will impair the household's long term income generating capacity”. De Waal (1989) notes, for example, that in the Sudanese famines of the mid-1980s, adults were mixing sand with seed stock to prevent children from eating the seed. Maxwell and Wiebe (1998) point out that, where land tenure is insecure, the opportunity costs of migrating in search of either food aid or casual employment may be so high as to cause people virtually to starve themselves to death before leaving their land in search of assistance. It is most common for some members to stay behind and one or two to leave in search of alternative livelihoods. Now this strategy produces very high social costs, particularly higher rates of HIV. Rahmato (1991) notes that a, perhaps unintended, consequence of the 1975 Ethiopian land reforms was extreme reluctance to migrate in search of food assistance due to insecure tenure on peasants' holdings. Dasgupta and Ray (1986 and 1987) note that, even if deliberate food deprivation succeeds in averting distress sale of non-labour assets, it may have short or even long term consequences for the quality of the household's labour power and thus its wage earning and income generating capacity.

3.2 Land Distribution and Ownership Patterns

The legacy of the oppressive and racially based policies of colonial governments is still reflected in the dualistic land tenure systems and inequitable land distribution patterns. This problem manifests itself in different forms across Africa. For example, in Southern Africa, the extremely skewed distribution of land ownership is most excessive in South Africa, where 65 000 white South African farmers, who derive from only 5% of the population, own almost 87% of the land (Moyo, 2000a). The mean amount of land held per person in South Africa is slightly more than one hectare for blacks and 1 570 hectares for whites. In Zimbabwe, until very recently, approximately 4 500 white commercial farmers controlled 31% of the country's prime land, or about 42% of the agricultural land, under freehold tenure, while 1.2 million families subsist on 41% of the country's area (ibid). In Namibia, some 4 000 white settler freeholders own 6

400 farms with an average size of 5 700 hectares each. On the other hand, smallholder farming covers 34 million hectares and supports 140 000 families (or about 50% of the population).

Countries such as Kenya, Algeria, Egypt and Ethiopia and others have histories of intense conflict over uneven land distribution. For instance, in Malawi most of the prime agricultural land is occupied by privately owned and public estates, which produce the main exportables of that country. In the 1920s, the decision by colonial authorities to issue legal titles to land resulted in the expansion of estate agriculture. Land alienation, through the granting of freehold and leasehold titles, was most extensive in the southern region of Malawi where tea and tobacco estates were developed (ibid). There was also a post-colonial boom in estate development in Malawi in the north-central region, of more moderate sized estates, but they too came at the expense of customary land.

However, numerous other countries have lower degrees of land distribution inequalities. In Botswana the state controls 96% of the land, 25% of which is directly owned by the state while 71% is controlled through the tribal land boards. The contest in Botswana is around land owned by the state and land leased to diamond mining concessions (Molomo, 2003) and an emerging class of large-scale ranchers, at the expense of the livelihoods and tenure security of minority tribal groups such as the San.

In post independence Tanzania, the nationalisation of freehold lands as well as villagisation gave birth to new problems of land conflicts and land tenure insecurity. Land was nationalised through the 1963 Freehold Titles (Conversion and Government Leases) Act, which converted all freehold titles, totalling about 1 million acres, into 99-year government leaseholds (Bruce, 1996; Shivji et al., 1998). This policy, meant to redress colonial expropriation and inequitable control of land, was implemented without much conflict. The policy of 'villagisation' however was built around promoting communal production and initially relied on voluntarism and persuasion but later became compulsory. The approach, however, totally disregarded the existing customary land tenure systems, while the future land tenure requirements of the newly established villages was also ignored (Shivji 1998). Villagisation, in effect, meant expropriation of customary rights and the compulsory acquisition of land under customary rights using the colonial land law, inherited at independence. The process reinforced the belief among politicians and bureaucrats that all lands not occupied under granted rights of public occupancy were public lands at the disposal of the state. The relocation of villages and the redrawing of boundaries gave rise to boundary problems that exist to the present day, including extensive litigation cases meant to reclaim lost customary rights (Bruce, 1996, Shivji, 1998). This land redistribution process undermined the capacity of Tanzanians to produce their own food and made the country a net importer of food, dependent on the benevolence of donors to provide humanitarian aid.

In West Africa, unlike other regions, existing land problems have less to do with past land expropriation by settlers than with the insecurity of tenure and the effect this has on the effective exploitation of land (Toulmin and Longbottom, 1997). Under customary law, traditional leaders (chiefs) remain the dominant and *de facto* land owners. It is through them that community members obtain access to land resources held by them in trust but, once allocated, the land comes under the control of the family in most cases. Whether people would also say that the chief owns the land is questionable but this does not necessarily stop them from behaving as though they do. When most West African countries inherited distorted tenure laws from colonial governments, the state assumed greater powers of land ownership at independence, granting itself rights over land sales and leasing. Consequently customary land tenure practices have been weakened, and are no longer adequately recognised by either the state or rural communities (DFID, 1999). Reconciliation of differences in land tenure policies, compounded by the influence of Islamic laws have generally led to more confusion and conflicts between land users (Toulmin and Longbottom, 1997). Migration from northern West Africa to coastal areas has led to a generation of major land ownership conflicts. Ironically, it was the indigenous people who brought in

migrants at the beginning to help in the tree crop production systems and this worked well until land began to be scarce and the migrant population became so numerous as to have political influence.

In some parts of Central Africa the scarcity of productive lands is the source of conflicts. In countries like Rwanda and Burundi, scarcity of land is at the root of the civil unrest. With a total population of about 8.3 million in 2000, Rwanda is the most densely populated country in Africa and its population growth rate remains very high at 3.6%. Only about 52% of Rwanda (1 385 000 ha) is estimated to be arable and Kairaba (2002) points out that the average plot size in Rwanda declined from 2 hectares in 1960 to 1.2 hectares by 1984. About 60% of all agricultural holdings in Rwanda are less than 0.5 hectares in size. Over population in Rwanda contributes to environmental degradation as people resort to cultivation of steep slopes with inadequate skills for managing soils and water resources. The problem of refugees, created by years of civil unrest, has compounded conflicts over land.

Access to land is also a major problem in Burundi where population densities ranges from 41-1 000/km². Burundi also has refugee problems which started in the early 1970s. As in Rwanda, the land left vacant by the refugees has since been occupied and their return is a threat to a significant portion of the population. The state has not taken any measures to rectify the situation. The land problems also have ethnic dimensions. For example, the Twa are excluded from the land economy (Kairaba, 2002). In Rwanda and Burundi and western Kenya too, access to land comes down to mathematics. There are simply too many people in relation to the arable land area to give households much more than a small farm, even if all land were to be redistributed.

In North Africa, smallholder agriculture has increased in countries like Tunisia and Algeria, a situation that is general, responding to, *inter alia*: the growing population; the influence of the Islamic inheritance system; a widespread tradition of partial renting or purchase of agricultural parcels; and government land policies that have failed to reinforce legal provisions prohibiting the subdivision of holdings below an approved minimum size (E1-Ghonemy, 1993:132-33). In Egypt, smallholders constitute almost 96% of the total number of agricultural households. A similar situation also obtains in Morocco, where small holdings (of less than 5 hectares) constitute 69% of total holdings (ibid) yet Morocco has one of the most skewed land tenure situations in North Africa, with 60% of the small farmers holding less than 20% of the land area, while the top 20% hold 58% (Ghimire, 2001).

Therefore, the existing structure and patterns of land holdings in Africa are based upon a unique distribution of demographic features including population, wealth, income, and employment patterns, which define economic control and management. The fact that some groups of wealthy people, including foreign multinational companies, benefited from colonial conquest, leading to the dislocation of indigenous blacks and the creation of a pseudo-feudal system, has led to extreme animosity over land. For instance multinational companies and individual white settlers tend to be grossly over represented in land ownership whilst, at the same time, commanding a significant influence in the economy through the control of land, industry, commerce and manufacturing and related sectors.

3.3 Land Markets and Sustainable Livelihoods

The question of whether and how land markets determine investment in land, and through this affect food security, remains contentious. The combined pressures of population growth and increasing commercialisation of agriculture are seen as the drivers of tenurial change from 'communal' tenure systems to an individualised and market based land tenure system (Bruce, 1986). For example, the commercialisation of agriculture that started with colonisation, when commercial crops such as oil palm, cocoa, coffee, cotton, tobacco and others were introduced, tends to be associated with the rise of individualised land tenure and a greater incidence of land transactions (Berry, 1984; Bruce, 1986; Lawry, 1993; Platteau, 1992). Colonialism imposed the individualisation of rights through the creation

of freehold tenure mainly for exclusive allocation to settlers, large multinational corporations (MNCs) and elites. However, changing rules of inheritance also tended to shift in support of this process.

Box 3-1: Examples of Land Markets in Eastern and West Africa

Generally, land purchases are stronger among smallholders in East Africa than elsewhere in Africa. Place (1995) reported that 80% of households have purchased land in southwest Uganda. In the same area, the percentage of plots acquired through purchase equals that from inheritance. Roth et al. (1994) found that between 33% and 60% of land parcels were purchased in southwestern Uganda. Even higher figures are observed in Kenya, Rwanda, Burundi and Somalia. Furthermore, Place found that 16-25% of land parcels acquired were bought in three prefectures of Burundi. Also, purchases comprised 18-19% of the number of parcels and total farm area in two regions of Kenya (Migot-Acholla et al., 1994). Roth et al. (1994) found that smallholders purchased 31% of their parcels and had rented another 7% in the Stebe Valley in Somalia. Pickney and Kimuyu (1994) found significant land sales among households in the northern Tanzania highlands. The importance of purchasing increased over time in Rwanda, but not necessarily in Kenya. However, there are hardly any sales in Ethiopia because of enforced government policy.

Also, complex, indefinite and fixed duration transfer of land (and tree) rights are commonplace in the humid areas of Cameroon, Nigeria, Benin, Ghana, Côte de l'ivoire, and Sierra Leone (Adesina and Chiany, 2002; Kallan, 1996; Chauveau, 2000). The incidence of land market transactions is highest in areas characterised by immigration. Delville et al. (2002) report that about two-thirds of households in the oil palm delta of Ghana had entered into share contracts, while renting was more common than borrowing between relatives in a relatively sparsely populated area (less than 70 persons/km²) in north eastern Nigeria. Migot-Adholla et al. (1994) observed that 18% of parcels were purchased in a cocoa growing area, while 41% were rented or pledged in a very densely populated coastal area in eastern Ghana. Quisumbing et al. (2001) noted that the proportion of land acquired through purchase from individuals was between 4 and 5% in Ghana, a proportion that is growing with time, while the area acquired through rental markets is as much as 18.8% among migrant villagers. Generally land markets are limited in the drier Sahelian countries (e.g. Matlan, 1994 for Burkina Faso; Golan, 1994 for Senegal.)

Source: Place (2002)

Apart from the classical case of former settler colonies in Southern Africa, formal and informal land markets have grown in Ghana, Kenya, Uganda and Rwanda. A steady increase in the incidence of land transferred through private purchases tends to exhibit a positive relationship with growing or high population pressures and advanced commercialisation, as observed in a study of 16 localities in six different countries, namely Kenya, Rwanda, Burundi, Uganda, Malawi and Zambia⁵ (Migot-Adholla et al., 1989; Place, 1995; Andre and Platteau, 1995). Such land transactions are said to have a positive impact on the capacity of individual households to mobilise food for their survival from year to year, although evidence also shows that such households end up being co-opted into the money economy through labour provision, and unable to sustain their livelihoods (ibid).

Indigenous land tenure systems are said to be dynamic in nature and to evolve in response to changes in factor prices (Migot-Adholla et al., 1991; Kiambi, 1994). It is argued that there is a spontaneous individualisation of land rights over time which allows families to acquire a broader and more powerful set of transfer and exclusion rights over their land as population pressure and agricultural commercialisation proceeds. Migot-Adholla et al., (1991) and colleagues, citing empirical evidence from rainfed farming areas in sub-Saharan Africa (Ghana, Rwanda and Kenya), maintain that traditional African tenure systems have been flexible and responsive to changing economic conditions. For instance, where population pressure and commercialisation have increased, these systems have evolved from communal rights to systems of individual rights. In one example, Migot-Adholla et al., (1991) note

⁵ In this study, it was observed that, in the 16 areas under study in the six different countries, the percent of parcels acquired through the market ranged from 0-45%. Platteau (1996) also mentions that a study conducted by the World Bank in a sample of ten regions in Ghana, Kenya and Rwanda, the proportion of operated parcels acquired through purchases ranged from less than 1% to nearly 30%. In the highly populated area of Gisenyi in Rwanda, Kanama commune, with a population density of 566 inhabitants per km² and a population growth rate of 4% p.a, Andre (1989) estimated that 23% of the operated parcels have been acquired through purchase.

that, by 1930 in Machakos (Kenya), customary tenure already recognised private rights, particularly to cultivated land, which could be sold, inherited or loaned. They concluded that there is a very weak relationship between individualisation of land rights and agricultural yields in the regions they studied in Ghana, Rwanda and Kenya. According to their conclusions, the effects of indigenous tenure institutions, through their impact on land rights, do not appear to constrain agricultural productivity. It is likely that farmers feel sufficiently secure in their ability to continuously cultivate their land, regardless of rights category.

However, the mode of transactions in land that take place in Africa can best be described as involving both market and non-market transfers. Non-market transactions mostly refer to the transfer of land rights through processes such as gifts, borrowing and the inter-generational mechanism of inheritance. Generally non-market transactions relate to transfer of land rights in customary tenure systems, although increasingly the evidence shows a steady development of informal land markets in that sector (Moyo, 2000; Place, 2002). This means that non-market transactions have increased the flexibility of customary systems to cope with population pressure, commercialisation of agriculture and other driving forces (Place, 2002).

Mkandawire (2002) points out that, during the last two decades, there has been acceleration in the process of commodification of land by African states and by a class of capitalists interested in the productive use of land acquired since independence. Two factors account for the ease and speed with which this process is taking place today as compared to the colonial era. One has been the exploitation by these emergent capitalists of the usufruct rights they enjoyed in their traditional communities, especially the right to cultivate as much as one wanted of the available land.⁶ The presence of these, usually male, large farmers was not seen as alienation of land by foreigners but as a productive use of land by indigenous people dedicated to bringing 'development' to their own village.

This did not need to entail the transfer of land into formalised individualised property rights. It tended to simply involve the manipulation of use rights through non-traditional channels of land acquisition. There is, for instance, widespread use of access to the state bureaucratic apparatus to purchase 'certificates of land occupancy', as well as circumvention of both traditional forms of land allocation and the stated objective of new land tenure laws, which is to vest the trusteeship of all land in the state. Thus land alienation and/or individualisation have accompanied expansion of commercial agriculture without the pressures of population growth or the imposition of the modernising tenets of freehold land tenure.

This process of land commodification and concentration has been facilitated by the repeal or circumvention of traditional land tenure systems by African governments, without them necessarily adopting freehold tenure systems. In many cases the governments have 'nationalised' land both from large foreign capitalist landholders and from small-scale communal owners. This has given the government the right to lease or even sell land to both domestic and new foreign capitalists.⁷ Here, African governments have had a moral edge over the colonialists; both 'nationalism' and 'developmentalism' sanction the state's access to all national resources for the good not of one ethnic or communal group but of the 'nation as a whole'. In addition, the new ideological stance towards capitalist agriculture condones and even encourages the 'freeing' of land from traditional ties, leaving its allocation to the 'open market'.⁸

⁶ Some of the emergent capitalist farmers were responsible for renting land in the communal areas because such land was 'relatively free' for their own projects. Therefore, there is a wide variation of land sizes and ownership regimes in the customary systems.

⁷ See Shepperd, 1981. This is because in irrigation schemes governments have a moral claim to the reclaimed land.

⁸ The 'open market' for land is not always open. Thus Sheppard observes that, in Ghana, a monopolistic and largely covert market in rice land emerged, whereby chiefs would sell land-use rights either for undefined periods or, in cases where opposition to strangers appropriating land has been articulated, for a defined period of three to five years after which land rights revert back to the community (Shepperd, 1981).

Neoclassical and institutional theorists (Platteau, 1996; Berry, 1993; North, 1990; Ostrom, 1990) argue that land markets should be encouraged to evolve naturally on the grounds that an incipient land market exists in Africa, in spite of its suppression by the postcolonial state. Such theorists argue against the fear that land markets would impoverish many by suggesting that the most inefficient farmers, who are forced out of agriculture by an active land market, would be incorporated into the money economy. However, in most instances, it is the poorest, the least endowed, and therefore the most food-insecure farmers who tend to be forced to sell their land in bad times. Yet, displacing such farmers may not be efficient given that data on the relationships between farm size and productivity indicate that such small farmers tend to be more efficient in terms of output per unit of inputs (Weiner, et al., 1985; Binswanger, 1993; Roth, 1992; Von Blackenburg, 1994). Secondly, the labour market outside agriculture is based upon below subsistence incomes and is unreliable, with many risks, including retrenchments and redundancy (Arrighi-;Adams-). There is, however, also evidence that people leave agriculture for these other jobs because the wage (even adjusted for the probability of finding a job) can be greater than remaining in agriculture in some circumstances. Hence members of poor households may seek employment at the same time as they hold on to their land.

Initially the multilateral institutions, in their quest to provide a cure for Africa's agrarian crisis, considered the commodification of land an important ingredient in its adjustment programmes. The World Bank, which tended in the 1980s to point to such countries as Ghana, Uganda, Malawi, Kenya and Côte d'Ivoire as success stories, invested heavily in land tenure reform. Most African governments, aware of the political dangers of massive land alienation through titling, demurred or acted cautiously (Moyo, 2000; Mkandawire, 2002). They often devised ways of circumventing some of the traditional constraints on commodification of land. The World Bank tended to view much of this as either unnecessary prevarication or evidence of statism (World Bank, 1995). Convinced of the superiority of private property rights (which they conflated with secure property rights), the World Bank and other donors dramatically increased funding to land related reforms that focused on land titling (Basset, 1993; Platteau, 1996). Later in the 1990s, when these schemes failed to gain social and political acceptance, the World Bank adopted a neo-institutionalist, evolutionary stance to land tenure reform. It now argued that, as population pressure increased, societies would spontaneously evolve new property relations and a land market. The task of the government would be the formalisation of such relationships through titling.

Two assumptions underlie the expectations that an evolution towards land markets will occur. One is that evolving factor endowments must not only lead to changes in property rights but must also induce technical change resulting in 'autonomous intensification' and, therefore, better performance in African agriculture. The second is that this process would produce the best possible property relations without causing social conflict over distributional issues. Yet, for agrarian capitalism to emerge with little in the way of state subsidies or support to farmers in the acquisition of land or technology and other inputs, as was proposed by structural adjustment programmes (SAPs), was virtually impossible, as recent tendencies in the USA and EU agriculture and trade policies shows. The SAP approach to agrarian markets was, in a sense, a cop-out, reminiscent of the colonial governments resignation to a peasant dominated agriculture (Mkandawire, 2002).

Apparently, the main reason for the emergence of market mechanisms is to increase the ability of both buyers and sellers to find willing transactors. These include land sales and rentals that involve an exchange of land rights forecast mainly on a spot basis. These are not always formalised arrangements, documented in written contract. They can be informal agreements using indigenous forms of verification or evidence. Moreover, there are a host of nuanced purchases and rentals that exist in Africa to transfer land rights between non-related individuals. Limited duration arrangements include fixed rentals, sharecropping arrangements, pledges, accessing rights over perennial crops without the land, and the use of numerous forms of payment or compensation. Similarly, land sales do not always involve a one-time

exchange of cash for complete land rights. Tenancies may evolve into purchases among migrants. Land sales may involve an indefinite transfer of a certain bundle of rights, and compensation may be in the form of in-kind gifts rather than cash.

The development of formal land markets tends to require the support of effective mechanisms of land registration. Such registration schemes were implemented mostly during the colonial period when European settlers imposed freehold tenure regimes. Land market development trends under customary tenure also have particular tendencies. For instance in Tanzania, land sales in the Sukuma area were identified in the late 1800s (Malcolm, 1953). Feder and Noronha (1987) reported that in Sokoto, Nigeria, land market transactions accounted for 30% of landholdings (Lunning, 1965). Other examples of land markets include the commonality of sales around the Nuba area of Sudan (Roden, 1971) and land rental markets in the cocoa areas of Ghana and Côte d'Ivoire (Hill, 1963). Furthermore, Barrows and Roth (1990) cited Mukwaya (1953) reporting that 58% of landholders in the Buganda region of central Uganda had purchased land.

Box 3-2: Land Sales in Central Côte d'Ivoire

Sales of land according to customary procedures have always taken place, irrespective of their lack of legal recognition. Generally, sales have evolved from the former practice of giving or loaning land. Conflicts in relation to access to land and its control have also been on the increase. For example, younger men are known for contesting the validity of transactions carried out by their elders and demanding that these agreements be revoked. This has led to the loss of authority amongst chiefs *de terre* and elders, who are now perceived as having profited personally from land sales and rentals at the expense of family inheritance. Thus the youth are challenging the legitimacy of past transactions, especially upon the death of one of the transacting parties. In other situations, there is now a ban imposed by local people on all sales and rental of land to strangers. Political debate and the 1998 rural land law, which does not allow non-Ivorians to own land, have greatly influenced the current land claims debate. As such, indigenous inhabitants are demanding that land formerly sold be considered a rental or loan, which can be called back to the landowner when needed and that it not be inheritable by the children of the migrant farmer. Land transactions have given rise to various forms of conflict, including trespassing beyond the boundaries agreed for a field, selling a plot to two different people, or selling a plot which is not one's property, settling or farming without owner's permission etc. To alleviate such conflicts, paper records of such land transactions evolved from 1970 onwards. People seek, where possible, to record the existence and nature of a transaction, that an agreement has been entered into and their rights to the land. In most cases, the process involves personally measuring and mapping the plot. However, this does not constitute a legal title to land.

Source: Summarised from Delville et al., 2002

Generally, the notion of land title registration, which was first applied by Robert Torrens in Australia in the mid-1880s, was introduced in both Anglophone and Francophone colonial Africa to protect the interests of European settlers. There were, however, exceptions in the development of land registration systems and land markets in countries like Uganda, Madagascar and Sudan. For example in Uganda, registration was introduced for political reasons, following the 1900 Buganda Agreement, and was largely intended to restore stability in a kingdom that had been bitterly divided by civil wars and to shore up the position of the Kabaka or king (Dickemann, 1987). The agreement provided for the allocation of large tracts of land (up to 8 miles² in area - hence the name 'mailo' land) to members of the royal family, nobles and 1 000 chiefs and leading private citizens.

A few countries in Africa are working on or have put in place legislation that allows the privatisation of customary land and are hence paving the way for the development of land markets in these areas. Kenya pioneered this approach to development. Côte d'Ivoire, South Africa and Uganda are at different stages of effecting policy and legislative changes to allow the issuance of titles to customary land. As these processes unfold and develop, it is imperative that applied policy research keeps track of the effects of privatisation of customary land on community livelihoods and poverty. More importantly, the linkages between

privatisation of land and household food security need to be better understood. Furthermore, the effect of privatisation of customary land on natural resource management needs to be explored.

Commercialisation of agriculture constitutes one of the major driving forces behind the privatisation and individualisation of rights to land (Boserup, 1981; Barrows and Roth, 1990). Eicher and Baker (1982) have argued that there are negative links between commercialisation of agriculture and, food consumption and nutritional status. The suggested link is an increase in cash income but a decline in subsistence food at the household level and hence increased market vulnerability and food insecurity. Von Braun and Kennedy (1994) refute these negative links and suggest that the integration of traditional smallholder agriculture into the exchange economy is part of a successful development strategy, since the developing world cannot afford the presumed inefficiencies of resource allocation (especially of human and land resources) that subsistence agriculture entails. They conclude that, while there is some variation in the specific crops that are commercially produced, increased production, employment, income, food consumption, and nutrition are all associated with the commercialisation of agriculture.

However von Braun and Kennedy (1994) concur with other studies (Weibe, 1992) that suggest that, when markets function poorly, concerns for food security remain a strong rationale for some amount of subsistence production and hence may be responsible for misallocation of land and other resources. These authors recommend that the commercialisation of agriculture, through specialisation toward comparative advantage at the farm or household level, should be supported and that land policy, particularly land tenure, is one of the critical elements of support to agricultural commercialisation, provided that the tenure systems grant land rights to women. The World Bank, supporting the above arguments, advocated combining commercialised agricultural production with the liberalisation of markets, and the privatisation of land rights as the three primary pillars of its agricultural development policies in the 1990s (World Bank, 1993, 1994).

Bouis and Haddad (1990) note that, under certain circumstances, the introduction of cash cropping increased landlessness through the expansion of land under commercial production and the incorporation of the landless into agrarian labour. This contributed to the crisis of livelihoods generated by increasingly destitute rural populations, in a context in which there was concentration of land ownership among the wealthy. Poor people respond to this inequity through social and political organisation to pressure the state to provide access to land and, in some instances, demanding development programmes which are masked as social security provision of school fees, health assistance and care for the elderly and orphans. However, such intervention strategies are not enough to overcome destitution as the resources provided are often inadequate. For instance, communities still devise their own livelihood strategies through the intensification of land-use, diversification of their income portfolios and from other remunerative activities, such as commodification of natural resources, petty trading, small-scale mining of rare minerals etc. Some respond through greater exploitation of remaining common property resources through cultivation in vleis and grazing areas, and invasion of forest and park land to turn it into arable land.

In a worst case scenario, the deliberate disposal of assets, including land, is one survival strategy to which some poor people are eventually forced to resort. If a land tenure system permits the outright alienation of land, one severe shock can result in the permanent loss of livelihoods among the poor through the sale of land. Such land is usually sold at prices below the market value, under distress circumstances, to the benefit of wealthier members of community who have money even in bad times (Watts, 1983; Mamdani, 1987). Basu (1986) notes that, even in contexts where land can be sold, land markets are often inactive except for distress sales, meaning that land losses maybe irreversible. Carter and Wiebe (1990) note that, even under circumstances less severe than famine, poorly endowed, food-insecure households, irrespective of output per unit of land, may be forced to invest more in 'self

insurance' (such as maintenance of substantial food reserves or allocation of land to low risk, low return crops such as cassava) rather than investing in the productivity of their agricultural holdings or purchasing land via an active land market.

Maxwell and Wiebe (1998) give an example from the Kenyan land reform, which sought to introduce private, individual property but still consolidate land holdings to permit economies of scale in agricultural investment and reverse the fragmentation of holdings that had developed because of inheritance rules and heavy population pressure. Subsequent research, however, revealed that the fragmentation of holdings developed along with the risk-minimising strategy of diversifying the microenvironments in which a single family farmed. Hence the *de jure* consolidation of holdings under such circumstances undercut an environmentally sound diversification strategy and, in fact, farming of fragmented and dispersed fields continued despite the land tenure reform. However, one reason this is the case is that, when consolidating, farms in the hilly areas were formed in strips running from a ridge to a valley and, in this way, farmers did retain much of the topographical diversity they desired.

Most land tenure reform policies are based on the assumption that commercialising agriculture and the growth of a private commercial sector outside of agriculture may fail to serve growth or equity purposes under economic circumstances where diversification, rather than specialisation, is an economic imperative. Maxwell (1995) notes that the growth in subsistence agricultural production in urban and peri-urban areas in Uganda is largely a strategy of low income women to protect food security for their households under circumstances where two decades of hyper-inflation have rendered wage incomes, even of the middle class, totally inadequate to provide for basic needs. However, much of this agricultural production is on land that is informally or illegally accessed and cultivators have little *de jure* security of tenure. Under these circumstances, a proposed land tenure reform advocated by international donors, aimed at privatising and formalising land ownership, would have the effect of strengthening the property rights of a small, food-secure elite, but would have a negative effect on the food security of the low income group who had gained some informal access to land. Such reform would have no beneficial effect on the landless or the unemployed. In the short run, it would have direct negative consequences for food and livelihood security.

The literature on sustainable livelihood security suggests that, from a food security perspective, the calls for unified, freehold tenure systems are unrealistic, especially under circumstances of extreme diversity in climate, environment, and agricultural potential (El-Ghomery, 1998; Maxwell and Wiebe, 1998; IIED, 2000). Rather, the literature points out that customary systems of tenure in Africa should be permitted to evolve or 'adapt' rather than be 'replaced' by freehold (or other western) systems (Bruce and Migot-Adholla, 1994). Barrow and Roth (1990) advocate land privatisation and titling only under circumstances where tenure is already evolving towards individualised holdings. There is a valid rationale for permitting dual (private freehold/customary) tenure systems to continue to exist, since they serve different purposes under different circumstances. The flexibility of indigenous livelihood strategies has always been one of the means of survival in harsh physical and economic environments. This flexibility of tenure regimes accompanied other management strategies which permitted sustainable resource use while population growth, migration, and marketisation have all undermined the institutional viability of some of these customary land tenure practices. Given the opportunity, these institutions have demonstrated remarkable ability to adapt to population changes.

3.4 Land Tenure and Poverty

The empirical evidence of poverty trends and tendencies in relation to land tenure insecurity is strikingly clear in Africa. Jayne et al. (2002) estimate that more than 45% of sub-Saharan Africa's population now lives in poverty. An examination of poverty statistics in East and Southern Africa indicates that the

majority of rural people in these regions exist below the national poverty line.⁹ The authors also note that, although at least fifteen African countries have focused on developing strategic plans for poverty reduction, most of these plans provide only scant attention to the role of land access and land distribution in rural poverty. The severe land inequalities in many African countries between small-scale and large-scale farming sectors is noted as an important element in an effective rural poverty reduction strategy (Moyo, 2000). Land in Africa is a critical constraint on poverty reduction because most rural households rely on land for the reproduction of future generations, since the industrial and service sectors do not currently provide alternative opportunities for survival. Apart from its value for agricultural purposes, to realise subsistence production and cash income, land also provides for basic household needs, such as energy through woodfuel, medicines, housing materials and nutrition (Mukamuri, 1997; Moyo, 2000). Unequal control over land is therefore a critical factor in formulating poverty reduction policy and in the political process of democratic transition in Africa.

On the global scene, 1.2 billion people live in extreme consumption poverty, 25% and 66% are from Sub-Saharan Africa and Asia respectively. The proportion of rural people below the national poverty line was above 50% in all but three countries of those with statistics available for the survey periods. Proportions were as high as 90% in Malawi and Rwanda. There exists a wide rural urban gap, with proportions of urban populations below the national poverty line being considerably less than for rural people.

There is a general lack of attention in both literature and policy to quantifying land distribution patterns and their affects on poverty reduction within Africa's small-scale farming sector. Using household survey data from five countries - Ethiopia, Kenya, Rwanda, Mozambique and Zambia - Jayne et al., (2002) note that, in countries where 70-80% of the rural population derives the bulk of its income from agriculture, poverty reduction typically depends on agricultural productivity growth. They also note that growth alone is not sufficient for poverty reduction since the initial distribution of assets affects the poverty-reducing effects of the growth.

Similar relationships between land and poverty are found elsewhere. In India, Ravallion and Datta (2002) found that the initial percentage of landless households significantly affected the elasticity of poverty. Gugerty and Timmer (1999), analysing a sample of 69 countries, also found that, in countries with an initial 'good' distribution of assets, both agricultural and non-agricultural growth benefited the poorest households more in percentage terms. In countries with 'bad' distribution of assets, economic growth was skewed towards wealthier households, causing the gap between the rich and poor to widen. These findings reinforce the idea that, where access to land is highly concentrated and where a sizeable part of the rural population lacks sufficient land to earn a livelihood, special measures may be necessary to tackle the problem of persistent poverty.

Jayne et al. (2002) indicate that the ratio of land under crop cultivation to agricultural population (a rough proxy for farm size per capita) has been shrinking gradually but consistently in Africa. The relatively densely populated countries, like Kenya and Ethiopia, have seen this ratio cut in half over the past 40 years. Even in countries widely considered to be land abundant, such as Zambia and Mozambique, the data also show a clear trend of declining farm sizes. Jayne et al. (2002) conclude that this trend suggests that it will be increasingly difficult for farming alone to sustain the livelihoods of land-constrained households without substantial shifts in labour from agriculture to non-farm sectors. Campbell et al. (2002) also reach the same conclusion after exploring options for getting households out of poverty in semi-arid Southern Africa.

⁹ See Annex 10-1.

There are serious disparities in land allocation at the local level (Table 3-1). Households in the highest per capita land quartile controlled between eight and 20 times more land than households in the lowest quartile. For example in Kenya, mean land access for the top and bottom quartiles were 1.10 and 0.08 hectares per capita respectively. These figures already included rented land, which is limited in most of the countries considered. In each country, the bottom 25% of small-scale farm households is approaching landlessness, controlling less than 0.03 hectares per capita. Gini coefficients (a measure of inequality ranging from 0 to 1, where 1 indicates absolute inequality) for land allocation within the small-scale farming sectors indicate a high degree of dispersion in land holdings.

Jayne et al. (2002) conclude that there is positive association between household per capita land holdings and per capita income. The association is especially steep among households whose land size is below the median level. In all the four countries examined, the association between land and income becomes weaker somewhere within the third land size quartile, and nearly disappears in the fourth quartile. The authors also found that, while some areas experience significantly higher rates of poverty than other areas, income poverty among smallholder households is not primarily a geographical phenomenon. Most of the variations in smallholder incomes tend to be within villages, rather than between villages, and geographical targeting of vulnerable groups for poverty reduction is likely to miss a large fraction of the poor in any particular country.

Table 3-1: Smallholder Land Distribution in Selected African Countries

Country	Sample size	Ave. land access per HH (ha)	Household Per Capita Land Access (ha) Quartile					Gini Coefficients		
			Average	1	2	3	4	Land per HH	Land per capita	Land per adult
Kenya	1 416	2.65	0.41	0.08	0.17	0.31	1.10	0.55	0.56	0.54
Ethiopia	2 658	1.17	0.24	0.03	0.12	0.22	0.58	0.55	0.55	0.55
Rwanda (1984)	2 018	1.2	0.28	0.07	0.15	0.26	0.62			
Rwanda (1990)	1 181	0.94	0.71	0.05	0.10	0.16	0.39	0.43	0.43	0.41
Rwanda (2000)	1 584	0.71	0.16	0.02	0.06	0.13	0.43	0.52	0.54	0.54
Malawi	5 657	0.99	0.22	0.08	0.15	0.25	0.60			
Zambia	6 618	2.76	0.56	0.12	0.26	0.48	1.36	0.44	0.50	0.51
Mozambique	3 851	2.1	0.48	0.10	0.26	0.40	1.16	0.45	0.51	0.48

Adopted from Jayne et al. (2002)

The response to poverty should start by the poor being recognised as actors who shape their lives even under conditions of hardship and destitution. In this view, poverty derives from a deficit of power rather than a lack of money (Joburg Memo, 2002). The Memo put it more strongly by suggesting that:

Unless there are shifts in power patterns, subtle ones or sweeping ones, the poor will almost always lack the security and the resources needed for a decent existence. Boosting economic growth is less important than securing livelihoods for the impoverished. Since economic growth often fails to trickle down, there is no point in sacrificing people's lives in the present for speculative gains in the future. Instead, it is crucial to empower them for a dignified life here and now (p. 25).

Land offers a wedge for the poor to mobilise their own power to chart their development destiny. Any attempt to mitigate poverty will, therefore, have to be centered on a reinforcement of rights and opportunities arising from land and agriculture. This is particularly true for the poor, who are often legally marginalised. In many places, they have no access to tenure, income and influence, despite the fact that they carry most of the burden of everyday life and often have to sustain families by themselves. For the poor, a basic rights strategy, rather than a basic needs strategy, may help to overcome the constraints to self organisation. In the countryside, conflicts are often centred on rights to land, access to water, forests, and undestroyed habitats, and confronting landowners.

3.5 Land and the HIV/AIDS Pandemic

The impact of land reform on poverty should also be considered in terms of the emergence of the HIV/AIDS pandemic. There is a tendency for those living with HIV/AIDS to be excluded from land reform programmes due to the effects of already existing illness, and/or for them to lose recently acquired land due to illness. Across Africa, between 15 and 35% of adults between 15 and 49 years is HIV positive. Most of them do not know they are positive but the vast majority is likely to become chronically ill and die within the next five to ten years. Given that at least half of today's 15 year olds are likely to contract HIV, the future impacts are grim. Where HIV/AIDS affects people running the institutions that directly or indirectly support land reform, and supply essential goods and services or provide markets, 20 to 35% of staff may be affected. This has implications for institutional capacity to carry out land management functions.

The HIV/AIDS pandemic has been more widespread in Southern Africa than in any other region, supposedly due to weak customary livelihood support systems, growing poverty and malnutrition, as well as because of the patterns of mobility and labour migration associated with plantations, mining compounds etc.¹⁰ Just as land use planning depends upon the reality of local soils, availability of water and local geography, so do the drivers and impacts of HIV/AIDS vary from place to place. For example, overall adult HIV prevalence in Malawi is around 16%, whereas in Mulanje District it is much higher (about 35% of pregnant women test HIV positive; depending on how this is extrapolated to the overall population, it can be assumed that at least 25% of adults are positive in that area). While South Africa's national antenatal HIV prevalence rate in 2000 was 24.5% among pregnant women tested, provincial figures ranged from just under 9% in the Western Cape to over 36% in KwaZulu-Natal (*AIDS Analysis Africa*, 11(6) Apr/May 2001). Neighbouring communities and families are affected differently. HIV tends to cluster in families; when one member becomes positive, it becomes more likely that another will be infected, especially through transmission between sexual partners (Mullins, 2001). In Malawi, it is common to see one homestead with no ill person, and another in the same community which has already had one or two deaths and is currently caring for one or more people who are sick.

Where natural resources (common resources such as forests, water, and land) are important to livelihoods, consideration must be given to both access and setting and promoting the necessary conditions for subsequent use. For those who do not yet have any land, a perceived lack of ability to use it properly could easily lead to exclusion of the worst affected families from land reform processes. Hence HIV/AIDS can directly hinder access to land and sideline already poor families. For the food security of the nation, this issue is tricky because it is not clear that households in which members suffer from debilitating diseases can make effective use of their land and household members may well choose to take jobs for quick money instead. Thus moral considerations and production goals might come into conflict. For those who do have access, declining skills and labour, along with depletion of financial and reproductive assets could undermine their ability to make use of natural resources. If a family does have access to land, one or more family members becoming chronically ill and dying affects the ability of the family to mobilise labour to work the land. According to Mullins (2001), if a family lacks the labour to make use of its own land, and also lacks cash and other resources to hire skills and labour, it (or the decision-makers within the family) may resort to selling or renting land (chart 3-1).

If poverty reduction is an objective, then these constraints faced by HIV/AIDS-affected families cannot simply be ignored. HIV and AIDS-affected people are, and will increasingly be, a major part of society and the issues of concern to them are becoming ever more central to poverty reduction. Consideration of these issues must be built into land reform processes from the beginning. No one should claim to be surprised if 'well planned' programmes start to fall apart because of the easily predictable impact of HIV/AIDS.

¹⁰ See Annex 10-2 for HIV prevalence rates by country in southern Africa.

Chart 3-1: Responses to Effects of HIV/AIDS from Afflicted Families

Reaction	Method	Effect
Abandon the land	Family is unable to use and just leaves the land idle	Infected and siblings move in with relatives
Rent out the land	Family formally or informally rent out the land	All or portions of land to others who can more easily work it, in order to get cash and to avoid having a productive resource lying idle (for example, in sharecropping arrangements)
Lend the land	Family lend out the land to those capable in their community	Family members use part of the land
Sell the land	Distress sale at distress price to meet medical costs	Informally sell the land in order to get cash and to avoid having a productive resource lying idle
Forcibly take the land	Family members take land by force from those who cannot work it	This situation is faced by many widows who can be left completely impoverished, often just as they begin to fall ill themselves

As outlined above, a family affected by HIV/AIDS is frequently impoverished. Once the skills base, financial and physical assets are depleted, it can be extraordinarily difficult to re-establish them. Even if the family retains its land, options for using it productively can be severely reduced. The entire debate on land reform as an aspect of poverty reduction assumes that land is a scarce resource which can be put to productive uses. When HIV/AIDS interferes with a family's ability to access and use land, this assumption is challenged and it becomes less likely that land reform processes will be as helpful in poverty reduction as has been envisaged. If a land reform process simply transfers access to families in which everyone is relatively healthy, includes no efforts to help people facing illness, and makes no efforts to help families of those who later become chronically ill to retain and make use of their land, then the process is not seriously contributing to long term poverty alleviation.

4.0 Land Tenure and Food Security

4.1 Land Tenure, Agriculture and Food Security

The economies of most African countries largely depend on land based activities that include agriculture, mining and tourism. Agriculture has direct linkages to food security, while mining and tourism are indirectly linked to food security through their competing demands for land use and their potential to supply incomes for food consumption. The impact of land tenure on food security and sustainable natural resource management is complex. Agriculture in Africa can be classified as bimodal - divided into smallholder and large-scale/estate agriculture. The underdeveloped state of smallholder agriculture in most African countries has largely been shaped by economic policies which disfavour them but promote the larger farmers. Through policies which set prices and control marketing systems, regulating the flow of information and credit-making mechanisms oriented to large farmers, the state has constrained the manner in which small and medium farmers are linked to national and international markets (Reed, 2001).

In Zimbabwe, over 1.2 million smallholders in communal lands had access to only 50% of agricultural land whilst 13 335 large and medium commercial farms controlled 37.3% of the best agricultural land. The situation in South Africa was even more acute as smallholders held 13% of the land area, with about 67 000 commercial farmers owning 86% the country's agricultural land (IFAD, 1999).

Development organisations and other grassroots organisations have played a critical role in supporting peasant economies through improving land tenure security and other general working conditions of communities. Groups that include small farmers associations, agricultural labour unions, women's and indigenous groups have been targeted for such assistance (Ghimire, 2001). Examples include: the Integrated Rural Development Initiatives in Uganda, which focuses on the role played by indigenous

communities in forest reserve management; the Cameroon Indigenous Knowledge Organisation, which has been lobbying for special land legislation to protect the rights of forest peoples; the OASIS Development Group in Kenya, which is assisting in preventing the unjust eviction of the Doroboi people from forest lands being appropriated by a government project; and the Tamale Archdiocesan Agricultural Programme for Women in Ghana, which has assisted women in securing access to arable land for the growing of cash tree crops and in negotiating long term leases on this land (Ghimire, 2001).

In terms of inputs and markets, the large-scale and plantation agriculture sectors are linked directly to international markets and their inherent characteristics of economic strength and political independence have prevented large-scale producers from falling completely under the control of state apparatus in the post independence period (Mosley, 1983; Skalness, 1995). Commercial agriculture, aimed at producing for the export market, is a major activity in most of Africa. Countries like Côte d'Ivoire, Kenya, Malawi and others have attracted private money to plantations producing export crops. Thus bananas, pineapples and other fruits, and rubber are major export crops in Côte d'Ivoire, while coffee, tea, fruits and vegetables are the main exportables for Kenya, with tobacco being the major export crop in Malawi and Zimbabwe.

Pingali (2001) shows that maize yields in the developed world average above 8 tonnes per ha whilst those in the developing world, including Africa, are barely above 3 tonnes per ha, reflecting gaps in farming technologies. Matnon and Spencer (1984) argue that, in many instances, the unavailability of appropriate technologies, rather than policy constraints, is major factor limiting agricultural production in Africa. In the developing world, more than 50% of the total area allocated to maize is sown to traditional low yielding varieties (Pingali, 2001). Thus poor access and unavailability of appropriate technologies are hindering agricultural growth in Africa. There are other technologies available but these are not in demand due to a lack of incentives.

The relative decline of agricultural production for domestic food and industrial requirements, *vis-a-vis* the growing needs in relation to demographic changes through population growth and urban relocation of vast segments, is a major concern in Africa. In fact, there has been increased food insecurity and impoverishment because of the increasing cost of food for the majority poor and the concentration of consumption among the relatively wealthier and better endowed countries, regions and social groups with access to land and incomes in and outside agriculture. The poor, with access to small plots of overutilised and degraded land, cannot feed themselves yet most of the best agricultural land is used for the production of export crops, with little of the produce finding its way into the local market and even less to local communities who largely have to depend on nature. If export farming creates a lot of well paid jobs, then it can be a very attractive way forward for poverty alleviation but, if it is capital intensive or pays low wages, then it may not have any positive effect for the poor. Rukuni and Eicher (1987) found that, in 1960 when seventeen African countries won their independence, sub-Saharan Africa was a modest net exporter of food. But Africa became a net food importer in the late 1960s because of the Sahelian drought, rapid population growth and declining crop yields. In 1985 sub-Saharan Africa imported 12 million tonnes of grain, predominantly wheat, rice and maize (USDA, 1986). The situation has not improved at all in the 1990s as production has remained low in Africa.¹¹

The most significant change in Africa's food import situation has been the increasing importance of food aid. In the late 1960s food aid accounted for 5% of total grain imports, increasing to 18% in the mid-1970s and 40% in 1983-85 (Rukuni and Eicher, 1986). From 1980 to 1985, food aid increased fivefold (accounting for 7% of the 12 million tonnes of Africa's food imports) while commercial food imports were stagnant. Rukuni and Eicher (1987) captured Africa's food crisis in the fifteen year period from 1970-84 in a single statistic: food production grew at half the population growth rate during this

¹¹ See Annex 10-3 for production trends in Africa from 1990 to 2001.

period. Food production made a dramatic recovery in 1985 and 1986 because of the near normal rainfall throughout most of the sub-continent. Although there was an increase in the daily per capita dietary energy supply in Africa from 2 120 to 2 190 kcal between 1990-92 and 1997-99, the number of chronically undernourished people rose from 108 million to 194 million people during the same period (Moyo, 2002). Much of the hunger problem in Africa is rooted in the inability to produce enough food to feed the continent's growing population.

The reasons for declining food production include: the overwhelming reliance on highly variable, erratic rainfall; frequent severe droughts; rising population pressure accompanied by declining farm size; falling soil productivity and land degradation; and the failure so far to tap the substantial irrigation potential. Most African countries are characterised by dependence on production of a small range of primary commodities and have traditionally been dependent on the export of a single commodity, e.g. tobacco for Zimbabwe and Malawi, coffee for Tanzania and fish and shrimps for Mozambique. The industrial and agricultural sectors still bear the characteristics of the colonial era as post independence policies have largely failed to reconstruct and transform these economies. Agriculture contributes on average 34% of Southern Africa's gross domestic product, employs 80% of the total labor force, the majority of whom are women, and accounts for about 26% of the raw materials supplied to industry (SADC, 1996). Cash cropping in the Southern African region accounts for at least 60% of export earnings (Byres, 2001).

In many regions of the continent, the pastoral livestock sector remains a very important source of activity, incomes and export earnings. In West Africa and parts of East and Southern Africa, the risks from drought, tsetse and other diseases in tropical wetlands, the savannas and Sahel constitute the main threats to rural livelihoods in these regions. It is now recognised that the continued viability of the pastoral sector in these semi-arid grazing lands depends on herd mobility and assured access to dry season grazing reserves, since rainfall and associated forage resources are too highly variable for herds to remain in a single place all year round. However, some states currently do not recognise the use of land through grazing a productive form of land-use and resist conferring rights to the user (IIED, 2000). Acknowledgement of pastoral grazing as a valid form of land-use, which confers rights to users, would increase the security felt by herders over the resources on which they depend, and would prevent the conversion of grazing areas into agricultural lands, especially where such land is not really arable anyway, as is the case in the Sahel and the horn of Africa. In addition, the maintenance of a productive mobile livestock system depends on herds having access to grazing and crop residues within village lands during the dry season, and ensuring transhumance routes are kept clear, so that animals are able to move through areas where cultivation is increasingly taking up all the available space (IIED, 2000).

Agricultural development, in which better productive land and resources are provided to the poor, is key to poverty reduction but both internal and external factors have constrained development in the agriculture sector. A major challenge affecting commercial agriculture in Africa is that governments cannot afford to protect farmers from sustained declines in world prices for their export crops. In addition, most governments have imposed controls on the marketing of key crops, especially cereals in much of East Africa and export crops in West Africa. Yet at the same time, public sector agricultural agencies have, in general, failed to seek out new export markets, new crops, and new product lines or to strengthen regional, continental and international linkages based on improved trade and balanced development. In fact, the technical and administrative capacity of African governments to spearhead agricultural development is questionable and the situation is further worsened by the low levels of production technology and local research to stimulate location-specific production technologies in the majority of African countries.

Rather than support agricultural development, the state, in response to both internal and external pressure, is steadily withdrawing from active involvement. Parastatals that dominated agriculture for years have been disbanded while the implementation SAPs has forced the reduction of public expenditures, e.g. through removal of subsidies, negatively affecting smallholder producers.

Moyo (2000) argues that, in the 1990s, official land policy debates in Southern Africa have become focused on two strategies: promoting freehold land markets to replace so-called customary tenure zones; and expanding 'commercial farming' through market mechanisms. These two strategies are expected to resolve the escalating land problems. Yet, in the guise of promoting sustainable land-use, environmental care, new agricultural export crops and tourism, large tracts of land are currently being alienated throughout the region. In the last few years, market based economic reforms and privatisation in general have led to a greater concentration of 'foreign' and local elite land ownership rather than enhancing equitable land redistribution which benefits the majority. Such processes have the potential effect of undermining national food security.

The overall trend arising from privatisation of land and market oriented production has been a gradual increase in poverty in Africa. However, some have benefited from market oriented production and have invested many more resources in those enterprises (on a per hectare basis) than they do for other crops. For instance, a farmer growing vegetables can buy 7-10 times as much maize as can be produced by a maize farmer in Kenya. Rather than the market itself, it is the shrinking farm sizes, with poor economic returns to farming (of any crop) that are creating rural poverty. Governments had tried to deal with this through subsidies and credit programmes but then had to withdraw them under SAPs. Certainly, improved credit would enhance investment in both food and cash crops and lead to greater food security.

Beyond the impact of national policy and international market forces, development programmes funded by multinationals or intergovernmental agencies have played a role. Particularly in the 1960s and 1970s, vulnerable groups, including peasants and pastoralists, lost access rights to their land and land based resources to make way for these programmes. The best known example is the Mwea irrigation scheme in central Kenya, where farmers were forced to produce rice. The rice itself was not as profitable as had been predicted and the introduction of water to the region led to a marked increase in the incidence of water borne diseases. It was the farmers themselves who then rose up and demanded the right to produce more profitable commercial crops like their neighbors in upland communities.

4.2 Land Tenure and Land Use in Africa

Africa is the second largest region in the world, accounting for 20% of the world's land mass (2 963 313 000 hectares). About 66% of Africa is classified as arid or semi-arid, and the region experiences extreme variability in rainfall. Approximately 22% of Africa's land area is under forest (650 million hectares), 43% is classified as extreme deserts (1 274 million hectares), and 21% (630 million hectares) is suitable for cultivation (FAO, 2001a; UNEP, 1999). In 1999, it was estimated that about 200 million hectares (32% of suitable area) was under cultivation while some 30% of the total land area (892 million hectares) was being used as permanent pasture (FAOSTAT, 2001). Land-use patterns in Africa have developed in close relationship with land tenure patterns and, conversely, land-use change can alter land tenure relations. Land-use patterns and regulations also determine what is to be produced and, at times, the method of production. In this respect, land-use patterns and regulations define how food security is to be attained at both national and household levels (i.e whether food security is to be attained through production or acquisition and distribution).

4.2.1 Agriculture

Agriculture supports more than 70% of Africa's population. The sector employs the largest number of workers and generates a significant share of Gross Domestic Product (GDP) in most countries.¹² For example in 1990, the agricultural sector accounted for 68% of the workforce in sub-Saharan Africa and 37% of the workforce in northern Africa. The main purposes of agricultural production are to meet food security needs, supply inputs to the agricultural industry and earn foreign currency.

Generally, Africa's agriculture is rainfed, with the exception of northern African countries and the western Indian Ocean Island states, where irrigation potential has been well developed. The continent experiences extreme variation in rainfall patterns, ranging from flooding to drought. Africa's vulnerability is exacerbated by its heavy dependence on a narrow range of agricultural products to support its economies, which often fail due to pest outbreaks, climate variation, price fluctuations etc. The main commercial crops grown in Africa are cereals, cocoa, coffee, cotton, fruit, nuts and seeds, oils, rubber, spices, sugar, tea, tobacco and vegetables. Africa produced about 67% of the world's cocoa, 16% of the world's coffee and 5% of world's cereal in 2001. Generally the vulnerability of agriculture translates into various forms of insecurity, predominantly economic, social and environmental.

Although most countries were self sufficient in food production before they attained political independence, the current situation is that most countries are net importers of food (Mkandawire, 1987). In some situations the state has also entered into production. Furthermore, state policies have had a decisive influence on production and marketing of agricultural products. The dualistic nature of the agricultural sector has also persisted into the post-independence period.

Although there are a few crops, which have increased in export quantities, most notably tea from Morocco, overall agricultural exports from the continent are decreasing.¹³ At least 50% of the commodities exported by African countries declined in the last decade. In Nigeria, export quantities have fallen by more than 90% for all crops outlined except cocoa. The agricultural import bill is growing at a faster rate than export receipts with the agricultural resource gap (difference between agricultural exports and agricultural imports) growing by some 44% in the last decade.¹⁴

Critics have argued that it is the direction of state policies or the nature of the 'biases' informing state policies that have led to the decline in agricultural production, thereby undermining food security. Mkandawire (1987:20) talks of layers of such biases which have been summarised as including,

...commodity bias (cash versus subsistence crops, exports versus food crops), spatial bias (rural versus urban area), sectoral bias (industry versus agriculture), formal versus informal sectors), market bias (external versus domestic markets), scale bias (small-scale versus large-scale), gender bias, technological bias (capital intensive versus labour, appropriate versus inappropriate technologies).

The legacy of colonial agricultural development policies remains a crippling factor despite the fact that most countries attained political independence several decades ago. For example the dominance of a cocoa based export economy in Ghana has negatively affected the development of agricultural production systems, a situation that was made worse when the post-independence governments continued to show a bias towards developing agriculture dominated by a "rural capitalist class of bureaucrats, military commanders etc at the expense of peasants" (ibid:5). Also, Malawi is still battling to develop its agricultural sector, which was under-developed during the colonial period as a result of the deliberate colonial policy of using Malawi as a labour reserve for the South African and Rhodesian plantations and mines.

¹² See Annex 10-4 for contribution of agriculture to southern and Eastern African Economies.

¹³ See Annex 10-5 for agricultural export figures between 1990 and 2000.

¹⁴ See Annex 10-6 for agricultural import and export figures.

The failure by governments and other rural development practitioners to transform peasant economies into more business oriented modes of production has also been viewed as a failure of agrarian transformation. It is in relation to this failure that Mkandawire (1987:24) observes that,

...as a result, we witness the amplification of ongoing processes of social transformation in the rural areas, land alienation and concentration through various schemes of privatisation, of increasing the sub-sumption of the labour process by capital and of a more repressive presence of the state apparatus in the rural areas. Sometimes the processes lead to the emergence of islands of relative prosperity in a sea of increasing marginalisation.

The taking up of communal land by estate farming in Malawi during Banda's rule is a typical example of how some misguided state policies contributed to further marginalisation and decline of the peasant economies (Mhone, 1987). Further to this, policies were put into place that ensured that each sector (estate and communal) would produce certain crops and would also market them through defined channels (ibid). Ultimately, high value export crops like tobacco, tea, sugar and cotton were produced by the estate sector and marketed directly to the international markets, while the smallholders were supposed to produce maize and other subsistence crops, which historically had a low exchange value. This contributed to the marginalisation of the peasantry, a problem that still confronts the present government.

4.2.2 Protected Areas

The African State has the authority, through specific legislation, to gazette or de-gazette forest areas, national parks and game reserves. These protected areas were established during the colonial period and enshrined in such notable pieces of legislation as the London Convention of 1933, later superseded by the Conservation of Nature and Natural Resources Convention in 1968. Thus it was under colonial rule, especially by the French and British, that the structure of modern protected areas was established for most African countries. The biggest amount of land under protected areas in sub-Saharan Africa is in Tanzania, occupying 365 115 km² (38.9% of total national area), while the smallest is in Reunion where only 2.4% of national area is protected. Only a few countries - Cape Verde, Comoros, Guinea Bissau, Mauritius, Mayotte, São Tomé and Príncipe, and St Helena - do not have any protected areas (McNeely ed., 1994). In general, state forests, national parks, state water bodies etc. are not accessible to ordinary community members, including those that share a boundary with such designated land-uses. As such, conflicts between community livelihoods and state gazetted land-uses are prevalent in several African countries. A detailed analysis of the various models that are used to increase community access to state forests and other wildlife based resources and how this has affected food security and natural resource management is required.

Economic reforms in Uganda have influenced changes in government policy in development, especially through de-gazetting of forest reserves (see Box 4-1). Protected areas, especially forest reserves, have become a target and are now considered free land that can be allocated to investors. For example, the first record of politically motivated de-gazetting was made in 1997 with the excision of 1 006 hectares from the Namamve Forest Reserve. This was followed by the de-gazetting of the Wabisi-Wajaya forest reserve (Makumbi, 2002).

4.2.3 Pastoralism

Pastoralism is a major form of land use and livelihood strategy in many parts of Africa. However, pastoral lands have been subjected to various forms of alienation and 'land grabbing'. As Shivji (1998) points out,

Historically, pastoralism has been treated as primitive and backward in comparison with cultivators. Consequently, cultivators have been given preference in obtaining land. The transhuman mode of production that pastoralists follow has given rise to the perception that their lands are open for occupation

and the pastoralists do not need them all and they could be put to better use. Consequently, pastoralists are among the most vulnerable groups of society.

For example Kairaba (2002) notes that, in Rwanda, the Igikingi system of rights to grazing land was suppressed and the land made available for communalisation. Mustafa (1998) reports on the eviction of pastoralists in Maomazi Game Reserve in Tanzania to make way for wildlife. The case study of the Maasai pastoralists (Box 4-2) highlights the pressures surrounding this form of land-use across Africa.

Box 4-1: Land for Forest or Sugarcane Production? An Example from Uganda

Butamira Forest Reserve measures approximately five square miles. It is a eucalyptus forest that was leased for 48 years to a sugar factory, Kakira Sugar Works (KSW), in the early 1940s. The sugar company planted eucalyptus that was used in the processing of sugar. The factory later adopted a new technology for sugar processing and abandoned the use of fuelwood.

When the lease of the company expired in 1998 it sought renewal, though on different terms. The company requested permission to plant sugar cane and was granted a permit. It then cleared over 700 acres of the total of 1 247 hectares but, due to the illegality of the permit and activities of KSW, the process was halted by the Parliamentary Select Committee on Forestry. Permits were later issued to wood farmers to plant eucalyptus trees in the forest area cleared by KSW. However, the company continued to appeal to government against the land-use change and argued that the move would save the government some US\$ 30 million that was being spent to import sugar if they were granted the reserve. The government supported the economic argument and the permit was given and recommendation was made for compensation to the wood farming permit holders.

Source: Makumbi, 2002

Western and Manzi (2003) show that the Maasai of Kajiado district in Kenya (as well as other pastoralists) face two distinct types of environmental hazards: the first is climatic uncertainty and drought; and the second consists of the environmental changes driven by shifts in land-use patterns. Whereas the Maasai have well developed and intricate strategies for coping with the first type of environmental hazard, the impact of the second set of hazards has seriously diminished their ability to cope using traditional strategies. As a result, they have become increasingly vulnerable to drought. They have responded with a set of alternative strategies which have cushioned a portion of the community from environmental shocks, while leaving the rest more vulnerable than ever.

Government policies in most countries where pastoralism is practiced have promoted agricultural production as a supposed means of enhancing food security, at the expense of pastoralists. In the horn of Africa, particularly in Sudan, the sedentarisation of pastoralists has only served to intensify conflicts both among populations and between pastoralists and governments (Shazali and Ahmed, 1999). The settlement of disputes has generally been against the interest of pastoralists, a situation born out of British colonial period when the Soil Conservation Committee recommended that, “where nomadic pastoralists were in direct competition for land with settled cultivators, it should be the policy that the rights of the cultivators be considered as paramount, because his crops yield a bigger return per unit area” (Galac El-Din El-Tayels, 1985:35). The main problems confronting pastoralists in Sudan include: unfavorable state policies; narrow routes for movement of pastoralists and their herds, leading to conflicts between pastoralists and cultivators; biased dispute resolution structures; lack of credible institutions that represent the interest of pastoralists; and scarcity of water which has been compounded by droughts (Shazali and Ahmed, 1999).

4.2.4 Land-Use Regulations

Land-use regulations are generally established either through an Act of Parliament or local by laws. In most of post independence Africa, land-use regulations were inherited from the colonial era (Shivji et al., 1998; Oketh-Ogendo, 1991) and enshrined in the country constitutions at independence. For example, in the Kenyan constitution there was a series of safeguards that permitted settlers to convert all

agricultural leases into freehold, made property sacrosanct and outlawed expropriation except on payment of prompt and full compensation. Thus in the Kenyan case, continuity of the system into the post independence period was granted through the inclusion of elites who had already started to identify with the system's basic principles, even before independence, in the Swynnerton Plan. "That African participation in estate farming in the highlands, for example, was a purely elitist exercise is evident in the fact that the new settlers were almost exclusively local and national level politicians, civil servants, businessmen, the managerial cadres in private industry and later, the armed forces." (Oketh-Ogendo 1991:163)

Box 4-2: Maasai Pastoralists: An Example from Kenya

The Maasai, like other pastoralists, have a history of displacing neighbouring groups and raiding their livestock. Such instability has been a fact of pastoral life from early historical times and has, in part, offset losses associated with drought, war and disease. However, the events of the late nineteenth century left the Maasai highly vulnerable to a new threat posed by colonial land grabs at the turn of the century (Western and Manziillo Nightingale, 2003). In 1904 and 1911, the Maasai were compelled to sign agreements with the British, resulting in the loss of between 50 and 70% of the land they once utilised, including the best grazing and drought refuges in the Rift Valley and the Laikipia area, Tsavo West, and the slopes and forests of Kilimanjaro (Western, 1996). Loss of these key resources severely threatened the livelihoods of the Maasai in southern Kenya, especially in the Kajiado area. Some of these resources were lost as a result of the weakness of group title deeds (group ranges) or a lack of individual tenure (Western and Manziillo Nightingale, 2003). Use of upstream water for irrigation in newly resettled areas of Maasailand made life even more difficult for those trying to survive in the remaining rangeland. All these factors add up to a major loss of land, a disproportionate loss of drought refuges and a consequent increase in vulnerability to drought among pastoral Maasai.

Human numbers have increased more slowly than those of livestock, with per capita livestock numbers falling from 10 in the 1970s to 4 by the 1980s. These ratios are considered non-viable for subsistence pastoralism (Western and Manziillo Nightingale, 2003). Land loss to agriculture, parks, forest reserves, as well as immigration and land subdivision, are some of the factors causing land fragmentation and loss of pastoral mobility. Fencing into small units adversely affects livestock and wildlife mobility, compounding the risks of drought in arid areas. Western and Manziillo Nightingale (2003) note that the primary factor driving land subdivision over much of the rangelands is fear of further land loss and dispossession. Little et al. (2001) argue that land subdivision in arable areas with better climatic conditions has secured land for pastoralists, increased productivity, improved welfare and allowed them to manage risks better. The authors also note that individual land titles put pastoralists on par with other sectors of society in being able to guarantee better returns on their efforts and, therefore, to take a long term investment perspective and secure loans and inputs.

The creation of national parks and state ownership has caused a deepening conflict with pastoralists (Western, 1997). For the Maasai, their 'second cattle' have become 'government cattle' rather their own resource used in times of drought. Ericksen et al. (1996) estimated that between 65 and 80% of Kenya's wildlife resides outside parks, placing an even greater burden on pastoralists. With tourism and utilisation fees accruing to government, councils and operators, and the cost to pastoralists, resentment towards wildlife runs deep. Blench (2000) notes that wildlife numbers have been in steep decline over most of the rangelands over the last 30 years due to poaching, predator poisoning, and fencing off of water holes and pastures. Western (1994) shows how the involvement of the Maasai of Amboseli community in wildlife enterprises helped in solving the human-wildlife conflicts in Kenya's rangelands. Amboseli was the first experiment to show that communities could derive income from wildlife and would willingly engage in tourism and hunting enterprises if given the right and opportunity. The experiment led to national community based conservation policies in Kenya, Zimbabwe, Tanzania and increasingly much of Africa, however, emphasises that the adoption of wildlife enterprises does call for user rights and benefits flowing directly back to the communities bearing the cost.

In most of Africa, land-use regulations and planning frameworks have been an ideological tool for maintaining the unequal distribution of land and inequitable security of tenure. The regulation of land-use is usually rationalised on the basis of the need to protect the public interest. Whilst there is a

legitimate public interest in the way land and the natural resource base is used, the application of regulations to different tenure systems, and thereby to different land-use systems, is often unfair and inequitable. In analysing the various forms and types of regulations governing land-use it is important to go beyond the rationale and seek to uncover the origins and value systems implicit in such regulations. In many cases, the imposition of regulations is a way of protecting certain interests for which the claim of national or public interest is a smoke screen. In other cases, the regulations may, in theory, protect the public interest but, because of the nature of land distribution, the impact of such regulations might be to deny the legitimate rights of those affected.

5.0 Tenure and Sustainable Resources Management

5.1 Land Tenure, Social Vulnerability/Marginality and Environmental Stress

In Africa, the need to increase food production to enable increased food consumption has become more desperate as the demands of an increasing population have failed to be met. As a result, marginal land has been brought into production (cultivation or grazing), commercial operations continue to use fertilisers and chemicals for increased productivity while fallow periods have been reduced. Although such activities are designed to increase productivity, they can result in exhaustion of production capacity of the land which manifests itself in declining yields of the land, vegetation and soil degradation and, in some cases, desertification. Climatic variability and change, and inappropriate land use or land tenure policies add to the pressures magnify the impact.

The high fragility of Africa's environment tends to compromise food production and leaves a majority of the poor vulnerable. For example, the mountainous and hilly area which covers much of Burundi, Rwanda, Uganda leaves insufficient arable land to support the high population densities of these countries. Whilst occasional volcanic eruptions improve the soils, volcanic events, such as the eruption of Mount Niyiragongo, leave many poor households insecure. The incapacity of these states to mobilise food to avert humanitarian crisis worsens the situation of the poor and lessens their chances of survival or recovery. There is some extensive cultivation in Burundi, Rwanda and Uganda, with the area cultivated standing at 42%, 35% and 45% respectively.

Nomadic herders mainly dominate the drier regions. Northern Africa is extremely arid and hence the shortage of arable land is a major issue. Distribution of rainfall in the sub-region is also varied, with more than 70% falling in Sudan, and only 3% in Egypt, where some 90% of the precipitation is lost through evaporation or transpiration (FAO, 1995b). Such harsh climatic conditions and the predominance of shallow, highly erodible soils, make cultivation hardly sustainable. Arable land makes up 26.4% of the total land area, but the extent of cultivated area ranges from 2.6% in Egypt to 77% in Morocco (FAOSTAT, 2001). Rangeland, occupies some 13% of the total land area, mostly in Algeria and Sudan, although the trend has been to reclaim these lands for cultivation. Generally, agriculture is dualistic in nature, with both heavily mechanised commercial agriculture and traditional smallholder agriculture existing.

Population growth is a major cause of environmental instability in Africa as a whole. More than 70% of the population in eastern Africa is rural, depending mostly on subsistence agriculture. In Ethiopia for example, 95% of agricultural output is generated by small-scale farmers who use traditional farming practices (FAO, 2000a) High variability of rainfall, increasing population and the resultant high demand for food are forcing farmers to expand the area under cultivation into more and more marginal areas. In Southern Africa, colonial policies on land tenure and access influenced patterns of land use and management in many ways. For example, legislation creating national parks and forest reserves was passed, leaving peasant farmers with little land and forcing them to turn to intensive production in either cultivated areas or grazing areas (Annersten, 1989). Traditional communal land tenure was perceived as

insecure and hence land was either leased from the state or privatised. The inequitable distribution of land in countries like Namibia, South Africa, Malawi and Zimbabwe has contributed to the declining state of resources in these countries, thereby creating the conditions that lead to food insecurity.

5.2 Good Practice in Sustaining Livelihoods

In a case study on the vulnerability of herders in the dry eastern region of Morocco, Salem (2002) notes that many years of drought during the 1980s and 1990s increased the herders' vulnerability to economic and health risks. The problem was exacerbated by the quasi-open-access basis on which pastures were used, as there was no coordination of animal movement in communities, especially near the highly valuable water points. The race to water points affected the sense of community and social cohesion. Individualistic modes of behaviour and conflicts started to become more apparent and frequent. Erosion of social capital deepened the sense of insecurity and vulnerability. By the mid-1980s, flocks had been decimated, forage production slashed, income had plummeted and debt was mounting. The main source of livelihood for the community, i.e. livestock, suffered declining health status. Hardest hit were the small pastoralists who did not have much choice as to how to cope with the severe environmental changes and loss of their livelihood (Salem, 2002).

A multi-year project initiated with government assistance utilised the traditional tribal structure of the community to establish cooperatives as a way of increasing self organisation and ecosystem management capacity. The initiative was most effective in the eastern region, where the community was more homogenous and cohesive and, by late 1999, much of the lost livestock and ecosystem productivity had been reclaimed. This, in turn, reduced human vulnerability and insecurity. The main message from this case study is that the self-organisation capacity infused by traditional institutions can be pivotal in reversing environmental degradation that causes human vulnerability. To be sustainable in such contexts, formal institutional innovations should respect and utilise existing norms, traditions and values, while introducing more formal and legally sanctioned rules (Salem, 2002).

Early warning systems have reduced human vulnerability and increased security against major natural environmental phenomena and their social and economic consequences, by a combination of satellite based meteorological monitoring, education and social protection measures. Current programmes of precautionary measures, including satellite early warning systems, are expected to further reduce human vulnerability to environmental change and to increase security over the next five to ten years in the sub-region through concerted action. This action is to be taken by the countries collectively, coordinated through the IOC, with EU support and advice from the World Meteorological Organisation, building on the Organisation's experience from other regions subject to cyclone risk (Roberts, 2002).

5.3 Land Tenure and Environmental Security

A number of studies have emphasised the high dependency on natural resources by most African economies (Scoones et al., 1996; Cavendish, 1997; Mortimore, 1998; Tevera and Moyo, 2000; Campbell et al., 2002). Increasing demand for resources for both local and export markets, as well as escalating competition for the control of natural resources, have been a source of insecurity and have increased the incidence of environmental conflicts. According to Moyo and Tevera (2000), environmental security problems in Southern Africa, such as natural resource conflict and environmental change, arise from multiple processes that are manifest at various spatial and sectoral levels. These include conflicts at the inter-state and intra-state levels, the class and racial levels and at the local level. The authors note the resurgence of unresolved historical claims over national boundaries and land, including the natural resources which are embedded in them.

According to the United Nations Development Programme (UNDP, 1994), human security implies safety from chronic threats, such as hunger, disease and political repression, as well as protection from

sudden and hurtful disruptions in the patterns of everyday life. Human security, therefore, ensures options for the mitigation of threats to human rights and the environment as well as guaranteeing the freedom of those affected to exercise these options (Moyo and Tevera, 2000). It incorporates principles of participatory development. The development process can sometimes threaten security when it entails disruption of traditional security mechanisms by redistributing power in a society or region, unless the institutions providing security adapt and accommodate change rather than impede it (IUCN, 1998).

Buzan (1983) argues that environmental security is the capacity to live harmoniously with nature or to maintain a sustainable environment. Mohamed Salih (1992) put forward two perspectives on environmental security. The first one relates to the capacity of individuals and groups to meet their basic needs from a sustainable environment. According to the second perspective, environmental insecurity involves serious consequences for social, economic, political and physical security. Following these arguments, the traditional conception of security must be reconfigured to include non-military threats, such as human rights abuses, outbreaks of diseases, resource scarcity and environmental degradation (Moyo and Tevera, 2000).

5.4 Land Tenure and Natural Resources Conflicts: Poaching, Grabbing and Occupations

Land and natural resources conflicts revolve around five major issues. First among these is the general scarcity of land which forces villagers to occupy land perceived as vacant. Secondly, political issues have a tendency to encourage illegal settlements among villagers in return for political favours. Thirdly, communities also choose to dishonour boundaries in pursuit of their survival strategies. Fourthly, the marginalisation of certain social groups forces them to defy certain rules and regulations. Lastly, armed conflict often results in the destruction of the environment.

Land tenure and land-use conflicts have the potential to undermine both environmental stability and food security. These forms of conflict are prevalent across and between land tenure categories. Whilst conflicts are normal in society (Widstrand, 1980), their management is a major challenge. Investment in institutional development for local level conflict management is often the missing dimension in development policies. There are undoubtedly 'tenure hot spots' where, if the rights of the more vulnerable members of society are to be protected, change must not be allowed to take place in a legal and administrative vacuum (Adams et al, 1999). Moyo (1995) describes how, in Zimbabwe, competing and ineffective attempts by both government and NGOs, frustrated by weak local administration and disingenuous central government interventions, failed to resolve land tenure problems in the absence of constitutional and legal principles governing land in the communal areas.

Studies in South Africa demonstrate the increasing breakdown of customary management arrangements and the often dysfunctional mixture of old and new institutions and practices (Adams et al., 1999). People are often uncertain about the nature of their rights and confused about the extent to which institutions and laws affect them. Matters are further clouded by local and national political conflicts over land management roles in the communal areas and by continuing corruption. Tribal commonage is passing to open access and rights to homestead plots and fields are rapidly becoming less secure. Studies in the Eastern Cape have shown that productive small farmers wishing to expand have faced ever greater difficulties in borrowing under-utilised arable land from others who are fearful of not getting it back. There is an increasing area of potentially productive land that is not used.

At the micro level, peasants use various strategies to press for their land demands. Some of the main peasant strategies that have been used include 'poaching' of natural resources, fence cutting, illegal settlement/land occupations and resistance to development projects. Such strategies have tended to target various forms of state lands, particularly forests and national parks, and communal areas, as well as privately owned lands. In the case of Zimbabwe, land occupations have targeted various land tenure

categories over the last two decades, including white owned 'commercial land' and state land (Moyo, 2000, 2001). In areas where forest and national parks are dominant, state lands become the soft targets for land occupation. As Moyo (2002) states, "The land occupations represent an unofficial or underground social pressure used to force land redistribution to be taken seriously. The 2000-2001 occupations mark the climax of a longer, less public and dispersed struggle over land..."

The scarcity of land in Malawi has resulted in the encroachment onto private land, gazetted forests, national parks and other protected areas that border high land pressure zones and, in some cases, such actions have turned violent. A study by the Land Commission showed that leasehold and freehold land were often targeted by land hungry citizens and this trend was mainly observed in the tea growing areas of Mulanje and Thyoto, and the tobacco estates in Kasungu (Government of Malawi, 2000). A similar trend of encroachment was also observed in relation to national parks and wildlife reserves of Malawi. For example, the Nyika, Kasungu, Lengwe and Liwonde National Parks were quite vulnerable to such encroachment. The root cause of the problem is that most national parks were established after the displacement of entire villages, an example being the people of sub-chief Kachulu in Rumphu who were forced onto valleys of uncultivable gradients.

Settlement of game reserves and forest reserves is also extensive in a country like Uganda where Kibale Forest Reserve and Game Reserve/Corridor in Kabarole district, Mabira Forest Reserve in Mukono District and Queen Elizabeth National Park in Kasese and Kabarole Districts have been the target for settlement. In Côte d'Ivoire, conflicts also assume various dimensions. The defining factors in the Ivorian situation include migrant labour, ethnic issues and the development of illegal land markets (see also section on land tenure and markets).

The incidence of civil wars in countries like Angola, Rwanda, Burundi and Mozambique has also contributed to the destruction of forests. After the 1994 genocide in Rwanda, the massive return of refugees led to the destruction of existing woody areas, and the quasi-anarchical takeover of protected zones, namely the Akagera National Park and Gishwati Forest Reserve. Estimates are that 15 000 hectares of plantation were destroyed while another 35 000 hectares were damaged. The pressure on the existing forest resources also accelerated as the energy needs of orphanages, prisons, schools and tea factories had to be met.

There are several processes that are contributing to the degradation of forests in Africa. Firstly, the international corporations undertaking commercial logging operations are a major cause of deforestation. Gabon, Cameroon, the Central African Republic, Congo Kinshasa, Congo-Brazzaville and Equatorial Guinea represent the main countries whetting the appetites of transnational forest companies, after almost all West African forests have been depleted. The structural adjustment and other free market policies forced on African countries by the International Monetary Fund (IMF), World Bank (WB), and World Trade Organisation (WTO) have provided greater incentives for unsustainable exploitation of natural resources. For example, it is estimated that 200 000 hectares of forests are destroyed annually in Cameroon, largely as a result of logging activities. Even attempts to replace the forests through afforestation of eucalyptus have been criticised as the establishment of one species does not translate into replacing a depleted forest, considering the biodiversity and complexity of forest support systems. Furthermore, in Cameroon, state claims to property over all trees and plantations have provoked conflicts over land tenure between the government and local communities. Also, the establishment of large-scale oil palm plantations in Cameroon has often resulted in the expropriation of the land of neighbouring villages without adequate compensation. Cameroonian law states that peasants do not own the land by customary right, and hence expropriation by the state does not require compensation.

Box 5-1: Settlement in Forest, Game Reserves and National Parks in Uganda

Forest reserves, game reserves and national parks make up about 16% of the total dryland area of Uganda. Kibale Forest Reserve was established in 1932 and occupies 38 866 hectares. The total area of Kibale Game reserve/corridor is 33 915 hectares. The game reserve/corridor was meant to provide an undisturbed link for seasonal wildlife migration to the Kibale Forest and surrounding areas and Queen Elizabeth National Park. About 10% of the forest reserve and almost 100% of the game corridor have been converted to settlement and agricultural land-uses since the 1950s. Based on projections using the 1980 census, it was estimated that, by 1988, the population in both Kibale forest reserve and the game corridor ranged between 45 000 to 60 000 people.

Most of the people who settled in the Kibale forest reserve and game corridor came from the same social grouping of the Bakinga people who just transferred social institutions, including land tenure arrangements and traditional governance structures, with them. High population densities and land shortage in Kigezi district (now Kabale and Rukungiri) forced people to migrate and settle in the forest and game reserves. For example, as early as the 1960s, population density in some localities was as high as 800 people/km². Furthermore, the Bakinga people had historical and cultural linkages to the forest and game reserve. Between the 1950s and 1972, the Government of Uganda turned a blind eye on encroachment. When encroachment spilled into the forest reserve, the Forest Department sought evictions of settlers. Several efforts to evict the settlers have met with limited success as settlement in forest reserves has become politicised nationally.

Mabira Forest Reserve was first gazetted in 1932. Encroachment into the forest reserve started in the mid-1970s and, by mid-1987, 4 498 hectares of the forest reserve had been converted to crop production. A 1987 census by the Forest Department showed that there were some 24 168 people settled in the forest reserve who included permit holders, non-resident encroachers and farm workers. Encroachers had originated from about 23 of Uganda's 33 districts while about 210 families came from 6 foreign countries as follows: Burundi (40 families) Kenya (2), Rwanda (48), Sudan (18), Tanzania (19) and Zaire (83). Settlement in Mabira Forest was influenced by the collapse of industries in Kampala and Jinja, including coffee, tea and sugar estates, a weakened civil service (including the Forestry Department) during Amin's rule, as well as encouragement by the government itself to move from the cities and take up farming. As an example of the latter, two forest reserves, Echuya (400 hectares) and Bukaleba (4 000 hectares) were de-gazetted and converted to agricultural settlement.

Queen Elizabeth National Park occupies 1 978 km². A number of villages are located within the park and are mainly engaged in fishing and salt extraction. Most of the villages existed prior to establishment of the park and were allowed to stay on. However, the activities of fish smoking and extraction of salt rely on fuelwood and hence have contributed to deforestation in the park. Encroachment into the park started from within and the increased population has eroded the park resources.

Adapted from Aluma et al., 1989

The unsustainable exploitation of forests in most of Africa emanates from the fact that, after independence, governments maintained parts of the unjust provisions which had been imposed in legislation by colonial governments, including those referring to the appropriation of community forests by the state. Current governments can, therefore, still legally open up forests for exploitation by transnational companies instead of making them available to local communities. Inappropriate land tenure policies have, therefore, resulted in various forms of economic, environmental and social impacts (Ouedraogo and Toulmin, 1999). For example economic impacts involve loss of livelihoods and increasing poverty, environmental impacts include lack of investment in land improvement, while social conflicts manifest themselves in deterioration of community cohesion and rising levels of conflict.

It is common practice in Africa that there are several different reference systems and legal frameworks governing access to land and its use, and these compete with one another. In West Africa, this emanates from state imposed regulations, the influence of political parties and local practices. In Côte d'Ivoire, this results in conflicts which are worsened in the south of the country by large migratory movements, by increasingly frequent monetary transactions in relation to land and by a predominance of capital intensive perennial cash crops (Stamm, 2000).

Box 5-2: Land Tenure Conflicts in Côte d'Ivoire

A combination of land pressure and political tensions, that started building up in the 1980s, came to a head in violent clashes that affected the country at the end of the 1990s. In 1998, several people died in a conflict over land tenure that erupted between indigenous Guere farmers and Basule incomers in Gengolo, a village in western Côte d'Ivoire. In September 1999, over 2 000 Burkinabe were chased out of the country and the situation became worse after the military coup in December that year. On 28 August 2000, about 1 500 people, 1 100 of whom were Burkinabe, were forced to leave the village of Trale, some 40 kilometres from Grandy Bereby. The daily newspaper *Le Jour* of 11 May 2001 ran a story on the "bloody confrontations" between Guere and Burkinabe caused by conflicting land tenure claims between indigenous people and incomers, and conflicts also flared between families and villages like Osrou and Afrinmangba, which clashed in May 2000 over a single plot of land.

Source: Kane, 2002

More recently, illegal squatting or land occupations, albeit of a sporadic nature, have been more influential in keeping the land redistribution issue on the agenda than formal organisations of civil society or their recognised community based organisations. In this respect, there is little documentation of the experiences in mobilising pressures for land reform in most countries of the region (Ranger, 1985; Kriger, 1992; Moyo, 1995; Abel, 1995). African land reform debates are constricted by simplistic analyses of the origin, nature and influences of social forces that have organised varied political pressures for land reform (Van Zyl, et al., 1996). The real basis of either state led or community led land reform initiatives is little understood because of the inability of most official discourses and conservative studies to deal with the illegal and underground aspects of mobilising for reform (Moyo, 1995; 1998).

The net effect of land and natural resource conflicts is the destabilisation of food production, degradation of the environment and, in the case of armed conflicts, creation of open access conditions for natural resources. Attainment of food security is never possible in the absence of appropriate conflict management strategies.

6.0 Land Tenure and Gender Relations

Women play a pivotal role in both maintaining and strategically using land and natural resources. Besides being managers and providers of food in the family, they are also carriers of local knowledge, skills for survival, and cultural memory. Most poor people, particularly women, do not own land, but rely on common property resources – forests, lakes and vleis, which are owned by the community or the state – as vital means of survival. Women are often regarded as having stronger links with the environment than men yet women do not control land and related natural resources such as forests (Shiva, 1988). Allocation, occupation and use of communal lands is generally done through government selected bodies, which grant occupation according to customary law where an adult married man is allocated land for use by himself and his family (Moyo, 1995). Thus, women only have access to land and related natural resources through their spouse or male relatives. This disadvantages women, as they remain subordinate within male centred structures (ibid).

Women make up a larger proportion of the rural population and rural poor than men do. In Malawi, 52% of the population is women, 93% of who are in rural areas. Sixty-five percent of Zimbabweans live in communal areas and, of these, 85% are women. More than half the population of Mozambique is made up of women (51.4%) and 80% of these live in rural areas. In Tanzania 68% of the population lives in rural areas, with more than half of this group being women, (Byers, 2001). In any debate on land tenure and livelihoods, gender then requires special treatment. Typically, gender relations are governed by the prevailing sociopolitical structures and religio-ideological value systems. In Africa, the predominance of patriarchical system relegates women and children to minority positions. As a result, gender relations influence access to and control over resources in the context of power relations, policy regimes and livelihood strategies.

6.1 The Gender Division of Tasks and Responsibilities

Men and women in rural Africa are essentially engaged in a division of labour in which women's responsibilities are more centred on labour provision than decision-making and income control. In Africa, studies have shown that women play a crucial role in many aspects of crop production. While men are often responsible for land clearing, burning and ploughing, women specialise in weeding, transplanting, post-harvest work and, in some areas, land preparation. Both take part in seeding and harvesting. Moreover, women in Africa also play a major role in household animal production enterprises. They tend to have the primary responsibility for the husbandry of small animals and ruminants, and also take care of large animal systems - herding, providing water and feed, cleaning stalls and milking. In all types of animal production systems, women have a predominant role in processing, particularly of milk products, and are commonly responsible for marketing. In many countries, women are also responsible for fishing in shallow waters and in coastal lagoons, producing secondary crops, gathering food and firewood, processing, storing and preparing family food, and fetching water for the family (see Table 6-1) These are general descriptions and exceptions are found, e.g. where women prepare land and men provide quite a bit of labour.

There are some parts of Africa, which have matrilineal systems, in which women have limited access to and control over productive assets and social services (Kachule et al., 1999). However, Cromwell (1992) reports that female-headed households in matrilineal parts of Malawi are clustered on the smallest holdings of land and they tend to be the ones who cannot meet their food needs. This is despite the fact that they have a central role to play in various sectors of the economy, including agriculture. Thus women are alienated from controlling land and other natural resources because their access is secondary, while that of men is primary. This may have an impact on the way men and women manage natural resources in communal areas. Women are saddled with taking care of the family and domestic needs, including heavy labour activities such as water and fuelwood gathering.

Table 6-1: Contribution of African Women to Family Livelihoods

Activity	Percent Contribution
General workforce	33%
Agricultural workers	70%
Labour to produce food for household consumption and sale	60-80%
Processing of basic foodstuffs	100%
Household water and fuelwood collection	90%
Food storage and transport from farm to village	80%
Hoing and weeding work	90%
Harvesting and marketing activities	60%

Source: FAO, (2002)

6.2 Women's Ownership and Tenure of Land

One of the most serious obstacles to increasing the agricultural productivity and income of rural women is their insecurity of land tenure (FAO, 1996). Security of land tenure is not limited to private ownership but can exist in a variety of forms, such as leases on public land or use rights to communal property. If tenure is secure, the holder can reasonably expect to use the land to its best advantage in accordance with their right, reap a timely and fair return and be able to enforce the right against non-holders (Rukuni, 1994; Moyo, 1995; Juma and Ojwang, 1996). In order for women farmers, who are responsible for 60-80% of the food production in developing countries, to use land more efficiently and thereby make a greater contribution to food security, they need access to land, management control of land-based resources, and the economic incentives that security of tenure provides (FAO, 2002).

Historically women's access to land was based on status within the family and involved the right of use, not ownership (Juma and Ojwang, 1996). In Africa, custom excludes women from ownership. Property is held in a man's name and passed patrilineally with the group. A widow's right to remain on the land she has farmed with her husband is not secure. Traditional or customary systems that might have

protected a woman's access to land during her lifetime are breaking down under population, economic and environmental pressures. Growing male rural to urban migration is leaving women as *de facto* heads of household without management authority over land resources. Even in resettlement schemes in irrigated areas, women *de facto* heads of household rarely benefit. In some cases, however, women have gained better access to land through land reform, generally where the participation of rural women is a well defined state policy. In some countries, agrarian reforms have replaced the feudal system where women traditionally held a subordinate role in family production. There are also many instances where women's organisations have fought to gain access to land which they farm collectively.

Without land and secure tenure a woman cannot access credit and membership of agricultural associations, particularly those responsible for processing and marketing. If tenure is secure, a woman can invest in, rather than exploit, the land's productive potential and is more likely to adopt environmentally sustainable farming practices (Juma and Ojwang, 1996). She can plan and quickly adjust resource allocation decisions under changing climate or economic conditions and rely on the productive results of her labour.

Control of the product is also an important consideration in examining women's land rights. Security of tenure is often the key to having control over major decisions, such as what crop to grow, what techniques to use and, what to consume and what to sell. Given women's tendency to grow food, as opposed to cash crops and to spend income on family food, security of tenure for women must be viewed as a key link in the chain from household food production to national food security (FAO, 1996). A more encompassing definition of food security by FAO (1996) goes beyond just access to, and availability of food, but is also in terms of resource distribution to produce food and the purchasing power to buy food where it is not produced. In light of women's crucial role in food production and provision, any set of strategies for sustainable food security must address their limited access to productive resources. This limited access and women's insufficient purchasing power are products of a series of interrelated social, economic and cultural factors that force them into a subordinate role, to the detriment of their own development and that of society as a whole.

6.3 Gendered aspects of Poverty and Marginalisation

The number of female-headed households is increasing significantly in rural areas in many developing countries as rural men migrate due to the lack of employment or other income generating opportunities. In Africa 31% of rural households are headed by women (FAO, 2002). While there are different types of female-headed households, in almost all countries such households are concentrated among the poorer strata of society and often have lower income than male-headed households (Gaidzanwa, 1988). The problems of female-headed households in rural areas vary according to their degree of access to productive resources. The FAO (2002) has identified, for example, the potential consequences of the absence of male labour, both in terms of declining yields and outputs or shifts in production toward less nutritious crops requiring less labour, and in terms of increased reliance on child labour which, in turn, has further implications for the family and for the human capital of the country. In these cases, women's access to labour-saving technology is of particular importance.

Despite their leading role in food production and provision for family consumption in developing countries, women have limited access to critical resources and services. While in most African countries, neither men nor women farmers have access to adequate resources, women's access is even more limited due to cultural, traditional and sociological factors. According to FAO (2002), less than 2% of the land in Africa is owned by women, while the proportion of women heads of household continues to grow. Land reform programmes, together with the break up of communal land holdings in some countries, have led to the transfer of exclusive land rights to males as heads of households. This ignores both the existence of female-headed households and the rights of married women to a joint share. In

most countries where information is available, only 10% of credit allowances is extended to women, mainly because national legislation and customary law do not allow them to share land property rights with their husbands, or because women heads of household are excluded from land entitlement schemes and, consequently, cannot provide the collateral required by lending institutions.

Women's access to technological inputs, such as improved seed, fertilisers and pesticides is limited. They are frequently not reached by extension services and are rarely members of cooperatives, which often distribute government subsidised inputs and vital market information to small farmers. In addition, they lack the cash income needed to purchase inputs even when they are subsidised.

Land reform and the forces of modernisation have had a mixed effect on the status of women in Africa. Agrarian reform or resettlement programmes use the 'head of family' concept, usually identifying a male, as the basis of land reallocation. Few have significant numbers of female beneficiaries or even pay attention to gender as a beneficiary category. New legislation on equality for women is more applicable to the urban-employed class than rural people; agricultural land is even excluded in some new inheritance schemes. Statutory reform of customary law is confusing and open to interpretation; when customary, religious or statutory systems coexist, the law least favourable to women is often selected. Given the traditionally limited role of women in decision-making processes at the household, local and national levels in most cultures, their needs, interests and constraints are often not reflected in the policy-making processes and laws which are important for poverty reduction, food security and environmental sustainability. The causes of women's exclusion from decision-making processes are closely linked to their additional reproductive roles and their household workload, which account for a significant share of their time.

In spite of the strong representation of women in development activism, they have been left out from the benefits of land reform programmes and, when considered at all, they tend to be marginal to the programmes. For instance, women in Zimbabwe contribute about 70% of the agricultural labor force yet they very rarely control land for agriculture. Women have received less than 20% of land in their own right during Zimbabwe's recent land reforms. In Tanzania, Monela et al. (2000) report that, although men and women work together in the fields, women have an extra load of crops that men are not involved in. As a result, women are more involved in agriculture than men. Yet when the shift of power and decision-making to communities is analysed, it shows that the shift has generally shifted been to men and rarely to women.

7.0 Land Policy Making in Africa

7.1 Introductory Remarks

Land policy formation in Africa has escalated over the last ten years in response to the persistence of complex land problems, struggles for access to land for agriculture and livelihoods, and to meet varied political, economic, social and environmental objectives. Balancing these multiple objectives and the technical and financial capacity to implement policies, once made, remains a major challenge on various parts of the continent. The approaches and strategies pursued in the making of land policies in sub-Saharan Africa have also tended to vary by country, region and historical experience.

Neoliberal policy frameworks which have dominated the design of national land policies tend to treat land as a market commodity rather than a public good. The legacy of colonial land policies, the development path chosen in the post-colonial period (capitalist or socialist), the role of donor organisations and the influence of western countries are all critical in shaping land policies. This section reviews land policies in Africa, with particular references to their rationale and content, policy development processes, and implementation strategies.

7.2 Scope and Forms of Land Policies

7.2.1 Land Legislation and Administration Policies

Land legislation is the act of defining land rights through the law, usually through acts of parliament. The main aim of land legislation is to protect the land rights of individuals through laws, to define the rights and responsibilities of institutions, and to adjudicate in cases of conflicts. In several countries in West and East Africa, land policies have sought to address the question of tenure security. This has been driven by the need to promote economic development and agricultural growth through increased security and incentives to develop land. However, what constitutes a secure land tenure system varies from country to country across Africa's main sub-regions. One of the basic tenets of land legislation is that it protects the land rights of holders as it ensures that the 'rule of law' is applied when land rights are extinguished or land is sequestered by the state. In most cases, this means that such land has to be appropriated through consent and that appropriate compensation is paid to the former landowner.

Land policies have also tended to focus on the development of land administration structures that are expected to take the lead in implementing the policies. Dispute resolution processes are increasingly being provided for in the emerging land policy documents, although there are still questions with regard to their effectiveness. In Ghana, a council of elders and land allocation committees are expected to help the customary trustees in all aspects of land management, including the allocation of land to strangers and the settlement of disputes (Kasanga, 2001). In Tanzania, the Land Commission recommended the creation of the Baraza la Wazee at the village level and the participation of the elders (wazee) in the Circuit Land Court¹⁵ and at the High Court¹⁶ as the main land dispute resolution structures (Shivji, 1998). The Malawian land policy proposes a dispute resolution process characterised by, in ascending hierarchical order, a Village Land Tribunal¹⁷, a Village Tribunal¹⁸, a Tribunal of Traditional Authorities¹⁹ and the Central Land Settlement Board²⁰

In countries such as South Africa, Mozambique, Uganda and Tanzania, the new tenure laws and policies make room for individuals, groups of people, associations and communities to register as legal entities that can own land in their own right. (Palmer, 2000). The key issue with regard to land administration is the extent to which official sanction applies to different forms of tenure. Many communities resent the more heavy presence of administrators (besides the traditional leaders) in customary systems of tenure than in freehold tenure, perceiving it as based upon restricting (and in some cases criminalising) use of natural resources and imposing land-use policies, which the local people may not like. The fact that individuals under freehold, including on plantation estates, tend to have more rights to the management of their land creates general problems of superiority/inferiority between the different forms of tenure based on the form of land administration.

7.2.2 Customary Landholding Systems, Nationalism and Land Market Policies

The colonial state invented and then rigorously applied the notion that African systems of law and tenure did not recognise individual rights to land and that, therefore, all land occupied by Africans was state land. Such land as was thereafter set aside for occupation and use by Africans and authority over it was vested in the respective African chiefs, who held it in trust for their communities. Even though formal legal authority to allocate occupation and use rights in communal areas is vested in a variety of authorities, including kraalheads, headmen and chiefs, it is commonly accepted that, in fact, state

¹⁵ Circuit Land Courts are made up of one senior magistrate and three Wazee.

¹⁶ The High Court of Tanzania land division is made up of one judge and three Wazee.

¹⁷ Village Land Tribunal is made up of the Village Headman and at least four selected members.

¹⁸ Village Tribunal comprises the Group Village Head assisted by four other persons.

¹⁹ Traditional Authority Land Tribunal is presided over by a Chief assisted by four selected people.

²⁰ Tribunal of Traditional Authorities includes all resident Traditional Authorities and three district people.

administrative bodies (state local authorities and elected officials of political parties) do allocate land occupation and use rights. There is very little that is communal with the customary tenure system operative in the so-called 'communal lands'. Only access to and use of grazing land is communal in the grammatical meaning of that term. Even such communal grazing is a characteristic feature of customary tenure systems. Customary tenure embodies individualised use rights over arable land and homestead or residential land holdings or sites. The common property notions only apply to grazing lands, woodlands, river and dam waters and other natural resources.

Since decolonisation, radical land reforms have pursued in the Lusophone countries of Angola and Mozambique, which have almost three decades of land reform policy experience, although this was truncated by civil war (Moyo 2000b). In Tanzania, Mozambique and Angola, where most land was in the name of the state during the colonial period, the new governments retained state ownership and opted for socialist reform models, seeking to replace household farming with village collectives or state farms. Tanzania undertook an extensive programme of settlement and experimented with communal production in its villages while Mozambique went for the most extensive state farming in Africa. In the three Anglophone settler states, experiences with land reform, be they efforts led by the state, communities or NGOs, is at most around twenty years old. Land reforms in Southern Africa are discernibly shifting to radical land reform strategies in the face of waning international investment and economic decline in most countries, and in a context of growing local agitation led by peasants and social movements due to the slow pace of land transfer (ibid). Nationalisation of land ownership was also effected in Algeria and partially implemented in Tunisia. Currently, Mozambique is implementing law and tenure reforms that recognise the need for encouraging land markets, decentralising authority within state institutions, and integrating customary institutions and practices into the land statutory regime.

In the 1950-70s attempts were made at land registration and titling premised on the need to define land rights, to use title as a basis for land transactions and to mobilise resources using land as a basis for collateral. Whilst we admit that land registration and titling have traditionally been used by financial institutions as a basis for financing agriculture, the system was flawed for a number of reasons. Empirical evidence of land titling in Africa shows that the benefits of such titling have been minimal with respect to the financing of agriculture. In the first place, land registration led to an increase in the transaction costs of land, with more resources being spent on registration and administration than on productive use of the land. Secondly, land registration undermined the jurisdiction of the traditional and religious authorities responsible for local communities, leading to their being challenged through violent and passive resistance. Thirdly land registration benefited particular classes and, in some instances, privileged ethnic groups of people by giving them access to more and better quality land. This, in effect, meant that they benefited disproportionately from the finances that were put into agriculture, to the exclusion of the majority of the people. Lastly, land registration and titling created numerous social problems at the family level, such as disputes over inheritance, exclusion of women, conflicts over access etc, and at the village level on how to manage common lands, including burial and spiritual places, grazing land etc.

7.2.3 Land Redistribution Policies

A feature characterising Southern Africa is that most policies are based on the acquisition of land by the state, using market processes and compulsory acquisition of privately owned land for redistribution to those dispossessed during the colonial regime. Such land is also made available for various public purposes, such as the expansion of urban areas, state development irrigation projects, public roads and so on. In some instances, the redistribution is done through processes of restitution which, in essence, involve the state 'buying' (through paying compensation to landholder) land acquired by force and giving it back to communities with clear traceable claims to such land.

A growing body of World Bank sponsored literature suggests that the best practise in land redistribution strategies centres around a more market-assisted and essentially private approach using, "...multiple solutions which must be demand-driven such that the poor themselves using appropriate organisational and technical assistance identify the solutions that will fit their situation" (Deininger, 1998). The emerging prescriptions for land transfer thus redefine the role of the state by decreasing it, while increasing financial resources and responsibility towards civil society led land reform programmes.

These alternative or so-called 'complementary' approaches were developed mostly by the World Bank, which argues that redistribution would be more cost effective, transparent, fair and rapid if the entire process were led by the private sector, communities and NGO's, within a market framework. Such actors would identify and purchase land, plan its use and settle themselves, while the government's role would be to provide a public grant to the beneficiaries. Settlers could use such a grant for land purchase or other investments on the resettlement scheme, as they choose. This grant would equate to the average amount of money that government provides on the schemes it leads. Those benefiting in this approach must fit the criteria of target groups established by government policy. This approach is being tried in South Africa although the pace of land redistribution has been limited.

7.3 The Making of Land Policies

The first method has been the use of state organs to produce land policy and legal documents. A key feature of land policies in Africa is that the state has always had an overriding interest in access, control and management of rural land, irrespective of the tenure category under which it is held or owned. Countries in Africa have used the state, either through parliament or through the executive, to make their land policies. The parliamentary mode is deemed participatory on the basis of representation of the people by their members of parliament. In some cases the policies are made through line ministries or through the executive and then ratified by parliament. Yet, more often than not, national land policies are a collection of *ad hoc* statements on what the state wants to achieve at any particular time with respect to land. The provisions of such statements make national land policies weak in that they are seldom recognised by the judiciary once challenged by aggrieved landholders when their land is threatened by compulsory acquisition.

An important aspect of policy development is that the general citizenry should know what the policy is about so that those affected by the policy understand not only their rights but also their obligations in relation to it. The credibility and legitimacy of that policy can only be enhanced through such an approach.

A wide spectrum of organisations, ranging from government to private, NGO and community based organisations, is central to the evolution of national land policies. These organisations provide a variety of services and functions, including policy analysis and lobbying, technical production services, research extension and information services, finance, marketing, community development activities and attending to the specific needs of members. The various organisations identified tend to be spatially and socially differentiated in their contribution to the formulation of land policy and to contribute to the process at different levels (local, national and sub-regional).

The last few years have seen the emergence of NGOs as a powerful force lobbying for access to land. There is a general recognition by NGOs that the structural causes of poverty in the communities in which they work is lack of access to land as the means of social and economic reproduction. At different forums, NGOs have argued for the land rights of the people and this has forced governments to put issues of land on the agenda. In some countries, legislative debate was set in motion through the drafting of Bills for discussion with and lobbying by interested parties, including NGOs. This was particularly so

in Uganda, Mozambique, Tanzania and South Africa. The design of the national land policies is thus done by the state through broad consultations with a myriad of NGOs, which ensure that provisions that benefit the common people are put into the policies. Most of the actions of NGOs have received broader support from international NGOs, and bilateral and multilateral institutions. However, in some countries land legislation was developed at the instigation of donors as part of the conditions for supporting structural adjustment programmes.

Furthermore, the monitoring and evaluation of policy implementation should begin from below. This however, represents one area in which land policies are lacking. There are a few exceptions, e.g. the Land Campaign in Mozambique, which succeeded in making rural communities aware of their new rights under the law and how to go about legally establishing them (Negrao 1999). Notwithstanding the 'public consultation processes' that allow the input of other stakeholders, the objectives of national land policies tend to be more of a reflection of state interests. Thus governments often set the agenda of what is to be accomplished by respective land policies.

Another approach has been to rely on expert panels, task forces, investigating teams, or comprehensive commissions of inquiry. In the majority of cases, land policy development and consultation processes have been undertaken within short periods of time. The reports of the various commissions have often provided the background material for the development of land policies. This was the case with the Presidential Commission of Inquiry on Land Policy Reforms in Malawi, the Land Commission of Tanzania, the Land Tenure Commission of Zimbabwe etc. Input by locals into these policy documents was received through various means that included limited public hearing, workshops and conferences.

7.4 Comprehensive National Land Policies

Land policies often define who can own land and under what conditions. In some cases the national land policy specifies the duties and obligations of those who have access to land, the rules that have to be followed in utilising the land, the administrative recourse for resolving disputes and so on. The basic premise of designing a national land policy is to ensure that all issues related to land are dealt with within a well defined scope so as to limit the transaction costs and ensure that land is used for productive agricultural purposes. The most common objectives of land policy development, as shown in the draft National Land Policy (1998) of Zimbabwe, include the need to:

- Ensure equitable and socially just access to land;
- Democratised land tenure systems and ensure security of tenure for all forms of landholdings;
- Provide for participatory processes of management in the use and planning of land; and
- Promote sustainable and efficient use and management of land

Just as the land question is given expression in the problems of administrative and institutional structures and laws, so its resolution calls for restructuring of institutions and agencies. In the past, top-down, non-participatory and undemocratic characteristics of the institutional structures created administrative bottlenecks, which undermined the basic principles of democracy. These principles can be summed up as:

- Equity in terms of class, gender, race, ethnicity and so on;
- Efficiency, in terms of minimising costs, ensuring that the land is used productively and disputes are identified and resolved promptly;
- Accountability, including some level of authority to answer for particular actions that may inhibit the use of land;
- Transparency in the making of national land policies etc, so that all stakeholders have access to information on land transactions;

- Legitimacy, meaning that actions are taken only for the public good and are legitimate in the eyes of the public; and
- Participation, equally by all, including the victims and the victors, all gender, class, religious and other social groups, without fear or favour.

The objectives of the national land policy cut across several themes that include land redistribution and security of tenure, decentralisation and democratisation of land reform, land utilisation, generation and sharing of land information, and environmental management. We now discuss the specific objectives of designing national land policies in Africa.

The main tenure reforms that have been implemented in various parts of Africa have been a function of contrasting colonial land expropriation experiences, the nature of the decolonisation process, patterns of land distribution and the varied land reform experiences in the post independence period. The history of independence in Africa is less than a century old. Hence memories of land dispossession and the social injustices of the colonial period still linger in the minds of the people. One way of atoning for the anger of the people, who feel that the land question remains unresolved is to design appropriate national land policies. In Southern Africa, the dominant strategy has been to acquire and redistribute land to the majority of the landless, with some countries adopting a brand of empowerment programmes or affirmative action through deliberately providing large commercial farms to people who were denied opportunities in the past.

Land policy formulation in Southern Africa is a response to racial patterns of land and natural resource ownership. Addressing the historic social (in)justice, as well as mediating colonial responsibility for restitution or reparations for past losses from white settler colonialism and apartheid, are fundamental in Southern Africa, as a basis for equitable national land policies. In non-settler countries, the indigenous black population, which has been subjected to slavery, colonialism and/or neocolonialism continues to be marginalised in national and global politics and economic benefits that are derived from land and natural resources. Although liberation struggles represented real attempts to address racial land inequalities, the black majority in most Southern Africa countries remain landless and excluded from development, although they have formal political and economic sovereignty.

Increasingly, land policies are also being engendered. Hilhorst 2000 elaborates some of the specific policy provisions that have been included in different land policies for the sake of improving the position of women in relation to access and control over land (see Box 7-1). Thus on the legal and policy level, progress has been made to improve the status of women even though the implementation is lagging behind in most cases.

Most African countries have succumbed to the pressure for change, which called for the opening up of all sectors of the economy to the forces of competition (Mkandawire and Bourenane, 1987). Thus, although some specific land policies forbid foreign ownership of land, incentives and other mechanisms have been put in place to allow foreigners access to land for commercial production. For example, there has been a dramatic shift of policy in Tanzania in relation to the right of foreigners to access land (*ibid*) and foreigners can now access land for a lease period that can go up to 99 years, subject to the foreign investor entering into a joint venture with locals, as represented by the village government or the village cooperative society (Shivji, 1998).

Box 7-1: Land and Gender Considerations in Selected Countries

Some of the specific legal and policy provisions meant to improve the status of women in relation to land include the following:

- The Ugandan Constitution includes a commitment to gender equality and affirmative action (Ovenji-Odida, 1999);
- South Africa's Constitution provides for equal treatment of men and women;
- According to Yacouba (1999), equal rights of access to natural resources without discrimination by sex or social origin are provided for in Niger under provisions of the Rural Code;
- In Malawi, legislation allows women to register land independently of men (Ouedraogo and Toulmin, 1999);
- The Mozambican Land Act enshrines the right of both men and women to use and benefit from land (Quadros, 1999);
- Women's rights to land are provided for in the National Land Policy of Tanzania;
- In Zimbabwe, policy provides for the joint registration of land in resettlement schemes between husband and wife; and
- The Communal Land Bill of Namibia provides for women to be represented in the Land Boards, which are expected to be responsible for the survey and registration of approved forms of land title in their jurisdictional areas

Source: Toulmin and Quan 2000, and other Sources

This approach has brought with it its own problems. For example, in the case of Tanzania, Shivji (1998: 35) observes,

Land has been alienated to hoteliers for the purposes of tourism in or around national parks and on prime beach sites. There have also been examples of exclusive hunting rights granted to foreign investors. Land has been alienated to breeders of exotic birds, cultivators of flowers, and miners of gems. There have been proposals for projects for game ranching, game cropping and cattle ranches. A number of these projects have run into controversy giving rise to conflicts.

7.5 Land Policy Implementation Processes

The commonalities of land policy development in Africa include the dominant role of the state, a response to calls for more decentralisation and good governance and a heavy reliance on donor funds to facilitate both policy formulation and implementation. In terms of the actual process of drafting land policies, the enigma is how the state manages the land policy process with the declining quality of rural life among the majority black population, which is under-represented in policy-making, and the implications of this for democratisation? This scenario has not only restricted the level at which redistributive policies have been implemented, but has produced a somewhat distorted form of liberal democratic practice in general, and in land policy making in particular (Moyo, 2000).

Although most land policies propose a decentralised implementation process, this has failed to get off the ground due to a lack of both financial resources and technical capacities, as well as lack of political will. The Rural Land Plan of Côte d'Ivoire and the Land Commissions in Niger went for the idea of introducing pilot programmes as a strategy for testing new institutions and provisions (Toulmin and Quan 2000). In Niger, the Rural Code process was initiated through public hearings and studies of tenure rights throughout the entire country.

Another major implementation challenge has been the institutional and technical change associated with greater access to land, including land title registration, consolidation of fragmented holdings and isolated cases of land purchase on the open market by way of public lending on the use of foreign aid. In general, the demand for market based land tenure reforms has tended to derail land redistribution policies since the institutional complexities of changing land tenure have been underestimated by external experts. Land tenure reforms through titling are costly and current financial resources are limited in Africa. Due to the preoccupation with formal land tenure reforms, there has been a tendency for most official land

policy frameworks to neglect the distribution of access to land, water, nature parks, forests and woodland resources, while development policy efforts to attain environmental security, alleviate poverty, and improve land and labour productivity have yet to incorporate land reform policy.

Table 7-1: Main Thematic Issues covered by Land Policies in Africa

LAND POLICY ISSUE	EXAMPLE
Improving Security of Tenure	<ul style="list-style-type: none"> • Côte d'Ivoire's Rural Land Plan which seeks to identify and map all existing rights in order to give them legal status (Delvide, 1999) • Cameroon's 1974 Land Ordinance which rescinded legal recognition of customary and communal tenure rights and imposed land titling as the only means of acquiring private ownership (Hobbs, 1996) • Uganda's 1995 Constitution which transfers title from the state straight to the landholders
Conflict Management	<ul style="list-style-type: none"> • Niger's 1986 Rural Code which, <i>inter alia</i>, seeks to resolve land tenure conflicts (Lund, 1993) • Chad's land laws and policies fail to provide a framework for solving the prevalent conflicts between herders and farmers and other user groups (Eirth, 1996)
Decentralisation of Land Administration	<ul style="list-style-type: none"> • Establishment of Land Boards in Botswana (the idea has since been exported to Namibia and Uganda), Rural Councils in Senegal, Land Commissions in Niger, Community Trusts and Communal Property Associations in South Africa, and Land Committees in rural Lesotho • Improvement of public participation in decision-making through such institutions
Sustainable Management of Natural Resources	<ul style="list-style-type: none"> • Lesotho's 1998 Land Regulations which require land committees to revoke an allocation in the event of the allocatee refusing to adopt soil conservation measures • Mozambique's National Policy on Land of 1995 which, <i>inter alia</i>, seeks to enforce ecologically sustainable use of natural resources • The White Paper on Land Reform in South Africa states that sustainability of production and the environment are key elements of the land reform process
Land-use Development and Agricultural Productivity	<ul style="list-style-type: none"> • Land consolidation in Kenya as part of curbing land fragmentation and restoration of production efficiency • Introduction of maximum farm size regulations in Zimbabwe • Proposals for Land Taxation in Namibia • The Swynnerton Plan of Kenya which supported African agriculture through agricultural research programmes, credit schemes, transfer of new technologies and introduction of high value crops and a new set of institutions • Ethiopia's Agricultural Development led industrialisation which seeks to increase the productivity of smallholder farmers through the dispersal of fertilisers and improved seeds, establishment of credit schemes and provision of support services
Equitable Redistribution of Land and Reduction of Landlessness	<ul style="list-style-type: none"> • Redistributive land reform policies that seek to give more land to the landless blacks in Namibia, South Africa, Malawi and Zimbabwe • Mozambique's 1998 Land Law which recognises the right to land through occupation on the part of rural families, based on oral testimonial
Development of Land Information System	<ul style="list-style-type: none"> • Kenya's tenure reforms which sought to establish a well maintained registry which would be used to, <i>inter alia</i>, monitor land transfers and distribution and provide the basis for introducing property taxes

Source: Assembled from various sources by author

On the other hand, the Uganda Land Alliance, which started as a network of concerned individuals but later transformed into an NGO, managed to change the nature of what was to be the 1998 Land Act and also convinced the government to engage in a wider consultation process. Zimmerman (1998) summarises the main policy implementation challenges as including the following: centralised government institutions and their authoritarian practices; dominance of state institutions and their excessive regulations on other stakeholders; political and institutional corruption (e.g. land grabbing, patronage); contradictory laws; inaccessible land dispute resolution mechanisms; dissipation of local expertise; and monopolised information on policy.

Rarely are land policies translated into national languages for easy interpretation and implementation by decentralised structures. A case in point is the development of Rural Councils in Senegal (whose main function is to allocate and withdraw use rights to agricultural land and to determine and regulate methods of land-use in line with government plans and policies) has been hindered, *inter alia*, by the fact that there is a lack of information on the policy itself and the relevant texts are not easily available and have not been translated into the national languages.

In Nigeria, Titilola (1987: 374) reports that the “government has provided a package of incentives with the hope of encouraging foreign investors to participate in direct agricultural production”. The unique feature of Africa’s land policy making is that, historically, it has created the conditions for narrowly based, class and racially founded, commercial land users to continuously derive the major economic gains from the status quo and from land policies that are neoliberal in outlook. The multiplicity of organisations which are engaged in struggles for land and related market control, yields a variety of ideological, material and organisational conflicts. The politics of national land policy making and implementation is, therefore, about settling particular ideological and material scores through a variety of strategies. For example, Kenya went straight to individual freeholds in the post independence period. Other countries are at various stages of working towards the issuing of freehold property rights to customary lands.

7.6 Sub-Regional Land Policy Experiences

7.6.1 West Africa

West Africa is a region of seventeen countries - Benin, Burkina Faso, Cape Verde, Chad, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone and Togo. The main colonial powers in the region were Britain, France and Portugal. The region has been characterised by major population shifts as people migrated from the drier Sahelian areas to coastal regions with higher potential. This immigration has largely shaped the land problems that obtain in some of the countries and it has also shaped the pattern of land-use and crop production, whilst simultaneously contributing to conflict development. The land question has also been politicised along ethnic lines, thus aggravating local land conflicts (Chauveau, 1997), a particular case in point being Côte d’Ivoire.

Land policies in West Africa have been developed to meet multifaceted objectives. As in several other cases, once land policies have been developed, they have been supported by new land legislation which in several African countries has been aimed at recognising customary tenure. However, most new legislation has nullified customary law provisions that restrict women’s right to land. Generally, customary tenure is strong in the region given the lack of a substantial colonial settler population and limited large scale commercial farm development.

Several countries in West Africa have tried land registration. In Senegal, the Commission on Tenorial Reform, installed at independence in 1960, decided against going back to the customary tenorial system, which it considered an obstruction to development. The Law on National Property of 1964 categorised land into various classes - urban areas, classified areas, established cultivated areas and recently developed agricultural land in forest frontier zones - and paved the way for the formal registration of titles. Implementation of the law has met several obstacles, including monopolisation of huge areas by agri-businesses, restricted access to passageways, resistance by customary tenorial practitioners to modern land legislation, conflicts between chiefs and rural councilors, and conflicts between agriculturalists and pastoralists.

Ghana's Administration of Lands Act of 1962 (formulated by Kwame Nkrumah) nationalised land, disregarding customary land ownership. However, the 1979 Constitution re-vested land administration in local authorities, while the 1992 Constitution upholds the authority of chiefs and divides land into public (vested in the President and managed by a Central Lands Commission) and customary tenures under chiefs. A series of legal provisions that include the PNDC Proclamation 1982, Article 267 of the 1992 Constitution and the office of the Administrator of Stools Land Act of 1994, have been enacted by central government to curtail the power of chiefs. The Land Title Registration Law of 1986 requires that all persons with claim to land be registered at the local registry units in their state. Yet studies have shown increased commercialisation and expropriation of land as a result of the production of export crops, a phenomenon that has spread from pioneering zones of virgin lands to ancestral lands, setting in motion serious conflicts. A combination of increased land pressure and increasing land markets has been at the forefront of tenure transformation in Ghana (see Box 7-2).

The international arena has also influenced policy and legislative reforms in West Africa. For example in the early 1990s, several countries, including Guinea, Mauritania, Guinea Bissau and Burkina Faso, introduced the concept of private property in response to such pressures (Delville, 2002). When emerging evidence started to bring into question the relevance of privatisation in promoting security of tenure and the lack of marked differences in investment between customary tenure systems and private property rights, the land policy debate then shifted towards 'local rights recognition' (Delville, 2002). Le Roy (1998) makes reference to several land policy measures in French-speaking West Africa which are characterised by codification (Niger), instrumental measures (cartography and judicial recognition of rights in the Rural Land Plans of Côte d'Ivoire, Benin, Guinea, Burkina Faso), decentralised land management to local authorities (Senegal) and the establishment of Land Observation Posts in Mali.

Box 7-2: Land Problems in Ghana

The principal land problems in Ghana have been summarised as including the following:

- General 'indiscipline' in the land market, where there is a lot of land encroachment, multiple land sales, unapproved maps, leading to conflict and litigation between stools, skins and other groups;
- Compulsory acquisition by government of large tracts of land which remain under-utilised and for which compensation has been delayed, resulting in landlessness and intense disputes between traditional authorities and government;
- Weak land administration inadequately supported by outdated legislation;
- Tenure insecurity due to conflicting interests between and within land owning groups and slow litigation processes; and
- Poor consultation with landowners and chiefs regarding land allocation, acquisition and management, setting in motion disputes between the state, communities and landowners.

Ghana's National Land Policy of 1999 recognises the principle of optimum usage and the need to facilitate equitable access to land and tenure security. It also recognises the private sector as the engine of growth, the need to encourage responsible land-use and the importance of land taxes that reflect economic market values as well as promoting community participation in land management. Furthermore, the National Land Policy seeks to initiate a processing of registering land. Implementation of the National Land Policy is through the Land Administration Programme, which initially focused on: harmonising legislation, supporting decentralised land administration systems, adoption of a series of pilot projects for testing different ways to register land, and strengthening of revenue generation within the land administration services.

Source: NLP, 1999; Kasanga and Kotey, 2001; Gueye et al., 2001

There has been a marked shift in policy from a paradigm of replacement to one of adaptation (Bruce, 1994) based on the recognition of existing land rights and the notion of tenure security. Gueye (2002:8) notes that, "The new programmes aim to give legal status to existing, locally recognized rights, in contrast to their de facto denial under statutory law." Several countries have also adopted market

liberalisation programmes, leading to the establishment of land titles and registers, which are meant to encourage investment by domestic and foreign entrepreneurs. However, only a small area of land has been subjected to formal registration and titling.

7.6.2 Southern Africa

In Southern Africa, where colonial settlement has been extensive, land policies have tended to focus most on the redistribution of land to the majority black population (South Africa, Namibia, Zimbabwe, Malawi). Issues relating to tenure security, land utilisation and land-use development are also of particular concern to several countries in the region. Moyo (2000) elaborates on how land policies in Southern Africa have promoted freehold land markets to replace customary tenure and expanded commercial farming through market mechanisms.

Countries in Southern Africa are Angola, Botswana, Lesotho, Namibia, Malawi, Mozambique, Madagascar, Mauritius, Seychelles, South Africa, Swaziland, Zambia and Zimbabwe. The nature and degree of the problem varies between these states depending on their history and culture, and on political considerations. In general, countries in the region face two distinct but interrelated sets of land issues: (a) imbalances in patterns of land ownership in the former settler colonial countries, notably South Africa, Zimbabwe and Namibia; and (b) issues related to tenure and land utilisation in the formerly colonial (but non-settler) countries such as Botswana, Zambia and Malawi (Moyo, 2000b). In the former, the key policy challenges pertain to efforts to reform existing inequities in ownership through policies of acquisition and redistribution. In the latter group of countries, the key questions relate to tenurial security, land administration, and the use of land in alternative (non-agricultural) sectors (ibid).

The colonial history, including the type of the colonial power, shaped the form of the land question in the respective countries in the region. As elsewhere in Africa, the legacy of colonial land policy varies between the former British and Portuguese colonies. The period over which a country has been independent is also important in analysing land policy development in different countries. For example, some countries have been independent for several decades while a country like South Africa attained independence in only 1994. The type of experiments and level of completion (or lack of it) reached in the area of land reforms is also a function of the length of time over which they have been implemented. The global environment, as determined by the cold war, had implications on the type of land and tenure reforms that were pursued by individual countries. For example, countries like Angola and Mozambique took the socialist route and presently the land problems that these countries face are quite different from those being experienced in other countries like Namibia, Zimbabwe and South Africa. Botswana, which was one of the countries least affected by colonialism, today stands alone in the manner in which it has addressed its land problems, including land tenure, resource rights and governance issues.

Recent dramatic attempts at land tenure reforms in the region include the land commission and policies evolving in Malawi, Zimbabwe, South Africa, Swaziland, Namibia and Mozambique. These land policy trends provide clear evidence that the development strategies of structural adjustment programmes have encouraged alienation of land for foreign investment and the benefit of local elites, leading to increased poverty among the people (Moyo, 1995). Land remains a major source of livelihood for most of the people in the region and will continue to be so until the industrial and service sectors provide alternative opportunities for survival.

Soon after gaining political independence, cooperative²¹ resettlement was adopted by some Southern African countries as part of their socialist transformation processes, typical examples being

²¹ UNIN 1986 defines cooperatives as “higher forms of political and economic organisation in which the means of production are owned collectively and are used for the benefit of the community as a whole”.

Mozambique and Zimbabwe. Namibia also adopted a resettlement policy that catered for both individual and cooperative land holdings (Ministry of Agriculture, Water and Rural Development, 2000). However, cooperatives have largely been a failure for reasons that are associated, *inter alia*, with biased or inappropriate beneficiary selection processes, lack of group cohesion and, lack of tenurial security. The failure of this model in the countries that it has been tried is a clear indication that cooperative ‘ownership’ of resources, especially land, is largely inappropriate for the region.

Box 7-3: Objectives of Malawi’s Land Policy

The main objectives of Malawi’s land policy are to:

- Guarantee secure tenure and equitable access to land without discrimination to all citizens of Malawi and to encourage land based investment;
- Ensure accountability and transparency in the administration of land matters, and to ensure that existing land rights, especially the customary rights of smallholders, are recognised, clarified and ultimately secured in law;
- Set ceilings on land ownership that will be translated into a statutory mandate to prevent extreme land concentration in the hands of a few individuals and/or organisations;
- Instill order and discipline into land allocation and land market transactions to curb land encroachment, unapproved development, land speculation and racketeering;
- Facilitate efficient use of land under market conditions to ensure optimum benefits from land development;
- Promote community participation and public awareness at all levels to ensure the infusion of environmentally sustainable land-use practices and good land stewardship;
- Create and maintain effective institutional capacity and land services delivery capability at the national, regional, district and, where appropriate, community levels; and
- Promote research and continuous education of the public on all aspects of the duties and obligations of land tenure, land stewardship and operations of the land market

Source: Land Policy of the Republic of Malawi, Document, 2000: 29

The shift from a government led, redistributive land reform to a market assisted one (El-Ghomeny, 2001), and the adoption of structural adjustment programmes, as prescribed by the IMF and World Bank, has, to a large extent, shaped the dynamics of land policies in several countries. For example, the implementation of structural adjustment programmes in Zambia and Zimbabwe resulted in the removal of exchange rate controls, lifting of subsidies and price controls and a general relaxation of most regulatory policies (Moyo, 2000; Reed, 2001). A major beneficiary of these programmes has been the tourism sector and wildlife as a form of land-use. Through various means, the livelihoods of some communities showed the flexibility to benefit from the tourism sector but, at the same time, the ability of market led land reforms to target the poor is increasingly being questioned.

The over centralised and state control of communal or traditional land tenure and land-use regulation is a major problem in Southern Africa (ibid). Customary tenure regimes are, in most cases, not protected by the range of statutorily provided regulations because of the desire by governments to control communal land management systems. The contradiction between official land policy provisions and interpretations of custom *vis-à-vis* real life practice of customary tenure are a source of an emerging complex and competing range of demands for land tenure reform. In some communities, existing land laws discriminate against customary forms of tenure, thereby limiting the access of minority groups. The combined effect of these factors is increasing insecurity in tenure, which, in turn, hampers productivity and impedes the flow of domestic and external investments. South Africa and Malawi (see Box 7-3) are moving towards land registration in communal areas as a strategy for enhancing tenure security.

Land policies in most countries in Africa have shown a bias towards small farmers as a strategy for achieving efficiency, poverty reduction and equity. In Southern Africa for example, redistributive land reforms have been at the centre of land policies in South Africa, Namibia, and Zimbabwe, which have

also tended to promote smallholder production. Yet, as Van den Brink (2002) argues, land policy implementation has been derailed by: an over reliance on legal and bureaucratic processes of expropriation and resettlement; over reliance on the ability of, often distorted, land markets to correct farm size inequities; and the influence of powerful anti-land-reform lobbies. As an illustration, prior to the 'fast track resettlement' in Zimbabwe that started in 2000, the country's land policy had gone through two decades of a legal process of compulsory acquisition through the amendment of land laws, but this route proved lengthy, costly and unable to achieve substantial redistribution of land (ibid).

Box 7-4: Communal Land Rights Bill of South Africa

The Communal Land Rights Bill seeks to provide for the transfer of title from the state to communities. Communities are required to develop and register 'community rules' that conform to the constitutional standards of equality, democracy and fairness, prior to transfer. The main implementation mechanism of the Bill is the Land Rights Enquiries. The registration of the rules converts the community into a 'juristic person' capable of owning land and transfer takes place once the community has drafted detailed community rules and had them registered. To facilitate land registration, a communal land register is opened. The administrative structure that represents a community performs land administration functions that include allocation and registration of land tenure rights. It must also compile and maintain a record of all existing, and any future, land tenure rights, establish and maintain registers and records with regard to the particulars of rights holders within the community and transactions affecting land tenure rights, and mediate land related disputes within the community. It is the driving force in the process of developing a community general plan and opening a communal land rights register.

Source: Communal Land Rights Bill Project, 2002

7.6.3 East and Greater Horn of Africa

Some of the countries in East Africa and the Horn include the following: Kenya, Burundi, Rwanda, Comoros, Djibouti, Sudan, Somalia, Ethiopia, Tanzania, Eritrea and Uganda. Post independence land policies implemented in this region have ranged from extreme tenure individualisation and privatisation, as represented by Kenya, to the collectivist approach to land reform represented by Tanzania and Ethiopia. Despite the fact that countries such as Burundi, Rwanda, Comoros, Djibouti and Sudan maintained the private land ownership which existed at independence, it is only Burundi and the Comoros which have expanded land in private ownership through conversion of land in the indigenous tenure sector. Some of the countries have provided some legal recognition to customary land tenure while Tanzania, Ethiopia and Eritrea have abolished private ownership and sought to replace indigenous tenure systems with community based tenure reforms (Bruce et al., 1996). Kenya has largely remained committed to individual ownership of land while Comoros and Uganda are at different stages along the same path.

Thus East Africa has shown a marked variation in terms of land policy strategies adopted by individual countries. For example, Kenya's Swynnerton Plan of 1955 emphasised consolidation of holdings, individualisation of title and land registration. Somalia and Ethiopia went for public ownership of all land as a strategy for attaining social justice, equality and development. In Uganda, the 1995 Land Constitution and the 1999 Land Act emphasised security of tenure by Uganda's smallholders, protection of women and other vulnerable groups from irresponsible land sales, and promotion of investment and smooth operation of the market. Uganda's land policy has, therefore, followed the Kenyan route of promoting the sanctity of private property. Tanzania and Uganda have also put in place a legislative framework that recognises customary tenure arrangements

A common characteristic is that smallholder agriculture, which is largely under customary tenure systems, dominates agricultural production. Land policies in most other countries have remained cautious of creating liberalised land markets, which would lead to large private concentrations of land ownership (ibid). Some of the countries have already realised the limitation of central governments in land administration and have sought to decentralise land administration.

The region is confronted by land tenure conflicts of various types. For example, civil wars in Burundi, Uganda and Rwanda have resulted in increased threats to and conflicts over natural resources. The traditional rivalry between farmers and pastoralists has been fuelled at times by biased government policies. The question of the appropriate tenure policy for pastoralists has also remained unresolved. In Rwanda and Burundi, high population densities, ethnic tensions and excessive competition for land and other resources remain the key issues being faced by land policies.

In Ethiopia, the Agricultural Land Law of 1975 removed land ownership from traditional authorities with individuals being required from that time onwards to register their land, restricting both the size of landholding and the period of the usufruct rights (up to 50 years). Submarian (1946:18) summarised the impact of this law:

The cost in money and time of registration and the lack of familiarity with government served as major barriers. Titles were unproportionately issued to outsiders, town dwellers, while state and cooperative farm resulted in the displacement of small farmers as well as pastoralists. Community elders never accepted the statutory system of land allocation and there was often active opposition to anyone with a documentary title. Since uncultivated land risked appropriation by the government as well as outsiders unregistered farmers were forced to clear their bush land although they might not actually have plans for cultivating it.

Ethiopia has remained committed to state ownership of land, although it has decentralised the responsibility for the development of new tenure arrangements (leasehold) to the government of the new ethnically defined regions. Smallholder agriculture in Ethiopia occupies 95% of the available arable and pasture land (Subramanian, 1996) and the main driving objective of Ethiopia's land policy was equity in landholding size. The 1995 Constitution gives farmers and pastoralists free use of the land while the ethnically based federal regions are responsible for land administration and the land tax accrues to regional governments.

In Tanzania, the Land Act and the Village Act, both of 1998, now provide the legal framework under which a village council can "register village lands, including village forests or other common areas, in the name of the village or register them in the name of a user group or association" (Deiniger, undated). This approach has reinforced the importance of community based forestry management in Tanzania and has provided the linkages between land and forestry policies that are often missing in various countries.

Generally, land reform in Ethiopia succeeded in meeting the equity objectives, while the peasant associations provided the country, for the first time, with a nationally uniform system of local government. Collectivisation and state farms took less than 10% of farmland but were very costly and inefficient. Beneficiaries were subjected to repeated redistribution of land to accommodate new claimants, resulting in reduced security of tenure.

With a few exceptions, most countries in East Africa have provided some legal recognition to indigenous customary land tenure. Tanzania, Ethiopia and Eritrea abolished private ownership and sought to replace indigenous tenure systems with alternative community based tenure reforms. Collectivisation of tenure took place conspicuously in Tanzania and Ethiopia, the former through programmes of 'ujamaa' and 'villagisation', and the latter as the follow-on to a huge 'land to the tiller' reform. To date, Tanzania and Ethiopia (and now Eritrea) remain committed to broad state ownership of land and pursue non-market policies. They have moved toward tenure policies which seek to support household farming through decentralised land administration.

7.6.4 Central Africa

Comprised of countries that include Chad, Cameroon and the Central African Republic, a key feature in Central Africa is the contradiction between customary land rights, and statutory laws that promote state

and private ownership of land and are meant to promote commercial production as opposed to household production. The region is also characterised by rapid population growth and migration, a process that has exerted more pressure on land, especially on commercial production in the more fertile coastal zones. In addition, the influence of Islamic Law in some countries has further complicated land rights issues (IIED, 1999).

Several countries have produced land zoning plans as part of their land-use planning. A number of other countries have tried registration and titling as a strategy for enhancing tenure security and encouraging investment (IIED, 1999). However, implementation of these policy provisions has been hampered by lack of administrative capacity while the interests of marginalised groups, including women and pastoralists, have not been adequately addressed.

In Cameroon, the 1974 Land Ordinances still govern land tenure relations (Bruce, 1996). They sought to rescind legal recognition of customary and communal tenure rights, impose land titling as the main means of acquiring private ownership and to empower the state as the guardian of all unregistered lands. The Land Ordinances were also driven by the desire to promote security of land rights that would allow an expansion of cash crop production. However, as Bruce (1998) reports, customary land rights still exist in several parts of Cameroon where land values and export production have not accelerated. Research done on the impact of the legislation has shown: increased individualisation of land ownership; alienation of previously community held lands by outsiders; an increase in the number of cooperatively and privately owned commercial plantations; heightened land speculation in urban and peri-urban areas; greater proletarianisation of rural peasants who have lost access to land and now hire out their labour on coffee, cocoa or palm plantations; and increased state control over land access and use (Mbome, Ndong, and Poumie, 1995; Fisiy, 1992).

7.6.5 North Africa

North Africa includes countries such as Egypt, Morocco, Algeria, Libya, Tunisia and Sudan. A common characteristic of North African countries is that productive land is very scarce whilst water availability is critical in the region. Egypt, Libya, Algeria and Morocco lie in exclusively arid areas (see table 7-2). Smallholder farming dominates agricultural production. Generally, land policies in the region have aimed at optimal land-use, minimisation of land degradation and stemming urbanisation rates.

Table 7-2: Arable Land in North Africa

Country	Arable land		Irrigated as % of cultivated Area	% of Agricultural population to total population	Land per person
	Million ha	As % of total land area			
Libya	02.1	1.2	22.2	15	2.72
Tunisia	04.9	31.6	7.8	38	1.40
Algeria	7.6	3.2	7.9	44	0.59
Morocco	9.6	21.5	13.1	48	0.74

Source: ILO, 1996; FAO, 1998

Land policies that have been implemented in North Africa are also quite varied across the region. For example in Algeria, the government went for the nationalisation of farms formerly owned and managed by French settlers. The main beneficiaries of these socialist based policies were tenants and other landless agricultural workers. A similar policy was also implemented in Tunisia upon attainment of independence in 1956. The new agricultural land property law of 1964 resulted in about 16% of the total cultivable lands, which represented the best quality land in the country, being taken over by the government (Rihan and Nasr, 2001). Such land was acquired through the market and was partially nationalised, with a small percentage being allocated to landless people.

A major component of the Tunisian land policy has been the settlement of land claims through registration and certification of ownership, supported by a dual plan for promoting economic stability and environmental protection. However, despite the government's attempts to encourage registration, half of all eligible lands have not been registered and, even amongst registered lands, successive land transfers often go unrecorded. The process of privatisation of state and collectively owned lands has also been slow, as has the emergence of land markets. Fragmentation of land and resources remains a principal concern which the government is attempting to redress by means of legislative modifications, extension programmes and improved administrative procedures (<http://www.unep.org/aeo/180.htm>, quoting Gharbi, 1998). A recent policy shift saw the government privatising 1.2 million hectares of agricultural land and 600 000 hectares of rangelands in 1991.

In Morocco, land policy has emphasised streamlining registration, controlling land fragmentation, the standardisation of tenant contracts, and the privatisation of state-owned and church-owned lands. Private tenureship is seen as providing greater security and greater incentives for investment on the land. Yet, in Libya, the state has ownership of any land which is not allocated to sedentary populations, which in essence is nationalisation of lands held in some sense collectively by local communities.

In Egypt, a major focus of land policy is the efficient utilisation of existing land and water resources. A landmark in Egypt's land history came with the Free Officer's coup of 23 July 1952, which resulted in the redistribution of all land held by individuals above 200 Feddans (1 feddan = 0.42 hectares), thereby removing the power base of the large landlords. The policy generated support among the small peasantry and land ceilings permissible on individual land ownership fell from 200 feddans in 1952 to 100 feddans in 1961 and 50 feddans in 1969 (Rihan and Nasr, 2001).

7.7 Limitations of Land Policies and Selection Impacts

The development of land policies in Africa has progressed in the last ten years, even though there are substantial gaps in the content and outcomes of these policies. For example, ethnic issues still remain important aspects that affect the economic, social and political life of the individual countries but they are not addressed by several of the land policies. For example, Nigeria has more than 250 ethnic groups but three main groups, namely the Yoruba in the west, the Ibo in the east and the Hausa-Fulani in the north, dominate these. Additionally, the traditional rivalry between pastoralists and agriculturalists is inadequately addressed. The land rights of pastoralists are often neglected or not clearly articulated and the land tenure rights established tend to be more appropriate to agricultural users. For example, the Registered Land Act of Kenya replaces what was essentially continuous communal law with individual ownership yet this is not practical in pastoral areas for reasons of a sociological, ecological and management nature (Barrow, 1996). Despite these inadequacies, Aldern Willy (2000) hints at how land reform is having to do with new concerns that relate to, among other things, the rights of farm workers and the untenured urban poor.

Most land policies have failed to develop a proper land information system as a back-up to policy implementation. The policy development process itself is also hindered by the lack of appropriate information. Kenya's land policy designed a land information system that was expected to provide government officials and planners the opportunity to monitor land transfers and distribution, promote desirable development and to introduce property taxes. However, Green (1987) observes that the registry was riddled with problems. Land policies in most countries of Africa do not have internal mechanisms for monitoring and evaluation of policy implementation. If the mechanisms are provided for, there is seldom any money to ensure that they are put in place.

A major limitation of most land policies is that they do not make direct reference to food security issues or other related aspects. In some situations, land policies are formulated and implemented by different

government departments from those responsible for food security policy and implementation. Kasanga (2001) argues that, in Ghana, landlessness, debt, insecurity of tenure, and inter-village and intra-village conflicts over issues of land rights have largely been responsible for persistent food shortages and famine. The failure by African governments to use the available resources and power to change existing structures and policies to suit their countries' developmental needs largely underlies the current food insecurity in most countries. Thus in Ghana, for example, Kasanga (2001) argues that outdated and arbitrary laws have been used to acquire, occupy and confiscate land, resulting in the displacement of helpless villagers, while uncertainties in the legal and institutional frameworks have resulted in protracted land disputes, expensive litigation and the sterilisation of useable land

The hurried nature of land policy formulation has often meant limited consultation. In fact, consultation processes have tended to limit public participation in land policy development in most African countries. Some policy initiatives lack coherence and are not comprehensive enough to address all the pertinent issues facing a particular country. For example, Chad's laws and policies have failed to provide the framework for solving the prevalent conflicts in that country.

Capacities to implement land policies in Africa lack human resources, technical expertise and financial resources. Human capacities are lacking in ministries and government departments and in local governance structures. But, perhaps the biggest constraint relates to the cost of implementing land policies. As an illustration, Toulmin and Quan (2000) argue that the annual cost of setting up and running the institutions required by the Draft Land Bill of South Africa is in the region of US\$ 30 million, while the Land Bill of Uganda required US\$ 400 million. Such huge financial requirements often prevent what could otherwise be good policies from being implemented.

According to the DFID-funded Implementation Study Report of September 1999 (Government of Uganda, 1999), the implementation of the Uganda Land Act of 1998 is beyond the current capacity of the government budget and the costs outweigh the envisaged economic benefits of the reform. The study also argues that the reforms were unlikely in the short to medium term to lead to a significant supply of credit by commercial banks and increased agricultural production through improved tenure security.

There is much variation in terms of how land policies in Africa encourage or inhibit the development of land markets. For example, Nigeria's 1978 Land Use Decree forbid any land sales. The same can also be said about Mozambique's land policy. Yet there is evidence that various competing pressures are resulting in land purchases that circumvent the Land Use Act of Nigeria while, in Mozambique, an informal rental market has developed in various parts of the country. In some situations, land subdivision policies which had their origin in the colonial era have hindered the development of the land market for smallholder farmers (e.g. Zimbabwe). Land taxation policies have seldom been used to stimulate land markets. Yet in a country like Kenya, where land markets were allowed right from the beginning of the post independence period, the poor and other vulnerable groups of society have emerged as the losers.

The HIV/AIDS pandemic is seriously undermining the agricultural sector and, in particular, food security. The adult life expectancy of sub-Saharan Africa has dropped significantly to alarmingly low levels of 25 or 20 years in some countries. Land policies still remain inadequately equipped to address problems created by the HIV/AIDS problem as this affects the ability of households allocated land to work on the land (Tumushabe, 2002). Tumushabe states, "...the structure of the agricultural sector, especially the smallholder sub-sector, is such that it is much less able to absorb the impacts of the human resource losses associated with the pandemic...as over 70% of the population depend on the sector for their livelihood" (ibid: 2). The continued loss of adults has also contributed to the malfunctioning of institutions (including land and food security related institutions) as experienced staff in organisations

are lost to the epidemic and are being replaced by inexperienced staff. At the household level, the HIV/AIDS pandemic leads to reduced investment on the land, reduced agricultural productivity as a result of low input use, and intensified tenure related inheritance conflicts in areas where land rights and succession issues are unclear. In this respect, land policies are confronted with the task of devising measures to curb the effects of the HIV/AIDS pandemic on the land sector. The pandemic is, therefore, not just a health issue as it affects, *inter alia*, community livelihoods, agricultural production and management of natural resources.

The above land policy malaise has a direct impact on national food security, given the tendency for less land to be available for food production purposes (Chilundo, 1999; Reed, 2001; Moyo, 2002). The benefits of land policy initiatives do not trickle down to communities in significant quantities to increase incomes and hence the ability to be food-secure through direct food purchases on the market.

8.0 Conclusions

Land tenure impacts upon food security, environmental sustainability and social security. Most of the land tenure problems that exist in Africa have their origin in the colonial period. At independence, most countries attempted to redress the issue of traditional access rights to land and other natural resources, while at the same time maintaining control of resources. The land reform and tenure reforms that have been implemented have largely been inadequate and have been fraught with tensions between user groups and different land-uses.

The relationships between land tenure, agricultural investment and production have been thoroughly studied in Africa and there is ample evidence as a basis for the development of improved land policies in support of food security. The land tenure issues that affect food security include manifestations of unequal distribution of land, sub-optimal utilisation of land and insecure tenure.

While unequal distribution of land occurs everywhere, its seriousness and the imperative for redress are greatest in Southern Africa. In these circumstances, food security is reduced. Poor utilisation of land is closely linked to unequal land distribution, resulting in idle land. This excess land, that could provide for the necessary food security, and its non-use contributes to increased conflict and unrest over land. Poor land utilisation also occurs because of land-use and access conflicts between pastoral, cropping and wildlife uses, cultivation of marginal areas, and the application of short run market and public policy incentives.

Tenure insecurity arises from rapid socioeconomic change disrupting customary institutions and from excessive government interference in customary tenure systems. It is pervasive among women under all tenure systems. The importance of these issues, relative to one another and to other issues, such as marketing, finance and technology, varies across different geographical areas.

Rapid population growth remains a key trigger of the chain of environmental problems. It has also been a major factor responsible for *de-facto* tenure changes, development of (illegal) land markets, increasing encroachment of agricultural activity into marginal areas and the high incidence of conflicts over land and other natural resources. And, where security of tenure is weak in general, livelihoods can be constrained. Thus tenure remains key for improving land management practices. Where land distribution structures are highly unequal, the negative food security trends are exacerbated. Furthermore, decentralisation remains as unfinished business in most of Africa. More investments are also required in the area of conflict management as the high level of natural resource conflicts is a threat to the integrity and livelihood of communities.

This paper has found that there is a clear linkage between appropriate land policies and food security. This expresses itself in various types of problem, each with particular implications for land policy and food security. Chart 8-1 shows the disaggregated pattern of these land policy effects on food security and establishes a credible analytic model through which land policy corrections for food security can be pursued across the five dimensions of land policy deficiencies discussed in this paper.

Given the importance of the rural sector in attaining food security and reducing poverty, there is recognition by policy-makers that a vibrant agricultural and rural sector, underpinned by land reform, will provide the catalyst for improving living standards in Africa. In this context, while strategies adopted to promote growth and reduce poverty have, to a large extent, been pro-rural, implementation of these programmes has been hampered by the lack of capacity and financial resources and the absence of a critical mass of experts to effectively tackle existing complex problems as well as emerging new ones. Furthermore, food security in Africa is threatened by the increased drive towards export based production, while the continued unfavourable terms of trade in global agricultural commodity markets increase the cost of food imports, thereby threatening the lives of the majority poor without access to the means for their own social and economic reproduction.

Chart 8-1: Analytical Model of Land Policy and Food Security in Africa

Issue	Dimension of Problem	Implications	Linkage with Food Security & sustainable Development
1 Land Distribution	<ul style="list-style-type: none"> - unequal access to land based on race, class, ethnicity and gender - costly land redistribution 	<ul style="list-style-type: none"> - diversified, better quality land under freehold - customary lands are small and of poor quality 	<ul style="list-style-type: none"> - majority of indigenous populations cannot produce enough food on marginal lands
2 Land Utilisation	<ul style="list-style-type: none"> - land-use regulations are coercive - land-use is mainly for export production 	<ul style="list-style-type: none"> - customary lands insecure, unattractive to investment and hence land is not utilised in an intensive manner which achieves high productivity - freehold tenure attracts investment and gap between freehold and customary widens 	<ul style="list-style-type: none"> - low productivity of land in customary areas translates into perennial food production problems - emphasis on exports reduces ability of states to produce own food - imbalances in food production <i>vis-à-vis</i> incomes from exports for cash cropping
3 Land Tenure	<ul style="list-style-type: none"> - insecure and discriminatory tenure systems - no clarity between land tenure and resource tenure at policy level 	<ul style="list-style-type: none"> - over centralised customary tenure systems - development of superior/inferior tenure relationships 	<ul style="list-style-type: none"> - prevalent tenure conflicts undermine food security - women, as main food producers, have no secure access to land
4 Land Administration	<ul style="list-style-type: none"> - centralised land administration systems which are non-transparent - dispersed and weak institutions 	<ul style="list-style-type: none"> - unequal/ discriminatory land administration - land administration systems in customary lands biased against women 	<ul style="list-style-type: none"> - weak local land administration systems fail to manage land and natural resources properly and hence community livelihoods are compromised
5 Land Adjudication	<ul style="list-style-type: none"> - biased towards markets (protection of freehold) - inaccessible land adjudication systems 	<ul style="list-style-type: none"> - legal frameworks favour freehold - indigenous tenure systems do not have full legal backing 	<ul style="list-style-type: none"> - indigenous people are disadvantaged by land adjudication processes, threatening their land rights and ability to produce own food.

Note: these features do not apply universally in Africa

A number of major challenges facing the agriculture sector, reflected through low productivity and worsened by recurrent droughts and floods, have led to food insecurity in Africa. Whilst, states and

communities would, under normal circumstances, withstand flood and drought catastrophes, they have increasingly been vulnerable owing to the incapacity to plan for such eventualities. The most critical challenges are the relative decline of agricultural production for domestic food and industrial requirements, *vis-à-vis* the growing needs in relation to demographic changes (population growth and urban relocation of vast segments of the population). Secondly, the increasing cost of food for the poor majority, and the concentration of consumption among the relatively wealthier and better endowed social groups with access to land and incomes, is a major challenge in agriculture. Another challenge is presented by the continued relative decline in food production *vis-à-vis* production for exports and even for local agro-industrial activities, as a result of concentrated allocation of resources towards raw materials exports and because of the deindustrialisation affecting Africa.

Recent land tenure policy reforms that have been developed from more participatory processes, are more comprehensive in scope, and have generally affirmed more rights for individual citizens and fewer rights for the state. In land distribution reforms, market assisted redistribution and preventative restrictions on land market transactions have not worked well. Taxation can be effective but must be part of a broader land distribution programme.

Land policy reforms are more acceptable when a range of stakeholders is included among the beneficiary group. Decentralisation of land-use decisions has yielded positive results but requires democratised local decision-making, and resources for the support of appropriate processes and capacities.

Improved land utilisation requires coordinated efforts across government sectors and administrative levels to develop effective, decentralised processes for decision-making. Blanket land utilisation recommendations are not feasible and improved land-use information systems would lead to more informed guidelines for different sub-regions.

Tenure security in customary areas can be enhanced through the formalisation of customary tenure. Governments should enable and facilitate this process, initially where there is a demand for formalisation. Tenure security in customary areas can also be increased through improved governance, decentralisation of land administration and greater empowerment of farmers. To begin to address tenure insecurity among women, there is a need to harmonise reform efforts across customary and statutory law, regulations and access to judicial systems.

Improving land policies in the broadest sense discussed above, and ensuring their implementation together with other appropriate agricultural policies, including improving the trade regime and enhancing credit and infrastructure investments, is thus critical for food security in Africa. Land policy reforms which improve the resource base of the majority of smallholders's are key to promoting equitable and sustainable food security and livelihoods on the continent. There is increased understanding of the key principles for land tenure policy formulation but there is a lack of understanding of why policies are not implemented, enforced or effective.

9.0 References

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10.0 Annexes

Annex Table 10-1: Prevalence of Poverty in Selected Countries (2001)

Country	% of Population <US\$1/day	% of Population <US\$2/day	Year	% below National Poverty Line			
				Total	Urban	Rural	Year
Angola						65	
Botswana	35					55	
Burundi				60	66	58	97
Comoros							
Eritrea				69	62	83/52	96
Ethiopia	34		94	34	32	34	97
Kenya	50	78	92	42	29	46	92
Lesotho	50	74	94	49	28	54	93
Madagascar	72	93	93	70	47	77	93
Malawi	42		94	54		90	91
Mauritius				11		12	92
Mozambique				71	62	69	97
Namibia				67	67	70	91
Rwanda	46	89	85	54	7	93	94
Seychelles				19			94
South Africa	24	50	93				
Swaziland						50	
Tanzania	51		91	40	20	50	91
Uganda	69	92	90	55	8	57	93
Zambia	85	98	93	68	46	88	93
Zimbabwe	41	68	91	61	39	75	95

Source: IFAD (2001a)

Annex Table 10-2: HIV Prevalence Rates at end of December 1999 in Southern Africa

Country	National population	Adults and children living with HIV/AIDS	Adult HIV prevalence %	AIDS orphans	AIDS deaths
Botswana	1 592 000	290 000	35.80	66 000	24 000
Swaziland	981 000	130 000	25.25	12 000	7 100
Zimbabwe	11 509 000	1 500 000	25.06	900 000	160 000
Lesotho	2 108 000	240 000	23.57	35 000	16 000
Zambia	8 974 000	870 000	19.95	650 000	99 000
South Africa	39 796 000	4 200 000	19.94	420 000	250 000
Namibia	1 689 000	160 000	19.54	67 000	18 000
Malawi	10 674 000	800 000	15.96	390 000	70 000
Mozambique	19 222 000	1 200 000	13.22	310 000	98 000

Source: *AIDS Analysis Africa*, 11(5), Feb/Mar 2001

Annex Table 10-3: Production Trends in Agriculture in Africa (metric tonnes)

Country	Year	Maize	Sugar	Tobacco	Beef
Zimbabwe	1990	1 971 542	891	130 394	81 740
	1995	839 600	832	198 380	73 169
	2000	2 108 110	27	227 726	101 250
	2001	1 622 000		175 335	101 250
South Africa	1990	9 180 000	32 846	27 400	661 000
	1995	4 866 000	25 082	20 570	521 000
	2000	10 943 000	8 284	29 700	568 000
	2001	7 100 000		29 700	568 000
Malawi	1990	1 342 809	6	101 028	16 857
	1995	1 661 457	67	129 400	14 000
	2000	2 501 311	0	98 675	17 220
	2001	2 500 000		100 000	17 220
Tanzania	1990	1 631 260			195 200
	1995	1 653 600			206 000
	2000	1 744 000			224 000
	2001	1 457 000			224 000
Nigeria	1990	5 768 000	333 046	9 000	204 273
	1995	6 931 000	790 501	9 200	266 861
	2000	5 598 000	774 515	9 200	298 000
	2001	5 598 000		9 200	298 000
Ghana	1990	552 600	85 873	1 530	19 748
	1995	1 034 300	136 440	1 700	20 700
	2000	1 012 700	140 974	2 600	24 412
	2001	1 012 700		2 600	24 412
Senegal	1990	133 147	69 534		42 600
	1995	106 509	59 368		45 500
	2000	78 593	20 938		49 875
	2001	78 593			52 500
Egypt	1990	4 798 635	812 004		143 000
	1995	4 535 175	577 339		214 503
	2000	6 474 450	573 650		238 545
	2001	6 450 000			270 000
Morocco	1990	435 620	249 904	7 288	144 890
	1995	50 490	447 705	3 962	122 100
	2000	95 000	559 609	5 333	140 000
	2001	53 560		6 475	150 000
Algeria	1990	231	757 317	3 578	89 500
	1995	419	728 344	2 790	100 600
	2000	1 556	902 354	7 153	132 600
	2001	1 500		7 200	133 000
Kenya	1990	2 289 600	106 881	8 800	250 000
	1995	2 699 000	54 092	13 000	239 000
	2000	2 200 000	17 960	17 015	287 000
	2001	2 700 000			290 000

Source: FAOSTAT base (2002)

Annex Table 10-4: Importance of Agriculture to National Economies

Country	Agriculture as % share of GDP (1995)	Agricultural Labour as a % of Total Labour Force (1990)
Angola	7.8	75
Botswana	4.2	46
Burundi	52.1	92
Comoros	38.7	77
Eritrea	11.2	80
Ethiopia	*50.0	86
Kenya	29.7	80
Lesotho	11.0	40
Madagascar	33.8	78
Malawi	44.2	87
Mauritius	9.4	17
Mozambique	34.9	83
Namibia	13.6	49
Rwanda	37.8	92
Seychelles	4.0	*11
South Africa	4.4	14
Swaziland	12.5	39
Tanzania	46.2	84
Uganda	49.5	85
Zambia	18.7	75
Zimbabwe	17.1	68

*Estimates

Source: IFAD (2001a)

Annex Table 10-5: Changes (%) in Quantity of Agricultural Exports between 1990 and 2000

Country	Maize	Cotton	Tobacco	Beef	Cocoa	Coffee	Bananas	Tea	Rice
Zimbabwe	-85.69	-73.84	55.96	817.33	-80.00	-46.77	50 157.14	47.01	
S.A	-69.17	-16.47	326.47	36.13		78.77	60.69	1 046.37	
Malawi	-91.73	101.66	227.06		-51.58	-51.58		69.70	51.13
Nigeria		-93.18	-98.87		-6.03	-100.00	-100.00	-100.00	
Ghana			790.67		44.70	719.24	12 463.00		
Senegal		32.04	701.21	-92.86				-99.61	600.00
Egypt	2 269.84	60.30	513.69	-93.90		-100.00		4 323.81	
Morocco	-100.00	-83.35	-40.00					16 100.00	
Algeria						-100.00			
Uganda	-98.83		2 626.45	-10.64		-22.62	-93.39	30.57	360.00
Ethiopia		-100.00		-100.00		55.30		-40.65	

Source: Calculated from FAOSTAT Database (2002)

Annex Table 10-6: Agricultural Trade in Africa (US\$1000)

	1990	1995	2000	% Change 1990-2000
Food exports	6 950 093	8 36 503	7 884 732	13.4
Food imports	12 705 138	17 572 462	15 229 443	19.0
Agri-exports	12 193 472	15 305 689	13 546 248	11.0
Agri-imports	15 992 092	21 660 627	19 046 810	19.0
Resource gap	3 798 620	6 354 938	5 500 562	44.8

Source: FAO Database (2002)

Annex Table 10-7: Changes in Forests: 1990 and 1995

Country	Total Forest (000 ha)		Natural Forest (000 ha)		Annual % Change all Forests 1990/95	Plantation (000 ha)	
	Extent 1990	Extent 1995	Extent 1990	Extent 1995		1990	Annual % Change 1990/95
Cameroon	20 244	19 598	20 228	19 582	- 0.60	16	13.6
C. A. R.	30 571	29 930	30 565	29 924	- 0.40	6	47.9
Chad	11 496	11 025	11 492	11 021	- 0.80	4	5.8
D.R.C.	112 946	109 245	112 904	109 203	- 0.70	42	9.8
Congo	19 745	19 537	19 708	19 500	- 0.20	37	11.5
Equatorial Guinea	1 829	1 781	1 826	1 778	- 0.50	2	0.0
Gabon	18 314	17 589	18 293	17 838	- 0.50	21	46.0
Total C. A	215 145	208 705	215 016	208 846	-0.53	128	19.2

Compiled from World Bank (2000). African Development Indicators 2000:355