

# Scoping Study on Land Policy Research in Latin America



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## **Glossary of acronyms**

<i>BASIS</i>	<i>Broadening Access and Strengthening Input Market Systems</i>
<i>CBNRM</i>	<i>Community-based natural resource management</i>
<i>CIDA</i>	<i>Canadian International Development Agency</i>
<i>CLOC</i>	<i>Latin American Coordination of Rural Organizations</i>
<i>CNA</i>	<i>National Agrarian Confederation</i>
<i>CNOC</i>	<i>National Coordination of Peasant Organizations</i>
<i>CNPT</i>	<i>National Land Commission</i>
<i>CONGOOP</i>	<i>Coordination of NGOs and Cooperatives</i>
<i>CONTAG</i>	<i>National Confederation of Agricultural Workers</i>
<i>CONTIERRA</i>	<i>Presidential Dependency for the Resolution of Land Conflicts</i>
<i>COPART</i>	<i>Mixed Land Commission</i>
<i>COPMAGUA</i>	<i>Coordination of Maya Peoples Organizations</i>
<i>CPT</i>	<i>Pastoral Land Commission</i>
<i>DAC</i>	<i>Development Assistance Committee</i>
<i>DFID</i>	<i>Department for International Development</i>
<i>ECLAC</i>	<i>UN Economic Commission for Latin America and the Caribbean</i>
<i>FAO</i>	<i>Food and Agriculture Organization</i>
<i>FARC</i>	<i>Revolutionary Armed Forces of Colombia</i>
<i>FLACSO</i>	<i>Latin American Faculty of Social Sciences</i>
<i>FONTIERRAS</i>	<i>The Land Fund</i>
<i>FTAA</i>	<i>Free Trade Area of the Americas</i>
<i>GTZ</i>	<i>German Technical Co-operation Agency</i>
<i>IADB</i>	<i>Inter-American Development Bank</i>
<i>IDPs</i>	<i>Internally-Displaced Persons</i>
<i>IDRC</i>	<i>International Development Research Centre</i>
<i>IFAD</i>	<i>International Fund for Agricultural Development</i>
<i>IICA</i>	<i>Inter-American Institute for Agricultural Cooperation</i>
<i>ILD</i>	<i>Institute for Liberty and Democracy</i>
<i>ILO</i>	<i>International Labour Organization</i>
<i>IMF</i>	<i>International Monetary Fund</i>
<i>INCODER</i>	<i>National Rural Development Institute</i>
<i>INCORA</i>	<i>Colombian Institute for Agrarian Reform</i>
<i>INDA</i>	<i>National Institute for Agrarian Development</i>
<i>INEFAN</i>	<i>The Forestry Institute</i>
<i>INRA</i>	<i>National Institute for Agrarian Reform</i>
<i>INTI</i>	<i>National Land Institute</i>
<i>IPSI</i>	<i>Inter-Summit Property Systems Initiative</i>
<i>IUCN</i>	<i>World Conservation Union</i>
<i>MERCOSUR</i>	<i>Southern Cone Common Market</i>
<i>MINUGUA</i>	<i>UN Verification Mission in Guatemala</i>
<i>MST</i>	<i>Rural Landless Movement</i>
<i>NAFTA</i>	<i>North American Free Trade Agreement</i>
<i>NGO</i>	<i>Non-Governmental Organization</i>
<i>PCPR</i>	<i>Credit Fund to Combat Rural Poverty</i>
<i>PNRA-NR</i>	<i>National Agrarian Reform Plan – New Republic</i>

*PROCERA* Agrarian Reform Credit Program  
*PRONADERS* National Program for Sustainable Rural Development  
*PRONAF* National Program to Strengthen Family Agriculture  
*PROSEGUIR* Rural Legal Security Program  
*PRR* Policy Research Report  
*PT* Workers Party  
*PTT* Land Transfer Program  
*UDR* Democratic Rural Union  
*USAIDUS* Agency for International Development  
*WB* World Bank  
*WTO* World Trade Organization

## 1. Introduction

*After being relegated to the margins of development debates for over a decade, land policy has moved rapidly up the international agenda in recent years. In Latin America, a wave of market-oriented land policy reforms were adopted in the 1990s, from Mexico through Honduras and Nicaragua to Brazil, Ecuador and Peru. At the same time less visible yet important innovations were taking place on a number of fronts: joint titling to couples to promote gender equity; the regularization of indigenous peoples' titles to communal lands; resettlement and institutional reforms in post-war contexts; and local initiatives to enhance communities' ability to manage land in sustainable ways.*

*Yet by the turn of the century frustrations at the uneven pace of change led certain social movements and political parties to revive the banner of redistributive land reform as an urgent policy objective. Events in Brazil, particularly the rise of agrarian social movements such as the Movimento dos Trabalhadores Rurais Sem Terra and the election of the Partido dos Trabalhadores on a platform that included an historic commitment to land reform), are a dramatic expression of this new tendency in Latin American politics.*

*There has also been a flurry of international activity on land issues in recent years. In Latin America Via Campesina and the Coordinadora Latinoamericana de Organizaciones del Campo are coordinating efforts by peasants and other popular movements that are pushing for land reforms. Partly in response to these social pressures, USAID, the World Bank, the Inter-American Development Bank, FAO and other official agencies are sponsoring meetings on land policy and administration in the Hemisphere, in addition to their portfolios of grants, loans and technical cooperation in this domain. The recent policy research report (PRR) on land policy by the World Bank may mark a turning-point in this activity.<sup>1</sup> The PRR synthesizes accumulated learning and concludes that:*

- *Improving land tenure security, access and socially-desirable use are essential for growth, poverty reduction and good governance.*
- *Approaches must be tailored to country circumstances, and governments should develop coherent national strategies in consultation with civil society.*
- *There is a menu of options for promoting greater tenure security and access, from legal and institutional reforms to liberalize markets, to redistributive land reforms.*
- *While redistributive land reform may be an instrument of last resort in some parts of the world, it may be more urgent in Latin America given the extreme patterns of land concentration in the region. Yet history suggests that such reforms should be carried out in new ways to avoid the sub-optimal outcomes of the past.*
- *Research can be an instrument for evidence-based policy innovation and ongoing learning in this domain.*

*Is Latin America moving towards a new generation of pro-poor land reforms? What are the real openings and constraints with regard to such policies -- at the local, national and international levels? What role is research playing and what role might it play, in*

*tracking efforts and illuminating policy options? These are the questions driving this study.*

*The study was commissioned by the International Development Research Centre (IDRC) as part of its review of corporate programming options for 2005-2010. A leading funder of research on international development, IDRC has supported a modest amount of research on land issues in the Americas. Through its engagement with research partners mainly in the Andes and Central America, as well as with international donor agencies, IDRC concluded that it would be useful to review the major tendencies in land policy debates in the region, look at how research is contributing to practice, and identify options for future policy research. This document will be used for IDRC planning. It is also being published to stimulate informed action in the broader community.*

*In brief, the paper suggests that Latin America may not be poised for a radical shift in land policy and administration, but it is home to some worrisome trends and a rich array of initiatives on land issues. Researchers have a crucial role to play in illuminating policy alternatives and monitoring outcomes. The study identifies a host of issues on which fresh research could inform practice. These can be grouped under four headings:*

- ***Tracking market-oriented reforms*** -- by monitoring initiatives to modernize cadastres and property registries, liberalize land titling and regularize ownership by indigenous peoples, liberalize land sales and rental markets, create new land funds and change land tax regimes -- ***and looking carefully at their outcomes for the poor, women and indigenous peoples in particular.***
- ***Exploring options beyond market-oriented reforms***, including redistributive land reforms and production cooperatives.
- ***Studying efforts to articulate local and national land policy initiatives*** in areas like titling, credit, taxation and conflict management.
- ***Revisiting the links between land policy and armed conflict***, including the conflict implications of trends towards re-concentration of land ownership in certain countries, and options for articulating short-term measures like resettling ex-combatants to the structural changes needed to prevent the recurrence of war.

*There is a need for research on these issues in most countries of the region, but Brazil stands out as a context where political will, social pressure, international engagement and a diversity of approaches offer an enabling environment for influential research over the coming years. Many of these issues also call for cross-national comparisons.*

*A few caveats are in order. This is a scoping study, not an in-depth analysis of any particular country, donor or research theme. We aim to provide an overview of the main contexts, issues, actors and openings for policy research. Yet given time and space constraints our geographic focus is on Brazil, the Andes and Central America. Substantively, we focus on debates regarding land tenure, access and use in rural settings. We only touch on related debates about rural development, de-centralization, trade and so on. Finally this is a desk study, though the authors conducted some interviews and corresponded with selected informants. Some of these gaps are addressed in the literature cited in the paper. Others will hopefully be filled by future studies.*



## **2. National policy and practice**

### **2.a. Brazil**

Since its return to democratic rule in 1985, Brazil has been one of the main Latin American countries actively pursuing agrarian reform. In that year the Plano Nacional da Reforma Agrária-Nova Republica (PNRA-NR) was approved, affirming the government's commitment to expropriate land with compensation in the interest of social justice.<sup>ii</sup> Productive properties, irrespective of size, were exempt from expropriation. This commitment to agrarian reform, and limitation on expropriation to properties that do not serve a social function was maintained in the 1988 Federal Constitution.

*Agrarian reform was placed on the nation's agenda once again largely as a result of the growing number of land occupations that began in the late 1970s. The landless movement, the Movimento dos Trabalhadores Rurais Sem Terra (MST), was officially constituted in 1984 and by the end of that decade was organizing in 22 of Brazil's states. Its efforts have been supported nationally by the Comissão Pastoral da Terra (CPT), an NGO of the Catholic Church. The other main advocate of agrarian reform has been the rural worker's union, Confederação Nacional dos Trabalhadores na Agricultura (CONTAG), made up of agricultural wage workers, tenants and family farmers that since 1963 has been organized at the municipal, state and national level. By the mid-1990s it too was organizing land occupations and collaborating/competing with the MST to accelerate the pace of the agrarian reform. In addition, there are currently from 60 to 70 smaller organizations engaged in the struggle for land at the regional and state level.*

*What is different about the issue of agrarian reform in Brazil compared with other Latin American countries is that it has strong support in urban areas and among the middle class. High rural-urban migration combined with the inability of industry to absorb new entrants has resulted in exceptionally high urban under- and un-employment, an explosion of crime, and a deterioration in the quality of urban life. Given Brazil's extremely high concentration of land<sup>iii</sup> and the fact much of it is unproductive, agrarian reform has the potential to create more direct and indirect rural jobs at lower cost than comparable investments in industry. Thus an agrarian reform of sufficient scope and depth, by raising rural incomes and reviving rural municipalities, is expected to reduce rural-urban migration and contribute to more balanced and equitable growth.<sup>iv</sup>*

*The main opposition to agrarian reform has been the landlord's lobby, the União Democrática Ruralista (UDR) that began as the anti-reform lobby within the national congress in the mid-1980s and later became a national organization. It is allied on most issues with the Confederação Nacional Agrária (CNA), the national association of state and municipal unions of agricultural employers. As a result of their combined influence, until 1995 efforts at agrarian reform were minimal.*

*Largely in response to an escalation in land occupations by the social movements and of rural violence, during the government of Fernando Henrique Cardoso (1995-2002) the pace of land expropriation and organization of agrarian reform settlements increased substantially. While the extent of his government's accomplishments has been a point of contention, there is little question that during the Cardoso period more land was expropriated and families benefited than during the whole thirty years of agrarian reform that preceded it. According to official data between 1995 and September 2002, 635,035 families benefited from its various land reform efforts;<sup>v</sup> in contrast, between 1964-94 only 218,534 families were beneficiaries. The area expropriated, representing on the order of 20 million hectares, corresponds to approximately six per cent of the farmland reported in the 1995-96 agricultural census.<sup>vi</sup>*

*The goal of the Cardoso government was to create viable family farmers. It pledged to provide each beneficiary family with a financing package that included a settlement grant and three credit lines under PROCERA (the agrarian reform credit program) for working capital and investments in social and productive infrastructure. The average costs of expropriation per parcel were initially quite high but, as a result of macro stability as well as concerted efforts to reduce the overvaluation of properties in the expropriation process, the average cost fell by over 50 percent by 2001.<sup>vii</sup> In addition, in order to encourage the sale of unproductive land and its more efficient use, in 1996 the government increased the land tax on unused land, with the precise rate depending both on farm size and the degree of land utilization.<sup>viii</sup> This measure was complemented by efforts to modernize the rural land cadastre and institute a national land registry. These efforts, for example, have allowed more precise identification of illegally-titled national lands. Nonetheless, much remains to be done, so that the land cadastre and registry support the development of more transparent markets.<sup>ix</sup>*

*The Cardoso government also experimented with various means of de-centralizing the agrarian reform. The most important initiative was the Cédula da Terra, a US\$ 150 million pilot project in market-assisted land reform partially funded by the World Bank in five Northeastern states. In 1998 the Banco da Terra was also created in expectation that the market-assisted program would be expanded nationally. The central idea behind the market-assisted land reform program is that by replacing state expropriation of land with direct negotiations between buyers and seller the process will be less confrontational and the price of land lower.<sup>x</sup> The latter is expected since landowners are paid fully in cash rather than partly in government bonds and because beneficiaries will attempt to buy land cheap since they must repay the government's financing of the purchase.*

*The Banco da Terra differs from the Cédula da Terra program in that fighting poverty is not one of its objectives. Thus potential beneficiaries with higher household incomes than allowed under the latter program may participate. Moreover, all financing is in the form of loans. The Cédula da Terra program has a flexible loan-grant financing scheme whereby each beneficiary receives a fixed sum; whatever portion goes to purchase land is a loan, with the remainder constituting a grant. The grant portion is to cover settlement costs, the purchase of technical assistance and infrastructure investments. It is this portion that was funded by the initial World Bank loan of US\$ 90 m. The*

government's financing for the land purchase is to be repaid over 20 years at an interest rate of four per cent. The *Cédula da Terra* aimed to benefit 15,000 families over three years (1998-2000) with 400,000 hectares of land.<sup>xi</sup>

The market-assisted land reform program provoked major controversy with the social movements. They considered the federal government to be absolving itself of responsibility for land redistribution by de-centralizing the process, and feared that the market-assisted program would eventually replace state expropriation of land. The MST, in particular, considered this a travesty, since it would reward landlords for their unjust concentration of land. Moreover, given the power of the landlord class at the state and local level, such devolution of responsibility would put land reform in the hands of precisely those who have traditionally opposed it and strengthen patron-client relations.<sup>xii</sup>

In addition, the *Cédula da Terra* program was created at a moment of escalating tensions between the social movements and the state. Land occupations were at an all-time high between 1996 and 1999, reaching an average of around 500 annually.<sup>xiii</sup> The state seized the initiative in 2000 by placing a two-year moratorium on investigating whether properties so occupied were eligible for expropriation and by automatically disqualifying participants in occupations as potential beneficiaries of the reform. This was accompanied by what the MST considered to be persecution of the movement, with a number of its leaders jailed on various charges and it being accused of the mal-appropriation of credit provided to the land reform settlements.<sup>xiv</sup> Moreover, in order to reduce the role of the social movements in the selection of agrarian reform beneficiaries, the government launched a new beneficiary selection process in 2000 whereby those seeking land could apply directly to INCRA by filling out a form at the post office. The social movements responded by urging their members to apply for land and over three-quarter of a million people signed up.<sup>xv</sup>

The government's divide-and-rule strategy included persuading CONTAG to participate in a new variant of the market-assisted land reform strategy. In partnership with the World Bank, a US\$ 400 million program, the *Projeto de Crédito Fundiário e Combate a Pobreza Rural (PCPR)* was designed to target the rural poor in 14 states. It differs from the *Cédula da Terra* program in that potential beneficiaries must be organized in legally-recognized associations, such as CONTAG's municipal-level unions.<sup>xvi</sup> The program aims to benefit 50,000 families between 2002-04 and is administered by the state and municipal Sustainable Rural Development Councils in which CONTAG participates.

Still, CONTAG maintained its opposition to the idea of market-assisted land reform, especially the *Banco da Terra*.<sup>xvii</sup> Along with the MST it is calling for a constitutional amendment that would set a maximum size limit on all farms, with those above 35 fiscal modules subject to expropriation. The latter demand has become the focus of a national campaign, one that is supported by the *Partido dos Trabalhadores (PT)*.

The need for a massive and relative quick agrarian reform was always part of the campaign platform of Lula (Luis Inácio da Silva) in his four bids for the presidency as the candidate of the PT. With his inauguration as president in 2003 expectations ran

high that an expanded agrarian reform would be among his first initiatives. Instead, during his first six months in office Lula chose to concentrate on the poor and on family farmers. In mid-2003 initiatives were announced to increase food production for the internal market, expand rural employment and income, and end hunger.

The anti-hunger program (Fome Zero) aims to provide up to 44 million people with a food subsidy by 2006. Their increased demand for basic grains is to be met by unprecedented support for family-based agriculture. A R\$ 5.4 billion program, the Plano Safra 2003-04, includes a 50 percent increase over previous years in the availability of credit for foodstuff production and the expansion of a number of credit lines under PRONAF, including one for women farmers. In addition, the state marketing agency is to guarantee the purchase of all the production of land reform settlements and other family farmers at a guaranteed minimum price, with these food supplies to be made available directly to the Fome Zero program.<sup>xviii</sup>

While the social movements have welcomed this initiative, and see it as necessary to consolidate the land reform settlements, they continue to press on expanding an integral agrarian reform.<sup>xix</sup> They view with alarm the fact that INCRA's budget for land acquisition has been reduced during 2003 as the PT government struggles to fund its new social programs while meeting its debt service obligations and IMF macroeconomic targets.<sup>xx</sup> In a proposal presented to Lula in July 2003, MST called for one million families to be given land between 2003-06, as well as the immediate settlement of the 120,000 families currently in encampments.<sup>xxi</sup> The government responded by promising for 2004 the largest budget for land acquisition in the history of the agrarian reform.<sup>xxii</sup>

Brazil has been the main country engaged in significant land reform efforts in the 1990s. It offers a wealth of opportunities for future research since it has distributed land under differing modalities as well as forms of organizing production. With respect to the latter, little research has been done comparing welfare outcomes on settlements constituted as production cooperatives with those characterized by individual family farming. What makes the Brazilian case particularly interesting is that the decision to form a production cooperative has not been imposed by agrarian reform planners 'from above' as in the agrarian reforms of the past. Rather, their promotion has been at the behest of the MST with relatively little special assistance from the state. Moreover, besides facilitating the provision of infrastructure and other public goods, a number of production cooperatives have successfully developed agro-industrial activities, thus diversifying incomes and generating employment opportunities for family members such as women and youth.

Brazil is also the main country currently carrying out market-assisted alongside traditional agrarian reform efforts. Even though the impact of the negotiated model has not been properly evaluated, the experimental Cédula da Terra project was expanded nationally soon after its initiation. One of the positive outcomes of this model thus far, according to the World Bank PRR, is that land purchase prices are lower than under the traditional agrarian reform and that the program has expanded the range of land available for redistribution as well the potential beneficiaries and improved their welfare.<sup>xxiii</sup> A recent article, based on an analysis of the same documents available to the

*World Bank, challenges these conclusions -- particularly with regards to the welfare of beneficiaries.<sup>xxiv</sup>*

*One of the main points of contention worthy of further research is the beneficiary selection process. Advocates of the decentralized model argue that one of its benefits is “self-selection,” since only those with the skills and dedication to farming will come forward to buy land and take on a mortgage. Potential beneficiaries, however, are required to form an association to negotiate for the purchase of land and it is this association that is responsible for the mortgage as well as deciding upon the collective investments to be undertaken. Little attention was paid in the Cédula da Terra project to how these groups would be formed and whether they would have the internal cohesiveness to function as a community. In many cases the beneficiary selection process was manipulated by local elites, and many of these groups were formed instrumentally, to get access to the resources of the project, with little chance of sustainability. In the design of the second stage of the project (the PCPR) this was recognized as a potential weakness, and CONTAG and its municipal-level unions were given a prominent role in beneficiary selection and in organizing the associations.*

*Brazil thus offers a unique opportunity to study different kinds of agrarian reform settlements according to the way that they were formed and how this relates to their social cohesiveness and sustainability, e.g.: traditional settlements formed by strong grassroots participation in the struggle for land under the leadership of the MST and CONTAG, as compared to those organized for the purpose of purchasing land at the behest of either local-level elites (the Cédula da Terra) or CONTAG (the PCPR).<sup>xxv</sup> Such a comparative framework would also be useful for answering the question of whether beneficiaries of the market-assisted program will be able to repay their land debts and the impact of doing so on the welfare of beneficiary households.<sup>xxvi</sup>*

*Given the size of Brazil, it is particularly important in the study of this country that account be taken of its regional variations with respect to the social and physical geography. A large number of case studies have been generated on the agrarian reform settlements throughout Brazil.<sup>xxvii</sup> What remains to be done, to guide future research efforts, is a synthesis of the agrarian reform experience to date by region.*

*One of the potential benefits of the market-assisted program in Brazil is that it targets land that would not otherwise be eligible for expropriation, thus a number of analysts consider it complementary to traditional land reform efforts. Moreover, the demand for land tends to center on land located near major urban centers, where infrastructure is adequate. Nonetheless, it seems as if the bulk of unproductive land, that which is potentially subject to expropriation, is located in the central and other more inaccessible regions of the country. One of the major challenges facing the Lula government in furthering redistributive agrarian reform will be precisely this disjuncture. Solving it might indeed require enacting the proposed limit on absolute farm size, a measure that is most controversial.*

*Given the coexistence of different approaches to land policy and land reform, strong national research capacity and strong political will, Brazil offers a unique laboratory for studying land policy efforts. Key research issues over the coming years include:*

- *Comparing the trajectories of market-oriented, de-centralized and redistributive land reforms, through poverty reduction and gender equity lenses.*
- *Tracking the outcomes of production cooperatives and individual farms, and the extent to which state support and internal social organization affect efficiency and welfare outcomes for beneficiaries.*
- *Situating different land reform experiments in their local contexts, including tracking the influences of local elites and social movements on outcomes.*

## **2.b. The Andes**

*The countries of the Andean region also have complex histories of innovation and enduring challenges in the area of land policy. In Bolivia, Colombia and Peru far-reaching land reforms were initiated in the post-World War Two period, to address historic inequities in the distribution of land, violent conflicts and the stagnation of the agricultural sector. During the 1990s more market-oriented reforms were instituted in several Andean countries. There has been innovation to address the special situation of indigenous peoples' lands.<sup>xxviii</sup> Yet there is continued social pressure for more far-reaching reforms, from Bolivia to Venezuela. The expansion of narcotics production has profoundly affected these processes. This section looks at current land policy debates in the Andean region, particularly in Bolivia, Colombia and Venezuela, before closing with observations on possible research priorities.*

*In Bolivia a profound land reform was initiated in 1953, eliminating a semi-feudal system in the highlands whereby a small stratum of large landowners held the majority of smallholder indigenous peasants in relations of extreme servitude. Those reforms reorganized traditional indigenous communities into a new agrarian system but received scant state support in subsequent decades. State attention focused on opening the agricultural frontier and supporting agro-industry in the eastern plains. In the 1980s an intense debate emerged on the modernization of the 1953 law, against the backdrop of broader governmental economic liberalization measures. In 1996, Law 1715 created the Instituto Nacional de Reforma Agraria (INRA). As a result of social pressure the law combined new liberalization measures, entrenched the role of INRA and other state entities as important actors in land markets, strengthened the traditional land rights of indigenous communities, and maintained the de jure ceiling on large landholdings.<sup>xxix</sup>*

*The 1996 INRA Law has been criticized from several directions. Some indigenous leaders, inspired by the 500 Years of Resistance Campaign in the early 1990s, are demanding an even more radical return to traditional norms and forms of social organization. Others are demanding greater emphasis on the "land to the tiller" principle of the 1953 agrarian reform. All advocate more state support for integrated rural development in the highlands. The Bolivian Movimiento Sin Tierra (MST) is demanding that excessive or illegally occupied lands in the eastern plains be*

*redistributed to landless peasants. At the other end of the spectrum large landowners are demanding the regularization of land holdings obtained during the 1970 and 1980s (in some cases under legally dubious circumstances), the reduction of property taxes and the provision of cheaper credit for their enterprises. Some landowners have formed private security forces to protect their assets against MST-led occupations. Deep divisions over the treatment of coca growers add fuel to this debate.<sup>xxx</sup> The stalemate between these positions is one factor that contributed to the social protests and the change of government in October 2003. The challenge for the Mesa government and its successors is to develop a viable strategy to address the situation of indigenous peasants in the highlands and the conflictive mix of competing land policy demands in the east.<sup>xxxvi</sup>*

*In this context there has been a growth of research on land policy issues by Bolivian institutions in recent years. One line of work has been spearheaded by Fundación TIERRA Bolivia, in partnership with other research centres and civil society organizations. They have used participatory methods to examine the realities of land tenure, access and use in different parts of the country, and develop policy proposals that could bridge antagonistic positions. Their work includes detailed recommendations for reversing the fragmentation of small landholdings in the highlands through tripartite state-private sector and community partnerships; articulating state-led and community-based land title regularization initiatives; respecting indigenous communities' choices about land titling and social organization; reforming the INRA and promoting greater social oversight of its interventions; identifying illegally-occupied lands in the eastern plains that could be redistributed to landless peasants, and supporting new land reform beneficiaries through integrated rural development packages; stimulating land rental markets, to increase young persons' and smallholders' access to productive assets.<sup>xxxvii</sup>*

*In Colombia, the participatory processes leading to the adoption of the 1991 Constitution opened the door to reforms in several fields, including the adoption of Agrarian Law 160 in 1994. That law codified reforms to liberalize land markets while fostering land ownership by poor peasants and agricultural workers through traditional means. Beneficiaries were slated to receive subsidies to purchase lands they had selected or lands whose transfer was negotiated with the intervention of the Instituto Colombiano de Reforma Agraria (INCORA). After 12 years of working the land and paying back their loans, beneficiaries would receive titles. Innovative elements included provisions for joint titling to couples, and giving priority to female household heads and other women displaced by violence.<sup>xxxviii</sup>*

*The outcomes of this legislation have been mixed. The government obtained a US\$ 50 million loan from the World Bank to finance de-centralized implementation in five municipalities. This and other nationally-supported local initiatives led to an increase in the number of land reform beneficiaries by 1996-1997. Yet some analysts argue that since then there has been a marked increase in the sizes of property of more than 200 hectares, and a decrease in medium sized properties.<sup>xxxix</sup> By the year 2000 one study concluded that the law had been "incapable of reforming the agrarian structure in Colombia".<sup>xxxv</sup> Against this backdrop INCORA was replaced by the Instituto Colombiano de Desarrollo Rural (INCODER). Some critics suggest that this institutional change will have little impact since it has not been complemented by a strategy to reactivate the peasant economy.<sup>xxxvi</sup> Moreover these processes have not had an appreciable impact on*

*the armed conflict or on the demand, by the Fuerzas Armadas Revolucionarias de Colombia (FARC) and by most rural social movements, for more comprehensive land reforms.<sup>xxxvii</sup>*

*One set of factors undermining land reform and rural development has been the spread of narcotics production in the countryside, the dramatic increase in appropriations and land purchases by drug barons to launder money from the drug trade, and the related expansion of paramilitary and guerrilla activities.<sup>xxxviii</sup> A Colombian expert estimates that since the early 1990s drug traffickers and their paramilitary allies have appropriated three to four million hectares of arable land – more than the government redistributed in the previous 35 years.<sup>xxxix</sup> In 1996 the government responded to this emerging challenge by passing Law 333 authorizing the forcible expropriation, without compensation, of lands and other assets illegally acquired by drug traffickers. The U.S.-financed Plan Colombia also aims to reverse the growth of the narcotics sector through a combination of aggressive eradication, security measures, governance reforms and alternative rural development. Whether that strategy is working or is aggravating the situation is a matter of intense debate. What is clear is that devising a policy mix that might effectively reverse the agrarian counter-reform and the drug trade, address uneven rural development and resolve the armed conflict are profound and enduring challenges.*

*The Universidad Nacional is currently coordinating a major review of research, and research-policy linkages/gaps, in the domain of rural development in Colombia. A preliminary report documents an exceptionally rich tradition of research on land reform, on market-oriented approaches, on the institutions of agrarian policy implementation, on the agrarian counter-reform and the drug trade, on their links with internal displacement and conflict, on the situation of indigenous and Afro-Caribbean peoples', on gender aspects, etc. Many of these issues have been studied at the regional level, a crucial fact given the geographic diversity of Colombia. There have also been major policy research and dialogue initiatives in recent years, such as Misión Rural Colombia 1997-1998. The latter generated a large number of thematic studies and was supported by the international community, particularly by the Inter-American Development Bank.<sup>xl</sup>*

*The Universidad Nacional study will examine the impacts of this research on policy-making. The study will be completed in 2004, and should generate insights into research that could contribute to future policy-making. In the meantime Colombia will be a terrain on which to observe the outcomes of market-oriented and more traditional land reform measures, and their coexistence with counter-reforms, the drug trade and violent conflict.*

*Venezuela has also come back onto the land policy agenda, particularly since the Chávez government passed a new Land Law in November 2001. That law aims to address problems of land tenure inequalities and the under-utilization of certain large landholdings, promote increased national agricultural production and food security. In January 2002 the Instituto Nacional de Tierras (INTI) was created to lead its implementation. INTI coordinates its efforts with ministries responsible for taxation, agriculture, education and justice to foster an integrated approach to rural development.*

*The Institute's activities have converged with the demands of numerous local land committees and intermediate organizations such as the Coordinadora Nacional Agraria. But according to a recently-published analysis, INTI has also encountered resistance from officials in other ministries, regional governors, local landowners and their*



*national business federations. Some landowners are allegedly hiring contract killers, some connected to Colombian para-military forces, to eliminate local peasant leaders. By August 2003 this program had transferred 1.34 million hectares of arable land to 62,000 families, with the objective of transferring another 700,000 hectares by 2005. Yet this process has converged with wider political conflicts in Venezuela. Noting that the Land Law was one of the first pieces of legislation overturned by the (U.S.-backed) coup-makers in April 2002, the author cites peasant activists who warned: "If they take all this away, there will be a civil war..."<sup>xli</sup>*

*Taking these very different national situations into account, certain themes that lend themselves to comparative research emerge:*

- *What factors shape the implementation of mixed approaches to land legislation (combining certain liberalization measures with public sector intervention and the acceptance of customary institutions)? What impacts are these approaches having on patterns of land tenure concentration, indigenous peoples' rights, and gender equity?*
- *How are "new" land agencies like INRA, INCODER and INTI performing, and how are they being effectively supported by broader rural development policies?*
- *What is the changing interplay between narcotics production, armed violence, political struggle and land policies across the sub-region?*
- *What are the possible impacts of further trade liberalization, within a Free Trade Area in the Americas and through the World Trade Organization, on land tenure/access/use as well as on prospects for sustainable rural development?*

*While one should not pre-judge the conclusions of the Universidad Nacional study, the following issues may emerge as salient ones for further policy research in Colombia:*

- *What are the outcomes of Law 160, the implications of the creation of INCODER and the performance of beneficiaries over the short and long run? How is land tenure policy being or not being supported by broader rural development programs? How are national and local initiatives fitting together – this should include long-term tracking of the World-Bank funded de-centralized pilot program. Criteria for assessing these initiatives should include poverty reduction and gender equity.*
- *What are the exact impacts of drugs production/trafficking/money laundering and armed conflict on patterns of land tenure and land use? What are viable alternative rural development and related policy alternatives?*
- *What are the outcomes of special legislation dealing with the land rights of indigenous and Afro-Caribbean peoples?*

*In Bolivia, further research could address the following questions:*

- *What are the outcomes of the 1996 INRA Law, including the differential effects of INRA land tenure interventions in key regions, their articulation with local/customary regularization efforts, and their articulation with broader rural development initiatives?*

- *What is the potential for redistributing illegally-occupied large holdings, and for implementing effective property taxation, particularly in the eastern plains?*

## **2.c. Central America**

*Like other parts of the region, Central America has hosted a vast range of approaches to land policy. What distinguishes the isthmus from the rest of Latin America is perhaps the intimate connection between this range of land policies and armed conflict, especially in the Twentieth Century: from the 1932 Matanza directed partly against land reform organizers in El Salvador, to the mixed economy reforms adopted in Costa Rica after the 1948 Civil War, the land reforms and counter-reforms during the democratic opening and after the 1954 coup in Guatemala, the colonization schemes and redistributive land reforms pursued by military regimes as part of their counter-insurgency strategies in the 1970s and early 1980s, the social-market reforms adopted by the Sandinista government, and the market-assisted measures contemplated in the Salvadoran and Guatemalan peace accords. As such, in much of the sub-region land policies have been or are still underpinned by peacebuilding and conflict prevention objectives, not only by the traditional goals of growth, poverty reduction and environmental sustainability. Bearing this in mind, this section focuses on contemporary land policy processes in Guatemala, skims over processes in three other Central American countries, and ends by flagging opportunities for policy research in the sub-region.*

*The Guatemalan Peace Accords offer a framework for far-reaching transformations in agrarian laws, institutions and practices. The 1994 Resettlement Accord provides the basis for the reintegration of refugees and internally-displaced persons (IDPs) on the land and into the economy. The 1995 Accord on the Rights and Identity of Indigenous Peoples includes commitments regularize the status of communal lands; guarantee indigenous peoples' participation in decisions about the use of resources on those lands; develop mechanisms to deal with indigenous communities' land claims; and establish a mixed government-indigenous commission to propose institutional solutions on these matters. The 1996 Socioeconomic Accord stipulates that the government will create a new land fund; develop active land markets; implement new land taxes; expand extension services for small and medium enterprises in rural areas; promote legal reforms to establish an accessible and secure juridical framework for property rights, including the creation of an agrarian and environmental jurisdiction; establish an effective, decentralized cadastre and land registry.<sup>xliii</sup> As such, the peace accords provide a framework akin to the comprehensive market-oriented approach advocated by the World Bank's recent PRR.*

*Since 1996, important steps have been taken to implement these commitments. Most interested refugees and some IDPs have been resettled on new lands. The Dependencia Presidencial para la Resolución de Conflictos de Tierra (CONTIERRA) was established. A Comisión Paritaria de Tierra (COPART) was created, with representation from*

*government officials and indigenous peoples' organizations, to negotiate the details of measures in the Indigenous and Socioeconomic accords. The first legislative proposal that emanated from COPART led to the establishment of a new Fondo de Tierras (FONTIERRAS) in 1997. By December 2001, with financing from the World Bank, USAID and other international agencies, FONTIERRAS had helped 10,416 landless families buy lands and begin working them. COPART also generated a draft law to reform the cadastre and a draft law to create a new agrarian jurisdiction. Initiatives to update the cadastre are underway in several departments. Due to grass-roots pressure coordinated by the Coordinadora Nacional de Organizaciones Campesinas (CNOOC), a broader dialogue on rural development was initiated in 2001. In the lead-up to the November 2003 elections, CNOOC also launched a visible campaign for an integrated agrarian reform.*

*Yet reports by the UN Verification Mission in Guatemala (MINUGUA) provide a detailed account of inadequate compliance with these components of the peace accords.<sup>xliii</sup> Several streams of national research have also emerged to provide long term monitoring of, and generate robust proposals for, peace implementation in this area of public policy. Three such lines of national research deserve mention. First, leading national researchers have collaborated to produce a series of publications that provide a fairly definitive historical account of agrarian policies in Guatemala, ethnographic studies of agrarian dynamics in different departments, and a synthesis of compliance with peace accord provisions in this domain. The latter demonstrates that despite the steps noted above, the government has not allocated adequate resources to key institutions such as CONTIERRA and FONTIERRAS, Congress has not passed the laws to reform the cadastre and property registry or implement new land taxes, there has been no movement toward the regularization of indigenous peoples' communal lands, and nothing has changed with regards to the inequitable distribution of land in the countryside.<sup>xliv</sup> This line of national research has been actively fostered and supported by MINUGUA.*

*The second line of research has focused on conjunctural challenges. This includes participatory research on FONTIERRAS, undertaken by the Coordinación de ONG y Cooperativas (CONGCOOP) in partnership with CNOOC. Their publications, which provide the first independent assessment of the Land Fund's activities, were used effectively to advocate changes in the Fund's practices. This research situates FONTIERRAS' limitations in the context of wider market-assisted approaches to land policy, persuasively arguing that these are failing because they are not being accompanied by a corresponding strengthening of governmental fiscal, regulatory and service provision capacities.<sup>xlv</sup> A complementary line of participatory research was undertaken by the Comisión Nacional de Tierras (CNPT) of the Coordinación de Pueblos Maya (COPMAGUA). This has yielded seminal analyses of existing judicial norms and institutions, a typology of agrarian conflicts, and foundational thinking for the draft laws on agrarian jurisdiction and regularization of indigenous lands discussed in the COPART. Unfortunately the latter outputs have not yet been published, despite their rigour and originality.<sup>xlvi</sup> Both strands of research were carried out with support from IDRC.*

*A third line of research has focused on the role of municipalities in managing communal lands. Based on ethnographic research in a sample of ten communities, FLACSO concluded that many communities have insufficient knowledge and capacity to manage natural resources on their ejido lands. The project yielded maps and resource inventories in most communities, and recommended measures to strengthen the capacity of municipal governments and indigenous communities to manage communal resources.<sup>xlvii</sup> This research provides grounded insights into (and tools for) community-based land and wider natural resource management. In recent years this line of work seems to have connected with some of the complementary national-level initiatives described above, an important development given that research on local land management capacities is crucial to understanding the possibilities/constraints facing national land policy reforms.*

*The 1992 peace accords in El Salvador contained commitments to a Programa de Transferencia de Tierras (PTT) directed at ex-combatants, refugees and IDPs, as well as some other landless peasants in conflict zones. The PTT built on the significant agrarian reform that was initiated in 1980, as part of the counter-insurgency campaign. According to one analysis the PTT was implemented successfully, directly benefiting 36,100 persons through the transfer of 103,200 hectares -- 12% of the arable land in El Salvador.<sup>xlviii</sup> The PTT was complemented by the Programa de Seguridad Jurídica Rural (PROSEGUIR) to secure beneficiaries' property rights. Yet programs assisting beneficiaries to leverage these rights into sustainable development activities have apparently lacked adequate capacity-building components and timelines. Progress may have also been undermined by successive governments' orthodox market-oriented macro-economic policies. These may be leading to a re-concentration of land ownership and a new cycle of violence.<sup>xlix</sup> More research is needed to understand these tendencies and identify policy alternatives. This could be timely if the 2004 elections open the door to a review of rural development policies, as advocated by one of the leading political parties.*

*In Honduras, the basis for current land policies is the 1992 Ley de Modernización y Desarrollo Agrícola, which aimed to liberalize land and credit markets, stimulate rural investment and agricultural production. Critics see the law as a "counter-reform" because it encourages the privatization of cooperatively owned lands, yet it consolidates other aspects of the redistributive land reforms passed in 1975.<sup>l</sup> The 1992 initiative was given new impetus by the reconstruction efforts after Hurricane Mitch, particularly by the establishment of the Programa Nacional para el Desarrollo Rural Sostenible (PRONADERS). The 2001 Poverty Reduction Strategy Paper renewed commitments to improve security of access to land for small farmers and indigenous peoples by enlarging the mass land titling program, completing the agrarian and forest cadastre, modernizing the rural property registry, and implementing the access to land program.<sup>li</sup> Agriculture and Environment roundtables (mesas) have been established to coordinate government, civil society and donor efforts in this sector. Yet the roundtables have not emerged as platforms for dynamic multi-stakeholder coordination. The government has tabled a draft land law but some peasant organizations are raising questions about its likely impact on poverty reduction.<sup>lii</sup> In the light of these obstacles at the national level, many actors are focusing on promising local initiatives. Research could possibly foster better synergies between these initiatives and national discussions.<sup>liii</sup>*

*The redistributive land reforms implemented during the Nicaraguan Revolution affected 46.2% of the arable land. Of this, 20.7% were distributed to individuals, 13.9% to collectives of various types, 11.7% to state farms and 2.1% to indigenous communities.<sup>liv</sup> Public sector credit and technical support services for small producers were also expanded during this period. During the 1990s the Chamorro and Alemán governments distributed additional lands to ex-combatants on both sides, restored lands to former owners who were seen to have been unjustly expropriated during the Revolution, completed the privatization of state farms and granted individual land titles to members of production cooperatives. Research suggests that the reforms of the 1990s generated greater security of tenure for many individuals, not only for wealthy landowners but also for historically-disenfranchised constituencies such as women. Yet it also suggests that the dismantling of public credit and technical services has driven many small producers and cooperatives out of agriculture and led to a re-concentration of land ownership.<sup>lv</sup> There is a striking gap between the tradition of solid research on land and agrarian issues in Nicaragua and the practices of recent governments. For example several years ago an extensive process of consultation and analysis led by the Universidad Centroamericana and the Ministry of Agriculture produced the foundations for a renewed rural development strategy. Yet the National Development Plan recently tabled by the Bolaños government largely ignored its findings and recommendations.<sup>lvi</sup> It is challenging, in such a context, to find fresh opportunities for influential policy research on land issues.*

*There is much room for comparative analyses of land policies in Central America, given the similarities (and interesting differences) between the region's institutions. For example a recently-published paper comparing market-assisted land reforms in the sub-region concludes that the difficulty of reaching the poor was due mainly to the enduring inadequacy of public goods such as cadastres, property registries and agrarian tribunals.<sup>lvii</sup> This converges with the conclusions noted above from El Salvador, Guatemala and Nicaragua. The comparative study also concludes that in El Salvador, Guatemala and Honduras, the new land banks tend not to facilitate the incorporation of the poorest peasants into markets. Yet it repeats the common assumption that land rentals can be a step towards land ownership for the poor, without however providing fresh evidence on renters' trajectories in practice.*

*In sum, in Central America there are interesting land policy initiatives and worrisome trends that are being tracked by research. Critical issues for the sub-region include:*

- *What impacts are land titling programs having across the region, on poverty reduction, gender equity, and the advancement of indigenous peoples' rights?*
- *To what extent are the new land banks and funds opening markets to the poor?*
- *Why is it proving so difficult to provide these public goods?*
- *What initial indications do we have about the effectiveness of promoting land rentals, again from a pro-poor angle?*
- *Is there a strong trend towards the re-concentration of land ownership? If so, why?*

- *What are the possibilities for advancing land policy reform initiatives at the local level despite blockages at the national level? What are the limits to this strategy? What minimal factors need to align nationally and locally, to facilitate land policy reforms that meet key objectives such as poverty reduction and environmental sustainability? Why are these factors not aligning in most national contexts?*
- *Why are national policy dialogue mechanisms on land and broader agrarian policy issues, such as the Agricultural roundtable in Honduras and COPART in Guatemala, falling so short of their potential? What can be done to re-engage stakeholders such as the private sector and peasants' associations in these fora?*
- *To what extent are these policies, practices and trends contributing to or undermining sustainable peacebuilding and conflict prevention, particularly in countries recently affected by war?*

*Research needs and opportunities for influence clearly vary by country. In Guatemala, enduring gaps include:*

- *The systematic national monitoring of land and agrarian policy commitments, beyond the preliminary performance assessments of FONTIERRAS.*
- *Examining ways of reviving reforms to the national juridical framework, land taxes, the cadastre, land registry and public credit services, within the framework of market-oriented reforms or within the ambit of an integrated agrarian reform.*
- *Looking at these options through peacebuilding and conflict prevention lenses.*
- *Documenting and informing local capacities for land management, beyond the few communities already studied, and looking carefully at the potential synergies between such local processes and the agenda for national agrarian transformation.*

*Investing in this research will certainly be more attractive if the government that takes office in January 2004 clearly demonstrates its intent and capacity to follow up on commitments pending from the Guatemalan peace accords, on land policy and beyond.*

### **3. International initiatives**

#### **3.a. Multilateral institutions**

*The World Bank's 2003 PRR on land policy marks a significant change in the thinking of this institution regarding land issues.<sup>lviii</sup> First, land policies are now considered central for sustainable growth, poverty reduction and good governance, and governments are urged to develop a national land policy in consultation with civil society. Second, there is recognition that no single recipe can achieve the above objectives in a complementary fashion.<sup>lix</sup> Rather, the PRR offers a menu of policy alternatives that include both market and non-market mechanisms.*

*The aim of the PRR is to synthesize the results of a quarter of a century of research regarding the three pillars of land policy: guaranteeing security of tenure, access to*

*land, and socially-desirable land utilization. Land tenure security is considered the foundation for growth, since it is a precondition for investment and the functioning of markets, as well as a key to preventing conflicts over land. The PRR argues that providing security of tenure is a pro-poor policy to the extent that it potentially reduces costs to small and large farmers alike and can be a catalyst in facilitating access to land for the land-poor.*

*Where the PRR departs most from previous WB thinking is by its recognition that security of tenure does not necessarily require only private, individual property. Rather, it recognizes that under certain conditions secure group or collective ownership, such as in the case of indigenous communities, can provide similar benefits. Moreover, the PRR argues that the benefits of security of tenure may be equally forthcoming from various usufruct arrangements provided they are sufficiently long-term, such as long term leases of private or state lands. Further, the report notes that such benefits can accrue with instruments other than formal, registered land titles linked to a cadastre. It thus recommends that the wisdom of investing in large-scale land titling and administration projects be evaluated on a case by case basis and that greater attention be given to the sequencing of alternative interventions that enhance tenure security.*

*The PRR takes a strong pro-equity stand with respect to guaranteeing the security of land tenure of groups who have been traditionally discriminated against, particularly women and indigenous groups. It argues that there is sufficient evidence demonstrating that where women are the main cultivators, where there are high rates of male out-migration, and where control of productive activities is gender-differentiated, attention to women's land rights will have far-reaching economic consequences.*

*While recognizing that it is not a panacea, the PRR is unequivocal on the role of land access in reducing rural poverty. Access to land must be complemented by access to other inputs and services in an overall policy environment favorable to small farmers and conducive to the development of nonagricultural activities. Included in the menu of policy interventions available to facilitate access to the rural poor are redistributive as well as market-assisted land reforms, and enhancing the scope and functioning of land rental and sales markets. The PRR recognizes that land markets alone will not achieve equitable outcomes, and that the Bank's previous emphasis on the potential of land sales markets was unwarranted. The report clearly favors fostering land rental markets as the most expeditious means of providing access to land to large numbers of the poor.<sup>lx</sup>*

*Research suggests that wealth constraints and credit market imperfections are formidable barriers to participation by the poor in land sales markets and that these are highly segmented. More effective taxation of land should increase the offer of land for sale, while macro stabilization measures should lower and stabilize land prices. Experience, nonetheless, suggests that grant financing is necessary to facilitate land purchases by the asset-poor, an expensive proposition for governments. Measures to foster land rental markets such as increasing tenure security and reducing transaction costs are thus seen as the less costly alternative. The history of state interventions in markets in Latin America (in particular, prohibitions on land rentals and/or the*

regulation of rents) is cited as a major factor in the relatively low level of rental activity in the region. The PRR recommends that where these still exist, they be abolished, and that the state seek other means to influence the terms of rental contracts, such as by increasing the bargaining position of tenants via greater opportunities in rural areas. While the report clearly favors long-term fixed rent leases, it concludes that sharecropping results in a relatively minor loss of efficiency.

While preferring the enhancement of land rental markets for poverty alleviation, the PRR argues that redistributive land reform can be justified on efficiency and equity grounds where there is extreme inequality in land distribution, productive land is underutilized and rural poverty has proved intractable. It also suggests that redistributive land reforms are warranted in Latin America, where land concentration is an impediment to equitable and sustainable growth.<sup>lxi</sup> Although this region has a long history of land reform efforts, these remained incomplete and failed to live up to their objectives, partly because of the lack of political will but also because they were too costly and failed to guarantee the competitiveness of the beneficiaries.<sup>lxii</sup> In addition, the PRR considers production cooperatives and other forms of group farming to have been a failure. It questions whether creating family farms should always be the objective of land reform, given the tendency for rural households to engage in multiple income-generating activities.

With respect to land use regulation and zoning, the PRR sees a clear role for the state in land preservation, in reducing externalities, and in providing incentives and cost-effective government services. It also favors the devolution of state land through either the recognition of adverse possession or long-term leases to small farmers. A recurrent theme is the opportunity for land policy to strengthen local governance through such measures as decentralized land taxation and the provision of services.

WB lending activities in the area of land access and administration since 1995 include ten loans to seven countries for a total of US\$ 463 million.<sup>lxiii</sup> The current land access projects are in Guatemala, Honduras and Brazil. The largest initiative has been the community-based land reform project in Brazil (Land-Based Poverty Alleviation Project, US\$ 202.1 million). Expanded nationally from a pilot (the *Cédula da Terra*) in Northeast Brazil, this project supports complementary infrastructure and technical assistance to beneficiary groups of the negotiated land reform. In this model, groups negotiate the purchase of land directly with landowners and obtain subsidized government loans for its purchase. A pilot based on similar principles is also being financed in Honduras, although in this case the purchase of land is to be financed by the private sector. The loan to Guatemala partially funds that country's land bank. Land administration projects are being financed in Bolivia, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

Between 1981-2001 the Inter-American Development Bank (IDB) financed 14 land-related projects, 11 of which were land titling and administration projects, totaling approximately US\$ 265 million.<sup>lxiv</sup> The rationale behind these projects is focused quite clearly on providing the preconditions (security of tenure, reduction of transaction costs, and the administrative and judicial machinery for dispute resolution) to expand land



rental and sales markets.<sup>lxv</sup> IDB researchers note that among the major international actors working on Latin America<sup>lxvi</sup> there is “generally consensus on the convenience of accelerating programs focusing on land titling, registration and development of cadastral...as a condition to the development of markets.”<sup>lxvii</sup> While they recognize the potential importance of other means of increasing access to land by the poor, principally, market-assisted land reform and land banks of various types, they suggest that these approaches require further study.

All the land-related projects in preparation at the IDB for 2002-04 involve land titling and administration, with five projects totaling an estimated US\$ 271 million.<sup>lxviii</sup> Although IDB land titling projects have not been externally evaluated in terms of whether they improve the welfare of the poor, the IDB Office of Evaluations is completing a major review of its rural development programming that might shed light on this issue.<sup>lxix</sup>

The Food and Agriculture Organization (FAO) in the early 1990s provided the impetus for the study of rural land markets in Latin America.<sup>lxx</sup> FAO has also played a major role in the provision of technical assistance to governments on land issues. It has been a major actor in designing and assessing the various experiments with market-assisted land reform, ranging from the initial experiments in Brazil (in the state of Ceará) and Colombia, to the new WB pilot project in Honduras. It has also taken the lead in integrating gender issues into the agrarian reform program in Brazil and into rural development strategies elsewhere.<sup>lxxi</sup>

The research efforts of the International Fund for Agricultural Development (IFAD) have been important in fostering recognition of the link between rural poverty and lack of access to land.<sup>lxxii</sup> Still, most of its loan portfolio in Latin America is geared to rural development, and it currently has only one land reform related loan, for sustainable development on agrarian reform settlements in the Brazilian Northeast (US\$ 93.5 m.).<sup>lxxiii</sup>

The UN Economic Commission for Latin America and the Caribbean (ECLAC/CEPAL) in collaboration with the German GTZ also played a role in fostering the study of land markets, but is not currently involved in further research on land issues.<sup>lxxiv</sup> Finally, mention should be made of the Inter-American Institute for Agricultural Cooperation (IICA) that has provided technical assistance for the market-assisted land reform efforts in Colombia and Brazil as well as the traditional reform efforts in the latter country.

### **3.b. Bilateral donors**

Several bilateral donors have also been involved on land policy issues in Latin America. The US Agency for International Development (USAID) self-identifies as a “regional leader” in this domain with good reason, since it has promoted common policy orientations, funded a large range of projects in many countries, and supported coordinating initiatives such as the Inter-Summit Property Systems Initiative. The UK Department for International Development (DFID) and the German Technical Cooperation Agency (GTZ) have small portfolios in the region but have been more involved in policy learning and development. The Canadian International Development

*Agency (CIDA) and International Development Research Centre (IDRC) have a low profile in policy debates despite a trajectory of funding on land issues in the Americas.*

*USAID's approach to land policy issues, in the Hemisphere and beyond, is anchored in its commitments to market-oriented development, poverty reduction, democratic governance and environmental stewardship.<sup>lxxv</sup> The Agency has been strongly influenced by the work of Hernán de Soto and colleagues at the Institute for Liberty and Democracy (ILD), and its emphasis on the development of effective, simplified, transparent property rights systems to enable the poor to harness their assets.<sup>lxxvi</sup>*

*Within this framework the Agency has funded a vast range of projects on land titling, law reform, institutional strengthening of cadastral and property registry agencies, conflict mediation, conservation, insertion of small producers into markets, tenure security in postwar contexts, etc. For example, in Bolivia AID has supported efforts by the Government, the Wildlife Conservation Society and Izoceno indigenous organizations to establish a 3.5 million hectare national park and integrated management area. The Izoceno are now apparently co-administering the park and consolidating a territory adjacent to it. The cost of titling indigenous lands was born partly by private sector enterprises as part of the arrangements for establishing the Bolivia-Brazil gas pipeline.<sup>lxxvii</sup>*

*In El Salvador, the Agency has supported the Programa de Seguridad Jurídica Rural (PROSEGUIR) which has facilitated the participatory allocation of individual land titles following on the postwar Programa de Transferencia de Tierras. PROSEGUIR included participatory boundary delineation, legal titling and registration of individual parcels, conflict mediation, and capacity-building for non-governmental organizations. Over thirty thousand families have apparently achieved tenure security through this program.<sup>lxxviii</sup>*

*AID has also invested heavily in the development of a "community of practice" on land policy issues in the Hemisphere. The cornerstone of this effort has been the Inter-Summit Property Systems Initiative (IPSI) co-managed with the Organization of American States. IPSI is a program of regional activities including a web portal that aims to "foster consensus building through debate and information sharing ... sponsor analyses and data gathering that will help clarify issues, identify new approaches and monitor progress; and .... sponsor activities aimed at motivating civil society resources towards achieving the property registration goals of the Summit of the Americas."<sup>lxxix</sup> The web portal, revamped under the rubric of Landnet Americas (<http://www.landnetamericas.org/>) in 2003, is a useful clearing house for resources and news on land policy issues and practices. AID has also been actively involved in supporting consultations and other inputs into the World Bank's policy research review on land policy. At the Paris launch of the PRR in June 2003, AID officials stated that the PRR could serve as a multilateral policy framework for coordinating land policy initiatives over the coming years.<sup>lxxx</sup>*

*USAID has funded the Broadening Access and Strengthening Input Market Systems (BASIS) research consortium. Land policy research has been a pillar of this program, led*

by the Land Tenure Center at the University of Wisconsin in Madison during the 1996-2001 phase, and by the University of Wisconsin's Department of Agricultural and Applied Economics since. In the Americas this program has enabled US researchers and counterparts in the region to generate policy research on land, rural financial institutions, credit reporting bureaus and food security. The budget for 2001-06 is US\$ 8 million.<sup>lxxxix</sup>

European official development agencies are not extensively involved in land policy issues in Latin America. The European Commission (EC) funds numerous rural development and agricultural projects in Latin America, but it is difficult to discern their land programming elements or a coherent EC approach to land policy.<sup>lxxxii</sup> The UK DFID has supported activities related to land policy in Brazil, Guyana and in the English-speaking Caribbean. Its longstanding decision to scale back programming in the region limits opportunities for field activities. However DFID has used its land programming in Africa and its analytical capacity on these issues to contribute to multilateral learning, policy development and practice in the Americas, particularly in Brazil. As such, the Department's global experience and its commitments to pro-poor, context-sensitive, long-term and coordinated land policy interventions could be assets in the Americas.<sup>lxxxiii</sup>

GTZ manages a small portfolio of grants to land-related projects in the region, mostly at the local level. Examples include an initiative to update land registries to stem rural-urban migration to the town of Ibarra in Ecuador, and a project to settle land ownership claims in the Bosawas biosphere in Nicaragua. It has also funded cadastre modernization projects in Guatemala. Like DFID, GTZ concentrates its field programming in Africa and Asia. Yet by articulating a cogent policy position in 1998 (long before most other official development agencies rediscovered land issues) and strategically funding land policy initiatives by the multilaterals, GTZ has had considerable impact on global debates.<sup>lxxxiv</sup> Key GTZ ideas – on the need to balance efficiency, equity and sustainability; include the poor, women and other marginalized constituencies as stakeholders; combine legal and institutional reforms, statutory and customary law, alternate dispute resolution, and broader rural development strategies; coordinate donor approaches and learn from practice – were picked up in the World Bank PPR.

Canadian development agencies have also supported selected land policy initiatives across the Americas. CIDA has tended to fund technical cooperation projects using aerial photography, radarsat technology and geographic information systems to assist land mapping and titling.<sup>lxxxv</sup> The land component of the Guayape Valley Agricultural Development Project is an exception to this tendency: particularly since 1991 it has involved supporting up to 5,000 small farmers' efforts to obtain land titles and credit, diversify production and access new marketing opportunities. In 2002-2003 CIDA generated two policy papers scoping broader options in this domain. The second paper suggests that Canadian cooperation could build on its comparative advantages to foster innovative approaches to land titling and access, dispute resolution, poor peoples' participation in policy-making and practice, etc.<sup>lxxxvi</sup> These papers could lead to the adoption of an agency-wide land policy; however, CIDA seems more likely to use its

*existing policy guidelines and the 2003 paper to inform its land-related programming, and focus its resources on engaging selected country land administration initiatives.*<sup>lxxxvii</sup>

*For its part IDRC has supported research on a variety of land-related issues over the decades, particularly in the Andes and Central America. Projects cluster around four themes: community-based approaches to land use management; conflict and collaboration over natural resources at the local level; land policies and postwar peacebuilding; gender equity and land tenure.*<sup>lxxxviii</sup>

### **3.c. Civil society networks**

*Three major transnational networks of civil society organizations are very active on land policy issues in Latin America: the Coordinadora Latinoamericana de Organizaciones del Campo (CLOC), Vía Campesina and the International Land Coalition.*

*CLOC is a regional social movement that emerged in the mid-1990s: it brings together a large number of landless peasant, small farmer, rural worker, women's and indigenous peoples' organizations across Latin America and the Caribbean. Its overarching goals are to: i) advocate a critique of neo-liberal policies, especially for being anti-peasant in their outcomes; ii) formulate an Alternative Project based on integral agrarian reform, sustainable development and food sovereignty; iii) strengthen member organizations, their capacity to work together across borders, and the participation of women in these networks.*<sup>lxxxix</sup> *At its Third Congress, in Mexico City on 8-11 August 2001, 320 delegates from 37 organizations in 18 countries generated a declaration that included proposals to:*

- *Formulate integral and participatory agrarian reforms that include enhanced credit, marketing support and technical assistance for peasant agriculture.*
- *Promote productive activities that guarantee a balanced use of the environment, the conservation of biodiversity and genetic resources.*
- *Review existing trade liberalization agreements and oppose future agreements that could further undermine peasant agriculture, food sovereignty and sustainable development.*<sup>xc</sup>

*Over 100 of CLOC's Andean members met in Lima on 21-23 October 2003, and adopted a manifesto that reiterated some of these proposals and added new elements including:*

- *An analysis of the relationships between their struggle for new agrarian policies and major events such as the recent protests and change of government in Bolivia, the opposition to Plan Colombia, the collapse of the WTO talks in Cancún, etc.*
- *A call for an "authentic regional integration of peoples and nations" in the Andes.*
- *A strong critique of existing international trade regimes and macro-economic policy frameworks for being incompatible with goals such as poverty reduction, viable peasant economies, food security and sustainable rural development.*<sup>xcii</sup>

*Most of CLOC's members are also affiliated with Via Campesina, a global social movement that brings together organisations of landless peasants, medium and small farmers, agricultural workers, rural women and indigenous peoples across Asia, Africa, the Americas and Europe. It is pluralistic and independent of political affiliations. Via Campesina's overarching goals are similar to those of CLOC, partly reflecting the weight of Latin American members in the global movement.<sup>xcii</sup>*

*Via Campesina has championed food sovereignty and integral agrarian reforms as the two core elements of its alternative model of agricultural development. Food sovereignty, defined as the right to produce food in one's own territory, brings together the demand for food as a basic human need (rather than as a commodity, as in the neo-liberal model) and food production as a basic right of the peasantry. Food sovereignty thus goes beyond food security (guaranteeing adequate food supplies) by stressing how food is produced, by and for whom.<sup>xciii</sup>*

The movement considers that an integral agrarian reform (from land redistribution to adequate credit, technology and marketing assistance for the poor) is essential for the survival of peasant communities and for the conservation of natural resources. It defends the principle of social property, including communal property and cooperatives, as potentially effective means for poverty reduction, food sovereignty and the preservation of cultural identities.

Via Campesina advocates that international financial institutions profoundly review the policies that fail to support such priorities. It opposes the World Bank's market-assisted land reforms on the grounds that these policies and programs:

- Are based on unrealistic assumptions about the capital that developing countries have available to finance land purchases at market rates.
- Do not, in practice, adequately deal with the illegal character of many properties currently occupied by large landowners.
- Do not deal with the special circumstances of communal and state lands.
- Are often associated with financial corruption in practice, as several studies by member organizations in different countries have shown.
- Reflect an intent to demobilize peasant movements in Latin America.<sup>xciv</sup>

In 1999 Vía Campesina and FIAN launched a Global Campaign for Agrarian reform. Vía Campesina is currently working with its members and allies to demand that national governments and international institutions suspend lines of credit for market-assisted land reform, and launch a new national and international debate on land reform and rural development. The movement highlights three key questions:

- How can rural communities be more effectively included in the formulation of rural development policies and programs, nationally and internationally?
- How can the gap between agreed principles and their application be closed?

- What mechanisms can be established to enable rural communities to file complaints and sue for damages when they consider that measures adopted are contrary to the exercise of their rights?<sup>xcv</sup>

*The International Coalition for Access to Land is not a social movement: it is a global coalition of governmental, intergovernmental and civil society organizations that grew out of the Popular Coalition for Land and Hunger, itself an offshoot of the International Fund for Agricultural Development (IFAD). The Coalition works with national and international organizations to secure poor peoples' access to natural resources, especially land. One of its objectives is to enhance the capacity of rural peoples' organizations to participate in decision-making processes that affect their livelihoods at the local, national, regional and international levels. Its preferred means of action are multi-institutional coalitions, combined with the application of knowledge and training. Within this framework, the Coalition has apparently broadened spaces for multi-stakeholder policy dialogue in several countries and regions.<sup>xcvi</sup>*

*The Coalition's main objectives at the global level are to:*

- *Facilitate exchange of information among its members.*
- *Encourage and support the replication of their experiences.*
- *Transform their experiences into knowledge.*
- *Establish a dialogue with public officials.*
- *Promote the analysis of legislation related to land and agriculture.*
- *Determine the causes that prevent access to land for peasants.*
- *Discover and broaden local initiatives and assist national authorities to incorporate popular experiences into policy options.*

*The Coalition has fostered studies on a wide range of issues including land markets and institutional reforms, especially those aiming to enhance access to land by the poor. They have also fostered the development of methodologies for assessing agrarian reforms from pro-poor perspectives. In the Americas, the Land Coalition has developed an extensive portfolio of partnerships in El Salvador, Guatemala, Honduras, Nicaragua, Bolivia, Ecuador, Peru and several countries in the Caribbean. In these countries the Coalition supports the identification of financial mechanisms to facilitate land titling, the provision of services to beneficiaries of land reform subsequent to the acquisition of land, and the development of strategies to strengthen the capabilities for local legal administration.<sup>xcvii</sup>*

#### **4. Perspectives from research**

##### **4.a. On national policy initiatives**

*The main recommendation of the World Bank's PRR on land is that countries need to develop comprehensive national land policies. The report provides a useful list of questions and indicators for research that could form the starting point for evaluating alternative approaches and their potential sequencing at the country level.<sup>xcviii</sup> Yet the*

current stock of research on land issues in Latin America is quite uneven,<sup>xcix</sup> thus developing a comprehensive land policy at this time – without significant added research effort -- will be a challenge for many countries. Moreover, many countries lack appropriate data bases to evaluate such basic questions as the predominant form of acquisition of land and how such has changed over time or the distribution of land by gender.<sup>c</sup> In this section we highlight the propositions in the PRR on which insufficient research has been carried out in Latin America.

#### **4.a.i. Security of tenure**

*Given that the main land-related initiative of multilateral and bilateral donors in Latin America over the past decade has been land titling and administration projects, it is quite surprising that few of these have been thoroughly evaluated in terms of whether they significantly enhance the welfare of the poor.<sup>ci</sup> Moreover, the existing studies often reach differing conclusions, partly because conditions and policy frameworks differ across the region, and also because research results are always methodologically sensitive.*

*There is a consensus that formal titling and registration, that makes land fully transferable, increases land values. Titling benefits poor and rich landowners alike to the extent that it increases their net wealth. But an increase in wealth does not necessarily result in poverty-reduction with respect to income or consumption levels. That depends on whether increased tenure security leads to greater investment and hence higher productivity and farm incomes or greater possibilities for non-farm income generation.*

*The main argument for secure land titles is that they will lead to both an increased demand for investment on the part of farmers and an increased supply of credit on the part of financial institutions since titles can be used as collateral. The issue in terms of poverty-reduction is whether these responses will be similar for small versus large landowners. Most studies of the credit response effect in Latin America suggest that this is negligible for small farmers; that is, the benefits of titling with respect to enhanced access to credit go disproportionately to the wealthy.<sup>cii</sup> This means that unless land titling induces small farmers to engage in labor-intensive land improvements, then titling may have an adverse impact on equity.*

*A recent study in Nicaragua suggests that titling induces greater land-attached investment among small and large farmers alike.<sup>ciii</sup> A more rigorous study of the issue in Paraguay suggests that small and large farmers have very different responses.<sup>civ</sup> Credit-constrained small farmers increase their land-attached investments but reduce their variable capital, suggesting that the main impact of titling is to change the composition of their investments. Large farmers, in contrast, due to their better access to credit as a result of titling increase both and hence their overall level of capital accumulation. Thus land titling disproportionately benefits large farmers, particularly when this effect is combined with their greater propensity to be able to purchase additional lands. Much more research on these questions is needed if land titling projects are to be justified as a*

*pro-poor policy. Existing research does confirm the undeniable importance of credit access if small farmers are to reap significant rewards from formal land titling.*

*Another issue is whether formal, registered titles are always necessary for adequate levels of tenure security. The PRR recommends that more research be done on the many gradations of tenure security possible to determine the most appropriate and cost-effective mechanisms in particular situations.<sup>cv</sup> Specifically, under what conditions is less than a formal, registered title sufficient to get some of the benefits of tenure security, such as reducing conflicts and the time expended on such? Much of the research on the recent liberalization of land on the Mexican ejidos suggests that simple titling combined with the lifting of regulations on just rentals may produce benefits even if land is not fully transferable.<sup>cvi</sup> This is a crucially important issue meriting in-depth research in other countries, such as Peru and Ecuador, that have now lifted restrictions on the inalienability of peasant and indigenous community land.<sup>cvi</sup>*

*Finally, another justification for land titling and administration projects is that proper cadastral and national land registry systems are a precondition for designing and implementing effective systems of land taxation. These projects have yet to be evaluated comparatively in terms of whether they have led to improvements in the latter. Moreover, relatively little research has been done on the problems besetting recent land taxation reform initiatives, such as in Bolivia or Brazil.<sup>cvi</sup> This is an important area for future research since to date no Latin American country has implemented a sufficiently progressive scheme of taxation of unused or underutilized land to substantially increase the supply of land offered for sale, thus reducing the degree concentration of land. Moreover, devising effective systems of land taxation are important both as a means of raising revenue for potential redistributive agrarian reform measures as well as for decentralized, local land administration initiatives and government services.*

#### **4.a.ii. Land markets**

*Security of tenure is also important to spur the development of land markets. Within the neo-liberal paradigm well-functioning land rental and sales markets should promote both efficiency and equity, since they should transfer land from less to more efficient producers. Specifically, given the inverse relation between farm size and productivity, well-functioning land markets should transfer land from the land-rich to the land-poor. Although knowledge about the way that land rental and sales markets operate has improved over the past decade (in part because of the series of FAO and CEPAL-GTZ studies and the World Bank's own), much is still not understood.<sup>cix</sup> Nonetheless, the summary of the CEPAL-GTZ studies concludes that "one should not expect too much from improving rural land market efficiency, especially in terms of relieving rural poverty or improved land distribution."<sup>cix</sup>*

*Land sales markets have been found to be relatively active in Latin America, at least more active than previously thought. They have also been found to be highly segmented, with transactions in the formal land market largely limited to large landowners and those of their class, while informal transactions predominate among the peasantry. The*



*relatively limited degree of transactions between the land-rich and land-poor has been attributed to high transaction costs, the lack of financing available to the poor, and the persistence of regulations that hamper land sales and rentals. The PRR argues that “poorly designed land market interventions and regulations continue to hamper the development of land markets” and that such restrictions especially limit access to land by the poor.<sup>cxix</sup> Among the policies that the PRR considers deleterious are i) outright prohibitions on land rentals or sharecropping; ii) government regulations establishing ceilings on land rents; iii) prohibitions on land sales; iv) maximum size limits on land ownership; and v) maximum price ceilings on land sales. Most of these regulations date from the period of agrarian reform.<sup>cxii</sup>*

*Much of the neo-liberal land legislation of the 1990s has aimed to lift some or all of these restrictions. Those countries that have gone furthest in this regard include Chile (in the 1970s), Peru, Ecuador, Mexico, Honduras, Nicaragua and El Salvador. A comparative, baseline study would be useful that summarizes the different kinds of regulations by country and year that they went into effect and, where applicable, the year that they were lifted. Such a study would allow more systematic assessment of the relation between such regulations and the level of activity in land rental and sales markets; the impact of their lifting; and the potential impact of further land liberalization measures. This information needs to be crossed with that on other efforts to increase security of tenure, such as when land titling and registration programs were instituted and their scope. If advocates of liberalized markets are correct, it is in those countries that have simultaneously pursued both strategies where land rental and sales activity should be the most dynamic.*

*The bulk of the research on the impact of liberalization has centered on the reform sector and the impact of lifting restrictions on land sales by former agrarian reform beneficiaries (often in the context of the parcelization of production cooperatives). The available evidence for Chile, Nicaragua and Honduras, suggests that these measures triggered substantial sales of land in the reform sector and that the principal buyers were not other peasants, but medium and large farmers.<sup>cxiii</sup> These were often distress sales, compelled by either excessive indebtedness or the lack of support for cooperative production (in the form of credit, technical assistance, market channels) under the new policy regime.*

*A review of the evidence on developments in the land sales market in Honduras attempted to distinguish between the impact of the land titling program in the non-reform sector, and that of that country’s 1992 Law for Modernization of Agriculture.<sup>cxiv</sup> The evidence suggests that land titling did not make the land sales market any more dynamic than in adjacent regions that had not been part of the program. One study found poor farmers more likely to sell their land than rich farmers. Overall, the lifting of restrictions on land sales of the reform sector appeared to have had a greater impact on the land sales market than did the land titling program.*

*The PRR sees greater potential in land rental markets than land sales markets for increasing access to land by the poor since, given their limited access to credit, landless*

*and land-poor farmers are more likely to be able to rent rather than purchase land. The evidence for Latin America suggests that the poor are more likely to access land through rentals rather than by purchases but is mixed on whether the poor benefit as much as larger farmers from the liberalization of rental markets since these are often just as segmented as land sales markets.*

*A detailed study of rental markets in Paraguay shows that households with high land and labor endowments are more likely to rent out land while those with low endowments are more likely to rent in, providing evidence that land rentals “work modestly” to improve land access by the poor.<sup>cxv</sup> A study of the Mexican ejidos between 1990, 1994 and 1997 also reports a “win-win” scenario with the lifting of formal restrictions on land rentals, with increased land access by the poor and of land supplied by the rich. The data in this study, however, suggest that by 1997 a higher share of small farmers (less than 5 has.) were renting out their land (9.8 per cent) compared with larger farmers (6 per cent); moreover, a higher share of large farmers were renting in land (12.1 percent) compared with small farmers (7.5 percent).<sup>cxvi</sup> In addition, studies in the most dynamic agricultural regions of Mexico report that the main beneficiary of the opening up of land rentals on the ejidos has been agribusiness.<sup>cxvii</sup>*

*The PRR argues that it is long-term leases that approximate private ownership with respect to tenure security and, hence, that there should be little difference in outcomes between these forms of access. Rates of investment, for example, should be similar, particularly if long-term leases allow farmers to access private sector credit at similar rates. But under what conditions does an increase in land rental activity give rise to long-term versus short-term leases? And to what extent are these outcomes differentiated by a farmer’s class position? If small farmers are more likely to only be able to access rental markets through short-term leases, while long-term leases are limited to large farmers, then it is not at all clear that enhancing rental markets will significantly enhance equity.<sup>cxviii</sup> It will be important to assess the various experiments with locally-mediated land rental banks in countries such as Brazil.<sup>cxix</sup>*

*The most pressing issue for future research is whether and under what circumstances land rental can be an effective tool for poverty reduction. This involves an analysis of the conditions of land rentals; the impact of land rental on household welfare; and the scope for renters to make the transition to owners. The PRR states that “land markets are no longer considered to be exploitative of the poor.”<sup>cxx</sup> This was, of course, the original rationale for state intervention in land rental markets. In the current context, land rental arrangements are quite different than they were in the hey-day of the hacienda system, when unpaid labor services by tenants were the norm. The level of rent, nonetheless, still represents the degree of surplus appropriation from direct producers and directly determines household welfare. The PRR recognizes that land rentals will have a “positive effect on equity only if the distribution of surplus between the landlord and worker is not too skewed,” and suggests that this depends on their relative bargaining power.<sup>cxxi</sup> The key factor that might skew this relation in favor of workers is the scope of their alternative income-generating activities. Given the extent of poverty and rural un- and underemployment in most of Latin America it is doubtful that the opportunity cost of*

*workers will be sufficiently high to skew this relationship in their favor. The factors that determine rental rates is obviously a topic worthy of further research.*

*The PRR often mentions that land rentals could be an important stepping-stone to ownership. The evidence from Latin America, however, is relatively slim.<sup>cxvii</sup> Whether renters are able to accumulate sufficient savings to buy land depends both on the level of rents and the general profitability of agriculture. More specific research is needed on the level of rental payments compared with potential land payments with or without subsidized credit. Moreover, future research should compare the impact on household welfare of renting versus acquiring land via other means (such as through land purchases, land banks and the various land reform schemes).<sup>cxviii</sup> Finally, missing in most studies of the land rental market is consideration of the aspirations of the poor. One does not hear access to land rentals among the demands of most rural organizations in Latin America.*

#### **4.a.iii. Land reform**

*What has happened to the beneficiaries of Latin America's land reforms of the 1960s to 1980s? Relatively little is known about how these have fared over the medium-run. While in certain countries lack of state support for the reform sector and the generally unfavorable milieu for smallholding agriculture under neo-liberal policies has led many to sell their land, what about those beneficiary households that have persisted? How do their incomes and welfare compare with non-beneficiary groups, such as the landless?*

*A related issue is the fate of the agrarian reform production cooperatives or group farming activities promoted in the past. In many countries the neo-liberal agrarian legislation of the 1990s allowed these to be parcelized, but not all collectives were disbanded. There is a lacuna in the literature regarding the conditions that have led to their survival in countries such as Peru, Colombia, Ecuador, Nicaragua, Honduras and El Salvador.<sup>cxvix</sup> It would be useful to compare welfare outcomes among households who remained in production cooperatives versus those who took advantage of parcelization and became independent family farmers.<sup>cxv</sup>*

*As discussed in the earlier section on Brazil, that country is currently experimenting with various means of implementing land reforms. These have been and are the object of considerable study. Yet there is a need for continued research on land reform in Brazil given current openings for innovation on the ground.*

*The potential for redistributive land reform to be extended further in Latin America is currently limited by neo-liberal land legislation in a number of countries. In Chile, Peru and Mexico the state may no longer expropriate land to meet social justice goals and in Honduras and Ecuador it may do so only under very restrictive conditions.<sup>cxvii</sup> Whether land reform via expropriation with compensation is viable is contested by the right and questioned by the left.<sup>cxviii</sup> It is commendable that the PRR has at least placed this issue back on the agenda of governments for consideration.*

*Another issue has to do with the full-time farmer paradigm that has dominated past agrarian reform efforts. The PRR notes that planners have neglected the diversity of livelihood options that are available to the rural poor.<sup>cxxviii</sup> While there is general recognition in the literature that peasant households often depend on a multiplicity of income-generating activities, attention must be given to whether this is out of necessity—due to the lack of viability of peasant agriculture—or in response to real avenues for upward mobility. Recent studies on non-farm employment and incomes in Latin America suggest that non-farm employment is characterized by two paths: low productivity employment for the poor and upward mobility for members of medium and large farm households.<sup>cxxix</sup> The proposition that land reform efforts need not concentrate on creating viable family farms must be studied on a case by case basis, with attention to the circumstances under which access to small amounts of land reduces poverty among those with possibilities for employment in other activities.*

#### 4.a.iv. Linking land policy to other public policies

*In recent years there has been a tendency for the renewed attention to land policy by multilateral and bilateral donors and national governments to be viewed in isolation from other state policies. One of the main weaknesses of the PRR is precisely its limited attention to the broader context of agricultural and rural development and macro and trade policies in which land policy is necessarily inscribed.<sup>cxxx</sup> This is a particular danger if one of the main objectives of land policy is to create the conditions for sustainable rural development, not to mention the amelioration of rural poverty.*

*Land policy is but one, albeit critical, aspect of a comprehensive rural development strategy. Rural social movements such as CLOC and Via Campesina are well aware that one of the main deficiencies of agrarian reform efforts of the past was precisely their inability to link land redistribution with access to the complementary resources (credit, technical assistance, marketing channels, etc.) to assure sustainable farm enterprises. Hence they call for “an integral” agrarian reform in the context of an enabling state policy for family farming, cooperative endeavors and domestic food production.*

*Recent research on land policy has paid attention to the link between access to land and credit, given the importance of the latter in access to land sales markets and of access to working capital for viable farm enterprises (see previous sub-section). Some attention has been given to the role of infrastructure, given its role in influencing land prices, as well as to human capital since education is usually a key variable when analyzing the impact of land policies on individuals and households. Topics such as the role of agricultural extension, veterinary and other technical services; the extent to which agricultural research supports smallholders; marketing channels and alternative means of organizing agro-industry; price policy and crop insurance; and the minimum appropriate physical and social infrastructure for successful agrarian reform settlements have all received much less attention. Insufficient attention has also been given to the role of land in diversified income-generating strategies, although as noted above, there has been a start in this direction in the recent literature on non-farm rural employment.*

*Finally, the potential for increased access to land (whatever the form of tenure) to improve rural livelihoods depends critically on macroeconomic and trade policies. There is consensus that the agricultural subsidies and exchange rate distortions of the import-substitution industrialization period favored large producers. However, trade liberalization has wrecked havoc on domestic agriculture in a number of countries, being particularly detrimental to small producers.<sup>cxxxix</sup> Moreover, there are few cases where smallholders have successfully integrated into international markets.<sup>cxxxii</sup>*

*Given the current impetus for further regional integration through a Free Trade Area of the Americas (FTAA) or a US-Central America Free Trade Agreement, it is of utmost importance to support rigorous research on the impact of freer trade in agricultural products on small farmers in the region, particularly on the experience to date with the North American Free Trade Agreement (NAFTA). A recent study concludes that “those worst affected by structural changes associated with trade liberalization and trade growth are Mexico’s poor farmers.”<sup>cxxxiii</sup> Land policy may turn out to be an ephemeral means of poverty alleviation and rural development if a level playing field is not created for the survival of Latin American family farms and domestic-oriented agriculture.*

#### **4.b. On local initiatives and natural resource management**

*Two debates connect land policy with community-based natural resource management (NRM) efforts: one on the links between poverty, inequality and environmental degradation, and a second on options for articulating local and national NRM initiatives.*

*Regarding the first debate, there has been some research on the linkages between unequal land distribution and environmental degradation. Some analysts argue that persistent land tenure inequalities push land-poor peasants to intensify their agricultural activities by shortening crop cycles, resulting in overuse of soil and other natural resources. This diminishes productivity and consequently income, thus aggravating poverty over the long run.<sup>cxxxiv</sup> Research also suggests that this tendency is fuelled by state-facilitated colonization processes, by the activities of firms specializing in the extraction of natural resources such as timber and minerals, or by dams and other mega-projects that are developed without proper environmental and social impact assessments.<sup>cxxxv</sup>*

*Certain analysts argue that a solution involves ensuring that indigenous peoples living in ecologically-vulnerable areas have effective control over land and its use. An Ecuadorian study has shown that Amazonian indigenous peoples’ land administration practices are based upon an intimate knowledge of the forest and customary zoning practices.<sup>cxxxvi</sup> The statutory recognition and protection of these spaces might prevent colonizers from expanding the agricultural frontier and contributing to environmental degradation or bio-diversity loss. According to a paper written for the World Conservation Union (IUCN): “The conservation of biodiversity.....will be achieved ... when the custody of*

*this biodiversity lies with those that live with, depend on and are aware of the importance of the resource.”<sup>cxvii</sup>*

*However, emerging research reminds us that not all indigenous communities or other local actors presently have the capacity to manage their lands in a sustainable manner. The FLACSO Guatemala study of municipal and ejido lands noted earlier suggests that local land management capacities can be very limited in some contexts. In Guatemala this is due to a combination of factors: low levels of community literacy and social organization; the uneven fiscal and technical capacity of municipal institutions; unhelpful national laws, natural resource management and local development policies.<sup>cxviii</sup>*

*A recent synthesis of 12 studies of community-based action in the broader realm of rural development, from Chile to Mexico, reminds us that these factors are amenable to change. Community leaders can take initiatives to develop human and social capital -- building on local values, knowledge and traditions, strengthening their internal mechanisms for collective action, and engaging external stakeholders in collaborative initiatives. The document reminds us that community leaders' efforts will be facilitated by enabling conditions such as dynamic markets, the presence of national social movements that can link local collective action with broader demands for rural development, and the expansion of national democratic spaces. Their task will also be facilitated by international accompaniment based on long-term strategies for change.<sup>cxix</sup>*

*The SUBIR project in Ecuador is an example of how local leaders, national NGOs, government agencies and international financing can come together to facilitate pro-poor land titling. In the mid-1990s several indigenous, Afro-Ecuadorian and peasant communities that had settled on state lands could not obtain legal land titles and could therefore not obtain development financing. Obstacles to secure land tenure included national legal prohibitions, and a lack of clarity about whether their cases came under the jurisdiction of agricultural or forestry agencies.<sup>cxl</sup> With international financing, a national NGO initiated the SUBIR project to clarify land titles.<sup>cxli</sup> From 1996 onwards the project enabled the award of land titles to the Afro-Ecuadorian Playa de Oro community, on lands belonging to Instituto Nacional de Desarrollo Agrario (INDA) and the Instituto Nacional Forestal (INEFAN).<sup>cxlii</sup> Based on this process, in 2002 these agencies reached a final settlement.<sup>cxliii</sup> This experience has been scaled up to the national level, where it has enabled the legalization of almost 200,000 hectares for 50 communities.<sup>cxliv</sup>*

*As noted in earlier sections on particular national situations, not all local land policy experiences are so harmonious. For example in Brazil there are often tensions between initiatives driven by local actors such as landless peasants committees but resisted by other local actors such as large landowners, and national initiatives driven by government officials. One reason why MST and CONTAG are lukewarm about the Cédula da Terra and Banco da Terra programs is that, despite their common commitment to de-centralization, they believe that these programs place too much power into the hands of local landowners and their government allies. Meanwhile the more*

recent PCPR program makes more room for local actors organized by CONTAG. It is important to track these processes to see what effect links with certain social movements contribute to the outcomes of local land policy experiments. It is also important to compare these earlier programs with those launched by the Lula government, since it is ostensibly supportive of certain local initiatives and national social movements.

The Brazilian situation also reminds us that there is a need for ongoing mapping of the different actors involved in land policy processes, from the local to the international levels, their de facto coalitions and counter-coalitions, and how these interact to shape the outcomes of land tenure and related policies – in a word, mapping the political economy of land policy (and conflict) in different contexts. There is also a need to link this analysis to exogenous factors such as environmental change. Contributions from other regions, and other domains of NRM, may provide methodological insights in this regard.<sup>cxlv</sup>

#### **4.c. On gender and land rights**

The gender asset gap in land in Latin America is significant. In the five countries for which survey data is available, women comprise between 11 and 27 percent of the landowners.<sup>cxlvi</sup> But largely because of data deficiencies, little quantitative research has been done in Latin America on the impact of women owning land. Theory indicates that women's land rights are important for welfare, efficiency and equity considerations in addition to being an important means of their empowerment.<sup>cxlvii</sup> Qualitative research suggests that women landowners in Latin America are much more likely to strike a stronger marriage bargain, with a greater say in both household and farm decisions, to be less subject to domestic violence and more likely to leave infelicitous marriages, and to enjoy much greater security in old age partly because of their enhanced bargaining power over children.<sup>cxlviii</sup> Rigorous quantitative work has yet to be done on these propositions and these issues should be high on the research agenda.

Evidence from other regions of the world, primarily Africa and Asia, indicates that women's land rights, by enhancing their bargaining position within the household, are an important determinant of the intra-household allocation of resources. Women's land rights have been associated with greater household expenditure on food and health care as well as children's schooling and hence human capital formation, with long-run implications for productivity. Women's land rights have been found to be positively related not only to their greater agricultural productivity<sup>cxlix</sup> and enhanced role in agricultural decision-making, but also to more diversified income generating activities within the household.

Preliminary research on Honduras and Nicaragua confirms the positive impact of women's land rights on the intra-household allocation of resources, specifically food and educational expenditures.<sup>cl</sup> Recent research on Peru and Paraguay also suggests a positive association between women's land rights and rural household incomes, primarily because of their impact on non-farm incomes.<sup>cli</sup> These tentative results need to be reproduced in other settings and with data sets more conducive to gender analysis.

*Moreover, the work that has been done has been limited to landed households missing the potential impact of giving landless women land rights as a poverty reduction measure. Further, no specific research has yet been done on female household heads and land ownership. Given the growth in the share of rural female household heads over past decades, this is a topic worthy of further research.*

*The available research on other regions on the positive association between women's land rights and efficiency and equity outcomes is sufficiently strong that the PRR makes a very strong case regarding the need for governments to promote them. Latin American states over the past two decades have actually been in the vanguard in establishing women's formal rights to land.<sup>clii</sup> A number have gone further in their recent agrarian legislation, adopting specific mechanisms of inclusion of women. By far the most common measure has been the requirement that in state land distribution and/or titling programs lands be registered in the name of the couple.<sup>cliii</sup> El Salvador went further, establishing that in the PTT land distribution program land be distributed on an individual basis to the man and woman forming a couple. Colombia, Nicaragua and Chile have adopted affirmative action measures, giving priority in the distribution or titling of land to female household heads. Brazil announced its intention of assigning a quota of 30 per cent to women in its market-assisted land reform and credit programs, but these measures were apparently never implemented.<sup>cliv</sup>*

*As a result of these measures, the share of female beneficiaries of land adjudication and titling programs increased substantially in the 1990s.<sup>clv</sup> The impact of these various measures on women's effective control over land has yet to be evaluated.<sup>clvi</sup> Do outcomes differ among beneficiary households when the land is titled jointly to the couple versus individually to the male household head? Are the former, for example, less likely to sell or rent their land? Are they more or less likely to seek credit or technical assistance or to diversify their productive activities? Moreover, to what extent does joint titling of land to a couple provide the same benefits in terms of women's control over land as their independent access to land?*

*Another important issue is how to guarantee women's land rights in situations where land is held collectively by peasant or indigenous communities. A demand of most indigenous organizations, besides control over their own territories, is that the state respect their traditional customs and practices with respect to the internal distribution of resources. But what if these customs and practices are discriminatory against women? This has been a thorny issue, one that is increasingly being decided in favor of women's rights as indigenous women have begun to organize and press for their own strategic interests.<sup>clvii</sup>*

*This growing consciousness of gender discrimination has been enhanced by the large-scale dispossession of married women from land rights in the recent process of parcelization and titling of the ejidos in Mexico. Following traditional custom and practices ejido regulations granted land rights along with voting rights in ejido assemblies to only one person per household. As a result, in the recent titling program what was the family patrimony of land largely became the private property of the male*



household head. Attention must be given to the possibility of a similar process occurring in Peru and other countries if the formalization of individual land rights within peasant and indigenous communities proceeds. Research into the question of tenure security within indigenous communities should be attentive to this issue.

Further research is also required on gender differences in the acquisition of land as private property. Data for six countries suggests that men are more likely to acquire land through all modalities, but that women have been particularly disadvantaged in acquiring land through the state distribution programs of the past as well as through the market.<sup>clviii</sup> Moreover, women are less likely than men to participate in both land rental markets and land sales markets.<sup>clix</sup> If countries increasingly focus efforts on enhancing the functioning of these markets, research is needed on how participation in them can be made more class and gender equitable.

The primary way that women acquire land is through inheritance, as daughters or as widows. While all Latin American countries guarantee formal equality with respect to the inheritance rights of daughters and sons in the case the deceased dies intestate, there is a considerable gap between law and practice, particularly when it comes to land. Factors which have been identified in the literature as favoring gender equality in the inheritance of land include bilateral and partible inheritance systems, increasing migration by both sons and daughters, an increase in literacy, particularly legal literacy, and the decline of agriculture as the primary income-generating activity of rural households.<sup>clx</sup> More rigorous studies are needed to confirm these causal relationships.

Scant research has been carried out on the inheritance rights of widows and customary practice. A recent review of succession law suggests considerable heterogeneity among Latin American countries in the case of intestate with respect to whether widows/ers have equivalent rights to a child in their spouses' patrimony.<sup>clxi</sup> Latin American countries also differ in the degree of testamentary freedom, with full testamentary freedom prevailing in Mexico and Central America, and restricted testamentary freedom (with a reserved portion for the "forced heirs") characterizing most of South America. How do widows fare under testamentary freedom as compared with legal frameworks which explicitly favor them? Under what conditions are widows more likely to remain in effective control of the family farm or business? These are urgent questions given the lengthening of life spans, the growing gap in life expectancies between men and women, the weakening of traditional networks of social support for the elderly, and the lack of formal social security systems in most of rural Latin America. The PRR stresses the importance of giving attention to the property rights of widows, particularly in situations of conflict. Their potential importance in terms of enhancing women's economic autonomy and bargaining power over children must also be investigated.

Finally, insufficient attention has been given in the land rights literature to how different marital regimes structure the property rights of individuals and families. Marital regimes, for example, define whether property acquired prior to marriage or via inheritance after marriage form part of the community property of a couple. They also define whether land ceded by the state is automatically jointly-owned property. Lack of

*attention to marital regimes and the fact that most countries offer an option of regimes has all too often resulted in a trampling of married women's property rights in land titling programs.<sup>clxii</sup> Further research is needed on how different marital regimes<sup>clxiii</sup> combine with different inheritance regimes to either favor or limit the acquisition of land by women and their effective control over it.*

The overall research agenda on gender and land rights could be facilitated most easily by concerted efforts to improve the quality of data. The foremost need is for the LSMS and other household surveys to disaggregate data on asset ownership by sex, including its form of acquisition and the sex of the person from whom it was acquired. Moreover, if the analysis of property rights is to be furthered, besides civil status, surveys should elicit information on the marital regime governing the household. Finally, another deficiency in most household surveys is their failure to elicit information on household decision-making processes by gender, limiting the analysis of the potential divergence between ownership and control over land.

#### **4.d. On indigenous peoples' lands**

*Traditionally, many Latin American States with large indigenous populations have attempted to eliminate the collective possession of land and the semi-autonomous forms of government that indigenous communities were able to maintain during the long period of colonisation.<sup>clxiv</sup> In recent decades most governments have started to change their approach and move, to varying degrees, towards policies of inclusion.<sup>clxv</sup>*

*There are numerous international documents codifying the land and other rights of indigenous peoples. ILO Convention 169 is a cornerstone of international law in this regard, as it recognizes the unique character of indigenous peoples and affirms the integrity of their traditional territories. Convention 169 has influenced almost all constitutional reforms that deal with the rights of indigenous peoples in Latin America.<sup>clxvi</sup>*

*According to the vision of many indigenous peoples, land cannot be conceived as a commodity that can be traded on the market, contrary to norms prevailing across Latin America. As such ILO Convention 169 stipulates that indigenous peoples' lands are spaces within which property rights are exercised; their territories are spaces which, in the absence of a recognized internal legal regulation, maintain their ancestral forms of use. In Latin American countries it is possible to recognize different groups of constitutions according to the degree and type of consideration given to indigenous populations. Under the constitutions of the most progressive countries there is even the recognition of the ancestral nature of indigenous communities.<sup>clxvii</sup> This recognition implies the establishment of cultural, territorial and autonomy rights. Yet this does not ensure their immediate application: in the absence of implementing legislation, these formal rights are merely statements of good intentions.<sup>clxviii</sup>*

*For instance, prior consultation with indigenous peoples, before undertaking any major developments on their lands, is an established right in all Latin American constitutions.*

*Yet most countries lack implementing legislation to ensure the application of this fundamental principle. In Ecuador, for example, indigenous and Afro-Ecuadorian federations have opposed 15 major mining and oil exploitation projects in recent years, arguing that they were not adequately consulted at the outset. Yet only one case has been adjudicated in favour of these indigenous and Afro-Ecuadorian peoples' organizations.<sup>clxix</sup>*

*The political debate therefore is centred around how to close the gap between constitutional rights, implementing legislation and practical applications. One starting point of this debate has been the experience of various autonomous regions throughout the region: the autonomous lands on the Atlantic Coast of Nicaragua and Panama, the indigenous territories in Colombia, territorial districts in Ecuador and original communal lands in Bolivia. However, these models contain a number of weaknesses and have not been capable of resolving the insecurity indigenous peoples' land tenure.*

*There is also an important debate over ancestral forms of justice, and particularly over how it might be possible to harmonize statutory and customary norms. Customary law, which is transmitted by word-of-mouth from one generation to another, tends to be dynamic. This is compared to the static nature of statutory law which may not be as adaptable to social change. The dynamic nature of customary law offers the possibility to respond to the needs of indigenous peoples, enabling it to be a source of statutory law.<sup>clxx</sup>*

*The constitutional recognition of legal pluralism in certain countries where various legal systems coexist can serve as a model that leaves room the autonomy that different legal systems afford indigenous peoples. However, it is also clear that this autonomy is not unlimited. This autonomy shall be subject to certain limitations that are imposed by falling under written legislation; its inclusion under constitutional standards indicates that it must not contradict national legislation. On the other hand, there is a potential tension between the two systems. The problem jurists confronted is in determining under what conditions customary law will prevail over statutory law and vice versa.<sup>clxxi</sup>*

#### **4.e. On conflict and its prevention**

There are three relevant bodies of research at the interface of land policy and conflict: a literature on land tenure inequality and insecurity as a source of conflict; one on how land policies can contribute to peacebuilding and the prevention of armed conflict; and a literature on conflict and collaboration in natural resource management.

Among practitioners it is sometimes taken as a given that the inequitable distribution of land, or situations of extreme tenure insecurity rooted in weak land administration systems, are conducive to violent conflict. A common corollary is that land reform or strengthened land administration could help prevent conflict and consolidate peace. This logic is explicitly codified in the Salvadoran and Guatemalan peace accords. It is also reflected in multilateral policy statements such as the OECD Development Assistance Committee (DAC) Guidelines on Conflict, Peace and Development Cooperation.<sup>clxxii</sup>

Generations of scholarly research have shown fairly conclusively that there is no simple causal link between land policy and violent conflict. The accumulated wisdom suggests that this linkage is mediated by factors such as elite governance strategies, as well as the activities and capabilities of counter-hegemonic leaders.<sup>clxxiii</sup> Although this is somewhat obvious it is worth mentioning because the linkage issue has been brought back onto academic and policy agendas by the new literature on the political economy of war – particularly the oft-cited argument by Paul Collier of the World Bank that greed is a more salient driver of contemporary wars than grievance, and that the international community should therefore concentrate on regulating revenues from the exploitation of high value resources like diamonds, oil and natural narcotics.<sup>clxxiv</sup> A more nuanced understanding of the relationships between conflict and the distribution of assets could validate the need to also craft land policies which, together with other interventions, might help consolidate peace in postwar contexts and prevent war in others. While further research on these issues would be welcomed, what is critical at this point is a better channeling of research results into peacebuilding and conflict prevention debates. Latin Americans should not miss opportunities to reinforce the contributions of the World Bank PRR in this regard.<sup>clxxv</sup>

*Another assumption central to dominant approaches to postwar reconstruction, at least during the heyday of the 1990s, was that peacebuilding provided an historic opportunity to implement major reforms addressing the underlying causes of war. The extensive land policy and administration reforms contemplated in the Guatemalan peace accords are a fine representation of this idea. Unfortunately, as noted in a recent literature review: “Examples of successful short-term conflict settlements which did nothing to prevent the outbreak of violence later on are numerous.”<sup>clxxvi</sup> Indeed the evidence from across the world, including Central America as noted earlier, suggests that postwar reconstruction sometimes enables the distribution of land to ex-combatants, refugees and some IDPs, but rarely leads to the major land policy reforms required to benefit wider constituencies.<sup>clxxvii</sup>*

*As part of their attempt to “mainstream conflict prevention”, donors in the OECD DAC are developing new tools to help them promote land policies for peacebuilding and conflict prevention. The World Bank’s land policy research report offers principles and a coherent menu of options for donor programming in this area. Donors are considering how they might adapt the PRR framework for use in war-torn and conflict-prone societies, and follow country consultation and coordination processes embedded in other policy frameworks (e.g. the poverty reduction strategy papers) to fine-tune country-specific land policies.<sup>clxxviii</sup> Latin Americans have much to contribute to this process based on their experiences. The application of new conflict-sensitive land programming tools in the field will also have to be monitored, in Latin America and elsewhere. The creation of a transnational human resource network on land policies and conflict could facilitate southern input into these (northern) donor agency policy development processes.*

*A counterpoint to these debates is the awareness, among certain practitioners and scholars, that conflict-sensitive land policies cannot be formulated only at the national*

level, that context-sensitivity needs to be brought down to the local level. This emerging awareness is converging with a rich line of work on collaborative, community-based natural resource management (CBNRM). In the late 1990s IDRC and the World Bank Institute brought together researchers in this area and produced a seminal volume titled *Cultivating Peace*.<sup>clxxxix</sup> The case studies show how community organizations can use techniques such as stakeholder analysis, capacity-building and multi-party strategies to turn conflict over natural resources into collaboration. Several studies also demonstrate how this is more likely to be sustained in enabling environments -- where external actors such as national governments can be brought into the collaborative process. In the closing chapter the author picks up this thread, shows how public policy has often been a source of conflict over natural resources (e.g. through discriminatory or unclear tenure practices), and recommends a policy framework to reverse this dynamic. That framework includes implementing legal and administrative changes to strengthen local governments, enhancing coordination with local authorities, identifying and including other local stakeholders, facilitating local dispute resolution on the basis of customary law or other local norms, providing external support and allowing the time needed for CBNRM efforts to succeed.<sup>clxxx</sup> Researchers have a role to play in this regard, “as facilitators for local analysis and action, building bridges between, local knowledge, initiatives and forms of organization ... and external sources of information and resources ...”<sup>clxxxii</sup>

Notwithstanding this recognition that context is key to the success of CBNRM approaches, some of this literature remains excessively local in its focus. For example, a seminal paper written for FAO in 2002 acknowledged that national legal orders are crucial to local conflicts, and even quoted others’ insights on the need to complement local conflict management with efforts to change broader institutions and power relations. Yet that paper ended by focusing on alternate dispute resolution approaches, the necessary attributes of mediators and the techniques available to them in dealing with conflicts related to land, without linking this back to an understanding of broader institutional reforms required to facilitate local CBNRM successes.<sup>clxxxvii</sup> One should not exaggerate this tendency: for example, most of the research projects carried out on the basis of the first IDRC-UPAZ “Conflict and Collaboration in Natural Resources Management” small grants program also address linkages to national policy processes, despite their primary focus on local actors and processes.<sup>clxxxviii</sup> Yet this line of work does not seem to systematically link local-level analysis to research on options and constraints for promoting national reforms required to facilitate CBNRM.

As such there may be room to expand the bridge between action/analysis on land and conflict at the national level from a peacebuilding and conflict prevention perspective, and action/analysis at the local level from a CBNRM perspective. As noted in a recent paper for FAO: “The basic challenge is to find the right way to fully integrate local level conflict resolution mechanisms with the rest of the tenure regime.”<sup>clxxxiv</sup> This argument is made on the grounds that local land conflict management initiatives are more likely to be sustained if they are embedded in national regimes. One could also argue that linking local initiatives upwards is crucial because it can illuminate possibilities for legal or institutional reforms at the national level, and help underpin those reforms once they are brought on stream. The same paper cogently explains that there are many practical ways

*of articulating these levels of practice on land issues: for example by building local stakeholders' capacity to manage intra-community disputes peacefully and use the courts to redress injustices; initiating the modernization of local cadastres and land registries while pushing for legislative and fiscal reforms to harmonize such initiatives nationally; strengthening local customary conflict management mechanisms while championing national reforms to nest these norms and practices in statutory law.*

*Perhaps we require a new line of research that goes beyond old dichotomies, and looks at the combinations of local and national initiatives needed generate sustained conflict transformation in relation to land disputes, and at what can be learned from efforts, by coalitions, to align action at both levels in particular contexts. This research could build on rich insights from practice at the local and national levels in many countries, though it is in countries such as Brazil, where there are a multitude of local land and CBNRM initiatives as well as a promising process for national land policy reforms, that the possibilities for deep learning and influential research may be the greatest.*

## **5. Conclusions**

*The recent World Bank policy research report on land issues flags a series of questions that could guide research, particularly at the country level. It suggests that future studies should examine the amount of land held under different tenure regimes and the impact of these regimes on tenure security, overall and for constituencies such as women and indigenous peoples. They should also systematically document the range of land conflicts and conflict management mechanisms, and the differential impact of the latter. With regards to markets and productivity, research should examine the scope and functioning of land sales and rental markets, and of credit markets, in order to better document prices and transaction costs. As for the regulatory framework, national research should examine land tax regimes, their enforcement and differential benefits in practice, and the quality of public land administration services such as cadastres and property registries.<sup>cxxxv</sup>*

*This is a useful list of issues that could guide the design of baseline studies in specific countries. The current paper confirms the importance of these issues. It also reminds us that there is already much research that one can build on in Latin America, and identifies key questions where comparative monitoring or more basic research may be useful.*

*Many of the research issues flagged in this paper can be grouped under the rubric of what could be termed **tracking the outcomes of market-oriented reforms**. Though it is widely assumed in international circles that market-oriented reforms are optimal, research raises questions about their outcomes in practice. For example research in Paraguay suggests that land titling programs tend to disproportionately benefit large farmers because titling does not necessarily help small farmers obtain access to credit. On the other hand research on the liberalization of Mexican ejidos suggests that such programs can benefit the poor. Preliminary research on joint titling in some Latin American countries suggests that where such programs are given strong legal and*

*financial backing, they can benefit women. It also suggests that increased land ownership by women can have positive impacts on rural household incomes and their allocation. Yet research on the experiences of traditional agrarian reform beneficiaries under liberalization in Chile, Honduras and Nicaragua suggests that increased land sales have disproportionately benefited medium and large farmers. Research also suggests that the poverty reduction outcomes of increased land rentals are mixed; there is certainly little evidence yet, at least in Latin America, to support the World Bank's assumption that increased land rentals can be a stepping stone towards ownership by small producers.*

*Taking these initial insights into account, there appears to be a need for more systematic research which:*

- *Documents and assesses the outcomes of initiatives to modernize cadastres and property registries, liberalize land titling and regularize ownership by indigenous peoples, liberalize land sales and rental markets, create new land funds, change land tax regimes and create new national agrarian development agencies.*
- *Tracks the outcomes of these initiatives overall, especially for the poor, women and indigenous peoples. With regards to the latter, there is a particular need for more comparative research on efforts to articulate statutory and customary mechanisms regulating land rights, especially where these appear to be in tension -- as may be the case of indigenous women's land rights in some contexts.*
- *Looks at the possible relation between market-oriented land reforms, other processes such as armed conflict, and the re-concentration of land ownership. More broadly, there is an urgent need to rekindle the analysis of the political economy of land policy, namely to study how the negotiation of political and economic interests shapes land policies and their outcomes in different contexts.*

*This vast research agenda will necessarily have to be addressed in a de-centralized, cumulative manner. It would be greatly facilitated by efforts to improve the quality of basic data, especially by disaggregating household surveys and data on land policy and administration reform beneficiaries by sex.*

*Several other lines of research go beyond this agenda because they involve a more concerted effort to **explore alternatives**. Indeed, while there is an urgent need to understand how the building blocks of market-oriented reforms can work better, there is considerable skepticism in many countries, particularly among social movements but also among certain governments, about whether these can be made to work from a pro-poor perspective. One should not underestimate the impact that the Global Campaign for Land Reform headed by Via Campesina might eventually have on international policy debates in this regard. As such it seems urgent to open spaces for the rigorous study of policy options beyond current market-assisted approaches. This could include research which:*

- *Tracks initiatives that already go beyond market-oriented reforms, such as the redistributive agrarian reforms in Brazil, the production cooperatives sponsored by the MST in Brazil, or the current agrarian reform strategy in Venezuela.*

- Looks at the technical, financial and political obstacles to the success of such reforms, and how these could be removed. This is another area where studies in the political economy of policy change (or stasis) could be useful.
- Revisits assumptions about the failure of alternative approaches, for example by looking systematically at how beneficiaries of earlier land reforms, including production cooperatives, have fared in the new environment, and how their opportunities could be enhanced – within or beyond market-oriented frameworks.
- Dispassionately examines whether or how alternative policies and mechanisms might be more beneficial for the poor, women and indigenous peoples.

Obviously, these research agendas are not mutually exclusive. They shade into each other and could be mutually reinforcing. There are several streams of research that implicitly bridge these two agendas. One of these is the work on the **articulation of local and national land policy initiatives**. As noted in the paper, while there are persistent gaps between rich lines of research (and action) at the local versus the national level, there is an emerging line of work that looks at how factors can align across these levels to facilitate successful land policy implementation. This research confirms that strengthening local capacities -- to update land cadastres, resolve conflicting land claims, or manage land and other natural resources effectively -- should be a priority. But it also suggests that these local initiatives will face enormous barriers unless they are reinforced by changes at the national level. These measures include: a consistent approach to de-centralization, including fiscal de-centralization; legal reforms to harmonize local cadastres and registries; and legal reforms to nest customary norms and mechanisms in statutory systems. An interesting feature of this research is that it side-steps the dichotomy between market-oriented and alternative approaches, re-opening the door for fresh explorations of the mix of market-oriented, public sector and community-based initiatives that could underpin equitable and sustainable land policy strategies. There is clearly a need for more grounded, comparative research on best practices (and enduring obstacles) for local-national synergies in this domain. There is also a need for further grounded research on the relationships between land tenure and the sustainable management of natural resources in different country contexts.

A final line of research worth noting is the work on the **relations between land policies and conflict**. One strand in this research suggests that despite considerable advances in postwar reconstruction strategies over the past decade, it is proving difficult to move from short-term land policy initiatives such as resettling ex-combatants on clearly titled lands to reforming land administration institutions, tenure arrangements and rural development policies to address the war-related grievances of larger constituencies. This has been a major problem in Guatemala, Nicaragua and to a lesser extent in El Salvador. Initial research suggests that this could also be a major challenge in postwar Colombia. More research is needed on why this gap is so persistent, and on the options open for bridging short-term/long-term land policy gaps in these countries. Although this research has tended to lead to critical conclusions about market-oriented land reforms, it could also lead to exploring market/public/community policy mixes that could prevent the recurrence of armed conflict. There are prospects for this to occur in Colombia, given the long trajectory and sophistication of the land policy research community in that country.



*Opportunities might also emerge for new research tracking global efforts to build conflict-sensitivity into official development programming. The current discussion inside the **OECD DAC Network on Conflict Prevention**, on the possible adoption of supplemental guidelines or a handbook for conflict-sensitive land policy programming, might provide a venue for deepening this discussion in a practical way. The proposed creation of a transnational network on land policies and conflict could facilitate continued southern input into these tools and feedback on their application in the field. The DAC might also offer a suitable venue for channeling the nuanced results of research on the complex relations between land, other socio-economic and governance policies and war.*

***Follow-up to the World Bank PRR** will present other opportunities to influence global debates. The Bank, the European Union and various governments are currently discussing options for launching the PRR in specific countries, as a possible stepping stone towards enhanced national land policy processes. Some of these processes could provide vehicles for moving towards the coordinated, knowledge-based approaches to land policy espoused by many donors. While these processes could include the kind of baseline research alluded to at the beginning of this section, they could also build on the more specific questions flagged in this study.*

*There also seem to be many **opportunities to feed research into regional processes**. The ongoing meetings sponsored by the International Land Coalition and key donors will offer ideal venues for sharing research that tracks the outcomes of market-assisted land reform measures. In between these meetings, LandNet Americas offers an excellent virtual platform for sharing policy documents and research results. The websites and activities coordinated by the CLOC and Via Campesina provide venues for listening to voices beyond governmental and donor circles, and for sharing research with peasant, small farmer, indigenous peoples and women's movements. Deeper engagement between researchers and these important civil society organizations could facilitate more productive, informed dialogue between social movements and official agencies.*

*There are also important opportunities to contribute to informed debate at the national level. **Brazil** is a particularly promising context in this regard. Under the last government and particularly under the PT administration, national will, social pressure and international interest line up favourably behind major land policy reforms. Brazil is a context in which different approaches to land policy – from orthodox market-assisted measures such as the Banco da Terra, through the expanded Cédula da Terra program to programs that support production cooperatives based on MST-initiated land settlements - - co-exist and can be compared. It is also a country with strong indigenous research and policy dialogue capacities. Deeper learning about best practices in Brazil could have an enormous impact on the political economy of the possible in Latin America and beyond.*

*Although this favourable alignment of conditions is quite unique to Brazil, this does not mean that land policy researchers (and practitioners) in other countries should be*

*abandoned to their own devices. This paper documents exciting land policy and administration initiatives taking place in many other countries of the hemisphere, from Mexico to Venezuela to Chile. Though political will and/or capacity may be lacking at the top in certain countries, it is still important to track the outcomes of discrete reforms, particularly from pro-poor, gender-equity and indigenous peoples' rights perspectives. It is also important to support long-term thinking on policy alternatives in those contexts.*

*As noted in the forward to the World Bank policy research report:*

*...discussions on land policies are often characterized by preconceived notions and ideological viewpoints rather than by careful analysis ... given this lack of analysis, the potential for using land policies as a catalyst for social and economic change is often not fully realized.<sup>clxxxvi</sup>*

*One way to help us all move beyond “ideological viewpoints” is to encourage rigorous research that challenges preconceived assumptions on all sides of the land policy debate, in particular countries and from a comparative perspective.*

### **Endnotes**

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<sup>i</sup> Deininger (2003).

<sup>ii</sup> The PNRA-NR built upon Brazil's 1964 land law, the Estatuto da Terra (Law 4504). During the period of military rule (1963-85), little happened in the way of land reform with successive military governments concentrating upon the modernization of the latifundio, through credit subsidies, and colonization of the Amazon (Hall, 1990).

<sup>iii</sup> *Estimates based on the national agricultural censuses show the Gini coefficient remaining relatively stable between 1975 and 1995-96, at around 0.857, one of the highest coefficients of land concentration in Latin America (Sparovek, 2003: Table 6).*

<sup>iv</sup> *With the exception of the short-lived Fernando Collor regime (1990-92), successive governments have justified state intervention in the redistribution of land in these terms (Cardoso 1997; and Sparovek 2003).*

<sup>v</sup> This figure includes 579,733 families who benefited through the traditional land reform program administered by INCRA (Instituto Nacional de Colonização e Reforma Agrária); 51,608 through the Banco da Terra; and 3,694 in the PCPR (Projeto Crédito Fundiário e Combate a Pobreza Rural) program (MDA 2002). See (Sparovek 2003) on the debate over the accuracy of these figures.

<sup>vi</sup> MDA (2001). This report also cites 4,275 land reform settlements having been created between 1995 and 2001, with 584,655 beneficiary families, at a cost of R\$13.2 billion.

<sup>vii</sup> *Inflation dropped drastically as a result of the implementation of Brazil's Plano Real in 1995, and was associated with approximately a sixty percent decrease in land prices (Reydon and Plata 2002). Between 1995-2001 the average price per hectare of land acquired by INCRA for agrarian reform purposes fell from R\$ 382 to R\$ 264 (Teófilo, et. al. 2002:2). A major problem in further reducing the price of land for agrarian reform purposes is that the final price is often determined in the courts during the expropriation proceedings and judges have tended to favor landowners, particularly by over-valuing land improvements.*

<sup>viii</sup> Implementation of the improved land tax scheme, however, has proceeded slowly and with difficulty (Reydon and Plata, 2002).

<sup>ix</sup> Some 100 million hectares of illegally-titled national lands have thus far been identified. Approximately one-third of this area has been recuperated. The bulk of this area consists of forest reserves in the Amazon region, but some of this area is slated for new agrarian reform settlements (Teófilo, et. al. 2002: 10-11).

<sup>x</sup> See Borrás, et al. (2003) on how this model has been designed as a critique of state-led agrarian reform.

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- <sup>xi</sup> The execution of the program has been slower than expected. As of 2001, 14,000 families had acquired 370,000 hectares of land, with the targeted number to be reached in 2002 (Teófilo, et.al. 2002).
- <sup>xii</sup> MST (1998 and 2000).
- <sup>xiii</sup> While land occupations by the MST increased in this period, the sharp increase in occupations after 1996 was largely due to the growing militancy of other social movements (Hammond 2001: Table 1).
- <sup>xiv</sup> *Other sources of conflict with the social movements in this period pertained to the provision of credit (PROCERA was merged into PRONAF, the national credit program for family agriculture, and the volume of credit to the land reform settlements reduced) and technical assistance (the Lumiar program was abruptly ended) and support to family agriculture in general. There was also disagreement over the government's intention to "emancipate" many of the older land reform settlements. (Fernandes, 2001).*
- <sup>xv</sup> According to INCRA data, 145,382 of 745,859 valid applicants were interviewed and 70,035 of these applicants by mail were given land in the settlements during 2001-02 (MDA, 2002).
- <sup>xvi</sup> The lands targeted under this program are those not otherwise eligible for expropriation and smaller than 15 fiscal modules in size. Beneficiaries receive a 20-year loan, with a three-year grace period, at an interest rate of six per cent. As in the Cédula da Terra program, there is a flexible grant/loan financing mechanism, with funds not used to purchase land constituting a grant for investments in community infrastructure. It is this latter portion that is funded through the US\$ 200.1 World Bank loan. Credit for working capital and technical assistance is to be provided through the government's PRONAF program. See MDA (n.d.).
- <sup>xvii</sup> In the Grito da Terra 2002 CONTAG also advocated that those families who had registered for land via the post office be given land through the regular agrarian reform program and that priority attention be given to the regularization of the situation of squatters on public and private lands. (CONTAG, 2002)
- <sup>xviii</sup> PRONAF (2003).
- <sup>xix</sup> In this effort they are joined by the 43 NGOs and social movements making up the National Forum for Agrarian Reform and Justice in the Countryside. This group also lobbies for a maximum size limit being placed on the latifundia. (Gonçalves 2003).
- <sup>xx</sup> INCRA's budget for land acquisition in 2003 was reduced from R\$ 462 m. to \$R 162 m. Between January and June only 9,500 families were settled on agrarian reform settlements, but only 2,500 were new families, the others already having been processed under the previous government (Zibechi, 2003).
- <sup>xxi</sup> *The PT government has only promised to settle 60,000 families during 2003 (Weber, 2003) and (MST, 2003).*
- <sup>xxii</sup> *Sant'anna (2003). In early November the technical team charged with this task presented a draft of the new Plano Nacional de Reforma Agrária to the PT Minister for Agrarian Development, Miguel Rossetto. The plan calls for one million families to be settled in new agrarian reform settlements over four years and for an integral agrarian reform, with due attention to the development of agroindustry, education, basic infrastructure, and training and technical assistance. MST Informa (November 7, 2003).*
- <sup>xxiii</sup> Deininger (2003: 148).
- <sup>xxiv</sup> Borras (2003). For a positive view of the Cédula da Terra program, see Souza Filho, Buainain, Silveira and Magalhães (2000), Buainain, Silveira and Teófilo (2000), and Buainain, Souza Filho, Silveira and Magalhães (2001). These authors conducted the only survey of beneficiary households, 222 households in five states, very early in the program (1999).
- <sup>xxv</sup> Another project which should be added to this comparison is the Banco da Terra, in which all of the financing consists of credit. Not much has been written about this project; see Teófilo, et.al. (2002), for a brief description. Carvalho (1998) offers an insightful conceptual framework for analyzing different forms of associations under the Brazilian agrarian reform, emphasizing the factors that contribute to their social cohesiveness.
- <sup>xxvi</sup> See Tyler (2000) for a summary of various studies on this issue in the Brazilian case as well as a discussion of the problems repayment has presented for land banks of various types in other countries.
- <sup>xxvii</sup> For example, see the CD-rom of the papers presented at the VI Congresso da Associação Latino-Americana de Sociologia Rural (ALASRU), Porto Alegre, November 2002.
- <sup>xxviii</sup> Van Dam (1999); Barie (2000); Morales (2000).
- <sup>xxix</sup> Deere and León, 2000.
- <sup>xxx</sup> Urioste (2003).

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- <sup>xxx</sup> Correspondence with Gonzalo Colque and Wilfredo Plata, Fundación TIERRA-Bolivia, 13 November 2003.
- <sup>xxxii</sup> These recommendations have been shared with key audiences through a book, an accessible popular pamphlet, and in public presentations across the country over the past year. See Pacheco and Valda (2003); Consorcio Interinstitucional (2003); Fundación TIERRA (2003).
- <sup>xxxiii</sup> Deere and León (2000).
- <sup>xxxiv</sup> Rincón (1997); Heath & Deininger (1997); Machado (1998); Contraloría General de la República (2002) Mesa (1990).
- <sup>xxxv</sup> Deere and León (2001).
- <sup>xxxvi</sup> Correspondence with Professor Absalón Machado, Universidad Nacional de Colombia, 4 November 2003. For his earlier analysis of Colombia's incomplete rural development strategies, see Machado (1998).
- <sup>xxxvii</sup> Fajardo (2002), and telephone interview with Juan Plata of COLCIENCIAS. 8 October 2003.
- <sup>xxxviii</sup> Fajardo (2002: 7)
- <sup>xxxix</sup> Alejandro Reyes, cited in Deere and León (2001: 174).
- <sup>xl</sup> Salgado and Machado (2003).
- <sup>xli</sup> Maurice Lemoine (2003).
- <sup>xlii</sup> These highlights do not represent all the commitments related to land and the agrarian question in the peace accords. For a more detailed summary see Palma, et al. (2002 : 93-101).
- <sup>xliii</sup> MINUGUA (2000, 2003).
- <sup>xliv</sup> See Palma et al.. (2002: 106-107) and the other volumes in this series, also posted on the MINUGUA website.
- <sup>xl</sup> CONGCOOP and CNOC (abril 2002). See also the executive summary and the brilliant popular rendition of key messages under the same title, both published in September 2002.
- <sup>xlvi</sup> CNPT (2001 and 2002).
- <sup>xlvii</sup> Thillet, (2003). This research was also supported by IDRC.
- <sup>xlviii</sup> Alvarez (2001: 38 and 76-86). See also McElhinny (2000).
- <sup>xl</sup> Alvarez (2001).
- <sup>l</sup> Pino (1992) and Jansen (1998: 81-106).
- <sup>li</sup> Honduras Interim PRSP (2001: 69-74), on the IMF website: [www.imf.org/External/NP/prsp/2001/hnd/01/](http://www.imf.org/External/NP/prsp/2001/hnd/01/).
- <sup>lii</sup> Correspondence with Rafael Alegría, International Director, Vía Campesina, 10 October 2003.
- <sup>liii</sup> The Socioeconomic and Environmental Development group at Zambrano tracks lessons learned from rural development initiatives at the municipal level, but this does not seem to include research on the impacts of land tenure initiatives. See for example Falk (2002) on <http://www.rds.org.nh>.
- <sup>liv</sup> CIERRA (1998).
- <sup>lv</sup> Deere and León (2000: 201-205) and Cuadra Lira (2000).
- <sup>lvi</sup> Correspondence with Elvira Cuadra Lira, 12 November 2003.
- <sup>lvii</sup> Molina Cruz (2001).
- <sup>lviii</sup> Deininger (2003). The previous policy report was World Bank (1975). It gave overwhelming emphasis to issues of productivity and efficiency to the detriment of equity considerations.
- <sup>lix</sup> This has also been the conclusion of a growing number of academic studies (Zoomers 2000; de Janvry, Platteau, Gordillo and Sadoulet, 2001).
- <sup>lx</sup> The analysis supporting land rental over land sales markets closely follows that of Sadoulet, Murgal and de Janvry (2001).
- <sup>lxi</sup> See Birdsall and Londoño (1997) and Deininger and Squire (1998) on how the concentration of assets in Latin America has retarded economic growth and exacerbated poverty.
- <sup>lxii</sup> Among the lessons which the PRR draws from past land reform efforts are the following: i) it should only follow interventions to eliminate other distortions that increase land values (such as macro instability, subsidies, lack of effective taxation); ii) the greatest social benefits will be derived when the land to be redistributed is unproductive but of high agricultural potential; iii) the selection of beneficiaries should be done in a participatory, de-centralized and transparent manner; and iv) the provision of access to non-land assets and working capital is crucial. On past reform efforts, see Thiesenhusen (1995; 1999) and de Janvry, Sadoulet and Wolford (2001).
- <sup>lxiii</sup> Twenty-eight loans in Latin America could be readily identified on the Bank's website via a search of "land", "land policy", "land access" and "land administration." The majority of these projects (18) focus on natural resource management and local rural or indigenous development and may have land-access or

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administration components. These 18 loans totaled \$ 888.9 million. See [www4.worldbank.org/projects](http://www4.worldbank.org/projects), accessed August 3, 2003; and [www-wds.worldbank.org](http://www-wds.worldbank.org), accessed September 4, 2003. The composition of the Bank's current land-related portfolio in Latin America was confirmed in a phone interview with Isabel Lavadenz, World Bank, September 2, 2003.

<sup>lxiv</sup> Echeverría and Bello (2002: 7). The other three projects included one focused on agrarian reform settlements in Brazil, and two centered on sustainable development in frontier regions of Colombia and Guatemala. Eight countries received financing for land titling and administration projects: Belize, Brazil, Colombia, Costa Rica, the Dominican Republic, Ecuador, Jamaica and Peru.

<sup>lxv</sup> The justification for the IDB strategy is laid out in Jaramillo (1998) and Echeverría and Bello (2002).

<sup>lxvi</sup> The Interagency Group for Rural Development in Latin America includes the World Bank, IDB, CEPAL, FAO, FIDA, IICA, GTZ, and USAID.

<sup>lxvii</sup> Echeverría and Bello (2002: 12).

<sup>lxviii</sup> *Ibid.*: 8 and correspondence with Rubén Echeverría, Chief, Rural Development Unit, Sustainable Development Department, IDB, 15 September 2003. The new projects approved or pending are in Bolivia, Brazil, Panama, Paraguay and Venezuela.

<sup>lxix</sup> Correspondence with Rubén Echeverría, *op.cit.* Only seven of the projects have been evaluated, principally in terms of project performance. Given their complexity and political sensitivity only two of the seven were completed on schedule. It seems as if most of these projects did not include a viability assessment with respect to their efficacy in terms of directly improving the incomes and welfare of beneficiaries (Echeverría and Bello 2002: 9). Jaramillo (1998: 94, 124) also stresses the need to evaluate these projects to assure that they are in fact benefiting the poor.

<sup>lxx</sup> The FAO research projects were carried out in the early 1990s in Bolivia, Brazil, Chile, Colombia, Ecuador and Mexico and were published as FAO working papers in 1994 and in Reydon and Ramos (1996).

<sup>lxxi</sup> See FAO (2002) for a list of its current projects.

<sup>lxxii</sup> IFAD (2001).

<sup>lxxiii</sup> IFAD (2002).

<sup>lxxiv</sup> The CEPAL-GTZ studies were carried out between 1998-2000 in Argentina, Bolivia, Brazil, Chile, El Salvador, the Dominican Republic, Guatemala, Paraguay, and Peru. They are summarized in Tyler (2000) and will be available in a forthcoming CEPAL collection edited by Pedro Tejo. Correspondence with Martine Dirven, ECLAC Agricultural Unit, August 22, 2003.

<sup>lxxv</sup> USAID (2002) USAID funds and works extensively with ILD, in the Americas and beyond.

<sup>lxxvi</sup> de Soto (2003).

<sup>lxxvii</sup> USAID (2002: 3).

<sup>lxxviii</sup> USAID(2002: 6). For details see FUNDESA (2001).

<sup>lxxix</sup> Background documents for the World Bank and USAID Consultative Meeting on Land Issues -- April 24 to 26, 2001. See also [www.usaid.gov/our\\_work/agriculture\\_landmanagement/](http://www.usaid.gov/our_work/agriculture_landmanagement/).

<sup>lxxx</sup> Statement by Jolyne Sanjak, Senior Advisor, Land Policy, USAID, at the Presentation of the World Bank Policy Research Report on Land Policies for Growth and Poverty Reduction, Paris, 19 June 2003.

<sup>lxxxi</sup> See <http://www.wisc.edu/lte> for more information on Phase 1, and <http://www.basis.wisc.edu/> for information on the current phase. See BASIS (2002) and "Phase II: Proposal", on-line.

<sup>lxxxii</sup> In July 2003, the relevant European Union website (<http://europa.eu.int/comm/development>) was searched thoroughly for information on land policies and programming in Latin America. Several requests for more information were also submitted to the European Commission.

<sup>lxxxiii</sup> DFID (2002) and correspondence with Julian Quan, Land Policy Advisor, DFID Land Tenure Group, 16 September 2003. The learning initiative on land access and redistributive land reform, linking the Brazil country program with DFID-supported activities in South Africa and South Asia, is worth following in this regard. See <http://www.dfid.gov.uk> for more information on the Department's priorities.

<sup>lxxxiv</sup> GTZ (1998.) See [http://www.mekonginfo.org/mrc/html/tenure/te\\_inh.htm](http://www.mekonginfo.org/mrc/html/tenure/te_inh.htm) for more information.

<sup>lxxxv</sup> Strachan (2001) and Bergeron (February 2003). The table in Annex 1 of the second paper suggests that the results of CIDA-funded land projects in the Americas are mixed at best.

<sup>lxxxvi</sup> See [http://www.acdi-cida.gc.ca/cida\\_ind.nsf/682f5cd8c017661b8525677d0071179](http://www.acdi-cida.gc.ca/cida_ind.nsf/682f5cd8c017661b8525677d0071179) or <http://www2.worldbank.org/hm/hmlandpolicy/0087.html> for more information.

<sup>lxxxvii</sup> Phone interview with Harvey Sims, former Director, CIDA Policy Branch Research Division, on 27 August 2003.

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<sup>lxxxviii</sup> IDRC (2003). In addition to the present paper, IDRC has commissioned a note on its own programming options in the Americas. For more information on IDRC land-related funding in the Americas, see <http://www.idrc.ca/minga> and <http://www.idrc.ca/peace>.

<sup>lxxxix</sup> Deere (2001d).

<sup>xc</sup> CLOC (2001). Downloaded from <http://www.movimientos.org/cloc/show> on 27 November 2003.

<sup>xc<sup>i</sup></sup> CLOC, (2003). Downloaded from <http://www.movimientos.org/cloc/show> on 27 November 2003.

<sup>xc<sup>ii</sup></sup> Deere (2001d) and Desmarais (2003).

<sup>xc<sup>iii</sup></sup> Desmarais (2003).

<sup>xc<sup>iv</sup></sup> Correspondence with Rafael Alegria, International Director, Vía Campesina, 10 November 2003.

95 Vía Campesina (2003).

<sup>xc<sup>vi</sup></sup> Analysis of documents and reports of the Popular Coalition to Eradicate Hunger and Poverty, today called Land Coalition. Especially Coalition Popular (2001).

<sup>xc<sup>vii</sup></sup> Information obtained from <http://www.landcoalition.org>, accessed on 27 November 2003.

<sup>xc<sup>viii</sup></sup> Deininger (2003: 182).

<sup>xc<sup>ix</sup></sup> The heyday of research on land issues in Latin America was during the 1960s and 1970s, the period of agrarian reform. Subsequently, there was a marked drop in attention to land and rural issues in general. Analysis of the impact of the neo-liberal counter-reforms has been concentrated in a few countries, with Chile, Mexico, and Nicaragua receiving the most attention.

<sup>c</sup> Few agricultural censuses ask these questions of owner-operators and until recently, even the World Bank's Living Standard and Measurement Surveys (LSMS) were deficient in this regard. The LSMS have been carried out in over a dozen Latin American countries since the 1990s but, for example, only two of these surveys, for Peru and Paraguay, have inquired into the gender of the land owner, and only that for Peru into how each parcel of land was acquired (Deere and León 2003). Tyler (2000: Table 3) summarizes data from the CEPAL-GTZ studies on the predominant form of acquisition of farms for five countries.

<sup>ci</sup> See Jaramillo (1998) and Echeverría and Bello (2002) on the need for a thorough evaluation of the IDB's land titling and administration projects.

<sup>c<sup>ii</sup></sup> See Carter and Barham (1996) on Paraguay, and Carter and Salgado (2001) for a summary of the evidence on Honduras. The results of the various studies on this latter country are mixed, but generally report a credit bias toward large landowners. The PRR recognizes that the positive effect of titling on credit access for the poor is not universal, and that a positive relation depends on transaction costs being sufficiently low (so that private financial institutions are willing to lend to the poor) and on the profitability of their potential investment projects being sufficiently high (Deininger 2003: 44-50).

<sup>c<sup>iii</sup></sup> Deininger and Chamorro (2002).

<sup>c<sup>iv</sup></sup> Carter and Olinto (2003).

<sup>c<sup>v</sup></sup> *Land market studies in Argentina, El Salvador and Peru found that small farmers were often not very interested in formally titling their landholdings for they saw few benefits in doing so (Tyler 2000). In Nicaragua, Deininger and Chamorro (2002) found that farmers with untitled land did not consider a simple land title to be worth the effort. The demand for titling was for a registered, formal title among those who had a simple land title (in this case, an agrarian reform title).*

<sup>c<sup>vi</sup></sup> The Mexican land titling process on the ejidos has been a two-stage process. In the first stage, land holdings are parcelized and beneficiaries may rent their land to outsiders, but can only sell their land to other ejido members. Full transferability of land (*dominio pleno*) involves the dissolution of the ejido and requires another two-third's majority vote of the ejido assembly. Few ejidos have passed to this stage, partly because of the perceived benefits of remaining in the ejido regime as opposed to that of full private property; once they pass to the private regime, for example, lands will be subject to taxation. Without *dominio pleno*, however, land cannot be legally sold to outsiders (Deere and León 2001).

<sup>c<sup>vii</sup></sup> The Peruvian Land Law of 1995 allows peasant and indigenous communities to change their tenure regime with a two-thirds vote of the membership in the case of the highlands and a simple majority on the coast. The main barrier to the wide-scale privatization of community lands in the highlands is that the previous, collective titles must first be regularized before formal privatization can begin. In many cases, land is already treated as private property, with land rentals and sales among community members being relatively frequent. This raises the question of whether a large-scale formal titling effort is really called for.

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- <sup>cvi</sup> See Reydon and Plata (2002) for a brief review of Brazil's experience with its rural land tax and the political obstacles to its implementation.
- <sup>cix</sup> Jaramillo (1998: 94-95, 124); Deininger (2003: 188).
- <sup>cx</sup> Tyler (2000: 9).
- <sup>cxii</sup> Deininger (2003: 2).
- <sup>cxiii</sup> Data on the share of rentals reported in the agricultural censuses (1950-1990) indicate a downward trend suggesting that the regulations of the agrarian reform period have discouraged the renting of land. Moreover, data for Brazil and the Dominican Republic indicates that land rentals are inversely correlated with the degree of tenure security (de Janvry, Macours and Soudelet 2002).
- <sup>cxiiii</sup> In Chile, 57 per cent of the beneficiaries had sold their land by 1991 (Echenique, 1996: 88). A recent study by Murray (2003) shows how even those beneficiaries initially able to integrate themselves to Chile's fruit export boom, have ended up selling their land due to indebtedness, with the main beneficiaries being agro-industry or medium-sized producers. On Nicaragua see Jonakin (1996). Deininger, Zegarra and Lavadenz's (2003) analysis of survey data for Nicaragua for 1995 and 1998, shows that land sales in this period led to the increased concentration of land among large producers. On Honduras see Carter and Salgado (2001).
- <sup>cxv</sup> Carter and Salgado (2001).
- <sup>cxvi</sup> Carter and Salgado (2001).
- <sup>cxvii</sup> *Olinto, Deininger and Davis (2000: Table 2). Nonetheless, Mexico receives high praise in the PRR as the success story of removing land rental restrictions; these moves led to an "increase in rental market activity and household welfare and improved governance" (Deininger, 2003: 120-121).*
- <sup>cxviii</sup> For example, in the Yaqui Valley, 70 per cent of ejidatarios surveyed were renting out their land in 1999, with the overwhelming majority of these rentals being to non-ejido farmers and enterprises (Lewis 2002: 408). The main reason given for these rentals was lack of access to credit, followed by the high price of inputs and low crop prices.
- <sup>cxviiii</sup> Studies of land rental markets may also be particularly sensitive to fluctuations in macro-economic conditions, particularly if short-term rather than long-term leases predominate. A recent study in Nicaragua suggests that in 1995 large farmers were the main renters of land. In contrast in 1998 land was being transferred primarily from large to small farmers and the landless, but the total amount of land so rented was also quite small (Deininger, Zegarra and Lavadenz 2003).
- <sup>cxix</sup> Reydon (2000).
- <sup>cx</sup> Deininger (2003: 2).
- <sup>cxxi</sup> Deininger (2003: 88).
- <sup>cxvii</sup> Bardham, Boucher and Useche (2001) conclude that in Honduras such a process is the exception rather than the rule. Carter (2001) finds that land rental have played almost no role at all in facilitating upward mobility among Nicaraguan rural households. This is an important topic worthy of further research.
- <sup>cxviii</sup> *The PRR asserts that rentals have been found to be more effective than government land distribution programs, citing evidence from Colombia (Deininger 2003: xxxv, 113), but this question requires much more research.*
- <sup>cxix</sup> A useful recent study of the cooperative sector in Honduras is Ruben (1999). The PRR summarily dismisses production cooperatives as being unsuccessful, but Ruben suggests otherwise, noting that these play important functions in the face of imperfect competition on local factor and commodity markets.
- <sup>cxv</sup> *A comparative study of the historical experience with agrarian reform production cooperatives could benefit from the inclusion of the Cuban case. See Deere and Pérez (1999) and Deere, Gonzales, Pérez and Rodríguez (1995).*
- <sup>cxvi</sup> In Nicaragua and El Salvador comprehensive new agrarian codes were under discussion throughout the 1990s, but were so controversial that neither country has adopted one. Governments in both countries announced the agrarian reform to be over once the transfer of land under the Peace Accords was concluded. See Deere and León (2001) for a discussion of the status of neo-liberal legislation up through 2000.
- <sup>cxvii</sup> See Griffin, Khan and Ickowitz (2002) on why the only way to dramatically reduce rural poverty might be if land reform is done with a high level of land confiscation.
- <sup>cxviii</sup> Deininger (2003: 148).
- <sup>cxix</sup> Reardon, et.al. (2001).

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<sup>cxxx</sup> The World Bank undertook a separate review of its rural development strategy (Csaki 2003) at the same time that the PRR on land policy was being prepared but its conclusions are not integrated into Deininger (2003). For lack of time, it was also impossible for purposes of this report to consider its implications for land policy. Worth noting, nonetheless, is that the rural development strategy does highlight land reform (“where land is very unequally distributed”) among the underlying factors of success in agricultural development (Box 2, in <http://lnweb18.worldbank.org/ESSD/ardext.nsf>); accessed November 18, 2003.

The IDB is currently in the process of undertaking a comprehensive review of its rural development strategy in Latin America that is expected to include attention to land issues. Correspondence with Rubén Echeverría, op. cit.

<sup>cxxxi</sup> See Crabtree (2003) for a recent study of Peru.

<sup>cxxxii</sup> The most cited cases of smallholders successfully being integrated into non-traditional export production are in Guatemala as vegetable producers, and in Chile as fruit producers. In the latter case, this success may have proved ephemeral, as many smaller fruit producers are being absorbed by agro-business and larger enterprises (Murray 2003).

<sup>cxxxiii</sup> Audley, et. al. (2003).

<sup>cxxxiv</sup> Van Dam (1999).

<sup>cxxxv</sup> *A study conducted by FIDA in 10 Latin American countries shows that with the exception of Bolivia, Mexico and Brazil "the index of concentration has experienced a minimum reduction in periods extending from 10 to 29 years, whilst the index of average concentration for countries analyzed is greater than 0,50." Referred to by Van Dam (1999). According to Van Dam, in reality it is not poverty but the unequal structure of access to resources and the problems related to land ownership which explain this supposed relation of cause and effect between poverty and environmental degradation.*

<sup>cxxxvi</sup> Under the programs of land regulation initiated within the SUBIR project and the SUR program, also financed by USAID and administered by CARE International, it has been proven that indigenous and Afro-Ecuadorian communities already maintained zoning for the use and access to natural resources in their territories. This zoning has contributed to the maintenance of their ecosystems. This was confirmed during the workshops for the elaboration of Integral Management Plans, through speaking maps drawn by previous inhabitants of these communities, and afterwards through satellite images.

<sup>cxxxvii</sup> Van Dam (1999).

<sup>cxxxviii</sup> Thillet (2003).

<sup>cxxxix</sup> Ramírez and Berdegué (2003).

<sup>cxli</sup> Perez (1996).

<sup>cxli</sup> The SUBIR project was one of conservation and development lasting 10 years (1992 to 2002), administered by CARE International in Ecuador and financed by USAID. Its area of work covered some protected areas of Ecuador. The policy advocacy component administered by Manolo Morales, current Executive Director of ECOLEX, contributed to the outcome explained in the text.

<sup>cxlii</sup> Resolution 001 for the application of art. 38 of the Law on Agricultural Development, 1996.

<sup>cxliii</sup> “Interinstitutional Agreement between the Ministry of the Environment and INDA for the approval of administration plans of lands covered by natural forest...” May 2002.

<sup>cxliv</sup> ECOLEX (2003). Systematization of data regarding the granting of land titles in Ecuador. 2003.

<sup>cxlv</sup> See for example IDRC, 2003 and Gonzalez, 2000.

<sup>cxlvi</sup> Deere and León (2003).

<sup>cxlvii</sup> See Agarwal (1994) and Deere and León (2001a).

<sup>cxlviii</sup> Deere and León (2001a).

<sup>cxlix</sup> Several studies have found that the sex of the farmer is not a significant predictor of output or yields; moreover, under certain conditions a reallocation of resources between men and women improves efficiency (Quisumbing 1996).

<sup>cl</sup> Katz and Chamorro (2002).

<sup>cli</sup> Deere, et.al. (2003).

<sup>clii</sup> This is a combined result of the impact of the UN conferences on Women, the strengthening of national women’s offices and institutes, the growth of women in government, and the lobbying of the women’s movement, particularly in countries where there has been an effective alliance between the rural and urban women’s movements. See Deere and León (2001a).



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<sup>cliii</sup> Joint titling is now required in state programs in Brazil, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Nicaragua and Peru, and is optional in Honduras. See Deere and León (2001a, 2001b).

<sup>cliv</sup> Deere (2003). In October 2003 the PT government confirmed its commitment to the joint adjudication and titling of land to couples (whether married or in consensual unions), via “Portaria INCRA No. 981 de 03 de outubro de 2003,” in *Boletim NEAD, Notícias Agrárias 06 a 12 de Outubro de 2003, No. 205*, [www.nead.gov](http://www.nead.gov) (Accessed October 4, 2003).

<sup>clv</sup> Deere and León (2001a).

<sup>clvi</sup> See Lastarria, et.al. (2003), for a preliminary assessment of the impact of joint titling legislation in Nicaragua and Honduras.

<sup>clvii</sup> Deere and León (2001b).

<sup>clviii</sup> Deere and León (2003).

<sup>clix</sup> *Ibid.*, and Lewis (2002). Some inferences can also be drawn from regression analyses on the determinants of land rentals. De Janvry, Macours and Sadoulet (2002) find that in the Dominican Republic female-headed households are less likely to rent in and more likely to rent out land than male-headed households.

<sup>clx</sup> Deere and León (2001a, 2003).

<sup>clxi</sup> Deere and León (2001a).

<sup>clxii</sup> Deere and León (2001c).

<sup>clxiii</sup> Most Latin American countries now offer an option between full or partial community property and the separation of property regime. The default (what prevails unless declared otherwise) tends to be partial community property, but three Central American countries remain wedded to the separation of property regime, the most unfavorable for poor women. Moreover, most Latin American countries now offer the same property rights to couples in consensual unions as legal marriages. See Deere and León (2001a).

<sup>clxiv</sup> It must be remembered that Latin American jurisprudence originates in the Napoleonic Code which proposed a Unified State as opposed to cultural and ethnic diversity for the aboriginal peoples which originates in common law. “Taller regional” (2002).

<sup>clxv</sup> Chase Smith (2000).

<sup>clxvi</sup> *Wray. Insofar as the background cases, the Ninth American International Conference (1948) requests States to provide aboriginal peoples with protection and assistance. Agreement 107 dated 1957 argued for progressive integration of aboriginal peoples within daily life within the respective countries. The recognition of the rights of aboriginal peoples within the framework of human rights is laid down under two agreements adopted in 1966, known as The International Pact of Civil and Political Rights and the International Pact of Economic, Social and Cultural Rights, in force since 1976.*

<sup>clxvii</sup> According to the classification made by Barié (2000) the 11 “leading” countries (de jure) are: Panama, Guatemala, Nicaragua, Brazil, Colombia, Mexico, Paraguay, Peru, Bolivia, Argentina and Ecuador..

<sup>clxviii</sup> *As an example we can mention the case of Ecuador. The Constitution of 1998 recognizes under article 224 that for the political administration of the State there will be provinces, cantons, parishes and Afro Ecuadorian and aboriginal territorial districts. Article 241 states that Afro Ecuadorian and aboriginal territorial districts shall be regulated by law under which the administrative authority will also be determined. In practice however, this law has not yet been enacted.*

<sup>clxix</sup> El comercio (27 January 2001).

<sup>clxx</sup> According to Rodolfo Stavenhagen (1990): “There exist disagreements between the specialists regarding the nature of common law rights. As we have already indicated, the simple idea is that common law exists as a coherent combination of standards and unwritten rules existing before and after written State law, which is not presently admitted. It is necessary to admit that the idea itself of inherited common law arises at the time when European societies establish their colonial domination over non western populations and attempt to impose their own law upon conquered peoples. In other words, the relationship between western colonial rights and the inherited common law is historically a relationship of power between one dominating society and one that is dominated”.

<sup>clxxi</sup> According to Bronstein (1998): “...the system of inherited common law is accepted and respected by indigenous peoples even in the absence of legislation or constitutions of written law that recognize any legal effect at all.

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<sup>clxxii</sup> The 1997 Guidelines only refer to land in passing, but suggest that socio-economic disparities, scarcity of water and productive land, and changes in land tenure systems are “structural factors” that “create a potential climate for violent conflict without, however, making its eruption inevitable.” See OECD (2001).

<sup>clxxiii</sup> For a recent review of this literature, see Arcand and Pons-Vignon (2003). For a deeper discussion on the weight of mediating variables such as elite and counter-elite strategies, see Daudelin (2002).

<sup>clxxiv</sup> Collier (2003). For a more nuanced recent analysis, see Ballentine and Sherman (2003).

<sup>clxxv</sup> Deininger (2003: xl-xli).

<sup>clxxvi</sup> Arcand and Pons-Vignon (2003: 9).

<sup>clxxvii</sup> For a synthesis of this trend, building on case studies from seven countries including Guatemala and Colombia, see Daudelin (2003a). This tendency could also apply to Colombia unless the agrarian question is dealt with adequately in future peace negotiations. A consortium of Colombian research institutions, led by Absalón Machado of the Universidad Nacional, is currently scoping options for research and policy dialogue on agrarian policies that would contribute to sustainable peacebuilding in the future. This study will yield outputs in early 2004.

<sup>clxxviii</sup> OECD (2003). This memo identifies several issues warranting further research, including:

- “... comparative research on a limited set of cases – e.g. Guatemala and El Salvador ...
- Research focused on the politics of societies .... This could lead to the design of methodologies and frameworks to help donors carry out their political assessments ... to better inform them on the relevance of their policies...
- A review of donor practices affecting the interaction between land issues and conflict in recipient countries remains to be conducted.”

<sup>clxxix</sup> Buckles (1999).

<sup>clxxx</sup> Tyler (1999).

<sup>clxxxi</sup> Vernooy (1999).

<sup>clxxxii</sup> Ramírez (2002). The source quoted is Hendrickson (1997).

<sup>clxxxiii</sup> Borel (2002).

<sup>clxxxiv</sup> Daudelin (2003b).

<sup>clxxxv</sup> Deininger (2003: 182).

<sup>clxxxvi</sup> Deininger (2003: ix).

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