Realising the Right to Food by Integrating Human Rights in Poverty Reduction Strategies?

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1. Introduction

How to eradicate global hunger and food insecurity are challenges that national and international actors, local households and individuals are struggling to address. Presently, we have the answers to questions concerning how many people lack food security and why this is, who they are, and where they live, but we have not been able to trigger action that provides expected and agreed results. Over the last 50 years, development and human rights discourses have evolved in parallel, sharing the same overall aim of increased human well-being, but offering different theoretical frameworks and tools for reaching this aim. Rights-based approaches provide a focus on individuals as active subjects, offer a legal basis for them to claim rights, and stress the importance of accountability and enforcement mechanisms. Development discourses have evolved over time from focusing on modernisation and economic growth to the present Poverty Reduction Strategy Processes (PRSP) and good governance. Although development and human rights discourses have evolved in parallel, there have been convergences, as, for example, during the last decade. One of the basic rights recognised by the United Nations since 1948, and later in legally binding international instruments, is the right to food. This article proposes that in order to realise the right to food it must be included as a human right in the ongoing poverty reduction processes. The link is made by regarding the right to food as the legal basis for the poor to claim their right and poverty reduction strategies as the operational policy instrument for action. Rights-based development approaches need a policy and a strategy for action as well as an
efficient mechanism for how to realise rights at national and local level. If the right to food is to be operationalised, there is a need to create income opportunities for those who are hungry and lack food security. PRSPs, or other poverty eradication efforts, could be one vehicle for creating such opportunities, provided there is the genuine political will to implement the PRSPs. The purpose of this article is to assess what a rights-based approach to development has to offer to poverty reduction and vice versa. What could be the efficaciousness of integrating food as a human right in the ongoing poverty reduction processes? To what degree might such an approach turn genuine political will into action and facilitate good governance in relation to eradicating food insecurity? To what degree would marrying human rights thinking with poverty reduction strategies have a greater potential to increase food security than either of the two approaches by itself? The result of the many types of failures – production failure, entitlements failure, market failure, policy failure, institutional failure, governance failure, empowerment failure, civil society failure and community failure – is that about 30,000 people die of hunger-related causes every day and about 800 million go to bed hungry (FAO, 2002).

2. Rights-Based Development and Food as a Human Right

A rights-based approach to development sets the achievement of human rights as an objective of development. It uses thinking about human rights as the scaffolding of development policy. It invokes the international apparatus of human rights accountability in support of development action. In all of these, it is concerned not just with civil and political rights, but also with economic, social and cultural rights (ODI, 1999:1).

The right to food was declared a basic human right in the UN declaration of 1948, which stated that everyone has the right to a standard of living adequate for health and well-being of himself and of his family, including food, clothing, housing and medical care (UDHR, 1948). Since then the international community has developed a comprehensive legal framework for the protection and promotion of human rights. The International Covenant on Economic, Social and Cultural Rights (ICESR) of 1966, ratified by some 145 states, and General Comment 12, adopted in 1999 by the Committee on Economic, Social and Cultural Rights, provide a commonly used definition of food as a human right: ‘The States Parties to the
present Covenant recognise the right of everyone to an adequate standard of living including adequate food and agree to take appropriate steps to realise this right’ (Article 11(1) ICESCR, 1966). In the Covenant, the right to food is recognised both as part of an adequate standard of living, which also includes housing and clothing, and separately as the fundamental right to be free from hunger. In General Comment 12, the core content of the right to adequate food implies the availability – in sufficient quality and quantity to satisfy the dietary needs of individuals – of food that is free from adverse substances and acceptable within a given culture, and the accessibility of such food that is sustainable and does not interfere with the enjoyment of other human rights.

The International Covenant on Economic, Social and Cultural Rights emphasises that states must do everything possible to ensure adequate nutrition – and legislation to that effect. But hungry citizens cannot prosecute their government under the Covenant; only under their country’s own laws. If a country has never passed any laws, it has violated the Covenant, but the citizen has no redress. The right to food is written into the constitutions of 20 countries (FAO legal office, 1998). Congo, Ecuador, Haiti, Nicaragua, South Africa, Uganda and Ukraine recognize explicitly the right to adequate food as set out in the ICESR. Bangladesh, Ethiopia, Guatemala, India, the Islamic Republic of Iran, Malawi, Nigeria, Pakistan, Seychelles and Sri Lanka declare the state to be responsible for achieving these goals. Lastly, the constitutions of Brazil, Guatemala, Paraguay, Peru and South Africa recognize children’s right to adequate food and nutrition.

The World Food Summit in 1996 reaffirmed the right to food: ‘We, the Heads of State and Government ... reaffirm the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger.’ USA made a reservation on this point. The right to food was also a hot issue at the World Food Summit: five years later (WFS:fyl) in June 2002 where Norway, as in 1996, strongly advocated for this right. The questions that FAO put on its home page in relation to WFS:fyl were:

▼ What, if anything, does the right to food oblige states to do for their people?
▼ To what extent can the right to food ever be realised?

Human rights experts have identified three levels at which the
state’s human rights obligations operate; states must respect, protect and fulfil the individual’s right to food (Eide, 1998; Economic and Social Council, 1999). Obligations to respect stipulate limits on the exercise of state power, rather than positive action. The state should not, in general, interfere with the livelihoods of its subjects or their ability to provide for themselves. Obligations to protect entail regulating the conduct of non-state actors, and the establishment of an enabling regulatory environment – that is, legislations and sanctions, for example, in the fields of food safety and nutrition, protection of the environment and land tenure. Obligations to fulfil entail positive action by the state to identify vulnerable groups and to design, implement and monitor policies that will facilitate their access to food-producing resources or an income. As a last resort, direct assistance may have to be provided to ensure, at a minimum, freedom from hunger. Mary Robinson, UN High Commissioner for Human Rights (Robinson, 1998), states that a human rights approach to food and nutrition is different from a basic needs-oriented approach to development because it is normative, because the beneficiaries are active subjects or claim holders and because the approach introduces an accountability dimension. She also underlines that the right-to-food approach is often misunderstood as an obligation on states to feed their citizens rather than respect and protect the rights related to food. However, the broad interpretation of food as a human right implies the right to be supplied with food when one cannot obtain it, which demands resources in order to be realised. Because of the resource issue, some countries such as, for example, the USA does not accept the broad interpretation of food as a human right.

The World Food Summit NGO forum in 1996 proposed a Code of Conduct on the right to food in order to reduce the weaknesses in the existing human rights instruments, including the lack of precise descriptions of the legal concepts contained in the right to food and of corresponding state obligations mentioned in the ICESCR:

An international instrument should be adopted by states, drawing on the International Code of Conduct on the Human Right to Adequate Food. The mandate for the preparation of such an instrument was given by the World Food Summit to the High Commissioner for Human Rights. Such a new international instrument must therefore be adopted by the Commission on Human Rights (CHR) and subsequently by the Economic and Social Council of the United Nations (ECOSOC). Due to the fact that improving the right to adequate food was identified in Rome as one of the major tools for the implementation of the
World Food Summit results in general, it is also important to get the support of the FAO Committee on World Food Security (CFS) (Windfuhr, 1998: 11).

On the occasion of the international seminar, The Right to Food: A Challenge for Peace in the 21st century, which took place in Rome in September 2001, an appeal was forwarded to FAO and WFS:fyl (June 2002) to start the process of developing an official state-negotiated Code of Conduct on the Right to Adequate Food in consultation with the UN High Commissioner for Human Rights and other relevant organisations. However, the outcome of the WFS:fyl was that only voluntary guidelines on food as a human right should be developed by the FAO Committee on Food Security (CFS) to support member states’ efforts to achieve the progressive realisation of the right to food in the context of national food security.

What is the usefulness of the right to food?
In 2001, in the Supreme Court of India, NGOs in Rajasthan forced public corporations and state governments to accept responsibility for malnutrition in the country (FAO website, 2002). India has a right to life clause in Article 12 of its constitution. In addition, Rajasthan has a famine code that states: ‘Owing to its geographical position, Rajasthan which is an agricultural region in which perennial irrigation is inconsiderable and dry farming extensive rainfall... is not only poor, but also precarious... when crops are lost over a large portion of the State for two or more years in successions, the inevitable result is distress among the peasantry and more particularly among the landless labourers’ (page i, clause I). ‘When the rains fail, crops fail and it is of utmost importance to make active preparation and thereby put heart into the people’ (page 5, clause 37). The famine code is quite specific about the nature of relief to be provided. From February to the end of July, the following types of relief measures are to be taken: ‘Relief works (roads, irrigation, etc); relief to people employed otherwise than on relief works; gratuitous relief (for those who cannot work).’ Government policies include a distribution system, which will give fair remuneration to farmers and through which it will supply food grain at reasonable prices such as buffer stocks for emergencies, food for work and a scheme to cover the poorest.

The content of charges filed by the Rajasthan People’s Union for Civil Liberties (PUCL) against the Federal Government of India
and the government of the state of Rajasthan were as follows:

- Buffer stocks were withheld from the starving population (50 million tonnes of grain lay idle barely 75 kilometres away, while people were malnourished and cattle dying).
- The State government set very low grain quotas, covering only 1.5 per cent of the drought-affected population and purchased only 1 per cent of the quota. In addition, anomalies had been documented in the payment of workers in the food-for-work system.
- The official subsidised food was not enough to cover the minimum daily requirement of 2,400 calories per day.

On 28 November 2001, the court ruled in favour of the Rajasthan PUCL. It directed the state to complete the identification of families below the poverty line; to implement a programme for children and pregnant women; and to provide assistance to families who had lost the main breadwinner. The India case shows that it is possible for poor people, with some help, to sue the state and win. However, as of June 2002, the state and federal governments of Rajasthan/India had not yet complied with the directives (Human Rights Features, 2002). The state and federal governments claim that there is no destitution, there are no deaths from starvation and that the state has completed the prescribed schemes. Although it was the starving and those without food security who won the case in court, implementation is yet to be seen.

3. Poverty Reduction and Food Insecurity

The first World Food Summit in 1974 resolved that all hunger would be eradicated within the next ten years. Twenty-two years later at the World Food Summit in 1996, it was agreed to attempt to reduce the number of undernourished people by half, from 800 million to 400 million, by the year 2015. The World Food Summits in 1996 and 2002 outlined the framework and plan of action for achieving this. At the Millennium Summit in September 2000, the world’s leaders included food security in the Millennium Development Goals (MDG) in Target No. 1. The Millennium Development Goals include: halving extreme poverty and hunger by the year 2015; achieving universal primary education and gender equity; reducing under-five mortality and maternal mortality by two-thirds and three-quarters respectively; reversing the spread of HIV/AIDS; halving
the proportion of people without access to safe drinking water; and ensuring environmental sustainability. They also include the goal of developing a global partnership for development, with targets for aid, trade and debt relief. Support for reporting at the country level includes close consultation by UNDP with partners in the UN Development Group, other UN partners, the World Bank, the IMF and OECD and regional groupings and experts. The UN Department of Economic and Social Affairs is coordinating reporting on progress towards the goals at the global level (UNDP website, 2002). The Millennium Development Goals are currently the overall development guide and provide opportunities for integrating human rights thinking in the different targets and actions to be implemented.

The latest HIPCI (Heavily Indebted Poor Countries Initiative), formulated in 1999, aims to assist the poorest countries. This approach, building on the principles of the Comprehensive Development Framework (CDF), requires developing countries to develop Poverty Reduction Strategy Papers (PRSPs). This serves as a basis for concessional lending and for debt relief under the enhanced HIPC initiative. The PRSPs are important vehicles for placing poverty reduction at the top of the development agenda. PRSPs provide a mechanism for promoting pro-poor growth and for encouraging a multi-dimensional approach including economic growth, social sector investment and good governance. The following priorities have been stressed by most of the actors in the PRSP process:

- the need to focus on women as key agents in promoting growth and poverty reduction
- the need to recognise the adverse effect of negative external and domestic influences on the poor
- the importance of addressing rural poverty and the devastating impact of HIV/AIDS in Africa
- the importance of trade policy in low income countries and of reducing the barriers to imports from poor countries
- the importance of focusing on employment (not ‘jobless’ growth) and on environmental sustainability.

To operationalise both the millennium development goal of halving poverty and hunger by the year 2015 and food as a human right, the Poverty Reduction Strategy Papers (PRSPs) offer mechanisms for action. However, if PRSPs are to be used as mechanisms for operationalising food as a human right at country level, an impor-
tant question is to what degree PRSPs meet human rights principles. Theoretically, it should be possible for PRSPs to accommodate an explicit human rights perspective. Arguably, however, it is difficult to envisage how PRSPs on their own can provide the full political, institutional and technical mechanisms reflecting a state’s real commitment to a human rights approach to food security and the enjoyment of the right to adequate food by all (Barth Eide, 2001). Another important question in this regard is to what degree the PRSPs really provide appropriate strategies, which will contribute towards the envisaged poverty reduction. According to Short (2001), PRSPs seek to put in place strategies to increase pro-poor economic growth and improve health and education provision in a way that measurably reduces poverty. Development agencies are increasingly backing these plans by investing in strengthened government capacity and providing budgetary support to drive forward economic and social development.

The PRSPs are still at an early stage. At this point, they are to a large degree a donor-driven, conditionality exercise and lack the necessary national ownership, commitment and political will. The strategies emphasise market liberalism and pro-poor growth without being able to identify precisely what pro-poor growth means. Analysis of why people are poor is weak. The focus is, to a large degree, on export-directed activities; for example, the importance of exporting agricultural produce is stressed, but there is no explanation of how this will reduce poverty and food insecurity. The PRSPs also lack the necessary funding, institutional capacity and human resources for implementation. However, they may prove to be an efficient vehicle for raising funds from the global community. Regardless of their shortcomings, they provide an opportunity for placing poverty at the top of the agenda and raising policy awareness at the national level, which might trigger action for the benefit of the poor.

Assessments and measurements are important challenges both in relation to poverty reduction, food security and the right to food. A national Food Insecurity and Vulnerability Information Mapping System (FIVMS) was initiated at the World Food Summit in Rome, 1996, for countries to monitor food security. PARIS21 (Partnership in Statistics for Development in the 21st Century) is another initiative by OECD that has more to offer regarding food insecurity monitoring and poverty analysis than FIVIMS, which has focused mainly on availability of food at the national level. Regarding the eight Millennium Development Goals, international actors such as
the UN Development Group agencies and the World Bank, have a number of pilot projects underway to lead country teams in monitoring and reporting on goals. By the end of 2004, every developing country will have produced at least one Millennium Development Goal report in time for the Secretary-General’s global report on MDG progress in 2005. This is a major long-term commitment, which will require statistical capacity building in many countries (UNDP website, 2002).

4. A Rights-Based Approach to Development?

The United States does not recognise any change in the current state of conventional or customary international law regarding rights related to food. The United States believe that the attainment of any ‘right to food’ or the fundamental ‘right to be free from hunger’ is a goal or aspiration to be realised progressively that does not give rise to any international obligations or diminish the responsibility of national governments towards their citizens (FAO, 1996b: 40).

What is the value of the ‘right to food’ and why is this concept contested? Nobody denies that people should have access to food; nevertheless, the concept of the right to food does not enjoy universal support. The USA has been the most outspoken against further legal binding mechanisms in relation to food as a human right, while Norway, at the opposite pole, has strongly advocated food as a human right. During the WFS:fyl in Rome, 2002, Norway, in alliance with other states, was able to move the food-as-a-human-right process further to the surprise of many. The distinctive feature of a rights-based approach is its legal foundation, internationally, regionally, and at the national level. Few countries have translated international obligations into national legislation, which implies that the protection afforded by law is limited (ODI, 1999). This situation tends to give an impression that rights-based development is ineffectual since rights do not provide the necessary tools for either protection or action. Many human rights are perceived as empty shells or paper tigers with little value, in particular for the poor. During a food security workshop in 2001, the European Union Commissioner for Development Cooperation stated that he was not in favour of institutionalising food as a human right as a vehicle to achieve food security. He perceived it as redundant since it was already clear what needed to be done and what actions were required; more laws, he said, were unnecessary. Some of the weaknesses in relation to rights-based development and the concept of
food as a human right are as follows (based on Shivji, 1989; Li, 1996; Messer, 1996; Ribohn, 1999; ODI, 1999; FAO website, 2002; Bie, personal communication, 2002):

- The protection afforded by laws is limited since many countries that have ratified economic, social and cultural rights, make no provision for them in domestic law.
- Economic, social and cultural rights are not recognised as human rights, while civil and political rights are perceived as ‘real’ human rights.
- Performance standards are lacking against which the implementation of rights can be measured. They are often difficult to design; for example, regarding food, needs vary according to age, sex, health status, occupation and environment. How much food is enough?
- If states are ultimately expected to take responsibility, but are poor, the immediate and universal fulfilment of rights is simply not an option, since the resources are not there. Rights are expensive. The tendency has been to speak of progressive realisation, which implies minimum obligations in accordance with the resource situation.
- If states are ultimately responsible, but themselves constitute ‘the problem’ (re bad governance), how then should the right be enforced?
- If human rights are based on a state–citizen relationship, there are unclear responsibilities for international non-state duty bearers (rich countries, NGOs, multinational organisations and international financial institutions). The position of non-state actors is complex and contested.
- There is a lack of clarity about how to balance individual and collective rights.
- Human rights thinking can be perceived as a way of enforcing Western value systems on for example Africa or Asia. The approach may be rejected if people feel that local value systems are excluded from human rights discourses.
- The law does not necessarily work for the poor.

The pitfalls are many in rights-based approaches and similar shortcomings and examples of unclarity are evident in other approaches, not least PRSPs. However, the value and advantages of rights-based approaches should also be highlighted. Such approaches are normative, based on international human rights standards, and em-
phasise accountability, equality, empowerment and participation (Eide, 1998; UNHCHR, 2001; UNDP website, 2002):

- Human rights are acquired at birth and belong equally to all human beings.
- Human rights do not simply define people’s needs, but also recognise people as active claim-holders, thus establishing the duties and obligations of those against whom a claim can be brought to ensure that needs are met.
- The state has the duty to respect, protect, promote and fulfil all human rights.
- The approach enhances accountability, the government is answerable and in some cases (as in that of India) can be sued.
- Human rights concepts are clearer than development concepts.
- All people are supposed to be equal before the law.
- It is easier to achieve consensus and increased transparency in the national development processes.
- A more complete and rational development framework is possible, giving rise to a programming tool.
- A more authoritative basis for advocacy – something to mobilise around – carries greater weight in international and national policy dialogues.
- An emphasis on human rights is a way of maintaining the normative power of states in an era of globalisation, market liberalism and the emergence of powerful transnational oligarchies.
- Systematic application of human rights principles and standards could lead to better analysis and more focused strategic interventions.

5. Integrating Human Rights Philosophy in Poverty Reduction Papers

Holding governments accountable to people is a bottom-line requirement for good governance; if officials are to be held accountable, people need to be organised and well informed (UNDP, 2000: 11).

Lack of accountability on the part of the state, resulting in the inability of people to claim their rights, is a major obstacle to poverty reduction. Current poverty discourses stress the need to integrate governance issues into poverty reduction strategies because more attention needs to be paid to accountability, transparency, empowerment and participation of people in poverty programmes (UNDP, 2000). Human rights philosophy is supposed to provide these ele-
ments. A challenge is how to operationalise the philosophy and develop efficient indicators to assess to what degree the human rights approach has been included in poverty reduction efforts. Eide (2000) proposes indicators of political will, defined as legal commitments and indicators of achievements in relation to capacity. It is not yet possible to assess achievements with regards to PRSPs as there has been insufficient time to implement them. Table 1 provides a framework for integrating a human rights perspective, in relation to food in poverty reduction processes. The framework has been developed so as to serve as a checklist and means of assessing the degree to which PRSP activities mainstream human rights perspectives.

Table 1. Framework for assessing the extent of integration of food as a human right in poverty reduction programmes and activities.¹

A. Country Level

1. *Ratification* of international instruments and regional instruments. Ratification of Covenants implies that the State Party assumes immediate obligations. There is a need to distinguish between legislative and administrative measures (Barth Eide, 2001).

2. *State’s capacity*. National strategies to ensure food and nutrition security for all. (a) *Adoption of framework law*. The framework should include provisions of purpose, targets or goals to be achieved and a time frame for the achievement of such targets. (b) *Identification of resources* available to meet the objectives and the most cost-effective way of using them. (c) *Development of monitoring mechanisms* to identify factors affecting the degree of implementation, adoption of corrective legislation and administrative measures to implement obligations.

3. *Citizens’ awareness*. (a) *Rights awareness*: Do individuals know their basic rights and are they able to comprehend how these rights are affected by programmes and interventions? This includes the right to access information; the opportunity to be listened to, and to have complaints dealt with in a democratic manner. (b) *Rights empowerment*: Do citizens have the capacity and resources to claim their rights effectively? This includes the power to influence public decisions, make decisions, express interests, raise issues for public debate, negotiate on values and interests, and influence tradition and customs.

¹ Based on *Handbook in Human Rights Assessment* and General Comment No. 12 of CESCR (NORAD, 2001; CESCR, 1999).
B. Individual Level

1. **Respect**: Realisation of rights (immediate and progressive).

2. **Protection**: Protect the interests of individuals when other actors threaten capacity and possibilities for self-provision.

3. **Fulfilment**: Assisting or fulfilling may consist of direct provision of goods and resources to secure basic needs. This obligation has been subdivided into the obligation to *facilitate* and the obligation to *provide* (Barth Eide, 2001). *(a) Availability of food*, in quantity and quality, sufficient to satisfy the *dietary needs of individuals*, free from adverse substances and acceptable within a given culture of formal safety-nets; food-for-work schemes; and food aid. *(b) Sustainable access to food*: This refers to the physical and economic accessibility of food.

6. Poverty Reduction and the Right to Food in Malawi

To what degree is it possible and useful to use the above framework (Table 1) to assess human rights integration in programmes and activities on a country’s PRSP? In addressing this question and the other questions posed in the introduction, Malawi is selected as a case study. The reasons for selecting Malawi are the serious hunger situation in the country, the inclusion of food as a human right in the Malawian Constitution, the newly produced Malawian PRSP, and the recent change in Malawi from President Banda’s 30 years of dictatorship to the present situation of democracy. Banda took on a certain responsibility as provider but allowed no opening for people to claim rights, and it is interesting to consider the effect of these aspects of his regime in relation to the question of how to establish accountability and how to develop a culture that enables citizens of Malawi to claim their rights.

The food security situation in Malawi

The present Malawian President, Bakili Muluzi, declared a state of national disaster in February 2002 as Malawi was facing its worse food crisis in 50 years (African News, 2002). In July 2002, Relief Aid reported that more than 3 million out of the country’s total population of approximately 11 million people were seriously affected. International media attributed the hunger crisis to bad governance and bad weather conditions (drought and flood). In 2001 too, Malawi faced an exceptional food emergency situation.
Review of Malawi’s PRSP

In April 2002, the Government of Malawi presented their Malawi Poverty Reduction Strategy Paper (MPRSP) (Republic of Malawi, 2002). The preparation for this included a review and documentation of available information both on poverty levels and distribution, the development status of the different sectors and the macro-economic situation. The overall goal of the MPRSP is to achieve sustainable poverty reduction through empowerment of the poor (seeing poor people as active participants in economic development) and the targets for 2004 are:

- Poverty headcount using a consumption-based poverty line, to be reduced from 65.3 per cent to 59.3 per cent
- Extreme poverty headcount using a consumption-based extreme poverty line, to be reduced from 28.8 per cent to 20 per cent
- Life expectancy to be increased from 39 to 43 years
- GDP per capita to increase (constant 2001 prices) from 10,500 to 11,400 Malawian Kwacha
- Literacy rate increase for all; in particular, an increase in female literacy, from 44 per cent to 60 per cent
- Infant mortality rate decrease (per 1000 children) from 104 to 90
- Maternal mortality rate decrease (per 100,000 live births) from 1,120 to 800.

The four pillars of the Malawi PRSP are: sustainable pro-poor economic growth, human capital development, improving the life of the most vulnerable, and good governance. The MPRSP mainstreams crosscutting issues such as HIV/AIDS, gender, environment, science and technology. It has programmes and a proposed budget for each of the pillars as follows:

Pillar 1: Sustainable pro-poor economic growth: Here the focus is on growth involving the poor, promoting sectoral sources of growth and creating an enabling environment for pro-poor growth. Agriculture is the key sector targeted for an increase in incomes in the medium term. Measures include programmes to increase access to inputs and credit among targeted poor farmers (e.g. starter pack programmes, a targeted input programme, and a public works programme, and the formation of farmers’ associations for credit and savings); improved research and extension services, promotion of irrigation schemes and drainage, farm mechanisation; re-
duction of land shortage and degradation (e.g. redistribution of 14,000 hectares of land to 3,500 farming households, security of customary land tenure, soil conservation campaigns, fertility campaigns to reduce pressure on land); and development of micro, small and medium-scale enterprises (MSMEs), manufacturing and agro-processing and promotion of tourism investment and small-scale mining. The importance of an enabling environment for pro-poor growth is stressed, along with macroeconomic stability; particularly important are access to credit; improved rural infrastructure; improvement of other infrastructure (e.g. roads, water, telecommunications, energy supply); strengthening of trade (e.g. recognition of national products, expanding the export market share and negotiating preferential arrangements) and good taxation policy. Specific measures outlined are tight fiscal and monetary policies to prevent inflation, revision of regulations to encourage new financial institutions to increase competition, and ensurance of transparency in appointments through strengthening the Public Appointments Committee.

Pillar 2: Human capital development: The goal here is development of human capital through implementation of programmes related to general, technical, vocational and entrepreneurial education, health and nutrition. The main strategies are teacher recruitment, training and incentives, development of relevant curriculum, teaching materials, supervision and inspection. Important programmes at all levels are directed to disadvantaged groups including girls, children with special needs, out of school youth and those coming from poor families. Other programmes are directed towards recruitment, improvement of teachers’ remuneration, establishment of research centres and curriculum development (e.g. introduction of programmes in non-traditional subjects such as food security, human rights, biodiversity and HIV/AIDS).

Pillar 3: Improving the life of the most vulnerable: The MPRSP recognises that there are some sections of the population who are not going to benefit and will need direct assistance to improve their living standards. The goal is to ensure that the lives of the most vulnerable are improved and maintained at an acceptable level. Formal safety nets specified in the MPRSP are as follows:

- productivity enhancing interventions for the transient poor through productivity enhancement interventions that include tar-
geted input programmes, providing packages with seeds and fertiliser for three years (planned to benefit 340,000 people);

- substantial welfare transfers to the chronically poor through public works programmes providing alternative sources of income and food;

- targeted nutrition interventions for malnourished children and vulnerable pregnant and lactating mothers;

- direct welfare transfers for the poor and disaster-affected households that cannot be supported by the three programmes;

- improving disaster management to assist the poor through the use of Famine Early Warning Systems (FEWS) and National Early Warning Systems (NEWS), disaster relief programmes (e.g. provision of seeds, basic necessities of non-food items, participation in income-generating activities and small-scale programmes such as replacement of small livestock).

**Pillar 4: Good governance:** This last pillar is a move to development-oriented governance consisting of three elements: political will and mindset; security and justice; and responsive and effective public institutions.

To address the problem of lack of political will, specific programmes include depoliticisation by involving all stakeholders in planning, implementation, monitoring and evaluation of all poverty-reducing activities.

To address the problem of wrong mindsets, specially of the dependency culture, programmes focus on efforts to inculcate positive values and attitudes through sports, youth development, community development, information, broadcasting and cultural events.

To ensure security and justice, community involvement is planned in policing, development of counselling methods at all levels (household, community, police and prisons), co-ordination and regulation of private-sector security firms, ensurance of transparency and accountability of prisons and immigration services, recruitment of more staff in the judicial system, legal aid programmes, civic education on legal rights, establishment of victim support units, improvement of prison conditions, and effective rehabilitation programmes for prisoners.

To ensure responsive and effective public institution, specific programmes are outlined for handling finance (e.g. introduction of tracking systems); improvement of public service (i.e. appropriate wage policy for remuneration, code of conduct and training for public
officials, establishment of an anticorruption bureau); decentralisation (e.g. development of institutional capacity for local governance); democratisation (e.g. strengthen electoral processes); human rights (e.g. development of capacities of human rights organisations and partners, clear definition of roles, hiring and training of personnel; training of all public servants in human rights issues.)

Resources needed for implementing the MPRSP
The MPRSP estimated how much the different activities will cost. The total resources available included projections from domestic taxation, non-tax revenues, and a conservative estimate of donor inflows. The figures showed a huge resource gap, which is planned to be filled through future fundraising (the mode or sources of funds were only vaguely specified in the MPRSP). The resource gaps identified were MK$3.9 billion in 2002–3, MK$3.1 billion in 2003–4, and MK$2.5 billion in 2004–5. The MPRSPs overall vision aims to correct the lack of coherence in the planning of policies and expenditure. However, when Malawi drafted the MPRSP it was with the understanding that donors would to a large degree finance the strategy. The possible implementation and success of the MPRSP will definitely be dependent on donor investments.

Assessing integration of food as a human right in the MPRSP
Applying the framework for assessing integration of food as a human right in programmes and activities, as outlined in Table 1, yielded the following results.

Ratification of international instruments
Malawi is one of 20 counties worldwide which has written the right to food into its Constitution. The Malawian government can be credited for having incorporated this right. Malawi has also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in December 1993 (UNHCHR, 2001). The right to food is included in Malawi’s Constitution, under Article 13: ‘The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing poli-

2 1 US MK = 77 Malawi Kwacha.
3 Malawi has also ratified all the principal International Human Rights Treaties.
cies and legislations aimed at achieving the following goals... Nutrition: To achieve adequate nutrition for all in order to promote good health and self sufficiency’ (FAO Legal Office, 1998:43). The legislative measures regarding food as a human right are in place, but the necessary measures to realise this right are not.

State capacity
Implementing the right to food means making adequate food available and affordable to all Malawians at all time (Devereux, 2002). This is an expensive right for a poor country such as Malawi to implement. Food insecurity in Malawi is basically a poverty problem. State capacity is one issue to be discussed in relation to fulfilling the right to food for all Malawians. Another relevant issue is the question of genuine political will and governance. State capacity to achieve food security will be influenced by the level of good governance. In order to discuss governance, there is a need to analyse the reasons why Malawi is in such a serious hunger situation. The human rights framework lists three elements of importance in relation to state capacity: the adoption of a framework law, with targets and a time frame for achievement; identification of available resources; and development of a monitoring mechanism.

The budgetary requirements and sources of funding for the numerous activities included under pillars 1 to 4 have been outlined in the MPRSP. It underlines that because the nation has high fiscal deficits, the government resorts to excessive borrowing that results in high interest rates. The funding and prioritisation of MPRSP activities are claimed to be derived through a bottom-up process that involves a whole variety of stakeholders. In addition, the government has yet to undertake a survey of ongoing projects and future commitments to determine the extent to which the activities in the Poverty Reduction Strategy are already funded. Monitoring and evaluation will take the form of stakeholders’ workshops and dissemination of reports reviewing the processes and progress of the PRSP. The National Economic Council (NEC) will, according to the MPRSP, develop capacity to conduct poverty analysis, including community participation in the monitoring and evaluation of progress, involving, for example, civil society organisations. Basically, the MPRSP provides the required rights-based elements listed under state capacity (Table 1: national strategy with targets and time frame, identification of resource availability and a monitoring mechanism).
Citizens’ awareness
Citizens’ awareness consists of rights awareness and rights empowerment. Rights awareness means that citizens know their basic rights and are able to comprehend how these rights are affected by government policy and development programmes. This includes the right to access information; the opportunity to be listened to and have complaints dealt with in a democratic manner. Rights empowerment includes the power to: influence public decisions, make decisions, express interests, raise issues for public debate, negotiate on values and interests and influence tradition and customs. Citizens’ awareness provides an important tool in implementing the right to food in Malawi. Making people aware of their rights and ability to claim their rights is one way of making the government accountable to the people. Citizens’ awareness is an important element in rights-based thinking and something that rights-based approaches can contribute to development activities. The MPRSP has included a section on human rights and citizens’ awareness. This section on human rights confirms that the Constitution guarantees the right to basic economic and social rights, but that there is limited observance and enforcement of human rights provision because of the following issues: conflicts between customary practices and the bill of rights, a low level of professional skills in human rights organisations and inadequate systems to monitor human rights violations. The government addresses this problem through a plan to develop the capacities of human rights organisations and to exert efforts to raise the awareness of citizens about their constitutional rights and obligations. In addition, public servants are to be trained in human rights issues. Civil society organisations and the many human rights organisations in Malawi are expected to play an active role in citizen awareness-raising and state funding for this is supposed to be provided, according to the MPRSP.

State obligation to the individual (citizen)
The rights-based framework includes the state’s obligation to respect, protect and fulfil human rights. Regarding the right to food, the state should respect its citizens’ right to produce food for their own consumption or to purchase food at affordable prices. The state should also protect the individual’s production capacity, e.g. in relation to rights to resources. The MPRSP states that the role of the government is not only to respect and protect, but also to create conditions where poor people can reduce their own poverty. The
The last obligation of fulfilling food as a human right may consist of direct provision of food to meet basic needs. This has been subdivided into the obligation to *facilitate* and the obligation to *provide* (Eide, 1998). The obligation to *fulfil* requires positive action to identify vulnerable groups and to design, implement and monitor policies that will facilitate their access to food-producing resources or an income or, as a last resort, to ensure a minimum freedom from hunger. With regard to agriculture, the MPRSP has identified vulnerable groups and mentioned the need to develop safety nets for the smallholders and for orphans as a result of HIV/AIDS. However, the design is yet to be developed. The MPRSP encourages both formal and informal safety nets. Formal safety nets suggested consist of productivity-enhancing interventions for the transient poor and subsequent transfers to the chronically poor. Another suggested measure is to distribute free inputs to capital-constrained poor farmers (orphans, the elderly, the chronically sick and dependent persons with a disability), work programmes for the land-constrained urban poor through public works programmes, welfare support interventions, and nutrition programmes for malnourished vulnerable groups. These programmes clearly address the special situations of vulnerable groups.

Regarding the state’s obligations to the individual – protection, respect and fulfilment of basic rights – an important question to pose is what to do when the state is the problem? The current buzzword in development discourses is good governance. Lack of good governance is given as one of the main reasons for the hunger situation in Malawi. The government has not sufficiently protected, respected or fulfilled the right to food through its policies and actions. The 2000/2001 and 2001/2002 famine in Malawi can be explained both by technical reasons in relation to bad weather and by inadequate policies. The technical reasons include excessive drought and flooding. Poor Malawians were not able to cope with these production constraints although they were less severe than the drought in 1991/92. According to Devereux (2002:iii), the underlying vulnerability factors make the 2001/02 famines the worst famine in living Malawians’ memory. These factors include: declining soil fertility and restricted access to agricultural inputs during the 1990s; deepening poverty, which eradicated asset buffers that the poor could exchange for food to bridge food gaps; the erosion of social capital and informal social support systems in poor communities; the demographic and economic consequences of HIV/AIDS; and many years of relative neglect of the smallholder agricultural
sector and intensified pressure on land. The political explanations of the famines in 2001 and 2002 are complex and include the IMF’s instruction or advice to the Government of Malawi to sell the strategic grain reserves. The grain reserves were partly sold to prominent Malawian people who benefited when the price rose.

Relevant to the discussion of the food supply situation in Malawi is the high dependency on traditional cash crop exports – mainly tobacco, but also tea and sugar. There is also a debate on how the tobacco industry contributes to deforestation through curing of tobacco leaf. In the past, Malawi tried to correct this dependency through a diversification programme, but failed because of the stability of price and higher net returns per hectare of tobacco compared to other agricultural commodities (FAO, 1996b). Tobacco accounts for about 80 per cent of agricultural exports from Malawi (Hobbs, 1998), which increases the country’s vulnerability in relation to the impact of health and tobacco policy worldwide (WHO for example, has announced a ‘war’ against smoking). The MPRSP addresses this situation by suggesting the need to work on profitable negotiations with trading partners and to diversify through tea, coffee, sugar, cotton, groundnuts and pulses as well as expand production of selected export products.

Inadequate policies, which result in the inability to respect, protect and fulfil the human right to food, are a challenge both for rights-based approaches to development and poverty reduction efforts. To what degree will integration of a rights-based approach to development in the MPRSP help in relation to governance? Legislation could be an effective tool in making governments accountable, as the example from India illustrates. The India case shows that it is possible for poor people to sue the state and win in court, with the help of civil society organisations, although no action has yet been taken to implement the court’s ruling. In India, the resource capacity of the government is also at a different level from that of the Malawi government, and the grain reserves are huge. Moreover, in Malawi, civil society is much less powerful than in India. However, organisations such as the Malawi Economic Justice Network (MEJN) is arguing that civil society must be involved in food security policy making and is advocating for the right to food. In addition, Malawi has also experienced 30 years of President Banda’s authoritarian iron rule, which makes it more difficult for people and organisations to stand up for their rights. However, it should be noted that President Banda was perceived as being successful in ensuring that there was enough food in the country to
Prevent famines. But malnutrition and food insecurity were nonetheless a serious problem, under his regime too (Quinn et al., 1990). The present famine in Malawi challenges Amartya Sen’s famous statement that famine does not occur where there is a representative democracy and a free press. However, democracy was established in Malawi only in 1994 and is thus too young to be ‘judged’.

MPRSP and food as a human right in Malawi

The Malawi PRSP poverty analysis, which involved a broad range of stakeholders, looked into spatial and demographic characteristics of poverty. The needs of the poor were defined first and then strategies were drafted to help reduce poverty. These activities were costed and adjusted to ensure realism with regard to implementation capacity. The plan gives a national overview of poverty reduction efforts and acts as a starting point for sectoral plans. A section on human rights confirms that the Constitution guarantees the right to basic economic and social rights, but that there is limited observance and enforcement of human rights provision.

The MPRSP is a mechanism that can be used to create opportunities for the poor and to attract funding for such opportunities to be created. It is difficult to envisage how food security can be improved and famine avoided in Malawi without increasing income opportunities for poor people. The rights-based framework as revealed in Table 1 pays limited attention to the sustainable livelihoods issue and how both governments and the poor should go about securing livelihood opportunities. It also pays limited attention to policy and governance issues. What kind of policies should be designed and implemented so that poor people can secure their livelihoods in a sustainable way? In this way the MPRSP is a tool for realising the right to food by providing a poverty analysis, a policy for implementation, and by seeking to create opportunities for poor people. However, it should be underlined that with basis in market liberalism spirit, the MPRSP may not prove to be the best tool for eradicating poverty. What is gained by integrating a rights-based philosophy in the MPRSP is the introduction of the idea of people as active claim-holders. This can be used to enhance accountability in the sense that the government is answerable and can be sued. However, to what degree governments are willing and able to implement the court rulings they face is another question. Governments might also take steps towards changing the law if necessary. Including human rights in the MPRSP is also a basis for advocacy, something
to mobilise around, which carries weight in national and international policy dialogues. However, to what degree human rights is an effective tool to mobilise around, to empower Malawians and to raise awareness, is not known. Ribohn (1999) found that Malawians perceived human rights as a way of weakening Malawi, making the state less capable of protecting its citizens from violation and making life more difficult; as living conditions have deteriorated, poverty and crime have increased. Human rights were also perceived as being forced on Malawi by international agencies and as being part of an elitist movement promoting individualistic and capitalistic values where most of the Malawian population felt alienated (Ribohn, 1999). However, in the long run, people’s perceptions of human rights might change and human rights might be an appropriate concept to initiate citizens’ awareness.

The normative nature of human rights approaches and protection ‘give a high score’ among international agencies and is used as an indicator of good governance. Malawi needs support from the outside, in particular when famine strikes, as was the case in 2000/01 and 2001/02. Human rights are to a large degree based on the state–citizen relationship – the state is the duty-bearer. The role of international non-state duty-bearers, such as OECD countries, multinational organisations, international financial institutions and civil society is unclear. In order to reduce poverty and food insecurity in Malawi, there is a need to go beyond the state as the duty-bearer and mobilise the international community. However, intervention of the IMF in advising the Government of Malawi to export the Strategic Grain Reserve might not provide the best impression of the role of international actors.

Right to development as a human right
The UN adopted the Declaration on the Right to Development (1986), which states that the right to development is a human right. The Declaration of the Second UN World Conference on Human Rights (1993) reaffirmed ‘the right to development, as established in the Declaration on the Right to Development as a universal and inalienable right and an integral part of fundamental human rights’. According to Sengupta (2001:2528), ‘the nature of the right to development (Article 2, clause 1) is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, and contribute to, and enjoy, economic, social, cultural and political development in which all human rights and fun-
damental freedoms can be fully realised’. On the basis of this definition, the notion is that the right to food is part of the right to development. The declaration recognises that not only every human person but all peoples are entitled to the right to development. Responsibilities are to be borne by all parties concerned; individuals, states operating nationally and states operating internationally. But the primary responsibility for the creation of national and international conditions favourable to the realisation of the right to development lies with the state (Article 3).

7. Conclusion
This article seeks to bring together human rights thinking exemplified by food as a human right and development thinking through poverty reduction efforts. Measures to reduce poverty and steps to respect human rights have evolved in parallel, sharing the same overall aim of increased human well-being, but offering different frameworks and tools for how to reach this aim. The added value of integrating rights-based approaches into poverty reduction processes in order to reduce food insecurity and hunger is the additional legal accountability factor, accompanying rights. The right to food is perceived as a progressive tool for marginalised and food-insecure groups to mobilise around and as being of help to civil society organisations in their work. Hunger and food insecurity are basically a poverty problem. Obviously, legislation alone is insufficient, although it may be one important tool in the struggle to eliminate poverty and food insecurity. Passing a food-as-a-human-right law can be an important step in the right direction, but its mere existence does not mean it will be followed, as the experiences from India and Malawi illustrate. The critical issue regarding food as a human right is realisation, not legislation by itself. In Malawi, a country with democracy and food as a human right included in national legislation, bad weather, bad governance and inadequate policies have resulted in disastrous hunger situations in the years 2001 and 2002. The inability of people to claim their rights is a challenge in rights-based approaches to development, as well as the inability of governments to secure rights. The PRSP provides one possible mechanism for operationalising the right to food in Malawi. Both the food-as-a-human-right approach and the PRSP approach have their strengths and weaknesses. A combination of the two adds value to both approaches and emerges more powerful by marrying law and political strategy; however, it provides no
more guarantee of ensuring less poverty and hunger than each approach on its own. As the Malawi case illustrates, both approaches are imposed from the outside and will depend upon internal conditions as well as on global factors in order to be successful. What the internal conditions are, will vary from country to country; however, regarding Malawi, important elements are ownership, trust and reduced vulnerability as well as the need for capable and committed leadership at all levels, capable institutions, and giving priority to the creation of income opportunities for the poor. Thirty years of President Banda’s ‘iron claw’ have not created an environment for people to claim rights or demand better livelihoods. To make a real impact, human rights and poverty reduction approaches need to be internalised and become genuine Malawian commitments rather than being outsiders’ initiatives and solutions.

References
FAO, 2001a, Serious Food Shortages Persist in the Sub-Saharan Africa. Press Release February, Rome: FAO.
FAO, 2001b, Assessment of World Food Security Situation, 27th session, 28 May–1 June, Rome: FAO.
FAO, 2002, World Food Summit: five years later, 10–13 June, Rome: FAO.
Li, Xiaorong, 1996, “‘Asian Values’ and the Universality of Human Rights’, Report from the Institute of Philosophy and Public Policy (16:2), Spring, Maryland School of Public Affairs.


Food Aid and Human Security
Edited by Edward Clay and Olav Stokke

The future role of food aid is in question. This matters because food aid has been historically a major element of development aid to support longer-term development and the primary response to help countries and people in crisis. Doubts about food aid are arising because there is a growing mismatch between the new circumstances produced by rapid political and economic change and the international arrangements and institutions for food aid that are predicated on an earlier reality.

In an environment of risks, uncertainty and rapid change, prevailing in the 1990s, food aid and other assistance have increasingly been organised as part of efforts to assure human security in terms of livelihoods, food, health, a sustainable environment, personal and political security. However, to what extent do is this multiplicity of goals realised in practice? To what extent the modalities and institutional arrangements for aid permit them to be realised? It is on institutional questions therefore, that this fresh examination of food aid focuses in particular.

This is an important book, edited by two authorities involved in analysing food aid for many years, that should be read by those concerned with the future direction of food aid.

In many ways, this book represents an important watershed in the way food aid and its users are analysed, at least on this side of the Atlantic. Gone are the tired references to disincentive effects based on prejudice and anecdotal evidence. In place of calls for an end to food aid, and doubts about its future, a new and enlarged role is sought.

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What Democratisation Does to Minorities Displaced from Power: The Case of White Afrikaners in South Africa

Eghosa E. Osaghae

Introduction
By their very nature of enabling changes in power relations, democratisation processes tend to stimulate ethnic mobilisation and contestation for state power in divided societies. How then does a highly mobilised, nationalist, previously dominant and state-owning minority respond to its transmutation into a dominated group as a result of democratisation? This is the question addressed in this article, using the case of white Afrikaners in South Africa who for nearly 50 years monopolised power in the apartheid state, and whose nationalism has been described as the ‘most fully mobilised ethnic movement in South Africa’s political history’ (Welsh, 1995: 239–40). Since the country’s democratic transformation in the 1990s, the Afrikaners have been in the throes of changing from ‘masters to minorities’ (Palmberg, 1997). What have been the consequences of this process of change for the Afrikaners and how have they reacted? Also, how has the transformed political system responded to this change, and what are the prospects for ethno-racial harmony in the post-apartheid state?

To ask questions like these is to ask why the fears of swart gevaar (literally, black danger) entailed in black majority rule deepened, why Afrikanerdom became more factionalised than ever before, why rightwing movements embraced extreme forms of Afrikaner nationalism, and why the Afrikaans language, sports such as rugby and cricket, and control of the defence force, became the icons of identity and resistance following the loss of state power. These are some of the key questions to be addressed. The article is divided into three sections. Section 1 places South Africa’s demo-
cratisation in perspective as a dual process of democratic transition and decolonisation and then proceeds to analyse the structures and processes of democratisation, and how the Afrikaners reacted to the changing political milieu. Section 2 examines the effects of democratisation on Afrikaners in the aftermath of the April 1994 elections when the African National Congress (ANC) took over control of state power. Section 3 presents the conclusions of the study.

1. The Nature of South Africa’s Democratisation
To analyse meaningfully the situation of Afrikaners in the transition to the post-apartheid state, it is necessary first to understand the nature of the country’s democratisation process. Mainstream analysis of this subject locates South Africa’s democratisation process within the transition-from-authoritarianism paradigm. The transition mode has variously been characterised as transition through transformation where, as in the case of Brazil and Spain, the incumbent authoritarian regime retains the initiative of transition and system transformation; as belonging, alongside Chile, Poland and Uruguay, to Huntington’s (1991) transplacement category whose hallmark is negotiation between government and opposition elites, both of whom realise their inability to determine unilaterally the future political system; and as a typical elite pactign transition (cf. Giliomee, 1995; van Vuuren, 1995; Nel, 1995; Kotze and du Toit, 1995).

These categories aptly describe the mode of transition in South Africa, in so far as the transition was negotiated and not forced by unilateral military conquest or revolution. Elite pacting in particular offers a valid descriptive category of the deals worked out between the National Party (NP) government, departing from power, and the ANC, in coming to power. The pact made transition possible as it assured the political and material future of apprehensive NP leaders and other white elites at least in the short run. The narrow (party and elite, rather than mass) interests thereby emphasised are crucial in explaining the post-pacting allegations of NP ‘betrayal’ by the majority of Afrikaners who felt unprotected and therefore justified to fight for themselves, as it were.

But the transition in South Africa was not simply another instance of transition from authoritarian rule. It was also, and perhaps more importantly, liberation from colonial rule, notwithstanding attempts by several South African scholars to deny that the white supremacist state was a colonial state. The fact that the liberation move-
ment involved people from all racial groups is also cited to back this claim. While it is true that a significant number of whites both within and outside South Africa were active in the liberation struggle, it is often forgotten that only a small portion of these were Afrikaners, and that the non-Afrikaner white opponents of the apartheid state were, as much as the non-whites, committed to overthrowing the Afrikaner colonial state. The involvement of whites in the liberation struggle did not therefore make the situation less colonial and the transition anything short of decolonisation. As I have argued elsewhere, the failure to factor the perspective of the (previously) dominated and excluded Africans in the analysis of the transition is largely to blame for the narrow perspective that has been applied to transformation in South Africa (Osaghae, 1997; also Southall, 1994). The liberation perspective as it relates to the long-drawn struggle for non-racial democracy provides the necessary historical context for analysing the transformation process. It helps to explain further the attitudes and reactions of whites to the transformation to black (majority) rule which had been on the cards for a long time and had elicited concern, at both the scholarly and the political level, about how to terminate apartheid with minimum loss of privileges to whites.

The danger in analysing the transition as simply transition from authoritarian rule is that even if such a perspective takes account of the long-drawn search for a suitable democratic formula to cope with the demands of a divided multi-racial society, and the heightened ethnic mobilisation during the period of transition, it clearly underestimates the reality of black majority rule and the longer-term consequences of this change in power relations. And yet it is this reality – which entails a reconstruction of the nation in the image of the African majority, as well as affirmative action and other attempts at redressing black disadvantages – that better explains the attitudes of Afrikaners and other white groups to transformation.

This does not, however, amount to a rejection of the democratic transition paradigm whose major strength is the attention it directs to the process of transition, but to make the point that the dynamics of South Africa’s democratisation cannot be adequately captured if this is done in isolation from the underlying reality of liberation. In this article, therefore, democratisation is understood as something of the twin processes of transition to democracy and decolonisation, both of which were effected through negotiation.
The roots of democratisation

The roots of the democratisation process in South Africa date back to the 1970s and 1980s when the process of dismantling the apartheid regime was set in motion. The reforms, which signalled the dismantling, were forced by the high costs of preserving an exclusive white state and the choice of the state managers to ‘adapt’ rather than ‘die’ (Schrire, 1991). These circumstances provided the context for the attempts to reform the apartheid regime with minimum loss of white privileges and political control. As the collapse of apartheid became more imminent, the search for models and political arrangements capable of forestalling or minimising the dangers of black majority rule was stepped up.

The so-called reforms could not however save the apartheid state because they did not go far enough to satisfy the demands of the liberation movements and the international community for the termination of racial exclusivity. But they were enough to provoke widespread fears and resistance amongst segments of Afrikanerdom whose reproduction and privileges were tied to control of the state on which their cohesiveness ultimately rested (for a discussion of these fears and their consequences, see Manzo and McGowan, 1992). The most vehement resistance to the reforms came not unexpectedly from the middle and lower classes of civil servants, small-scale entrepreneurs, members of the armed forces, farmers and unemployed youth, who were potentially the greatest losers in the event of the demise of apartheid. It was from these classes that right-wing movements, which sought to assert the Afrikaner right to self-determination and preserve a white supremacist regime in a volkstaat, through violence if necessary, drew their main support (cf. Grobbelaar et al., 1989; van Rooyen, 1994; Jung, 1996). The rise of movements such as the Afrikaner Weerstandsbeweging (AWB) founded in 1973 and led by Eugene Terre Blanche, and the Afrikaner Volkswag (Afrikaner People’s Guard) founded by Carel Boshoff in 1984, was important for two reasons, which shaped Afrikaner reactions to democratisation.

First, it indicated a vote of no confidence in the ability of the NP, which increasingly became a party of the Afrikaner bourgeoisie.

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1 The reforms included the legalisation of black labour unions, relaxation and later abolition of segregation legislation, notably that on influx control, group areas, population registration and mixed marriages; the introduction in 1984 of the tricameral and grand apartheid system under which the concept of ‘own affairs’ was elaborated to give Indians and Coloureds their own legislatures, though blacks partitioned in the homelands continued to be excluded from the political arena.
sie and the white nouveau riche, if not whites as a whole, to represent and protect the interests of the Afrikaner volk. This set the stage for the contests over the legitimate representation of true Afrikaner interests and the resistance momentum of the right wing. The accusations of ‘betrayal’ and ‘sell-out’ levelled against leaders of the NP who negotiated the terms of the eventual transition with the ANC also took root at this time. Second, the rise of right-wing groups indicated the erosion of the statist basis of Afrikaner nationalism. Henceforth, this was to be reconstructed, in typical counter-revolutionary fashion, on the basis of a clarion call for the defence of Afrikaner rights and identity, including, most importantly, the right to self-determination and a resurrection of old myths and symbols of Afrikaner prowess, as had been done when the Boers were mobilised to fight British colonial rule (Munro, 1995). The only problem, and one that further divided Afrikanerdom, was the lack of consensus on how this was to be done.

The modalities and process of democratisation
From the background discussed above, the implications of the transition to the post-apartheid regime for Afrikaners and the shape of their reactions to the changing political landscape had crystallised long before the actual transition took place. The changes and dis-sensions in Afrikanerdom were to be fully elaborated once the process of democratisation got fully underway, and the reality of loss of state power dawned. How did Afrikaners respond to the changing reality? To situate the analysis of the response(s) we shall first examine, in broad outline, the nature of the negotiation or political settlement that facilitated the transition. What form did it take, and what were the issues for negotiation? What were the responses from Afrikanerdom?

Negotiations
Negotiation was the core instrument of the transition, in part because the actors themselves realised that, as Lemon (1987: 313) puts it, this was the only guarantee that any post-apartheid arrangement was going to work. Giliomee and Schlemmer (1989) had

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2 Giliomee (1995:86) points out that as early as 1986, the Broederbond (the Afrikaner select elite ‘cult’) had come to the conclusion that the survival of the white community depended on the acceptability of a new constitution to the majority of the South African peoples. Also, the ANC had long called for
long ago outlined the prerequisites for meaningful negotiations in South Africa: relative balance of power between negotiators (though for obvious reasons, the NP government sought to retain the initiative and control over the entire process)\(^3\); a realisation by the parties that there was more to lose by refusing to negotiate; cohesion of negotiating parties and ability to withstand the strains of negotiation; the possibility of testing agreed positions within constituencies; and trust in the framework of negotiations. These conditions were more or less present in the negotiation process and go a long way towards explaining the relatively peaceful and successful manner in which long years of bitter and bloody struggle ended on the negotiating table.

The negotiation and settlement that facilitated the transition to the post-apartheid state is so well covered in the literature (cf. Southall, 1993; Friedman and Atkinson, 1994; Sisk, 1995) that it suffices to outline briefly the process and outcome of negotiations as these had to do with allaying white fears about the unwholesome consequences of becoming a displaced minority. Altogether, 19 political organisations, including parties, alliances, and delegations of homeland governments, participated in the all-inclusive, albeit protracted negotiations. But, by and large, especially after the withdrawal of the Inkatha Freedom Party (IFP) and its allies from the process, the NP government and the ANC were the main negotiators.\(^4\)

\(^3\) As de Klerk said in a speech justifying negotiations, ‘We have not waited until the position of power dominance turned against us [as Ian Smith did in former Rhodesia] before we decided to negotiate a peaceful settlement. The initiative is in our hands’. See *Die Burger*, 31 March 1990.

\(^4\) As it were, the ANC as the main liberation movement represented the formerly dominated peoples, especially the black majority, while the NP government represented the whites, though these did not go uncontested. For example, the interests of the Zulu-based IFP, as well as those of the former homeland government of Bophuthatswana, were not catered for by the ANC – indeed, the violent conflicts between supporters of the IFP and ANC, the so-called black-on-black violence, remained a major threat to the success of the entire transition. The same was true of the white community. In addition to the CP and other right-wing political organisations, the liberal Democratic Party (DP) was seen as representing the interests of English-speaking whites. But in this case, the support received from white voters in the 1992 referendum made the NP government the legitimate voice of white interests.
The complexity and difficulties of the negotiations can only be appreciated if the full range of contending and seemingly irreconcilable positions held by the different parties is considered. Space does not permit an elaborate discussion of the various positions, but the main ones may be briefly highlighted. The IFP proposed a (con)federal state in which its Kwa-Zulu-Natal region would not be controlled by the central government, and wanted agreement to be reached on this as a condition for proper negotiations. Its strategic ally, the Conservative Party, proposed a Commonwealth of nations, a confederal-like arrangement that could accommodate its proposed volkstaat (a highly amorphous and exclusive Afrikaner territory). Although it did not propose to reinstate apartheid, the party planned to restore exclusive white education, a group areas act, influx control and a mixed marriages act, which were deemed necessary for the preservation of Afrikaner identity and exclusiveness. More extreme right-wing groups demanded a sovereign but no less amorphous volkstaat in terms of the right of Afrikaners to self-determination, for which they were prepared to go to war.

The ANC was committed to the construction of an undivided state through the termination of all forms of racial and ethnic exclusivity. It was consequently averse to federalism, division or partition, and the implicit notion of group rights they embodied. The NP government was all for power sharing, to reduce the dangers of majority rule at least in the short run, and to assure the party leaders of continued relevance and political privileges in the post-apartheid dispensation. This invariably meant elite level accommodation. According to Roelf Meyer, former leader of the NP, the government pinned its hopes on ‘its own indispensability in a future order, rather than guaranteed protection’.

The principal negotiators also differed on how to allay the fears of whites about their situation under majority rule. We shall briefly consider two of these, namely the production of the final constitution, and the bill of rights. The NP and its allies opposed the ANC’s proposal that the final constitution be written and adopted by an elected constituent assembly, which would have given the majority-based ANC the advantage. Instead, they wanted the new constitution written before elections to ensure that their interests were well taken care of before they were dwarfed by majority rule. After the parties managed to reach agreement that an elected body should produce the constitution after elections according to laid-down principles, the controversy shifted to the majority necessary to approve the final constitution. While the ANC proposed a 66.7
per cent (two-thirds) majority in the National Assembly in the hope that it would secure such a majority in the election, the NP and IFP were for 75 per cent and 80 per cent respectively, apparently to make it impossible for the majority party to have its way. A majority of 66.7 per cent was finally agreed. This proved politically decisive as it stopped the ANC, which achieved a 63 per cent majority in the 1994 elections, from single-handedly writing the final constitution.

There were also major differences over the content of the bill of rights that was generally accepted as a crucial formula for protecting core individual and group interests during and after the transition – Giliomee regarded entrenched human rights as ‘the only option for settling permanently the conflict in the country’ (Giliomee, 1995; see also Adam and Moodley, 1993). Given its class base, the NP government saw group and property rights in particular as necessary for allaying the fears of whites, especially the propertied class. Property rights were to guard against confiscation and loss of property without adequate compensation.

The ANC, on the other hand, was more on the side of employing rights to emancipate the formerly downtrodden non-whites, redress the inequalities entrenched under apartheid and establish a non-racial democracy (cf. Adam and Moodley, 1989, and Southall, 1990). It therefore advocated a bill of rights that guaranteed, amongst others, the right to education, health care, housing, minimum wages, job security and the return of land forcibly taken from their owners under the Group Areas Act – the more extremist black liberation movement, the Pan African Congress (PAC) threatening armed attacks on white farms and their owners if this right was not guaranteed. The ANC also opposed group rights, which were inconsistent with its notion of a non-racial, undivided nation, and accepted property rights only on condition that the state would reserve the right to regulate exploitation of natural resources, subject to payment of appropriate compensation.

Emotions ran very high on the property issue, especially as it related to land, the best of which had been appropriated by whites under apartheid. Indeed, one of the greatest fears generated by the transition was over the possible loss of land. The compromise reached, as stipulated in Article 28 of the interim constitution, was that ‘just and equitable’ compensation was to be paid in the event of appropriation by the state. A commission was also to be established to study the merits of claims to land restitution and to settle disputes. Such a commission at least offered an opportunity for fair
hearing and redress to potential land losers. Another related right that was equally controversial because it entailed a contestation between white (employers) and black (workers) was the right to strike, for which the NP government and the capitalist class sought a balance in terms of the right of employers to lock out striking workers. The Congress of South African Trade Unions (COSATU), an ally of the ANC, called a general strike to back its demand in November but, in the end, the right of employers to lockout was retained.

Given the divergent positions, it took a spirit of cooperation and reconciliation, and willingness to compromise, for the negotiations to succeed. For the ANC, the potential recipient of power, compromise was compelled by other underlying considerations. The difficult task of holding the state together in the aftermath of the transition, as well as the realisation that it would require the support and loyalty of agencies of the previous regime to succeed, led it to make concessions to the demands of other stakeholders. In particular, care was taken not to set against its future government the Afrikaner-controlled bureaucracy and defence force, which had a vested interest in perpetuating white privileges (there were right-wing elements in these sectors). It agreed to power sharing in the belief that ‘a minority presence in government would lessen white resistance and prevent the alienation of the civil service’ (Atkinson, 1994a: 104). The NP also made strategic concessions on several issues, typically after the interests and future of its leaders had been taken care of. For example, the party dropped its insistence on minority veto, considered by many whites to be the most potent check to the possible excesses of black majority rule, after the participation of F.W. de Klerk and other leaders in government had been assured for at least five years in the Government of National Unity (GNU). Such interest-begotten concessions, which the more conservative whites regarded as capitulation, surrender or sell-out, underlay the widespread allegations of betrayal of whites in general and Afrikaner whites in particular, especially after the NP withdrew from the GNU in 1996.

5 Moreover, it promised not to undertake wholesale lay-off of white civil servants. As Mandela said during campaigns for a white referendum in 1992, ‘We are keen to allay the genuine fears of whites... Part of the strategy would be to explode a myth that civil servants would be retrenched by a future ANC government’. He promised that if and when white civil servants had to go, in order to make the service more representative, they would receive their full benefits (Sunday Star, 15 March 1992).
Constitutionalism
A major factor in the success of negotiations was the acceptance of the principle of constitutional supremacy by all parties during and after transition, both to ensure that agreements reached were binding, and ‘to ease the pain of the loss of monopoly power’ (Adam and Moodley, 1989: 374). The first step was the interim constitution, which embodied the main agreements from the negotiations, and served to legitimise and guide the transition process. The major provisions of the interim constitution, which aimed at easing the pain of loss of power, checking the possible excesses of majority power and allaying the fears of the white minority, included the Proportional Representation (PR) electoral system, a government of national unity, a bill of rights, the granting of legislative and executive competences to the nine provinces agreed to during negotiations, the setting up of a truth commission to investigate claims for amnesty, the constitution of the senate as a balancing chamber, the establishment of regulatory and oversight institutions, the establishment of a Volkstaat Council, and constitutional supremacy. According to Basson (1995: xxiii), the constitutional principles both ‘cast in stone’ the ideal of a constitutional state, and ‘strengthen[ed] the position of the so-called minority groups who were in favour of a strong federal system and other features of self-determination’.

Allaying fears of transmutation
We now turn to the more specific instrumentalities designed to allay the fears of whites. The PR system, under which parties were allocated seats in the National Assembly, Senate, Provincial legislatures and local councils in proportion to their percentage shares of total votes cast in elections, assured minority parties and their constituencies of representation during the critical period of transition and after. The system was used for the April 1994 elections and subsequent elections, notably the local government elections of November 1995 and the general elections of 1998. The composition of the Senate was designed to ensure the protection of provincial interests in central government, which was enhanced by the provision that required the assent of the Senate to any new legislation that affected the regions. The change in the nomenclature of the upper house from Senate to Council of Provinces in the 1996 constitution underscored this crucial function.

The GNU, which was applied at the central and provincial levels, was another major instrument for allaying white fears. While
parties that qualified (one cabinet post was allotted for every 20 seats in parliament) and decided to join the GNU were free to choose their ministers, the allocation of portfolios was determined by the president in consultation with the executive deputy presidents and leaders of the participating parties. This gave the parties ample room to negotiate some balance in the composition of the cabinet, a process that was helped by the eagerness of the ANC to keep the other parties on board. This was the spirit in which the powerful portfolio of home affairs was given to the IFP and those of finance, provincial affairs and constitutional development to the NP before it withdrew from the GNU in 1996. In addition to cabinet positions, every party with 80 seats or more in parliament was entitled to an executive vice-president. This at least assured the NP of a vice-presidency in the crucial short-run immediately following the 1994 elections. Furthermore, decisions in cabinet were to be taken after consultation with the deputy presidents and cabinet ministers and on the basis of simple majorities (the NP’s proposal of a two-thirds majority, which would have given the power of veto to minority parties, failed). In the critical areas of defence and security, emphasis was placed on representativeness and consensus in parliamentary committees and decision-making by cabinet.

The interim and 1996 constitutions provided for the establishment of a number of regulatory and democracy cum governance-enhancing institutions, which were expected to ensure compliance with agreed principles and modalities for accommodating differences and ensuring equity and fairness. These included the Human Rights Commission, the Pan South African Language Board, the Commission on Gender Equality, the Independent Electoral Commission and the Commission on the Restitution of Land Rights. There was also provision for an independent and impartial Public Protector whose functions included the investigation of maladministration, abuse of power, improper or dishonest acts, improper or unlawful enrichment, and acts of discrimination. To ensure that the transition was not derailed by disloyalty on the part of the bureaucracy, the non-partisanship of the public service was reiterated; it was to ‘serve all members of the public in an unbiased and impartial manner’ (Article 212). Finally, to forestall the politicisation of the defence force, the principle of subordination to civil authority and constitutional supremacy was upheld (Shaw, 1994).

The interim constitution also contained a bill of rights, which upheld the rights of individuals as opposed to groups. In line with the ANC’s emancipatory conception of rights, the equality clause
did not preclude measures necessary to redress the inequalities entrenched by years of racial discrimination. Perhaps the most important of these, affirmative action in employment, was a major source of discontent to the whites as it implied a formal end to exclusive privileges. Although there were provisions that obliged the state to respect linguistic and cultural diversity – such as sections 3 and 31 on language and culture, and section 32, which granted the right to establish educational institutions based on common culture, language or religion – no explicit group rights were granted. The right to language and culture was left to the individual’s choice, as was consistent with the ANC’s preferred *de-ethnicisation* of education, language and culture, and non-racialism (for a critical analysis of the ideology of non-racialism as a rejection of race as a principle of social organisation, see Taylor and Foster, 1997; see also Bekker, 1993).

The bill of rights was a far cry from the explicit rights of the group to culture, language, mother tongue education and self-determination demanded by Afrikaner nationalists. On the highly emotional issue of language, Afrikaans was entrenched as one of the eleven official languages, with the important proviso that the existing rights to and status of languages would not be diminished. But the recognition of eleven official languages was seen as a ‘thinly disguised ANC move to introduce one de facto language [English]’ (Giliomee, 1997: 9). The failure of the NP to secure a better deal to preserve the use of Afrikaans was accordingly cited as one of the greatest blunders of its leaders.

With regard to self-determination, the best the constitution provided was the establishment of a Volksstaat Council, which was a symbolic and pragmatic response to the demands for an exclusive Afrikaner state. Its main function was to enable proponents of the idea of a *volkstaat* constitutionally to pursue ways of actualising it. The council was the product of a deal struck between the Freedom Front (FF) and the ANC, which hinged the actualisation of the idea on demonstration of substantial support for those demanding it. Unfortunately the FF could only secure about 2 per cent of the votes in the 1994 election, but this did not stop the council from continuing the search for a territory and performing its other advisory and information-gathering functions. Once the shape of a *volkstaat* had

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6 Venter (1996:5) has pointed to attempts by the ANC to depoliticise ethnicity and de-ethnicise culture. As a result, he says, ‘culture-as-legacy of an ethnic group is absent from the RDP, replaced instead by culture as art, culture as language, and culture as national identity’.
been determined, the council could make appropriate recommendations to the Commission on Provincial Government and the Constituent Assembly. The inadequate response of the constitution to core demands of Afrikaner nationalists largely explains the recourse of right-wing elements to extra-parliamentary means of interest articulation, though the parliamentary route was also embraced by the nationalists and especially increased after the NP pulled out of the GNU in 1996. Thus, the FF, CP and many other right-wing parties, participated in the 1995 local government elections, though with little support to show.

Finally, a Constitutional Court was created to interpret constitutional matters and disputes. As this function was crucial to the success of the constitutional approach of the transition, efforts were made to ensure the impartiality of the court. Four of its ten judges were to be chosen from the ranks of judges, thereby ensuring that the extant white judiciary continued to play a crucial role in the constitutional process, while its president and other members were to be appointed by the president in consultation with the cabinet. To strengthen the independence of the judiciary as a whole, a Judicial Service Commission was to be established and consulted for appointment of the Chief Justice and Supreme Court judges.

Immediate responses
For white critics of the NP government who accused it of betrayal and capitulation, and certainly for the Afrikaner far right which wanted a sovereign Afrikaner state, the provisions of the interim constitution fell short of the protection that they expected in many respects – on the issues of property, a minority veto, group rights and the right to self-determination. Indeed, the emphasis seems to have been more on protecting the immediate and narrow interests of the NP leaders. This is the context within which the upswing in right-wing resistance and terrorist activities, which was the most extreme of the immediate reactions of the Afrikaners to the changing political order, and the milder attempts to save the Afrikaans language, should be considered. Indeed, the entire period of democratisation, dating back to the pre-1994 elections, saw a proliferation of right-wing movements, some of which were affiliated to international neo-Nazi organisations, which resisted the forces of liberalisation the world over.7

The number of these movements, including political parties, cultural associations, labour unions and para-military organisations, was estimated at 144 in
The desperation of resistance and protest activities increased in tandem with the increased irreversibility of the collapse of the white empire. There was a stepping up of bomb attacks and other terrorist acts as well as threats of industrial sabotage and targeted killings of blacks. There were also rumours of a violent overthrow of the government to prevent black rule and, failing that, a unilateral declaration of an independent volkstaat. These rumours were strengthened by the right-wing inclination of many white officers in the defence and security forces who were believed to be the perpetrators of Third Force activities, and the membership of right-wing movements by retired officers such as General Tiene Groenewald, former chief director of SADF’s Military Intelligence who retired in 1990 to become a right-wing military strategist.

The escalation of the so-called black-on-black violence involving supporters of the IFP and the ANC, and the resistance of the homeland government of Bophuthatswana to reincorporation into South Africa, both of which provided the right-wing with allies, completed the atmosphere of war that threatened to abort the entire transition. The defection, as it were, of General Constand Viljoen and his FF from the ranks of extremist right-wingers to enter the multi-party negotiating process and contest the 1994 elections was the coup de grâce that saved the transition. Another important factor was the successful resolution of the knotty issues of building integrated defence and security forces on which the right wing, which had members and sympathisers in strategic positions, had hinged its hopes of armed resistance. After the ANC came to power, the articulation of discontent and resistance shifted from terrorism and violence, which nevertheless remained a serious threat, to a rejection of symbols of the new order – notably the national anthem and

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8 In 1990, about 52 terrorist attacks linked to right-wing organisations were recorded, while a number of random killings of blacks took place between 1991 and 1993 (one of these was the killing of Chris Hani, former commander of the ANC’s military wing, uMkonto we Sizwe, in April 1993). In the run-up to the April 1994 elections, the number of bomb attacks also increased, including an attack on Johannesburg international airport.

9 Welsh (1995) suggests that the far right underestimated the abiding tradition of obedience to constituted authority in the defence force.
flag, non-racial schools, and the ascendancy of English as official language.

The ascendancy of English (and African languages) meant of course scaling down the use of Afrikaans. Instances of this included a reduction of the use of Afrikaans in the television programmes of the state-owned South African Broadcasting Corporation’s and in public announcements on South African Airways flights; the dropping of the Afrikaans (and Sesotho) names of the Orange Free State; and the decision of the ANC-controlled Germiston Town Council to conduct all its business in English, a decision that was upheld by the Supreme Court (protests from the Pan South African Language Board could not reverse the situation). The scaling down of the use of Afrikaans, which became a barometer for measuring Afrikaner loss of power and seemed to indicate the inadequacy of the constitutional provisions to preserve language rights, led to an intensification of efforts to save the language, as discussed in the next section. As part of saving Afrikaner identity and power, the old (pre-transition) flag continued to be hoisted in Afrikaner-dominated areas, especially those claimed by volkstaaters whose inhabitants insisted on retaining whites-only schools where only Afrikaans language was used. In the case of the national anthem, the government was forced to adopt a dual-anthem policy, which saw the old anthem (Die Stem) being played alongside the new (Nkosi sikele’iAfrika) at official functions. As the processes and reality of black rule became more consolidated, so the effects of the changing order on Afrikanerdom became clearer. In the next section, we examine these effects and the larger responses they elicited from the Afrikaners.

2. Afrikanerdom in the Throes of Democratisation

The outcome of the April 1994 elections confirmed the displacement of Afrikaners (and whites as a whole) from state power and their transmutation into an aggrieved minority. While the ANC secured 62.6 per cent of the total votes nationally and 252 seats in the National Assembly, the NP got 20.4 per cent and 83 seats. The other Afrikaner-based party, the FF, won only 2.2 per cent (nine seats), while the Democratic Party (DP), which was associated with English-speaking whites, won 1.7 per cent (seven seats). The parties also performed poorly in terms of national spread (territorial control), as the NP managed to secure control of only one province (Western Cape) while the ANC controlled seven (the IFP controlled the ninth province, Kwa-Zulu Natal). This pattern of
electoral support was replicated in the 1995/96 local government elections, as well as the 1999 general elections. While they suggest that Afrikaners and other whites could have done better if they were less divided, there is no doubt that the parties would have fared worse if the PR electoral system had not been employed. But the results were sufficient to give the NP a place in the GNU, albeit as a junior partner. As long as F.W. de Klerk remained one of the two executive vice-presidents, and NP ministers served in important portfolios, there was some assurance that the interests of whites and Afrikaners would be protected. To this extent, the withdrawal of the NP from the GNU in 1996, ostensibly to strengthen itself as an opposition party, was a great blow to whites and was regarded as the height of the party’s betrayal.

In the aftermath of the change in power incumbency after April 1994, a regime of transformation, involving a redressing of the structural inequalities from the past and reconstruction of the nation-state along non-racial lines, was set in motion. The hallmarks of this regime included affirmative action policies; relegation of the use of Afrikaans, once the symbol of domination, in official circles and the media; opening up of Afrikaans- and whites-only schools to blacks and other races; restitution of land to original owners, which led to sporadic attacks on recalcitrant white farmers by aggrieved former owners; and gradual loss of control of the defence force, police and bureaucracy. The NP, right-wing elements and several Afrikaner leaders also alleged discrimination and witch-hunting by the Truth and Reconciliation Commission, which investigated claims for amnesty for political crimes committed during the apartheid era.

Dramatic as these changes appeared, especially given their orchestration by Afrikaner nationalists, the transformation was very slow – in fact, an impartial observer would have been hard put to see the evidence of real transformation. Historically white schools and universities preserved their exclusive privileges through ingenious ways of changing without transforming; so-called affirmative action remained at the level of token appointment of blacks to sinecure positions; control of the police and defence force continued to be in the hands of by white Afrikaners; and, most of all, control of the economy remained in the hands of white capitalists who pressed hard for privatisation, which became a strategy for retaining control. The slow pace of transformation led disillusioned blacks to accuse the ANC government of being more interested in allaying the fears of whites through preservation of privileges than in redressing historical inequalities.
This seemed to have been true of the handling of the economy. The retreat of the ANC from socialism to liberalism and increased alliance with business was calculated to reassure white capital and prevent sabotage, capital flight, low foreign investment and loss of industrial base, which were sure to follow alienation of capital. In essence, realism replaced revolutionary ideals, as economic growth was an absolute necessity for the reconstruction and development programme (RDP) and transformation. The Macro-Economic Research Group, which was believed to be the ANC’s economic think-tank at the time, submitted in 1993 that an annual growth rate of 5 per cent was required to create 300,000 jobs annually. It was on this ground, for example, that the peace dividend school lost to the hawks of the defence industry who pointed to the huge contributions of the industry to national income, industrialisation, employment generation and overall economic development. This was at the cost of resistance from COSATU and blacks in a hurry for emancipation.

Under the subheadings that follow, we identify and analyse the major strands of the post-1994 phase of democratisation, their effects on Afrikanerdom and the responses to the changes.

Identity crisis
The loss of state power eroded the basis for Afrikaner identity and cohesion. The pressure on the NP and most other Afrikaner political organisations to shed the apartheid baggage after that loss, led to the deconstruction of the Afrikaner empire, which had taken several decades to build. Even the powerful *Broederbond*, one of the spearheads of Afrikaner cohesion, was disbanded in 1994. Its replacement, *Die Afrikaner Bond*, which had about half of the members of the old group, was not a secret organisation like its predecessor, and its membership was thrown open to all Afrikaans speakers. Although it committed itself to furthering the interests of all Afrikaners (white and non-white alike), the goals of the new group were stated in more global and reconciliatory terms – terms such as ‘sound nation-building’ and ‘respect for individual and community rights’.

What all this meant was that, as Munro (1995:10) puts it, ‘once race and state were withdrawn as principal tenets of Afrikaner culture, Afrikaner identity became much more difficult to delineate clearly and to sustain ideologically’. But the loss of state power

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10 The success of the state-engineered nationalist project should not, however, blind one to the fact that Afrikaner identity is a recent construction, dating
opened the doors to alternative mobilisation for survival and identity reconstruction. These involved the attempt to bolster demographic strength and the use of language, culture and assertion of the right to self-determination. Language, with its unifying and emotive powers, was the rallying point of the new cultural nationalism, especially as several surveys showed the dissatisfaction of white Afrikaners with the loss of status of Afrikaans (Schlemmer, 1997). Afrikaans consequently became the basis of the demand for protection of group rights, including the right to self-determination (in other words, the preservation of privileges).

In November 1996, Afrikaner nationalists met in Stellenbosch under the banner of a language movement to discuss how to promote and protect Afrikaans and the interests of Afrikaans speakers, 30 per cent of whom were said to earn less than the national minimum wage. So the concern was not simply to assert language rights, but how to employ language as a tool of political and economic empowerment. In political terms, the inclusion of Afrikaans-speaking Coloureds as Afrikaners was part of the attempt to extend the demographic and territorial strength of the aggrieved language (rather than racial) minority to back up the demands for protection. This was the culmination of sustained protests over the so-called relegation of the use of Afrikaans in official circles, state-owned media (SABC), and schools, as well as calls for its replacement in the defence force. To save the ‘endangered’ language and culture, Afrikaner cultural and political movements, such as the Federasie van Afrikaanse Kultuur Vereniginge, the Conservative Party, and the Freedom Front demanded the introduction of mother-tongue (Afrikaans) education and retention of Afrikaans-only (i.e. whites-only) schools. The more extreme right-wing elements sought to retain these privileges by force. In essence, the demand for language rights was actually a demand for preservation of privileges as well as the basis for reconstructing a new Afrikaner identity.

But how were these to be done without losing the advantage of racial purity and the binding core interests? This question was particularly critical in relation to the so-called Coloured question. The NP had orchestrated and exploited the fears of black domination back to the late 19th century when organisations like the Taalbeweging (Movement for the Recognition of Afrikaans) emerged. It has remained fragile and contested ever since (cf. Giliomee, 1975; Coetzee, 1978).

As late as February 1996 for example, an Afrikaans school in Potgietersrus, a right-wing town, still refused to accept black students. Its gates had to be forced open by a ruling of the Northern Province Supreme Court.
by the Afrikaans-speaking Coloureds to gain control of the Western Cape Province. But was this co-optation through the electoral process and language sufficient to make Coloureds Afrikaners, as the language school of the new Afrikaner nationalism seemed to suggest? Matters were not helped by the Coloureds themselves, who were caught in the throes of an even worse identity crisis and sought to reconstruct a new identity around Afrikaans and selected historical symbols (cf. James et al., 1996). The dilemma of inclusive versus exclusive identity boundaries was a product of democratisation, and was likely to remain unresolved for as long as the construction of the new Afrikaner identity was hinged on the projection of the Afrikaner volk as a dominated minority in search of emancipation.

A united front, or rallying centre, such as control of state power had provided, was a necessary condition for this resolution. But this seemed far-fetched as Afrikaner cohesion gave way under the pressure of democratisation. The idea of a volkstaat potentially held the promise of an alternative rallying point, but the movement lacked the necessary support and consensus to actualise such potential, what with the conflicting proposals by different right-wing groups, their inability to clearly delineate the boundaries of the territory and the violent tactics adopted by the far right, which reduced the level of support for the movement. The only hope of actualising the idea by constitutional or peaceful means rested on the Volkstaat Council whose mandate, as we saw earlier, was to examine the feasibility of the project and make appropriate recommendations. The council commissioned research into various aspects of the issue and organised an international conference on the right to self-determination in March 1996 (Volkstaat Council, 1996).

Earlier in 1995, the council had submitted a report to President Mandela in which the possible boundaries of a volkstaat were delineated. The territory represented ‘an area over which the Afrikaner has historical claims to the right to self-determination and in which the Afrikaner constitutes the majority of the population’ (report cited in Sunday Times, 28 May 1995). Unlike the sovereign state demanded by the extreme right wing, however, the territory was to be a ‘federated state’, equivalent to the provinces, but with original legislative powers to preserve Afrikaner culture and lan-

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12 At the vanguard of Coloured nationalism galvanised by democratisation were organisations such as the Kleurling Weerstandsbeweging (Coloured Liberation Movement).
guage. As General Viljoen explained later at the 1996 conference, ‘The initial demands for a sovereign volkstaat were scaled down because of the absence of proof of the type of suppression on which a claim for secession...could be based’ (Viljoen, 1996). As with most other volkstaat proposals, the problems remained the marble-cake pattern of Afrikaner domicile, what to do with non-Afrikaners within the proposed unit, and with Afrikaners outside the delineated territory (the report proposed that these would be organised as ‘concentrated minorities’ in designated autonomous areas). The idea of a volkstaat remained a dream at best.

Factionalism

Democratisation did not create divisions within the Afrikaner group; it only increased the factionalist tendencies that had characterised Afrikaner politics from the very beginning. The divisions permeated all spheres of Afrikaner political organisation. The right wing, which was bound together by a community of fundamentalist interests and tried to organise united coalitions such as the Afrikaner Volksfront formed in 1993, was beset with ‘sectarian antagonisms...leading to repeated splintering and proliferation of organizations within the movement’ (Munro, 1995:17). The AWB for example claimed to represent the authentic Boervolk who, its leaders insisted, were different from other Afrikaners. Its more fundamentalist, rural and violent inclination was unacceptable to the conservative and upper class right-wingers in the CP, which was able to attract some non-Afrikaner white support. Even the Dutch Reformed Church, the bastion of shared values that strengthened Afrikaner solidarity at the early stages, had its fair share of factionalism.

The divisions seemed to reduce with the emergence of the NP government as ‘the unchallenged custodian of Afrikaner nationalist politics’ (Welsh, 1995:240). But they resurfaced once the process of dismantling the apartheid order got under way, especially after the forces of transition became irreversible (Giliomee, 1992; Schiff, 1996). At the receiving end of all the factious tendencies was the NP, which never really commanded the monolithic support of Afri-

13 Indeed, intra-Afrikaner divisions have a long history, and are partly to be explained by the different extractions (Dutch, French, German) that were later welded into the Afrikaner volk, the class and provincial divisions that separated the Boers (rural farmers) from the urbanised Afrikaners and the Cape Afrikaners from Transvaal Afrikaners, and ideological differences among the elites.
In the twilight of apartheid, the party split into two blocs – the Verligte (enlightened reformers) and Verkrampte (conservatives) – over the tactics to be adopted for preserving Afrikaner privileges in a transformed South Africa. Botha’s reforms had forced hardliners to break away from the party to form the CP.

But the worst came with democratisation, when the party’s supposed betrayal and surrender of power during negotiations earned it a vote of no confidence. There was also the difficult dual role it had to play as member of the GNU and as opposition, which was another source of division. While the ‘new Nats’ like Meyer, co-chair of the constituent assembly, and Danie de Villiers, who had established strong links with influential members of the ANC in the course of negotiations, pressed for greater accommodation in the GNU and closer ties with the ruling party, those outside patronage circles and hardliners such as Andre Fourie wanted a stronger opposition role and possible alliance with the IFP and other opposition parties. These divisions deepened after the NP withdrew from the GNU, ostensibly to become a stronger opposition. Attempts to adapt the party into the changing political realities and transform it from an ethno-racial party to an inclusive non-racial party – which was necessary to boost its chances of challenging the ANC for power – opened the floodgates of the worst crisis and divisions the party had ever experienced.

The crisis that ensued was a sort of replay of the earlier enlightened–conservative division. The conservative element led by Henrus Kriel, premier of the Western Cape Province, considered that remaining a white-Afrikaner party and consolidating its hold on this constituency, which included the Coloureds of the Western Cape, has the best strategy for survival as a major party. At the other end were Roelf Meyer and the new generation Nats (supported by the influential conservative Afrikaans newspapers Die Burger and...
Beeld), who favoured an inclusive, non-racial transformation. The party inevitably split along these lines, with Meyer and several of his supporters leaving to team up with General Bantu Holomisa, former military ruler of Transkei, to form the United Democratic Movement (UDM). Although the UDM held a lot of promise as a multiracial party, its fortunes declined after its poor performance in the 1999 general elections. Another casualty of the divisions and tensions that tore the NP apart was F.W. de Klerk who resigned as leader of the party in August 1997. Finally, the rump of the NP transformed into the New National Party (NNP), which entered into a short-lived alliance with the liberal DP to which many Afrikaners had switched loyalty in the run-up to the 1999 elections.

The constitutional process
In the face of mounting allegations of disempowerment, the failure to secure satisfactory safeguards for the Afrikaner minority in other spheres shifted attention to the final constitution. Afrikaner interests in and approach to the process of writing the new constitution were shaped by the change in status of the group, which has been aptly captured by Palmberg (1997:1): the white Afrikaners were not merely past masters and oppressors who had now been displaced, ‘but also a minority with legitimate minority concerns’. Consequently, the demands on the constitutional process were for protection of the group’s identity (language, culture, religion and values) and core interests, which necessitated group rights. As listed by General Constand Viljoen, in a paper at the 1996 conference on self-determination organised by the Volksstaat Council, these were:

i. Language rights; ii. right to community-oriented education in the mother tongue; iii. the right to autonomy in matters affecting our cultural identity and heritage, including the right to local self-administration; iv. the right to own organizations and associations; v. the right to territorial autonomy in negotiated areas where majority occupation by Afrikaners could be established through their own initiatives (Viljoen, 1996: 2).

One interesting dimension of the demands for group rights was the attempt to universalise the plight of minorities in South Africa. Less was said of the uniqueness of the Afrikaner situation and more of its similarity with other minorities – Coloureds, Indians, and African political minorities such as the Zulus, Sesotho and Venda, who
increasingly alleged marginalisation and discrimination under the ANC-led government (cf. Osaghae, 1997; ‘Letter to the Editor’, City Press, 13 December 1995:5). This tactical shift could be explained in terms of the need to strengthen the case of the Afrikaners by aligning with other minorities, but it had more to do with trying to change the impression that Afrikaners were only interested in preserving their racial privileges and advantages.

The production of the final constitution by the constituent assembly was like a replay of transition negotiations and compromises, with the ANC (now the ruling party) and the NP remaining the principal actors, except that the shape of the constitution had been delineated by section 71 of the interim constitution, which bound it to the constitutional principles set out in Schedule Four. Nevertheless, the final constitution differed from the interim constitution in important respects, which space does not permit us to elaborate upon. It suffices to point to the most crucial of the changes, namely the move towards an autonomous liberal state with the abrogation of the GNU (du Toit, 1996). This did not, however, mean the end of balance and accommodation of diversity as the constitution stipulated that the composition of institutions of state, including the judiciary, and the conduct of government business should recognise the imperatives of representativeness and diversity. For example, special provision was made for the participation of minority parties in the selection of provincial delegates to the Council of Provinces, as the Senate was now called. In addition, the provisions on the rights to culture and language were retained and in some instances strengthened. This was the case with section 3 (a) on languages which, amongst other points, required the national and provincial governments to use at least two official languages, and the provision for the establishment of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Minorities (section 185). It was under the terms of the latter provision that the Volkstaat Council and similar councils could continue to function, but the commission has so far not been established.

Given the liberal bent of the constitution, the bill of rights emerged as the main instrumentality for dealing with the concerns of minorities. The aversion of the ANC to group rights held sway once again. This time around, however, it enjoyed the support of the market-oriented elites of the NP and DP who saw the entrenchment of a liberal regime as conducive to the preservation of white advantages and privileges, especially in the economic sphere; with the termination of political power-sharing, white economic power was
henceforth to be used to counterbalance black political power.\textsuperscript{16} In line with the ideology of non-racialism which the new NP increasingly embraced, there was also an attempt to de-racialise and de-ethnicise collective rights by making gender and class important bases for ensuring representation and balance. This was in addition to making language and cultural rights a matter of personal choice and neutralising the ethnicisation of cultural, linguistic and religious associations by designating them organs of civil society (section 31 (2)).

The closest thing to an explicit group right, which kept hopes for a watered-down \textit{volkstaat} alive, was the provision on the right to self-determination in section 235, which deserves to be fully cited:

\begin{quote}
The right of the South African people as a whole to self-determination...does not preclude...recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way determined by national legislation.
\end{quote}

This once again fell short of the group rights demanded by Afrikaners. How far the other notions of group rights implied in the provisions on language, culture and religion can go in giving the Afrikaner nationalists the status they demand remains to be seen. The unyielding attitudes of the far right suggest that they would not go far, but the same cannot be said for the vast majority of moderate Afrikaners who seem to have opted for conservative liberalism as a political strategy. This led many of them to support the liberal-centrist DP, which as we pointed out earlier was in alliance with the NNP until 2001. A significant number of NNP members subsequently joined the ANC, suggesting that Afrikaners may have finally elected to join the political mainstream rather than remain marginals and outsiders. The decline of the right wing, especially since the 1999 elections, reinforces the possibility of this being the case.

\textsuperscript{16} However, not to be completely outdone as the acclaimed representative and leader of the Afrikaners, the NP joined the FF to demand protection for Afrikaners through creation of constitutionally sanctioned cultural councils at the local, provincial and national levels. Amongst other functions, the councils were to have a say in mother-tongue education, language issues, monuments, museums and cultural assets (\textit{Mail & Guardian}, 29 March 1996).
3. Conclusions
This article has attempted to outline and explain the impact of democratisation on the white Afrikaner minority in South Africa. This, and the reactions of Afrikaners to the changing political climate, which took the form of counter-revolutionary nationalism, were analysed in terms of the loss of state power that members of the group previously monopolised, and their subsequent transmutation into a disempowered minority. How best could the fears generated by this change be allayed? Afrikaner nationalists, especially the right-wing elements, insisted that only the entrenchment of group rights, including the right to self-determination, could do. The more realistic NP on the other hand demanded power-sharing and political balance, which the interim constitution and the 1996 constitution to a large extent took care of. The seeming popularity of right-wing demands and activities may have captured the angry mood of the time, but since 1996 when the NP pulled out of the GNU, Afrikaners have increasingly favoured liberalism and integration into the political mainstream, as perhaps the most pragmatic option for adjusting with the transmutation from ‘masters’ to ‘minority’. The decline of the right wing may be taken as evidence that the Afrikaners have finally reconciled themselves to the inevitability of change.

References


James, W., D. Galinguire and K. Cullinan, eds, 1996, *Now that We are Free: Coloured Communities in a Democratic South Africa*, Cape Town: IDASA.


Lawrence, R., 1994, ‘From Soweto to CODESA’, in Friedman and Atkinson, eds.


Viljoen, C.L., 1996, Presentation to the International Conference on Self-Determination organised by the Volkstaat Council, March.


I WARMLY RECOMMEND THIS ESSENTIAL AND INSIGHTFUL VOLUME. THE BOOK IS THE FIRST SYSTEMATIC AND COMPREHENSIVE INTRODUCTION TO THE FIELD OF POLICY COHERENCE IN DEVELOPMENT CO-OPERATION. IN ADDITION TO PROVIDING AN ACCESSIBLE DISCUSSION OF DEVELOPMENT AID AND POLICY COHERENCE, IT ALSO HAS A MORE GENERAL VALUE. SEEN AS A WHOLE, THE BOOK IS A BROAD AND WIDE-RANGING COVERAGE OF DEVELOPMENT AID IN ALL ITS COMPLEXITY. IT DRAWS OUR ATTENTION TO THE VARIOUS ACTORS IN AID POLICIES ARENAS AND THE ACTUAL OUTCOMES OF DEVELOPMENT AID. MORE IMPORTANTLY, THE BOOK GIVES AN INSIGHT INTO THE THEORETICAL ASPECTS OF POLICY INCOHERENCE. AT A GLANCE, ONE MAY SEE THE CONTOURS OF A NEW VERITABLE INDUSTRY IN THE SOCIAL SCIENCES FOCUSING ON POLICY INCOHERENCES. FINALLY THE VOLUME CERTAINLY HELPS IN ESTABLISHING THE CONCEPT OF POLICY COHERENCE IN THE LITERATURE.

THOMAS DAM The European Journal of Development Research (Vol. 12, No. 2).

Policy Coherence in Development Co-operation

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Edited by Jacques Forster, IUED and Olav Stokke, NUPI

In the 1990s, a widely shared conviction emerged among aid donors that their policies should be more coherent than in the past. The drive towards increased policy coherence came as a response to a state of policy incoherence.

The shifting grounds of policy coherence in development co-operation are outlined in this volume. The policies of some selected donor countries – Canada, France, Germany, the Netherlands, Norway, Sweden and Switzerland – are scrutinised and analysed, with particular reference to the 1990s. Spotlights are also directed towards the European Union, with particular reference to the internal coherence of its development co-operation policy and the common foreign and security policy, and the coherence of EU policies and the bilateral policies of its member states.

The volume starts off with a state of the art contribution by its editors. The book represents the first effort to deal with the issue of policy coherence in a systematic and comprehensive way. It will be of considerable interest to researchers, university teachers and students in the field of development studies, and of particular interest also to politicians and administrators at all levels concerned with development co-operation and North-South relations.
Turning Landscapes into ‘Nothing’: A Narrative on Land Reform in Namibia

Eirin Hongslo and Tor A. Benjaminsen

1. Background
Namibia has one of the most unequal distributions of land found anywhere in the world. This inequality in control over land is regarded, by the majority of Namibians, as the main cause of rural poverty and economic inequalities (Werner, 1997). In fact, it is often said that the war of independence was fought over land (Adams and Devitt, 1992). After independence in 1990, the SWAPO government announced its intentions to carry out land reform, but 12 years later little agricultural land has been redistributed to secure a livelihood basis for the rural poor. At independence, approximately 4,200 white farmers owned more than half of all agricultural land in the country (Adams and Devitt, 1992), while most of the black major-

Note of acknowledgments. This article is based on Eirin Hongslo’s MSc thesis from Noragric, Agricultural University of Norway (Hongslo, 2001). Ms Hongslo would like to thank the farmers in the Kuiseb who willingly shared their views with her and accommodated her with great hospitality. She is also grateful to the Desert Research Foundation of Namibia (DRFN) for all the help it provided, including an office to work in, and to Frank Wittneben, extension officer in the Department of Agriculture, who put her in contact with the farmers as well as giving helpful advise. Hongslo originally set out to write about perceptions of water management in the Kuiseb. However, as the work with the interviews proceeded, land reform emerged as a recurring theme. The open structure of the interviews, and the fact that she transcribed all of them, made the writing of the thesis and this article possible. The authors hope that the respondents and the people who assisted Hongslo during the fieldwork are not too disappointed with the final outcome. Tor A. Benjaminsen, who was Hongslo’s supervisor during her MSc work, acknowledges support from the Research Council of Norway through a project on ‘Perceptions of landscape change’. Finally, the authors are grateful for comments received from Rick Rohde, Sian Sullivan, Randi Kaarhus and one unknown referee. However, all opinions and possible mistakes remain the responsibility of the authors.
ity lived in the homelands or constituted a landless workforce in the urban townships. This situation is not very different today.

It is common to present the Namibian economy as dualistic, one sector being ‘commercial’ or ‘modern’, and the other ‘communal’ or ‘traditional’. The proposition is that the communal areas are dominated by subsistence-oriented production, which is incompatible with commercial agriculture. It is, for instance, assumed that livestock in the communal sector is kept primarily for social and cultural than for economic reasons (Adams and Werner, 1990). In this article, we have chosen to maintain these established and commonly used terms, for lack of good alternatives, even though the assumptions behind them are problematic. Alternative terms, better reflecting the structure of these two land-use systems, might be ‘land-intensive’ and ‘people-intensive’, but their use would also be more cumbersome.

The dualism in land use and tenure has a long history in Namibia and dates back to the German occupation from the late nineteenth century. After the First World War, German South West Africa became a League of Nations South African mandated territory and was henceforth administered basically as a South African province. Under South African rule and reinforced by the apartheid policy from 1948, the two land tenure systems – freehold for white farmers, and communal tenure under state authority for Africans – continued to develop in isolation from each other until independence.

Whereas the new South African government launched a comprehensive land reform programme based on the three pillars of redistribution, restitution and tenure reform, the Namibian government seems to have been less ambitious, despite its declarations at independence and earlier. The latter has only to a limited degree redistributed white-owned farms to the landless or to people from the overcrowded communal areas. In recent years, there have also been widespread disappointment and dissatisfaction with the slow pace of land reform in South Africa, while in Zimbabwe the government has supported the occupation of white commercial farms by so-called ‘war veterans’ after 20 years of modest government interest in land reform.

The reasons for the slow pace of land reform in southern Africa are many, but in Namibia, one reason could be that from the beginning there were fears that large-scale land reform would have adverse effects on economic productivity as well as on the environment.

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1 We thank Professor Pauline Peters for this suggestion.
For instance, the World Bank early on warned against such consequences (Pankhurst, 1995).

The two land-use systems operate in similar ecological environments, but with contrasting management aims. In the commercial system, livestock is raised for the rapid production of meat for national and international markets. Optimal stocking densities give maximum growth per animal during its first year of life, predictable calving or lambing rates, low mortality and a steady production of high quality meat demanded by the market (Rohde et al., 2001). Communal farmers, on the other hand, have multiple production objectives; milk and meat are important for household food security, livestock provides capital (to pay for school fees, medical emergencies etc.), and is used as draught power in agriculture and for transporting goods (Rohde et al., 2001). In line with their production objectives, communal farmers tend to maximise herd size instead of adopting the stocking rates recommended by agricultural extension services. Hence, stocking densities are normally several times higher on communal land than on commercial ranches.

However, decision makers and agricultural departments in southern Africa rarely acknowledge the different management goals in the two systems. The commercial ranching model is still seen as the ideal, which the communal system should evolve towards. The latter is frequently perceived as inefficient, unproductive and overstocked.

Through a discourse and narrative analytical approach we try in this study to contribute to an increased understanding of southern African commercial farmers’ views on issues of land management, environmental change and land reform. White commercial farmers and their organisations are still important actors in the struggle over land reform in this region. In addition, since rangeland policies in southern Africa have been dominated by the thinking behind the commercial ranching model, even in the context of communal areas (Abel and Blaikie, 1989; Adams and Devitt, 1992; Barrett, 1992; Scoones, 1992; Rohde et al., 2001), the arguments and perceptions dominating among commercial farmers can be expected also to be widespread in for instance, the extension services and agricultural and environmental ministries, as well as among politicians generally. Hence, this article is based on the idea that commercial farmers, extension services, agricultural and environmental departments and central politicians form networks of actors who, through their use of language and actions promote, establish and reproduce a particular discourse (Keeley and Scoones, 2000).
‘These networks are the mechanisms through which knowledge becomes practice. What joins the network together is a sharing of some common values and outlooks. Networks are generally informal, and actors may not think consciously about their links with other actors’ (Keeley and Scoones, 2000: 91–92).

This article is based on interviews with 17 commercial farmers in the upper Kuiseb catchment area in central Namibia (Figure 1). Most of the farmers are of German descent and still use German as their main language at home and in contacts with neighbours, while English, and to a lesser extent Afrikaans, are used in relations with government and the wider society. The farmers were interviewed in English during August–December 2000, using a mini disc recorder.

Figure 1. The Kuiseb catchment area and the catchments of the eleven other westward flowing ephemeral rivers in Namibia
In the following sections of this article, we first give a brief presentation of agriculture in Namibia and in the study area, before presenting some central issues in debates about livestock keeping and the environment in southern Africa. Then we move on to discourse and narrative analysis within political ecology as the theoretical and methodological approach used in the article, before presenting the interview material in the form of stories linked to some main topics. Finally, we present a possible counternarrative and discuss how science and politics intermingle in the stories presented.

2. Agriculture in Namibia and in the Kuiseb
Agricultural production in Namibia is severely constrained by the arid climate. Only 34 per cent of the country receives on average more than 400 mm of rain per year, which is considered to be the minimum for reliable rain-fed crop production. The scarcity of productive soils further limits cultivation. In most parts of the country, low average annual precipitation allows only extensive livestock farming: cattle in the northern parts and small stock in the more arid western, southern and south-western regions (Werner, 2000).

All the commercial farmers interviewed in this study have farms in the upper part of the Kuiseb catchment area. The Kuiseb is one of 12 major westward-flowing ephemeral rivers in Namibia (Jacobson et al., 1995). The course of the Kuiseb River, from the headwaters to the Atlantic Ocean, is 420 km. The headwaters of the catchment start in the Windhoek area; the river runs through a commercial farming area, with 109 farming units, flows further south-east through the Namib-Naukluft National Park and ends in the ocean a little south of the town of Walvis Bay.

The upper part of the Kuiseb is basically a cattle-producing area, where the average rainfall is between 150 and 330 mm per year. In this part of the catchment, rainfall is higher and less variable than in the arid West. The commercial farmers cope with the challenge of farming in a dry area with variable rainfall by means of an agricultural practice that makes extensive use of land. The properties of the farmers interviewed were between 3,500 and 17,000 hectares, with between 200 and 1,000 cattle on the farms. The largest farms are found in the driest areas bordering the Namib Desert.

Most commercial farmers interviewed manage their rangeland according to ‘the camp system’. This entails the fencing-off of portions of the range. In each portion, or camp, livestock are left unattended both day and night. This rangeland management sys-
tem depends on conservative stocking rates and rotational grazing between camps in order to maintain the productive potential of the vegetation and a constant sustainable off-take or ‘crop’ of livestock. The camp system is relatively intensive in capital in the sense that big investments are needed for water installations and fencing. On the other hand, the system is based on low labour inputs compared to the communal model.

3. Stock Farming and the Environment in Southern Africa
The whole environment and development literature on Africa is rife with references linking African pastoral and farming systems with land degradation and desertification. This commonly perceived link may be traced back to colonial ideas about African land management (Anderson and Grove, 1987; Fairhead and Leach, 1996; Leach and Mearns, 1996; Benjaminsen, 2000).

During the last decade, the desertification discourse in Africa has been heavily criticised and undermined by a substantial amount of empirical research (see, for example, Swift, 1996, and Adger et al., 2001, for reviews). However, despite this research, ‘desertification’ remains an institutional fact within African government policies and donor-funded programmes. In Namibia, the country’s Programme to Combat Desertification (NAPCOD) states as an undisputed fact that land degradation continues to take place at an alarming rate (referred in Sullivan, 2000a: 20). This statement and a host of other confident assertions on ‘desertification’ in the country are made without reference ‘to a shred of supportive natural science “evidence”’, according to Sullivan (2000a: 19).

Debates about land degradation and desertification in African drylands are linked to conflicting views of carrying capacity and whether livestock systems operate within equilibrium or non-equilibrium ecological systems. Carrying capacity (CC) in its most basic definition determines the maximum livestock or wildlife population that a habitat or ecosystem can support on a sustainable basis. In livestock production, the concept has been applied mainly to the management of the arid and semi-arid rangeland regions of the world and especially to pastoral systems in Africa where livestock are primarily dependent on grazing resources within a given area for feed supply. The CC concept has provided a planning and management tool that has formed the basis of many proposed development interventions designed to ensure the continued sustainable
exploitation of these rangeland ecosystems (Dijkman, 1993).

Since the management goals of commercial and communal systems are radically different, determining the CC of the land will have to take the differences in objectives into account. If the objective is to produce high quality meat, stocking rates within the recommended range will be important, whereas when the objective is capital storage, i.e. to keep as many animals alive as possible, because the herd is an insurance, then the quality of the meat is of less importance. Hence, recommended stocking densities will differ between commercial and communal farms situated in the same ecological environments. However, high stocking densities are usually said to lead to long-term land degradation and desertification. But this again is a debated issue.

Recent developments within range science tend to characterise African drylands as non-equilibrium environments (Ellis and Swift, 1988; Behnke et al., 1993; Scoones, 1995; Oba et al., 2000). In non-equilibrium environments, it is highly problematic to base management on the determination of carrying capacity. The concept of CC is often based on the assumption that pastures are in equilibrium. Any notion of carrying capacity, be it ecological or economic, is predicated on the notion that herbivore numbers are controlled through the availability of forage and that the availability of forage is controlled by animal numbers. In turn, this pattern presumes that conditions of plant growth are stable. This is a pattern of negative feedback that eventually produces a stable equilibrium between animal and plant populations. However, such stable equilibriums seldom occur in African drylands (Sandford, 1983; Behnke et al., 1993; Scoones, 1995). In non-equilibrium systems, external factors such as climate, rather than livestock numbers, tend to determine the vegetation cover. Moreover, unavailability of forage in bad years may depress livestock populations to the point where the impact of their grazing on the vegetation is minimal in most years. Thus, in areas of fluctuating climates, rainfall rather than forage availability may ultimately be the variable that limits herbivore population growth.

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2 The ecological carrying capacity indicates which level the pastoral pressure should not exceed without having negative consequences for the regeneration of the pastures. The economic carrying capacity sets a theoretical limit which marks the number of livestock units pastoral resources in a certain area can support in order to attain a certain management objective (optimal meat or milk production, for instance) (Hiernaux, 1982).
An example from southern Zimbabwe supports this idea. Using livestock data over a 60-year period, Scoones (1992) concludes that during relatively good rainfall years, cattle populations do approach a ceiling set by an ecological carrying capacity. As stocking densities increase, the birth rate declines and the death rate rises; but the two rates never attain equilibrium and thus the cattle population never reaches the limits of its growth. The maximum stocking densities determined by ecological carrying capacity are never attained because of the random intervention of exceptionally stressful years. In the long run, therefore, non-equilibrium factors tend to be the major influence on cattle population numbers, resulting in populations below potential ‘equilibrium’ density. Hence, grazing has little effect on grassland productivity compared to rainfall in non-equilibrium environments.

However, some researchers claim that the non-equilibrium model is not valid for southern African rangelands (Illius and O’Connor, 1999). This discussion is currently only emerging in the region (see Sullivan and Rohde, forthcoming, for a response to Illius and O’Connor). In the meantime, concepts associated with the equilibrium model are used by powerful actors in the debate on sustainable land use to give their arguments scientific weight.

The contribution of communal land to livelihood security in southern Africa is generally underestimated, because these assessments are only based on the contribution of communal areas to meat markets (Shackleton et al., 2000). However, assessments of the contributions of all land-based activities in communal lands may yield surprising results. Adams et al. (2000) have estimated, for instance, that in 1999 the aggregate value of communal areas in South Africa was US$ 2 billion per year, or around 2.5 per cent of GDP.

Few studies have actually tried to compare the productivity of the two land-use systems. However, Scoones (1992) assessed the value of cattle and goats in a communal area in Zimbabwe and compared the data with official figures on communal and commercial systems. As mentioned, while commercial productivity is measured as the amount of meat produced, communal stock is used for many purposes. Scoones used the replacement cost method to calculate the value of production according to local economic criteria. On the basis of these calculations he found the total productivity of cattle and goats in the communal area to be much higher than the official estimates of area-based productivity in communal areas as well as significantly higher than the per-area productivity in ranching systems in Zimbabwe.
Another study, by Rohde et al. (2001), used monetary values to compare productivity in a commercial and a communal area in Namaqualand in South Africa, which is basically a sheep-farming region. It was found that the off-take (sales and consumption) calculated in rand per hectare was slightly higher in the communal area even when only the value of the production of live animals was included. Hence, other uses of livestock, which were included by Scoones, were excluded from this study. On the other hand, gross income per ewe was considerably higher in the commercial area. Hence, this study indicates a higher land productivity in the communal area due to higher stocking densities and more intensive use of pastures, and higher productivity per animal in the commercial area because of more favourable conditions for weight increase.

4. Discourse and Narrative Analysis as Political Ecology
This study uses discourse and narrative analysis within a broad framework of political ecology (Blaikie and Brookfield, 1987; Peet and Watts, 1996; Bryant and Bailey, 1997; Stott and Sullivan, 2000; Adger et al., 2001). We define political ecology broadly as the study of power relations in land and environmental management. Within this field, we are particularly interested in the ways that power relations are reinforced in discourses about ‘the environment’ maintained by powerful actors.

A discourse can be identified as a shared meaning of a phenomenon. This phenomenon can be small or large and shared by a small or large group of people. Through written and oral statements, discourses are produced, reproduced and transformed. A discourse analysis may involve an analysis of regularities in expressions to identify discourses, an analysis of the actors participating in the various discourses as well as a study of the social impacts and policy outcomes of discourses (Adger et al., 2001).

Discourse analysis is an example of a constructivist approach focusing on claims and claims makers related to specific phenomena (Hannigan, 1995). This type of discourse analysis focusing on the discourses of power and how powerful actors frame the objects of which they speak usually refers back to the classic contributions by Michel Foucault (e.g. Foucault, 1966).

The messages within discourses are communicated through narratives, stories, metaphors and other rhetorical devices (Adger et al., 2001). In this article, the focus is on narratives. Roe (1991,
1995, 1999) presents development narratives as stories, scenarios or arguments that form the basis or the assumptions of decision-making. A narrative has a beginning, a middle and an end. If presented as an argument it has a dramatic structure revolving around a sequence of events or positions in which something is said to happen or from which something is said to follow (Prince, in McQuillan, 2000). A narrative has its premises and conclusions, and the archetypes of hero, villain and victim are often included in the ‘cast’ (Adger et al., 2001; Svarstad, 2002).

Roe argues that narratives are usually constructed to simplify a complex reality. A narrative can be seen as a generalised abstraction rather than a specific case or story. Prince (in McQuillan, 2000) insists that narratives are unique in fulfilling certain functions. A narrative not merely reflects what happens, it also invents what can happen. It does not simply record events, it constitutes and interprets them as meaningful parts of meaningful wholes, whether the latter are situations, practices, persons or societies. Thus, narratives are part of discourses. Narratives provide to the people who construct them an explanation of individual fate as well as group destiny. By showing that disparate situations and events compose one signifying structure and by relating this structure to a possible reality, narratives can be used as a strategy to form a new reality.

Dominating narratives about Africa have been characterised as ‘crisis narratives’ (Roe, 1991). Roe’s solution to dealing with such standard narratives is first to ‘denarrativise’ by criticising a narrative with reference to its factual shortcomings. The narrative is simply proven wrong. However, to have an impact on development policies, denarrativisation is not enough. One should also come up with ‘counternarratives’, alternative stories that are nevertheless as simplified as those they oppose.

Some narrative analysts limit the analysis to the study of the linguistics in narratives (Reissman, 1993). However, we would argue with Roe that more interesting findings would result from comparing the narratives of various actors with what recent research tells us and to identify correspondence or divergence. It is also interesting to link a study of narratives to the actors promoting them as well as to analyse the policy impacts of the narratives.

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3 Such an approach may be labelled environmental pragmatism or critical realism (Proctor, 1998), implying that both the real biophysical processes in nature and nature’s discursive constructions are acknowledged. According to the view of environmental pragmatists, our knowledge of the natural world is neither a representation of something that exists outside us nor merely a social construction.
Peet and Watts (1996), in reviewing the frontiers of political ecology, argue that discursive approaches to the analysis of environment and development are central to this emerging approach. This area of political ecology includes research on the sociology of science and knowledge, the history of institutions and policy on environment and development and, most importantly, the globalisation of environmental discourses in relation to ‘new languages and institutional relations of global environmental governance and management’ (Peet and Watts, 1996: 11). Likewise, to Stott and Sullivan (2000: 2), political ecology is ‘a concern with tracing the genealogy of narratives concerning “the environment”, with identifying power relationships supported by such narratives, and with asserting the consequences of hegemony over, and within, these narratives for economic and social development, and particularly for constraining possibilities for self-determination’.

The interviews with the white Namibian farmers carried out in this research were open-ended, although focusing primarily on the management of water and pastures. The discussions often led to issues of good and bad management, the land-use practices of ‘the others’ (the communal farmers) and the question of land redistribution. Most of the interviews took place on individual farms.

5. The Narratives of the Farmers

Desiccation

Most of the commercial farmers in the Kuiseb argue that climate change is taking place in their area, leading to a permanent decline in annual rainfall. Evidence for this presented by the farmers is the decline in average rainfall during the past 20 years or more, which is supported by available rainfall data.4 They also report that water sources (boreholes and dams) have decreased in recent years.

The presence of an environmental crisis due to desiccation plays a central role in the stories presented by the Kuiseb farmers:

From 1978, our rainfall is coming down, it’s getting dryer, and dryer and dryer. Just to give you an example, in the early 70s, the rivers were

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4 Rainfall data are only available from two stations in the Kuiseb catchment area. These data tend to support the farmers’ sense of desiccation in recent decades by showing a tendency towards a decline in five-year average rainfall since the 1920s, but with cycles of wet and dry periods. The last two decades have been particularly dry (Hongslo, 2001).
still running in September. You had a lot more rain in the fountains, and the level of water in your boreholes... Everything is going down. (Farmer 5)

Accounts of the water situation in the countryside in the old days support the argument of a permanent change in annual rainfall. Farmers are convinced that the environmental situation was better in the old days because there was more rain:

I don’t know how the ozone layer works, but it definitely has an influence on the rainfall, and that is why, you know in the Namib, there were a lot of farming activities in the early years, and there was strong farms, and they were farming like hell, they had a lot of sheep. And where is everybody now? They are bankrupt. They start a new living. Question: So the farms produced more in the old days? Yes, definitely. (Farmer 5)

The farmer makes a connection between desiccation, changes in the local environment and global climate change. Many of the farmers interviewed focus on rainfall in recent years and the subsequently decreasing stocking rates. There is an environmental and economic crisis in the upper Kuiseb, and this crisis is due to the declining rainfall. One farmer explains how varying and uncertain rainfall is taken into account in deciding the stocking levels:

If you have an average year, which means you have 270–280 mm per year, then you can have 12 hectares per head of cattle, with 500 kg cattle. But if you don’t get rain, then you can have zero cattle. But we know that after one good year a not so good year will follow, most probably. You always have to work with reserves, for the second and third year. That is why you can’t stock the land fully. (Farmer 7)

The above citation indicates how the commercial farmers reason when it comes to the management of grazing. It shows how they estimate the size of the herd according to a recommended stocking level in order to maintain a certain minimum grass cover. The rationale behind this is to maintain some security grazing in case of a prolonged dry period. Hence, the farmers adjust stock numbers to the annual rainfall. They have also adopted the practice of moving stock, as in the communal farming system. When rainfall is low in one region, the farmers rent grazing from neighbours or from farmers

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5 He probably confuses ozone layer depletion with the greenhouse effect.
in other areas in order to keep the stock constant. One farmer said that he had cattle in 12 different farms during the severe drought of 1996. However, the farmers normally pay for access to other grazing areas. Rohde (1994) and Sullivan (1996) corroborate the existence of these practices amongst commercial farmers.

Overgrazing

‘Overgrazing’ is a word often mentioned in the interviews. Most of the time, it is used in relation to the farming system of ‘the others’ – the communal farmers. The following quote presents an explanation for overgrazing:

You see, if you are talking about stocking, you must know that for 50 kg of life weight, I need a certain amount of grass, whether it is cattle or sheep. If you talk about cattle of 500 kilo and a sheep of 50 kilo, then you can say it is one to 10. Then you will have the same relation with the grazing. Actually, you must be very careful here. When the grass is still 10 cm, there is not enough for cattle any more, but the sheep will have enough to survive for a little while, but then the plant is destroyed completely. If this happens you will have an encroachment of the desert, which you really have in the marginal areas here. If you destroy the permanent grazing, it won’t be able to re-establish itself, because the rainfall is too erratic, and for a plant to establish itself it needs a lot of rain. And then you need to withdraw your animals completely to let the area recover. (Farmer 7)

According to this farmer, overgrazing implies destroying the permanent pasture represented by the perennial plants. Furthermore, the farmer argues that overgrazing is the result of poor management. If you do not pay enough attention, you will let your animals overgraze. We see here a connection made between what commercial farmers consider poor rangeland management and desertification.

The next quote includes examples and words often used by commercial farmers:

I know a couple of farms that have been given out to people two years ago; if you go there today there is nothing. The farms are in the Karibib area. The problem is with the communal farmers, they tend to take a piece of land like this, it is 10,000 hectares, and with a rainfall like ours, this farm at this stage with the drought of four years, I can barely keep going. But they will come, and put 20 families there. And there is
no way that this can carry and sustain so many people. There are too many cattle, everyone’s got goats, donkeys, horses, and within two–three years there is nothing. Here one must make the grass last for two or three years, but the communal farmers don’t plan like that. They use what there is and that is that, because they don’t think of tomorrow, or next week or next year. That’s unfortunately how it goes. Because they don’t plan, they just use what they have. It’s the same thing with firewood. That’s why, if you take an aerial photograph from Africa, you will see all the areas they have cleaned out, where they live like this and you see that the places they clear get bigger and bigger. So once they have done 10 km², they must move. Hundreds of years ago, that was not a problem, because there was enough space, but now they can’t move, because there has been people before them, and there is nothing. (Farmer 14)

Hence, the causes of overgrazing are found in the communal areas. This farmer assumes that since the areas in northern Namibia are what he considers to be overgrazed, communal farmers will manage new areas in the same way, if they take over land as a result of redistribution. Because bad management is inherent among communal farmers as a group, they will continue this management when they get more land. Thus the settler landscape of today, developed over several generations of ‘good’ management, will be turned into nothing.

Nothing is a word commonly used by commercial farmers to describe the areas of the communal farmers. The green pastures/nothing dichotomy is important in the commercial farmers’ stories about land reform. Nothing describes the perceived result of African management. In a broader sense, nothing also refers to the absence of nicely maintained settler-style farm buildings and other features of settler life, which the farmers appreciate, and, which serve as symbols of a well-managed farm.

Overpopulation

Some farmers are primarily concerned with overpopulation among Africans:

Two thousand years ago northern Africa was producing a lot of food for the Romans, and Europe was full of trees, and only a few people lived there. When we cut down all the trees, more of Africa dried out. And here, with our intensive farming, we do the same, we increase the desert. So we are in a very bad position in Africa because if they get
enough food, they get children. In the early times the population was controlled by the rainfall, in the sense that it varied with it. So over thousands of years it was stable. But now, with our Christian ethics, if somebody is hungry, we have to help. The next point is making children, and we help again, and more children. We have an increase in Namibia over 30 years from 900,000/1,000,000 people, and now 1,700,000 people.

Question: So, there is overpopulation?
Yes, but with AIDS I don’t know how quick it goes. It is a terrible thing, but it’s not quick enough. (Farmer 2)

This farmer talks about overpopulation as a problem for Namibia in relation to available natural resources. In his opinion, overpopulation will cause desertification because highly populated communal areas require more intensive grazing. Hence, intensive farming refers to the farming practices in the communal areas. African farming practices were once at a reasonable level, but they are no longer acceptable, with the increasing population in the area. The white population does not increase, only the African, and overpopulation is therefore a problem inside the communal areas, and the solutions must also be found there. In addition, communal farmers do not plan; they just eat and produce children. Christian ethics and development assistance only aggravate the problem, inhibiting the natural checks on population growth that existed in Africa in the past. According to this farmer, AIDS works as a new check on population growth in Namibia, but it is not efficient enough.

Knowledge and rights
Ongoing processes of land redistribution in southern Africa are also touched on by farmers in the interviews, but often in an implicit manner and usually only after direct invitation:

Question: Some people are worried about the things happening in Zimbabwe. Is that something all farmers consider?
Yes, all farmers in Namibia. We will have to wait and see, there is nothing we can do about it. We all bought our land, and why must it be taken away? We know how to farm, and to maintain the vegetation, and if people without that knowledge come in, they will destroy the land. But if political reasons decide, you don’t have a choice. (Farmer 13)

This farmer thinks that if new people take over the land, without the necessary ‘knowledge’ that commercial livestock farmers have,
they will ruin it. Implicit in the statement is that no other management system would function in the area. However, the political objectives of land redistribution may overrule common sense.

In the next quote the argument is taken further to include economics:

Question: In the yearly convention of NAU,\(^6\) they referred to the fact that Sam Nujoma\(^7\) had said that such a thing (land invasions à la Zimbabwe) was not going to happen in Namibia.

Yes, he gave us a guarantee that it is not going to happen, and one of the ministers said that it is not worthwhile to take the land away from the whites, because they have all the experience in how to work the land. They distribute the income for the country, and there is no use giving the land to someone who comes in new. In Zimbabwe the problem is the tobacco farms, and they are big, and there is a lot of money in it. New people will always have something to do there. If you take the farms away from someone here, they put on cattle and overgraze, and the land is broken down, and you have to wait six to eight years for the land to recover. You can see when you drive around, especially in the North, that some places have bushes and others don’t. That’s all overgrazing. (Farmer 13)

Again a reference is made to ‘knowledge’ defined as the experience of commercial farmers. If you take land from someone in the Kuiseb catchment area and replace him with communal farmers without the same knowledge, degradation of the area will be the result. Consequently, if the new farmers do not have the knowledge, they should not get land. Having the right knowledge is something that commercial farmers repeatedly come back to, as a way of legitimising their continued use of the land. In addition, the economy of Namibia depends on what the commercial farmers produce. The income from this production also benefits the poor as it is distributed (e.g. pensions), the farmer says.

The farmer also implicitly says that the land in Namibia cannot be redistributed because the climate is too harsh. He refers to Zimbabwe, where they have an easier climate and says that with tobacco production, anyone can make a living, whereas in the harsh climate of Namibia, sound land management depends on the experience of the white commercial farmers.

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\(^6\) The Namibian Agricultural Union organises the commercial farmers of Namibia.

\(^7\) President of Namibia since 1990.
In the quote by farmer 14 below the connection between the ‘right’ to own land and the management of the land is drawn. This farmer says that communal farmers should not have the right to own farms in their area because they do not have education and thus cannot run the farm in a way he sees as scientific. Several of the farmers interviewed linked knowledge to land rights. There seems to be an understanding that land in this area should be managed in one specific way. If future owners do not know how to manage rangeland according to the same principles as those used by the commercial farmers, land should not be allocated to them.

References to science in different forms were frequently made. The commercial farmers use what they perceive as scientific concepts to argue implicitly against land reform. Communal farmers ‘overgraze’, and exceed ‘carrying capacity’ of land by ‘overpopulating’ the land with livestock and people.

The ones that get the farms are not the ones with education from agricultural colleges, it’s the nephews and nieces of whoever is there. All they know about agriculture is what they know from their fathers and grandfathers before them. If they water the livestock, they stay there until the water is finished, and then they go to the next place. You can’t do like that. Look, I have met some very good black farmers, but they had made their own money already, and could afford to buy the farm, and they are running the place exactly like we do, from an economic point of view, scientifically, but the farms that they give out on the redistribution is for people who have nothing. I would love to take you up to the North and show you the farms, even the ones that were redistributed before independence – the Odendaal farms. That was in the 70s. And there were some very nice farms, but people moved in there and they broke the roofs off the buildings and put up the shacks, and they brought the goats into the houses, and from the roofs they made a crib. (Farmer 14)

The Odendaal farms are represented as having been prosperous in the 1970s. Now the farms and the land are destroyed. The aesthetic aspect is of importance: the farms that were ruined were very nice, and were replaced by ‘shacks’. The heavy subsidies that supported these farms during apartheid are obviously not mentioned.

The main premise of this farmer’s argument is that communal farmers cannot manage the land. From this he concludes that moving them, through land reform, will lead to even more overgrazing. In other words, land reform would be unwise for scientific reasons.
The problem with the communal farmers is not the colour of their skin. An African farmer may also be a good farmer, as long as he operates with the same premises as the commercial farming system.

6. Damaraland – Creating a Counternarrative

Damaraland is often mentioned in the interviews as a once prosperous commercial farming area where, due to land redistribution, heavy overgrazing has taken place. However, other sources draw a different picture of Damaraland.

The Odendaal Commission of 1964 proposed the creation of the homeland of Damaraland, which after independence became a communal area. A total of 223 commercial farms were to be bought from their white owners. These varied in size from 4,000 to 25,000 hectares and were typically extensive cattle and small-stock enterprises. Most had been abandoned because they were not economically viable. In other cases, farmers living elsewhere used them as additional grazing reserves. Stock was occasionally moved onto these farms to graze, and then returned to inland farms. This pattern imitated the movements of nomadic pastoralists in response to rain (Rohde et al., 1999).

The Odendaal Commission stated that Damaraland would offer 108 hectares per individual to its residents. However, this figure does not reflect the fact that well over half of the region is desert and unsuitable for stock farming (Jacobson et al., 1995). Since only one-third of the total area of 48,000 km² is utilisable from a commercial farming perspective, it means that each family is left with 250 hectares, whereas about 8,500 hectares are regarded as necessary to sustain a white settler family (Rohde, 1997).

Rohde et al. (1999) challenge the standard perception of communal farmers as careless managers whose actions invariably lead to destruction of pastures. They show how systems developed in Damaraland during recent drought years enabled the farmers to migrate to areas of better grazing. It might be tempting to see these

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8 The Commission of Enquiry into South West African Affairs, known as the Odendaal Commission, examined the land requirements of the main racial and ethnic groups and designated a tract of land to each. In some areas, this involved the purchase of a few white-owned farms where black families who were no longer needed as labourers in the white economy were settled (Adams and Devitt, 1992).

9 From 1978 to 1994, rainfall in Damaraland fell by an average 25 to 30 per cent below the long-term yearly mean (Rohde, 1997).
movements of people and livestock across an expanding communal landscape as chaotic, and yet something intangible seemed to order this process. Communal farmers were able to accommodate substantial influxes of livestock and people from drought-affected areas, with a minimum of conflict. Indeed, each episode of drought in this region has been followed by predictions of environmental and agricultural collapse, and yet the farmers in former Damaraland seem to have survived reasonably well.

Damaraland might be conceived of as one large farm, supporting over 33,000 people and 100,000 LSUs (Large Stock Units) within its borders; the equivalent amount of land in adjacent, privately owned commercial farms supports only a fraction of this human population and produces less per hectare in spite of its higher agricultural potential (Rohde et al., 1999).

In addition, to study temporal landscape and environmental change, Rohde (1997) used historical landscape photographs from 49 sites in Damaraland and matched them with photographs he took on the same spots between 1994 and 1996. His main conclusion was that the overall vegetation changes observed cannot be attributed directly to pressure from humans or livestock. He concluded that the major factor driving environmental change in Damaraland is the annual rainfall:

In spite of 15 years of poor rainfall, the ability to rebuild decimated herds is a testament to the resilience of the environment as well as to the determination of communal farmers. If, as many observers have predicted, the environment of Damaraland is degraded and on the verge of collapse (whatever that means) then the evidence for such an eventuality is certainly not born out of an analysis of the lands’ continuing productive capacity. Several factors are responsible for this dramatic herd recovery: transport assistance for emergency grazing, fodder subsidy, but most importantly, herd mobility within the communal area of former Damaraland (Rohde, 1997: 266).10

Likewise, Sullivan (1999), also working in Damaraland, empirically investigated outsiders’ narratives about heavy degradation taking

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10 An alternative counternarrative might present a story concluding that the range is overgrazed, but that this is caused by the historical eviction of African farmers from areas reserved for white commercial farming and the establishment of overcrowded ‘reserves’ for Africans (see for instance Hoffman and Ashwell, 2001).
place in communal areas in southern Africa. She collected and analysed data relating to community floristics, plant diversity, density and cover and population structure for woody vegetation. The study indicated ‘only very localized impacts of settlement, rather low levels of use by branch-cutting and browsing, and resilient, if variable, secondary productivity’ (Sullivan, 1999: 273).

These findings from Damaraland by Rohde and Sullivan are comparable to those of Ward et al. (1998) who studied a communal area in Otjimbingwe in northern Namibia. Vegetation and soil parameters in the communal area and on surrounding commercial farms were compared. In spite of far higher stocking densities on the communal area, Ward et al. (1998: 369) concluded that ‘communal farming in Otjimbingwe is not more destructive to the natural environment than commercial farming’ and that these ‘results point to the resilience of desert margins in Namibia in the face of heavy human and livestock pressure’.

In addition, local stories collected by Sullivan in Damaraland in 1999 form part of this counternarrative. The Damara interviewed are also concerned about desiccation or an overall decline in rainfall. Echoing non-equilibrium theory, their stories focus on rainfall and variations in rainfall to explain vegetation change or ‘degradation’:

When it rains, in the places where people stay the grass comes out like in the past. But if it doesn’t rain then there is no grass. There is nothing. At Hurubes where the people are staying with cattle and goats … the grass still grows when the rain falls (quoted in Sullivan, 2000b).

Hence, according to the commercial farmers interviewed, nothing is created by communal farmers’ bad land management, while communal farmers in Damaraland attribute the existence of nothing to lack of rainfall. This counternarrative from Damaraland is also supported by international research carried out during the 1980s and 1990s, dealing with range science and pastoral development in general. This research now forms part of a wider counternarrative or maybe an alternative discourse on people–land relations in Africa.

7. Science and Politics
One of the farmers said that ‘politics is a threat to reason’. An interpretation of this would be: ‘We have scientifically based argu-
ments, but if politics decide, we will lose.’ This may be the reason why outright political arguments are not used in the debate on land reform. Instead, the commercial farmers use what they perceive as scientific concepts in their argumentation. Some key concepts are important here: ‘carrying capacity’, ‘overgrazing’, ‘overpopulation’ and ‘productivity’.

A view of science implicitly represented in the farmers’ stories is that science produces objective truth and provides a rational non-political basis for policy making. By producing and reproducing a narrative constructed around the concept of carrying capacity, the farmers avoid political themes such as land redistribution. This view of science does not separate facts from knowledge claims and values. It tends to see the passing-on of scientific information as a one-way process, from researchers to farmers and policy makers, and this information is seen as unproblematic.

Mackenzie (2000) has studied the blend of political and scientific argumentation in Kenya from 1920 to 1945. On what she calls ‘the discourse of betterment’ she writes: ‘... from the early 1920s the doctrine of trusteeship, which informed colonial thinking, drew increasingly on the authoritative claims of the “scientific method” both to generate “crisis narratives” in the Reserve and to construct discourses of “betterment” and “environmentalism”, which legitimat-ed a deepening of administrative control.’ She also provides evidence that this scientific method was contested among the scientists of the time, and that protests were ignored by the authorities.

From the interviews in this study, one notes that the commercial farmers use the same strategy in their arguments, more than half a century later. In their own areas, there is an environmental crisis caused by desiccation – rainfall being an external factor, which cannot be controlled. Their own management is scientifically correct while management in the communal areas is characterised by carelessness and lack of foresight. They show this through the representations of the communal areas in the North. Nothing is the result of the communal management of these areas. They argue that when it comes to land degradation in the North, the solution to the problem lies within the communal areas themselves. This takes pressure away from the political arguments for land reform and redistribution. If overgrazing is caused by unscientific management by the communal farmers redistributing land to them would only make the situation worse.

Mackenzie (2000) also discusses a crisis narrative with respect
to soil conservation that became dominant in the 1930s in Kenya. This narrative enabled a political issue, the distribution of land, to be presented as a problem that technology could fix. If the African farmer was at fault, then the solution lay within the Reserve, not in recognising the racist relations on which the state was founded and restructuring the socio-economic system. Western science would once again provide the solutions.

The portrayal of the African farmer as agriculturally and environmentally irresponsible created the political space for the exercise of state ‘paternalistic authoritarianism’ and the rendering of a deeply political issue, the redistribution of land, as amenable to technological resolution. Likewise, the farmers of the Kuiseb implicitly argue against redistribution through their claims that African farmers lack the relevant knowledge to take proper care of the land. They also try to redefine the debate, away from politics, and towards science, by using scientific arguments in the political debate. This draws the attention away from the highly politicised matter of justice, towards more technical issues.

Mackenzie (2000) argues that the notion of ‘carrying capacity’ as used in Kenya similarly allowed the African landscape to be quantified and thus, at least figuratively, brought under control. If, through a ruse of scientific objectivity, the density of people and livestock in a given area could be assessed against ecological resources, as implied in the equilibrium model, so could the state construct a ‘crisis’, the solution to which demanded an intensification of administrative intervention. Thus, as part of a discourse of science and a principle of objectivity, the concept of carrying capacity provided a means through which the deeply political issues that the racial distribution of land created for African agriculture could be recast as a problem that technology could solve. Again, the problem, and therefore the solution, lay with African systems of land management inside the Reserve.

It is our hypothesis for further studies that a similar network of actors consisting of settlers, agricultural and environmental authorities and politicians as the one existing in Kenya in colonial time can be identified in today’s Namibia and southern Africa in general. This study has focused on stories told by settler farmers in an area of Namibia. Together, these stories form a generalised abstraction, or a narrative, which depicts what is currently happening in commercial and communal areas in Namibia. This narrative is not uniquely coming from the white settlers. It is shared by a network of actors. Further studies may demonstrate how this narrative is linked to a
broader discourse of actor-networks in southern Africa, which informs both agricultural policies and land reform.

8. Conclusions
In this study we have used narrative analysis in order to investigate attitudes and perceptions on land reform held by commercial farmers in Namibia. Since rangeland policies in southern Africa have a long history of being dominated by the thinking behind the commercial farming model, we believe that the stories received from the farmers form a narrative that represents more than the views of white commercial farmers alone. It is our thesis that this narrative is part of a wider discourse on environment, agricultural development and land reform in southern Africa supported by a network of actors.

The standard narrative from the commercial farmers would contain the following premises:11

- It is becoming increasingly difficult to live as a farmer in Namibia because of external factors such as declining rainfall (which is sometimes linked to global climatic issues) and politics, represented by the threat of land reform or land invasions à la Zimbabwe.
- Commercial farmers are the real experts on land and range management. Any sound management has to be based on their experience and knowledge.
- The Namibian economy depends on the commercial farmers’ production. This production also benefits the poor through the distribution of benefits such as pensions.
- Communal farmers lack the ability to plan ahead; they therefore overstock the range and are unconcerned about the effect of overgrazing on vegetation.
- Over time, Africans tend to overpopulate the land, leaving degraded and desertified areas in their wake, before moving on to new areas.
- Communal farmers in Namibia do not have the right education, knowledge or experience to take care of the land.

The resulting conclusions would then be that:

11 If a narrative is seen as an argument presented as a story with premisses and conclusions.
Communal farmers’ lack of foresight, tendency to overpopulate the land and lack of knowledge and experience lead to the transformation of well-managed landscapes into nothing.

It is therefore not wise to redistribute productive commercial farmland to communal farmers.

Commercial farmers are both victims and heroes in their own narrative. They are victims of external factors such as desiccation (which could be caused by global climate change) and southern African politics. They are heroes because sound and sustainable land management depends on their knowledge and experience as caretakers of the land. The villains in the narrative are obviously the communal farmers who mismanage land by letting livestock overgraze and by being a general threat to the environment. If the state redistributes land to the villains, it would cause ecological disaster, as mismanagement would spread to new areas. By using scientific arguments, the heroes may convince the state that the land should stay in their hands.

However, recent research on African non-equilibrium grazing systems, more specific research on landscape and vegetation dynamics in Namibia, as well as local stories by communal farmers contribute to the creation of a counternarrative on the interaction between livestock, people and the environment in communal areas. This counternarrative is about the central role of erratic rainfall in explaining landscape change, and about a resilient environment, which quickly recuperates when the rains return. Hence, nothing is not created by overgrazing, but by drought.

The land reform process in Namibia is slow. One of the reasons for this could be that the ideas implied in the commercial farmers’ narrative still dominate today’s policy making. We have shown how, in the Kuiseb catchment area, these revolve around ‘scientific’ arguments, which are questioned by recent research. Despite the scientific uncertainty and disagreement, concepts associated with one side continue to be used by important and powerful actors in the debate about the best use of the land in order to give their arguments scientific weight and to avoid more problematic political issues such as social justice through redistribution of land.
References


Rohde, R.F., T. Hoffmann and B. Cousins, 1999, ‘Experimenting with the commons. A comparative history of the effects of land policy on pastoralism in
two former “reserves” in Namibia and South Africa’, Occasional Paper No. 12, School of Government, University of Western Cape, South Africa.


Turkey, with its more than 60 million people, is a candidate for EU membership and is in this capacity heading for a place as one of the great powers within the union. Turkish EU membership will change not only the place and role of Turkey but also the profile of the EU itself in the wider European and global context. Turkey will like the other applicant countries have to adapt itself to the EU acquis in every respect, which is a huge task indeed. The enlarged EU, on its part, will also change through enlarging to include a new member of Turkey’s geopolitical significance.

In addition to European and geopolitical aspects, a special emphasis is laid on human rights and minority issues in this book. Other topics are Turkish energy policy, police co-operation across borders, the fight against international crime, illegal drug trafficking and human trade.

Gems are sometimes found in publications where, initially, we did not expect to find them. This pamphlet ... is the proof of this

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Debates

Law and Property Outside the West: A Few New Ideas about Fighting Poverty

Hernando de Soto

1. The Problem
Imagine a country where nobody can identify who owns what, addresses cannot be easily verified, people cannot be made to pay their debts, resources cannot conveniently be turned into money, ownership cannot be divided through documents, descriptions of assets are not standardised and cannot be easily compared, authors of fraud cannot be easily identified, and the rules that govern property vary from neighbourhood to neighbourhood or even from street to street. You have just put yourself into the life of a developing country or former communist nation; more precisely, you have imagined life for 80 per cent of its population, which is marked off as sharply from its Westernised elite as black and white South Africans were once separated by apartheid.

Over the last 10 years, with varying degrees of enthusiasm, Third World and former Soviet Union nations – where 5 billion of the world’s 6 billion people live – carried out the macroeconomic policies the West recommended: they balanced their budgets, cut subsidies, welcomed foreign investment and dropped their tariff barriers. Yet from Argentina to Russia, capitalist reformers are now intellectually on the defensive, increasingly derided as apologists for the miseries and injustices that still plague the poor.

As a result, we are now beginning to realise that you cannot carry out macroeconomic reforms on sand. Capitalism requires the bedrock of the rule of law, beginning with that of property. This is because the property system is much more than ownership: it is in fact the hidden architecture that organises the market economy in every Western nation. What the property system accomplishes is so central to capitalism that developed nations have come to take its success for granted; indeed even most property experts are unsure
about the connections between property systems and the creation of capital. Yet these connections exist. Without them, buildings and land cannot be used to guarantee credit or contracts. Ownership of businesses cannot be divided and represented in shares that investors can buy. In fact, without property law, capital itself – the instrument that allows people leverage over their assets and their transactions – is impossible to create: the instruments that store and transfer value, such as shares of corporate stock, patent rights, promissory notes, bills of exchange, bonds, etc., are all determined by the architecture of legal relationships with which a property system is built. And the problem is that 80 per cent of the population of developing and former communist nations do not have legal property rights over their assets, whether it be homes, businesses or intellectual creations.

When property law works, the capital value of assets rises in developing nations. In 1990, for example, the Compañía Peruana de Teléfonos (CPT) was valued on the Lima stock exchange at $53 million. The government, however, could not sell CPT to foreign investors because they found that the company’s property title over its assets, and Peruvian property law itself, were unclear. Consequently, the Peruvians put together a hotshot legal team to create a legal title that would meet the standardised property norms required by the global economy. Documents were rewritten to secure the interests of other parties and create confidence that would allow for credit and investment. The legal team also created enforceable rules for settling property disputes that bypassed the dilatory and corruption-prone Peruvian courts. Three years later, CPT entered the world of liquid capital and was sold for $2 billion – 37 times its previous market valuation. That’s what a good property system can do.

The enterprises of the poor are very much like the Peruvian Telephone Company before it had good title and could issue shares or bonds to obtain new investment and finance. No less than 80 per cent of the people in Third World and former Soviet nations lacks good property representations. As a result, most of them are undercapitalised, in the same way that a firm is undercapitalised when it issues fewer securities than its income and assets would justify. Without property records and representations, their assets remain financially and commercially invisible: they are dead capital.

In the West, by contrast, every parcel of land, every building, every piece of equipment, or store of inventories is represented in a property document that is the visible sign of a vast hidden process that connects all these assets to the rest of the economy. Thanks
to this representational process, assets can lead an invisible, parallel life alongside their material existence. They can be used as collateral for credit. The single most important source of funds for new businesses in the United States is a mortgage on the entrepreneur’s house. These assets can also provide a link to the owner’s credit history, an accountable address for the collection of debts and taxes, the basis for the creation of reliable and universal public utilities, and a foundation for the creation of securities (such as mortgage-backed bonds) that can then be rediscounted and sold in secondary markets. Through this process, the West injects life into assets and makes them generate capital.

Why haven’t reforms such as those carried out for the Peruvian Telephone Company been carried out in the Third World? One reason is that conventional macroeconomic reform programmes have ignored the poor, assuming they have no wealth to build on. This is a big mistake. My research team and I have recently completed several studies of the underground economy throughout the Third World and they prove that the poor are, in fact, not so poor. In Egypt, the poor’s assets in real estate are worth an estimated $241 billion – 30 times the value of equities on the Cairo Stock Exchange and 55 times the sum of all foreign investment in the country in the last 150 years, including the Suez Canal and the Aswan Dam. In Mexico, the estimate is $315 billion – seven times the value of PEMEX, the national oil monopoly.

The problem is that most people outside the West hold their resources in defective forms: houses built on land whose ownership rights are not adequately recorded, unincorporated businesses with undefined liability, industries located where financiers and investors cannot see them. Because the rights to them are inadequately documented, these assets cannot readily be turned into capital, cannot be traded outside the narrow local circles where people know and trust each other, cannot be used as collateral for a loan or used as a share against an investment.

This is hard to believe, is it not? How is it that a piece of paper representing ownership can create value? One of the greatest challenges to the human mind is to comprehend and to gain access to those things we know exist but cannot see.

2. Legal Property is ‘Mind-Friendly’
Not everything that is real and useful is tangible and visible. Time, for example, is real, but it can only be efficiently managed when it
is represented by a clock or a calendar. Throughout history, human beings have invented representational systems – writing, musical notation, double-entry bookkeeping – to grasp with the mind values that human eyes cannot see and to manipulate things that hands cannot touch. In the same way, the great practitioners of capitalism, from the creators of integrated title systems and corporate stock, were able to reveal and extract capital where others saw only junk by devising new ways to represent, through property systems, the invisible potential that is locked up in the assets we accumulate.

What distinguishes a good legal property system is that it is ‘mind-friendly’. It obtains and organises knowledge about recorded assets in forms we can control. It collects, integrates, and coordinates not only data on assets and their potential but also our thoughts about them. In brief, capital results from the ability of the West to use property systems to represent their resources in a virtual context. Only there can minds meet to identify and realise the meaning of assets for humankind.

The revolutionary contribution of an integrated property system is that it solves a basic problem of cognition. Our five senses are not sufficient for us to process the complex reality of an expanded market, much less a globalised one. We need to have the economic facts about ourselves and our resources boiled down to essentials that our minds can easily grasp. A good property system does that – it puts assets into a form that lets us distinguish their similarities, differences, and connecting points with other assets. It fixes them in representations that the system tracks as they travel through time and space. In addition, it allows assets to become fungible by representing them to our minds so that we can easily combine, divide, and mobilise them to produce higher-valued mixtures. This capacity of property to represent aspects of assets in forms that allow us to recombine them so as to make them even more useful is the mainspring of economic growth, since growth is all about obtaining high-value outputs from low-value inputs.

I do not believe that the absence of this process in the poorer regions of the world – where five-sixths of humanity lives – is the consequence of some Western monopolistic conspiracy. It is rather that Westerners take this mechanism so completely for granted that they have lost all awareness of its existence. Although it is huge, nobody sees it, not the Americans, Europeans, or the Japanese, who owe all their wealth to their ability to use it. However, it is this system that has given the West an important tool for development. The
moment Westerners were able to focus on the title of a house and not just the house itself, they achieved a huge advantage over the rest of humanity. With titles, shares and property laws, people could suddenly go beyond looking at their assets as they are (houses used only for shelter) to thinking about what they could be (security for credit to start or expand a business). Through widespread, integrated property systems, Western nations inadvertently created a staircase that allowed their citizens to climb out of the grubby basement of the material world into the realm where capital is created.

This may sound too simple or too complex. But consider whether it is possible for assets to be used productively if they do not belong to something or someone. Where do we confirm the existence of these assets and the transactions that transform them and raise their productivity, if not in the context of a formal property system? Where do we record the relevant economic features of assets, if not in the records and titles that formal property systems provide? Where are the codes of conduct that govern the use and transfer of assets, if not in the framework of formal property systems? It is formal property that provides the process, the forms and the rules that fix assets in a condition that allows us to realise them as active capital.

In the West, this formal property system begins to process assets into capital by describing and organising the most economically and socially useful aspects about them, preserving this information in a recording system – as insertions in a written ledger or a blip on a computer disk – and then embodying them in a title. A set of detailed and precise legal rules governs this entire process. Formal property records and titles thus represent our shared concept of what is economically meaningful about any asset. They capture and organise all the relevant information required to conceptualise the potential value of an asset and so allow us to control it. Property is the realm where we identify and explore assets, combine them and link them to other assets. The formal property system is capital’s hydroelectric plant. This is the place where capital is born.

3. Injecting Life into Dead Capital

Any asset whose economic and social aspects are not fixed in a formal property system is extremely hard to move in the market. How can the huge amounts of assets changing hands in a modern market economy be controlled, if not through a formal property process? Without such a system, any trade of an asset, say a piece of real estate, requires an enormous effort just to determine the
basics of the transaction: Does the seller own the real estate and have the right to transfer it? Can he pledge it? Will the new owner be accepted as such by those who enforce property rights? What are the effective means to exclude other claimants? In developing countries and former communist nations, such questions are difficult to answer. For most goods, there is no place where the answers are reliably fixed. That is why the sale or lease of a house may involve lengthy and cumbersome procedures of approval, involving all the neighbours. This is often the only way to verify that the owner actually owns the house and there are no other claims on it. It is also why the exchange of most assets outside the West is restricted to local circles of trading partners.

As we are now discovering, these countries’ principal problem is not the lack of entrepreneurship: According to the studies done by the Institute for Liberty and Democracy in Peru, the poor of the developing world have accumulated nearly 10 trillion dollars of real estate during the past 40 years. What the poor lack is easy access to the property mechanisms that could legally fix the economic potential of their assets so that they could be used to produce, secure, or guarantee greater value in the expanded market.

Centuries ago, scholars speculated that we use the word ‘capital’ (from the Latin for ‘head’) because the head is where we hold the tools with which we create capital. This suggests that the reason why capital has always been shrouded in mystery is because, like energy, it can be discovered and managed only with the mind. The only way to touch capital is if the property system can record its economic aspects on paper and anchor them to a specific location and owner.

Property, then, is not mere paper but a mediating device that captures and stores most of the stuff required to make a market economy run.

The capacity of property to reveal the capital that is latent in the assets we accumulate is born out of the best intellectual tradition of controlling our environment in order to prosper. For thousands of years our wisest men have been telling us that life has different degrees of reality, many of them invisible, and that it is only by constructing representational devices that we will be able to access them.

As Margaret Boden puts it, ‘Some of the most important human creations have been new representational systems. These include formal notations, such as Arabic numerals (not forgetting zero), chemical formulae, or the staves, minims, and crotchets used by
musicians. [Computer] programming languages are a more recent example’ (Boden, 1992: 94). Representational systems such as mathematics and integrated property help us manipulate and order the complexities of the world in a manner that we can all understand and that allows us to communicate regarding issues that we could not otherwise handle. They are what the philosopher Daniel Dennett has called ‘prosthetic extensions of the mind’ (Dennet, 1991: 384). Through representations we bring key aspects of the world into being so as to change the way we think about it. The philosopher John Searle has noted that by human agreement we can assign ‘a new status to some phenomenon, where that status has an accompanying function that cannot be performed solely in virtue of the intrinsic physical features of the phenomenon in question’ (Searle, 1995: 46). This seems to me very close to what legal property does: It assigns to assets, by social contract, in a conceptual universe, a status that allows them to perform functions that generate capital.

Therefore, formal property is more than a system for titling, recording, and mapping assets – it is an instrument of thought, representing assets in such a way that people’s minds can work on them to generate surplus value. That is why formal property must be universally accessible: to bring everyone into one social contract where they can cooperate to raise society’s productivity.

How can modern property systems be established in non-Western countries?

As things stand, most arrangements that govern the holding and transaction of assets in non-Western nations are established outside the formal legal system. Extralegal property arrangements are dispersed among dozens, sometimes hundreds, of communities; rights and other information are known only to insiders or neighbours. To modernise any of these countries, all the separate, loose extralegal property arrangements characteristic of most Third World and former communist nations must be woven into a single system from which general principles of law can be drawn. In short, the many social contracts ‘out there’ must be integrated into one, all-encompassing social contract.

How can this be accomplished? How can governments find out what the extralegal property arrangements are? That was precisely the question put to me by five members of the Indonesian cabinet. I was in Indonesia to launch the translation of my previous book into Bahasa Indonesian, and they took that opportunity to invite me to talk about how they could find out who owns what among the 90 per cent of Indonenesians who live in the extralegal sector. Fearing
that I would lose my audience if I went into a drawn-out technical explanation on how to structure a bridge between the extralegal and legal sectors, I came up with another way, an Indonesian way, to answer their question. During my book tour, I had taken a few days off to visit Bali, one of the most beautiful places on earth. As I strolled through rice fields, I had no idea where the property boundaries were. But the dogs knew. Every time I crossed from one farm to another, a different dog barked. Those Indonesian dogs may have been ignorant of formal law, but they were positive about which assets their masters controlled.

I told the ministers that Indonesian dogs had the basic information they needed to set up a formal property system. By travelling their city streets and countryside and listening to the barking dogs, they could gradually work upward, through the vine of extralegal representations dispersed throughout their country, until they made contact with the ruling social contract. ‘Ah’, responded one of the ministers, ‘Jukum Adat (the people’s law)!’

Discovering ‘the people’s law’ is how Western nations built their formal property systems. Any government that is serious about re-engineering the ruling informal agreements into one national formal property social contract needs to listen to its barking dogs. To integrate all forms of property into a unified system, governments must find out how and why the local conventions work and how strong they actually are. This may sound oxymoronic or even subversive to Western readers who have come to believe there is only one law to obey. But my experience of visiting and working in dozens of developing nations has made it clear to me that legal and extralegal laws coexist in all of them.

Over the last 15 years, what we have learned to do at the Institute for Liberty and Democracy – not only in South America, but also in the Middle East, Asia, the Caribbean and North America – is to identify the written or unwritten extralegal norms and their representations, disembed them from their surroundings and, on the basis of the common denominators we find, bring them together in one professionally crafted code acceptable to all. This process of moving norms and representations from informal and local contexts towards a formal and universal context, we call the ‘representational ascent’.

In each country we work in, once we have identified the main traits of the extralegal norms governing extralegal systems, we compare them to the official law which is essentially an ‘elite law’ because it is obviously rejected or not applicable to most of the nation.
From dead capital to live capital

A. Awareness
B. Diagnosis and situational analysis
B.1 Define and assess the impact of the extralegal business sector
B.2 Determine the costs of extralegality to the extralegal sector
B.3 Determine the costs of extralegality to the state, society and the business sector
B.4 Determine the costs of formalising and staying in business
C. Reform design
C.1 Introduce institutional reform that enables massive business formalisation and realises the associated benefits
C.2 Streamline public administration by adapting successful local and international practices
C.3 Modernise information systems and integrate exchange of information among relevant authorities
D. Implementation
D.1 Implement systems to encourage public input and feedback, and integrate this information to improve the formalisation process
D.2 Implement more effective ex-post controls by government
D.3 Accept applications from people seeking to formalise businesses at face value ex ante
D.4 Administer a programme to ensure that the greatest benefits are achieved from formalisation for both government and society
E. Capital formation and good governance
E.1 Coordinate joint operations between real estate and business formalisation
E.2 Create facilitative law for assisting capitalisation
E.3 Identify and reduce new obstacles that affect the poor. This includes arranging mechanisms to get rid of additional obstacles in coordination with other government agencies
E.4 Cut costs and increase benefits of entering the formal sector on an ongoing basis
E.5 Provide legal access to assets by building alternatives to squatting, illegal subdivisions, and extralegal enterprises
E.6 Create a communications strategy tailored to each segment of society
E.7 Relate formalisation to capital formation; identification systems; national security; collections systems for credit, rates and taxes; housing and infrastructure; insurance and other value added information services
E.8 Assess the impact on credit and investment for extralegals by reviewing the availability of specific services
Then, through a process of consultations with both the extralegal and legal leaders, we blend the better parts of extralegal local laws with the acceptable parts of elite law so as to produce a unified formal code applicable throughout the land. (See Fig. 1.)

The reason we take extralegal law seriously is that it is stable and meaningful for those who work outside the legal system. The problem with extralegal law is that its application is limited to small, dispersed informal settlements and therefore gives economic agents a very small market in which to act and to divide labour. Nowhere we have visited have we encountered people working extralegally who are against integrating into the legal sector, provided that the law proposed to them is grounded in their customs and beliefs, explained to them in their vocabulary, and does not involve high transaction costs they cannot afford.

We learned how to discover extralegal arrangements and how to integrate them into one legal system by studying how, over centuries, Western nations and Japan made the transition from dispersed, informal arrangements to an integrated legal property system on the basis of which the rule of law was established. This historical knowledge accounts for some of the inputs we obtained to make a transition process. Most of the knowledge, however, we obtained through our own empirical research in developing countries. In the field, we brailed our way through extralegal worlds and eventually learned how to get in touch with the social contracts that underlay property rights. Discovering these arrangements is nothing like searching for proofs of ownership in a formal legal system, where you can rely on a record-keeping system that has over the years created a paper trail, a ‘chain of title’ that allows you to search for its origin. In developing nations, the chain of title is blurry, at best, to the outsider. The extralegal sector does not have, among other things, the centralised recording and tracking bureaucracy that is at the center of formal society. What people in the extralegal sector do have are strong, clear, and detailed understandings among themselves on the rules that establish who owns what. Even the dogs obey them.

Consequently, the only way to find the extralegal social contract on property in a particular area is by contacting those who live and work by it. If property is like a tree, the formal property system is diachronic, in the sense that it allows you to trace the origins of each leaf back in time from twig and branch to the trunk and finally to the roots. The approach to extralegal property has to be synchronic: The only way an outsider can determine which rights belong to whom
is by slicing the treetop at right angles to the trunk so as to define the status of each branch and leaf in relation to its neighbours.

Obtaining synchronic information takes fieldwork: going directly to those areas where property is not officially recorded (or poorly recorded) and getting in touch with local legal and extralegal authorities to find out what the property arrangements are. This is not as hard as it sounds. Although oral traditions may predominate in the rural backwoods of some countries, most people in the extralegal urban sector in developing countries have found ways to represent their property in written form according to rules that they respect and that government, at some level, is forced to accept.

In Haiti, for instance, no one believed we would find documents fixing representations of property rights. Haiti is one of the world’s poorest countries; 55 per cent of the population is illiterate. Nevertheless, after an intensive survey of Haiti’s urban areas, we did not find a single extralegal plot of land, shack, or building whose owner did not have at least one document to defend his right – even his ‘squatting rights’. Everywhere we have been in the world, most poor people living on the margins of the law have some locally crafted or adapted physical artifact to represent and substantiate their claim to property. And it is on the basis of these extralegal representations, as well as records and interviews, that we are everywhere able to build a concept of the social contract undergirding property.

Once we get our hands on extralegal representations, we have found the Ariadne’s thread leading to the social contract on which one can build self-enforcing codes. Representations are the result of a specific group of people having reached a respected consensus as to who owns what property and what each owner may do with it. Reading representations themselves and extracting meaning from them does not require a degree in archaeology. They contain no mysterious codes to be deciphered. People with very straightforward, business-like intentions have written these documents to make absolutely clear to all concerned what rights they claim to have over the specific assets they control. They want to communicate the legitimacy of their rights and are prepared to provide as much supporting evidence as possible. Their representations have nothing to hide; they have been designed to be recognizable for what they are. This is not always so obvious because, regrettably, when dealing with the poor we tend to confuse the lack of a centralised record-keeping facility with ignorance.

When we obtain documentary evidence of representations, we can then ‘deconstruct’ them to identify the principles and rules that
constitute the social contract that sustains them. Once we have done that, we will have all the major relevant pieces of extralegal law. The next task is to codify them—organise them in temporary formal statutes so that they can be examined and compared with existing formal law. Encoding loose systems is also not a problem. In fact, it is not very different from government procedures to make legal texts uniform within countries (such as the U.S. Unified Commercial Code) or between countries at an international level (such as the many integrated mandatory codes produced by the European Union or the World Trade Organisation). By comparing the extralegal to the legal codes, government leaders can see how both have to be adjusted to fit each other and then build a regulatory framework for property—a common bedrock of law for all citizens—that is genuinely legitimate and self-enforceable because it reflects both legal and extralegal reality. That was basically how Western law was built: by gradually discarding what was not useful and enforceable and absorbing what worked.

4. Giving Governments the Tools for Reform

At the end of our work, we present the host government with a step-by-step programme for reforming existing institutions that will allow all the economic stock and activities in the country to be integrated under one law. This will require replacing bad law and administrative practices with statutes and procedures that make assets fungible by attaching owners to assets, assets to addresses, ownership to legal accountability, commitments to enforcement, and by making all information and the history on assets and owners easily accessible. The goal is to create a formal property system that converts a previously anonymous and dispersed mass of owners into an interconnected system of individually identifiable and accountable business interlocutors who are able to create capital.

This includes boiling down the reform programme to a comprehensive vision and mission statement along with policy statements and publicity devices that allow politicians to motivate their constituencies towards reform. Such a communications programme tailors the message to each constituency: the poor must be convinced that they will prosper more within a legal economy than outside it; private businessmen and banks must see that integrating the extralegal economy means larger markets with goods and services; politicians must be convinced that the government’s tax base will be broadened so as to increase its revenues and reduce its reliance on
foreign aid; and the whole nation must see that inclusion will decrease macroeconomic deficiencies and reduce the expansion of black markets, criminality, mafias and drugs.

If all this sounds more like an anthropological adventure than the basis for legal reform and economic development, it is because knowledge about the poor has been monopolised by academics, journalists, and activists moved by compassion or intellectual curiosity rather than by what it takes to create a suitable legal framework for economic reform.

If we push for reform, not in the name of an ideology, Western values, or the agendas of multinational firms and international financial institutions, but rather, with the interests of the poor in mind, the transition to a market economy – in whatever shape you want (‘Third Way’, ‘social market economics’ or just plain ‘capitalist’) – will become what it should always be, a truly humanistic cause and an important contribution to the war on poverty.

References
Formalising Land Tenure in Rural Africa

Tor A. Benjaminsen

What strikes me first of all when reading de Soto is how well he writes and how convincing his narrative is. He has a clear and relatively simple message, which, not surprisingly, has resonated well among development policy-makers and their institutions. As someone who is interested in analysing written texts, in analysing discourses and narratives, I find de Soto’s contributions of particular interest. Some narrative analysts claim that if you want to be heard and read by policy-makers, you should present a clear story with a dramatic structure (often with the use of various rhetorical devices) and with a simple message. This is what de Soto does. He is one of those very rare researchers who simply know how to deal with policy-makers.

However, let me say at once that I’m not going to simply dismiss de Soto’s ideas, as some critics have done. I think a substantial part of that criticism is ideologically motivated and rooted in the fact that he, maybe reluctantly, accepts that development must take capitalism as its point of departure, since it is ‘the only game in town’ as he puts it.

I will instead take an empirical perspective and base my comments on my own concrete research experiences from Africa. I will use my background from research especially in Mali to address a couple of questions to Dr de Soto. Towards the end I will also address a question to him based on the ongoing land reform process in South Africa, which we at Noragric are studying together with South African colleagues. Thematically, I will focus on the practicalities of his idea to formalise existing land use in the informal sector.

Let’s then first go to Mali: a typical Sahelian, dry, land-locked country in West Africa. My colleague Espen Sjaastad and I have studied how the system of agricultural land rights in peri-urban areas of the Malian cotton zone is converted, at a remarkable pace, from inalienable customary tenure into private property (Benjaminsen and Sjaastad, 2002). There is a race under way to acquire agricultural fields that surround the rapidly expanding and densely settled urban centres in the area, in a rough circle with a radius of
some 10–20 km. The participants in this race are numerous and various, and the prize pursued is not so much the land itself as its value; the winner is not necessarily the one who ends up holding legal title to the land, but instead the individual who manages to extract the maximum rent from it.

Let me try to explain the process as we see it. The towns, which are expanding fast, are surrounded by land under customary tenure owned by chiefs or farmers. This land is either being expropriated by municipalities, with minimal compensation to owners, because land can formally be owned only by the state or by people with title deeds, or it is bought for a low price by urban dwellers (and in these transactions, informal documents are used, similar to those that de Soto found in Haiti). For urban buyers it is important to try and obtain legal title before the land is expropriated, because it is then less likely that the municipality will expropriate it or if they do they will have to pay fair compensation. On the other hand, the municipality must expropriate before titles are obtained in order to establish necessary new residential areas, otherwise the expropriation process will be much more costly and cumbersome. There are also speculators in the area who must both buy ahead of other urban buyers and obtain title before land is expropriated. The winners in this race are the ones with information and resources. These are the speculators, who make huge amounts of money, and the bureaucrats who control the titling and expropriation processes. The speculators are winners because they buy cheaply from the customary owners, obtain titles quickly through large bribes and are able to sell the land for 60–80 times the price that the customary holders get. This illustrates de Soto’s argument that the poor in the informal sector possess hidden capital, which will stay hidden as long as they do not have legal title to their land. It is only after titling that we see the true market value of the land. And the individual who is able to turn the land into a formal entity will also be the one able to extract the maximum rent from it.

Unfortunately, in the case of the Malian cotton zone it is not the poor who get these benefits of formalisation. It is the well-to-do urban speculators and bureaucrats and to some extent the urban communes and the state. Hence, in this case, de Soto’s advice to simplify the titling process and to make it cheaper and easier to obtain a title deed is sound and to the point. The Malian cotton zone is a dynamic area with high population pressure, where an internal individualisation process is going on. In such a case it is important to open up the titling process. Today, the farmers who originally own
the land lose out because they do not have the information about how to obtain a title or it is far beyond their economic means to obtain one. According to our information, you have to pay up to US$ 3000 in fees and bribes (most of it as bribes) to bring a piece of land through the titling process. The market value of one hectare after titling is about US$ 15,000 in the peri-urban areas, while you can buy one hectare of untitled land from a farmer for US$ 200–250.

This example illustrates and supports de Soto’s main thesis about the hidden capital in the informal sector and about the importance of giving the customary owners title before they lose their land.

However, let me also briefly mention some other types of examples from rural Africa. In such cases, any attempt at formalisation would make less sense.

African land tenure is typically marked by the existence of ‘bundles’ of rights to a piece of land. For instance, one user might have the right to sow and harvest, another to collect fruit from trees on the land, and a third to bring in livestock to feed on crop residues after the harvest. So, different individuals or groups have access to and control over different resources, but who has the right to the land as such is often not clear, due to contradictory claims. An endogenous individualisation process, even though it is painful, will usually produce one owner. In the above example, the one owning the trees will usually end up owning the land to the exclusion of the two other users. However, if a formalisation process takes place too early, it will only increase conflicts and confusion. This has happened with a number of privatisation programmes earlier advocated by the World Bank and others. These programmes have had unanticipated results, such as increased tenure conflicts and the manipulation of the process by an elite to its own advantage. The negative effects of privatisation programmes in Kenya are, for instance, a case that has been extensively documented (Shipton, 1992).

As we move into the real African drylands, where pastoral production dominates, an individualisation process is even further away, and a formalisation process would make even less sense. In these areas, there is not only overlapping use, but also flexible and opportunistic management. Any attempts at formalising land tenure by creating fixed units with exclusive ownership, whether by individuals or groups, could have disastrous consequences in these drylands. Please note that I am not talking about a few exceptional areas here. Large parts of Africa are drylands where extensive and flexible land uses dominate. A government-driven titling programme in such areas would, in addition to leading to further impoverishment and
marginalisation, also be nonsense from an overall economic viewpoint. Even titled land would not be worth much in most pastoral and agro-pastoral parts of Africa. Hence, the costs of the titling process would far exceed the benefits.

There might be a couple of interesting questions here for de Soto: (1) Is it at all possible to formalise overlapping rights, such as complex common property type arrangements, which might overlap in both time and territory? (2) Even if it is possible, is it desirable? Is not the strength of such tenure arrangements their ability to adapt to new situations (such as growing populations, increasing resource scarcity, and new microeconomic conditions)? And would not a formalisation tend to ‘freeze’ these forms of tenure, causing the loss of the adaptability and flexibility that is so vital in these areas?

In other words: does de Soto believe in formalisation of multiple and communal forms of tenure as they are, or does he believe (as I do) that formalisation must come only in cases where there are ongoing endogenous individualisation processes? This is an important question, which has wide implications for our debate, and potentially for people in rural Africa.

Finally, let me use the land reform process in South Africa to formulate another question. Land reform in South Africa consists of three programmes: restitution, redistribution and tenure reform. The former two deal with already titled land and would be less relevant for our discussion here. The tenure reform process deals with two types of cases: the rights of farm workers residing on white-owned commercial farms, and land rights in the communal areas. Let us focus here on the rights of farm workers. They are now living on and cultivating land that formally belongs to somebody else. It would be interesting to hear what de Soto’s position is on this issue. Who should have the right – the one with formal title or the ones who are using the land? This is a crucial question, which concerns a number of situations worldwide where squatters live on and use land formally owned by somebody else. In other words, I am asking whether there is also a pro-redistribution aspect in de Soto’s thesis and whether he thinks there would be a case not only for formalising ownership of assets, but also for redistributing assets.

Let me wind up by summarising how I see de Soto’s thesis applied to agricultural land in Africa. First of all, formalisation should be a demand-driven process. An indication that tenure arrangements are ready for formalisation is when people start to invent various types of informal processes of formalisation (informal documents and papers). This will happen in peri-urban areas and agricultural
growth areas with high pressure on land. However, Africa has a history of failed privatisation programmes, and formalisation initiatives will encounter the same problems in large parts of rural Africa where land is not in short supply and where land use is extensive and flexible. In such areas, a supply-driven approach might even have disastrous effects on people’s livelihoods. As I understand de Soto’s ideas, he is basically arguing for a demand-driven approach (in *The Mystery of Capital*, p. 111, he says for instance that instead of legislating for people, the government should legislate after people), but when governments and donors get enthusiastic about an idea, they might be tempted to do more than just facilitate an ongoing process, and that might have negative effects for many people.

So, what is needed is not a costly blueprint top-down approach to formalisation involving expatriates coming in with sophisticated techniques and preconceived ideas about what should be done. Instead, we need a flexible, low-cost, decentralised and open approach to formalisation, which can be adapted to various local circumstances. In my view, this is not a technical issue, and the solutions are not technical. It is a political issue involving questions of corruption and good governance.

References

Paul Mathieu

1. Consensus
Hernando de Soto’s publications have offered some fundamental insights into rural development policies and projects. To me, the most important point is the following: the poor need access to the world of written and legal information in order to improve their position in society, to be able to invest some of their assets more freely and more effectively, and eventually, if these investments are successful, to generate more wealth and income. Another important point that has already been studied by some social science scholars during the last ten years is that property is first and foremost a social relationship and, consequently, land tenure issues deal first with meanings rather than with things or legal rights.

I totally agree with these points and they are basic for any rural development policy aiming at improving the fate of the rural poor in Africa and elsewhere. I would add that land access and land tenure security are key issues for the poor for two reasons: (1) security of land access is often the basis of livelihood security; and (2) customary land tenure rights are becoming increasingly problematic and insecure, an area of tension and competition, since rural societies are characterised by an increasing scarcity of land (diminishing land/population ratios) and by a growing involvement in market exchanges.

2. Changes in Rural Land Tenure Systems in Africa are Complex and Contradictory. The Need for a Realistic Understanding of Complex Processes
This being said, a few points in de Soto’s message – which is basically relevant and informed by his rich field experience – might give rise to simplistic interpretations and lead to misleading conclusions. I would therefore like to stress the following points:

These comments are made in an individual capacity and do not necessarily reflect the official position of FAO.
not all the poor are ready, able and willing to become entrepreneurs if only their assets become fungible, mobile and can be invested in wealth-generating activities (a simple model with several categories of ‘poor’ might be useful here, in order to appraise the consequences of land ownership becoming the object of formal titles and entering an open, expanded and competitive market);

land titles are not a sufficient, nor a necessary, condition for initiating the creation of a land market and for ensuring increased agricultural investment.

Investment, growth of agricultural production, rural markets of factors of production and the future distribution of land assets are interlinked; economic, social and political processes are not independent of each other; any external intervention represents particular interests and can have specific consequences in these processes.

The social, economic and political processes which might cause land ownership to become increasingly individualised and formalised will determine at the same time the overall response in terms of possible increased agricultural investment and the future distribution of land ownership: these two categories of outcomes are not independent of each other. Experience shows that power relationships and State institutions (and their relations with the rural and non-rural elites) play a central role in these processes. It is over-optimistic to state that ‘the conversion of dead capital to live capital will be globally positive for investment and income generation’ and not consider the role of State institutions and elites in this process, leaving to ‘political decision-makers’ the responsibility for deciding how the assets and increased income will be distributed to. The decision-makers who intervene in this formalisation process are political players and they have vested interests in land ownership.

The following features characterise the recent changes in land tenure and the key determinants of land appropriation in Africa:

land is a scarce factor which is entering an imperfect market, often unformal and confused, unregulated or with missing or weak regulating institutions);

in this market, demand largely exceeds supply (but demand and supply often remain deeply embedded in social relationships and not clearly visible as economic practices);
the players have differing capacity to act strategically since they
have varying skills and capacity to understand and manipulate
the rules of highly imperfect markets.

The interventions of donors from the North and international
development cooperation agencies have some effect on the shape
and rhythm of changing institutions and changing social relations-
ships with regard to access to land. Donors and scholars should be
aware of the fact that their interventions can (directly or indirectly)
have a significant influence on who wins and who loses, and how
and how much the poorest will gain or lose. The rules of the emerg-
ing land markets define, visibly or implicitly, the new rules of the
social game aiming to manage land scarcity and organise the distri-
bution of land rights.

We should be aware that the uneven distribution of the capacity
to act strategically among groups and individuals has important so-
cial consequences when what is changing is the rules of a game
that takes place in the context of local social relationships and
‘world-visions’ (sets of coherent and interlinked meanings, which
usually change only slowly among illiterate groups living far from
cities and markets). Today the river turns: land allocation and dis-
tribution are entering a new era and become subject to radically new
rules of the game. But, ‘as the river turns, the crocodile turns too’
(proverb from Burkina Faso, told by Basile Guissou, former minis-
ter of Burkina Faso), and nobody knows (or cares for) the fate of
the small fishes which are not aware of the changes or do not have
access to the world of written and legal papers.

The proposals by Hernando de Soto for improving the situation
of the majority of the poor who live in the extralegal or informal
sector, although basically attractive and well-intentioned, are feasi-
ble only when certain precise conditions are present. These are:

(1) that the State is able and willing to make the new land manage-
ment institutions widely accessible to all citizens, including to
the poorest and less literate;
(2) that the majority of ‘the poor’ (not just a small proportion of
them) are able and willing to enter successfully into the world
of formal rights and legal institutions; and
(3) that the State is adequately staffed to take on new systems of
land administration, and sufficiently stable, strong and dedicated
to the general interest to be able to change the rules of the game of
access to legal land ownership and make these rules enforceable.
Then, and only then, will the process of wide-ranging, easily accessible formalisation of land ownership advocated by de Soto be feasible and have the potential to stimulate rural investment and bring about important increases of wealth, benefiting the majority of the rural poor.

These conditions can be met in certain circumstances, but they are not met in much of Africa today. That does not mean that the approach proposed by de Soto is not relevant, but that in many cases we must also – and maybe first – concentrate on the preconditions for effective land ownership formalisation and not (only) on the generalisation of property formalisation itself. The question of access to the information, institutions and procedures of formalisation is indeed fundamental, as de Soto rightly stresses, but the conditions to make this information simpler and widely accessible are far more complicated than just simplifying the law and procedures. Without the right conditions – cultural, social, political (governance and accountability), human resources, etc. – the simplification procedure itself will not ensure greater wealth for all and may not benefit to the majority of the rural poor.

Current land tenure practices in Africa are special: normative pluralism and confused situations ‘in between’
The idea that a majority of rural people can realise a smooth transition from extralegal (informal) to legal and formal systems of asset ownership relies on the assumption that it is possible, through adapted forms of legal engineering, to replace the presently very complex, not very accessible and often unadapted formal regulations by legal procedures that are at the same time simple, accessible and legitimate (meaningful) for their beneficiaries. This supposes in turn that a majority of people will be able to cross the bridge leading from the extralegal to the legal sector of asset ownership. In order to ensure this, the legal sector must be built on the same ‘social contract’ as the one that is effective, stable and meaningful in the extralegal sector.

The problem of many African rural areas today is that the approach road to this bridge is a place of battles and confusion about what is legitimate and about what people (families, communities) can or cannot do with their land assets, as land is rapidly becoming scarce, valued and an object of monetary exchange. This occurs in a paradoxical manner as in many rural areas monetary transactions on land are on the rise in the absence of a market, and more pre-
cisely in the absence of those institutions and representations that could organise and underlie monetary exchange of land. This situation of normative pluralism, competition, transition and confusion (regarding the meanings of land and the socially accepted representations of land rights) is not conducive to harmonious institutional changes and legal engineering. In many rural areas, there is no longer one broadly agreed social contract organising exchange, interactions and (supposedly) self-enforcing rules on land transactions, but competing and contradictory social contracts (that of the community, and that of the market and competition between individuals), a plurality of competing and unclear norms and meanings between which some people are able to ‘manage confusion’ and act strategically, while others are not, or very much less. The problem to tackle seriously is thus that ‘extralegal law’ itself is, in most of contemporary Africa, no longer stable or homogeneously meaningful for the groups that compete for land at the local level.

3. What to Do? Guidelines and Perspectives for Action
The broad categories and principles of action that can contribute to an improvement of the situation of the majority of rural poor in Africa with regard to land rights, given the context summarised above and the consensus expressed in point 1, are the following:

1. **Increase access to information and to State institutions** dealing with land administration, formal land tenure rights and land transactions. Or, in other words, improve and strengthen the basic ‘institutional literacy’ (or awareness) of rural people regarding land management according to legal rules, regarding also their tenure rights and the new (monetary) transactions involving land. The focus here is on visibility, transparency of the new emerging land markets, and access to legal information and formal institutions.

2. **Encourage ‘communication with confrontation’** and within competition for land. Create or support the functioning of local arenas for a social and locally rooted debate over issues of com-

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1 Only the broad categories and principles of action can be presented here. Corresponding concrete actions can be detailed and/or is already being undertaken in specific projects. Some of these ideas are presented in a more extensive manner in the following papers: Mathieu et al. (1998) and Mathieu et al. (2002).
petition for land, the local management of this competition and of land scarcity. The focus here is on the creation of mediating bodies and some endogenisation or socialisation of the new norms, procedures and transactions over land. In some cases, local groups are able to deal with issues of land competition and changing practices in some institutionalised way, resulting in some pragmatic institutional innovation and increased ‘competition without conflict’. In order to encourage these processes and to make some of the locally produced institutional innovations sustainable within the framework of State regulations, the local administration must be present in or supportive of these local social arenas. This can be encouraged by projects and institutional cooperation.

(3) **Capacity-building.** State administrations dealing with land tenure rights and land transactions will need growing numbers of trained and skilled professionals. It is also important to encourage and strengthen the collaboration between these land administration professionals and territorial local administration (which so far is mostly responsible for dealing with land problems). This capacity-building effort must not be unilateral and must avoid the growth of unchecked power – and opportunities for extended rent seeking – among technical services. It is also necessary to encourage an institutional learning process and provide incentives to increase the accessibility of services and accountability of civil servants.

(4) **Focus on transactions, rather than on rights.** In many cases, it is a much more realistic, progressive and demand-driven approach to facilitate and organise the record and formalisation of **transactions** (land sales, rentals, pledging, inheritance) than to attempt systematic formalisation of all existing land tenure **rights**. Such an approach could be supported and encouraged through international cooperation and projects.

**References**


Property Rights – A Temporary Relief for the Poor?

Solveig Glomsrød

A new industrial revolution is under way in developing countries, and a huge informal urban sector already exists, dynamic and full of entrepreneurial spirit; but most people in the developing world have no title to their assets. De Soto’s book brings to our attention both the growth potential and the obstacles experienced in this development process, in particular those related to the lack of property title. He argues that titling of assets would enhance development and distribution as it did in Western countries during their industrial revolution two centuries ago.

In his book, de Soto revives a very important political and economic issue that has been dormant in Europe ever since property registers were established and enforced decades or even centuries ago and subsequently taken for granted. No one would disagree that titling may be a crucial condition for development. But a title deed on its own is insufficient. In developing countries, poor people frequently experience violation of their rights – including formal property rights, where these exist. Policy and governance must develop to guarantee formal title. This need is also clearly acknowledged by de Soto, who emphasises that the challenge of establishing unified property registers is primarily political.

While the economic infrastructure of developing countries is slowly acquiring a formal character, the informal sector in these countries is substantial. An interesting question concerns the degree to which lack of formal property rights actually limits economic growth. De Soto focuses mainly on the urban economy. The informal urban entrepreneur is faced with a problem, as his or her assets cannot be mortgaged to mobilise capital for investment. The formal credit system does not trust such a person because the information concerning reliability disappears in the wide gap between, for instance, a squatter and the financial institutions. In rural areas, tribal rights and tradition may secure land use rights but the economic potential is still limited as land cannot be used as collateral or traded.

Development literature abounds with comments to the effect that profitable and socially beneficial projects cannot be implemented
due to lack of credit, and it is a commonly shared attitude that this constitutes a real obstacle to income growth. How, then, can it be that the informal or extralegal sector is so dynamic when the lack of title is so limiting to economic development? One answer may be found in the social contracts and local forms of title that exist in this part of the economy. According to de Soto, ‘extralegal organisations have also begun to assume the role of government. To varying degrees they have become responsible for the provision of such basic infrastructure as roads, water supply, sewage systems and electricity, the construction of markets, the provision of transport services and even the administration of order’. An important question that arises is whether the extralegal sector adequately handles financial services and local law in order to support economic growth, given the high risk surrounding all transactions. Assets other than property are frequently used as collateral under a social contract on local terms. Is it possible that the bottom-up social contracts regulating holdings in the extralegal sector could make small-scale entrepreneurship flourish?

Another question is whether a more rigorous legal framework is needed for economies of scale to materialise and, linked to this, how barriers to entry into the formal sector may be overcome. Quite apart from the huge bureaucracy that exists (this is also a complaint in Norway), there may be policies that bar entry.

History provides examples of the transition from informal to formal economy under the industrial revolution in England. De Soto refers to the busy informal sector that emerged in and around cities where guilds had strict monopolies. Eventually the guilds gave in and subcontracted to the more efficient extralegal companies. Efficiency improved, legal barriers were broken and activity moved from the informal to the formal sphere of the economy. Is the formal economy of developing countries able to absorb the efficient companies that might emerge with economies of scale?

Before assessing the extent to which the lack of unified property registers limits economic development, it is necessary to know whether small businesses are seriously hampered by their informal status. Access to formalised sources of credit is not necessarily crucial. The extralegal sector has its own networks that may provide material resources or credit, based on close contacts and information, and the various assets that small informal businesses ‘possess’ may serve as collateral, guaranteed by the social contract and norms.

The history of Turkish suburbs is interesting from this perspec-
tive. Settlements around Turkish cities after the Second World War mostly happened spontaneously, but this is not the full picture. Only those able to put up a house in the space of a single night gained the right to stay, resulting in the suburbs being named ‘night towns’. Because of this peculiar condition, squatting became a very organised system: family and neighbourhood networks were mobilised so that people who left their original rural networks would enjoy cooperative backing when facing the challenge of survival in the cities.

What might happen if squatters in developing countries acquired property rights – legal rights to the land on which they have squatted? Poor people live with a short time-horizon because of their struggle for survival. The scope to sell their property would come as an immediate relief. They might then go on to another extralegal area and settle there. This would entail a transfer of wealth, but they might lose the social infrastructure they had in the old place. The poorest might easily turn into nomads, responding to the rate of expansion of the formal economy.

While the target of better law and property regimes is widely shared, the question of how to get there is more open. De Soto argues that local social contracts and the ‘law of the people’ are so developed that they might serve as a basis for transformation. Interesting empirical questions arise, about how much the economy will benefit and how the potential gains will be distributed. In sorting this out, it will be important to take into account the aggregate effect of the transition to a formal property regime. Even if property rights are introduced, all promising investment opportunities will still have to compete for available capital funds.
I largely agree with the arguments and observations by Tor A. Benjaminsen and Solveig Glomsrød. Some of their questions, of course, cannot be answered simply because there are no answers to them until the property issues they raise are examined, on the ground, in each particular case. For example, Mr Benjaminsen asks whether it is at all possible to formalise overlapping rights. My reply: once you are in the field and aware of grassroots arrangements, all rights are compatible and can be clearly represented. The only place where most of these rights conflict or overlap is on the paper of bad legal systems which do not reflect the complexities and understandings among the poor.¹

Mr Mathieu’s ‘Consensus’
What I would like to focus on in this rejoinder are Mr Mathieu’s comments, because they allow me to make yet another point: his attitude towards the poor and their relationship to law is a nearly perfect example of what is wrong in ivory tower development thinking today. His shortcomings are apparent even in his opening paragraphs, where he suggests that there are points on which we have a ‘consensus’. Well, we don’t.

Mr Mathieu begins by writing that property has to do more with social relationships than with things or legal rights. This, of course, is the classic Marxist approach, viewing property primarily as a key component of social relationships and not as a factor of production. I have no problem with the Marxian angle. As I state in The Mystery of Capital, it definitely allows us to capture an important part of social reality. My problem with Mr Mathieu is that this Marxian take is the only analytical tool in his kit. As a result, the classical Marxian bias is pervasive throughout his essay, and it leads to two fundamental distortions. The first is his obvious difficulty in seeing

¹ I think most of the issues raised by Ms Glomsrød and Mr Benjaminsen are resolved in the following essay; a re-reading of The Mystery of Capital might help, or a look at my organisation’s web page (http://www.ild.org.pe).
any real advantages in formal property law. Marx, it should be remembered, thought that law was just a superstructure, and that property was only another word for ‘theft’. Mr Mathieu does not use the word ‘theft’; his continual concern with ‘crocodiles’, however, indicates that, in the marrow of his anti-entrepreneurial bones, he feels that property is the daughter of greed and nothing good will come of it.

The second distortion, which follows from the first, is that his bias does not allow him to consider property as a stock of resources or, to be more precise, a factor of production that can generate wealth for the poor. He remains stuck on ‘ownership’ throughout his discourse and ignores the very important point that today we know that property is much more than ownership. We now know that the legal property system is the hidden architecture that organises the market in every Western nation – and the missing framework required to explain the rise of widespread wealth creation in every developing nation.

It is property law that provides the framework of rules that organises the market, the titles and records that identify economic agents, the contractual mechanisms that allow people to exchange goods and services in the expanded market. It is property law that provides the means to enforce rules and contracts along with the procedures that allow citizens to transform their assets into leverageable capital. It is property systems that allow for addresses to be systematically verified, for assets to be described according to standard business practices and to contain the provisions required for people to pay their debts, and for authors of fraud and losses to be easily identified in an expanded market. It therefore follows that those who are excluded from the legal system, mainly the poor, are also excluded from the social market economy.

Though I agree that property – like fire, dynamite, computers and banks – can be used to do evil, I have also studied how Westerners, during the last 150 years, have learned to regulate property law so that it does a minimum of harm. Moreover, their aim is to provide as many benefits as possible. That is why today, all Western governments, whether they are managed by parties on the left or on the right, use property law to rule both national and global exchange. Does Mr Mathieu really think that only white fathers from former colonial powers can protect Third Worlders from the potential bad effects of fire and property?

If the poor are to enter the modern economic world that the West has created, they need the same property representations that the
elites in their own countries and Westerners have. That no nation can afford to keep the poor out of the economic mainstream is clear from the data: worldwide, and outside the scope of property law, the poor own nearly US$ 10 trillion worth of assets that are 1,500 times larger than World Bank disbursement in any fiscal year and 3,000 times higher than all Western bilateral aid also in any year since the Second World War.

In brief, without the rules that allow for automatically updated property records and the means to represent and transfer value, assets remain financially and commercially invisible. In developing countries, citizens hold their assets outside the law and therefore do not have access to the facilitative devices that a formal legal system should provide to help them organise and make use of resources. Because they have no secure property rights and cannot issue shares, they cannot capture investment. Because they have no patents or royalties, they cannot encourage complex ideas or protect innovations. Because they do not have access to contracts and justice organised on a wide scale, they cannot develop long-term projects. Because they cannot legally burden their assets, they are unable to use their homes and businesses to guarantee credit.

Now stop and ask yourself: if Europeans and North Americans did not have access to the limited liability systems and insurance policies that the law allows, how many risks would they run? How much capital would they accumulate without legally created paper that can represent value? How many resources would they be able to pool if they did not have legally recognised business organisations that can issue shares? How often could Europeans or Americans choose bankruptcy and try to start all over again if the law did not allow them to convert their debts into shares?

Mr Mathieu does not seem to understand that his fundamental distrust of property condemns the poor to poverty. For withholding property from the poor means not providing them with the leverage required to participate in the legal market and to create capital. What ideological dream world does he live in?

Mr Mathieu’s shortcomings are not only about what he finds difficult to understand but also what he thinks we stand for. In fact, his arguments do not correspond in any way with what I have written or with progress reports on our work throughout the world. Let me address what I take to be his main arguments one at a time:

‘Caution: Do not try to impose property rights on the poor’
My organisation has never advocated that the poor be given legal
property rights over their assets against their will. Our reasoning is that if you cannot design a system that people will voluntarily accept and abide by, your system does not work. We have never designed a system that people do not want to enter. Indeed, I have never found a shantytown or a tribe in a developing country that does not want to have their assets protected by good property law…but I will keep looking to see if I can find a non-academic constituency for our FAO expert.

‘Not all the poor are willing to become entrepreneurs’
So what? Neither are the rich. But that does not mean that you should stop them from having property. The fact is that law has other uses than those required by entrepreneurs. For example, formal property:

- gives you access to police and courts to defend your rights;
- increases the value of assets (assets that are legalised increase their value from one to three times in the first five years over those that are not; both World Bank and our own experience confirms this);
- guarantees credit for non-entrepreneurial purposes, from buying a home to paying for education at reasonable interest rates;
- provides people with a legal address as a location that allows them to have a postal service and be civically and commercially accountable;
- allows people to use their dwellings as assurance to public utilities that provide essentials such as energy and clean water; and
- reduces the likelihood of disputes being settled through tribal or local violence by giving people access to universally acceptable rules and recourse to legal courts.

Property is like any right – it has to be available whether you use it or not. A good property system is beneficial by virtue of just existing: It prevents bad things from happening, and makes you aware of options that you would not have been conscious of otherwise.

‘Land titles are not sufficient’
Of course not. On this we agree. That is why I have always criticised land-titling systems. That apple I displayed to my Norwegian audience was proof that property stretches way beyond such obvious things as land or business into a whole gamut of benefits that could exist only through the establishment of new organisations
and institutions. This is exactly the difference between the property systems that my organisation helps governments obtain and the European title-recording systems that Mr Mathieu is familiar with.

The more I read Mr Mathieu, the more I feel his response was addressed to some conservative icon whom I remind him of. But I never said land titles were sufficient. What I did say was that land titling jointly requires the formalisation of businesses and the supply of other state services, including the increase of access to information, communication, capacity-building services and facilitation of transactions (all of which we not only wrote about but actually legislated and set up in Peru in the 1990s).

Fear of crocodiles
A great deal of Mr Mathieu’s paper is concerned with what powerful people can do to weak people. He uses a marvellous proverb from Burkina Faso to insinuate that property will inevitably bring about theft: ‘as the river turns, the crocodile turns too.’ The problem with this view is that theft takes place with or without property law. For me, the real issue is: Are the poor able to better protect their assets from theft inside or outside an enforceable legal system? I don’t think it would take any poor Third World citizen more than ten seconds to answer that question. The poor are continually being dispossessed by the rich, precisely because they lack documentary evidence to protect their informal, customary or extralegal rights. That is why so many of the poor resort to guns and spears to resolve their problems.

Confusion
Mr Mathieu ends his case by expressing doubt that it is possible to make a transition from extralegal to legal systems of assets ownership. Much of Africa, he writes, is ‘a place of battles and confusion about what is legitimate’. There is too much normative pluralism. This, he concludes, ‘is not favourable or conducive to harmonious institutional changes and legal engineering’.

Here there is clearly historical ignorance at work. What was the situation when Europe settled its property issues as it progressed from collapsing feudalism and patrimonialism to modern social market economies? Did the process begin in peaceful and favourable circumstances? Was it harmonious? Of course not: property law was born in Europe ‘attended by the violent throes of childbirth’ – sic dixit Rudolph von Jhering, the outstanding 19th century
jurist from Germany.

Diverse laws within one European nation were a common thing. Normative pluralism ruled continental Europe until Roman law was rediscovered and until feudal rules, the laws of independent cities, and all other currents of law were gradually brought into one coordinated system. It is no different in the Third World today where most spontaneous arrangements among the poor are already moving from diversity to unity, as we speak. Like their Western predecessors, the undercapitalised sectors in the Third World and former communist countries have spontaneously generated their own varieties of property rules and these are more similar to each other than they are different. Extralegal activity in developing and former communist countries – as my organisation has discovered over 15 years of fieldwork – is rarely haphazard.

In developing countries, informal business and residential organisations meet regularly, make decisions, obtain and supervise infrastructure investment, follow administrative procedure and issue credentials. They typically have a headquarters where maps and manual ledgers with ownership records can be found. The most striking feature of these organisations, throughout the Third World, is their desire to be integrated into the formal sector. In urban areas, extralegal buildings and businesses evolve over time until they are barely distinguishable from property that is perfectly legal.

In all the developing and former communist nations I have visited, a long frontier separates the legal from the extralegal. All along it, there are checkpoints where extralegal organisations connect with government officials, where the former struggle to gain official acceptance and the latter try to achieve a semblance of order. Usually, extralegal organisations will have worked out a way to coexist with some stratum of the government, probably at the municipal or local level. Most groups are trying to negotiate a legal niche in which to protect their rights, while others have already reached some sort of agreement that stabilises their situation outside mainstream law.

Therefore, the majority of extralegals are already primed to cross the bridge into legal recognition. But they will do so only if their governments make the trip easy, safe and cheap. They are clearly ‘law-abiding’, although the laws they abide by are not the government’s. It is up to local authorities to find out what these extralegal arrangements are and then to find ways to integrate them into the formal property system. They will have to go out into the streets and roads and listen to real people and get in touch with the already
existing extralegal arrangements that rule the majority of people in developing nations.

The law that prevails today in the West did not originate in dusty tomes or official government statute books. It was not created by crocodile-fearing Christians. Rather, it was born in the real world and bred by ordinary people through trial and error long before it got into the hands of academic commentators. The law had to be discovered before it could be studied. As the legal scholar Bruno Leoni reminds us (Leoni, 1972: 10–11):

> The Romans and the English shared the idea that the law is something to be discovered more than to be enacted and that nobody is so powerful in his society as to be in a position to identify his own will with the law of the land. The task of ‘discovering’ the law was entrusted in their two countries to the jurist consult and to the judges, respectively – two categories of people who are comparable, at least to a certain extent, to the scientific experts of today.

‘Discovering the law’ is precisely what my colleagues and I have been doing in various countries for the past 15 years as a first step towards helping governments in developing countries build formal property systems that embrace all their people. When you push aside the Western stereotypes of Third Worlders as a motley assortment of confused tribes waiting to be saved by their former colonisers, you will find few differences between the normative principles of the West and elsewhere when it comes to protecting assets and doing business. After years of working in many countries on real reforms, I have become convinced that most extralegal social contracts about property are basically similar to national social contracts in Western nations. Both tend to contain some explicit or tacit rules about who has rights over what and the limits to those rights and to transactions; they also include provisions to record ownership of assets, procedures to enforce property rights and claims, symbols to determine where the boundaries are, norms to govern transactions, criteria for deciding what requires authorised action and what can be carried out without authorisation, guidelines to determine which representations are valid, devices to encourage people to honour contracts and respect the law and criteria to determine the degree of anonymity authorised for each transaction.

It is fair to assume, therefore, that people are prepared to think about property rights in very similar ways. This should not come as a big surprise; folk conventions have always spread by analogy from
one place to another spontaneously. Moreover, the massive migrations of the past 40 years, not to mention the worldwide revolution in communications, have left us sharing more and more values and ambitions. (Many Third Worlders watch TV, too; they also go to the movies, use telephones, hear stories, and want their children to get good educations and become computer-literate.) It is inevitable that individual extralegal social contracts in the same country will be more alike than different.

The problem with extralegal social contracts is that their property representations are not sufficiently codified and fungible to have a broad range of application outside their own geographical parameters. Extralegal property systems are stable and meaningful for those who are part of the group, but they do operate at lower systemic levels and do not have representations that allow them to interact easily with other groups. Again, this is similar to the past of the West, when official titles did not exist. Before the 15th century in Europe, for example, even though some isolated registries did exist in some parts of what is today Germany, most official rules on how property transactions ought to work were unwritten and known only through local oral traditions.

Many view those rituals and symbols as the representational predecessors of official titles, shares and records today. According to the 18th-century British philosopher and historian David Hume, in certain parts of Europe during his day, landowners passed stones and earth between each other to commemorate the exchange of land; farmers symbolised the selling of wheat by handing over the key to the barn where it had been stored. Written parchments testifying to property transactions on land were ritually pressed to the soil to represent the agreement. Similarly, centuries before in imperial Rome, Roman law provided that grass and branches were to be passed from hand to hand to represent the legal transfer of property rights.

Gradually, the written documents were collected in local registries. It took time before these representations were put in book form. But it was only during the 19th and early 20th centuries that these different property registries and the social contracts governing them were standardised and brought together to create the integrated formal property systems that the West has today.

The former communist nations and the Third World are exactly where Europe, Japan and the United States were a couple of hundred years ago. Like the West, they must identify and gather up the existing property representations scattered throughout their nations
and bring them into one integrated system to give the assets of all their citizens the fungibility, bureaucratic machinery and network required to produce capital.

When my colleagues and I first faced the task of integrating pre-capitalist property arrangements into a capitalist formal property system, the West was our inspiration. But when we started searching for the information on how the advanced nations integrated their extralegal arrangements into law, there were no blueprints for us to draw upon. How Western nations identified which categories of extralegal proofs of property would be the common denominators of a standardised formal property system is unfortunately poorly documented. John Payne explains the situation in England (Payne, 1961: 20).

Formal proof of title as a part of commercial land transactions is apparently a late development in English law but present information is so scant as to make such a hypothesis merely tentative. It is a source of exasperation to the historian that, while great events are chronicled in detail, people seldom feel it necessary to set down an account of the homely, everyday activities in which they engage. To do so would appear superfluous and banal, for no one wants to be reminded of the obvious. Consequently what everyone takes for granted in one era is unknown in the next, and the reconstruction of ordinary procedures requires painstaking piecing together of sources left for an altogether different purpose. This is certainly true of the practices of conveyancers, for, until the [19th] century, we have only limited knowledge of how they actually carried on their work.

Guided by the few historical records we could find and filling the gaps with our own empirical research, we brained our way through extralegal worlds and eventually learned how to get in touch with the social contracts that underlay property rights there. Discovering these arrangements is nothing like searching for proofs of ownership in a formal legal system, where you can rely on a record-keeping system that has over the years created a paper trail, a ‘chain of title’ that allows you to search for its origin. In the undercapitalised sector, the chain of title is blurry, at best, to the outsider. The undercapitalised sector does not have, among other things, the centralised recording and tracking bureaucracy that is at the centre of formal society. What people in the undercapitalised sector do have are strong, clear and detailed understandings among themselves of who owns what today.
We therefore went to talk to the people themselves and found out that they were well aware of what held them together. In other words, we discovered that the only way to find the extralegal social contract on property in a particular area is by contacting those who live and work by it and those official authorities of government who are keenly aware why the law they try to enforce is unenforceable. The only way an outsider can determine which rights belong to whom is by slicing the treetop at right angles to the trunk so as to define the status of each branch and leaf in relation to its neighbours.

Obtaining synchronic information takes fieldwork: going directly to those areas where property is not officially recorded (or is poorly recorded) and getting in touch with local legal and extralegal authorities to find out what the property arrangements are. This is not as hard as it sounds. Although oral traditions may predominate in the rural backwoods of some countries, most people in the undercapitalised urban sector have found ways to represent their property in written form, according to rules that they respect and that government, at some level, is forced to accept.

In Haiti, for instance, no one believed we would find documents fixing representations of property rights. Haiti is one of the world’s poorest countries; 55 per cent of the population is illiterate. Nevertheless, after an intensive survey of Haiti’s urban areas, we did not find a single extralegal plot of land, shack or building whose owner did not have at least one document to defend his right – even his ‘squatting rights’. Everywhere we have been in the world, most informals have some physical artifact to represent and substantiate their claim to property. And it is on the basis of these extralegal representations, as well as records and interviews, that we are everywhere able to extract the social contracts undergirding property.

Once one knows where to look for extralegal representations and get their hands on them, one has found the Ariadne’s thread leading to the social contract. Representations are the result of a specific group of people having reached a respected consensus as to who owns what property and what each owner may do with it. Reading representations themselves and extracting meaning from them do not require a degree in archaeology. They contain no mysterious codes to be deciphered. People with very straightforward, business-like intentions have written these documents to make absolutely clear to all concerned what rights they claim to have over the specific assets they control. They want to communicate the legitimacy of their rights and are prepared to provide as much sup-
porting evidence as possible. Their representations have nothing to hide; they have been designed to be recognisable for what they are. This is not always so obvious because, regrettably, when dealing with the poor we tend to confuse the lack of a centralised record-keeping facility with ignorance. As John P. Powelson correctly concludes in *The Story of Land*, even in primitive rural areas of developing nations, the people themselves have been their own most effective advocates and have always had the capacity to represent themselves intelligently (Powelson, 1988).

Once we obtain documentary evidence of representations, we can then ‘deconstruct’ them to identify the principles and rules that constitute the social contract that sustains them. Once that is done, we will have all the major relevant pieces of extralegal law. The next task is to codify them – organise them in temporary formal statutes so that they can be examined and compared with existing formal law. Encoding loose systems is also not a problem. In fact, it is not very different from government procedures to make legal texts uniform within countries (such as the US Unified Commercial Code) or between countries at an international level (such as the many integrated mandatory codes produced by the European Union or the World Trade Organisation). By comparing the extralegal to the legal codes, we can see how both have to be adjusted to fit each other and then build a regulatory framework for property – a common bedrock of law for all citizens – that is genuinely legitimate and enforceable because it reflects both legal and extralegal reality. That is the way for developing and former communist nations to meet the legal challenge, and that was basically how Western law was built: by gradually discarding what was not useful and enforceable and absorbing what worked.

**Conclusion: Confusion is not a Third World Monopoly**

If all this sounds new, it is because knowledge about the poor has been monopolised by people like Mr Mathieu, basically well-intentioned researchers and activists moved sometimes by well-founded outrage and a need to fit in with their ‘contestataire’ peers, rather than by practical knowledge of the nuts and bolts of legal reform. Why have people like Mr Mathieu not taken a hard look at the law and order that the majority of people in developing countries produce spontaneously? The truth is that their concerns are influenced by the scars left by the pervasive wars in the West between the left and the right, and the private and public sectors,
rather than by the local economic potential in developing nations. They have been taught that local practices in Third World countries are not genuine law but anthropological categories best left to folklorists. Behind such disregard for institutional building in the Third World and the need to posture as an ivory-tower Crocodile Dundee protecting the natives down South, there is either uninformed compassion or covert racism.

For some 200 years, up until the Second World War, Europe was ‘a place full of sound and fury’ where millions died fighting over the ownership of assets. When did it stop? It stopped after the Second World War when finally the Europeans agreed on a system of law that allowed them to settle their property and other territorial differences peacefully. This came when leaders realised that most violence and war would be settled only through a radical reform of the law that governed property and sovereignty. The great Europeans that created peace among warring factions did not wait until the sound and fury subsided; they used the dramatic events of their time and the urgent need for solutions to put forward proposals to create good law.

On the long evolutionary path to modernity, in those stretches of the journey when European and North American reformers embarked on deliberate programmes to make property more accessible to a wider range of citizens, these programmes were successful because they were supported by men and women of action. That is what Thomas Jefferson did in Virginia at the end of the 18th century, when he increased the fungibility of property by abolishing, among other things, the practice of entail (not being able to transfer property outside the family). When Stein and Hardenberg set the stage for universal property rights in Germany at the beginning of the 19th century, and when Eugen Huber, in Switzerland at the beginning of the 20th century, began to integrate all the dispersed property systems of his country, they likewise employed carefully planned strategies to storm the barricades of the status quo. They made sure they were armed with astutely aimed legislation that permitted government to create popularly supported, bloodless revolutions that could not be halted.

Clearly, this is a job for experienced political and technical operatives. Only they can muster the strength to put ideas into action and leave behind the academic hair-splitting that paralyses the progress of reform.

The Europeans most familiar with the genesis of property lived in the 18th, 19th and early 20th centuries. They had an integral view
of the rule of law and the role of property in development. They knew that reforming feudal, tribal and patrimonial systems through law was the key to emancipating common citizens from oppression. Since then much of this awareness has sunk into unconsciousness. Today, in the 21st century, many Europeans have lost the sense they once had regarding the role of property as a tool for modernisation. That is probably why many of Mr Mathieu’s well-written comments are mostly irrelevant to the search for progress in the Third World.

References
Ownership and Partnership: Does the New Rhetoric Solve the Incentive Problems in Aid?

Alf Morten Jerve

1. Introduction
The recent emphasis placed by development agencies on concepts such as ‘national ownership’ and ‘partnership’ reflects a concern to create a new dynamic in the way that donors and recipients of aid relate. It is based on the assumption of a causal link between the effectiveness of aid and the way it is delivered. The nature of the aid relationship matters. In this article we shall examine the two concepts more carefully. What do they mean? Are they mutually consistent? How do they relate to other aid principles, in particular the principle of ‘recipient responsibility’ promulgated by NORAD for several years already (NORAD, 1999)? Finally, we shall discuss whether this new rhetoric addresses two of the main incentive problems in aid relationships, namely the pressure to give on the part of the donor and the lack of attention to the final results on the part of the recipient.

Trade-off between ownership and partnership. The main arguments of this article are twofold. Firstly, that aid relations must be understood in the historical context of how aid has evolved. This tells us, on the one hand, that there is nothing new in these new buzzwords – the concerns and the assumptions underpinning the concepts have been expressed since the start of development aid. On the other hand, we see that aid relations are complex and contextual, and that there is never one principle, or set of principles, that fits all situations. Furthermore, an aid relationship is inevitably an unequal one. There is a trade-off between partnership and ownership. Strong recipient-government ownership means less partnership, in the way that donors have defined it. It means that donor agencies effectively have less influence and will have to lower their ambitions for taking an active part in policy dialogue and reform processes.

A need for new incentives. The second type of argument relates to the discussion on how the donor can best ensure the most effective utilisation of the assistance it provides. We shall argue that an aid relationship depends on the incentives for donor and recipient. Whether principles of national ownership or partnership will work effectively depends greatly on the type of incentives that
dominate. There is a need to examine carefully the conditions under which aid relations based on partnership and national ownership can work and ensure better results for aid. As a follow-up, we need to ask what it would take on the part of both donor and recipient to move towards a new relationship.

2. ‘Partnership’ and ‘Ownership’ – What Do the Concepts Mean?

Let us first look at attempts to define these concepts. Clearly, there are no authoritative definitions in the social science literature. These are by and large political, not analytical, concepts. They are normative statements signalling certain qualities in relations between organisations involved in aid and in the processes of decision-making about foreign aid.

Three types of responsibilities. Partnership, according to Riddell, ‘means something very different from the relationship between a horse and rider, or servant and master. It carries with it a strong sense of equity’ (Maxwell and Riddell, 1998: 267). It represents an attempt to counteract the inequalities of power and access to information that are normally found in a relationship between ‘funder’ and ‘funded’. To make a partnership work, three sets of responsibilities have to be defined and balanced:

One can distinguish between weak partnerships, where information-sharing and political discussions take place as between equal sovereign partners, much like a diplomatic relationship between states that have no other binding agreement of bilateral co-operation, and strong partnerships. The latter is a contractual relationship that specifies joint responsibilities (the centre box above) in the form of an agreed programme of actions and long-term financial commitments. The question is what should be in the two other boxes to make it a partnership.

What donors will give. In 1997, Sweden formulated a strategy for ‘Partnership with Africa’, with the aim of establishing ‘a more equal and respectful relationship’ (Ministry of Foreign Affairs, 1997: 22). Sweden is prepared to contribute to this relationship by putting in the left-hand box above:
long-term financial commitments
greater flexibility
transparency in its own decision-making
sensitivity to the local context.

*What donors will demand.* The *right-hand box*, according to the Ministry of Foreign Affairs, ought to contain a commitment to certain key development objectives. Sten Widmalm has analysed the relevant Swedish policy documents and found that they include a comprehensive list of political goals to which Sweden’s partners are expected to subscribe (Widmalm, 1999):

- equality between all member of society
- freedom of expression and organisation
- democratic governance
- a responsible and non-corrupt regime.

*Universalist positions dominate.* An obvious dilemma concerns how to balance the donor’s overall political objectives with the principle of sensitivity to the local context. The tension between a position based on cultural relativism and one that advocates universal, absolute and non-negotiable values, has dominated much of the post-war international discourse. With the demise of the Socialist bloc the human rights agenda gained wider acceptance, refuting the notion that in the pursuit of so-called first-order rights (social and economic) one may have to limit the application of second-order rights (civil and political).

During the 1990s Western donors tended to take a progressively stronger normative position, reducing the scope for cultural relativist positions, and to combine this with a growing campaign for democratisation, good governance and social sector spending (e.g. the 20-20 initiative). The agenda for economic policies – structural adjustment and the current pro-growth/pro-poor discussion – has further contributed to a one-size-fits-all approach to development theory.

*Relativist positions influential before.* We see from this that partnership and ownership are not two sides of the same coin. It is very likely that the framework of partnership (the definitions of recipient responsibilities) formulated by the donor infringes on notions of sovereignty and ownership held by the government of a recipient country. Obviously, the principle of ‘national ownership’ will often be put to the test in the years to come. It may therefore
be useful to recall the various debates in Sweden and Norway when aid to socialist countries was put on the agenda. Sweden’s support in 1970 to North-Vietnam, as it was then, resulted in heated arguments, where the proponents took a strong relativistic position: there is no single way to prosperity and social equity – let us have faith in what the Vietnamese have decided for themselves. Aid to Tanzania was supported by similar arguments.

**Mode of conditionality changing.** In operational terms, this dilemma presents itself in the discussion on conditionality in aid. Does the donor see its development goals as a condition for entering into a partnership, or as objectives for the partnership itself? This corresponds to choosing between what has been labelled *ex ante* and *ex post* conditionality. With *ex ante* conditions the donor declares that aid will not be given until certain conditions are met in the recipient country, while *ex post* means that certain conditions should be met during the time a programme is carried out and, implicitly, that future support depends on the quality of outputs – the end-result. There has definitely been a move towards *ex post* conditionality in recent years, not least by the IMF and World Bank. The 1999 Poverty Reduction Strategy Paper (PRSP) initiative was clearly influenced by a number of studies concluding that *ex ante* conditionality basically did not work (Nelson, 1996).

The UK issued a White Paper on aid in 1997, with much the same message as that developed by Sweden. The problem, however, according to Maxwell and Riddell, is that ‘in practice, it may not be easy for recipients and potential recipients to buy into the partnership idea, even when the donor tries its hardest to involve the recipient’ (Maxwell and Riddell, 1998:267). Is partnership, therefore, a donor-driven idea?

**Assisting country ownership – the Comprehensive Development Framework.** Since 1997 two important initiatives have changed the international aid environment: first, the announcement in early 1999, by the World Bank President, of the Comprehensive Development Framework (CDF); and second, shortly thereafter, the PRSP initiative, endorsed by the Boards of the World Bank and the IMF. The CDF concept has gone through various formulations and been subject to different interpretations. It is not a ‘right policy’ prescription for developing countries. Rather, it outlines for both parties in the aid relationship what is involved in building an effective framework for development – for making and implementing good policy. In this way, the CDF concept is an attempt to summarise current wisdom, and it sends messages to both recipient and donor.
There are four principles and they contain the following messages directed at recipient governments:

- Governments need to develop a long-term, holistic vision for their work.
- Governments need to promote broad-based national ownership of visions, strategies and policies, through participatory processes.
- Governments need to stimulate effective partnership among various stakeholders in the development process, through government-led aid co-ordination and enhanced consultation and transparency in the co-operation with other national stakeholders.
- Governments need to be more results-oriented. To be held accountable for development results, governments need to improve their monitoring of development outcomes.

Obviously, these messages transcend the role of aid, and in that sense they place aid in the right perspective – as a contributor to development, not a driving force. The complementary messages to the donor community, therefore, include the following:

- Donors need to be less intrusive so as to stimulate full national ownership of development processes.
- Donors need to lower their own flags and subordinate their respective aid programmes to country-led aid co-ordination mechanisms.
- Donors need to make longer-term commitments, allowing greater flexibility in the pace and direction of the utilisation of aid.
- Donors need to promote participation and accountability for results in the activities they support.

One may interpret the PRSP initiative as a way to operationalise CDF.¹ The purpose is to provide a framework, at national level, for what we have called strong partnership. The explicit aim is that the recipient government should take the lead in formulating a medium-term, comprehensive strategy for poverty reduction (i.e. involving both economic and social policies), based on which donors

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¹ A note should be made that there are other interpretations, by critics of the PRSP, who see it as an attempt by the Bretton Woods institutions to repair their tarnished image, extend their influence, and find ways of lending more at lower transaction costs to the financing agency.
will make multi-year financial commitments. Hence, the term ‘country-led partnership’ is being flagged.

But ‘country ownership’ is a problematic term. However, the recent addition of the term ‘country’ or ‘national’ to the notion of ownership is by no means straightforward. It raises the question of who represent the ‘country’ when we talk about ‘national’ ownership. The term ownership is useful when strictly linked to the main institutional partners in the aid relationship – the donor agency; and the recipient organisation, specifically, or the government involved, more generally. ‘Ownership’ is about who decides what in the process of aid delivery. Who initiates and identifies the needs (e.g. who is in charge of the Identification Mission)? Who defines priorities (e.g. who formulates the Country Assistance Strategy and undertakes Feasibility Studies)? Who plans and designs? Who makes procurement? Who implements? Who supervises? Who evaluates? In this sense ‘ownership’ refers to the same concerns as the term ‘recipient responsibility’ used by NORAD:

the recipient is to define needs, prioritise activities, make policy decisions, direct the planning of activities and their implementation, allocate resources, facilitate effective utilisation of external and internal resources, and be responsible for the actual implementation (NORAD, 1999: 4).

Non-governmental organisations are also recipients of aid, and the concepts of ownership and responsibility are equally relevant to them. The term ‘country ownership’ is obviously a misnomer when used as a way of indirectly co-opting such groups to the agenda of government – or the more elusive term ‘nation’. It is meaningless, and devoid of any real political analysis, when for instance a series of workshops and meetings, labelled participatory or consultative, is taken as evidence of ‘country ownership’. The current rhetoric about dialogue and participation, consensus-building and shared visions can become a dangerous way of disguising genuine political conflicts of interest. A recent conference reflecting on experiences with stimulating poverty reduction policies concluded (UNDP, 2001):

- Government ownership should not be presumed to be coterminous with national ownership.
- National ownership is a continuous process where we cannot think of one single country actor – the nation.
- It is not a ‘win-win’ situation where several actors can gain ownership simultaneously.
Ownership has to do with a government’s relations with national as well as international actors – defining its responsibility, capability and legitimacy for political action.

Ownership must relate to what political action means – and could mean – for the poor themselves.

Focus on legitimacy. A better term than ‘national ownership’ is legitimacy. What is the legitimacy of those entering into partnership with donors, and what can be done to strengthen their legitimacy? The degree of national ownership is determined by the legitimacy of the government and its institutions. Donors should avoid engaging in processes and negotiations that negatively affect the legitimacy of government. There are many factors that influence legitimacy, but some the most important in this context include:

- political will and leadership at a high level of government
- knowledge and ideas, and ability to learn, at operational levels of government
- effective and transparent communication of political messages and plans
- proven capacity to act within public agencies.

Ownership is about how institutions work. A critical question, coming back to the trade-off between ownership and partnership, is the extent to which donors are willing to relinquish ownership. Is there a relationship between limited funding and the willingness to relinquish ownership? Would NORAD’s ‘generous’ conduct on this issue have been different if it had controlled the same kind of resources as the World Bank? Will the current PRSP processes, where donors aim to pool substantial financial resources, contribute to enhancing the legitimacy of national governments and the public administration? If PRSPs fail to deliver, the opposite effect is not unlikely, leading to further erosion of people’s confidence in the political system. The proof of the pudding is in the eating, and a sustainable process of nation-building depends on the ability of successive governments to deliver. However, the main limiting factor, in very many countries, is not lack of money. It has to do with organisational culture and incentives and, as we shall argue below, there is a need to examine carefully the institutional effects of aid. Why has ownership become an issue?

In the early days of development assistance this was not a con-
cern, for the obvious reasons that donors started out on a much more humble basis. Gradually, in most, but not all, aid-receiving countries an erosion of government ownership set in. What will it take to roll back this donor influence? Can we learn from history?

3. A Historical Perspective

Ownership was there from the beginning

Institutional perspective lacking. There have been two recurrent questions in the debate on development aid since the 1950s, namely; what are the effects in terms of development indicators, and what are the effects on the recipient institutions? Today, in the light of the debate on ownership, partnership and responsibility we realise that the two questions are intimately related. We have learned, as well, that aid may have undesirable effects on recipient institutions. In the early periods of development co-operation the two questions were not linked. The dominant belief was that aid could represent some form of injection into an existing institutional system, making it capable of moving faster. Aid was seen as institutionally neutral, so to speak.

At first there was the ‘take-off’ theory of economic growth. Countries that did not take off in their economic development were deficient in capital and infrastructure. We had to close the savings gap, as it was termed. This led to the assumption that provision of investment capital and new infrastructure would enable developing economies to cross the threshold of sustainable economic growth. The belief that public institutions in developing countries by and large functioned like those in the West, meant that little attention was paid to institutional analysis. Hence, the theory of ‘gap-filling’ that emerged included not only filling in missing infrastructure such as roads and harbours. It also involved filling gaps in public institutions in terms of professional competence. In the 1960s it was common to find expatriates, recruited by UN agencies and some bilateral organisations, filling gaps in public sector agencies, as planners, doctors, district water engineers, etc.

Ownership taken for granted. In the 1960s donors based their aid by and large on the assumption that the newly independent countries had the basic framework of governance and public institutions in place for development. It was a matter of enhancing the capacity and efficiency of these institutions. Rarely did aid agencies question the motives and incentives of the people working in Third World
government institutions. And there were no obvious reasons for doing so. The 1960s were a period of growth in the world economy and the newly independent countries benefited from this, largely through their economic links with their former colonial rulers. The euphoria of independence was also instrumental. There was widespread popular support for the new nation-building project, commitment among civil servants was high, and many of the countries were led by strong, development-oriented, charismatic leaders. Development was visible, and there was optimism.

*Donors not in the driver’s seat.* There was no question about who was in the driver’s seat. The statements from the Pearson Commission of 1969, quoted below, portray a donor community operating from a weaker and more humble position than we see today:

> The formation and execution of development policies must ultimately be the responsibility of the recipient alone, but the donors have a right to be heard and be informed of major events and decisions.

> … aid-providers, including international organisations, should be able to expect periodic consultations on matters of economic policies central to growth, fulfilment of understandings with respect to economic performance and efficient use of aid funds. Recipients, on the other hand, should be entitled to a prompt and reasonable steady aid flow at the level agreed and allocation of additional aid according to explicit criteria emphasising economic performance (Pearson *et al.*, 1969: 127–128).

*Which partners to choose?* It is important to remind ourselves that by the late 1960s and early 1970s the development aid debate was strikingly similar to what we have today, but proceeded from a different starting point. The basic argument was that a donor should support those countries pursuing the ‘right’ policies, and then leave as much responsibility as possible to the recipient government as to how to use the money. Many argued that budget support was the optimal form of aid; in fact, during the 1960s, budget aid was quite common, not least on the part of former colonial powers.

The debate on what constituted ‘good’ policies had different connotations from our current debate. It was generally accepted that poor countries needed to build a strong state, responsible for provision of basic social services to all, as well as managing the development of economic sectors. Only the state had the resources to promote national industries that could substitute imports of
essential commodities. High import tariffs were put in place to support infant national industry. Even in countries where socialist ideas and principles of a centrally planned economy were adopted, Western donors tended to accept this as a temporary, and even necessary, means to mobilise national resources effectively. The relationship between Western donors, especially the Scandinavian countries, and Tanzania is a case in point.

‘Main Partner Country’. By the early 1970s, Norway and several other bilateral donors had formulated aid principles and mechanisms similar to what is referred to as ‘recipient responsibility’ today. In fact, the terminology at the time was even more respectful, as it underlined ‘recipient orientation’ as the core principle, according to which the donor committed itself to respecting the development needs and priorities expressed by the recipient government. The emphasis on responsibility was introduced later, when donors found it necessary to become more upfront about the problem of lack of responsibility on the part of recipient states. Norway then introduced the concept of ‘main partner country’. This was seen as tantamount to a friendship, a country relationship based on mutual trust. Norwegian aid was provided within a framework of a four-year financial commitment, to facilitate forward planning on the recipient side, and allowed for substantial aid in the form of direct budget support, import support (e.g. paying part of the oil bill for Tanzania) and commodity assistance.

Then things started to go wrong
Typical of the first two decades of aid, until about the early 1970s, was that notions of ownership and recipients’ responsibility were rarely questioned. Then stories started coming in of investments not being maintained, irrational bureaucratic decisions and red tape, nepotism and professional ineptitude. Corruption was later to surface as a very significant problem. There was a growing realisation that Third World public institutions had major problems. Did aid have anything to do with this?

Ownership deteriorates. In retrospect we can see that a number of concurrent and related processes reinforced each other at the time. First, most of the newly independent countries embarked on an ambitious project of expanding the state machinery. In some countries this was further reinforced by the nationalisation of private enterprises. The rate of expansion was totally out of tune with the availability of qualified manpower. Second, this problem was
exacerbated by the policies of ‘nationalisation’ pursued, especially in many African countries, where it was no longer politically acceptable to have non-indigenous Africans (e.g. people of Indian descent in East Africa) or Western expatriates in the civil service. The result was that positions could no longer be filled solely on the basis of merit and qualifications; in fact, political considerations and personal relationships took the upper hand. Third, state revenue did not increase sufficiently to cover the expanding pay roll, the result being a steady decline in the real wages of public employees. Growing inflation added to the problem. As a result, public-sector employees engaged in out-of-office economic activities to make ends meet, and gradually misuse of public funds and authority became part of the same syndrome.

But not everywhere. Although these processes were to be found in very many developing countries, there were exceptions. Botswana, a much-cited case, had a slower pace of state expansion and never nationalised private enterprises. The government did not employ strong nationalisation policies within the civil service and has – to date – been surprisingly resilient in resisting public pressure for jobs in the public sector on a basis other than adequate qualifications. Furthermore, largely due to revenues from diamond exports, as well as prudent financial management, Botswana has avoided a decline in public-sector wages.

Donors’ control increases. Another process worth mentioning was the response of development agencies to these developments. We see in the early 1970s the start of an increasing ‘projectisation’ of aid. This was partly a response to a lack of confidence in recipient governments and the budget support mechanism, but more significantly it represented a change in ownership. The main problem was not that aid was earmarked for a specific project, as opposed to general budget support, but how the project cycle was managed. Who identified, planned, implemented, monitored and evaluated the project? Aid had been linked to projects for a long time, but now we see a move to establish project management structures outside the regular government structure with strong donor involvement at all stages in the project cycle.

With the slow-moving processes of existing departments and ministries, and weak, often unqualified leadership, donors saw no option but to go for some form of semi-independent project management, typically under the leadership of foreign consultants. It must be added, however, that this trend was further reinforced by the growth of development professionals in donor countries – the so-
called ‘experts’. These exerted strong pressure, in various fields, in favour of trying out new ideas and approaches; and they wanted jobs. Obviously, consultant-managed projects served their interests.

**Responsibility is diffused.** The same can also be said for the recipient institutions. Aid dependency had been increasing, especially with falling public revenue, and it was convenient to receive even more aid for ‘project islands’ without having to take full responsibility. It is wrong to conclude, therefore, that the ‘project island syndrome’ was pushed on developing countries against their will. They accepted the trend, in particular at a personal level among civil servants, seeing the limitations of their own system. In countries where public management was adequate and government insisted on direct control of projects, including the channelling of funds through the national budget, donors were more than willing to oblige. Again, Botswana is a case in point.

**Then comes conditionality**

*The new liberalism and new conditionality.* The next important trend in development co-operation is the structural adjustment agenda, initially promoted by the Bretton Woods institutions but later endorsed by most Western donors. This was spurred by a major shift in economic policies in the US and UK, under the Reagan and Thatcher administrations, promoting market reforms and seeking to expand global markets for Western corporations. But it also reflected a general concern that macroeconomic instability was undermining the efforts of aid agencies.

This clearly constituted a major step away from national ownership and recipient orientation. The response of recipient governments has by and large been in the form of subtle resistance. They accepted conditionality on paper, but fell behind with implementation in most respects. The only important exceptions related to decisions that could be effected by a small group of senior economic executives in government, such as lowering tariff rates and altering exchange rate policies. More fundamental institutional reforms of, for example, the public administration, state-owned enterprises or the banking system met with local opposition, and the changes made were mostly cosmetic, in order to please the donors.

*Mixed results.* By the mid-1990s conditionality was running out of steam and many studies reported that basically it was not working. Although it was realised that conditionality-based lending had not been effective in steering long-term and complex development
processes, structural adjustment nevertheless had a major impact in many countries. It paved the way for liberal economic policies which did boost economic activity, but the crisis of public administration and public services continued to deepen and corruption reached new levels with the new avenues for private aggrandisement.

And partnership takes over

*Post Cold War.* Although the tough line on structural adjustment was gradually replaced by a softer and less dogmatic approach, it continued to be a major public relations problem for the World Bank. With the fall of the Soviet Union, bilateral donors also wanted to promote a more diplomatic, less confrontational and patronising form of development co-operation. The term ‘recipient country’ was replaced by ‘development partner’; similarly, agencies were careful to refer to development co-operation rather than aid. The political justifications are fairly obvious. With the increasingly globalised world and the end of the Cold War, there was a need to define country-to-country relationships in terms of equality, as laid down in the principles of the UN Charter.

*Ownership depends on good governance.* Besides the attempts to create a new climate for international relations, a different rationality was also brought in, namely the need to concentrate on the kind of aid relationship that stimulates the most effective use of aid. The limitations of conditionality and of donor-managed project aid had been proved; it was time to go back to basics. In the case of aid, this meant going back to where it all started – with a high degree of country ownership. At the same time, recipient governments and countries today are radically different from what existed just after independence in the 1950s and 1960s. On two accounts especially, the conditions have changed dramatically. First, recipient countries operate in an environment of greater diversity and unpredictability. They receive offers from a wide range of development partners (multilateral institutions, development banks, bilateral donors and NGOs) and foreign investors, and at the same time their economies are more integrated in the global economy. Second, in many instances the state has lost a great deal of legitimacy as representative of the people’s will, because of inefficiency and the embezzlement of public resources.
4. Can We Rebuild Ownership?

*The need to reward results.* This historical résumé takes us to the final argument mentioned in the introduction. The current emphasis on aid relationships based on the notion of ‘recipient country-led partnerships’ tends to overlook fundamental factors causing ownership or lack of ownership on the part of the recipient. This has to do with the factors that make public organisations do their job in an efficient and cost-effective manner. In relation to aid and the aid relationship the perennial question remains: through the aid delivery mechanism – determined by supply and demand – how can donors influence the quality of development results? Do donors reward results effectively?

There is a need to confront boldly the incentive structure in aid relations. What are the factors determining the demand for aid and, similarly, the supply? Do we see a potential for changing the supply and demand functions in ways that will increase the probability of recipient institutions becoming more results-oriented and effective? Are there alternatives to conditionality and donor-driven activities? Are there ways of rewarding results more directly?

*Focus on responsiveness and accountability.* Whereas recent studies argue that aid in the form of financial transfers has been effective in countries with ‘good’ policies and institutions, and that aid in the form of ideas has been effective in stimulating reforms, there is still a major concern in many countries with the sustainability of aid-supported investments. Some of the factors affecting the sustainability of aid projects and programmes are (Lancaster, 1999: 499):

- the adverse impact of aid-funded programmes or projects on the interest of powerful groups and individuals inside and outside government in recipient countries;
the absence of a vocal constituency inside and outside government that would enjoy tangible or immediate benefits of the aid;
a lack of funding from recipient countries to continue projects after aid is terminated;
a lack of willingness and/or capacity to manage projects and programmes.

A recent study commissioned by Sida argues that ‘applying the concept of ownership and sustainability to actual development cooperation relationships is quite difficult …, motivational and information problems are very deeply embedded … and … no type of development cooperation is free from powerful perverse incentives’ (Ostrom et al., 2001: Ch. 8: 2). The aid relationship is never a simple bilateral link between a donor, such as Sida, and a recipient, such as a ministry. It works through a network that typically includes eight major actors: recipient government; donor government; other donors; recipient ministry/agency; aid agency; contractors; civil society organisations; and beneficiaries. This complex system with its many actors and relationships makes the parceling-out of ownership very difficult. The report argues that ‘the responsibility and accountability that an owner has, in the conventional meaning of the word, is transformed to nearly unrecognizable forms by the system of development assistance’.

The study recommends that Sida revisit its concept of ownership. ‘The common meaning of ownership does not translate automatically to the realities of development assistance, … We recommend that Sida focus on the concepts of responsibility and accountability involved in ownership’ (Ostrom et al., 2001: Ch. 8: 5). One can easily agree with this recommendation, but unfortunately there is little in terms of practical guidance in the study.

Perverse incentives. Importantly, there is a need to find ways of promoting responsibility and accountability that are sensitive to the two main incentive factors in aid relationships:

Maximising receipt of aid. Recipients generally try to get as much out of each aid negotiation as possible.
Pressure to spend. Both grant providers and lending institutions are subject to institutional and political pressures to disburse aid.

It is not difficult to see that these two factors in combination create perverse incentives in relation to responsibility and accountability for results; but what can be done to reduce the problem?
The need to maximise receipt of aid derives to a large measure from the unpredictability of the aid flow. Rarely can recipient organisations have confidence in a sustained regular flow of resources. There is no reason for the recipient to believe that what it doesn’t receive today it can expect for tomorrow. Recipient organisations also have interest in maximising their decision-making freedom. Understandably, for that reason they try to avoid being too dependent on one source of aid. Hence, it is in their interest to have many donors to choose from. This kind of institutional behaviour, however, tends to dilute accountability especially where donors compete.

Among donor agencies the pressure to spend has several negative effects. It may lead to the selection of investments that are good from the perspective of moving large sums of money – i.e. costly infrastructure projects – but often out of tune with existing institutional capacity. In response to the obvious weaknesses of recipient organisations, donors have placed more and more emphasis on the planning process – ‘quality at entry’. We have seen how the mere processing of aid consumes the bulk of qualified staff resources. The conceptualisation and design of projects and programmes also tend to be over-dominated by the perspectives and priorities of the aid agency with which the recipient negotiates.

CDF is not enough. The current paradigm to address these problems is embodied in the Comprehensive Development Framework (CDF). The idea is that it is possible for a country to negotiate with the donor community a comprehensive and holistic development strategy and long-term plans, on the basis of which individual aid agencies can align their respective country assistance programmes in a coordinated fashion. Subsequently, donors (and governments) can shift the focus of monitoring from the current preoccupation with inputs and short-term outputs to development results (outcome or impact).

The CDF approach may work well in countries where government (or ‘country’) ownership – responsibility and accountability, for different reasons, has not been severely weakened. It is, however, not an approach that boldly confronts the incentive problems discussed above and, hence, it is unlikely that responsibly and accountability is being rebuilt unless other measures are also taken. There are two types of measures that a donor agency such as NORAD ought to consider, to complement whatever attempts are being made to create a new global architecture for the development aid system. Both of these measures require experimentation, and a political will on the part of a single donor to go it alone, if necessary.
(1) A development fund: reducing the pressure to spend. There is a need to find financing instruments that are delinked from the annual budgetary cycles and targets in the donor country. One approach is to set aside funds that can be spent over a period of several years, without being subject to annual appropriations and planned disbursements targets. At the same time, it must be an objective to instil confidence in eligible recipients that funding is guaranteed provided mutually agreed conditions are met. One way to achieve this is to establish a development fund earmarked for a country, a ministry, a sector or a local government, to which any donor may contribute. The interests accrued will be deposited with the fund. Management of such funds ought to be vested in autonomous boards, with members elected by government, resource providers and civil organisations.²

(2) Reimbursement based on results: maximising results rather than volume of aid. Currently, there is much focus on result-orientation and result-based aid, much of which is related to the setting of development targets and finding ways of awarding countries or organisations that achieve targets. There is a need for a more radical approach, one that more clearly awards results. The best way to deal with this is to disburse funds only when results have been achieved. The main counter argument will be that recipient organisations do not have the funds to pre-finance their activities. In most cases, this is only correct for large-scale projects. On the other hand, it can often be argued that the recipient ought to focus on smaller projects and build capacity step by step.

Get the donor out of the car. It is a lesson from aid that lack of money in most cases is not the main constraint. The real problems lie in how organisations work – whether they are problem-solving and learning-oriented. To deal with this problem, there is a need for donor agencies to take a major step away from the operations of recipient organisations. This means not only allowing the recipient to sit in the driver’s seat, to use a popular metaphor, but actually getting out of the car.

One way of achieving this is to use a development fund mechanism, like the one indicated above, whereby an eligible recipient can negotiate an agreement on reimbursement of costs based on

² In a paper submitted to the Swedish Commission on policies for global development (GLOBKOM), Göran Hyden (Hyden, n.d.) outlines the concept of ‘Autonomous Development Fund’ in greater detail.
the type of outputs/results to be achieved. The agreement will place the recipient in a better position to obtain interim financing from public or private sources, even other aid agencies. When the request for reimbursement comes, the role of the fund is only to assess whether the results correspond with the standards and indicators previously agreed. With such a mechanism, the responsibility for planning and implementation is fully with the recipient. The donor (i.e. the fund) will not be involved in detailed planning, procurement or auditing.

Accountability depends on transparency. In most instances it will be important to focus on transparency. Compared with regular transfers of aid to government budgets, a fund mechanism may have some advantages in terms of public disclosure. All relevant stakeholders, and especially the beneficiaries, should be informed about the initial agreement and the final reimbursement in ways that are locally appropriate.

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Obviously, this is not a proposal that is equally relevant for all types of aid, but it is one that is worth while experimenting with. The logic is very simple, and one that is being practised in many walks of life – pay for jobs that are well done. I can see no better way of promoting ownership. The challenge to the donor community is that this principle is very difficult to operate for a country as a whole. We have to find mechanisms that can work at the level of organisations (public, private, community, business, etc.) where groups of people are formed to get ‘jobs’ done. In more general terms, there is a need for the donor community to reduce the emphasis on prescribing and engineering development. The irony is that countries that have been in the driver’s seat have no need for CDF, PRSP or similar frameworks, and those that are not will not move there unless the basic incentive problems of aid are being tackled.

References


