

Abstract of the Workbook of Proposals for "Agrarian Reform and Land Policies" Forum Social Mondial - February 2002, 3 and 4

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This short text is a synthesis of a **Workbook of proposals for agrarian reform and land policies** that is being developed in several stages on the basis of discussions with researchers, development specialists and representatives of small farmer's organisations. The main aspects (of it) have already been discussed on several occasions: during a workshop in the first World Social Forum in Porto Alegre in January 2001, in Valencia, Spain during a meeting of the Networks of Small farmers and Globalisation (APM) in May 2001 and in La Havana during the World Food Security Forum in September 2001.

The book consists of:

- Section 1: An initial **analysis**, that takes into account the main current debates surrounding land issues and presents the major proposals arising out of these debates. This text is a preliminary synthesis of this section.
- Section 2: **Support documents**, interviews with specialists in crucial areas and **presentation sheets outlining significant experiences**.
- Section 3: **Annexes**: a selection of interesting Internet sites on this theme, some pages from the "DPH" (Dialogues for Human Progress) database and a bibliography section.

This book has been developed to help people and organisations that are working on these themes in different regions of the world gain an inclusive view of the issues, identify interesting experiences in different contexts and formulate strategies that will facilitate improved management of land resources. It is an ambitious project but naturally does not pretend to be an exhaustive one. The manuscript aims to bring together different threads and ideas from varied situations. It underlines the necessity and the urgency to recognise both the diversity of land tenancy situations, which include land management according to cultures and history, and the global character of the challenges that exist today (on this planet) in relation to land and natural resource management.

Introduction

Nowadays, as in the past, many world conflicts are related in some way to the question of land. These conflicts can be grouped into three types based on the following:

- Insecurity of access to land or natural resources: customary law rights, tenants and sharecroppers with no guarantees on land leases, precarious rights of harvesters of wild produce and hunters

- Inequality of land distribution making further agrarian reforms a necessity.
- Claims by social or ethnic groups to a particular territory. The typical case is that of the territorial claims by indigenous peoples but claims also exist that have historical, religious and cultural connections.

Why do capitalist development and markets not manage on their own to resolve the problems that arise around land issues, in accordance with the interests of the majority?

In 1944, Karl Polanyi wrote in The great transformation "What we call land is a part of nature that is inextricably linked to human institutions. Of all the actions of our ancestors, perhaps the strangest of all would have been to isolate it and to turn it into a market good."

Land has certain characteristics, which imply that it is not possible for us to consider it merchandise like any other, even though land rights are sold nowadays in numerous societies. Land rights correspond to a physical space, or a "territory" that cannot be destroyed or displaced. Land has another peculiarity; it contains natural resources, which are not the result of human labour. Therefore, one cannot compare the "ownership" of land with that of any other object. If the rights to a piece of land refer to relationships with others liable to cross the space that it covers or to use the resources that it contains, then the relationship of human beings to a piece of land is in essence a relationship between human beings themselves.

Ownership of land can never be absolute. The right to ownership, as regards land, can be summarised as the ownership of a collection of rights and the owner is only one of those that has rights. From here several situations arise: rights can be superimposed on each other and can even contradict each other. This is what happens in Africa for example, but also in the majority of "indigenous" societies and also in a less evident but real way where individual private ownership (Latin America, Europe) is the norm. Society in general will always maintain certain rights over land, which partly maintains the character of the common good.

As is the case with certain other commodities, land is not "genuine" merchandise created by a sale. From it arise rental phenomena, prices that are established on the basis of social struggles and that represent power forces and a land market that cannot, by its very nature, be self-regulating. It is impossible in these conditions to separate rental systems from those in charge of updating of rights and from the resolution of conflicts that inevitably appear.

The diversity and multiplicity of land management systems, related to different histories and cultures, question the dominant theory of the existence of a unique and standard solution for the entire world. Interesting lines of work arise from drawing comparisons between different forms of social organisation and land management methods.

Given the actual context of strong rapid demographic growth, the globalisation of relationships and the simultaneous contest between farmers with very unequal levels of production, changes accelerate and occur nowadays with frightening speed. They are often irreversible and cause increases in inequality by means of a now well-known mechanism, as well as the bankruptcy of a large part of the agricultural producers in the world. Other different overhauls of land tenancy, like the diverse forms of dissolving of land cooperatives in the former Soviet block countries, also occurred in a sweeping and sudden manner. Societies no longer have the necessary time to adapt to these changes, nor to equip themselves with adequate coping mechanisms, all contributing to critical conflicts surrounding land issues.

In this workbook, we deal with three central themes, asking ourselves how it is possible to protect & defend the rights of those that work the land, how to guarantee that the majority have access to resources within an optimum economic and social context and how to recognise the diverse cultures and histories of land management and use.

Question 1: How can we protect and defend the rights of agricultural producers?

To begin with we will try and avoid limiting the discussion to land “owners” and take into account all those with rights, that is to say all those who use the land.

This forces us to ask ourselves about the origins of the rights of individuals or those of social groups, of the legitimacy of those involved and the perceptions that they have of that legitimacy. It is not possible to bestow rights on those groups who as of yet have not even been recognised and the problem thus, is a social one as much as a legal one. Taking the liberty of somewhat oversimplifying, we have identified two major categories of land rights:

- *Rights acquired over a period of time*, often by means of the social recognition of a chain of events. In the legal framework, the mechanism of “acquired prescription” is what is used in this case. Under certain circumstances, previous rights cease to be valid after a variable period of time.
- *Rights bestowed by the State*. This is the typical case of the colonial situation in which the legal system tries to establish these types of rights independently of the first type, while in reality the authorisation of the State to grant these rights is ultimately related to the first category. The necessary instruments are thus the ownership of land title, which appears to provide a foundation for these rights, and the land map.

It is possible to present some ideological justifications as foundations for rights (calling on rights of divine origin, for example). In today’s context, the assertion of the universal character of property probably follows this very logic.

Several registry systems of property rights exist in the world, with or without land maps: the Germanic book of land property with legalisation of rights that were existant before registration, the French system in which successive private contracts create a strong assertion of rights, the Torrens system, a colonial type, in which the register of a right originally assigned by the State generates a private right, etc.

The majority of assistance programmes by international organisations are currently orientated around simplified systems that are similar to the Torrens system, which creates several problems. Some innovating experiences have tried, not without their own problems, to take the complexity of multiple land rights into consideration, like for example the Rural Land Plan in Ivory Coast, or the Land security programme in Madagascar.

The security of access to land can also cause a greater security of rights for tenants, for sharecroppers and for the beneficiaries of different “delegated” rights, using the African expression. Extremely varied situations, like those in Burkina Faso, where land conflicts between natives and non-natives are very deep-seated, resemble this problematic situation. The example of France, (tenancy law and the application of it by means of a specific jurisdiction) clearly confirms the potential efficiency of a policy of this type in a situation of unequal access to land security between neighbouring peoples.

The numerous failures of attempts to obtain legal texts, with all the problems of insecurity of land rights experienced by tenants and sharecroppers, is once again reminiscent of the fact that laws do no more than reflect the correlation of influences in society. Relevant changes cannot occur without the mobilisation and organisation of interested parties.

A rights inventory is not sufficient on its own. It is important to guarantee verification and protection of the registered information, which in turn needs to be constantly updated. Social evolutions also need to be incorporated into the concepts of land property rights. For several reasons (economic differences, unequal access to information,...) large sectors of society are often excluded from the mechanisms of regularisation and updating of rights and cannot avail of legal and valid land titles. Therefore it is worthwhile at the same time to improve the registry procedures and the social apparatus subject to carrying them out. This is not easy. The historical case of the communal land system in Mexico and its recent developments (recognition and registering of individual rights) from this viewpoint is a particularly interesting example to analyse.

Contrary to what is frequently stated (see the "*tragedy of the common good*"), the problem is not the existence in itself of common goods, but the absence of rules and mechanisms that would guarantee the management of land for the benefit of all. These mechanisms are necessary at several levels: local, national, regional and global. From this perspective, the question of the right of land property once again becomes one of the great challenges for today's world, as land increasingly becomes a common good and part of human heritage.

Question 2: How can we guarantee access to land for the majority in such a way that coincides with an optimal economic and social situation?

This question refers more specifically to agrarian reforms, to the role of the State and to agricultural policies. We are focusing here on dealing with these issues as different parts of one overall problem.

Where there are situations of intense polarisation of land tenancy, agrarian reform becomes a necessary priority, which should be dealt with before any other measures are taken. The partial failures of many agrarian reforms have meant that many people have forgotten this basic fact. Following on from this lies the necessity to analyse in detail the successes and failures of the reforms of the past, in order to be able to improve a model of intervention, that albeit an exception, is still indispensable in many cases. The methods used for the implementation and application of reforms, the respective roles of small farmer's/ peasant's organisations and of the State are essential factors contributing to the success and sustainability of achievements, just as is the coordination of the process with suitable agricultural public policies. By examining the later changes and evolutions of the "reformed sector" and the tendencies and the risks of "counter reforms", it is possible to come to a better understanding of agrarian reform. It can thus be seen as a process that affects power relationships and dynamics and that therefore should be capable of anticipating future changes, in a context in which the State will not have the capacity to intervene. In many cases, the effects of redistribution that constitute the foundations of a true agrarian reform are not often fully considered or are even disregarded in favour of collectivisation policies or even the colonisation of virgin lands, neither of which have anything to do with land reform.

If, as in many cases, land reforms are obligatory, they cannot constitute a permanent

means of intervention. This leads us to the fundamental relationship with other land policies, with permanent regulatory policies of land markets, all aiming for or towards the optimum distribution of land over a given time to optimise the distribution of land within a certain time, and where possible, to avoid having to carry out a further agrarian reform in the future, which is both costly in terms of human resources and materials.

These policies can be diverse: corrective interventions in land markets (SAFER example in France), concentration of land plots (land ordering) interventions in other markets, in particular the financial market (mortgage credit), land payment policies, inheritance regulation, specific incentives for the types of producers that it is decided to support (young farmers, retirees, incentives for disadvantaged areas etc), without forgetting policies tied to forms of tenancy (regulation of rental laws to ensure greater security for the tenant, separate management of land from unit of production etc). These become unavoidable in a country in which family production is important and where virgin land liable to be colonised is no longer available. Certain conditions are necessary for the application of the majority of these policies: history has shown that without union organisations and dedicated professionals, it is extremely difficult.

Question 3: How is it possible to take diverse cultures and histories into account?

The final topic to be dealt with is the question of indigenous lands, of the recognition of their individual characteristics and their management autonomy. Based on examples from different regions of the world, the means of analysis that have been used allow us to consider the situation of ethnic minorities as a particular case in a more general framework. As in all other situations, it is necessary to have intermediary levels of land management. These are more obvious in the case of indigenous groups and they are the focus of claims which are related to the perseverance, both of systems of social organisation and of specific beliefs such as their own power systems. But more often than not, these traditional systems have not managed to adapt sufficiently quickly to the economic and social changes surrounding them.

Proposals

Although these proposals are not definitive in character, they are a preliminary presentation illustrating the results of the above analysis and which have brought about the proposal of different lines of work. (The order of listing does not necessarily imply order of priority)

1. In all countries in which land distribution is very unequal, reinstate agrarian reform as a necessary public policy priority and find a systematic method of improving the processes of agrarian reform, so as not to miss out on opportunities for implementation (which are not always that frequent) that a favourable political context can offer. Improvements can facilitate the assuming of a principal leading role by agricultural producers' organisations which then implies:
 - Improving the putting into action of agrarian reform policies, with an increasing involvement and support from different social sectors, whilst at the same time weakening and isolating the positions of those hostile to land redistribution.
 - Revising the relationship between collective and individual property, developing appropriate social land management mechanisms and simultaneously

guaranteeing greater security of rights for individual producers.

- Preparing in advance for the consequences of land reform, in order to avoid the construction of a reformed sector isolated from the reality of other small producers and developing small farmer/peasant organisations so that they have the capacity to coherently defend the struggles of the different groups of producers.
 - Developing local capacity for land management, during the land reform process. This involves the integration of different models of regulation into the land market (including the rental market in some cases) which peasant/small farmers organisations are able to visualise, implement and learn to manage, increasingly in co-ordination with groups of producers not on land that has been subject to reforms.
 - Co-ordinating agrarian reform with agricultural policy, tariff protection on key products, mechanisation and modernisation policies that don't substitute the labour force from the outset, promoting a product quality policy and a policy of compensation for regions disadvantaged in terms of natural resources etc.
2. Where intensity of inequality of access to land is not so strong and where it is worth developing a management policy for agrarian structures, which facilitates the modernisation of the units of production and that guarantee their social function, implement public "structural" policies (that is, permanent policies directed towards the organisation of agrarian structures that fulfil the needs of society as a whole), including, amongst others, policies that regulate the land market.

There is a wide range of possible measures, but some are costly and beyond the reach of poor countries. Therefore there is a need for controlling measures (aiming to lessen incentives for large extensive properties) that are interconnected to; regulation and improvement of land market policies, mortgage credit, programmes of plot concentration and helping the start-up of young producers etc. By guaranteeing the "right to work the land" as something that is independent from "the right of property", interesting channels often arise which help to resolve conflicts that are born from inheritance land transfers from one generation to another in a rural peasant society.

3. Construct land management bodies (understanding land as a place in which common resources, humanity as a whole or particular societal groups are found). Take into account the multiple rights of different actors in regard to land and natural resources (woodlands, water, biodiversity), not only in indigenous lands where this reality is evident but also in all rural spaces. Recognise and where necessary "title" the rights of collective bodies and not only those of individuals.
4. Decentralise a large part of management systems (and administration ones) of individual land rights, co-ordinating the land map and the national registry systems with local ones (municipalities, farming organisations, indigenous organisations and customary authorities...) For the purpose of efficiency it is necessary to combine this process with the putting in place of conflict resolution and mediation bodies that are capable of responding to the current demands. It is important to emphasise that greater land security does not come about solely by means of private property.

How?

Of the options available, we believe that the following are necessary:

1. Create exchange networks between peasant organisations with the support of researchers and experts, in such a way that lessons learnt from the experience can be accumulated at a global level (globalisation of the peasants' economic, social and political experiences) and participate in the creation of a social capital that at present requires a rational management of land and natural resources.
2. Promote educational and training programmes for producers and for all those living in the countryside and in the cities which look at the strategic importance of land in relation to the future of societies as a whole, establishing methodologies of investigation- action on this theme. Reinforce tendering and management capacities of peasant organisations in their management of land resources.
3. Carry out a lobbying campaign to influence international organisations and bilateral co-operation in order to create a situation that is more open to innovation and the implementation of different agricultural and economic policies.
4. Develop linkages, outside of the indigenous and peasant environment, with topics of direct interest to urban populations (food quality, environment, rural management, relationship between urban poverty and low earnings for the peasant farmer).
5. Promote the inclusion of the theme of land use and distribution in discussion agendas on the problems of the planet so as to ensure that it is incorporated into the discussions of and attempts to understand the causes of world poverty.