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Peasants Against Private Property Rights:

A Review of the Literature

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Abstract

Land is the main - if not the only - asset for a majority of people in developing countries. The definition and allocation of rights over land are consequently naturally essential aspects of individuals' daily lives, as well as critical determinants of social and economic development. The privatization of land rights has long been seen as a necessary process, enhancing both efficiency and equity. However, privatized land rights have not always emerged endogenously, while exogenously driven programs of land privatization have not always been successful or popular. This has raised questions about the efficiency of the privatization of land rights. This paper aims at summarizing the main arguments and studies, both theoretical and empirical, on this issue of the privatization of land rights, with a specific focus on the factors that can make privatization inefficient or detrimental for the most concerned individuals.

JEL Classification: O17, Q15.

Keywords: land rights, land tenure, property rights, privatization.

Introduction

Land rights and institutions in rural areas: A crucial dimension of development

The seminal works of Coase (1937) and Coase (1960) on externalities have led, since the 1960s, to a renewal of academic research on property rights (*e.g.* Demsetz, 1967, Alchian, 1965, and Alchian and Demsetz, 1973) and on institutions (Williamson, 1975, North, 1990). The granting of the Nobel Prize in Economics to Douglas C. North in 1993, and then to Elinor Ostrom and Oliver E. Williamson in 2009, has shown – if ever there was a need to do so – the importance of New Institutional Economics in contemporary economic thinking. Property rights and institutions are especially important in the fields of economic growth and development (Acemoglu, Johnson and Robinson, 2001, Easterly and Levine, 2003, Rodrik, Subramanian and Trebbi, 2004, Acemoglu, Johnson and Robinson, 2005). Considered as a key factor in economic progress (Yifu Lin and Nugent, 1995, Shirley, 2008), they are also one of the main explanations invoked for the historical rise of the West and the eventual advent of the Industrial Revolution (North and Thomas, 1973, Mokyr, 1999). Unsurprisingly, after the apparent failure of Washington Consensus policies and the general disappointment with "structural adjustment" in the 1990s, both the International Monetary Fund and the World Bank turned to the "second-generation" policy prescriptions of the "augmented Washington consensus", which were and continue to be largely focused on institutions (Rodrik, 2006). Academically as well as politically, sound institutions and well designed property rights are nowadays considered as critical determinants of economic performance.

At the first stages of development, the most important institutions remain the ones concerning agricultural land, its distribution and its use. According to UNDP data provided by FAO,[1] more than half of the working population in developing countries[2] was in the agricultural sector in 2000. For low-income countries, this proportion was above two thirds. For most rural dwellers in developing countries, land is the main production factor besides labor, and often remains the only asset with which one can generate, accumulate and transmit wealth. Institutional arrangements on land thus constitute a momentous dimension of daily life for citizens in developing countries, as well as a crucial factor in the definition of both the shape and the pace of economic development. As for today's developed countries, agricultural reform, and especially the dismantling of the open field system and the enclosure movement in England, is generally seen as one of the main causes of the acceleration of economic growth in Western Europe in the XVIIIth and XIXth centuries and of the eventual advent of the Industrial Revolution, as it released workers from land while significantly improving agricultural efficiency.[3]

The institutional framework surrounding rural land and agricultural activities is consequently a momentous characteristic of rural societies in developing countries, and a crucial factor, perhaps even a prerequisite, of overall economic development.

1 Data on economically active population, available at the address: http://faostat.fao.org/site/550/default.aspx#ancor

2 Developing countries are defined here as countries not classified as high-income by the World Bank.

3 There is an extensive literature on the link between land rights reforms, agricultural change and the Industrial Revolution. See for example Marx (1867), Mantoux (1961), O'Brien (1996), and Allen (2008).

The presumption for privatization: Optimality and emergence of private land rights

On this issue of land rights in rural areas in developing countries, one of the most pervasive views has held that the optimal institutional arrangement is privatization. For example, one of the first and most influential set of policy recommendations on land rights was the "Land Reform Policy Paper" issued by the World Bank (1975), which strongly advocated private land rights and the development of land markets. The recent updating of World Bank positions on this issue (World Bank, 2003) has maintained these basic principles, but with a significantly more gradualist and humble attitude (Deininger and Binswanger, 1999) toward the actual implementation of reforms.

According to this standpoint, because they are optimal, private property rights should progressively emerge, following an evolution first outlined by Demsetz (1967), as their benefits gradually outweigh the cost of setting them up. A virtuous circle of improved rights and economic development can then take place, as both processes mutually sustain and foster each other.

This point of view has two main implications. The first is that economic development and growth are linked with property rights in two ways: the latter hastens the former, whereas the former permits and calls for the latter. The second implication is political, and is of momentous significance: in such a setting, the appearance of private property rights is gradual because it is costly to set them up. However, private property rights are always beneficial, and if they are set up by an external intervention, they should always give positive results.

Privatization in practice: Pitfalls and troubles

However, this baseline story of the gradual emergence and efficiency of private property rights has been called into question by two different streams of evidence, now well acknowledged in the literature.

First, the development-property rights nexus remains empirically unclear. One of the most striking counter-examples is constituted by the symmetric experiences of the former Soviet Bloc countries and of China. In the USSR and its satellites, "big bang" policies of rapid privatization and marketization were implemented in the 1990s, leading, at least in the short and medium term, to very disappointing results (Fischer and Sahay, 2000, Svejnar, 2002). On the other hand, the People's Republic of China has taken a very gradual approach to privatization and liberalization since 1978, which has led today to a situation where institutions remain flawed and property rights quite imperfect (Heston and Sicular, 2008, Clarke, Murrell and Whiting, 2008), but this has not prevented tremendous growth and rapid development. These opposite experiences of transition tend to show that economic success is not always correlated with clear-cut private rights.

Second, quite counter-intuitively, rural dwellers in developing countries do not seem to be univocally demanding privatization, as noted for example by Kung (1995) in the case of China. In addition, programs for the definition and implementation of private property rights at the local level have not always been successful and welcomed, as Bassett (1993) or Firmin-Sellers and Sellers (1999), for example, evidenced in the case of Sub-Saharan Africa. Sjaastad and Cousins (2009) provide a recent and synthetic overview on this issue.

These two streams of evidence seem to indicate that at the macro level, market-friendly institutions and private property rights are not always associated with better economic performance, whereas at the micro level, privatization does not seem to emerge naturally as the economy develops: peasants in developing countries may, in some situations, not be favorable to the privatization of land rights.

Scope and plan of the review

The objective of this paper is to provide a review of the theoretical and empirical literature, mainly in economics, on the reasons for the opposition to privatization in developing countries. It will limit itself to the rural aspect of this issue, that is to say to the problem of property rights on rural agricultural land, which are, as highlighted above, one of the most crucial dimensions of the first stages of economic development. It will not be an exhaustive review, as the literature on rural land rights and rural institutions has now attained a tremendous scope, but it aims at identifying key mechanisms and factors, illustrated by the most representative articles, both empirical and theoretical. While the focus of the study is on rural land rights in developing countries, from an economic point of view, it will still make reference, when necessary, to studies in other academic disciplines, and to studies on subjects which raise issues similar to those concerning rural land rights.

In terms of the plan of this review, the first section will define property rights and delineate the dimensions of their privatization. The expected benefits of private property rights, as well as the evolutionary conception, will be detailed. The second section will review the theoretical and empirical literature dealing with the issue of opposition to property rights.

1. Property Rights Privatization: Definitions, Benefits and Evolution

1.1 Definitions

Property rights Following the classic work of Barzel (1997), it is now common to "define the economic property rights an individual has over a commodity (or an asset) to be the individual's ability, in expected terms, to consume the good (or the services of the asset) directly or to consume it indirectly through exchange" (Barzel, 1997, p. 3). These economic property rights are then linked, but not identical, to legal property rights, which "are the rights recognized and enforced, in part, by the government". An individual's actual property rights over an asset then represent the means of control he has over it, and how he can benefit from it. They are partly defined and modeled by external arrangements, such as legal or customary arrangements, but actual property rights exist even when there is no State authority to enforce legal rights (Eggertsson, 1990, chap. 9), and when a State order is in place, it does not constitute the only framework structuring property rights.

Albeit based on formal distinctions inherited from Roman Law, the three dimensions of usus, usus fructus (or simply fructus) and abusus (see for example Eggertsson, 1990, chap. 2) are useful for understanding and analyzing the different aspects of actual economic property rights. To put it in the most general and simple way, usus represents the right to use an asset, fructus covers the right to the incomes generated from this asset, while abusus is the right to alienate it. All together they embody the extent of an individual's bundle of property rights, which can then be more or less extended along each of these dimensions.

Privatization Property rights over an asset can be defined and allocated in numerous ways. However, at least during its first decades, economic research on property rights has tended to show that the privatization of property rights was the optimal institutional arrangement (see for example de Alessi, 1980, and de Alessi, 1987). This conclusion had important policy consequences, as privatization constituted one dimension of the so-called "Washington consensus" (Williamson, 1990), which acted in the 1990s as the policy matrix for both transition and developing economies.

However, despite its importance in academic and civil society debates, as well as in policy making, "privatization is a fuzzy concept that evokes sharp political reactions", as Starr (1988) put it. However, the privatization of rights over an asset seems to be implicitly defined, most of the time, as a three-dimensional process: individualization, securing and specification.[4] These three processes are especially visible, although not explicitly expressed, in the work of Feder and Feeny (1991), which is focused on Thailand, to point out one example among many studies.

Individualization corresponds to the transfer of rights over an asset from collective entities, such as States, communes or kinships, to individual ones, like households or persons. Securing naturally indicates the fact that individual rights are less prone to be exogenously and unexpectedly challenged or lost. Specification, finally, indicates the process through which the rights included in the individual's bundle are more precisely defined.

[4] Sjaastadt (2000) makes this view explicit, but in order to criticize it.

1.2 Rural land privatization: Expected benefits in developing countries

In terms of rural land in developing countries, a vast literature, both theoretical and empirical, has developed since the 1960s on arrangements for property rights, and on the expected and real benefits of privatization. Recent surveys include Deininger and Feder (2001), Deininger and Feder (2009), and Besley and Ghatak (forthcoming). In this section, we will simply recall the main benefits generally expected from the three dimensions of the privatization of land rights identified above - individualization, securing and specification - and make reference to some of the most representative articles.

Individualization Individualization refers to the transfer of property rights, usus, fructus and abusus, from group entities, such as State or collective structures in transition economies or kinships and traditional communes in developing countries, to individual people. It is the most important, the defining, and probably the critical element of land privatization. It is also the process that probably bears the most important consequences for economic efficiency, as well as for social structures and individuals' daily lives. As a natural consequence, it is also the dimension of privatization that has received the most attention, and has generated the most extensive academic research.

The first asserted gain of the individualization of land rights has been linked with what is known as the "tragedy of the commons" since the work of Hardin (1968). The idea is that if use rights over a resource, necessarily including right of access, are common, this "common-pool" resource will tend to be overexploited, as each individual fully benefits from its use, while the depletion cost is shared. The natural solution is then to privatize use rights, that is to say to grant exclusive access to the resource, and then to allow an individual to exclude others from using the resource. This statement can then be expressed as follows: if usufruct rights are private, then *usus* rights should be too. This conclusion constituted one of the core developments of Demsetz's (1967) founding article on property rights and of his backing of privatization. There is now an extensive literature on this issue, especially since property rights allocation has emerged as a possible tool against climate change and natural resources depletion.[5] As agricultural land and its related resources constitute a natural asset whose services can be depleted, it is, as a direct consequence, subject to issues concerning common-pool resources. Collective mismanagement of common land can then end up with a general impoverishment of the peasants, leading to a further increase in the pressure on common land. This vicious circle has been labeled "agricultural involution" by Geertz (1963), and has been documented - to take the most noticeable examples - in the cases of Indonesia (Geertz, 1963), and of some Sub-Saharan African countries, such as Eastern Nigeria (Lagemann, 1977), Ghana (Lopez, 1997) or Côte d'Ivoire (Lopez, 1998). In his study of Côte d'Ivoire, Lopez (1998) found that communal arrangements were unable to regulate the depletion of biomass due to individual agricultural exploitation, which costs as much as 14% of villages' incomes. This situation led to the natural policy prescription of dividing up common land and granting private use rights and exclusive access to land and related natural resources (World Bank, 1975).

The second gain of the individualization of use rights is an allocative one. If individuals have good information about different land use outcomes, decentralized decisions by individual agents will dominate centralized allocation by a collective authority. On the basis of information collection, the general point of the optimality of individual decisions over centralized ones has been made especially clear and popular by Friedman and Friedman (1980). Even if this theoretical idea is quite intuitive, empirical studies remain scant. As for the case of China, the individualization of land use rights through the implementation of the "Household Responsibility System" in the 1980s has been found to lead to the adoption by farmers of more efficient land-use systems (Chen et al., 2001), and the increase in the degree of freedom in production choices is generally seen as a key factor in the reallocation of Chinese agricultural land toward husbandry

[5] The work of Anderson and Leal (1991) is the very embodiment of the standpoint which holds that private property rights and market mechanisms constitute the solution to contemporary environmental challenges.

and cash crops, and in the correlated growth in output (Perkins, 1988, Lin, 1992). As for Africa, the most well-known example is the land reform carried out in Kenya from 1954 onwards, which included an extension of Kenyan farmers' land use rights, by removing regulatory constraints on growing cash crops, especially coffee. This allowed a reallocation of land toward more profitable uses, and fueled Kenyan success in the 1950s (see for example Barber, 1970).

As for the individualization of the usufruct right on land, it amounts to giving the individual who actually works on the land residual claimancy on land production. Residual claimancy is seen as having one of the strongest impacts on land use efficiency and on agricultural production. Indeed, giving peasants the right to fully appropriate the benefits of their work is surely to incite them to exert their maximum possible effort in situations where there is information asymmetry and effort cannot be monitored. Based on the classical work of Alchian and Demsetz (1972), this result can be stated as follows: in order to reduce shirking and maximize production, the individual who uses a production asset must also be the asset's product residual claimant. Two main streams of theoretical and empirical literature have investigated this issue of usufruct rights, one being concerned with the decollectivization of agriculture in transition economies, the other with tenancy agreements in developing countries. For the first dimension, the collective organization of agricultural production in socialist countries and the correlated lack of proper incentive is considered as one of the prime factors of their agricultural counter-performance, while the decollectivization and privatization processes of the 1980s and 1990s are seen as leading to a huge increase in production. Binswanger, Deininger, and Feder (1995) provide a synthetic review of the theoretical and empirical evidence on the failure of collectivist agriculture, as well as on the tremendous growth in production and efficiency following decollectivization. This effect has been especially well documented in the case of China, with the most well-known studies including Lin (1988), Lin (1992), Fan (1991) and McMillan, Whalley and Zhu (1989). According to this last study, more than three-quarters of the increase in agriculture productivity in the years 1978-1984 was due to the new incentive scheme of the "household responsibility system", which made farmers residual claimants of the product of their plots. As for tenancy agreements in agricultural relations, there is today an extensive literature on the issue of optimal institutional arrangements, especially between fixed-wage, sharecropping and fixed-rent contracts. Surveys of theoretical and empirical evidence can be found in Otsuka and Hayami (1988), Otsuka, Chuma, and Hayami (1992) and Binswanger, Deininger, and Feder (1995). Empirically, the study of Banerjee, Gertler, and Ghatak (2002) on the Operation Barga carried out in West Bengal at the end of the 1970s brings especially convincing evidence. They show that this institutional reform, which was favorable to agricultural workers, increased the bargaining power of tenants, and, as a consequence, the share of production they could appropriate. This, in turn, naturally raised agricultural workers' incentives and then, finally, production. The incentive effect of the individualization of usufruct rights, that is to say, residual claimancy, is thus one of the most studied - and also one of the most commonly acknowledged - expected benefits of privatization.

Finally, the granting of abusus rights to individuals allows them to trade in land sales or rental markets, permitting both an allocation of land plots to the most efficient farmers and a transfer of land from individuals, leaving agriculture to the ones remaining in farming activities. The possibility of land transfers should then increase land allocation efficiency. Deininger and Feder (2001) and Deininger (2003) provide a good discussion of this allocative mechanism. Although numerous empirical studies have enquired into the determinants and consequences of land markets, few have specifically and rigorously questioned their impact on allocative efficiency. Deininger and Jin (2005) have shown that land allocation through markets is more efficient than administrative reallocation in the case of China. They allow out-migrants or off-farm workers to rent out their land, and the most efficient farmers to rent land. More recently, in an in-depth study on India, Deininger, Jin, and Nagarajan (2009) have shown that land sale markets have significantly improved economic efficiency, indicated by an equalization of factor ratios across households, and have especially given better opportunities to poorer individuals.

Securing Securing means the increase in the degree of security of the different rights granted to the individual. Rights are more secure when they are less prone to public as well as private abuses. The first direct negative consequence of insecurity is that it attenuates the extent of individual rights. Indeed, the significance, and as a consequence the effects, of the aforementioned individual rights on land will be limited if these rights are insecure. Securing rights consequently makes it possible to reap all the benefits of individualized rights as outlined above. However, securing is also seen as having beneficial consequences per se. Three main aspects have been well identified.

First, if their rights are insecure, individuals can act in ways that increase the degree of security of their rights at the expense of economic efficiency. To put it another way, agents have to include security concerns besides – and at the expense of – those of production and efficiency. If individuals have to spend resources on securing their rights, the level of enforcement and the amount of resources devoted to it is not likely to be socially optimal. This has been delineated theoretically, for example, by de Meza and Gould (1992), in the case where individuals would have to individually enforce private use rights over an asset. Besley and Ghatak (forthcoming) show that the need to secure property rights can divert labor from productive uses. As for the empirical aspect, the most well-known study deals with Peruvian slums, where Field (2007) demonstrates that people living in urban dwellings without clear property rights had a constrained participation in labor markets, for they had to spend time in their home in order to assert such rights. As for rural land, in a very similar manner, Alston, Libecap, and Mueller (1999) see the diversion of labor toward unproductive uses, for the protection of land rights, as one the main costs of land rights insecurity in studied regions of the Brazilian frontier.

Second, property rights insecurity over an asset such as land reduces the time horizon of the benefits an individual can hope to get from that asset. As a consequence, the agent will favor short-term benefits over those that are longer term and less sure. This quite straightforward idea has given rise to a vast empirical literature on the existence and scope of this effect. Classical and well-known empirical studies include Feder et al. (1988) on Thailand; Besley (1995), Goldstein and Udry (2008) on Ghana; Deininger and Jin (2006) on Ethiopia; and Jacoby, Li, and Rozelle (2002) on China. Feder and Nishio (1998) provide a precise discussion of the empirical evidence. For example, the aforementioned work of Jacoby, Li, and Rozelle (2002) on China estimates expropriation risks for different villages, households and plots, and shows that land rights insecurity decreases the use of organic fertilizer, which has long-lasting improving effects on soil quality, whereas it does not affect chemical fertilizer, which only has short-term effects. Land rights insecurity consequently unambiguously seems to shorten farmers' time-horizon, and thus decrease investments on land. This effect of securing usufruct rights is probably one of the most acknowledged and documented aspects of the privatization of land rights. As such, it has also received - and continued to be the focus of - particular attention in rural land policies design, and has become one of the leading principles in the recommendations of the World Bank (Deininger and Binswanger, 1999, World Bank, 2003).

Finally, secured and well-established property rights, when they include individual alienation rights, allow land to become collateral. Indeed, when abusus rights are individual and secure, lenders will agree to take land as a guarantee in the credit market. This is especially the case when land is formally registered and titled. This effect has been made extremely popular by de Soto (2000), who sees the collateralization of land as the determinant of capital accumulation and development, and consequently as the very root of Western economic success. Eswaran and Kotwal (1986) provide a review of the early literature on the subject, while Besley and Ghatak (forthcoming) offer a simple theoretical illustration. This mechanism has gained some empirical support in developing countries. It has been shown to take place, for example, in the cases of Thailand (Feder et al., 1988, Siamwalla, 1990), and Peru (Guirkinger and Boucher, 2008). In Thailand, Siamwalla (1990) has evidenced that access to formal credit, through commercial banks or cooperatives, and to long-term loans, whether from formal and informal lenders, was conditioned by land titling, which allowed land to be used as collateral.

Specification Finally, the process of specification represents the increase in the degree of detail or precision of the bundle of rights granted to an individual. The first effect of specification is through security. Indeed, unclear land rights naturally create uncertainty about their scope, and thus insecurity over their exact definition. To take a representative example, lack of clarity is especially obvious in China, where the introduction of the "Household Responsibility System" has blurred the identity of the authority that actually owns land, and where the lack of legal knowledge of peasants, combined with a great flexibility in the implementation of official regulations, make the exact extent of the individual farmer's bundle of rights quite unclear (Ho, 2001). In Uganda, the lack of precise legal knowledge of land legislation, and the consecutive imprecision of the actual bundle of peasants' rights, has been shown to bear the same consequences as insecurity (Deininger, Ali, and Yamano, 2008).

Moreover, and maybe more importantly, more specific, more extended and more precise individual rights allow agents to contract over more dimensions of their interactions, and thus to internalize, through contractualization, more externalities. This role of precise property rights in allowing the internalization of externalities is at the core of Demsetz's (1967) founding paper on property rights. The main externality has been identified at the beginning of this section and is associated with the over-exploitation of common-pool resources. However, this is far from being the only possible source of externalities in the context of rural land use. Indeed, agricultural production, as well as non-agricultural uses of land, are likely to display strong externalities in developing countries. For example, the dangers of pesticide use (Wilson and Tisdell, 2001) are well-known. However, this aspect of land and land-related rights in developing countries has received almost no empirical attention. The only dimension of this issue that has aroused some debate, and for which the specification of individual rights and the development of markets have been seen as solutions, is water management (Rosegrant and Binswanger, 1994, Dinar, Rosegrant, and Meinzen-Dick, 1997). Prime examples of the setting up of water markets through clearly delineated property rights are, in developing countries, Chile (in 1976) and Mexico (in 1992), as mentioned in Rosegrant and Binswanger (1994).

1.3 Endogenous and exogenous privatization

1.3.1 The "simple story" of land rights emergence: the evolutionist view

The privatization of land rights, through their individualization, securing and specification, thus brings numerous benefits, and can be of momentous significance for agricultural efficiency. However, private land rights, according to the "simple story" (Eggertsson, 1990), will only emerge and become established gradually, as they are costly to define and enforce. Individualization, securing and specification will consequently be progressive, as their expected benefits outweigh the costs of setting them up. This evolutionary view of private property rights, rooted in the founding article of Demsetz (1967), leads to the expectation that demographic growth and economic development – technological progress and growth in trade especially – will lead to the privatization of property rights, as it increases land value and thus privatization benefits. Some empirical studies support this view. In particular, the aforementioned work of Alston, Libecap, and Mueller (1999) on the Brazilian frontier, or the studies of Ault and Rutman (1979), Feder and Noronha (1987) and Migot-Adholla et al. (1991) on Sub-Saharan Africa, have shown that the development of agriculture, the sophistication of technology and the integration into markets have led to an increasing demand for private rights, which has fueled endogenous institutional change.

1.3.2 The case for external intervention

However, this evolutionist point of view also generally militates for an exogenously initiated privatization of land rights. Indeed, external agents can have expertise that will lower the costs of privatization, while they can, technically or financially, bear some of these costs, as stressed by the World Bank (2003). Furthermore, political institutions, such as local or traditional authorities, or powerful persons such as wealthier households, can have both the means and the interest to oppose the privatization of land rights. Indeed, this process is quite likely to bring about a redistribution of the benefits of rural land, and if potential losers are in a position to resist, it is quite likely that privatization will come to a halt. For example, Conning and Robinson (2007) formally recall that land rights are a political issue, and that political concerns and processes can lead to inefficient land rights arrangements, a mechanism they empirically verify in the case of India. For their part, as rich and powerful individuals are likely to have the means to reap the benefits of poorly functioning institutional arrangements and of poor property rights, they can oppose privatization. This has been made clear in the case of transition Russia (Sonin, 2003). As for land rights in developing countries, similar phenomena can potentially arise. This calls for the intervention of an external agent that can overcome the resistance of vested interests.

However, it appears that external interventions have often been opposed or unsuccessful, as documented by Bassett (1993) or Firmin-Sellers and Sellers (1999) in the case of Sub-Saharan Africa or, more generally, by Sjaastad and Cousins (2009). For example, in Cameroon, studied by Firmin-Sellers and Sellers (1999), the Land Ordinance of 1974 made land titling only optional and voluntary, and entitlement had very little take-up in rural areas. We will seek in the next section to identify causes behind these phenomena. We will not consider reasons linked to badly designed property rights or poorly implemented programs, but we will attempt to understand why peasants in developing countries may have opposed more private, secure and specific property rights.

2. Peasants against Privatization

There are two main kinds of reasons why the privatization of land rights can be opposed by the very persons that are supposed to benefit from it. The first one is linked with efficiency: it appears that the beneficial effects of private property rights enumerated in the previous section do depend, and to a great extent, on the context. In some situations, these benefits are not to be expected. The second reason is a distributive one. Even if the privatization of land rights is optimal, and actually leads to an increase in overall surplus, it is possible that its distribution does not benefit peasants, or only a minority of them. These two issues are respectively discussed in this section.

2.1 Preliminary remark: Privatization and formalization

First, as a preliminary remark, the following discussion of the efficiency and distributive effects of privatization should not be confused with a debate on the necessity of formalization. Formalization, or land titling, can correspond to the epitome of privatization. However, the privatization phenomenon considered here concerns actual economic rights, whereas formalization is a legal or administrative process that affects legal property rights and their enforcement. The formalization of land rights naturally has an impact on the extent and scope of actual economic rights, which are considered here, but the discussion on the necessity or benefits of the formalization of land rights is slightly different.

Indeed, the debate on the formalization of land rights, or land titling, has been quite active, especially since it has become one of the main policy prescriptions of the World Bank (1975), and since it has gained momentous visibility under the advocacy of Hernando de Soto (see especially de Soto, 2000). However, the discussion that has followed about formalization covers two main kinds of arguments. The first line of criticism holds that the formalization of land rights is not always necessary, as the privatization of actual rights is not beneficial. This dimension of the discussion will be addressed in the remaining part of this section, as part of the overall issue of privatization. However, a second line of argument on formalization aims at showing that it is not always necessary, as informal or traditional land systems can sometimes offer a degree of privatization - that is to say individual, secure and private rights - that makes formalization or land titling superfluous, or non cost-effective. This second way of reasoning then opposes, in some contexts, formalization, without denying the need for privatization. This seems to be, for example, one of the main principles behind the new land rights policy recommendations of the World Bank (see for example Deininger and Binswanger, 1999, and World Bank, 2003). This is backed by some empirical studies, especially in the case of Africa. For example, the aforementioned work of Migot-Adholla et al. (1991) on Sub-Saharan Africa shows that traditional land systems have evolved in response to economic growth and market development, and that formal titling would be a marginal improvement, if any. As for the specific link between land rights institutions, land rights security and investment, Pinckney and Kimuyu (1994) and Carter, Wiebe, and Blarel (1994), for example, have shown in the case of Kenya that the formalization of land rights had little effect on tenure security when compared with endogenous institutional evolution, and as such was superfluous.

There is then a literature on the formalization of land rights which tends to show that land titling and the development of legal land rights are superfluous in some situations, as actual economic rights are sufficiently developed, that is to say they guarantee a sufficient degree of individualization, security and specificity. This review of the literature is more concerned with the inefficiency of, or opposition to, the privatization of actual land rights, which is discussed in the remaining part of this section.

2.2 Privatization: Cases of inefficiency

In this section, we will discuss why, or under which circumstances, the efficiency gains associated with the various dimensions of privatization can fail to materialize, or even turn into losses.

2.2.1 Individualization of use rights: Unnecessary or dangerous

The first argument in favor of privatization holds that the individualization of land use rights prevents the "tragedy of the commons". However, it has appeared that in many cases, common use of land and land-related resources has not led to their over-exploitation and eventual depletion. Feeny et al. (1990) and Ostrom (1990) were the first works to give extended theoretical and empirical evidence on this issue. Indeed, if individual use rights, including exclusive rights – that is to say a right to exclude others – to a resource, can potentially limit the "tragedy of the commons" phenomenon, other institutional arrangements are possible. First, access to a common resource can be regulated and monitored by a State authority, instead of being controlled by private property rights, as underlined by Ophuls (1973). However, as stressed by Feeny et al. (1990), this solution has seldom emerged or been successful in developing countries, as State institutions and government authorities are not likely to have the means to effectively control and monitor resources. One well-known example cited by Feeny et al. (1990) is the significant worsening of deforestation in Nepal following the nationalization of forest land in 1957 (Bromley and Chapagain, 1984). Further and more recent evidence is provided by Baland and Platteau (2003), which shows through empirical studies on direct State interventions, whether they took place in Africa, Latin America, or India, generally end up failing. A second institutional solution is then local, and corresponds to the setting up of communal or collective devices to regulate and control access to and the use of common resources. For example, in the aforementioned case of Nepal, the State finally decided to devolve, that is to say to give back, the right to manage forest land to village authorities, with some success (Edmonds, 2002). There is today a vast literature, both empirical and theoretical, on this issue in order to account for the existence and success or failure of such local and decentralized arrangements. One of the most up-to-date and critical reviews of evidence is provided by Baland and Platteau (2003). On the theoretical side, Ostrom (2002) provides a synthetic yet convincing summary of the conditions under which local institutional arrangements for common-pool resources are likely to be efficient. This requires, generally speaking, sound monitoring and possible sanctioning, as well as individuals' participation in establishing rules. Empirical evidence on cases of State or privatization failure compared with local collective agreements, however, remains scant. Sneath (1998), for example, attributes the rapid degradation of grassland in Russia and China, compared with neighboring and similar regions of Mongolia, to the fact that the latter respected and promoted traditional pastoral institutions, whereas the former resorted to State or private property. At the same time, privatization can lead to an underutilization of common resources, rather than to overexploitation and depletion, as shown theoretically by Buchanan and Yoon (2000), if exclusion rights to the resource have an overdeterrent effect. However, the relevance for rural land and land-related resources in developing countries remains to be empirically verified.

2.2.2 Individualization of use rights: The externality problem

The second expected gain of the individualization of use rights is an allocative one: decentralized equilibrium, brought about by individual decisions, should dominate collective or State allocation, notably because of information problems. However, this will only be the case if there are no externalities, or if the externalities are well internalized through individual contracts. If individual rights are not specific enough, or if individual contracting on externalities is too costly, then collective or State regulations should constrain individual actions. In cases where rights are not well specified, contracts are costly to set up and enforce, and collective regulations are not well designed, it is quite likely that the individualization of use rights - that is to say the granting of more freedom to agents in the use of their asset - will not lead to the social optimum because of externalities, when everyone seeks his own profit. To put it another way, in a context where externalities are numerous and hard to measure, and institutions defective, then it is quite likely that individual gains from more freedom of use will be overweighted by the social cost. Among many other studies, Griffin and Bromley (1982) underscore that agricultural run-off can constitute a non-point externality, that is to say an externality that cannot be measured, while an important literature points to the numerous, pervasive and costly externalities of modern agriculture in developed countries (see, for example, Pimentel *et al.*, 1992, Pretty *et al.*, 2000, and Pretty *et al.*, 2001). Rural land and land-related resources in developing countries are quite likely to be in a context where negative externalities take place, and this situation is bound to get worse as economic development occurs, because modern agricultural techniques can potentially create more externalities than traditional ones. Empirical evidence remains quite scant, but Rola and Pingali (1993) and Antle and Pingali (1994) have shown that the development of pesticide use in the Philippines had a strong impact on farmers' health, and consequently on productivity. Antle and Pingali (1994) also underline that it does not seem that pesticide issues are handled properly, and that State intervention, through direct or indirect control of pesticides, is consequently necessary. Moreover, the extension of urban space and of industrial activities at the expense of rural and agricultural land is likely to display numerous externalities, leading to a socially inefficient equilibrium, as shown formally by Parker and Meretsky (2004). Public or collective regulations can then be necessary to circumvent individual action, as recognized by the World Bank (2003), which advocates zoning regulations if necessary. However, besides common-pool resource externalities leading to the aforementioned "tragedy of the commons" - and despite quite clear theoretical and practical intuition - this issue of externalities has, so far, received almost no attention from empirical research in developing countries because of the different types of rural land use currently being developed.

2.2.3 Individualization of usufruct rights: The risks of residual claimancy

One of the most hotly debated and much discussed topics in economics about the link between peasants and land has been the problem of the individualization of usufruct rights. Indeed, as argued above, residual claimancy on the product of land by the individual actually working on it should unambiguously increase the latter's effort, and therefore production, and subsequently bring about improved results. In particular, in tenancy relationships, which are quite common in developing countries, whereby the individual who actually works on land is not its owner, straightforward agency theory reasoning comes to the conclusion that the best arrangement is a fixed-rent tenancy agreement. However, it appears that sharecropping and fixed-wage agreements are widely practiced. This diversity of arrangements has been synthetically stated in Hayami and Otsuka (1993) and Binswanger, Deininger, and Feder (1995) and, more recently, in Otsuka (2007). As a consequence, a vast literature has emerged to explain this variation, and it is now acknowledged that fixed-rent arrangements and correlative residual claimancy for the tenant are not necessarily and univocally the optimal solution. Binswanger, Deininger, and Feder (1995) provide a good summary of the main reasons behind the non-adoption of fixed-rent contracts and the diversity of the actual arrangements. The most significant ones deserve to be briefly recapitulated. First, to have residual claimancy over production also amounts to bearing the risk on production output, which is quite likely to be high in the agricultural sector in developing countries. This justifies the existence of sharecropping or fixed-wage arrangements. Second, the transaction between the land-owner and the tenant often includes other aspects than land and labor. In contexts where markets are quite imperfect, and especially where tenants are likely to have little access to credit markets, the landlord provides capital and means of production, in addition to management or possible agricultural skills. Contracts must then be designed to allow an efficient use of these inputs, and not only a maximal provision of effort by the tenant. Finally, inefficiencies due to the lack of effort in the absence of full residual claimancy can be mitigated by repeated contracts and reputation effects, which are quite likely to take place in rural communities in developing countries. As a consequence, residual claimancy through fixed-rent tenancy agreements does not always constitute the best available option. One of the very few studies that directly seeks to assess the possible loss due to residual claimancy is the work of Collier (1983) on Kenya, which measures that the ban on sharecropping agreements in this country represents a ten percent efficiency loss.

2.2.4 Individualization of abusus rights: The dangers of land transfers

The individualization of alienation rights, that is to say rights to rent and sell land, should lead, as explained above, to a better allocation of resources, as it allows land to be transferred to the most efficient users. However, it appears that it is far from being the case. In particular, land sales have often ended up in suboptimal, inefficient situations, and have led to an increase in inequality. The efficiency of land sales is consequently widely called into question, and it is now often advised, for example by the World Bank (2003), to limit alienation rights to land rental, and to grant sales rights with great caution. Indeed, there are two main kinds of reasons for which land sales may not be efficiency-enhancing.

First, when credit markets and insurance markets do not function properly, which is quite likely to be the case in developing countries, and especially in rural areas,[6] the price of land can be above the value of the stream of income derived from agricultural production, as it can incorporate other benefits, such as, for example, an inflation-protected store of value. At the same time, as there are constraints on borrowing, land acquisition is mainly financed through household savings. The first effect drives land prices above its agricultural value, while the second prevents poorer households from entering land markets. As a consequence, land sales markets tend not to transfer land to the most efficient users, but to wealthier households and to people who overvalue land compared with its agricultural use. A complete discussion of this issue can be found in Deininger and Feder (2001) and World Bank (2003). Empirical evidence in developing countries is still scant, but, for example, the work of Carter and Olinto (1998) on Paraguay has shown that land rental markets had efficiency and equity enhancing impacts, whereas land sales markets transferred land to wealthier, but not necessarily more productive, households.

A second dimension of the inefficiencies brought by land sales markets, which has received much more empirical attention, is the phenomenon of distress sales, which reinforces and worsens the aforementioned issues linked with land sales markets. Indeed, as agricultural production in developing countries can be highly variable, and as people have little access to credit and insurance, when a negative shock occurs they often have no choice but to try to sell their land. However, as agricultural productive shocks are likely to be highly correlated at the local level, there will be an excess of supply, which will drive prices down. Adversely affected households will then have no choice but to sell for a low value, and will then be unable to buy back land when their situation eventually gets better. Recent and detailed analyses are provided by Deininger and Feder (2001) and World Bank (2003). This phenomenon has received some empirical attention. The most well-known study is the work of Cain (1981) on comparable rural villages in India and Bangladesh in the years 1960-1980, which shows that where insurance

[6] See Conning and Udry (2007) for a recent review of the evidence.

schemes existed, land sales responded to productive and allocative efficiency motives, whereas in places where no such schemes were available, a vast majority of land sales took place in order to meet short-term consumption needs. Historically, distress sales have played an important role in land concentration, especially when communal arrangements were made to deal with risk, as shown for example by Brockett (1988) for the case of Latin America.

Generally speaking, the granting to individuals and households of the right to sell their land does not seem to lead to an improvement of efficiency. It is much more likely to end up with land concentration. The exercise of individual alienation rights should then be controlled or limited. This is what is advised today by the World Bank (2003) for example.

2.2.5 Securing and investment

The first two, and most well acknowledged, aforementioned benefits associated with the securing of individual land use rights concern investment behavior. Land rights insecurity can indeed divert resources from productive investment, for the time horizon is shortened, with such resources being used to defend and protect rights. However, this effect can be cancelled, or even reversed. Indeed, quite intuitively, if productive investments increase the degree of land rights security that individuals have over their plots, then insecurity can actually act as an incentive to increase investment. This straightforward idea has been formalized by Sjaastad and Bromley (1997). There is today quite an extensive literature on the effect of investment and tenure security. Besley (1995) was one of the first to explicitly and carefully deal with this issue, in the case of Ghana, while, more recently, Brasselle, Gaspart, and Platteau (2002) carried out an empirical study especially dedicated to this mechanism, using data collected for this purpose in Burkina Faso. They actually find that land rights security is influenced by an individual's investment over his plot, and when this effect is taken into account, securing land does not increase investment. As a consequence, securing does not necessarily increase - nor does it necessarily decrease - investment, as insecure land rights can already provide the right incentives for investment.

2.2.6 The shortcomings of collateralization

As for the collateralization effect of land rights securing, which has been extremely popular among policymakers due to the publicity made by de Soto (2000), its actual effect is today widely discussed. Indeed, a sizeable majority of studies dealing with the effect of land rights securing on credit access found very little or no impact. Land collateralization will only actually provide farmers with better access to credit if this collateral can modify lenders' behavior. If there are no formal lenders, or if the main constraint on credit markets is not creditworthiness but high transaction costs, which cannot be reduced by the use of collateral, then the use of land as collateral is likely to have no effect. At least one of these two conditions holds in most rural areas of developing countries, which could explain why a number of studies found no effect of collateralization. Conning and Udry (2007) provide a synthetic review of existing empirical evidence. For example, the aforementioned study of Brasselle, Gaspart, and Platteau (2002) found that the collateralization effect of land rights securing in the regions of Burkina Faso they surveyed did not operate, due to the absence of formal credit and of land markets.

2.2.7 Specification and uncertainty

The first expected benefit of a clear-cut specification of individual rights is through its effect of increasing the security of rights. However, it seems that the process of specification can create rather than reduce insecurity, especially for the weakest individuals who hold land rights at the margins of traditional land systems. Indeed, these persons can fear that the specification of rights could end up by depriving them of their unclear and marginal traditional rights (see Platteau, 2000). Thus, the process of specification itself generates much uncertainty and insecurity.

Moreover, the specification of rights, which is often carried out by State or official agencies through land titling or registration, often adds a new dimension to institutional arrangements for land rights, instead of replacing them. Land rights can thus become more imprecise than before the specification because they are defined by more dimensions. As Atwood puts it after his review of land rights systems in Africa, "*uncertainty and insecurity can be exacerbated by the competing land tenure systems, or more precisely by the alternative methods available to enterprising individuals to establish or pursue land claims*" (Atwood, 1990, p. 667). The process of land rights specification can therefore increase insecurity instead of reducing it.

2.2.8 Specification and externalities

The second advantage of specifying individual rights is that it allows agents to contract over more dimensions of their actions, thanks to a higher degree of details. As a consequence, it allows people to internalize more externalities. For the time being, no such studies seem to have been made for land rights in developing countries properly, despite the existence of important externalities from both agricultural and non-agricultural land use. However, rights closely related to land, which can even be seen as being part of the bundle of rights over land, have received much more attention as mentioned earlier, these rights concern water. Indeed, land use cannot be separated from water allocation processes. As water and water flows are subject to pervasive and mainly negative externalities, their allocation institutions constitute an interesting case study. A synthetic discussion of related issues can be found in Dinar, Rosegrant, and Meinzen-Dick (1997). In rural areas in developing countries, a diversity of institutional arrangements exists, from markets (as in Chile) to public agencies (the case of South Africa) and local communal arrangements (for example the Balinese Subaks in Indonesia). As noted by Rosegrant and Binswanger (1994) and Dinar, Rosegrant, and Meinzen-Dick (1997), since externalities in water uses can be extremely numerous, diversified and difficult to measure - while the geographical extent of issues cannot always guarantee the emergence of efficient market mechanisms - well-designed local mechanisms or sound State interventions can be efficiency-enhancing. This case simply underscores the general result that when there are strong externalities and private transaction costs are high, then well-designed collective and public solutions can be optimal.

2.3 Distributive effects of privatization

The preceding section has highlighted that in situations where markets are imperfect, the privatization of land rights is not necessarily the best institutional arrangement. A second-best world calls for second-best solutions. However, even if the privatization of land rights enhances efficiency and thus generates a surplus, this process could still be opposed by peasants for distributive reasons. Indeed, this overall surplus created by such privatization is not likely to be evenly distributed. In the absence of compensation mechanisms, if privatization losers outnumber winners, then the process of privatization can be opposed. Two kinds of redistributive effects are possible: one among peasants themselves, and one between peasants and other economic actors.

2.3.1 Winners and losers in the rural community

The process of privatization, whatever its dimension, level of individualization, securing or specification, eventually leads to a redefinition and then to a redistribution of land rights. It can be expected that some peasants, probably the most educated, wealthiest or most powerful ones, can reap the main benefits, while others that are poorer or more marginalized are likely to be losers.

First, during the privatization itself, as it corresponds to a process of institutional change, some people are in a position to have land rights modified, individualized, secured or specified in a way that is favorable to their interests. For example, the study of Lastarria-Cornhiel (1997) on privatization processes in Sub-Saharan Africa has pinpointed that they were generally detrimental to women. The situation is even worse when privatization, through land registration or land titling, is not compulsory but voluntary. In this case, a strong bias in favor of the individuals involved in the project can appear. Poorer or more marginal land rights holders are, of course, less likely to get registered. For example, in their in-depth study of evolutions in local rural societies in Asia (mainly the Philippines and Indonesia), Hayami and Kikuchi (1982) show that the on-demand titling process was one of the factors behind the polarization of rural communities in Central Luson (Philippines). As institutional change is never neutral, the privatization of land rights necessarily redistributes these rights, and the examples given above show that this redistribution can be detrimental for some people.

Second, the benefits of privatization, or the surplus that private rights create, can be allocated in very uneven ways. Two main dimensions of privatization are especially at risk of generating inequality and polarizing society.

The first is through land sales. Indeed, as mentioned above, once land alienation rights are granted, peasants may have to resort to distress sales when negative shocks occur. However, households have different degrees of exposure to this risk, and wealthier ones are likely to enjoy ways of coping with adverse shocks that poorer peasants do not have. In such a context, land sales transactions potentially lead to a transfer of land from poorer to richer households instead of from less to more efficient ones. World Bank (2003) and Binswanger, Deininger, and Feder (1995) provide a synthetic discussion of these issues. One famous empirical case is that of Rwanda, studied by André and Platteau (1998), where acute land competition followed by unequal land transfers has led to land concentration, a growing population of landless people, and strong social tensions.

The second dimension of the privatization of land rights that could lead to inequality is through the collateralization effect and access to credit markets. Credit access constraints have considerable consequences on the distribution of wealth and on the structure of society. The collateralization of land should improve access to credit, and then benefit people that were disadvantaged. This issue was very cautiously analyzed by Carter and Olinto (2003) in the case of Paraguay, and it appeared that land titling and its use as collateral improved access to capital for owners of large areas of farm land. Poorer people remained as constrained as they were before. In this case, land titling and land collateralization thus have clear inequality-augmenting effects.

2.3.2 When benefits leave the peasant community

The redistributive effects of the privatization of land rights, even in the case where it is efficiency-enhancing and creates surplus, can also benefit individuals who are outside the peasant community. On the basis of mechanisms similar to the ones that have just been described above, privatization benefits can be reaped by people who are not engaged in the rural community or agricultural activities, or by capital lenders.

Indeed, when land can be sold, as mentioned above, its price can incorporate elements, such as its role as a protection against inflation, or a special tax treatment, which will raise its value above the stream of income generated by agricultural production. In this case, people who have both the interest and means to acquire land will not be members of the community or agricultural producers. Platteau (1996) gives a detailed review of the empirical evidence on market dysfunctions in land sales. For example, in the case of Kenya, Collier shows that for the reasons outlined above, “a considerable amount of land purchase has been undertaken by absentee urban high income groups” (Collier, 1983, p. 159). This worsens imbalance in land holdings and leads to an inefficient use of land. Dysfunctions in land sales markets, generally due to shortcomings in insurance mechanisms or capital markets as mentioned above, can then lead to a concentration of land in the hands of non-agricultural people.

Second, if credit markets do not function well, the entire surplus generated by the collateralization of land can be accrued to capital lenders. This has been shown theoretically by Besley and Ghatak (2009). In cases where borrowers are poor and market competition is weak, better defined property rights and the possibility of collateralization expose a larger amount of borrowers’ wealth to foreclosure. Imperfect or imprecise property rights on land can therefore be seen as a protection against foreclosure. As Besley and Ghatak (2009) put it, “imperfect property rights protect the borrower”. However, despite the quite intuitive nature of this mechanism, empirical evidence is still lacking.

Conclusion

The privatization of land rights, that is to say their individualization, securing and specification, has been seen as a natural evolution of agrarian systems in developing countries. In places where private land rights have not naturally emerged, a straightforward policy recommendation has consequently aimed to externally create them. Well-defined property rights and market allocation mechanisms were expected to bring about numerous and various benefits, from an improved allocation of economic resources to increased investments. However, private rights and markets have failed to fulfill their promises, not everywhere, but in a sufficient number of occurrences to call their optimality into question. Indeed, privatization has not always emerged as agriculture has developed. When it has been exogenously set up, often as land registration or land titling programs, it has not been univocally welcomed or successful. As a consequence, a significant literature has questioned the relevance of the privatization of land rights in developing countries. This paper has sought to summarize the main arguments, and to highlight the most important academic research in this field.

Two main lessons can be learned from this review. First, privatization is surely a first-best institutional arrangement, but as such, it will only be optimal in a first-best world. In rural areas in developing countries, where capital markets seldom function, where insurance mechanisms are not available, and where people often live near the subsistence level, privatizing land rights is likely to do more harm than good. A second-best context calls for second-best policies. Second, privatization, even if relevant and efficiency-enhancing, is not neutral. Privatizing land rights can only lead to redistributing them, and the surplus generated by successful privatization can be reaped by individuals who are maybe not the first target of agrarian reforms, such as the wealthiest farmers, urban elite, or capital lenders. A trade-off between equity and efficiency can take place.

The efficiency and distribution effects of the privatization of land rights are thus highly dependent on the context, and its successes or failures are extremely variable and difficult to predict. However, the privatization of land rights is not a simple and univocal process. It covers three main rights, usus, usufructus and abusus, and is constituted of three main dimensions, individualization, securing and specification. This complexity leaves room for precise policy recommendations, depending on local situations. It can be hoped, as expressed by the World Bank (2003), that policymakers will take a more humble and cautious approach to land rights reforms in rural areas in developing countries, where complex and unique situations call for precisely defined institutional evolution.

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