

PROBLEMS OF LAND TENURE SYSTEM IN LESOTHO SINCE POST-INDEPENDENCE: CHALLENGING PERSPECTIVES FOR SUSTAINABLE DEVELOPMENT IN LAND ADMINISTRATION AND MANAGEMENT

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ABSTRACT

This is an expository analysis of general challenges militating against efficient management and administration of land since post-independence (1966) in Lesotho in the context of customary land tenure backed by 1979 Land Act. Analysis includes challenging perspectives on the proposed 2009 Land Bill purported to attain efficiency and improvement of such Act. Analysis includes effects of the following; (a) improper land management and administration as influenced by current land tenure system and proposed Land Bill on needy/ordinary citizens and modified involvement of chiefs in land management and administration. (b) Expropriation/dispossession of land and its validity for public purpose and in public interest, (c) economic challenges and land market liberalization purely for commercial purposes irrespective of locally relevant socio-economic development and the eligibility of foreigners and foreign companies to holding land titles in Lesotho. The paper is mainly a product of documentary analysis covering legal documents, reports and relevant literature reviewing. Findings of the analysis include among others, abused land expropriation not for the benefit of public purpose and public interest but for the benefit of both the political and foreign business capitalist elite working jointly to enrich themselves, land deprivation of the ordinary citizens, lack of proper and efficient land management and administration as well as lack of efficient and effective execution of the land tenure system towards attaining food security/sustainable development, environmental conservation and development of sustainable livelihoods, irregular settlements in the urban areas and hassles in land administration, urban sprawling/encroachment, migrant population and the poor lacking access to land, shortage of arable land due to rapid urban population growth and mushrooming of formal and informal settlements on arable land.

Keywords: Land tenure, Sustainable development, Land administration and management, Land grabbing and Land deals.

INTRODUCTION

This paper aims at serving as an expository analysis on the effects of improper land management and administration due to current land tenure system of Lesotho since independence (1966) and long traditional chiefs' involvement and their recent exclusion by re-modification and dispossession of their legal powers in land allocation. The analysis also encompasses the effects of expropriation of land and its validity for public purpose and in public interest, economic challenges and problems of land market liberalization and land foreign ownership and more of challenging perspectives for sustainable development in Lesotho's land management and administration.

The desk-study methodology used in this expository analytic study embraces a pragmatic review of Lesotho's Land Act of 1979 and the proposed Land Bill of 2009 purported to improve this 1979 Land Act. The adopted documentary analysis also includes some literature reviewing of land management and administration documents.

The paper discusses land ownership in Lesotho, which is the country's traditional land tenure system. The paper also examines the current land tenure conditions and the general challenges in Lesotho's land administration and tenure system.

LAND OWNERSHIP IN LESOTHO

The traditional land tenure system

The fundamental principle of Lesotho's traditional land tenure system is that it vests all land in the Basotho nation with the king holding it in trust as head of state. This principle is indeed a sound one, since it is a forceful recognition that land is the most important natural resource for the welfare of the nation, present and future. As in all customary systems, there is no individual ownership of land in Lesotho. Authorities allocate an arable land to one to cater for his/her family's subsistence but he/she has exclusive rights only to crops and the land reverts to communal use after harvesting. There are no individual rights to grazing as all members of the community are entitled to communal grazing.

Before the land reform programme, the customary land tenure system delegated the King's powers of land allocation to the chiefs, who, in Lesotho, have a strong hierarchical structure. The chiefs had absolute power in land allocation and land administration. The laws of Lerotholi, which spelt out the traditions and customs of the Basotho, specified that a chief had the power to revoke an allocation where, in his opinion, an allottee had more land than was required for his family's subsistence. There were more than 1,086 chiefs possessing these powers due to their hierarchical chieftainship structure (Mosaase, 1986).

Traditional systems of land tenure have advantages when judged by social criteria. They are egalitarian in land distribution and offer protection against socially disruptive tendencies such as land speculation for hoarding and excessive aggregation of property rights. The system has been seen as a form of security to satisfy basic needs on retirement or in case of the loss of off-farm employment for migrant workers in Lesotho in the 20th-century (Starnes and Taylor, 1980). However, in practice, these social advantages were hardly evident and under population pressure, the system was less egalitarian than was thought. A clandestine land market had developed and land hoarding and speculation were on the increase.

The social advantages (if any) provided by these systems are maintained at an even higher cost of limiting economic opportunity. Lesotho people view land as a "free good." This fundamental factor of production was received free of charge, so, there was no cost factor to encourage greater productivity. Under heavy population pressure (in southern Africa, Lesotho is the most densely populated area), subdivision or fragmentation occurred to further lessen the development potential of the land. This development stifled personal initiative and industry. The system provided inadequate machinery for the extension of agricultural credit in that the land-use right was not negotiable as a "borrowing" security (Mosaase, 1986).

The abovementioned constraints led to further deterioration of the land resource base. Soil erosion has worsened despite great efforts to combat it since 1935. Communal grazing has led to serious overstocking with poor quality livestock. Improving the quality of the livestock became impossible under the traditional system. That was the beginning of the tragedy of the commons. Another significant feature of the communal system in Lesotho is that good agricultural land has been unnecessarily lost to other land uses. The traditional rulers allocated land without consideration of planning principles; hence, there is urban sprawl and ribbon development along main roads.

As far back as 1874, there was already concern over indiscriminate allocation of land by the chiefs. A district commissioner voiced a concern in the following quote: "If you Chiefs do not observe arrangements in preventing the formation of new villages, in setting the arable lands apart leaving room for pasturage, the country will not support either people or stock (Mosaase, 1986, p.15)". Despite this recognition, it has been difficult to change the traditional system due to Lesotho's powerful hierarchical structure of chieftainship. This has been the main political force inhibiting meaningful reform. For instance, in the 1966 Constitution and Chieftainship Act 1968, it is clear that even the government had no control over chiefs in land allocation. The laws of Lerotholi remained for a long time the codified traditional law guiding chiefs in land allocations.

After independence in 1966 from the British colonial empire, the Lesotho government passed two land laws-the Land (Procedure) Act 1967 and the Deeds Registry Act 1967. These were not land reform laws and did not make any change in the allocation and administration of land. In 1973, two other laws were enacted-the Land Act 1973 and the Administration of Lands Act 1973. The former covered the whole country and was in operation until 1980, when the Land Act 1979 repealed it. The implementation of Administration of Lands Act never took off due to very strong opposition, particularly from the chiefs. They opposed it because it introduced a very fragmented approach to land reform and sought to shift away from the customary land regime. Issuing of instructions to consolidate and amend the 1973 Acts in 1978 led to the enactment of the Land Act 1979 but with no significant changes to the land administration in the country. Land Act 1979 was enacted to reform the Land Procedure Act of 1967(Act 24 of 1967), the Land Husbandry Act of 1969 (Act 22 of 1969), the Administration of Lands Act of 1973 (Act 16 of 1973) and Land Act of 1973 (Act 20 1973).

Current land tenure conditions

The Land Act 1979 is the principal law governing tenure relations and the administration of land held under Customary Law. The Customary Law applies to most of the land in Lesotho, so that most people occupy and use land in accordance with the principles and practices of customary tenure. Traditionally, chiefs administered this law on behalf of the King. However, as from the 1980s modification of the system to replace the rule of the chiefs with more representative and accountable institutions of local land administration together with more central guidance and supervision set in. These attempts were not without problems.

Overall, the land reform process has been slow and difficult. This has led to current land tenure practices in rural, peri-urban and urban-area being detrimental to the achievement of food security in some respects. For instance, in the rural areas: women's access rights and widows' tenure security are inadequate; the sustainable land management provisions of the Land

Husbandry Act 1969 are widely disregarded. Lesotho governments have never put in place regulations under the Land Husbandry Act 1969, which relate to the prevention of soil erosion and other harmful practices. The current tenure insecurity and poor administration of land in urban and peri-urban areas is hindering smooth implementation of initiatives for livelihoods and food security improvement. Poor land allocation and infrastructure provision and inaccessible bank loans due to their collateral requirement not attainable in customary land tenure worsen the problem of food insecurity.

Lesotho has very poor land-use planning measures. Unplanned human settlements, particularly in the urban and peri-urban areas characterize this problem. Many settlements in these areas are on the 9 per cent arable land, further decreasing its potential for agricultural production. These are overcrowded areas with no space for basic infrastructure like roads and are vulnerable to environmental and health problems.

An important feature of the customary land tenure system was the “right of avail” that was automatically shared by all people, rich and poor, who accepted the authority of a chief. This right did not depend on the discretion of the chief or the wealth of the applicant. He was required to provide residential, arable and grazing land for all his subjects. A tribesman was entitled to land without giving anything for it, but he had a duty to protect and conserve it. Although the concept of individual ownership was unknown, the rights to residential land were exclusive and permanent. The holder could protect his rights by civil action against any person, even the chief. These customary rights are reflected in the system of land allocation provided for under the Land Act of 1979 which has been (and continues to be) mediated by local committees such as Village Development Councils (VDCs) and Community Councils, with the assistance of chiefs. In urban areas, the long-standing government policy position has been that, under the Land Act 1979, all land in urban areas has to have leasehold at the point of transfer or other transaction. With the rapid growth in informal settlements, this is now impracticable. The government proposes to develop the legal framework and the administrative guidelines for land use and physical planning in urban and rural areas. It is also looking into ways and means of providing the urban poor with secure tenure while avoiding the cost and complexity of leasehold title registration.

With regard to discrimination against women, the Law Reform Commission of 1993 recommended repealing of all property and land-related laws discriminating against women in Lesotho. The commission stipulates that women should be entitled to own land on merit and to register it in their own names just like men. The Married Persons Equality Bill of 2006 has also given access to land and all resources in married women’s own rights.

LESOTHO’S LAND ADMINISTRATION AND TENURE SYSTEM: SOME GENERAL CHALLENGES

Effects of improper land management from land tenure and chiefs’ involvement

The security of tenure and the allocation of land by traditional leadership/chieftaincy have ever remained issues of main concern in the management and administration of land in Lesotho over the years. Land problems in Lesotho are partly due to the loopholes in the legal framework. The scenario of the ‘tragedy of commons’ where land is communally owned and managed has been marred with insecurity in terms of (tenure) permanent individual/private ownership, uncontrolled livestock overstocking from several individuals as collective community members and/or overgrazing in relation to the limited

improperly or poorly managed and unprotected/not conserved limited pastureland area. This has contributed to poor livestock management and production in general, including crops production. Many developmentalists regard the chiefs' headed mainly communal land tenure system practiced for a long time in Lesotho as inefficient and incapable of contributing positively towards food security, environmental conservation and development of sustainable livelihoods. This emanates from the controversial general belief of other developmentalists that only individual security of land tenure promotes and ensures improved production and development. Though communal ownership and production often reportedly have lower inequity, less socio-economic differentiations (lower gini-coefficient) and relatively better security from social networks but such networks based on relations (social-capital) also decline (Mosaase, 1986).

As a response to these problems, the government of Lesotho/GoL proposed a revised Land Bill in 2009 to replace the 1979 Land Act of whose tenure system was only mainly communal. Nonetheless, the revised Bill still leaves communal land tenure system untouched but it has now vested powers of administration on the local political councils and political ministers and no longer on chiefs. It provides for the grant of titles to land, conversion of such titles, how they are secured, administration of land, expropriation of land for public purposes, grant of servitudes, creation of land courts and settlement of land disputes, systematic regularization and adjudication and for other relevantly related land matters. While individual non-citizens may not have rights to land, presently foreign companies and partnerships with 20% local shareholding may have rights to land, according to this new 2009 Land Bill. The Bill excludes chiefs as main administrators in land management and administration.

The 2007 Local Government Act that introduced such political local administrative structures with the purported aim to democratize local governance, promote developmental-service delivery and thus reduce poverty has cemented their exclusion and replaced them greatly in terms of power for controlling and administering use of various communal resources including land. The structures include the Community Councillors for local community governing, District Councillors for district level administration and Municipals for towns' administration. Chiefs have remained principal traditional authorities in land matters in Lesotho since the pre-colonial era until this 2009 review of the Land Bill. Their exclusion as part of local traditional administration cannot be without and indeed has challenges countering efficient implementation of the Bill especially in allocation of titles to land, administering user rights and land expropriation. Reportedly, chiefs still haphazardly allocate and expropriate land and user rights by backdating documentation of land allocation ('Form Cs' instead of Leases). Chiefs legally did such allocations prior to the revised 1979 Land Act and 2009 Land Bill but are now illegally continuing by backdating allocations. Before their replacement in land administration, communities accused chiefs of corruption, favouritism and arbitrary dispossession (expropriation) of land. This added to the problem of land tenure insecurity in the sustained communal land tenure system, particularly expropriation. Chiefs, according to the Land Act can expropriate or dispossess one's arable land if not cultivated for some three years. This disregards the failure of the agricultural and market policy of Lesotho that cannot provide a poor smallholder farmer with inputs/credit, agricultural infrastructure; agricultural market and effective/adequate extension services (may see Peters, 2007). Whether land dispossession is done by a chief or a political minister, as the 1979 Land Act and the reformist 2009 Land Bill allows, development of sustainable livelihood strategies and such livelihoods and the environment remain negatively affected, not to mention the violated rights to effective public participation in decisions making processes, access to information and justice. This ultimately constitutes legal abuse

and land deprivation of the poor individuals (e.g. loss of arable land, pastures, various natural resources and environmental degradation) who know and experienced that real value of compensation never matches their land loss value.

Effects of land expropriation and its validity for public purpose and public interest

While the minister may expropriate land for public purposes and in the public interest¹ but with due compensation, according to this new 2009 Land Bill (Section 50 and 51), the challenge is that voluntary supply and demand scenario is stifled. This leaves individual's rights and choice denied and adversely affected, resulting in land deprivation and disruptions for many individuals. The Bill provides for the establishment of the land Court to settle such land disputes but it is an often case that ordinary citizens usually lack any form of power to effectively resist government/ministers' depriving actions not to mention unaffordable costly legal court proceedings for such ordinary citizens against the government/minister. The Bill enables the 'state' to be authoritative suppressing native individual's choice and rights for the claimed and disguised collective benefit (that may not actually be benefitting such concerned ordinary individuals) for the gain by wealthy foreign investors probably in good terms with individual ministers owning shares (of 20%) in such foreign businesses (e.g. in mining, big shopping complexes e.t.c.). Foreign land ownership facilitated by the new Bill again opens up uneven access to land ownership and distribution, marginalization and deprivation of ordinary citizens and severe loss of their livelihoods emanating from land and its use. The worst scenario is also that, in fear of expropriation by the emerging capitalist classes and in the face of outward rapid sprawling and encroaching urban territories (urbanization), ordinary citizens have sold their fields, which resulted in unplanned congested settlements on the land that was for crops and livestock production and food security. The obvious trend is that land expropriation for urban and business expansion abuses public purpose and public interest for selfish gain by the political elite and the wealthy ('foreign investors') ones.

Economic challenges and problems of land market liberalization and foreign ownership

The other challenge is that the communal land tenure aspect of Lesotho cannot allow land to serve as collateral/security to access credit/capital. Some developmentalists regard this to be constraining on production and development. The argument is that in customary tenure, ownership is communal, users are not secure on their land and as thus lack motivation/incentive to invest in land while in freehold system/formal land titling there is better security and facilitation of agricultural growth (Eckert, 1980, Smith, 2003 and LEMU, n.d, p.1). One wonders whether credit/capital may only be accessible to the needy solely through their security ownership. Yet, societies' legitimate expectation is that governments are supposed to tax, subsidize and efficiently recoup subsidy and regulate production as well as to develop and empower the very poor and seemingly weak locally based private sector production to attain food security and development of sustainable livelihoods.

¹ Such public purposes and interest encompass expropriation of land by the minister, owned through customary land tenure. The dispossession ought to be done in consultation with the principal chief and local authority for e.g. infrastructure, providing offices, housing, stores, research and agricultural stations, defense and security requirements, furthering sport, culture, industry and tourism, public utility services, providing any services in the public interest or enhancing national resources and prosperity. Compensation worth of present replacement value of the expropriated land is also a condition (Section 50 and 51, Land Bill, 2009). Present and replacement value are a market cost and not a market value (Heap, 1978), this puts poor potential land losers at a disadvantage and thus pressure to illegally subdivide and sell land to escape looming dispossession. Compensation is determined differently and consequently treats property owners differently and unequally, adding more panic for illegal land transactions for self-compensations.

The other practically constraining dimension to land possibly serving as collateral, even in freehold/land markets system is that producers' rationality rightly judges that returns in their agricultural production take many months to be realized, not to mention often too low agricultural products' prices, low yields or crop failure due to hazardous inconsistent weather patterns. All which confront with short-term loans from financial institutions, repayable within severely short periods with high administrative, repayment and interest charges, thus unaffordable and inaccessible credit.

However, the truth is communal tenure philosophy maintains that land is allotted to an individual only for 'use', neither for sale, transfer nor for any greedy transaction on it or otherwise its exposure to market transactions can result in severely skewed distribution whereby only the wealthy can access, use and possess it. According to this philosophy land is to remain as a common heritage for communal humankind, as a natural endowment for equity in natural resources' use. It is to remain a resource evenly accessible to communally entitled community members paying allegiance to the entitling community and its traditional authority. Communal tenure bars use of land as collateral and for entirely private commercial gain and uninheritable development while freehold land markets are purported to have the ability to transfer land from less efficient users to those that are more efficient through willing transactions (Smith, 2003). This belief in land markets disregards the pragmatic imperfections of free markets of uneven distribution of resources, services and opportunities, incomplete information and other various market limitations (Ellis, 1999). On the other hand, Smith (2003) has also argued that titling increases tenure insecurity for the poor because it places a formidable weapon in the hands of the rich who have better ability to pay the price of registration and superior knowledge of bureaucracy and procedures. The 2009 Land Bill with its proposition of the land administration authority is likely to increase the currently cumbersome and incomprehensible procedures to ordinary Basotho citizens, inefficiency and unresponsiveness by the unaccountable and corrupt bureaucracy with its (red tape) brutality of poor sluggish administrative-service delivery.

One's membership in communal tenure to his/her community determines land allocation and not necessarily financial capacity of such an individual. The basis for community membership as an entitlement to land allocation makes customary land tenure not to envisage foreign landholding, not to mention the expectation on the landholder by the customary laws to uphold other customary values of land use in line with such customary land tenure, like not treating land as a commodity. According to Haaland (n.d.) and Shipton and Goheen (1992) land is more than an economic commodity and more than a geographical area because it is connected to peoples' feelings, their identity, history, values, beliefs and livelihoods.

While still in the sort of *economic* challenges to the Lesotho's 1979 Land Act in terms of its administration and management, the preamble of the proposed reformist 2009 Land Bill expresses more of such challenges to be, (a) its inefficiency in land services promotion and enhancement of use of land as an *economic* asset in the country. (b) Non-responsiveness of such land tenure system and its administration to the *economic* needs of the country. (c) The preamble further accuses the land tenure system for its costliness, slowness, restrictiveness, lack of transparency, provision of registered land rights only to the few citizens, *dysfunctional land markets* and (d) *little revenue* to the country. The Bill also entails the Land Administration Authority Bill that is to establish the Lands Administration Authority to ensure improving the land tenure security for all Basotho, promote the use of land and real property as a valuable asset for citizens and *businesses* alike (Land Bill, 2009).

Such a promotion of use of land and real property as an asset for businesses has often resulted in land grabbing across Africa by foreign multinational corporations (large businesses (plantations, mines e.t.c as indicated on table 1 below)). These often perpetuate development of underdevelopment, irrelevant development, depletion of local natural resources and local labour exploitation. All these land grabs bear no local origin and interest to promote local and national food security, export under fair terms of trade or relevant development in correspondence to the local/national needs, except foreign national needs of the developed countries to secure their own bio-fuels production, food-security and massive financial gains/profit maximization. Besides underdevelopment, irrelevant development, depletion of local natural resources and local labour exploitation, these financial gains also often cause environmental degradation with all forms of environmental pollution, bio-diversity depletion and destruction of the local natural habitat, health hazards and displacements/resettlements of the local citizens of the poor countries (Daniel and Mittal, 2009, Cotula and Vermeulen, 2009 and Ploch, 2009). Remarkably, land reforms promoting use of land and real property as an asset for (foreign investors) businesses are usually foreign donor driven considering countries like Benin, Bukina Faso, Ghana, Lesotho, Madagascar, Mali, Mozambique, Namibia and Tanzania whose land reforms were funded by Millennium Challenge Corporation/MCA (Tarnoff, 2009).

Table 1: Examples of land grabbing in Africa for export production by foreign investment

African Country	Foreign Investor Country	Nature of land deal for export
Kenya	Qatar	40, 000 hectares leased for fruit and vegetables cultivation in exchange for funding US\$2.3 billion port.
Malawi	Djibouti	Unknown area of farmland leased
Mali	Lybia	100, 000 hectares secured for rice production
Sudan	Egypt	Land secured to grow 2 million tons of wheat annually
Sudan	Jordan	25, 000 hectares secured for livestock and crops production
Sudan	Kuwait	Huge strategic partnership
Sudan	Qatar	Joint holding company set up to invest in agriculture
Sudan	Saudi Arabia	117, 000 hectares leased for wheat, vegetables and animal export production
Sudan	South Korea	690, 000 hectares secured for wheat export
Sudan	United Arab	378, 000 hectares invested in by UAE
Sudan	UEA (abu Dhab)	30,000 hectares for alfalfa, wheat, beans and potatoes
Tanzania	China (Chongqing Seed Corp)	300 hectares secured for rice exporting
Zambia	China	2 million hectares for bio-fuel export (jatropha)

(Africa Policy Institute, 2009, Cotula et al, 2009, Daniel et al, 2009 and von Braun et al, 2009)

Observably, land reforms for promoting use of land and real property as an asset for (foreign) businesses are marred with the following repercussions; not serving the interests and needs of the poor natives, inadequate local/national popular participation in their formulation and foreign donor driven and masterminded. They also suffer from difficult foreign language documents-production not readily communicable and understandable to the needy/ordinary natives not to mention their inaccessibility to the public/citizenship, exclusion, and replacement of local socio-cultural values and traditional institutions in land use, management and administration in line with and available for promoting development of sustainable livelihoods for both urban and rural poor.

More of challenging views for sustainable development in Lesotho's land management

Another challenge is that Lesotho practices a dual land tenure system, that is the customary land tenure system especially in the rural areas and the 'urban land tenure system'. The latter upholds Western values of treating land almost like a commodity, encompassing any willing seller-any willing buyer, provided they are both Lesotho citizens or their business company which if foreign owned have to have Basotho locals constituting 51% of shareholding, according to the 1979 Land Act. The dual land tenure system in Lesotho suffers accusations of irregular settlements in the urban areas and hassles in land administration in such areas. Sometimes chiefs allocate land in areas declared as reserved for urban (settlements) development expansion claiming that urban areas are encroaching into their (rural) areas.

Furthermore, the 2009 Land Bill puts it that there is the problem of inefficient control of growth of towns and absence of planning in urban and peri-urban areas of Lesotho. As well as problems of creation of infrastructure, all that the 1979 Land Act cannot administrate and manage efficiently. Towns' encroachment into adjacent rural areas due to urban sprawling, migrant population acquiring legal land titles in the peripheries of the town areas together with the urban poor seeking access to urban areas have escalated these challenges to the 1979 Land Act. These problems result in subdivision of agricultural land in the mist of such uncontrolled urbanization disregarding state's land subdivision laws and planning standards or laws of planning. All which point to the failure of the state institutions in meeting the demand for urban land (Leduka, 2004) as well as the development of sustainable livelihoods for the (peri-urban) urban poor. Nonetheless, efforts to provide urban land to the urban poor through legal and formal state institutions are usually inappropriate, complicated and too costly for the urban needy. These rendered the formal land system a failure in addressing the development of sustainable livelihoods for the urban poor (Isandla Institute, 2007) and thus serve as a trigger for unplanned informal settlements (urban slums, squalid urban areas) without necessary basic infrastructure and socio-economic services. The aspect of unaffordable costliness in accessing urban land for the benefit of the urban poor and migrant population seeking urban employment/opportunities is discernable from the 2009 Land Bill proposing an "allocation premium" and the 1979 Land Act Section 69 imposing ground rent and development charges, with its section 79 demanding Tender premiums. The Bill actually adds more charges in the 1979 Land Act already unbearable to the urban needy and the migrant population (i.e. the unemployed/employment seekers, lower-income earners, informal sector with irregular incomes e.t.c.), completely rendering it as a misdiagnosis towards developing sustainable livelihoods for the poor.

Besides urban sprawling, migrant population and the poor lacking access to land, other challenges to the 1979 Land Act and 2009 Land Bill emanate from the fact that Lesotho is increasingly facing a shortage of arable land due to huge mountaineous

terrain, massive soil erosion and rapid urban population growth. This population growth has mushrooming of formal and informal settlements on arable land. Such mushrooming has reduced it from 13% of total land area in 1976 to 9% in 1986. Households' landlessness is remarkably increasing from 7.2% of 1949/50 (Douglas and Tenant, 1952) to 8.5% in 1960/61 (Morojele, 1963), 13% in 1970 to 20.7% in 1980 (Bruce, 1987), 25% in 1986 (Bureau of Statistics and Ministry of Agriculture, 1990) and estimated to be 50% in 2000 (Kingdom of Lesotho, 1987).

CONCLUSIONS AND RECOMMENDATIONS

This paper has provided an analysis of Lesotho's land administration and tenure system since post-independence. The analysis also explores the Land Bill of 2009 and the challenging perspectives on the 1979 Land Act and the Bill as well. It covers the effects of such land tenure system of Lesotho, the Land Bill and their various socio-economic problems and impacts on the ordinary citizens. The paper has explored land ownership according to the traditional land tenure system and current land tenure conditions. The analytic illumination is on the general challenges in Lesotho's land administration and tenure system. The paper also dwells on the effects of improper land management as influenced by the current dual land tenure system (state and customary land tenure system) and the chiefs' involvement and such disempowered legal inclusion of chiefs as replaced by local government administrative structures. That is, elected local community councillors, district councillors and municipality councils for urban areas. These councils, now, have legal powers to manage and administrate land with chiefs only involved as ex-officio members according to the 1997 Local Government Act and Order number 15 of 1986 set in by the military regime of 1986 that lasted until the beginning of the reinstatement of the democratic rule in 1993. Chiefs are no longer chairpersons with legal authority stipulated in land allocation in 1979 Land Act. The paper further discusses the effects of expropriation of land and the validity for such dispossession for public purpose and in public interest and economic challenges and problems of land market liberalization and foreign ownership. The discussion extends to more of challenging perspectives for sustainable development in Lesotho's land management.

The analysis leads one into concluding that the abused land expropriation is not exactly for the benefit of public purpose and public interest but for the benefit of both the political and foreign business capitalist elite working jointly to enrich themselves to the detriment and deprivation of the ordinary citizens. The former traditional inclusion and recent non-inclusion of chiefs as legal forerunners in land allocation still bears impediments to proper and efficient land management and administration as well as the efficient and effective execution of the land tenure system. The communal land tenure system practiced for a long time in Lesotho is still inefficient and incapable of contributing positively towards food security, environmental conservation and development of sustainable livelihoods. Land reforms for promoting use of land and real property as an asset mainly for foreign businesses are marred with not serving the needs of the poor natives, inadequate popular participation and foreign donor driving. The dual land tenure system in Lesotho suffers from irregular settlements in the urban areas and hassles in land administration. Urban sprawling, migrant population and the poor lacking access to land, shortage of arable land due to huge mountaineous terrain, massive soil erosion and rapid urban population growth stifle this land tenure effectiveness. This population growth has mushrooming of formal and informal settlements on arable land.

Probably, the only way forward is that Lesotho needs firstly and foremost the formulation of a land policy. Such a policy need to require and promote legal local/national popular participation that can be fruitful for a land tenure system and establishment and running of land institutions pursuing locally relevant development and needs through both land expropriation and other various land transactions for sustainable livelihoods, food security and environmental conservation. Land reforms need to be internally driven and only externally supported but not externally funded and driven and only internally and externally imposed by both the local political and external capitalist elite together. Lesotho's land tenure system needs land up-grading and housing schemes and infrastructural development by the government (e.g. roads, electricity, telecommunication systems and piped water e.t.c.) to benefit the poor citizens (the unemployed, low-income earners, informal sector with irregular incomes, the disabled e.t.c.) and for the pro-poor economic growth. It is important for Bills and Acts formulation and proclamation to be done in a popular manner and firstly in the local language to allow widest local participation, understanding and service delivery access.

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