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## *Land Rental Markets in Sub-Saharan Africa: Institutional Change in Customary Tenure*

**Abstract:** Data show that rental markets for agricultural land held under customary forms of tenure in sub-Saharan Africa are often constrained, despite potential benefits for many households. The notion that conditions necessary for land rental will emerge in response to increasing population pressure and better prospects in farming is questioned. Attention is focused on the 'supply' of institutional change and on interest groups opposed to changes in customary tenure. The implication is that farmer support programs are unlikely to realize their full potential unless they are accompanied by strategies designed to make endogenous changes in customary tenure more predictable.

## INTRODUCTION

This paper investigates rental markets for agricultural land in regions of sub-Saharan Africa (SSA) where land is scarce and customary institutions influence security of tenure and transaction costs. Despite the advantages of renting and the wide range of contractual arrangements (including cash rentals, sharecropping and 'lending' land in return for regular tributes) that has emerged in response to imperfections in other markets, rental markets appear to be constrained in SSA. Research conducted by Thomson and Lyne (1993) in the homelands of South Africa suggests that land is under-utilized because it is uncertain whether rented land will be returned to lessors. Such tenure insecurity deprives the lessor of rental income, and the lessee of access to productive lands. It is therefore important (a) to corroborate the evidence and (b) to ask why these markets are constrained if renting has positive welfare implications for a significant number of rural households. The question does not challenge claims that customary tenures have responded to demands generated by population growth and better prospects in farming, but it does recognize that there is a 'supply' side to institutional change. This process involves collective action and is influenced by power and ideology. Concerted opposition to rental markets could come from several quarters within a community, and will influence both the direction and extent of institutional change. Clearly, policy questions relating to intervention cannot be answered without knowledge of the forces that shape local institutions.

## EVIDENCE OF CONSTRAINED RENTAL MARKETS

In the homelands of South Africa land is not abundant and households face very different economic opportunities owing to the existence of a highly differentiated wage labour market, although farm sizes tend to be uniformly small. While the vast majority of rural households derive only a small fraction of their total earnings from farming, a significant number of households are very dependent upon agriculture. In a recent (1991) survey conducted in parts of rural KwaZulu, 43 percent of the households wanted to rent land left

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idle by neighbours yet only 5 percent did so. Of those that did not rent, 70 per cent claimed that transactions were 'too risky' — a finding consistent with Thomson and Lyne's argument. Risk and high transaction costs raise the reservation price of potential lessors and tend to confine the population of tenants to farmers who can cover the risk premiums charged by lessors. Empirical studies conducted in KwaZulu have shown that renting is virtually synonymous with more intensive cropping and surplus production even though lessors attempt to reduce their chances of losing land by renting to close friends and relatives (Nieuwoudt and Vink, 1989). There is little information regarding the extent of private rental transactions in the other homelands, but a survey of commercial farmers conducted in the Transkei during 1992 revealed that 21 per cent of the respondents rented land in. However, within the subset that operated land under customary tenure only, the proportion was lower (13 per cent) and the majority claimed that renting was not allowed. Even amongst these emerging farmers, land was farmed more intensively by those renting in (Table 1).

Bruce (1989) noted that wealthier farmers with draft animals could no longer rent in land from other households that lacked oxen following the draconian enforcement of reform legislation that prohibited tenancy arrangements in the communal areas of Ethiopia. In Senegal, he observed that landholders were unwilling to observe the custom of 'loaning' land after laws enacted in 1964 recognized the right to continued occupancy of those individuals cultivating land. Similarly Roth (1993) reports that respondents surveyed in Somalia's lower Shebelle region were wary of renting land out owing to legal provisions banning transactions and frequent disputes involving tenants who refused to return land at end of the agreed term.

The *de facto* situation is that land is often under-utilized even though it is not abundant and is sought by farmers. In the Barolong and Eastern Bangwaketse regions of Botswana where competition for farmland is strong, large areas remain uncultivated. Gulbrandsen's (1985) report on these regions also mentions sharecroppers and borrowers claiming land, and tenants losing their investments on rented land. In Nigeria (Parsons, 1971), Ghana, Cameroon and Zanzibar (Feder and Noronha, 1987), tenants wishing to plant perennial crops have been denied access to land in case they claim title by virtue of their length of possession.

## **RENTAL MARKET ACTIVITY, EFFICIENCY OF LAND USE AND EQUITY**

Where small farm-households value their land rights as a form of social security, rental transactions are a more reliable indicator of allocative efficiency in agriculture than land sales. Renting will not only bring idle land into use but, where leasing out is risky, it will also tend to transfer land to farmers confident of their ability to cover the risk premiums charged by lessors. Hence, an inverse relationship is expected between rental market activity and the productivity gap (income per hectare operated) between farmers who rent land in and households that do not. Table 1 presents statistics computed for households sampled in four regions of Uganda, and in the Transkei and KwaZulu. In Uganda and KwaZulu, the samples were drawn from populations of rural households but the Transkei survey was confined to emerging farmers (surplus producers). Land is not considered abundant in any of the regions with the possible exception of Bukuya and Kabulasoke

subcounties in Uganda, and evidence of off-farm employment in each region suggests that households face different opportunity costs in farming. Consequently, if potential lessors perceive renting to be risky, the productivity gap between farmers who *rent* land in and *other* households should be highest in the samples where the incidence of renting is lowest.

The data show that renting transfers land to farmers who gross more income per hectare operated, and that the income difference does widen in favour of renters as the incidence of renting diminishes. A comparison of net incomes would provide a more accurate test of the market's efficiency advantages but cost data were recorded only in KwaZulu. Deducting expenditure on improved seed, fertilizer and chemicals yields a per hectare gross margin significantly higher on land operated by renters in this region where the rental market is particularly weak.

From an equity perspective, a land rental market resulting from secure tenure and contracts avoids the problem of landlessness associated with land sale. Potential lessors need only rent out land that they do not require in the short-term, and do not have to relocate. Provided that rental arrangements are voluntary, removing constraints to renting will create positive opportunities for many households — particularly the poorest (Table 1). Landholders who are either unwilling or unable to use all of their land would gain opportunities to earn rental income, and households short of land for subsistence or commercial farming would gain opportunities to extend their farming operation. However, fixed transaction costs and imperfections in related markets (e.g. discriminatory access to cheap credit) will influence the distribution of benefits generated by these opportunities, and the emergence of conditions necessary for a rental market could harm many households (discussed later). Under customary tenures where farm size patterns tend to be egalitarian, the distorting effects of fixed transaction costs and other market imperfections may be unimportant. The data in Table 1 show that renters (smaller and possibly younger families) are generally land poor relative to other households, and that renting tends to equalize areas operated. In short, the evidence does not contradict the view that tenancy, as a voluntary market response, is neither inherently nor inevitably damaging to the interests of the poor. Support for this view comes from a survey of sharecroppers in Lesotho. Lawry (1993) found that households sharing land out had more land but less liquidity, fewer resident workers and more widows and elderly people as heads than households sharing land in. Due to their severe liquidity problems, households sharing land out seldom provided any inputs other than labour. Conversely, Riddell (undated) reports that sharecropping arrangements were the only access to land by the poor in a highland Madagascar study. Clearly, rental transactions sustain many households that would otherwise be destitute.

## **CAUSES OF INEFFICIENT LAND RENTAL MARKETS**

For the purpose of this paper, an 'efficient' land rental market will be defined as one which accomplishes the productivity and equity gains referred to in the previous section. Viewed from this perspective, an efficient rental market would require the usual neoclassical conditions needed for an efficient sale market, viz. security of tenure and low transaction costs. Whilst it is often claimed that tenure is secure under the indigenous systems operating in Africa, Feder and Noronha add the qualification that customary

tenure is secure only when it refers to the ability to use land for a certain period and for a defined purpose without disturbance. The situation may change when the holder attempts a land transaction. In Place and Roth's (undated) terminology, security of tenure has breadth, duration and assurance components. Following this approach, transaction costs are expected to vary inversely with security of tenure. For example, a potential tenant seeking exclusive rights to a parcel may find transaction costs prohibitive if there are many legitimate claimants, each possessing inclusive rights to the same parcel owing to the high cost of discovering the owner and establishing his or her rights. Here, high transaction costs faced by the tenant are matched by tenure insecurity (inadequate breadth of rights) on the part of the users. Risks that reduce tenure security could also be viewed as raising transaction costs. Uncertainty about institutions and laws that would be applied to disputes, unpredictable judgements, and fuzzy procedures to establish or defend contracts would undermine the assurance component of tenure security. Alternatively, the risk premiums attracted by these circumstances could be interpreted as transaction costs.

Other things being equal, exclusive use rights to land enhance tenure security or reduce transaction costs and are therefore central to an efficient land rental market. Table 2 lists six 'institutional' variables that convey information about tenure security and transaction costs in each of the regions included in Table 1. Data relating to small irrigation farmers in the Shebelle region of Somalia (1987–88) and the Green Zones of Maputo in Mozambique (1991) are also presented. Statistics describing the continuous variables were estimated from observations recorded in household samples, but scores assigned to the dichotomous variables (one indicates the presence of an attribute, and zero otherwise) summarize the results of case studies and personal observations made by the authors.

As expected, there is a strong inverse relationship ( $r = -0.94^{**}$  across regions) between the incidence of renting and the proportion of respondents who perceived transactions to be risky or subject to customary restrictions. Whilst it might be anticipated that tenure would be most secure in regions where the incidence of land purchase or land titles is highest, neither of these variables was significantly correlated with rental market activity. There is some evidence of a positive correlation between renting and the incidence of purchased land ( $r = -0.75$ ) despite legal prohibitions on land markets in Somalia and Mozambique. The reverse holds for land titles ( $r = -0.46$ ). This result most likely reflects legal restrictions on transfers that accompanied land registration in the Transkei, Somalia and Mozambique but it is also consistent with the view that titling is neither a sufficient nor a necessary condition for a rental market, and that it may aggravate tenure insecurity by creating conflicting claims to land. The remaining variables suggest that rental markets are more active where (a) procedures for establishing contracts are transparent, (b) local precedents set in land disputes confirm security of tenure, and (c) national law sanctions local precedents. However, it is not obvious why some regions are characterized by local institutions that constrain renting. The following section attempts to identify factors that influence endogenous shifts in customary land tenure.

**Table 1** Rental Market Activity and Farm Characteristics in Regions of Uganda, Transkei and KwaZulu

Region	Busaana		Kabulasoke		Bukuya		Kibinge		Transkei (emerging farmers)		KwaZulu	
	Rent	Other	Rent	Other	Rent	Other	Rent	Other	Rent	Other	Rent	Other
Households observed	51	72	35	72	33	91	28	98	11	42	7	125
% Hhlds renting in	41		33		27		22		21		5	
Farm size (ha)	0.43	1.86	0.80	2.42	2.48	11.33	0.52	2.56	8.54	9.02	0.83	1.36
Area operated	0.84	1.80	1.34	2.30	3.38	11.25	0.77	2.50	11.81	9.02	1.39	1.36
Income/Ha operated (\$)	41	42	19	18	7	4	46	26	601	400	167	73
Gross margin/ha operated											95	30
Farm income	34	75	26	41	23	47	35	65	7102	3606	232	100
Non-farm income	28	17	24	26	29	20	33	30	4212	3623	2769	1838
Household income	62	92	50	67	52	67	68	95	11 314	7229	3001	1038
Family size	5.12	6.24	4.37	5.29	3.85	4.81	4.68	6.49	11.18	7.86	7.29	7.38

Note: 1000 USh = 1 US\$ (1992); R2.78 = 1 US\$ (1992, Transkei) and R2.63 = 1 US\$ (1991, KwaZulu).

**Table 2** Rental Market Activity and Institutions in Regions of Uganda, Transkei, Somalia, KwaZulu and Mozambique

Region	Uganda				Transkei (emerging farmers)	Somalia	KwaZulu	Mozambique
	Busaana	Kabulasoke	Bukuya	Kibinge	Shebelle		Maputo	
Households observed	123	107	124	126	53	113	132	121
Households renting in % households that:	41	33	27	22	21	7	5	0
– perceive customary restraints or undue risk in land rental	2	33	25	34	43	81	69	68
– purchased land	31	29	19	28		25	0	9
– have title to some land	11	20	21	14	51	32	0	58
Rental procedures transparent	1	1	1	1		0	0	0
Precedents affirm tenure security	1	1	1	1		0	0	0
Land sale upheld by national laws	1	1	1	1	0	0	0	0

## INSTITUTIONAL CHANGE

Several African studies have reported correlations between changes in customary tenure and changes in socio-economic conditions. Feder and Noronha (1987) summarize the popular view that secure tenure and low transaction costs emerge in response to population growth, the adoption of high value crops and improvements in communications and extension services. The generic explanation starts with land becoming relatively scarce owing to population pressure and better prospects for commercial farming. According to Ault and Rutman (1979), this should induce a system that assigns exclusive rights to land because farmers have an incentive to invest but are unable to internalize the benefits of their effort unless they can exclude other users (free-riders). Rigorous application of this Coasian 'transaction cost' approach helps to identify groups whose members share a common interest in a collective good (e.g. exclusive land rights), but there is no guarantee that steps will be taken to acquire the collective good just because people experience similar shifts in potential net benefits when relative prices change. Curiously, the 'transaction cost' approach ignores problems of collective action, like high transaction costs in large groups (Olson, 1971). Historical evidence quoted in support of the model rarely refutes claims that commercial farming may have been the result, rather than the cause, of a shift towards exclusive land rights. Whilst the causal relationship between population growth and individual tenure appears to be more predictable, some authors suggest that population pressure may constrain, not hasten, the evolution of exclusive land rights (Parsons, 1971; Lawry, 1993). Rural communities are not homogenous, and population growth could favour groups opposed to local precedents that reinforce security of tenure. Such groups influence the 'supply' of institutional change.

One example of 'supply-side' interest groups identified in the land tenure debate distinguishes between smallholders who rely mainly on wage employment and those who rely primarily on farming. Lawry contends that increasing population pressure on land in Lesotho has strengthened the former group, overwhelming farmer demands for more marketable land rights. Like Parsons, he attributes opposition from non-farmers to fears that a land market will jeopardize their social security. However this argument ignores the mutual benefits afforded by land rental. Of course, when households rely on secondary use rights to land a shift towards exclusive rights could threaten security. Opposition to exclusive land rights has also been attributed to livestock owners and tribal authorities. Lyne and Nieuwoudt (1990) noted that stockowners in KwaZulu resisted attempts by farmers to rent idle land because their supply of communal grazing diminished when fallow land was cultivated. In the same region, Thomson and Lyne found that some chiefs disallowed rental contracts between prospective lessors and sugar-cane farmers. They reason that tribal authorities oppose land markets where they rely on their control over land allocation to prevent political rivals from settling in their domain. Alternatively, tribal authorities may empathize with households who rely on secondary use rights to land, or they may be predisposed to special interest groups, like influential stockowners who keep cattle as store of wealth.

The Marxist view that institutions are transformed by class struggle has obvious appeal but there are equally obvious questions about how the classes should be defined. Further, Marxists, like their 'transaction cost' counterparts, tend to ignore the problems of collective action that may preclude a struggle or resistance. Nevertheless, by stressing the relevance of political organize, ideology and the distribution of wealth as elements of

institutional change, they do focus attention on the need for compensation. Unless acceptable substitutes can be offered to losers (e.g. options to exchange secondary use rights for serviced residential sites, shares in ranching corporations, etc.) attempts by local authorities to sanction or allocate exclusive land rights will continue to meet with opposition, and government recommendations for enclosure and rental transactions would be contentious if they were imposed. To alter the evolution of land tenure from an unpredictable, organic process to a more pragmatic one, government would also have to support research, document transactions, disputes and precedents, disseminate information, and ensure that national laws sanctioned local precedents.

## CONCLUSIONS

The data presented in this paper show that renting closes productivity gaps by transferring land to farmers who can use it more effectively, and that, far from damaging the interests of the poor, it sustains many households that would otherwise be destitute. Unfortunately, land rental markets are often constrained in SSA because customary tenure is not secure and transaction costs are high. These problems stem largely from two sources; either the user does not have exclusive land rights (i.e. the breadth of rights is inadequate) or the risk of losing land as a result of a transaction is too high. In theory, titling could resolve these problems but, even if its consequences were acceptable, it poses formidable logistical problems that may aggravate tenure insecurity by creating conflicting claims to land. Instead, attention has turned to ways of facilitating an endogenous shift toward exclusive land rights.

On the one hand, policies based on the Coasian 'transaction cost' model stress the importance of support programs that will encourage farmers to press for exclusive land rights. This approach ignores the problems of collective action and disregards groups opposed to precedents that reinforce tenure security. Resistance is likely where households are dependent upon secondary use rights to land that primary users wish to enclose. As a result, the outcome of such induced innovation is unpredictable, and could be highly undesirable. If the policy succeeds, it could produce distress sales and land grabbing. Conversely, failure implies a constrained land rental market (i.e. losses in efficiency, equity, experience and information), meagre incentives to conserve and improve land, and limited response to the support programs.

On the other hand, adaptive policies emphasize strategies intended to make changes in customary tenure more predictable. In particular, they recognize the need to compensate people whose welfare is threatened by tenure security, including tribal authorities who often control the information and functions that set precedents and revise customary tenure. Apart from identifying and providing suitable forms of compensation, adaptive policies aim to transform privileges into rights and to reduce transaction costs.

Clearly, adaptive programs would be appropriate and more effective when there are worthwhile opportunities in farming. Likewise, farmer support programs are unlikely to realize expected changes in customary tenure or production if they are not accompanied by adaptive programs. In practice it may be useful to include the latter as components of any farmer support program.

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## DISCUSSION OPENING — Timothy O. Williams (*International Livestock Centre For Africa, Niger*)

This paper addresses a topical issue of particular relevance to agricultural development in sub-Saharan Africa. Agricultural land rental markets are poorly developed in Africa due to economic, social, legal and institutional constraints. These constraints impede the realization of efficiency and equity gains that could be expected from properly functioning land rental markets, particularly where farm land is scarce and rural population is growing fast.

Based on data from east and southern Africa, the paper shows that insecurity of customary tenure and high transaction costs are the main impediments to land rental markets. As a panacea, the authors reject policies based on the 'transaction cost' model arguing that these policies could produce unpredictable and undesirable outcomes. Instead, they advocate adaptive policies that aim to transform privileges enjoyed under customary tenure into property rights and compensate individuals whose welfare may be threatened by tenure security. However, contrary to the authors' claim, the policies they recommend do not invalidate the transaction cost model. Rather these policies represent additional

measures that could be used to support the emergence of exclusive and assured land rights — the main proposition of the transaction cost approach.

Analytically, the usefulness of the paper is slightly diminished by the limited quantitative analysis reported and the inadequate coverage given to regions outside east and southern Africa. Except for tangential reference to findings of studies conducted elsewhere in Africa, no analysis is provided of the constraints and opportunities for emerging land rental markets in west and central Africa where the socio-economic conditions are different from those operating in east and southern Africa. Despite these shortcomings, the paper represents a valuable contribution to the growing literature on agricultural land rental markets in sub-Saharan Africa.