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Reforming the Agricultural Land Rental Market in Trinidad & Tobago

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Abstract

Many farmers in Trinidad & Tobago rent the land on which they farm, either from the State, State-owned enterprises (in particular Caroni (1975) Ltd.) or from private landlords. Renting of agricultural land is particularly important in the small farm sector. In the past, the State has sought to intervene in the agricultural land rental market through direct intervention (renting out State-owned lands to small producers at subsidized rates and acquisitions of tenanted agricultural estates) and through legislation designed to regulate the relationship between "small holders" and landlords, in particular the Agricultural Smallholdings Tenure Act (ASHTA) of 1961. Over the past decade, as part of a wider agriculture sector reform programme, the Government has attempted to reform the institutions and legislation impacting on the agriculture land rental market. It was hoped that these reforms would create a more vibrant, dynamic and transparent land rental market and that this would, in turn, foster a more vibrant and dynamic agriculture sector. To date these efforts have had little impact.

This paper concentrates on land rented from private landlords and reports on the findings of a rapid appraisal conducted in three agricultural areas of Trinidad. The paper finds that there has been very little adherence to the provisions of ASHTA. It concludes that current efforts to reform ASHTA will have a limited impact on the agricultural land rental market. Instead, wider reforms to the entire land administration system are urgently needed to assure the effective functioning of the agricultural land rental market.

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INTRODUCTION

In much of the literature, the agricultural land rental market² is seen as an effective mechanism for matching people who need, and can use, agricultural land with land-owners who are unable to adequately use the land under their control, and hence increasing overall efficiency in the agricultural sector (Lemel, 1993, p.115). The agricultural rental market is seen as being particularly important for the poor and landless, who are unable to gain access to credit to purchase land. The land rental market is also seen as being particularly important in economies under-going structural change, as the flexibility in the rental market allows easy entry and exit from the agricultural sector and the speedy consolidation or sub-division of holdings in responses to changes in the markets of other factors of production (see Jacque, 1998). For these reasons, ensuring a functioning and flexible agricultural land rental market is a crucial element of Trinidad & Tobago's overall national agriculture sector reform programme.

²It should be noted that through-out this paper we use the term "rent" in the commonly used sense of a regular fixed cash payment by a tenant to a landlord in return for the use of a parcel of land and not the strict 19th century classical economic definition – often first attributed to Thomas Malthus who defined rent thus: "that portion of the whole produce which remains to the owner of the land, after all outgoings belonging to its cultivation, of whatever kind, have been paid, including profits to the capital employed, estimated according to the usual and ordinary rate of the profits of agricultural stock at the time being" (Malthus, 1970 [1815], p.179). We have also ignored "non-cash" leasing arrangements, such as sharecropping or labour tenancy.

THE STATE AND THE AGRICULTURAL LAND RENTAL MARKET

In the immediate post-colonial period, many newly-independent nation states sought to regulate or transform the relationship between landlords and tenants. In many countries, especially in East Asia and Latin America, this involved the introduction of land reform programmes under which large estates were distributed to existing agricultural tenants. Elsewhere in Latin America and Africa, most notably in Zimbabwe, attempts have been made to break up large commercial farms and distribute the land to either agricultural labourers or peasant farmers. In other cases, especially in South Asia, measures were introduced to outlaw share-cropping arrangements, seen as being both economically inefficient and exploitative of peasant farmers (see Lastarria-Cornhiel & Melmed-Sanjak, 1999, for a useful review of the literature on land tenancy policy in Asia, Africa and Latin America).

In Trinidad & Tobago, and indeed the rest of the English-speaking Caribbean, there was no comprehensive post-Independence land re-distribution programme and changes to the colonial pattern of land-ownership have only taken place very slowly, if at all (Ahmed & Afroz, 1996, p.150). Nevertheless, in Trinidad & Tobago the State has sought to intervene in the rural land market in order to achieve wider social objectives, such as ensuring access to land for the rural poor and increasing productivity in the agricultural sector.

The most significant interventions in the agricultural land rental market in Trinidad &

Tobago involved the leasing out of State lands at subsidised rents, the nationalisation (through acquisition) of large estates and the enactment of legislation to ensure security of tenure for small tenant farmers.

Crown/State Lands

Development Programmes

During most of the colonial period, official alienation of Crown lands in Trinidad & Tobago had been strictly controlled, with the aim of curtailing the development of an independent peasant class (and ensuring the continued availability of labour to the large estates). Legal access to Crown lands had been opened up to an extent during the 1930s, in response to colonial fears about labour unrest, and the process was accelerated in the 1940s, with the development of various "food crop projects" in response to fears over food shortages caused by the Second World War. In all, some 2,023 hectares were distributed to 2,240 families in this period (Singh and Farrell, 1980). This limited opening up of State lands was accompanied by a shift in the type of tenure granted on the alienated Crown lands: previously State land had been alienated in the form of freehold grants, henceforth it was only to be given in the form of leases, usually of 25 years, for agricultural lands (Driver, 2002).

After Independence, the Government looked to the remaining unalienated Crown lands as a vehicle to transform the agricultural sector away from the production of a handful of export crops to a more diversified sector, producing food for the local market. A World Bank-funded Crown Lands Development Programme (CLDP)

was initiated in 1964, with the aim of allocating Crown lands to family-run food crop and livestock farms. The CLDP, renamed the State Land Development Programme (SLDP) after Trinidad & Tobago became a Republic in 1976, resulted in the distribution of a total of 12,067 hectares of State land in some 1,368 holdings between 1967 and 1984. The majority of lands distributed under the C/SLDP were in Carlsen Field (1,220 ha) and Wallerfield (6,800 ha). The remaining land development projects were scattered in smaller blocks across the country, ranging from 30 ha to 360 ha (Government of the Republic of Trinidad & Tobago, Ministry of Agriculture, Land and Marine Resources, 1985, p.11).

The C/SLDP also provided these areas with a high-level of physical infrastructure and with targeted support services, including guaranteed prices and a marketing programme provided by the Central Marketing Agency, extension services and subsidised credit, provided through the Agricultural Development Bank (Government of the Republic of Trinidad & Tobago, Ministry of Agriculture, Land and Marine Resources, 1985; Ganteaume-Farrell, 1993a.).

The C/SLDP maintained the colonial policy of only granting land under leasehold arrangements. Rental levels were, however, set at extremely subsidised levels, initially at fixed rates of TT\$10 or TT\$15 per ha, depending on the level of infrastructure (Government of the Republic of Trinidad & Tobago, Ministry of Agriculture, Land and Marine Resources, 1985) and later revised to TT\$15 per ha for undeveloped land and TT\$30 per ha for developed lands

(Government of the Republic of Trinidad & Tobago: Ministry of Food Production, Marine Exploitation, Forestry and the Environment, 1988). The original intention had been that these subsidised rates would have been payable just for lands allocated through the C/SLDP, but the same rates also came to be charged for all State lands leased out for agricultural purposes. Poor record-keeping within the Ministry meant that it has been difficult to estimate the full extent of non-C/SLDP State lands alienated during the 1960s, 70s and early 1980s. Ganteaume-Farrell (1993a.) estimates a figure of 8,608 hectares.

It has been argued in numerous reports that the subsidised rental rates charged for State agricultural lands have distorted the rental market on private lands. A Ministry of Agriculture, Land and Marine Resources 1985 report, for example, referred to the subsidised rental levels and argued that "market forces have not been allowed to influence the letting of agricultural lands in recent years" (Government of the Republic of Trinidad & Tobago, Ministry of Agriculture, Land and Marine Resources, 1985, p.35). The same report, however, also stated that, despite restrictions on sub-leasing arrangements contained in the State agricultural leases, poor enforcement of lease conditions has meant that a vibrant informal rental market in State lands has arisen. Tenants granted State leases have reportedly been able to sub-lease their lands at rental levels far higher than they have had to pay to the State. If this is indeed the case, it brings into question, or at least complicates, the market distortions to the private rental market

created by the subsidised rental levels on State lands.

Nationalisation of Estates

In addition to alienating Crown/State lands to small to medium sized family farms under a leasehold system, the post-Independence Government embarked on a limited "willing seller – willing buyer" land nationalisation programme. During the 1940s, the colonial Government had begun to acquire some private agricultural estates on upper watershed areas in order to implement a reforestation programme (Driver, 2002). In the post-colonial period, the Government sought to extend this acquisition programme into the productive agriculture sector. During the 1960s, fiscal constraints made implementation of this policy difficult, but with the financial windfall created by international oil price increases, the Government was able to acquire a number of agricultural estates during the 1970s.

The most significant acquisitions were in the sugar sector, where the Government first acquired the Orange Grove Estate (in 1968), then (in 1975) the extensive estates of Caroni Limited, a company that had previously been registered in the United Kingdom. Caroni (1975) Ltd. owns or controls a total of 31,363 hectares (28,461 ha under freehold, 1,365 ha under leasehold and 1,536 ha over which the company holds the "Power-of-Attorney"), making it the largest landowner in the country (Childress, 2000). A significant proportion of Caroni's landholding (4,800 ha) is rented to about 5,500 private cane farmers, under secure 25-year leases.

A number of other smaller estates were also acquired, including:

- Non Pareil Estates, comprising a total holding of approximately 770 hectares acquired by the Government in 1978, for a total of TT\$1.425 million (Ganteaume-Farrell, 1993 b.)
- "Jamadar lands" in Oropouche, comprising about 260 ha of land, acquired by the Government in the mid-1970s (FAO 1999)
- Grande Riviere Estate, comprising about 123 ha of land, acquired by the Government in 1981 (Nedeco, 1983, Ministry of Agriculture, Land and Marine Resources correspondence files).
- Eighteen estates in Tobago, including Goldsborough (951 ha), Studley Park (251 ha) and Louis Dior (244 ha) acquired at various times and totalling 4,700 ha (Wijetunga, 2000).

In some cases, for example with the "Jamadar lands", the estates were already tenanted and the State granted existing tenants probationary agreements. It was expected that these agreements would subsequently be up-graded to full State agricultural leases, but in the vast majority of cases this has not occurred and the tenants have simply remained on the holdings, either paying the very low rents outlined in the original agreement or not paying rent at all.

In other cases, for example Non Pareil, the nationalised estates had previously been managed as a single holding, and worked by agricultural labourers (some of whom lived in tenanted houses on the estate). The State policy towards these estates has vacillated between proposals to break them up and lease them out to small to medium family

farmers, to try to run them as going concerns or (in recent years) to sell (or lease) them as going concerns to the private sector. The outcome of this policy indecision has tended to be that the estates have either been abandoned, are farmed by small-scale "squatter" farmers (in some cases the previous agricultural labourers), or have been encroached upon by residential squatters.

In the case of Caroni (1975) Ltd., the company had previously directly managed the majority of its lands, using hired agricultural labour, and rented out other lands to tenants (Booker Tate, 1992). This pattern of management has persisted, despite numerous proposals to restructure the company.

Where the State has attempted to run the nationalised estates as going concerns (for example Caroni (1975) Ltd.), any land leased out to tenant farmers falls under the provisions of the Agriculture Small Holdings Tenure Act (ASHTA) which seeks to protect agricultural tenants from landlords.

Agricultural Small Holdings Tenure Act (ASHTA)

The Agriculture Small Holdings Tenure Act of 1961 (Chap.59:53) was enacted with the objective of providing security of tenure to farmers of small agricultural holdings (defined as 1 to 50 acres), by restricting the right of the landlord to recover possession of the holdings. The Act ensures tenants of the right to extend or renew their agricultural tenancies for a period of up to 25 years, so long as they had "cultivated the small holding in a manner consistent with the practice of good husbandry" and had

"committed no breach of the contract of tenancy" (section 8(2)). An amendment to ASHTA in 1987 extended this 25-year statutory security by a further 25 years (Act 16 of 1987). Under the 1961 ASHTA, existing written or oral agreements giving rights to a farmer to cultivate a small holding were deemed to be tenancies of between one and ten years, depending on the crops being grown (Section 3(1)). Where a landlord wished to evict an agricultural tenant, this could only be done after applying to the Agricultural Tribunals established by the Act and in keeping with the provisions laid out in Section 38(2) of the Act. These tribunals also had the power to assess and fix maximum annual rentals (Section 22).

The Government had introduced the ASHTA in response to the recommendations of the Ward Committee appointed in October 1957 to "review the question of security of tenure for the small tenant farmers and to give priority to the present emergency in which some tenants were faced with ejectment". The "present emergency" referred to reports of imminent dispossession of tenants at Esperanza Estate, Oropouche lagoon and Craignish Estate.³ The Government saw the ASHTA as a "revolutionary"⁴ piece of legislation and the only alternative to "a direct land reform policy, which would have opened the Government to a charge of being

communistic in tendency".⁵ The Bill received general cross-party support in the Legislative Council, with the Opposition's main complaint being that it had been too long in coming. The Opposition also complained about the Bill not binding the State and granting occupiers of State lands security of tenure.⁶

Since the late 1980s, ASHTA has been frequently described as hindering the agriculture rental market and contributing to the high level of abandoned estates (see for example Lemel, 1993, p.47). Landlords have, reportedly, been unwilling to rent out any agricultural lands, as they are fearful of regaining control of the lands in circumstances where the tenant is granted security of tenure for 25 (and now 50) years. While the intention of the Act was to ensure security of tenure, fears about the rights of tenants have led many landlords to refuse to even give tenants rent receipts (despite the provisions of the Act making this mandatory).

THE REFORM PROGRAMME AND LAND RENTAL MARKETS

Under the Agriculture Sector Reform Programme (ASRP), which the Government has been attempting to implement for the past decade, there have been numerous attempts to re-draft ASHTA to make it easier for landlords to effectively manage their

³Hon. K. Mohammed, *Legislative Council, debate on Agriculture Small Holdings Tenure Bill*, 6th Sept. 1961, *Hansard*, June 30 – September 20, 1961, p.4116.

⁴Hon. Dr E. Williams, *Legislative Council, debate on Agriculture Small Holdings Tenure Bill*, 7th Sept. 1961, *Hansard*, June 30 – September 20, 1961, p.4240-4242.

⁵Hon. K. Mohammed, *Legislative Council, debate on Agriculture Small Holdings Tenure Bill*, 7th Sept. 1961, *Hansard*, June 30 – September 20, 1961, p.4156.

⁶Hon. S. C. Mahraj, *Legislative Council, debate on Agriculture Small Holdings Tenure Bill*, 7th Sept. 1961, *Hansard*, June 30 – September 20, 1961, p.4199.

lands. These attempts to re-draft ASHTA have been described in terms of striking a balance between the rights of a landlord and the rights of a tenant. Drafts of a new ASHTA have been completed and circulated for public comment, and one version was introduced, and briefly debated, in Parliament in 2000. It was not, however, passed and eventually lapsed when the December 2000 elections were called.

As part of the ASRP, the Government has also been attempting to regularise the occupation of State agricultural lands – including some of the estates, which were acquired in the 1970s/early 1980s. Regularisation of State agricultural land is taking place through an Accelerated Land Distribution Programme (ALDP), which places additional personnel in five of the Government agencies that play a role in the regularisation programme. Despite the implementation of the ALDP, regularisation of State agricultural land has been extremely slow (and, as a consequence, extremely expensive – recent calculations indicate a cost of US\$1,064 to regularise each parcel of State agricultural land).⁷ Only 81 occupiers of State agricultural land have received new Standard Agricultural Leases since the programme was initiated in mid-1999.

Regularisation on State agricultural land is taking place under 30-year leases, with annual rents charged at a market-based rate (calculated at 2% of the capital value of the land). The objective of this policy is to allow

farmers with little access to capital to gain access to land and, at the same time, to charge rental levels which should stimulate leases to use land productively in order to generate revenue to meet annual rentals. Under the Standard Agricultural Lease the leases has the right to sub-lease (with certain conditions) to other farmers and to mortgage the lease. The effective implementation of this regularisation programme would be expected to have a significant impact on the country's agricultural land market, as it would both make more parcels available (those currently unoccupied) and would strengthen the tenure of those currently occupying State lands without valid leases. As it is, however, the programme has had very limited impact.

The original ASRP also included the implementation of a programme to lease a significant additional percentage of Caroni's landholding to private cane farmers, based partially on the fact that private cane farmers' costs of production are lower than the lands directly managed by the company. This policy has never been implemented. One of the reasons cited for its non-implementation is that all leases between private farmers and the company would have been subject to the provisions of ASHTA of 1961, and that the company was unwilling to lease out lands under these circumstances, given problems associated with re-possessing leased out parcels within the statutory provisions. The development of an alternative plan to introduce private-sector investment into Strategic Business Units of Caroni during the 1999-2001 period led to this policy of leasing out Caroni's lands being sidelined (on the assumption

⁷Data from *Global Comparative Study of Land Administration Systems* (project in progress, funded by World Bank and USAID).

that large parcels of Caroni's lands would be transferred to a few semi-privatised agricultural companies, rather than a large number of small cane farmers), but it now appears to have been revived. The June 2002 decision to transfer Caroni's landholdings to direct State control means that the issue of ASTHA would no longer apply – though it remains to be seen if this policy can actually be implemented.

Other areas of the reform programme, including efforts to improve the management of State lands, the modernisation of the Land Registry and the cadastral records in Lands and Surveys Division and changes to the country's planning regime could also have significant impacts on the agricultural land rental market. These wider reforms to the country's land administration system will be discussed in more detail in the concluding section of the paper, but the paper will now turn to a discussion of the current characteristics of the land rental market.

CHARACTERISTICS OF AGRICULTURAL LAND RENTAL IN T&T

Available national-level data on the agricultural land rental market is limited. The last national agriculture census was conducted in 1982. Out of thirty thousand agricultural holdings operated by private individuals or entities, the census reported that 36% of farmers rented the land that they occupied, from private-landlords, State-owned enter-prises or directly from the State. This national figure masks significant local differences. In County Victoria as many as 48% of holdings were rented, with 22% being rented from private landlords and 19% from State Enterprises (mainly Caroni (1975) Ltd.). In Nariva/Mayaro, on the other hand, just 20% of holdings were rented, with the majority (14% of total holdings) being rented from the State. In Tobago a quarter of the total holdings were rented, but almost all of these (21% of the total) were rented from private landlords (see Table 1 & 2).

Table 1: Private Holdings, by County and Type of Tenure – Total Numbers (from 1982 Agriculture Census)

	Owned	Rented/Leased			Squatting			Held Otherwise			Total
		State	Entpr.	Private	State	Entpr.	Private Lands	State	Entpr.	Private	
St. George	1,040	1,098	42	780	902	40	108	50	3	199	4,262
Caroni	2,526	324	427	1,433	164	24	27	10	1	111	5,047
Nariva/Mayaro	1,459	366	16	133	417	19	36	35	5	87	2,573
St. Andrew/ St. David	2,125	655	13	154	243	3	23	34	2	263	3,515
Victoria	2,852	518	1,321	1,535	324	81	73	33	33	246	7,016
St. Patrick	3,376	619	165	949	491	136	77	145	20	168	6,146
Tobago	956	68	5	407	133	9	37	6	2	331	1,954
TOTAL	14,334	3,648	1,989	5,391	2,674	312	381	313	66	1,405	30,513

Table 2: Private Holdings, by County and Type of Tenure – Percentage of Total Holdings (from 1982 Agriculture Census)

	Owned	Rented/Leased				Squatting				Held Otherwise			
		State	Entpr.	Private	Total	State	Entpr.	Lands	Total	State	Entpr.	Private	Total
St. George	24%	26%	1%	18%	45%	21%	1%	3%	25%	1%	0%	5%	6%
Caroni	50%	6%	8%	28%	43%	3%	0%	1%	4%	0%	0%	2%	2%
Nariva/Mayaro	57%	14%	1%	5%	20%	16%	1%	1%	18%	1%	0%	3%	5%
St. Andrew/ St. David	60%	19%	0%	4%	23%	7%	0%	1%	8%	1%	0%	7%	9%
Victoria	41%	7%	19%	22%	48%	5%	1%	1%	7%	0%	0%	4%	4%
St. Patrick	55%	10%	3%	15%	28%	8%	2%	1%	11%	2%	0%	3%	5%
Tobago	49%	3%	0%	21%	25%	7%	0%	2%	9%	0%	0%	17%	17%
TOTAL	47%	12%	7%	18%	36%	9%	1%	1%	11%	1%	0%	5%	6%

Source: Government of Trinidad & Tobago: Central Statistical Office, 1986.

Table 3: Tenure of Parcels in Six Agricultural Areas (Land Tenure Centre Survey, 1992)

	Individual Ownership		Rent		Squatting		Rent free		Family land		TOTAL
	No.	%	No.	%	No.	%	No.	%	No.	%	
Fairfield/Broomage	17	9%	147	76%	3	2%	21	11%	5	3%	193
Warren/Munro	33	33%	43	43%	5	5%	14	14%	4	4%	99
Couva	18	29%	30	48%	6	10%	7	11%	2	3%	63
Penal/Puzzle Isle	71	34%	92	44%	24	11%	10	5%	13	6%	210
Tobago	61	40%	31	21%	13	9%	16	11%	30	20%	151
Freeport/Arena Rd.	2	2%	12	12%	81	81%	4	4%	1	1%	100
TOTAL	202	25%	355	44%	132	16%	72	9%	55	7%	816

Source: Lemel, 1993.

More recent surveys indicate similar overall percentages of farmers renting land. The 1992 Land Tenure Centre survey of 817 parcels of land in six agricultural areas indicated that 44% of the parcels surveyed were rented.⁸ The survey also revealed significant differences in the percentage of

⁸It should be noted that the 1992 LTC data is based on a survey of parcels (i.e. contiguous piece of land held under one form of tenure), while the 1982 census figures quoted in Tables 1 & 2 were of holdings (defined as one or more parcels of land being used

either wholly or partially for agricultural purposes by one individual or entity (e.g. company) as a single business unit). It is unclear from the 1982 census report how a holding comprising a number of parcels under different tenure regimes was recorded. It should also be noted that the tenure-types defined in the census and the LTC survey are not directly compatible. In the 1982 census holders were simply asked to report on the tenure for their holdings, whilst in the 1992 survey investigated documented evidence of tenure of parcels. This difference probably largely accounts for the much lower "owner-occupied" figures in the 1992 LTC survey.

Table 4: Size Distribution of Private Holdings (1982 Agricultural Census)

	< 0.5	0.5 – 1	1-2	2-5	5-10	10-50	50-100	100-200	200-500	>500	Total
Number	6967	3766	5291	10206	2928	1222	63	44	23	3	30513
% total holdings	22.8%	12.3%	17.3%	33.4%	9.6%	4.0%	0.2%	0.1%	0.1%	0.0%	
Cumulative % holdings	22.8%	35.2%	52.5%	86.0%	95.6%	99.6%	99.8%	99.9%	100.0%	100.0%	
Hectares	1,577	2,777	7,195	30,187	20,255	12,125	4,961	6,269	5,447	2,783	93,575
% total ha	1.7%	3.0%	7.7%	32.3%	21.6%	13.0%	5.3%	6.7%	5.8%	3.0%	
Cumulative % total ha	1.7%	4.7%	12.3%	44.6%	66.2%	79.2%	84.5%	91.2%	97.0%	100.0%	

parcels rented in different areas; ranging from 76% in Fairfield/Broomage to 12% in Freeport/Arena Road (see Table 3).

The available data indicate that agricultural land rental is especially important in the short-crop sub-sector – a finding that is hardly surprising. The Land Tenure Centre survey shows that vegetable growing is most pronounced on rented or squatted parcels: 31% of rented parcels had some vegetable production, compared to 50% of squatted parcels and 22% of individually owned parcels. A 1999 survey of 180 “limited resource” crop farmers⁹ on both State and private land indicated that, 41% of farmers reported that they rented their land, while 19% stated they were owner occupiers, 12% stated they farmed “family land”, and 27% stated they were unauthorized occupiers – including 20 farmers on State land at Bonair (Ganpat, 1999). On the other hand, a recent rapid rural appraisal of farmers involved in cocoa production across Trinidad reported that

94% of the 123 interviewees claimed to own the lands they farmed (Barker, 2001).

Holding size in Trinidad & Tobago is highly skewed. In 1982, over half of the total number of private holdings in Trinidad & Tobago were less than 2 hectares and comprise just 12% of the total area under private agriculture. At the other end of the scale, the biggest 4% of private holdings accounted for 34% of the total area under private agriculture (see Table 4). If the big State-owned estates (especially Caroni (1975) Ltd. and Palo Seco Agriculture Enterprises) are also included, the pattern of ownership is even further skewed.

Rented holdings tend to be smaller than owner-occupied holdings. At a national level, the 1982 agricultural census reported an average private holding size of 3.4 ha, with owner occupied holdings averaging 4.6 ha and holdings rented from private landlords averaging just 1.9 ha (see Figure 1).

The 1982 agriculture census data also shows that holdings rented from private landlords are concentrated in the small holding size categories: 44% of holdings were less than 0.5 ha in size and only 2.5%

⁹Defined as farmers offering at least 25% of their produce for sale, but occupying less than one hectare of land.

of holdings were over 5 ha. By comparison, 12% of owner-occupied holdings were over 5 ha (see Figure 2).

There appears to be little data available on the actual rental fees paid for private agricultural land in Trinidad & Tobago. The 1992 LTC survey found an average rate of TT\$161 per acre per year (or TT\$398 per ha) for rentals from private landlords, with a range of TT\$3 to TT\$1,096, and 50% of the tenants paying under TT\$100 per acre (see Figure 3).

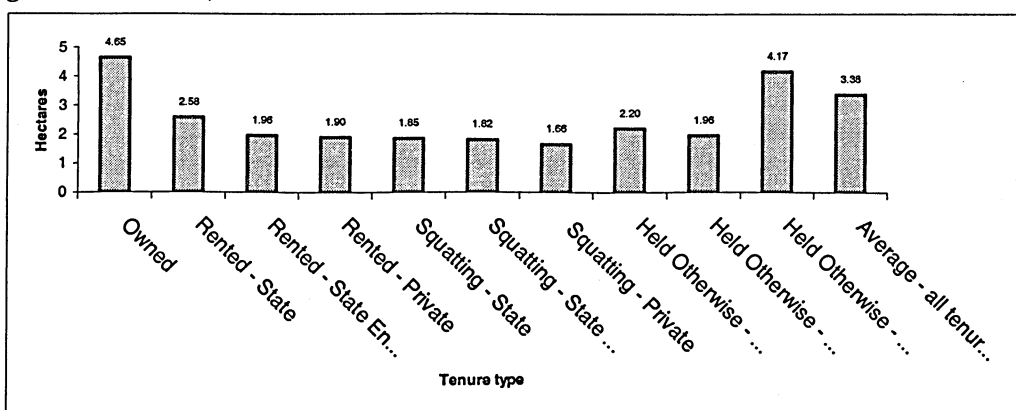
Most farmers renting land from private landlords do not have written leases and many do not even have receipts for the rent they pay. The Land Tenure Centre survey in 1992 found that 28% of renters had written leases, 57% had only rent receipts and 14% had no documentation of any form (Lemel, 1993). This data is for parcels rented from all landlords, including the State and State-Enterprises, and the data presented in the report is not broken down by type of

landlord. Nevertheless, in the Warren Road – Munro area, which is characterised by a high level of agriculture land rental from private landlords, the survey found that 37% of all parcels had no documentation. As there are not many squatters in the area (only 5% of parcels) it is safe to assume that the majority of the parcels without any documentation are rented.

In summary, the available national data indicates that private agricultural land rentals:

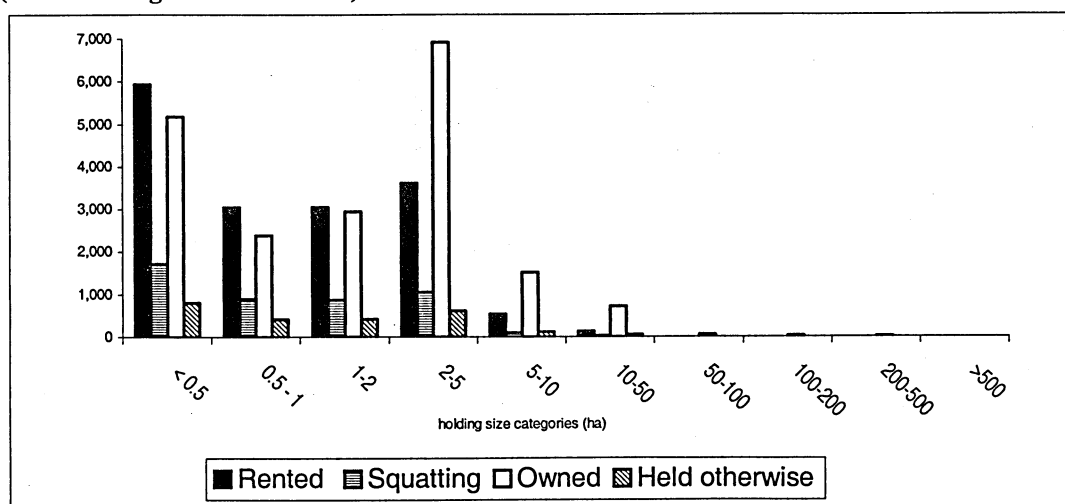
- account for about 20% of the total holdings,
- are comprised of mostly small parcels (under 2 ha),
- are concentrated in the counties of Victoria, St. Georges and Caroni,
- are especially important in the short-crop sub-sector, and
- are characterised by an absence of formal leases or written agreements.

Figure 1: Average Size of Private Holdings, by Type of Tenure – Hectares (from 1982 Agriculture Census)



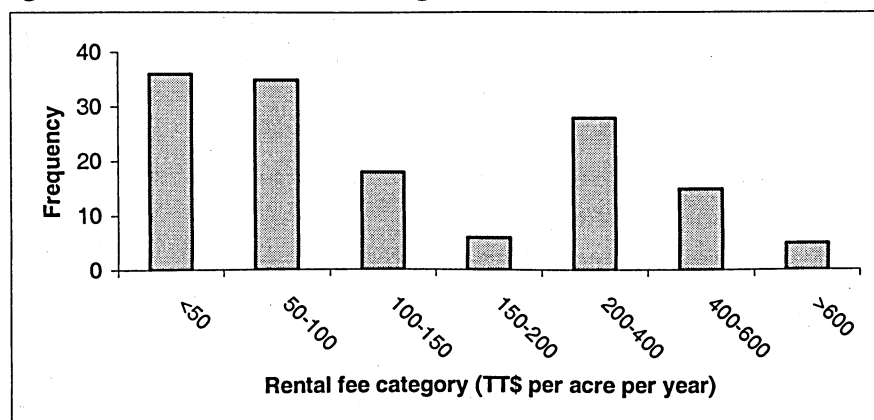
Source: Government of Trinidad & Tobago: Central Statistical Office, 1986.

Figure 2: Frequency of Private Holdings, by Size Category and Type of Tenure – Hectares (from 1982 Agriculture Census)



Source: Government of Trinidad & Tobago: Central Statistical Office, 1986.

Figure 3: Rental Levels on Private Agricultural Land (from 1992 LTC Survey)



In order to supplement this national level data, we carried out three rapid appraisals of the agricultural land rental market in three separate geographical locations in May – July 2001. In addition to collecting some

general information about the land rental market, we were specifically interested in determining the extent to which tenants have made use, or were aware, of the provision in ASHTA to provide them with security of

tenure. We also conducted an analysis of the deed registry to determine if any agricultural leases were being recorded in the land registry, in accordance with the provisions of ASHTA and the Deeds Registry legislation.

RAPID APPRAISAL OF THE AGRICULTURE LAND RENTAL MARKET

Methodology

In order to supplement the national level data, we interviewed agricultural tenants in three different geographical locations (one in North, one in Central and one in South Trinidad). Due to a lack of time and funds, no interviews were conducted in Tobago. Initial meetings were held with extension staff in the Victoria, Caroni and St. George's West county offices in order to identify areas with a high predominance of persons engaging in rental of private lands for agriculture. Extension officers were also asked about their experiences and views concerning the agricultural land rental market in their respective areas. Based on these discussions, three sites were chosen for study: Tableland in County Victoria, Warren Road, Cunupia in County Caroni and Paramin in County St. George West (see Map 1).

The fieldwork methodology was quick and dirty – we interviewed as many agricultural tenants we could find in a day in each location using a semi-structured interview technique. Agricultural tenants and other local contacts were asked to identify other tenants in the area and in this way we

were able to interview at least five or six people in each area. All of the tenants we interviewed were male. The results of this rapid appraisal cannot, therefore, be considered representative of the general agricultural rental market (even in the areas visited), but do raise some interesting issues worthy of more in-depth research.

Key Findings

The fieldwork tended to confirm the national level data available, though we found significant differences between the rental

Box 1: Tableland

The Tableland area is home to approximately three hundred practicing farmers, who cultivate 1,148 hectares of land. Approximately 60% of the land is privately owned with some remaining areas being Forest Reserve. Parcels tend to be comparatively big (often in the region of ten acres). Traditionally, cocoa and coffee were the two major commercial crops grown in the areas, but many of these estates have been abandoned over the years. Recently there has been a big increase in pineapple and pawpaw cultivation.

Talparo clay soil is found throughout the site and covers about 50% of the area. Toruba clay covers 20% of the remaining land area; Princes Town clay is also found in the area. Tableland is characterised by an undulating topography and most of the area is considered good to moderately good for agriculture by the land capability survey.

markets in the three different geographical locations.

In all three fieldwork sites we found that tenants were totally ignorant of the provisions of the ASHTA of 1961. This ignorance was shared by most of the Ministry's extension staff – though some of the older members of staff did recall the existence of the legislation. In our search of the deeds registry we did not find one single agriculture lease registered between 1995-

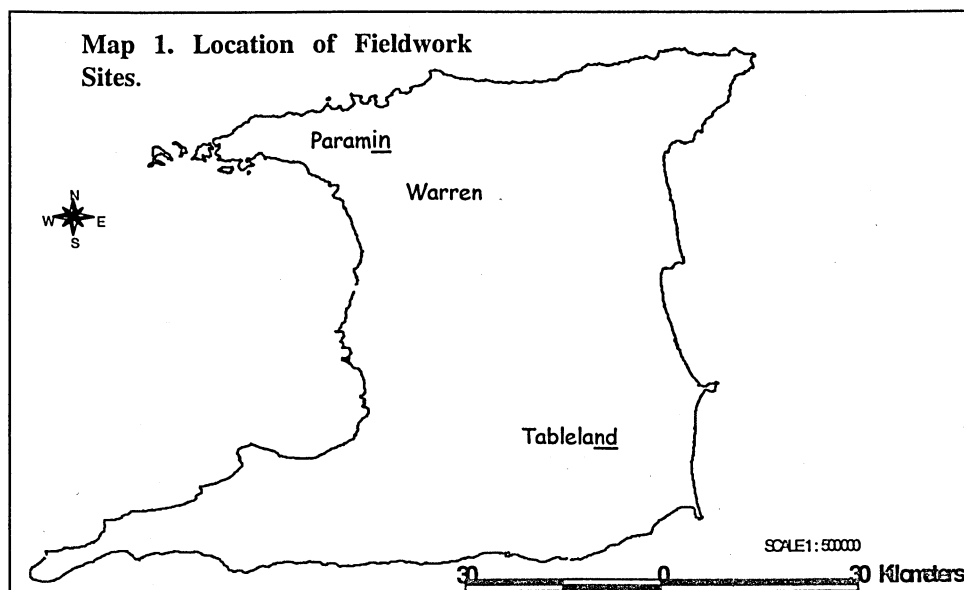
2001. Under the Deeds Registry legislation, any lease for more than three years should be registered.

In Warren Road and Paramin, the tenants we interviewed did not have lease documents, though the majority did have rental receipts. In Tableland, however, all of the tenants had written leases. In some cases these leases were drawn-up by an attorney-at-law and witnessed (though they did not include all the statutory provisions outlined in ASHTA). Subsequent tenancy agreements were based on the leases drawn-up by an attorney, but were retyped with new particulars and simply executed between the two parties. Where the agreement had been drafted by an attorney, it was the tenant who met the legal costs. In one case a Commissioner of Affidavits had drafted an agreement, which the two parties

then signed. According to one tenant, his agreement had been registered in the land registry by his attorney (though as we stated above we found no agriculture leases when we conducted our search).

Tenants reported that they paid fixed annual rents of between TT\$200.00 to TT\$600.00 per acre. Rental levels were found to be higher in Warren Road than in the other two areas.

In Warren Road and Paramin, tenants reported that their verbal agreements were on a 'year to year' basis. In most cases tenants reported that they had been renting the parcels of land for a number of years and felt reasonably secure on the parcel. Tenants at both sites, however, expressed the view that their tenure status acted as a disincentive for them to invest in the parcel of land. In Warren Road, one tenant reported



that he would have intensified production, using more organic fertilisers, if he had a more secure arrangement. On the other hand, one tenant in Paramin had made considerable investments in conservation measures on his land, including contour banks and out-flow channels, despite the fact he reported he was fearful of the landlord asking him to quit the parcel.

In Tableland, the tenants had written leases for periods between 4 and 10 years, with rents payable annually. All tenants were satisfied with this lease period, though many also expressed the view that they would prefer to own the land they were farming. Most tenants reported that they had 'first rights' to purchase the parcel as part of the agreement, if the landlord decided to sell. It was felt that this clause in the agreement secured the tenants interests from what they perceived to be the major threat – the landlord selling the land and a new landlord evicting the tenant.

The pineapple production system in Tableland involves heavy investments in land preparation (using hired machinery to clear and plough the land). These investments were reported to be about TT\$1,200 per acre. Despite the fact that the pineapple farmers were making these investments on land they did not own, they felt secure in making a good return on the investment within the life of the lease. Output from the lands decreased significantly over

time and it was felt that over the life of the lease the lands would be 'work-out' and should be returned to the abandoned state they were in before the land clearance. As there are still large acreages of abandoned land in the Tableland area the tenants believed that they would be able to find new parcels to clear and plant, if pineapple farming was still

Box 2: Warren Road, Cunupia

Warren Road is located east of the Uriah Butler Highway and South of the Guayamare River and within easy road access of the major urban areas. Soil type varies from heavy clay to Arena sands. The area is flat land and rated as good to moderately good agricultural lands, according to the land capability survey. Some parcels in the area are prone to flooding.

The Guayamare River that flows through the Cunupia district provides irrigation water for the main irrigation system on Caroni's lands, as well as for farmers in the area. The farmers in the area are predominantly engaged in intensive vegetable and ground provision production for sale at the Port-of-Spain Wholesale Market or elsewhere.

profitable. Extension workers in the Tableland area saw this pineapple farming system as problematic - poor farming practices were leading to soil erosion and in the long term the high-levels of production currently encountered could not be sustained (a conclusion supported by recent research, see Persad, Rampersad and Wilson, 2001).

Most of the tenants interviewed had rented from different landlords in the past. Different reasons were given for ceasing to rent from a landlord in the past, including the fact that landlords had sold the parcel to a new landlord, personal dealings with the landlord had become difficult or that the landlord had simply asked for the land back. In one case, in Tableland, the tenant had reportedly been forced to leave the parcel (after investing significant amounts in land clearance) as a bank seized and re-sold the land after the original landlord had defaulted on his mortgage. The general impression

from the tenants without lease documents was that they had little recourse to the law if the landlord wanted the land back – they were not happy with this situation, but they felt there was nothing they could do about it.

In Paramin and, to a lesser extent, Warren Road tenants reported that landlords were particularly fearful about encumbering their land because of the possibility of developing the parcels for housing. In Paramin a number of farmers had previously rented lands from a landlord who then sold the land they occupied. The new landlord refused to collect rent, but did not remove the farmers, who continued to farm the land. After a number of years the new landlord sold the land to a property developer, who offered the original tenant farmers compensation to leave the parcels. Some of the original tenants accepted the offer of compensation, but others remained, as they felt that their rights to the land were worth much more than the property developer was offering. At the time of our fieldwork this matter was still not resolved.

In Tableland, some of the pineapple farmers were renting from a number of different landlords in order to consolidate parcels into a holding of a reasonable size (up to 100 acres). In some cases this

involved renting from landlords whose land abutted parcels owned by the tenant. In both Warren Road and Paramin some tenants

reported that they rented more than one parcel, but these were not abutting. In the Paramin case it was important for farmers to get access to parcels in different geographical locations, as the parcels on the hills around the main village area cannot be farmed in the dry season. Farmers therefore rented, or gained access to through other means, parcels on a main ridge (where the micro-climate was wet enough to grow vegetables even in the dry season), near the river on the valley floor

Box 3: Paramin

Paramin falls within the wider district of Diego Martin and comprises a series of villages on the steep slopes between the Maraval and Diego Marti valleys, and the North Coast. The area has a long history of settlement with strong links between the families living in the area and the land they occupy. The area is peri-urban in nature. Farming is often carried out on very steep slopes and mainly comprises seasoning and vegetables, such as tomatoes. Produce is sold on a daily basis in Port of Spain Wholesale market or other retail points in the environs.

The area is becoming increasingly urbanised, as developments spread up the valley-sides from both the Maraval and Diego Martin valleys. The development of new all weather access roads has recently open-up some new areas to both farming and residential development.

The area comprises high upland soil with free internal drainage, on either limestone or calcium bedrock. The official land capability surveys rates most of the area as unsuitable for agriculture (because of slope), despite the high levels of production.

or as far away as Maracas Bay.

Tenants with verbal agreements reported that there were no specific restrictions on their agricultural activities or the type of equipment that can be brought onto the land. The written leases in Tableland also did not have any specific restrictions, though landlords did restrict the removal of timber from the land.

In both Warren Road and Paramin, tenants noted that many of the landlords themselves do not have clear title to the lands being rented, due to the fact that the parcel is owned in common. In both cases, small parcel size meant that owners of

parcels were unable to legally sub-divide (because of Town and Country Planning regulations) so instead held the parcels as "family land". In a number of cases, tenants reported that there were disputes amongst the owners of the parcel about who had the right to enter into an agreement with a tenant and collect rent.

In Tableland there appeared to be much less confusion about the ownership of parcels, despite the fact that many landowners were no longer resident in the area (and in some cases had emigrated). It appears that larger original parcel sizes had allowed families to sub-divide parcels amongst children and for individual ownership rights to be legally registered. Agricultural tenants reported that they had some concerns about finding the legal status of the parcels in question (especially given the experience of the farmer who had rented the land which was mortgaged) but interestingly many of them had photocopied extracts of the cadastral index sheets for the areas they were renting. One tenant reported that it was fairly easy to track-down the landlord of a particular parcel – you just park a bulldozer on a parcel and the landlord finds you very quickly!

DISCUSSION AND RECOMMENDATIONS

The central finding of the field research is that there has been very little adherence to the provisions contained in the Agriculture Small Holdings Act of 1961 and many tenancy agreements are still verbal, year-to-year arrangements. Even when written leases do exist, and have been drafted by attorneys, the leases do not contain the statutory provisions outlined in ASHTA. The

obvious conclusion is that ASHTA has been unable to live up to the 'revolutionary' intentions of the legislators in 1961.

The 1961 legislation was drafted on the premise that small peasant tenant farmers needed to be protected from big (often absentee British) landlords. The legislation needs to be understood in the particular class (and race) context of the times. While some of the features that characterised the land rental market forty years ago are still apparent today (e.g. the lack of formal leases and prevalence of year-to-year arrangements) the overall agricultural land sector is very different. One of the major differences, as noted above, is that during the 1970s the State nationalised many of the large tenanted agricultural estates. Two of the three estates specifically mentioned during the Parliamentary debate on ASHTA in 1961 are now State-owned (one directly and one through Caroni). By 1982, over half of the rented holdings in Trinidad & Tobago were rented from the State or State Enterprises.

It is questionable to what extent agricultural tenants on State/State Enterprise lands, especially those in the sugar sub-sector, who are represented by a powerful and vocal trade union (Trinidad Island Wide Cane Farmers Association), need legislation to protect their interests. Indeed, if the June 2002 policy decision to transfer Caroni's landholdings to the State is actually implemented, ASHTA will no longer apply to cane farmers leasing land from the company (as the Act does not bind the State).

Already, ASHTA does not apply to those tenanted estates that were nationalised under the Commissioner of State lands (e.g. Jamadar Lands). Other recent legislation,

for example the State Lands Regularisation of Tenure Act (25/1998), subjects State land and State Enterprise land to the same management and policy prescriptions – as has also been advocated by the Land Use Policy and Administration Project (see Wijetunga, forthcoming, section 6.3). We recommend that this policy also be applied to the agricultural rental sector.

The 1961 ASHTA was designed to address landlord-tenant relations that could be characterised as “inter-class” (i.e. rich colonial landlords and poor peasant tenant farmers). Our fieldwork, while being very preliminary in nature, indicated a very different type of landlord-tenant relationship on privately owned lands; one that could best be described as “intra-class”. In Tableland we found a group of young entrepreneurial farmers who were renting land from landlords who were often poorer than they were (often elderly landlords who had farmed the parcels themselves at some time in the past). In these circumstances the tenants hardly seemed to need protection from the landlords – indeed the opposite might well be the case.

In Warren Road and Paramin, we found less of a generational difference between landlords and tenants, but it was clear that landlords were not large landowners and most owned only one or two parcels. In Paramin, where there was a strong historical association between the community and the lands they occupy, we found a number of instances where land was rented amongst extended family members (which could also lead to conflicts). In many cases, in all three sites, tenants were themselves landowners of other parcels. In the case of Tableland, some of the tenants owned quite large

parcels and only rented land as a “second best” option when they were unable to purchase the parcel. The “first option to buy” clause meant that some of the tenants in Tableland saw their leases as a step towards purchasing the parcel.

The peri-urban nature of the Paramin and Warren Road sites is an important factor, as landlords were always aware that there was a potential to sell lands for residential development. In these cases, landlords were anxious not to encumber the parcel and therefore were reportedly unwilling to sign any sort of lease and reluctant to give rent receipts. The potential to sell land for residential development also acts as a huge disincentive to sell, or formally lease, agricultural land to farmers at prices reflecting its agricultural value (rather than its potential speculative value). The tenants we interviewed in Paramin and Warren Road often reported that they would like to buy agricultural land, but that none was ever available.

The shifts that have taken place in the agricultural land market over the past forty years need to be taken into account in the drafting of a new ASHTA. The sector is no longer characterised by inter-class rental arrangements, but rather by, on the one hand, a State/State Enterprise rental sector and, on the other, an intra-class rental sector. It is questionable to what extent one piece of legislation can address both of these very different sectors. We therefore recommend that the reform ASHTA should not apply to lands leased out by State Enterprises and that common law should guide the relations between landlord and tenant (as is already the case with State agricultural leases). The exact nature of the

leasing arrangement between the State Enterprises and leases should be guided by general policy decisions, as set by Cabinet and monitored by the Commissioner of State lands. The June 2002 Cabinet decision to transfer Caroni's lands to direct State control would effectively result in the adoption of this recommendation for most rented parcels in the State Enterprise sector, if the decision is actually implemented.

The thrust of Government policy towards State agricultural land has been to create secure, easily-transferable, inheritable and mortgageable property rights (through 30 plus 30-year Standard Agricultural Leases charged at market-based annual rentals). We recommend that the same policy should exist on State Enterprise lands, which would imply a *strengthening* of tenants' property rights, rather than a weakening, as is envisaged under the current reforms of ASHTA. Lifting restrictions on the sub-leasing of State/State Enterprise parcels would allow tenants to take full advantage of the assets under their control and would enable them to rent out any lands they were unable to farm using family/hired labour. This could, in turn, assist in the development of a vibrant and flexible rental market. As noted in section 2.1, informal sub-leasing of State lands is already prevalent and instead of trying to control this informal market the State should instead try to learn from it and formalise the market by removing any restrictions (except for planning restrictions) and making registration of sub-leases on State land easy and cheap (but obligatory).

As our fieldwork indicates, the clauses protecting the rights of tenants under the current ASHTA appear to be ignored by all private landlords. The intra-class nature of

much of the agricultural rentals brings into question the need for legislation to protect the rights of the tenant. It would seem to be more sensible to envisage the reforms of ASHTA as being in order to assist the *functioning* of the rental market, rather than *protecting* rights of tenants (or landlords). In this regard it is suggested that the thrust of a reformed ASHTA for private lands should be to:

- Create a standard form lease that could be used as the basis for negotiation between a landlord and tenant (and therefore decrease the necessity of using an attorney, as was done in Tableland). This should not be a statutory lease, but should provide guidance for tenants and landlords in their negotiations, by suggesting some standard clauses and terms.
- Create a functioning adjudication/tribunal system in order to mediate any disputes between landlords and tenants.
- Create a system whereby agreements could be easily and cheaply registered and recorded, ideally in the new land registry envisaged under the Registration of Title to Land Act (2000).

Alternatively, consideration should be given to simply repealing the existing ASHTA and leaving landlord – tenant relationships up to the common law. The three recommendations above could be implemented under the existing legal framework without an ASHTA. The standard form lease could be produced by the Ministry of Agriculture as a service to farmers and made available as a general guide by extension officers, the tribunal could function under the provisions of the Land Tribunal Act (2000), and easier and cheaper registrations

should be possible once the new registry system envisaged under the Land Adjudication and Registration of Title to Land Acts are put into effect.

One of the major conclusions of our fieldwork is that a dynamic agricultural land rental market needs a firm basis in a transparent and accessible land information system. One of the major issues arising from the study is the dilemma of uncertainty on the part of tenants as to the rightful owner of lands being rented. This situation often stems from a lack of probate of wills as well as intestate succession. The perceived and actual Town and County Planning Division restrictions on the sub-division of parcels of agricultural land (see Town and Country Planning Division, 1989, p. 82) and the costs of surveying, act as a disincentive for heirs to formally sub-divide inherited parcels and lead to confusion about who can actually sign a lease.

Even when the land is clearly owned by an individual landlord, it is not easy for a tenant to know exactly who the landlord is and if any other interests (e.g. mortgages) exist in the parcel. Reforming (or repealing) ASHTA will not address these land administration issues. The reform programme must, therefore, continue to address such matters as:

- Creating a more effective land registry system, through the implementation of the package of land legislation already passed by Parliament but not implemented,
- The reduction of transaction costs associated with transferring land (especially surveying and legal fees),
- The reduction of taxation on land transfers (Stamp Duty) and the

introduction of effective taxation on land values, and

- The review of the policy on 'minimum parcel size' which acts as a disincentive to register sub-divisions of agricultural parcels.

Furthermore, the current regularisation efforts on State lands need to be streamlined and strengthened in order to bring these lands into the formal land rental market. Ensuring that they remain in the formal market after regularisation will involve the relaxation of existing regulations to sub-leasing and transfers and subsequently significant new efforts to strengthen State land management and ensure the remaining regulations are enforced.

Without these wider land administration reforms the agricultural land rental market is unlikely to function effectively, with or without a reformed ASHTA. The debate over the exact nature of a reform ASHTA has involved a significant amount of work from Government officials in both the Ministry of Agriculture and the Chief Parliamentary Counsels Office (including the two authors of this paper) and from a number of consultants. Our conclusion is that the substantial effort that has been placed on revising the ASHTA of 1961 will only have a limited impact on the agricultural sector, even if the new Bill is passed by Parliament. A greater impact could be expected if the same effort had gone into implementing the activities designed to improve the country's land administration system.

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