

CURRENT STATE OF LAND MARKET IN GEORGIA

Analysis and Recommendations





CURRENT STATE OF LAND MARKET IN GEORGIA

Analysis and Recommendations

About creating prerequisites for speeding up the registration of agricultural land
and establishment of agricultural land market



Policy, Advocacy, and Civil Society Development in Georgia (G-PAC)

საჯარო პოლიტიკის, ადვოკატირებისა და სამოქალაქო საზოგადოების
განვითარება საქართველოში

The project is implemented in the framework of The East-West Management Institute's (EWMI) Policy, Advocacy, and Civil Society Development in Georgia (G-PAC) Program, funded by United States Agency for International Development (USAID). The project is made possible by the generous support of the American people through the USAID. The content is the responsibility of the implementing organizations and does not necessarily reflect the view of USAID, the United States Government, or EWMI.

TABLE OF CONTENTS

About the project.....	3
Brief history of land reform in Georgia.....	3
Problem description.....	7
Objective.....	12
Methodology and cost of proposed solution.....	13
Annex.....	15
References.....	16

ABOUT THE PROJECT

The Economic Policy Research Center conducted a study Current State of Land Market in Georgia: Analysis and Recommendations. This report was prepared within the framework of the program Policy, Advocacy, and Civil Society Development in Georgia project (G-PAC) implemented by the East West Management Institute (EWMI) and funded by the United State's Agency for International Development (USAID).

A long-term economic development of the country, especially in the sector of agriculture, is almost impossible without the protection of property rights and establishment of a transparent system of land ownership. Lack of transparency in the protection of land ownership rights poses a serious risk to the country and impedes the economic development of rural areas. This report provides analysis of some problems impeding the development of land market as well as recommendations for tackling these problems.

BRIEF HISTORY OF LAND REFORM IN GEORGIA

The reform of agricultural land in Georgia was launched in 1992 with the Order of the cabinet of ministers of the Republic of Georgia No. 48, "On the Reform of Agricultural Land in the Republic of Georgia," and through massive denationalization of agricultural land. Given the civil war and ongoing conflict in Abkhazia at that time, we believe that the land reform mostly pursued social aims. In order to avoid social unrest against the backdrop of mass impoverishment of the population and economic hardships, the government of that time was forced to transfer some land, mainly very small parcels, to almost entire population. The reform was not built upon any conceptual basis; nor did it have any long-term vision of what it could bring to the country in economic and social terms. Moreover, a low degree of legitimacy of the then government, a clear lack of competence, a shortage of time as well as adequate monetary and organizational resources adversely affected the consistency and quality of the reform soon after its commencement. From the outset, the government failed to establish precise mechanisms guaranteeing ownership rights. This, in fact, still needs improvement as of today.

As a result of the reform, the state transferred a large part of agricultural land resources namely, arable lands and perennial crops into the use (ownership) of population. However, the issue of formal acknowledgment of ownership right remained unattended. Moreover, the population themselves did not have proper information about basics of ownership rights or the desire and possibility to exercise that right. The reform ignored main principles of land use - the land was fragmented into very small parcels, basic infrastructure needs were neglected, the issue of separation of public and private sectors was not considered as well as the need of developing the land market and other important factors. That led to mass damage of roads, irrigation canals, windbreaks and other facilities.

It should be noted here that the reform, to this or that extent, met requirements of all groups of population. Land was given both to rural and urban population regardless of whether or not they had been engaged in agriculture earlier. Considering that it was probably impossible for the land reform to be implemented consistently in the setting of objective, extremely grave problems in the 1990s, we should assume that regardless of a number of serious shortcomings, some weak prerequisites for the establishment of a class of owners were still created.

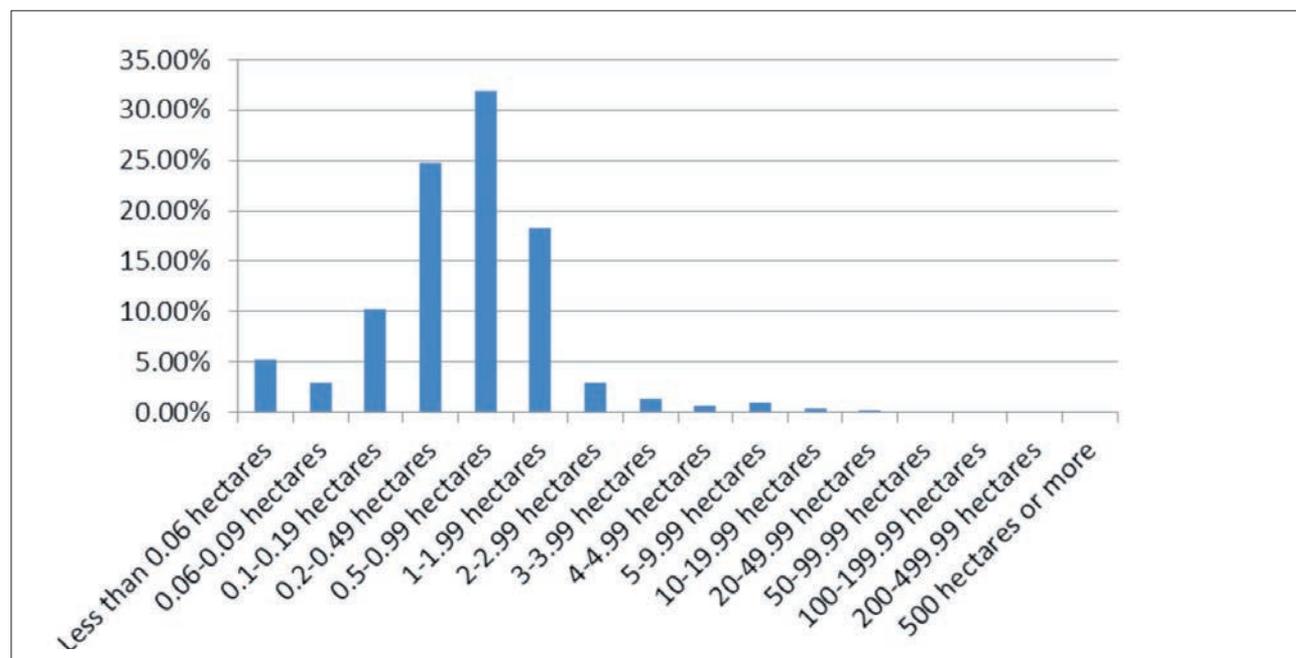
At the initial stage of the reform the state maintained its control on perennial meadows and pastures. Meanwhile, the process of leasing out land resources that remained under the state ownership was launched. Large plots of land were leased out to probably relatively affluent rural and urban residents who thus became actual holders of those lands. This process probably lacked transparency and was carried out with violations.

Eventually, the state initially transferred some 760,000 ha of land to the population within the framework of the reform and leased out a large part of that 460,000 ha land which remained under its ownership. Up to 1.25 ha of land was allocated to people engaged in agriculture and permanently living in rural areas whilst up to 5 ha to people of the same category but living in mountainous areas. Those who were not engaged in agriculture but lived in rural areas permanently were allocated 0.75 ha of land whilst people of the same category but living in mountainous areas were given up to 5 ha of land each. Urban residents who had or wanted to buy parcels in villages could receive up to 0.15 ha in zones adjacent to urban areas, up to 0.25 ha in lowlands and up to 1 ha in mountainous regions. Residents of regional centers and towns engaged in agriculture were allotted 0.75 ha of land each whilst the same category of resident employed in non-agricultural sector received 0.5 ha¹.

According to the law adopted by the parliament in March 1996,² households who were unable to receive lands over the period between 1992 and 1995 were allowed to receive the parcels allocated to them during one year. Thereafter, this deadline was extended to January 1st 1996. The same legal act equalized the status of rural households engaged in the spheres of health care, education and culture with the status of those engaged in agriculture sector. The distribution of land to the former category of people depended on the size of existing land resource but up to a maximum size defined for the latter category. The land distribution was to be carried out either at once or gradually depending on the capacity of cadastre service.

It is worth noting that in some cases transferred lands were fragmented into three, four or more smaller parcels which were located at various places. Leased parcels were significantly larger in size and much less fragmented. One can also assume that leased lands had better natural characteristics than smaller lands transferred into the ownership of population and the infrastructure around leased lands were in a better condition. However, this cannot be asserted because of lack of relevant information. Eventually, the reform led to an extreme fragmentation of land, thereby rendering large part of such parcels useless for commercial application.

Figure #1. Relative frequency of parcel sizes in % of total; Source



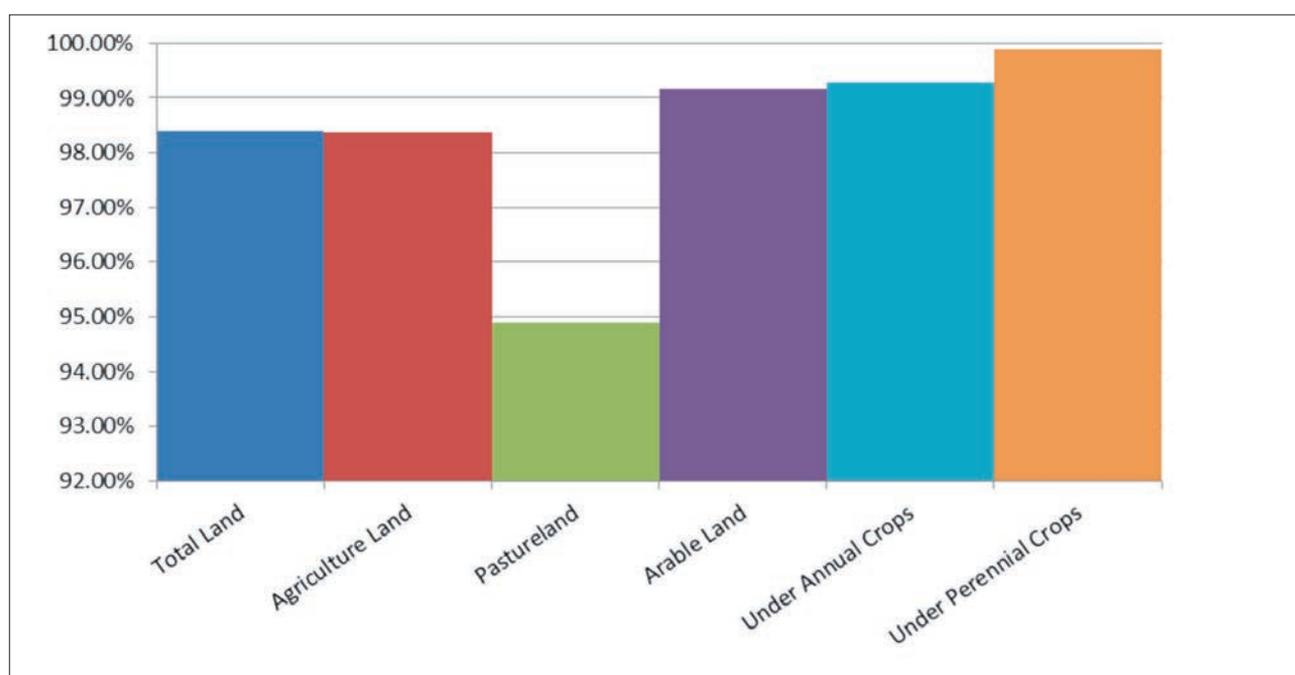
Source: National Statistics Office of Georgia (Geostat), results of Agricultural Census, 2004.

1 Terra Institute, LTD for USAID: Georgia Land Market Development Project Final Report, October, 2005.
 2 Law of Georgia on Ownership of Agricultural Land. 22.03.1996.

The validity of the information about the distribution of lands by size shown above may be questioned especially considering that the census was conducted in 2004. Unfortunately, no new agricultural census has been conducted since then, thus making it hard to obtain updated information about current situation. Moreover, agencies that are technically and organizationally competent (Public Register, Ministry of Economy) are unable to provide this information.

Figure #2, provided below, shows the degree of land fragmentation by purpose of parcels. Bearing in mind that the operation of perennial crops does not necessarily require large plots, the similarity in fragmentation of perennial and annual crops causes surprise. On the other hand, the fact that an average size of absolute majority of parcels falling under the category of meadows and pastures is less than 5 ha reflects the reality quite objectively that prerequisites for efficient use of land resources are still to be created in Georgia.

Figure #2. Frequency of parcel size under 5 ha by categories (% of total)



Source: National Statistics Office of Georgia (Geostat), results of Agricultural Census, 2004.

The stabilization of economic and political situation since 1996 created the need of establishment of the land market and a possibility to bring the land reform to its end. In 1997, the process of creating formal mechanisms necessary for establishing the land market and improving the legislation was launched with the financial assistance from international donors (mainly, USAID, German Bank for Reconstruction and Development, World Bank and UNDP). In particular, in January 1997, with the assistance of USAID, an association of land owners was established and under the aegis of this association a complete inventorying of laws and legal acts related to land privatization and ownership was carried out. A leading role in those processes on the part of the state was assumed by the State Department of Land Management³.

³ Terra Institute, LTD for USAID: Georgia Land Market Development Project Final Report, October, 2005.

1998 and 1999 should be considered as a turning point in the recognition of agricultural land ownership in Georgia, when, owing to the assistance of international donors and primarily USAID, the process of mass issuance of land registration certificates started. This process was completed by 2004. With the Order of the President of Georgia No. 327 in “On Urgent Measures for the Initial Registration of Agricultural Land Ownership Rights and Issuance of Registration Certificates to Citizens of Georgia,” issued in 1999, the process of issuing registration certificates started on a mass scale. This process was performed within the framework of USAID project, Land Market Development Program. Finally, President’s decree #327 of 1999 was abolished by the Law of Georgia on Registration of the Rights on Immovable Property adopted in 2007. The issuance of ownership registration certificates to population free of charge, which started in 1999, was first implemented in two pilot districts of Georgia. This process thereafter extended to every district across Georgia. Finally, by the end of the Land Market Development Program, approximately 2.4 million⁴ registration certificates had been issued. The Law on Public Registry, adopted in 2004, continued the process of formalizing agricultural land ownership as the former state department for land management was merged with the newly established Public Registry. Technical bureaus were also abolished with their assets merged with the Public Registry. Over the period between 2004 and 2008, the Public Registry continued issuing ownership certificates based on maps existing on sites although a common integrated cadastre system did not exist by that time.

The laws of Georgia On Property Legalization and On Declaration of Private Ownership of Non-agricultural Land in Use of Individual and Private Legal Persons adopted in 2007 should be considered as a step forward on the path towards recognition of formal ownership rights on land. These laws made it possible to identify legal status of land plots that were in legal and illegal possession and to establish procedures for formalizing the ownership right. Practical implementation of these laws was facilitated by the Order of the President No. 525, “On the Rule of Recognition of Ownership Right of Land in Use of Individual and Private Legal Persons and Approval of the Form of Certificate on Ownership Right,” issued on 15 September 2007⁵.

The launch of formation of a common cadastre system, which started in the Public Register in 2008⁷ with the assistance of German Bank for Reconstruction and Development, can be viewed as a crowning achievement of the formal process of agricultural land market establishment. This donor organization provided the Public Registry with a programming package. The list of procedures for registration was clearly defined. After submitting the documentation envisaged by the law and a cadastre map, seekers of formal ownership right were able to obtain a proper excerpt from the Public Register, which would indicate details of owner and clearly defined land coordinates. At the same time, an owner and every interested person was able to seek corresponding information online in the database of the Public Register.

In 2011, the state terminated lease agreements signed with users on long-term lease of lands. The holders of leased lands were given a possibility to take advantage of the right of first refusal and buy out lands being in their use. Should a user deny the right of first refusal, the land was taken back by the state and sold at an auction where anyone willing could buy it. Thus, by 2012, the state was supposed to retain only an insignificant part of land resources in its ownership.

The above recounted history creates an impression that the establishment of land market in Georgia has been formally completed. At the same time it is necessary to finalize the processes initiated in the last decades with the efforts from the state and donors, i.e. finalizing the primary registration for creating prerequisites for a functioning land market.

⁴ Terra Institute, LTD for USAID: Georgia Land Market Development Project Final Report, October, 2005.

⁵ Economic Prosperity Initiative. Agriculture Sector Policy Environment Assessment Report. 2011

⁶ Economic Prosperity Initiative. Agriculture Sector Policy Environment Assessment Report. 2011

PROBLEM DESCRIPTION

Regardless of performed work and efforts undertaken by the state and donor organizations, it is still hard to find out what size of land belongs to the private sector in Georgia, what is the total size and the number of such land parcels. For an interested person it is very difficult to obtain the information about the location of this or that land plot which can be attractive in economic terms. More importantly, even state agencies find it hard to obtain the information about what size of agriculture land is under the state ownership. In addition, there is assumedly a significant amount of land plots in the so called "grey zone." This implies those land resources which may be neither in state nor in private ownership or may be disputable between the private sector and the state.

Based on expert assessments and surveys one may assume that approximately 20 or 30 percent⁷ (at the best) of agricultural land transferred under the reform has been fully registered to date. At the same time, the current legislation does not regard the registration certificates held by the population as properly legitimate even though these certificates have a signature of the president - the person with high legitimization. A seeker has to take corresponding procedures anew, to prepare a drawing with measurements of parcel and only after that can he/she obtain an excerpt from the Public Registry. The existing ownership certificates do not reflect distinct boundaries and coordinates as well as buildings and infrastructure existing near a land parcel. Often, certificates were issued to households instead of individuals, which is somewhat ambiguous in legal terms. One should also note that a significant segment of population regards this documentation as a proper document certifying the ownership right or has no certificate at all. It should be further noted that in case of presenting the registration card together with a survey drawing, the parcel registration goes smoothly. At the same time, as per the existing legislation in Georgia, a list of documentation is given that enables the seeker to collect all the necessary documents and proof his/her legitimate ownership. Moreover, the inferiority of documents available to population is also proved by the Civil Code of Georgia which recognizes the ownership only upon its registration. However, to complete the formal process of registration, an interested individual, under the 2011 law and corresponding fees, has to pay GEL 250-300 per hectare (preparation of drawing showing measurements of parcel costs GEL 200 per hectare on average (as of today, fee on preliminary registration 51 GEL is abolished). Therefore, a seeker has to bear additional costs for obtaining ownership rights.

As a result, a paradoxical situation emerges when land holders or owners (especially, owners or holders of smaller-size parcels) do not want or cannot complete a formal registration procedure because they either consider their ownership right as legally proper or do not want to sell land. At the same time, those who want to purchase land cannot find land parcels they want to buy without unplanned waste of time and energy if they do not have close ties with sellers and do not possess insider information about the situation with regard to this or that land.

Even though a process of establishing farms is underway to some extent, especially in the area of vine growing and perennial crops and also through purchase of land plots by foreign and Georgian investors (though in relatively insignificant numbers), the degree of protection of agricultural land ownership is way lower than desired. This enhances uncertainty in economic activity and creates a risk of expropriation, even if the risk is quite low currently. In addition, this poses a risk to bona fide purchasers or activity of investors in such geographic areas where a large number of adjacent land plots are unregistered.

Moreover, a provision in the Civil Code may potentially tempt the state to get hold of land plots which according to its information are not registered or to expropriate land plots for a certain economic need without paying any compensation

⁷ Economic Prosperity Initiative. Agriculture Sector Policy Environment Assessment Report. 2011

and/or presenting corresponding substantiation. Such instances were recounted in the reports⁸ of non-governmental organizations (instances in Mestia⁹, Gonio¹⁰, Samegrelo). Moreover, a chaotic situation regarding the degree of protection of land ownership right makes a free activity of responsible local or foreign investors who do not have insider information virtually impossible. A transparent registration of land parcels as a class of assets and equal provision of corresponding information to every interested person decreases the likelihood of such complications to almost zero.

In general, the land reform in Georgia in 1992 was prepared and implemented conceptually poorly. The donor assistance in this area has substantially improved the situation; however, a number of activities are still to be implemented in order to fully develop the land market. We believe that it is necessary to finish the initial registration procedures by the state, since this is the only way to create the necessary quality of property protection, as well as information that as a rule free market cannot ensure, for the well-functioning market. The existence of the ownership right, as of a legal category, as well as the existence of information, as of a public good, necessarily produces the need for its protection by an independent arbiter which must be from the start performed by the state.

It must also be taken into account that the state issued land ownership certificates to those people who, in the majority of cases, lacked practical experience of formal use of ownership rights under the Soviet Union. In fact, the state merely returned those assets to population (although without formally recognizing that), which belonged to the state under the Soviet rule but were created by people themselves. In fact, population created those lands with their labor and they did morally deserve to get proper, guarantees of ownership right from the very beginning.

The state, from the onset, should have been guided by the principle of recognition of ownership right as of a public good and should have clearly separated the state property from the private one and issued proper certificates of ownership rights. As noted above, these processes can be conducted faster and cheaper under the aegis of state than by using only market mechanisms. Moreover, the land registration process for the private sector automatically means the registration of land or infrastructure remaining or to be maintained under the state ownership.

The fact that a peaceful and democratic transfer of power took place for the first time ever in Georgia in 2012, creates a unique chance for putting the problem of land ownership to right. The current government has a proper degree of legitimacy and competence as well as fiscal capacity to carry out the process rapidly and efficiently based on principles of market economy and with a broad involvement of civil society. Today, a large majority of expert community acknowledges the problem of land market in Georgia although some believe that the programmed registration of land is unjustifiable at this stage or does not represent an immediate need.

Below we provide arguments regarding the regulation of ownership rights on agricultural land. The discussion is based on “broader” reasoning in order to avoid detailed review of economic, social, legal, demographic, moral or environmental aspects of land ownership. On the other hand, “broad” opinions, given below, include in some way the majority of aspects. The discussion is structured so that arguments against registration program of agricultural land with the support of the state are provided first and are followed by counterarguments.

Argument #1 against registration program: The process of registration of agricultural land will be dealt with by market mechanisms themselves. This will happen gradually and when the land as a productive asset becomes advantageous for interested persons, a proper registration of that asset will take place and it will be transferred/retained by those persons who will be able to use it more efficiently.

8 With the support of Open Society Georgia Foundation a project - Protection of Property Rights in New Touristic Zones of Georgia was implemented by four non-governmental organizations: Association Green Alternative, Georgian Young Lawyers Association, Transparency International Georgia, and Regional Media Association of Georgia. Stripped Property Rights in Georgia. March, 2012. http://www.osgf.ge/files/publications/Report_sakutreba_Eng.pdf

9 Problems related to the Protection of Property Rights. The case of Mestia. Tbilisi, July, 2011 http://www.osgf.ge/files/publications/2011/Report_Mestia_ENG_July_2011_.pdf

10 Problems related to the Protection of Property Rights. The case of village Gonio. Tbilisi, July, 2011. http://www.osgf.ge/files/publications/2011/Gonio_ENG_WEB.pdf

Counterargument #1 in favor of registration program: It should be said against the above argument that even though the logical line of that reasoning is smooth, the process will not be completed as rapidly by leaving it to the fate of market as in the case of overall registration program. How can the situation be otherwise explained that the number of uncultivated plots of land at minimum do not increase year after year in Georgia whilst prices on agricultural produce keep rising. It is difficult to believe that the productivity of these lands is so low that there is no demand for investing in them. We should therefore assume that there is a latent (unrealized) demand/requirement for land in Georgia. For that demand to materialize, it is necessary to eliminate impeding factors, including the lack of guarantees of inviolability of private ownership and the problem of registration. Only after these problems have been resolved and appropriate policy implemented by the state will it become possible for the country to get maximum benefit from agricultural land. Even though prices on land have been increasing very rapidly worldwide, the interest towards the land as to a class of assets in Georgia is very low on the part of both local and foreign investors. The second, it is less likely that serious investors or a medium-size potential farmers will assume risks associated with the purchase of unregistered parcels especially considering that for starting up a large operation they will need to perform this process for several or even dozen times (because parcels are scattered and identity of owners is often unidentified). Third, even if interested persons succeed in registering land, adjacent parcels with undefined status will arouse in them a sense of being unprotected and will create additional risks in their daily activity. Validity of this opinion can easily be proved by corresponding examples in almost every district of Georgia. Fourth, an inferior legal status of neighboring parcels increases economic risk of agricultural activity and limits the capacity to derive benefit in cases when this is possible (the problem of positive and negative externalities in economy). Fifth, during that period which the registration and consolidation of parcels will take, if they are left to the fate of market mechanisms, the quality of uncultivated land will deteriorate as well as the quality of that land which is not cultivated based on the principle of maximization of benefit (this is true for a significant part of traditional farms), thereby further complicating attraction of productive investments in agriculture.

Argument #2 against registration program: The land reform in Georgia was implemented no worse than in any other country of the former Soviet Union and there is no need of further interference.

Counterargument #2 in favor of registration program: Unfortunately, the land reform was indeed badly implemented in the majority of countries of the former Soviet Union but that does not relieve the implementers of the reform of their responsibility nor does it diminish the need for immediate improvement of results. It is precisely the result of poorly implemented land reform that the agriculture of Russia, Kazakhstan and Ukraine which are distinguished for vast agricultural land resources and their diversity, is far less efficient compared to its potential capacity.

Argument #3 against registration program: Given Georgia's specifics and high poverty level among rural population, the formal registration of ownership on land may be unjustified in social terms because if the land market starts operating efficiently speed a significant segment of population will probably be left without land and will not be able to find an alternative source of income.

Counterargument #3 in favor of registration program: This argument belongs to the category of social stability and the following must be noted with regard to that: first, in addition to that population which is directly engaged into agriculture, land resources in Georgia were also distributed to that urban and rural population which had neither the desire for nor the experience in land cultivation. These people had merely no other way but to engage in agriculture temporarily. With the economic stability achieved, the need to cultivate the land disappeared whereas the interest in cultivating relatively larger parcels abated because of inferiority of formal ownership right on land, poor infrastructure or scattered parcels. Moreover, the establishment of land market will have a positive impact on its productivity and create additional jobs. At the same time, the implementation of registration program decreases the risk that people will abuse their superior economic or social standing as well as the possibility of having access to information and will get rid of citizens with lower capacities. The likelihood of such abuse is higher when the processes are left unattended.

Argument #4 against registration program: The process of registration program may be too costly and its implementation is not expedient because no serious investments must be expected as parcels are small in size and scattered.

Counterargument #4 in favor of registration program: It should be noted outright that the formalization of land ownership rights is a necessary but not the only condition for the attraction of investments. Constitutional guarantees may be very high in a country but investments still be scarce because of macroeconomic conjuncture or incorrect state policy, as well as many other factors. At the same time, the chance of attracting investments is too scarce if ownership rights are not protected. The second part of the above argument is related to costs of implementing a mass registration project. Indeed, this may prove to be a very expensive project. We believe that net benefit of implementing such project with the support of the state is way higher both in terms of time and money than in case when it is implemented by the private sector alone. To illustrate, Table #1 shows the size of privately owned parcels, the degree of fragmentation and costs of obtaining proper registration. According to expert assessments, today, the preparation of drawing showing measures of a parcel costs GEL 200 per hectare (this is a necessary component of registration); moreover, according to effective provisions entered into force as of early 2012, a registration fee of GEL 51 is to be paid per parcel; a seeker thus have to pay approximately GEL 400 per ha to obtain the ownership right.

Table #1: Costs needed for the registration of a hectare of land

Average size of farm in hectares	1.22
Average number of parcels per farm	2.33
Average size of parcels in hectares	0.52
Average cost of registration per hectare (GEL) ¹¹	407

It is worth noting that the absence of land market, which is a direct result of problems existing in property rights protection, also of the fact that for functioning market transparent information is needed, is negatively reflected in costs sold by the state. The source of data is the information taken from selected 165 transactions published on the webpage of the Ministry of Economy.

Table #2: Average size of land sold by the Ministry of Economy and average price paid per hectare (GEL)

SIZE IN HECTARE	AMOUNT	FREQUENCY	SALES PRICE	AMOUNT	FREQUENCY
Less than 1 ha	39	23.64%	Less than 360 GEL	12	7.27%
From 1 to 2 ha	36	21.82%	GEL 360 - 720	31	18.79%
From 2 to 3 ha	19	11.52%	GEL 720 – 1080	51	30.91%
From 3 to 4 ha	24	14.55%	GEL 1080 – 1334	38	23.03%
From 4 to 5 ha	7	4.24%	GEL 1334 – 1440	0	0.00%
More than 5 ha	40	24.24%	More than 1440 GEL	33	20.00%
Average		9.12	Average		1334.00

¹¹ The calculations are given as of early 2012, when the registration fee for one parcel was 51 GEL, the fee is currently abolished.

The above table shows that the sales price of land plots disposed of the Ministry of Economy is not very high. An average sales price is only three times higher than the price which private owners will have to pay to obtain a proper registration of ownership right. In such case, lands are purchased by more or less informed investors having financial resources. It is easy to assume that in case of small-size private owners, the cost of proper registration may even exceed the nominal (market) price of land (we should take into account here that the nominal price of land is only an evaluative category because in the absence of land market and unavailability of relevant information, one can operate with nominal categories alone).

Consequently, given the current situation, the expensiveness of registration as a physical process loses topicality because in case of carrying out a mass registration, there is a potential for decreasing corresponding prices manifold. If the decrease is carried out, it will be necessary to find correct ways of enabling the population involved in the process of registration to efficiently apply cheap mechanisms of resolution of potential disputes and thus speed up the process of creating prerequisites necessary for the establishment of land market.

Moreover, the above argument is a classical example of confusing economic and ownership categories. Those who believe that investments will not be made in agriculture forget that investments, despite a great need in them, are still a secondary factor as compared to the protection of ownership right. Namely, the state is obliged to equally ensure every citizen with protected, constitutionally guaranteed right of ownership. Only after that will a person decide whether or not to dispose of his/her own property. It does not make sense to analyze an event or a process that is taken out of a specific contextual environment. In this regard, a land registration separately, as a mechanism of guaranteeing an ownership right has an independent value. However, in conjunction with other parameters (for example, corresponding supportive measures undertaken by the state), an individual as well as social benefit of registration of land ownership right increases manifold. Empirical studies of results of programmed registration projects launched in the 1980s show that the registration produced significant positive results in the majority of Asian, Latin American and other transitional countries. The results are not uniform only in case of Sub-Saharan Africa. As a result of proper completion of land registration, there will be established mechanisms for consolidating land through market principles (as it happened in many countries), for example, groups of specialized “consolidators” will emerge which will work on the increase of market price by means of buying out parcels from individuals and improving them. This will complement the activity of the state undertaken for the development of agriculture.

For illustration purpose, a table below shows a positive impact on separate economic parameters during a ten-year period after the land registration in Asian, Latin American and other transitional countries. Also, this report is attached with a figure showing the impact of registration of parcels on main economic parameters (see the Attachment¹²).

PARAMETER	MODE OF IMPACT	SIZE OF IMPACT
Sales price of land	Positive	Medium
Encumbering land with formal loans	Positive	Medium/large
Productivity of land	Positive	Medium/large
Investments	Positive	Large
Optimal use of land	Positive	Large

In addition to above provided discussion, one can list several independent arguments in favor of acceleration of agricultural land registration:

12 Gershon, F & Akihiko, N. The benefits of land registration and titling: economic and social perspectives. Land Use Policy, Vol 15, N 1, pp 25-43, 1999.

- Without regulating the registration, any talk about implementing serious programs for the development of agriculture and agriculture infrastructure (even the infrastructure which do not directly relate to the agriculture) is unserious;
- It is logically incorrect to pose a gradual land registration based on market principles as a mechanism against a onetime land registration program implemented with the support of the state. The latter mechanism is the market mechanism because through it the state creates very rapidly that legal and regulatory infrastructure which is necessary for the functioning of market economy;
- Without finally formalizing the ownership on land it becomes very difficult to develop and implement targeted social measures for the alleviation of poverty in rural areas;
- Because the land ownership right is not formalized, a mechanism of collecting land taxes does not exist or is inefficient, which is translated in budget deficit of local self-government. (Let us note that the issue of expedience of land tax and its rate does not fall within the scope of this paper);
- Without formalizing the ownership on land it becomes extremely difficult to carry out corresponding statistical or analytical activity;
- Opponents to the mass registration of agricultural land do not take into account that this project is directed towards strengthening the civil society, thereby increasing the trust of society towards the government and of members of society towards one another;
- A step towards the establishment of land market through registering agricultural land is a positive message sent to the business, which will significantly increase the degree of transparency of the country's economic life and boost the reputation of the state as of a guarantor of fair use of ownership rights.

OBJECTIVE

To facilitate the establishment of land market in Georgia it is necessary to complete the reform launched in the 1990s. A well-considered registration program must be implemented on the basis of market principles and in combination with mechanisms contributing to consolidation of land parcels. It is necessary to create prerequisites for the capitalization of land and consolidate land parcels to sizes which are economically justified. Current extremely small and fragmented parcels do not virtually allow commercial activity. An objective of the reform is to create a viable class of farmers which can be done by concentrating from 5 to 10 ha of lands in the hands of 50,000 to 100,000 farms. We think that the actual number of entrepreneurs really engaged in agriculture do not exceed the above figure even now in Georgia. The completion for the land reform will make it possible to attract badly needed monetary resources and innovations. Bearing in mind economic, geographic, social, demographic and cultural peculiarities, a total consolidation of lands is not expected. Of course, farms with the size of several hundred hectares will also emerge in future but latipundia-type farms, as it is common in separate Latin American countries, will not be created because of diverse topography of Georgia. Consequently, the fear that a large segment of population will be left without land and that will cause social unrest is unfounded and exaggerated. The completion of agricultural land registration and facilitation of consolidation of parcels must be aimed at establishing relatively large household farms. As the world experience has shown, this very form of arrangement of farms ensures the most effective use of resources and highest stability of agricultural sector. One of necessary objectives in the completion of agricultural land registration must be the preparation and implementation of agriculture development programs as well as resolution of environmental problems.

METHODOLOGY AND COST OF PROPOSED SOLUTION

When developing measures for tackling problems related to the protection of agricultural land ownership in Georgia, one must take into account the experience of the past, made mistakes or attained achievements as well as large-scale demographic, economic, political and social transformations which have taken place in the past two decades. Over that period much has changed in Georgia, which was not reflected in the preparation and implementation of land reform. In particular, demographic environment has changed and the majority of initial receivers of land now fall under an aged category of citizens. Many citizens have left the country either temporarily or permanently whilst some have died. An attitude towards the land has changed with the majority of initial receivers no longer having a desire to use land plots whilst interested persons have no access to them. One should also take into account that physical environment has also changed. For example, a drainage infrastructure and access roads to parcels have dilapidated in a large part of western Georgia, windbreaks have been cut down whilst a significant part of land has already been covered with vegetation and woods. In fact, the situation has emerged when without processing the information obtained on site it is practically unclear who cultivates whose parcel, where the boundaries of concrete parcel run and so on and so forth.

The key principle considered in the completion of land reform, more precisely the initial registration, must be a practical approach, i.e. the mechanism of recognition of factual ownership of land, in case the actual owner of the land does not occupy large portions of state owned lands. In our opinion, even if legal, economic and juridical inventorying of already completed processes is conducted, finalizing the process will be quite hard. Indeed, it is possible that initially parcels were transferred to a segment of owners in an ambiguous way but if no one has claims against an actual owner he/she must be allowed an unimpeded registration. It must also be noted that a large segment of population, who received land parcels as a result of the reform, have no information about inferiority of their ownership. Prospects that such people can be convinced to spend their money and time to get ownership right is very bleak. Therefore it is expedient to implement the program at the cheapest price possible and probably, with the assistance of donors, however the actual process should be overseen by the state and local authorities, with active participation from local communities and non-governmental organizations, which, in turn, will speed up the program and ensure a high quality implementation. It is also important to take into account that it is necessary to clearly separate powers and responsibilities of key actors – the state and organizations involved in the registration of land resources (who prepare drawings showing measures of parcels). This is required for ensuring the quality and fairness of the project. Both functions must not be performed by the state. The state must create maximally comfortable and “cheap” environment for taking procedures and also ensure the communication of corresponding information and high publicity.

In general, a proper conduct of the process will require serious preparation works. A list of possible measures is provided below:

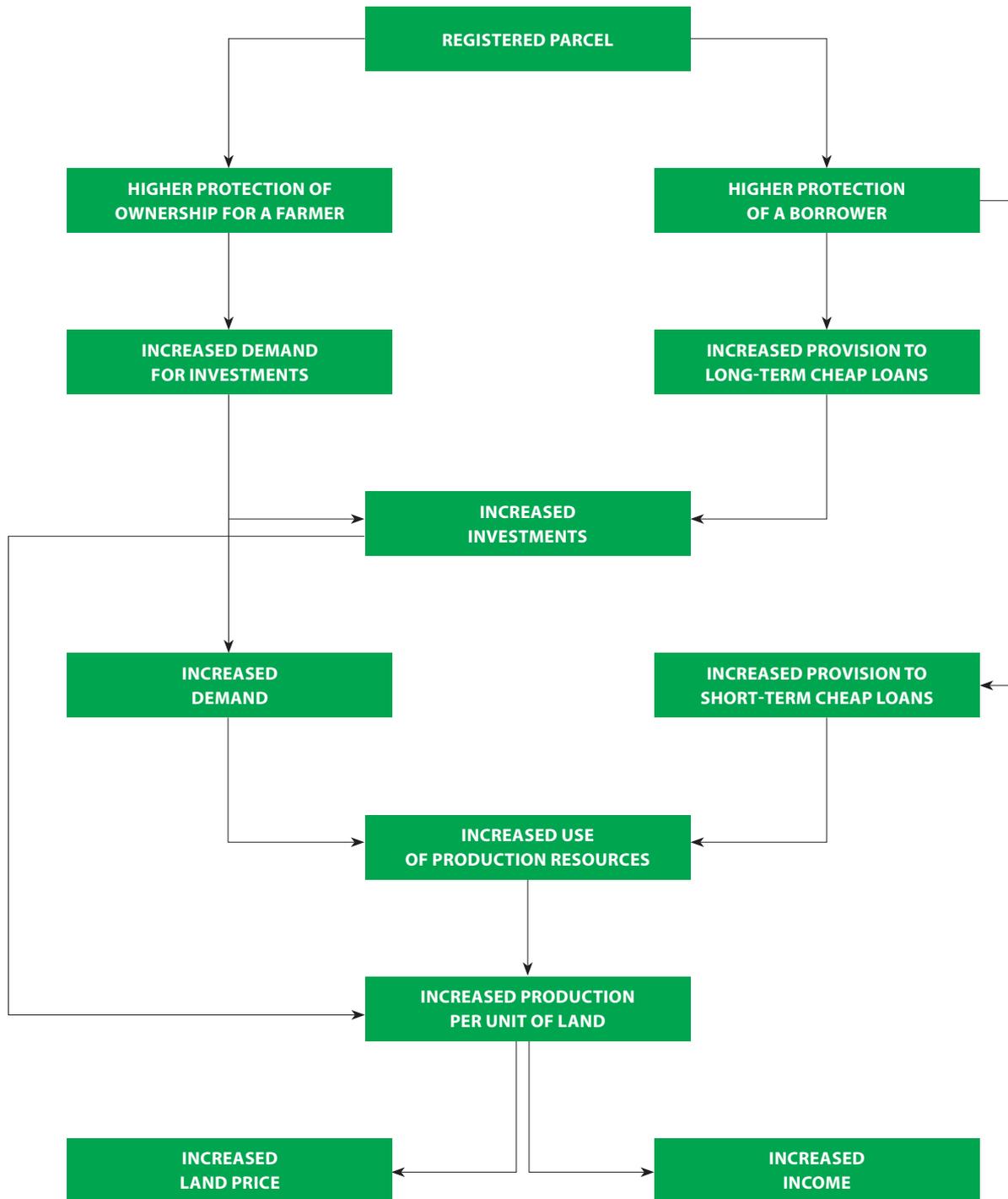
1. Inventorying of all types of documentation (both in hard copies and electronic forms) available as of today must be conducted in order to have a clear idea about the present status of the reform, the dynamic in this area and a scale of work to be performed. Discrepancies between the data in central office of Public Registry and local departments must be eliminated, in case of existence;
2. During the next stage, a state approach to the problem solution must be defined and a framework program must be developed efficiently, at low costs and with the involvement of larger society, representatives of local communities and non-governmental sector;

3. Timeline of the program with corresponding costs must be drawn up and duties and responsibilities of main actors defined. Main actors will probably include the state, private sector, donors, non-governmental organizations, representatives of local communities. The process must actively involve so-called land planners which have a rich practical experience of participating in the process;
4. Adequate amounts and technologies ensuring the cheapest possible implementation of the program must be sought. This is of principle importance because according to the current practice, costs for land registration are quite high. Alternative means of measuring and registering technologies must be studied in order to decrease relevant costs. (We think there is a potential of decreasing costs);
5. State approach towards various forms of land ownership (private, community, state, traditional) must be clearly determined. This means that in separate regions the registration of only privately owned lands may prove insufficient and the development of policy in regards with community pastures, common owned land may be required;
6. The legislation certifying the land ownership must be improved in order to simplify land registration procedures to a maximum extent. This refers to both illegal and legal ownership, issues of inheritance and others. The state must consider and maximally cheapen procedures in order to avoid the impediment in the process. To speed up the initial registration, an option of prolonging the abolishment of the initial registration fee may be considered because this is unplanned revenue for the Public registry anyways. Mechanisms for rapid and efficient resolution of potential disputes on sites must be developed taking into account cultural, regional or other peculiarities;
7. And finally, the implementation of the program must be launched in coordination with other program directions developed by the government (rural development, infrastructure, environmental and tourism policies, etcetera). The degree of state involvement may be minimal as well as proactive. For example, at places where the state has a desire to implement development projects and expects large investments, options of buyout-consolidation of land parcels can be considered for their further sale or implementation of other types of infrastructure of investment projects on them.

ANNEX

Scheme showing impact of land parcel on economic parameters

Source: Gershon, F & Akihiko, N. The benefits of land registration and titling: economic and social perspectives. Land Use Policy, Vol 15, N 1, pp 25-43, 1999.



REFERENCES

1. Implementation of Land Re-Parceling Pilots in Six Villages (Moldova Land Re-parceling Pilot Project) – Final Report By Morten Hartvigsen; Rural Investment and Services Project II (RISPII); Terra Institute; February 2009
http://www.terrainstitute.org/pdf/MOLDOVA%20Final%20Report_final.pdf
 2. Immovable Property markets in Kosovo By J. David Stanfield and Skender Tullumi; Terra Institute;
http://www.terrainstitute.org/pdf/prop_kosovo.pdf
 3. Final Report Georgia Land Market Development Project; October 31, 2005 http://www.terrainstitute.org/pdf/Georgia_LMDP_Final_Report.pdf
 4. Evaluation of the Georgia Land Market Development Program Final Report; USAID, August 8, 2011
http://pdf.usaid.gov/pdf_docs/PDACS584.pdf
 5. Stripped Property Rights in Georgia, Third Report; Association Green Alternative, Georgian Young Lawyers' Association, Transparency International Georgia and the Georgian Regional Media Association; March 2012
http://transparency.ge/sites/default/files/post_attachments/StrippedPropertyRights_April2012_Eng_0.pdf
 6. Problems Related to Protection of Property Rights, the Case of Village Gonio; Association Green Alternative, Georgian Young Lawyers' Association, Transparency International Georgia and the Georgian Regional Media Association; March 2011
http://www.osgf.ge/files/publications/2011/Gonio_ENG_WEB.pdf
- Problems Related to Protection of Property Rights - The Case of Mestia; Association Green Alternative, Georgian Young Lawyers' Association, Transparency International Georgia and the Georgian Regional Media Association; July 2011
http://www.osgf.ge/files/publications/2011/Report_Mestia_ENG_July_2011_.pdf
7. Economic Prosperity Initiative: Agriculture Sector Policy Environment Assessment Report, 2011
<http://www.epigeorgia.com/images/reports/epi%20agriculture%20sector%20policy%20environment%20assessment.pdf>
 8. The benefits of land registration and titling: economic and social perspectives, Gershon Feder and Akihiko Nishio, Land Use Policy, Vol 15, N 1, pp 25-43, 1999

Internet Sources:

1. Ministry of Economy and Sustainable Development of Georgia; <http://privatization.ge/>
2. Geostat; <http://www.geostat.ge/>
3. World Bank; <http://data.worldbank.org/>



85/24 Paliashvili/Mosashvili str. Building I. Floor IV.

Tel/Fax: +995 32 2 207 305

e-mail: info@eprc.ge

www.eprc.ge