

A. THE STATE OF LAND REFORMS AND SUSTAINABLE LAND MANAGEMENT

In the last two decades, the system of land management in Kyrgyzstan has undergone a series of changes bringing in new market elements such as land privatization, market-supporting legislation, land registration and cadastre, and the formation of the LRF. Some good progress has been noticeable with regard to land registration; other achievements include projects on strategic land use planning in urban areas and other community-based land activities.

Despite these successes, further progress in the establishment of effective and sustainable land management systems is inhibited by the fragmented character of the land reforms. Land administration remains poorly organized as far as the following policies are concerned: land allocation, systematic land legislation, land payments, land use planning and development control. Land privatization and land reforms have not taken the need for strategic planning for land use seriously. Furthermore, no consideration has been given to any social and economic impact of the land reforms.

Legal framework

The legal framework for land management is defined by the following laws.

The 1993 *Constitution of the Republic of Kyrgyzstan* (with the latest amendments in 2007) recognizes different types of land ownership, including private, municipal and state, as well as ownership to other kinds of real property (such as constructions), and obliges the State to protect ownership rights. The Constitution also recognizes the system of local self-government and local government functions. Local self-government includes local *Keneshes*, territorial self-governmental bodies (such as councils of city districts or committees of large residential complexes), and local referendums, people's

assemblies, meetings and other forms of direct democracy.

Furthermore, the adoption of the *Law on Local Self-Government and Local State Administration* in 2002 was a significant step towards empowering local communities to manage their own affairs. It clarified the responsibilities of local self-government institutions and State agencies operating at the local level. The law has officially delegated responsibility over the use of municipal land from the central to local government.

As indicated by the *Law on Town Planning and Architecture* adopted on 11 January 1994, the State Agency for Architecture and Construction and the local self-government bodies have had responsibility for planning and building control activities delegated to them. The law distinguishes between different types of urban and rural settlement and their status. It also establishes rules for urban development and gives citizens the right to participate in the planning process and construction decision-making. The law requires that construction and renovation activities should be in accordance with planning regulations. Compliance with development schemes and plans is mandatory for all physical and legal entities regardless of who owns them. Changes in master plans for built-up areas need to be agreed with the State Agency for Architecture and Construction, as well as with local self-government bodies.

According to the 1996 *Civil Code* (with the recent amendments in 2004) property rights are not valid until registered by a special state agency dealing with property right registration.

The 1997 *Law on Subsoil* (with amendments in 1999 and 2000) identifies different types of ownership rights to subsoil, including State, private and communal. The law stipulates the powers of the national government, local state administrations and the administration

of Bishkek City over using subsoil. The law also provides procedures for subsoil use, licensing and different agreements on the use of subsoil.

The 1998 *Law on State Registration of Rights to Immovable Property* aims at consolidating the registration system throughout the country. Under this law, the public has the right to access data in the State Register.

The 1999 *Land Code* of Kyrgyzstan (revised in 2001) identifies state institutions responsible for land administration and management as well as land allocation procedures and the transferring of ownership rights to land. Furthermore, the *Land Code* defines the rights and responsibilities of landowners and land users in terms of use and protection of land.

The Law on Pledge (Mortgage) was adopted in a draft form in January 2005 by the Parliament. The Law is modern in approach, incorporating internationally recognized best practices for the liquidation of collateral through non-judicial foreclosure proceedings.

B. LAND REGISTRATION AND CADASTRAL SYSTEMS

In parallel with the land privatization process, land registration has progressed significantly. In the early days of independence, responsibility for land registration was divided among a number of State agencies and there was an apparent need for simplification and rationalization²⁶. Due to changes in the legislation and with the help of government and international agencies (such as SIDA, USAID and the World Bank) some major steps forward have been subsequently made. Importantly, land cadastre and land registration systems have been unified in 1999 under a single state agency, the Gosregister.

An efficient and effective land registration service is in the interests of many sectors of the Kyrgyz economy and main stakeholders. For instance, for Kyrgyz citizens, land registration provides security of their property rights that can be used as collateral for borrowed capital. With a secure system of property rights registration in place, Government at all levels can stimulate faster economic development. Property developers and construction companies can have their rights secured and can access reliable information with regard to the land market. Also lenders, such as banks and other financial institutions require a guaranteed system of title in order to provide mortgages.

A World Bank funded project on *Land and Real Estate Registration* was implemented between 2000 and 2005. The project's main objective was to support the development of land markets by securing and protecting property rights through a parcel-based title registration system. Other specific aims of the project were to increase the productivity and value of land and other real estate; facilitate the use of property as collateral and reduce transaction costs in title transfer and mortgage provision. The project promoted (a) the establishment of management capacity at the national level in order to supervise, monitor and promote the registration system nationwide (this includes setting up registration offices and developing full legislative, regulatory, and procedural support for effective property transactions in coordination with a fiscal register); (b) the creation of a series of registration index maps and data collection records for rights in land and buildings, which will allow a systematic adjudication of rights; and (c) the establishment of training centres to provide on-the-job training for Gosregister staff involved in the project, a training programme for the promotion of real estate markets, and a long-term training programme to accommodate future needs of the Gosregister, as well as private land administration professionals.

Overall, the *Land and Real Estate Registration Project (LRERP)* has been successful in achieving its objectives. The project has established the legal and

²⁶ UNECE (2000), Country Review of Kyrgyzstan: Sustainable Development and Human Settlements (Overview and Recommended Actions), HBP/2000/2, Geneva.

administrative basis for registration of land and buildings, launched 50 Gosregister offices around the country and provided them with the necessary equipment, conducted extensive training for officials and real estate professionals, established a computerized registration system in over 20 local offices, and supported the systematic registration of over 2.4 million land parcels and real estate objects (houses, apartments) by the end of 2007.

In 2007 the LRERP's achievements also included: secured rights on virtually all land and real estate properties backed by appropriate registry records; the registration of almost 1.2 million real estate units in settlement areas (i.e., with buildings) including the regularization of almost 600,000; the incorporation in the registry of over 570,000 real estate units outside of settlement areas (without buildings), developed plans for the integration by the end of 2007 of the remaining 630,000 units; achievement of international standards in the registration of transactions (completing most transactions within three days for individuals and four days for enterprises); a substantial improvement of access to credit with the number and value of mortgages increased from 15,437 (US\$ 84.8 m) in 2002 to 43,001 (\$723.7 m) in 2006; a more efficient distribution and use of land and real estate assets (as demonstrated by the increased sales and leases); an increase in the number of registered sales from 25,901 in 2002 to 39,957 in 2006 and the number of registered leases from 3,184 in 2002 to 5,030 in 2006; an improved access to cadastre information and the creation of an enabling environment for improved governance of public lands; a very positive fiscal impact; and, finally, the operation of all 50 local registry offices on a self-financing basis²⁷.

Funding of \$6 million for a second project on *Land and Real Estate Registration* was approved by the World Bank in July 2008. This follow-up project is expected to improve further

the real estate registration activities in the country.

Also, USAID has implemented two major projects such as *Land Reform and Market Development Project (LRMD)* between October 2005 and September 2008 and *Local Government Initiative Project (LGI)* between 1999 and 2004. The first project was designed to stimulate the land market by making land administration more effective and transparent and by improving people's access to land data. For rural areas, the effort focussed on improving land administration, removing legal barriers, and the development of mechanisms to facilitate transactions with agricultural land. For urban areas, the project aimed at stimulating investment via the development of a real estate appraisal profession and promotion of transparent zoning regulations. *Land Reform and Market Development Project* has achieved mapping and categorization of some land plots according to their quality, the establishment of local initiatives (*Ayil demilgechisi*) in rural areas to work both with members of the public and local governments, the resolution of more than 18,000 land disputes within local communities through project-trained community-based rural activists and recommendations on the development of a strategy for the use of the LRF.

Between October 2008 and October 2009, the LRMD II was implemented aiming at securing agricultural land rights, stimulating the agricultural land market, and improving land management practices. The project has promoted legislative reforms resulting in the adoption of five laws on agricultural land mortgages, a broader pool of ownership, and also legal backstopping for investment tenders. Other accomplishments of this year included: the improvement of LRF land management in terms of the consolidation of land parcels and the assistance in the development of LRF land strategic management plans for about 60 AOs (Акционерные Общества or Joint Stock Companies); an increase in the local government revenue by 184% (US\$ 65,796) through project facilitated auctions. Furthermore, LRMD II organized several seminars for local authorities on developing strategic LRF land management

²⁷ International Development Association (IDA) (2007) *IDA at Work. Restructuring the Land and Real Estate Management Systems in the Kyrgyz Republic*, World Bank Publications, Washington, D.C.

plans and attracted investments into degraded land.

The second *Local Government Initiative Project* was carried out by the USAID-sponsored Urban Institute between 1999 and 2004 and focused on urban/municipal capacity-building for strategic development planning. In 2004, the project achieved: the adoption of procedures for transparent and effective utilization of municipal property in 12 cities; assistance to 7 cities and 2 rural municipalities in the formulation of a comprehensive strategy and action plan with associated prioritized lists of investment needs in the communities; the formation of nearly 500 condominiums (homeowners' associations) totalling over 50,000 units; the provision of training for officers of 300 condominiums; and the development of 3 regional associations.

Also, SIDA has been co-funding and implementing a project called *Strengthening of Land Administration in Kyrgyzstan* (2006–2010). The project includes the provision of technical assistance through cooperation between the Gosregister and Sweden's Lantmäteriverket (the Swedish Mapping, Cadastre and Land Registration Authority). The objective of the project is to improve the capabilities of the Gosregister to deliver integrated geographic and land information in an efficient manner. The extension of the period of cooperation beyond the World Bank credit and the LRERP (see above) is to support the development of land administration as a whole and not only the real estate registration system. Some results of the project include: the enhancement of knowledge and experience to support further development of land administration, while also observing the gender aspects; the finalization of the structure of an automated registration system and the setting up of the Kyrgyz Land Information System at the central level; the development of the infrastructure for geographical cadastral data; experimenting with and application of modern techniques for cadastral surveying; the improvement of land legislation; and the development and approval of real estate valuation methods for taxation purposes.

However, a number of challenges still remain, including the completion of a nationally unified land registration database, the improvement of access to and reliability of land and real estate information, and the simplification of the process of registering land and other types of real property.

Land registration process

Normally, land and buildings are registered locally in one of the 49 local Gosregister offices. The records are held in paper form, although increasingly, records are being computerized. At present, the computerized records do not have legal status.

In accordance with Kyrgyz legislation, the documents required for registration purposes include registration index maps (graphic part), registration cards (textual records), registration files and registration journals. In addition to these documents, the Land Code requires the establishment of the State Land Cadastre, consisting of cadastral maps and plans.

The process for registering a new title and mortgage is as follows:

- The Gosregister provides confirmation of ownership and confirms that the property is unencumbered.
- All property transactions are subject to notarization. The seller and buyer go to a notary who notarizes the agreement of purchase and sale, and oversees the payment of a State duty. (There is a tendency of understating deal prices in order to minimize the State duty.) Legislation regulates that “empty/agricultural/free land” does not have to be registered by a notary.
- The new owner goes to the local registration office and completes a registration form. A technical passport (property plan and description) is also needed and is provided by a surveyor.
- The notary also notarizes mortgage agreements.

- The Gosregister registers the mortgage agreement and the mortgage becomes legally valid.

Depending on the type of property to be registered, the land registration process in Kyrgyzstan can be rather difficult and time-consuming. For example, individuals and legal entities wishing to register a mortgage are required to provide a lengthy list of documents, some of which can be difficult or costly to obtain and some are only valid for a limited period. To register a mortgage, an applicant must submit:

- An application form
- Three copies of a mortgage agreement
- A technical passport (plan) of the property
- Documents confirming ownership (an agreement of purchase and sale or a privatization certificate)
- The owner's passport (or notarized shareholder documents if the owner is a legal entity)
- A certificate of registration (if a legal entity)
- A power of attorney from the owner (if the applicant is not the owner)

In some situations, it is impossible to obtain all the necessary documentation. The technical passport, for example, is a plan of the property provided by a surveyor indicating the structure of the building, dimensions, building layout, etc; it provides evidence that the building to be registered complies with all relevant building rules and regulations. If a property was previously registered, obtaining and updating a technical passport are no problem. However, as discussed elsewhere in this report, there are many informal settlements that do not comply with the relevant regulations and, therefore, obtaining a technical passport and hence completing the registration are not possible.

C. RURAL AND URBAN LAND

Land reforms in Kyrgyzstan have been implemented as part of the country's overall transition to a market economy. They have

included the introduction of private land ownership, land registration and the surveying of legal boundaries of land parcels, as well as decentralizing responsibilities for land management to local government.

Land reforms were implemented in two stages between 1991 and 1996. The first stage was carried out between 1991 and 1993 in accordance with the President's Decree of 10 December 1992 *On Measures to Continue the Implementation of Land and Agrarian Reforms* and involved a voluntary formation by workers of unprofitable farms of independent private peasant farms. The establishment of such farms was very slow, however. The second stage was implemented between 1994 and 1996 following the President's Decree of 22 February 1994 *On Measures to Promote Land and Agrarian Reforms in the Kyrgyz Republic*, which mandated the total dissolution of State and collective farms and redistribution of land shares.^{28,29}

The land was redistributed to each member of the farm workers' families, to medical workers and to teachers living in a certain area. The size of land plots was determined according to availability of land and the total number of people eligible. About 500 collective and State farms were dissolved. In accordance with the President's Decree of 22 February 1994 *On Measures to Promote Land and Agrarian Reforms in the Kyrgyz Republic*, 75% of land was distributed as agricultural land shares while the remaining 25% was reserved in the LRF. Initially only land use rights for 49 years were established, but, with the adoption of the *Land Code* in 1999, private land ownership was introduced. The *Land Code* also authorized sale, exchange and rent of land, which was a

²⁸ Mohinder, S. (1998), *Kyrgyz Republic Strategy for Rural Growth and Poverty Alleviation*, World Bank Discussion Paper No. 394, Washington, D.C.

²⁹ Bloch, P. et al. (1996), *Land and Agrarian Reform in the Kyrgyz Republic*, Land Tenure Center University of Wisconsin-Madison LTC Research Paper 128

major step towards the establishment of a land market³⁰.

Furthermore, the land has been reclassified. During the Soviet era, about 20 million ha of land were designated for arable farming, although due to environmental conditions it was not particularly suitable for cultivation. After reclassification, this land use was limited to 5.5 million ha. Table 4 shows the change in different land categories throughout the recent period, including a decrease in cultivated agricultural land from 73% to 27% and a corresponding increase of pastoral rangelands, forests and protected areas, and of settlement lands.³¹

In the last decade, the number of private farms has been growing dramatically. According to a World Bank report, the number of households with access to land has increased from 50% in 1998 to 75% in 2001.³² According to 2003 data of the World Bank, about 96% of households have landholdings (private land shares). As shown in Table 5, by 2006 the number of private farms had reached 313,061.³³

The land reforms have contributed to food sufficiency in the country and to the creation of alternative employment in rural areas. The number of private peasant farms has increased dramatically in the last decade and agriculture is one of the priorities in the 2007 *Country Development Strategy for 2007–2010*. In this strategy, creating and encouraging cooperatives are among the measures for agricultural development. However, unsustainable land use practices and the lack of capacity and finance have resulted in increased land degradation. Other issues for rural

agricultural land management include fragmented land farmed at a subsistence level (particularly in the south), inefficient water distribution, deteriorating machinery, availability of labour and undeveloped markets for agriculture. All these problems create significant barriers to long-term investment and the efficient use of agricultural land. In other countries where privatization of land was pursued without regard for its impact on agricultural productivity, land consolidation exercises have contributed to increased efficiency of farms. Alternative forms of land consolidation include voluntary lease exchange, voluntary land consolidation and mandatory land consolidation. Depending on the context, all of these forms have proven to be an important instrument for rural development. Land consolidation can enable farmers to become more competitive by both countering the fragmentation of parcels and allowing farmers to expand the size of their holdings.

The growing number of private farms in the country has resulted in large regional differences in land plot size due to varied population density. More land is available in the Northern regions compared with the South. The Southern part of the country is the Fergana Valley, which is a troubled area due to high population density, scarcity of resources, environmental degradation, ethnic tensions and the growth in poverty. The Osh oblast is where an inter-ethnic conflict arose between the Uzbek and Kyrgyz in 1991 over land distribution. Unresolved issues remain over national borders and ethnic enclaves in the Batken and Jalalabad regions of the country. Water scarcity for agricultural cultivation is another issue of confrontation with the inhabitants of bordering countries such as Uzbekistan and Tajikistan; it threatens the security and development of these areas.

³⁰ Ibid.

³¹ Asian Development Bank (2004), Kyrgyz Republic: Country Environmental Analysis.

³² World Bank (2007), Kyrgyz Republic: Poverty Assessment, Volume 3: The Main Conclusions of the Report, *World Report No. 40864-KG*, Washington, D.C.

³³ data was provided in an electronic form by the National Statistical Committee of the Kyrgyz Republic.

Table 4. Land reclassification in Kyrgyzstan, 1990 and 2002 (per cent)

Types of use	1990	1995	2000
Agriculture	73.7	55.0	27.7
Pastoral rangelands	6.6	27.0	50.9
Used by other Republics	5.6	4.0	0.0
Forest fund	4.9	5.2	13.3
Commercial and defence	4.2	4.2	1.1
Outside oblast administration	4.0	2.8	0.0
Water fund	0.4	0.4	3.8
Settlement lands	0.3	0.6	1.2
Parks and protected areas	0.2	0.7	2.0
All land use categories	100.0	100.0	100.0

Source: Asian Development Bank (2004), Kyrgyz Republic: Country Environmental Analysis.

Table 5. Changes in different farm categories (number of farms)

Categories of farms	2002	2003	2004	2005	2006
State farms	94	68	68	111	106
Farms of organizations	506	527	538	538	538
Private farms	251,526	255,882	259,701	300,162	313,061
Collective farms	726	971	1,111	1,124	1,448

Source: Data was provided in an electronic form by the National Statistical Committee of the Kyrgyz Republic.

Table 6. Distribution of households by plot size and region (per cent)

	0 ha	0<ha<2	2<ha<5	5<ha<12	12<=ha
Total	4	81	12	2	0.5
North	6	73	18	3	0.6
South	3	87	8	1	0.5

Source: World Bank (2007), Kyrgyz Republic: Poverty Assessment, Volume 2: Labour Market Dimensions of Poverty, World Report No. 40864-KG, Washington, D.C.

Table 6 shows the variation in average plot size between the north and the south. Osh, Batken, and Jalalabad oblasts have the smallest plot sizes compared with other regions. The southern regions also have higher poverty rates.³⁴

In the Soviet farms, irrigation, use of fertilizers and the type of cultivation were planned and decided by the central government³⁵. After the privatization of the land, farmers were given freedom to make their own decision about land cultivation, but there is a lack of experience of private farming and farm management. Moreover, lack of technical assets, alongside water distribution and fertilizer problems add further pressures. These issues have resulted in subsistence farming and land degradation. Production is based on low-value grain crops rather than on export-based products, since people produce merely for their own consumption³⁶ (see Figure 2).

The amount of arable land per capita is 0.26 ha. The productivity of arable land is declining, and so is the potential of natural pastures. Out of 10.6 million ha of agricultural land, more than 88% is recognized as degraded and subject to desertification. The areas affected by secondary soil salinity constitute three quarters of the whole arable land stock of the Republic. Kyrgyzstan joined the *United Nations Convention on Combating Drought and Desertification (UNCCD)* in 1997 and developed

a National Action Plan in December 2000³⁷. Figure 3 shows the dynamics of land degradation in Kyrgyzstan over recent years. It is obvious that salinization and wind and water erosion have been on the rise since 1985.

A number of factors are believed to contribute to the loss of ecological and economic productivity of land. They include: a weak system of expansion and transfer of technology, knowledge and market information; the continuation of monoculture, without crop rotation or other opportunities such as growing legumes; inadequate access by farmers to markets and credit support; lack of involvement of the private sector in service provision; deterioration of agricultural research due to a general decline in research infrastructure; and lack of an enabling policy framework.

The main activities in combating land degradation in the National Action Plan have involved the formulation of the *Concept of Agrarian Policy until 2010*, the *Concept of Forest Branch Development until 2025* and the *State Land Programme*. The *State Land Programme* aims to improve the use of land resources in compliance with the Kyrgyz land legislation through unified land cadastre and land registration, monitoring of land resources and creating a comprehensive database. Due to a lack of funding, however, the government has not completed these activities. Some of them have still been implemented through projects funded by donor agencies. The main projects on improving rural livelihoods involve the UNDP-funded *Poverty Reduction Programme*, the DFID-funded *Sustainable Livelihoods for Livestock Producing Communities* and the World Bank-funded *Village Investment Project*. The *Country Development Strategy for 2007–2010* also makes agricultural development a priority. It mainly focuses on developing agricultural production and the agro-processing industry in rural regions.

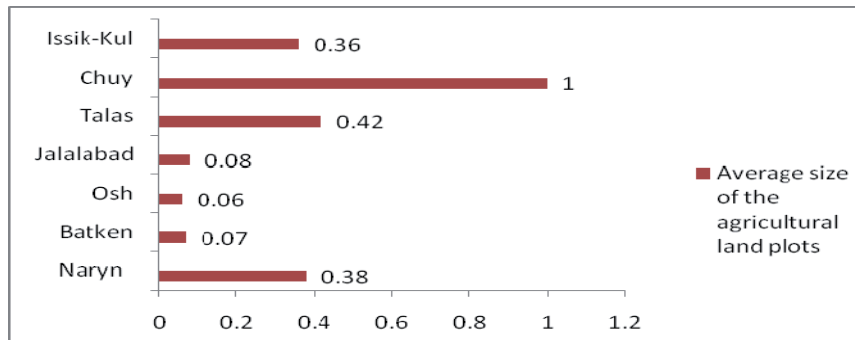
³⁴ World Bank (2007), Kyrgyz Republic: Poverty Assessment, Volume 2: Labour Market Dimensions of Poverty, *World Report No. 40864-KG*, Washington, D.C.

³⁵ Eriksson, C. (2006) Changing Land Rights, Changing Land Use: Privatization Drives Landscape Change in Post Soviet Kyrgyzstan, *Swedish University of Agricultural Studies*, SLU External Relations, Uppsala.

³⁶ Spoor M. (2006), Land, Markets and Rural Poverty in the CIS-7 (Paper presented at the conference on 'Land, Poverty, Social Justice and Development' organized by Institute of Social Studies, with FIAN and Via Campesina, ISS), Hague, 9-14 January 2006.

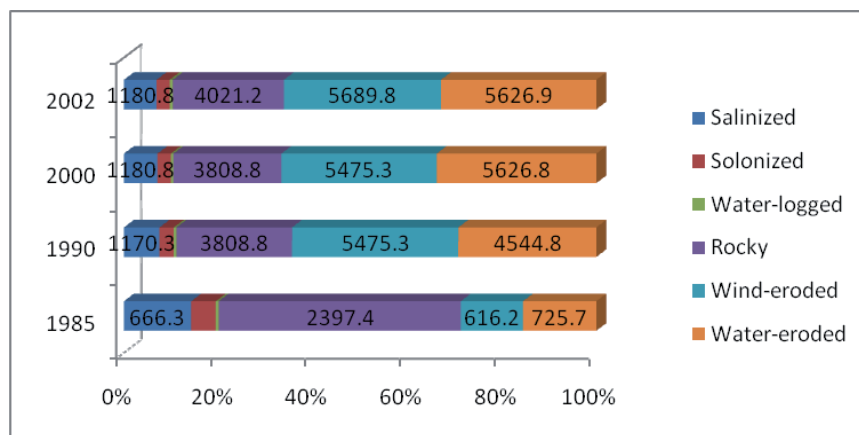
³⁷ United Nations (2006), Third National Report on Implementation of the United Nations Convention to Combat Desertification in the Kyrgyz Republic, Bishkek.

Figure 2. Average size of the agricultural land plots in different regions (in ha)



Source: Data provided by the National Statistical Committee of the Kyrgyz Republic.

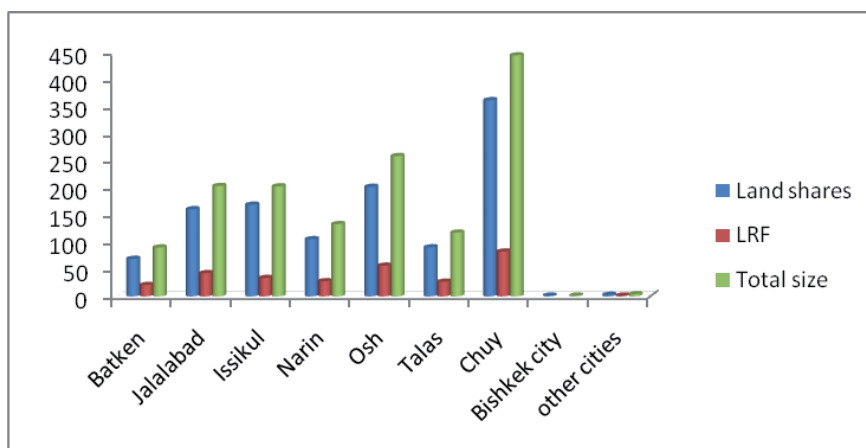
Figure 3. Land degradation trends



The figures in the bars indicate the number of hectares

Source: Asian Development Bank (2004) Kyrgyz Republic: Country Environmental Analysis.

Figure 4. Information on Land Redistribution Fund in regions, 2007



The vertical scale shows the number of hectares in thousands

Source: Ministry of Agriculture, Water and Processing Industry, 2008.

Land Redistribution Fund

About 25% of land is reserved in the Land Redistribution Fund (LRF). According to the 1999 *Land Code* and the President's Decree of 22 February 1994 *On Measures to Promote Land and Agrarian Reforms in the Kyrgyz Republic*, the LRF can be used for the following purposes:³⁸

- Expansion of settlements in accordance with their master plans.
- Creating experimental selection and seed-producing farms.
- Organization of experimental horticulture stations and fields/ the organization of agricultural enterprises.
- Selling land use rights through auctions.
- Renting land by agricultural producers.
- Allocation of land to citizens working and living away from the territory of a farm at present but who lived and worked on the farm before 1 July 1996.

Initially, the Ministry of Agriculture, Water and Processing Industry was responsible for the management of the Land Redistribution Fund. However, the 2002 *Law on Local Self Government and Local State Administration* transferred these responsibilities to local authorities. This has been a positive development towards decentralization, since local government is more familiar with local issues. Also local government is able to generate funds from the rent and sale of land plots and to use it for local economic and social development. However, a lack of capacity at the local level remains. Local record keeping about land and its use is often not effective. There is a lack of transparency in land administration and procedures for land allocation; rent and sale practices often contradict the law.

Kyrgyz women's access to land

Given the importance of land and the agricultural sector in Kyrgyzstan, the provision of land ownership or other modes of access to land and to related economic resources may provide a mechanism for land redistribution with a positive impact on reducing poverty and in particular for women. However, it should be taken into account that the relationship between land redistribution and the economic and social status of women is not straightforward but on the contrary rather complex, and for example, additional educational support for women is essential. Land redistribution mechanisms must be flexible to be able to keep prevalent traditional land tenure systems and achieve fair land distribution taking also the gender component into account.

It seems that a legal ownership title to land does not necessarily provide a secure land tenure option for women in Kyrgyzstan and therefore women's access to land through other mechanisms should be strengthened — for example through improving practices of the LRF. Women landowners have often reported that it has been rather problematic for them to keep the title due to financial hardship and prevalent traditional land relations biased against women. Women in rural areas also have limited access to necessary resources such as credit or other inputs to support production activities. However, they usually also lack entrepreneurial skills.

Recent activities of UNIFEM working with gender-related policies on land in Kyrgyzstan since 1999 have notably strengthened women's land rights in legislation. However, some challenges to women's control over their land in real life situations remain; this is discussed in Box 1.

³⁸ USAID Land Reform and Land Market Development project of 2007, www.landreform.kg

Box 1. Women’s unequal access to and control over land in Kyrgyzstan

The integration of gender aspects into existing Kyrgyz legislation has not yet fully addressed gender discriminatory practices in the land sector. Kyrgyz women still experience de facto unequal access to and limited control over land assets. Given the collapse of public services and a sharp decrease in women’s participation in the formal labour market (in rural areas women make up 18.9% of employees in small enterprises), land assets have served as the major source of livelihood for the impoverished female population.

Women have often reported restricted access to both ownership and leasehold land tenure opportunities. Moreover, access to agricultural credit and marketing facilities has also been unaffordable for female citizens. Women’s low economic and social status has also been reinforced by women’s insufficient knowledge about market-based agricultural practices and related technologies, as well as by low salaries for female labour in the agricultural production sector (with an average monthly income of less than US\$ 20). UNIFEM has been addressing gender discrimination in land ownership, ownership transfer and inheritance practices. The recent UNIFEM initiatives have resulted in amendments to the existing land legislation and to the *Law on Agricultural Land Management (LALM)*. Other notable achievements include: the removal of the limitation on the exchange of land plots between different villages, giving a divorced woman the right to exchange her plot of land regardless of geographical location; the possibility of using land plots either in their entirety as family plots or divided into independent ones enabling women to obtain and register individual rights to land shares; the possibility of dividing land plots into individual parcels for further transactions, allowing women to separate their land shares and manage them independently; and recognition of daughters’ rights to inherit land equally with sons.

Despite these positive legal changes, the ownership right to land for rural women remains insecure in real life situations due to domination of various customary rules (particularly the traditional law of “adat” which does not recognize equality between women and men, but rather strictly regulates women’s position in the family). The opportunity to receive land through allocating procedures of the LRF is also unclear since land auctions are not transparent and usually shaped by the cultural stereotype seeing women (particularly if they are single) as incapable of managing their land effectively. It has been reported that women’s applications for land allocation are often either not considered or, even if accepted, are not passed beyond the pre-selection stage for the land auction. Endemic corruption and a lack of proper knowledge on the part of women about what they can claim based on their rights to land represent other challenges.

As stated by UNIFEM, “the focus of today’s advocacy for women’s rights to land has furthered towards the improvement of the governance system, strengthening capacities of public entities and the justice system for better and more effective service provision”, but “the challenges of prevalence of customary law still remain which require longer term societal and behavioural changes”.

Source: Primary data provided by UNIFEM, January 2009.

The urban population accounts for only 35% of the total population of Kyrgyzstan, which is the second lowest after Tajikistan among European and Central Asian countries.³⁹ There are four types of urban settlements in Kyrgyzstan including cities of republican subordination (the capital city Bishkek), 14 cities of oblast subordination, 6 cities of rayon subordination, and 29 urban type settlements.⁴⁰

Urban land is subject to spontaneous development due to market pressure and unsustainable and ineffective land use, exacerbated by the lack of up-to-date master plans, effective zoning regulations and strategic land management policies.

The transition to a market economy requires land use and construction regulations to be reformed. It also requires long-term plans for urban development with recognition of different types of ownership. It is necessary that the private, State and municipal land ownership being introduced should be properly regulated in order to stimulate urban development activities. There is no system of centralized financing to support urban development projects but rather diverse investments sources.

Master plans

According to the 1999 *Land Code*, city *keneshes* should introduce urban land tax rates and procedures for renting land and approve master plans. However, current land administration and land management in urban areas are characterized by a lack of capacity and by poor strategic development practices.

As can be seen from Table 7, many cities do not have master plans or have outdated ones. The Urban Planning Institute is the only organization in the country that provides services

for drafting new master plans. Since the country's independence and institutional reforms, the Institute has had to rely on self-financing; consequently, this constraint has reduced its activities. Formally, local governments are to order master plans from the Institute, but they lack funding for doing so. The importance of new master plans has been mentioned in the *State Programme on Housing Construction for 2008–2010*; however, implementation mechanisms are not discussed there.

Zoning regulations

Zoning regulations establish specific conditions for land use planning and regulation in the longer term. Zoning regulations are based on the land use and building regulations, which is a legal document of the local administration consisting of town planning maps and the description of the envisaged administrative measures, investment decisions and city services. These regulations stipulate borders of zones and permitted use and changes to immovable property within these zones. They are used as a legal basis to regulate and coordinate building activities of property owners in the areas in question. The land use and building regulations for any specific location need to pass a transparent public approval process and to be published in local newspapers.

As part of the *Land Reform and Market Development Project*, USAID has developed the *Land Use and Building Rules* for 10 pilot towns. These *Land Use and Building Regulations* constituted the core of the zoning system launched in 1999 in 10 cities. The system of zoning regulations has not yet been introduced throughout the country comprehensively.

³⁹ Spoor M. and Visser O. (2001) The State of Agrarian Reform in the Former Soviet Union, *Europe-Asia Studies*, Vol. 53, No. 6 pp. 885-901.

⁴⁰ www.undp.kg

Table 7. Master plan documents for settlements in different regions

	Oblasts	Number of settlements	Number of settlements with existing master plans (percentage, years when adopted)	Regional centres
1	Issyk-Kul	172	80 (1968–1992)	Karakol has an old master plan
2	Osh	473	80 (1949–2003)	Osh-under development
3	Jalalabad	473	58 (1960–1997)	Jalalabad has an old master plan
4	Talas	91	86 (1967–1991)	Talas has an old master plan
5	Chu	346	80 (1966–1994)	Tokmok-Tokmok has an old master plan

Source: Based on USAID (2008) Land Market Development in Kyrgyzstan. Analysis and Recommendations, USAID Land Reform and Market Development Project.

Table 8. Cities that have zoning regulations

	City name	Date
1	Tokmok	September 2002
2	Osh	October 2003
3	Cholpon-Ata	November 2003
4	Jalalabad	March 2004
5	Karakol	July 2004
6	Naryn	July 2004
7	Kara-Balta	August 2004
8	Balykchi	June 2005
9	Talas	June 2005
10	Uzgen	April 2006

Source: Based on USAID (2008) Land Market Development in Kyrgyzstan. Analysis and Recommendations, USAID Land Reform and Market Development Project.

After the *Land Reform and Market Development Project* had been completed, the cities that introduced zoning regulations were surveyed for the impact. Cities such as Tokmok, Karakol, Balykchi, Jalalabad, Osh and Talas were compared with Kyzyl Kiya, Kant and Shopokov, which did not have zoning regulations. The assessment revealed that zoning strengthened the security of property rights and improved the property market; moreover a system of loans (mortgages) secured against property was set up, building volume was increased, and more inward investment was attracted.⁴¹

Strategic Land Management Plans

With the assistance of the Urban Institute (a not-for-profit organization) the Strategic Land Management Plans (SLMP) have been developed for Osh, Jalalabad, Karakol, Cholponata and Karabalta cities to ensure that municipal land is acquired, used and disposed of in a planned and transparent way, based on relevant information and explicit policy. Jalalabad and Karakol adopted these plans in 2006 and another three cities introduced them in 2007.

The development of strategic land management plans involved identifying vacant municipal land, checking the ownership structure and developing land management principles. The SLMP was based on the principles of land allocation through competitive procedures and, for sites sold for capital construction, of granting full ownership rights according to transparent procedures and according to a sale plan approved by the local council.

⁴¹ “Investment Round Table”(non-governmental organization), Analysis of the Influence of Zoning Regulations on the Economic Development of Towns and Cities, Bishkek,2007, http://www.landreform.kg/index.php?option=com_content&task=view&id=83&Itemid=62

Developing and supplementing strategic land management plans have resulted in: the registration of municipal ownership and improved transparency of land management; the identification of land parcels and conducting of land parcel inventory; enhancement of the capacity of the local government (e.g., a pilot project in Jalalabad) to manage municipal land under their control; the assessment of the ability of local government to develop strategic land management plans with very limited help from outside (e.g., a pilot project in Karakol city); an increased awareness on the part of the local government about the value of municipal land; the introduction by local branches of the Gosregister of a complete registration of vacant municipal land based on the *Land Code* (at least in five of the above mentioned cities); and the transposition of SLMP (e.g., in a pilot Jalalabad city) into two main policy principles requiring land to be sold and released through auctions, and revenues from sales and long-term leases to be invested in public infrastructure according to a list of projects approved by the city council.⁴²

D. LAND ALLOCATION FOR CONSTRUCTION

Land allocation free of charge

Land is a basic resource for construction. Kyrgyzstan has only 7% of land suitable for construction, as the rest is too mountainous. Therefore it is very important for government to keep a balance between settlement expansion and land conservation.

According to the 1999 *Land Code*, the citizens of Kyrgyzstan have the right to request land from a public stock for individual housing construction. Only vacant public land can be allocated to private parties through auctions or tender procedures. Another way of reallocating public land into private use is once-in-a-lifetime free-of-charge handover of land to individual

⁴² Kaganova, O. et al. (2007), Strategic Land Management in Kyrgyzstan's Cities (Presentation at the Fourth Urban Research Symposium World Bank)

citizens of Kyrgyzstan for housing construction. According to Article 32 of the *Land Code*, land plots can be allocated to citizens of Kyrgyzstan free-of-charge for three purposes: (1) for the construction of a residential house; (2) for the construction of a dacha; and (3) for agricultural land use for entitled citizens.

Article 73 specifies that only low quality and poorly productive agricultural land can be given for the purpose of construction. Article 33 of the *Land Code* specifies that citizens in need of a land plot should apply to the responsible State body in their territories.

The person applying for a land plot for construction free of charge should meet certain important eligibility conditions. In particular the person:

- should have been living in a given territory for not less than three years (not less than a year for Bishkek and Osh city);
- should not have any other land plot allocated within the Republic;
- should not have any property such as an apartment or a house in private ownership (however, there is an exception for citizens whose housing does not meet basic sanitary requirements);
- should not have been involved in any deals which might subsequently worsen their housing conditions, such as selling, gifting or changing their allocated property;

Once deemed eligible the person should submit the following documents:

- an application form;
- identification documents;
- a document from the State registry proving the person does not have any property or land;
- a copy of employment records or, if person is unemployed, an unemployment document;

- a document stating/defining the current living conditions of the person applying;

- a certificate from the permanent place of residence and about members of the family.

These documents are submitted to a State commission, which is convened in order to review the applications. The commission is formed by representatives of the local government administration, the Gosstroy, the Gosregister, and other public representatives in charge of reviewing and checking the eligibility of application documents.

The Gosregister conducts a land survey for the plots in question by checking plot borders and size, and negotiates plot borders with the neighbours. The Gosstroy is responsible for organizing a commission meeting. The Agency checks that the plot complies with town planning, construction documents and norms, as well as with fire and sanitary requirements and the conditions to connect the land plot to the engineering and technical support network. The Agency then issues a technical decision about the proposed use of the plot, a plan of the land plot and a final conclusion about the cost to be paid for engineering connections.

The commission meets at least once a month. Land is allocated in the order the applications were submitted. The decision of the commission is then documented as a protocol, which serves as a basis for the decisions on land allocation and for the State act on ownership. Land allocated for individual housing construction can be developed or used only after the borders of the plot are confirmed and the other documents have been issued and a construction plan of the house is approved.

Land allocation through auctions and direct sales

Another way of allocating municipal land for construction is through direct sales or auctions. The selection of plots is carried out by local offices of the State Agency for Architecture and Construction on the basis of: consistency of the land plot with the master plan

of the city/village; consistency with the land use norms and building rules; the possibility for the land to be connected to communication networks; the seismic conditions of the land; and the suggestions about the possibility of the land plot to be converted into private ownership.

This document is then passed to the Gosregister, which checks the legal status of the land, existence of encumbrances, ownership rights of other people and existence of any other buildings.

Decisions of both these bodies are passed to the commission, which makes a final decision about allocating the land for construction. The commission consists of representatives of local self-government, leaders of the local Gosstroy office, and the Gosregister, representatives of local technical services and of non-commercial organizations and the general public. The commission needs to be approved by the local *kenesh*. It makes a decision about the way of allocating the land (through auctions or direct sale), identifies the initial price and organizes and approves the sale.

The commission delivers its decision as a protocol. Gosstroy prepares a plan of the land. This plan is reviewed by ecological, sanitary and epidemiological and fire services, which also should give their approval for the plot to be sold. Only then can the land be sold through an auction or a direct sale. The fees received from the land sold go to the local or State coffers as appropriate.

As stipulated by the *Land Code*, land for construction should be allocated in accordance with town planning documents. However, there is a lack of master plans throughout the country. This situation effectively facilitates spontaneous expansion of urban areas and further absorption of agricultural land. In Bishkek alone, around 534 hectares of land have been given for construction with an absence of the master plan.

Furthermore, there have been cases of the land legislation being violated due to allocation of land to private parties without competitive procedures, privatization of land under active

public use, as well as corruption and abuse of power (e.g., the allocation of land for informal payments or to those who are in power or their affiliates).⁴³

Also, the information on municipal land is fragmented and unreliable, as are some data about vacant land in the State register and some data processed by the State Agency for Architecture and Construction. As a result, the information about the amount and location of municipal land is unavailable both to citizens and local governments.

Expansion of urban areas

Osh, Jalalabad and Chu oblasts are the fastest growing regions. The amount of land allocated for construction varies across the regions, but is mainly between 400 and 800 square metres. As shown in Table 9, in just three and a half years the built-up areas have expanded from 3,940.8 to 8,983.21 hectares.



Picture 5. Inhabitants and informal settlements in Kyrgyzstan. Source: UNECE

⁴³ Kaganova, O. et al. (2007), Strategic Land Management in Kyrgyzstan's Cities (Presentation at the Fourth Urban Research Symposium World Bank)

Table 9. Expansion of human settlements (total size in ha)

YEARS	2005	2006	2007	2008	TOTAL
Country as a whole	3,940.8	1,346.95	2,108.29	1,587.17	8,983.21
Batken	165.0	740.83	290.91		1,196.74
Djalalabad	1,133.1		585.53		1,718.63
Issyk-Kul	274.7				274.70
Osh	1,178.9	358.42	193.50	415.77	2,146.59
Chu	249.6	13.70	1,038.35	88.50	1,390.15
Talas				1,082.90	1,082.90
Bishkek	913.5	164.00			1,077.50
Osh	26.0	70.00			96.00

Source: Data proved by State Agency for Registration of Rights to Immovable Property, 2008.

Land market

The land market in Kyrgyzstan is rudimentary. Private ownership of land was only introduced in 1999. Before that all land belonged to the State. Two regions, Talas and Naryn, do not have any market valuation, people do not tend to buy or sell land due to their comparatively weaker economic development.

As was learned from the USAID *Land Reform and Market Development Project* (see chap. III, sect. B. Land registration and cadastral systems) there remain some major obstacles to the development of land market in Kyrgyzstan, including:

- most of the LRF land is unmapped and managed in a non-transparent way;
- local governments do not know how much LRF land they manage;
- LRF land is sold under favourable terms to personal connections of local government leaders irrespective of true market prices;
- some land plots of LRF are not ready to be farmed, but will require investment before they can be leased;
- legal entities, including companies investing in agricultural production, cannot own agricultural land;
- banks do not offer mortgages for agricultural land since they cannot take possession in the event of foreclosure;
- urban dwellers cannot own agricultural land (the pool of potential buyers of farmland is limited to the generally poorer rural population);
- the informal market is stimulated by urban dwellers buying land through rural third parties;
- rights of the buyer are not secure and often abused. The majority of the population remains unaware of important legal changes regarding land issues. Farmers and other types of investors cannot protect their rights and do not understand important procedures. Relevant laws are not correctly applied at all levels of the Government.