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LAND TENURE SECURITY AND AGRICULTURAL PRODUCTIVITY

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IN MID-JULY, THE G-8 nations announced a \$20 billion commitment to help farmers in developing countries increase their food production.¹ Although these efforts are intended to increase food supplies and agricultural productivity over the short run, long-term institutional change is needed to help farmers improve output beyond one or two seasons. One major reform that would help farmers across Africa is increased attention to problems of land tenure security.

Land tenure security refers to the right of individuals and groups of people to effective protection by their government against forcible evictions.² Tenure refers to the status of individuals or groups in relationship to property. Tenure can be freehold, leasehold, conditional, collective, and communal. Land tenure security is, therefore, an element of property rights: the right to remain on one's land and make use of and profit from that land in ways the individual or groups value (so long as they do not harm others). In urban settings, land tenure is often insecure for slum dwellers and for the poor. In rural settings, land tenure is also often insecure for the poor, as well as for women, who face problems such as unlawful evictions by family members after the death of a husband or father.

Achieving land tenure reform is by no means an easy or quick process. However, the benefits over the long term can lead to substantial gains for smallholder farmers' competitiveness.³ Years of failed and partial reforms demonstrate that there is no single solution for the complex problems associated with land administration and land ownership in Africa.⁴ Rather, countries often need to move carefully, responding to citizen demands for more secure land tenure by creating certificates of occupancy, land use rights certificates, and allowing for the joint titling of land by men and women. Though time-consuming and costly, ultimately, carefully crafted land tenure

reform builds exactly the kinds of institutions that promote agricultural and economic development.

Though the strength and breadth of property rights varies across Africa, in only a few countries are they clarified, uncontested, and impartially enforced. This reduces the legal and practical security of owners and users, limits the effectiveness of land markets to efficiently transfer property, and reduces incentives to invest in land—all key elements in creating commercial opportunities in agriculture.⁵

Further, countries must be willing and capable of taking on land reform. The most pressing tenure security reforms in rural areas include those that clarify rights of land users, recognize and expand rights for women to use and transfer property, effectively manage potentially conflicting claims of property users (such as pastoralists and farmers), and create more effective dispute resolution processes (this list is not exhaustive).

The most important barrier to overcome, as with other areas where reform is needed, is achieving a clear credible commitment to demand-driven reform from government, whose interests may be in direct opposition to reform. Centralized land administrators may block reforms that allow for decentralized registration of rights or dispute resolution.⁶ Moreover, politically powerful vested interests may oppose the reform, such as commercial farmers who benefit from the status quo.

Reform is also difficult because people have very visceral reactions when discussing land ownership.⁷ When changes are made to the ownership structure of land, some gain and some lose. Conflict often ensues.

Land tenure reform—even if fully implemented—does not by itself guarantee increases in agricultural productivity or access to capital (via credit), particularly in the short run, but it is an essential component of a strategy to raise productivity in the long term.

INFORMATION

THERE ARE THREE areas to consider when initiating land reform: information problems, rights, and markets. In most sub-Saharan African countries, information problems surround the use and ownership of land. In many places, it is not clear who owns what land, how long they have used the land, or if they have any formal claim to the land.⁸

Cataloging land use rights is a critical first step in the reform process because it documents claims to land and determines who has which rights to land.⁹ However, determining what land is owned or used by whom is not always a simple task. In countries or regions where land has been administered by

custom for decades, or even centuries, there may not be written record of land ownership or a distinct pattern of use that can identify an individual or family as the formal owner. In other places, where the sale of land is formally banned, land may have changed hands, but records of these transactions may not exist.¹⁰

Therefore, it becomes critical to consult with those already occupying the land—those with local, tacit knowledge—during the process of formal, public-sector cataloging. Consultations with those occupying the land not only capture knowledge, but better ensure the involvement of local people in the land reform process.¹¹

Once the land is cataloged, these records need to be compiled in land registries. Though registries do exist in many countries, they are often out of date or otherwise nonfunctional. Registries provide little value to citizens when they are poorly administered, when using a registry is more costly than not registering a transaction, or when people become squatters. By decentralizing land registries, the costs of visiting the registry to retrieve information or register are reduced, thus removing a barrier to the use of the registry.¹²

RIGHTS

ONCE LAND HAS been cataloged and registered in functioning, decentralized registries, the next component of an effective property rights system is a clear definition of what those property rights mean and what entitlements their holders receive. Ideally, land tenure should be secure, long-lasting, equitable, and absolute.¹³ That is to say, land tenure should not be limited by time, gender, or any other restrictions.

The security of tenure should be as complete as possible. Currently, in many African nations, the ability to own land is limited to men.¹⁴ For women, inheriting land or maintaining possession of family land after their husbands pass away can be incredibly challenging, if not impossible.¹⁵ This is a special problem because women are the main cultivators in Africa. Women need secure tenure in land to farm more effectively and efficiently.

Perhaps the most important reform to land tenure security is ensuring a sufficient perpetuation of land rights.¹⁶ The duration of property rights is particularly important in agriculture, as landholders will not invest in their land if they are unsure if they will benefit from these investments. Ideally, there should be no temporal limit to property rights—the owner should hold the land at his or her discretion. However, governments may be unwilling to cede their ownership of land absolutely; in this case, long-term leases should be established with a credible commitment on the part of governments to protect leasehold rights in an impartial manner.

Similarly to the land registries described above, dispute resolution mechanisms must be accessible to those with land conflicts, or they will seek alternative means of resolution that are lower in cost than the status quo.¹⁷

Changes to the legal system that clearly define secure property rights should be accompanied by reforms that make property transferable at a reasonable cost.¹⁸ Again, if the costs of using the formal system are high, transactions will take place outside the formal system. If legal rules and regulations require the use of conveyancers or other third-party agents to transfer property or if transfer taxes are high, property may be transferred informally. Over the long term, however, informal transfers impose costs on all parties involved because of the uncertainty and risk these transfers create. For example, informal land transactions are typically not recorded in registries (particularly if the registries are similarly inaccessible), and without record of the transactions, disputes may arise over multiple claims to the same land.

However, changing land rights create an information problem of their own—those whose rights have been expanded or secured may not know what these rights represent. In order to fully benefit from them, those receiving new rights need to be educated as to what their rights mean.¹⁹

MARKETS

IN MANY AFRICAN countries, including Ethiopia, Nigeria, Malawi, and Botswana, the government is the owner or holder of much of the land, and though this land may be inhabited, the purchase, sale, or rental of plots is formally banned.²⁰ Though land transactions do take place informally, as part of its legal reform efforts, governments should, at a minimum, formally allow land transactions such as the sale of rights of occupancy or the transfer of leasehold rights. In addition, as in Uganda, governments should allow individuals and groups to transform customary use rights into freehold rights.

Opening trade in land can have at least two significant effects. First, those farmers who want to expand their farms and can afford to do so are able to buy more land and expand their operations. Second, markets tend to transfer land from less to more efficient farmers, increasing output overall.²¹ As more skilled farmers acquire land, a greater percentage of land is being used productively, meaning more food for local markets or export.

Opponents of opening land markets have expressed concerns that allowing the sale of land will increase landlessness. However, prohibiting formal land transactions presents other problems. Transactions in land continue to take place, albeit informally. Due to these informal transactions, the price of land may be suppressed, as informal transactions are inher-

ently more risky. If formal transactions are allowed, sellers can command greater prices for their land. Allowing the sale of land gives people the ability to move to another area where economic opportunities are in greater supply.²² In the long term, if land tenure reform leads to the commercialization of agriculture, the demand for labor will increase. If the selling of one's farm leads to a job on that land, this may not be a bad trade-off for rural smallholders.²³

If tenure is secure, transactions in land may create greater personal freedom. Women across sub-Saharan Africa are forced off their land by others without receiving any compensation for their loss. In other cases, where land transactions are taking place informally, land is being sold, but since these transactions are not legal, there are no means of reconciliation if there is a problem with the transaction.²⁴

Though improvements to technology and training are important components of any push to increase food supplies and agricultural productivity, land tenure reform is a necessary factor in any long-term agricultural development plan.

CONCLUSION

AGRICULTURAL DEVELOPMENT IS a major focus of the current administration's efforts in Africa. Though improvements to technology and training are important components of any push to increase food supplies and agricultural productivity, land tenure reform is a necessary factor in any long-term agricultural development plan. Ignoring this issue will limit the effectiveness of current efforts to strengthen African agricultural production, while improvements to land tenure security will help increase agricultural productivity by providing farmers—men and women—with incentives to invest in land and capital by strengthening land markets and increasing the efficient use of land.

FOOTNOTES

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3. The World Bank, *World Development Report 2008: Agriculture for Development* (Washington, DC: The World Bank, 2007), http://sitere-sources.worldbank.org/INTWDR2008/Resources/WDR_00_book.pdf, 139.
4. Christian Lund, Rie Odgaard, and Espen Sjaastad, *Land Rights and Land Conflicts in Africa: A Review of Issues and Experience* (Copenhagen: Danish Institute for International Studies, 2006), 3, http://www.diis.dk/graphics/Publications/Andet2007/rod_landrights_SOA.doc.pdf; Liz Alden Wily, *Governance and Land Relations: A Review of Decentralisation of Land Administration and Management in Africa* (London: International Institute for Environment and Development, 2003), 7, table 2.
5. Wily, *Governance and Land Relations*, 73–77, table 21.
6. Ambreena Manji, "Land Reform in the Shadow of the State," *Third World Quarterly* 22, no. 3 (2001): 327–42.
7. Lund, Odgaard, Sjaastad, *Land Rights and Land Conflicts in Africa*, 5.
8. Clarissa Augustinus and Klaus Deininger, "Innovation in Land Tenure, Reform and Administration in Africa," in *Land Rights for African Development: From Knowledge to Action*, CAPRI Policy Brief (Washington, DC: CGIAR Systemwide Program on Collective Action and Property Rights, 2006), 14.
9. Klaus Deininger, *Land Policies for Growth and Poverty Reduction* (London: Oxford University Press; Washington, DC: World Bank, 2003), 11.
10. Pauline E. Peters, "Challenges in Land Tenure and Land Reform in Africa: An Anthropological Perspective," (working paper no. 141, Harvard Center for International Development, March 2007), 7.
11. Deininger, *Land Policies for Growth and Poverty Reduction*, 56.
12. Ibid. Even in urban areas, where distance is not a factor, land titles and transactions will not be registered if the costs are high. In Langa Township in Cape Town, South Africa, informal cash transactions recorded by affidavits are preferred to formal transfers due to the high costs surrounding formal transfers. See Karol Boudreaux, *The Effects of Property Titling in Langa Township, South Africa*, Mercatus Policy Series (Arlington, VA: Mercatus Center at George Mason University, 2006).
13. Wily, *Governance and Land Relations*, 8, 23, 52.
14. Ibid., 58, table 15.
15. Ibid., 60.
16. Deininger, *Land Policies for Growth and Poverty Reduction*, 8, 26.
17. Ibid., 35, 57.
18. Ibid., 57.
19. Ibid., 56.
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22. Deininger, *Land Policies for Growth and Poverty Reduction*, 31.
23. Joachim von Braun, J. Msuya, and S. Wolf, "On the 'How To' Agricultural Growth Promotion and Improved Food Security: Implications for Southern Africa in a Regional and International Context," *Agrekon South Africa* 38 (1999): 9.
24. Deininger, *Land Policies for Growth and Poverty Reduction*, 40, 58.

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