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REVISITING LAND POLICY REFORMS IN DEVELOPING COUNTRIES WITH A FOCUS ON SUB-SAHARAN AFRICA

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INTRODUCTION

The impact of land tenure systems in developing countries on agricultural investment and productivity continues to be the subject of intense scrutiny. This paper looks at land policy reforms with emphasis on lessons from Africa south of the Sahara (SSA). Food security crises in developing countries in the past decades have revived the debate about whether land tenure systems constrain farmer innovation and investment in agriculture. Changes in tenure systems can potentially have major implications for agricultural transformation. This chapter summarizes the arguments about how best to provide land tenure security in SSA and reviews recent experience and evidence arising from innovative interventions, with implications for other developing regions as well. It is hoped that the experiences and topics analyzed here may also help Venezuela in the process of normalizing land tenure systems in that country.

REVOLUTIONARY (REDISTRIBUTIVE) LAND REFORMS AND THE LAND-TITLING DEBATE

Land tenure has long been a thorny issue. In the 1960s and 1970s the main concern was equity and security as the debate mostly concerned bringing about justice in land allocation in countries that emerged from colonialism. Since the collapse of the Soviet Union, a different kind of debate has emerged about land tenure centered on efficiency issues and sustainability of resource use in the context of transitions from a socialist mode of production toward a more market-oriented system (Cotula et al 2004). The purpose of this subsection is not to look at these debates in any detail. Instead, an attempt is made to briefly summarize the theoretical issues surrounding land tenure security and the evolution of property rights. Although there is wide recognition about the desirability of tenure security for agrarian development, there is no clear and universally applicable blueprint as to the most appropriate property rights regime as this depends on underlying sociocultural and geographic factors.

Land tenure reform toward an individual freehold system has long been seen as a prerequisite for development in SSA (Feder and Noronha 1987; Migot-Adholla et al. 1994). The arguments in favor of reforming the customary African land tenure system were mainly based on the neoclassical economic theory of property rights (Demsetz 1967; Barzel 1997) that predicts greater productivity as land tenure becomes more secure and individualized. Reflecting neoliberal thinking about private property rights, Besley (1995) identified three channels through which secure property rights can, in principle, affect positive economic outcomes, namely, (1) tenure security and higher land investment incentives, (2) smooth functioning of the land markets (tradability) that lubricate factor–ratio adjustment, and (3) facilitation of access to institutional credit by allowing land to be used as collateral. These hypothesized effects of tenure security heavily rely on the neoclassical framework that presupposes markets for all goods and services (including credit and insurance markets) exist and that, therefore, market clearing prices determine demand and supply choices of households (Bardhan 1989; Hoff et al 1993).

However, in areas where risk, information asymmetry, and moral hazard are pervasive and transaction costs (mainly information and enforcement costs) are prohibitively high, such hypothesized effects of individualized property rights may not hold. As Stiglitz (1986) argues, this is so because the efficiency of the market economy and its allocation of resources (property rights) rely on the conditions of perfect information and the existence of complete markets. When high transaction costs characterize the market, which cause absences or imperfections in the input, output, or both markets, household production and consumption decisions become nonseparable (Singh et al 1986; de Janvry et al 1991; Sadoulet and de Janvry 1995).

This implies, regardless of the security of tenure, that absence of or imperfections in the market undermine farm households' ability to undertake profitable investments (Holden et al 2001) and participate in any form of exchange process (Kranton 1996). Farm households internalize such imperfections by producing a limited range of goods and services for their own consumption, especially when social protection for food security is absent, making the household decision making process more responsive to their initial resource endowment rather than market signals (Sadoulet and de Janvry 1995; Holden et al 2001). For instance, the size and strength of the investment demand effects of tenure security depend on the attractiveness of the investment (Deininger et al. 2003), which ultimately depends on the development of rural input–output and other intertemporal markets. In areas with no or few off-farm employment opportunities or other safety nets, improved tenure or secure property rights may not be enough to incentivize farmers to install improved farming technology (which normally comes with higher risks).

Hence, with such imperfections in the markets and limited institutions to support the functioning of markets in developing countries, liberalization, in the form of individualization of property rights, has sometimes failed to achieve the promised benefits of reducing the investment disincentives associated with a communal property rights system (Shiferaw et al 2008). This scenario is even more compelling in rural areas of SSA where land is not only a productive asset, but also performs the important functions of social safety net and old age insurance (Deininger et al 2003). For instance, one of the great advantages of many common property regimes in Africa is that community members can claim access to land for farming when necessary and rent it out as a coping response to ease short-term consumption needs. Hence, in high-risk environments, individualization of communal land rights that neglects the safety net function of access to land may reduce poor people's options for risk management and may leave everybody worse off (Deininger and Feder 1998). This implies that policy interventions in the form of granting only usufructuary rights (use rights) that limit any land alienation may come to the rescue in an effort to avoid the myopic sale of land by individuals.

Empirical evidence on the effects of the land-titling programs of the past on access to credit, smallholder investment, and overall production is mixed. Studies in Kenya and Burkina Faso found no effects of land titling on access to credit (Carter and Wiebe 1990; Brasselle et al 2002). Earlier cross-sectional research in Ghana, Kenya, and Rwanda on land tenure did not show increased investment in land or improved agricultural yields when comparing restrictive land laws to more flexible policy allowing land transfers (Migot-Adholla et al. 1991). A study in a rice-growing area in Madagascar suggests that formal title had no effect on plot-specific investment and little impact on productivity (Jacoby and Minten 2007). In Uganda, in contrast, the likelihood of

new investment on titled land was found to be twice that of investments on merely occupied plots by owners-cum-occupants (Deininger and Ali 2008). Land certification program in Benin resulted in shift from short term to long term investment by households. In addition, investment on land in terms of fallowing is observed for female headed households as response of land certification (Goldestine et al. 2015). Petaracco and Pender (2009) analyzed the credit effect of land titling in Uganda and found no significant relationship between titling and access to formal credit. Access to credit might not be improved even if farmers have title for their land due to limited supply of credit, higher transaction costs, extended requirements related with credit application (Quan and Toulmin 2004; Ali et al 2014).

In Ethiopia, recent studies that aimed to investigate the low-cost and scalable approach that provides perpetual user and leasing rights to farm households suggest increased economic benefits of tenure security in the form of a land use registration and certification program. Deininger and Jin (2006) found that transfer rights to land and tenure security were associated with higher investments in a study from 2001 covering four regions of Ethiopia. In a more recent cross-sectional survey in four regions in Ethiopia, Deininger et al (2008) found a positive association between land certification and investment whereby certified plots had 4.4 percent greater investments than noncertified plots receiving investments. Using four-period panel data, a study by Deininger et al (2011) found that the land certification program in Ethiopia has increased tenure security, land-related investment, and rental market participation and yielded benefits significantly greater than the cost of implementation. Holden et al (2009) found similar positive significant effects of low-cost land certification on investment in trees and maintenance of soil conservation structures in the Tigray region of Ethiopia, which was the first region to implement low-cost land certification in Ethiopia, utilizing a household-plot panel with baseline data from just before land certification and the last survey round seven to eight years after the land registration and certification took place. They also found that land productivity had increased by about 40 percent on farm plots with land certificates compared to plots without certificates. Ghebru and Girmachew (2020) found the second level land certification program in Ethiopia, which was implemented since 2013, facilitates land rental market participation. However, the land certification program has negative and significant effect on access to land or control over land by the youth and women which stresses the need for more inclusive approach in land certification programs.

Similarly, Ali et al (2014) evaluated cross-sectional data of 3,554 households to test for increased land tenure effects in Rwanda (based on a land tenure regularization program implemented by the Government of Rwanda beginning in 2004) on a variety of outcomes. Households within the land tenure regularization program were 10 percentage points more likely to invest in or maintain soil and water conservation structures such as bunds, terraces, and check dams. Improved land tenure security had an especially large effect on female-headed households whereby these households had a 19 percentage point increase in the likelihood of measures to construct or maintain soil and water conservation structures compared to male-headed households. These results echo findings by Place and Hazell (1993), whereby improved land tenure security in Rwanda had a positive effect on investment. Smith (2004) used cross-sectional survey data of 266 farmers from the southern provinces in Zambia to compare farm performance under statutory and customary tenure; results suggest land tenure is positively correlated with smallholder investments in some areas. Research conducted in South Africa by

Graham and Darroch (2001) suggests that households with tenure security are more likely to seek out and receive credit for agricultural inputs. Hayes et al (1997) found that the probability of long-term investments in fences, wells, and trees were positively correlated with complete land tenure rights (individual right to sell and right to use) and that higher long-term investments were positively associated with higher commercial input use and higher land productivity in a study in three villages under customary tenure in Gambia.

Other evidence shows that perceived tenure security of land holders increased at certain stage of land titling registration without completing the full land titling process. Even though land titling in Cameroon didn't meet the intended objectives of increase in investment or credit, rural farmers and local officials in land administration adopted the program to better fit their immediate needs. Thus, the boundary markings placed on a parcel through the process of land registration enhanced tenure security of farmers, whereas, local bureaucrats used the program to register underdeveloped land (Firmin-Sellers 1999). Similarly, Payne et al (2009) found that starting titling process was sufficient to increase perceived tenure security for some of the households in Senegal's land tenure regularization program.

However, land registration and titling can create rather than reduce uncertainty and conflicts over land rights (Atwood 1990; Benjaminsen et al 2009; Green 1987; Bruce 1986; Mackenzie 1993). Place and Hazell (1993), in their assessment of indigenous tenure systems in SSA, found that lack of credit access, insufficient human capital, and labor shortages had adverse effects on investment decisions more often than tenure insecurity. Inappropriate timing of land reforms (Bruce 1986; Roth 1993), "elite capture" and marginalization of the poor and minority groups due to inefficient and corrupt bureaucracies and high costs of conventional land titling (Barrows and Roth 1989; Roth 1993; Platteau 1996; Benjaminsen et al. 2009; Cotula et al 2004), and contradictions between customary land rights and emergent statutory land rights (Mackenzie 1993) have been largely outlined as major causes of past failures of land-titling programs to create such investment and tenure security effects. Based on a systematic review of literatures done by (Lawry et al. 2014), the efforts made towards securing land rights in Africa show weaker results as compared to Latin America and Asia countries. Underestimating the contribution of customary tenure system to farmers' tenure security, lower level of household income to make investment in agriculture, and lack of complementary public investments (investment in infrastructure, provision of input and market access, training for farmers) to support agricultural investment are mentioned as possible cause for the weak linkage.

Literature on land property rights (Larson and Bromley 1990; Bromley 1991; Schlager and Ostrom 1992; de Janvry et al. 2001) acknowledges that privatization and individualization is not a priori the most efficient means of achieving tenure security. This was the basis for the revision of the 1975 World Bank land policy, which called for the introduction of private land rights in Africa, acknowledging that communal tenure systems can increase tenure security and provide a basis for land transactions that are more cost effective than freehold titles (Deininger and

Binswanger 1999). Although few African countries have gone through revolutionary land reforms or government-induced (land-titling) tenure changes,¹ there is evidence to indicate that tenure regimes are evolving toward individualized land rights in response to increased demand for secured land rights over scarce land resources (Peters 2004; Udry 2011).

The New Wave of Land Policy Reforms and the Continuum Tenure

After the land redistributive reforms dominating the land tenure debate during the last decade of the twentieth century, there is now a renewed global interest in land policy and legal reforms in part due to rapidly increasing population pressure and high food and fuel prices (International Fund for Agricultural Development 2001; Bonfiglioli 2003; Deininger 2003). Against this backdrop, there is now a growing consensus that, even in rural African contexts where individual titling of land may not be desirable or feasible, simple recognition of the different breadths of rights individuals and communities have under the existing customary tenure system (by providing poor land owners or users with options to have their rights documented) can yield significant benefits (Deininger et al 2008).

With this recognition, a new and innovative approach is found in the continuum of land rights rather than a narrow focus on individual land titling. In this approach, a range of possible forms of tenure are considered as a continuum from informal tenures (customary, occupancy rights) toward more formal land rights (leases or freehold rights), where each step in the process of securing the tenure can be formalized (UN-HABITAT 2008). This approach has gained momentum in the past decade due to the recognition of the aforementioned limitations of past land-titling programs and the argument that, given population density is low and land is relatively abundant, the usufructuary rights given under the customary tenure rights system do not impose large losses as long as markets for output, capital, and insurance are poorly developed, which ultimately is the case in the SSA context. Rather than involving a narrow focus on individual land titling, this approach involves a form of localized recording and documentation of rights (including secondary or derived rights to land), adapting and expanding existing tenure and land administration systems where possible and introducing new ones selectively (Augustinus and Deininger 2005).

Since the turn of the new millennium, experience with implementation of the continuum of land rights approach has moved ahead in Uganda, Tanzania, Mozambique, Ethiopia, Benin, Côte d'Ivoire, and Burkina Faso. In a number of countries, land policies and laws have been passed that aim to integrate customary and formal land rights and tenure systems.

Proponents of the approach (including the World Bank) argue that, with the prevalence of high transaction costs and market imperfections, costs associated with communal land rights are low. Under such circumstances, though customary systems can meet social and economic needs and can be secure, population pressure, urbanization, commercial pressures, and the

¹ Land reform and land titling are often used interchangeably. But as Burns (2007) explains, land titling is a process of adjudication that is employed to recognize an existing right to land, whereas on the other hand, land reform usually seeks to reassign rights to land, a process that has far greater potential for disputation and usually attracts a significant degree of political attention and community sensitivity. Land registration and titling, by themselves, can take various forms that range from a system of converting registered rights to freehold to a mere record (register) of existing rights to land (Cotula et al 2004).

monetization of customary land transactions are eroding the social cohesion that gives customary tenure its legitimacy (Augustinus and Deininger 2005). No single form of tenure can meet the different needs of all social groups. Hence, the progressive/incremental approach, whereby tenure rights are gradually formalized or upgraded over time, is widely accepted as the alternative to costly or difficult titling programs (see Table 1 for a few examples of countries that adopted this new approach).

Table 1: Examples of innovative land tenure reforms

Nature of Intervention	Countries
1. Recognition of customary land rights	<ul style="list-style-type: none"> Mozambique, Uganda, Ghana
2. Legal protection of individual use/occupancy rights (issuance of certificates of occupancy)	<ul style="list-style-type: none"> Tanzania, Ethiopia, Malawi, Botswana, Lesotho, Nigeria (being planned)
3. Community land demarcation and group/family titles	<ul style="list-style-type: none"> Uganda, Mozambique, Ghana, South Africa
4. Decentralized land administration system <ul style="list-style-type: none"> Establish land boards Village-level land administration council/committee 	<ul style="list-style-type: none"> Botswana, Mozambique, Namibia, Uganda, Ghana, Lesotho Tanzania, Ethiopia
5. Sporadic (demand-driven) land titling	<ul style="list-style-type: none"> Tanzania, Uganda, Rwanda
6. Forms decentralized dispute resolution mechanisms	<ul style="list-style-type: none"> Uganda (tribunals, local government mediators) Tanzania (village land administration council) Botswana (district land boards) Ethiopia (local conflict mediators) Malawi (land tribunals—proposed)

Source: Author' compilation based on reviews of national land policies and regulations.

Although the many customary land tenure arrangements across SSA have served their peoples well in circumstances where land is deemed abundant, land is less commodified, and farming is subsistent and less commercial (Ghebru and Lambrecht 2017; Ghebru and Girmachew 2019), they need to be adjusted to the new demands being put on land by population increase, urban migration, and the globally increasing rush for commercial farming land. Results from studies done in Ghana (Ghebru and Lambrecht 2017), Nigeria (Ghebru and Girmachew 2017), Mozambique (Ghebru and Girmachew 2019), Ethiopia (Ghebru et al. 2016) and Burkina Faso (Linkow 2016) show that tenure security under customary tenure system is influenced by demographic changes, commercialization, urbanization, economic changes and commodification of land. The

challenge facing governments in the region, and the aid agencies assisting them, is to find a development model that will facilitate economic growth without causing widespread dispossession and the poverty and social dislocation that would result.

In adjusting customary land tenures there are many options available for governments to choose from and many difficult issues to address. Political leadership, however, is the most important requirement. The continuum approach avoids blanket solutions to the land problems wherein each country must work out the solution that suits its needs best. Under this approach the most sensible method is to proceed step by step—without trying to do too much—focusing on the priority areas, adapting existing tenures rather than abolishing them, and trialing reforms in pilot projects before introducing them more generally (UN-HABITAT 2008). Along the range of incremental tenure options, the first and basic reform option is the recognition of customary tenure rights—under which the land ownership of groups is protected and individuals are given the security they need to invest in land development. In economic terms, such reforms are demand driven, not supply driven. Customary groups can be protected, and individuals are given the security they need for investment in land development.

Hence, depending on the local demands, if the objective is to formalize rights as they exist on the ground, this will generally require the formal codification of customary institutions. Possible ways to do this are diverse (Kanji et al 2005) and have met with varied results. Fitzpatrick (2005) distinguishes between three methods. The essence of the “minimalist approach” is captured by the statement that for certain areas, “customary rights to land are recognized” without any further interference. According to Fitzpatrick, this approach allows customary rights to evolve over time in response to population changes and economic needs, without undue restriction or imposition by a formal legal regime. Such a basic intervention could act as a targeted answer to the problem of encroachment by outsiders, particularly in circumstances where this constitutes the primary cause of local tenure insecurity (Ghebru 2015). This approach, for example, informs the 1997 Land Law in Mozambique, where the Land Law proposes a broad demarcation of customary areas and leaves land issues within those areas subject to unregulated customary processes (Tanner 2002; Toulmin and Quan 2000). Other examples of this type of approach may be found in Uganda, Ghana, Ecuador, Colombia, and Panama (Hvalkof and Plant 2000).

Conversely, it would not be appropriate where tenure insecurity arose from matters internal to the group. This is usually the case with the ever-growing population pressure and urbanization in many SSA countries, which requires enhancement of occupancy rights that can take the form of proclamations against forced evictions and relocations. Addressing such issues, the new tenure types that are considered innovative best practices are the issuance of occupancy right certificates (generally critical for customary tenure rights if they are not protected specifically, including secondary rights of vulnerable groups) that protect against eviction and expropriation (in the latter case, without subject of fair compensation).

Hence, only in the event of considerable tenure insecurity within a group, particularly as a result of individualization tensions (mainly caused by the population pressure and urbanization), the emergence of land dealings with foreigners, or both, would the benefits of recording individual interests potentially outweigh the considerable costs and risks of the recording process. This

said, a number of African countries do allow for the issue of certificates of individual customary rights to land, including Botswana, Lesotho, Tanzania, Malawi, Namibia, Swaziland, and Uganda (see Alden Wily 2003; Toulmin and Quan 2000; Toulmin et al 2002).

Chimhown (2019) argues African customary tenure is transforming into 'new customary tenure' because of neo-liberal nature of land reforms undertaken in many African countries. Documentation of land ownership through individual land titles, commodification of land, removing legal barriers in land market, recognition of customary tenure and incorporating in statutory laws are measures taken in land reforms in Africa leading to neo-liberalization of customary tenure. These land reform measures have contributed to protection of land rights and improvement of land governance of customary tenure. However, limited capacity of states to implement incorporation of customary institution into statutory law might create influence on tradition authorities by wealthy and politically connected individuals in land management and allocation. On the other hand, the transfer of land from less productive to more productive users accelerate the transition to large-scale agricultural production. This process might lead to displacement of poor landholders through distress sales or land grabbing by local elites or investors (Chimhown 2019). Furthermore, institutions such as civil society organizations were emerged to help land holders to register their land in response of mitigating adverse effects arising from higher demand of land by local and international investors. However, formalization of land rights eases the transfer of land to investors which can cause in loss of land (Chimhown 2019; Alden Wily 2012).

EMERGING CHALLENGE TO LAND GOVERNANCE IN AFRICA (LARGE-SCALE LAND ACQUISITION)

Growing interest in land potential for commercial investment in agriculture, mineral extraction, and urban expansion has caused a noticeable shift in the attitude of chiefs in some customary areas away from perceiving themselves to be trustees on behalf of their communities to being essentially private owners of the land, with the result that subsidiary and undocumented customary interests are increasingly vulnerable. Often, such land deals are also made in partnership with local entrepreneurs and district government officials that have varying interests beyond that of the community (Borras et al 2011 in Mozambique; Nonfodji 2011 in Benin). Hence, in the face of lucrative deals with outsiders, the customary tenure system (normally headed by the traditional chiefs trusted as custodians of the communal land) may not always act in the interests of the group. As a result, many SSA countries with customary land tenure system are now moving toward land boards or village committees (as a form of granting group tenure rights) on which traditional chiefs may (or may not) sit in an ex officio capacity (Alden Wily 2003). The best-known and pioneer example is Botswana, where the 1968 tribal land act transferred the authority over traditional land from tribal chiefs to district and subdistrict land boards (Quan 2000).

Similar approaches were adopted in Lesotho (1979), Mozambique (1997), Uganda (1998), Tanzania (1999), Namibia (2002), and South Africa (2004). Ethiopia (since 2007) has established a decentralized land administration system similar to the land board system in the form of village

land administration committees that allocate land within their jurisdiction, adjudicate disputes, and implement policies for land use and administration (Holden and Ghebru 2012).

Although property rights regimes have evolved in Africa to cope with the ever-changing profile of the land, the recent rush in acquiring agricultural land has caused an unprecedented pressure on the customary tenure system as most of the land deals target areas with poor land governance. Analysis by Deininger et al (2011) suggests that lower recognition of land rights increases a country's attractiveness for land acquisition. Although these areas are often identified as not previously used or owned land, some analysis suggests that this may not always be the case. Such lack of clarity in the property rights system and the existence of overlapping interests in land may erode the confidence of domestic as well as foreign investors to inject much-needed investment in the rural farm sector. For example, investors' multiple compensations to various hierarchies in Ghana remained one of the most challenging issues concerning transnational agricultural investment in the country mainly due to overlapping claims and strained relations between local chiefs and individuals. Similarly, in Mozambique the total area provided to investors for land use rentals overlapped the community-delineated area by 1.4 million hectares, encompassing 418 cases of land leases. Analysis of recent satellite imagery in Zambia suggests a similar finding (Deininger et al 2011). Mazzocchi et al (2018) found formal recognition of land rights attracts investors to engage in large scale investments in Sub-Saharan African countries in addition to free trade economy with better agricultural productivity and availability of natural resources.

The other challenge related to the recent land rush is that local communities and land users are not provided with comprehensive information about the benefits and costs of foreign investments and acquisitions. For example, German et al (2011) found that benefits were oversold, and costs were downplayed when negotiating land acquisitions in Ghana, Tanzania, and Zambia. Employment opportunities are often a perceived benefit to private investment, although studies in the Democratic Republic of the Congo, Ethiopia, and Madagascar suggest considerably lower employment levels than in pre-investment environments (Deininger et al 2011; Andrianirina-Ratsialonana and Teyssier 2010). However, in reality, in an effort to attract foreign investment, low rental rates and long-term leases cause speculative acquisitions that remain undeveloped (Deininger et al 2011 found that only 20 percent of investments were realized), yet these acquisitions obstruct entry of smallholder farmers to use productive land. Finally, it is not clear that contracts efficiently outline investors' legal obligations about terms for transferring land, timing, remuneration, employment of local people, and nature and quality of infrastructure provision (Cotula 2011; Colchester et al 2006).

The lack of capacity of local communities (which implied large farms' superior bargaining power) in making the land deals and the nontransparency of the process have sparked a growing concern about the potential role the private sector can play in overcoming long-standing bottlenecks in the provision of infrastructure and technology in the farm sector and in linking the rural sector to global markets. This concern is intimately linked to the ongoing debate about the suitability of large-scale versus small-scale farming as development models for transforming the agricultural sector and facilitating economic growth (Deininger et al 2011; Deininger and Byerlee 2012; Hanlon 2011).

Deininger and Byerlee (2012) outline a series of economic and policy factors that may contribute to better developmental outcomes from the recent rush for land acquisition. Their analysis of recent land demand from large investors suggests that, if such investment is to live up to expectations in providing economic and social benefits, in addition to greater clarity in the definition of property rights and their recognition, the public sector needs to set suitable policies, provide complementary public goods, and assist local people in screening investments and investors. Three priority areas for attention are (1) clarity about property rights and proper valuation of land, (2) labor market impacts and technical as well as economic viability of the projects, and (3) the ability to flexibly reallocate land in case an investment fails.

The establishment of donor-supported Community Land Funds in Mozambique makes Mozambique one of the few countries in SSA that has been publicly proactive in responding to the recent rush for agricultural land. The program's participatory land delimitation and demarcation process aims to protect community-based land rights, facilitate community consultation with prospective investors, and obtain tenure security for investors. Tanzania, Ethiopia, and Ghana are other African countries to have recent reforms in the land governance sector to cope with the growing demand for land globally and identify land that can be allocated to investors.

Further research assessing land tenure policy as it relates to land certification and tenure security will be important as agricultural land constraints become more prevalent and countries continue to seek out agricultural investment opportunities. In addition, public access to land certification data and information, as well as clear guidelines that identify the varying responsibilities of institutions, is important for large-scale land acquisitions and foreign investment opportunities. However, recent research does suggest the need for improved transparency and greater local land user participation in domestic and international acquisitions. Some of the initiatives that can facilitate mutual understanding include but are not limited to well-defined compensation definitions including terms for transferring land, agreement on timing of land redistributions, clearly specified contractual obligations about employment of local people, and clear expectations as to the nature and quality of infrastructure provision.

Assessment of Land Rights: Legal Context and Implementation

Given the fact economies of African countries is dependent on land and natural resources, good land governance plays a crucial role for economic development and welfare of society (UNECA 2017). In Africa, land governance has limitation in terms of addressing issues related with legal pluralism, land tenure insecurity, state sovereignty over land, land resources degradation, environmental sustainability, poor conflict prevention and resolution mechanisms, gender and inter and intra-generational inequality, centralization of land administration, non-transparency and non-accountability in allocation of land and natural resources (UNECA 2017). Land reform measures in Africa, which have implications for good land governance, focus on areas of decentralization, gender equality, a more open, consultative, transparent and inclusive government.

Table 2 summarizes various aspects of land rights incorporated in land laws and policies of 15 African countries. The assessment of land rights is done based on five categories. These include recognition of customary individual and group rights; registration of individual and group

land rights; land transfer through inheritance, land market (rental and sale); implementation of land registration of individual and group land; existence and transparency of regulations on large-scale land acquisition. In addition to the legal recognition of land rights, the assessment includes the evaluation of land rights from Land Governance Assessment Framework (LGAF) conducted by the World Bank. The countries covered are from Eastern Africa (Ethiopia, Kenya, Uganda, Rwanda, South Sudan, Tanzania), Southern Africa (Malawi, Zambia, South Africa, Mozambique), and Western Africa (Ghana, Nigeria, Sierra Leone, Burkina Faso, Gambia).

The first category of land rights focuses on recognition of customary individual and group land rights. Customary individual land rights are recognized in the statutory laws of all countries. Similarly, customary group land rights are recognized in all countries except Rwanda and Malawi. The laws are instituted in countries' national land policies, land laws, land acts or land use proclamations. The laws address the right to hold, use, transfer land under customary tenure. In Land Governance Assessment Framework (LGAF) report scorecard, most of the countries have got A or B score for the indicator on legal recognition and protection of customary tenure rights, except Ethiopia and South Sudan who have scored C.

The second category of land rights is related with registration of individual and group land rights. All countries' land laws allowed individual land rights to be registered. The land laws incorporated provisions on the organization of land registry offices and set obligations for land registration. However, in LGAF report, the registration and mapping of individual land in rural and urban areas is very low in all countries except South Africa which have good performance on individual land registration. Regarding the registration of group land rights, all countries that gives recognition to group land rights also allows the registration except Gambia and South Africa. Whereas, there is no data for Ghana, Nigeria and Burkina Faso on registration of group land rights.

The third measure of land rights focus on the right to transfer land through inheritance and land markets (rental and sales). The right to transfer land through inheritance is allowed in all countries. In land laws assert land inheritance should be done without any discrimination based on gender, age, ethnicity, etc. Likewise, land rental market is allowed in all countries except in Nigeria. On the other hand, land sale is permitted in most of the countries except Ethiopia, Nigeria and Mozambique. These countries are characterized by state ownership of land.

The fourth aspect of land rights is the implementation of land registration for individual and group lands. Individual land registration has been implemented in most of the countries even though the coverage varies across countries. Rwanda, Ethiopia, South Africa have relatively better performance in registration of individual land rights. In Ethiopia, the first level land certification program covered around 50 million parcels and 11 million households (Hailu 2016). In the second level land certification program, around 4.8 million households received certificate as of December 2018. With respect of registration of group land rights, Mozambique, Tanzania, Zambia, Kenya, Sierra Leon implemented registration of group land rights. The case of Mozambique is mentioned as a good example in registration of community land, where, about 21,218,489 hectares of land in 915 communities covered up to 2014 through Community Land Delimitation (CLD) program (Norfolk and Cabral 2016 in Aquino and Fonseca 2017).

The last indicator is the existence of regulations on large-scale land acquisitions. Thus, the land laws of all countries include provisions regarding the acquisition of land for large-scale investment, economic and environmental requirements, administration of such lands, etc. The LGAF report has a set of indicators on the transfer of large tracts of land to investor which involves the transparency of the process, transfer prices, impacts on environment, social and economic issue, reducing risk of negative effects from investment, etc. Countries have got lower score (C or D) for most of the indicator

Table 2: Assessment of land rights in 15 African Countries

Country	Customary (un-documented) individual rights are recognized	Customary group rights to land are recognized	Individual land rights are registrable	Group land rights are registrable	Land transfers via inheritance/gift is legally permitted	Land transfer via market (rental) is permitted	Land transfer via market (sale) is permitted	Implementation is underway for Land rights registration (individual)	Implementation is underway for Land rights registration (group)	Guideline/regulations with large-scale land acquisitions exist (are transparent)
Ethiopia	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes
Uganda	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Rwanda	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes
Tanzania	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Malawi	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes
Zambia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Kenya	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Ghana	Yes	No Data	Yes	No Data	Yes	Yes	Yes	Yes	No Data	Yes
Nigeria	Yes	Yes	Yes	No Data	Yes	No	No	No Data	No Data	Yes
Mozambique	Yes	Yes	Yes	Yes	Yes	No Data	No	No Data	Yes	Yes
Sierra Leone	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No Data	Yes	Yes
Burkina Faso	Yes	Yes	Yes	No Data	Yes	Yes	No Data	Yes	No Data	Yes
Gambia	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No Data	Yes
South Africa	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No Data	Yes
South Sudan	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes

Sources: Authors' compilation from Land laws, policies and constitution of Countries. Ethiopia (FDRE 1995, 2005, 2013; Hailu 2016); Uganda (Obaikol 2014; RoU 2013, 1995); Rwanda (Ngoga 2017; RoR 2013); Tanzania (Tenga 2015; RoT 1999, 1999a, 1999b, 1997); Malawi (GoRoM 2002; Jere 2012); Zambia (Mulolwa 2016; Tembo and Minango 2018; RoZ 2017); Kenya (RoK 2017, 2016, 2010, 2012; Wayumba 2014); Ghana (Bugri 2012; RoG 1999); Nigeria (Adeniyi 2011; FGoN 1978); Mozambique (RoM 1997, 1998); Sierra Leone (GoS 2015; WB 2019); Burkina Faso (Bazame et al 2017; GoB 2009); Gambia (Freudenberger 2000; WB 2013); South Africa (Kitchin and Ovens 2013; RoSA 1997); South Sudan (Deng 2014; RoSS 2009).

Existence of land rights:

Yes	Yes
No	No
No Data	No Data

CONCLUDING REMARKS

Since the turn of the millennium, the African continent has seen a series of legislative, administrative, and institutional land governance reforms in the advancement of land governance. However, despite encouraging efforts by countries toward recognition of land rights (individually and/or collectively), results from the LGAF assessments in selected African countries shows immense gaps remain when it comes to the implementation of various land governance interventions, especially on formalization/registration of individual and group land rights and regulations related with large-scale land acquisitions. Shortfalls in proper enforcement and implementation of the reform process, mainly due to a lack of capacity (financial and technical) and rent-seeking/corruption under the customary system, continue to undermine land rights of individual and communities. The active participation of citizens in the land law drafting process and on land dispute resolution local committees is an important factor in the proper implementation of land laws (Meinzen-Dick et al. 1997; FAO 2013).

Evidences show land rights under customary/traditional tenure systems are influenced by demographic changes/population pressure, agricultural commercialization, urbanization, economic changes and commodification of land (Ghebru and Lambrecht 2017; Ghebru and Girmachew 2017; Ghebru and Girmachew 2019; Ghebru et al. 2016; Linkow 2016). Recent land governance reforms have been hailed as a key element in efforts to ensure transparency, accountability and equitable access on customary land (Chitonge 2020). Many countries in Africa adopted a decentralized and community-based approach towards land administration. Another aspect of the recent land reform is inclusion of provisions to safeguard land rights of vulnerable and marginalized groups such as women. Ghebru (2019) highlighted women land rights vary not only across countries but also across several social, demographic, and economic conditioning factors within countries, and suggested the need for more pragmatic and more endogenous policy reform processes that consider the local administrative capacities to ensure the sustainability of interventions, programs, and reforms.

Although past land-titling programs in Africa were often unsuccessful, there is a renewed political commitment to improve the tenure security of individuals and communities given increasing pressure on land. The success of these land tenure reforms in enhancing tenure security hinges on the appreciation of the diversity and dynamic nature of existing agrarian structures and tenure systems, which ultimately rejects the one-size-fits-all policy prescriptions. These demand context-specific analyses and interventions that recognize the plurality of the forms of access to and control over land. Moreover, land right formalization programs and measures to enhance tenure security of households and communities should account for gender-sensitive dimensions and protect land rights of vulnerable groups in order to bring the desired outcome. (Atilola 2010; Byamugisha 2013; Javelle 2013; Meinzen-Dick et al, 2018; Ghebru, 2019; Ghebru and Girmachew 2020). This is mainly so since such tenure regularization/formalization/individualization in the form of a title/certificate may mean more exclusive/exclusionary rights to title/certificate holders unless otherwise carefully designed to protect intra-household interests/rights.

In rural areas of Africa, land not only is a productive asset but also performs as a social safety net against consumption and production risks. Unless alternative mechanisms are available to insure households against such risks through the development of markets, ongoing efforts to improve land rights will not be sufficient to enhance smallholder investment and agricultural productivity in Africa. Increased demand for land in SSA by foreign investors has brought a sense of urgency to the question of how best to increase land tenure security in SSA. Public policy must assist local people in screening commercial investments in land by providing clarity about property rights and proper valuation of land

as well as the economic viability of the projects. By the same token, clear and transparent policies vis-à-vis land rights should encourage productive foreign investment.

It is expected that this revision of land tenure reforms, although focusing basically on SSA, can offer some lessons for Venezuela and other developing countries. Particularly relevant can be the examples related to the use of decentralized governance systems that mobilizes local authorities and considers customary land rights, including those of women and indigenous populations.

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