

Land Governance and Transparency Livelihoods CPD Event: Overview



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Land Governance and Transparency Livelihoods CPD Event: an Overview

The Land Governance and Transparency CPD event for the DFID Livelihoods cadre took place in Whitehall on Wednesday 6th November. This document is a summary of key points made by each speaker, through their presentations and in response to questions from/discussions with participants. The event and this summary are not intended to be exhaustive explorations of the topic. Rather, issues raised here will be developed and substantiated in the upcoming Topic Guide on Land.

The G8 Initiative on Land – what has it achieved so far?

Iris Kriebler – DFID

The 2007/8 food price spike and expansion of land use for biofuels has made land in emerging economy countries an increasingly interesting commodity to invest in. Large scale land acquisition is now taking place in countries where often very little, e.g. across Africa less than 10%, of land is formally registered, leading to huge risks alongside the opportunities for economic growth and poverty reduction that foreign and national investment affords. Given that some G8 countries are consistently among the top ten foreign investors in large scale land acquisitions, it was deemed sensible to draw on the political power of the G8 to mitigate these risks by working towards better land governance. The first step towards better governance is better transparency – we need to know the scope and scale of the issue before we can improve it – how many million hectares of land have changed hands in the last ten years, for example.

Under the UK G8 presidency, therefore, a Transparency Initiative was drawn up to accelerate implementation of the Voluntary Guidelines on the Responsible Governance of Tenure - the first globally negotiated international soft law instrument for better land governance, endorsed by the Committee on World Food Security in May 2012. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security are a set of internationally accepted principles and standards for responsible practices which provide a framework that states can use when developing their own policies, legislation and programmes. The G8 Land Transparency Initiative uses pilot partnerships in seven developing countries to support implementation of the Voluntary Guidelines and, more broadly, strengthen land governance and property rights. These partnerships are Burkina Faso/USA; South Sudan/EU; Namibia/Germany; Nigeria/UK; Niger/EU; Senegal/France; and Tanzania/UK. It is hard to compare the relative success of each partnership as each is operating from a different baseline, but the most mature at this stage is probably Tanzania/UK. By the time UK hands over its G8 presidency to Russia at the end of 2013, it is expected that each partnership will have a clear action plan in place that sets out what will be delivered, how and by when; as well as who is involved, how the partnership is accountable and how progress is reported at the national level. It is expected that additional partnerships will be formed in the future, and that an international layer will be added to showcase success stories and boost lesson learning and coordination. An additional partnership with Ethiopia/UK/US/Germany was announced at the G8 Sherpa meeting on 22 November 2013.



Land Governance and Transparency

Anna Locke and Giles Henley – Overseas Development Institute

Trends

There is a lot of uncertainty about the extent of global land deals, as data is often hard to come by from government and company records. The Land Matrix – a database managed by a partnership of research institutes and the International Land Coalition – estimates 83 million hectares of land have changed hands in deals above 200 hectares since the year 2000 (<http://www.landmatrix.org/>). Other figures have emerged from various sources using different criteria and timescales, but the broad picture emerges that the scale is quite large. A large number of the deals have happened in a fairly small number of countries in East and West Africa. Many deals have been for crops that can be used for biofuels, but food crops and forestry have also been major intended land uses. Many deals in Africa originate from European countries, particularly the UK, Netherlands and Scandinavia. South East Asian countries have also been heavily targeted but primarily by Asian investors. Although Chinese investors play an important role in these deals, they are not as involved in African deals as earlier reports suggested. It is important to note that local investors also play an important role in driving and facilitating deals in emerging economies.


Drivers

At a global level, there is increased demand for food and agricultural commodities – the result of growing populations, growing economies and changing diets. The food price spikes of 2007/8 and EU biofuel policies have meant that the high profit margins have shifted to the production element of the value chain – making investment in land attractive. Water acquisition is another key driver – land deals target irrigated or easily irrigable land. Extraction rights are sometimes explicitly included in contracts, but where they are not, investors are sometimes able to defend preferential rights to water through bilateral investment treaties that set out investors' rights.

Expected Impacts

There have been few thorough assessments of the impacts of global land deals, partly because the projects haven't been going very long and because many have failed. However, early findings from available assessments and sources to be substantiated in the Topic Guide, raise a few concerns. Often, negative impacts are felt at the beginning of a project when people lose access to land and resources. Positive benefits — good jobs, technology spillovers and infra-structure — accrue over a longer period but these may not materialise if projects fail or companies do not prioritise supplying them. Compensation payments may undervalue land, ignore other incomes that households forego because of loss of access, or do not reach those who bear the highest losses. Increased time costs of accessing resources are rarely compensated. Food security can also be a concern if households lose access to food sources and crops produced on the land do not go onto local food markets, reducing availability. There is also concern around distribution of risks as the benefits do not necessarily accrue to the people incurring the costs: those losing access to land are not always those who are compensated with a job. Furthermore, many of the expected benefits may not materialise if the project fails or reneges on its promises – in such cases, the land often doesn't revert to the original land use right holder.

The balance of the costs and benefits outlined above can be affected by cost of land. In Africa where the dominant tenure is state-owned land, its cost is very low. This translates to a high incentive for speculation – there are instances of companies buying up more land than they have capacity to develop and just sitting on it because it will appreciate. The balance can also be affected by pressure from funders. Investors such as hedge funds and pension funds, attracted by the current profitability of land, are funding companies to buy up vast tracts. However, they are used to a quick turnaround and high rates of return that you



don't see in agriculture and this puts pressure on the companies they're funding, leading to shortcuts in the process of consultation and negotiation with local communities.

Reactions to Rising Interest in Land

There has been a focus on greater data provision, leading to national level initiatives such as Open Development Cambodia and Let's Talk Land Tanzania. A whole raft of initiatives around transparency and governance have also emerged. The dominant initiative is the Voluntary Guidelines (outlined above), but others include the African Union Framework on Land, Principles for Responsible Agricultural Investment, the World Bank Land Governance Assessment Framework and the Global Donor Working Group.

Land Titling

A dominant theory in development – the golden thread – revolves around property rights as the basis of economic growth. It has been argued that property rights are more important than geography when it comes to why some nations have prospered and others haven't (Johnson et al. 2002). According to Besley and Ghatak (2009) private titling is thought to increase productivity through four channels. Security – knowing no-one has the right to come and take away one's land provides an incentive to invest in it; Efficiency – greater clarity over land ownership facilitates transactions so assets get transferred to those who can use it most productively; Reduced protection costs – money and resources spent on protection e.g. guards, can be redirected towards more productive use; Collateral effect – owning a formal land title can facilitate access to finance which can then be invested in productive activity.

While some proponents of titling assume that these results will happen automatically, others highlight that the benefits of land titling are dependent on external factors, such as a functional financial market and justice system.

Others feel that titling is unnecessary and costly - that its benefits don't always justify its cost, that customary systems often work fine and money spent on formalising land titles could be more productively spent elsewhere. However, successful use of technology and community systems for land titling in Rwanda has shown that costs are no longer a significant barrier. Another strand of the debate is that titling has negative impacts, including distress sales of land; a greater concentration of land holdings in the hands of a few – leading to greater inequality and poverty; women often lose out; and latent conflicts managed through customary tenure can rise to the surface.


In summary, whether titling should be carried out is very context-dependent and a nuanced, holistic approach is generally necessary. The way in which titling is carried out is crucial, and needs to be as participatory and consultative as possible.

Transparency

Transparency is the first step towards improving land governance – it is a means to an end and not sufficient by itself. In many transparency initiatives, however, the end game is not clearly articulated meaning a clear pathway for how to achieve it is missing. There needs to be an understanding of how provision of information can boost accountability and ultimately achieve meaningful change. Accessible data is integral to this, as is meaningful consultation and participation through multi-stakeholder groups, and establishing clear indicators of success that focus on content rather than processes.

Fragile and Post-Conflict States

Individual fragile or post-conflict states face very different issues regarding land. Some of the broader issues include poor governance, absent state institutions and low capacity. Fragile states are often highly dependent on natural resources for economic growth, so working with the ministries or private companies involved in this area can be important. Post-conflict



states often have very unclear tenure systems – with missing or out of date records. Early engagement with land issues following conflict is now seen as very important. In many cases, peacekeeping forces are reluctant to engage as they deem the issue too political but several studies from different contexts have shown early engagement to be useful. Potential early interventions include establishing transitional land authorities to oversee administrative functions and regulate temporary land use. One of the most pressing issues in post-conflict situations is managing the process of restitution of land refugees. While there may be an moral or political imperative to promote the right to return, in most cases this is a complex process because community structures have changed, and there are overlapping claims to land from different groups.