BRIEFING NOTES

to improve our understanding and ability to ask the right questions and take effective action on land matters in West Africa

"Land Tenure & Development" Technical Committee

Investments in family farming, security of tenure and formalisation of rights in sub-Saharan Africa

by Jean-Philippe Colin[1], February 2018

The relationship between secure rights and investment hinges on the assurance that the producers will get a return on their investment or, conversely, that the investment will enable them to secure their rights. Formal tests of the relationship between secure tenure through titling and investment in family farms in sub-Saharan Africa have proved inconclusive. Investments are conditioned by many other factors apart from security of tenure (access to credit, inputs, markets, etc.), and issuing land titles is not the only way of securing tenure. Beyond tenure security, studies should address the issue of the relationships between rights, right holders and investments by exploring how the origin of the appropriation may affect investments.

Technical Committee

LandTenure&Development

AFD

Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE
MINISTÈRE DE L'EUROPE ET DES AFFAIRES ÉTRANGÈRES

What do we mean when we talk about rights, security of tenure and investments?

In social sciences, 'property rights' are socially enforced rights that may or may not be legally recognised and formalised. Resources are subject to multiple rights (to cultivate, invest, assign land use through a market or non-market transaction, make permanent market or non-market transfers, etc.).

The content of an individual's rights to a parcel determines the investments they will be willing and able to undertake, and may depend on the origin of the rights in question – in other words, how they were obtained. The system of rights within a family group may be such that the head of the family is the only person who can set up a perennial plantation, while limiting the expansion of plantations that would adversely affect other family members if the land is inherited through the lineage segment. Similarly, use rights obtained through a rental agreement usually prevent the holder from planting perennial crops, in order to protect the assignor's rights. The duration of the rights directly affects the rights holder's investment opportunities by setting the timeframe for possible returns on their investment.

Having secure rights is defined as knowing that the rights one holds will not be contested without reason, that credible recourse is possible if they are contested, and that there will be fair compensation if they are expropriated. The security of the rights is therefore independent of their content, duration, transferability or legal formalisation – which does not always guarantee their security. Insecurity may arise from the family itself, follow a land transaction or be the result of a public intervention (expropriation, land reform). Evaluating the extent to which rights of all kinds are secure or insecure is primarily an empirical exercise.

In this paper, investment is understood in the widely accepted sense of mobilizing financial resources or labour (particularly in the context of family farms), not just in the usual sense of long-term practices (soil conservation measures, installing irrigation or drainage systems, tree planting, etc.), but also short-term operating expenses (labour during the growing cycle, inputs, etc.). Fallow is also an investment, where the opportunity cost of not using the land for a given period is balanced against

1 *Director of Research at IRD: jean-philippe.colin@ird.fr*

the expected improvement in fertility. Other investments, such as putting up fences, may be aimed at securing tenure rather than for productive purposes.

How do secure rights affect investments?

The relationship between secure rights and investment is primarily based on the assumption that producers will see a 'return on their investment'. Securing the right to exploit a parcel for a limited period (such as an annual rental agreement with no risk of premature termination) may be enough to encourage producers to invest as much labour and inputs as possible in non-perennial crops. Long-term investments require the producer to have secure long-term rights through ownership or a long-term lease.

The fact that land can be transferred through the market is not seen here as a condition for securing tenure, but as a potential additional incentive for medium- or long-term investments. There are two reasons for this: first, if the activity ceases, the value of the investment may be reflected in the price; and second, the transaction may lead to the resource being transferred to more efficient producers with greater capacity to invest.

The argument for market transferability is central to many formal economic analyses, but it makes more sense for agricultural entrepreneurs than for family farmers who are 'rooted' in the territory, and whose investment decisions are more influenced by the prospect of land transfers within the family (for example, in a matrilineal system, I might be reluctant to invest in land if it will be inherited by my nephew rather than my son) than by market transfers.

WHEN INVESTMENTS SECURE RIGHTS

In certain contexts the direction of causality may be reversed, as it is the investment (in clearing the forest or bush, planting perennial crops, sinking boreholes, etc.) that establishes or secures rights to the land. This occurs at several levels:

- in sub-Saharan Africa it is widely accepted that labour creates rights, and thus, for example, that planting trees ensures ownership rights over these trees, or even on the land;
- in customary systems where land is still relatively abundant, the right to a parcel is assured as long as it is used, with productive use obviously prolonged in the case of perennial crops;
- investments represent a possible deterrent to eviction if producers who are evicted have to be compensated for such investments.

The first two examples can be seen in numerous descriptions of the 'race for land' in pioneer situations where land rights are not already firmly established. In these conditions, 'investments' in clearing the land and/or planting may include hasty measures designed to gain rapid control over the space.

Formalising property rights through titles may also increase the prospects for investment, as titles can be used to gain access to formal credit. Here too, the argument carries less weight with regard to family farms in Africa, as it assumes that there is a credit system accessible to family farmers, and that these farmers are willing to risk losing the land that is used to secure credit (aversion to this risk has been documented in a range of contexts).

Quantitative studies are inconclusive about the link between formalised rights, secure tenure and investments

Assumptions about the strong relationship between investment and the type of possession/ownership or availability of land titles have been challenged by a set of econometric studies conducted across sub-Saharan Africa. Despite the methodological problems inherent in such an exercise, these studies show that there are no mechanical links between the nature of rights, land titles and investments in family farming in Africa (these relationships have not been formally tested with regard to entrepreneurial farming).

What do more qualitative approaches tell us?

The findings of more qualitative studies (that do not use econometric techniques) are more consistent on the relationship between rights, security of rights and investments. They show that:

- Independently of tenure security, it is worth exploring the relationship between rights, rights holders and investments in landhold-

METHODOLOGICAL DIFFICULTIES IN ESTABLISHING CAUSAL RELATIONSHIPS

The econometric studies found it hard to identify and measure security of tenure and characterise investments. Most studies use the type and transferability of rights as a proxy for security, although local tenure systems may give sufficient security to encourage investment even if rights are not alienable. Very few studies identify the origin of possession/ownership, even though this is likely to influence rights and affect producers' willingness to invest in the land.

The lack of data means that investments are often understood in a binary way (the presence/absence of investments), without taking account of their intensity (the quality of a plantation, amount of time and labour invested, etc.).

Quantitative studies in West African contexts (where rights formalisation programmes have so far had a limited impact) rarely consider the presence or absence of titles or land certificates, and most studies conducted elsewhere in sub-Saharan Africa are inconclusive about the relationship between formalisation and investment.

- Acquirers may still invest in land even if they think their rights might be challenged (these investments include setting up perennial plantations). There are two possible explanations for this: (i) family farmers use processual conflict management strategies, and assume that they will be able to renegotiate the conditions of land access on (neo) customary grounds if their rights are contested; (ii) they tend to undervalue what they have contributed in terms of labour and overvalue cash outlays. Insecure rights will make them much more reluctant to invest substantial sums of money, but they will be prepared to invest family labour in clearing land or setting up a perennial

ing families, and considering the effects that the origin of the appropriation (purchase/inheritance) and possible obligations to assign use rights to family dependents may have on investments.

- Families may be one of the primary causes of insecure rights.
- For family farmers, poor returns on agricultural production and imperfections in the market environment (products, inputs, credit) are more of a constraint to productive investment than the nature or form of their land rights. This may not be the case for other types of producer.
- In many contexts, medium- or long-term investments are made without rights being formalised. Conversely, formalisation does not guarantee investments, as is illustrated by speculative formal acquisitions by urban actors.

Ivory Coast ©J.-P. Colin

plantation that requires few market inputs, as 'all they have to lose is their labour'.

In conclusion:

- investments are conditioned by many other factors apart from security of tenure;
- secure tenure (and especially the perception of security) plays a key role in investment decisions;
- however land titles are not the only way of securing tenure. Security may have more to do with the conditions that determine rights holders' social inclusion than with the formalisation of rights.

FOR FURTHER INFORMATION

>> Bruce J., Migot-Adholla S. (eds), 1994, *Searching for Land Tenure Security in Africa*, Dubuque: Kendall/Hunt.

>> Fenske J., 2011, "Land tenure and investment incentives: Evidence from West Africa", *Journal of Development Economics* 95 (2): 137-156.

>> Lavigne Delville P., 2010, "Sécurisation foncière, formalisation des droits, institutions de régulation foncière et investissement. Pour un cadre conceptuel élargi", *Revue des questions foncières* 1 (10): 5-33.

These pedagogic factsheets were produced with the support of the Technical Committee on "Land Tenure & Development" and the "Land Tenure Policy Elaboration Support" mobilizing project financed by the Agence Française de Développement. These factsheets can be downloaded in their entirety from the www.foncier-developpement.org web portal.

EDITOR

Jean-Philippe Colin – IRD / UMR GRED, Pôle foncier de Montpellier
jean-philippe.colin@ird.fr

PEER REVIEWERS

Philippe Lavigne Delville – IRD / UMR GRED, Pôle foncier de Montpellier
philippe.lavignedelville@ird.fr

Jean-Pierre Chauveau – IRD / UMR GRED
jean-pierre.chauveau@ird.fr

Aurore Mansion – GRET / « Land Tenure & Development » technical committee : mansion@gret.org