Talking land

Making Agricultural Investments Work for Land Users & Communities

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Earlier this year, Liberian President Ellen Johnson Sirleaf made an unexpected commitment related to foreign investment in land and community land rights. In a meeting with communities who had raised concerns regarding a British company's attempts to expand its palm oil production onto their customary land, the President effectively told those communities that they would have the right to say yes or no to further expansion, noting that the company could expand only with the affected communities' approval.

The President's oral assurance to the communities was rather surprising given that the company already held concession agreements, which were ratified by the Government of Liberia in 2008, that arguably covered the land in question. The agreements provided land for palm oil production, with exceptions for "tribal reserves of land" but with no other recognition of customary ownership rights. Yet six years after the agreements were signed, the President acknowledged the potential impact on customary land users and determined that the investor would need such users' approval before it continued with any expansion.

This belated step to protect communities' land rights from an investment that had already been authorized was particularly notable given the recent policy and political context. Although Liberia's first Land Rights Policy was introduced in 2013, creating a new category of Customary Land, the policy is not retroactive and thus presumably will not affect existing concessions. In addition, the President has been outspoken about community efforts to secure their land in the context of foreign concessions, warning at the beginning of this year that "unreasonable community demands" could scare away agricultural investors. Whether the company plans to adhere to this government determination remains to be seen.

Tensions between large-scale land-based investments and land rights

This situation illustrates tensions between large-scale land-based investments and community land rights that are seen throughout Africa. Many African governments have indicated their desire for greater private sector investment in agriculture, echoing calls for increased agricultural investment at the global scale. And while almost no one disputes the need for increased agricultural investment, sustainable investment in agriculture is fraught with challenges. These challenges become even more daunting in countries with insecure community land rights, weak land tenure systems, or tenure systems that are in the midst of transition.

> Indeed, weak land rights in certain countries are especially concerning for land users when those countries seek to promote greater investment in agriculture, as the types of agricultural investment models frequently embraced by governments and investors may actually jeopardize land rights rather than support them.

For example, research has shown that many of the large-scale land acquisitions made in recent years occur in heavily populated croplands, creating competition with existing smallholder farmers and land users – who may have undocumented customary tenure arrangements – and raising concerns about the displacement of communities to make way for such investment projects. Agricultural investments that lead to community displacement from productive land can have devastating livelihood impacts for the previous land users, even when compensation and resettlement opportunities have been provided. (The same research also found that a similar number of acquisitions occur in forested areas, which also raises livelihood concerns as well as fosters another set of challenges, particularly from an environmental perspective.)

Land rights can produce a host of benefits

Although efforts to secure community land rights can produce a host of benefits and can help protect communities from the potential negative impacts of investment, such processes are complex. And in some cases, they may be too slow to address the speed at which investors arrive.

In short, the opportunities and challenges of investment in agriculture are complex, especially in respect of how such investment affects land rights, particularly community land rights. Host countries concerned about sustainable development thus confront multiple complications in managing foreign direct investment in agriculture.
Increased training and cross-learning opportunities that support public sector officials can promote a more nuanced understanding of the key issues and facilitate government efforts to address these challenges. One example is the Columbia Center on Sustainable Investment's executive training on sustainable investments in agriculture, which will take place in New York from March 8-13, 2015, providing an interdisciplinary approach to help participants enhance their relevant knowledge and skills. (Applications are due December 15, 2014, and more information is available here.)

> Determining the type of agricultural investment needed – including the amount, the appropriate business models, and the deal structures that will provide the most benefits – is context-specific, as is the decision on the most appropriate approach to improving land governance and tenure security.

Yet experience around the world shows that these questions are some of the most pressing that host governments may face, with significant benefits if done well and massive problems if done poorly.
Countries continuing to grapple with these questions can and should learn from past experiences in peer countries, as well as benefit from the proliferation of guidance and best practices on responsible agricultural investment and good governance of land tenure.