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Editor-in-Chief: Karl P. Sauvant (Karl.Sauvant@law.columbia.edu)

Managing Editor: Jennifer Reimer (jreimer01@gmail.com)

Untying the land knot: Turning investment challenges into opportunities for all citizens

by

Xiaofang Shen*

Consider the following cases:

- China, 1980s. Newly embarked on its economic transformation, China opened to foreign direct investment (FDI) to obtain capital, technology and access to world markets. Investors hesitated, however, since national law prohibited access to state-owned land. In reaction, the government introduced a long-term lease system, first tested in special economic zones and later applied across the country. This approach enabled China's phenomenal success in attracting FDI in the years to come; it also paved the way for 500 million urban citizens to gain property rights, which in turn inspired the rural population to ask for the same rights today.
- Egypt, 1990s. Mounting economic needs called for diversifying tourism to the Red Sea coast. However, both domestic and foreign investors shied away from the lengthy and unpredictable land approval process. Project approval involved screening by at least five line ministries, from archeological to national security ministries. The bottleneck was finally removed by a negative approval approach, with each ministry mapping out areas along the coast that were *not* sensitive to their legitimate concerns. The areas cleared by all were then made available for priority tourism development. Business prospered immediately, while public interests were protected.
- Namibia, 1990s. As vast communal land was turned into national parks for wildlife conservation, the country's indigenous population faced the threat of losing its traditional livelihood. The government introduced legislation allowing registration of communal

* Xiaofang Shen (xshen2@live.johnshopkins.edu) is currently Senior Visiting Scholar at the Johns Hopkins University School of Advanced International Studies, after 22 years of experience working with the World Bank Group as an investment climate specialist. She is the author and editor of *Untying the Land Knot: Making Equitable, Efficient and Sustainable Use of Industrial and Commercial Land* (World Bank, Washington DC, 2012). The author wishes to thank Ward Anseeuw, Lorenzo Cotula, and Carin Smaller for their helpful peer reviews. **The views expressed by the author of this Perspective do not necessarily reflect the opinions of Columbia University or its partners and supporters.** *Columbia FDI Perspectives* (ISSN 2158-3579) is a peer-reviewed series.

conservancies. Having gained this collective right, indigenous groups could borrow from banks and form eco-tourism joint ventures with outside investors. By 2005, over 50 conservancies were up and running, enabling 220,000 communal residents to benefit from businesses consistent with wildlife protection.

What do these cases have in common in terms of non-agricultural investment?

- Well-secured land is essential for investment, foreign and domestic.
- Outdated and counterproductive laws, policies and institutions, seen everywhere, can prevent investment opportunities from materializing, while keeping valuable land resources locked, in de Soto's term, as "dead capital."¹
- Most importantly, investment challenges in access to land can be turned into opportunities consistent with public interests. In fact, lasting investment results and social and environment sustainability can be best achieved together, through policies that open up opportunities for all stakeholders.

All around the world, managing land use conflicts is difficult in fast-paced development. Many countries want to attract FDI, especially the kind bringing jobs and helping industrialization; but investors are hindered by the lack of access to well-secured, well-zoned and well-serviced land. Global enterprise surveys indicate over half of the manufacturing firms in Africa find access to such land a major impediment to their businesses; well over one-third of manufacturers in all other regions voiced the same concern.² Adding to the results the unknown amount of investment that has never taken place due to land obstacles, the overall situation is much worse.

Foreign and domestic investors are equally concerned, according to the same surveys. However, foreign investors conceivably have more choices -- if not satisfied, they simply move elsewhere. The runaway investment impact is, therefore, likely higher with foreign investors than their domestic peers.

Governments anxious to attract FDI sometimes offer free land and other special deals as investment incentives. Such an approach, however, creates more problems than it solves. Special deals given to few -- usually the large and well-connected -- disadvantage the rest. Moreover, land has a value serious investors are willing to pay for; offering it free makes host countries forego revenue and attracts wrong investors who speculate rather than build on the land -- a lesson many Chinese local governments learned from their earlier experiences.

Some governments have intervened by forcing ordinary citizens off the land to make way for new investment. Such interventions, leading to land grabs in extreme cases, create social injustice defeating the development goal. The popular resentment caused can also backfire against investment, as seen in the well-known case of Tata Steel in Orissa, India. Disrespect for citizens' rights further undermines the confidence of the business community. Many wonder: If land is taken away from someone for us today, can it be taken away from us for someone else tomorrow?

¹ Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York: Basic Books, 2000), p. 7.

² World Bank Enterprise Surveys, 2006-2009, available at: <http://www.enterprisesurveys.org>.

Short-cuts like these are sometimes attempted because fixing the systemic problems is hard. Obstacles imbedded in the lack of market development, unsecured property rights, obsolete rules and, above all, favoritism and corruption are fundamental. They cannot be overcome unless political leaders are willing and able to operate on their own systems, including, sometimes, taking away the power from the powerful.

Further, systemic reforms require efforts not only to dismantle the old machine but also build a new one. Modernizing property laws and land administration, updating zoning and environment regulations and building capacity at all implementing levels -- these require persistent efforts based on political leadership, institutional cooperation and, when ready solutions do not exist, a bit of pragmatism and innovation.

Fortunately, progress is possible -- from A to C if not immediately from A to Z. The experiences of China, Egypt and Namibia are just a few examples. Efforts like these are worth making, as they lead to a fair, efficient and transparent system -- exactly what investors want most. They also safeguard vital public interests.

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