
COMMENTS ON THE LAND INDICATORS OF THE WORLD BANK'S 'BENCHMARKING THE BUSINESS OF AGRICULTURE' INITIATIVE



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Background

Oxfam welcomes the opportunity to engage with Bank staff in the formulation of its indicators for the Benchmarking the Business of Agriculture in (BBA) initiative, and is working closely with other civil society groups such as the African Smallholder Framers Group to provide comments.

We are concerned at the BBA's overriding focus only on policies that promote the expansion of commercial agriculture. Instead we would urge the BBA to explicitly favour policies that support smallholder farmers, whether in gaining access to commercial agriculture value chains, or in improving productivity and security of tenure. Such an approach would more firmly orient the BBA toward the Bank's twin goals of shared prosperity and poverty reduction, given that worldwide, around 500 million small farms support almost two billion people, many of them living in poverty. Oxfam and IIED recently published in-depth research, *Tipping the Balance: Policies to shape agricultural investments and markets in favour of small-scale farmers*, into the types of public policy reforms that would ensure commercial investment and agricultural markets benefit smallholder farmers. We submit the report here for the BBA team's consideration.¹ The report identifies key policy levers that can tip commercial investments in favour of either small- or large-scale farming. It shows how policy levers influence market governance to constrain or to support the fair sharing of risk and reward between small-scale producers and the rest of the market. A key element of the report is the examination of policy elements that can specifically contribute to gender-equitable results. Four country case studies, conducted in Guatemala, Nigeria, Tanzania and the Philippines, supported the research.

In addition, Oxfam would like to provide further input on the land indicators of BBA. Land is one of eight sectoral indicators making up BBA, (see <http://www.asfg.org.uk/downloads/bba-overview->

¹ See: Oxfam and IIED (2012) *Tipping the Balance: Policies to shape agricultural investments and markets in favour of small-scale farmers* <http://policy-practice.oxfam.org.uk/publications/tipping-the-balance-policies-to-shape-agricultural-investments-and-markets-in-f-254551>

[flyer.pdf](#)), the others being Agricultural Inputs, Rural Finance, Water, Markets, Trade, Rural energy and Rural Markets. Each of these areas is critical for boosting agricultural production and benefitting smallholder farmers, but these comments will focus on land as the critical factor underpinning rural communities' livelihoods and food security.

Concerns

- The aim of the BBA initiative is to 'leverage policy reforms which enable the emergence of a stronger commercial agriculture sector'. The extent to which **this aim may conflict with or undermine the rural communities' land tenure rights** is not considered adequately in the land indicators. In the context of rising commercial pressure on farmland, and the increase in land conflicts this has generated², this is a serious gap which should be addressed in future plans.
- Furthermore, **there is inadequate consideration of how the land indicators relate to the broader land governance debate**. In May 2012 the international community reached broad-based consensus among governments, civil society and the private sector to agree the Voluntary Guidelines on the Responsible Governance of Tenure³. Additionally, in 2012 the World Bank itself developed indicators for assessing the governance of land with its Land Governance Assessment Framework⁴. Yet neither of these leading frameworks is referenced in the land indicators. We would urge the Bank's BBA team to **ensure the BBA is in line with the Voluntary Guidelines**, in line with President Kim's statement on land in April 2013⁵:

"The World Bank Group supports and endorses the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security ("the VGs"). These guidelines are a major international instrument to inform specific policy reforms, including our own procedures and guidance to clients."

² See for example Oxfam 'Land and Power: the growing scandal surrounding the new wave of investment in land' 2011 (<http://policy-practice.oxfam.org.uk/publications/land-and-power-the-growing-scandal-surrounding-the-new-wave-of-investments-in-l-142858>); and Oxfam 'Our Land, Our Lives: Time out on the global land rush' 2012 (<http://policy-practice.oxfam.org.uk/publications/our-land-our-lives-time-out-on-the-global-land-rush-246731>).

³ See: <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

⁴ See: <https://openknowledge.worldbank.org/bitstream/handle/10986/2376/657430PUB0EPI1065724B09780821387580.pdf?sequence=1>

⁵ See <http://www.worldbank.org/en/news/press-release/2013/04/08/world-bank-group-access-to-land-is-critical-for-the-poor>. The press release states *"The World Bank Group supports and endorses the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security ("the VGs"). These guidelines are a major international instrument to inform specific policy reforms, including our own procedures and guidance to clients."*

- The indicators and deep dive topics themselves touch on several critical issues, such as provision of compensation for displacement, number of evictions, and GINI coefficient. However, the list appears somewhat top-line, and **fails to address other issues fundamental to effective and pro-poor land governance**. The context in Sub-Saharan Africa, for example, where Bank figures suggest 90 per cent of rural land is as yet unregistered⁶, cannot easily be addressed through the proposed legal indicator designed to assess ‘Security of tenure provided by the land administration system.’
- There is a **lack of focus and clarity** in the indicators and deep dives, especially around issues relating to smallholder farmers. The section on smallholders and the 'informal' economy seems confused with little clarity on what exactly will be measured, or why. For example, the intention seems to be simply to what degree smallholder farmers should/could access formal markets. But a discussion on how and why, let alone a consideration of the 90 per cent of smallholder farmers who are not yet ready for that is largely absent. Critical issues such as risks borne by smallholder farmers in value chains, or issues of resilience in the face of climate change are similarly neglected. Nor is it clear from the proposed deep dive indicator on property rights how the assessment of share of rights held by “private, public and community” will be weighted and therefore judged. Further clarity on such critical issues, as well as clearer definitions of key concepts such as “efficiency” of property rights allocation, will be needed to ensure the indicators and deep dives do not mask risks for smallholder farmers.
- Civil society representatives from the African Smallholder Farmers Group⁷ have recommended several additional indicators to address these gaps including:
 1. To what extent is land titled and registered? How easy is it to register land?
 2. Do land policy frameworks accommodate and build on customary norms and practices?
 3. Are policies in place to ensure the sustainable management of common property resources?
 4. To what extent do land laws guarantee secure tenure for the poor, for women and for other vulnerable groups?
 5. Are special provisions in place to close the gender gap in land access? For example, is there a legal requirement for national and local institutions to include women in land management and allocation decisions and in dispute resolution mechanisms?
 6. Do smallholder farmers, in particular women farmers and the poor, have access to justice and affordable legal services to resolve land disputes?
 7. Are key international guidelines and frameworks being utilised for responsible governance and investment in land and natural resources and to safeguard the interests of the poorest and most vulnerable?
- **Further indicators should be considered by the BBA team**, assessing how transparent land transactions are, what information is made publicly available about land registration and

⁶ See <http://www.worldbank.org/en/region/afr/publication/securing-africas-land-for-shared-prosperity>

⁷ <http://www.asfg.org.uk/>

concessions, what processes are in place to ensure adequate consultation with and compensation for communities over land tenure issues.

Transparency: Transparency in transactions is a fundamental requirement for good governance, avoidance of corruption, and accountability to stakeholders. Furthermore, the benefits of the investment – which could include new jobs, spin-off businesses and tax revenues – are difficult to assess and guarantee when there is no contract or revenue disclosure. A transparency indicator would measure the level of public availability of information about land transactions (including concessions and lease agreements) including at a minimum: sector, home country and name of investor, size of investment, benefit-sharing arrangements, consultation records and any environmental and social studies relating to the investment.

Consultation with affected communities: For transactions to occur in a fair and equitable manner, it is essential that all stakeholders have adequate access to information and decision-making processes – to enable affected communities to become partners in development rather than victims of the deal. Global best practice norms – including multi-stakeholder initiatives such as the Roundtable on Sustainable Palm Oil, the IFC's Performance Standards, and many leading corporations – now recognise community consent as an essential factor in successful development projects. In May 2012, for example, the African Commission on Human and People's Rights resolved that "all necessary measures must be taken by the State to ensure participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance"; and to "Ensure independent social and human rights impact assessments that guarantee free prior informed consent".⁸ As a minimum, the BBA should explicitly avoid undermining not only the LGAF, but also any standards and principles already agreed in the World Bank Safeguards and the IFC Performance standards. A consistency check would therefore be a prerequisite to moving forward.

The use of eminent domain: A recent World Bank publication on investment in Africa, *Securing Africa's Land for Shared Prosperity*⁹, notes that too often, the use of eminent domain has lent itself to abuse in land transactions. The report recommends 'Avoiding extending the principle of government takings of land in the "public interest" to include acquisition of land for investment'. An indicator assessing the extent and appropriateness of the use of eminent domain, in line with the above recommendation, would contribute to an accurate assessment of land governance.

⁸ African Commission on Human and Peoples' Rights (2012) 'Resolution on a Human Rights-Based Approach to Natural Resources Governance', 51st Ordinary Session: 18 April - 2 May 2012, <http://www.achpr.org/sessions/51st/resolutions/224/>

⁹ See: <http://www.worldbank.org/en/region/af/publication/securing-africas-land-for-shared-prosperity> p. 107.

- The following are excerpts from the World Bank's own **Land Governance Indicators**¹⁰, which could be drawn upon in the BBA indicators to provide the level of detail necessary to address the critical issues surrounding tenure security:

On women's rights:

"A high percentage of land registered to physical persons is registered in the name of women, either individually or jointly."

Expropriation and compensation:

"Where property is expropriated, fair compensation, in kind or in cash, is paid so that the displaced households have comparable assets and can continue to maintain prior social and economic status."

"Fair compensation, in kind or in cash, is paid to all those with rights in expropriated land regardless of the registration status."

Consultation and non-discrimination:

"A comprehensive policy exists or can be inferred by the existing legislation. Land policy decisions that affect sections of the community are based on consultation with those affected, and their feedback on the resulting policy is sought and incorporated in the resulting policy"

Benefit-sharing and equity:

"Mechanisms to allow the public to capture a significant share of the gains from changing land use are regularly used and applied transparently based on clear regulation." "Land policies incorporate equity objectives that are regularly and meaningfully monitored, and their impact on equity issues is compared to that of other policy instruments."

Transparency:

"All the information in the public land inventory is accessible to the public. Key information for land concessions is recorded and publicly accessible." "Allocation of public land is transparent. Transfer of public land to private use follows a clear, transparent, and competitive process, and payments are collected and audited."

Dispute resolution mechanisms:

"Independent avenues to lodge a complaint against expropriation exist and are easily accessible."

¹⁰ See:

<https://openknowledge.worldbank.org/bitstream/handle/10986/2376/657430PUB0EPI1065724B09780821387580.pdf?sequence=1>