

Breathing life into dead theories about property rights : de Soto and land relations in rural Africa



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Abstract

Presumption of a direct causal link between formalisation of property rights and economic productivity is back on the international development agenda. Belief in such a direct causal relationship had been abandoned in the early 1990s, following four decades of land tenure reform experiments that failed to produce the anticipated efficiency results. The work of Hernando de Soto has provided the springboard for this revival. De Soto argues that formal property rights hold the key to poverty reduction by unlocking the capital potential of assets held informally by poor people. De Soto's justifications of formal title do not differ much from justifications that were advanced for ambitious land tenure reforms in various sub-Saharan African countries, starting with Kenya in the 1950s. Introduction of formal title in the African areas was seen as the key to solving problems of land degradation and improving agriculture by providing farmers with security of tenure that would create incentives for further investment in the land. This paper argues that there are five shortcomings in both the old and contemporary arguments for formalisation of land title. First, legality is constructed narrowly to mean only formal legality. Therefore legal pluralism is equated with extra-legality. Second, there is an underlying social evolutionist bias that presumes inevitability of the transition to private (conflated with individual) ownership as the destiny of all societies. Third, the presumed link between formal title and access to credit facilities has not been borne out by empirical evidence. Fourth, markets in land are understood narrowly to refer only to 'formal markets'. Fifth, the arguments in favour of formalisation of title as the means to secure tenure ignore the fact that formal title could also generate insecurity. Keywords: property rights; land relations; agriculture; poverty reduction; land tenure; Africa.

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Nyamu-Musembi C. (2007) De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights. *Third World Quarterly*, 28(8): 1457–1478. Royston L. (2007) Snakes and ladders: A housing perspective on de Soto and the first and second economy debate in South Africa. In: *Are Hernando de Soto's views appropriate to South Africa?* Johannesburg: University of the Witwatersrand: 32–43. Ryzhova N.P. (2014) Zemlya i vlast': razlichiya v podkhodakh k issledovaniyu sobstvennosti (sluchay neformal'nogo zemlepol'zovaniya kitayskikh fermerov) [Land and power: differences in approaches to the study of ownership (the case of informal land use by Chinese farmers)] In addition, de Soto argues that to achieve secure property rights, a country must incorporate the informal, unarticulated rights into a written, formal, legal property rights system. To do so, an integrated system of standard legal titles is necessary. That is why he argues for the codification of informal property rights through a written legal system of property titles as the way to establish secure property rights. Breathing life into dead theories about Property Rights: De Soto and land relations in rural Africa. IDS Working paper 272. Celestine Nyamu-Musembi. De Soto's justifications of formal title do not differ much from justifications that were advanced for ambitious land tenure reforms in various sub-Saharan African countries, starting with Kenya in the 1950s. Introduction of formal title in the African areas was seen as the key to solving problems of land degradation and improving agriculture by providing farmers with security of tenure that would create incentives for further investment in the land. This paper argues that there are five shortcomings in both the old and contemporary arguments for formalisation of land title. First, legality is