



# Catalyzing Innovation

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## Stakeholder Narratives on Tenure Transformation in Morocco

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## Abstract

The Moroccan government and development organizations have repeatedly identified the legal complexity of collective land, which makes up one-third of Morocco's territory, as a barrier to rural development. In 2017, the government began a project to transform 46,000 hectares of collective land in the Gharb irrigated perimeter into private property with funding from the Millennium Challenge Corporation. I explore how diverse stakeholders to this privatization project mobilize different narratives to express their implicit and explicit objectives, concerns, and future expectations on the outcomes of titling collective land. I trace contemporary efforts to reform land tenure in Morocco and analyze the likely outcomes of privatization on economic livelihoods, administrative shifts, and the implications of privatization on agrarian social relations. I conclude by proposing some potential policy options that could achieve project objectives and alleviate stakeholders' concerns while maintaining local usage of newly-titled land in the Gharb region.

**Key Words:** Rural development, agrarian political economy, customary tenure, privatization, land policy



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## Introduction

The signing of the Land and Employability Compact in 2015 between the Millennium Challenge Corporation (MCC), a U.S. foreign aid agency, and the Government of Morocco marked a renewed push to privatize irrigated collective land in Morocco. This Compact established a new pilot project to register and title 46,000 hectares of collective land in the Gharb irrigated perimeter from 2017-2022, in effect converting these lands into private freehold tenure. Powerful decision-makers, including the Moroccan government and international development organizations, have long pointed to the complex and asymmetric nature of the administration of collective lands as a major barrier to rural development (El Ghrib, 2016a; USAID, 2011). Given the vital role of land in shaping social identity, providing an economic livelihood, and constructing rural power structures, the implementation of privatization processes will dramatically transform the lives of the residents of collective land in Morocco.

Collective land in Morocco as a formal category of tenure status dates back to the colonial period (1912-1956), where it was established by the *qahir* of 1919, a royal decree. These lands cover approximately one-third of Morocco's territory, not including the contested former Spanish Sahara, where collective land is not present. Legally, the central state administers collective land on behalf of groups based on common lineage known as 'ethnic collectivities'. Each of the 4563 ethnic collectivities that exist today hold collective title to a defined plot of land and have the right to manage it in accordance with local customary law (DAR, 2017). For the purposes of our discussion the key feature of collective land is that it is inalienable - usage rights cannot be transferred outside the collectivity except through eminent domain or rentals approved by the Ministry of the Interior.

The contemporary titling process being carried out in the Gharb irrigated perimeter is referred to as the "Rural Land Activity" (RLA) in Morocco's Employability and Land Compact with the MCC, which entered into force in July 2017. The RLA includes two years of project planning followed by a three-year implementation phase that will conclude in 2022. There are an estimated 81,500 beneficiaries to this project, who are residents and users of the lands in question (MCC, 2015). The Compact frames the RLA as a pilot project, and upon a successful conclusion the new titling process will be applied in all irrigated collective land, potentially followed by all arable collective land if current legal barriers are dismantled (MCC, 2015). There are 1,544,696 hectares of arable collective land in Morocco, 21% of which fall within the irrigated perimeters (DAR, 2017; al-Drif, 2017, p. 41).



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The creation of this pilot project did not happen in a vacuum. Local stakeholders, government ministries, and international development organizations have long recognized issues with the administration of collective land, and transformation of collective tenure was a key debate at the 1994-95 and 2014-15 National Dialogues on Land in Morocco (El Ghrib, 2016a). These discussions came to a head in 2015, when King Mohammed VI delivered a royal letter to the participants of the most recent dialogue that called for reforms in managing collective lands to encourage their productive usage and stimulate investment. This letter, which called for a new national land strategy based on liberalization of the agricultural sector, signaled to institutional actors that the Palace supported tenure reform.

This paper is based on 94 semi-structured interviews with MCC officials, Moroccan government officials at relevant ministries, representatives of 30 different ethnic collectivities, and rights-holders to collective land, as well as field visits to 13 ethnic collectivities in the Gharb irrigated perimeter. In addition to qualitative methods, I supplement these interviews with quantitative data found in the literature and from government documents. This paper seeks to address how the different narratives deployed by diverse stakeholders reflect their implicit and explicit objectives, concerns, and perceptions of the future outcomes of titling collective land. I begin with covering the contemporary situation of land tenure in Morocco as well as the history of land policies since the colonial era, followed by an analysis of how different stakeholders discuss their goals, concerns, and future expectations. Next, I turn to how the administrative transformation of collective land into private property will likely impact rights-holders' livelihoods and agrarian structures in the Moroccan countryside. This discussion centers around economic shifts, administrative changes, and transformations of agrarian relations in the Moroccan countryside.

Finally, I propose some policy recommendations that could address the concerns of different stakeholders to this tenure conversion project. Each of these potential policies was suggested as a possible solution to some of the legal barriers currently impacting privatization and titling policies by one or more stakeholders. These policies include a cooperative model covering all of a collectivity's land, a smaller corporate model that consolidate groups of new owners, and providing subsidized loans to the most productive title-holders to purchase their neighbors' land. However, the full implications of each of these proposed solutions have yet to be fully explored. Here, I argue that each policy involves tradeoffs between market integration, freedom of individual choice, consolidation of land plots, and local control over decision-making. I conclude by elaborating on related projects outside of the scope of the RLA that would be useful in improving the livelihoods of project beneficiaries.



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## Contemporary Land Tenure Institutions

Contemporary land tenure in Morocco is characterized by legal asymmetry and administrative plurality (USAID, 2011). There are five categories of land tenure present in the country today, which vary widely in their governance features. This work is primarily focused on collective land, also referred to as *sulāliyya* land, as well as *melk*, or private property. These two categories make up a majority of agricultural land in Morocco, as shown in Figure 1. However, it is worth pointing out the existence of other types of tenure. *Awqāf*, more commonly referred to as *hubūs*, is a type of Islamic endowment managed by the Ministry of Islamic Affairs and *Awqāf*. These lands are inalienable, similar to collective land, but are rented out by the Ministry in order to generate funds for Islamic institutions such as mosques and traditional centers of learning (M'Hassni, Feljy, and Khalali, 2003). *Guiche* lands were given for the perpetual usage of tribes that provided troops to the Sultan in the pre-Protectorate period (Bidwell, 1973). Finally, state lands include forests, water sources, public goods such as roads and parks, military bases, as well as agricultural land within the royal domain (USAID, 2011).

Figure 1 - Farmland by Tenure Status

Tenure Status	Hectares	Percent of Total
Private Property ( <i>Melk</i> )	6,618,130	75.8%
Collective Land ( <i>Sulāliyya</i> )	1,544,656	17.7%
State Land	270,153	3.09%
Guiche	240,441	2.75%
<i>Awqāf</i>	58,843	0.66%
Total	8,732,223	100%

Source: RGA [General Census of Agriculture], 1996

*Melk* is in many ways similar to the private property regime that arose in the West, with the glaring exception of a gender-asymmetric partible inheritance system based on Islamic jurisprudence that has contributed to land fragmentation. The key feature of this type of freehold tenure is that it can be recorded



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in the national land registry, which is managed by the *Agence Nationale de la Conservation Foncière du Cadastre et de la Cartographie* (ANCFCC) [National Agency of Property Cadastre and Cartography]. Morocco subscribes to the Torrens system of land registration, which involves the creation of a cadastral map for a given plot, the publication of registration processes in the Official Bulletin, and the distribution of a formal title outlining the rights of the owner, upon which all prior claims to the land are erased (Bouderbala, 1999). Owners of *melk* land hold the full bundle of property rights, including *usus*, *fructus*, and *abusus*, and they can legally transact within formal land markets. The primary issue affecting *melk* land today is generational fragmentation of ownership due to the nature of legal inheritance (M'Hassni et al., 2003). By one account, 46% of agricultural land is held in joint-ownership, which forms a significant obstacle to market transactions as it increases opportunity costs by requiring the agreement of all owners to any sale or rental (El Ghrib, 2016a).

Registration and titling of land is the primary mechanism the state uses to incorporate land into the formal market sphere (Loehr, 2012). In Morocco, registered land is synonymous with private property, because the process of registration includes the creation of an individually-held title to the property. The current land strategy of Morocco is predicated on the registration of all lands and their subsequent recording in the national cadastral system (M'Hassni et al., 2003). In 2011, this was made explicit by a new law mandating registration of land, although a comprehensive implementation process has yet to emerge (Adad, 2018). In Morocco, as a result of past royal decrees and legislation, there is no legal channel through which other types of land tenure can be registered, with the exception of irrigated collective land.

Collective land, as aforementioned, are lands the state holds in trust on behalf of and for use by ethnic collectivities. The *Direction des Affaires Rurales* (DAR) [Directorate of Rural Affairs], a department within the Ministry of the Interior, is currently responsible for managing these lands with the *Conseil de Tutelle* [Trusteeship Council]. Roughly 85% of the 15 million hectares of collective land are used for pastoral purposes, while the rest is agriculture or residential land (DAR, 2017). The *dahir* of 1919 states that each collectivity can manage its own land in accordance with *'urf*, or local customary law. However, local *'urf* is not recorded, and fieldwork indicates it has shifted over time to exclude groups such as women from accessing land (Wheeler and Balgley, 2016). As noted by James Scott, “customs are better understood as a living, negotiated tissue of practices which are continually being adapted to new ecological and social circumstances - including, of course, power relations.” (Scott, 1998, p. 34).



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Each of the 4563 collectivities can manage their land asymmetrically according to their local customs, but there are congruent features that prevail over all collective land. Each collectivity is responsible for selecting a *nā`ib* (pl: *nuwwāb*) that serves as a community land representative and acts as a link between the DAR and the collectivity. *Nuwwāb* can be selected either through election by rights-holders in the collectivity or directly by a local council of notables. In practice, the selection of the *nā`ib* is integrally related to local power dynamics, as the position holds immense influence over access to land. The *nā`ib* is responsible for maintaining the official list of rights-holders, meaning he (or more recently, she), is the sole local arbiter on who has legal access to collective land. In addition, the *nā`ib* rules on local disputes and is the only legal representative of the collectivity with regard to the land, which includes the power of approving rental contracts (DAR, 2017). Rights-holders to collective land reported that local councils typically selected the *nā`ib*, rather than an election within the ethnic collectivity. This council is largely made up of older men who exclude women and youth from decision-making power; institutional channels to replace *nā`ib* do exist, but local power dynamics and social considerations often prevent these channels from being used (M'Hassni et al., 2003). This demonstrates the inequitable access to decision-making power that is the status-quo within ethnic collectivities, where local councils can serve as mediating institutions that negotiate processes of exclusion and access (Rignall, 2015).

While collective land cannot be alienated outside of the collectivity, it can be rented, either in whole or in part, to an outside individual or corporation. The Ministry of the Interior encourages the rental of *sulāliyya* land, subject to the approval of the *nā`ib* and Ministry officials through an opaque process that lacks accountability (Jkaoua, 2011). The Ministry collects the rent generated by lease agreements, which is put into a fund to be used either in individual disbursements to those included on the lists of rights-holders or to fund a development project for the benefit of all residents of the land (DAR, 2017). One farmer who was in the process of renting collective land in the Haouz plain reported that he permanently purchased the usufruct from rights-holders, but needed the approval of the Ministry of the Interior in order to enforce the practice of this purchased right. Additionally, he noted that the local administration of the Ministry of the Interior lacks the manpower to conduct oversight of rented collective land, which means that once access is gained, it can typically be maintained regardless of the legal length of the rental contract. This mixture of centralized bureaucratic control and customary law creates a highly complex and opaque tenure system that is often unintelligible to outsiders and incompatible with conventional land markets (Scott, 1998).



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## National Dialogues on Land

Beginning in 1994, the government organized a series of regional and national dialogues related to general land issues, which included discussion on tenure conversion of collective land. These dialogues involved a variety of stakeholders, including parliamentarians, local authorities, academics, ministry officials, and *nuwwāb*. Two primary recommendations developed out of the dialogues held from 1994-1995: the first advocated for privatizing arable collective land and maintaining the current tenure system for rangeland and forests, while the second proposed reforming the administration and valuation of all collective lands through cooperatives and partnerships with private partners but rejected tenure conversion. However, a lack of political will at the time prevented either of these recommendations from being implemented. As a result, land conflicts continued to increase due to demographic growth, inheritance laws, and a lack of legal clarity (El Ghrib, 2016a).

The government returned to the issue of collective land with a second round of dialogues carried out in five regions of Morocco in 2014. At the conclusion of these discussions, the majority view advocated for privatization of agricultural collective land while preserving collective management of rangelands and forests, aligning with the first viewpoint of the previous dialogues. In addition, stakeholders agreed that administrative changes to collective land must be both participatory and inclusive. Following these regional dialogues, a national conference on land policies was organized in December 2015, where King Mohammed VI delivered the aforementioned royal letter. This letter provided guidelines for developing a new national land strategy and put forth recommendations for reforming Morocco's land governance administration. The recommendations included improving governance tools and land financing mechanisms, revising legal frameworks related to land, and reforming the taxation system (El Ghrib, 2016a).

Privatization of all arable collective land still faces legal barriers due to the *dahir* of 1919, but reforms in 1969 allow the government to renew privatization processes within the irrigated perimeters (Jkaoua, 2011). The recent Compact agreement with the MCC is designed to address the problems of past privatization projects while incorporating the recommendations of these regional and national dialogues, particularly those related to stakeholder engagement and inclusivity. It also serves as a pilot project that seeks to demonstrate the economic benefits of tenure transformation while the government reforms wider land governance structures.



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## Compact Development and Contemporary Land Privatization

The 2015 Employability and Land Compact between the Government of Morocco and the MCC marked a new commitment to implementing registration and titling of irrigated collective land. There are a number of projects associated with this 500 million dollar Compact, but for the purposes of this discussion I will focus on the Rural Land Activity. This project aims to transform 46,000 hectares of irrigated collective land in the Gharb into individual freehold tenure through a new registration process that is still under development, but seeks to address the challenges that the *dahir* of 1969 encountered. While the MCC provides funding and some amount of technical assistance, the implementing agency is the Millennium Challenge Account (MCA), a Moroccan government agency under the direct supervision of the Head of Government.

The central goal of the Compact, as with all MCC projects, is to reduce poverty through economic growth. With regard to the RLA, the explicit objective is to “increase rural productivity by developing and piloting more efficient and inclusive procedures for privatization of collective land that can be implemented within three years or less, and can be replicated by the Government in the privatization of the remaining arable collective land in Morocco” (MCC, 2015, Annex I-8). The Compact identifies legal obstacles to land transactions, the risk of investing in land over which the user has insecure rights, and the ineffectiveness of past privatization policies as the most significant barriers to increasing productivity of arable collective land (MCC, 2015, Annex III-4). At the same time, the Land Governance Activity is working on reforming larger institutional structures related to land administration and developing a national land strategy. The Governance Activity “aims to support the development and implementation of the Land Strategy to address governance and land market constraints to investment and productivity. The Land Strategy will be “market-oriented, supporting increased productivity of private as well as public land.” (MCC, 2015, Annex I-8). The text of the Compact notes that past issues of land governance include the absence of a national land governance strategy, problems of coordination between government actors, and the outdated nature and inconsistent application of legal and regulatory frameworks (MCC, 2015, Annex III-4).

Currently, the MCA is working on developing an optimized procedure for registration that follows the International Finance Corporation’s environmental and social performance guidelines. The RLA is still in the planning phase until July 2019, after which implementation will begin. There are numerous actors involved in the planning process, which is being coordinated by the MCA. Governmental actors include



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the Ministry of the Interior, Ministry of Agriculture, ORMVA Gharb, ANCFCC, MCA, and the Palace. The MCC also plays an important role as project funder as well as providing technical support, and MCC staff are working closely with the MCA to identify the challenges that must be addressed during project implementation. Local stakeholders include *nuwwāb*, rights-holders, and their families, and it is important to recognize that they are not a homogenous group and exhibit different perspectives depending on gender, education levels, age, and relative economic standing within the community.

## **Stakeholder Perspectives**

While the explicit objectives of the project are outlined in the Compact text, officials at each ministry or agency tend to emphasize different aspects of these objectives in interviews. For example, the Ministry of Agriculture focuses on investment and material increases in agricultural productivity, the ANCFCC on legal clarification of land status and incorporation into the national land registry, and the ORMVA Gharb on improving administrative clarity in the irrigated perimeter. The Palace, of course, directed the orientation of this entire project through the King's letter in 2015, but lies above the whole affair and is not directly involved. Finally, the MCC and MCA are focused on actor coordination and achieving the comprehensive goals of the project as outlined in the text of the Compact. I now turn to the specific perspectives of three groups of actors involved in this project: MCC officials, Moroccan government officials, and local stakeholders.

### *The Millennium Challenge Corporation*

The central objective of the Millennium Challenge Corporation is to reduce poverty through economic growth. In the context of the RLA, MCC officials are fully in favor of formalizing land rights through titling collective land and support the unification of the tenure system in Morocco. These officials have generally expressed pro-market ideology and see capitalization of the agricultural sector as inevitable, but express concerns for those who will lose out after privatization of collective land. It is worth noting that the MCC does not choose projects, but instead approves funding requests proposed by governments who fulfill their criteria. In Sub-Saharan Africa, there are a number of MCC-funded projects that were focused on preserving and incorporating customary tenure systems into a national land strategy. The diversity of strategies that MCC has funded perhaps speaks to the adoption of an 'augmented' Washington Consensus, which advocates for heterodox, context-specific policy approaches that encourage investment and institutional reform within the framework of economic liberalization (Williamson, 2004).



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The RLA aims to reduce poverty in the project area by bringing collective land into the market sphere and facilitating access to credit by way of distributing land titles. The link between titling and credit access is contested in the literature, but MCC officials claim that having a title does ensure greater access to credit in Morocco. This project is predicated on the idea that rights-holders will use their titles to gain access to credit and invest in agricultural productivity, contributing to both modernization of the agricultural sector and improving the economic livelihoods of project beneficiaries.

It is difficult to assess implicit goals, since they are by nature unstated. However, there are three potential objectives that lie outside of the explicit goals of the RLA, given the larger global context. First, aid funding can be seen as a reward to a regime that is an ally to the United States, particularly in combating violent extremism in the region. Secondly, closely tied to this, rural development can prevent migration of the rural populace to the cities, who tend to live in precarious spaces and are vulnerable to extremist ideology. Finally, by integrating collective land into a market system, this project opens up space for increased capitalist penetration into agrarian structures, which could work to the benefit of American corporations although they may face a competitive disadvantage with European agro-business.

MCC officials emphasized that they fully believe that this project will help the beneficiaries, but did express some potential concerns. The significant and abrupt shift from collective tenure to private property could instigate rural instability, especially if wide-scale land sales occur. The United States is politically invested in Morocco's stability, which necessitates a careful implementation process for this project. In addition, officials raised concerns on the capacity of the Moroccan government to implement the project in accordance with the International Finance Corporation's guidelines. These guidelines include providing full compensation for any loss of livelihood as a result of project implementation, even if that livelihood was predicated on illegal access to land (IFC 2012). MCC officials acknowledged that some people will be negatively impacted by the project by losing informal access to land but stressed that most people in the region would benefit from titles.

### Moroccan Government Officials

Moroccan officials are working under a framework that is undoubtedly economically liberal. They largely emphasized improving legal clarity of land tenure, simplifying investment regulations, and increasing the role of markets as an allocative mechanism for land. Government officials were generally dismissive of rights-holders' knowledge and opinions, and stress the necessity of top-down interventions in order to



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develop rural areas. Coordination between ministries has been a significant obstacle in the past, which has contributed to a renewed emphasis on a unified national land strategy. Despite improvements in inter-ministerial cooperation, communication between central and local government officials is still lacking, as many local officials were unaware of certain aspects of the privatization process, such as the publication of land titles in 2017.

The primary goal of the Moroccan government is to increase investment opportunities and agricultural productivity. This project aims to contribute to this objective by way of facilitating access to credit for small farmers, which has the added benefit of improving rural livelihoods. The RLA is part of a larger reform process that seeks to unify tenure systems in Morocco and clarify the legal situation of land. The government also appears to have several implicit goals. Some of these are similar to the MCC's objectives, such as increasing the role of the market in agrarian structures and opening up space for increased investment in land by foreign corporations. The transformation of collective land into private property is also tied to taxation, as only private property can be legally taxed. In this sense, we can see titling as a way for the government to both simplify the administration of land and increase the tax base.

Without a doubt, the absolute concern of the government is rural instability, and Moroccan officials have mentioned on several occasions that they have fears that this project could spark a revolution. While this is perhaps an exaggerated sentiment, it certainly speaks to the gravity that the government attaches to privatizing collective land. This issue is tied to future sales of land by rights-holders, which could encourage rural migration to cities rather than preventing it. However, no policy has been put in place to prevent widespread sales, although social ties to land rooted in rural mentalities could mitigate this issue.

## *Nuwwāb and Rights-Holders*

For the people who actually live in and from collective land, their most pressing concern is the ability to make a livelihood. A strong narrative exists that agriculture is no longer a sufficient livelihood strategy for families in the region, and youth have migrated to cities and abroad in search of work that allows them to send remittances home. Land fragmentation is a major issue in the Gharb, and there is no longer enough land for future generations to live from agriculture. At the same time, rights-holders emphasize that they draw their identity from the land, summed up in the phrase "land is our mother". Every person I interviewed mentioned this at least once, and many rights-holders considered selling land to be shameful.



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In terms of development, *nuwwāb* and rights-holders stressed that development is the responsibility of the state, and they want the state to invest in infrastructure and employment opportunities in the region. Primarily, this was related to transportation infrastructure and encouraging corporations to invest in building local factories. Agro-processing facilities used to play a larger role in the local economy, but many of them closed down as the economy liberalized during structural adjustment. Rights-holders and *nuwwāb* acknowledged the benefit of access to credit, but for most of them this did not seem to be a major consideration. People here want to remain on the land and let their children inherit their ancestral land but recognize that economic pressure may push younger generations to cities. In addition, rights-holders reported that government actors ended informal access to adjacent state-owned land throughout previous privatization attempts, which served to decrease the amount of land available for their use. It is important to recognize that these state-owned lands are the same lands used by rights-holders' ancestors prior to their expropriation during the colonial era, and that the private domain of the state has benefited from re-appropriation of foreign-owned agricultural land in 1973.

With regard to future land sales, the majority of rights-holders had not seemed to consider the possibility of selling their land in the future. When I mentioned this possibility, most *nuwwāb* said that the small size of agricultural plots in the region would prevent them from attracting buyers. However, rights-holders with formal education were convinced that most people will sell their land once they realize what it is worth and asserted that potential buyers exist from both inside and outside the region. The primary concern here is that people will sell their land, move to the cities, and then live off their profits without searching for new sources of income. This would work against the logic of livelihood improvement, because even if rights-holders were able to sell their land for many times what it is worth prior to titling, they would not be investing in alternative livelihood strategies.

## **Implications of Transforming Collective Tenure**

I now turn to analyzing how the transformation of collective tenure into private property is likely to impact the practice of land ownership and the agriculturally-based livelihoods of rights-holders after they gain titles. While each aspect is entangled and mutually constructive, for the sake of analysis I divide this into economic shifts, administrative changes, and implications of privatization on agrarian social relations. I also aim to embed a broader discussion of the aforementioned objectives, concerns, and future expectations of different stakeholders within this changing context. Explicit economic shifts include the issues of tenure security, access to credit, and productive investment, and administrative changes are



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largely centered around the implications of privatization on land governance, the formal elimination of customary law, and new agricultural taxes. Transformation of agrarian social relations looks at the entrance of the market and penetration of capitalist processes and their effects on access to land in the Gharb.

## Economic Shifts

Development policy-makers often present private property regimes as a self-evident proposition, but in practice they can obscure both a history of violence in accessing land as well as the reification of the land ownership regime that existed prior to formalization (Mitchell, 2002). In addition, tenure insecurity can be caused by a variety of factors, which is often ignored by proponents of formalization processes (Otto 2009). In spite of these issues, the Moroccan cadastral system is highly effective in protecting property rights, due to their exact delimitation and mapping of plots, centralized record-keeping, and purging of all other claimants upon completion of the registration process (Adad, 2018). No stakeholders that were interviewed seriously contested the claim that the RLA will increase tenure security for rights-holders as they become formal landowners, though concerns were raised over who would be excluded from accessing land as the property regime became privatized. This is one area in which we can see the rhetoric of privatization obscuring shifts in access to land, or creating new exclusions.

MCC requires that the optimized registration procedure being developed to implement the RLA follow the International Finance Corporation's environmental and social performance guidelines. These guidelines mandate compensation for any loss of access that occurs as a result of project implementation, even if that access was informal or illegal (IFC, 2012). MCC officials emphasized this requirement as a key tool in alleviating potential losses of livelihood after project completion, but acknowledged that it is difficult to identify every case where access was lost, particularly when it was illegal.

The MCC estimated the economic rate of return on the RLA at 23%, based on a comparison of agricultural productivity between similar collective and *melk* land plots in the Gharb region (MCC, 2015). Conceptually, this improvement is based on the idea that tenure security and formal property rights incentivize productive investment by landowners in their property. It also facilitates access to credit, since title deeds can be used as collateral for a bank loan. A significant body of work exists that shows the link between tenure security and productive investment, although specific cases have varied based on local context (Deininger and Binswanger, 1999; Deininger and Feder, 2009; M'Hassni et al., 2003; Sjaastad



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and Cousins, 2008). However, there is little evidence that titling and registration has allowed small landowners to gain greater access to credit institutions (Deininger, 2010). Instead, medium and large landowners appear to be the main beneficiaries of increased credit access after the completion of titling projects (Williamson, 2011).

While the RLA assumes that receiving a title provides greater access to credit, the MCA is also providing additional structural support to assist project beneficiaries in accessing credit institutions. One MCC official was skeptical of the link between tenure security and credit access, but acknowledged that in Morocco it appears to hold true regardless of holding size. Rights-holders to irrigated collective lands have been able to access credit for some time, however due to the lack of acceptable collateral the loan terms have been prohibitive (El Ghrib, 2016b). One example of this support is the possible development of a partnership agreement with *Crédit Agricole du Maroc*, a bank which specializes in loans for agricultural development and investment (MCC, 2015). This agreement would include providing favorable loans for investment projects by project beneficiaries, technical support, and outreach campaigns to educate farmers about loan opportunities.

With regard to productive investment, scholars who subscribe to the formalization model believe that it increases tenure security and prevents the need for property owners to spend scarce resources on unproductive investments to protect their property (Deininger and Feder, 2009). Furthermore, they argue that tenure security invariably leads to greater productive investment as a result of increased credit access and aids market efficiency by lowering transaction costs. Finally, and perhaps most significantly, these scholars have claimed that formalization of property rights will directly lead to a more equitable distribution of land while concomitantly distributing land to the most productive users, resulting in economic growth (Deininger and Binswanger, 1999; Levine, 2005). This argument is predicated on the idea that small, owner-operated farms are more efficient and have better economic outcomes than large-scale agriculture in development projects (Manji, 2003).

## Administrative Changes

The discourse of economic liberalization can obscure domestic political goals, as well as erasing power dynamics from the conversation through “the rhetoric of management, financial soundness, and market forces” (Mitchell, 2002, p. 230). The main thrust of this project is to register collective lands in the national cadastre, which will make them more legible to financial institutions, investors, and the state



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apparatus. The advantage of cadastral mapping is its clear spatial representation of a given property, centralization of land data, accuracy of information, and legibility to state institutions (Mitchell, 2002). The development of cadastres is intimately linked to extension of state power over the countryside, the assignation of land plots to individuals, and the extraction of taxes from landowners (Scott, 1998).

In the Gharb, titling and privatization processes outlined in the RLA will shift formal administrative control over collective land away from the Ministry of the Interior, as market processes take precedence. One government official asserted that the Ministry no longer wants to manage these lands, as the drawbacks and complications of administration have far outweighed any benefits (El Ghrib, 2016b). Furthermore, once collective land formally becomes *melk*, customary law ceases to play a role and *nuwwāb* will lose their ability to legally manage the land of their ethnic collectivity. The elimination of the *nuwwāb* from acting as gatekeepers to land access will be one of the primary shifts in local power dynamics resulting from this project. A number of stakeholders remarked on this point in personal interviews, and implied that they believed this would reduce corruption on the local level as all transactions would be conducted through the formal market.

While customary law will be formally eliminated from its current statutory role as enshrined in the *Dahir* of 1919, one question that remains is whether customary inheritance norms will continue to play an informal role. The reforms of 1969 created new restrictions on inheritance of collective land within the irrigated perimeters, notably that parcels smaller than ten hectares can only have a single designated inheritor. Despite this regulation, fieldwork indicates that rights-holders in the Gharb have largely ignored state-imposed restrictions on inheritance, and that customary norms have continued. This has contributed to ongoing land fragmentation, which remains a key issue related to titling and privatizing collective land. If the state does not make a concerted effort to enforce existing inheritance regulations in the irrigated perimeters, the evidence suggests that customary norms could continue to regulate inheritance.

Titling and registration marks the retreat of direct state management of collective land, but also allows the central administration to simplify and essentialize a complex reality into a series of data points relevant to the objectives of state policy (Scott, 1998). In the contemporary case of Morocco, this is most critical regarding the recent re-introduction of an agricultural tax that is currently being phased in gradually, starting with the largest agricultural enterprises. However, this new tax solely applies to large farms - by 2020, it will be applicable only to farms with an annual income of over 5 million dirhams. Registered



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*melk* land is the only category of tenure in Morocco that is subject to agricultural taxes, and as a result the government has a clear financial incentive to encourage concentrated ownership of newly-registered lands, as it will widen the tax base.

In addition to agricultural taxes, the ANCFCC usually collects a registration fee that varies between 1.5-6% of the property's assessed value depending on the property's specific characteristics (Adad, 2018). As King Mohammed VI waived this fee for rights-holders to collective land, it does not directly impact the initial registration, titling, and privatization of these lands. However, ANCFCC officials repeatedly noted that they would collect a title transaction fee of 1.5% of the land's value on any subsequent sales after the initial registration process. If the state expects land sales to occur after project implementation, especially given broad expectations of a massive spike in land values, then this fee constitutes another new source of extracting value from land on the part of the state.

The privatization project outlined in the Compact will change the legal systems and administrative structures regulating collective land in the Gharb irrigated perimeter. The details of how these shifts affect different actors involved in collective land is critical, as these changes will impact rural power structures that have a co-producing relationship with systems of land management (Brara, 1983). The main agrarian systems present in Morocco are capitalist and communal, and government policies have bolstered the capitalist system at the expense of the communal by shifting tenure structures and the preferred mode of production (Daoud, 1981; Swearingen, 1987). The conversion of collective land into private property opens up *sulāliyya* land to market processes and shifts modes of production, which strengthens capitalist structures and stimulates processes of rural proletarianization (Balgley, 2017). At the same time, the greater ability of large landowners to mobilize capital to acquire more land, due to capital reserves and close integration with financial institutions, helps drive the expansion of the modern agricultural sector in the Moroccan countryside (Bouderbala, 1999).

## Transformations of Agrarian Social Relations

Transforming collective land into *melk* makes it not only legible to the state apparatus, but also to market actors such as banks, foreign investors, and Moroccan capitalists. Government officials assert that few investors wish to become involved in enterprises on collective lands. In essence, the transformation of collective land into *melk* removes information asymmetries and inconsistent application of regulatory frameworks (El Ghrib, 2016a). One Moroccan capitalist farmer asserted that this will make these lands a



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more attractive option for investment, particularly for foreign investors who do not have as sophisticated an understanding of local tenure systems as Moroccan investors.

The primary tool used by the state to open up space for economic gain by elites is the entrance of the market as a mechanism for redistribution of land access (Loehr, 2012). With the conversion of collective land into *melk*, the beneficiaries of the project will be able to sell and lease the land they have a title to within the irrigated perimeter through formal market systems. While some constraints will remain due to ORMVA policies such as minimum holding sizes, the most significant legal barriers to transferring land through market systems will be alleviated through the privatization process (El Ghrib, 2016a). Proponents of the market as a redistributive mechanism for land do recognize the potential for market imperfections to arise due to lack of good governance or institutional capacity (Deininger and Feder, 2009). In the case of Morocco, some of these risks have been mitigated by the MCC's evaluation of governance indicators prior to Compact approval (Johnson and Zajonc, 2006).

The most significant critique of market-oriented projects revolves around the issue of concentration of land ownership. While policy-makers see the market as a universal and abstract institution, critics assert that it is embedded in social and political processes of production and that markets embody societal power dynamics (Razavi, 2007). Furthermore, historical power imbalances have contributed to contemporary land ownership structures, which can be reified by the dual entrance of market and titling processes (Bush, 2007). Individuals with liquid capital have the disposable assets to invest in productive capital, meaning that they have more power in market systems than those who lack these assets (Akram-Lodhi, 2007). The growth of an agrarian capitalist class in Morocco is tied to this issue, and they are the primary group that has the liquid capital to invest in acquiring more land, as well as investing in the technology and agricultural inputs that are required for modern agriculture (Minoia, 2012).

Concentration of land ownership has been an ongoing trend in the Moroccan countryside since the colonial period (Bouderbala, Chraibi, and Pascon, 1974). In the post-independence era, approximately 500,000 small farmers disappeared from the agricultural sector between 1974 and 1996 (Mahdi, 2014, p. 4). This rural exodus was driven by demographic growth, land scarcity, and state policies that prioritized consolidation of agricultural land (Bouderbala, 1999; Davis, 2006; Swearingen, 1987). Distress sales are also a potent driver of land concentration, as the sudden removal of barriers to land sales allows individuals undergoing economic distress to quickly raise capital by selling their land (Musembi 2007). In



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Morocco, this has most notably occurred during times of drought when small-farmer agriculture became an unviable livelihood strategy (Swearingen, 1987). The Gharb region could be particularly vulnerable to this trend, as in 2008 it had one of the highest rural poverty rates in the country at 20.5%, compared to the national average of 14% (Minoia, 2012, p. 276). A number of local officials reported that they expect many rights-holders to sell their land as soon as possible, as they already occupy a marginalized position within the Moroccan economy and wish to exit the sector. Farming is no longer seen as a tenable economic activity by some rights-holders in the Gharb region, who report that they would rather raise capital to invest in other livelihood strategies (Minoia, 2012).

It is worth noting that MCC officials emphasized in personal interviews that they are by no means proselytizing markets. At the same time, the MCC website explicitly states that one goal of land and property rights interventions is “creating more efficient land markets” (MCC, 2018). In fact, a number of MCC-funded projects have focused on incorporating customary rights into recognizable legal regimes without going through tenure transformation, notably in Benin, Burkina Faso, and Liberia. MCC requires that countries reach out to them with project ideas, which means that in this case it is the Moroccan government that chose a market-based approach to solving issues with collective land management, not the funding agency. This strategic orientation on the part of the state signals that it is seeking to open up greater space for those with more market power in the form of capital to benefit from this reform process, particularly when taken in the context of Morocco’s historical trend of increasingly concentrated land ownership.

A key feature of Morocco’s contemporary agricultural policy has been predicated on the re-entrance of foreign agricultural corporations (Mahdi, 2014). This takes two forms - the direct rental of agricultural land by foreign corporations, as it is legally forbidden for foreigners to own agricultural land in Morocco, or contract-based farming where the crops of Moroccan farmers are collated and exported by a foreign corporation. Much of the land rented to foreign agro-business is owned by the state, whose ownership dates back to reappropriation of foreign-owned agricultural land in the 1960s and 70s (Minoia, 2012). This could be described as a form of neo-colonialism, where the state has permitted and even encouraged foreign control over national territory for the extraction and export of resources.

The state has sought out new lands to rent, as the availability of state lands for rental has shrunk due to ongoing investment by both foreign and domestic corporations in Morocco’s agricultural sector.



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Collective lands are one potential new source of land, as they could perform their original purpose of serving as a land bank for state-led agricultural development projects (Mahdi, 2014). The Ministry of Agriculture has made a strong effort to attract foreign investment in the agricultural sector, and uses the rhetoric of modernization and liberalization in its Investor's Guide:

“Morocco has in fact undertaken a series of structural reforms in order to achieve strong and sustainable growth. Coupled with the progressive liberalization of all sectors of activity, these reforms have had positive results on the national economy... In this context, Morocco has made considerable efforts to improve the investment environment in this sector particularly in the context of the Green Morocco Plan by improving the framework conditions and the modernization of institutional, legislative and regulatory systems regulating the economic activity and strengthening the attractiveness of the Kingdom to domestic and foreign investors.” (ADA, 2015, p. 5).

Some scholars have observed that the implementation of economic liberalization policies and the capitalization of the agricultural sector has encouraged the entrance of foreign investors (Kay, 2015). This ‘foreignization’ of the sector has important implications for control over agricultural products, particularly in a country like Morocco that faces issues of food insecurity. In Morocco, the entrance of foreign investors into agriculture often shifts production from subsistence crops to high-value fruits and vegetables for export, which exacerbates food insecurity (Mahdi, 2014). By shifting production from basic food commodities to high-value exports, foreign investment makes Morocco more dependent on trade and food imports, whose prices have fluctuated dramatically in recent years. Concentration of land ownership will likely contribute to this trend, as most basic food crops in Morocco are produced by farmers with less than 5 hectares (El-Ghonemy, 1993).

## **Policy Recommendations**

As aforementioned, no stakeholders contested the claim that titling collective land will increase tenure security, although rights-holders were ambivalent about increased access to credit. Local government officials and rights-holders were also skeptical that new title-holders would invest productively in their property, due to lack of available capital. The exact details of project implementation will have a significant impact on the anticipated benefits of titling, and I propose a set of policy options that may assist in the achievement of project goals while mitigating the concerns of stakeholders. Some of these



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recommendations lie within the project framework, though many of them would require the development and implementation of additional projects.

First, the low rates of literacy in the Gharb region constitute a major obstacle to integrating new title-holders into market systems. Given the power differential that characterizes formal markets due to uneven distribution of capital, particularly liquid capital for investment purposes, legal and financial literacy programs are critical to facilitate small-holder access to credit and encourage productive investment. Officials involved in the project planning process emphasized that they will implement sensitization programs to educate new title-holders on the value of their land to prevent exploitation by other market actors due to information asymmetry, but this must be expanded to include both explicit education on the legal rights of landowners in a private property regime and a financial literacy campaign to facilitate access to credit. Rural debt can decrease tenure security by making land vulnerable to repossession in cases of default, and given the former inalienable nature of collective land this must be emphasized to rights-holders. Despite this concern and given the market-oriented nature of this pilot project, increased access to credit will be key to encourage new landowners to invest productively in their land.

Second, a critical question is whether titling collective land will promote increased fragmentation or consolidation of land ownership. While regulations exist to prevent fragmentation of land plots below five hectares, these regulations stand in direct opposition to both statutory and customary inheritance systems and have been largely unsuccessful at impeding land fragmentation. Officials at the Ministry of Agriculture reported that a half hectare parcel using modern agricultural techniques has roughly the same productivity as a five hectare parcel did in 1969 when these regulations were established, which raises the question on whether this regulation is still relevant to the reality of modern agriculture. However, if the Moroccan government is serious about addressing land fragmentation, which is by no means clear given the historical record of enforcement of these regulations, then either new steps must be made in enforcing existing regulations or alternatives need to be formulated. Three potential alternatives exist that could maintain local use of land, consolidate holdings, and increase agricultural productivity within the context of tenure formalization, which appear to cover the explicit goals of each project stakeholder. These alternatives are a cooperative model that could manage a collectivity's land in its entirety, the creation of small-scale corporations managed by rights-holders to consolidate small parcels into a larger agricultural operation, and the provision of loans to RLA beneficiaries to purchase newly-titled land amongst themselves.



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Each of these proposals have benefits and drawbacks, and are predicated on a significant state-led sensitization campaign tailored to the particular choice of model. Broadly, each option makes a different tradeoff between consolidation of land and freedom of individual choice in a market system. Bluntly stated, all of these policy options would have asymmetric benefits to project beneficiaries and will contribute to unequal outcomes on economic livelihoods and decision-making processes amongst local stakeholders. This necessitates a carefully planned implementation process to alleviate these unequal outcomes. While I leave the exact details to policy-makers, I seek to elaborate on some of the broader implications of each potential policy option.

A cooperative model, while not as legible to market institutions, could prevent the dissolution of social ties that privatization is likely to bring. A number of rights-holders noted that the collective nature of land tenure was the sole social institution that remained under the purview of ethnic collectivities, and that privatization and subsequent land sales will break down social ties. Cooperatives are common in Morocco and have worked to integrate relatively small-scale producers of high-value products such as saffron and argan with global markets. A cooperative-based model of land management over the entire area of a given ethnic collectivity would certainly serve to consolidate land-holdings, but would also severely constrain the choices of individuals in the market. However, cooperatives have also been shown to exhibit unequal decision-making processes amongst members, although this could be mitigated through targeted educational campaigns.

A corporate model could be executed on a smaller scale, maintaining consolidated holdings above five hectares that do not include all of a collectivity's land. This would serve to reduce the number of shareholders, easing coordination and decision-making processes. Despite this, asymmetric access to formal education and legal and financial literacy would still likely produce unequal decision-making abilities amongst shareholders. Each shareholder would need to be fully aware of their rights and responsibilities within the corporate structure, but it could facilitate modernization of agricultural techniques, enhanced integration with financial institutions and access to credit, and clear profit-sharing based on the quantity of land each shareholder brought to the table. This sort of arrangement would also be more legible to market institutions, and a corporate model could help prevent opportunity costs of land sales that include a large number of owners by allowing investors to negotiate directly with a corporation



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responsible for managing the land of different owners. It could also promote shared investment opportunities between local agricultural operations and international investors.

A third option is targeted loans for beneficiaries of titling processes to purchase other newly-titled plots and concentrate holdings. Similar to market-led agrarian reform programs carried out in the 2000s, this option provides the greatest degree of individual market freedom while also promoting land consolidation. Even if these loans were only made available to beneficiaries of the RLA, it appears likely that the wealthiest, most educated rights-holders would be able to take advantage due to their familiarity with financial and administrative processes. This could promote the development of medium-scale farmers that would rise to balance the existing bifurcation of Morocco's agricultural system, while still achieving increased agricultural productivity and modernization of agricultural techniques through investment.

Outside of the project framework, there are several possible additional projects that would assist in improving the livelihoods of rights-holders after the RLA is implemented. First, new legislation must address the issue of inheritance and its contribution to land fragmentation, as a significant gap exists between the practice of inheritance and the written law. Next, roads and transportation infrastructure are severely lacking in the Gharb region, which is a primary concern of local residents. The MCC was unable to fund a rural transportation infrastructure project because the economic rate of return did not justify the necessary investment, but it remains a critical problem for farmers attempting to bring their goods to market. Rights-holders repeatedly emphasized that they do not have the capital to productively invest in their agricultural land, making additional state support for productive investment necessary. This could take the form of a sensitization campaign informing new title-holders on how to access the subsidies included in the Green Morocco Plan, or the resumption of agricultural extension services that were ended by structural adjustment. Finally, a significant number of ethnic collectivities in the Gharb border on land in the private domain of the state. A number of rights-holders reported that they or their parents had previously informally accessed unused state land, before being excluded by state actors. It must be noted that these state-owned lands were collectively-managed prior to expropriation by the French colonial regime. Formulating a new program that makes under-utilized state-owned agricultural land available to small farmers through leases could help improve rural livelihoods, combat land fragmentation, and increase agricultural productivity.



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## Conclusion

Given that this privatization project has yet to be fully implemented, it is impossible to say with certainty what the actual outcomes will be. However, we can use the narratives of stakeholders to understand their objectives, concerns, and future expectations. The development discourse of the Moroccan government is firmly grounded in economic liberalization, marketization, and privatization, but when placed in the historical context of agricultural and land policy, it is clear that the state has objectives that lie outside a purely liberal economic framework. In looking to the future of rural life in Morocco, the increased role of the market as an allocative mechanism contributes to commodification of land, and privatization will allow the entrance of capitalist structures into formerly collective lands.

This is by no means a monolithic process, nor does Morocco represent a simple case of an agrarian capitalist class exploiting rural farmers to gain economic power. Small-holder farming remains a relevant livelihood strategy in many regions of Morocco, particularly outside the irrigated perimeters. Roughly half of the population is still directly or indirectly employed in the agricultural sector (USAID, 2011). There is growing evidence that small-holders are diversifying their livelihood choices. In eastern Morocco, pastoralists are sedentarizing as members of ethnic collectivities are claiming land for agriculture, but this phenomenon has not eliminated the vitality of the livestock economy nor has it been an elite-driven process (Kreuer, 2011). In the southeastern steppes, research shows that land-use change related to commercial agriculture is integrated with non-capitalist processes and that households are increasingly diversifying their livelihood strategies while maintaining historical practices of peasant farming (Rignall, 2015; Rignall and Kusunose, 2016).

As David Crawford remarks in his work on Moroccan households in the global economy, “all societies face tough questions about how to allocate social labor over time, and how to distribute the rewards of our inescapably interdependent production and reproduction of society” (Crawford, 2008, p. 180). In this case, the Moroccan government has chosen a technical solution to what is in essence a political problem. This choice reflects a hesitance on the part of the state to engage in comprehensive social and political change to address rural inequalities (Daoud, 1981). Morocco continues to face the challenge of “a regime seeking a way to increase participation and productivity without substantially altering the pattern of power in the society at large” (Ashford, 1969, p. 194).



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The critical issue that will transform agrarian structures in Morocco is land sales. By eliminating legal barriers to land transactions, the new formal owners of these lands will have the choice on whether to sell or not. It is apparent that there will be economic pressure on them to do so, as Moroccan officials said the Gharb was chosen because of its high rate of rural poverty, even though it contains some of the richest farmland in Morocco. Despite this, social solidarity and identity links with the land may inhibit sales that otherwise makes rational sense from a purely economic perspective (Musembi, 2007). Inheritance law also constitutes a potential barrier to sales, as each descendant of a deceased owner has rights to the property, and all inheritors must agree to any sale. The new owners of privatized collective land will have the explicit choice of whether to remain farmers or exit the agricultural sector. As one MCC official remarked, “we can’t take a paternalistic attitude towards these farmers. We can’t give them a title, then tell them they can’t sell their land for x number of years. After they have a title, it’s up to them what to do with their land.”



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