Public Choice
https://doi.org/10.1007/s11127-020-00782-w

Kornai goes to Kenya

Peter T. Leeson[1] · Colin Harris[2] · Andrew Myers[2]

Received: 4 January 2020 / Accepted: 5 February 2020
© Springer Science+Business Media, LLC, part of Springer Nature 2020

Abstract
János Kornai developed soft budget constraint logic to explain the socialist world's dysfunctional economies. We extend his logic to explain dysfunctional land reform in the developing world. International development organizations such as the World Bank provide support for land privatization to developing-country governments, softening their budget constraints. Softer budget constraints encourage developing-country governments to pursue land privatization even when its social value is negative. Kenya's land reform program illustrates the soft budget constraint syndrome.

Keywords Janos Kornai · Soft budget constraint · Land reform · Privatization · Kenya

JEL Classification D23 · D73 · F53 · O19

1 Introduction

In *Economics of Shortage*, Kornai (1980) pointed out that socialist states shield state-owned enterprises from the financial consequences of managerial production and investment decisions that destroy value. Their budget constraints thereby "softened", managers are encouraged to make decisions that harm society but help themselves. Kornai's example was enterprise overexpansion: seeking to expand, but with only soft budget constraints to restrain them, firms drive runaway demands for inputs, yielding chronic shortages under socialism.

Subsequent work demonstrated the power of soft budget constraint logic to explain economic dysfunctions beyond the socialist context. Many of the applications have been to post-socialist transition economies (see, for instance, Schaffer 1998; Dewatripont and Roland 2000; Frydman et al. 2000; Kornai 2001; Lizal and Svejnar 2002). But soft

✉ Peter T. Leeson
PLeeson@GMU.edu

Colin Harris
Harris14@StOlaf.edu

Andrew Myers
Myers5@StOlaf.edu

[1] George Mason University, Fairfax, USA

[2] St. Olaf College, Northfield, USA

budget constraint logic also has been brought to bear in explaining dysfunctions in bank bailouts (Berglof and Roland 1995), nonprofit organizations (Kornai and Eggleston 2001), healthcare (Kornai 2009; Shen and Eggleston 2009), federalism (Qian and Roland 1998), even professional sports (Storm and Nielsen 2012).

We extend Kornai's logic to explain dysfunctions in yet another context: land reform in the developing world. International development organizations such as the World Bank provide support for land privatization to developing-country governments, softening their budget constraints. Softer budget constraints encourage developing-country governments to pursue land privatization even when its social value is negative. Kenyan land reform illustrates the soft budget constraint syndrome.[1]

2 Kornai's soft budget constraint

In Kornai's nomenclature, an organization's budget constraint is *hard* if the organization internalizes the financial consequences of activities that destroy value, incurring losses or, in the limit, ending in bankruptcy. Its budget constraint is *soft* if it expects a *supporting organization* to protect it from the financial consequences of activities that destroy value, limiting its losses or rescuing it from failure. In Kornai's original application and most subsequent ones, firms are the organizations whose budget constraints are softened, and their governments are the supporting organizations that do the softening.

Supporting organizations have at their disposal three kinds of budget-softening instruments, any of which by itself "is sufficient to render the constraint soft" (Kornai 1980, p. 308).[2] The first provides *fiscal support* by, for example, offering direct subsidies, special tax treatment, or administered prices. The second provides *credit support* by granting sweetheart loans or capital investments, repayment of debt or guaranteeing rates of return that are not otherwise expected. The third kind of budget-softening instrument provides *indirect support* in the form of "business-friendly" policies that commit the supporting organization to continued provision of fiscal or credit support.

It's not hard to spot the problem that soft budget constraints create. Organizations that are not punished financially when they destroy value will destroy value when destruction benefits them. Kornai called such patterns of wealth destruction *soft budget constraint syndrome* (Kornai 1986).

3 Land reform and the soft budget constraint

Kornai (1980) developed soft budget constraint logic to explain the economic woes of socialist Hungary in the 1970s. As he realized later, however, the soft budget constraint syndrome has far wider relevance. Indeed, that syndrome may "arise in *any* economic

[1] Leeson and Harris (2018a) develop a theory of "wealth-destroying private property rights", illustrated by Kenyan land reform. They consider how property decisionmakers' incentives to pursue wealth-destroying land reform depend on whether the decisionmakers are residual claimants. Our analysis complements theirs: it considers how external subsidies for land reform, which soften property decision makers' budget constraints, affect their incentives to pursue wealth-destroying land reforms.

[2] Kornai's taxonomy of budget-softening instruments varies throughout his work (see, for instance, Kornai 1980, 1986, 2001; Kornai et al. 2003). We follow the latter's taxonomy.

system" (Kornai et al. 2003, p. 1129) since soft budget constraints require only the existence of organizations that demand protection from financial discipline and organizations willing and able to supply such protection, both of which are found almost everywhere.

"Everywhere" includes the developing world, to which we apply soft budget constraint logic to explain dysfunctional land reform programs. Soft budget constraint-suppliers in that context are not socialist states, but international development organizations such as the World Bank and developed-country governments. The demanders of soft budget constraints are not private business firms, but developing-country governments.

The budget constraints of firms and governments differ. Whereas privately owned enterprises that become insolvent may go out of business, governments as such don't "go out of business" so easily. A sovereign whose financial obligations exceed its ability to meet them must default eventually, but defaulting does not compel it to cease being sovereign. Only violence can do that. State officials who default or are unpopular may be compelled to exit peaceably, as they do in functional democracies. Even then, however, the state *itself* is forced to exit only by losses on the battlefield—a higher threshold than losses on the balance sheet. Governments' budget constraints therefore have less "hardness capacity" than the budget constraints of firms.

But governments' budget constraints have the same capacity for softening by supporting organizations. Consider a government whose budget depends solely on own-tax revenue: it then internalizes the effects of its policies on its territory's wealth. For a government, at least, its budget constraint is relatively hard. Contrast that with a government whose budget depends heavily on international aid: it internalizes the effects of its policies on its territory's wealth to a much lesser extent. The budget constraint of an aid-receiving government is relatively soft.

International aid intended to support a particular government activity such as land reform has the same budget-softening effect; if the aid is not fungible, though, the government's budget constraint is softened with respect to that specific activity. The instruments for softening available to supporting organizations are the same as those identified by Kornai, only exclusive to land privatization. For example, international development organizations may furnish developing-country governments with credit or fiscal support that covers the expenses of surveying land, titling it, creating land registries, or building infrastructure for the private parcels so created.

The analysis of soft budget constraints in the context of land reform is therefore a straightforward extension of Kornai's original logic: just as state-furnished production subsidies soften the budget constraints of firms, encouraging them to undertake production activities that may destroy value, so do land-reform subsidies furnished by international development organizations encourage governments to undertake land privatizations that may destroy wealth. The specter of soft budget constraint syndrome looms in both cases.

It does not loom across all subsidized activities equally, however. Consider, for example, a shirt-producing company whose fabric purchases are subsidized externally and therefore produces more shirts than it would otherwise. The firm benefits from the subsidy, but society almost certainly loses: if additional shirt production creates value, the firm has an incentive to expand its output without the subsidy and if for some reason it cannot, another shirt-producing firm probably can and will. The fabric subsidy's chance of destroying value is high, so the soft budget constraint syndrome looms large.

Now consider a developing-country's government whose costs of defining private land rights are subsidized externally and therefore privatizes more land than it would otherwise. The government benefits from the subsidy and society likely benefits too: on the one hand, extending private rights typically increases wealth (see, for instance, von Mises 1949;

North and Thomas 1973; Scully 1988; de Soto 2000; Acemoglu and Johnson 2005; Besley and Ghatak 2010); on the other hand, if the government cannot afford to extend private rights without the subsidy, no other government in the country can extend them either. The soft budget constraint syndrome is unlikely to materialize in that context.

But it is not impossible for it do so. Privatization is not a free lunch: sometimes the social cost of private land rights exceeds the social benefit (see, for instance, Anderson and Hill 1983; Ostrom 2000; Leeson and Harris 2018b). That is why the fur-animal hunters studied by Demsetz (1967), for example, chose to leave forests and wetlands in the commons until the European fur trade expanded. Extending private property rights in such situations would destroy wealth, not create it. Yet *if the cost is subsidized externally*, a government may benefit by extending private rights even then.

Suppose that an international development organization offers a developing-country government $2 million to cover the expenses of privatizing land in its homeland, a reform that would destroy $1 million of the territory's wealth. Suppose also that the government collects 20% of the territory's wealth in taxes, which accrue to government actors personally.[3] If government actors can find ways to pocket more than 10% of the subsidy's value for themselves—by collecting rents from the contractors they hire to carry out the project, by padding their own salaries, or even by outright theft—privatizing land will benefit them on net, so privatize is what they will do. The result is soft budget constraint syndrome.

Privatization needn't destroy wealth with certainty for the soft budget constraint syndrome to manifest in such a context. Suppose that instead of destroying $1 million of the territory's wealth with certainty, privatization increases the territory's wealth by $1 million and reduces it by $3 million with equal probability. Land reform now has a 50% chance of success. Yet its effect on the territory's expected wealth is the same as before: the destruction of $1 million. Hence, given the subsidy, government actors' expected payoff from privatizing is the same as before too. The soft budget constraint syndrome strikes again.

Why would an international development organization subsidize a land reform whose effect on expected wealth is negative? One answer is that the organization thinks the reform's effect on expected wealth is positive; after all, most of the time, privatization's effect on expected wealth *is* positive. Government actors in the developing country may know better, but since the subsidy benefits them, they're not going to object. Another answer is that the international development organization is interested in more than trying to increase the developing country's wealth, a reduction in which it will accept if doing so promotes the organization's other goals, such as strategic objectives or underwriting a certain number of land privatization projects. Developing country governments are not alone in potentially benefiting when, encouraged by soft budget constraints, they undertake land reforms that destroy wealth. International development organizations that soften their budget constraints likewise may benefit.

[3] This is a (very) generous assumption. Realistically, only a small share of taxes collected accrue personally to government actors who make land reform decisions. The smaller that share is, the smaller is the share of the reduction in wealth associated with land reform that decisionmakers internalize; hence, the more likely it is that government actors will pursue land reform that benefits them privately but destroys wealth (see Leeson and Harris 2018a).

4 The soft budget constraint syndrome in Kenyan land reform

4.1 Wealth-destroying Kenyan land reform

We illustrate the soft budget constraint syndrome in the context of land reform by examining land privatization in Kajiado, Kenya, home of the Maasai. Once a tribe of nomadic herders found throughout Kenya and sub-Saharan Africa generally, in the early twentieth century, many Maasai were relegated by European colonizers to the southern part of the country that borders Tanzania, most notably Kajiado County, where the pastoralists remain.

Traditionally, the Maasai held land in common—an efficient property rights regime given the ecological requirements of pastoralism in their environment (Leeson and Harris 2018a). That environment is arid or semi-arid, characterized by low, variable rainfall and infertile soil. Sustainable livestock production in that climate requires large-scale ranges and rotational grazing, something that is achieved "automatically" with common land rights but is costly to achieve with private land rights since bargains must then be struck between many individual pastoralists.

Common land rights encourage overgrazing. But if norms of land usage are enforced, as they were among the Maasai, the costs of overgrazing can be kept within reasonable bounds and are more than offset by the benefits of open ranges and rotational grazing. That is why the Maasai did not themselves introduce private land rights, as Demsetz's (1967) fur-animal hunters eventually did. Doing so would reduce wealth, not increase it.

Yet that did not stop the Kenyan government from introducing private land rights among the Maasai anyway. Shortly after Kenya declared independence from the United Kingdom in 1963, its national government (dominated by Kikuyus) embarked on a project "to increase production on the rangelands" (World Bank 1974, p. 5): the Kenya Livestock Development Project. That project began with a pilot phase in 1968, and in 1974, a second phase was launched at five times the pilot phase's scale to "increase carrying capacity, permit a fuller utilization of native grassland resources…improve stock quality and productivity" and "assist in the transition of traditional pastoralists from a subsistence to a market-orientated economy" (World Bank 1968, p. i). The government's method was simple: "encourag[e] traditional pastoralists to form themselves into large groups or associations" (World Bank 1974, p. 5), which meant converting communal land into ranches privately owned by groups of Maasai.[4]

That much the Livestock Development Project accomplished. In doing so, however, it also accomplished something else: the destruction of wealth. When the land reform began in 1968, it was hailed as "technically and economically sound", a land privatization that would yield "[e]xpected benefits both to participating ranching enterprises and the national economy" (World Bank 1968, p. ii). In fact, it yielded benefits to neither.

The first phase of Kenyan land privatization proved "rather unimpressive when analyzed according to the usual [World] Bank standard"; its rate of return was "far below the appraisal estimate" (World Bank 1976b, p. 20). The second phase proved more unimpressive still: auditors determined that the fully scaled land reform would "not show a

[4] Or private individual holdings; however, those ownership arrangements remained relatively uncommon until after the Livestock Development Project officially had ended. We discuss subdivision—the creation of private individual titles from group ranches—below.

positive economic rate of return" at all (World Bank 1986, p. iv). To the contrary, it showed "limited benefits that were negligible compared with the costs" (World Bank 1986, p. 49).[5]

The Livestock Development Project concluded in 1982, 2 years later than scheduled. But it had damaging effects for the next two decades. The failure of private group ranches created pressure for ranch subdivision, the dissolution of ranches to create private individual landholdings. By 1990, approximately 80% of the group ranches in Kajiado had subdivided or were in the process of doing so (Rutten 1998), which only exacerbated the problems begotten by privatizing common rangeland in the first place. As of 2004, the average Maasai pastoralist's income had fallen to just 65% of that of the average Kenyan (Ndemo 2007, p. 89). Land reform in Kajiado destroyed wealth.

4.2 Subvention of Kenya's land reform costs

Our extension of the soft budget constraint logic to land reform highlights two closely related conditions that encourage a developing-country government, such as Kenya's, to pursue land privatization even when its social value is negative, as Kenya's government did in Kajiado: (1) International development organizations subsidize the government's costs of privatizing land, softening its budget constraint with respect to land reform. (2) Given that subsidy, government actors benefit personally from privatizing land. When both conditions are satisfied, the result is soft budget constraint syndrome in land reform. And so it was in Kenya.

From start to finish, the Kenyan government's costs of land privatization under the Livestock Development Project were subsidized heavily by international development organizations. Nearly two-thirds of the pilot phase's estimated cost was financed by the International Development Association and the Swedish International Development Agency, which jointly committed to Kenya's government $53.2 million (2019 USD) in credit support, managed by the World Bank.[6] That support subsidized the creation of private group ranches, loans for capital investment and "expert" technical advice for those ranches, facilities for marketing and selling livestock, surveys of water sources, and water-source improvements. The second phase of the project, which was far more expansive, required far more generous subsidies. To that end, the International Development Agency continued to extend credit support to the government of Kenya, but now additional, direct support was supplied by other international development organizations, including the United States Agency for International Development, the Canadian International Development Agency, and the United Kingdom's Overseas Development Administration. Together from these organizations the government of Kenya received more than $100 million of support, the lion's share of the project's second-phase cost.[7]

[5] The government of Kenya did not maintain accurate statistics or accounting records, as it was supposed to do under its agreement with international development organizations. The resulting "shortage of reliable production data prevented [auditors] from producing…economic rates of return for the project as a whole and its main components" (World Bank 1976b, p. 20). The World Bank's assessments therefore were based on rough estimates.

[6] Support figures were arrived at using information in World Bank (1968) and were converted to 2019 USD using the CPI calculator at measuringworth.com.

[7] Support figures were arrived at using information in World Bank (1986) and were converted to 2019 USD using the CPI calculator at measuringworth.com.

Kenya's administration of land privatization fell primarily to four new government bureaucracies created for the purpose. Two were established within Kenya's Ministry of Agriculture—the Livestock Marketing Division and the Range Water Division; a third—the Ranch Division—was created within Kenya's Agricultural Finance Corporation. With assistance from existing Kenyan bureaucracies, those agencies were charged with, for example, overseeing land surveys, boundary demarcations, title assignments, and the distribution of loans to private group ranches. The fourth new government agency created to carry out Kenya's land reform—the Range Livestock Authority—was charged with coordinating the activities of the others and was established at the behest of international development organizations (World Bank 1976b, p. 2).

Those organizations' support of the Kenyan government softened the budget constraints of its land-reform agencies to the point of cashmere wool. In the category of consultants and technical services, the agencies "had significantly greater expenditures than estimated" (World Bank 1986, p. 46): 380% greater, to be exact (World Bank 1986, p. 45). Financial support covered the staffing costs for nearly 500 employees, including salaries and housing, vehicles and equipment, technical assistance and operating costs, as well as extensive training programs for those involved with land registration programs (World Bank 1986; Legal ISC Files 1974, pp. 21–22).

In proposing the Livestock Development Project's second phase, the World Bank averred that "All the various entities concerned with the project are considered to have adequate capabilities." Then, in classic soft-budget-constraint-speak, it added: "However, the project will greatly expand their responsibilities", so "it is necessary that additional technical support be provided" (World Bank 1974, p. 11). And that it was, even as the various entities concerned with the project failed in their responsibilities or shirked them.

The Range Livestock Authority, for example, was allowed to continue despite the fact that it "never accomplished its duties as a coordinator" (World Bank 1976b, p. 4). The Livestock Marketing Division, responsible for ensuring group-ranch access to feeder cattle and markets for overstock, operated in the red for ten consecutive years, tallying losses in the millions (World Bank 1986, p. 9). Or consider the Agricultural Finance Corporation, which "increas[ed] its staff fivefold between 1963 and 1981" and expanded the value of its outstanding loans by nearly 15% annually between 1976 and 1980 (World Bank 1986, p. 52). The agency was allowed—indeed, enabled—to mushroom in that way despite the World Bank's continual concerns about the agency's "persistent accounting problems, and weak loan appraisal, follow-up and collective procedures" (World Bank 1986, p. 53).

By 1985, nearly half the loans distributed to private group ranches had fallen into arrears, and most of the capital equipment financed by them had fallen into disuse or disrepair. According to one study, already by 1978, more than 60% of well boreholes, for example, and more than 70% of livestock dips were inoperative (World Bank 1986, pp. 4, 35, 36). In 1989, Kenya's president ordered the Agricultural Finance Corporation to write off all of outstanding loans held by group ranchers (Mwangi 2007b).

Even the governmental malfeasance acknowledged by international development organizations didn't stem their tide of support. During the first phase of land privatization, the Agricultural Finance Corporation's director "executed a kind of coup d'état over the organization that was presented in the IDA credit agreement": he "determined to make loans, and in a hurry, in order to put the IDA credit to work strengthening AFC's financial structure" (World Bank 1976a, p. A.16). In his haste, the agency's director overcommitted loans by at least 50%, many of which were "misused by loanees" (World Bank 1976b, p. 12). Such actions resulted not in a reduction of support for the government, but an increase in it: the agency's overcommitted loans were covered by new money from international

development organizations in the second phase of land privatization. During the same period, the Ranch Division of the Agricultural Finance Corporation went from being from an independent unit within the corporation—as required by the government's agreement with the International Development Association—to a wing of its loan department. "This explicit breaching of an Agreement covenant was not challenged by IDA" (World Bank 1976b, p. 11).

Nor were other breaches challenged. For example, under the terms of its agreement with the International Development Association, the government's expenditures on technical assistance were to be reimbursed by the supporting organization up to 60% of the total, the remainder paid for by the government of Kenya. Evidently that budget constraint was not soft enough, for the government's "costs actually incurred were covered 100% under the credit" (World Bank 1976a, p. A.11). The support agreement also required the government to undertake a study of livestock marketing and to remove a price ceiling it imposed on beef, since "inadequate and inappropriate price levels were severely hampering ranch viability" (World Bank 1986, p. 50). The Kenyan government did neither.

Its inaction drew little response from supporting organizations until the land reform's second phase drew closer to its originally scheduled completion date, prompting the government to seek an extension that would keep the subsidies flowing. The World Bank bared its teeth: "the project cannot proceed as intended unless beef and cattle pricing policy is changed" (World Bank 1986, p. 51). But its teeth proved to be as soft as the government's budget constraint. The World Bank "reluctantly agreed" to proceed with support, although the only change the Kenyan government made to its pricing policy was to impose new prices that, in real terms, were even lower than under the old policy (World Bank 1986, p. 51).

4.3 Private benefits of Kenyan land reform

The most obvious personal benefits for Kenyan government actors of pursuing wealth-destroying land reform with subsidies supplied by international development organizations were the subsidies themselves, which increased bureaucratic workloads. Although the Range Livestock Authority, for instance, "never accomplished its duties as a coordinator" (World 1976b, p. 4) with the funds it received, it did manage to accomplish expanding the number of bureaucratic positions and salaries with them. Similarly, although the Agricultural Finance Corporation's director failed to properly use the loanable funds his agency received from the International Development Association, he succeeded in "put[ting] the IDA credit to work strengthening AFC's financial structure", benefiting the agency directly (World Bank 1976a, p. A.16). Even when the Livestock Management Division's support finally was reduced after a decade of agency losses, it meant only that "the large investment in LMD's physical infrastructure" went "largely unutilized"; meanwhile, "many staff [were] still drawing their salaries" (World Bank 1986, p. 9).

Less obvious but no less important private benefits for government actors also became available as a result of land privatization, often at the local level. The legislative framework for the Livestock Development Project was passed by Kenya's parliament in 1968.[8]

[8] This legislation consisted of two laws: the Land Adjudication Act, which provided a legal framework for titling land, and the Land (Group Representatives) Act, which provided a legal framework for group ranch administration. Both laws were passed in 1968.

According to it, the private group ranches created by the land reform were to be governed by a "committee of group members and local government officials" whose operating polices were to be "implemented by ranch managers either employed by the group or provided by the Government" (World Bank 1974, p. 5). Those government actors seized the opportunity to benefit from land privatization by self-dealing and graft.

Most often, corruption took the form of adding members to group-ranch registers illegally. Under the authorizing legislation, each registered member of a newly created private group ranch was entitled to an equal share of ranchland. New members could lawfully be added to a group register only upon approval by two-thirds of the group ranch committee. In practice, however, the addition of new names was "often…done with the signature of [only] one or two of the committee members", producing "many cases in which" local and national government officials "add[ed] names with neither the agreement nor the knowledge of the local committee" (Galaty 1994, p. 113). Officials added themselves, their family members, and others—presumably, if the price was right. At one ranch, "[t]he list of illegal registrants included relatives of the Minister of Lands, the Director of Lands, and many other public servants in the Ministry of Lands and the County Council" (Galaty 1994, p. 114). At another, 32 nonmembers were added to the group register at the request of the Minister of Local Government (Rutten 1992, p. 306).

Group ranch subdivision did not become significant until after the Livestock Development Project was complete. But once it was, the creation of individual land rights created further opportunities for government actors to capture private benefits: now a person added illegally to the group register could claim a share of the ranchland as his own private parcel. In one case of subdivision, more than 20,000 hectares of land were distributed to 362 nonmembers, many from ''the political elite including ministers" (Rutten 2008, p. 113). In another case, private individual titles were issued to more than 450 nonmembers, again including ministry personnel and government officials (Galaty 1992, p. 29). In still another case, a bureaucrat at the Land Control Board was able to transfer more than 700 hectares—approximately 12% of the dissolving ranch's total land—to himself (Rutten 1992, p. 307).

Subdivision in particular also furnished a valuable source of political patronage. Local and national politicians alike corruptly distributed private land rights "to raise electoral finance and to shore up political support, as well as to consolidate personal gain before losing office" (Manji 2012, p. 470). Nearly a sixth of the land in one group ranch was allocated to the sons and supporters of local politicians; in Kajiado, some 400 plots of land were allocated to individuals at President Moi's personal request (Mwangi 2006, p. 172). For government actors, at least, socially destructive land reform yielded handsome private benefits.[9]

[9] Government actors were not the only parties who benefited privately from Kenya's wealth-destroying land reform, however. For example, group ranch committee members and ranch managers—private officers mandated by 1968's legislation—benefited personally too. Following subdivision, the amount of land allocated to the average group ranch committee member was nearly twice that allocated to other members of his group (Rutten 1992, p. 370; Mwangi 2007a, p. 133). Moreover, since committee members exercised some control over who on the group register received which parcel of the subdividing group's land, they were able to extract bribes from parties seeking better parcels (Mwangi 2007c).

5 Conclusion

The soft budget constraint syndrome in the context of land reform probably is quite rare. The extension of private property rights usually creates wealth. Hence, while external subsidies for land privatization soften budget constraints, the activity thereby encouraged usually is productive.

"Usually", however, is not the same as always—a fact illustrated by our examination of Kenyan land reform. International development organizations such as the World Bank provide support for land privatization to developing-country governments, such as Kenya's, softening their budget constraints. Softer budget constraints encourage developing-country governments to pursue land privatization whether it's productive or not. When the social value of land privatization is positive, softer budget constraints for land reform promote development. Budget constraints in the context of land reform therefore are unlikely to be seen as soft; more likely, they simply will be seen as shifted upwards. However, when the social value of land privatization is negative, softer budget constraints for land reform retard development; they produce the soft budget constraint syndrome. The rarity of that outcome is counterposed by its perversity: citizens who are incredibly poor are made poorer still.

Acknowledgements Leeson thanks Montecristo Churchill for encouragement.

References

Acemoglu, D., & Johnson, S. (2005). Unbundling institutions. *Journal of Political Economy, 113,* 949–995.

Anderson, T. L., & Hill, P. J. (1983). Privatizing the commons: An improvement? *Southern Economic Journal, 50,* 438–450.

Berglof, E., & Roland, G. (1995). Bank restructuring and soft budget constraints in financial transition. *Journal of the Japanese and International Economics, 9,* 354–357.

Besley, T., & Ghatak, M. (2010). Property rights and economic development. In D. Rodrik & M. Rosenzweig (Eds.), *Handbook of development economics* (Vol. 5). Amsterdam: Elsevier.

de Soto, H. (2000). *The mystery of capital: Why capitalism triumphs in the West and fails everywhere else*. New York: Basic Books.

Demsetz, H. (1967). Toward a theory of property rights. *American Economic Review, 57,* 347–359.

Dewatripont, M., & Roland, G. (2000). Soft budget constraints, transition, and financial systems. *Journal of Institutional and Theoretical Economics, 156,* 245–260.

Frydman, R., Gray, C., Hessel, M., & Rapaczynski, A. (2000). The limits of discipline: Ownership and hard budget constraints in the transition economies. *Economics of Transition, 8,* 577–601.

Galaty, J. G. (1992). The land is yours: Social and economic factors in the privatization, sub-division and sale of Maasai ranches. *Nomadic Peoples, 30,* 26–40.

Galaty, J. G. (1994). Ha(l)ving land in common: The subdivision of Maasai group ranches in Kenya. *Nomadic Peoples, 34,* 109–122.

Kornai, J. (1980). *Economics of shortage*. Amsterdam: North-Holland.

Kornai, J. (1986). The soft budget constraint. *Kyklos, 39,* 3–30.

Kornai, J. (2001). Hardening the budget constraint: The experience of the post-socialist countries. *European Economic Review, 45,* 1573–1599.

Kornai, J. (2009). The soft budget constraint syndrome in the hospital sector. *International Journal of Health Economics and Management, 9,* 117–135.

Kornai, J., & Eggleston, K. (2001). *Welfare, choice, and solidarity in transition: Reforming the health sector in Eastern Europe*. Cambridge: Cambridge University Press.

Kornai, J., Maskin, E., & Roland, G. (2003). Understanding the soft budget constraint. *Journal of Economic Literature, 41,* 1095–1136.

Leeson, P. T., & Harris, C. (2018a). Wealth-destroying private property rights. *World Development, 107,* 1–9.
Leeson, P. T., & Harris, C. (2018b). Testing rational choice theories of institutional change. *Rationality and Society, 30,* 420–431.
Legal ISC Files. (1974). *Kenya—Second livestock development project: Credit 0477—Credit agreement—conformed (English)*. Washington, DC: World Bank. http://documents.worldbank.org/curated/en/656861468254338301/Kenya-Second-Livestock-Development-Project-Credit-0477-Credit-Agreement-Conformed. Accessed 5 Nov 2019.
Lizal, L., & Svejnar, J. (2002). Investment, credit rationing, and the soft budget constraint: Evidence from Czech panel data. *Review of Economics and Statistics, 84,* 353–370.
Manji, A. (2012). The grabbed state: Lawyers, politics and public land in Kenya. *Journal of Modern African Studies, 50,* 467–492.
Mwangi, E. (2006). The footprints of history: Path dependence in the transformation of property rights in Kenya's Maasailand. *Journal of Institutional Economics, 2,* 157–180.
Mwangi, E. (2007a). *Socioeconomic change and land use in Africa: The transformation of property rights in Maasailand*. New York: Palgrave Macmillan.
Mwangi, E. (2007b). The puzzle of group ranch subdivision in Kenya's Maasailand. *Development and Change, 38,* 889–910.
Mwangi, E. (2007c). Subdividing the commons: Distributional conflict in the transition from collective to individual property rights in Kenya's Maasailand. *World Development, 35,* 815–834.
Ndemo, B. (2007). The Maasai: Entrepreneurship and change. In L. P. Dana & R. Anderson (Eds.), *International handbook of research on indigenous entrepreneurship* (pp. 84–99). Cheltenham: Edward Elgar.
North, D. C., & Thomas, R. P. (1973). *The rise of the western world: A new economic history*. New York: Cambridge University Press.
Ostrom, E. (2000). Private and common property rights. In B. Boukaert & G. D. Geest (Eds.), *Encyclopedia of law and economics, vol. II: Civil law and economics* (pp. 332–379). Cheltenham: Edward Elgar.
Qian, Y., & Roland, G. (1998). Federalism and the soft budget constraint. *American Economic Review, 88,* 1143–1162.
Rutten, M. M. (1992). *Selling wealth to buy poverty: The process of individualization of landownership among the Maasai pastoralists of Kajiado District, Kenya, 1890–1990*. Saarbrücken: Verlag breitenbach Publishers.
Rutten, M. M. (1998). Land tenure frontiers and food security among Maasai pastoralists in Kenya. In H. J. Bruins & H. Lithwick (Eds.), *The arid frontier: Interactive management of environment and development* (pp. 185–208). Dordrecht: Kluwer Academic Publishers.
Rutten, M. M. (2008). Why de Soto's ideas might triumph everywhere but in Kenya: A review of land-tenure policies among Maasai pastoralists. In M. M. Rutten, A. Leliveld, & D. Foeken (Eds.), *Inside poverty and development in Africa: Critical reflections on pro-poor policies* (pp. 83–118). Leiden: Brill Publishers.
Schaffer, M. E. (1998). Do firms in transition economies have soft budget constraints? A reconsideration of concepts and evidence. *Journal of Comparative Economics, 26,* 80–103.
Scully, G. (1988). The institutional framework and economic development. *Journal of Political Economy, 96,* 652–662.
Shen, Y. C., & Eggleston, K. (2009). The effect of soft budget constraints on access and quality in hospital care. *International Journal of Health Care Finance and Economics, 9,* 211–232.
Storm, R. K., & Nielsen, K. (2012). Soft budget constraints in professional football. *European Sport Management Quarterly, 12,* 183–201.
von Mises, L. (1949). *Human action: A treatise on economics*. New Haven: Yale University Press.
World Bank. (1968). *Kenya—Livestock Development Project (English)*. Technical operations projects series; no. TO 616. Washington, DC: World Bank. http://documents.worldbank.org/curated/en/970171468277158233/Kenya-Livestock-Development-Project. Accessed 5 Nov 2019.
World Bank. (1974). *Kenya—Second Livestock Development Project (English)*. Washington, DC: World Bank. http://documents.worldbank.org/curated/en/826671468047425543/Kenya-Second-Livestock-Development-Project. Accessed 5 Nov 2019.
World Bank. (1976a). *Technical assistance in agricultural project implementation: A pilot case study—Kenya first livestock project (English)*. Washington, DC: World Bank. http://documents.worldbank.org/curated/en/631551468914093273/Technical-assistance-in-agricultural-project-implementation-a-pilot-case-study-Kenya-First-Livestock-Project. Accessed 5 Nov 2019.

World Bank. (1976b). *Kenya—Livestock Development Project (English)*. Washington, DC: World Bank. http://documents.worldbank.org/curated/en/701441468915130925/Kenya-Livestock-Development-Project. Accessed 5 Nov 2019.

World Bank. (1986). *Kenya—Second Livestock Development Project (English)*. Washington, DC: World Bank. http://documents.worldbank.org/curated/en/118431468915088041/Kenya-Second-Livestock-Development-Project. Accessed 5 Nov 2019.

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.