



land

research findings for development policymakers and practitioners

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Establishing and regulating land rights is vital for economic stability and growth in agrarian countries. There are several different land rights systems in Ghana and Côte d'Ivoire, from customary laws to the law administered by state courts. Policymakers should consider whether having several systems strengthens or confuses land rights for poor people.

Debates on land rights in West Africa tend to focus on customary forms of land tenure based on social norms rather than written documents – they often disagree with state laws. Research from the University of London in the UK examines how legal pluralism might compare to a single state system for land rights in Ghana and Côte d'Ivoire.

In Ghana, customary land laws are legalised.

Chieftaincy is the main institution for regulating land disputes, although this sometimes conflicts with state systems, especially in and around urban areas. The government aims to encourage a revival of the chiefs' customary justice and is piloting new Customary Land Secretariats for local land administration. There is also encouragement of Alternative Dispute Resolution Systems (ADRS) together with a Land Division of the High Court.

In Côte d'Ivoire, the state has never recognised customary or local land laws. The confusion of systems and low levels of legalisation have provoked ethnic conflict, particularly because of the large numbers of migrants in the country. The 1998 Rural Land Law, which aimed to legalise customary land rights, has become part of the dispute between rebels and the government since the 2002 civil war.

The research shows:

- Half of land disputes in Ghana are brought before formal state courts, often by families who prefer the definitive judgements of state courts to traditional laws.
- In Côte d'Ivoire, formal state courts are not widely used, except as a last resort, and the rulings can cause conflict.
- In Ghana, state-related mediation and formal committees are not used much. Informal mediation by state officers is effective but open to abuse.
- However, Ghana's Commission for Human

Rights and Administrative Justice has successfully used ADRS.

- State-related local land committees have potential in Côte d'Ivoire, but they are not operational yet.
- There is no dominant form of non-state dispute resolution in Ghana, although non-locals are less likely to go to traditional chiefs.
- Land priests and chiefs are an important form

of non-state mediation in Côte d'Ivoire, but their authority is less well respected by younger generations and migrant populations.

The recent land reform programmes in Ghana and Côte d'Ivoire both acknowledge customary laws and attempt to legalise

land rights through documentation. To support these programmes, the researchers recommend:

- Ghana state courts will remain important, but need funding and reform. Court-related ADRS also have considerable potential.
- The Côte d'Ivoire court system may legalise land rights and resolve conflicts, but it requires greater flexibility.
- Mediation by state officers is open to abuse. In Ghana, this role could be taken on by committees. District administrators (prefects) will continue to be important in Côte d'Ivoire, so it is more important to improve the legal systems they use.

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The Law, Legal Institutions and the Protection of Land Rights in Ghana and Côte d'Ivoire: Developing a More Effective and Equitable System, IDS Research Report 58, IDS: Brighton, by Richard Crook et al, 2007 (PDF)

www.ids.ac.uk/ids/bookshop/rr/Rr58.pdf

Legalising women's land rights in Lao PDR and Bolivia

Since the 1980s, governments and donors in many developing countries have promoted land titling. However, women still face major challenges to having their land rights recognised, despite official support for equal land titling.

Land titling is the official registering of land or property, giving people legal ownership of land. Some experts claim that land titling brings economic benefits because people invest more resources in their land. In reality, poor households often lack the resources to invest, or lose what land they have to powerful elites.

There is also increasing concern over the impacts of land titling on women. Research coordinated by several universities in Canada and the USA, including the University of Wisconsin-Madison, looks at land titling programmes in Bolivia and Lao PDR. Both countries formally recognise land and property rights as equal for women and men. However, declaring land rights as equal is not enough.

Women often face social, political and cultural obstacles to achieving their rights. Cultural norms and practices in both countries show a bias against women owning land. For example, until recently, titling programmes targeted men as titleholders, leaving most women without legal property rights.

The research in these two countries shows why titling programmes have ignored women's land rights. A 1998 study in Lao PDR showed that the names on land



Maasai women praying at a protest rally in Kenya. The Maasai are demonstrating against the fact that their communal land is being sold to other tribes. Because of their semi-nomadic lifestyle and lack of political representation, their interests have been marginalised.

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documents did not always reflect the actual landholder and that more land use titles were issued to men.

In Lao PDR, it is mostly men that participate in titling processes. The forms used to collect landholder information only asked for the head of household, traditionally the oldest male.

Following the 1998 study, the Lao Women's Union began to actively participate in titling. They organised information and education campaigns and held meetings with women when titling began in a community. This was successful; later studies show a much higher level of titled women, both individually and as joint owners.

In Bolivia, the number of titles to individual women increased from 9 to 23 percent in 2000. However, this trend has not been sustained since. The amount of land in Bolivia being titled to individual men still far exceeds the amount titled to women, either as individuals or in joint titles. Women in Bolivia are more likely to obtain titles (individual or joint) for much smaller areas of land.

There are increasing numbers of female-headed households in the developing world. The reasons for this include marriage breakdowns, the impacts of civil war and HIV/AIDS. In addition, women have always

been very active producers in both rural and urban areas. Achieving secure land access for women is vital. To achieve this, the researcher suggests:

- Gender issues must be integrated into all land use policies and programmes.
- Many countries need programmes to raise

awareness of land titling practices that discriminate against women.

- Both women and men need legal literacy programmes to educate them about their rights. Women and minority groups also require legal support to realise their rights.
- Land reform, resettlement and state leasehold programmes should be reviewed to ensure that their guidelines, training and procedures include women.

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Equal access to urban property rights for women

Traditional land tenure systems reinforce gender inequality, but is giving women formal titles to property the solution? Can alternative approaches to security of tenure better promote women's interests?

A report from University College London, in the UK, assesses the gender implications of approaches to the formalisation of urban property (the processes of integrating informal tenure into a system recognised by public authorities).

The World Bank and other international agencies have promoted land titling programmes across the world. They have generally focused on rural land, but illegally developed urban housing has also been regularised on a large scale in countries such as India, Mexico and Peru. In many countries, the replacement of customary tenure by individual titles has disadvantaged women, as men acquire full control over property. For married couples in urban areas, land is often solely registered in the husband's name.

Few approaches have aimed to ensure married women have secure property rights. There is a difference between having a right to property and being able to exercise that right effectively – especially concerning the disposal of the home in the event of divorce or separation. A

woman whose name does not appear on documents relating to the marital home is highly vulnerable should her husband try to sell it.

All too often, planners of titling programmes:

- only focus on 'female household heads', which ignores the property rights issues of women who are cohabiting or married
- do not appreciate that household members do not always share the same interests and that relationships are not necessarily defined by consensus and cooperation
- ignore the need to protect married or cohabiting women against the risk that if the couple separates, the woman might become a household head but lose the marital home if it effectively belongs to her former partner.

Making tenure agreements more formal has advantages. Documentation can make it more difficult for people to be cheated out of their property. Several governments have introduced legislation to ensure that husbands and wives have joint property rights. In some cases, joint titles can offer women protection from abandonment and increase their decision-making powers over matters such as selling property.

Experience shows, however, that mandatory joint rights are not enough on their own, given the strength of both institutional and individual resistance. Without explicit instruction to officials, rigorous attention to how ownership is

There is a difference between having a right to property and being able to exercise that right effectively – especially concerning the disposal of the home in the event of divorce or separation

recorded and community information campaigns, joint titling policies may fail where women and officials are unable to stand up to resistant males.

The formalisation of tenure can address gender inequality. However, planners and policymakers need to acknowledge the following.

- States have a responsibility to intervene to protect women's property rights – gender neutral legislation is not enough to ensure that women have equal access.
- Urban land specialists need to make use of work by gender specialists to ensure that women's rights to housing and property are protected.
- The current trend towards emphasis on group rights must be complemented by greater attention to individual rights.
- Informal community-based institutions – which may be strengthened by property law reforms – can be hostile venues that disempower women.
- Staff of land registration agencies need gender-sensitivity training.

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Land reform and agricultural productivity in India

Land reform that redistributes land from rich people to poor people has been a policy priority in India for some time. Since Independence in 1947, the Indian government has passed several land reform laws. But have they improved agricultural productivity and reduced poverty?

Previous studies have shown that small farms owned by farmers are more productive than large farms, because the owners have greater incentives to work hard. Therefore land reform should increase agricultural efficiency.

Research from the London School of Economics in the UK examines the impact of land reform on agricultural productivity in India and how individual states implement land reform laws. Within the broad range of land reforms, they also look at tenancy reform laws. These aim to improve the terms of tenants' contracts, including crop shares and security of tenure.

Overall, land reform laws have had a negative impact on agricultural productivity in India. The key reason for this seems to be land ceiling legislation. This refers to laws that impose an upper limit on how much land a person can hold, with the aim of redistributing land to landless people so that elite groups do not end up owning all the land.

By contrast, the impact of tenancy reform, averaged across all states, is insignificant. However, in West Bengal, where tenancy reform laws were rigorously implemented, the marginal effect of land reform was significantly different from the rest of India, creating some benefits. The research shows:

- Tenancy reforms have increased inequality in the size of operational landholdings in all states except West Bengal.
- In states where tenancy reforms were poorly implemented, landlords could evict tenants in an attempt to evade new laws, having a negative effect on agricultural productivity.
- In Kerala, where land reform laws were rigorously implemented, land ceiling legislation has led to landholdings being divided into very small areas, making agriculture a low profit activity.

Most studies of land reform use aggregate data gathered from separate sets. This makes it more difficult to understand how land reform affects agricultural productivity. These overall findings can hide variation across states and across different types of land reform. The researchers recommend:

- A focus on implementing effective tenancy reform might be a better option than land reform. The experience in Kerala suggests that land reform can lead to tiny holdings and does little to reduce poverty.
- Future research should focus on separating the direct effects of land reform from indirect effects, ideally using more micro-level data.
- In West Bengal, there is a need to identify whether tenancy reforms alone were responsible for the improved productivity or whether it was due to other political factors.

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'Land Reform and Agricultural Productivity in India: A Review of the Evidence', *Oxford Review of Economic Policy* 23 (2), pages 251-269, by Maitreesh Ghatak and Sanchari Roy, 2007

Better access to land for poor rural people

There is increasing pressure on land resources in developing countries. Factors increasing competition for land include urbanisation, population growth, international trade and globalisation, and the effects of climate change. In many places, people with the weakest land rights lose out to more powerful interests.

Research from the International Institute for Environment and Development, in the UK, together with the United Nations Food and Agriculture Organization, examines the links between land access and poverty reduction, and reviews lessons from recent experience to improve and secure poor people's access to rural land.



Chinese farmer Huang Baoming points out land he says was seized from farmers by the government in 2006 and sold to investors to build a chemical plant. Huang is a representative of the local farmers' protest movement against the alleged government land-grab. A month earlier, three people in Lishan were hurt during a protest in which up to 2,000 farmers demanded compensation for their land. One protester was shot in the head and two others were beaten by security personnel hired by the company. 'We are prepared to die for our rights', says Liang Beidai. 'The entire village is doomed anyway. We have no money, no job, no land. There's nothing left to be scared of'.

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The research identifies land redistribution as one way to increase access to land. While debates have been polarised between market-based mechanisms (which rely on a willing seller of land and a buyer with the necessary funds) and compulsory purchase mechanisms, combinations of the two can be quite effective. For example, this combination can encourage landowners to sell at a fair market price, with the risk of compulsory purchase as an incentive.

The research also shows:

- Inexpensive land records and group land titles that link to customary access systems are an effective way to add greater security to poor people's existing land access.
- Tenancy agreements and sharecropping (where landowners let people use land in return for a share of the crops grown) can help poor people to access land, especially where contracts are secure.
- Many governments have improved the protection of women's rights to land, but this is not reflected in everyday practice. There are still legal and institutional barriers to land access for women in many countries.
- The rights of foreign investors and large industries (such as mining companies) to use land are often put above the rights of local people. Community land registration and mandatory consultation processes are one way to encourage investors to negotiate with communities.
- Indigenous people and pastoralists often lose their land access to stronger groups. In some countries, new policies and laws recognise the specific rights of these groups, such as pastoralists' need for flexible arrangements that enable herds to move around.
- Conflict reduces access to land through displacement and power struggles, and addressing land issues is vital for post-conflict reconstruction.

Improving access to land for poorer groups requires a strong, long-term political commitment to find local solutions and capacity building in both state institutions and civil society (including areas such as land valuation, planning and knowledge of land laws).

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