



PLOW Learning Resource: Land and Property Rights

Important Note:

This learning resource was developed as part of the Professional Development for Livelihoods Advisers Website (PLOW) which was operational between 2006-2008.

PLOW was funded by the Department for International Development (DFID) and supported the professional development of DFID livelihoods advisers. PLOW hosted 17 learning modules of which this is one. Modules were produced using guidance provided by the Livelihoods Technical Competence Framework that described technical competencies, knowledge, and experience required by DFID Livelihoods Advisers.

PLOW modules were designed to help advisers get up to speed on areas of the competency framework, to prepare for new postings, or to refresh existing knowledge on particular subject areas. They were produced and developed by a partnership comprising the Programme of Advisory Support Service (PASS) and Livelihoods Connect based at the Institute of Development Studies (IDS). Each module was written by an expert or experts in the subject and provided:

- an overview of the subject in a briefing note;
- key texts;
- a summary of recent policy debates;
- points on where to find other resources; and
- a glossary of key terms used in the briefing note.

Although the learning modules produced were written with the DFID Livelihoods cadre in mind they were accessible to a global audience through the website.

Twelve of the original PLOW modules are now hosted on the Evidence on Demand website. This PLOW module was produced between 2005 and 2008 and has not been updated since. Some of the material that it draws upon may no longer represent current thinking and some of the links to resources may no longer exist. Nevertheless, we believe that it is still a useful resource that provides useful reference material.





Land and Property Rights

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In most developing countries, land is a key asset both for livelihoods and for economic development. Policy, legislative and institutional frameworks for land and property rights are therefore at the heart of economic growth, sustainable development and poverty reduction. Land policies and institutions can play an important part in providing tenure security for land users, promoting equitable access to land and efficient land use, and managing land conflict. Land also has strong political, social, cultural and spiritual dimensions. Fair and equitable systems for the management of land and property rights can contribute significantly to democratic development at national and local levels.

Governments and donor agencies should pay attention to land and property rights because:

- Secure access to land is crucial for the livelihoods of households and communities. This applies equally in urban or peri-urban areas where households depend substantially on home-based economic enterprises or street trading, or in rural areas where they are more likely to depend on agriculture and on other uses of natural resources.
- Secure land rights reduce the vulnerability of the poor in both rural and urban areas by providing a real asset, a dwelling place, and a basis for food production, income generation and access to services, e.g. education. They should also prevent practices which exploit the poor, including the payment of inadequate compensation for land acquired for development, or the abuse of planning regulations for the "urbanisation" of agricultural land.
- Secure land tenure enhances the pro-poor character of economic growth. In many rural settings, the poor increasingly rely on non-farm (including migratory) employment for part of the year. Security of tenure has to be combined with reliable and equitable systems of renting or sharecropping land, to permit the flexibility necessary for diversification. In urban and peri-urban areas, the poor rely on access to informal settlements or short-term rental accommodation in order to establish themselves in the urban economy and obtain employment in various industrial or service sector organisations, often supplemented by home-based economic enterprises.

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Briefing Notes

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Secure Property Rights are Key to Economic Growth

Households, whether in rural or urban areas, need secure tenure in order to invest in land. Yet, property rights are often weak or unclear, undermined by overlapping land claims and growing competition. To overcome these constraints, emphasis was traditionally placed on large-scale individual titling and registration programmes. These have generally proved slow, expensive, difficult to keep up-to-date, and hard for poor people to access. In addition, where local/customary land tenure systems recognise overlapping rights and flexible arrangements amongst different users on the same land resources, registration frequently results in the loss of land rights by weaker and more vulnerable parties. Innovative approaches and pilot experiences around the world show that rights can be recorded at lower cost and in simpler and more accessible ways:

- Secure tenure does not necessarily require private land ownership - it can also be achieved with clear and enforceable community land rights, or with clearly defined and sufficiently long-term use rights (e.g. China).
- Increasing the security of land transactions, particularly land rentals (fixed rent or sharecropping contracts) is key
- Strengthening land management and dispute settlement institutions require attention.

Equitable Access to Land is the Basis for Pro-poor and Socially Inclusive Economic Growth

In areas presenting strong land concentration (e.g. much of Latin America and Southern Africa), land redistribution has at various times been favoured as a basis for improving economic growth, poverty reduction, social justice and political stability. But in today's globalising world, there are questions over whether small farms can gain the productivity and poverty reduction advantages of previous decades. Where land *is* redistributed, increasing attention will be needed to link large and small-scale producers (such as outgrower schemes). Alternatives include:

- Redistribution of the gains from economic growth to the poor, via tax revenue (perhaps accompanied by allocation of residential plots rather than farmland)
- Supporting livelihood diversification with the stimulation of farm employment and enhancing the flexibility of land access and use.

In rapidly expanding urban and peri-urban areas, access to land for lower-income groups is increasingly constrained by high prices and restrictive regulatory frameworks, which inhibit incremental improvements to property on which the poor depend. Alternatives include:

- Revising regulatory constraints to enable low income groups to afford modest legal housing
- Requiring developers to allocate a proportion of land in new schemes for affordable housing, or encouraging various forms of public-private joint ventures.
- Upgrading informal settlements with incremental forms of tenure to encourage local investment and the gradual integration of formal and informal land markets, but without creating windfall profits which may lead to the eviction of tenants and encourage further growth of informal settlements.

The policy imperative will be to combine these new options with those from conventional land redistribution. The emphasis placed on centralised, state-led approaches to land reform during much of the 20th century, and more recently on market-based mechanisms for land acquisition by the poor (which have also been slow to deliver results - e.g. in South Africa), is now giving way to a more diversified approach to land access and distribution. This requires a combination of tools for different circumstances, including:

- Land and property taxes.
- Improving the operation of rental markets.
- Reviews of regulatory frameworks.
- Innovative systems of land tenure and property rights.
- Divestiture and redistribution of public land.
- Subsidised land purchase schemes.
- Liberalisation and development of land rental markets.

Rental markets can make land more accessible to the poor than through sales markets, because they do not require the state to intervene in reassigning property rights.

The state plays an important role in fostering the best combination of approaches, according to circumstances, and in putting practical institutional arrangements in place. In addition, it may need to retain the scope for expropriation, for instance where the restitution of alienated indigenous land rights cannot be resolved by other means.

Attention is also now focused on protecting and extending the land and property rights of women and minority groups, and on the need to locate programmes for land access and distribution firmly within the context of globalisation, and of broader development strategies (such as PRSPs). This can help to ensure coordination in the allocation of urban land and the delivery of agricultural support (extension, inputs and credit), infrastructure and services to beneficiaries.

Land and Conflict

Competition for land often inflames tensions between groups, while ethnic cleavages and political manipulation may lead to its escalation in violence and outright conflict. On the other hand, in post-conflict situations, establishing legitimate arrangements to address issues of restitution and return of displaced persons is key. In Guatemala, several land tenure issues - resettlement of refugees and internally displaced persons, indigenous people's land rights, land taxation, land tenure security - were at the heart of the 1994-1996 Peace Accords.

Possible Areas of Donor Intervention

Donor agencies may provide technical and financial support in a number of different ways, by:

- Supporting the proper integration of land access and tenure issues into PRSPs and other key policy processes;
- Facilitating participatory land policy debates and the formulation of new land policy and legislation;
- Pilot testing of innovative approaches;
- Learning from what poor people already do to achieve better combinations of security and flexibility in order to diversify livelihoods, and what opportunities and constraints require policy action;
- Providing training and capacity building in areas such as surveying, land registration, land use planning, dispute resolution and land law;
- Accompanying countries in their efforts to reform land tenure and administration systems in ways which stimulate economic growth and access to land for the poor;
- Reviewing regulatory frameworks to ensure that they facilitate access by the poor to land, housing, services and credit;
- Supporting the documentation and sharing of experience and best practice.

In addition, land rights issues need to be taken into account in donor interventions in other areas. For instance, in dryland areas where access to land is shaped by control over water points (e.g. parts of the Sahel), water projects need to take land tenure issues into account.

In all these interventions, the following considerations should be kept in mind:

- one-size-fits-all solutions should give way to locally tailored interventions which build on or adapt existing local practices;
- gender equity and the repercussions of HIV/AIDS on land relations need to be addressed;
- land and property rights are highly political issues - donor interventions should accompany in-country processes, not drive them, and should build the capacity of civil society groups to participate in policy formulation and implementation;
- land tenure interventions should be accompanied by action to strengthen access to rights and to justice systems for the poor;
- liberalisation and globalisation create new livelihood opportunities as well as new risks. The implications of these for the competitive advantage of large versus small farms, manufacturers and service industries and for livelihood diversification and associated flexibility in land access and use need to be taken into account when formulating or revising policy.

Key Texts

EU Land Policy Guidelines, EU Task Force on Land Tenure, 2004

The EU Land Guidelines articulate a common understanding of land issues by EU donors and the European Commission, and set out a common framework for supporting land policies and land reform in developing countries. The guidelines are divided in two parts. Part 1 reviews key land policy issues and debates, defining the key elements of land policy and explaining why this matters; exploring the linkages between land policy and other major policy areas and analysing key issues to be considered in the design and implementation of land policies. Part 2 provides Operational Guidelines, a comprehensive checklist of questions and issues to be considered when assessing existing national land policies and when designing interventions aimed at supporting them.

Land Policies for Growth and Poverty Reduction

Deininger, K., 2003, World Bank Policy Research Report, World Bank/Oxford University Press, pp. xvii-xlvi (Executive Summary).

The World Bank Policy Research Report on land policy (PRR), launched in 2003, is the first comprehensive perspective on land policy and land reforms to emerge from the World Bank since 1975. The PRR draws on a remarkable body of evidence, and stems from a worldwide consultation process. It provides a thorough up-to-date and nuanced economic analysis of the case for strengthening rights to land and property and for enabling secure land access as a basis for economic growth and poverty reduction. It covers three main areas: action to improve the security of land rights; the role of rentals and sales markets in improving productivity and equity; and a range of interventions to foster "socially desirable" land use, including redistribution, taxation, land use planning, and so on.

Read

<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPRRS/EXTLANDPOL/0,,menuPK:477769~pagePK:64168092~piPK:64168088~theSitePK:477757,00.html>

Policy Debates

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 - [Water Access](#)
 - [Access to Small Household Plots](#)
 - [Urbanisation](#)
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The World Bank and the EU

Land Policies for Growth and Poverty Reduction, Deininger, K., 2003, World Bank Policy Research Report, World Bank and Oxford University

Read Executive Summary

<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPRRS/EXTLANDPOL/0..menuPK:477769~pagePK:64168092~piPK:64168088~theSitePK:477757,00.html>

EU Land Policy Guidelines, EU Task force on Land Tenure, 2004

The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else, de Soto, Hernando, 2002, Basic Books, New York

Recognising customary land rights: from whether to how

Rural land plans: establishing relevant systems for identifying and recording customary rights, Chauveau, J-P, 2003, London, IIED, Issue Paper 122

When Farmers Use “Pieces of Paper” to Record their Land Transactions in Francophone Rural Africa: Insights into the Dynamics of Institutional Innovation Lavigne-Delville, P., 2003 in Benjaminsen, T. and Lund, C., (eds) *Securing Land Rights in Africa*, London: Frank Cass

Registering Customary Rights, Toulmin, C and Quan, J., 2000 in Toulmin, C. and Quan, J. (eds), 2000, *Evolving land rights, policy and tenure in Africa* DFID/IIED/NRI, London

Ensuring equitable access to land

A field of one's own: gender and land rights in South Asia , Agarwal, B., 1994 Cambridge University Press.

Gender and Access to Land FAO 2002 FAO Land Tenure Studies 4, FAO Rome
Read: www.fao.org/sd/2003/IN07013_en.htm

Capital, Labour and Women's Land Rights in Africa: A Gender Analysis of the World Bank's "Policy Research Report on Land Institutions and Land Policy" Manji, A. 2003 24 Third World Quarterly, 97-111.

Policy Discourses on Women's Land Rights in Sub-Saharan Africa: Implications of the Re-turn to the Customary Whitehead, A and Tsikata, D., 2003 in Razavi, S., (ed) 2003 *Agrarian Change, Gender and Land Rights* UNRISD, Blackwell

Securing and restoring the land and property rights of indigenous peoples

Indigenous land and community security: a (radical) planning agenda, Lane, M. 2001 Land Tenure Center Working Paper, no. 45

Rights of indigenous groups over natural resources in tropical forests Tresierra, J., 1999 Environment Division Working Paper, no. 05/99

Exploring new fields:

Relationship between land and conflict

Land and Violence in Post Conflict situations , Daudelin, J. 2003 North South Institute and the World Bank

Land Administration in Post Conflict Areas FIG 2004, International Federation of Surveyors, Denmark

Land, Violent conflict and Development Pons-Vignon, N. and Solignac Lecomte, H-B, 2004 Working Paper No. 233, OECD Development Centre

The interface between land tenure and water rights

The Interface Between Customary and Statutory Water Rights - A Statutory Perspective Burchi, S. 2005. FAO Legal Paper OnLine No. 45

Access to small household plots

The Intervention of the State Devine, T.M. 1004 in *Clanship to Crofters' War: The social transformation of the Scottish Highlands* Manchester University Press

Smallholders, Householders, Netting, 1993. Stanford University Press, California

Urbanisation

Informal Land Delivery Processes and Access to Land for the Poor in Six African Cities: Towards a Conceptual Framework Racodi, C and Leduka, C. 2003 Birmingham: International Development Department, School of Public Policy, Informal Land Delivery Processes in African Cities, WP1

Land, Rights and Innovation: Improving tenure security for the urban poor Payne, G (Editor), 2003 ITDG Publishing, London

The Urban Housing Manual: Making Regulatory Frameworks Work for the Poor Payne, G and Majale, M, 2004, Earthscan London

Putting land policy in context (wider agricultural development and governance issues)

Land in Africa: Market asset or secure livelihood? Summary of conclusions from the Land in Africa conference IIED/NRI/RAS, 2004

Transformations in West African agriculture and the role of family farms Toulmin, C. and Gueye, B. 2003, London, IIED Issue Paper 123

Urban Livelihoods: A people-centred approach to reducing poverty Rakodi, C and Lloyd-Jones, T 2002, Earthscan, London

African Enclosures Woodhouse, P., Bernstein, M. and Hulme, D. 2000 James Curry, Oxford

Further Reading

The Urban Context and Poor People, S. Meikle in *Urban Livelihoods: A people-centred approach to reducing poverty*, Rakodi, C and Lloyd-Jones, T, London, 2002

Tenure and Shelter in Urban Livelihoods, G. Payne in *Urban Livelihoods: A people-centred approach to reducing poverty*, Rakodi, C and Lloyd-Jones, T, London, 2002

Land Tenure Reform and Rural Livelihoods in Southern Africa, Adams, M., S. Sibanda and S. Turner, 1999, London, ODI, Natural Resource Perspectives No 39.
www.odi.org.uk/resources/download/2113.pdf

Land and Development in Latin America - Openings for Policy Research, Baranyi, S., C.D. Deere and M. Morales, 2004, Ottawa, NSI/IDRC.
www.idrc.ca/en/ev-67380-201-1-DO_TOPIC.html

Securing land rights in Africa, Benjaminsen, T.A. and Lund, C., (eds) 2003. London: Frank Cass

Debating the Land Question in Africa, Berry, S 2002 *Comparative Studies in Society and History*, 44(4): 638-68

Natural resource management and land policy in developing countries: Lessons learned and new challenges for the World Bank, Bruce, J.W. and Mearns R, 2002 IIED Issue Paper No 115, IIED, London

Search for Land Tenure Security in Africa, Bruce, J. and Migot-Adholla, A 1994. World Bank

Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues, Cotula, L., C. Toulmin and C. Hesse, 2004, London, IIED

Access to Land, Rural Poverty and Public Action, de Janvry, A., E. Sadoulet and G. Gordillo (eds), 2002, Oxford, Oxford University Press

Land Tenure, Key Sheets - Resource, DFID/ODI, 1997, Management.

Land Tenure and Rural Development, Rome, FAO, 2002. FAO, Land Tenure Studies, No 3.
www.fao.org/sd/2003/IN0501_en.htm

Lands and livelihoods: making land rights real for India's rural poor, Hanstad T, Nielsen R, & Bown J, 2004, Rome, FAO, Livelihood Support Programme Working Paper
http://www.fao.org/sd/dim_pe4/pe4_040906_en.htm

Promoting land rights in Africa: How do NGOs make a difference? Kanji, N., C. Braga & W. Mitullah, 2002, London, IIED

Custodians of the commons: pastoral land tenure in East and West Africa Lane, C. (ed), 1998 London: Earthscan

Securing secondary rights to land in West Africa, Lavigne Delville, P., Toulmin, and Chauveau, J.P., 2001, London, IIED, Issue Paper No 107.

Evolving Land Rights, Policy and Tenure in Africa, Toulmin, C. and J. Quan (Eds), 2000, London, DFID/IIED/NRI

The dynamics of resource tenure in West Africa Toulmin, C., Lavigne Delville, P. and Traore, S., 2002, London, IIED.

Governance and land relations: A review of decentralisation of land administration and management in Africa, Wily, L., 2003, London, IIED.



Glossary

Agrarian/land reform Reform of the agrarian structure. This is largely carried out for purposes of greater equality in size of landholding and agricultural efficiency.

Land redistribution Refers to the redistribution of landholdings and changes in agrarian structure, usually involving the resettlement of farmers or the landless. Although redistribution programmes are almost invariably accompanied by a redefinition of tenure rights, they should be contrasted with 'tenure reform' programmes, which leave people holding the same land, but with different rights.

Land registration Any officially organised and regularly maintained written record of land title or landholding rights.

Land tenure Refers to the conditions and institutional arrangements under which land is held, used and transferred.

Land tenure insecurity Insecurity of tenure describes the situation whereby tenure rights are considered precarious, due to the risk of dispossession by the actions of other individuals, communities, or the state.

Land tenure security The situation in which landholders consider their continued occupancy rights to be guaranteed whether by virtue of formal rights, customary rules or some other form of assurance.

Property rights A property right is the exclusive authority to determine how and by whom a particular resource is used. More broadly, property rights may be seen as a bundle of separate and distinct rights over a particular good (in this case land) - including at least the right of personal use, the right to demand compensation as a prerequisite for its use by other people, and the right to transfer any or all of these rights to others (either permanently by sale or temporarily through some form of contractual arrangement).