

Improving land governance – for the sake of the rural poor

Land and associated property is a major source of individuals' identity and livelihood. The way in which land rights are assigned and can be used is a key determinant of equality of opportunity, environmental sustainability, social/economic transformation, and the ease and extent of public service provision. This article discusses why land rights are important but often only weakly protected and describes how recent technological developments make public efforts to secure such rights much easier – with tangible impacts for rural development.

Public efforts to secure and clearly define rights to land will have large benefits, especially for traditionally disadvantaged groups, via a range of channels. Secure tenure provides incentives for land-attached investments to enhance productivity of land use and discourage environmentally unsustainable practices (e.g. soil mining) that generate negative externalities. While customary land tenure systems offer high security if population density is low, a host of factors including population growth, urban expansion, outside investment, or speculation can undermine tenure security, especially for marginal groups, and create a threat of land loss. For example, in Malawi, 22 per cent of small farmers are afraid that their land will be taken away from them. For women but not for men, this perception is associated with a 10 per cent reduction in output. Protecting existing rights will thus be important.

■ A key determinant of human development

Land and associated property is also households' main asset virtually everywhere so that land ownership rights affect equality of opportunity in

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Photo: Jörg Böthling

the broad sense, including women's bargaining power and the ability to invest in physical and human capital and to withstand shocks. Women are often disproportionately affected by land conflict, which is frequently inheritance-related. Joint issuance of land documents can help overcome gender discrimination, and may be less difficult to implement than often assumed (see Box on page 7, above). In India, legal reforms to put women's inheritance rights to land on an equal footing with those of men increased their ownership of assets and their autonomy (e.g. having a bank account of their own), and resulted in higher spending on education (and less on

alcohol or tobacco), with knock-on effects on girls' performance in school and age of marriage.

Unambiguously documented land rights also make land rental easier, helping to bring land to its best use and support non-farm growth, raising land-constrained households' income. An inverse relationship between farm size and productivity in un-mechanised agriculture implies that this will also improve equity. While short-term land transfers to locals require little documentation, longer-term leases involving outsiders who may have access to capital and expertise that are lacking locally will

often require formal records. For example, a national programme to certify community land rights in Mexico provided a basis for long-term rental and out-migration of individuals less skilled in farming, thereby increasing agricultural productivity and enhancing household welfare. In Rwanda, land tenure regularisation activated land rental markets, improving efficiency of land use. Routine availability of registry information at low cost can also reduce the transactions cost of accessing credit and, if such costs are a main constraint preventing use of land as collateral for mortgage-based financing, credit access. In the Indian state of Andhra Pradesh, computerisation of land records that allowed online access by Banks increased urban credit access by more than 10 per cent but had no significant effects in rural areas, supporting the notion that in most rural areas of developing countries, expecting broad credit effects from better documentation of land rights is unrealistic.

■ Broader challenges from unclear land rights

In many developing countries, peri-urban land prices have skyrocketed over the last decades. Weak or non-existent tax maps as in much of Africa made it difficult to ensure that, via property taxes, part of these gains would have accrued to (local) government to proactively provide services and infrastructure instead of contributing to speculation and unplanned urban sprawl. These shortcomings also make local governments dependent on central transfers or distortionary land transfer fees that drive transactions underground and encourage under-reporting of sales prices.

Land for infrastructure and public spaces will need to be acquired by the state. Failure to plan ahead, weak records, and weak valuations make expropriation a conflictive and expensive process. Often, expropriation threats imply that peri-urban land is not used for high value crops as is the case in China or Nigeria. If low quality or limited coverage makes it impos-

Awareness raising and efficient service provision can enhance women's access to land titles

The challenges posed by widespread urban informality are well-known. To explore whether poor slum-dwellers are interested and willing to expend resources for more secure property rights, an experiment in **Dar es Salaam** offered randomly selected households the opportunity to acquire a Certificate of Right of Occupancy (CRO), the most secure document available, at a subsidised price that varied depending on whether or not a female was listed as a (co)-owner.

Two findings stand out: First, at more than half the average monthly wage, median willingness to pay for secure tenure was surprisingly large. As this is still well above the cost charged by Government, it suggests that efficient service provision is of utmost importance.

Second, while in the past, titling programmes often ended up extinguishing women's informal rights or widening the gender-asset gap, results suggest that, if linked to sensitisation, formalisation could help empower women. In the case at hand, dissemination raised the share of those who indicated that they would have a female co-owner on the CRO from 24 per cent to 89 per cent, an enormous increase over the 5 per cent of documents that actually have at least one female co-owner. Land tenure formalisation programmes that creatively aim to empower women can thus make an important contribution to overcoming long-standing gender bias.

Large-scale programmes to regularise ownership are possible and can strengthen women's rights

Land tenure regularisation in **Rwanda** illustrates the impact of a participatory low-cost approach to adapt technology to local circumstances, monitor impacts in real time, and scale up as needed. With land scarcity and insecure tenure as a proximate cause of the 1994 Genocide, land required urgent attention. The 1999 inheritance law eliminated bias against female land ownership, followed by the 2004 land policy and the 2005 organic land policy establishing local institutional and administrative structures.

In 2007–10, a pilot registering some 15,000 parcels in 4 cells relied on local para-surveyors using aerial photography for systematic demarcation and adjudication. They recorded, in public and with presence of neighbours and local authorities, agreed plot boundaries on the image, possibly after minor disputes had been resolved by local elders. This led to issuance of a demarcation slip, generation of a unique parcel ID, registration of a claim, and issuance of a claim receipt to the owner. Data was digitised and displayed publicly on office walls at the cell level for at least a month for objections and corrections as needed. Thereafter, titles and lease certificates were issued at central level and distributed to land owners.

An evaluation of the pilot found impact in three areas, namely (i) improved land access for legally married women and better recordation of inheritance rights, although women who were not legally married saw diminished property rights, an issue that was corrected before embarking on the national roll-out; (ii) significant investment impacts, e.g., a doubling of the change in investment in soil conservation, that were particularly pronounced for female-headed households in line with the notion that these had suffered from higher levels of insecurity before; and (iii) a marginal reduction in land market activity rather than a wave of distress sales.

Thorough refinement of processes based on rigorous evaluation of the pilot experience allowed rapid national scale-up. In less than three years, the Rwanda Natural Resource Authority (RNRA) demarcated the country's estimated 11.5 million land parcels at less than 6 US dollars (USD) per parcel with 86 per cent having a registered female (co)-owner. Beyond improving rental market functioning, the programme increased tenure security for all males and females, including those not legally married. Administrative data, used to monitor how what has been accomplished is sustained, including by gender, also point to 2.6 billion USD of mortgage lending since 2013 and can help assess the impact of efforts to increase subsequent registration.

sible to use existing records as evidence of rights, private investors will want to acquire land via expropriation to ensure that any unregistered claims are extinguished. This is likely

to delay investment decisions, make them dependent on political forces, and burden courts and public institutions at large, often leading to viable projects being abandoned (e.g. the

Key dimensions of land administration quality globally

	Total	EAP	ECA	LAC	MENA	OECD	SAS	SSA
Land registration infrastructure								
Records fully digital	0.17	0.08	0.36	0.00	0.14	0.52	0.13	0.04
Records scanned	0.43	0.36	0.60	0.59	0.48	0.42	0.13	0.30
Records paper only	0.39	0.52	0.04	0.41	0.38	0.06	0.75	0.66
Electronic database for encumbrances	0.51	0.36	0.92	0.56	0.52	0.90	0.00	0.17
Maps fully digital	0.31	0.24	0.48	0.31	0.14	0.81	0.13	0.04
Maps paper only	0.44	0.48	0.08	0.34	0.52	0.06	0.88	0.81
Maps are stored in electronic database	0.47	0.44	0.76	0.50	0.38	0.94	0.13	0.11
Records & maps in linked databases	0.39	0.28	0.32	0.28	0.71	0.65	0.13	0.30
Records & maps in integrated database	0.11	0.04	0.40	0.03	0.10	0.19	0.00	0.00
Transparency and information access								
Records accessible online	0.34	0.12	0.72	0.31	0.14	0.87	0.13	0.04
Registry complaints mechanism exists	0.09	0.16	0.12	0.13	0.00	0.19	0.00	0.00
Official registry statistics is public	0.26	0.20	0.56	0.09	0.24	0.58	0.13	0.06
Maps freely accessible	0.24	0.12	0.28	0.25	0.19	0.61	0.00	0.09
Cadastral fee schedule online	0.42	0.32	0.88	0.41	0.24	0.68	0.00	0.21
Cadastral service standard exist & online	0.14	0.20	0.36	0.13	0.05	0.16	0.13	0.04
Cadastral complaints mechanism exists	0.06	0.12	0.08	0.06	0.00	0.13	0.00	0.00
Geographic coverage								
All private plots in country registered	0.22	0.24	0.32	0.03	0.14	0.68	0.13	0.04
All private plots in main city registered	0.42	0.56	0.56	0.16	0.48	0.90	0.25	0.15
Dispute resolution & legal reliability								
Law requires registration of transactions	0.90	0.80	1.00	0.94	0.86	0.94	0.88	0.89
Property registration is guaranteed	0.78	0.72	0.88	0.78	0.71	0.97	0.38	0.72
Compensation mechanism is in place	0.29	0.24	0.60	0.31	0.10	0.52	0.00	0.11
Documents checked before registration	0.96	0.84	1.00	0.97	1.00	1.00	1.00	0.96
Statistics on land disputes available	0.12	0.16	0.36	0.03	0.05	0.19	0.00	0.02
No. of countries reporting	189	25	25	32	21	31	8	47

EAP = East Asia and Pacific; ECA = Europe and Central Asia; LAC = Latin American countries; MENA = Middle East and North Africa; OECD = Organisation for Economic Co-operation and Development; SAS = South Asia; SSA = sub-Saharan Africa

Note: Data collected in the 2016 round of "Doing Business."

Source: Own computation based on 2016 Land Administration Quality Index (LAQI) data.

Tata Nano factory in West Bengal). As unclear records are often at the root of such issues, investment in better record keeping could eliminate some of these problems from the outset.

Land providing amenities such as wetlands, forests, parks, road reserves, or schools should be held by the state. Failure to identify and publicise boundaries of public land, monitor encroachment and quickly act on it can foster corruption and create enormous losses for the public. Avoiding these requires that public land no longer needed be divested by open tender, with key contract conditions public and processes audited.

■ New ways of improving and monitoring performance

Institutional arrangements in many developing countries may fail to harness the sector's potential as a catalyst for transparency and change in the dynamics of gender relations, decentralisation, and urbanisation, due to gaps between often very progressive legal provisions and their actual implementation. *Prima facie*, this is often caused by lack of regulations to implement legal provisions. But lack of awareness of rapidly expanding possibilities, their benefits, and ways to translate them into local reality is also relevant.

Recent improvements in access to data processing, connectivity and remote sensing have potential to close implementation in three ways. First, by reducing the cost of efforts to secure land rights by an order of magnitude. For first-time registration, this is illustrated by Rwanda's use of para-surveyors and high resolution imagery, an intervention that resulted in a positive impact on land access of legally married women and investment in soil conservation (see Box on page 7, below). For maintenance of records, having locals operate internet kiosks to register transactions, in addition to providing a host of other services, is another example.

Combining different data sources can improve policies to regulate and monitor large-scale land acquisition

Although most of the 'land grab' debate focuses on allocation of uncultivated land, investors' failure to use land as stipulated may be more relevant in the long term, especially if land is not transferable and concessions need to be cancelled/reassigned. **Malawi**, where more than one million hectares or 20 per cent of the country's arable land was transferred to estates, mainly under 21-year leases, in the late 1980s, illustrates this and the scope of data to inform policy. Paper-based records made it impossible to assess size and location of unused estate land with expired leases that could potentially be reassigned to other users. Digitisation of lease documents and estate boundaries was thus a first step. Linking it to automated land use classification based on medium resolution imagery suggests that only some 60 per cent of estate land is cultivated, highlighting the scope for policies to improve land use and providing material allowing to pinpoint relevant areas.

Analysis of **Ethiopia's** 2014 commercial farm (> 10 ha) census highlights four results. First, since the 1990s, about 1.3 million ha were transferred to 6,612 commercial farms, some 78 per cent of them with more than 50 ha. Yet, even at the peak of the "land rush," amounts of land transferred to agricultural investors, most Ethiopians, remained well below claims by popular reports. After 2011, levels of annual land transfers were about equal to those pre-2007. Second, around 55 per cent of land transferred remains unutilised. Third, with one permanent job per 20 ha, large farms' labour intensity remains low and direct benefits to neighbouring smallholders as well as employment generation limited. Finally, for most crops, commercial farms' yields (on cultivated area) peak in the 10–20 ha category.

Second, benefits from land registries can be greatly enhanced by allowing realisation of synergies from synchronising land information with other data sources (banks, courts, taxation, land use) to improve land use planning, valuation and verification of private sector compliance with global norms via certification schemes. The Box above illustrates some of these for the case of large-scale land acquisition.

Finally, technology can improve accountability and transparency by objectively monitoring progress with implementing countries' land policies, strategies, and programmes. At global level, the 'Land Administration Quality Index' (LAQI), part of the World Bank's Doing Business (DB) indicators since 2015, illustrates this. Data for 189 countries show large implementation gaps (see Table). Laws are well developed everywhere – 90 per cent of countries (94 % in Latin America and 89 % in sub-Saharan Africa) require registration of transfers, 96 per cent check documents, and 78 per cent have a state guarantee. But limited record coverage renders this ineffective: all the country's (main city's) private plots are registered in 22 per cent (42 %) of countries overall, 3 per

cent (16%) in Latin America, and just 4 per cent (15 %) in sub-Saharan Africa, compared to 68 per cent (90 %) in the OECD.

Quality of the infrastructure to record textual and spatial elements of land rights varies widely: 39 per cent of countries (from 75 % for South Asia to 4 % in Eastern Europe & Central Asia) rely on paper records only. Paper maps which make land use planning difficult if not impossible are still almost exclusively relied on in rapidly urbanising regions such as South Asia (88 %) or sub-Saharan Africa (81 %). Integration of textual and spatial records – a precondition to benefit from systematic recording – remains limited: compared to 50 per cent of countries globally only 26 per cent, 32 per cent and 41 per cent in South Asia, East Asia, and Sub-Saharan Africa have a link between databases. The ability of African countries such as Rwanda to achieve scores well above the OECD average highlights the scope for leapfrogging, while reforms initiated by many countries to improve their ranking illustrate the usefulness of performance monitoring using a comparable set of data.

Publication of administrative data can similarly enhance accountability

and create incentives for improved performance at sub-national (province, district, or village) level. Key variables should include (i) coverage with textual or spatial records and levels of registered sales/mortgage transactions by gender; (ii) actual vs. potential property tax revenue; (iii) amount of land expropriated and compensation paid; and (iv) land-related disputes. Linking these to imagery-based evidence of land cover change or data from household surveys which the Sustainable Development Goals (SDGs) aim to promote provides vast scope to strengthen analytical capacity in the sector and improve the quality of the policy dialogue.

■ A valuable tool for development cooperation

Development partners can harness this potential in two ways. First, by documenting benefits from better performance by land sector institutions and identifying win-win outcomes. Well-designed experiments can help assess impacts in a non-confrontational way and use experience from doing so to prepare regulations and strategies for scale-up. Second, by routinely using evidence-based data-driven approaches to monitor land policies/strategies and design and implementation of land programmes to align incentives and identify good practice. In the spirit of the SDGs and the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT), the programme to 'Strengthen Land Governance in Africa', supported by BMZ under its 'One World – No Hunger' initiative, builds on this philosophy of strengthening local analytical and technical capacity for a participatory results- and evidence-based approach that could profoundly change the nature of the debate on and the political dynamics of the land sector. The immensity of the challenge of securing millions of male and female smallholders' land rights all over Africa and enabling them to manage their land in a productive and sustainable manner demands nothing less.

For a list of references and related literature, see: > www.rural21.com