

GLOBAL LAND OUTLOOK WORKING PAPER

LAND TENURE AND RIGHTS

for Improved Land Management
and Sustainable Development

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September 2017

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ACRONYMS

ADR	Alternative Dispute Resolution
AfDB	African Development Bank
ASDP	Agrarian Structural Development Planning
ASEAN	Association of Southeast Asian Nations
AU	African Union
CAADP	Comprehensive Africa Agriculture Development Programme
CBD	Convention on Biological Diversity
CBRD	Community-Based Rural development
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
FAO	Food Agriculture Organization
GEF	Global Environment Facility
GLTN	Global Land Tool Network
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IDPs	Internally Displaced Persons
IFAD	International Fund for Agricultural Development
ILC	International Law Commission
LIMS	Land Information Management System
LPI	Land Policy Initiative
NGOs	Non-Governmental Organizations
NSDIs	National Satellite Distribution Institutions
NSDI	National Spatial Data Infrastructure
RECs	Regional Economic Communities
REDD+	Reducing Emissions from Deforestation and Forest Degradation
SDGs	Sustainable Development Goals
SILEM	Sahel Integrated Lowland Ecosystem Management Project
SLM	Sustainable Land Management
UNCCD	Nations Convention to Combat Desertification
UNCCD	United Nations Convention to Combat Desertification
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention to Combat Climate Change
UN-HABITAT	United Nations Human Settlements Programme
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure

EXECUTIVE SUMMARY

This working paper was commissioned by the United Nations Convention to Combat Desertification (UNCCD), in order to explore how land tenure systems in different ecosystems and bio-cultural regions around the world are linked to land degradation or sustainable land management. It is against this backdrop that five major issues surrounding land tenure, and rights for improved land management and sustainable development, are addressed; these are:

- Problems associated with land ownership (titling, tenure and customary rights);
- The current trend of policy and regulatory regimes within land law;
- The status and challenges of land administration and institutions;
- Marginalization of some social groups, such as women, local communities and indigenous people;
- Violation of land rights, for instance, via land grabbing;
- Land distribution and land reform processes; and
- Types of land conflicts and disputes, and corresponding resolution mechanisms.

Land degradation – i.e., the significant reduction of the productive capacity of land - is occurring in many countries and in very different ecological, socio-economic and climatic contexts. It has been estimated that between 20% and 30% of global land surface is already degraded. Degradation of land and natural resources has both natural and anthropogenic drivers. Main drivers include population growth, climate change, land conflicts and institutional failures; they have severe impacts on the livelihoods of the poor who are heavily dependent on natural resources. Although the measures and techniques for the sustainable management of land and natural resources and the mitigation of degradation are well known, the implementation of the appropriate measures and techniques remains a challenge.

Access to land, security of tenure and land management all have significant implications for livelihood, development, land degradation reduction, and investments in Sustainable Land Management (SLM); land tenure security is, moreover, central to agricultural production and sustainable use of natural resources. These are all crucial elements to consider in view of the challenges faced by humanity today, which include climate change, the provision of adequate and equitable housing, food security, disaster risk reduction, and peace and security.

Although many countries have completely restructured their legal and regulatory frameworks regarding land, in many cases harmonizing modern statutory law with customary law, insecure land tenure still exists in many countries around the world. Tenure systems in many developing countries have been influenced by former colonial land policies that overlaid established patterns of land distribution. The concept of tenure entails varying degrees of legality, according to the legislative framework. Land tenure systems are diverse and complex because they are a product of manifold historical, cultural and political factors.

Common trends in tenure systems can be observed in most countries; this is due to: shared historical background; new international regulations, initiatives and influences regarding basic human rights; and - although emerging from different property rights systems and tenure-related rules – the near-universal recognition of the power of the private sector in a liberalized and globalized world. This is why land policy and regulatory frameworks protect land rights of individuals and define the responsibilities of institutions. Globally, improving government effectiveness and strengthening the rule of law both enhance the adoption of sustainable land management practices.

Improved government effectiveness works especially well when it gives local communities the mandate to manage their natural resources.

Regulatory frameworks also create the legal basis for institutions that administer land, as well as setting out the rules for systems such as land titling and registration, which facilitate the smooth operation of property rights systems. Land registration and titling ensure that transactions in land must be recorded in the registration system at the time of the transaction so as to be legally valid, or to have legal priority over unregistered transactions.

In most developing countries, land policies and regulatory frameworks have been used as an ideological tool for maintaining the unequal distribution of land and inequitable security of tenure. The regulation of land use is usually rationalized on the basis of the need to protect the public interest. While there is a legitimate public interest regarding the way land and the natural resource base are used, the regulation of different tenure systems - and thereby different land use systems - is often carried out in an unfair and inequitable manner. Patriarchal systems are, for instance, predominant. They relegate women to minority positions, ensuring they only have access to land and related natural resources through men - usually their spouses, or male relatives. This impacts the way men and women manage natural resources in communal areas, leading to the insecurity of land tenure for rural women.

Land grabbing, meanwhile, is on increase; it occurs when individuals and/or local communities lose access to land that they previously used, a loss which threatens their livelihoods. This land is acquired by outside private investors, companies, governments, and national elites. It is used for commodity crops, including agro fuels, which are then sold on the overseas market. Whether by force, intimidation, or deception, communities that lose access to their land are left without the means to sustain their livelihoods, ending up landless and

dispossessed. Poor smallholders with insecure land tenure, pastoralists, and indigenous populations are particularly vulnerable. Land grabbing is often accompanied by severe environmental degradation, the destruction of healthy ecosystems, and the pollution of water, soil and air. Fortunately, however, there are several mechanisms that have been developed to resolve disputes in this area.

Land redistribution is an issue of paramount importance in a number of cases: when land rights are highly polarized; when access to land is very unequal; when land is underused by large owners; or when historical injustices need to be addressed.

This paper purports to establish that there is a clear linkage between land tenure management and sustainable development, and that most of the land tenure problems that exist in developing countries have their origin in the colonial period although land laws and policy have evolved over time. Based on the paper's findings and conclusions, the following recommendations are made:

- Policy and legal reform should ensure land tenure security for smallholder farmers and rural communities.
- In conflict or dispute resolution, the nature and scope of conflicts must be characterized before intervention.
- In land redistribution, access and allocation patterns must be identified, and the sources of available land must be specified if redistribution is an option.
- There is a need to improve the efficiency of land administration systems, specifically: registration and titling, formalizing and securing land transactions, and regulation of land markets.
- There is a need to develop a new integrated approach regarding land use and natural resource conservation planning.

1. GENERAL INTRODUCTION

1.1 Introduction

Secure land and property rights are critical for reducing poverty and for enhancing economic development, gender equality, social stability and sustainable resource use. When land is poorly managed, the associated problems often lead to disputes, land degradation and lost socio-economic development opportunities. Secure tenure can be safeguarded by various mechanisms provided that the rights of land users and owners are clearly assigned. In addition to formal titles, security can be achieved through long leases or formal recognition of customary rights and informal settlements. This range of possible forms of tenure has become internationally recognized as being a continuum, along which each form of tenure provides a different set of rights and different degrees of security and responsibility.

While some governments have, to varying degrees, recognized a range of different forms of tenure as being legitimate, “tenure security” still tends to be strictly defined in more statutory forms of legal security, such as individual land titles. This not only fails to reflect realities on the ground, but also severely reduces the number of people who can afford such “formal” tenure security, particularly those living in poverty and in rural areas. The problem is especially acute in Africa, where the majority of the population has been and is unable to afford such secure forms of tenure for generations, becoming increasingly marginalized by market-based statutory tenure systems that emphasize individual rights. It is likely that less than 30% of developing countries currently provide some form of land registration.

Land tenure systems are a product of historical and cultural factors; they are comprised of the customary and/or legal/statutory rights that individuals or groups have to land and related resources; they reflect and determine the resulting social relationships between members of society (Kuhnen, 1982). Each country has developed specific land tenure concepts that are based on historical and current values and norms. These concepts, which have often been shaped by an evolutionary process, determine the present tenure systems. In many cases, endogenous forces act as drivers that sharpen and change tenure systems, for example, population growth, industrialization and urbanization, or accelerating natural resource exploitation. In addition, external influences may play a part, such as the imposition of a colonial power’s legal system, in the past, or, more recently, through internationally harmonized statutory law and global treaties, such as those on indigenous peoples, the environment or gender equity. In some cases, tenure systems have been determined by revolutionary processes and the resulting abrogation of existing land tenure systems through redistributive land reform or forced land collectivization. Even in countries where changes in land tenure systems were initiated

gradually, policy makers may have strengthened the role of the (central) State in allocating and even managing land. This often led to the nationalization of non-registered lands previously held under customary tenure, as well as of forest and pasture resources, leading to a situation of government organizations directly interfering in land use and management.

Clearly defined tenure and access arrangements regarding natural resources provide a basis for long-term stewardship, as well as a means of reconciliation of competing claims by different users and interest groups. A lack of such arrangements in rural areas can lead to environmental degradation (e.g., deforestation, degradation of water, biodiversity, grasslands and desertification). It is well recognized that secure land and property rights for all are an essential step towards ensuring sustainable management of land and reducing land degradation. Secure land tenure and property rights enable people in urban and rural areas to develop sustainable land use practices. Although many countries have completely restructured their legal and regulatory frameworks related to land, and tried to harmonize modern statutory law with customary law, insecure land tenure and property rights still exist in many countries around the world.

In this working paper, five major issues surrounding land tenure and rights for improved land management and sustainable development will be addressed:

- Problems associated with land ownership (titling, tenure and customary rights);
- The current trend of policy and regulatory regimes within land law;
- The status and challenges of land administration and institutions;
- Marginalization of some social groups such as women, local communities and indigenous people;
- Violation of land rights, for instance, via land grabbing;
- Land distribution and land reform processes; and
- Types of land conflicts and disputes, and corresponding resolution mechanisms.

1.2 Objectives and Scope of the Paper

The objective of the paper is to provide a global overview of the approaches to land tenure and rights aimed at improving land management and sustainable development. It identifies pertinent issues which link land tenure, security, and land rights, and reviews reform strategies. By surveying current experiences and lessons, it hopes to draw conclusions regarding policy options to be developed for the goal of sustainable land management. The paper comprises a review of recent literature relating to land tenure systems of different countries. Additional input has been sought from informed individuals, in some cases via personal correspondence.

1.3 Structure of the Paper

The paper is organized into thirteen sections, including this introduction.

- The second section provides the background and context of development of land tenure systems and property rights.
- The analysis of land tenure systems is provided in section three. This section analyses four main types of tenure, namely: nationalized, freehold, leasehold and customary. An assessment is also made of how each of the tenure types affect land rights.
- The fourth section reviews legal and policy frameworks for land governance at international, regional and national levels.
- The fifth section analyzes gender perspectives on land rights and specifically identifies the challenges of implementing gender equity in land tenure systems.
- The sixth section reviews how customary land rights are recognized and points to the challenges that affect land rights.
- The seventh section analyzes land administration and institutions. It specifically identifies institutions and their functions at the international, regional and national levels. Customary and traditional institutions and their functions are reviewed.
- Section eight analyzes how land registration or titling processes are necessary to achieve security of rights and sustainable land management.
- Section nine identifies key elements of sustainable land management and how it affects land degradation.
- Section ten discusses cases of land grabbing and its impacts on land rights.
- Section eleven analyzes conflicts and land disputes and their impact on sustainable management of land. It further examines the causes of land conflicts and disputes, and dispute resolution mechanisms.
- Section twelve analyzes factors that affect land distribution and puts forth proposals for land reform and distribution.

Thereafter, conclusions and recommendations are drawn.

2. CONTEXT AND BACKGROUND

Various systems of land ownership have developed throughout the world under the influence of historical, cultural and economic factors. During the past two centuries, most of the world's land – that of developing countries, today - belonged either to traditional societies, communally, or to the higher powers of monarch. During the 19th century, colonialism introduced new dimensions to land ownership, title, and management, as well as to the wider rights and responsibilities related to land and natural resources. During that period, new set of laws regarding land ownership were introduced and left a legacy that influenced land policies in many countries. As a result, a system of tenure based on freehold and leasehold was created. In most cases, existing forms of customary land tenure were either ignored or overridden; in the case of indirect rule, customary practice was reformulated for the convenience of the colonizing power and handed back to indigenous populations in forms that created new and artificial class and ethnic divisions. It is the resultant dual, unequal and hierarchical system of land tenure - in which freehold and leasehold land rights are treated as superior to customary land rights – that governments inherited after independence, and which remains in place to date.

Common trends in tenure systems can be observed in most countries, despite remarkable differences in geographic location, historical development or the nature of land rights. This is partly a result of shared historical background, new international regulations, initiatives and influences regarding basic human rights (e.g., those focusing on gender equity, indigenous peoples, or the landless). Despite emerging from different property rights systems and tenure-related rules, these common traits can also be seen as a recognition of the homogenizing power of the private sector in a liberalized and globalized world.

Tenure systems, in particular tenure security, therefore, reflect a lot about the nature of society, and the development and performance of its informal and formal institutions. Current tenure systems are based on a mixture between formal, statutory regulations and informal, customary rules. The statutory / conventional system normally includes private freehold and leasehold rights, as well as public or State land that is often leased out to private concerns. The customary system, on the other hand, is based mainly on communal/ common regulated tenure or, in the worst case, open access. Customary systems generally entail situations where property rights over land or other resources are too weak to be enforced at a local level, or, indeed, are non-existent. This leads to long term overuse, resource degradation and, in turn, to the de facto expropriation of use rights and benefit claims from these lands.

Provisions regarding dispute resolution processes are increasingly prevalent in emerging land policy documents. There are, however, still questions with regard to their effectiveness. In countries such as South Africa, Mozambique, Uganda and Tanzania, for instance, new tenure laws and policies make room for individuals, groups of people, associations and communities to register as legal entities that can own land in their own right. Land and property rights are changing quickly; expropriation without compensation may occur and new land-related conflicts may arise. These conflicts raise questions about the neutrality and service functions of land administration and institutions, notably in countries where rampant corruption and abuse of power can be found at all levels. The behavior of customary authorities who are responsible for land allocation also comes into question. Most countries have concentrated on land tenure reforms related to urban and agricultural lands while also developing legal frameworks for the sustainable use and protection of related natural resources, such as forests, lakes, rivers and pastures. Since these resources fulfill key functions for future ecosystem service delivery and are essential to maintain the global commons – such as biodiversity – a stronger integration of sectoral land tenure approaches is urgently needed.

The overview of diverse land tenure systems in different countries highlights both similarities and differences between them. The overview not only focuses on system strengths and options for the future, but also addresses the weaknesses and threats relative to tenure security, the challenges faced by marginalized groups, and the difficulties associated with land management and administration.

3. LAND TENURE SYSTEMS

3.1 Definition of the term land tenure

Land tenure is central to sustainable natural resource management, and can be defined as the way land is held or owned by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land (UN-HABITAT 2008). In other words, tenure reflects relationships between people and land directly, and between individuals and groups of people in their dealings in land and natural resources. Land tenure can be a tool for conservation since it involves sets of rules and regulations used to control and manage natural resources, biodiversity and the general environment. The basic rules of land tenure define how property rights (use, control, and transfer) are to be allocated within societies, and are usually defined through statutory or customary law. Land tenure may also have both spatial and temporal dimensions, in that the rules can vary geographically and over time. Similarly, land tenure can be differently impacted by gender, ethnicity, class, and political affiliation.

The terms land tenure and property rights can be used to refer to the rights that individuals, communities, families, firms, and other corporate or community structures hold in land, water, forestry, wildlife and, in some cases, mineral resources. Property rights and tenure arrangements may range from private (or semi-private) to leasehold, community, group, shareholder, or other types of corporate rights. Property rights systems include mechanisms to resolve disputes, defend rights, and administer or manage land resources.

Land tenure includes the concept of tenure security, which refers to enforceable claims on land, with the level of enforcement ranging from national laws to local village rules, in turn supported by national regulatory frameworks. This refers to people's recognized ability to control and manage land – using it and disposing of its products, as well as engaging in such transactions as the transferring or leasing of land. Secure land rights can improve sustainable land management as well as access to credit, and, in times of crisis, serve as a source of security. Without clear and generally accepted agreements regarding the utilization of land, forests, water or pastures, there is a high risk of overuse and degradation.

Global studies have shown that diverse systems of land ownership, tenure, and land rights exist across continents, with different degrees of tenure security. Land tenure systems are varied and complex because they are a product of many historical, cultural and political factors. In many developing countries, tenure systems have been influenced by former colonial land policies that simply overlaid their own established patterns of land distribution upon the colony. Tenure systems are equipped with varying degrees of legality, according to each legislative framework. These different forms of tenure also include different sets, or bundles of rights, to land, property and natural resources. Sound natural resource management calls for the redress of a number of imbalances, including those of: power, wealth, knowledge and access to resources. Insecure land rights force the poor to adopt short-term strategies, which are usually detrimental to the land, leading to resource degradation.

3.2 Types of Tenure

The existing land tenure systems are as follows:

Nationalized Land Tenure Under this tenure, full ownership land rights are in the hands of the State. For example, in Ethiopia, land is governed by a federal and decentralized State structure, where the access to and use of land is still based on a nationalized land tenure system. Primary rights to land and related resources, such as forests and pastures, are vested in the State, while individuals enjoy usufruct rights only. This is due to the socialist land reform proclamation passed in 1975, which was further enacted in the 1995 Constitution.

Despite land being nationalized, other forms of tenure co-exist. With the adoption of a decentralization policy, land was made the responsibility of regional governments, which are entitled to pass laws on land rights, transfer and taxation issues. As a result, rights differ from one region to the other but generally land users can neither sell nor lease land legally. The incentives to invest or make improvement in land and natural resources are thus missing. Meanwhile, a more centralized structure is apparent in countries such as Nigeria, in which the State has full monopoly over land ownership. Due to this, land tenure security is very low. Insecurity is mostly experienced in rural areas where the government has acquired land for different projects (housing, irrigation, large-scale agriculture). Affected people have not been compensated for this. It is also difficult to get and keep a title since politicians may easily revoke them; hence most people are without titles. The poor and vulnerable groups are left in danger of losing access to their land, thus increasing the vulnerability of potentially displaced populations. In such a scenario, since land property rights are uncertain and constantly in question, the implementation of measures for the protection of natural resources is significantly hindered.

Freehold Land Tenure Under freehold land tenure, absolute ownership rights are envisaged, implying the right to own, control, manage, use and dispose of property. Such land rights, while being held in perpetuity, may however be sequestered through State intervention when land is targeted for expropriation in the case of eminent public interest (For example, construction of roads, expansion of urban areas, etc.). Freehold tenure is a traditionally western concept of individual property ownership. Freehold land is the most common form of land ownership in Australia (also known as an “estate in fee simple”). In Africa - given the protection that freehold land tenure received from National States and their respective land institutions in terms of received law - this system has tended to be presented as the most secure form of tenure. Under this tenure, smallholders often invest in soil conservation, agroforestry and reforestation hence a deceleration in land degradation.

Leasehold Land Tenure Under leasehold land tenure, ownership of land is based on the notion of rentals for long periods. Land belonging to one entity - either the State or an individual - is, by contractual agreement, leased to another entity. Such leases can be long or short. In practice, the issuing of 99-year leases is considered to be as secure as a freehold land tenure system. The lease agreement is then registered against the title of that land to create effective and enforceable land rights. Freehold and leasehold land rights have mostly been identified with large-scale farming and elite land ownership regimes. In some jurisdictions, such as India and Uganda, non-citizens can only be offered leases. Rented lands usually are the most degraded. This is usually because tenant farmers

holding short-term leases may be unwilling to undertake soil protection measures, plant trees, and improve pastures if they do not hold the land long enough to receive the benefits of their investments. But a closer look often reveals that leaseholders which hold long-term use rights can be quite as inclined to improve the land as full owners are. Security of tenure, not ownership, is therefore the decisive factor, because it enables farmers to reap the benefits from their investments (or from their restraint). Conversely short-term land leases are among the most pernicious arrangements.

Customary Land Tenure Under customary land tenure, land is owned by indigenous communities and administered in accordance with their customs; this is opposed to statutory tenure, introduced during the colonial period. Ownership, in this form of tenure, is vested in the tribe, group, community or family. Land is allocated by customary authorities, such as chiefs. Customary land rights are location-specific and often flexible, overlapping, and include individual as well as group rights to use local land resources. They typically include dispute resolution mechanisms, e.g., they are handled by local chiefs, and access to land is typically restricted by kinship or ethnicity, excluding outsiders and restricting land sales. Individuals belonging to the group may be allocated land for individual (family) use, but if they leave the land unused it may return to the community (Ostrom, 2001; Platteau, 1992). This is the most common type of tenure in developing countries. For example, customary land tenure features in about 70% of Kenya’s landed area. Similarly, in countries such as South Africa, Mozambique, and Tanzania, new tenure laws and policies make room for individuals, groups of people, associations and communities to register as legal entities that can own land in their own right (Palmer, 2000).

Customary land tenure is associated with lack of transparency and accountability in the management of customary lands; the abuse of the power of eminent domain by the State, which has served as an avenue for encroachment of customary lands, and has led to conflict between the State and the public. Under this system, there is access to land to many poor households but most land is not registered and, as a result, there is no security of tenure. There is, moreover, still gender disparity in land management under this tenure.

Table 1: Relationship between land tenure systems and land productivity effects

Land Tenure Systems	Land Productivity Effects	Gaps	Recommendations
Nationalized land tenure	Governments, regional and local authorities or parastatals claim the ultimate competence for the distribution and use of land resources.	<p>Potentially discriminated groups often lose the land resources required for securing their livelihood by State mismanagement (e.g., mobile livestock keepers and forest users).</p> <p>Paternalistic governmental restrictions for individually or communally used land often cause damage, even if they were planned for the modernization of agriculture.</p> <p>Associated with large farms which often contribute to the destruction of the ecological balance by cultivation of monocultures and by excessive pesticide use.</p>	<p>Adopt land development instruments such as: Agrarian Structural Development Planning (ASDP) - an instrument used for planning and decision making for rural regional development</p> <ul style="list-style-type: none"> - Land consolidation and land readjustment – These policies are applied for: the development of rural areas; the elimination of deficiencies in the agrarian structure considering existing ownership; and for matching the land use pattern with the land tenure structure. (Germany and Asian countries, such as Japan, Indonesia, South Korea, India and Taiwan have comprehensive experience in applying the two policies) <p>Taking autochthonous(traditional) land tenure into consideration in national legal systems</p>
Freehold land tenure	<p>Gives the owner the right to use the land within the limits of the law (land use plans, environmental protection restrictions).</p> <p>Has high tenure security which encourages sustainable investment.</p> <p>“Systems of land ownership as well as tenure and business arrangements which do not provide security to the farmer” are held to be “major obstacles to conservation” (FAO, 1983).</p> <p>Land owners receive all of the revenues due from their investment exclusive of others, which is an incentive towards sustainable use.</p>	It is associated with fragmentation of land which accelerates land degradation.	<p>Use of land tax and production incentives to guide production and land use.</p> <p>In Brazil, Chile, Guatemala, Panama and Thailand, a “penalty tax” was raised on fallow land or land used in an undesirable way.</p>

Land Tenure Systems	Land Productivity Effects	Gaps	Recommendations
Leasehold land tenure	Leases are subject to a higher level of control. Has a high level of security.	Leaseholders lack incentives to invest in long-term land improvement.	Encourage long-term leases.
Customary land tenure	Has long term social control and sanctions on land use Customary land rights offer access to land to many poor, women, pastoralists, and others	Has a complex management system. Has limited access to formal credit and input markets and to sales outside the group; opportunities for productive exchange and access to credit are limited due to non registration. Since no one can be hindered from using the revenues of the resource, hardly any incentives for individual investments in resource protection exist.	Institutional arrangements and capacity building for decision making and enforcement. Recognize and formalize indigenous systems which contribute to sustainable use of land through legislation. Shift towards titling, registered customary land rights to boost the possibilities for land transactions in both formal and informal markets and for access to formal credit institutions.

4. LAND POLICY AND REGULATORY FRAMEWORK

The regulatory framework for land tenure, administration, land information management, planning and building consists of many elements. These include: laws, regulations, standards, customary norms, and administrative procedures relating to land development. Their objective is to determine what developers, land-owners, communities and residents are entitled to do with, and on, the land in question. The regulatory framework also determines the rules, responsibilities and procedures regarding the collecting and processing of land information, as well as land administration. Its main aims are to protect the land rights of individuals through laws, to define the rights and responsibilities of institutions, to ensure that the 'rule of law' is applied when land rights are extinguished or land is sequestered by the State, and to adjudicate in cases of conflict. Land rights may refer to full private ownership, rights of use, leaseholds, or customary rights. The framework also considers the circumstances in which - or processes by which - such rights can be transferred, permanently or temporarily, as well as how and when they may be used to secure loans. In essence, the regulatory framework creates the legal basis for institutions that administer land, and sets out the rules for systems, such as land titling and registration, which facilitate the smooth operation of property rights systems.

Legislation may be used to prohibit or restrict land use activities as well as to provide economic and practical incentives. It also plays an important role in the establishment of institutional mechanisms with a view to developing practical land management measures, ensuring effective compliance, monitoring the performance of land management programmes, and, in turn, enabling the necessary changes to the law to ensure such mechanisms remain effective. Establishing efficient institutions, both internationally and nationally, is one of the most important roles of legislation, though is often underestimated.

At the international level, there are binding and non-binding instruments that enhance the adoption of sustainable land management practices. Table 2 illustrates these.

Table 2: International instruments relevant to sustainable land management

International Instrument	Relevancy to sustainable land management
Universal Declaration of Human Rights (1948)	Under Article 17, everyone has the right to own property alone as well as in association with others and no one shall be arbitrarily deprived of his property.
International Covenant on Civil and Political Rights (1966)	Article 3 guarantees equality between women and men, and it prohibits discrimination based on sex.
International Covenant on Economic, Social and Cultural Rights (1966)	Article 3 calls on States to ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights.
Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1979)	Article 15(2) obliges States to accord women equal legal capacity in civil matters, in particular “equal rights to conclude contracts and to administer property.” Article 16(1) (h) requires States ensure the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
The UN Convention to Combat Desertification (UNCCD) (1994)	Parties undertake to promote cooperation among affected parties in the fields of environmental protection and the conservation of land and water resources, as they relate to desertification and drought.
Convention on Biological Diversity (CBD) (1995)	Promotes, among others, the conservation and sustainable use of terrestrial biodiversity.
UN Framework Convention to Combat Climate Change (UNFCCC) (1995)	Aims at stabilizing greenhouse gas concentrations. It addresses soil carbon, land use change and forestry, biomass production and deforestation (REDD+).
Kyoto Protocol UNCCD (1997)	Decision 16/CMP.1 affirmed the implementation of land use, land-use change and forestry activities.
EU Land Policy Guidelines (2004)	Recognizes securing rights over land and related resources as one of the central issues for the design of land policy and land reforms.
Non Legally Binding Instrument on All Types of Forests (2007)	Promotes sustainable forest management. Its goals include reversing the loss of forest cover, and increasing the area of protected forests as well as the share of products from sustainably managed forests.
FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012)	Requires States to recognize and respect all legitimate tenure right holders and their rights, and safeguards legitimate tenure rights against threats and infringements.
IFAD Environment and Natural Resource Management Policy (2012)	Calls for improved governance of natural assets for poor rural people by strengthening land tenure, community-led empowerment, and livelihood diversification. Aims to reduce vulnerability and build resilience for sustainable natural resource management.

There are also a number of regional binding and non-binding instruments which include provisions for the sustainable management of land, as presented in Table 3, below:

Table 3: Regional Instruments relevant to sustainable land management

Regional Instrument	Relevancy to sustainable land management
Protocol to the European Convention on Human Rights (1953)	Article 1: no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
American Convention on Human Rights (1969)	Article 2: everyone has the right to the use and enjoyment of his property.
ASEAN Agreement on the Conservation of Nature and Natural Resources (1985)	Article 12 requires contracting Parties give particular attention to the national allocation of land usage.
African Charter on Human and Peoples' Rights (1986)	Article 14: the right to property shall be guaranteed and it may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws. Article 21(2): dispossessed people shall have the right to the lawful recovery of their property as well as to an adequate compensation.
Convention Concerning the Protection of the Alps (1991)	Article 2 (b) requires contracting Parties take appropriate measures to attain regional management with a view to ensuring an economic and rational utilization of the land.
Protocol for the Implementation of the Alpine Convention (1991)	Article 2 (b) requires the Contracting Parties limit the negative effects of power plants on the environment and the landscape.
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)	Articles 7, 16 and 19 provide for the equality between women and men and the right to an equitable sharing of the properties that were jointly acquired. It further grants women, rights to access and control productive resources, including land.
Revised African Convention for the Conservation of Nature and Natural Resources (2003)	Article 6 requires Parties to take effective measures to prevent land degradation.
Comprehensive Africa Agriculture Development Programme -CAADP (2003)	One of its objective is to achieve measurable outcomes is to extend the area under sustainable land management and reliable water control systems.
Maputo Declaration on Agriculture and Food Security in Africa (2003)	AU member countries resolved to revitalize, among other things, strategies targeted at small scale and traditional farmers in rural areas.
Land Policy Initiative (LPI) (2006)	LPI is a joint programme of the tripartite consortium consisting of the African Union Commission (AUC), the African Development Bank (AfDB) and United Nations Economic Commission for Africa (ECA) One of the objectives is to develop and build capacity for monitoring and evaluation tools, as well as systems in support of land policy development and implementation.

Regional Instrument	Relevancy to sustainable land management
AU Declaration on Land (2009)	Regional Economic Communities (RECs) are required to support member States in land policy formulation, implementation and monitoring, as well as to address issues of land policies within their respective common policy framework[s].
Guiding Principles on Large Scale Land Based Investments in Africa (2009)	Calls for the respect of human rights of communities including respecting customary and women's land rights.
Framework and Guidelines on Land Policy in Africa (2010)	Provides principles that guide the development of national land policy. These include, among others, integrating land issues into decision-making processes; acknowledging the legitimacy of indigenous land rights systems; strengthening the land rights of women; and enhancing access to land through tenure reform.
Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods (2014)	Stresses the significance of enhancing conservation and sustainable use of natural resources in Africa, including land, water, plants, livestock, fisheries and aquaculture, and forestry, through coherent policies, as well as governance and institutional arrangements, at national and regional levels
AU Agenda 2063 (2015)	Member States committed themselves to ensure effective territorial planning, as well as land tenure, use and management systems.

At the national level, the regulatory framework of land is found in States' constitutions, laws and policies relative to land, as well as in customary and religious dicta.

Two basic principles underlie most national constitutions, legal systems, and laws on the question of land ownership. The first is the right to private ownership. This right includes not only the right of use and enjoyment, but also the right to exclude others. Most systems of land ownership, as set out in national law, seek to uphold and recognize this concept of private ownership, which gives absolute control and exclusive rights on the basis of legal, State-conferred ownership.

The second common and fundamental principle underlying national land laws is the regalian doctrine, which holds that all lands belong to the State. A corollary of this principle is that it is only by leave of the State that land can pass into private ownership. The other principle to consider though not common is the social function of property. It has been reflected in some constitutions and laws of countries in Africa, Asia and Latin America in recent decades. This principle is an effort to balance recognition of private land rights with key matters of public interest, such as equity. The right of private ownership includes an obligation to use property in ways that contribute to the collective or common good (Foster and Bonilla 2011). In such situations, the State has the power to expropriate private lands as long as adequate compensation is provided.

5. LAND RIGHTS AND GENDER

It is widely acknowledged that women play a pivotal role in maintaining and strategically using land and natural resources. Several countries have recognized women's land rights in their constitutions and laws. For example, in Laos, the Lao PDR Constitution and national laws promote equality by entitling a married woman to one half of any property acquired during marriage. However challenges ensue when it comes to enforcing land rights due to gender relations being governed by prevailing socio-political structures and religio-ideological value systems. In most developing countries, the predominance of patriarchal systems relegates women to minority positions, ensuring that women only have access to land and related natural resources through their spouse or male relatives. This division between primary (male) and secondary (female) access to land - through which rural women suffer insecurity of land tenure - can be considered to impact the way men and women manage natural resources in communal areas.

Land is a particularly critical resource for women in the event of becoming de facto heads of household, which may occur through male migration, abandonment, divorce, or death. In both urban and rural settings, the existence of effective property rights for women can, under these circumstances, mean the difference between dependence on natal family support and the ability to form a viable, self-reliant female-headed household. Equally, ensuring women's land rights during marriage may afford them greater claims on the disposition of assets in the case of divorce or death of their husband, as has, for example, been shown in rural Ethiopia. (Fafchamps and Quisumbing, 2002).

In many Asian countries, under traditional law and customary practice, women's access to land has been mediated through men, in other words women acquire land through their husbands or male relatives. Traditional systems of inheritance and property, especially of agricultural land, have been predominantly patrilineal. As men are traditionally seen as the breadwinners in the family, inheritance of farmlands is often devised as a father-to-son affair. Especially in South Asia, cultural norms often dictate that women "voluntarily" forego their shares in parental land in favor of brothers or uncles. In Vietnam, women rarely have their names on land use right certificates, making it difficult for them to use those certificates to apply for mortgages. Similarly, under the agrarian reform programme in the Philippines, over half of the land certificates issued still do not include the name of the wife, despite a governmental longstanding order embedded in the Comprehensive Agrarian Reform Program of 1988 to include the names of both spouses. These multiple scenarios of tenure insecurity for women have the unfortunate side-effect of encouraging unsustainable land use practices, since - without tenure security - there is insufficient incentive towards sustainable land management.

6. CUSTOMARY LAND RIGHTS

Customary land rights are generally held by indigenous communities and administered in accordance with their traditions. Such rights stand in opposition to statutory tenure, a system usually introduced during colonial periods. In some countries, customary rights are recognized in both constitution and land laws. For example, in the Philippines, their constitution of 1987 recognizes the land rights of indigenous cultural communities. Similarly, Indonesia's Basic Agrarian Law of 1960 stipulates that the national land law shall be based on 'Adat' (customary) law and shall incorporate customary concepts, principles, systems and institutions. Customary tenure is the dominant form of land tenure in most African countries. In Ghana, traditional norms and practices are recognized as the legal basis for land rights and relationships among land users, while in Mozambique, customary land tenure was given formal recognition in the 1997 Land Law.

There are, however, some challenges with regard to recognizing customary land rights. One such challenge is that, under this system, land boundaries are neither well defined nor understood. In the Philippines, for instance, boundary uncertainty and land grabbing are common fare. In such systems, there is confusion over the boundaries not only of land, but also of applicable authority. Latin American countries, such as Bolivia and Peru, are, for instance, grappling with the issue of customary authorities. In Ghana, where both customary and statutory law apply in urban areas there is much confusion about who has the right and authority to approve the alienation of particular parcels of land. Equally, in South Africa, the duplication of land

allocation functions has created some conflict between traditional chiefs, municipal councilors, the State, and provincial departments of agriculture.

Some countries, such as Indonesia, with around two hundred different ethnic groups, have more clearly identifiable customary authorities. The identification of customary authorities in traditional rural communities is a clearer process than it is in urban areas, where people from different ethnic groups live together. In the Philippines, for example, numerous community level disputes occurred in which it was contended that some ethnic identities and ancestral domains were being 'imagined'. Organized customary land rights systems allow sustainable use of spatially isolated resources and influence the preservation thereof in the long term through social control and sanctions. Customary land rights further offer access to land and security of tenure to many poor households.

7. LAND ADMINISTRATION AND INSTITUTIONS

Land administration can be defined to include processes of recording and disseminating information about the ownership, value, and use of land and its associated resources. Such processes include the determination, survey, description, and detailed documentation of land rights; the detailing of other attributes of the land; ; and the provision of relevant information in support of land markets and land use management (World Resources Institute, 2016). Land administration, whether formal or informal, comprises an extensive range of systems and processes.

Land administration is a system implemented by the State to record and manage rights over land. A land administration system may include the following salient aspects:

- The management of public land;
- The recording and registration of private land rights ;
- The recording, registration and publicizing of the grants or transfers of those land rights through, for example, sale, gift, encumbrance, subdivision, consolidation, etc.;
- The management of the fiscal aspects related to rights in land, including land tax, historical sales data, valuation for a range of purposes including the assessment of fees and taxes, and compensation for State acquisition of private land rights; and,
- The control of use of land, including land use zoning and support for the development application/approval process.

Typically, a land administration system is comprised of textual records, defining rights and/or information, and spatial records, defining the extent over which these rights and/or information apply. In most jurisdictions, land administration has evolved from separate systems to manage both private land rights and public land.

Institutions responsible for land administration exist at the international, regional and national levels.

7.1 Institutions at the international level

At the international level, there are UN institutions and global initiatives involved in the administration of land related issues. These are many and varied. The UN Convention to Combat Desertification (UNCCD) is the broadest institution, and addresses land degradation in drylands areas; it recognizes land degradation as the root cause of the desertification process in arid, semi-arid, and sub humid zones, and provides a global framework for addressing desertification. The Food and Agriculture Organization (FAO), meanwhile, supports land governance activities, especially in Sub-Saharan Africa, by promoting secure tenure rights and equitable access to land as a means for eradicating hunger and poverty; to this end, it developed Voluntary Guidelines on the Responsible Governance of Tenure (VGGT). The International Fund for Agricultural Development (IFAD) similarly grapples with land tenure security and poverty reduction. The United Nations Development Programme (UNDP) mainstreams drylands development issues into national development frameworks and promotes land tenure/reform and sustainable land management; making markets work for the poor; decentralized governance for natural resources management; The World Bank, in turn, supports land and real estate reforms across a wide range of countries. The UN-HABITAT's section on Land, Tenure & Property Administration focuses on the implementation of land, housing and property rights, particularly women's secure tenure, affordable land management systems and pro-poor flexible types of tenure. Further efforts by UN-HABITAT include the creation of the Global Land Tool Network (GLTN), an alliance of global, regional, and national partners, contributing to poverty alleviation through land reform, improved land management and security of tenure; this is undertaken particularly via the development and dissemination of pro-poor and gender-sensitive land tools. The International Land Coalition (ILC), finally, is a global alliance of civil society and intergovernmental organizations; it promotes secure access to land for rural people through capacity building, dialogue, and advocacy.

7.2 Institutions at the regional level

In the African region, institutions which have developed a framework and guidelines for land policy include the African Development Bank (AfDB) and the United Nations Economic Commission for Africa. In Latin America and the Caribbean, the Economic Commission for Latin America

and the Caribbean works to build countries' institutional capacities to devise and implement public policies and regulatory frameworks with a view to increasing efficiency in the sustainable management of natural resources. In the Asia-Pacific region, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) works to promote sharing of knowledge, experiences, good practices and lessons learnt on land tenure (in both rural and urban areas). The Asia Development Bank, meanwhile, works to strengthen land administration services. The UN Economic Commission for Europe (UNECE) through its committee on housing and land management promotes sound land administration and sustainable land management which are indispensable for economic, social and environmental development in the region.

7.3 Institutions at National level

Broadly speaking, at the national level, institutions for land administration may be categorized as follows:

- Government ministries: In many countries, there are ministries responsible for lands, mandated to provide land services to the public in an efficient and effective manner in order to promote and encourage sustainable management and utilization of land and land based resources;
- Legally autonomous bodies: In some countries, there are national land bodies, whose autonomy is guaranteed by the constitution and/or law. These bodies are responsible for managing public land on behalf of national and local governments. In some countries, such as Kenya and Uganda, they are called National Land Commissions; in others, such as Jamaica, they are termed National Land Agencies (NLA). In addition, there are also land appeal boards, land reform boards and directorates of land records and surveys, though they are hampered by high staff turnover. Meanwhile, at the local government level, there are formal decentralized institutions. Examples of these include: Botswana's Land Boards, Namibia's Communal Land Boards, Tanzania's Village Councils, Niger's local Land Commissions, and Ghana's decentralized Deeds Registries and pilot Customary Land Secretariats. In some countries, such as Ghana, although customary land is administered by traditional authorities recognized under the constitution, there is no explicit recognition of customary rights held by individuals. In other countries, such as Mozambique, community land is administered by the communities themselves.
- Traditional land institutions (chiefs and other traditional authorities); and
- A selection of other institutions, including civil society organizations.

The land management model, below, illustrates the role of land administration functions and how they link up to each other.

Figure 1: Land Management Model



Land policies, although they are institutionally decentralized, lack the corresponding decentralization of adequate resources and capacity building. It is important to note that the majority of developing countries have not upgraded their infrastructure for land administration since their independence from colonial rule. Their infrastructure for surveying and mapping is, thus, typically outdated, as are their geodetic reference frameworks, cartographic machinery for producing maps, and infrastructure for sharing maps and other spatial data. The outdated infrastructure has lost not only its relevance to today's needs, but also its productivity and efficiency. Many countries are facing challenges in their drive for modernization, which includes the upgrading to more appropriate technologies. The challenges to technology adoption are particularly onerous. Regarding geodetic reference frameworks, they include the need to educate all stakeholders and to equip them with new satellite-based technologies, such as hand-held global positioning systems, as well as the need to install modern information and communications technology. Challenges to adopting base mapping technologies include the digitization of spatial data and development of National Spatial Data Infrastructure (NSDI) via which to share it.

Regarding cadastral surveying, the key challenge is choosing between accuracy and speed, on the one hand, and cost, on the other. Adoption of new technologies and modernization also require development of new skills and new laws. As the modernization of infrastructure and adoption of technology involve new investment choices, the technology in question needs to be carefully appraised for technical and economic viability, taking into account the resources needed to operate and maintain it.

Although, in general terms, the legal regime and other institutional arrangements appear, in many developing countries, to have improved, weaknesses still exist in many legislative frameworks. Problems include staffing issues, a lack of support services, low morale and pervasive corruption within land agencies. Further, inadequate consultation, coordination and cooperation among agencies often limits the reach and effectiveness of tenure regulations. The lack of reliable plans and the use of unapproved, old or inaccurate maps directly leads to undetermined land boundaries, which in turn leads to conflicts and litigation between land-owning groups. In some cases, the weakening or breakdown of the trusteeship ethos of traditional land institutions results in a situation where some traditional leaders declare themselves owners of communal land rather than custodians of it. This leads to landlessness, homelessness and general insecurity for women and men alike, particularly in peri-urban neighborhoods.

8. LAND REGISTRATION AND TITLING SYSTEMS

Land registration can be defined as the process of recording and registering land rights either in deed or title form. The aim of registration is to guarantee the security of property transactions, to protect the owner from encroachment by third parties, and to enhance land tenure security as a whole. These aspects can be taken as fulfilled when any given piece of property can be uniquely identified and when ownership or other real property rights can be attributed to an individual or legal entity. The land register records and defines both the location and extent of each given property, as well as the nature of the rights affecting them. The importance of this process, although great, must be kept in perspective: it is a device which may be essential to sound land administration, but is nonetheless merely a part of the larger land management machinery of government.

There are two important elements of land registration systems that require close coordination. These are (a) the registry, which records the rights to land, and (b) the cadastre, which provides information on the location, boundaries, use, and values of land parcels.

Land registration is a guarantee not only of land rights in and of themselves, but also of the legality and validity of their transaction, by virtue of the recordation process. In practice, however, depending on the efficiency and security of the land registration system, there may be little difference between the confidence vested in the documents recorded in title registration systems versus those recorded in other land registration systems, such as deed registration systems.

A review of national land policy and law shows that both, in general, emphasize individualization of land rights, stressing titling, and giving limited attention to holders of secondary rights, i.e., women, migrants, Internally Displaced Persons (IDPs), pastoralists, hunters and gatherers, and other minority groups. The rights of pastoralists, for instance, have not been clarified and secured by law in most jurisdictions. Likewise, collective land rights such as family land rights as well as rights to the commons, including forests, wetlands, grazing land and others have not been adequately addressed.

Land adjudication and registration have been conceived in terms of individuals or villages, omitting land uses other than those practiced by individuals or static communities. Titling often - but not necessarily - occurs concurrently with the initial registration in the land registration system. Subsequent transactions in land must be recorded in the registration system at the time of transaction to be legally valid or to have legal priority over unregistered transactions. The process of individualization in land registration systems refers to the evolution towards increasing control by the individual landholder over land use decisions. Security of tenure is the confidence landholders

have that their rights over a given tract of land will be upheld by society, by local communities and by the State. A landholder's willingness to invest and improve land is influenced by his/her perception of various risks. These include the landholder's perception of how long the land can be used for, as well as the degree of freedom with which it can be used and disposed of.

In the African context, the proliferation of land titling programmes, which aim principally at growth, peace and sustainable development, is controversial. Adherents of this type of land reform justify their argument based on the three conventional views. First, a reduction in the probability of being evicted, or otherwise losing land rights, provides land users with greater assurance that they will enjoy the fruits of their labor and investment, thereby encouraging them to make long-term investments for sustainable use of farmlands (Besley 1995:909; Platteau 1996:36). Still in the same argument, land titling is also said to reduce the probability of unproductive spending on conflict, which has far-reaching impacts on economic productivity and social equity (Deininger & Binswanger 1999:250). Second, transfer rights, through rent or sale, accorded by formal land titling, have a double-pronged effect in enhancing land related investment. On the one hand, titled land acquires collateral value to access institutional loans, which in turn can finance new investments. On the other hand, easy liquidation of land and the investments embedded in it - notably in the case of exogenous shock - increases its expected return, boosting land related investments (Brasselle, Gaspart & Platteau 2002:374). Third, a formalized, low-cost way to demarcate property rights in land is crucial to the development of financial markets, particularly in a context where formal lending institutions have imperfect information about borrowers (Brasselle et al 2002:374; De Soto 2000).

There have been attempts to register communal land in several countries around the world. A variety of lessons may be gleaned from their experiences.

Tanzania has surveyed almost all of its communal lands; about 60% have been registered, at an average cost of USD 500 per village. In the period between 2003 to 2005, Ethiopia issued certificates for 20 million parcels of land at less than USD 1 per parcel, with positive impacts on investment and gender equity. It is, moreover, currently piloting a cadastral index map that costs less than USD 5 per parcel; a total cost of registration well below that in comparable countries, which generally averages USD 20 per parcel. Vietnam used a similar model to that of Ethiopia in the 1990s to issue many land use certificates at a low cost, however without a corresponding mapping of the land.

In June of 2012, Rwanda completed a nationwide programme to issue land titles, complete with a photomap, costing approximately USD 10 per parcel, with significant positive impacts on investment and gender equity. Madagascar, Namibia, and Tanzania have piloted similar approaches, as has Thailand, with its successful 20-year Land Titling Programme that is faster and less expensive than most, since the spatial framework is based entirely on a photomap.

Ghana's experience, meanwhile, shows that demarcation of communal land boundaries is not merely a technical surveying exercise, but a process that requires time and financial resources to resolve disputes and agree on boundaries before fieldwork begins. A similar conclusion can be reached when analyzing Mexico's experiences in this area.

A survey of Mozambique's experience indicates that even without a legal requirement for a detailed survey of boundaries, registration of communal lands can be a very slow process if community land owners are not clearly defined. These can be established traditional authorities (as in Ghana) or statutory ones (as in Tanzania), however the process is slowed when new formal entities have to be developed.

Furthermore, Chile's experience indicates that an electronic registry system, the use of the internet, and the presence of integrated digital databases make a substantial contribution to good land governance by significantly increasing the transparency of the system and enabling it to work more efficiently.

Additionally, key lessons can also be drawn from the successful systematic registration activity in Ethiopia, Rwanda, and, to a lesser extent, Madagascar: (a) that it is important to have strong political will for the activity to be successful; (b) that the close involvement of local authorities — land use and allocation committees in Ethiopia, cell land committees in Rwanda, and municipal land offices in Madagascar — not only builds legitimacy for the process, but is a key element in reducing the cost of systematic registration; and (c) that the adoption of low-technology "general boundaries" rules, and simple methods implemented by paraprofessionals to demarcate and chart boundaries using image maps as a spatial framework, is both feasible and cost-effective.

There are a number of challenges regarding registering and titling of land. First, titling programmes are extremely expensive and as a result registration is inaccessible to the vast majority because of the cost and the division of responsibility between ministries. While significant progress has been made to reduce the costs of registering individual land rights, there is a continued search for approaches to reduce registration costs even further.

Secondly, many governments, especially in developing countries, have little experience of formulating registration and titling systems. For example, in Guatemala, uncertainty regarding land tenure is widespread, due to a lack of transparency in transactions and/or registration, as well as limited knowledge and competence in the management of the land-related infrastructure. Predominant causes of insecurity are: corruption; lack of good governance; weak legal systems, parallel, mafia-like power structures; and poor land-related data. Those that suffer most from such tenure insecurity are women and indigenous groups who are marginalized and do not have the same strength of tenure rights as other groups in society. Thirdly, there are information, competence and integration gaps between land institutions and data collection bodies. For instance, issues relating to surveying and records are governed by a separate ministry from that which governs land registration, further complicating the registration process. These gaps also open up corruption opportunities between sub-national and national levels.

9. SUSTAINABLE LAND MANAGEMENT

Sustainable Land Management (SLM) has been defined as: 'the adoption of land use systems that, through appropriate management practices, enables land users to maximize the economic and social benefits from the land while maintaining or enhancing the ecological support functions of the land resources.' Unsustainable land management through land clearing, overgrazing, cultivation on steep slopes, bush burning, pollution of land and water sources, and soil nutrient mining are among the primary causes of land degradation (Nkonya 2016).

The Sustainable Development Goals (SDGs) aim to conserve and restore the use of terrestrial ecosystems such as forests, wetlands, drylands and mountains, by 2020. The achievement of this objective requires the promotion of sustainable management of forests and halting deforestation, which is also vital with regard to mitigating the impact of climate change; urgent action is also needed to reduce the loss of natural habitats and biodiversity, which are part of our common heritage.

Setting up institutional and policy frameworks to create an enabling environment for the adoption of SLM involves the strengthening of institutional capacities, collaboration and networking. Rules, regulations and by-laws need to be established, however – to be accepted and followed – they must be relevant to each context. Guaranteeing access to, and rights over, resource uses are two key elements when it comes to ensuring individual and/or collective security and motivation for investment. Accessing markets, in which prices can change quickly, requires flexible, adaptable and innovative SLM practices. These practices also need to be responsive to new trends and opportunities, such as ecotourism or payment for ecosystem services.

A key aspect in the adoption and spread of SLM is to ensure genuine participation of land users and professionals during all stages of implementation; this both incorporates their unique views on each matter, and ensures their commitment to the practices. Another aspect to consider is that of off-site (e.g., downstream) interests, which may restrict freedom at the local level, such as the free use of water for irrigation. Although these interests can be tricky to balance, they may equally provide an opportunity for collaboration, resulting in win-win solutions upstream and downstream.

Natural resource management programming around the world has increasingly demonstrated that the sustainable management of natural resources is best achieved when land and natural resource tenure and property rights are recognized and can be easily enforced. For sustainable natural resource management to succeed, the property rights associated with these resources must be recognized by, and coherent with, the cultural, social, ecological, legal and executive contexts.

Maintaining ecosystem functions and services is a prerequisite for sustainable land management. SLM harbors great potential for the preservation and enhancement of ecosystem services in all land use systems. Degradation of water, soil and vegetation, as well as gas emissions contributing to climate change can all be limited by SLM practices that simultaneously conserve natural resources and increase resource yields. The ecosystem services preserved through SLM include three different types, namely provisioning services, regulating and supporting services, and cultural/social services.

A SLM project was undertaken in Ethiopia in 2015 by the Ministry of Agriculture and Natural Resources, funded by the German Federal Ministry for Economic Cooperation and Development (BMZ); it applied SLM practices, with the participation of the rural population, on approximately 390,000 hectares of formerly degraded land. Measures such as terracing, crop rotation systems, improvement of pasture land and establishment of permanent green cover were all used to reduce land degradation. This led to a yield increase of 35% to 80% by December 2015. The project demonstrates that land can often be better used by local people to secure their livelihoods for the long term. The irrigation area used by smallholders in the project has increased by around 2,000 hectares since 2008. The smallholders thus produce larger harvests and are able to improve their household incomes by selling their produce at local markets. The measures to promote sustainable land management have so far benefited around 190,000 households, which corresponds to approximately one million people. Government advisors and experts, in districts and communities, have been able to transfer the approach to other areas, too.

The knowledge and skills of the stakeholders in the communities have improved significantly because of local ownership, empowering the communities to make the projects their own. Due to this project, more than five hundred local smallholder groups and associations are now jointly managing land using sustainable methods and receiving advice and institutional support from trained experts from districts and communities.

There are, nonetheless, some challenges with regard to achieving SLM. The first is a lack of effective institutional frameworks. This absence can be due to a number of things: inappropriate national and local political agendas; lack of operational capacity; overlapping and unclear demarcation of responsibilities between stakeholders; ineffective decentralization; and a lack of good governance. The second main challenge is that there is inadequate implementation of laws that favor SLM as well as of those that might create auspicious relationships between government and land users. The third main challenge is that land tenure policies are very often substandard, providing inequitable access to land and water resources. Further challenges include: insecurity surrounding private and communal rights; laws and regulations that do not consider traditional user rights; the existence of legal, social and cultural norms which enhance conflicts and insecurity.

10. LAND GRABBING

Land grabbing can be said to have occurred when external parties deprive local communities and individuals of access to their land, threatening their livelihoods. External parties in question include outside private investors, companies, governments, and national elites. Large-scale land acquisitions or concessions are defined as land grabs if they are one or more of the following circumstances:

- Violations of human rights, particularly rights relative to equality
- Not based on free, prior and informed consent of the affected land users;
- Not based on a thorough assessment or are in disregard of social, economic and environmental impacts not based on transparent contracts that specify clear and binding commitments about activities, employment and benefit sharing ;
- Not based on effective democratic planning, independent oversight or meaningful participation. (ILC, Tirana Declaration: 2011).

Land grabs are often either illegal - in that they contravene the law -, or irregular - in that they exploit loopholes in the law, inconsistencies between laws and tenure systems, and take advantage of low levels of government coordination and capacity.

Land grabs create both social and environmental problems, since they deprive communities of land, and – due to the frequent use of intensive agriculture and the corresponding increased water demand – put stress on resources.

The land is typically repurposed for the production of commodity crops, including agro fuels, and then sold on the overseas market. Whether by force, intimidation, or deception, communities who lose access to their land are left without the means to sustain their livelihoods, ending up landless and dispossessed. Poor smallholders with insecure land tenure, pastoralists, and indigenous populations are particularly vulnerable. For example, a fishing community in the State of Pernambuco, in Brazil, lost access to its land and fishing grounds, after having been violently evicted, in 1998, by a powerful, export-oriented sugar mill (Oxfam 2013). As a result, many of the families are now living in the slums of the nearest town and struggling to make a living. Similarly, in the Sre Ambel district, in Cambodia, two hundred families lost access to their land, in 2006, when they were evicted to make way for a sugar plantation (Oxfam 2013).

Land grabbing is often accompanied by severe land and environmental degradation, the destruction of healthy ecosystems, and the deterioration of key resources, such as water, soil and air. Local smallholders are forced to abandon their ancestral lands, and have to relocate – either clearing new forest areas, or adapting to peatland, so as to continue farming, or indeed abandoning farming altogether, for the city. Without improved governance structures in place to safeguard the rights of communities and strengthen tenure security, land acquisitions will displace many more people and increase land degradation, hence hampering sustainable development, most especially in developing countries.

Other land grabbing incidences

- In Liberia, the government allocated 350,000 hectares to Sime Darby, a Malaysian multinational corporation, evicting Liberian farmers from their lands. This caused widespread resentment and conflict in the area.
- In Bagamoyo, Tanzania, a biofuel investment project negatively affected the community's access to land and water.
- In Marafa, Kenya, community land was gazetted by the national conservation authority, and communities lost access to it.
- In the Albertine region in Western Uganda, where large deposits of crude oil were recently discovered, many communities have already transferred their land rights to powerful Ugandan elites and foreigners.

11. LAND DISPUTES AND CONFLICTS

Land and conflict are closely linked, as land is a highly desired resource by communities and individuals. A “land dispute” involves conflicting claims to rights over land by two or more parties, focused on a particular piece of land, which can be addressed within the existing legal framework. Land disputes are in essence a disagreement over land; they may or may not reflect a broader conflict. Disputes mostly center on the demarcation, ownership, and inheritance of land; they also arise from the weakening of customary rights held by pastoralists. The causes of land disputes include: unsuitable land legislation, especially in cases where there is no comprehensive land policy or where ambiguous laws do not address overlapping rights and claims to land; dysfunctional and inaccessible land administration; land grabbing; land invasions; and the pressure of an increasing population.

Conflicts can arise within families, between neighbors, between villages, between different resource users (e.g., herders vs. farmers, agriculture vs. forests, and urban vs. peri-urban vs. rural land uses); between different property regimes (e.g., customary tenure, common property, and private property); between different ethnic groups; and between different economic strata. Complicating the dispute process is the fact that different disputants may have different perceptions of property rights (e.g., in the case of legal pluralism, which is the existence of multiple legal systems within one population and/or geographic area) and varying degrees of access to different resources (economic, political, legal, and social) to assist them in presenting their claims.

Land conflicts are central to the conditions resembling civil war, in some African, Latin American and Asian countries. In Latin America, the conflicts are primarily between the landless and large landholders, and between the landless and indigenous communities (Guiding principles, GIZ).

There are a number of key drivers that cause land conflicts. These include a combination of inequitable access to resources, resource degradation, and demographic pressures. A further problem is the mismatch between customary/traditional land tenure systems – which are undergoing changes related to modernization and globalization –, and State systems, based on adoption of foreign models of land tenure. Furthermore, lack of appropriate policy, weak land institutions, and inadequate conflict resolution mechanisms contribute to the continued existence of land conflicts.

Some important factors that create vulnerability to land conflict include the following:

- **Land scarcity:** Due to legal constraints on access, skewed distribution among users, or an absolute shortage of land in relation to demand, scarcity can leave many with little or no land, thereby creating intense competition for land. This scarcity can result from high person: land ratios, but can also be distributional, where one group has appropriated more land than the others, thus creating an artificial situation of relative scarcity. Demographic shifts and factors such as climate change can also influence scarcity. Such factors can be either national or local. Resentment and economic hardship related to land scarcity in Rwanda are often cited as contributing factors to the 1994 genocide.
- **Land ownership:** In 2006, more than 23,000 people fled their homes in southern Ethiopia following clashes triggered by disputes over land ownership between neighboring ethnic groups. Between 100 and 150 people were killed in the clashes, which started when land formerly belonging to the Borenas was awarded to Guhis by the government (Wehrmann, 2008).
- **Insecurity of tenure:** When land users fear that they may be forced off their land, insecurity of tenure can create a response that, in combination with the threat of eviction, can generate conflict. Fear of loss of land and livelihoods is a potentially powerful political mobilizing factor, e.g., when tenant evictions in south-central Ethiopia sparked the 1974 revolution that overthrew the monarchy.
- **The lure of valuable resources:** When valuable resources are discovered, or when the demand for existing resources rises (so they become newly valuable), people are motivated to exert control over, and benefit from the sale of, these assets. When land and resource rights are clear and enforceable, this motivation leads to exploration, use, and sale through ordinary market processes. However, when resources are located in areas with conflicting tenure regimes, or when local people have insecure tenure over valuable assets, predatory actors (from both the public and private sectors) often struggle for control of these assets. This is the case in the East Kivu region of the Democratic Republic of Congo where conflicts over land and minerals are widespread.
- **Historical grievance:** Most often rooted in earlier displacements and land takings, historical grievance can generate a demand for redress that can fuel conflict. After 2000, in Zimbabwe, earlier colonial land takings, and the resentment these engendered, sparked widespread land occupations. Post-conflict situations are often rife with grievances based on displacements of some communities during the conflict.
- **Normative dissonance:** There may be normative dissonance where coexisting bodies of law of different origins are poorly harmonized and are used as tools by parties in contention over land in that context. The failure of successive Liberian governments to recognize customary land rights was an important factor that contributed to the overthrow of the civilian government by the military in 1980. The issue of customary land claims and their appropriate treatment remains divisive in Liberia (Freudenberger and Miller, 2010).
- **Environmental degradation:** According to a recent study by UNEP, the Darfur conflict is another example of a conflict rooted in a struggle over land due to environmental degradation. Climate change, population growth and an increase in livestock, combined with poor land use practices, overgrazing and deforestation, has resulted in the degradation of arable and grazing land. This has led pastoralists – traditionally living in the dryer northern regions – to take their herds farther south, while farmers – traditionally occupying the southern arable lands – have moved farther north, occupying grazing land and watering places, as well as obstructing the herders' passage.
- **Privatization:** In Mongolia, the privatization of urban land has resulted in the same tract of land being allocated multiple times. This is due to illegitimate claims and ineffective, inefficient land administration agencies, whose staff are partly lacking capacity, partly accepting of corrupt practices. Resolution of these conflicts lacks transparency and generally favors wealthy applicants, who often benefit from informal connections to decision makers.
- **Black market:** China is confronted with the dilemma of the simultaneous need to secure fertile agricultural land while also providing it for the construction of ever-increasing cities. State ownership of urban land, and collective ownership of agricultural land, is seen as a means to control the use of land. However, due to this dual land market, and the quite complicated procedures required to formally convert collectively owned agricultural land into urban State land (and then into either allocated land use rights, or private land use rights), a number of illicit practices which circumvent State policy have arisen. As a shortcut, collectively owned land is often sold by the village leader, who – although supposed to act on behalf of the entire village community – acts for individual gain. This results in a decrease of agricultural land for the village community, illegal conversion of agricultural land into construction land, and the enrichment of the village leader. In the cities, public officials are also tempted by profit to illegally lease and sell land use rights relative to State land.

Land disputes and conflicts require dispute resolution, i.e., the formal or informal settlement of conflict between groups or individuals. Formal dispute resolution mechanisms refer to those that are recognized by law and the State administration system. Informal dispute resolution mechanisms, meanwhile, refer to those that may or may not be recognized by law or the State administration system. Informal settlement can include mediation and arbitration, or it may simply be a community-based adjudication process. Decisions made under informal dispute resolution mechanisms are not always legally binding, but they have the advantage of generally offering a more rapid and cost-effective resolution to the dispute as compared to formal dispute resolution mechanisms.

Several mechanisms have been developed to resolve disputes, at national and local levels. In Ghana, a council of elders and land allocation committees are expected to help customary trustees in all aspects of land management, including the allocation of land to strangers and the settlement of disputes (Kasanga, 2001). In Tanzania, the Land Commission recommended the creation of an organism called Baraza la Wazee at the village level, as well as the participation of elders (Wazee) in both the Circuit Land Court and High Court levels, the main land dispute resolution structures (Shivji, 1998). Malawian land policy, meanwhile, proposes a dispute resolution process characterized by - in ascending hierarchical order - a Village Land Tribunal, a Village Tribunal, a Tribunal of Traditional Authorities, and the Central Land Settlement Board.

In almost all Sub-Saharan African countries, the resolution of land disputes makes up a high percentage of extant court cases. In Ghana, for example, an estimated 50% of all new civil cases lodged are land related (Ghana Judicial Service 2010), while in Ethiopia, one-third to half of all cases in the formal judicial system are land related (Deiningner, Selod and Burns, 2012).

Several factors combine to reduce the efficacy of judicial intervention in land disputes. These include the following: courts are notoriously under resourced and understaffed, as well as being slow to reach decisions, and presided over by poorly trained judges; courts are expensive to use; courts are located in urban centers, but often absent elsewhere; courts - and, in the wider context, the countries in which they find themselves - are insufficiently transparent, vulnerable to political meddling, and plagued by corruption. Ultimately, enhancing the capacity of courts to address land issues must be part of the wider imperative of strengthening judicial systems and the rule of law. Bearing this in mind, however, in some countries, incremental efforts have focused specifically on the courts as a key player within land administration. Some of these have shown at least modest promise, while others have highlighted entrenched problems that require more fundamental, system-wide reforms.

No single mechanism can solve land disputes; achieving success requires, thus, a combination of approaches. These include:

- Strengthening the capacity of courts by training judges and providing them with better systems, facilities, and equipment;
- Establishing specialized courts, such as land tribunals and introducing additional initiatives, including procedural reforms and changes in institutional culture;
- Deploying alternative fora and approaches, including alternative dispute resolution (ADR) mechanisms, and making use of customary institutions in addition to statutory ones.

12. LAND DISTRIBUTION / LAND REFORM

In most developing countries, land policies and regulatory frameworks have been used as an ideological tool for maintaining the unequal distribution of land and inequitable security of tenure. The regulation of land-use is usually rationalized by the need to protect public interests. While there is a legitimate public interest in the way land and the natural resource base are used, the application of regulations to different tenure systems, and different land use systems, is often unfair and inequitable. The reallocation of rights to establish a more equitable distribution of land can be a powerful strategy for promoting both economic development and environmental revitalization. Land tenure and distribution are key elements through which the structure of production and power in developing countries may be understood. Land distribution is heavily skewed when considering that rural populations are generally dependent on agriculture, leading to situations in which the majority of the people are either landless or cannot cover their basic food needs. The skewed nature of land distribution is readily visible and often reflects the plantation/peasant system established by colonial powers, which has persisted to this day without fundamental changes.

Unfair distribution and lack of access to land are key explanations for poverty, food insecurity and land degradation. In many parts of the world, it is the rich elites, not poor rural people, who own the land. Moreover, even in cases where they in fact do, inequality in wealth and power relations makes the rural poor more vulnerable to losing their rights. Unequal land distribution is particularly severe in Latin American countries where the land Gini coefficients are above 0.8. In Asia the intra-regional variation in land inequality is similarly high. The highest land Ginis are observed in Malaysia (68.0) and Sri Lanka (62.3). In Africa the intra-regional differences are remarkably large. East and south African countries, such as Kenya, Tanzania, Zambia, Zimbabwe, Namibia, and South Africa are notorious for high levels of land inequality. In many west and central African countries, however, land inequality appears to be less rampant.

Countries such as Uganda, Ghana, Sierra Leone, Togo, and Burkina Faso record land Ginis considerably below the world average of 60.

Redressing rural land ownership inequalities and landlessness by way of land redistribution is growing; in Côte d'Ivoire, Kenya, Liberia, and South Africa such inequities are high enough to undermine shared growth and social cohesion. Attempts have been made to address the problem not just in Africa, but all over the world, through land redistribution and associated reforms with the aim of transferring land to the landless and land-poor segments of the population. While there is a general consensus on the need to redistribute land, there is often controversy about how to do so peacefully and legally, absent of corruption, political interference, rent seeking, or social conflict (Binswanger-Mkhize, Bourguignon, and van den Brink 2009). For instance, to address the highly unequal distribution of overcrowded arable land, which coexists with underutilized large-scale farms, Malawi piloted a land reform programme, with funding from the World Bank (World Bank 2014). It is considered to be the most successful redistributive land reform in the African region, albeit on a pilot basis. South Africa has perhaps the most urgent need for land reform. Unlike Malawi, land reform in South Africa has made slow progress in reducing ownership inequality and has had minimal impact on productivity and incomes. Initiated at the end of apartheid in 1994, South Africa's land reform programme had, by March 2011, transferred only 6.27 million hectares, equivalent to a mere 7.2% of the agricultural land under white ownership in 1994. About 80% of the land thus remained under white ownership, although they make up only 10% of the population. The current goal is to transfer 30% of white-owned agricultural land by 2025 (Lahiff and Li 2012). Another example is that of Taiwan. The goal of the Taiwanese land reform was to make all farmers owners of their fields. The reform proceeded in three stages: (1) leasing government-owned land to tenants; (2) the sale of public land programme - a transitional step that created owner farmers; and (3) the land-to-the-tiller programme that turned majority tenants into owners.

13. CONCLUSION AND TENURE REFORM MEASURES TO PROMOTE SUSTAINABLE LAND MANAGEMENT

The paper aimed to establish that there is a clear linkage between land tenure management and sustainable development, noting, moreover, that most of the land tenure problems that exist in developing countries today have their origin in the colonial period. Colonial regimes imported systems of common and statutory law, operating them alongside existing systems of customary law. This had the effect of downgrading customary law to second-class status. Recent land tenure policy reforms that have been developed from more participatory processes, are more comprehensive in scope, and have generally affirmed more rights for individual citizens and fewer rights for the State. Existing land tenure systems have been influenced by both political and social factors, and have evolved over time. Land policy and law is contained in texts issued by governments, and is further developed through legislation, directives, rules and regulations governing the operation of institutions established for the purposes of land administration, the management of land rights, and land use planning. To be effective, land policy must propose a practical and coherent set of rules, institutions, and tools, which are considered both legitimate and legal, and which are appropriate for use in different contexts and in relation to varied interest groups.

There are frequent contradictions between formal and informal tenure rules and institutions, which lead to conflicts and inefficiencies. One aim of reformed land policies should thus be to find ways of combining these different systems so as to ensure legitimacy, equity, and economic efficiency. Such reforms should ensure equal rights for both women and men to hold and use property, as a cornerstone of social and economic gender equality.

In many developing countries, there is a gap between formal, State level, and informal, local land administration systems. The formal land tenure system often has limited legitimacy in the eyes of local people because neither the rules (as outlined in statutory legislation), nor the structures, nor the procedures are seen as fitting in with customary, informal land management. In other cases, gaps may exist between the law and the practices of land administration. Similarly, the operation of formal structures and procedures may be poorly understood, and may function by way of rules and frameworks alien to ordinary people. The system may, furthermore, be subject to corrupt practices, and work in favor of a small elite. As a result, local communities are often left in a position where they are unable to exercise their legitimate rights.

Land policy reforms are more acceptable when a range of stakeholders are included as beneficiaries. Unless governments become more effective in this domain, developing policies and legislation to ensure land tenure security, and agricultural investment is developed and enforced, rural communities around the world will remain vulnerable to land grabbing and food insecurity.

The land administration system – i.e., the set of structures and institutions which implement land policy, affect rights, deliver titles and deeds, and manage information systems – can be composed by State or local government institutions. Sometimes, customary institutions perform some land administration functions. Proximity, accessibility and accountability of land administration institutions are key issues which are also relevant for traditional authorities.

The resolution of conflicts over land raises questions of governance and social stability, as well as of tenure security. Addressing conflicting claims is a pre-requisite for any land registration programme, to avoid repeated challenges and disputes. Formal conflict resolution mechanisms are often weak, overburdened, inaccessible to rural people, with a poor understanding of local land rights. There is growing appreciation of the need to recognize and strengthen mechanisms for resolving disputes, using alternative dispute resolution techniques that could be based on local structures and practices. The creation of specialized land tribunals is being increasingly explored.

The distribution of property rights has a tremendous impact on both equity and productivity. Inequitable land distribution, land tenure problems, and weak land administration can lead to severe injustice and conflict. Despite constitutional provisions, all citizens are not equal in practice before the law. This is due to the fact that many people have inadequate information, limited resources, and poor contacts within the administrative system. Land law and policy reform is an essential element in the effort to empower the poor and promote equitable and sustainable development; it should be seen as an essential means of securing the broader objectives of social justice, stability and economic development. Secure property rights are a critical component of economic development and social stability. Inappropriate property rights, policies, and institutional structures, poorly synchronized with economic, political, and environmental realities, can undermine growth, erode natural resource bases, and catalyze violent conflict. Insecure property rights limit economic growth and democratic governance, throughout the developing world. Conversely, strong property rights systems, which are viewed as legitimate, and transparent can lead to increased investment and productivity, political stability, and better resource management.

In development planning, property rights are most frequently dealt with in the context of land reforms and land tenure reform. Planning decisions, made in a variety of sectors that take land tenure into consideration, can have profound impacts on land use and management, agricultural systems, and associated natural resource management.

There is lack of up-to-date information on different land uses, such as agriculture, forestry, wildlife, water and infrastructure; this lacuna complicates effective planning, zoning and overall management of land. In addition, land information is currently held mostly in paper form and managed manually. This is inefficient, time consuming and incompatible with timely decision making. Other deficiencies of the existing Land Information Management System (LIMS) include expensive cadastral surveys, centralization of cadastral processes, and slow, cumbersome procedures. Also non integrated approach where landed professions follow a “go it alone.” For example in Kenya, surveyors are hardly in touch with what values, planners or quantity surveyors do; yet they often need the same kinds of data or to exchange the information they generate. It results in a lot of duplicated effort and data redundancy, in addition to frustrating land owners and developers who have to consult different professionals for land planning, surveying, and valuing. (G.C. Mulaku 1996)

A biased distribution of land ownership is an obstacle to economic, social and political development, as well as providing a constant reminder of historical injustice. It may also impede productivity, since large landowners invest little in land, all the while practicing very extensive land use. Inequitable land distribution may also spur rural migration of landless farmers into environmentally vulnerable areas.

In the case of highly polarized rights, and unequal access, to land, where land is underused by large owners, or when historical injustices need be addressed, land redistribution emerges as a pivotal issue.

Based on the above conclusions, the following recommendations are made:

- **Policy and legal frameworks:** Policy and legal reform should ensure security of land tenure for smallholder farmers and rural communities. This requires developing pro-poor land policies and laws that ensure land tenure security and empower smallholder farmers to make use of the law, and to make informed decisions about their land. In other words, improving land rights for the poor, rural women and men. Autochthonous rules (traditional rules) ought to be included within national legal systems, so that land policies are founded on detailed knowledge of land tenure systems and practices already accepted by the local people.

- **Conflict or dispute resolution:** The nature and scope of conflicts must be characterized before intervention occurs. Decisions must be enforceable, and adjudications must be provided. Resolution mechanisms must be viewed by citizens as legitimate. Means of accommodating the “losers” of the dispute or conflict must also be provided.
- **Redistribution:** Access and allocation patterns must be identified. Sources of available land must be identified if distribution is an option. Rental markets should be unfettered to provide access of all and efforts must mainly consider indigenous peoples and women. Redistribution should accompany distribution with secure tenure. Land purchase and redistribution should be undertaken by government, directly by beneficiaries or by land trust funds or other intermediary bodies. Funds should be provided for compensation of landowners facing expropriation. The provision of rural infrastructure should be planned. Support to services and production should include the support to marginalized groups.
- **Land administration:** There is a need to improve the efficiency of land administration systems, specifically:
 - Establishing systems for registration and titling of existing rights, providing cadastral services, improving land surveying, and capacity building in local communities to support identification and management (including registration) of customary rights;
 - Formalizing and securing land transactions, and regulating land markets;
 - Establishing simple and fair procedures for land transactions and their formal registration; developing mechanisms for regulation of land markets (giving priority to local communities, allowing local bodies to define rules regarding land sales outside the community, etc.); maintaining land information systems and undertaking regular land valuation exercises.
- **Land use management and conservation of natural resources:** There is a need to develop a new, integrated approach to planning the land use and conservation of natural resources. This requires making informed choices regarding the optimal future uses of land, and the conservation of natural resources. This can be achieved through interactions and negotiations between planners, stakeholders and decision-makers at national, provincial, and local levels. The planning should be based on efficient, comprehensive data gathering, and processing in an appropriate storage and retrieval system, through a network of nodal institutions. The planning should enable all stakeholders to decide jointly on the sustainable, equitable and economic use of land and natural resources, and follow their decision through to successful implementation.

Land management should also be improved through adoption of land development instruments, such as Agrarian Structural Development Planning (ASDP) and land consolidation and land readjustment (Guiding principles - GIZ).

The ASDP is an instrument used in the planning and decision-making processes for rural regional development (BML 1996). It is primarily implemented in preparation of, and in accompaniment with, regional rural development, land consolidation, and village development projects. The requirements of the ASDP include: the concept for mutual adjustment of land use and structure of ownership; the integration of community and rural development; pointing out competing land use claims, existing conflicts, and requisite criteria for settling conflicts. ASDP has been applied in the new German States, Portugal, and Pereslawl county in the Russian Federation, with GIZ support.

Land consolidation and land readjustment are the most comprehensive of all land tenure instruments. They are used for the development of rural areas to eliminate deficiencies in the agrarian structure considering the existing ownership, and for matching the land use pattern with the land tenure structure. They regulate the use of land on the basis of a land use and infrastructure plan agreed upon by all affected institutions, so as to reconcile the interests of regional development, land use planning and individual land owners. Asian countries, such as Japan, Indonesia, South Korea, India and Taiwan - all have comprehensive experience with land consolidation and land readjustment.

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