REPORT 2 /2014

LAND TENURE SECURITY IN SELECTED COUNTRIES:
Synthesis Report

SECURING LAND AND PROPERTY RIGHTS FOR ALL

UN-HABITAT FOR A BETTER URBAN FUTURE
giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
Technische Universität München
GLTN GLOBAL LAND TOOL NETWORK

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PREFACE

It is well recognized that secure land and property rights for all are essential to reducing poverty because they underpin economic development and social inclusion. Secure land tenure and property rights enable people in urban and rural areas to invest in improved homes and livelihoods. Although many countries have completely restructured their legal and regulatory framework related to land and they have tried to harmonize modern statutory law with customary ones, millions of people around the world still have insecure land tenure and property rights.

Lack of access to land and the fear of eviction epitomize a pervasive exclusion of poor people from mainstream social, economic and civic opportunities, especially women. To address these problems, tools and strategies to increase poor people's access to secure land and housing tenure need to be devised. The Global Land Tool Network (GLTN), whose Secretariat is hosted by UN-Habitat, recognizes that security of tenure for the poor can best be improved by recognizing a range of types of land tenure beyond individual titles. The current thinking focuses on a "continuum of land rights" that is being promoted and increasingly accepted worldwide.

In this synthesis report, the issue of tenure security is addressed and assessed in several countries where government, civil society, the private sector and development cooperation initiatives have been implemented for decades. The selected case studies from fifteen (15) countries ensure not only a geographic balance but they also represent countries with different socio-economic and land-related histories and that have followed different pathways. The studies' key findings underline the still precarious state of tenure security in many countries.

The findings also show best practices for legal and administrative reforms that have generated incentives for long-term investment in land, or incentives to include the poor more comprehensively. The case studies will hopefully work as a kind of "compendium" on the current state of tenure security, its future challenges and perspectives. They will allow for comparisons between countries and regions and address, besides others, policy makers, the private sector, civil society organizations and donors. Also, they will help applied researchers and implementers of "ground checks" and may support students of different disciplines to cope better with complexity in tenure issues.

This work was undertaken through a joint endeavour with the Chair of Land Management at Technische Universität München (TUM) and the Sector Project Land Policy and Land Management of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The findings will enhance our knowledge of serious tenure security challenges and hopefully will inspire additional policy debate on implementation, inclusion, or incentives, as well as new research on secure land and property rights for all. The findings will also be useful to GLTN's global partners (currently more than 63 consisting of professionals, development partners, research and training institutions, technical and civil society groups) to address land tenure and land reform, amongst other issues.

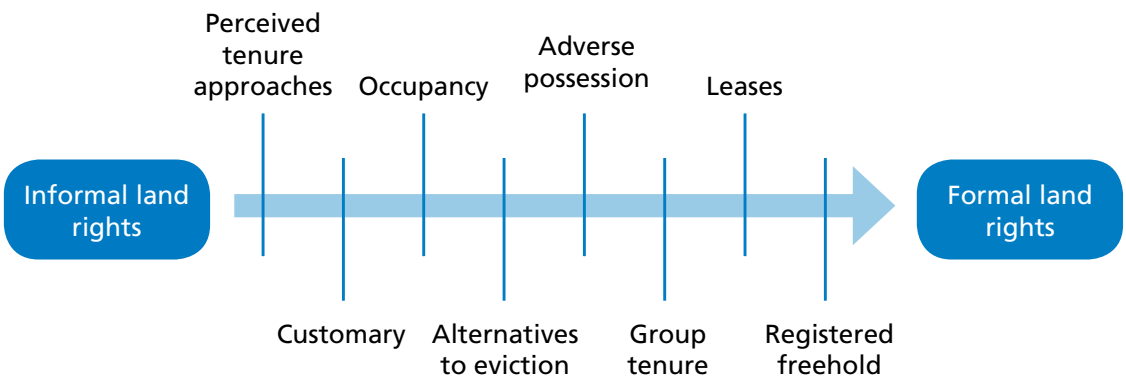
BACKGROUND

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 land tenure and property rights can exist in a variety of forms. Secure tenure is, in part, a matter of perception and relationships of trust and it 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-term rental contracts 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 reflect realities on the ground, but it severely reduces the number of women and men 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 populations will be unable to afford such secure forms of tenure for generations and who will be increasingly marginalized by market-based statutory tenure systems that emphasize individual rights. It is likely that less than 30 per cent of developing countries are currently covered by some form of land registration - that is, about 70 per cent of people in developing countries are outside a register. To bridge this gap, the partners of the Global Land Tool Network (GLTN) , as facilitated by UN-Habitat have supported the use of a continuum of land rights, or a range of rights, to make it possible for the majority of people, including the poor, to have security of tenure.

> *It is likely that less than 30 per cent of developing countries are currently covered by some form of land registration - that is, about 70 per cent of people in developing countries are outside a register.*

Given the limitations of land titling, and the value of incremental approaches to secure tenure, UN-Habitat advocates the use of a variety of alternative tenure options that can be easily adapted in developing countries. While the continuum approach is increasingly being endorsed, important work is still needed to change deeply rooted mind-sets on what secure tenure entails.



Source: UN-Habitat (2012)

INTRODUCTION

Land tenure systems are a product of historical and cultural factors and they reflect the relationships between people, society and land (Payne, 2002). Land tenure comprises the customary and/or legal/statutory rights that individuals or groups have to land and related resources, and the resulting social relationships between the members of society (Kuhnen, 1982). Each country has developed specific land tenure concepts that are based on historical and current values and norms. The concepts determine the present tenure systems and they have often been shaped by an evolutionary process. 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, there may have been external influences, 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 turnover of existing land tenure systems through redistributive land reform or forced land collectivization. Even in countries where gradual changes in land tenure systems were initiated, policy makers may have strengthened the role of the (central) state in allocating and even managing land. Often in these cases, this vision materialized with the nationalization of non-registered lands held under customary tenure and of forest or pasture resources, and the influence of government organizations that directly interfered in land use and management.

Remote village in the mountains of the Yun'nan plateau in China © Rui Ding

However, because these state-led tenure reforms had disappointing results with regard to economic development, efficiency and even equity and local participation, most of the policies and experiments have been criticised and partly revised since the 1990s, paving the way for far-reaching, market-driven tenure reforms and a redefined role for the state. These initiatives initially concentrated on reforming the complex statutory legal framework; later they tried to identify ways to better integrate customary rules and regulations into modern tenure systems. Together with decentralization and de-concentration of decision-making powers, many countries attempted to bring land administration closer to its clients in urban and, particularly, rural areas. This was done to support systematic titling of land, to enhance the efficiency of land administration, to address the poisoning impact of corruption at all levels and to settle different kinds of land-based conflicts. All these efforts aimed to significantly increase tenure security. In a few cases, they explicitly focused on the poor and marginalized groups in society; in other countries, reforms aimed to unleash the potential of working land tenure systems for economic growth, sectoral and structural change, and for domestic and foreign investment. Further, governments were reacting to the strong demands from an increasing (mainly urban) middle class that invests in property in order to ensure their financial future and to finance the education of their children due to insecure or no alternative investment opportunities within the countries (e.g. bonds, bank savings).

Common trends in tenure systems can be observed for most of the countries despite remarkable differences in geographic location, historical development or economic performance. This is partly a result of shared historical background, new international regulations and influences on basic human rights initiatives (e.g. gender focus, indigenous peoples, landless). It is also a result of a painful learning process on the power of economic (dis-)incentives emerging from different property rights systems and tenure-related rules and recognition of the power of the private sector in a liberalized and globalized world and an acknowledgement of state failure in the past. What is more, in all countries people have clearly expressed their on-going strong emotional and physical attachment to land, thus confirming that land tenure systems are indeed an integral part of any nation's or society's culture and history. This may contrast with the actual situation in Western post-industrial societies where this emotional-spiritual connection has been limited to agriculture and rural areas, and where anonymous land sale and tenure markets dominate urban development.

Tenure systems, in particular tenure security, therefore, reflect a lot about the nature of society, the development and performance of its informal and formal institutions, and the ways of dealing with change under globalization and factor market liberalization (linking land to capital markets through collateral delivery). Modern tenure systems are based on formal, statutory together with more informal, customary rules and regulations. 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 is based mainly on communal/ common regulated tenure or, in the worst case, open access. This leads to cases where property rights in land or other resources are too weak to be enforced at a local level or are non-existent, leading to long-term overuse, resource degradation and therefore the de facto expropriation of use rights and benefit claims from these lands. Rights, restrictions and responsibilities can vary considerably with each tenure system and society. The current pace of urbanization in almost all developing and industrializing countries has resulted in the rise of tenure system insecurities, particularly in urban informal settlements.

New challenges, therefore, arise for governments, civil society, the private sector and international donors with regard to land tenure, tenure security, and land policy in countries with different gross domestic products, different levels of industrialization and urbanization, inequality and varying qualities of the natural environment. "Poorer" countries may have to focus on functioning tenure systems in agricultural and rural areas because both are an important source of growth, income generation and employment. Other, more affluent, newly industrializing countries may concentrate on the booming urban land sale and rental markets with their inherent dangers

> *Globalization, the liberalization of capital markets and raising incentives for foreign direct investment directly affect (mainly rural) land tenure. Direct investment in land is either a blessing or a curse for different stakeholders; tenure security is guaranteed mainly for investors but not for rural dwellers whose lands – which are often held under customary tenure – are part of the negotiations between investors and hosting countries.*

of speculative bubbles and uncoordinated land development, but which are potential sources of tax and fee revenue for the central state and local municipalities.

Globalization, the liberalization of capital markets and raising incentives for foreign direct investment directly affect (mainly rural) land tenure. Direct investment in land is either a blessing or a curse for different stakeholders; tenure security is guaranteed mainly for investors but not for rural dwellers whose lands – which are often held under customary tenure – are part of the negotiations between investors and hosting countries. 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 function of a decentralized land administration where there is rampant corruption and abuse of power at all levels. The behaviour of traditional 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 sustainable use and the protection of related natural resources, such as forests, lakes, rivers and pastures. As these resources will fulfil key functions for ecosystem service delivery in the future and are essential to maintain global commons, such as biodiversity, a stronger integration of sectoral land tenure approaches is urgently needed. It will be a major challenge in the future for governments, civil society and donors to prepare land tenure systems for their environmental functions, to provide incentives through newly and more widely defined property rights to protect the environment, and to follow a more inclusive approach that does not leave the poor behind. The following country case studies underline similarities between tenure issues in diverse systems. They focus on actual strengths and options for the future, but they also address weaknesses in and threats to tenure security, the inclusiveness of poverty groups, land management, land administration and knowledge generation.

GHANA[1]

Brief description of the current tenure system

Ghana is characterized by a peculiar, complex land tenure system that reflects the unique indigenous political organizations and socio-cultural differences of its ethnic groups, clans and families as well as differences in the natural environment. There are two major systems in which rural and urban land is held and these are based on customary and

Public space along the coast of Accra, Ghana © UN-Habitat

1 Authors: N. Duut, B. Quaye and R. Sewornu.

> *The situation in Ghana is one of "legal pluralism" in which customary rules and statutory laws co-exist in a complicated mix, together with institutions that oversee land administration and the resulting challenges.*

statutory systems, with customary tenure being the predominant model. State systems of land tenure or statutory tenure are usually codified; written regulations are based on colonial law with clear rules and sanctions. The management of these codified systems is in the hands of government administrators or delegated authorities. Land rights are allocated and confirmed through the issuing of land titles.

Customary tenure is characterized by its largely unwritten nature, based on local practices that are still flexible, negotiable and location-specific. Here, land is usually managed by a traditional ruler, a land priest, council of elders, or family or lineage head on behalf of the community. The situation in Ghana is one of "legal pluralism" in which customary rules and statutory laws co-exist in a complicated mix, together with institutions that oversee land administration and the resulting challenges. Consequently, three systems of landownership have emerged: state lands held by the president in trust for the state (about 18 per cent); vested lands where the legal title is transferred to the state and the original traditional owners retain a beneficiary interest. A third category, customary land, constitutes about 80 per cent of all lands in Ghana. Customary freehold is only eligible for those who are the members of the landowning group. The allodial interest, which is the highest title in land, is mutually held only by the landowning group. The rights within this system are freely transferable. In addition, common law freehold exists in which the holders enjoy exclusive rights. Leasehold is mostly based on an inheritable 99-year lease period. A lessee enjoys almost all the rights (s)he enjoys under common law freehold.

Status of land tenure security

Tenure insecurity is very high both in rural and urban areas under common law and customary tenure. Customary land tenure insecurity is due to institutions and rules changing under the pressure of population growth, increasing food and bio-fuel demand, urbanization and commercialization of land transactions. Common law tenure insecurity is a result of the manner in which the state acquired private properties. Manifestations of tenure insecurity are land encroachments, multiple land sales, unapproved development schemes, undetermined boundaries of customary lands, compulsory land acquisition by the government without compensation, conflicting land uses (mining companies versus agriculture) and a weak administration to manage these conflicts. There were 66,000 land disputes before the courts in 2006, this underlines the gravity of current land insecurity. The consequences of this are dysfunctional land markets, insufficient investment in land due to high transaction costs and continuing widespread rural and urban poverty.

Strengths

Promising economic and administrative conditions exist for more inclusive and effective tenure management to be developed. In Ghana, customary land tenure and management mechanisms remain strong, dynamic and evolutionary, existing alongside statutory regulations with a considerable level of sanity. Advantageously, clear socio-institutional constructs of community still exist in Ghana from which local tenure development may evolve. In this process, customary tenure will have the opportunity to modernize into more fair and democratic modes (accountability of chiefs). The socially embedded nature of customary land tenure "ideally" continues to ensure access to land for all sections of society, particularly in rural areas. Sufficient qualified land-related professionals work in the country to provide the services necessary for security of tenure. The chieftaincy institution is a potential avenue for settling land disputes. Statutory tenure has proved to be gender neutral and to contribute to poverty reduction of women-headed households. In general, there is a great deal of political will to ensure tenure security; successive governments with different political orientations have, over the years, shown a keen interest in land administration reforms.

Currently, several activities have started to improve tenure security. These includes the Land Administration Project (LAP), which is reforming mainly the institutional setting and supporting systematic titling in urban areas. Some elements of the LAP have been funded by Germany's Reconstruction Credit Institute (KfW) banking group. In addition, the Ascertainment of Customary Law Project (ACLP), in collaboration with German Development Cooperation (GIZ), is working on the codification of customary law on land and family law in Ghana. Together, these laws try to strengthen customary land administration, improve boundary demarcation and establish or improve decentralized land courts.

Opportunities

The successful completion of the Ghana Land Administration Project (LAP) will greatly increase the chances of improving Ghana's land tenure system and ensuring security. In addition, the Land Tenure Facilitation Activity of the Millennium Development Authority (MiDA), if completed, will improve tenure security for existing land users and facilitate access to land for commercial purposes. Even though customary law is recognized and is legitimate in Ghana, what actually constitutes customary law in a particular community is not always clear. Most of the regulations are unwritten, which makes their enforcement very difficult. The Ascertainment of Customary Laws Project (ACLP) aims to ascertain and codify customary rules and practices on land and family farming in the country.

Weaknesses

Although the legal regime and other institutional arrangements appear to have improved, weaknesses still exist in the legislative framework. Problems exist with staffing, a lack of support services, low morale and pervasive corruption within the land agencies. Further, inadequate consultation, coordination and cooperation among agencies limit the reach and effectiveness of tenure regulations. The lack of reliable plans and the use of unapproved, old or inaccurate maps lead directly to undetermined boundaries of stool/skin lands, which in turn lead to land conflicts and litigation between stools/skins and other land-owning groups. The weakening or breakdown of the trusteeship ethos of the traditional land institutions results in a situation where some traditional leaders declare themselves owners of communal land rather than being the custodian of it. This leads to landlessness, homelessness and general insecurity for women and men alike, particularly in peri-urban neighbourhoods. In Ghana a lack of transparency and accountability in the management of customary lands is evident in the disposal of land and the distribution of benefits. The abuse of power of eminent domain by the state has served as an avenue for encroachment of customary lands, and conflict between the state and the public. Poor documentation of transactions on land throughout the country has aided indiscipline in the land market and led to multiple sales of land, which in turn undermines people's ability to access credit from financial institutions. Under customary tenure, there is still gender disparity, and land management is still not participatory for vulnerable groups.

In Ghana a lack of transparency and accountability in the management of customary lands is evident in the disposal of land and the distribution of benefits.

Threats

New technologies, such as land information systems and data related to the National Spatial Infrastructure, are not yet available for effective land administration. This can inhibit efforts to develop further a land tenure and management system that enhances tenure security significantly. There is also the risk of development partners withdrawing their support for the successful completion of LAP. The ever-increasing commoditization and commercialization of land brings new threats because they have the potential to encourage land grabbing and speculative land acquisition, which will result in a further weakening of the land rights of vulnerable groups. In a highly dynamic context, there is the possibility of traditional institutions resisting the implementation of new mechanisms that make their roles more transparent and accountable with regard to the management of customary lands.

A child carries his brother near an informal settlement/slum in Kenya © UN-Habitat/Noor Khamis

KENYA[2]

Brief description of the current tenure system

Land tenure is a critical issue for future Kenyan development because it still plays a key role in social, economic and political progress. The country has several major tenure systems. The first, freehold, is the most secure form of rights to land and through which rights and restrictions are well defined. Rights are only restricted through compulsory state acquisition in the public interest and based on fair compensation, for example as a result of planning and environmental requirements. The second tenure system is that of leasehold arrangements, which are common. The leasehold period varies between 30 and 99 years - the current Constitution does not allow for any lease longer than 99 years. Due to such long periods, leasehold is close to freehold; most cases in Kenya were renewed at the beginning of the millennium. The third system, customary tenure, exists in regions where individual rights have not been ascertained under statutory law. This system is currently governed by the Land Act from 2012. Customary tenure features in about 70 per cent of Kenya's landed area and is characterized by multiple practices as result of different cultural backgrounds. A large part of customary land is gradually being converted into freehold. As in other African countries, non-formal tenure systems exist in urban areas on a large scale (informal settlements) that are not yet recognized in law. In addition to private parties, state lands exist where ownership and transfer rights are owned by jurisdictions at different levels. Partial interests in land, such as easement, is the fourth tenure system.

Status of land tenure security

Despite some improvements in tenure systems, tenure insecurity is still high in Kenya. It has different forms and is driven by colonial injustices (the concept of tenants of the crown, dispossessions) that were not properly addressed after independence and include land settlement programmes that continued after independence, special regulations for the coastal strip (ten mile strip), urban sprawl as well as competition between wildlife and human settlement needs.
For leasehold land, tenure insecurity is due to land grabbing, double land allocations and fraud, which result in conflicts and violent clashes. These conflicts are aggravated by the individualization of tenure of formerly customary lands; this is a new legal framework that does not sufficiently consider holistic

2 Authors: J. Kairuki, E. Nyadimo and A. Wanyonyi.

indigenous tenure concepts. Corruption is also a major cause of insecurities.

Strengths

The three major categories of land are well defined; all the land in Kenya is either under private, communal or public tenure. Kenya has consequently individualized its tenure systems, being perhaps the best example of an African country which has attempted to establish a European style cadastral system for its land registration programmes. This was achieved through systematic adjudication of existing traditional rights. The formation of the National Land Commission to specifically deal with public land safeguards it and ensures its proper management. The compression of the various land laws into two main comprehensive land acts, i.e. the Land Act 2012 and the Land Registration Act 2012, also simplifies land matters.

Opportunities

Kenya has established an open market economy where individual property rights in land are well documented and respected. The country has promulgated a new Constitution that tries to address current land issues - its allocation, distribution, acquisition and ownership. The chapter on land sets out broad principles on land matters and establishes an efficient, equitable, institutional framework for land ownership, administration and management. A land policy has been formulated to address critical issues of land administration, access to land, land-use planning, restitution of historical injustices, environmental degradation, conflicts, unplanned proliferation of informal urban settlements, an out-dated legal framework, institutional framework and information management. It also addresses constitutional issues, such as eminent domain.

Weaknesses

Seen from a poverty and secondary-rights perspective, freehold tenure is over-emphasized as the preferred mode of land tenure. Current land tenure systems may be, in some instances, in conflict with the semi-disintegrated customary tenure systems. Bureaucracy in land administration still slows down land transactions. The individualization of tenure under the land adjudication programme has taken too long to be completed; hence many beneficiaries are still waiting to reap the benefits of individual tenure.

Threats

High rates of population growth and land fragmentation are a threat to the current tenure systems because other land holding arrangements, which are not legal, are created. Recurrent and violent ethnic land conflicts render all the tenure systems in affected areas insecure. Political interference in ownership disputes and politicians inciting squatters to settle on private land also threaten tenure security.

ETHIOPIA[3]

Brief description of the land tenure system

Today, access to and use of land in Ethiopia is still based on a nationalized land tenure system. Primary rights to land and related resources, such as forests and pastures, are vested within the state and people enjoy usufruct rights only. This is due to the socialist land reform proclamation passed in 1975, which was further enacted in the 1995 Constitution. Besides 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 enabled to pass laws on land rights, transfer and taxation issues. As a result, rights differ from one region to the other. Land rental markets have recently been legalized. In most urban areas a leasehold system has been adopted, with the leasehold period varying depending on the intended project, though a 99-year lease is common. Some urban areas have started to issue titles to citizens. About 10 per cent of Ethiopians are pastoralists and they occupy up to 40 per cent of suitable lands, at least temporarily; nevertheless they only have limited rights to use and access. Their land tenure issues have not yet been given adequate attention in public policy.

3 Author: A. Beyene.

Status of land tenure security

Compared with previous decades, when sharecroppers rarely had the chance to calculate how long they were allowed to cultivate rented plots, eviction rates were high and agricultural investment was low. Some major improvements can be observed and the level of tenure security has increased though there is still high insecurity. Although the Constitution clearly protects people against expropriations without compensation and guarantees equal levels of security for both men and women, the reality is different. In general, land tenure appears to be insecure due to the limited transferability of land rights; the state still has the ultimate rights to land and exercises the power to do whatever local or national authorities want at any time. High levels of insecurity are also evident through the high number of land disputes and tenure-related conflicts at different levels and between different land user groups, such as agriculturalists and pastoralists. This includes conflicts over inheritance and boundary issues in both rural and urban areas. The lack of a national body to coordinate tenure issues throughout the country is a major weakness as there is no uniformity of rules, procedures or sanctions, and some regions lag behind while others are in the forefront. This also results in the weak enforcement of the legal framework at a local level.

Currently, the Ethiopian tenure system is undergoing changes to improve security and several land administration projects are in progress. These include the GIZ-funded Rural Land Use Planning and Land Administration Physical Activities Programme for issuing rural land certificates; a Land Tenure and Administration Programme (LTAP) funded by USAID; and capacity building funded by SIDA.

Strengths

Land security issues are already addressed in both the federal and regional constitutions. The government is committed to the better implementation of instruments for stronger tenure security. This can be seen in its collaboration with donors in the rural land certification approach currently in progress and the payment of compensation to those who might have been affected by evictions.

Currently, the Ethiopian tenure system is undergoing changes to improve security and several land administration projects are in progress. These include the GIZ-funded Rural Land Use Planning and Land

Rural Ethiopian Farmer © Adugna Mekonnen

Administration Physical Activities Programme for issuing rural land certificates; a Land Tenure and Administration Programme (LTAP) funded by USAID; and capacity building funded by SIDA. They are intended to fill gaps by developing land administration guidelines at a local level, delivering technical instruments and offering training courses to land administration staff. All initiatives aim to enhance tenure security and to allow land tenure to contribute to the country's "agricultural deployment-led industrialization development policy". Nevertheless, new problems, such as land speculation due to urban sprawl, need consideration.

Opportunities

Communities are eager to attain land tenure security. Attracting foreign investors to the country requires security of tenure and this has increased the government's commitment to land tenure security. As a reaction to climate change, long-lasting resources and concepts for conservation are required, with security of tenure being a crucial precondition for the sustainable use of land resources.

Weaknesses

The weak and slow implementation of land policies, legal regulations and law enforcement has contributed immensely to actual tenure insecurity and an increased number of conflicts. Local communities cannot easily defend their rights because they lack knowledge about modern land laws and regulations. There is also no holistic vision or outline of land policy that allows for the control of environmental degradation; there is also no regular update of land policy priorities to address new challenges, such as compensation issues, land conflicts or resource degradation.

Threats

Due to insufficient land-related state revenues and the world economic crisis, the government lacks funding to implement land tenure security that is based on clear indicators. This is aggravated by only a few donors working on tenure issues in the country. Furthermore, skilled manpower in land administration and land management areas is still insufficient.

NIGERIA[4]

Brief description of tenure systems

In terms of social and cultural relations of its people to land, Nigeria is a highly heterogeneous country. The current tenure system is closely related to inheritance practices. Apart from offering a framework for economic use and transfer of land that conforms with indigenous customs, land serves as a control mechanism in the socio-political life of most Nigerian communities. All exclusive rights to land are vested in the government, meaning that, formally, all land in Nigeria is nationalized. Despite this, two ownership structures exist: statutory and customary tenure systems. Within these two broad categories, there is private or individual tenure whereby individuals enjoy all relevant rights of ownership. Land sales and renting has become a major determinant of land transfers leaving family structures with less influence on land matters, especially in urban areas. In rural areas, communal tenure dominates, with property rights being with the community and not yet with the individual. However, many land transactions become commercialized here as well. In addition, in several cases, communal tenure (and state tenure) has turned into open access, with all the problems connected with this type of non-tenure. Based on the primacy of the state, public or state land is still important in the country.

Status of tenure security

Due to the state monopoly over land ownership, 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 due to options for revocation by politicians; hence most people are without titles.

Strengths

The Nigerian land market is vibrant with easy land accessibility for public use. Land rights are applicable

4 Author: U.E. Chigbu.

on a countrywide basis despite the differences in the country. Nigeria is an emerging economic power with a high level of land-based resources and the private sector is emerging as a result of this high rural and agricultural potential. The Constitution protects citizens against unfair expropriation. Capital gains tax on property and land transfers is 2 per cent, which is very low compared with other countries.

Opportunities

The geographical location for land-based investment is very good and the acquisition of land by the government for development purposes is easy. There is an emerging democratic society looking at land issues, and a highly active population ready for land-based production. The current government has proposed a land reform to deal with inconsistencies of the existing system. Land consolidation is already being used as a development instrument. Public/private partnerships and the allocation of land concessions have increased.

Weaknesses

The 1978 Land Use Act, which paved the way for the nationalization of all land, has resulted in high inaccessibility, especially for smallholders who are unable to increase their land sizes. Property rights in estates are restricted to occupancy-only, generating low incentives for investment. The legal framework in its details is still highly pluralized, resulting in conflicting and overlapping laws. There is no electronic cadastre or title and planning records; land information systems are not updated and are unreliable. The land registration system is marred by a lot of bureaucracy, procedures take too long and there is gender discrimination and ignorance. High administrative costs for land transactions mean some people are unable to pay. The inability of smallholders to increase their farm sizes limits dynamic agricultural development in this sector. Too many land conflicts exist which have not been solved. A lack of clarity between land and resource tenure leads to conflicts at times. The absence of an effective policy on optimal land use has resulted in land concentration with few people benefiting. In cases of death, a will cannot be changed and permissions are needed in order to transfer licences.

Threats

Tenure is still characterized by poor enforcement of laws, rules and regulations. As for land management,

Rural market in Achara Community in Nigeria © Uchendu Chigbu

Uganda's real estate industry is affected by land tenure insecurity © UN-Habitat/Samuel Mabikke

poor (professional) education and training within Nigeria and the West African region remains a bottleneck. Relevant institutions are still not able to adequately deal with land issues. The natural resource "curse" based on crude oil still applies to Nigeria and has resulted in many conflicts and security issues. This in turn led to the country's poor reputation with the international community and socio-economic instability. Amendments to the 1978 Land Act are impeded by constitutional rigidity. There are serious challenges posed by institutionalized corruption at all decision-making levels and these are a major setback to the smooth functioning of systems.

Current initiatives for improving land tenure security

In response to a nation-wide initiative to improve land tenure, the Nigerian Federal Government established a Presidential Technical Committee for Land Reform (PTCLR) in April 2009. The core initiatives of the PTCLR are to establish more efficient and secure access to land by improving the regulatory frameworks and simplifying land registration processes.

UGANDA[5]

Brief description of the land tenure system

As agriculture still contributes 43 per cent to GDP, land remains an essential factor in natural and human managed production systems, strongly influencing socio-economic development. Access, ownership and use of land are perhaps the only real alternatives for the vast majority of Ugandans. New tenure systems were introduced and old ones (in particular customary systems) were suppressed but were not totally eradicated. Therefore, the present tenure systems supporting the survival of rural and urban dwellers are private ones, based on freehold and leasehold, communal tenure, the Ugandan "Mailo" system and state land. Freehold tenure is the most preferred type of tenure because holders have full decision-making powers and ownership of registered land. Customary tenure is fully legitimized and recognized; however, it is currently undergoing a process of privatization, which has distorted the social structure on which it was founded. "mailo" tenure (focusing on the Buganda Kingdom) entitles the owner to hold registered land in perpetuity, thus allowing long-term investments, including conservation. Land leases vary depending on the purpose of use; for non-Ugandan

5 Authors: S. Mabikke and B. Rukundo.

citizens leases should be for less than 99 years. Uganda differentiates between private and statutory leases, the latter given under public act terms. Thus, rights, responsibilities and restrictions differ with each system.

Status of land tenure security

The level of tenure security in Uganda is weak and getting more secure levels of tenure countrywide is still a long way off due to political and ethnic issues. However, several steps towards reform have been made that have been guided mainly by political interests and not the protection of poor people. However, much has been done to reduce inherited tenure insecurity. The Constitution and land policy instruments protect landholders and property owners. In Uganda legalizing and formalizing customary tenure and communal rights were achievements for the majority of rural dwellers who hold their lands mainly under customary terms. Formerly illegal, informal settlements were partly acknowledged based on "bona fide" and lawful occupancy. Specifically vulnerable groups, such as women or children, are better catered for when acquiring security for their secondary rights. A land fund was set up to compensate those affected by evictions or to purchase land for the landless.

Although Uganda has functional institutions responsible for land administration and tenure, for monitoring and coordinating land issues, many outstanding land tenure security problems still need to be addressed because people need to be involved in processes for improvement. Legal certainty, a crucial precondition for land tenure security, is not assured because many ambiguous and out-dated legal frameworks are still in place and rules for "mailo" land have not yet been fully aligned with other statutory regulations. Insufficient public consultation in law making often provokes opposition to legal reforms. Rules and regulations for sustainable land management are not well interlinked with tenure regulations; financial, human resource and technical capacity in land management are completely inadequate. Key professionals, such as surveyors, are low in number and quality, and professional associations that could drive the modernization of land administration systems are weak. Unfortunately, the land sector is one of the most corrupt sectors in the economy due to high profit expectations, limited transparency in transactions, insufficient accountability by civil servants and a lack of any enforcement mechanisms. As a result, land grabbing continues to be carried out by the country's elites. Evictions that mainly affect smallholder farmers and pave the way for foreign direct investment in rural areas are an additional indicator of continuing tenure insecurity in Uganda.

In Uganda legal frameworks supporting access, use and ownership of land/property do exist. The Constitution's full recognition of customary rights is a positive move to harmonize land tenure systems. Some pro-poor reforms have been adopted to protect "bona fide" occupants from eviction and support the landless with land funds.

Strengths

In Uganda legal frameworks supporting access, use and ownership of land/property do exist. The Constitution's full recognition of customary rights is a positive move to harmonize land tenure systems. Some pro-poor reforms have been adopted to protect "bona fide" occupants from eviction and support the landless with land funds.

Improving tenure security requires different kinds of intervention measures across different levels and regions of the country; an up-scaling land management process has to go hand in hand with further development of sound land governance structures and restored public confidence. Without additional and better capacity building, particularly at district level, these measures will not be implemented. There are still neglected issues, for example the role of traditional or local leaders and finding negotiated solutions with them at the interface of customary and statutory land tenure frameworks.

Typical rural community in Zambia © UN-Habitat/Anthony Mushinge

Opportunities

International and national civil society creates pressure for more effective land reforms and making land reform a priority on the national agenda. This is made possible, in part, by strong donor technical assistance in land administration and management.

Weaknesses

Even though a legal framework is available, the insufficient implementation of rules and regulations or their enforcement lead to weak land governance and institutional capacities at all levels - a major concern in the country. Land registration and better land administration systems alone have failed to initiate the formulation of proposed land reforms. Corruption and bureaucracy within the land sector agencies coupled with weak and uncoordinated professional associations have led to increased tenure insecurity. Existing gaps in the policy framework have weakened the effectiveness of legal frameworks at a local level.

Threats

Land-related conflicts and fraud in land titling are increasing. Ambiguous and outdated legal frameworks are still used and they generate opportunities for misuse. Due to political influence, the lack of professionalism to guide decisions in the land sector is a major threat. There is still limited funding to implement proposed land sector programmes.

ZAMBIA[6]

Brief description of the current tenure systems

As in many African countries, land is a primary resource that Zambian people depend on for their livelihoods and it is a focal point for economic growth and poverty eradication. There are two main forms of tenure in Zambia: customary tenure and statutory tenure. Customary tenure is mainly governed by unwritten indigenous rules and is administered by traditional leaders or authorized decision makers.

Access to land is based on ethnic or community membership because land belongs to the community; it is not alienable and cannot be used as collateral. For residential purposes, people have exclusive rights within the customary system for farmland, grazing land and other natural resources; however, these are only permanent use rights. Statutory tenure

6 Author: A. Mushinge.

is based on the state law and is administered and controlled by the government. The system is built on leasehold entitlements that, in the Zambian context, give exclusive rights to the owner. An application for land ownership of state land results in a certificate of title that allows the holder to manage, rent out, use as mortgage, and benefit from compensation in case of expropriation. The land can even be sold. The construct is based on inheritable leasehold rights of 99 years only. In urban areas, a 30-year, renewable land occupation licence is given by councils only to those living or working on state lands that are owned by councils for site and service scheme purposes. New challenges arise with large-scale land acquisitions of customary lands by foreign and domestic investors for agro-industrial enterprises, forestry and mineral exploitation.

Although Zambia does not yet allow for full private ownership of land, rights derived from statutory tenure can be registered, credit institutions recognize such rights for collateral, individual long-term investment is strengthened and the government receives revenue through ground rent or rates.

Status of land tenure security

Statutory tenure is secure because holders of land in this system enjoy the rights allocated to their land. Customary tenure, however, is insecure because some of the land is being converted into state land and leasehold for foreign direct investment. This has eroded local rights to common resources and has enclosed communal land. As a result of unclear boundaries within customary lands, land encroachment is a common threat that leads to conflicts. There is also no effective protection against eviction by government officials.

Although a regulatory framework is in place with several statutes dealing with land legislation, and a drafted land policy is already being applied, security for state lands still needs improvement. Land registration is a lengthy and costly process, it is not accessible to the urban and rural poor, and conflicts over the lands are prevalent. Land tribunals are unable to adequately address conflicts in a reasonable time and at a reasonable cost.

Strengths

Although boundaries are not well recorded in customary tenure and the land may have communal rights or concurrent interests with multiple rights for the same piece of land, land disputes are resolved quickly and unanimously at the community level. Statutory land qualifies as collateral and therefore allows participation in the capital market. Although Zambia does not yet allow for full private ownership of land, rights derived from statutory tenure can be registered, credit institutions recognize such rights for collateral, individual long-term investment is strengthened and the government receives revenue through ground rent or rates.

Opportunities

The government and the private sector are willing to improve tenure security by adopting principles of good land governance in land administration. The government is streamlining and simplifying the allocation of leasehold rights to reduce the number of authorities involved in land alienation. Further decentralization of the functions of land authorities will make the system more accessible and affordable for a wide range of eligible applicants. Collaboration with traditional authorities and other stakeholders is sought in order to better review, harmonize and streamline customary land practices, uses and legislations governing land holding. These include land acquisition, its delivery and usage, with a view to unifying land administration and management.

Weaknesses

Customary land not qualifying as collateral is a major weakness, because rights derived from customary tenure are not registered and are difficult to define. Further, the government loses revenue because rents for state land leasehold are not always paid. Under customary law, women neither own nor inherit land; married women have access to land only through their husbands. In the event of divorce or widowhood,

women may at best be permitted to continue to use the land, but under customary law they will not inherit control of these plots. Female chiefs are no different from their male counterparts in administering land to the disadvantage of women. Free access to resources provided by customary tenure has the disadvantage of providing no incentive to invest in common resources such as pasture improvement. This strongly encourages overuse and results in severe degradation of the environment. The centralized issuance of certificates of title makes the registration process very costly. In addition, systematic planning is lacking in the land delivery process. Land master plans in Zambia were prepared during the colonial era and there have been no updates since then. This has led to haphazard land use planning, which has resulted in ugly cities and towns and unsystematic urban sprawl. In both urban and rural areas there is no systematic mechanism to deal with any abuse of office by the Commissioner of Lands in administering land. Checks and balances to allow for transparency and accountability in land deals are not well developed. Due to a weak land administration system, consultation, coordination and cooperation is severely lacking in fragmented land sector institutions, which leads to overlapping and duplication of functions in their operations. The system is also fraught with problems, such as a lack of adequate functional and coordinated geographic information systems and networks, insufficient transparency in the operations of the institutions, and slow disposal.

Threats

Cadastres do not yet cover the entire country and only urban centres and the fringes of organized land development are covered because cadastres are mainly demand-driven. Boundary disputes are common because land is becoming scarce and economically valuable, especially among chiefdoms. These undefined boundaries and the responsibilities of chiefdoms are an increasingly serious problem due to the non-survey of customary areas. There are disputes and threats among traditional leaders. Due to the lack of respect for the rules and regulations of the land market, encroachments and multiple sales by landowners are common and they impede pro-poor investment and land development, particularly in areas where foreign direct investment in agricultural lands has become important in the past decade.

BANGLADESH[7]

Brief description of current tenure systems

Bangladesh's current tenure system is broad-based and complicated because property rights are protected though a range of statutory and informal rules and regulations. Several different and parallel tenure systems exist. (Individual) freehold is ownership in perpetuity. The so-called "delayed freehold" is a conditional ownership in which the title is granted on the completion of payments or when developments have been completed and proven. Registered leasehold implies the right to hold or use property for a fixed period at a specific price, without the transfer of ownership on the basis of a lease contract. Cooperative ownership means that ownership is vested in a co-operative or group and the members are co-owners. In addition to registered leasehold, private or public rental arrangements are possible, where the rental of privately owned land or rented occupation of publicly owned land or houses are allowed. Shared equity is a combination of delayed freehold and rental arrangements in which residents purchase a stake in their property (often 50 per cent) and pay rent on the remainder to the other stakeholder.

Status of Tenure Security

Tenure insecurity is very pronounced in Bangladesh as the result of many intertwined factors, but mainly because of the high number of informal settlements from where forced evictions are very common. Community based tenure belongs to a collective or group. Islamic religious tenure systems regulate land resources belonging to Islamic communities and land cannot be sold or rented. In urban areas, informal tenure, for example squatting, has an important role. In addition to the private domain, public and state tenure exist, and land is owned by the central government or municipalities.

7 Authors: M.W Akhter and T. Mohiuddin.

Parcel demarcation in Bangladesh © Washim Akhter

Strengths

As a signatory country to the UN-Habitat Agenda, Bangladesh is committed to improving the status of tenure security of urban inhabitants, especially the poor segments of society. The government is working to manage and regulate the land market and to facilitate guidelines that promote socially and environmentally desirable development, access to and use of land. The country guarantees private ownership conditional on payments of taxes and fees for development of the land in question. In addition to individual ownership, Bangladesh offers land ownership for cooperatives, communities and religious groups.

Urban Partnerships for Poverty Reduction (UPPR) have been developed and are funded by Britain's Department for International Development and the United Nations Development Programme. The partnerships' main goal is to reduce poverty by improving urban livelihoods and responding to tenure issues. UPPR supports local government institutions and poor communities, and identifies all low-income settlements within municipalities with the status of land ownership and land tenure. From 2010, UPPR began working on community-led security of land tenure and housing improvements for urban poor communities in Bangladesh. As part of this initiative, UPPR is successfully piloting two projects in Gopalganj Municipality. The first resettlement project by government provided land for 260 poor and extremely poor families that were evicted in 2009 by the central government in order to build a sports complex. The second project is on-site upgrading through an inclusive land readjustment scheme on privately owned land. UPPR provides basic infrastructure and technical support for the poor communities and guides them to build community-led low-cost housing. The first step is the formal process of obtaining legal tenure and the second is the informal process through which poor households get lease titles. UPPR plans to scale up these two models in other cities in Bangladesh and it will continue to implement other methods to secure tenure in urban poor settlements. Care Bangladesh and Action Aid are also working on infrastructural investments in slum areas. These programmes also focus on tenure security.

Opportunities

The country tries to support investors trying to increase their property values and who want to use land as collateral. Land management services are

affordable for the majority of interested parties. Donor funding and support is available so as to improve tenure security further. Private organizations are willing to improve tenure security on their own and in collaboration with the state.

Weaknesses

There is no political will to strengthen the capacity to enforce the law in order to protect tenure security for all citizens and the regulatory framework is not yet comprehensive enough to fully provide this kind of security. Weak land policies and a lack of strategies to reduce insecurities are a challenge. The high incidences of corruption and poor administrative systems have further weakened the system in the recent past and may impede well-intended reforms in the future. The land information system is not up to date, which generates high costs and unequal treatment of poor people.

Threats

Financial and technical resources are severely limited. The slum/informal settlements are continuously growing, making it difficult for the government to create lasting solutions. There is a high tenure complexity in urban settings, which makes it difficult for landowners and land users to make use of existing management and development instruments. Weak conflict resolution mechanisms increase the cost of settling cases and make the results of such lawsuits unpredictable. Land markets are distorted and thus lack regulation where necessary.

CHINA[8]

Brief description of tenure systems

The current land tenure system in the People's Republic of China has been gradually developed since the establishment of a socialist regime in 1949. The Constitution provides for a dual land ownership system in China. State land ownership dominates in urban areas while land in rural and suburban areas is mainly collectively owned, and was the product of a series of Collectivization movements in the 1950s. There is no private land ownership and the only way to transfer land ownership is through the state's requisition of collectively owned land. Within the described limitations, property rights are comparatively better defined for state land; they can be transferred, exchanged and mortgaged. The state land market is

8 Authors: R. Ding and X. Zhang.

Urban skyline of Pu'dong district in Shang'hai- China © Rui Ding

fully functional, whereas rural collective land is a major source of tenure insecurities.

Status of tenure security

Urban state-owned land is very secure and is based on a completed and up to date cadastre system. Through rapid urbanization and urban sprawl into formerly agricultural lands, collective rural land tenure has become very insecure due to its restricted and unclear property rights. Rural citizens are rarely involved in any decisions regarding their land. The state may requisition collective land for public use; evictions with little compensation are common, which creates conflicts and concerns for an emerging civil society. In general, problems of tenure security in China are related to: a) problems with access to land due to land fragmentation after the individualization of collective lands since 1980 and slow leasehold and sale market development under existing legal provisions; b) problems in land requisitions for urban development, in particular a lack of transparency and accountability, and corruption; c) problems through insufficient participation in decision making in these processes, and d) problems with land administration, mainly related to corruption.

Strengths

China's long and continuous history as an agriculture dominant civilization has fostered the strong connection between land and people; people are attached to land both emotionally and physically. This bond made the government able to use land as tool to consolidate people´s drive for development by providing secure tenure. With rapid economic growth, the technology, infrastructure and hardware for land management and administration have developing accordingly, which could lead to a modernized and functioning land administration system. Urbanization and industrialization drive more people into developed cities where they observe and learn more about the importance of land rights and the potential economic value of their land. It motivates them to actively study the laws, regulation and policies. They can also share their knowledge with other people. Already there are many cases of farmers voluntarily organizing to protect their rights on land through legal or administrative channels.

Opportunities

The country's political reform has developed rapidly in recent years; governance is moving towards more transparent, open and democratic approaches. Meanwhile, as people's awareness of land rights continues to grow, more extensive and active participation is necessary and possible. Restrictions of the public media have been slightly reduced recently so information channels are becoming more transparent and truthful. Also, the increasing number of internet users creates an open and free environment for debates on the country's policy or decision-making processes. Many land-related corruption or transgression cases, and the bureaucrats involved, have been exposed by public media. More representatives from the grassroots level of society, especially the rural representatives, have joined the People's Congress Party.

Weaknesses

Collective land ownership in rural areas is still a major obstacle to improving tenure security. The out-dated system could not adapt to the rapidly transitioning society. Property rights on collective land could not be realized without major changes in the existing collective ownership. Without the proper arrangement of property rights on land, a functioning rural land market cannot be established, and this hinders rural investment opportunities. There are still serious problems with bureaucratic corruption and inefficiency in land administration that originate from the current government structure. The strong village leaders' role in policy implementation and their influence at the ground level is another shortcoming in China. This is associated with problems in the electoral system, rural administration and the construction of democracy in society. As these form a direct link between the government and the people, they determine the performance of state policies. Ideologies and notions in rural society were formed over centuries, with the passive acceptance of state policy being a unique character that evolved from a centralized governance and socially hierarchical system. A lack of enlightenment and education about democracy makes it impossible to establish voluntary, dynamic public participation in a short period of time.

Threats

The difference in living standards between the urban and rural populations is increasing and is alarming. Because the rural population includes by far the majority of people in the country, this serious imbalance in standards makes Chinese society prone to social instability and turbulence. The problems in the current land tenure system have caused many conflicts, especially between the state's administrative power and the claimed rights of rural people on land. In many cases, conflicts have escalated into violence and bloodshed. While land is widely recognized as a valuable resource with great potential, the slow progress in establishing rural rental and sale markets compared to the soaring market in urban areas, the diverging property arrangements and the administrative power influenced land requisition approaches, all make the land market a focal point for speculation and rent-seeking. While the current land tenure system may have a low level of tenure security and is institutionally defective, it is very lucrative for some people. They usually have a privileged political or financial position and may obstruct any reform of the current system towards security. Because it is a socialist regime, the Chinese Communist Party still wants to maintain public ownership of land and its control over a basic production tool. Questioning fundamental ideologies is a difficult option for the CCP. Also, the government has doubts about rural land reform. The party's highly centralized structure limits the possibility of decentralizing policy, but the adaptability and flexibility of new state land policies will be compromised if traditional approaches still exert themselves.

INDONESIA[9]

Brief description of the current tenure systems

Indonesia is characterized by rapid economic transformation and the development of land tenure issues. Various tenure systems exist, from formal to non-formal. Individual tenure gives a landowner superior right to the land, including use, management, temporary and permanent transfer. These lands maybe registered or not. For state lands - mainly forests - the state may have full control of the land and some areas may be leased to individuals or organizations.

9 Author: I. Rudiarto.

Improved Municipal Solid Waste Management in Aceh - Indonesia © UN-HABITAT.

Community tenure varies from region to region because of the many ethnic groups, but the basic principal is that land belongs to the whole community. Wakaf is a religious system in which land is reserved for religious activities and cannot be sold. The role of the state in tenure regulation and management is strong. The state has full control over land for commercial and resource purposes and strongly influences private sector land decisions.

Status of land tenure security

The government and international donors have made efforts to improve tenure security. This ranges from attempts to reform the national land policy and organize the land administration authority, to improving land services for users at lower administrative levels and offering instruments to solve land disputes and conflict resolution. Currently, the level of tenure security is high although there are other informal systems, especially in urban slums, which have to be considered.

Strengths

Land administration has been regulated in various formal legal frameworks with BAL 1960 as its basis. Land-related laws in Indonesia are valid under different hierarchical systems that influence the level of authority for each kind of regulation. The National Land Agency (BPN) is the primary legal provider of land administration services; it also supports access to individual ownership. Land offices are well equipped, particularly in the larger cities. The state encourages people to register their land through both the systematic and sporadic systems. Beside these directly government-driven activities, local, national and international projects have been conducted to improve land registration in a complementary way.

Opportunities

Through the current legal framework, the opportunity to legalize land is widely available, including adat land, which represents most of the private land in Indonesia. Laws prohibit absentee ownership of land, which may be seen as contributing to more efficient land use by national politicians but has to be viewed critically from an investors' and a competitive perspective. There are no prohibitions and limitations on women owning land. The establishment of BPN as the single land administration and management institution has reduced the influence of partial interests from individuals or groups. Coordination and management of administrative staff within different sections is more effective. An autonomy and decentralization policy gives full authority to the local land offices as the primary agent in conducting land administration services. Possession rights under the adat system are fully recognized; those people exercising these rights are able to formally title their land. Granting rights to squatters is possible either as individual and private land or state land, but only under certain conditions. The media are able to express their concerns more clearly on land issues and to criticise the government in order to improve the possibility of landowners and users getting their benefits from land. Transferring and granting rights over state land to individual rights is allowed within regulations.

Weaknesses

Adverse possession is not considered to be a legitimate source of title and the length of time cannot be invoked to improve titles, even if the land has been squatted on for many years. Squatting is usually considered to be "illegal" possession and is often treated accordingly. As rights to separation and distinction exist, the state's role in managing and controlling the land has broadened and reduced the role of individual ownership for commercial and resource purposes. Although freehold with Hak Milik title is admitted as the strongest evidence of private property rights, it does not prevent claims from other parties. Upgrading the rights that were originally allocated to the state and asserting them as individual rights is still complex and expensive. The workload of the land office staff particularly hampers the registration progress.

Threats

The state has facilitated control over land and so the protection of smallholders has become marginalized. Due to the dominant role of the state, freehold ownership, for which a title is the strongest evidence of ownership, does not protect the owner from

Baseco informal settlement in Manila, the Philippines © UN-Habitat/Gerald M. Nicolas

land acquisition for public investment by the state. Corporate ownership is still restricted and may reduce the opportunities for effective cooperation, leading to an underdevelopment of the land market. The law does not explicitly limit land size or the number of individual holdings, which encourages land market development but may result in a concentration of land ownership in the hands of a few influential actors. The concentration of power at numerous levels and points of registration, as well as complex regulatory systems, create incentives for additional informal fees or "rent seeking". Limited local staff in terms of numbers, skills and professional abilities is the reason for the observed postponement of land service applications and may result in institutional inefficiency. Mistrust of the government due to complicated, time consuming and bureaucratic registration processes is prevalent. In most large cities, there is no security of tenure for squatters, which may create social unrest but is understandable from the viewpoint of owners whose land has been occupied. Due to insecurity, the granting of rights of possession and squatting on land is not guaranteed because it may include other parties reclaiming land. No clear rules exist for closing off decayed land claims, so land disputes have increased. Land titles connected to commercial and industrial use are not sufficiently secured to fund commercial lending in the capital market at international rates due to the uncertainty about regulations. Secured titles relate only to the land and not to the building, which may lead to double identification as well as inefficiency. The allocated time for dispute resolution during the registration process discourages people from registering their land.

THE PHILIPPINES[10]

Brief description of current tenure systems

Various tenure systems exist in The Philippines. These include: private land ownership, where owners have titles and enjoy exclusive rights; public land, which is owned by the government and for which leasehold and permits can be granted for parts of public land; communal tenure in rural areas for indigenous communities who own land and resources collectively. In some forest areas, users only have usufruct rights.

Status of tenure security

Although The Philippines has tried to implement a redistributive land reform programme since the 1980s, land ownership is still characterized by huge inequalities between rich and poor people. This

10 Authors: D. Antonio and R.L. Dealca.

gives rise to tenure insecurities as policies regarding security tend to be biased towards the rich, politically influential landlords. There have been many improvements in tenure security; however, these are more through agrarian and constitutional reforms than land redistribution.

Strengths

The Philippines is characterized by decentralized land administration functions, which are given to local government units, and a de-concentration of the functions of government agencies at the field level. Active civil society and private sector organizations in the land sector have a high presence in both urban and rural areas. Sector-wide assessments that capture the key challenges of the land sector and possible ways forward are available to the public. Land programmes/projects tackling land issues at a macro level, e.g. Land Administration and Management Programme (LAMP), have been established. There are several initiatives to make the land administration more efficient and responsive. Both government and the private sector are working towards good land records management and information systems. All this is based on a functioning legal framework where laws and regulations are in place. Alternative conflict management is increasingly recognized by involved parties. Advanced learning in both the public and private sectors is increasing, e.g. post-graduate courses, training and recognition of the need to upgrade university curriculums. Various diverging rights to land are generally recognized through the issuance of appropriate land tenure instruments. The LAMP aims to improve land tenure security, efficiency and the effectiveness of the land administration sector. The project is funded by the government and agencies.

Opportunities

An increasing number of initiatives try to institute reforms in the land sector, e.g. land valuation, agrarian reform and urban land related issues. However, a number of important relevant laws are still pending in Congress. Awareness of the need to address land issues is increasing, as is the recognition of alternative tenure arrangements, particularly in urban areas. Professional and private sector groups have recognized and acknowledged their role in assisting poor people to improve their tenure security.

Weaknesses

Power, politics and corruption are driving forces in the land sector because appointments to government positions are politically based. No integrated mechanism or political commitment has been developed to address land issues in an integrated and holistic manner. It is very difficult to pass legislation. There is no clear guidance or regulation on addressing land issues in disaster situations, such as in case of typhoon Haiyan in 2013, and there are no pro-active measures to prepare for them. Too many institutions try to administer land and their priorities are limited to individual mandates and functions only. Cooperation and coordination among these agencies is only voluntary; there are no built-in mechanisms to resolve conflicts or to manage overlaps among agencies. Sharing of land information is also voluntary and does not function well. There are no uniform standards and protocols, e.g. computerization, records validation, etc. and resources and skills that would improve records and information management are limited. The land registration system is very inefficient, time consuming and costly. Education and training is inadequate and improvements are slow; professional bodies and associations in particular need more external support. Because land titling is still the preferred option for the government and citizens, alternative approaches are not institutionalized.

Threats

Land policy and land administration in The Philippines lack vision and leadership; vested interests delay reforms, water them down or even stop reform initiatives. "Culture" means people tend to stick to freehold titles as the strongest instrument for secure tenure. Legal and technical bottlenecks often block efforts to institutionalize alternate tenure approaches. Most land professionals recommend state-of-the-art technology and expensive solutions that take time to set up. The whole system lacks innovation and creativity in finding cost-efficient, pro-poor solutions.

THAILAND[11]

Brief description of current tenure systems

Thailand's land tenure system has never been under direct pressure from colonial powers and has developed largely endogenously. Land tenure systems are divided into two main categories: private land and public land rights. State or public land is controlled by the government and can also be titled. Private tenure is applicable in both rural and urban areas; the right holders within this system have title deeds. Within the private system, full individual or corporate ownership and possession rights can be granted. Ownership means exclusive rights; for land possession a person is only allowed to use and manage the land, but not to sell it. Within the private tenure system, different kinds of title deeds exist. Foreigners are prohibited from purchasing land by law, however, exceptions exist where there is a proven minimum investment or the acceptance of joint ventures with Thai partners.

11 Author: D. Tawee.

Status of tenure security

Over the years, different policy approaches have been launched to improve tenure security. Thailand now has a relatively high level of tenure security in urban and rural areas despite some challenges with indigenous tenure (titling) and land administration. Several large-scale programmes have been initiated, such as the Agricultural Land Reform Programme, through which land poor and landless rural dwellers received land and which emphasised gender issues; the Thai Land Titling Programme, supported by the World Bank, which is acknowledged for its achievements in land productivity as a result of titling; an urban-based collective housing programme that tried to improve tenure security in former informal settlements and to provide basic land-related services for the poor.

Strengths

Formal land title deeds are available in both the private and public spheres, and there are several types of land title certificates for private land. In addition, the public land certificate has been issued in order to identify and preserve land for public and state purposes, but also to distinguish between public and private land.

Rapid Urbanization in Thailand © UN-Habitat/Danilo Antonio

The decentralization of the land administration system into 76 provinces was launched and there are now 866 land offices spread around the country. A one-stop service facilitates an easy land registration process that has only a few steps and offers fast and efficient services. There are fewer land disputes and land registration is recognized as being one of the most efficient in the world. Private land tenure and public land tenure are certified with formal documents.

Weaknesses

Difficulties exist for poor people in all areas to get access to land because, although Thailand has built up an efficient land administration system, poor, informal urban communities face problems of eviction, homelessness, squatting, and therefore insecure land tenure. They cannot afford housing at market rates or through the public systems. Meanwhile, poor rural people have become landless or have no security any longer on their remaining farmland (insufficient incentives for land lease, large-scale investment in agriculture). According to Thai researchers, 10 per cent of the population owns 90 per cent of the land; the asset distribution in the country is thus worsening. The citizens' rights and land rights of indigenous hill peoples are still complicated issues. There are a number of indigenous peoples whose families have lived in Thailand for decades and they still have no Thai citizenship. This is due to weak (land) governance.

Opportunity

Thailand is developing a modern cadastral and land registration system (following the Cadastre 2014's goals). Since the Thai Land Titling Project (TLTP) was implemented, a new tenure system with cadastral base maps, Universal Transverse Mercator (UTM) projection on Indian Datum, Spatial Data Infrastructure (SDI), GPS, GIS and other new technologies have been implemented. Many projects are on track to develop land registration and the cadastral system to improve land tenure security. The land administration system in Thailand follows global trends and the Department of Land has made efforts to achieve the self-defined Cadastre 2014's goals.

Threats

The opened land market is accessible mainly by rich people (both Thai and non-Thai). Private land with title deeds is well secured and it is worth more than land without a title, which is, in principle, a positive development. Private landholders have full rights over the land and it can be sold, leased or transferred; hence, land can be put onto the market for business purposes. Only wealthy people and investors are able to access land through land markets, or they can do so more easily than poor people. Business people are also attracted by the efficiency of land administration and fast land registration services. Foreign investors' access land through Thai nominees and the Thailand Research Fund (TRT) says that foreign investors from the Middle East control more and more rice fields in the central plains. An efficient land administration therefore greatly facilitates land markets and access for business purposes, but this will further increase the gap between the poor and the rich if there is no active policy intervention. The open land market and the efficient land administration could therefore become a threat to social stability.

BOLIVIA[12]

Brief description of tenure systems

Bolivia is still one of the poorest countries in Latin America. Its land tenure system recognizes different kinds of property in rural and urban areas, and it is legal to own land under the following categories: private, state and communal system. Communal systems mainly apply to indigenous communities. Private tenure is the most prevalent form and holders enjoy superior rights. Bolivia is still characterized by land concentration (latifundios), but this is changing. State tenure applies to land owned by the government. This land can be leased out to private parties or used for public purposes.

Status of tenure security

Tenure insecurity is high in Bolivia; even with titles some farmers or other landowners still feel insecure. There is a lot of political interference in the land

12 Author: T. Palacios.

system resulting in high levels of corruption and the perception of insecurity for ordinary people. The legal framework is only partly complete and is inconsistent; the rural land perspective is an agrarian one that largely ignores forestlands. Revenues from land-related taxes or duties, which could financially support government services, are not well established; the prohibition against renting agricultural land hinders dynamic agricultural development as do upper ceilings on land ownership. Land-related conflicts have resulted from the establishment of national parks.

Strengths

There is a lot of political will by the Bolivian Government to regulate those areas that do not benefit from a title. Since 1996, the government has made great efforts to resolve problems arising from lack of titling in most parts of the country. Because some areas have a long history of customary land tenure, the government has created mechanisms to recognize the ancestral boundaries within communal land. This is in addition to the recognition of private and state land. Customary uses of land are recognized in the Constitution.

Opportunities

There is still reserve land available: 20 per cent of Bolivia is public land with 4.5 million hectares that can be granted out of this. In some areas, boundary demarcations exist in order to recognize rights that are based on deeds; new technologies can help to make the titling process faster, cheaper and more accurate. Bolivia has a low population density (9.2 inhabitants/ km2) and there are still areas that could be colonized under land distribution programmes.

Weaknesses

There are no titles yet for 30 per cent of the Bolivian territory and the legal insecurity leads to a high incidence of tenure conflicts in urban and rural areas. Many boundary conflicts involve competing parcels and overlapping rights, which are mainly due to poor demarcation. Some rural areas still demarcate areas using inaccurate methods, such as non-permanent markers. The cadastre system has not been updated and in some areas there is no data at all. There is no working rural cadastre and in many areas the existing cadastres are not updated. Some titles issued by the government are not recorded in an electronic database, which creates conflicts over the recognition of titles or documents. There are also conflicts between private actors and communities because of poorly demarcated boundaries or the overlapping of rights. Government institutions are generally too weak at lower administrative levels to enforce laws such as the Forestry Law, Water Law or the Land Use Law. There are no transparent procedures to comply with the fulfilment of the Social and Economic Function (Función Económica Social- FES), which determines if a specific plot should or should not be expropriated or reverted by the government.

There is a lot of political will by the Bolivian Government to regulate those areas that do not benefit from a title. Since 1996, the government has made great efforts to resolve problems arising from lack of titling in most parts of the country

Threats

Bolivia has land conflicts that occasionally lead to physical confrontation between communities. Some are caused by a lack of enforcement of prescribed uses of land; for example land that should be used for forestry purposes is used as arable land. There are different interest groups that assert their use patterns of land. The tenure status of a specific plot of land can only be proved if deeds documents can be presented. There are areas where the land should remain protected, but strong pressure by farmer groups or private investing companies is increasing to change existing land use, even if the areas in question are legally protected. Political interests very much guide land-related decisions; granting land is a way of campaigning in a presidential election. Illegal settlements are spread over urban and rural land. Landless people and squatters are settled on private or state land, and many private owners are forced to sell

their registered lands to them, because, even as the legal owners, they cannot recover the land because of a lack of enforcement of existing legislation. Coca farmers are demanding additional land to increase their production because of the strong international demand for coca leaves. Many people clear forests to prove their rights over their plots, ignoring any negative environmental impacts and legal regulations.

BRAZIL[13]

Brief description of tenure status

Brazil has many contrasts and is still influenced by its colonial past. It is characterized by an "archaic" system of property rights over lands, and it has one of the world's most unequal and inefficient land distribution systems. The dominant tenure system is based on "modern" tenure, which means private tenure. Private owners enjoy absolute and exclusive rights to their land and properties. In addition, the quickly spreading urban centres are characterized by different forms of informal settlements and slum dwellers. These give rise to informal tenure systems.

13. Author I. Wald.

Status of tenure security

Tenure insecurity is very high in the country because of unequal distribution of land that leads to conflicts and informalities in land access and transfer. Owners of large tracts of land (*latifundo*) take advantage of small owners (*minifundo*) in policy formulation and decision-making, which further aggravates inequality and struggles over land. Informal (urban) settlements are characterized by poorly developed land rights. Land conflict resolution mechanisms are very weak and, as a result, many conflicts cannot be solved within a reasonable period and for an acceptable cost.

Strengths

Financial resources have been allocated and bound to investments in institutional improvement, land regularization, technology acquisition and capacity building. The federal, state and municipal rural land institutions work together closely based on a priority policy previously agreed upon. A modern multifunctional cadastre based on a geo-referenced information system is in progress and will comprise of land information from government land-related institutions. Efforts to combat forgery have been made and special funds are allocated for urban land issues. In addition, a ministry has been established to deal with land issues, especially urban issues: this ministry

Improving the quality of urban housing in Sao Paulo © Conjunto Pretes.

defines policies and projects in partnership with states and municipalities to improve urban areas.

Brazil supports a Growth Acceleration Programme (GAP) which is, at its core, a slum urbanization programme providing improved infrastructure and housing investment. The project is funded by the Brazilian Government. The National Rural Cadastre (CNIR) aims to facilitate access to land-related information that is reliable. This is sponsored partly by the government and by a loan from the Inter-American Development Bank.

Opportunities

International players on markets for commodities and land have been urging the state to clarify tenure regulations and ensure transparent procedures. The landless peoples' movement has exerted strong pressure for more socially balanced access to land. The 5th World Urban Forum in Rio de Janeiro emphasized the importance of guaranteeing the equal, universal, fair and democratic distribution of urban resources to give opportunities to everyone. When major damage has been caused by natural catastrophes, urban planners and policy makers have been more aware of improving the quality of building construction and are committed to investing more in technologies to monitor weather patterns.

Weaknesses

A confusing legal framework creates space for delays and the legal system is slow. In remote rural areas, land governance has not been well established. Examples of this are areas in the Amazon region, where powerful local agents act without any legitimization by the central government and there is a high level of land conflict and environmental degradation. Reforms to change this are strongly resisted by a rural-based lobby of people who want clarity on the rural land tenure system. In addition, there are no effective mechanisms to deliver the necessary technical and social infrastructure for rural poor people. Technical gaps, in particular, affect the poorly developed land information system and the urban cadastre system, which is not yet geo-referenced or multifunctional. More investment is

> *Tenure insecurity is very high in the country because of unequal distribution of land that leads to conflicts and informalities in land access and transfer.*

needed to improve the quality of a working urban infrastructure and much less investment is needed in quantity. The interaction between federal, state and municipal levels is still weak. In particular, it is necessary to invest more in human capacity building at a lower municipal level, such as with the delivery of technologies and specialized human capacity to prevent natural catastrophes.

Threats

Different candidates repeatedly use land issues as a campaign strategy in presidential elections but there is unfortunately very little follow-up after elections. This relates, for example, to preventive measures against natural catastrophes, such as the extreme rain and landslides that have affected Brazilian cities. Some of the funds designed to build up urban infrastructure or to support the land sector have been diverted elsewhere by corruption.

CHILE[14]

Brief description of the current tenure systems

Land tenure in Chile cannot be separated from its colonial history and from major political changes in the twentieth century, including land and agrarian reforms and counter movements. Major tenure systems include private ownership, with which holders enjoy superior rights according to the law. Tenancy or lease holding is also part of the tenure system and is mainly based on fixed rental arrangements, the terms of agreement depending on the different parties involved. A collective ownership system is in place, which includes those lands belonging to indigenous communities. Collective indigenous land cannot be sold or rented and is only to be used by indigenous people. Informal tenure systems are found mainly in peri-urban areas

14. Author: J. Espinoza.

where informal settlements are an on-going concern. Government-owned land is classified as state land. This land can be leased out to individuals, corporations and organizations depending on the project and use of the land.

Status of tenure security

A lot has been achieved that improves tenure security in Chile and a modern, secure land registration system is in place. However, a lot still needs to be done to recognize informal tenure systems and to get the participation of indigenous communities. Compared with many other countries, however, the level of tenure security is high.

Strengths

Registered titles are very secure because the current land registration system is efficient and effective; once the property is registered, owners enjoy a high level of security. An electronic registry system is in place to manage data. The internet and the integrated digital databases make a major contribution to good land governance because they increase the transparency of the system substantially and enable it to work more efficiently. Financial resources for tenure issues are available and the state is in a good financial position to initiate land legislation reforms. On-going reforms, modernization or improvement projects are all currently being used to improve the efficiency, effectiveness and coverage of the system. Examples are the registry reform project and the property regularization campaign that were initiated by a strong willingness for change by the government and the registrars; both parties have demonstrated their willingness to change and improve their systems and methods. The registrars have adopted a leadership role in reform and improvement projects, which, from a land governance perspective, is crucial.

Opportunities

Having achieved a good economic position in the regional and global contexts, Chile is a strong partner in international markets. This increases the motivation for public and private investment in modernization and reform. OECD membership has meant a number of policies have been improved in order to meet OECD standards and this is a great opportunity for the country to move forward towards its development targets. Global trends underline governance of the land sector as a way to understand the system, how it operates and what and how to intervene and to improve it. Because governance of the land sector in Chile is still weak, it is an important and relevant opportunity to improve the situation by building on international experience and collaboration.

A rural village located in the Atacama desert in the north of the Chile © Jorge Espinoza

Weaknesses

The individually-based land registry is currently not reality-based and this has negative consequences for the efficiency of the system. A lack of information on irregular properties in urban areas has led to negative consequences for policymaking. It is not possible to formulate or reform policies appropriately without knowing the extent of the problem. Geo-referencing is still deficient as the cadastre is lacking and geographic information has low relevance for the security of the titles. Security is provided exclusively by the registry. Furthermore, there are many conflicts with indigenous people because there are a number of unsolved problems with regard to them and their claims on land. The conflicts have escalated considerably and violent clashes often occur between indigenous groups and the government. There are still serious obstacles to the implementation of good land governance practices. For example, the land administration system is deficient, particularly the lack of a cadastre. Also, because of the strong protection of private property, owners tend to overlook the social responsibility which private property should imply.

Threats

Within current socio-economic trends, the market is too often seen as a (single) decision maker and solution and consequently serious problems may be overlooked if markets do not highlight them. Civil unrest occurs, particularly among indigenous peoples. There are a number of conflicts generating civil unrest and violent clashes and these conflicts will continue to affect governance and thus land tenure security in the future.

GUATEMALA[15]

Brief description of the tenure system

With skewed land distribution due to historical colonial influences, Guatemala is a Central American country in which tenure issues and land management are of key importance for economic development and peace. Different tenure systems exist. Private tenure gives individuals (or corporations) exclusive property rights and is preferred in both urban and rural areas. The leasehold system, based on private property, is regularized by the law and the leasehold period varies depending on the use and the parties involved. With state lands, people enjoy usufruct rights only. Natural occupation applies when an individual occupies an unclaimed area for a certain period of time and has the probability to formalize their occupation. The colanto system applies to land which is allocated to estate farm workers mainly for their substance use. Other informal tenure regulations, such as formalizing squatting, are used most in urban areas.

Status of tenure security

Uncertainty about aspects of land tenure is widespread in Guatemala due to a lack of transparency in transactions or registration as well as limited knowledge and competences in the management of the land-related infrastructure. Major causes of insecurity are corruption and lack of good governance, a weak legal system and parallel, mafia-like power structures together with poor land-related data. Specific victims are women and indigenous groups who are marginalized and do not have the same strength of tenure rights as other groups in society.

Strengths

The cadastral system is working and is supported by a broad and clear legal framework with an institution created specifically for this purpose. The National Registry of Property and the National Geography Institute, which provide some essential data for cadastre purposes, are well supported by the government. The country also gets financial and technical support from donors and experienced institutions.

Opportunities

There is constant support from donors and the international community. There are renewed tools of land analysis and new methods of land-related data acquisition. The clearly expressed need for improved

15 Author: M. Salán.

Uncertainty about aspects of land tenure is widespread in Guatemala due to a lack of transparency in transactions or registration as well as limited knowledge and competences in the management of the land-related infrastructure.

land tenure security has provided some impetus for the future improvement of the land administration.

Weaknesses

There is a lack of substantial knowledge about specific matters of land tenure security for decision makers and administration. Institutions that try to create capabilities in land tenure security issues, such as the Cadastre School or the Lands Institute administered by the National Cadastre Registry (RIC), are weak. There is constant corruption and there are dubious operations at different levels. Some sectors of Guatemalan society still politically oppose the land regularization policies. The successful implementation of land rights is impeded by land administration systems that are too complicated or obsolete. Even if the administration worked well, it is confronted with disordered data on existing property and a lack of adequate sources of information on land tenure for risk assessment, resource management and good governance. This is reinforced by strong centralization of land-related authorities. As land cannot be easily used as collateral, access to credit from commercial banks is limited. Conflicts over land and lack of adequate land dispute resolution mechanisms are the norm, partly because existing laws are not implemented and there is no consistent legal framework to pursue reforms.

Threats

Solving land problems and addressing land issues is often hindered by social and political barriers. Parallel power groups in urban and rural areas intimidate people and this in turn significantly worsens tenure insecurity. Entrenched resistance by political and economic interest groups severely weakens well-intentioned awareness campaigns on land tenure security.

CONCLUSION

Land tenure is an institution where rules are developed or newly invented by societies to regulate behaviour regarding land related issues (FAO, 2002). The country case studies outlined in this document have shown that all countries have been fairly successful at redefining their tenure-related legal framework over the past two decades. They have addressed important issues, such as the need for a clearer definition of key terms like ownership, leasehold, private or state land. Although not all countries have followed international scientific standards with regard to these definitions, they have at least created certainty in land-related debates and allowed these tenure system elements to be embedded into broader legal and regulatory frameworks. Indispensable preconditions for dealing with land issues based on the rule of law are not questioned any longer. For example, at least de jure problems with expropriation and compensation, minimum components for land sale or leasehold arrangements, the influence of customary tenure, how to deal with eviction from informal settlements and so forth can be settled. Many countries are sensitized about the incentive problem for long-term investment in urban and rural areas in cases where a dominant state has tried to regulate ownership as well as leasehold.

All countries have realized that much more is needed to be done to transform the new legal framework and land policies into practice, and to bring institutional innovations closer to citizens, either in megacities or remote villages in the countryside. Many countries have realized that implementation, enforcement and acceptance by people are major challenges. All countries have realized that there is an urgent need to set, and particularly to enforce, adequate and appropriate rules and sanctions at all levels to achieve tenure security. Tenure security has a different meaning for different groups; for informal settlers in peri-urban areas it means a formalization and acknowledgement of their "rights of sitting", which in turn means a "cold" expropriation for those holding the title for the same plot. For informal settlers, the threat of expropriation means they have the most severe form of tenure insecurity. As Table 1 below clearly underlines, additional threats to tenure security often arise from overlapping and contradictory legal frameworks, from inconsistencies in bridging statutory and customary tenure, or from a weak land administration and land development framework that largely ignores, for example, secondary rights holders, creates trade-offs and fans smouldering land conflicts.

Since all the countries are experiencing tenure insecurity at different levels and with different intensity, the experiences outlined in each of the case studies suggest that rules are either inadequate, too weak, inconclusive, or are not properly enforced or communicated. All these require additional financial, technical and human resources together with an even more finely-tuned, revised and comprehensive institutional and legal framework. With the on-going land management and land administration projects in various countries, tenure security is certainly improving. This is only part of the truth, however. As long as powerful interest groups are able to ignore the law, to bribe ill-paid civil servants, to implant bad

With the on-going land management and land administration projects in various countries, tenure security is certainly improving. This is only part of the truth, however. As long as powerful interest groups are able to ignore the law, to bribe ill-paid civil servants, to implant bad governance in the land sector and ignore the interests of disadvantaged groups, tenure reforms will only have a limited impact.

Table 1: Challenges for Land Tenure Systems

Countries	Overlapping Legal frameworks	Legal Pluralism	Weak institutional framework	Gender Inequality	Tenure Insecurity	Conflicts	Evictions	Weak Conflict resolution mechanisms	Corruption	Type of tenure*				
										Statutory	customary	Public	Religious	Informal
Bangladesh	√	√	√	√	√	√	√	√	X	√	√	√	√	√
Bolivia	X	√	X	X	√	√	X	√	√	√	√	√	X	√
Brazil	√	√	√	X	√	√	X	√	√	√	√	√	X	√
Chile	X	X	X	X	X	√	X	√	X	√	X	√	X	√
China	X	X	√	X	√	√	√	√	X	X	X	√	X	√
Ethiopia	X	X	√	X	√	√	√	√	√	X	X	√	X	√
Ghana	√	√	√	√	√	√	X	√	√	√	√	√	X	√
Guatemala	√	X	√	√	√	√	X	√	√	√	√	√	X	√
Indonesia	X	√	X	X	X	√	√	√	X	√	√	√	√	√
Kenya	√	X	√	X	√	√	√	√	√	√	√	√	X	√
Nigeria	√	√	√	√	√	√	√	√	√	√	X	√	X	√
Philippines	√	√	√	X	X	√	X	√	√	√	√	√	X	√
Thailand	X	X	X	X	X	√	√	X	X	√	X	√	√	√
Uganda	√	√	√	√	√	√	√	√	√	√	√	√	X	√
Zambia	√	√	√	√	√	√	√	√	√	√	√	√	X	√

***The current tenure system**

X: No **√: Yes**

governance in the land sector and ignore the interests of disadvantaged groups, tenure reforms will only have a limited impact. The issue of effective and good governance practices in land relations remains crucial across all the continents to the achievement of a lasting tenure security.

Current reforms do not necessarily keep pace with changing national and international framework conditions and influencing factors. Among these factors are the "food crisis" - the dramatic increase in demand for plant and animal production for food - plus the demand for biofuel, the complex contribution

of sustainable land management to the protection of the global commons, or technological progress in information and communication being relevant for cost-effective land administration and development. How can governments address the trade-off between offering attractive land investment opportunities for large-scale agricultural production and protecting the often customary rights of smallholders working on the land on their family farms? Will the state recognize those civil society organizations that fight for the rights of smallholders and pastoralists in cases of large-scale investments and so contribute to tenure security of the poor? Will the state be willing to tax land adequately in these cases to generate a solid financial basis to establish and maintain an effective land management and land administration infrastructure? Will social responsibility for all citizens and equity considerations motivate governments to re-start and further regulate land sale and tenancy markets and, if so, how efficient will be the state be as a regulator, keeping the negative experiences of the first decades after independence in mind? These are just some of the questions that arise when analysing existing shortcomings and threats in a quickly changing environment.

In general, the country studies are not comprehensive enough about options, instruments or the processes necessary to create a closer link between land management and administration, legislators and end users, particularly in poverty-stricken marginal regions. What is not adequately addressed in the studies is the vision of local and national decision makers on using land as an important instrument to generate income for the poor, to allow them some asset accumulation to reduce their vulnerability, to better link land to credit markets available to them, to ease capital formation for investment in education of the next generation, for old age security or for diversifying income sources by new businesses. The same applies to innovative conflict resolution mechanisms or approaches to better attack the causes of some land conflicts instead of lamenting the tendency for conflict to increase. Cooperation with bi- and multilateral donors is still conservative and is guided by approaches to support land management and administration, to facilitate land use planning, to speed up registration or to help, for example, in boundary identification and documentation. What are innovative concepts of international development cooperation to anticipate future conflict lines, to address the negative tenure implication of foreign direct investment or the continuing trade-off between statutory law and specific customary regulation?

Many countries have already achieved a lot to improve tenure systems, address tenure security and invest in land management and land administration. Perhaps even more still needs to be done within each country to generate tenure security, particularly for the weaker elements of the population, for the urban and rural poor, for the more vulnerable and for those in danger of falling below the poverty line again because of power relations, clientelism, or corruption that works against their interests in getting access to and defending existing rights in land.

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ABOUT THIS PUBLICATION

In this publication, the issue of tenure security is addressed and assessed in several countries where government, civil society, the private sector and development cooperation initiatives have been implemented for decades. The selected case studies from fifteen (15) countries ensure not only a geographic balance but they also represent countries with different socio-economic and land-related histories and that have followed different pathways. The studies' key findings underline the still precarious state of tenure security in many countries. The findings also show best practices for legal and administrative reforms that have generated incentives for long-term investment in land, or incentives to include the poor more comprehensively.

Led by the Global Land Tool Network (GLTN) the publication is a joint endeavour with the Chair of Land Management at the Technische Universität München (TUM) and the Land Management Sector Project of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The country studies presented here have been prepared by Alumni of the TUM's Master's Programme Land Management and Land Tenure who can best bridge the demands for most recent and high quality research results on tenure security and intimate country-specific knowledge and experience.

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